



CITY COUNCIL SUMMARY MINUTES

Special Meeting
March 15, 2021

The City Council of the City of Palo Alto met on this date in virtual teleconference at 5:00 P.M.

Participating Remotely: Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka

Absent:

Closed Session

1. CONFERENCE WITH CITY ATTORNEY
Subject: Written Liability Claim Against the City of Palo Alto
By Joel Domingo Alejo (Claim No. C20-0037)
Authority: Government Code Section 54956.9(e)(3).

Aram James asked the Council to view the video of the attack and offered an instruction if there was no video.

Rebecca Eisenberg summarized the attack on Mr. Alejo and urged the Council to take control of the Police Department.

MOTION: Council Member Filseth moved, seconded by Council Member Cormack to go into Closed Session.

MOTION PASSED: 7-0

Council went into Closed Session at 5:06 P.M.

Council returned from Closed Session at 6:46 P.M.

Mayor DuBois announced no reportable action.

Special Orders of the Day

2. Presentation by the Palo Alto Players and Proclamation.

Elizabeth Santana, Palo Alto Players Managing Director, reported the 2021 season is the 90th anniversary of the Palo Alto Players. As the longest-running theatre company on the Peninsula, the Palo Alto Players served the community through theatrical performances, community outreach, volunteer opportunities, and employment for local artists, designers, and stage technicians. Thanks to Lucie Stern, the Palo Alto Players obtained a

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permanent home, now known as the Lucie Stern Community Theatre. Ms. Santana shared a video montage of recent productions. The Palo Alto Players embraced the spirit of innovation to provide the community with a virtual production and events in 2020.

Greer Stone read the Proclamation into the record.

NO ACTION TAKEN

Agenda Changes, Additions and Deletions

Mayor DuBois proposed continuing Agenda Item Number 6A, which was continued from March 8, 2021, to allow sufficient time for deliberation on the Castilleja School project.

Vice Mayor Burt expressed concerns about the length of meetings, the postponement of Agenda Items, and exclusion of the community from Council Member meetings. He supported continuing Agenda Item Number 6A.

Council Member Cormack preferred to follow the published Agenda and continue Agenda Item Number 6A if the Council was not able to conclude its deliberations this evening.

Council Member Stone concurred with allowing more time for Agenda Item Number 7 and suggested continuing either Agenda Item 6A or 8.

Mayor DuBois noted the Council previously heard public comment for Agenda Item Number 7 and inquired whether there was an issue with beginning discussion of it prior to the time stated on the Agenda.

Molly Stump, City Attorney, advised that it was not a legal issue, but a policy question for the Council.

MOTION: Mayor DuBois moved, seconded by Vice Mayor Burt to continue Agenda Item Number 6A, "PUBLIC HEARING: Finance Committee Recommends the City Council Approve the Park, Community, and Library Development Impact Fee Justification Study ..." to a date uncertain.

MOTION PASSED: 6-1 Cormack no

Oral Communications

Aram James appreciated LaDoris Cordell's comments regarding the Independent Police Auditor's (IPA) report and hoped the Council invited her

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to address the April 5, 2021 Study Session regarding the Police Department. There was no reason to delay review of the IPA's contract until August 2021.

Rebecca Eisenberg encouraged the Council to adopt a business tax so that Budget cuts for nonprofits were not necessary. The Council needed to disclose campaign contributions from stakeholders in items before the Council.

Truc urged the Council to clarify that single-family residential (R-1) zoning was not going to change. There were plenty of zoning districts where Planned Housing Zoning (PHZ) was appropriate and allowed.

Ingrid Rulifson opposed the planning application to rezone an R-1 parcel on Wellesley Street to PHZ.

Chuck Jagoda suggested the Council prioritize projects that created or preserved housing.

Liz Gardner expressed concern that barriers for outdoor dining on California Avenue made crossing the street difficult. Newspaper racks and vegetation obstructed sightlines at the corner where Wells Fargo was located.

Minutes Approval

3. Approval of Action Minutes for the March 1, 2021 City Council Meeting.

MOTION: Vice Mayor Burt moved, seconded by Mayor DuBois to approve the Action Minutes for the March 1, 2021 City Council Meeting.

MOTION PASSED: 7-0

Consent Calendar

Aram James, addressing Agenda Item Number 6, proposed naming Foothills Park for LaDoris Cordell and Rose Elizabeth Bird.

Rebecca Eisenberg, addressing Agenda Item Number 4, remarked that the City was probably not going to meet its required subsidized housing production. A possible result of this was the City being placed in receivership.

MOTION: Council Member Cormack moved, seconded by Council Member Stone to approve Agenda Item Numbers 4-6.

4. Authorize Transmittal of the 2020 Comprehensive Plan Annual Progress Report to the Office of Planning and Research and the 2020

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Housing Element Annual Progress Report to the Department of Housing and Community Development.

5. Adoption of an Ordinance Adopting an Administrative Amendment to the 2019 California Fire Code, Palo Alto Municipal Code Section 15.04.075 (Definitions Added to Section 202).
6. Ordinance 5518 Entitled, "Ordinance of the Council of the City of Palo Alto to Rename Foothills Park to Foothills Nature Preserve; to Adjust Attendance Limits at the Preserve; and to Amend the Fiscal Year 2021 Municipal Fee Schedule to add new Daily Entry Discounts and Annual Pass Fees at the Preserve (FIRST READING: February 22, 2021 PASSED 7-0)."

MOTION PASSED: 7-0

City Manager Comments

Ed Shikada, City Manager, reported the City planned to release additional information regarding the canine incident on March 16, 2021. March 16, 2021 was the one-year anniversary of the Shelter-in-Place Order. A federal \$1.9 trillion COVID-19 relief package was approved, and the City anticipated receiving \$12 million through the Community Development Block Grant (CDBG) Program. COVID-19 vaccines were limited in Santa Clara County. COVID-19 testing was available in Palo Alto on March 17 and 19, 2021. The next Uplift Local community check-in was scheduled for March 16, 2021, and Wellness Wednesdays began on March 17, 2021. The deadline to apply for Palo Alto Boards, Commissions and Committees was April 6, 2021. Work at and around the Public Safety Building (PSB) construction site was slated to begin later in the week. The Silicon Valley Transportation Authority (VTA) awarded the City a \$2 million grant in support of an on-demand transit service pilot program. An Agenda Item regarding an appeal of the City's Regional Housing Needs Assessment (RHNA) was tentatively scheduled for May 2021.

Action Items

Mayor DuBois advised that Agenda Item Number 8 was going to be heard before Agenda Item Number 7.

- ~~6A. PUBLIC HEARING: Finance Committee Recommends the City Council Approve the Park, Community, and Library Development Impact Fee Justification Study; Approve Adjustments to Park, Community Center, and Library Development Impact Fees; Adopt an Ordinance Updating Park Land In-lieu fees; and Direct Staff to Implement the Impact Fee~~

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~~Updates With the Fiscal Year 2022 Budget (Continued From March 8, 2021).~~

8. Approval of the Response to the Grand Jury Report "Why Aren't There More Female Fire Fighters in Santa Clara County".

Rumi Portillo, Human Resources Director, reported the Grand Jury Report focused on Mountain View, San Jose, County of Santa Clara, and Palo Alto from 2009 to 2019. The Grand Jury identified six general barriers to women becoming Firefighters. Nationally, the number of women Firefighters averaged 4 percent, while in Palo Alto the number was approximately 5 percent. Only Mountain View showed an increase in the number of women Firefighters. The City completed four of five recommendations made by the Grand Jury to improve gender diversity. The Human Resources Department planned to work with the Fire Department to develop a gender-specific recruitment plan. The hiring freeze provided an opportunity for the City to implement best practices.

Geo Blackshire, Fire Chief, advised that recruiting and hiring women in the fire service was a national issue and had been for decades. During his tenure with the Palo Alto Fire Department, three women held the rank of Deputy Fire Chief, three women retired at the rank of Captain, but the number of women Firefighters in Palo Alto was at its lowest. He was looking to increase recruitment, education, awareness, and outreach in order to increase the number of women. Society needed to perpetuate equality and equity in male-dominated roles.

Rebecca Eisenberg felt the City needed to interview current and former female firefighters and explore gear and equipment designed for women. She offered advice for changes.

Aram James recognized the Fire Department's efforts to increase the number of women, but the Police Department really needed to increase the diversity of its management team.

Council Member Cormack requested the current number of women in the Fire Department.

Mr. Blackshire responded four of 81 Firefighters were women.

Council Member Cormack inquired about the amount of additional funding needed to increase recruitment of women.

Mr. Blackshire indicated the Mountain View Fire Department requested \$50,000 and received \$30,000 to pay all expenses of recruitments

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throughout California. He suggested \$30,000 to \$50,000 was a reasonable amount for an effective program.

Council Member Cormack looked forward to seeing an item in the Fire Department's budget. There were many reasons to increase the number of women firefighters. She inquired whether Fire Station Number 4 was the only station needing gender improvements.

Mr. Blackshire explained that Fire Station Number 4 had separate accommodations for men and women, but improvements were needed.

Council Member Cormack inquired whether Staff planned to conduct a survey of employees regarding diversity, equity, and inclusion.

Ed Shikada, City Manager, related that a survey was proceeding on a parallel path.

Council Member Stone expressed interest in a Council discussion of Mountain View's program and funding and suggested a goal of 10 percent women firefighters in Palo Alto. He inquired about the reasons for the Grand Jury focusing on Palo Alto.

Mr. Blackshire did not know.

Council Member Stone asked if the percentages of female Firefighters and Police Officers were similar.

Ms. Portillo noted that the Police Department's applicant pools were more gender balanced. The Fire Department's requirement for an applicant to hold an Emergency Medical Technician (EMT) certificate or Paramedic certification impacted the Fire Department's applicant pool. Most applicants for both the Police and Fire Departments typically had training and experience relevant to their chosen careers. The cross-over of applicants was not extensive.

Council Member Stone inquired whether the Fire Department had a female outreach coordinator to mentor female recruits and respond to questions.

Ms. Portillo advised that that was going to be considered in the design of the diversity recruitment plan. Research indicated the City was going to obtain a more balanced applicant pool with use of the new interview platform.

Vice Mayor Burt suggested Staff target recruitments to female athletes because of the physically demanding roles of Firefighters and Police Officers. The pool of women candidates needed to expand, but the City was not capable of doing that alone. He was interested in a review of the best

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practices and outreach of cities that were successful in recruiting and retaining women.

Ms. Portillo reported models of regional recruiting were in place in Southern California. The City of Sunnyvale achieved good success by funding recruitments and recruiting in Hawaii.

Mr. Blackshire advised that at one time the Fire Department planned to change the requirement for applicants to hold an EMT or Paramedic certification. Obtaining a Paramedic certification required \$10,000 to \$15,000 and two years. An EMT certification was quite popular, and many educational programs had waiting lists.

Vice Mayor Burt asked if most EMT and Paramedics programs were provided by community colleges.

Mr. Blackshire noted some private companies offered EMT and Paramedics training.

Vice Mayor Burt asked if the Fire Department considered a scholarship program.

Mr. Blackshire responded yes, but that raised additional issues.

Council Member Kou inquired about the Fire Explorer Program, its success, and costs.

Mr. Blackshire was not aware of the costs of the program, but it was a successful program for several years. The Fire Department did not have the capacity to continue the program, and few participants entered the fire service.

Council Member Kou suggested a female liaison with the program might encourage more females to participate and enter the fire service.

Mr. Blackshire reported the Fire Department participated in two regional Firefighter camps for girls. All the teachers were female Firefighters, and the camps provided extensive exposure to the Firefighter's job.

Council Member Kou inquired whether the traditional perception of male and female roles also caused a disparity in applicants for nursing positions.

Ms. Portillo answered yes. Physical requirements for public safety positions were often challenging for female applicants.

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Council Member Filseth asked if the four female Firefighters were assigned to the same or different stations.

Mr. Blackshire related that they were assigned to different stations. During the probationary period, firefighters were assigned to different stations to gain exposure and experience.

MOTION: Council Member Filseth moved, seconded by Mayor DuBois to approve the City's response to the 2019-2020 Santa Clara County Civil Grand Jury Report entitled, "Why Aren't There More Female Firefighters in Santa Clara County."

MOTION PASSED: 7-0

Council took a break at 8:17 P.M. and returned at 8:28 P.M.

7. PUBLIC HEARING/QUASI JUDICIAL: Castilleja School Project 1310 Bryant: Conditional Use Permit (CUP) Amendment to Increase the Student Enrollment cap to 540 Students With Phased Enrollment and Campus Redevelopment, a Variance to Replace Campus Gross Floor Area and Architectural Review Approval of the Campus Redevelopment. Zone District: R-1(10,000). Environmental Review: Final Environmental Impact Report (EIR) Published July 30, 2020; Draft EIR Published July 15, 2019.

Mayor DuBois noted the voluminous Staff Report provided to Council Members. The Council heard public testimony on March 8, 2021, and was not taking additional public comment.

Jonathan Lait, Planning and Development Services Director, reported the Council received presentations from Staff and the Applicant and public comments on March 8, 2021. Staff submitted an at-places memo with an updated Staff recommendation to remand the project to the Architectural Review Board (ARB) to consider design changes.

Mayor DuBois requested Council Members discuss components of the application separately because some decisions were going to impact other decisions. He proposed the following order of components: the underground parking facility; enrollment and Transportation Demand Management (TDM) Plan; questions and clarification regarding the Environmental Impact Report (EIR); special events; other conditions of approval; and the variance, Conditional Use Permit (CUP), and Architectural Review (AR) findings.

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Council Member Stone requested Staff's rationale for classifying the underground parking facility as a basement.

Mr. Lait noted Staff acknowledged their interpretation throughout the application review process.

Albert Yang, Assistant City Attorney, advised that it was a parking facility. That was the best definition in the Municipal Code. The question was whether Staff needed to count it as gross floor area. The City's regulations on gross floor area for the single-family residential (R-1) zone did not use the term parking facility. Staff attempted to fit the facility into one of the definitions enumerated in the gross floor area regulations.

Council Member Stone noted the definition of parking facility included garage, and under the Municipal Code a garage was included in ground-floor area calculation. Arguing that the parking garage was more analogous to an R-1 basement than a parking garage simply because the Code stated the definition applied to a residential use was not reasonable. This was clearly a parking garage, not a basement.

Mr. Lait agreed that it was a parking facility. The question was whether or not it counted toward floor area. The Council previously narrowed Staff's interpretive authority. The definitions of carports and garages clearly applied to residential properties. This issue was before the Council.

Council Member Stone reiterated the definition of parking facility. There seemed to be a clear definition. The Applicant's attorney submitted a letter dated September 8, 2020 admitting that it was a parking facility.

Mr. Yang agreed that the definition of parking facility listed both garage and carport. Every garage was a parking facility, but not every parking facility was a garage.

Council Member Stone wanted to understand why Staff chose the basement definition rather than the parking facility definition for ground-floor area.

Mr. Yang explained that the definition of gross floor area did not speak to parking facilities generally. It was reasonable to extrapolate from carport and garage to say parking facility generally. Staff reviewed previous interpretations to determine what was done. This was one possible interpretation, but certainly not the only one.

Council Member Filseth reiterated that the Code was not clear as to the disposition of nonresidential garages in R-1 neighborhoods. Therefore, there was room to interpret. In commercial areas, nonresidential underground

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garages did not count toward floor area ratio (FAR). Above-ground garages in R-1 zones counted toward FAR. Underground garages for single-family homes in R-1 neighborhoods were not allowed. He asked why underground garages were not allowed in R-1 neighborhoods.

Amy French, Chief Planning Official, related that the 1998 Municipal Code prohibited below-grade parking for a single-family home in several of the low-density districts. Putting a garage underground enabled a larger home. Because the maximum house size was 6,000 square feet, property owners put a garage below grade, which raised safety concerns.

Council Member Filseth asked if allowing only one underground garage per residential block alleviated the safety concerns.

Ms. French answered yes.

Council Member Filseth noted above-ground garages counted toward FAR to limit the amount of massing on a lot of a given size. He inquired regarding the reasons for allowing a basement to extend beyond the building footprint in residential districts.

Ms. French indicated the reasons included the definition of height.

Council Member Kou believed the issues pertained to policy as well as quasi-judicial matters. The order of components was backwards in some ways. The EIR was the most important component for this project.

MOTION: Council Member Kou moved, seconded by Council Member Cormack to discuss the Environmental Impact Report (EIR) portion of this item before other items.

Council Member Cormack suggested beginning with the EIR was appropriate because it formed the basis of the review.

Mayor DuBois felt learning Council Members' positions on the garage and enrollment was going to speed the rest of the discussion.

MOTION PASSED: 5-2 DuBois, Filseth no

Vice Mayor Burt understood the intent of the Motion was to discuss the EIR after the garage.

Council Member Kou intended to stop the discussion of the garage and move to the EIR.

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Council Member Kou inquired about a limit on the number of people attending the five major events.

Mr. Lait advised that the Conditions of Approval, rather than the Mitigation Monitoring and Reporting Program (MMRP), continued the standard contained in the current CUP. The current standard was 500 people.

Council Member Kou inquired regarding a monetary deposit for potential damage to the historic building.

Mr. Lait indicated the Applicant was taking precautions, and much of the major construction was not occurring near the location.

Ms. French reported removing the historic building was intended to improve its condition. A deposit was never mentioned.

Council Member Kou was concerned about the possibility of the historic building being demolished.

Council Member Cormack asked if certifying the EIR and denying the CUP was possible.

Mr. Lait replied yes, but certification was unnecessary if the Council denied the CUP.

Council Member Cormack asked if certifying the EIR required the Council to allow the underground garage.

Mr. Lait responded no.

Council Member Cormack asked Staff to address Mr. Dockter's comments regarding Tree Numbers 140 and 155.

Ms. French reported Tree Number 140 was located near an existing classroom and proposed for removal. It was in fair to poor condition. Tree Number 155 was in fair condition and located in the path of a driveway to the below-grade trash and recycling area. Mitigation measures in the EIR as well as conditions of approval addressed the trees. The Applicant originally proposed relocating the trees, but the Urban Forestry Division suggested a successful relocation of the trees was going to be difficult. In addition, the trees were located within the buildable area of the lot.

Council Member Cormack asked if Staff supported the EIR as written.

Ms. French responded yes.

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Council Member Cormack asked if Staff was confident in the transportation section of the EIR. There seemed to be an omission of some crash data for Bryant.

Katherine Waugh, Dudek, reported bicycle crash data pertained to Castilleja's frontage along Bryant Street from 2015 through 2018. The analysis evaluated the traffic conditions, specifically bicycle conditions, along the roadway for the period shortly before and after submission of the application. Expanding the area did not increase the rate of accidents and crashes beyond the range of normal traffic conditions throughout the state. The traffic volumes that the project contributed did not indicate that the project was going to exacerbate any existing conditions related to bicycle safety in the project vicinity.

Council Member Cormack interpreted Ms. Waugh's response as the accident that the member of the public referenced occurred at an intersection, which was not part of the segment studied.

Ms. Waugh clarified that the accident referenced by the public occurred at the intersection of Embarcadero and Bryant.

Council Member Stone asked Staff to respond to the March 10, 2021 letter from Preserve Neighborhood Quality of Life's (PNQL) attorney regarding Footnote 16 and buildable area.

Mr. Yang reported the attorney alleged that the project was not eligible to utilize the provision about buildable area because the application included a variance. Staff strongly disagreed. The concept of buildable area pertained to not encroaching into setbacks. Clearly, the provision addressed a variance to build outside the normal buildable area. The requested variance for FAR was entirely unrelated to buildable area.

Council Member Stone asked if this was the part of the Ordinance that discussed no existing building footprint.

Mr. Yang answered yes.

Council Member Stone expressed concerns that approving the project was going to set a precedent and that the Tree Ordinance was being used to justify the removal of protected trees.

Mr. Lait did not know whether the professionals in the Public Works Department shared Mr. Dockter's perspective either today or when Mr. Dockter worked for the City.

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Walter Passmore, Urban Forester, explained that the Code provided certain allowances that could be applied for removal of a protected tree. Different allowances were cited for different trees in the project. Trees within the building footprint were allowed to be removed. Tree Number 140 was located very close to an existing building. Construction within the existing building footprint was going to jeopardize the health of the tree. Staff considered it as located within the building footprint. Tree Number 155 was currently surrounded by an above-grade planter. Staff had to interpret whether the planter was an extension of the building or whether the building footprint extended into that area.

Mayor DuBois clarified that Council Members were referring to Mr. Dockter's second email to the Council.

Council Member Filseth inquired whether Mr. Dockter was correct that a Statement of Overriding Consideration was needed to certify the EIR because there was an unmitigated, unavoidable and significant impact.

Mr. Lait was not previously aware of Mr. Dockter's March 11, 2021 email. Buildable area was the area located outside the setbacks but within the parcel. The Code provided a process for removing trees located within the buildable area. The two trees were located within the buildable area, and removal of them was consistent with the language of the Code.

Ms. French indicated the goal was not to remove trees if they were healthy. A tree's location within the buildable area was a good reason to consider removal if other options were not viable or if a tree was not going to survive demolition or construction.

Mr. Lait read the pertinent Code provision. The trees were located within the buildable area of the lot. Staff was not setting a precedent or interpreting the provision differently than in the past. The Code allowed removal of the trees; therefore, a Statement of Overriding Considerations was not needed.

Council Member Filseth requested the rationale for allowing removal if a building existed on the lot but prohibiting removal if there was not an existing building.

Mr. Lait stated the Code provided a process for removing protected trees. The Code encouraged the preservation of trees but also provided a process for removal of protected trees.

Vice Mayor Burt inquired whether the Code allowing removal precluded a finding that removal was an environmental impact.

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Mr. Lait noted the Council may find that removal was undesirable and detrimental. Through the discretionary approval process, the Council was allowed to change the direction of the project.

Ms. Waugh stated under California Environmental Quality Act (CEQA), removal of a large, beautiful tree was not considered a significant impact unless the City's Ordinances prohibited that action.

Vice Mayor Burt inquired about other options in design that avoided the removal of protected trees.

Mr. Lait reported requesting design modifications that achieved the Council's interest in preserving trees was within the Council's purview.

Vice Mayor Burt asked if Mr. Passmore approved the design and if the tree information on the drawings was accurate.

Mr. Passmore suggested design modifications that resulted in the removal of fewer trees were possible, but they were discretionary decisions that were better discussed outside the context of the EIR.

Mr. Lait advised that proposed conditions of approval related to trees.

Vice Mayor Burt asked if the proposed mitigations were adequate to save protected trees as well as various trees that were potentially threatened by the project.

Ms. French advised that dewatering was not proposed for construction of the pool because the depth was above the highest level of the water table. The level of the water table varied at different times of the year.

Mr. Passmore noted some unresolved questions about a few trees, including Tree Number 89, which was adjacent to the pool.

Mr. Lait stated two conditions of approval required an arborist to be onsite during construction activity in the area of Tree Number 89 and the Applicant to provide additional detail work prior to beginning construction. An Applicant was not allowed to obtain a variance to build within a setback and count the area within the setback as buildable area in order to remove a tree. The language about a variance was not applicable to the current project.

Mayor DuBois asked if it was possible to require an onsite survey to determine the existing square footage.

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Mr. Lait replied yes. Floor area was included in the Staff recommendation to remand the project to the ARB.

Mayor DuBois requested the consequences of a survey finding a number substantially different from 4,000 square feet.

Mr. Lait noted some area counted toward the FAR was actually below grade and did not need to be counted. Additional work was needed, but the final number was not likely to be substantially greater than 4,000 square feet.

Mayor DuBois requested the route a vehicle was going to travel to reach the Bryant Street driveway.

Philip Kamhi, Chief Transportation Official, advised that vehicles were probably going to turn onto Bryant from Embarcadero.

Mayor DuBois asked if vehicles traveling to Kellogg were going to be discouraged from turning onto Bryant.

Mr. Kamhi believed vehicles traveling north on Bryant were going to turn left onto Kellogg to reach the driveway.

Mayor DuBois inquired whether trees around the parking structure needed to be protected.

Ms. French related that the Applicant believed saving the trees was possible and submitted documentation for that. Proposed conditions of approval related to protecting the trees.

Mr. Lait indicated that if the Council found the subterranean garage was permissible, it was possible to redesign it to provide additional room to those trees.

Council Member Filseth requested the reasons Staff did not seek a bond for the trees given the extent of construction.

Mr. Passmore explained that a condition of approval sought a security deposit. The Tree Technical Manual set the maximum amount at 150 percent of appraised value. Staff also requested the Applicant update the appraised values of the trees based on current measurements.

Council Member Filseth inquired whether the Applicant was going to post that amount and, if the trees died, the funds were going to be used to replace them.

Mr. Passmore answered correct.

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Council Member Filseth concurred with Mayor DuBois' comments regarding the square footage. If the above-ground square footage increased, he did not support granting the variance. If it decreased or remained the same, he possibly supported Condition 1.

Mr. Lait reported the Applicant did not intend and Staff did not recommend allowing above-ground gross floor area greater than currently existed. Staff needed to know the precise existing gross floor area.

Council Member Cormack commented that the project was going to increase vehicular traffic on Bryant but not above the level that was safe for the bike boulevard.

Mr. Kamhi clarified the Planning and Transportation Commission's (PTC) recommendation as maintaining the average daily trips measured during the EIR process. Consequently, the number of trips was not necessarily going to increase. Bicyclists southbound on Bryant crossed Embarcadero and remained to the left of vehicles queued for a right turn into Castilleja. Elimination of one driveway reduced the potential for conflicts and enhanced bicycle safety. Bicyclists traveling southbound on Bryant to reach Castilleja crossed Embarcadero to the corner of Castilleja's property and turned right to travel a short ways on the Embarcadero sidewalk and then turn left into the property.

Council Member Cormack asked if vehicles traveling east on Embarcadero were prohibited from turning right onto Bryant when bikes were crossing Embarcadero.

Mr. Kamhi indicated such a prohibition was not part of the proposal.

Council Member Cormack inquired about net new car trips.

Mr. Kamhi answered that no net new trips were allowed.

Ms. French added that there were 383 AM peak hour trips and 1,198 average daily trips.

Council Member Cormack requested the page number in the Record of Land Use Action (RLUA) for that information.

Mr. Kamhi replied Section 8, Condition 22.

Council Member Stone requested the Code section that justified allowing the removal of trees. Section 8.10.050 listed the exceptions to the prohibition against removing protected trees.

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Mr. Yang stated Staff relied on different sections for different trees but primarily relied on Sections 8.10.050(b)(1) and (b)(2). Mr. Dockter previously indicated that Section 8.10.050(b)(2) was historically interpreted as applying to vacant lots, but that was not Staff's experience.

Council Member Stone requested an explanation since obviously a building footprint existed on the site.

Mr. Yang clarified that the phrase "no existing building footprint" referred to the location of the existing protected tree and not to the lot as a whole. Section 8.10.050(b)(1) applied to locations where there was an existing building footprint.

Mr. Lait added that Section 8.10.050(b)(1) discussed a scenario where a tree and the building footprint conflicted with each other. Section 8.10.050(b)(2) discussed a scenario with no conflict between a tree and the building footprint, but the tree was located within the buildable area.

Mr. Passmore explained that a property owner was allowed by zoning and Code to construct a home addition. Designing the addition around a tree was not always possible. Staff struggled with whether a protected tree should prohibit a property owner from building an allowed home addition. The Code allowed the removal of a protected tree in certain instances.

Council Member Stone did not understand Staff's justification that the Code language concerning a variance did not apply to the variance for FAR because any additional building on the site required a variance.

Mr. Lait explained that the tree's location and a variance conflicted when the Applicant wanted to build in an area where a tree was not otherwise impacted by buildable area. The requested variance for floor area did not relate to the location of the structure.

Council Member Stone asked if there was a Code provision or general doctrine that unclear or conflicting Code provisions were supposed to be read in the most stringent way possible.

Molly Stump, City Attorney, was not familiar with that general principle. Staff followed the standard rules of statutory construction.

Vice Mayor Burt understood the environmental analysis reviewed trips to the campus and asked if it also reviewed trips generated by vehicles traveling to the area of Castilleja but not specifically to the campus.

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Ms. Waugh reported traffic counts were based on observations of vehicles arriving and departing campus and based on a student survey regarding modes of transportation. The survey captured students who parked or were dropped off a few blocks from campus.

Vice Mayor Burt believed students did not self-report violations of policy. The survey probably did not provide reliable information. Satellite parking helped immediate neighbors and the school site but shifted the impact elsewhere in the community. He inquired whether the data captured that.

Ms. Waugh advised that the TDM Plan and AR did not rely on any specific satellite parking.

Vice Mayor Burt asked if there was not any satellite parking currently. He was told there was.

Ms. Waugh reiterated that satellite parking was not part of the analysis.

Mark Spencer, W-Trans, indicated he did not assume the use of offsite parking. Perhaps it was proposed in the TDM Plan. The effects of additional students were extrapolated from direct observation of car trips. The analysis did not include offsite parking as they were not aware of any offsite parking.

Vice Mayor Burt requested a representative of Castilleja respond to the question of existing satellite parking for students and/or staff and any plans to expand it.

Kathy Layendecker, Castilleja School, advised that satellite parking for employees only was located at First Presbyterian Church. The TDM Plan recommended satellite parking, but additional satellite parking was probably not necessary.

Vice Mayor Burt expressed concern that Staff and the consultant were not aware of the current use of satellite parking.

Ms. French related that the use of satellite parking was focused on events.

Vice Mayor Burt noted the use of satellite parking for special events was contained in the 2000 TDM Plan. That was different from the information just shared with the Council.

Council Member Tanaka requested perspectives of individual Commissioners and the overall PTC regarding the EIR.

Bart Hechtman, PTC Liaison, could not provide the perspectives of individual Commissioners. The PTC heard the EIR first because Commissioners felt it

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was necessary to determine mitigation measures before considering conditions of approval. The vote on the EIR was four to recommend certification, one not to recommend certification, and two absent. The Commissioner opposed to certification wanted to continue the discussion to a subsequent meeting. The PTC held a significant amount of discussion and reached consensus that the EIR was extraordinarily comprehensive and addressed a wide variety of concerns and that mitigation measures reduced impacts to a level of insignificance.

Mayor DuBois inquired whether parking requirements changed if students were allowed to drive to school as a condition of approval.

Mr. Lait responded no. The Council had discretion to impose conditions and reduce the number of parking spaces through various entitlements.

Ms. French added that a parking adjustment was required to reduce the number of parking spaces provided on the property based on the number of classrooms.

Mayor DuBois asked if there was a reason that the Council could not apply the dispersed circulation to other EIR alternatives, specifically the moderate enrollment with reduced parking and the no garage option.

Ms. Waugh explained that project alternatives reflected the project objectives, the project as designed, and significant environmental impacts. The dispersed circulation alternative came up later in the process and was not applied to specific alternatives. Another version of dispersed circulation that allowed drivers to turn left or proceed straight was considered. That version resulted in traffic impacts in other locations.

Mayor DuBois expressed concerns about the contribution to cumulative land uses, survivability of the trees, enforceability of the TDM Plan, noise, and potential growth inducement. The Council needed to consider a condition of approval prohibiting the use of amplified sound. If the Council determined that the underground garage was not allowed, the EIR probably was not relevant.

Council Member Kou inquired whether vehicles were allowed to turn left from Embarcadero.

Mr. Kamhi replied yes.

Council Member Kou expressed concern regarding the number of vehicles crossing the bicycle boulevard. She asked if a tree had to be deemed a hazard or unhealthy prior to it being removed.

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Mr. Lait answered yes if the tree was not located within the buildable area.

Council Member Kou found Mr. Dockter's report compelling and shared her experiences with homes designed around existing trees.

Vice Mayor Burt inquired whether the CEQA analysis reviewed the goals of increasing the mode share of bicycling and adopting micro-mobility trends.

Mr. Kamhi did not believe the analysis addressed those points specifically.

Ms. Waugh reported the analysis did not consider increases in bicycling.

Vice Mayor Burt asked if the revised floor area or counting the garage in floor area necessitated a review of the EIR.

Mr. Lait answered no.

Vice Mayor Burt asked if CEQA allowed an analysis of the impacts to the historic building subsequent to the CEQA approval.

Mr. Lait reported there was no historic impact.

Ms. French clarified that the Historic Resources Board (HRB) reviewed the project for compliance with Secretary of the Interior Standards. The project was referred to the ARB subcommittee regarding the metal stair rail.

Mayor DuBois asked if eliminating the garage affected the EIR.

Mr. Lait responded yes, because circulation was impacted.

Mayor DuBois requested Council Members resume the parking structure discussion.

Council Member Cormack asked if allowing the underground garage but not counting it toward floor area set a precedent.

Mr. Lait advised that that a text amendment was needed. The language of the amendment determined the number of parcels affected by the amendment. Given the unique characteristics of the property and the use, drafting the amendment narrowly was possible.

Council Member Cormack requested the reasons the ARB supported an underground garage.

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Osma Thompson, Architectural Review Board Member, indicated the ARB believed an underground garage was aesthetically superior to an above-ground garage and consistent with goals in the Comprehensive Plan.

Council Member Cormack asked if the ARB changed the design of any visible portions of the garage.

Ms. Thompson stated the ARB wanted to review a staircase again.

Council Member Cormack found the ARB's support of an underground garage persuasive.

Council Member Filseth felt the fundamental issues were public health, safety, and general welfare in the surrounding area. The main concerns were traffic, noise, trees, and aesthetics to some extent. Counting the garage toward floor area was not logical. Defining the underground garage as a basement was too much of a contortion, and a text amendment was reasonable.

Council Member Stone inquired whether Section 18.01.050 applied to the entire Code or only Title 18.

Ms. Stump advised that the section probably applied to conflicting provisions within the Code and between local and State laws.

Mr. Yang indicated the Council had the option of directing Staff to prepare a Code amendment or adopting an interpretation of an ambiguous Code provision.

Council Member Stone asked if the Council needed to apply the facts and law in making its decision.

Ms. Stump responded yes.

Council Member Stone asked if Castilleja needed City approval to build an at-grade parking facility on the sports field.

Ms. Stump understood an at-grade parking facility with that number of spaces required a substantial redesign of the project.

Mr. Lait suggested the Director was allowed to present items of public interest to the Council for decision. Because this item was of great public interest, the Director was highly likely to present it to the Council.

Council Member Kou felt the prohibition against underground garages in the R-1 district applied to this project. The garage was intended to

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accommodate an enrollment increase. The Applicant needed to provide its build-out model so that the Council and community understood the potential density. She questioned whether Castilleja might find another location for its school and whether the Council was going to allow other uses to exist and expand within R-1 neighborhoods.

Vice Mayor Burt noted an underground garage of a certain size was likely a preferred site design for the project, but attempting to rationalize an underground garage as a basement was a poor decision. Interpreting the lack of a prohibition as permission was erroneous. The size of the garage was a concern because of its impacts on trees, ingress, and egress. Increasing the number of Palo Alto students to 40 percent and the number of East Palo Alto students provided multiple benefits.

Mayor DuBois noted the City's support of Castilleja. He questioned Staff's ability to narrow the language of a text amendment to prevent unintended consequences. Past Councils probably intentionally prohibited underground parking in R-1 zones because large underground structures in R-1 zones were an intensification of use. Past Councils also discussed whether basements needed to count toward FAR. The underground parking facility was inconsistent with the Zoning Code, and the Council needed to count it toward FAR. A smaller garage was logical. The no-garage option with dispersed drop-off was a possibility.

Council Member Stone concurred that the garage needed to count toward FAR and was willing to consider a text amendment. He liked Vice Mayor Burt's concept of reducing the size of the garage and increasing the number of Palo Alto and low-income students.

Council Member Tanaka requested the Applicant comment regarding increasing local enrollment and redesigning the project.

Nanci Kauffman, Castilleja School, reported the project was the plan for full build-out. The majority of teachers commuted to school. The majority of students who lived the furthest away commuted by train or shuttle. The Code required a specific number of parking spaces. Eliminating the underground parking meant replacing green space with surface parking. The size of the garage had been reduced a few times.

Council Member Tanaka noted the EIR was quite extensive. With the ambiguity in the Code language, the Council had to consider what was best for the community. Surface parking was less expensive to construct, but green space was aesthetically pleasing. He inquired whether the Applicant was allowed to replace the field with parking.

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Mr. Lait replied yes, not by right but through a process.

Council Member Tanaka felt underground parking was a greater good for the community.

Council Member Kou noted the environmental impacts of constructing an underground parking garage. Those impacts and the school's location in an R-1 neighborhood were concerns. The school's business model was not the Council's concern. She did not support the project with an underground garage.

Vice Mayor Burt anticipated that an overwhelming percentage of students was going to utilize bicycles or micro-mobility to commute to school. Perhaps the TDM Plan needed to restrict students from driving to school or limit driving to juniors or juniors and seniors. He inquired about the number of students who did drive to school.

Ms. Kauffman reported less than 50 percent of students arrived in a single-occupancy vehicle.

Vice Mayor Burt requested the number of staff members needed to accommodate enrollment above 415 students.

Ms. Kauffman replied at least two teachers.

Vice Mayor Burt did not believe the Council was ready to make a decision regarding the garage.

MOTION: Vice Mayor Burt moved, seconded by Council Member Stone to direct Staff to:

- A. Treat the underground parking facility as an underground garage and not as a basement; and
- B. Return to Council with an alternative text change counting all the underground garage as floor area;
 - i. Return to Council with an alternative of not counting floor area or partially counting floor area; and
 - ii. Evaluate the implication of the text change on other properties in R-1 zones.

Mayor DuBois requested Staff's comments regarding the Motion.

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Mr. Lait was not sure that Staff could provide more information as directed in the Motion.

Vice Mayor Burt felt the Council needed to understand the implications of a text amendment on other properties.

Mr. Lait remarked that Staff needed to consider size of parcels, intended uses, locations of streets, and other factors to craft a narrow set of regulations for Castilleja. With Council direction, Staff was able to craft language and provide the implications of that language.

Vice Mayor Burt asked if a narrow set of regulations was spot zoning.

Mr. Lait clarified that spot zoning was not illegal if it was supported or warranted for general welfare.

Mayor DuBois suggested discussing the remaining issues may assist the Council in making decisions.

Council Member Stone commented that not understanding the various alternatives was a challenge.

Council Member Cormack inquired whether Part B of the Motion implied a redesign of the project.

Mr. Lait responded yes.

Council Member Cormack was not interested in a redesign at this time. Her concept for the second part of Part B was a very narrow text amendment that applied to Castilleja's site only and the number of parcels affected by a broader text amendment.

Council Member Kou did not understand Part B of the Motion. Staff probably needed to know the exact amount of existing and proposed square footage.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to direct Staff to have an independent analysis of the existing floor area both above and below ground. (New Part C)

Council Member Filseth questioned the value of Parts A and B of the Motion. The Motion seemed to avoid the issue of approving or denying the garage.

Council Member Tanaka noted the late hour and the inability to think clearly and concisely.

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SUBSTITUTE MOTION: Council Member Tanaka moved, seconded by Council Member Kou to continue this item to March 29, 2021.

Council Member Tanaka preferred to consider the many important and legal issues with a clear head. Perhaps determining the correct square footage prior to March 29, 2021 was possible.

Ed Shikada, City Manager, did not believe that was sufficient time for the Applicant to resolve the square footage.

Council Member Cormack opposed the Substitute Motion because enrollment was a pivotal issue.

Council Member Filseth wanted to accomplish something prior to adjourning the meeting.

Vice Mayor Burt clarified that Part B directed Staff to return with a couple of alternatives and the ramifications of them. The items were intended to increase the productivity of the next discussion.

Mayor DuBois wanted to touch on enrollment before continuing the discussion.

SUBSTITUTE MOTION FAILED: 2-5 Burt, Cormack, DuBois, Filseth, Stone no

Council Member Cormack inquired whether counting all the underground garage as floor area required a redesign of the project.

Mr. Lait answered yes, if the Council wanted the garage to count toward floor area and did not want to increase the existing floor area. He clarified that he was able to provide a text amendment that met the Council's goals, but Staff was not going to know if the Council wanted a subterranean garage prior to the next meeting.

Vice Mayor Burt reiterated that Council was not ready to decide about the garage in the current meeting.

Vice Mayor Burt was interested in the Applicant's and neighbors' responses to the Motion.

Council Member Cormack understood the PTC instead of Staff was charged with doing this type of work for the Council.

Vice Mayor Burt stated that was not part of the Motion.

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Mr. Lait explained that Council Member Cormack was referring to a statement in the Staff Report. He proposed the Council discuss the remaining issues prior to reopening the Public Hearing.

MOTION AS AMENDED: Vice Mayor Burt moved, seconded by Council Member Stone to direct Staff to:

- A. Treat the underground parking facility as an underground garage and not as a basement;
- B. Return to Council with an alternative text change counting all the underground garage as floor area;
 - i. Return to Council with an alternative of not counting floor area or partially counting floor area; and
 - ii. Evaluate the implication of the text change on other properties in R-1 zones; and
- C. Have an independent analysis of the existing floor area both above and below ground.

MOTION AS AMENDED PASSED: 4-3 Cormack, Filseth, Tanaka no

Council Member Cormack requested the motivation for increasing enrollment and the benefits of increasing enrollment for current and future students, the school, and the community.

Ms. Kauffman reported the motivations were reaching more girls and enhancing programs. The high school was too small to provide students with the opportunities they needed to be successful. The school needed to create a different social environment for girls. An all-girls high school experience was more popular than ever, and the demand was exponentially greater than in the past. Increasing enrollment was also going to increase the number of students receiving tuition assistance. Castilleja offered a strong program for first-generation students whose families had not considered college. An enrollment of 540 students was intended to increase the number of students in small classes without increasing the number of staff or the number of car trips.

Council Member Cormack indicated the Staff Report stated Castilleja needed an additional ten employees for full project build-out.

Ms. Kauffman was not familiar with the number. If it was provided in the report, it was probably accurate.

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Council Member Cormack asked if Castilleja had 122 full-time employees.

Ms. Kauffman replied yes.

Council Member Filseth noted other private schools encountered the same constraints as Castilleja. Because of Castilleja's 100-year-old legacy and rich tradition, he did not want to tell Castilleja to leave. Mitigating all the impacts was difficult and expensive. Asking the neighborhood to shoulder all the cost was not right. The Council's mission was to determine and organize all the costs and provide Castilleja with an opportunity to decide what to do. He was interested in discussing noise, traffic, trees, and aesthetics.

Council Member Stone expressed interest in tying a public benefit to increased enrollment and requested the number of low-income students attending Castilleja and the requirements to receive tuition assistance.

Ms. Kauffman advised that quite a few students were on full tuition assistance and agreed to provide the information.

Council Member Stone requested the rationale for increasing the number of onsite parking spaces if there were no net new trips and no additional staff.

Ms. Kauffman indicated additional spaces were needed to comply with parking requirements. Parking requirements changed after Castilleja received its current CUP. Additional parking spaces and shuttles were meant to reduce the number of students parking in the neighborhood.

Council Member Stone requested plans, if any, to track student and staff parking.

Ms. Kauffman related that staff monitored surrounding streets during drop-off and pick-up.

Vice Mayor Burt was interested in understanding the baseline for trip reductions, the TDM Plan, and a Residential Preferential Permit Parking Program (RPP) for the neighborhood.

Council Member Kou requested information regarding the addition of shuttles. She inquired whether the Council was going to receive public comment regarding the Motion.

Mr. Lait reiterated that the Public Hearing was going to be reopened once the Council concluded deliberations.

Ms. Stump clarified that public comment was going to be heard on March 29, 2021.

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Council Member Kou suggested Castilleja possibly outgrew its current site.

Mayor DuBois commented that understanding the need for a parking garage was difficult even after the explanations. The Council needed to discuss Castilleja's density. He was inclined to support the PTC's recommendation for Castilleja to achieve some TDM targets prior to the Council approving an enrollment increase. The variance was a large request, and the situation did not appear to be unique or to cause substantial hardship.

Mayor DuBois announced the item was continued to March 29, 2021.

Council Member Questions, Comments and Announcements

Mayor DuBois reported the Cities Association adopted a Resolution opposing hate crimes against Asian people. Office hours with the Mayor were scheduled for Fridays, 10:30 a.m. to noon. He appointed Council Members Kou and Cormac and himself to the Council Ad Hoc Committee to meet with Palo Alto Unified School District (PAUSD) Board of Education Members regarding Cubberley Community Center.

Adjournment: The meeting was adjourned at 12:19 A.M.