

Special Meeting  
July 13, 2009

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ADJOURNMENT: The meeting adjourned at 11:27 p.m. 49

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:04 p.m.

Present: Barton, Burt, Drekmeier, Espinosa, Kishimoto, Klein Morton, Schmid, Yeh arrived at 6:15 p.m.

Absent:

#### CLOSED SESSION

1. CONFERENCE WITH CITY ATTORNEY -- EXISTING LITIGATION  
Subject: Save the Plastic Bag Coalition v. City of Palo Alto, et al.,  
Santa Clara County Superior Court, Case No. 109CV140463  
Subject Authority: Government Code section 54956.9(a)

Council returned from Closed Session at 6:33 p.m.

Mayor Drekmeier announced no reportable action taken.

#### STUDY SESSION

2. Information on Citywide Ultra-High-Speed Broadband System Project.

City Attorney Gary Baum announced that Vice Mayor Morton would not be participating in Agenda Item No. 2 as he owns stock in Verizon, Comcast, and AT&T.

Staff outlined a proposed project for a federal stimulus funding application and the criteria by which the project would be evaluated. The project included a twenty-five mile extension of the current dark fiber network into all neighborhoods and business districts within the City. In addition, it included a citywide wireless component meant to address one of the "key purposes" stated in the original Broadband Technology Opportunities program under by the National Telecommunications and Information Agency (NTIA). Both staff and the Citizen Advisory group stressed the importance of building into commercial areas and enhancing revenues in order to build out the broadband system to all premises. The Council provided numerous comments which primarily emphasized moving forward with a build out in commercial areas to generate the revenues in order to connect all City premises. Questions were raised as to potential partnerships with private entities who would participate in building and operating a network. Council deemphasized the wireless component in light of the primary goal of reaching all premises with a 100 Mbps, synchronous, open access system, although

one member believed a public service element to the near term project was important.

Jeff Hoel, 731 Colorado Avenue, spoke regarding the efforts of wireless service to the home prior to or instead of fiber to the home being a mistake.

Karl Garcia, 653 Waverly Street, stated wireless networks and fiber networks solve different situations and work together.

Herb Borock, P.O. Box 632, stated building the fiber to the premises would need to be completed and then build the wireless on top of the fiber.

### SPECIAL ORDERS OF THE DAY

3. Resolution 8964 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Gayle Likens Upon Her Retirement."

Council Member Kishimoto read the Resolution expressing appreciation for the services of Gail Likens.

**MOTION:** Council Member Kishimoto moved, seconded by Vice Mayor Morton to adopt the Resolution expressing appreciation to Gayle Likens Upon her retirement.

Council Member Kishimoto shared her gratitude for Ms. Likens role in creating a walkable Palo Alto.

Mayor Drekmeier read an e-mail received from a member of the public expressing their appreciation for Ms. Likens work in the community.

Council Member Yeh thanked Ms. Likens for her years of support, consideration, and understanding of the community needs.

**MOTION PASSED: 9-0**

Interim Director of Planning and Community Environment, Curtis Williams expressed his gratitude and appreciation for Ms. Likens professionalism, outgoing personality, strong ties to the community and Staff.

Gayle Likens thanked the Council, the City Manager, and Staff for their support.

4. Resolution 8965 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Mehrzad "Mac" Saberi Upon His Retirement."

Council Member Barton read the Resolution expressing appreciation for the services of Mehrzad Saberi.

**MOTION:** Council Member Barton moved, seconded by Council Member Kishimoto to adopt the Resolution expressing appreciation to Mehrzad "Mac" Saberi Upon His Retirement.

**MOTION PASSED:** 9-0

Chief Building Official, Larry Perlin expressed his appreciation and gratitude to Mr. Saberi for sharing his knowledge and efforts in creating a better and safer Palo Alto.

Mr. Saberi expressed his joy in being able to spend this many years with the City. He thanked the Council and community for allowing him to share in the experiences of being a part of the City's growth.

#### CITY MANAGER COMMENTS

City Manager, James Keene noted an update to the upcoming Senior Games; the City website provided a section for frequently asked questions and City related events to be held during the Games. He stated Environment California published an article on California Solar Cities, recognizing Palo Alto as one of the cities with the largest amount of solar in kilowatts in the state.

#### ORAL COMMUNICATIONS

Lois Salo, 3178 Rosa Road, spoke regarding her support for HR76 which was representative of healthcare.

Ray Bacchetti, 850 Webster Street #700, spoke regarding the Police Department commendations received from the public.

#### APPROVAL OF MINUTES

**MOTION:** Council Member Espinosa moved, seconded by Vice Mayor Morton to approve the minutes of June 8 and June 15, 2009.

**MOTION PASSED:** 9-0

#### CONSENT CALENDAR

**MOTION:** Vice Mayor Morton moved, seconded by Council Member Barton to approve Agenda Item Nos. 5-7.

5. Resolution 8966 entitled "Resolution of the Council of the City of Palo Alto Opposing the Seizure by State Government of the City of Palo Alto's Street Maintenance Funds."
6. Approval of Council Priorities Work Plan and Palo Alto See-It Site.
7. Approval of a Contract with Granite Rock Company DBA Pavex Construction Division, in an Amount Not to Exceed \$1,493,356 for the 2009 Street Maintenance Program Asphalt Overlay Capital Improvement Project PE-86070.

**MOTION PASSED: 9-0**

#### PUBLIC HEARINGS

8. Approval of a Development Agreement to Extend Approvals for Architectural Review and the Vesting Tentative Map with Exceptions and Providing Additional Project Benefits of the Approved 45-unit Townhome Development at 200 San Antonio Road in the ROLM and RM-30 Zone Districts and Adoption of an Ordinance Approving a Development Agreement between Hewlett-Packard Company and the City of Palo Alto.

*\*Quasi-judicial*

Council Member Espinosa advised he would not be participating in Agenda Item No. 8 as his former employer was Hewlett Packard.

City Attorney Gary Baum advised he would not be participating in Agenda Item No. 8 as his wife is employed by Hewlett Packard.

Planning Manager, Amy French stated Hewlett Packard (HP) was seeking to sell their Palo Alto and Mountain View properties. They wanted to sell to a single developer to construct approved housing developments. The Development Agreement (Attachment B to the CMR) requested to extend existing Palo Alto approvals of the 45-unit housing development to February 2014, with the effective date same as the adjacent 450-unit housing development that was approved by the City of Mountain View. The Agreement included relocation of the Guinevere Sculpture from Mountain View to Palo Alto and required compliance with the Green Building Ordinance. The Council is requested to adopt the Ordinance approving the Development Agreement as recommended by Staff and the Planning & Transportation Commission (P&TC).

Planning & Transportation Commissioner, Samir Tuma stated the Commission heard and discussed the potential impacts of the delays to the project. There were assessed values to the corresponding taxes, development fees and costs to the City required in the annual Development Agreement. He stated the issues had been resolved and the Commission approved the development.

Public hearing opened at 8:38 p.m.

Douglas Aikins, 3000 El Camino Real #200, stated he was available for questions by the Council or Staff.

Public hearing closed at 8:39 p.m.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Klein to adopt the Ordinance approving the proposed Development Agreement for the project located at 200 San Antonio Road.

Council Member Schmid stated there was an economic benefit in having the terms of the agreement extended. He stated there was an opportunity to make the site more attractive and accessible to the community during its down time.

Applicant, Douglas Aikins, 3000 El Camino Real #200, stated the physical condition of the twenty-seven acre construction site could take from six months up to a year to be cleared. He stated the City of Mountain View would solely administer a comprehensive demolition permit that would include a long list of public policy and technical issues pertaining to the condition the site would be in, for what length of time, in what phases, and what access ways.

Council Member Schmid stated since the construction had the ability to be delayed for an unknown period of time up to eight years, he suggested a letter from the Applicant to the City of Mountain View for the acreage to be beautified during the delay.

Mr. Aikins stated the Development Agreement incorporated an annual compliance review which could be used as a mechanism for instituting new obligations to make the site more attractive.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that during the annual review of the Development Agreement the look of the site would be reviewed.

Council Member Schmid asked whether the Planning & Transportation Commission (P&TC) or the Architectural Review Board (ARB) had reviewed the artwork on the site and asked whether Palo Alto wanted the artwork.

Ms. French stated the ARB and the Public Art Commission (PAC) had reviewed the probability of accepting the artwork and agreed there was a location for the artwork in Palo Alto.

**MOTION PASSED:** 8-0 Espinosa not participating

9. Initiation of (1) a Zone Change from Neighborhood Commercial (CN) District to Planned Community (PC) District at 2180 El Camino Real (The New College Terrace Centre) for a Mixed Use Project Having 61,960 Square Feet of Floor Area Including 8,000 Square Feet of Grocery (Intended for JJ&F Market), 5,580 Square Feet of Other Retail, 14 Affordable One-Bedroom Residential Units, 39,980 Square Feet of Office Use, and Two Levels of Below-Grade and Surface Parking Facilities Providing 227 Parking Spaces, and (2) a Comprehensive Plan Amendment to Assign the Mixed Use Land Use Designation to a Site currently designated as Neighborhood Commercial.

*\*Quasi-judicial (continued from 6/1/09)*

Interim Director of Planning and Community Environment, Curtis Williams stated the request was to initiate the current zone change from Neighborhood Commercial (CN) Zone to Planned Community (PC) Zone for a mixed use project encompassing 39,000 square feet of office space, fourteen Below Market Rate (BMR) units, 8,000 square feet of indoor retail space for JJ&F Market, additional retail space and an outdoor market area, and subterranean parking. He stated the Planning & Transportation Commission (P&TC) reviewed the zone change, had concerns and did not recommend the plan be initiated. The P&TC concerns were the amount of office space, the amount of floor area of the market, and the amount of parking. The Applicant indicated their willingness to make three modifications to the project: 1) elimination of six BMR units to provide potential area of further expansion of a future market, 2) provision of up to fourteen reserve parking spaces, and 3) the elimination of 1,000 square feet of office space.

Planning & Transportation Commissioner, Samir Tuma gave a brief overview of the evolution of the project, noting the P&TC concerns and their final decision. He stated the proposed density of the development was high relative to its neighbors and the zoning and Comprehensive Plan; the amount of office space was significantly greater than what would otherwise be allowed; the amount of parking was less than what would usually be required, and the public benefit was inadequate.



Council Member Barton asked whether an approval to initiate the zone change entitled the Applicant or guaranteed the future approval of a PC.

Mr. Williams stated no, there was no actual approval.

Council Member Barton clarified the return of the project could be tied up at any one of the next steps.

Mr. Williams stated yes.

Council Member Barton asked whether the approval to initiate the zone change allowed for design changes.

Mr. Williams stated yes.

Council Member Barton asked for clarification that the Land Use Action ran with the land and not the business and in that, he would prefer to use the term grocery store and not JJ&F.

Mr. Williams stated yes, the land use was the topic and not the tenant.

Council Member Barton stated the PC Ordinance could not be written to require a specific tenant.

City Attorney, Gary Baum stated no, the Council could not guarantee a single tenant or business. He stated an Ordinance could be detailed to address the type of store but not the specific name of the store.

Vice Mayor Morton asked for clarification of the increase in square footage.

Mr. Williams stated the addition was 12,000 square feet.

Vice Mayor Morton asked how to get the design element reviewed by the Architectural Review Board (ARB) and then the P&TC.

Mr. Williams stated the P&TC would review the project before and after the ARB then present its findings to the Council.

Vice Mayor Morton stated there were design elements and community compatibility issues and asked how to arrive at a clear solution.

Mr. Williams stated the concerns would be heard by the ARB from the public during their meetings.

Vice Mayor Morton asked how to avoid being in a position where the Council was trying to make a decision regarding the type of store necessary rather than permitting the Applicant and tenant to determine what was appropriate for a specific neighborhood.

Mr. Williams stated the proposed square footage was similar to the current grocery store, which appeared to be a good retail size and was in a preferred location.

Vice Mayor Morton asked if there was a formula that determined the trade-offs between fairness to the developer in order to make a profit and the community benefits.

Mr. Williams stated there was no metric available to determine the financial benefit to the developer or the community benefit.

Council Member Kishimoto asked if there was not an agreement between the P&TC and the Council regarding the Development Plan, did it make sense to initiate the project.

Mr. Williams clarified the P&TC had reviewed the Development Plan and requested changes.

Council Member Kishimoto stated although the P&TC did not approve, Staff had requested to move the project forward.

Mr. Williams clarified Staff supported moving forward with mixed-use projects and high density for office space. As the project moved through the process there would be time for more analysis.

Council Member Kishimoto asked whether Milk Pail was a comparable market for the space being provided in the project and asked whether they were subsidized by the shopping center.

Mr. Williams stated he was unaware whether they were subsidized and he believed they were a smaller market compared to the current one.

Council Member Schmid stated he had concerns in the request for a PC. The burden being placed on Council was to determine whether there were enough public benefit. He did not have enough information to make the determination of benefit to the community. He asked whether Council knew if the number of housing units being presented would be less than half of what was requested by Association of Bay Area Government (ABAG).

Mr. Williams stated there were multiple projects currently occurring throughout the city which complied with the ABAG numbers. He stated this project was a unique situation where the grocery store was not protected by the current zoning.

Council Member Klein requested hearing from the public prior to continuing with Council questions in an effort to not keep the public into late hours.

Mayor Drekmeier replied he had one more Council Member left to speak.

Council Member Schmid asked if the Staff recommendation was approved, would there be a future commitment to more housing in a portion of the city where there were fewer amenities.

Mr. Williams stated no, the Staff direction was to maintain housing in areas of the city where there were services, transit, and walkability.

Council Member Schmid stated he preferred having the housing element content prior to a requirement for another PC.

Council Member Klein stated there had been a Letter of Intent (LOI) binding the Applicant to provide a grocery store without binding the current grocery store to remain. He asked why the current grocery store was not bound by the LOI ensuring the community of the return of the current market.

John Garcia, JJ&F owner, stated they were willing to sign a new lease for the property once there was an approved project.

Council Member Klein asked whether the current market was acceptable of being bound by returning to the site upon completion as the Applicant was bound to build the site to support the grocery store.

Mr. Garcia stated yes, they were willing to sign a lease once there was a viable project agreed upon.

Robin Kennedy, Counsel for the Applicant, stated under California law it was unlawful to sign a lease for a property which did not exist, therefore, the negotiation for the Agreement did not include a lease agreement.

Council Member Klein stated there was carefully drafted language in the LOI which bound the Applicant, to build a property for a grocery store and therefore, the request was for the current grocery store, JJ&F, to be bound to return to the site upon completion.

Ms. Kennedy asked the remedy for default.

Council Member Klein stated damages to specific performances.

Ms. Kennedy stated they would not preclude the act of binding the grocery store and stated it would be reviewed.

Council Member Burt asked why Council was receiving last minute proposal changes from the developer. He noted, after similar issues had occurred with Alma Plaza Council had requested all proposed changes be received with ample time for review.

Mr. Williams stated the information was received in a timely manner for review prior to the Council meeting. He stated the Applicant had not made changes; more over the presentation was an offer to make changes in order to facilitate the project.

Council Member Burt stated the zone change could in itself allow potential changes although under the Staff proposal it would not return to the P&TC so any use and intensity would not be reviewed again.

Mr. Williams stated no, the process would begin again with any changes. He stated the changes would be reviewed by the P&TC, the ARB, and the Council.

Council Member Burt asked whether the zone change, if enacted, would be tied to specific square footage for different uses.

Mr. Williams stated there would not be any condition on the P&TC or the ARB to revisit those issues in terms of making different recommendations.

City Manager, James Keene stated there was nothing precluding the Council from taking action to inform the ultimate direction upon the projects return.

Council Member Burt asked for clarification on the sequence of the ARB reviewing the design review then to the P&TC to review the intensity and use changes after it had gone through extensive design review.

Mr. Williams stated the Code called for that sequence of action in a Planned Community (PC) zone change.

Council Member Burt asked if on October 01, 2008 the Applicant proposal had 37,439 square feet of office space and then on April 29, 2009 the proposal had close to 40,000 square feet at an increase of 2,500 square feet; are they now offering to reduce it by 1,000 square feet which was 1,500 square feet more than the October 01, 2008 proposal.

Mr. Williams stated yes, their current proposal was 1,500 square feet more in office space than the initial one.

Council Member Burt asked for clarification of the square footage of 8,712 for the sales area and other elements.

Mr. Williams stated yes, 8,712 square feet included all elements of the market.

Council Member Burt stated the Applicant had noted retaining the 6,459 square feet of the grocery store which was not clear with the 8,712 square feet proposal. He asked for the square footage for the new interior area of the grocery store.

Mr. Williams stated the figures provided were approximately 8,000 square feet of interior and approximately 2,000 square feet of outdoor market.

Council Member Burt asked whether that would be considered 8,000 square feet of sales area.

Mr. Williams stated he was unsure.

Tony Carrasco, 1885 El Camino Real, stated the grocery store interior space was 8,000 square feet, 2,000 square feet of exterior market area, and an additional loading dock and some storage space totaling 9,000 square feet.

Council Member Burt asked for clarification if there was a net interior area increase of 300 square feet for the grocery store.

Mr. Williams stated yes, that was correct.

Patrick Smailey stated the existing sales floor area of JJ&F was approximately 5,250 square feet, the remaining store was storage and disassociated in a separate building. He stated the new store configuration would have approximately 9,000 square feet of sales floor area that included the outside market, covered area plus the storage area.

Council Member Burt asked how the storage area was able to be decreased by 2,000 square feet.

Mr. Smailey stated the existing building had expanded over its sixty years of existence and the current facility was not adequate to the needs of a market.

Council Member Burt asked how the project fared in regards to meeting the parking requirements based upon the uses and square footage proposed and the current zoning district.

Mr. Williams stated prior to the reductions twenty-seven spaces were short of meeting the zoning requirement.

Council Member Burt asked with the reductions.

Mr. Williams stated with the reductions there were eleven spaces short, although there were reserved spaces being provided.

Council Member Espinosa asked the exact Floor Area Ratio (FAR) on the reduced project size with the store expansion.

Mr. Williams stated the FAR would be 1.18 instead of 1.23.

Council Member Espinosa asked for clarification on Staff's concerns of the process of returning the project to the P&TC, the ARB, and then returning to the Council.

Mr. Williams stated the Ordinance specified the order of review and although there were no substantive concerns he wanted to verify with the City Attorney the order of review would not become a concern.

Mr. Baum stated he reviewed the Planned Community Ordinance and found there was adequate flexibility should the Council make a specific direction to alter the order of review.

Council Member Espinosa asked the parameters of mandating a grocery store and what could be required.

Mr. Baum stated in a CN development the Council had minimal ability to mandate requirements, in a Development Agreement the Council could mandate specifics, and in a PC development there could be square footage and type of retail requirements mandated.

**MOTION:** Council Member Barton moved, seconded by Council Member Kishimoto to open and close the public hearing and continue the Agenda Item to a date uncertain for a decision.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that the Council make a final decision prior to the summer break, and only allow speaker cards not heard this evening at the continued public hearing.

Council Member Barton clarified there would be no further speaker cards accepted.

Council Member Espinosa stated he would not be supporting the Motion. He noted the topic was of high importance and the discussion should be had while the community was present.

Vice Mayor Morton stated he would not support the Motion. He felt the discussion was warranted regardless of the late hour.

Mr. Baum clarified the Public Hearing would be officially closed with the exception of any community member who had submitted a speaker card who had not had the opportunity to speak to the issue.

**MOTION PASSED:** 6-3 Espinosa, Morton, Schmid no

**MOTION:** Council Member Barton moved, seconded by Council Member Kishimoto to return to Council on July 27, 2009 with a decision on this matter.

**MOTION PASSED:** 7-2 Espinosa, Schmid no

Applicant, Patrick Smailey clarified their position as being willing to modify the project to reduce the BMR units by six and reduce the office space by up to 1,000 square feet. He stated as a result of those changes, the office density and the overall project would be reduced.

Joseph Erschker, Applicant Representative, stated the intention of the Trustees had been to create a project that complimented the neighborhood, and the Garcia family. He requested the Council initiate the rezoning.

Mr. Carrasco stated when the JJ&F market and the BMR units were removed from the project, the density of the proposed project was lower than the permitted code. He stated the proposed project was requested as a PC Zone however the project was carefully designed to comply with the CN Zoning Code.

Mr. Garcia stated the proposed project would replace the current store which had been rendered obsolete and would provide a custom build exact size facility in an ideal location requested by the Garcia family. He reiterated that the Garcia family was in full support of the project.

Public hearing opened at 10:12 p.m.

Gary Fazzino, 126 Kellogg, stated the need to preserve services was a challenge in these economic times. He stated the site in question had been a grocery store since the 1940's and he encouraged the Council to support and initiate the project.

Eleanor Eisner, 820 Tolman Drive, Stanford, stated the JJ&F market was invaluable to the City. She urged the Council to move forward with the project.

Patricia Becker, 559 College Avenue, stated concern for the available parking spaces.

Bob Niederman, 554 Kelly Way, stated concern over the dirt, dust and noise inconvenience to the shoppers during the eighteen months of construction.

Susan Rosenberg, 1425 Stanford Avenue, encouraged the initiation to the PC Zone change. She stated there were a number of positive aspects to the project and it supported the walkability of Palo Alto.

Paula Sandas, 2140 Columbia Street, stated no PC complied with the Comprehensive Plan which was why it was so widely disapproved. She noted grocery stores paid less per square foot than other retail ventures. She stated the community needed grocery stores and being able to retain one that was already a community benefit was a plus.

Jonathan Rabinovitz, 3011 Bryant Street, stated the proposal had great potential and represented an opportunity for responsible growth for the neighborhood and the city at large. He requested the Council and City continue to work with the developer to determine the potential impacts and find ways to mitigate them. He supported the initiation.

Lorrin Koran, 710 Alvarado Row, Stanford, stated his support for Council to move forward and to preserve a market at the site.

Melanie Roberts, 555 W. Middlefield Road, Mountain View, stated affordable housing provided ownership and rental opportunities for teachers and City employees enabling them to be able to afford to live where they worked. She stated the project would not satisfy everyone's expectations however, it was a project that if approved had the potential to meet the needs of most.

J. Burchard, 2285 Old Page Mill Road, asked Council to initiate the process that would maintain JJ&F in the neighborhood.

Sandra Coulson, 1128 High Street, requested the process be approved and moved forward.

Gerry Marshall, 1301 Bryant Street, encouraged the approval and the initiation of the project.



Barbara Ingram, 850 Webster Street, #807, urged Council to move the process forward in hopes to maintain a family owned and operated grocery store with community values.

Byron Bland, 235 Wilton Avenue, stated the loss of the JJ&F market would deplete the community.

Robert Moss, 4010 Orme Street, stated he did not support the proposed project and requested Council send the project back to the P&TC with specific direction.

Robert Phillips, 2290 Yale Street, stated the current CN zoning required a balanced mix of retail, office and residential whereas the developer had proposed three times the office space. He urged the Council to provide direction to the developer to modify the plan to be more consistent with the CN zoning and the Comprehensive Plan.

Laura Bajuk, 3469 Bryant Street, spoke highly of the JJ&F market and its employees.

Douglas W. Debs, 3469 Bryant Street, stated the JJ&F markets' service and quality were greater than larger stores.

Crystal Casey, 2051 Wellesley Street, asked Council to move the initiation forward and she looked forward to seeing the completion of the development.

Bill Ross, 2103 Amherst Street, supported the P&TC denial.

Victoria Fayer, 752 Live Oak Avenue, Menlo Park, stated having a small family owned grocery store was an invaluable asset that if lost would be impossible to get back.

Donald Kennedy, 264 Channing, spoke regarding the length of the process to get to this point in the project.

Margaret Heath, 2140 Cornell Street, stated the best practice to make changes would be before the development began not during or after. She stated the P&TC process should not be bypassed when a developer wants to lobby the Council.

Melissa Campbell, 2141 Princeton, requested a condition be added in the agreement which automatically converted the grocery store space into a public meeting space in the event the grocery store did vacate the premises.

Trish Siddens, 804 Talisman Drive, asked Council to move forward with the initiation.

Irina Cross, 624 California Avenue, stated concern for the lack of parking spaces proposed compared to the proposed tenants.

Lloyd Garcia, 2005 Louis Lane, Los Altos, stated his intent is to maintain the grocery store services which have been provided to the community for the past sixty years.

Dennis Garcia, 649 Giralda Drive, Los Altos, stated concern over the lack of progress in the process. He stated they had been working with the developer for over two years and yet it seemed as though the City had yet to begin the process.

Laurie Winslow, 18 Peter Coutts Circle, Stanford, supported the concept of maintaining a grocery store in a neighborhood. She stated a neighborhood grocery store promoted community cohesion.

Fred Balin, 2385 Columbia Street, stated the proposed project was not consistent with either the Comprehensive Plan Neighborhood Commercial Land Use Designation or the Zoning District standards. He did not support the project being sent to the ARB.

Doria Summa, 2290 Yale Street, stated she agreed with the P&TC and urged Council to uphold their findings. She stated the amount of office space requested was more than three times what was allowed under the current CN zoning.

Greg Tanaka, 2240 Princeton, stated his desire was for a center that acted as an anchor and served the neighborhood. He stated the center should be designed to attract a number of businesses, stores and restaurants in a walkable and bikeable environment. He supported the P&TC findings.

Harry Whitehouse, 247 High Street, urged Council to move forward.

Mr. Garcia stated the current sales floor was 5,200 square feet with the proposed floor being close to 9,000 square feet. He noted a large portion of the current square footage was non-functional so the seventy-five percent increase would be greatly utilized. He stated the LOI was written to provide optimal flexibility, the Agreement guaranteed the right to return with subsidized rent and transition structure. He stated if Council did not approve the application to initiate the PC zoning tonight, he felt that decision would be the end of this episode of the development efforts and JJ&F would need to pursue other options.

Vice Mayor Morton stated JJ&F had made it clear that if Council did not approve to initiate the thoughts were the project was defeated, however it

had been determined to resume discussion on July 27, 2009. He stated he hoped JJ&F representatives would not make their decision until after that date.

Mr. Garcia stated he agreed to remain until after the future stated Council meeting.

Council Member Kishimoto asked that a copy of the numbers Mr. Carrasco presented be e-mailed to Council for review.

#### COUNCIL MATTERS

10. Adoption of an Ordinance Increasing the Utilities Advisory Commission from Five to Seven Members and Amending Section 2.23.010 (Membership), Section 2.23.030 (Term of Office) and Section 2.23.060 (Meetings) of Chapter 2.23 of the Palo Alto Municipal Code.

City Attorney, Gary Baum stated the Council had directed the Utilities Advisory Commission (UAC) be increased from five to seven members. Staff provided an Ordinance effectuating the change as directed. He stated there had been a secondary Ordinance created in the event Council designated the terms be staggered.

Mayor Drekmeier requested Staff distribute the secondary Ordinance for review of the options.

Council Member Schmid stated the votes taken and allocated were not quite the manner in which they happened. He stated the first vote taken was to get a majority then a second vote was taken.

Vice Mayor Morton stated his concerns that by increasing the UAC Commission there was the possibility of diluting the necessary skill level.

Council Member Yeh stated the staggered appointment terms made sense with a larger Commission to make for a smoother transition.

**MOTION:** Council Member Yeh moved, seconded by Council Member Klein to 1) Adopt the Ordinance amending Section 2.23.010 (Membership), Section 2.23.030 (Term of Office) and Section 2.23.060 (Meetings) of Chapter 2.23 of the Palo Alto Municipal Code, 2) The initial terms of the two members who received the fourth and fifth highest number of City Council votes on July 6, 2009 shall be one year, and 3) Beginning in 2010, the Commission appointments shall be staggered so that in each 3 year cycle, two members are appointed one year, and two members are appointed the next year, and 3 members are appointed the next year.

Mr. Baum suggested changing the language in the voting process from the highest number of Council votes to the majority number of Council votes.

Council Member Klein stated altering the language did not seem to accurately capture what Council Member Schmid had pointed out. He stated there were two separate votes where everyone received a majority.

Mr. Baum suggested to change the language to clarify the first group of votes who received the majority.

Council Member Schmid stated two members were elected with the majority in the first round and the third member was elected with the majority in the third round.

Council Member Espinosa noted with the Staff change there was support from a number of UAC members.

**MOTION PASSED:** 7-1 Barton no, Morton not participating

Mayor Drekmeier announced that he has appointed Council Members Burt, Espinosa, and Yeh to the Ad Hoc UAC Advisory Committee.

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Yeh spoke about the letter sent by the City to Senator Simitian's office opposing Senator Simitian's utilities Senate Bill.

Mayor Drekmeier advised he would not seek a second term on the City Council.

ADJOURNMENT: The meeting adjourned at 11:27 p.m.

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NOTE: Sense minutes (synopsis) are prepared in accordance with Palo Alto Municipal Code Sections 2.04.180(a) and (b). The City Council and Standing Committee meeting tapes are made solely for the purpose of facilitating the preparation of the minutes of the meetings. City Council and Standing Committee meeting tapes are recycled 90 days from the date of the meeting. The tapes are available for members of the public to listen to during regular office hours.

7/13/09

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