TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: PLANNING & COMMUNITY ENVIRONMENT

DATE: MARCH 20, 2006 CMR: 183:06

SUBJECT: APPROVAL OF AGREEMENT AND DECLARATION OF COVENANT TO PROVIDE PARKING AT 130 LYTTON AVENUE BETWEEN THE KENSON GROUP AND THE CITY OF PALO ALTO

RECOMMENDATION
Staff recommends that Council approve and authorize the City Manager to execute the attached Agreement and Declaration of Covenant to Provide Parking at 130 Lytton Avenue between the Kenson Group and the City of Palo Alto.

BACKGROUND
In November 2004, the Kenson Group, owners of the property at 130 Lytton, contacted the City to address a potential future loss of leased parking at the site. The development at 130 Lytton is part of the 2001/2002 Downtown Parking Assessment District, with building area of 47,234 square feet and a parking obligation of 189 spaces. 118 parking spaces are provided by 130 Lytton, leaving an obligation of 71 spaces under the 2001/2002 Assessment District bond. Seventy of the 118 spaces associated with 130 Lytton are located in a two-story parking structure located on an adjacent parcel that is leased by the Kenson Group under a parking lease that expires in September 2014. While it is not anticipated that the leased parking spaces will be converted to any other use, the Parking Covenant is intended to resolve any uncertainty.

DISCUSSION
130 Lytton is the only property subject to the 2001/2002 Assessment District bond that has a portion of its credited parking spaces located on leased property owned by another property owner for which the lease may terminate during the assessment period. There is one other property with leased parking, but the obligation to provide parking extends beyond the term of the assessment. Three other properties provide parking offsite, however the subject properties and the parking location are under the same ownership. In addition, there are six other properties identified in the Assessment Roll as providing parking on a separate legal parcel. These six properties all include buildings that cover multiple parcels and parking that is fully integrated into the site, such that the parking locations could not be independently developed.
In order to compensate for the potential loss of parking, the Kenson Group has agreed to enter into a Parking Covenant that would guarantee compensation to the City for any loss of parking associated with the expiration of the lease for parking associated with 130 Lytton. The Covenant would provide for the payment of a fixed fee based on the Property’s share of the remaining principal balance of the 2001 and 2002 Downtown Parking District Assessment Bonds at the time the lease is due to expire. This amount is intended to offset the benefit that would otherwise be received by 130 Lytton for parking spaces that were improperly credited to the property. Based on 902 total spaces constructed in the district, the payment would be $34,928 per parking space lost for a total of $2,444,956 for a loss of all 70 spaces. Any payments would be allocated to the City’s in-lieu parking fund. The covenant would expire on December 31, 2030—the same year that the Assessment District bonds will be retired—after which the property owners would have no further obligation under the agreement. This payment appears to be an equitable solution that will provide the City with some of the funding to pay for alternative parking.

Palo Alto Municipal Code Section 18.49.100(c) allows for Assessment District parking requirements to be met by off-site parking as long as there is a binding Agreement and Declaration of Covenant. This Agreement will satisfy the Municipal Code requirements.

**RESOURCE IMPACT**
This Agreement will have no effect upon the finances of the Assessment District.

**POLICY IMPLICATIONS**
Kenson Group and the City desire to address the potential future loss of the spaces while ensuring that the parking requirement is still met. The approach taken is designed for these unique circumstances and is not designed to set policy for future City actions.

**ENVIRONMENTAL REVIEW**
There are no environmental impacts from entering into this Agreement.

**ATTACHMENTS**
A: Agreement and Declaration of Covenant to Provide Parking (130 Lytton Avenue)

**PREPARED BY:**

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**CITY MANAGER APPROVAL:**

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