TO:        HONORABLE CITY COUNCIL

FROM:      CITY MANAGER        DEPARTMENT:      PLANNING &
                        COMMUNITY ENVIRONMENT

DATE:      NOVEMBER 20, 2006    CMR: 418:06

SUBJECT:   195 PAGE MILL ROAD, 2825, 2865, 2873, 2891 & 2901 PARK
            BOULEVARD [05PLN-00281]: 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. ENVIRONMENTAL REVIEW: A MITIGATED
            NEGATIVE DECLARATION HAS BEEN PREPARED.

RECOMMENDATION
Staff recommends that the City Council uphold the Director of Planning and Community
Environment’s decision to deny the Major Architectural Review Board (ARB)
application, finding that zoning ordinance requirements are not met, as outlined in the
Draft Record of Land Use Action (Attachment A).

BACKGROUND
On October 16, 2006, the City Council considered whether to schedule an appeal by
Courthouse Plaza of the Director of Planning and Community Environment’s denial of
the project as described in the October 16, 2006 City Manager’s Report (Attachment E).
The Council removed the item from the Consent Calendar and scheduled it for a public
hearing so that the Council can more fully consider the project prior to action on the
application.

Project History
Development proposals and applicable regulations for this site over the past two years are
outlined below:
• September 30, 2004 – City Council denied a Planned Community (PC) application for a four-story, research and development and residential mixed use building, including 45,115 square feet of research and development space and 2,000 square feet of retail on the ground floor, three levels of residential apartments totaling 177 units, and subterranean parking.

• July 7, 2005 – Architectural Review Board (ARB) reviewed a Preliminary Major ARB application by the applicant of the revised project for 84 residential units and 50,467 square feet of nonresidential development. The project was subject to GM(B) regulations in effect at the time.

• August 4, 2005 – Application by Courthouse Plaza Company for major ARB review of the revised project.

• October 11, 2005 – City Council revised the zoning ordinance to remove the “B” overlay from the General Manufacturing (GM) zone district and to prohibit all housing and mixed-use (residential and nonresidential) development as permitted uses. However the Council allowed this project to proceed under the GM(B) zoning since it was submitted prior to the zone change.

• September 7, 2006 – ARB recommended approval of the project with conditions to the Director of Planning and Community Environment, with regard only to project design, not zoning compliance (pursuant to GM zoning, as requested by the applicant).

• September 11, 2006 – City Council adopted the Pedestrian and Transit Oriented Development (PTOD) Combining District. The PTOD regulations became effective on October 10, 2006.

• September 15, 2006 – The Director of Planning and Community Environment denied the project based on noncompliance with zoning criteria (Attachment D).

• September 27, 2006 – Director’s decision appealed by the applicant.

• October 16, 2006 – Appeal request considered by the Council. Council removed the item from the Consent Calendar and scheduled it for a public hearing.

More detailed background information and discussion of project issues are found in the October 16, 2006 CMR (Attachment E).

**DISCUSSION**
The staff’s recommendation for denial of the project is based on noncompliance with the following zoning provisions:
- Mixed use development (research and development w/residential) is not permitted in the GM (General Manufacturing) zone district.
• The project exceeds the allowable Floor Area Ratio (FAR) permissible within the GM zone district.
• Justification provided for the parking reduction request is insufficient.
• The Design Enhancement Exception findings for the requested exceptions from code regulations related to height, daylight plane, setbacks, and lot coverage are not supported by the project design. In particular, adequate transitions to Alma Street are not provided. The massing of the 451-foot long, 3-story wall should be mitigated with vertical relief and horizontal height variations. Also, the Park Boulevard frontage is not designed as a pedestrian-oriented façade, i.e., with frequent door openings, awnings, and street furniture.

Since housing is not a permitted use in the GM zone district, there are no residential development standards applicable to the proposed residential portion of the development. The project site was identified as a housing opportunity site in the Housing Element of the Comprehensive Plan with an anticipated RM-40 zoning. Therefore, staff has applied RM-40 height, setback, coverage, and daylight plane criteria along with the base GM zoning developments standards to the project. The project would not conform with the development standards as depicted in Attachment B.

Housing Law (Senate Bill 1818)
The applicant has requested a development concession under Senate Bill 1818. This 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.

The applicant maintains that an allowance for mixed-use and additional floor area should be combined into one concession. It is the opinion of the City Attorney and Planning Director that separate concessions would be necessary for each, therefore requiring that at least 20 percent of the total units be set aside as affordable units for below income households. Additional concessions would be required for the parking reduction and the Design Enhancement Exceptions, unless they can be approved on their merits.
Alternative Design

Staff has met with the applicant, his architect, and his attorney to offer an alternative proposal that would not require compliance with Pedestrian Transit Oriented Development (PTOD) District regulations, but which would embody some of the PTOD design concepts for addressing building mass, transitions, and streetscape design. Such an alternative would also allow the City to approve the zoning in conjunction with SB1818 provisions (20% BMR component). Similar suggestions have been offered by staff previously over the past year, but the applicant has chosen not to revise plans accordingly. Components of the alternative design include:

a. **Mixed-Use/Floor Area Ratio**
   The project shall include 20% of the total number of residential units as below market rate units to qualify for two concessions (mixed use and FAR) pursuant to SB1818.

b. **Request for Parking Reduction**
   To justify the applicant’s request for the parking reduction, the following additional information shall be submitted for review and approval by staff prior to final ARB review and issuance of building permits:
   - A parking study demonstrating time-of-day parking for the different land uses; as well as documenting that the reduced parking request is justified and that “shared” spaces will be available to accommodate the parking demand.
   - A Transportation Demand Management Plan (TDM) program indicating measures to be implemented and enforced to encourage use of transit or other non-vehicular transportation modes for residents and employees of the site.

c. **Design and DEEs**
   To address design concerns about the 451-foot long, 40-foot high wall along the Alma Street frontage and pedestrian-oriented streetscape design along Park Boulevard, the project shall be redesigned to include the following:
   - The rear wall of the building is to be redesigned to conform to the PTOD daylight plane along the Caltrain right-of-way (16 foot height and 1:1 slope, see Attachment C diagrams).
   - The rear of the building is to be redesigned to include at least two breaks in the 451-foot continuous wall at 3 stories, with minimum 50 foot sections of wall height not to exceed 25 feet in height (see Attachment C diagrams). Similar breaks should be provided along the Park Boulevard frontage.
   - The Park Boulevard frontage is to be redesigned to provide a commercial pedestrian-oriented façade with frequent door openings, awnings, and street-furniture (see Attachment C diagrams).

If the Council chooses to approve the modified project as outlined in the Alternative Design, staff will prepare a Record of Land Use Action for consideration on a future Consent Calendar.

**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.

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 add 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. While quantification of the expenses for an individual project is difficult to project due to the incremental nature of service delivery costs, staff notes that development impact fees for Community Services and the Library Departments are designed to cover the incremental facility needs of the new residents. Similarly, service fees in Utilities, Community Services and Planning are designed to recoup operating expenses associated with, for example, the delivery of utility services, classes, sports programs, plan reviews, and project permits. Police and Fire services to the Palo Alto community, however, are paid by the General Fund, as are Public Works (roadway and drainage improvements) and general government services. Although the incremental impacts of this project alone are not expected to require additional General Fund staffing, when all recent projects under consideration, including, 901 San Antonio and Hyatt Rickey’s, come on line, the cumulative impact may require additional staffing for services. The costs of such cumulative impacts will be reviewed in a broader study or in the context of the upcoming Comprehensive Plan Amendment.

ENVIRONMENTAL REVIEW
The proposed project is subject to environmental review under provisions of the California Environmental Quality Act (CEQA). An Environmental Impact Assessment was prepared for the project. It was determined that the project could have potentially significant aesthetic, noise, traffic, and hazardous materials impacts. A Mitigated Negative Declaration has been prepared and is included as Attachment F. The document was available for public review and comment during a 20-day inspection period beginning November 1, 2006 to November 20, 2006. Comments from the applicant are expected prior to the Council meeting, but no other comments have been received by staff prior to preparation of the CMR. No action is required for the environmental document if the project is denied. If the project is approved, mitigation measures related to Aesthetics may need to be deleted or revised prior to adoption of the Mitigated Negative Declaration.