



City of Palo Alto

(ID # 6425)

Planning & Transportation Commission Staff Report

Report Type:

Meeting Date: 1/27/2016

Summary Title: Hazardous Materials Draft Ordinance

Title: The Planning and Transportation Commission will Hold a Public Hearing and Consider Recommending an Ordinance to the City Council that Amends the Municipal Code Regulations Related to Hazardous Materials Use, Storage and Handling in the Office, Research and Manufacturing Zoning Districts and an Ordinance Regarding Amortization of Uses at Communications & Power Industries LLC (CPI), 607-811 Hansen Way. Amendments to the Municipal Code Include the Following Sections: a. Chapter 18.04 (Definitions) Section 18.04.030 (66) (A) (B) and (127.7); b. Chapter 18.20 Office, Research, and Manufacturing [MOR, ROLM, RP and GM] Section 18.20.030 (Land Uses) Table 1 (Industrial/Manufacturing District Land Uses); c. Chapter 18.20 (Office, Research, and Manufacturing [MOR, ROLM, RP and GM]) Section 18.20.040 (Site Development Standards) Subsections (b) and (c); d.

Chapter 18.20 (Office, Research, and Manufacturing [MOR, ROLM, RP and GM]) Section 18.20.050 (Performance Criteria); e. Chapter 18.23 (Performance Criteria for Multiple Family, Commercial, Manufacturing and Planned Community Districts) Section 18.23.100 (Hazardous Materials) Subsection (B); f. Chapter 18.70 (Nonconforming Uses and Noncomplying Facilities) Section 18.70.020 through Section 18.70.100 (regarding changes to nonconforming uses and noncomplying facilities); g. Chapter 17.16 (Hazardous Materials Management Plan) Section 17.16.010 (Hazardous Materials Management Plan); h. Chapter 17.16 (Hazardous Materials Management Plan) Section 17.16.025 (Supplemental requirements for emergency response plans); i. Chapter 17.20 (Hazardous Materials Inventory) Section 17.20.020 (Information required) Subsection (a); and j. Chapter 18.70 (Nonconforming Uses and Noncomplying Facilities) Section 18.70.070 (Nonconforming use - Required termination) Subsections (b)(2)(G).

From: Hillary Gitelman, Director

Margaret Monroe, Management Specialist

Lead Department: Planning and Community Environment

Recommendation

Staff recommends that the Planning and Transportation Commission conduct a public hearing and recommend that the City Council adopt the two draft ordinances included in Attachment A and B.

Executive Summary

The proposed draft hazardous materials ordinance at Attachment A would amend provisions in the Palo Alto Municipal Code (PAMC) related to industrial zoning districts in four principal ways:

- It would define three categories or “tiers” of hazardous materials uses, including two that are already addressed in the code, and one that is not;
- It would define “sensitive receptors” that could potentially be affected if there is an accidental release of hazardous materials from hazardous materials uses and the hazardous materials travel off site;
- It would establish a minimum distance between Hazardous Materials Tier 2 uses and sensitive receptors; and
- It would prohibit Hazardous Materials Tier 3 uses in the City.

The ordinance would also make adjustments to provisions in the code governing non-conforming uses.

The hazardous materials ordinance was drafted in response to City Council direction after several Council discussions regarding hazardous materials, in particular at Communication & Power Industries, LLC (CPI). The ordinance would apply to hazardous materials uses in industrial zones throughout Palo Alto, including the CPI facility. Importantly, the ordinance would change City regulations to prohibit the establishment of *new* Hazardous Materials Tier 3 uses in Palo Alto, prohibit *new* Hazardous Materials Tier 2 uses within the minimum distance to sensitive receptors, and prohibit the establishment of *new* sensitive receptors in industrial zoning districts when they would be within the minimum distance of existing Hazardous Materials Tier 2 uses.

The ordinance would also regulate *existing* Hazardous Materials Tier 2 uses and *existing* sensitive receptors within industrial zoning districts by making them “legal and non-conforming” if they fall within the minimum distance of 300 feet of each other. There are currently no Hazardous Materials Tier 3 uses in Palo Alto.

“Legal and non-conforming uses” are uses that no longer conform with the City’s zoning requirements. Under general land use principles, these uses are generally allowed to remain in place (but not to expand or intensify) unless the Council establishes a schedule for their amortization.

The proposed draft amortization ordinance at Attachment B proposes termination dates for the

three facilities at CPI containing Tier 2 uses based on two amortization studies completed in 2011/2012 and based on the proposed definitions and minimum distances in the proposed hazardous materials ordinance. The City's consultants at AECOM have reviewed the two amortization studies and have concluded that their methodology and findings are generally sound, although they may be subject to updating based on various factors noted by AECOM. Based on these studies, the plating shop facility at CPI could be required to terminate or move more than 300' away from the neighbors in 2026 (again subject to potential update) and the other CPI facilities could be required to terminate or move more than 300' away from sensitive receptors by 2052. CPI disputes the propriety of requiring the plating shop facility to terminate or move more than 300' away from the neighborhood in 2026. The company argues that the facts support amortization of all of the facilities in 2052. There are no other existing Tier 2 uses that would become legal and non-conforming under the proposed hazardous materials ordinance.

The City Council requested that staff explore with CPI and its neighbors the potential for an agreement that could eliminate the plating shop from the site entirely (rather than moving it to be 300' away from the neighbors). No agreement has been reached to date, however staff has had initial discussions with CPI and neighborhood representatives and anticipates continuing discussions. If an agreement can be reached, it would mean modifying the ordinance in Attachment B to provide an alternative of additional time beyond 2026 in exchange for relocation of the plating shop off site. A separate, enforceable settlement agreement would be advisable.

Background

The proposed hazardous materials ordinance in Attachment A would affect industrially zoned districts in Palo Alto, of which there are six, as shown in Table 1 below. The Stanford Research Park was founded in 1951, and comprises 1,700 acres of industrially-zoned land with the zoning designation of Research Park (RP). Stanford University owns all of the land within the Research Park, but private business entities hold long-term ground leases, effectively controlling the use and development of property for the term of their leases.

Table 1. Industrial Zoned Districts in Palo Alto

Zoning District	Intent	Approx. Acreage
Medical Office & Medical Research (MOR)	Provides for medical office, medical research, and some medical support services primarily in land designated for research and office park use in the Comprehensive Plan that is near hospitals. (8 parcels)	16 acres
Research Office and Limited Manufacturing (ROLM)	Provides for a limited group of office, research and manufacturing uses in a manufacturing/research park environment where uses requiring larger sites and available natural light and air can locate. (72 parcels)	116 acres
Research Office and	A sub district of ROLM modifies site development	

Zoning District	Intent	Approx. Acreage
Limited Manufacturing Subdistrict - Embarcadero (ROLM(E))	regulation of the ROLM to apply to smaller sites in areas with limited access or with environmental sensitivity because of their proximity to the Palo Alto Baylands in the Embarcadero Road area. (29 parcels)	67 acres
Research Park (RP)	Provides for research and manufacturing uses that may have unusual requirements for space, light, and air and desire sites in a research park environment. Premium research and development facilities should be encouraged in the RP. Support office uses should be limited, existing primarily to serve primary research and manufacturing uses. (82 parcels)	437 acres
Research Park Subdistrict 5 (RP(5))	A subdistrict that modifies the site development regulation of the RP to regulate large sites in hilly areas. (19 parcels)	230 acres
General Manufacturing (GM)	Provides for light manufacturing, research and commercial service uses. Office uses are very limited to maintain the district as a desirable location for manufacturing uses. (145 parcels)	97 acres

Source: Palo Alto Department of Planning & Community Environment and Palo Alto Municipal Code Chapter 18.20, October 2015.

Communication & Power Industries, LLC (CPI)

CPI is located at 607-811 Hansen Way in the Stanford Research Park and manufactures microwave and radio frequency products for defense, communications, and medical scientific and other applications. Once a part of Varian, but now an independent and privately-owned company, CPI activities have been occurring at this location since the 1950's. The City believes that CPI's lease with Stanford University extends to the year 2051.

In 2005 CPI was the only plating shop in Palo Alto using and storing hazardous materials at or above the California Accidental Release Prevention Program (CalARP) threshold levels (defined as "Hazardous Materials Tier 3" in the draft hazardous materials ordinance. In 2005-2006, CPI consolidated its San Carlos operations into Palo Alto, expanding and upgrading the plating facility and related storage areas. CPI continued to use and store hazardous materials in amounts over the CalARP thresholds. (As explained further below, CPI reduced their use and storage of hazardous materials below the CalARP thresholds in 2012.)

Between 2006 and 2008 there were three hazardous materials releases on the CPI site. In February 2005 residents on Chimalus Drive reported an unusual odor, which turned out to be caused by a nitric acid gas release from CPI. In March 2008, about 20 gallons of 31%

hydrochloric acid was released in the rear driveway and about 60 gallons of less than 31% mixture of hydrochloric acid and water were released inside the basement of Building 2 during a chemical delivery because of an improper overfill and disconnect procedure by the delivery driver. In May 2008, approximately 50 gallons of dilute wastewater containing copper and nickel was released to Matadero Creek as the result of improper weekend shutdown of process equipment and improper opening of a containment valve that discharges to the creek.

Current Hazardous Materials Regulations and Implementation

In 2007 the City Council enacted zoning code amendments to address hazardous materials. Section 18.23.100 (Hazardous Materials) of the Municipal Code was intended to prevent new hazardous materials uses or intensification of uses above the CalARP thresholds, and to provide more notification for residents throughout the city when adjacent facilities increased or modified hazardous material use and storage.

Specifically, the City Council added provisions to the Zoning Ordinance to require uses such as CPI to comply with the California Accidental Release Prevention Program (CalARP) regulations and provide regularly prepared Risk Management Plans (RMP) for local review. In addition, the zoning required a conditional use permit for any new facility and for conversion or reconstruction of any existing facilities subject to CalARP regulations. New and reconstructed CalARP facilities with RMPs (now proposed to be defined as "Hazardous Materials Tier 3" uses) were prohibited within 300 feet of a residential zone or existing residential uses. (For more information regarding existing requirements of the Palo Alto Municipal Code, please see the first few sections of AECOM's technical memorandum in Attachment C)

In March 2012, CPI reduced the amount of Potassium Cyanide and Nitric Acid on site below the CalARP threshold quantities and was no longer required to comply with the CalARP regulations. Under the proposed ordinance, CPI has three facilities that would qualify as Hazardous Materials Tier 2 use. Under the proposed protective distance requirements, those facilities would become nonconforming.

Study of Current Risk at CPI and Findings

The City hired AECOM to conduct a Risk Assessment of CPI's operations. AECOM reviewed documents, conducted a site visit to the plating shop and cryogenic liquid storage area, and reviewed CPI's Chemical Management Program, which is required by both the U.S. EPA (for compliance with the Clean Air Act) and Cal-OSHA (administering California requirements that employers implement an Injury and Illness Prevention Program). AECOM also undertook validation of prior CPI air dispersion modeling (from the 2008 RMP), identified five potential 'extreme events,' and performed air dispersion modeling to estimate potential off-site health effects from the two extreme events determined to be 'most likely' to occur. (See CMR#4622 from October 6, 2014 for more details, <https://www.cityofpaloalto.org/civicax/filebank/documents/44095>) AECOM issued its report in January 2014.

AECOM's air dispersion modeling demonstrated that a hypothetical nitric acid release event could result in health effects up to 92 feet from the assumed release, or to the first row of residences in the Barron Park neighborhood, south from Building 2. Air dispersion modeling of the cryogenic hydrogen release event showed that the toxic end point would terminate within CPI's property boundaries and would not reach the adjacent residences.

Public and Council Review of CPI Risk Assessment

On February 20, 2014, the City held a community meeting where neighbors expressed the concern that the 'extreme events' modelled in the Risk Assessment did not address a major earthquake, which might affect the wider community and cause a delay in public safety response. To address the neighbors' concern, AECOM developed another air dispersion model to examine the impact if a major earthquake compromised the containment of chemicals in the plating shop and the building housing it. The supplemental evaluation examined a hypothetical scenario based on assumptions about the nature of the earthquake damage to the building and the resulting mixing of chemicals that AECOM described as "highly unrealistic." Based on these assumptions, AECOM concluded that the hypothetical scenario could result in a release with the potential to affect residential uses up to a distance of 616 feet from the plating shop. (See CMR #4622,

<https://www.cityofpaloalto.org/civicax/filebank/documents/44095>).

Representatives of CPI commented that this scenario, which assumes substantial building damage from a major earthquake, should be evaluated in the context of the building's seismic strengthening and the likelihood of an earthquake occurring that would cause damage sufficient to result in the mixing of chemicals in the plating shop. CPI retained a consultant (Albus-Keefe & Associates) (AKA) to conduct a probabilistic assessment of the likelihood of ground shaking sufficient to cause structural failure of the second floor. AKA concluded that the probability of this level of ground shaking would be 0.75% over 50 years, or less than the current Building Code requirements. The City's consultants at AECOM subsequently reviewed this report and concluded that AKA's results were reasonable, with several limitations. AECOM also noted several additional items that would be helpful to understand in order to evaluate the probability of ground motion seriously affecting Building 2 and observed that the AKA review did not constitute a comprehensive seismic risk evaluation.

At the October 6, 2014 City Council meeting, CPI's consultant ENVIRON submitted a declaration further commenting on the supplemental evaluation. That declaration, along with AECOM's response and other documents, is available on the City's website at

http://www.cityofpaloalto.org/gov/depts/pln/new_projects/cpi.asp. Following public testimony, the City Council directed staff to develop a zoning ordinance to regulate plating shops and similar facilities with similar hazards, identify incompatible adjacent uses, identify appropriate volumes of hazardous materials for regulation, possibly establishing tiers in the ordinance for facilities covered, and incorporate an amortization schedule for any non-conforming facilities. (See City Council Minutes October 6, 2014, <http://www.cityofpaloalto.org/civicax/filebank/documents/44878>.)

Discussion

Regulatory changes in the attached draft hazardous materials ordinance (Attachment A) address definitions, restrictions (including minimum distances), and the amortization of non-conforming facilities. These issues are discussed below.

Definitions

The proposed ordinance would define three “tiers” of hazardous materials users where there are currently two, and would define as “sensitive receptors” those uses that may include individuals who are more susceptible than others to adverse effects from exposure to toxic chemicals and other pollutants.

Section 18.23.100(B)(i) through (iv) of the City’s Municipal Code currently regulates uses of hazardous materials in excess of the “CUPA” thresholds (quantities) defined by the State Health and Safety Code, Division 20, Chapter 6.95. These uses would now be defined as “Hazardous Materials Tier 1” uses as long as they did not involve Toxic or Highly Toxic Substances. (Also see discussion of Tier 2, below.) The CUPA program requires facilities which store, use or handle more than 55 gallons, 500 pounds, or 200 cubic feet of regulated material to submit a Hazardous Materials Business Plan (HMBP) that reports the on site chemical inventory.¹ According to the Palo Alto Fire Department, as of October 30, 2015 there were approximately 420 buildings with hazardous materials in Palo Alto. The Hazardous Materials Tier 1” uses with hazardous materials less than CUPA thresholds are dispersed throughout Palo Alto, and include a wide variety of land uses such as gas stations, manufacturing businesses, retailers who sell paint, solvents and pesticides, and nail salons.

Section 18.23.100(B) (v) of the City’s Municipal Code currently regulates uses of hazardous materials in excess of the CalARP or Title 19 thresholds defined by the California Code of Regulations.² These uses would now be defined as “Hazardous Materials Tier 3” uses and would be prohibited in the City of Palo Alto. There are currently no Hazardous Materials Tier 3 facilities in Palo Alto.

¹ Santa Clara County Department of Environmental Health's Hazardous Materials Compliance Division is the Certified Unified Program Agency (CUPA) and administers the Hazardous Waste Generator Program and Tiered Permitting (California Health and Safety Code Chapter 6.5), Underground Storage Tank Program (California Health and Safety Code Chapter 6.7) and the Risk Management Program (California Health and Safety Code Chapter 6.95). As a Participating Agency, the Palo Alto Fire Department administers the Hazardous Materials Business Plans requirement (California Health and Safety Code Chapter 6.95) and Aboveground Storage Tank (California Health and Safety Code Chapter 6.67).

² California Accidental Release Prevention Program (also referred to as “Title 19”), contains State regulations that require Risk Management Plans (RMPs) to be prepared for local review when the use of hazardous materials exceeds certain thresholds. The City added requirements to its Municipal Code regarding uses that exceed the CalARP thresholds in 2007.

The ordinance would establish a middle tier (“Hazardous Materials Tier 2”) defined as users of hazardous materials exceeding the CUPA quantities where those materials are classified as Toxic or Highly Toxic by Chapter 2 of the State Fire Code. There are currently 11 Hazardous Materials Tier 2 facilities in the industrial districts of Palo Alto, as shown in Table 2 below and discussed in AECOM’s technical memo included as Attachment C.³

Two hospital facilities fall outside the zoning districts that would be affected by the proposed hazardous materials ordinance in Attachment A. Because hospitals provide services to ill, youth and elderly (all of whom are considered sensitive receptors), they are required to implement safeguards to avoid accidental exposure. Hospitals must adhere to specialized building safety regulations, receive oversight by the California Office of Statewide Health Planning and Development, and comply with the Alfred E. Alquist Hospital Seismic Safety Act.

Table 2. “Hazardous Materials Tier 2” Facilities in Palo Alto

Name	Classifications	
	Toxic & Highly Toxic	# Chemicals
CPI Building 1A	Yes	1
CPI Building 1B	Yes	14
CPI Building 2/2A (plating shop)	Yes	14
CPI Building 4	Yes	2
Genecor International	Yes	3
Hammon Plating	Yes	2
ONED Materials	Yes	2
Palo Alto Research Center (Hillview)	Yes	2
Palo Alto Research Center (Coyote Hill)	Yes	2
Space Systems Loral B3	Yes	1
Space Systems Loral B4	Yes	1

Source: CERS data (hazardous materials inventory forms) filed by each of the businesses with the City of Palo Alto Fire Department, 2015. Data compiled by AECOM, 2015.

The hazardous materials ordinance in Attachment A would define “sensitive receptors” as

³ This list is compiled from forms submitted to the Palo Alto Fire Department using the State’s electronic reporting system and reviewed by the City’s consultant, AECOM. Hazardous Materials Tier 2 facilities are subject to change as hazardous materials uses and quantities shift over time.

residences, schools, daycare facilities, homes for the elderly, convalescent homes and similar uses whose occupants may be more susceptible than the general population to adverse effects of exposure to toxic chemicals and other pollutants.

Regulations/Minimum Distances

Municipal Code Section 18.23.100(B)(vi), enacted in 2007, established 300 feet as the appropriate minimum separation between Hazardous Materials Tier 3 uses and residences. Hazardous Materials Tier 3 uses would now be prohibited under the proposed ordinance in Attachment A. In addition, a minimum distance of 300 feet would be established as the appropriate separation between users of Hazardous Materials Tier 2 uses and sensitive receptors.

The primary effect of the proposed ordinance would be to prohibit establishment of new Hazardous Materials Tier 3 uses and establishment of new Hazardous Materials Tier 2 uses within 300 feet of existing sensitive receptors or residentially zoned districts. Also, new sensitive receptors would be prohibited from locating in industrial zoning districts within 300 feet of existing Hazardous Materials Tier 2 facilities (as noted above, there are currently no Hazardous Materials Tier 3 facilities in Palo Alto).⁴

Based on staff's analysis, these proposed regulations would make three existing Tier 2 facilities "legal and non-conforming," meaning that the uses were legally permitted when they were instituted, but would no longer conform to the City's zoning. The affected facilities are all on the CPI site (Buildings 1A, 1B and 2/2A).⁵

Amortization of Non-Conforming Uses

As first discussed in April 2012, amortization is one means by which a city can terminate a nonconforming facility. Amortization can phase-out a use or facility that is either incompatible with adjacent uses or where a change in use is desired as part of an orderly transition to other uses, for example, the conversion of an area from light industrial uses to residential. In the past, the City of Palo Alto has provided amortization periods from five years to 30 years and has terminated uses including a nonprofit molecular research activity, a dance studio, art studio, gero-psychaitric skilled nursing facility, and tire sales and installation.

Generally, when zoning regulations change in a manner incompatible with a current use that was lawfully established, the non-conforming use may remain but cannot expand or intensify. The California Supreme Court has held, however, that "zoning legislation may validly provide

⁴ Under the terms of the proposed ordinance, existing sensitive receptors within 300 feet of existing Hazardous Materials Tier 2 uses would only be considered legal and non-conforming (and therefore constrained from expanding) if they are located within an industrial zoning district.

⁵ The staff recommendation to use 300 feet as the minimum separation for hazardous materials uses (Hazardous Materials Tiers 2) is based on the Council's prior determination in 2007 to use 300 feet for uses with hazardous materials over CalARP thresholds. It is also three times the distance of off-site impacts identified in the 2014 dispersion modelling completed by the City's consultant AECOM.

for the eventual termination of nonconforming uses without compensation if [the legislation] provides a reasonable amortization period commensurate with the investment involved.” *Metromedia, Inc. v. City of San Diego* (1980) 435 Cal3d 848. Thus, to determine an amortization schedule, the City must look at the value of the investments involved, and the Court has indicated that “the reasonableness of the amortization period depends on the interplay of many factors, including the depreciated value of the structures to be removed, their remaining useful life, and the hardship to the public if they are left standing.” *City of Salinas v. Ryan Outdoor Advertising, Inc.* (1987) 189 CalApp3d 416.

The proposed draft hazardous materials ordinance would clarify that non-conforming uses may be amortized in less than 15 years, when supported by a site-specific amortization study.

In 2011, following three accidental hazardous materials releases at CPI, the City commissioned an amortization study to determine a reasonable amortization period for CPI to meet the standards for new CalARPP facilities that were contained in the Zoning Ordinance adopted in 2007. (This was before CPI reduced its use of hazardous materials below the CalARP thresholds that the ordinance proposes to define as “Hazardous Materials Tier 3.”) The study, prepared by economic real estate consultants CB Richard Ellis, concluded that a reasonable termination date for CPI’s plating shop would be 20 years from the date that the most significant improvements occurred on the CPI site, which was in 2006. Thus the CB Richard Ellis study would support an ordinance eliminating the nonconforming use in 2026. CPI subsequently submitted its own amortization study which concluded that the plating shop could not be separated from the rest of the facility, and that a reasonable amortization period for the entire facility would be about 40 years - or in 2052.

Both amortization studies can be reviewed at

http://www.cityofpaloalto.org/gov/depts/pln/new_projects/cpi.asp.

The proposed amortization ordinance (Attachment B) accepts the conclusions of both studies regarding CPI and would require that the plating shop be moved more than 300 feet away from sensitive receptors by the end of 2026, and that the other Hazardous Materials Tier 2 facilities be moved more than 300 feet away from sensitive receptors by 2052. The plating shop could be moved 300 feet away from sensitive receptors without being separated from the rest of the CPI campus because the CPI site is large enough to accommodate a new plating shop on the north side of the site, away from Barron Park.

See Attachment D for AECOM’s peer review of the 2011/2012 amortization studies. AECOM’s review concluded that both studies are technically sound, and offered two important observations. Specifically, a longer amortization period could be required if CPI has made investments in its facility since the date of the studies; also if plating technologies change, it may be possible for CPI to separate its plating shop from the rest of the uses on its site prior to the year 2052.

Public Outreach

City staff has made an effort to ensure that those who may be interested in the attached ordinance are aware of the City's interest in regulating hazardous materials uses. Staff and consultants from AECOM conducted a community meeting on October 22, 2015 and a written summary of questions and answers from that meeting is provided as a part of the Council Staff Report, see

<http://www.cityofpaloalto.org/civicax/filebank/documents/49766>.

Staff also provided notice to potentially affected Hazardous Materials Tier 2 uses, and reached out to those businesses that appeared on an initial list based on the 2014 inventory forms submitted to the Palo Alto Fire Department. In the course of this outreach and review of the 2015 inventory forms, three of the potential Hazardous Materials Tier 2 uses that were on the list shown at the October 22nd meeting have been determined to qualify as a Hazardous Materials Tier 1 use (reducing the number of facilities on the list from 14 to the 11 listed in Table 2 above).

On November 16, 2015, staff presented drafts of the attached ordinances to the City Council for review and discussion. At that meeting, the Council directed staff to revise the first ordinances in several ways, and take both ordinances to the Planning and Transportation Commission for review and recommendations. (The Council's action minutes are included as Attachment H.) The City Council also asked staff to explore with CPI and its neighbors the potential for an agreement that could add an option to eliminate the plating shop from the site entirely (rather than moving it to be 300' away from the neighbors). While no agreement has been reached to date, staff has had initial discussion with CPI and neighborhood representatives and anticipates these discussions will continue in the time between the Planning and Transportation Commission's recommendation and the City Council's consideration of the proposed ordinances. If an agreement can be reached, it would mean modifying the ordinance in Attachment B to provide add an option for additional time in conjunction with relocation of the plating shop off site. A separate, enforceable settlement agreement would be advisable.

Timeline

The PTC's recommendation regarding the proposed ordinance will be forwarded to the City Council for their consideration at a public hearing tentatively scheduled for February 22, 2016. Ordinances require two readings and become effective 31 days following adoption.

Resource Impact

The proposed draft ordinances would modify zoning regulations in the City and provide a termination date for three legal and non-conforming uses that would be created under the new zoning. No additional City resources would be required to implement the ordinances, however, if additional facilities become subject to regulation or if substantial disputes arise from adoption of the ordinances, additional resources may be required.

Policy Implications

The City's Comprehensive Plan contains goals and policies that are protective of neighborhood

quality of life and the health of the community. The Plan also contains goals and policies that support Palo Alto's image as a business-friendly community (Policy B-10). On balance, the proposed ordinance is consistent with the Plan's vision of a healthy community which is supportive of businesses to the extent that they are compatible with Palo Alto's residential character and natural environment (see Policy L-4, Goal B-1).

Environmental Review

As a regulatory action that would modify the list of permitted uses in industrial zones to protect the health and life safety of Palo Alto residents, the proposed ordinances would be categorically exempt from review under Section 15308 (Class 8, Actions for Protection of the Environment) of the State Guidelines for the California Environmental Quality Act.

Attachments:

- Attachment A: Draft Hazardous Materials Ordinance (PDF)
- Attachment B: Draft Amortization Ordinance (PDF)
- Attachment C: AECOM Technical Memo (PDF)
- Attachment D: Peer Review Memo of Amortization Studies (PDF)
- Attachment E: Map of Tier 2 Buildings (PDF)
- Attachment F: Map of Industrial Zoning Districts (PDF)
- Attachment G: Public Notice Card (PDF)
- Attachment H: City Council Excerpt Action Minutes from 11-16-15 (PDF)
- Attachment I: Public Correspondence (PDF)

NOT YET APPROVED

Ordinance No. _____
Ordinance of the Council of the City of Palo Alto
Amending Zoning Regulations related to Hazardous Materials Use, Storage, and
Handling in the Office, Research, and Manufacturing Zoning Districts

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

A. The City of Palo Alto is committed to ensuring the quality of life, including public health, safety, and welfare, of its residential neighborhoods, as evidenced by Goal L-3 of the City's Comprehensive Plan, which calls for the protection and enhancement of safe, attractive residential neighborhoods.

B. There are businesses within the City that because of the types and quantities of hazardous materials used, handled, and/or stored onsite may pose offsite health, safety, and welfare effects.

C. In 2007, the City Council amended the Palo Alto Municipal Code to prohibit uses that have acutely hazardous materials above thresholds identified in Title 19 of the California Code of Regulations within 300 feet of residential zoned properties or existing residential properties within a non-residential zone. There are currently no such uses within Palo Alto, however the City is concerned that new such uses could present a risk regardless of their distance from residential uses.

D. The City is also concerned that there may be uses within the City, both at this time and potentially in the future, which involve hazardous materials that do not exceed thresholds identified in Title 19, but that nonetheless may present a risk of offsite health, safety and welfare effects, particularly if they are located within proximity to land uses such as residences, schools, daycare centers, elder care facilities and similar uses whose occupants may be more susceptible than the general population to the adverse effects of exposure to toxic chemicals and other pollutants.

E. On October 6, 2014, the City Council discussed issues associated with Communication & Power Industries, LLC (CPI), which is located in the Stanford Research Park but is immediately adjacent to a residential neighborhood. The Council directed staff to prepare an ordinance that would identify appropriate hazardous materials thresholds, considering the spectrum of businesses, facilities, and buildings in the City, and possibly establish tiers for the facilities covered that take into account the quantities and types of hazardous materials used, handled, and/or stored onsite and their proximity to land uses that could experience health effects if an accidental release of hazardous materials were to occur and travel off site.

NOT YET APPROVED

F. The California Health and Safety Code at Division 20, Chapter 6.95 identifies threshold quantities of hazardous materials (referred to as “CUPA thresholds”) above which businesses are required to prepare Hazardous Materials Business Plans. Hazardous Materials Business Plans, among other things, must include an inventory of hazardous materials onsite and an emergency response plan that identifies the steps, actions, and communications to be performed in the event of an accidental release. The State Legislature recognizes that “the information provided by business and area plans is necessary in order to prevent or mitigate the damage to the health and safety of persons and the environment from the release or threatened release of hazardous materials into the workplace and environment.”

G. A subset of the uses subject to the requirements of Health and Safety Code Division 20, Chapter 6.95 are considered to involve acutely hazardous materials that may result in health effects upon an accidental release. These include those defined as toxic or highly toxic by the California Fire Code Chapter 2.

H. Establishing a minimum distance between these hazardous materials users in the City’s industrial zoning districts and sensitive receptors will be protective of public health, safety and welfare by preventing new uses of this type from locating within proximity of existing sensitive receptors, and by preventing new sensitive receptors within industrial zoning districts, when they would be within proximity of these hazardous materials uses.

I. Similarly, preventing establishment of new uses using these hazardous materials above thresholds defined in Title 19 of the California Code of Regulations will be protective of public health, safety and welfare by eliminating the risk of exposure due to accidental releases from these uses.

J. Existing uses and sensitive receptors within industrial zoning districts that do not comply with this ordinance would become legal and non-conforming uses. Those uses would be prevented from expanding or intensifying and could be subject to termination through amortization.

SECTION 2. Section 18.04.030 (Definitions) of Chapter 18.04 (Definitions) of the Palo Alto Municipal Code is hereby amended to read as follows:

...

(66) Hazardous Materials.

(A) “Hazardous Materials Tier” means a manufacturing or processing use that utilizes, handles, and/or stores particular types and quantities of hazardous materials as follows:

- (i) “Tier 1” means uses with quantities of hazardous materials that are not defined as Toxic or Highly Toxic hazardous and that are both above the**

NOT YET APPROVED

threshold quantities in Health and Safety Code Division 20, Chapter 6.95 and below the Title 19 thresholds of the California Code of Regulations.

- (ii) “Tier 2” means uses with quantities of Toxic or Highly Toxic hazardous materials that are both above the threshold quantities in Health and Safety Code Division 20, Chapter 6.95 and below the Title 19 thresholds of the California Code of Regulations.
- (iii) “Tier 3” means uses with quantities of hazardous materials above the Title 19 thresholds of the California Code of Regulations.

(B) “Toxic and Highly Toxic hazardous materials” means substances defined in the California Fire Code Chapter 2, and amended, and as adopted and amended by Title 17 of the City Municipal Code, and subject to requirements of ‘High-hazard Group H-4’ of the State Building Code, as buildings that use, handle, or store hazardous materials that are considered health hazards.

...

(127.7) “Sensitive Receptors” means land uses such as residences, schools, daycare centers and homes, homes for the elderly, convalescent homes and similar uses whose occupants may be more susceptible than the general population to the adverse effects of exposure to toxic chemicals and other pollutants.

...

SECTION 3. Section 18.20.030 (Land Uses), Table 1 (Industrial/Manufacturing District Land Uses) of Chapter 18.20 (Office, Research, and Manufacturing [MOR, ROLM, RP and GM] Districts) of the Palo Alto Municipal Code is hereby amended to read as follows:

Table 1
Industrial/Manufacturing District Land Uses

[P = Permitted Use CUP = Conditional Use Permit Required]

	MOR	ROLM ROLM(E)	RP RP(5)	GM	Subject to regulations in Chapter:
ACCESSORY AND SUPPORT USES					
Accessory facilities and activities customarily associated with or essential to permitted uses, and operated incidental to the	P	P	P	P	Chs. 18.40, 18.42

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principal use.					
Automatic Teller Machines	P	P	P	P	18.20.030(d)
Home Occupations, when accessory to permitted residential uses.	P	P	P	P	Chs. 18.40, 18.42
EDUCATIONAL, RELIGIOUS, AND ASSEMBLY USES					
Business and Trade Schools				P	
Religious Institutions		P	P	P	
Colleges and Universities	P	P	P		
Private Clubs, Lodges, or Fraternal Organizations	CUP	CUP	CUP	CUP	
Private Schools (K-12)	CUP	CUP	CUP	CUP	
HEALTH CARE SERVICES					
Ambulance Services	CUP				
Convalescent Facilities	CUP	<u>CUP</u>	<u>CUP</u>	CUP	<u>18.23.100(B)</u>
Medical Office	P	CUP	CUP		
Medical Research	P	P	P		18.20.030(c)
Medical Support Retail	P				18.20.030(b)
Medical Support Services	P				18.20.030(b)
MANUFACTURING AND PROCESSING USES					
Manufacturing		P	P	P	<u>18.23.100(B)</u>
Recycling Centers		CUP	CUP	CUP	
Research and Development	CUP	P	P	P	<u>18.23.100(B)</u>
Warehousing and Distribution		P	P	P	
OFFICE USES					
Administrative Office Services		P	P	CUP	

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Financial Services		CUP	CUP		
Professional and General Business Office		P	P		
PUBLIC/QUASI-PUBLIC USES					
Service and Equipment Yards				P	
Utility Facilities				CUP	
Utility Facilities essential to provision of utility services but excluding construction/storage yards, maintenance facilities, or corporation yards	CUP	CUP	CUP		
RECREATION USES					
Commercial Recreation		CUP	CUP	CUP	
Neighborhood Recreational Centers	CUP				
RESIDENTIAL USES					
Single-Family	Not permitted				18.20.040(b)
Two-Family	Not permitted				
Multiple-Family	CUP	CUP	CUP		
Residential Care Homes	P	CUP P	CUP P	CUP	18.23.100(B)
RETAIL USES					
Eating and Drinking Services, excluding drive-in and take-out services		CUP	CUP	CUP	
Retail Services		CUP	CUP	CUP	
SERVICE USES					
Animal Care, excluding boarding and kennels				P	
Boarding and Kennels				CUP	
Day Care Centers	P	CUP P	CUP P	CUP	18.23.100(B)

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Emergency Shelters for the Homeless		P (ROLM(E)			18.20.030(d)
Family Day Care Homes					
Small Family Day Care	P	<u>CUP</u> P	<u>CUP</u> P	<u>CUP</u> P	<u>18.23.100(B)</u>
Large Family Day Care	P	<u>CUP</u> P	<u>CUP</u> P	<u>CUP</u> P	<u>18.23.100(B)</u>
General Business Services				P	
Lodging					
Hotels providing not more than 10% of rooms with kitchens	CUP				
Mortuaries and Funeral Homes				P	
Personal Services		CUP	CUP	CUP	
Vehicle Services					
Automobile Service Stations, subject to site and design review in accord with the provisions of Chapter 18.30(G)		CUP	CUP		
Automotive Services				CUP	
Off-site new vehicle storage for auto dealerships located in Palo Alto		CUP		CUP	
TEMPORARY USES					
Temporary Parking Facilities, provided that such facilities shall remain no more than five years	CUP	CUP	CUP	CUP	
TRANSPORTATION USES					
Passenger Transportation Terminals				CUP	

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SECTION 4. Subsections (b) and (c) of Section 18.20.040 (Site Development Standards) of Chapter 18.20 (Office, Research, and Manufacturing [MOR, ROLM, RP and GM] Districts) of the Palo Alto Municipal Code is hereby amended to read as follows:

...

(b) Development Standards for Exclusively Residential Uses

Residential uses shall be permitted in the MOR, RP, RP(5), ROLM, ROLM(E), ~~and GM~~ zoning districts, subject to the following criteria.

(1) It is the intent of these provisions that a compatible transition be provided from lower density residential zones to higher density residential or non-residential zones. The Village Residential development type should be evaluated for use in transition areas and will provide the greatest flexibility to provide a mix of residence types compatible with adjacent neighborhoods.

(2) No new single-family or two-family residential development is permitted in any of the office, research and manufacturing districts, and no new residential development is permitted within 300 feet of an existing Hazardous Materials Tier 2 use. Existing single-family and two-family uses and existing residential development within 300 feet of an existing Hazardous Materials Tier 2 use shall be permitted to remain, consistent with the provisions of [Chapter 18.70](#) (Nonconforming Uses and Noncomplying Facilities).

(3) MOR District. All multi-family development in the MOR zoning district shall be permitted subject to approval of a conditional use permit and compliance with the development standards prescribed for the RM-30 zoning district.

(4) RP and RP(5) Districts. All multi-family development in the RP, and RP(5) zoning districts that is located within 150 feet of an R-E, R-1, R-2, RMD, or similar density residential PC zone shall be permitted subject to the provisions above in 18.20.040(b)(2), approval of a conditional use permit, and compliance with the development standards prescribed for the RM-15 zoning district, including Village Residential development types. Multi-family development in the MOR, RP, and RP(5) zoning districts that is located greater than 150 feet from an R-E, R-1, R-2, RMD, or low density residential PC shall be permitted subject to the provisions above in 18.20.040(b)(2), approval of a conditional use permit, and compliance with the development standards prescribed for the RM-30 zoning district.

(5) ROLM (E) District. All multi-family development in the ROLM(E) zoning district shall be permitted subject to the provisions above in 18.20.040(b)(2), approval of a conditional use permit, and compliance with the development standards prescribed for the RM-15 zoning district.

(6) ROLM District. All multi-family development in the ROLM zoning district shall be permitted subject to the provisions above in 18.20.040(b)(2), approval of a conditional

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use permit, and compliance with the development standards prescribed for the RM-30 zoning district.

(7) GM District. All residential development is prohibited in the GM zoning district.

(c) Development Standards for Mixed (Residential and Nonresidential) Uses in the MOR, ROLM, ROLM(E), RP, and RP(5) ~~and GM~~ zoning Districts

Mixed (residential and nonresidential) uses shall be permitted in the MOR, ROLM, ROLM(E), RP, and RP(5) ~~and GM~~ zoning districts, subject to the following criteria:

(1) It is the intent of these provisions that a compatible transition be provided from lower density residential zones to higher density residential, non-residential, or mixed use zones. The Village Residential development type should be evaluated for use in transition areas and will provide the greatest flexibility to provide a mix of residence types compatible with adjacent neighborhoods.

(2) New sensitive receptor land uses shall not be permitted within 300 feet of a Hazardous Materials Tier 2 or Tier 3 use. Existing sensitive receptors shall be permitted to remain, consistent with the provisions of [Chapter 18.70 \(Nonconforming Uses and Noncomplying Facilities\)](#).

~~(3)(2)~~ ROLM(E) District. Mixed (residential and nonresidential) development in the ROLM(E) zoning district shall be permitted, subject to the provisions above in 18.20.040(c)(2), approval of a conditional use permit, determination that the nonresidential use is allowable in the district and that the residential component of the development complies with the development standards prescribed for the RM-15 zoning district. The maximum floor area ratio (FAR) for mixed use development is 0.3 to 1.

~~(4)(3)~~ ROLM District. Mixed (residential and nonresidential) development in the ROLM zoning district shall be permitted, subject to the provisions above in 18.20.040(c)(2), approval of a conditional use permit, determination that the nonresidential use is allowable in the district and that the residential component of the development complies with the development standards prescribed for the RM-30 zoning district. The maximum floor area ratio (FAR) for mixed use development is 0.4 to 1.

~~(5)(4)~~ GM District. Mixed use (residential and nonresidential) development is prohibited in the GM zoning district.

In computing residential densities for mixed (residential and nonresidential) uses, the density calculation for the residential use shall be based on the entire site, including the nonresidential portion of the site.

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SECTION 5. Section 18.20.050 (Performance Criteria) of Chapter 18.20 (Office, Research, and Manufacturing [MOR, ROLM, RP and GM] Districts) of the Palo Alto Municipal Code is hereby amended to read as follows:

All development in the Office/Research/Manufacturing zoning districts shall comply with the requirements and guidelines outlined in [Chapter 18.23](#). Such requirements and guidelines are intended to reduce the impacts of these non-residential uses on surrounding residential districts and other sensitive receptors.

SECTION 6. Subsection (B) of Section 18.23.100 (Hazardous Materials) of Chapter 18.23 (Performance Criteria for Multiple Family, Commercial, Manufacturing and Planned Community Districts) of the Palo Alto Municipal Code is hereby amended to read as follows:

(B) Requirements

(i) The project shall be designed to comply with all safety, fire and building codes for the storage, use and handling of the hazardous materials involved.

(ii) Any new structure that is designated an "H" occupancy (storage, use and handling of specified types and quantities of hazardous materials), or any existing structure that is converted to an "H" occupancy, as specified by the California Building Code, shall be designed in accordance with the currently adopted California Building Code and Fire Code.

(iii) Where a use or building or area used for supporting such storage, use and/or handling is located within 150 feet of a sensitive receptor, residential zoning district or parcel with existing residential uses located within nonresidential zones ~~residential zoning district or of properties with existing residential uses located within nonresidential zones (residential properties)~~, the business owner shall provide a report to the fire department addressing the adequacy of the emergency contingency plan, which addresses safety of the nearby sensitive receptor or residential zones ~~residential area~~, including but not limited to, procedures for accidental releases or other emergencies, and other protective measures as required by Health and Safety Code Division 20, Chapter 6.95, upon:

(a) A change in the types of hazardous materials stored, used or handled on the site resulting in quantities above the reporting threshold established in California Health and Safety Code Division 20, Chapter 6.95; ~~and/or~~

(b) A 100% or greater increase in the quantities of a previously disclosed hazardous material stored, used or handled on the site at buildings or areas already above the reporting threshold established in California Health and Safety Code Division 20, Chapter 6.95; ~~and/or~~

(c) Release/threatened release incidents.

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(iv) For any such use or facility outlined in (iii) above, upon application for any building permit for improvements that would result in a change in the types of hazardous materials stored, used or handled on the site or an increase in the quantities of hazardous materials stored, used or handled on the site, the city shall provide written notice to the owners, ~~and operators, and occupants of residents of~~ all sensitive receptors or residentially zoned parcels ~~residential property~~ within 150 feet from the property line, not later than ten days after issuance of the building permit. The notice shall inform the ~~property~~ the sensitive receptor or residentially zoned property owners, operators, and occupants that an application has been received, the nature of the request (such as the type of materials), that the fire department and building department have determined the project to be in compliance with relevant hazardous materials regulations, and that the application and details are on file with the fire department and/or building department.

(v) New Hazardous Materials Tier 1 manufacturing uses and new facilities (buildings or areas) or modifications to existing facilities accommodating such uses shall be permitted subject to compliance with the development standards prescribed for the relevant industrial/manufacturing zoning district and the reporting and noticing requirements identified above in Section 18.23.100(B)(iii).

(vi) New Hazardous Materials Tier 2 manufacturing uses and new facilities (buildings or areas), or modifications to existing facilities accommodating these uses shall be permitted subject to compliance with the development standards prescribed for the relevant industrial/manufacturing zoning district and the reporting and noticing requirements identified above in Section 18.23.100(B)iii, provided:

(a) approval by the fire chief of an emergency response plan that specifically addresses toxic and highly toxic chemicals that exceed the quantities specified in Section 17.16.025 of the Municipal Code or Extremely Hazardous Substances that exceed the quantities specified in Section 17.16.025 of the Municipal Code shall be required;

(b) approval of a conditional use permit shall be required together with notification by the City to owners, operators, and occupants of sensitive receptors or residentially zoned land within 600 feet; and

(c) notwithstanding the provisions above, in no event shall such use, facility, or improvement be allowed in the MOR zoning district or be allowed closer than 300 feet to a sensitive receptor or residentially zoned land if such facility or improvement is located in a ROLM, ROLM(E), RP, RP(5), or GM district.

(vii) No Hazardous Materials Tier 3 uses shall be permitted in the City of Palo Alto.

~~(viii)~~ (viii) No facility proposing the use of BioSafety Level 4 etiological agents shall be permitted in the city of Palo Alto.

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SECTION 7. Section 18.70.020 through Section 18.70.100 (regarding changes to nonconforming uses and noncomplying facilities) of Chapter 18.70 (Nonconforming Uses and Noncomplying Facilities) of the Palo Alto Municipal Code is hereby amended as follows:

18.70.020 Nonconforming use - Expansion.

- (a) A nonconforming use shall not be altered, enlarged, expanded, or extended, except as provided in subsection (b) this prohibition shall include any moving, enlargement, extension, expansion or alteration of a nonconforming use which:
 - (1) Increases the site area or floor area occupied by such use on the same or any additional site;
 - (2) Increases the number of structures or the size of any structure housing such nonconforming use or portion thereof.
- (b) A nonconforming use which occupies a portion of a building may be expanded to include additional floor area within the same building; provided that:
 - (1) Without substantial remodeling or reconstruction, the portion of building into which expansion is proposed is not reasonably susceptible to use or occupancy by a conforming use. The determination of whether a portion of a building is reasonably susceptible to use or occupancy by a conforming use shall be made by the building official and shall take into consideration, but not be limited to, the following:
 - (A) Whether any required remodeling or reconstruction would involve structural alterations;
 - (B) Whether the building was designed and constructed for the nonconforming use occupying the building or portion thereof, or uses of similar intensity or classification;
 - (C) The degree of privacy, separation, and protection afforded the portion of the building into which expansion is proposed from intrusion, interference, noise, and similar effects resulting from or generated by the nonconforming use;
 - (D) Availability of access to the portion of the building into which expansion is proposed.
 - (2) Such expansion within the building does not create, cause, or increase any additional nonconformance or noncompliance with the requirements of this title.
 - (3) Nothing contained in this section authorizes a change in the nature of a nonconforming use contrary to the provision of Section [18.70.030](#).

18.70.030 Nonconforming use - Change.

- (a) Except as provided in subsection (b), a nonconforming use shall not be changed to or replaced by any use except a conforming use.
- (b) A nonconforming use may be changed to or replaced by another nonconforming use which would have been permitted under the most recent zoning classification of the property under which the nonconforming use was a conforming use and which is of no higher occupancy rating than the existing nonconforming use as defined by Title 16 subject to the following limitations:

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(1) The change or replacement shall not increase the extent of the nonconformity, or the nature of the activity, or the site area or floor area occupied by the nonconforming use on the site, except as may be provided by Section [18.70.020\(b\)](#).

(2) Any period of temporary vacancy or discontinuance associated with such change or replacement shall not exceed the limitations established by Section [18.70.040](#).

(3) Such change or replacement of nonconforming use to or by another nonconforming use shall be permitted only if the building, or portion of a building, presently occupied by the nonconforming use is not reasonably capable of conversion to accommodate use and occupancy by a conforming use, without substantial reconstruction or remodeling. The building official shall determine whether the building, or portion of a building, is reasonably capable of such conversion. Said determination shall take into consideration, but not be limited to, the following:

(A) Whether changes in the nature of the building or a portion of the building would be required by Title 16 or similar regulations in order to convert the use of the building, or portion of the building, to a conforming use;

(B) Whether any reconstruction or remodeling necessary to convert the use and occupancy of the building, or a portion of the building, involves structural alterations;

(C) Whether the building, or portion of the building, was originally designed and constructed for the particular existing nonconforming use or uses of similar character.

(c) A nonconforming use which is changed to or replaced by a conforming use shall not be reestablished, and any portion of a site or any portion of a building, the use of which changes from a nonconforming to a conforming use, shall not thereafter be used except to accommodate a conforming use.

18.70.040 Nonconforming use - Discontinuance.

(a) On any site having facilities thereon valued at less than one thousand dollars, any nonconforming use, other than a residential use, which is discontinued or abandoned or otherwise ceases operation and use of the site for a period of six months or longer shall not be resumed, reestablished, or continued, and all subsequent use of such site and facilities thereon shall conform to this title.

(b) On any site not subject to subsection (a), a nonconforming use of facilities designed and constructed for nonresidential purposes which is discontinued or abandoned or otherwise ceases operation and use of the site for a period of one year or more shall not be resumed, and all subsequent use of such site and facilities thereon shall conform to this title.

(c) Notwithstanding the provisions of Section [18.70.030](#), or the provisions of subsections (a) and (b) of this section, in any residential district, a nonresidential, nonconforming use occupying facilities originally designed and constructed for residential use which is discontinued or abandoned or otherwise ceases operation and use of the site for a period of ninety days or greater shall not be continued or recommenced, and any subsequent use of the site and facilities shall conform to this title. This provision shall not be construed to prevent a change of ownership or management of such nonconforming use; provided, that any cessation of operation of the use is solely in connection with the transfer of ownership or management to a

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specifically designated person or entity and is solely for the purpose of accomplishing any transfer of title, equipment, operational control, or similar purpose.

18.70.050 Nonconforming use - Maintenance and repair of facility.

Facilities occupied or used by a nonconforming use permitted by this chapter shall be subject to the following provisions governing maintenance, repairs, alterations, or replacement:

- (a) Normal and routine maintenance of any structure for the purpose of preserving its existing condition, retarding or eliminating wear and tear or physical depreciation, or complying with the requirements of law, shall be permitted.
- (b) Incidental alteration shall be permitted, provided the value of the incidental alterations in any one-year period shall not exceed twenty percent of the value of the facility prior to such alterations.
- (c) Structural alterations or enlargement of the facility shall be permitted only to accommodate a conforming use, or when made to comply with the requirements of law.

18.70.060 Nonconforming use - Replacement of facility.

A facility, used or occupied wholly or partly by one or more nonconforming uses, which is damaged or destroyed by any means except ordinary wear and tear and depreciation, may be reconstructed or replaced only for occupancy or use by a conforming use, except in the following instances:

- (a) Where none of the nonconforming uses is subject to termination as provided by Section [18.70.070](#), reconstruction or replacement for continued occupancy or use by such nonconforming use shall be permitted only in accord with the following limitations:
 - (1) The extent of nonconformity, or the intensity of activity, or the site area or floor area occupied by the nonconforming use subsequent to reconstruction or replacement of the facility shall not exceed that existing prior to reconstruction or replacement.
 - (2) Reconstruction or replacement shall be subject to all applicable laws, regulations, and procedures otherwise governing construction on the site.
- (b) When one or more of the nonconforming uses is subject to termination as provided by Section [18.70.070](#), reconstruction or replacement for continued occupancy or use by such nonconforming use shall be permitted only in accord with the following limitations:
 - (1) During the first one-third of the applicable termination period of such use, the facility may be reconstructed or replaced; provided the value of such reconstruction or replacement shall not exceed seventy-five percent of the value of the facility prior to damage or destruction.
 - (2) During the second one-third of the applicable termination period of such use, the facility may be reconstructed or replaced; provided the value of such reconstruction or replacement shall not exceed fifty percent of the value of the facility prior to damage or destruction.
 - (3) During the last one-third of the applicable termination period of such use, the facility may be reconstructed or replaced; provided the value of such reconstruction or

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replacement shall not exceed twenty-five percent of the value of the facility prior to damage or destruction.

(4) Any reconstruction or replacement permitted in this chapter shall not extend or otherwise modify the required termination date established by Section [18.70.070](#) and applied to the nonconforming use prior to such reconstruction or replacement. Said termination date shall apply to all portions of the site or structure, including those portions reconstructed or replaced.

18.70.070 Nonconforming use - Required termination.

(a) In any district, a nonconforming, nonresidential use occupying a site having facilities thereon valued at less than one thousand dollars, shall be terminated within five years from the effective date of this section, or within five years from the date such use becomes nonconforming, whichever date is later, and within such time the improvements shall either be removed, or converted or modified to accommodate a conforming use.

(b) In any district, a nonconforming, nonresidential use of a site not subject to subsection (a) of this section shall be terminated in accord with the following provisions and schedules:

(1) When occupying or using facilities designed and built for residential use, the nonconforming use shall be terminated within ten years from July 20, 1978, or within ten years from the date such use becomes nonconforming, whichever date is later, and within such time the improvements shall either be removed, or converted or modified to accommodate a conforming use.

(2) When occupying or using facilities designed or built for nonresidential use, the nonconforming use shall be terminated, and the facilities shall be converted or modified to accommodate a conforming use, or shall be removed at or before the time limit prescribed in subdivision (3) of this subsection; provided, however, that unless a site-specific amortization study is prepared, no such termination, removal, or conversion shall be required within fifteen years from July 30, 1978, or within fifteen years from the date such use became nonconforming, whichever date is later; provided, however, that uses which were made non-conforming as a result of the 1974 Fire Zone 1 Study, by Ordinance No. 2777, adopted March 25, 1974, shall terminate on November 23, 1990; and provided, further, that any use made nonconforming by said Ordinance No. 2777, the primary purpose of which is to prepare and deliver food to senior citizens, shut-ins and others with limited mobility may remain and shall not be subject to termination pursuant to this section. Such uses shall be permitted to remodel, improve or replace site improvements in accordance with applicable site development regulations, provided that any such remodeling, improvement or replacement shall not result in any increased floor area.

Notwithstanding the dates of termination of uses required by this subsection (b)(2), the required termination dates of the following uses shall be as hereinafter set forth:

(A) The nonconforming use(s) of the property at 440-460 Page Mill Road for nonprofit orthomolecular and molecular medical research functions shall terminate on or before July 20, 1998.

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(B) The nonconforming use of the property at 464 Colorado Avenue for a dance studio and associated parking shall terminate on or before July 20, 2003.

(C) The nonconforming use of the property at 440 Pepper Street for an art studio specializing exclusively in the medium of monotype printmaking and associated instructional uses shall terminate on or before July 20, 2018. Nothing in this ordinance shall be construed to create a vested right for the nonconforming uses to remain after July 20, 2003.

(D) The nonconforming use of the property at 4277 Miranda for a gero-psychiatric skilled nursing facility shall terminate on or before January 20, 1994.

(E) The nonconforming uses of the property at 3200 Park Boulevard/340 Portage Avenue/Olive Avenue for retail, research and development, warehouse, and storage uses are permitted in approximately the same ratio of uses existing as of October 16, 2006, subject to the following limitations: (1) retail uses shall not exceed 60,000 square feet, and (2) truck deliveries and other noisy outdoor activities shall be limited to the hours of 8:00 a.m. to 9:00 p.m. weekdays and 9:00 a.m. to 9:00 p.m. weekends.

(F) The nonconforming use of the property at 2011 El Camino Real for tire sales and installation shall terminate on or before April 26, 2009.

Such uses shall be permitted to remodel, improve or replace site improvements in accordance with applicable site development regulations, provided that any such remodeling, improvement or replacement shall not result in any increased floor area or increase in intensity of the use, nor any loss of parking.

(3) The following schedule shall govern the period of time for termination of nonconforming uses specified in subdivision (2) of this subsection unless a site-specific amortization study is prepared:

Type of Construction Defined by Building Code	Age of Structure Computed From Date of Construction
Type I – Totally noncombustible	35 years
Type II – Fire resistive	35 years
Type III – Noncombustible exterior, combustible interior	30 years
Type IV – Heavy timber	30 years
Type II – Nonrated	25 years
Type V – Wood frame	20 years

(4) Nothing contained in this subsection shall extend or otherwise modify any termination date provided by any previously existing ordinance for any use which became nonconforming under such ordinance prior to the effective date of this section. Such termination dates for such previously existing nonconforming uses are incorporated in this section and shall remain in effect.

(c) The director of planning and community environment shall determine those properties the use of which were lawfully existing uses permitted or conditionally

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permitted, in the districts in which they were located immediately prior to July 20, 1978, and which uses were rendered nonconforming by reason of the adoption of this title on July 20, 1978, and those properties which, prior to July 20, 1978, were located in an R-1 district which was imposed by reason of annexation of the property to the city without benefit of rezoning, the uses of which were lawfully existing uses permitted or conditionally permitted operating subject to a conditional use permit prior to the date of annexation. Written notice of such nonconformance shall be mailed to the owner of record of each such property and to the occupant of the property. Within two years of the date of mailing of such notice, any owner of such property, lessee of such property with the written consent of owners, or purchaser of such property when acting pursuant to a contract of sale in writing duly executed and acknowledged by both the buyer and the owner of record, may apply to have such property excepted from the termination provisions of this section. Said application may be made to the director of planning and community environment in such form as may be prescribed by the director of planning and community environment. Said application shall include, but not be limited to, a statement of the location and size of the property, the nature of its use on July 20, 1978, a statement of reasons establishing that the use is compatible with and will not be detrimental to the uses designated in the Comprehensive Plan for the surrounding area and properties, a map of the subject property indicating the location of all parcels of real property within a distance of three hundred feet from the exterior boundary of the subject property, a list as shown in the last equalized assessment roll, of the name and address of the owner of record of each such parcel, and such other information as may be required by the director of planning and community environment.

(1) Such application shall be accompanied by such fee as is prescribed in the municipal fee schedule.

(2) Upon receipt of such application, the director of planning and community environment shall so inform the chairperson of the planning commission who shall set a date for a public hearing on the application which shall be held within a reasonable time from the date of filing of the application. Notice of the hearing shall be given by publication once in a local newspaper at least twelve days prior to the hearing and by mail to owners and occupants of real property within 300 feet of the subject property.

(3) Upon the date set for hearing, the planning commission shall conduct a public hearing thereon, unless, for cause, the commission shall on that date continue the matter. Upon conclusion of the hearing, the commission shall determine whether the use of the property on July 20, 1978, is compatible and not detrimental to the land uses designated in the Comprehensive Plan for the surrounding areas of properties. In the event the commission so finds, it shall recommend to the city council that the use shall be exempted from the termination provisions of this section. The commission may recommend such conditions as it may find necessary to insure compatibility including, but not limited to, required improvement of or modifications to existing improvements on the property, limitations on hours of operation, limitation on the nature of operations, and a specified term of years for which the exception shall be granted.

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(4) Upon receipt of the recommendation of the planning commission, the city council shall consider the application within a reasonable time. The council may, at its option, conduct a public hearing on the matter.

In the event the council finds the use of the subject property to be compatible with and not detrimental to those land uses designated in the Comprehensive Plan for the surrounding area and properties, it shall, by motion, except said use from the termination provisions of this section. In granting such exception, the council may include such conditions as are deemed necessary to insure such compatibility, including, but not limited to, the conditions set out in subsection (c)(3) of this section.

(5) Any use which is excepted from the termination provisions of this section, and which is changed pursuant to Section [18.70.030](#) shall be subject to the termination provisions of this section as though no exception had been granted.

(6) Any use excepted from the termination provisions of this section shall be permitted to remodel, improve, or replace site improvements on the same site, without the necessity to comply with site development regulations, for continual use and occupancy by the same use; provided, that any such remodeling, improvement, or replacement shall not result in increased floor area, number of dwelling units, height, length, or any other increase in the size of the improvement.

(d) Notwithstanding the provisions of this section, any off-street parking lot which was lawfully existing and not subject to any required termination provisions of any predecessor ordinance on the effective date of this section, and which on that date was and continues to be used accessory to a lawful conforming permitted use, shall be permitted to continue in existence and use for the life of the principal use to which it is accessory, regardless of whether said parking lot and principal use are located in the same district.

18.70.080 Noncomplying facility - Enlargement.

(a) Except as specifically permitted by subsections (b) and (c) hereof or by Section [18.12.050](#)(a), no enlargement, expansion, or other addition or improvement to a noncomplying facility shall be permitted which increases the noncompliance. This section shall not be construed to prohibit enlargement or improvement of a facility, otherwise permitted by this title, which does not affect the particular degree of or manner in which the facility does not comply with one or more provisions of this title.

(b) Except in areas designated as special study areas, the director of planning and community environment may permit minor additions of floor area to noncomplying facilities in the commercial CC, CS and CN zones and in the industrial MOR, ROLM, RP and GM districts, subject to applicable site development regulations, for purposes of on-site employee amenities, resource conservation, or code compliance, upon the determination that such minor additions will not, of themselves, generate substantial additional employment. Such additions may include, but not be limited to, the following:

(1) Area designed and used solely for providing on-site services to employees of the facility, such as recreational facilities, credit unions, cafeterias and day care facilities;

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- (2) Area designated for resource conservation, such as trash compactors, recycling and thermal storage facilities; and
- (3) Area designed and required for hazardous materials storage facilities, handicapped access, and seismic upgrades.

18.70.090 Noncomplying facility - Maintenance and repair.

- (a) Normal and routine maintenance of a noncomplying facility shall be permitted for the purpose of preserving its existing condition, retarding or eliminating wear and tear or physical depreciation, or complying with the requirements of law.
- (b) Incidental alterations to a noncomplying facility shall be permitted, provided such alterations do not increase the degree of noncompliance, or otherwise increase the discrepancy between existing conditions and the requirements of this title.
- (c) Structural alterations to a noncomplying facility shall be permitted when necessary to comply with the requirements of law, or to accommodate a conforming use when such alterations do not increase the degree of noncompliance, or otherwise increase the discrepancy between existing conditions and requirements of this title.

18.70.100 Noncomplying facility - Replacement.

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

- (a) When the damage or destruction of a noncomplying facility affects only a portion of the facility that did not constitute or contribute to the noncompliance, said portion may be repaired or reconstructed to its previous configuration.
- (b) When the damage or destruction of a noncomplying facility affects a portion of the facility that constituted or contributed to the noncompliance, any replacement or reconstruction to such damaged portion shall be accomplished in such manner as not to reinstate the noncompliance or degree of noncompliance caused by the destroyed or damaged portion of the facility, and otherwise in full compliance with this title; however, if the cost to replace or reconstruct the noncomplying portion of the facility to its previous configuration does not exceed fifty percent of the total cost to replace or reconstruct the facility in conformance with this subsection, then the damaged noncomplying portion may be replaced or reconstructed to its previous configuration. In no event shall such replacement or construction create, cause, or increase any noncompliance with the requirements of this title.
- (c) Notwithstanding subsections (a) and (b) hereof, a noncomplying facility in the commercial CS, CN and CC zones and the industrial MOR, ROLM, RP and GM districts, except for those areas designated as special study areas, existing on August 1, 1989, which when built was a complying facility, shall be permitted to be remodeled, improved or replaced in accordance with applicable site development regulations other than floor area ratio, provided that any such remodeling, improvement or replacement shall not result in increased floor area.
- (d) Notwithstanding subsections (a), (b) and (c) hereof, a noncomplying facility housing a conforming use in the R-1 and RE zones, which when built was a complying

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facility, which is damaged or destroyed by non-willful means (i.e., acts of God) shall be permitted to be replaced, on the same site, and in its previous configuration, without necessity to comply with the current site development regulations, provided that any such replacement shall not result in increased floor area, height, length or any other increase in the size of the facility.

(e) Except as otherwise provided in this section with regard to replacement or reconstruction of a portion of a facility to its previous noncomplying condition, all reconstruction shall be subject to all applicable laws, regulations, and procedures otherwise governing construction on the site at the time said construction is undertaken.

SECTION 8. Section 17.16.010 (Hazardous Materials Management Plan) of Chapter 17.16 (Hazardous Materials Management Plan) of the Palo Alto Municipal Code is hereby amended as follows:

Each applicant for a permit, a renewed permit, or an amended permit pursuant to this title shall file a written plan, for the fire chief's approval, to be known as a hazardous materials management plan (HMMP), which shall demonstrate the suitable storage of hazardous materials. The HMMP may be amended at any time with the consent of the fire chief. The HMMP shall be a public record except as otherwise specified. Section 18.23.100 in Title 18 identifies notification requirements of the availability of the HMMP. Approval of the HMMP shall mean that the HMMP has provided adequate information for the purposes of evaluating the permit approval. Such approval shall not be understood to mean that the city has made an independent determination of the adequacy of that which is described in the HMMP.

SECTION 9. Section 17.16.025 (Supplemental requirements for emergency response plans) of Chapter 17.16 (General Provisions) of the Palo Alto Municipal Code is hereby amended to read as follows:

(a) In addition to the HMMP requirements set forth in this chapter, any person who handles a hazardous material or a mixture containing a hazardous material, which has a quantity at any one time during the reporting year equal to or greater than a total weight of five hundred pounds, or a total volume of fifty-five gallons, or two hundred cubic feet at standard temperature and pressure (STP) for compressed gas shall establish and implement a plan for emergency response to a release or threatened release of a hazardous material pursuant to this section. Said plan, including the hazardous materials inventory statement (the "HMIS") described in [Chapter 17.20](#) of this title, shall comprise the "business plan" for purposes of Chapter 6.95 of Title 20 of the California Health and Safety Code. Section 18.23.100 in Title 18 identifies notification requirements of the availability of the business plan.

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SECTION 10. Subsection (a) of Section 17.20.020 (Information required) of Chapter 17.20 (Hazardous Materials Inventory) of the Palo Alto Municipal Code is hereby amended to read as follows:

(a) Information shall be included in the HMIS for each hazardous material or mixture containing a hazardous material stored or handled in a facility (aggregated over all such materials stored in one or more storage facilities) where the aggregate quantity throughout the facility at any one time during the reporting year is equal to or greater than five hundred pounds in weight for solids, fifty-five gallons for liquids, or two hundred cubic feet at standard temperature and pressure (STP) for compressed gases. Additionally, an HMIS also shall be filed for any "acutely hazardous materials" stored on site, above threshold reporting quantities pursuant to 40 CFR Part 355, Appendix A 42 U.S.C. 11001.

SECTION 11. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be held invalid.

SECTION 12. The City Council finds that this ordinance falls under the California Environmental Quality Act (CEQA) exemption found in Title 14 California Code of Regulations Section 15308 (Class 8, Actions for Protection of the Environment), because it is designed to assure the maintenance, enhancement, or protection of the environment and involves procedures for the protection of the environment aimed at reducing risks to sensitive receptors associated with potential accidental releases of hazardous materials.

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NOT YET APPROVED

SECTION 13. This ordinance shall be effective on the commencement of the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

City Attorney

City Manager

Director of Planning and Community
Environment

Director of Administrative Services

NOT YET APPROVED

Ordinance No. _____
Ordinance of the Council of the City of Palo Alto
Amending Zoning Regulations to Amortize Non-Conforming Hazardous Materials
Uses at Communications & Power Industries, Inc., Located 607-811 Hansen Way

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

A. The City of Palo Alto is committed to ensuring the quality of life, including public health, safety, and welfare, of its residential neighborhoods, as evidenced by Goal L-3 of the City's Comprehensive Plan, which calls for the protection and enhancement of safe, attractive residential neighborhoods.

B. There are facilities within the City that because of the types and quantities of hazardous materials used, handled, and/or stored may pose offsite health, safety, and welfare effects. One such facility is Communications & Power Industries, Inc. (CPI), 607-811 Hansen Way. CPI is located within the Stanford Research Park and is also immediately adjacent to a residential neighborhood.

C. In 2007, the City Council amended the Palo Alto Municipal Code to prohibit new businesses that have acutely hazardous materials above thresholds identified in Title 19 of the California Code of Regulations within 300 feet of residential zoned properties or existing residential properties within a non-residential zone. In 2007, CPI used and stored acutely hazardous materials above the Title 19 thresholds. Subsequently, CPI reduced its use and storage of hazardous materials.

D. In February 2016, the Council amended the Municipal Code to further address potential risks presented by uses that involve hazardous materials that do not exceed thresholds identified in Title 19, but that nonetheless may present a risk of offsite health, safety and welfare effects, particularly if they are located within proximity to land uses such as residences, schools, daycare centers, elder care facilities and similar uses whose occupants may be more susceptible than the general population to the adverse effects of exposure to toxic chemicals and other pollutants.

E. The Council established a minimum distance between users of acutely hazardous materials that are defined as toxic or highly toxic by the California Fire Code Chapter 2 in the City's industrial zoning districts, and sensitive receptors, defined as residences, schools, daycare centers, elder care facilities and similar uses.

F. The uses in buildings 1A, 1B and 2 at CPI are subject to this regulation and are legal and non-forming under its terms. Under the Municipal Code, CPI may not expand or intensify the non-conforming uses. In addition, the Council wishes to establish a schedule to phase out the non-conforming uses through amortization.

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G. In 2011, the City retained the real estate economics firm CB Richard Ellis to prepare a study to determine when CPI's plating shop use could be terminated. The study concluded that 20 years from the date of the studied investments, or 2026 would provide a reasonable amortization period.

H. CPI subsequently retained another consultant to provide a separate study of this issue, concluding that the plating shop could not be separated from the rest of the facility, and that approximately 40 years would provide a reasonable amortization period for the entire facility.

I. The City retained an additional consultant, AECOM Inc., to assist the City with various tasks related to hazardous materials regulation, including conducting a peer review of the prior amortization studies. AECOM found the methods and conclusions of both studies to be generally valid, subject to several assumptions and clarifications.

SECTION 2. Section 18.70.070 (Nonconforming use – Required termination) of Chapter 18.70 (Nonconforming Uses and Noncomplying Facilities) of the Palo Alto Municipal Code is hereby amended to add Subsection (b)(2)(G) as follows:

(G) The non-conforming hazardous materials uses located within Building 2 and the associated chemical storage area at 811 Hansen Way shall terminate or be relocated greater than 300 feet from sensitive receptors on or before December 31, 2026. The non-conforming hazardous materials uses located within Buildings 1A, 1B and 2 at 607-811 Hansen Way shall terminate or be relocated greater than 300 feet from sensitive receptors on or before December 31, 2052.

SECTION 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be held invalid.

SECTION 4. The City Council finds that this ordinance falls under the California Environmental Quality Act (CEQA) exemption found in Title 14 California Code of Regulations Section 15308 (Class 8, Actions for Protection of the Environment), because it is designed to assure the maintenance, enhancement, or protection of the environment and involves procedures for the protection of the environment aimed at reducing risks to sensitive receptors associated with potential accidental releases of hazardous materials.

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NOT YET APPROVED

SECTION 5. This ordinance shall be effective on the commencement of the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

City Attorney

City Manager

Director of Planning and Community
Environment

Director of Administrative Services



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Memorandum

To: Hillary Gitelman
Cc: Margaret Monroe
Subject: Background Materials to Identify a “Tier” between CUPA and CalARP Thresholds
From: Rod Jeung
Date: January 7, 2016

Introduction and Summary

The intent of this memorandum is to identify buildings that have types and quantities of hazardous materials onsite that could pose concern for neighboring land uses due to accidental releases of these chemicals. The identification focuses on the type of hazardous materials, the amount of hazardous materials, and the proximity of these buildings to sensitive land uses. The State definition of hazardous material is a substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment (California Health and Safety Code, Division 20, Chapter 6.95, Section 25501(n)). This definition encompasses substances listed in the Code of Federal Regulations and the California Code of Regulations.

There are multiple buildings throughout the City of Palo Alto, hereafter referred to as the City, where hazardous materials are used, handled, or stored. Whether releases of hazardous materials might result in a potentially significant health effect on nearby uses depends on:

- the quantity of these materials,
- the inherent characteristics of these materials,
- the location of, and circumstances resulting in, an accidental release,
- the availability of a “transport” medium to convey the hazardous materials to a receptor (i.e., through the air, water, dermal contact, or ingestion),
- the proximity of the receptor(s), and
- the administrative and engineering controls at the building that serve to prevent and/or minimize accidental releases and to respond to these accidents.

This memorandum describes the existing procedures used by the City to obtain, notice, and report information about hazardous materials, and provides background for an approach to classifying manufacturing uses based on the type and quantity of onsite hazardous materials. The City’s hazardous materials regulations (at Section 18.23.100 of the Municipal Code) already identify two classifications, or tiers:

- the first tier is for businesses with hazardous materials that must file an inventory form – this tier includes a diverse set of businesses with hazardous materials that must obtain permits from the Palo Alto Fire Department; and

- a second tier is for businesses with “acutely hazardous materials” that exceed Title 19 quantities (also known as the California Accidental Release Program thresholds, or CalARP thresholds, for short) and consequently must prepare a Risk Management Prevention Plan – there are no businesses in the City that currently exceed the Title 19 quantities, which are substantially greater than the reporting thresholds used to identify the first tier of uses.

The City Council in October 2014 directed staff to develop a new tier between the above two tiers. Staff’s proposal was presented and discussed by the City Council at its November 16, 2015 meeting. This memorandum for the Planning and Transportation Commission acknowledges and incorporates the direction from the Council’s motion at the November 2015 meeting.

The new tier zeroes in on hazardous materials that can result in human health hazards, as opposed to physical hazards. In particular, the new tier is defined as those facilities with *toxic* or *highly toxic* hazardous materials above specific quantities, because these chemicals are considered by state and federal agencies, as well as fire and building safety codes, to pose a potential for health effects on nearby uses in the event of an accidental release. It is proposed that such facilities within 300 feet of a sensitive receptor would be prohibited; beyond 300 feet, such facilities would need a Conditional Use Permit from the City Council.

It should be noted that the new tier submitted to the Council in November 2015 also included *Extremely Hazardous Substances*, as defined by 40 CFR Part 355, Appendices A and B. Many of these substances are also considered toxic or highly toxic, although there are chemicals on one list that are not on the other list. Concerns raised prior to and during the Council meeting about arriving at a reasonable threshold resulted in abandoning the use of Extremely Hazardous Substances as a criterion for the new tier.

Existing Hazardous Materials Inventories and Reporting

Businesses are required to submit information about their hazardous materials use on a standard, statewide Hazardous Materials Registration Form. The form requests information about the types, amounts, and hazard classifications for each hazardous material to be used, handled, or stored onsite. As noted, these forms are part of a statewide system (California Environmental Reporting System [CERS]) and provide a consistent way of reporting hazardous materials across businesses and jurisdictions. Businesses are required to certify the accuracy of their inventory statements on an annual basis. Hazardous materials inspectors from the Palo Alto Fire Department verify the accuracy of the inventories during hazardous material inspections. The Palo Alto Fire Department is required by State law to inspect the buildings and/or facilities that exceed the “CUPA thresholds” (see below for definition) at least once every three years.

The City requires businesses to report and obtain permits when hazardous materials quantities exceed the State Health and Safety Code (Division 20, Chapter 6.95) and Certified Unified Program Agency (CUPA) regulations, with one exception as indicated in Table 1 (see *italicized information*). Those hazardous materials classified as toxic or highly toxic must be reported to

the Palo Alto Fire Department at quantities less than the State threshold quantities (referred hereafter as the “CUPA thresholds”).

Table 1 Hazardous Materials Threshold Quantities Currently Requiring Permits						
Type of Hazardous Material	City of Palo Alto			State (Health and Safety Code)		
	Liquids (gallons)	Solids (pounds)	Compressed Gases (cubic feet)	Liquids (gallons)	Solids (pounds)	Compressed Gases (cubic feet)
Hazardous Materials other than those enumerated below	55	500	200	55	500	200
<i>Toxic</i>	<i>10</i>	<i>100</i>	<i>Any amount</i>			
<i>Highly Toxic</i>	<i>Any amount</i>	<i>Any amount</i>	<i>Any amount</i>			
Sources: City of Palo Alto, Municipal Code, Title 17 (Hazardous Materials Storage), Chapter 17.20 (Hazardous Materials Inventory); State Health and Safety Code, Division 20, Chapter 6.95, Section 25507(a)(1)						
Note: <i>Italicized text</i> indicates Palo Alto reporting and permitting requirements that are more stringent than those in the State Health and Safety Code that are used by most jurisdictions in the state.						

More specifically, the City, in its reporting requirements, distinguishes between facilities that have certain *types* of chemicals (i.e., toxic and highly toxic materials); whereas, the State in its threshold quantities does not make this distinction. Facilities in the City using *any* amount of “highly toxic” hazardous materials are required to file hazardous materials inventory forms and obtain a permit. For materials that are considered “toxic,” the City requires the inventory forms and a permit from the Palo Alto Fire Department for 10 gallons or more of a toxic liquid, for 100 pounds or more of a toxic solid, and for any amount of a compressed toxic gas.

Existing Requirements for Hazardous Materials Business Plans / Hazardous Materials Management Plans

Businesses that exceed the CUPA thresholds defined by the State Health and Safety Code (see Table 1) are required to prepare Hazardous Materials Business Plans (HMBPs). The State code establishes minimum statewide standards for the content of the HMBPs and allows local jurisdictions the discretion to adopt more stringent standards. In the City, HMBP requirements are addressed in Title 17 (Chapter 17.16 Hazardous Materials Management Plan) of the Municipal Code.

The City requirements in Title 17 identify two reporting threshold quantities. Businesses that are required to submit a hazardous materials inventory form must prepare a Hazardous Materials Management Plan (HMMP) as defined by the State Fire Code. If the quantities are at or above the CUPA thresholds, businesses must provide supplementary materials that make the HMMP the equivalent of the state HMBP.

In general, HMBPs/HMMPs contain the following information:

- a site plan identifying, among other things, the locations of hazardous material handling and storage areas, evacuation staging areas, and emergency response equipment;
- an inventory of the amount and types of chemicals onsite;
- a description of methods to separate and protect stored hazardous materials from factors that may cause a fire or explosion, or the production of a flammable, toxic, or poisonous gas, or the deterioration of the primary or secondary containment;
- a monitoring program and recordkeeping forms; and
- employee training in safety procedures in the event of a release or threatened release of a hazardous material.

The supplementary materials required by the City for businesses at or above the CUPA thresholds, in order to make the HMMP the equivalent of an HMBP, include:

- emergency response plans and procedures in the event of a release or threatened release of a hazardous material;
- procedures for mitigating a release or threatened release;
- evacuation plans and procedures for the business site;
- procedures to prevent an accidental spill or leak of hazardous materials from reaching the sewer or storm drainage systems; and
- alarm notifications within the facility and to neighboring facilities that may be affected by an off-site release.

These plans are available for public inspection, except for specific information about the precise location where hazardous materials are stored and handled on site.

The Palo Alto Municipal Code, similar to the State Code, has a list of materials that are excluded from a hazardous material classification and, therefore, exempt from the HMMP requirements. These materials include:

- retail products, defined as hazardous materials contained solely in consumer products packaged for distribution by retail businesses for the general public,
- commercial products used at the facility solely for janitorial or minor maintenance purposes,
- hazardous materials contained in a substance intended for use as animal food,
- hazardous materials located at a work station in a quantity reasonably required for use as determined by the fire chief under the circumstances,
- hazardous materials exempted by the fire chief when it has been demonstrated to the satisfaction of the city that the material in the quantity and/or solution stored does not present a significant actual or potential hazard to the public health, safety, or welfare.

Proposed Chemicals of Interest for the New Tier

There are many types of hazardous materials and regulations governing their use and disposal. The City's regulations in Title 18 (Zoning) do not distinguish among these different types of hazardous materials, with one exception. Section 18.23.100 specifically identifies hazardous materials that require preparation of a Risk Management Prevention Plan pursuant to Title 19 (California Accidental Release Program) of the California Code of Regulations. Title 19 "regulated substances" include toxic and flammable substances subject to Section 112(r) of the federal Clean Air Act and Extremely Hazardous Substances. Title 19 covers hazardous materials that result in human health hazards and physical hazards.

The City Council expressed concern in October 2014 that hazardous materials at quantities less than Title 19 levels could adversely affect nearby land uses and an approach should be developed to address this potential effect.

The City's hazardous materials requirements for permits provide direction to respond to the Council's motion in that they already require hazardous materials inventory forms from businesses with *toxic and highly toxic materials* at amounts *less than* the CUPA thresholds. The definitions of toxic or highly toxic substances are found in the California Fire Code (see Chapter 60 of the 2013 edition). These chemicals produce a lethal dose or lethal concentration in laboratory animals.¹

¹ **Highly Toxic.** A material which produces a lethal dose or lethal concentration which falls within any of the following categories:

1. A chemical that has a median lethal dose (LD50) of 50 milligrams or less per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.
2. A chemical that has a median lethal dose (LD50) of 200 milligrams or less per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between 2 and 3 kilograms each.
3. A chemical that has a median lethal concentration (LC50) in air of 200 parts per million by volume or less of gas or vapor, or 2 milligrams per liter or less of mist, fume or dust, when administered by continuous inhalation for one hour (or less if death occurs within 1 hour) to albino rats weighing between 200 and 300 grams each.

Mixtures of these materials with ordinary materials, such as water, might not warrant classification as highly toxic. While this system is basically simple in application, any hazard evaluation that is required for the precise categorization of this type of material shall be performed by experienced, technically competent persons.

Toxic. A chemical falling within any of the following categories:

1. A chemical that has a median lethal dose (LD50) of more than 50 milligrams per kilogram, but not more than 500 milligrams per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.
2. A chemical that has a median lethal dose (LD50) of more than 200 milligrams per kilogram but not more than 1,000 milligrams per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between 2 and 3 kilograms each.
3. A chemical that has a median lethal concentration (LC50) in air of more than 200 parts per million but not more than 2,000 parts per million by volume of gas or vapor, or more than 2 milligrams per liter but not more than 20 milligrams per liter of mist, fume or dust, when administered by continuous inhalation for 1 hour (or less if death occurs within 1 hour) to albino rats weighing between 200 and 300 grams each.

While they do not address all hazards, such as physical hazards, they encompass many of the hazardous material characteristics that the City Council requested be addressed by the new tier. Moreover, toxic or highly toxic chemicals are already used in the City's regulatory permit system; i.e., such chemicals require permits from the Fire Department (for a Use and Occupancy permit) and from the Building Department (for a "High-hazard Group H-4" permit).

Identification of Businesses with Chemicals of Interest

Based on the types of chemicals of interest identified above, the hazardous materials information forms on file with the Palo Alto Fire Department were reviewed to identify those buildings with these chemicals in quantities that exceed the CUPA thresholds. Of the approximately 420 buildings that have forms on file in 2015, 13 facilities have toxic or highly toxic chemicals above the CUPA thresholds.

As shown in Table 2, the following observations describe the businesses in the City with toxic or highly toxic materials:

- Eight of the facilities are located in the Stanford Research Park, two at the Stanford Medical Center, and three in the San Antonio Road/Bayshore Corridor at the southeastern end of the City.
- Eleven of the facilities have toxic hazardous materials only. Two facilities - CPI Building 2 and the Palo Alto Research Center on Hillview Avenue – have both toxic and highly toxic hazardous materials onsite.
- Most of the facilities have relatively few toxic or highly toxic materials in amounts that exceed the CUPA thresholds: nine facilities have 1 to 2 such chemicals; two facilities have 3 such chemicals; and two (CPI Building 1B and CPI Building 2) have more than 10 such chemicals.

Buildings 12 and 13 in Table 2 are the only buildings in the City with toxic and highly toxic hazardous materials in excess of the state thresholds that are not in an industrial/manufacturing zone. They are both related to Stanford medical facilities, use and store sanitizers and cleaners, and are not waste chemicals or chemicals used in a manufacturing process. Because hospitals and other medical facilities provide services to the ill, youth, and elderly, all of whom are considered sensitive receptors, they are required to implement safeguards to avoid accidental exposure. As a result, these facilities are not anticipated to pose the same public health effects that industrial buildings might, and are not recommended to be included as buildings of interest for the proposed zoning regulations.

In summary, there are 11 buildings with toxic or highly toxic hazardous materials in sufficient quantities that would be included in the new tier.

Table 2
Buildings with Toxic and Highly Toxic Hazardous Materials in Excess of CUPA Thresholds

Building	Class 31	# of	Class 13	# of
	Toxic	Chemicals	Highly Toxic	Chemicals
1 CPI 1A	x	1	-	-
2 CPI 1B	x	14	-	-
3 CPI 2/2A	x	14	x	6
4 CPI 4	x	2	-	-
5 Dupont (Genecor International)	x	3	-	-
6 Hammon Plating - 855 Commercial	x	2	-	-
7 ONED	x	2	-	-
8 Palo Alto Research Center - 3333 Coyote	x	2	-	-
9 Palo Alto Research Center - 3406 Hillview	x	2	x	1
10 Space Systems Loral B3	x	1	-	-
11 Space Systems Loral B4	x	1	-	-
12 <i>Stanford Central Core</i>	x	1	-	-
13 <i>Stanford Phase 1 Diagnostic and Treatment</i>	x	2	-	-

Source: CERS data (hazardous materials inventory forms) filed by each of the businesses with City of Palo Alto Fire Department, 2015; data compiled by AECOM, 2015.

Notes:

Class 31 Toxic Materials

Class 13 Highly Toxic Materials

* Hazardous materials at this facility consist of miscellaneous flammable and combustible liquids, none of which individually is expected to exceed CUPA thresholds.

Italicized buildings are not proposed for consideration in new tier of manufacturing uses with quantities of individual toxic or highly toxic substances above the CUPA thresholds.

Proposed Receptors of Interest

The City's existing hazardous materials regulations (Section 18.23.100 of the Municipal Code) require noticing and specify use restrictions for businesses with hazardous materials in quantities above CUPA thresholds. The noticing and use restrictions target residential properties only (i.e., residentially zoned properties or a property with existing residential uses in a nonresidential zone). The City Council during its discussion in October 2014 expressed concern that other uses, besides residential uses, may also be particularly susceptible to hazardous materials exposure.

The US Environmental Protection Agency, local/regional air quality management districts, and public health agencies all recognize that certain populations are more susceptible to hazardous materials exposure. In light of the City Council's direction, the "receptors" that are targeted to

be informed and protected by the new zoning revisions is proposed to be expanded to include “sensitive receptors” – residential areas, medical facilities, schools (typically, elementary and middle schools), daycare facilities, homes for the elderly, or convalescent facilities.

Proposed Proximity to Sensitive Receptors

As mentioned in the “Introduction and Summary,” a key factor in determining the potential for off-site adverse health consequences from an accidental release is the distance between a building with toxic or highly toxic hazardous materials and the sensitive receptors. The January 2014 risk assessment by AECOM showed that there are multiple factors, including the amount of chemicals, the type of chemicals, the meteorological conditions, and the engineering and administrative controls employed at a business, that affect the distance to the “toxic endpoint”² and whether acute health risks may affect off-site neighboring land uses. The proximity of sensitive receptors to buildings/facilities with toxic or highly toxic hazardous materials needs to be considered in establishing the potential for land use incompatibilities and changes to the City’s zoning regulations.

The definition of “proximity” can reasonably be based on the City’s current zoning and hazardous materials regulations (Section 18.23.100):

- 150 feet – Residential properties receive written notice from the City when there would be a change in the types or quantities of hazardous materials under conditions specified in the regulations and an application for a building permit to enable such change is approved.
- 300 feet – Businesses with hazardous materials above Title 19 thresholds are not permitted within this distance (300 feet) of a residential property. Beyond 300 feet, such businesses require a Conditional Use Permit.

The lesser distance above is relevant for manufacturing uses at or above the CUPA thresholds: For any business proposing to change the type and quantities of hazardous materials stored, used, or handled when the conditions in Section 18.23.100(B)(iii) are met (i.e., there is a change in the amount of hazardous materials that results in exceeding the CUPA thresholds or a doubling of the amount onsite, or the business has a release or threatened release incident), residential property owners within 150 feet must be notified within 10 days after the issuance of the building permit to enable such changes at the site (see Section 18.23.100(B)(iv)).

The greater distance above is relevant for manufacturing uses at or above the Title 19 thresholds: Pursuant to the City’s current regulations at Section 18.23.100 (B)(vi), no building proposing to store, use, or handle hazardous materials that meet or exceed the threshold quantities established by Title 19 of the California Code of Regulations (the California Accidental Release Program) would be permitted within 300 feet of a residentially zoned property or a residential use. None of the buildings in the City currently has hazardous materials in amounts that trigger the Title 19 requirements. However, if a business were to

² The toxic endpoint is the concentration of an acutely hazardous substance above which there may be a serious acute health effect following a single short-term exposure.

exceed the Title 19 thresholds, Section 18.23.100(B)(vi) would require City Council approval of a Conditional Use Permit. Conditional Use Permits require that addresses within 600 feet of the subject property be notified.

In light of the current regulations, the new tier, which includes buildings above the CUPA thresholds but below the Title 19 thresholds, should logically result in a notification, setback, and/or some restriction in uses with chemicals of interest at some distance greater than 150 feet (the notification requirement for businesses meeting the CUPA thresholds) and up to 300 feet (the setback requirement for businesses meeting the Title 19 thresholds). Because existing buildings, as well as future buildings, could use amounts of hazardous materials, up to the Title 19 thresholds, it is reasonable that the noticing and regulatory distance for the new tier should be no more than 300 feet from a sensitive receptor.

At a distance of 300 feet, three of the buildings identified in Table 2 would become nonforming uses, if buildings with toxic/highly toxic chemicals above the state thresholds were not permitted. The buildings are CPI Buildings 1A, 1B, and 2. This determination is based on the hazardous materials inventory forms filed by these businesses in 2015.

Conclusion

A new tier of manufacturing uses has been defined that is: (1) conveniently based on hazardous materials inventory forms provided to the Palo Alto Fire Department; (2) consistent with the City Council's direction to identify businesses with chemicals below the Title 19 (CalARP thresholds) and with operations and potential hazards that could affect nearby land uses; and (3) logically based and consistent with the existing notification and reporting requirements and distances in Section 18.23.100. Table 3 summarizes the existing two tiers and how the new tier fits in.

Table 3 Industrial/Manufacturing Tiers based on Hazardous Materials Type and Quantities			
Tier	Type of Hazardous Materials Regulated	Quantities (X=maximum amount at one time at site)	New Restrictions on Use
1	All hazardous materials, unless they meet Tier 2 or Tier 3 definitions	$X < \text{Title 19 (CalARP)}$	None, except noticing would apply to sensitive receptors (instead of residential properties only)
2	Toxic/Highly Toxic Hazardous Materials	$\text{CUPA} < X < \text{Title 19 (CalARP)}$	Prohibited within 300 feet of sensitive receptor; CUP beyond 300 feet
3	Extremely Hazardous Substances	$X > \text{Title 19 (CalARP)}$	No such uses currently exist in the City. Per City Council November 2015 direction, new uses subject to Title 19 with Extremely Hazardous Substances would be prohibited.

Memorandum

Attachment

Table A-1
Buildings with Toxic and Highly Toxic Hazardous Materials in Amounts Greater Than
CUPA Thresholds (Max Daily Amounts), by Individual Chemical

Building/Substance (T=Toxic; HT=Highly Toxic)	Cubic Feet	Gallons	Pounds	Applicable CUPA Threshold Amount (Cu. Ft.=200, Gallons=55, Pounds=500)
CPI 1A 607 Hansen Way				
Bead Blasting Waste (T)	0	0	670	500
CPI 1B 607 Hansen Way				
Barium Contaminated Waste (T)	0	0	500	500
Bead Blasting Waste (T)	0	0	2,680	500
Beryllium Oxide Containing Waste (T)	0	0	4,000	500
Electroless Nickel Waste (T)	0	165	0	55
Ethylene Glycol Liquid Waste (T)	0	440	0	55
Kanthal/Copper Waste (T)	0	0	750	500
Misc. Labpack Waste (T)	0	0	1,200	500
Nickel Chloride Solution (T)	0	55	0	55
Nickel Stripping Waste (T)	0	110	0	55
Nickel Sulfamate Solution (T)	0	55	0	55
Scrubber Cleaning Waste (T)	0	330	0	55
Toxic Liquid Plating Chemicals (T)	0	200	0	55
Waste Cyanide Containing Liquid (T)	0	110	0	55
Wastewater Sludge (T)	0	0	4,900	500

Building/Substance	Cubic Feet	Gallons	Pounds	Applicable CUPA
				Threshold Amount (Cu. Ft.=200, Gallons=55, Pounds=500)
CPI 2 811 Hansen Way				
Bead Blasting Waste (T)	0	0	670	500
CM-07 - Wood's Strike (T)	0	101	0	55
CM-09 - Nickel Chloride Plate (T)	0	327	0	55
Crohne Blasting Waste (T)	0	0	750	500
Cyanide Wastewater (T)	0	3,245	0	55
Emission Carbonates (T)	0	0	1,060	500
Hydrosulfuric Acid, Hydrogen Sulfide (T)	0	0	1,690	500
NA-01 - Wood's Strike (T)	0	75	0	55
NA-03 - Watts Nickel (T)	0	218	0	55
NB-01 - Wood's Strike (T)	0	75	0	55
NB-03 - Nickel Sulfamate (T)	0	218	0	55
PM-02 - Rinse Static (HT)	0	83	83	55
PM-04 - Rinse - Recycle (Local) (HT)	0	83	83	55
PM-09 - Rinse – Static (HT)	0	58	58	55
PM-11 - Rinse – Static (HT)	0	58	58	55
PM-24 - Cyanide Strip (HT)	0	58	58	55
PM-25 - Rinse - Slow Flow (HT)	0	58	58	55
PT-04 – Platinum (T)	0	75	0	55
Sulfuric Acid (T)	0	0	2,487	500
Waste Soldering Rinse (T)	0	55	0	55
CPI 4 3120 Hansen Way				
Bead Blasting Waste (T)	0	0	1,340	500
Perfluoro Compounds and Coolants (T)	0	60	0	55

				Applicable CUPA Threshold Amount (Cu. Ft.=200, Gallons=55, Pounds=500)
Building/Substance	Cubic Feet	Gallons	Pounds	
Dupont (Genecor) 925 Page Mill Road				
Ammonium Hydroxide (T)	0	148	0	55
Hydrosulfuric acid, hydrogen sulfide (T)	0	236	0	55
Sodium Hydroxide (pellets) (T)	0	145	0	55
Hammon Plating, 855 Commercial				
Nickel Sulfate Hexahydrate (T)	0	660	0	55
Sodium Nitrate (T)	0	0	2,000	500
ONED Material, 2625 Hanover Street				
Hydrosulfuric Acid, Hydrogen Sulfide (T)	0	0	2,700	500
Waste Sodium Hydroxide Solution (T)	0	55	0	55
Palo Alto Research Center, 3333 Coyote Hill Road				
Hydrogen Fluoride (T)	0	0	4,165	500
Hydrosulfuric Acid, Hydrogen Sulfide (T)	0	0	1,666	500
Palo Alto Research Center, 3406 Hillview Ave				
Carbon Tetrachloride (T)	300	0	0	200
Chlorine Std Solution Ampules 30 mg/L chlorine (T)	200	0	0	200
Phosphine (HT)	400	0	0	200
Space Systems Loral Bldg 3, 3825 Fabian Way				
Hydrochloric Acid (T)	0	200	0	55
Space Systems Loral Bldg 4, 3825 Fabian Way				
Specially Denatured Alcohol (SDA) 40-B, 200 Proof (T)	0	69	0	55
Stanford Central Core 07-302, 300 Pasteur				
Oasis 146 Multi-Quat Sanitizer (T)	0	87	0	55
Stanford Phase 1 07-310 thru 07-314, 300 Pasteur				
Automated Gram Stain Kit (Solution III) and Cleaning Solution (T)	0	143	0	55
Super Sani-Cloth Germicidal Disposable Wipes (T)	0	0	700	500

Source: CERS data (hazardous materials inventory forms) filed by each of the businesses with City of Palo Alto Fire Department, 2015; data compiled by AECOM, 2015.



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To: Hillary Gitelman
Cc: Margaret Monroe
Subject: Peer Review of CBRE 2011 Amortization Study of CPI
Building 2 and CPI Response
From: Alexander Quinn, Dr. Ram Bhagat, and Stephen Couture
Date: October 30, 2015

Background

In 2011, CB Richards Ellis (CBRE) was retained by the City to perform an amortization study of a portion of CPI Building 2. Specifically, CBRE was requested to estimate a reasonable amortization period covering the plate shop at Building 2 and the secured outdoor storage area between Buildings 1 and 2. In its July 6, 2011 report, CBRE concluded that 15 years from the date of the report (or 2026) would allow CPI full use of its equipment and time to adequately prepare for relocation of the plate shop either at the existing site or a new location. The timeframe of 15 years took into account when CPI installed the majority of the plating shop improvements in 2006.

CPI prepared a response, dated April 12, 2012, soon after CPI had reduced the quantities of onsite hazardous materials to below the Title 19 California Accidental Release Program thresholds. CPI cited these proactive steps, its ongoing commitment to safety, and its conformance with current City regulations as reasons for the City not to amend the zoning ordinance and amortize its use. With specific reference to an appropriate amortization period, if the City did seek to terminate CPI's use through zoning, CPI offered its rationale for a period of at least 40 years. CPI described its operations and explained that they are fully integrated and relocating one component, such as the plating shop, would not be feasible.

Peer Review Findings

Peer Reviewers' Qualifications

AECOM was requested to perform a review of the CBRE and CPI amortization documents. The review of the reports was completed under the direction of Alexander Quinn. Mr. Quinn is the director of AECOM's Sustainable Economics practice for the Americas. His practice focuses primarily on addressing urban economic questions under a sustainability lens, be it economic development, public finance, or community development. He has directed development feasibility studies, community benefits analyses, financing plans, economic development strategies, and pro forma evaluations for a variety of uses in site-specific and district-wide applications, covering industrial facilities, office parks, hotel and destination venues, residential projects, and combinations of these land uses. Supporting Mr. Quinn were Ram Bhagat, PhD, PMP, FASM, and Stephen Couture, P.E., DEE, BCEE. Both Dr. Bhagat and Mr. Couture each bring over 35 years of experience with industrial operations and processes, with particular expertise in plating operations. Dr. Bhagat is a subject matter expert (SME) in materials, metallurgy, manufacturing, defense electronics, and mechanics and has overseen plating operations, among other activities, for private

industrial facilities. He has experience managing, directing, and administering a scientific work force conducting a broad spectrum program of highly sophisticated basic and applied research. Mr. Couture has specific expertise in electroplating, metal finishing, and electronic components manufacturing and has served as senior technical advisor to non-governmental environmental organizations and U.S. government agencies on international environmental regulatory compliance consulting and program development.

Amortization Period

AECOM reviewed the 2011 CBRE Amortization Study as well as the 2012 CPI response to the analysis. In general, the evaluation approach deployed by CBRE is standard and reflects common practice for considering the depreciated value of facilities, especially where reported depreciation value numbers to the IRS are not available. It is clear that CBRE also did not have complete access to all data and therefore did not know specifically the reported depreciated value of the plating facility. Rather, CBRE used Marshall Evaluation Service life estimates to straight-line depreciate the plating facility based on Marshall asset categories, a reasonable practice in the absence of better information. If AECOM had access to the actual reported depreciation of CPI's facilities, we would be able to provide a more accurate estimate of when the plating facility and other buildings would be fully depreciated. It is noted that the CBRE study was completed in 2011. If CPI has made capital improvements to Building 2, the amortization period of 15 years to 2026 could be extended further into the future.

Fundamental to CBRE's evaluation was the assumption that the plating facility could be placed off site without a meaningful loss to CPI's overall operation. In other words, the relocation or outsourcing of the facility would not result in substantial disruption to CPI's overall business operations. This assumption may have resulted from CBRE's scope of work, which may have requested a narrow line of investigation; i.e., what would be a reasonable amortization period for the plating shop only?

We find that CPI's response to the CBRE Amortization Study is more a business and legal argument than an economic one. There is no supporting economic or financial information in the CPI response that would suggest that the useful economic life of Building 2 should be different than identified by CBRE. In fact, the 40-year-threshold minimum, argued for in CPI's response, would imply that CPI is amortizing its facilities in Palo Alto at the slower depreciation rate. While AECOM does not have access to CPI's full detail tax receipts, we would be surprised if CPI were not depreciating its assets as guided by the IRS. Commercial buildings are depreciated at 39 years – but can depreciate more rapidly under certain circumstances – and capital equipment is depreciated more rapidly still at the point of construction/installation. Unless a building was constructed within the last five years, one would expect a much faster depreciation value.

However, since the plating shop appears to be critical to the ongoing operations of the overall facility, as discussed below, then an amortization analysis would need to be widened to account for the entire facility, including recently rehabilitated buildings and any new fixed equipment installed on the site. As such, the CBRE study is reasonable for its intended purpose – to examine Building 2 independently – but limited in that it does not account for all of CPI's facilities.

CPI's Plating Shop Interconnectivity with Other Onsite Facility Operations

CPI asserted in its 2012 response to the CBRE study that the plating facility is integral to the rest of their business on Hansen Way and cannot be outsourced or relocated. Dr. Bhagat and Mr. Couture, AECOM's industrial engineers familiar with the manufacture of electronic devices in CPI's lines of businesses (as well as similar types of precision electronic devices), do not disagree with the CPI argument concerning the interrelationship between the plating operations and other onsite activities. Although CPI's response to the CBRE Amortization Study were not supported by details or specifics, and did not necessarily justify a minimum 40-year amortization period, the comments about the nature and process of product manufacturing were not invalid.

Based on our review of the information provided by CPI regarding their product manufacturing and quality control/testing operations and our experience working with clients involved in manufacturing electronic components and devices (and employing the same chemical cleaning, etching, and plating processes employed at CPI's Palo Alto facility), we understand CPI's reasoning that their plating and non-plating operations have a critical interconnectivity and that these operations must be performed within contiguous process areas. The devices manufactured by CPI, including the individual components and sub-assemblies that ultimately make up these devices, commonly move between mechanical (i.e., non-chemical), wet chemical process operations (e.g., cleaning, etching, plating), and quality control/testing operations, sometimes making multiple passes back and forth among these operations.

Due to the precision nature of the devices manufactured by CPI, controlling and mitigating environmental contamination of these devices are critical to their function and reliability for CPI's customers. The additional handling of components, sub-assemblies, and devices that would be involved in conducting some of the manufacturing operations processes in an offsite/non-contiguous facility could introduce additional opportunities for exposing the components/devices to environmental contamination.

If the chemical cleaning, finishing, and/or plating operations associated with the manufacture of these devices were required to be relocated to an offsite facility, the additional logistics, handling, and transport that would be involved in moving the components, sub-assemblies, and devices between the current CPI facility and offsite facility(ies) would add labor, other costs, and time to the manufacturing process. The longer manufacturing time and additional costs that would be incurred could make CPI's product less competitive among other industry providers of these products.

Although we have not spoken to any CPI representatives or visited the facilities, it is our conclusion, for the sake of ensuring product reliability and cost competitiveness of CPI's devices, that all of the manufacturing operations involved (including assembly and testing operations) should be co-located, whether that be at CPI's Palo Alto facility or an offsite location. Therefore, any amortization evaluation/valuation should include all interconnected manufacturing operations/facilities and not be limited to the wet chemical operations of concern.

Notwithstanding the above conclusion, the option of relocating the plating functions elsewhere onsite at a greater distance from sensitive receptor land uses should not be dismissed. Substantial capital expenditures would be incurred by CPI to relocate plating operations elsewhere onsite, but this option would mitigate several of the arguments in CPI's response to the CBRE study.

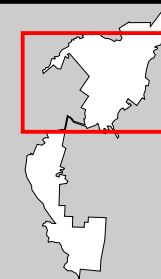
Notably, AECOM's opinion that the facilities be co-located onsite or offsite is based on current technologies and understanding of the processes that occur at CPI. In contrast to the chemical metal finishing/plating operations currently conducted by CPI at their Palo Alto facility, there are existing commercially available process technologies and process/manufacturing technologies in development/early stage commercialization that could potentially replace the wet chemical manufacturing operations that are conducted in CPI Building 2. These alternative manufacturing process technologies may include, but are not necessarily limited to:

- Plasma etching
- Chemical Vapor Deposition
- Supercritical CO₂ cleaning/degreasing
- 3-D printing

Given the future availability of these alternative technologies for activities similar to those performed at the CPI's plating shop, it is not inconceivable that CPI might take advantage of them and reduce the toxic/highly hazardous materials and Extremely Hazardous Substances use, handling, and storage at Building 2 or perform some of the Building 2 activities non-contiguous from other onsite operations.



The City of
Palo Alto



300 ft from Buildings with Toxic/Highly Toxic Hazardous Materials in
Excess of CUPA & less than CalARP Thresholds in the Industrial Zoned
Districts
with Sensitive Receptors
Index Map

This map is a product of the
City of Palo Alto GIS



Legend

Residential Zoned Parcels

GM, ROLM, and RP Zoning Districts

Private Schools

Public Schools

Medical Facility

Nursing Homes, Assisted Living, & Convalescent Homes

Child Care Centers

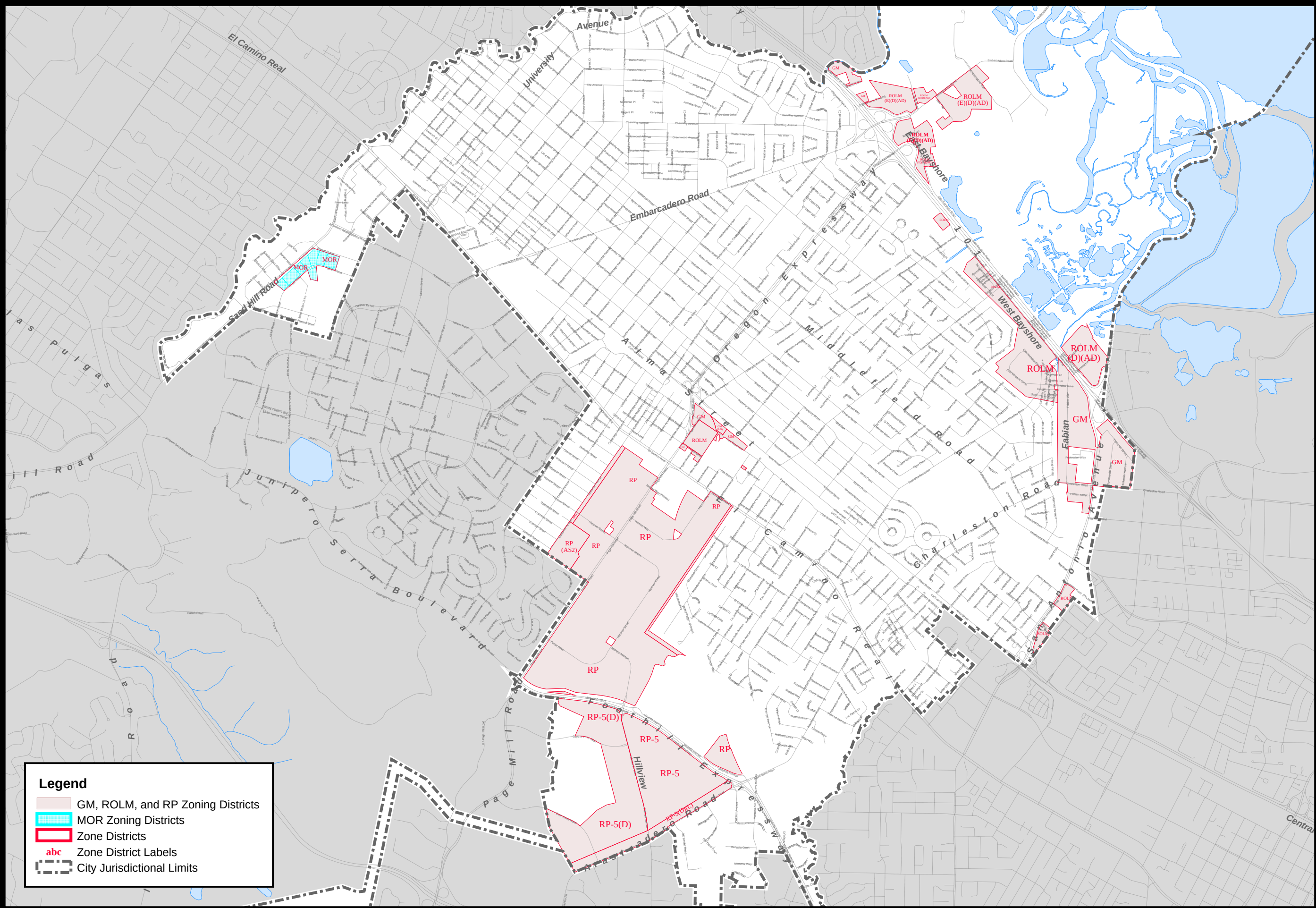
Child Care Homes

abc

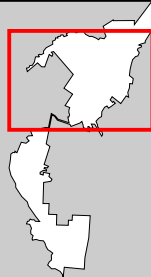
Buildings with Toxic/Highly Toxic Materials in Excess of CUPA Thresholds

300 ft radius around Buildings

City Jurisdictional Limits



The City of
Palo Alto



Industrial Zoning Districts
(GM, MOR, ROLM, ROLM(E), RP, RP(5))

This map is a product of the
City of Palo Alto GIS



Legend

- GM, ROLM, and RP Zoning Districts
- MOR Zoning Districts
- Zone Districts
- Zone District Labels
- City Jurisdictional Limits



NOTICE OF A SPECIAL-REGULAR MEETING OF THE PLANNING AND TRANSPORTATION COMMISSION

WHEN: Wednesday, December 9, 2015 at 6:00 PM

**PLACE: Community Meeting Room, Civic Center
250 Hamilton Avenue, 1st Floor**

The Planning and Transportation Commission will Hold a Public Hearing and Consider Recommending an Ordinance to the City Council that Amends the Municipal Code Regulations Related to Hazardous Materials Use, Storage and Handling in the Office, Research and Manufacturing Zoning Districts and a Draft Ordinance Regarding Amortization of Uses at Communications & Power industries LLC (CPI), 607-811 Hansen Way. Amendments to the Municipal Code Include the Following Sections:

- a. Chapter 18.04 (Definitions) CS 18.04.030 (66) (A) (B) (C) and (127.7);
- b. Chapter 18.20 Office, Research, and Manufacturing [MOR, ROLM, RP and GM] Section 18.20.030 (Land Uses) Table 1 (Industrial/Manufacturing District Land Uses); Section 18.20.040 sub sections (b) and (c); and Section 18.20.050 (Performance Criteria)
- c. Chapter 18.23 (Performance Criteria for Multiple Family, Commercial, Manufacturing and Planned Community Districts) Section 18.23.100 (Hazardous Materials) subsection (B)
- d. Chapter 18.70 (Nonconforming Uses and Noncomplying Facilities) Section 18.70.020 through Section 18.70.100, including Section 18.70.070 (Required Termination)
- e. Chapter 17.16 (General Provisions) Section 17.16.010 (Hazardous Materials Management Plan) and
- f. Chapter 17.20 (Hazardous Materials Inventory) section 17.20.020 (Information required).

Interested persons may appear and be heard. Staff reports for the agenda item are available at the Planning Division Front Desk, 5th Floor, City Hall on the Friday preceding the meeting date, after 2:00 PM or at the Development Center should City Hall be closed on the 9/80 Friday. Reports can be viewed or obtained by going to www.cityofpaloalto.org and clicking on Agendas & Minutes, select Planning and Transportation Commission and follow the links.

ADA. Persons with disabilities who require auxiliary aids or services in using City facilities, services or programs or who would like information on the City's compliance with the Americans with Disabilities Act (ADA) of 1990 may contact (650) 329-2550 (voice) or (650) 328-1199 (TDD). Sign language interpreters will be provided upon request with 72 hours in advance notice.



«ADDRESSE»
«ADDRESS»
«CITYSTATE»



CITY OF PALO ALTO CITY COUNCIL EXCERPT ACTION MINUTES

Special Meeting
November 16, 2015

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:03 P.M.

Present: Berman arrived at 5:41 P.M., Burt, DuBois, Filseth, Holman, Kniss, Scharff, Schmid, Wolbach

Absent:

Action Items

14. Review and Direction Regarding a Draft Ordinance Regulating Hazardous Materials Users and Sensitive Receptors Such as Residences, Schools, Day Care Centers, Convalescent Homes and Similar Uses in Office, Research and Manufacturing Districts and Making Related Changes to Municipal Code Provisions Related to Non-Conforming Uses, as Well as a Draft Ordinance Regarding Amortization of Uses at Communications & Power Industries, LLC (CPI), 607-811 Hansen Way.

MOTION: Council Member Scharff moved, seconded by Council Member Burt to direct Staff to prepare two Ordinances substantially in the form of the draft Ordinances regulating hazardous materials users and establishing a schedule for amortizing a nonconforming use, to be reviewed by the Planning and Transportation Commission (PTC) and consideration by the City Council at a noticed Public Hearing before the end of February 2016 with the exception that Staff be directed to prohibit Tier 3 uses. Direct Staff to work with neighborhood stakeholders and Communications & Power Industries, LLC (CPI) to explore whether there is a resolution that could add substantial neighborhood protections such as better communication tools and/or a shorter period to eliminate the plating shop from the site while considering CPI's concerns about the 2026 date.

AMENDMENT: Council Member DuBois moved, seconded by Vice Mayor Schmid to replace in the Motion, "that Staff be directed to prohibit Tier 3

ACTION MINUTES

uses” with “Staff to review Tier 3 use restrictions and suggest improvements in the Ordinance when it returns to Council.”

AMENDMENT WITHDRAWN BY THE MAKER AND SECONDER

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, “direct Staff to evaluate any additional facilities that may fall under the Ordinance and direct Staff to explore amortization for those facilities.”

MOTION AS AMENDED PASSED: 9-0

Inter-Governmental Legislative Affairs

None.

Adjournment: The meeting was adjourned in recognition of people around the world who have died as the result of terrorism, particularly, but not limited to those in Paris, France at 11:04 P.M.

Attachment I

Public Correspondence

Holland & Knight

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Holland & Knight LLP | www.hklaw.com

Elizabeth A. Lake
(415) 743-6969
elizabeth.lake@hklaw.com

December 17, 2015

Via E-mail and U.S. Mail:

Molly S. Stump, City Attorney
Office of the City Attorney
City Hall, 8th Floor
250 Hamilton Avenue
Palo Alto, CA 94301

Re: Communications & Power Industries LLC ("CPI"): Follow Up to November 16, 2015 City Council Meeting

Dear Ms. Stump:

As you know, Communications & Power Industries LLC ("CPI") has retained Holland & Knight as its litigation counsel in connection with the recently proposed ordinances of the City of Palo Alto ("City"). These ordinances would, if adopted: (1) Convert CPI's Palo Alto manufacturing operations, which have been conducted safely for decades, into a "non-conforming use;" and (2) Require CPI to discontinue or relocate its plating shop operations after an amortization period of approximately 10 years from the anticipated effective date of the proposed ordinance. These draft ordinances are fundamentally flawed in numerous respects and, if the ordinances were to be adopted as currently proposed, would deprive CPI of its vested state and federal rights to due process, compensation for regulatory takings, and equal protection of the laws under Article 1, sections 7(a) and 19 of the California Constitution and the Fifth and Fourteenth Amendments to the U.S. Constitution.

If the City proceeds on its present course without modifying the ordinances, CPI will have no choice but to challenge the ordinances in court. CPI is confident that the courts will overturn the ordinances as presently written. While CPI is prepared to litigate, CPI was also encouraged by the City Council's direction to City staff to explore a possible settlement. To avoid a protracted and expensive legal process and to reach an outcome that provides certainty to the company and its stakeholders, CPI is prepared to work with your office, City staff and the City Council to reach an outcome that meets the legitimate needs of all stakeholders in the community.

With this in mind, our principal aim in this letter is to focus on the City's proposed amortization ordinance with a view toward reaching a compromise settlement on the amortization term for the plating shop.

In reviewing the proposed amortization ordinance, the City must be aware that courts will necessarily weigh the City's actual need, if any, for the proposed "Tier 2" hazardous materials ordinance in determining whether the amortization ordinance is reasonable and lawful. As noted by the California Supreme Court in *Metromedia, Inc. v. City of San Diego* (1980) 26 Cal.3d 848, at 882 (rev'd on other grounds at 453 U.S. 490 (1981)): "The determination of the length of a reasonable period of amortization is not merely a matter of accounting." Instead, such a determination "involves a process of *weighing* the public gain to be derived from a speedy removal of the nonconforming use against the private loss which removal of the use would entail." (*Id.*, italics added). Here, although neighbors have voiced concerns, the third-party studies have shown that the public gain from the relocation of the plating shop is minimal to non-existent, while the private loss is significant.

The proposed "Tier 2" ordinance, as explained in letters and testimony from Dr. Doug Daugherty, PhD, CIH, PE, Managing Principal of Ramboll-Environ, and as the City's expert AECOM has admitted, is based on a "highly unrealistic" and implausible combination of assumed events; lacking any genuine scientific or other rational basis. There is simply nothing in the record to support any realistic scenario of off-site adverse health and safety impacts from CPI's plating shop operations at its current location or at a 300-foot setback.

While we all recognize that the City has broad police powers generally, the proposed "Tier 2" ordinance is not supported by a rational basis. As the court noted in *Associated Home Builders, Inc. v. City of Livermore* (1976) 18 Cal.3d 582, at 609: "Although in many cases it will be 'fairly debatable' that [an] ordinance reasonably relates to the [public] welfare, it cannot be assumed that a land use ordinance can never be invalidated as an enactment in excess of police power." In the circumstances of this case, the proposed "Tier 2" ordinance, on its face and/or as applied to CPI, is "clearly arbitrary and unreasonable" as it is motivated by fear, without scientific basis. There is no public gain from the speedy relocation of the plating shop.

Moreover, because the ordinances have the purpose and effect of singling out CPI's existing, vested uses, their proposed adoption raises "... a quite different issue, that of discrimination against a particular parcel of property." *Arnel Dev. Co. v. City of Costa Mesa* (1981) 126 Cal.App.3d 330 at 336 ("*Arnel II*"). Here, the discriminatory purpose and effect of the proposed ordinances are undeniable: (1) The impetus for the ordinance comes from a few of CPI's residential neighbors; (2) the effect of the "Tier 2" ordinance falls, as a practical matter, *only* on CPI, its employees and customers; and (3) CPI's prospectively nonconforming plating shop use would be made an exception to the normal 15-year minimum amortization period reflected in Palo Alto Muni. Code § 18.70.010 by shortening, rather than extending (as has been the case in the past), the amortization period; this is the first and only instance, of which we are aware, of shortening Palo Alto's minimum amortization period. *See Arnel II*, 126 Cal.App.3d at 336-340.

Even if the City's proposed "Tier 2" ordinance were to withstand judicial scrutiny as a valid "police power" measure, its lack of rational basis as applied to CPI would weigh heavily against the City when juxtaposed with the proposed amortization ordinance, which also singles out CPI for special adverse treatment. Here, there is no actual "public gain" and the "private harm" to CPI is both enormous and significantly underestimated by the City's CBRE Report, which is deficient in numerous respects.

It is clear that CPI has a fundamental vested right to continue its long-standing operations at the Stanford Research Park. The proposed amortization ordinance would deprive CPI of this right without just compensation and with an amortization period that is unfair and "goes too far" under California and federal case law. The lawfulness of a proposed amortization ordinance comes down to a question of reasonableness, which is to be determined by the *facts of each case*. (See, e.g., *Santa Barbara Patients' Collective Health Co-op v. City of Santa Barbara*, 911 F.Supp.2d 884 (C.D. Cal. 2012), *City of Los Angeles v. Gage* (1954) 127 Cal.App.2d 442, *Livingston Rock & Gravel Co. v. Los Angeles Cnty.* (1954) 43 Cal.2d 121.) The City therefore is wrong in assuming that CPI's Palo Alto facility, which continues to generate many millions of dollars in annual revenues, may be treated as the factual equivalent of the billboards, book stores, and other low-capital, easily moved small businesses that have been the subject of case law. AECOM's October 30, 2015 peer review of the CBRE and Marshall Stevens amortization reports appears to recognize this in the case of the whole CPI facility, but errs in accepting the validity of the CBRE report as it seeks to analyze the plating shop in isolation.

Nor can the City or CPI's neighbors plausibly argue that the mere issuance of the CBRE study in 2011, to which CPI responded with the Marshall & Stevens report in 2012, somehow put CPI "on notice" that the "amortization clock was ticking" or that because of the CBRE report, CPI could not or should not continue to make additional investments in their plating shop and other manufacturing operations. First, under the City's own code, there is a minimum of 15 years from the date a use or facility becomes nonconforming; there is nothing in the code that permits shortening of the period, and certainly the issuance of one consultant report for public review does not change the City's ordinance. Nor do statements made by City staff to the residential neighbors about the amortization period ending in 2026 provide the basis to change the existing ordinance. Second, the CBRE report was contested by CPI from the moment it was issued; there is no reasonable scenario that would require CPI to rely on a disputed report where the report has not been adopted by the City Council and where CPI has not been afforded due process to contest it. Third, even the City itself did not commit to that report in 2011, as it commissioned a peer review of the CBRE report by AECOM in 2015, and even after the peer review (which also accepted the Marshall & Stevens report), the CBRE report has not been acted upon by the City Council. Finally, there simply is no authority supporting the proposition that the value of CPI's property rights that would be subject to the regulatory taking caused by the proposed ordinances must be decreased based on subtracting investments made before the ordinance became effective. Instead, it is axiomatic, as a matter of both statutory and constitutional law, that the value of the rights being taken must be measured as of the time of the taking. (See, e.g., Cal. Civ. Proc. Code section 1263.020, applicable to eminent domain proceedings and *Chhour v. Cmty. Redevelopment Agency* (1996) 46 Cal.App.4th 273, 279 (courts in inverse condemnation actions should look to the Eminent Domain Law for guidance).)

In addition to being more than four years old, the CBRE report fundamentally fails to account for the impact of “amortizing” plating shop operations out of existence from any number of perspectives, including but not necessarily limited to the following:

- The CBRE report assumes that the “relocation of the plate shop” away from CPI’s premises could feasibly be done without disrupting CPI’s whole operation and making it either nonfunctional or noncompetitive. To his credit, AECOM’s Dr. Bhagat candidly acknowledges this in his October 30, 2015, peer review report. Unfortunately, what is missed is that it simply is not feasible, for business interruption and physical reasons, to “move” the plating shop equipment, even within CPI’s facility: CPI cannot afford to shut down its operations while it moves the plating shop equipment. Instead, it would have to replicate (*i.e.*, build new) plating shop equipment and infrastructure while the existing shop operates, at huge expense. This expense must be included in the analysis.
- The CBRE report purports to “amortize” the \$2.0 million in upgrade costs incurred by CPI in 2006 without taking account of the fact that the upgrades represent only about 15 percent of the total cost of the move, which included approximately \$17.8 million in capital expenditures. The “total cost of the move” of CPI’s current plating shop is something that must be, but was not, factored into the CBRE amortization analysis.
- By focusing only on a portion of the investment made in plating shop improvements in 2006, the CBRE report completely ignores the reasonable “investment-backed expectations” of CPI’s owners, who invested hundreds of millions of dollars in CPI.¹ CPI’s largest division could not operate, and generate revenue, without the operations that depend on CPI’s Palo Alto plating shop. This is explained in the Marshall-Stevens report.
- The CBRE report is fundamentally contradicted by the Marshall-Stevens report. If the CBRE report is entirely discredited (as it should be), the only alternative analysis in the record is the Marshall-Stevens report, which concludes that an amortization period of more than 40 years is called for given the facts of this case.
- Even if accepted at face value, the CBRE report cannot, and does not, account for CPI’s additional investments in plant and equipment relating to the plating shop undertaken since mid-2011. Even using the same analysis, these more recent investments require an amortization period ending substantially later than the 2026 date in the CBRE report. As the AECOM report of October 30, 2015, concedes at page 2: “If CPI has made capital improvements to Building 2, the amortization period of 15 years to 2026 could be extended further into the future.” In view of the other factors discussed above, it is fair to say that it *must* be.

¹ As noted in CPI’s web site: “In February 2011, an affiliate of Veritas Capital . . . acquired CPI for approximately \$525 million.”

Conclusion

The draft ordinances as proposed would deprive CPI of its vested state and federal rights to due process, compensation for regulatory takings, and equal protection under the California and Federal Constitutions and laws. Even if the proposed “Tier 2” ordinance were found by a court to be a permissible and nondiscriminatory exercise of the City’s police power, it would be entitled to little or no *weight* in determining whether the proposed 2026 amortization deadline for CPI’s plating shop operations is “reasonable” under accepted judicial standards. Further, there is inadequate factual or legal basis to rely on the CBRE report for the amortization period, and no legal basis to shorten the City’s current amortization schedule of 15 years from enactment.

Under these circumstances, the City’s proposed amortization ordinance in its present form is categorically unacceptable to CPI and would be, under both California and federal law, unlawful.

Nevertheless, we believe that there is, or should be, room for CPI to reach a compromise with the City regarding the proposed amortization terms that will be mutually satisfactory. We invite the opportunity to discuss possible models for working out an acceptable amortization schedule. If a compromise cannot be found, however, please be advised that the foregoing is not intended as a full explication of CPI’s legal and equitable rights and potential claims, all of which are expressly reserved.

Yours very truly,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read 'Elizabeth Lake', followed by a long horizontal line extending to the right.

Elizabeth Lake

Attorneys for
COMMUNICATIONS & POWER
INDUSTRIES LLC

cc: Robert Fickett, President, CPI
Charles L. Coleman III, Esq.
Wendy Glenn, Esq.
Mark Steres, Esq.

From: Chris Schwarz [<mailto:chrisschwarz@canyonsnow.com>]
Sent: Monday, January 04, 2016 2:42 PM
To: Planning Commission
Subject: Meeting request on behalf of CPI

Dear Planning and Transportation Commissioners,

I am reaching out to you on behalf of Communications & Power Industries (CPI), on a matter coming before the Planning and Transportation Committee in your January 27 meeting.

We've reached out to some of you directly and through mutual contacts, but we want to make sure we reach all of you through this email address provided by the city. We've already scheduled meeting with some of you next week, and our goal is to connect with all of you individually.

We're helping CPI with community outreach, and on strengthening communication between CPI and neighbors and community stakeholders. We'd love to brief you on CPI's latest efforts as they relate to the draft ordinance that will be before you on Jan 27.

Please let me know if you have time to meet with me or one of my Canyon Snow colleagues this week or next. We can come to a place that's convenient to you.

Thank you for your consideration, we look forward to speaking with each of you soon.

Best regards,
Chris

Chris Schwarz
Managing Associate
408-608-7542

