



CITY OF PALO ALTO CITY COUNCIL FINAL MINUTES

Special Meeting
October 05, 2020

The City Council of the City of Palo Alto met on this date in Virtual Teleconference at 5:04 P.M.

Participating Remotely: Cormack, DuBois, Filseth, Fine, Kniss, Kou, Tanaka

Absent:

Study Session

1. 2951 El Camino Real [20PLN-00158]: Pre-screening of a Proposal to Rezone the Subject Property From CS (Service Commercial) and R-1 (Single-Family Residential) to Planned Home Zoning (PHZ) and Redevelop the Site With a Mixed-use Development That Includes Approximately 119 new Residential Units, 5,000 Square Feet of Office Space, and 1,000 Square Feet of Retail Space. Environmental Assessment: not a Project and any Subsequent Formal Application Would be Subject to the California Environmental Quality Act (CEQA). Zoning District: CS (Service Commercial) and R-1 (Single-Family).

Jonathan Lait, Director of Planning and Community Environment presented the item to the City Council (Council). In February 2020, Council was supportive of implementing a Planned Housing Zone that included an Inclusionary Housing Requirement of 20 percent. The project at 2951 El Camino Real was designed to use the Planned Housing Zone (PHZ). It contained 119-housing units, 5,000-square feet of office, 1,000-square feet of retail, and included a mix of studios, 1-bedrooms, and 2-bedroom units. The project did not provide a net increase in jobs and it did meet the 20 percent Inclusionary Housing Requirement with 20 percent of units meeting the 80 percent Area Median Income (AMI). The two adjacent R-1 parcels on Olive Avenue would be incorporated and redeveloped along with the project. Policy considerations included waiving the Retail Preservation Compliance in terms of parking, incorporate the adjacent R-1 Zone, Floor Area increase, consideration for exceeding the Transitional Height Limit, and Legislative Amendments to the Zoning Code and General Plan. Staff's recommendation was to hold the pre-screening and answer any of Council questions.

Gary Johnson, Acclaim Companies Partner summarized that Acclaim Companies owns projects in the City of Menlo Park, City of East Palo Alto, City of Cupertino and Redwood City. The proposed project provided 24 affordable

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units with 95 market-rate units ranging in rental price points. The project is located on a parcel that provided easy access to transit for jobs and encourages alternative modes of transportation. The reason for incorporating the R-1 and CS Zoned parcels on Olive Avenue were to increase the lot area to 1.1-acres which allowed the project to build a 1-story below-grade parking garage. The high land and construction costs within the City made it hard for multi-family housing to be built and so the granting of the requested Variances is vital for the project to move forward. Acclaim Companies held a community meeting for residents along Olive Avenue and Pepper Avenue to discuss the project.

Sherry Scott, Acclaim Companies, Architect Founder summarized several design components that made the project unique. The subterranean garage allowed for ground floor units, retail and office space. The office and retail space fronts El Camino Real as well as the main residential lobby. The project does provide a central open courtyard that does comply with the Open Space Requirements of the City. Starting on the third floor and moving up to the fifth floor, the floors pull back to preserve the Day Light Plane. The tallest portion of the building at 65-feet is located at the front along El Camino Real.

Ken Joye commented that he is a resident of the Ventura Neighborhood and expressed his frustration that the housing burden is being placed fully on his neighborhood.

Angie Evans announced she would love to see a project like this in the Crescent Park Neighborhood and supported the project. She urged Council to approve the project because the City needed more housing.

Ryan Globus supported the project.

Anupa Bajwa is a homeowner on Olive Avenue and is concerned about the Day Light Plan adjacent to her home being compromised by the new structure. She believed that the developer is not conveying the size, scale, and impacts of the project.

Becky Sanders agreed that the amount of housing development is substantial in the Ventura Neighborhood and that the housing burden is being pushed onto the neighborhood. She did not support the project.

Rohin Ghosh believed the proposed project is a strong step in the right direction and supported more projects like the proposed project in the future.

Matt Bryant announced he is a resident on Pepper Avenue and is concerned about the potential violation of the North Ventura Coordinated Area Plan (NVCAP) as well as the existing Building Codes.

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Kelsey Banes acknowledged that the PHZ provided an avenue for more projects like the proposed project to come forward. She agreed that more projects like the proposed needed to be located in other neighborhoods, but she supported the project.

Michele Sullivan encouraged the Council to consider the NVCAP as well as the El Camino Design Guidelines when approving PHZ projects in the area.

Rebecca Eisenberg supported the project. She expressed that the developer needed to seek input from the neighbors and believed that Alternative M is the superior project. She wanted to see more very-low-income housing included in future projects.

Kevin Ma wanted to see more specificity regarding the affordable housing component of the project. He encouraged the project to include bike and pedestrian items.

Mayor Fine emphasized that the project is the second PHZ Project the Council has reviewed but the first project to use the newly adopted Affordability Requirements. The first PHZ Project on 3300 El Camino Real is not moving forward because the developer felt that the Council was too strong with their criticisms.

Council Member Kniss requested more information in terms of the financial feasibility of the project.

Mr. Johnson restated that the key issues in Palo Alto are high land values and construction costs in the Bay Area. The one-story subterranean garage and the 5-story facility helped make the project pencil out.

Council Member Cormack liked that the project included 32, 2-bedroom units, no issues with parking, that retail is being preserved, the integration of income-restricted units, and that it is close to jobs. She asked Mr. Lait to summarize the plan for El Camino Real.

Mr. Lait answered that there was no plan for El Camino Real except for some parcels that were part of the NVCAP.

Council Member Cormack announced that one concern was the direct proximity to R-1 homes. She noted that one exception she was willing to let future applicants do was to exceed the height limit by 10 percent to achieve 20 percent of units to be affordable.

Council Member Kou asked what the affiliation was between the owner and Acclaim Companies.

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Mr. Johnson reported that the project was a joint venture, not a land lease.

Council Member Kou wanted to know more about open space.

Mr. Johnson mentioned that there was an open courtyard as well as balconies for the units.

Ms. Scott added along with the courtyard and balconies there will be landscaped setback to the adjacent R-1 homes. The two R-1 facilities that the project was proposing to absorb were to be redeveloped to a townhouse scale.

Council Member Kou asked if there were mechanical lifts for parking at any of Acclaim Companies' other facilities.

Mr. Johnson answered there were no mechanical lifts at any of Acclaim Companies' sites.

Vice Mayor DuBois mentioned that there were El Camino Design Guidelines to consider.

Mr. Lait confirmed that is correct, but there were no new corridor plans in the pipeline for El Camino Real.

Vice Mayor DuBois remarked that there was some skepticism on how the PHZ was going to work and it was really in a trial period. He saw the project as a massive project and wanted to understand if it was possible to have it scaled down and still be profitable. He wanted to see a quantification of what the exceeding zoning was, in terms of benefits for the City. He inquired if the project was to be profitable if it stayed in the required height limits, if it helped the project to convert all units to studios and to know why office space was included.

Mr. Johnson explained that having all units be studios did not allow the project to market to all income levels and having bedroom variations was a benefit to the community. The office was an existing component on the site. The design was very close to the margin of feasibility and if the project was required to conform to the height limits then the project was not going to pencil out.

Mayor Fine disclosed that the goal of PHZ was for projects to come forward that exceed the Zoning Requirements. He liked that the project met the City's Parking Requirements, no net new commercial space, maintained retail, and provided 24 affordable units. He agreed with the comments regarding neighborhood equity but noted that PHZ was City-wide and that the City needed to look at ways to incentivize projects in other neighborhoods. He

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requested what the PHZ Ordinance included, what Legislative Amendments were needed, and General Plan changes.

Mr. Lait responded that the General Plan designated that the R-1 Zone was for single-family homes and that needed to be amended to allow multi-family units. That amendment triggered a Comprehensive Plan Amendment to reflect that change in density. Staff believed that the Zoning Code needed to be amended to state that units for the PHZ were able to exceed the height limits.

Mayor Fine predicted that a change in the PHZ language regarding height applied to all PHZ projects.

Mr. Lait confirmed that was correct, but Council had the final say on if a project was to advance.

Mayor Fine summarized that the project was 6 feet above the height limit on El Camino Real and 2 feet above the Transitional Height Limit in the rear.

Mr. Lait declared that the whole project was subject to the 35 foot Height Limit because of the adjacency to the R-1 Zone. The project transitioned between 35 to 65 feet.

Mayor Fine requested more detailed diagrams and analysis in terms of the height of the project, as well as for the Day Light Plan.

Council Member Tanaka asked how many units would be available if all units were studios.

Mr. Johnson answered that with all studios the unit count increased but the project would not meet the Parking Requirements.

Ms. Scott estimated it would be an additional 40 to 50 units if the units were all studio apartments.

Council Member Tanaka inquired how big the current studio apartments were.

Ms. Scott answered roughly 570 square feet.

Council Member Tanaka commented that no parking lifts were proposed.

Ms. Scott clarified that a small number of pit lifts were proposed.

Council Member Tanaka inquired if the Parking Requirement could be met if puzzle lifts were used.

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Ms. Scott specified that the proposed lifts were puzzle lifts but located in a pit below the garage.

Council Member Tanaka recommended that the applicant explored a more aggressive mechanical lift to accommodate more parking.

Council Member Filseth commented that it was hard to consider the project in isolation from the NVCAP process and that there were no policies to convert R-1 zones to other zones. Specific to the project, he concurred with Council Member Cormack's remarks in terms of her likes. He liked the due diligence in terms of parking, that the project looked healthy from an economic perspective; the public benefit was the Below Market Rate (BMR) housing. He wanted to understand what parameters would be involved if the existing height requirements were hit or if a different inclusionary profile was applied.

Vice Mayor DuBois reminded the Council that the current code stated that a building had to be at 35 feet or below in height when it was within 150-feet of an R-1. He asked if the benefits of the project were worth the cost of building above the existing Height Requirements. One concern regarding the project included converting R-1 properties into the PHZ Zone. He did not support exceeding the height limit and he urged the Council to consider a commercially developed moratorium for the Ventura Neighborhood until the NVCAP process was complete. He inquired what the status was for Code Enforcement for commercial uses in R-1.

Mr. Lait explained that the existing residents were not going to be required to vacate until an application was filed.

Vice Mayor DuBois questioned if the fee associated with Code Enforcement could be deposited into the Affordable Housing Fund.

Mr. Lait summarized that fees collected through Code Enforcement were deposited into the General Fund.

Vice Mayor DuBois asked if there was a commitment from Acclaim Companies to have access to all the R-1 parcels.

Mr. Johnson confirmed that there were agreements from all property owners.

Vice Mayor DuBois wanted to see the Code Enforcement issue resolved.

Council Member Kou disclosed the biggest issues were the neighbors in adjacent R-1 single-family homes, minimal open space and many of the units were luxury units. She wanted to understand mechanical lifts and if they were used by residents. Also, the project needed to work within the NVCAP

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perimeters and future affordable housing projects needed to have a greater BMR unit percentage to justify exceeding existing Zoning Requirements.

Council Member Cormack remarked that the project did comply with the Open Space Requirement.

Ms. Scott clarified that the intention was to comply with the Open Space Requirement for all of the units.

Council Member Cormack asked Mr. Lait to summarize the PHZ benefits.

Mr. Lait recalled that the prior Council discussion reflected that the 20 percent of inclusionary housing was a huge benefit. Staff continued to advocate for more projects to be built.

Council Member Cormack proclaimed that there was a benefit to the City to produce market-rate units.

Mr. Lait confirmed that was correct and the City was just making the Regional Housing Need Assessment (RHNA) numbers for market-rate units. The PHZ was balancing the production of housing that supported all income levels and included Inclusionary Requirements.

Council Member Kniss commented that the Comprehensive Plan expressed that 300-housing units needed to be built per year to reach the City's goals.

Mr. Lait indicated it was correct.

Council Member Kniss specified that the RHNA numbers for the City were very large and that no developer was able to build a building with 50 percent BMR units. Due to the Council expressing that the proposed site was not available because of the NVCAP process, she requested the location of sites that were able to support a project like the one being proposed.

Mr. Lait mentioned there were sites all over the City and potential projects that were brought forward to Staff that mimicked the components of exceeding height limits and the FAR.

Council Member Kniss hoped there was agreement amongst the Council on what was acceptable because if no decision was made then developers were no longer going to bring projects forward.

Council Member Filseth agreed that a project providing 50 percent BMR units was impossible and believed that the site was in a good location for a project like the one proposed.

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Council Member Tanaka asked how many cars were able to be in a garage if puzzle lifts were used.

Mr. Johnson noted that many people did not like lifts, which was why they were not used in all garages.

Council Member Tanaka asked if a 2-bedroom or a studio was more profitable, in terms of percentage profit.

Mr. Johnson explained that studios had a higher generation of revenue than a 2-bedroom apartment, but it was more important to provide units for all incomes because it gave more options to tenants.

Council Member Tanaka inquired if the units were rental units or owned.

Mr. Johnson said rent only.

Council Member Tanaka liked that the units were rental units and that the office and retail units on the ground floor faced traffic.

Vice Mayor DuBois clarified that common open space was met but the private open space was not met.

Mr. Lait agreed.

NO ACTION TAKEN

Oral Communications

Anupa Bajwa asked the City Council (Council) Members if they wanted a 36-foot high wall 10-feet away from their property line.

Roland Lebrun commented that there was no need for passing tracks through Palo Alto if Caltrain used the existing four-track section between the City of Atherton and Redwood City. Also, the Caltrain Engineering Standards did not allow grade crossings with more than three tracks. If the City decided to do four tracks, Caltrain was not going to pay for it. In conclusion, he advised the Council to reinstate the Rail Committee once the Expanded Community Advisory Panel (XCAP) finished their work.

Caltrain User urged the Council and Palo Alto (City) residents to vote no on the Sale Tax increase to bail out Caltrain's Measure RR.

Jon Anderson was building an Accessory Dwelling Unit (ADU) on his property in Barron Park and under current regulations the HVAC unit had to be located

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in the middle of the property. He requested that the City not require that and said it was easier to connect the ADU to the sewer line.

Rebecca Eisenberg expressed her sympathies regarding living near a large multi-family dwelling. Studies showed that multi-family facilities increased the value of homes.

Kevin Ma reminded the Council that the Regional Housing Needs Assessment (RHNA) numbers were going to change, which required Zoning Code changes. He urged the Council not to be so nit-picky towards developers and supported densification.

Kelsey Banes supported the comments regarding densification and encouraged residents to vote yes on Measure RR. She requested Vice Mayor DuBois retract his statements regarding receiving funds from developers.

Rohin Ghosh echoed approval of Measure RR, the densification of Palo Alto, and the retraction of Vice Mayor DuBois's comments.

Chetan Patwardhan was concerned about the maximum height limit for ADU's.

Minutes Approval

2. Approval of Action Minutes for the September 21, 2020 City Council Meeting.

MOTION: Mayor Fine moved, seconded by Council Member Cormack to approve the Action Minutes for the September 21, 2020 City Council Meeting.

MOTION PASSED: 7-0

Consent Calendar

Council Member Kou registered a no vote on Agenda Item Number 4.

Council Member Kniss, Mayor Fine, and Council Member Tanaka registered a no vote on Agenda Item Number 7.

MOTION: Vice Mayor DuBois moved, seconded by Council Member Kniss to approve Agenda Item Numbers 3-7.

3. Resolution 9919 entitled, "Resolution of the Council of the City of Palo Alto Approving and Authorizing the City Manager to Execute the Professional Services Agreement Between the Northern California Power Agency (NCPA) and the Cities of Palo Alto and Santa Clara for Electric Transmission, Generation and Regulatory Consulting Services, on Behalf

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of the City of Palo Alto", in an Amount Not-to-Exceed \$821,875 Through October 31, 2025.

4. Approval of Fiscal Year 2020 Reappropriation Requests to be Carried Forward Into Fiscal Year 2021 and Budget Amendments in Various Funds.
5. Review and Approval of the 2020 Annual Williamson Act Contract Renewals Within Palo Alto City Limits.
6. Approval of Amendment Number 1 to Contract Number C20176363 With Magellan Advisors, LLC for an Integrated Fiber Expansion Approach and Acceleration of the Fiber-to-the-Premises (FTTP) Business Case, and to Increase Compensation by \$285,065 for a Total Not-to-Exceed Amount of \$497,576.
7. Ordinance 5506 entitled, "Ordinance of the Council of the City of Palo Alto Amending Section 18.18.090 (Parking and Loading) of Chapter 18.18 (Downtown Commercial District) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) to Temporarily Extend Ineligibility of Certain Uses to Participate in the University Avenue In-lieu Parking Program." (FIRST READING: May 11, 2020 PASSED: 4-3).

MOTION PASSED FOR AGENDA ITEMS 3, 5-6: 7-0

MOTION PASSED FOR AGENDA ITEM 4: 6-1 Kou no

MOTION PASSED FOR AGENDA ITEM 7: 4-3 Kniss, Fine, Tanaka no

Council Member Kou stated that Agenda Item Number 4 deserves a discussion.

Council took a break from 7:15 P.M. and returned at 7:30 P.M.

City Manager Comments

Ed Shikada, City Manager provided an update regarding Palo Alto (City) business. The County of Santa Clara released a Revised Risk Reduction Order as related to moving into the Orange Tier for the Coronavirus (COVID-19) Pandemic. Red Tier requirements were still be in place for outdoor/indoor gatherings and indoor dining. New testing dates for COVID-19 at the Palo Alto Art Center were October 9 and 23, 2020, November 6, and 20, 2020 and December 4 and 18, 2020. Neighborhood playgrounds were expected to open up on October 9, 2020, and signage was going to be posted stating pandemic rules. The Magical Bridge Playground was not going to be open. The Palo Alto Art Center was reopening on October 6, 2020, with its Glass Gallery and the

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main gallery opening on November 3, 2020. A new outdoor art exhibit was installed along Embarcadero Road. The Bike Bridge over Highway 101 was being installed, which was going to result in road closures in the evening. The California Avenue Garage construction continued with a completion date of late October or November 2020.

Council Member Cormack asked when the Magical Bridge Playground was going to open.

Mr. Shikada answered that it was an ongoing conversation and no timeframe was set as of yet.

Council Member Tanaka inquired about struggling businesses located within City-owned properties.

Mr. Shikada noted that the City was offering deferrals as a matter of course and there was interest among tenants for forgiveness of missed rent. Staff planned to bring this to the Council soon.

Action Items

8. PUBLIC HEARING/LEGISLATIVE: Adoption of Several Ordinances Regarding Accessory Dwelling Units and Junior Accessory Dwelling Units Amending Palo Alto Municipal Code Titles 16 (Building) and 18 (Zoning); Amendments Include Repealing Section 18.42.040 (Accessory and Junior Accessory Dwelling Units) and Adding a new Chapter 18.09 (Accessory Dwelling Units and Junior Accessory Dwelling Units); and Updating Chapters 18.04 (Definitions), 16.58 (Development Impact Fees), 16.04 (California Building Code), 16.06 (California Residential Code), and 16.14 (California Green Building Standards Code). Environmental Assessment: Exempt From Review Under the California Environmental Quality Act (CEQA) Pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Sections 15061(b)(3), 15282(h), 15301, 15302 and 15305 (CONTINUED FROM AUGUST 17, 2020).

Jonathan Lait, Director of Planning and Development Services expressed appreciation to Staff who worked on this item. The Interim Accessory Dwelling Unit (ADU) Ordinance that passed by the City Council (Council) in January 2020 expired at the end of January 2021. Palo Alto (City) issued 146 ADU permits since 2015 with Final Permits issued for 84 of those projects. The State's expectation was for the City to meet their market-rate housing production in the course of the City's Regional Housing Needs Assessment (RHNA) Cycle. If the City failed to meet their market-rate housing numbers, Senate Bill 35 (SB 35) was to kick in, which included a 10 percent Inclusionary

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Requirement. The ADU production counted toward market-rate RHNA numbers. The City did extensive community outreach, which helped Staff update and provide recommendations for the City's ADU Ordinance. Staff recommended restructuring Section 18.09.030 and Section 18.09.040 of the Ordinance to facilitate easier readability and understanding. Section 18.09.030 listed State-recognized exemption standards and Section 18.09.040 explained standards for ADUs that did not meet State exceptions. Proposed changes to the Ordinance were for the City to grant an 800-square foot exemption to ADUs without regard to the existing floor area available on the site. Similar revisions were to take place for Junior Accessory Dwelling Units (JADU) with a 500-square foot exemption. One parcel had the option to have the main dwelling unit, an ADU, and a JADU on site but the exemption was not accumulative. Another change was to not make a distinction between an attached and detached JADU. Any two-story ADU that was not by-right exempted had to follow the City's privacy and tree protection regulations. For a garage conversion to a JADU, the City required replacement parking, but it was able to be uncovered. Noise generating equipment needed to comply with the City's Noise Ordinance and the last proposed change was to remove the Deed Restriction Process for ADUs. Changes to the Building Code included changes that made it easier for Staff to facilitate the conversion of garages or other accessory structures to a dwelling unit and technical details about types of construction. The Planning and Transportation Commission (PTC) was in support of Staff's recommendations as well as being interested in how ADUs were used as affordable housing units.

Public Hearing opened at 8:05 P.M.

Jessica Resmini runs the ADU Collective in Palo Alto and urged the Council to adopt the recommendations so that the City was able to move forward tackling the problem of housing.

Randy Popp stated that the ADU Task Force helped Staff with the ordinance but still had other recommendations. Key items included alignment with the Government Code, ADUs that are two-stories and subterranean construction, minimal increases to non-conforming structures, utility connects and the Green Building Requirements.

John Kelley complemented Staff for their hard work on incorporating resident's recommendations and addressing concerns. He echoed support for the previous speaker's comments. He urged the Council to approve a greater maximum square foot for ADUs.

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1408****409 commented that a discussion needed to take place regarding the 4 foot maximum setback for ADUs and if that would be applied to the street side lot line for corner lots.

Roy Maydan agreed with a previous speaker that three issues needed to be addressed. Those included allowing an ADU to use the same sewer line that the existing house uses, Green Building Requirements and the location of HVAC equipment.

Drew Hudacek reported that studies have shown that ADUs are the most effective way to produce housing in California. More housing was able to be achieved if the City's Ordinance aligned with the State's Ordinance.

Linnea Wickstrom supported any action taken by Council that allowed the City's Ordinance to align with the State's Ordinance. She concurred with the comments about allowing an ADU to use the existing homes sewer line.

Jon Anderson has to have a new sewer line put in for his ADU and requested the Council allow for an ADU to use the existing home's sewer line. Also, if someone installed a ductless HVAC, he wondered if that could be located closer to the unit instead of in the middle of the property.

Rebecca Eisenberg agreed with many of the comments previous speakers have mentioned and supported the adoption of Staff's recommended changes.

Lisa Van Dusen declared that it was very hard to build an ADU with current regulations.

Rohin Ghosh commented that building more ADUs was essential to the City's housing solutions and supported efforts to streamline ADUs.

Kyle Harrison reminded the Council of the current Housing Code for Substandard Lots which prohibited those lots from having a second story. If ADUs were able to build a second story, homes on substandard lots needed to be able to too.

Eric Stein encouraged the Council to make a timely decision on the Ordinance.

Daniel Garber supported and requested that Council approve the ADU Task Force's additional recommendations.

Curtis Smolar disclosed support for the ADU Task Force's recommendations and supported all of Staff's recommendations.

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Kelsey Banes urged the Council to rethink and support two-story ADUs. She cautioned against prohibiting a homeowner from maxing out their home and then building an ADU.

Marie di Pasquale thought the City should not require homeowners to do a third-party Green Building verification.

JaWen Hernandez felt that utility connection for ADUs needed to be regulated from the standpoint of functionality.

Raven Malone echoed that more ADUs need to be built and regulations needed to be relaxed to encourage production.

Public Hearing closed at 8:39 P.M.

Mayor Fine mentioned that the public needed to send any emails regarding Agenda topics to the email City.Council@cityofpaloalto.org so that Staff was able to see and respond to the emails.

Ed Shikada, City Manager relayed that all emails sent to that email were included in the Council's Packet as well as posted online.

Vice Mayor DuBois asked if Staff's recommendations were consistent with State Law.

Mr. Lait confirmed that was correct.

Vice Mayor DuBois requested clarification on how many ADUs were allowed on a property.

Mr. Lait commented that a parcel was able to have one ADU, one JADU, and an existing residence.

Vice Mayor DuBois questioned if any regulations prevented an ADU from being used as a home office.

Mr. Lait answered no.

Molly Stump, City Attorney noted that there were restrictions and regulations on running a business in a residential neighborhood.

Vice Mayor DuBois wanted to know if the regulation of "no short-term rentals" was State Law.

Ms. Stump confirmed.

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Vice Mayor DuBois inquired how that was enforced.

Garrett Sauls, Associate Planner mentioned that Planning and Transportation Commissioner Summa asked the same question and there was no practice in place on how Staff was going to verifying the use of the space.

Mr. Lait summarized that it was tracked based on complaints.

Vice Mayor DuBois suggested that Deed Restrictions needed to stay in place and that it did not need to be finalized until the final inspection of the ADU was complete.

Mr. Lait said the Council was able to provide direction to Staff, but Deed Restrictions were often not thought of and caused last-minute scrambling for Staff.

Council Member Cormack wanted to know what was holding up the pre-approved designs.

Mr. Lait reported that was part of the Senate Bill 2 Grand funding and Staff was working through the process of developing the designs.

Council Member Cormack inquired what the sentence meant that read Staff proposed restructuring the Cool Roof and Recycle Content Requirements from Green Building prescriptive, which was mandatory, to an elective for Tier 1 Projects.

Mr. Lait reported that some Green Building Regulations were rolled back in response to challenges folks were having with building ADUs and that sentence reflected that change.

Evon Ballash, Assistant Building Official summarized that Staff relaxed the requirements in the Green Building Ordinance for Cool Roofs for existing structures and ADUs.

Council Member Filseth reiterated that if a 2,500 square foot house was built and then the homeowner stated that part of the home was a JADU, then the homeowner was able to essentially build a 3,000 square foot house.

Mr. Lait concurred.

Mr. Sauls explained that a homeowner was not able to build a 3,000-square foot home because the nuance was what was being used as the unit and what was being used as the primary residence.

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Council Member Kniss asked how many ADUs were built and used within the City.

Mr. Sauls commented that since 2015, 84 ADUs had Final Permits from the City.

Mr. Lait restated that the City did not track if the ADU were being used and for what purpose.

Council Member Kniss inquired if the taxes on an ADU were different from Property Taxes.

Mr. Lait noted that just the new construction was going to be assessed.

Council Member Kniss questioned if the City was gaining ground in regard to the housing crisis by allowing ADUs to be built.

Mr. Lait stated yes.

Council Member Tanaka wanted to know if basements were allowed for ADUs.

Mr. Lait confirmed that the Proposed Ordinance did not allow any portion of an ADU to be underground.

Council Member Tanaka inquired as to why that was so.

Mr. Lait specified that many ADUs were located within side yards and the City was concerned about tree preservation. Basements were not allowed outside of the buildable footprint.

Mr. Sauls echoed Mr. Lait's comment that Council was able to decide to allow or not allow ADUs to have basements.

Michael Alcheck, Planning and Transportation Commission (P&TC) Member mentioned that the P&TC did not recommend the ADUs include using basements. In the P&TC's Staff Report some regulations were not fully analyzed by Staff and that included two-story ADUs, allowance of basements and incorporating the Green Building Program. Due to Staff not having fully analyzed those items, the P&TC wanted more time to review them.

Ms. Stump asked Staff to clarify where basements were allowed on a lot.

Mr. Lait summarized that if the basement was located within the buildable footprint as allowed for a single-family dwelling, an ADU was able to have a basement. If the detached ADU was outside of the buildable footprint, no basement was allowed.

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Council Member Tanaka supported allowing ADUs to have basements.

Council Member Kou restated that a JADU was able to extend into the existing dwelling's setbacks.

Mr. Lait added that if a person was building within the single-family guideline, all required setbacks applied to an Attached ADU and JADU.

Albert Yang, Assistant City Attorney clarified that an attached or detached ADU was able to be built to encroach into the setback by 4 feet, but special exemptions no longer applied to the project.

Council Member Kou appreciated Staff's recommendations in terms of preserving the neighborhood and the trees. She inquired how the City was handling non-conforming ADUs.

Mr. Lait explained that the City found out about non-conforming units through resident complaints. Code Enforcement was to work with those units until they complied with State Law.

Council Member Kou inquired how the City was tracking ADUs that were being used for Airbnbs.

Mr. Lait noted that it was complaint-driven.

Mr. Sauls answered that Staff required specifications of the HVAC unit that was being used, which showed what the noise level was for that particular unit. Anything that produced a noise level above City requirements, had to have a noise analysis conducted.

Council Member Kou wanted to know if any noise complaints were received from neighbors.

Mr. Lait had not heard of any noise complaints.

Mayor Fine questioned if the City was allowed to limit ADUs to 800 square feet and impose limits for lot coverage, Floor Area Ratio (FAR) and open space.

Mr. Yang specified that a detached ADU was able to be built over 800 square feet. The City had a maximum size of 900 square feet for a 1 bedroom or studio ADU and 1,000 square feet for a 2 bedroom ADU. If someone wanted to build an 800 square foot ADU, they were going to receive their permit and the City was not able to adopt any other regulations.

Mayor Fine asked why the City required a separate sewer line for an ADU.

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Mr. Lait replied that sewer lines were a State issue, not a local issue.

Council Member Tanaka noted that underground parking was not allowed in single-family areas.

Mr. Lait concurred.

Council Member Tanaka wanted to understand the rationale around not allowing underground parking.

Mr. Lait restated that it was a policy call for the Council.

Council Member Tanaka wanted to know how a corner lot was able to obtain an ADU.

Mr. Sauls reiterated that a detached ADU was able to be placed in a 4 foot side and rear setback, which included the secondary street frontage.

Mr. Yang added that Housing and Community Development (HCD) agreed that side yard meant street side yards as well.

Vice Mayor DuBois emphasized that ADUs were a complicated subject and he inquired if a HVAC unit was able to be placed on a property line.

Mr. Sauls answered no, setbacks applied for the ADU.

Vice Mayor DuBois expressed concern regarding corner lots and what the streetscape was going to look like if an ADU was within the 16 or 20 foot setback.

Mr. Sauls reported that HCD encouraged the City to provide incentives to move people away from placing items in the setbacks.

Vice Mayor DuBois inquired if other cities were having the same issues in terms of setbacks.

Mr. Sauls noted that other jurisdictions said the side yard was a front yard and setbacks were protected in those areas.

Mr. Lait interjected that there were options and ways to address the setback encroachments.

Ms. Stump summarized that those options included the City having litigation issues.

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Mayor Fine mentioned that the P&TC requested Council direct the Commission to continue to study incentives for affordable ADUs.

Council Member Cormack questioned if any fees were being changed.

Mr. Sauls restated that Staff's recommendations were trying to align with State Law but Council was able to change the fee amounts.

Council Member Cormack requested clarification regarding flood zones.

Mr. Sauls explained that a flood zone required the floor to be raised 2 feet above the ground. The Municipal Code stated that there cannot be an increase to non-conforming spaces, so the ADU needed a shrunken roof height to accommodate the increased floor height.

Council Member Cormack questioned if there was a design criterion for ADUs when it came to Eichler homes.

Mr. Sauls answered that there were no design criteria for ADUs.

Council took a break at 9:40 P.M. and returned at 9:48 P.M.

MOTION: Vice Mayor DuBois moved, seconded by Council Member Filseth to:

- A. Adopt the Ordinances amending Palo Alto Municipal Code Titles 16 (Building) and 18 (Zoning) to amend regulations for Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs); and
- B. Direct the Planning and Transportation Commission (PTC) to look at deed restricted affordable ADU's.

Vice Mayor DuBois asked if the issues regarding corner lots should be referred to P&TC as well.

Vice Mayor Filseth supported having the P&TC review corner lots.

Mr. Alcheck remarked that the P&TC believed that the Architectural Review Board (ARB) should discuss corner lots.

Council Member Tanaka wanted to understand how the Green Building Program applied to ADUs.

Ms. Ballash mentioned that the Green Building Program was part of the Sustainability and Climate Action Plan (S/CAP) goals which included Tier 1 and Tier 2, which were mandatory for new construction and for additions and

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remodels for residential construction. New residential construction needed to comply with Tier Two requirements and ADUs were included in that category; Staff has since relaxed those requirements.

Mr. Lait advised Council to send their Green Building Program Requirements item to the P&TC for further review.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "Direct Staff to continue working with the community, including the ADU Task Force, during the PTC process." (New Part C)

Council Member Cormack wanted the Utility Advisory Commission (UAC) and the ARB to review the flood zone component and Green Building Program.

Mr. Lait believed the Motion captured that intention.

Council Member Kou asked how sustainability goals were being met if the Green Building Program was now elective.

Ms. Ballash explained that the ADU Task Force was requesting all Green Building requirements be relaxed, which was a policy question for Council.

Council Member Kou stated that ADUs were counted towards the City's RHNA numbers.

Mr. Lait confirmed they counted toward the Market Rate Allocation. If a unit was deed restricted to affordable housing, the City was able to count that toward RHNA as well.

Council Member Kniss wanted to know if the P&TC could work through some of the issues that were raised.

Mr. Alcheck stated that there was always room to refine an ordinance.

MOTION AS AMENDED RESTATED: Vice Mayor DuBois moved, seconded by Council Member Filseth to:

- A. Adopt the Ordinances amending Palo Alto Municipal Code Titles 16 (Building) and 18 (Zoning) to amend regulations for Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs);
- B. Direct the Planning and Transportation Commission (PTC) to look at deed restricted affordable ADU's; and

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- C. Direct Staff to continue working with the community, including the ADU Task Force, during the PTC process.

MOTION AS AMENDED PASSED: 7-0

Mayor Fine asked if the Public Art Program Item needed to be moved to a future Council meeting.

Council Member Kniss wanted to keep it on the Agenda.

Vice Mayor DuBois agreed.

Mr. Shikada supported keeping it on the Agenda.

9. Approval of an Extension of the Pilot Phase of the Old Palo Alto Residential Preferential Parking Program (RPP) for a Period of Twelve Months (CONTINUED FROM SEPTEMBER 14, 2020).

Philip Kamhi, Chief Transportation Official reported Staff was recommending that the City Council (Council) extend the Pilot Program for the Old Palo Alto Residential Preferential Parking pilot program (RPP) to October 31, 2021. Community input was positive but the Coronavirus pandemic (COVID-19) made it difficult for Staff to conduct evaluations. In October 2019 the Pilot Program was adopted with permits being issued in November 2019. In January 2020 feedback was received from residents as well as Staff collected preliminary parking data. In early spring of 2020, planned Surveys and Occupancy Studies were delayed due to COVID-19, as well as parking standards not being established, and traffic patterns being changed significantly. Currently, Palo Alto (City) RPP's were not financially sustainable on their own. They did receive a subsidy from Employee Permits not specifically located within the neighborhood. Next steps included feedback studies, established parking occupancy rates and parking availability standards before returning to Council in October 2021. In terms of the California Avenue New Parking Garage, Staff was going to bring forward a recommendation to the Council at a future meeting to reduce the Employee Permits in the Evergreen Park-Mayfield RPP Parking District.

Neilson Buchanan noted that the Old Palo Alto RPP was simple and straight forward. He recommended not extending the program and to continue on the originally planned course.

Chris Robell urged Council to approve the Old Palo Alto RPP as a continuous program and to not extent the Pilot Program for another year.

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E Shepard agreed with the prior comments that the program should be made a continuous program.

Rebecca Eisenberg believed that RPP was an extremely important way to make sure residents had a safe environment. The pilot was successful and should be extended.

Barbara Carlitz loved the RPP in her neighborhood and expressed that the program be revisited when things returned to normal. She supported moving the program to a continuous program.

Chris Merritt asked the Council to accept the program as a permanent program.

Council Member Kou inquired if Staff believed they were able to collect feasible parking data during the pandemic.

Mr. Kamhi mentioned that schools were back in session and businesses were opening back up; those components provided conditions that a parking evaluation was able to take place. The primary impact the neighborhood endured was the Caltrain commuters.

MOTION: Council Member Kou moved, seconded by Vice Mayor DuBois to direct Staff to return to Council with a Resolution to establish the Old Palo Alto Residential Preferential Parking (RPP) Program as an ongoing RPP District.

Council Member Kou emphasized that the neighbors located within Old Palo Alto worked very hard to get RPP established.

Vice Mayor DuBois agreed with Council Member Kou's statements and said that the neighborhood followed all the rules. His concern, in general, regarding RPP was that they were not cost recoverable and that more ADUs increased traffic.

Council Member Kniss asked what the result would be if the neighborhood did not need the RPP in another year due to decreased train traffic and the new garage opening up.

Mr. Kamhi explained that the neighbors would vote to determine if the program was to continue and if not, they were able to dissolve the program.

Council Member Kniss inquired what the cost was to set up the district.

Mr. Kamhi answered it was going to cost around \$16,000 to install the signs and to remove the signs was not going to be inexpensive.

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Council Member Cormack requested a further explanation regarding the connection between the California Avenue Parking Garage and the RPP.

Mr. Kamhi predicted that it did not make sense to spread out Employee Permits from Evergreen Park-Mayfield RPP Parking District throughout Old Palo Alto. The reduction of Employee Parking Permits in Evergreen Park-Mayfield RPP Parking District resulted in employee parking spots in the new California Avenue Parking Garage.

Council Member Cormack emphasized that having consistent Parking Availability Standards was important and there was a process for a reason.

SUBSTITUTE MOTION: Council Member Cormack moved, seconded by Mayor Fine to extend the pilot phase of the Old Palo Alto Residential Preferential Parking (RPP) Program for twelve months ending on October 31, 2021.

Council Member Cormack noted that there was spillover traffic to other blocks and advised Staff to investigate that.

Mayor Fine supported Staff's recommendation due to Staff not being able to collect good parking data because of COVID-19. The California Avenue Parking Garage as well as changes to Caltrain were going to have an impact on the RPP. He believed that the process of pulling an item off the Consent Calendar was not a good process.

Council Member Filseth agreed that establishing a Citywide Standard and then having all RPP Programs follow the same standards was a good process. The RPP process needed to continue as is until Council decided how to proceed.

Council Member Tanaka inquired what Staff learned since the program began.

Mr. Kamhi said positive feedback was expressed.

Council Member Tanaka inquired if Staff found ways to make the program better.

Mr. Kamhi replied that by extending the program, Staff had time to evaluate.

Council Member Tanaka asked if residents had the option to opt-in of the program if they wished.

Mr. Kamhi affirmed.

Council Member Kniss predicted that the arguments for the pilot to continue were stronger than the arguments to make the program permanent.

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Council Member Kou felt that if the Program continued as a pilot program, the Council was not supporting the residents who worked hard to get the program put into place.

SUBSTITUTE MOTION FAILED: 3-4 DuBois, Filseth, Kou, Tanaka no

Ms. Stump noted that the item was to come back on the Consent Calendar as a Resolution if the main Motion passed.

MOTION RESTATED: Council Member Kou moved, seconded by Vice Mayor DuBois to direct Staff to return to Council with a Resolution to establish the Old Palo Alto Residential Preferential Parking (RPP) Program as an ongoing RPP District.

MOTION PASSED: 6-1 Fine no

Ms. Stump commented that the Program was not going to lapse if Staff was not able to provide information in time to Council to consider in fall of 2021.

10. Review and Discussion of the City of Palo Alto's Public Art Program, and Direct Staff to Either Amend the Municipal Code to Temporarily Suspend the One Percent for Public Art in Municipal Projects and/or Private Development Projects for two Years, or Provide Other Direction to Staff.

Ed Shikada, City Manager stated that the Item was a follow-up to the Budget deliberations. The program operated under a principle of pooling funds and had to run in parallel with the Public Safety Building Public Art.

Elise DeMarzo, Manager Community Services announced that the Staff's recommendation was to direct Staff to return to Council with an Ordinance to amend the Municipal Code to temporarily suspend the *1 Percent for Art* in municipal projects or private development for 2 years or to provide other direction to Staff. Municipal Ordinances were adopted in 1975 creating the Visual Arts Jury and establishing the Art in Public Places Program. In 2005 Palo Alto (City) adopted the 1 Percent Art Policy, in 2014 the City adopted the Private Percentage for Art Ordinance and in 2015 the Art Policy was changed to an Ordinance. The City held several volunteer intensive community engagement art projects as well as smaller public engagement events. The four funding sources for the Public Art Program were Maintenance Budget, Capital Improvement Projects (CIP) Fund which was 1 Percent for Art in Municipal Projects, Public Art Fund and the CIP Fund for Art in Public Places. The 1 Percent Art in Municipal Projects carried over year to year and a small allocation was set aside for project management that was shared between Public Art and the Palo Alto Art Center. Staff explored the future with regard to allocating some CIP Funds for the maintenance of new art pieces that were

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coming online. Future projects that were projected for the Fiscal Year (FY) 2021 Budget included temporary art at the Public Safety Building construction site, Fire Station 4, Newell Street Bridge and the Bike and Pedestrian Projects. Upcoming temporary initiatives included Phase One of a Microgrant Project for commercial corridors and neighborhoods and temporary murals Phase Two. Council approved an annual allocation of \$50,000 that was used for temporary art projects, which carried over year to year. CIP Fund Art in Public Places only applied to projects that were over 10,000 square feet and up to 20 percent of the Public Art Fund was used to offset the Public Art Director's Staff time. The Public Art Commission's (PAC) priorities for FY 2021 was to develop art within the City to help aid the City in the recovery of the Coronavirus (COVID-19) Pandemic, develop an art project that continued to advance cultural inclusion and social and racial equity and to widen and strengthen education and advocacy for public art. If public art was suspended, Staff requested clarifications on which ordinances were to be suspended, where to draw the line on projects and process, and how to handle projects that were currently under contract.

Ben Miyaji emphasized that the Palo Alto Public Art Program brought National recognition to the City. He did not support suspending the Public Art Ordinances.

Loren Gordon indicated that the PAC needed funding to advance public art projects that encouraged cultural inclusion and social and racial equity.

Mark Weiss asked if a Private Public Partnerships were to be established to make up the funding gaps.

Raven Malone emphasized that public art was very important and wanted to see funding continue.

Rebecca Eisenberg echoed previous commenters to continue funding public art.

MOTION: Council Member Kniss moved, seconded by Council Member Cormack to not suspend the one percent for public art in municipal projects and/or private development projects for two years.

Council Member Kniss stated that art within the City was vital for residents and non-residents.

Council Member Cormack did not support suspending funding for public art.

Vice Mayor DuBois predicted that Council will not have to make steep budget cuts again and supported leaving the program as is.

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Council Member Tanaka disclosed that Sales Tax revenues continued to decline and major cuts in vital departments have taken place. He inquired if Staff looked into Private-Public Partnerships as a source of funding.

Mr. Shikada explained that essentially the existing funding was a Private-Public Partnership already.

Council Member Tanaka stated that each art project was individually voted on by the Council.

Ms. DeMarzo clarified that the PAC vetted all art projects. If a project was over \$80,000 then the contract come to Council for approval.

Council Member Kou asked if the program included art classes or programs for kids.

Ms. DeMarzo confirmed that community engagement projects often included families with kids.

Council Member Kou questioned the outreach the Art Program did.

Ms. DeMarzo noted that most of the outreach was done through social media and advertising through community facilities.

Mayor Fine wanted to continue to fund the program.

Council Member Tanaka questioned if it was reasonable to hire local artists or non-established artists to provide art to the City at a lower cost.

Ms. DeMarzo explained that there were a lot of different types of art projects with varying levels of artists.

Council Member Tanaka wanted to know what the impact was if funding was cut to half a percent instead of the full 1 percent.

Ms. DeMarzo reported that projects that were coming in were going to be affected for years to come or not be built at all.

Mr. Shikada recalled that larger surrounding cities were at a 2 percent funding level for public art.

Ms. DeMarzo confirmed that was correct and 1 percent was standard.

Council Member Tanaka inquired if bigger cities reduced their art budgets.

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Ms. DeMarzo noted that cities were allocating more funding for public art recently to help the community recover from COVID-19.

Molly Stump, City Attorney cautioned that the conversation was moving away from the Agenda Item topic.

MOTION PASSED: 7-0

Council Member Questions, Comments and Announcements

Mayor Fine reported that Council Member Kniss, Council Member Cormack and himself dissolved the Business Support Ad Hoc Committee.

Adjournment: The meeting was adjourned at 11:37 P.M.