Summary Title: 1050 Page Mill Road - EIR review for four new office buildings


From: Jodie Gerhardt, Interim Planning Manager

Lead Department: Planning & Community Environment

Recommendation
Staff recommends that the Planning and Transportation Commission (P&TC) hold a public hearing and review the Draft Environmental Impact Report (DEIR) for the proposed project at 1050 Page Mill Road and provide questions and comments for inclusion in the Final EIR.

Executive Summary
The P&TC is requested to review and provide comments regarding the DEIR for inclusion in the Final EIR, which will be reviewed by the City Council along with the proposed project. The project includes the redevelopment of the existing 13.5-acre lease parcel with four two-story office buildings with one level of below grade parking under each building. The four new buildings with the same total floor area as the existing structures would be placed around the perimeter of the site, leaving a landscaped central plaza area. As noted in the DEIR, implementation of this project would result in significant environmental impacts that can be mitigated via mitigation measures that are proposed for inclusion as conditions of approval. All substantive comments on the Draft EIR will be responded to in a Final EIR, which must be certified prior to any final decision on the project.
P&TC Commission Purview
The P&TC Commission’s role is to review and consider recommending certification of the Final EIR when it is completed. To facilitate this role, the Commission is being asked to provide questions and comments regarding the Draft EIR, so that these can be included and addressed in the Final EIR. The ARB has already recommended approval of the ARB application with recommended changes and clarification of the allowed FAR (floor area ratio) based on the DEIR, but no final decision can be made to approve the project until the Final EIR is completed and certified. Also, the ARB focus is on the ARB findings, to ensure good site design, landscaping and building design, and the sustainability of the project. The Commission’s focus is on the environmental document.

Background
To initiate the EIR process, the City circulated a Notice of Preparation (NOP) and Initial Study (IS) (available online at http://www.cityofpaloalto.org/planningprojects) to solicit agency and public comments on the scope of the environmental analysis to be included in the EIR. The Initial Study concluded the project could have potential impacts on the environment, and therefore further study was needed in the form of a DEIR. The topics identified in the study as having potential impacts are Air Quality, Biological Resources, Hazards and Hazardous Materials, Noise, and Transportation and Traffic. On November 20, 2014, a scoping meeting was held at the ARB hearing to inform the public that the City was beginning preparation of the DEIR for the redevelopment of the subject property.

Architectural Review
The ARB conducted a preliminary review of the conceptual project design on December 3, 2013. The five public speakers for this item expressed concerns about 1) vehicular traffic on California Avenue, 2) construction activities/traffic from all new development in the area, 3) incorporation of pathways for bikes and pedestrians, 4) connectivity to public transportation, 5) allowed floor area ratio, and 6) alignment of a spine road to break up the Research Park super-blocks.

On July 30, 2015 the ARB reviewed the formal project and the DEIR. A copy of the staff report can be viewed at https://www.cityofpaloalto.org/civicax/filebank/documents/48290. The ARB voted unanimously to recommend approval of the project with certain items to return to the ARB subcommittee for review. Those items included additional information about bike parking to ensure they are conveniently located, details of any perimeter fencing, railing details, roof screen material details, ensure convenient pedestrian and bike circulation throughout the site and onto other sites, and the addition of a TDM condition as offered by the applicant.

The ARB discussed and heard comments from concerned residents about the project’s floor area and suggested this aspect of the project be fully vetted before any approvals are granted.¹

¹ In response to the floor area concerns raised by the public, the applicant submitted a letter included as Attachment A. Staff is analyzing this issue and will prepare a written analysis to be further discussed at the Council
**Site Information**

The project site, located within the Stanford Research Park, is rectangular in shape and has an area of approximately 587,363 square feet (sf). The site fronts on to Page Mill Road and currently has access to California Avenue via a driveway easement through 1117 California Avenue. A location map showing the subject site and surrounding properties is contained in the plan set. The property is currently occupied by four structures totaling 265,895 sf of floor area with the front building along Page Mill Road currently occupied by Machine Zone. The existing parking lot contains 564 automobile parking spaces; less than currently required by the Municipal Code.

The site has a Comprehensive Plan land use designation of Research/Office Park and a zoning designation of Research Park (RP) district. The Research/Office Park land use designation allows office, research, and manufacturing establishments whose operations are buffered from adjacent residential uses. The RP zoning district allows a limited group of research and manufacturing uses that may have unusual requirements for space, light, and air.

The project site is surrounded by existing Research and Development (R&D) uses, with the exception of the Mayfield Fire Station #2 located to the south along Hanover Street. Across Page Mill Road to the east, the buildings contain additional research and manufacturing uses.

**Project Description**

The project includes demolition of four existing buildings and storage structure, totaling 265,895 square feet of floor area, historically used for offices and R&D, as well as construction of four two-story office buildings totaling 265,895 square feet with associated site improvements on a 13.5 acre lease parcel. The four buildings are proposed to be placed around the edge of the site, leaving a landscaped central plaza area that would include seating and pedestrian walkways. The plans are available at the City’s website: [http://www.cityofpaloalto.org/planningprojects](http://www.cityofpaloalto.org/planningprojects)

The applicant is currently targeting Leadership in Energy and Environmental Design (LEED) Platinum status for the project with the inclusion of photovoltaics covering all roofs to generate 150,000 kilowatt-hours (kWh) per year.

Primary access would be from Page Mill Road at Hansen Way, a signalized intersection. Currently access is also provided to California Avenue, northwest of the site, through a connecting parking lot at 1117 California Avenue. The proposed project would maintain this connection; however, access between the adjoining parking lots would be limited by installation of an arm gate at the connection point. This arm gate would be controlled by access cards that

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in connection with the entitlement discussion. Analysis of the FAR issue requires some additional historical research and it is likely this research will not be completed prior to the Commission’s hearing on the Draft EIR. It should also be noted that the analysis prepared in Attachment A was prepared by the applicant and staff intends to do further independent analysis.
would be issued only to employees and visitors of 1117 California Avenue. Therefore, Page Mill Road would serve as the single point of ingress/egress to the 1050 Page Mill Road project site.

The proposed project includes 348 automobile parking spaces around the perimeter of the site, as well as below-grade garage parking spaces in each building (539 garage spaces) for a total of 887 automobile spaces. The project would also provide 101 bicycle parking spaces.

Environmental Review
City staff has worked with our environmental consultant, Dudek, to prepare a Draft Environmental Impact Report (DEIR) that analyzes the project for potential environmental impacts in accordance with the California Environmental Quality Act (CEQA) (Attachment B). The applicant has submitted the technical documents necessary for CEQA review, including a traffic impact analysis, Phase I environmental report, Phase II environmental report, acoustical report, biological resource assessment, arborist report, and an air quality, greenhouse gas, and construction health risk assessment. All of these documents are included in the EIR appendices. The technical reports were reviewed by Dudek (and TJKM in the case of the traffic impact analysis) to verify that appropriate methods were used and to confirm that the technical reports provide substantial evidence to support the findings regarding the project’s potential environmental effects.

A Notice of Preparation (NOP) of an Environmental Impact Report (EIR) was posted on November 6, 2014. The NOP was mailed to the State Clearinghouse for distribution to state agencies, as well as Recorded with the County of Santa Clara. The City received four written responses during the NOP 30-day response period, from the California Department of Transportation, the County of Santa Clara Roads and Airport Department, the Native American Heritage Commission, and from an individual representing the College Terrace Residents’ Association. Verbal comments were received from four individuals during the scoping session held by the ARB. Copies of these comments are included in Draft EIR Appendix A).

The City began the environmental analysis with an Initial Study which is available online at http://www.cityofpaloalto.org/planningprojects. The environmental analysis determined that the project could have a significant impact on the environment, which triggered the requirement to prepare an EIR. The five environmental topics covered in the DEIR are Air Quality, Biological Resources, Hazards and Hazardous Materials, Noise, and Transportation and Traffic.

The City has prepared a DEIR to provide the public and responsible agencies information about potential adverse effects on the local and regional environment associated with the proposed project. The DEIR is provided as Attachment B for Board Members and may be viewed on the City’s website at http://www.cityofpaloalto.org/planningprojects. The 45 day public comment period on the DEIR began on July 24, 2015 and runs through September 8, 2015. The public is invited to comment on the DEIR at this time. All substantive comments received during the
The following discussion briefly describes four sections of the Draft EIR: (1) The baseline conditions; (2) A summary of potentially significant impacts; (3) The project’s effects found to be less than significant; and (4) Alternatives to the proposed project.

**Baseline Conditions**

According to Section 15125 of the California Environmental Quality Act (CEQA) Guidelines, an EIR must include a description of the existing physical environmental condition in the vicinity of the project as they exist at the time when the Notice of Preparation (NOP) is published. However, the CEQA Guidelines also recognize that physical environmental conditions may vary over a range of time, the use of environmental baselines that differ from the date of the NOP is reasonable and appropriate in certain circumstances when doing so results in a more accurate or informative environmental analysis.

At the time the application for the proposed project was submitted to the City of Palo Alto and initial data collection for technical studies began, the existing buildings at the project site were vacant. From the mid-1950s to 2009, Beckman Coulter, Inc. used the site largely for manufacturing with office/research and development in the building that fronts on Page Mill Road. In 2009, Facebook subleased the entire property and the use converted largely to office. Later in November 2014, when the NOP for this Draft EIR was published, a portion of the existing buildings on site were occupied by Google and Nest Labs Inc. However, the buildings had been mostly vacant for at least a couple of years before the Google and Nest Labs leases were signed in late 2013 and early 2014 respectively. These leases ended in January 2015. From August 2014, Machine Zone Inc. has occupied Building 1 for office space. As a result, use of the existing space has varied over time.

Based on historical usage and current square footage configurations, the following land use conditions are used to define the baseline land use conditions at the project site: 67.4% office space, 16.3% manufacturing space, and 16.3% research and development space. While an alternate baseline could have been selected for the analysis, these baseline assumptions are reasonable because they reflect historic use of the site and consideration of the fluctuations in tenancy. Also, the technical analyses that form the basis of the Draft EIR contain sufficient information to allow comparisons between expected conditions with the proposed project and past site conditions.

**Summary of Potentially Significant Impacts**

The Draft EIR identifies potentially significant environmental effects of the project in regards to five issues: Air Quality; Biological Resources; Hazards and Hazardous Materials; Noise; and Transportation and Traffic. The DEIR also analyzed impacts associated with Energy Consumption; however, as discussed below, these impacts were found to be less-than-significant and do not require mitigation.
The following is a brief overview of each issue, the existing setting, the impacts that would result from the proposed project and the mitigation measures recommended in the Draft EIR to lessen the project impacts. The determination of whether an impact would be significant is based on the environmental criteria adopted by the City of Palo Alto. These are presented in the following discussion in italics.

**Air Quality**
The air quality chapter analyzes violations of the City’s air quality standard, which is based on Bay Area Air Quality Management District (BAAQMD) criteria, due to project construction (including demolition). The proposed project is below the operational screening criteria size of 323,000 square feet for an office research park; as such, the project would have a less-than-significant impact related to air quality during operation. While the emissions are anticipated to remain below the Bay Area Air Quality Management District thresholds, all projects are required to implement the District’s standard construction emissions measures to minimize pollutant emissions.

**Impact:** Violate any air quality standard or contribute substantially to direct and/or indirect emissions of criteria air pollutants by emitting more than 54 pounds per day and/or 10 tons per year of nitrogen oxides (NOx), reactive organic gases (ROG), and fine particulate matter (PM2.5), or by emitting more than 82 pounds per day and/or 15 tons per year of coarse particulate matter (PM10). While emissions related to project construction would remain below BAAQMD thresholds, construction would contribute to regional air pollutant emissions.

**Mitigation:** Mitigation is recommended to ensure compliance with emission control measures during project construction consistent with BAAQMD’s Bay Area 2010 Clean Air Plan. In addition to basic emissions control measures, daily use of construction equipment would be limited to 6, rather than 8, hours per day per piece of equipment and diesel particulate filters would be used on construction equipment. (Less Than Significant Impact With Mitigation)

**Biological Resources**
The biological resource concerns of the project relate to migratory birds and bats that could nest and/or forage onsite as well as the existing trees on-site and on adjacent properties. The project includes tree planting and the preparation of a Tree Protection and Preservation Plan in conformance with the City’s tree protection ordinances.

**Impact:** Have a substantial adverse effect on any species identified as a candidate or special status species in local plans, policies or regulations. There is habitat onsite that could support nesting and/or foraging activities by special-status birds and bats. Construction activities during the nesting season could impact these special-status species.

**Mitigation:** Mitigation is recommended to include pre-construction surveys be submitted to the City by a qualified biologist to determine if there are active bird nests, bat roosts, or bat maternal colonies on the project site. If an active nest is identified, the biologist shall consult
with CDFW to determine if construction activities would affect the nest. If construction would disturb the special-status species, construction-free buffer zones will be established around the nest. This procedure would ensure that project construction would not disturb the reproductive behavior of special-status species. (Less Than Significant Impact With Mitigation)

Hazards and Hazardous Materials
The hazardous material concerns on the project include the on-site potential for release of hazardous materials during demolition and construction (i.e., asbestos, lead, contaminated soils). The project’s use of hazard substances and wastes during construction is also analyzed. The effects of the contaminated ground-water plume that underlies the project site on indoor air quality within the proposed buildings is also evaluated.

**Impact:** Create a significant hazard to the public or environment through routine transport, use, or disposal of hazardous materials; create significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment; be located on a site which is included on a list of hazardous materials sites; create a significant hazard to the public or environment from existing hazardous materials contamination. Hazardous materials, including fuels for machinery, paints, and other construction materials, would be used during project construction. Given the age of the existing buildings there is a potential for asbestos containing materials or lead-based paint within the structure. Localized areas of soil and groundwater below the existing buildings impacted by VOCs and/or petroleum hydrocarbons associated with the former building tenant and up-gradient facilities could be exposed during project construction and/or could pose a potential vapor intrusion risk for the underground parking garages.

**Mitigation:** Requirements for construction waste disposal and inspection by City staff are included as mitigation. The mitigation requires the project applicant to consult with the City’s Public Works Department and hazardous material consultants to amend the Soil Management Plan to address the presence of VOCs and TPH contamination. The mitigation also requires that an environmental specialist be retained to analyze the existing buildings for hazardous building materials prior to demolition, construction workers be familiarized with the Soil Management Plan, preparation of a scope of work for asbestos abatement, and the inspections and verifications by the City and BAAQMD. Workers involved in demolition will be required to comply with state and federal regulations related to LCM and ACM handling and disposal. The project applicant/construction contractor will prepare a dewatering plan and groundwater extraction design plans, which will be reviewed by the City’s Public Works Department, to ensure proper testing and treatment of groundwater potentially impacted by VOCs. A waterproofing/vapor barrier membrane will be included in the building plans to prevent the migration of vapor from groundwater into the indoor air of the basement parking garage, and the project applicant shall sample VOC concentrations to ensure VOC concentrations in the basement are below levels harmful to health. (Less Than Significant Impact With Mitigation)

Noise
Noise impacts associated with the project include exposing people to and generating noise levels beyond what is considered acceptable under City standards, including an increase in noise levels above those existing without the project. Both non-transportation and transportation sources of noise levels are analyzed. Noise levels generated during construction are also discussed, though these noise levels would comply with the City’s construction noise ordinance.

**Impact:** Expose people to or generate noise levels in excess of standards established in the local general plan or noise ordinance or applicable standards of other agencies; generate a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project. Employees of the proposed building could be exposed to noise levels that exceed CALGreen standards due to proximity to nearby roadways. While noise impacts from traffic, parking lot activity, and deliveries would remain below the City’s thresholds of significance, noise levels from the proposed HVAC units could potentially expose employees of the proposed building and nearby residents to noise levels in excess of CALGreen requirements or noise levels that are more than 8 decibels above the ambient levels, respectively.

**Mitigation:** The Draft EIR recommends mitigation measures that set performance standards for the proposed buildings’ windows, walls, and rooftop mechanical equipment that would ensure protection of employees and nearby residents from adverse noise exposure. (Less Than Significant Impact with Mitigation)

**Transportation and Traffic**

The transportation impacts of the project include the addition of vehicle trips to intersections without adequate queue lengths. The transportation section also analyzes the addition of vehicle trips to existing intersections in the project vicinity but does not find significant decreases in level of service or significant increases in the V/C ratio. The provision of bicycle and vehicle parking onsite was reviewed for conformance with City policy. There is also a discussion regarding emergency vehicle access during both construction and operation of the proposed project. The transportation section also discusses the project’s site access by vehicles, bicycles and pedestrians.

**Impact:** Inadequate emergency access; cause queuing that exceeds queue storage capacity and interferes with traffic operations. The proposed project does not cause a significant impact to the level of service at any nearby intersections. However, the project does have significant impacts related to intersection queuing; mitigation is provided to ensure improvements are made to reduce these queues to less-than-significant levels. During operation, the project would have adequate emergency access; however, mitigation is provided for temporary impacts to emergency access, which could occur during construction.

**Mitigation:** Mitigation requires the project applicant to construct improvements and/or provide fair share allocation of funds necessary to construct improvements to intersections with adverse queuing impacts. The project includes adequate parking on-site for autos and bicycles.
The project applicant will prepare a Construction Traffic Management Plan to address construction traffic and staging in order to maintain safety for roadway users and ensure emergency access to the project site. (Less Than Significant Impact with Mitigation)

**Energy Consumption**

Impacts related to energy consumption analyze the use of electricity, natural gas, and fuel (diesel and gasoline) during project construction and operation due to temporary construction equipment use, daily building operations, and project-generated traffic. The installation of photovoltaic solar panels for generation of electricity during project operation was also considered in the energy consumption analysis.

The City does not have established criteria for analyzing a project’s impact on energy consumption. Appendix F of the CEQA Guidelines includes recommendations for the types of information and potential energy impacts that should be included in an EIR. Appendix F stresses that a project should avoid or reduce inefficient, wasteful, and unnecessary consumption of energy. Energy consumption was analyzed in reference to federal, state, and local standards for energy efficiency (including Title 24 of the California Code of Regulations). Project energy consumption was also compared to the energy consumption of project alternatives.

**Impact:** Cause a temporary increase in wasteful, inefficient, and unnecessary energy consumption due to construction; cause a permanent increase in wasteful, inefficient, and unnecessary energy consumption or fail to comply with state and federal energy standards; the proposed project objectives could be achieved through a feasible alternative that would substantially reduce the amount of energy required over the life of the project or through a feasible alternative that would include use of alternative fuels or energy systems. Fuel consumption during construction would be minimal relative to regional fuel consumption and would be commensurate with typical construction projects. To the extent practicable, the project would be constructed using recycled and regional materials and/or materials minimizing the amount of “embodied energy”. This would be consistent with the project objective of constructing the project to meet LEED Platinum standards. The project would comply with CALGreen requirements. Inclusion of bicycle parking onsite and the installation of photovoltaics on building roofs would reduce the project’s dependence on non-renewable energy sources. No project alternatives have been identified that would substantially reduce energy demands or improve energy efficiency associated with the proposed project.

**Mitigation:** The project would not have any potentially significant impacts associated with energy consumption; therefore, no mitigation measures are required. The project’s standard design features and objectives would ensure project energy consumption would not be wasteful, inefficient, or unnecessary. (Less Than Significant Impact)

**Significant and Unavoidable Impacts**

The analysis of the Draft EIR concludes that the implementation of the proposed project would not result in any significant unavoidable impacts. The project would have potential significant
air quality, biological resources, hazardous material, noise, and traffic impacts. However, the project includes mitigation that would reduce these impacts to less-than-significant level.

**Effects Found to be Less Than Significant in the Initial Study**

In the Initial Study prepared by Dudek as the first step in CEQA analysis, the City found the following environmental issues to be less than significant. Discussion of these issues can be found in Chapter 6 of the Draft EIR (Attachment B).

- Aesthetics
- Agricultural and Forestry Resources
- Cultural Resources
- Geology, Soils, and Seismicity
- Greenhouse Gas Emissions
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Population and Housing
- Public Services
- Recreation
- Utilities and Service Systems

**Project Alternatives**

Section 15126.6 of the CEQA Guidelines requires that an EIR describe a reasonable range of alternatives to the proposed project that could feasibly attain most of the project objectives and would avoid or considerably reduce any of the significant impacts of the proposed project. In addition, the no project alternative must be analyzed in the document. A brief description of each alternative to the proposed project is discussed below. Chapter 5 of the Draft EIR includes a more detailed description of the three project alternatives and their potential impacts.

**Alternative 1 – No Project Alternative**

The no project alternative would leave the site as it currently exists. The existing four buildings totaling 265,895 square feet of general office and research and development space would remain, as would the surface parking for 564 cars. No demolition or construction would occur. The parking lot connection to California Avenue would remain open. The No Project Alternative would not achieve the project objectives but would avoid the impacts of the proposed project.

**Alternative 2 – Reduced Project Alternative**

The reduced scale alternative would consist of redevelopment similar to the proposed project, but new building space on site would be limited to 225,000 square feet rather than the proposed 276,640 square feet. Parking would be slightly reduced consistent with the City’s parking requirements. This alternative would likely result in a greater amount of landscaped area onsite. This alternative would reduce but not avoid the project impacts related to air quality, hazards, and traffic and could reduce impacts related to noise depending on the site
design. However the impacts would still occur and implementation of the mitigation measures identified in the Draft EIR would still be needed. This alternative would satisfy several of the project objectives.

**Next Steps**

In October or November of this year, the P&TC will formally review the project a second time and make a recommendation on the Final EIR to the City Council. The City Council will then certify the Final EIR and take final action on the project in November 2015.

**COURTESY COPIES**

Allison Koo, Sand Hill Property Company  
Bob Giannini, AIA, Form4 Architecture, Inc.  
Margit Aramburu, College Terrace

Attachments:

- Attachment A: Applicant response to FAR questions (PDF)  
- Attachment B: Environmental Impact Report (hardcopies to P&TC, libraries and staff) (PDF)
August 3, 2015

Jodie Gerhardt, Senior Planner
Department of Planning and Community Environment
City of Palo Alto
Planning Commission Members

Re: Planning Commission Review of EIR regarding ARB Approval of 1050 Page Mill

Dear Ms. Gerhardt and Planning Commissioners:

On August 12, 2015 the Planning Commission will have the opportunity to review the Environmental Impact Report ("EIR") pertaining to the review by the City's Architectural Review Board of an application for architectural review by 1050 Page Mill Road Property LLC, as the applicant, regarding the redevelopment and replacement of the existing buildings located at 1050 Page Mill Road.

On July 30, 2015, the Architectural Review Board ("ARB") formally approved the design of 1050 Page Mill subject to minor design items to return to an ARB Subcommittee, and, subject to both: (i) City Council future certification of the EIR for the project; and (ii) City Council future confirmation that the Gross Building Area of the project of 265,895 square feet of replacement building area as presented by the Applicant and the Planning Department is fully compliant with Section 18.70.100(c) of the City's Zoning Code.

The project as described in the EIR is for a replacement of existing building of 265,895 square feet on the project site with four new buildings of the same square footage of 265,895 square feet. There is a proposed addition of "amenity space" of 10,745 square feet, which "amenity space" is allowed beyond allowable square footage pursuant to Section 18.04.030(65)(B)(v) of the City's Zoning Code.
The text of Section 18.70.100(c) of the City's Zoning Code reads as follows:

18.70.100. A noncomplying facility which is damaged or destroyed by any means except ordinary wear and tear and depreciation may be reconstructed only as a complying facility, except as follows:

. . . . .

(c) Notwithstanding subsections (a) and (b) hereof, a noncomplying facility in the commercial CS, CN and CC zones and the industrial MOR, ROLM, RP and GM districts, except for those areas designated as special study areas, existing on August 1, 1989, which when built was a complying facility, shall be permitted to be remodeled, improved or replaced in accordance with applicable site development regulations other than floor area ratio, provided that any such remodeling, improvement or replacement shall not result in increased floor area. (Emphasis added.)

As stated in the City's Staff Report for the ARB hearing held on July 30, 2015, the gross square footage of the existing building is 265,895. The proposed replacement buildings, other than any authorized amenity space, do not exceed this existing square footage.

The project, as a replacement of the existing 265,895 square feet, with no increased floor area other than the amenity space described in the EIR1, which is excluded from Gross Floor Area under the City's ordinances. The project, therefore, fully complies with Section 18.70.100(c).

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1 Section 18.04.030(65)(B)(v) of the City's Zoning Code, as to Gross Floor Area states that Gross Floor Area shall not include, for all zoning districts that are not residence districts, the following:

. . . . . (v) In commercial and industrial districts except in the CD District and in areas designated as special study areas, additions of floor area designed and used solely for on-site employee amenities for employees of the facility, approved by the director of planning and community environment, upon the determination that such additions will facilitate the reduction of employee vehicle use. Such additions may include, but are not limited to, recreational facilities, credit unions, cafeterias day care centers, automated teller machines, convenience stores, and dry cleaners.
Jodie Gerhardt, Senior Planner  
Department of Planning and Community Environment  
City of Palo Alto  
Planning Commission Members  
August 3, 2015  
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This right of replacement of a commercial building is code driven, and has been implemented over the years consistently by the City. As recently as 2013 and 2015 this right was granted for 1400 Page Mill, which is a replacement commercial building of 0.431 FAR now finalizing construction that exceeds the current 0.4 FAR for a commercial building. The statements in the City’s Negative Declaration for 1400 Page Mill, dated August 1, 2013, that discusses the application of Section 18.70.100(c) to 1400 Page Mill, are also applicable to 1050 Page Mill.

Sincerely yours,

David M. Van Atta

cc: Jim Baer  
Peter Pau and Allison Koo, 1050 Page Mill Road Property LLC
Re: ARB Approval of 1050 Page Mill Design With Conditions

On July 30, 2015, the Architectural Review Board formally approved the design of 1050 Page Mill Road (1050 PMR) subject to minor design items to return to an ARB Subcommittee, and, subject to: (i) certification of the EIR for the project; and (ii) confirmation that the Gross Building Area of the project as presented by the Applicant and the Planning Department is fully compliant with the Zoning Code Title 18.70.100(c).

Zoning Code 18.70.100(c) specifically grants the Applicant the right to preserve the full, lawful existing building area, even though such area now exceeds the Gross Building Area that would be allowed under current zoning, provided that the new replacement building otherwise complies with all of the Site Development Standards, other than FAR, within the RP Zone District in which 1050 Page Mill is situated. This standard has been applied between 2013 and 2015 and most recently for 1400 Page Mill Road, which is a commercial building now finalizing construction of a replacement building of 0.431 FAR that exceeds the current 0.4 FAR for a commercial building. The City’s Negative Declaration for 1400 Page Mill cites 18.70.100(c) as applicable to 1400 Page Mill, and the same code is also applicable to 1050 Page Mill granting the right to preserve the full existing building area.

You will receive, in addition to this non-legalistic letter, a companion letter from David Van Atta (legal counsel for the Applicant) that discusses the application of the City’s zoning code and the legal right of the Applicant to replace the entire area of 265,895 square feet of the existing buildings with the proposed replacement buildings of the same size.

The purpose of this letter is to discuss the long-standing, and consistently applied, policy that allows replacement of the full Gross Building Area of an existing building even if such area exceeds the Gross Building Area that would be allowed under the current zoning for such property.

There are three fundamental principles for allowing an existing building to be replaced by a building of the same size.
1. Property Rights.

When the City changes zoning or any other land use rules, an existing building(s) cannot be compelled to eliminate a portion of that building(s) to reduce FAR in order to comply with a new, lower FAR under new zoning. To compel reduction of the area of an existing building would be an unlawful “taking” of property under the United States and California constitutions.

The City has never taken an action to require reduction of the area of a commercial building (in any zone district governing any commercial property) because of reduced FAR under new zoning. There is not precedent where a replacement is required to reduce its existing FAR in order to comply with a new lower FAR designated under a new zone code provision.

2. Palo Alto’s Zoning Code Does not Compel Property Improvements for Renovation of an Existing Building that are Required for a New Replacement Building.

Were the existing buildings of 265,895 square feet to be renovated rather than replaced, such a renovation would grandfather the use and FAR under multiple Zone Code provisions. The same building area, even though it may be above the new FAR standard, would remain in a building that could be substantially renovated without being required to satisfy some recent design provisions concerning landscape, open space, energy management, and new contextual design standards.

The design of 1050 PMR was lauded by ARB. The design has been distinguished with two international honors: (1) 1050 PMR won a second place award for Commercial Building Concept granted by Re-Thinking the Future; and (2) 1050 PMR was also in a small group of finalists to present to a panel in Singapore at the World Architectural Festival for the opportunity to be considered as a Future Office Project of the Year.

The new buildings will be LEED certified and will feature Photovoltaic panels across the roofs of all 4 buildings. The existing buildings would have no LEED upgrades.

Under Title 18.52, a renovated building is not required to park in accordance with current standards because any parking deficit is grandfathered for a renovated building. A replacement building is not allowed to carry forward or grandfather any existing parking deficit. The existing buildings at 1050 PMR are under parked. The replacement buildings will cure this deficiency by increasing the number of available parking spaces by 300 spaces for a total of 887 parking spaces.

The existing buildings have virtually no open space because most of the site consists of surface parking with inadequate canopy. The replacement buildings create a fine Page Mill frontage and provide a large park, nearly the size of two football fields,
between the four buildings because over half of the surface parking has been relocated to underground garages.

A renovated building is exempt under the California Environmental Quality Act, and so there would be no assembled and circulated consultants reports and, perhaps, no involvement by the City Council. The replacement buildings have undergone a full Environmental Impact Report that will be heard before the PTC and the City Council.

A renovated building would be exempt from any and all traffic mitigations. The City can only impose the proposed significant and costly traffic improvements to Page Mill Road with new buildings.

Further, the existing buildings have known contamination that cannot be remediated until the buildings are demolished since contamination lies beneath the concrete slabs and foundations of the buildings. The new buildings will allow for the Applicant to remediate all existing contamination.

One can see how City policies and legal constraints favor replacement buildings over a renovated building. 18.70.100(c) indicates City support for replacement buildings by preserving their existing FAR.

3. Implement Policies that Benefit the Community.

The 1050 PMR Applicant proposes several conditions to be included as Conditions of Approval for the Project. The ARB included only several of these substantial project and community enhancements. These are voluntary conditions offered by the Applicant because there are no existing codes, laws or regulations for Palo Alto that would compel any of these features. We propose community benefits for (1) progressive transportation programs; and (2) advanced sustainable design features.

The 1050 PMR Project, as a one-for-one replacement project, has no significant transportation or traffic impacts under the California Environmental Quality Act. 1050 PMR has been fully occupied, principally, as professional offices and R&D space since its early development and this use will continue with the proposed new buildings.

The proposed project includes meaningful offerings in support of community policies and goals could not be compelled for renovation of the existing buildings or even for new replacement buildings. The Applicant is offering these improvements in the spirit of advancing City policies and goals, several of which are in the Comprehensive Plan.

The factors that can be compelled for a new replacement building and not for a renovation of an existing building are among the positive inducements to the City for its developers to be allowed new replacement buildings of the same Gross Building Area as the Gross Building Area of existing buildings.
Furthermore, the Applicant offers Progressive Transportation and Sustainable Design features only in conjunction with the development of new replacement buildings that preserve the 265,895 square feet of the 1050 PMR existing buildings.

These features are offered as Conditions of Approval and are set forth below:

(a) **Rooftop Photovoltaic Panels.** Provided that the Feed In Tariff program for Palo Alto remains in effect at the rates as currently offered, 1050 PMR offers, as a voluntary Condition of Approval, the installation of Photovoltaic Panels on the roofs of the four proposed new buildings. We estimate that these panels will generate 400 Kw.

(b) **All Electric Building – No Natural Gas.** Consistent with the City’s 2015 goal to reduce carbon emissions, 1050 PMR offers, as a voluntary Condition of Approval, to power 1050 PMR entirely with electricity. Natural gas will not be used.

(c) **Energy Management Planning and LEED Certification.** The Applicant will participate in the Department of Utilities net Zero Energy Design Review making use of groups such as Base Energy Community Group. The purpose is for 1050 PMR to use the City’s High End Energy Modeling Services to provide design and engineering input to optimize the building’s performance for sustainable design and reduced energy use. In conjunction with these energy modeling services, 1050 PMR, following its completion, will obtain LEED Platinum certification, to further its serving as a role model for Sustainable Design practices.

(d) **EV Charging Stations.** 1050 PMR will provide eight Electrical Vehicle charging stations (the details of which shall be as approved by the Transportation Division) with six in the underground structured parking garages, and two at grade that can be used by a public guest or client of the tenants and occupants of 1050 PMR.

(e) **Comprehensive TDM Plan Without any Parking Reduction.** 1050 ECR will provide a comprehensive Transportation Demand Management Plan to be implemented by the Building Owner and made a condition, through lease covenants, with the new tenants for any tenant with greater than 20 employees. TDM Plans have been, typically, based on a parking reduction of up to 20% of the required parking as allowed under Title 18.52.050(d). However, the Applicant seeks no reduced parking for 1050 PMR recognizing that adequate parking is a primary concern of residential neighborhoods throughout the City. 1050 PMR will provide a comprehensive TDM Plan despite
not seeking or receiving any parking reduction as otherwise allowed under the Zoning Code.

(f) **Public Bicycle Pod.** 1050 PMR will offer the opportunity for a small bicycle pod for parking bicycles that may be used by the public. The City Transportation Division may determine that the 1050 PMR Project is unsuitable for a bicycle pod, but 1050 PMR will offer a location for a bicycle pod if it is useful.

(g) **Zip Car Locations.** 1050 PMR will offer locations for six Zip Cars. Zip Cars are installed based on economic analysis of usefulness by the provider of the vehicles. Applicant will cooperate with any Zip Car agency and the City Transportation Division to provide success Zip Cars for use by occupants of 1050 PMR.

(h) **Bicycle Paths.** 1050 PMR provides extensive bicycle paths on its site to encourage use of bicycles rather than single occupant vehicles. No other project in the Stanford Research Park will have such advanced bicycle planning.

(i) **Gates to Protect California Avenue from Traffic.** 1050 PMR plans to place gates operated by electronic cards on the southern property line so that employees and visitors of 1050 PMR cannot enter or exit 1050 PMR from California Avenue. Under traffic studies, it is determined that these gated features will eliminate as many as 327 vehicle trips per day otherwise headed from the site onto California Avenue.

We hope this memo clarifies that the FAR for 1050 PMR fully complies with Title 18.70.10(c) that respects the property rights of an owner, succeeds with replacement buildings providing many building enhancements not available from merely retaining the existing buildings, and, in the case of 1050 PMR, provides many offered fine transportation and sustainable design beneficial features for the community.

Sincerely yours,

James E. Baer
Attachment B

Environmental Impact Report
(Hardcopies for P&TC, libraries and staff)