

ACTION NO. 2022-01
RECORD OF THE COUNCIL OF THE CITY OF PALO ALTO LAND USE ACTION FOR
2850 WEST BAYSHORE ROAD: MAJOR ARCHITECTURAL REVIEW AND CONDITIONAL USE PERMIT
[21PLN-00177] AND VESTING TENTATIVE MAP [21PLN-00178] (SUMMERHILL HOMES, APPLICANT)

At its meeting on June 20, 2022, the City Council of the City of Palo Alto (“City Council”) approved a Conditional Use Permit, Major Architectural Review, and a Vesting Tentative Map application for the development of a 48-unit townhouse project and subdivision request making the following findings, determinations and declarations:

SECTION 1. Background.

A. On June 22, 2021, SummerHill Homes applied for entitlements for a development project including: Architectural Review, Conditional Use Permit, Design Enhancement Exception, and Vesting Tentative Map for the development of a 48-unit townhouse project and subdivision of airspace (“The Project”). After the first formal Architectural Review Board (ARB) meeting, the applicant removed the Design Enhancement Exception. The applicant applied for a development standard concession in accordance with State Density Bonus law and Palo Alto Municipal Code (PAMC) 18.15.080 to request a Floor Area Ratio of 1.137:1.0 where 0.6:1.0 is the standard allowance.

B. The project site is comprised of one existing lot (APN No. 127-01-160) of approximately 2.34-acres within the Research Office and Limited Manufacturing (ROLM) zoning district. The site contains one existing commercial office building. Commercial land uses are located adjacent to the lot to the North, and the site is surrounded by Greer Park to the West and South. To the project’s East is the Highway 101 Freeway.

C. Following staff review, the ARB reviewed the Major Architectural Review application for a second time on April 21, 2022 and recommended denial, based on suggested revised findings to the staff report.

D. Following review from the Planning and Transportation Commission, the Commission recommended approval for the Vesting Tentative Map on May 25, 2022, subject to conditions of approval.

E. On June 20, 2022, the City Council held a duly noticed public hearing, at which evidence was presented and all persons were afforded an opportunity to be heard in accordance with the Palo Alto Municipal Code and the Council’s policies and procedures.

SECTION 2. Environmental Review.

The subject project was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the City’s environmental regulations. The City’s consultant, Rincon, evaluated the existing building and found it ineligible for the California Register of Historic Resources. It was determined the project would not cause significant impacts to the environment and qualified as a Class 32 (In-Fill Development Projects) Exemption, as further documented on the project webpage at <https://bit.ly/3CnpVJT>.

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:

Comprehensive Plan Goal/Policy	Consistency
Policy L-1.6: Encourage land uses that address the needs of the community and manage change and development to benefit the community.	The project provides 48 for-sale housing units at a site that was previously used as office space. 15% of the units will be sold at moderate income levels. The project seeks to address the housing crisis that the City Council has identified as a top priority. The project will not result in an increase in trips to the site during peak hours and will provide a connection to Greer Park for residents and guests.
Policy L-2.5: Support the creation of affordable housing units for middle to lower income level earners, such as City and school district employees, as feasible.	The project proposes seven for-sale units that will be sold at moderate income levels in accordance with PAMC 18.15.
Policy L-2.11: Encourage new development and redevelopment to incorporate greenery and natural features such as green rooftops, pocket parks, plazas and rain gardens.	The project includes a communal park area at the center of the site and incorporates landscaping around and throughout the site. Additionally, the project provides an internal connection to Greer Park so that residents and visitors may access the neighborhood amenities.
Policy L-9.3: Treat residential streets as both public ways and neighborhood amenities. Provide and maintain continuous sidewalks, healthy street trees, benches and other amenities that promote walking and "active" transportation.	The project proposes to maintain most of the existing street trees along the W. Bayshore frontage. In addition to this, the project modifies the street frontage to incorporate additional landscaping and bioswales.
Policy T-1.17: Require new office, commercial	The project proposes a right of way easement

Comprehensive Plan Goal/Policy	Consistency
<p>and multi-family residential developments to provide improvements that improve bicycle and pedestrian connectivity as called for in the <i>2012 Palo Alto Bicycle + Pedestrian Transportation Plan</i>.</p> <p>Policy T-1.19: Provide facilities that encourage and support bicycling and walking.</p>	<p>along the site frontage in order to expand the bike lane across the site.</p>
<p>Policy T-5.1: All new development projects should manage parking demand generated by the project, without the use of on-street parking, consistent with the established parking regulations. As demonstrated parking demand decreases over time, parking requirements for new construction should decrease.</p>	<p>The project provides all its required parking onsite.</p>
<p>Policy N-2.10: Preserve and protect Regulated Trees, such as native oaks and other significant trees, on public and private property, including landscape trees approved as part of a development review process and consider strategies for expanding tree protection in Palo Alto.</p>	<p>The project protects eight of the existing street trees on the site and a majority of the existing trees which are shared between Greer Park and the project site. No protected species are proposed for removal. Any removed regulated tree is replaced pursuant to City requirements.</p>
<p>Policy S-2.8 Minimize exposure to flood hazards by protecting existing development from flood events and adequately reviewing proposed development in flood prone areas.</p>	<p>The project site will be filled in order to raise the units to meet the AE10.5 flood zone requirements for the property.</p>
<p>H3.1.2 PROGRAM. Implement the BMR ordinance to reflect the City's policy of requiring: a) At least 15 percent of all housing units in projects must be provided at below market rates to very low-, low-, and moderate-income households.</p>	<p>The project includes 15% of the proposed units as below market rate.</p>

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

The Project site is suitable for residential use development; it is comprised of one large relatively flat lot that is 2.34 acres in size. The lot would be subdivided into air parcels for condominium purposes not to exceed 48 residential condominium units. The minimum site area, width, and depth for development in the ROLM zoning district is already met by the existing parcel boundaries and the site does not seek to modify that. A public right of way easement will be dedicated with the Final Map to the provide for an expanded bicycle lane along West Bayshore Road. The Project site would allow for

48 multi-family residential units as permitted for RM-30 development standards in the ROLM zoning district.

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

The project would create 48 multi-family residential units which are compliant with the minimum/maximum allowable residential density as calculated for the total site area (16/30 dwelling units per acre = 37/70 dwelling units, respectively).

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:

The City's consultant determined that the project qualifies under a Class 32 Exemption from CEQA. As a result, the Project will not cause environmental damage or injure fish, wildlife, or their habitat, in that the property is currently developed and not adjacent to sensitive habitat areas.

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

The City's consultant determined that the project qualifies under a Class 32 Exemption from CEQA. As a result, the Project will not cause serious public health problems.

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. A public right of way easement will be dedicated with the Final Map to provide for an expanded bicycle lane along West Bayshore Road.

SECTION 4. Architectural Review Findings

In order to make a recommendation of approval, the project must comply with the following Findings for Architectural Review as required in Chapter 18.76.020 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 the following Comprehensive Goals/Policies:

Comprehensive Plan Goal/Policy	Consistency
<p>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.</p>	<p>The project provides building that is stepped back from the adjacent commercial uses at 2800 West Bayshore Road and incorporates landscaping as a buffer to minimize impacts from the new building. The site also incorporates access to the Greer Park for tenants and visitors to have access to neighborhood amenities. There are articulations to break up the vertical massing so that the building does not appear overwhelming. Where the project could utilize state law to reduce the parking requirements for the site, it has instead provided parking in conformance with PAMC 18.52. All utilities can serve the site.</p>
<p>Policy L-1.6: Encourage land uses that address the needs of the community and manage change and development to benefit the community.</p>	<p>The project provides 48 for-sale housing units at a site that was previously used as office space. 15% of the units will be sold at moderate income levels. The project seeks to address the housing crisis that the City Council has identified as a top priority. The project will not result in an increase in trips to the site during peak hours and will provide a connection to Greer Park for residents and guests.</p>
<p>Policy L-1.11: Hold new development to the highest development standards in order to maintain Palo Alto's livability and achieve the highest quality development with the least impacts.</p>	<p>The architectural review process includes findings and context-based design criteria necessary to develop the project. The project is subject to the Architectural Review process.</p>
<p>Policy L-2.5: Support the creation of affordable housing units for middle to lower income level earners, such as City and school district employees, as feasible.</p>	<p>The project proposes seven for-sale units that will sold at moderate income levels in accordance with PAMC 18.15.</p>
<p>Policy L-2.11: Encourage new development and redevelopment to incorporate greenery and natural features such as green rooftops, pocket parks, plazas and rain gardens.</p>	<p>The project includes a communal park area at the center of the site and incorporates landscaping around and throughout the site. Additionally, the project provides an internal connection to Greer Park so that residents and visitors may access the neighborhood amenities.</p>

Comprehensive Plan Goal/Policy	Consistency
Policy L-2.12: Ensure that future development addresses potential risks from climate change and sea level rise.	The project site will be filled in order to raise the units to meet the AE10.5 flood zone requirements for the property.
Policy L-3.1: Ensure that new or remodeled structures are compatible with the neighborhood and adjacent structures.	The project has a contemporary design which is distinct from the adjacent building at 2800 West Bayshore Road but it is not opulent in the manner that it would diminish or detract from the aesthetic quality of the neighborhood or create disparate and irreconcilable building designs.
Policy L-3.4: Ensure that new multi-family buildings, entries and outdoor spaces are designed and arranged so that each development has a clear relationship to a public street.	The proposed project modifies the site so that Buildings 1, 2, and 3 and their entries and primary facades face 2850 W. Bayshore Road.
Policy L-6.1: Promote high-quality design and site planning that is compatible with surrounding development and public spaces.	The project utilizes high quality materials and breaks up its facades so that the building is not overly massive in scale to adjacent properties. The project also provides a connection to Greer Park at the Southwest corner of the site for residents and guests. The project also expands the bike lane on W. Bayshore Road by recording a right-of-way easement along the front of the property.
Policy L-6.2: Use the Zoning Ordinance, design review process, design guidelines and Coordinated Area Plans to ensure high quality residential and commercial design and architectural compatibility.	The project utilizes high quality materials and breaks up its facades so that the building is not overly massive in scale to adjacent properties.
Policy L-9.3: Treat residential streets as both public ways and neighborhood amenities. Provide and maintain continuous sidewalks, healthy street trees, benches and other amenities that promote walking and “active” transportation.	The project proposes to maintain most of the existing street trees along the W. Bayshore frontage. In addition to this, the project modifies the street frontage to incorporate additional landscaping and bioswales.
Policy T-1.17: Require new office, commercial and multi-family residential developments to provide improvements that improve bicycle and pedestrian connectivity as called for in the <i>2012 Palo Alto Bicycle + Pedestrian</i>	The project proposes a right of way easement along the site frontage in order to expand the bike lane across the site.

Comprehensive Plan Goal/Policy	Consistency
<p><i>Transportation Plan.</i></p> <p>Policy T-1.19: Provide facilities that encourage and support bicycling and walking.</p>	
<p>Policy T-5.1: All new development projects should manage parking demand generated by the project, without the use of on-street parking, consistent with the established parking regulations. As demonstrated parking demand decreases over time, parking requirements for new construction should decrease.</p>	<p>The project provides all its required parking onsite.</p>
<p>Policy N-2.10: Preserve and protect Regulated Trees, such as native oaks and other significant trees, on public and private property, including landscape trees approved as part of a development review process and consider strategies for expanding tree protection in Palo Alto.</p>	<p>The project protects eight of the existing street trees on the site and a majority of the existing trees which are shared between Greer Park and the project site. No protected species are proposed for removal. Any removed regulated tree is replaced pursuant to City requirements.</p>
<p>Policy N-6.6: Apply site planning and architectural design techniques that reduce overall noise pollution and reduce noise impacts on proposed and existing projects within Palo Alto and surrounding communities.</p>	<p>The project includes a sound wall along the 101 Highway in order to reduce noise impacts to residents.</p>
<p>Policy S-2.8 Minimize exposure to flood hazards by protecting existing development from flood events and adequately reviewing proposed development in flood prone areas.</p>	<p>The project site will be filled in order to raise the units to meet the AE10.5 flood zone requirements for the property.</p>
<p>H3.1.2 PROGRAM. Implement the BMR ordinance to reflect the City's policy of requiring: a) At least 15 percent of all housing units in projects must be provided at below market rates to very low-, low-, and moderate-income households.</p>	<p>The project includes 15% of the proposed units as below market rate.</p>

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 design of the project is well ordered and provides a coherent plan that is readily understood in the site's context. The site planning has been arranged to provide for a 24-foot street setback along the West Bayshore Road frontage, with existing and proposed landscaping providing a unifying design element. The design creates an internal sense of order by providing a well-landscaped public realm along the West Bayshore Road frontage, expansion of the bike lane, park access to Greer Park, and integrating the central park area as a focal point for the site. This integration provides a desirable environment for occupants and visitors. Natural features are appropriately integrated with the project and the proposed landscaping along the West Bayshore Road frontage serving as important elements that define the streetscape. The scale, mass and character of the building is appropriate for the existing context, which is surrounded by Greer Park and the buildings at 2800 West Bayshore Road. The site's compliance with Finding #2.c. as well as the Performance Criteria under PAMC 18.23 is discussed in the tables below.

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 includes a variety of high-quality materials conveying a contemporary architectural design. Together these materials create a cohesive design that is compatible with the surrounding developments.

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 design is appropriate to the function of the project in that retention of existing street trees softens the massing of the new building frontage along West Bayshore Road while relegating parking improvements to the rear of the site. The project presents a functional and accessible design for multiple modes of travel. Circulation from the street to the site would be improved by reducing the number of drive aisle cuts along West Bayshore Road, and providing a single, logical location for the main vehicle entrance. Pedestrian and bicycle access to the building entrances is significantly enhanced by the sidewalk improvements and right of way easement for the expanded bike lane that are included with the project as well as the new pedestrian ramp provided to Greer Park at the Southwest corner of the site. Bicycle parking is convenient and located inside the buildings and in the central park area.

Adequate vehicle parking is located in the attached garages for each unit. The amount and arrangement of the central open space is appropriate to the design and the function of the site and encourages use by residents.

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.

Plant material is suitable and adaptable to the site, capable of being properly maintained, and is of a variety that is drought-tolerant and reduces consumption of water in its installation and maintenance. The landscape plan maintains most of the existing street trees along the West Bayshore Road frontage, which will provide a visual buffer between the street and the proposed building. As the site is in a developed portion of the City, it is not considered prime habitat. However, the project would enhance the landscape elements on the site in the 24-foot special setback along West Bayshore Road, which would be the most likely location to support desirable habitat.

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

The project will meet the current Green Building Code requirements. Most of the proposed landscape palette has a low water use.

Context-Based Design Criteria PAMC 18.16.90

Massing and Building Facades

Massing and building facades shall be designed to create a residential scale in keeping Palo Alto neighborhoods, and to provide a relationship with the street(s).

Findings

This finding can be made in the affirmative in that the proposed designs of each unit utilizes varying materials, colors, and articulation along the building facades to help distinguish volumes, scale and mass. The street facing units provide front entries and walkways visible from the street that help engage visually from the street perspective and pedestrian walkways.

Low-Density Residential Transitions

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

This finding can be made in the affirmative in that the adjacent sites are not residential properties. In addition to that, the project proposes to replace existing trees. These new trees will serve to screen views from the new units toward the adjacent school and park.

Project Open Space

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

This finding can be made in the affirmative in that the proposed site design satisfies the open space requirements of the RM-30 zoning district providing adequate private and usable open space for residents and guests to utilize. For additional recreational space, direct access to Greer Park is provided via a ramp at the rear of the project site.

Parking Design

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

This finding can be made in the affirmative in that the site planning and proposed parking design ensure parking does not overwhelm the project. Each unit is provided with a two-car garage attached to the rear of the unit. Additionally, there is landscape planting adjacent to the garage locations that will soften and break up the driveway areas with opportunities for vertical tree elements and ground cover to grow which will prevent the structures from becoming visually detractive from the internal pedestrian environment to the project. Four additional guest surface parking spaces are provided as well as a drop-off space for ride-sharing services. The project also incorporates a ramp to Greer Park which provides quicker access to street parking opportunities.

Large (multi-acre) Sites

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

This finding can be made in the affirmative in that the project proposes a 24-foot front setback in accordance with the special setback requirements. This is consistent with the existing setback for the adjacent property on 2800 West Bayshore Road.

Housing Variety and Units on Individual Lots

Multifamily projects may include a variety of unit types such as small-lot detached units, attached row houses/townhouse, and cottage clusters in order to

This finding can be made in the affirmative in that while the proposed project only includes townhouses, each building introduces varying articulation and building materials so

achieve variety and create transitions to adjacent existing development.

that the units do not appear homogeneous and uninteresting. Additionally, each building is separated by landscaping and streets so they do not become overly large and repetitive structures; therefore, reducing their massing impact.

Sustainability and Green Building Design

Project design and materials to achieve sustainability and green building design shall be incorporated into the project. Green building design considers the environment during design and construction. Green building design aims for compatibility with the local environment: to protect, respect and benefit from it. In general, sustainable buildings are energy efficient, water conserving, durable and nontoxic, with high-quality spaces and high recycled content materials.

This finding can be made in the affirmative in that the proposed development will be required to comply with the California Green Building Code and the City of Palo Alto’s local amendments; see PAMC Section 16.14.

Performance Criteria PAMC 18.23

18.23.020 Trash Disposal and Recycling

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.

Project Consistency

Each unit will be serviced by a 32 cubic foot trash container, a 64 cubic foot compost container, and a 96 cubic foot recycling container. Each container has designated storage spaces within the garage for each unit. The site will also be serviced weekly by GreenWaste waste hauler who will collect the waste bins in front of each units. This conforms with the requirements in PAMC 5.20 and 18.23.020.

18.23.030 Lighting

To minimize the visual impacts of lighting on abutting or nearby residential sites and from adjacent roadways.

There are no abutting residential sites to this property. Along property lines that face towards the school on 2800 W. Bayshore Road and residences across from Greer Park, the foot candle will not exceed 0.5 at the property line.

18.23.040 Late Night Uses and Activities

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.

The site is not a retail or commercial business and would therefore not be subject to this requirement.

18.23.050 Visual, Screening and Landscaping

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 screening between properties where appropriate.

The landscape plans seek to replace trees on site in accordance with Tree Technical Manual and No Net Loss of Canopy policies. When mature, these new trees will provide screening for the site between the adjacent school and residences across from Greer Park. The applicant also proposes to screen all AC units for each unit as shown on L2.1.

18.23.060 Noise and Vibration

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.

The applicant has provided a noise study that identifies measures they will implement to reduce the noise and vibration impacts during construction. This document has been incorporated into the environmental documents. After construction, noise will primarily be generated from the AC units associated with each unit. An updated noise report will be required prior to Building Permit issuance, which staff will review in accordance with the requirements in PAMC 9.10, when the models for the AC units will be chosen.

18.23.070 Parking

The visual impact of parking shall be minimized on adjacent residentially zoned properties or properties with existing residential uses located within nonresidential zones.

All parking for the units on site are proposed in two-car garages on the ground floor of each unit. No garage is proposed to face towards West Bayshore Road or any other

property. There are four additional guest parking spaces provided on-site, in excess of the code requirements, as well as a drop-off space for ride-sharing services.

18.23.080 Vehicular, Pedestrian and Bicycle Site Access

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.

As a part of the project, the applicant has proposed an easement on their property in order to expand the existing bike lanes on West Bayshore Road; which will expand bike services within the area for those traveling along West Bayshore Road. Vehicle access and exit to this site is concentrated through a single driveway which prevents vehicles from spilling out onto the street at multiple points which could cause conflicts with existing traffic patterns. Additionally, the applicant has proposed a pedestrian ramp at the southwestern corner of the lot to connect the site to Greer Park. This provides easier access to and from the site for residents and guests.

18.23.090 Air Quality

The requirements for air quality are intended to buffer residential uses from potential sources of odor and/or toxic air contaminants.

There are no adjacent manufacturing or industrial uses to this site that would expose residents to potential sources of odor and/or toxic air contaminants. During construction, the applicant will be required to follow Best Management Practices (BMP) to reduce dust or other contaminants from spilling over to adjacent properties.

18.23.100 Hazardous Materials

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.

The applicant is not proposing to store any hazardous materials or waste on site. The hazardous materials that will likely be stored on site are normal cleaning products associated with residential uses by residents.

SECTION 5. Conditional Use Permit Findings

In order to make a recommendation of approval, the project must comply with the following Findings for Conditional Use Permit approval as required in Chapter 18.76.010 of the PAMC.

Finding #1: Not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;

As proposed, the application conforms to all requirements in the zoning code except for the allowed floor area ratio for RM-30 lots. The applicant has proposed the use of a development concession in accordance with state density bonus law and PAMC 18.15.090 in order to receive the additional floor area to support their project. As a part of the project, the applicant will be placing fill on the site in order to raise up the proposed units in accordance with the AE 10.5 flood zone requirements. This will help protect the new units from inundation during a 100-year flood plain event.

In addition to this, the project will result in a reduction of vehicle trips to the site compared with the existing office use. As benefits to the City and the future residents, the applicant has proposed expanding the City's bike lane along West Bayshore Road, including a pedestrian connection from the site to Greer Park, and has proposed a sound wall to reduce noise impacts from the 101 Highway across from the property.

The project qualifies for a Class 32 CEQA exemption and will not create adverse impacts on the environment that would be detrimental to the public health, safety, general welfare, or convenience of the public.

Finding #2: Be located and conducted in a manner in accord with the Palo Alto Comprehensive Plan and the purposes of this title (Zoning).

Residential units are conditionally permitted in Research, Office, and Limited Manufacturing districts. The site is well situated for a residential development given its proximity to Greer Park and the adjacent pre-school and day care facilities. As noted in Finding #1 in the Architectural Review findings, the project conforms to the Comprehensive Plan goals and policies for the site

SECTION 6. Concession Request Findings

In order to make a recommendation of approval, the project must comply with the following Findings (i – vi) for granting a Density Bonus, Incentive, Concession, Waiver, Modification or revised parking standard as required in Chapter 18.15.090(a) of the PAMC:

Finding (i): The development is eligible for the density bonus and any concessions, waivers, modifications, or revised parking standards requested.

In order to qualify for a density bonus, concession, waiver, modification, or revised parking standard under state law, the applicant must propose at least 10% affordable housing on site. The City's BMR regulations under PAMC 16.65 require a minimum of 15% of the proposed units be affordable for sites of less than five acres. The project proposes a 48-unit townhome development and seven (7) of those units will be sold at moderate income levels with 0.2 units paid through an in-lieu fee. As a result, the project is eligible to request one concession from the City.

Finding (ii): Any requested concession or incentive will result in identifiable and actual cost reductions based upon the financial analysis and documentation provided. The city finds that the concessions and incentives included in Section 18.15.050(c) will result in identifiable and actual cost reductions.

The project proposes a 48-unit townhome development and requests a Floor Area Ratio (FAR) of 1.137 in order to develop their proposal.

Finding (iii): If the density bonus is based all or in part on donation of land, a finding that all the requirements included in Government Code Section 65915(g) have been met.

The project is not the recipient of a donation of land; therefore, this finding is not applicable.

Finding (iv): If the density bonus, concession or incentive is based all or in part on the inclusion of a childcare facility, a finding that all the requirements included in Government Code Section 65915(h) have been met.

The project does not include a concession request based on the inclusion of a childcare facility; therefore, this finding is not applicable.

Finding (v): If the concession or incentive includes mixed-use development, a finding that all the requirements included in Government Code Section 65915(k)(2) have been met.

The project does not include mixed-use development; therefore, this finding is not applicable.

Finding (vi): If a waiver or modification is requested, a finding that the development standards for which the waiver is requested would have the effect of physically precluding the construction of the development with the density bonus and concessions permitted.

The project does not request any waivers or modifications; therefore, this finding is not applicable. The request for increased FAR is a concession, as analyzed in *Finding (ii)*.

SECTION 7. Tentative Map Approval Granted

Tentative Map Approval is filed and processed in accordance with PAMC Section 21.12.090 and granted by the City Council under PAMC Sections 21.12 and 21.20 and the California Government Code Section 66474, subject to the conditions of approval herein of this Record.

SECTION 8. Architectural Review Approval Granted

The Architectural Review is filed and processed in accordance with 18.77.070 and granted by the City Council under PAMC Section 18.77.050, subject to the conditions of approval herein of this Record.

SECTION 9. Conditional Use Permit Approval Granted

The Conditional Use Permit is filed and processed in accordance with 18.76.010 and granted by the City Council under PAMC Section 18.77.060, subject to the conditions of approval herein of this Record.

SECTION 10. Concession Request Approval Granted

The Concession Request is filed and processed in accordance with 18.15.080 and granted by the City Council under PAMC Section 18.15.090(a), subject to the conditions of approval herein of this Record.

SECTION 11. 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 CBG, Inc. titled "Vesting Tentative Map for Condominium Purposes," consisting of 14 pages, stamped as received May 11, 2022, except as modified to incorporate the conditions of approval contained herein of this record. A copy of the Tentative Map is on file with 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 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 12. Conditions of Approval (Vesting Tentative Map)

PLANNING DIVISION

1. PROJECT PLANS. The Vesting Tentative Map submitted for review and approval by the City Council shall be in substantial conformance with the Vesting Tentative Map titled "Vesting Tentative Map for Condominium Purposes", dated May 11, 2021, except as modified to incorporate the conditions of this approval.
2. FINAL MAP COVER PAGE. At such time as the Final Map is filed, the cover page shall include the name and title of the Director of Planning and Development Services.

3. The following conditions were added to the conditions of approval during the June 20, 2022 hearing:
 - a. The applicant agrees to record in their CC&Rs that the future residents of the site will not be able to participate in any future Residential Parking Permit program to the extent that it restricts parking on Colorado Avenue west of Simkins Court.
 - b. The private streets shown on the plans as Street A, B, C, and D shall be named Ellen, Josephine, Juana, and Esther, respectively.

4. STANDARD CC&R REQUIREMENTS. Section 16.38 of Palo Alto's Municipal Code provides that all condominium and other "community housing projects" shall submit Covenants, Conditions and Restrictions (CC&R's) to the City Attorney for approval before issuance of the Final Map. The City Attorney has developed the following standard covenants which shall be included in all CC&R's.
 - a. PROPERTY SHALL COMPLY WITH CITY ZONING ORDINANCES. The property, including all common areas, private streets and, parks within the property, shall at all times comply with the City's Zoning Code and shall not be used for any purpose other than as permitted in the City Zoning Code.
 - b. MODIFICATIONS TO PROPERTY. Any alterations, modifications, or other improvements to the property shall comply with all applicable City Codes.
 - c. MAINTENANCE AND LANDSCAPING OF COMMON AREAS. The Association is responsible for maintenance and landscaping of all parts of the community housing project which are held in common and such maintenance shall be performed to the standard of maintenance prevalent in the neighborhood. (See PAMC Section 16.38.030(a)).
 - d. TERMINATION OF MANAGER OR MAINTENANCE CONTRACTS. The association may terminate the contract of any person or organization engaged by the developer to perform management or maintenance duties three months after the association assumes control of the community housing project or any time thereafter. (See PAMC Section 16.38.030(b).)
 - e. PROTECTION OF STORM WATER FACILITIES. Neither the association, its residents, nor their agents, employees, representatives, invitees, licensees, customers, or contractors shall alter or modify any storm water facilities in any way including but not limited to placing, maintaining, constructing, or planting any improvements, landscaping or other items, including without limitation decks, stairs, walls, irrigation systems, trees, or any vegetation on any storm water facilities.
 - f. TRASH DISPOSAL AND RECYCLING AREAS SHALL COMPLY WITH CITY ORDINANCES. All trash disposal and recycling areas shall be kept in a clean and sanitary condition and shall comply

with all applicable City Ordinances.

- g. PROHIBITION AGAINST AIR AND WATER POLLUTION. Neither the association, its residents, nor their agents, employees, representatives, invitees, licensees, customers, or contractors shall use the property in any way which emits pollution into the atmosphere in excess of environmental standards set forth by City, State, and Federal laws, ordinances, and regulations. Neither the association, its residents, nor their agents, employees, representatives, invitees, licensees, customers, or contractors shall discharge garbage, trash, waste, or any other substance or materials of any kind into any private or public sewer or waterway on the property in violation of any regulations of any private or public body having jurisdiction over such matters.
- h. AMENDMENTS TO ORGANIZATION DOCUMENTS REQUIRE CITY APPROVAL. Any amendments or modifications to the organizational documents shall be submitted to the city attorney for approval. No amendment or modification to the organizational documents shall be effective without prior written consent of the city attorney.
- i. CITY'S RIGHT TO ENFORCE COVENANTS AND RESTRICTIONS. The City is hereby granted the right, but in no event the duty, to enforce the covenants and restrictions set forth in this section of the organizational documents. The association shall recognize that it has the primary responsibility for enforcement of the organizational documents and unequivocally guarantees to institute and expeditiously prosecute any required legal action to obtain compliance with all provisions set forth in the organizational documents.
- j. NO WAIVER OF CITY'S RIGHTS. No failure of the City to enforce any of the covenants or restrictions contained in the organizational documents will in any event render them ineffective.
- k. CITY'S REMEDIES TO CURE A BREACH OR VIOLATION. Remedies available to the City to cure any breach or violation of the organizational documents shall be cumulative to any other provisions of law. The City's failure to exercise any remedy provided for in the organizational documents shall not, under any circumstances, be construed as a waiver of the remedy.
- l. SEVERABILITY. Invalidation of any one of the City's required covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

5. FINAL MAP EXPIRATION. A Final Map, in conformance with the approved Vesting Tentative Map, all requirements of the Subdivision Ordinance (PAMC Section 21.16), and to the satisfaction of the City of Palo Alto and its representatives, shall be filed with the Planning Division and the Public Works Engineering Division within two years of the Vesting Tentative Map approval date or this approval will expire, pending extension.
6. 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.

PUBLIC WORKS ENGINEERING

7. PUBLIC WORKS APPLICATIONS, FORMS, AND DOCUMENTS: Applicant shall be advised that all forms, applications, and informational documents related to Public Works Engineering conditions can be found at the following link: <https://bit.ly/2QosO9A>.
8. IMPROVEMENT PLANS: The applicant shall arrange a meeting with the Public Works Engineering, Water/Gas/Wastewater Engineering, Electric Utilities Engineering, Planning, and Transportation Divisions and the Fire Department after Council approval of the Vesting Tentative Map to discuss the on-site and off-site improvements that will be required. The improvement plans must then be reviewed and approved by the City prior to submittal of the parcel or final map. ADVISORY -- The applicant shall provide a detailed itemized stamped and signed engineer's estimate for all off-site public improvements which will be reviewed to determine the security amount.
9. SUBDIVISION IMPROVEMENT AGREEMENT: The applicant shall execute a Subdivision Improvement Agreement and provide improvement securities (Bonds) for all proposed public improvements. The Agreement shall be executed prior to map recordation or issuance of any permits for construction, onsite and offsite. ADVISORY -- The applicant shall provide a detailed itemized stamped and signed engineer's estimate for all off-site public improvements which will be reviewed to determine the security amount.
10. GRADING PERMIT: A Grading Permit is required per PAMC Chapter 16.28. The permit application and all applicable documents (see Section H of application) shall be submitted to Public Works Engineering. ADVISORY -- A grading permit only authorizes grading and storm drain improvements, therefore, the following note shall be included on each grading permit plan sheet: “THIS GRADING PERMIT WILL ONLY AUTHORIZE GENERAL GRADING AND INSTALLATION OF THE STORM DRAIN SYSTEM. OTHER BUILDING AND UTILITY IMPROVEMENTS ARE SHOWN FOR REFERENCE INFORMATION ONLY AND ARE SUBJECT TO SEPARATE BUILDING PERMIT APPROVAL.”

11. **GEOTECHNICAL ENGINEER STATEMENT:** The grading plans shall include the following statement signed and sealed by the Geotechnical Engineer of Record: "THIS PLAN HAS BEEN REVIEWED AND FOUND TO BE IN GENERAL CONFORMANCE WITH THE INTENT AND PURPOSE OF THE GEOTECHNICAL REPORT".
12. **RETAINING WALLS:** The grading plan shall clearly indicate all site retaining walls needed along the project to accommodate the fill. These walls shall be located completely onsite, and at a minimum 5-feet from the existing street trees to be protected.
13. **FLOOD ZONE:** This project is in a FEMA Special Flood Hazard Area and shall comply with the requirements in Palo Alto Municipal Code Chapter 16.52 and the California Residential Code Section 322 (CRC 322).
14. **CLOMR-F:** Evidence that this document has been executed shall be provided prior to building permit issuance.
15. **FINAL MAP THIRD-PARTY REVIEW:** The City contracts with a third-party surveyor that will review and provide approval of the map's technical correctness as the City Surveyor, as permitted by the Subdivision Map Act. The Public Works Department will forward a Scope & Fee Letter from the third-party surveyor and the applicant will be responsible for payment of the fee's indicated therein.
16. **STREETWORK PERMIT:** The applicant shall obtain a Streetwork Permit from the Department of Public Works for all offsite and public improvements. Note that the engineer's estimate is directly related to this permit's scope of work.
17. **ENCROACHMENT PERMIT:** Prior to any work in the public right-of-way, the applicant shall obtain an encroachment permit from the Public Works Department for any work that encroaches onto the City right-of-way.
18. **LOGISTICS PLAN:** A construction logistics plan shall be provided addressing all impacts to the public and including, at a minimum: work hours, noticing of affected businesses, construction signage, dust control, noise control, storm water pollution prevention, job trailer, contractors' parking, truck routes, staging, concrete pours, crane lifts, scaffolding, materials storage, pedestrian safety, and traffic control. All truck routes shall conform to the City of Palo Alto's Trucks and Truck Route Ordinance, Chapter 10.48, and the route map, which outlines truck routes available throughout the City of Palo Alto.
19. **CALTRANS PERMIT FOR SOUNDWALL:** If any portion of the proposed work is within Caltrans right-of-way a permit must be obtained from the applicable agency. If a permit is required, evidence of the outside agency's permit approval shall be submitted to the Planning and Public Works Departments prior to issuance of any Building or Streetwork/Encroachment permits.

20. SWPPP: The proposed development will disturb more than one acre of land. Accordingly, the applicant will be required to comply with the State of California's General Permit for Storm Water Discharges Associated with Construction Activity. This entails filing a Notice of Intent to Comply (NOI), paying a filing fee, and preparing and implementing a site-specific storm water pollution prevention plan (SWPPP) that addresses both construction-stage and post-construction BMP's for storm water quality protection.
21. STORMWATER POLLUTION PREVENTION: All improvement plan sets shall include the "Pollution Prevention – It's Part of the Plan" sheet.
22. C.3 THIRD-PARTY CERTIFICATION: Applicant shall provide certification from a qualified third-party reviewer that the proposed permanent storm water pollution prevention measures comply with the requirements of Provision C.3 and Palo Alto Municipal Code Chapter 16.11.

The third-party reviewer shall provide the following documents to Public Works prior to building permit approval:

- a. Stamped and signed C.3 data form (September 2019 version) from SCVURPPP.
<https://bit.ly/3J3gtxJ>
 - b. Final stamped and signed letter confirming which documents were reviewed and that the project complies with Provision C.3 and PAMC 16.11.
23. C.3 STORMWATER AGREEMENT: The applicant shall enter into a Stormwater Maintenance Agreement with the City to guarantee the ongoing maintenance of the permanent storm water pollution prevention measures. The City will inspect the treatment measures yearly and charge an inspection fee. The agreement shall be executed by the applicant team prior to building permit approval.
 - a. Note: Any revisions to the C.3 stormwater pollution prevention measures that are necessary to facilitate installation of said measures will be addressed in the agreement and the accompanying exhibits, executed by the City, and recorded with the County.
 24. C.3 FINAL THIRD PARTY CERTIFICATION PRIOR TO OCCUPANCY: Within 45 days of the installation of the required storm water treatment measures and prior to the issuance of an occupancy permit for the building, the third-party reviewer shall submit to the City a certification verifying that all the permanent storm water pollution prevention measures were installed in accordance with the approved plans.
 25. PAVEMENT RESTORATION: The applicant shall restore the pavement along the entire project frontage, curb-to-curb, by performing a 3.5" grind and overlay. The exact restoration limits will be determined once the resulting road condition is known following completion of heavy construction activities and utility lateral installations, at minimum the extent will be the project frontage.
 26. 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. To determine the impervious surface area that is being disturbed, provide the quantity on the site plan.

27. PRIOR TO PUBLIC WORKS FINAL/ACCEPTANCE:

- a. Storm Drain Logos: The applicant is required to paint “No Dumping/Flows to Matadero Creek” in blue on a white background adjacent to all onsite storm drain inlets. The name of the creek to which the proposed development drains can be obtained from Public Works Engineering. Stencils of the logo are available from the Public Works Environmental Compliance Division, which may be contacted at (650) 329-2598. Include the instruction to paint the logos on the construction grading and drainage plan.
- b. Record Drawings: At the conclusion of the project applicant shall provide digital as-built/record drawings of all improvements constructed in the public right-of-way or easements in which the City owns an interest.

HOUSING

The project as proposed includes 48 residential ownership units. The project is subject to the Below Market Rate (BMR) requirement as set forth by Palo Alto Municipal Code (PAMC) 16.65.060.

28. 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. The proposed project – 48 ownership units – is subject to a BMR requirement of 7.2 units and is proposing seven units, with 0.2 paid through an in-lieu fee. All of the units will be made affordable to moderate income households. Payment of the fractional in-lieu is required prior to building permit issuance.
29. All BMR units constructed shall be in conformance with the City’s BMR Program rules and regulations such as the unit mix and sizes of the BMR units should reflect the unit mix and sizes of the market rate units. Failure to comply with the timing of this condition and any adopted BMR Program rules and regulations shall not waive its later enforcement.
30. A BMR Agreement in a form acceptable to the City Attorney for the seven 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.

SECTION 13. Conditions of Approval. (Architectural Review)

PLANNING DIVISION

1. CONFORMANCE WITH PLANS. Construction and development shall conform to the approved plans entitled, "2850 West Bayshore Road" dated May 27, 2022 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 all conditions of the departments listed in this letter.
3. BUILDING PERMIT PLAN SET. The ARB approval letter including all Department conditions of approval for the project shall be printed on the plans submitted for building permit.
4. The following conditions were added to the conditions of approval during the June 20, 2022 hearing:
 - a. The applicant agrees to record in their CC&Rs that the future residents of the site will not be able to participate in any future Residential Parking Permit program to the extent that it restricts parking on Colorado Avenue west of Simkins Court.
 - b. The private streets shown on the plans as Street A, B, C, and D shall be named Ellen, Josephine, Juana, and Esther, respectively.
5. 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.
6. LANDSCAPE MAINTENANCE. All existing and proposed landscape material shall be well maintained and replaced if the plant material dies or if the irrigation equipment fails. Planters shall not drain onto sidewalk, ground, or public right of ways.
7. DENSITY BONUS CONCESSION: Staff has found the project to be in compliance with all of the City's development standards. In accordance with State Density Bonus Law and PAMC Section 18.15.090, a housing project providing 15 percent of the units, as affordable to lower income households, is eligible for one concession. With the following concessions, staff finds the project in compliance with the City's development standards. The applicant has shown the following concessions will reduce the per unit cost of the development as noted in the **Density Bonus Analysis: 2850 West Bayshore Road**:
 - a. Floor Area Ratio - Exceed 0.60:1 FAR limitation with a proposed FAR of 1.137:1
8. ESTIMATED IMPACT FEE: Development Impact Fees, currently estimated in the amount of **\$2,495,303.78**, per PAMC 16.58, shall be paid prior to the issuance of the related building permit. These fees are subject to increase through annual increases every August, after City Council adoption of the new municipal fee schedule, as well as the inclusion of the Public Art fee.

9. **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.
10. **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))
11. **LIGHTING.** Between the hours of 10:00pm-6:00am, lighting on the property should be reduced to its minimum necessary to facilitate resident security in order to minimize light glare at night.
12. **NUISANCES AND NOISE.** The outdoor space shall not be operated in a manner to produce excessive noise, odors, lighting or other nuisances from any sources. Noise levels emanating from the property shall not exceed the maximum level established in the PAMC Chapter 9.10. Amplified sound equipment is not included in this approval, and any such equipment proposed for this site shall be submitted for review by the Planning Department at the building permit phase.
13. **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.
14. **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, Garrett Sauls at Garrett.Sauls@CityofPaloAlto.org to schedule this inspection.

PUBLIC WORKS ENGINEERING

15. PUBLIC WORKS APPLICATIONS, FORMS, AND DOCUMENTS: Applicant shall be advised that all forms, applications, and informational documents related to Public Works Engineering conditions can be found at the following link: <https://bit.ly/2QosO9A>.
16. IMPROVEMENT PLANS: The applicant shall arrange a meeting with the Public Works Engineering, Water/Gas/Wastewater Engineering, Electric Utilities Engineering, Planning, and Transportation Divisions and the Fire Department after Council approval of the Vesting Tentative Map to discuss the on-site and off-site improvements that will be required. The improvement plans must then be reviewed and approved by the City prior to submittal of the parcel or final map. ADVISORY -- The applicant shall provide a detailed itemized stamped and signed engineer's estimate for all off-site public improvements which will be reviewed to determine the security amount.
17. SUBDIVISION IMPROVEMENT AGREEMENT: The applicant shall execute a Subdivision Improvement Agreement and provide improvement securities (Bonds) for all proposed public improvements. The Agreement shall be executed prior to map recordation or issuance of any permits for construction, onsite and offsite. ADVISORY -- The applicant shall provide a detailed itemized stamped and signed engineer's estimate for all off-site public improvements which will be reviewed to determine the security amount.
18. GRADING PERMIT: A Grading Permit is required per PAMC Chapter 16.28. The permit application and all applicable documents (see Section H of application) shall be submitted to Public Works Engineering. ADVISORY -- A grading permit only authorizes grading and storm drain improvements, therefore, the following note shall be included on each grading permit plan sheet: "THIS GRADING PERMIT WILL ONLY AUTHORIZE GENERAL GRADING AND INSTALLATION OF THE STORM DRAIN SYSTEM. OTHER BUILDING AND UTILITY IMPROVEMENTS ARE SHOWN FOR REFERENCE INFORMATION ONLY AND ARE SUBJECT TO SEPARATE BUILDING PERMIT APPROVAL."
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20. RETAINING WALLS: The grading plan shall clearly indicate all site retaining walls needed along the project to accommodate the fill. These walls shall be located completely onsite, and at a minimum 5-feet from the existing street trees to be protected.
21. FLOOD ZONE: This project is in a FEMA Special Flood Hazard Area and shall comply with the

requirements in Palo Alto Municipal Code Chapter 16.52 and the California Residential Code Section 322 (CRC 322).

22. CLOMR-F: Evidence that this document has been executed shall be provided prior to building permit issuance.
23. FINAL MAP THIRD-PARTY REVIEW: The City contracts with a third-party surveyor that will review and provide approval of the map's technical correctness as the City Surveyor, as permitted by the Subdivision Map Act. The Public Works Department will forward a Scope & Fee Letter from the third-party surveyor and the applicant will be responsible for payment of the fee's indicated therein.
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27. CALTRANS PERMIT FOR SOUNDWALL: If any portion of the proposed work is within Caltrans right-of-way a permit must be obtained from the applicable agency. If a permit is required, evidence of the outside agency's permit approval shall be submitted to the Planning and Public Works Departments prior to issuance of any Building or Streetwork/Encroachment permits.
28. SWPPP: The proposed development will disturb more than one acre of land. Accordingly, the applicant will be required to comply with the State of California's General Permit for Storm Water Discharges Associated with Construction Activity. This entails filing a Notice of Intent to Comply (NOI), paying a filing fee, and preparing and implementing a site-specific storm water pollution prevention plan (SWPPP) that addresses both construction-stage and post-construction BMP's for storm water quality protection.
29. STORMWATER POLLUTION PREVENTION: All improvement plan sets shall include the "Pollution Prevention – It's Part of the Plan" sheet.

30. C.3 THIRD-PARTY CERTIFICATION: Applicant shall provide certification from a qualified third-party reviewer that the proposed permanent storm water pollution prevention measures comply with the requirements of Provision C.3 and Palo Alto Municipal Code Chapter 16.11.
31. The third-party reviewer shall provide the following documents to Public Works prior to building permit approval:
- a. Stamped and signed C.3 data form (September 2019 version) from SCVURPPP.
<https://bit.ly/3J3gtxJ>
 - b. Final stamped and signed letter confirming which documents were reviewed and that the project complies with Provision C.3 and PAMC 16.11.
32. C.3 STORMWATER AGREEMENT: The applicant shall enter into a Stormwater Maintenance Agreement with the City to guarantee the ongoing maintenance of the permanent storm water pollution prevention measures. The City will inspect the treatment measures yearly and charge an inspection fee. The agreement shall be executed by the applicant team prior to building permit approval.
- a. Note: Any revisions to the C.3 stormwater pollution prevention measures that are necessary to facilitate installation of said measures will be addressed in the agreement and the accompanying exhibits, executed by the City, and recorded with the County.
33. C.3 FINAL THIRD PARTY CERTIFICATION PRIOR TO OCCUPANCY: Within 45 days of the installation of the required storm water treatment measures and prior to the issuance of an occupancy permit for the building, the third-party reviewer shall submit to the City a certification verifying that all the permanent storm water pollution prevention measures were installed in accordance with the approved plans.
34. PAVEMENT RESTORATION: The applicant shall restore the pavement along the entire project frontage, curb-to-curb, by performing a 3.5" grind and overlay. The exact restoration limits will be determined once the resulting road condition is known following completion of heavy construction activities and utility lateral installations, at minimum the extent will be the project frontage.
35. 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. To determine the impervious surface area that is being disturbed, provide the quantity on the site plan.
36. PRIOR TO PUBLIC WORKS FINAL/ACCEPTANCE:
- a. Storm Drain Logos: The applicant is required to paint "No Dumping/Flows to Matadero Creek" in blue on a white background adjacent to all onsite storm drain inlets. The name of the creek to which the proposed development drains can be obtained from Public Works

Engineering. Stencils of the logo are available from the Public Works Environmental Compliance Division, which may be contacted at (650) 329-2598. Include the instruction to paint the logos on the construction grading and drainage plan.

- b. Record Drawings: At the conclusion of the project applicant shall provide digital as-built/record drawings of all improvements constructed in the public right-of-way or easements in which the City owns an interest.

TRANSPORTATION

37. The applicant shall be responsible for planning/design, coordination with regional agencies, replacement/relocation of existing public utilities, easement approvals, procurement of required services/materials/equipment, and construction for the proposed West Bayshore Road off-site improvements. Any changes in proposed site plans shall require Office of Transportation approval.
38. Provide continuous sidewalk through driveway without diverting it towards W Bayshore Rd. As a result, the proposed ADA ramps will be unnecessary and should be removed.
39. The driveway approach shall meet the City of Palo Alto Driveway design requirements. Public Works Driveway standard requirements can be found here:
<https://www.cityofpaloalto.org/Departments/Public-Works/Engineering-Services/Public-Works-Standard-Drawings-and-Specifications>
40. In accordance with PAMC 18.54.050, the proposed load-break cabinet near the project driveway shall be less than 3 feet in height to maintain sight distance visibility from the driveway.

RECYCLING

41. REQUIRED DECONSTRUCTION.

In conformance with PAMC 5.24, deconstruction and source separation are required for all residential and commercial projects where structures are being completely removed, demolition is no longer allowed. Deconstruction takes longer than traditional demolition, it is important to plan ahead.

42. SALVAGE SURVEY FOR REUSE.

A Salvage Survey is required for deconstruction permit applications. The survey shall be conducted by a City approved reuse vendor. The survey submittal shall include an itemized list of materials that are salvageable for reuse from the project. The applicant shall source separate and deliver materials for reuse. Certification is required indicating that all materials identified in the survey are properly salvaged.

43. SOURCE SEPARATION FOR RECYCLING.

The applicant shall source separate deconstruction materials into specific categories for recycling.

Additional staging areas for source separated materials will need to be considered. All materials shall be delivered to one of the City approved materials recovery facilities listed in Green Halo, all records shall be uploaded to www.greenhalosystems.com. For more information, refer to www.cityofpaloalto.org/deconstruction.

URBAN FORESTRY

44. 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.
45. 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.
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, Trenching and Tunneling Distance, shall be printed on the final plans to be implemented by Contractor.
47. TREE PROTECTION VERIFICATION. Prior to any site work verification from the contractor that the required protective fencing is in place shall be submitted to the Urban Forestry Section. The fencing shall contain required warning sign and remain in place until final inspection of the project.
48. PLAN CHANGES. Revisions and/or **changes to plans before or during construction** shall be reviewed and responded to by the (a) project site arborist, 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.

ELECTRICAL ENGINEERING

49. Electric Utilities will need to place a padmount, loadbreak cabinet preferably in the planter area on the south side of Building 3 with (4) 4" high voltage conduits in/out. Approximately 3'x5' footprint. Coordinate with Utilities Eng.

WATER, GAS, WASTEWATER

PRIOR TO ISSUANCE OF DEMOLITION PERMIT

50. The applicant shall submit a request to disconnect utility services and remove meters. The utilities demo to be processed 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

51. The applicant shall submit a completed water-wastewater service connection application - load sheet for City of Palo Alto Utilities. The applicant must provide all the information requested for utility service demands (domestic water and irrigation in fixture units/g.p.m., fire in g.p.m., and sewer in fixture units/g.p.d.).
52. No new gas service installation for this project (All Electric Project).
53. The applicant shall conduct an onsite/private fire water system studies per the City of Palo Alto Fire Department requirements to determine the impacts to the City's water system to service the development during anticipated peak demands and fire flow. This shall be submitted for review during the Building permit process.
54. The subdivision sewer system will be considered private and shall be privately maintained by the home association. The CC&Rs and final map should mention the private sewer system along the private road and maintenance responsibility. The City will be responsible for the maintenance of the main in the public street right of way and not the private sewer system.
55. The applicant to provide WGW utility department a share maintenance responsibility agreement between the two buildings' owner (2850 and 2800 W Bayshore Rd.) for the proposed private sewer line (common/shared sewer facility).
56. 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, sewer lift stations and any other required utilities. Plans for the new private sewer facility to include details of connection to City's sewer manhole for review and approval.
57. The applicant must show on the site plan the existence of any auxiliary water supply, (i.e. water well, gray water, recycled water, rain catchment, water storage tank, etc).
58. The applicant shall be responsible for installing and upgrading the existing utility mains and/or services 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 mains and/or services.

59. An approved reduced pressure principle assembly (RPPA backflow preventer device) and (reduced pressure detector assembly) are required for all new water and fire connections from Palo Alto Utilities to comply with requirements of California administrative code, title 17, sections 7583 through 7605 inclusive. The RPPA and RPDA shall be installed on the owner's property and directly behind the water meter and the City's fire service within 5 feet of the property line. RPPA's for domestic service shall be lead free. All backflow preventer devices shall be approved by the WGW engineering division. Inspection by the city inspector is required for the supply pipe between the meter and the assembly.
60. 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.
61. The applicant shall provide to the engineering department a copy of the plans for fire system including all fire department's requirements.
62. The applicant shall secure a public utilities easement (P.U.E.) for the new master water meter installed on private property. The applicant's engineer shall obtain, prepare, record with the county of Santa Clara, and provide the utilities engineering section with copies of the public utilities easement on the front of the property adjacent to the City right of way at the water point of service.
63. Show the location of the new private sewer facility within the existing P.U.E. on the plans. The proposed private sewer facility connection to the City's manhole required WGW utility engineering review and approval and CPAU Inspector inspection.
64. All existing water and wastewater services that will not be reused shall be abandoned at the main per the latest WGW utilities standards.
65. Utility vaults, transformers, utility cabinets, concrete bases, or other structures cannot be placed over existing water, gas, or wastewater mains/services. Maintain 1' horizontal clear separation from the vault/cabinet/concrete base to existing utilities as found in the field. If there is a conflict with existing utilities, Cabinets/vaults/bases shall be relocated from the plan location as needed to meet field conditions. Trees may not be planted within 10 feet of existing water and wastewater mains/laterals/water services/or meters. New water or wastewater services/laterals/meters may not be installed within 10' of existing trees. Maintain 10 feet between new trees and new water and wastewater services/laterals/meters. Trees may be planted within 10 feet of new or existing water and wastewater mains/laterals/water services/or meters at the discretion of the Water, Gas, Wastewater and Urban Forestry departments.
66. All utility installations shall be in accordance with the latest edition of the City of Palo Alto utility standards for water & wastewater.

WATER QUALITY

67. Since the project triggers polychlorinated biphenyls (PCBs) sampling as identified on the “Planning Application Form,” the project shall conduct representative sampling of PCBs concentration in accordance with the “Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition (2018).” The PCBs Application Package and other resources are outlined at <http://www.cityofpaloalto.org/pcbdemoprogram>. The Applicant’s Package will outline PCBs sampling and reporting requirements that must be met.
- a. If the representative sample results or records DO NOT indicate PCB concentrations ≥ 50 ppm in one or more “priority materials,” then the screening assessment is complete. Applicant submits screening form and the supporting sampling documentation with the demolition permit application. No additional action is required.
 - b. If the representative sample results or records DO indicate PCBs concentrations ≥ 50 ppm in one or more “priority materials,” then the screening assessment is complete, but the Applicant MUST also contact applicable State and Federal Agencies to meet further requirements. Applicant submits screening form and the supporting sampling documentation with the demolition permit application, and also must contacts the State and Federal Agencies as indicated on Page 3 of the “PCBs Screening Assessment Form.”

IMPORTANT: ADVANCED APPROVAL FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (USEPA) OR OTHER STATE AGENCIES MAY BE REQUIRED PRIOR TO BUILDING DEMOLITION. IT IS RECOMMENEDED THAT APPLICANTS BEGIN THE PCBs ASSESSMENT WELL IN ADVANCE OF APPLYING FOR DEMOLITION PERMIT AS THE PROCESS CAN TAKE BETWEEN 1-3 MONTHS.

68. Stormwater Treatment Measures

- a. All Bay Area Municipal Regional Stormwater Permit requirements shall be followed.
- b. Refer to the Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 Handbook for details.
- c. For all C.3 features, vendor specifications regarding installation and maintenance should be followed and provided to city staff. Copies must be submitted to Pam Boyle Rodriguez at pamela.boylerothriguez@cityofpaloalto.org. Add this bullet as a note to the building plans.
- d. Staff from Stormwater Program (Watershed Protection Division) may be present during installation of stormwater treatment measures. Contact Pam Boyle Rodriguez, Stormwater Program Manager, at (650) 329-2421 before installation. Add this bullet as a note to building plans on Stormwater Treatment (C.3) Plan.

69. Stormwater Quality Protection

- a. Temporary and permanent waste, compost and recycling containers shall be covered to prohibit fly-away trash and having rainwater enter the containers.
- b. Drain downspouts to landscaping (outward from building as needed).
- c. Drain HVAC fluids from roofs and other areas to landscaping.

- d. Offsite downgrade storm drain inlets shall also be identified on this plan set and protected. If City staff removes protection from an inlet in the ROW during a rain event, the contractor shall replace the inlet protection by the end of the following business day.

PUBLIC ART

70. The project is subject to the public art in private development ordinance requiring that 1% of the estimated construction valuation is used to either commission public art on site or pay the equivalent contribution to the public art fund, whichever is greater. If the applicant chooses to commission art on site, then they must complete both initial and final reviews and receive approval from the Public Art Commission prior to the issuance of a building permit. This actual amount to be paid shall be determined during building permit submittal and be paid prior to building permit issuance.

HOUSING

The project as proposed includes 48 residential ownership units. The project is subject to the Below Market Rate (BMR) requirement as set forth by Palo Alto Municipal Code (PAMC) 16.65.060.

71. 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. The proposed project – 48 ownership units – is subject to a BMR requirement of 7.2 units and is proposing seven units, with 0.2 paid through an in-lieu fee. All of the units will be made affordable to moderate income households. Payment of the fractional in-lieu is required prior to building permit issuance.
72. All BMR units constructed shall be in conformance with the City's BMR Program rules and regulations such as the unit mix and sizes of the BMR units should reflect the unit mix and sizes of the market rate units. Failure to comply with the timing of this condition and any adopted BMR Program rules and regulations shall not waive its later enforcement.
73. A BMR Agreement in a form acceptable to the City Attorney for the seven 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.

PASSED: 7-0

AYES: Burt, Cormack, DuBois, Filseth, kou, Stone, Tanaka

NOES: 0

ABSENT: None

ABSTENTIONS: None

ATTEST:

DocuSigned by:

Lesley Milton

City Clerk

APPROVED:

DocuSigned by:

Rachael Tanner

7/19/2022

Director of Planning and
Development Services

APPROVED AS TO FORM:

DocuSigned by:

Albert Yang

Assistant City Attorney

PLANS AND DRAWINGS REFERENCED:

Those plans prepared by CBG, Inc. titled "Vesting Tentative Map for Condominium Purposes," consisting of 14 pages, stamped as received May 11, 2022, except as modified to incorporate the conditions of approval contained herein of this record. Those plans prepared by SDG Architects titled "2850 West Bayshore Rd." consisting of 95 pages, stamped received on May 27, 2022.