



MEMORANDUM

DATE: October 7, 2009

TO: Housing Commission

FROM: Douglas Frederick
Housing Manager

RE: **1706 El Camino Real BMR Agreement**

Attached are the Planning Commission staff report and the draft BMR Agreement for future development at 1706 El Camino Real. The project would replace the Gaylord Restaurant. Please review these documents and be prepared to vote on acceptance of the BMR Agreement. Deanna Chow, Senior Planner, will be available to answer any questions about the project.



PLANNING COMMISSION STAFF REPORT

FOR THE PLANNING COMMISSION
MEETING OF SEPTEMBER 21, 2009
AGENDA ITEM C2

LOCATION: 1706 El Camino Real **APPLICANT:** 1706 ECR, LLC/
Joe Colonna

EXISTING USE: Vacant Commercial (Previously Gaylord's Restaurant) **PROPERTY OWNER:** 1706 ECR, LLC/
Joe Colonna

PROPOSED USE: Medical/Dental and Professional Office **APPLICATION:** Use Permit,
Architectural Control,
Tentative Subdivision
Map, Below Market Rate
In-Lieu Agreement,
Environmental Review

ZONING: C-4 (General Commercial-Applicable to El Camino Real District)

	PROPOSED PROJECT	EXISTING DEVELOPMENT	ZONING ORDINANCE
Lot area	27,292 sq. ft.	27,292 sq. ft.	10,000 sq. ft.
Lot width	208.5 ft.	208.5 ft.	75.0 ft. min.
Lot depth	130.9 ft.	130.9 ft.	125.0 ft. min.
Setbacks			
Front (Buckthorn)	9.0 ft.	83.0 ft.	0 ft. min.
Rear	71.0 ft.	15.0 ft.	0 ft. min.
Side (ECR)	1.0 ft.	8.0 ft.	0 ft. min.
Side	65.4 ft.	48.0 ft.	0 ft. min.
Building coverage	8,179 sf 30 %	6,875 sf 25 %	0 sf max. 0 % max.
FAR (Floor Area Ratio)	10,148 sf 37 %	6,875 sf 25 %	10,916.8 sf max. 40 % office
Square footage by floor	3,009 sf/1 st 7,139 sf/2 nd 86 sf/elevator equip. 68 sf/columns 492 sf/stairs 966 sf/breezeway 3,844 sf/garage	6,875 sf/1 st 0 sf/2 nd	
Square footage of building	15,604 sf	6,875 sf	10,917 sf max.
Building height	24 ft.	20 ft.	30 ft. max.
Landscaping (including walkways)	3,770 sf 13.8 %	2,067 sf 7.5 %	2,729 sf 10 % min.
Parking	61 spaces (1:166 sf)	27 spaces (1:254 sf)	61 spaces (1:166 sf)
Trees	Heritage trees 1*	Non-Heritage trees 8	New Trees 20**
	Heritage trees to be removed 0	Non-Heritage trees to be removed 8	Total Number of Trees 21

* Tree located on neighboring property

**11 are street trees

PROPOSAL

The applicant is requesting a use permit and architectural control to demolish an existing one-story, 6,875 square-foot commercial building (formerly Gaylord's Restaurant) and construct a new two-story, 10,148-square-foot medical/dental and professional office building with 61 surface parking spaces and related site improvements on a 27,292 square foot lot located at 1706 El Camino Real in the C-4 (General Commercial District - Applicable to El Camino Real) zoning district. The application includes a request for a subdivision map to subdivide one parcel into six medical/dental office condominium units within the building.

BACKGROUND

Neighborhood Meetings

With facilitation by the Peninsula Conflict Resolution Center (PCRC), the City in conjunction with the applicant, held a series of three neighborhood meetings between April and August 2008 in an effort to enable the public to provide input on the redesign of the project. The first meeting focused on discussing the pros and cons of the initial project presented at the Planning Commission study session on September 10, 2007. Subsequently, the second and third meetings were structured to highlight topics that were of primary concern raised at the study session and at the first meeting. These topics were parking and traffic-related issues and the design of the building and site layout. At each of the meetings, community members participated in small groups to discuss the information presented to them at the meeting and provide feedback. Each group then reported on their discussion to the entire group. The applicant presented a revised plan at the third meeting, and members who were present at the meeting were generally supportive of the architectural style, no parking on Buckthorn Way, and no access to and from the site on Buckthorn Way.

On February 26, 2009, a fourth community meeting was facilitated by PCRC. Similar to other components of the project, staff and the applicant believed it was important to share the results of the traffic study with the neighborhood. The impacts, the potential mitigation measures and the environmental review process as a result of the various mitigation measures were discussed with the group. Through group discussion, the neighbors unanimously expressed opposition to the feasible mitigation measures that would reduce the level of the traffic impact to less than significant. Therefore, the applicant requested a City Council determination on the traffic impact analysis which is more fully described in the City Council Meeting section below.

Planning Commission Meetings

The Planning Commission has conducted two study sessions regarding this project, one on September 10, 2007 and the second on November 3, 2008. At the second meeting, three members of the public provided testimony. All of them indicated that the revised design was a significant improvement, the process has worked well, and the plans reflect it. The Planning Commission reviewed the project, heard public testimony and

discussed the revised design. The Commission was also appreciative of the outreach process and generally supportive of the revised project. The following highlights Commission comments from the study session:

- Several Commissioners discussed pedestrian-scale and indicated that the windows may be modified to be more pedestrian friendly along El Camino Real. Other Commissioners liked the height and design of the windows.
- Many of the Commissioners generally liked the landscape plan, sidewalk widths and landscape strips, although it was suggested to add more trees in the parking lot to help the heat island effect and to soften the building appearance.
- Provide a color & materials board and a model or sketch with adjacent buildings to show context with the proposed building.
- Design the sidewalk widths to accommodate tree trunks and ADA accessibility.
- Encourage the use of green building materials/green building design and to seek Leadership in Energy and Environmental Design (LEED) certification.
- The same quality in materials and attention to detail should be reflected in the front (El Camino Real) and rear (parking lot side) facades, and in the final product.
- The majority of the Commission indicated that the revised design is an improvement from the previous plan, and that the ingress/egress along El Camino Real and the proposed parking count to meet the C-4 requirement are good aspects of the proposal.
- Decorative light fixtures such as those shown on Sheet A1.4 should be used on the building on either side of the breezeway columns.
- Explore adding a small fountain in the breezeway to reflect the Santa Barbara style.
- Incorporate bike racks into the project.
- Design the barriers on Buckthorn Way to minimize traffic into neighborhood.

Meeting minutes from the November 3, 2008 study session are included as Attachment D. Changes to the plans since the study session are noted in the respective sections below.

City Council Meeting – Determination of Traffic Impact Analysis (TIA)

On April 21, 2009, the City Council considered a request to determine that certain potential traffic impacts identified in the 1706 El Camino Real Transportation Impact Analysis (TIA) are less than significant for a 10,166 square-foot medical/dental office building. Per the City's Transportation Impact Analysis Guidelines, the City Council has the ability make a determination as to whether a Negative Declaration, Mitigated Negative Declaration or an Environmental Impact Report (EIR) is appropriate for a project. This provision in the guidelines is intended to provide flexibility to determine the most appropriate environmental review process on a case-by-case basis to consider specific project features and circumstances that a traffic study would not necessarily consider when determining impacts.

The TIA prepared for the project indicated that the proposed project would result in a potentially significant traffic impact at two of the study intersections, including Buckthorn Way and El Camino Real and Spruce Avenue and El Camino Real. The TIA identified that left turn restrictions at both intersections would be feasible mitigation measures to reduce the level of impact, but these measures were generally opposed by the neighbors. The neighbors, however, were generally supportive of the proposed project and the preparation of a Mitigated Negative Declaration. After considering the unique factors and features of the project, the City Council unanimously adopted Resolution No. 5851(Attachment E), determining that the potential traffic impacts identified in the project's traffic analysis are less than significant and directing staff to prepare a Mitigated Negative Declaration. The transportation/traffic impacts and mitigations are further described in the Environmental Review section of this staff report.

ANALYSIS

Site Location

The subject property is located at 1706 El Camino Real at the southeast corner of El Camino Real and Buckthorn Way. This property is located two blocks south of the City's border with the Town of Atherton. The neighborhood is characterized predominantly by commercial uses to the north, commercial and multiple-family residential uses fronting El Camino Real to south, single-family, townhouse-style residences and a hotel (Red Cottage Inn & Suites) to the east, and El Camino Real (a major arterial) to the west. The portion of El Camino Real along the property frontage is located in the Town of Atherton and Caltrans has jurisdiction over the right-of-way.

Existing Site Conditions

The site is currently developed with a one-story, 6,875 square-foot commercial building. This structure was most recently occupied by a restaurant, Gaylord's, and has been vacant since December 2006. The primary existing ingress to the subject site is provided just north of the building along El Camino Real and both ingress and egress is located along Buckthorn Way. Parking on site is provided with 38 surface spaces to the left and rear of the building. A pedestrian sidewalk is provided along El Camino Real, but there is currently no curb or sidewalk along Buckthorn Way bordering the site. On-street parking for approximately three vehicles is provided directly in front of the building along El Camino Real, and a red curb and no on-street parking exists north of the building along El Camino Real. There is no parking along the Buckthorn Way property frontage given the multiple driveways.

Proposed Project

The applicant is proposing to construct a two-story, medical/dental office building. The C-4 ECR (General Commercial District applicable to El Camino Real) zoning district allows professional offices of which medical/dental offices are included. Although the proposed use is permitted, new construction of the building would trigger use permit and architectural control review. The tentative map requires City Council review because

the subdivision creates more than four condominium units. Therefore, the Planning Commission is the recommending body and the City Council is the final decision-making body for all applications.

The applicant's project description letter is included as Attachment F. Since the study session by the Planning Commission in November 2008, the gross floor area has been reduced from 10,166 square feet to 10,148 square feet, which reflects use of the recently adopted gross floor area exemptions. At 10,148 square feet, the proposed building has a floor area ratio (FAR) of 37 percent, where the maximum permitted is 40 percent for office uses. The first level would encompass 2,927 square feet of gross floor area and the second level would be 7,011 square feet. The total gross floor area is inclusive of all of the office suites, the elevator on the first and second floors, and the janitor room on the second floor. The breezeway, stairs, garage, columns, and elevator equipment room are not included in the gross floor area. The gross floor area calculation is further discussed in the Gross Floor Area section below.

The building coverage (8,179 square feet) would include the first floor footprint, columns, breezeway, and stairs. At 30 percent building coverage, the proposed building would be compliant as the C-4 zoning district does not have an established maximum building coverage standard. However, the zoning district requires that not less than ten percent of the site be occupied by landscaping. The conceptual landscape plans shows landscaping along the site perimeter, near the building and in the center of the parking lot, totaling approximately 13.8 percent. Landscaping is further described in the Trees and Landscaping section below.

The parking requirement for the C-4 zoning district is six parking spaces per 1,000 square feet of gross floor area, resulting in 61 parking spaces for the proposed building size. Parking provisions are further discussed in the Circulation and Parking section of this report.

El Camino Real/Downtown Planning

In reviewing the proposed project, it is worthwhile to consider it in the context of the current El Camino Real/Downtown planning process. Previously, the City Council acknowledged that projects along the El Camino Real corridor that do not require amendments to the General Plan could proceed concurrently with the City's broader planning efforts. The Specific Plan process is currently underway and is expected to be completed in late 2010. The emerging plan which will be presented at a community workshop on September 17, 2009 depicts the general project area as mixed-use, accommodating office, retail and/or residential, but also specifically recognizes the proposed project. The plan is expected to evolve further as a result of the workshop.

Gross Floor Area

The definition of gross floor area means the sum of the horizontal areas of all floors within the surrounding solid walls of a building covered by a roof measured to the outside surfaces of exterior walls or portions thereof subject to clarifications. As

indicated previously, the total gross floor area of 10,148 square feet is inclusive of all of the office suites, the elevator, and the janitor room on the second floor. Section 16.04.325(C), Gross Floor Area, of the Municipal Code, allows a number of different features to be excluded from gross floor area. The exemptions from gross floor area are discussed below.

As allowed pursuant exemption (C)1, the architectural feature framing the front and rear breezeway would be excluded from gross floor area. The structure is hollow with no access to the interior of the building, is non-occupiable space, would not have a traditional floor or ceiling, has unconditioned air, and no windows, skylights or electricity. At 68 square feet, the area of the columns supporting the feature would be less than the three percent allowed for exclusions from gross floor area.

Section (C)2 of the definition allows areas of a building or buildings dedicated to the enclosure of noise generating equipment, such as building mechanical equipment and generators, not to exceed 1% of the maximum allowed gross floor area of the lot to be excluded from gross floor area. The elevator equipment room, 86 square feet in area, falls under this exemption.

The proposed garage, which is 62 feet, six inches wide by 62 feet deep, is also not counted towards gross floor area pursuant to exemption C(3) which excludes all areas devoted to covered parking and related circulation for automobiles and bicycles, including garages, carports, below grade parking structures, and above grade parking structures.

Finally, the proposed breezeway (966 square feet), is open on both ends and therefore, is not considered gross floor area by the basic definition. While the breezeway is not included in gross floor area, it is counted in building coverage. Additionally, the stairs (492 square feet) are located in the open breezeway, and therefore also excluded from the gross floor area calculation, but included in the building coverage.

Design and Materials

The proposed building is a contemporary Santa Barbara style two-story building and would consist of six office suites. The first floor plan provides two office suites and at-grade covered parking, which is tucked under a portion of the second floor. The second floor, which spans the width of the ground floor, consists of four office suites which range in size from 1,433 to 2,062 square feet. The proposed building would be approximately 24 feet in height to the top of plate and approximately 32 feet to the top of the mechanical equipment screen. The building is rectangular in shape and the design incorporates a semi-arched entry into the breezeway at the center of the building, which is replicated on both the El Camino Real and parking lot facades. This entrance feature projects approximately two feet, six inches from the face of the building, providing articulation to the building as a distinct design element and serving as a focal point for the building. The height of this entry feature is approximately 28 feet. A complimentary architectural spindle anchors the southwest corner of the building and is approximately 35 feet in height.

Materials selected for the building consist of a cement plaster exterior finish, concrete barrel tile roof, wood trellis, decorative ceramic tile accents, an aluminum window system with trim and tinted glass, decorative wrought iron railing and grilles, and copper patina gutters. The wrought iron grilles and planters would also help screen openings to the garage. The building proposes to incorporate elements of sustainable design for energy efficiency such as tinted energy-efficient windows, high efficiency light emitting diode (LED) lighting and lighting sensors, and water efficient landscaping. Although formal LEED certification will not be sought, the applicant states that the building is designed to qualify for “silver” (58 points) LEED status. The checklist is included as Attachment G.

At the most recent study session, the Planning Commission suggested that the applicant explore adding wall-mounted light fixtures, similar to those adjacent to the garage entrance, to flank the breezeway entrance, and to install a fountain within the breezeway. The current plans do not show either of these features. The Commission may wish to consider whether these features should be required as a condition of approval. The applicant has indicated that there may not be adequate room to accommodate a fountain, but has stated that a planter could be considered if additional decorative features are desired, in addition to the proposed decorative tilework and metal railing accenting the staircase.

A trash enclosure, 14 feet, eight inches wide by 12 feet deep by eight feet, eight inches high, is proposed to match the exterior of the building with a cement plaster finish. The location of the trash enclosure at the southeast corner of the parking lot is tucked behind the proposed building and not easily visible from the public right-of-way. However, the location could potentially impact an existing heritage oak tree on the adjacent property at 1704 El Camino Real and this is discussed further in the Trees and Landscape section below.

A materials and color board for the project has been provided and will be presented to the Planning Commission.

Access and Circulation

Access to the site would be via one central driveway shared between the subject property and the adjacent properties at 1702 and 1704 El Camino Real. Ingress would be provided by a 12.5-foot easement located on 1702 El Camino Real and egress would be provided by a 12.5-foot easement at the southern edge of the subject property. The right to use 1702 El Camino Real for ingress was recently formalized with a recorded easement. Both 1702 and 1704 El Camino Real have rights to use the 12.5-foot driveway at the southern-most portion of the lot for egress. This driveway would provide right-turn only ingress and egress to and from El Camino Real for all three properties. No access to the site would be provided via Buckthorn Way.

As part of this project, the applicant is proposing to install a new right-turn lane in front of the property from El Camino Real to Buckthorn Way, similar to the lane installed from El Camino Real to Spruce Avenue. At the community meetings, neighbors expressed support for this feature.

Parking

In the C-4 zoning district, the parking requirement, regardless of the specific commercial use, is six spaces per 1,000 square feet of gross floor area. Based on a gross floor area of 10,148 square feet, the total number of required parking spaces would be 61 stalls for the proposed project. The proposed project meets the parking regulations through a combination of covered and uncovered parking spaces. There would be no parking on El Camino Real or Buckthorn Way adjacent to the site.

The proposed garage includes an automatic gate at the entrance. Staff has added a condition of approval requiring the gate to remain open during business hours to allow greater flexibility in parking and better vehicular flow within the parking lot. To promote alternative forms of transportation, two bicycle racks are proposed adjacent to the front building entrance along El Camino Real. The project is conditioned to have the applicant submit bicycle parking details and specifications concurrently with submittal of building permit subject to review and approval by the Planning Division (Condition 7g).

Street Frontage Improvements

As part of the improvement plans to the site, the applicant is proposing several features along El Camino Real, including a new detached five-foot-wide sidewalk with curb and gutter and a 2.5-foot-wide landscape strip planted with ornamental grasses, groundcovers and trees. Such improvements would need to be ultimately reviewed and approved by the Town of Atherton and Caltrans. The applicant is similarly making improvements to the street frontage along Buckthorn where there is currently no sidewalk. As part of these improvements, the applicant is proposing to install a detached five-foot-wide public sidewalk with curb and gutter, and a 7.5-foot-wide landscape strip, with ornamental grasses, groundcovers and trees. An additional nine-foot-wide landscaped area on private property is in front of the building.

New entry monuments are also proposed on Buckthorn Way as a means to identify the beginning of a residential neighborhood, to discourage non-residential vehicles from traveling down Buckthorn Way, and to reduce vehicle speeds towards the residential neighborhood beyond the subject site. A preliminary design with a height of two feet, nine inches to the top of the concrete cap, is shown on Sheet A1.6 (Attachment B10). Staff believes that the proposed height would not provide a visual cue separating the residential neighborhood from the commercial district and has added condition 7e, requiring the applicant to submit a revised design with a monument ranging in height from four to six feet, which is typical of other residential monuments in the City. The exact design and location will be determined in conjunction with the Transportation Division for visibility and safety.

In order to accommodate the necessary clearances around the curb ramp at the corner of El Camino Real and Buckthorn Way, the applicant proposes a public access easement (PAE) over the northwest corner of the property. The 12 square-foot area is shown on the site plan and tentative map (Attachments B2 and B16). Concurrent with the Subdivision Map approval, the easement requires City Council action. This easement area may be further modified once the final ramp design and location have been coordinated with staff as part of the off-site improvement plans.

Trees and Landscaping

A Tree Survey, dated November 27, 2006, submitted for the project details the species, size, and conditions of the trees on site, discusses the impacts of the proposed development on these trees, and provides tree preservation guidelines for trees on adjacent parcels in close proximity to the site. The project proposes the removal of eight non-heritage trees on-site. Two of the trees are located within the proposed central parking lot and would impede the development of several of the proposed parking spaces. One of the trees proposed for removal is situated at the end of the proposed landscape aisle and the remaining five trees would be in the path of the future egress drive aisle.

The landscape plan proposes twenty (20) new trees including 48-inch jacaranda trees in the parking lot, 36-inch ginko biloba trees in the planter strip along El Camino Real, 36-inch chanticleer pear trees in the planter strip along Buckthorn Way, and 24-inch tibouchina urvilleana (princess flower) trees along the rear property boundary. Of the twenty trees proposed, three are within the proposed parking lot and seven are along the rear property boundary. All of the remaining trees are street trees along El Camino Real and Buckthorn Way. Since the previous review of the project by the Planning Commission, additional trees have been provided along the back of the site adjacent to the parking row. Ornamental grasses, native groundcovers and vines are also proposed to accent the site.

As a condition of the project (6i), the applicant will be required to submit a complete landscape and irrigation plan compliant with the City's Water Efficient Landscape Ordinance concurrent with submittal of a complete building permit. In addition, staff has added condition 7i, which requires an updated arborist report for the heritage oak tree on the adjacent property be prepared and submitted with the building permit application. The updated arborist report shall include a review of the grading and drainage plan and the placement of the trash enclosure as they relate to the heritage oak tree on the adjacent property. The report shall also include any tree protection and preservation measures for the heritage oak tree.

Tentative Subdivision Map

The applicant proposes a condominium office concept. Because the applicant proposes to create four units, a tentative map is required. A tentative map is included with the plans in Attachment B. The medical/dental condominium units would range in size from

approximately 1,433 square feet to 2,062 square feet. The tentative subdivision map would be subject to final review and approval by the City Council. The Engineering Division and affected agencies and utilities have reviewed the map and have determined that it is technically correct and in compliance with the State's Subdivision Map Act and the City's Subdivision Ordinance subject to the conditions of approval.

Below Market Rate (BMR) Agreement

The proposed project is subject to requirements of the BMR Housing Program. A commercial project may be required to provide below market rate housing on-site (if allowed by the zoning district) or off-site. If it is not feasible to provide below market rate housing units, the developer shall pay an in-lieu fee. Through four community meetings with the nearby neighbors and several Planning Commission study sessions, the applicant has considered input on the proposed uses, the layout and design of the proposed project. Although housing is a conditional use in the C-4 (ECR) zoning district, the neighbors did not support such a use for the subject site. Therefore, in accordance with the BMR Guidelines, the applicant is proposing an in lieu fee payment of approximately \$89,854.73 (2009-10 rates) to meet the commercial project requirements. The BMR in lieu fees for the 2009-10 fiscal year are \$14.01 per square foot for office uses and \$7.61 per square foot for non-office square footage, and are subject to an increase on July 1st of each year. To calculate the fee for this proposed project, a credit for the former restaurant use has been applied. The fees for this project would be paid prior to building permit issuance.

The BMR Agreement has been reviewed by the City Attorney and staff. The Housing Commission serves as a recommending body and will be reviewing this project on October 7, 2009. In this case, the Planning Commission is also a recommending body on this application, with the Council as the final decision-making body. It is the duty of the reviewing body to act on the BMR Agreement prior to or concurrent with action on the proposal. While the Planning Commission would be acting on this project prior to review by the Housing Commission, the Housing Commission must make a recommendation on the BMR Agreement prior to City Council review. The draft BMR Housing In-Lieu Fee Agreement is included as Attachment I.

ENVIRONMENTAL REVIEW

An Initial Study and Mitigated Negative Declaration, collectively referred to as the MND, have been prepared and circulated for public review in compliance with the California Environmental Quality Act (CEQA). The public review period began on August 21, 2009 and ends on September 21, 2009. To date, there have been no written comments on the MND. The MND is available for review at the Planning Division office and library reference desk during business hours and via the project webpage.

The MND analyzes the potential environmental impacts of the project across a wide range of impact areas. The MND determined that the project would have no impact on agricultural resources, mineral resources, population and housing, and recreation. The project would have a less-than-significant impact without the need for mitigation

measures on the following areas: aesthetics, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use planning, noise, public services, and utilities and service systems. A potentially significant impact was identified for the area of transportation/traffic. However, with mitigation incorporated into the project, the impact would be reduced to a less than significant level. These mitigation measures are briefly discussed under the Mitigation Measure heading below.

Traffic Volumes and Level of Service

The proposed project is estimated to generate 426 daily trips, including 27 AM peak hour trips and 41 PM peak hour trips. The MND concludes that the proposed project would result in a potentially significant traffic impact at two of the study intersections, including Buckthorn Way and El Camino Real and Spruce Avenue and El Camino Real. The intersection of Buckthorn Way and El Camino Real would have a potentially significant impact during the PM peak hour due to the westbound approach from Buckthorn Way to El Camino Real in the near-term (two-year horizon). The westbound approach currently operates at Level of Service (LOS) F and the increase in delay would be greater than the four second threshold due to additional traffic on El Camino Real from the proposed project. The intersection of Spruce Avenue and El Camino Real would also have a similar potentially significant impact during the PM peak hour in the near-term.

As indicated in the MND, the long term analysis (10-year) continued to show a potentially significant impact at the intersections of Buckthorn Way and El Camino Real and Spruce Avenue and El Camino Real during the PM peak hour. Additionally, the intersection of Buckthorn Way and El Camino Real would have a potentially significant impact during the AM peak hour.

The MND identified mitigation measures TRANS-1, TRANS-2, and TRANS-3, which have been added as conditions of approval (Condition 7j-l) and include the following:

Mitigation Measures

TRANS-1: *Concurrent with the submittal of a complete building permit application, the applicant shall submit a Transportation Demand Management Plan (bike racks, commute assistance, etc.) subject to review and approval by the Planning and Transportation Divisions.*

TRANS-2: *Prior to building permit issuance, the applicant shall pay a Traffic Impact Fee (TIF) of \$1.60 per net new square foot of gross floor area to contribute to future improvements and programs to improve Citywide Transportation.*

TRANS-3: *Prior to building permit issuance, the applicant shall record an agreement with the City for the payment of the annual Shuttle Fee of 10.5 cents per square foot of commercial space.*

Significance After Mitigation

With implementation of mitigation measures TRANS-1, TRANS-2, and TRANS-3, the impacts would be deemed less than significant.

CORRESPONDENCE

Staff has not received any correspondence since the City Council meeting on April 21, 2009.

RECOMMENDATION

Staff believes the proposed project is well-designed, compatible with the surrounding land uses, and appropriate in scale and use for the site. The project's redesign includes input from the community gathered over a series of community meetings, incorporates quality building materials and meets all of the development regulations of the C-4 (General Commercial – Applicable to El Camino Real) district. As indicated in the MND, the proposed project would have a less than significant impact in all environmental impact areas with inclusion of the identified mitigation measures. Staff recommends that the Planning Commission recommend adoption of the MND, and recommend approval of the Use Permit, Architectural Control, Tentative Map, and BMR Housing In-Lieu Fee Agreement. The Draft Findings and Actions for Approval are included as Attachment C.

Lorraine Weiss
Contract Planner
Report Author

Deanna Chow
Senior Planner

PUBLIC NOTIFICATION

Public notification consisted of publishing a notice in the local newspaper and notification by mail of owners and occupants within a geographic area bounded by Walnut Avenue to the north, the railroad tracks to the east, Encinal Avenue to the south, and parcels fronting El Camino Real opposite this area to the west.

In addition, the 1706 El Camino Real project page, which is available at the following web address: http://www.menlopark.org/projects/comdev_1706ecr.htm, has been updated with the staff report. This page provides up-to-date information about the

project, allowing interested parties to stay informed of its progress. The page allows users to sign up for automatic email bulletins, notifying them when content is updated.

ATTACHMENTS

- A. Location Map
- B. Project Plans
- C. [Draft Findings & Actions for Approval dated September 3, 2009](#)
- D. [November 3, 2008 Planning Commission Study Session Meeting Minutes](#)
- E. City Council Resolution No. 5851
- F. Applicant's Project Description
- G. Leadership in Energy & Environmental Design (LEED) Checklist
- H. Tree Survey, McClenahan Consulting, LLC, dated November 27, 2006
- I. [Draft Below Market Rate Housing In-Lieu Fee Agreement](#)

Previous staff reports, minutes, and documents related to the Mitigated Negative Declaration are available for review at the Community Development Department and the project webpage.

EXHIBITS TO BE PROVIDED AT MEETING

Colors and Materials Board

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ATTACHMENT I

DRAFT

BELOW MARKET RATE IN LIEU FEE AGREEMENT

This "Agreement" is made as of this ____ day of ____, 200_ by and between the City of Menlo Park, a California municipality ("City") and 1706 ECR, LLC, a California limited liability company ("Developer"), with respect to the following:

RECITALS

- A. Developer owns certain real property in the City of Menlo Park, County of San Mateo, State of California, consisting of approximately 25,000 square feet located at 1706 El Camino Real, more particularly described as assessor's parcel number 060-343-040 ("Property").
- B. Developer proposes to construct on the Property a commercial project consisting of medical, dental and office components ("Project"). Developer has applied to the City for a Use Permit, and Tentative Map for six condominium units and intends to apply for building permits to construct the Project.
- C. Developer is required to comply with Chapter 16.96 of City's Municipal Code, ("BMR Ordinance"), and with the BMR Housing Program Guidelines adopted by the City Council to implement the BMR Ordinance ("Guidelines"). In order to process its applications, the BMR Ordinance requires Developer to submit a Below Market Rate Housing Agreement. This Agreement is intended to satisfy that requirement. Approval of a Below Market Rate Housing Agreement is a condition precedent to the approval of the applications and the issuance of building permits for the Project.
- D. Construction on-site of below market rate units is not feasible or desirable. Additionally, Developer has engaged the adjacent neighborhood in at least four meetings through an independent third party, Peninsula Conflict Resolution Center ("PCRC") to ascertain their ideas for the development of the site. There was no support for the inclusion of housing elements amongst the neighborhood. Developer does not own any sites in the City that are available and feasible for construction of sufficient below market rate units to satisfy the requirements of the BMR Ordinance. Based on these facts, City has found that development of such units off-site in accordance with the requirements of the BMR Ordinance and Guidelines also is not feasible.
- E. City has determined not to require Developer to provide below market rate units and, under the terms of the BMR Ordinance, Developer therefore is required to pay an in lieu fee as provided in this Agreement, which Developer is willing to pay on the terms set forth in this Agreement, which the City has found are consistent with the BMR Ordinance and Guidelines.

NOW, THEREFORE, the parties agree as follows:

1. Developer shall pay the applicable in lieu fee as provided in the BMR Ordinance and Guidelines. The applicable in lieu fee is that which is in effect on the date the payment is made. The current fee, which is subject to escalation each July 1, is \$14.01/s.f. for "Group A" uses, which include office uses, and \$7.61/s.f. for "Group B" uses, which include non-office uses. The method of calculating the fee for the Project consists of the following table:

	Use Group	Fee/SF	SF	Fee
New Office	A-Office/R&D	\$14.01	10,148	\$142,173.48
Former Restaurant	B- All other Com	\$ 7.61	(6,875)	(\$52,318.75)
	TOTAL FEE			\$89,854.73

2. The fee shall be paid before issuance of a building permit for the project and may be paid at any time after approval of this agreement by the City Council. If, for any reason, a building permit is not issued within a reasonable time of payment of the fee, upon request by Developer, City shall promptly refund the fee, without interest, in which case the building permit shall not issue until payment of the fee is again made at the rate applicable at the time of payment.

3. This Agreement shall be binding on and inure to the benefit of the parties hereto and their successors and assigns. Either party may assign this Agreement without the consent of the other, provided the assignment is in writing.

4. This Agreement is a covenant running with the land for the benefit of the City and all lands owned by the City within the limits of the City.

5. If any legal action is commenced to interpret or enforce this Agreement or to collect damages as a result of any breach of this Agreement, the party prevailing shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action from the other party.

6. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

7. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

8. This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof.

9. Any and all obligations or responsibilities of Developer under this Agreement shall terminate upon the payment of the required fee.

10. To the extent there is any conflict between the terms and provisions of the Guidelines and the terms and provisions of this Agreement, the terms and provisions of this Agreement shall prevail.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

CITY OF MENLO PARK

DEVELOPER:

By: _____
Glen Rojas
City Manager

By: _____
1706 ECR, LLC
By Its Manager Infiniti Partners,
Inc.
Susan Fox, Vice President