

September 26, 2005  
Special Meeting

1.	Proclamation Honoring West Bay Opera on its 50th Anniversary .....	3
	ORAL COMMUNICATIONS .....	3
2.	4219 El Camino Real [05PLN-00157]: Consideration of Whether to Schedule Appeal by William Spangler of the Director of Planning and Community Environment’s Approval of an Architectural Review Application for the Redevelopment of the Hyatt Rickey's Hotel Site, Including the Construction of 170 Multi-Family Dwelling Units and 11 Single-Family Detached Units, a Public Street Between the Project Site and 4249 El Camino Real .....	6
3.	Public Hearing: Consideration of the Proposed Charleston-Arastradero Corridor Pedestrian and Bicyclist Impact Fee and Adoption of an Ordinance Making Certain Findings Regarding the Proposed Charleston-Arastradero Corridor Pedestrian and Bicyclist Impact Fee and Addition of Chapter 16.59 to the Palo Alto Municipal Code to Impose and Implement the Charleston-Arastradero Corridor Pedestrian and Bicyclist Impact Fee. ....	6
4.	Public Hearing: Consideration of a Zoning Ordinance Update (ZOU): Recommendation by the Planning and Transportation Commission to Adopt an Ordinance to Amend PAMC 18.04.030 (65) Gross Floor Area (Adopted Low Density Residential Definition) and Related Reference in the Single Family Residential Chapter 18.12.040 Table 3: Summary of Gross Floor Area for Low Density Residential Districts Limiting Up to 200 Square Feet of Carports that are Completely Open on Three or More Sides to be Excluded from the Gross Floor Area Calculation for a Single Family Home. ....	10
5.	Public Hearing: Consideration of a Zoning Ordinance Update (ZOU): Office, Research & Manufacturing Districts: .....	14
	COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS .....	14

ADJOURNMENT: The meeting adjourned at 9:55 p.m. .... 15

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:06 p.m.

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

ABSENT: Kleinberg

#### SPECIAL ORDERS OF THE DAY

##### 1. Proclamation Honoring West Bay Opera on its 50th Anniversary

Ms. Maria Holt thanked everyone for the acknowledgement and presented Mayor Burch with a West Bay Opera tee shirt commemorating their 50th Anniversary.

No action required.

#### ORAL COMMUNICATIONS

Danielle Martell spoke regarding public concerns.

Dennis Mitrzyk, Maclane Avenue, spoke regarding corruption.

Karen Sundback, 4045 Ben Lomond Drive, spoke regarding busing in Palo Alto.

Roger Smith, 270 Tennyson, announced he was dropping out of the Council race.

Robert Moss, 4010 Orme Street, spoke regarding Hangar 1.

Herb Borock, P.O. Box 632, spoke regarding the City Manager's attendance at Council meetings.

Aram James spoke regarding free speech.

#### CONSENT CALENDAR

9/26/05

Mayor Burch said the process for Item No. 2 on the Consent Calendar was complicated and explained the procedure. Under Palo Alto's Municipal Code, Section 18.77.07(f) stated, 1) The Council may pass the item on the Consent Calendar, or 2) The Council may upon the motion, second and affirmative vote of three Council Members remove the item from the Consent Calendar. Should the Council remove the item from the Consent Calendar, it would be placed at the end of the agenda as agenda Item No. 6.

Council Member Freeman raised concern about Mr. Borock's statement and asked whether there were any legal issues regarding the City Manager and the Assistant City Manager representation prior to proceeding.

City Attorney Gary Baum said the City Charter and the Code appeared to envision an Acting City Manager at the meeting.

Lane Lieroff, Wilkie Way, asked that Item No. 2 be kept on the Consent Calendar. He said the community had dealt with the project for 10 years. In June 2005, D.R. Horton, Inc., presented a plan that met the Environmental Impact Report (EIR) proposal. It protected the neighborhood by providing a row of single-family residences, which prevented neighborhood cut-through by eliminating access at Wilkie Way and bike lanes along Charleston Road. It was moderately dense and provided 36 low-income homes.

William Spangler, 471 Carolina Lane, appellant, said regarding Item No. 2, he was not asking to make any major changes nor reject the entire project. He felt the three Design Enhancement Exceptions (DEE) being appealed did not have supportable findings. His appeal letter listed reasons why all the findings for the DEEs were incorrect or at least suspect. The 45-foot high roof lines with gussets to 50 feet were excessive and 45-foot high decorative towers across one and two-story homes would not be an improvement to Charleston Road. To have setback distances below the zoning minimum on El Camino Real would not be practical if the road was to be widened. The Director's Hearing minutes were not included in his packet. One of the conditions requested at the Director's Hearing was to restrict demolition and construction access to El Camino Real for the main parcel and no access on Charleston Road or Wilkie Way. The only exception for access on Wilkie Way was for the eleven single-family units. He recalled the applicant agreeing to the condition but could not find it documented. He asked that a follow-up be made and recorded.

Carlin Otto, 231 Whitclem Court, urged Council regarding Item No. 2 to bring closure to the project.

Myllicent Hamilton, 4014 Ben Lomond Drive, was in favor of Item No. 2. He said the development consisting of 181 units on 16 acres contributed good resolution to overall density, compatibility with existing homes, tree retention and auto access issues on Wilkie Way and the school corridor.

Deborah Ju, 371 Whitclem Drive, said she attended the Director's Hearing regarding Item No. 2 and confirmed Mr. Spangler's statement regarding the conditions of approval that demolition would only be on El Camino Real. The neighborhood association had worked with the City on the development since 1996 and asked for closure to the project. She urged the Council not to accept the appeal because it would only reopen the entire project and finalization would be questionable.

Herb Borock, P.O. Box 632, asked that Item No. 2 be removed from the agenda due to the absence of the Director's Hearing minutes and the Architectural Review Board minutes. He said the City Manager must have complete records in order to schedule hearings on appeals. Closure to the project would only happen if the Land Use Map for zoning remained non-residential. The Land Use Map designations would need to change to multiple-family and single-family residential and zoning to multiple-family and single-family zoning.

Director of Planning and Community Environment Steve Emslie said the condition regarding demolition was included in the staff report (CMR:390:05), Attachment C, page 14, Conditions of Approval, Condition No. 74, and was amended to include restriction of construction and demolition to El Camino Real with the exception of the single-family homes along Wilkie Way.

**MOTION:** Council Member Mossar moved, seconded by Beecham, to approve Item No. 2 on the Consent Calendar.

#### ADMINISTRATIVE

2. 4219 El Camino Real [05PLN-00157]: Consideration of Whether to Schedule Appeal by William Spangler of the Director of Planning and

Community Environment's Approval of an Architectural Review Application for the Redevelopment of the Hyatt Rickey's Hotel Site, Including the Construction of 170 Multi-Family Dwelling Units and 11 Single-Family Detached Units, a Public Street Between the Project Site and 4249 El Camino Real.

**MOTION PASSED** 8-0, Kleinberg absent.

### PUBLIC HEARINGS

3. Public Hearing: Consideration of the Proposed Charleston-Arastradero Corridor Pedestrian and Bicyclist Impact Fee and Adoption of an Ordinance Making Certain Findings Regarding the Proposed Charleston-Arastradero Corridor Pedestrian and Bicyclist Impact Fee and Addition of Chapter 16.59 to the Palo Alto Municipal Code to Impose and Implement the Charleston-Arastradero Corridor Pedestrian and Bicyclist Impact Fee. The Proposed Charleston-Arastradero Corridor Pedestrian and Bicyclist I impact Fee Would be Assessed Based on Projected Net Increases in Bicycle and Pedestrian Volumes Due to New Development and Re-Development Within the Charleston-Arastradero Corridor, Which is Defined as an Area One-Half Miles on Either Side and Either End of Both Charleston and Arastradero Roads from Fabian to Miranda. The Proposed Fee Would Fund Approximately Twelve Percent of the Pedestrian and Bicyclist Safety Enhancement Improvements Called for in the Council-Adopted Charleston-Arastradero Corridor Plan.

Council Member Cordell stated she would not participate in the item due to a conflict of interest because she owned property within 500 feet of the Charleston Corridor.

Chief Transportation Officer Joseph Kott said the item had been discussed at the July 19, 2005, Finance Committee Meeting. The plan focused on improving the safety for bicyclists and pedestrians. The proposed impact fee was based on the estimate of new bicycle and pedestrian trips along the Charleston-Arastradero Corridor and was set at \$930 per net new residential unit or \$.27 per square foot of net new non-residential space. The fee would be indexed annually according to raises and construction costs based on the tables produced in the Engineering News Construction Cost index. A developer using their own forces and materials to build a section of the improvements would be considered, and the Council would have the ability

to review and approve the proposal. The estimated fee proceeds were \$820,000 per year through 2015 and represent 12 percent of the cost of the bicycle and pedestrian improvements. Proceeds could be used to fund the mandated trial plan or to match State and Federal grant requirements.

Council Member Ojakian said the Council had passed a Capital Improvement Project (CIP) to complete the corridor and an impact fee was one of the ways to finance the project. A reasonable fee was determined at the July 19 Finance Committee Meeting and passed on a 3-1 vote .

Mayor Burch declared the Public Hearing open at 7:40 p.m.

Patrick Muffler, 961 Ilima Way, said grant money would be needed to implement the impact fee and urged the Council to approve the recommendation. It would be difficult to acquire grant funds without matching funds from the City.

Karen Walker, 379 Matadero Avenue, said it would be a safer environment for children using the roadway for school commute if the corridor were improved.

Deborah Ju, 371 Whitclem, urged the Council to approve the impact fee for a safer corridor.

Mary Grace Houliham, DR Horton, 6658 Owens Drive, Pleasanton, supported the impact fee.

Myllicent Hamilton, 4014 Ben Lomond Drive, said the project would improve the safety and quality of life for current and future residents of Palo Alto. She asked the Council to direct staff to prepare a timeline for the project.

Walt Hays, 355 Parkside Drive, urged the Council to approve the impact fee.

Alan Snyder, 310 E. Charleston Road, urged the Council to approve the impact fee to enhance the safety of the corridor.

David Kandasamy, 247 Ferne Avenue, was in support of implementing the impact fee.

Penny Ellson, 513 El Capitan Place, spoke as co-chairperson of Green Meadows Civic Affairs Committee, and asked Council to approve the impact

fee.

Richard Ellson, 513 El Capitan Place, said seed money was needed to jumpstart the project and urged the Council to approve the safety impact fee.

Kit Miller, 265 Scripps Court, was in support of the impact fee.

Rosa Huang, 504 El Capitan Place, supported approval of the impact fee to enhance the safety of the area before a tragedy occurred.

Betsy Allyn, 4186 Willmar Drive, was in support of implementing the impact fees.

Jean Wilcox, 4005 Sutherland Drive, asked the Council not to reduce Charleston Road to two lanes in the area of Grove Avenue, Sutherland Drive, and Middlefield Road going west in the enhancement plan. The Floor Area Ratio (FAR) doubled on the Campus for Jewish Life (CJL) creating more vehicles on Charleston Road and would add to the traffic congestion on Sutherland Drive due to traffic cut-through.

Thomas A. Vician, 3718 Redwood Circle, was in favor of the impact fee to enhance the safety of the corridor.

Bob McIntire, project manager for Nova Partners, representing the Palo Alto Elks Project, 855 El Camino Real, spoke regarding their support for the impact fees and safety measures of the corridor.

Darlene Snodgrass, 745 Maplewood Place, raised concern regarding impact to the neighborhood. She asked the project be discontinued if it did not work during the trial plan.

Mayor Burch declared the Public Hearing closed at 8:23 p.m.

**MOTION:** Council Member Ojakian moved, seconded by Morton, to accept the Finance Committee's recommendation to introduce an Ordinance for 1st Reading making certain findings regarding the proposed Charleston-Arastradero Corridor Streetscape Development Impact Fee and adding Chapter 16.59 to the Palo Alto Municipal Code to impose and implement the Charleston-Arastradero Corridor Streetscape Development Impact Fee (Attachment A of CMR:384:05)

Ordinance 1st Reading entitled "Ordinance of the Council of the City of Palo Alto Establishing the Charleston-Arastradero Corridor Pedestrian and Bicyclist impact Fee and Amending the Palo Alto Municipal Code Title 16 (Building Regulations) by Adding Chapter 16.59--Charleston Arastradero Corridor Pedestrian and Bicyclist Impact Fee"

Council Member Ojakian clarified the motion included both the adoption of the Ordinance and adding Chapter 16.59 to the Palo Alto Municipal Code. He said the Funding Plan and timeline for the project was contained in the staff report (CMR:384:05), Attachment D and E.

Council Member Morton said the Corridor was also a thoroughfare that served 15 schools. It was difficult to establish criteria to determine whether the trial plan would be a success. The plan should be sensitive to problems that may arise and the Council should be able to step in and find ways to minimize unintended impacts. He urged his colleagues to help support the motion.

Council Member Mossar said the proposed impact fee had an established nexus, criteria for evaluation, and a specific timeframe. She was in favor of the motion.

Council Member Beecham supported the motion.

Council Member Kishimoto supported the motion. She said by 2015 the corridor would experience a 14 percent increase in the number of households and population. The project would improve the area and help alleviate traffic problems and deterioration of quality of life in South Palo Alto.

Council Member Freeman supported the motion. She asked whether there were other large residential projects including but not limited to Hyatt Ricky's building and the Campus for Jewish Life (CJL) that would be excluded from the fee based on the exemption stated in the proposed Ordinance.

Director of Planning and Community Environment Emslie said there was not.

Council Member Freeman asked what the process was if an unintended impact happened.

Mr. Kott asked Council Member Freeman what she meant by an unintended impact.

Council Member Freeman said she was referring to unanticipated issues that could occur in the future such as traffic stack up.

Mr. Kott said the traffic forecast model was predicated on future traffic growth. Sufficient stacking room would be provided for vehicles approaching intersections and waiting for lights to change. The trial plan would include observing traffic dynamics and to determine sufficient stacking space. There would be moveable workshops along the corridor during the trial period where residents could be on the scene to observe and collect input during real time.

Mayor Burch supported the motion.

**MOTION PASSED** 7-0, Kleinberg absent, Cordell not participating.

4. Public Hearing: Consideration of a Zoning Ordinance Update (ZOU): Recommendation by the Planning and Transportation Commission to Adopt an Ordinance to Amend PAMC 18.04.030 (65) Gross Floor Area (Adopted Low Density Residential Definition) and Related Reference in the Single Family Residential Chapter 18.12.040 Table 3: Summary of Gross Floor Area for Low Density Residential Districts Limiting Up to 200 Square Feet of Carports that are Completely Open on Three or More Sides to be Excluded from the Gross Floor Area Calculation for a Single Family Home.

Director of Planning and Community Environment Emslie presented the item as outlined in the staff report (CMR:389:05). He said the item was in response to a Colleagues Memo dated August 8, 2005, directing staff to return to the Planning and Transportation Commission (P&TC) to reconsider exclusion of carports completely opened on three or more sides from gross floor area calculation of a single family home. Prior to adopting the ZOU for R1 in May 2005, garages and carports, whether enclosed or not, were considered as floor area of a single family home. The revised code excluded carports opened on three or more sides. The P&TC's recommendation limited the exclusion for carports completely opened on three or more sides to a maximum of 200 square feet per lot. An alternate staff recommendation was to eliminate the gross floor area exclusion for carports whether completely open or not on three sides and would count towards

allowable floor area for residential homes.

Planning and Transportation Commissioner Lee Lippert said the P&TC's recommendation was to exclude 200 square feet from the Floor Area Ratio (FAR) calculation on carports open on three or more sides. It was not giving away an exception or bonus in square footage but represented additional room in the house. It was a way to meet housing needs when housing and property were costly.

Mayor Burch declared the Public Hearing open at 8:55 p.m.

Nancy Alexander, 435 Santa Rita Avenue, urged the Council not to approve the carport exemption and return to counting carports as floor area. The carport exemption would promote transfer of space from first floor to several floors of a house and contribute to changing the character of Palo Alto's neighborhoods. Carport exemptions could increase the allowable floor area of a house and would make housing more expensive.

Stephen Pogue, San Francisco, said the ordinance change indirectly affected his project at 455 Santa Rita Avenue. To amend the ordinance was the result of opposition brought on by an advertising campaign indicating the City had laws that sent a mixed message to homeowners and designers that the City would backup its laws by reinforcing an Individual Review (IR) approval process.

Roger Kohler, 4291 Wilkie Way, felt the requirement to count garages and carports as part of floor area was harmful to smaller lots. The IR program helped in smoothing out issues.

Council Member Morton asked if it would be more beneficial to allow smaller lots the flexibility to add an additional room rather than encourage demolishing garages and building carports.

Mr. Kohler said he agreed with the idea. He found that homes under 6,000 square feet had carports since it did not count as floor area. There were less carports on larger lots.

Bob Stefanski, 455 Santa Rita Avenue, urged the Council not to change the existing ordinance.

Lynn Brown, 455 Santa Rita Avenue, urged the Council not to adopt any

changes to the existing carport codes. She based her request on Palo Alto's history, public opinion, and common sense.

Michael Griffin, 344 Poe Street, asked the Council not to adopt the carport exemption.

Robert Moss, 4010 Orme Street, said in 1978 carports were included in FAR's. Carports or garages were a requirement in the zoning ordinance. He was not in favor of eliminating the carport exemption.

Chris Draper, Government Coordinator for the Silicon Valley Association of Realtors, said carports were not living space. The option was beneficial to homeowners and potential homeowners and encouraged the Council to consider the recommendation.

Mayor Burch declared the Public Hearing closed at 9:20 p.m.

Council Member Morton asked whether there were major problems that merit a change when carports were considered part of the FAR.

Mr. Emslie said no there was not.

Council Member Morton asked if it would be easier to raise the homeowner's exemption to 200 square feet for smaller homes and not produce a rash number of carports.

Mr. Emslie said the Council had adopted changes to streamline the Ordinance for Home Improvement Exemptions (HIE) that included an exemption for 100 square feet. It was a more direct way to deal with post construction retrofits that lead into code enforcement problems.

**MOTION:** Council Member Morton moved, seconded by Kishimoto, to approve the staff's recommendation to the Planning and Transportation Commission (P&TC) to amend the Low Density Residential chapter, eliminating the floor area exclusion for carports that are completely open on three or more sides.

Ordinance 1st Reading entitled "Ordinance Updating the R-1 Zone District Regulations of Title 18 [Zoning] of the Palo Alto Municipal Code by Amending Section 18.04.030 of Chapter 18.04 [Definitions] and Table 3 (Summary of Gross Floor Area for Low Density Residential

Districts) of Chapter 18.12 [R-1 Single-Family Residence District Regulations]”

Council Member Kishimoto said the allowable square footage for the main house should be kept separate from the allowable covered parking footage. Allowing greater square footage for smaller lots should be done separately.

Council Member Beecham said he continued to support the need for garages. He supported the recommendation but not changing the FAR for smaller lots.

Council Member Mossar supported the motion.

Council Member Ojakian asked whether an HIE could be obtained when using a portion of carport footage.

Mr. Emslie said yes.

Council Member Ojakian asked if there was an area in town that was more vulnerable to carports.

Mr. Emslie said neighborhoods with Eichler homes are more vulnerable to carports.

Mr. Lippert clarified HIE's applied only to modified existing structures and not to new properties.

Council Member Ojakian supported the motion.

Council Member Freeman viewed the issue as obtaining more space. One alternative was to get more structure of an HIE or by modifying the HIE to include added space. Another alternative was using the carport to change a structure on the property but could cause an issue. She supported the motion.

Council Member Cordell concurred with Ms. Brown's comments. She did not support the motion.

**MOTION PASSED** 7-1, Cordell no, Kleinberg absent.

**MOTION:** Council Member Morton moved, seconded by Freeman, to direct staff to return with input from the Planning and Transportation Commission

(P&TC) with recommendations on adjusting the threshold for the HIE for smaller homes and lots.

Council Member Freeman withdrew her second.

## **MOTION FAILED FOR LACK OF SECOND**

5. Public Hearing: Consideration of a Zoning Ordinance Update (ZOU): Office, Research & Manufacturing Districts:

~~A. Recommendation by the Planning and Transportation Commission for Adoption of an Ordinance Updating the Office, Research, and Manufacturing Districts of Title 18 of the Palo Alto Municipal Code by Amending Chapters 18.04 (Definitions), Repealing Chapters 18.37 (Office Research District Regulations), 18.55 (General Manufacturing District Regulations), 18.57 (General Manufacturing Combining District (B) Regulations), 18.60 (Limited Industrial/Research Park District Regulations), and 18.63 (Limited Industrial Site Combining District (3,5) Regulations) in their Entirety and Enacting a New Chapter 18.20 (Office Research and Manufacturing Districts).~~

~~B. Recommendation by the Planning and Transportation Commission for Adoption of an Ordinance Updating the Office, Research, and Manufacturing Districts of Title 18 of the Palo Alto Municipal Code by Repealing Chapters 18.37 (Office Research District Regulations), 18.55 (General Manufacturing District Regulations), 18.57 (General Manufacturing Combining District (B) Regulations), 18.60 (Limited Industrial/Research Park District Regulations), and 18.63 (Limited Industrial Site Combining District (3,5) Regulations) in Their Entirety and Enacting a New Chapter 18.20 (Office Research and Manufacturing Districts).~~

Item removed at the request of staff.

## COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Freeman asked when the report regarding the Human Relations Commission Police Oversight Committee was returning to the Council.

Council Member Kishimoto acknowledged the analysis of demographic data from the Police Department was a complete report. She was happy the Hyatt project had passed on the Consent Calendar, but she would have liked to see retail on El Camino Real. Also, she would like to see the Service Delivery Master Plan.

Council Member Mossar announced there was a San Francisquito Joint Powers Authority Study Session to be held on October 5, 2005 at 6 pm at the East Palo Alto City Hall. The Councils of Palo Alto, East Palo Alto, and Menlo Park would receive a presentation regarding the status of project planning by the Army Corp of Engineers. The purpose was to make everyone comfortable with the decisions, as each council will be voting to approve the project. She also noted that two Proposition 50 planning grants were coming to the Bay Area totaling \$80,000 for water issues.

Council Member Cordell asked the City and residents to support the East Palo Alto (EPA) Youth United for Community Action's request to contact the Department of Toxic Substance Control to extend the comment period of the EIR to re-permit or expand ROMIC, which was the 14-acre hazardous waste processing facility in East Palo Alto. The contact person for information is Cornelis Fletcher at 245-9016, and the deadline was September 28, 2005.

Council Member Beecham stated the Northern California Power Agency (NCPA) Annual Meeting was held the past week. It was a productive year, which included a bankruptcy bill for protection against another Enron incident and the future of where electricity would go.

Mayor Burch noted Council Member Beecham had served as President of the NCPA for the past two years and had done an excellent job.

Mayor Burch noted Palo Alto Police Agent David Flohr was involved in an accident on Middlefield Road. He was struck by a car while on motorcycle patrol and was being treated at Stanford Medical Center for leg and rib injuries and a collapsed lung.

ADJOURNMENT: The meeting adjourned at 9:55 p.m.

ATTEST:

APPROVED:

9/26/05

15

---

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.