From:	Jon Wizard
To:	Planning Commission
Subject:	Planning & Transportation Commission Regular Meeting Agenda: December 9, 2020, Item 2.
Date:	Wednesday, December 9, 2020 4:07:50 PM
Attachments:	Palo Alto NVCAP.pdf

Please find attached a letter of public comment for Agenda Item 2.:

PUBLIC HEARING: Recommendation on the Preferred Plan Alternative for the North Ventura Coordinated Area Plan

Thank you,
Jon

--
Jon Wizard

Housing Elements Coordinator
YIMBY Law
1260 Mission Street
San Francisco, CA 94103

YIMBY Law

1260 Mission St

San Francisco, CA 94103

hello@yimbylaw.org

YIMBY LAW

12/9/2020

City of Palo Alto
Planning and Transportation Commission
250 Hamilton Avenue
Palo Alto, CA 94301

city.clerk@cityofpaloalto.org;
Via Email

Re: North Ventura Coordinated Area Plan

Dear Palo Alto Planning and Transportation Commission:

YIMBY Law submits this letter to inform you that the City of Palo Alto has an obligation to abide by all relevant state housing laws when evaluating the above referenced planning area.

California Government Code § 65583.2(c)(3)(B)(iii) requires Palo Alto to maintain an inventory of land suitable for residential development during a given planning period and that those identified sites be sufficient to provide for the jurisdiction's share of the regional housing need for all income levels. Furthermore, in order for sites identified in this inventory to be reused during multiple planning periods, Palo Alto must not only zone these sites for a minimum of 20 units per acre but also provide for residential use by right so long as 20% of the proposed housing is for low-income households. If the current zoning for these sites does not conform to these provisions of the Government Code, the city must develop and implement policies and programs — with specific tasks to be completed in no more than two years — that will achieve compliance.

The affected sites include, but are not necessarily limited to:

132-38-062 — 435 Acacia Avenue
132-38-045 — 3200 Ash Street
132-38-046 — 3250 Ash Street
132-38-047 — 3260 Ash Street
132-38-011 — 3275 Ash Street
132-37-033 — 2905 El Camino Real
132-37-052 — 2951 El Camino Real
132-37-056 — 3001 El Camino Real
132-37-055 — 3051 El Camino Real
132-38-048 — 268 Lambert Avenue
132-38-060 — 280 Lambert Avenue
132-38-061 — 292 Lambert Avenue
132-38-058 — 320 Lambert Avenue
132-39-090 — 415 Lambert Avenue
132-39-071 — 429 Lambert Avenue
132-38-056 — 430 Lambert Avenue
132-39-087 — 455 Lambert Avenue
132-38-017 — 460 Lambert Avenue
132-38-018 — 460 Lambert Avenue
132-38-059 — 340 Portage Avenue
132-38-068 — 425 Portage Avenue
132-38-067 — 435/455 Portage Avenue

Additionally, given the significant increase in the city's share of the RHNA from the 5th Cycle

to the 6th Cycle, coupled with the historical trend in permitting and the expected yield of each site identified in the housing inventory, YIMBY Law encourages the city to upzone the sites in the NVCAP to better accommodate a diverse range of housing types at all income levels. In addition to the requirement to affirmatively further fair housing, pursuant to AB 686, preventing the continued gentrification of this area and the displacement of BIPOC residents is of the utmost importance. That being said, as a formerly redlined area and as an area with known groundwater contamination, not all 10,058 of the city's RHNA should be focused in this area, nor should the entirety of the city's low-income housing allocation be foisted upon the North Ventura neighborhood. Indeed, low-income housing opportunities would best meet the letter and the spirit of the AFFH law if located in more resource-rich areas, like the downtown.

Yimby Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California.

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

Sincerely,

Sonja Trauss
Executive Director
YIMBY Law

From:	Jeffrey Lu
To:	Planning Commission; North Ventura Coordinated Area Plan
Subject:	explore alternative 3 for NVCAP
Date:	Wednesday, December 9, 2020 4:01:04 PM

Planning and Transportation Commission Members,

I hope you and your families are doing sufficiently well during this trying year.

I am writing to voice my excitement for the broad goals outlined in the NVCAP Alternatives report. I am encouraged by the sharp focus on housing (including below market rate units), de-emphasis of office jobs, and proposals for expanded open space. The mention of woonerfs, protected intersections, and protected lanes to this neighborhood are especially welcome and overdue.

I urge you to explore and pursue Alternative 3, which best addresses our critical housing shortage and takes steps to establish a built environment designed to maximize non-vehicular mobility (especially important given that passenger cars are our primary source of emissions in Palo Alto). A lot of folks in Palo Alto have been looking for comfortable streets on which to take walks or get around by bike during COVID without fear of speeding cars, and North Ventura would be a wonderful place to establish this as the standard.

I'm excited for this rare opportunity to boldly address our housing and transportation needs, and look forward to your support.

Thanks,

--
Jeffrey Lu
Midtown

From:	Rob Nielsen
To:	Planning Commission
Subject:	December 9 NCAP review: Expand Alternative 3
Date:	Wednesday, December 9, 2020 3:45:35 PM

Chair Templeton and PTC members

My name is Rob Nielsen, and I live in Midtown. I wish to add some comments on the North Ventura alternatives that will be discussed tonight, December 9.

To begin with, of the three alternatives, I support Alternative 3. My reason for doing so is that it provides the most community benefits. This starts with the two housing goals supported unequivocally by Palo Alto citizens and its elected officials in recent years: affordable housing and reducing the jobs-housing imbalance. On top of this lie other benefits including creating a walkable and mixed-use community near our California Ave. “second downtown” (which I walk to frequently), more open space, making greater use of the transit resources offered by Caltrain and the low-headway VTA bus service on El Camino, and reducing vehicle miles traveled.

I do urge the commission to explore ways to move further with this alternative. This is a large site, and open opportunities like this do not arise often in Palo Alto. Prematurely restraining our options here will make it more difficult to meet our obligations in the next cycle of RHNA allocations. This would lead to more difficult choices in all other neighborhoods of the city, or to losing control of our own planning to state efforts. More housing will bring more people to Palo Alto and all that they have to offer.

Please consider expanding Alternative 3.

Sincerely,

Rob Nielsen

From: Anita Lusebrink
To: Planning Commission
Subject: Tonight"s meeting on NVCAP
Date: Wednesday, December 9, 2020 3:43:53 PM

Dear Planning Commission of the City of Palo Alto:

My family is a property owner in the City of Palo Alto, and I am writing to represent them in support of creating an inclusive mixed-use project in the North Ventura Plan area. We strongly support a plan that will include much needed BMR housing for people with developmental disabilities, elders on fixed incomes, veterans, and other residents that need assistance in order to be safely housed. Exploring Option 3, NVCAP easily has enough area to enrich the community which will be created there by providing an opportunity to myriad types of people.

The current and continuing housing crisis teaches us how fundamental and precious the ability to live safely and securely is to everyone. Although this applies to all the groups I have mentioned, because a member of my family was born with autism, I choose to focus on those with developmental disabilities (DD). They are especially affected because of their unique differences and difficulties in the ability to work within a typical job scenario, which then creates direct results in their inability to earn a 'living wage'.

We are fortunate in California to have Regional Centers and their vendors to help individuals with DD navigate our current fast-paced life and the equally fast-paced changes in expectations and "median income". With the supportive services provided by San Andreas Regional Center and Housing Choices in Santa Clara County as well as careful planning by the City, residents with developmental disabilities can have the opportunity to be fully included in Palo Alto's rich community life, living in the safety and security of their own affordable home base here.

Having a young adult with Autism Spectrum Disorder (ASD) in my family, I can see that though she is exceptionally intelligent in some ways, Activities of Daily Living (ADLs) and social protocols stymie her and make it impossible for her to hold a job. I am so grateful for the additional assistance of SSDI, Medi-Cal, Medicare, and even VTA with discount passes for public transportation; but all of these put together will not pay for market-rate housing, or honestly, even what is currently termed 'affordable housing' in Santa Clara County.

I hope that Palo Alto will be on the forefront of setting an example of inclusivity in the SF Bay Area by encouraging people of all abilities to live here, not only young, highly paid tech workers. The richness of the Life fabric we weave depends on the many colors and textures of the thread that we put into it. We will come to see that people with differing abilities that

want to live happily in a safe neighborhood and near to their family support systems are important, unique, and brightly colored threads that will make the fabric of Palo Alto so much richer!

With many thanks for your work in creating the future that will be Palo Alto reaching its highest potential,

Anita Lusebrink
428 Ruthven
Palo Alto, CA 94301

From:	cbhechtman
To:	Nguyen, Vinhloc
Cc:	Tanner, Rachael
Subject:	Fw: NVCAP
Date:	Wednesday, December 9, 2020 3:32:56 PM

Hi Vinh,
I received this communication from a member of the public this afternoon.
Stay well,
Bart

----- Forwarded Message -----
From: cbhechtman <cbhechtman@att.net>
To: Bart Hechtman @ home <cbhechtman@att.net>
Sent: Wednesday, December 9, 2020, 02:49:46 PM PST
Subject: NVCAP

Hi
I am sorry we have not had a discussion —-hope to another time. Telephone tag was happening.

I hope you've had a chance to read Palo Alto Forward letter, Steve Levy's letter
And SV@home letter...—all supporting Expanded Version of Alternative 3..creating critically needed housing at a scale to meet growing demands for housing—especially workforce and low and extremely low income housing. I believe that anything less than Alt 3 expanded is a SIGNIFICANT loss of opportunity and vision for the area. The mix of land used and park space..is achievable — and feasible only if the more ambitious concept is promoted.

Alt M was not embraced by staff and continues to be brought up. BMR alone is not the panacea for affordable housing altho it is part of the solution.

Alt.3 expanded would also enable the city to produce housing to meet RHNA requirements. NVCAP is one of many areas where housing is workable at a scale to make it feasible.

Thanks
Gail Price
PAF Board President.

From: holzemer/hernandez
To: Planning Commission
Subject: Alternative M
Date: Wednesday, December 9, 2020 3:15:13 PM
Attachments: ALTERNATIVE M.pdf

Dear Commissioners,

Tonight I plan to speak to you about the historical significance of a portion of the NVCAP site -- specifically the old Fry's Electronics site -- and Alternative M (see attachment) which should be seriously reviewed and considered for this site. Thank you.

Sincerely,

Terry Holzemer

NVCAP Working Group Member

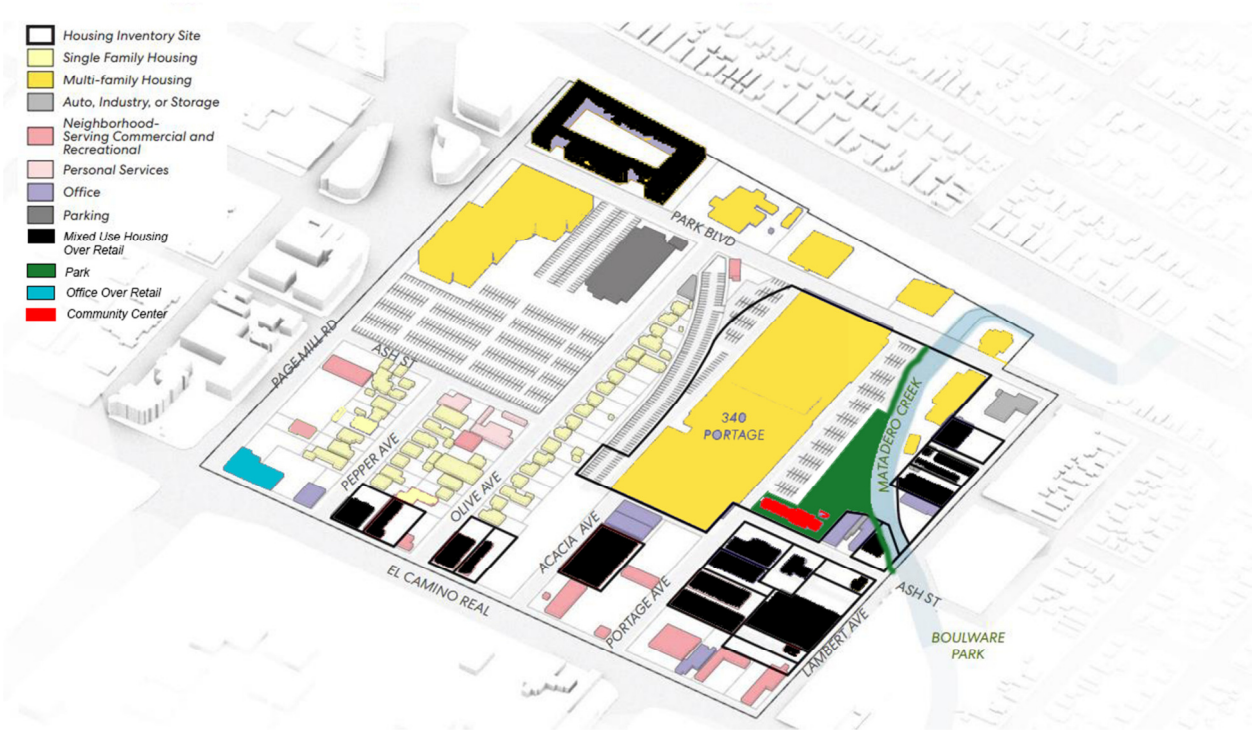
2581 Park Blvd. #Y211

Palo Alto, CA 94306

ALTERNATIVE M

Focused on Community Needs

- Welcomes teachers, seniors, people with disabilities, first responders, city workers, and other community members with approximately 400 below market rate housing units
- Provides up to approximately 770 other housing units through office phase-out and focused zoning
- Reduces peak hour traffic
- Improves job/housing imbalance
- Offers more space for community-serving retail, local services, and health providers
- Creates new community center and parkland
- Reduces cut-through traffic
- Beautifies streets
- Preserves all existing residences with no displacement of owners and tenants
- Fully parks all new buildings to prevent impacting neighbors and streets
- Preserves historic Fry's site building via adaptive reuse
- Widens bike lanes on Park by eliminating street spaces for parked cars
- Does not rely on developer incentives to provide key benefits
- Treats Ventura the same as other Palo Alto neighborhoods by not increasing allowed density



This alternative comes from NVCAP Working Group Members Keith Reckdahl and Terry Holzemer and Ventura Neighborhood Association Moderator Becky Sanders, with consultation from others experienced in affordable housing and local zoning.

Adaptive Reuse of the Fry's Site

The site has been zoned for housing since the 1980s but the City Council granted it a special exemption for office and retail use so as to support Fry's Electronics. The owner, Sobrato Organization, has said housing wouldn't be profitable for it and wants to keep the present office uses. However, the office tenants are high-tech firms not serving the local community.

With Fry's now gone, we think it's time the site became housing, just as the city's zoning and housing inventory intended. Rather than providing incentives for the developer that inevitably increase traffic and density, we propose the City purchase the site and convert both the major building and the newer office building at 3250 Park Boulevard to below market rate housing. The wooden office building at 3201-3205 Ash will become a community center. Converting the major buildings from office to housing reduces parking requirements, enabling about three acres of new publically-owned parkland per our estimates.

Adaptive reuse of buildings is environmentally-desirable and enables the historic preservation of two buildings constructed by Chinese-American immigrant entrepreneur Thomas Foon Chew (pictured below), who created the third-largest fruit and vegetable canning company in the world in the early 1900s. Our city's Historic Resources Board determined that the buildings need to be preserved after an extensive historic review by an expert firm. Reuse of historic sites is common in cities other than Palo Alto, with architects creating wonderful modern interiors filled with light and open space.

Why <u>Below Market Rate</u> Housing?

It's by far our greatest housing need. Virtually all of Palo Alto's unmet RHNA (Regional Housing Needs Allocation) 2015-2023 goal is for low-income housing , with about 2/3 being for people earning 80% or less of the Santa Clara County median income. For-profit housing projects create very few, if any, below market rate units and will never provide enough directly or through in-lieu fees to meet our RHNA goals. Rather than falling further behind, we propose to prioritize below market rate housing to serve teachers, seniors, people with disabilities, first responders, city workers, and other community members who are being priced out of Palo Alto.

How Do We Pay for the Site?

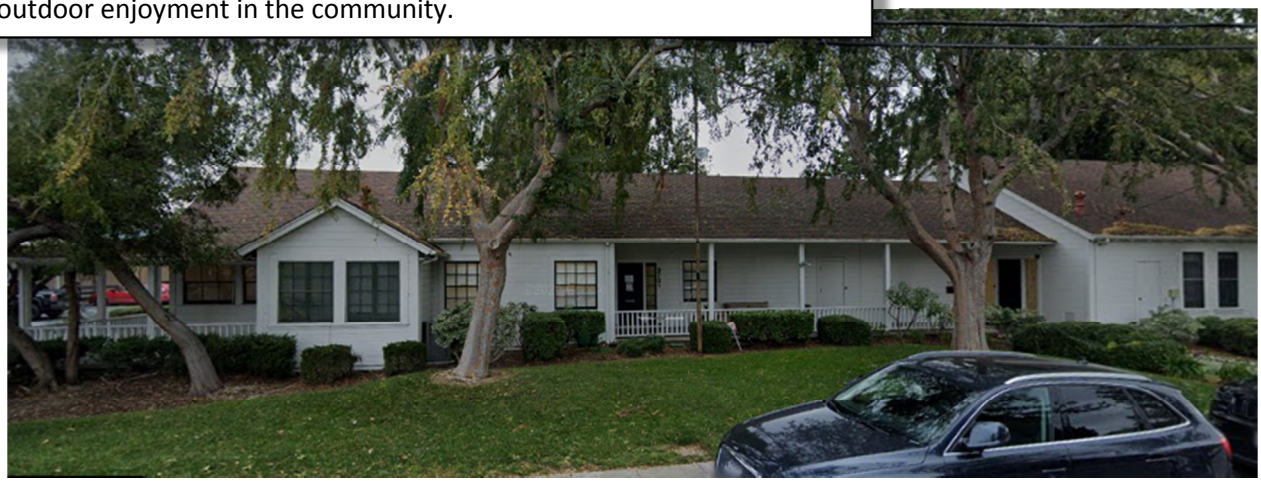
As is common for cities, Palo Alto can offer 30-year municipal bonds to finance the purchase of the Fry's site. Interest rates on such bonds are very low. Bond payments will then be covered partially by tenant rents and a portion of the revenue from the business tax revenue favored by many in the community and likely to return once the economy recovers. This will create no financial burden on Palo Alto residents nor on City finances.

A New Community Center and Parkland

Because the City will own the Fry's site, the historic building at 3201-3205 Ash (see below) that's part of the site can become a wonderful new community center. We envision the center housing a non-profit operating a small eatery, similar to Ada's Cafe, where residents of all ages will find comfortable and friendly service.

The center can also house community meetings, a historic display about the Fry's site and Thomas Foon Chew, and social events.

Adjacent to the community center can be new parkland, enabling indoor-outdoor events. The new parkland could also connect up with Boulware Park and its recent expansion to form a wonderful area for outdoor enjoyment in the community.



Safer Bike Travel on Park Boulevard

Commercial buildings on Park Boulevard are supposed to provide parking for all workers and visitors, yet cars are parking on the street. We should prevent on-street parking in bike lanes to improve the safety of one of our city's busiest bike routes.

Zone for the Community, Not High-Tech Offices

Over the years in Ventura, the City has allowed high-tech firms to replace local retail and community-serving offices such as health providers. These firms increase peak-hour traffic, price out local businesses, and mean we must go further to shop, dine, and get professional services.

We propose to end this trend by converting the zoning along El Camino and other streets in Ventura to allow only housing and true local-serving businesses. This will benefit residents, open up new housing opportunities, and benefit many local firms priced out of our community. It encourages walking and biking and helps convert North Ventura from an office park back into a neighborhood.

Without any increase to allowed density, we estimate this can add 349 to 431 housing units to the community with full parking.

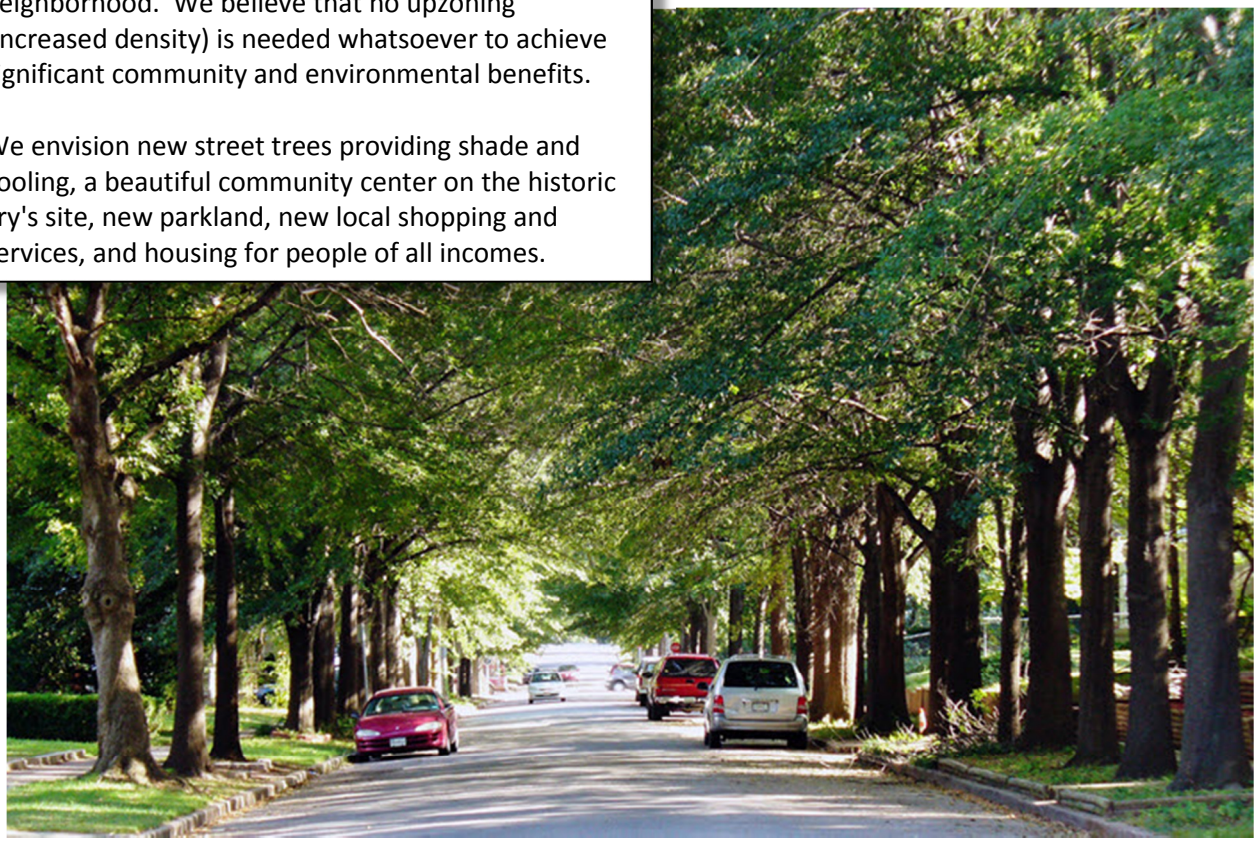
We also envision converting office buildings along Park to housing through creative reuse. We estimate this can add 238 to 340 additional housing units. Sufficient parking already exists on these sites

As noted, all new housing will be fully parked. Much of Ventura suffers already from overcrowded streets. Underparked new housing will only create more problems so we have avoided it.

Beautify, Don't Densify

Building office and housing towers in Ventura will create an enormous burden on one small neighborhood. We believe that no upzoning (increased density) is needed whatsoever to achieve significant community and environmental benefits.

We envision new street trees providing shade and cooling, a beautiful community center on the historic Fry's site, new parkland, new local shopping and services, and housing for people of all incomes.



From:	Angie Evans
To:	Planning Commission
Cc:	Council, City; North Ventura Coordinated Area Plan
Subject:	December 9th Public Hearing on NVCAP
Date:	Wednesday, December 9, 2020 2:22:05 PM

Dear Chair Templeton and Planning and Transportation Commission members,

I'm writing tonight to support exploring and expanding Alternative 3. As you know, when this planning started, community members were concerned about traffic and the lack of affordable housing. Since then, we've seen homelessness grow city and county wide, we've watched as young families and renters have left, and we've started to explore how our policies promote and reinforce racism. If we don't start to operationalize land use policies that make Palo Alto's housing more diverse and equitable, the state will. Palo Alto's RHNA goals will be between 8 and 10 thousand, even in the unlikely case that we win an appeal. Please demonstrate our willingness to do the right thing by exploring and expanding Alternative 3. Without the height and density changes required by this alternative, affordability will not be prioritized.

This week, Palo Alto Forward released a video with residents talking about housing needs. I hope you'll take a moment to watch it: https://youtu.be/dozSel-FOQQ I am specifically including this video because this process has failed to include young, diverse voices. Until every board and commission prioritizes diversity, equity, and inclusion we will not have representative policies or governing.

Best,
Angie Evans
Crescent Park Mom

From: Angela Dellaporta
To: Planning Commission
Subject: The NVCAP Staff Report: December 9, 2020
Date: Wednesday, December 9, 2020 1:12:15 PM

As a co-chair of the NVCAP Working Group, I appreciate the hard work, patience, and expertise of the city staff in preparing this report, and in attempting to include all the wishes of the Working Group. The Alternatives in this report reflect many of the WG's recommendations for the NVCAP area, including a sorely needed increase in housing.

However, two issues that are most important to the Working Group, and to the city as a whole, are, in these Alternatives, sadly inadequate.

1. Affordable and Middle Income housing: Many of the people who make Palo Alto a great place to live — including teachers, nurses, restaurant workers, etc — cannot, ironically, afford to live here. The WG has compiled a document detailing a variety of ways that this could be achieved, and I would like to see that document, and the need for Affordable Housing, prominently featured in the Alternative that is eventually presented to the City council.

2. Dedicated park space: Palo Alto's Comprehensive plan and its Parks Master Plan, both wisely require **4 acres** of park space for every 1000 residents. At this time, Palo Alto unfortunately falls far short of this goal, at only **2.67 acres**/1000 residents. (Both San Francisco and Mountain View have far more park space per resident than Palo Alto currently has.) Because of a concern that property owners will not be pleased with the financial profitability of park space, the Alternatives in this report provide only **1 acre - 1.5 acres** of park space / 1000 residents. Providing only 1 or 1.5 acres/1000 residents for the NVCAP area would make Palo Alto's park space ratio even lower than it currently is.

   In high density areas, such as those recommended in these NVCAP Alternatives, park space is even more important than in neighborhoods where residents have their own tree-filled back yards. Children, especially, need open space to run, play, and to experience the joy and beauty of a living, green, world — but so do we all.

Although park space and affordable housing are expensive, I am sure that the PTC and the City Council want Palo Alto to be a city that makes room for residents with a variety of income levels, and for plenty of public park space. I am also confident that the wealthy and creative city of Palo Alto can figure out how to do this.

The alternative, which might please developers, but no one else, would be a crowded area of expensive condos with a paucity of green space. Palo Alto is better than that.

Sincerely, Angela Dellaporta

From:	North Ventura Coordinated Area Plan
To:	Nguyen, Vinhloc
Subject:	FW: Support Housing in North Ventura
Date:	Wednesday, December 9, 2020 10:34:29 AM

From: David Bergen <david.bergen@outlook.com>
Sent: Wednesday, December 9, 2020 10:18 AM
To: North Ventura Coordinated Area Plan <NVCAP@CityofPaloAlto.org>
Subject: Support Housing in North Ventura

Hello,

I'm writing to express my support for adoption and expansion of Alternative 3 in the North Ventura Coordinated Area Plan to provide the maximum feasible number of housing units (including affordable housing) as part of a comprehensive, mixed plan for the area. I'm a Palo Alto resident, not directly in that area, but I'm familiar with the site and believe it is ideal for housing given its close proximity to El Camino and Page Mill Roads, California Ave and the Caltrain Station.

If Palo Alto is serious about doing its part to address the housing crisis in this area, North Ventura is an excellent place to start. A great neighborhood can be created with houses, retail and open space, close to transportation and major roads. Let's move forward!

Sincerely,

David Bergen

From:	North Ventura Coordinated Area Plan
To:	Nguyen, Vinhloc
Subject:	FW: We need more housing
Date:	Wednesday, December 9, 2020 10:34:59 AM

From: Christine Boehm <cboehm@gmail.com>
Sent: Tuesday, December 8, 2020 12:44 PM
To: North Ventura Coordinated Area Plan <NVCAP@CityofPaloAlto.org>
Subject: We need more housing

Dear Chair Templeton and PTC members,

I'm a long-term Palo Alto resident and am writing to ask you to explore and expand Alternative 3. The North Ventura Coordinated Area Plan consists of 60 acres next to Caltrain and California Avenue's business district.

This is an ideal location for a bike and pedestrian-friendly, multi-use neighborhood with housing at all income levels. But the current options constrain the future of Palo Alto by limiting the number of homes, heights, and density. Unless we build taller and more compact in locations like this one, we'll continue to see sprawling communities reliant on single occupancy vehicles. If Palo Alto wants to meet our climate change goals it must expand Alternative 3 to include more homes.

Best,
Christine

From:	North Ventura Coordinated Area Plan
To:	Nguyen, Vinhloc
Subject:	FW: 12/9 Planning Commission meeting
Date:	Wednesday, December 9, 2020 10:35:12 AM

From: Vija Lusebrink <vblusebrink@gmail.com>
Sent: Tuesday, December 8, 2020 12:20 PM
To: North Ventura Coordinated Area Plan <NVCAP@CityofPaloAlto.org>
Subject: 12/9 Planning Commission meeting

I am very concerned that the Sobrato Organization plan for the development of housing in the Fry's property area calls only " for 2- and 3- bedroom units, with 13 units designated for residents in the 'moderate' income category, which is defined as 120% of the county's area median income. (Palo Alto Weekly, 11/27/20).

This leaves out studios for anyone with disabilities living on SI or SSDI, as for example my 25 year old granddaughter who is autistic. The location on the Fry's lot close to transportation would be ideal for people who are disabled and do not drive, and not only for 'people who drive Tesla'!

I implore that you consider including a certain percentage of studios on this property for people who have disabilities and are on limited income!!!

Sincerely,

Vija Lusebrink
428 Ruthven Ave.
Palo Alto, CA 94301

From: North Ventura Coordinated Area Plan
To: Nguyen, Vinhloc
Subject: FW: Please don"t let this housing opportunity go to waste!
Date: Wednesday, December 9, 2020 10:35:36 AM

From: Ozzie Aery Fallick <ozzie.fallick@gmail.com>
Sent: Monday, December 7, 2020 9:47 PM
To: North Ventura Coordinated Area Plan <NVCAP@CityofPaloAlto.org>
Subject: Please don't let this housing opportunity go to waste!

Hello,

I'm writing today to urge the Planning and Transportation Commission to seize the opportunity that the NVCAP represents. We may not get the chance again to take such a big bite out of our housing crisis while building a thriving neighborhood. If we go big on NVCAP, we can make room for residents at all income levels while reducing traffic and carbon emissions by investing in walkability.

As a result, I urge the Commission to explore and expand Alternative 3. It's the only option that comes close to meeting the needs of the day.

We cannot waste this opportunity on half-measures. Please resist those who would hoard Palo Alto for themselves and go bold on housing, walkability, and transit in the NVCAP.

Thank you,
Ozzie Fallick
Evergreen Park

From:	North Ventura Coordinated Area Plan
To:	Nguyen, Vinhloc
Subject:	FW: Housing
Date:	Wednesday, December 9, 2020 10:35:51 AM

From: Emily Young <emilyjeanyoung@gmail.com>
Sent: Monday, December 7, 2020 5:14 PM
To: North Ventura Coordinated Area Plan <NVCAP@CityofPaloAlto.org>
Cc: Stephen Branz <stephen.branz@sjsu.edu>
Subject: Housing

Dear Planning and Transportation Committee,

I am in favor of alternative three in the proposed general plan update (area plan for North Ventura neighborhood). The location--between Cal Ave and Cal Train--is our city's largest transit-friendly site. Planning to put housing for all income levels here makes sense. Our city's housing allocation from the state will be somewhere between 8000-10,000 units over eight years between 2023--2031. We have only met 28% of our current housing allocation. Let's not foreclose the possibility of making a meaningful contribution to our housing needs. Let the city's Planning and Transportation Commission (PTC) know you support investigating the third alternative. Ultimately, the city council, with input from the PTC and the public, will decide which alternative to more fully investigate.

Let's move ahead with a strong effort to create more housing and to help begin to meet the needs of so many people who want to live near their jobs in this area. We must be bold and determined in this effort. It would be fantastic if some of the housing was truly affordable for teachers and other middle class workers, medical assistants and others who don't have high salaries.

Sincerely,

Emily Young and Stephen Branz

--
Emily Young/Stephen Branz
402 El Verano Ave
Palo Alto, CA 94306
home: 650-856-9571

From:	David Meyer
To:	Planning Commission
Cc:	North Ventura Coordinated Area Plan; Tanner, Rachael; Moitra, Chitra; Campbell, Clare; Lait, Jonathan
Subject:	SV@Home Comments for PTC on NVCAP Staff Alternatives
Date:	Tuesday, December 8, 2020 4:13:11 PM
Attachments:	image001.png SVH NVCAP PTC Letter 120920.pdf

Dear Members of the Palo Alto Planning and Transportation Commission,

On behalf of Silicon Valley at Home, we submit the attached letter to comment on the proposed study alternatives for the North Ventura Coordinated Area Plan (NVCAP). North Ventura is an important opportunity for the City of Palo Alto to create new housing opportunities for people of all incomes: it is located close to major transit corridors and the California Avenue Caltrain station; it's directly adjacent to shopping and restaurants along California Avenue; and it's at the heart of one of the region's largest jobs centers.

We urge the City of Palo Alto to study *at a minimum* Staff Alternative #3 and pursue studying a fourth alternative that has the potential for up to 3,000 new homes. As currently envisioned, Alternative 3 creates the most new housing and deed-restricted affordable housing opportunities as well as results in the largest amount of new open space and resources for other key community benefits.

In this letter, we outline three key points, backed up by city and consultant analyses and data, which demonstrate the importance of a bold, forward-looking housing vision:

- **More Housing = More Community Benefits**
- **More Housing = Greater Feasibility**
- **More Housing = Greater Flexibility and Ability to Meet State Housing Requirements**

Planning for a high level of new residential capacity produces a more economically feasible plan that will actually be built out, resulting in more community benefits -- including more deed-restricted affordable housing and open space -- and helping the City of Palo Alto meet its housing goals. This is an opportunity that Palo Alto cannot afford to waste.

We invite you to read the full letter that includes further details and citations.

Sincerely,

David

David Meyer
Director of Strategic Initiatives
408-462-1572
david@siliconvalleyathome.org

Act with us. Become a member today and join us in making home a reality for all.

For all other COVID-19 related housing updates & resources click here

sv@home

December 8th, 2020

Palo Alto Planning and Transportation Commission
250 Hamilton Avenue
Palo Alto, CA 94301

Dear Members of the Palo Alto Planning and Transportation Commission,

On behalf of Silicon Valley at Home, we write today to comment on the proposed study alternatives for the North Ventura Coordinated Area Plan (NVCAP). North Ventura is an important opportunity for the City of Palo Alto to create new housing opportunities for people of all incomes: it is located close to major transit corridors and the California Avenue Caltrain station; it's directly adjacent to shopping and restaurants along California Avenue; and it's at the heart of one of the region's largest jobs centers.

We urge the City of Palo Alto to study *at a minimum* Staff Alternative #3 and pursue studying a fourth alternative that has the potential for up to 3,000 new homes. As currently envisioned, Alternative #3 creates the most new housing and deed-restricted affordable housing opportunities as well as results in the largest amount of new open space and resources for other key community benefits.

Palo Alto, along with many of its neighbors, is at a crossroads. Longstanding underinvestment in residential development combined with historical exclusionary housing policies have pushed out the lower and even moderate income families that keep the city running. COVID has only exacerbated our affordability crisis, with home prices at all-time highs, all while essential workers continue to face hours-long commutes to and from Palo Alto. The NVCAP process provides the city with an opportunity to begin to address these inequities, but Palo Alto needs to be bold.

As SV@Home has written in previous letters to the NVCAP Working Group and the City of Palo Alto, a housing-rich alternative will create the community benefits neighbors desire, help the city meet its equity goals, and enable Palo Alto to fulfill its state-mandate housing obligations. Constraining opportunities for housing in the NVCAP area would only undermine the city's most important opportunity to address its affordable housing goals.

More Housing = More Community Benefits

As Palo Alto City staff have laid out in their analysis, there is a relationship between potential community benefits achieved through the NVCAP and decisions related to land use and development capacity. New commercial and residential developments raise funds that can be used to support specific community benefits, such as the daylighting of Matadero Creek and the creation of deed-restricted affordable housing.

Additionally, increasing allowed densities and heights, especially in exchange for commitments to greater community benefits, can leave more land available for open space. The concept is simple and proven: allowing developers to build *up* in exchange for

community benefits means that they don't need to build *out*, which can free up precious land that could be used for open space.

It comes as no surprise, then, that Alternative #3 would result in the highest acreage of new open space, the highest number of new deed-restricted homes, and the most resources for other benefits like biking and transportation improvements. *(See Attachment A to this letter)*

More Housing = Greater Feasibility

The staff report is also clear that the potential redevelopment incentives the city could command under Alternative #3 would be the most likely to actually result in the improvements Palo Alto is pursuing. The goal of a planning process like NVCAP is to find the right balance of incentives and guidelines that enable successful redevelopment that meets the community's needs. Unfortunately, Alternatives 1 and 2, as currently envisioned, severely constrain the potential of the area and are unlikely to result in any of the envisioned change. And if new development does not occur, there will be no money for creek-daylighting, open space, or affordable housing.

Strategic Economics' financial feasibility report states: "Alternative 3 allows for more efficient housing types and a greater mix of land uses, and is therefore the most viable alternative of the three proposed alternatives, and the most likely to deliver community benefits." *(See Attachment D to the Staff Report: "Strategic Economics Financial Feasibility of Alternatives" beginning Packet Page 42)*

Palo Alto must plan for the future by giving deep consideration to the feasibility of new projects and the likelihood that the city will actually achieve its goals. If Palo Alto aims low, it will miss the opportunity to achieve its goals without resorting to new taxes and fees that will more directly impact residents.

More Housing = Greater Flexibility and Ability to Meet State Housing Requirements

Finally, the staff report references Palo Alto's state-mandate housing requirements – its Regional Housing Needs Allocation (RHNA) – which the city should carefully consider in its decision-making related to North Ventura.

As of the end of 2019, Palo Alto had met 15%, 14%, and 6% of its moderate, low, and very low income affordable housing goals respectively *(see Attachment B to this letter)*. California's latest proposed draft RHNA requirements for Palo Alto for the 2023-2031 RHNA cycle envisions 10,058 new homes for the city, of which over half must be for families with moderate incomes or below *(see Attachment B)*. While these numbers are not final, it is highly unlikely that Palo Alto will see this requirement significantly reduced.

In order for Palo Alto to finalize its next state-required Housing Element, the city will have to identify sites able accommodate the new allocations. Decisions that constrain the opportunity for housing in the North Ventura area – e.g. overall residential capacity, density and height limits, etc. – will constrain the city's flexibility in determining how to plan for the remaining housing requirements. A failure to optimize the potential of North Ventura will put additional pressure on staff to identify other areas in Palo Alto for future housing development.

For these reasons, SV@Home recommends that the City of Palo Alto retain Alternative #3 but also study a fourth alternative that has the potential for at least up to 3,000 new homes in North Ventura. The staff recommended alternatives are a good start, but there is an opportunity to study and present to residents and

the Council an even bolder vision. We know that a goal of 3,000 homes is realistic based on previous consultant analyses presented at earlier NVCAP community engagement meetings.

Additionally, SV@Home supports further exploration of the staff-recommended Major Policy Strategies, which outline policy tools and incentives to achieve the desired community benefits that have been developed through the community engagement process. We thank staff for taking a realistic, data-driven approach to designing their alternatives and the policy strategies that enable Palo Alto to reach its goals for North Ventura. *(See Attachment E to the Staff Report: "NVCAP Major Policy Strategies" beginning Packet Page 52)*

We believe the City of Palo Alto should seize this once-in-a-lifetime opportunity to plan boldly and address the full range of community needs through NVCAP. The city's affordable housing future depends on it.

Sincerely,

David K Meyer
Director of Strategic Initiatives

Attachment A

North Ventura Coordinated Area Plan Potential Development, by Alternatives[1]

Table 1: Potential Development, by Alternatives

Land Use	*Existing Development*	*New Development*		
		Alternative #1	*Alternative #2*	*Alternative #3*
Net New Housing Units	142			
Realistic Potential	-	**500**	**1,170**	**1,490**
Maximum Potential	-	860	1,620	2,130
New Office Commercial Sq. Ft.	744,000	8,600	33,300	126,700
New Retail Commercial Sq. Ft.	111,200	7,500	17,600	22,300
Parks and Open Space (potential approximate acres)	0	1.2	3.6	5.5
# of Potential Redevelopment Sites (Range = Realistic to Maximum Sites Turning Over)	n/a	16 to 23	37 to 41	37 to 52

Source: Santa Clara County Assessor's Office Data, Realquest.com Data, City of Palo Alto GIST Data, Accela Data, and City of Palo Alto, Planning and Development Services Staff.

Table 2: Metrics Based on Realistic Potential

Metric	*Existing (Estimates)*	*Alternative #1*	*Alternative #2*	*Alternative #3*
Below-Market Rate Housing Units (assumes 15% of total) (441 Page Mill, Rental BMR)	5	70	180	220
Residential Population	340	1,210	2,840	3,610
Office Jobs	2,460	30	110	430
Retail Jobs	200	10	30	40
Jobs/Housing Ratio (Housing Units Needed to Support New Jobs)	170	50	180	580
Parks and Open Space (acres/1,000 new residents)	0	1.0	1.3	1.5

Source: 2014-2018 American Community Survey 5-Year Estimates, City of Palo Alto GIST Data, Accela Data, and City of Palo Alto Planning and Development Services.

[1] *City of Palo Alto Staff Report "NVCAP – Review Plan Alternatives," available at: https://www.cityofpaloalto.org/civicax/filebank/documents/79522*

Attachment B

City of Palo Alto's Permit Progress for 2015-2023 RHNA Cycle[2]

Note: these figures do not include the one housing proposal Palo Alto permitted in 2020

Palo Alto Permit Progress as of 2019				
Affordability Level	**5th Cycle RHNA Goal**	**Permits as of 2019**	**Percent Progress**	**Projected Final**
Very Low Income	691	43	6%	**9%**
Low Income	432	60	14%	**19%**
Moderate Income	278	42	15%	**21%**
Above Moderate	587	409	70%	**96%**
Total	1988	554	28%	**38%**

City of Palo Alto's draft 2023-2031 RHNA Cycle requirements (with neighboring Santa Clara County jurisdictions for comparison)[3]

Lower Income	**Current VLI**	**Draft VLI**	**Percent Increase VLI**	**Current LI**	**Draft LI**	**Percent Increase LI**	**Current VLI/LI Total**	**Draft VLI/LI Total**	**Percent Increase VLI/LI**
Palo Alto	691	2573	372%	432	1482	343%	1123	4055	361%
Mountain View	814	2876	353%	492	1656	337%	1306	4533	347%
Sunnyvale	1640	3227	197%	906	1858	205%	2546	5084	200%

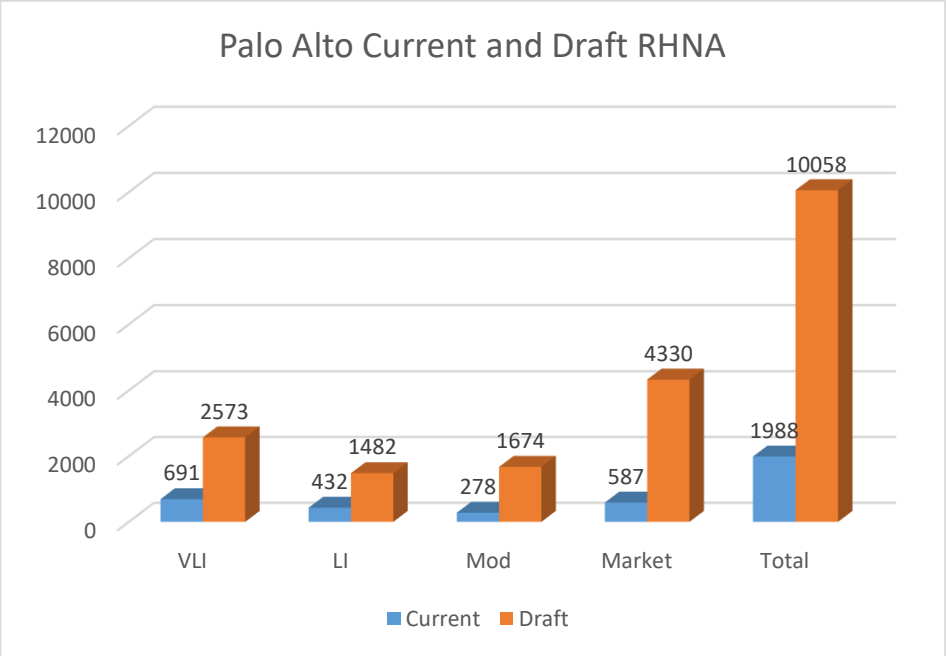
Moderate/ Market Rate	**Current Mod**	**Draft Mod**	**Percent Increase Mod**	**Current Market**	**Draft Market**	**Percent Increase Market**	**Current Total**	**Draft Total**	**Percent Increase Total**
Palo Alto	278	1674	602%	587	4330	738%	1988	10058	506%
Mountain View	527	1909	362%	1093	4940	452%	2926	11381	389%
Sunnyvale	932	2206	237%	1974	5708	289%	5452	12998	238%

[2] *HCD 2019 5th Cycle Annual Progress Report Permit Summary,* available at: https://www.hcd.ca.gov/community-development/housing-element/index.shtml

[3] *ABAG Illustrative Allocations from the Proposed RHNA Methodology*, available at: https://abag.ca.gov/sites/default/files/rhna_proposed_methodology_-_illustrative_allocations_0.pdf

Attachment B (continued)

Comparison of City of Palo Alto's Current and Next (draft) RHNA Cycle Requirements[4]



[4] *ABAG Illustrative Allocations from the Proposed RHNA Methodology*, available at: https://abag.ca.gov/sites/default/files/rhna_proposed_methodology_-_illustrative_allocations_0.pdf

Nguyen, Vinhloc

Subject: NVCAP

From: Ellen Smith <ef44smith@gmail.com>
Sent: Monday, December 7, 2020 4:19 PM
To: North Ventura Coordinated Area Plan <NVCAP@CityofPaloAlto.org>
Subject: NVCAP

I strongly support a bold housing option for the North Ventura / Fry's site. After years of failing to meet its own housing objectives, Palo Alto should seize this opportunity to build a substantial amount of new housing, with an emphasis on affordable housing for both low income families and the "missing middle." This can be done on a scale that does not overwhelm the existing community and takes advantage of existing services, shopping, transit options, and jobs. I urge you to fully explore and expand on Alternative 3 for NVCAP.
Ellen Smith
1469 Dana Ave

From: North Ventura Coordinated Area Plan
To: Nguyen, Vinhloc
Subject: FW: North Ventura Corridor
Date: Monday, December 7, 2020 1:24:52 PM

From: Annette Isaacson <annetteisaacson@comcast.net>
Sent: Monday, December 7, 2020 10:23 AM
To: North Ventura Coordinated Area Plan <NVCAP@CityofPaloAlto.org>
Subject: North Ventura Corridor

Dear Planning Commission,

This is Palo Alto's last best chance for building much needed market rate and affordable housing. Please don't let this chance slip through your fingers.

If not now, when? Be Bold. Commit to building as much affordable housing and multi-family units on this North Ventura site as possible. We won't get another chance.

Sincerely,

Annette Isaacson
2550 Webster St.
Palo Alto, CA

From:	Palo Alto Forward
To:	Planning Commission
Cc:	North Ventura Coordinated Area Plan; Council, City; Fine, Adrian; Tanner, Rachael
Subject:	December 9th Public Hearing on NVCAP
Date:	Monday, December 7, 2020 7:44:35 AM
Attachments:	NVCAP PTC - Dec 9.pdf

Dear Chair Templeton and PTC members,

Palo Alto Forward is a non-profit organization focused on innovating and expanding housing choices and transportation mobility for a vibrant, welcoming, and sustainable Palo Alto. We are a broad coalition with a multi-generational membership, including new and longtime residents.

Thank you to staff and the NVCAP Working Group members for your commitment to this critical area plan. After reviewing all three alternatives in the staff report, we urge PTC to fully explore and expand Alternative 3. Both the staff report and the findings of the Strategic Economics' Financial Feasibility of NVCAP Alternatives (Attachment D, pag 43) recognize that Alternative 3 housing intensity and variety, combined with mixed uses (including office uses) and community benefits, is the most economically feasible. Intensification in NVCAP is critical to Palo Alto demonstrating our willingness to meet regional housing goals. The decisions we make now are going to constrain our planning in both the near and longer term future. The NVCAP is a critical long-range plan that requires us to be thoughtful about the context and projected need.

Failure to exercise local control and select enough feasible sites to support the number of housing units needed will likely result in state intervention. The City of Palo Alto met just 28% of our current regional housing goals and will need to permit 10,050 new homes in the next cycle. At this stage we have the opportunity to choose the best sites and community benefits, but we will lose local control if we continue to miss those goals. The number of homes possible in this area plan is critical to meeting those goals while prioritizing climate change and multi-modal transportation.

Land in Palo Alto is too scarce and development is too expensive to miss opportunities like this one. Every neighborhood can responsibly make space for new neighbors. The NVCAP area is uniquely positioned as a great site for new and varied housing. It is close to services, shopping, transit, and jobs, which would set new families and low-income residents up for success. In order to ensure this happens, we must adjust our height limits, parking policies, fees, and FAR to accomodate for more homes and make it economically feasible to build. Lastly, without identifying dedicated funding and inventizing land dedication in our inclusionary zoning policies to subsidize affordable housing construction we will not see the number of Extremely Low Income and and Very Low Income homes we

need.

Palo Alto Forward also supports the range of NVCAP Policy Strategies (Attachment E, p. 52). These policies help create a strong community of opportunities. All of us want the study area to be vigorous, innovative, inclusive, and flexible enough to respond to changing economic, social, and environmental conditions over the decades.

Sincerely,
Palo Alto Forward Board

cc: Mayor Fine and Palo Alto City Council Members
cc: NVCAP Working Group

PALO ALTO FORWARD

December 9, 2020
Re: December 9th North Ventura Coordinated Area Plan (NVCAP) Study Session
To: Planning and Transportation Commission (PTC)

Dear Chair Templeton and PTC members,

Palo Alto Forward is a non-profit organization focused on innovating and expanding housing choices and transportation mobility for a vibrant, welcoming, and sustainable Palo Alto. We are a broad coalition with a multi-generational membership, including new and longtime residents.

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The decisions we make now are going to constrain our planning in both the near and longer term future. The NVCAP is a critical long-range plan that requires us to be thoughtful about the context and projected need.

Failure to exercise local control and select enough feasible sites to support the number of housing units needed will likely result in state intervention. The City of Palo Alto met just 28% of our current regional housing goals and will need to permit 10,050 new homes in the next cycle. At this stage we have the opportunity to choose the best sites and community benefits, but we will lose local control if we continue to miss those goals. The number of homes possible in this area plan is critical to meeting those goals while prioritizing climate change and multi-modal transportation.

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Sincerely,
Palo Alto Forward Board

cc: Mayor Fine and Palo Alto City Council Members
cc: NVCAP Working Group

From:	David Adams
To:	Planning Commission
Subject:	NVCAP
Date:	Sunday, December 6, 2020 10:34:25 AM

Dear Honorable members of the Planning and Transportation Commission,

The staff NVCAP submission (NVCAP - Review Plan Alternatives) by staff contains several inaccuracies and omissions.

As stated, an original goal of NVCAP was to “minimize displacement of existing residents”. Moreover, at the combined NVCAP/CC meeting (Wednesday, April 17, 2019) Council Member DuBois moved and seconded by Vice Mayor Fine to Update the project direction to include:

“3. Preventing displacement of existing residents;”

This motion passed unanimously.

Additionally, at that same meeting Councilor Cormack stated (2:12:50):
“I’m going to list a few things that I really want to see in this: What if we keep all the single family housing on Olive.”

As I live inside the NVCAP area, on Olive Ave, I have been following the process closely and have attended/participated in all meetings and community gatherings including a stake-holder meeting. It has become abundantly clear that staff have made no effort to follow CC’s direction. All 3 alternatives propose rezoning of Olive Ave and the consequential displacement of existing residents.

Also absent from the staff report is the fact that several houses on Olive, in the block proposed for rezoning, are independently owned. No protections are being afforded to these residents.

As background, Olive Ave houses some of the most affordable single family homes in PA. Staff’s proposal to tear down this housing and replace with market rate is extremely short-sighted. Yes, it may make the housing numbers look better but the process amounts to gentrification.

I urge the commission to prevent Olive Ave from being rezoned and hence save some of our existing and most affordable housing.

Thank you and regards
David Adams & DiHuyen Ho
Olive Ave

From: slevy@ccsce.com
To: Planning Commission
Cc: Council, City; Shikada, Ed; Lait, Jonathan
Subject: NVCAP, RHNA and planning for housing
Date: Friday, December 4, 2020 3:24:16 PM

Dear PTC, Council and staff,

With regard to the NVCAP alternatives I support an expanded alternative 3.

It will produce the most housing and also the most open space.

Every action taken by the PTC and council will be a piece of the picture HCD can review to determine if Palo Alto is making a good faith effort with regard to housing supply, diversity of types and affordability.

To date Palo Alto has presented a mixed picture with some recent housing approvals and also a spate of letters complaining to MTC/ABAG and HCD about our housing allocation.

I believe the focus on the number of units is misguided and complaining before even trying to develop a new Housing Element marks us as even trying to act in good faith.

I believe a better course is to act now to identify sites and policies that support an increase in housing and affordability.

It is in this context that I believe the actions with regard to the San Antonio corridor will be viewed favorably by HCD and actions to minimize housing goals on our largest potential housing site before even inventorying sites and policies is a red flag.

We are asked to put forth a good faith effort and will be judged on that and how we review and process project proposals and NOT on how many units are actually built, which will depend on market forces, the economy and builder proposals.

In addition I believe the local discussion of "local control" is also a red flag to HCD.

Local control to me and I believe HCD means a city developing its own strategy for how best to make the required good faith effort.

It does NOT mean the choice to ignore the RHNA and Housing Element guidelines just as it does not mean Palo Alto can grant drivers' licenses to 10 year olds or sell alcohol to minors.

I repeat my encouragement to have HCD come and explain the Housing Element process and enforcement tools.

Stephen Levy

P.S. I was on the technical advisory committee for HCD in implementing the new state requirements as well as on the 2015 DOF committee on household formation rates in both cases with Dowell Myers of USC. I talked last week with Walter Schwarm and was reminded of what we were dealing with and the rationale for our advice.

I will write a separate email responding to the email Gab Layton sent you recently.

From:	Brittany Young
To:	Planning Commission
Cc:	moriahbradski@gmail.com
Subject:	November 26, 2020 Letter re Accidents Caused By Bike Lane at Briones Park
Date:	Thursday, November 26, 2020 7:03:27 PM
Attachments:	2020.11.26 PTC Letter re Briones Park.pdf

Dear Palo Alto Planning and Transportation Commission,

Please see the attached correspondence regarding accidents caused by the protective bike lane on on southbound Arastradero Road, bordering Briones Park and Fire Station 5.

Respectfully,
Moriah Bradski and Brittany Young

November 26, 2020

Via Email

Re: Briones Park Protective Bike Lane

Dear Palo Alto City Council and Palo Alto Planning and Transportation Commission,

We are residents at 4187 and 4191 Coulombe Drive, Palo Alto, CA 94306. Over the past two months, we have personally witnessed two major car accidents due to the protective bike lane on southbound Arastradero Road, bordering Briones Park and Fire Station 5. Images of the November 26, 2020 accident ("Thanksgiving Incident") are attached as **Exhibit 1**. Images of the October 11, 2020 ("Flat Tire Incident") are attached as **Exhibit 2**. While we have personally witnessed two incidents within two months, debris on the side of the road and chips in the cement indicate that incidents due to this curb are a regular occurrence. We believe these accidents are due to limited visibility of the protruding curb into the southbound lane of Arastradero Road, as reflected in images of **Exhibits 1** and **2,** respectively.

As these incidents are a danger to both residents and property in the surrounding areas, we are writing to respectfully request a long term solution by the Palo Alto Planning and Transportation Commission to increase the protective bike lane's visibility. We propose the following low-cost solutions, either individually or in conjunction.

1. Reflective painting on all protruding curbs
2. Signage on protruding curbs for added visibility
3. Change of the surface material (for example, the selective use of brick, cobblestone, or polymer cement overlay) in front of Fire Station 5.

Respectfully,

Moriah Bradski and Brittany Young

Exhibit 1


1
Car hit this


2
Tire flew off & broke resident's fense in Briones park


3
Tire landed in Briones park


4
Not sheared
Sheared by car
Car continued with 3 wheels straddling bike lane and sheared off half the plants in barrier section.


5
Car broke off chunk of the curb


6
Nov 26, 2020 incident
Cherry oak ST sign
Car finally crashed into street sign in residents yard on cherry oak road arastadero intersection

Exhibit 2


1
Oct 11, 2020 incident
Car hit this and continued plowing street straddling bike lane


2
Car bumper tore off while it was straddling bike lane barrier and was left on curb

Nguyen, Vinhloc

From: mark weiss <earwopa@yahoo.com>
Sent: Monday, November 23, 2020 8:58 AM
To: Planning Commission; Council, City; Stump, Molly; albert.yang@cityofpaloalto.com; Architectural Review Board; Rebecca Eisenberg
Cc: Rebecca Eisenberg; Curtis Smolar; Bill Johnson; Dave Price; local@bayareanewsgroup.com; Aldo Toledo; Jesse Gary; Gennady Sheyner; Jocelyn Dong
Subject: Re: Castilleja - code compliance - potential conflicts of Interest - Michael Alcheck - and other matters

I want to merely add a link to some hard data coming out of the County about the power of the real estate industry here, and the theory that it has corrupted leadership in Palo Alto -- and perhaps that explains what is going on apropos of Castilleja. (See also: the Grand Jury Report re 27 Uni)
God bless America
Or as Steve Wonder says, heaven help us all.
Shavuah tov
Mark Weiss
Downtown North
trained as a reporter at corner of Lytton and Emerson, which is now a bunch of banks....
https://www.sccassessor.org/edocman/AnnualReport2020-2021.pdf

On Sunday, November 22, 2020, 06:35:02 PM PST, Rebecca Eisenberg <rebecca@winwithrebecca.com> wrote:

Planning Commission, Architectural Review Board, City Council, and City Attorney's Office:

I ask that this letter and the attached files be placed in the packets for both commissions and the City Council. If I need to resent this separately to attain that goal, please let me know, as I will do so. It is lengthy to avoid having to write multiple shorter letters as in the past.

Having spoken with the City Attorney yesterday, I am following up, per Ms. Stump's suggestion, with more communications regarding Castilleja, conflicts of interest, the Municipal Code, and the documented harm that wealthy private schools cause to public school districts.

This letter addresses two primary issues, in reverse order: (B) Potential Conflict of Interest; and (A) Legal Noncompliance/non-enforcement/non-authorization by the City of Palo Alto. I apologize for the length. This summary of problems is merely a fraction of the irresponsible, irrational, and harmful actions that the Palo Alto City Council and its appointed Commissioners continue to make regarding Castilleja's proposed expansion and modernization to serve its well-heeled school body (and explicitly, no one else).

I write this letter on my own behalf, as a Palo Alto resident, a parent of public school students, an attorney licensed to practice law in California with three decades of professional experience, including direct experience with dozens of high-value land transactions and financing transactions, and as a lifelong supporter of sustainability, equity, and the essential value of strong public schools. I have standing to challenge the City's decisions and actions in these and other ways. I believe that my children's interest, and that of Palo Alto generally, will be irrevocably harmed should Palo Alto City Council approve Castilleja's CUP application, as discussed below, due to inappropriate actions and decisions made by the City and its relevant departments and commissions.

Part A:

A. LACK OF ENFORCEMENT OF PALO ALTO'S MUNICIPAL CODE AND THE AGREEMENTS IT SIGNED ON BEHALF OF THE CITY

Nguyen, Vinhloc

From: Rebecca Eisenberg <rebecca@winwithrebecca.com>
Sent: Sunday, November 22, 2020 6:34 PM
To: Planning Commission; Council, City; Stump, Molly; albert.yang@cityofpaloalto.com; Architectural Review Board
Cc: Rebecca Eisenberg; Curtis Smolar; Bill Johnson; Dave Price; local@bayareanewsgroup.com; Aldo Toledo; Jesse Gary; Gennady Sheyner; Jocelyn Dong
Subject: Castilleja - code compliance - potential conflicts of Interest - Michael Alcheck - and other matters
Attachments: Sept 25 2013 Notice of Noncompliance and Request to Abate.pdf; Oct 25 2013 Letter from Castilleja to Palo Alto.pdf; Dec 20 2013 City Letter Providing for Revocation of CUP.pdf; Castilleja's $256K fine for a decade of noncompliance.pdf

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Planning Commission, Architectural Review Board, City Council, and City Attorney's Office:

I ask that this letter and the attached files be placed in the packets for both commissions and the City Council. If I need to resent this separately to attain that goal, please let me know, as I will do so. It is lengthy to avoid having to write multiple shorter letters as in the past.

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Part A:

A. LACK OF ENFORCEMENT OF PALO ALTO'S MUNICIPAL CODE AND THE AGREEMENTS IT SIGNED ON BEHALF OF THE CITY

Palo Alto has failed to enforce its own laws against Castilleja for decades, while it does so regularly for residents, small businesses, and far less-wealthy organizations and individuals with far smaller legal violations. This intentional lack of legal enforcement of its own regulations, zoning codes, and penalties has caused our community significant harm. The lack of enforcement of its own negotiated agreements is why the City faces the groundswell of community anger, unrest, discontent, and collective opposition that has gathered to prevent the City to make an even larger error in law and judgment than it made with the President Hotel. Here I walk you through an incomplete list of the issues.

1. FAILURE TO ABIDE BY THE AGREEMENTS IT MADE ON BEHALF OF THE CITY OF PALO ALTO:

In 2013 the City began Revocation Hearing against Castilleja to Revoke its Current CUP. (see attached letter, titled "Notice of Noncompliance and Requirement to Abate" from the City to Castilleja) To avoid impending certain revocation of the CUP, Nancy Kauffman agreed in writing that she would move Castilleja from its current site if the private school did not comply with the law, including its enrollment cap of 415, and its traffic demand management plan of 350 vehicles, by year 2018. See attached documents, obtained through Public Records Requests. She agreed that if she did comply in five years, she would agree to revocation hearings at that time.

Although the City performed its end of the bargain, charging Castilleja a minor fraction of the penalties it owes (see below), and allowing it to continue in breach for another 5 years, as long as it complies to a reduction plan proposed by Castilleja (see attached), Castilleja never performed its obligations under the 2013 agreement. It never reduced its enrollment to 415. Nor did it sufficiently (if at all) reduce traffic.

Given that Castilleja had no legal right to file for an Amended CUP, **the City had no legal authority to accept the Amended CUP** for consideration and was and is legally mandated to reject it in its entirely and halt any and all use of public resources towards this CUP which was filed in direct breach of a binding agreement between the City and Castilleja.

Additionally, according to its own agreements, the **City is legally required to initiate Revocation Hearings**. How did we get to this place? All we know is further record of the City of Palo Alto breaking its own laws to accommodate its wealthiest private interest - a private interest that donates tens of thousands of dollars via its wealthiest supporters to elected officials, but which fails to pay one dime in taxes or mitigation to public funds.

2. FAILURE TO PRIORITIZE THE GOVERNMENT INTEREST IN THE WELL-BEING OF ITS COMMUNITY AND PUBLIC SCHOOL DISTRICT OVER THE PRIVATE INTEREST OF CASTILLEJA:

Palo Alto Public Schools are suffering. Most students have been out of school for almost an entire year, and all students faced a huge reduction in services and educational minutes. The PAUSD lacks resources to stream classes, and officially gave up on plans to open schools in any manner whatsoever until August 2021 the earliest. Students are facing emotional and academic crises like never seen before in Palo Alto history.

Contrast this state of affairs -- where public schools lack an opportunity to open for class -- with Castilleja's urgent need for a remodeled, higher-tech school building, an Olympic-sized, sound-enabled swimming pool, and an underground parking bunker to serve its high school aged car-owning student population. Why is Castilleja's arrogant wholly unnecessary remodel and expansion usurping so much public time, money, and resources, when our public schools literally are closed to students?

Put in the context of the growing poverty and homeless levels in the PAUSD, the City Council's and Commission's priorities are particularly distressing. In the **PAUSD, 800 students are at poverty levels to qualify for free meals** -- approximately 7% of families at pre-covid measurements. As many as 75% of Palo Alto public school students live in homes that are rented, not owned. Many of these families will face eviction when the eviction moratorium ends in early 2021.

Castilleja serves a school population of which only 20-30% of its students live in Palo Alto. 80% of Castilleja's students pay full tuition of $50,000 to $55,000/year per child. Only 20% of Castilleja students receive any financial aid, and those who do receive aid generally receive far less than half of tuition, according to disclosures made by Castilleja over the years.

Given Palo Alto's median household income of $145,000/year, the vast number of Palo Alto children's families could not conceive of being able to afford a private school like Castilleja -- even if they were admitted in Castilleja's exclusive,

discretionary, and secret admissions process (as a reminder, only 20% of families receive any financial aid, with the majority of grants equalling less than half of tuition) that is said to admit as few as one of every 20 applicants.

In the same calendar year that the City Council terminated most of its Cubberley lease -- which was an essential source of revenue for the PAUSD -- thereby depriving the PAUSD of almost five million dollars of public funds it previously had given the District, City Council is giving Castilleja invaluable sums of City Department time and resources, City Council time, and public resources to enable it to build a campus that makes public schools appear like hostels, and Castilleja stand out like the Taj Mahal - but no visitors may enter.

This would be an ideal time for Palo Alto to demand its legally-required mitigations, including - like virtually every other wealthy private school that insists on locating on residential lots --payments to PAUSD to account for the loss of property tax revenues that would be generated by those residential lots if they were being used for the legally restricted purposes. In the case of the 55 residential lots on which Castilleja sits (and pays nothing for the privilege).

The lost property tax revenue due to Castilleja's tax-free commercial use of 55 R-1 lots in one of the most expensive neighborhoods of Palo Alto (much less, the country) is estimated at somewhere between $3 million and $5 million a year. In other words, about the same amount that City Council cut from the public schools' budget this year.

Given that almost no Palo Alto firefighters, first responders, and public school teachers can afford to live in Palo Alto, wouldn't it be better for the City to devote its Planning Department time and resources, as well as PTC, PACC and ARB time and resources to something clearly in the public interest: the need for affordable housing? How can the City of Palo Alto provide such time and resources to a private school's quest to compete with the other private schools with the biggest and fanciest facilities, while at the same time the City of **Palo Alto claims complete inability to comply with State Law requiring it to build housing for low and very low income families**? Time is a limited resource, and right now, countless Department, Commission and Council time is dedicated to the illegal and unjustified goal of helping Castilleja have a high-tech swimming pool, and the only time devoted to affordable housing is the time the PACC takesunt t to draft letters claiming it lacks time and resources to build housing -- and no available land to set aside for housing. **How about the 55 residential lots being used for a commercial purpose by Castilleja**, Palo Alto?

How does conversion of more than six acres of residentially-zoned land for commercial use comply with the mandates of the Comp Plan, your stated goals, and the legal mandates of SB 35 and other California housing laws?

If Palo Alto were to say NO to Castilleja -- as it is required to do under its own laws and contracts -- then Palo Alto could reclaim millions of dollars of local resources to spend on its stated TOP priority: affordable housing. Nowhere in the Comp Plan or City Council values or goals is the interest of furthering the community-subsidized (through police, fire, utilities delivery, thousands of hours of department and commission time, theoretical enforcement, and mitigation of safety hazards for which Castilleja refuses to pay) **commercial development of a private school that locks its gates to the community, so it can build a commercial development on 55 urgently needed Residential Lots**? (Didn't the newly elected City Council members vow to protect R-1 lots? **You do not allow a duplex, yet you allow a commercial development to serve 1000 students, faculty, and staff?**)

All this rests on top of the fact that Castilleja uses millions of dollars worth of public services -- street cleaning, road maintenance, tree trimming, utilities delivery, fire protection, police protection, other first responder protection, and others -- without paying a cent into public coffers. Although Castilleja is tax-exempt, it is not a charity nor does it have a charitable purpose, or even any purpose that serves public interest (despite its claims to the contrary - if it could be considered a charity, it would be).

It also rests on top of the well-documented harm caused by public school districts by private schools, including diversion of resources away from public school districts as well as unmitigated free use of public services. See e,g, this article, this article, this article, and this article. Given that Castijella contributes nothing to public funds, yet takes so much of public resource time, money, and receipt of public services, every dollar used by Castilleja for free is a dollar deprived from the public school students of Palo Alto. This fact cannot be disputed, so Castilleja does not try.

While children in the Palo Alto public schools are told they must have remote class sizes of 39 students, and no access to a live classroom, Castilleja demands an olympic sized swimming pool and underground parking garage for able-bodied teenagers to drive their cars that the vast majority of Palo Alto families could not dream of affording. **Where is the public interest in this shameful process?**

It should come as no surprise that so many members of the public lack trust in Palo Alto City government, including its elected and appointed officials. The public trust was further damaged by reports that so many elected officials (including most of the recently elected city council members) accepted tens of thousands of dollars in campaign contributions from individuals closely associated (through donations, leadership roles, and/or family members who attended or currently attend Castilleja) with Castilleja. (Conflict of interest is addressed in greater detail below.)

3. FAILURE TO COLLECT CODE FINES AND PENALTIES

Palo Alto's Municipal Code requires statutory penalties of $500 per violation per day. When Castilleja was 40 students over its legal limit of 415, it owed **40 times $500 per day = $20,000/day**. Given operations during 300 days a year (underestimate), **Castilleja should have paid $6 MILLION in penalties a year.** This money is BADLY needed by the Palo Alto public schools, who are directly harmed by Castilleja's presence. With a 3-year lookback, at the **only** time that the City of Palo Alto collected a penalty from Castilleja, it collected $365,000 to represent 3 years of violations (see attached). That illegally low assessment (presumably allowed in exchange for Ms. Kauffman's promise that she would agree to CUP revocation if she failed to comply by 2018). **That fee of $122,000/year approximated the income generated by Castilleja from tuition for approximately 2 students Castilleja enrolled over its legal limit -- rather than the 40 students Castilleja was overenrolled**. **It is nonsensical to expect profit-seeking private commercial properties (please note: Castilleja is tax-exempt but it is NOT CHARITABLE) to follow the law, when Castilleja literally generates $2 million a year in tuition through legal violations that are not enforced.** (Castilleja's tuition is $50,000/year, so 40 students over legal limit = $2 million/year)

4. FAILURE TO MANDATE MITIGATIONS REQUIRED UNDER MUNICIPAL LAW:

And all this is true yet neither the ARB or PTC have demanded that Castilleja provide mitigations - **which Castilleja clearly can afford with the $30 million/year in tuition it will receive if you approve its commercial construction demands.** For examples of common mitigations, one may look at the example of Stanford University, a much better public citizen, which provides free shuttles open to the public (unlike Castilleja), which opens the vast majority of its campus to the community to enjoy the art and use most of its resources (unlike Castilleja, which refuses to share even its proposed garage or Olympic sized swimming pool!), and which offers numerous full scholarships to local students from disadvantaged backgrounds (Castilleja refuses to offer any free scholarship to truly needy girls from disadvantaged circumstances in EPA or MP!), and which also contributes financially to Palo Alto Public Schools (Castilleja only takes but does not give).

Recently, when San Francisco Friends School opened in San Francisco's Mission District, it agreed (1) not to have a parking lot, requiring all families to commute via public transportation; (2) it agreed to give multiple full scholarships at every grade level to poor children who live in nearby Section 8 Housing, and (3) it makes material contributions to the financial well being of SF public schools.

Why is nothing asked of Castilleja -- not even tuition scholarships for needy EPA girls, if Castilleja truly valued ALL women's education and not just the best education money can buy for the wealthiest girls in the Bay Area? As a reminder, despite Castilleja's $60 million endowment, $55,000 enrollment costs (with meals and books), and the $14 million it receives in donations each year, it provides ANY financial aid to only 1/5th of the students enrolled -- meaning that 80% of Castilleja families pay full fare of up to $55,000 in tuition, fees, and costs every year per daughter enrolled at Castilleja. For many Castilleja families, tuition alone costs a post-tax $150,000/year. Median income per household in Palo Alto is $145,000/year, which is one reason that Castilleja draws such a small minority of its attendance base from Palo Alto families and has no reported students from very low income families (as defined by state law) in attendance.

5. FAILURE TO ABIDE BY MUNICIPAL CODE RESTRICTIONS ON THE CITY'S RIGHT TO GRANT A CONDITIONAL USE PERMIT:

As a reminder, **Palo Alto Municipal Code makes it illegal for the City Council to grant a Conditional Use Permit if the Permitted Use causes any inconvenience or harm to the community.** See **Palo Alto Municipal Code chapter 18.76.** Does the City truly believe that this unprecedented commercial construction project and the resulting underground bunker-based garage to house only cars driven by teenage girls, will cause no inconvenience to residents?

18.76.010 Conditional Use Permit (CUP)
(c) Neither the director, nor the city council on appeal, shall grant a conditional use permit, unless it is found that the granting of the application will: (1) Not be detrimental or injurious to property or improvements in the vicinity, and **will not be detrimental to the public health, safety, general welfare, or convenience;**
(2) Be located and conducted in a manner in accord with the Palo Alto Comprehensive Plan and the purposes of this title (Zoning).

6. FAILURE TO MAKE LEGALLY MANDATED FINDINGS TO SUPPORT REMOVAL OF OPTION OF CASTILLEJA MOVING FROM ITS SITE FROM CONSIDERATION AND ANALYSIS:

Not only do the facts fail to support the illegal and irresponsible decision to remove the option of Castilleja moving from the school site even Castilleja admits it has overwhelmingly outgrown .. but the very notion of Castilleja not being able to move to an alternate site, given the thousands of available acres and much larger available sites already zoned for its use in Palo Alto is preposterous. It also flies in the face of legally binding representations made by Castilleja just a few years ago.

In 2013, Nancy Kauffman agreed in writing that she would move Castilleja from its current site if the private school did not comply with the law, including its enrollment cap of 415, and its traffic demand management plan of 350 vehicles, by year 2018. Apart from the fact that the City of Palo Alto , why exactly did the PTC find that Castilleja was not capable of moving to a new campus? If Castilleja can tear this one down and rebuild, wouldn't it be easier and better for Castilleja's students to stay put while **Castilleja builds its new campus on a site that is zoned for schools, like every other private and public school in the region?**

Was Nancy Kauffman lying when she agreed to move to a new campus if the school failed to comply with its 415 student enrollment cap by 2018? (see attached)

According to Castilleja's tax records, Castilleja is flush with money, with annual income above $50 million, and net assets - not including the (non-re-assessed) land --- of more than $120M - and additionally has an Endowment of more than $60 million.

https://www.guidestar.org/profile/94-0373222

https://apps.irs.gov/app/eos/displayCopyOfReturns.do?dispatchMethod=displayCORInfo&CopyOfReturnId=172025&ein=940373222&country=US&deductibility=all&dispatchMethod=searchCopyOfReturns&isDescending=false&city=&ein1=&postDateFrom=&exemptTypeCode=al&submitName=Search&sortColumn=orgName&totalResults=1&names=castilleja+school&resultsPerPage=25&indexOfFirstRow=0&postDateTo=&state=All+States

In fact, some local tax lawyers believe that Castilleja may be committing tax fraud by failure to pay tax on its millions of dollars of income generated by non-educational sources, including rental income for the multiple Palo Alto homes it owns and rents to private tenants unassociated with the school.

7. EXCLUSION OF COMMUNITY COMMENT, AND MISREPRESENTATION OF COMMUNITY SUPPORT, WHEN THE PROJECT CLEARLY HARMS PUBLIC INTEREST, EVEN IF A HANDFUL OF NEIGHBORS SUPPORT IT

Critically: the ARB, PTC, and PACC should be aware that not every Palo Alto based Castilleja family favors this development. **Approximately 10% of the money I raised for my City Council Campaign came from Palo Alto-based Castilleja parents** -- many because of, not despite, the message on my website, reposted below. Many Castilleja families oppose the actions being taken by Nancy Kauffman, but out of the best interest of their daughters, they are not able to speak out. Several others have children who attend both Castilleja and public schools, and they recognize the well-established harm that wealthy private schools like Castilleja cause to a public school district. Given how much PAUSD is struggling - and Castilleja is not - some wonder why all this attention and money is being given to Castilleja while our local public schools flounder without a workable recovery plan.

8. ABUSE AND MIS-USE OF THE QUASI-JUDICIAL HEARING PROCESS:

State and local law mandate that a quasi-judicial hearing be conducted in a fair, open, and transparent manner. These rules, largely articulated by the Brown Act, are described in detail, when it comes to Quasi-Judicial Hearings, in the California League of Cities Guide to Quasi Judicial Hearings: https://www.cacities.org/Resources-Documents/Member-Engagement/Professional-Departments/City-Attorneys/Library/2013/2013-Annual-Conference-City-Attorneys-Track/9-2013-Annunal-Adam-U-Lindgren-Common-Issues-in-Qu

This handbook mandates the following government requirements, all of which have been violated by the City of Palo Alto's Commissions and Council;

1. The community has a right to be heard, and short limitations on community time are discouraged given potential Brown Act and due process violations;

2. The applicant may not be represented both as itself, and also as part of community commentary -- which means that Castilleja supporters who are not neighbors in Palo Alto are legally prohibited from speaking during community comment time given their lack of standing;

3. All legal conclusions -- such as the exclusion of underground garage from EIR report, or the inability of Castilleja to afford to move to a site zoned for schools -- must be backed by specific factual findings -- such as, in these cases, the lack of impact of an underground garage on the neighborhood, and the lack of financial capacity for Castilleja to move to a site where it would not need to apply for CUPs to operate as a school.

4. Ex parte interactions are illegal -- which means that Commissioners are prohibited from taking private tours, having private meetings with Kauffman and other Castilleja leadership, and Commissioners may not gain information about the applicant through family members, or via self-interested communications including applying for admission. Those who have ex parte communications must recuse themselves from both deliberation and voting.

5. **These prohibitions on ex-parte communications do not apply to communications with the community** - So, despite false statements that Commissioners and Council members are prohibited from speaking with the public about applications, the opposite is true: local government leaders are mandated to have open communication with the public, but prohibited from having private meetings with the applicant.

6.Crucially, the Handbook notes, "For a quasi-judicial decision to be fair, the hearing must be conducted by a fair decision making body. 'A fair tribunal is one in which the judge or other decision maker is free of bias for or against a party.' Morongo, supra, 45 Cal.4th at 737, citing Withrow v. Larkin, supra, 421 US at 46. Despite the presumption of impartiality articulated in Morongo, , as will be detailed in papers that follow, “[p]rocedural fairness requires internal separation between advocates and decision makers to preserve neutrality.” Morongo, supra 45 Cal.4th at 737, citing Department of Alcohol Beverage Control v. Alcohol Beverages Appeals Bd. (2006) 40 Cal.4th 1, 10"

To clarify, decision-makers must be separated from applicants. This prohibition serves to prevent decision makers from being swayed away from **their actual job of serving public interest.** Public interest is mandated; private interests are banned.

Palo Alto literally has this backwards -- which has contributed to the spate of illegal, irrational, and unprecedented decisions made by this City Council -- including, a few months ago, the ludicrous decision that AJ Capital was forced to use the residential building it purchased for commercial use, because the one residential use it sought was a use prohibited by the Ellis Act. In other words, the PACC was correct that the Ellis Act prevents AJ Capital from turning the apartment building it purchased into condos because AJ Capital evicted the tenants illegally. Where the City Council went horribly wrong was in claiming that it somehow was "required" to allow AJ Capital to convert the residential building into a commercial building. Meanwhile, the clear language of the Ellis Act (and all cases that interpret it without exception) mandates that when tenants are evicted illegally, the landlord may not condo convert or otherwise re-rent at a rent more expensive than the rents paid by the evicted tenants. In other words, AJ Capital had a legal option: that of re-renting the units at the existing rents -- and its expensive settlement agreements with tenants did not change the force of State Law. But for reasons that defy logic, fact, or intelligence, City Council allowed AJ Capital to convert the residential building it purchased into an upscale hotel to serve businesses at a time when the entire state, and almost all commercial businesses, were on lockdown. This is the kind of damaged thought processes that Palo Alto is on track to repeat with Castilleja.

Why does this keep happening? Perhaps it is due to Palo Alto City Council's apparent belief that laws do not apply to Palo Alto -- for example, with the mandates of the RHNA Housing requirements, and the consequences of AB 35. But the law DOES apply to Palo Alto, and **our elected and appointed officials have sworn pledges to uphold our laws.**

Or, perhaps embarrassing and shameful conclusions stem from our local government's apparent comfort with corruption. Hence, Part B:

B. UNDISCLOSED CONFLICT OF INTEREST APPEARING TO INFLUENCE CITY DECISIONS REGARDING CASTILLEJA:

Last year, I pointed out the non-disclosed potential conflicts of interest by then-Commissioner Asher Woldfagel. Fortunately, the City Council chose not to reappoint Mr. Waldfogel to another term. Unfortunately, the City Council instead chose to appoint a third legal representative for Commercial Developers, onto a Commission that already at the time had two lawyers whose businesses rely on the success of their client base: Commercial Developers.

Usually the conflicts that commercial development lawyers (aka "land use" lawyers, whose clients are commercial development firms) are not readily visible. Sometimes (although rarely) these attorneys are able to temper their professional bias with occasional votes against developer financial interest. Only in the case of one commissioner is such bias so blatant, and does that Commissioner dominate so many meetings with false statements and misleading claims (e.g. the "job of a lawyer is to interpret the law," he said last Wednesday, when he knows well that his job is to interpret the law **to the benefit of his client**): Commissioner Alcheck.

Mr. Alcheck's biases have been on particular display in regards to Castilleja, given that every meeting, he loudly and vigorously repeats the same lies:

1. Alcheck lies that Castilleja is being treated unfairly. Per below, Castilleja is being given public windfalls equaling $6 million/year, not to mention the free use of all community services, including utilities delivery, police, fire, road maintenance, tree trimming, and telecom provisioning, without paying a DIME to the public, in taxes or otherwise. Even Castilleja admits that it has no legal right to operate a school on its current site, which is why it needs legal approval from the City to open its doors even to one student.

2. Alcheck lies that every other school gets to do what Castilleja is prohibited from doing. The truth: if Castilleja were to move to a site zoned for schools, like every other school cited by Alcheck and Castilleja, it would not need a CUP to operate, much less, to engage in the preposterous construction project it is bullying our city into being allowed to do. **If Castilleja wants to build an underground garage and new multi-story structure, it only need to move to one of literally hundreds of available commercial lots in Palo Alto -- which is what every single other private school has done**.

(Alcheck even - criminally - has compared the rights of Castilleja to those of public schools. Castilleja does not open its gates to the public **ever**. Public schools are required to, **always**.)

3. Alcheck lies that the law allows a commercial underground garage to operate in a residential neighborhood. On the contrary, the well-established legal truth backed by countless legal decisions and black letter law is: **if a residential neighborhood prohibits commercial use like a school -- it also prohibits a commercial underground garage** As a reminder, if Castilleja were legally entitled to be located on 55 R-1 lots in Old Palo Alto, it would not need a CUP**. As Castilleja itself confesses, Castilleja cannot operate AT ALL on its site without a CUP.** The illegality of "private educational facilities" and its associated buildings and developments to operate with CUPs for ALL uses is repeated 112 times in the relevant section of the Palo Alto Municipal Code: https://www.cityofpaloalto.org/civicax/filebank/documents/8700

Although "commercial garages located below ground" is not specified as one of the MILLIONS of illegal commercial uses outlawed in residential neighborhoods, an underground garage for 100 (or however many) cars to serve a commercial interest is a commercial interest. **There is ZERO precedent for any municipality to exclude a commercial garage from commercial garage from environment impact analysis.** The fact that the City of Palo Alto has done crosses the bounds of credibility into potential misconduct. The garage is for commercial use, no matter if it is on the 10th story or in an underground bunker that will destroy - permanently - 200 irreplaceable ancient trees.

Must we wait for a 16 year old driving a Range Rover to drive over an 8 year old child on a bicycle before recognizing the toxic absurdity of the PTC's recent decision to exclude Castilleja's garage from analysis? *Michael Alcheck - whose children do not ride bikes to and from public school in Palo Alto -- does not recognize this undeniable risk to our public school children's safety -- a risk that was acknowledged by the ARB last month, when it pointed to the spate of deaths caused by construction trucks killing children on bikes when they make right turns -* ***the exact cause of death of an 11 year old Palo Alto public school student in February.***

Perhaps the three lawyers on the PTC jointly propound this irresponsible and dangerous legal misstatement -- as well as other pro-developer biased interpretations - because all three lawyers on the Planning Commission are legally bound by the California Bar's Ethical Rules of Professional Conduct to act at all times in the best interest of their clients - commercial developers. Mr. Alcheck - the Commission who speaks as if he were on Castilleja's payroll himself (is he?) - has professional conflicts that go beyond his Legal Rules. **Mr. Alcheck is a commercial developer and commercial real estate investor himself**.

And if that were not enough, Mr. Alcheck also has undisclosed Personal Conflicts, that go beyond his Professional Conflicts:

1. Michael Alcheck's niece(s) (last name: Bodner) attend(s) Castilleja.

2. Michael Alcheck's sister, Ronit Alcheck Bodner, attended Castilleja and serves as an engaged high-contributing Alumna to Castilleja.

3. Michael Alcheck's parents and sister are, and have been, tightly associated with Castilleja and huge financial contributors to Castilleja for years, if not decades.

Evidence from the last 2 years, although this dates back much further:
See references to Ronit Alcheck Bodner in the following:
ANNUAL REPORT 2020
https://issuu.com/castillejaschool/docs/annual_20report_202020_20issuu_20_1_/s/11297372
ANNUAL REPORT 2019
https://issuu.com/castillejaschool/docs/castilleja_annual_report_2019_issuu

Ronit Alcheck Bodner listed in the following, for both years?
Parents' Annual Fund

Friend's Circle
$1,000 - $4,999
Ronit Alcheck Bodner '91 and
Zack Bodner
INVENTOR
$6,500 - $9,999
Ronit Alcheck Bodner '91
and Zack Bodner
Friends of Mary Lockey
$5,000 - $9,999
Ronit Alcheck Bodner '91

4. Additionally, confirmed through sources: **Michael Alcheck seeks to send his daughters to Castilleja -** which accepts as few as 5% of applicants**.** Currently, all three of Alcheck's children attend private - not public - school. **Doing favors for Castilleja may help his chances -- and increasing Castilleja's enrollment by 30% is guaranteed to improve his chances for admission.**

Alcheck's lack of personal stake in the well-being of Palo Alto public schools may be a reason that Alcheck has failed to acknowledge the **documented financial harm that private schools cause public school districts**. See e,g, this article, this article, this article, and this article. Given that Castijella contributes ZERO to public funds, yet takes so much of public resource time, money, and receipt of public services, every dollar used by Castilleja for free is a dollar deprived from the public school students of Palo Alto. This fact cannot be disputed, so Castilleja does not try.

That fact alone makes it illegal to the City of Palo Alto to grant Castilleja its proposed CUP under **Palo Alto Municipal Code chapter 18.76** (see below).

5. Michael Alcheck has additional close ties with Castilleja, including ties to Castilleja's CFO Kathleen Layendecker. See e.g. https://www.cityofpaloalto.org/civicax/filebank/documents/73344

In fact, I strongly encourage the PTC, ARB, City Attorney's Office, and PACC to read all communications sent to the City's Commissions and City Council regarding Castilleja. The Community has much to say.

6. Additional personal conflicts: Michael Alcheck's sister sits on the Planning Commission in Los Altos, CA. Both Michael Alcheck and his sister work for the **commercial development firm** owned by their parents. QUERY what that firm's construction company division stands to gain from the $300 million (or more) planned construction project for Castilleja in the residential neighborhood of Old Palo Alto, CA.

If Michael Alcheck did not think it was important to disclose that is sister and co-worker has donated more than $100,000 over the past several years to Castilleja, that his niece(s) attend Castilleja, and that his sister actually attended Castilleja herself when they were growing up ... what else is he concealing? **If these matters do not pose a problem, then why not disclose them**? At the most recent PTC Meeting, Commission Chair Templeton asked if any Commissioners had any potential conflicts to disclose, and Commissioner Alcheck again remained silent.

Of course, Alcheck is far from alone in having a personal stake in Castilleja's growth. Every single Palo Alto Commission has at least one Castilleja insider -- this is the case even though fewer than 20% of Castilleja's families live in Palo Alto. Given that only 50-60 (given siblings) Castilleja families live in Palo Alto, it is virtually impossible that this distribution in Palo Alto appointed leadership would occur by chance. In no recent case has any Commissioner closely associated with Castilleja recused themselves, including, recently, on the ARB, where a Commissioner appropriately disclosed that she formerly served as a Castilleja Trustee (and thus almost certainly is an Alumna and/or daughters who attended or attend Castilleja, although that was concealed). This Commissioner declined to recuse herself, and instead spoke favorably of Castilleja's application.

Given that: (1) Castilleja has been in violation of the law and its contract for almost 20 years; (2) Castilleja has been fined a fraction of a percent of what it actually owes the City of Palo Alto; (3) Castilleja is in violation of the settlement

agreement it reached with the city in 2013; and (4) Castilleja is in the final stages of steamrolling an illegal, dangerous, overwhelmingly opposed unprecedented huge construction project through the ARB, the PTC, and City Council -- every potential and perceived conflict of interest should be taken seriously.

C. CONCLUSION:

Palo Alto City Council must slow down and give this illegal and dangerous project another look. Imagine if this were John Arrijaga himself proposing a commercial project on 55 residential lots, rather than the private school financially backed by Mr. Arrijaga, and attended by Mr. Arrijaga's daughters, and now, granddaughters, demanding this unprecedented commercial project on 55 residential lots?

The City of Palo Alto must enforce its own laws. In order to do so, it must demand full transparency, integrity, and disclosure with regard to this project. The public deserves better. Please enforce your own contractual agreements, as well as the laws you enforce against non-billionaire stakeholders before more damage is done due to irrational and unjustified acts that harm our community's safety, security, and well being.

Sincerely,

Rebecca Eisenberg, Esq.

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415-235-8078

https://www.winwithrebecca.com/castilleja

Dear Community Members of Palo Alto,

I am a huge fan of all-female education. I have read the studies and I believe, without qualification, that educating girls and women in single-sex setting is beneficial to women's equality. While at Stanford, in 1987, I received a Boothe Prize for Excellence in Undergraduate Writing for a philosophy essay that relied on both Rousseau and Wollstonecraft in supporting and defending the single-sex education of girls and women. I always have supported and will continue to support, single sex education for girls and women.

I also have great respect for Castilleja as an educational institution. Castilleja is recognized internationally as a top rated all-female middle school and high school. Castilleja deserves its international prestige.

My problems with Castilleja lie not in its performance as an educational institution, but as a campus in Palo Alto that has not complied with zoning law.

Castilleja is subject to a Conditional Use Permit (CUP) issued in 2000, which limits its enrollment to 415 students, and its car usage to that which would be generated if it had only 385 students, the maximum enrollment in Castilleja's CUP prior to 2000.

Since 2002, Castilleja has been in violation of both of these primary aspects of its CUP, and by means of not coming into compliance since that time, also is in violation of our municipal and building codes. Importantly, without the CUP, Castilleja could not operate a school at that location. Castilleja sits on approximately 55 lots that are zoned for residential use (RH-1), and the City of Palo Alto granted the CUP in a manner that is necessary to preserve the integrity of this quiet, residential neighborhood. In other words, Castilleja operates due to a zoning variance provided by the City that binds Castilleja to strict requirements that Castilleja agreed to when the CUP was issued, but Castilleja has not kept its word.

Pursuant to Castilleja's own records, Castilleja has enrolled more than 415 students since 2002. Despite numerous warnings from the City, as well as complaints from third parties regarding safety hazards, Castilleja has not come into compliance. If Palo Alto enforced its own municipal code, Castilleja would be liable to the city for $500/day per violation of the CUP. Each additional student constitutes a violation of the CUP.

During the many years that Castilleja has enrolled 20 students above the CUP, the zoning fines amount to $500/day per 20 students = $10,000 in fines per day. Figuring 300 days a year, the zoning fines amount to $3 million/year. Palo Alto has not collected these, so Castilleja has not paid them. Castilleja also is legally obligated to show through a Transportation Demand Management plan that the traffic it generates is equivalent to that which would be generated if enrollment remained at its pre-2000 maximum of 385 students.

In fact, Castilleja's violations of its CUP have been so severe and so long standing, that in 2013, the City and Castilleja signed a settlement agreement that provided a reduced penalty for Castilleja ($365,000) in exchange for Castilleja making two promises:

(1) that Castilleja would come immediately into compliance with its CUP limiting enrollment to 415 students by reducing enrollment by 4-6 students a year

(2) that Castilleja would NOT file for an amended CUP unless and until it became fully compliant with its existing CUP. The agreement provided that if Castilleja

were to break these promises, the City of Palo Alto would consider all legal consequences, including pulling its permit and requiring Castilleja to leave its site.

Nonetheless, Castilleja broke both promises. It never reduced its enrollment to the legally mandated 415 students. Nor did it wait for compliance to file for an amended permit.

Castilleja instead filed a permit requesting a 30% increase in enrollment as well as an underground garage abutting the bike boulevard used by elementary school students. And instead of enforcing its settlement agreement, the City has done nothing.

Why is this important?

1. All people and companies should be required to comply with the law. Consequences for illegal behavior should be applied equally.

2. Castilleja operates on its site due to a variance given voluntarily by the City of Palo Alto. It does not have the legal right to operate on 55 residential lots if not for this variance (the CUP). The land is zoned for houses, and was zoned for residences when Castilleja first acquired it. In fact, Castilleja used to be a boarding school, so its location on residential lots was easier to justify then.

3. Now that Castilleja is a commuter school, Castilleja's existence on these 55 residential lots is expensive to the city's housing supply. Palo Alto is subject to the requirements of state law, mandating that the city add housing every year, Cities that fail to meet the state-mandated minimum new housing subject themselves to State intervention, where the State will enter the city and put housing where the State wants.

Palo Alto is among the very most behind in its housing minimums in the state. Palo Alto needs those 55 residential lots much more now than it did during the time when it gave Castilleja its CUP. Given that CUP's must be given only to the extent that a public interest is furthered by the granting of the CUP, if Castilleja had applied for its original CUP today, it is unlikely that the City of Palo Alto would have granted it.

4. Castilleja's non-compliant existence on the 55 residential lots also

significantly costs Palo Alto financially. Castilleja is tax exempt as a private school under the IRS Code's Section 501(c)(3), so it pays no taxes to Palo Alto. That means that the residents of Palo Alto currently pay for all of Castilleja's use of city services, including street maintenance, tree safety, fire fighters, delivery of utilities, stoplights, traffic enforcement, local parks, and all other public services that students and staff at Castilleja use. For each additional student and staff member, that use increases, and those costs are borne entirely by the residents of Palo Alto, not by Castilleja.

This is what the law provides, which we cannot control. That said, the City of Palo Alto is facing a severe budget crisis that has led the City Council to cut services to our public school students, funding to our public schools, hours and services offered by our public libraries, and even community programs for children such as the Palo Alto Children's Theatre. Castilleja's over-enrollment contributes to that budget crisis.

5. Castilleja's continued growth beyond its legal size limit has had growing negative impacts on the community. Despite Castilleja's legal promise to Palo Alto to reduce the impact of car commutes, Castilleja has continued to make driving the most convenient way for its students to attend school. In its most recent application for an amended CUP, Castilleja admits that it prefers that its students drive, asking for the right to build a large parking garage on its campus to enable more driving. Already Palo Alto's aging population faces risk from the increase in traffic due to so many new drivers filling the streets - elementary school bikers are also at increased risk of getting hurt. This is neither sustainable or safe. What Castilleja could do is encourage carpooling - a more environmentally sustainable solution.

6. Construction at the Castilleja site will create hazards for Palo Alto residents for years. In addition to construction noise, the monumental construction project that Castilleja requests for its 6 acres will create the hazards that large construction projects always create: air pollution, traffic, toxic materials, and reliance on public services such as public safety and the fire department.

Construction fires are common. Construction trucks also pose huge safety risks to neighbors. Only 4 months ago, a construction truck near California Ave struck and killed an 11 year old bicyclist due to lack of lighting in the residential neighborhood. Old Palo Alto is a residential neighborhood and is not set up to sustain the type of huge projects that Castilleja is demanding to build. What if an actual lock-down emergency were to happen at Palo Alto High School, or Walter Hays, but first responders cannot reach the students because of the hazards at

the Castilleja construction site?

What I would like to see happen:

1. Castilleja needs to comply with its current Conditional Use Permit.

2. If Castilleja cannot comply with its CUP, I will work with Castilleja to find a second campus that is zoned for schools rather than for residences.

3. Castilleja can sell its extremely valuable parcel of land and use the proceeds to invest in a new location that is zoned for schools. This would allow those 55 RH-1 lots to return to residential use -- and would allow Palo Alto to collect property tax from those lots as the city had planned when Palo Alto zoned the area RH-1.

4. If Castilleja would like to increase its enrollment over its legal limit of 415, it can open discussions with the City about ways it can pay the City of Palo Alto for its use of city services. This is what Stanford does, and is why Stanford historically has paid millions of dollars to our public schools, and why Stanford is required to provide its electric shuttle bus system - the Margueritte - as well as make the Margueritte available to use by the public.

Stanford also has committed to keep many areas of its campus open to the public, so that Stanford's art, biking paths, streets, and even many of its buildings, facilities, and programs are open to the public. Castilleja has not made any similar offers, for example to open its proposed pool to low-income residents for swim lessons, or to set aside fully paid up scholarships for needy children from nearby neighborhoods. Both of those things are done by many prestigious private schools nationally, even without needing to offer them in order to be granted a conditional use permit.

Although many organizations have called for Castilleja to invest in communities of needs through full scholarships set aside for poor neighbors, Castilleja has not announced any official program doing so.

Both Castilleja representatives and Palo Alto residents are unhappy with the current situation. If we do nothing, we could potentially be endangering everyone involved. I would love to work with Castilleja, and negotiate a

situation where we can maximize both safety and women's education.

Sincerely,

Rebecca Eisenberg

PLANNING & COMMUNITY ENVIRONMENT
CITY OF PALO ALTO
250 Hamilton Avenue, 5th Floor
Palo Alto, CA 94301
650.329.2441

September 25, 2013

VIA CERTIFIED MAIL

Nanci Z. Kauffman
Head of School
Castilleja School
1310 Bryant Street
Palo Alto, CA 94301

Re: NOTICE OF NONCOMPLIANCE AND REQUEST TO ABATE

Dear Ms. Kauffman:

The City is in receipt of your letter dated August 15, 2013 regarding the City of Palo Alto's request for a conditional use permit conformance report at Castilleja School ("School"). The City shares your focus to resolve the school's conformance issues as quickly and responsibly as possible and to improve your automobile parking and traffic management programs.

Enrollment Violation

After reviewing the School's conformance report it is evident that the School is not in conformance with the Conditional Use Permit requirement that the maximum enrollment be 415 students (Conditional Use Permit 00-CUP-23, November 2, 2000). The School has provided enrollment information to the City that illustrates non-conformance with the use permit enrollment for twelve consecutive years beginning with the 2002-2003 school year.[1] Over this twelve year period, the School has exceeded enrollment as follows:

School Year	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
Students	391	414	416	418	416	424	427	427	432	431	434	437	450	448

In the current school year there are 33 students enrolled above the maximum allowed. Based upon the pattern of student enrollment that exceeds the maximum allowed, the City has concluded that the School has been in violation of the occupancy limit in its use permit for the years 2002-03 through the present.

[1] The City does not accept Average Daily Enrollment as the basis for conformance with the conditional use permit, in that that the conditional use permit specifically states, "415 students". There is no provision in the use permit to deduct student absences from the total enrolled students figure. In any event, data contained within the August 15 report demonstrates that by the school's measure of maximum enrollment as Average Daily Enrollment (identified as an incorrect measurement by the school), Castilleja has not conformed with the use permit since the 2009-2010 school year.

Request for Abatement

In accordance with the CUP, the City hereby notifies the School that it is in violation of the CUP's enrollment limit of 415 students and that the School must take immediate action to begin correcting this violation. As stated in our August 5 letter, the City recognizes the hardship involved with an immediate demand to bring enrollment down to 415. Accordingly, the City instead will require a two-fold approach to compliance.

First the School shall immediately implement a robust and exemplary Transportation Demand Management (TDM) program during these interim years of enrollment reductions. This TDM program would require performance standards, regular monitoring and enforcement penalties. The TDM program would be required to reduce automobile trips to the lesser of (1) 385 drop-off trips or (2) the number of baseline drop-off and pick-up trips originally estimated in the original 2000 CUP as adjusted by the CUP-required TDM measures. The City requests the School submit for City's review and approval a TDM program within 30 days of this letter. The City would expect this plan to be implemented over the current school year and would expect to see traffic reduced to the baseline level by the end of the 2013-14 school year. To ensure effectiveness, the City will require routine monitoring and achievement of targets for at least one year. Thereafter, the City will require the City to submit bi-annual TDM monitoring reports to the City for review and approval. All City costs of monitoring and enforcement will be borne by the School.

In addition to the TDM implementation, the City will also require an attendance reduction to 415 enrolled students through natural attrition and voluntary measures, such as acceptance of fewer new incoming students (Attendance Reduction Plan). Please provide the Attendance Reduction Plan to the City for approval within 30 days of this Notice. If the plan involves multiple years, provide annual performance metrics that can be verified by the City.

If the School is not able to meet the TDM goals and enrollment reduction by the dates set forth in the City-approved TDM Plan and Attendance Reduction Plan, the City reserves its right to initiate CUP revocation proceedings.

Penalties for Nonconformance

In light of the above non-compliance, the City will assess the School penalties in the amount of $500/day for each instructional day that the School has violated the maximum enrollment. As the City is only permitted to go back three years in assessing penalties[2], the City has calculated the amount due as follows:

600 days x $500 = $300,000.00, based upon the start of the 2010-2011 school year, including 180 days of instruction per year, and concluding within the current school year on October 25, 2013, the due date for submittal of the School's TDM program.

Please remit this sum to the City within 30 days of this letter. As stated in our August 5, 2013 letter to you, the City will apply these administrative fines for the monitoring of the TDM program, assisting in mitigating the traffic and parking impacts of the School on the immediate neighborhood, and ensuring

[2] The City's practice is to treat CUP violations as statutory violations. Under State law, these types of violations allow a three year recovery period. (CCP Section 338.)

compliance with other conditions of approval. These fines may also be used, in part, to develop TDM programs throughout the City as directed by the City Council.

With respect to fines for future violations after October 25, 2013, the City will consider waiving such fines upon a showing of effective and continuing transportation demand management programs.

Request for Supplemental Information Regarding Additional Possible Violations.
In addition to the primary area of non-conformance the school has provided statements indicating the status of conformance with the use permit conditions of approval. The City will require additional information, as outlined in Attachment A to this letter, to validate these conformance claims. The requested information contains items such as the latest versions of the Parking Management Plan, the parent/student handbook, and the Transportation Demand Management plan. The City is requesting data, if available, regarding carpooling rates, shuttle use and operations, student parking permits, and an accounting of previous community meetings and attendance data. This information shall be submitted to the City no later than October 25, 2013. Finally, the City will conduct unannounced, on-site inspections of the school grounds to determine the effectiveness of security staff and daily parking and traffic management, and off-site automobile parking conditions. The City will also inspect and confirm that the school conforms to the previously approved site improvements. The results of the inspections and the analysis of the requested additional information may form the basis of further corrections that the school shall make in order to conform to the existing use permit.

Further Enforcement Proceedings
Pursuant to Palo Alto Municipal Code Section 18.77.110 (b)(1) if the noncompliance is not abated, corrected or rectified within the time specified in the notice of noncompliance, the Director of Planning may issue an order to show cause why such a permit or approval shall not be revoked, suspended or modified. An order to show cause shall be set for a public hearing before the Director.

Thank you for your cooperation with this matter. Please contact me as soon as possible if you have any questions.

Sincerely,

Steven Turner
Advance Planning Manager

Attachment

cc. James Keene, City Manager
Aaron Aknin, Interim Director, Planning and Community Environment
Cara Silver, Senior Assistant City Attorney
Mindie S. Romanowsky, Jorgenson, Siegel, McClure & Flegel LLP

MEMORANDUM

DATE: October 25, 2013

TO: Steve Turner, City of Palo Alto

FROM: Nanci Kauffman, Head of School, Castilleja School

RE: Castilleja School Response to City of Palo Alto Letter, dated September 25, 2013, Enrollment Reduction Plan

CC: James Keene, City Manager
Aaron Aknin, Interim Director, Planning and Community Environment
Cara Silver, Senior Assistant City Attorney
Mindie S. Romanowsky, Jorgenson, Siegel, McClure & Flegel LLP

Below is an outline of Castilleja School's proposed enrollment reduction plan to address the City of Palo Alto's letter of September 25, 2013.

- Castilleja will continue to implement its robust TDM plan to meet the City-imposed goal of reducing the traffic impact levels to that of 385 students, as prescribed by the 2000 CUP.
- To ensure the impacts are reduced per the 2000 CUP, the school requires sufficient time to study, implement and monitor the efficacy of the TDM Plan. This will occur between August 2013 and December 2014.
- As stated in the City's letter of August 5, 2013, whereby the City informed Castilleja that it would need to apply for a new use permit, Castilleja intends to apply for an amended CUP no later than January, 2015 on the condition that the TDM Plan succeeded in reducing trip impacts to the 2000 CUP level.
- Should the TDM plan fail to reduce the school's traffic impact to levels of the 2000 CUP, Castilleja will reduce enrollment to 415 students, as follows:

Academic Year	**2013-14 2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**
Enrollment	448	440	432	424	415

PLANNING & COMMUNITY ENVIRONMENT
CITY OF PALO ALTO
250 Hamilton Avenue, 5th Floor
Palo Alto, CA 94301
650.329.2441

December 20, 2013

Nanci Z. Kauffman
Head of School
Castilleja School
1310 Bryant Street
Palo Alto, CA 94301

Re: City Response to October 25, 2013 Letter from Castilleja School

Dear Ms. Kauffman:

The City is in receipt of your letter dated October 25, 2013 in response to the September 25, 2013 Notice of Noncompliance and Request to Abate issued by the City of Palo Alto. The City appreciates the work of Castilleja School (School) staff to address the issues. The intent of this letter is to provide the City's response to the items contained in the October 25 letter and communicate the appropriate next steps to resolve the school's conformance issues.

As described in the September 25, 2013 letter to Castilleja School, the City will require a two-fold approach to compliance with the use permit. The first approach includes the immediate implementation of a robust and exemplary Transportation Demand Management (TDM) program during the interim years of enrollment reductions. The City's response to the proposed TDM program is provided below. The second approach includes a requirement for an attendance reduction to 415 enrolled students through natural attrition and voluntary measures, such as acceptance of fewer new incoming students.

Enrollment Reduction Plan
The City acknowledges the spirit of your proposed Enrollment Reduction Plan, but we feel it does not initiate reductions soon enough. As stated in our September 25, 2013 letter, the School must take immediate action to correct the enrollment violation, beginning in the 2014-2015 school year. Although the City will not specify specific reduction actions, we believe there are strategies such as attrition that can be used to reduce enrollment beginning immediately. Under this scenario, students who leave the School prior to graduation would not be "back-filled" with new students. The School may wish to consider this and other means to begin enrollment reductions in the 2014-2015 school year.

Please provide a revised Attendance Reduction Plan to the City for approval within 30 days of this letter. As previously stated in the September 25, 2013 letter, if the plan involves multiple years, provide annual performance metrics that can be verified by the City.

Transportation Demand Management Plan
The Transportation Demand Management (TDM) Plan, as described in the October 24, 2013 memorandum prepared by Nelson\Nygaard Consulting Associates describes the elements of the proposed TDM plan. The elements of the TDM plan appear to be generally adequate in a qualitative sense, but there is no quantitative estimate of the trip reduction effects for each of these elements. The

intent of the TDM plan is to reduce vehicle trips to a level that would be generated by 385 students, based upon a baseline year 2000 trip generation estimate provided by Fehr & Peers dated October 21, 2013 on behalf of Castilleja School. A revised TDM plan shall include trip reduction estimates that would meet the 385 student measurement.

In addition to the quantitative trip reduction estimates, the TDM plan shall also describe the monitoring plan to assess the success of the TDM plan. As stated in the September 25, 2013 letter, The City would expect the TDM plan to be implemented over the current school year and see traffic reduced to the baseline level by the end of the 2013-14 school year. To ensure effectiveness, the City will require routine monitoring and achievement of targets for at least one year. Thereafter, the City will require the School to submit bi-annual TDM monitoring reports to the City for review and approval. All City costs of monitoring and enforcement will be borne by the School.

Conditional Use Permit Revocation
If the School is not able to meet the TDM goals and enrollment reduction by the dates set forth in the City-approved TDM Plan and Attendance Reduction Plan, the City reserves its right to initiate CUP revocation proceedings.

Payment of Penalties for Nonconformance
The City has received an adjusted payment of $265,000 which reflects each instructional day that the School has violated the maximum enrollment for the past three years. As stated in our August 5, 2013 letter to you, the City will apply these administrative fines for the monitoring of the TDM program, assisting in mitigating the traffic and parking impacts of the School on the immediate neighborhood, and ensuring compliance with other conditions of approval. These fines may also be used, in part, to develop TDM programs throughout the City as directed by the City Council.

With respect to fines for future violations after October 25, 2013, the City will consider waiving such fines upon a showing of effective and continuing transportation demand management programs.

Amendments to the Conditional Use Permit
The City will consider any future application request for amendments to the existing Conditional Use Permit (CUP) to be incomplete until the school can demonstrate an effective TDM program and an Enrollment Reduction Plan that describes the enrollment targets over time, concluding with an acceptable end date achieving a maximum of 415 students. The City does not recommend submitting a CUP amendment request before the 2015-16 school year. The school will need to demonstrate that it can comply with the requirements of the September 25, 2013 Notice of Noncompliance and Request to Abate.

Please respond to the City's request for a revised enrollment reduction plan and a more specific TDM plan by January 20, 2014. The City appreciates the School's efforts over these past six months and expects that with your continued focus and efforts, the School will be able to meet the requests we have outlined in this letter. Please contact me as soon as possible if you have any questions.

Sincerely,

Steven Turner
Advance Planning Manager

cc. James Keene, City Manager
Hillary Gitelman, Director, Planning and Community Environment
Cara Silver, Senior Assistant City Attorney
Mindie S. Romanowsky, Jorgenson, Siegel, McClure & Flegel LLP

City of Palo Alto

Revenue Collections 101
1332402-1 11/20/2013 104
Wed, Nov 20, 2013 02:38 PM

Receipt Ref Nbr: R1332402-1/0017

F_MISC - MISCELLANEOUS FINANCIAL TRANSAC
Tran Ref Nbr: T1332402-1/0021
Reference: CASTILLEJA SCHOOL FINE ST
Financial Account Info:
A 60020403 -12220
Miscellaneous
Line Item Amt: $256,000.00

Amount:	1 @ $256,000.00
Item Subtotal:	$256,000.00
Item Total:	$256,000.00
1 ITEM(S) TOTAL:	$256,000.00
Check (Chk# 200750)	$256,000.00
Total Received:	$256,000.00

**********CUSTOMER COPY**********

of Palo Alto Revenue Collections

School / Steven Turner Date: 11/20/13

School Fine By:

40050009	18990	$	
70020002	13110	$	
10200000	18990	$	
10200000	11850	$	
10200000	60050	$	
10300000	11870	$	
60020201	17030	$	
23600000	14510	$	
23700000	14520	$	
23600000	14500	$	
60020403	12220	$	256,000.00
	Total	$	256,000.00

Cash ( ) Check (✓)

256,000.00

1332402-1 0021 11/20/2013 101 104
F_MISC CASTILLEJA SCHOOL FINE ST $

From:	Kim Martin
To:	Planning Commission
Subject:	Inquiry Re: CalTrans Camera Installation On El Camino
Date:	Thursday, November 19, 2020 3:05:33 PM

Hello. My name is Kim Martin. I am a resident of Palo Alto and just recently noticed various CalTrans crews working around town including many on El Camino Real doing what looks to me as installing cameras on the traffic signal arches and connecting into signal switch boxes. I am interested to learn more about their project and was unable to find that information on the CalTrans website (which is huge, so maybe that's just a matter of information overload). Is someone on this commission able to tell me about it or send me a link to where I can read more. Specifically, I'm interested in:

1) What data or images are going to be captured (e.g., is is just red-light running triggered or constant on) and how long will they be retained?
2) Who will have access to that data and images?
3) Will any images interface with AI or just license-plate identification?
4) Will the cameras be used in law enforcement such as those in Menlo Park?
5) If yes to 4, will signs be installed at the intersections as well to alert drivers and remind them of the corresponding fines?
6) Is there a map of all the locations in Palo Alto where these types of cameras will be installed or may have already been installed?
7) When is the "go-live" date for whatever these cameras are being used for?

Separately, I'm interested to know/be reminded of when Palo Alto gave the go-ahead to install cameras around town. For as long as I have lived here, there has been tremendous push back on such efforts, and I feel like it is still not the majority held position, such that if more residents were aware of this there could very well be a lot of anger. Perhaps I missed the whole due-process on this. Thanks for any insights you may be able to share.

Regards,

Kim Martin

From: Vidhya Thyagarajan
To: Planning Commission
Subject: Supporting Castilleja" expansion
Date: Thursday, November 19, 2020 12:04:49 AM

Dear City Council (or Planning and Transportation Commission),

I am not affiliated with Castilleja in any way, other than the fact that I live three blocks away from campus. As someone who owns a home nearby and has no other connection to the school, I am still very invested in the outcome of this process, and I hope you will vote to approve this project.

As a resident of Palo Alto, I see that this excellent school benefits everyone. We all do better in a city where children can thrive. And I do not want to live in a city that limits educational opportunity **for no just reason**. If this proposal—which has been studied and proven to have no significant impacts—does not pass, that is the message that will come through loud and clear.

There are hundreds of supporters of the school. Some are unaffiliated, like me, and they simply understand that supporting this modest project improves life for all, including the nearest neighbors who will get a more beautiful campus, cars parked below ground, and more trees. Then there are other supporters who are affiliated with the school, many of them living just steps from campus. I have heard opponents claim that those voices aren't valid because they are members of the Castilleja community and they shouldn't be allowed to contribute to the conversation. What nonsense! Of course their voices matter. I think opponents want to make it seem that Castilleja is not really a benefit to Palo Altans, but you see the girls walking and biking to school every day in those blue skirts. They are part of our community. Those are students from Palo Alto who benefit from this school.

I know it is really hard to get into Castilleja at the high school, and letting them admit a few more students would help their program and help girls from Palo Alto whose families couldn't afford all seven years of private school middle and high school but could begin to imagine managing just four in high school. Since there are no impacts, I believe that you must support this project. It makes more space for girls from Palo Alto, and it makes space families with different financial circumstances to join when they are able.

Please hear my voice and so many others and support this project.

Vidhya Thyagarajan
633 Coleridge Avenue

Nguyen, Vinhloc

From: Rebecca Eisenberg <rebecca@winwithrebecca.com>
Sent: Wednesday, November 18, 2020 7:54 PM
To: Planning Commission; Council, City
Cc: Stump, Molly; Shikada, Ed
Subject: Castilleja's Previous Agreement that they would agree to revocation of the CUP
Attachments: 18.76. Permits and Approvals.pdf; Oct 25 2013 Letter from Castilleja to Palo Alto.pdf; Dec 20 2013 City Letter Providing for Revocation of CUP.pdf; Sept 25 2013 Notice of Noncompliance and Request to Abate.pdf; Castilleja's $256K fine for a decade of noncompliance.pdf

Dear Planning Commission:

Given that Nancy Kauffman agreed in 2013 that Castilleja's CUP would be revoked if they did not reduce enrollment to 415 by 2108, why allow Castilleja to go to 540 without ever reaching the 2013 commitment? What happened to revocation? And why agree that Castilleja cannot afford to move, when Nancy Kauffman clearly communicated to the City that Castilleja could afford to move, in 2013?

Public records also confirm that Castilleja has hundreds of millions of dollars - tax-free due to the loophole in tax law that allows non-charitable organizations like Castilleja to be tax exempt even though they are not charitable in purpose. Please see the following links:

https://www.guidestar.org/profile/94-0373222

https://apps.irs.gov/app/eos/displayCopyOfReturns.do?dispatchMethod=displayCORInfo&CopyOfReturnId=172025&ein=940373222&country=US&deductibility=all&dispatchMethod=searchCopyOfReturns&isDescending=false&city=&ein1=&postDateFrom=&exemptTypeCode=al&submitName=Search&sortColumn=orgName&totalResults=1&names=castilleja+school&resultsPerPage=25&indexOfFirstRow=0&postDateTo=&state=All+States

Also, I need to correct Commission Lauing's statement that the City has the discretion to approve or deny a CUP. Rather, the City has no legal right to approve a CUP that is harmful to the community without mitigations that are bigger than the harm. As a reminder, in this context, a mitigation is not a claim that "the harm is not as bad as reported." There must be a public BENEFIT. Castilleja provides much social cost and no public benefit.

Palo Alto Municipal Code chapter 18.76

Neither the director, nor the city council on appeal, shall grant a conditional use permit, unless it is found that the granting of the application will: (1) Not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;

BTW it is NOT correct that the community cares mostly about traffic. Private schools are proven to divert as much as 10-20% of a public school district's funding from public to private. Traffic is the LEAST of the harms. Feel free to follow up or else read here:

https://www.winwithrebecca.com/castilleja

Given Ms. Kauffman's record of dishonestly, and the fact that the City Council (cc'd) has defunded and dismantled the office of enforcement and inspections, how exactly do you expect the community to be protected?

Thank you for your consideration.

Best,

Rebecca Eisenberg

Rebecca Eisenberg, Esq.
Principal & Founder
Private Client Legal Services
www.linkedin.com/in/eisenberg
rebecca@privateclientlegal.com
415-235-8078

Chapter 18.76
PERMITS AND APPROVALS

Sections:

18.76.010 Conditional Use Permit (CUP)

(a) Purpose

The purpose of a conditional use permit is to provide for uses and accessory uses that are necessary or desirable for the development of the community or region but cannot readily be classified as permitted uses in individual districts by reason of uniqueness of size, scope, or possible effect on public facilities or surrounding uses.

(b) Applicability

(1) A conditional use permit may be granted for any use or purpose for which such permit is required or permitted by the provisions of this title; or

(2) Any expansion in the building size or site area of an existing conditional use shall necessitate the amendment of the conditional use permit. Denial of an application for amendment of a conditional use permit does not constitute a revocation of the original conditional use permit.

(3) No application for a conditional use permit is necessary for existing uses which were lawful conforming permitted uses and which were rendered conditional by reason of rezoning or changes to this title, provided that any expansion in the building site or site area of such a use shall be subject to the issuance of a conditional use permit.

(c) Findings

Neither the director, nor the city council on appeal, shall grant a conditional use permit, unless it is found that the granting of the application will:

(1) Not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;

(2) Be located and conducted in a manner in accord with the Palo Alto Comprehensive Plan and the purposes of this title (Zoning).

(d) Conditions

In granting conditional use permits, reasonable conditions or restrictions may be imposed if appropriate or necessary to protect the public health, safety, general welfare, or convenience,

to secure the purposes of this title, and to assure operation of the use in a manner compatible with existing and potential uses on adjoining properties and in the general vicinity.

(e) Application Review and Action

Applications for conditional use permits shall be reviewed and acted upon as set forth in Section 18.77.060 (Standard Staff Review Process).

(Ord. 4826 § 117 (Exh. 2 (part)), 2004)

18.76.020 Architectural Review

(a) Purpose

The purpose of architectural review is to:

(1) Promote orderly and harmonious development in the city;

(2) Enhance the desirability of residence or investment in the city;

(3) Encourage the attainment of the most desirable use of land and improvements;

(4) Enhance the desirability of living conditions upon the immediate site or in adjacent areas; and

(5) Promote visual environments which are of high aesthetic quality and variety and which, at the same time, are considerate of each other.

(b) Applicability

No permit required under Title 2, Title 12 or Title 16 shall be issued for a major or minor project, as set forth in this section, unless an application for architectural review is reviewed, acted upon, and approved or approved with conditions as set forth in Section 18.77.070.

(1) Exempt Projects. Single-family and two-family residences do not require architectural review, except as provided under subsections (2)(C) and (2)(D).

(2) Major Projects. The following are "major projects" for the purposes of the architectural review process set forth in Section 18.77.070, and are subject to review by the architectural review board:

(A) New construction, including private and public projects, that:

(i) Includes a new building or building addition of five thousand square feet or more; or

(ii) Is not exempt under the California Environmental Quality Act (CEQA) (Section 21000 *et seq.* of the California Public Resources Code); or

(iii) Requires one or more variances or use permits and, in the judgment of the director, will have a significant effect upon the aesthetic character of the city or the surrounding area;

(B) Any multiple-family residential construction project that contains three or more units;

(C) Construction of three or more adjacent single-family homes or duplexes;

(D) In the Neighborhood Preservation Combining District (NP), properties on which two or more residential units are developed or modified, except when one of those units is a "second dwelling unit," as described in Section 18.10.140(d);

(E) Any project using transferred development rights, as described in Chapter 18.87;

(F) A master sign program, pursuant to Chapter 16.20;

(G) Signs that do not meet all applicable design guidelines adopted by the city council or do not conform to a previously approved master sign program;

(H) Signs requiring a sign exception pursuant to Chapter 16.20;

(I) Any minor project, as defined in subsection (3), that the director determines will significantly alter the character or appearance of a building or site.

(3) Minor Projects. The following are "minor projects" for the purposes of the architectural review process set forth in Section 18.77.070, except when determined to be major pursuant to subsection (2)(I):

(A) New construction, including private and public projects, that involves a new building or building addition of fewer than 5,000 square feet, and which is exempt under the California Environmental Quality Act (CEQA) (division 13 of the Public Resources Code, commencing with section 21000);

(B) Signs that meet all applicable guidelines and conform to any previously approved master sign program;

(C) Landscape plans, fences, exterior remodeling, and design of parking areas, when not part of a major project;

(D) Any project relating to the installation of cabinets containing communications service equipment or facilities, pursuant to any service subject to Chapter 2.11, Chapter 12.04, Chapter 12.08, Chapter 12.09, Chapter 12.10, or Chapter 12.13.

(E) Minor changes to the following:

(i) Plans that have previously received architectural review approval;

(ii) Previously approved planned community district development plans;

(iii) Plans that have previously received site and design approval;

(iv) Previously approved plans for projects requiring council approval pursuant to a contractual agreement, resolution, motion, action or uncodified ordinance;

(v) Existing structures requiring council site and design approval or approval pursuant to a contractual agreement, resolution, motion, action, or uncodified ordinance.

As used in this subsection, the term "minor" means a change that is of little visual significance, does not materially alter the appearance of previously approved improvements, is not proposed for the use of the land in question, and does not alter the character of the structure involved. If the cumulative effect of multiple minor changes would result in a major change, a new application for Architectural

Review approval of a major project, Site and Design approval, Planned Community District approval, or other applicable approval is required.

(F) Any changes to previously approved plans requiring architectural review as a minor project as part of the conditions of a permit or approval.

(c) Preliminary Review

For the purpose of securing the advice of the architectural review board prior to making an application for the board's recommendation on a project, an applicant, upon paying a preliminary application fee, as set forth in the municipal fee schedule, may bring a design before the board for preliminary review. If the applicant wishes to proceed with the project, he or she must then file an application and pay a regular application fee. The comments of the architectural review board members during a preliminary review shall not be binding on their formal recommendation.

(d) Findings

Neither the director, nor the city council on appeal, shall grant architectural review approval, unless it is found that:

(1) The design is consistent and compatible with applicable elements of the Palo Alto Comprehensive Plan;

(2) The design is compatible with the immediate environment of the site;

(3) The design is appropriate to the function of the project;

(4) In areas considered by the board as having a unified design character or historical character, the design is compatible with such character;

(5) The design promotes harmonious transitions in scale and character in areas between different designated land uses;

(6) The design is compatible with approved improvements both on and off the site;

(7) The planning and siting of the various functions and buildings on the site create an internal sense of order and provide a desirable environment for occupants, visitors and the general community;

(8) The amount and arrangement of open space are appropriate to the design and the function of the structures;

(9) Sufficient ancillary functions are provided to support the main functions of the project and the same are compatible with the project's design concept;

(10) Access to the property and circulation thereon are safe and convenient for pedestrians, cyclists and vehicles;

(11) Natural features are appropriately preserved and integrated with the project;

(12) The materials, textures, colors and details of construction and plant material are appropriate expression to the design and function and whether the same are compatible with the adjacent and neighboring structures, landscape elements and functions;

(13) The landscape design concept for the site, as shown by the relationship of plant masses, open space, scale, plant forms and foliage textures and colors create a desirable and functional environment and whether the landscape concept depicts an appropriate unity with the various buildings on the site;

(14) Plant material is suitable and adaptable to the site, capable of being properly maintained on the site, and is of a variety which would tend to be drought-resistant and to reduce consumption of water in its installation and maintenance;

(15) The project exhibits green building and sustainable design that is energy efficient, water conserving, durable and nontoxic, with high-quality spaces and high recycled content materials. The following considerations should be utilized in determining sustainable site and building design:

(A) Optimize building orientation for heat gain, shading, daylighting, and natural ventilation;

(B) Design of landscaping to create comfortable micro-climates and reduce heat island effects;

(C) Design for easy pedestrian, bicycle and transit access;

(D) Maximize on site stormwater management through landscaping and permeable paving;

(E) Use sustainable building materials;

(F) Design lighting, plumbing and equipment for efficient energy and water use;

(G) Create healthy indoor environments; and

(H) Use creativity and innovation to build more sustainable environments.

(16) The design is consistent and compatible with the purpose of architectural review as set forth in subsection (a).

(e) Conditions

In granting architectural review approval, reasonable conditions or restrictions may be imposed if appropriate or necessary to protect the public health, safety, general welfare, or convenience, to secure the purposes of this title, and to:

(1) Promote the internal integrity of the design of the project;

(2) Assure compatibility of the proposed project's design with its site and surroundings;

(3) Minimize the environmental effects of the proposed project; provided, however, that the architectural review board's sole responsibility with respect to the storage of hazardous materials is to require compliance with Title 17 (Hazardous Materials Storage).

(f) Application Review and Action

Applications for Architectural Review shall be reviewed and acted upon as set forth in Section 18.77.070 (Architectural Review Process).

(g) Phased Projects and Enforcement of Approval Conditions

An application for a phased project may be submitted and a specific development schedule may be considered and approved. In no event, however, shall such a development schedule exceed five years from the original date of approval. Approved project plans and conditions of approval imposed through the architectural review process shall be enforceable as approved unless the application is revised or withdrawn in accordance with this title.

(h) Architectural Review Approval Prior to Demolition

No building demolition, except for tenant improvements or where necessary for health and safety purposes (as determined by the director), shall be permitted on any site requiring architectural review approval, until such architectural review approval is granted by the director, including review of subsequent conditions by the architectural review board, where required.

(Ord. 4966 § 1, 2007: Ord. 4964 §§ 19, 20, 2007: Ord. 4959 § 1, 2007: Ord. 4826 § 117 (Exh. 2 (part)), 2004)

18.76.030 Variance

(a) Purpose

The purpose of a variance is to:

(1) Provide a way for a site with special physical constraints, resulting from natural or built features, to be used in ways similar to other sites in the same vicinity and zoning district; and

(2) Provide a way to grant relief when strict application of the zoning regulations would subject development of a site to substantial hardships, constraints, or practical difficulties that do not normally arise on other sites in the same vicinity and zoning district.

(b) Applicability

Variances may be granted to the following:

(1) Site development regulations (except limitations on residential density and size of establishment) and parking and loading regulations (except those accessible parking regulations mandated by state and/or federal law and contained in Chapter 18.54) applicable within any district established by this title (Zoning);

(2) The special requirements that apply to site development and parking and loading regulations applicable within any district established by this title (Zoning), except provisions which restrict expansion of grandfathered uses that are subject to the special requirements of a specific zoning district. Special requirements in any district do not include special provisions and exceptions as set forth in Chapters 18.40 and 18.42 except for the location of accessory buildings;

(3) The requirements of Title 20 (Precise Plans);

(4) The requirements of Chapter 16.24 (Fences) except Sections 16.24.040 (Fences at Intersections) and 16.24.070 (Prohibited Fences);

(c) Findings – General

Neither the director, nor the city council on appeal, shall grant a variance, unless it is found that:

(1) Because of special circumstances applicable to the subject property, including (but not limited to) size, shape, topography, location, or surroundings, the strict application of the requirements and regulations prescribed in this title substantially deprives such property of privileges enjoyed by other property in the vicinity and in the same zoning district as the subject property. Special circumstances that are expressly excluded from consideration are:

(A) The personal circumstances of the property owner, and

(B) Any changes in the size or shape of the subject property made by the property owner or his predecessors in interest while the property was subject to the same zoning designation.

(2) The granting of the application shall not affect substantial compliance with the regulations or constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and in the same zoning district as the subject property, and

(3) The granting of the application is consistent with the Palo Alto Comprehensive Plan and the purposes of this title (Zoning), and

(4) The granting of the application will not be detrimental or injurious to property or improvements in the vicinity, will not be detrimental to the public health, safety, general welfare, or convenience.

(d) Findings – Flag Lot

In addition to the above-listed findings, in the case of a flag lot, neither the director, nor the city council on appeal, shall grant a variance, unless it is found that:

(1) The granting of the application will not disrupt established neighborhood character and aesthetics, and will not affect the health of the residents by significantly blocking out light and air;

(2) The granting of the application will not result in excessive paving, parking, potential traffic conflicts on busy streets, street tree removal or loss of private landscaping;

(3) The granting of the application will not negatively impact the privacy and quiet enjoyment of adjoining single-family residences, for both indoor and outdoor use.

(e) May Not be Granted for Unauthorized Use

A variance shall not be granted for a parcel that authorizes a use or activity that is not otherwise expressly authorized by the zone regulations governing the subject property.

(f) Conditions

In granting variances, reasonable conditions or restrictions may be imposed if appropriate or necessary to protect the public health, safety, general welfare, or convenience, and to secure the purposes of this title (Zoning).

(g) Application Review and Action

Applications for variances shall be reviewed and acted upon as set forth in Section 18.77.060 (Standard Staff Review Process).

(Ord. 4826 § 117 (Exh. 2 (part)), 2004)

18.76.040 Neighborhood Preservation Exception

(a) Purpose

The purpose of the neighborhood preservation exception is to foster retention of existing single-family structures and to maintain the existing historic and general character of neighborhoods in the neighborhood preservation (NP) combining district.

(b) Applicability

For properties within the neighborhood preservation (NP) combining district, a neighborhood preservation exception may be granted to site development regulations (except limitations on residential density), parking regulations, and special setback requirements of Title 20 (Precise Plans).

(c) Findings

Neither the director, nor the city council on appeal, shall grant a neighborhood preservation exception unless it is found that:

(1) The granting of the application will facilitate the preservation of an existing residential structure on the same property and will be of benefit in maintaining the existing historic and general character of the surrounding neighborhood; and

(2) The granting of the application will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare, or convenience.

(d) Conditions

In granting neighborhood preservation exceptions, reasonable conditions or restrictions may be imposed as deemed appropriate or necessary to protect the public health, safety, general welfare, or convenience, and to secure the purposes of this title.

(e) Application Review and Action

Applications for neighborhood preservation exceptions shall be reviewed as set forth in Section 18.77.060 (Standard Staff Review Process).

(Ord. 4826 § 117 (Exh. 2 (part)), 2004)

18.76.050 Design Enhancement Exception (DEE)

(a) Purpose

The purpose of a design enhancement exception is to permit a minor exception to zoning regulations when doing so will:

(1) Enhance the design of a proposed project without altering the function or use of the site, or its impact on surrounding properties; or

(2) Enable the preservation of the architectural style of existing improvements on the site.

(b) Applicability

(1) Design enhancement exceptions may be granted to the site development and parking and loading requirements otherwise applicable under this title (Zoning), as part of the architectural review process, when such exceptions will enhance the appearance and design of commercial and multiple-family development and other development subject to architectural review.

(2) Items for which design enhancement exceptions may be granted include, but are not limited to, dormers, eave lines, roof design, bay windows, cornices, parapets, columns, arcades, fountains, art, ornamentation, atriums, balconies, trellises, moldings, balustrades, stairs, entry features, and other minor architectural elements and design features.

(3) Generally, design enhancement exceptions are limited to minor changes to the setback, daylight plane, height, lot coverage limitations, parking lot design and landscaping configuration, and additional flexibility in the required proportion between private and common open space.

(4) No design enhancement exception shall be granted under this section that would increase floor area, decrease the number of required parking spaces, decrease the amount of required on-site landscaping, or decrease the required open space.

(c) Findings

Neither the director, nor the city council on appeal, shall grant a design enhancement exception unless it is found that:

(1) There are exceptional or extraordinary circumstances or conditions applicable to the property or site improvements involved that do not apply generally to property in the same zone district;

(2) The granting of the application will enhance the appearance of the site or structure, or improve the neighborhood character of the project and preserve an existing or proposed architectural style, in a manner which would not otherwise be accomplished through strict application of the minimum requirements of this title (Zoning) and the architectural review findings set forth in Section 18.76.020(d); and

(3) The exception is related to a minor architectural feature or site improvement that will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare or convenience.

(d) Conditions

In granting design enhancement exceptions, reasonable conditions or restrictions may be imposed if appropriate or necessary to protect the public health, safety, general welfare, or convenience, and to secure the purposes of this title.

(e) Application Review and Action

Applications for a design enhancement exception shall be reviewed and acted upon as set forth in Section 18.77.070 (Architectural Review).

(Ord. 4826 § 117 (Exh. 2 (part)), 2004)

18.76.060 Reserved

Editor's Note: Former Section 18.76.060, *Home improvement exception (HIE)*, derived from Ord. 4826 § 117 (Exh. 2), was repealed by § 38 of Ord. 4869.

MEMORANDUM

DATE: October 25, 2013

TO: Steve Turner, City of Palo Alto

FROM: Nanci Kauffman, Head of School, Castilleja School

RE: Castilleja School Response to City of Palo Alto Letter, dated September 25, 2013, Enrollment Reduction Plan

CC: James Keene, City Manager
Aaron Aknin, Interim Director, Planning and Community Environment
Cara Silver, Senior Assistant City Attorney
Mindie S. Romanowsky, Jorgenson, Siegel, McClure & Flegel LLP

Below is an outline of Castilleja School's proposed enrollment reduction plan to address the City of Palo Alto's letter of September 25, 2013.

- Castilleja will continue to implement its robust TDM plan to meet the City-imposed goal of reducing the traffic impact levels to that of 385 students, as prescribed by the 2000 CUP.
- To ensure the impacts are reduced per the 2000 CUP, the school requires sufficient time to study, implement and monitor the efficacy of the TDM Plan. This will occur between August 2013 and December 2014.
- As stated in the City's letter of August 5, 2013, whereby the City informed Castilleja that it would need to apply for a new use permit, Castilleja intends to apply for an amended CUP no later than January, 2015 on the condition that the TDM Plan succeeded in reducing trip impacts to the 2000 CUP level.
- Should the TDM plan fail to reduce the school's traffic impact to levels of the 2000 CUP, Castilleja will reduce enrollment to 415 students, as follows:

Academic Year	**2013-14 2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**
Enrollment	448	440	432	424	415

PLANNING & COMMUNITY ENVIRONMENT
CITY OF PALO ALTO
250 Hamilton Avenue, 5th Floor
Palo Alto, CA 94301
650.329.2441

December 20, 2013

Nanci Z. Kauffman
Head of School
Castilleja School
1310 Bryant Street
Palo Alto, CA 94301

Re: City Response to October 25, 2013 Letter from Castilleja School

Dear Ms. Kauffman:

The City is in receipt of your letter dated October 25, 2013 in response to the September 25, 2013 Notice of Noncompliance and Request to Abate issued by the City of Palo Alto. The City appreciates the work of Castilleja School (School) staff to address the issues. The intent of this letter is to provide the City's response to the items contained in the October 25 letter and communicate the appropriate next steps to resolve the school's conformance issues.

As described in the September 25, 2013 letter to Castilleja School, the City will require a two-fold approach to compliance with the use permit. The first approach includes the immediate implementation of a robust and exemplary Transportation Demand Management (TDM) program during the interim years of enrollment reductions. The City's response to the proposed TDM program is provided below. The second approach includes a requirement for an attendance reduction to 415 enrolled students through natural attrition and voluntary measures, such as acceptance of fewer new incoming students.

Enrollment Reduction Plan
The City acknowledges the spirit of your proposed Enrollment Reduction Plan, but we feel it does not initiate reductions soon enough. As stated in our September 25, 2013 letter, the School must take immediate action to correct the enrollment violation, beginning in the 2014-2015 school year. Although the City will not specify specific reduction actions, we believe there are strategies such as attrition that can be used to reduce enrollment beginning immediately. Under this scenario, students who leave the School prior to graduation would not be "back-filled" with new students. The School may wish to consider this and other means to begin enrollment reductions in the 2014-2015 school year.

Please provide a revised Attendance Reduction Plan to the City for approval within 30 days of this letter. As previously stated in the September 25, 2013 letter, if the plan involves multiple years, provide annual performance metrics that can be verified by the City.

Transportation Demand Management Plan
The Transportation Demand Management (TDM) Plan, as described in the October 24, 2013 memorandum prepared by Nelson\Nygaard Consulting Associates describes the elements of the proposed TDM plan. The elements of the TDM plan appear to be generally adequate in a qualitative sense, but there is no quantitative estimate of the trip reduction effects for each of these elements. The

intent of the TDM plan is to reduce vehicle trips to a level that would be generated by 385 students, based upon a baseline year 2000 trip generation estimate provided by Fehr & Peers dated October 21, 2013 on behalf of Castilleja School. A revised TDM plan shall include trip reduction estimates that would meet the 385 student measurement.

In addition to the quantitative trip reduction estimates, the TDM plan shall also describe the monitoring plan to assess the success of the TDM plan. As stated in the September 25, 2013 letter, The City would expect the TDM plan to be implemented over the current school year and see traffic reduced to the baseline level by the end of the 2013-14 school year. To ensure effectiveness, the City will require routine monitoring and achievement of targets for at least one year. Thereafter, the City will require the School to submit bi-annual TDM monitoring reports to the City for review and approval. All City costs of monitoring and enforcement will be borne by the School.

Conditional Use Permit Revocation
If the School is not able to meet the TDM goals and enrollment reduction by the dates set forth in the City-approved TDM Plan and Attendance Reduction Plan, the City reserves its right to initiate CUP revocation proceedings.

Payment of Penalties for Nonconformance
The City has received an adjusted payment of $265,000 which reflects each instructional day that the School has violated the maximum enrollment for the past three years. As stated in our August 5, 2013 letter to you, the City will apply these administrative fines for the monitoring of the TDM program, assisting in mitigating the traffic and parking impacts of the School on the immediate neighborhood, and ensuring compliance with other conditions of approval. These fines may also be used, in part, to develop TDM programs throughout the City as directed by the City Council.

With respect to fines for future violations after October 25, 2013, the City will consider waiving such fines upon a showing of effective and continuing transportation demand management programs.

Amendments to the Conditional Use Permit
The City will consider any future application request for amendments to the existing Conditional Use Permit (CUP) to be incomplete until the school can demonstrate an effective TDM program and an Enrollment Reduction Plan that describes the enrollment targets over time, concluding with an acceptable end date achieving a maximum of 415 students. The City does not recommend submitting a CUP amendment request before the 2015-16 school year. The school will need to demonstrate that it can comply with the requirements of the September 25, 2013 Notice of Noncompliance and Request to Abate.

Please respond to the City's request for a revised enrollment reduction plan and a more specific TDM plan by January 20, 2014. The City appreciates the School's efforts over these past six months and expects that with your continued focus and efforts, the School will be able to meet the requests we have outlined in this letter. Please contact me as soon as possible if you have any questions.

Sincerely,

Steven Turner
Advance Planning Manager

cc. James Keene, City Manager
Hillary Gitelman, Director, Planning and Community Environment
Cara Silver, Senior Assistant City Attorney
Mindie S. Romanowsky, Jorgenson, Siegel, McClure & Flegel LLP

PLANNING & COMMUNITY ENVIRONMENT
CITY OF PALO ALTO
250 Hamilton Avenue, 5th Floor
Palo Alto, CA 94301
650.329.2441

September 25, 2013

VIA CERTIFIED MAIL

Nanci Z. Kauffman
Head of School
Castilleja School
1310 Bryant Street
Palo Alto, CA 94301

Re: NOTICE OF NONCOMPLIANCE AND REQUEST TO ABATE

Dear Ms. Kauffman:

The City is in receipt of your letter dated August 15, 2013 regarding the City of Palo Alto's request for a conditional use permit conformance report at Castilleja School ("School"). The City shares your focus to resolve the school's conformance issues as quickly and responsibly as possible and to improve your automobile parking and traffic management programs.

Enrollment Violation

After reviewing the School's conformance report it is evident that the School is not in conformance with the Conditional Use Permit requirement that the maximum enrollment be 415 students (Conditional Use Permit 00-CUP-23, November 2, 2000). The School has provided enrollment information to the City that illustrates non-conformance with the use permit enrollment for twelve consecutive years beginning with the 2002-2003 school year.[1] Over this twelve year period, the School has exceeded enrollment as follows:

School Year	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
Students	391	414	416	418	416	424	427	427	432	431	434	437	450	448

In the current school year there are 33 students enrolled above the maximum allowed. Based upon the pattern of student enrollment that exceeds the maximum allowed, the City has concluded that the School has been in violation of the occupancy limit in its use permit for the years 2002-03 through the present.

[1] The City does not accept Average Daily Enrollment as the basis for conformance with the conditional use permit, in that that the conditional use permit specifically states, "415 students". There is no provision in the use permit to deduct student absences from the total enrolled students figure. In any event, data contained within the August 15 report demonstrates that by the school's measure of maximum enrollment as Average Daily Enrollment (identified as an incorrect measurement by the school), Castilleja has not conformed with the use permit since the 2009-2010 school year.

Request for Abatement

In accordance with the CUP, the City hereby notifies the School that it is in violation of the CUP's enrollment limit of 415 students and that the School must take immediate action to begin correcting this violation. As stated in our August 5 letter, the City recognizes the hardship involved with an immediate demand to bring enrollment down to 415. Accordingly, the City instead will require a two-fold approach to compliance.

First the School shall immediately implement a robust and exemplary Transportation Demand Management (TDM) program during these interim years of enrollment reductions. This TDM program would require performance standards, regular monitoring and enforcement penalties. The TDM program would be required to reduce automobile trips to the lesser of (1) 385 drop-off trips or (2) the number of baseline drop-off and pick-up trips originally estimated in the original 2000 CUP as adjusted by the CUP-required TDM measures. The City requests the School submit for City's review and approval a TDM program within 30 days of this letter. The City would expect this plan to be implemented over the current school year and would expect to see traffic reduced to the baseline level by the end of the 2013-14 school year. To ensure effectiveness, the City will require routine monitoring and achievement of targets for at least one year. Thereafter, the City will require the City to submit bi-annual TDM monitoring reports to the City for review and approval. All City costs of monitoring and enforcement will be borne by the School.

In addition to the TDM implementation, the City will also require an attendance reduction to 415 enrolled students through natural attrition and voluntary measures, such as acceptance of fewer new incoming students (Attendance Reduction Plan). Please provide the Attendance Reduction Plan to the City for approval within 30 days of this Notice. If the plan involves multiple years, provide annual performance metrics that can be verified by the City.

If the School is not able to meet the TDM goals and enrollment reduction by the dates set forth in the City-approved TDM Plan and Attendance Reduction Plan, the City reserves its right to initiate CUP revocation proceedings.

Penalties for Nonconformance

In light of the above non-compliance, the City will assess the School penalties in the amount of $500/day for each instructional day that the School has violated the maximum enrollment. As the City is only permitted to go back three years in assessing penalties[2], the City has calculated the amount due as follows:

600 days x $500 = $300,000.00, based upon the start of the 2010-2011 school year, including 180 days of instruction per year, and concluding within the current school year on October 25, 2013, the due date for submittal of the School's TDM program.

Please remit this sum to the City within 30 days of this letter. As stated in our August 5, 2013 letter to you, the City will apply these administrative fines for the monitoring of the TDM program, assisting in mitigating the traffic and parking impacts of the School on the immediate neighborhood, and ensuring

[2] The City's practice is to treat CUP violations as statutory violations. Under State law, these types of violations allow a three year recovery period. (CCP Section 338.)

compliance with other conditions of approval. These fines may also be used, in part, to develop TDM programs throughout the City as directed by the City Council.

With respect to fines for future violations after October 25, 2013, the City will consider waiving such fines upon a showing of effective and continuing transportation demand management programs.

Request for Supplemental Information Regarding Additional Possible Violations.
In addition to the primary area of non-conformance the school has provided statements indicating the status of conformance with the use permit conditions of approval. The City will require additional information, as outlined in Attachment A to this letter, to validate these conformance claims. The requested information contains items such as the latest versions of the Parking Management Plan, the parent/student handbook, and the Transportation Demand Management plan. The City is requesting data, if available, regarding carpooling rates, shuttle use and operations, student parking permits, and an accounting of previous community meetings and attendance data. This information shall be submitted to the City no later than October 25, 2013. Finally, the City will conduct unannounced, on-site inspections of the school grounds to determine the effectiveness of security staff and daily parking and traffic management, and off-site automobile parking conditions. The City will also inspect and confirm that the school conforms to the previously approved site improvements. The results of the inspections and the analysis of the requested additional information may form the basis of further corrections that the school shall make in order to conform to the existing use permit.

Further Enforcement Proceedings
Pursuant to Palo Alto Municipal Code Section 18.77.110 (b)(1) if the noncompliance is not abated, corrected or rectified within the time specified in the notice of noncompliance, the Director of Planning may issue an order to show cause why such a permit or approval shall not be revoked, suspended or modified. An order to show cause shall be set for a public hearing before the Director.

Thank you for your cooperation with this matter. Please contact me as soon as possible if you have any questions.

Sincerely,

Steven Turner
Advance Planning Manager

Attachment

cc. James Keene, City Manager
Aaron Aknin, Interim Director, Planning and Community Environment
Cara Silver, Senior Assistant City Attorney
Mindie S. Romanowsky, Jorgenson, Siegel, McClure & Flegel LLP

City of Palo Alto

Revenue Collections 101
1332402-1 11/20/2013 104
Wed, Nov 20, 2013 02:38 PM

Receipt Ref Nbr: R1332402-1/0017

F_MISC - MISCELLANEOUS FINANCIAL TRANSAC
Tran Ref Nbr: T1332402-1/0021
Reference: CASTILLEJA SCHOOL FINE ST
Financial Account Info:
A 60020403 -12220
Miscellaneous
Line Item Amt: $256,000.00

Amount:	1 @ $256,000.00
Item Subtotal:	$256,000.00
Item Total:	$256,000.00
1 ITEM(S) TOTAL:	$256,000.00
Check (Chk# 200750)	$256,000.00
Total Received:	$256,000.00

**********CUSTOMER COPY**********

of Palo Alto Revenue Collections

School / Steven Turner Date: 11/20/13

School Fine By:

40050009	18990	$	
70020002	13110	$	
10200000	18990	$	
10200000	11850	$	
10200000	60050	$	
10300000	11870	$	
60020201	17030	$	
23600000	14510	$	
23700000	14520	$	
23600000	14500	$	
60020403	12220	$	256,000.00
	Total	$	256,000.00

Cash ( ) Check (✓)

256,000.00

1332402-1 0021 11/20/2013 101 104
F_MISC CASTILLEJA SCHOOL FINE ST $

From:	Rebecca Eisenberg
To:	Planning Commission
Subject:	Stanford land ownership in College Terrace
Date:	Wednesday, November 18, 2020 6:56:54 PM

Dear Planning Commission,

You just voted 5-0-2 to give Stanford the right to modify titles on homes they were gifted (legally) (we were not shown the underlying transfer agreement so I do not believe that the Commission can speak to the nature of the underlying transfer of title.)

I do not oppose them modifying their titles.That said, I recommended that the Commision use this request from Stanford to withhold permission, in order to use its legal leverage to compel a negotiation over Stanford's well-known (albeit denied) history of purchasing homes in College Terrace. Granted, it is hard to make these arguments articulately in the 2 or 3 minutes you afford community members, but I did my best to describe for you the context in which you were making your decision. Stanford was well aware of that context.

Palo Alto has few times where it clearly has leverage to open negotiations with Stanford. Here you had the opportunity and you voted unanimously to deny the community its rare shot to reach a negotiated deal with Stanford.

As you know, I am an active member of the Stanford Alumni Community, and I love my Alma Mater! I am extremely grateful for my experience at Stanford, the college that taught me how to think. Stanford also taught me how to negotiate - far more than my law school, Harvard Law School, taught me. I am confident that my negotiation strategy is what Stanford would have expected with a more savvy local government.

Best,

Rebecca

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rebecca@privateclientlegal.com
415-235-8078

From:	Rebecca Eisenberg
To:	Planning Commission; Council, City
Cc:	Curtis Smolar; Rebecca Eisenberg
Subject:	Disclosure of Potential and Perceived Conflict of Interest regarding Castilleja
Date:	Wednesday, November 18, 2020 6:23:00 PM

Dear Planning Commission and City Council:

As you know, I believe that all potential conflicts of interest should be disclosed. If those conflicts appear to create a perception of potential conflict, then I believe that the Commissioner or Council Member should recuse themselves both from deliberations and voting. California law has made clear that for recusal, stepping down from deliberations is as important as is it for voting.

In this case, I was told earlier today that Michael Alcheck may have an undisclosed conflict of interest with Castilleja.

In particular, I was told that Commissioner Alcheck has close relatives who attend the school (nieces, perhaps?) and that Commissioner Alcheck is either in the process of applying for admissions for a daughter, or else is planning to apply for admissions to this prestigious private school in the next year or two. As you may know, Castilleja accepts for admission only a small percentage of the number of students who apply for admission. Not only is it one of the most expensive private schools in the country (with tuitions above $50,000), it also is amongst the most exclusive.

I do not know if this is true, but if it is true, I think that the public may view this as a conflict of interest, and at very least, I hope that Commissioner Alcheck will clear this up for the public, especially because the controversial amended CUP by Castilleja has been treated with unusual deference and speed, given its location on 55 residential lots in one of our most valuable residential neighborhoods, and Castilleja has not been required to give any mitigations to the neighborhood in terms of shuttles, infrastructure improvements, or payments to the public schools, like other private schools located in residential neighborhoods normally do.

Thank you for your consideration of this matter of great public importance.

Sincerely,

Rebecca Eisenberg

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