



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
February 20, 2008
6:00 P.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California
Special Meeting

6:00 P.M. ROLL CALL J. Carlson, Marsala, Janz, McKeithen

6:02 P.M. PUBLIC COMMENTS

6:05 P.M. CLOSED SESSION

**A. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation
pursuant to Subsection (a) of Government Code Section 54956.9**

Lamb vs. Town of Atherton, et al.

Superior Court of California, San Mateo County, CIV 461630

John P. Johns Petitioner vs. Town of Atherton et. al. Respondent

Superior Court of California, San Mateo County, CIV 465782

**B. LIABILITY CLAIMS – pursuant to Government Code Section
54956.95**

Claimant: Dorothy E. Saxe

Agency Claimed Against: Town of Atherton

RECONVENE TO OPEN SESSION

Report of action taken.

ADJOURN

Agendas and staff reports may be accessed on the Town website at: www.ci.atherton.ca.us
☛ *Please contact the City Clerk's Office at 650.752.0500 with any questions.* Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk at (650) 752-0500. Notification of 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting. (29 CRF 35.104 ADA Title II)



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AGENDA
Town of Atherton
CITY COUNCIL
ATHERTON CHANNEL DRAINAGE DISTRICT
FEBRUARY 20, 2008

7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

PLEASE NOTE: *Times listed on the Agenda are an approximation and not a time certain. The Council may take up items out of order. Please arrive well in advance of the time listed for any item in which you are interested.*

- 7:00 P.M. 1. **PLEDGE OF ALLEGIANCE**
- 7:03 P.M. 2. **ROLL CALL** J. Carlson, Marsala, Janz, McKeithen
- 7:05 P.M. 3. **PRESENTATIONS**
- None
- 7:05 P.M. 4. **PUBLIC COMMENTS** (only for items which are not on the agenda – limit of three minutes per person)
- 7:20 P.M. 5. **STAFF REPORTS**
- 7:30 P.M. 6. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** (Directed by Resolution No. 99-6)
- Environmental Programs Committee
- 7:45 P.M. **CONSENT CALENDAR (Items 7- 21)**

(Consent Calendar items are routine in nature and are generally considered in one motion and adopted by a single vote of the City Council. If discussion regarding a Consent Calendar item is desired, the member(s) of the City Council, public, and/or staff wishing to pull the item should so indicate at the time the Mayor calls for consideration of the Consent Calendar.)

7. **APPROVAL OF MINUTES OF THE SPECIAL CITY COUNCIL CLOSED SESSION MEETING JANUARY 2, 2008; THE SPECIAL CITY COUNCIL CLOSED SESSION AND REGULAR CITY COUNCIL MEETINGS OF JANUARY 16, 2008**

8. **APPROVAL OF BILLS AND CLAIMS FOR JANUARY IN THE AMOUNT OF \$ 1,112,771**
9. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR JANUARY 2008**
10. **ACCEPTANCE OF THE QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED DECEMBER 31, 2007**
11. **ADOPTION OF A RESOLUTION FOR SIGNATURE AUTHORITY FOR COMERICA BANK**

Recommendation: Adopt the attached resolution to update the signature cards for the Town of Atherton at Comerica Bank

12. **ADOPTION OF THREE RESOLUTIONS FIXING THE EMPLOYER'S CONTRIBUTION UNDER THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT**

Recommendation: Adopt three Resolutions fixing the Employer's Contribution under the Public Employees' Medial and Hospital Care Act pertaining to 1) Miscellaneous Employee Group, 2) Sworn Police Unit, and 3) the Management Group.

13. **REVIEW/APPROVAL OF PROPOSAL FROM PMC FOR PUBLIC OUTREACH FOR THE HISTORICAL ARTIFACT ORDINANCE**

Recommendation: Staff recommends approval of expenditure in an amount not to exceed \$35,000.00 and approval of the proposal to provide consultant services for Public Outreach in connection with amendments to the Town's Historic Preservation Ordinance.

14. **2006 ANNUAL REPORT TO THE CITY COUNCIL ON THE ATHERTON GENERAL PLAN IMPLEMENTATION**

Recommendation: Accept the Annual Report and authorize its transmittal to the California Governor's Office of Planning and Research and the California Department of Housing and Community Development pursuant to Section 65400 of the California Government Code (CGC).

15. **MENLO PARK RECOMMENDATION TO REMOVE PARKING IN FRONT OF 1850 EL CAMINO REAL (CELIA'S RESTAURANT) AND CONVERT THE SHOULDER TO A RIGHT TURN ONLY LANE AT THE INTERSECTION OF SPRUCE AVENUE AND EL CAMINO REAL**

Recommendation: Staff recommends the City Council approve the recommendation from the City of Menlo Park to remove parking and modify the intersection of Spruce Avenue at El Camino Real.

16. THE ENVIRONMENTAL PROGRAMS COMMITTEE RECOMMENDS REFERRING THE DRAFT ORDINANCE ADDING ATHERTON MUNICIPAL CODE SECTION 8.56 PERTAINING TO WOOD-BURNING APPLIANCES TO THE GENERAL PLAN COMMITTEE

Recommendation: Staff recommends that the City Council direct the General Plan Committee to review and consider the proposed wood burning appliance ordinance.

17. APPROVAL OF A RESOLUTION AUTHORIZING THE CITY MANAGER AND MAYOR TO INITIATE TRANSACTIONS WITH THE STATE OF CALIFORNIA LOCAL AGENCY INVESTMENT FUND

Recommendation: Adopt the attached resolution regarding investment transactions with the State of California Local Agency Investment Fund.

18. INTRODUCTION OF AN ORDINANCE AMENDING SECTION 13.10.070 OF THE ATHERTON MUNICIPAL CODE FOR PUBLIC, EDUCATIONAL AND ACCESS SUPPORT FEES FROM VIDEO SERVICE PROVIDERS

Recommendation: Introduce ordinance amending Section 18.10.070(b)(1)(B) of the Atherton Municipal Code to set fee to be paid by video service providers for public, educational and access support.

19. APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH WILSEY HAM FOR MUNICIPAL STORM DRAINAGE SYSTEM DESIGN SERVICES FOR THE FLETCHER-RIDGEVIEW PROJECT

Recommendation: Accept the proposal and authorize the City Manager to sign a Professional Services Agreement with Wilsey Ham to provide Drainage Design services for the Fletcher Ridgeview Project in an amount not exceed \$56,532, plus a 10% contingency, for a total authorization of \$62,185.20. In addition, authorize the Public Works Department to utilize Wilsey Ham as the on-call municipal storm drainage system design engineering consultant for future Town drainage projects.

20. AWARD OF CONTRACT TO TRU-GREEN LANDCARE FOR THE TREE MAINTENANCE PROJECT NUMBER 07-010

Recommendation: Award a contract for the 2008 Tree Maintenance Project, project number 07-010 to Tru-Green Landcare, the low bidder on the February 5, 2008, bids, for \$52,000, and to authorize the Mayor to sign the contract on behalf of the Town.

21. AWARD OF FOUR CONTRACTS FOR THE HOLBROOK-PALMER PARK TOWN HOME PROJECT, PROJECT NO. 7-011

Recommendation: Award four contracts for the Holbrook-Palmer Park Town Home Project, Project No. 07-011, for up to \$75,000, with a 10% construction contingency of \$7,500, for a total authorization of \$82,500; to authorize the use of informal bidding; and to authorize the Mayor to sign the contracts on behalf of the Town.

PUBLIC HEARINGS (Item 22)

7:55 P.M. 22. APPEAL OF THE DECISION OF STAFF REGARDING 137 STOCKBRIDGE AVENUE – (APN 059-292-060)

Recommendation: Staff recommends that the City Council conduct the public hearing, deny the appeal and uphold the decision of Staff for the reasons outlined in the Staff Report.

REGULAR AGENDA (Items 23 & 24)

8:25 P.M. 23. REPORT FROM KEVIN KIELTY, CONTRACT ARBORIST, REGARDING LANDSCAPING AT 12 SELBY LANE

Recommendation: Review report by Arborist Kevin Kielty pertaining to replacement landscaping following improper heritage tree removal at 12 Selby Lane. Provide direction to Staff regarding replacement landscaping and expenditure of funds for this purpose.

8:45 P.M. 24. ADOPTION OF A RESOLUTION APPROVING THE MID-YEAR BUDGET ADJUSTMENT

9:15 P.M. 25. COUNCIL REPORTS

9:25 P.M. 26. PUBLIC COMMENTS

9:30 P.M. 27. ADJOURNMENT

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DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
WEDNESDAY, JANUARY 2, 2008

5:00 P.M.

Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California

SPECIAL MEETING

The meeting was called to order by Mayor Jim Janz at 5:05 p.m.

ROLL CALL

PRESENT: Jerry Carlson
Charles E. Marsala
James R. Janz
Kathy McKeithen

PUBLIC COMMENTS

There were no public comments.

CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATOR
Government Code Section 54957.6

Agency designated representative: Bill Avery

Unrepresented employee: City Manager

RECONVENE TO OPEN SESSION

Report of action taken.

The City Attorney reported there was no reportable action taken.

ADJOURN

The meeting was adjourned by Mayor Jim Janz at 5:36 p.m.

Respectfully submitted,

James R. Janz
Mayor

Minutes Prepared by:
Kathi Hamilton



DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT
January 16, 2008
6:00 P.M.
Meeting Room
Town Administrative Offices
91 Ashfield Road
Atherton, California
Special Meeting

The meeting was called to order by Mayor Jim Janz at 6:05 p.m.

ROLL CALL

PRESENT: Jerry Carlson
Charles E. Marsala
James R. Janz
Kathy McKeithen

PUBLIC COMMENTS

There were no public comments.

In Open Session, by unanimous vote of the Council, the following item was added to the Closed Session Agenda:

CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9

Lamb vs. Town of Atherton, et al.
Superior Court of California, San Mateo County, CIV 461630

CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subsection (b) of Government Code Section 54956.9:

Two (2) potential cases

- B. **CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9**

John P. Johns Petitioner vs. Town of Atherton et. al. Respondent
Superior Court of California, San Mateo County, CIV 465782

Lamb vs. Town of Atherton, et al.
Superior Court of California, San Mateo County, CIV 461630

- C. **CONFERENCE WITH LABOR NEGOTIATOR**
Government Code Section 54957.6

Agency designated representative: Bill Avery

Unrepresented employee: City Manager

RECONVENE TO OPEN SESSION

Report of action taken.

City Attorney Marc Hynes reported out of Closed Session as follows:

At 6:05 p.m., with respect to Items A and B, discussion was held and the items were continued for further discussion to the end of the Regular City Council meeting. Item C was not heard and was continued to the end of the Regular City Council meeting.

RECONVENE TO CLOSED SESSION

The Closed Session was reconvened at 11:20 p.m. By unanimous vote of the Council, with respect to Item C, City Attorney Marc Hynes replaced Bill Avery as the Agency Designated Representative.

RECONVENE TO OPEN SESSION

Report of action taken.

City Attorney Marc Hynes stated there was no reportable action taken on either Item A or Item B. With respect to Item C, by unanimous vote of the Council, the City Council approved the City Manager contract between Jerome “Jerry” Gruber and the Town of Atherton.

ADJOURN

The *Continued* Closed Session meeting was adjourned by Mayor Jim Janz at 11:50 p.m.

Respectfully submitted,

James R. Janz
Mayor

Minutes Prepared by:
Kathi Hamilton



DRAFT MINUTES
Town of Atherton
CITY COUNCIL
ATHERTON CHANNEL DRAINAGE DISTRICT
JANUARY 16, 2008
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Jim Janz called the meeting to order at 7:10 p.m.

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL

PRESENT Jerry Carlson
Charles E. Marsala
James R. Janz
Kathy McKeithen

City Manager Jerry Gruber and City Attorney Marc Hynes were also present.

3. PRESENTATIONS

Mayor Janz thanked Wendé Protzman for serving as Interim City Manager and commended her for her hard work. He introduced the new City Manager, Jerry Gruber, who came to Atherton from Big Bear Lake, and welcomed him to Atherton.

City Manager Jerry Gruber appreciated being selected as the City Manager. He thanked Wendé for her support and looked forward to working with everyone. His wife, Melanie, would be joining him in July.

4. PUBLIC COMMENTS

Kristi Waldron, Menlo Park-Atherton Education Foundation Member, requested permission to put up a banner on Marsh Road for the Foundation's Annual Fall Campaign. She asked that an exception or policy change be made to include the Foundation since it served Atherton residents.

Mayor Janz asked City Manager Jerry Gruber to look into the matter.

Vice Mayor Jerry Carlson said another organization (Peninsula Volunteers) was going to raise the issue as well.

Randy Lamb, Atherton, congratulated Council on its choice of City Manager, congratulated Mayor Janz on his recent letter to the editor of the *Almanac*, spoke regarding the need to continue discussions regarding former Finance Director John Johns, and the need for public participation in meetings and the possible use of postcards and the Teleminder. Additionally, he spoke regarding the traffic safety issues at Watkins and El Camino Real and encouraged discussions with Caltrans to install a signal.

Elizabeth Lewis, Atherton, announced notices were going out in the mail regarding a Special General Plan Committee meeting at Holbrook-Palmer on February 6 to discuss the Zoning Code revisions. The revisions could be found on the Town's website and public participation was encouraged.

John Ruggeiro, Atherton, complimented Mayor Janz on his letter to the editor. He spoke regarding flooding and drainage problems within the Town.

Melinda Tevis, Atherton, noted the City of Redwood City was blaming the Atherton drainage overflow for causing Redwood City's clogs.

5. STAFF REPORTS

- City Attorney Marc Hynes reported out of Closed Session as follows:

In Open Session, by unanimous vote of the Council, the following item was added to the Closed Session Agenda:

CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9

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A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subsection (b) of Government Code Section 54956.9:

Two (2) potential cases

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C. CONFERENCE WITH LABOR NEGOTIATOR
Government Code Section 54957.6

Agency designated representative: Bill Avery
Unrepresented employee: City Manager

With respect to Items A and B, there was no reportable action, discussion was held and the items were continued for further discussion to the end of the Regular City Council meeting. Item C was not heard and was continued to the end of the Regular City Council meeting.

- **Interim Finance Director Bill Yeomans said the annual audit results would be given next month, along with the Mid-Year Budget. Based on preliminary results, the Town was in good financial condition.**
- **Deputy Town Planner Lisa Costa Sanders announced three workshops would be held regarding the Zoning Code Update: Feb 6, March 5, and April 2, 2008, at 7:00 p.m., at Holbrook-Palmer Park. Postcards would be mailed and a press release would be published in the *Almanac*.**
- **Public Works Director Duncan Jones responded to Council Member Marsala regarding traffic issues. He believed the issues could be handled at each site rather than delay the benefit of all the work done on the Spruce Avenue intersection. A traffic study was underway in Menlo Park.**
- **Council Member Marsala asked Interim Finance Director Yeomans to review some expense reports and report back at the next meeting.**

Mayor Janz wanted to start his year as Mayor by addressing the long-term issues facing the Town. In the Council/City Manager form of government, the City Manager ran the Town. The new City Manager would provide new and aggressive administrative leadership for the Town and would be ably assisted by Wendé Protzman. The City Council's job was to address policy issues. The Town did not exist as an island as if regional and global issues did not affect it. The Town needed to focus on the real issues of infrastructure, transportation, drainage, and flooding. Train service, grade separations, and the impact of high-speed rail were also of concern. A Joint study session of the City Councils of Atherton and Menlo Park would be held on January 29, at Menlo Park City Hall to discuss grade separation. The Town Administration Building and the Police Department needed to be replaced by a modern, safe physical structure. With regards to community issues, the Town needed to maintain its own Police Department, continue to cooperate with the Menlo Park Fire Protection District, and to continue to develop and enhance working relationships with the schools in Town. The Town needed to reduce its environmental impacts, our individual carbon footprints. The General Plan needed to be updated and planning for our fair share of housing units would be necessary in the future. The parcel tax would expire in two years. Perhaps the time had come for incorporating some unincorporated areas adjacent to Town for commercial use and/or housing. Finally,

the relationship between Council and staff needed to be examined to streamline the administration while maintaining adequate public oversight. He was hopeful to move forward with a positive attitude to deal with the issues with which Council should deal. He asked Council to participate in a retreat workshop to address operational issues. He was confident the Town had the resources, ability, and commitment to achieve the goals.

6. COMMUNITY ORGANIZATION ROUNDTABLE REPORT

None

Mayor Janz noted that Item No. 15 had been continued to the City Council meeting of February 20, 2008.

CONSENT CALENDAR (Items 7-13)

With respect to Item No. 11, Council Member McKeithen complimented Public Works Director Duncan Jones for securing a grant from C/CAG for \$85,110. Public Works Director Jones said since there were grants for a number of cities, lead time was approximately 6 weeks or more.

In response to Council Member Marsala regarding Item No. 9, Interim Finance Director Yeomans said the litigation charged to the Building Department was primarily related to abatement actions. Regarding Item No. 10, Public Works Director Jones said grant money and funds from the Atherton Dames funded the project. Regarding Item No. 13, Public Works Director Jones said new procedures would be in place that would allow staff to survey other residents.

MOTION – to approve the Consent Calendar as presented.

M/S J.Carlson/McKeithen

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

- 7. APPROVED MINUTES OF THE SPECIAL CITY COUNCIL CLOSED SESSION MEETINGS OF NOVEMBER 26, DECEMBER 3, AND DECEMBER 13, 2007; THE SPECIAL CITY COUNCIL CLOSED SESSION AND REGULAR MEETING OF DECEMBER 19, 2007; THE SPECIAL CLOSED SESSION MEETING OF DECEMBER 21, 2007**
- 8. APPROVED BILLS AND CLAIMS FOR DECEMBER IN THE AMOUNT OF \$769,470**
- 9. ACCEPTED MONTHLY FINANCIAL REPORT FOR DECEMBER 2007**
- 10. ACCEPTANCE OF WORK, AUTHORIZATION TO RECORD NOTICE OF COMPLETION AND APPROVAL OF CONTRACT CHANGE ORDERS IN THE AMOUNT OF \$ 6,645.58 FOR THE HOLBROOK-PALMER PARK WALKING PATH PROJECT, PROJECT NO. 07-001**

Accepted work, authorized recording of a Notice of Completion and approved contract change orders in the amount of \$6,645.58 for the Holbrook-Palmer Park Walking Path Project, Project No. 07-001.

11. **APPROVAL OF FUNDING AGREEMENT WITH THE CITY/COUNTY ASSOCIATION OF GOVERNMENTS FOR AN \$85,000 GRANT FOR SIGNAL CONTROLLER UPGRADES AND VIDEO DETECTION AND AUTHORIZATION TO AWARD A CONTRACT TO REPUBLIC ITS TO INSTALL THE SIGNAL UPGRADE AND VIDEO DETECTION EQUIPMENT IN AN AMOUNT NOT TO EXCEED \$85,110**

Approved a funding agreement with the City/County Association of Governments (CCAG) for an \$85,000 grant for signal controller upgrades and video detection and authorized the City Manager to award a contract to Republic ITS to install the signal upgrade and video detection equipment in an amount not to exceed \$85,110.

12. **APPROVAL OF RESOLUTION TO MODIFY THE RULES, REGULATIONS AND PROCEDURES FOR MANAGING TRAFFIC (TRAFFIC PROGRAM)**

Adopted Resolution No. 08-01, "A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON TO MODIFY THE RULES, REGULATIONS AND PROCEDURES FOR MANAGING TRAFFIC (TRAFFIC PROGRAM)."

13. **FAIR OAKS TRAFFIC STUDY**

Directed staff to proceed with the Fair Oaks Traffic Study under the revised traffic procedures.

PUBLIC HEARINGS (Item 14 and 15)

14. **INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 8.14 OF THE ATHERTON MUNICIPAL CODE REGULATING HISTORIC ARTIFACTS**

City Attorney Marc Hynes presented the staff report. The proposed amendments before the Council came as a result of the court action by the San Mateo Superior Court. The Court made recommendations that were not binding on the Council but were changes the Council might wish to reconsider in connection with the Historic Artifacts Ordinance, i.e., defining the meaning of the Lindenwood Historic District, as well as clarifying the affect of an owner's objection to be included in the inventory of historical artifacts. Two principal changes were highlighted in the ordinance: 1) a newly defined term that referred to the Lindenwood Historic Artifact District and included a geographic definition of the boundaries; and 2) language was set out in the ordinance in Section 8.14.090 regarding a minor alteration permit which could be approved by the Building Official and appealed to the Planning Commission, e.g., small repairs and maintenance. Attorney Todd Williams and Consultant Laura Jones were both present to answer questions.

Mayor Janz read the petition email into the record that noted the signers wanted the Historic Artifact Ordinance overturned completely. Those in attendance who sent an email need not repeat it. Mayor Janz opened the public hearing.

Melinda Tevis, Atherton, questioned the fear about protecting what little history was left in Atherton. She encouraged Council to protect what was left.

Richard Agess, President of the Menlo Park Historical Association, stressed the importance of maintaining artifacts and historic buildings for future generations. He noted that the definition of an artifact did not mean it had to stay in its exact location. There were museums containing artifacts.

Randy Lamb, Atherton, agreed on the importance of preserving artifacts. He created the website with the email petition because Council and residents needed to know the facts. Surprisingly, in five days, he learned that people cared, took an interest, and over 220 people responded. He encouraged people to visit the website.

William Grindley, Atherton, was not against preservation; however, he believed the Town was Draconian in the way it went about it. The law was bad and the amendments worse. He pointed out several objections and inconsistencies in the law.

Bob Proctor, Atherton, said there were not enough artifacts left to worry about, as well as too much misinformation. He was completely against the ordinance as it pit neighbor against neighbor.

Jillian Manus Salzman, Atherton, was concerned that Council interjected itself into lives of Atherton residents. She queried how many tax dollars had been spent on one issue. She thought \$130 thousand dollars could be better spent to enhance the Town rather than encroach on people's lives.

Neil Rasmussen, Atherton, was an artifact owner impacted by the ordinance. He said he received no written notice of the meeting. He believed the ordinance seized private property. There were 17 artifacts on public property and no need to seize those on private property. He supported the preservation of Lindenwood artifacts; however, he supported the establishment of a nonprofit foundation to preserve artifacts.

Mel Britton, Atherton, quoted Gertrude Stein when talking about Oakland that "there is no 'there' there." He believed what people were trying to do was to preserve what "there" there was for future generations. He suggested crafting some way to preserve what was there and find a middle ground.

Marion Oster, Atherton, President of the Atherton Heritage Association, said the basic purpose of the Historic Artifact Ordinance was to stop the destruction and loss of artifacts in Atherton and was triggered by the demolition of the Stern gates. Many public meetings were held and the ordinance was created and adopted by Council. Homes were never discussed or part of the ordinance. There was no design review. To end confusion, the Lindenwood Historic District was newly defined as the Lindenwood Historic Artifact District. She encouraged Council to pass the amendment; the artifacts were valued as a link to the historic past of Atherton.

Malcom Dudley, Atherton, said everyone elected to Council ran on the same platform, i.e., to preserve the rural, nique character of Atherton. He believed the artifacts from the Flood estate related directly to the estate and related to a lifestyle of a bygone era. To move them to other areas, took them out of context that was relevant to their significance. In fairness to everyone, he suggested an exception be granted for the Lambs to move the urns to their new home with the condition the urns would be returned to Lindenwood if they moved out of Atherton.

Elizabeth Lewis, Atherton, General Plan Committee Member, did not support the ordinance when it was before the General Plan Committee and she did not support it currently. She believed the ordinance was divisive to the Town and was a bad ordinance without a bigger vision. She thought an alternative solution would be a voluntary Atherton Historic Foundation to raise money to preserve artifacts located on public property, etc.

Steve Ackley, Atherton, noted that the ordinance was impacting just 28 homes, one percent of the homes in Atherton. He was concerned that the rest of the residents were paying the bill. He suggested that a compromise was clearly needed. He was a personal property rights advocate.

Carol Flaherty, Atherton, believed the Town needed a historic ordinance, as it was the fundamental responsibility of every Town to preserve its heritage. What to do about the artifacts in Lindenwood that were not on a historic state registry and were privately owned was at issue. She thought the ordinance was narrow in scope. The issue was homeowners' rights over civic interest, and homeowners' rights took precedence.

Scott Mitchell, Atherton, was against the ordinance. He lived in Lindenwood and thought people who lived in Lindenwood and were directly impacted should vote on the ordinance.

MaryAn Ackley, Atherton, recently visited the San Mateo Historic Museum of San Mateo. The visit brought to light the importance of preserving history for future generations. However, she was concerned that the ordinance was about preserving a few artifacts in the backyards of Lindenwood. Compliance and defending lawsuits regarding the ordinance did not really help the entire community.

Nick Athens, Atherton, disagreed with the ordinance amendments. As long as the urns stayed in the Town of Atherton, he did not have a problem, and the issue was divisive.

Herman Christensen, Atherton, said property rights were not absolute. There were zoning codes, setback regulations, height, limitations, etc. Most communities had some type of historic preservation. He urged Council to adopt the amendments.

Kristi Waldron, Atherton, had two urns in her front yard and removing them would leave a gapping void. The urns were not artifacts from the Flood estate. She drew an analogy between the Lindenwood artifacts and heritage trees. She believed the artifacts within Lindenwood needed to be preserved within Lindenwood. She said a

process was followed, comments were heard at open meetings, 12 people spoke in support, and only the Lambs spoke to the contrary. She urged Council to adopt the amendments.

David Martin, Atherton, said he did not receive a notice of meeting. He supported preservation but was against the invasive, unilateral approach of the ordinance. He suggested the Town purchase the artifacts and put them in public view. Additionally, he believed property values would decrease because of restrictions of the ordinance.

Phil Lively, Atherton, said the Historic Artifacts Ordinance was developed after months of work by concerned citizens, staff, and consultants in order to balance the concerns of property owners with the community interest in preserving artifacts of the Town's past. He believed the ordinance was responsive to the General Plan. The amendments would clarify the ordinance. He noted that property values had actually risen.

Bob Oster, Atherton, said the Council affirmed in past actions that it wanted to preserve and protect the few historic artifacts that remained in the Town. There were only 53 artifacts, 42 of which were owned by private residents. Many of those present were not affected by the ordinance. He believed the vast majority of Lindenwood residents supported the ordinance, having spoke to over 100. He urged Council to approve staff's recommendation to clarify the ordinance by approving the amendments.

Lisa Lamb, Atherton, said the Historic Artifact Ordinance, which was intended to preserve artifacts, would end up dividing neighborhoods. She believed it was a personal property rights issue. The ordinance was poorly written, affected more than just historic artifacts, and gave power to those who might not have the knowledge necessary to determine what was historical. She and her husband hired an outside historian to research James Flood. There were no records indicating any urns had been sold at auctions in 1934, as well as no urns matching those of the Lambs.

John Rugeiro, Atherton, suggested putting the item on the ballot in June.

Mayor Janz closed the public hearing.

Council Member Marsala said with everything that had happened up to this point and given the lawsuit with the Lambs, he was in favor of starting over and thought a voluntary ordinance was preferable. He cited several examples of donations to the Town. Additionally, there was the law of unintended consequences; going forward, there might be more lawsuits. Council Member Marsala made the following motion:

MOTION – to rescind the Historic Artifact Ordinance, pursue a voluntary Historic District, encourage residents to donate to a foundation and to donate their artifacts

Motion died for lack of a second.

Vice Mayor Carlson was in agreement that there should be preservation of artifacts. The Town had a role to play in the process that inferred some sort of rules or

ordinance. One alternative would be to approve the amendments that evening and send it to the General Plan Committee to come up with more of a compromise, e.g., voluntary vs. non-voluntary, establishing a foundation, etc. He was not in favor of dropping the ordinance; however, there was a need to reexamine it.

Council Member McKeithen said Council tried to save historic artifacts. She believed the resulting flawed ordinance might have turned out differently if everyone had become involved at the time the ordinance was being discussed more than a year ago. Very few people seemed against it at the time. Council needed to listen to the community. She believed what was clear that evening was that the community did not want the ordinance. She stated that everyone was at fault for the situation and encouraged everyone to become involved by working together to find a better solution. She suggested sending the ordinance back to the General Plan Committee.

Mayor Janz read a letter from David and Kathy Wisenberg, who lived in Lindenwood, into the record. Clearly, everyone was in favor of preserving artifacts and history. He believed the basic ordinance was the problem, not the amendments. Some alternatives might include sending the ordinance back to the General Plan Committee for review, appointing a committee comprised of some Council Members and residents to review it, or putting an ordinance on the ballot perhaps as an advisory issue.

Council Member Marsala was in favor of rescinding the ordinance to apply pressure to develop a better ordinance. Three years had past since the emergency ordinance was put in place, and nothing had been done to fix it. He was in favor of a voluntary ordinance and an advisory vote.

Vice Mayor Carlson wanted to put a vote on the back burner. He was in favor of sending the ordinance to the General Plan Committee for review.

Deputy Town Planner Lisa Costa Sanders said the General Plan Committee had established three outreach meetings regarding the Zoning Code Update. She suggested adding on the Historic Artifact Ordinance for discussion at one of the meetings in order to take advantage of PMC's expertise to facilitate a dialogue.

MOTION – to utilize one of the Zoning Code Update meetings, facilitated by PMC, to consider the preservation of historic artifacts and to draft an ordinance to be considered by the General Plan Committee and ultimately the Council

M/S McKeithen/J.Carlson Ayes: 3 Noes: 1 (Marsala) Absent: 0 Abstain: 0

Mayor Janz called for a recess at 9:31 p.m. The meeting was reconvened at 9:43 p.m.

15. APPEAL OF THE DECISION OF STAFF REGARDING 137 STOCKBRIDGE AVENUE – (APN 059-292-060)

Due to an error in the public notice, this item was continued to February 20, 2008.

REGULAR AGENDA (Items 16-21)

16. REQUEST FROM THE ATHERTON DISASTER PREPAREDNESS COMMITTEE FOR FUNDING FOR NEIGHBORHOOD DISASTER PREPAREDNESS ACTIVITIES

Bob Jenkins, Atherton, said the item was a follow-up to the progress report given at the December City Council meeting. He had also made a similar presentation to the Menlo Park Fire Protection District (MPFPD) Board. The Disaster Preparedness Committee also reviewed the item last week. He asked for clarification as to which two Council Members would be on the Town's Emergency Preparedness committee. The Disaster Preparedness Committee, all the C.E.R.T graduates, all the licensed radio operators, and all the medical personnel were ready to go to work during and after the recent rainstorm.

Council Member McKeithen said the Finance Committee discussed the possibility of putting money in the budget for disaster preparedness. She spoke to Carol Parker at the MPFPD who indicated there were no funds for equipment to set up the 16 neighborhood groups. She asked Ms. Parker to work with the citizens' committee to prepare a list of what was necessary once the community groups were ready. The MPFPD did offer some large container trailers.

John Maulbetsch, Atherton, said a few of the 16 neighborhood groups had made initial progress. They had gained experience with the Golden Shadow event. A major requirement was good communications between the neighborhood groups and the Emergency Control Center (ECC) in Menlo Park. There were differing opinions on the type of communication equipment needed. Based on the Golden Shadow experience, he believed the only clear, reliable communication vehicle on hand was a privately owned ham radio set. An alternate plan was that the neighborhood groups should have communication equipment that was adequate to get to the nearest fire station. The costs were comparable. If money were allocated, each neighborhood needed to run tests to see what was best for their neighborhood group. Some groups were ready and some were not. The request was actually for \$73,000 to be made available as groups were ready.

Council Member Marsala thought locating a trailer at Town Hall would enable the Police Department to bring it to a district or between two districts and would be preferable to having 16 storage sheds throughout the Town.

City Manager Jerry Gruber thought disaster preparedness was an important program. He clarified that \$120,000 had been allocated in 2006/07 and spent on such items as a new generator, well, and police car laptops. There was no money allocated for 2007-08.

Council Member McKeithen said the cost per location was \$4,600. Equipping 16 different caches, with various people having access, would be preferable because the Police Department and Public Works Department would be too busy in a disaster. At most, one or two groups would be ready in the next year to receive an allocation.

Vice Mayor Carlson quoted from a letter that the MPFPD would work with the Town to identify funding sources. He suggested allocating funds for up to five neighborhoods in

the current fiscal year and review the topic for next year's budget. Additionally, he suggested the committee talk to MPFPD to get additional funding.

John Sisson, Atherton, noted the trailers were sizable and not easily moved. The point needed to be stressed that every individual household was responsible for its own food and water. No neighborhood cache would have food or water.

Bob Jenkins, Atherton, said the committee had been working on the project for two years by getting volunteers to join the neighborhood groups, to take C.E.R.T. training, to become licensed radio operators, etc. They were running into problems because they were using personal radios and other equipment and there was not enough to go around. The request for funds was to furnish the appropriate equipment needed for a communications network.

Mayor Janz clarified that the schools were equipping their own caches. He stated the committee had done an excellent job in the past two years to organize the neighborhoods, working with the associations, etc.

A discussion ensued regarding funding sources and including the item in the mid-year budget process. City Manager Gruber recommended that the committee purchase the equipment and submit receipts to the Town.

MOTION - subject to speaking to the MPFPD for other supplemental funds, to approve an allocation of \$4,600 per Atherton district that showed readiness to receive communication equipment and disaster response supplies as listed in Appendices 1 and 2 of the staff report for Fiscal Year 2007/2008 up to a total of five districts

M/S McKeithen/J.Carlson

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

17. APPROVAL OF VIDEO MONITORING HARDWARE PURCHASE

Police Chief Bob Brennan presented the staff report. The Town wanted to partner with Ojo Technology that would provide the format to be expanded to monitor many different areas. The system was a web-based design to allow as many cameras as desirable. Cameras could be installed at intersections, or in the Atherton channel, or at the train station. The cameras were only activated when predetermined parameters were set and activated. There was an unlimited amount of parameters that could be used. Residents could also have cameras hooked up to the system. When an alarm went off, when water was rising in the creek, the cameras would be turned on. The system would enhance protection of the residents, as well as help with disaster preparedness. Anyone who wanted to link into the system would pay the cost to do so.

A short discussion ensued regarding the cameras' capabilities. The requested funds were to replace existing equipment. If additional cameras were desired, they would need to be purchased or an alternate funding source found. Ojo Technology would be responsible for programming the parameters, not the Police Department. Funds were included in the Fiscal Year 2007/2008 budget.

MOTION - to approve the purchase of new video cameras and accessories from Ojo Technology for the Police Department building and adjoining areas for a total cost not to exceed \$20,993.

M/S J.Carlson/McKeithen

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

**18. DISCUSSION OF POTENTIAL ERRORS IN BUILDING PERMIT FEES -
UNIFORM BUILDING CODE TABLE 1-A/ CALIFORNIA BUILDING CODE
TABLE 1-A**

City Attorney Marc Hynes presented staff report. An issue arose over whether the Building Department was overcharging fees based upon the tables being used when fees were calculated. He explained how the tables had become confused and that the fee being collecting under the Uniform Building Code Table 1-A was correct. In fact, for a time, the fees were collected under the California Building Code Table 1-A, which actually resulted in undercharges of \$28,333. More research needed to be done by the department to determine to what projects the undercharges related.

Council Member Marsala, for the record, related an incident noted in the Topliff report that indicated former Finance Director John Johns had thrown Council Member Marsala's public records request regarding this item in the wastebasket. He had difficulty securing the information.

Building Official Mike Wasmann clarified the new software would be ready to "go live" in late March. The program was setup with the correct table.

Carol Flaherty, Atherton, referred to an article in the Almanac regarding the possible overcharges in building permit fees. When she went to the Building Department to file, she was told she was probably undercharged. She thought there should be a time limit (180 days) on how far back the Town could go to secure undercharges.

Jeff Wise, Atherton, said there had been considerable improvement in the Building Department over the past year. He was not sure that trying to collect the undercharges would be cost effective and suggested the Council not pursue collecting the undercharges.

Council Member McKeithen thought Council Member Marsala had acted prematurely making a statement regarding the issue which caused a disservice to the community and the Council. In the future, protocol should be followed to deal with issues internally first.

No action taken.

**19. ADOPTION OF A RESOLUTION REQUIRING CANDIDATES TO PAY THE
COST OF PUBLICATION AND DISTRIBUTION OF THE STATEMENT OF
QUALIFICATIONS WITH THE SAMPLE BALLOT AND SPECIFYING THE
LENGTH OF THE STATEMENT**

Acting City Clerk Kathi Hamilton said the item was before related to the Special Election to be held on June 3, 2008, to fill the unexpired term of Alan Carlson. The Council needed to adopt regulations and to specify the length of the Candidate Statement to be submitted to voters. Traditionally, if candidates chose to submit a Candidate Statement, candidates borne the cost of having the statement printed in the Sample Ballot (a \$400 deposit collected at the time of filing) and the length of the statement had been set at 200 words.

MOTION - to adopt Resolution No. 08-02, "A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADOPTING REGULATIONS FOR CANDIDATE STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, JUNE 3, 2008," and specifying the length of the statement at 200 words

M/S J.Carlson/McKeithen

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

20. RESOLUTION GOVERNING COMMITTEES/COMMISSION (*Continued from the City Council meeting of December 19, 2007.*)

- A. ADOPTION OF A GOVERNING RESOLUTION REGARDING COMMITTEES AND COMMISSIONS**
- B. ADOPTION OF A RESOLUTION AMENDING COUNCIL'S RULES OF PROCEDURE**
- C. INTRODUCTION OF AN ORDINANCE RESCINDING SECTIONS 2.37 AND 2.40 OF ATHERTON'S MUNICIPAL CODE**
- D. ADOPTION OF A RESOLUTION RESCINDING RESOLUTION NO. 98-06 ESTABLISHING AN ARTS COMMITTEE**

City Attorney Marc Hynes suggested the item would be a good topic for an offsite workshop. He had obtained names of individuals who provided team-building workshops and would provide them to the Council.

Mayor Janz said traditionally, he would be appointing various Members of the Council to Council Committees that evening. During the City Manager recruitment process, he and other Council Members discovered that the Town had more committees than other communities. In an effort to clean up the organization and reduce workloads, he suggested keeping the structure and members in place at the present time until a workshop/retreat with the City Manager and a facilitator could be held. Once the committees were reviewed and a decision was made regarding the proper arrangement, the Mayor would make appointments.

Council Member McKeithen wanted to be sure to include how much staff time was used for committees.

No action was taken.

21. DISCUSSION OF RETREAT FOR CITY COUNCIL AND STAFF

City Manager Jerry Gruber said Assistant to the City Manager Wendé Protzman had obtained the names of several competent facilitators. The first step would be to determine what topics would be discussed. Supplemental questionnaires could be used before the retreat as well.

Mayor Janz said since part of the goal of the retreat was to work out how the Council related with the City Manager, he thought the City Manager was the appropriate one to select a facilitator.

Vice Mayor Jerry Carlson wanted to be sure the Code of Conduct would be discussed, as well as the evaluation process for the City Manager and the City Attorney.

A discussion ensued regarding an appropriate timeframe for the retreat, as well as an appropriate site.

Direction was given to the City Manager to find an appropriate site, to select a facilitator, and to poll the Council for specific dates.

21A. CONSIDERATION AND APPROVAL OF CITY MANAGER CONTRACT

The item was not heard as the related Closed Session discussion was continued to the end of the Regular meeting.

22. COUNCIL REPORTS

- Vice Mayor Carlson commended Mayor Janz for his article in the *Almanac* and for his statement that evening. He asked that staff look into the Watkins Avenue traffic issue. As a member of the Finance Committee, he preferred using parcel tax funds for infrastructure rather than on Town operations. In the past, estimates for revenues had been rather conservative and any surplus was added to reserve funds. He suggested a policy be established that parcel tax funds be used for infrastructure, as well as developing a policy for reserve funds. The Finance Department's finance software was DOS based and needed replacing. He met with Chief Brennan, Lieutenant Nielsen, and Assistant to the City Manager Wendé Protzman regarding the development of a pie chart for Police Department expenditures.
- Council Member Marsala said the Environmental Programs Committee (EPC) would be meeting on January 28, at 7:00 p.m. at Menlo College, to see any programs developed there. The EPC developed a resolution for "Spare the Air Day" and was working on an ordinance regarding wood-burning devices. He would be attending the League of Cities in Sacramento and would be representing the County on protecting employee rights.
- Mayor Janz met with the president of Menlo College who was eager to work with the Town on environmental issues, as well as working with issues of the aging population.
- Council Member McKeithen attended meetings of the Finance Committee and the Peninsula Traffic Congestion Relief Reliance, as well as meetings regarding drainage issues and disaster relief issues.

23. PUBLIC COMMENTS

Police Chief Bob Brennan reported the Atherton Police Department arrested a burglary suspect that morning on Ashfield Road.

William Grindley, Atherton, said the common theme seemed to be to get more information out to all Athertonians. He urged Council to be sure everyone was notified, especially regarding contentious issues.

24. ADJOURNMENT

Mayor Jim Janz adjourned the meeting to a *Continued* Closed Session at 11:15 p.m.

The Closed Session was reconvened at 11:20 p.m. By unanimous vote of the Council, with respect to Item C, City Attorney Marc Hynes replaced Bill Avery as the Agency Designated Representative.

Report of action taken.

City Attorney Marc Hynes reported out of Closed Session that there was no reportable action taken on either Item A or Item B. With respect to Item C, by unanimous vote of the Council, the City Council approved the City Manager contract between Jerome “Jerry” Gruber and the Town of Atherton.

ADJOURN

Mayor Jim Janz adjourned the *Continued* Closed Session meeting was at 11:50 p.m.

Respectfully submitted,

**Kathi Hamilton
Acting City Clerk**

TOWN OF ATHERTON
CLAIMS LIST
 January, 2008

Payroll Checks	10690-10887	\$ 7,425
Electronic Transfers		347,730
A/P Checks	25225 - 25397	757,616
TOTAL		\$1,112,771

I, Jerome Gruber, City Manager of the Town of Atherton, do hereby certify under penalty of perjury that the demands listed above, check numbers 10890 - 11016 (payroll) and 25402 - 25609 (accounts payable), and electronic transfers for employees direct deposits, federal payroll taxes and fees, inclusive, amount to \$1,112,771; are true and correct, and that there are sufficient funds for payment.

 Jerome Gruber
 City Manager

The above claims, check numbers 10890 – 11016 (payroll) and 25402 - 25609 (accounts payable), and electronic transfers for employees direct deposits, federal payroll taxes and fees, inclusive, amount to \$1,112,771; are true and correct, and are authorized for payment.

 James R. Janz
 Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	\$552,382
105	Tennis Fund	
201	Special Parcel Tax	123,184
202	Transportation	-
203	Gas Tax Fund	-
210	Road Construction Impact Fees	4,883
211	Park Grants Fund	25,023
213	Library Special Revenue Fund	726
401	General Capital Projects	3,130
402	Storm Drainage	-
403	Atherton Channel District	4,392
406	Facilities Construction	-
610	Vehicle Replacement	29,536
611	Computer Maint. & Replacement	4,222
612	Administrative Services	9,588
715	Evans Estate	550
740	Tree Committee	-
TOTAL		\$757,616



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: BILL YEOMANS, INTERIM FINANCE OFFICER

DATE: FOR THE MEETING OF FEBRUARY 20, 2008

SUBJECT: MONTHLY FINANCIAL REPORT, JANUARY 2008

RECOMMENDATION:

Receive the Monthly Financial Report for January 2008.

INTRODUCTION:

The attached schedules of revenues and expenditures for all funds as of January 31, 2008.

HIGHLIGHTS:

At this meeting, you are receiving the Mid-Year Review of the Budget for Fiscal Year 2007-08 (FY08).

Revenues in the General Fund are at 61% of the original Budget Estimate after seven months (58%). The Mid-Year Review makes projections for all funds as to where revenues will be at the end of the year.

Expenditures in the General Fund are at 59% of Budget and are within expected levels except in the following areas:

1. The City Attorney Department at 140% of budget includes unanticipated litigation costs that will be addressed by a mid-year budget adjustment.

2. Building is seeing higher-than-budgeted costs as a result of litigation, a new computer system installation, and planning updates, all non-recurring expenditures.
3. Annual insurance deposits are paid at the start of the fiscal year increasing expenditures in the Administrative Services Fund (58%). Utility bills amounting to \$40,000 charged to the Information Technology Fund (74%) will be reallocated to other funds.

FISCAL IMPACT:

Informational only.

Prepared by:

Approved by:

William Yeomans
Interim Finance Officer

Jerome Gruber
City Manager

TOWN OF ATHERTON
Revenue Summary
for the Month Ended January 31, 2008

Fund	Revenue source	2007-08 Estimate	Current Period Revenue	Year to date Revenues	% received
	Property Tax	4,286,303	188,348	2,787,911	65%
	Sales & Use Tax	147,756	20,255	113,548	77%
	Other Taxes	1,162,774	76,661	321,950	28%
	Licenses & Permits	2,128,188	70,532	1,015,369	48%
	Fines & Forfeitures	35,000	2,514	22,438	64%
	Revenue from Other Agencies	414,500	492,378	628,932	152%
	Charges for Services	293,808	55,167	326,345	111%
	Investment & Rental Income	489,478	9,096	183,748	38%
	Other Revenues	5,000	13,292	34,023	680%
	Total General Fund Revenues	8,962,807	928,243	5,434,264	61%
	Interfund (Operating Transfers) In	900,000			
101	General Fund Total	9,862,807	928,243	5,434,264	
	Special Revenue Funds				
105	Tennis	8,000	1,000	2,007	25%
201	Special Parcel Tax	1,858,000	167,527	1,099,547	59%
202	Transportation	265,000	19,823	161,181	61%
203	Street Improvement (Gas Tax)	150,000	23,572	87,280	58%
209	State COPS Grant	100,000	0	144	0%
210	Road Construction Impact Fees	1,132,102	39,538	520,882	46%
211	Grants Fund	104,800	0	484	0%
213	Library	284,000	0	30,928	11%
	Total	3,901,902	251,460	1,902,507	49%
	Capital Project Funds:				
401	Capital Improvement	2,000	0	3,255	163%
402	Storm Drainage	1,000	0	511	51%
403	Channel Drainage District	46,000	6,181	39,252	85%
406	Facilities Construction			837	
	Total	49,000	6,181	43,855	100%
	Internal Service Funds:				
610	Vehicle Replacement	104,049	0	55,697	54%
611	Information Technology	109,637	0	79,391	72%
612	Administrative Services	312,599	0	157,290	50%
	Total	526,285	0	292,378	59%
	Trust and Agency Funds:				
715	Evans Creative Design	14,500	0	2,856	20%
740	Tree Committee	1,400	0	1,003	72%
	Total	15,900	0	3,859	20%
	Total Revenues	14,355,894	1,185,884	7,676,863	53%



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: BILL YEOMANS, INTERIM FINANCE OFFICER

DATE: FOR THE MEETING OF FEBRUARY 20, 2008

SUBJECT: QUARTERLY INVESTMENT REPORT, DECEMBER 2007

RECOMMENDATION:

Note, receipt, and file.

INTRODUCTION:

This is the quarterly status report of the Town's investments in the Local Agency Investment Fund (LAIF) and the San Mateo County Investment Pool (SMCIP) for the quarter ending December 31, 2007.

DISCUSSION

As of December 31, 2007, the Town had a total investment of \$14,845,274. The total interest earnings for the quarter ending December 31, 2007, amounted to \$152,582. The funds are invested in the Local Agency Investment Fund (LAIF) and the San Mateo County Investment Pool (SMCIP).

During the fourth quarter of 2007, the SMCIP reported a gross pool earnings rate of 4.62% percent. The LAIF reported an average interest rate of 4.96%.

The interest income and effective yields reported by the San Mateo County Treasurer and by the State of California Treasurer include interest payments on fixed income securities held by these entities as well as any gains or losses realized on securities sold during the reporting interval. Calculations of interest income earned or reported yields do not reflect

any changes in the market value of the fixed income securities held by either the San Mateo County Pool or the State of California Local Agency Investment Fund.

To account for the increase or decrease in the economic value of fixed income securities (unrealized gains or losses) held directly or indirectly through investment pool, Governmental Accounting Standards Board Statement Number 31 requires municipalities to report such unrealized gains or losses separately at yearend. This “mark to market” accounting entry is recorded on the financial statements as current year income. Additionally, fund balance is reserved in an amount that is equivalent to the amount of the unrealized gain that has been recorded as current year income.

Investment at SMCIP: The San Mateo County Investment Pool was created and is managed by the County Treasurer.

As of December 31, 2007, the County’s investment pool carried investment with a total value of \$2.6 billion. The Town’s investment with the San Mateo County Investment Pool as of December 31, 2007, amounted to \$9,710,212, or 65% of the Town’s total investment holdings.

Attachment 1 to this staff report provides a summary of the investment earnings and investment holdings for the San Mateo County Investment Pool as of December 31, 2007.

Investment at LAIF: The Local Agency Investment Fund (LAIF) was created and is managed by the California State Treasurer in conjunction with the Pooled Money Investment Account (PMIA).

As of December 31, 2007, PMIA had total assets of \$66 billion. The Town’s investment with LAIF as of December 31, 2007, amounted to \$5,135,061, or 35% of the total funds invested.

Attachment 2 to this report provides a summary of the composition of the LAIF and PMIA according to the investment fund.

FISCAL IMPACT:

Informational only.

Prepared by:

Approved by:

Bill Yeomans
Interim Finance Officer

Jerome Gruber
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: BILL YEOMANS, INTERIM FINANCE OFFICER

DATE: FOR THE MEETING OF FEBRUARY 20, 2008

**SUBJECT: ADOPTION OF A RESOLUTION FOR SIGNATURE AUTHORITY FOR
COMERICA BANK**

RECOMMENDATION:

Adopt the attached resolution to update the signature cards for the Town of Atherton at Comerica Bank

INTRODUCTION:

This Resolution provides signature authority for Town bank accounts with Comerica Bank.

ANALYSIS

Comerica Bank requires a resolution from the City Council authorizing signatories on the bank accounts. The Mayor and the City Manager are the only individuals authorized to sign on the General Account and the Payroll Account, or to make transfers from those accounts. For coverage when the City Manager is unavailable, we are adding the City Clerk as well. This resolution will be accompanied by signature cards for James R Janz, Jerome Gruber, and Kathi Hamilton, which will be placed in the Bank records for verification.

Attachments: Resolution

Prepared by:

Approved by

Bill Yeomans
Inerim Finance Officer

Jerome Gruber
City Manager

RESOLUTION 08-

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
APPROVING SIGNATURE AUTHORITY FOR CERTAIN INDIVIDUALS
AFFILIATED WITH THE TOWN OF ATHERTON**

WHEREAS, the City Council of the Town of Atherton has previously authorized the establishment of certain bank accounts at the Comerica Bank, Menlo Park branch; and

WHEREAS, the City Council has previously adopted a policy of requiring at least two authorized signatures on all checks issued by the Town Treasury; and

WHEREAS, the City Council wishes to designate those persons authorized to sign checks on behalf of the Town.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the Town of Atherton approves using two stamped signatures on Town payroll checks only, and authorizes the following individuals to sign all checks drawn on the Treasury of the Town of Atherton:

James R. Janz, Mayor of the Town of Atherton
Jerome Gruber, City Manager
Kathi Hamilton, Acting City Clerk

BE IT FURTHER RESOLVED that two of the Mayor, City Manager, and Finance Director are hereby authorized to enter into any agreement with Comerica Bank relating to the transfer of funds from and/or to the account or accounts of the Town of Atherton by means of telephonic, electronic, oral, or written instruction, and to designate from time to time who is authorized and empowered to order or confirm such transfers in accordance with such agreements or to otherwise act in accordance with such agreements; and

BE IT FURTHER RESOLVED, that all previous authorizations to sign checks on behalf of the Town of Atherton are hereby rescinded.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the day of , 2008, by the following vote:

AYES: **COUNCILMEMBERS:**
NOES: **COUNCILMEMBERS:**
ABSENT: **COUNCILMEMBERS:**
ABSTAIN: **COUNCILMEMBERS:**

James R. Janz, MAYOR
Town of Atherton

ATTEST:

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

*/s/ Marc Hynes*_____
Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

**FROM: PAULA PIERCE, ASST. FINANCE DIRECTOR
BILL YEOMANS, CONTRACT FINANCE OFFICER**

DATE: FOR THE MEETING OF FEBRUARY 20, 2008

**SUBJECT: ADOPTION OF THREE RESOLUTIONS FIXING THE
EMPLOYER'S CONTRIBUTION UNDER THE PUBLIC
EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT**

RECOMMENDATION:

Adopt the attached resolutions raising annuitant contributions to comply with AB 2544 amending Section 22892 of the Government Code, relating to public employee health benefits.

INTRODUCTION:

Rates for retiree ("annuitant") health insurance have not been raised by resolution since their inception in 1992 when the Town of Atherton entered into agreement with the Public Employees' Retirement System (CalPERS) to participate in Public Employees' Medical and Hospital Care Act (PEMHCA). To comply with AB 2544 the Town must submit resolutions for its three bargaining units whenever medical insurance contributions for active employees change, currently annually.

ANALYSIS:

Under the Public Agency provisions of the PEMHCA program, contracting agency employers, including the Town of Atherton, may elect to contribute to employee and annuitant health care in equal amounts or may establish a lesser monthly employer contribution for annuitants. If the "unequal" method (PEMHCA section 22892) was

chosen (as Atherton did), employers were previously required to annually increase the monthly annuitant contribution for health care by not less than 5 percent of the monthly employer contributions. Employers under this approach did not necessarily achieve parity with active employee contributions over time, and the Town of Atherton has not adjusted this rate according to health care contributions since the original resolution was passed. Assembly Bill 2544, passed on August 21, 2006, changes the computation for annual increases to annuitant health care under the unequal method. Under the new provisions, agencies have to annually increase the total monthly annuitant health care contribution to equal an amount not less than the number of years the agency has been in the PEMHCA program, multiplied by 5 percent of the current monthly employer contribution for employees, until such time that the employer contribution for annuitants equals the employer contribution paid for employees. However, this annual adjustment to the minimum monthly employer contribution for an annuitant authorized by this change cannot exceed one hundred dollars (\$100) per annuitant.

FISCAL IMPACT:

To catch up with these payments under AB 2544, Atherton must increase retiree monthly health contributions for Miscellaneous and Managerial employees by the maximum \$100 per annuitant. With nine former employees currently covered in that group, the Town will pay \$900 per month more, or \$10,800 per year. The Police unit has three former employees, which will increase the Town's cost by \$300 per month or \$3600 per year. So the total cost will increase by \$14,400 per year.

Prepared By:

Approved by:

Bill Yeomans
Interim Finance Director

Jerry Gruber
City Manager

Attachments: Resolutions

RESOLUTION 08-

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON FIXING THE EMPLOYER’S CONTRIBUTION UNDER THE PUBLIC EMPLOYEES’ MEDICAL AND HOSPITAL CARE ACT

WHEREAS, Government Code Section 22892(a) provides that a local agency contracting under the Public Employees’ Medical and Hospital Care Act shall fix the amount of the employer’s contribution at an amount not less than the amount required under Section 22892(b) of the Act; and

WHEREAS, Government Code Section 22892(c) provides that a contracting agency may fix the amount of the employer’s contribution for employees and the employer’s contribution for annuitants at different amounts provided that the monthly contribution for annuitants shall be annually increased by an amount not less than 5 percent of the monthly contribution for employees, until such time as the amounts are equal; and

WHEREAS, the Town of Atherton, hereinafter referred to as the Public Agency, is a local agency contracting under the Act for participation by members of the Miscellaneous Employee Group.

NOW, THEREFORE, BE IT RESOLVED that the employer’s contribution for each annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members in a health benefits plan up to a maximum of \$749.83 with respect to employee enrolled for self alone; \$1499.66 for an employee enrolled for self and one family member; and \$1949.56 for an employee enrolled for self and two or more family members, plus administrative fees and Contingency Reserve Fund assessments.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this 20th day of February 2008, by the following vote:

*AYES: Council Members:
NOES: Council Members:
ABSENT: Council Members:
ABSTAIN: Council Members:*

James R Janz, MAYOR
TOWN OF ATHERTON

ATTEST:

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney

RESOLUTION 08-

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON FIXING THE EMPLOYER’S CONTRIBUTION UNDER THE PUBLIC EMPLOYEES’ MEDICAL AND HOSPITAL CARE ACT

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WHEREAS, the Town of Atherton, hereinafter referred to as the Public Agency, is a local agency contracting under the Act for participation by members of the Miscellaneous Employee Group.

NOW, THEREFORE, BE IT RESOLVED that the employer’s contribution for each annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members in a health benefits plan up to a maximum of \$506.28 with respect to employee enrolled for self alone; \$1012.57 for an employee enrolled for self and one family member; and \$1316.34 for an employee enrolled for self and two or more family members, plus administrative fees and Contingency Reserve Fund assessments.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this 20th day of February 2008, by the following vote:

*AYES: Council Members:
NOES: Council Members:
ABSENT: Council Members:
ABSTAIN: Council Members:*

James R. Janz, MAYOR
TOWN OF ATHERTON

ATTEST:

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney

RESOLUTION 08-

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON FIXING THE EMPLOYER’S CONTRIBUTION UNDER THE PUBLIC EMPLOYEES’ MEDICAL AND HOSPITAL CARE ACT

WHEREAS, Government Code Section 22892(a) provides that a local agency contracting under the Public Employees’ Medical and Hospital Care Act shall fix the amount of the employer’s contribution at an amount not less than the amount required under Section 22892(b) of the Act; and

WHEREAS, the Town of Atherton, hereinafter referred to as the Public Agency, is a local agency contracting under the Act for participation by members of the Sworn Police Unit.

NOW, THEREFORE, BE IT RESOLVED that the employer’s contribution for each employee or annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of his/her family members in a health benefits plan up to a maximum of \$1247.06 per month; plus administrative fees and Contingency Reserve Fund assessments.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this 20th day of February 2008, by the following vote:

*AYES: Council Members:
NOES: Council Members:
ABSENT: Council Members:
ABSTAIN: Council Members:*

James R Janz, MAYOR
TOWN OF ATHERTON

ATTEST:

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: CITY COUNCIL MEETING OF FEBRUARY 20, 2008

**SUBJECT: CONSULTANT SERVICE AGREEMENT
PMC - PUBLIC OUTREACH – ATHERTON HISTORIC ARTIFACTS
ORDINANCE**

RECOMMENDATION:

Consider proposal for PMC to provide consultant services for Public Outreach in connection with amendments to the Town's Historic Preservation Ordinance. The scope of services and cost estimate are attached to this staff report as Exhibit A. The total estimated budget is \$32,530.00. Staff is recommending approval of expenditure in an amount not to exceed \$35,000.00 and approval of the proposal so that PMC may begin the work described.

BACKGROUND:

The Town is presently considering amendments to the Historic Artifacts Ordinance which have been prepared and most recently presented to the City Council at its regular meeting on January 16, 2008. At that time, there was a discussion in response to requests from members of the public to consider a public outreach program which would provide opportunities for public discussion of regulations pertaining to historic artifacts within the Town.

The PMC organization is currently working on preparation and circulation to all interested persons comprehensive amendments to the Town's zoning ordinance, which appears in title 17 of the Atherton Municipal Code. The attached proposal describes services related to public outreach relative to amendments proposed to the Historic Artifacts Ordinance which appears in Title 8 of the Atherton Municipal Code.

Estimated costs of the budget are \$32,530.00. Based upon the work which is described, this amount appears to be a reasonable figure. Accordingly, it is the recommendation of Staff that the proposal be approved with a cost not to exceed the amount of \$35,000.

FISCAL IMPACT:

\$35,000.00 as described above.

Prepared By:

Approved By:

/s/ Marc Hynes

Marc G. Hynes
City Attorney

Jerry Gruber
City Manager

Attachment – Exhibit A - PMC Report



MEMO

To: Lisa Costa Sanders
TOWN OF ATHERTON

From: Christopher Jordan and Andrea Elliott, PMC

Cc: Pam Johns, AICP, PMC

Date: February 5, 2008

Re: Public Outreach: Atherton Historic Ordinance

Project Understanding

Based on recent communications with staff, it is our understanding that the Town is looking for consultant services for public outreach in the completion of its Historic Preservation Ordinance. For almost two years, the Town of Atherton has been engaged in public debate and legal action regarding regulations for historic artifacts. This process has created a divisive and frustrated citizenry.

Each public outreach campaign is unique to the issue it addresses as well as the community it serves. To that end, we are proposing a public outreach and stakeholder collaboration process that will bring both sides of the issue together for a series of focused discussions. The services we have outlined for Atherton are based upon our experiences facilitating public outreach and engaging the public in collaborative processes.

We anticipate working closely with the Town's legal council to ensure legal adequacy of the proposed solutions, as well as with the Town's historic resources consultant.

Project Approach

Due to the amount of time this issue has been in the public eye and the amount of media attention the issues still garner, we recommend that a series of non-public stakeholder interviews and meetings be pursued in an attempt to find common ground between the disagreeing parties. Pursuing public meetings without separate stakeholder meetings having been conducted will likely only exacerbate an already contentious situation in a public forum and cause further community division. As a result, it is our recommendation that only after the stakeholder meetings have resulted in some positive outcomes regarding the historic ordinance, should additional public meetings be pursued.

We also recommend that all workshops and outreach activities be coordinated and lead by Town staff and the consultant team, rather than by the General Plan Committee. In our experience, an open dialogue of the issues can be more effectively approached by third

parties outside of the formal hearing process. Once the issues are ready to again go public, the General Plan Committee can be reintroduced to the process.

Once options for a revised ordinance have been identified by the stakeholders, the outcome would be discussed in a public workshop. After community buy-in, a revised ordinance would be taken to the Planning Commission and City Council.

Additionally, given the General Plan Committee's existing workload (e.g., Zoning Code Update) and other Council-identified work tasks, scheduling conflicts may arise.

Scope of Work

TASK A – DATA GATHERING

1. Stakeholder Interviews: Over a two-day period, PMC will conduct individual interviews with between five and ten key stakeholders as identified by the Town. The objective of these interviews is to assess viewpoints of the current historic preservation ordinance. The goal of this exercise is to identify initial areas in which the parties agree. This information will guide the consulting team in developing stakeholder meetings.

2. Stakeholder Workshop: Once the stakeholder interviews have been completed, a stakeholder workshop will be conducted. At the workshop, PMC will share the information gathered during the interviews and will ask participants a series of key questions that will help in framing changes to the Historic Preservation Ordinance. In addressing the key questions, stakeholders will be able to participate through the use of PMC's interactive polling system TurningPoint. Through the use of this system, participants will be able to see their answers to the questions in relation to other participants and consensus on the issues can start to be identified during the workshop.

3. Summary Results Report: A Summary Results Report will be developed and submitted to the Council in advance of the public workshops to outline specific information gathered during the interviews and stakeholder meetings.

TASK B – OUTREACH AND PUBLIC WORKSHOPS

1. Public Workshops: Once the stakeholders have been brought together and the major issues have been addressed, up to two public outreach meetings will be performed to allow community members an opportunity to ask questions and learn about the new options for the historic ordinance. Results of the stakeholder workshop will be shared. These workshops will be hosted by the General Plan Committee, but will be moderated by the consultant team.

2. Newspaper Advertising: Advertisements will be secured in the local newspaper to individually promote the public workshops.

3. Press Releases/Meeting announcements: Press releases will be developed and sent to local media to promote the public workshops and update the public on the specific issues to be discussed at each workshop.

4. Website: Periodic updates on the project would be placed on the Town web site to keep stakeholders and residents informed. The site will also serve as a source for public meeting announcements.

TASK C – ORDINANCE REVISIONS AND HEARINGS

1. Ordinance Revisions: In collaboration with the Town's legal council and historic resources consultant, PMC will prepare modifications to the existing Historic Preservation ordinance based upon stakeholder and public comments. This will include the preparation of one administrative draft for Town staff review and one public draft for Planning Commission and City Council review and consideration.

2. Planning Commission and City Council Hearings: Once the public workshops have been completed, PMC planning staff would be available to present the ordinance to the Planning Commission and City Council.

Cost Estimate

The following cost estimate is broken down by project task and is based on the following billing rates.

Project Advisor - \$125
Project Manager - \$105
Public Affairs Specialist - \$100
Historic Resources Specialist - \$100
Graphics/Administrative Support - \$65

Total Estimated Budget: \$32,530

Town of Atherton
Historic Preservation Ordinance Update
Tentative Schedule Outline

Task	Title	Tentative Date
A1	Stakeholder Interviews	Mid to late March
A2	Stakeholder Workshop	Mid April
A3	Summary Results Report	Late April
B	Public Workshops	May
C1	Ordinance Revisions	Late May
C2	Planning Commission and City Council Hearings	June to July



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: THE HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: NEAL J. MARTIN, TOWN PLANNER

DATE: FOR THE CITY COUNCIL MEETING OF FEBRUARY 20, 2008

**SUBJECT: 2006 ANNUAL REPORT TO THE CITY COUNCIL ON THE ATHERTON
GENERAL PLAN IMPLEMENTATION**

RECOMMENDATION:

Accept the Annual Report and authorize its transmittal to the California Governor's Office of Planning and Research and the California Department of Housing and Community Development pursuant to Section 65400 of the California Government Code (CGC).

BACKGROUND:

The State of California Statutes of 2005 (effective January 1, 2006) require the preparation of an annual report to the local legislative body, the California Governor's Office of Planning and Research (OPR) and the California Department of Housing and Community Development (HCD) describing the following:

1. The status of the local General Plan and progress in its implementation.
2. The progress in meeting its share of regional housing needs.
3. The degree to which the local General Plan complies with the adopted OPR guidelines.
4. The date of the last revision to the local General Plan.

Implementation of the statute was delayed pending rulemaking and preparation of forms by HCD. Those tasks were completed during 2006 and the annual report for that year was required by April 1, 2007. Staff from most Peninsula cities did not become aware of the requirement until late 2007 during a housing element workshop that included a speaker from HCD. Consequently, this annual report is filed past the deadline.¹

¹ Previous annual reports were filed with OPR by Staff and required only basic information such as adoption dates of the several general plan elements.

2006 ANNUAL REPORT:

Status of the Atherton General Plan and Progress in its Implementation

The Atherton General Plan was updated in 2002 and adopted by the City Council on November 20, 2002. It contains Land Use, Circulation, Housing, Open and Conservation, Noise, and Community Safety Elements. The Housing Element, which is the only element required to be reviewed by HCD, has been found to be “not in compliance” with the HCD review criteria. However, the Atherton City Council adopted the Housing Element pursuant to CGC Section 65585(f)(2) and included in its resolution of adoption written findings that explain the reasons the City Council believed that the element substantially complies with the requirements of the statute despite the findings of HCD.

Atherton is essentially built out in accordance with the policies stated in the General Plan. The Sphere of Influence as adopted by the San Mateo Local Agency Formation Commission is coterminous with the current City Limits. Essentially all of the existing parcels of land have been developed with land uses consistent with the General Plan. All of the streets and highways described in the General Plan are developed to their planned capacity. The entire infrastructure needed to serve the planned land uses and population is in place with sufficient capacity to accommodate the planned land uses and population.

Progress in meeting Atherton’s Share of Regional Housing Needs

CGC Section 65400(b)(2) provides: “The housing element portion of the annual report ... shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development ...” The tables provided in Attachment 1 describe the progress made in meeting Atherton’s share of regional housing needs.

Degree to which the Atherton General Plan complies with the Adopted OPR Guidelines

OPR adopted General Plan Guidelines in 2003 for use by local jurisdictions in the preparation of their general plans. The Guidelines are permissive, not mandatory and are quite extensive. Staff has prepared an analysis of the Atherton General Plan compared to the general criteria included in the Guidelines along with an evaluation of the degree to which the Atherton General Plan complies with the OPR Guidelines. That analysis is provided in Attachment 2. The analysis shows that the Atherton General Plan is in substantial compliance with the adopted OPR Guideline with a few minor exceptions.

Date of the Last Revision to the Atherton General Plan

The last revision to the Atherton General Plan was adopted by the City Council on November 20, 2002.

ALTERNATIVES:

1. Accept the Annual Report.
2. Provide direction to Staff for modification to the Annual Report.
3. Take no action.

FINANCIAL IMPACT:

All costs associated with this project are paid for by the Town of Atherton from the Contract Planner budget.

RECOMMENDATION:

It is recommended that the City Council accept the Annual Report and authorize its transmittal to the California Governor's Office of Planning and Research and the California Department of Housing and Community Development pursuant to Section 65400 of the California Government Code (CGC).

Prepared by:

Approved by:

Neal J. Martin
Town Planner

Jerry Gruber
City Manager

Attachments:

1. Annual Housing Element Progress Report – Tables A – C
2. Analysis of Atherton General Plan with OPR Guidelines

Analysis of Atherton General Plan (AGP) with Adopted Office of Planning and Research (OPR) Guidelines

April 1, 2007

OPR Guideline Requirement (to the extent that it is relevant) ¹	Reference or Comment	Degree of Compliance
Contains all 7 mandatory elements	AGP contains Land Use, Circulation, Housing, Open Space and Conservation, Noise and Community Safety Elements.	Full
Plan is integrated and internally consistent	All elements include a section entitled "Relation to Other Elements" describing how each is integrated and internally consistent.	Full
Land Use Element		
Contains a Land Use Diagram in sufficient detail to describe land use proposals	AGP contains a Land Use Diagram with sufficient detail to describe land use proposals. Pg. LU-8	Full
Shows distribution of housing, business and industry	AGP Land Use Diagram shows proposed residential, parks, open spaces, public facilities and schools uses. Business and industry are not permitted in Atherton. Pg. LU-8	Full
Distribution of open space including agriculture	AGP Land Use Diagram shows proposed open space uses. There is no agricultural land in Atherton. Pg. LU-8	Full
Distribution of mineral resources	There are no mineral resources in Atherton.	N/A
Distribution of recreation facilities and opportunities	AGP Land Use Diagram, pg. LU-8, the Land Use Element text, pg. LU-4-5, and the Open Space and Conservation Element, pg. OS-70-72 describe the distribution of recreation facilities and opportunities.	Full
Location of education facilities	AGP Land Use Diagram, pg. LU-8, the Land Use Element text, pg. LU-6 describe the	Full

¹ Language from the OPR Guidelines.

	location of education facilities.	
Location of public buildings and grounds	AGP Land Use Diagram, pg. LU-8, the Land Use Element text, pg. LU-5-7 describe the location of public buildings and grounds.	Full
Location of solid and liquid waste facilities	The Land Use Element text, pg. LU-6-7 describes the location of solid and liquid waste facilities.	Full
Identification of areas subject to flooding	The Land Use Element text, pg. LU-7 identifies areas subject to flooding.	Full
Identification of Timber Preserve Zone lands	There are no Timber Preserve Zone lands in Atherton.	N/A
Contains standards for population intensity and building intensity	The Land Use Element text, pg. LU-2-3 contains standards for population intensity and building intensity.	Full
Circulation Element		
Contains definitions and descriptions of:		
Major thoroughfares	The Circulation Plan Diagram, pg. LU-8 and the Circulation Element text, pg. CI-9-11 define and describe major thoroughfares; freeways, highways, minor arterials, collectors, local streets and street standards.	Full
Transportation routes	The Circulation Plan Diagram, pg. LU-8 and the Circulation Element text, pg. CI-9-15 defines and describes transportation routes.	Full
Terminals	The Circulation Element text, pg. LU-13, defines and describes the local rail terminals.	Full
Other local public utilities and facilities including railroads, airports and parking.	The Circulation Element text, pg. CI-12-15 defines and describes scenic roadways, transit and rail traffic, bicycle and pedestrian facilities. There are no airports close to Atherton.	Full
Housing Element		
See Attachment 1		

Open Space and Conservation Element		
The Conservation Element should address water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources.	There are no rivers, harbors, fisheries or commercial mineral resources in Atherton. The AGP Open Space and Conservation Element text, pg. OS-71 addresses protection of scenic resources, significant stands of natural vegetation, wildlife habitat, sensitive environmental resources (e.g. streambeds), and archaeological resources.	Full
The Open Space Element should address open space for the preservation of natural resources, for the managed production of resources, for outdoor recreation and for public health and safety.	AGP Open Space and Conservation Element text, pg. OS-70-72, the Land Use Diagram, pg. LU-8 and the Land Use Element text, pg. LU-4-5 address open space for the preservation of natural resources, for the managed production of resources, for outdoor recreation and for public health and safety.	Full
The Open Space Element should contain an open space action program	AGP Open Space and Conservation Element text, pg. OS-71-72 contains an Open Space Action Program.	Full
Noise Element		
Issues to be addressed include:		
Major noise sources, both mobile and stationary	AGP Noise Element text, pg. N73-75 describes the major community noise sources.	Full
Existing and projected levels of noise and noise contours for major noise sources	AGP Noise Element diagram, pg. N-80 provides existing and projected noise contours for major noise sources.	Full
Existing and projected land uses and locational relationship to existing and projected noise sources	AGP Noise Element text, pg. N73-75 describes the existing and projected land uses and locational relationship to existing and projected noise sources	Full
Existing and proposed sensitive receptors, including hospitals,	Existing and proposed sensitive receptors are	Not in

convalescent homes, schools, churches and sensitive wildlife habitat	not addressed in the AGP Noise Element	Compliance
The extent of “noise problems in the community”	AGP Noise Element text, pg. N73-75 describes the extent of “noise problems in the community”	Full
Method of noise attenuation	AGP Noise Element text, pg. N76-78 describes noise mitigation measures.	Full
Implementation measures and possible solutions that address existing and foreseeable noise problems	AGP Noise Element text, pg. N76-78 describes implementation measures and possible solutions that address existing and foreseeable noise problems	Full
Community Safety		
Issues to be addressed include:		
Seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure	AGP Community Safety Element text, pg. CS-82 addresses seismically induced surface faulting, ground shaking, ground failure and water waves (seiche). Tsunami is not a hazard in Atherton since the Town does not border on the Bay or Ocean. Dam failure is not addressed.	Substantial
Slope instability leading to mudslides and landslides	Slope instability is not addressed in the AGP Community Safety Element.	Not in compliance
Subsidence, liquefaction, and other seismic hazards identified on seismic hazard maps	Neither subsidence nor liquefaction is addressed in the AGP Community Safety Element.	Not in compliance
Flooding	There are no flood zones in Atherton	N/A
Wildland and urban fires	AGP Community Safety Element text, pg. CS-81 addresses major fire incidents.	Full
Evacuation routes and signage	AGP Community Safety Element text, pg. CS-82-83 addresses evacuation routes. Route signage is not addressed.	Partial
Peak load water supply requirements	AGP Community Safety Element text, pg. CS-81 addresses peak load water supply	Full

	requirements.	
Minimum road widths and turnouts	AGP Circulation Element text, pg. CI-12 addresses minimum road widths.	Full
Clearances around structures	Clearances around structures are not addressed in the AGP Community Safety Element.	Not in compliance

Town of Atherton

Annual Element Progress Report

Housing Element Implementation

Reporting Period: January 1 - December 31, 2006

Table C

Program Implementation Status

Program Description (by Housing Element Program Names)	Describe progress of all programs including progress in removing regulatory barriers as identified in the Housing Element.		
Name of Program	Objective	Deadline in H.E.	Status of Implementation
§3.410 Market Rate Housing Construction	107 New Above Market Units	2006	Net 5 new units constructed. Market has limited residential construction to reconstruction of 1 unit for each demolished unit.
§3.420 Second Dwelling Unit Program	10 New Low Income Units	2006	4 new units constructed. Rental rate assumed to be affordable to moderate income households.
§3.430 Faculty and Student Housing Program	27 New Faculty Units and 58 New Student Units in very low, low and moderate income ranges	2006	Market failed to construct any faculty or student units during the planning period.



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF FEBRUARY 20, 2008

**SUBJECT: MENLO PARK RECOMMENDATION TO REMOVE PARKING IN
FRONT OF 1850 EL CAMINO REAL (CELIA'S RESTAURANT) AND
CONVERT THE SHOULDER TO A RIGHT TURN ONLY LANE AT THE
INTERSECTION OF SPRUCE AVENUE AND EL CAMINO REAL**

RECOMMENDATION:

Staff recommends the City Council approve the recommendation from the City of Menlo Park to remove parking and modify the intersection of Spruce Avenue at El Camino Real.

BACKGROUND:

The City of Menlo Park studied parking and traffic at the intersection of Spruce Avenue and El Camino Real. Spruce Avenue is in Menlo Park, but El Camino Real is in Atherton. Atherton has jurisdiction over parking and, together with Caltrans, has jurisdiction over traffic issues. Menlo Park submitted a recommendation to Atherton for changes in Atherton's jurisdiction. Caltrans has reviewed the various alternatives and recommended the solution submitted by Menlo Park.

The Transportation Subcommittee considered this item at the January meeting and recommended approval with the condition that there be no cost to the Town of Atherton. In their presentation, Menlo Park stated that they would be responsible for the installation of the signs and striping required.

ANALYSIS:

Atherton staff worked with Menlo Park and Caltrans engineering staff to refine the recommendation from several alternatives originally suggested. These alternatives are shown in the Menlo Park Recommendation packet.

The project would involve striping the parking and shoulder of El Camino Real to remove parking in front of Celia's Restaurant and create a right turn lane. Removal of parking is desirable to improve the sight distance for vehicles turning from Spruce Avenue onto El Camino Real. To remove parking, the existing 28 foot red curb would be extended the entire frontage of the Celia's building from Spruce Avenue to the driveway. No Parking signs would be installed as appropriate to allow enforcement of the no parking restriction.

To create the right turn lane, striping and reflective pavement markers would be added as shown. The striping is also designed to provide an unimpeded bicycle lane through the intersection. One "Right Lane Must Turn Right" sign will be added to allow for enforcement of the right turn only restriction. This restriction is necessary to prohibit motorists from using the shoulder as an extension of the third through lane that begins at Spruce Avenue and continues through Atherton into Redwood City, ending at Main Street.

FISCAL IMPACT:

There is no fiscal impact of this approval. Menlo Park has agreed to bear the project costs.

Prepared by:

Approved by:

Duncan L. Jones, P.E.
Public Works Director

Jerry Gruber
City Manager

Attachments: Menlo Park Recommendation (5.1A)
Original petition from Spruce Avenue Residents (5.1B)

KELLY FERGUSSON
MAYOR

ANDREW COHEN
MAYOR PRO TEM

JOHN BOYLE
COUNCIL MEMBER

RICHARD CLINE
COUNCIL MEMBER

HEYWARD ROBINSON
COUNCIL MEMBER



701 LAUREL STREET, MENLO PARK, CA 94025-3483
www.menlopark.org

ITEM 5.1A

November 30, 2007

Town of Atherton City Council
Town of Atherton Administrator's Office
91 Ashfield Road
Atherton, CA 94027

Subject: Recommendation to the Atherton City Council for the Removal of All On-Street Parking Spaces in front of 1850 El Camino Real (Celia's Restaurant) and Conversion of the No Parking/Shoulder Area to a Right-Turn-Only Lane.

Honorable Atherton City Council Members:

The Menlo Park City Council received a petition from residents and property owners on Spruce Avenue requesting that "all parking in front of Celia's be prohibited so that a clear view of oncoming traffic is possible" and that the "free lane that would result from prohibiting parking in front of Celia's be marked with cross-hatching"

After several Menlo Park Transportation Commission and City Council meetings on this neighborhood petition, on September 25, 2007, the Menlo Park City Council unanimously passed a motion recommending to the Atherton City Council the removal of all on-street parking spaces in front of 1850 El Camino Real (Celia's Restaurant) and the conversion of the resulting no parking/shoulder area to a right-turn-only in accordance with Attachment A. Excerpts from this Council meeting on this item are included as Attachment B. For background information, the Menlo Park staff report is also attached as Attachment C.

Spruce Avenue and Celia's Restaurant are in the City of Menlo Park but this portion of El Camino Real, a State Highway, is in the Town of Atherton. Consequently, the City of Menlo Park does not have the legal authority to remove all the on-street parking spaces in front of Celia's and convert this area to right-turn-only lane. The City of Menlo Park is, hereby, requesting the Atherton City Council to consider the Menlo Park City Council's abovementioned recommendations to address the traffic safety concerns of the Menlo Park residents on Spruce Avenue.

Building
TEL 650.330.6704
FAX 650.327.5403

City Clerk
TEL 650.330.6620
FAX 650.328.7935

City Council
TEL 650.330.6630
FAX 650.328.7935

City Manager's Office
TEL 650.330.6610
FAX 650.328.7935

Community Services
TEL 650.330.2200
FAX 650.324.1721

Engineering
TEL 650.330.6740
FAX 650.327.5497

Environmental
TEL 650.330.6763
FAX 650.327.5497

Finance
TEL 650.330.6640
FAX 650.327.5391

Housing & Redevelopment
TEL 650.330.6706
FAX 650.327.1759

Library
TEL 650.330.2500
FAX 650.327.7030

Maintenance
TEL 650.330.6780
FAX 650.327.1953

Personnel
TEL 650.330.6670
FAX 650.327.5382

Planning
TEL 650.330.6702
FAX 650.327.1653

Police
TEL 650.330.6300
FAX 650.327.4314

Transportation
TEL 650.330.6770
FAX 650.327.5497

If the Atherton City Council approves Menlo Park's recommendations with a Council resolution, the City of Menlo Park staff will provide its services in assisting the Town staff to apply for an encroachment permit from Caltrans. The costs associated with the implementation of the Menlo Park recommendations will be borne by the City of Menlo Park.

The City of Menlo Park appreciates your consideration of the above matter and hopes that the Town of Atherton approves Menlo Park's recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly Fergusson". The signature is stylized with a long horizontal stroke extending to the right.

Kelly Fergusson
Mayor

cc: Menlo Park City Council
Don Barnby, Spruce Avenue Resident

Attachments

ATTACHMENT A (RIGHT-TURN ONLY LANE) (RECOMMENDED)

SPRUCE AVE

1850
(CELIA'S)

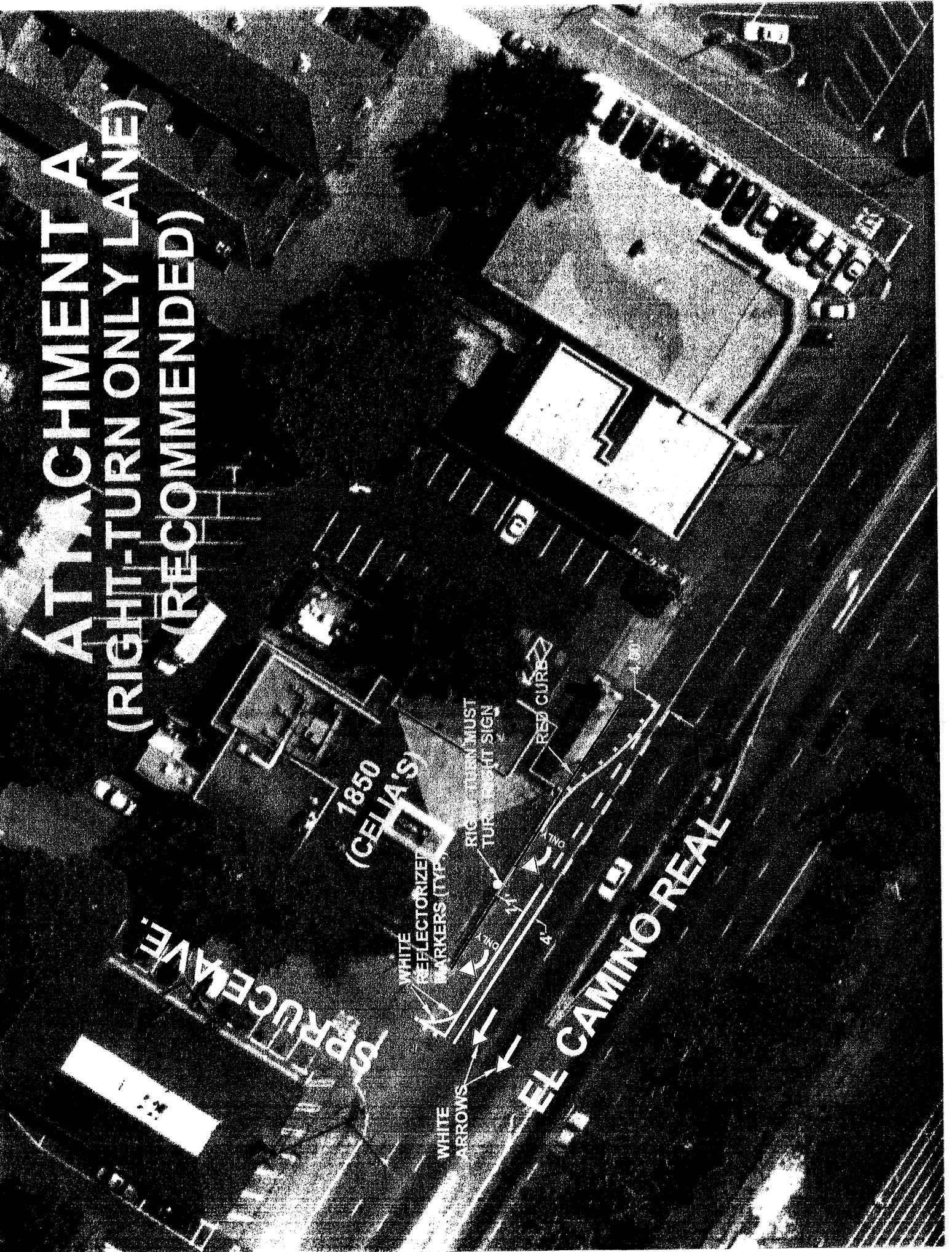
WHITE REFLECTORIZED MARKERS (TYPE 1)

RIGHT TURN MUST TURN RIGHT SIGN

RED CURB

WHITE ARROWS

EL CAMINO REAL



ATTACHMENT B

being comprised of the members stated on page five of the staff report, with a request that Planning Commission members represent a balance of views.

Mr. Rogers clarified that school outreach may be feasible as a non-traditional outreach form. Council Member Robinson said that he is asking respondents to be creative with their proposals. He asked if the proposals could include items broken down by cost. Staff confirmed that individual elements could be spelled out in the RFP. Council Member Boyle asked how the negotiation of certain items would work and Mr. Rogers said that there is some room for negotiation but the consultant could stick to the proposal.

Motion carries 5-0-0.

Mayor Fergusson thanked the subcommittee and staff for its work and a well thought out process.

2. Consideration of a City Council recommendation to the Atherton City Council for removal of all on-street parking spaces in front of 1850 El Camino Real (Celia's Restaurant) and conversion of the no-parking/shoulder area to a right-turn-only lane. (Staff Report #07-161)

Rene Baile, Transportation Engineer, presented the report to the City Council. He explained that there were concerns from residents regarding visibility and the shoulder area. He provided background information on this project. He explained the Transportation Commission's recommendation which is to remove all parking spaces and convert the shoulder area to a right-turn only lane. Mr. Baile explained all the options considered by staff.

Mayor Fergusson acknowledged that there was an email that came in from the Manager of Celia's. Mr. Rojas said that Dave Johnson, Business Development Manager, is in conversations with that person. Council Member Boyle asked about the parking ratio for Celia's. Mr. Taylor, Transportation Manager, said that staff does not have such information at this time. Council Member Boyle asked for a recap of the whole process and Mr. Taylor provided a full overview of the steps leading to the recommendation before Council.

Vice Mayor Cohen asked if there are other streets in this part of town that might use the same approach. Staff said there are similar road-ways and there was a similar issue on Stone Pine about a year ago but the residents were able to reach a compromise. Vice Mayor Cohen asked about Mr. Barnby's the letter and if there was any advantage to the rumble strips and other items he suggested. Mr. Taylor explained that rumble strips are like domes that can be used but there is other equipment that might be more appropriate. Council Member Robinson asked if there was a bike lane in this area and Mr. Taylor said there isn't. Council Member Boyle asked about the enforceability of these recommendations and Mr. Taylor said this is within Atherton's jurisdiction.

Council Member Boyle shared concerns with paying for modifying an intersection in another City. Staff said it recommended paying for this because it would benefit Menlo Park residents and the amount was not substantial. Mr. McClure said in the past the City had paid for improvements on El Camino Real and Valparaiso. The City Attorney said this is such a unique situation that it does not look like the City is setting a precedent and regarding liability, he clarified that the City enjoys design immunity. Mayor Fergusson asked about Mr. Barnby's request for a double yellow line. Mr. Taylor clarified that the manual that sets traffic standards, establishes that a double yellow line is forbidden in traffic going the same direction.

Public comment

Don Barnby shared with Council the items he wanted included in the recommendation and he suggested a double white line if the double yellow line was not doable. He said his goal was to keep the through traffic aware and alert of the issues. Mr. Barnby opined this intersection is unique and he provided details on why this intersection is dangerous. He asked that certain suggestions from his letter be included in the Council decision.

Mr. Taylor said that per the Manual on Uniform Traffic Control Devices which sets standards, staff has to recommend the white line because that is what is designated for that area. Mr. Taylor said he understood the request but it does not fit the staff's approach. Regarding the suggested items B and C, Mr. Taylor said staff can work with the suggested mitigations. Mr. Baile said that since Caltrans does not use non-standard techniques, staff has to stay within those parameters.

Mayor Fergusson asked for the exact number of reflectors and Mr. Taylor said that staff could add wording to include a more generous number of reflectors. Council Member Robinson would like to investigate moving the boundary along El Camino Real to the City of Menlo Park. City Attorney McClure said that staff could address this issue with the Town of Atherton and then come back with a report on the Town's initial reaction.

Mr. Barnby asked that the motion include the items he outlined in his letter to Council, namely items A, B and C. Council Member Boyle said he cannot support a double yellow line as requested by Mr. Barnby.

M/S Robinson/Cohen to approve staff's recommendation on item F2 including suggestions B and C from a resident's letter. Respectively, these suggestions relate to including at least five reflector bumps to alert drivers (B) and that the reflectors reflect back into the right-turning driver on El Camino Real (C) before the driver begins the turn, and that these be yellow.

Mayor Fergusson posed questions to staff about the color of the reflectors. Staff explained the limitations with trying to propose a specific color because normally reflectors are white. **Council Member Robinson stated that staff is trying to strike a balance and so he will forego including the color of the reflectors in the motion. The second of the motion agreed.** Council discussed extending the white line back into Spruce Avenue. Council Member Robinson said that the line should be extended further along Spruce Avenue and he supported that. Mr. Taylor said it might be confusing for those coming from El Camino Real. Council Member Boyle said he supported staff's opinion and the lane should not be extended further into Spruce Avenue. Council Member Cline said he was happy with the proposed length of the white line.

Mr. Barnby addressed Council about the left turn into Spruce from El Camino Real and suggested a divide on the lanes and possibly adding a middle lane. He provided details about his design.

Staff said it needed to look at the design in paper and it did not feel comfortable taking a position without analysis. Council Member Boyle shared concerns with the bicycle lane. Vice Mayor Cohen asked if a bicycle lane sign could be added on El Camino Real. Council Member Boyle suggested painting bicycle lanes but he does not want to make it more confusing. Mr. Taylor said this is not an official bicycle lane but more like a refuge area for bicyclists. Staff would need to study the matter prior to commenting on its merits or concur without review.

Friendly amendment by Council Member Boyle to not specify the number of reflectors but instead propose language that says a sufficient number of reflectors to be included. Council Members Robinson and Cohen accepted the friendly amendment. Council wanted staff to keep Council apprised of what the Town of Atherton decides on the matter.

Motion carries 5-0-0.

3. Consideration of state and federal legislative items, including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Item.

Vice Mayor Cohen spoke about Assembly Bill 1294 (ranked voting). He supported this bill because it would give General Law cities the possibility to seek voter approval on implementing such system. He added that this piece of legislation is currently on the governor's desk. Mayor Fergusson would like Council to send a letter supporting AB 1294. Vice Mayor Cohen opined this

ATTACHMENT A (RIGHT-TURN ONLY LANE) (RECOMMENDED)





PUBLIC WORKS DEPARTMENT

Council Meeting Date: September 25, 2007

Staff Report #: 07-161

Agenda Item #: F2

ATTACHMENT C

REGULAR BUSINESS: Consideration of a City Council Recommendation to the Atherton City Council for Removal of All On-Street Parking Spaces in Front of 1850 El Camino Real (Celia's Restaurant) and Conversion of the No-Parking/Shoulder Area to a Right-Turn-Only Lane.

RECOMMENDATION

Staff recommends that the City Council recommend to the Atherton City Council the removal of all on-street parking spaces in front of 1850 El Camino Real (Celia's Restaurant) and the conversion of the no-parking/shoulder area to a right-turn-only lane in accordance with Attachment A.

BACKGROUND

There are currently four on-street parking spaces in front of Celia's Restaurant, which is located at 1850 El Camino Real, near the intersection of Spruce Avenue. This portion of El Camino Real (State Route 82) is in the Town of Atherton, but Spruce Avenue and Celia's Restaurant are in Menlo Park.

Staff received a petition dated December 15, 2006, from residents and property owners on Spruce Avenue requesting that "all parking in front of Celia's be prohibited so that a clear view of oncoming traffic is possible" and that the "free lane that would result from prohibiting parking in front of Celia's be marked with cross-hatching ..."

On February 14, 2007, staff brought this petition to the Transportation Commission for its consideration. Spruce Avenue residents and Celia's Restaurant management were notified about the meeting. Two residents attended and provided their comments to the Commission. No representative from the restaurant was in attendance. However, when contacted by staff prior to the meeting, the owner indicated that because of the business's parking needs, especially during dinner times, he opposed the removal of any on-street parking on El Camino Real in front of the restaurant.

The Transportation Commission voted 4-3 to deny recommending to the Atherton City Council the installation of any additional no-parking zone on El Camino Real in front of Celia's Restaurant.

Subsequently, the Spruce Avenue residents submitted a petition to the Menlo Park City Council dated March 5, 2007, requesting the Council to write a letter to the Town of Atherton supporting the residents' proposal for no parking on El Camino Real in front of

Celia's Restaurant and the cross-hatching of these no-parking spaces. On March 20, 2007, the City Council directed staff to place the Spruce Avenue resident petition on a future City Council agenda.

On April 17, 2007, staff brought this item to the City Council. At that meeting, the City Council passed a motion directing staff to do the following: 1) consider and evaluate the impacts of removing all the parking spaces in front of the restaurant; 2) consider and evaluate a wide range of options for the area where parking would be removed and the impacts on bicyclists; and 3) prepare a preliminary staff report and present it to the Transportation Commission for its consideration.

On August 8, 2008, staff presented this item to the Transportation Commission. At this meeting, the commission unanimously passed a motion recommending to the City Council the removal of all parking spaces on El Camino Real in front of Celia's Restaurant and the conversion of this no-parking/shoulder area to a right-turn-only lane. The Spruce Avenue resident who initiated the petition was at this meeting and commented that he did not think that the right-turn-only lane alternative would work because drivers would still use this as a through lane. He suggested either cross-hatching or rumble bumps as a preferred solution. The minutes of this commission meeting are in Attachment B. One of the restaurant's owners was at the meeting and provided a petition (Attachment C) signed by the restaurant customers in support of keeping the parking spaces on El Camino Real in front of the restaurant. He indicated to the commission that each parking space is important to the restaurant.

ANALYSIS

Removal of On-Street Parking

In response to the City Council's direction, staff evaluated the removal of all parking spaces in front of Celia's Restaurant on El Camino Real and the impacts on the restaurant.

As previously presented to the City Council on April 17, 2007, there is approximately 110 feet of curb between Spruce Avenue and the driveway for Celia's Restaurant. Currently, the 28 feet closest to Spruce Avenue is red curb and the remaining distance allows parking for four cars. The safe-stopping sight distance study conducted by staff at the intersection recommended a total of at least 84 feet of red curb, which would have required the removal of three parking spaces. Thus, staff's initial recommendation left one parking space adjacent to the restaurant's driveway. Removing the remaining on-street parking space would increase the sight distance even more at the intersection to 375 feet and provide Spruce Avenue motorists with increased visibility from Spruce Avenue to El Camino Real.

Regarding the potential impacts of the parking removal on the restaurant, staff conducted field visits to the restaurant. At a lunch time visit, one or two vehicles were observed parked on El Camino Real in front of the restaurant. The on-site parking lot

was not full. At a dinner time visit, staff observed that all parking spaces on El Camino Real in front of the restaurant were occupied. The restaurant parking lot was full and there were vehicles parked on both sides of Spruce Avenue, near El Camino Real. It was not apparent, though, whether these vehicles belonged to the restaurant's customers. The parking spaces on El Camino Real in front of the restaurant are in close proximity to the restaurant's main entrance and seem to be convenient for the restaurant's customers who park there. Eliminating these parking spaces would remove this convenience. However, the restaurant customers would still have the option to park on either Spruce Avenue or other areas of El Camino Real. Spruce Avenue does not currently have any on-street parking restrictions. At the Transportation Commission meetings and subsequent discussion with Spruce Avenue residents, there do not appear to be any issues or concerns from the residents with regards to increased customers' spillover parking on Spruce Avenue if the parking spaces in front of the restaurant were removed.

Alternatives for the No-Parking/Shoulder Area

There would be an approximate 15-foot wide shoulder area where the parking would be removed. Currently, El Camino Real transitions in the northbound direction from two lanes south of Spruce Avenue to three lanes immediately north of Spruce Avenue. Staff considered the following alternatives to reduce the likelihood of drivers using the shoulder for the transition from two to three lanes after removal of the parking in front of Celia's Restaurant. All of the alternatives include an area for bicyclists, as directed by the Council on April 17, 2007, and as described in the Menlo Park Bicycle Development Plan. Please refer to Attachment D for the list of advantages and disadvantages for each alternative.

I. Allow Existing Striping to Remain (No Cost)

In this alternative, there would be no new treatment of the space left after the removal of parking. The existing four-inch-wide white edge line would remain to delineate this area as a shoulder area and not a travel lane.

II. Cross-Hatching (Estimated Cost: \$3,000)

As illustrated in Attachment E, this alternative would consist of cross-hatching the area with 12-inch-wide white stripes. A five-foot-wide space would be left between the hatched area and the white edge line for bicyclists to pass through.

III. Rubberized Curb near Intersection (Estimated Cost: \$ 5,000)

As illustrated in Attachment F, this alternative would consist of installing a reflectorized rubber curb anchored to the pavement with bolts. There would be openings for drainage. A five-foot-wide space would be left between the curb and the white edge line for bicyclists to pass through.

Alternatively, a more permanent concrete curb with a red concrete brick pattern could be installed between the new curb and the old curb. The California Department of Transportation (Caltrans), however, could object to a permanent curb that would reduce the roadway width on El Camino Real. The permanent curb has similar advantages and disadvantages as the rubberized curb and would cost an estimated \$40,000.

IV. Rumble Strips (Estimated Cost: \$3,500)

As illustrated in Attachment G, this alternative would consist of installing reflectorized pavement markers. A six-foot-wide space with five feet striped as bike area would be left between the rumble strips and the white edge line for bicyclists to pass through.

V. Right-Turn-Only Lane (Estimated Cost: \$4,500)

As illustrated in Attachment H, this alternative consists of installing a right-turn-only lane in the shoulder area. A four-foot-wide lane for bicycles would be installed adjacent to the right-turn lane.

Caltrans and Town of Atherton Comments

Caltrans staff reviewed the above-mentioned alternatives for deterring motorists from using the shoulder area on El Camino Real south of Spruce Avenue as a travel lane. According to Caltrans, although Alternatives II, III, and IV would discourage motorists from using the shoulder area as a travel lane, the deteriorated rubber curbs, worn-out diagonal stripes, and dislodged markers of the rumble strips could become maintenance problems. Caltrans also indicated that the conversion of the shoulder area into a right-turn only lane before an intersection would be more beneficial to the public because it would enhance traffic safety at the intersection. With a designated right-turn lane, decelerating right turning vehicles would be removed from the through lane and consequently, the likelihood of rear-end accidents due to the slowing right-turning vehicles in the through lane would be reduced.

For the reasons stated above, Atherton staff concurred with Caltrans that the right-turn lane would be the best solution.

Alternatives for the Intersection

The Council expressed interest on alternatives that would improve traffic safety at the intersection without requiring the removal of all parking spaces in front of the restaurant. Staff evaluated two alternatives including a No Left Turn sign on Spruce Avenue and a traffic signal at the intersection. Both of these options would increase the safety of the intersection but do have disadvantages. The No Left Turn option does not appear to be necessary due to existing traffic conditions at the intersection and would modify traffic patterns in the area. The traffic signal is not warranted and would have a high cost for installation.

Recommendation

Parking Removal

Staff concurs with the Transportation Commission's recommendation to remove all parking spaces in front of the restaurant for the following reasons:

- 1) Removing all parking spaces in front of the restaurant will increase the safe stopping distance at the intersection beyond the minimum required distance and potentially make it safer for Spruce Avenue motorists to make left turns from Spruce Avenue to El Camino Real due to increased visibility at the intersection.
- 2) Even though the parking removal of the four parking spaces would eliminate the convenience to park close to the restaurant's main entrance, customers would have the option to park on either Spruce Avenue or other areas of El Camino Real if the restaurant on-site parking lot becomes fully occupied.

Right Turn Lane

Staff recommends converting the no-parking/shoulder area to a right-turn- only lane for the following reasons:

- 1) This is the only alternative that would enhance vehicular traffic safety at the intersection by eliminating the potential for rear end collisions between the through traffic and decelerating right turners in the northbound lane, next to the shoulder area.
- 2) This is the only alternative that is supported by both Caltrans and Atherton staff and is also recommended by the Transportation Commission.
- 3) This is the only alternative that would enhance bicycle safety at the intersection by reducing the likelihood of bicyclists getting hit by vehicles turning right on the northbound lane, adjacent to the shoulder area. A designated right turn lane would make it apparent for bicyclists and drivers as to where cars would make the right turn as compared to the current condition where cars could potentially make a right turn from either shoulder area or northbound through lane.

After the Transportation Commission meeting, the Spruce Avenue resident who initiated the petition met with staff and made the following suggestions on the right-turn only lane alternative (Attachment H).

1. Put closely-spaced reflector rumble bumps on: a) all of the solid white lines around the triangular island; b) along the solid white line that extends south of the triangular island on El Camino (back to where the dotted lane-line ends; and, c) along the "diagonal" white line that guides traffic from the right-hand driving lane (lane 2) into the right-turn-only lane (lane 3). *(Staff concurs with this suggestion except for the installation of reflector bumps along the solid white line that extends south of the triangular island on El Camino (back to where the dotted lane-line ends) due to the potential hazardous condition that these bumps would present to bicyclists.)*

2. Add a white line (also with reflector rumble bumps), from the "triangle island" down Spruce Ave. a distance at least as long as the right-turn-only lane is wide. (*Staff concurs with this suggestion.*)

3. Paint the word "ONLY" before each of the two right turn arrows that are proposed for the right-turn-only lane. (*Staff concurs with this suggestion.*)

4. Paint straight through arrows on the right hand driving lane on El Camino to make it clear to drivers in that lane may not turn right, and to highlight, by contrast, the difference between the lanes. (*Staff concurs with this suggestion.*)

Based on the above, staff modified the right-turn only lane alternative per Attachment H. Attachment A is the modified right-turn only lane alternative with the above changes incorporated. Staff is, hereby, recommending the right-turn only lane alternative per Attachment A.

Next Steps

Upon Council's approval of the staff recommendation, a letter with the recommendation and the Mayor's signature, along with the minutes of this meeting, will be sent to the Atherton City Council. The Atherton City Council would be required to pass a resolution calling for these changes and apply for an encroachment permit from Caltrans because El Camino Real is a State highway. Caltrans would then review the application and make the determination on final approval of the removal of this on-street parking and no-parking/shoulder area conversion. Staff's preliminary discussion with Atherton staff has indicated that Atherton does not appear to have any concerns or issues with these changes.

IMPACT ON CITY RESOURCES

The estimated cost to remove the four parking spaces in front of Celia's Restaurant is \$720 and the estimated cost of the no-parking/shoulder conversion is \$4,500. Since these improvements would be for the benefit of Menlo Park residents, staff recommends that the City implement these proposed improvements using Measure A funds.

POLICY ISSUES

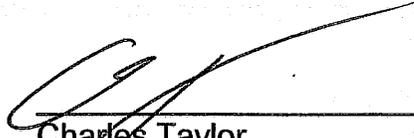
The proposed improvements are consistent with Policy II-A of the 1994 City General Plan Circulation and Transportation Element, which seeks to maintain a circulation system using the Roadway Classification System that will provide for the safe and efficient movement of people and goods throughout Menlo Park for residential and commercial purposes.

ENVIRONMENTAL REVIEW

The proposed improvements are categorically exempt under Class 1 of the current California Environmental Quality Act Guidelines.



Rene Baile
Transportation Engineer



Charles Taylor
Transportation Manager

PUBLIC NOTICE: Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

ATTACHMENTS:

- A. Right-Turn Lane Alternative (Recommended)
- B. Minutes of Transportation Commission Meeting of August 8, 2007, Regarding 1850 El Camino Real
- C. Petition from Celia's Restaurant Customers
- D. Alternatives for the No Parking/Shoulder Area
- E. Cross-Hatching Alternative
- F. Rubberized/Concrete Curb Alternative
- G. Rumble Strips Alternative
- H. Right-Turn Lane Alternative

ATTACHMENT B

1. Consideration of the Removal of the On-Street Parking in Front of 1850 El Camino Real (Celia's Restaurant) Alternatives for the Shoulder Area

Via Power Point presentation, Staff Baile provided background information on this item that was previously presented in the February 14, 2007 Transportation Commission, where the commission denied the Spruce Avenue residents' petition. Staff Baile indicated that on April 17, 2007, the City Council directed staff to consider the removal of all on-street parking spaces on El Camino Real in front of Celia's Restaurant and evaluate different alternatives for the shoulder area where the on-street parking spaces would be removed. He briefly discussed the different alternatives that staff evaluated. He indicated that both the Town of Atherton and Caltrans preferred the alternative that would convert the shoulder area where parking would be removed to right-turn lane only. Finally, staff Baile recommended to the commission to recommend to the City Council the removal of all on-street parking spaces in front of Celia's Restaurant and the conversion of the shoulder/no parking area to right-turn only lane. Staff Taylor made a clarification that since this portion of El Camino Real is in the jurisdiction of the Town of Atherton, the Town Council would make the final approval of any City proposed improvements on El Camino Real near Spruce Avenue and apply for the Caltrans encroachment permit.

Chair Doyle asked staff Baile why he said that the right turn lane only restriction was easily enforceable and the left turn restriction was not. Staff Taylor clarified that both were equally difficult to enforce but that the right turn lane only restriction was easily enforceable compared to the cross-hatching and the rumble strips, where the vehicle code was unclear with respect to enforcement.

Commissioner Cronin asked whether these different configurations implied that there was a problem with the shoulder area if the on-street parking is removed. Staff Taylor responded that council wanted staff to look at different treatments for this area above and beyond the existing white edge line if the on-street parking is removed.

Commissioner Rice did not think that there was enough demand for the right turn only lane and asked why not just continuous three through lanes on El Camino Real and a no left turn on Spruce Avenue.

Commissioner Bourne asked whether the different alternatives were reviewed by the Spruce Avenue residents since this was not mentioned in the staff report. Staff Taylor responded that there was no official review by Mr. Barnaby of Spruce Avenue but that, ultimately, he talked to Mr. Barnaby whether he was open to a right turn only lane conversion of the shoulder area.

The following people from the public spoke:

Don Barnby, Spruce Avenue resident, indicated that at the Council meeting, the Council ultimately did take action to eliminate all the on-street parking on El Camino Real in front of the restaurant and that the only remaining question was what to do with this shoulder area where the parking spaces would be removed. He did not think that the right turn only lane would work because drivers would still use this as a through lane. He thought that the cross-hatching or rumble bumps would be a quick fix that would be relatively inexpensive for the City to implement. Commissioner Rice asked Mr. Barnby if he has any objection to a No Left Turn on Spruce Avenue. Mr. Barnby answered yes because it would only tie up traffic on Spruce Avenue as well as on El Camino Real.

Ann Adams, Spruce Avenue resident, said that she supported the Spruce Avenue residents' petition and that it was not entirely true that only Spruce Avenue residents exit Spruce Avenue because she had observed Celia's customers used it, too. She felt that it was too dangerous to make a right turn from the through lane adjacent to the shoulder area on El Camino Real to Spruce Avenue. She expressed concern about the potential spillover parking to Spruce Avenue but that it was acceptable for the safe of traffic safety.

Fernando Mancera, one of the owners of Celia's Restaurant, indicated that each parking space counts a lot to their business. He indicated that he did not feel that there was a problem because when stopped on Spruce Avenue, one could still see between the parked cars and that the only time that there might be a problem is when a big truck parks in front of the liquor store. He said that that this present situation has been like this for the past 20 years, when the restaurant was still Fontana's, and that the parked vehicles would actually slow traffic down on El Camino as well as prevent drivers from using the shoulder area as a travel lane.

Chair Doyle presented an additional alternative of continuing the two through lanes on El Camino Real to half a block north of Spruce Avenue. He said that this would enable Spruce Avenue drivers to pull out more into El Camino Real and see better of the northbound El Camino Real traffic. He added that this consequently would allow the cars to park in front of Celia's Restaurant without blocking the Spruce Avenue drivers' vision. Commissioner Cronin indicated that he would support the two through lanes to continue all the way to the next signalized intersection where it would be less problematic. Commissioner Pappas said that this is not a workable solution because so many things have to be established. Commissioner Alexander said that this would present a bigger issue in that it would create more rear-end types of accidents. Commissioner Rice considered this alternative as an interesting concept but would like the left turn restriction from Spruce Avenue to El Camino Real to go with it.

M/S. Bourne/Cronin. Motion that all on-street parking be removed in front of Celia's Restaurant on El Camino Real and that the shoulder area where the parking would be removed be converted to right-turn only lane, passed 6-0.

M/S. Rice/Doyle. Motion that No Left Turn be installed on Spruce Avenue at El Camino Real, failed, 2-4 with Commissioners Pappas, Alexander, Bourne, and Cronin dissenting.

ATTACHMENT C

To all of CELIA'S Clients,

The city of Menlo park wants to eliminate all parking spaces in front of Celia's Restaurant. At the same time those spaces are for you. We would like to gather signatures from you, so we are able to keep ours parking spaces.

Please write you name to support us.
GRACIAS.

Fernando Navero	Irma Rodriguez
Karen Williams	Cecilia Rodriguez
John Smith	Francisco J. Rodriguez
John Smith	Elba G. Rodriguez
Jose de la Cruz	Albert Lopez
Michael Navero	Jana HILSEY
John Smith	Muller
John Smith	J. L. Lullin
CESAE RODRIGUEZ	Juan Lopez
KARINA RODRIGUEZ	Juan Lopez

Rodriguez	Rodriguez
Santiago	Francisco
Sule Verboven	Maria D. Tamayo
Maria Navero	John Smith

LAURA DINAMIRE	John Smith
Alicia Castellanos	
John Smith	
George Lopez	

Any comments
Celias_menlopark@yahoo.com

ATTACHMENT D: ALTERNATIVES FOR THE NO PARKING/SHOULDER AREA

	ADVANTAGES	DISADVANTAGES
<p>I. ALLOW EXISTING STRIPING TO REMAIN (NO COST) In this alternative, there would be no new treatment of the space left after the removal of parking. The existing four-inch-wide white edge line would remain to delineate this as a shoulder area and not a travel lane.</p>	<p>1) There is no additional cost in new installation and associated maintenance.</p> <p>2) There is no physical-obstruction safety issue for inattentive/unaware bicyclists and drivers.</p>	<p>1) There is no physical obstruction to prevent drivers from traveling in the lane.</p> <p>2) The open area could be confusing to drivers who might think that it is a travel lane.</p>
<p>II. CROSS-HATCHING (EST. COST: \$3,000) This alternative would consist of cross-hatching the area with 12-inch-wide white stripes. A five-foot-wide space would be left between the hatched area and the white edge line for bicyclists to pass through.</p>	<p>ADVANTAGES</p> <p>1) There is no physical-obstruction safety issue for inattentive/unaware bicyclists and drivers.</p> <p>2) It would provide a more visible visual cue that the area is not a travel lane.</p>	<p>DISADVANTAGES</p> <p>1) Maintenance would be needed for the striping because of weather, <i>i.e.</i>, rain, and wear and tear.</p> <p>2) There is no physical obstruction that would prevent drivers from traveling in the lane.</p>
<p>III. RUBBERIZED/CONCRETE CURB NEAR INTERSECTION (EST. COST: (\$5,000/\$40,000) This alternative would consist of installing a reflectorized rubber or concrete curb anchored to the pavement with bolts. There would be openings for drainage. A five-foot-wide space would be left between the curb and the white edge line for bicyclists to pass through.</p>	<p>ADVANTAGES</p> <p>1) There is a physical obstruction to prevent drivers from traveling in the lane.</p>	<p>DISADVANTAGES</p> <p>1) A physical obstruction could be a safety issue for inattentive/unaware bicyclists and drivers because it is the only area where a curb extends into the roadway.</p> <p>2) Debris that could accumulate inside the curbed area would be difficult to remove.</p> <p>3) Maintenance would possibly be needed because the rubber curb could deteriorate over time.</p> <p>4) There would be possible drainage problems in spite of the openings.</p>

ATTACHMENT D: ALTERNATIVES FOR THE NO PARKING/SHOULDER AREA

ADVANTAGES	DISADVANTAGES
<p>IV. RUMBLE STRIPS (EST. COST: \$3,500) This alternative would consist of installing reflectorized pavement markers. A six-foot-wide space with five feet striped as bike area would be left between the rumble strips and the white edge line for bicyclists to pass through.</p>	<p>1) Pavement markers would not completely prevent drivers from traveling in the lane.</p> <p>2) It would cause noise and vibration if driven over.</p> <p>3) It could be a safety issue for inattentive/unaware bicyclists.</p> <p>4) Maintenance would be possibly needed because markers could become dislodged from the pavement if driven over a number of times.</p>
ADVANTAGES	DISADVANTAGES
<p>V. RIGHT-TURN ONLY LANE (EST. COST: \$4,500) This alternative consists of installing a right-turn-only lane in the shoulder area. A four-foot-wide lane for bicycles would be installed adjacent to the right-turn lane.</p>	<p>1) Maintenance could be required for the wear and tear of striping and pavement markings.</p> <p>2) There is no physical obstruction to prevent drivers from traveling in the lane.</p>

**ATTACHMENT E
(CROSS-HATCHING)**

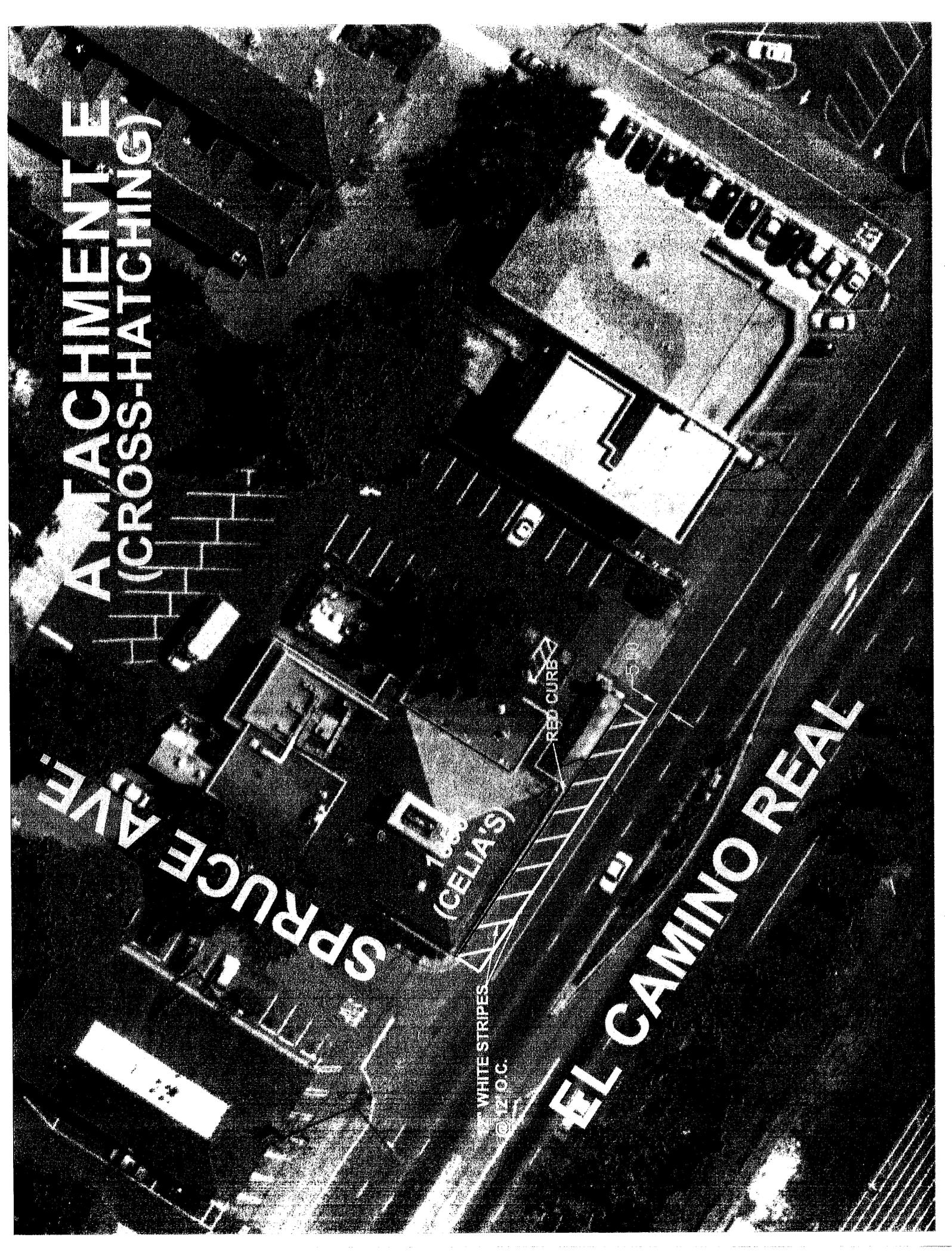
SPRUCHE AVE

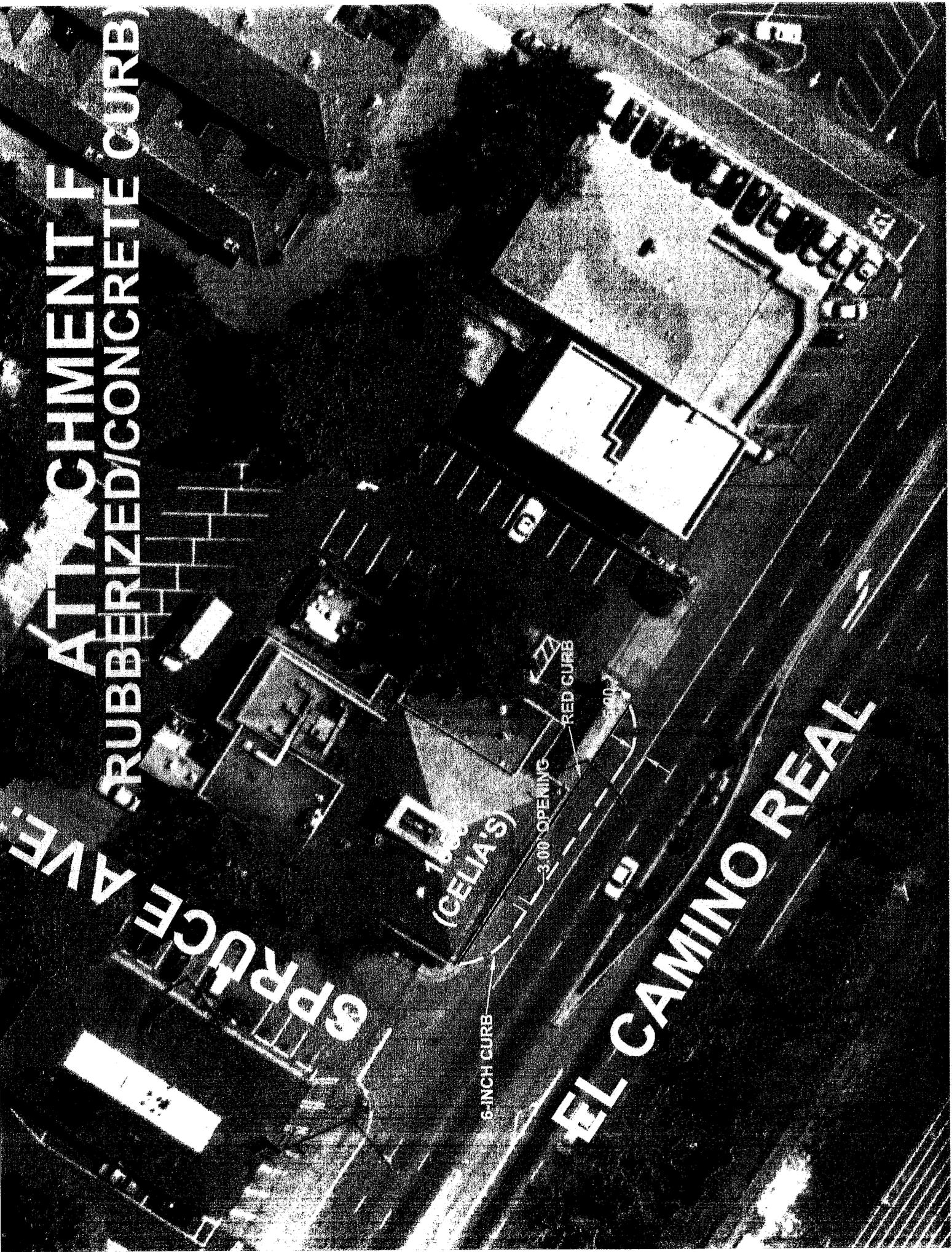
(CELJA'S)

RED CURB

EL CAMINO REAL

12" WHITE STRIPES
© 2008





ATTACHMENT F

RUBBERIZED/CONCRETE CURB)

SPRUTCH AVE

EL CAMINO REAL

(CELIA'S)

6-INCH CURB

3.00' OPENING

RED CURB

ATTACHMENT G (RUMBLE STRIPS)

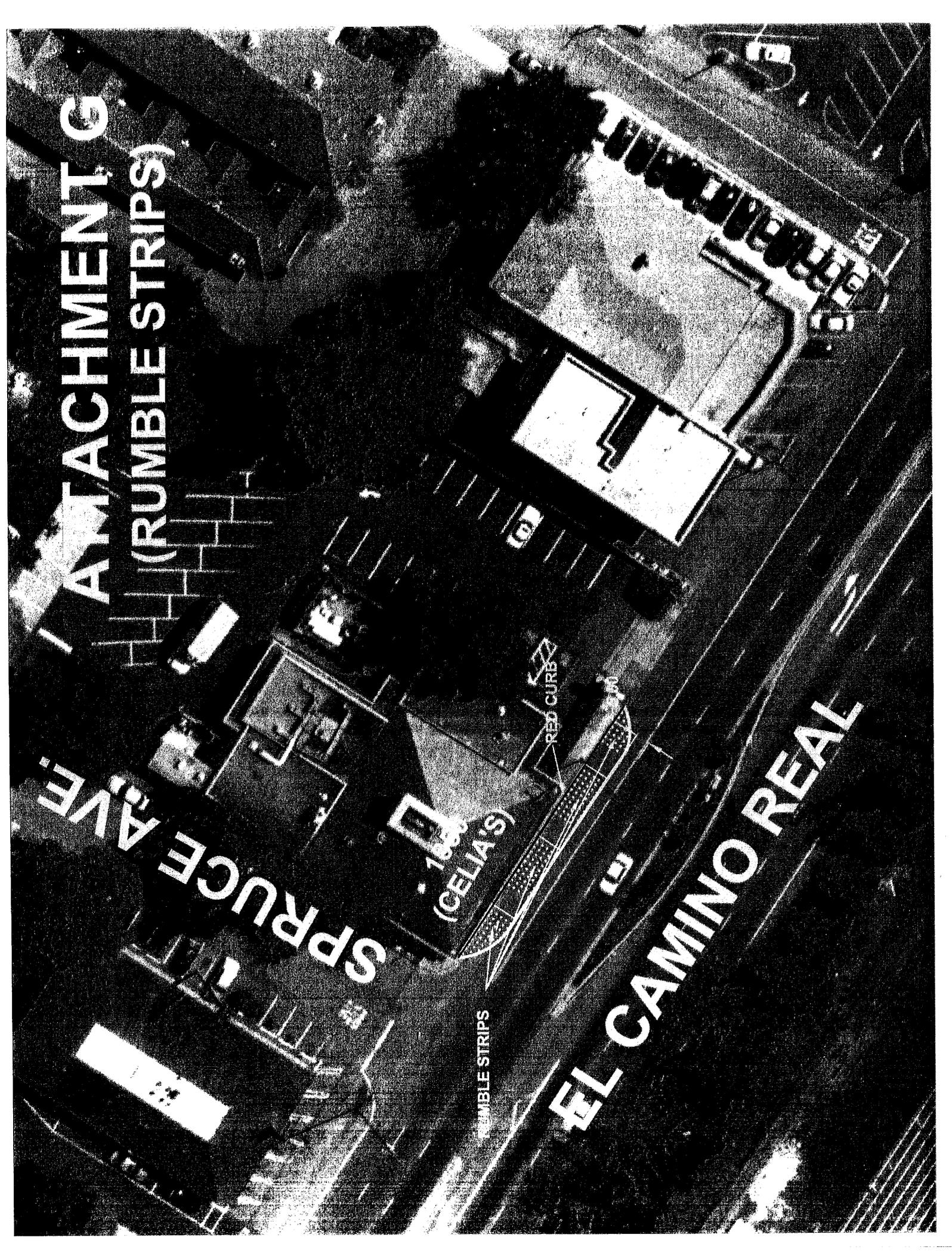
SPRUCE AVE

1600
(CELIA'S)

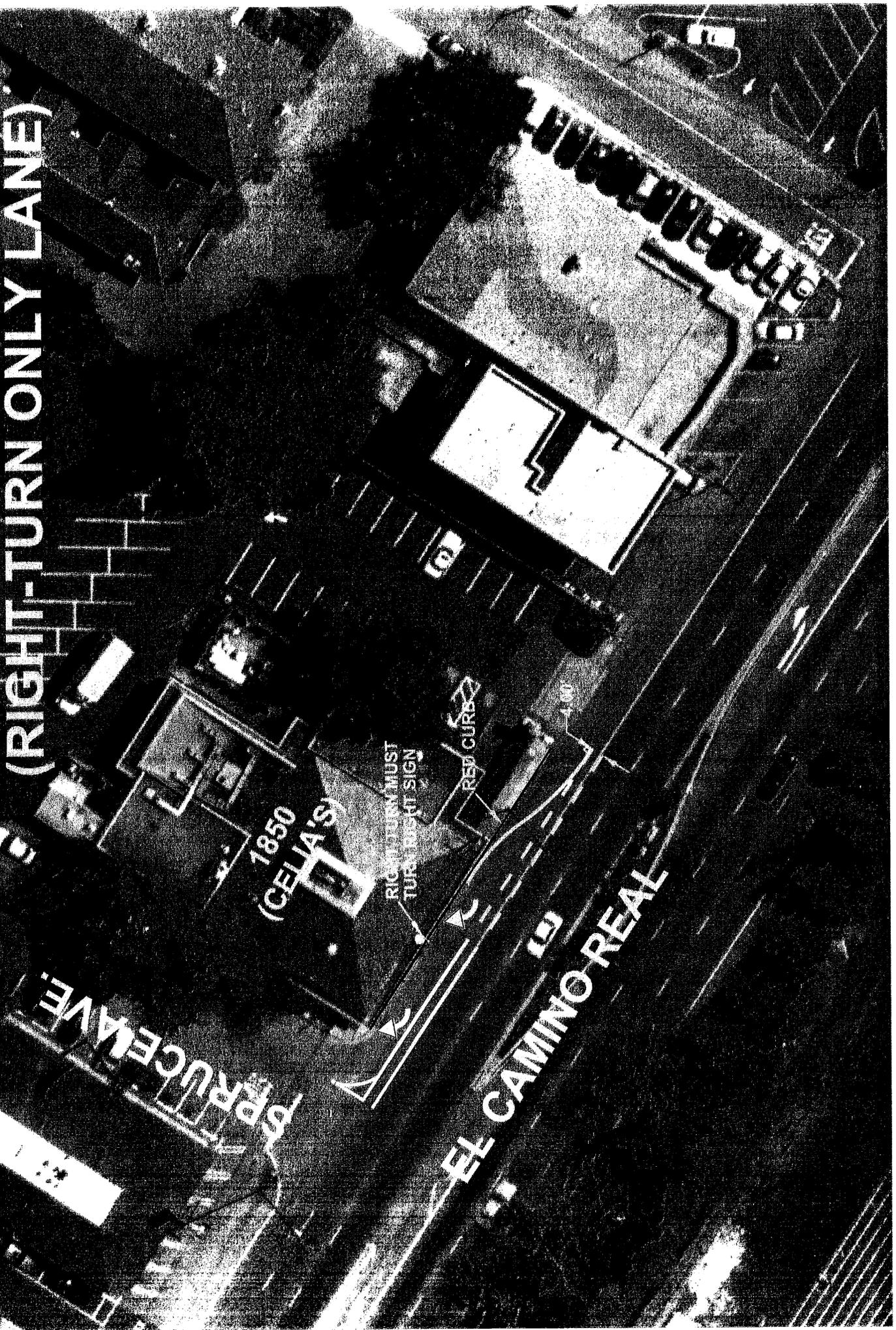
RED CURB

EL CAMINO REAL

RUMBLE STRIPS



ATTACHMENT H (RIGHT-TURN ONLY LANE)



SPRUUCE AVENUE

EL CAMINO REAL

1850
(CELLIA'S)

RIGHT TURN MUST
TURN RIGHT SIGN

RED CURB

4.00'

ITEM 5.1.B

ANDY COHEN
MAYOR

HEYWARD ROBINSON
VICE MAYOR

JOHN BOYLE
COUNCIL MEMBER

RICHARD CLINE
COUNCIL MEMBER

KELLY FERGUSSON
COUNCIL MEMBER



701 LAUREL STREET, MENLO PARK, CA 94025-3483
www.menlopark.org

December 14, 2007

Town of Atherton City Council
Town of Atherton Administrator's Office
91 Ashfield Road
Atherton, CA 94027

Subject: Recommendation to the Atherton City Council for the Removal of All On-Street Parking Spaces in front of 1850 El Camino Real (Celia's Restaurant) and Conversion of the No Parking/Shoulder Area to a Right-Turn-Only Lane.

Honorable Atherton City Council Members:

As a supplement to the letter sent on November 30, 2007 regarding the Spruce Avenue and El Camino Real intersection, I wanted to provide the Town of Atherton with the original petition from the residents of Spruce Avenue. It was inadvertently not included with the attachments that were mailed with the letter.

Again, the City of Menlo Park appreciates your consideration of the above matter and hopes that the Town of Atherton approves Menlo Park's recommendations.

Sincerely,

Glen Rojas
City Manager

cc: Menlo Park City Council
Don Barnby, Spruce Avenue Resident

Attachments

Building
TEL 650.330.6704
FAX 650.327.5403

City Clerk
TEL 650.330.6620
FAX 650.328.7935

City Council
TEL 650.330.6630
FAX 650.328.7935

City Manager's Office
TEL 650.330.6610
FAX 650.328.7935

Community Services
TEL 650.330.2200
FAX 650.324.1721

Engineering
TEL 650.330.6740
FAX 650.327.5497

Environmental
TEL 650.330.6763
FAX 650.327.5497

Finance
TEL 650.330.6640
FAX 650.327.5391

Housing & Redevelopment
TEL 650.330.6706
FAX 650.327.1759

Library
TEL 650.330.2500
FAX 650.327.7030

Maintenance
TEL 650.330.6780
FAX 650.327.1953

Personnel
TEL 650.330.6670
FAX 650.327.5382

Planning
TEL 650.330.6702
FAX 650.327.1653

Police
TEL 650.330.6300
FAX 650.327.4314

Transportation
TEL 650.330.6770
FAX 650.327.5497

December 15, 2006

To: Menlo Park City Council

From: Don Barnby

Subject: Neighborhood Petition to Eliminate El Camino Real Parking at the Spruce Avenue Corner.

It is very difficult and dangerous to drive out of Spruce Avenue onto El Camino Real if one is turning left. Cars parked along the curb in front of Celia's Restaurant block the view of oncoming traffic and make it necessary to creep forward over the crosswalk and nose out beyond the parking lane into the path of El Camino traffic in order to see if the way is clear.

We are requesting that *all* parking in front of Celia's be prohibited so that a clear view of oncoming traffic is possible. This modest loss of five commercial parking spots would be a small price to pay to prevent the loss of life and property resulting from an accident. During heavy traffic times it is very difficult to exit Spruce Avenue with a left turn onto El Camino, and the problem is getting worse as the density of traffic in Menlo Park increases. It is already so bad that an automatic stop-light at that corner would be in order, but providing a clear field of view is much less costly and easy to accomplish.

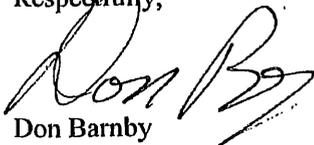
The problem exists not only for the residents of Spruce Ave., but also for the many customers and employees leaving Celia's parking lot, as well as for the customers and employees of the commercial building parked across Spruce Ave. from Celia's.

Further, we are requesting that the free lane that would result from prohibiting parking in front of Celia's be marked with cross-hatching or other appropriate street marking to clearly identify that it is *not* a driving lane. Frequently, when that lane is free of parked cars, the fast moving El Camino traffic expands into it in anticipation of the additional driving lane that begins on the other side of Spruce Ave heading north. We do *not* want the current parking lane to become a driving lane as that would require left turns out of Spruce avenue to cross *three* lanes of intense onrushing El Camino Traffic and make it even *more* difficult to dash across into the minimal median area in the center of El Camino in order wait for the south bound lane of El Camino to be clear.

During busy times it is very difficult to exit Spruce onto southbound El Camino, and it is getting worse month by month.

The attached petition has been signed by 50 residents representing 100% of the homes on Spruce Ave. with drivers, as well as by proprietors of the two commercial offices on the north corner of Spruce and El Camino. The sense of need is unanimous. We request your help in providing a simple fix to a serous problem we face virtually every day.

Respectfully,



Don Barnby
169 Spruce Ave.

CITY OF MENLO PARK
NEIGHBORHOOD ACTION REQUEST PETITION
 To the Menlo Park City Council

Signature Collector Name: *[Signature]* **DON BARBER** Day Phone: 650-325-2962

Address 169 SPRUCE AVE City: MENLO PARK Zip: 94025

It is difficult and hazardous to make a left turn from Spruce Avenue onto El Camino Real because cars and trucks parked along the curb in front of Celia's Mexican Restaurant completely block the view of oncoming traffic. In order to see if it is clear to turn left, one must creep forward over the crosswalk and nose out beyond the parking lane into the path of El Camino traffic. Not only is this a hazard for residents of Spruce Avenue, but also for the drivers who leave Celia's parking lot, and occupants of the 9 commercial parking spaces on Spruce that serve 1900 El Camino.

To resolve this danger, we residents of Spruce Avenue request that all parking be prohibited in front of Celia's from the Spruce Avenue corner south to Buckthorn. (This would reduce curbside parking by 5 spaces.)

Further, it is requested that the resulting free lane in front of Celia's be marked with painted cross hatching or other appropriate marking to clearly designate that it is *not* a driving lane. Frequently, when this lane is free of parked cars, the fast moving El Camino traffic expands into it in anticipation of the additional driving lane on the right that begins at Spruce avenue and goes north from there.

	Print Name	Address	Phone (Optional)
	Signature		Date
1.	<i>Nader Barbari</i> <i>[Signature]</i>	168 Spruce Ave. Menlo Park CA 94025	11/18/06 321-7784
2.	<i>Jean Barbari</i> <i>[Signature]</i>	SAME AS ABOVE	SAME AS ABOVE
3.	<i>Hunter Sasser</i> <i>[Signature]</i>	132 Spruce Ave Menlo Park, CA 94025	11-18-2006
4.	<i>RICHARD LEFORGE</i> <i>[Signature]</i>	137 SPRUCE AVE MENLO PARK CA	18 NOV 2006
5.	<i>Sarah Le Forge</i> <i>[Signature]</i>	137 SPRUCE AVE Menlo Park CA	18 NOV 2006
6.	<i>Katharine Allison</i> <i>[Signature]</i>	169 SPRUCE AVE MENLO PARK, CA	18 NOV. 2006
7.	<i>Cory Hawkins</i> <i>[Signature]</i>	185 Spruce Ave Menlo Park, CA	11-19-06
8.	<i>Janet Hawkins</i> <i>[Signature]</i>	" "	11-19-06
9.	<i>[Signature]</i>	155 Spruce Ave " "	11/29/06

CITY OF MENLO PARK
NEIGHBORHOOD ACTION REQUEST PETITION
To the Menlo Park City Council

Signature Collector Name: Don Barry Day Phone: 650-325-2962

Address: 169 SPRUCE AVE City: MENLO PARK Zip: 94025

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To resolve this danger, we residents of Spruce Avenue request that all parking be prohibited in front of Celia's from the Spruce Avenue corner south to Buckthorn. (This would reduce curbside parking by 5 spaces.)

Further, it is requested that the resulting free lane in front of Celia's be marked with painted cross hatching or other appropriate marking to clearly designate that it is *not* a driving lane. Frequently, when this lane is free of parked cars, the fast moving El Camino traffic expands into it in anticipation of the additional driving lane on the right that begins at Spruce avenue and goes north from there.

	Print Name	Address	Phone (Optional)
	Signature		Date
1.	Katarina Van Heusen <i>Kat Van Heusen</i>	181 Spruce Ave	18 Nov 2006
2.	Matthias Kohler <i>Matthias Kohler</i>	199 Spruce Ave #B	18 Nov 2006
3.	ANNE ADAMS <i>Anne Adams</i>	199 SPRUCE AVE	11/18/06
4.	Carla Campbell <i>Carla Campbell</i>	198 Spruce Ave	18 Nov 2006
5.	Scott Stanton <i>Scott Stanton</i>	198 Spruce Ave	18 Nov 2006
6.	EMIKO T. CHEN <i>Emiko T. Chen</i>	192 Spruce Ave	18 Nov. 2006
7.	CHI'DAO CITEN <i>Minna Chen</i>	"	"
8.	STEVEN FOX <i>Juan Fox</i>	1716 SPRUCE AVE	11-18-06
9.	Anne G Moser <i>Anne Moser</i>	174 Spruce Ave MP	11-18-06

**CITY OF MENLO PARK
NEIGHBORHOOD ACTION REQUEST PETITION
To the Menlo Park City Council**

Signature Collector Name: Don Baraby Day Phone: 650 325-2962
DON BARABY
 Address 169 SPRUCE AV. City: MENLO PARK Zip: 94025

It is difficult and hazardous to make a left turn from Spruce Avenue onto El Camino Real because cars and trucks parked along the curb in front of Celia's Mexican Restaurant completely block the view of oncoming traffic. In order to see if it is clear to turn left, one must creep forward over the crosswalk and nose out beyond the parking lane into the path of El Camino traffic. Not only is this a hazard for residents of Spruce Avenue, but also for the drivers who leave Celia's parking lot, and occupants of the 9 commercial parking spaces on Spruce that serve 1900 El Camino.

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	Print Name	Address	Phone (Optional)
	Signature		Date
1.	Lydia Lee <i>Lydia Lee</i>	140 Spruce Ave.	650-327-4240 11/19
2.	Ed Vil <i>Ed Vil</i>	140 Spruce Ave	650-327-4240 11/19
3.	Terra Miller <i>Terra Miller</i>	133 Spruce Av	324.3039
4.	Jane Nassar <i>Jane Nassar</i>	181 Spruce Ave	11/19/06
5.	Laura Gallagher <i>Laura Gallagher</i>	160 Spruce Ave	11/19/06
6.	Kristine Gilmore <i>Kristine Gilmore</i>	163 Spruce Ave.	11/27/06
7.	Roxanne Conen <i>Roxanne Conen</i>	175 Spruce Ave	11/27/06
8.	Tara Cole <i>Tara Cole</i>	175 Spruce Ave	11/27/06
9.	William C Address <i>William C Address</i>	141 Spruce Ave	11/27/06

**CITY OF MENLO PARK
NEIGHBORHOOD ACTION REQUEST PETITION
To the Menlo Park City Council**

Signature Collector Name: *[Signature]* Day Phone: 650 325-2962
DON BARABY
 Address 169 SPRUCE AV. City: MENLO PARK Zip: 94025

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	Print Name	Address	Phone (Optional)
	Signature		Date
1.	<i>PATRICIA ANDRESS</i> <i>Patricia Andress</i>	141 SPRUCE AVE. MENLO PARK, CA 94025	11/27/06
2.	<i>Philip Rahm</i> <i>Philip Rahm</i>	195 Spruce Menlo Park CA 94025	11/27/06
3.	<i>Charles Seagren</i> <i>[Signature]</i>	184 Spruce Ave Menlo Park 94025	11/28/06
4.	<i>Jon Knapp</i> <i>[Signature]</i>	145 Spruce Ave MP CA 94025	11/28/06
5.	<i>Lon Kaplan</i> <i>[Signature]</i>	195 Spruce Ave Menlo Park 94025	12/1/06
6.	<i>Elizabeth Dacey</i> <i>[Signature]</i>	132 Spruce Ave. Menlo Park, CA 94025	12/2/06
7.	<i>Elaine Raiges</i> <i>Elaine Raiges</i>	119 Spruce Ave. Menlo Park, CA 94025	12/02/06
8.	<i>Eric Fraies</i> <i>[Signature]</i>	119 Spruce Ave. Menlo Park CA 94025	12/02/06
9.	<i>DOUG SATZGER</i> <i>[Signature]</i>	175 SPRUCE AVE MENLO PARK CA	12/02/06

**CITY OF MENLO PARK
NEIGHBORHOOD ACTION REQUEST PETITION
To the Menlo Park City Council**

Signature Collector Name: Don Baraby Day Phone: 650 325-2962
 Address: 169 SPRUCE AVE. City: MENLO PARK Zip: 94025

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	Print Name	Address	Phone (Optional)
	Signature		Date
1.	LORIE SATYER <i>Lorie Satyer</i>	175 SPRUCE AVE MENLO PARK CA	12/06/06
2.	Bobbie Seagren <i>Bobbie Seagren</i>	184 Spruce Ave	12/02/06
3.	Ann Richard <i>Ann Richard</i>	132 Spruce	12/2/06
4.	Elizabeth Jones <i>Elizabeth Jones</i>	132 Spruce Ave	12/2/06
5.	JAMES HEWIS <i>James Hewis</i>	115 SPRUCE AVE.	12/13/04
6.			
7.			
8.			
9.			



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: THE HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: KATHY HUGHES ANDERSON, TOWN ARBORIST

DATE: FOR THE REGULAR MEETING OF FEBRUARY 20, 2008

**SUBJECT: THE ENVIRONMENTAL PROGRAMS COMMITTEE
RECOMMENDS REFERRING THE DRAFT ORDINANCE
ADDING ATHERTON MUNICIPAL CODE SECTION 8.56
PERTAINING TO WOOD-BURNING APPLIANCES TO THE
GENERAL PLAN COMMITTEE**

RECOMMENDATION:

Staff recommends that the City Council direct the General Plan Committee to review and consider the proposed wood burning appliance ordinance.

BACKGROUND:

Vada Lee Jones, Citizens for Clean Air, made a presentation at the July 18, 2007, City Council meeting about the dangers of wood smoke. At that meeting, Mayor Alan Carlson referred the matter to the Environmental Programs Committee (EPC).

ANALYSIS

The Environmental Programs Committee invited Vada Jones to attend a meeting and make a presentation to them. Residents may not realize that burning wood inefficiently contributes to air pollution and endangers public health. Many jurisdictions are seeking the appropriate mix of public education, incentives, and ordinances that will minimize particulate matter emissions from wood burning stoves and fireplaces. The Bay Area Air Quality Management District is currently considering new regulations to reduce wintertime particulate matter emissions, including a ban on operating a wood burning device on Spare the Air nights.

Staff was directed to put the item on the next EPC agenda and provide sample ordinances from other jurisdictions. At its November 28 meeting, the EPC reviewed ordinances from Saratoga, Palo Alto, Los Altos, Los Gatos, Mill Valley, and Menlo Park. There are 41 cities and 8 counties in the greater Bay Area that have adopted woodsmoke ordinances. Staff was directed to bring back a draft ordinance for review. At its January 9 meeting, the EPC reviewed a draft ordinance and made minor changes. The Committee voted to ask the City Council to refer the draft ordinance to the General Plan Committee. The EPC feels it is important that there be sufficient public notice and opportunity for resident feedback before asking the City Council to adopt the ordinance.

FISCAL IMPACT:

Costs associated with the implementation of the ordinance will be borne by applicants. Additional staff time to move the ordinance through the General Plan Committee and back to the City Council is anticipated to be 12-15 hours for the Deputy City Planner and 12-15 hours for the Town Arborist. Staff recommends an additional expenditure of \$1,000 for public outreach.

ENVIRONMENTAL IMPACT:

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Sections 15305, Class 5 which permits minor alterations in land use limitations which do not result in any changes in land use or density.

Prepared by:

Approved by:

Kathy Hughes Anderson
Town Arborist

Jerry Gruber
City Manager

Attachments:

1. Draft Ordinance
2. Minutes of the EPC 11/28/07 Meeting
3. Minutes of the EPC 01/09/08 Meeting

ORDINANCE

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ADDING
SECTION 8.56 TO THE ATHERTON MUNICIPAL CODE
REGULATING WOOD-BURNING APPLIANCES**

The City Council of the Town of Atherton does ordain as follows:

Chapter 8.56 WOODBURNING APPLIANCES

Sections:

8.56.010 Title

8.56.020 Purpose and Intent

8.56.030 Statement of Findings

8.56.040 Definitions

8.56.050 Residential Installations

8.56.060 Exemptions

8.56.070 Additions, Alterations or Repairs

8.56.080 Unauthorized Appliances Prohibited

8.56.090 Prohibited Fuels

8.56.100 Curtailment

8.56.110 Enforcement

8.56.120 Violations

8.56.010 Title

This Ordinance shall be known as the Wood-Burning Appliances Ordinance of the Town of Atherton.

8.56.020 Purpose and Intent

The purpose of this chapter is to improve air quality within the Town of Atherton and to regulate the type of wood-burning appliances that may be installed and maintained within the Town.

8.56.030 Statement of Findings

The Town finds and declares as follows:

- A. The State Air Resources Board (ARB) adopted a particulate matter (PM10) Ambient Air Quality Standard (AAQS) in December 1982, and levels for the PM10AAQS were selected pursuant to California Code of Regulations, Title 17, and Section 70200 to protect the health of people who are sensitive to exposure to particulate matter.
- B. Research indicates that wood smoke is a contributor to PM10 levels and poses significant health risks to the public.
- C. The City Council desires to lessen the risk to human health and the environment caused by pollution from wood-burning appliances and a need exists to adopt regulations that apply to wood-burning combustion emissions.
- D. The proposed ordinance will minimize the increase in particulate emissions from future installation of certain wood-burning appliances, and will decrease particulate emissions by the removal of certain wood-burning appliances at the time of renovation.

8.56.040 Definitions

As used in this Chapter:

- A. "Bay Area Air Quality Management District" means the air quality agency for the San Francisco Bay Area established pursuant to California Health and Safety Code Section 40200.
- B. "EPA" means United States Environmental Protection Agency.
- C. "EPA certified wood heater" means any wood heater that meets the standards in Title 40, Part 60, Subpart AAA, Code of Federal Regulations in effect at the time of installation and is certified and labeled pursuant to those regulations.
- D. "Fireplace" means any permanently installed masonry or factory built wood-burning appliance, except a pellet-fueled wood heater, designed to be used with an air-to-fuel ratio greater than or equal to thirty-five (35) to one (1).
- E. "Gas Fireplace" means any device designed to burn natural gas in a manner that simulates the appearance of a wood-burning fireplace.
- F. "Paints" means all exterior and interior house and trim paints, enamels, varnishes, lacquers, stains, primers, sealers, undercoatings, roof coatings, wood preservatives, shellacs, and other paints or paint-like products.
- G. "Paint Solvents" means all original solvents sold or used to thin paints or to clean up painting equipment.
- H. "Pellet-fueled wood heater" means any wood burning appliance that operates exclusively on wood pellets.
- I. "Solid fuel" means wood or any other non-gaseous or non-liquid fuel.
- J. "Treated wood" means wood of any species that has been chemically impregnated, painted or similarly modified to improve resistance to insects and weathering.
- K. "Waste petroleum products" means any petroleum product other than gaseous fuels that has been refined from crude oil, and has been used, and as a result of use, has been contaminated with physical or chemical impurities.
- L. "Wood-burning appliance" means fireplace, wood heater, or pellet-fired heater or any similar device burning any solid fuel or aesthetic or space heating purposes.

8.56.050 Residential Installations

All wood-burning appliances installed in new main residences and new accessory structures, or wood-burning appliances being added to or replacing wood-burning appliances in existing residences and existing accessory structures shall comply with this chapter.

8.56.060 Exemptions

The following devices shall be exempt from this chapter:

- (a) Gas fireplaces; The conversion of a gas fireplace to burn wood shall constitute the installation of a wood-burning appliance and shall be subject to the requirements of the chapter.
- (b) A pellet fueled wood heater;
- (c) An EPA certified wood heater;
- (d) A fireplace certified by the EPA or a fireplace certified by an EPA accredited laboratory as being compliant with the Northern Sonoma County Air Pollution Control District standards for fireplaces, using that district's testing protocol for fireplaces;
- (e) Outdoor fireplaces;
- (f) Devices intended solely for the preparation of food, such as wood-burning ovens and outdoor barbeques;
- (g) Historic wood-burning appliances, as determined by the Building Official;
- (h) Existing fireplaces may be used and maintained. Once these existing fireplaces are removed, only gas fireplaces, pellet-fueled wood heaters, or EPA certified wood-burning appliances may be installed in their place.

8.56.070 Additions, Alterations or Repairs

A wood-burning appliance shall comply with this chapter, if:

- (a) The appliance is reconstructed.
- (b) There are any additions, alterations or repairs to the appliance, with the exception of minor repairs such as damper repairs, firebox repairs, seismic bracing and/or flue liner replacement.
- (c) There is any remodel or renovation work that requires opening the walls within twelve inches of the appliance, excepting minor repairs, which are exempt.
- (d) The Building Official shall have the final authority to determine whether a repair constitutes a "minor repair" for the purposes of this section.

8.56.080 Unauthorized Appliances Prohibited

No person shall install a wood-burning appliance that is not one of the following:

- (a) A pellet fueled wood heater, or,
- (b) An EPA certified wood heater, or
- (c) A fireplace or emission reduction device certified by the EPA, or a fireplace or emission reduction device certified by an EPA accredited laboratory as being compliant with the Northern Sonoma County air pollution control district standards for fireplaces, using that district's testing protocol for fireplaces.

8.56.090 Prohibited Fuels

The following fuels are prohibited from use in a wood-burning appliance:

- (a) All treated wood, plastic products, rubber products, glossy or colored papers and particle board;
- (b) Any solid, semi-solid and liquid wastes generated from residential, commercial and industrial sources, including trash, refuse, rubbish, industrial wastes, asphalt products, manure, vegetable or animal solids and semi-solids, or other discarded solid and semi-solid wastes;
- (c) Waste petroleum products;
- (d) Paints or paint solvents;
- (e) Coal.

8.56.100 Curtailment

It shall be unlawful to use any wood-burning appliance when the Bay Area Air Quality Management District issues a "Spare the Air Tonight" warning and when an alternate approved heat source is available.

8.56.110 Enforcement

Any person who plans to install a wood-burning appliance must submit documentation to the Town's Building Department demonstrating that the wood appliance is a pellet-fueled heater, an EPA certified wood heater, or fireplace certified by the EPA.

8.56.120 Violations

Any person who violates any provision of this chapter will receive a "Notice of Violation" from the Building Official, or his/her designee, after it has been determined that a violation has occurred. The "Notice of Violation" shall inform the person(s) or property owner(s) violating this chapter that they are in violation of the chapter and direct them to stop all activity in violation of this chapter. Only one "Notice of Violation" will be issued to each person or property owner in violation of this chapter. Subsequent violations of this chapter will be considered a separate violation and will be subject to the provisions for a second violation. Any person who violates any provision of this chapter a second time is guilty of an infraction and shall be punished as provided in Section 1.20.050. Each violation of this chapter shall constitute a public nuisance and be subject to abatement as such.

Introduced this ___ day of ____, 2008

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the ___ day of ____, 2008, by the following vote

AYES: COUNCIL MEMBERS
NOES: COUNCIL MEMBERS
ABSTAIN: COUNCIL MEMBERS
ABSENT: COUNCIL MEMBERS

James R. Janz, MAYOR.
Town of Atherton

ATTEST

Kathi Hamilton
Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes
City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JEROME GRUBER, CITY MANAGER**

FROM: BILL YEOMANS, INTERIM FINANCE OFFICER

DATE: FOR THE MEETING OF FEBRUARY 20, 2008

**SUBJECT APPROVAL OF A RESOLUTION AUTHORIZING THE CITY
MANAGER AND MAYOR TO INITIATE TRANSACTIONS WITH THE
STATE OF CALIFORNIA LOCAL AGENCY INVESTMENT FUND**

RECOMMENDATION

Adopt the attached resolution regarding investment transactions with the State of California Local Agency Investment Fund.

DISCUSSION

The State of California Local Agency Investment Fund requires a resolution to authorize Town officers to initiate investment transactions on behalf of the Town. With the new City Manager and Mayor in place, this is the best time to adopt the resolution

FISCAL IMPACT

Approval of the recommended resolution will not require any adjustment to appropriations or estimated revenues.

Prepared by:

Approved by:

Bill Yeomans
Contract Finance Officer

Jerome Gruber
City Manager

RESOLUTION 08-

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
AUTHORIZING INVESTMENT OF FUNDS WITH THE STATE TREASURER**

WHEREAS, the Town of Atherton deposits and withdraws money in the Local Agency Investment Fund in the State Treasury; and

WHEREAS, the Town of Atherton wishes to delegate authorization to order the deposit or withdrawal of money in the Local Agency Investment Fund:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the Town of Atherton , 91 Ashfield Road, that it agrees to deposit or withdraw money in the Local Agency Investment Fund in the State Treasury in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated therein.

NOW, THEREFORE, BE IT FURTHER RESOLVED that Jerome Gruber, City Manager of the Town of Atherton, and/or James R. Janz, Mayor of the Town of Atherton, are authorized to order the deposit or withdrawal of money in the Local Agency Investment Fund.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this 19th day of July, 2006, by the following vote:

*AYES: Council Members:
NOES: Council Members:
ABSENT: Council Members:
ABSTAIN: Council Members:*

ATTEST:

James R. Janz, MAYOR
TOWN OF ATHERTON

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: FOR THE MEETING OF FEBRUARY 20, 2008

**SUBJECT: AMENDMENTS TO SECTION 13.10.070 OF THE ATHERTON
MUNICIPAL CODE FOR PUBLIC, EDUCATIONAL AND ACCESS
SUPPORT FEES FROM VIDEO SERVICE PROVIDERS**

RECOMMENDATION:

Introduce ordinance amending Section 18.10.070(b)(1)(B) of the Atherton Municipal Code to set fee to be paid by video service providers for public, educational and access support.

EXECUTIVE SUMMARY:

The amendment proposed by the attached ordinance is necessary in order to enable the Town to continue receiving revenues from TCI Cablevision of California, Inc. (COMCAST) following its acquisition of a state franchise.

BACKGROUND AND ANALYSIS:

In 2000, the Town entered into a Joint Exercise of Powers Agreement in which the City of Palo Alto, as administering agency, oversees a cable television franchise to TCI Cablevision of California, Inc. (Comcast). The Town also added Chapter 13.08 to the Atherton Municipal Code relative to franchises for cable television and video systems at the time of entry into the Joint Powers Agreement. Comcast is the only cable operator under franchise. The franchise is scheduled to expire in 2010.

In the fall of 2006, Assembly 2987 was signed into law. Entitled "the Digital Infrastructure and Video Competition Act of 2006" ("DIVCA"), this law removes the authority of the Town to

issue franchises in this area. In return, however, DIVCA provides a five percent (5%) franchise revenue to the local agency, even though the franchise is now held with the State.

Section 13.10.070 of the Atherton Municipal Code mirrored Section 2.11.070 of the City of Palo Alto Municipal Code. As the City of Palo Alto is the administering agent for the Joint Powers Agreement between the Town and the cities of Palo Alto, Menlo Park, East Palo Alto and the Counties of San Mateo and Santa Clara, and TCI Cablevision of California, Inc. (Comcast), it is appropriate for the Town to bring its regulations into conformance with the changes that the City of Palo Alto is making amending Section 2.11.070 of the Palo Alto Municipal Code on the subject of fees paid by video service providers for public, educational and governmental access channel capacity and support. An amendment to Section 13.10.070(b)(1)(B) to the Atherton Municipal Code will match the City of Palo Alto's Section 2.11.070(b)(1)(B).

When COMCAST terminated its local franchise by obtaining one from the State under DIVCA, Section 13.10.070 provided that the Town, by ordinance, could collect either the current public educational and governmental access support fee of 0.88 cents per subscriber per month, or a PEG support fee of one percent of the gross video service revenues in the Town. Palo Alto City Staff has concluded that, at the present time, a PEG fee of 0.88 per subscriber exceeds what a one percent PEG fee would yield by about 30%. Accordingly, the City of Palo Alto Staff has proposed amendments to the Palo Alto Municipal Code to establish a PEG fee of 0.88 per subscriber. In selecting the 0.88 option as opposed to the one percent of gross revenue alternate, the Palo Alto City Staff admits to a potential downside. The fixed-figure has no built-in mechanism for growth. Over time, inflation could erode its purchasing power. Additionally, if COMCAST revenues continue to grow at their current rate, the one percent option could yield greater PEG fees than the 0.88 option in the next 4 to 5 years.

Notwithstanding this, however, the Palo Alto City Staff has concluded that anticipated competition may drive down prices and the expected bundling of video with non-video service revenues makes it risky to assume that revenues will grow at the same rate in the future. Accordingly, the Palo Alto City Staff has recommended the 0.88 option because it provides more revenue in the short term and a stable funding amount in the long term.

FISCAL IMPACT:

Adoption of this ordinance will continue the Town's ability to receive revenues from COMCAST at the stated rate.

Prepared by:

Approved by:

Marc G. Hynes
City Attorney

Jerome Gruber
City Manager

Attachment

ORDINANCE NO.
ORDINANCE OF THE COUNCIL OF THE TOWN OF
ATHERTON AMENDING SECTIONS 13.10.070 OF THE
ATHERTON MUNICIPAL CODE REGARDING PUBLIC
EDUCATIONAL AND GOVERNMENTAL (PEG) ACCESS
SUPPORT FEES

The City Council of the Town of Atherton does hereby resolve as follows:

Section 1. Amendment of Code

Section 13.10.070(b)(1)(B) is hereby amended to read as follows:

“(B) Upon the expiration of the Comcast Franchise or its earlier termination pursuant to Section 5840(o)(3) of the California Public Utilities Code, every state franchisee operating within the jurisdictional boundaries of the Town shall, pay a new PEG support fee to the Town in the amount of eighty-eight cents (\$0.88) per month per subscriber in the Town.”

Section 2. If any section of this ordinance, or part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or enforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

Section 3. The City Council hereby finds that this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15061(b)(3) of the California Environmental Quality Act Guidelines, because it can be seen with certainty that there is no possibility of significant environmental effects occurring as a result of the adoption of this ordinance.

Section 4: This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Introduced this _____ day of _____, 2008.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the _____ day of _____, 2008, by the following vote:

<i>AYES:</i>	<i>COUNCIL MEMBERS</i>
<i>NOES:</i>	<i>COUNCIL MEMBERS</i>
<i>ABSTAIN:</i>	<i>COUNCIL MEMBERS</i>
<i>ABSENT:</i>	<i>COUNCIL MEMBERS</i>

James R. Janz, MAYOR
Town of Atherton

ATTEST:

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

/s/ Marc Hynes

Marc Hynes, City Attorney



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF FEBRUARY 20, 2008

**SUBJECT: APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH
WILSEY HAM FOR MUNICIPAL STORM DRAINAGE SYSTEM
DESIGN SERVICES FOR THE FLETCHER-RIDGEVIEW PROJECT**

RECOMMENDATION:

Accept the proposal and authorize the City Manager to sign a Professional Services Agreement with Wilsey Ham to provide Drainage Design services for the Fletcher Ridgeview Project in an amount not exceed \$56,532, plus a 10% contingency, for a total authorization of \$62,185.20.

In addition, authorize the Public Works Department to utilize Wilsey Ham as the on-call municipal storm drainage system design engineering consultant for future Town drainage projects.

BACKGROUND:

The project description from the Request for Proposals (RFP) is:

To design a storm drainage system that will redirect the existing flow path to avoid flows through private property by installing a new system connecting the existing storm drain at the corner of Alta Vista Drive and Fletcher Drive, to follow Fletcher Drive and turn east to Ridgeview Drive, where it will connect to an existing 27" storm drain.

To avoid increasing the runoff to the Atherton Channel from the more direct routing, which would cause increased potential for downstream flooding, the time of concentration for the new system will need to be increased by the use of in-line detention,

using oversized pipes for storage with low flow outlets calibrated to match the undeveloped condition and high flow weirs for rainfall events in excess of the design event.

Staff developed a Request for Proposals (RFP) to solicit proposals for the work. The RFPs were sent to sixteen (16) firms listed as having expertise in drainage design work, and to the IMS engineering consultant clearinghouse. An invitation was extended to all firms to attend an on-site review and explanation of the Fletcher-Ridgeview Drainage project. Five consultant firms submitted proposals. A copy of the Wilsey Ham proposal is included in the packages prepared for Council members.

ANALYSIS:

Five proposals were received as follows, ranked in order of score:

1. Wilsey Ham, Foster City, CA
2. Siegfried Engineering, Inc., Stockton, CA
3. Nolte Associates, Inc., San Jose, CA
4. Schaaf & Wheeler, Santa Clara, CA
5. BKF Engineers, Redwood City, CA

Staff evaluated the RFPs and called references for the top two scoring firms. The selected firm scored best on the evaluation and received excellent comments from the references regarding quality and completeness of work, and performance on-time and within budget. Some of the reasons Wilsey Ham scored higher than the others were:

1. The most realistic schedule that meets the needs of the Town of Atherton (providing for construction during the summer of 2008).
2. The most innovative project approach (flow splitting to maintain low flows in the natural creeks, staged weirs and orifices to control varying sized storm events)
3. Good discussion of the need for and possible solutions for the detention requirements for the project to reduce the flows to the Atherton Channel.
4. Presentation of two detailed concepts as starting points for discussion of project scope.
5. Wilsey Ham staff took the initiative to visit the project during the severe January storm to see what the problems were (no other firm went to the site that day).
6. Relevant experience of project staff, including hydrology and computer program capabilities and in-house surveying capability.
7. Prior work with the Town of Atherton, including earlier (pre-Nolte) hydrology studies, Atherton Channel studies, and other drainage related design and construction projects.
8. Excellent client references on similar projects received from phone calls made by Public Works staff (City of Burlingame, Town of Hillsborough, Genentech).

Many of the upcoming drainage design projects are small. It would benefit the Town to use one consultant as an on-call service provider to avoid the expense and delay of soliciting RFPs for

each separate project. The RFP was issued this concept stated, and was likely the reason for the excellent response received.

It should also be noted that Wilsey Ham was the City Engineer for many years prior to the Town hiring engineering staff. Wilsey Ham has continued to provide consultant services to the Town on specialized projects, with the latest being the Barry Lane box culvert project in 2004. Staff recommends that Wilsey Ham is the best selection for specialized drainage project design in the Town of Atherton.

FISCAL IMPACT:

Parcel Tax funds in the amount of \$115,000 are budgeted for drainage design in FY 2007-08. The Scope of Services and Fee Estimate were negotiated with the selected firm. The final negotiated fee estimate for the first phase of work (Fletcher-Ridgeview Conceptual Design) is \$56,532. This includes \$6,700 for surveying that would normally be included in CIP support, but it was felt it would be more efficient for Wilsey Ham, who has their own survey crews, to perform this work. A 10% contingency of \$5,653.20 would bring the total authorization to \$62,185.20, which is within the approved budget.

When conceptual design is completed, the scope of work and fee estimate for the second phase of work (Fletcher-Ridgeview Final Design) will be negotiated with the selected firm and brought to Council for approval.

Prepared by:

Approved by:

Duncan L. Jones, P.E.
Public Works Director

Jerry Gruber
City Manager

Attachments: Request for Proposals
Wilsey ham Proposal
Professional Services Agreement
Scope of Work
Fee Estimate

TOWN OF ATHERTON

**REQUEST FOR PROPOSALS
ON-CALL MUNICIPAL STORM DRAINAGE SYSTEM DESIGN**

December 7, 2007

The Town of Atherton invites proposals from qualified Civil Engineering firms for performing detailed hydraulic studies and final design for a drainage systems within the Town of Atherton, beginning with the system on Fletcher Drive and Ridgeview Drive, described in Part A, below. The proposal will reflect the consultants approach to the initial project. Selection based on this proposal will determine the on-call consultant to be used for future Town drainage projects.

PART A - DESCRIPTION OF FLETCHER/RIDGEVIEW STUDY

PURPOSE:

To design a storm drainage system that will redirect existing the existing flow path to avoid flows through private property by installing a new system connecting the existing storm drain at the corner of Alta Vista Drive and Fletcher Drive, to follow Fletcher Drive and turn east to Ridgeview Drive, where it will connect to an existing 27” storm drain. To avoid increasing the runoff to the Atherton Channel from the more direct routing, which would cause increased potential for downstream flooding, the time of concentration for the new system will need to be increased by the use of in-line detention, using oversized pipes for storage with low flow outlets calibrated to match the undeveloped condition and high flow weirs for rainfall events in excess of the design event.

SETTING:

The Town of Atherton commissioned a Town-Wide Drainage Study in 2000 (The Nolte Study). This study identified the Fletcher/Ridgeview area as a high priority project. Newly developed areas adjacent to and upstream of Alta Vista Drive, Fletcher Drive and Ridgeview Drive release increased flows to the streets that then flow across private property, causing flooding and damaging trees. Summertime irrigation flows through the existing system are also damaging trees that are accustomed to being dry in the summertime.

Other projects were also identified in the Town-Wide Drainage Study. These projects will be budgeted, designed and constructed in the priority order set by the study, as budget allows. The selected consultant will continue to design these projects so long as service is satisfactory.

COMMUNITY GOAL:

The goal of the community is to eliminate overflow of the Atherton Channel, local flooding of intersections, standing water along roadsides and the escape of water from road areas and undersized drainage ways that then either flows through, in an uncontrolled manner, or ponds on private properties. Proposals to achieve these goals must take into account steadily increasing runoff caused by residential redevelopment, and must recognize the importance to the community of preserving its rural appearance.

SUGGESTED OUTLINE OF TASKS TO ACHIEVE THE TOWN'S PURPOSE:

Below is an outline of tasks that are presented as an illustration of one possible way to fulfill the Town's purpose of the project. Parties submitting proposals may organize their approach and proposal differently and should include any additional work they believe to be necessary to accomplish the purpose, provide superior service or additional benefit to the Town.

Task 1.0 Catalogue and verify existing drainage information

- 1.1 Review and catalogue drainage improvement and path information from available Town resources.
- 1.2 Verify, through field survey, inspection, observation and measurement what catalogued elements of the drainage system actually exist and document their location, elevations, size, typical cross-section, material type, condition, and other relevant information.

Task 2.0 Define drainage areas and sub areas; identify unidentified paths; investigate and document characteristics of and improvements found in those paths and enter the information in the Town's GIS.

- 2.1 Working with County 400 scale maps, information verified in Task 1.2, a plot of verified data to be provided by Lynx Technologies, field reconnaissance and what other information the consultant needs and obtains, define drainage areas, sub areas and paths.
- 2.2 Perform a field reconnaissance of all drainage paths, noting the character and specifics of improvements, natural and man made channels and roadside ditches not previously recorded as part of Task 1.2. Obtain sufficient information to calculate capacities, and note restrictions and impediments to capacity.
- 2.3 Plot and enter relevant data concerning drainage paths obtained in Task 2.2 in the Town's GIS.

Task 3.0 Compute and enter design flows

- 3.1 Collaborate with Town staff to determine assumptions to be made regarding runoff coefficients, freeboard requirements, and storm events to be used in calculating design flows for which the drainage system is to be designed. Assume that different events will be used for different protection goals: e.g. 10-year event for up to 10 acre residential drainage basins affecting local streets or private property, 25-year event for 10 to 50 acre basins and affecting local streets or private property, 50-year event for larger drainage basins and those effecting collector streets and 100-year event for Atherton Channel.
- 3.2 Calculate design flows for all segments of the drainage system and paths.
- 3.3 Calculate capacities for all segments of the existing drainage system, upstream and downstream, and paths under two conditions: 1) satisfying agreed upon freeboard requirements and 2) at point of overflow.

Task 4.0 Determine system improvement needs, priorities and initial estimate of costs.

- 4.1 Determine improvement needs for each section of the Fletcher/Ridgeview drainage system, including sizes, approximate grades, alternatives and costs of improvements and list according to protection provided in the following categories:
 - A. To prevent flooding of local streets and private property in 10-year storms
 - B. To prevent flooding of street intersections and collector streets in 25-year storms
 - C. To prevent flooding from Atherton Channel in 100-year storms
- 4.2 Collaborate with Town staff in developing a work strategy and priorities to develop a recommended project

Task 5.0 Final Design of drainage system - the detailed scope of work and fee for the final design phase will be developed and negotiated after the project strategy is developed and agreed with the Town staff.

- 5.1 Perform field survey
- 5.2 Based on the recommended project, prepare final design plans, specifications, and bid schedule sufficient for bidding the project
- 5.3 Prepare an Engineer's Cost Estimate based on the bid schedule
- 5.4 Assist the Town staff as needed to answer bidders' questions during the bid period

Task 6.0 Construction support services

- 6.1 Assist the Town staff in reviewing contractor submittals and responding to requests for information.
- 6.2 Attend pre-construction meeting to answer contractor questions regarding the design
- 6.3 Assist the Town when requested with Quality Assurance inspections
- 6.4 Prepare as-built plans of the constructed project and enter relevant data concerning the new drainage system into the Town's GIS

PART B - TOWN SUPPLIED RESOURCES FOR THE STUDY AND PRE-PROPOSAL MEETING

The Town has sketchy and incomplete plans of its drainage systems. The Nolte Study has improved this information considerably, but is not guaranteed to be accurate. What improvement plans, records and past studies that exist have been assembled and will be available for inspection by those preparing proposals.

San Mateo County has 400 scale aerial photos and topographic maps derived from those photos covering Atherton and external watershed areas. The contour interval is 5 feet in flat areas and 20 feet in hillside areas. Identification of drainage ways and accuracy of contours from these maps are problematical due to the large number of trees in Atherton that obscure much of the ground in the aerial photos.

The Town will be employing Lynx Technology to complete the population of the Town's Geographic Information System (GIS) base map. The map shows parcels, road and drainage rights-of-way of record, and is geometrically accurate. Layers and linked databases have been established for storm drains, culverts, inlets, ditches and structures, with fields for size, material, condition, elevations, capacity and other information needed for complete drainage records land analysis. The GIS will be based on ArcView GIS and Access.

The Town's Street Supervisor has worked for the Town for nearly 20 years and has first hand knowledge of its drainage. He will be available for a limited amount of time to assist the consultant in research of unrecorded elements of the drainage systems and flood problem history.

A non-mandatory, pre-proposal meeting will be held on Thursday December 20, 2007 at 10:00 a.m., at Atherton Town Hall, 91 Ashfield Road to explain the project and answer questions regarding its scope. Resources the Town will supply will be available for viewing at the meeting.

PART C - PROPOSAL REQUIREMENTS

Submit three (3) copies to Duncan Jones, Town of Atherton Public Works Director, 91 Ashfield Road, Atherton, CA 94027 by **4:00 p.m., Thursday, January 31, 2008.**

Proposals must include the following:

1. Cover Letter - Statement of consultant's background and technical capabilities.
2. Organization Chart - Identify Project Manager, members of the project team, their classifications and any sub-consultants that will be used.
3. Work Plan - Demonstrate your understanding of the project by presenting your approach to the work and the tasks that will be performed. Tasks and milestones should be described in sufficient detail to serve as a scope of work and basis for fee negotiations for the contract.
4. Schedule - Provide a schedule identifying task durations, milestones, progress review meetings with Town staff and key project deliverables. Describe a timeline to a bid package ready for bidding.
5. Personnel Allocations - For each task, indicate the staff members and sub-consultants assigned to the task. The consultant's management and internal review and quality control should be included.
6. Experience and References - Provide a short summary of the firm's previous work related to the qualifications needed for this project. Include at least four specific examples of similar project work and include names and telephone numbers of individuals involved as the clients' project managers. Please verify that the telephone numbers will reach the individuals named. Provide qualifications and summaries of experience for each person assigned to the project demonstrating relevant experience performing similar work. Describe specific qualifications and related experience of sub-consultants with focus on experience from projects of a similar nature.

PART D - CONTRACT REQUIREMENTS

The attention of prospective consultants is directed to the sample contract attached to this request for proposals. It includes indemnification and insurance requirements and provisions relating to payment and ownership of work documents that consultants should aware of in submitting proposals.

PART E - CONSULTANT SELECTION CRITERIA

Selection will be based on the following evaluation criteria, in order of priority and not necessarily equally weighted:

1. Project understanding, as demonstrated by work plan, approach and schedule
2. Qualifications and experience of key personnel and other team members, including sub-consultants
3. Recent experience in performing similar studies
4. Recent past performance in quality and completeness of work and delivery on time and within budget
5. Feedback from references given

After reviewing proposals, the Town may either directly enter into negotiations with the consultant it finds best qualified or select a short list of consultants to be interviewed by a selection panel. If the Town is unable to negotiate a satisfactory agreement with its first choice it will enter into negotiations with the next choice. Final approval of the consultant selected by Town staff, the fee and the contract must be reviewed and approved by the Atherton City Council.

For additional information, contact Duncan Jones, Town of Atherton Public Works Director at (650) 752-0532.

SAMPLE PROFESSIONAL SERVICES AGREEMENT FOR
(type-in name of service or project)

THIS AGREEMENT is entered into between the Town of Atherton, a municipal corporation, hereinafter referred to as "the City", and _____, hereinafter referred to as the "Consultant", in consideration of the mutual benefits, terms, and conditions hereinafter specified.

1. Project Designation. The Consultant is retained by the City to perform _____ services in connection with the project designated as _____.
2. Scope of Services. Consultant agrees to perform the services, identified on Exhibit "A" attached hereto, including the provision of all labor, materials, equipment and supplies.
3. Time for Performance. Work under this contract shall commence upon the giving of written notice by the City to the Consultant to proceed. Consultant receipt of a Purchase Order shall constitute said notice. Consultant shall perform all services and provide all work product required pursuant to this agreement within _____ calendar days from the date written notice is given to proceed, unless an extension of such time is granted in writing by the City.
4. Payment. The Consultant shall be paid by the City for completed work and for services rendered under this agreement as follows:
 - a. Payment for the work provided by Consultant shall be made as provided on Exhibit "B" attached hereto, provided that the total amount of payment to Consultant shall not exceed \$ _____ without express written modification of the agreement signed by the City.
 - b. The consultant may submit vouchers to the City once per month during the progress of the work for partial payment for project completed to date, up to 85% of total project costs. Such vouchers will be checked by the City, and upon approval thereof, payment will be made to the Consultant in the amount approved.
 - c. Final payment of any balance due the Consultant of the total contract price earned will be made promptly upon its ascertainment and verification by the City after the completion of the work under this agreement and its acceptance by the City.
 - d. Payment as provided in this section shall be full compensation for work performed, services rendered and for all materials, supplies, equipment and incidentals necessary to complete the work.
 - e. The Consultant's records and accounts pertaining to this agreement are to be kept available for inspection by representatives of the City and state for a period of three (3) years after final payments. Copies shall be made available upon request.
5. Ownership and Use of Documents. All documents, drawings, specifications and other materials produced by the Consultant in connection with the services rendered under this agreement shall be the property of the City whether the project for which they are made is executed or not. The Consultant shall be permitted to retain copies, including reproducible copies, of drawings and

specifications for information, reference and use in connection with Consultant's endeavors.

6. Compliance with laws. Consultant shall, in performing the services contemplated by this agreement, faithfully observe and comply with all federal, state, and local laws, ordinances and regulations, applicable to the services to be rendered under this agreement.

7. Indemnification. Consultant shall indemnify, defend and hold harmless the City, its officers, agents and employees, from and against any and all claims, losses or liability, or any portion thereof, including attorneys fees and costs, arising from injury or death to persons, including injuries, sickness, disease or death to Consultant's own employees, or damage to property to the extent caused by a negligent act, omission or failure of the Consultant.

8. Insurance. The Consultant shall secure and maintain in force throughout the duration of this contract comprehensive general liability insurance with a minimum coverage of \$500,000 per occurrence and \$2,000,000 aggregate for personal injury, and \$500,000 per occurrence/aggregate for property damage. Said general liability policy shall name the Town of Atherton as an additional named insured and shall include a provision prohibiting cancellation of said policy except upon thirty (30) days prior written notice to the City. Certificates of coverage as required by this section shall be delivered to the City within fifteen (15) days of execution of this agreement.

9. Independent Contractor. The Consultant and the City agree that the Consultant is an independent contractor with respect to the services provided pursuant to this agreement. Nothing in this agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither Consultant nor any employee of Consultant shall be entitled to any benefits accorded City employees by virtue of the services provided under this agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance program, otherwise assuming the duties of an employer with respect to Consultant, or any employee of Consultant.

10. Covenant Against Contingent Fees. The Consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this contract, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the City shall have the right to annul this contract without liability or, in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

11. Assignment. The Consultant shall not sublet or assign any of the services covered by this agreement without the express written consent of the City.

12. Non-Waiver. Waiver by the City of any provision of this agreement or any time limitation provided for in this agreement shall not constitute a waiver of any other provision.

13. Termination.

a. The City reserves the right to terminate this agreement at any time by giving thirty (30) days written notice to the Consultant.

b. In the event of the death of a member, partner or officer of the Consultant, or any of its supervisory personnel assigned to the project, the surviving members of the Consultant hereby agree to complete the work under the terms of this agreement, if requested to do so by the City. This section shall not be a bar to renegotiations of this agreement between surviving members of the Consultant and the City, if the City so chooses.

14. Notices. Notices to the Town of Atherton shall be sent to the following address:

Duncan Jones
Atherton Public Works Director
91 Ashfield Road
Atherton, CA 94027

Notices to Consultant shall be sent to the following address:

15. Integrated Agreement. This Agreement together with attachments or addenda represents the entire and integrated agreement between the City and the Consultant and supersedes all prior negotiations, representations, or agreements written or oral. This agreement may be amended only by written instrument signed by both City and Consultant.

DATED this _____ day of _____, 200_.

Town of Atherton

Consultant

By _____
City Manager

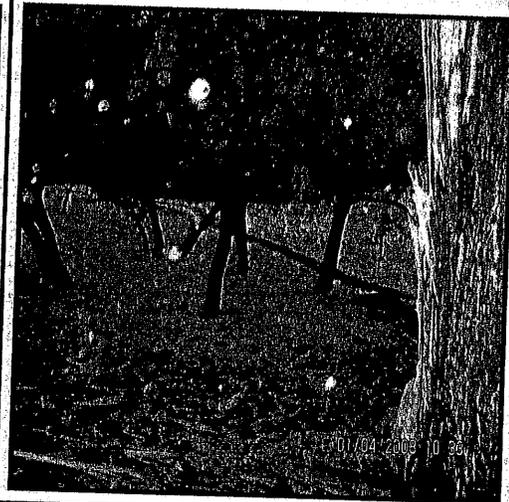
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Approved as to Form

By _____
City Attorney

TOWN OF ATHERTON

ON-CALL MUNICIPAL STORM DRAINAGE SYSTEM DESIGN



WILSEY ■ ■
HAM ■ ■

ENGINEERING ■ PLANNING ■ SURVEYING

January 31, 2008

WILSEY ■ ■
HAM ■ ■

ENGINEERING ■ PLANNING ■ SURVEYING

Duncan Jones, P.E.
Director of Public Works
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

RE: Response to Request for Proposals for On-Call Municipal Storm Drainage System Design

Dear Duncan:

It is with great pleasure that Wilsey Ham submits our proposal to the Town of Atherton for On-Call Municipal Storm Drainage System Design. We believe that you will find our team's technical expertise, combined with our experience working with the public on sensitive projects will be a valuable benefit to the Town. In addition, our in-house survey department affords the Town the opportunity to simplify the contract process while streamlining coordination between the engineering and surveying needs of the project.

Wilsey Ham has a long history of providing design services to public agencies, especially on the Peninsula. Our recent storm drain design experience includes projects of all types, ranging from large flood control projects for the San Mateo County Flood Control District, to smaller storm drain extensions and inlet installations to correct localized drainage issues. We have the hydrology and hydraulics experience to handle complicated drainage improvements, as well as the attention to detail to ensure that smaller, politically sensitive projects are handled properly. A sample of our recent drainage experience is included in Section 4 of this proposal.

To assist the Town in getting the most cost effective projects for their storm drain budget, we have assembled a strong team of professionals experienced in public storm drain improvement projects. Our staff of engineers has many years of experience in storm drain design, plan preparation and the development of bid packages for public improvement projects, and we can provide a fresh insight into the drainage problems the Town is currently facing. I will act as the Project Principal for all of the Town's drainage projects under this contract. As part of my experience working for the Town of Los Altos Hills as their Public Works Director, I managed and administered a number of storm drain improvement projects. One of these projects was the result of a mediation settlement that involved the installation of a 66" pipeline to carry storm flows between two closely spaced homes before emptying into Adobe Creek. Projects such as this require a significant amount of coordination with, and cooperation from the affected residents during design and construction. Due to the need to have a good working relationship with the Town's residents for the project to succeed, we believe it will be very important for the selected consultant to develop a good rapport with the residents where the drainage improvements are planned. Our team has the experience and desire to effectively work with the Town's residents.

Amy Dunning will serve as Wilsey Ham's Project Manager on our team. Amy brings a wide range of creative drainage and flood control experience to our team from her years working on similar projects in Maryland and the U.K. She is trained in the use of the hydromodification software currently in use in San Mateo County. Amy has excellent management and interpersonal skills, and will be the main contact with the Town during the design and development of the drainage projects.

Duncan Jones
January 31, 2008
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Ken Selby is Wilsey Ham's proposed Project Engineer for the On-call Storm Drain Design Services project. Ken is a very experienced and versatile design engineer, and storm drain design is one of his fortes. He is the primary design engineer who has worked with the City of Burlingame for a number of consecutive years performing storm drain designs of all types. Another one of Ken's strengths is his structural design capability which enables him to solve drainage issues with special structures where conventional off-the-shelf drainage products will not suffice. Ken has also served as the lead engineer on large, complex drainage projects such as the Colma Creek Flood Control Project in South San Francisco.

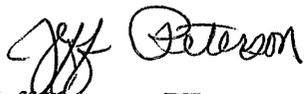
We believe our team presents the right balance of creative technical skills, Public Agency project administration experience, and an understanding of the need for good resident involvement and interaction. We also have the skills to ensure that these projects are designed correctly to meet the Town's goals. Finally, we possess a sincere desire to perform this project for the Town, and we have a great jump start on understanding the issues!

All correspondence during the consultant selection process may be forwarded to me at the address shown on our letterhead at the bottom of the front page. For telephone contact, I can be reached on my direct line at (650) 286-8415.

We are genuinely excited about the potential opportunity to work for the Town on this project. Thank you for the opportunity to submit this proposal.

Very truly yours,

WILSEY HAM



Jeff Peterson, PE
Principal
RCE #41,385

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TOWN OF ATHERTON

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1 Work Plan

1.1 Project Understanding

On-Call Services

The Town of Atherton is seeking proposals for performing on-call services for detailed hydraulic studies and designs as well as the preparation of construction plans, specifications and estimates for municipal drainage systems. As a result of a Town-Wide Drainage Study conducted in 2000, several necessary drainage improvement projects have been identified and prioritized. The stated goal of the community and this project is to “eliminate overflow of the Atherton Channel, local flooding of intersections, standing water along roadsides and the escape of water from road areas and undersized drainage ways that then either flow through, in an uncontrollable manner, or pond on private properties.” All proposed storm drain facilities must be aesthetically appropriate for Atherton’s rural setting, yet sufficient to handle the runoff from future development.

The issue of increased storm runoff from private development projects has been a challenge for cities throughout the Bay area. In recent years, the communities downstream of Atherton have threatened lawsuits if the Town of Atherton continued to allow the rate of runoff to increase as properties develop and residential properties redevelop. The Town responded with the implementation of strict storm water detention requirements for all developments within Town in effort to reduce the rate of runoff to Atherton Creek

and other drainage conveyances. The Town is also seeking to develop design standards to achieve a reduction in the rate of runoff for new municipal storm water facilities as well. Those standards will be developed as part of this project.

The Fletcher Drive/Ridgeview Drive project was determined to have the highest priority of Atherton’s storm drain projects and will be the first and largest of the projects. The successful consultant for this project will continue to provide on-call services for the Town’s municipal drainage projects provided that Town budget is available and satisfactory service has been delivered.

Although the Fletcher Drive/Ridgeview Drive project will not involve Caltrans work, Wilsey Ham recognizes that future projects will require coordination with, and even approvals from Caltrans. Wilsey Ham has worked on many projects requiring Caltrans encroachment permits in recent years and we understand the required steps to acquire these permits.

In an effort to understand the drainage patterns and flooding issues on the Fletcher Drive/ Ridgeview Drive project and other future projects identified in the Town-Wide Drainage Study, Wilsey Ham made a site visit during the intense storm on January 4, 2008. Approximately 60 photographs were taken of various flooding and drainage patterns in various areas. (Examples are shown below.)

1.1 Project Understanding



Polbemus Court – ponding on roadside, no underground storm drain.



Fleur Court – roadside channel overflowing, no underground storm drain.

Fletcher Drive/Ridgeview Drive Drainage System

As described in the RFP, the objective of the Fletcher Drive/Ridgeview Drive storm drainage system project is two-fold: to redirect existing drainage flow paths away from existing private properties and to increase the time of concentration of the new system so that flows to the Atherton Channel are reduced. Through discussions with the Town

of Atherton and review of the existing drainage maps, we have gained a better understanding of the problems in the Fletcher Drive/Ridgeview Drive drainage area. It is our understanding that a portion of the storm flows are to remain in the private channels and excessive ponding in the streets is to be alleviated. While addressing the problems in the drainage system, there must be a reduction in the rate of storm flows to the Atherton Channel.

The Fletcher Drive/Ridgeview Drive drainage area is relatively steep near the upstream end of Ridgeview Drive, Alta Vista Drive and Fletcher Drive, and becomes more gently sloped at the downstream end of Ridgeview Drive. Storm runoff flows overland through private properties in defined and undefined watercourses, down roadways as sheet flow, along curbs, in roadside channels and through underground systems that drain a portion of the catchment area.

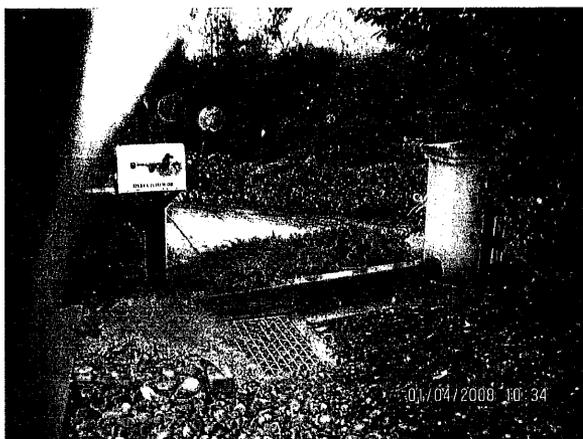
From our site visit to the project area during the noted intense winter storm, we gained further insight into the dynamics of the watershed. Through this effort to fully understand the project, we have identified several problem areas and issues which have been highlighted on an Existing Conditions Exhibit located at the end of this section, and as described below. This Exhibit was prepared on the County's 400-scale topographic mapping.

Area 1 - Upper Fletcher Drive

An existing underground storm drain system collects drainage at the intersection of Fletcher Drive and Alta Vista Drive. This system flows north on Fletcher Drive and then outfalls to a channel located on the 471

1.1 Project Understanding

Fletcher Drive property. We understand that private detention facilities connect to this public system at inlets upstream of the channel outfall, as displayed in the picture below. Local residents have reported that excessive irrigation from upstream properties causes constant summer flows in the open channels downstream of this underground drainage system, and that these summer flows have damaged some of the oak trees on private property.



Inlet located on private property at 471 Fletcher Drive

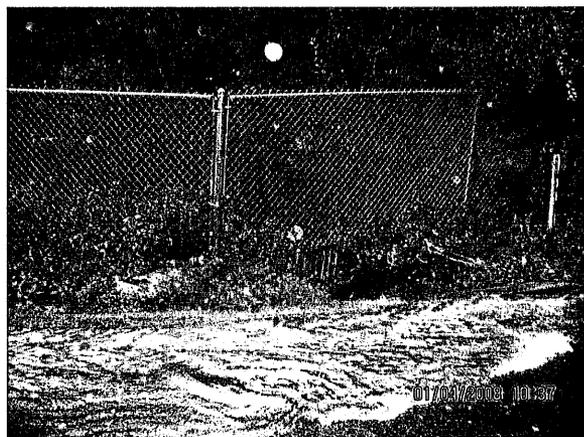
Area 2 - Lower Fletcher Drive

Street drainage from Alta Vista Drive and upper Fletcher Drive sheet flows in Fletcher Drive towards Ridgeview Drive. The residential lots bound by Alta Vista Drive, Ridgeview Drive and Fletcher Drive drain to an open channel located on private properties which outfall under an existing fence (see picture below) and across Fletcher Drive. There is a bend in Fletcher Drive at the downstream side of the road in this location, along the frontage of 401 Fletcher Drive. The Town of Atherton installed an asphalt berm at this bend to prevent street drainage from flowing into the open channel on the property

of 401 Fletcher Drive. The berm is effective at keeping much of the drainage in the street, as depicted in the picture. The open channel below the berm that flows east across the private lots remains relatively dry during large storm events. This riparian area has been essentially cut off from storm flows of any kind.



Open channel drainage flowing under fence at 440 Fletcher Drive



Asphalt berm along Fletcher Drive with open channel in background

1.1 Project Understanding

Area 3 - Ridgeview Drive at Fletcher Drive

From the asphalt berm at the Fletcher Drive bend, drainage continues to flow down Fletcher Drive towards Ridgeview Drive, remaining mostly in the street. At the intersection of Ridgeview, drainage is forced around the sharp bend to the east and then down Ridgeview Drive (see picture below). Due to the fact that Ridgeview Drive is significantly flatter than Fletcher Drive, problematic ponding occurs just east of the intersection. Reports from residents indicate that this ponding has damaged olive trees in the area. This intersection marks the drainage divide between Redwood Creek and Atherton Channel. The underground system in Ridgeview Drive, west of the intersection flows from the southwest corner of the intersection to a bubble-up inlet at the northeast corner and then flows north down Fletcher Drive. This drainage divide must be maintained in the post project condition.



Drainage flowing down Fletcher Drive and around corner of Ridgeview Drive

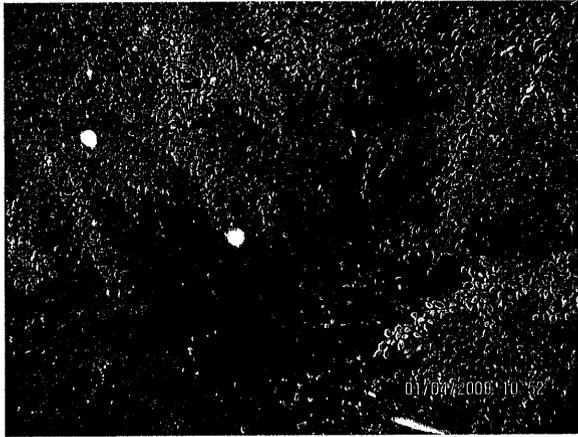


Ponding along Ridgeview Drive at intersection with Fletcher Drive (view looking west)

Area 4 - Lower Ridgeview Drive

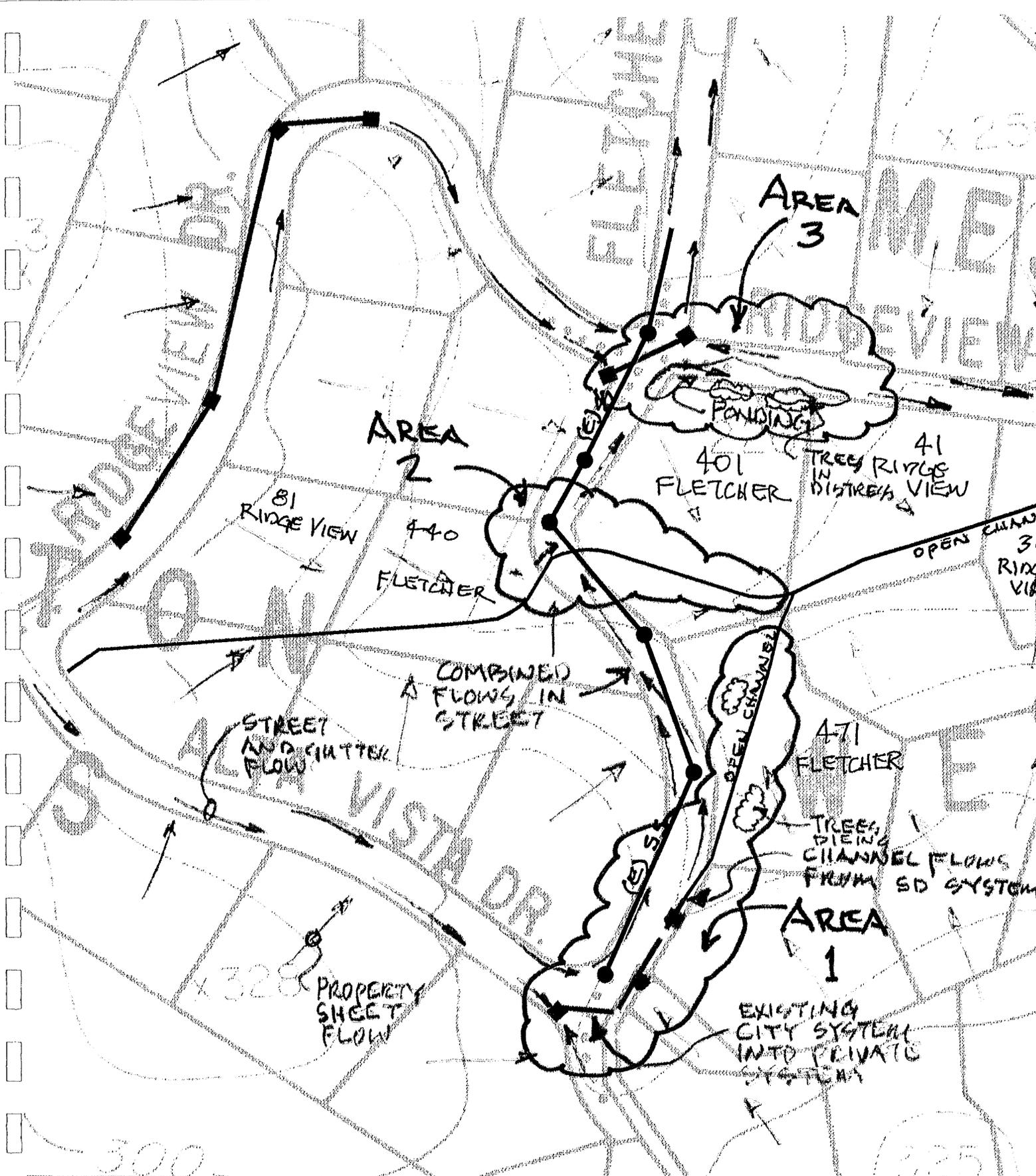
The channels from 471 and 401 Fletcher Drive combine and then flow through the properties of 41 Ridgeview Drive, 35 Ridgeview Drive and 26 Sutherland Drive. The resident of 26 Sutherland Drive has installed an unauthorized diversion of the channel onto Ridgeview Drive, resulting in increased flows in the street which does not have adequate storm drain infrastructure and the removal of flows from the downstream portion of the channel. As a result, the inlets on Ridgeview Drive in front of 1 Sutherland Drive are overwhelmed and ponding occurs. The underground storm drain system that collects drainage from Sutherland Drive at the intersection of Ridgeview Drive and outfalls to the channel on private property in the vicinity of 1 Ridgeview Drive appears to be in good working order.

1.1 Project Understanding



Ponding at 1 Sutherland Drive from Ridgerview drainage

In light of these observations, Wilsey Ham proposes the following Approach to performing the Scope of Work for this drainage study and preliminary design.



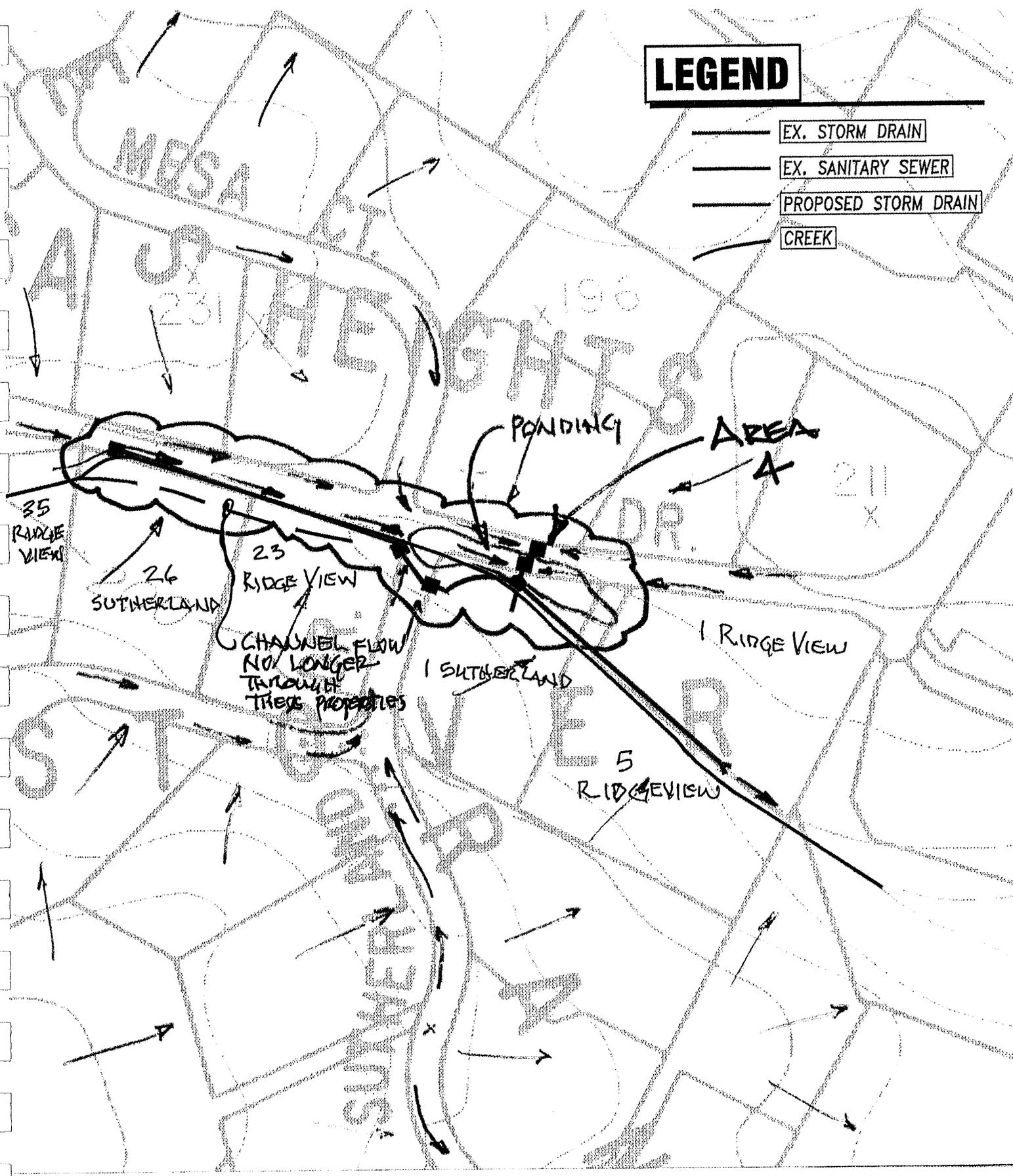
EXISTING CONDITIONS
 EXHIBIT
 SHET 1 OF 2

WILSEY ■ ■
HAM ■ ■

ENGINEERING ■ PLANNING ■ SURVEYING

LEGEND

- EX. STORM DRAIN
- EX. SANITARY SEWER
- PROPOSED STORM DRAIN
- CREEK



EXISTING CONDITIONS
 EXHIBIT
 SHY 2 of 2

1.2 Project Approach

Task 1.0 - Project Kickoff - Verify Existing Conditions

Due to community sensitivity and project nuances, we believe the project should begin with a kickoff meeting/strategy session between Town staff and our Project Team to verify that our proposed project approach is in line with the Town staff's vision. At this meeting we will discuss our ideas for community meetings for the Town's review and concurrence. Wilsey Ham realizes that public input into the project is an essential element for the project's success, allowing residents to describe their drainage concerns so that we may be able to resolve as many issues as possible. Since the drainage evaluation will require entering private property to inspect, measure and photograph drainage facilities, we recommend that the first public meeting be held very soon after the project initiation so that we can explain our need to access residents' properties and discuss our approach to the study. At the first public meeting, we will solicit residents input regarding their drainage issues and concerns. This will help to minimize the number of times we need to access their property by focusing on those areas of concern during our site walk.

One of the most important steps in solving drainage problems is to thoroughly understand the existing drainage patterns to ensure the proposed solutions effectively solve the problems. As mentioned earlier in this proposal, Wilsey Ham's proposed Project Engineer for this project has already spent a considerable amount of time at the project site observing and photographing drainage patterns and flooding problems during the January 4, 2008 storm. This site visit has

already provided us with a very valuable understanding of the existing drainage patterns and problems in the area. These first hand observations will be correlated with the Town's drainage records and field experience by the following steps. First, we will collect and catalogue all record drainage information available to us from the Town from their GIS system and other maps. The drainage information will be plotted onto the 400-scale topographic base maps acquired from the County (currently in our possession). This information will supplement the information we've already collected to date, and will include pipe and outfall locations, sizes, material types, and elevations as well as the locations of ditches, inlets and other drainage features. Next, we will request a meeting with the Town's Street Supervisor to discuss his observations through the years as well as the drainage complaints he has investigated in the area. After this meeting, a field walk will be conducted with our drainage base map to confirm the existence and location of the drainage facilities, to identify and photograph undocumented improvements, investigate residents' concerns and determine the condition of existing infrastructure. We will also verify drainage paths by walking the entire drainage basin. Private improvements or other topographic features that block the drainage paths will be documented on our base maps and photographed. The photos may also be used during public meetings to illustrate the issues to the public, if appropriate.

Once we fully understand the nature and extent of the existing drainage improvements, Wilsey Ham will develop a list of the specific supplemental topographic information needed

1.2 Project Approach

to accurately document the elevations and locations of existing drainage improvements that are critical to the study. The supplemental survey could be performed by the Town's on-call Surveyor or by Wilsey Ham's Survey Department. We propose that the work be performed by Wilsey Ham's Survey Department in order to ease project communication and coordination of survey needs. We are flexible however, and can accommodate either approach. This has been identified as an optional service in the event the Town would like to use their on-call consultant. The supplemental survey should be performed on the Town's horizontal and vertical datum.

Task 2.0 – Define Drainage Areas, Paths and Characteristics

After the supplemental survey information has been collected and added to our base maps, the drainage areas, sub areas and flow paths will be identified on the maps and confirmed in the field. In addition, all of the natural and man-made channels will be identified and measured to provide sufficient information to calculate capacities of the channels. All of the information gathered through the site reconnaissance and field surveys will be used to prepare a composite mapping of the Town's drainage system, drainage paths and boundaries for the Fletcher Drive/Ridgeview Drive area which will be used for the production of preliminary design plans.

The project base mapping will be prepared in AutoCAD format. Wilsey Ham will work with the Town's GIS consultant for importing all of the verified drainage information from AutoCAD to ArcView GIS. Specifically,

AutoCAD layers will be provided in a mutually agreed upon configuration and supplied to the Consultant for easy import into ArcView. It is our understanding that the Town may hire an employee to maintain their GIS data base. In the event that this occurs, we will work with the Town's employee to accomplish the same. Close consultation will be conducted to ensure the information is provided in a layering system compatible with the data base.

Task 3.0 – Calculation of Design Flows

The first step in this phase of the project will be to determine the design criteria for the project, including design-storm events for all drainage elements in the project, runoff coefficients, and freeboard requirements. Wilsey Ham will initiate this task by submitting a draft Basis of Design (BOD) Report which proposes design criteria to be used for this project as well as future storm drain projects within the public right of way and easements. The criteria will include runoff coefficients, freeboard and detention requirements as well as acceptable methods of detention within the Town's right of way to allow the Town to reduce the rate of runoff to Atherton Creek and other downstream systems. This will also include proposed criteria for determining the minimum amount of base flow to remain in existing natural drainage courses for the preservation of a riparian corridor on private property. The rationale of our recommendations will be provided as well as the reference source of the criteria.

Based on common practice as well as the Town's preliminary direction in the RFP, we envision that the design-storms used for the

1.2 Project Approach

design of facilities will be a 10-year storm for the upper reaches of the basin and will progressively increase to a 100-year storm as the drainage basin area increases approaching the Atherton Channel. After the Town has reviewed the Basis of Design, Wilsey Ham will meet with the Town to discuss the recommendations and reach a decision on the criteria.

After the drainage criterion has been established, a hydrology study will be performed and the design flows for the Fletcher Drive/Ridgeview Drive basin will be calculated. Drainage areas and flow paths, as confirmed in the watershed survey, will be used in the hydrologic computations for the existing drainage basin. Next, a hydraulic analysis will be performed on each of the system elements. Capacities and freeboard will be computed and compared with the design storm flows for a minimum of two conditions, which include: 1) the drainage facility (open channel or pipe) with the approved freeboard requirements; and 2) that capacity of the conveyance at the point of overflow. A table will be prepared summarizing the results of all of the hydrology calculations and the capacities of the drainage segments. Those elements that do not meet the design criteria will be identified and highlighted.

Task 4.0 - Determination of System Needs, Priorities and Construction Costs

The information gained during the hydrologic and hydraulic study will lead directly into identifying improvements needed for each section of the Fletcher Drive/Ridgeview Drive drainage system. Wilsey Ham will set

up plan view sheets using the project base mapping to develop and show our recommended drainage improvements for each problem area in the Fletcher Drive/Ridgeview Drive drainage basin. After the drainage improvements have been prepared, the time of concentration for each alternative will be analyzed and estimates of required detention volumes will be determined and based on the agreed upon public storm drain system design criteria. The plans will show the location and size of all drainage improvements including pipe sizes, preliminary slopes, proposed pipe materials, junction box and inlet locations, proposed detention facilities and all other features that are necessary to estimate the construction costs. In locations where alternatives are feasible, they will be developed as well for consideration by the Town.

We will perform a cost comparison of all available methods of detention to determine the most cost effective method for providing the required level of detention on the project. In addition, Wilsey Ham will evaluate the feasibility of maintaining each of the detention options. The results of this evaluation will be summarized for the Town's review and recommendations will be made for the appropriate detention facilities on this project as well as other future projects. A preliminary construction cost estimate will be developed for each alternative using recent construction costs from storm drain projects in Atherton (if available) and other local municipalities that Wilsey Ham works with routinely. The preliminary plans will use a color coded scheme to identify the level of protection provided by each proposed element; i.e. the 10-yr, 25-yr or 100-yr storm event.

1.2 Project Approach

At this point in the project, Wilsey Ham will have a solid understanding of the issues, proposed solutions, public concerns and ramifications of flooding in this drainage sub-basin, as well as the Town's available budget for this project. With this knowledge, Wilsey Ham will recommend priorities for construction of the drainage improvements to maximize the use of the Town's available budget, focusing the expenditure on the areas that need it the most. These recommendations will be summarized to the Town in a report along with our rationale for the recommendation and a summary of construction costs. After the report has been submitted to the Town, Wilsey Ham will meet with the Town to discuss the recommendations. Revisions to our recommendations will be made to incorporate the Town's comments.

If desired by the Town, Wilsey Ham will research and identify the permits needed from outside agencies (if any) for the construction of the recommended improvements. A summary of our findings will be submitted to the Town along with the plans. Wilsey Ham will assist the Town with any environmental checklists and assessment of the project by providing all of the study information and drawings as requested.

The drainage improvement alternatives, estimates and recommendations for priorities will be submitted to the Town for review. After the Town's review, a meeting will be held to collaborate on defining a final project to be carried through to final design. The submittal package will be revised accordingly to reflect those changes.

At this point in the project, Wilsey Ham would recommend conducting another neighborhood meeting to present and discuss the recommended solutions for the drainage issues. Any outstanding community concerns could then be addressed at final design, as the Town deems appropriate.

Task 5.0 - Final Design

Once the scope of the final project has been discussed and agreed to with the Town, Wilsey Ham will prepare a detailed Scope of Work and proposed fees for the final design and preparation of improvement plans, specifications and engineers estimate to be used by the Town for bidding the project. Construction support services will be provided as well. The following is a general description of our anticipated scope of work for Final Design and Construction support services.

To begin the final design phase, a supplemental field survey will be performed to collect any additional survey information required to develop the final design. At the Town's discretion, Wilsey Ham survey department can provide surveying services for this work. By incorporating the design and survey services in one firm, the project will realize cost savings and ease of project coordination. This data will be merged with the preliminary base mapping to produce the final base mapping.

Final design plans will be prepared based upon the work plan agreed to with the Town and using the base mapping developed throughout the project. The design package will be developed to the 95% complete design level and will include technical specifications, a bid schedule, and an Engineer's Cost

1.2 Project Approach

Estimate. Wilsey Ham will also assemble and prepare the contract specifications including the Notice to Bidders, the Town's General Provisions, the Measurement and Payment Sections of the Specials provisions, the Bid Schedule and all elements of the Bid Package. The 95% design package will be submitted to the Town for their review.

Wilsey Ham will prepare final bid documents by incorporating the review comments from the Town as well as any approved modifications that transpire.

Provision C3 of the San Mateo Countywide Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) Permit addresses the need for water quality treatment and hydromodification associated with land development and re-development projects. Once the final project has been defined, Wilsey Ham will ensure that the project meets the requirements of Provision C3, as they apply.

If the project requires, a Notice of Intent (NOI) and Stormwater Pollution Prevention Plan (SWPPP) will be prepared to meet the requirements of the NPDES General Construction Permit. This permit will be required if the final design disturbs more than one acre.

During the bidding process, Wilsey Ham will answer bidder questions and will assist the Town with the bidding process, as requested.

Task 6.0 - Construction Support Services

After award of the construction contract, Wilsey Ham will attend the pre-construction meeting with the Contractor, Town staff, and any other involved entities. Typical discussion

items include working hours, submittal requirements, testing requirements, schedule of work, quality control standards, change orders, technical issues, safety procedures chain of command and communication during construction.

During construction, Wilsey Ham will assist Town staff in reviewing Contractor submittals, responding to requests for information, and performing periodic construction site inspections for quality assurance as needed by the Town.

Upon completion of construction, Wilsey Ham will prepare As-Built drawings based on markups from the Contractor. As previously done for the base mapping, Wilsey Ham will work with the Town's consultant or employee, whichever applies, and provide the necessary AutoCAD layering for import of the As-Built drawings into the GIS system.

1.3 Scope of Work

This section summarizes our detailed Scope of Work as described in our proposed Approach. The intent of this section is to detail each subtask and project milestone, which will ultimately match the line items on our fee estimate. As explained in the RFP, the scope of work for the final design phase will be determined after project strategy is developed and agreed upon with the Town staff. Therefore, specific tasks for the final design and construction services are not included herein.

The following represents our Proposed Scope of Work leading up to Final Design:

Task 1.0 - Project Kickoff- Verify Existing Conditions

- Attend project kickoff/strategy meeting with Town staff.
 - Collect record drainage records and add information to 400-scale base maps from County.
 - Meet with Town's Street Supervisor to discuss his drainage observations and experience.
 - Attend and help conduct a neighborhood meeting to discuss the goals of the project, the approach to the drainage study and the assistance needed from the public. Solicit resident input regarding the problems and issues experienced by the residents. The resident's permission will be requested for accessing their properties to look at the drainage issues.
 - Perform a field walk with drainage maps to confirm drainage facilities, photograph/document undocumented improvements & verify drainage paths.
- Develop supplemental survey request for additional information needed.
 - Add topographic survey information to the base maps.

Task 2.0 - Define Drainage Areas, Paths and Characteristics

- Determine drainage areas and sub-areas, and add to base maps.
- Conduct a site visit to confirm drainage areas, and flow paths. Identify, measure and document natural and man-made channel sizes and locations for hydraulic calculations.
- Prepare the composite project base mapping in AutoCAD using all of the information collected and described above.
- Coordinate with and assist the Town's GIS technician to input existing facilities and watershed characteristics into the Town's GIS system.

Task 3.0 - Calculation of Design Flows

- Prepare and submit a proposed Basis of Design (BOD) Report of design criteria to be used for this project as well as future storm drain projects within the public right of way and easements. The criteria will include runoff coefficients, freeboard and detention requirements as well as acceptable methods of detention within the Town's right of way to allow the Town to reduce the rate of runoff to Atherton Creek and other downstream systems.
- Meet and collaborate with Town staff to review the BOD and agree upon the

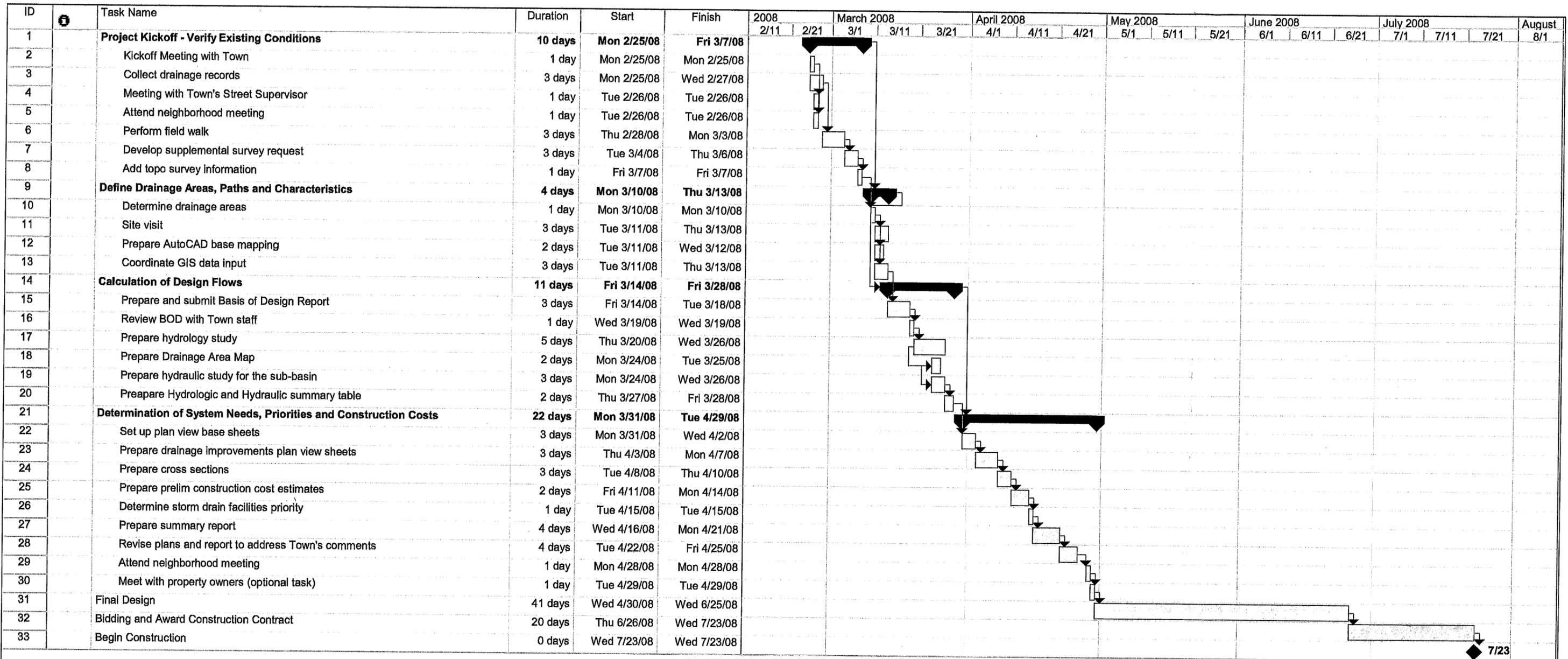
1.3 Scope of Work

drainage criteria for this and future projects.

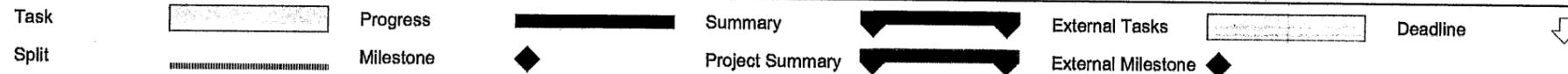
- Prepare a hydrology study of the Fletcher/Ridgeview sub-basin. Measure drainage areas and sub-areas, calculate time of concentrations and compute design storm runoff flows for the 10, 25, 50 and 100 year storms at all existing drainage elements.
 - Prepare Drainage Area Map that summarizes hydrology calculations. Drainage areas and sub-areas will be delineated, time of concentration flow paths will be shown and computed flows will be indicated for each sub-area.
 - Prepare hydraulic study for the sub-basin. Compute existing capacities for all drainage elements for a minimum of two conditions which includes: 1) the drainage facility (open channel or pipe) while meeting the approved freeboard requirements; and 2) the capacity of the conveyance at the point of overflow.
 - Prepare Hydrologic and Hydraulic summary table. The table will indicate the existing capacities of all drainage facilities with the agreed upon freeboard, and the capacity at the point of overflow. The table will also include the additional capacity needed for each element to meet the Town's design criteria.
- Task 4.0 – Determination of System Needs, Priorities and Construction Costs**
- Set up plan view base sheets for the recommended drainage improvement drawings.
 - Prepare plan views showing recommended drainage improvements for each problem area. The plans will show all of the pertinent information (such as size, material, preliminary slope, etc) necessary to prepare a construction cost estimate. Prepare alternative solutions where appropriate.
 - Prepare cross sections where necessary to convey the proposed concept (such as detention facilities, manholes with varied inverts).
 - Prepare preliminary construction cost estimates for each improvement area and alternative.
 - Determine recommended priorities of which storm drain facilities should be built first if funding falls short of being sufficient for the entire project.
 - Prepare report summarizing drainage improvements, alternatives, priorities and construction costs. Provide rationale for the recommended alternatives.
 - Make revisions to the report and plans to address the Town's comments.
 - Attend and help conduct a second neighborhood meeting to present and discuss the recommended solutions for the drainage issues.
 - As an optional task, Wilsey Ham will meet with Property owners on site to discuss the proposed drainage improvements that affect their properties

2 Schedule

The Town of Atherton would like to proceed to construction with the Fletcher Drive/Ridgeview Drive drainage system improvements by the Summer of 2008. Wilsey Ham has prepared a design schedule in accordance with our proposed scope of work. This schedule is aggressive and assumes that the project can be approved by the Atherton City Council in February 2008, at the monthly Council meeting. Given a start date of February 25, 2008, the project should make the summer 2008 construction season.



Project: Atherton - Fletcher Dr./Ridgeview Dr. Storm Drainage System
Date: Wed 1/30/08



3 Personnel Allocations

Wilsey Ham is presenting a team that has a successful track record of working with local municipalities and specifically on drainage and stormwater management projects. Individual resumes for team members can be found in Section 4.4 of this proposal. Wilsey Ham's philosophy and practice when it comes to client contact is that all team members strive to make themselves available and responsive to our clients at all times throughout the project.

Jeff Peterson, P.E.

Project Principal

Mr. Peterson will serve as the Project Principal, ensuring that the project runs smoothly, the terms of the contract are met and the Town's project goals are achieved. Jeff will provide technical input and oversight to the project team and will perform the final quality control review, as described in Section 6 of this proposal. He will advise and assist the team throughout the project to maintain a high level of quality on our services. Jeff will attend (and run, if desired) all public meetings. He will also attend meetings with the Town, as needed or requested.

Amy Dunning, P.E.

Project Manager

Ms. Dunning will serve as Project Manager for the Atherton On-Call Municipal Storm Drainage System Design. Her responsibilities will include management of the Wilsey Ham project team, technical review and direction of the design studies, progress reports and schedule updates, adherence to budget, and primary client contact. Amy will attend all

project meetings, including meetings with residents. Amy will perform the initial quality control review of all submittals to the Town.

Ken Selby, P.E.

Project Engineer

Mr. Selby will serve as lead Project Engineer for the Atherton On-Call Municipal Storm Drainage System Design. His responsibilities will include attendance at meetings, records research, field investigation, coordination and collaboration with Town staff, hydrologic and hydraulic analysis, storm drain and detention design, plan and specification preparation. Ken will attend all project and public meetings.

Ken Moore, L.S.

Principal/Survey Manager

As Principal at Wilsey Ham, Mr. Moore will be the Project Surveyor responsible for the direction and preparation of all surveys and base mapping needed for the project, if Wilsey Ham is selected to do so.

4 Experience & References

4.1 Introduction

Wilsey Ham is a privately owned, California corporation celebrating more than 65 years of business in San Mateo County. Among our three offices in California, we have been providing quality professional engineering, planning and surveying services to both public and private sector clients.

Maintaining a team that is responsive to the demanding needs of our clients with a focus on quality product is one of the keys to Wilsey Ham's success in the industry. Wilsey Ham's fields of professional practice include a full range of services associated with infrastructure improvement projects. Engineering services routinely provided by Wilsey Ham include plans, specifications, estimates and construction administration and management for a variety of projects including: roadways, highways, interchanges, sanitary sewer systems, water systems and drainage facilities.

In addition to our engineering services, Wilsey Ham provides a wide variety of professional surveying services to meet the needs of clients. These services include right of way surveys, boundary and topographic surveys, ALTA surveys, Tentative and Final Map preparation, and construction staking.

Over the years Wilsey Ham has provided engineering and surveying services to

municipalities throughout the San Francisco Peninsula including the Cities of South San Francisco, Burlingame, Foster City, Menlo Park, Atherton, Belmont, and the Towns of Los Altos Hills and Portola Valley. Our firm's principals and professional staff have a broad range of experience, which combined together, covers all aspects of surveying and civil engineering design and construction. These skills formulate the basis of a successful team for the Town of Atherton.

4.2 Firm Experience

Below are descriptions for recent Wilsey Ham projects with similar scope to the Town of Atherton's On-Call Municipal Storm Drainage System Design.

San Mateo County Flood Control District Colma Creek Bridge Crossing Improvement Project

This project included the analysis of the flow characteristics for a section of Colma Creek in South San Francisco. Using the U.S. Army Corps of Engineers methodology for the analyses, the 50-year and 100-year water surface profiles were developed. From these, Wilsey Ham designed new flood protection structures for the area adjacent to the creek. The redesign included replacement of the trapezoidal creek channel with a 70-foot wide, 15-foot deep, by 2700-foot long concrete channel (15,000CY) to carry the required 4500-cfs channel flow. In addition, the elevation of a bridge over the creek was raised 2 feet by jacking to clear the high water surface elevation.

Completion Date: Spring 2006
Construction Cost: \$16,000,000
Client Contact: Joseph LoCoco
Engineering Manager
San Mateo County
Flood Control District
555 County Center,
5th Floor
Redwood City, CA
94063-1665
(650) 363-4100

City of Burlingame Cabrillo Storm Drain Project

Wilsey Ham prepared the design of 1,000 linear feet of new 18" storm drain in Cabrillo Drive to alleviate ponding in the street and flooding of adjacent residences. As part of the design, Wilsey Ham evaluated the potential for re-directing the gutter flows at intersections away from problem areas to streets with better drainage systems. This project was bid and constructed last year.

Completion Date: Fall 2007
Construction Cost: \$190,000 (estimate)
Client Contact: Doug Bell
Senior Civil Engineer
City of Burlingame
501 Primrose Road
Burlingame, CA 94010
(650) 558-7245

City of Burlingame California Drive Storm Drain Project

Based on our hydrologic analysis of the Terrace Creek watershed, Wilsey Ham prepared construction plans and specifications for a new box culvert storm drain crossing of California Drive, a four-lane arterial street. This project involved topographic survey of the site; utility research; evaluation of construction methods for various types of large-bore culverts to determine the most expeditious method for crossing California Drive; hydraulic calculations for sizing of the box culvert; structural design of wing walls; and preparation of a Joint Aquatic Resources Permit Application (JARPA) to apply for

4.2 Firm Experience

permitting from the Department of Fish and Game, the Army Corps of Engineers, the Bay Conservation and Development Commission and the Regional Water Quality Control Board. Construction services including staking and engineering support were also provided.

Completion Date: January, 2005
Construction Cost: \$350,000 (bid)
Client Contact: Doug Bell
Senior Civil Engineer
City of Burlingame
501 Primrose Road
Burlingame, CA 94010
(650) 558-7245

Town of Atherton Atherton Creek Crossings

The scope of work for this project included determining the peak storm flows and capacity of the creek at various bridge locations as well as developing the culvert characteristics required to eliminate the flooding at each creek crossing. Wilsey Ham designed new concrete box culvert crossings for each creek crossing and developed the PS&E for upgrading the box culverts to pass 1,000 cfs of 100-year design flows.

Completion Date: Fall 2003
Construction Cost: \$420,000 (estimate)
Client Contact: Duncan Jones
Town of Atherton
Dept. of Public Works
91 Ashfield Road
Atherton, CA 94027
(650) 752-0532

City of Burlingame North Carolan Avenue & Rollins Road Culvert Additions in Easton Creek

Wilsey Ham designed new box culverts for the creek crossings at the two-lane road crossing of North Carolan Avenue and the busy four-lane crossing at Rollins Road. Improvement plans, specifications and construction cost estimates were developed for the box culvert at each roadway to pass the 100-year flows.

Completion Date: Fall 2004
Construction Cost: \$300,000
Client Contact: Doug Bell/
Jane Gomery
Senior City Engineer
City of Burlingame
501 Primrose Road
Burlingame, CA 94010
(650) 588-7245

4.2 Firm Experience

City of Burlingame Storm Drain System Design - Laguna Avenue Flood Study

Wilsey Ham analyzed the severe storm events of December, 1998 and January, 1999, for flood flows to the project areas to determine the causes of flooding within the City. We prepared a Master Plan Report containing improvement recommendations for the alleviation of flooding. Such improvements included new inlets and piping, new junction vaults, a box culvert and headwall for a creek.

Completion Date: March 2003
Construction Cost: N/A
Client Contact: Doug Bell/
Jane Gomery
Senior City Engineer
City of Burlingame
501 Primrose Road
Burlingame, CA 94010
(650) 588-7245

Town of Hillsborough Flood Study and Storm Drain Improvements

Wilsey Ham analyzed the severe storm events of January and February, 1998, for flood flows to the project areas to determine the causes of flooding within and around Town. We prepared a Master Plan Report which provided flood alleviation alternatives. We also assisted the Town in selecting improvements and designed the PS&Es to implement our report recommendations. This project included 1,200 linear feet of 42-inch storm drain design and 2,500 linear feet of 15-inch sanitary sewer design.

Completion Date: 1999

Construction Cost: \$1,200,000
Client Contact: Kevin O'Connell
(former City Engineer)
General Manager
North Coast County
Water District
(650) 355-3462

Genentech, Inc. Master Utility Study

As a subconsultant to Affiliated Engineers, Inc. (AEI), Wilsey Ham prepared a Utility Master Plan for manufacturing, R&D, office buildings and the overall 200 acre Genentech South San Francisco campus. The goal of the Utility Study was to calculate the current and future demands and capacities for the next ten years for the campus' 27 utilities based on anticipated growth. Wilsey Ham's scope included evaluation and modeling of the City water, gray water, fire protection water mains, storm drain, and sanitary sewer systems for existing conditions and proposed future development. Then we compared the existing capacities to the calculated future demands and made recommendations for necessary upgrades to the utility systems including cost impacts associated with those upgrades.

Completion Date: 2006
Construction Cost: N/A
Client Contact: Jim Sharpe
Principal
AEI
2700 Ygnacio Valley
Road
Walnut Creek, CA
94598
(925) 933-8400

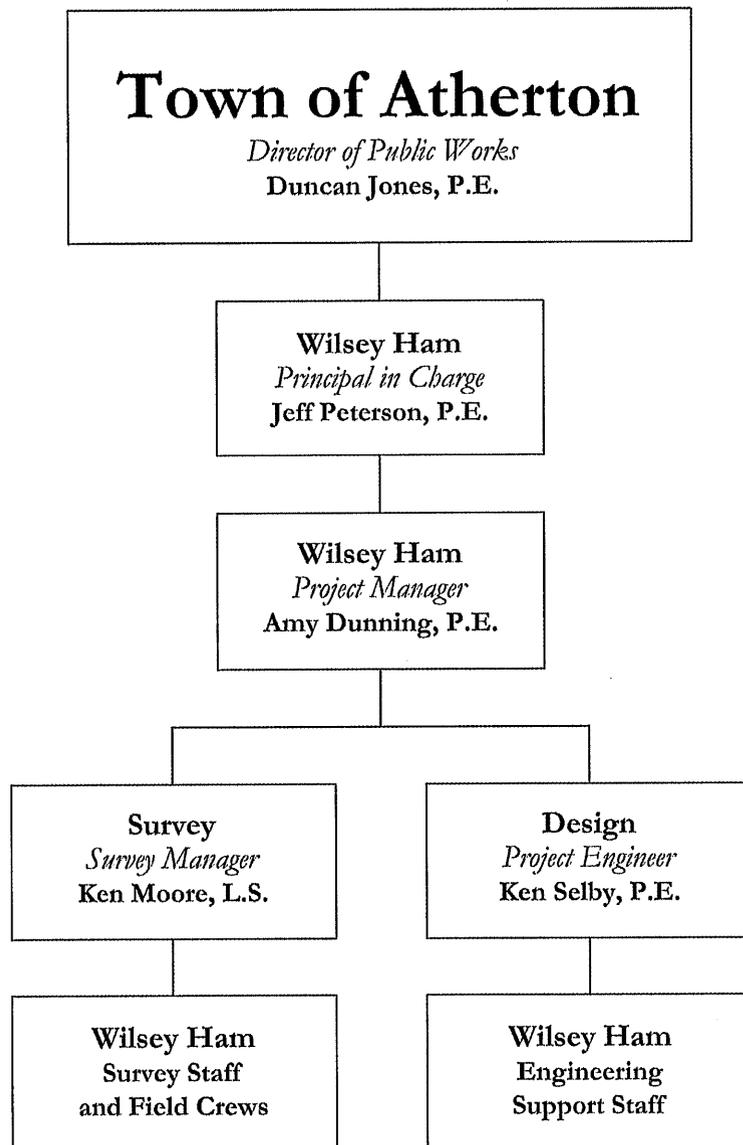
Town of Atherton -- On-Call Municipal Storm Drainage System Design

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4.3 Organizational Chart

Wilsey Ham Organizational Chart



4.4 Project Team Resumes

The following pages contain resumes for individual Wilsey Ham team members that will perform work on the Town's On-Call Municipal Storm Drainage System Design.

JEFFREY M. PETERSON, PE

PRINCIPAL

Education:

BS Civil Engineering,
University of New Mexico,
Albuquerque, NM

Professional Registration:

California C41385

Jeff Peterson has acquired a wide range of engineering and management experience in his 27 years in the civil engineering profession. He has served as the Project Principal/Manager on a wide range of projects including municipal water, sewer and storm drain design projects, assessment districts, street reconstruction projects, biotechnical research and development business parks, and commercial developments. In addition, Mr. Peterson has worked in the public sector as a City Engineer, Public Works Director and City Manager. This unique combination of engineering and management experience has provided Jeff with an invaluable insight in understanding city processes, and has helped him develop his management skills in demanding, multiple-priority environments. These skills combined with his technical knowledge of engineering issues provide Mr. Peterson with the ability to successfully manage multi-faceted projects with considerable agency coordination.

While with the Town of Los Altos Hills, Jeff was responsible for scoping, budgeting, project development, project design overview, construction inspection management, administration and political approvals of all capital improvement projects in the Town of Los Altos Hills. These projects varied in scope and included the installation of several thousand feet of large diameter storm drain and creek channel improvements.

In addition, Jeff was responsible for the review and oversight of several subdivision designs and construction processes. One of the more complex subdivision designs involved the design of a lake feature which also serves as a retention basin.

Below are some of the storm drain projects Jeff has worked on while with Wilsey Ham:

City of Burlingame Cabrillo Storm Drain Project

Wilsey Ham prepared the design of 1,000 linear feet of new 18" storm drain in Cabrillo Drive to alleviate ponding in the street and flooding of adjacent residences. As part of the design, Wilsey Ham evaluated the potential for re-directing the gutter flows at intersections away from problem areas to streets with better drainage systems. This project was bid and constructed this year.

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JEFFREY M. PETERSON, PE

PRINCIPAL

City of Burlingame California Drive Storm Drain Project

Based on our hydrologic analysis of the Terrace Creek watershed, Wilsey Ham prepared construction plans and specifications for a new box culvert storm drain crossing of California Drive, a four-lane arterial street. This project involved topographic survey of the site; utility research; evaluation of construction methods for various types of large-bore culverts to determine the most expeditious method for crossing California Drive; hydraulic calculations for sizing of the box culvert; structural design of wing walls; and preparation of a Joint Aquatic Resources Permit Application (JARPA) to apply for permitting from the Department of Fish and Game, the Army Corps of Engineers, the Bay Conservation and Development Commission and the Regional Water Quality Control Board. Construction services including staking and engineering support were also provided.

City of Burlingame Storm Drain System Design Laguna Ave. Flood Study

Wilsey Ham analyzed severe storm events of December, 1998 and January, 1999, for flood flows to the project areas to determine the causes of flooding within the City. We prepared a Master Plan Report containing improvement recommendations for the alleviation of flooding. Such improvements included new inlets and piping, new junction vaults, a box culvert and headwall for a creek.

Ravenswood Business Dist. City of East Palo Alto

Preliminary engineering of the approximately 160-acre Ravenswood Business District in East Palo Alto was performed by Wilsey Ham. The project includes topographic surveys and preparation of base maps; collection of utility information; investigation of chemical plume and disposal methods/cost; design of the street layout, pavement and landscaping; storm drain hydrologic and hydraulic modeling, utility demand calculations; preliminary sizing and layout of several thousand feet each of storm drain, sanitary sewer and water systems; development of construction cost estimates for the intended formation of an Assessment District.

Britannia East Grand - Biotechnical Business Park Slough Estates USA Inc. South San Francisco, CA

Wilsey Ham provided the engineering site design for this biotechnical business park in South San Francisco that features over 800,000 square feet of research and development space on a 27-acre site. Numerous issues are under consideration for the design including a wetlands area, contaminated soils on-site, complex permitting for the storm water outlet into the Bay and significant grading involving cuts up to 55 feet in height. Currently in the construction phase, Wilsey Ham prepared plans for the storm drain system, sanitary sewer mains, grading, paving, roadways, and joint trenches as well as taking the lead on the permitting for the storm drain outfall. Wilsey Ham met with the Regional Water Quality Control Board early in the design process to coordinate the design approach for storm water treatment using bio-filtration well in advance of the current C3 storm water requirements.

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JEFFREY M. PETERSON, PE

PRINCIPAL

**Master Utility Study
Genentech, Inc
South San Francisco, CA**

Wilsey Ham prepared a Utility Master Plan for manufacturing, R&D, office buildings and the overall 200 acre Genentech South San Francisco campus. The goal of the Utility Study was to calculate the current and future demands and capacities for the next ten years for the campus' 27 utilities based on anticipated growth. Wilsey Ham's scope included evaluation and modeling of the City water, gray water, fire protection water mains, storm drain, and sanitary sewer systems for existing conditions and proposed future development. Then we compared the existing capacities to the calculated future demands and made recommendations for necessary upgrades to the utility systems including cost impacts associated with those upgrades.

**Sanchez Creek Box Culvert
City of Burlingame, CA**

Wilsey Ham is currently performing the evaluation and design of a box culvert replacement to mitigate damage to adjacent properties caused by flows in Sanchez Creek in Burlingame. The scope of work involves the assessment and evaluation of the problem, formulation of solution options and design of the selected option.

**Flooding Evaluation -
Bloomfield & Bayswater
City of Burlingame, CA**

This project involves a hydrologic and hydraulic investigation of watershed areas east of California Drive to locate runoff overflows, determine the causes of flooding, identify solution options and prepare schematic plans and construction estimates. The project is near completion.

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AMY C. DUNNING, PE
PROJECT MANAGER

Education:

BS, Civil Engineering,
University of Wisconsin,
Madison

Professional Registration:

California C69658

Training:

BAHM Software

Amy has more than 12 years experience in engineering design and project management. During her three years at Wilsey Ham, Amy has served as Project Manager and Project Engineer on a variety of public and private sector projects. Prior to joining Wilsey Ham, Amy focused on stormwater projects on the East Coast and in the United Kingdom. Her experience includes storm drainage and hydraulics projects, watershed hydrology, highway drainage design, stormwater management - quantity and quality control, floodplain studies and stream restoration projects. She has knowledge in various engineering computer programs for hydrology, hydraulics including BAHM and CAD applications.

Below are some of the projects Amy has worked on and a description of the services she performed:

Genentech, Inc.
Storm Drainage Assessment
South San Francisco, CA

Performed storm drainage assessment for the purpose of flood alleviation for properties within the Genentech campus. Analyzed hydrology, performed capacity analysis of existing infrastructure, and prepared flood mitigation alternatives.

El Paseo Family Apartments -
Wildcat Creek
Simpson Housing
San Pablo, CA

In connection with a residential development, performed hydraulic modeling of Wildcat Creek to determine water surface elevations for various storm events. Constructed hydraulic models for existing conditions and conditions after stream improvements and reported on water surface elevations for large storm events.

Tara Industrial Estate
Selvaag USA
East Palo Alto, CA

Prepared vesting tentative map for industrial condominium development. Designed, modeled, and performed capacity analysis for water, sanitary sewer and storm drain systems. Analyzed stormwater runoff and designed water quality detention facility.

Stormwater Facility
Rehabilitation
Howard County, MD

Analyzed watershed hydrology and facility hydraulics for an existing wet pond, stormwater management facility. Prepared rehabilitation plans to improve stormwater treatment which included: design of plunge pools, micro pools, riser modification, and re-grading of facility.

Little Falls Stream
Restoration
Montgomery County, MD

Analyzed urban watershed hydrology for the purposes of stream restoration. Analyzed stream hydraulics using HEC-RAS. Designed stream restoration measures to prevent further degradation of urban streams including: storm drain outfall re-design, imbricated wall protection, vegetative streambank protection and channel re-alignment.

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AMY C. DUNNING, PE
PROJECT MANAGER

**Land Development
Montgomery County, MD**

Prepared road alignment, storm drainage, stormwater management and erosion control plans for various residential, municipal and commercial properties in Montgomery County, MD. Computed hydraulics, designed storm drain systems and designed various types of water quantity control and water quality control facilities. Analyzed watershed hydrology and delineated floodplains. Monitored construction of water quality treatment facilities.

**Town of Llandybie Flood
Study
Wales, UK**

Analyzed river hydraulics for extreme storm events to determine the causes of flooding of residential properties within the town of Llandybie. Designed flood alleviation measures which included culvert replacement, protective berms and stream channel alterations. Prepared flood study report for the local authority with mitigation options.

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KENNETH G. SELBY, PE
PROJECT ENGINEER

Education:

BS, Civil Engineering,
Sacramento State College,
Sacramento, CA

Professional Registration:

California C25726

Ken has more than 35 years experience in engineering design and construction. Ken's experience includes municipal facilities design, storm drainage and hydraulics projects, tunneling projects, rail transit and highway system design, airport design, port/marine facilities, mining facilities, and fossil fuel, cogeneration and nuclear power plant design. Throughout his project experience, Ken has developed a working knowledge in various engineering programs for structures, hydrology and hydraulics, civil design, and CAD applications.

Below are some of the storm drain projects Ken has worked on while with Wilsey Ham and a description of the services he performed:

**Flooding Evaluation -
Bloomfield & Bayswater
City of Burlingame, CA**

Performed hydrologic and hydraulic analysis of flooding within a large, residential neighborhood. Prepared recommendations for flood alleviation including the installation of additional storm drain inlets and concrete swales. The hydrologic study included analysis of the 100-year storm event for flows at the Highway 101 crossing for a future storm drain pump station.

**Storm Drain System Design -
Sanchez Creek Box Culvert
Replacement
City of Burlingame, CA**

Evaluated options for improving flow capacity through an existing culvert to alleviate restriction caused by the failed culvert. Hydraulic analysis performed for different alternatives and final recommendation was for the removal of the culvert, installation of a concrete U-wall, vertical sides with concrete bottom and open top, channel and the design of a steel pedestrian bridge crossing over the open channel.

**Atherton Creek Crossings -
Barry Lane and Elena Avenue
Town of Atherton, CA**

Performed hydraulic study using the peak storm flows of the 100-year storm event and the conveyance capacity of Atherton Creek at various bridge locations. Identified areas that had inadequate capacity and prepared improvement plans for flood alleviation. The improvement plans included the replacement of two existing culverts at road crossings.

**Storm Drain System Design -
Cabrillo
City of Burlingame, CA**

Prepared layout for a new storm drain system in the public right of way. Designed new underground storm drain system and resolved grade problems with the existing curbs and gutters to alleviate flooding within the street and private properties.

**Proulx Residence Drainage
Design
Mr. & Mrs. Proulx
Atherton, CA**

Analyzed hydrology for this five-acre parcel in the hills of Atherton, developed the storm flows at the property lines, and designed a combination above and below ground drainage systems within the area. Designed a detention basin at the outfall to meter flows to local

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KENNETH G. SELBY, PE
PROJECT ENGINEER

**Storm Drain Master Plan
Genentech, Inc.
South San Francisco, CA**

collection system. Designed a retaining wall/dam structure with flow controls.

Conducted Master Plan study of water, fire, sewer and storm drain systems for a large, biotech campus. Analyzed flows versus existing capacities, made recommendations on upgrades and prioritized them. Prepared final report on findings.

**Storm Drain System Design -
California Drive and Box
Culvert Cleaning
City of Burlingame, CA**

Performed the hydraulic analysis and prepared the design plans and specifications for replacing a 60-inch CMP culvert with a 4'x10' concrete box culvert under a major road. Prepared design plans and specifications for the installation of access hatches on an existing double box culvert. The hatches were sized to allow for access of cleaning equipment to improve the capacity and functioning of the 900 linear foot culvert. Performed project coordination and construction review for this \$750,000 project.

**Storm Drain System Design -
Easton Creek at Rollins Road
and at North Carolan Avenue
City of Burlingame, CA**

Prepared the design plans and specifications for culvert modifications to two road crossings of Easton Creek. Performed hydrology and hydraulics to provide adequate capacity for the safe conveyance of the 100-year storm event. Both crossing required increasing the existing double box culverts to triple box culverts under existing 2-lane and 4-lane roads.

**Colma Creek San Mateo Ave.
Bridge Crossing Project
San Mateo County Flood
Control District
South San Francisco, CA**

Designed concrete channel liner/vertical wall systems to increase channel capacity and prevent further flooding. The Hec-Ras hydraulic modeling program was used to develop parameters for the in-stream facilities and the bridge crossing restriction to the stream flows for this nominally 70-foot wide creek channel. Project included jacking an existing concrete bridge vertically to clear of the flood stage storm flows.

**Flood Study & Storm Drain
Improvements
Town of Hillsborough, CA**

Analyzed severe storm events of January and February, 1998, for flood flows to the project areas to determine the causes of flooding within the Town. Prepared Master Plan Report providing flood alleviation alternatives. Assisted the Town in selecting improvements and designed PS&E to implement report recommendations. This project included 1,200 linear feet of 42-inch storm drain design and 2,500 linear feet of 15-inch sanitary sewer design.

KENNETH G. SELBY, PE
PROJECT ENGINEER

**Storm Drain System Design -
Mills Avenue
City of Burlingame, CA**

Designed new storm drain system for the replacement of an existing pipe culvert with a box culvert, including intermediate structures ranging in size from 36" to 48", and a concrete outfall at creek. Designed jacked pipe section under the JPB railroad crossing. Performed project coordination and construction review for this \$800,000 project.

**Colma Creek JPB Commute
Mainline Railroad Crossing
San Mateo County Flood
Control District
South San Francisco, CA**

Prepared hydrologic and hydraulic study for a portion of Colma Creek to understand the causes of flooding and identify potential solutions. Flood alleviation alternatives were identified and modeled using Hec-Ras. The study reported on flood stage levels within the creek for both the existing condition and proposed improvement condition.

**Storm Drain System Design -
Laguna Avenue Flood Study
City of Burlingame, CA**

Analyzed severe storm events of December, 1998 and January, 1999, for flood flows to the project areas to determine the causes of flooding within the City. Prepared Master Plan Report containing improvement recommendations for the alleviation of flooding. Such improvements included new inlets and piping, new junction vaults, a box culvert and headwall for a creek.

**Corte Madera Creek Repair -
Portola Road Crossing
Town of Portola Valley, CA**

Designed riprap channel improvements for the protection of streambanks and adjacent properties. The design included creation of aquatic habitat areas for stream wildlife protection.

KENNETH P. MOORE, LS

PRINCIPAL & SURVEY MANAGER

Education:

Mechanical Engineering
Youngstown State Univ.

Registration:

California LS 4918
Ohio LS 6604

Professional

Affiliations:

CA Land Surveyors Assoc.

Bay Counties CEs & LSs
Association (Past President)

Board of Directors of Joint
Apprenticeship Council for
Land Surveyors

Board of Directors for Bay
Counties Civil Engineers
and Surveyors Assn

With more than 30 years of survey experience, 25 years with Wilsey Ham, Ken Moore is experienced in all phases of survey work. He is a principal of the firm and Vice President of Survey and Mapping. Ken has managed, or had significant involvement, in a variety of projects that involve all aspects of Land Surveying, Mapping and Construction. These projects include:

- Control Surveys, both large and small
- Topographic Surveys, by aerial and ground methods
- Right of Way Engineering
- Construction Surveys
- Digital Mapping
- GIS Mapping
- Utility location and relocations
- Hazard Material Surveying
- Legal Descriptions and Plats
- Subdivision & Parcel Mapping
- ALTA Surveys.

He has managed many Topographic Surveys, from small to large. Some smaller projects include **single site** topographic surveys for site design work or utility design. These projects have been done for private and public clients throughout Northern California and have been performed by ground and aerial methods. Control surveys were performed using the state of the art in total stations and GPS technology.

Ken has also done many Right of Way Engineering projects. These include small projects for municipalities doing slide repair, road widening, utility or Right Of Way relocations and other various small one site kinds of projects including; slide repairs for Portola Valley, widening projects for Los Altos Hills, roadway projects for South San Francisco and City of Dublin water main extension.

Larger projects include the Rt. 237 widening project which included preparation of 4 sets of Right of Way and appraisal maps for the entire corridor and the acquisition of hundreds of parcels and relocation of tens of miles of high and low risk utilities, Irvington Reservoir pipe project for Alameda County Water District.

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5 Conceptual Design

5.1 Introduction

As part of the preparation of this proposal, Wilsey Ham has developed some preliminary ideas and have prepared some conceptual plans for improvements to the Fletcher Drive/Ridgeview Drive drainage system. Improvements such as flow-splitting structures are capable of redirecting drainage. These structures will be able to direct a portion of storm runoff to the open channels on private properties and the other portion to a new underground storm drain system. Flow-splitting can be handled by vertically offsetting outlet pipes or partially obstructing one of the structure outlets with a weir wall or similar. Three locations have been identified preliminarily as opportunities to use these flow-splitting structures: the channel outfall at 471 Fletcher Drive, the channel outfall at the asphalt berm in front of 401 Fletcher Drive, and the channel at 26 Sutherland Drive. These locations are shown on the Concept Plans in Section 5.2.

A continuous underground public storm drain system would be needed to collect drainage from flow-splitting structures. This system would start at the top of Fletcher Drive, continue down Ridgeview Drive and connect to the existing system that outfalls at 1 Ridgeview Drive. In addition to collecting drainage from flow-split structures, the underground system would connect to additional street inlets in areas where problematic ponding occurs. Finally, this

underground system could provide stubs for future connection of private detention facilities. The underground storm drain system will have to be designed to avoid conflicts with the existing sanitary sewer system located in Fletcher Drive as well as other existing utilities.

As flows are re-directed from channels to underground storm drain systems, the time of concentration will be decreased and as a result, peak flows will increase. Due to threats of lawsuits from down stream municipalities it is of the utmost importance to reduce the storm flows to the Atherton Channel. Underground detention can be used to increase the time of concentration and ensure that downstream flows are reduced. Wilsey Ham has preliminarily identified several areas within the project as opportunities for underground detention, as shown on the Concept Plans in Section 5.2. Various types of underground detention facilities will be considered during the design, including proprietary structures, oversized pipes, manifold pipe systems and concrete culverts. We have provided examples of some of the types of structures that will be considered in Section 5.3. The outfall structure from the detention facility can be designed with staged weirs and orifices to control varying sized storm events.

5.1 Introduction

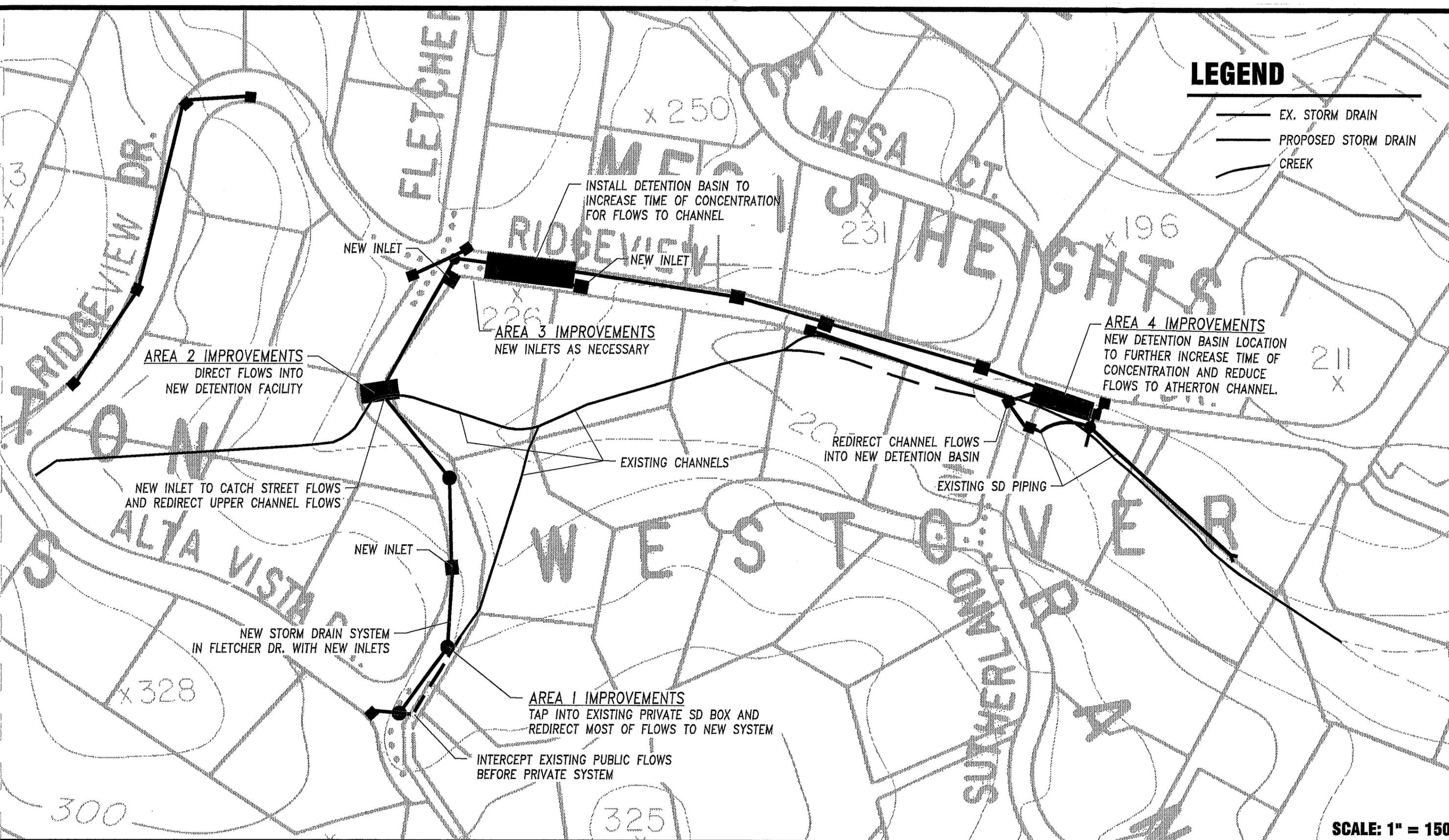
The Bay Area Hydrology Model (BAHM) is one methodology that Wilsey Ham will consider for hydrologic and hydraulic modeling of the detention facility. BAHM software utilizes a continuous simulation model rather than a single storm event modeling. The software was developed specifically for the San Mateo Countywide Water Pollution Prevention Program. Other modeling programs, such as pond-pack, will be considered.

5.2 Concept Plans

The following pages represent some of the improvement concepts that will be further explored during the project.

LEGEND

-  EX. STORM DRAIN
-  PROPOSED STORM DRAIN
-  CREEK



SCALE: 1" = 150'

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 393 VINTAGE PARK DRIVE, SUITE 100
 FOSTER CITY, CALIFORNIA 94404
 (650)349-2151 FAX (650)345-4921

TOWN OF ATHERTON
 SAN MATEO COUNTY CALIFORNIA
FLETCHER DRIVE / RIDGEVIEW DRIVE DRAINAGE SYSTEM
CONCEPT PLAN A - MUTIPLE DETENTION FACILITIES

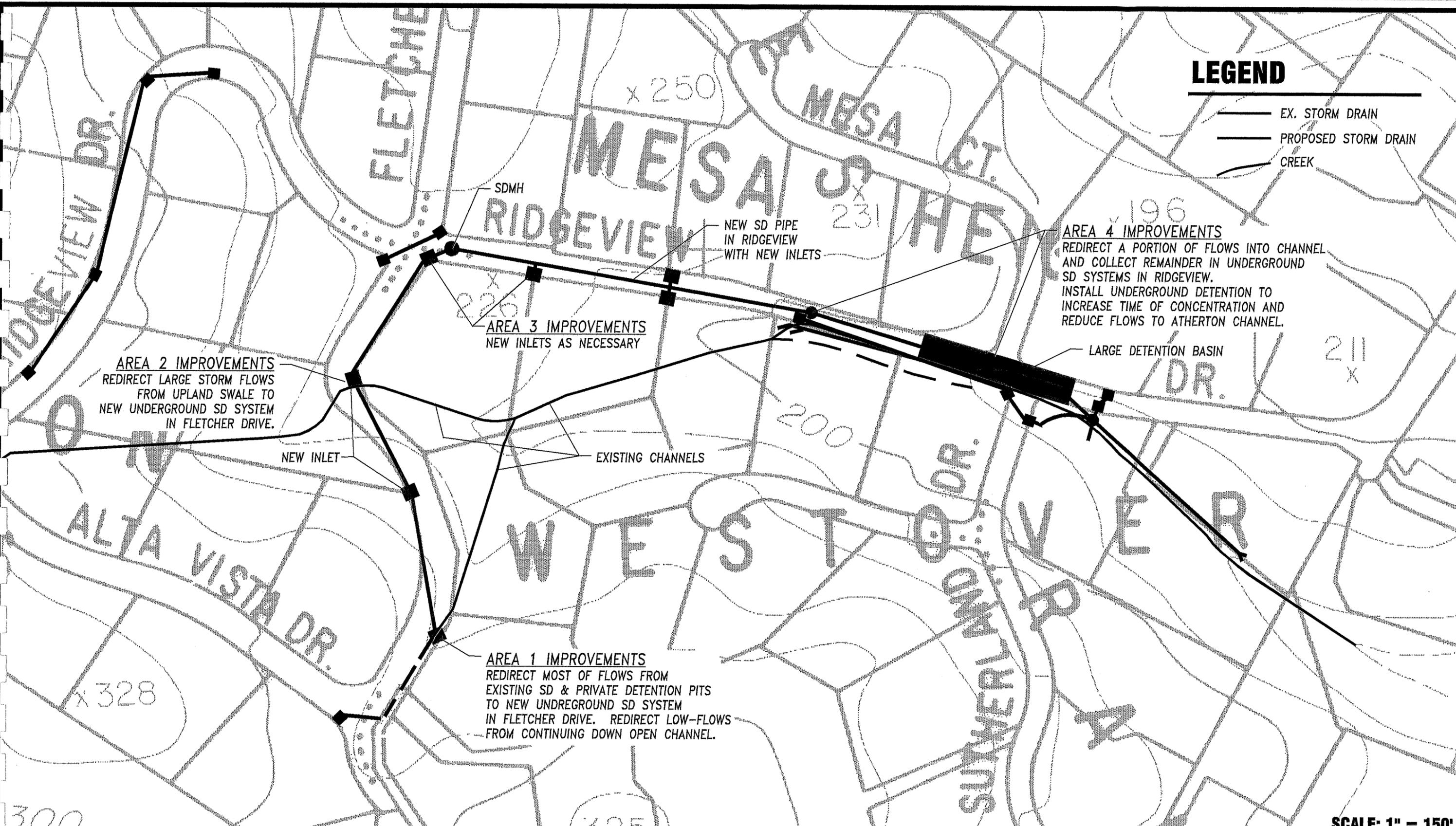


TOWN OF ATHERTON
 FOSTER CITY, CALIFORNIA

SHEET
1
 OF
2
 SHEETS

LEGEND

-  EX. STORM DRAIN
-  PROPOSED STORM DRAIN
-  CREEK



AREA 2 IMPROVEMENTS
 REDIRECT LARGE STORM FLOWS FROM UPLAND SWALE TO NEW UNDERGROUND SD SYSTEM IN FLETCHER DRIVE.

AREA 3 IMPROVEMENTS
 NEW INLETS AS NECESSARY

AREA 4 IMPROVEMENTS
 REDIRECT A PORTION OF FLOWS INTO CHANNEL AND COLLECT REMAINDER IN UNDERGROUND SD SYSTEMS IN RIDGEVIEW. INSTALL UNDERGROUND DETENTION TO INCREASE TIME OF CONCENTRATION AND REDUCE FLOWS TO ATHERTON CHANNEL.

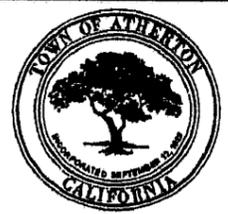
AREA 1 IMPROVEMENTS
 REDIRECT MOST OF FLOWS FROM EXISTING SD & PRIVATE DETENTION PITS TO NEW UNDERGROUND SD SYSTEM IN FLETCHER DRIVE. REDIRECT LOW-FLOWS FROM CONTINUING DOWN OPEN CHANNEL.

SCALE: 1" = 150'

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 393 VINTAGE PARK DRIVE, SUITE 100
 FOSTER CITY, CALIFORNIA 94404
 (650)349-2151 FAX (650)345-4921

SAN MATEO COUNTY **TOWN OF ATHERTON** **CALIFORNIA**

FLETCHER DRIVE / RIDGEVIEW DRIVE DRAINAGE SYSTEM
CONCEPT PLAN B - SINGLE LARGE DETENTION FACILITY



SHEET
2
 OF
2
 SHEETS

5.3 Construction Estimate

Using the concept plans, Wilsey Ham has prepared a very rough order of magnitude construction estimates to gain a sense of the potential magnitude of construction costs. These estimates can serve as a gauge as the project develops and progresses. Due to the fact that an accurate estimate for detention is unattainable at this time, detention costs could not be captured in the estimate. For this reason, we have not included the estimate as part of this proposal. It is anticipated that the cost for detention will be a significant portion of the overall cost of the project. As the design develops, Wilsey Ham will continue to revise and improve the cost estimate. Wilsey Ham will work with the Town to develop a storm drain project that achieves as many of the project goals as possible within the available budget.

5.4 Underground Detention Options

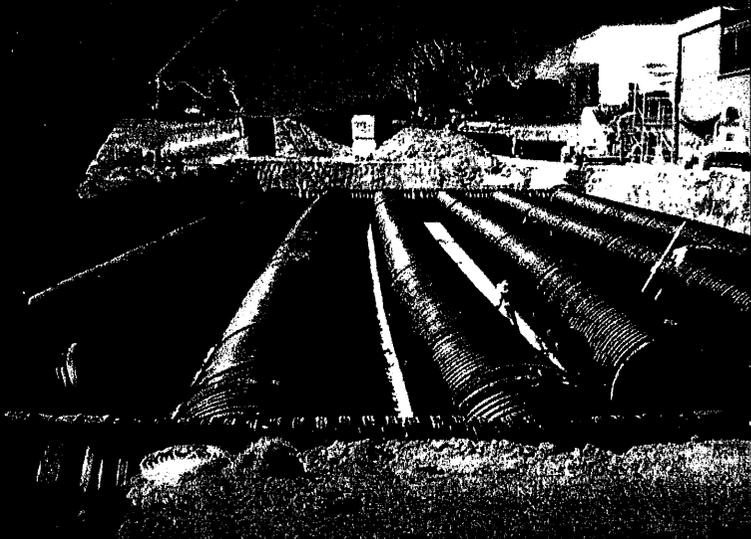
Wilsey Ham has researched various options for underground detention facilities. In general there are two types facilities, those that infiltrate runoff through the bottom of the facility and those that only outflow through a control structure. Because the location of underground detention will likely be under the existing streets, facilities that allow for infiltration may not be prudent. This option would require extensive geotechnical investigation and exposes the Town to unnecessary risk of pavement failure. The following pages present some of the facilities we have researched thus far.

 **Hancor**



For **Subsurface Stormwater
Retention/
Detention.**

LandMax[®]



INNOVATIVE DRAINAGE AND WATER CONSERVATION SOLUTIONS

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THE HEART OF THE TREATMENT TRAIN

For many drainage sites, the Storm Water Quality Unit by itself can provide the required degree of pollutant removal. However, certain sites with higher concentrations of hydrocarbons or sediment runoff will need further treatment upstream and/or downstream of the Unit. This multi-tiered approach to storm water quality is known as the treatment train.

Upstream measures include sediment prevention (vegetated swales, etc.) and inlet protection devices such as screens, filters and silt fences. These techniques are designed to prevent a large percentage of pollutants from ever entering the storm drain system. For impervious surfaces such as paved parking areas, catch basin insert filters are most commonly used for early stage treatment.

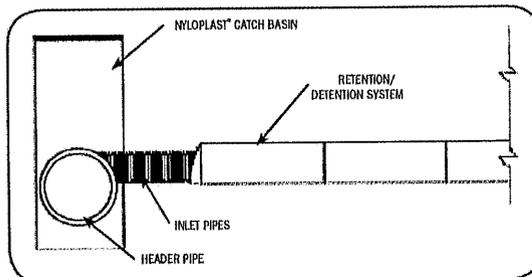


RETENTION/DETENTION

Treatment downstream from the Storm Water Quality Unit generally involves some form of retention or detention system. Retention allows accumulated storm water to gradually percolate into the surrounding soil, while detention meters the water through an outlet to a ditch, stream or other receiving area.

Inlet designs to such underground storage vessels can also enhance pollutant removal. The "eccentric header system" consists of a large diameter manifold pipe with an invert positioned lower than those of the smaller inlet pipes to the storage vessels. The large header pipe thus acts as a sump into which suspended particles may settle. Manholes and/or risers may be installed to facilitate inspection and cleaning.

Designers can choose between two methods of constructing the retention or detention system. The first is the use of Hancor large diameter corrugated high density polyethylene pipe, known for its economy and ease of installation. The second option is LandSaver™ – specially engineered to meet the demands of subsurface storm water management applications. Hancor supplies a complete line of pipe, fittings and fabricated manifolds, along with detailed sizing, design and installation instructions on www.hancor.com.



The "eccentric header" is installed with its invert lower than the inlet pipes, thus acting as a sump to collect suspended sediment.

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PROJECT:
STORM WATER RETENTION SYSTEM INSTALLED UNDER CONCRETE PARKING LOT OF A NEW 61,634 SQUARE FOOT STORE IN BATON ROUGE, LA.

Product: 4,400' (1320m) of 36" (900mm) diameter Sure-Lok® pipe installed.

Installation Date: Spring, 1999

Conditions: Backfill of 610 limestone up to spring line. Sand used from spring line up.

NO DRAIN ON THE BUDGET WITH LANDMAX SYSTEM.

When plans were underway for a new 61,634 square foot store in Baton Rouge, LA, keeping costs in line was paramount. Hancor's LandMax system provided the cost-effective solution for the storm water retention system.

Installed under the parking lot was 4,400' (1320m) of 36" (900mm) diameter Sure-Lok pipe. LandMax subsurface retention systems help free up usable land, providing space for parking lots, playgrounds or other public areas to be built on top. Since they are inaccessible to the public, LandMax retention systems also decrease the safety risks and added costs associated with open ponds and keep ongoing maintenance costs to a minimum. Adding to the cost effectiveness of LandMax is its fast, easy installation. All of the exact pipe products and components needed to assemble a complete retention system are available from a single source.



PROJECT:
HANCOR LANDMAX RETENTION/DETENTION SYSTEM BUILT UNDER SCHOOLYARD PLAYGROUND IN EDMONDS, WASHINGTON.

Product: 6,900' (2070m) of 36" (900mm) Sure-Lok perforated pipe, 19 36" (900mm) headers (size on size), and 1200' (360m) of 12" (300mm) Sure-Lok solid wall pipe with 4" (100mm) vertical cleanouts.

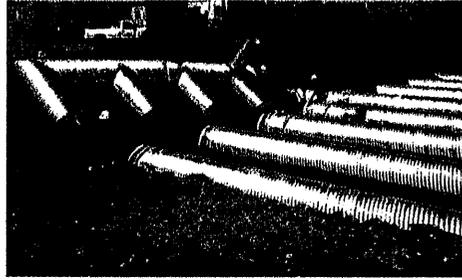
LANDMAX – THE DRAINAGE SOLUTION FOR SCHOOLYARD PROJECT.

The engineers of this school rebuilding project had to implement a system to manage the quality and quantity of storm water runoff as outlined by the EPA's Phase II/BMP (best management practices) mandate. A retention pond was considered too hazardous because of the close proximity to children. With the confined project site area, it was decided a LandMax subsurface retention/detention system was the best solution. This would prevent human tampering and the chance of accidental injury, and also maximize the amount of usable land allowing for a playground to be built on top. Hancor Sure-Lok pipe was used because of its soil- and silt-tight capabilities. The pipe was laid in a bed system where backfill was broadcast over top. A geotextile was then placed over the backfill, with native soil completing the job.

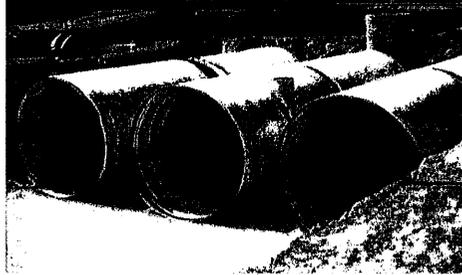
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**Storm Water
Detention Systems**



To design a detention or recharge system for specific site conditions, contact your local CONTECH Sales Engineer for a copy of our Storm Water Detention Design Software.



For more information, call one of CONTECH's Regional Offices:

Arkansas (North Little Rock) 72113	501-758-1985
California (San Bernardino) 92408	909-885-8800
Colorado (Denver) 80033	303-431-8999
Georgia (Atlanta) 30071	770-409-0814
Illinois (Chicago) 60523	630-573-1110
Indiana (Indianapolis) 46250	317-842-7766
Kansas (Kansas City) 66210	913-906-9200
Massachusetts (Palmer) 01069	413-283-7611
North Carolina (Raleigh) 27609	919-781-8540
Texas (Dallas) 75062	972-659-0828
Washington (Spokane) 99216	509-922-4155

Other Sales Offices are in Principal Cities

Visit our web site: www.contech-cpi.com

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BRO 5WDR (Replaces CP-0100 3) 9/00 10M

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PRECAST CONCRETE BOX CULVERTS

STRONG, VERSATILE AND COST-EFFECTIVE

Box culverts are one of the most versatile and cost-effective precast concrete products on the market today, meeting and exceeding the needs of a multitude of fast-paced construction projects. Flexibility in design and ease of placement lead to cost savings across the board.

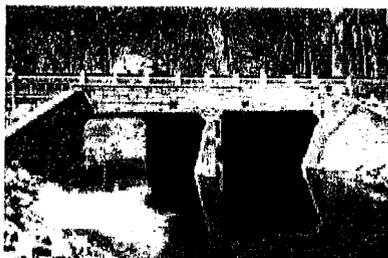
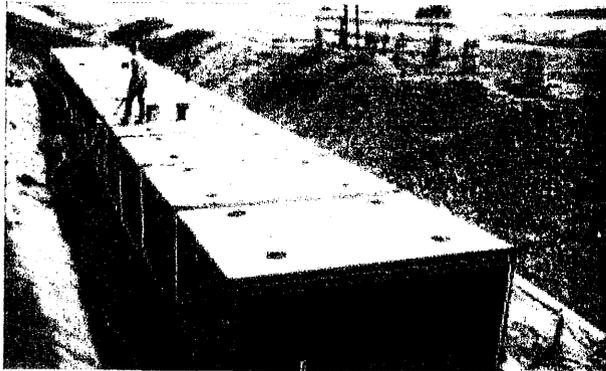
The uses for precast box culverts are endless, and include underpasses, service tunnels, subways, outfalls, bridges, stream culverts, material handling, utility storage, chimneys, vertical storage, watertight holding tanks and more.

Precast concrete manufacturers offer a variety of standard box culverts as well as custom designs. Additional features can be incorporated to meet the exact needs of any project: toe walls, manhole openings, headwalls, wingwalls, pipe openings, vee-bottoms, keyed ends, sloped-faced ends and watertight joints. Optional exterior coatings can also be applied at the plant, reducing on-site construction. Precast concrete box culverts can be produced in any size limited only by transportation weight.

ASTM Specification C 1433 "Standard Specification for Manufacture of Precast Reinforced Concrete Box Sections for Culverts, Storm Drains and Sewers," specifies design and manufacturing requirements to promote quality and durability.

WHY PRECAST CONCRETE?

- Superior strength and durability
- High degree of quality control
- Availability and ease of installation
- Reduced weather dependency
- Aesthetically pleasing
- Environmentally friendly
- Economical



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ABOUT THE PRODUCT



Omega Stormwater Detention System

Located in Northern Virginia, Rotondo Environmental Solutions, LLC

specializes in the design and sale of stormwater-management systems that consist of precast concrete structural

components. RES has unrivaled experience and hands-on knowledge of uniting the precast concrete industry with the stormwater management market to provide cost effective systems to both the public and private sectors. RES assists engineers and regulatory agencies with the design of stormwater systems by providing project specific designs and drawings for the permitting process. Our involvement with the process from design to installation allows us to understand all aspects of the construction process to the point of incorporating procedures that reduce risk and provide high quality systems.

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BLUE STRIPE: LEADING THE WAY



Monday, January 28, 2008

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LandSaver™ Subsurface storm water Management

LandSaver chambers make ends meet by reducing overall installed costs of underground water detention systems; meet the land-use requirements and overall budgets of your projects using LandSaver underground storm water detention systems.

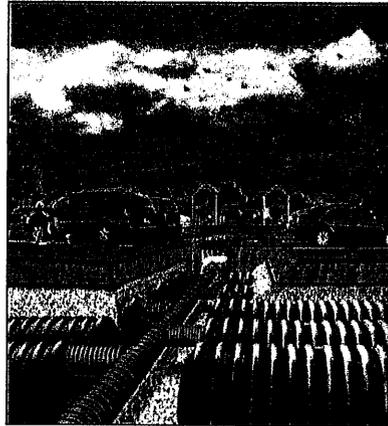
LandSaver's product line of underground chamber systems optimize design flexibility and offer space and cost savings for engineers, developers, installers, and contractors.

Access CAD drawings, technical memos, design manuals, and related downloads through LandSaverChamber.com

Product Features and Benefits

The advanced features and innovative technology of LandSaver chambers streamline installations while lowering overall installed costs. LandSaver chambers offer these unique advantages:

- Lightweight – two people can install chambers quickly and easily, saving time and money
- Extensive product research & development and rigorous testing ensure long term



- Design Manual Request
- Design Tool
- Installation Instructions
- LandSaver Plastic Chamber Products
- Project Site Calculator

Microsoft Excel spreadsheets may have to be downloaded and run with modified security settings in order to be used properly. [Click here for more information.](#)

Tech Sheets:

- #1– Porosity of Structural Backfill
- #2– Thermoplastic Liners for Detention Systems
- #4– Recycled Concrete Structural Backfill
- #5– Drainage Net Exfiltration Systems
- #6– ASTM & AASHTO Standards for

<http://www.hancor.com/product/landsaver.html>

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**We Make Land Work For YouSM
Subsurface Stormwater
Detention Systems**



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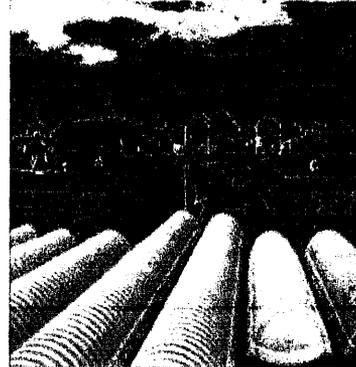
StormTech chambers make deals happen by reducing the overall installed costs of underground detention systems. Now you can meet the land-use requirements and overall budgets of your projects.

◆ **StormTech Support Center**

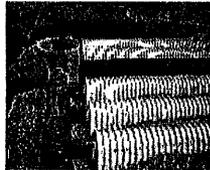
StormTech's product line of chamber systems optimize design flexibility and offer space and cost savings for engineers, developers and installers/contractors.

◆ **Design Tools**

Access CAD drawings, Technical Memos, Design Manuals, Downloads



**HydroCAD®
Stormwater
Modeling
System**



StormTech is pleased to announce that our chambers have been incorporated into the latest routing software, enabling engineers to easily model our underground detention systems.

StormTech LLC

20 Beaver Road
Suite 104
Wethersfield, Connecticut 06109

(P) 866-892-2694
(F) 866-328-8401

[Contact Us](#)



<http://www.stormtech.com/>

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6 Additional Qualifications

Wilsey Ham understands the need to achieve the Town's goals, and we are confident we can ensure the necessary requirements are met. In doing so, we will employ our internal Project Management procedures for Quality and Cost Control. These procedures are defined in the following paragraphs.

Quality Control

Controlling our product quality helps control construction costs.

Our quality control is an ongoing process throughout the project. One of the primary responsibilities of our Project Manager is to monitor the contract documents as they are being prepared to avoid errors in design approach and plan preparation methodology.

For the preliminary design review stage, our Project Manager will carefully review the entire plan set, reading everything to ensure logical and consistent plans, estimates and specifications. Everything is highlighted after it has been reviewed to assist in tracking our review and avoiding omissions.

At the final design review stage, the Project Manager repeats this procedure for the entire package and reviews the quantities against the plans to make sure that they are consistent. When the Project Manager has completed

their review, as well as any changes that came about in the process, the plans and specifications are submitted to the Principal Engineer for checking. The Principal, who has the most project and design experience, repeats this detailed process reviewing everything and highlighting what has been reviewed. In addition to this review, the plans are cross-checked against the bid schedule to make sure that every work item proposed on the plans is described and included in a bid item for payment. This is a critical step to make sure that no work items are overlooked.

Finally, the Method of Payment description of the unit of measure for each item in the specifications is checked against the bid schedule to make sure they are consistent to eliminate this potential loophole for a contractor to claim an extra. Once this thorough process is performed the package is submitted to the City.

It is also our standard procedure to provide a formal written response to all written City staff review comments to expedite the plan check process.

During the Construction Phase of a project, communication with the project team, Agency and Contractor as part of our construction engineering support services aids accelerating construction schedules. We provide timely reviews of project materials submittals, shop drawings and written response to Contractor RFI's to keep construction moving.

Cost Control

The most effective method of cost control for a design firm is to control the costs before they occur, not after problems arise.

Our Project Managers discuss the budget of each task with the team member performing the work. This clarifies the level of effort expected for the task. The staff member is told to notify the Project Manager immediately if the task looks like it will take longer than anticipated.

Timecards are entered directly into our accounting system on a weekly basis which allows us to closely monitor the project expenditures and budget. This is performed by the Project Manager at the beginning of each week after the time cards are posted. If it appears that there are budget issues, the Project Manager can make adjustments to our approach to reduce costs in other areas, allowing us to keep costs in line.

Schedule

Meeting the project schedule is one of the many important functions of the Project Manager's responsibilities at Wilsey Ham, and will be essential on this project. The Project Schedule is also reviewed on a weekly basis at the same time the Project Manager reviews the budget. If the Project Manager determines that we are falling behind on schedule, adjustments are made immediately to the staffing to bring us back on track. We do not wait until the end of a project for a big production push since issues can arise that make it difficult to achieve the schedule, which is not an option. Staffing adjustments usually involve working longer hours by the Project staff to get back on schedule and if

necessary, adding production staff. Overtime is not charged to the client for longer work days.

Together

We consider ourselves partners with our clients as opposed to just a consultant hired to provide a specific service. We take pride and ownership in every project we design.

Responsiveness and Teamwork

At Wilsey Ham, being highly responsive to our clients and the ability to form team relationships is one of our hallmarks. This quality is stressed to our staff because we understand the importance of good communication to help keep a project on schedule. Our goal and practice is to return phone calls as quickly as possible, and to be readily available for meetings.

We strive to communicate with our clients using the fastest possible means, whether it is by email, phone, cell phone, fax, or courier. The location of our multiple offices allows for easy communication and timely response between Wilsey Ham, the Town, and the potential project sites. Wilsey Ham's offices are linked by a wide area network over internet connections to allow for rapid file sharing and access from remote locations. We use computer, voice and video conferencing and sharing technologies to collaborate and share desktops across the organization. These techniques are interwoven into our daily work processes.

Flexibility

We are always open to new methods and procedures as long as the client's goals are achieved. We maintain a flexible attitude with our staff and our clients to achieve the best possible results.

Our Company Vision is to create a positive atmosphere of teaming with our clients, consultants and staff to foster the successful and profitable completion of projects. To provide a quality service while offering our staff rewarding challenges to enable their continued professional growth and maturity. To that end we incorporate the following attributes into every project.



PROFESSIONAL SERVICES AGREEMENT FOR
MUNICIPAL STORM DRAINAGE SYSTEM DESIGN

THIS AGREEMENT is entered into between the Town of Atherton, a municipal corporation, hereinafter referred to as "the City", and Wilsey Hamm, hereinafter referred to as the "Consultant", in consideration of the mutual benefits, terms, and conditions hereinafter specified.

1. Project Designation. The Consultant is retained by the City to perform Municipal Storm Drainage System Design services in connection with the project designated as Fletcher-Ridgeview Storm Drain System

2. Scope of Services. Consultant agrees to perform the services, identified on Exhibit "A" attached hereto, including the provision of all labor, materials, equipment and supplies.

3. Time for Performance. Work under this contract shall commence upon the giving of written notice by the City to the Consultant to proceed. Consultant receipt of a Purchase Order shall constitute said notice. Consultant shall perform all services and provide all work product required pursuant to this agreement within 90 calendar days from the date written notice is given to proceed, unless an extension of such time is granted in writing by the City.

4. Payment. The Consultant shall be paid by the City for completed work and for services rendered under this agreement as follows:

a. Payment for the work provided by Consultant shall be made as provided on Exhibit "B" attached hereto, provided that the total amount of payment to Consultant shall not exceed \$56,532 without express written modification of the agreement signed by the City.

b. The consultant may submit vouchers to the City once per month during the progress of the work for partial payment for project completed to date, up to 85% of total project costs. Such vouchers will be checked by the City, and upon approval thereof, payment will be made to the Consultant in the amount approved.

c. Final payment of any balance due the Consultant of the total contract price earned will be made promptly upon its ascertainment and verification by the City after the completion of the work under this agreement and its acceptance by the City.

d. Payment as provided in this section shall be full compensation for work performed, services rendered and for all materials, supplies, equipment and incidentals necessary to complete the work.

e. The Consultant's records and accounts pertaining to this agreement are to be kept available for inspection by representatives of the City and state for a period of three (3) years after final payments. Copies shall be made available upon request.

5. Ownership and Use of Documents. All documents, drawings, specifications and other materials produced by the Consultant in connection with the services rendered under this

agreement shall be the property of the City whether the project for which they are made is executed or not. The Consultant shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information, reference and use in connection with Consultant's endeavors.

6. Compliance with laws. Consultant shall, in performing the services contemplated by this agreement, faithfully observe and comply with all federal, state, and local laws, ordinances and regulations, applicable to the services to be rendered under this agreement.

7. Indemnification. Consultant shall indemnify, defend and hold harmless the City, its officers, agents and employees, from and against any and all claims, losses or liability, or any portion thereof, including attorneys fees and costs, arising from injury or death to persons, including injuries, sickness, disease or death to Consultant's own employees, or damage to property to the extent caused by a negligent act, omission or failure of the Consultant.

8. Insurance. The Consultant shall secure and maintain in force throughout the duration of this contract comprehensive general liability insurance with a minimum coverage of \$500,000 per occurrence and \$2,000,000 aggregate for personal injury, and \$500,000 per occurrence/aggregate for property damage. Said general liability policy shall name the Town of Atherton as an additional named insured and shall include a provision prohibiting cancellation of said policy except upon thirty (30) days prior written notice to the City. Certificates of coverage as required by this section shall be delivered to the City within fifteen (15) days of execution of this agreement.

9. Independent Contractor. The Consultant and the City agree that the Consultant is an independent contractor with respect to the services provided pursuant to this agreement. Nothing in this agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither Consultant nor any employee of Consultant shall be entitled to any benefits accorded City employees by virtue of the services provided under this agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance program, otherwise assuming the duties of an employer with respect to Consultant, or any employee of Consultant.

10. Covenant Against Contingent Fees. The Consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this contract, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the City shall have the right to annul this contract without liability or, in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

11. Assignment. The Consultant shall not sublet or assign any of the services covered by this agreement without the express written consent of the City.

12. Non-Waiver. Waiver by the City of any provision of this agreement or any time limitation provided for in this agreement shall not constitute a waiver of any other provision.

13. Termination.

a. The City reserves the right to terminate this agreement at any time by giving thirty (30) days written notice to the Consultant.

b. In the event of the death of a member, partner or officer of the Consultant, or any of its supervisory personnel assigned to the project, the surviving members of the Consultant hereby agree to complete the work under the terms of this agreement, if requested to do so by the City. This section shall not be a bar to renegotiations of this agreement between surviving members of the Consultant and the City, if the City so chooses.

14. Notices. Notices to the Town of Atherton shall be sent to the following address:

Duncan Jones, PE, Atherton Public Works Director
91 Ashfield Road
Atherton, CA 94027

Notices to Consultant shall be sent to the following address:

Jeff Peterson, PE, Principal, Wilsey Ham
393 Vintage Parkway, Suite 100
Foster City, CA 94404

15. Integrated Agreement. This Agreement together with attachments or addenda represents the entire and integrated agreement between the City and the Consultant and supersedes all prior negotiations, representations, or agreements written or oral. This agreement may be amended only by written instrument signed by both City and Consultant.

DATED this _____ day of February, 2008.

Town of Atherton

Consultant

By _____
City Manager

By _____

Approved as to Form

By _____
City Attorney

EXHIBIT "A"
SCOPE OF SERVICES

EXHIBIT "B"
PAYMENT

1. Consultant shall be paid up to \$56,532 as per Exhibit B-1 to complete the scope of work as outline in Exhibit "A".
2. The consultant may submit vouchers to the City once per month during the progress of the work for partial payment for project completed to date, up to 85% of total project costs. Such vouchers will be checked by the City, and upon approval thereof, payment will be made to the Consultant in the amount approved.
3. Final payment of any balance due the Consultant of the total contract price earned will be made promptly upon its ascertainment and verification by the City after the completion of the work under this agreement and its acceptance by the City.

Scope of Work

This section summarizes our detailed Scope of Work as described in our proposed Approach. The intent of this section is to detail each subtask and project milestone, which will ultimately match the line items on our fee estimate. As explained in the RFP, the scope of work for the final design phase will be determined after project strategy is developed and agreed upon with the Town staff. Therefore, specific tasks for the final design and construction services are not included herein.

The following represents our Proposed Scope of Work leading up to Final Design:

Task 1.0 - Project Kickoff- Verify Existing Conditions

- Attend project kickoff/strategy meeting with Town staff.
- Collect record drainage records and add information to 400-scale base maps from County.
- Meet with Town's Street Supervisor to discuss his drainage observations and experience.
- Prepare for and attend and help conduct a neighborhood meeting to discuss the goals of the project, the approach to the drainage study and the assistance needed from the public. Solicit resident input regarding the problems and issues experienced by the residents. The resident's permission will be requested for accessing their properties to look at the drainage issues.
- Perform a field walk with drainage maps to confirm drainage facilities,

photograph/document undocumented improvements & verify drainage paths.

- Develop supplemental survey request for additional information needed.
- Add topographic survey information to the base maps.

Task 2.0 – Define Drainage Areas, Paths and Characteristics

- Determine drainage areas and sub-areas, and add to base maps.
- Conduct a site visit to confirm drainage areas, and flow paths. Identify, measure and document natural and man-made channel sizes and locations for hydraulic calculations.
- Prepare the composite project base mapping in AutoCAD using all of the information collected and described above.
- Coordinate with and assist the Town's GIS technician to input existing facilities and watershed characteristics into the Town's GIS system.

Task 3.0 – Calculation of Design Flows

- Prepare and submit a proposed Basis of Design (BOD) Report of design criteria to be used for this project as well as future storm drain projects within the public right of way and easements. The criteria will include runoff coefficients, freeboard and detention requirements as well as acceptable methods of detention within the Town's right of way to allow the Town to reduce the rate of runoff to Atherton Creek and other downstream

systems. C3 requirements for this project, if applicable, will be identified in this report.

- Meet and collaborate with Town staff to review the BOD and agree upon the drainage criteria for this and future projects.
- Prepare a hydrology study of the Fletcher/Ridgeview sub-basin. Measure drainage areas and sub-areas, calculate time of concentrations and compute design storm runoff flows for the 10, 25, 50 and 100 year storms at all existing drainage elements.
- Prepare Drainage Area Map that summarizes hydrology calculations. Drainage areas and sub-areas will be delineated, time of concentration flow paths will be shown and computed flows will be indicated for each sub-area.
- Prepare hydraulic study for the sub-basin. Compute existing capacities for all drainage elements for a minimum of two conditions which includes: 1) the drainage facility (open channel or pipe) while meeting the approved freeboard requirements; and 2) the capacity of the conveyance at the point of overflow.
- Prepare Hydrologic and Hydraulic summary table. The table will indicate the existing capacities of all drainage facilities with the agreed upon freeboard, and the capacity at the point of overflow. The table will also include the additional capacity needed for each element to meet the Town's design criteria.

Task 4.0 – Determination of System Needs, Priorities and Construction Costs

- Set up plan view base sheets for the recommended drainage improvement drawings.
- Prepare plan views showing recommended drainage improvements for each problem area. The plans will show all of the pertinent information (such as size, material, preliminary slope, etc) necessary to prepare a construction cost estimate. Prepare alternative solutions where appropriate.
- Prepare cross sections where necessary to convey the proposed concept (such as detention facilities, manholes with varied inverts).
- Prepare preliminary construction cost estimates for each improvement area and alternative.
- Determine recommended priorities of which storm drain facilities should be built first if funding falls short of being sufficient for the entire project.
- Prepare report summarizing drainage improvements, alternatives, priorities and construction costs. Provide rationale for the recommended alternatives.
- Make revisions to the report and plans to address the Town's comments.
- Prepare for and attend meeting with Town to collaborate on defining a final project to be carried through to final design.
- Attend and help conduct a second neighborhood meeting to present and discuss the recommended solutions for the drainage issues.

Town of Atherton
 On-Call Municipal Storm Drainage System Design
 Cost Proposal for Fletcher Drive/Ridgeview Drive
 February 13, 2008

Description/Task	SUPERVISING ENGINEER		SENIOR ENGINEER		ASSOCIATE ENGINEER		ENGINEER II		JUNIOR ENGINEER		DESIGNER TECHNICIAN II		DESIGNER TECHNICIAN I		2 PERSON SURVEY CREW		Reimbursable Expenses	TOTAL WH LABOR \$	TOTAL ALL \$	TOTAL WH LABOR HOURS	
	\$190	HRS	\$150	HRS	\$136	HRS	\$127	HRS	\$86	HRS	\$112	HRS	\$104	HRS	\$225	HRS					
1 Project Kickoff/Verify Ex. Conditions																					
1. Attend kickoff/strategy mtg.	570	3	450	3	408	3												25	1,428	1,453	9
2. Collect record data and add to base maps.			600	4									832	8			25	1,432	1,457	12	
3. Meet w/ Town's Street Supervisor.			450	3	408	3											25	858	883	6	
4. Prepare for and attend neighborhood mtg.	570	3	750	5	544	4							416	4			25	2,280	2,305	16	
5. Perform field walk to verify and document.			1,200	8	136	1			688	8							25	2,024	2,049	17	
6. Develop supplemental survey request.			300	2														300	300	2	
7. Add topo survey info to base maps.			150	1									1,248	12				1,398	1,398	13	
Subtotal	1,140	6	3,900	26	1,496	11			688	8			2,496	24			125	9,720	9,845	75	
2 Define DAs, Paths & Characteristics																					
1. Determine DAs and add to base map.			600	4	136	1							208	2				944	944	7	
2. Site visit to confirm DAs, flow paths, etc.			1,200	8					688	8							25	1,888	1,913	16	
3. Prepare composite base mapping.			600	4	272	2							832	8				1,704	1,704	14	
4. Coordinate with & assist GIS technician.			300	2	544	4							312	3				1,156	1,156	9	
Subtotal			2,700	18	952	7			688	8			1,352	13			25	5,692	5,717	46	
3 Calculation of Design Flows																					
1. Prepare BOD rpt incl criteria, C3 req'ts.	570	3	1,200	8	2,720	20												50	4,490	4,540	31
2. Meet/collaborate with Town on BOD.	570	3	450	3	408	3												25	1,428	1,453	9
3. Prepare hydrology study.			3,600	24	272	2													3,872	3,872	26
4. Prepare Drainage Area Map.			450	3									624	6					1,074	1,074	9
5. Prepare hydraulic study.			4,800	32	816	6													5,616	5,616	38
6. Prepare hydrologic and hydraulic summary.	190	1	600	4	544	4											25	1,334	1,359	9	
Subtotal	1,330	7	11,100	74	4,760	35							624	6			100	17,814	17,914	122	
4 System Needs, Priorities & Const. Costs																					
1. Setup plan view base sheets.			450	3	136	1							624	6					1,210	1,210	10
2. Prepare improvement drawings.	190	1	1,800	12	544	4							1,248	12					3,782	3,782	29
3. Prepare cross sections, details.			900	6	136	1							832	8					1,868	1,868	15
4. Prepare prelim constr cost estimates.	190	1	1,500	10	544	4													2,234	2,234	15
5. Determine recommended priorities.	190	1	600	4	272	2													1,062	1,062	7
6. Prepare summary report.	190	1	300	2	1,088	8											100	1,578	1,678	11	
7. Revise report per Town's comments.			150	1	544	4												50	694	744	5
8. Prepare for and attend mtg. w/Town.	570	3	750	5	544	4												25	1,864	1,889	12
9. Prepare for and attend neighborhood mtg.	570	3	750	5	544	4												25	1,864	1,889	12
Subtotal	1,900	10	7,200	48	4,352	32							2,704	26			200	16,156	16,356	116	
SUBTOTAL WITHOUT OPTIONAL TASKS	4,370	23	24,900	166	11,560	85			1,376	16			7,176	69			450	49,382	49,832	359	

Town of Atherton
 On-Call Municipal Storm Drainage System Design
 Cost Proposal for Fletcher Drive/Ridgeview Drive
 February 13, 2008

Description/Task	SUPERVISING ENGINEER \$190 HRS		SENIOR ENGINEER \$150 HRS		ASSOCIATE ENGINEER \$136 HRS		ENGINEER II \$127 HRS		JUNIOR ENGINEER \$86 HRS		DESIGNER TECHNICIAN II \$112 HRS		DESIGNER TECHNICIAN I \$104 HRS		2 PERSON SURVEY CREW \$225 HRS		Reimbursable Expenses	TOTAL WH LABOR \$	TOTAL ALL \$	TOTAL WH LABOR HOURS	
Opt. 5 - Supplemental Topo Survey																					
1. Set up horizontal and vertical control.	380	2									224	2			900	4	60	1,504	1,564	8	
2. Perform supplemental topo survey.											336	3			4,500	20	300	4,836	5,136	23	
Subtotal	380	2									560	5			5,400	24	360	6,340	6,700	31	
Opt. 6 - Site Meetings with Property Owners																					
1. Services provided on a time & mat'ls basis.																					
Subtotal																					
GRAND TOTAL W/OPTIONAL TASK 5	4,750	25	24,900	166	11,560	85			1,376	16	560	5	7,176	69	5,400	24	810	55,722	56,532	390	

- Notes:**
1. The amounts may vary between tasks and individuals but the Grand Total amount will not be exceeded without approval of the Client.
 2. Total All includes subconsultants and reimbursable costs
 3. Hourly rates effective through December 31, 2008 and subject to revision annually thereafter.
 4. All positions may not be shown. If a position is not shown the Charge Rate Fee Schedule will govern



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF FEBRUARY 20, 2008

**SUBJECT: AWARD OF CONTRACT TO TRU-GREEN LANDCARE FOR
THE TREE MAINTENANCE PROJECT NUMBER 07-010 IN AN
AMOUNT NOT TO EXCEED \$52,000**

RECOMMENDATION:

Award a contract for the 2008 Tree Maintenance Project, project number 07-010 to Tru-Green Landcare, the low bidder on the February 5, 2008, bids, for \$52,000, and to authorize the Mayor to sign the contract on behalf of the Town.

INTRODUCTION:

This project is for an annual tree trimming contract. The contractor bid an hourly crew rate to provide routine pruning, hazardous tree removal and storm damage cleanup of City trees, up to the contract limit of \$52,000.

ANALYSIS:

Two bids were received for the 2008 Tree Maintenance Project as follows:

<u>Firm</u>	<u>Crew Hours</u>	<u>Crew Rate</u>	<u>Total</u>
Professional Tree Care	311.00	\$167.00	\$51,937.00
Tru-Green Landcare	416.00	\$125.00	\$52,000.00

The winning bidder gave us the greatest number of crew hours for the \$52,000.00 contract price. A crew hour consists of two tree workers, a high lift truck and a chipper for one hour.

FISCAL IMPACT:

Street and Park operations funds in the amount \$55,000.00 are budgeted for this project in FY 2007-08. Bids were received for the project on February 5, 2008. Tru-Green Landcare was the low bidder at \$125 per crew hour which gives the town 416.00 crew hours for a total of \$52,000.00.

Prepared By:

Approved:

Duncan L. Jones, P.E.
Public Works Director

Jerry Gruber
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR

DATE: FOR THE MEETING OF FEBRUARY 20, 2008

**SUBJECT: AWARD OF FOUR CONTRACTS FOR THE HOLBROOK-
PALMER PARK TOWN HOME PROJECT NUMBER 07-011 IN AN
AMOUNT NOT TO EXCEED \$75,000 PLUS A TEN PERCENT
CONSTRUCTION CONTINGENCY, FOR A TOTAL
AUTHORIZATION OF \$82,500.**

RECOMMENDATION:

Award four contracts for the Holbrook-Palmer Park Town Home Project, project number 07-011, for up to \$75,000, with a 10% construction contingency of \$7,500, for a total authorization of \$82,500; to authorize the use of informal bidding; and to authorize the Mayor to sign the contracts on behalf of the Town.

INTRODUCTION:

There will be numerous contracts involved in the upgrade of the Town Home. Some smaller contracts are already underway, including removal of debris by staff, restoration of the bathroom tiles, electrical repair work and removal of existing flooring. The next phase will involve hiring contractors to perform specialized restoration tasks including repairs, flooring, paint and electrical installations.

ANALYSIS:

Bids are currently being solicited for the Project. Staff determined from previous experience that a public works contract sealed competitive bidding process would not work well for this size and type of work. The primary reason is that considerable discussion and negotiation with several contractors is needed to refine the scope of work in order to obtain bids from three contractors for the same scope of work.

Staff solicited from knowledgeable members of the community and local home developers to determine several recommended qualified contractors from which to obtain bids. Staff is having difficulty having recommended qualified contractors provide detailed proposals for the work in a timely fashion. This is primarily because the better contractors are very busy.

Several bids have been received, but still require more negotiation to assure the scope is correct and that all bidders are bidding the same scope of work. The following discusses the bids in each area of work:

Electrical

Intermountain Electric, the Town's on-call electrician, has begun work on electrical repairs that were determined from the home inspection, the Park and Recreation Commission walk-through, and staff evaluation. To date Intermountain has spent \$13,000 and most repairs are complete. However, there are many electrical fixtures that need to be changed or installed, and other minor electrical items are expected to arise during other repairs. The estimate for their total contract work on the house is \$18,000.

Repairs

To date, we have received one bid for all of the non-electrical repairs. These repairs include seismic upgrades underneath the house, replacing broken windows and doors, repairing the garage ceiling (part of it fell in the earthquake a few weeks ago), enclosing radiator wells, removing the non-functional spa and replacing/repairing the spa deck and stairs, closing the wall vents from the kitchen to the outside, and replacing the kitchen greenhouse windows with a regular opening window.

The one bid was from Bianchi, who installed the lift at the Main House and did an excellent job with the related repairs. We are also soliciting bids from RoDan who did the Pavilion work and Ulrich Construction, who previously did on-call repairs for the Town. The first proposal from Bianchi was for \$44,000. We anticipate lower bids from the other contractors, but intend to prioritize the repairs, start the low bid firm on the highest priority repairs and spend no more than \$25,000.

Paint (Interior Only)

To date, we have received two bids from qualified painters. Nor-Cal has done the most recent work on the Main House and Pavilion. Elegance was recommended for homes they have done in Atherton. Other painters have been contacted but have not yet submitted bids. The low bid, including various preparation and repairs needed to complete the painting, was from Nor-Cal for \$20,000. Elegance was a lower cost for the painting but did not include the more extensive prep work that Nor-Cal included. Elegance has been contacted to revise their bid to include the same scope of work as Nor-Cal. At this time the low bid is \$20,000. When negotiations result in the lowest bid for

the scope of work needed, the lowest bid contractor will be awarded the work. Therefore the bids will be no more than \$20,000.

Flooring

To date, we have received two bids to install laminate flooring throughout the house, and to refinish the existing hardwood floors in the foyer, living room and hallways. To date bids were received from Floor Effects and Re-Design Gallery. The low bid to date is slightly below \$11,000. The scope of work changed based on installing no carpeting and exclusively laminate flooring, and removing carpeting from the spa room (which smelled like dog when damp in the current rains). It is anticipated that a re-negotiated scope of work will result in a low bid of not more than \$12,000.

The above contracts are anticipated to need to be awarded before the March City Council meeting in order to meet an anticipated June move-in date. Staff recommends that the City Council approve award of contracts to the low bidder after the requisite three bids are received from qualified contractors, not to exceed the above amounts, and staff recommends a sole-source contract to Intermountain Electric, our on-call electrical contractor.

Staff also recommends that the City Council approve the use of informal written competitive bid procedures (per Municipal Code Section 3.16.100.C) for those contracts that are above \$15,000. These procedures would be used instead of competitive sealed bidding under Municipal Code section 3.16.110 (7) because the public interest requires dispensing with competitive sealed bidding, in accordance with the exception contained in Municipal Code Section 3.16.150, in order to negotiate matching scope and terms from no less than three bidders.

FISCAL IMPACT:

Parcel Tax funds in the amount of \$100,000 are budgeted for this project in FY 2007-08. Bids will be received for the project during the month of February 2008 for up to \$75,000 with a contingency of \$7,500 for a total authorization of \$82,500.

The remaining budget will be used first for the following smaller items:

Tile Restoration	\$3,165 (work has been completed)
Window Coverings	\$4,335 or less
Kitchen Appliances	<u>\$10,000</u> or less
	\$17,500
Above Contracts	<u>\$82,500</u>
	\$100,000

Anticipated savings on low bids, or unused contingency, will allow expenditure on other miscellaneous minor items, such as replacing smoke detectors, toilets, shower enclosures,

lights, and ceiling fans (the home is not air-conditioned), heater duct repairs, as well as a thorough top-to-bottom cleaning of the house once all the contractors are finished.

A mid-year budget adjustment will be proposed for further upgrades considered to be needed to the house, including repairs not accomplished under the \$25,000 repair contract, repair of the rear patio or replacement with a deck/patio combination, refinishing or replacement of the concrete walkways, but most of all, addressing upgrade of the kitchen. Estimates are currently being obtained for various levels of upgrade for each of these items. These estimates will be brought to the Park and Recreation Commission and the Facilities Committee for recommendation of an appropriate expenditure on each, to be included in the mid-year budget adjustment.

Prepared By:

Approved:

Duncan L. Jones, P.E.
Public Works Director

Jerry Gruber
City Manager



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: THE HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE MEETING OF FEBRUARY 20, 2008

SUBJECT: APPEAL – 137 STOCKBRIDGE (APN 059-292-060)

RECOMMENDATION:

Staff recommends that the City Council conduct the public hearing, deny the appeal and uphold the decision of Staff for the reasons outlined in this Report.

INTRODUCTION:

The property owners of 137 Stockbridge Avenue, Larry & Jeannie Lowry, have filed an appeal of the decision of Staff regarding plans to renovate the existing residence at 137 Stockbridge Avenue.

The existing single-story residence located at 137 Stockbridge is considered legally non-conforming as it encroaches into the current side-yard setback. The existing residence is located 19' from the left side yard, while the current side-yard setback requirement of the lot is 36'-6". The existing residence is 3,724 square feet in area. The applicant proposes to demolish a majority of the residence, with the exception of the two nonconforming sections of the building (approximately 720 square feet in area). The newly completed residence will be 7,456 square feet in area (including the second floor).

The appellants indicate that their Architect met with the Building Department to review the preliminary plans and were assured that the nonconforming rooms could remain. Plans for the major renovation were submitted to the Building Department on June 22, 2007.

After reviewing the plans, staff informed the applicants that the proposed renovation was not consistent with the recently adopted nonconforming ordinance. Staff met with the applicants to further discuss options. As the applicants indicated their desire to proceed with the plans as

submitted rather than redesign, staff prepared a letter dated December 7, 2007, denying the plans as submitted.

The applicants filed an appeal of Staff's decision with their letter dated December 13, 2007 (attached).

ANALYSIS:

Atherton Municipal Code 17.44 regulates nonconforming uses and structures. The City Council, at its April 28, 2007, meeting, adopted changes to the nonconforming section of the code. These changes were effective on May 28, 2007. The relevant section of the nonconforming code states that;

“alterations or additions to nonconforming main buildings may be permitted as long as the addition or alteration is limited to no more than 50% of the floor area and not more than 50% of the nonconforming exterior walls are rebuilt, either as a single project, or cumulatively over time, which means a series of projects beginning with the first alteration within a period of five years. Alterations or additions over 50% are required to entirely meet current zoning and building code requirements”

Prior to the code change, Section 17.44.050 stated that *“no nonconforming structure shall be moved, altered, enlarged or reconstructed so as to increase the discrepancy between the existing conditions and the standards of lot coverage, front yard, side yard, rear yard, parking, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located. This section is prohibitory only, and shall not be interpreted as authorizing any actions not specifically mentioned herein.”* The former code allowed minor repairs and maintenance and allowed major repairs and alterations which will not increase the degree of nonconformity, provided that if they involve changes to external openings, a conditional use permit is required (section 17.44.050(D)(1) and (3))

The former code section could have been interpreted to allow the nonconforming portion of the structure to remain in place, and require any new construction to meet current code requirements. The change to the code adopted in April 2007 established a threshold for major alterations (involving 50% of the floor area) to meet current code requirements.

The City Council, in 2006, granted an appeal to the property owners at 172 Austin Avenue to allow demolition and construction of a nonconforming structure (new residence) and granted an appeal at 84 Walnut to allow reconstruction of a nonconforming wall that was accidentally removed during construction. Both of these appeals were granted prior to the current nonconforming code sections and were part of the impetus to update that section of the code.

As stated above, the proposed renovation at 137 Stockbridge is extensive. The existing residence is 3,724 square feet in area (720 square feet of which is located within the required setback). As proposed, the applicant would demolish 3,004 square feet, or 80% of the existing floor area. The newly constructed residence would total 7,456 square feet.

Staff noted several options for the applicants to proceed. The applicants indicate their need to have bedrooms located on the first floor of the residence. One option is to construct a detached accessory structure in the left side yard. There is also space available within the main building area to construct the residence closer to the front yard (Ralston Avenue) and expand towards the rear. Staff understands these options are not preferred by the applicants as they have invested significant time and resources into the preparation of the proposed plans. Staff is obligated to enforce the Town's regulations in effect at the time of building permit submittal and does not have the ability to grant exceptions.

General Plan policy 1.335(F) indicates that "proposals to replace existing homes shall be designed in accordance with the density, floor area ratio, height, bulk and other standards established by the Town." It is the Town's objective for conformity with current regulations rather than retaining long term nonconforming situations.

CONCLUSION:

It is Staff's professional opinion that the request to retain a portion of a nonconforming structure with the major renovation of the residence is not consistent with the Atherton Municipal Code and the Atherton General Plan.

ALTERNATIVES:

- The Council could deny the appeal and uphold the decision of Staff. The applicants would be required to redesign the project.
- If the Council wishes to approve the appeal, the Council could direct staff to apply the former nonconforming regulations as the applicants had invested significant resources into the preparation of the plans and the plans were completed and ready for submission prior to the effective date of the ordinance.
- If the Council determines the code interpretation of Staff is incorrect and that the applicants have the ability to demolish a nonconforming structure and build a new residence with the previous nonconforming setbacks, the Council should approve the appeal.

FISCAL IMPACT"

The cost of the appeal process is paid for by the appellants.

ENVIRONMENTAL IMPACT:

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15303, Class 3(a) (construction of a new single family residence).

FORMAL MOTION:

I move that the City Council deny the appeal and uphold the decision of Staff.

Prepared by:

Approved by:

Lisa Costa Sanders
Deputy Town Planner

Jerry Gruber
City Manager

Attachments:

1. Letter of Appeal from Larry and Jeanie Lowry dated December 13, 2007
2. Letter from Lisa Costa Sanders, Deputy Town Planner December 7, 2006
3. Atherton Municipal Code section 17.44
4. Photos of existing residence
5. Site plan, floor plan and elevations

Larry & Jeannie Lowry
137 Stockbridge Avenue
Atherton, California 94027
Phone: 650-364-9090
Fax: 650-368-9891
Email: larry_lowry@L3Ventures.com

RECEIVED
TOWN OF ATHERTON
2007 DEC 13 P 4: 09

December 13, 2007

Atherton Town Council
Town of Atherton
91 Ashfield Road
Atherton, California 94027-3896

Re: Appeal of Atherton Building Department Staff decision regarding major remodel and addition for 137 Stockbridge Avenue

Dear Atherton Town Council,

We hereby wish to appeal the Town staff's decision regarding our proposed major remodel and addition to our home at 137 Stockbridge Avenue, Atherton. The background and bases for our appeal are outlined below. We look forward to the opportunity to provide additional information and to meet with the Town Council to discuss our appeal. We also would very much welcome and encourage visits to our property by members of the Town Council and staff as part of this process so that they can see and judge first hand for themselves some of the observations offered below. Thank you in advance for your consideration of our appeal.

BACKGROUND

Approximately ten years ago, we began considering our options for achieving our dream home. We considered options from doing a major remodel and addition to our current house, to completely tearing down our current house and starting from scratch, to moving. Given the disadvantages of the long, narrow configuration of our current property, moving held a lot of appeal. We wanted to have a back yard (our current property, with the house as currently configured, has two large side yards, but no back yard) and, for medical reasons, we need a house with ground floor bedrooms. This would be very hard to achieve on our current long, narrow property. However, we have lived at 137 Stockbridge Avenue for twenty-seven years, and it holds a lot of memories for us. We also have invested a lot in the landscaping on our current property and there are economic advantages to staying where we are. So, we decided that, if we could build the house we wanted and needed, we preferred to stay at our current address and do a major remodel and addition.

After a lot more thought, sketching of ideas, etc., we realized that by maintaining our current foot print, which includes two non-conforming rooms, remodeling our current

house and adding a second story, we could accomplish what we wanted and needed. So we launched the process of finding an architect and initiating the project. In October of 2005, we hired Jim Maliksi & Associates to design a major remodel and addition of our home at 137 Stockbridge Avenue, handle the permitting process with the Town of Atherton, and assist with the prime contractor selection and management processes.

During the process of selecting Maliksi & Associates for the project, we made several things very clear – 1) We wanted a remodel and addition that would meet our needs and, very importantly, that would have great “curb appeal” that would add to our neighborhood, 2) We made it very clear that it was important that the architect that we worked with was experienced working with the Town of Atherton, understood the Town’s zoning and building codes, and was familiar with the Town’s building department and how to work with it. 3) We described very specifically the remodel and addition that we envisioned, including providing a sketch of, and a written description of, the floor plan envisioned. 4) We also made it clear that two of the rooms that were to be retained as parts of the remodel and addition were non-conforming, i.e., they extended into the side setbacks, that retaining those two rooms was critical to the design for the remodeled and addition, and that therefore we were concerned as to whether retaining those two rooms was permitted.

In response to this, Mr. Maliksi assured us that he was very experienced and qualified to work in Atherton, that he understood Atherton’s zoning and building codes and stayed current on them, that he was familiar with and had had good experiences working with Atherton’s building department, that he could design the remodel and addition as envisioned and that maintaining the non-conforming rooms would not be a problem, i.e., that Atherton’s zoning and building codes permitted doing so. So, we hired Maliksi & Associates and launched the project.

We then set about working intensively to ensure that the design for the major remodel and addition met our objectives of achieving the house that we wanted and needed, and that had great “curb appeal”. The initial floor plans for the major remodel and addition were completed in the summer of 2006. The plans were refined through the Fall of 2006, with all major modifications completed by November 15, 2006. Minor modifications were made to the plans during the first quarter of 2007. A geotechnical survey and engineering plans were commissioned in the Summer and Fall of 2006 and completed by the Spring of 2007. On April 12, 2007 the plans were stamped for submission for permits with an understanding that they, along with the geotechnical survey and engineering plans, would be submitted to the Town of Atherton. The effort shifted to selecting kitchen appliances and materials for the bathrooms, kitchen counters, etc., detailing the kitchen cabinets, paneling for the living room and library, etc., and selecting a prime contractor for the project.

Given the critical importance of retaining the two non-conforming rooms, periodically throughout the design process and at each major check point, we inquired as to whether there were any issues regarding the two non-conforming rooms. Each time Maliksi & Associates assured us that they were in communication with the Town of Atherton’s

Building Department regarding the non-conforming rooms and that retaining them was fine. In April of 2007 as the plans were stamped for submission to the Town, we again inquired as to whether there were any issues regarding the two non-conforming rooms. In response our inquiry, Maliksi & Associates again asserted that they were in communication with the Town regarding the plans, and that in fact they had again specifically reviewed the plans with the Town and that the only issue with the two non-conforming rooms was that changing the window configuration in those rooms as envisioned in the latest plans might not be permitted but that other than that the rooms were fine and that reconfiguring the windows as envisioned might even be allowed.

With the plans released to the Town, our effort shifted to interviewing and selecting a contractor and completing the selection of the bathroom, kitchen and patios materials, etc., and installing of some of the street-side landscape screening. We interviewed five potential prime contractors for the project, secured references for each of the potential prime contractors, and visited projects completed by two of the potential prime contractors. We visited several potential suppliers of kitchen appliances and cabinets, and potential suppliers of marble and limestone tiles, slabs, etc. for the bathrooms, kitchen and patios, etc. We install forty two new shrubs and nine new trees along the Stockbridge side of the property as additions to our existing screening landscaping.

At one of our regular meetings with Maliksi & Associates in June of 2007 to discuss materials selections, etc., we inquired as to whether the Town had approved, or provided any more feedback on, the plans for our major remodel and addition. At that meeting, we were informed that the plans had not been submitted but were not given any reason for why the plans had not been submitted per the understanding in April. The only comment given was – “You would know if the plans were submitted because you would have to write a big check.” We assumed that Mr. Maliksi was referring to a check to Maliksi & Associates for architectural fees. However, Mr. Maliksi indicated that the check would be to the Town to accompany the submission of the plans to the Town. This was the first that we had heard that the permit fee must accompany the plans. We asked how much the check should be made out for and were told to sign a blank check made out to the Town and that Maliksi & Associates would fill in the amount and submit it to the Town. So, we provided the blank check. We inquired as to why the plans had not been submitted to the Town in April. Mr. Maliksi indicated that they had gone to the Town with the plans but the Town had requested “some additional stuff” and sent them away to get it. So they had not submitted the plans in April. Mr. Maliksi did not elaborate on what the “additional stuff” was or what had been required to assemble the “additional stuff”.

During the remainder of June, July and the first part of August, we continued to work on selecting the prime contractor and detailing materials, etc. At one of our regularly scheduled meetings with Maliksi & Associates in early August 2007, we inquired as to whether approval of the plans had been received. Mr. Maliksi indicated that he had not heard anything from the Town. We asked Mr. Maliksi to contact the Town and inquire as to when we might receive approval of the plans so we could factor it into our discussions with the potential prime contractors. At a subsequent meeting in mid August, we were

informed that Mr. Maliksi had called the Town and initially been told that the Town didn't have the plans, but subsequently told that the plan had just been misplaced and that the town would begin reviewing them soon.

At a regular meeting with Maliksi & Associates in September 2007, for the first time, almost two years into the project, five months after the plans were supposed to be submitted, and over three months after they were submitted, Mr. Maliksi informed us that there might be a problem. He had just heard from the Town that a new ordinance had just been passed that could preclude us from doing the planned remodel and addition unless the non-conforming rooms were eliminated. More than a bit shocked, we inquired as to specifically what the new ordinance was, when it was passed, and why we had heard nothing about it before, especially given that we regularly read the Country Almanac, the Palo Alto Daily News and other local papers where we assumed such an ordinance would be noted and since Maliksi & Associates had been in regular communication with the Town regarding the plans for the our property, and specifically with regards to the two non-conforming rooms. Mr. Maliksi indicated that he did not know anything at all about the new ordinance other than what he had learned during his brief conversation with the Town. However, he stated that it might not be a problem since when he asked when the ordinance was passed he was told that she wasn't sure but that she though that it was in July of 2007, in which case our plans would be grandfathered in since they were submitted before July of 2007. Mr. Maliksi indicated that he would follow up on the timing issue and recommended continuing with the materials and contractor selection processes.

At the next meeting with Maliksi & Associates, we inquired as to the timing issue and the implications for our project. Mr. Maliksi indicated that he had not heard anything from the Town but that Maliksi & Associates had sent an email with some revised data on the plans for the remodel and addition. In response to our request, Mr. Maliksi indicated that he also would try to speak with the Town again. That evening, the we received an email from Mr. Maliksi indicating that he had received word from the Town that the ordinance change had been reviewed at two Town Council meetings during the first quarter of 2007, was passed at the Town Council meeting on April 28, 2006 and went into effect on May 28, 2007, and that therefore there was a problem with our plans.

We asked Mr. Maliksi to arrange a meeting with the Town to discuss the situation, find out what happened, and determine what could be done. That meeting took place on October 16, 2007. At that meeting, the Town's staff was very gracious and understanding, but essentially indicated that their hands were tied by the new ordinance. However, they also indicated that we could appeal the decision to the Town Council, which might be able to take a broader view of and judgment on the situation, which brings us to today.

APPEAL

We understand the Town's intent with the new ordinance. And, we certainly understand that, when there are changes, there can be unintended casualties, even very big casualties.

However, we also understand that the intent of the Town's zoning and building codes, including the newly enacted ordinance, is to balance the interests of all concerned parties and improve the quality of the community for all. That is the real objective, and simply applying ordinances doesn't always achieve that objective. In fact, it can work against that objective. That is exactly why the Council is charged with applying its judgment to ensure the best interests of the town are, in fact, served when faced with an unusual circumstance. Given this and the background outlined above, we wish to appeal the staff's conclusion on the following five base points:

1) Fairness – We spent eighteen months, and a tremendous amount of time and money on the plans for our major remodel and addition, only to have them submitted six months after they were effectively ready and two months after they were totally ready and stamped for submission, which turned out to be twenty four days after a new ordinance went into effect that would potentially render the plans and all the cost and effort that went into them worthless. How this could happen is almost unimaginable.

There are two possible explanations – 1) One is that a) the architect, Maliksi & Associates, as they asserted, had a number of discussions and reviews of the plans for the remodel and addition to our home with the Town, including as recently as the Spring of 2007; b) the Town staff inadvertently did not mention the impending new ordinance and indicated to Maliksi & Associates that the plans were fine; and c) Maliksi & Associates failed to inquire as to whether there were any impending changes to ordinances that would affect the project. 2) An alternative explanation would be that Maliksi & Associates, in fact, did not have the meetings that they purported to us that they had had and failed in their professional responsibility to stay current on Atherton's zoning and building codes, which they assured us they were doing.

As part of preparing for this appeal, though our council, we demanded from Maliksi & Associates information on specifically what meetings they had had with the Town of Atherton and when. Maliksi did meet with the Town and did get preliminary approval of the plans. But that meeting, the last meeting that Maliksi & Associates had with the Town prior to submitting the plans, was in August of 2006. Whether that falls within the first or second explanations above is for someone else to determine. Obviously, it would be unfair to deny the permit if the Town staff inadvertently misled Maliksi. But it is just as unfair if we are penalized because of Maliksi's failure to remain current on the Town's zoning and building codes and to consult adequately with the Town staff.

If Maliksi & Associates had done its job and what it asserted it was doing, i.e., if it had remained current on Atherton's zoning and building codes and in communications with the Town regarding our project as it asserted to us it was doing, our plan easily could have been submitted in early 2007, or by February or March of 2007 at the latest. Of course, one could suggest that, even if our plans had been submitted before the ordinance went into affect, the Town's approval process might have delayed their approval until after the new ordinance was in place and then the Town might have rejected our plans based on the new ordinance even though they had been submitted before the new

ordinance went into affect. However, one can assume that Atherton applies a higher standard of professional conduct than that when dealing with its residences.

So, the question becomes, does Atherton want to penalize twenty-seven year residents of the Town, who have invested a tremendous amount of time and money in this effort based in part on the Town's initial explicit approval of the preliminary plans, for the failure of their architect to do his job? Doing so would seem to be very unfair.

Finally, in the extreme, one might assert that we should have taken it upon ourselves to stay current on all developments at the Town. The fact is that we thought that we were by diligently following developments in the Town in the Country Almanac, the Palo Alto Daily News, etc. In fact, when we were seeking professional assistance to help us with this appeal, the first question people asked us was whether we had received any mailing from the Town regarding the proposed new ordinance. When we responded that we had not, we were then asked if notice of the new ordinance had been posted in a local media, which apparently is standard practice in most communities. We indicated that we had not seen a posting and called the building department to see if there had been such a posting. We were told that Atherton posts notices of potential new ordinances at six locations around the Town. When we asked if notices were posted anywhere else, we were told that they are posted on the Town web site "but, no one can find them there, so no one uses it." So, we asked if notices were posted in the local media. We were told - "I don't know. Most communities do, but I don't know if Atherton does. You will have to ask the City Clerk. She isn't in today but she will be in tomorrow and will be happy to help you then". So, apparently, we aren't the only people who didn't know that Atherton doesn't post notices of potential new ordinances in the local media.

In short, it seems extremely unfair to punish us for shortfalls by Maliksi & Associates and the Town's less-than-convenient-to-access approach for posting notices of potential changes in ordinances, especially very important potential changes in ordinances, when we did everything that we could have done, short of replicating what Maliksi & Associates had been hired to do and had repeatedly asserted that they were doing.

2) The best interests of Atherton – Approving this project by permitting the maintaining of the two non-conforming rooms is in the best interests of Atherton and the immediate neighborhood. We have expended a major amount of time, effort and money to design our remodel and addition to be very architecturally appealing and enhancing to the neighborhood. The particular French style (low sloping roof, slate roof, copper skylights, etc.) that we have chosen will compliment and add to the neighborhood. To screen the two non-conforming rooms, at considerable cost and effort over the past ten years, we have installed, grown and maintained a 20 foot high hedge (English Laurel) along the edge of our property on the side where the two non-conforming rooms are. As a result the two non-conforming rooms can not even be seen from the neighbor's property on that side, or from anywhere outside our property. The remodel and addition will very substantially upgrade the property. The home will be architecturally elegant and of very high quality. As part of the project, we will remove from the property two existing detached buildings (the current garage and the current guest cottage) each of which is 10

feet from the property line and neither of which is at all visually appealing. We also will be installing a new fence and additional new street-side landscaping. The result will be a very substantial upgrade to the property, at very considerable cost to us and very considerable benefit to the neighborhood.

3) Balance of Damages – Rejecting our proposed plans will result in substantial damages to us. We have invested over two years of substantial effort, on top of several prior years of preparation, and over \$140,000 to date in this effort. This was done based on explicit assurances from the Town at the outset of this project, and according to our architect throughout the project, that this project was within code. Without maintaining the two non-conforming rooms, there is no way to build the home that we want and need on our current property. Therefore, our only option will be to sell our current property, purchase a new property, and design and build our new home there. Given that this will involve starting from scratch; this will add an additional two to three or more years to the effort and approximately \$1.3 million to the cost of the project. Conversely, allowing us to retain the two non-conforming rooms will do no damage to Atherton or to the immediate neighborhood.

4) A much better solution than the alternative for all concerned – As mentioned above, Atherton's zoning and building codes, including the newly enacted ordinance, are clearly intended to balance the interests of all concerned parties and improve the quality of the community for all. However, having that as an objective, and simply applying ordinances, doesn't necessarily make it happen. In fact, doing so can lead to the exact opposite of what the codes are intended to accomplish. The current situation is a perfect example of that, i.e. - An "easy approach" which has been suggested for solving the current dilemma is to tear down the two existing non-conforming rooms and rebuild those structures eight feet from the main structure, i.e., separate from the main structure and fully inside the set back as accessory structures. This would be allowed under current ordinances, and would meet the letter of the new ordinance. However, it clearly would be a much less desirable outcome for all concerned. For us it would result in substantial additional cost, an architecturally dramatically less appealing end result, and the extremely unattractive prospect of having to get from a bedroom to the main building in the middle of a rain storm. It also would be a worse outcome for the neighborhood, since it would involve moving the rooms eight feet closer to the property line and potentially severely damaging the screening landscape hedge in the process, thereby exposing the neighboring property to the new structures, which would be much less attractive than the current exposure to the existing hedge. In short, this is a situation where rejecting our plans would both damage us and result in exactly the opposite of the effect intended by the ordinance.

5) The new ordinance does not necessarily rule out the proposed renovation. The ordinance provides that "major repairs and alterations which will not increase the degree of non-conformity are permitted." Section 17.44.050D3. Another section of the ordinance (Section G) provides that alterations or additions to non-conforming main buildings may be permitted so long as the addition or alteration is limited to not more than 50% of the floor area, and not more than 50% of non-conforming exterior walls, etc.

It is this section which is allegedly violated by our project. That 50% rule is a throwback to similar provisions that used to appear in the Uniform Building Code years ago. Those same provisions still continue to appear in many city ordinances and county ordinances. The International Conference of Building Officials decided sometime ago that this was a bad rule. They said in their conference where they changed this rule that the rule promoted slums, discouraged updating and upgrading of homes, and because of difficulties in interpreting and applying the 50% rule, it led to vexatious litigation. They therefore abandoned that rule at least 20 years ago. They replaced it with their current wording in Section 3403.2 of the Uniform Building Code which "will allow existing buildings to be altered, repaired or modified without complying with all of the provisions of the Code as long as the new work complies with the Code. The intent behind the Code is that the new work will not make the existing building unsafe, nor should the new work cause any portion of the existing building to be in violation of the Code." That is the position taken by the International Conference of Building Officials, and the 50% rule that is in your ordinance to which we referred above, could very well be reconsidered by the Council as inappropriate and subject to change, and in the meantime subject to liberal interpretation where there are extenuating circumstances, such as is the case here.

In summary, we believe that on the basis of

- Fairness;
- The best interests of Atherton;
- Balance of damages;
- A much better solution than the alternative for all concerned; and
- Reasonable interpretation and application of the new ordinance.

the Town Council should exercise its authority to act in the best interests of all concerned and approve our plans.

We very much appreciate your consideration of our appeal and look forward to the opportunity to provide additional information and to discuss our appeal directly with you.

Regards,

A handwritten signature in black ink, appearing to be "L. J. J.", written in a cursive style.



Town of Atherton
Planning Department

91 Ashfield Road
Atherton, California 94027
Phone: (650) 333-0248
Fax: (650) 614-1224

December 7, 2007

Mr. Larry Lowry
137 Stockbrige
Atherton, CA 94027

Re: 137 Stockbridge, Atherton

Dear Mr. Lowry,

Planning Staff has reviewed your plans for a new residence at 137 Stockbridge, as submitted to the Building Department on June 22, 2007. The existing residence is considered legally non-conforming as a portion of the building encroaches into the current setback requirement. Specifically, the left side wall is located 20 feet from the left side property line and the minimum side yard setback requirement is 36.5 feet.

The City Council, at its April 28, 2007 meeting, adopted changes to the non-conforming section of the municipal code. The changes were effective on May 28, 2007. The relevant changes to the non-conforming section of the code state that; *“alterations or additions to nonconforming main buildings may be permitted as long as the addition or alteration is limited to no more than 50% of the floor area and not more than 50% of the nonconforming exterior walls are rebuilt, either as a single project, or cumulatively over time, which means a series of projects beginning with the first alteration within a period of five years. Alterations or additions over 50% are required to entirely meet current zoning and building code requirements.”*

The plans as proposed completely removes the existing residence (3,724 square feet in area), with the exception of the two non-conforming portions of the building (371 and 349 square feet in area, totaling 720 square feet). A new 6,736 square foot residence is proposed to connect with the two existing non-conforming portions of the building. The intent of the amended code is to eliminate non-conforming buildings over time as properties are rebuilt. As this project involves an extensive renovation of the existing building, it is an appropriate opportunity to legalize the property and meet current code requirements.

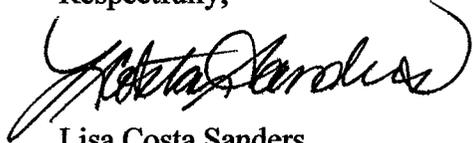
Staff cannot approve your plans as submitted. As we discussed at our meeting, there are several options for you to proceed, including the following:

1. Submit a revised plan for a new residence that removes the non-conforming portion of the building.
2. Detach the non-conforming portion of the building (to the rear) and propose a new detached accessory structure (located at least 8' from the residence and at least 10' from the side property line).

3. As I mentioned at our meeting, you also have the right to appeal Staff's determination to the City Council. If you wish to file an appeal, you need to do so within 10 calendar days from the date of this letter. Appeals are submitted to the City Clerk with a \$500 fee a letter detailing the reasons for the appeal.

Feel free to contact me if you have any questions or need additional information. I can be reached at 650-333-0248 or lcostasanders@ci.atherton.ca.us.

Respectfully,

A handwritten signature in black ink, appearing to read "Lisa Costa Sanders", written in a cursive style.

Lisa Costa Sanders
Deputy Town Planner

cc: John Hanna

LOWRY RESIDENCE

137 STOCKBRIDGE AVENUE
ATHERTON, CA. 94027

REVISION



JIM MALIKSI & ASSOC.
ARCHITECTURE & INTERIOR DESIGN

675 MENLO AVENUE
MENLO PARK, CA 94025
TEL. NO. 650 323 2902
FAX NO. 650 323 6433



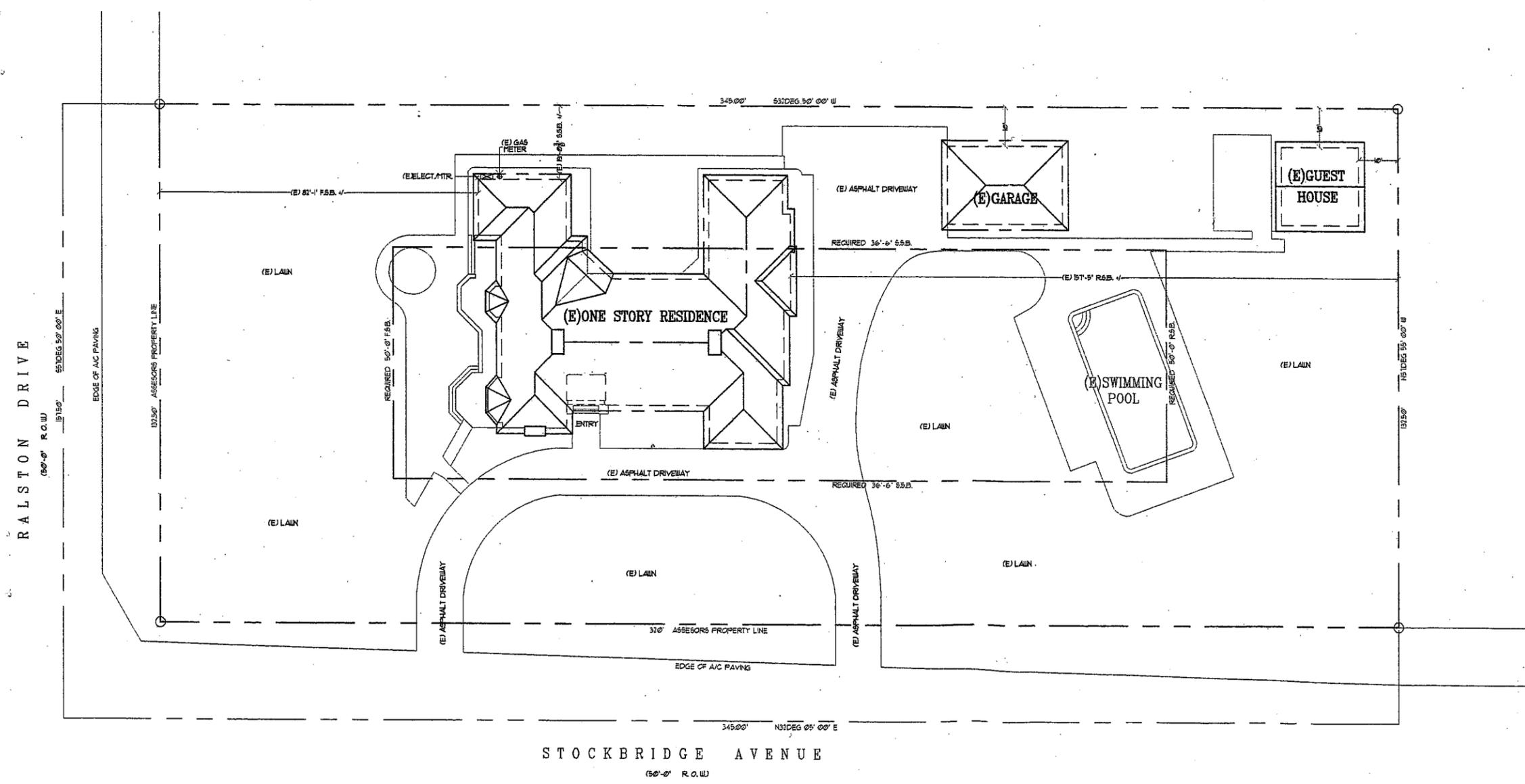
NO.	DATE	ISSUE

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DRAWING TITLE

EXISTING SITE PLAN

SCALE: 1"=16'
 PROJECT NAME: LOWRY
 CADD FILE NO.
 DRAWING NO.

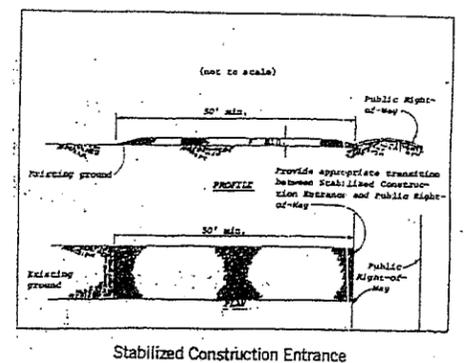
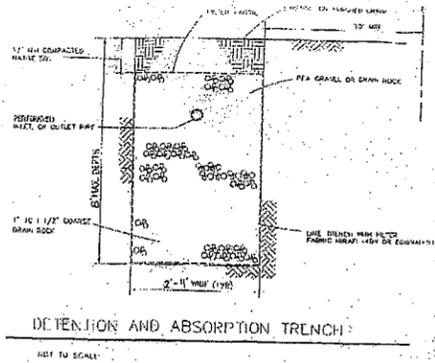


MENLO PARK FIRE DISTRICT REQUIRED CONDITIONS

- OWNER & CONTRACTOR TO PROVIDE A WEED ABATEMENT PROGRAM BEFORE AND AFTER CONSTRUCTION. OWNER TO MAINTAIN GRASS OR BRUSH CLEARANCE OF 100 FEET FROM COMBUSTIBLE CONSTRUCTION AND 20 FEET FROM STREET AND PROPERTY LINES.
- CONTRACTOR TO BE RESPONSIBLE THAT ALL CONSTRUCTION EQUIPMENT/MACHINERY/DEVICES WITH INTERNAL COMBUSTION ENGINES SHALL BE EQUIPPED WITH APPROVED SPARK ARRESTORS WHILE OPERATING IN THIS PROJECT AREA. (CFC 4442)
- CUTTING OR WELDING OPERATIONS ARE RESTRICTED IN THE PROJECT AREA. FIRE DISTRICT PERMIT FOR HOT WORK IS REQUIRED FOR THESE OPERATIONS. (CFC 2001 SEC. 105.)
- APPROVED NUMBERS OR ADDRESSES SHALL BE PLACED SO AS TO BE PLAINLY VISIBLE AND LEGIBLE FROM THE STREET OR ROAD FRONTING THE PROPERTY AND SHALL BE ILLUMINATED. (CFC 2001, SEC 901(A))
- SMOKE DETECTORS TO BE PROVIDED PER THE 2001 CALIFORNIA BUILDING CODE.
- APPROVED SPARK ARRESTORS SHALL BE INSTALLED ON EACH CHIMNEY/FLUE/VENT USED FOR FIREPLACES AND HEATING APPLIANCES IN WHICH SOLID OR LIQUID FUEL IS USED. (CFC 2001, SEC 1109.1)
- IF A GATE IS TO BE UTILIZED ACROSS FIRE DISTRICT ACCESS WAYS IT SHALL MEET 2001 CALIFORNIA AND MENLO PARK FIRE DISTRICT REQUIREMENTS.

MENLO PARK FIRE DISTRICT FIRE PROTECTION NOTES

- MAIN RESIDENCE TO BE PROVIDED WITH A RESIDENTIAL FIRE SPRINKLER SYSTEM DESIGNED AND INSTALLED IN ACCORDANCE WITH NFPA 13D MENLO PARK FIRE DISTRICT STANDARDS.
- THE SPRINKLER SYSTEM CAN BE INSTALLED BY AN INDIVIDUAL WHO HOLDS A STATE OF CALIFORNIA C-16 (SPRINKLERS) LICENSE OR, BY OWNER/BUILDER OF AN OWNER-OCCUPIED SINGLE-FAMILY DWELLING.
- PLANS SHALL BE DESIGNED BY A C-16 LICENSED CONTRACTOR OR BY A REGISTERED PROFESSIONAL ENGINEER (CIVIL, MECHANICAL, OR FIRE PROTECTION), LICENSED BY THE STATE OF CALIFORNIA. ALL COPIES OF THE PLANS SHALL BE STAMPED AND SIGNED BY THE LICENSED INDIVIDUALS.
- C-16 CONTRACTORS MAY ONLY DESIGN SYSTEMS THAT THE FIRE HAS A CONTRACT TO INSTALL.



1 DETAIL FOR DETENTION & ABSORPTION TRENCH
NOT TO SCALE

AREA OF (E) ROOF AREA = 4,343 SF. PER GRADING AND DRAINAGE CRITERIA THERE IS NO DEDUCTION IN ROOFED AREA FOR (E) CONSTRUCTION TO BE DEMOLISHED.

AREA OF (N) ROOF AREA = 5,811 SF. BASED ON NEW ROOF FOOTPRINT OF AREA OF ADDITION + AREA OF (E) HOUSE TO REMAIN.

NOTE: ALTERNATIVE APPROACH = 35 LINEAR FT. OF TRENCH FOR EVERY 1000 SF. BASED ON AN 8' DEEP 2' WIDE TRENCH.

BASED ON APPROX. 6,000 SF. PROVIDE(1) 105' LONG 2' WIDE 4' DEEP UNDERGROUND DETENTION / RETENTION TRENCHES.

PROJECT DATA

OWNER: JEAN & LARRY LOWRY
ADDRESS: 137 STOCKBRIDGE AVENUE
ATHERTON, CA 94027
050-282-060
RI-A

REQUIREMENTS:

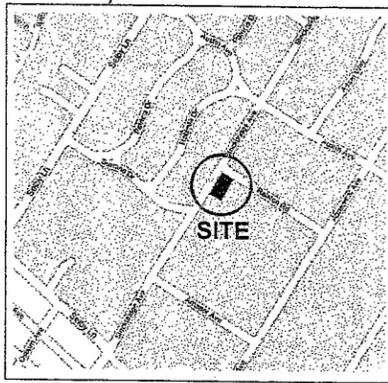
LOT AREA	54,897 S.F.
LEGAL LOT SIZE	42,400 S.F.
PLANNING LOT SIZE	7,637.2 S.F.
MAXIMUM FLOOR AREA (LOT SIZE X 0.168) + 728 S.F.	
MAXIMUM SECOND FLOOR AREA (LOT SIZE X 7.5%)	3,180 S.F.
MAXIMUM ACCESSORY STRUCTURE AREA: (1,200 SF. FOR EVERY 43,660 SF. OF LOT AREA)	1,168 S.F.
MAXIMUM RESIDENCE HEIGHT:	30'-0"
MAXIMUM ACCESSORY HEIGHT:	15'-0"

(E) FLOOR AREA CALCULATIONS

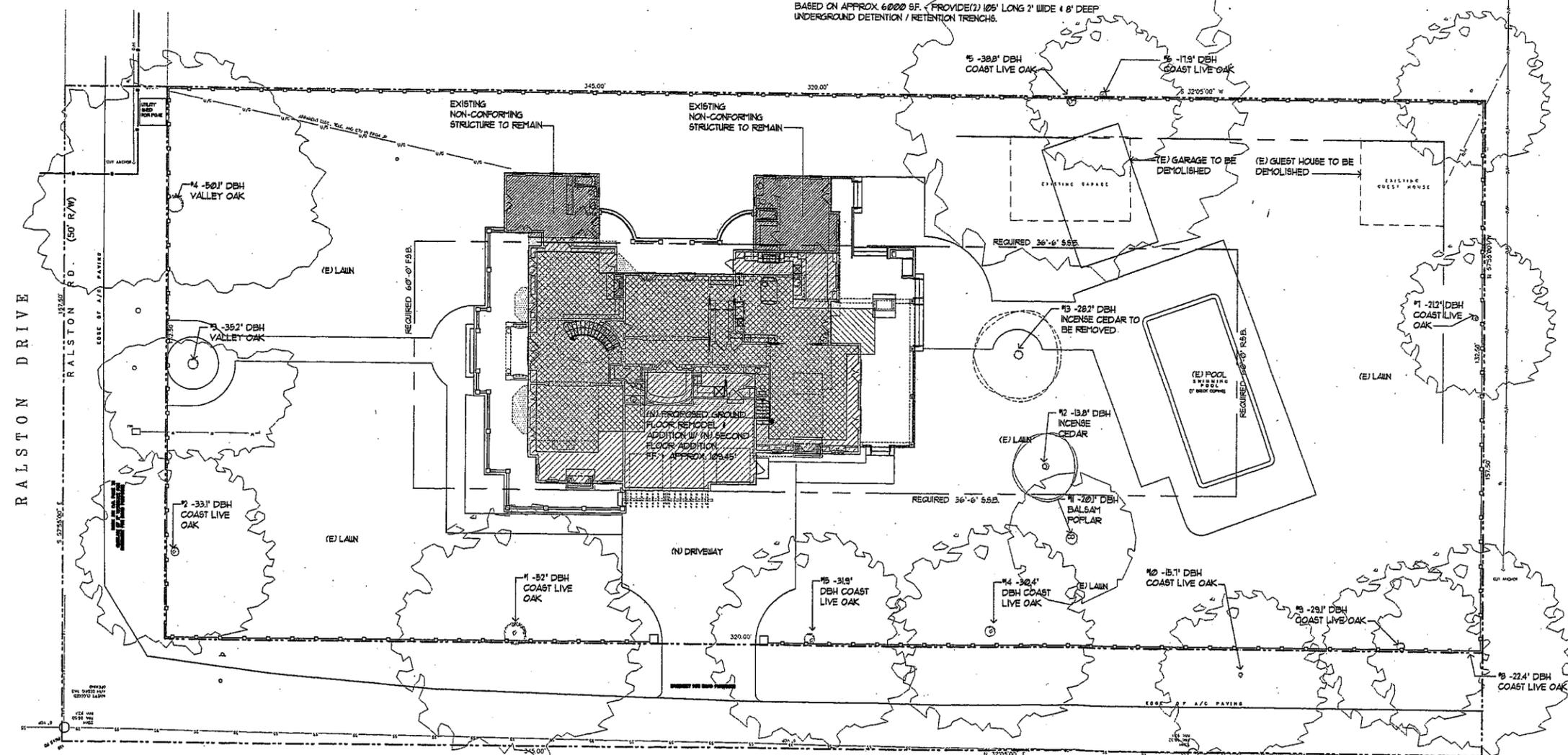
(E) SINGLE STORY RESIDENCE:	3,724 S.F.
(E) COVERED PORCH:	78 S.F.
(E) DETACHED GARAGE:	800 S.F.
(E) GUEST HOUSE:	400 S.F.
TOTAL (E) RESIDENCE:	4,803 S.F.

(N) PROPOSED FLOOR AREA CALCULATIONS

AREA OF GROUND FLOOR REMODEL:	3,724 S.F.
(N) GROUND FLOOR ADDITION:	1,091 S.F.
(N) SECOND FLOOR ADDITION:	2,641 S.F.
(N) COVERED FRONT ENTRY:	75 S.F.
(N) COVERED REAR PORCH:	544 S.F.
ALLOWANCE FOR PORCH:	-800 S.F.
(N) TOTAL RESIDENCE:	7,576 S.F.
	< 7,637.2 S.F.



LOCATION PLAN



STOCKBRIDGE AVE. (50' R/W)
STOCKBRIDGE AVENUE
(E) SITE/ROOF PLAN
SCALE 1" = 16'

GROUND FLOOR (E)
 NON-CONFORMING STRUCTURE TO REMAIN

PROPOSED ADDITION AND REMODEL TO

LOWRY RESIDENCE

137 STOCKBRIDGE AVENUE
ATHERTON, CA. 94027

REVISION



JIM MALIKSI & ASSOC.
ARCHITECTURE + INTERIOR DESIGN

675 MENLO AVENUE
MENLO PARK, CA 94025
TEL. NO. 650 323 2902
FAX NO. 650 323 6433



NO. DATE ISSUE
GTM 04-12-07 FOR PERMIT

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DRAWING TITLE

PROPOSED SITE PLAN

SCALE: 1" = 16'
PROJECT NAME: LOWRY
DATE: 04-12-07

LOWRY RESIDENCE

137 STOCKBRIDGE AVENUE
ATHERTON, CA. 94027

REVISION



JIM MALIKSI & ASSOC.
ARCHITECTURE + INTERIOR DESIGN

675 MENLO AVENUE
MENLO PARK, CA 94025
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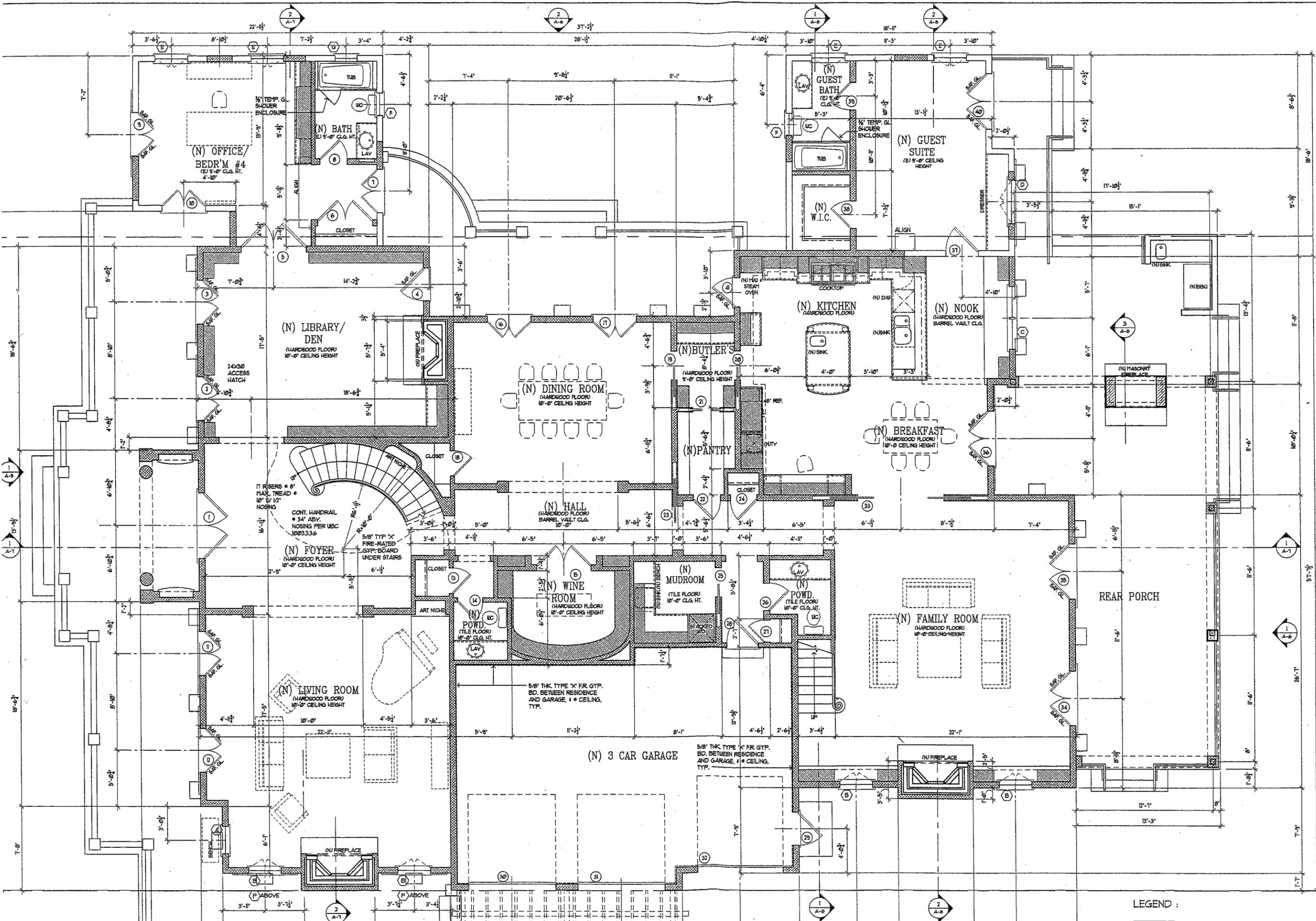
NO.	DATE	ISSUE
GTM	4-12-01	FOR PERMIT

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PROPOSED GROUND FLOOR PLAN

SCALE: 1/4" = 1'-0"
PROJECT NAME: LOWRY
CADD FILE NO.



LEGEND :

LOWRY RESIDENCE

137 STOCKBRIDGE AVENUE
ATHERTON, CA. 94027

REVISION



JIM MALIKSI & ASSOC.
ARCHITECTURE + INTERIOR DESIGN

675 MENLO AVENUE
MENLO PARK, CA 94025
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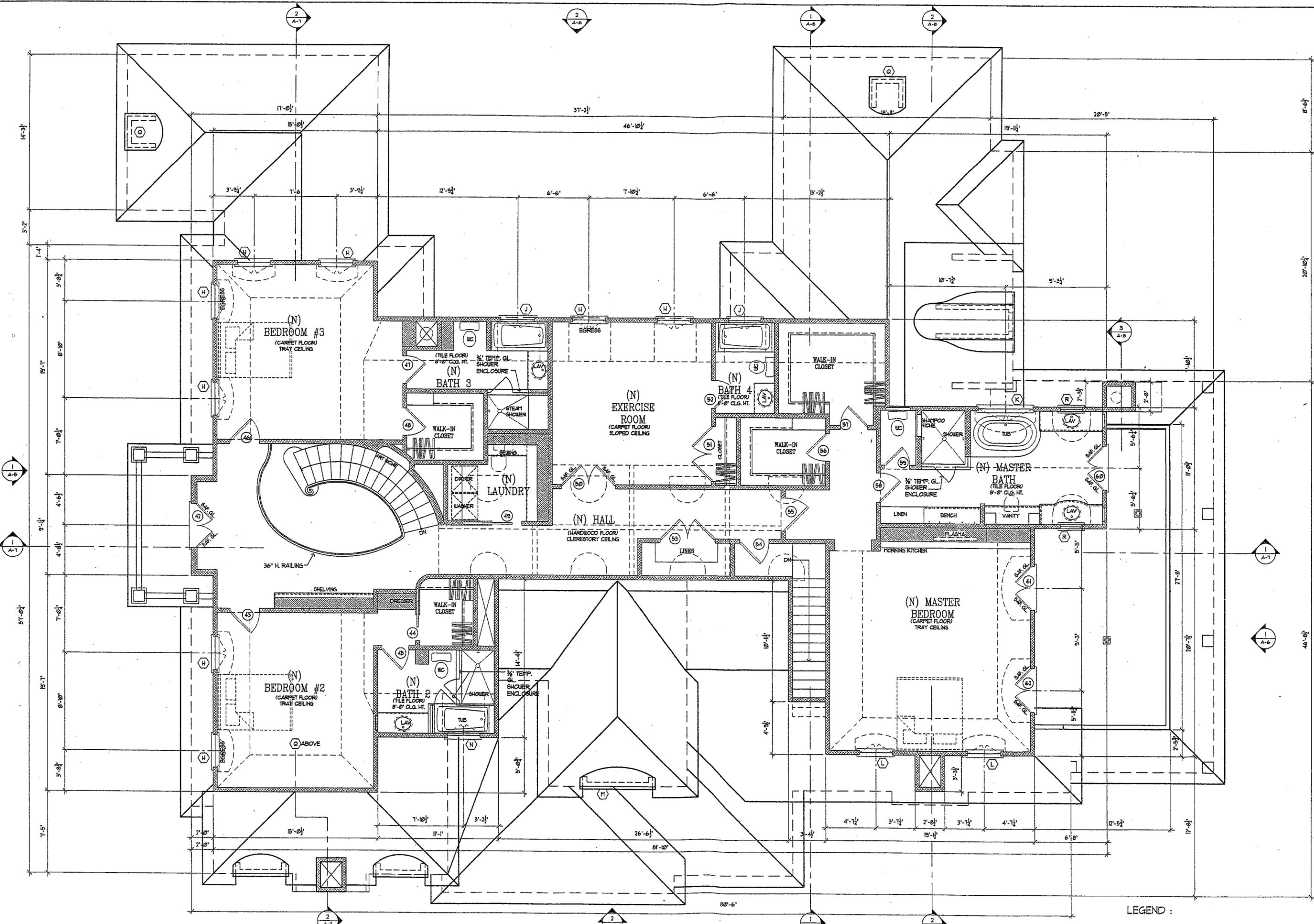


NO. DATE ISSUE
GTM 4-12-01 FOR PERMIT

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DRAWING TITLE

PROPOSED
SECOND FLOOR PLAN

SCALE: 1/4" = 1'-0"
PROJECT NAME: LOWRY
CADD FILE NO.



LEGEND :

LOWRY RESIDENCE

137 STOCKBRIDGE AVENUE
ATHERTON, CA. 94027

REVISION



JIM MALIKSI & ASSOC.
ARCHITECTURE • INTERIOR DESIGN

675 MENLO AVENUE
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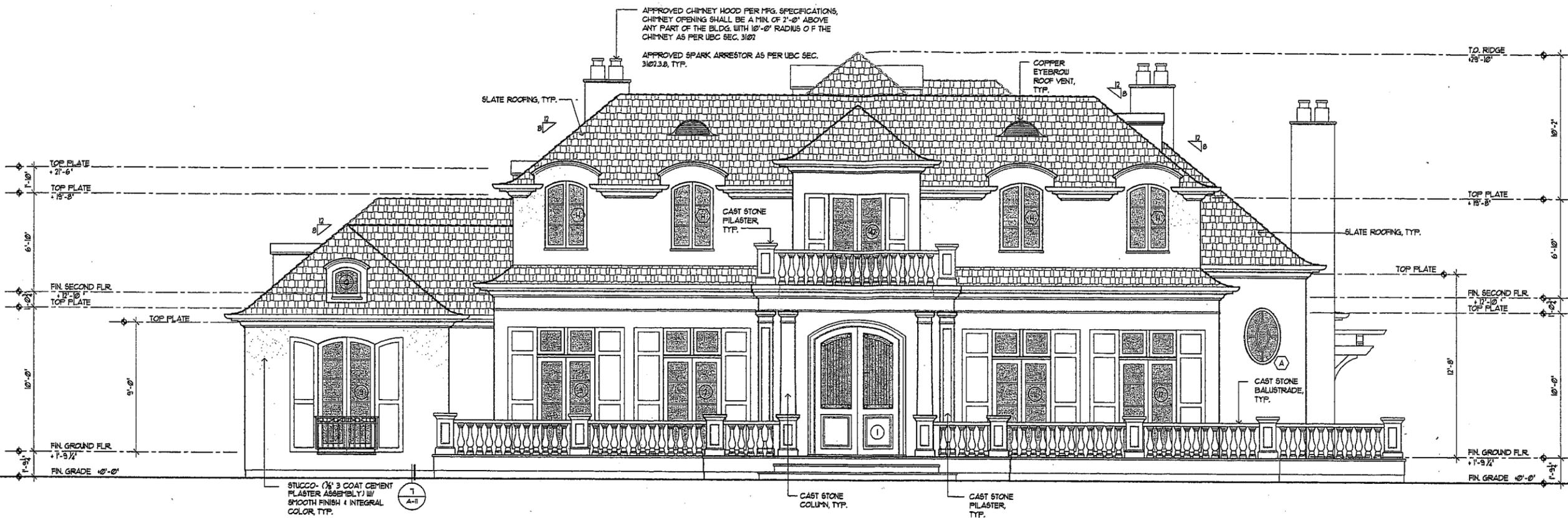


NO.	DATE	ISSUE
GTM	4-12-07	FOR PERMIT

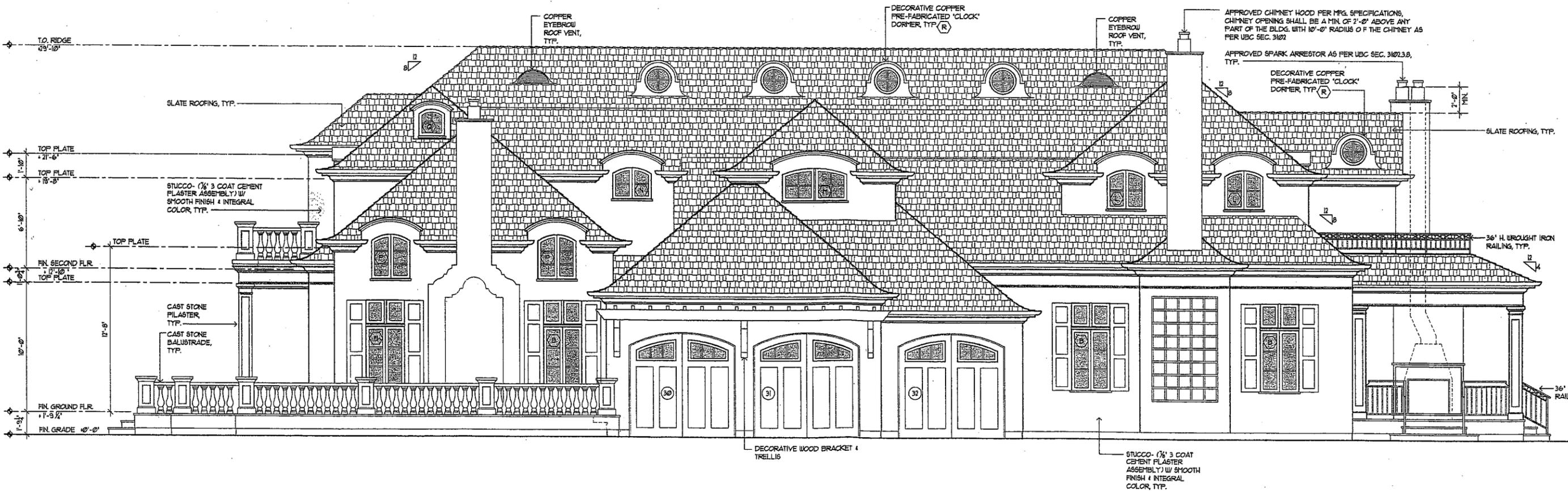
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DRAWING TITLE

FRONT & RIGHT SIDE ELEVATIONS

SCALE: 1/4" = 1'-0"
PROJECT NAME: LOWRY
CADD FILE NO.



1 FRONT ELEVATION
SCALE 1/4" = 1'-0"



SCALE: 1/4" = 1'-0"
PROJECT NAME: LOWRY
CADD FILE NO.

From: David Burton <davidkateburton@sbcglobal.net>

To: lisa@nealmartinassoc.com

Cc:

Date: Monday, January 14, 2008 02:42 pm

Subject: 137 Stockbridge

18 Ralston Road
Atherton, CA.
94027

January 14, 2008

Atherton Town Council
Town of Atherton
91 Ashfield Road
Atherton, California
94027

Re: Appeal of the decision of the staff regarding reconstruction of a non-conforming structure(main residence) at 137 Stockbridge Avenue.

Dear Town Council:

We live at 18 Ralston Road and share a property line with 137 Stockbridge Avenue. We have several concerns regarding the appeal of a non-conforming structure (main residence) at 137 Stockbridge Avenue.

The proposal is to demolish the current main residence down to the foundation except for two non-conforming areas which extend into the required set-back. The new main residence will be constructed on a new foundation, outside the perimeter of the old foundation.

In our opinion, this is not a remodel but an entirely new main residence and should be required to conform to the established required set-back.

The non-conforming areas in the required set back are significant in size. They extend some 16.5 feet into the required set-back of 36.5 feet. One area is 23 feet in width and the other 19 feet in width. This is estimated by the Town of Atherton's staff of 724 square feet of non-conforming structures in the required set-back. These extensions of non-conforming structures are within 20 feet of the property line. We feel this is an invasion of our privacy.

We recently had occasion to work on some outdoor speakers during the daylight hours when one of the owners of 137 Stockbridge entered our property, was standing in our house and demanded that we stop work since their "son-in-law was sleeping in the back bedroom." This back bedroom is part of the non-conforming area, and is planned to be a guest suite. This is far too close to our property and has the potential to interfere with our life style.

In summary, we object to this project's non-conformity of structures remaining within the required set-back in what is the construction of an entirely new main residence on new foundations, and not a remodel. We feel the plans for the new residence should be redrawn to be in compliance. To allow the non-complying areas to remain is a violation of the required set-back and is an invasion of our privacy and will affect our property value.

Granting this appeal may set a precedent for multiple variance applications.

Thank You for your consideration.

David and Kate Burton
18 Ralston Road
Atherton, CA
94027
(650) 568-1886

Attachments:

E. GREGORY KRİKORIAN

149 STOCKBRIDGE AVENUE, ATHERTON, CALIFORNIA 94027 (415) 366-3059

Jan 13, 2008

Lisa Costa Sanders
Deputy Town Planner

Dear Ms. Sanders:

Concerning the appeal regarding the non-conforming structure at 137 Stockbridge Ave.

This is already a non-conforming structure. Apparently the proposal is to continue the non-conforming classification.

Also, it is my understanding that this is not a remodel but is to be a completely, from the ground up, new structure. This new structure will also be non-conforming.

I recommend the appeal be denied.

Sincerely,

E. G. Krikorian

owner, resident 149 Stockbridge Ave.

Moto and Fumiko Nohmura
134 Stockbridge Avenue
Atherton, California 94027

February 5, 2008

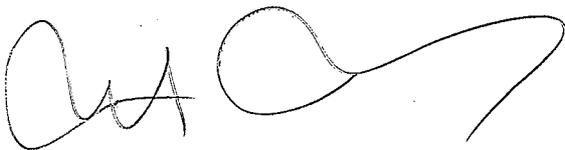
Atherton Town Council
Town of Atherton
91 Ashfield Road
Atherton, California 94027

Re: Appeal of the decision of the staff regarding 137 Stockbridge Avenue

Dear Town Council,

We are writing to strongly encourage the Town Council to approve the Lowrys' appeal and allow them to complete their major remodel and addition. We have known the Lowrys for 28 years, i.e., since the day they moved into 137 Stockbridge. They have always been very good and very courteous neighbors. They are very quiet and considerate of neighbors such as us, and have invested heavily in landscaping and other improvements to their property. We know that they have expended a tremendous amount of time and money on the plans for their major remodel and addition. As the neighbors directly across the street from the Lowrys', if anyone was going to be sensitive to the plans, it would be us. But, we believe that the Lowrys' plans actually will add to and significantly enhance the neighborhood. Therefore, we believe that it would be tragedy to not approve the Lowrys' plans and strongly encourage the Town Council to approve them.

Regards,

A handwritten signature in black ink, appearing to be 'Moto Nohmura', with a large, stylized flourish extending to the right.

Moto Nohmura

*Robert and Shirley Raymer
35 Ralston Road
Atherton, Ca 94027*

February 12, 2008

Atherton Town Council
91 Ashfield Road
Atherton, CA 94027

Dear Members of the Council:

Re: 137 Stockbridge Appeal from Decision of the Staff Denying Approval of Plans for an Entirely New Main Residence Structure While Retaining in the Sideyard a Non-Conforming Portion of the Old Main Residence

We received yesterday Notice of hearing of the above matter. If it were possible to attend the hearing, we would do so in order to express our strong opposition. Unfortunately, we will be absent from California on February 20 on a trip previously planned. Hence, we submit this letter to state our position.

We have reviewed the applicant's letter of December 13, 2007. The letter is a long one because it is filled with irrelevancies. The nub of the matter is that the applicant has enjoyed for a long time the non-conforming use of his sideyard—something properly denied to the rest of us. He now proposes to build an entirely new house on a different footprint from the old one. But guess what, he nonetheless wishes to continue in perpetuity his improper intrusion into the sideyard.

Why do we care? Beyond the fact the applicant's proposal is clearly contrary to our building code, we are very concerned about what happens next. In other words, what kind of a precedent will the Council set if it should grant such a grievous exception to a recently enacted provision of law? Applicant, among numerous other pieties, tells us he is beautifying our town. The town is not going to become so beautiful if its residents conduct themselves as he does. There are altogether too many non-conforming uses now existing in Atherton. Our hope is that they will eventually be corrected by new and better construction. That will never happen if the Town does not enforce its ordinances when a clear opportunity (such as the present situation) is presented.

Please affirm the sensible action of the Staff and deny the appeal.

Sincerely yours,

Robert Raymer *Shirley S. Raymer*

(24 hits)



Chapter 17.44 NONCONFORMING USES

Sections:

17.44.010 Discontinuance of nonconforming use.

17.44.020 Preexisting nonconforming land use.

17.44.030 Expansion or alteration.

17.44.040 Cessation of lawful nonconforming use.

17.44.050 Nonconforming structures.

17.44.010 Discontinuance of nonconforming use.

The use of any land, structure or building which does not conform to the regulation specified for the district in which such use, structure or building is located shall be discontinued within six months of the adoption of the ordinance codified in this title, except as provided in this chapter. (Ord. 570 § 1 (part), 2007: Ord. 407 § 11-1(A), 1985)

17.44.020 Preexisting nonconforming land use.

The lawful use of land, structures or buildings existing at the time of adoption of the ordinance codified in this title may be continued, although such use becomes nonconforming by adoption of the ordinance codified in this title. (Ord. 570 § 1 (part), 2007: Ord. 407 § 11-1(B), 1985)

17.44.030 Expansion or alteration.

A. Lawful nonconforming uses shall not be:

1. Enlarged or increased;
2. Changed to any other nonconforming use;
3. Extended to occupy greater land area;
4. Moved to another portion of the lot.

B. A building or structure housing a lawful nonconforming use shall not be enlarged, reconstructed or structurally altered. (Ord. 570 § 1 (part), 2007: Ord. 407 § 11-1(C), 1985)

17.44.040 Cessation of lawful nonconforming use.

If any lawful nonconforming use ceases for any reason for a period of more than thirty days, any subsequent use of such land shall conform with the regulations of this title. (Ord. 570 § 1 (part), 2007: Ord. 407 § 11-1(D), 1985)

17.44.050 Nonconforming structures.

A. No nonconforming structure shall be moved, altered, enlarged, reconstructed or voluntarily removed, except in conformity with all current zoning and building regulations unless specifically permitted by this section.

B. Any nonconforming primary dwelling structure which was conforming at the

time of its construction, and which is damaged or destroyed by fire, explosion, earthquake, or other accidental occurrence, may be restored within the building envelope which existed immediately prior to the accidental occurrence; provided, that all such reconstruction must meet current building codes. The burden of proving the extent of the building envelope existing immediately prior to the accidental occurrence shall be upon the party seeking to reconstruct the structure.

C. No nonconforming accessory structure which is damaged or destroyed by fire, explosion, earthquake, or other accidental occurrence, or which is voluntarily removed, may be reconstructed except in conformity with all current zoning and building regulations.

D. The following rules shall apply to all nonconforming structures:

1. Ordinary maintenance and minor repairs are permitted;
2. Alterations, structural or not, which will increase the degree of nonconformity are prohibited;
3. Major repairs and alterations which will not increase the degree of nonconformity are permitted.

E. Additions to main buildings in the R1-B zoning district shall not be deemed as increasing the degree of nonconformity if meeting all of the following:

1. Shall not increase the degree of nonconformity of the existing side yard setback and any proposed new construction shall not be less than ten feet from the property line;
2. Shall not encroach into current front and rear setbacks;
3. Shall be limited to a single story with vertical sidewalls not exceeding twelve feet;
4. Shall have a roof height not exceeding eighteen feet.

F. Additions to main buildings in the R1-A zoning district shall not be deemed as increasing the degree of nonconformity if meeting all of the following:

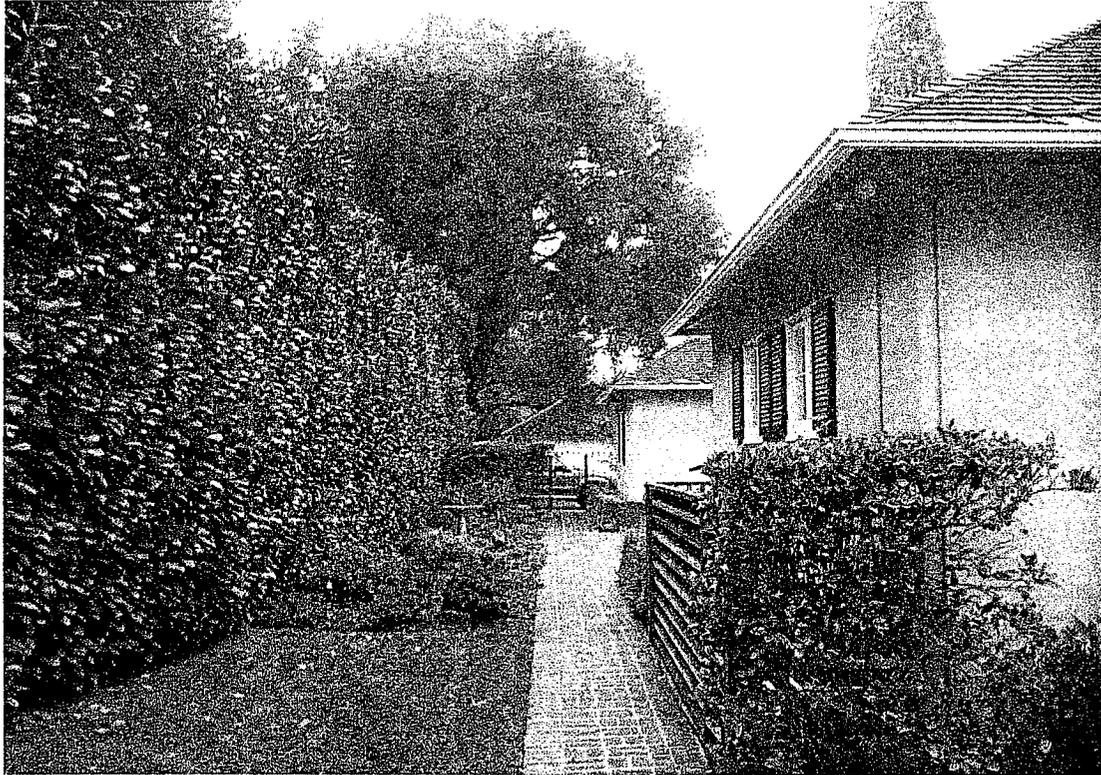
1. Shall not increase the degree of nonconformity of the setback and any proposed new construction shall not encroach more than twenty percent into the required setback;
2. The new construction shall be no taller than the height of the existing nonconforming structure.

G. Alterations or additions to nonconforming main buildings may be permitted so long as the addition or alteration is limited to not more than fifty percent of the floor area and not more than fifty percent of nonconforming exterior walls are rebuilt, either as a single project or cumulatively over time, which means a series of projects beginning with the first alteration within a period of five years. Alterations or additions of more than fifty percent are required to entirely meet current zoning and building code requirements. (Ord. 570 § 1 (part), 2007; Ord. 456 § 7, 1990; Ord. 420 § 1, 1986)

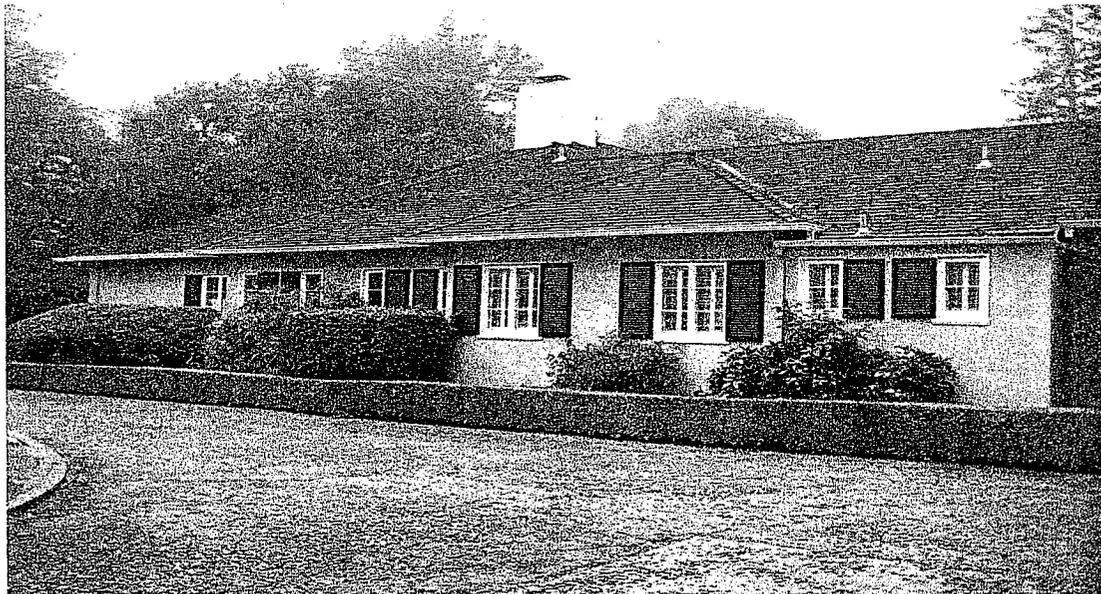


dtSearch 7.00 (7008)

137 Stockbridge – Photos of Existing Residence



View at Side Yard (portion of home proposed to remain)



Front of Existing Home

Larry & Jeannie Lowry
137 Stockbridge Avenue
Atherton, California 94027
Phone: 650-364-9090
Fax: 650-368-9891
Email: larry_lowry@L3Ventures.com

January 27, 2008

Mr. Jerry Gruber
City Manager

Ms. Lisa Costa Sanders
Deputy Town Planner

Atherton Town Council

Town of Atherton
91 Ashfield Road
Atherton, California 94027-3896

Re: Appeal of Atherton Building Department Staff decision regarding major remodel and addition for 137 Stockbridge Avenue - Addendum

Per your request, this letter is intended to recap the timeline and bases for our appeal which we discussed at our meeting on January 24, 2008. We very much appreciate the time you spent with us and your assistance with this. We understand that this letter will be included as an addendum to our appeal.

RECAP OF THE TIMELINE

As discussed at our meeting last Thursday and in our appeal letter, we have been working on the plans for our major remodel and addition for almost ten years. We and our architect have had numerous, specific discussions with the Town building department regarding our plans throughout this effort, including detailed discussions of the plans themselves. At each stage of the process, we received specific input from the Town's building department regarding the plans, assurances that the plans that were being developed were consistent with the Town's zoning codes, and commitments that our plans would be approved if submitted as reviewed. Outlined below is a brief recap of the timeline.

1998 – 2005 (Planning and Research Phase)

We have dubbed this period the planning and research phase. This might seem like a long time. However, when you want to conduct research, consider all the alternatives, and

make sure that what you are considering is consistent with the Town's zoning codes, etc., it can take some time.

During this period we:

- Considered alternatives, including moving versus doing a major remodel and addition
- Toured the large number of houses that were on the market over time to gather ideas and to make sure that we thoughtfully evaluated the alternative of moving instead
- Met with a half a dozen prospective architects to discuss their thoughts on possible options for a major remodel and addition, discuss our ideas, and evaluate them as possible candidate architects for us
- Commissioned a set of "as-is" plans so that we could very specifically consider and evaluate possible alternative designs
- Developed initial concepts and sketches
- Had two meetings with Mike Hood, one at his office and one at our property

At our two meetings with Mike Hood, we reviewed the as-is drawings, our design concepts, zoning requirements and the implications for maintaining the two non-conforming rooms. At these meetings, Mike Hood assured us that we would be permitted to retain the two non-conforming rooms, in accordance with the explicit zoning codes and policies of the Town.

Based on this research and effort, and the explicit assurances from the Town via Mike Hood, we decided to proceed with the remodel and addition option.

October, 2005

In October of 2005, we hired Jim Maliksi & Associates to design our major remodel and addition, handle the permitting process, and assist us in selecting and monitoring the work of a prime contractor. In commissioning Maliksi & Associates we were very specific about the design we envisioned. We provided a written description and sketches of the design based on the as-is drawings we had commissioned and the substantial research and consideration we had undertaken. We also specifically alerted Maliksi & Associates to the two non-conforming rooms, the retention of which was central to the design and to our decision to do a major remodel and addition instead of moving, and the discussions we had had with and the assurances we had received from the Town. Jim Maliksi of Maliksi & Associates confirmed that he understood Atherton's zoning codes and that retaining the two non-conforming rooms was permitted. We asked him to reconfirm his, and our, understanding regarding retaining the two legally non-conforming rooms directly with the Town before launching the effort.

Week of October 10, 2005:

Jim Maliksi met with Mike Hood and Mike Wasserman to discuss zoning regulations and encroachment information regarding our project. Mr. Maliksi showed Mr. Hood and Mr. Wasserman the as-built plans prepared by our prior architect. These plans included the two existing set back encroachments. Mr. Hood advised Mr. Maliksi that the two set back encroachments were allowed to stay as long as the size and shape were not changed. Mr. Hood also represented that exterior finish changes and interior modifications to those rooms were authorized.

Based on Mr. Hood's once again very specific assurances, we launched the detailed design effort in October, 2005.

February, 2006

In February, 2006, Mr. Maliksi visited another project in the Town of Atherton which had encroachments similar to the ones involved with our project. The owner of that property indicated to Mr. Maliksi that the Town had allowed them to undertake a remodel at that site that involved non-conforming elements similar to our remodel. Mr. Maliksi reviewed the plans for that property to confirm that the Town of Atherton had authorized a remodel similar to our remodel. On February 10, 2006, Mr. Maliksi met with Lois English who confirmed the Town's authorization of that project. With this additional, "live" confirmation of the assurances from Mike Hood, our project continued to proceed.

June, 2006

During the period from October, 2005, to June, 2006, our initial plans were turned into detailed plans and drawings.

During the June 19-29, 2006, period, Gary McClure, the project manager for our project at Maliksi & Associates, met with the Atherton building department to review the proposed floor plans and site plan to ensure conformity with Atherton's zoning codes. He met first with Ken Huo, building inspector and plan checker, and presented the site plan and floor plans as proposed, showing the retention of the existing non-conforming areas of the existing residence, as well as the remodel and addition to the first floor and addition of a new second story. After establishing that the front, rear and side setbacks were correct for the particular site, they began discussing the issue of retaining the existing non-conforming structures, and the extent to which they could be modified. Ken Huo asked Mike Hood to join in this meeting. Gary McClure communicated the design intent in retaining the perimeter walls of the existing non-conforming portion of the house and adding or replacing the windows and doors per the revised plan. Mike Hood stated that this would be allowed, so long as it did not increase the degree of non-conformity. At the conclusion of this meeting, it was understood that the retention of the existing non-conforming structures would be allowed.

Based on these, once again, explicit and specific assurances from the Town, we proceeded with the detailed design of all exterior and interior elevations, selection of

appliances, materials, etc., and commissioned and completed the required engineering and geotechnical surveys, etc.

November, 2006

As of November, 2006, all of the plans, including all of the exterior and interior elevation details, etc. were completed, as indicated on the plans (see plan drafts dated November 15, 2006).

November, 2006 – April, 2007

During the period from November, 2006, when the plans were essentially complete to April, 2007, as we awaited the completion of the engineering and geotechnical surveys, etc., we refined the plans, visited appliance centers to select the kitchen appliances, visited show rooms to select flooring, counter top, and bath room materials and fixtures, etc., and detailed out the living room and dining room paneling, etc.

April 12, 2007

By early Spring of 2007, the engineering and geotechnical surveys, etc. along with all of the final detailed drawings had been completed. On April 12, 2007, the plans were stamped for submission for permits and were to be submitted to the Town.

June 22, 2007

The plans were formally submitted to the Town

April – September, 2007

With the plans completed, we launched the process of selecting the prime contractor for the project. We met with, interviewed and check references on five potential prime contractors, and visited completed projects for two of them. We also continued to refine the materials selections, etc.

September, 2007

For the first time we heard – “There may be a problem – new ordinance”.

Based on further research and discussions, we discovered that a new ordinance, that could effectively render valueless the very considerable time, effort and money we had invested, had become effective on May 18, 2007, i.e., just 35 days before our plans were formally submitted; over a month after they had been fully completed, stamped for submission, and were to have been submitted; over six months after they were essentially complete (November, 2006); and after years of multiple reviews and explicit assurances and commitments from the Town that retaining the two non-conforming rooms would be permitted.

APPEAL

1) Fairness

During the design process, we and our architect met with the Town's building department on numerous occasions, reviewed our plans in detailed and received repeated explicit assurances from the Town that we could retain the two non-conforming rooms. We have spent, literally, a decade and over \$250,000 on this effort, based on those specific, repeated and explicit assurances from the Town's senior staff. And, as is covered later, if our appeal is not acted on favorably, for us there will be no alternative but write off all of that effort and expenditure, sell our current property, secure a new property and start all over there – a very high price to pay given that our plans were developed based on explicit, repeated assurances from the Town; and, given that our plans were fully completed before the new ordinance was even voted on.

Should our architect have submitted our plans in April when he was supposed to? He stated that he had gone to the building department to submit our plans in April but that he had been sent away to gather some additional information.

Should our architect have done a better job of staying current on all developments in Atherton? He repeatedly assured us that he was doing so.

Given the major impact of the new ordinance, should the Town have made a more genuine effort to alert the residents of Atherton to the new ordinance? Menlo Park, Woodside and Portola Valley, in fact even the West Bay Sanitary District, all publish notices of potential/pending changes in zoning, etc., in the Country Almanac. Palo Alto publishes them in the Palo Alto Daily.

Should we ourselves have done more to stay current on changes and make certain that our plans were submitted in a timely manner? We thought that we were. We sought assurances from our architect at every step in the process. We very regularly read and monitored developments in the Country Almanac and the Palo Alto Daily. We did not realize that we had to go to and look at the posting board by the door of the Council chambers every month, or perhaps every week, to stay informed on major zoning changes, new ordinances, etc. I am sure that, if we had known that that is what we had to do, we could have found a way to do so. However, we did not know that we needed to do so, as I would guess is the case for the vast majority of Atherton residents.

These are all questions which may be worth some discussion. However, the real base question is – Should Atherton honor the very explicit, specific assurances and commitments it gave us repeatedly on multiple occasions throughout the design process? We believe that the only fair and honorable thing to do is to honor those commitments.

2) Consistency

The Council granted appeals in analogous situations involving 172 Austin in December of 2006, 84 Walnut Avenue in April of 2007, and possibly others. The case of 172 Austin is particularly interesting and relevant. In that case, the owners of 172 Austin appealed the staff's decision to not just remodel/rebuild the conforming part of their house but rather to rebuild even the non conforming part of their house, which they had been assured by Mike Hood that they could do even though doing so was against the written zoning code in place throughout their entire design effort.

Comparing the two cases, the cases of 172 Austin and 137 Stockbridge:

1) In both cases the owners were given repeated, explicit assurances that their plans would be approved; and, in both cases the owners expended very substantial time, effort and money based on Mr. Hood's (acting in his role as head of the Town's building department and thereby on behalf of the Town) explicit assurances. We are not sure what the basis was for Mr. Hood's assurances in the case of 172 Austin. However, in our case, i.e., 137 Stockbridge, his assurances were given repeatedly and were based on detailed reviews of very detailed plans, the same plans as were submitted with our permit application.

2) In both cases, approving the appeal would not impinge on any neighbor. This was the judgment of the Council in the case of 172 Austin. In the case of 137 Stockbridge, as discussed in detail in the next section (the Balance of Interests section), due to our extensive investment of both money and time in landscaping, including the 20 foot high hedge along the edge of our property on the side where the two non-conforming rooms are, the two currently existing legal non-conforming rooms can not even be seen from anywhere outside our property.

Further, in the case of the immediately adjacent property, i.e., the property at 18 Ralston Road, even absent this hedge the non-conforming rooms would not be visible. In 1998 - 1999 when they built their new house, in addition to the main residence and the guest house that they built 10 feet from the property line in the back corner of their property, the owners of 18 Ralston Road elected to build two new garages (against which they built lean-to's that extend nearly to the property line) and a third structure, each of which is 10 feet from the property line and between their main house and our property. So, in spite of the fact that they refused to install their legally required screening landscaping to block the view of these structures from our property, these structures are situated (conveniently for them) such that they totally block the view of our property from their house, even absent the 20 foot high hedge that we have invested heavily in developing on our side of the property line. Unfortunately for us, it has taken ten years to grow the screening landscaping on our property to screen the view from our property of these structures, the junk and trash piled up against them, and the old toilets that the owners of 18 Ralston felt it was appropriate to use along the property line,

facing us, as “stepping stools” to their elevated train tracks. Again, fortunately for them, the elevated structure for their train tracks block the view of these toilets from their yard, just as the three structures they built 10 feet from the property line and the extensive landscaping we invested in block any view of our property from their property.

And finally, 3) Interestingly, there is a difference between the two cases. In the case of 172 Austin, the plans which were developed were consistent with Mike Hood’s assurances but in violation of the letter of the zoning codes which were in place for the entire time, and for many years prior to the time during which, the plans for 172 Austin were being drafted. Conversely, in the case of 137 Stockbridge, the plans which have been developed are entirely consistent with and were based on both Mike Hood’s repeated reviews and assurances and the letter of the zoning codes in place throughout the entire design process, through the time at which the plans were completed, and up until 35 days before the plans were formally submitted to the Town.

So, rejecting the appeal for 137 Stockbridge, after accepting the appeal for 172 Austin, would seem to be inconsistent in the extreme.

3) Balance of Interests

If the Council rejects our appeal, it will result in substantial damages to us. We have spent literally 10 years considering every alternative and working on this, and have invested very, very substantial time and money in the effort, based on Mike Hood’s specific assurances that we could retain the two non-conforming rooms. There is not a viable alternative for us on this property. Therefore, rejecting our appeal will result in our having to scrap this effort, write off all of the time and money expended to date, and start over somewhere else, at very, very considerable additional cost to us.

Conversely, approving our appeal will benefit all:

- It will result in a very substantial upgrade to the main structure, at very considerable cost to us
- It will result in our eliminating from our property two very old, long time existing, very unattractive accessory structure, to the benefit of all
- In conjunction with the remodel and addition, we will be completing our already started very substantial upgrade of our street-side landscaping and fence
- And, the two non-conforming rooms that would remain are totally screened by a 20 foot high, very dense (English Laurel) hedge, and therefore can not even be seen from outside our property.

Inserted below is a picture of the hedge discussed above. The hedge is along our property line on the side of our property where the two existing legally non-conforming rooms are. The hedge is over 20 feet tall and totally blocks any visibility of the two non-conforming rooms.



Inserted below is a picture from in front of the adjacent property, i.e., the property at 18 Ralston Road. As is clear from this picture, our house, much less the two existing non-conforming rooms, can not even be seen from 18 Ralston Road. Also, in this picture, which was taken from the street in front of the property at 18 Ralston, you can see one of the three new structures that the owners of 18 Ralston Road built along, and 10 feet from, our common property line. Those structures also totally block any view of our property from theirs.



4) Best Alternative for All Concerned

Our planned major remodel and addition is the best alternative for all concerned. It

- Very substantially upgrades the property
- Eliminates the two very old, long time existing, very unattractive accessory structures from our property
- And, due to the very extensive screening landscaping that we have invested in, and that is already in place, the two non-conforming rooms that are to be retained can not even be seen from anywhere outside our property

Staying with the property as currently configured is a worse alternative for all concerned. It

- Retains the same two non-conforming rooms as in the option above
- But, also retains the two very old, long time existing, very unattractive accessory structures, each of which is ten feet from the property line
- Destines the property of further deterioration. The property is old and tired and in need of a major upgrade; but, such an upgrade can not be justified given its current configuration

Other alternatives that have been suggested would be even worse for all concerned or simply wouldn't work

- One alternative that has been suggested, i.e., tearing down the two existing non-conforming rooms and rebuilding them fully within the setback, although ironically, in fact very ironically, permitted by current zoning codes, makes no sense for anyone. Doing so
 - Moves them eight feet closer to the property line, with the result that they would then be only 12 feet (or, as would be allowed under current zoning codes, perhaps even only 10 feet), instead of their current 20 feet from the property line.
 - Could result in damage to the hedge, potentially to the detriment of our neighbor
 - Would add very substantial cost to the project, for no gain for anyone
 - Doesn't work in terms of the intended use of the rooms
- Other alternatives that have been raised, e.g., building a bedroom and a bedroom/office at the front of the house in front of the living room, or behind the family room and kitchen (blocking the back yard), or elongating the house even further and putting bedrooms along the hall and across from the dining room, also simply don't work or don't make sense.
- We clearly would welcome any other well thought out ideas. However, having spent ten years on this, and having solicited input from six architects, we can

assure you that we have considered a very full range of alternatives and have not been able to come up with any that meet our needs.

In summary, we are appealing the staffs' decision and asking the Council to approve our plans.

Or, said another way, we are asking the Council to Do the Right Thing, i.e., to

- Honor the assurances that were given to us and the commitments that were made to us, not once, but repeatedly and explicitly throughout our very expensive, intensive and extensive planning effort, including assurances that were given to us based on detailed reviews of detailed plans
- Be consistent in applying its judgment
- Balance the interests of all
- Support the alternative that is best for all
- Approve our plans, which were developed based on the explicit assurances and commitments of the Town, and that were fully completed before the new ordinance was even voted on
- And, take this opportunity to finally, constructively close the books on the Mike Hood era

We look forward to your favorable response to our appeal.

Regards,

Larry & Jeannie Lowry

Larry & Jeannie Lowry
137 Stockbridge Avenue
Atherton, California 94027
Phone: 650-364-9090
Fax: 650-368-9891
Email: larry_lowry@L3Ventures.com

January 29, 2008

Mr. Jerry Gruber
City Manager

Ms. Lisa Costa Sanders
Deputy Town Planner

Atherton Town Council

Town of Atherton
91 Ashfield Road
Atherton, California 94027-3896

Re: Appeal of Atherton Building Department Staff decision regarding major remodel and addition for 137 Stockbridge Avenue – Response to the Letter from the Burtons dated January 14, 2008.

This letter is intended to respond to the Burtons' letter dated January 14, 2008, so that the Council may understand the context and have all of the facts available to it.

CONTEXT

There have been very major issues with the Burtons going as far back as to when they constructed their new home at 18 Ralston Road in 1998 - 1999. When they built their new house, in addition to their new main residence and the guest house that they built 10 feet from the property line in the back corner of their property, the Burtons elected to build two garages (against which they built lean-to's that extend nearly to the property line) and a third structure, each of which is 10 feet from the property line and along the property line between their main house and our property. One of these garages was positioned directly behind our living room window, i.e., at exactly the location that would have the maximum negative impact on our property. They then tore out all of the existing screening landscaping, including a tall privet hedge and a large, very well established English Laurel hedge, that would have screened their new buildings and that specifically was to have been retained in their landscaping plans. After removing this mature screening landscaping, they then refused to install the required replacement screening landscaping. This left us with three brand new structures 10 feet from our shared property line, one of which was directly behind our living room window, and no screening landscaping.

When it became apparent that the Burtons had no intention of replacing the screening landscaping that they had torn out, we went to the Burtons and asked them to please comply with Atherton's screening landscaping requirements. Their response was that they had done all that they were going to do, and that since they saw no value to them in spending money on screening landscaping, they were not going to do any. So, we approached the Town for help. The Town's representatives that we met with were quite sympathetic and understanding. They even visited our property and confirmed that screening landscape was required and that it had been included as a necessary element in the plans that had been submitted and approved by the Town. However, they indicated that since the Town had already issued the Burtons' permit to occupy their new house and the Burtons had in fact occupied their new house, there was little that the Town could do.

So, we went back to the Burtons and press further for them to install the legally required screening landscaping, and appealed to the Town further. Unfortunately, it turned out that this only served to anger the Burtons. They reiterated that they had done all that they were going to do, that we could "go to ...", and that they would "get us" for going to the Town to try to force them to comply with the screening landscaping ordinance. The Burtons' next step was to pile as much junk and trash as they could find up the walls of their garages on the sides facing our property, and build a lean-to almost to the property line in particular on the garage that they had positioned directly behind our living room window. Additionally, they had bright lights installed on the back side of their new garages, the sides facing our property, and proceeded to leave those lights on all night to ensure that we had a consistent, 24-hours a day, view of their junk and trash from our living room windows. Those lights, of course, also shone brightly into our living room windows all night. Several years later, once the hedge on our side of the property line referred to later grew in, they did stop turning those lights on at night.

Given the lack of an effective response from the Town and the Burtons' obvious intention to do the maximum possible damage to our property, we decided to install new screening landscaping, at our own cost and effort, on our side of the property line. We did this at very considerable cost and effort on our part, in fact, at very, very considerable cost to us since we had to install much more mature and therefore much more expensive plantings in the hope of beginning to screen the structures, junk, trash and lights as rapidly as possible. Unfortunately, after we installed this very expensive landscaping, we discovered that the Burtons had put extender tubes on the down spouts from the gutters on their garages and elsewhere on the property such that all of their run off rain water from their garages, etc. drained to our shared property line, where it was killing the new landscaping in which we had just invested heavily. Once again, we approached the Burtons about fixing this problem. Once again, they told us that our landscaping was our problem and that we should "go to" (By the way, if there are any questions on any of this, you may want to speak to Kathy Hughes Anderson or Mike Hood, both of whom ultimately had to come out to our property to document the problems, attempt to deal with the Burtons, and ultimately force them to comply.) So, once again, we had to go to the Town for help. This time the Town was able to get/force the Burtons to correct this

problem, i.e., the runoff/drainage problem. But, of course, this only served to further anger the Burtons. So, their next step was to place old toilets along the property line facing us, with the assertion that they needed to use them as "stepping stools" to get to the elevated train tracks that they had built on their property. Of all the things one could use for a "stepping stool", e.g., a standard small step stool, a set of bricks even old bricks or blocks, etc, they felt that using old toilets was most appropriate. Fortunately for them, the elevated structure for their train tracks blocked their view of these toilets from their property. Unfortunately for us, given the absence of screening landscaping, the old toilets were right there in our, and any guests we had over, faces.

After a year of trying to deal with the Burtons and trying to get help from the Town, and a year of every day being confronted by the unscreened garages, the piles of junk and trash piled against the garages, the light illuminating the stacks of junk and shining brightly through our living room windows every night, and the toilets, we finally wrote a final formal letter asking the Town one last time to please enforce its screening landscaping requirements. I have attached a copy of that letter along with the accompanying pictures of the problems, which we sent to Mike Hood in March of 2000, i.e., over one full year after the Burtons had occupied their new home, and after a year of getting no response to our pleas to the Burtons that they install the screening landscaping that they had committed to and that was required by very long established Atherton codes. Our letter and the town's action on it did finally lead to some, although minimal, very belated, and very begrudging compliance by the Burtons. However, our repeated requests also fractured our relationship with the Burtons and created animosity on their part and a determination on their part to find some way to damage us, or as they put it "get us", for finally demanding that they live up to their responsibilities and commitments.

The pictures attached to the letter which we sent to Mike Hood in March of 2000 (please see attached copy), were taken a year after the Burtons occupied their new home, i.e., long past the time at which they should have installed the required screening landscaping. The pictures were taken from our property, some literally from our living room window and show the view from, and the impact on, our property. The landscaping that you do see in the pictures is actually on our side of the property line (i.e., the beginning of the new hedge referred to above). The attached photos are reasonably self explanatory. And, hopefully the attached, along with this commentary, are helpful to the Council in understanding the Burtons and the real reason behind their attack on us in their letter dated January 14, 2008. The Burtons assured us that they would do everything and anything they could think of, including stacking junk up against the back side of their garages facing our house, installing spot lights and keeping them on all night to make sure that the junk was illuminated 24 hours a day and to make sure that we had light shining in our living room windows 24x7, placing used toilets along the property line, etc., to inflict the maximum possible damage on us for going to the Town and forcing them to install the required screening landscaping. I understand that they view the current situation to be a super opportunity to try to do even more damage to us.

RESPONSE TO SPECIFIC ELEMENTS OF THE BURTONS' LETTER

With that as the context, let us now turn to the specifics of the Burtons' letter:

1) The Burtons assert in their letter that our asking them to please turn down their ear splittingly loud, outside speaker music was somehow an imposition on them. Given their general attitude, as indicated by the above section, I can understand how they might consider any request that they do anything other than whatever they feel like doing, no matter what the impact on others might be, to be an imposition on them. However, the actual facts of the incident are as follows.

The music coming from the Burtons' property was so loud that the windows in our house were rattling. A lot of people would have just called the police and asked them to handle it (which is what we will do next time). Instead, my wife went over to the Burtons', knocked on their door and politely asked them to please turn down the music. Their response was - "we can do whatever we want, and you can go to!" The person who was sleeping at our house is our son in law. He is a resident in orthopedic surgery at Stanford. He had just come off a 36 hour shift and was going to be headed back to the hospital again in a few hours. He needed to get some sleep. And, it didn't matter where he was. The music was so loud that you could hear it two streets away. The notion that the Burtons' suggest, i.e., that we were somehow imposing on their space by requesting that they not play their music so loud that it rattled our whole house is absolutely preposterous, but, unfortunately, not at all inconsistent with their world view. Personally, we are truly flabbergasted that the Burtons would think that our objecting to being subjected to their ear-splitting, window-rattling loud music was a legitimate reason for them to attack or try to damage us.

2) The Burtons refer to the size of our rooms. Our legal non-conforming rooms have been here for at least 70+ years and account for substantially less square footage than the 4 new accessory structures which the Burtons built 10 feet from the property line on their property in 1998 - 1999. They also are 20 feet from the property line versus the 10 feet (and substantially less than the mandated 10 feet when you include the lean-to's) that the Burtons' 4 much newer accessory structures are from the property line.

3) The Burtons refer to "has the potential to interfere with our live style". We are not sure what life style they are referring to, unless it is the stack old toilets and as much junk as you can along the property line life style referred to above. Or, perhaps they mean a life style of playing music outside at hear-shattering, window rattling loud levels. If that is what they mean, that has nothing to do with legal non-conforming rooms. It has to do with simple, common decency.

4) The most fundamental point, however, is that due to the tremendous investment that we have made in landscaping, including in the 20 foot high, dense (English Laurel) hedge along the side of our property where the two existing legal non-conforming rooms are, the two legal non-conforming rooms can not even be seen from outside our property (see pictures inserted below).

Further, even absent this hedge the non-conforming rooms would not be visible. As observed above, in 1998 - 1999 when the Burtons built their new house, in addition to the main residence and the guest house that they built 10 feet from the property line in the back corner of their property, they elected to build two garages and a third structure, each of which is 10 feet from the property line and between their main house and our property. So, in spite of the fact that, until forced to do so by the Town, they refused to install their legally required screening landscaping to block the view of these structures from our property, these structures are situated (conveniently for them) such that they totally block the view of our property from their house, even absent our 20 foot high hedge.

We only wish that the Burtons could have been as concerned about one neighbor's property hurting another neighbor's property back when they built the three new structures along and 10 feet from our shared property line including one directly behind the middle of our living room windows, tore out all the existing landscaping, refused to install the legally required new screening landscaping, chose to add lean-tos to those structures and pile as much junk as possible up against them, installed spot lights on the back sides of the garages and then kept them those lights on all night to illuminate the junk, and then, just for final good measure, placed old toilets along the property line to make sure to inflict the maximum possible damage on us.

5) Finally, regarding the issue of setting a precedent, I highly doubt that there are any other home owners out there that have not already surfaced that:

- Have been given repeated, very explicit and specific assurances and commitments by Mike Hood, based on detailed reviews of detailed plans, that their plans would be approved if submitted as presented
- Have invested the time, effort and money in plans in direct response to those assurances and commitments that we have
- Completed their plans in advance of the enactment of the new ordinance
- Have invested as much in landscaping as we have
- And, have very long-standing non-conforming rooms that, by virtue of that investment, are so screened by landscaping that they can't even be seen from outside the property

- Attached:
- 1) Picture of the very dense (English Laurel), 20 foot high hedge along our property line
 - 2) Picture from the Burtons' property showing the absence of any visibility of our property from theirs
 - 3) Copy of our letter to Mike Hood dated March 2000
 - 4) Copies of the pictures taken one full year after the Burtons had occupied their new house and included with the letter to Mike Hood dated March, 2000
 - 5) Current picture (1/30/08) of the still not screening landscaped third new Burton structure along our common property line
 - 6) Current picture (1/30/08) of one of the still there old toilets used as a "stepping stool"

Inserted below is a picture of the hedge discussed above. The hedge is along our property line on the side of our property where the two existing legally non-conforming rooms are. The hedge is over 20 feet tall and totally blocks any visibility of the two non-conforming rooms.



Inserted below is a picture from in front of the adjacent property, i.e., the property at 18 Ralston Road. As is clear from this picture, our house, much less the two existing non-conforming rooms, can not even be seen from 18 Ralston Road. Also, in this picture, which was taken from the street in front of the property at 18 Ralston, you can see one of the three new structures that the owners of the property at 18 Ralston Road built along, and 10 feet from, our common property line. Those structures also totally block any view of our property from theirs.



Larry & Jean Lowry
137 Stockbridge Avenue
Atherton, California 94027
Phone: 650-364-9090

March 15, 2000

Mr. Michael Hood
Building Official
Town of Atherton
Atherton, California 94027

Dear Mr. Hood,

It has now been over a year since our neighbors at 18 Ralston Avenue were permitted to occupy their newly constructed house without complying with **Title 17 Zoning Ordinance** and specifically **Chapter 17.50**, which clearly states that 1) "All front yards and side yards shall be landscape screened. Landscape screening may be required in the rear yard where necessary to reduce the visual impact on adjoining property.", 2) "Landscape screening plans shall be submitted to the town before any planning or building application is deemed complete." and 3) "Prior to the final inspection or issuance of a certificate of occupancy (unless delay is authorized by the building official due to a drought emergency) all required landscape screening shall be installed in conformance with the approved plan,".

It also has been over a year since our letter to you dated January 15, 1999 in which we expressed our concerns regarding the Burtons' apparent total disregard for complying with the ordinance.

During the last year, not only have the Burtons not complied with the very clear and specific provisions of the ordinance, they have taken steps to make matters even worse:

1) (Please see photographs I A-C). With regard to the new, garage #2 which was built ten feet from the property line: a) they have not planted screening landscaping per the requirements of the ordinance and as specified in their landscaping plan, b) they removed perfectly good existing screening landscaping in direct violation of the landscaping plan, which was the basis for their temporary occupancy permit, c) they have piled junk against the garage, directly facing into our property in a fashion which absolutely maximizes the damage to our property, and d) by the way in which they have configured this area, they have clearly indicated that they have no intention of complying with the ordinance.

2) (Please see photographs II A-C). With regard to the main structure: a) they have removed landscaping and not installed the screening landscaping required by the ordinance.

3) (Please see photographs III A-C). With regard to the detached garage #1, which also was constructed ten feet from the property line and directly behind our living room windows - a) although they have planted some landscape materials, they have not planted the screening landscaping materials specified in the landscaping plan, which was the basis for the approval of their temporary occupancy permit, and b) with the temporary permit issued, they have now gone back and built a lean to on the side of the garage, in direct violation of building codes, and again at a point that directly lines up with the middle of our living room windows.

We have tried to be patient and understanding throughout this process. However, we presume that the building codes in Atherton are there for a reason. And, we believe that more than a year is long enough to be patient.

During the past year, we have met with Kathy on several occasions to express our concerns and, importantly, to express our strong desire to work with and through the city on this. In each of our meetings, Kathy has been extremely responsive and empathetic with our concerns, and has indicated that we have interpreted the ordinance correctly, that it is legitimate that we be concerned, that we have been patient, and that the city is working the issue. It is primarily because of Kathy's responsiveness and straight forwardness in dealing with us that we have felt reassured that the city will fulfill its commitments and have been patient for over a year.

However, unfortunately, despite Kathy's best efforts we have seen no action. In fact, we have seen a further deterioration in the situation as outlined above.

We also have written you and tried to reach you with no response. This has left us with no alternative but to engage legal council to try to get to the bottom of this and get action on this. We still very much want to work with and through the city. However, we have decided that it is time to retain an attorney to secure legal advise on how best to proceed.

As the legal process proceeds, we are confident that we will find that everything is in order - i.e., that a landscape plan was in place, that only a temporary permit has been issued, that appropriate bonds have been posted, etc. - and therefore that enforcing compliance will be fairly straight forward. Therefore, we would prefer to avoid the expense and hassle of the legal process. However, at this point we have run out of alternative ideas.

Since you did not respond to our initial letter and have not returned our calls, and since we are not sure whether you are, in fact, the individual with whom we should

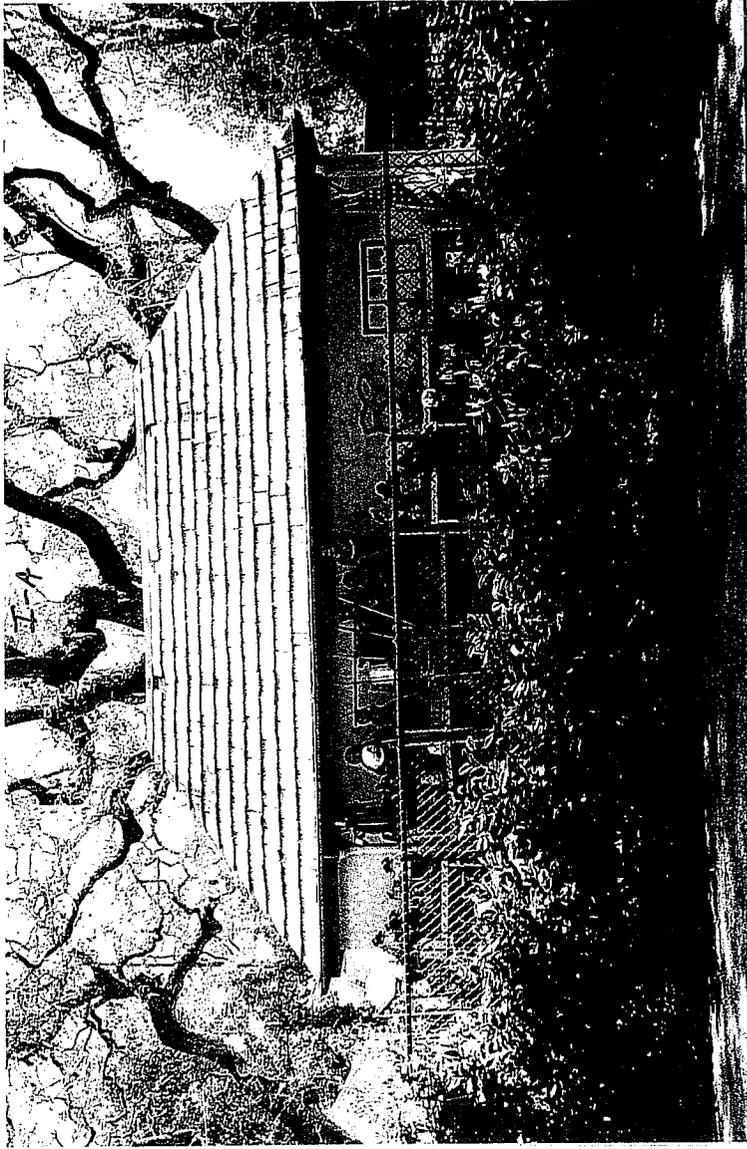
be dealing on this, we have copied the city manager on this letter in order to seek his advise as well.

Once again, we would very much appreciate a response to our letter of a year ago and to this letter, and any comments or suggestions that you can offer. We continue to stand ready to meet with you at any time. In fact, if you could visit us at our property, I believe that the cause of our concern will be quite obvious. However, we understand that, with the rate of construction currently taking place in Atherton, you are undoubtedly extremely busy. Therefore, if that is the case and we are better served pursuing this through legal channels, please let us know.

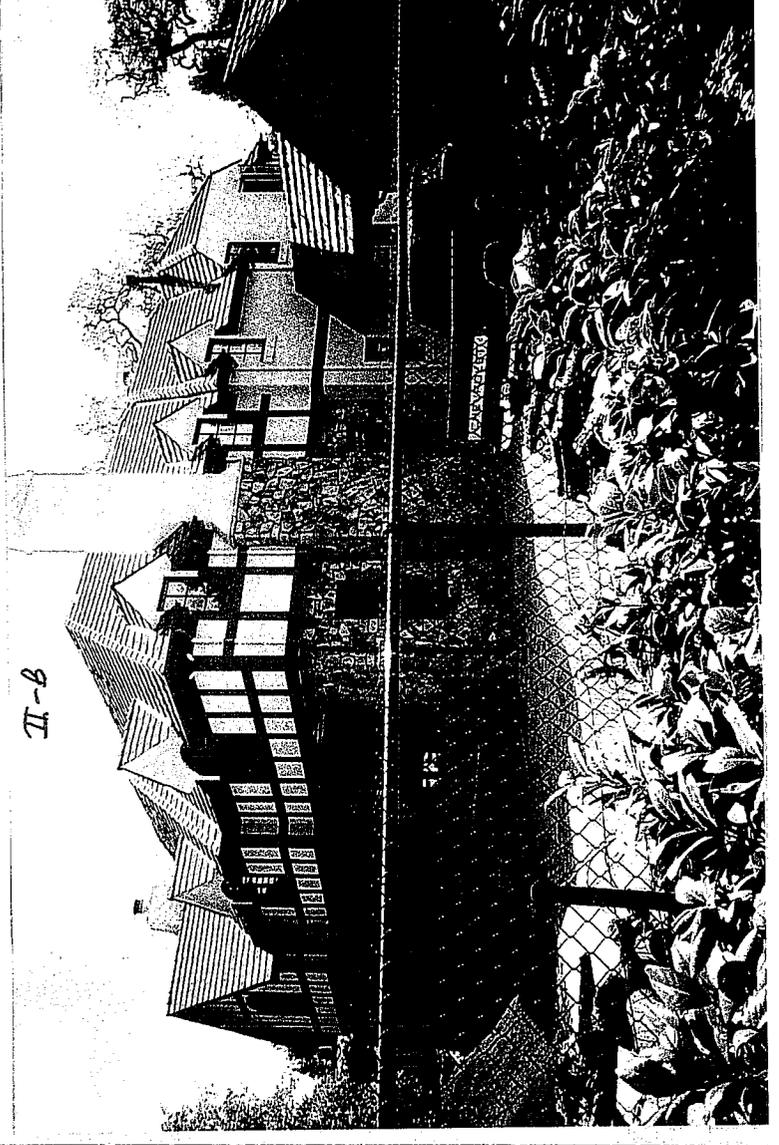
Sincerely,

Cc: Mr. Ralph Freedman

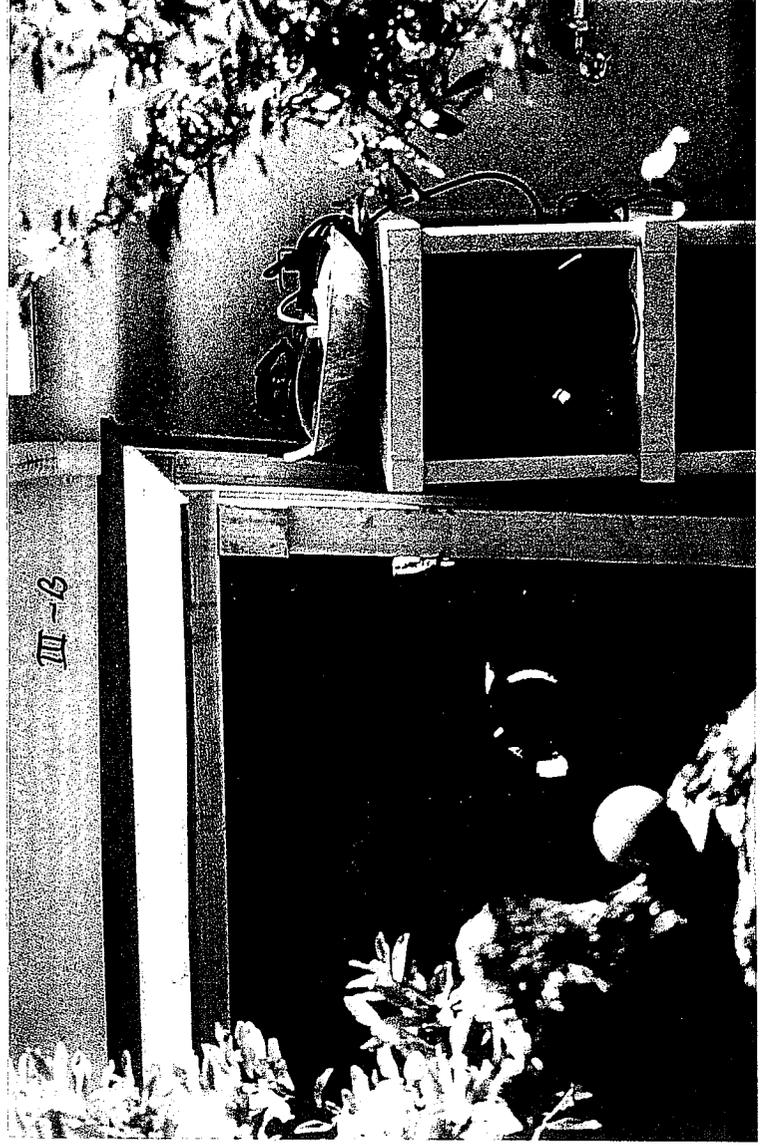
Pictures I-A through I-C: Views of Burtons new garage #2 from our yard: I-A: View from our yard, 30 feet from the right rear corner of our house. All landscaping is on our property. I-B: Close up, showing all the junk (euphemism for what it really is) piled up against the garage, as seen from our property. I-C: Clearly, a year after they occupied their new home, still no intent what so ever to install screening landscaping.



Pictures II-A through II-C: Views of Burtons from our yard. Again, they took out the existing screening landscaping and refused to install any in its place. Given the current configuration of our property, we currently we have no essentially back yard. So, these pictures were taken from what had been our private side yard.



Pictures III-A through III-B: This was the view from a spot about 30 feet directly outside our living room window. This is the new garage #1 which is 10 feet from their property line, lined up directly with the center of our living room window. Again, they took out the existing screening landscaping and refused to install any new screening landscaping until we finally threatened to go to the city, and then only a token amount. Note also the lean-to that they attached to the back of the garage and filled with junk, after but as soon as they got their permit to occupy. In one of our conversations with them they essentially implied that they had done this because it was most convenient for them and to make sure that they did as much damage as possible to our property.



Inserted below is a current picture (1/30/08) of the third new structure that the Burtons added in 1998 - 1999, 10 feet from our shared property line. It has been ten years and there still is no screening landscaping for this structure.



Inserted below is a current picture (1/30/08) of one of the still there old toilets “used as a stepping stool”. Note it sure does not look to be very frequently used or to be very functional, or even very safe, but it sure does create an eye score (for us, not for them).





Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: CITY COUNCIL MEETING OF FEBRUARY 20, 2008

**SUBJECT: REPORT FROM KEVIN KIELTY, CONTRACT ARBORIST,
REGARDING LANDSCAPING AT 12 SELBY LANE**

RECOMMENDATION:

Review report by Arborist Kevin Kielty pertaining to replacement landscaping following improper heritage tree removal at 12 Selby Lane. Provide direction to Staff regarding replacement landscaping and expenditure of funds for this purpose.

BACKGROUND:

On or about July 5, 2006, four pine trees and one walnut tree were damaged when their roots were cut by workers in the process of installing a wall on the property located at 12 Selby Lane. The pine trees eventually had to be removed. The survivability of the walnut tree is doubtful.

The City Council authorized a lawsuit to be filed pursuant to the provisions of Chapter 8.10 of the Atherton Municipal Code. Case No. CIV 457574 was filed in the Superior Court of California, County of San Mateo on September 12, 2006. This case was settled by written agreement dated November 8, 2006. As part of the settlement, the owner agreed to plant five 15 gallon trees to be selected from a list provided by the Town Arborist and to plant seven evergreen shrubs to be selected by the owner and to enter into an agreement to maintain these plantings.

Attached to this Staff Report is a report prepared by Arborist Kevin Keilty with recommendations regarding additional landscape mitigation which the Council may wish to approve using some or all of the funds obtained from the 12 Selby Lane property owners in the settlement. Total funds received were \$20,000.

Prepared By:

Approved By:

/s/ Marc Hynes

Marc G. Hynes
City Attorney

Jerry Gruber
City Manager

Attachment



February 7, 2008

Town of Atherton
Attn: Marc Hynes
91 Ashfield
Atherton, CA

Dear Mr. Hynes,

Site: 12 Selby Lane, Atherton, CA

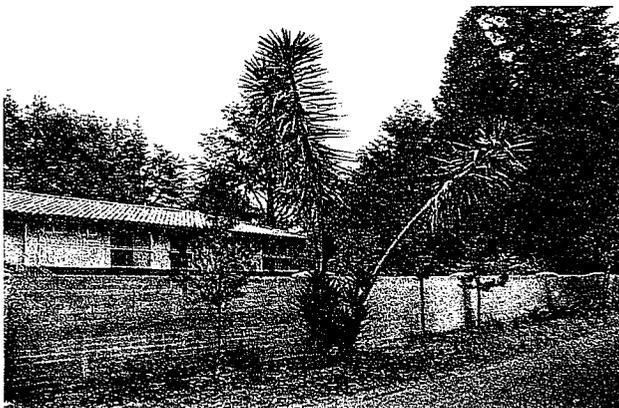
As requested by the Atherton Town Council, I visited the above site for the purpose of inspecting and commenting on the newly landscaped area. Protected trees were removed at this location and replacement trees were installed.

Assignment:

As assigned, I will provide recommendations for additional landscaping at this location. The neighbors have voiced their opinions as to the future of this strip of land. Several of the neighbors surrounding this site were interviewed, as were members of the Atherton Tree committee. The opinions of both groups will be considered in my recommendations.

Site:

The easement in question is a strip of land 200 feet long and 12 feet wide that runs parallel to Cebalo Lane. A new 6 feet tall block wall was recently installed along the north east edge of the easement. 5 replacement trees were installed in this strip of land due to the violation of the Town of Atherton's Heritage Tree Ordinance. The replacement trees chosen were Crape Myrtles, approximately 10 feet tall with a spread of 5 feet. The trunk calipers are less than 1 inch. The existing yucca palms have been over pruned or cut down to ground level and have re-



sprouted. The replacement trees installed and the existing yuccas do not provide screening of the new wall. Under story plants including cactus, agapanthus and raphiolepis have been installed, however, the newly planted shrubs do not contribute greatly to the site. An irrigation system for the newly planted trees and shrubs has also been installed.

The remainder of the property is lined with large redwoods, blue atlas cedars and incense cedars. The large trees are on the south and east portions of the property. The existing trees are 60 to 70 feet in height and provide shade to the entire property.

Methodology:

Letters were hand delivered or mailed to the neighbors allowing them to voice their concerns as to what they feel is needed to restore the property. All of the homes on Cebalo Lane and the neighbors on each side of 12 Selby Lane were included in the mailing. I received feedback from four residents of the area. I later met with 4 of the neighbors. The tree prices I am quoting are an average of the prices I gathered when visiting the following tree nurseries: Boething Tree Land, Pacific Nursery, Western Tree Nursery and Bonfante Nursery. I am also including information as to the height and spread of the species of trees that will be recommended. Advanced Tree Care provided estimates for the costs of planting the different sized trees.

Planting Possibilities:

The goal of this project is for 2 groups to come to an agreement on how to best screen the residence and wall of this site. I will summarize both groups' preferences, offer my recommendation as well as offer a compromise plan.

The interested neighbors of 12 Selby Lane have agreed that full screening of the wall and exposed house would be in their best interest. The installation of several large coast redwoods (*Sequoia sempervirens*) is their choice. The Atherton Tree committee would like to use deciduous trees in this location such as Ginkgos (*Ginkgo biloba*). The pros and cons of both plans will be discussed, as well as possible compromising alternatives. The estimated costs of the plans will also be included.

Thomas/Delnevo Plan - (Neighbor's Plan)

This plan is to use 7 - 48" or larger boxed trees to provide screening of both the new wall and house, which has a series of sliding glass doors visible from Cebalo Lane. The homeowner's existing irrigation system would provide the necessary water. The yuccas would be removed and the existing landscape would be relocated within the strip.

Pros: Complete screening of the wall and building, minimal maintenance.

Cons: As the redwoods mature the property will be shaded year round, water use will be average to high.

Cost: Tree installation \$17,000.00 -- Site work \$2,000.00 **Total:** \$19,000.00

Atherton Tree Committee Plan

This plan is to install 8- 24" boxed ginkgos, reuse the existing crape myrtle trees and hedge material. The installation of the ginkgos will be fairly water responsible and will provide the property with light in the fall and winter months.

Pros: Great fall color, water use will be low to average, light quality will be maintained. Relatively pest free.

Cons: Slow growing trees that will provide minimal screening.

Costs: Tree installation \$4,000.00 – Site work \$2,000.00 **Total:** \$6,000.00

Certified Arborist Recommendation

This plan is to install 8 – 36" boxed dawn redwoods (*Metasequoia glyptostoboides*). The dawn redwood is a deciduous redwood which loses leaves in late fall and foliates in the spring. In summer months the trees resemble the coast redwood with close to the same growth rate.

Pros: The trees will provide the desired vertical height, light quality will be maintained. Minimal maintenance. No known pests.

Cons: Water use will be average to high, 36" box is the largest size available.

Costs: Tree installation \$8,000.00 – Site work \$2,000.00 **Total:** \$10,000.00

Compromise Plan

This plan will utilize aspects of the neighbor's plan and the committee's plan.

Plant 5 - 48" boxed coast redwoods, spaced far enough apart that corridors of undiffused light will penetrate to the property. Alternating between the redwoods, 6 - 24" boxed ginkgos will be planted to provide fall color and will not cause shading in light corridors.

Pros: Provides vertical height, screening while driving, allows for light penetration.

Cons: Water use will be average, some shading will occur.

Costs: Tree installation \$15,500.00 – Site work \$2,000.00 **Total:** \$17,500.00

Summary:

The goal of this project is for 2 groups to come to an agreement on how to best screen the residence and wall of this site. The use of large trees will restrict light penetration to the property. Redwoods are proven to grow with no ill affects in street medians. The planting of large boxed trees in Atherton is common place. The homeowners should be informed prior to any final decisions.

The information included in this report is believed to be true and based on sound arboricultural principles and practices.

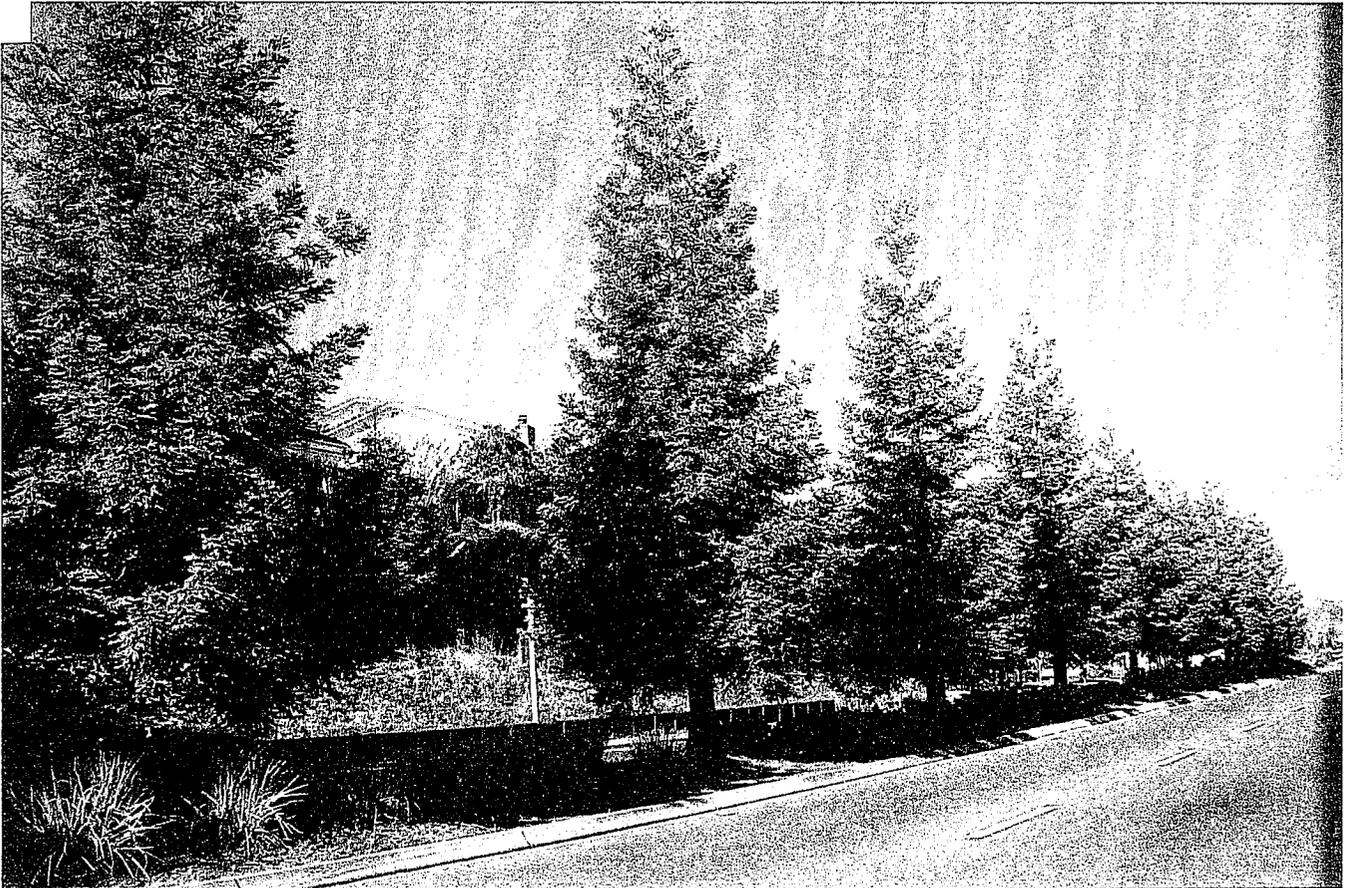
Sincerely,



Kevin R. Kielty
Certified Arborist WE#0476A



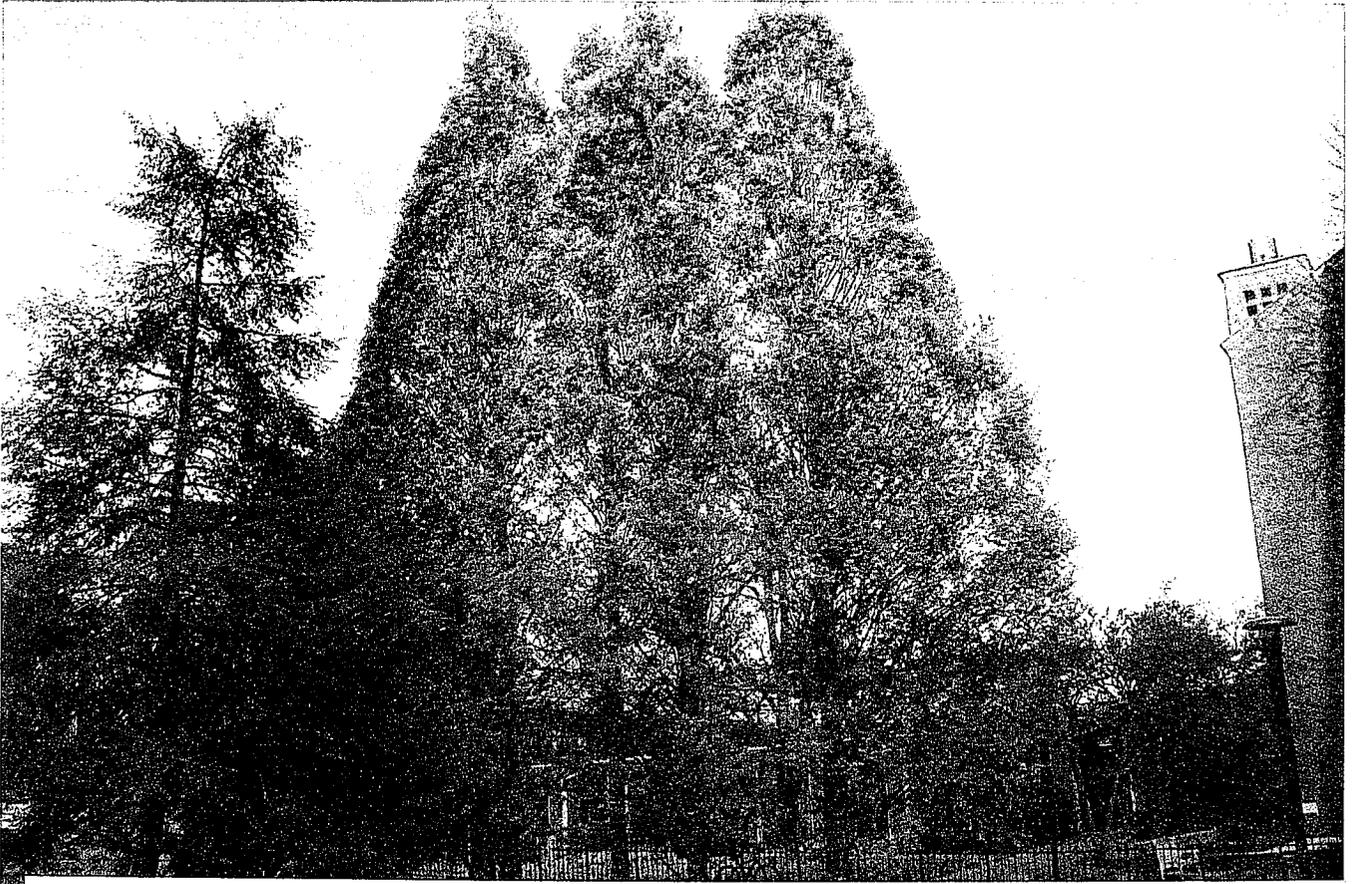
48" boxed coast redwood - Bonfante Nursery, Gilroy, CA



Redwood trees grown in island - El Camino Real, Belmont, CA



24" boxed ginkgo planted 2 years ago - Delaware Street, San Mateo, CA



Dawn redwood in fall color - Vanderbilt University, Nashville, TN



36" boxed dawn redwood - Pacific Nursery, Colma, CA

Kevin R. Kielty
CURRICULUM VITAE

EDUCATION

American Society of Consulting Arborists Academy, Rhode Island ■ 1999

College of San Mateo, San Mateo, CA

- **Pest Control Certification Program ■ 1983**
- **Environmental Horticulture Certification Program ■ 1981**

CREDENTIALS

- **Qualified Applicator's License, Department of Pesticide Regulations**
- **International Society of Arboriculture Certified Arborist, 1989 ■ WE #0476A**
- **International Society of Arboriculture Certified Tree Worker, 1986 ■ #124**

EXPERIENCE IN FIELD

Kielty Arborist Services, San Mateo, CA ■ 3/2007 to present

Mayne Tree Expert Company, San Carlos, CA ■ 3/1978 to 3/2007
Consulting ■ 6/1999 to 3/2008

Gardener, Marina Garden Apartments, San Mateo, CA ■ 6/1976 to 3/1978

ORGANIZATIONS AND ASSOCIATIONS

California Arborist Association, President, 2001, 2000, 1998, 1997
International Society of Arboriculture, Member
National Arborist Association, Member
American Society of Consulting Arborists, Member
Burlingame Lions Club, Member



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JERRY GRUBER, CITY MANAGER**

FROM: BILL YEOMANS, INTERIM FINANCE OFFICER

DATE: FOR THE MEETING OF FEBRUARY 20, 2008

SUBJECT: MID-YEAR BUDGET REPORT, FISCAL YEAR 2007-2008

RECOMMENDATION:

Adopt the Resolution increasing the Budget for fiscal year 2007-2008.

INTRODUCTION:

This report reviews the Town's financial status for the first half of the fiscal year at December 31, 2007, and estimates all revenues and expenditures for the second half of the year to project financial results for all funds to the end of the fiscal year, June 30, 2008.

HIGHLIGHTS:

The beginning balances (Column 3 attached) are the results of the audit process for June 30, 2007. These audited balances exceed the FY2007-08 Budget beginning balance by 18.7% (\$1,549,987) in the GF and 16.3% (1,965,650) for all funds.

Revenue estimates for all funds for the entire fiscal year are in Column 4 and those estimates are broken down by General Fund category (rows) and by budget, year-to-date and Mid-Year Estimate (columns) on Page 2 attached. Although the Mid-Year Estimate is not as cautious as the original Budget estimates, I am comfortable that the final results in the General Fund will meet or exceed the new estimate. Revenues in the General Fund are 4.5% (\$405,897) greater than the original Budget Estimate.

Expenditure estimates are in Column 5 and are broken down by department and fund on Page 3. Some departments will exceed their original budgets by yearend as a result of circumstances that

have arisen during the last seven months, and so will need Council budget authorization to continue spending.

1. As a result of unanticipated litigation in personnel and planning disputes, the City Attorney's budget will need an additional \$175,000.
2. The Building Department will need an additional \$288,000 for legal disputes, zoning code update, historical artifacts consulting, permitting software, our contract planner, and plan check. The extra activity for plan check will be offset by building revenues of \$100,000 and general revenues of \$110,000.
3. Additional repairs to the Town Home up to \$100,000.
4. The City Council budget will increase by \$11,000 to cover a team building facilitator and the Sustainable San Mateo County Report.
5. The Administration Department will be organizing the June 2008 Election (\$10,000) and hiring a consultant to recruit for key department managers (\$60,000).
6. The general contingency account has been untapped so far this year and will be used for
 - Disaster Preparedness projects requiring water treatment at the well and setting up phone lines and a water tank at the Emergency Operations Center (\$10,000) in addition to the \$23,000 approved at your last meeting for the CERTS program.
 - An employee recognition event (\$6,500).
 - Authorization for the Tree Committee budget (\$2,200).
 - Uninterrupted Power Source for backup of computers in Police (\$18,000)
 - Required environmental program reports on local response to global warming (\$3,000) and waste management (\$4,200).

Most of these adjustments are a consequence of one-time needs which should not carry into the following years. All of these requests are detailed by account and amount in the attached proposed resolution.

Resulting Balances

As a result, the estimated revenues and expenditures (operating result) in the General Fund will be almost equal. The ending fund balance (\$9,843,880) also demonstrates that the Town of Atherton is in strong financial condition. Of that balance \$5,300,000 is reserved for economic uncertainties, cash flow needs, contingencies and potential disasters. Those reserves are particularly important now due to present risks:

- The housing and mortgage crisis that will reduce the growth of property tax, the Town's primary source of revenue
- The State Budget deficit of \$14 billion, that is already causing cash payment delays and reconsideration of programs for local support.
- The expiration of the Special Parcel Tax in June 2009 which is used for the largest portion of the Town's Capital Improvement Program.

Budget Process for FY2008-09

Looking ahead to next year, Staff is planning a budget with more description and explanation of Town activities. The document will demonstrate more of the management process through town-wide and departmental goals. A proposed Calendar of Activities is attached. Staff requests that Council Members provide input to the City Manager for next year's Budget.

FISCAL IMPACT:

The proposed resolution increases the FY08-09 Budget by \$664,200, of which \$562,000 is in the General Fund. The total impact of that increase, prior year results, and revenue estimate increases is an increased General Fund Balance of 19.4% or \$1,601,321.

Prepared by:

Approved by:

William Yeomans
Interim Finance Officer

Jerome Gruber
City Manager

RESOLUTION NO. 08-

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
MID-YEAR BUDGET REVISIONS**

RESOLVED, by the City Council of the Town of Atherton, State of California, that

WHEREAS, the City Council has received and considered a report from the Interim Finance Director supporting recommendations for a mid-year adjustment of the Town's adopted budget;

NOW, THEREFORE, the City Council of the Town of Atherton hereby resolves as follows:

Section 1. Budget Adjustment. The Fiscal Year 2007-2008 budget shall be increased in amounts and for the respective accounts as set out and shown in Exhibit A attached here and incorporated by this reference.

Section 2 Effective Date. This Resolution shall be effective immediately upon adoption.

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the _____ day of _____ 2008, by the following vote:

<i>AYES:</i>	<i>Council Members:</i>
<i>NOES:</i>	<i>Council Members:</i>
<i>ABSENT:</i>	<i>Council Members:</i>
<i>ABSTAIN:</i>	<i>Council Members:</i>

James R. Janz, MAYOR
Town of Atherton

ATTEST:

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

Marc G. Hynes, City Attorney