



City of Palo Alto City Council Staff Report

(ID # 9353)

Report Type: Action Items

Meeting Date: 8/20/2018

Summary Title: 620 Emerson (Nobu Restaurant Annex): Appeal of Director's Decision

Title: PUBLIC HEARING/QUASI-JUDICIAL: Consideration of Appeals of the Planning and Community Environment Director's Decision to Approve the Architectural Review Application for 620 Emerson Street (17PLN-00331) to Allow Demolition of an Existing Single Story Building and Construction of a new Two-story 4,063 Square Foot Commercial Building for the Expansion of Nobu Restaurant. The Project Includes Replacement of Three On-site Parking Spaces With Five In-lieu Spaces in the Downtown Parking Assessment District. Environmental Assessment: Exempt From the Provisions of the California Environmental Quality Act (CEQA) per Guideline Section 15303 (New Construction) Zoning District: CD-C(GF)(P) (Downtown Commercial)

From: City Manager

Lead Department: Planning and Community Environment

Recommendation

Staff recommends that Council take the following action(s):

1. Adopt the attached Record of Land Use Action, thereby denying the appeal, upholding the Director's approval of an Architectural Review application and finding the proposed project exempt from review under the California Environmental Quality Act.

Background

The subject project is an application for Architectural Review to construct a new commercial building and includes a request to participate in the City's in-lieu parking program. The Planning and Community Environment Director tentatively approved the project, which was subsequently appealed. On June 4, 2018, three Councilmembers pulled the appeal off the consent calendar to be heard at a future 'date uncertain', as permitted by local regulations. The June 4, 2018 staff report includes all the pertinent information related to this project. The staff report is attached to this report.

Attachments:

Attachment A: June 4, 2018 Council Staff Report for the Appeal (PDF)

Attachment B: Appeal Letter (PDF)

Attachment C: Director's Tentative Approval Letter (PDF)

Attachment D: Draft Record of Land Use Action (DOC)

Attachment E: Applicant Response to Appeal (PDF)

Attachment F: Public Letters to Council (PDF)

Attachment G: Project Plans (DOCX)



City of Palo Alto

City Council Staff Report

(ID # 9231)

Report Type: Consent Calendar

Meeting Date: 6/4/2018

Summary Title: 620 Emerson (Nobu Restaurant Annex): Appeal of Director's Decision

Title: QUASI-JUDICIAL: Consideration of Appeals of the Planning and Community Environment Director's Decision to Approve the Architectural Review Application for 620 Emerson Street (17PLN-00331) to Allow Demolition of an Existing Single Story Building and Construction of a new Two-story 4,063 Square Foot Commercial Building for the Expansion of Nobu Restaurant. The Project Includes Replacement of Three On-site Parking Spaces With Five In-lieu Spaces in the Downtown Parking Assessment District. Environmental Assessment: Exempt From the Provisions of the California Environmental Quality Act (CEQA) per Guideline Section 15303 (New Construction). Zoning District: CD-C(GF)(P) (Downtown Commercial) For More Information Contact the Project Planner Samuel Gutierrez at samuel.gutierrez@cityofpaloalto.org

From: City Manager

Lead Department: Planning and Community Environment

Recommendation

Staff recommends that Council take the following action(s):

1. Adopt the attached Record of Land Use Action, thereby denying the appeal, upholding the Director's approval of an Architectural Review application and finding the proposed project exempt from review under the California Environmental Quality Act.

Background

The project seeks to demolish the existing building and construct a new 4,063 square foot (sf) building to accommodate the expansion of the Nobu restaurant currently located at the neighboring Epiphany hotel at 180 Hamilton. The project was reviewed by the ARB on two occasions and unanimously approved. Public comments similar to the appeal topics below were received at the hearings. Prior ARB reports are available online:

February 1, 2018

Report: <https://www.cityofpaloalto.org/civicax/filebank/documents/63068>

Minutes: <https://www.cityofpaloalto.org/civicax/filebank/documents/63703>

April 5, 2018

Report: <https://www.cityofpaloalto.org/civicax/filebank/documents/64363>

Minutes: <https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?BlobID=65143>

The project involves the loss of three existing noncomplying on-site parking spaces. As discussed below, the new construction necessitates a new van-accessible disabled access space, which substantially limits parking options and layout. Combined with the project site and alley characteristics, staff and a majority of the Board, found payment into the city's in-lieu parking fund an acceptable means for addressing the parking requirement.

On April 19, 2018, the Director of Planning issued a tentative approval of the subject project. (Attachment B) On April 27, 2018, Elizabeth Wong filed a timely appeal for the project. The key issues from the appeal are further described below.

Discussion

Director decisions on ARB projects are subject to a 14 day appeal period. Appeals must be scheduled on the City Council's consent calendar within 45 days from the date of appeal. Acceptance of the report on the consent calendar accepts the Director's determination. However, three or more council members may pull the item from consent and an appeal hearing would be scheduled for a future date.

The appellant has noted the following objections to the project; the complete appeal statement is provided in Attachment A.

Parking

The appellant appears to object to the use of the in lieu parking fee for the redevelopment of the site and asserts underground parking and mechanical lifts should be considered for this development. Staff did explore with the applicant and other city departments the feasibility of providing underground parking and mechanical lifts. And, it is feasible to provide one accessible parking space onsite. However, the location and size of the property combined with compliance with the American Disability Act, local standards for refuse collection and other standards make it infeasible to provide additional parking onsite in an efficient or convenient parking layout. The site was previously assessed for its parking deficiency and payment of in-lieu parking fees is authorized by PAMC 18.18.090. Redevelopment would result in the loss of three noncompliant parking spaces. To make up for these three spaces, the applicant request participation in the in lieu parking program, which is permitted if it is not feasible to provide required parking on-site.

Traffic and Circulation

The appellant asserts that another restaurant may bring traffic and circulation on the block to a standstill, especially during peak hours. This block is located within a developed urban environment with existing business establishments, including other restaurants. Redevelopment is consistent with applicable zoning requirements and exempt from environmental review from the California Environmental Quality Act. The City of Palo Alto typically requires a focused traffic analysis, which quantifies potential project impacts, for projects generating more than 50 trips per peak hour; the proposed development falls below this threshold. Moreover, the applicant has not provided any information to substantiate the claim that traffic flow will be impacted.

Loading

The applicant asserts that the loss of the three parking spaces also impacts loading zone activities that previously used those spaces for loading and notes the challenges of delivery vehicles accessing the site given the alley characteristics. While the prior tenant may have used the substandard parking spaces to provide a loading opportunity for its goods, the code provides the standard for when a code compliant parking space is required. For eating and drinking establishments, buildings over 4,999 square feet in area require one loading space. The subject project is below this standard and does not require on-site loading.

Restroom Facilities

The project is proposed to connect to the existing hotel (180 Hamilton) via interior access on the ground level of both sites. The hotel lobby will have remodeled restroom facilities that will be sufficient to support the restaurant operations at 620 Emerson and the hotel operations at 180 Hamilton. The appellant states concern with this design approach and future enforcement and monitoring. A condition of approval was added to the project that if the interior connections between the two sites terminate, 620 Emerson will need to provide code compliant restroom facilities. Compliance with this condition would be verified during the plan check review process in the event there is a request to close of the interior access. Moreover, the city's building official has the authority to require that covenants be recorded against the two properties prior to building permit or final inspection if such documentation were determined necessary to meet building code requirements.

Policy Implications

The proposed project has been reviewed by the Architectural Review Board, applicable city departments and found to be compliant with applicable zoning regulations. The Director's determination details compliance with applicable comprehensive plan policies. The appellant list several concerns that are not supported by the municipal code or is conjecture.

Environmental Review

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. Specifically, this project is categorically exempt from the provision of the CEQA as it falls under a Class 3 exemption (CEQA Guidelines Section 15303) for “new construction or conversion of small structures.” The project meets the criteria for this exemption as it is a new building that is below 10,000 square feet in area and is located within an urban area with a proposed use that is permitted within the CD-C(GF)(P) zone district.

Attachments:

Attachment A: Appeal Letter (PDF)

Attachment B: Director's Tentative Approval Letter (PDF)

Attachment C: Draft Record of Land Use Action (DOC)

Attachment D: Project Plans(DOCX)

CITY OF PALO ALTO
Office of the City Clerk
APPEAL FROM THE DECISION OF DIRECTOR OF PLANNING
AND COMMUNITY ENVIRONMENT*

CITY OF PALO ALTO, CA
CITY CLERK'S OFFICE
18 APR 27 PM 3:51

For appeals of final decisions on Architectural Review Board and Home Improvement Exception applications (rendered after public hearing), this appeal form shall be completed and submitted by appellant within fourteen days from date of the Director's decision. Appeals of final decisions on Individual Review applications (rendered after public hearing) must be submitted within ten days of the Director's decision. Complete form, the current fee and a letter stating reasons for the appeal shall be submitted to front desk staff of the Planning Division, 5th floor, City Hall, 250 Hamilton Avenue, except for 980 Fridays when City Hall is closed, when these items shall be submitted to Planning staff at the Development Center, 285 Hamilton Avenue (glass storefront across from City Hall on the corner of Bryant and Hamilton).

* Director of Planning includes his designees, which are Planning Managers or the Chief Planning Official

Appeal Application No. _____ Receipt No. _____
Name of Appellant YO, LLC Phone (650) 814-3051
Address PO Box 204 PALO ALTO, CA 94302
Street City ZIP

LOCATION OF PROPERTY SUBJECT TO APPEAL:

Street Address 620 EMERSON ST., PALO ALTO, CA

Name of Property Owner (if other than appellant) _____

Property Owner's Address _____
Street City ZIP

The decision of the Director of Planning and Community Environment dated _____, 20____

whereby the application 17 PLN 00331 by BLAKE HUSSEY-MONTALBA ARCHITECTS, INC
(file number) (original project applicant)

was approved, is hereby appealed for the reasons stated in the attached letter (in duplicate)
(approved/denied)

Date: 4/27/18 Signature of Appellant [Signature] For YO LLC

PLANNING COMMISSION RECOMMENDATION TO THE CITY COUNCIL (TO BE FILLED OUT BY STAFF):

Date _____ Approved _____ Denied _____

Remarks and/or Conditions:

CITY COUNCIL DECISION (TO BE FILLED OUT BY STAFF):

Date _____ Approved _____ Denied _____

Remarks and/or Conditions:

SUBMITTAL REQUIREMENTS SATISFIED:

- Letter stating reasons for appeal IM Received by: Irma Mora
- Fee (currently \$280.00) IM Received by: Irma Mora

Appeal of the Approval by the Director of Planning & Community Environment
for demolition and construction of new two story building
at 620 Emerson Street, Palo Alto, CA

Introduction

The Director of Planning & Community Environment approved on April 19, 2018, a construction project to allow demolition of an existing commercial building and the construction of a new two-story restaurant at 620 Emerson Street [17PLN-00331], following a Minor Board Level Architectural Review hearing by the Architectural Review Board on April 5, 2018. This project should not be approved or constructed as presented because of severe deficiencies in the proposal regarding parking, traffic and loading, issues of very great concern in the City of Palo Alto, and even more so in the downtown commercial core. Also, there is a requirement regarding providing independent, code-compliant restroom facilities that needs to be strengthened.

Parking

The proposed project will remove existing on-site parking. On page 5 of the ARB findings for approval, it states that the on-site parking will be replaced "... via the Downtown Parking Assessment Districts in-lieu fee, which provides parking off site within walking distance of the site." This is sugar-coating the fact that there is no provision for off site parking within walking distance. The nearest proposed garage that is expected to provide for this removal is a half-mile away and a couple of years away from completion. Moreover, the proposal never addressed other options such as mechanical lifts and underground parking which other developments in Palo Alto have been asked to provide or at least consider.

Traffic and Congestion

Additionally, there is the issue of congestion to consider. Yes, the 600 block of Emerson Street is a successful location for several food service establishments. Location of another restaurant may bring traffic and circulation on this block to a standstill, especially during the peak evening hours. This congestion is exacerbated by the elimination of three existing on-site parking.

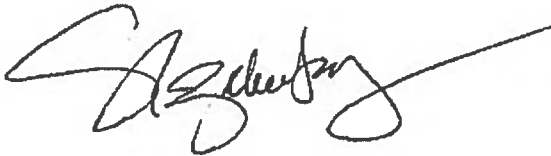
Loading

The three existing parking spaces also act as loading space for this site. The elimination of on-site parking creates loading problems for this site. Access to the three existing parking spaces is through the rear alleyway. ARB Finding #4 mentions that "... the site has access to a rear alleyway which can be utilized by service and delivery vehicles that support the day to day operation of the proposed restaurant." This is indeed the case for the prior use as a flower shop. However, a large restaurant is a more intensive use and the alleyway is already heavily used by vans and small delivery trucks. Larger delivery trucks and vehicles that service the grease traps for example cannot make the two sharp turns in the alley. So they also wind up blocking Emerson Street while they go about their business.

Restroom Facilities

Item 10 of the Conditions of Approval from Planning Division requires that "...if and when access to 180 Hamilton is terminated, on site code compliant restroom facilities shall be provided." There is no provision for monitoring or enforcement of this provision once the building permit is approved. There should be provisions for either a permanent recorded easement to use the facilities at 180 Hamilton in perpetuity or until the independent restrooms are provided on-site.

Submitted by:

A handwritten signature in black ink, appearing to read "Elizabeth Wong", with a long horizontal flourish extending to the right.

Yo, LLC

By Elizabeth Wong, Manager



CITY OF
**PALO
ALTO**

PLANNING & COMMUNITY ENVIRONMENT

250 Hamilton Avenue, 5th Floor
Palo Alto, CA 94301
650.329.2441

April 19, 2018

Montalba Architects, Inc/Blake Hussey
2525 Michigan Ave., Building T4
Santa Monica, CA 90404

Subject: 620 Emerson St – Minor Board Level Architectural Review 17PLN-00331

Dear Blake,

On April 5, 2018 the Architectural Review Board recommended approval of the application referenced above and as described below. The Director of Planning and Community Environment (Director) approved the project on April 19th, 2018. The approval will become effective 14 days from the postmark date of this letter, unless an appeal is filed in accordance with Title 18 of the Palo Alto Municipal Code. The approval was based on the findings in Attachment A, and is subject to the conditions of approval in Attachment B for the project. The project is described as follows:

620 Emerson St [17PLN-00331]: Request for Architectural Review to Allow the Demolition of an existing commercial building and the construction of a new two-Story approximately 4,063 Square Foot Restaurant. Environmental Assessment: Class 3 exemption (CEQA Guidelines Section 15303) for "new construction or conversion of small structures." The project meets the criteria for this exemption as it is a new building that is below 10,000 square feet in area and is located within an urban area with a proposed use that is permitted within the CD-C(GF)(P) zone district (Downtown Commercial).

Unless an appeal is filed, this project approval shall be effective for one year from May 3rd, 2018, within which time construction of the project shall have commenced. Application for extension of this entitlement may be made prior to the one year expiration. The time period for a project may be extended once for an additional year by the Director of Planning and shall be open to appeal at that time. In the event the building permit is not secured for the project within the time limits specified above, the Architectural Review approval shall expire and be of no further force or effect.

Should you have any questions regarding this ARB action, please do not hesitate to contact the Project Planner, Samuel Gutierrez, by email at samuel.gutierrez@cityofpaloalto.org by phone at (650) 329-2225.

Sincerely,

Jodie Gerhardt, AICP
Current Planning Manager

cc: PA Hotel Holding LLC,
101 Ygnacio Valley Rd., Suite 320
Walnut Creek, CA 94596

Attachments: A: Findings for Architectural Review Approval
B: Conditions of Approval



CityOfPaloAlto.org

ATTACHMENT A

ARB FINDINGS FOR APPROVAL

620 Emerson Street

17PLN-00331

The design and architecture of the proposed improvements, as conditioned, complies with the Findings for Architectural Review as required in Chapter 18.76 of the PAMC.

Finding #1: The design is consistent with applicable provisions of the Palo Alto Comprehensive Plan, Zoning Code, coordinated area plans (including compatibility requirements), and any relevant design guides.

On balance, the project has been found in conformance with the Comprehensive Plan Goals and Policies.

<i>Comp Plan Goals and Policies</i>	<i>How project adheres or does not adhere to Comp Plan</i>
<i>The Comprehensive Plan land use designation for the site is Regional Commercial.</i>	The project continues the Regional Commercial land use.
<i>Land Use and Community Design Element</i>	
GOAL B-6: Attractive, vibrant retail centers, each with a mix of uses and a distinctive character. POLICY B-6.1 Support and enhance the University Avenue/ Downtown area as a vital mixed use area prioritizing retail, personal service, small office, start-ups, restaurant, residential and arts and entertainment uses. Recognize the importance of an appropriate retail mix, including small local businesses, to the continued vitality of Downtown.	The proposal would result in no net loss of retail as the proposed restaurant use is considered retail like, maintaining a similar mixture of uses in the indicative of the Downtown area.
GOAL L-4: Inviting pedestrian scale centers that offer a variety of retail and commercial services and provide focal points and community gathering places for the city's residential neighborhoods and employment districts. POLICY L-4.4: Ensure all Regional Centers and Multi-Neighborhood Centers provide centrally located gathering spaces that create a sense	<p>The new building would have large windows that connect the proposed restaurant to the street and will provide a large awning that spans the length of the building, creating a more pleasant pedestrian environment.</p> <p>The project will create a new building with a new restaurant use which includes new pedestrian furniture for public use on private</p>

<p>of identity and encourage economic revitalization. Encourage public amenities such as benches, street trees, kiosks, restrooms and public art.</p> <p>POLICY L-4.7: Maintain and enhance the University Avenue/Downtown area as a major commercial center of the City, with a mix of commercial, civic, cultural, recreational and residential uses. Promote quality design that recognizes the regional and historical importance of the area and reinforces its pedestrian character.</p> <p>POLICY L-4.8: Ensure that University Avenue/Downtown is pedestrian-friendly and supports bicycle use. Use public art, trees, bicycle racks and other amenities to create an environment that is inviting to pedestrians and bicyclists</p>	<p>property, maintaining the Downtown area's pedestrian identity.</p> <p>The large windows that allow clear views into the proposed restaurant. This design feature is consistent with the existing design of the businesses along Emerson that also have large open windows that reinforce the pedestrian characteristic of Downtown Palo Alto.</p> <p>The project includes new street furniture (bench seating) within the recessed window area of the façade and will install a new bike rack within the public right of way, enhancing the pedestrian and bicycle friendly environment of the area.</p>
<p>POLICY L-6.1: Promote high-quality design and site planning that is compatible with surrounding development and public spaces.</p>	<p>The project proposes a new building that is in scale with the adjacent single story buildings along Emerson Street and will include the use of high quality materials such as bronze and stone.</p>
<p>POLICY L-9.10.2: Encourage the use of compact and well-designed utility elements, such as transformers, switching devices, backflow preventers and telecommunications infrastructure. Place these elements in locations that will minimize their visual intrusion.</p>	<p>The project locates new backflow preventers within the façade via hidden cabinets, removing them from public view.</p>

The project would be consistent the Downtown Design Guidelines as it involves an active retail-like use (eating and drinking use) and the new façade materials are consistent with those listed in the Guidelines. The new façade provides a recessed entry, a new awning, and glass windows with bench seats that fit the character of the smaller store front pattern and setbacks of the adjacent buildings. These features will also help to activate the street. The proposed green roof would further enhance views from the adjacent hotel and other taller buildings in the area.

Finding #2: The project has a unified and coherent design, that:

- a. creates an internal sense of order and desirable environment for occupants, visitors, and the general community,
- b. preserves, respects and integrates existing natural features that contribute positively to the site and the historic character including historic resources of the area when relevant,

- c. is consistent with the context-based design criteria of the applicable zone district,
- d. provides harmonious transitions in scale, mass and character to adjacent land uses and land use designations,
- e. enhances living conditions on the site (if it includes residential uses) and in adjacent residential areas.

The project is proposing a new building with a façade that will enhance the immediate neighborhood and patrons of the local businesses alike. The design of the new building is consistent with the context-based design criteria within the CD-C(GF)(P) zone, as further described below. In addition, the project will integrate the exterior ground floor façade of the adjacent hotel, as it expands the existing restaurant from 180 Hamilton Avenue to 620 Emerson Street. The proposed façade would also better connect the building with the existing character and streetscape along Emerson Street. The new building will be built to the property lines similar to other existing buildings in the area and would preserve the pedestrian scale of the area. In addition, new bench seats are proposed within the window recesses and new bicycle racks will be installed in the public right way, improving the pedestrian and bicycle environment of the area.

Pursuant to PAMC 18.16.090(b), the following context-based design considerations and findings are applicable to this project. These context-based design criteria are intended to provide additional standards to be used in the design and evaluation of development in a commercial district. The purpose is to encourage development in a commercial district to be responsible to its context and compatibility with adjacent development as well as to promote the establishment of pedestrian oriented design.

1. Pedestrian and Bicycle Environment	Project Consistency
<i>The design of new projects shall promote pedestrian walkability, a bicycle friendly environment, and connectivity through design elements</i>	The project will have the same scale as the existing buildings in the area, maintaining the areas pedestrian environment and scale. The project includes benches along its front façade to promote a pedestrian friendly environment.
2. Street Building Facades	
<i>Street facades shall be designed to provide a strong relationship with the sidewalk and the street (s), to create an environment that supports and encourages pedestrian activity through design elements</i>	The proposed building includes a recessed entry and awning that will function as a shelter for pedestrians. The project also includes new seating that can be utilized by the public supporting pedestrian activity. The proposed building will have large clear windows that connect the interior of the building to the sidewalk and street, promoting pedestrian activity.
3. Massing and Setbacks	

Buildings shall be designed to minimize massing and conform to proper setbacks

The proposed project will not substantially increase the existing massing or setbacks from the street.

4. Low Density Residential Transitions

Where new projects are built abutting existing lower scale residential development, care shall be taken to respect the scale and privacy of neighboring properties

This finding does not apply.

5. Project Open Space

Private and public open space shall be provided so that it is usable for the residents and visitors of the site

This finding does not apply.

6. Parking Design

Parking shall be accommodated but shall not be allowed to overwhelm the character of the project or detract from the pedestrian environment

The proposed project will remove existing on-site parking and replace them via the Downtown Parking Assessment Districts in-lieu fee, which provides parking off site within walking distance of the site.

7. Large Multi-Acre Sites

Large sites (over one acre) shall be designed so that street, block, and building patterns are consistent with those of the surrounding neighborhood

This finding does not apply

8. Sustainability and Green Building Design

Project design and materials to achieve sustainability and green building design should be incorporated into the project

The project will be constructed in accordance with current green building energy efficiency requirements. The project will also utilize a green roof that would reduce runoff from the roof and lower the heat absorption of the building, leading to lower demands on the HVAC systems.

Finding #3: The design is of high aesthetic quality, using high quality, integrated materials and appropriate construction techniques, and incorporating textures, colors, and other details that are compatible with and enhance the surrounding area.

The project involves materials which are durable and of high quality finishes consisting of bronze and stone. The new façade will have a light colored textured stone finish that will better fit with the existing character of the area and will enhance the surrounding area.

Finding #4: The design is functional, allowing for ease and safety of pedestrian and bicycle traffic and providing for elements that support the building's necessary operations (e.g. convenient vehicle access to property and utilities, appropriate arrangement and amount of open space and integrated signage, if applicable, etc.).

The proposed building will maintain the pedestrian scale of the area and promote a pedestrian friendly environment by including benches along its front façade. A recessed entry and awning that will function as a shelter for pedestrians are proposed and would provide a refuge for pedestrians from the elements. The proposed building will also have large clear windows that connect the interior of the building to the sidewalk and street, promoting pedestrian activity. The project includes new utilities which will be easily accessible via hidden panels within the façade keeping them out of the public right of way and out of sight. The site is located within the downtown parking assessment district which allows for more convenient parking options. Additionally, the site has access to a rear alleyway which can be utilized by service and delivery vehicles that support the day to day operation of the proposed restaurant.

Finding #5: The landscape design complements and enhances the building design and its surroundings, is appropriate to the site's functions, and utilizes to the extent practical, regional indigenous drought resistant plant material capable of providing desirable habitat that can be appropriately maintained.

The project includes new planters along the sidewalk and a green roof which can be viewed partially through the open skylight within the building and will be clearly visible to patrons within the adjacent hotel and other taller buildings in the area. The green roof and new planters will contribute to the overall character of Downtown.

Finding #6: The project incorporates design principles that achieve sustainability in areas related to energy efficiency, water conservation, building materials, landscaping, and site planning.

The project will comply with all applicable green building codes for energy efficient buildings such as the use of energy efficient lighting and the construction debris diversion rate requirement minimizing trips to landfills. The proposed green roof will reduce runoff and reduce the heat island effect while providing additional green space over a more traditional roof

ATTACHMENT B
620 Emerson Street
17PLN-00331

PLANNING DIVISION

1. **CONFORMANCE WITH PLANS.** Construction and development shall conform to the approved plans entitled, "NOBU PA 620" stamped as received by the City on March 26th, 2018 on file with the Planning Department, 250 Hamilton Avenue, Palo Alto, California except as modified by these conditions of approval.
2. **BUILDING PERMIT.** Apply for a building permit and meet any and all conditions of the Planning, Fire, Public Works, and Building Departments.
3. **BUILDING PERMIT PLAN SET.** The Architectural Review (AR) approval letter including all Department conditions of approval for the project shall be printed on the plans submitted for building permit.
4. **PROJECT MODIFICATIONS:** All modifications to the approved project shall be submitted for review and approval prior to construction. If during the Building Permit review and construction phase, the project is modified by the applicant, it is the responsibility of the applicant to contact the Planning Division/project planner directly to obtain approval of the project modification. It is the applicant's responsibility to highlight any proposed changes to the project and to bring it to the project planner's attention.
5. **PROJECT EXPIRATION.** The project approval shall be valid for a period of two years from the original date of approval. In the event a building permit(s), if applicable, is not secured for the project within the time limit specified above, the AR approval shall expire and be of no further force or effect. Application for a one year extension of this entitlement may be made prior to the expiration.
6. **PARKING IN-LIEU FEES:** Parking in-lieu fees shall be paid for five (5) parking spaces prior to issuance of Building permits at the rate set, per in-lieu space, at the time of payment (See condition #13)
7. **BICYCLE PARKING:** One new short term bicycle rack shall be installed within the public right of way, and one long term bicycle rack shall be installed on site to the satisfaction of the Chief Transportation Official. All bicycle racks shall be installed prior to final Planning Inspection.
8. **VEHICLE LOADING:** Vehicle loading and unloading shall not impede the movement of traffic for extended periods of time.
9. **REAR DOOR:** The rear door (door 103 on plans) shall remain closed during business hours to minimize noise from projecting into in rear property of the adjacent single family residence.
10. **RESTROOM FACILITIES:** If and when access to 180 Hamilton is terminated, on site code compliant restroom facilities shall be provided.

11. ARB SUBCOMMITTEE: Prior to the issuance of building permits, the applicant shall return to the ARB subcommittee for approval of the following items, to the satisfaction of the Director of Planning and Community Environment:
 - a. Review of the landscaping design of the green roof area to ensure conformance with Finding #5.
12. TRASH ROOM: The trash room shall be used solely for the temporary storage of refuse and recycling that is disposed on a regular basis and shall be closed and locked during non-business hours.
13. ESTIMATED IMPACT FEE: Estimated Development Impact Fees in the amount of \$340,320.34 , shall be paid prior to the issuance of the related building permit.
14. IMPACT FEE 90-DAY PROTEST PERIOD. California Government Code Section 66020 provides that a project applicant who desires to protest the fees, dedications, reservations, or other exactions imposed on a development project must initiate the protest at the time the development project is approved or conditionally approved or within ninety (90) days after the date that fees, dedications, reservations or exactions are imposed on the Project. Additionally, procedural requirements for protesting these development fees, dedications, reservations and exactions are set forth in Government Code Section 66020. IF YOU FAIL TO INITIATE A PROTEST WITHIN THE 90-DAY PERIOD OR FOLLOW THE PROTEST PROCEDURES DESCRIBED IN GOVERNMENT CODE SECTION 66020, YOU WILL BE BARRED FROM CHALLENGING THE VALIDITY OR REASONABLENESS OF THE FEES, DEDICATIONS, RESERVATIONS, AND EXACTIONS. If these requirements constitute fees, taxes, assessments, dedications, reservations, or other exactions as specified in Government Code Sections 66020(a) or 66021, this is to provide notification that, as of the date of this notice, the 90-day period has begun in which you may protest these requirements. This matter is subject to the California Code of Civil Procedures (CCP) Section 1094.5; the time by which judicial review must be sought is governed by CCP Section 1094.6.
15. INDEMNITY: To the extent permitted by law, the Applicant shall indemnify and hold harmless the City, its City Council, its officers, employees and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the City for its actual attorneys' fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.
16. FINAL INSPECTION: A Planning Division Final inspection will be required to determine substantial compliance with the approved plans prior to the scheduling of a Building Division final. Any revisions during the building process must be approved by Planning, including but not limited to; materials, landscaping and hard surface locations. Contact your Project Planner, Samuel Gutierrez at samuel.gutierrez@cityofpaloalto.org to schedule this inspection.

PUBLIC WORKS ENGINEERING

17. Teak planters proposed in the right-of-way shall be removable and moved out of the right of way at the end of each business day.

18. **SIDEWALK, CURB & GUTTER:** As part of this project, the applicant must replace those portions of the existing sidewalks, curbs, gutters or driveway approaches in the public right-of-way along the frontage(s) of the property that are broken, badly cracked, displaced, or non-standard, and must remove any unpermitted pavement in the planter strip. Contact Public Works' inspector at 650-496-6929 to arrange a site visit so the inspector can determine the extent of replacement work. The site plan submitted with the building permit plan set must show the extent of the replacement work or include a note that Public Works' inspector has determined no work is required. The plan must note that any work in the right-of-way must be done per Public Works' standards by a licensed contractor who must first obtain a *Street Work Permit* from Public Works at the Development Center.
19. **STREET TREES:** The applicant may be required to replace existing and/or add new street trees in the public right-of-way along the property's frontage(s). Call the Public Works' arborist at 650-496-5953 to arrange a site visit so he can determine what street tree work, if any, will be required for this project. The site plan submitted with the building permit plan set must show the street tree work that the arborist has determined, including the tree species, size, location, staking and irrigation requirements, or include a note that Public Works' arborist has determined no street tree work is required. The plan must note that in order to do street tree work, the applicant must first obtain a *Permit for Street Tree Work in the Public Right-of-Way* from Public Works' arborist (650-496-5953).
20. **GRADING & DRAINAGE PLAN:** The plan set must include a grading & drainage plan prepared by a licensed professional that includes existing and proposed spot elevations and drainage flow arrows to demonstrate proper drainage of the site. Adjacent grades must slope away from the house a minimum of 2%. Downspouts and splashblocks should be shown on this plan, as well as any site drainage features such as swales. Grading will not be allowed that increases drainage onto, or blocks existing drainage from, neighboring properties. Public Works generally does not allow rainwater to be collected and discharged into the street gutter, but encourages the developer to keep rainwater onsite as much as feasible by directing runoff to landscaped and other pervious areas of the site. See the Grading & Drainage Plan Guidelines for New Single Family Residences: <http://www.cityofpaloalto.org/civicax/filebank/documents/2717>
21. **GRADING PERMIT:** The site plan must include an earthworks table showing cut and fill volumes. If the total is more than 100 cubic yards, a grading permit will be required. An application and plans for a grading permit are submitted to Public Works separately from the building permit plan set. The application and guidelines are available at the Development Center and on our website.
22. **STORM WATER POLLUTION PREVENTION:** The City's full-sized "Pollution Prevention - It's Part of the Plan" sheet must be included in the plan set. The sheet is available here: <http://www.cityofpaloalto.org/civicax/filebank/documents/2732>
23. **STREET TREES:** Show all existing street trees in the public right-of-way. Any removal, relocation or planting of street trees; or excavation, trenching or pavement within 10 feet of street trees must be approved by Public Works' arborist (phone: 650-496-5953). This approval shall appear on the plans. Show construction protection of the trees per City requirements.
24. **WORK IN THE RIGHT-OF-WAY:** The plans must clearly indicate any work that is proposed in the

public right-of-way, such as sidewalk replacement, driveway approach, or utility laterals. The plans must include notes that the work must be done per City standards and that the contractor performing this work must first obtain a *Street Work Permit* from Public Works at the Development Center. If a new driveway is in a different location than the existing driveway, then the sidewalk associated with the new driveway must be replaced with a thickened (6" thick instead of the standard 4" thick) section. Additionally, curb cuts and driveway approaches for abandoned driveways must be replaced with new curb, gutter and planter strip.

25. **IMPERVIOUS SURFACE AREA:** The project will be creating or replacing 500 square feet or more of impervious surface. Accordingly, the applicant shall provide calculations of the existing and proposed impervious surface areas with the building permit application. The *Impervious Area Worksheet for Land Developments* form and instructions are available at the Development Center or on our website.
26. **STORM WATER TREATMENT:** This project may trigger the California Regional Water Quality Control Board's revised provision C.3 for storm water regulations (incorporated into the Palo Alto Municipal Code, Section 16.11) that apply to residential land development projects that create or replace between 2,500 and 10,000 square feet of impervious surface area. The applicant must implement one or more of the following site design measures:
- Direct roof runoff into cisterns or rain barrels for reuse.
 - Direct roof runoff onto vegetated areas.
 - Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas.
 - Direct runoff from driveways and/or uncovered parking lots onto vegetated areas.
 - Construct sidewalks, walkways, and/or patios with permeable surfaces.
 - Construct driveways, and/or uncovered parking lots with permeable surfaces.
27. **SIDEWALK ENCROACHMENT:** Add a note to the site plan that says, "The contractor using the city sidewalk to work on an adjacent private building must do so in a manner that is safe for pedestrians using the sidewalk. Pedestrian protection must be provided per the 2007 California Building Code Chapter 33 requirements. If the height of construction is 8 feet or less, the contractor must place construction railings sufficient to direct pedestrians around construction areas. If the height of construction is more than 8 feet, the contractor must obtain an encroachment permit from Public Works at the Development Center in order to provide a barrier and covered walkway or to close the sidewalk."
28. **LOGISTICS PLAN:** The contractor must submit a logistics plan to the Public Works Department prior to commencing work that addresses all impacts to the City's right-of-way, including, but not limited to: pedestrian control, traffic control, truck routes, material deliveries, contractor's parking, concrete pours, crane lifts, work hours, noise control, dust control, storm water pollution prevention, contractor's contact, noticing of affected businesses, and schedule of work. The plan will be attached to a street work permit.
- a. The applicant will further explain how they will ensure additional care and attention is taken during construction to protect the adjacent Historic buildings terracotta façade and tiled roof.

PUBLIC WORKS ZERO WASTE

29. Trash enclosure must be large enough to accommodate at least 2 bins and a cart.

UTILITIES ENGINEERING

30. Industrial and large commercial customers must allow sufficient lead-time for Electric Utility Engineering and Operations (typically 8-12 weeks after advance engineering fees have been paid) to design and construct the electric service requested.
31. A completed Utility Service Application and a full set of plans must be included with all applications involving electrical work. The Application must be included with the preliminary submittal.
32. The applicant shall submit a request to disconnect all existing utility services and/or meters including a signed affidavit of vacancy, on the form provided by the Building Inspection Division. Utilities will be disconnected or removed within 10 working days after receipt of request. The demolition permit will be issued after all utility services and/or meters have been disconnected and removed.
33. All utility meters, lines, transformers, backflow preventers, and any other required equipment shall be shown on the landscape and irrigation plans and shall show that no conflict will occur between the utilities and landscape materials. In addition, all aboveground equipment shall be screened in a manner that is consistent with the building design and setback requirements.
34. Contractors and developers shall obtain permit from the Department of Public Works before digging in the street right-of-way. This includes sidewalks, driveways and planter strips.
35. At least 48 hours prior to starting any excavation, the customer must call Underground Service Alert (USA) at 1-800-227-2600 to have existing underground utilities located and marked. The areas to be checked for underground facility marking shall be delineated with white paint. All USA markings shall be removed by the customer or contractor when construction is complete.
36. The customer is responsible for installing all on-site substructures (conduits, boxes and pads) required for the electric service. No more than 270 degrees of bends are allowed in a secondary conduit run. All conduits must be sized according to California Electric Code requirements and no 1/2 – inch size conduits are permitted. All off-site substructure work will be constructed by the City at the customer's expense. Where mutually agreed upon by the City and the Applicant, all or part of the off-site substructure work may be constructed by the Applicant.
37. All primary electric conduits shall be concrete encased with the top of the encasement at the depth of 30 inches. No more than 180 degrees of bends are allowed in a primary conduit run. Conduit runs over 500 feet in length require additional pull boxes.
38. All new underground conduits and substructures shall be installed per City standards and shall be inspected by the Electrical Underground Inspector before backfilling.

39. For services larger than 1600 amps, a transition cabinet as the interconnection point between the utility's padmount transformer and the customer's main switchgear may be required. See City of Palo Alto Utilities Standard Drawing SR-XF-E-1020. The cabinet design drawings must be submitted to the Electric Utility Engineering Division for review and approval.
40. For underground services, no more than four (4) 750 MCM conductors per phase can be connected to the transformer secondary terminals; otherwise, bus duct or x-flex cable must be used for connections to padmount transformers. If customer installs a bus duct directly between the transformer secondary terminals and the main switchgear, the installation of a transition cabinet will not be required.
41. The customer is responsible for installing all underground electric service conductors, bus duct, transition cabinets, and other required equipment. The installation shall meet the California Electric Code and the City Standards.
42. Meter and switchboard requirements shall be in accordance with Electric Utility Service Equipment Requirements Committee (EUSERC) drawings accepted by Utility and CPA standards for meter installations.
43. Shop/factory drawings for switchboards (400A and greater) and associated hardware must be submitted for review and approval prior to installing the switchgear to:
- Gopal Jagannath, P.E.
Supervising Electric Project Engineer
Utilities Engineering (Electrical)
1007 Elwell Court
Palo Alto, CA 94303
44. For 400A switchboards only, catalog cut sheets may be substituted in place of factory drawings.
45. All new underground electric services shall be inspected and approved by both the Building Inspection Division and the Electrical Underground Inspector before energizing.
46. The customer shall provide as-built drawings showing the location of all switchboards, conduits (number and size), conductors (number and size), splice boxes, vaults and switch/transformer pads.
47. The follow must be completed before Utilities will make the connection to the utility system and energize the service:
- All fees must be paid.
 - All required inspections have been completed and approved by both the Building Inspection Division and the Electrical Underground Inspector.
 - All Special Facilities contracts or other agreements need to be signed by the City and applicant.
 - Easement documents must be completed.

BUILDING DIVISION

48. For the proposed property line openings from 620 Emerson St into 180 Hamilton Ave, provide a recorded restricted covenant on both properties that assures that the proposed openings will not be increased at any time and will be filled in with solid rated walls as required by the 2016 or most recent California Building Code once the ownership and/or tenant vacates either structure prior to the issuance of the building permit.
49. The proposed restaurant occupancy use of A-2 from the former M (florist shop) occupancy is considered a change of occupancy to a higher risk category. When a change in occupancy results in a structure being reclassified to a higher risk category, the structure shall conform to the seismic requirements for a new structure of a higher risk category. A seismic evaluation of the existing structure will be required for the change of occupancy for the submittal of the building permit. (CBC Part 10 Existing Building Code Section 407.4)
50. If the proposed tenant improvement of less than 5,000 s.f. also includes the replacement of at least two of the following: HVAC system, building envelope, not water system, or lighting system, then this project shall comply with the CALGreen Mandatory + Tier 1 requirement when submitting for the building permit. The City of Palo Alto GB Mandatory + Tier 1 plan sheets can be downloaded from the following website address:
http://www.cityofpaloalto.org/gov/depts/ds/green_building/compliance.asp
51. The review and approval of this project does not include any other items of construction other than those written in the ARB project review application included with the project plans and documents under this review. If the plans include items or elements of construction that are not included in the written description, it or they may not have been known to have been a part of the intended review and have not, unless otherwise specifically called out in the approval, been reviewed.

WATERSHED PROTECTION

Designated Food Service Establishment (FSE) Projects:

A. Grease Control Device (GCD) Requirements, PAMC Section 16.09.075 & Cited Building/Plumbing Codes

1. The plans shall specify the manufacturer details and installation details of all proposed GCDs. (CBC 1009.2)
2. GCD(s) shall be sized in accordance with the 2007 California Plumbing Code.
3. GCD(s) shall be installed with a minimum capacity of 500 gallons.
4. GCD sizing calculations shall be included on the plans. See a sizing calculation example below.
5. The size of all GCDs installed shall be equal to or larger than what is specified on the plans.
6. GCDs larger than 50 gallons (100 pounds) shall not be installed in food preparation and storage areas. Santa Clara County Department of Environmental Health prefers GCDs to be installed outside. GCDs shall be installed such that all access points or manholes are readily accessible for inspection, cleaning and removal of all contents. GCDs located

outdoors shall be installed in such a manner so as to exclude the entrance of surface and stormwater. (CPC 1009.5)

7. All large, in-ground interceptors shall have a minimum of three manholes to allow visibility of each inlet piping, baffle (divider) wall, baffle piping and outlet piping. The plans shall clearly indicate the number of proposed manholes on the GCD. The Environmental Compliance Division of Public Works Department may authorize variances which allow GCDs with less than three manholes due to manufacture available options or adequate visibility.
8. Sample boxes shall be installed downstream of all GCDs.
9. All GCDs shall be fitted with relief vent(s). (CPC 1002.2 & 1004)
10. GCD(s) installed in vehicle traffic areas shall be rated and indicated on plans.

B. Drainage Fixture Requirements, PAMC Section 16.09.075 & Cited Building/Plumbing Codes

1. To ensure all FSE drainage fixtures are connected to the correct drain lines, each drainage fixture shall be clearly labeled on the plans. A list of all fixtures and their discharge connection, i.e. sanitary sewer or grease waste line, shall be included on the plans.
2. A list indicating all connections to each proposed GCD shall be included on the plans. This can be incorporated into the sizing calculation.
3. All grease generating drainage fixtures shall connect to a GCD. These include but are not limited to:
 - a. Pre-rinse (scullery) sinks
 - b. Three compartment sinks (pot sinks)
 - c. Drainage fixtures in dishwashing room except for dishwashers shall connect to a GCD
 - d. Examples: trough drains (small drains prior to entering a dishwasher), small drains on busing counters adjacent to pre-rinse sinks or silverware soaking sinks
 - e. Floor drains in dishwashing area and kitchens
 - f. Prep sinks
 - g. Mop (janitor) sinks
 - h. Outside areas designated for equipment washing shall be covered and any drains contained therein shall connect to a GCD.
 - i. Drains in trash/recycling enclosures
 - j. Wok stoves, rotisserie ovens/broilers or other grease generating cooking equipment with drip lines
 - k. Kettles and tilt/braising pans and associated floor drains/sinks
4. The connection of any high temperature discharge lines and non-grease generating drainage fixtures to a GCD is prohibited. The following shall not be connected to a GCD:
 - a. Dishwashers
 - b. Steamers
 - c. Pasta cookers
 - d. Hot lines from buffet counters and kitchens
 - e. Hand sinks
 - f. Ice machine drip lines
 - g. Soda machine drip lines
 - h. Drainage lines in bar areas
5. No garbage disposers (grinders) shall be installed in a FSE. (PAMC 16.09.075(d)).

6. Plumbing lines shall not be installed above any cooking, food preparation and storage areas.
7. Each drainage fixture discharging into a GCD shall be individually trapped and vented. (CPC 1014.5)

C. Covered Dumpsters, Recycling and Tallow Bin Areas PAMC, 16.09.075(q)(2)

1. Newly constructed and remodeled FSEs shall include a covered area for all dumpsters, bins, carts or container used for the collection of trash, recycling, food scraps and waste cooking fats, oils and grease (FOG) or tallow.
2. The area shall be designed and shown on plans to prevent water run-on to the area and runoff from the area.
3. Drains that are installed within the enclosure for recycle and waste bins, dumpsters and tallow bins serving FSEs are optional. Any such drain installed shall be connected to a GCD.
4. If tallow is to be stored outside then an adequately sized, segregated space for a tallow bin shall be included in the covered area.
5. These requirements shall apply to remodeled or converted facilities to the extent that the portion of the facility being remodeled is related to the subject of the requirement.

D. Large Item Cleaning Sink, PAMC 16.09.075(m)(2)(B)

1. FSEs shall have a sink or other area drain which is connected to a GCD and large enough for cleaning the largest kitchen equipment such as floor mats, containers, carts, etc. Recommendation: Generally, sinks or cleaning areas larger than a typical mop/janitor sink are more useful.

E. GCD sizing criteria and an example of a GCD sizing calculation (2007 CPC)

Sizing Criteria:

<u>Drain Fixtures</u>	<u>DFUs</u>
Pre-rinse sink	4
3 compartment sink	3
2 compartment sink	3
Prep sink	3
Mop/Janitorial sink	3
Floor drain	2
Floor sink	2

GCD Sizing:

<u>Total DFUs</u>	<u>GCD Volume (gallons)</u>
8	500
21	750
35	1,000
90	1,250
172	1,500
216	2,000

Example GCD Sizing Calculation:

Quantity	Drainage Fixture & Item Number	DFUs	Total
1	Pre-rinse sink, Item 1	4	4
1	3 compartment sink, Item 2	3	3
2	Prep sinks, Item 3 & Floor sink, Item 4	3	6
1	Mop sink, Item 5	3	3
1	Floor trough, Item 6 & tilt skillet, Item 7	2	2
1	Floor trough, Item 6 & steam kettle, Item 8	2	2
1	Floor sink, Item 4 & wok stove, Item 9	2	2
4	Floor drains	2	8
1,000 gallon GCD minimum sized		Total:	30

Note:

- All resubmitted plans to Building Department which include FSE projects shall be resubmitted to Water Quality.
- It is frequently to the FSE's advantage to install the next size larger GCD to allow for more efficient grease discharge prevention and may allow for longer times between cleaning. There are many manufacturers of GCDs which are available in different shapes, sizes and materials (plastic, reinforced fiberglass, reinforced concrete and metal)
- The requirements will assist FSEs with FOG discharge prevention to the sanitary sewer and storm drain pollution prevention. The FSE at all times shall comply with the Sewer Use Ordinance of the Palo Alto Municipal Code. The ordinances include requirements for GCDs, GCD maintenance, drainage fixtures, record keeping and construction projects.

Plastic Foam and Non-Recyclable Food Service Containers and Packaging Items

A. Prohibitions on the Use of Plastic Foam and Non-Recyclable Plastics, PAMC 5.30.020

1. Except as provided by PAMC Section 5.30.030, Food Service Establishments are prohibited from providing prepared food in Disposable Food Service Containers made from Plastic Foam or other Non-Recyclable Plastic;
2. Except as provided by PAMC Section 5.30.030, Retail Service Establishments are prohibited from selling, leasing or otherwise providing Plastic Foam Products;
3. Except as provided by PAMC Section 5.30.030, all City facilities and vendors at City sponsored events or City owned facilities are prohibited from using Disposable Food Service Containers, packaging or other products made from Plastic Foam or Non-Recyclable Plastic;
4. Nothing in PAMC Section 5.30 shall be interpreted to restrict the use or sale of any form of fiber or paper disposable food service container, or the use of any form of biodegradable or plastic food service container meeting ASTM Standards or other products authorized by Administrative Regulation.

B. Exemptions to the Prohibitions on the Use of Plastic Foam and Non-Recyclable Plastics, PAMC 5.30.030

1. The following exemptions shall apply:
 - i. Foods prepared or packaged outside the City of Palo Alto are exempt from the provisions of PAMC Section 5.30. Purveyors of food prepared or packaged outside the City of Palo Alto are encouraged to follow the provisions of this PAMC Section 5.30.
 - ii. The Director of Public Works, or his/her designee, may exempt a Food Service Establishment, Retail Service Establishment or City facility/vendor from the requirements of this Ordinance for a period of up to one year, if the applicant for such exemption can demonstrate that the conditions of this Ordinance would cause an undue hardship. An "undue hardship" includes, but is not limited to situations unique to the applicant where there are no reasonable alternatives to Plastic Foam Products or Non-recyclable Plastic Disposable Food Service Containers and compliance with PAMC Section 5.30 would cause significant economic hardship to that applicant, or cause them to be deprived of a legally protected right.

- iii. A Food Service Establishment, Retail Service Establishment or City facility/vendor seeking an exemption application shall include all information necessary for the City to make its decision, including but not limited to documentation showing the factual support for the claimed exemption. The Director may require the applicant to provide additional information to permit the Director to determine facts regarding the exemption application.
- iv. Emergency Supplies and Service Procurement. City facilities, Food Service Establishments, Retail Service Establishments, City contractors and vendors doing business with the City shall be exempt from the provisions of PAMC Section 5.30, in a situation deemed by the City Manager to be an emergency for the immediate preservation of the public peace, health or safety.

Draft

APPROVAL NO. 2018-____

RECORD OF THE *COUNCIL* OF THE CITY OF PALO ALTO LAND USE ACTION FOR 620 EMERSON STREET: MINOR ARCHITECTURAL REVIEW BOARD APPROVAL (17PLN-00331)

On _____, 2018, the Council of Palo Alto held a duly-noticed public hearing and, after considering all of the evidence presented, approved the Minor Architectural Review application to allow the demolition of an existing single story commercial building and construct a new two story 4,063 square foot commercial building for the expansion of Nobu Restaurant. The Project includes replacement of three (3) on-site parking spaces with five (5) In-Lieu spaces in the Downtown Parking Assessment District in the CD-C(GF)(P) Zoning District. In approving the application, the Council made the following findings, determination and declarations:

SECTION 1. Background.

- A. An application for a Minor Board Level Architectural Review was submitted by Blake Hussey of Montalba Architects was submitted on September 12, 2017.
- B. Planning Staff reviewed the submitted application and referred the application to the Architectural Review Board for a recommendation of approval to the Director of Planning and Community Environment.
- C. The Architectural Review to allow the demolition of an existing single story commercial building and construct a new two story 4,063 square foot commercial building for the expansion of Nobu Restaurant. The Project includes replacement of three (3) on-site parking spaces with five (5) In-Lieu spaces in the Downtown Parking Assessment District. The project site is located within the CD-C(GF)(P) zoning District.
- D. The Project has gone to the Architectural Review Board twice prior to being recommended for approval with the draft conditions submitted to the Architectural Review Board on April 5, 2018. The Architectural Review Board included a condition of approval, requiring the landscaping for the project to return to the Architectural Review Board Subcommittee for approval which changes to the landscaping. The Architectural Review Board Subcommittee reviewed the revision to the landscaping and recommended approval of the changes on May 3, 2018.

SECTION 2. Environmental Review. The proposed project has determined to be categorically exempt under a Class 3 exemption (CEQA Guidelines Section 15303) for “new construction or conversion of small structures” of the California Environmental Quality Act Guidelines. The project meets the criteria for this exemption as it is a new building that is below 10,000 square feet in area and is located within an urban area with a proposed use that is permitted within the CD-C(GF)(P) zone district.

SECTION 3. Exception to On-Site Parking Requirements. An exception for on-site parking requirements for new buildings located within the Downtown Parking Assessment District per section 18.18.090 (d) “In-lieu Parking Provisions” pursuant to meeting the criteria within this code section as determine by the Director of Planning Community Environment, whose decision shall be final. The criteria state only sites satisfying one or more of the following criteria, as determined by the Director of Planning and Community Environment, shall be eligible to participate in the in-lieu parking program:

- (1) Construction of on-site parking would necessitate destruction or substantial demolition of a designated historic structure;
 - (2) The site area is less than 10,000 square feet, but of such an unusual configuration that it would not be physically feasible to provide the required on-site parking;
 - (3) The site is greater than 10,000 square feet, but of such an unusual configuration that it would not be physically feasible to provide the required on-site parking;
 - (4) The site is located in an area where city policy precludes curb cuts or otherwise prevents use of the site for on-site parking; or
 - (5) The site has other physical constraints, such as a high groundwater table, which preclude provision of on-site parking without extraordinary expense.
- (e) Underground Parking
- Underground parking deeper than two levels below grade shall be prohibited unless a soils report or engineering analysis demonstrates that regular pumping of subsurface water will not be required.

The existing site has paid into the Downtown Parking Assessment District for an equivalent of eleven spaces and has provided three parking spaces on site that are accessed from the rear alleyway. The proposed project involves removing these noncompliant on-site parking spaces and adding additional square footage to create space for a new trash room and kitchen. The site has been analyzed by Staff, who explored various parking configuration with the applicant and other City departments. The feasibility of providing underground parking, parking via mechanical lifts, and surface parking accessed via the rear alleyway resulted in the project being able to provide one feasible parking space physically onsite. However, the location and size of the property combined with compliance with the American Disability Act, local standards for refuse collection and other standards make it infeasible to provide additional parking onsite in an efficient or convenient parking layout. With these findings the Director of Planning and Community Environment determined that the project is eligible to participate in the parking in-lieu program for five (5) in-lieu parking spaces.

SECTION 4. Architectural Review Findings.

***Finding #1:** The design is consistent with applicable provisions of the Palo Alto Comprehensive Plan, Zoning Code, coordinated area plans (including compatibility requirements), and any relevant design guides.*

The project is consistent with the applicable regulations within the Zoning Code and the Architectural Review Findings. In addition, the project is consistent with the Palo Alto Comprehensive Plan Goals and Policies in that the project would result in no net loss of retail as the proposed restaurant use is considered retail like, maintaining a similar mixture of uses in the indicative of the Downtown area. The design of the new building includes large windows that connect the proposed use to the street while providing pedestrian amenities such as a large awning that spans across the building, pedestrian seating, new bicycle racks, and new creating a more pleasant pedestrian environment.

The project will create a new building with a new restaurant use which includes new pedestrian furniture for public use on private property, maintaining the Downtown area's pedestrian identity. The project

includes large windows that allow clear views into the proposed restaurant and is consistent with the existing businesses along Emerson reinforcing the pedestrian characteristic of Downtown Palo Alto. The project includes new street furniture (bench seating) within the recessed window area of the façade and will install a new bike racks within the public right of way, enhancing the pedestrian and bicycle friendly environment of the area. The project proposes a new building that is in scale with the adjacent single-story buildings along Emerson Street and will include the use of high-quality materials such as solid bronze and stone. The project locates new backflow preventers within the façade via hidden cabinets, removing them from public view. The project would be consistent the Downtown Design Guidelines as it involves an active retail-like use (eating and drinking use) and the new façade materials are consistent with those listed in the Guidelines. The new façade provides a recessed entry, a new awning, and glass windows with bench seats that fit the character of the smaller storefront pattern and setbacks of the adjacent buildings. These features will also help to activate the street. The proposed green roof would further enhance views from the adjacent hotel and other taller buildings in the area.

Finding #2: The project has a unified and coherent design, that: a. “creates an internal sense of order and desirable environment for occupants, visitors, and the general community,” b. “preserves, respects and integrates existing natural features that contribute positively to the site and the historic character including historic resources of the area when relevant,” c. “is consistent with the context-based design criteria of the applicable zone district,” d. “provides harmonious transitions in scale, mass and character to adjacent land uses and land use designations,” e. “enhances living conditions on the site (if it includes residential uses) and in adjacent residential areas.”

The project proposes a new building with a façade that will enhance the immediate neighborhood and patrons of the local businesses alike. The design of the new building is consistent with the context-based design criteria within the CD-C(GF)(P) zone. In addition, the project will integrate the exterior ground floor façade of the adjacent hotel, as it expands the existing restaurant from 180 Hamilton Avenue to 620 Emerson Street. The proposed façade would also better connect the building with the existing character and streetscape along Emerson Street. The new building will be built to the property lines similar to other existing buildings in the area and would preserve the pedestrian scale of the area. In addition, the new public furniture (bench seats) proposed within the window recesses and new bicycle racks in the public right way will improve the pedestrian and bicycle environment of the Downtown area.

Pursuant to PAMC 18.16.090(b), the following context-based design considerations and findings are applicable to this project. These context-based design criteria are intended to provide additional standards to be used in the design and evaluation of development in a commercial district. The purpose is to encourage development in a commercial district to be responsible for its context and compatibility with adjacent development as well as to promote the establishment of pedestrian-oriented design.

The project will have the same scale as the existing buildings in the area, maintaining the areas pedestrian environment and scale. The project includes benches along its front façade to promote a pedestrian-friendly environment. The proposed building includes a recessed entry and awning that will function as a shelter for pedestrians. The project also includes new seating that can be utilized by the public supporting pedestrian activity. The proposed building will have large clear windows that connect the interior of the building to the sidewalk and street, promoting pedestrian activity. The proposed project will not

substantially increase the existing massing or setbacks from the street. The proposed project will remove existing on-site parking and replace them via the Downtown Parking Assessment Districts in-lieu fee, which provides parking off site within walking distance of the site. The project will be constructed in accordance with current green building energy efficiency requirements. The project will also utilize a green roof that would reduce runoff from the roof and lower the heat absorption of the building, leading to lower demands on the HVAC systems.

Finding #3: The design is of high aesthetic quality, using high quality, integrated materials, and appropriate construction techniques, and incorporating textures, colors, and other details that are compatible with and enhance the surrounding area.

The project involves materials which are durable and of high-quality finishes consisting of bronze and stone. The new façade will have a light colored textured stone finish that will better fit with the existing character of the area and will enhance the surrounding area.

Finding #4: The design is functional, allowing for ease and safety of pedestrian and bicycle traffic and providing for elements that support the building's necessary operations (e.g. convenient vehicle access to property and utilities, appropriate arrangement and amount of open space and integrated signage, if applicable, etc.).

The proposed building will maintain the pedestrian scale of the area and promote a pedestrian-friendly environment by including benches along its front façade. A recessed entry and awning that will function as a shelter for pedestrians are proposed and would provide a refuge for pedestrians from the elements. The proposed building will also have large clear windows that connect the interior of the building to the sidewalk and street, promoting pedestrian activity. The project includes new utilities which will be easily accessible via hidden panels within the façade keeping them out of the public right of way and out of sight. The site is located in the downtown parking assessment district which allows for more convenient parking options. Additionally, the site has access to a rear alleyway which can be utilized by service and delivery vehicles that support the day to day operation of the proposed restaurant.

Finding #5: The landscape design complements and enhances the building design and its surroundings, is appropriate to the site's functions, and utilizes to the extent practicable, regional indigenous drought-resistant plant material capable of providing desirable habitat that can be appropriately maintained.

The project includes new planters along the sidewalk and a green roof which can be viewed partially through the open skylight within the building and will be clearly visible to patrons within the adjacent hotel and other taller buildings in the area. The green roof and new planters will contribute to the overall character of Downtown and do incorporate native plants.

Finding #6: The project incorporates design principles that achieve sustainability in areas related to energy efficiency, water conservation, building materials, landscaping, and site planning.

The project will comply with all applicable green building codes for energy efficient buildings such as the use of energy-efficient lighting and the construction debris diversion rate requirement minimizing trips to landfills. The proposed green roof will reduce runoff and reduce the heat island effect while providing additional green space over a more traditional roof.

SECTION 5. Conditions of Approval.

1. CONFORMANCE WITH PLANS. Construction and development shall conform to the approved plans entitled, "NOBU PA 620" stamped as received by the City on March 26th, 2018 on file with the Planning Department, 250 Hamilton Avenue, Palo Alto, California except as modified by these conditions of approval.
2. BUILDING PERMIT. Apply for a building permit and meet any and all conditions of the Planning, Fire, Public Works, and Building Departments.
3. BUILDING PERMIT PLAN SET. The Architectural Review (AR) approval letter including all Department conditions of approval for the project shall be printed on the plans submitted for building permit.
4. PROJECT MODIFICATIONS: All modifications to the approved project shall be submitted for review and approval prior to construction. If during the Building Permit review and construction phase, the project is modified by the applicant, it is the responsibility of the applicant to contact the Planning Division/project planner directly to obtain approval of the project modification. It is the applicant's responsibility to highlight any proposed changes to the project and to bring it to the project planner's attention.
5. PROJECT EXPIRATION. The project approval shall be valid for a period of two years from the original date of approval. In the event a building permit(s), if applicable, is not secured for the project within the time limit specified above, the AR approval shall expire and be of no further force or effect. Application for a one year extension of this entitlement may be made prior to the expiration.
6. PARKING IN-LIEU FEES: Parking in-lieu fees shall be paid for five (5) parking spaces prior to issuance of Building permits at the rate set, per in-lieu space, at the time of payment (See condition #13)
7. BICYCLE PARKING: One new short term bicycle rack shall be installed within the public right of way, and one long term bicycle rack shall be installed on site to the satisfaction of the Chief Transportation Official. All bicycle racks shall be installed prior to final Planning Inspection.
8. VEHICLE LOADING: Vehicle loading and unloading shall not impede the movement of traffic for extended periods of time.

9. REAR DOOR: All rear doors shall remain closed during business hours to minimize noise projecting into adjacent residences.
10. RESTROOM FACILITIES: If and when access to 180 Hamilton Avenue is terminated, on site code compliant restroom facilities shall be provided.
11. ARB SUBCOMMITTEE: Prior to the issuance of building permits, the applicant shall return to the ARB subcommittee for approval of the following items, to the satisfaction of the Director of Planning and Community Environment:
 - a. Review of the landscaping design of the green roof area to ensure conformance with Finding #5. (Note – ARB reviewed and approved a landscape plan on May 3, 2018.)
12. TRASH ROOM: The trash room shall be used solely for the temporary storage of refuse and recycling that is disposed on a regular basis and shall be closed and locked during non-business hours.
13. ESTIMATED IMPACT FEE: The project is exempt from most impact fees, but must pay the housing impact fee and for the in-lieu parking spaces as specified in Condition #6. Development Impact Fees, currently estimated in the amount of \$340,320.34, shall be paid prior to the issuance of the related building permit.
14. IMPACT FEE 90-DAY PROTEST PERIOD. California Government Code Section 66020 provides that a project applicant who desires to protest the fees, dedications, reservations, or other exactions imposed on a development project must initiate the protest at the time the development project is approved or conditionally approved or within ninety (90) days after the date that fees, dedications, reservations or exactions are imposed on the Project. Additionally, procedural requirements for protesting these development fees, dedications, reservations and exactions are set forth in Government Code Section 66020. IF YOU FAIL TO INITIATE A PROTEST WITHIN THE 90-DAY PERIOD OR FOLLOW THE PROTEST PROCEDURES DESCRIBED IN GOVERNMENT CODE SECTION 66020, YOU WILL BE BARRED FROM CHALLENGING THE VALIDITY OR REASONABLENESS OF THE FEES, DEDICATIONS, RESERVATIONS, AND EXACTIONS. If these requirements constitute fees, taxes, assessments, dedications, reservations, or other exactions as specified in Government Code Sections 66020(a) or 66021, this is to provide notification that, as of the date of this notice, the 90-day period has begun in which you may protest these requirements. This matter is subject to the California Code of Civil Procedures (CCP) Section 1094.5; the time by which judicial review must be sought is governed by CCP Section 1094.6.
15. INDEMNITY: To the extent permitted by law, the Applicant shall indemnify and hold harmless the City, its City Council, its officers, employees and agents (the “indemnified parties”) from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the City for its actual attorneys’ fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.

16. FINAL INSPECTION: A Planning Division Final inspection will be required to determine substantial compliance with the approved plans prior to the scheduling of a Building Division final. Any revisions during the building process must be approved by Planning, including but not limited to; materials, landscaping and hard surface locations. Contact your Project Planner, Samuel Gutierrez at samuel.gutierrez@cityofpaloalto.org to schedule this inspection.

PUBLIC WORKS ENGINEERING

17. PLANTERS IN THE RIGHT-OF-WAY: Teak planters proposed in the right-of-way shall be removable and moved out of the right of way at the end of each business day.
18. SIDEWALK, CURB & GUTTER: As part of this project, the applicant must replace those portions of the existing sidewalks, curbs, gutters or driveway approaches in the public right-of-way along the frontage(s) of the property that are broken, badly cracked, displaced, or non-standard, and must remove any unpermitted pavement in the planter strip. Contact Public Works' inspector at 650-496-6929 to arrange a site visit so the inspector can determine the extent of replacement work. The site plan submitted with the building permit plan set must show the extent of the replacement work or include a note that Public Works' inspector has determined no work is required. The plan must note that any work in the right-of-way must be done per Public Works' standards by a licensed contractor who must first obtain a *Street Work Permit* from Public Works at the Development Center.
19. STREET TREES: The applicant may be required to replace existing and/or add new street trees in the public right-of-way along the property's frontage(s). Call the Public Works' arborist at 650-496-5953 to arrange a site visit so he can determine what street tree work, if any, will be required for this project. The site plan submitted with the building permit plan set must show the street tree work that the arborist has determined, including the tree species, size, location, staking and irrigation requirements, or include a note that Public Works' arborist has determined no street tree work is required. The plan must note that in order to do street tree work, the applicant must first obtain a *Permit for Street Tree Work in the Public Right-of-Way* from Public Works' arborist (650-496-5953).
20. GRADING & DRAINAGE PLAN: The plan set must include a grading & drainage plan prepared by a licensed professional that includes existing and proposed spot elevations and drainage flow arrows to demonstrate proper drainage of the site. Adjacent grades must slope away from the house a minimum of 2%. Downspouts and splashblocks should be shown on this plan, as well as any site drainage features such as swales. Grading will not be allowed that increases drainage onto, or blocks existing drainage from, neighboring properties. Public Works generally does not allow rainwater to be collected and discharged into the street gutter, but encourages the developer to keep rainwater onsite as much as feasible by directing runoff to landscaped and other pervious areas of the site. See the Grading & Drainage Plan Guidelines for New Single Family Residences: <http://www.cityofpaloalto.org/civicax/filebank/documents/2717>

21. GRADING PERMIT: The site plan must include an earthworks table showing cut and fill volumes. If the total is more than 100 cubic yards, a grading permit will be required. An application and plans for a grading permit are submitted to Public Works separately from the building permit plan set. The application and guidelines are available at the Development Center and on our website.
22. STORM WATER POLLUTION PREVENTION: The City's full-sized "Pollution Prevention - It's Part of the Plan" sheet must be included in the plan set. The sheet is available here: <http://www.cityofpaloalto.org/civicax/filebank/documents/2732>
23. STREET TREES: Show all existing street trees in the public right-of-way. Any removal, relocation or planting of street trees; or excavation, trenching or pavement within 10 feet of street trees must be approved by Public Works' arborist (phone: 650-496-5953). This approval shall appear on the plans. Show construction protection of the trees per City requirements.
24. WORK IN THE RIGHT-OF-WAY: The plans must clearly indicate any work that is proposed in the public right-of-way, such as sidewalk replacement, driveway approach, or utility laterals. The plans must include notes that the work must be done per City standards and that the contractor performing this work must first obtain a *Street Work Permit* from Public Works at the Development Center. If a new driveway is in a different location than the existing driveway, then the sidewalk associated with the new driveway must be replaced with a thickened (6" thick instead of the standard 4" thick) section. Additionally, curb cuts and driveway approaches for abandoned driveways must be replaced with new curb, gutter and planter strip.
25. IMPERVIOUS SURFACE AREA: The project will be creating or replacing 500 square feet or more of impervious surface. Accordingly, the applicant shall provide calculations of the existing and proposed impervious surface areas with the building permit application. The *Impervious Area Worksheet for Land Developments* form and instructions are available at the Development Center or on our website.
26. STORM WATER TREATMENT: This project may trigger the California Regional Water Quality Control Board's revised provision C.3 for storm water regulations (incorporated into the Palo Alto Municipal Code, Section 16.11) that apply to residential land development projects that create or replace between 2,500 and 10,000 square feet of impervious surface area. The applicant must implement one or more of the following site design measures:
 - Direct roof runoff into cisterns or rain barrels for reuse.
 - Direct roof runoff onto vegetated areas.
 - Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas.
 - Direct runoff from driveways and/or uncovered parking lots onto vegetated areas.
 - Construct sidewalks, walkways, and/or patios with permeable surfaces.
 - Construct driveways, and/or uncovered parking lots with permeable surfaces.
27. SIDEWALK ENCROACHMENT: Add a note to the site plan that says, "The contractor using the city sidewalk to work on an adjacent private building must do so in a manner that is safe for

pedestrians using the sidewalk. Pedestrian protection must be provided per the 2007 California Building Code Chapter 33 requirements. If the height of construction is 8 feet or less, the contractor must place construction railings sufficient to direct pedestrians around construction areas. If the height of construction is more than 8 feet, the contractor must obtain an encroachment permit from Public Works at the Development Center in order to provide a barrier and covered walkway or to close the sidewalk.”

28. LOGISTICS PLAN: The contractor must submit a logistics plan to the Public Works Department prior to commencing work that addresses all impacts to the City’s right-of-way, including, but not limited to: pedestrian control, traffic control, truck routes, material deliveries, contractor’s parking, concrete pours, crane lifts, work hours, noise control, dust control, storm water pollution prevention, contractor’s contact, noticing of affected businesses, and schedule of work. The plan will be attached to a street work permit.
- a. The applicant will further explain how they will ensure additional care and attention is taken during construction to protect the adjacent Historic buildings terracotta façade and tiled roof.

Public Works Zero Waste

29. TRASH ENCLOSURE: At the Building permit stage, the applicant shall verify that the trash enclosure is large enough to accommodate at least 2 collection bins and a cart.

UTILITIES ENGINEERING

30. Industrial and large commercial customers must allow sufficient lead-time for Electric Utility Engineering and Operations (typically 8-12 weeks after advance engineering fees have been paid) to design and construct the electric service requested.
31. A completed Utility Service Application and a full set of plans must be included with all applications involving electrical work. The Application must be included with the preliminary submittal.
32. The applicant shall submit a request to disconnect all existing utility services and/or meters including a signed affidavit of vacancy, on the form provided by the Building Inspection Division. Utilities will be disconnected or removed within 10 working days after receipt of request. The demolition permit will be issued after all utility services and/or meters have been disconnected and removed.
33. All utility meters, lines, transformers, backflow preventers, and any other required equipment shall be shown on the landscape and irrigation plans and shall show that no conflict will occur between the utilities and landscape materials. In addition, all aboveground equipment shall be screened in a manner that is consistent with the building design and setback requirements.

34. Contractors and developers shall obtain permit from the Department of Public Works before digging in the street right-of-way. This includes sidewalks, driveways and planter strips.
35. At least 48 hours prior to starting any excavation, the customer must call Underground Service Alert (USA) at 1-800-227-2600 to have existing underground utilities located and marked. The areas to be checked for underground facility marking shall be delineated with white paint. All USA markings shall be removed by the customer or contractor when construction is complete.
36. The customer is responsible for installing all on-site substructures (conduits, boxes and pads) required for the electric service. No more than 270 degrees of bends are allowed in a secondary conduit run. All conduits must be sized according to California Electric Code requirements and no 1/2 – inch size conduits are permitted. All off-site substructure work will be constructed by the City at the customer’s expense. Where mutually agreed upon by the City and the Applicant, all or part of the off-site substructure work may be constructed by the Applicant.
37. All primary electric conduits shall be concrete encased with the top of the encasement at the depth of 30 inches. No more than 180 degrees of bends are allowed in a primary conduit run. Conduit runs over 500 feet in length require additional pull boxes.
38. All new underground conduits and substructures shall be installed per City standards and shall be inspected by the Electrical Underground Inspector before backfilling.
39. For services larger than 1600 amps, a transition cabinet as the interconnection point between the utility’s padmount transformer and the customer’s main switchgear may be required. See City of Palo Alto Utilities Standard Drawing SR-XF-E-1020. The cabinet design drawings must be submitted to the Electric Utility Engineering Division for review and approval.
40. For underground services, no more than four (4) 750 MCM conductors per phase can be connected to the transformer secondary terminals; otherwise, bus duct or x-flex cable must be used for connections to padmount transformers. If customer installs a bus duct directly between the transformer secondary terminals and the main switchgear, the installation of a transition cabinet will not be required.
41. The customer is responsible for installing all underground electric service conductors, bus duct, transition cabinets, and other required equipment. The installation shall meet the California Electric Code and the City Standards.
42. Meter and switchboard requirements shall be in accordance with Electric Utility Service Equipment Requirements Committee (EUSERC) drawings accepted by Utility and CPA standards for meter installations.
43. Shop/factory drawings for switchboards (400A and greater) and associated hardware must be submitted for review and approval prior to installing the switchgear to:
Gopal Jagannath, P.E.
Supervising Electric Project Engineer

Utilities Engineering (Electrical)
1007 Elwell Court
Palo Alto, CA 94303

44. For 400A switchboards only, catalog cut sheets may be substituted in place of factory drawings.
45. All new underground electric services shall be inspected and approved by both the Building Inspection Division and the Electrical Underground Inspector before energizing.
46. The customer shall provide as-built drawings showing the location of all switchboards, conduits (number and size), conductors (number and size), splice boxes, vaults and switch/transformer pads.
47. The follow must be completed before Utilities will make the connection to the utility system and energize the service:
 - All fees must be paid.
 - All required inspections have been completed and approved by both the Building Inspection Division and the Electrical Underground Inspector.
 - All Special Facilities contracts or other agreements need to be signed by the City and applicant.
 - Easement documents must be completed.

BUILDING DIVISION

48. For the proposed property line openings from 620 Emerson St into 180 Hamilton Ave, provide a recorded restricted covenant on both properties that assures that the proposed openings will not be increased at any time and will be filled in with solid rated walls as required by the 2016 or most recent California Building Code once the ownership and/or tenant vacates either structure prior to the issuance of the building permit.
49. The proposed restaurant occupancy use of A-2 from the former M (florist shop) occupancy is considered a change of occupancy to a higher risk category. When a change in occupancy results in a structure being reclassified to a higher risk category, the structure shall conform to the seismic requirements for a new structure of a higher risk category. A seismic evaluation of the existing structure will be required for the change of occupancy for the submittal of the building permit. (CBC Part 10 Existing Building Code Section 407.4)
50. If the proposed tenant improvement of less than 5,000 s.f. also includes the replacement of at least two of the following: HVAC system, building envelope, not water system, or lighting system, then this project shall comply with the CALGreen Mandatory + Tier 1 requirement when submitting for the building permit. The City of Palo Alto GB Mandatory + Tier 1 plan sheets can be downloaded from the following website address:
http://www.cityofpaloalto.org/gov/depts/ds/green_building/compliance.asp

51. The review and approval of this project does not include any other items of construction other than those written in the ARB project review application included with the project plans and documents under this review. If the plans include items or elements of construction that are not included in the written description, it or they may not have been known to have been a part of the intended review and have not, unless otherwise specifically called out in the approval, been reviewed.

WATERSHED PROTECTION

52. At the Building permit stage, the project shall show compliance with the following Municipal Code Sections:
- a. Section 16.09.075 (Grease Control, Drainage Fixtures),
 - b. Section 16.09.075(q)(2) (Covered Dumpsters, Recycling and Tallow Bin Areas),
 - c. Section 16.09.075(m)(2)(B) (Large Item Cleaning Sink), and
 - d. Section 5.30.020 (Prohibitions on the Use of Plastic Foam and Non-Recyclable Plastics)

SECTION 6. Term of Approval.

Architectural Review Approval. The project approval shall be valid for a period of two years of council approval. In the event a building permit(s), if applicable, is not secured for the project within the time limit specified above, the AR approval shall expire and be of no further force or effect, pursuant to Palo Alto Municipal Code Section 18.77.070.

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

APPROVED:

City Clerk

Director of Planning and
Community Environment

APPROVED AS TO FORM:

Senior Asst. City Attorney

PLANS AND DRAWINGS REFERENCED:

1. Those plans prepared by Montalba Architects titled "Nobu PA 620", consisting of 28 pages, dated received by the City on March 14, 2018.



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SAN FRANCISCO, CA 94105
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chris@sslfirm.com

August 8, 2018

VIA FEDEX AND EMAIL

City Council and Mayor of the City of Palo Alto
City Hall
250 Hamilton Avenue
Palo Alto, CA 94301
city.council@cityofpaloalto.org

***RE: August 20, 2018 City Council Meeting Regarding Architectural Review
Application No. 17PLN00331 -- Yo, LLC Appeal from Decision of Director of
Planning & Community Development Approving Project at 620 Emerson Street***

Dear Councilmembers and Madam Mayor:

We represent PA Hotel Holdings, LLC (“Applicant”), the owner of the property located at 620 Emerson Street in Palo Alto (the “Property”) and recipient of the project approval that is at issue in the above-referenced appeal. The Property contains a currently vacant, 4,000 square foot commercial building, formerly the site of the Stanford Florist flower shop. Applicant proposes to replace the building with a 4,063 square foot commercial space to allow for expansion of the existing Nobu Restaurant located within the Nobu Hotel—Epiphany Palo Alto next door (the “Project”).

After carefully studying the Project over the course of two hearings, the Architectural Review Board (“ARB”) voted unanimously, 5 to 0, to approve the Project as currently designed and conditioned.

This Appeal was filed by Yo, LLC. In addition to its role as appellant, Yo, LLC is involved in active litigation against Applicant related to Yo, LLC’s failed attempt to purchase the Property from its previous owner. Yo, LLC’s owner/representative is Elizabeth Wong, a local property owner and developer. The Notice of Appeal alleges that parking, traffic, loading, and restroom issues justify reversing the ARB’s decision. However, as discussed below, all of these arguments miss the mark. Each of these issues is addressed by the staff report and the record, which provide ample support to sustain the ARB’s unanimous approval of the Project.

In-Lieu Parking Fees

The Project's reliance on in-lieu parking fees to satisfy the City's parking requirements is consistent with both the spirit and the letter of the Municipal Code provisions governing in-lieu fees, and with the City's planning documents for the Downtown area.

The City has made a conscious choice to design its Downtown Commercial District as a pedestrian and bicycle-friendly zone, featuring a variety of small shops and restaurants housed in separate, architecturally-distinct structures. That preference is reflected in a number of General Plan policies that encourage the use of shared parking and reduction of parking requirements for restaurants.¹ The City's Downtown Urban Design Guidelines likewise emphasize the "existing building pattern of storefronts or structural bays," which "create the human scale of Downtown"; and Municipal Code § 18.18.110 creates design criteria that "promote pedestrian walkability" by directing vehicle access away from store-fronts and reserving public street frontages for pedestrian access. These policies demonstrate the City's commitment to funneling parking demand into the public garages disbursed throughout the area, rather than attempting to accommodate all parking demand generated by each redevelopment project on-site.

Consistent with these policies, Municipal Code § 18.18.090(d) allows certain projects to satisfy the City's parking requirements through payment of in-lieu fees.² These provisions apply, among other things, where the project occupies less than 10,000 square feet in site area and it is not physically feasible to provide the required on-site parking due to an unusual lot configuration; or where the site is located in an area where city policy precludes curb cuts or otherwise prevents use of the site for on-site parking.

The Project satisfies the requirements for eligibility to participate in the in-lieu parking program. First, the site area is 4,063 square feet, well below the 10,000 square foot threshold in subsection (d)(2), and Applicant has conclusively demonstrated that it would not be physically feasible to provide the required parking spaces on-site. Specifically, Applicant's representatives commissioned an independent study of the feasibility of integrating on-site parking into the Project by expert traffic and parking consultants Nelson/Nygaard Consulting Associates, Inc. The study evaluated 13 separate parking layout scenarios with respect to turning feasibility, physical site constraints, adjacent private property constraints, sight distance adequacy, and bicycle/pedestrian safety.

Nelson/Nygaard determined that all 13 scenarios were infeasible for a variety of reasons, including inadequate visibility of pedestrians in the alley, insufficient turning radii, and other issues related to the Property's unusual configuration, with its narrow rear frontage on a one-way alley that contains several other nearby obstructions. The study concluded that, "there was no feasible way to provide parking within or on the project site that could meet parking space size, ingress and egress movements, or vehicle/bicycle/pedestrian safety standards." The Project therefore satisfies the in-lieu fee eligibility requirements of Section 18.18.090(d)(2).

¹ Relevant General Plan policies are listed in Appendix A to this letter for the Council's reference.

² The complete text of Section 18.18.090(d) is set forth in Appendix B.

Second, the site is located in an area where city policy strongly disfavors curb cuts, because they disrupt pedestrian circulation. As ARB member Wynne Furth observed during the first of the two ARB hearings, “I don’t think there’s anybody who would support ... a curb cut on Emerson. That would go against everything we’re trying to accomplish here.” This restriction significantly constrains the Property’s ability to accommodate on-site parking, since it prevents any arrangement by which cars would enter and exit a garage from the Emerson Street side, thereby requiring all cars to enter and exit from the public alley in the rear of the Property. As the Nelson/Nygaard study concluded, the alley cannot serve as a safe entrance and exit for parking on the Property for all of the reasons discussed above. The Project therefore satisfies the eligibility requirements of subsection (d)(4), as well.

The Notice of Appeal argues that the City should reject the Project because the Project will remove three existing on-site parking spaces. While it is true that there are currently three parking spaces on the Property, the spaces are too small for current City parking requirements, and there is no disabled access-compliant space. In fact, the garage is only large enough to accommodate two legal parking spaces under existing City standards. Moreover, in practice these spaces have been used as a loading zone and for storage of trash generated on the Property – not for parking. The ARB took all of these facts into account in reaching its decision approving the Project, and as ARB member Robert Gooyer stated, the Applicant provided “the most thorough explanation as to why we need to ... get rid of those three parking spaces I think I have ever heard.”

The Notice of Appeal next argues that the Project’s payment of in-lieu parking fees “is sugar-coating the fact that there is no provision for off site parking within walking distance.” That is simply untrue. There are five public parking lots within a two-block radius of the Property:

- High/Alma North Garage (Q), 550 High Street
- High/Hamilton Lot (P), 549 High Street
- Emerson/Ramona Lot (N), 561 Emerson Street
- Civic Center Garage (CC), 250 Hamilton Street
- Ramona/University Garage (B), 533a Ramon Street

We also understand that the City recently expanded its garage on Lytton Avenue, and is working on an expansion of another garage on Hamilton Avenue. Accordingly, there is a large amount of existing public parking located in the Project’s immediate vicinity, and the supply of public parking spaces continues to grow.

Further, restaurant patrons will have access to valet parking at the entrance to the Epiphany Hotel, directly next door to the Project. As it does now, the valet service will continue to utilize licensed spaces in private garages or lots outside of the immediate vicinity of the Project, rather than taking up spaces in the closest public garages.

It is possible that in referring to the lack of “provision for off site parking within walking distance,” Yo, LLC is arguing that the City must assign individual parking spaces in specific public garages to projects with in-lieu parking fee components, so that there are designated spots available for the project’s use. However, nothing in the text of the Municipal Code supports such a requirement, and it is our understanding that the City has *never* taken that approach to in-lieu parking. Yo, LLC has not provided an example of a project for which in lieu spaces were specifically designated, we were unable to locate such an example in our search of City records, and Planning Department staff knows of none.

To the contrary, the City recently approved a project at 429 University Avenue, which we understand was sponsored by Yo, LLC’s principal, Ms. Wong. That project requires 87 parking spaces, 34 of which will be accommodated on-site. The project relies on past payments of in-lieu fees to provide 37 of the remaining spaces. Consistent with the Project at issue here, the approval documents do not mention any assignment of specific parking spaces.

Likewise, the City recently approved a 7,158 square foot expansion of a senior citizen center at 450 Bryant Street, which is zoned the same as the Property and located just 3 blocks away. That project generated a need for 29 additional parking spaces, which it will satisfy entirely through payment of in-lieu fees and a transportation demand management plan. Again, the approval documents do not mention any assignment of specific parking spaces.

Nor would such an approach make sense. A big part of the reason for accommodating parking demand in large, public garages is to allow flexibility in the use of parking spaces, so that spaces not being used for one business at any given moment are available to patrons of the other businesses in the area. Assigning specific spaces to individual businesses would defeat that purpose.

Yo, LLC next argues that the Project proposal “never addressed other options such as mechanical lifts and underground parking...” That is incorrect. The 13 scenarios studied in the Nelson/Nygaard report specifically included underground parking and mechanical lift options. The expert consultant found these options to be infeasible for a variety of reasons, including the difficulties created by forcing cars to back out of an underground garage or lift into a one-way alley already occupied with other parking spaces and physical obstructions.

Thus, while the Applicant has submitted substantial evidence showing that the Project is eligible for payment of in-lieu parking fees, Yo, LLC has failed to submit any evidence or credible argument to the contrary.

Traffic & Congestion

The next issue raised in the Appeal concerns the Project’s purported traffic impacts. Referring to the presence of other restaurants on the 600 block of Emerson Street, Yo, LLC argues that “Location of another restaurant may bring traffic and circulation on this block to a standstill, especially during the peak evening hours.” The Notice of Appeal again offers no evidence to support its claim.

We understand that the City typically requires a locally focused traffic analysis for projects generating more than 50 trips per peak hour; and only requires a complete analysis to be performed for projects generating more than 100 new weekday peak hour trips.³ The Planning & Transportation Commission staff has concluded that projects generating less than 50 new peak hour trips, “would generate an insignificant amount of traffic relative to the local street network (i.e. they would not have the potential to result in direct, indirect, or ‘considerable’ contributions to cumulative impacts).”

Here, the Project would replace an existing 4,000 square foot commercial use with a new 4,063 square foot commercial use. The Planning Department staff concluded that in light of the type of use, square footage, and location, the Project’s impact on traffic and circulation will be negligible. Yo, LLC has offered no facts or evidence to rebut that conclusion. Accordingly, the record does not support overturning the ARB’s decision on this basis.

Loading Requirements

Yo, LLC next argues that the Project’s elimination of the three on-site parking spaces “creates loading problems for this site” because the three spaces “also act as loading space.” Notably, this argument conflicts with Yo, LLC’s previous argument regarding parking, since spaces that are consistently used for parking could not be used for loading. However, in addition to this logical inconsistency, the Council should reject this argument for several other reasons.

First, the Municipal Code unambiguously provides that the Project does not need to have a loading zone. Table 3 in Municipal Code § 18.52.040 sets forth the Minimum Off-Street Loading Requirements for various uses. The requirement for “Eating and Drinking Services” with 0 to 4,999 square feet of space, such as the Project, is zero.

Second, the lack of a separate loading zone is consistent with the City’s existing policy of encouraging the use of alleys behind commercial properties as loading zones. Indeed, Ms. Wong benefited from the same policy when the City approved her 429 University Avenue project, despite the fact that the project included a loading zone that was too small to satisfy the City’s requirements. As noted in the Staff Report for the March 20, 2017 City Council meeting regarding the 429 University Avenue project,

There is a loading zone at Kipling Street and the alley provides sufficient loading space for the project and service alleys throughout downtown have historically been used for the purpose of shared loading and access. Using the alley is consistent with prior projects reviewed by the City and with previous iterations of the project design, and meets the intent of the City’s Code requirement.

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There is no reason why the same logic should not apply to this Project, which will generate considerably *less* demand for loading and unloading than Ms. Wong's four-story, mixed-use project at 429 University.

Third, Yo, LLC's argument ignores the fact that the Project has access to the existing loading zone for the adjacent hotel. The hotel's loading and trash area is located off of Hamilton Avenue, and includes a 145 square foot indoor trash area, a 231 square foot indoor loading and elevator access area, and a 290 square foot outdoor loading space located outside of the public right of way. All of these areas are approximately 155 feet from the proposed connection between the hotel and the Project's kitchen. While the Project has access to sufficient space for loading even without these facilities, and the City's Municipal Code unequivocally does not require further loading space, the Project's access to such extensive facilities for the foreseeable future is also worth noting in assessing this issue.

The Notice of Appeal also argues that "Larger delivery trucks and vehicles that service the grease traps for example cannot make the two sharp turns in the alley." Yo, LLC again offers no evidence or credible argument to support its assertion. According to the staff reports for the Project and Mr. Gutierrez's testimony to the ARB, Planning Department staff specifically measured the width of the alley and concluded that the alley is wide enough to be used for service and delivery vehicles. Although parking on the Property is infeasible because the alley is a one-way street and has existing obstructions in the specific area where cars would have to back out from any parking spaces on the Property, those issues would not apply to service vehicles proceeding through the alley in the permitted direction.

Further, there are already two other restaurants (Tacolicious and Dan Gordon's) on the same side of the same block of Emerson Street, in front of the same alley. There is no evidence that either of these restaurants are having any problems with servicing of their grease traps. Yo, LLC's purported concerns regarding the lack of a loading zone are therefore entirely unfounded.

Access to Restrooms

Finally, the Notice of Appeal argues that the Project's provisions for access to restrooms are insufficient. Because the Project will include two physical connections between the new restaurant space and the existing hotel next door (one for staff, the other for customers), the Project provides for the restaurant's restroom needs to be satisfied through the existing restrooms in the hotel lobby. The end result will be similar to many existing restaurants in the City, where customers make a short walk from the dining area to restrooms located just outside the restaurant.⁴

This arrangement fully complies with all legal requirements. The law does not require that restrooms be placed on the same parcel of real estate as the facilities they serve. Instead, the Plumbing Code states that restrooms must be provided within a maximum travel distance. In

⁴ For example, several restaurants at Stanford Shopping Center utilize the center's common restrooms, rather than providing separate facilities.

non-mall facilities, that distance is 500 feet. The Retail Food Code (part of the Health and Safety Code) contains various other requirements for travel distances in the 200 to 300 foot range. The maximum travel distance for the Project will be 150 feet, comfortably complying with all of these requirements.

Further, in case the restaurant access to the hotel is ever severed, the Conditions of Approval require the Property to construct its own, Code-compliant restrooms; and the Project plans require Applicant to install plumbing on the Property to allow restrooms to be quickly installed, should that ever prove to be necessary.

Yo, LLC argues that these Conditions of Approval are insufficient because, "There is no provision for monitoring or enforcement of this provision once the building permit is approved." However, putting aside the fact that whoever owns the restaurant space at the time of severance would have a strong incentive to provide restrooms for staff and customers, severing the restaurant's access to the hotel would also require physical changes that would necessitate issuance of new permits. Those permits could only be issued after a plan check, during which the City would have to determine whether the separate structures resulting from the severance comply with all applicable codes. Accordingly, the requirement that the Property's owner install separate restrooms upon severance of the structures is fully enforceable, both practically speaking and as a matter of law.

Conclusion

The Project complies with all City requirements, and none of the objections raised in the Appeal withstands close scrutiny. The undersigned therefore respectfully requests that the City Council affirm the ARB's carefully considered, unanimous approval of the Project.

Sincerely,

SSL LAW FIRM LLP



Christine R. Wade

cc: Associate Planner Samuel Gutierrez (*via email*)
Greg Stutheit, Architect and Associate Principal, Montalba Architects, Inc. (*via email*)

APPENDIX A

General Plan Policies Relevant to Project

The following General Plan policies express the City's conscious desire to develop the Downtown Commercial District in a pedestrian and bicycle-friendly manner, rather than forcing every project to accommodate demand for parking on-site:

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- Policy T5.6: "Strongly encourage the use of below-grade or structured parking, and explore mechanized parking instead of surface parking for new developments of all types while minimizing negative impacts including on groundwater and landscaping where feasible."

APPENDIX B
Municipal Code § 18.18.090(d)

The requirements for the City's in-lieu parking program are set forth in Municipal Code § 18.18.090(d), which provides:

(d) In-lieu Parking Provisions

In connection with any expansion of the supply of public parking spaces within the CD commercial downtown district, the city shall allocate a number of spaces for use as "in-lieu parking" spaces to allow development to occur on sites which would otherwise be precluded from development due to parking constraints imposed by monetary contribution to the city to defray the cost of providing such parking. Contributions for each required parking space shall equal the incremental cost of providing a net new parking space in an assessment district project plus cost for the administration of the program, all as determined pursuant to Chapter 16.57 of Title 16 of this code, by the director of planning and community environment, whose decision shall be final. Only sites satisfying one or more of the following criteria, as determined by the director of planning and community environment, shall be eligible to participate in the in-lieu parking program:

(1) Construction of on-site parking would necessitate destruction or substantial demolition of a designated historic structure;

(2) The site area is less than 10,000 square feet, but of such an unusual configuration that it would not be physically feasible to provide the required on-site parking;

(3) The site is greater than 10,000 square feet, but of such an unusual configuration that it would not be physically feasible to provide the required on-site parking;

(4) The site is located in an area where city policy precludes curb cuts or otherwise prevents use of the site for on-site parking; or

(5) The site has other physical constraints, such as a high groundwater table, which preclude provision of on-site parking without extraordinary expense.

Carnahan, David

From: Ryan Palmer <ryan@SSLFIRM.COM>
Sent: Wednesday, August 08, 2018 11:40 AM
To: Council, City
Cc: Ivo Keller; Chris Wade; Gutierrez, Samuel; gstutheit@montalbaarchitects.com
Subject: 620 Emerson/ARB Application No. 17PLN00331
Attachments: CRW Letter to Palo Alto City Council re Yo LLC Appeal (08-08-18) (00838307xA4507).PDF

Good Morning, Please see the attached correspondence from Chris Wade regarding the above referenced property and application. Hard copies will be send via FedEx Overnight.

Thank you,

RYAN PALMER | *LEGAL ASSISTANT* | **SSL LAW FIRM LLP** | 575 Market Street, Suite 2700 | San Francisco, CA 94105 | Direct: 415.243.2680 | Main: 415.814.6400 | Fax: 415.814.6401 | Email: ryan@sslfirm.com

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August 8, 2018

VIA FEDEX AND EMAIL

City Council and Mayor of the City of Palo Alto
City Hall
250 Hamilton Avenue
Palo Alto, CA 94301
city.council@cityofpaloalto.org

***RE: August 20, 2018 City Council Meeting Regarding Architectural Review
Application No. 17PLN00331 -- Yo, LLC Appeal from Decision of Director of
Planning & Community Development Approving Project at 620 Emerson Street***

Dear Councilmembers and Madam Mayor:

We represent PA Hotel Holdings, LLC (“Applicant”), the owner of the property located at 620 Emerson Street in Palo Alto (the “Property”) and recipient of the project approval that is at issue in the above-referenced appeal. The Property contains a currently vacant, 4,000 square foot commercial building, formerly the site of the Stanford Florist flower shop. Applicant proposes to replace the building with a 4,063 square foot commercial space to allow for expansion of the existing Nobu Restaurant located within the Nobu Hotel—Epiphany Palo Alto next door (the “Project”).

After carefully studying the Project over the course of two hearings, the Architectural Review Board (“ARB”) voted unanimously, 5 to 0, to approve the Project as currently designed and conditioned.

This Appeal was filed by Yo, LLC. In addition to its role as appellant, Yo, LLC is involved in active litigation against Applicant related to Yo, LLC’s failed attempt to purchase the Property from its previous owner. Yo, LLC’s owner/representative is Elizabeth Wong, a local property owner and developer. The Notice of Appeal alleges that parking, traffic, loading, and restroom issues justify reversing the ARB’s decision. However, as discussed below, all of these arguments miss the mark. Each of these issues is addressed by the staff report and the record, which provide ample support to sustain the ARB’s unanimous approval of the Project.

In-Lieu Parking Fees

The Project's reliance on in-lieu parking fees to satisfy the City's parking requirements is consistent with both the spirit and the letter of the Municipal Code provisions governing in-lieu fees, and with the City's planning documents for the Downtown area.

The City has made a conscious choice to design its Downtown Commercial District as a pedestrian and bicycle-friendly zone, featuring a variety of small shops and restaurants housed in separate, architecturally-distinct structures. That preference is reflected in a number of General Plan policies that encourage the use of shared parking and reduction of parking requirements for restaurants.¹ The City's Downtown Urban Design Guidelines likewise emphasize the "existing building pattern of storefronts or structural bays," which "create the human scale of Downtown"; and Municipal Code § 18.18.110 creates design criteria that "promote pedestrian walkability" by directing vehicle access away from store-fronts and reserving public street frontages for pedestrian access. These policies demonstrate the City's commitment to funneling parking demand into the public garages disbursed throughout the area, rather than attempting to accommodate all parking demand generated by each redevelopment project on-site.

Consistent with these policies, Municipal Code § 18.18.090(d) allows certain projects to satisfy the City's parking requirements through payment of in-lieu fees.² These provisions apply, among other things, where the project occupies less than 10,000 square feet in site area and it is not physically feasible to provide the required on-site parking due to an unusual lot configuration; or where the site is located in an area where city policy precludes curb cuts or otherwise prevents use of the site for on-site parking.

The Project satisfies the requirements for eligibility to participate in the in-lieu parking program. First, the site area is 4,063 square feet, well below the 10,000 square foot threshold in subsection (d)(2), and Applicant has conclusively demonstrated that it would not be physically feasible to provide the required parking spaces on-site. Specifically, Applicant's representatives commissioned an independent study of the feasibility of integrating on-site parking into the Project by expert traffic and parking consultants Nelson/Nygaard Consulting Associates, Inc. The study evaluated 13 separate parking layout scenarios with respect to turning feasibility, physical site constraints, adjacent private property constraints, sight distance adequacy, and bicycle/pedestrian safety.

Nelson/Nygaard determined that all 13 scenarios were infeasible for a variety of reasons, including inadequate visibility of pedestrians in the alley, insufficient turning radii, and other issues related to the Property's unusual configuration, with its narrow rear frontage on a one-way alley that contains several other nearby obstructions. The study concluded that, "there was no feasible way to provide parking within or on the project site that could meet parking space size, ingress and egress movements, or vehicle/bicycle/pedestrian safety standards." The Project therefore satisfies the in-lieu fee eligibility requirements of Section 18.18.090(d)(2).

¹ Relevant General Plan policies are listed in Appendix A to this letter for the Council's reference.

² The complete text of Section 18.18.090(d) is set forth in Appendix B.

Second, the site is located in an area where city policy strongly disfavors curb cuts, because they disrupt pedestrian circulation. As ARB member Wynne Furth observed during the first of the two ARB hearings, “I don’t think there’s anybody who would support ... a curb cut on Emerson. That would go against everything we’re trying to accomplish here.” This restriction significantly constrains the Property’s ability to accommodate on-site parking, since it prevents any arrangement by which cars would enter and exit a garage from the Emerson Street side, thereby requiring all cars to enter and exit from the public alley in the rear of the Property. As the Nelson/Nygaard study concluded, the alley cannot serve as a safe entrance and exit for parking on the Property for all of the reasons discussed above. The Project therefore satisfies the eligibility requirements of subsection (d)(4), as well.

The Notice of Appeal argues that the City should reject the Project because the Project will remove three existing on-site parking spaces. While it is true that there are currently three parking spaces on the Property, the spaces are too small for current City parking requirements, and there is no disabled access-compliant space. In fact, the garage is only large enough to accommodate two legal parking spaces under existing City standards. Moreover, in practice these spaces have been used as a loading zone and for storage of trash generated on the Property – not for parking. The ARB took all of these facts into account in reaching its decision approving the Project, and as ARB member Robert Gooyer stated, the Applicant provided “the most thorough explanation as to why we need to ... get rid of those three parking spaces I think I have ever heard.”

The Notice of Appeal next argues that the Project’s payment of in-lieu parking fees “is sugar-coating the fact that there is no provision for off site parking within walking distance.” That is simply untrue. There are five public parking lots within a two-block radius of the Property:

- High/Alma North Garage (Q), 550 High Street
- High/Hamilton Lot (P), 549 High Street
- Emerson/Ramona Lot (N), 561 Emerson Street
- Civic Center Garage (CC), 250 Hamilton Street
- Ramona/University Garage (B), 533a Ramon Street

We also understand that the City recently expanded its garage on Lytton Avenue, and is working on an expansion of another garage on Hamilton Avenue. Accordingly, there is a large amount of existing public parking located in the Project’s immediate vicinity, and the supply of public parking spaces continues to grow.

Further, restaurant patrons will have access to valet parking at the entrance to the Epiphany Hotel, directly next door to the Project. As it does now, the valet service will continue to utilize licensed spaces in private garages or lots outside of the immediate vicinity of the Project, rather than taking up spaces in the closest public garages.

It is possible that in referring to the lack of “provision for off site parking within walking distance,” Yo, LLC is arguing that the City must assign individual parking spaces in specific public garages to projects with in-lieu parking fee components, so that there are designated spots available for the project’s use. However, nothing in the text of the Municipal Code supports such a requirement, and it is our understanding that the City has *never* taken that approach to in-lieu parking. Yo, LLC has not provided an example of a project for which in lieu spaces were specifically designated, we were unable to locate such an example in our search of City records, and Planning Department staff knows of none.

To the contrary, the City recently approved a project at 429 University Avenue, which we understand was sponsored by Yo, LLC’s principal, Ms. Wong. That project requires 87 parking spaces, 34 of which will be accommodated on-site. The project relies on past payments of in-lieu fees to provide 37 of the remaining spaces. Consistent with the Project at issue here, the approval documents do not mention any assignment of specific parking spaces.

Likewise, the City recently approved a 7,158 square foot expansion of a senior citizen center at 450 Bryant Street, which is zoned the same as the Property and located just 3 blocks away. That project generated a need for 29 additional parking spaces, which it will satisfy entirely through payment of in-lieu fees and a transportation demand management plan. Again, the approval documents do not mention any assignment of specific parking spaces.

Nor would such an approach make sense. A big part of the reason for accommodating parking demand in large, public garages is to allow flexibility in the use of parking spaces, so that spaces not being used for one business at any given moment are available to patrons of the other businesses in the area. Assigning specific spaces to individual businesses would defeat that purpose.

Yo, LLC next argues that the Project proposal “never addressed other options such as mechanical lifts and underground parking...” That is incorrect. The 13 scenarios studied in the Nelson/Nygaard report specifically included underground parking and mechanical lift options. The expert consultant found these options to be infeasible for a variety of reasons, including the difficulties created by forcing cars to back out of an underground garage or lift into a one-way alley already occupied with other parking spaces and physical obstructions.

Thus, while the Applicant has submitted substantial evidence showing that the Project is eligible for payment of in-lieu parking fees, Yo, LLC has failed to submit any evidence or credible argument to the contrary.

Traffic & Congestion

The next issue raised in the Appeal concerns the Project’s purported traffic impacts. Referring to the presence of other restaurants on the 600 block of Emerson Street, Yo, LLC argues that “Location of another restaurant may bring traffic and circulation on this block to a standstill, especially during the peak evening hours.” The Notice of Appeal again offers no evidence to support its claim.

We understand that the City typically requires a locally focused traffic analysis for projects generating more than 50 trips per peak hour; and only requires a complete analysis to be performed for projects generating more than 100 new weekday peak hour trips.³ The Planning & Transportation Commission staff has concluded that projects generating less than 50 new peak hour trips, “would generate an insignificant amount of traffic relative to the local street network (i.e. they would not have the potential to result in direct, indirect, or ‘considerable’ contributions to cumulative impacts).”

Here, the Project would replace an existing 4,000 square foot commercial use with a new 4,063 square foot commercial use. The Planning Department staff concluded that in light of the type of use, square footage, and location, the Project’s impact on traffic and circulation will be negligible. Yo, LLC has offered no facts or evidence to rebut that conclusion. Accordingly, the record does not support overturning the ARB’s decision on this basis.

Loading Requirements

Yo, LLC next argues that the Project’s elimination of the three on-site parking spaces “creates loading problems for this site” because the three spaces “also act as loading space.” Notably, this argument conflicts with Yo, LLC’s previous argument regarding parking, since spaces that are consistently used for parking could not be used for loading. However, in addition to this logical inconsistency, the Council should reject this argument for several other reasons.

First, the Municipal Code unambiguously provides that the Project does not need to have a loading zone. Table 3 in Municipal Code § 18.52.040 sets forth the Minimum Off-Street Loading Requirements for various uses. The requirement for “Eating and Drinking Services” with 0 to 4,999 square feet of space, such as the Project, is zero.

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(5) The site has other physical constraints, such as a high groundwater table, which preclude provision of on-site parking without extraordinary expense.

Attachment E

Project Plans

Hardcopies of project plans are provided to Board members. These plans are available to the public online and/or by visiting the Planning and Community Environmental Department on the 5th floor of City Hall at 250 Hamilton Avenue.

Directions to review Project plans online:

1. Go to: <http://bit.ly/PaloAltoPlanningProjects>
2. Scroll down the center of the page and click “View pending projects”
3. Scroll to find “620 Emerson St” and click the address link
4. On this project specific webpage you will find a link to the project plans and other important information

Direct Link to Project Webpage:

<https://www.cityofpaloalto.org/news/displaynews.asp?NewsID=4260>