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The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:00 p.m.

Present: Barton, Beecham, Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Morton (arrived at 7:00 p.m.), Mossar

CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATOR

City Manager and his designees pursuant to Merit Rules and Regulations (Frank Benest, Emily Harrison, Russ Carlsen, Carl Yeats, Darrell Murray, Sandra Blanch, Nick Marinaro)

Employee Organization: Palo Alto Fire Chiefs' Association

Authority: Government Code Section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATOR

City Manager and his designees pursuant to Merit Rules and Regulations (Frank Benest, Emily Harrison, Russ Carlsen, Carl Yeats, Darrell Murray, Sandra Blanch, Lynne Johnson)

Employee Organization: Palo Alto Peace Officers' Association

Authority: Government Code Section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATOR

City Manager and his designees pursuant to Merit Rules and Regulations (Frank Benest, Emily Harrison, Russ Carlsen, Carl Yeats, Darrell Murray, Sandra Blanch, Richard James)

Employee Organization: Local 715, Service Employees International Union (SEIU) - SEIU Hourly Unit

Authority: Government Code Section 54957.6(a)

Mayor Kishimoto reported no action was taken.

Closed Session ended at 6:53 p.m.

ORAL COMMUNICATIONS

Louise Salo, 3178 Ross Road, spoke regarding her concerns with the use of tasers.

Dennis Mitrzyk, 201 Madrone, spoke regarding his concerns with the Council, police issues and other decisions.

Mark Petersen-Perez spoke regarding the Taser Task Force selection process.

Roger Smith, 270 Tennyson Avenue, spoke regarding the new book of parks in Palo Alto and offered one to each of the Council Members.

Council Member Mossar asked whether the Council was able to accept the gift of the book.

Mayor Kishimoto stated the Council was able to accept gifts that would assist in their job performance.

Dana St. George, 278 Campesino Avenue, spoke regarding a proposed resolution against the Iraq War.

Council Member Kleinberg stated there was a Resolution in process.

Bob Moss, 4010 Orme Street, spoke in support of the Taser Task Force selection process.

Aram James spoke regarding tasers.

SPECIAL ORDERS OF THE DAY

2. Presentation from Santa Clara County Housing Trust

Taylor Dial thanked the Council for their financial support for the organization. He asked for the Council's continued support in the amount of \$100,000 over the next fiscal year.

Council Member Kleinberg stated the organization had been a highly effective solution to housing the community.

Mayor Kishimoto noted May 19th there was to be a tour of the affordable housing sites.

APPROVAL OF MINUTES

MOTION: Council Member Morton moved, seconded by Mossar, to adopt the minutes of March 14, 2007, as amended.

MOTION PASSED 9-0

CONSENT CALENDAR

Council Member Drekmeier not participating in Item No. 14 due to a conflict of interest as a Board Member of Acterra.

Council Member Kleinberg not participating in Item No. 10 due to a conflict of interest as a Board Member of the Housing Trust Fund.

MOTION: Council Member Morton moved, seconded by Klein, to approve Consent Calendar Agenda Item Nos. 3 through 14.

3. Ordinance 4940 entitled "**Ordinance** of the Council of the City of Palo Alto **Amending the Zoning Map to Change the Zone Designation for 4329 El Camino Real from RM-30 Zone Designation to the Service Commercial Zone Designation**"
4. Ordinance 4941 entitled "**Ordinance** of the Council of the City of Palo Alto **Amending the Zoning Map to Change the Zone Designation for 3981 El Camino Real from RM-30 and RM-40 Zone Designation to the Service Commercial Zone Designation**"
5. Ordinance 4942 entitled "**Ordinance** of the Council of the City of Palo Alto **Amending the Zoning Map to Change the Zone Designation for 725 San Antonio Avenue from RM-15 Zone Designation to the Neighborhood Commercial (CN) Zone Designation**"
6. Approval of an Enterprise Contract with AES Enterprises, Inc. in the Total Amount of \$489,008 for Sewer Cleaning Project at the Regional Water Quality Control Plant - Capital Improvement Program Project WQ-04011
7. Approval of a Three-Year Extension to the Agreement with the United States Geological Survey in the Total Amount of \$186,000 for San Francisco Bay Monitoring
8. Approval of a Contract with TruGreen LandCare in an Amount not to Exceed \$565,000 for the 2006-2008 Tree Maintenance Project
9. 1072 Tanland Avenue [06PLN-00101]: Approval of a Final Map to Merge Eight Parcels (Approximately 5.7 Acres) into One (Not for Condominium Purposes)
10. Approval of an Amendment to an Agreement Between the City of Palo Alto and the Housing Trust of Santa Clara Extending Time for Expenditure of Funds
11. Ordinance 4943 entitled "**Ordinance** of the Council of the City of Palo Alto **Amending the Budget for Fiscal Year 2006-07 to Establish Capital Improvement Program Project Number PL-07002, El Camino Real/Stanford Avenue Streetscape and Intersection Improvement Project and to Provide an Appropriation in the Amount of \$155,000**"
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13. Resolution 8702 entitled "Resolution of the Council of the City of Palo Alto Authorizing the City Manager or His or Her Designee to Execute State and Federal Agreements for Transportation Grants"
14. Donation of Goods to Acterra to Support Their "Green@Home" Pilot Program

MOTION PASSED for agenda items 3-9, 11-13, 9-0

MOTION PASSED for agenda item 10, 8-0 Kleinberg not participating.

MOTION PASSED for agenda item 14, 8-0 Drekmeier not participating.

ORDINANCES AND RESOLUTIONS

15. 1st Reading – **Approval and Adoption of an Ordinance Adopting a Plan for Improvement to Heritage Park**

Council Member Morton stated his approval for the staff recommendation to adopt the Ordinance for improvements for Heritage Park.

MOTION: Council Member Morton moved, seconded by Mossar, to accept staff recommendation to adopt the Park Improvement Ordinance for improvements located within dedicated parkland known as Heritage Park, including: remove a section of turf; install drainage structures; install children's playground equipment, tables, benches and amenities; renovate a section of the irrigation system; and install safety fencing.

Council Member Morton congratulated the community, the staff and the Foundation for Palo Alto Parks for raising the funds to create an amazing place for families to go.

Council Member Mossar thanked every one who worked so hard to get the park accomplished.

Council member Drekmeier stated the process was a model process to be used for future considerations.

MOTION PASSED 9-0.

Council Member Morton wanted to acknowledge Mr. Greg Betts as instrumental in the process.

Mayor Kishimoto stated her appreciation for staff and the community for their hard work.

PUBLIC HEARINGS

16. Public Hearing: Consider approval of a Record of Land Use Action for a Tentative Map to create two single family residential parcels and a remainder lot at 4249 El Camino Real (Wilkie Way Homes); and approval of a Negative Declaration.
18. Public Hearing: Consider an appeal of the Planning Director's denial of an application for removal of two protected redwood trees at 526 Lowell Avenue

MOTION: Vice Mayor Klein moved, seconded by Drekmeier, to move Agenda Item Nos. 16 and 18 to May 7, 2007.

MOTION PASSED 9-0.

17. Public Hearing: Consider an ordinance approving rezoning to a Planned Community (PC) district, demolition of three buildings, including the vacant Albertson's store, and construction of a mixed use project including 24,000 square feet of retail/commercial space, 14 below market rate (BMR) apartments, and 39 single family residences; and referral of the project for site development plan review to the Architectural Review Board; and approval of a Mitigated Negative Declaration at 3401, 3415, and 3445 Alma Street (Alma Plaza).

1st Reading entitled "**Ordinance** of the Council of the City of Palo Alto **Amending Section 18.08.040 of the Palo Alto Municipal Code (the Zoning Map) to Change the Classification of Property Known as 3401, 3415 and 3445 Alma Street from PC Planned Community 1362 to PC Planned Community _____ (McNellis Partners, LLC and Greenbriar Homes Communities, Inc., Applicants)**"

Director of Planning and Community Environment, Steve Emslie stated the project proposed a twenty-four thousand square foot commercial/retail space, thirty-nine single family homes and fourteen below market rate (BMR) units.

Planning and Transportation Commission Member Dan Garber stated the central goal for the community was to unify the overall parcel to give Palo Alto a walkable community and a place to gather with families as a neighborhood community center.

Council Member Beecham asked why a neighborhood commercial (CN) zone was recommended by staff.

Mr. Emslie stated a CN was the closest existing zone regulation available to address the comprehensive plan objectives to retain Alma Plaza as a neighborhood commercial center.

Council Member Beecham asked the process to move forward in a CN direction.

Mr. Emslie stated the code required either the City Council or the Planning and Transportation Commission initiate the rezoning. The rezoning would require a public hearing before the Planning and Transportation Commission then the Commission would make a recommendation to the Council.

Council Member Beecham asked whether other Palo Alto neighborhood commercial community locations had a park area.

Mr. Garber replied no, this would be the first.

Council Member Beecham asked whether there were housing units in those projects.

Mr. Emslie stated there were housing units adjacent to but not within the project's property.

Vice Mayor Klein asked the total amount of square footage in commercial space on the site as of this date.

Mr. Emslie replied the Alma Plaza site had fifty five thousand square foot of commercial space which was mostly empty at present.

Vice Mayor Klein stated the Planning Department had suggested a CN zone for the property. He asked whether there were other zones used by outside cities that would be more appropriate to this type of area.

Mr. Emslie stated there were other ways to achieve a neighborhood center.

Vice Mayor Klein asked the plausibility of creating a special zone for neighborhood centers.

Mr. Emslie replied with the directive from the Council, the Planning Department would proceed quickly to install the zone program and bring it back to the Planning and Transportation Commission and the Council with recommendations on the configuration.

Vice Mayor Klein asked whether a specific zone for neighborhood communities was a sound idea.

Mr. Emslie stated having a special zone for each type of community was a good idea when it implemented the vision for the project. An issue with Planned Communities was the aging of the communities, they outlive the usefulness of their purpose.

Council Member Drekmeier inquired on an at places memo regarding the ability to boost the retail fifteen percent.

Mr. Emslie stated the memo was received and reviewed without detail.

Council Member Morton asked if the recommendation was to implement a PC zone with CN zone elements.

Mr. Emslie stated the core recommendation from the Planning and Transportation Commission was to craft a specific zone based on the general requirements of the CN with restricted provisions.

Council Member Morton asked whether the approval would be for a PC zone then implement the CN zone elements once the project was underway.

Mr. Emslie stated yes, that was the recommendation of the Planning and Transportation Commission.

Council Member Mossar stated there had been economic studies completed with recommendations to the Council. She asked how the current recommendation compared to the previous in the increase of retail levels.

Mr. Emslie stated the retail levels would depend on the right mixture of tenants, a quality attractive environment, and the amount of housing to support the viability of the retail over long term.

Council Member Mossar asked whether the information was from a staff supposition or from an economic analysis.

Mr. Emslie stated the information was derived from the staff supposition.

Vice Mayor Klein asked for clarification on the drawback to the PC zone with the land owner having to agree to the project whereas with the CN zone the City would implement the project.

Mr. Emslie stated the applicant had made it clear to the Planning and Transportation Commission that he would not accept a PC zone.

Council Member Kleinberg asked whether the BMR units were above the retail.

Mr. Emslie stated yes, the current proposal was to place the units above the retail.

Council Member Kleinberg asked how the comprehensive plan policy allowed the mixture of BMR units with other housing.

Mr. Emslie stated the Planning and Transportation Commission felt the Comprehensive Plan allowed the flexibility to group the housing.

Council Member Kleinberg was concerned about the location of the lower income rental property and owned property. She asked whether there had been consideration for the socialization aspect.

Mr. Emslie stated the affordable housing advisors had been consulted.

Council Member Kleinberg asked how the mixing of socio-economic status fit into the adopted fundamental sustainability principle.

Mr. Emslie stated the City had stand alone rental projects mixed in neighborhoods of market rate housing.

Council Member Cordell asked staff whether public benefit was a requirement to move forward with a Planned Community.

Mr. Emslie stated yes, the developer must supply a public benefit.

Council Member Cordell asked whether a public benefit was required with a CN.

Mr. Emslie stated no, there was a base zone that was required.

Council Member Cordell restated no public benefit was required.

Mr. Emslie stated yes, that was correct.

Council Member Cordell asked whether there was a definition of public benefit.

Mr. Emslie stated no, not specifically.

Council Member Cordell asked whether the park area was being considered as a public benefit.

Mr. Emslie stated yes, the park would be a full City use park.

Council Member Cordell asked whether the park would be of a size to accommodate the use of such a large number of persons.

Mr. Emslie stated the size recommended was based on the California state law requirement for the increased population on the project site.

Mayor Kishimoto asked whether the current fifty-five thousand square foot of retail space was on the ground level.

Mr. Emslie stated some of the square footage was upper level office space approximately forty-five thousand square foot was utilized as pure retail.

Mayor Kishimoto asked whether the retail was on the first floor.

Mr. Emslie stated yes.

Mayor Kishimoto asked how the ground floor retail ordinance tied in with the CN or PC zones.

Mr. Emslie stated the CN zone had a protection requirement where certain uses can not be converted into office space.

Mayor Kishimoto asked whether the space had the potential of being converted into residential just not office.

Mr. Emslie stated yes

Mayor Kishimoto asked how the Quimby Act fit in with the future CN application.

Mr. Emslie stated the Quimby Act was a state law that enabled Cities to maintain their park ratio formula for full public usage.

Mayor Kishimoto asked whether there was a site design review or an architectural review.

Mr. Emslie stated the CN would require a site design approval for mixed use commercial and would be required to go through the Architectural Review Board (ARB) approval.

Mayor Kishimoto asked whether the thirty foot set-back requested by the applicant added to the floor area ratio (FAR) of the entire site.

Mr. Emslie stated the FAR would not be changed with a thirty foot setback

Council Member Cordell asked for a definition of retail.

Mr. Emslie stated the City of Palo Alto defined retail as a general sales of goods from a location.

City Attorney, Gary Baum stated the Council had the option to wave the process.

Public Hearing opened at 8:10 p.m.

John McNellis, McNellis Partners, LLC stated the Council had requested more than the proposed 19,200 square foot of retail space, fewer housing units, a public gathering area, and more parking. The proposal to the Planning and Transportation Commission of March 8, 2007 met all of the requested requirements by the Council. All of the Neighborhood Commercial (CN) zone requirements had been met.

Council Member Mossar asked for the location of the proposed new building.

Mr. McNellis showed the location of the new building on the presentation slide.

Council Member Mossar requested clarification on the two houses removed and replaced by a retail building.

Mr. McNellis stated yes, there would be two identical retail buildings in place of the two current houses.

Council Member Mossar asked whether the two new retail buildings were being backed up to residential.

Mr. McNellis stated that residential architecture was utilized for the rear of the buildings to blend into the residential scope.

Council Member Drekmeier asked how the basement feature flowed for the grocery usable square footage.

Mr. McNellis stated multiple retail facilities along University Avenue are smaller than the usual space required for that frontage and they use basement space to complete the additional space required. He proposed the 3,500 square foot space basement be used for the office and storage space requirements.

Council Member Drekmeier asked about the retail being on the second floor.

Mr. McNellis stated retail services work on the upper levels, retail goods rarely survive above the first floor.

Council Member Morton stated the penalty for the proposed 27,000 square foot was the loss of two BMR units. He asked if the Council felt the loss was too great, how that would affect the square footage for the grocery retail.

Mr. McNellis stated both situations were independent of one another. The preference would be to revert to the proposed fourteen units with a smaller retail space.

Council Member Beecham asked whether the application would be pulled if the Council was to approve the Planning and Transportation Commission's recommendation on the grocery store and the square footage.

Mr. McNellis stated he was uncertain on the status of the application with the approval of the Planning and Transportation Commission recommendation.

Council Member Beecham stated if the PC was not approved the only option would be the CN. He asked how Mr. McNellis would advise him to move forward.

Mr. McNellis states he would suggest to move forward with his current proposal.

Council Member Beecham asked to withdraw his question.

John Grant, 3583 South Court recommended a full retail center at Alma Plaza.

James Devoy, Stanford Villa Apartments recommended the Council approve the current proposal for Alma Plaza

Jennifer Hinton recommended the Council approve the proposed plan for Alma Plaza.

Winter Dellenbach, La Para stated her appreciation for the BMR units being proposed at Alma Plaza.

Kurt Reitman, 3525 Alma St. stated concern for the ingress and egress before, during, and after the construction at Alma Plaza.

Sandra Lonquist, 122 Hamilton Avenue recommended the BMR units be reduced to twelve and the retail space be reduced to 24,000 square feet.

John King, 122 Hamilton Avenue recommended the Council approve the proposed plan for Alma Plaza.

Dennis Mitrzyk, 201 Madrone recommended a full retail center return to Alma Plaza.

E.T. Perkins, 514 Thain Way recommended a full retail center return to Alma Plaza.

Bill Chapman, 3583 Louis recommended the Council not approve the proposed plan for Alma Plaza.

Len Filippu, 3621 Ramona Cir recommended Alma Plaza be primarily retail.

Council Member Beecham asked Mr. Filippu to clarify his agreement to the Planning and Transportation Commission recommendations.

Mr. Filippu stated yes, he was in support of the recommendations.

Council Member Beecham asked Mr. Filippu's opinion on the applicants changes to the plan.

Mr. Filippu stated the changes to the plan had not been reviewed in detail.

Council Member Beecham stated he was not going to vote on a project that was not going to be built.

Mr. Filippu stated he needed a greater understanding of the modifications to change his support of the recommendations.

Sheri Furman, 3094 Greer Road supported the Planning and Transportation Commission recommendations.

Elizabeth Greenfield, 3476 Waverley suggested Alma Plaza remain primarily retail.

Marilyn Keller, 3476 Waverley St. requested to maintain Alma Plaza as primarily retail.

Bob Moss, 4010 Orme supported the Planning and Transportation Commission recommendation.

Anjan Ghose, 4119 Park Blvd. recommended a larger retail presence at Alma Plaza.

Martin Stone, 260 El Verano stated the viability of retail was based on the proposed rents from the owner.

Rachel Samoff, 3527 South Court suggested a donation to the Child Care Fund would be an appropriate public benefit for the project.

Carl York, 3145 Alma St. recommended the Council not approve the proposal.

Doris Petersen, 1808 Edgewood supported the proposal for Alma Plaza.

Soroor Ebnesajjad, 739 Florales Drive recommended a larger grocery store for Alma Plaza.

Dan Dykwel, 480 Gary Court recommended the neighborhood support any retail brought to the Alma Plaza project.

Herb Borock, P.O. Box 632 recommended the Council deny the PC application and open a CN process for the Alma Plaza project.

Sally Probst, 735 Coastland Drive recommended the Council approve the proposed plan for Alma Plaza.

Karen Kalinsky, 210 E. Meadow Drive recommended the Council limit the residential use to thirty percent of the total project.

GeeGee Lenhaf, 3850 Magnolia Drive recommended Alma Plaza receive a grocery store.

Deborah Ju, 371 Whitclem Drive, suggested Alma Plaza be maintained as primary retail space.

Bob Smith, 2291 Greer Road recommended the Council approve the proposed plan.

Doug Moran, 790 Matadero Avenue suggested retail would survive when properly patronized.

Ellie Gioumousis, 992 Loma Verde Avenue suggested not repeating the same tired centers Palo Alto has throughout the city.

David James, 3180 South Court suggested too much residential was dissipating Palo Alto's charm.

Elaine Meyer, 609 Kingsley Avenue suggested Palo Alto had more residential property than amenities for the residents.

Public Hearing is closed at 9:45 p.m.

Council Member Beecham asked what the Council's options were to adopt the Planning and Transportation Commissions recommendations.

Mr. Baum stated the applicant needed to agree to the PC, for the Council to move forward.

Council Member Beecham stated he did not support the proposal as presented and recommended it return to the Planning and Transportation Commission for rezoning.

MOTION: Council Member Beecham moved, seconded by Kishimoto, to reject the Planned Community (PC) application and send the project back to the Planning and Transportation Commission to be rezoned as Neighborhood Commercial (CN).

Council Member Beecham stated the area needed to be rezoned to a CN zone where there were specific rights for the developer, the City, and the community.

Mayor Kishimoto agreed the area needed to be rezoned to a CN.

Council Member Beecham stated the Planning and Transportation Commission would make the appropriate recommendation to the Council on the rezoning.

Mayor Kishimoto asked whether the Planning and Transportation Commission had full freedom for the zone changes.

Council Member Beecham stated the Planning and Transportation Commission had control over that area.

Mayor Kishimoto requested to receive modifications in a timely manner.

Council Member Cordell was concerned with the amount of housing being built in Southern Palo Alto. The strain of the provisions of services, the impact on schools, and the traffic.

Council Member Morton asked whether the Council could indicate the conditions of a PC that would be accepted.

Mr. Baum stated that question would be directed to the Planning and Transportation Commission or staff.

Council Member Morton asked whether the Council could direct staff to return with an agreement including specific features.

Mr. Baum stated the project was required to return to the Planning and Transportation Commission before it returned to the Council.

Council Member Morton stated maintaining the PC zone was a way the Council could mandate a grocery store and a park.

SUBSTITUTE MOTION: Council Member Morton moved, seconded by Barton, to approve the Mitigated Negative Declaration for the project at 3401, 3415, and 3445 Alma Street, with a finding that the project would not result in significant environmental impacts, and approve the PC zone designation using the developers' proposal as presented this evening with the following changes: 1) Reduce retail square footage by reinstating the two BMR second floor units in the large building; 2) Increase grocery store size to a minimum of 10,000 sq. ft. including basement and ground floor; and 3) Require dedicated parkland and the community room.

Council Member Barton asked whether adding elements of the CN to the project eliminated the possibility of retail on the second floor.

Council Member Morton stated no, the motion was to maintain a minimum sized grocery store.

Council Member Barton stated the grocery store and the CN zone were unrelated. He stated the CN related to the total amount of retail square footage.

Council Member Morton stated the CN zone was mentioned as a way to incorporate the staff recommendations.

Council Member Barton asked whether the motion was for the developers' proposal as presented, without upper level retail in the main building and an additional 10,000 square foot grocery store.

Council Member Morton stated the fourteen BMR units were included.

Council Member Beecham asked for clarification from the maker regarding the Planning and Transportation Commission recommendation and the seconder regarding the developers' proposal.

Council Member Morton stated the seconder mentioned the developers' proposal as a clarification.

Council Member Barton stated when using CN as a structure all square footage was required to be on the main level. Removing the upper level

retail and reinstating the BMR units, the developers' proposal did meet the CN standards on either ground floor or total square footage.

Council Member Barton recommended to except the developers' proposal with the following changes; reduce retail square footage, reinstate the BMR units, increase the minimum size of the grocery store to 10,000 square foot and dedicate the park land.

Council Member Morton accepted the language recommendations and asked whether the language was to clarify or replace the motion.

Council Member Barton stated the attempt was to clarify however; it would be easier to replace the language.

Council Member Morton asked if the Council accepted the developers modified proposal would that be acceptance of the PC zone.

Mr. Baum stated changing the terms of the project after the close of a public hearing; the applicant must accept the modification.

Council Member Morton asked whether the project could move forward with the applicants' acceptance.

Mr. Baum stated yes, the Council would be approving the environmental review and the project.

Council Member Morton stated he would accept the language change if the applicant accepted the modifications.

Council Member Mossar asked why the current proposal was accepted and not the original proposal.

Council Member Barton stated the developer had increased the retail.

Council Member Mossar asked to clarify the desire for the second building and the reduction of the BMR units was requested.

Council Member Barton stated no, the modifications discussed in the motion returned the BMR units.

Council Member Morton asked whether the applicant approved the modifications.

Mr. Baum stated the Council comments needed to be completed prior to requesting acceptance by the applicant.

Vice Mayor Klein supported the original motion on the floor.

Council Member Mossar suggested hearing from the developer and recommended maintaining the PC zone.

Council Member Drekmeier stated a grocery store with longevity was key to the success of the project. He asked what rights the developer would have had the project been changed to CN.

Assistant Director of Planning Curtis Williams stated the requirements were 27,000 square footage of ground floor retail commercial and services with additional second floor offices, the housing would relatively be the same.

Council Member Drekmeier asked to clarify the number of housing units would remain the same but there would be more ground floor retail development.

Mr. Williams stated that 27,000 square footage was the minimum amount of ground floor retail that was required for a CN.

Mayor Kishimoto asked for a point of clarification, the CN would better suit the project unless the Planning and Transportation Commission developed a specific zoning for neighborhood centers.

Mr. Williams stated the current CN standards had been clarified and when a new CN was developed it would have its own standards.

Council Member Drekmeier questioned whether the PC or CN zone was chosen, the retail would change but the housing would remain unchanged.

Council Member Kleinberg stated the Planning and Transportation Commission's approach was thought out and clear.

Vice Mayor Klein supported the original motion with the proposed language change: if the applicant did not accept the Planning and Transportation Commission's recommendation as to a PC with the exception of changing the 15,000 square foot minimum to 10,000 square foot grocery store and change the CN to an appropriate zone to be determined by the Planning and Transportation Commission.

Council Member Barton stated the one commonality the Council and community had shared was the desire for a grocery store and therefore the need to maintain the PC zone.

Council Member Morton recommended the project maintain the PC zone to satisfy a majority of the stipulations.

Council Member Kleinberg asked the maker and seconder of the Substitute Motion whether they were adopting the Planning and Transportation Commission's recommendations in their motion.

Council Member Morton stated the willingness of the developer to present to the Council a larger retail component was the basis of the motion.

Council Member Barton stated the motion was to accept the developers' proposal as presented with the following changes: reduce the retail square footage by reinstating the BMR units and the meeting room, dedicating the park land and ensure the grocery store was a minimum of 10,000 square foot.

Mr. Baum stated a clean ordinance would be returned prior to the next meeting on Alma Plaza.

Mayor Kishimoto asked whether the template was correct. She noted numerous differences between the Planning and Transportation Commissions recommendation and the developers' proposal.

Mr. Baum stated the motion was read as the template.

Mayor Kishimoto asked whether staff had clarification on which template was correct.

Mr. Emslie asked which specific differences the Council had concern with.

Mayor Kishimoto asked which item numbers were in the Planning and Transportation Commissions recommendation that had been omitted from the developers' proposal.

Mr. Emslie reiterated there had been no analysis completed for the new proposal. He stated there were noticeable differences.

Council Member Kleinberg stated the Substitute Motion was not the recommendation from the Planning and Transportation Commission.

Council Member Drekmeier stated the parking situation required revisiting to maintain the proper ratio.

Council Member Morton stated the Substitute Motion was a general structure for the applicant to consent to so the Council could move forward with the project.

Council Member Drekmeier asked whether it would be possible to build a motion from the draft ordinance.

Council Member Morton stated the Council needed a structure to determine the importance of the project pieces.

Mayor Kishimoto asked whether the CN zone was subject to the Quimby Act.

Mr. Emslie stated yes, the Quimby Act applied to subdivisions.

Mayor Kishimoto asked whether there were open space requirements.

Mr. Emslie stated yes.

Mayor Kishimoto stated the grocery store was not a requirement of the CN.

Mr. Emslie stated the motion included the Planning and Transportation Commissions ability to recommend zoning outside of the CN.

Council Member Cordell stated the applicant needed to speak to the motion prior to the vote.

Mr. Baum stated the Council could vote on the Substitute Motion to see whether the motion passed before hearing from the applicant.

Council Member Cordell clarified if the vote failed the applicant would not speak.

Mr. Baum stated yes.

SUBSTITUTE MOTION PASSED 5-4 Beecham, Cordell, Kishimoto, Klein, voting no.

Mr. McNellis said the following changes were accepted as follows: dropped 3,000 square feet of retail, added 13,030 square feet for the community room, returned to fourteen BMR units, and the grocery store to be a minimum of 10,000 square feet.

Council Member Morton asked whether staff will return with an Ordinance reflecting the changes.

Mr. Benest asked whether the Negative Declaration was included in the vote.

Mr. Emslie stated yes, the vote included the Negative Declaration and the proposal with the suggested changes.

City Manager Frank Benest asked whether the Planning and Transportation Commission understood the direction to work with the City Attorney to create the Ordinance before returning to the Council.

Mr. Emslie stated yes.

Council Member Kleinberg questioned the finality of the vote and asked for clarification on the discretion and oversight the Council had in terms of after the vote.

Mr. Emslie stated the project was subject to site design and approval through the Architecture Review Board, the Planning and Transportation Commission and the Council.

Council Member Kleinberg asked whether the recommendation of the Planning and Transportation Commission and the Architecture Review Board were still under consideration.

Mr. Emslie stated yes, there was room for site design modification.

Council Member Beecham left the meeting at 11:10 p.m.

COUNCIL COMMENTS, ANNOUNCEMENTS & REPORTS FROM CONFERENCES

Mayor Kishimoto reported there would be a Tri City Youth Business Summit on Wednesday at 5:45 p.m. to bring the business community together with the youth and, in particular, the disadvantaged youth in East Palo Alto to offer summer job opportunities. She noted next Monday's calendar would be devoted to Earth Day events.

Council Member Morton reported he was appointed to the County Airports Commission.

Vice Mayor Klein reported he attended the Santa Clara Cities Association meeting and noted the following: 1) many cities opposed SB49, which would prevent the City of Santa Clara from providing a stadium for the 49'ers; 2) he provided Council with a brochure on the Ethics Leadership Seminar at Santa Clara University this summer; 3) the California High Speed Rail project was discussed at great length and whether it would go through the Pacheco Pass or the Altamont Pass; and 4) a Saratoga council member announced Saratoga had recently switched to a paperless agenda.

Council Member Drekmeier commented he appreciated Bob Moss' comments in defense of civility and in support of Council Member Kleinberg and her appointments to the Taser Task Force.

Council Member Kleinberg also thanked Bob Moss and stated she had been asked by Aram James to advise how she appointed the members of the Taser Task Force. She advised Mr. James there was specific criteria for membership on the Task Force and she interviewed all members who were appointed.

FINAL ADJOURNMENT: The meeting adjourned at 11:27 p.m. in memory of those who died at Virginia Tech and in honor of those who keep us safe in Palo Alto.