

CITY COUNCIL MINUTES

CITY COUNCIL MEETINGS ARE CABLECAST LIVE ON GOVERNMENT ACCESS CHANNEL 26
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Special Meeting
January 26, 2009

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The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:05 p.m.

Present: Barton, Burt, Drekmeier, Espinosa, Kishimoto, Klein, Morton, Schmid, Yeh arrived at 7:05 p.m.

Absent:

STUDY SESSION

1. Joint Meeting of Parks and Recreation Commission (PARC) and Council Members Regarding Review of Priorities.

The Parks and Recreation Commission shared their accomplishments for 2008, which included the development of an athletic field allocation policy, review of the Baylands Master Plan, review and recommendation on city composting along with providing forums for public input on parks and recreation matters. The City Council and Parks and Recreation Commission then moved the discussion to 2009 priorities. Among the topics discussed was the need to fully engage in the 2009 Senior Games, development of a Community Services Strategic Plan to serve as a companion document to the City's Comprehensive Plan and to continue the effort of creating a culture of fitness in Palo Alto.

SPECIAL ORDERS OF THE DAY

2. Resolution 8899 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Donald Lee Dudak Upon His Retirement."

MOTION: Vice Mayor Morton moved, seconded by Council Member Barton to adopt the Resolution expressing appreciation to Donald Lee Dudak upon his retirement.

MOTION PASSED: 9-0

Battalion Chief, Donald Dudak thanked his family and the Fire Department for all of their support over the years.

Fire Chief, Nick Marinaro spoke highly of Mr. Dudaks' service over the past 43 years with Palo Alto.

CITY MANAGER COMMENTS

City Manager, James Keene noted the California High Speed Rail Authority would be hosting public scoping meetings regarding the Environmental Review part of the San Francisco to San Jose section. On February 02, 2009 the City would be hosting a Celebration of Black History Month and will kick-off the Display in the Front Lobby. College Terrace Library will be closed on Friday, January 30, 2009 in memory of Brad Johnson, a long time employee who passed away unexpectedly. The Library's third annual community wide one book reading program will kick-off on Wednesday, January 28, 2009. He announced the Appointments of Karen Kensell as the new Art Center Director and Judge Lucky as the new Director of the Children's Theatre. Scot Savage and Wayne Benitez from the Police Department and Suzan Minshall from the Fire Department have been selected by Federal Emergency Management Agency (FEMA) to attend the Emergency Management Master Exercise program. Charles Cohen from the Police Department had been elected as the 2009 California Chapter President of the National Emergency Member Association.

ORAL COMMUNICATIONS

SEIU representative, Mike Keate spoke regarding their proactive role in addressing the budget deficits.

SEIU representative, Lynn Krug spoke regarding the union and mentioned a dialogue with the community on services that could be reduced.

Annette Glanckopf, 2747 Bryant Street, spoke regarding Canopy's tree planting process.

Barbara Slone, 2002 Barbara Drive, spoke regarding the Edgewood Plaza Redevelopment.

Alice Smith, 4284 Los Palos Circle, spoke regarding merging purchases of Palo Alto with surrounding Cities to save costs.

Danielle Martell spoke regarding her concerns with the City's past City Manager, Assistant City Manager and Police Chief.

Debbie Mytels, 2824 Louis Road, spoke regarding her appreciation for the efforts during the Red meets Green event and the Community Alert and Notification Systems (CANS) program.

Mark Peterson-Perez spoke regarding the justices of the Supreme Court of California.

Aram James spoke regarding the Police Chief recruitment.

Boy Scout Troop 52 was in attendance at the meeting.

APPROVAL OF MINUTES

MOTION: Vice Mayor Morton moved, seconded by Council Member Espinosa to approve the minutes of December 01, 08, 15, 2008, and January 5, 2009.

MOTION PASSED: 9-0

CONSENT CALENDAR

Staff requested that Agenda Item Numbers 3 and 5 be pulled, and be brought back to Council on February 2, 2009.

MOTION: Vice Mayor Morton moved, seconded by Council Member Kishimoto to approve Consent Calendar Item Numbers 4, 6, 7.

- ~~3. Finance Committee Recommendation to Adopt an Ordinance Authorizing the Closing of the Budget for the 2008 Fiscal Year and to Approve 2008 Comprehensive Annual Financial Report (CAFR).~~
4. Finance Committee Recommendation to Adopt a Resolution 9900 entitled "Resolution of the Council of the City of Palo Alto Approving the Execution of the Agreement for a Long-Term Assignment of the City's Share of Transfer Capability on the California-Oregon Transmission Project to Other Members of the Transmission Agency of Northern California."
- ~~5. Finance Committee Recommendation to Accept Maze & Associates' Audit of the City of Palo Alto's Financial Statements as of June 30, 2008 and Management Letter.~~
6. Adoption of a Resolution 9901 entitled "Resolution of the Council of the City of Palo Alto Authorizing the City Manager to Award and Sign Contracts for Renewable Energy Certificates from Suppliers to Meet the Needs of the PaloAltoGreen Program for an Annual Amount Not to Exceed \$1,500,000 During Calendar Years 2009 Through 2011."
7. Approval of a Contract with Nova Partners in the Total Amount of \$277,540 for Construction Management Services for the College Terrace Library and Child Care Center Improvements, Capital Improvement Program Project PE-05010.

MOTION PASSED for Agenda Item Nos. 4, 6, 7: 9-0

AGENDA CHANGES, ADDITIONS, AND DELETIONS

MOTION: Vice Mayor Morton moved, seconded by Council Member Klein to move Agenda Item Number 9 up to be heard before Agenda Item Number 8.

Council Member Kishimoto stated she had concerns regarding moving the Item forward and stated she did not support the Motion.

Council Member Barton stated he did not support the Motion.

City Manager, James Keene requested to excuse the Department Heads with the understanding that the City Auditor, Lynda Brouchoud would remain to answer related questions in regards to Item Number 9.

MOTION FAILED: 4-5 Espinosa, Klein, Morton, Yeh, yes

PUBLIC HEARINGS

8. Consider Approval of a Site and Design Review for a Mixed Use Commercial and Residential Project, a Tentative Map to Subdivide Three Lots Into Separate Parcels and a Record of Land Use Action for a Project Located at 3401, 3415, 3445 Alma Street (Alma Plaza).

**This item is quasi-judicial and subject to Council's Disclosure Policy*

Mayor Drekmeier stated he had met with the Applicant and the opponents of the project and had not received any additional information.

Council Member Espinosa stated he had met with the Applicant and opponents and had not received any additional information.

Council Member Klein stated he had met with the Applicant and opponents and had not received any additional information.

Council Member Kishimoto stated she had met with the Applicant and opponents and had received no new information.

Vice Mayor Morton stated he had met with the Applicant and not received any further information.

Council Member Barton stated he had met with the Applicant and had phone conversations with the opponent but received no new information beyond that which was in the public record.

Council Member Schmid stated he had met with the Applicant and The Friends of Alma Plaza Group and had received no additional information.

Council Member Yeh stated he had met with the Applicant and The Friends of Alma Plaza Group and had received no information that was not available to the public.

Interim Director of Planning and Community Environment, Curtis Williams gave a brief presentation on the project and requested two actions from Council. The first to approve the Site and Design Review to allow the development and layout in compliance with the Planned Community Zoning which was approved previously. The second was approval of the Tentative Map which would allow the property to be subdivided into two Commercial properties, 37 single family home lots, and private streets and common area lots.

City Attorney, Gary Baum stated the only two items before Council were the Site and Design combining district and the Tentative Map. The Site and Design review was where Council had discretion to approve, modify, or disapprove the proposed plans submitted. He stated the Tentative Map approval could be denied if it was found to not be consistent with the Palo Alto Comprehensive Plan.

Planning & Transportation Commissioner (P&TC), Arthur Keller spoke on behalf of the P&TC findings. There was concern of parcelization for the issues of maintenance and future development of the project.

Council Member Espinosa asked for clarification on not being able to discuss parking issues.

Mr. Baum stated that the parking portion of the project had been approved previously.

Council Member Espinosa asked for clarification on the tax issue related to the Below Market Rate (BMR) units.

Mr. Williams stated Candice Gonzales, a representative of the Housing Corporation had been meeting with the County Assessor and was more qualified to answer tax type questions.

Candace Gonzales, Palo Alto Housing Corporation, stated a fifty-nine year lease would be considered ownership without fee title which should assist in the property taxes.

Council Member Espinosa asked for clarification on how a Reciprocal Easement Agreement (REA) actually worked.

Mr. Williams stated an REA would eventually vest primarily the main parcel with the mixed-use building on it. It would provide the primary land owner authority to oversee and direct the secondary owner (if there was a second owner) to undertake certain maintenance obligations, and verify whether the uses were consistent with the designated uses.

Council Member Espinosa asked how Staff and the P&TC came to different conclusions on recommendations to Council in terms of the parcelization.

Mr. Williams stated Staff did not feel the issues brought forth by the P&TC were justified in terms of the findings the Subdivision Map Act allowed. He stated the Map Act findings were narrowly restrictive and the parcelization justification was not a strong argument.

Council Member Espinosa asked whether Staff had concerns the Applicant may not garner financing without the parcelization.

Mr. Williams stated yes.

Council Member Espinosa asked for specifics on the hours and extended hours of the Community Room.

Mr. Williams stated the options proposed for the extended hours were off-peak times, after lunch and before dinner. The times and days would be focused and limited, working with the other amenities available at the property and necessary consideration of their need for parking.

Council Member Espinosa asked for clarification on the matters available for discussion and those matters that were closed.

Mr. Baum stated the housing and number of units, the amount of parking, whether there would be a community room or a grocery store and when they would be available for business, was not before the Council for approval.

Council Member Kishimoto asked how the parking spaces were designated.

Mr. Williams stated there may be time limits on a number of the stalls, although no restrictions or designations for specific retailers.

Council Member Kishimoto asked who owned and controlled the parking spaces.

Mr. Williams stated the commercial owners controlled the parking spaces.

Council Member Kishimoto asked whether the Applicant had the right to block off parking from general public visitors.

Mr. Williams stated the intent was for the restricted stalls to be near the entrance of the grocery store.

Council Member Kishimoto asked whether the residential parking was restricted.

Mr. Williams stated yes. There were specific stalls for the residents in the basement of the mixed-use building.

Council Member Kishimoto asked for clarification on there being no parking specific for the general public visiting the public access park.

Mr. Williams stated no. All of the parking in the lot was available to anyone. There were restrictions on parking directly in front of the grocery store and in the basement of the mixed-use building.

Council Member Kishimoto asked for clarification on the number of parking spaces for the Dentist office.

Mr. Williams stated they had approximately a dozen. They were able to use the ten spaces on Alma Street as well.

Council Member Kishimoto asked why such importance was placed on the condominiums being separated by parcelization for financing availability.

Mr. Williams stated the Applicant would be better suited to respond to the financing issue.

Council Member Kishimoto asked whether there was a copy of the REA in the packet.

Mr. Williams stated no. There was a Condition of Approval which stated the REA was required to the satisfaction of the City Attorney prior to the Final Map approval.

Council Member Kishimoto asked whether the approval of the Tentative Map could be held until the REA was completed.

Mr. Williams stated the Final Map was where the REA was put together. There were multiple agreements with Community Services Development and Public Works regarding the maintenance of the parks. The design of the park was generally shown on the plans and the contractor needed to build to the plans prior to occupancy.

Council Member Kishimoto asked whether the approval of the Final Map would be subject to Council's agreement to the REA.

Mr. Baum stated in his experience there had not been a REA brought before Council.

Council Member Kishimoto stated she was uncertain about approving the Final Map without having knowledge of the details of the park.

Mr. Williams stated the Councils' direction to Staff could be to include specific processes regarding the park outside of the Maintenance Agreement.

Council Member Kishimoto clarified there could be conditions included in the Agreement on the process of how to design and build the park.

Mr. Williams stated if that was the wish of the Council.

Council Member Kishimoto asked for clarification that if the findings were not there, the project could be sent back for more work.

Mr. Williams stated if the findings were not adequate, it was Councils' purview to send the project back for further review or condition it with an additional round of detail review by the Architectural Review Board or the Planning & Transportation Commission and did not need to return to Council.

Council Member Schmid asked whether the Council was addressing the Comprehensive Plan in its original meaning to strengthen, enhance and improve neighborhoods. He asked for clarification that if he voted for approval of the Alma Plaza Map would he be in contradiction of the Vision Statement of the Comprehensive Plan.

Mr. Williams stated the Comprehensive Plan was the basis for the Council review. When the Council adopted the Planned Community Ordinance for this project they found the project to be in compliance with the Comprehensive Plan.

Council Member Schmid asked whether it made sense to hold a Study Session to review the Vision Statement and the Comprehensive Plan.

Mr. Williams stated Staff will bring to Council the proposed Vision Statement and Comprehensive Plan with revisions.

Vice Mayor Morton stated it had been suggested that the modified map show all commercial areas within one parcel. He asked if that was within Council's purview or did the Applicant need to consent.

Mr. Baum stated the Council had full purview on the Community Room hours. Council could no longer change parking or the parcelization.

Vice Mayor Morton asked whether Council could require all commercial and or retail to be in a single parcel.

Mr. Baum stated no, the Applicant would need to be willing to make the adjustment.

Vice Mayor Morton asked for clarification on what ability the Council had in limiting the hours of the Community Room.

Mr. Baum stated it was up to the discretion of the Council to set the hours for the Community Room.

Council Member Yeh asked whether there had been a traffic analysis prepared for Council's viewing.

Mr. Williams stated yes, there was a traffic analysis completed which included the proximity of the driveways and the access points.

Council Member Yeh asked which access would be best suited for walking or bicycling after school which appeared to be the peak hours for the grocery store.

Mr. Williams stated the best and safest way to gain access would be through Ramona Street.

Council Member Yeh asked how commonly used the Covenants, Conditions and Restrictions (CC&R's) were throughout the City.

Mr. Williams stated they had not been used frequently.

Council Member Yeh asked who would be responsible for the enforcement of the regulations.

Mr. Williams stated any action necessary would be taken by the Property Management Company or the Homeowners Association.

Council Member Barton asked for clarification that the parking plan for the project followed the Zoning Ordinance.

Mr. Williams stated yes, plus an additional six stalls above the required amount.

Council Member Klein stated there were currently a number of vehicles utilizing the Alma Plaza parking lot that reside in the nearby housing complex. He asked whether that situation had been addressed in the parking considerations for the current project.

Mr. Williams stated there had not been a calculation incorporating the excess vehicles. He stated there could be signs posted regarding usages and towing.

Council Member Klein asked whether there had been discussions with the complex owner regarding their tenants using the Alma Plaza parking lot.

Mr. Williams stated Staff had not contacted them directly.

Council Member Burt asked whether the Applicants' stated peak hours of 11:00 am to 7:00 pm had been approved or submitted for a public hearing.

Mr. Williams stated no, there was no commitment in the Planned Community Zone of hours for the Community Room.

Council Member Burt asked whether Staff had compiled a comparison as to peak hours and days of the week for a grocery store.

Mr. Williams stated yes, there were five stores in the area contacted and a market analysis person had come to the conclusion of 11:00 am – 1:00 pm and 4:00 – 7:00 pm Monday thru Friday and weekends were varied.

Council Member Burt asked if the PC approval allowed for the division of the parcel between residential and commercial. He asked why there needed to be a specific action taken when the Applicant did not have the authority to divide them.

Mr. Williams stated the PC Ordinance was silent as to the mapping of the parcel.

Mr. Baum stated the Council could not deny the parcelization if they utilized the findings of the P&TC. He stated if Council wanted to disallow the parcelization, there would need to be findings in the Comprehensive Plan.

Council Member Burt asked for confirmation that the P&TC referenced the Comprehensive Plan in their findings.

Mr. Baum stated the findings were not adequate to show a true violation of the Comprehensive Plan.

Council Member Burt asked Staffs' basis for saying the P&TC findings were not adequate. He asked whether it was in the Councils' purview under the Site and Design Review to review and consider the width of the internal streets.

Mr. Williams stated as long as the parameters of the Planned Community (PC) Zone were met in terms of the number of units and square footage, Council could request that.

Council Member Burt asked if parcelization was allowed with common ownership required, would there be an issue.

Mr. Baum stated there was no provision in the Subdivision Map Act that required common ownership in commercial property.

Council Member Burt asked how to alleviate constraints in redevelopment at Alma Plaza that the Edgewood Plaza experienced.

Mr. Williams stated the REA allowed the City to work with the primary property owner on the site to address their property and they held dominance over the other lots in order to bring all of it to the table on maintenance issues.

Council Member Burt asked how the primary owner could stipulate redevelopment of another owners parcel.

Mr. Williams stated the Applicant could more clearly explain the process of the agreement.

Mr. Baum stated the REA as envisioned in the Conditions of Approval would authorize the dominate parcel to dictate the maintenance and future improvements of the parcel overall.

Council Member Burt asked for clarification that a primary owner had the authority to mandate the redevelopment of a secondary owner.

Mr. Baum stated the primary could mandate a coordinated redevelopment so the two projects matched.

Council Member Burt stated even if the secondary owner did not want the redevelopment, the primary owner could move forward.

Mr. Baum stated yes, although it depended on how the agreement was written.

Public Hearing opened at 9:05 p.m.

Ken Hays, Hays Group Architects, made a brief presentation and discussed salient factors of the project.

John McNellis, Hays Group Architects, stated the zoning required 200 parking stalls; the project had 206 and as part of the public improvements there were five off-site areas of parking on Alma Street. He stated all of the elements for a community room were already on the plans so when the concept of the community room had been broached, other than parking it was not a concern. He stated that City Staff, Parks and Recreation and their office met, discussed and agreed upon times for the community room usage which increased from 20 hours to 35 hours.

Council Member Kishimoto asked if Council determined to have the community room open all hours would it cause a parking issue.

Mr. McNellis stated yes, there was enough parking for all of the amenities available to the project prior to the community room being added. The parking availability for the community room would hinder the main community benefit in the project, the grocery store.

Council Member Kishimoto asked for information on the grocery store possibilities.

Mr. McNellis stated at present time there was not a grocery store under lease.

Council Member Kishimoto asked what their plan was for securing a market, since the agreement was hinged on there being a market.

Mr. McNellis stated they would continue to research for possible market availability and when the time came if there had not been a signed lease, he would return to Council and request an extension.

Council Member Kishimoto asked what the term of the lease requirement was.

Mr. Williams stated he would have Staff verify the term and get back to Council.

Mr. McNellis stated the initial term required ten years although they were requesting a twenty year lease.

Council Member Kishimoto asked why parcelization and not condominiumization.

Mr. McNellis stated having a small building left more open mindedness for alteration of the purpose and banks lend funds more readily to a small business than for a condominium.

Council Member Kishimoto asked how parcelization was different than a complex and a binding REA.

Mr. McNellis stated the REA would be in place in either case.

Council Member Kishimoto asked why there was a request to not have signage for the community room.

Mr. McNellis stated there would be signage for the retail facilities and a discrete sign outside the area of the community room.

Vice Mayor Morton asked for clarification on the condominiumization. Since the Below Market Rate (BMR) units were set above ground, would they not then be considered condominiums.

Mr. McNellis stated retail space located on the ground level was considered condominium. The residential units above the retail space were considered condominium as well; although it was not counted as a separate condominium.

Council Member Burt stated his concern for the future redevelopment and asked how to avoid the same ongoing issues with Alma Plaza that had happened with Edgewood Plaza.

Mr. McNellis stated housing and retail buildings age differentially. Houses had longevity where retail buildings tended to deplete in fifty to sixty years. Whether there were multiple owners or a single owner in fifty-nine years when the lease had expired, the buildings would need to be redeveloped. They would be redeveloped in the same location as they currently stood. He stated the site was constrained to redevelopment, unlike the Edgewood Plaza site.

Council Member Schmid asked whether there would be more grocery stores interested in the location if there were more parking spaces available to them.

Mr. McNellis stated no, in the industry four stalls per 1,000 square feet was adequate. There will be times when that is not enough, but that would be the case with any situation.

Council Member Espinosa asked where were bike or walk paths connected to the project.

Mr. McNellis stated there had been discussions with the Emerson Street neighborhood where they had requested not to have a connection to the Plaza. Although the project was designed in a fashion that in the future if that changed it could be easily altered. He stated on Ramona Street there was a path eight foot wide for pedestrians. He stated there was a bike access from the Stanford Apartments to the Plaza.

Council Member Espinosa asked why there were so few trees on the streets of the project.

Mr. McNellis stated there were trees lining Alma Street, on the plans they appeared small but they were in pots due to the underground utilities.

Council Member Espinosa asked for clarification on the feasibility of a restaurant.

Mr. McNellis stated in order for a restaurant to succeed it required at least two meal services per day. In order to have a lunch service there needed to be a daytime population, the project was a small retail environment with no offices to provide a strong daytime drive for a restaurant to thrive.

Council Member Espinosa asked the viability of a long narrow park that fronted the parking lot. He also asked to differentiate between a retail park and a neighborhood park.

Paul Lettieri, Hays Group Architects, stated the linear park was approximately forty-one feet of width with a row of trees, a planting buffer separating the

parking lot, a small canopy above, and walkways connecting to both the retail and the residential areas. There was great visibility from all areas of the Plaza, there was a paved area with benches and sculptured type play equipment for the younger generation.

Council Member Espinosa asked whether the residential front doors faced the park.

Mr. Lettieri stated yes, the park was viewable from the entrances of the residential units.

Council Member Klein asked if the Applicant would have issue with language being added to the REA stating after a period of time, for example twenty-five years that the bounded parcel had the right to require redevelopment of both parcels together.

Mr. McNellis stated he would have no objections to the language.

Winter Dellenbach, La Para, spoke regarding the public benefits being limited and restricted to the public to support the retail parking availability. She did not support the project.

Steve Witte, 165 Parkside Drive, spoke regarding his concerns on the project being too condensed and he did not support the project.

Ellen Wyman, 546 Washington, spoke regarding her concerns over the Comprehensive Plan being compromised to create a project that did not fit into the Palo Alto neighborhood design and she did not support the project.

Len Filppu, Ramona Circle, spoke regarding the need for more parking, a restaurant and he stated he did not support the project.

Sheri Furman, Greer Road, spoke regarding her frustration with the projects' nonconformity to the needs of the community and stated she did not support the project.

Marilyn Keller, Waverly Street, spoke regarding the safety concerns in getting to the Plaza on foot or on bicycles and she did not support the project.

Jeff Greenfield, Waverly Street, spoke regarding his support for the P&TC recommendation and against parcelization which would only cause future long term retail distress.

Elizabeth Greenfield, Waverley Street, spoke regarding the desire for a community location for young persons to meet with ease of access via walking and riding bicycles from school.

Annette Glanchkopf, 2747 Bryant Street, spoke regarding her support for the P&TC recommendation to deny the Tentative Map. She stated there was not adequate parking for all of the amenities available.

Robert Moss, 4010 Orme Street, spoke regarding the violation of the Comprehensive Plan and the PC conditions by the Applicant. He stated he did not support the project.

Elaine Meyer, 609 Kingsley Avenue, spoke regarding public benefits provision in a PC Zone which were rarely enforced and mostly benefited the project and not the community. She did not support the project.

Candice Gonzales, Palo Alto Housing Corporation, 725 Alma Street, spoke regarding her support of the project and her understanding of the parcelization and the maintenance agreements of the property.

Jaejean Karg, Palo Alto Housing Corporation, 725 Alma Street, spoke regarding the BMR units in Alma Plaza which would provide a great opportunity for the persons and families on a long waiting list for housing in Palo Alto.

Merry Edwardson, 4126 Park Boulevard, spoke regarding the original Alma Plaza as being an asset to the community and requested Council reject the current proposal for the new Alma Plaza.

Roger Kohler, 4291 Wilkie Way, spoke regarding the support of the P&TC recommendation on the Tentative Map and requested Council to not support the proposal.

John Hofer, 4111 Park Boulevard, spoke regarding multiple neighborhood projects with inadequate parking. He stated overflow parking created a nightmare for private residential streets.

Hinda Sack, 4104 Park Boulevard, spoke regarding retail parking allotment which was depleted from one stall for every 200 square feet to one stall for every 250 square feet which impacted the overflow parking onto residential streets.

Jean Olmsted, 248 West Charleston, spoke regarding the parks in SummerHill Homes and Alma Plaza that were not accessible to the general public and were a benefit only to the residents of the project.

Ellen Hartog, 330 Victoria Place, spoke regarding the developer eroding the benefit of a community room by prohibiting restricted hours.

Sara Armstrong, 4118 Park Boulevard, spoke regarding the proposal being inconsistent with the Comprehensive Plan by the inadequate availability of the community room and the BMR units incompatible with the single family residences.

Jay Hammer, 3512 Ramona Street, spoke regarding the constricted parking set for the Plaza and the expected congestion of parking on the off streets once the project is completed.

Elizabeth Alexis, 349 Diablo Court, spoke regarding the designation of parking stalls which changes depending on which document you read. She stated parking for a grocery store is key for return customers.

Douglas Moran, 790 Matadero Avenue, spoke regarding the public benefits being of no benefit to the public but more of an attempt by the developer to correct errors in the project.

Martin Kreg, 3329 Ramona Street, spoke regarding the Ramona Street being utilized as a traffic detour to bypass Alma.

Ruth Gordon, 16 Roosevelt Circle, spoke regarding the non-visibility of the amenities in Alma Plaza and the dangers to the vehicles exiting the Plaza onto Alma Street.

Mary Gordon, 16 Roosevelt Circle, spoke regarding her comparison of the Charleston Plaza entrance access of forty foot wide to the Alma Plaza entrance access of twenty foot wide.

Ari Cartun, 3506 Emerson Street, spoke regarding his support for the Council to complete the project.

Jennifer Hinton, 3838 La Selya Drive, spoke regarding her support of Council to move forward with the plan.

Rudy Batties, 3503 Emerson Street, spoke regarding his support for the plan to move forward.

Maria Cristina Urruela, 2074 Sandalwood Court, spoke regarding her support for completing the project.

James Devoy, One Lilac Drive, spoke regarding his urging the Council to end the process and complete the project.

Karen Kalinsky, 210 East Meadow Drive, spoke regarding her request for Council to deny the parcelization and require more parking.

Mr. McNellis stated there was adequate parking and the parcelization would be invisible from an operational standpoint.

Council Member Barton asked for clarification that there appeared to be three parcels on the property.

Mr. McNellis stated yes.

Council Member Barton asked for clarification that the existing property had three parcels on it.

Mr. McNellis stated yes and there were multiple owners on the property in its original state.

Council Member Barton asked for clarification that the old grocery store needed to buy-out the other owners in order to complete the intended revitalization.

Mr. McNellis stated yes.

Public Hearing closed at 10:55 p.m.

MOTION: Vice Mayor Morton moved, seconded by Council Member Klein to accept: A) Staff recommendations that City Council approve the proposed Site and Design request and the Tentative Map, based upon findings and conditions outlined in the draft Record of Land use Action, with the addition of conditions to: 1) require that covenants for the single-family residences include requirements to keep garages clear for maximum parking availability, 2) specify that the below grade parking spaces dedicated for residential use include only one space restricted to each unit, with other spaces to be shared with the commercial use, and 3) require a modified map to show all commercial areas within one parcel, and 4) expand the community room allowable hours of use (weekdays from 8:00 a.m.-1:00 p.m. and after 6:30 p.m., weekends from 8:00 a.m.-10:00 a.m. and after 5:00 p.m.

Vice Mayor Morton stated there needed to be a starting point and Staffs recommendation was as good a starting point.

Council Member Klein stated the PC Zone was applied for by the Applicant because that was desired by the community. Without moving forward on the project, the developer may choose to go back to a CN Zone where there was not a necessity for a grocery store or housing. He stated a large portion of the community and Council accepted the compromises; and a compromise was where you agreed to accept not everything you desired.

Mr. Baum stated once the public hearing had been closed if the Council altered the item the Applicant had the ability to speak again on the changes.

Vice Mayor Morton asked for clarification that if there were Amendments to the Motion the Applicant had the ability to speak to Amendments.

Mr. Baum stated yes.

INCORPORATED INTO MOTION WITH THE CONSENT OF THE MAKER AND THE SECONDER to 1) delete the section of the Motion that would require a modified map to show all commercial areas within one parcel; 2) adjust the hours of the community room as follows: a) weekday hours to be available from 8:00 a.m.-4:00 p.m. and after 6:30 p.m., however limiting the time period of 1:00 p.m.-4:00 p.m. to no more than 20 people; b) weekend hours of 8:00 a.m. – 11:00 a.m. and after 6:00 p.m., and 3) a Condition of Approval would be added to the Tentative Map requiring the City Attorney's approval of a Reciprocal Easement Agreement (REA) to allow negotiations with one party.

Council Member Kishimoto stated there had been numerous compromises for forward motion with the project over the years with conditions and restrictions on the public benefits. She stated there needed to be significant alteration to the proposal for her to support the Tentative Map and the Subdivision Map. She stated she was not supporting the Motion.

AMENDMENT: Council Member Burt moved, seconded by Council Member XXXX to modify the Motion as follows:

1. Sunday no restrictions on community room.
2. No restrictions by the commercial/residential tenants for visitors who come to use the park.
3. Community meeting room be allowed to have a sign.
4. Widen B Street by 6 feet.
5. Widen the backend of D Street by 6 feet.

6. The alley by Emerson Street be deleted and move houses back from street by 6 feet and put a sidewalk along D Street.
7. Comprehensive Plan citations in Record of Land Use action that support the project be eliminated (Goal L-1, L-2, L-4, T-1, Policy L-1, L-4, L-9, L-19, L-37, L-39, T-1, H-4, Program T-2).

AMENDMENT FAILED FOR LACK OF A SECOND.

Mayor Drekmeier stated that each Amendment would be considered separately and either Incorporated into the Motion or voted upon as an Amendment.

Council Member Espinosa asked for clarification on the widening of the streets and if the reasoning for the additional width would be to add parking stalls.

Council Member Burt stated that was correct, the widening would only add an additional single stall per house on B Street.

Council Member Burt explained this portion of the Motion would exclude future restrictions on the parking for park usage.

Vice Mayor Morton asked Staff to validate the viability of the request.

Interim Director of Planning and Community Environment, Curtis Williams stated yes, they did not expect much drive-in park usage.

INCORPORATED INTO MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that commercial and residential tenants could not place any restrictions for visitors parking for use of the park.

AMENDMENT: Council Member Burt moved, seconded by Council Member Kishimoto that there would not be any restrictions on the community meeting room on Sundays.

Council Member Burt stated in his experience, Sunday was a skeleton day for grocery shopping and therefore he felt the community room should have no time restrictions on that day.

Council Member Schmid stated there was a conflict with the Comprehensive Plan and he felt it should be revisited.

AMENDMENT FAILED: 3-6 Burt, Kishimoto, Klein, yes

AMENDMENT: Council Member Burt moved, seconded by Council Member Kishimoto to allow a modest sign for the community room.

Council Member Burt stated he felt this was the last opportunity to make necessary changes.

Council Member Kishimoto asked for clarification that Council had the option to deny the Tentative and Subdivision Maps at this point.

Mr. Baum stated yes.

Vice Mayor Morton stated the Applicant had already agreed to place a location sign.

AMENDMENT PASSED: 6-3 Drekmeier, Klein, Morton, no

SUBSTITUTE MOTION: Council Member Kishimoto moved, seconded by Council Member Schmid to deny the Tentative Map and the Site and Design request and to direct Staff to work with the Applicant and come back with the findings for support of the denial.

Council Member Kishimoto stated there had been a good faith commitment in working together and she was disappointed that two years later the plans had returned with violations against the Comprehensive Plan.

Council Member Schmid stated the project was under-benefited and under-parked by ten percent.

Vice Mayor Morton asked since the PC Ordinance had been approved and the proposal met the requirements, what was expected from the Applicant.

Mr. Baum stated if the Council wished to remove the PC Zoning they needed to direct Staff to return with rezoning the property to Commercial Neighborhood District (CN) Zoning. If not, then the PC Zoning had already been approved.

Vice Mayor Morton stated if the property was rezoned to CN then that eliminated the grocery store.

Council Member Barton stated he would not be supporting the Substitute Motion.

Council Member Espinosa stated he would not be supporting the Substitute Motion.

Council Member Kishimoto felt the zoning needed to be changed since the PC Zone no longer met the Comprehensive Plan.

SUBSTITUTE MOTION FAILED: 2-7 Kishimoto, Schmid, yes

Council Member Burt requested the Applicant respond to the Amendments on the Table.

Mr. Baum asked whether the Council wanted to review the remaining Amendments prior to the Applicant speaking to them.

Council Member Burt stated all of the Amendments had been presented previously.

Mr. Baum stated the Applicant could only speak one time to the Amendments therefore Council needed to be certain when they requested the Applicant to speak.

Mr. McNellis stated there was no room to accommodate the Amendments. The site had been calculated by Civil Engineers and there was no further room for adjustments.

Vice Mayor Morton asked whether the outside walkway could be moved to the inside.

Mr. McNellis stated to move the walkway to the inside would inhibit the front doors of the residential units.

Council Member Yeh asked the plausibility of increasing the setback on Alma Street to allow a line of site into the project.

Mr. McNellis asked for clarification on what was the desired accomplishment.

Council Member Yeh stated public safety, currently no bike lane was visible when entering or exiting onto Alma Street.

Mr. McNellis stated the buildings were as large as possible with the necessary turning radius needed for emergency vehicles and delivery trucks.

Council Member Burt asked the validity to the assertions by the Applicant of enlarging of the setback causing Fire Code disruption or somehow there would be a structural engineering impact.

Mr. Williams stated verification from specific departments was needed but, there was a twenty foot requirement from the Fire Department for safe passage.

AMENDMENT: Council Member Burt moved, seconded by Council Member Kishimoto to eliminate the walking path (alley) along the South edge, near Emerson Court; to move houses back and replace with a sidewalk on D Street.

Council Member Espinosa asked how this would increase parking.

Council Member Burt stated the Amendment was designed to move the walkway from behind the houses to in front.

Mayor Drekmeier asked whether the Applicant would like to respond to the question.

Mr. Hays stated the walkway was in place to grant access to the residents. If the walkway moved to D Street there would be no access. If they did swap the pathway, then the homes would need to be reversed which would affect the existing neighborhoods.

Council Member Burt asked the distance between the homes.

Chip Pearson, Hays Group Architects, stated six to eight feet across.

Council Member Burt asked why it was considered not enough room to apply a three foot path going to the rear entrance of the houses.

Mr. Pearson stated the garages were rear facing along D Street and the front entrances of the houses were on Emerson Street which left side and entry yards.

Council Member Burt asked about joint entryways between two houses.

Mr. Pearson stated the side yard was the service yard and there was not enough room for a nice entrance if you removed single entry.

Council Member Burt requested elimination of the paseo against Emerson Court and to make the entrance against the walkway.

Mr. Pearson stated following that direction the entrance to the home would be through the rear with no front access.

Council Member Kishimoto stated the front of the houses were garage doors which were facing one another on either side of the street. She stated she did not support this design.

Council Member Barton stated he did not support the Amendment.

AMENDMENT WITHDRAWN BY THE MAKER

Vice Mayor Morton stated there was a bike path on the interior of the plan.

AMENDMENT: Council Member Burt moved, seconded by Council Member Kishimoto to require B Street be widened by six feet and the back edge of D Street be widened by six feet and allow parking on one side of the street.

Council Member Burt stated this was a low cost way to address the core issue of parking availability for the retail.

Council Member Kishimoto stated this would increase the percentage ratio of the density and enhance the possibility of adding trees.

Mr. Pearson stated the turning radius on B Street was what was required by the Fire Department which could not be tightened. He stated on D Street the walkways were narrow and widening the walkways would eliminate even more of the landscape area.

Council Member Schmid suggested an Amendment to increase the parking by six more stalls giving the Applicant purview for placement.

Council Member Burt stated that was acceptable.

Mr. Baum stated the Council had previously approved the number of stalls in the PC Zone and it could not be changed.

AMENDMENT FAILED: 3-6 Burt, Kishimoto, Schmid, yes

Mr. Baum requested that the Reciprocal Easement Agreement (REA) be subject to City Attorney approval.

MOTION PASSED WITH AMENDMENTS: 6-3 Kishimoto, Schmid, Yeh, no

REPORTS OF OFFICIALS

MOTION: Vice Mayor Morton moved, seconded by Council Member Barton to continue Agenda Item Number 9 to February 9, 2009.

~~9. Acceptance of Service Efforts and Accomplishments Report FY 2007-08~~

MOTION PASSED: 9-0

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Yeh reported on attending the Northern California Power Agency conference last week. There are several bills moving forward including one on renewable energy, and another having all public electric utilities be brought under the California Electric Commission to manage.

Council Member Schmid spoke about an Avenidas Board Retreat he attended last week.

Council Member Kishimoto reported on attending the California High-Speed Rail Authority meeting last week.

ADJOURNMENT: The meeting adjourned at 12:41 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.

