



# CITY OF PALO ALTO CITY COUNCIL MINUTES

Special Meeting  
May 14, 2012

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:32 P.M.

Present: Burt, Espinosa, Holman, Klein, Price, Scharff, Schmid, Shepherd, Yeh

Absent:

## CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATORS  
City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Pamela Antil, Dennis Burns, Lalo Perez, Joe Saccio, Kathryn Shen, Sandra Blanch, Marcie Scott, Darrell Murray)  
Employee Organization: Palo Alto Police Manager's Association (PAPMA)  
Authority: Government Code Section 54957.6(a)
2. CONFERENCE WITH LABOR NEGOTIATORS  
City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Pamela Antil, Lalo Perez, Joe Saccio, Kathryn Shen, Sandra Blanch, Marcie Scott, Darrell Murray)  
Unrepresented Employee Group: Management, Professional and Confidential Employees  
Authority: Government Code Section 54957.6(a)

The City Council reconvened from the Closed Session at 7:30 P.M. and Mayor Yeh advised no reportable action.

## SPECIAL ORDERS OF THE DAY

3. Proclamation Recognizing the Hua Kuang Chinese Reading Room.

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Kelly Tsai, Hua Kuang President, was pleased to receive the proclamation for Hua Kuang's 30 years of service at the Cubberley Community Center. Hua Kuang was founded in October 1981 by Mr. Ernest Hung and his wife, Grace. The reading room had 14,000 books, magazines, and journals. Hua Kuang was a valuable source for scholars. Many books were not found in public libraries. The reading room provided a gathering place for the Chinese community, classes, seminars, and social activities. It collaborated with the Palo Alto Art Commission to create a symbol and Chinese wording for the new sculptures at the Palo Alto Culture Center and the Main Library.

Council Member Price read the proclamation into the record.

Mayor Yeh congratulated Hua Kuang Chinese Reading Room and thanked it for providing services to the Palo Alto community.

4. Selection of Candidates to be Interviewed for the Architectural Review Board for Two Full Terms and One Unexpired Term Ending on September 30, 2015.

**MOTION:** Council Member Shepherd moved, seconded by Council Member Holman to interview all candidates for the open positions on the Architectural Review Board for Two Full Terms and One Unexpired Term Ending on September 30, 2015.

**MOTION PASSED:** 9-0

5. Selection of Candidates to be Interviewed for the Planning and Transportation Commission for Two Terms Ending on July 31, 2016 and One Unexpired Term Ending on July 31, 2013.

**MOTION:** Council Member Holman moved, seconded by Council Member Price to interview all candidates for the open positions on the Planning and Transportation Commission for Two Terms Ending on July 31, 2016 and One Unexpired Term Ending on July 31, 2013.

**MOTION PASSED:** 9-0

6. Selection of Candidates to be Interviewed for the Utilities Advisory Commission for Three Terms Ending on June 30, 2015.

**MOTION:** Council Member Shepherd moved, seconded by Council Member Price to interview all candidates for the open positions on the Utilities Advisory Commission for Three Terms Ending on June 30, 2015.

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## **MOTION PASSED:** 9-0

Council Member Klein expressed concerns regarding the Council meeting running late and the public attendance for the 101 Alma Project. He asked that the Council complete the Study Session no later than 9:00 p.m.

Mayor Yeh suggested limiting the Study Session to one hour. The VTA would attend the meeting in three weeks when this was an Action Item, and the Council would have time for further discussion then.

## STUDY SESSION

### 7. Update and Council Input Regarding the Status of the Valley Transportation Authority - Bus Rapid Transit Project.

City Council participated in a Study Session to discuss design concepts for the operation of Bus Rapid Transit through Palo Alto along El Camino Real as part of a proposed Santa Clara Valley Transportation Authority project (VTA). City staff presented two alignment concepts being pursued by the VTA that have buses that operate either: 1) in dedicated lanes down the center of El Camino Real, or 2) in mixed-flow operations along the existing curb lanes of the street. The dedicated lane option requires a conversion of one vehicle travel lane of El Camino Real, per approach, to a bus only use. City staff highlighted environmental factors that require further analysis by the VTA of each option including intersection level of service, corridor level of service of adjacent arterial and residential streets, parking, and left turn access needs. The City Council highlighted areas of concern that require further clarification by the VTA when they return to the City Council for endorsement of their mixed-flow operation preference. The project also includes more frequent, branded buses with executive-style seating and enhanced stations with ticketing facilities and shelter systems.

Herb Borock believed this was a bad idea. A third option was no project. There was no rush to make a decision, because VTA would not make a decision until September. VTA's current customers were mainly people without alternative transportation. Caltrain electrification was another option. He did not think there was enough population to use both the upgraded Caltrain and these buses, especially throughout the day. Bus stops were currently located after the bus crossed the intersection of Charleston and Arastradero; therefore, there was not a problem with interference with right-turn lanes. A mixed-use bus lane would interfere with traffic making right turns onto and off El Camino Real. The current 522 bus could use any lane. This situation would be worse. He felt the travel

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time between Palo Alto and San Jose would be reduced by only a few minutes.

Irvin Dawid thought this was an exciting project. The biggest thing the Council needed to think about is whether we want bike lanes on El Camino Real. The dedicated lanes would provide bike lanes and would generate many bike trips. A recent federal study indicated a small amount of infrastructure investment resulted in many benefits in terms of walking and biking. He was pleased that Staff was searching for a federal grant.. He hoped the Council would consider the SB 375 impact, the idea of reducing greenhouse gas emissions from transportation. Another study indicated young people were driving less. This project complemented the Grand Boulevard Initiative. He urged the Council to adopt dedicated lanes to provide bike lanes.

## CITY MANAGER COMMENTS

James Keene, City Manager reported the Dumbarton Bridge would be closed from 10:00 P.M. on May 25, 2012, to 5:00 A.M. on May 29, 2012, to complete a major element of the seismic retrofit. Everyone could become part of the Palo Alto forest by photographing a tree in Palo Alto as part of an art project. The Palo Alto forest was sponsored by the Palo Alto Arts Center in partnership with Canopy. National River Clean-Up Day was May 19, 2012. There would be a number of sites for the community to remove litter from stream banks. The City continued to improve San Antonio Road, including sidewalks, medians and landscaping. Lane closures would begin May 15, 2012. Bike to Work Day had record-breaking participation of 1,573, a 14 percent increase over 2011. Mayor Yeh and Chief Transportation Official Jaime Rodriguez greeted cyclists at all four stations.

## APPROVAL OF MINUTES

**MOTION:** Council Member Schmid moved, seconded by Council Member Espinosa to approve the minutes for January 21, 2012 and February 6, 2012.

**MOTION PASSED:** 9-0

## ORAL COMMUNICATIONS

William Landgraf stated the credibility for most government bodies was clearly on the wane. Most governments suffered from chronic, unfunded pension liabilities. The California pension funds for State workers were in serious peril and needed immediate action. Similar budgetary management

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indiscretions had existed from time to time in Palo Alto. It was difficult for Palo Alto to confront the Service Employees International Union (SEIU) and Fire and Police unions to regain needed financial equilibrium. The pension growth rate for California counties ranged from approximately 33 percent to 10 percent per year from 1999 to 2011

Bob Moss reported NASA headquarters had declared Moffett Field as excess property and had asked the General Services Administration to dispose of the property. He was pleased when executives from Google offered to spend \$42 million to remodel Hanger 1 in exchange for a long-term lease; however, NASA never responded. The National Guard had been providing emergency services and search-and-rescue services from Moffett Field. FEMA had identified Moffett Field as an area for use during an emergency. That would be lost if Moffett Field was declared as surplus. The Restoration Advisory Board was writing a letter to NASA. He urged the Council to schedule a discussion of Moffett Field at the next Policy & Services Committee meeting in June.

Joe Durand supported public transportation, biking, and walking. He asked the Council to consider the reality of cars. These programs, while beneficial to the environment, should not be implemented at the expense of choking off traffic and causing other environmental impacts.

## CONSENT CALENDAR

**MOTION:** Council Member Espinosa moved, seconded by Council Member Price to approve Agenda Item Nos. 8-10.

8. Recommendation to Adopt Resolution 9248 to Execute the Northern California Power Agency Renewable Energy Certificates Transfer Agreement.
9. Adoption of a Budget Amendment Ordinance 5156 in the Amount of \$955,320 and Approval of Wastewater Treatment Enterprise Fund Contract with California Plus Engineering, Inc. in the Total Amount of \$2,330,000 for the Power Monitoring & Standby Generators Replacement Project at the Regional Water Quality Control Plant - Capital Improvement Program Project WQ-80021 & VR-11000.
10. Council Approval of Guiding Principles for the Cubberley Policy Advisory Committee and the City Manager and Superintendent Community Advisory Committee.

**MOTION PASSED:** 9-0

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## AGENDA CHANGES, ADDITIONS, AND DELETIONS

- ~~12. PUBLIC HEARING: Appeal Of An Architectural Review Approval And A Record Of Land Use Action Regarding the Director's Architectural Review Approval Of A Three Story Development Consisting Of 84 Rental Residential Units In 104,971 Square Feet Within The Upper Floors, 50,467 S.F. Ground Floor Research And Development Area, Subterranean And Surface Parking Facilities, And Offsite Improvements, With Two Concessions Under State Housing Density Bonus Law (GC65915) On A 2.5 Acre Parcel At 195 Page Mill Road And 2865 Park Boulevard. \* Quasi-Judicial (Staff request item be continued to June 4, 2012).~~

**MOTION:** Vice Mayor Scharff moved, seconded by Mayor Yeh to continue Agenda Item No. 12 to June 4, 2012.

**MOTION PASSED:** 8-0 Price not participating

## ACTION ITEMS

11. PUBLIC HEARING: Adoption Of A PC Ordinance for the Proposed Lytton Gateway Project to Amend the Zoning Map of the City Of Palo Alto to Change the Zone Designations From CDC-P and CDN-P to a Planned Community (PC) District to Allow a Mixed Office and Retail, Four-Story, 50 Foot Tall Building (and a 70 Foot Tall Corner Tower Feature) on the Former Shell Station Site, Located at 355 And 335 Alma Street. The Project Includes Exceptions to the Daylight Plane and 35-Foot Height Limit Within 150 Feet of Residential Property. \*Quasi-Judicial. (Continued from 5/7/12)

Curtis Williams, Director of Planning & Community Environment reported the project contained changes reflecting the Council's directions. The project was now four stories with a 50-foot-high mixed office and retail building adjacent to the University Avenue Multi Modal Transit Station. There was ground-floor retail and approximately 1,600 square feet of subsidized non-profit office space, with three floors of office space above that. There were 144 parking stalls, most of which were below grade in a parking garage. Monetary contributions had been increased and redirected to the City's Affordable Housing Program and to the Parking In Lieu Fund. The applicant offered a financial contribution of \$1.25 million to the City's Affordable Housing Program in addition to the \$850,000 required for a commercial office building, for a total of approximately \$2.1 million. The applicant also offered a financial contribution of \$1.5 million for 22 in lieu fee parking

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spaces, which was the difference between the Code requirement and the number of spaces provided onsite. Being located within the Parking Assessment District allowed for that contribution. This was listed as a public benefit, but it could be argued that this was simply meeting a parking requirement. The applicant would offer subsidized ground-floor office space fronting on Lytton Avenue for a period of at least ten years to a non-profit organization based in Palo Alto at 25 percent of the market rate. A condition of approval required the applicant provide documentation of those materials before leasing space. Other public benefits were carry-overs from the last meeting and included: contributions of \$250,000 for neighborhood parking programs and \$60,000 for the Downtown parking study to identify potential garage locations, street canopy along Alma on the Caltrain side, Caltrain GO Passes or other transit passes for the life of the project, electric vehicle charging stations (two on the street and three in the garage), Zipcar rental, a variety of street and right-of-way improvements, and some reduction in proposed signalization work. Staff expected to present an overall parking strategy for Downtown, including a residential parking permit program, to the Council on July 16, 2012. Immediately following that implementation, Staff would begin discussions with Downtown North about a parking program. Because this project would be under construction through 2013, there was time to implement these programs before the project opened. Staff suggested one modification to the language in the public benefits section of the Ordinance concerning the electric vehicle charging station. The current language indicated the owner was responsible for installing those stations, but it was not clear about the ongoing cost of the charging. Staff wanted to add language requiring the owner to pay for the charging costs of those stations. The Downtown Non-Residential Development Cap stated the net increase for non-residential development was capped at 350,000 square feet. Once square footage reached 235,000 square feet, the Zoning Code required a study be conducted to determine if zoning changes were necessary. If approved, this project would contain approximately 212,000 square feet of that 235,000 square feet. Staff suggested they outline a program for moving forward on that issue at the July 16, 2012 Council meeting.

Boyd Smith, Applicant stated his team had responded to the Council's directions to eliminate the fifth floor, and to redirect those funds to provide offsite housing and to solve Downtown parking problems. The team originally approached the City in December 2010 with a suburban office of approximately 17,000 square feet with surface parking. They were discouraged from continuing that development and encouraged to return with a higher density project more fitting for the area. Office space had decreased, non-profit office space had been added; the retail area along Alma had increased, the floor area ratio (FAR) was under 2.3, the building

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height was 50 feet, and parking capacity had increased from 110 spaces to 174 spaces. They talked with the owner of six adjacent parcels about his concerns with a new development. The project's appearance accommodated his concerns of a daylight plane. They met with nearby neighborhood groups and came to understand and respond to the groups' concerns. The project had the support of three leaders of these communities. The public benefit of parking equated to slightly more than \$3 million. A 52,000 square foot project at a 4 parking stalls per 1,000 square feet parking ratio resulted in 208 parking stalls. Being located in the Downtown Parking Assessment District provided a non-discretionary 1:1 FAR parking exemption. Because of the concerns of neighborhood parking, the City Council did not grant that exemption, which would provide relief of 58 parking stalls. The team was encouraged to achieve a 20-30 percent reduction due to proximity to train and a Transportation Demand Management (TDM). A 30 percent reduction was allowed due to proximity to train and transit. He was asking for a 20 percent reduction, which subtracted 42 required stalls for a total requirement of 166. The project was providing 174 stalls: 131 onsite stalls, 3 parking lifts, and 40 attendant parking stalls. They had analyzed valet parking at length and determined 40 stalls could be comfortably parked. They were providing a \$1.47 million contribution as an in lieu parking fee. They arrived at this number by assuming they would receive credit for 25 percent of the 40 valet stalls provided onsite, which provided a contribution of \$1.476 million for in lieu fees or the equivalent of 22 parking stalls. They were providing \$250,000 for the neighborhood parking preservation project, specifically for the resident permit parking program. It was overwhelmingly clear in meeting with the neighborhood groups that this was the single most effective way of dealing with their parking problem, more so than providing more stalls onsite. Attendant parking would provide 24 parking stalls available to the public on nights and weekends. They would have to provide a separate elevator to move the public from the garage level to the street. They were making a \$6,000 contribution to the Transportation Division and providing parking lifts and train and bus transit passes for all employees for the life of the project. This was progressive and an example of what an urban development could provide. This would bring success in terms of discouraging single vehicle occupancy use. Transit passes were part of the comprehensive TDM plan. TDM plans were implemented as an effective method to discourage single vehicle occupancy use. He was confident they could achieve at least a 20 percent reduction in single vehicle occupancy use. Other contributions included \$2.5 million to Affordable Housing. The Palo Alto Housing Corporation could use those funds to provide 30 offsite residential units. They were providing a non-profit office location with a value of \$922,000, and charging rent at 25 percent of market rates for ten years. These public improvements and traffic enhancements were worth \$500,000. These were not mitigation measures or conditions of approval,

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but improvements to the traffic flow in Downtown. The tree canopy would be a benefit to Downtown and provide a gateway entrance to Downtown. Two electric vehicle stations on the street and three in the garage and service of those stations would be provided at the applicant's cost.

Mayor Yeh asked for meeting disclosures from Council Members.

Council Member Espinosa met with the applicant approximately two weeks ago, but had not learned anything not disclosed in the materials.

Council Member Shepherd met with the applicant a few times after the last meeting, but had not learned any information not disclosed in the application.

Council Member Burt met with the applicant two or three weeks previously.

Vice Mayor Scharff met with the applicant and nothing was disclosed that was not publicly available.

Council Member Price had a telephone conversation with the applicant, and no additional information was given.

Mayor Yeh met with residents of the Professorville neighborhood and discussed the project. That meeting concerned another process relating to Downtown parking in general.

Council Member Burt noted the Council did not discuss other Planned Community (PC) benefits at the prior meeting. He asked Staff to describe pedestrian and urban design features and street and vehicular improvements.

Jaime Rodriguez, Chief Transportation Officer reported the applicant would replace the traffic signal mast arms at the intersection of Alma and Lytton; restripe Alma Street, and other improvements at that intersection and the intersection of Everett and Alma Streets.

Council Member Burt inquired if the eight surface parking spaces for the public at all hours and 16 underground spaces for the public on nights and weekends were a PC benefit rather than a requirement.

Mr. Williams responded the eight spaces would be available during the day to service retail needs. The spaces in the garage did not have to be made available to the public.

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Council Member Burt wanted to ensure the electric vehicle stations were covered.

Council Member Schmid felt consideration of a PC was challenging, because the Council did not have general guidelines and worked application by application. The applicant had done a good job of dealing with the parking issue; the TDM seemed reasonable at 20 percent; and taking 25 percent of the attendant parking was also reasonable. The west side of Downtown was fully parked, and the parking garages there were full with waiting lists for permits. The impact of at least 22 unpermitted sites was an exacerbation of searching for a parking space. The key element was the in lieu parking fee, which would cover the 22 spaces. The In Lieu Parking Fund had a balance of \$100,000 and the \$1.5 million contribution would be added to that. He inquired if those funds were dedicated to creating new parking spaces.

Mr. Williams responded yes. The applicant's \$60,000 contribution would partially fund technical analysis of four sites around Downtown for a potential parking garage.

Council Member Schmid asked if the City had to wait for four or five more of these projects before having enough money to move ahead, and what was the timing of dealing with the deficit spaces.

Mr. Williams knew other Downtown property owners with existing projects were interested in the project proceeding. He did not know how much funding would be available with the Assessment District; the study would determine this.

Council Member Schmid stated even with \$1.5 million, the City would likely have a period of five years of deficit parking exacerbation.

Mr. Williams did not know what that would be.

Council Member Schmid recalled the Council's discussion in March was not to build housing but to take an in lieu fee to help build more or similar housing at a different location. The cost of Below Market Rate (BMR) housing was approximately \$500,000. Rather than receiving seven BMR housing units, the City would receive probably 2 1/2 units, located at a distance from a transit center or shopping and walking facilities. He did not consider that a benefit.

Mr. Williams reported the \$1.25 million contribution was in addition to the \$850,000 housing fee, for a total of approximately \$2.1 million. The City had never built affordable housing at \$500,000 a unit. Non-profit

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organizations built units at that amount, and the City contributed funds at a rate of approximately \$170,000 per unit. Staff felt the contribution should subsidize the equivalent of seven BMR units. Lastly, the future location of the housing was unknown, and could be located near transit.

Council Member Schmid indicated this site was one of the best potential locations in the City for housing, and receiving only one third of the amount needed to build housing did not seem like a positive outcome. The third element was substituting not-for-profit space for part of the retail space. The Comprehensive Plan was filled with statements regarding pedestrian-oriented centers. The public benefit from an urban dense development was pedestrian-oriented retail. That benefit had disappeared and was a loss for the City. The success of businesses around Alma Street opened the area to retail. He was surprised that element had been removed from the project.

Mr. Williams reported that was the Council's direction at the prior meeting. The project still contained 3,800 square feet of first-floor retail space and could include financial services.

Council Member Klein asked if Staff wanted language stating that operation costs of charging stations should be borne by the applicant.

Mr. Williams replied yes.

Council Member Klein asked if the applicant could charge its customers for use of the charging station.

Mr. Williams indicated the idea was the applicant would not charge the public space. The language would be specific to the public.

Council Member Klein stated the language should be clear that the applicant could charge for use of the charging stations. He asked when Staff anticipated using the \$1.5 million contribution for parking to create those 22 spaces.

Mr. Williams hoped to do that within five years.

Council Member Klein asked if this would be part of a larger program.

Mr. Williams responded yes.

Council Member Klein referenced Section 3, paragraph C, of the proposed Ordinance regarding leasing space to a non-profit organization. He asked if Staff had defined a non-profit organization, because of differences between

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IRS Code Section 501(c)(3) organizations and other charitable organizations not qualifying under Section 501(c)(3).

Mr. Williams answered no.

Council Member Klein explained Section 501(c)(3) organizations had limited abilities to lobby. Section 501(c)(4) organizations could lobby on many topics. He was concerned that the City would be sponsoring an organization that could lobby for and against issues involving the City. He asked if the office space for non-profit organizations could be converted to retail space.

Mr. Williams replied yes. It had frontage on Lytton Avenue and was rectangular shaped.

Council Member Klein inquired whether the public would be able to see from the street a business located in that space.

Mr. Williams responded yes.

Council Member Shepherd asked the applicant how it selected the architect and design, and what features made this project a gateway building. The architect was well known in the Bay area and had designed some noteworthy buildings.

Mr. Smith stated the architect was the best in the area. This was one of the most expensive buildings that could be built on the site. It had underground parking and was meant to be a beautiful, memorable gateway building. One of the public benefits was this beautiful building at the entrance to Downtown Palo Alto.

Ted Korth, Korth, Sunseri, Hagey Architects, reported the building was designed to be prominent on this important corner. The materials were warm in color and texture, with transparent glass on the building so the public could see into and out of the building. The base of the project was designed to respond to the street scale. There were two-story elements at the base with canopies at the second floor. The scale of the project was human, and the projecting canopies provided protection from the weather and a sense of comfort. There was a two-story lobby at the corner, with the corner element extending taller than the last occupied floor to celebrate the prominence to the corner and to become part of the gateway to the City. Exterior garden terraces at the top level provided a location for looking at the views. Sun shades on the southeast and southwest sides provided scale and comfort for people inside the building. The glass fins at the corner were distinctive design elements and provided shading for building occupants.

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They had used nice materials, included details, and stepped up the scale from adjacent buildings.

Council Member Shepherd noted some buildings Downtown exceeded the 50-foot height limit. She wanted to ensure the features would be appealing and transitional for the future. This project was a good building and that contributed to public benefit. She was concerned about increasing the number of people not driving and found that only in the provision for Caltrain GO Passes or equivalent but no mention of the VTA Eco Pass. She asked if the VTA Eco Pass was part of the TDM program.

Mr. Smith reported employees could choose an Eco Pass or a GO Pass.

Council Member Shepherd asked if GO Passes had to be given to all employees.

Mr. Williams indicated GO Passes required a commitment of approximately \$10,000. Above that level, there was some flexibility.

Council Member Holman asked why the non-profit office space was for ten years rather than the life of the project.

Mr. Williams stated that was the length of time offered by the applicant. The applicant would have to discuss the financial impact of a longer period of time.

Council Member Holman asked why Staff supported financial services and conditionally approved private education facilities. A private education facility would seem to attract a great deal of traffic.

Mr. Williams reported the financial services area was intended to be a walk-in area that could be converted to retail. The Council could change that to a conditional use. An educational use would be conditional only and subject to review. Staff did not want to preclude a use in that regard.

Council Member Holman noted PC inspections were required every three years and TDM monitoring not later than two and five years after building occupancy. She asked whether inspections could be yearly, because this site was in the center of an area with parking deficits.

Mr. Williams did not suggest monitoring annually as changes were unlikely to occur that quickly. He felt it appropriate to monitor the PC after the first year and every three years thereafter. He was concerned that yearly monitoring would require a great deal of Staff time.

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Council Member Holman did not understand why limiting office occupancy was restrictive, because the parking ratio was based on an occupancy rate.

Mr. Williams indicated the Council could require that, but enforcing it was difficult. The applicant discussed the difficulty of enforcing occupancy when some spaces were more intensely occupied than other spaces.

Council Member Holman indicated the parapet appeared to violate the 50-foot height requirement, and asked for the setback.

Mr. Korth reported a glass rail extended to 55 feet at the most and was transparent.

Council Member Holman noted the glass rail was not only transparent but also reflective, and asked why that did not have the appearance of another half-floor and asked how far it was set back.

Mr. Korth indicated it was set back approximately 18 inches from the face of the stone panel. The intention was for the public to see through the rail.

Vice Mayor Scharff asked if eating and drinking services noted in the Ordinance were part of the retail component.

Mr. Williams reported eating and drinking services were considered part of retail, and Staff should consistently indicate that.

Vice Mayor Scharff inquired if eating and drinking establishments from coffee shops to restaurants were generally included in retail services.

Mr. Williams answered yes.

Vice Mayor Scharff inquired what a personal service use was.

Mr. Williams indicated nail salons, dry cleaners, and shoe repair shops were personal service uses. A personal service use provided a service to individuals. There was a wide variety of services under this category.

Vice Mayor Scharff asked if financial services were banks.

Mr. Williams stated financial services were banks and credit unions with primarily walk-in customers.

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Vice Mayor Scharff did not understand why a bank or financial institution was a public benefit, and asked Staff to explain that.

Mr. Williams indicated it was not the same kind of public benefit as a retail or personal service use. In most zoning districts with pedestrian-oriented services, financial services were usually a conditional use permit rather than a permitted use.

Vice Mayor Scharff inquired if personal service uses without a conditional use permit were allowed in the retail corridor along University Avenue.

Mr. Williams replied yes. Financial services required a use permit.

Vice Mayor Scharff asked if language regarding the Eco Pass should be included in the Ordinance.

Mr. Williams stated the Ordinance included the GO Pass or equivalent. If it did not contain that language, then it should state GO Pass, Eco Pass, or equivalent.

Vice Mayor Scharff inquired if 42 parking spaces was 20 percent for the TDM.

Mr. Williams replied yes.

Vice Mayor Scharff asked if the City was providing credit for only 10 of the 40 attendant parking spaces.

Mr. Williams responded yes.

Vice Mayor Scharff inquired whether the remaining 30 spaces would cover the 22 spaces that were not being built.

Mr. Williams indicated they should; however, the applicant was paying the in lieu fee for 22 spaces.

Vice Mayor Scharff felt attendant parking spaces were a stop-gap measure until the parking garage could be built. He referred to the statement that the parking in lieu contribution could be considered as providing parking to meet project demands, but Staff believed the contribution was valuable. He asked if Staff believed these were not public benefits but were valuable contributions.

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Mr. Williams answered yes. It was a gray area, because they were providing 40 attendant parking spaces. The combination of attendant parking spaces and contributions were a valuable effort towards addressing the parking needs.

Vice Mayor Scharff felt the project fully parked itself, but it did not improve Downtown parking. Therefore, there was not an additional public benefit of providing more parking spaces. He expressed concerns about the allocation of public benefits, which seemed to support affordable housing more than parking.

Mr. Williams reported the Council did not indicate a specific dollar amount, so Staff attempted to obtain an amount equivalent to the number of BMR units removed from the project.

James Keene, City Manager indicated the Council could pursue or be willing to receive an almost unlimited number of public benefits. Nothing limited the Council's consideration of alternatives that could advance community needs equally or better than that.

Vice Mayor Scharff asked Staff to show on a map the street improvements that were removed from the project.

Mr. Williams believed the two changes were a striped rather than concrete median and the traffic signal.

Mr. Rodriguez stated the applicant would replace two rather than four corners of the traffic facility controlling Alma Street movements. Previously, the applicant planned a landscaped median island along Alma Street, but now planned a painted median.

Council Member Price referenced language indicating the Director of Planning and Community Environment would review and monitor TDM plans and had the authority to request modifications. She asked how many TDM programs Staff was currently monitoring, and had Staff requested modifications to any projects.

Mr. Williams reported few projects requiring TDM monitoring had been constructed and were operating. The Campus for Jewish Life was probably the only one. Staff had received the first annual monitoring report and recommended some minor modifications. He did not think there were formalized TDM conditions like this on other projects. Some programs were not required as a mitigation measure.

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Council Member Price asked if Staff had reviewed strong TDM programs in other communities.

Mr. Rodriguez noted Birch Plaza was another project with TDM monitoring, but it had not been constructed. He had reviewed many TDM plans in his career, and Palo Alto required much more than most cities.

Council Member Price recalled concerns with other projects that access to public areas was not clearly marked. She asked what measures would be taken to ensure clear signage, recognizing there was an aesthetic to signage.

Mr. Williams indicated the City had a condition in place requiring the applicant to work with Transportation Staff regarding signage for the parking garage.

Council Member Price inquired whether there were any restrictions on parking during the periods when parking was available to the public.

Mr. Williams stated they could not be restricted. The public garages serving retail areas had signs restricting parking to two hours between 8:00 A.M. and 5:00 P.M., and that was acceptable.

Council Member Price asked for a brief description of the activity area behind the tower, and asked if that was accessible to occupants of the building only.

Mr. Korth reported the roof would be used by occupants of the building. The intention of the area was to allow people to enjoy the outdoors and views. The number of occupants was limited, and they had placed planters in the center of the spaces to reduce occupancy.

Council Member Price was impressed by the design elements of the project and was comfortable with the public benefits.

Council Member Espinosa asked for a timeline for parking projects if the project moved forward. He wanted to ensure Staff was setting proper expectations with regard to timeframes and that the Council felt the expectations were appropriate.

Mr. Williams expected to implement the Professorville trial parking permit program in September. After three to six months, Staff would review a permanent area as determined by the trial area. At that time, Staff would meet with Downtown North. He wanted to split the contributions between the two efforts. Staff was currently attempting to identify four or five sites

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to consider for the parking garage study. This project's contributions would help fund an expert to review that over the next six months.

Council Member Espinosa asked when the report would be finalized.

Mr. Williams indicated probably six months.

Council Member Espinosa confirmed conversations with Downtown North would begin in September 2012.

Mr. Williams answered yes.

Mayor Yeh inquired whether the applicant was advised of a pre-application opportunity within the City of Palo Alto when the Planning and Transportation Commission (P&TC) indicated the applicant should reconsider the scale of the project.

Mr. Williams reported Staff did advise the applicant of a pre-application process. He wished Staff had forced that issue, but the applicant chose to go directly to the P&TC with the application.

Mayor Yeh stated the pre-application process benefited the applicant, Staff, Commissions, the Council, and neighbors to the project. The Council included monetary penalties in the Stanford Hospital project if TDM goals were not met. He wondered if the Council would like to include those types of provisions in the current project TDM, and asked Staff if that would require additional language within the proposed Ordinance.

Mr. Williams responded yes. Staff could provide some language and require that agreement be presented to Staff before occupancy of the building; however, Staff could not provide dollar amounts for penalties.

Mayor Yeh indicated the Council could include a general statement with follow-up at the Staff level.

Public hearing opened at 10:39 P.M.

Paul Wright, President of the Palo Alto Chamber of Commerce, stated from a planning and economic development perspective, the proposed gateway project benefits included: proximity to transit, the developer's commitment to transit passes, mixed uses, increased foot traffic and exposure of businesses in the development, dramatic enhancement of the entrance of Lytton Avenue, increased business for Downtown and sales tax revenue, and

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dedicated BMR space for non-profit organizations. The Chamber was excited about the project making an economic impact.

Winter Dellenbach felt the idea of public benefits had become twisted. Many of the so-called benefits were actually mitigations. She appreciated Council Member Klein's comments about balancing profits and benefits. She disagreed with the ten-year limit on BMR space. The tower was a gimmick and should comply with the 50-foot height limit.

Neilson Buchanan spoke against the project; it had many attractive features. But for every attraction, there was a distraction from the parking problem. To his knowledge the Downtown North Homeowners' Association did not have an official position on this project. He had been watching the parking situation carefully over the last three to four weeks. By and large his neighborhood had no parking all day. Prior projects had saturated the available parking. He was skeptical that the Council was aware of the problems in his neighborhood, Professorville and eventually across Middlefield. He asked the Council to put a condition on this project to ask each developer to make an impact statement on parking in Downtown North.

Tina Peak opposed the proposed building at 101 Lytton. It was too big; it had four stories when zoning laws allowed only two stories. It would add traffic to overcrowded streets and would place pedestrians and bicyclists at greater risk. It would induce Association of Bay Area Governments (ABAG) to call for more housing, which would add to the City's housing and infrastructure needs. Increased housing would increase overcrowding in schools. The lack of parking would lead to increased parking needs in the neighborhoods. This project provided no public benefits to the residents of Palo Alto. The biggest problem with the project was the process that created it and other developments. The City had a Comprehensive Plan and a Zoning Code that were being routinely ignored by developers. The developer sought a two-story development that met all laws, but was instructed by the Planning Department to come back with a bigger building. The vision for a denser, more crowded Palo Alto had not been submitted to the electorate and had not been adopted as City policy. This project should be constructed as a two-story building as originally proposed. Individuals supported the project only in hopes the Council would provide parking.

Erik Filseth stated the 101 Lytton project was another giant office building, designed over twice the zoning limit, lacked adequate parking, provided little or no revenue to the City, and bordered on a residential neighborhood. If it was built, there would be more traffic, more congestion, more pollution, more stress on City services, and more parking problems. That

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neighborhood was filled with children who ride their bikes to school during the commute hour. The public benefit was dubious. At least part of the monetary contributions would address problems caused by the project. This project had no benefit to any Palo Alto resident. It was located next to the train station, but no Palo Alto resident would ride the train to the project. The Council should reject the project and direct the developers and planners to design a project that met Code requirements. The Planning Department Staff supported, arguably promoted, a plan that hurt Palo Alto residents in favor of non-residents.

Joe Durand felt the project had good intentions; however, the Palo Alto process failed. This building could be a gateway to a future of better City planning. Palo Alto needed to learn from this and not repeat the mistakes in future projects. He proposed the entire public good program be halted until standards were established. He suggested standards such as multi-use buildings with an entire floor of retail space, an entire floor of housing, and an entire floor of office space and sizing the building for the amount of available parking. The City gave away 14 housing units, perhaps a value of \$7 million at market rate. In return, the City received \$1.25 million in cash. The first floor was never retail space, but banking offices and now non-profit offices. If the building had started with adequate parking, the neighborhood would not be impacted. If the developer decided to give transportation passes, then some of the burden on the neighborhood would be relieved. Benefits from this project were that 40 people might or might not take the train, a non-profit organization might have an office for ten years, and the City would receive some cash to offset the problems exacerbated by the building. The money would likely be gone before the building was completed. Public good should be more enduring and wide reaching than cash and bus passes.

Benjamin Cintz supported the project, because much thought had been given to it. Overall the City, residents, and workers would benefit from the project. Traditionally the areas north of Lytton Avenue had been multi-use areas, and that benefited the City by attracting residents and businesses. The Council needed to find a balance to help existing businesses and residents.

Landis Wilson represented Lad Wilson, and they both supported the project. They were impressed by the developers' willingness to answer questions. He believed this project was special for its proximity to the transit area, and would be a positive area for employees and visitors.

Michael Griffin indicated City Staff advocated a higher density for any new construction along North Alma Street. While this concept could be

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controversial for some, he accepted transit-oriented development as long as impacts to the Downtown North neighborhood were properly mitigated. Constructing an under-parked office building against a residential zone and not acting to prevent employee vehicles from filling adjacent streets was not properly mitigated. Fortunately, the developer of 355 Lytton Avenue recognized this problem and offered to contribute monies to facilitate a residential parking permit program for Downtown North. His concern was that these dollars would be placed in an account and not be spent for the intended purpose. To avoid that, he requested the PC Ordinance specifically state identifiable public benefit funds be specifically allocated to designing, building and operating a residential parking permit program in Downtown North, and not be deposited in the parking in lieu account for a garage in the future. He asked Council to direct Staff to use the same program used in College Terrace. The Downtown North neighborhood had been on the cusp of acquiring a parking program for the prior ten years. With public benefit money now available, the City had the funds to realize the long-delayed parking program.

Michael Hodos agreed with Mr. Griffin's comments. He was a member of the Downtown Parking Study Group, which had worked diligently to find strategies to address the parking problems. He asked that a provision be included in approval of the project to ensure funds for the parking program were used specifically for that purpose. Records indicated prior in lieu monies were not used for the intended purpose. He asked that funds be dedicated to parking programs to mitigate problems.

Irvin Dawid remarked this was the premier transit-oriented site. Comments revolved around parking rather than transit orientation and mixed uses. The irony was that more parking would not solve the parking problem. Constrained supply with almost unlimited demand could not be managed without attaching a price. Another irony was the City had removed its parking meters. The Council needed to apply pricing to parking, then it could do all kinds of thing to solve the problem. Adding more supply did not solve the problem.

Steve Langdon had lived in the area for ten years, and for the prior two years he had off-street parking. On-street parking was a hassle, but he had been able to park within three blocks of his home. Others felt parking two blocks from their home warranted residential parking permits. Streets in the area were public and adjacent to a commercial area which benefited everyone. He asked the Council not to impact the people who worked Downtown. If the Council considered residential parking permits, he asked the Council to study it thoroughly and not to accept studies performed in other neighborhoods. If the study results convinced the Council residential

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parking permits were beneficial, he asked the Council to charge an extremely high fee for the exclusive right to park on public streets and to ensure additional new parking was available exclusively for displaced workers. Residential parking permits did not solve parking problems. Before the Council allowed residential parking permits, he asked it to ensure more parking was available elsewhere.

Stan Christensen agreed that an adjacent transit parcel like this was rare. It was the best property in Palo Alto to have a transit-oriented development. He supported the project, but felt some benefits could be made better. He was surprised the Council removed the fifth floor. The reasons for that did not make sense. Traditional principles of planning near a transit hub suggested higher buildings. He would increase the density whether through housing or office space. The City could not build its way out of the parking problem; 174 spaces were too many. People would use transit if their workplaces were near transit. This was the nearest transit stop to any building in Palo Alto; yet, it was designed like a suburban office park. Any parking in that location should be for the daytime use of commuters. He agreed with the comment about price-based parking. He would include retail space, but ATMs made more sense than banks. He favored the concrete median which was removed. He supported the project, but felt it could be better with increased density and decreased parking. He asked the Council to reconsider the removal of the fifth floor.

Bob Moss corrected his letter to the Council. The estimates for operating costs should have been \$1.50 per square foot or \$2.50 per square foot. The amount of money for BMR units should have been \$1 million rather than \$100,000. His intent was to have a total of approximately \$2.1 million for seven BMR units. He was encouraged by the discussion of public versus private benefits. Capacity of neighborhoods meant streets, parking, public services and schools. The Council had lost the concern for capacity when it accepted some of these developments. Over time it would create major problems. He had given a number of reasons why the project should be scaled back, and the Council should not accept it as is. He asked the Council to require the developer to redesign the project to fit the community better and more compatibly.

Herb Borock opposed the project, because it did not contain substantial public benefits. He referenced Council Minutes of September 4, 2002 regarding public benefits. He recalled a prior attempt to establish a residential parking permit program for Downtown North. The Council could condition the building permit on having the parking program instituted in Downtown North and Professorville. The public benefits must be the project itself within the boundaries of the private property.

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Owen Byrd stated the issue was permanent parking. He agreed with Mr. Langdon's comments regarding residential parking permits. He had no economic, moral, or political right to the space in front of his house. He encouraged the Council to remove from the list of public benefits any financial contribution towards a study of residential permit parking. This project was over-parked. He urged the Council not to include funding for a permit parking program, and to reduce the amount of parking onsite. This would help fulfill the goal of changing transportation patterns. He noted the Chamber of Commerce was a Section 501(c)(6) organization and would be prohibited from occupying space in the project under a restriction to Section 501(c)(3) organizations.

Public hearing closed at 11:23 P.M.

Jim Baer, Applicant had been involved in seven or eight PC projects in Downtown, and they were not highly controversial. He appreciated Mr. Borock's comment that the building had to contain some onsite public benefit in its character. This site was a landmark, gateway corner. The same had happened for 250 University, 531 Cowper, and 499 University. Many of these were constructed in an environment where the Urban Design Guidelines indicated certain locations needed mass to create anchors and scale and public spaces for community use of those spaces. They chose a building of this size not only because of the transit orientation, but also because its visibility in this location was powerful. The Comprehensive Plan and Urban Design Guidelines were filled with recommendations for doing the same thing. He wanted to reply positively to Mr. Borock's comment regarding conditioning the building permit on a parking program. That was an acceptable program. A residential parking permit program should be completed in six to nine months, and a building permit would require one and a half years to obtain. He asked for the Council's support, and asked the Council to provide specific changes and improvements it wanted.

Vice Mayor Scharff felt the project was a public benefit in itself. This was the premier transit-oriented site, and having an office building of this nature was a public benefit. The list of public benefits was good, but some items needed to be modified. The project would not exacerbate Downtown parking, but neither would it improve parking. He agreed with Council Member Holman that the non-profit space should be for the life of the project. He also agreed with Mayor Yeh's comments concerning penalties for not achieving TDM goals.

**MOTION:** Vice Mayor Scharff moved, seconded by Mayor Yeh to: 1) approve a Planned Community Zone District ordinance rezoning the subject

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property from CD-N(P) and CD-C(P) to allow a mixed office and retail, four-story, 50-foot tall building (and 70 foot tall corner tower feature) on the former Shell Station site located at 355 and 335 Alma Street. The PC Ordinance would grant exceptions to the daylight plane and 35-foot height limit within 150 feet of residential property; 2) in the Ordinance, under (f) Public Benefits, subsection (1) a Financial contribution of \$625,000 to the City of Palo Alto's affordable housing program (in addition to the required \$850,000 commercial in lieu fee); 3) in the Ordinance, under (f) Public Benefits, subsection (2), a financial contribution of \$625,000 to the City's parking fund and payment of \$1,476,200 to cover the cost of 22 in lieu parking spaces (at \$67,100 per space); 4) inclusion of 3,807 square feet of ground floor retail uses and eating and drinking services; 5) the non-profit office space shall be for the life of the project; 6) provision of Caltrain GO Passes, Eco Passes or the equivalent; and 7) TDM/GO Pass compliance: add to Section 4(d) of Ordinance and Condition Number 3, the following language: "additionally, an agreement for compliance with targeted reductions (minimum 20% parking reduction) shall be developed between the owners and the City specifying a penalty schedule for non-compliance, graduated over the initial five years of the project and then for every five years thereafter, and tied to equivalent fees for in lieu parking. The agreement shall be in effect prior to building occupancy and shall be recorded to apply to subsequent owners as well."

Council Member Espinosa asked if the amounts in subsections 1 and 2 were additional funds.

Mayor Yeh indicated the Motion would allocate \$625,000 of the \$1.25 million proposed contribution from the Affordable Housing Program to the In Lieu Parking Fund. It was a reallocation of funds rather than additional funds. That would leave a financial contribution of \$625,000 to the Affordable Housing Program in addition to the required \$850,000 for the commercial in lieu fee.

Vice Mayor Scharff stated the issue was parking. Project parking was adequate; however, parking in general was not better. Moving a portion of the financial contribution split the benefits between affordable housing and parking. The Council was moving forward with affordable housing while making parking better. He hoped the City could build a parking garage with \$2 million and some sort of public-private partnership sooner rather than later. This would provide additional parking spaces which would lead to solving the parking problem. Public benefits included the building itself, the proposed contribution of \$1.25 million, additional retail space, reduced rents for non-profit organizations, and transit passes. The Council should require

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a 20 percent reduction in parking. With these changes, the City could be proud of this project.

Mayor Yeh remarked this was an important project from many perspectives. He believed in transit-oriented development. This was an ideal location to ensure the principle of transit-oriented development was achieved. If the project failed at this site, then the Council needed to recognize that the philosophy and development framework were in trouble. If the project did not achieve the envisioned diversion rate, the Council would have to review transit-oriented development in general. The project's applicant had been responsive to the Council's concerns and issues. The Council had to balance many different interests and perspectives. He read language from the Ordinance on Packet page 343. That was an explicit call for a residential parking program, and the Council did not need to reaffirm it. A residential parking program did not decrease the demand for parking. Parking programs for both Professorville and Downtown North had to occur simultaneously.

Council Member Schmid noted the City had seven parking funds, and asked which fund Vice Mayor Scharff meant in the Motion.

Vice Mayor Scharff asked for the name of the City's in lieu parking fund.

Mr. Williams answered Parking In Lieu Fund.

Vice Mayor Scharff indicated that was the fund he meant.

**AMENDMENT:** Council Member Schmid moved, seconded by Council Member Klein to; 1) revise F3 of the Ordinance (Number 4 of the Motion) to the inclusion of 5,447 square feet of ground floor retail, and 2) delete F4 in Ordinance –Inclusion of 1,640 square feet of subsidized non-profit office space to be leased to a Palo Alto based non-profit at rent not to exceed 25 percent of market rates for a 10 year term.

Council Member Schmid read Goals L-4 and L-23 from the Comprehensive Plan. If there were public benefits in the building itself, it should start with an invitation to the people of Palo Alto to come and enjoy it.

Council Member Klein asked if the original agreement was 1,640 square feet of retail space to be rented at 25 percent of market rate.

Mr. Williams indicated it was a reduced rate.

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**AMENDMENT REVISED BY MAKER AND SECONDER:** 1) revise F3 in the Ordinance (Number 4 of the Motion) to the inclusion of the 5,447 square feet of ground floor retail, and inclusion of 1,640 square feet of which would be rented at not to exceed 25 percent of the market rate for the life of the project, and 2) delete F4 in Ordinance –Inclusion of 1,640 square feet of subsidized non-profit office space to be leased to a Palo Alto based non-profit at rent not to exceed 25 percent of market rates for a 10 year term.

Council Member Klein stated the public did not walk in the Downtown area to view offices. The Council should not be putting its efforts into supporting one non-profit agency.

Council Member Burt did not support the Amendment; although, it was not the most crucial part of the project. He recalled the prior project to redesign the Downtown retail area in which the Lytton Avenue area was recognized as not being a good retail area. That was the reason the Council moved toward a mixture of retail and non-profit office space in this project at the prior meeting. The passages that Council Member Schmid read from the Comprehensive Plan did not refer to the University Avenue area but to University Avenue. The original Motion was the better proposal as there was a need in the Downtown area for non-profit office space.

Council Member Holman supported the Amendment, because an income-producing use was previously located on the site and because retail uses would be successful at a gateway.

Council Member Shepherd asked if the purpose was to find space for the Chamber of Commerce without stating that.

Mr. Williams reported Staff's intent was not to place a particular non-profit agency in this space. The intent was to provide an opportunity for a retail use that could not otherwise be successful in that location.

Mr. Keene indicated the Amendment would clearly exclude a non-profit organization and the Chamber of Commerce. Rents had a large impact on retail and restaurant uses. There were opportunities to incentivize interesting uses at that location with the subsidy.

Council Member Shepherd asked for the total square footage of the first floor.

Mr. Williams responded 5,447 square feet.

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Molly Stump, City Attorney reminded the Council that the Staff recommendation included extensive discussions with the applicant and their agreement to that package. She asked the Council to invite the applicant to express their views regarding possible changes.

Vice Mayor Scharff stated this was not a good retail location. Splitting the retail and non-profit space could provide a vibrant corner. Non-profit organizations had difficulty finding office space in Downtown Palo Alto.

Council Member Klein said the basic rule of economics was retail attracted other retail. More stores would increase the likelihood of success for each store.

Council Member Espinosa could not imagine a non-profit use in this project at the prior meeting. However, he had talked with non-profit organizations since that meeting about uses Downtown, and now understood there was an opportunity for a non-profit organization in this project. He would not support the proposed Amendment.

Council Member Burt commented there was a secondary rule of not forcing retail where it would not flourish naturally. There were many potential non-profit organizations that would succeed at this location and benefit the community. Trying to drive retail where it did not work well would not create a benefit.

Council Member Price supported the Amendment. She was sensitive to the plight of non-profit organizations, but it made sense to increase retail opportunities at this location. She could not state whether retail uses would succeed at this location, because of the reconfiguration of the site. She was more comfortable increasing the economic vitality related to retail activity at the location.

Mayor Yeh asked if the applicant was receptive to the changes in the proposed Amendment.

Mr. Smith reported the applicant would do its best to implement the Council's proposed changes. The applicant was responsible for leasing the space, so it wanted to do that.

Mayor Yeh indicated the Council would ask for the applicant's views on all other proposed amendments to the applicant's project.

**REVISED AMENDMENT FAILED:** 4-5 Holman, Klein, Price Schmid, yes

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**AMENDMENT:** Council Member Schmid moved, seconded by Council Member Holman to ask the applicant to change the financial contribution for affordable housing program to \$1,750,000 and financial contribution of \$1,976,200 to the City of Palo Alto in lieu parking fee fund.

Vice Mayor Scharff would not accept the proposed Amendment. He did not feel the applicant would accept the change and would not support it.

Council Member Schmid stated parking was a critical issue. The \$1.5 million suggested contribution would not solve the problem, but it was necessary to move forward. Adding to the fee created an incentive to move ahead quicker. This location was identified as an ideal space to increase housing in transit-oriented spaces. While housing was not part of the project, the contribution could be used elsewhere to afford five or six housing units. Parking and housing were two critical public benefits.

Council Member Holman asked for an approximate cost to construct a parking garage.

Mr. Rodriguez reported the cost could range between \$5 million and \$10 million depending on the size and location of the garage.

Council Member Holman said the contribution would not build a garage.

Mr. Rodriguez agreed.

Council Member Holman stated \$2 million from the original Motion and \$500,000 from the proposed Amendment still would not pay for constructing a garage.

Mr. Rodriguez believed \$2 million was a good seed fund to build a larger project through a partnership, but \$2 million alone would not be enough to build a garage.

Mr. Williams agreed with Mr. Rodriguez's comments. There was interest from a private standpoint, and Staff would consider all avenues.

Council Member Holman asked for the applicant's response.

Mr. Smith reported the applicant had no more money to contribute. The Council could redirect funds if it wished.

Council Member Burt was not comfortable with this Amendment. The Council had reviewed a set of conditions and had proposed them to the

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applicant. The Motion did not change the conditions fundamentally from the prior meeting. He felt the estimated cost of \$5 million to \$10 million to construct a garage was low. The actual driver for a future parking garage was likely to be the permit parking programs in the neighborhoods. A number of earlier PC projects had minimal public benefits. He did not recall any prior projects that had public benefits approaching this level. This project had strong public benefits intrinsic to the site and related to the impacts of the project. He supported the primary Motion.

Council Member Shepherd wanted a sustainable project to ensure it was built, parked and successful. This was a generous package to consider for a public benefit. The fifth floor could possibly have been a parking garage, but that was not the direction of the Council. She supported the Motion. The in lieu fees would produce enough benefit to support this particular project at this particular size.

Council Member Espinosa understood the spirit and impetus for the Amendment, but he found it inappropriate, excessive, and verging on flagrant. The applicant worked with Staff and responded to Council's recommendations. To add this non-negotiated requirement was shocking. He would vote against the Amendment.

Council Member Klein indicated this was not the right process. The Council deliberately did not mention any dollar amounts at the prior meeting, but directed Staff to negotiate with the applicant. Increasing the dollar amount at this stage would be bad faith.

**AMENDMENT FAILED:** 1-8 Schmid yes

Council Member Holman asked what could be accomplished with \$250,000 for a neighborhood parking program and with \$60,000 for a parking analysis. She also asked about the process for requiring implementation of the parking program prior to occupancy of the building.

Mr. Williams reported the \$250,000 could fund the start-up and possibly first year costs for the Downtown North and Professorville neighborhoods. The \$60,000 amount would be used to hire a consultant versed in construction practices with parking garages to analyze four or five sites and provide estimates of construction costs, the potential number of parking spaces, and those kinds of criteria. He hesitated to describe a process for implementing parking programs prior to occupancy, because neighborhood response could be unpredictable. It was speculative to tie occupancy of the building to the implementation of a parking program.

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Ms. Stump indicated it was acceptable to have general discussions about what might be accomplished with this range of dollars, but all of this was dependent on policy decisions and votes that the Council had not taken. They were not before the Council for decision. The language of the Ordinance provided some appropriate general description and flexibility for the Council to consider these items as information developed and as noticed Motions.

Council Member Holman asked whether the \$250,000 and the \$60,000 would be held in discrete funds to be used for these specific purposes.

Mr. Williams stated Staff would create either separate accounts or possibly Capital Improvement Program (CIP) accounts. The City had an existing parking CIP to hold the funds, but funds would be used for the stated purpose.

Council Member Holman regretted the process this project had followed. She appreciated the comments of the Maker and Secunder of the Motion. She would like to see the tower be removed as it seemed out of place. She did not consider this location a gateway site. She understood the Council had purview to approve the exceptions to height and daylight plane as part of the PC Ordinance; however, she felt it was a dangerous precedent. The PC findings did not address those issues. She expressed concern that the parapet would have a large reflective component and would not appear as transparent. Policy issues needed to be addressed regarding this area and PCs, and should have been addressed before this project proceeded. She would not support the project, because it was not the right project with the right public benefits for this site.

Council Member Shepherd asked the applicant for their concerns regarding changing the ten-year limit to the life of the project.

Mr. Smith stated they were okay with it.

Council Member Shepherd stated the Council could review how the project was parked, because of the square footage, and begin rebuilding in lieu parking fees. This project was located on the border of the Downtown District, which was a critical area for the City of Palo Alto. It was critical that the Council make business work. This project would bring capital improvement investment for the Downtown area, so that the Council could consider building another parking garage. She supported the Motion.

Council Member Price supported the original Motion. Given the proximity to transit, she regretted this was not a five-story building. The Council had

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missed an opportunity to develop economic development capacity. She appreciated the design of the building and the tower.

Council Member Espinosa asked the applicant to respond to changes in the Motion: removal of personal services and financial services; shifting a portion of the contribution from the Affordable Housing Program to parking; and TDM compliance.

Mr. Smith reported the applicant was okay with the direction of the Motion.

Council Member Espinosa inquired about the cost of the concrete median and why it was removed from the project.

Mr. Rodriguez estimated the cost for design and construction of the median was \$250,000.

Council Member Espinosa asked why it was removed.

Mr. Williams suggested the applicant needed to shift \$500,000 from some items to create the contribution to housing and parking. The concrete median was removed and the traffic signal reconfiguration was reduced.

Council Member Espinosa inquired if the Mayor would entertain separating the Motion parts and voting on the shift of funds from the Affordable Housing Program to the parking permit program. He was concerned about the Council not maintaining the commitment to affordable housing. He had hoped the fifth floor would remain and be housing.

**MOTION SEPARATED FOR THE PURPOSE OF VOTING:** Council Member Espinosa requested the Motion be bifurcated to allow a separate vote for the following: 1) in the Ordinance, under (f) Public Benefits, subsection (1) a Financial contribution of \$625,000 to the City of Palo Alto's affordable housing program (in addition to the required \$850,000 commercial in lieu fee, 2) In the Ordinance, under (f) Public Benefits, subsection (2), a financial contribution of \$625,000 to the City's parking fund and payment of \$1,476,200 to cover the cost of 22 in lieu fee parking spaces (at \$67,100 per space).

**SEPARATED MOTION PASSED:** 5-4 Burt, Holman, Scharff, Shepherd, Yeh yes

**AMENDMENT:** Council Member Klein moved, seconded by Council Member Schmid that where the words "non-profit" appear in the Ordinance that the

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following be added afterwards - qualified as tax exempt under Internal Revenue Code Section 501(c)(3).

Council Member Klein felt the public considered non-profit organizations as those qualified under Section 501(c)(3). A range of Section 501(c) organizations did not qualify for a charitable tax deduction and participated more widely in the political process. It was not appropriate for the City to sponsor an organization that could speak for and against City positions.

Vice Mayor Scharff stated many cities subsidized and supported non-profit organizations not qualified under Section 501(c)(3) such as a Chamber of Commerce.

Council Member Shepherd inquired why that was not included in the language proposed by Staff.

Mr. Williams recalled the Motion from the prior meeting stated non-profit, and Staff did not distinguish among types of non-profit organizations. Staff left it as broad as possible.

Council Member Shepherd suggested the wording be a tax deductible non-profit organization as opposed to a Section 501(c)(3) non-profit organization.

Mr. Keene stated the Section 501(c)(3) category was large and not restrictive.

Council Member Klein reported the City had provided space and support for the Chamber of Commerce in the past, but a prior Council had decided as a matter of policy not to continue that support.

**AMENDMENT FAILED:** 4-5 Klein, Price, Schmid, Shepherd yes

Mr. Williams corrected the TDM monitoring portion of the Motion to state Transportation Condition No. 3 on the second line and 20 percent mode split on the fifth line. These changes affected various parts of the PC Ordinance and conditions. Staff would ensure all changes were made prior to the second reading.

Council Member Klein supported the Motion for a variety of reasons. Existing zoning should be respected and not overturned lightly; however, times and conditions change and it was appropriate to amend zoning requirements. This location was an important entrance to Downtown, and it was essential for it to be vibrant. This project did not cause the parking

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problem, would not cause additional parking problems, and should not be held hostage to a residential permit parking program. The money for parking would be the catalyst for a larger project. Having \$2 million would provide leverage for the City to work with merchants to produce a desirable project. He disagreed with comments the City was selling its zoning. Twenty parking space or funds for 20 parking spaces would produce a desired result. Placing the funds into the General Fund would be bad. The building in and of itself was a public benefit.

Council Member Holman asked for Staff's changes to the language regarding electric vehicle charging stations.

Mr. Williams suggested adding to the language in the public benefits section and conditions that there would be no charge to members of the public making use of the Alma Street electric vehicle charging stations.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to (f) public benefits, (5) there will be no charge to members of the public for using electric vehicle charging station on Alma Street.

Council Member Holman inquired if that was intended for the Alma Street and below grade charging stations, F5 and F6.

Mr. Williams stated it applied to the public spaces on the street.

Council Member Holman confirmed it was F5.

Mr. Williams reported that was the P&TC's recommendation and the applicant agreed to that.

Council Member Burt inquired whether that was the language presented to the Council in March 2012.

Mr. Williams replied yes.

**MOTION AS AMENDED PASSED:** 7-2 Holman, Schmid no

13. Adoption of Resolution 9249 Amending Section 1601 of the Merit System Rules and Regulations to Adopt a New Memorandum of Agreement (MOA) with the Palo Alto Police Officers' Association (PAPOA).

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Marcie Scott, Acting Manager Employee Relations Human Resources reported the Memorandum of Agreement (MOA) was a package of concessions that reduced pay and benefits by 7.14 percent total compensation. It was similar to the agreement reached with the Fire Union in the fall 2011, except it did not contain an agreement on post-retirement medical contribution by future retirees. The main components of the new MOA included a reduction in base wages of 1.33 percent for all classifications; the employees would pay the full 9 percent employee pension contribution; eliminated the \$1,000 per person professional development benefit; eliminated three paid holidays; employees would contribute 10 percent toward their medical premiums; established a second pension tier of 3 percent at age 55 with the final salary calculation based on the average of the three highest consecutive years. As mentioned, there was one issue on which agreement could not be reached. In the interest of moving forward, the parties agreed to an impasse on a post-retirement medical contribution. That dispute would follow the impasse procedure. The total savings from changes in compensation were estimated at \$1.3 million annually. This agreement was a significant step in the City's efforts to obtain equity across bargaining units to make similar structural changes to compensation.

**MOTION:** Council Member Shepherd moved, seconded by Council Member Klein to approve the Resolution amending Section 1601 of the Merit System Rules and Regulations to adopt a new Memorandum of Agreement (MOA) with the Palo Alto Police Officers' Association (PAPOA) effective May 14, 2012 through June 30, 2014.

Council Member Shepherd felt structural changes in compensation were beginning to meet the City's expectations.

Mayor Yeh thanked Staff and members of the Police Union.

**MOTION PASSED:** 9-0

## COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Price encouraged Council and Staff to attend the upcoming QPR training (Question, Persuade, Refer) on May 21, 2012 at 5:00 P.M. in Council Chambers.

ADJOURNMENT: The meeting was adjourned at 1:06 A.M.