



CITY COUNCIL

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CITY OF
PALO ALTO

Special Meeting
Monday, March 13, 2023

Call To Order

The City Council of the City of Palo Alto met on this date in the Council Chambers and by virtual teleconference at 5:00 P.M.

Present In Person: Burt, Kou, Lauing, Lythcott-Haims, Stone, Tanaka, Veenker

Present Remotely: None

Absent: None

Study Session

1. Comprehensive Economic Development Strategy Update and Study Session (Continued from February 13, 2023)

ACTION: None Taken

Assistant to the City Manager Steve Guagliardo spoke of the comprehensive economic development strategy, which was the cornerstone of a continuing priority of the Council for economic development and recovery. The overall strategy was a roadmap that would provide guidance on future investments. He addressed organizing the work on economic development and investments.

Streetsense Consultant Larissa Ortiz shared that Palo Alto existed in a very competitive environment, and they were trying to help Palo Alto be a business-friendly and thriving environment by acknowledging deficiencies and where competitiveness could be improved. They would discuss the impact of the loss of daytime office workers. She noted that the City could influence but not dictate the decisions of the private sector property owners, so the recommendations of the plan would acknowledge the role of the City in supporting economic development and the kinds of partnerships that needed to be developed. She provided slides of the overview of the project, including the timeline. They were in the diagnostic phase and would then move to strategy. The assessment looked at four elements – market analysis, administrative capacity at the local level and partner assessment, business environment assessment with a sales tax analysis and a hospitality and tourism assessment, and the physical environment City-wide and for each district. Their focus was on the commercial districts, which were the most significant tax-based contributors and had to be best-in-class environments to remain competitive. She discussed community serving centers and neighborhood serving

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centers. She explained how all those districts existed in a very complicated ecosystem with landlord/management, tenant, and consumer, and she outlined the role of the public sector. She acknowledged that there were a number of global and national trends impacting the success of many downtown environments, and their recommendations existed with that recognition. She discussed regulatory and municipal codes, and it came to their attention that Palo Alto had incredibly regulated environments, which made it challenging for businesses to decipher whether they could locate in certain places. The rules needed to be examined and some degree of permissiveness allowed. She suggested considering removing the Retail Preservation Ordinance citywide. The goal of the diagnostic was to understand and use a data-driven approach to acknowledge deficiencies and where improvement was needed. There were three takeaways, which were reinforcing hierarchy of place, improving accessibility, and adopting policies that would reflect changing market conditions.

Streetsense Consultant Anya Chan walked through the retail market assessment. The Council should have the full report with appendix. They were specialists in retail environments, and their approach to understanding retail was very nuanced and comprehensive. They had started by doing a deep dive in the competitive landscape to assess the competition's impact on retail districts within the city. They looked at competition regionally as well as locally. She commented on regional retail and locally serving retail competition. She mentioned that big-box retailers, which were concentrated along the periphery of the city, resulted in a leakage of resident dollars leaving the city. Their competitive assessment served as the basis for understanding the regional dynamics and the retail opportunity within the city. She specified what the competitive assessment identified, which would determine the retail opportunity. She spoke of the trade areas. She noted the findings of an impact analysis they conducted that measured the effects of hybrid work schedules for office-based employees. Building back the daytime population was critical in supporting additional retail and the retail ecosystem. She outlined the retail demand projections their analysis found. As part of the competitive analysis, they examined entertainment and other uses that were not considered traditional retail uses, which were potential gaps within Palo Alto, and there was opportunity for the City in that area. She spoke of the organizational landscape and the economic development service delivery mechanisms being weak and was something the downtown districts needed.

HdL ECONsolutions Principal/Managing Director Barry Foster provided a background of HdL Companies. He furnished slides related to sales tax analysis. He addressed local sales tax revenue trends, sales tax revenues and performance of the four areas they had looked at, sales tax revenues by retail category, and retail sales dollar per capita of cities competing with Palo Alto.

Streetsense Consultant Ashley Labadie voiced that a three-part analysis had been performed for the physical assessment looking at the public and private realm elements that informed best-in-class competitive retail districts of all studied scales, access and connectivity of transportation networks, and a SWOT analysis for each district. They saw a lack of bus redundancy in parts of the city around neighborhood-serving districts but recognized that coverage would soon be addressed with an on-demand shuttle service, which they thought

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would be helpful. They believed better signage, bike lane markings, and consideration for micro-mobility programs were needed to complete the bicycle network. She noted that the SWOT analysis looked at strengths, weaknesses, opportunities, and threats, and she detailed the needed improvements for downtown, California Avenue, and neighborhood centers. Recommendations for improvements should be focused on where there was a lack of stewardship, bifurcated ownership, lack of physical cohesion, and other needed public realm improvements.

Public Comment

Charlie Weidanz stated the Palo Alto Chamber of Commerce had recently been active in participating with stakeholders and Streetsense. He asked that a more flexible zoning structure be considered and that more clarity be provided regarding what was and was not allowed to aide tenants. The Chamber and its members were here to partner and help move economic development forward.

Vice Mayor Stone stated the diagnostic report often compared Palo Alto to national trends, and he asked how Palo Alto compared more to local jurisdictions, especially in terms of vacancy rates and retail rents, and why the vacancy rate was higher on California Avenue. He inquired what types of amendments in the zoning code would provide the needed flexibility while also still maintaining community-serving businesses that residents needed and wanted.

Streetsense Consultant Ortiz declared they had compared rents in each of the districts, and there had been a deeper dive into a tenant stack-up against each of Palo Alto's districts, which had not been covered in the presentation. Regarding vacancy rates, the administrative analysis highlighted the challenges neighborhood- and resident-serving businesses had locating in a place they desired, and there had been delays in getting through the permitting process due to a highly regulated environment, and it would make sense to remove those hurdles. As for zoning codes, there was a very specific set of uses in the presentation that were community serving, such as beauty shops, etc., which had a number of restrictions. Palo Alto not having a single table of use was a challenge for prospective businesses. Such a table which would enable businesses to determine if they would be allowed in a district.

Streetsense Consultant Chan supplied a slide related to rents and expressed that some markets had limited rental data, but they had looked at it on a regional level. Overall in the region, rents were elevated, so it was not unique to Palo Alto.

Council Member Burt queried if there was data to support the assertion that retail rates in Palo Alto was comparable to surrounding communities and what rate of return-to-office was being assumed for retail demands going forward. In the future, he wanted to see the data that asserted there was not a trend toward gradual return to office. He was concerned with drawing conclusions in a firm way based upon an assumption that office occupancy would remain the same as today. He did not believe retail trends declined citywide before the pandemic. He expressed that Palo Alto had recent data related to retail trends and asked if Streetsense had

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that data. He was concerned the presentation did not articulate distinctions in retail trends citywide versus certain areas.

Streetsense Consultant Chan stated that retail rent for University Avenue was higher than surrounding communities. They were assuming that a current rate of around 40% return to office would continue within San Jose Metro. There was fluctuation, but it currently stemmed and had stemmed around the 40% to 50% mark, and it was not growing among tech workers. The data showed return to office had not grown.

Streetsense Consultant Ortiz noted the Federal Reserve recently indicated concerns about the office market. She brought up the side with the guiding principles and wanted to make sure they were headed in the right direction for the City.

HdL ECONsolutions Principal/Managing Director Foster indicated it was accurate that retail trends did not decline citywide before the pandemic. He had not seen more recent data regarding retail trends. They received fourth quarter information from the State this week. They had looked at third quarter, and it was continuing to grow. He noted that some businesses on California Avenue were still struggling and were not back to pre-pandemic in terms of margins and cash flow.

Streetsense Consultant Ortiz wanted to make sure Council was comfortable with the guiding principles as it was the basis of the strategic and tactical recommendations coming next. She would provide additional information related to an increase in return to work, but the tech industry was not returning to work.

Council Member Burt agreed with the guiding principles. He did not think there was an adequate basis for the assertion that the number of square feet would exceed present and future need in retail.

Council Member Veenker asked if, related to daytime demand, the number of Palo Altans working from home had been studied and if the expected increased housing had been factored in related to residential uses. She inquired why Edgewood Shopping Center and El Camino Real were not included.

Streetsense Consultant Chan indicated the future population growth was accounted for through the residential pipeline, but density had to be significant to drive demand.

Streetsense Consultant Ortiz discussed University Avenue not being able to succeed with Palo Altans' spending alone and it needing to be a destination, and California Avenue needed to embrace and expand to be resident and community serving. Their scope of work at the outset was informed by a desire to look at downtown areas and concentrations of retail activity. They also looked at where the most impact was from on the sales tax front. A mixture of decisions went into what areas were chosen.

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Assistant to the City Manager Steve Guagliardo noted that Edgewood was classified firmly as a neighborhood shopping center. The recommendations for Midtown and Charleston focused on ways to activate the neighborhood serving retail. Recommendations would probably be applied to Edgewood and other likeminded districts moving forward.

Council Member Lythcott-Haims asked how retail would be incentivized in the San Antonio-Charleston corridor. She was eager to incentivize and inspire more nontraditional businesses coming to Palo Alto.

Assistant to the City Manager Guagliardo pulled up a map showing demand and options related to outside city borders. Regulatory overlays, etc., made it less clear what business could be sited where and made it confusing for perspective vendors, so through this development strategy, a single use table could become the guiding cornerstone of what business could be set up and where, etc., which would make it easier to navigate the City process.

Streetsense Consultant Ortiz discussed spending being captured by competitors and businesses choosing not to locate where demand was already being met. They were not making recommendations to pursue new retail when trends suggested shrinkage and softening of brick-and-mortar opportunities. They wanted Palo Alto to reinvest in existing districts and reduce rate vacancies rather than adding more retail that would compete with surrounding areas.

Council Member Lauing assumed office traffic would not come back to pre-pandemic levels, and thought rightsizing needed to be done. He believed Streetsense was going in the right direction. He spoke of promoting some of the smaller areas. He queried if there were guidelines that could bring about an assortment of stores. He was endorsing looking at a lot of zoning changes. He believed there needed to be a transition to more housing in downtown, which could mean people frequenting local businesses.

Streetsense Consultant Ortiz indicated they wanted to go in the direction of stewardship. As for guidelines for an assortment of stores, she preferred incentivizing desired businesses. A start may be to look at the table of uses and removing some restrictions.

Council Member Tanaka did not think the price of rent was the reason for vacancies. He believed a key issue was people working from home, which could be solved with dense housing. He thought there should be some sort of draw to certain areas and incentives for businesses to locate in Palo Alto. He opined there should be tax incentives and acceleration and easing of the permitting process. He thought there should be a six-month timeline, not two years, for parklets, outdoor dining, etc., on University Avenue and California Avenue. He encouraged staff to get the downtown plans settled quickly. He supported most of Streetsense's recommendations. He asked that the collapse of Silicon Valley Bank be considered and how it could affect the business environment.

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Mayor Kou agreed with adding the neighborhood center, such as Edgewood, San Antonio, and South Palo Alto, to the study. She explained why work-at-home should be looked at realistically. She did not see much analysis of number of people using vehicles to go to shopping areas downtown and California Avenue. She agreed that there needed be an assortment of stores. She addressed the local retail sales tax revenue being higher than pre-pandemic. There needed to be a focus on business owners having understanding, stability, and predictability. Parking policies needed to be addressed. She wanted to ensure historical data was being considered in terms of how transitions had happened for tech businesses, etc. She questioned how the funding would take place and what organizations or committees would ensure street cleaning, etc. She requested a timeline for items coming back to Council and questioned if there would be community engagement with all the stakeholders.

Streetsense Consultant Ortiz stated their recommendations were tactical and identified projects, programs, and interventions, outlined funding that might be required, and looked at partners necessary to advance recommendations. A rubric was applied to each recommendation, so it was a true roadmap to execution over the next three to five years.

Assistant to the City Manager Guagliardo commented they had initially anticipated returning to Council in June for the third discussion, which would focus on the recommendations, the outgrowth from the guiding principles, and getting to the tactical level and the road that would give all stakeholders predictability in the sense of what would be coming next. With the current conversation and general affirmation of the guiding principles, Streetsense would take the data and the guiding principles and develop the roadmap. The work product coming back to Council would be the discussion of investments and returns and how the comprehensive economic development strategy would be set up. As for community engagement with stakeholders, people could be brought into the conversation. The process needed to include engagement with partners.

Streetsense Consultant Ortiz stated she could be prepared to come back in June.

2. Prescreening Study Session Regarding a Rezone Request to Amend Planned Community 2343 (PC 2343) for the Property Located at 2901-2905 Middlefield Rd and Rezone 702 Ellsworth Place to R1 Zone for Development of a One-Story Single-Family Residence

ACTION: None Taken

Chief Planning Official Amy French indicated that for this study session a prescreening was required for legislative changes and was intended to solicit early feedback. The Council members should refrain from forming settled opinions supporting or opposing the project. She furnished slides. She gave a history of 792 Ellsworth from 1926 to 1967. They were in a period of discovery with neighbors and staff performing research for greater understanding of the history. She discussed the existing four lots and the existing PC. She specified what the owner was requesting. She presented a table and a map showing Ellsworth Place with the substandard R1 and R2 lots. 705 Ellsworth was the only lot on the street that was not substandard. She

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explained the criteria needed for R1 and R2 lots to be considered substandard. There had been conversations with neighbors, and they had sent correspondence to the Council and staff. She listed eight concerns neighbors had. Staff recommended conducting the prescreening process. There were a number of people who wanted to speak, and the applicants were present to present their proposal. She noted that comments were not binding on the City or the applicant. A formal rezoning application had also been submitted, which would be evaluated, then presented to the PTC and then come back to Council.

Hayes Group Architect Ken Hayes voiced that the prescreening was for consideration of amending a 56-year-old PC ordinance involving 2 parcels of land, correct a zoning map error that had persisted for 56 years, create an opportunity for a new single-family home, provide parking on 1 parcel that conformed to the latest City requirements, and modify an ingress/egress easement to access other properties on Ellsworth. He specified what the existing PC involved. RLD Land bought the property in 2017. He outlined what the zoning map at the time showed. RLD Land sold the property to Mr. Nitin Handa, who planned on building an approximately 1,900 square foot, 1-story home. Mr. Handa had been informed the property had not been zoned R1 when he submitted plans for a building permit to the City. He shared slides showing the property. The goal of the owner was to extract 702 Ellsworth from the PC ordinance by amendment of the development plan, provide compliant, required parking for the apartment building that would be entirely on the apartment building property, and make 702 Ellsworth an R1 zoned property where a new home could be built. He presented the original site plan with 12 apartments that required 20 parking spaces at the time, but only 16 spaces were now required. He explained where the parking spaces would be created in the new plan. He described that there would be space for a delivery van. He concluded by saying a previously unknown City mapping error was relied on by all parties, which resulted in a situation that could be easily rectified with the PC amendment and at the same time provide an ingress/egress easement that could be expanded to include the 13 parcels down Ellsworth and a site plan for temporary truck deliveries. RLD Land requested City Council support amending the development plan, to right-size the parking, and to provide an opportunity for a single-family home.

Applicant Nitin Handa reiterated that they purchased the lot in November 2022 because the seller and the City told them it was zoned R1 and that a single-family home could be built. They were proposing to build exactly what the City told them they could build. He had been speaking to one neighbor, Kristen A. Van Fleet, who had been representing other neighbors. They agreed on six of seven items. What they did not agree on was whether the house should be one or two stories.

Public Comments

Kristen A. Van Fleet was speaking on behalf of Hanh Nguyen, Chin Chong, Tsing Xue, Yevgeny "Yoni" Khasin. She had been a homeowner on Ellsworth Place for almost 19 years. She spoke of problems they had with circulation on the street since the fence was installed, and they wanted it removed. She explained that the fence was dangerous. Putting a fence on the 20-foot line

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would make the street one lane. She spoke of possible problems with delivery trucks. She addressed the problems with the apartments losing eight parking spots. She explained why residents had put in pavers. She mentioned blind corners, which put children at risk on the sidewalk, and there had been a number of fender-benders. In researching, they found that in Ordinance 1810 the driveway approach was supposed to have been widened but never was, so they were asking for that now. She questioned who owned the road. In their research, it showed they all had joint ingress/egress based on joint tendency deeds. A surveyor mapped their deeds and found where the road split. According to Santa Clara County maps, Palo Alto had owned the street since 1968. She spoke of discrepancies in details regarding the address, the application, etc. They had asked for a letter to be included in the packet, which represented every house, which she thought the letter was added to the packet today. They wanted the fence removed, circulation back on the street, and for their street and neighborhood to be integrated with the apartments.

Paul Bigbee, speaking on behalf of Susan Light, Charlie "Chuck" Effinger, and On Chong, Shan Wang, lived on Ellsworth. He had concerns around safety and circulation and the need to clarify that situation. He spoke of bicycling being hazardous in the area, and stated the situation had to be remedied.

Robyn Ziegler had lived on Ellsworth Place for over 35 years and specified that the entrance/exit of Ellsworth Place at Middlefield Road was treacherous and requested it be expanded for more flexibility for vehicles and that there be no obstruction.

Robert Chen addressed that historically the PC 2343 ordinance required the parking lot to be integrated with the apartment development. Documents indicated the City and the apartment developer understood Ellsworth Place needed to be widened. The [inaudible] served as an easement for the single-family homes and the apartment tenants. He also said that takeoff would cause a lot of public safety issues. He commented that protected trees had been cut. He spoke of the setup of the chain link fence and possible violation of zoning.

Bhanu Lyer, a resident of Ellsworth Place since 1998, focused on the intersection being unsafe. She wanted [inaudible] unraveled, not cut. She remarked that originally it was an apartment complex and asked Council to look at what it was meant to be historically and that the residents' requests be considered.

Sherri Furman, Chair of the Midtown Residents Association, supported the concerns of the residents of Ellsworth Place. They had outlined in a letter to Council problems with the proposal, which included rezoning and removal of the parking lot. She opined that the proposed replacement parking was problematic and dangerous and was not adequate nor compliant. She noted that the pictures in the presentation did not do justice to the problems being faced and recommended Council members visit the site.

Lynn Chiapella presented a document from the City website that showed Ellsworth Place was a private street and thought the facts should have been understood. She read the motion from

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the Council meeting of March 13, 1967, which referenced that a study of the area was to be done, and she requested that be researched. She addressed the intersection being dangerous.

Jeff Levinsky requested the City not be involved in this issue as the lack of disclosure to the buyer by the owner was not the fault of the City. He explained the problems that could be caused by rezoning. He asked that the PC be preserved.

Hayes Group Architect Hayes remarked they had relied upon City documents regarding zoning and thought their proposal was a reasonable solution. They were willing to work with the neighbors but thought some asks went too far. Widening of the driveway discussed in the 1958 PC had been changed in 1967 when PC 2343 was approved. They believed they could provide compliant parking on the apartment site. Hopefully they could resolve how delivery trucks would be handled. Perhaps Mr. Handa could provide a little more space in the front.

Applicant Handa reiterated that when he purchased the lot he was told by the seller and the City that it was an R1 zoned lot and could be built on. He did not think building a home on the site would increase or decrease the safety concern of the street being 20 feet wide.

City Attorney Molly Stump emphasized that this was a study session, that it was preliminary and that there was not an application formally before Council. Council members were encouraged to keep an open mind and not come to a settled position on how a formal project application, once filed, would be decided.

Mayor Kou understood the PC was created for four parcels, so she was perplexed by Parcel A4 being split off from the PC, which helped determine the entire project. She was surprised by the lack of due diligence by the buyer. She questioned how 700 Ellsworth Place came up in the MLS listing. She indicated it would be prudent to determine who owned the length of Ellsworth. She opined that PCs should stay intact. She did not believe moving the parking to Sutter or within the apartments would address the parking problem.

Richard Dewey answered, regarding the MLS listing, it was a range of numbers that they were told was 700 to 704 or 706, so they picked 700, and it was a number for marketing reasons only.

Applicant Handa expressed they did their due diligence and went to the City to ensure it was R1 and zoned to build a single-family home, and they had evidence in writing from the City confirming that. They also relied on the title company and got a clean title. There was also a real estate agent involved in the transaction that represented both sides.

Council Member Burt thought there were solutions that could meet the interests of all three parties but that it would take more work. He asked if the parcel was allowed to be separated from the balance of the PC if the zoning density on the balance of the parcel would allow for 27 units an acre or it would be superseded by the fact it was a PC or would it be a modification to a

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PC; if it was an RM20 underlying; and if a two-story home would be permissible or what would allow for such on that site.

Chief Planning Official French remarked it was a PC, so it was not standard zoning that set forth density per acre. A PC modification would be the formal application. Regarding an underlying RM20, there was nothing underlying. The underlying zoning prior to the first PC was R3G, which did not exist as a zone. It would take an amendment to the PC to allow a two-story home on the parcel. He addressed two-story ADUs being allowed but a two-story building on a substandard lot not being allowed, so he was interested in that approach in conjunction with looking at the ingress and egress and how to make it safer, having more setback for parking off the lane, making sure there would be line of sight going on to Middlefield, and issues of delivery drop-offs and parking.

Planning and Transportation Director Jon Lait indicated if Council supported the application request to zone 700-702 Ellsworth Place to R1, it would not meet lot area requirements, but it would not be a substandard lot, which was important to the issue of the second story. A second story would be a permitted activity if the lot were distinguished as an R1 parcel.

Vice Mayor Stone inquired if the sale of the house was contingent upon the applicant being allowed to build on the property and if they were not allowed to build, they could sell it back to the original owner. Given that the PC zoning was improperly designated on the zoning maps and the GIS Parcel Report, he questioned where the proper designation could have been found by the property owner. He asked if proper due diligence had been done. He queried why heritage oaks on the subject property were removed, if the City approved the removal, and if the City should not have issued the permits because it was assumed to be an R1 zone. He had personally seen several near accidents in the intersection and thought safety had to win out in the weighing of interests. He was curious if some of Council Member Burt's suggestions could alleviate some of the concerns, if there could be expansion, or the City could buy the property, etc. If a house being constructed would make it more dangerous, he did not see reason for the project to move forward, but there were a lot of unknowns, and he was interested to see revisions to the plans.

Richard Dewey specified it was not the case that the applicant could sell the property back to the original owner if it was determined the property could not be built on.

Chief Planning Official French declared the proper designation could have been found by doing a deep dive into Council minutes, researching whether there had been a rezoning between 1967 to present, and unearthing the PC Ordinance 2343 and not finding any evidence to the contrary. Concerning the removal of heritage oaks, staff had relied on the R1 zoning on the map and the oaks were less than the diameter in the Tree Technical Manual, etc., so they did not meet the size of protected oak trees in 2018.

Director Lait commented the kind of research Chief Planning Official French outlined was a high expectation for the sale of a property. Staff had done the research based on information they

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received from residents in the area, and it would not have been uncovered in the ordinary course of business. With regard to the removal of heritage oaks, the trees were not protected under the ordinance. Had they known it was a PC, they probably would have done more research into the development plans to understand if it was part of the development proposal, etc. Additional analysis was not done because they were not aware of the legislative actions that proceeded it. It was hard to say if it would have been allowed.

Mayor Kou remarked the level of due diligence Chief Planning Official French outlined was far beyond what was expected, although the intentions of the buyer had to be taken into consideration and investigated. She noted it was a representation of both buyer and seller.

Council Member Lauing expressed that the problem of access on Middlefield needed to be addressed. He queried if the ownership of the street was a joint tenancy and requested the claim of joint tenancy be investigated. He asked what the City would be looking for in terms of setbacks in relation to the fence for a potential R1 home; where the City would allow the front of the lot to be; and the legality of the proposed use of the easement by the City. He was trying to determine what the options were for the easement and who would control what would happen. If the City controlled the easement, the City could dictate space and setbacks. He inquired if the City owned the Ellsworth Place road how wide the Middlefield entrance would need to be. He queried if it was random and part of the normal process that the apartments were turned into an RM20 in 2019, if the application was correct regarding the number of parking spaces, and if the current owner of the apartment building intended to just maintain what they had. He stated that safety and fairness to parties had to drive a lot of the decisions.

Chief Planning Official French understood the entire street that was on Mr. Handa's property was owned by Mr. Handa with an easement across it, and they were researching deeds to determine who owned the remainder of the street down Ellsworth. Setbacks in relation to the fence would be determined upon further study. The applicant was proposing 10 feet from the southerly edge of Ellsworth roadway to the proposed home. As for where the front of the lot would be, the parcel lines were not proposed to change. Mr. Handa's parcel ended at the same location as the southerly property line of Mr. Dewey's apartment parcel. The current dimension of that property street was 20 feet. If a new subdivision were proposed, it would be 32 feet wide. The apartments being turned into an RM20 was a program of the Housing Element. The RM15 zoned properties were upzoned to RM20. With respect to parking, the number of spaces for 12 units was 16 spaces, and as part of the application, the current owner of the apartment building intended to rent as they were with the additional 4 parking spaces on site.

Director Lait noted regarding the legality of the proposed use of the easement by the City that there was much to be determined in terms of access. He spoke of the easement and Ellsworth Place traversing over the 702 Ellsworth property, so through the process, it could be put in order with all the appropriate documents. Setbacks or fences from the street would likely be addressed through the application process. He clearly heard there was concern regarding pediatricians, bicyclists, and vehicles, so they needed to look at that.

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Council Member Lythcott-Haims was interested in asking the Muwekma Ohlone people their thoughts on this problem. She commented if the City did not know it was a PC when they allowed trees to be cut down in 2018, how could Mr. Handa be asked to know more than what the City knew. She believed he did his due diligence. She was not sure how adding an additional house added to the safety concerns, and it might actually signal to drivers, etc., that there were homes and driveways there. She declared that no one in the room was responsible for the discrepancies related to this item. She asked that the Council proceed with compassion for everybody involved.

Mayor Kou added there was a question as to the legality of the application and how a portion of the PC got separated to be sold. She wanted to be empathetic, but there should also be trust in the PC system and in zoning.

Council Member Veenker hoped a solution could be found that would work for everybody. She looked forward to the journey of finding a good resolution.

Council Member Tanaka questioned how it happened that the applicant was told by the City this could be done and how to prevent such errors from happening again. He opined it would be worth looking at prior PCs and getting up to the modern standard to prevent this from happening again. He was interested in exploring the two-story home idea more.

Director Lait outlined that in the 1960s the planned community zoning was approved, and the administrative process of updating the zoning map was not done, and it was only recently discovered. As for preventing this from happening again, he described how the process was now done. This may not be the only mistake, and he would love to go back and look at prior PCs, clean everything up, and get up to the modern standard, but he did not have the resources to do it.

[The Council took a 10-minute break]

Agenda Changes, Additions And Deletions

There were none.

Public Comment

Aram James drew attention to an article by Braden Cartwright regarding a Mountain View police officer and an article from March 3 titled "Police Chief to Hold Off Naming Assistant Chief." He spoke in opposition of a certain officer being considered for Assistant Chief.

Talya Schube, a sophomore at Gunn High School and a representative of PASCC, asked that steps be taken to reduce and eventually stop the use of natural gas in homes and buildings. She spoke of gas stoves being detrimental to the environment and impacting people's health.

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PASCC hoped to work with the Council to bring awareness to electrification in Palo Alto. They supported the City's efforts to achieve climate justice.

Consent Calendar

3. Approve Minutes from February 6, 2023 and February 27, 2023 Meetings
 4. SECOND READING: Parks and Recreation Commission Recommendation to Adopt an Ordinance Amending PAMC Section 22.04.220 to Regulate Electric Bicycles and Electric Coasting Devices in Parks and Open Spaces
 5. Adopt an Ordinance Adding an On-Demand Transit Fare Fee to the FY 2023 Municipal Fee Schedule – CEQA Status – Not a Project
- AA1. Approval of the Office of the City Auditor FY2023 Task Orders

Public Comments

Paul Trainer, speaking on behalf of Terje Oseberg, Curtis Golden, Raj Mashruwala, Jack Van Damn, had sent emails and a video regarding the E-bike ban on unpaved roads in the Baylands and believed it should not be done. He went through a presentation. He expressed why he did not believe E-bikes disturbed wildlife and why the speed of E-bikes was not an issue. He voiced that the California Department of Motor Vehicles did not consider E-bikes to be motorized vehicles but were bicycles. He declared what E-bikes did for those needing physical assistance. He referenced that the Bay Trail philosophy was to provide a shoreline pass for everyone to enjoy, and he opined that banning E-bikes was against the philosophy. He did not think the paved road access into the Baylands for E-bikers was sufficient. He believed the ban in E-bikes was not a ban on E-bikes but a ban on older people. He asked that Council take more time to understand what was going on in other cities and to get more up to date.

Richard White stated that his wife was 72 years old and had had open heart surgery and did not have the stamina to peddle a bike from Shoreline to the Palo Alto duck pond. It would be sad if a ban on E-bikes kept them from enjoying that resource. He did not think they were offering risk to fellow trail users or disturbing wildlife. He asked that an ordinance not be passed, which would discriminate against that section of the E-bike community. He suggested enforcing a speed limit for bicycles and E-bikes.

John Kunz (in person) had been biking his entire life and had had a DVT that lead to a pulmonary embolus. He had E-biked very near egrets, and they were not disturbed. He pleaded that E-bikes not be banned.

Mike Morganstern (in person) was 81 years old and not in favor of any E-bike ban, but if one were to pass, he thought Shoreline should be excluded. He noted that it had gotten dangerous

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to bike on city streets. He thought walkers disturbed what little wildlife there was in Shoreline as much as E-bikes. E-bikes really helped him.

Vincent Wong (in person), a sophomore at Palo Alto High School and leader of the Pali Electric Vehicle Club and Director of *InFocus News*, expressed his and the Pali EV Club's distaste with the proposed E-bike ban on unpaved roads in Palo Alto. He provided reasons why he thought E-bikes should be allowed in parks. He proposed a regulated speed limit on certain sections in the Baylands Nature Reserve rather than a complete ban of E-bikes on unpaved roads.

Rohan Bhatia (in person), a representative from Palo Alto High School Electronic Vehicle Club, opposed preventing E-bike use on unpaved paths. He believed the primary reasons for the ordinance were environmental harm, safety issues, and noise concerns, and he explained why these issues were not solved with this ordinance. He opined that putting the ordinance in effect would reduce the incentives to own an E-bike.

Rachel Fussell on behalf of People for Bikes Coalition spoke against the proposed ban on E-bikes. Studies in Jefferson County Colorado showed that there was no material safety distinction between E-bikes and conventional bike use. She believed E-bikes should have access to infrastructure designed and designated for bicycle use. Tahoe National Forest conducted a NEPA assessment, which included several wildlife species, and determined that E-bikes were a disturbance and that the species were still present and thriving a year after the study. She believed an outright ban would be premature in the absence of evidence of adverse impacts. She discussed E-bikes being a key component to fighting climate change.

Jay Chesavage (in person), an E-bike user, noted that the ordinance banned E-bikes as equipment rather than use, which he thought should be considered carefully. As a rider who had used both a traditional bicycle and a Class 1 E-bike, he could not identify differences in the two. His wife, who had pinched nerve issues, rode an E-bike. He opposed the ban on E-bikes in the Baylands.

Cedric Pitot de la Beaujardiere spoke on the ordinance regulating transportation modes in parks and open space. He urged reconsideration of the February 27 decision, to review whether the amendments were intended, and to reject the ordinance amendment. He expressed that the amendments impacted all bikes and other types of wheeled devices, not just E-bikes. He quoted Amendment Section 22.04.220A, and if the ordinance amendment was reapproved, he urged the City to clearly delineate for each park and trail, whether bikes and strollers, etc., would be permitted and to communicate the information to the public and suggested the information be added to the City's website and on each park and open space map. He encouraged the City to review all paths and walkways and set liberal policies allowing all such vehicles. He thought bad behavior should be regulated, not all bikes and strollers.

Jose Garcia Franco stated the PRC recommendation had not been based on research or evidence and organizations, such as People for Bikes, had contacted the PRC and other committees in January and they had not received a reply, and he thought these issues needed

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to be revisited and that the PRC should explain its actions. He opined that the rationale of erring on the side of caution for wildlife had been based on opinion, not evidence. He understood that the community found a way to share the space in a peaceful manner, and enacting any restrictions would be a disruption to the status quo. He regarded speed and safety to be a behavior issue, not an equipment issue. He respectively urged Council to revisit their vote and remove the initiative from consideration.

James Bell, a cyclist who owned an E-bike, was against the bike ban. He was concerned of the impact the ban would have on many others' abilities to enjoy the outdoors and maintain an active and healthy lifestyle. He voiced points against the ban. He addressed airplanes posing a much greater risk to birds, noise, and environmental pollution than E-bikes. He urged Council to reconsider the ban on E-bikes.

Jeff Greenfield, Chair of the PRC, declared that PRC took a thorough and thoughtful approach in the recommendation. He recommended that work be done to keep policy [inaudible]. He noted that a policy with carveouts for different E-bike classes was not practical or enforceable now and was something that could be considered. There was lack of sufficient education and communication about speed limits and etiquette at the preserves for E-bikes and bicycles, which could be improved with updates to webpages, etc., and he looked forward to input from PABAC. He pointed out that National Park permits permitted E-bikes where bicycles were permitted, but each park superintendent had discretion to selectively restrict E-bikes anywhere in the park. An extensive impact analysis study was required before opening any pathway to bikes or E-bikes, which the community lacked. He asked that this policy be supported and sent back to PRC for further analysis on creating a policy.

Aram James opposed the ban. He was 74 years old and was hopeful of riding an E-bike as peddling a bicycle was a problem. He had filed a public records request, and the City got back to him very quickly, and there was no record of litigation of bike accidents, including E-bikes. He advised City Council to reverse their decision. Common sense rules and speeds should be enforced, not a ban.

Council Member Lythcott-Haims, Tanaka, Burt requested to pull Item 4 and registered no votes on the item.

Council Member Burt registered a no vote on Agenda Item Number AA1.

Mayor Kou noted that four Council members were needed to pull an item if it was a second reading. She did not see a fourth, so the no votes would be taken.

MOTION: Vice Mayor Stone moved, seconded by Mayor Kou to approve Agenda Item Numbers 3, 4, 5 & AA1.

MOTION PASSED Items 3, 5: 7-0

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MOTION PASSED Item AA1: 6-1, Burt No

MOTION PASSED Item 4: 4-3, Lythcott-Haims, Burt, Tanaka No

Council Member Lythcott-Haims stated, regarding Item 4, that she was concerned that the Council would deprioritize the experience of older and mobility challenged people for whom E-bikes provided access to quality of life, etc. She noted that the issue was whether E-bikes were ridden responsibly. It was suggested a few weeks ago that speed be regulated, and it was indicated there was not enough staff to monitor that, so she questioned who would monitor the ban on E-bikes. She noted that over 80% of the emails received from residents two weeks ago were in favor of the ban, but many seemed to have emanated from a coordinated campaign, which there was nothing wrong with that, but it made more compelling the emails received from individuals opposed to the ban who seemed to have written their emails out of their heartfelt accord. She feared the policy was shortsighted, potentially discriminatory, and lacked compassion. It also flew in the face of the National Park Service Regulations that classified E-bikes as the equivalent of bikes in their regulations. She hoped the subject would one day be reconsidered.

Council Member Tanaka hoped this could be reconsidered. He thought enforcement would be difficult and that the ban was discriminatory.

Council Member Burt spoke against the E-bike ban two weeks ago but agreed to a compromise to reconsider the issues. The more he heard from the public, the more convinced he was that it was not a well-considered decision. He thought Class 1 E-bikes should be allowed on unpaved roads at Arastradero and the Baylands, that a speed limit should be set, and that consideration should be given to restricting bikes and horses on narrow single-track trails. He opined that there should be consideration of restricting areas and setting speed limits. He spoke of AA1 and thought the audit plan was good, but he was concerned that there had been an interim auditor for over five months, and there had previously been one-on-one meetings with Council Members, and particularly those on P&S, to input on the audit plan, and the Council as a whole had not had an opportunity to contribute. He was concerned about the need to specifically look at wildfire risk under the citywide risk assessment, which was a financial threat and threatened public health and public safety. He felt the level of risk was under-appraised and that it needed to be a high priority.

City Manager Comments

City Manager Ed Shikada provided a storm update, and updates were available on the website. They would continue to monitor and provide additional information as conditions dictated. He noted it was Women's History Month and listed upcoming events. There were a number of surveys on the City's website on a variety of topics for community members to provide feedback on. There would be an in-person and virtual community meeting on March 23 at 6 p.m. at the Arrillaga Family Recreation Center on the topic of Quiet Zone along the Caltrain

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right of way. In reference to upcoming council items, next week the Council would discuss the Protocols section of the Procedures & Protocols Handbook and hopefully complete the annual review; on March 27, there would be two study sessions, one on a community engagement workplan for the year and the other to review potential terms for an extension of the agreement with Pets in Need for the operation of the Palo Alto Animal Shelter, and a referral to staff on the perspective gas utility rebates; and on April 3, there would be follow-up recommended action from the Police Department on automated license plate recognition technology, a hearing on a track map for 2850 West Bayshore, and a discussion and direction on the Measure E site.

Action Items

6. Provide Direction on Permanent Parklet Program Regulations and Proposed Ordinance and Approval of Budget Amendments in the General Fund, CEQA status – categorically exempt (15301 and 15304(e))

Planning and Transportation Director Jon Lait would walk the Council through the proposed recommendation, but he noted that it was an effort that involved a lot of staff from many different departments over the course of years, and the item being brought forward was further refinement from the work they did in October.

Associate Consulting Partner Hanna Chan Smyth declared that the purpose of the item was to review and provide direction on the proposed changes to the parklet standards provided in Attachment A in the Staff Report, including A) changes related to the parklet size, specifically providing a maximum of two parallel parking spaces or three angled parking spaces, heaters, parklet location, eligibility, design standards, and application requirements, and B) parklet fees to be collected, specifically the license fee, amendment of the FY2023 budget appropriation for the General Fund, increasing the public works expenditure for contract services by \$85,000, and decreasing the budget stabilization reserve by \$85,000. She provided a background of the proposed Parklet Program. Attachment A reflected staff's proposed changes since the October 2022 meeting. Council was encouraged to review the standards and identify any concerns or modifications. The specific topics highlighted for discussion were addressing the size and scale of parklets, including a size limit up to two spaces; the revised heater standards; the license fee for use of the public right of way; and the cleaning fee. For size and scale of parklets, staff recommended limiting parklets to two parallel parking spaces or three angled parking spaces and would require a Letter of Consent (LOC) consistent with October 22 Council direction. This recommendation would scale back the parklet footprints with the objective to balance the needs of restaurants and businesses with safety requirements. The proposed change also sought to streamline the program administration for applicants and staff. She explained how the parallel parking space limit would be applied. She discussed factors involved with the sizing and scaling of parklets. Regarding heaters, following Council direction in October, the permanent standards would include provisions for propane and electric heaters. She outlined what would be required for the use of propane heaters. Staff recommended establishing five fees that would be required to establish a parklet under the Permanent Parklet Program, which

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included an application fee, an annual renewal fee, a cleaning fee, a fully refundable deposit, and a license fee for the use of public right of way. Staff sought guidance on the cleaning and license fee for the use of the public right of way. After reviewing peer city approaches to pricing the right of way and pricing parklets, staff proposed establishing a rate per square foot using current ground-floor retail lease rates and applying a discount to account for the public right of way being unfinished and being directly adjacent to the travel lane. Using ground-floor retail rates from CoStar, there were three potential rates to inform the license fee, which were downtown rates, the non-downtown areas, and all of Palo Alto combined. She presented a table comparing the rate per square foot and corresponding cost for one or two parallel spaces and a table comparing fees for other jurisdictions. She noted there was an error on the table in the Staff Report, which showed the total first year sum at the bottom to be 160 square feet, but it should have been 320 square feet as shown in the table she presented. In October 2022, Council directed staff to consider a fee for the increased cleaning associated with parklets; however, she outlined why it was challenging to calculate a cleaning fee, so staff was not prepared to offer a recommendation. Staff preferred not to tie a cleaning fee to parklets, and she presented a table of a couple options for cleaning in the downtown, and staff sought Council's direction on this topic. She mentioned that over the past 2½ years over 40 temporary parklet permits had been issued, and she remarked on the additional hours of work required by Public Works staff and other departments. It was anticipated that a large percentage of the parklet permit holders would transition to the permanent program, so the Public Works Department would require staffing and resources to implement the permanent program. In terms of next steps, following direction today, staff would refine the standards and program operations as needed and return in the spring with a formal ordinance to enact the program. The Temporary Parklet Program was authorized through June 2023. Continuing the Temporary Parklet Program would require an ordinance amendment, and staff could bring an amendment to Council in early April to extend the program to the end of the year or any other date, and it could be adjusted if the permanent program ordinance was adopted in the meantime. She highlighted a couple changes to Attachment A – Packet Page 94, Setbacks, Item C should reflect a 15-foot setback, not a 5-foot setback, and Packet Page 91, 2B, should read “parklets with an angled parking space are permitted to occupy up to 3 parking spaces,” and should not include “or the width of the applicant’s storefront, whichever is less,” and the LOC requirement would apply.

Director Jon Lait reiterated that the parklet design standards would apply to the University Avenue area and would include the car-free portion of Ramona Avenue. It would also apply in the area of California Avenue but would not extend to the car-free zone, as that was a separate process that staff would come back to Council with. The inclusion of the car-free areas of Ramona Avenue was subject to Council discretion.

Mayor Kou asked if some of the side streets on California Avenue that had parklets was part of the discussion.

Director Lait confirmed that was correct.

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Council Member Lythcott-Haims asked for confirmation that the proposed rules would apply to the car-free section of Ramona but not the car-free section of California.

Director Lait indicated that was correct.

Council Member Lauing asked if there would be exceptions to two parking spaces in the event a lot spanned more than two spaces and said lot did not interfere with any other building; if the Consent Letter implied parking spaces could be beyond two if there was no objection; and if the decision to use electric and propane heating was based on feedback from retailers.

Director Lait declared there would be uniformity in the application. The way it was proposed was to keep the parklet size to two parallel parking spaces maximum, which was referenced in the Staff Report. There was opportunity to extend to two parking spaces if the storefront was smaller than two parallel spaces. The decision to use electric and propane heating was based on direction from City Council in October.

Council Member Burt asked if there would be an issue of having more than two parking spaces if there were two separate structures and if one issue was technical on the structure size and another issue that was value based. He asked if cities other than the three mentioned in the Staff Report restricted parking to two spaces and why the City was being more restrictive regarding propane use.

Director Lait mentioned that the two-space recommendation was based on studies of what other cities had done to balance use of the public right of way for private interest and to have minimal impact. He did not know that propane use was more restrictive other than setting the policy.

City Manager Ed Shikada noted restroom capacity and other design requirements were also factors for an additional structure.

Associate Consulting Partner Smyth explained the different approaches to parking across cities in the Bay Area.

Fire Marshall Tamara Jasso declared permits had always been required for propane, although they did not enforce requirements during the pandemic. She did not believe there were any issues in terms of the fire code related to having more than two parking spaces if there were two separate structures under 350 square feet. There could possibly be an issue on the building code side.

Vice Mayor Stone asked what the approximate square footage of two parallel parking spots was; if there was an average length of a storefront in downtown; if a propane tank emitted 0.024 metric tons per year; and if parklet owners could be fined or charged for cleaning based on cleaning needs, and he was curious if other cities did something similar.

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Associate Consulting Partner Smyth noted that two parallel parking spots would be 320 square feet.

Director Lait was not aware of having an estimate for average length of a storefront in downtown. A crude estimate was most lots were 50 feet, and if there were two tenants, it would be 25 feet. He mentioned that cleaning involved not only litter but spills on sidewalks.

Assistant Director of Public Works Holly Boyd specified that each 5-gallon propane tank emitted 0.024 metric tons. She did not think administrative citations covered cleaning fees and was something she would have to discuss with the City Attorney's office.

City Manager Shikada remarked that implementing cleaning fees or fines was challenging with respect to compliance.

Council Member Lythcott-Haims inquired as to the concerns regarding ambient sound emanating from a parklet rather than the interior of a building. She felt amplified sound should be permitted going forward.

Director Lait specified that they had received direction from City Council in October related to amplified sound. It was presumably related to noise intrusions. It was an easy editing fix if the Council wanted to permit amplified sound.

Council Member Tanaka queried as to the status of the overall streetscape design for California Avenue and requested it be accelerated; how the restroom situation would be affected if the capacity outside were to increase; and if the downtown parking load had been monitored, and he suggested there be a plan for increased capacity of garages.

City Manager Shikada answered that the overall streetscape design for California Avenue was in progress. There had been a community workshop a couple weeks ago. They were anticipating having a design concept by the end of the calendar year. Even if the design was accelerated, reconstruction was likely to be years out due to evaluating options, developing a recommendation, Council approval, etc. As for capacity, there was a tradeoff for area available for vehicle parking versus parklet use.

Assistant Director Boyd hoped to have an improved concept plan for the California Avenue streetscape design presented to Council by the end of the calendar year.

Director Lait specified that a parklet size limit had been proposed to address the restroom situation. Council could decide to apply a different restroom standard.

Chief Transportation Official Philip Kamhi noted there would be parking spaces lost through parklets, and there was no plan to offset new spaces in the garage. There was a lot of existing capacity in the garages. Approximately 50% of the permits had been sold in the downtown area

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and significantly less in the California Avenue area. They were preparing to conduct parking counts.

Council Member Veenker questioned if the LOC would allow parking to go beyond the front space of the business but not beyond 320 feet or the two-spot limit.

Associate Consulting Partner Smyth affirmed that was correct.

Public Comments

Nancy Coupal, founder and CEO of Coupa Café, voiced the City should not lose sight of the fact that the parklet program was designed to enhance the quality of life for residents and the greater community. She opined that people wanted outdoor dining due to COVID and wanting to be outdoors, and that it did not affect the number of people using the restrooms. She addressed why some landlords objected to parklets. She urged Council to utilize the findings of the studies related to economic development and fashion guidelines for a coherent plan.

Tim Pham, the business manager of Tea Time and Lisa's Tea Treasures, requested Council consider permanent parklets for Ramona Avenue. He addressed not being able to build a parklet for Tea Time due to rainwater accumulation, which he had sent emails to the Planning Department asking for a solution and had not received a reply. He claimed that the storage of propane tanks was not realistic and that electricity was not feasible with their historical building.

Clayton Adelhelm, managing partner at Local Union 271 restaurant, addressed the goal of the parklets. He opined that enhancements of parklets should not require landlord consent as the streets were owned by the City. He had received a LOC from Restoration Hardware, but consent was revoked when Sand Hill Property purchased the property, and he outlined the problems that caused. He opposed limiting the parklet to two parking spots and believed the size of the parking spots needed to be revisited. He opposed cleaning fees. He believed that changing the rules and regulations were at the expense of small business owners.

Giuseppe Carrubba, Manager of Osteria, echoed what fellow restaurant owners had said. He wanted things to be more homogeneous in terms of parklet size, etc. He did not agree with landlord consent and would propose a right of first refusal if a new tenant wanted to use a space. He would love to see California Avenue addressed soon.

Megan Kawkab, co-owner of The Patio, had a parklet. She supported conformity but the number of parking spaces concerned her. She wanted to know if temporary parklets would need to be reconstructed as permanent parklets.

John Shenk with Thoits Brothers requested that a permanent parklet program not be approved and that temporary parklet permits be extended. He opined that plans to revitalize the city would make parklets obsolete in favor of a best design, and a part of the plan may be to

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convert parking areas to parklets. He did not agree with waiving restroom and building and fire code standards. He asked that the Ramona historic district be respected in design and access.

Cedric Pitot de la Beaujardiere supported the parklet program. He suggested there be provisions for handling oversized existing parklets and allowing those uses to continue and to minimize fees.

MOTION: Council Member Lauing moved, seconded by Council Member Burt to table this item to take up Item AA2.

MOTION PASSED: 7-0

AA2. Review Revised list of Applicants for open Board and Commission Openings on the Historic Resources Board, Human Relations Commission, Parks and Recreation Commission, Planning and Transportation Commission, Utilities Advisory Commission and provide direction for interviews and appointments.

City Clerk Lesley Milton declared the item was a continuation from last week when Council directed allowing Council members to nominate up to six individuals for the PRC, up to five individuals or PTC, and up to six individuals for the UAC. They received nominations, which eliminated five individuals, but there were still many candidates, and it was up to Council to discuss how to proceed with reviewing the applications, who to interview, and how to proceed with the appointments.

Council Member Veenker asked how many received one vote and how many received four or more votes, as number of votes could determine cuts and enable getting the numbers to a more manageable size.

City Clerk Milton shared a slide showing number of nominations (zero to six) for each of the three commissions. Council could potentially forward those who received more than two nominations to the interview process or something to that effect.

Public Comments

There were no requests to speak.

Council Member Lauing asked if there was a plan for interviewing.

Council Member commented that interviews had been staggered in the past. The number of applications in these three commissions had doubled from historic numbers. He did not think the Council had anticipated this volume.

Council Member Veenker asked about how long an interview typically was per applicant.

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City Clerk Milton declared that in the past interviews were 10 minutes for all commissions but 15 minutes for the PTC. That was not in the Board & Commission Handbook but was past practice.

Council Member Lauing commented that it had been discussed in the last meeting the interviews being spread out over weeks or months and that interviews be prioritized by need or by number of applications. He noted UAC had called this month's meeting because they did not have a quorum.

Council Member Lythcott-Haims noted that it would take close to 10 hours to interview the applicants, and Council was incapable of adding 10 hours of meetings to March in light of the other work of the Council.

Council Member Lauing stated interviews could be extended into May.

Discussion ensued regarding interview time, eliminating applicants with few nominations, and adding "wildcard" nominations.

MOTION: Vice Mayor Stone moved, seconded by Council Member Veenker to interview applicants that received two or more nominations from Council Members and add that each Council Member may make one additional "wildcard" nomination after seeing the list.

Mayor Kou wanted to ensure this would be fair to the applicants and that it would not make compromises.

City Attorney Molly Stump declared it was a judgement call and was a reasonable way to proceed.

MOTION PASSED: 7-0

Council Member Lauing suggested Planning Commissioner interviews be 10 minutes instead of 15 minutes.

Mayor Kou stated that could be structured into the motion on return to Council, but she mentioned that Madam Clerk said it was okay.

City Manager Ed Shikada clarified this coming together would be dependent on Council's ability to schedule sufficient time.

City Clerk Milton remarked there was a standing date held for March 31 to interview candidates, which was a block of 5 hours. They could prioritize the committees with the most need, and the rest could be scheduled for April as the Council was available.

Mayor Kou asked that the committees that did not have a quorum be scheduled first.

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City Clerk Milton acknowledged she would do that.

The Council returned to Item 6 for discussion after the vote on AA2.

Council Member Burt suggested not limiting parking spaces to two and encouraged the Council to consider the City making decisions regarding parking space, as it was public land, and regarding blocking a neighboring business' signage, that there be parklets with tables only, no structures. Concerning cleaning fees, he did not know if there was a way to enable businesses do their own cleaning. He asked how far into the street parklets were allowed. He thought the restriction on car-free streets should be to the fire lane rather than protruding into the street. He did not want to discourage amplified sound on California Avenue, and thought the issue should be addressed tonight for University and that Ramona should be discussed another time. He was concerned about parklet safety and vehicles and asked about the strength and requirements of bollards and if they would stop a car. Once information was received on the affordable housing projects, he wanted to explore additional parking utilizing the impact fees.

Assistant Director Boyd stated that the parking space was typically seven to eight feet deep and there needed to be a barrier, so it was six to seven feet.

Associate Consulting Partner Smyth voiced there was a load requirement for the barriers, and that the barriers should weigh at least 500 pounds.

Director Lait would follow up as to the bollards being able to stop a car.

City Attorney Molly Stump expressed that the City was defending in litigation the parking in-lieu fund. The Affordable Housing RFI included parking as a component, and she outlined what the RFI would provide. The in-lieu funds were to be folded into the project for the purpose of parking. It was for the incremental increase in parking and to substitute for the lost surface parking, which the details would have to be examined. Council needed to understand the parking in-lieu funds needed to be spent for that purpose. In relatively short order there needed to be a plan to do that or the City could withdraw that program and refund those funds.

Vice Mayor Stone was mostly in agreement with Council Member Burt on the size of parklets. He asked that staff discuss the breakup of the structure on continuation of this item. If that was not possible, he was interested in the parklet size being limited to the two or three parking spots or the length of the storefront, whichever was greater. He thought the size now was too restrictive. He supported the right of first refusal with regard to the LOC requirement being that it was City property. There needed to be a more robust discussion related to fees. He was interested in some form of discount, as all the fees added together were high. He inquired why there was a need to significantly increase insurance requirements to businesses and if it was consistent with surrounding jurisdictions. He hoped there would be more discussion in the future related to safety issues and grandfathering in existing parklets if there was a LOC from a neighboring business.

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Director Lait specified that the insurance was increased due to the roof structure over some parklets to ensure there was sufficient liability coverage.

Assistant Director Boyd voiced that the City's risk manager recommended increasing the insurance requirements as part of the encroachment permit.

Associate Consulting Partner Smyth outlined that most jurisdictions had a \$1M insurance requirement, but there were a handful with a \$2M requirement.

Council Member Veenker thought there may need to be site-specific curfews for amplified sound. She felt the cleaning fees should be waived and that there should be more focus on the license fee with a 70% to 80% discount, which would make the fee about \$6,000. If there was a consent situation, she liked the idea of it being the building owner or the tenant as opposed to both. She queried if the right of first refusal meant the person operating the business had the right of first refusal of the space in front of their business, and if they did not take it, then the other person would get the space without needing consent and if it would go on in perpetuity or if there would be another right of first refusal if a business changed hands. She asked if the temporary parklets would have to make changes under the Permanent Parklet Program. She asked Council Member Burt to restate what he had said about compromise.

Vice Mayor Stone answered he intended the right of first refusal to be how Council Member Veenker had described it. Staff had proposed that the right of first refusal would be renewed yearly and that it would be effective for a year regardless of a business changing hands.

Director Lait indicated permanent was distinguished from the current temporary standards and was the sole distinction, so permanent may not be the right word choice to have on the guidelines, and they could refer to it as just parklet standards. Temporary parklets could stay under the permanent program if the standards were met.

Council Member Burt clarified that he spoke of only tables being allowed on an adjacent space unless the landlord and the tenant consented to a parklet.

Council Member Veenker mentioned that an option could be the City having designated dining areas.

Council Member Burt agreed that that was plausible.

Council Member Lauing asked if Peninsula Creamery and Taverna would be able to have parklets. He opined that there needed to be a message that California Avenue would be addressed at some point. He thought some of the temporary parklets should be grandfathered in and not have to go through a new process if they could be made compliant and that there should be an extension for removing temporary parklets if they were not converting to permanent. He did not want landlords driving decisions and preferred it to be the tenant. He requested an

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explanation of annual renewals. He thought there were too many fees in general. Regarding cleaning fees, he gave an example of the City being a landlord and tenants being responsible for cleanliness, and there could be inspections.

Director Lait pulled up a map and indicated that parklets would be allowed for Creamery and Taverna. The annual renewals would not be a discretionary action, but they would be looking for compliance with the parklet guidelines.

Council Member Lythcott-Haims liked the right-of-first-refusal idea to the tenant, not the landlord. She was concerned by stories of landlords pressuring their tenants to withhold consent and particularly if a few landlords owning a number of properties were driving the decision. She questioned if any of the four businesses referenced on Packet Page 86 that had been unable to obtain a LOC shared the same landlord. She did not think a small number of landlords should control the destiny of the city and felt the City should decide what would happen in those areas. Regarding vacancies, she questioned if rents could be lessened and vacancy taxes imposed.

Assistant Director Boyd declared there were three businesses that could not obtain the LOC, not four. She did not think any of the three had the same landlord.

Council Member Tanaka thought it was important that there be all types of parking lots, not just for affordable housing, and that there should be enough parking for downtowns. He inquired what would happen to a parklet if a restaurant closed. He was considering the City doing the cleaning because it would ensure consistency. He voiced why he was thinking about restroom requirements. He did not like the idea of tents. He opined that the downtown plan should be accelerated to a six-month plan.

Assistant Director Boyd noted that a couple restaurants with a parklet had closed, and they were asking for a deposit fee to cover the cost of removal. Parklets that were removed would be turned back into parking spots.

MOTION: Council Member Tanaka moved, seconded by Vice Mayor Stone to continue this item.

Council Member Tanaka made the motion due to the late hour.

Vice Mayor Stone agreed with continuing the item due to the late hour.

Mayor Kou did not think making parklets permanent would include conversations with Streetsense. She thought Council had to be cognizant of noise concerns in the Ramona District. She agreed in looking at Redwood City's licensing fee and possibly adopting it instead of the cleaning fee. She believed there needed to be conformity of and regulations for parklets, which would form expectations for people, and that the City's best interest should be in the forefront. She suggested using the \$85K from the budget stabilization reserve for code enforcement or compliance. She asked if this would be borrowing from the stabilization fund and then parklet

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fees would reimburse the fund. She opined that the program should no longer be subsidized as businesses were generating high revenues. She requested there be clarity on the parking assessment district for California Avenue when this comes back to Council. She understood the bond had been paid off, but the municipal code stated it was still intact. In the past, that committee collected funds to pay for cleaning, events, etc.

Director Lait thought the \$85K was to get the program started, but the half-time position was to help with ensuring compliance.

Assistant Director Boyd remarked that Public Works staff had been processing and reviewing encroachment permits. The \$85K was to help with consultant support in moving to a Permanent Parklet Program. The half-time FTE was a supplement until recruitment could be done. She was not sure if this was borrowing from the stabilization fund and then parklet fees would reimburse the fund; she supposed it could. She did not think staff considered that and that it was general funding needed to continue the work.

City Manager Shikada stated that putting the revenues back into the program would support the ongoing needs. It ultimately depended on the fee levels set and the ability to cover it. The parking assessment districts fit under the work being done on car-free streets and Cal Ave and was not directly connected to the parklets.

Council Member Burt mentioned that the parking assessment district for California Avenue lapsed.

City Attorney Molly Stump stated that the parking assessment districts was a worthy topic, but the parklets item had many components, and the parking assessment districts was a significant expansion.

City Manager Shikada needed to look at the docket to determine a date to continue this item.

MOTION PASSED: 7-0

Council Member Questions, Comments, Announcements

Mayor Kou asked that Council meetings on TV sometimes freezing be investigated.

Council Member Tanaka mentioned Silicon Valley Bank and First Republic Bank and wanted Council to be cognizant of and sensitive to the economic situation.

Adjournment

The meeting was adjourned at 11:45 P.M.