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The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:04 p.m.

CITY COUNCIL

PRESENT: Beecham, Burch, Cordell, Kishimoto, Kleinberg, Morton (arrived 6:07 p.m.), Mossar (arrived 6:30 p.m.), Ojakian

ABSENT: Freeman

PLANNING AND TRANSPORTATION COMMISSION

PRESENT: Bialson, Burt, Griffin, Holman, Packer

ABSENT: Cassel, Lippert

JOINT STUDY SESSION WITH PLANNING AND TRANSPORTATION COMMISSION

1. Mayor's Retail Committee Action Plan

Members of the Mayor's Retail Committee discussed the feedback received the last several months regarding the current retail environment in Palo Alto, and they presented their recommended action plan to members of the City Council and Planning and Transportation Commission. The plan identified five areas of focus: Addressing Land Use and Transportation Issues; Supporting Local Business and Merchant Associations; Better Promoting Parking in Business Districts; Initiating a Business Registry; and Supporting "Shop Palo Alto" Efforts. Administrative actions were currently under way, and staff would return as needed for those actions that require policy direction.

**No action required.**

ADJOURNMENT: The meeting adjourned at 6:45 p.m.

Special Meeting  
October 12, 2004

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:45 p.m.

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

SPECIAL ORDERS OF THE DAY

1. Proclamation Celebrating the 70<sup>th</sup> Anniversary of Palo Alto Junior Museum & Zoo

Mayor Bern Beecham presented the Proclamation to Rachel Meyer, Executive Director of the Jr. Museum and Zoo, which was read into the record by Vice Mayor Burch.

Virginia Loesch, President of the Friends of the Jr. Museum, spoke of their involvement with the Museum for the past 10 years. The Friends had contributed one-third of the Museum's funding, which covered exhibits, East Palo Alto's Outreach Program, and special projects, such as the Bat Habitat. She said a new Jr. Museum and Zoo sign was donated on September 30, 2004, and the official unveiling would take place at an Open House on October 29, 2004. Ms. Meyer brought a Bull Python and Egyptian Fruiting Bats to the meeting; two of the many animals that were often shared in classrooms.

Mayor Beecham thanked the Board and Friends of the Museum for their continued contribution and volunteerism in making the Jr. Museum a success.

Council Member Morton expressed his appreciation to staff and individuals for their continued support to the Museum.

**No action required.**

ORAL COMMUNICATIONS

Ruth Chippendale, Santa Ana Street, spoke regarding recognizing the temporary hourly union.

Don Mayall, Alger Street, spoke regarding a resolution recognizing the temporary hourly union.

Annie Bunten spoke regarding recognition for temporary hourly workers.

Fred Balin, 2385 Columbia Street, spoke regarding the Zoning Ordinance Update.

Aram James spoke regarding Proposition 66, against the Three Strikes law.

Norman Carroll spoke regarding Proposition 63, Mental Health Services.

Ed Power spoke regarding good government and the unethical behavior of previous Councils.

City Manager Frank Benest spoke regarding hourly temporary workers.

## STUDY SESSION

### 2. Energy Options Update

John Ulrich and Girish Balachandran presented an overview of the City of Palo Alto's "Electric Supply Alternatives". The study session provided details of the key uncertainties facing Palo Alto's electricity supply portfolio and the status of the Long-Term Electric Acquisition Plan ("LEAP") put in place to address those uncertainties. There were dramatic changes taking place in the electric supply picture starting January 1, 2005, when a long-term contract with Western Area Power Administration that provided firm power to meet nearly all of the City's electric load ends. The City established a diversified portfolio of supply sources to replace the contract. New long-term supplies from Western were established, in addition to the City's share of the Calaveras hydroelectric project, to provide about half of the City's supply needs. However, the supply from those resources can vary from year to year by up to a quarter of the total City load due to hydrological conditions. The remaining needs were being addressed with a variety of resources, including reduced load through energy efficiency, and diversified supplies from renewable energy resources, thermal generation, and market purchases. The new "post-04" picture would experience higher costs than had been experienced in the past, and electric rates would need to increase to match the higher costs, although electric rates expected to continue to be significantly lower than PG&E retail rates, but by less than they were currently. The diversified portfolio approach sought to achieve a balance of community goals with respect to reliability, economics, and sustainability. The presentation described several upcoming LEAP implementation tasks, including finalizing the first tier of renewable energy contracts, aggressively targeting cost-effective demand side resources, completing the local generation feasibility study, and continue "laddering" in market purchases over time. Renewable energy was addressed via three

separate programs: renewable supply, intended for all customers, Palo Alto Green, offered on a voluntary basis, and Public Benefits, providing financial assistance for customer-sited renewable energy systems. The objectives and goals of the local generation feasibility study were described, with visual examples of generation alternatives that were able to blend into the community by embracing creative design. The presentation ended with questions and comments from Council.

Council expressed appreciation for the information provided. They felt that it was important to ensure that the community realizes there could be as much as a 65 percent deficit (if no action was taken), that the days of guaranteed supply were gone, and that the diversified approach to filling the deficit would likely require some supplies to be provided under long-term contracts. Council asked to clarify the term "thermal generation", which was electric generation derived from burning fossil fuel, which in California would almost certainly be natural gas as the cleanest and most economical means to accomplish dispatchable generation. Council expressed a degree of comfort in the state of CPAU's risk management program, which compared favorably to the rest of the industry. Council also stressed the importance to continue to track and aggressively pursue solar power as the technology improved and costs declined. Council congratulated staff on the diversity of approaches, and commended CPAU's accomplishments in establishing Palo Alto as one of the nation's leaders in incorporating sustainable energy solutions into the portfolio.

**No action required.**

APPROVAL OF MINUTES

**MOTION:** Council Member Burch moved, seconded by Morton, to approve the minutes of September 13, 2004, as submitted.

**MOTION PASSED** 9-0.

CONSENT CALENDAR

**MOTION:** Council Member Morton moved, seconded by Cordell, to approve Consent Calendar Item No. 3.

ADMINISTRATIVE

3. The Policy and Services Committee Recommends to the City Council Not to Accept the Proposal Submitted by the Lucie Stern Maritime Center Responding to a Request for Proposal (RFP) Package to Relocate, Repair and Lease the Former Sea Scout Base. Further, to Direct Staff to Open Discussions with Environmental Volunteers with a View of Developing a

Potential Long Term Lease and that Staff Come Back to the Policy and Services Committee Within 180 days with a Status Report.

**MOTION PASSED** 9-0.

PUBLIC HEARING

4. Public Hearing: The Palo Alto City Council will Consider a Request by Alex Kanellakos on Behalf of the Property Owners on Allen Court, Tract # 1137, for a Zone Change from R-1 Single Family Residential to R-1(S) Single Family Residential with Single Story Overlay. Environmental Assessment: Exempt from the California Environmental Quality Act per Section 15301. File No. [04-ZC-07].

Ordinance 1<sup>st</sup> Reading 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 Certain Properties on Allen Court, a Portion of that Property Known as Tract 1137 From R-1 To R-1(S)"

Chief Planning Official Lisa Grote narrated a presentation outlined in staff report (CMR:442:04)

Planning and Transportation Commissioner Karen Holman said the staff report and staff presentation represented the actions of the Planning Commission.

Mayor Beecham declared the Public Hearing opened at 8 p.m.

Robin D. Stavisky, 3162 Ross Road, said the "overwhelming majority" level of support was a misstatement and he felt the number of residents in favor of the overlay was less. She wanted Council to know the majority of residents at Allen Court were not in support and raised issues on how people felt and the way votes were recorded.

John Sessoms, 421 Carolan Lane, said adding a second floor to an Eichler home would take away the privacy from an existing neighbor.

John Tumminaro, 777 Allen Court, opposed the overlay and the Conditions, Covenants and Restrictions (CC&Rs). He urged Council to not approve the recommendations.

R. A. Witt, 769 Allen Court, did not support the overlay.

Steve Greenbaum, 782 Allen Court, was in favor of the overlay.

Dan Rausch, 935 Elsinore Drive, was in support of the overlay and spoke on the success of single story overlay remodels in ten other neighborhoods in Palo Alto.

Chris Chaffe, 785 Allen Court, spoke on behalf of the applicant and read a letter from Marty Arbrunich in support of Mr. Kanellakos application.

Mayor Beecham declared the Public Hearing closed at 8:30 p.m.

**MOTION:** Council Member Morton moved, seconded by Burch, to approve the staff recommendation adopting the rezoning by introducing the ordinance (Attachment A of CMR:442:04) to rezone Tract 1137 to R-1 (S) Single Family Residential with Single Story Overlay District.

Vice Mayor Burch proposed to exempt the three houses on Ross Road, that were against the rezoning, to change the percentage of those wanting the single story overlay.

Council Member Morton said due to the layout and design of the lots, seven homes would be impacted if the three were exempted. He did not accept the amendment.

Council Member Kleinberg said the votes were reduced to 59 percent with Mr. Witt withdrawing his "pro" vote. She asked if staff had knowledge of the woman, who changed her vote to a "no."

Ms. Grote said the resident had e-mailed the City regarding her change, which reduced the percentage to 54 percent.

Council Member Kleinberg said a 54 percent vote in favor was not overwhelming and not a criteria for a single story overlay. She asked staff what was considered as "overwhelming" support.

Ms. Grote said the guidelines were flexible and did not have a definition for "overwhelming" support. The numbers had varied from 69 to 81 percent through the years. Staff and the P&TC had discussed whether to attach a percentage to the definition or to having it remain flexible. She said 64 percent was the lowest owners' support. In the absence of a percentage definition, staff would need to approve 54 percent.

Council Member Kleinberg asked whether the CC&Rs required a majority vote.

Ms. Grote said CC&Rs were attached by the developers prior to selling the

homes.

Council Member Kleinberg asked if a supermajority vote was required for applying CC&Rs and a supermajority for removing.

Ms. Grote said it was her understanding the same processes applied.

Council Member Kleinberg had issues regarding the vagueness in the law and its application. It allowed a large margin for discretion at the administrative level that could interfere with property rights. She said it was her understanding that 51 percent of votes were required to remove CC&Rs, but an overlay imposed by the City required a supermajority vote. Since "supermajority" was not defined, it created a vague area that would affect property rights. The process did not allow for civil discourse and the Planning Department needed to review the process. She did not support the motion.

Mayor Beecham asked staff to explain Attachment J of staff report (CMR:442:04).

Ms. Grote said Attachment J summarized the changes to be considered for the single story overlay. They were referred back to the Planning Department for additional public outreach and comments. It included removal of the criteria that discussed moderate lot sizes. In the past, residences were allowed to use the full allowable floor area on the ground floor. The 40 percent lot coverage would no longer be required should the single story overlay district be consistent with the R-1 district.

Council Member Kishimoto did not support the motion. She felt the procedure for counting last minute changes was unclear and the percentage of support for the overlay was low.

**SUBSTITUTE MOTION:** Council Member Mossar moved to delay the item until there was time to look at the new guidelines for R-1.

### **SUBSTITUTE MOTION DIED FOR LACK OF A SECOND**

Council Member Mossar said she supported the motion.

Council Member Cordell did not support for motion. She did not consider 54 percent as "overwhelming" support. She clarified the question regarding simple majority vote by reading Commissioner Burt's statement, an excerpt from the Planning and Transportation Commission (P&TC) Meeting Minutes, of September 29, 2004, page 15. as follows: "So we would have a fundamental change from a simple majority that could remove a CC&R to suddenly by the



City endorsing the process through the overlay zone it would create a requirement of a supermajority to remove what essentially was a simple majority on a CC&R under their original covenants.”

Mayor Beecham did not support motion.

Council Member Freeman asked staff to describe Mr. Sessoms’ privacy issues regarding glass walls in the neighborhood. She asked how polls were taken and what the recourse would be if the motion passed.

Ms. Grote said staff could not confirm Mr. Sessoms’ comments regarding the neighborhood’s privacy since staff did not visit the rear yards of the property. In reference on how the poll was taken, a letter of explanation was mailed to all residences describing the single story overlay and its implications. It was an independent poll asking owners to respond back to the City. Responses were kept confidential. In the event the motion was denied, the applicants could reapply in the future.

Council Member Freeman supported the single story overlay.

**SUBSTITUTE MOTION:** Council Member Ojakian moved, seconded by Burch, to exclude the four houses along Ross Road, as part of the overlay, and include the other houses, as part of overlay, which was close to two-thirds of remaining homes in favor of the overlay. The four homes excluded would be subject to Design Review.

Council Member Ojakian said he had voted in favor of the entire single story overlay zonings except for the one at Barron Park that had a mixed environment. When guidelines were established in 1992, they stated the discretion would be left in the hands of the Council with the understanding of where the Community should be and to maintain Councils’ values.

Council Member Kishimoto supported the substitute motion.

Council Member Mossar said because of the intricate property lines, excluding the four houses would impact the neighboring homes. She did not support the substitute motion and voted for the original motion.

Council Member Morton said the amendment would save one of the guidelines but offended one of the other major guidelines. The underlying reason for approving the other single story overlays was to respect the CC&Rs. He felt the character of the neighborhood would not be preserved if the motion and substitute motion were approved due to the layout of the homes.

Council Member Ojakian said the reason for exempting the four homes on Ross Road was because there were four two-story homes directly across the street that would keep the character of the neighborhood along Ross Road.

**SUBSTITUTE MOTION FAILED** 4-5, Beecham, Cordell, Freeman, Kleinberg, Morton yes.

**MOTION PASSED** 5-4, Beecham, Cordell, Kleinberg, Kishimoto no.

CLOSED SESSION

~~5. Conference with Labor Negotiators:~~

~~Agency Negotiator: City Manager and his designees pursuant to the Merit System Rules and Regulations (Frank Benest, Leslie Loomis)~~

~~Represented Employee Organization: Palo Alto Fire Chiefs' Association (PAFCA)~~

~~Authority: Government Code Section 54957.6(a)~~

ADJOURNMENT: The meeting adjourned at 9:04 p.m.

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.