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11 SAVE OUR MENLO PARK NEIGHBORHOODS  
12 and PATRICK CONNOLLY

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 FOR THE COUNTY OF SAN MATEO-UNLIMITED CIVIL JURISDICTION

15 SAVE OUR MENLO PARK  
16 NEIGHBORHOODS, an unincorporated  
17 association, and PATRICK CONNOLLY,

18 Petitioners and Plaintiffs,

19 vs.

20 CITY OF MENLO PARK, CITY COUNCIL  
21 OF THE CITY OF MENLO PARK, and  
22 DOES 1 -100 inclusive,

23 Respondents and Defendants.

CASE NO. 21-CIV-01717

**VERIFIED PETITION  
FOR WRIT OF MANDATE  
AND  
COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

**(CCP § 1085, 1094.5, 1060, 526, et seq.; Pub.  
Res. Code § 21000, et seq.)**

Electronically  
**FILED**  
by Superior Court of California, County of San Mateo  
ON 3/26/2021  
By /s/ Marcela Enriquez  
Deputy Clerk

1 Petitioners and Plaintiffs SAVE OUR MENLO PARK NEIGHBORHOODS, an  
2 unincorporated association, and PATRICK CONNOLLY (“Petitioners”), respectfully petition this  
3 Court for issuance of a Writ of Mandate pursuant to Code of Civil Procedure (“CCP”) section  
4 1094.5 and Public Resources Code (“PRC”) section 21168, or in the alternative pursuant to CCP  
5 section 1085 and PRC section 21168.5, and Petitioners further complain for the issuance of  
6 temporary, preliminary and permanent injunctive relief and for a declaration of rights pursuant to  
7 CCP sections 526 and 1060, directed at Respondents and Defendants CITY OF MENLO PARK  
8 (“City”) and the CITY COUNCIL OF THE CITY OF MENLO PARK (“Council,” and  
9 collectively with the City and Does 1-100, “Respondents”), as follows:

10  
11 **INTRODUCTION**

12 1. Petitioners bring this action, on their own behalf and on behalf of the general public  
13 and in the public interest, for judicial review and invalidation of the actions, determinations,  
14 decisions, and approvals made by Respondents including the Respondents’ determinations on or  
15 about January 26, 2021, relating to the approval of a new alternative design for the destruction of  
16 sensitive vegetation and habitat, and for the construction of certain concrete street, curb, gutter,  
17 and sidewalk facilities in the City resulting in significant physical change and harm to the existing  
18 environment and other adverse environmental impacts despite Respondents’ failure to comply  
19 with the California Environmental Quality Act (“CEQA”) and other applicable state and local  
20 laws. Petitioners seek relief from Respondents’ actions and approvals, including the Respondents’  
21 failure to comply with CEQA, (collectively referred to herein as the “Approvals”), and request that  
22 the Approvals be declared void and invalid, and that Respondents be mandated to set aside the  
23 Approvals and be enjoined from taking any further action in furtherance of, or in implementation  
24 of, the Approvals unless and until the Respondents first and fully comply with the applicable  
25 requirements of state and local law, including CEQA.

26 2. The disputed Approvals included Respondents’ approval, on or about January 26,  
27 2021, of a City public works project referred to as “conceptual design for the Sharon Road  
28 Sidewalk project” (hereinafter referred to as “the Project”), and related determinations, resolutions

1 (Res. No. 6610) and approvals, including Respondents' unjustified determination to regard the  
2 Project as "categorically exempt" from any CEQA review or other compliance with CEQA.

3 3. Petitioners are informed and believe, and thereon allege, that the disputed  
4 Approvals, particularly the approval of a new, inadequately-studied, concrete alternative to the  
5 previously-recommended Sharon Road Sidewalk Project, were adopted arbitrarily without  
6 adequate public notice or public review, and without any effort at compliance with the  
7 requirements of CEQA, without consideration of adverse impacts on the environment, or  
8 compliance with local policies mandating preservation of heritage trees and sensitive or historic  
9 sites, or probable impairment of public health and safety, and which create inconsistencies and  
10 conflicts with the City's General Plan.

11 4. In adopting the Approvals, the Respondents improperly and unlawfully relied upon  
12 inapplicable categorical exemptions from CEQA, which were not supported by substantial  
13 evidence in the record, and which were contrary to evidence in the record demonstrating that the  
14 Approvals would result in significant adverse environmental impacts, precluding reliance upon  
15 any categorical CEQA exemption and requiring further public environmental review and analysis.  
16 Respondents' actions also violated CEQA's prohibitions against piecemeal review of public  
17 projects, considering only small components of a larger project as a whole, such as the challenged  
18 Sharon Road Sidewalk project, in order to minimize or avoid public review and analysis of the  
19 potential impacts of the larger project, i.e., the City's "complete streets" program and master plan.  
20 As a result, the Respondents failed to consider significant adverse impacts of the Project,  
21 including impacts to the character of the City as a whole or to the particular neighborhood in the  
22 vicinity of the Project, aesthetics, parking, traffic, safe pedestrian and bicycle access to and from  
23 nearby public school sites, and improperly failed to consider possible mitigation measures or  
24 feasible alternatives to the proposed Project as required by CEQA.

25 5. In addition, Petitioners are informed and believe, and thereon allege, the  
26 Respondents' actions on the Approvals were in conflict with State Planning and Zoning Law, as  
27 well as the City's own General Plan and Municipal Code.

28 6. Petitioners duly raised these issues and objections, verbally and in writing, at

1 appropriate times during the administrative process leading up to Respondents' disputed  
2 Approvals. Petitioners have exhausted all available administrative remedies, but Respondents  
3 have persisted in acting in derogation of their obligations under CEQA and the Planning and  
4 Zoning Law, and in derogation of the public's rights and interests in compliance with those laws.

5 7. Petitioners now bring this action in the public interest, for enforcement of the  
6 important public rights and environmental interests intended to be protected by CEQA and for the  
7 enforcement of the State Planning and Zoning Law, and the City's own General Plan and policies  
8 mandating conservation of natural resources, and environmentally-sensitive or historic sites, as  
9 well as statutory and constitutional rights to adequate notice, fair public hearings, due process and  
10 equal protection of the laws.

11  
12 **PARTIES**

13 8. Petitioner/Plaintiff SAVE OUR MENLO PARK NEIGHBORHOODS is an  
14 unincorporated association comprised of residents of the City and of owners and users of property  
15 located in the City, including residents and others interested in the preservation and enhancement  
16 of the environment and natural heritage of the City, whose members are threatened by significant  
17 adverse impacts of the disputed Approvals and the challenged project. It was formed in 2021 after  
18 the Approvals. SAVE OUR MENLO PARK NEIGHBORHOODS brings this petition on behalf of  
19 all other similarly situated that are too numerous to be named and brought before this Court as  
20 petitioners. SAVE OUR MENLO PARK NEIGHBORHOODS' members, including

21 Petitioner/Plaintiff PATRICK CONNOLLY, timely objected to the Approvals.

22 9. Petitioner/Plaintiff PATRICK CONNOLLY is an individual, a resident and  
23 property owner in the City, and a member of SAVE OUR MENLO PARK NEIGHBORHOODS  
24 who is or will be adversely impacted by the disputed Approvals and the challenged Project.

25 10. The respondent City is a municipal corporation, organized and existing under the  
26 laws of the State of California, located in the County of San Mateo. The respondent City Council  
27 is the elected governing body of the respondent City, which erroneously adopted the invalid and  
28 unlawful Approvals challenged in this action.



1 General Plan or state planning and zoning laws.

2 17. Petitioners are informed and believe, and thereon allege, that the Respondents  
3 disregarded the City Staff's recommendations with regard to the Project, but rather purported to be  
4 following a recommendation of the lay, non-technical, members of the City's new "Complete  
5 Streets Commission" ("CSC"), including a new, unstudied, recommendation for a project design  
6 option ("Option C") that had not been previously disclosed to the public or reviewed at any public  
7 hearing prior to the Council meeting on January 26, 2021.

8 18. Petitioners are informed and believe, and thereon allege that the Respondents did  
9 not establish the CSC until on or about February 28, 2017, by adopting Resolution No. 6377, as a  
10 'pilot program' to merge the City's former Transportation Commission and Bicycle Commission.  
11 The Council at that time deferred the development of a mission statement and work plan for the  
12 new CSC, pending full evaluation of the pilot program. On or about March 5, 2019, Respondents  
13 adopted Resolution No. 6477, to continue the CSC and to define and limit the roles and  
14 responsibilities of the new CSC.

15 19. Petitioners are informed and believe, and thereon allege, that on or about April 10,  
16 2019, the CSC presented its first annual work plan to the Respondent Council, and requested  
17 Council approval of that "2019-2020 work plan." That 2019-2020 Work Plan by the CSC  
18 included several recommendations for the CSC to continue to "advocate for and advise the  
19 Council" on the planning and installation of improvements "for the Middle Avenue crossing and  
20 safe cycling/pedestrian infrastructure connecting the Burgess complex to the Middle corridor to  
21 Olive Street" and other proposed improvements in the area of Middle Avenue and Olive Street, as  
22 well as other goals and priorities.

23 20. Petitioners are informed and believe, and thereon allege, however, that the CSC's  
24 2019-2020 Work Plan did not include any plans, proposals, designs, or references to any work or  
25 improvements to be undertaken by the City on Sharon Road or vicinity, nor did it include any  
26 environmental analysis of the Work Plan or of the Project. Petitioners are informed and believe,  
27 and thereon allege that the Respondent Council approved the CSC's 2019-2020 Work Plan on its  
28 "consent calendar" on or about May 14, 2019.

1           21. To the contrary, the Staff Report provided to the public and to the Council in  
2 conjunction with the proposed approval of the CSC Work Plan for the Council meeting on May  
3 14, 2012 (Staff Report No. 19-086-CC) expressly stated and represented as follows: “This action  
4 [approval of the CSC Work Plan] is not a project within the meaning of the CEQA. Any projects  
5 identified through the Commission’s pursuit of these goals and priorities, including the Middle  
6 Avenue and Olive Street bicycle improvement PoP [project on a page], would be subject to  
7 environmental review under CEQA in the future.” (Underlining added.)

8           22. On or about January 15, 2020, the Respondents’ Public Works Staff organized and  
9 conducted a community meeting at La Entrada Middle School in Menlo Park, in the vicinity of the  
10 Project, to present design options and plans for the proposed “Sharon Road Sidewalk Project.”  
11 The City Staff presented the goals and design criteria for such a project, and presented two  
12 preliminary design options: **Option A**: the preferred option contemplated a lower-impact asphalt  
13 sidewalk and restricted parking along the north side of the road, and **Option B**: a second choice  
14 which would require more disturbance to the existing vegetation and natural conditions in order to  
15 construct a six (6) inch tall concrete curb, gutter, and sidewalk, and would eliminate existing  
16 parking due to space constraints.

17           23. Petitioners and other local residents participated in that community meeting and the  
18 vast majority of local residents who attended that meeting expressed preference for the first,  
19 “Option A” asphalt-sidewalk, design option. Discussion at that meeting pointed out that Option B  
20 would cause more adverse impacts to the existing frontage on the street.

21           24. Petitioners are informed and believe, and thereon allege that the City Staff  
22 subsequently continued to develop plans for that Option A, the preferred asphalt sidewalk design  
23 option, with input from Petitioners and other members of the local community.

24           25. On or about September 9, 2020, the CSC held a meeting at which the City Staff  
25 presented the proposed Sharon Road Sidewalk Project to the CSC and public, and City Staff  
26 “recommended Option A with a reduced 15 mph zone along La Entrada Middle School.” (City  
27 Staff Report # 21-017-CC.) Staff pointed out that Option A better reflected the aesthetic of the  
28 neighborhood, and carried fewer frontage and cost impacts than Option B. The Staff Report

1 further stated that “the project is tentatively scheduled for construction bidding in Spring 2021,  
2 with the aim to finish construction prior to the opening of the 2021 school year.” (Staff Report #  
3 20-005-CSC.)

4 26. Petitioners and many others attended that meeting and presented objections and  
5 opposition to the alternative Option B (concrete sidewalk) design for numerous reasons including  
6 the significant adverse impacts of that proposal.

7 27. Notwithstanding the Staff Recommendation for Option A, and the public  
8 opposition to Option B, the CSC voted on September 9, 2020, to recommend that the Respondent  
9 City Council approve the Option B concrete sidewalk design option for the Project, and also  
10 requested evaluation of a new, previously-unstudied, “Option C” design concept that would  
11 incorporate a parking lane in addition to a concrete sidewalk.

12 28. Petitioners are informed and believe, and thereon allege that in or about November  
13 2020, the Respondents prepared and the CSC recommended that Council approve the new 2020-  
14 2021 CSC Work Plan. The Staff Report provided to the public and to the Council in conjunction  
15 with the proposed approval of the CSC 2020-2021 Work Plan again expressly stated and  
16 represented as follows: “This action [approval of the CSC Work Plan] is not a project within the  
17 meaning of the CEQA. Any projects identified through the Commission’s pursuit of these goals  
18 and priorities, ... would be subject to environmental review under CEQA in the future.”

19 (Underlining added.)

20 29. On January 26, 2021, the Respondents conducted a City Council meeting at which  
21 the City Staff presented the proposed Sharon Road Sidewalk Project for public hearing and  
22 Council approval.

23 30. The City Staff again recommended that the Council should adopt the “Option A”  
24 asphalt strip design with restricted day time parking. “The asphalt strip follows City standards for  
25 low-volume residential streets such as Sharon Road and provides access to La Entrada Middle  
26 School.” “Furthermore, Option A carries the lowest construction cost, impact to frontages, and  
27 reflects the aesthetic of... Sharon Road.” (Staff Report # 21-017-CC.)

28 31. The Staff Report described the project site as a narrow two-way road, between 21-



1 30 feet wide with residential and natural frontages, trees and vegetation: “Frontage features consist  
2 of planting, heritage trees, gravel, retaining walls, limited sidewalks and asphalt strips.”

3 32. The Staff Report for that hearing stated that the project is included in the City’s FY  
4 2020-2021 capital improvement program. Petitioners subsequently discovered, however, that the  
5 Respondents had already taken action back in June 2018 to adopt the City’s FY 2018-2019 budget  
6 and capital improvement plan, and had voted to accelerate and include the Sharon Road Sidewalk  
7 Installation project in the FY 2018-2019 budget and appropriated \$935,000 to fund the  
8 construction of the project (Resolution No.6647), without any environmental review or attempt to  
9 comply with CEQA.

10 33. The Staff Report for that public hearing asserted that “the Project is categorically  
11 exempt under Section 15301 and Section 15304 of the current CEQA Guidelines.” The Staff  
12 Report did not address possible exceptions to or limitations on the applicability of those  
13 categorical exemptions, nor provide evidence in the record to support the claim of exemption.

14 34. Petitioners and other local residents participated in that City Council hearing and  
15 stated objections and opposition to both Option B and Option C, including the issues and  
16 objections included in this petition. Petitioners, by legal counsel, also submitted written  
17 opposition and objections, pointing out Respondents’ failure to comply with CEQA, the  
18 inapplicability of any categorical exemption from CEQA, noncompliance with local ordinances  
19 and policies, and the violation of state planning and zoning law.

20 35. The Respondents nevertheless disregarded the Staff Recommendation and  
21 approved the Project, including the “Option B” concrete sidewalk design option for the Project,  
22 and affirmed the assertion of “categorical exemptions” from CEQA.

23 36. The Respondents failed to address, and failed to provide any evidence or analysis  
24 in the record addressing CEQA Guideline 15300.2, which limits reliance on categorical  
25 exemptions from CEQA review, and which provides an exception to such exemptions: “A  
26 categorical exemption shall not be used where there is a reasonable possibility that the activity will  
27 have a significant effect on the environment.” There was substantial evidence in the record at the  
28 Council hearing demonstrating such a reasonable possibility of significant, but unstudied,

1 environmental impacts, or raising at least a fair argument that the Approvals would have a  
2 significant effect on the environment, requiring more detailed CEQA review. The Respondents  
3 failed to provide substantial evidence in the record to support a determination that these exceptions  
4 to the proposed CEQA exemptions were not applicable.

5 37. Petitioners are informed and believe, and thereon allege, that the Respondents have  
6 erroneously and unlawfully approved a discretionary project or activity within the meaning of  
7 CEQA, which is not exempt from CEQA, without attempting to first comply with CEQA as to the  
8 Project or as to any larger work plan or program of sidewalk improvements of which the Project  
9 may be a component.

10 38. Petitioners are informed and believe, and thereon allege, that the Respondents  
11 erroneously and unlawfully adopted the disputed Approvals without first providing adequate  
12 public notice, or adequate and fair opportunity for public hearing, and without demonstrating  
13 consistency with the City's General Plan, or the City's Heritage Tree Ordinance, or with other  
14 state and local land use policies, despite Petitioners' timely objections.

15 39. Petitioners have timely exhausted all available administrative remedies prior to  
16 filing this action for judicial relief from the Respondents' actions and Approvals.

17  
18 **FIRST CAUSE OF ACTION**

19 **(Petition for Writ of Mandate for Violations of CEQA)**

20 40. Petitioners hereby incorporate the allegations of the foregoing paragraphs as though  
21 set forth in full herein by this reference.

22 41. Pursuant to CEQA, before a public agency approves any discretionary project or  
23 action, the agency must first identify, assess and publicly disclose the project's potential  
24 environmental effects. An agency may not approve a discretionary action that has the potential to  
25 have significant environmental impacts if there are feasible alternatives or mitigation measures  
26 that would avoid or substantially lessen the adverse environmental impacts.

27 42. In doing the things herein alleged, Respondents failed to comply with their  
28 mandatory duties under CEQA in several substantial and prejudicial respects, including without

1 limitation, the following:

2 (a). Respondents erroneously and unlawfully asserted that the Approvals were  
3 “categorically exempt” from CEQA review, and

4 (1) Respondents failed to provide substantial evidence in the public record  
5 prior to their decision to exempt the Approvals from CEQA review sufficient to support  
6 such decision;

7 (2) Respondents erroneously relied on inapplicable CEQA exemptions, and  
8 as a result failed to consider, disclose, or mitigate the significant environmental impacts  
9 and potential impacts of the Approvals, as required by CEQA;

10 (3) Respondents erroneously failed to publicly consider or provide  
11 evidence in the public record addressing the CEQA Guidelines § 15300.2 exception or  
12 other exceptions to the City’s proposed reliance upon categorical or statutory exemptions  
13 from CEQA review, despite Petitioners raising that exception, and others, to the proposed  
14 claim of “categorical exemption;”

15 (4) Respondents erroneously failed to consider and evaluate the cumulative  
16 impacts of this Project and other similar projects in the same area (CEQA Guidelines  
17 § 15330);

18 (b). The disputed Project was presented as one component of the City’s larger  
19 “safe streets” project as a whole, including numerous proposals for construction of  
20 facilities and improvements to many roads, streets and sidewalks in the City, but

21 Respondents erroneously and unlawfully chopped that larger “safe streets” program into  
22 small components for piecemeal assessment, so as to minimize or avoid the Respondents’  
23 obligations under CEQA to provide meaningful and comprehensive environmental analysis  
24 of the “project as a whole” in violation of CEQA, e.g., CEQA Guidelines § 15069, and  
25 *Laurel Heights Impr. Ass’n v. Regents of the Univ. of California* (1988) 47 Cal.3d 376,  
26 396;

27 (c). Respondents improperly deferred CEQA review of the Project, and  
28 repeatedly but inaccurately represented to the Council, to the public, and to the Petitioners

1 that any projects identified through the Complete Street Commission's pursuit of its goals  
2 and priorities, such as the disputed Project, would be subject to environmental review  
3 under CEQA in the future, and instead refused and failed to subject the disputed Project to  
4 CEQA review and analysis;

5 (d). Respondents failed to conduct timely CEQA review before taking action  
6 committing the City to the Project by committing funding in or about June 2018 and  
7 including the Project in the FY 2018-2019 capital improvement program, e.g. CEQA  
8 Guidelines § 15352; *Save Tara v. City of West Hollywood* (2008) 45 Cal.4<sup>th</sup> 116, 130-32;

9 (e). Respondents failed to timely and fairly disclose or consider reasonable  
10 alternatives and feasible mitigation measures to the design option approved as part of the  
11 Approvals for the Project.

12 43. Respondents failed to adequately disclose or provide evidence and analysis  
13 revealing that the Approvals will have significant adverse impacts that the City failed to address or  
14 mitigate prior to their actions.

15 44. Respondents failed to make required findings when acting on the Approvals and/or  
16 any findings made were not supported by substantial evidence in light of the whole record.

17 45. Respondents' actions in approving the Project were not in compliance with  
18 procedures required by law, were not supported by substantial evidence in the public record, were  
19 not reflected in legally adequate findings, and were arbitrary, capricious, and reflected a  
20 prejudicial abuse of discretion.

21 46. Petitioners have a beneficial interest in the issues raised in this action and will be  
22 directly and significantly impacted by the arbitrary and unreasonable actions of Respondents.

23 47. Petitioners have performed any and all conditions precedent to filing this action and  
24 has exhausted any and all available administrative remedies to the extent required by law by, inter  
25 alia, submitting written and oral comments objecting to the Approvals and the failure to comply  
26 with CEQA at each stage of the City's administrative process. To the extent any matter raised in  
27 this Petition was not addressed in Petitioners' comments, Petitioners were informed and believe  
28 that such matters were raised by other persons or entities who objected to the Project, or that

1 Petitioners had no effective opportunity to raise such comments before the complained of actions  
2 were taken, or that Petitioners were otherwise excused from or not obligated to raise such issues  
3 before pursuing them in this action.

4 48. Pursuant to PRC section 21167.5, Petitioners have provided written notice of the  
5 commencement of this action to Respondents.

6 49. Pursuant to PRC section 21167.7, and CCP section 388, Petitioners have or will  
7 provide written notice of this action, including a copy of this Petition, to the State Attorney  
8 General.

9 50. Petitioners bring this action pursuant to PRC sections 21168 and 21168.5 and Code  
10 of Civil Procedure sections 1085, 1088.5 and 1094.5, which require that an agency's approval of a  
11 project be set aside if the agency has prejudicially abused its discretion, or has acted arbitrarily and  
12 capriciously. Pursuant to Code of Civil Procedure section 1094.5 and/or 1085, a writ of mandate  
13 should issue directing Respondents to rescind the Approvals, and prohibiting Respondents from  
14 taking any subsequent action to implement or enforce the Approvals, unless and until they have  
15 complied with CEQA, including, but not limited to, by preparing an environmental impact report  
16 analyzing the impacts of the Project, and the whole "safe streets Project" including this disputed  
17 Project, and feasible alternatives and mitigation measures to avoid the impacts of the Project.

18  
19 **SECOND CAUSE OF ACTION**

20 **(Petition for Writ of Mandate to Set Aside Arbitrary Approvals, Unsupported by Evidence,**  
21 **Inconsistent with the City's General Plan and Policies)**

22 51. Petitioners hereby incorporate the allegations of the foregoing paragraphs as though  
23 set forth in full herein by this reference.

24 52. The Planning & Zoning Law (Government Code §§ 65860 *et seq.*) requires that all  
25 land use actions be shown to be consistent with the applicable general plan. This requirement of  
26 consistency with the applicable General Plan applies to public projects and public works projects  
27 such as the challenged Approvals in this action.

28 53. Respondents failed to provide any evidence, much less substantial evidence, in the

1 record, and failed to make findings purporting to show that the Approvals would be consistent  
2 with the applicable General Plan, or would in any way promote the achievement of the General  
3 Plan’s goals and objectives. To the contrary, the record showed that the Approvals are  
4 inconsistent with the General Plan and similar local policies in several respects.

5 54. Petitioners are informed and believe, and thereon allege, that the more extensive  
6 excavation, demolition, and landscape-removal work required by the Respondents’ Approvals  
7 could endanger or harm at least nine (9) substantial “heritage trees” in the Project area. The  
8 Respondent Council recently adopted the City’s new Heritage Tree Protection Ordinance (MPMC  
9 Chapter 13,24, effective July 2020) and Administrative Guidelines. In doing so, the Council  
10 confirmed that it is the policy of the City of Menlo Park to protect and preserve the scenic beauty,  
11 natural environment, and many other benefits of such trees, and “to ensure that there will be a  
12 significant population of large, healthy trees over the long term.” That policy also appears to be  
13 included in the General Plan. The Respondents, however, failed to comply with those policies,  
14 and the Approvals are inconsistent with those policies.

15 55. Respondents failed to provide any evidence, much less substantial evidence, in the  
16 public record purporting to show that the Approvals for the disputed Project with the raised  
17 concrete curb and sidewalk would address concerns over public safety in the Project area, or  
18 would bear a substantial and reasonable relationship to the public welfare. Respondents failed to  
19 consider or to provide any substantial evidence or reasoned analysis of the impact of the  
20 Approvals, particularly the raised concrete curb and sidewalk, on pedestrian safety and trip  
21 hazards, particularly among elderly or disabled persons, or on bicycle usage and safety.

22 56. To the contrary, the Staff Report pointed out that the Project area had not been  
23 characterized by frequent or unusual safety issues in its existing condition, and the only reported  
24 incident since 2008 was unrelated to the condition of the sidewalks and did not invoke “safety”  
25 issues as a factor purporting to justify the Option B design approach.

26 57. Respondents failed to provide any evidence, much less substantial evidence, in the  
27 public record purporting to justify the disparate treatment of the site of this disputed Project and  
28 the surrounding neighborhood contrasted with the Respondents’ treatment of similar sidewalk

1 issues on other similar residential streets in the City.

2 58. Petitioners are informed and believe and thereon allege that the Respondents'  
3 arbitrary and disparate treatment of this disputed Project, and the rejection of the considered Staff  
4 Recommendation, demonstrates unfair and irrationally discriminatory action against Petitioners  
5 and others affected by the Approvals.

6 59. Pursuant to Code of Civil Procedure section 1085 and/or 1094.5, a writ of mandate  
7 should issue directing Respondents to rescind the Approvals, and prohibiting and enjoining  
8 Respondents from taking any action to implement the challenged Approvals.

9  
10 **THIRD CAUSE OF ACTION**

11 **(Declaratory and Injunctive Relief)**

12 60. Petitioners hereby incorporate the allegations of the foregoing paragraphs as though  
13 set forth in full herein by this reference.

14 61. An actual controversy exists between Petitioners and Respondents regarding the  
15 arbitrary and unjustified actions leading to the disputed Approvals as set forth above, and the  
16 failure of Respondents to comply with CEQA.

17 62. Petitioners contend that Respondents' Approvals violate state law, including CEQA  
18 and the State Planning and Zoning Law, as well as the City's own General Plan, and local policies  
19 as described above.

20 63. Petitioners further contend that Respondents' actions in adopting the Approvals  
21 were arbitrary, unreasonable, discriminatory, and without any evidence demonstrating a  
22 reasonable or rational basis. Petitioners contend that Respondents unlawfully denied  
23 constitutional rights to equal protection of the law and due process to Petitioners and to others  
24 similarly situated.

25 64. Petitioners are informed and believe and thereon allege that Respondents deny  
26 Petitioners' claims and contend to the contrary.

27 65. Accordingly, declaratory relief is appropriate and necessary to determine the  
28 parties' respective rights and obligations with regard to the Approvals.





1 comply with all other requirements of CEQA, prior to taking any subsequent action on the  
2 proposed Project;

3         2.       For the declaratory relief requested above, including a declaration of the invalidity  
4 of the Approvals;

5         3.       For preliminary injunctive relief ordering the Respondents to refrain from  
6 implementing or enforcing the Approvals, or undertaking any work on the Project, while this  
7 action is pending;

8         4.       For a permanent injunction ordering the Respondents to refrain from implementing  
9 or enforcing the Approvals, or the Project, pending Respondents' full compliance with CEQA and  
10 otherwise conforming their actions with the procedural mandates of the law;

11        5.       For an award of reasonable attorney's fees, litigation expenses, and costs as  
12 permitted or required by law, including but not limited to Code of Civil Procedure section 1021.5,  
13 Government Code section 800, and other statutory and common law; and

14        6.       For such other relief as the Court deems just and proper.

15 Dated: March 26, 2021

ZACKS, FREEDMAN & PATTERSON, PC

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By: Ryan J. Patterson  
Attorneys for Petitioners and Plaintiffs,  
Save Our Menlo Park Neighborhoods  
and Patrick Connolly

VERIFICATION

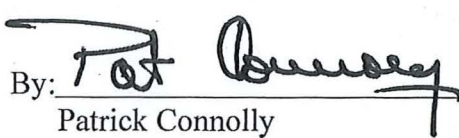
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I, Patrick Connolly, am an individual petitioner in this action and am the Managing Member of Save Our Menlo Park Neighborhoods, am authorized to make this verification, and I make this verification for that reason.

I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and know its contents. The matters stated therein are true of my knowledge, except as to those matters which are alleged on information or belief, and as to such matters, I believe them to be true.

Executed on March 26, 2021, at Menlo Park, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

By:   
Patrick Connolly