

**TO: HONORABLE CITY COUNCIL**

**FROM: JONATHAN LAIT, DIRECTOR**

**DATE: MARCH 8, 2021**

**SUBJECT: PUBLIC HEARING/QUASI JUDICIAL: 1310 Bryant Street (Castilleja): Consideration of Certification of an Environmental Impact Report (EIR) and Applications for a Conditional Use Permit (CUP) Amendment to Increase the Student Enrollment up to 540 Students; a Variance to Replace Campus Gross Floor Area; and Architectural Review of Campus Redevelopment. On March 8 the Council Will Receive Presentations and Public Testimony; the Meeting Will be Continued to March 15 for Council Deliberation and Action - No Public Testimony Will be Heard on March 15. Zone District: R-1(10,000). Environmental Review: Final Environmental Impact Report (EIR) Published July 30, 2020; Draft EIR Published July 15, 2019**

New information has come to staff's attention since the subject staff report was published last week, resulting in a revised staff recommendation.

Staff continues to recommend initiating the public hearing and continuing the item to March 15<sup>th</sup> for Council deliberation. On the 15<sup>th</sup>, staff requests Council feedback on key issues that will influence a final project design, including direction on the subterranean parking facility, student enrollment, and other topics as appropriate. However, instead of making a decision on the project, **staff now recommends the project be remanded back to the Architectural Review Board** to consider a reduction in the project's gross floor area and to review any other project related changes as directed by Council. Review by the Planning and Transportation Commission may also be required depending on the City Council's direction on the garage.

Below is a summary of the new information.

1. Proposed Project Exceeds Existing Site Gross Floor Area

One aspect of the applicant's plans to modernize the campus includes demolishing the existing classrooms and reconstructing them in a new building. The applicant has reported from the outset that it intends to replace existing onsite gross floor area and not add any new gross floor area. This position was reaffirmed by the applicant team this week after staff learned about the error discussed herein.

In 2017, the applicant provided to the City a gross floor area analysis of the existing campus buildings. An error in the applicant's data table allocated 7,000 square feet of below grade, exempt floor area, toward the total amount of above grade gross floor area for the existing classroom building. More specifically, while the data table represented that the existing classroom building had 42,000 square feet of gross floor area, in fact the classroom building has 35,000 square feet of (above-grade) gross floor area and 7,000 square feet of (exempt) basement area. Accordingly, while the table represented that the existing buildings to be replaced totaled 84,572 square feet of gross floor area, in fact the total gross floor area to be demolished is 77,572 square feet. The proposed project plans show a new building consisting of 81,942 square feet. Thus, the proposed project exceeds the existing gross floor area by 4,370 square feet. Based on the applicant's interest to not exceed existing gross floor area, a significant portion of the building requires modification (reduced gross floor area). The applicant anticipates that this revision would take place on the second floor and not affect the first-floor footprint.

While staff verified the applicant's data to building permit and other administrative records, it failed to recognize information included on a 1960s microfiche that breaks down the floor area assignment for the existing classroom building. A resident near Castilleja identified this error, and the second issue discussed below, and alerted staff. Staff is in the process of re-evaluating all reported, existing gross floor area to ensure there are no additional errors.

The amount of gross floor area to be removed is significant in area but a small percentage relative to the overall development. Adjustments to the classroom building adjacent to Kellogg Avenue is expected to introduce more building relief and modulation that may serve to further reduce building mass. Council feedback on the subterranean garage, enrollment and other areas of interest could be evaluated in concert with changes to gross floor area and remanded back to the City's Architectural Review Board if there is majority support to move the project, or a redesigned project, forward.

## 2. Floor Area Ratio Applies to R1 Properties Earlier Than Realized

The Planning and Development Services department maintains a historical archive of past editions of the zoning code. Using this archive, staff found that a floor area ratio, which controls how much building area can occur on a property, was first reflected for R1 zoning in the 1998 zoning code book. However, staff recently learned there was a 1991 ordinance that first introduced the FAR limitation. This differential in time is noteworthy because it could impact the School's variance application.

The variance is needed because the campus buildings exceed the maximum floor area ratio permitted in the R1 district and the applicant seeks to remove (deconstruct) 70% of this floor area and reconstruct it in a new building. In this instance, the City's non-complying facilities regulations control and preclude the re-establishment of demolished floor area without a variance.

A variance is a deviation from the zoning code that allows one property to be treated differently than other properties in the same zoning district due to some special circumstance applicable to the property. However, the code precludes the City from considering circumstances that result from a property owner's own actions to change the shape or size of the property. For Castilleja, the extremely large size of the parcel is a special circumstance. Because it is so much larger than a typical R1 lot, Castilleja's overall buildable potential is reduced when applying the floor area ratio requirement (see Variance findings in the Record of Land Use Action – Attachment A).

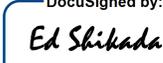
In June 1992, Castilleja added 26,530 square feet (0.6 acres) - abandoned Melville right of way - and another 2,570 square foot parcel to its existing 239,960 square foot (5.5 acres) campus properties, which had straddled Melville Avenue. Prior to this merger, the main campus parcel was 4.6 acres and other parcels across Melville were 0.9 acres. Thus, the merger resulted in an already large lot becoming even larger (6.17 acres).

The variance findings included in the Council packet incorrectly note that the size of the parcel predates the limitation on floor area ratio. Based on the new date establishing when the floor area ratio was applied to R1 properties, the merger occurred afterwards. The argument from some area residents is that Castilleja created the hardship for which it now claims relief from the code by way of the variance and this request is therefore not appropriate.

While Council may find for or against the variance for any number of reasons, staff does not support the notion the Castilleja is disqualified from applying for variance due to a condition it created or imposed upon itself for two reasons. First, Castilleja's largest parcel prior to the merger was already extremely large at 4.6 acres. The considerations that make the requested variance appropriate for Castilleja's current 6.17-acre parcel are equally applicable to a 4.6-acre parcel. Second, up until the subject application, as included in the staff report, prior increases in floor area and redevelopment of the parcel were granted by the City through a conditional use permit. This administrative method of land use approval is necessitating the variance and not the fact that the applicant 30 years ago merged its parcel to its current size.

Therefore, in staff's view, this new information regarding when the floor area ratio was established is a less significant point than other criteria that Council will use to determine the appropriateness of the variance.

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Ed Shikada  
City Manager

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