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November 16, 2009

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The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:09 p.m.

Present: Barton, Burt, Drekmeier, Espinosa, Kishimoto, Klein arrived at 7:37 p.m., Morton, Schmid, Yeh arrived at 6:19 p.m.

Absent:

### STUDY SESSION

1. Quarterly Update on City Activities related to the High Speed Rail (HSR) Project.

The City Council received an update from Staff and the High Speed Rail (HSR) Subcommittee. Significant milestones were expected in the near future, including the Alternative Analysis Report and HSR's revised Business Plan. Both documents were expected to be released as soon as mid-December. The City Council discussed the merits of moving forward with the City's own feasibility studies to better influence the best possible outcome for Palo Alto.

Nadia Naik, 1825 Emerson Street, spoke on her involvement with the HSR Subcommittee, Californians Advocating for Responsible Rail Design (CAARD), and other neighborhood groups. She spoke on her support of utilizing context-sensitive solutions to the HSR.

Elizabeth Alexis, 349 Diablo Court, spoke on her involvement with CAARD and the Civic Affairs Committee of Greenmeadow. She spoke on the Environmental Impact Reviews currently in progress, the significance of filling the City's vacant Transportation Manager position, and the importance for improvements on San Antonio Road.

Mike Cobb, Dixon Place, spoke on his concern regarding eminent domain and urged the City to challenge the HSR process.

Rita Wespi, 1648 Mariposa Avenue, spoke on her involvement with CAARD and her role with the legislative process.

Wynn Grcich, 30166 Industrial Parkway, Hayward, spoke on her concern regarding security and safety on the HSR.

### SPECIAL ORDERS OF THE DAY

2. Resolution 8999 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Rosemary Ralston Upon Her Retirement."

Council Member Yeh read the Resolution expressing appreciation to Rosemary Ralston upon her retirement.

**MOTION:** Council Member Yeh moved, seconded by Vice Mayor Morton to adopt the Resolution expressing appreciation to Rosemary Ralston upon her retirement.

Vice Mayor Morton thanked Ms. Ralston for her years of service with the City of Palo Alto.

**MOTION PASSED:** 9-0

Rosemary Ralston spoke on her experience serving the City of Palo Alto.

3. Resolution 9000 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Jannette Huber Upon Her Retirement."

Council Member Kishimoto read the Resolution expressing appreciation to Jannette Huber upon her retirement.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Barton to adopt the Resolution expressing appreciation to Jannette Huber upon her retirement.

**MOTION PASSED:** 9-0

Jannette Huber spoke on her experience serving the City of Palo Alto.

Mayor Drekmeier spoke on his experience visiting the Wastewater Treatment Plant.

#### CITY MANAGER COMMENTS

City Manager, James Keene spoke on the following topics: 1) Staff requested Agenda Item No. 4 be pulled and deferred to December 7, 2009 due to a last minute bid protest received from the second lowest bidder. Staff would utilize the City's Bid Protest Procedure to determine whether the protest had merit. It was not anticipated this action would result in significant delay to the project's completion date; 2) Utilities Department's community outreach survey titled Biannual Small Business Customer Efficiency Survey, and the Statewide Business Customer Satisfaction Survey; 3) It was the 4<sup>th</sup> consecutive year the City received the International City/County Management Association and National Research Center, Inc.'s Voice of the People Award for high-rated services in garbage collection services; 4) Public notification efforts from Greenwaste's hard to serve areas fee for residents,

that addressed Proposition 218 guidelines; 5) The San Antonio Avenue/Lytton Avenue Asphalt Overlay Project began; 6) Alma Street Storm Drain Improvements Project was in the design phase; 7) U.S. Department of Homeland Security would host two community-based Cyber Security exercises in Palo Alto.

Council Member Espinosa inquired on the expected grand opening of the newly renovated Lytton Plaza in downtown Palo Alto.

Mr. Keene stated the grand opening would be near December 7, 2009. He would provide the official date to the City Council and the community this week.

Council Member Kishimoto congratulated the Public Works Staff for receiving the Voice of the People Award.

#### ORAL COMMUNICATIONS

Wynn Grcich, 30166 Industrial Parkway, Hayward, spoke on her concern of arsenic levels in drinking water.

William Rosenberg, 820 Bruce Drive, spoke on Palo Alto Sea Scout's request for assistance in obtaining electricity at Alma Plaza for their annual holiday tree sale.

Lynn Krug, spoke on the importance of employee training for Utilities Department personnel.

Aram James spoke on enacting a moratorium on the use of tasers by Police Officers.

#### CONSENT CALENDAR

Margaret Adkins, spoke on her disapproval of Agenda Item No. 8.

**MOTION:** Vice Mayor Morton moved, seconded by Council Member Kishimoto to approve Agenda Item Nos. 5-15, and to continue Agenda Item No. 4 to December 7, 2009.

~~4. Approval of a Contract with Elite Landscaping Incorporated in the Amount of \$1,220,075 for Construction of Greer Park Renovation and Pump Station Replacement - Capital Improvement Program Project PE-09002.~~

5. Approval to Utilize the State of California CALNET II (CALNET 2) Contracts to Order Telecommunications Services Through SBC Global

Services, Inc. dba AT&T Global Services for City-Wide Telecommunications Services in an Amount not to exceed a Total of \$760,000 Through January 2012.

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**MOTION PASSED: 9-0**

#### ACTION ITEMS

16. Approval of a Mitigated Negative Declaration for the California Avenue Streetscape Improvements, Phase I; Approval of a Street Tree Replanting Plan on California Avenue from El Camino Real to the Caltrain Station as Part of the California Avenue Improvements Capital Improvement Program Project PE-07005; Approval of a Change Order in Amount of \$96,200 with Suarez & Munoz Construction, Inc. and Deferral of the California Avenue Street Improvements Phase II Including Tree Replanting at the Fountain Plaza Area Located Near the Park Boulevard/California Avenue Intersection, Addition of New Street Furniture, and Street Repaving and Restriping Until Community Outreach and Public Review is Complete.

*(continued by Council Motion on October 05, 2009)*

Director of Public Works, Glenn Roberts gave a PowerPoint presentation that overviewed the community design meetings held for the California Avenue Streetscape Improvements Project, Phase I. He stated these meetings included intense public processes by engaging the community, Architectural Review Board, and Planning and Transportation Commission (P&TC). He recognized the community members and organizations that provided support and feedback during the community design meetings.

President of Royston, Hanamoto, Alley & Abey, Barbara Lundburg, gave a PowerPoint presentation that outlined the California Avenue Street Tree Replacement Plan. She stated the community requested Staff replant the largest trees possible, and include a mixture of deciduous and evergreen trees. The Street Tree Replanting Plan included a cohesive design entailing signature gateway trees at the Caltrain and El Camino Real entrances onto California Avenue and at pedestrian crossings. The intent of the Street Tree Replanting Plan was to provide an aesthetically pleasing street using a variety of trees, create strategic opportunities for areas to receive sun and shade year round, provide a diverse canopy over time, and to compliment the unique quality of California Avenue. She overviewed the variety of deciduous and evergreen trees that were recommended within the Agenda Item, and stated the optimal time for planting trees was between November and February.



Mr. Roberts spoke on California Avenue Streetscape Improvements, Phase II, which included adding new benches, bike racks, kiosks, tree replanting at the fountain plaza area, colored sidewalks, potted plants along sidewalk's edge, and possible lane configurations. Staff recommended deferring the California Avenue Street Improvements, Phase II until community outreach and public review was complete. He spoke on next steps and the timeline for the Street Tree Replanting Phase I and Phase II.

Planning and Transportation Commission Representative, Lee I. Lippert, summarized the P&TC meeting draft minutes held on October 28, 2009. He stated the P&TC focused their efforts on the site and design review process, tree selection and planting schemes, mechanics of manual watering versus automatic irrigation systems, importance of California Avenue as a second downtown area, and discussed Phase II.

Architectural Review Board (ARB) Representative, Clare Malone-Prichard, spoke on the ARB meetings held on October 15 and November 5, 2009. Similarly to the P&TC meeting held, the ARB meetings were study sessions, and did not result in any formal recommendations. The ARB felt the Street Tree Replanting Plan should be simplified and contain more consistency, contain prominent signature gateway trees at both entrances onto California Avenue, and defer tree replanting at the fountain plaza area to advocate more design work.

Council Member Espinosa inquired on any potential limitations on Phase II due to the design plans contained within Phase I.

Mr. Roberts stated the Street Tree Replanting Plan, Phase I was consistent with the project's initiatives and plans for Phase II. He stated the potential lane configurations would not affect tree placement.

Council Member Espinosa stated public processes and input may result in a modified plan than what was currently planned in Phase II.

Mr. Roberts stated alternative designs schemes were available. He spoke on the option of creating wider sidewalks resulting in trees situated in the middle of the sidewalks. He stated the trees would not be a limitation, and there were adequate pedestrian walkways for alternate design plans.

Ms. Lundburg stated the trees planted in Phase I could be relocated.

Council Member Schmid asked for Staffs opinion on manual watering versus automatic irrigation systems.

Mr. Roberts recommended mechanical watering by a Public Works water truck. He indicated an automatic irrigation system would be preferred, but

would be an expensive undertaking.

Council Member Schmid inquired how often the trees would be watered.

Managing Arborist, Eric Krebs stated hand watering was the preferred method, and would be done twice a week. He stated hand watering had been in use on California Avenue for at least 20 years.

City Manager, James Keene stated hand watering would provide protection in establishing the trees in their new location.

Council Member Schmid inquired on the requested twenty percent contingency fund for the Street Tree Replanting Plan. He stated contingency funds were normally ten percent.

Mr. Roberts stated the requested contingency fund was for capital costs for unforeseen work which may develop. He stated the approval of the Agenda Item would allow Staff to accommodate change orders during construction without the need to return to the City Council for approval.

Council Member Schmid inquired how much funding was utilized in contingency funds in past projects.

Mr. Roberts stated contingency fund amounts could vary given the complexity and nature of projects. He stated a major project requiring a twenty percent contingency fund may include the remodeling of old buildings or underground work. He stated a ten percent contingency fund was requested for smaller projects. He indicated that contingency funds were rarely used completely. The City Auditor had conducted an audit of contingency fund use and found them to be consistent and appropriate with City policies.

Council Member Schmid inquired whether a clearer distinction could be made between what the City Council was voting on and discretionary plans in Phase II.

Mr. Keene stated the City Council was asked to approve the California Avenue Streetscape Improvements, Phase I, with the exception of deferring the tree planting around the fountain plaza area. He stated community outreach and public review would be conducted, and Phase II recommendations would return to the City Council.

Council Member Schmid stated he was uncomfortable with Staff Recommendation No. 2, because it implied the City Council was approving the entire California Avenue Improvements Capital Improvement Program. He believed the recommendation should state the City Council was

approving only Phase I of the Street Tree Replanting Plan.

Mr. Emslie stated the recommendation could be revised to clarify the Street Tree Replanting Plan was Phase I.

Mr. Keene stated the recommendation could be revised to approve the Street Tree Replanting Plan, with the exception of the tree replanting at the fountain plaza.

Council Member Schmid stated his intent was to recognize that the tree replanting at the fountain plaza would be included in Phase II.

Council Member Klein requested Staff respond to a letter written by Herb Borock advising the City Council not to approve the Agenda Item as it was in violation of the City's Zoning Ordinance and the California Environmental Quality Act (CEQA).

City Attorney, Gary Baum stated Mr. Borock's concern was analyzed and it was found that his concerns were not persuasive and would not stop the Street Tree Replanting Plan. He spoke on two ways to move forward with the project. Staff could analyze the data currently available and conduct a Mitigated Negative Declaration, and return to the City Council on Phase II recommendations because some details were unknown. Or delay the Street Tree Replanting Plan until all details on Phase II were known, and return to the City Council with one complete Mitigated Negative Declaration.

Council Member Klein stated the California Avenue Improvements Capital Improvement Project consisted of two projects.

Mr. Baum stated that was correct.

Vice Mayor Morton spoke on his concern for the preceding process used in properly engaging the community during the design phase, and requested reassurance that it would not occur on future projects.

Mr. Roberts stated Staff was working on a policy that would create standards, and the policy would return to the City Council for approval.

Council Member Burt stated there were widely recognized sculptures and views of the foothills on California Avenue. He questioned whether the proposed Valley Oak tree, in the median at El Camino Real, would obstruct the vision of these attractions.

Ms. Lundburg stated the Valley Oak tree would create a balanced gateway to California Avenue. The trees would eventually grow to a height that would not impact the view of the streetscape and foothills.

Council Member Burt concurred that the Valley Oak trees could become their own natural sculptures; however, he stated his concern for losing the visibility of other attractions on California Avenue. He spoke on the idea of considering this area as part of Phase II.

Council Member Kishimoto spoke on her experience as the City Council's liaison with the California Avenue Area Development Association (CAADA). She requested clarification on the proposed placement of trees and tree grates.

Ms. Lundburg stated the larger evergreen trees were proposed in the areas that were presently pedestrian bulbouts, and large areas that would allow evergreen trees. The linden trees were proposed to be planted on the sidewalk in 4x4 feet grates.

Council Member Kishimoto inquired on the proposed trees to be planted at Birch Street and California Avenue.

Ms. Lundburg stated the proposal was to plant Southern Live Oak trees at the intersection of Birch Street and California Avenue.

Council Member Kishimoto stated the Southern Live Oak trees had a canopy width of 25 to 45 feet.

Ms. Lundburg stated the Southern Live Oak trees had a canopy width of 25 to 40 feet.

Council Member Kishimoto inquired whether the sidewalk was approximately 10 to 12 feet wide.

Canopy Board Member, David Muffly stated the proposal was for a cathedral Southern Live Oak tree. He indicated this variety of Southern Live Oak had a canopy width of less than half the size of a Southern Live Oak tree.

Council Member Kishimoto inquired whether tree pruning would be inevitable.

Mr. Muffly stated yes.

Council Member Kishimoto inquired whether the height of the proposed trees would clear the overhanging and awnings of the buildings on California Avenue.

Mr. Muffly stated yes.

Catherine Martineau, 3921 East Bayshore Road, stated her appreciation for the public outreach process in light of the recent removal of California Avenue trees. She spoke on her support of the Street Tree Replacement Plan.

Bill Ross, 2103 Amhurst Street, spoke on his concern of the California Avenue Streetscape Improvements, Phase II. He recommended Phase II be separated into a separate project.

Terry Shuchat, 290 California Avenue, spoke on his concern for the size of the proposed trees within the California Avenue Streetscape Improvement Project.

Kip Husty, 922 Bautista Court, spoke on the potential of pushing out struggling businesses and welcoming chain stores to replace them.

John Huffgren, 3941 El Camino Real, spoke on his disapproval for removing additional trees within the California Avenue Streetscape Improvement Project.

Anne Ingle, 3530 Greer Road, spoke on her support for Royston, Hanamoto, Alley & Abey to generate architectural plans that would integrate Phase I and Phase II.

Frank Ingle, 814 Richardson Court, spoke on subsidizing businesses to temporarily install tree boxes and flowers boxes on California Avenue to help create an aesthetically pleasing area. He stated his disapproval of proceeding with the Street Tree Replanting Plan until a full plan was finalized.

Todd Burke, 157 South California Avenue, spoke on his support of moving forward with the Street Tree Replanting Plan, and supported the canopy-style tree recommendation.

Ellie Gioumousis, 992 Loma Verde Avenue, spoke on the advantages of planting California native trees on California Avenue.

Michael Eager, 1960 Park Boulevard, spoke on the beneficial process of community engagement and felt this process should be included within the new policy Staff was developing.

Herb Borock, P.O. Box 632, spoke on the violation of the law by segmenting the California Avenue Streetscape Improvements Project. He spoke on the history of the project.

Susan Stansbury, 741 Josina Avenue, spoke in support of the Street Tree

Replanting Plan. She recommended adding interpretive signs.

Cedric de La Beaujardiere, 741 Josina Avenue, spoke in support of the Street Tree Replanting Plan.

Sairus Ptel, 1244 California Avenue, spoke in support of the Street Tree Replanting Plan.

Fred Balin, 2385 Columbia Street, spoke on the process of follow-up and engagement by Staff regarding the initial disengagement of the California Avenue Streetscape Improvements Project.

Gordon Cruikshank, Leaf & Petal, 439 California Avenue, spoke on the disastrous effects of clear-cutting on California Avenue. He spoke on his support for the Street Tree Replanting Plan, and funding temporary plant boxes.

Joy Ogawa spoke on her support for planting trees that would provide year-round shade and sun protection for pedestrians.

Alan Weller, 366 California Avenue, spoke on his support for the Street Tree Replanting Plan.

Council Member Barton thanked Staff for a well-received process by the community in to develop a solution. He thanked the community for becoming engaged in the process.

**MOTION:** Council Member Barton moved, seconded by Council Member Klein to: 1) Approve a Mitigated Negative Declaration for the California Avenue Streetscape, Phase 1, 2) Approve a Street Tree Planting on California Avenue from El Camino Real to the Caltrain Station as part of the California Avenue Improvements Capital Improvement Program Project PE-07005, with the exception of the tree replacement by the fountain, 3) Direct Staff to execute a Change Order in Amount of \$96,200 with Suarez & Munoz Construction, Inc. upon final architectural review approval, 4) Authorize the City Manager or his designee to negotiate and execute one or more additional change orders to the contract with Suarez & Munoz Construction for related, additional but unforeseen work which may develop during the project, the total value of which shall not exceed \$19,240, and 5) Defer the California Avenue Street Improvement Phase II including tree replanting at the fountain plaza area located near the Park Boulevard/California Avenue intersection, addition of new street furniture, street repaving and restriping, until community outreach and public review is complete.

Council Member Klein stated the process was accelerated in a quality-like manner. He stated his concerns for the distinction between Phase I and

Phase II were adequately addressed.

Vice Mayor Morton supported adding interpretive signage if the project was under budget.

Council Member Burt spoke on his support to include the gateway tree at El Camino Real as part of Phase II.

**AMENDMENT:** Council Member Burt moved, seconded by Council Member XXXX to include the gateway tree at El Camino Real in Phase II.

Council Member Barton stated he would not support the Amendment.

#### **AMENDMENT FAILED DUE TO LACK OF A SECOND**

Council Member Kishimoto stated her support to return Staff recommendation No. 5 to the City Council by Spring 2010.

Mr. Keene stated that was acceptable and would align with the California Avenue Streetscape Improvements Project's schedule.

Council Member Kishimoto requested that bike racks be added into the list of street furniture.

**INCORPORATED IN THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to clarify on No. 5 that this will return to Council by Spring 2010 and that bike racks would be added to the list of street furniture.

Council Member Yeh suggested those individuals who expressed concern with the Street Tree Replacement Plan talk with the Canopy Organization.

Council Member Schmid spoke on the positive experience moving forward with the California Avenue Streetscape Improvements Project.

Council Member Espinosa spoke on the positive experience moving forward with the California Avenue Streetscape Improvements Project. He encouraged public process on Phase II.

#### **MOTION AS AMENDED PASSED: 9-0**

17. Public Hearing Adoption of an Ordinance Amending the Palo Alto Municipal Code Chapter 18.08.040 (the Zoning Map), Chapter 18.30(C) (the Ground Floor (GF) Combining District), and Chapter 18.18 (the Downtown Commercial Community (CD-C) Zone District) to Modify Restrictions on Ground Floor Uses in the Downtown Area.

*(continued by Council Motion on November 09, 2009)*

Planning Manager, Amy French provided a PowerPoint presentation on the Downtown Ground Floor (GF) Retail Protection and Vitality Zoning amendments. She overviewed the proposed Ordinance Amendment. The existing GF Combining District required retail, restaurants, personal services, hotels, theaters, and other businesses on the ground floor. It currently included a provision for "use exception" to allow office on ground floor when ground floor vacancy exceeded five percent, and the site was vacant for six months. She indicated the current vacancy rate downtown was in excess of ten percent. The Downtown Commercial (CD-C) zone generally allowed for a multitude of commercial uses on the ground floor. The 2001 provision prohibited office use on the ground floor where retail or other uses existed then or since. She spoke on Staff's concerns on current zoning and vacancy rates. Staff recommended the following Amendments: 1) delete the Use Exception clause (5+ vacancy) within the "core" CD-C Ground Floor Combining District area; 2) delete "2001 clause" restricting office use of ground floor space in Commercial Downtown Zone; 3) Modify GF district boundaries to include core retail sites; and 4) potentially delete GF Combining District from up to 16 properties at the edge of the core. She overviewed the recommended GF core additions.

Planning and Transportation Commission (P&TC) representative, Lee I. Lippert, stated the P&TC unanimously supported Staff recommendations, with the exception of two recommendations. He suggested that the City Council focus their discussion on Staff recommendation Nos. 2 and 6, as they both received a 4-3 vote by the P&TC.

Public hearing opened at 10:33 p.m.

Fred Thoits, 629 Emerson Street, spoke in support of the proposed Ordinance to allow flexibility to either office or retail use in downtown.

Council Member Barton inquired whether Mr. Thoits was in favor of the Staff recommendation.

Mr. Thoits stated his support for Staff's recommendation to increase the flexibility within the CD-C.

Chop Keenan, 700 Emerson Street, spoke in support of the proposed Ordinance to enrich the retail in the core of downtown.

Jim Baer, 172 University Avenue, spoke in support of the proposed Ordinance to enrich the retail in the core of downtown.

Public hearing closed at 10:44 p.m.



Council Member Espinosa inquired on the current trends seen in vacancy rates and a projected forecast of vacancy rates in downtown. He indicated that if the City Council did not protect the health of downtown, the recovery rate over the long-term could be severe.

Mr. Baer spoke on current negotiations for potential tenants at several large buildings that would add vitality to downtown. These retail tenants would possibility be announced within a month.

Mr. Keenan spoke on the positive aspects of downtown, and the fragility of downtown. He spoke on attracting fine businesses, investing in parking, and the reconstruction of Lytton Plaza. He felt investments to infrastructures were a positive reinforcement that the City Council had good faith in downtown, and adjustments in the flexibility for office use were needed to enrich the success of downtown. He spoke on his endorsement to include to the Staff Report requirements that new buildings and remodeling buildings be designed to accommodate both ground floor retail or office space.

Mr. Baer spoke on retail updates and retail prospects in downtown.

Council Member Burt asked for clarification on whether the concept for designing new buildings to allow retail on the ground floor was for both GF and CD-C zone districts.

Mr. Baer stated that was correct. He stated the CD-C (P) overlay zone contained this concept. He recommended a more vigor action by adopting an additional requirement that CD-C zoned property be designed to accommodate retail uses on the ground floor.

Council Member Klein stated there was concern from the public on the relocation of Facebook out of the downtown area.

Mr. Baer stated retail had not suffered due to the relocation of Facebook. He stated Facebook's former facility downtown had been re-leased by a similar type of industry. He spoke on other spaces that had been leased at the former Facebook site.

Council Member Espinosa requested clarification on the P&TC recommendation, and its distinction between Staffs alternative recommendation.

Mr. Lippert elaborated on Staffs' recommendation of the potential removal of properties from GF. He spoke on P&TC recommendations.

Council Member Burt inquired whether P&TC recommendation No. 2 was to support Staffs' position to remove the restrictions on the CD-C.

Mr. Lippert stated that was correct.

Council Member Burt inquired whether it was Staffs intention to continue the annual report of vacancy rates.

Mr. Williams stated yes. He stated expanded monitoring would be performed to oversee the GF and CD-C zone areas. He recommended that the proposed Ordinance return to the City Council in a few years to discuss updates, benefits or unintended consequences, and make modifications, if necessary.

Vice Mayor Morton inquired whether the Agenda Item would require the potential construction of a building at an empty parking lot near 560 High Street be designed to accommodate ground floor retail, although the parcel would not require ground floor retail.

Mr. Williams stated that was correct.

Vice Mayor Morton stated the properties on Kipling Street would revert to CD-C commercial, and new building requirements would accommodate the flexibility of ground floor retail.

Council Member Schmid stated the CD-C (P) pedestrian overlay zone would require pedestrian-oriented furnishings, awnings, and landscaping.

Vice Mayor Morton stated the overall look of the CD-C (P) pedestrian overlay zone would be required to blend in with the downtown scenery whether it was retail or office use.

Mr. Williams stated that was correct.

Vice Mayor Morton stated the property at University Circle was under construction and had experienced struggles. He stated the initial plans were designed to encompass retail space. He inquired whether the approval of the Agenda Item would allow flexibility on the main floor along Alma Street and High Street.

City Manager, James Keene stated that was correct.

Council Member Schmid stated the proposed Ordinance would allow flexibility, and change the existing requirements. He stated the vitality of downtown was dependent on foot traffic. There was a common interest in creating and maintaining a vital downtown. He spoke on the advantages of producing an economic analysis on downtown. He inquired whether there was a vested interest in creating dynamic retail downtown.

Mr. Williams stated yes.

Council Member Schmid stated removing retail would potentially reduce City benefits. Conversely, office space would bring people into downtown, create jobs, and may raise property values. He stated it was the City Council's responsibility to determine what would be most beneficial to the City in the long run.

Mr. Keene stated office space would bring human resources that would shop and dine in downtown.

Council Member Schmid stated an economic analysis on the benefits and trade-offs of retail and office space would be beneficial. He inquired whether the gateway of downtown between Hamilton Avenue and University Avenue was designed for potential office space use or retail.

Mr. Williams spoke on the future vision for a more attractive entry to the train station and pedestrian connections with Stanford University. He stated an issue for a more attractive gateway was timing. This vision would require retail leases, and until that occurred flexibility should be allowed. As construction improved, retail would become more attracted to this area. He stated until better connections were made, this area would continue to struggle.

Council Member Schmid spoke on his concern for creating blocks that may wall off parts of downtown.

Council Member Kishimoto requested clarification on the recommendation by the P&TC regarding adding the GF Combining District to the properties located on both sides of Emerson Street, between Hamilton Avenue and Forest Avenue.

Mr. Williams stated an initial Motion at a P&TC meeting was to include both sides of Emerson Street, which was approved on a 4-3 vote. There were modifications to said Motion and the Motion was defeated. The initial Motion was not brought up again as a separate Motion.

Council Member Kishimoto inquired whether adding the GF Combining District to the properties located on both sides of Emerson Street between Hamilton Avenue and Forest Avenue was recommended by Staff.

Mr. Williams stated this recommendation was not recommended by Staff. He stated Staff's concern was based on establishing a core in downtown, and then creating a channel down a side street that may result in the loss of its cohesiveness.

Council Member Kishimoto inquired whether the recommendation was to make this area GF.

Mr. Williams stated that was correct. He stated it was correctly zoned as CD-C (P).

Council Member Kishimoto requested a response from landowners on the recommendation to incorporate properties located on both sides of Emerson Street to the GF Combining District.

Mr. Thoits stated the two sides of Emerson Street contained different building types and had different uses. He did not favor treating the two sides of Emerson Street the same.

Mayor Drekmeier inquired whether the west-side of Emerson Street was more appropriate for the GF zone.

Mr. Thoits stated his position was to maintain flexibility on Emerson Street.

Mr. Keenan stated the City's willingness to allowing flexibility on the projects he developed had been helpful.

Council Member Kishimoto inquired whether the rent for retail was greater than the rent for office space.

Mr. Keenan stated the rent was about the same. He stated most office space users do not prefer to be on the ground floor. He iterated that flexibility was essential because many potential tenants were reluctant to take risks when they felt they were locked into retail space.

Council Member Kishimoto inquired on potential economic impacts of office space and retail space and what the right proportions were.

Mr. Williams stated there was no right proportion that could be defined. He stated Staffs' interest was to insure that the core of downtown remain intact and unbroken by office space in the GF zone. He indicated there would potentially be exceptions as properties on the perimeter of the GF zone were difficult for retail spaces. An economic analysis would be very speculative and would potentially produce different results at various time periods. The total amount of retail and office space in the CD-C area was not surveyed. He stated that on an annual basis, Staff would return with a survey on retail and office space.

Council Member Yeh inquired whether the design for new buildings regulations that would incorporate flexibility for retail and office space use

needed to be included within a Motion.

Mr. Williams stated the current CD-C contained a (P) Pedestrian Combining District that contained requirements that encompassed pedestrian-friendly requirements. He felt there would not be a need to strengthen this requirement.

Council Member Yeh inquired whether the City was attempting to attract a particular type of business or industry containing a specific demographic of employees that would increase pedestrian traffic, and whether there was a way to attract said companies.

Mr. Baer spoke on the history of large businesses in downtown. He stated there was office space available that was suitable for technologists, law firms, and venture capitalists. He stated there had recently been ten to fifteen inquiries on office space from qualified professional companies.

Mr. Keene stated there was an article in Fast Company Magazine that displayed an aerial photograph of downtown that outlined retail establishments and innovative office space users suggesting an organic and linked area. He stated the intention of Staff was to maintain that appeal in downtown.

Mayor Drekmeier stated the critical questions had been asked by the City Council.

**MOTION:** Council Member Barton moved, seconded by Vice Mayor Morton to: 1) Adopt the Ordinance to include,

- a. Removal of PAMC 18.30 (C).040 eliminating the option for a Use Exception based on vacancy rate in the downtown core covered by the GF Combining District;
- b. Removal of PAMC 18.18.060(f)(1) providing an increase in flexibility for ground floor uses in the periphery of the downtown;
- c. Addition of GF Combining District to the existing properties on the south side of Hamilton Avenue (the 200 block between Emerson Street and Ramona Street) and to the Aquarius Theatre and the two restaurant sites immediately to the north on Emerson, to protect those strong retail areas;
- d. Removal of GF protection 525, 529, 535, and 539 Alma Street, 135 Hamilton Avenue, and 542 High Street;

- e. Removal of GF protection from 102, 115, 116, 117, 119, 124, and 125 University Avenue;
- f. Removal of GF protection from three miscellaneous non-retail parcels at (437 and 443 Kipling Street and 444 Cowper Street); and
- g. Additional requirement that CD-C zoned property ground floors be designed to accommodate retail uses.

Council Member Barton stated the Motion included strengthening the (P) overlay component to ensure compatibility with retail use. He stated the language may already be there, but should be added if it was not.

Vice Mayor Morton stated the language should require new developments and building remodels include compatibility with retail space on the first floor.

Council Member Barton stated checks and balances were essential. He stated long term interests where in conflict with short term interests and the zoning code was facilitating it. He spoke on the psychology of urban spaces, and that customers typically did not visit dead-ended streets; therefore they were not decent places for retail. He stated a conversation could be made, after a High Speed Rail Station was designed, to potentially create a fine retail center near that location.

Vice Mayor Morton concurred with Council Member Barton.

Council Member Klein stated it was uncommon for pedestrians to walk the stretch of Alma Street, between Hamilton Avenue and University Avenue. He spoke on the unfavorable look of vacancies in the area. He indicted that leaving the spaces vacant for five years, due to a restrictive zoning, was not beneficial. He did not see University Circle as the gateway to downtown. Council Member Espinosa concurred with all of the previous Council Member comments.

Council Member Schmid spoke on the high occupancy rates, and the vibrancy he had seen on Alma Street.

**AMENDMENT:** Council Member Schmid moved, seconded by Council Member Kishimoto that 102, 116, 525, 529, 535-539 Alma Street be exempted (they would remain GF).

Council Member Schmid spoke on the importance of Alma Street as an entry point into downtown. He indicated retail lights and pedestrian traffic on the ground floor would make a positive difference in this area.

Council Member Kishimoto spoke on the long-term trends in Palo Alto, and felt a need for a more pedestrian and environmental-friendly City. She stated Alma Street was the gateway of downtown from the prospective of people entering from that side of town and commuters. She stated lease prices for buildings were another critical factor to vacancy rates.

Council Member Schmid stated the Amendment included 102, 116, 525, 529, 535-539 Alma Street.

Mayor Drekmeier stated these properties were the four parcels south of University Avenue.

Council Member Schmid stated the Amendment also included the parcels on University Circle.

Council Member Kishimoto asked for clarification on the parcel numbers to be contained within the Amendment.

Ms. French stated the parcel numbers contained within the Amendment.

Council Member Kishimoto requested that the parcel where E\*Trade Financial Center was located be added to the Amendment.

Council Member Schmid accepted the incorporation of the parcel where E\*Trade Financial Center was located.

Council Member Barton stated the located of the E\*Trade Financial Center was not ideal for retail location and empty stores may result as a consequence of the Amendment.

**AMENDMENT FAILED:** 2-7 Kishimoto, Schmid yes

**MOTION PASSED:** 8-1 Kishimoto no

Council Member Barton left the meeting at 11:37 p.m.

18. Public Hearing Approval of a Tentative Map and Record of Land Use Action to Create Six Commercial Condominium Units within an Existing Office Building at 164 Hamilton Avenue.

Director of Planning and Community Environment, Curtis Williams stated the recommendation was to approve a Record of Land Use Action and Tentative Map to create six commercial condominium units within an existing office building at 164 Hamilton Avenue. No exterior improvements were proposed in conjunction with this Tentative Map application. The Planning and Transportation Commission (P&TC) voted unanimously, recommending that the City Council approve the Tentative Map.

Public hearing opened and closed with no speakers at 11:38 p.m.

Vice Mayor Morton inquired whether the Agenda Item was to create six “for sale” condominium units, which would provide ownership to multiple purchasers.

Mr. Williams stated that was correct. Because the application is a request to create more than four condominium units, this request cannot be processed administratively, and therefore, required review and recommendation by the P&TC and approval by the City Council.

Vice Mayor Morton asked whether the building was able to revert back, if one individual wanted to purchase the entire building. He inquired whether the same process would apply.

Mr. Williams stated one individual could potentially own all six condominium units within the building. He stated the condominium units could be merged back together.

**MOTION:** Vice Mayor Morton moved, seconded by Council Member Kishimoto to approve the Tentative Map to create six (6) commercial condominium units within an existing office building at 164 Hamilton Avenue based on the findings and conditions stated in the draft Record of Land Use Action.

Council Member Schmid asked for clarification on the location of 164 Hamilton Avenue.

Mayor Drekmeier stated the parcel was west of Casa Olga.

Mr. Williams stated Agenda Item Nos. 17 and 18 did not change the zoning for 164 Hamilton Avenue and it would remain CD-C (P).

**MOTION PASSED:** 8-0 Barton absent

#### COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Kishimoto reported on the last Santa Clara County Valley Transportation Agency meeting. Palo Alto will now be part of the North County unit which includes Los Altos, Los Altos Hills, and Mountain View.

Council Member Yeh asked about the Informational Report on Single-use Paper Bag Fees.



City Manager, Keene stated this report was meant to be just informational at this time.

ADJOURNMENT: The meeting adjourned at 11:45 p.m.

ATTEST:

APPROVED:

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City Clerk

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Mayor

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