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July 27, 2009

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The City Council of the City of Palo Alto met on this date in the Council Chambers Room at 7:07 p.m.

Present: Barton, Burt, Drekmeier, Espinosa, Kishimoto, Klein Morton, Yeh

Absent: Schmid

SPECIAL ORDERS OF THE DAY

1. Proclamation for the 2009 Summer National Senior Games.

Vice Mayor Morton read the Proclamation for the 2009 Summer National Senior Games (Senior Games).

Senior Games Local Organizing Committee President, Anne Cribbs, thanked the City for its support. She stated the Senior Games events were free to the public. She indicated the Senior Games Torch Relay will conclude with a ceremonial lighting of the cauldron outside City Hall on August 1, 2009.

Local Organizing Committee Board Member, Steve Player, recognized the City and Anne Cribbs for their support.

Ms. Cribbs spoke on Humana's Innovative Bicycle-Sharing Program bike ride scheduled on August 3, 2009.

Vice Mayor Morton encouraged citizens to attend the Senior Games.

Mayor Drekmeier thanked Ms. Cribbs and Mr. Player for their efforts facilitating the Senior Games events. He encouraged residents to volunteer their time at the Senior Games.

2. Resolution 8968 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Adam Atito for Outstanding Public Service as a Member of the Human Relations Commission."

Council Member Barton read the Resolution expressing appreciation to Adam Atito for outstanding public service as a member of the Human Relations Commission.

MOTION: Council Member Barton moved, seconded by Vice Mayor Morton to adopt the Resolution expressing appreciation to Adam Atito for Outstanding Public Service as a Member of the Human Relations Commission.

MOTION PASSED: 8-0 Schmid absent

Adam Atito spoke on his experience serving on the Human Relations Commission.

Mark Petersen-Perez spoke on his appreciation toward Mr. Atito for his efforts on the Human Relations Commission.

3. Resolution 8969 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Donald Mendoza for Outstanding Public Service as a Member of the Human Relations Commission."

Council Member Yeh read the Resolution expressing appreciation to Donald Mendoza for outstanding public service as a member of the Human Relations Commission.

MOTION: Council Member Yeh moved, seconded by Council Member Espinosa to adopt the Resolution expressing appreciation to Donald Mendoza for Outstanding Public Service as a Member of the Human Relations Commission.

MOTION PASSED: 8-0 Schmid absent

Donald Mendoza spoke on his experience serving on the Human Relations Commission.

Mark Petersen-Perez spoke on his appreciation toward Mr. Mendoza for his efforts on the Human Relations Commission.

Aram James spoke on his appreciation toward Mr. Mendoza for his efforts on the Human Relations Commission.

4. Resolution 8970 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Jeffrey Blum for Outstanding Public Service as a Member of the Human Relations Commission."

Council Member Kishimoto read the Resolution expressing appreciation to Jeffrey Blum for outstanding public service as a member of the Human Relations Commission.

MOTION: Council Member Kishimoto moved, seconded by Vice Mayor Morton to adopt the Resolution expressing appreciation to Jeffrey Blum for Outstanding Public Service as a Member of the Human Relations Commission.

MOTION PASSED: 8-0 Schmid absent

Jeffrey Blum spoke on his experience serving on the Human Relations Commission.

Mayor Drekmeier stated Civic Engagement for the Common Good was a priority of the City Council, and residents serving on the various City Boards or Commissions were a good way to support the community. He thanked the outgoing Human Relations Commissioners.

5. Appointments for the Planning and Transportation Commission for Two Four Year Terms Ending on July 31, 2013.

First Round of Voting for Two Four-Year Terms Ending on July 31, 2013

Voting For Irwin Dawid: Barton, Yeh

Voting For Dan Garber: Barton, Burt, Drekmeier, Espinosa, Kishimoto, Klein, Morton, Yeh

Voting For Eduardo Martinez: Burt, Drekmeier, Espinosa, Kishimoto, Klein, Morton

City Clerk, Donna Grider announced that Dan Garber with 8 votes, and Eduardo Martinez with 6 votes were each appointed to the Planning and Transportation Commission for Two Four-Year Terms Ending on July 31, 2013.

CITY MANAGER COMMENTS

City Manager, James Keene spoke on the City's green building efforts, State's budget and potential impacts on the City, and an update on the Police Chief recruitment.

ORAL COMMUNICATIONS

Mark Petersen-Perez, spoke on his redress of grievances due to charges brought against him by the Palo Alto Police Department.

Andrew Jentsch, spoke on matters pertaining to the Palo Alto Fire Department.

Phil Smaller, 4155 Wilkie Way, spoke on the intensity of Caltrain's whistle sound.

Carroll Harrington, 830 Melville Avenue, spoke on local environmental publications.

Aram James, spoke on the Police Chief recruitment.

APPROVAL OF MINUTES

MOTION: Council Member Barton moved, seconded by Vice Mayor Morton to approve the minutes of June 22, 2009, and July 6, 2009.

MOTION PASSED: 8-0 Schmid absent

CONSENT CALENDAR

Council Member Kishimoto stated, depending on the comments heard from the public, the City Council may consider continuing Agenda Item No. 6 to a later date.

MOTION: Council Member Klein moved, seconded by Council Members Burt and Kishimoto to pull Agenda Item No. 6 to become Agenda Item No. 13a.

Council Member Espinosa advised he would not be participating in Agenda Item No. 9 as he was employed by Hewlett Packard within the past year.

City Attorney, Gary Baum advised he would not be participating in Agenda Item No. 9 as his wife works for Hewlett Packard.

Vice Mayor Morton advised he would not be participating in Agenda Item No. 9 as his family holds stock in Hewlett Packard.

Mr. Baum stated that Council Member Morton could participate in Agenda Item No. 9 if the stock value was less than \$25,000.

Vice Mayor Morton stated he would be participating in Agenda Item No. 9, because his stock value in Hewlett Packard was less than \$25,000.

Bob Blum, 2325 Eastridge #611, Menlo Park, on behalf of the Ballroom Dancing Group, spoke on Agenda Item No. 11 pertaining to booking the Cubberley Pavilion.

Council Member Burt inquired what the impacts of the proposed policies would be for the Ballroom Dancing Group at the Cubberley Pavilion.

Mr. Blum believed there was competition from other community groups on the rental of the Cubberley Pavilion. He requested clarification from Staff on the proposed impacts.

Joe Hirsch, 4149 Georgia Avenue, spoke on behalf of the Cardiac Therapy Foundation regarding Agenda Item No. 11. He stated the Foundation was in support of the Staff recommendation.

Cindy Nelson, Waverley Street, spoke on behalf of the Palo Alto Elite Volleyball Club regarding Agenda Item No. 11. She stated the Club was in support of the Staff recommendation.

Division Manager for Recreation and Golf, Rob DeGeus spoke on Agenda Item No. 11. He stated Staff met with various Palo Alto community-based groups, and there would be flexibility within the Gym Use Policy to meet the needs of said groups within the community.

Council Member Espinosa stated the Parks and Recreation Commission worked with the community-based organizations that would be impacted by the Gym Use Policy. He stated the policy was written with the concerns of the Parks and Recreation Commission, Staff, and the community groups.

MOTION: Vice Mayor Morton moved, seconded by Council Member Kishimoto to approve Agenda Item Nos. 7-13.

- ~~6. Approval of a Record of Land Use Action and Conditional Use Permit Application by AT&T on Behalf of Aldersgate Methodist Church for a 45-Foot Mono Pine Wireless Communications Facility with Concealed Antennas and Associated At-Grade Equipment Cabinets at 4243 Manuela Avenue.~~
7. Approval of Contract with Barry Swenson Builder in the Total Amount Not to Exceed \$1,365,988 for the College Terrace Library and Child Care Center Seismic Upgrade and Rehabilitation Project and Approval of Amendment No. 2 to Contract C07117374 with The KPA Group, Inc. to Add \$108,940 for a Total Not to Exceed Amount of \$429,336 for Construction Administration Services for the College Terrace Library Seismic Upgrade and Rehabilitation Project – Capital Improvement Program Project PE-05010.
8. Ordinance 5045 entitled "Ordinance of the Council of the City of Palo Alto Amending Section 2.40.040 of Chapter 2.40 of Title 2 of the Palo Alto Municipal Code Pertaining to Municipal Elections for Web Posting of Campaign Contributions." *(First reading July 6, 2009 – Passed 8-0 Morton absent)*
9. Ordinance 5046 entitled "Ordinance of the Council of the City of Palo Alto Approving a Development Agreement between Hewlett-Packard Company and the City of Palo Alto." *(First reading July 13, 2009 – Passed 8-0 Espinosa not participating)*
10. Ordinance 5047 entitled "Ordinance of the Council of the City of Palo Alto Increasing the Utilities Advisory Commission from Five to Seven Members and Amending Section 2.23.010 (Membership), Section 2.23.030 (Term of Office) and Section 2.23.060 (Meetings) of Chapter 2.23 of the Palo Alto Municipal Code."

(First reading July 13, 2009 –Passed 7-1, Barton no, Morton not participating)

11. Recommendation From the Parks and Recreation Commission to Adopt the Gym Use Policy for the Cubberley Community Center's Pavilion, Gym A and Gym B.
12. Confirmation of Appointment of Curtis Williams as Director of Planning and Community Environment and Approval of At-Will Employment Contract.
13. Approval of Amendment No.4 to Contract S05108852 with The Ferguson Group, LLC to Extend the Term for an Additional Two Month Period and Add \$13,625 for a Total Not to Exceed Amount of \$397,014 for FY 2005—FY2009 Federal Legislative and Regulatory Representation.

MOTION PASSED for Item Nos. 7-8, 10-13: 8-0 Schmid absent

MOTION PASSED for Item No. 9: 7-0 Espinosa not participating, Schmid absent

AGENDA CHANGES, ADDITIONS, AND DELETIONS

SUBSTITUTE MOTION: Council Member Kishimoto moved, seconded by Council Member XXXX to continue Agenda Item No. 13a to August 3, 2009.

SUBSTITUTE MOTION FAILED DUE TO LACK OF SECOND

MOTION: Council Member Klein moved, seconded by Council Member Espinosa to move Agenda Item No. 13a (Former No. 6) discussion after Agenda Item No. 14, to become Agenda Item No. 14a.

MOTION PASSED: 8-0

MOTION: Mayor Drekmeier moved, seconded by Vice Mayor Morton to pull Agenda Item No. 17 to become Agenda Item No. 13a.

MOTION PASSED: 8-0 Schmid absent

MOTION: Mayor Drekmeier moved, seconded by Vice Mayor Morton to move Agenda Item No. 15 to the end of the Agenda to become Agenda Item No. 19.

MOTION PASSED: 8-0 Schmid absent

- 13a. (Former No. 17) Resolution 8976 entitled "Resolution of the Council of the City of Palo Alto Authorizing the Issuance and Sale of Water Revenue Bonds, Approving Indenture of Trust, Official Notice of Sale, Notice of Intention to Sell, and Official Statement, Approving the Form and Authorizing Execution of Documents Related to Bond Issuance; and Authorizing Official Actions Related Thereto.

Deputy Director of Administrative Services, Joe Saccio stated Staff was requesting the construction of a water reservoir, and several emergency supply wells, and the upgrade of existing wells and a pump station.

Senior Financial Analyst, Tarun Narayan presented a PowerPoint presentation on the 2009 Water Revenue Bond Program. He provided a background, estimated project cost of \$40.2 million, the two types of bonds the City was considering issuing, the estimated sources and uses of the bond funds, and the bond issuance timeline. He stated the recommendations were to authorize Staff to issue and sell tax exempt and/or taxable "Direct Pay Build America Bonds" (under the American Recovery and Reinvestment Act of 2009) Water Revenue Bonds, in a total amount not to exceed \$37,500, to finance City Water System Capital Improvements, and approve the Indenture of Trust, Official Notice of Sale, Notice of Intention to sell, preliminary official statement, and authorize official actions related thereto.

Council Member Espinosa inquired whether the proposed water reservoir would impact the proposed High Speed Rail given their proximities to one another.

Deputy City Manager, Steve Emslie stated the Environmental Analysis outlined the compatibility of the proposed High Speed Rail and the proposed water reservoir. He stated the information available was limited, and future decisions might impact the effects on the compatibility of both projects. He stated Staff would be working closely with the High Speed Rail.

Council Member Espinosa inquired on the effects of a potential expansion to the High Speed Rail parking lot, and the potential construction of a High Speed Rail tunnel near the proposed water reservoir. He inquired whether the City was limited by the construction of either proposed developments.

Mr. Emslie stated the proposed High Speed Rail tunnel would possess the least amount of impact to the proposed water reservoir, and there was flexibility in the tunnel design and alignment. He stated the impact of a potential High Speed Rail parking structure had not been finalized in this area, and more analysis would be made.

Vice Mayor Morton inquired whether the proposed water reservoir would be a fully contained cement reservoir, and whether the proposed High Speed Rail tunnel would be able to run under the proposed water reservoir.

Mr. Emslie stated yes.

Council Member Yeh requested information on the Direct Pay Build America Bonds (BABs), and the criteria that would be used to determine the mix of tax-exempt and taxable bonds.

Stone and Youngberg, LLC. Financial Advisor, Sohail Bengali, stated allowing flexibility to include both the sale of tax-exempt and taxable bonds to bidders was recommended, to allow the bidders to select a certain amount of tax-exempt and taxable bonds. He stated these bids would blend together to produce the lowest borrowing cost for rate-payers. He overviewed tax-exempt and taxable bonds and provided the current interest rates.

Stone and Youngberg, LLC. Financial Advisor, Jake Campos, stated the City should contemplate a single issuance of all BABs or all tax-exempt bonds.

Mr. Bengali stated the bidding of bonds should be structured to offer tax-exempt rate maturity from 2010 through roughly 2031, and offer a purchasing of the bonds at a taxable rate beyond 2031. He indicated a 25-year term limit has been the pattern the City used in the past. He stated a 30-year bond would incur slightly less debt; however, the City would incur more outstanding debt longer.

Mr. Campos spoke on the dynamic relationship between taxable and tax-exempt markets, and that they would continue to monitor the pricing of bonds with City Staff. They would analyze what made the most sense for the City, and what would yield the lowest borrowing cost.

Council Member Yeh inquired whether a 25-year bond or 30-year bond would be wisest.

Mr. Bengali stated the impact of a 25-year bond or 30-year bond would be a minimal difference.

Mr. Saccio indicated the impact would be roughly \$200,000 annually with a 30-year bond, compared to a 25-year bond. He stated the amount was minimal.

Council Member Yeh inquired whether the bonds would be at a fixed rate.

Mr. Campo stated yes.

Council Member Kishimoto inquired whether the easements were a permanent purchase.

Director of Administrative Services, Lalo Perez stated the City owned the easement property rights. He stated they were purchased from Stanford University for approximately \$3 million.

MOTION: Council Member Barton moved, seconded by Vice Mayor Morton to: 1) Authorize Staff to issue and sell tax exempt and/or taxable "Direct Pay Build America Bonds" (under the American Recovery and Reinvestment Act of 2009) Water Revenue Bonds, in a total amount not to exceed \$37,500,000, to finance City water system capital improvements.

Council Member Barton stated the Motion would bring the City in compliance with emergency requirements. He supported the flexibility to allow Staff to bond the Water Revenue Bond Project in the most cost effective way.

Vice Mayor Morton stated the Water Revenue Bond Project was worthwhile, and the current economic conditions provided an opportunity to issue and sell Water Revenue Bonds at a historically low rate.

Council Member Burt spoke on the emergency aspects of the Staff report; and further stated it was a responsible investment to the community.

MOTION PASSED: 8-0 Schmid absent

UNFINISHED BUSINESS

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

(Public Hearing Closed) (continued from July 13, 2009). *Quasi-judicial

Director of Planning and Community Environment, Curtis Williams stated this item was continued from the City Council Meeting held on July 13, 2009. He stated the Applicant had provided responses to questions that were asked subsequent to the City Council Meeting, held on July 13, 2009. He recommended the City Council initiate the Planned Community (PC) Zoning and direct the Planning and Transportation Commission (P&TC) to review the land use and intensity issues prior to being submitted to the Architectural

Review Board (ARB) for project design. He stated the work performed by the P&TC would include conducting an environmental review and preparing a draft Planned Community Ordinance.

Public Hearing re-opened at 8:38 p.m. for speakers who submitted cards and did not speak on July 13, 2009.

Sandra R. Wilson, 877 Moana Court, spoke in favor of approving the Staff report, which would preserve JJ&F Market and enhance the College Terrace neighborhood.

Kendric C. Smith, 927 Mears Court, Stanford, spoke in favor of preserving JJ&F Market.

Margaret E. Jones, 723 Mayfield Avenue, Stanford, spoke on the convenience of grocery shopping at JJ&F Market.

Tapeso Maafu, 2161 Euclid Avenue, East Palo Alto, spoke on the ease of shopping at JJ&F Market.

Molly Agras, 515 Gerona Road, Stanford, spoke on the history of JJ&F Market.

Herb Borock, P.O. Box 632, spoke on the environmental regulations that would be violated if Staff recommendations were approved by the City Council.

Robert W. Pryor, 1344 Blackfield Drive, Santa Clara, spoke on his support of initiating the rezoning of the proposed New College Terrace Centre.

Jeff Lapierre, 890 Berkeley Avenue, Menlo Park, spoke on the high reputation of the JJ&F Market owners.

Joy Ogawa, Yale Street, spoke on her disapproval of Staff recommendations.

Anthony Hopkins, 50 Oxford Avenue, spoke on his approval of the proposed New College Terrace Centre.

Anna Frankhauser, 567 Oxford Avenue, spoke on her support of the proposed New College Terrace Centre.

Gary Black, 40 South Market Street Suite 600, San Jose, representing Hexagon Transportation Consultants, Inc. spoke on a parking study his company completed at the proposed New College Terrace Centre site.

Shawn-Patrick Smailey, spoke on behalf of the Applicant. He reviewed the proposed New College Terrace Centre project's efforts to create a project that complied with Staff and the community's needs. The overall size of the project had been reduced, changes were made to the project's elements and design, City processes had been followed, and extensive community outreach had been conducted. He stated JJ&F Market could not afford market rent on El Camino Real in the College Terrace neighborhood. In order to provide the required subsidy for a grocer, the Applicant was requesting the City grant enough office space to support the project. He requested the City Council initiate the zone change that would provide the economic mechanism needed to keep JJ&F Market a part of the proposed New College Terrace Centre.

Public Hearing closed at 9:08 p.m.

Council Member Barton spoke on two potential conflicts of interest he may have concerning the proposed New College Terrace Centre. He spoke on his recusal of prior Council action relating to parking permits in the area. He stated his client's conflict dealt with a parking curb issue, and did not conflict with this Agenda Item. He stated he had a financial relationship with the architect of the proposed New College Terrace Centre. He stated he compensates the architect, so there should be no conflict. He spoke on the data contained within the staff report that he felt warranted the initiation of the rezoning to the PC, assuming the PC will require a grocery store. He stated although the project contains extra office space, a .13 percent Floor Area Ratio (FAR) was a small PC request.

MOTION: Council Member Barton moved, seconded by Vice Mayor Morton to: 1) Initiate the Planned Community (PC) process, 2) Insure maximum Floor Area Ratio (FAR) not exceed the current proposal including the 14 affordable one-bedroom residential units, 3) Requirement for a grocery store at least the size as currently proposed, and 4) The project be fully parked per Palo Alto standards, including the allowed reductions under the City of Palo Alto Zoning Ordinance.

Vice Mayor Morton inquired if the number of Below Market Rate (BMR) units could be up to 14 units.

Council Member Barton stated his Motion could include the additional FAR associated with the addition of up to 14 BMR units.

Mayor Drekmeier inquired whether the Motion included up to 8, or up to 14 BMR units.

Council Member Morton stated the Motion included verbiage of up to 14 BMR units.

Council Member Barton reiterated that the staff report was the beginning of a relatively small project. He felt it was up to the City Council to determine whether the proposed New College Terrace Centre contained enough public benefit to approve the Motion. He stated if the project was denied, the Applicant may return to the City Council with a plan that complies with Neighborhood Commercial (CN), but does not contain a grocery store.

Mayor Drekmeier stated the staff report was quasi-judicial, and it was subject to the City's disclosure policy. He stated he had met with the Applicant and did not receive new information. He stated he met with neighbors of the proposed New College Terrace Centre who had concerns and did not receive additional information.

Vice Mayor Morton stated he spoke with the Applicant, received emails and spoke with members of the community and had not received additional information. He spoke on the emotional aspects of the proposed New College Terrace Centre. He indicated some residents of College Terrace and neighboring communities supported this project due of the nature of JJ&F Market. He stated other residents of College Terrace opposed the project because of the high-density housing project that may contribute to parking issues. He stated the Applicant was willing to provide BMR units for the City's housing needs, had taken the time to develop a project that would benefit the community, and was financially feasible. He stated he supported the Motion.

Mayor Drekmeier stated the original recommendation requested the construction of 14 BMR units. He stated there was a follow-up recommendation to delete 6 BMR units in order to create additional space for JJ&F Market to expand. He stated the Motion currently read for the construction of up to 14 BMR units.

Council Member Barton stated the elimination of some BMR units would create space for JJ&F Market, or for the development of additional parking spaces. He stated there needed to be a balance between BMR units and growth opportunities for JJ&F Market.

Council Member Kishimoto spoke on the beneficial aspects of JJ&F Market. She stated the Agenda Item was an initiation of the proposed New College Terrace Centre and was not the final approval of the project. She spoke on the issues associated with the proposed New College Terrace Centre, as follows: 1) neighbors were divided in their degree of support; 2) tension with the Comprehensive Plan for the CN Zone in the area; and 3) parking issues. She supported a high density project if it did not lead to more traffic. She stated she would not be supporting the Motion.

SUBSTITUTE MOTION: Council Member Kishimoto moved, seconded by Council Member XXXX to deny the initiation of this project and the request for a Comprehensive Plan amendment.

SUBSTITUTE MOTION FAILED DUE TO THE LACK OF A SECOND

Council Member Klein stated he spoke with the Applicant, received emails and spoke with members of the community and had not received additional information. He commented on the process of the proposed New College Terrace Centre project. He stated the City Council received late correspondence from the Applicant. He stated correspondence from the public referred to the proposed New College Terrace Centre as the JJ&F Project. He stated it was unfortunate the project was referenced by the public as the JJ&F Market because there were other elements to the project. He stated there were many references from the public on how the owners of the property were respectable; however, he felt that was an irrelevant factor. He spoke on the issues of whether the City would get what it was requesting because there was no binding guarantee from the owners of JJ&F Market.

AMENDMENT: Council Member Klein moved, seconded by Council Member Barton that at or before the PC Zone change is approved by Council that there has to be a legal agreement (lease or other agreement) by which Mr. Garcia on behalf of JJ&F Market is bound and that if for any reason Mr. Garcia can not perform, the developer has to obtain a grocery store operator of similar quality, and it would be up to the City to have discretion to approve subsequent grocery store.

Council Member Barton stated binding a tenant to a land-use action may not be lawful.

City Attorney, Gary Baum spoke on the legality of requiring the Amendment to be bound to JJ&F Market. His recommended adding a legal agreement that would bind JJ&F Market, or a similar type of market.

Council Member Klein requested his Amendment be kept as he declared. He stated the community had talked immensely about JJ&F Market, and the developer had made use of the fact that JJ&F Market be part of the proposed New College Terrace Centre. He felt JJ&F Market should be held accountable.

Mr. Baum questioned the enforceability of narrowing the Amendment.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER: that at or before the PC Zone change is approved by Council that there has to be a legal agreement (lease or other agreement) by which Mr. Garcia on behalf of JJ&F Market is bound and that if for any reason Mr. Garcia can not perform, the developer has to obtain a grocery

store operator of similar quality, and it would be up to the City to have discretion to approve subsequent grocery store.

Vice Mayor Morton inquired on a severability clause, and whether it would be found illegal to hold the owner accountable. He inquired whether a clause could be written to protect the validity of the contract.

Mr. Baum stated he had never seen a severability clause contained within a PC zone. He stated a court could potential nullify the severability clause.

Vice Mayor Morton stated the Motion was an initiation to give guidance to Staff. He stated the City Council could debate the elements of the proposed New College Terrace Centre at a later date.

City Manager, James Keene stated the Motion was to initiate the proposed New College Terrace Centre project, and did not guarantee an approval of said project. He stated the directive could include the Motion, and if it was not successful it could return to the City Council.

Council Member Klein stated his Motion included severability language.

Director of Planning and Community Environment, Curtis Williams spoke on a technicality on the proposed New College Terrace Centre. He indicated the Tentative Map would be contained within the PC.

Mr. Baum stated the proposed New College Terrace Centre contained one lot and no subdivisions.

Mayor Drekmeier stated his understanding was that at or before the approval of the PC, there must be a legal agreement binding JJ&F Market to operate at the proposed New College Terrace Centre, or a similar full-service grocery store.

AMENDMENT: Council Member Klein moved, seconded by Council Member Burt that the office building should be reduced by approximately 10 percent in size, and to be reviewed by Planning and Transportation Commission and the Architectural Review Board.

Council Member Klein stated his Amendment contained an approximate reduction of 10 percent to the office building, because the City Council had heard concerns from the P&TC that the office building was large for the given area. He analyzed how large the density bonus should be due to the public benefit the community would receive by having JJ&F Market continue as a subsidized grocery store. He stated most members of the public supported saving JJ&F Market, however they may not be aware of the density the entire

project might create once completed. He supported reducing the BMR units constructed from 14 units to 8 units.

Council Member Burt stated the Motion proposed a maximum of 14 BMR units, and felt it provided Staff with the latitude to analyze public benefits and the Applicants' request. He indicated the proposed New College Terrace Centre project was not being approved this evening. He spoke on the complications of the project and questioned the financial statements submitted late by the Applicant. He felt the details of the project should not be the focal point, but rather the determination of approving the PC and provide rough guidelines for the P&TC and the Applicant to proceed with.

Mayor Drekmeier requested the City Attorney speak on the appropriateness and legality of hearing from the Applicant.

Mr. Baum stated it was ultimately the City Council's discretion. He recommended that the Applicant be provided with three minutes to comment on the proposed New College Terrace Centre project due to the changes that have been discussed by the City Council.

Vice Mayor Morton requested clarification on the Amendment. He inquired whether the Amendment was to direct the P&TC to reduce the office building by 10 percent or simply discuss the subject. He indicated analyzing the project with a clear understanding of the financial impacts would be beneficial to the City Council.

Mr. Baum stated the City Council was providing the P&TC direction on what the proposed New College Terrace Centre should look like, and the P&TC was to follow that direction as closely as possible.

Council Member Barton understood the Motion to read that the proposed New College Terrace Centre would be no larger than what was currently defined, and for the P&TC to work within the parameters of a set number of BMR units.

AMENDMENT: Council Member Klein moved, seconded by Council Member Burt to reduce the BMR units from 14 to 8.

Council Member Burt inquired whether the Motion stated the BMR units shall contain 8 units or up to 8 units.

Council Member Klein stated the BMR units could be up to 8 units. It was his belief the Amendments should be considered separately.

Council Member Espinosa spoke on his four areas of concern: 1) Losing JJ&F Market; 2) Guaranteeing a grocery store be included within the proposed

New College Terrace Centre; 3) Agreeing upon the appropriate density of office space; and 4) The process of the project. He stated his support of the Motion.

Council Member Yeh spoke on the value that JJ&F brought to the community. He inquired on the enforcement of the subsidy to an alternate grocery store if JJ&F Market was not able to stay in business.

Mr. Baum stated Staff had drafted conditions which would be reviewed by the P&TC on specific provisions, which would include long-term subsidy measures.

Council Member Yeh stated the City has made an effort to attract other grocers. He inquired whether there were any expressed interests by other grocery stores for the proposed New College Terrace Centre.

Mr. Williams stated the City had not personally received interest from other grocery stores; however the Applicant had submitted letters from two other grocery stores indicating their interest in the proposed New College Terrace Centre.

Council Member Yeh inquired on an alternate type of store that could be identified given an extended vacancy if a grocery store did not locate in the proposed New College Terrace Centre.

Mr. Williams stated utilizing this space for public benefit after a grocery store has left had not been looked into. He stated Staff can add conditions to the lease agreement to bind a grocery store to a minimum of 10 years before the office space can be occupied to provide and insure public benefit is met.

Council Member Yeh stated the primary public benefit was the grocery store in the New College Terrace Centre, and having long-term flexibility was crucial. He supported the Motion to reduce the number of BMR units to no more than 8 units. He was flexible with the request for additional office space.

Planning and Transportation Commission Vice Chair, Samir Tuma stated the process would be streamlined when the City Council comes to a consensus on a Motion. He stated the P&TC would work in a way that was consistent with the guidance of the City Council.

Mayor Drekmeier supported JJ&F Market continuing to serve the New College Terrace Centre. He spoke on the challenges facing the project. He disagreed with the amount of office space being requested, and felt reducing the percentage of office space proposed by the Applicant was appropriate. He stated his dissatisfaction for capping the BMR units to 8 units. He had a

concern on the binding agreement with JJ&F Market, although he approved the flexibility of the language contained within. He stated a grocery store was ideal for the New College Terrace Centre, and the City could make this project a success through the PC zone change.

John Garcia stated he would be willing to sign a binding agreement with the City if the project was approved. He felt the project would benefit the community, and was something the City Council could be proud of.

Patrick Smailey stated his apology for delivering the financial material to the City Council at short notice; he further stated he was committed to providing as much information as possible without divulging proprietary information. He started the proposed New College Terrace Centre project with the idea of protecting a relationship with the City and to provide for the community. He stated the idea of offering a take back of BMR units to provide for expansion for the grocery store or a parking structure was an offer of compromise. He stated he does not possess extra square feet of space to give up. He stated the late financial information indicated he was at a 29-year payback before the owners would receive their equity. It was his belief that the project could not move forward if the 10 percent requirement was approved by the City Council.

Council Member Kishimoto stated she would not be supporting the proposed New College Terrace Centre as proposed. She spoke on the overall regional job-housing imbalance. The Association of Bay Area Governments (ABAG) has allocated roughly 3,000 units of housing to build by 2014. She stated if the City Council did not reduce the office space by 10 percent it would add 160 jobs, or up to 14 BMR units. It was her belief housing should be heavily considered in this project. She felt a reduction of BMR units was not the right decision. She made the recommendation to direct the P&TC and ARB to pay attention to walkable streetscape on all four sides of the site, and to evaluate and incorporate parking and traffic management measures.

Council Member Burt spoke on the issue of affordable housing, the job-housing imbalance in the community, and the mandates imposed by ABAG. He felt providing parameters to the P&TC and the Applicant to create a proposal that used up to 8 BMR units was appropriate. He supported the Transportation Demand Management concept which could potentially cut the cost of development and lessen traffic impacts. He inquired whether it was permissible to base a zoning change on a confidential agreement that the City Council had no visibility on.

Mr. Baum stated most developers submit a request for confidentiality for the purpose of business competitive reasons. He was not aware of a legal requirement to do so.

Council Member Barton encouraged the City Council to vote against the Amendment to reduce the office space by 10 percent. His Motion as stated provided flexibility to develop a project that meets the requirements of the community and the developer.

Vice Mayor Morton felt the number of BMR units should not be limited, and the P&TC should work with the Applicant to analyze the number of BMR units that could be accommodated within the proposed New College Terrace Centre.

Council Member Kishimoto inquired whether the Applicant would receive vested interests of 40,000 square feet of office space as a result of the City Council's actions.

Mr. Baum stated the Applicant would receive no vested rights by the approval of the initiation.

Council Member Kishimoto inquired whether the P&TC could analyze the current design of the proposed New College Terrace Centre and bring back a new proposal that would reduce the associated costs. She stated this may allow a project that contained a reduced office space size to 30,000 square feet.

Mr. Baum stated the P&TC and the ARB could make any changes that were directed by the City Council; however, this action would be inconsistent with the City Council's direction thus far.

Council Member Kishimoto stated she had the impression that once the Motion was passed, the City Council had agreed to 40,000 square feet of office space.

Mr. Williams agreed with the City Attorney's comments. He stated if the Motion was a defined limit of office space and BMR units, there would be a limited amount of flexibility. He requested the City Council be as specific as possible.

Council Member Klein stated the City Council should not be discussing the Applicants' profits or losses, as the City Council's responsibility was to determine the appropriate zoning for the community needs.

Council Member Espinosa encouraged the City Council to listen to the Applicants' request and not have a discussion on reducing the office space. He stated the number of BMR units and the amount of office space allocated can be analyzed by the P&TC to find a compromise by which there could be a guarantee of a grocery market.

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER to reduce the BMR units from 14 to 8.

AMENDMENT FAILED: 3-5 Burt, Kishimoto, Klein yes

MOTION WITH INCORPORATIONS RESTATED: Council Member Barton moved, seconded by Vice Mayor Morton to: 1) Initiate the Planned Community (PC) process, 2) P&TC to review project prior to ARB review, 3) Maximum square footage is not to exceed the current proposal, 4) The project is to be fully parked per Palo Alto standards, including the allowed reductions under the City of Palo Alto Zoning Ordinance, 5) Project to include up to 8 Below Market Rate (BMR) units, 6) That at or before the PC Zone change is approved by Council that there has to be a legal agreement (lease or other agreement) by which Mr. Garcia on behalf of JJ&F Market is bound and that if for any reason Mr. Garcia can not perform, the developer has to obtain a grocery store operator of similar quality, and it would be up to the city to have discretion to approve subsequent grocery store.

Council Member Barton stated his Motion included a square footage as currently proposed, a grocery store that was the size of what was currently proposed, and the project must be fully parked including allowable deductions.

Council Member Kishimoto stated her support to direct the P&TC and ARB to pay special attention to the walkable streetscapes on all four fronts and to evaluate and incorporate parking and traffic management measures.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to direct P&TC and ARB to pay attention to walkable streetscape on all four sides and evaluate and incorporate parking and traffic management measures as appropriate.

Council Member Burt requested clarity for the P&TC on the concept of up to 8 BMR units.

Council Member Barton stated his Motion was to provide the P&TC and ARB latitude to work with the BMR units and office space. He stated the P&TC and ARB may find additional efficiencies within the project.

Council Member Burt stated, for the record, that it was the City Council's intent to provide the P&TC and ARB latitude.

MOTION PASSED: 7-1 Kishimoto no, Schmid absent

14a. (Former No. 6) Approval of a Record of Land Use Action and Conditional Use Permit Application by AT&T on Behalf of Aldersgate

Methodist Church for a 45-Foot Mono-Pine Wireless Communications Facility with Concealed Antennas and Associated At-Grade Equipment Cabinets at 4243 Manuela Avenue.

Dan Eskari, 25838 Springhill Drive, Los Altos Hills, spoke on the community meetings held between the City and the neighborhood. He stated the majority of the neighbors approved Staff recommendations.

Mun Mar, 25845 Springhill Drive, Los Altos Hills, stated his support for the original location of the Mono-Pine Wireless Communication Facility. He requested the City Council schedule a Public Hearing.

Jackie Berman, 810 Miranda Green Street, spoke on the history of the project. She stated her support of the P&TC recommendation.

Marina Chuduouseaya, 890 Miranda Green Street, spoke on the history of the project. She urged the City Council to approve the Staff report as recommended.

AT&T Representative, Jacqueline Smart, San Francisco, spoke on the lengthy process of finding a location that would work for all parties involved. She stated the proposed location was ideal for the site. She stated AT&T was not opposed to adding more screening.

MOTION: Vice Mayor Morton moved, seconded by Council Member Barton to approve the Conditional Use Permit (CUP), for the AT&T antenna at 4243 Manuela Avenue, based upon the findings and conditions of approval in the revised Record of Land Use Action, and Staff to include wording on additional screening in the CUP.

Council Member Barton spoke on the process and his support of the Motion.

Council Member Kishimoto stated her support to move the project forward. She inquired how the City should move forward with the additional screening.

Director of Planning and Community Environment, Curtis Williams stated Staff would add additional conditions in the Conditional Use Permit to provide screening.

MOTION PASSED: 8-0 Schmid absent

REPORTS OF COMMITTEES AND COMMISSIONS

16. Approval of a Trial Implementation of Phase 2 of the Charleston Arastradero Road Corridor Project - Lane Restriping on Arastradero Road.

Council Member Barton advised he would not be participating in this item as he lives on Charleston Road. He further advised that he would be leaving the meeting at 10:55 p.m. due to family obligations.

Management Specialist for Planning and Community Environment, Gayle Likens gave a PowerPoint presentation. She stated the Charleston Arastradero Road Corridor Project location was on Arastradero Road between El Camino Real and Gunn High School. She spoke on the City Council-adopted objectives, the Project's progress, and Staff recommendations. She stated Staff and the P&TC recommendations were as follows: 1) approve implementation of the Arastradero Road Hybrid Striping Plan for a one year trial; 2) direct Staff to develop detailed design plans for implementation in Summer 2010; and 3) direct Staff to continue monitoring after the trial is implemented and provide an update in January 2011; and 4) work with Caltrans to develop a project to improve the bicycle and pedestrian safety at the intersection of El Camino Real and Arastradero Road. She spoke on the current traffic volumes on Arastradero Road. She spoke on the benefits and potential issues with the hybrid alternative. She stated the hybrid alternative was the best alternative because it realizes most of the overall objectives of the corridor plan in reducing speeds, accidents, pedestrian and bicycle safety, and is least disruptive to on-street parking.

Planning and Transportation Commission Vice Chair, Samir Tuma spoke on the P&TC's five components to the recommendation as follows: 1) move Staff recommendation forward to implement the hybrid alternative and for a report to return to the City Council in one year; 2) encourage Staff to work with Caltrans to take an intense look at the bicycle and pedestrian safety issues; 3) encourage Staff to take the comments from the public and the P&TC into account when creating the final design of the project; 4) add a P&TC Liaison to the stakeholders group of the project; and 5) ask Staff to bring the final design back to the P&TC as an informational item. He stated these recommendations were voted unanimously by the P&TC.

Betty Lum, 4202 Suzanne Drive, spoke in support of the project. She stated Phase 1 of the project had been successful.

Anne Jensen, 1050 Colorado Place, spoke in opposition of the hybrid alternative due to the increased gridlock of automobiles at Gunn High School.

Stephen Rock, 3872 Nathan Way, spoke on the need to improve the intersection at Arastradero Road and El Camino Real. He recommended the City Council make it a high priority to put pressure on Caltrans.

Nina Bell, 4245 Los Palos Avenue, complemented Staff for the way the project was administered. She supported the hybrid alternative due to the safety improvements.

Diane Chambers, Young Life Christian Preschool, 687 Arastradero Road, spoke on the need for traffic calming and safety measures on Arastradero Road. She stated Young Life Christian Preschool and the surrounding churches support Staff recommendations.

Joyce Liu, Palo Alto, spoke on the gridlock on Arastradero near Gunn High School. She was not in favor of the hybrid alternative because she felt it would contribute to more traffic near Gunn High School. She felt there were other bike routes that were safer for bicyclists and pedestrians.

Tom Jacoubowsky, Gunn High School, 780 Arastradero Road, spoke on his concerns with the hybrid alternative plan because of the impact it will have on the surface streets near Arastradero Road.

Joan Marx, 827 LaPara Avenue, spoke in favor of directing Staff to develop large scale and small scale projects with Caltrans to improve the intersection at El Camino Real and Arastradero Road.

Penny Ellson, 513 El Capitan Place, spoke on the necessity for a bicycle and pedestrian friendly Charleston Arastradero Corridor due to the high volume of alternative transportation within the corridor.

Rich Ellson, 513 El Capitan Place, spoke on the history and the necessity for the Charleston Arastradero Corridor Project. He was in support of the hybrid alternative plan.

Council Member Burt inquired on the data Ms. Ellson presented relating to the perception of students biking to Gunn High School and their reasoning behind this behavior. He stated school data suggested that students ride bikes to schools if they absolutely have to, and Ms. Ellson's data refutes this.

Ms. Ellson stated she was not aware as to why the data was not consistent between the school district and the residents.

Christine Fawcett, 12753 Leander Drive, Los Altos Hills, spoke in support of the hybrid alternative design because it addresses the safety of students bicycling and walking.

Irvin Dawid, 753 Alma Street, spoke in support of the hybrid alternative design because it promoted safe, environmentally friendly ways to travel on Arastradero Road.

Alice Smith, 4284 Los Palos Circle, spoke on altering the start time of Gunn High School, adding more public transportation, and the dangers at the El Camino Real intersection.

Jeff Greenfield, 3476 Waverley Street, spoke in favor of bicycle and pedestrian friendly neighborhoods. He supported the project as recommended by Staff.

John Elman, 4150 Hubbart Drive, spoke in opposition of the project.

Patrick Muffler, 961 Ilima Way, spoke on his support of the Project to improve the safety and flow of traffic along the Charleston Arastradero Road Corridor.

Council Member Espinosa spoke on his support of the Charleston Arastradero Road Corridor Project; however, he spoke on some concerns. He questioned why Staff was measuring the success of the project through traffic signaling before the project had been fully implemented. He stated it would be a lengthy process working with Caltrans to include a bike lane at the intersection of El Camino Real. He inquired how Staff anticipated prioritizing this undertaking with Caltrans. He inquired on Staff comments on the Gunn High School peak hours and ensuring there would be no backup along the corridor.

Ms. Likens stated Staff was working on fine-tuning, improving and recalibrating the traffic adaptive which may include gathering more data and changing the signal timing plan that may go into the traffic adaptive. She stated this issue would be resolved before the project got underway.

Council Member Espinosa inquired whether funds were set aside for the restructuring of the Charleston Arastradero Road Corridor Project.

Ms. Likens stated yes. She stated the El Camino Real area would entail a major improvement project. She spoke on the major problems of the El Camino Real intersection for bicyclists and pedestrians. She stated there were not a lot of options for short-term fixes to this area, and it would require a modification of the intersection. She stated Staff was looking into grants and working with Caltrans to get them involved in a substantial concrete project. She stated Staff was aware of the Gunn High School concerns on the morning commute. Staff was confident with the project's design. Staff did not anticipate a large fluctuation of movement off Arastradero Road. She stated it was a Staff performance measure to monitor shifts in traffic away from Arastradero Road onto side streets. She stated if and impact was seen, a report would be brought to the City Council for review.

Council Member Kishimoto spoke on the success of Phase 1 of the Charleston Arastradero Road Corridor Project.

MOTION: Council Member Kishimoto moved, seconded by Vice Mayor Morton to: 1) Approve the installation of the Phase 2 trial striping and lane configuration on Arastradero Road consisting of; a) A three-lane cross-section from El Camino Real to Donald/Terman, including one travel lane in each direction, a wide striped median and left turn pockets at intersections; b) A four-lane cross-section between Donald/Terman and Georgia Avenue, including two travel lanes in the westbound direction and one travel lane in the eastbound direction; and c) A four-lane cross-section from Georgia Avenue to Gunn High School with two travel lanes in each direction and a narrow striped median; 2) Direct Staff to begin working with Caltrans to develop a project to improve the bicycle and pedestrian safety at the intersection of El Camino Real and Arastradero Road.

Council Member Kishimoto stated there were trade-offs involved and that they were relatively small compared to the benefits of the project. She spoke on the large number of high school and college students bicycling and the need to protect their safety. She inquired on the pedestrian crossing at the Suzanne Drive intersection.

Ms. Likens stated the design was going to be refined to include a crosswalk with a raised median at the Suzanne Drive intersection. She stated the design did not include a traffic light at this intersection.

Vice Mayor Morton spoke on his support of the Charleston Arastradero Road Corridor Project.

Council Member Yeh spoke on the safety and aesthetic advantages of Phase 2 of the Charleston Arastradero Road Corridor Project. He inquired whether Staff had been working with State legislators to coordinate efforts in terms of working with Caltrans.

Ms. Likens was not aware of Staff working with State legislators. She indicated Staff did put forward a proposal to Representative Anna Eshoo's Office for funding along the vicinity of the El Camino Real intersection. She stated Staff could contact State legislators.

Council Member Yeh stated contacting State legislators may be helpful in moving forward and facilitating the process. He inquired whether the small side streets leading up to Gunn High School would have access turning into an Eastward direction onto Arastradero. He stated printing "keep clear" on Arastradero Road near the side street intersections could be looked into to keep them clear for vehicles accessing Highway 101. He stated potential safety measures may be changing the location of the bike racks at Gunn High

School and installing mirrors on blind curves around said School. He stated this project may potentially be frustrating for Gunn High School; however, he stated the City Council was willing to collaborate with them.

Council Member Klein inquired on the participation of the School District and the Parent Teacher Association (PTA) in regards to the Charleston Arastradero Road Corridor Project. As a member of the City/School Liaison Committee he had not received any information from the School District.

Ms. Likens stated the City had received collaboration throughout the process with the School District representatives and the PTA. Staff was aware of the concerns of the Gunn High School officials. She stated there was no official position taken by the Gunn High School prior to this evening. She indicated Staff could work with Gunn High School officials during the process of the project on their concerns.

Council Member Klein inquired whether Gunn High School officials know of a plan that the school was in favor of.

Mr. Jacoubowsky stated he was not opposed to the Project; however, he stated the issue at hand was that the Charleston Arastradero Road Corridor was a main vehicle artery utilized for travel for many different reasons.

Council Member Klein inquired whether he felt the present situation was intolerable.

Mr. Jacoubowsky stated many individuals felt that narrowing the corridor will increase traffic. He stated his concern was if the traffic backs up, the students may start traveling alternate routes.

Council Member Burt felt the Project should be dealt with in a collaborative manner. He felt a trial approach was a good approach and alterations could be made.

MOTION PASSED: 7-0 Barton, Schmid absent

REPORTS OF OFFICIALS

18. Council Direction to either Adopt the Initiative Defining Minimum Width of Private Streets or Adoption of a Resolution Placing the Initiative on the Ballot for Consideration by the Electorate.

Director of Planning and Community Environment, Curtis Williams stated the Staff report was to put an Initiative on the November ballot, or direct Staff to bring the Staff report back for adoption of an Ordinance. He indicated the Ordinance could not be adopted this evening because an environmental

review needed to be conducted prior to its adoption. He stated the anticipated date the Ordinance would be brought back for adoption was September 21, 2009. He stated the language within the Ordinance would need to be identical. He stated language deficiencies have been identified in the City's existing subdivision Ordinance as it pertains to what the Initiative encompasses. He stated this was problematic and unlikely to apply to projects within the City. He stated Staff has proposed modifications that would meet the intent of the Initiative. He stated Staff could follow up the adoption of the Ordinance with amendments to clean up and adequately address the concerns that have been raised.

Joseph Mallon, 800 High Street No. 411, spoke on his support of passing the Ordinance. He stated the Ordinance takes an important step toward addressing parking issues within new developments.

Joop Verbalum, 800 High Street No. 402, spoke on his support of passing the Ordinance to meet parking requirements in new developments.

Irvin Dawid, 753 Alma Street, spoke on his concerns of the Initiative.

Jeff Greenfield, 3476 Waverley Street, spoke on his support for the passing of the Ordinance.

Robert Moss, 4010 Orme Street, spoke on his support for the passing of the Ordinance.

Mayor Drekmeier inquired whether Mr. Moss supported Staff recommendation.

Mr. Moss stated the Staff recommendation was to adopt the Initiative and go through the California Environmental Quality Act (CEQA). It was his belief the City Council did not need to go through CEQA for an issue brought forth from the public.

Mayor Drekmeier inquired on the Staff recommendation to prepare an additional Ordinance with changes necessary to carry out the intent of the Ordinance.

Mr. Moss stated the additional Ordinance changes were separate. He stated he had no argument with that recommendation. He stated the definition of a private street was erroneous. He stated he used what was written in the Palo Alto Municipal Code which contained an error. He stated that error can be corrected and would not have an effect on the Initiative.

Mayor Drekmeier stated legal counsel felt this Ordinance would not be retroactive, and may contain possible changes. He inquired whether Mr. Moss was comfortable with that action.

Mr. Moss stated the Ordinance was written to go into effect on July 31 if it was adopted this evening.

Jean Olmstead, 240 West Charleston Road, spoke on her support of passing the Ordinance.

Sheri Furman, 3094 Greer Road, spoke on her support of passing the Ordinance.

Herb Borock, PO Box 632, spoke on the various choices the City Council could make in moving forward with the Initiative.

MOTION: Vice Mayor Morton moved, seconded by Council Member Kishimoto to direct Staff to: 1) Conduct appropriate environmental review for the Ordinance; 2) Bring the Ordinance with the exact wording proposed in the initiative back to Council for adoption on September 21, 2009; and 3) Prepare additional Ordinance changes necessary to carry out the intent of the Initiative and bring that Ordinance to Council for future adoption.

Vice Mayor Morton stated he favored saving the City \$100,000 on special election costs, and the City of Palo Alto should no longer possess sub-standard streets in Palo Alto.

Council Member Kishimoto stated her concern dealt with the parking impacts on private streets where the FAR does not apply. She requested comments from the City Attorney regarding CEQA.

City Attorney, Gary Baum stated there were two potential defects in regards to the Initiative Ordinance. He stated CEQA was a complicated issue due to the City's Charter, and the City was required to comply with CEQA because of the sequence of the process. He stated these potential defects could be rectified by conducting CEQA requirements and bringing the Ordinance back to the City Council for approval.

Council Member Kishimoto inquired whether the CEQA review would not need to be performed if the Initiative was passed by the voters.

Mr. Baum stated that was correct.

Council Member Kishimoto inquired on the possibility of requiring sidewalks and right-of-ways on private streets.

Director of Planning and Community Environment, Curtis Williams stated the Initiative does not speak to the right-of-ways, however it does speak to the width of the street. He stated there were many policies and requirements that provide alternative ways to deal with this concern.

Council Member Klein stated the City Council could not approve the Ordinance this evening, because it needed to go through the negative declaration.

Mr. Baum stated that was correct.

Council Member Klein inquired how much time was required to approve an Ordinance under the City's Charter that was initiated by the public.

Mr. Baum stated it was not specified. He stated the issue was not a timeline, but the County Clerk and State deadlines.

Council Member Klein inquired whether the City Council could hold this Initiative and add it to a future ballot.

Mr. Baum was unaware of the answer to this question at the present time.

Council Member Klein inquired whether the City was required to place the ballot to the voters before 88 days, after the approval by the County Clerk.

Mr. Baum was unaware of the answer to this question at the present time.

Council Member Klein stated that if the City did not place the Initiative on this year's ballot, would the Ordinance be adopted by default.

Mr. Baum stated the City would make a formal commitment to adopt it following the procedural requirements that were necessary. If the City Council changed their mind, a writ of mandate would be filed and immediately granted to require the City Council to adopt the Ordinance. He stated the City was currently not complying with the CEQA requirements.

Council Member Klein inquired whether a commitment to adopt and adopting the Ordinance had the same meaning.

Mr. Baum stated yes.

City Clerk, Donna Grider read from the City's Charter. She stated the City Council needed to make a decision to add this Initiative to the November 2009 ballot or to pass the Ordinance without alterations.

Council Member Klein did not understand how voting on this Ordinance in September, as recommended in the Staff report, complied with the City's Charter.

Mr. Baum stated that in order to comply with CEQA, and the City's Charter, the City Council would need to place the Initiative on the ballot, or to direct the Ordinance to be adopted at a future date. He indicated that the City Council could adopt the Ordinance this evening, and run the risk of a CEQA challenge.

Council Member Klein spoke on other approaches that contained risks that may be seen. He stated the Negative Declaration may present problems.

Council Member Espinosa stated he would be supporting the Motion. He stated it was a good example of community members taking steps to see change when they seem necessary.

Mayor Drekmeier stated he would be supporting the Motion.

SUBSTITUTE MOTION: Council Member Klein moved, seconded by Council Member Burt to enact the Ordinance this evening.

SUBSTITUTE MOTION FAILED: 3-4 Burt, Drekmeier, Klein yes, Barton, Schmid absent

MOTION PASSED: 7-0 Barton, Schmid absent

Vice Mayor Morton left the meeting at 12:42 a.m.

19. (Former No. 15) Adoption of an Ordinance Amending Sections 18.10.130 (Historical Review and Incentives), 18.10.060 (Parking), 18.12.140 (Historical Review and Incentives), 18.12.060 (Parking), and 18.13.040(c) (Single-Family and Two-Family Uses) of Title 18 (Zoning), and Sections 21.20.010 (General Provisions) and 21.20.301 (Flag Lots) of Title 21 (Subdivisions) of the Palo Alto Municipal Code Regarding Subdivision of One Lot into Two Nonconforming Lots Where Covenants are Provided to Protect Historic Properties.

Director of Planning and Community Environment, Curtis Williams stated this Staff report was recommended by Staff and the Planning and Transportation Commission (P&TC).

Planning and Transportation Commission Vice Chair, Samir Tuma stated Staff recommendations were approved unanimously by the P&TC.

Public Hearing opened and closed without public comment at 12:44 a.m.

MOTION: Council Member Yeh moved, seconded by Council Member Espinosa to: 1) Adopt the Ordinance amending the Palo Alto Municipal Code (PAMC) Title 18, Zoning, Sections 18.10.130, 18.12.140, and 18.13.04(c) to allow subdivision of a single parcel containing two residences into two parcels of at least 4,000 square feet each if only one residence is historic, and of at least 2,000 square feet each if both residences are historic, and to provide covenants are provided to preserve the historic integrity of existing residences (listed in Categories 1 to 4 on the City's Historic Inventory, contributing structures to the Professorville National Register Historic District, or for other National or California Register eligible structures) and Sections 18.10.060 and 18.12.060 allowing for continuation of existing, legal non-conforming parking facilities for such projects, and 2) PAMC Title 21 (Subdivisions and Other Divisions of Land), Sections 21.20.010 (Generally) and 21.20.301 (Flag Lots), to allow the creation of flag lots within the R-1 District via a Parcel Map without an Exception process, to allow the creation of lots having less than minimum lot area, lot dimensions, and non-conforming lot configurations (in accordance with the proposed lot sizes in the zoning code amendments), and to allow flag lot access (via easement or "flagpole") for subdivisions including residence(s) on the City's Historic Inventory, where covenants are provided to preserve the historical integrity of the residence(s).

Council Member Kishimoto stated a potential issue with Staff recommendations was the creation of small lots. She inquired whether there were potential options for these two buildings to expand in the future.

Mr. Williams stated the Floor Area Ratio for these buildings are limited.

Council Member Kishimoto inquired whether setbacks would apply.

Mr. Williams stated yes.

MOTION PASSED: 6-0 Barton, Morton, Schmid absent

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Yeh reported that at the last Northern California Power Agency meeting that the investor owned utilities have collected enough signatures to introduce a potential State ballot initiative that would require 2/3rd majority vote of any publicly owned utilities to invest in any capital improvements both within their jurisdiction or regionally.

Council Member Klein advised that he attended the Hetch Hetchy Tour on July 24-26, 2009. He also mentioned that Mayor Drekmeier was one of the speakers on the tour.

ADJOURNMENT: The meeting adjourned at 12:48 a.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.