

Special Meeting  
February 18, 2003

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The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:00 p.m.

PRESENT: Beecham, Burch, Freeman, Kishimoto, Kleinberg, Lytle, Morton, Mossar, Ojakian

COMMITTEE OF THE WHOLE

1. Review of Council's Top 5 Priorities
  - A. Review Quarterly Report & Mid-Year Status Report
  - B. Re-Affirm Current Top 5 Priorities for FY 2003-05 or Suggest Modifications to Top 5
  - C. Council Discussion and Vote

**MOTION:** Council Member Morton moved, Ojakian seconded that the Top 5 Priorities remain the same.

**MOTION PASSED** 9-0.

ADJOURNMENT: The meeting adjourned at 7:20 p.m.

The City Council of the City of Palo Alto met on this date in the Council Conference Room at 7:25 p.m.

PRESENT: Beecham, Burch, Freeman, Kishimoto, Kleinberg, Lytle, Morton, Mossar, Ojakian

ORAL COMMUNICATIONS

Bunny Good, P.O. Box 824, spoke regarding the Homer Tunnel.

Adam James, 832 Los Robles Avenue, spoke regarding the Patriot Act.

Dennis Mitrzyk, 201 Maclane, spoke regarding the Patriot Act.

Gertrude Reagan, 967 Moreno Avenue, spoke regarding the Patriot Act.

Christian Cook, 1234 Emerson Avenue, spoke regarding the Patriot Act.

Sophia Dhrymes, 483 Hawthorne Avenue, spoke regarding the Patriot Act.

Dieter Folta, 97 Erstwild Court, spoke regarding the police stopping him and his wife while driving on Channing Avenue.

Bob Moss, 4010 Orme Street, spoke regarding the investment policy and recommended Palo Alto sell its municipal bonds to make a profit.

Barbara Goodwin, 500 W. Middlefield Road, Mountain. View, spoke regarding the Patriot Act.

APPROVAL OF MINUTES

Mayor Mossar noted City Clerk Donna Rogers requested the January 6, 2003, City Council minutes be removed from the agenda.

**MOTION:** Council Member Burch moved, seconded by Freeman, to approve the minutes of December 16, 2002, as corrected.

Council Member Morton suggested the Council not pull every set of minutes for relatively minor changes.

Mayor Mossar said a process was put in place to deal with requests for changes. If a Council Member makes a request for changes to the minutes, the City Clerk has committed to researching the legitimacy of the request.

**MOTION PASSED 9-0.**

CONSENT CALENDAR

City Attorney Ariel Calonne requested the word "likely" be inserted in the resolution for Item No. 5, Resolution of the Council of the City of Palo Alto Opposing Unilateral Preemptive Military Action Against Iraq.

Council Member Freeman requested to remove Item Nos. 2 and 5 from the Consent Calendar.

Council Member Lytle registered a "no" vote on Item No. 2.

Council Member Kishimoto requested to remove Item No. 8 from the Consent Calendar.

City Attorney Ariel Calonne stated that four "no" votes were needed in order to hear the appeal regarding Item No. 8, 1849 Webster Street.

**MOTION:** Council Member Burch moved, seconded by Morton, to approve Consent Calendar Item Nos. 1, 3, 4, 6 and 7.

1. Resolution Authorizing Investment of City Monies in Local Agency Investment Fund

Resolution 8270 entitled "Resolution of the Council of the City of Palo Alto Authorizing Investment of City Monies in Local Agency Investment Fund"

3. Approval of the City of Palo Alto's 2002-03 Disadvantaged Business Enterprise (DBE) Program and Adoption of a Resolution Implementing the Program

Resolution 8271 entitled "Resolution of the Council of the City of Palo Alto Adopting a Disadvantaged Business Enterprise (DBE) Program for Federally Funded City Transportation Projects"

4. Authorization to File an Application for a Grant in the Amount of \$150,000 from the State Water Resources Control Board for a Reclaimed Water Facilities Planning Study

Resolution 8272 entitled "Resolution of the Council of the City of Palo Alto Authorizing the Filing of an Application for a Grant in the Amount of \$150,000 from the State Water Resources Control Board on Behalf of the City of Palo Alto Regional Water Quality Control Plant (PARWQCP) for a Reclaimed Water Facilities Planning Study"



6. Contract Between the City of Palo Alto and Golden State Utility Company in the Amount of \$2,794,937 for Gas Main Replacement Capital Improvement Project 12, CIP 36802
7. Approval of a Purchase Request in the Amount of \$150,000 to Existing Contract for Group Life, Accidental Death and Dismemberment (AD&D) and Long Term Disability Insurance (LTD) Plan with Standard Insurance, Changing Contract Amount from \$750,000 To \$900,000 for the Third Contract Year.

Council Member Kishimoto registered a "no" vote on Item No. 8 and commented she was surprised that the Disadvantaged Business Enterprise (DBE) program (Item No. 3) dropped from 25 percent to 3 percent. She hoped the City would look into the matter to see if there was anything they could do differently.

Assistant Director of Administrative Services Lalo Perez clarified the DBE program was not about minority or women-owned businesses; it was about disadvantaged businesses that were perhaps owned by minorities or women. A member of the DBE group would need to register with the State of California. The City pulled its list from the State.

Council Member Freeman recommended the City extend its area in the future to look for people who may fall into the group of a disadvantaged business. She commented on Item No. 7 that with the increased number of management positions in the City, she hoped it was the opposite direction the City intended to go with the current budget crisis.

Mayor Mossar announced that Item Nos. 2, 5 and 8 would be removed from the Consent Calendar to become Item Nos. 8A, 8B, and 8C respectively.

**MOTION PASSED** 9-0 for Item Nos. 1, 3, 4, 6 and 7.

- 8A. (Old Item No. 2) Ordinance Amending Section 18.08.040 of the Palo Alto Municipal Code (The Zoning Map) to Change the Classification of Property Known as 800 High Street From CD-S(P) to PC Planned Community and Approving a Variance from a Height Requirement

Larry Hassett, 875 Alma Street, spoke against the rezoning of 800 High Street to a Planned Community (PC). He believed the PC process in Palo Alto was wrong. At the February 3, 2003 Council meeting, the City was faced with the following: 1) an applicant not fully prepared to come before the Council but pushed forward because of self-imposed timelines; 2) a staff that allowed an incomplete application and an entirely new second proposal, that was not reviewed or considered by staff, the public, or commissions;

and 3) an applicant who skillfully used an intentionally shallow second proposal to leverage support for the Current Plan.

Mayor Mossar asked for clarification as to whether the proposed project went before the Architectural Review Board (ARB) and the Planning and Transportation Commission (P&TC), and was approved by them.

Director of Planning and Community Environment Stephen Emslie said the action the City Council took was to adopt the P&TC's recommendation as it was presented to the Council on February 3, 2003.

Council Member Freeman expressed embarrassment by the looseness and flexibility of the wording in the ordinance. She asked whether it was customary to approve diversions from height and daylight plane requirements before final development plans were produced.

Mr. Emslie said it was not unusual for a variance to establish the limits and for the plans to become more specific as the item returned to the ARB. As long as the plans were within the required limits, the variance was considered intact and the approval was still applicable.

Council Member Freeman asked what were the variances for height and daylight plane.

Mr. Emslie said the proposed project required a lower height variance because it was within 150 feet of another PC and was located on the south side of Channing Avenue, opposite the property located at 901 Alma Street. There was no variance for the daylight plane because it was consistent with the City ordinance.

Council Member Freeman clarified the properties located at 901 Alma Street and 800 High Street were by the same developer.

Mr. Emslie said that was correct.

Council Member Freeman clarified the developer had to deal with the variance issue.

Mr. Emslie said that was correct.

Council Member Freeman referred to Section 4 (b)(vi) of the ordinance and asked whether the City was giving away a small portion of underground parking, and what amount of High Street did that small portion of parking represent.

Mr. Emslie said it was not unusual to allow surface or sub surface encroachment permits into right-of-way, which would allow the developer to use subterranean rights, while protecting and reserving the City's rights to utility location.

Council Member Freeman asked why the language of "twenty-four hours a day" for parking was stricken in Section 4(b)(vi).

Mr. Emslie said the Transportation Division staff recommended the removal of the language because it was shared-use parking with a residential component. It was agreed for ease of enforceability and in looking to the future for compatibility, that the hours restriction was the recommended approach. There would be 24-hour access for anyone who had a cardkey or other security device.

Council Member Freeman clarified if the extra parking was a public benefit it would be limited by the hours restriction.

Mr. Emslie said that was correct.

Council Member Freeman referred to Section 4 (d)(i) of the ordinance and asked why the language of "or less" and "or more" was so vague.

Mr. Emslie said the language Council Member Freeman referred in Section 4(d)(i) did not refer to the regulations but the findings. In preparing an ordinance, the findings stated why the regulations were being implemented. The regulations were found in the conditions of approval and the plans. Section 4(d)(i) gave the thought process that accompanied the adoption of the regulations and would be superceded by the plans and the project conditions.

Council Member Freeman asked why that particular language be added if it made no difference.

Assistant City Attorney Wynne Furth said there was an ordinance before the Council that required them to make specific explanations as to why it decided to approve a proposal such as the one that evening. When the ordinance was originally drafted for the P&TC, there was a specific set of approved plans, which became the subject of recommendations. Some of those recommendations involved changes that could reduce the amount of the square footage of the building or change the total amount allocated to retail or commercial space.

Council Member Freeman said the section read "reduction, net reduction or replacement in commercial floor area." In her reading of the ordinance it could be zero.

Ms. Furth said that was correct. It was unlikely the Council would approve it, but in theory it could happen.

City Attorney Ariel Calonne said the point of the findings was an effort to work with the City's tracking mechanism for Downtown development. The language at the beginning of Section 4(d)(i) referred to the 350,000 square-foot "Downtown Cap", which was being tabulated in order to deduct the square footage from the established cap. The amount of 1,900 square feet "or less" was a reminder the development could be less after having demolished 15,000 square feet. It did not give them an allowance to do more than what the Council granted.

Council Member Freeman referred to Section 4(d)(iii) of the ordinance and asked if the Council had adopted the South of Forest Area (SOFA) Coordinated Plan.

Mr. Emslie the section referred to the policy framework adopted when the Council first gave instructions to prepare the SOFA Plan.

Council Member Freeman clarified there was not a SOFA Plan currently in place.

Mr. Emslie said there was a Coordinated Area Plan adopted for SOFA I, as well as policy guidelines for the whole area.

Council Member Freeman clarified there were separate guidelines for SOFA I and SOFA II and different "caps". She asked whether there was a cap for the proposed project area.

Mr. Emslie said it was in draft form and had not yet been adopted.

Council Member Freeman referred to Section 4(d)(iv) of the ordinance and expressed concern about the language, which stated, "The Project proposes 61 for-sale units..." as being too flexible for the developer. The document did not keep the developer inside an approved framework.

Mr. Emslie said the word "proposes" was consistent with the recommendations made by the P&TC, and would ultimately be adopted by the Council. Staff did not set a minimum number of units, but asked the developer to achieve certain design objectives while keeping within the Floor Area Ratio (FAR) as proposed with possible decreases.

Council Member Freeman referred to testimony at the February 3, 2003, meeting from Ole Christensen, who expressed concern about using part of Lane 8. She asked whether that encroached on his property in any way.

Mr. Emslie said the revised plans showed that the encroachment into Lane 8 went up to the center line, which was land controlled by the applicant and not adjoining property owners.

Ms. Furth said the Original Plan showed development all the way across Lane 8, but there was always a condition of approval whereby it could not take place unless the applicant was able to establish permission from those who had an ownership interest in that land.

Council Member Freeman referred to Section 4(d)(v) of the ordinance and asked how Lane 8 and Channing Avenue fit in with the compatibility of adjacent commercial activities in the area.

Mr. Emslie said the Environmental Impact Report (EIR) had mitigation measures and project conditions that achieved compliance with the City's noise standards for residential uses. The appropriate mitigation had been incorporated into the project design.

Council Member Freeman thought part of the issues brought before the P&TC addressed the area closest to the hardware store's loading dock, and for that area not to become a residential unit.

Mr. Emslie said the area near the loading dock was residential. Staff interpreted the P&TC's direction more as a design transition to the edges at Channing and Homer Avenues.

Council Member Burch clarified for Council Member Freeman each paragraph of the ordinance that was stated in quotations was the policy, and the language stated afterwards was how the project met the policy.

Council Member Freeman said her questions related to how the project met the policy. She asked why the Below Market Rate (BMR) units were in the same wing and faced the hardware store's loading dock. She said it was not presented in the plans to the Council.

Mr. Emslie said all the units, including the BMR units, would have the same noise protection, as required in the mitigation and conditions of approval.

Council Member Freeman referred to Section 7(e)(i) of the ordinance, which stated the BMR units were in one section of the complex instead of spread throughout. She asked whether the BMR units had a complete set of the

same amenities as other units, and why was it pointed out they would have a private open space deck or patio.

Mr. Emslie said the location of the BMR units were reviewed and approved by the City's Palo Alto Housing Corporation (PAHC). Staff's intention was to make sure the BMR units were as high a quality as possible and had adequate outdoor deck and patio space.

Ms. Furth said Attachment J of the staff report (CMR:150:03) detailed the BMR letter agreement. The designation of which units would be BMR units occurred when the final set of design plans was approved by the ARB.

Council Member Freeman asked what was the proposed surface parking.

Mr. Emslie said the proposed surface parking allowed four parking spaces on the alley.

Council Member Freeman said the item before the Council that evening was a Plaza, which changed names from public open space and plaza indiscriminately. The Plaza was only public when the proprietor was not using it, and public parking was not available 24-hours a day. There was not a minimum number of units or a minimum commercial area. There was no vision of the plans, and the BMR units were positioned on one side of the building and not necessarily of equal quality.

Planning and Transportation Commissioner Karen Holman said the P&TC reviewed the proposed project; however, they did not have the opportunity to review and compare the alternative project that also came before the Council.

Mayor Mossar clarified the Council did not approve the project the P&TC did not review.

Council Member Morton said his willingness to support the project was based on the perception the community would gain a substantial number of publicly accessible parking spaces. He noted in Section 6(a)(iii) of the ordinance, it stated there were approximately 129 spaces for residential use and 72 parking spaces available to the community. He referred to Section 7(d) of the ordinance, which suggested there would only be 63 parking spaces for the community. The project was an oversized one, and would be tolerable to the community if the amount of available parking was raised to a sufficient amount.

Mr. Emslie said retail staff would be an additional parking user.

Council Member Morton said it was possible there would be little or no retail component in the proposed project. He asked whether the Council could recommend to the applicant a higher number of accessible parking spaces for the public.

Mr. Emslie said public parking would be located on the first level and the perimeters, which was in close proximity to the existing and proposed retail.

Council Member Morton asked whether the amount of public parking spaces could be increased from 63 to 80. It seemed the number of available spaces had decreased from the original proposal presented to the Council.

Ms. Furth said the ordinance allowed for the Director of Planning and Community Environment to work with the applicant in determining whether all the residential use spaces, as well as the seven guest spaces, would be utilized. Any available residential spaces would then become public spaces. The original proposal presented to the Council did not reduce parking for residential units because of possible consequences. However, because it was a walkable area not every unit would necessarily have two vehicles. In which case, the residential parking spaces could be turned over to the City or used for other purposes.

Council Member Morton said he was concerned about the absolute minimum number of total spaces. He was in favor of specifying a larger number of available parking spaces for the community, and would make a directive to staff when final approval of the project returned to the Council.

Mr. Emslie said the final design would go the ARB, who would then make a recommendation to the Director of Planning and Community Environment, which the City Council could appeal.

Mayor Mossar said the Council took action at the meeting of February 3, 2003, and the matter before the Council currently was the second reading of that action.

Council Member Lytle asked why staff was unable to answer questions from the Council in advance of the meeting that evening.

Mr. Benest said the Director of Planning and Community Environment did respond to Council's questions prior to the meeting; however, the City Manager and his staff were unavailable for final review of those answers.

Vice Mayor Beecham said most of the questions presented that evening were reasonable. He said Section 5 of the ordinance contained the applicant's request and the rights to be given to the developer.

Council Member Kishimoto was opposed to the project. She expressed dissatisfaction that the developer's drawings and the staff report were not available to Council prior to that evening's meeting. There was considerable room for disagreement in terms of what the P&TC's amendment to the project would mean. It ranged from a 2.22:FAR to a 2.0:FAR. She believed the process and the ordinance were quite loose.

Council Member Ojakian asked the Director of Planning and Community Environment if he was comfortable with the project ideas given by the Council at the meeting of February 3, 2003.

Mr. Emslie said yes. The direction of the applicant was consistent with the direction from Council and included the P&TC's recommendations.

Council Member Ojakian said, as a former member of the Planning and Transportation Commission, the Council always approved what the P&TC recommended. As a Council Member, you are required to look at projects from your own judgement and what was right for the community.

**MOTION:** Council Member Ojakian moved, seconded by Burch, to adopt the ordinance.

Ordinance 4779 entitled "Ordinance of the Council of the City of Palo Alto Amending Section 18.08.040 of the Palo Alto Municipal Code (The Zoning Map) to Change the Classification of Property Known as 800 High Street From CD-S(P) To PC Planned Community and Approving a Variance from a Height Requirement" (*1<sup>st</sup> Reading 2/03/03, Passed 6-3, Freeman, Kishimoto, Lytle "no."*)

The process disturbed Council Member Burch thus far. If his colleagues were not asking questions, which by the answer might cause them to change their vote, it became an exercise in frustration and futility.

Council Member Freeman said there was substantial new information and changes in the ordinance presented that evening. Those changes could affect one's perspective or make it clear to others.

Council Member Lytle said she was still opposed to the ordinance. It was not the intention of her colleagues to spend a lot of time asking staff questions. It was a staff glitch that had caused the delay.

Council Member Kishimoto agreed with the comments of Council Member Lytle.

Mayor Mossar said she was in favor of the motion. It was the Council's intention to make sure there was ample opportunity for high turnover parking to support the retail and service businesses in the area.

**MOTION PASSED** 6-3, Freeman, Kishimoto, Lytle "no."

8B. (Old Item No. 5) Resolution Opposing Unilateral Preemptive Military Action Against Iraq

Mayor Mossar said she did not participate in the action taken at the prior week's Council meeting and said she believed it was not City Council's job to set foreign policy. She announced she would leave the room once again until the vote was taken on the item.

Bill Copeland, 3835 Carlson Court, encouraged the Council to approve the resolution. He believed it was important for the Council to take such action because, if the country went to war, it would affect the City.

Wayne Martin, 3687 Bryant Street, urged the Council not to take action on the resolution.

Council Member Freeman asked whether there were any legal issues with voting in favor of the proposed resolution.

Mr. Calonne said no. It was within the Council's power to take such action.

Council Member Freeman said the wording of the resolution was what the majority of the Council believed. It did not prevent war at all costs or in any timeframe. It suggested that multilateral diplomacy, sanctioned by the United Nations was the optimal solution.

Council Member Kleinberg read a *California Supreme Court* decision of 1967, which specifically stated local governments had the authority to pass a resolution. The proposed resolution specifically spoke to the burden on the City's economic situation. It did not speak to never going to war.

Council Member Burch supported the proposed resolution.

**MOTION:** Council Member Burch moved, seconded by Kleinberg, to approve the resolution with the addition of the word "likely" in the fifth "WHEREAS" clause.

Resolution 8273 entitled "Resolution of the Council of the City of Palo Alto Opposing Unilateral Preemptive Military Action Against Iraq"

Vice Mayor Beecham opposed the proposed resolution. He did not believe, as a principal, foreign policy was an appropriate City Council policy matter.

**MOTION PASSED** 6-2, Beecham, Ojakian "no," Mossar "not participating."

Council Member Kleinberg asked whether it was appropriate to forward the passed resolution on to their Federal representatives.

Mr. Calonne said yes.

RECESS: 9:10 p.m. to 9:20 p.m.

8C. (Old Item No. 8) 1849 Webster Street - Appeal by Lawrence and Jeanne Aufmuth, 627 Seale Avenue, Don and Carol Mullen, 618 Tennyson Avenue, Walter and Amanda Mok, 639 Seale Avenue, Peter Danner, 604 Tennyson Avenue, and Michael Braun, 1828 Webster Street, of the Director of Planning and Community Environment's Approval of the Application for a Second Story Addition and a Substantial Remodel of An Existing One Story Single Family Residence, Owned by Elizabeth and Jamie Wong, 1849 Webster Street, under the Single Family Individual Review Program *(Item continued from 2/10/03)*

Mayor Mossar noted the item was quasi-judicial and subject to Council's Disclosure Policy.

Vice Mayor Beecham met with the applicant and some of the appellants.

Council Member Burch drove by the site.

Council Member Kishimoto spoke briefly with applicant and received e-mails from both sides.

Council Member Lytle had the same disclosure as Council Member Kishimoto.

Council Member Kleinberg drove by the site.

Mayor Mossar received e-mail communications.

Council Member Morton received a call and e-mails from the applicant, and drove by the site.

Council Member Ojakian had the same disclosure as Council Member Morton.

Council Member Freeman had the same disclosure as Council Member Morton although she had jogged by the site.

City Attorney Ariel Calonne said if the Council voted to hear the appeal, it would be based on the previous record, as well as any new evidence submitted. The process was intended to help the Council decide which appeals were important enough to hear fully. He said four votes were needed in order for the Council to hear the appeal.

Mayor Mossar declared the Public Hearing open.

Mr. Calonne corrected his earlier comments. The evidentiary standard for individual review had been changed. The Council was bound solely to the record before the Director of Planning and Community Environment. Any new evidence could not be introduced or accepted by persons who attempted to do so.

Mayor Mossar clarified the action for the Council that evening was to either accept the decision of the Director of Planning and Community Environment or to agendaize the item for a public hearing at a later time.

Don Mullen, 618 Tennyson Avenue, said the applicants failed to submit a site plan that outlined adjacent building and structures, including the location of patios, windows, and decks. They did not include a dimension floor plan until after the Director's Hearing. He was bothered that the project was mistakenly described as a second story addition. It was legally a new home because more than 50 percent of the existing exterior walls would be demolished. He urged the Council not to accept the recommendation of the Director of Planning and Community Environment.

Harold Justman, 828 Ramona Street, urged the Council to accept the recommendation of the Director of Planning and Community Environment.

Carroll Harrington, 830 Melville Avenue, urged the Council to accept the staff report (CMR:151:03).

Stephen Pogue, Architect for 1849 Webster Street, said the proposed design called for a 5,900-square-foot residence on two floors, with the second floor reduced in area by approximately one-third of the first floor. The roof height was about five feet below the allowed maximum, and the design employed many features directly out of the guideline handbook for reducing scale and adverse impacts, while adding character. He urged the Council to accept the recommendation of the Director of Planning and Community Environment.

Jaime Wong, 1849 Webster Street, said he and his wife had consulted and engaged many experts, including the City's Arborist and architectural consultants. The project met all the zoning requirements including setback,

daylight plane, lot coverage, total square footage, and FAR. He hoped the Council would deny the appeal of the Director's decision.

Elizabeth Wong, 1849 Webster Street, said the Individual Review process had been needlessly protracted, laborious, and expensive for the City, as well as the homeowners. The timeline on Page 19 of the Individual Review Guidelines suggested eight weeks for the process. Whereas this process had taken eight months. In the first year of implementation of the Individual Review process, 104 applications had been submitted. Her application was no different from the other 103, which were approved for construction. She urged the Council to accept the recommendation of the Director of Planning and Community Environment.

Craig Woods, 1127 Webster Street, said the Individual Review process in the Wong's case had been followed. A decision by the Council to hear the appeal would likely undermine the review process and confuse future applicants.

Walter Mok, 639 Seale Avenue, said the appeal had nothing to do with the size of the house or the design specifications. It had to do with sensitivity in construction planning. He described the neighboring views and privacy that would be lost with the applicant's second story addition. He urged the Council to stop the intrusive construction by voting to hear the appeal.

Carol Mullen, 618 Tennyson Avenue, urged the Council to vote in favor of hearing the appeal.

Amanda Mok, 639 Seale Avenue, said there were three redwood trees on her property located close to the rear fence of the Wong's property. She was concerned the trees would be damaged when the new garage was built on their roots. Redwood trees were protected trees of the City. She proposed the new garage be located in the same place as the existing garage. She urged the Council to vote to hear the appeal.

Peter Danner, 604 Tennyson Avenue, said the project might fall within the limit of what was allowed by the Guidelines, but not within the spirit of the Guidelines. Most of the 6,000+ square-foot house was situated at the rear of the 10,000 square-foot property. The rear lot would also contain a 422 square-foot garage and a large amount of paving. The impact could not be seen from the street, but rather the rear and side of the property. The house loomed over neighbors' fences, backyards, swimming pools, vegetable gardens, hot tubs, gazebos, and terraces. He urged the Council to vote in favor of hearing the appeal.

Lawrence Aufmuth, 627 Seale Avenue, said if the Council voted to hear the appeal, they could finish the work that was started when it ordained Section

18.14 of the Palo Alto Municipal Code (PAMC). The appeal was more about the processes of the Single Family Individual Review program than it was about a particular house on a particular lot.

Timur Bilir, 2940 South Court, said it seemed inevitable Palo Alto would continue to develop and second-story additions would occur. It was an unsustainable viewpoint of neighbors who did not desire second story additions. He urged the Council to allow the project to go forward.

Mayor Mossar declared the Public Hearing closed.

Council Member Beecham said he heard a lot of bitterness between the applicants and the appellants about the issue, which he agreed had to do with the Individual Review process. The City went through many steps to set up guidelines to enable residences to have second floor single-family homes in built-up neighborhoods, while finding a way to make it compatible and respectful of the neighbors. Based on the guidelines of the Individual Review process and the final design, he believed the applicants made reasonable efforts and took measures to minimize the impact of a second story addition. He was in favor of the staff recommendation.

**MOTION:** Council Member Beecham moved, seconded by Burch, to decline to hear the appeal by Lawrence and Jeanne Aufmuth, 627 Seale Avenue, Don and Carol Mullen, 618 Tennyson Avenue, Walter and Amanda Mok, 639 Seale Avenue, Peter Danner, 604 Tennyson Avenue, and Michael Braun, 1828 Webster Street, thereby upholding the Director of Planning and Community Environment's approval of the application for a second-story addition and a substantial remodel of an existing one-story single-family residence, owned by Elizabeth and Jaime Wong, 1849 Webster Street.

Council Member Burch said, based on the record before the Council and the reports he reviewed, the Council had an obligation to uphold the Director's decision.

Council Member Morton said it appeared all of the adjoining neighbors were unsatisfied. If the Individual Review process was going to work, then the Council owed it to the community to hear the appeal. It did not necessarily mean anything would change. He was in favor of hearing the appeal.

Council Member Freeman agreed with the comments of Council Member Morton. She also requested the Individual Review process be reevaluated in order to correct the issues brought forward that evening. She was in favor of hearing the appeal.

Council Member Kishimoto said, although the applicant was well within development standards, the adjacent neighbors' views and shading would change. She was in favor of hearing the appeal.

Council Member Kleinberg said she was sympathetic to the appellants' concerns and was especially disturbed about the Individual Review process problems that had risen. The present issues were alarmingly similar to the problems that arose over the single-story overlay, a process designed to diminish and discourage neighborhood fighting. There were also serious allegations made by one of the appellants about malfeasance by City staff. She urged the staff and the City Manager's office to ensure those issues were tracked down and resolved. The Individual Review process offered a person the ability to file an appeal but, much like our judicial process, it was not guaranteed. Based on the reports she read and the information before her, she did not see any type of miscarriage of justice that would require an appeal. The Individual Review process was not designed to discourage second-story additions but it was designed to provide a mechanism for compatible second-story additions. She supported the staff recommendation.

Council Member Lytle said she had questions about some of the findings staff made and their interpretation of the guidelines. She said the decision was a good case for Council to review. She was in favor of hearing the appeal.

Council Member Ojakian said he would support the motion to accept staff's recommendation. The City staff had reviewed over 100 applications under the Single Family Individual Review program and had only two appeals; one of which the Council heard and approved. He was troubled the process had taken so long and the applicants had to endure extra expenses. He hoped the project continued to move forward.

**MOTION FAILED** 5-4, Beecham, Burch, Kleinberg, Mossar, Ojakian "yes."

Council Member Ojakian asked when the Council could expect to hear the appeal.

City Manager Frank Benest said it had to be done expeditiously and staff would fit it in.

Council Member Kleinberg asked whether there were restrictions or advice about contact with the applicants and/or appellants.

Ms. Furth said the matter was quasi-judicial. Formally, Council's decision would be made on the records before them, which would be prepared in an

expanded version. She advised the Council not to discuss the matter any further.

**MOTION:** Council Member Freeman moved, seconded by Lytle, to hear the appeal expeditiously at a special meeting.

Council Member Freeman said she was concerned about not having an expeditious result to the issue. A special meeting with the applicants and the appellants would devote more time to the matter.

Council Member Lytle favored a special meeting to ensure an appropriate amount of attention to it. She asked whether a site visit to 1849 Webster Street could be arranged.

Mr. Benest said yes.

Mr. Calonne said there would be a special meeting notice for a public hearing. Staff would need the property owner's consent in order to allow the public to go on the property.

Mr. Benest suggested having staff work with Mayor Mossar to identify when to put it on a regular Council meeting.

Council Member Beecham said he was comfortable to see if staff could fit in the appeal hearing in a short amount of time.

Council Member Burch was concerned about having the appeal heard expeditiously and finding the time to schedule and conduct a site visit.

**SUBSTITUTE MOTION:** Council Member Morton moved, seconded by Beecham, to direct staff to schedule the hearing as soon as possible.

Council Member Freeman asked why the appeal needed to be heard at a regular meeting instead of a special meeting.

Mr. Benest said it was the decision of the Council whether the appeal would be heard at a regular or special Council meeting.

Council Member Freeman asked whether there was rationale behind having it heard at a regular meeting.

Mr. Benest said it would be hard to get all nine Council Members together and it required 12 days notice for scheduling.

Mayor Mossar said special meetings prior to regular Council Meetings were already heavily agendaized. It was possible to do it in that format, but it would delay the hearing even further.

**SUBSTITUTE MOTION PASSED 9-0.**

COUNCIL MATTERS

9. Scheduling of Council Vacation

Council Member Freeman moved that Council adjourn August 5, 2003 and reconvene on September 8, 2003.

**MOTION:** Council Member Freeman moved, seconded by Burch, to adopt the resolution scheduling the City Council vacation for Calendar Year 2003 from August 5, 2003, through September 1, 2003, with the first regular City Council meeting scheduled for September 8, 2003.

Resolution 8274 entitled "Resolution of the Council of the City Of Palo Alto Scheduling the City Council Vacation for calendar year 2003"

**MOTION PASSED 9-0.**

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Mayor Mossar stated she met with the Mayors of Menlo Park and East Palo Alto and jointly signed a letter regarding the Study of Congestion in the Dumbarton Corridor. They also discussed a joint effort to increase the number of playing fields in the area. She said she had attended a ribbon cutting ceremony for the YWCA's new Learning Center. She announced there would be no Council meetings on March 24 or April 7, 2003, and a Council meeting would be held on March 31, 2003. She requested that staff schedule a Council Study Session on City Contracting and also that the discussion of Consent Calendar items be referred to the Policy and Services Committee.

Council Member Freeman said she believed staff was going to arrange sidewalk office hours on a quarterly basis.

Mayor Mossar said there would be Council office hours held in different places throughout the community and, in April or May, there would be a meeting at the Art Center. There was interest in meetings at Arastradero or the Baylands, as well as the Mitchell Park Dog Park.

Council Member Freeman stated February was Black History Month and requested the meeting be adjourned in honor of Black History Month. She

announced that the PAST organization had developed a video that depicted and documented the history of Black Americans in Palo Alto.

Vice Mayor Beecham believed Council Member Freeman was correct regarding quarterly sidewalk office hours.

CLOSED SESSION

The meeting adjourned at 10:45 p.m. to a Closed Session.

10. Conference with Real Property Negotiator  
Authority: Government Code section 54956.8  
Property: 1275 N. San Antonio Road  
Negotiating Party: City of Los Altos  
City Negotiator: City Manager, Director of Finance, Real Property Manager  
Subject of Potential Negotiation: Price and Terms of Payment

The City Council met in Closed Session to discuss matters involving Real Property Negotiation as described in Agenda Item No. 10.

**Mayor Mossar announced that no reportable action was taken on Agenda Item No. 10.**

FINAL ADJOURNMENT: The meeting adjourned at 11:20 p.m. in honor of Black History Month.

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NOTE: Sense minutes (synopsis) are prepared in accordance with Palo Alto Municipal Code Sections 2.04.180(a) and (b). The City Council and Standing Committee meeting tapes are made solely for the purpose of facilitating the preparation of the minutes of the meetings. City Council and Standing Committee meeting tapes are recycled 90 days from the date of the meeting. The tapes are available for members of the public to listen to during regular office hours.