



CITY COUNCIL SUMMARY MINUTES

Special Meeting
September 12, 2023

The City Council of the City of Palo Alto met on this date in the Council Chambers and by virtual teleconference at 5:30 P.M.

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

Present Remotely:

Absent:

Call to Order

Mayor Kou called the meeting to order. Administrative Associate III Alice Shambayati reported all were present. Mayor Kou announced the meeting was called in honor of California Admission Day and Suicide Prevention Awareness Week.

Closed Session

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION Authority: Cal. Gov. Code section 54957(b) Titles: City Manager and City Attorney

MOTION: Council Member Lauing moved, seconded by Vice Mayor Stone to go into Closed Session.

MOTION PASSED: 7-0

Council went into Closed Session at 6:03 P.M.

Council returned from Closed Session at 8:20 P.M.

Mayor Kou announced that there were no reportable actions taken in Closed Session.

SUMMARY MINUTES

Agenda Changes, Additions and Deletions

City Manager Ed Shikada reported no changes.

Public Comment

1. Liz Gardner spoke about the parking lifts the City has been discussing. They are manufactured in Germany and parts take six months to arrive. They cost millions of dollars and break down all the time. She felt they were difficult to use and that the City should look at different options for parking.

Council Member Questions, Comments and Announcements

Council Member Vicki Veenker stated Mr. DuBois had given an update on the upcoming Bridging Regional Divides Workshop at Town Hall with Bloomington, Indiana on Sunday the previous night. The time had been misstated. It is 1 p.m. and she asked for everyone to register online.

Council Member Pat Burt announced he forwarded to the City Manager that Caltrain has adopted a new set of more flexible and lower priced fares for riding and their parking lots to incentivize ridership going forward. They have asked the different cities in the corridor to help promote this. Driving ridership back up is critical to Transit being able to provide the service levels that are necessary to make it viable. He also announced he participated in the naming of the Paly High School Stadium for Earl Hansen who was the Paly football coach for 30 years.

Council Member Julie Lythcott-Haims discussed a free event opened to the public called Young Minds Celebrated to be held at Mike's Café the following Sunday. She gave details of the event which is being cosponsored by Youth Community Service, Palo Alto Chamber of Commerce, Palo Alto Youth Council, Project Safety Net, alcove Palo Alto, Creatrix Institute and Mike's Diner Bar.

Action Items

2. Quasi-Judicial/Legislative. 3200 Park Boulevard/340 Portage [22PLN-00287 and 22PLN-00288]: Adoption of a Resolution Certifying an EIR, Adopting Findings of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Program; Approval of Applicant's Request for a Development Agreement, Comprehensive Plan Amendment, Rezoning to Planned Community Zones, and a Vesting

SUMMARY MINUTES

Tentative Map with Exceptions to the Private Street Width to Allow Redevelopment of a 14.65-acre site at 200-404 Portage Avenue, 3040-3250 Park Boulevard, 3201-3225 Ash Street and 278 Lambert. Environmental Assessment: A Draft EIR for the 200 Portage Townhome Development Project was Circulated September 16, 2022 through November 15, 2022. A Revised Final EIR was Made Available for Public Review on June 2, 2023. The Proposed Development Agreement and Associated Actions is Evaluated as Alternative 3 in the Draft EIR. For More Information Contact the Project Planner, Claire Raybould at Claire.Raybould@Cityofpaloalto.org.

Council Member Veenker mentioned she was absent the previous week but she had watched the presentations by Staff, Applicant, and the public comment from the previous week so she felt prepared to participate in the discussion. She had a disclosure that she had spoken with Applicant.

Public Comment

1. Mary Sylvester described the financial analysis released by KMA as perplexing and detailed information that was missing from the document to include adaptive reuse for the entire cannery. She suggested having cars park inside the cannery building and relocating some of the townhomes to where the garage was going to be built and described the financial and environmental impacts of doing so.
2. Winter Dellenbach (Zoom) read a comment on behalf of Karen Holman stating the economic analysis published by the City was a vote for transparency central to the public's right to know referred to in the Brown Act. She questioned if there were other studies provided to the Council but not the public and, if so, they should all be released to the public and outlined information that should be made public.
3. Remi Tan (Zoom), local architect, stated nothing was seen on the financial analysis about adaptive reuse of the cannery. He gave some options the developer could do to save the building, which they are required to investigate by law. He urged City Council to table the item until the developer looks at adaptive reuse options.
4. Terry Holzemer found the Economic Analysis seriously lacking in specific information, details and transparency. He requested more specific details be provided to understand where the numbers came from. He stated the project is about Chinese-American history, which is very important to the country.
5. Liz Gardner was mystified of where the numbers were for the deeply affordable housing and analysis of the green space. She compared it to the Mayfield Agreement of 2005. She hoped they would not only look at the money but at the cultural heritage.

SUMMARY MINUTES

Tom DuBois, former Mayor, gave a history of the negotiations of the project and how the plans were developed. He believed the agreement represents a fair compromise for both parties.

Mayor Kou added there was concern about litigation, which was the reason for the good faith discussion with Sobrato through the ad-hoc committee. She stated the land was the biggest cost so this was one area they were trying to accomplish with deep affordable housing. Council wanted to see a big, continuous park rather than small-pocket parks.

Vice Mayor Stone wanted to know if there was a way to structure this in order to ensure the housing would actually be built on the land identified.

Albert Yang, Assistant City Attorney, answered that Sobrato's expectation and desire was for the housing to be built but there would be no way the team could guarantee that they could force the construction to occur because of the unpredictable market conditions. It was built into the development agreement that the City would receive all the other benefits of the agreement even if the townhomes were not built.

Vice Mayor Stone asked if they could still consider the promise of the potential of housing as one of the overriding considerations.

Mr. Yang answered whether the benefits and some subset was sufficient was within the Council's discretion. They believed the potential and likelihood of the townhomes being constructed could be considered in that statement of overriding considerations even if there was not a guarantee.

Vice Mayor Stone expressed concern with the ongoing maintenance of some of the other stated public benefits. He wanted to know if the DA could include that Sobrato would be responsible for maintaining that mural.

Jonathan Lait, Planning and Development Services Director stated that could be included in the mural.

Mr. Yang stated he would have to take a closer look at the specific provision but he expected if a mural was provided that it would be the property owner's obligation to maintain and that could be addressed in a condition of approval.

Vice Mayor Stone asked for that to be followed up on. He asked what the process for changing the name of streets would be.

Mr. Lait answered that would be fully within the Council's discretion and detailed the process involved.

SUMMARY MINUTES

Claire Raybould, Project Planner, added that it would go to the Palo Alto Historical Association, is already included as a condition of approval and is required before the completion of the final map.

Vice Mayor Stone asked if Sobrato had a chance to review the alternative proposal from a member of the community who proposed maintaining the entire cannery building by moving the townhomes to the location where the parking garage is currently planned and moving the parking into the center portion of the cannery building.

Evan Sockalosky, Principal, Arc Tec, Inc., spoke on behalf of Sobrato and answered that analysis was done early on in the process. Construction code issues and other elements presented difficulties in providing the yield of parking needed for the project meeting all the requirements for the alternative study.

David Burton, Associate Principal, KTGY, said that they also analyzed that plan that had been submitted. In terms of the townhouse portion, the assumption was that they would get 73 to 77 townhouses but he believed that number would be significantly lower in actuality and explained other reasons it would not be beneficial.

Council Member Burt stated there may be a partial protection through underlying zoning to assure that the residential townhomes would be built there and if it would be possible to change the underlying zoning to narrow the options of what could be built there.

Mr. Yang stated the proposed site was a PC zone and multifamily residential was the only permitted use.

Council Member Burt understood that the portion of the cannery building that would be retained and reconstructed would have a deed restriction preventing demolition. He wanted to be sure he was understanding that correctly.

Mr. Yang answered there would be a restrictive covenant recorded on the property that would require the remaining portion of the cannery to be maintained in its rehabilitated state and there was no comparable restriction without that development agreement.

Council Member Burt said that the outcome had exceeded his expectations and that the park was a great opportunity for an Asian Heritage Park.

Council Member Veenker referenced a slide from a video the previous week that talked about sequencing leading into the development agreement. She wondered if there was a possibility that the demolition would happen if the townhomes were not going to be built.

Ms. Raybould answered the demolition would occur first because the rehabilitation would have to occur first to seismically retrofit the building to be able to withstand the demolition.

SUMMARY MINUTES

Council Member Veenker assumed there would be an ongoing agreement to maintain any historic acknowledgments.

Ms. Raybould answered there would be a maintenance requirement associated with public art.

Council Member Veenker thought there was confusion about restore and repair versus replace in kind. She asked for confirmation that the Secretary of Interior Standards would be followed and did replace in kind meet those standards.

Ms. Raybould answered that because the entire building was constructed during a period of significance, demolition of that much of the building would result in inconsistency with the Secretary of Interior Standards. The goal of the analysis that was done was to look at modifications to the remainder of the building and how to remain as in line with the Standards as possible. There would also be modifications to make it work for an office building that would go beyond the Secretary of Interior Standards.

JulieAnn Murphy, Architectural Historian, Rincon Consultants stated they looked at the design provided by Sobrato including an update on how they could better comply with the standards recognizing that the project due to the demolition was not able to meet the Secretary of Interior Standards for Rehabilitation. Repair is not possible in many places because of the deteriorated conditions.

Council Member Veenker asked if the monitor roof was visible from the anterior of Fry's.

Tim Steele, Senior Vice President, Real Estate Development, Sobrato Organization, answered they did no additional refurbishment of the space during the 20+ years of occupancy so it was in disrepair. They removed everything to see the underlying structure and there was more there than what was showing that was built in stages throughout the years.

Council Member Lauing wanted to know if the sequencing of the delivery of land could be adjusted, if necessary.

Mr. Yang answered that they will receive the land regardless of their decision on the townhomes.

Mr. Lait stated they went through the sequencing on slide eight of the PowerPoint presentation from the previous week. Once the portion of the cannery building is demolished, there is a realignment of the lot lines and after that map has been approved, the offer of dedication will be made to the City. The timeline for the condos will not be impacted.

Mr. Steele said they had done their best working with Staff to try to get as much to the City as possible as soon as they could. They cannot dedicate land to the City until the garage is built because the parking sits on the land they are offering to the City. As soon as they build the garage, they are refurbishing the building at the same time allowing them to create the individual parcels. A parcel line cannot be put on an existing building. That is where the

SUMMARY MINUTES

demolition will happen. At the point of demolition, they are required per the development agreement to record the final map which will include the requirement to dedicate the 3.25 acres. He felt they could look at some commitments on that land in a stronger way.

Council Member Lauing commented the incarnation of the Fry's site saga started in January 2021 and detailed the reason for it. He emphasized what the City will be receiving with the project. He thought it was a realistic outcome for both sides. His opinion was that the cannery situation was disappointing but he thought early success could already be declared in preserving that history around the cannery and Thomas Foon Chew. He was in support of the project.

Council Member Lythcott-Haims detailed all she had learned about the cannery and Thomas Foon Chew. She read an excerpt from a letter from Gloria Hom, Mr. Chew's daughter, who felt the ideal platform to present the compelling narrative would be through a permanent exhibit at the future Palo Alto History Museum on Homer Street rather than retaining the Fry's building. She expressed that she was in favor of the proposal with a statement of overriding concerns, a street renaming, potentially an Asian-American Heritage Park and a permanent exhibit at the Palo Alto History Museum.

Council Member Veenker liked Ms. Hom's suggestion but also felt some of the physical structure should be maintained. She was in support of the proposal.

Council Member Burt emphasized that for the affordable housing they were getting the land toward, once they could provide an affordable housing developer with the land, that enabled them to have very low-income projects. He wanted to check with the Applicant if they would be receptive to virtual reality tours.

Mr. Steele answered it has already been proposed as a condition of approval to go to the most advanced recording as possible. The technology is available to do a 3D type walkaround of the building. The one challenge is that type of service is a subscription service. They want to find a path to find a way to put all that data on the cloud so they can hand that package of data to the library to make it easy, accessible and not an ongoing subscription service.

Ms. Raybould read the conditions from the Historic Resources Board.

Vice Mayor Stone shared his concern that revolves around the unknown of the next step if the project is rejected. He expressed support for the project.

Mayor Kou thought the Bayside Cannery was a rare surviving example of Palo Alto and Santa Clara County's cultural past. She presented a slide showing a plaque commemorating the beginning of Silicon Valley but felt no one knew where it was. She stated how the history was told was important and she wanted to see the Sobrato Team be a party to this. She did not think a mural was enough. She thought the art coming to the City needed to be in deep conversation with the historians that know about Thomas Foon Chew. She felt there needs to be a statue of Mr. Foon Chew and art relevant within the retail space to the historical

SUMMARY MINUTES

significance was necessary. She moved to recommend the Staff recommendation on slide number 17 with the addition of further development of historical commemorations of the events and Mr. Foon Chew.

Council Member Lauing asked if that would be the obligation of the City or the property owner.

Mayor Kou wanted to see if the Applicant would be willing to work with them on that.

Mr. Steele said Ms. Hom has been participating with their interpretive historical consultant and their artist in providing information, photographs and documents so the artist can reflect those. He wanted to understand beyond that what she thought that participation was suggesting.

Mayor Kou said she would like to see the statue.

Mr. Steele said the way the art fee was currently structured with the art committee was that the first half of phasing of development, they were contributing 1%, about \$450K, toward the artist creating a mural. The townhome part would be another \$400K to \$500K that would not be paid until the building permits are starting to be pulled and would be about 2 years out from when they start the work. He hoped the City would be thinking about how to design the park so when the fee comes forward, there is an ability to integrate some of the concepts of acknowledging the Asian culture and Thomas Foon Chew within the park. He said the historical consultant developed a package of data and pictures for the inside of the retail space. They hired a consultant that is an exhibit designer and constructor to come up with designs to integrate the material into an exhibit onsite and coordinate that with the mural. He said the art commission typically has the first say of where the art funds go. He suggested he could influence that some of the art funds stay onsite in the second phase as they develop the concept for the park development.

Ms. Raybould thought it was actually up to the public arts commission with respect to placement as well as the overall design and Council was not supposed to weigh in on those items.

Mayor Kou agreed the Palo Alto Arts Commission got to decide and say what artwork.

Council Member Lauing asked if Council could direct that the expenditure of those funds needs to be in this area and for this general purpose as part of this motion and then the Public Art Commission works within those parameters.

Ms. Raybould's understanding was that they could not direct that. If they are doing in lieu funds, it would just go into the in lieu funds and be up to the Public Arts Commission.

Council Member Lauing stated if that was the case, they may want to revisit this policy.

SUMMARY MINUTES

Mr. Yang said the code section chapter 2.26 which establishes the Public Art Commission says that the City Council will not exercise its judgement on artistic matters unless the Council requests that the matter be agendized for Council review.

Council Member Lauing asked if there is something in the code that prohibits Council from requiring that art funds generated for a specific project be used on art in that project area.

Mr. Yang stated he would need to take a deeper look at it but he did not see a prohibition on Council taking that sort of action.

Council Member Lauing suggested they can add to the motion a direction to utilize both phases of the art funds on art in this location contingent on it being consistent with City code.

Mayor Kou asked if the name of the building could be Bayside Cannery.

Mr. Steele said they had thought about the streets but had not thought about putting the name on the building. He thought that could seriously be considered.

Vice Mayor Stone asked if passing this motion would begin the process of the renaming of Portage Avenue to Thomas Foon Chew Avenue.

Mr. Yang answered that is a separate process that would need to be called out specifically in the motion.

Mr. Yang suspected there would be a process associated with number seven so should read similar to number six.

City Attorney Molly Stump said it could say direct Staff to begin a process. The concern was that there may be business impacts to other businesses on the street who would have to change their signage and they should not take final action on that at that time.

Mayor Kou asked if subject to consistency with City code meant that the Art Commission could insist that they follow City code and they decide on what happens.

Council Member Lauing said there are two scenarios. One is where current code allows them to stipulate a location and if it does not the Council could modify that code going forward.

City Attorney Stump stated they had not deeply researched that procedure yet. They understood the Council's goal and desire. The motion indicates they would like to move in that direction. They will research that.

Council Member Lythcott-Haims pulled up the Palo Alto Municipal Code Section 21.20.140 on street names which gave direction on naming streets.

Council Member Tanaka proposed an amendment to number seven to naming the street and/or the park.

SUMMARY MINUTES

Council Member Lauing thought that might be a good idea but they own the park so the Parks and Recreation Commission can do it and he did not think that was part of the development agreement.

Mayor Kou suggested adding to have the Parks and Recreation Commission evaluate naming of the park.

MOTION: Mayor Kou moved, seconded by Council Member Burt to:

1. Adopt the Environmental Impact Report and the Resolution in Attachment B Making findings of overriding consideration and adopting the Mitigation Monitoring and Reporting Plan in Attachment G; and
2. Adopt the Resolution amending the Comprehensive Plan and Comprehensive Plan Land Use Map; and
3. Adopt the five Planned Community ordinances for each of the resulting parcels, amending the zone districts across the project site; and
4. Adopt the Record of Land Use Action, including Architectural Review findings for approval of the Development Plan, findings for a Vesting Tentative Map with exceptions and Conditions of Approval of the proposed project; and
5. Adopt the Ordinance approving the Development Agreement; and
6. Direct in lieu art funds generated under this agreement to art located on the former Cannery site, subject to consistency with City code; and
7. Direct Staff to initiate a process to rename Portage Avenue to Thomas Foon Chew Avenue and refer to the Parks and Recreation Commission the naming of the new park.

MOTION PASSED: 7-0

Adjournment: The meeting was adjourned at 10:31 P.M.