TO:               HONORABLE CITY COUNCIL

FROM:             CITY MANAGER                      DEPARTMENT:       PLANNING & COMMUNITY ENVIRONMENT

DATE:           OCTOBER 16, 2006                     CMR: 396:06

SUBJECT:  195 PAGE MILL ROAD, 2825, 2865, 2873, 2891 & 2901 PARK BOULEVARD [05PLN-00281]: CONSIDERATION OF WHETHER TO SCHEDULE AN APPEAL BY COURTHOUSE PLAZA COMPANY OF THE DIRECTOR OF PLANNING AND COMMUNITY ENVIRONMENT’S DENIAL OF A MAJOR ARCHITECTURAL REVIEW BOARD APPLICATION TO ALLOW THE CONSTRUCTION OF A THREE STORY BUILDING TO INCLUDE 50,467 SQUARE FEET FOR RESEARCH AND DEVELOPMENT SPACE ON THE GROUND FLOOR AND 104,971 SQUARE FEET FOR TWO FLOORS OF RESIDENTIAL APARTMENTS TOTALING 84 UNITS, PLUS A SUBTERRANEAN PARKING GARAGE AND RELATED SITE IMPROVEMENTS. THE PROJECT INCLUDES A REQUEST FOR DESIGN ENHANCEMENT EXCEPTIONS TO EXCEED THE MAXIMUM ALLOWABLE BUILDING HEIGHT, ENCROACH INTO THE SIDE AND REAR DAYLIGHT PLANE, REDUCE THE FRONT AND STREET SIDE SETBACKS AND INCREASE THE LOT COVERAGE.

RECOMMENDATION
Staff recommends that the City Council decline to hear the appeal by Courthouse Plaza Company and uphold the Director of Planning and Community Environment’s decision to deny the Major Architectural Review Board application as outlined in Attachment A.

BACKGROUND
The City’s streamlined review process, including the Architectural Review procedures, provides for a City Council “call up” of appeals. If the Director’s decision is appealed, the project is sent to Council on the consent calendar. In the case of Architectural Review applications, three Council Member votes are required to remove the project from the consent calendar. The Council’s options under Palo Alto Municipal Code Section (PAMC) 18.77.070(f) are as follows:

1. Adopt the decision of the director on the Consent Calendar; or
2. Upon the motion, second and affirmative vote of three Council Members, remove the item from the Consent Calendar.
Should the matter be removed from the Consent Calendar, the Council then has two options:

1. The Council may discuss the appeal and adopt findings and take action on the appeal based upon the evidence presented at the hearing of the Architectural Review Board; or
2. The Council may set the matter for a new public hearing at a future date, following which the Council shall adopt findings and take action on the application.

Once removed from the Consent Calendar, either of the above two options may be decided by a majority vote of the Council. Staff notes that California Environmental Quality Act (CEQA) review and conditions of approval have not been prepared for this project, so any affirmative action should include direction to staff to prepare these documents prior to final approval.

Project Description
The project would include the demolition of all existing structures on site, which include vacant corrugated metal and concrete buildings, and the construction of a 157,387 square foot, three-story, residential apartment and research and development (R&D) building with at grade parking and one level of below grade parking, on an approximately 2.5 acre parcel. The 50,467 square foot first floor would be dedicated for R&D space. Eighty-four (84) rental apartments totaling 104,971 square feet would be located on the upper two floors.

The ARB formally reviewed the project on June 1, 2006 and continued the project to a date uncertain to allow the applicant sufficient time to respond to issues raised by the Board. On September 7, 2006, the ARB reviewed the applicant’s proposed changes and recommended approval of the project, including the requested Design Enhancement Exceptions (DEE’s), to the Director. On September 15, 2006, a written Director’s decision was issued denying the project as (1) the proposed mix of uses are not permitted in the General Manufacturing (GM) zone district, (2) the project exceeds the allowable Floor Area Ratio (FAR) permissible within the GM zone district, and (3) the Design Enhancement Exception findings cannot be made for the requested exceptions. A copy of this decision is included as Attachment A. On September 28, 2006, an appeal was formally filed by Courthouse Plaza Company. The letter of appeal is included as Attachment B.

The applicant requested DEE’s for specific elements of the project. These included requests to exceed the maximum allowable building height, to encroach into the side and rear yard daylight plane, to reduce the front and street side yard setbacks, and to increase the maximum allowable lot coverage. A table showing the requested exceptions is included as Attachment F.
DISCUSSION
The applicant’s appeal is based on the zoning history of the site, the City’s designation of the site for housing, on State housing law, and on the applicant’s objections to Pedestrian and Transit Oriented Development (PTOD) Combining District zoning requirements. Each of these issues is addressed below:

Zoning Compliance
This project was formally submitted for ARB review on August 4, 2005. At that time, the GM(B) (General Manufacturing) Combining District zone development standards were in effect. The GM(B) zone included multi-family residential and mixed-use as permitted uses but restricted the allowable floor area ratio to .50:1. On October 11, 2005, the City Council passed a resolution removing the “B” overlay from the GM zone district and removed all housing and mixed-use (residential and nonresidential) development as permitted uses. Because this project had been submitted for ARB review prior to the changes adopted by the Council, the Council specifically exempted this project from the changes, allowing it to proceed through the review process under the GM(B) development standards. The current site zoning is GM and the applicant chose to submit the project for ARB review pursuant to the GM zoning.

The proposed project does not, however, comply with zoning requirements for the GM zone, since residential (including mixed use) is not allowed in the GM zone. Also, the maximum allowable FAR in the GM zone is 0.5, as compared to the 1.5 FAR proposed. The applicant has argued that residential must be allowed on the site, since it is designated as a Housing Opportunity Site in the City’s Housing Element. While the City Attorney concurs, there are currently no standards for allowing mixed use in the GM zone. Attachment F compares the proposed project to the standards in effect (using the RM-30 zone for the residential component) for mixed use in the GM zone prior to Council action to delete residential uses in October of 2005. Several areas of noncompliance with zoning under that scenario are identified in Attachment F.

Housing Sites Inventory
The Housing Element of the Palo Alto Comprehensive Plan includes a Housing Sites Inventory identifying potential housing sites most suitable and likely to be developed for residential purposes. Included on this list is a 3.92 acre site, which includes the portion of Page Mill Road north of Park Boulevard (potential public safety building site), and a portion of the subject property. The anticipated zoning of these parcels was RM-40 with a combined dwelling unit yield of 120 units.

The applicant’s project includes three parcels, 195 Page Mill Road (APN# 132-32-003), 2825/2865/2873/2891 Park Boulevard (APN# 132-32-004) and 2901 Park Boulevard (APN# 132-32-005) for a total of 2.41 acres. Of these three parcels, the approximately .81 acre parcel at 2901 Park Boulevard is not on the Housing Sites Inventory. It is unclear whether housing would be allowed on this portion of the site, but staff believes that it may be appropriate based on an earlier (2004) City-initiated rezoning to RM-40, which was never adopted. The remaining two parcels that are on the Housing Sites
Inventory List are a total of approximately 1.56 acres, which would yield 62 dwelling units under RM-40 zoning regulations.

Housing Law (Senate Bill 1818)
The applicant has requested a concession under SB 1818. Senate Bill 1818 amended the State density bonus program and became effective on January 1, 2005. The relatively new law requires cities to offer incentives or concessions to encourage the construction of affordable housing (allowances for mixed use, increased FAR or height, reductions in parking, setbacks, open space, etc.) based on the percentage of affordable units in a development. The law specifies that:

- One incentive or concession is to be granted for projects with at least 10 percent of the total units for lower income households;
- Two incentives or concessions are to be granted for projects that include at least 20 percent of the total units for lower income households;
- Three incentives or concessions are to be granted for projects that include at least 30 percent of the total units for lower income households.

The project would include 17% of the total residential units as below market rate (BMR) units. Given the provisions of SB 1818, the applicant may be eligible for one concession based on the number of affordable housing units proposed. However, the City of Palo Alto (as well as most cities), has not adopted a policy or program to identify what concessions or incentives are appropriate and the level of discretion available to the City upon review. The applicant’s request for concessions under SB 1818 is not, in staff’s estimation, sufficient to support the project under SB 1818, particularly since at least two concessions (mixed use, FAR, and setbacks/daylight plane exceptions) would be needed. SB 1818 also allows a city to require financial information and analysis to demonstrate that the concessions are needed to provide for the affordable units. The applicant has provided an analysis that lacks specific comparable costs and revenues, as well as a capitalized income/loss stream for the project. Staff recommends that no project be approved under SB 1818 without the Council’s review of the project.

Pedestrian Transit Oriented Development
The proposed project is located within the boundaries of the recently approved PTOD Combining District. Staff has recommended that the applicant revise the project to comply with the PTOD criteria, which would accommodate the residential density, but would reduce the non-residential portion of the project by half. The intent of the PTOD is to foster densities and facilities that support concepts such as the use of public transportation, streetscape design elements that are attractive to pedestrians and bicyclists, and project design that achieves an overall context-based development for the PTOD overlay area. When the Planning and Transportation Commission recommended approval of the PTOD, they expressed their expectation that this project would conform to the PTOD standards. Attachment G compares the project to the standards adopted by the Council for the PTOD zoning.

On July 24, 2006, the City Council adopted, on first reading, the recommended PTOD Combining District and criteria for context-based design. Second reading of the
ordinance occurred on September 11, 2006, and the ordinance became effective on October 11, 2006. On September 11, 2006, the City Council directed staff to initiate PTOD zoning for the subject property. The Planning and Transportation Commission was scheduled to consider the rezoning on October 11, 2006, and Council consideration of the zoning is tentatively set for November 13, 2006.

**RESOURCE IMPACT**

The proposed project will generate additional General Fund revenues in the form of development impact fees and additional property taxes, sales taxes, and utility user taxes.

One-time development impact fees are estimated at $659,400. Additional annual revenues would include property taxes, sales taxes, and utility user taxes.

First, the owner estimates that after the improvements are complete, the property will be valued at $50 million or $40 million more than its 2006 assessed value. This represents a $36,000 increase in annual City property tax revenues. Furthermore, the residents of the property, along with the employees in the Research and Development portions of the building, are expected to make purchases that will add in the range of $14,000 to $16,000 in annual sales tax revenues, as well as $12,000 to $14,000 in additional utility user tax revenues to City coffers. That brings the total annual revenue impact to between $62,000 and $66,000.

On the expenditure side, the project would create 84 new residential units – with a combined total of 125 bedrooms – to the City housing stock. This will create new demands for City services such as Community Services, Planning, Police and Fire. Development impact fees for Community Services and the Library departments are designed to cover the incremental facility needs of the new residents. Generally, service fees in Community Services and Planning are designed to recoup operating expenses associated with, for example, the delivery of classes, sports programs, plan reviews, and project permits. Police and Fire services to the Palo Alto community, however, are paid by the General Fund (GF). Although the incremental impacts of this project alone are not expected to require additional GF staffing, when all projects under consideration, such as this project, 901 San Antonio, and Hyatt Rickey’s, come on line, the cumulative impact may require additional staffing for services.

**ENVIRONMENTAL REVIEW**

An initial study was prepared for this project but was not circulated, as the staff recommendation to the Architectural Review Board was for denial of the project based upon the project’s deficiencies with respect to the existing zoning of the property. If the Council determines that the project should be scheduled for a public hearing, staff should also be directed to prepare a Mitigated Negative Declaration prior to final Council action.
ATTACHMENTS
A. Director’s Denial letter dated September 15, 2006.
C. Location map of subject property.
D. Letters from the applicant.
E. Project conformance with GM and RM-30 District Regulations (prepared by staff).
F. Project conformance with the California Avenue PTOD (prepared by staff).
G. PTOD Ordinance (PAMC 18.66).
H. Verbatim minutes of the September 7, 2006 ARB meeting.
I. Major ARB staff report dated June 1, 2006 (without attachments).
K. Project Plans (Council Members Only).

COURTESY COPIES:
Hoover Associates        James Janz
Courthouse Plaza Company  Suzanne Bayley