



# City of Palo Alto

## City Council Staff Report

(ID # 10804)

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**Report Type: Action Items**

**Meeting Date: 12/16/2019**

**Summary Title: 4115 El Camino Real: Tentative Condo Map**

**Title: PUBLIC HEARING / QUASI-JUDICIAL: 4115 El Camino Real [18PLN-00238]: Approval of a one lot Tentative Map to Divide an Existing 0.36 Acre Parcel Into Seven Residential Condominiums and two Commercial and two Office Condominiums. Environmental Assessment: Mitigated Negative Declaration Adopted by the Director of Planning & Development Services on January 7, 2019. Zoning District: CN (Neighborhood Commercial)**

**From: City Manager**

**Lead Department: Planning and Development Services**

### **Recommendation**

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

1. Approve the Tentative Map for nine condominium units and adopt the attached Record of Land Use Action (RLUA, Attachment B). The Director approved an Initial Study-Mitigated Negative Declaration for the development project on January 7, 2019.

### **Background**

The proposed project subdivides a single 0.36-acre parcel into nine “airspace” condominiums. The map is associated with a development project approved in January 2019 (ARB Application 17PLN-00280). The approved project is the demolition of an existing building (in use as a restaurant, Pizza Chicago) and construction of a three-story, mixed use building (Attachment F). The building will contain 16,725 square feet (sf) of floor area. Two commercial condominium units are proposed within 7,848 sf; one ground floor retail space and one second floor office space. Seven residential condominium units are proposed; four on the second floor and three on the third floor. One of the seven dwellings will be a Below Market Rate (BMR) unit. Approval of the subdivision request would allow for private ownership of each unit. The proposed map conforms to the Initial Study and Mitigated Negative Declaration prepared for the approved development (application 17PLN-00280). The Planning and Transportation Commission (PTC) has recommended the City Council approve the Tentative Map. At the time of this report’s

drafting, the final minutes of the PTC meeting were not available; draft minutes with an excerpt for this item are attached as Attachment G.

The Architectural Review Board (ARB) reviewed and recommended approval of the mixed-use building in December 2018 (File No. 17PLN-00280). Links to the November 13, 2019 PTC staff report and video, and minutes and a video of the December 6, 2018 ARB are provided below; the PTC report includes links to the ARB staff reports<sup>1</sup>). The planning and development services director approved the architectural review application for the mixed-use building in January 2019 (see attached approval letter,).

## Discussion

The Tentative Map for condominium purposes creates two condominium units for ground floor retail/commercial and second floor office uses. The map also creates seven residential condominium units on the second and third floors. The building includes a basement garage providing the required parking spaces for the uses. The non-residential units and residential units will be individually owned. The land and improvements will be held in common ownership. The project is consistent with the approved Architectural Review application. Attachment C provides a summary of the map's compliance with the Commercial Neighborhood (CN) zone standards. The ARB staff reports provided summaries of the building's compliance with the CN zone development standards.

The Comprehensive Plan land use designation for the project site is Neighborhood Commercial (CN). The Neighborhood Commercial designation is intended to create and maintain neighborhood shopping areas. The primary uses are retail sales, personal service, eating and drinking, and office uses of moderate size serving the immediate neighborhood. The regulations are intended to assure maximum compatibility with surrounding residential areas.

The subject property is identified in the Housing Element as a housing inventory site with a realistic capacity of seven housing units. The proposal for seven residential condominium units, including a BMR unit, plus two commercial units, is consistent with several Comprehensive Plan Goals and Policies. This consistency is further described in Attachment B.

<u>Consistency</u>	<u>with</u>	<u>Application</u>	<u>Findings</u>
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The necessary Tentative Map approval findings are contained in State law and incorporated into Title 21 of the City's Municipal Code. Attachment B to this report provides a detailed review of the proposed map's consistency with applicable Title 21 findings. Under the			
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<sup>1</sup> <https://www.cityofpaloalto.org/civicax/filebank/documents/74016> (PTC report November 13, 2019)  
<https://midpenmedia.org/planning-transportation-commission-63-11132019/> (PTC video November 13, 2019)  
<https://www.cityofpaloalto.org/civicax/filebank/documents/68346> (minutes of 12/6/18 ARB meeting)  
<https://midpenmedia.org/architectural-review-board-74-1262018/> (video of 12/6/18 ARB meeting)

Subdivision Map Act, the PTC and Council must make a series of “reverse” findings to justify approval. If the Council cannot make these findings, the subdivision must be approved. Under Government Code Section 66474, the Tentative Map must be denied if Council makes any of the following findings:

- a) That the proposed map is not consistent with applicable general and specific plans.
- b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- c) That the site is not physically suitable for the type of development.
- d) That the site is not physically suitable for the proposed density of development.
- e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

#### *Multi-Modal Access & Parking*

The proposed map is consistent with the previous Architectural Review (AR) application approval and implements several of the AR approval conditions. During that process, the applicant proposed public access on their property between El Camino Way and El Camino Real through the project’s breezeway. To memorialize this, a condition of approval required the applicant to provide an access agreement to the City specifying hours of access that is to the mutual satisfaction between the City and the owners of the property. The applicant submitted this agreement in the form of an easement for the City’s consideration. The required public access easement documentation is included as Attachment D.

The below-grade garage will be held in common ownership for use by all condominium owners. Parking areas will be allocated as described in the Declaration of Covenants, Conditions and Restrictions (CC&Rs). Of the 47 approved, on-site parking spaces, 11 spaces (four garage spaces and seven mechanical parking stacker spaces) are allocated to the residential units. Twelve parking stacker spaces are allocated for the office uses. Twenty-four standard spaces are allocated to the retail use. The parking garage would remain open between 8am and 9pm daily to enable retail customer access to these spaces.

#### *Affordable Housing*

The project is subject to PAMC 16.65 (Citywide Affordable Housing Requirements). New for-sale housing developments are required to provide at least 15% of the units as below market rate (BMR) units. Pursuant to this section, the project is required to provide 1.05 “for-sale” dwelling units to those making 80 to 100 percent of the Santa Clara County median income (low income

unit). Because the requirement would result in a fractional unit, the developer will provide one affordable unit and make a cash payment to the City's Residential Housing Fund to meet the remaining requirement. The 99-year term to maintain the affordability of the BMR unit is set forth in the draft BMR agreement, currently in process. The BMR agreement would be completed prior to Council approval of the 'final' condominium map for this subdivision.

## **Stakeholder Engagement**

The Palo Alto Municipal Code requires notice of this public hearing be published in a local paper and mailed to owners and occupants of property within 600 feet of the subject property at least ten days in advance.

### Public Comments

As of the writing of this report, no map-related, public comments were received. During the first ARB hearing, there was a comment from the public regarding parking, however, the project is consistent with the City's parking requirements. No further public comment was made at the second ARB hearing or the PTC hearing for the map.

## **Environmental Review**

Staff assessed this mixed-use development project 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. The map application or 'project' is covered by the Initial Study and Mitigated Negative Declaration associated with AR 17PLN-00280, approved on January 7, 2019. The Mitigation Monitoring and Reporting Program (MMRP) is provided in Attachment E. In summary, these are mitigation measures for nesting birds, accidental discovery of archaeological and paleontological artifacts, geotechnical considerations, and construction related noise and vibration reduction.

### **Attachments:**

**Attachment A: Location Map**

**Attachment B: Record of Land Use Action**

**Attachment C: Zoning Comparison Table**

**Attachment D: Breezeway Access Easement**

**Attachment E: Project Plans and CEQA**

**Attachment F: Director's Approval Letter, Mixed Use Building at 4115 ECR**

**Attachment G: Draft Excerpt Minutes PTC 11/13/2019**



**ATTACHMENT B**  
**ACTION NO. 2019-\_\_\_\_\_**  
**DRAFT RECORD OF THE COUNCIL OF THE CITY OF PALO ALTO LAND USE ACTION FOR**  
**4115 EL CAMINO REAL: TENTATIVE MAP, 18PLN-00238 (Bill Wu, APPLICANT)**

At its meeting on December 16, 2019, the City Council of the City of Palo Alto ("City Council") approved the Tentative Map for the development of a one-lot subdivision project making the following findings, determinations and declarations:

**SECTION 1. Background.**

A. On July 20, 2018, Naresh Krishnamoorti applied for a Tentative Map and on March 11, 2019, due to an ownership change, Bill Wu became the applicant of record. The project includes a Tentative Map for the development of a one parcel condominium subdivision project with seven residential units and four commercial spaces totaling 7,848 square feet of commercial space ("Project").

B. The Project site is comprised of one existing lot (APN No. 132-46-100) of approximately 0.36-acres zoned CN. The site contains one existing commercial structure. Commercial land uses are located adjacent to the lot to the north; place of worship to the west; multi-family to the east and south.

C. Following staff review, the Planning and Transportation Commission reviewed the Project and recommended approval on November 13, 2019, subject to conditions of approval.

**SECTION 2. Environmental Review.**

The City as the lead agency for the Project has determined that the project is subject to environmental review under provisions of the California Environmental Quality Act (CEQA) under Guideline section 15070, Decision to Prepare an Initial Study-Mitigated Negative Declaration (IS-MND). An initial study was prepared for the project and it has been determined that there is potential for significant impacts that would require mitigation measures to reduce them to a less than significant level. These include mitigations for protection for nesting birds, cultural resources in the event of discovery, geotechnical for expansive soils, and construction noise. The IS-MND was made available for public review beginning November 30, 2018 and ended on January 2, 2019 and approved by the Director of Planning & Development Services on January 7, 2019. The Initial Study and Negative Declaration are contained as *Attachment G* in the December 6, 2018, ARB staff report (ID #9800).

**SECTION 3. Tentative Map Findings.**

A legislative body of a city shall deny approval of a tentative map, if it makes any of the following findings (California Government Code Section 66474). The City Council cannot make these findings for the following reasons:

1. *That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451:*

The site is consistent with the Comprehensive Plan as described below.

2. *That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans:*

The Project is consistent with the following Comprehensive Plan policies:

- Goal L-1: A compact and resilient city providing residents and visitors with attractive neighborhoods, work places, shopping districts, public facilities and open spaces.
- Policy L-1.3: Infill development in the urban service area should be compatible with its surroundings and the overall scale and character of the city to ensure a compact, efficient development pattern.
- Policy L-1.4: Commit to creating an inventory of below market rate housing for purchase and rental.
- Goal L-2. An enhanced sense of “community” with development designed to foster public life, meet citywide needs and embrace the principles of sustainability.
- Policy L-2.2: Enhance connections between commercial and mixed use centers and the surrounding residential neighborhoods by promoting walkable and bikeable connections and a diverse range of retail and services that caters to the daily needs of residents.
- Policy L-2.6: Create opportunities for new mixed use development consisting of housing and retail.
- Goal B-6: Attractive, vibrant retail centers, each with a mix of uses and a distinctive character.
- Policy B-6.5: Strengthen the commercial viability of businesses along the El Camino Real corridor by, for example, encouraging the development of well-designed retail, professional services and housing.

The project includes a mixed-use building with frontage along El Camino Real with at-grade parking in the rear along El Camino Way and below-grade parking. The project complements the surrounding development and is consistent with the land-use designations for the property. The project was reviewed by the ARB previously for design review.

3. *That the site is not physically suitable for the type of development:*

The site is a through-lot with street frontages in the front and the rear. The project is consistent with the City’s Performance Standards set forth in Palo Alto Municipal Code (PAMC) 18.23, ensuring

compatibility between commercial and residential uses. Proposed lighting is directed downward to prevent spillover to adjacent properties. Trash enclosures are located at grade level of the project.

The site circulation facilitates access for all modes of transportation. The project includes short-term and long-term bike parking. The project will include a pedestrian access breezeway to connect El Camino Way and El Camino Real.

4. *That the site is not physically suitable for the proposed density of development:*

The allowed residential density for the site is up to 20 dwelling units per acre, which based on the project site acreage amounts to seven dwelling units that would be allowed. The project is consistent with the maximum Floor Area Ratio and does qualify for an affordable housing density bonus. The density bonus floor area is applied to the below-market-rate units in accordance with the City's Municipal Code.

5. *That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat:*

As conditioned in the Final IS-MND approved by the Director of Planning & Development Services on January 7, 2019, the Project will not cause environmental damage or injure fish, wildlife, or their habitat, in that property is not adjacent to sensitive habitat areas and would incorporate mitigation measures to reduce impacts to a less than significant level.

6. *That the design of the subdivision or type of improvements is likely to cause serious public health problems:*

An environmental analysis identifies potentially significant impacts related to the associated development project's improvements that would require mitigation measures to reduce them to a less than significant level. These include mitigations as reported in the Final IS-MND approved by the Director of Planning & Development Services on January 7, 2019.

7. *That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.*

The design of the subdivision will not conflict with any easements for access through or use of the property. An access easement will be in effect for pedestrian access between El Camino Way and El Camino Real.



#### SECTION 4. Tentative Map Approval Granted.

Vesting Tentative Map Approval is filed and processed in accordance to PAMC Chapter 21.12 and granted by the City Council under PAMC Chapters 21.12 and 21.20 and the California Government Code Section 66474, subject to the conditions of approval in Section 6 of this Record.

#### SECTION 5. Final Map.

The Final Map submitted for review and approval by the City Council shall be in substantial conformance with the Tentative Map prepared by Lea & Braze Engineering, Inc. titled "Tentative Map For Condominium Purposes," consisting of 16 pages, stamped as received January 28, 2019, except as modified to incorporate the conditions of approval in Section 6. A copy of the Tentative Map is on file in the Department of Planning Development Services, Current Planning Division. Prior to the expiration of the Tentative Map approval, the subdivider shall cause the subdivision or any part thereof to be surveyed, and a Final Map, as specified in PAMC Chapter 21.08, to be prepared in conformance with the Tentative Map as conditionally approved, and in compliance with the provisions of the Subdivision Map Act and PAMC Title 21 and submitted to the City Engineer (PAMC Section 21.16.010[a]).

#### SECTION 6. Conditions of Approval.

##### **Planning Division**

1. MITIGATION MONITORING AND REPORTING PROGRAM. Mitigation Monitoring and Reporting Program (MMRP), prepared for this project in compliance with the California Environmental Quality Act (CEQA), shall be incorporated by reference as conditions of approval. The applicant shall comply with all specified mitigation measures in the timelines outlined in the project's MMRP. Prior to requesting issuance of any related demolition and/or construction permits, the applicant shall meet with the Project Planner to review and ensure compliance with the MMRP, subject to the satisfaction of the Director of Planning and Community Environment.
2. BELOW MARKET RATE (BMR) HOUSING REQUIREMENT: This project's total BMR requirement is 1.05 units. When the BMR requirement results in a fractional unit, an in-lieu payment to the Residential Housing Fund may be made for the fractional unit instead of providing an actual BMR unit, except that larger projects of 30 or more units must provide a whole BMR unit for any fractional unit of one-half (0.50) or larger.

To satisfy this requirement, the applicant shall provide one (1) BMR for-sale housing unit affordable to households making 80 to 100 percent of the Santa Clara County median income within the project in accordance with the requirements set forth in Program H3.1.2 of the City of Palo Alto Comprehensive Plan, Chapter 16.65 of the Palo Alto Municipal Code, and the BMR Program rules and regulations. The applicant shall also provide in lieu payment as specified in Section 16.65.060. The fractional in-lieu fee shall be paid prior to issuance of any building permits for the project; provided, however, that prior to issuance of the first building

permit for the project, the applicant may elect to provide one additional inclusionary unit instead of paying the fractional in lieu payment.

3. **AFFORDABLE HOUSING PLAN AND AGREEMENT.** All BMR units constructed under this condition shall be in conformance with the City's BMR Program rules and regulations. A BMR Agreement in a form acceptable to the City Attorney for the 1.05 BMR units shall be executed and recorded prior to final map approval or building permit issuance, whichever occurs first. Failure to comply with the timing of this condition and any adopted BMR Program rules and regulations shall not waive its later enforcement. (PAMC 16.65.090)

The applicant is hereby notified, as required by Government Code § 66020, that the approved plans, these conditions of approval, and the adopted City fee schedule set forth in Program H3.1.2 of the City of Palo Alto Comprehensive Plan constitute written notice of the description of the dedications, reservations, amount of fees and other exactions related to the project. As of the date of project approval, the 90-day period has begun in which the applicant may protest any dedications, reservations, fees or other exactions imposed by the City. Failure to file a protest in compliance with all of the requirements of Government Code § 66020 will result in a legal bar to challenging the dedications, reservations, fees or other exactions.

4. **ESTIMATED IMPACT FEE.** Development Impact Fees, currently estimated in the amount of \$248,628.62 plus the applicable public art fee, per PAMC 16.61.040, shall be paid prior to the issuance of the related building permit. This is in addition to the required affordable housing in-lieu fee, noted above.
5. **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.

**Public Works Engineering Department**

6. Subdivider shall prepare and submit documents per PAMC 21.16.020 along with the Final Map.
7. Off-site improvements such as curb and gutter, sidewalk replacement, street tree replacement and/or new street trees, street lights, utility upgrades or street resurfacing, striping are typically required with subdivisions. Since the proposed project is a subdivision, applicant shall be aware that off-site improvements such as those listed above will be required. At a minimum, applicant shall provide an Off-site improvement Plan set that show new curb, gutter and sidewalk along the project frontages to be removed and replaced, full street width resurfacing (grind and overlay) will be required, new street trees, striping, all off-site utility upgrades. Applicant shall meet with City's Urban Forestry division to evaluate if a new street tree can be planted along the project frontages.
8. Provide closure calculations and stamped and signed cost estimate for the off-site improvements described above.
9. Subdivision Improvement Agreement is required to secure compliance with condition of approval and security of improvements onsite and offsite per PAMC Section 21.16.220.
10. The Final Map shall include CITY ENGINEER STATEMENT, CITY SURVEYOR STATEMENT, BENEFICIARY STATEMENT, DIRECTOR OF PLANNING AND COMMUNITY ENVIRONMENT STATEMENT and CITY CLERK. Please note, it has come to PWE attention that the City Engineer's Statement on maps moving forward needs to be updated to have the following phrase removed "AND I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT". Please ensure City Engineer's statement does not include this wording.
11. The City of Palo Alto does not currently have a City Surveyor on staff and has retained the services of Siegfried Engineering to review and provide approval on behalf of the City. Siegfried will be reviewing, signing and stamping the Final Map associated with the project.

In effort to employ the services of Siegfried Engineering, and as part of the City's cost recovery measures, the applicant is required to provide payment to cover the cost of Siegfried Engineering's review.

City's Public Works Department intends to forward the Final Map to Siegfried for an initial preliminary review of the documents. Siegfried will then provide a review cost amount based on the complexity of the project and the information shown on the document. Public Works will share this information with the applicant once received and ask that applicant return a copy acknowledging the amount. Applicant may then provide a check for this amount as payment for the review cost. The City must receive payment prior to beginning the final review process.

12. Provide electronic copies of the documents provided.

PRIOR TO FINAL MAP RECORDATION

13. Submit wet signed and stamped mylar copy of the Final Map to the Public Works for signature. Map shall be signed by Owner, Notary and Surveyor prior to formal submittal.
14. Signed Subdivision Improvement Agreement and Security Bonds as described per PAMC 21.16.230.

PRIOR TO ISSUANCE OF A BUILDING PERMIT OR GRADING AND EXCAVATION PERMIT

15. Final Map shall be recorded with County Recorder.

SECTION 7. Term of Approval. Tentative Map. All conditions of approval of the Tentative Map shall be fulfilled prior to approval of a Final Map (PAMC Section 21.16.010[c]). Unless a Final Map is filed, and all conditions of approval are fulfilled within a two-year period from the date of Tentative Map approval, the Tentative Map shall expire and all proceedings shall terminate. An extension of time may be granted by the city council after recommendation of the planning commission, upon the written application of the subdivider, prior to the expiration of the Tentative Map approval, or any previous extension granted. Such extension(s) shall be subject to the maximum limitations set forth in the Subdivision Map Act.

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Director of Planning and  
Development Services

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy City Attorney

PLANS AND DRAWINGS REFERENCED:

Those plans prepared by Lea & Braze Engineering, Inc. titled "Tentative Map for Condominium Purposes" consisting of 16 pages, stamped, January 28, 2019.

**ATTACHMENT C**  
**ZONING COMPARISON TABLE**

4115 El Camino Real, File No. 18PLN-00238  
Map for Condominium Purposes

<b>Table 1: COMPARISON WITH CHAPTER 18.16 (CN) DISTRICT)</b>			
<b>Regulation</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Minimum/Maximum Site Area <sup>(1)</sup>	none	15,696 sf (0.36 acres)	No change
Minimum/Maximum Site Width <sup>(1)</sup>	none	99.99'	No change
Minimum/Maximum Site Depth	none	136.54" to 178.04'	No change

(1) No parking or loading space, whether required or optional, shall be located in the first 10 feet adjoining the street property line of any required yard.

RECORDED AT THE REQUEST OF:  
The City of Palo Alto

WHEN RECORDED RETURN TO:  
The City of Palo Alto  
250 Hamilton Avenue  
Palo Alto, CA 94301

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**EASEMENT AGREEMENT FOR PUBLIC PEDESTRIAN ACCESS**

**APN 023-041-09**

THIS EASEMENT AGREEMENT FOR PUBLIC PEDESTRIAN ACCESS ("Breezeway Easement Agreement") is made as an easement in gross by and between Y & J Michele Way, LLC, a California limited liability company, as "Grantor" and the City of Palo Alto, a municipal corporation as "Grantee", as of \_\_\_\_\_, 2019 with respect to the real property described herein as:

All of that certain real property situated in the City of Palo Alto, Santa Clara County, State of California, described on **Exhibit "A"** attached hereto and incorporated herein by this reference (the "Servient Estate")

NOW, THEREFORE, in consideration of the mutual covenants and declarations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Grantor now grants to Grantee the easement and right herein stated for access over and area of the Servient Estate for use of a breezeway pedestrian walkway for access by the public to and from El Camino Real and El Camino Way, which shall exist and endure for the benefit of Grantee and the public as hereinafter provided, over and across the Breezeway Easement Area within the Servient Estate for the term stated in this Breezeway Easement Agreement, subject to the terms and conditions stated in this Breezeway Easement Agreement being kept and fulfilled.

1. Creation of Easements. There is hereby established and granted in favor of Grantee and the public over and across, those portions of the Servient Estate shown on **Exhibit "B"** attached hereto as the Breezeway Easement Area as a non-exclusive easement in gross for the purpose of use as a breezeway pedestrian walkway to be constructed by Grantor ("Breezeway Access Easement Area") for Grantee and the general public for the term herein stated. Such rights of access shall be limited only to the Breezeway Access Easement Area as herein provided, and no other areas of the Servient Property.

2. Duration of Easement. The easements herein granted shall be perpetual until such time as Grantee terminates or abandons such easements by written instrument.

3. Use of Easement Area. The Breezeway Access Easement Area and all improvements installed and located therein may be used by the Grantee for public pedestrian access purposes for use by City, for public use as stated in Paragraph 4 of this Breezeway Easement Agreement.

Limitations on Use of Easement. The Grantor or its successors and assigns, including any common interest development association that operates the common areas of the Servient Property may establish reasonable limitations on the timing and extent of use of the easements and rights granted or created herein as the Breezeway Access Easement Area subject to reasonable approval of the City. Notwithstanding the foregoing, unless the City agrees in writing otherwise, the Breezeway Access Easement Area shall be open to and for public use for access to and from El Camino Real to El Camino Way only from the hours of 7:00 a.m. to 9:00 p.m., daily. Grantor and its successors in interest in and to the Servient Property may install lockable gates at the entrances to the Breezeway Access Easement Area to prevent access at hours other than the specified public use hours in the preceding sentence. Grantor and its successors in interest shall install and maintain signage at the entranceways to the Breezeway Access Easement Area, including on any gates, providing reasonable notice to the public that the area is open for public use and access 7:00 a.m. to 9:00 p.m. daily.

4. Construction of Breezeway Access Easement. Grantor shall construct the improvements that constitute the Breezeway Access Easement in accordance with the project plans as approved by the City at Grantor's sole cost and expense, with the understanding that all such improvements shall be undertaken in accordance with the approved design and permit thereof, in a reasonable and prudent manner. All construction and installation of improvements hereunder shall be at no cost or expense to Grantee and shall be undertaken consistent in all material respects with the approved plans and City inspection requirements.

5. Maintenance of Breezeway Access Easement Area. The Grantor shall be responsible for general maintenance and repair of the improvements that constitute the Breezeway Access Easement during the term of this Breezeway Access Easement Agreement in a reasonable and prudent manner consistent with the City standards and at its sole cost and expense. If Grantor or its successors, assigns, contractors or invitees cause any damage to the Breezeway Access Easement Area, Grantor shall repair the Breezeway Access Easement Area within a reasonable time at its sole cost. Upon formation of a common interest development association that operates the common areas of the Servient Property the obligations of Grantor hereunder shall be deemed to have been assigned by Grantor to such a common interest development association which shall be obligated to assume and undertake such obligations for general maintenance and repair of the improvements that constitute the Breezeway Access Easement during the term of this Breezeway Access Easement Agreement. Grantee shall not bear any responsibility for the maintenance or repair of the Breezeway Access Easement improvements.

6. Easement in Gross. The easements and rights granted or created herein as the Easement Areas shall be an easement in gross for the use and benefit of Grantee and for the general public as a public access easement, and cannot be transferred, assigned, or encumbered.

7. Rights-Servient Estate Owner. The owner of the Servient Estate hereunder shall have the right to use the Servient Estate in any manner which is not inconsistent with this grant of easement hereby granted to the Grantee, which does not materially interfere with the easement rights hereunder granted to the Grantee. However, if Grantor or its successors, assigns, contractors or invitees cause any damage to the Breezeway Access Easement Area, Grantor shall repair the Breezeway Access Easement Area within a reasonable time at its sole cost.

8. Indemnity. Grantor shall indemnify and hold Grantee free and harmless from and against all cost, damage and/or liability which arises from or relates to the acts or omissions of Grantor, or of Grantor's agents, employees, contractors, or invitees, in improving, maintaining, or using this Breezeway Access Easement Area, except to the extent that such cost, damage and/or liability arises from the gross negligence or willful misconduct of Grantee or Grantee's agents, employees, contractors, or invitees.

9. Notices. Any notice request, demand or other communications permitted or required to be given under this Agreement shall be in writing duly addressed to the parties as follows:

GRANTOR:

Y & J Michele Way, LLC, a California limited liability company  
433 Airport Blvd. Ste 550  
Burlingame CA 94010  
Attn: Bill Wu

GRANTEE:

The City of Palo Alto  
250 Hamilton Avenue,  
Palo Alto, CA 94301  
Attn: City Manager

Any such notice sent by registered or certified mail, return receipt requested shall be deemed to have been duly given and received 5:00 p.m. (Pacific Time) two (2) business days after it is so addressed and mailed with postage prepaid. Any such notice sent by a recognized overnight courier service shall be deemed to have been duly given and received 5:00 p.m. (Pacific Time) one (1) business day after is so

addressed and sent with the cost of such overnight delivery service prepaid. Notice sent by any other manner shall be effective only upon actual receipt thereof. Any party may change its address for purposes of this Agreement by giving notice to the other party as provided herein.

10. Attorneys' Fees. In the event any party hereto institutes legal action to enforce or interpret its rights under this Breezeway Access Easement Agreement, then the prevailing party or parties shall be entitled to reasonable attorneys' fees in addition to other costs of suit as awarded by the court.

11. Governing Law and Venue. This this Breezeway Access Easement Agreement shall be governed under the laws of California. In the event that an action is brought pursuant to this Breezeway Access Easement Agreement, the parties agree that trial of such action will be vested exclusively in the state courts of California in the County of Santa Clara.

IN WITNESS WHEREOF, this Agreement is executed and made by the Grantor effective as of the date first above set forth.

**Grantor: Y & J Michele Way, LLC,  
a California limited liability company**

**By:** \_\_\_\_\_

**Its:** \_\_\_\_\_

**Grantee: City of Palo Alto, a California municipal corporation**

**By:** \_\_\_\_\_

**Its:** \_\_\_\_\_



A notary public or other officer completing the certificate verifies only the identity of the individual who signed the document to which the certificate is attached and not the truthfulness, accuracy, or validity of that document.

On \_\_\_\_\_ 201\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

(Signature)

A notary public or other officer completing the certificate verifies only the identity of the individual who signed the document to which the certificate is attached and not the truthfulness, accuracy, or validity of that document.

On \_\_\_\_\_ 201\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

(Signature)

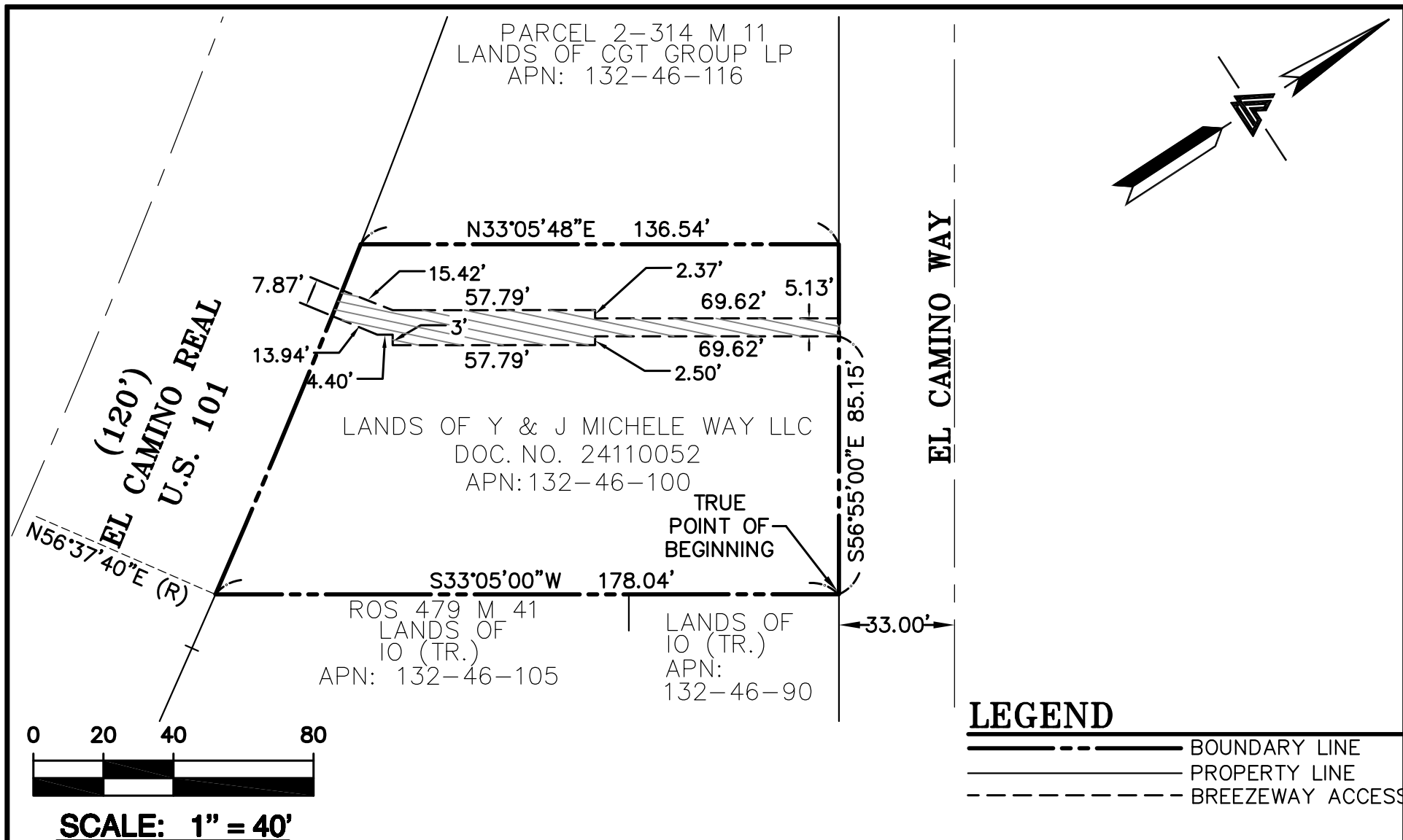
**Exhibit "A" - Servient Estate**

All of that real property situated in the City of Palo Alto, Santa Clara County, State of California described as:

BEGINNING AT A POINT ON THE SOUTHWESTERN LINE OF THE OLD SAN FRANCISCO-SAN JOSE ROAD WHERE IT IS INTERSECTED BY THE SOUTHEASTERN LINE OF THAT CERTAIN 0.275 ACRE TRACT OF LAND AS DESCRIBED IN THE DEED FROM TYNAN LUMBER COMPANY, A CORPORATION, TO THOMAS HUNE, ET UX., BY DEED DATED OCTOBER 7, 1935, IN BOOK 749 O.R. PAGE 50, SANTA CLARA COUNTY RECORDS; THENCE ALONG SAID SOUTHWESTERN LINE OF THE OLD SAN FRANCISCO-SAN JOSE ROAD, NORTH 56° 55' WEST 100 FEET; THENCE AT RIGHT ANGLES SOUTH 33° 05' WEST 155 FEET, MORE OR LESS, TO A POINT ON THE NORTHEASTERN LINE OF THE NEW SAN FRANCISCO-SAN JOSE ROAD (STATE HIGHWAY), AS SAID NORTHEASTERN LINE WAS ESTABLISHED BY DEED FROM THERESA L. RHODES TO STATE OF CALIFORNIA, BY DEED DATED JULY 31, 1929, RECORDED SEPTEMBER 13, 1929, IN BOOK 484 O.R., PAGE 110, SANTA CLARA COUNTY RECORDS; THENCE RUNNING SOUTHEASTERLY ALONG SAID NORTHEASTERN LINE OF THE NEW SAN FRANCISCO-SAN JOSE ROAD (STATE HIGHWAY) ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 3050 FEET, A DISTANCE OF 116 FEET, MORE OR LESS, TO THE NORTHWESTERN CORNER OF THAT CERTAIN 2-1/2 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM THERESA L. RHODES TO ANDREW J. MCCOY, ET UX., DATED MARCH 18, 1925, RECORDED MARCH 21, 1925, IN BOOK 149 O.R. PAGE 163; THENCE ALONG THE NORTHWESTERN LINE OF SAID 2-1/2 ACRE TRACT OF LAND ABOVE REFERRED TO; NORTH 33° 05' EAST 190 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION THEREOF FRONTING ON THE HIGHWAY LEADING FROM SAN FRANCISCO TO SAN JOSE KNOWN AS EL CAMINO REAL TAKEN OR CONVEYED FOR THE PURPOSE OF WIDENING SAID ROADWAY.

ALSO EXCEPTING THEREFROM THAT PORTION OF THE LAND GRANTED TO THE CITY OF PALO ALTO, A MUNICIPAL CORPORATION IN THAT FINAL JUDGMENT OF CONDEMNATION RECORDED OCTOBER 3, 1967 AS INSTRUMENT NO. 3296676, IN BOOK 7880, PAGE 102 OF OFFICIAL RECORDS.



**LEA & BRAZE ENGINEERING, INC.**

CIVIL ENGINEERS • LAND SURVEYORS

BAY AREA REGION  
2495 INDUSTRIAL PKWY WEST  
HAYWARD, CALIFORNIA 94545  
(P) (510) 887-4086  
(F) (510) 887-3019

SACRAMENTO REGION  
3017 DOUGLAS BLVD, # 300  
ROSEVILLE, CA 95661  
(P) (916) 966-1338  
(F) (916) 797-7363

WWW.LEABRAZE.COM

**BREEZEWAY ACCESS EXHIBIT  
FOR 4115 EL CAMINO AVENUE  
PALO ALTO, CALIFORNIA**

APN: 132-46-100

JOB #2181522

DRAWN BY: PC

DEC 4, 2019

## Attachment E

### **Project Plans & CEQA**

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 5<sup>th</sup> floor of City Hall at 250 Hamilton Avenue.

#### **Directions to review Project plans online:**

1. Go to: [bit.ly/PApendingprojects](http://bit.ly/PApendingprojects)
2. Scroll down to find "4115 El Camino Real" and click the address link
3. 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=4728&TargetID=319>



CITY OF  
**PALO  
ALTO**

PLANNING & COMMUNITY ENVIRONMENT

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

January 7, 2019

Mircea Voskerician  
572 Chimalus Drive  
Palo Alto, CA 94306

**Subject: 4115 El Camino Real [17PLN-00280] Mixed-Use Project**

Dear Mircea Voskerician:

On **December 6, 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 **January 7, 2019**. 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:

**4115 El Camino Real [17PLN-00280]:** Request by Mircea Voskerician, on behalf of 4115 ECR, LLC for Major Architectural Review for a Proposed Three-Story, 16,725 Square Foot Mixed-Use Development Comprised of Ground Floor Retail, Second Floor Office and Residential, Third Floor Residential (Seven Residential Units in Total) and Below-Grade Parking. Environmental Assessment: A Mitigated Negative Declaration was Prepared Pursuant to the California Environmental Quality Act (CEQA). Zoning District: CN (Neighborhood Commercial).

Unless an appeal is filed, this project approval shall be effective for two years from **January 21, 2019**, within which time construction of the project shall have commenced. Application for extension of this entitlement may be made prior to the expiration date. The time period for a project may be extended once for an additional year by the Director of Planning. In the event the building permit is not issued for the project and construction has not commenced 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, Sheldon S. Ah Sing, by email at [sahsing@m-group.us](mailto:sahsing@m-group.us) or by phone at (408) 340-5642 x109.

Sincerely,

Jodie Gerhardt, AICP  
Manager of Current Planning

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



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**ATTACHMENT B**  
**ARB FINDINGS FOR APPROVAL**  
4115 El Camino Real  
17PLN-00280

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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.**

*The project is consistent with Finding #1 because:*

The proposed project complies with the zoning code and requires no exceptions to the development standards. The project is subject to the South El Camino Real Design Guidelines. The proposed project is generally consistent with the following Comprehensive Plan, below is an analysis of the applicable goals and policies:

<b><i>Comp Plan Goals and Policies</i></b>	<b><i>How project adheres or does not adhere to Comp Plan</i></b>
<i>The Comprehensive Plan land use designation for the site is Neighborhood Commercial (CN).</i>	The project consists of retail and office with off-street parking and mixed-use residential which the Comp Plan states may be appropriate along the El Camino.
<b><i>Land Use and Community Design</i></b>	
<b>Goal L-1</b> A compact and resilient city providing residents and visitors with attractive neighborhoods, work places, shopping districts, public facilities and open spaces.	The project redevelops an existing commercial parcel and provides an attractive development consistent with the City's design criteria.
<b>Policy L-1.3:</b> Infill development in the urban service area should be compatible with its surroundings and the overall scale and character of the city to ensure a compact, efficient development pattern.	The project is an urban infill development proposal in the urban service area of the city.
<b>Policy L-1.4:</b> Commit to creating an inventory of below market rate housing for purchase and rental.	The proposed project includes one BMR unit for sale.
<b>Goal L-2</b> An enhanced sense of "community" with development designed to foster public life, meet citywide needs and embrace the principles of sustainability.	The proposed project allows for a publicly-accessible passage way between El Camino Way and El Camino Real. This increases access to the El Camino for other residents in the neighborhood.
<b>Policy L-2.2</b> Enhance connections between commercial and mixed use centers and the surrounding residential neighborhoods by	

promoting walkable and bikeable connections and a diverse range of retail and services that caters to the daily needs of residents.	
<b>Policy L-2.6</b> Create opportunities for new mixed use development consisting of housing and retail.	The proposed project includes housing, retail, and office.
<b>Goal L-6:</b> Well-designed buildings that create coherent development patterns and enhance city streets.	The project is consistent with the City’s Zoning Ordinance because it maintains building setbacks, height, parking standards. Further, the project is subject to the City’s design review process, which ensures a high-quality appearance.
<b>Policy L-6.2:</b> Use the Zoning Ordinance, design review process, design guidelines and Coordinated Area Plans to ensure high quality residential and commercial design and architectural compatibility.	
<b><i>Business and Economics Element</i></b>	
<b>Goal B-6:</b> Attractive, vibrant retail centers, each with a mix of uses and a distinctive character.	The project provides a mix of uses on El Camino Real.
<b>Policy B-6.5</b> Strengthen the commercial viability of businesses along the El Camino Real corridor by, for example, encouraging the development of well-designed retail, professional services and housing	

The South El Camino Real Design Guidelines are applicable to the project and the site is located within the Triangle Area Pedestrian Node. The project is generally consistent with the Guidelines, below is an analysis of the applicable guidelines:

<b>3.1.1 Effective Sidewalk Width:</b> Create a 12-foot effective sidewalk width along El Camino Real	The project proposes a 12-foot effective sidewalk width.
<b>3.1.2 Sidewalk Setback Design:</b> The design of the sidewalk setback should create an urban "downtown" character.	The proposed sidewalk setback includes an area for outdoor seating.
<b>3.1.3 Build to lines:</b> Buildings should be built up to the sidewalk to reinforce the definition and importance of the street.	The project provides 51% built to the setback. The project includes a driveway ramp down to basement parking, as well as pedestrian path from El Camino Real to El Camino Way. This path is also adjacent to an outdoor seating area along El Camino Real. There is a trade-off in meeting this guideline and other design guideline objectives. If the outdoor seating area and pathway were not included, then the project would have 75% frontage.
<b>3.1.5 Minimum Height:</b> Buildings should have a minimum height of 25 feet in order to provide presence along El Camino	The project is 39 feet in height to the parapets.

Real.	
<b>3.1.7 Increased Setback:</b> Increased setbacks are permitted only if the additional setback provides a public amenity such as a wider sidewalk, outdoor seating or outdoor dining.	Increased setbacks allow for the project to include an outdoor seating area and pedestrian pathway.
<b>3.3.1 Usable Amenities:</b> Landscape and hardscape features should not just be visually appealing, but also function as open space amenities to be used and enjoyed.	The project includes outdoor seating areas along El Camino Real and El Camino Way.
<b>4.1.8 Expression of Use:</b> Building forms should be articulated as an expression of the building use.	The project has been revised to add additional definition to the residential entry tower, which separates the use from the ground-floor retail. The balconies also provide visible private outdoor space, identifying the residential and office use.
<b>4.2.1 Relationship of Entries to the Street:</b> Buildings should have entries directly accessible and visible from El Camino Real.	All three uses have entrances facing El Camino Real.
<b>4.3.6 Design Consistency on All Facades:</b> All exposed sides of a building should be designed with the same level of care and integrity.	All four sides of the building use the same variety of materials and level of detail. They are also articulated for visual interest and to reduce massing.
<b>4.4.1 Amenities:</b> Building design should offer amenities to users and the public such as protection from the elements and places for people to gather or retreat.	The project provides a number of public and private gathering areas.
<b>4.5.1 Flat Roofs and Parapets Encouraged.</b> Flat roofs with parapets are strongly encouraged.	The proposed building has a flat roof with parapet design.
<b>4.8.1 Mix of Materials:</b> Juxtaposition of contrasting materials can create interest when carefully integrated.	This project includes stucco, wood siding, glass, and metal in a composed design.

The project has also been reviewed for conformance with the development standards in the zoning code and found to be in compliance with the intent and regulations contained therein. A comprehensive review of the project to applicable development standards is included in the administrative record.

**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 consistent with Finding #2 because:*

The area is comprised of various commercial and residential buildings one to three stories in height. The project proposes to construct a building that is taller than the immediate surrounding, although a block away, there is another recently built building of similar mass and height.

The proposed project is consistent with the findings to provide high quality materials and finishes in a neutral color palette. The building height and scale is comparable to more recent developments in the area, particularly for a mixed-use project. The building will have retail on the first floor, which is accessible to many residents within walking distance of the project site. The project also proposes a smaller-scale office space, which is also desired in this 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**

*The design of new projects shall promote pedestrian walkability, a bicycle friendly environment, and connectivity through design elements*

The finding can be made in the affirmative in that the proposed project offers short term bike racks for commercial visitors and well as long-term bike lockers for residents. There is pedestrian access through the parcel in the covered breezeway to promote walkability and connectivity. However cars can only enter the garage on El Camino Real or the parking lot on El Camino Way. The pedestrian walk ways are paved with attractive materials and landscapes.

### **2. Street Building Facades**

*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*

The finding can be made in the affirmative in that the project has its entry directly off the sidewalk to encourage pedestrians and allow for sidewalk uses such as storefront windows and open plaza space. There is also a pedestrian cut through to El Camino Way which allows for passage through the site. This passage is well landscaped and appealing. The office and residential decks also increase activity and view to the street.

### **3. Massing and Setbacks**

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

The finding can be made in the affirmative in that the project conforms to the required setbacks for the CN zone. Massing has been minimized through the use of a variety of materials and a building form that steps up from two stories on the street and at the rear to three stories in the middle. Additionally, the use of balconies helps break up the visual mass of the building.

#### **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*

The project does not directly abut a lower scale residential development. Therefore, this context-based criteria is not applicable.

#### **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*

The finding can be made in the affirmative in that the project provides residents with private decks and access to a shared private common open space on the ground which includes a grass area and dining area. There is also a similarly outfitted private common open space on the third floor. Public open spaces include a dining area on El Camino Real and a seating area on El Camino Way.

#### **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 finding can be made in the affirmative in that there are a limited number of spaces available at the street level with the majority of the parking underground. The pedestrian paths of travel through the site are separated from the parking lot and paved with different materials. The surface parking is also partially screened by landscaping along El Camino Way.

#### **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 site is less than an acre. Therefore, this context-based criteria is not applicable.

#### **8. Sustainability and Green Building Design**

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

The finding can be made in the affirmative in that the building will satisfy the requirements for CALGreen Mandatory + Tier 2 in accordance with the City's Green Building Regulations,. This is demonstrated on the GB sheets in the plan set.

**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 is consistent with Finding #3 because:*

The project proposes a contemporary style that is recognizable along the El Camino corridor overall, though it is different from the existing development adjacent to the project site. The project uses

materials such as stucco, wood siding, with glass railings on the balconies and metal awnings. As conditioned, the stucco surfaces will be a smooth finish texture. The proposed colors are neutral and are compatible with surrounding color schemes.

The project is subject to the 1979 El Camino Design Guidelines and South El Camino Real Guidelines. The proposal meets these guidelines as summarized in the previous staff report.

**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 project is consistent with Finding #4 because:*

The design of the new buildings will provide connectivity between El Camino Way and El Camino Real. The entrance to the underground parking utilizes the existing curb cut on El Camino Real, and the at-grade spaces are accessed by the existing curb cut on El Camino Way. Additionally, there will be 17 bike lockers and four bike rack spaces. There are both public and private open spaces available, including private decks for each of the residences.

**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 is consistent with Finding #5 because:*

The project will provide a variety of drought-tolerant planting. Some of the plantings were selected from a California native palette. The selected varieties of trees would provide appropriate habitat for wildlife as a part of a bigger neighborhood and community wide system. Additional landscaping is provided on the terraces of the building.

**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 is consistent with Finding #6 because:*

In accordance with the City's Green Building Regulations, the project will satisfy the requirements for CALGreen Mandatory + Tier 2. This is demonstrated on the GB sheets in the plan set.

**Performance Criteria**  
**4115 El Camino Real 17PLN-00280**

Pursuant to PAMC 18.23, the following performance criteria are intended to provide additional standards to be used in the design and evaluation of developments in the multi-family, commercial, and industrial zones. The purpose is to balance the needs of the uses within these zones with the need to minimize impacts to surrounding neighborhoods and businesses. The criteria are intended to make new developments and major architectural review projects compatible with nearby residential and business areas, and to enhance the desirability of the proposed developments for the site residents and users, and for abutting neighbors and businesses.

<b>Performance Criteria</b>	<b>Project Consistency</b>
<b>18.23.020 Trash Disposal and Recycling</b>	
<i>Assure that development provides adequate and accessible interior areas or exterior enclosures for the storage of trash and recyclable materials in appropriate containers, and that trash disposal and recycling areas are located as far from abutting residences as is reasonably possible.</i>	The project provides an enclosed trash facility that will be shared between each of the uses occupying the building. The trash facility is located away from residential units, fully enclosed and out of clear sight from any public right-of-way or neighboring lots.
<b>18.23.030 Lighting</b>	
<i>To minimize the visual impacts of lighting on abutting or nearby residential sites and from adjacent roadways.</i>	The applicant will provide cut sheets of the proposed lighting to ensure adequate illumination is provided for safe circulation and are directed downward to reduce glare and impacts to the project's residents.
<b>18.23.040 Late Night Uses and Activities</b>	
<i>The purpose is to restrict retail or service commercial businesses abutting (either directly or across the street) or within 50 feet of residentially zoned properties or properties with existing residential uses located within nonresidential zones, with operations or activities between the hours of 10:00 p.m. and 6:00 a.m. Operations subject to this code may include, but are not limited to, deliveries, parking lot and sidewalk cleaning, and/or clean up or set up operations, but does not include garbage pick-up.</i>	The current project proposal does not include late night uses or activities. Future commercial tenants that would like this will need to file for a Conditional Use Permit, as required per the Zoning Code.
<b>18.23.050 Visual, Screening and Landscaping</b>	
<i>Privacy of abutting residential properties or properties with existing residential uses located within nonresidential zones (residential properties) should be protected by screening from public view all mechanical equipment and service areas. Landscaping should be used to integrate a project design into the surrounding neighborhood, and to provide privacy</i>	While the project does not abut any residential properties or properties with existing residential uses located within non-residential zones, the project is consistent with the stated performance criteria in that the

<b>Performance Criteria</b>	<b>Project Consistency</b>
<i>screening between properties where appropriate.</i>	proposed landscape plan provides adequate screens mechanical equipment areas and integrates the project within the surrounding neighborhood.
<b>18.23.060 Noise and Vibration</b>	
<i>The requirements and guidelines regarding noise and vibration impacts are intended to protect residentially zoned properties or properties with existing residential uses located within nonresidential zones (residential properties) from excessive and unnecessary noises and/or vibrations from any sources in abutting industrial or commercially zoned properties. Design of new projects should reduce noise from parking, loading, and refuse storage areas and from heating, ventilation, air conditioning apparatus, and other machinery on nearby residential properties. New equipment, whether mounted on the exterior of the building or located interior to a building, which requires only a building permit, shall also be subject to these requirements.</i>	The stated performance criteria is not applicable to this residential development project as the subject lot is located in a residential zone (RM-15) that does not abut an industrial or commercially zoned property.
<b>18.23.070 Parking</b>	
<i>The visual impact of parking shall be minimized on adjacent residentially zoned properties or properties with existing residential uses located within nonresidential zones.</i>	The project is consistent with the stated performance criteria in that the proposed parking layout places the majority of the project's parking in the below-grade parking garage and at most, only three vehicles could be parked at-grade in uncovered spaces. Those at-grade spaces would also be partially screened by landscaping from the public right-of-way.
<b>18.23.080 Vehicular, Pedestrian and Bicycle Site Access</b>	
<i>The guidelines regarding site access impacts are intended to minimize conflicts between residential vehicular, pedestrian, and bicycle uses and more intensive traffic associated with commercial and industrial districts, and to facilitate pedestrian and bicycle connections through and adjacent to the project site.</i>	The project is consistent with the stated performance criteria in that the proposed site places the driveway access to the commercial uses along El Camino Real and maintains the existing curb cut to access the residential units at the intersection of El Camino Way and West Meadow Drive. Bicycle and pedestrian connectivity is enhanced

Performance Criteria	Project Consistency
	with the proposed breezeway that will provide a convenient “short cut” to either El Camino Real or El Camino Way.
<b>18.23.090 Air Quality</b>	
<i>The requirements for air quality are intended to buffer residential uses from potential sources of odor and/or toxic air contaminants.</i>	No proposed uses on the project site would produce odor or toxic air. Future uses are required to comply with these performance standards.
<b>18.23.100 Hazardous Materials</b>	
<i>In accordance with Titles 15 and 17 of the Palo Alto Municipal Code, minimize the potential hazards of any use on a development site that will entail the storage, use or handling of hazardous materials (including hazardous wastes) on-site in excess of the exempt quantities prescribed in Health and Safety Code Division 20, Chapter 6.95, and Title 15 of this code.</i>	This is not applicable to the proposed uses associated with the project.



**ATTACHMENT C**  
**CONDITIONS OF APPROVAL**

4115 El Camino Real  
17PLN-00280

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**PLANNING DIVISION**

1. **CONFORMANCE WITH PLANS.** Construction and development shall conform to the approved plans entitled, "4115 El Camino Real, Palo Alto, California, ARB Resubmittal" stamped as received by the City on November 5, 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. **ARB SUB-COMMITTEE.** The following items shall be reviewed by the ARB Subcommittee prior to approval of any demolition, grading or building permit issuance:
  - a. Basement garage signage and security gates
  - b. Colors, Materials and specifications for the project
  - c. Specify light pole heights
  - d. Describe the maintenance for the open space areas
  - e. Provide enhancement of the blank left/west wall
5. **UNDERGROUND GARAGE GATE.** The garage gate shall be closed from 10:00pm to 6:00am unless the retail component of the project is approved for late night hours through a Conditional Use Permit.
6. **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.
7. **PROJECT EXPIRATION.** The project approval shall automatically expire after two years from the original date of approval, if within such two-year period, the proposed use of the site or the construction of buildings has not commenced pursuant to and in accordance with the provisions of the permit or approval. Application for a one year extension of this entitlement may be made prior to the expiration. (PAMC 18.77.090(a))
8. **STUCCO FINISH:** The owner or designee prior to issuance of building permits shall demonstrate on the construction plans in elevations and in details that the project's stucco surfaces shall be 20/30 or smoother finish.

9. **PUBLIC ACCESS AGREEMENT.** The owner or designee shall submit to the City prior to recordation of the subdivision map or the issuance of a building permit (whichever is first) a public access agreement for the breezeway between El Camino Real and El Camino Way that would describe the hours the breezeway is open to the public and to the extent the breezeway is clear of obstructions. The purpose of this agreement is to allowing public access between El Camino Real and El Camino Way to the mutual satisfaction of the owner/designee and the City of Palo Alto.
10. **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.
11. **DEVELOPMENT IMPACT FEES:** Development Impact Fees, currently estimated in the amount of \$200,923 plus the applicable public art fee, per PAMC 16.61.040, shall be paid prior to the issuance of the related building permit and affordable housing in-lieu fee.
12. **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.
13. **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, Sheldon Ah Sing at [sahsing@m-group.us](mailto:sahsing@m-group.us) to schedule this inspection.
14. **MITIGATION MONITORING AND REPORTING PROGRAM.** The Mitigation Monitoring and Reporting Program (MMRP) associated with the project and attached here as Exhibit A is incorporated by reference and all mitigation measures shall be implemented as described in said document. Prior to requesting issuance of any related demolition and/or construction permits, the applicant shall meet with the Project Planner to review and ensure compliance with the MMRP, subject to the satisfaction of the Director of Planning of Planning and Community Environment.



## **PUBLIC WORKS ENGINEERING**

15. **SUBDIVISION:** If condominium units are proposed, a Preliminary Parcel Map and a Parcel Map, or Tentative Map and a Final Map, are required for the proposed development. Map types and review procedures vary depending on the number of units proposed. Depending on the number of units proposed, the applicant shall submit a minor or major subdivision application to the Department of Planning and Community Environment. Show all existing and proposed dedications and easements on the map submitted as part of the application. Please be advised that the Parcel or Tentative map shall be recorded with the Santa Clara County Clerk Recorder prior to Building or Grading and Excavation Permit issuance. A digital copy of the Parcel Map, in AutoCAD format, shall be submitted to Public Works Engineering and shall conform to North American Datum 1983 State Plane Zone 3 for horizontal survey controls and NGVD88 for vertical survey controls.
16. **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.
17. **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).
18. **BASEMENT DRAINAGE:** Due to high groundwater throughout much of the City and Public Works prohibiting the pumping and discharging of groundwater, perforated pipe drainage systems at the exterior of the basement walls or under the slab are not allowed for this site. A drainage system is, however, required for all exterior basement-level spaces, such as lightwells, patios or stairwells. This system consists of a sump, a sump pump, a backflow preventer, and a closed pipe from the pump to a dissipation device onsite at least 10 feet from the property line, such as a bubbler box in a landscaped area, so that water can percolate into the soil and/or sheet flow across the site. The device must not allow stagnant water that could become mosquito habitat. Additionally, the plans must show that exterior basement-level spaces are at least 7-3/4" below any adjacent windowsills or doorsills to minimize the potential for flooding the basement. Public Works recommends a waterproofing consultant be retained to design and inspect the vapor barrier and waterproofing systems for the basement.
19. **BASEMENT SHORING:** Shoring for the basement excavation, including tiebacks, must not extend onto adjacent private property or into the City right-of-way without having first obtained written permission from the private property owners and/or an encroachment permit from Public Works.

20. **DEWATERING:** Proposed underground garage excavation may require dewatering during construction. Public Works only allows groundwater drawdown well dewatering. Open pit groundwater dewatering is disallowed. Dewatering is only allowed from April 1 through October 31 due to inadequate capacity in our storm drain system. The geotechnical report for this site must list the highest anticipated groundwater level; if the proposed project will encounter groundwater, the applicant must provide all required dewatering submittals for Public Works review and approval prior to grading permit issuance. Public Works has dewatering submittal requirements and guidelines available at the Development Center and on our website:  
[http://www.cityofpaloalto.org/gov/depts/pwd/forms\\_and\\_permits.asp](http://www.cityofpaloalto.org/gov/depts/pwd/forms_and_permits.asp)
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. **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.
24. **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.
25. **STORMWATER MAINTENANCE AGREEMENT:** The applicant shall designate a party to maintain the control measures for the life of the improvements and must enter into a maintenance agreement with the City to guarantee the ongoing maintenance of the permanent C.3 storm water discharge compliance measures. The maintenance agreement shall be executed prior to the grading or building permit issuance. The City will inspect the treatment measures yearly and charge an inspection fee.
26. **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."

27. 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.
28. CALTRANS: Caltrans review and approval of this project is required. Caltrans right-of-way across El Camino Real extends from back-of-walk to back-of walk. The City has a maintenance agreement with Caltrans that requires the City to maintain the sidewalk and to issue Street Work Permits for work done on the sidewalks by private contractors. Caltrans has retained the right to review and permit new ingress/egress driveways off El Camino Real as well as the installation of Traffic Control devices as part of this project.
29. PAVEMENT: West Meadow was resurfaced in 2015 this street is under a moratorium. Any cutting into the pavement will trigger additional pavement requirements. Add the following note to the Site Plan: "Applicant and contractor will be responsible for resurfacing portions of West Meadow based the roadway surface condition after project completion and limits of trench work. At a minimum pavement resurfacing of the full width of the street along the project frontage may be required." Plot and label the area to be resurfaced as hatched on the site plan.
30. Abandoned driveway approaches will need to be replaced with sidewalk, curb and gutter to match adjacent. Please show this on Civil plans and include City standard details for such work in the plan set.
31. The applicant shall include an offer of dedication for a public access easement for the additional dimension of sidewalk between the property line and back of walk and/or building edge that meets the El Camino Real Master Plan requirements.
32. STORM WATER HYDRAULICS AND HYDROLOGY: Existing site drainage does not have a direct discharge into the existing system. Provide an analysis that compares the existing and proposed site runoff from the project site. Runoff shall be based on City of Palo Alto Drainage Design Standards for 10-year storm event with HGL's 0.5 foot below inlet grates elevations and 100-year storm with HGL not exceeding the street right-of-way. As described on the City of Palo Alto Drainage Design Standards. Please provide the tabulated calculations directly on the conceptual grading and drainage plan. This project may be required to replace and upsize the existing storm drain system to handle the added flows and/or depending on the current pipe condition. The IDF tables and Precipitation Map for Palo Alto is available County of Santa Clara County Drainage Manual dated October 2007. The proposed project shall not increase runoff to the public storm drain system.

#### **PUBLIC WORKS URBAN FORESTRY SECTION**

##### **PRIOR TO DEMOLITION, BUILDING OR GRADING PERMIT ISSUANCE**

37. BUILDING PERMIT SUBMITTAL- PROJECT ARBORIST CERTIFICATION LETTER. Prior to submittal for staff review, attach a Project Arborist Certification Letter that he/she has; (a) reviewed the entire

building permit plan set submittal and, (b)\* verified all his/her updated TPR mitigation measures and changes are incorporated in the plan set, (c) affirm that ongoing Contractor/Project Arborist site monitoring inspections and reporting have been arranged with the contractor or owner (see Sheet T-1) and, (d) understands that design revisions (site or plan changes) within a TPZ will be routed to Project Arborist/Contractor for review prior to approval from City.

\* (b above) Other information. The Building Permit submittal set shall be accompanied by the project site arborist's typed certification letter that the plans have incorporated said design changes for consistency with City Standards, Regulations and information:

- a. Applicant/project arborist's final revised Tree Protection Report (TPR) with said design changes and corresponding mitigation measures. (e.g.: if Pier/grade beam=soils report w/ specs required by Bldg. Div.; if Standard foundation= mitigation for linear 24" cut to all roots in proximity)
- b. Palo Alto Tree Technical Manual Construction Standards, Section 2.00 and PAMC 8.10.080.
- c. Specialty items. Itemized list of any activity impact--quantified and mitigated, in the Tree Protection Zone (TPZ) for each tree.
- d. Oaks, if present. That landscape and irrigation plans are consistent with CPA Tree Technical Manual, Section 5.45 and Appendix L, Landscaping under Native Oaks and PAMC 18.40.130.

38. BUILDING PERMIT CORRECTIONS/REVISIONS--COVER LETTER. During plan check review, provide a separate cover letter with Correction List along with the revised drawings when resubmitting. State where the significant tree impacts notes occur (bubble) and indicate the sheet number and/or detail where the correction has been made. Provide: 1) corresponding revision number and 2) bubble or highlights for easy reference. Responses such as "see plans or report" or "plans comply" are not acceptable. Your response should be clear and complete to assist the re-check and approval process for your project.

39. TREE APPRAISAL & SECURITY DEPOSIT AGREEMENT. (Reference: CPA Tree Technical Manual, Section 6.25). Prior to the issuance of a grading or building permit, the applicant shall prepare and secure a tree appraisal and security deposit agreement stipulating the duration and monitoring program. The appraisal of the condition and replacement value of all trees to remain shall recognize the location of each tree in the proposed development. Listed separately, the appraisal may be part of the Tree Survey Report. For the purposes of a security deposit agreement, the monetary market or replacement value shall be determined using the most recent version of the "Guide for Plan Appraisal", in conjunction with the Species and Classification Guide for Northern California. The appraisal shall be performed at the applicant's expense, and the appraiser shall be subject to the Director's approval.

- a. SECURITY DEPOSIT AGREEMENT. Prior to grading or building permit issuance, the applicant shall post a security deposit for the 150% of the appraised replacement value of the Designated Trees: (ID numbers to be determined), to be retained and protected.. The total amount for this project is: \$ To Be Determined with Urban Forestry staff. The security may be a cash deposit, letter of credit, or surety bond and shall be filed with the Revenue Collections/Finance Department or in a form satisfactory to the City Attorney.
- b. SECURITY DEPOSIT & MONITORING PROGRAM. The project sponsor shall provide to the City of Palo Alto an annual tree evaluation report prepared by the project arborist or other qualified

certified arborist, assessing the condition and recommendations to correct potential tree decline for trees remain and trees planted as part of the mitigation program. The monitoring program shall end two years from date of final occupancy, unless extended due to tree mortality and replacement, in which case a new two-year monitoring program and annual evaluation report for the replacement tree shall begin. Prior to occupancy, a final report and assessment shall be submitted for City review and approval. The final report shall summarize the Tree Resources program, documenting tree or site changes to the approved plans, update status of tree health and recommend specific tree care maintenance practices for the property owner(s). The owner or project sponsor shall call for a final inspection by the Planning Division Arborist.

- c. **SECURITY DEPOSIT DURATION.** The security deposit duration period shall be two years (or five years if determined by the Director) from the date of final occupancy. Return of the security guarantee shall be subject to City approval of the final monitoring report. A tree shall be considered dead when the main leader has died back, 25% of the crown is dead or if major trunk or root damage is evident. A new tree of equal or greater appraised value shall be planted in the same area by the property owner. Landscape area and irrigation shall be readapted to provide optimum growing conditions for the replacement tree. The replacement tree that is planted shall be subject to a new two-year establishment and monitoring program. The project sponsor shall provide an annual tree evaluation report as originally required.

**40. PLAN SET REQUIREMENTS.** The final Plans submitted for building permit shall include

- a. **SHEET T-1, BUILDING PERMIT.** The building permit plan set will include the City's full-sized, Sheet T-1 (Tree Protection-it's Part of the Plan!), available on the Development Center website at <http://www.cityofpaloalto.org/civicax/filebank/documents/31783>. The Applicant shall **complete and sign the Tree Disclosure Statement** and recognize the Project Arborist Tree Activity Inspection Schedule. Monthly reporting to Urban Forestry/Contractor is mandatory. (Insp. #1: applies to all projects; with tree preservation report: Insp. #2-6 applies; with landscape plan: Insp. #7 applies.)
- b. **The Tree Preservation Report (TPR).** All sheets of the Applicant's TPR approved by the City for full implementation by Contractor, ArborResources, Inc., shall be printed on numbered Sheet T-1 (T-2, T-3, etc) and added to the sheet index.

**41. PLANS--SHOW PROTECTIVE TREE FENCING.** The Plan Set (esp. site, demolition, grading & drainage, foundation, irrigation, tree disposition, utility sheets, etc.) must delineate/show Type I or Type II fencing around each Regulated Trees, using a bold dashed line enclosing the Tree Protection Zone as shown on Standard Dwg. #605, Sheet T-1, and the City Tree Technical Manual, Section 6.35-Site Plans; **or using the Project Arborist's unique diagram for each Tree Protection Zone enclosure.**

**42. SITE PLAN REQUIREMENTS:** Plans with Public Trees shall show (a) Type II street tree fencing enclosing the entire parkway strip or, (b) Type I protection to the outer branch dripline (for rolled curb & sidewalk or no-sidewalk situations.)

- a. Add Site Plan Notes.)
  - i. Note #1. Apply to the site plan stating, "*All tree protection and inspection schedule measures, design recommendations, watering and construction scheduling shall be*



*implemented in full by owner and contractor, as stated on Sheet T-1, in the Tree Protection Report and the approved plans".*

- ii. Note #2. All civil plans, grading plans, irrigation plans, site plans and utility plans and relevant sheets shall add a note applying to the trees to be protected, including neighboring trees stating: *"Regulated Tree--before working in this area contact the Project Site Arborist at 650-654-3351 ";*
- iii. Note #3. Utility (sanitary sewer/gas/water/backflow/electric/storm drain) plan sheets shall include the following note: *"Utility trenching shall not occur within the TPZ of the protected tree. Contractor shall be responsible for ensuring that no trenching occurs within the TPZ of the protected tree by contractors, City crews or final landscape workers. See sheet T-1 for instructions."*
- iv. Note #4. *"Basement or foundation plan. Soils Report and Excavation for basement construction within the TPZ of a protected tree shall specify a vertical cut (stitch piers may be necessary) in order to avoid over-excavating into the tree root zone. Any variance from this procedure requires Urban Forestry approval, please call (650) 496-5953."*
- v. Note #5. *"Pruning Restrictions. No pruning or clearance cutting of branches is permitted on City trees. Contractor shall obtain a Public Tree Permit from Urban Forestry (650-496-5953) for any work on Public Trees"*

43. TREE REMOVAL—PROTECTED & RIGHT-OF-WAY TREES. Existing trees (Publicly-owned or Protected) to be removed, as shown accurately located on all site plans, require approval by the Urban Forestry Tree Care Permit prior to issuance of any building, demolition or grading permit. Must also be referenced in the required Street Work Permit from Public Works Engineering.

- a. Add plan note for each tree to be removed, *"Tree Removal. Contractor shall obtain a completed Urban Forestry Tree Care Permit # \_\_\_\_\_ (contractor to complete) separate from the Building or Street Work Permit. Permit notice hanger and conditions apply. Contact (650-496-5953)."*
- b. Copy the approval. The completed Tree Care Permit shall be printed on Sheet T-2, or specific approval communication from staff clearly copied directly on the relevant plan sheet. The same Form is used for public or private Protected tree removal requests available from the Urban Forestry webpage: <http://www.cityofpaloalto.org/gov/depts/pwd/trees/default.asp>

#### 44. LANDSCAPE PLANS

- a. Include all changes recommended from civil engineer, architect and staff, including planting specifications if called for by the project arborist,
- b. Provide a detailed landscape and irrigation plan encompassing on-and off-site plantable areas out to the curb as approved by the Architectural Review Board. A Landscape Water Use statement, water use calculations and a statement of design intent shall be submitted for the project. A licensed landscape architect and qualified irrigation consultant will prepare these plans, to include:
  - i. All existing trees identified both to be retained and removed including street trees.
  - ii. Complete plant list indicating tree and plant species, quantity, size, and locations.
  - iii. Irrigation schedule and plan.
  - iv. Fence locations.
  - v. Lighting plan with photometric data.
  - vi. Trees to be retained shall be irrigated, aerated and maintained as necessary to ensure survival.

- vii. All new trees planted within the public right-of-way shall be installed per Public Works (PW) Standard Planting Diagram #603 or 604 (include on plans), and shall have a tree pit dug at least twice the diameter of the root ball.
  - viii. Landscape plan shall include planting preparation details for trees specifying digging the soil to at least 30-inches deep, backfilled with a quality topsoil and dressing with 2-inches of wood or bark mulch on top of the root ball keeping clear of the trunk by 1-inch.
  - ix. Automatic irrigation shall be provided to all trees. For trees, Standard Dwg. #513 shall be included on the irrigation plans and show two bubbler heads mounted on flexible tubing placed at the edge of the root ball. Bubblers shall not be mounted inside an aeration tube. The tree irrigation system shall be connected to a separate valve from other shrubbery and ground cover, pursuant to the City's Landscape Water Efficiency Standards. Irrigation in the right-of-way requires a street work permit per CPA Public Works standards.
  - x. Landscape Plan shall ensure the backflow device is adequately obscured with the appropriate screening to minimize visibility (planted shrubbery is preferred, painted dark green, decorative boulder covering acceptable; wire cages are discouraged).
- c. Add Planting notes to include the following mandatory criteria:
    - i. Prior to any planting, all plantable areas shall be tilled to 12" depth, and all construction rubble and stones over 1" or larger shall be removed from the site.
    - ii. Note a turf-free zone around trees 36" diameter (18" radius) for best tree performance.
  - d. Add note for Mandatory Landscape Architect (LA) Inspections and Verification to the City. The LA of record shall verify the performance measurements are achieved with a separate letters of verification to City Planning staff, in addition to owner's representative for each of the following:
    - i. All the above landscape plan and tree requirements are in the Building Permit set of plans.
    - ii. Percolation & drainage checks have been performed and are acceptable.
    - iii. Fine grading inspection of all plantable areas has been personally inspected for tilling depth, rubble removal, soil test amendments are mixed and irrigation trenching will not cut through any tree roots.
    - iv. Tree and Shrub Planting Specifications, including delivered stock, meets Standards in the CPA Tree Technical Manual, Section 3.30-3.50. Girdling roots and previously topped trees are subject to rejection.
45. TREE PROTECTION VERIFICATION. Prior to demolition, grading or building permit issuance, a written verification from the contractor that the required protective fencing is in place shall be submitted to the Building Inspections Division. The fencing shall contain required warning sign and remain in place until final inspection of the project.

#### DURING CONSTRUCTION

46. EXCAVATION RESTRICTIONS APPLY (TTM, Sec. 2.20 C & D). Any approved grading, digging or trenching beneath a tree canopy shall be performed using 'air-spade' method as a preference, with manual hand shovel as a backup. For utility trenching, including sewer line, roots exposed with diameter of 1.5 inches and greater shall remain intact and not be damaged. If directional boring

method is used to tunnel beneath roots, then Table 2-1, Trenching and Tunneling Distance, shall be printed on the final plans to be implemented by Contractor.

47. **PLAN CHANGES.** Revisions and/or **changes to plans before or during construction** shall be reviewed and responded to by the (a) project site arborist, ArborResources, (650-496-5953, or (b) landscape architect with written letter of acceptance before submitting the revision to the Building Department for review by Planning, PW or Urban Forestry.
48. **CONDITIONS.** All Planning Department conditions of approval for the project shall be printed on the plans submitted for building permit.
49. **TREE PROTECTION COMPLIANCE.** The owner and contractor shall implement all protection and inspection schedule measures, design recommendations and construction scheduling as stated in the TPR & Sheet T-1, and is subject to code compliance action pursuant to PAMC 8.10.080. The required protective fencing shall remain in place until final landscaping and inspection of the project. Project arborist approval must be obtained and documented in the monthly activity report sent to the City. The mandatory Contractor and Arborist Monthly Tree Activity Report shall be sent monthly to the City ([pwps@cityofpaloalto.org](mailto:pwps@cityofpaloalto.org)) beginning with the initial verification approval, using the template in the Tree Technical Manual, Addendum 11.
50. **TREE DAMAGE.** Tree Damage, Injury Mitigation and Inspections apply to Contractor. Reporting, injury mitigation measures and arborist inspection schedule (1-5) apply pursuant to TTM, Section 2.20-2.30. Contractor shall be responsible for the repair or replacement of any publicly owned or protected trees that are damaged during the course of construction, pursuant to Title 8 of the Palo Alto Municipal Code, and city Tree Technical Manual, Section 2.25.
51. **GENERAL.** The following general tree preservation measures apply to all trees to be retained: No storage of material, topsoil, vehicles or equipment shall be permitted within the tree enclosure area. The ground under and around the tree canopy area shall not be altered. Trees to be retained shall be irrigated, aerated and maintained as necessary to ensure survival.

#### PRIOR TO OCCUPANCY

52. **URBAN FORESTRY DIGITAL FILE & INSPECTION.** The applicant or architect shall provide a digital file of the landscape plan, including new off-site trees in the publicly owned right-of-way. A USB Flash Drive, with CAD or other files that show species, size and exact scaled location of each tree on public property, shall be delivered to Urban Forestry at a tree and landscape inspection scheduled by Urban Forestry (650-496-5953).
53. **LANDSCAPE CERTIFICATION LETTER.** The Planning Department shall be in receipt of a verification letter that the Landscape Architect has inspected all trees, shrubs, planting and irrigation and that they are installed and functioning as specified in the approved plans.
54. **PROJECT ARBORIST CERTIFICATION LETTER.** Prior to written request for temporary or final occupancy, the contractor shall provide to the Planning Department and property owner a final inspection letter by the Project Arborist. The inspection shall evaluate the success or needs of Regulated tree protection, including new landscape trees, as indicated on the approved plans. The written acceptance of successful tree preservation shall include a photograph record and/or recommendations for the health, welfare, mitigation remedies for injuries (if any). The final report



may be used to navigate any outstanding issues, concerns or security guarantee return process, when applicable.

55. **PLANNING INSPECTION.** Prior to final sign off, contractor or owner shall contact the city planner (650-329-2441) to inspect and verify Special Conditions relating to the conditions for structures, fixtures, colors and site plan accessories.

#### **POST CONSTRUCTION**

56. **MAINTENANCE.** All landscape and trees shall be maintained, watered, fertilized, and pruned according to Best Management Practices-Pruning (ANSI A300-2008 or current version) and the City Tree Technical Manual, Section 5.00. Any vegetation that dies shall be replaced or failed automatic irrigation repaired by the current property owner within 30 days of discovery.

#### **UTILITIES - WATER, GAS, WASTEWATER**

##### **PRIOR TO ISSUANCE OF DEMOLITION PERMIT**

57. The applicant shall submit a request to disconnect all utility services and/or meters including a signed affidavit of vacancy. Utilities will be disconnected or removed within 10 working days after receipt of request. The demolition permit will be issued by the building inspection division after all utility services and/or meters have been disconnected and removed.

##### **FOR BUILDING PERMIT:**

58. The applicant shall submit a completed water-gas-wastewater service connection application - load sheet for City of Palo Alto Utilities. The applicant must provide all the information requested for utility service demands (water in fixture units/g.p.m., gas in b.t.u.p.h, and sewer in fixture units/g.p.d.).
59. The applicant shall submit improvement plans for utility construction. The plans must show the size and location of all underground utilities within the development and the public right of way including meters, backflow preventers, fire service requirements, sewer mains, sewer cleanouts, backwater valve, sewer ejector pumps and any other required utilities. The plans must include complete profiles for the design of all gravity lines clearly identifying the minimum vertical clearances from existing underground facilities.
60. Per SB7 (Water Code, Division 1, Chapter 8, Article 5, Section 537-537.5) requires new multi-family residential building to include a water submeter for each dwelling unit and to bill tenants accordingly for their water use per CPA Utilities rules and Regulations. Submeters shall comply with all laws and regulations governing their installation, maintenance, reading billing, and testing. Due to the extend of the frontage area along the streets, assuming a space constraint does not exist with the total number of meters, these dwelling units could be evaluated for the installation of individual City-owned meters in the Public City Right of Way and not on private property to avoid potential exposure in the event of leaks.
61. Each unit or place of business shall have its own water and gas meter shown on the plans.
62. New HDPE water service and meter installation are required to furnish customer's demand for domestic. The water meter will be sized based on the water loads demands. Show the location of the new service and meter on the plans.

63. A separate water meter and backflow preventer is required to irrigate the approved landscape plan. Show the location of the irrigation meter on the plans.
64. New HDPE water service installation is required to furnish customer's demand for fire sprinkler system. The water service and connection will be sized based on the water fire protection load demands. The applicant shall provide to the engineering department a copy of the plans for fire system including all fire department's requirements prior to the actual approval of the service.
65. The existing unused water services and sewer lateral (s) will be disconnected and abandoned at the main per utilities standards by the City of Palo Alto Utilities.
66. An approved reduced pressure principle assembly (RPPA backflow preventer device) is required for all new water connections from Palo Alto Utilities to comply with requirements of California administrative code, title 17, sections 7583 through 7605 inclusive. The RPPA shall be installed on the owner's property and directly behind the water meter within 5' (feet) of the property line or City Right of Way.
67. An approved reduced pressure detector assembly is required for the new water connection for the fire system to comply with requirements of California administrative code, title 17, sections 7583 through 7605 inclusive.
68. A new gas service line installation is required to furnish customer's demand specified in the load sheet or new approved gas meter location presented with this project. The work will be performed by CPA Utilities. The gas service and meters will be sized based on the gas loads demands. Show the location of the gas meters on the plans.
69. The applicant shall be responsible for installing and upgrading the existing utility services and meters as necessary to handle anticipated peak loads. This responsibility includes all costs associated with the design and construction for the installation/upgrade of the utility services and meters.
70. Per City of Palo Alto Ordinance 16.08.130 Amendment to CPC 710.1. Sewer backflow protection shall be installed for all new construction, remodels, sewer line repairs/ modifications, structures with sewer ejectors pumps and building floors. Where the elevation is at or below the invert of the city sanitary sewer main. Show the location of the backwater valve on the plans.
71. Sewer ejector pumps shall meet the CPA Utilities conditions limiting the wastewater discharge flow rate to the wastewater collection. Sewage ejector pumps shall meet the following conditions:
  - The pump(s) shall be limited to a total 100 GPM capacity or
  - The sewage line changes to a 4" gravity flow line at least 20' from the City clean out.
  - The tank and float is set up such that the pump run time not exceed 20 seconds each cycle.
72. Trees may not be planted within 10 feet of existing water, gas or wastewater mains/services or meters. New water, gas or wastewater services/meters may not be installed within 10' of existing trees. Maintain 10' between new trees and new water, gas and wastewater services/mains/meters.

73. The applicant shall pay the capacity fees and connection fees associated with new utility service/s or added demand on existing services. The approved relocation of services, meters, hydrants, or other facilities will be performed at the cost of the person/entity requesting the relocation.
74. All utility installations shall be in accordance with the latest edition of C.P.A. Utility Standards for Water, Gas & Wastewater.

#### **FIRE DEPARTMENT**

75. The owner or designee prior to issuance of building permits shall demonstrate installation of a fixed ladder and 4'x4' roof hatch at the top of the stairwell.
76. The owner or designee prior to issuance of building permits shall demonstrate that the project provides Fire department ground ladder access to bedroom emergency escape windows.
77. Install one new public fire hydrant on El Camino Real at a location to the satisfaction of the Fire Department.

#### **PWD RECYCLING**

78. The owner or designee shall prior to building permit issuance provide room in the trash area for a minimum of two two-cubic-yard bins and one four-cubic-yard bin to allow for garbage, recycling, and compost service.
79. The owner or designee shall prior to building permit issuance demonstrate in the construction plans that the door to the trash area shall be a minimum of six feet wide to accommodate the bins. The current door is not wide enough to get the bins out.

#### **BUILDING DIVISION**

Include in plans submitted for a building permit:

80. The permit application shall be accompanied by all plans and related documents necessary to construct a complete project.
81. Separate submittals and permits are required for the following systems and components if utilized: E.V., P.V., and Solar Hot Water systems.
82. Deferred submittals shall be limited to as few items as possible.
83. A written outline/plan needs to be provide prior to building permit issuance to demonstrate compliance with CBC Section 3302 (Construction Safeguards) and Section 3306 (Protection of Pedestrians) during construction.
84. A demolition permit shall be required for the removal of the existing building on site.
85. The plans submitted for the building permit shall include an allowable floor area calculation that relates the mixed occupancies to type of construction.

#### **BELOW MARKET RATE HOUSING**

86. Below Market Rate (BMR) Housing Requirement: This project's total BMR requirement is 1.05 units. When the BMR requirement results in a fractional unit, an in-lieu payment to the Residential Housing Fund may be made for the fractional unit instead of providing an actual BMR unit, except that larger projects of 30 or more units must provide a whole BMR unit for any fractional unit of one-half (0.50) or larger.

To satisfy this requirement, the applicant shall provide 1 BMR for-sale housing unit affordable to households making 80 to 100 percent of the Santa Clara County median income within the project in accordance with the requirements set forth in Program H3.1.2 of the City of Palo Alto Comprehensive Plan, Chapter 16.65 of the Palo Alto Municipal Code, and the BMR Program rules and regulations. The applicant shall also provide in lieu payment as specified in Section 16.65.060. The fractional in-lieu fee shall be paid prior to issuance of any building permits for the project; provided, however, that prior to issuance of the first building permit for the project, the applicant may elect to provide one additional inclusionary unit instead of paying the fractional in lieu payment.

87. All BMR units constructed under this condition shall be in conformance with the City's BMR Program rules and regulations. A BMR Agreement in a form acceptable to the City Attorney for the 1.05 BMR units shall be executed and recorded prior to final map approval or building permit issuance, whichever occurs first. Failure to comply with the timing of this condition and any adopted BMR Program rules and regulations shall not waive its later enforcement.

The applicant is hereby notified, as required by Government Code § 66020, that the approved plans, these conditions of approval, and the adopted City fee schedule set forth in Program H3.1.2 of the City of Palo Alto Comprehensive Plan constitute written notice of the description of the dedications, reservations, amount of fees and other exactions related to the project. As of the date of project approval, the 90-day period has begun in which the applicant may protest any dedications, reservations, fees or other exactions imposed by the City. Failure to file a protest in compliance with all of the requirements of Government Code § 66020 will result in a legal bar to challenging the dedications, reservations, fees or other exactions.

#### **PUBLIC ART**

88. The owner or designee shall pay into the public art fund in – lieu of commissioning art on site, the funds must be received prior to the issuance of a building permit.

#### **GREEN BUILDING**

89. **Green Building Requirements for Non-Residential Projects.** For design and construction of non-residential projects, the City requires compliance with the mandatory measures of Chapter 5, in addition to use of the Voluntary Tiers. (Ord. 5220 § 1 (part), 2013). The following are required for Building Approval:

90. **The project is a new nonresidential construction project greater than 1,000 square feet** and therefore must comply with California Green Building Standards Code Mandatory plus Tier 2 requirements, as applicable to the scope of work. PAMC 6.14.180 (Ord. 5220 § 1 (part), 2013). The project applicant shall indicate the requirements on the Permit Plans. The submittal requirements are outlined here: [www.cityofpaloalto.org/gov/depts/ds/green\\_building/default.asp](http://www.cityofpaloalto.org/gov/depts/ds/green_building/default.asp).

91. **The project is a new building over 10,000 square feet** and therefore must meet the commissioning requirements outlined in the California Energy Code section. The project team shall submit the

Owner's Project Requirements (OPR), and Basis of Design (BOD), and Commissioning Plan in accordance with 5.410.2.3.

92. **The project is a nonresidential projects exceeding \$100,000 valuation** and therefore must acquire an Energy STAR Portfolio Manager Rating and submit the rating to the City of Palo Alto once the project has been occupied after 12 months. PAMC 16.14.250 (Ord. 5220 § 1 (part), 2013). The Energy Star Project Profile shall be submitted to the Building Department prior to permit issuance. Submittal info can be found at:  
[https://www.cityofpaloalto.org/gov/depts/utl/business/benchmarking\\_your\\_building.asp](https://www.cityofpaloalto.org/gov/depts/utl/business/benchmarking_your_building.asp).
93. **The project is a nonresidential new construction projects with a landscape of any size included in the project scope** and therefore must comply with Potable water reduction Tier 2. Documentation is required to demonstrate that the Estimated Total Water Use (ETWU) falls within a Maximum Applied Water Allowance (MAWA) using the appropriate evapotranspiration adjustment factor (ETAF) designated by the prescribed potable water reduction tier. PAMC 16.14.220 (Ord. 5220 § 1 (part), 2013). The project applicant shall indicate the requirements on the Permit Plans. The submittal requirements are outlined on the following site:  
<http://www.cityofpaloalto.org/gov/depts/utl/residents/resrebate/landscape.asp>.
94. **The project is outside the boundaries of the recycled water project area and is greater than 1,000 square feet** and therefore must install recycled water infrastructure for irrigation systems. PAMC 16.14.230 (Ord. 5220 § 1 (part), 2013). The project applicant shall indicate the requirements on the Permit Plans.
95. **The project is either new construction or a rehabilitated landscape and is greater than 1,000 square feet and therefore must install** a dedicated irrigation meter related to the recycled water infrastructure. PAMC 16.14.230 (Ord. 5220 § 1 (part), 2013). The project applicant shall indicate the requirements on the Permit Plans.
96. **The project includes a new or altered irrigation system** and therefore must be designed and installed to prevent water waste due to overspray, low head drainage, or other conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, parking lots, or structures. PA 16.14.300 (Ord. 5220 § 1 (part), 2013).
97. **The project includes a new or altered irrigation system** and therefore the irrigation must be scheduled between 8:00 p.m. and 10:00 a.m. unless weather conditions prevent it. Operation of the irrigation system outside the normal watering window is allowed for auditing and system maintenance. Total annual applied water shall be less than or equal to maximum applied water allowance (MAWA) as calculated per the potable water use reduction tier. PAMC 16.14.310 (Ord. 5220 § 1 (part), 2013). ). The project applicant shall indicate the requirements on the Permit Plans.
98. **The project is a nonresidential new construction project and has a value exceeding \$25,000** and therefore must meet Enhanced Construction Waste Reduction Tier 2. PAMC 16.14.240 (Ord. 5220 § 1 (part), 2013). The project shall use the Green Halo System to document the requirements.
99. **The project includes non-residential demolition** and therefore must meet the Enhanced Construction Waste Reduction - Tier 2. PAMC 16.14.270 (Ord. 5220 § 1 (part), 2013). The project shall use the Green Halo System to document the requirements.

100. **The project is a new non-residential structure** and therefore must comply with the City of Palo Alto Electric Vehicle Charging Ordinance 5263. The project shall provide Conduit Only, EVSE-Ready Outlet, or EVSE Installed for at least 25% of parking spaces, among which at least 5% (and no fewer than one) shall be EVSE Installed. The requirements shall be applied separately to accessible parking spaces. See Ordinance 5263 for EVSE definitions, minimum circuit capacity, and design detail requirements. PAMC 16.14.380 (Ord. 5263 § 1 (part), 2013) See <https://www.cityofpaloalto.org/civicax/filebank/documents/43818> for additional details.

The following are required at Post-Construction after 12 months of occupancy.

101. **The project is a nonresidential projects exceeding \$100,000 valuation** and therefore must acquire an Energy STAR Portfolio Manager Rating and submit the rating to the City of Palo Alto once the project has been occupied after 12 months. PAMC 16.14.250 (Ord. 5220 § 1 (part), 2013). Submittal info can be found at: [https://www.cityofpaloalto.org/gov/depts/utl/business/benchmarking\\_your\\_building.asp](https://www.cityofpaloalto.org/gov/depts/utl/business/benchmarking_your_building.asp).

## Exhibit A: Mitigation Monitoring and Reporting Program

PROJECT NAME	4115 El Camino Real Mixed-Use Project	Application Number	17PLN-00280
Applicant		Date	November 2018

*The Draft Mitigated Negative Declaration for the 4115 El Camino Real Mixed-use Project identifies the mitigation measures that will be implemented to reduce the impacts associated with the project. The California Environmental Quality Act (CEQA) was amended in 1989 to add Section 21081.6, which requires a public agency to adopt a monitoring and reporting program for assessing and ensuring compliance with any required mitigation measures applied to proposed development. As stated in section 21081.6(a)(1) of the Public Resources Code, "... the public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment."*

*Section 21081.6 also provides general guidelines for implementing mitigation monitoring programs and indicates that specific reporting and/or monitoring requirements, to be enforced during project implementation, shall be defined as part of adopting a Mitigated Negative Declaration.*

*The mitigation monitoring table lists those mitigation measures that would be included as conditions of approval for the project. To ensure that the mitigation measures are properly implemented, a monitoring program has been devised which identifies the timing and responsibility for monitoring each measure.*



Environmental Impact	Mitigation Measure	Responsible for Implementation	Timing of Compliance	Oversight of Implementation
<b>BIOLOGICAL RESOURCES</b>				
<b>BIO-1: Nesting Bird Surveys and Avoidance</b>	<p><b>Nesting Bird Surveys and Avoidance.</b> Construction of the project, shall be prohibited during the general avian nesting season (February 1 – August 31), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist, as approved by the City of Palo Alto, to conduct a preconstruction nesting bird survey of adjacent street trees to determine the presence/absence, location, and activity status of any active nests. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation clearance and structure demolition. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed within the buffer areas until a qualified biologist has determined that the nest is no longer active (i.e., the nestlings have fledged and are no longer reliant on the nest). No ground disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and February 1.</p>	Applicant or designee/Construction contractor	Prior to and during Construction	CPA Planning Department
<b>CULTURAL RESOURCES</b>				
<b>CR-1: Worker's Environmental Awareness Program (WEAP)</b>	<p><b>Worker's Environmental Awareness Program (WEAP).</b> A qualified archaeologist shall be retained to conduct WEAP training for archaeological and paleontological sensitivity for all construction personnel prior to the commencement of any ground disturbing activities. Archaeological and paleontological sensitivity training should include a description of the types of cultural or paleontological material that may be encountered, cultural sensitivity</p>	Applicant or designee/Construction contractor	During Construction	CPA Planning Department



Environmental Impact	Mitigation Measure	Responsible for Implementation	Timing of Compliance	Oversight of Implementation
	issues, regulatory issues, and the proper protocol for treatment of the materials in the event of a find.			
<b>CR-2: Resource Recovery Procedures.</b>	<b>Resource Recovery Procedures.</b> In the event that archaeological or paleontological resources are unearthed during project construction, all earth-disturbing work in the vicinity of the find must be temporarily suspended or redirected until an archaeologist or paleontologist has evaluated the nature and significance of the find. If the discovery proves to be significant under CEQA, additional work such as preservation in place, archaeological data recovery, and/or paleontological salvage shall occur as required by the archeologist or paleontologist in coordination with City staff and descendants and/or stakeholder groups, as warranted. After the find has been appropriately mitigated, work in the area may resume. A Native American representative shall be retained to monitor any mitigation work associated with Native American cultural material.	Applicant or designee/Construction contractor	During Construction	CPA Planning Department
<b>CR-3: Unanticipated Discovery Procedures</b>	<b>Unanticipated Discovery of Tribal Cultural Resources.</b> In the event that cultural resources of Native American origin are identified during construction, the City shall consult with a qualified archaeologist and begin or continue Native American consultation procedures. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The plan would include avoidance of the resource or, if avoidance of the resource is infeasible, the plan would outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative.	Applicant or designee/Construction contractor	During Construction	CPA Planning Department
<b>GEOLOGY AND SOILS</b>				
<b>GEO-1: Geotechnical Design Considerations</b>	<b>Geotechnical Design Considerations.</b> The project plans submitted for building permit approval shall incorporate the design recommendations outlined in the Geotechnical Investigation prepared by Stevens, Ferrone & Bailey Engineering Company, Inc. in November 2017 or any	Applicant or designee	Prior to building permit	CPA Planning Department

Environmental Impact	Mitigation Measure	Responsible for Implementation	Timing of Compliance	Oversight of Implementation
<b>GEO-2: Unstable and Expansive Soils</b>	<p>other design feature or measure shown to equivalently reduce impacts associated with liquefaction to the satisfaction of the Director of Public Works. These include:</p> <ul style="list-style-type: none"> <li>◆ The foundation shall consist of a mat slab and be designed to resist two inches of differential settlement of the supporting soils.</li> <li>◆ Underground pipelines shall be designed to compensate for the settlement caused by the liquefaction of the underlying supporting soils.</li> </ul>			
	<p><b>Unstable and Expansive Soils.</b> During construction the applicant or its designee shall incorporate the design recommendation outlined in the Geotechnical Investigation prepared by Stevens, Ferrone &amp; Bailey Engineering Company, Inc. in November 2017 or any other design feature or measure shown to equivalently reduce impacts associated with unstable or expansive soil to the satisfaction of the Director of Public Works. This includes over-excavation to 2 feet, scarifying and re-compacting the bottom 12 inches in place, and replacing the excavation with compacted fill materials. The over-excavation shall extend to depths where competent soil is encountered. The over-excavation and re-compaction shall also extend at least 5 feet beyond building footprints and at least 3 feet beyond exterior flatwork (including driveways). Over-excavation shall be performed so that no more than 5 feet of differential fill thickness exists below the proposed building foundations. The removed soil materials can be used as new fill provided it is placed and compacted in accordance with the recommendations presented in the Geotechnical Investigation. In addition, to reduce the potential for post-construction distress to the proposed structure resulting from swelling and shrinkage of these materials, the project plans submitted for building permit approval shall incorporate the design recommendations for at-grade structures (if planned) to be supported on a foundation system that is designed to reduce the impact of the expansive soils.</p>			

Environmental Impact	Mitigation Measure	Responsible for Implementation	Timing of Compliance	Oversight of Implementation
	<b>NOISE</b>			
<b>N-2: Construction-Related Vibration Reduction Measures</b>	<p><b>Construction-Related Vibration Reduction Measures.</b> The applicant shall apply the following measures during construction of the project.</p> <ul style="list-style-type: none"> <li>◆ Avoid using vibratory rollers and tampers if feasible.</li> <li>◆ Notify Acme Children's Center staff of construction schedule.</li> <li>◆ Coordinate with Acme Children's Center staff to schedule use of vibratory rollers during less sensitive hours as defined by staff.</li> </ul>	Construction contractor	During construction	CPA Planning Department
<b>N-2: Construction-Related Noise Reduction Measures</b>	<p><b>Construction-Related Noise Reduction Measures.</b> The applicant shall apply the following measures during construction of the project.</p> <ul style="list-style-type: none"> <li>◆ <i>Mufflers.</i> Construction equipment shall be properly maintained and all internal combustion engine driven machinery with intake and exhaust mufflers and engine shrouds, as applicable, shall be in good condition and appropriate for the equipment. During construction, all equipment, fixed or mobile, shall be operated with closed engine doors and shall be equipped with properly operating and maintained mufflers, consistent with manufacturers' standards.</li> <li>◆ <i>Electrical Power.</i> Electrical power, rather than diesel equipment, shall be used to run compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities.</li> <li>◆ <i>Equipment Staging.</i> All stationary equipment shall be staged as far away from the adjacent senior living center and multi-family residential development as feasible.</li> <li>◆ <i>Equipment Idling.</i> Construction vehicles and equipment shall not be left idling for longer than five minutes when not in use.</li> </ul>	Construction contractor	During construction	CPA Planning Department

Environmental Impact	Mitigation Measure	Responsible for Implementation	Timing of Compliance	Oversight of Implementation
	<ul style="list-style-type: none"> <li>◆ <i>Workers' Radios.</i> All noise from workers' radios shall be controlled to a point that they are not audible at sensitive receptors near construction activity.</li> <li>◆ <i>Smart Back-up Alarms.</i> Mobile construction equipment shall have smart back-up alarms that automatically adjust the sound level of the alarm in response to ambient noise levels. Alternatively, back-up alarms shall be disabled and replaced with human spotters to ensure safety when mobile construction equipment is moving in the reverse direction.</li> <li>◆ <i>Disturbance Coordinator.</i> The applicant shall designate a disturbance coordinator who shall be responsible for responding to any local complaints about construction noise. The noise disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures warranted to correct the problem be implemented. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.</li> </ul>			



# Planning & Transportation Commission

## Draft Excerpt Minutes: November 13, 2019

Council Chambers  
250 Hamilton Avenue  
6:00 PM

4. PUBLIC HEARING / QUASI-JUDICIAL: 4115 El Camino Real [18PLN-00238]: Recommendation on Applicant's Request for Approval of a one lot Tentative Map to Divide an Existing 0.36 Acre Parcel Into Seven Residential Condominiums and two Commercial and two Office Condominiums. Environmental Assessment: Mitigated Negative Declaration Adopted by the Director of Planning & Community Environment on January 7, 2019. Zoning District: CN (Neighborhood Commercial). For More Information Contact the Project Planner Sheldon S. Ah Sing, AICP at sahsing@m-group.us

Chair Riggs: Alright so we're onto our next item which is a quasi-judicial item. So, I believe we do need to ask if there're any conflicts of interests, is that correct?

Ms. Sandra Lee, Assistant City Attorney: Yes, Mr. Chair. Also, the Commissioners do need to disclose if they've had any contacts related to this item prior to the meeting.

Chair Riggs: Alright does anyone have anything to disclose? Alright, no disclosures so we have a planner... presentation from Staff and we'll take public comment after and then have our discussion. Sheldon.

Mr. Sheldon Sing, Project Planner: Yes, thank you. Sheldon Ah Sing, contract planner here to present this evening. This is for a Tentative Map for a condominium sub-division for 4115 El Camino Real. It was previously approved architectural review project earlier in the year. It's a one-lot subdivision, it's about 1.36-acres, and the airspace condominium would be for seven residential units and two commercial condominiums and two office commercial spaces.

Such in summary its... there's a basement level with all of the... with some of the parking and some mechanical parking as well as there're surface parking and garage parking at grade. It's a through a lot with El Camino Real as a frontage and then there's El Camino Way in the rear and then there are two other floors above that. There's one of the units would be allocated for below-market-rate and there's an agreement that would be associated with this map when it goes to the Council. And there would be some typical off-site improvements associated with a map including some curb and gutter, some lighting as well as because as I mentioned that

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1. Spokespersons that are representing a group of five or more people who are identified as present at the meeting at the time of the spokesperson's presentation will be allowed up to fifteen (15) minutes at the discretion of the Chair, provided that the non-speaking members agree not to speak individually.
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  3. The Chair may reduce the allowed time to speak to three minutes to accommodate a larger number of speakers.

1 there's the through lot, we did want to have access... pedestrian access between the two  
2 streets. So, there is a public access easement that's in place for this project and there're some  
3 limitations on the hours of that. So essentially the night time would be limited for access but  
4 during the day it would be open.

5  
6 The project is consistent with the City's Municipal Code regarding subdivisions and the project  
7 is subject to CEQA but is covered under the original adopted Mitigated Negative Declaration.  
8 And the project is consistent with that and those findings. And therefore, we do recommend  
9 that the Planning Commission conduct a public hearing and recommend approval of the  
10 proposed project to City Council with the Conditions of Approval. That concludes my  
11 presentation, thank you.

12  
13 Chair Riggs: Alright I have no public comments and I'm assuming we have no presentation from  
14 the applicant? Alright, ok so with that said maybe we just go down the line. If anyone has any  
15 comments or I think at this point I'll entertain a motion as well. Chair... Commissioner Lauing.

16  
17 Commissioner Lauing: Appreciate the respect though that was good.

18  
19 Chair Riggs: Touché.

20  
21 Commissioner Lauing: Just a few quick ones. One is I think you did a heck of a good job on  
22 detailing the... how consistent this is with the findings. Very helpful to have that laid out as well  
23 as it was. The... you're saying there's no zoning change here because it's consistent within the  
24 zones, correct?

25  
26 Mr. Sing: That is correct, right.

27  
28 Commissioner Lauing: And then there're three Heritage trees, will they be remaining? We'll  
29 work around them and leave them there?

30  
31 Mr. Sing: I need to consult with the plans but I know there's a large tree in the rear and that's  
32 definitely to remain.

33  
34 Commissioner Lauing: Packet Page 14.

35  
36 Mr. Sing: Are you also speaking to the street trees?

37  
38 Commissioner Lauing: Yeah, well it says protected Heritage trees, Sycamore, and Maidan here  
39 along El Camino and Chinese Elm on El Camino.

- 40
- 
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1 Mr. Sing: Right those would remain.

2  
3 Commissioner Lauing: Ok and I just find architecturally I think this fits in there really well. I'm  
4 very familiar with the area and I think it's a good fit so that's all.

5  
6 Chair Riggs: Commissioner Templeton.

7  
8 Commissioner Templeton: Hi, thank you. I also appreciated the detailed nature of the reports  
9 so thank you. I was wondering if we have an idea of what height they're building too with the 3-  
10 stories? I couldn't quite figure it out but I wondered if you might know. If you don't know, that's  
11 ok.

12  
13 Mr. Jonathan Lait, Director of Planning: So, Sheldon will go ahead and take a look at that. Just  
14 to remind the Commission that what's before the Planning Commission right now is the... just  
15 the subdivision component of the application and (interrupted)

16  
17 Commissioner Templeton: Thank you.

18  
19 Mr. Lait: The building was reviewed through a process.

20  
21 Commissioner Templeton: Thank you, alright, I'll stay on track then. So, some of my other  
22 questions may not be relevant. I was going to ask if there's going to be green space available  
23 like on the roof or something like that for the residents to enjoy or is that out of scope as well  
24 Jonathan?

25  
26 Mr. Sing: Not on the roof. There're some balconies.

27  
28 Commissioner Templeton: Balconies, ok. Great. Great, alright well then that's it's for my  
29 questions. Thank you.

30  
31 Chair Riggs: Commissioner Waldfogel.

32  
33 Commissioner Waldfogel: Great thank you. I'm inclined to support it because of the findings.  
34 Just a question, what's the status if we say go? Will we see bulldozers out tomorrow?

35  
36 Mr. Sing: No because we'll have to go to the Council for the map and then they have to submit  
37 a final map and kind of go from there with building construction.

38  
39 Commissioner Waldfogel: Ok so there's still a few more obstacles to run through but this is a  
40 good step.

- 
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1  
2 Mr. Sing: Yes.

3  
4 Mr. Lait: Process maybe instead of obstacles.

5  
6 Commissioner Waldfogel: Process, thank you for the correction. I apologize.

7  
8 Chair Riggs: I'm going to keep us rolling, Commissioner Summa.

9  
10 Commissioner Summa: Yeah thank you for the report and it seemed very thorough in making  
11 the reverse findings. I'm inclined to support this also. In visiting the site, I will say the parking  
12 around there is really tight. So, I think the construction logistics will be really here key to making  
13 it run smoothly but I think the argument for the map is well laid out.

14  
15 Chair Riggs: Commissioner Alcheck [note -Vice-Chair Alcheck].

16  
17 MOTION

18  
19 Vice-Chair Alcheck: Yeah, I'd like to... if only we could start construction after this vote, I'm sure  
20 we would have a lot more built. No, in earnest here I'd like to make a motion that we  
21 recommend that the City Council approve this proposed Tentative Condominium Map based on  
22 the findings and subject to the Conditions of Approval in the report.

23  
24 Chair Riggs: Do I have a second?

25  
26 SECOND

27  
28 Commissioner Lauing: I'd second.

29  
30 Commissioner Roohparvar: Second.

31  
32 Chair Riggs: Was that... Commissioner Lauing got the second. I have a comment from  
33 Commissioner Templeton.

34  
35 Commissioner Templeton: Yeah, I just want to clarify the reason I asked about the building  
36 height was to see if there was any space for another floor or if we could get any more housing  
37 on the site. I took a look through the zoning and this is really the maximum number of units for  
38 the current zone so that was just the only reason I was asking about that. Do you also feel that  
39 this is as dense as we can be on this particular lot?  
40

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1. Spokespersons that are representing a group of five or more people who are identified as present at the meeting at the time of the spokesperson's presentation will be allowed up to fifteen (15) minutes at the discretion of the Chair, provided that the non-speaking members agree not to speak individually.
  2. The Chair may limit Oral Communications to 30 minutes for all combined speakers.
  3. The Chair may reduce the allowed time to speak to three minutes to accommodate a larger number of speakers.



1 Mr. Sing: Yeah, I think at that time this was proposed this is really the maximum that they could  
2 do.

3  
4 Commissioner Templeton: Ok thank you.  
5

6 Mr. Lait: And since then we've... Planning Commission's reviewed and the City Council has  
7 adopted the Housing Incentive Program that would allow eliminate density restrictions and  
8 allow for other development potential.  
9

10 VOTE  
11

12 Chair Riggs: See no other comments, I think we're ready to vote. All in favor? Any opposed?  
13 Alright, the motion carries 7-0. Thank you very much. Thank you very much, Commission.  
14

15 MOTION PASSED 7(Waldfogel, Summa, Templeton, Riggs, Alcheck, Roohparvar, Lauing)-0  
16

17 Commission Action: Motion to approve by Alcheck, seconded by Lauing. 7-0 vote.

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