



Stanford University

May 9, 2019

Santa Clara County Planning Commission
70 W. Hedding Street
San Jose, CA 95110

RE: May 9, 2019 Planning Commission hearing, Item 4: 2018 General Use Permit Study Session

Dear Members of the Santa Clara County Planning Commission:

Stanford University submits this letter to request that the Planning Commission direct staff to delay the upcoming Planning Commission hearings until such time as the Planning Commission can consider the 2018 General Use Permit application in its entirety. The Planning Commission deliberations should include (1) draft conditions of approval that meet the County's policies and are feasible for the applicant, and (2) draft Development Agreement terms that have been developed by Stanford and the County. Without these two items, any deliberations are incomplete and premature.

As explained below, the Conditions of Approval Summary ("Summary") prepared by County staff and distributed on March 13, 2019 does not reflect input by Stanford, and appears to be headed in a direction that will lead to a permit that Stanford cannot accept. Stanford asks that the Planning Commission postpone hearings on the 2018 General Use Permit application until after a Planning Commission Study Session can be conducted on both the draft Conditions of Approval and a set of draft Development Agreement terms collectively. In addition, we request that County representatives meet with Stanford regularly to:

- discuss ways to reach consensus on a feasible set of conditions that the County Administration can recommend and that results in a viable project; and
- explore ways to achieve a development agreement, as directed by the Board of Supervisors on October 16, 2018, that provides substantial public benefits beyond those that can be achieved through conditions of approval, in exchange for providing certainty that Stanford will be able to complete its proposed project over the long term.

Stanford intends to fully comply with each of the mitigation measures recommended by the County's Final EIR for the 2018 General Use Permit (published in December 2018). These are the measures that the experts who prepared the EIR identified as necessary for fully mitigating the environmental effects of the project after extensive public and agency review and comment. In contrast, many of the conditions proposed in the Summary are infeasible or deviate from the mitigation measures identified in the Final EIR.

Conditions of Approval

Stanford is deeply concerned that the Summary appears to contemplate wholesale legislative changes to key Community Plan policies governing campus development. Stanford submitted its application under the established, existing County rules. It is unusual for an agency to change its rules on the eve of project approval hearings. And it is highly irregular for an agency to do so without discussion with the affected entity. Stanford was not afforded a meaningful opportunity to provide feedback on the Summary prior to its public release.

Typically, when processing an application for a large development project, agency staff presents to the applicant draft conditions of approval, which staff suggests are needed to comply with the agency's existing rules governing development and to mitigate project-specific environmental impacts. The applicant provides detailed feedback to staff for accuracy and basic feasibility. Project conditions usually are then released to decision-makers and the public after agency staff has determined that the conditions contain terms that are appropriate for the project *and*, hopefully, that the applicant can accept. It is at that point that (1) agency staff also makes a recommendation about whether the project should be approved and (2) public hearings on the project commence.

This collaborative approach to addressing regulatory requirements is not just the norm in other jurisdictions – it was the approach the County took for the 2018 General Use Permit until recently. Stanford and Santa Clara County planning staff and administration began discussions about the project's future conditions of approval in June 2016, during pre-application meetings. County and Stanford staff worked collaboratively on the conditions of approval until mid-2017, when the County staff turned their focus to Environmental Impact Report preparation. Our collaborative discussions on the conditions of approval resumed in May 2018, and a Stanford/Santa Clara County team was established to work together on the conditions of approval. Santa Clara County told Stanford that we would be able to review a draft of the conditions of approval last August, a date that slipped monthly until this April. Just recently, Stanford was told that the County's position had changed such that Stanford would first see the conditions of approval in the public Staff Report for the May 30, 2019 hearing, and Stanford would be provided no opportunity to work collectively with County staff to ensure the conditions are feasible prior to their public release.

There is a good reason that a collaborative process is the norm: holding public hearings on a permit that the applicant cannot accept is counterproductive. At the end of the day, a permit will be valid and effective only if the applicant views the comprehensive project as *feasible* and accepts the permit. An applicant will not elect to build a project under conditions that the applicant considers to be unworkable. Stanford is no different from other applicants in this respect.

Applicants and agency staff typically discuss draft conditions of approval because there can be multiple ways to address the underlying regulatory requirements. By working together, an applicant often can help identify approaches that are more feasible and realistic than the approaches initially identified by staff, and arrive at a similar outcome.

Stanford is open to working through all issues, and has taken none off the table.

Below are examples of areas where the Conditions of Approval Summary appears to be headed in a direction that would be counterproductive resulting in harm to the County, the community and Stanford, and a permit that is unworkable and infeasible:

- The Summary calls for new Community Plan policies and conditions that would create tremendous uncertainty. Conditions calling for future phased approvals and future studies leave Stanford with no certainty as to how much academic space Stanford ultimately will be able to build and under what conditions. If the permit leaves future academic expansion in a state of ambiguity, Stanford will be unable to front-load valuable benefits such as providing hundreds of units of affordable housing now, ahead of job growth. It is not viable for an applicant to fund costly up-front community benefits knowing that it might not be allowed to complete its project over the long term.
- The Summary calls for new Community Plan policies and conditions to address housing that would result in significant detrimental environmental impacts to our neighbors and would impair Stanford's use of its academic campus.
 - The County's Final EIR clearly demonstrates that the County Administration's alternative to build thousands more housing units than Stanford proposed would create more significant, adverse environmental impacts than the balanced plan that the university submitted for approval. New conditions requiring Stanford to construct roughly 2,000 more faculty/staff housing units, above and beyond the 3,150 beds/units that the University proposed, would add over 1,400 more total car trips per day during the two peak hours compared to the proposed project, quadruple generation of K-12 school children, and add another 2 million square feet of building construction and associated truck trips, air pollution and noise.
 - The Summary does not account for the facts that formed the basis for Stanford's application.
 - Stanford's current housing portfolio includes 15,700 housing units and student beds.
 - Stanford is in the process of adding 2,020 new graduate student beds on its campus at Escondido Village that will open during the proposed 2018 General Use Permit. These beds were not required by the existing 2000 General Use Permit.
 - Stanford has received land use approvals for another 215 faculty/staff housing units in Menlo Park. Those units also are slated to open during implementation of the 2018 General Use Permit, and were not required by the existing 2000 General Use Permit.
 - In light of the 2,235 new beds/ units that already are underway, Stanford's proposal to add another 3,150 beds/ units over the life of the 2018 General Use Permit is fair and reasonable.

- The Summary calls for transforming a college campus into an urban apartment complex. Stanford has identified two sites at the edge of its academic campus, close to the Palo Alto Transit Center, that the university considers to be appropriate for high density transit-oriented faculty/staff housing. Those sites cannot accommodate the thousands of additional housing units that the Summary proposes. The remainder of Stanford's academic campus (i.e. unincorporated Santa Clara County lands) is devoted to teaching and research, campus open space, and student housing.
- It is contrary to CEQA and common sense for a permit to create greater adverse environmental impacts than the proposed project, and it is counterproductive to require construction of enormous new project components that the applicant will not build. Stanford is open to discussing reasonable and feasible ways that the university and County can work together to deliver a housing package that will achieve the community's goals, avoid adverse environmental impacts, and preserve Stanford's campus as an institution of higher learning. As currently presented, the Conditions Summary is headed in an unworkable direction.
- The Summary calls for new Community Plan policies and conditions to address traffic that would have the unintended, unnecessary, and undesirable consequence of constraining community use of the Stanford campus, and would be impossible to implement.
 - Based on extensive data and professional analysis, the County's Final EIR demonstrates that the existing framework described in the Stanford Community Plan for measuring and monitoring Stanford traffic is working, and has resulted in one of the most progressive transportation management systems in the region. Under that existing framework, Stanford has grown its campus by close to two million square feet of academic facilities without causing *any increased* traffic congestion. The Final EIR recommends continuation of the existing traffic baseline, monitoring methodology, and No Net New Commute Trips standard. We know, based on two decades of experience that the existing framework will continue to work well.
 - Contrary to the Final EIR's findings, the Summary contemplates resetting the traffic baseline, changing the monitoring methodology, and establishing new standards. These changes will have unintended and undesirable consequences. Conditions constraining all-day traffic, at times when traffic congestion is light, would have the effect of forcing the University to make hard choices to restrict community use of Stanford's campus. Today, Stanford hosts lectures, concerts, seminars, performing arts programs, athletic events and exhibits that enrich the entire community. International soccer matches, bicycle races, and summer camps draw visitors from around the Bay Area. School programs such as music education at Bing concert hall benefit hundreds of local children. It is unclear why the Summary proposes to limit Stanford's ability to expand evening, weekend, and daytime programs that serve the community by imposing new traffic standards that the County's own Final EIR demonstrates are unnecessary.

- Stanford and the expert transportation consultants who prepared the studies underlying the EIR also explained to the County Administration during technical meetings on the EIR why it is infeasible to achieve these new standards. New housing necessarily increases reverse direction trips. All-day monitoring is untethered to environmental impacts, and requires a feasible method for omitting cut-through trips that does not exist today. As a result, the Final EIR does not recommend these new standards and methodology changes.
- In sum, it would make no sense for a permit to contain traffic standards that are unnecessary and infeasible, and that would have unintended negative consequences, rather than standards that were developed through the public CEQA process. Stanford is open to discussing reasonable and feasible ways that the university and County can work together to address the local community's traffic concerns. But any regulatory mechanisms and standards should align closely with the Final EIR.

Creation of feasible conditions of approval requires communication between an applicant and agency staff. Stanford respectfully requests to meet with the County Administration to discuss draft conditions of approval and find ways to reach consensus to the extent feasible. Those meetings should occur *before* the Planning Commission is asked to commence hearings on the project.

Development Agreement

Stanford strongly believes that a development agreement can achieve an outcome that will be effective for all -- the County, the applicant, and the community. A development agreement can achieve several core objectives:

- The County's Development Agreement Ordinance identifies the benefits of a development agreement and explains why certainty is important:
 - 1. Development agreements increase certainty in the approval of development projects, thereby preventing the waste of resources, reducing the cost of development to the consumer, and encouraging investment in and commitment to comprehensive planning.*
 - 2. Development agreements provide assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to specified conditions of approval, thereby strengthening the public planning process and reducing economic costs of development.*
- In exchange for granting an applicant certainty, a development agreement enables the applicant to front load public benefits. For example, if Stanford knows it will be allowed to complete the academic space authorized by the 2018 General Use Permit,

Stanford can provide affordable housing now -- far in advance of building its new academic space.

- A development agreement also enables the applicant to provide public benefits that the agency otherwise cannot legally require. For example, state law prohibits the County from requiring Stanford to provide payments to local schools beyond statutory school fees. Conditioned on a development agreement with the County that provides certainty that Stanford will be allowed to complete the development authorized by the 2018 General Use Permit, Stanford has agreed to provide over *\$138 million* in funding to local schools - far above the approximately \$4 million in statutory school fees Stanford can be required to pay.

Negotiation of a development agreement requires the parties to discuss their interests, and explore ways to find common ground. Stanford is willing to engage in interest-based discussions with the County. Again, those meetings should occur *before* the Planning Commission is asked to commence hearings on the project. The Planning Commission should see the entire package that is proposed for approval, including the additional benefits that the applicant is willing to provide if it is certain it will be able to complete the project.

In sum, Stanford asks the Planning Commission to direct County representatives to meet with Stanford in good faith to discuss ways to achieve consensus on the draft conditions of approval and to negotiate draft Development Agreement terms prior to commencement of Planning Commission hearings on the project. Otherwise, the Planning Commission will be evaluating an incomplete project that is truly not ready for your consideration and recommendation.

Sincerely,



Catherine Palter
Associate Vice President

Cc: **County of Santa Clara Board of Supervisors:**

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Cindy Chavez, Vice President
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