



CITY COUNCIL SUMMARY MINUTES

Special Meeting
May 18, 2021

The City Council of the City of Palo Alto met on this date in virtual teleconference at 5:01 P.M.

Participating Remotely: Burt, Cormack, DuBois, Filseth, Kou, Stone; Tanaka arrived at 7:00 P.M.

Absent:

Agenda Changes, Additions and Deletions

Mayor DuBois noted an at-places memorandum regarding Agenda Item Number 5 and Council Member questions regarding Agenda Item Number 3.

Study Session

1. 955 Alma St [21PLN-00013]: Request for Prescreening of a Proposal to Rezone the Subject Site From RT-35 to Planned Community/Planned Home Zoning (PHZ) and Redevelop the Site With a new 4-Story Mixed-use Development That Includes 36 Residential Studios, 6,348 Square Feet of Office Space, and a Below Grade Parking Facility. Environmental Assessment: Not a Project; any Subsequent Formal Application Would be Subject to California Environmental Quality Act (CEQA) Review. Zoning District: RT-35 (Residential Transition District) South of Forest Avenue (SOFA) II Coordinated Area Plan (CAP).

Amy French, Chief Planning Official, reported the Applicant proposed rezoning a parcel located in the South of Forest Area (SOFA) II Coordinated Area Plan (CAP) to Planned Community (PC) or Planned Home Zone (PHZ). The concept fulfilled the initial qualifying criteria for a PHZ. The site was currently zoned Residential Transition District (RT-35) and abutted an RT-35 zone, a one-story gym, and an RT-50 zoned, one-story office building. An affordable housing development was located in the same block as the subject site. The site contained a single-story, 8,000-square-foot office building with four parking spaces off Alma and approximately 11 parking spaces off the alley. The Applicant proposed a four-story, mixed-use building with 36 residential studios, 6,300 square feet of office space, a below-grade parking facility, and two surface parking lots. Where the SOFA II CAP allowed a 1.15 floor area ratio (FAR) for non-PC development, it allowed a 1.5 FAR for PC development. The project proposed an FAR of

SUMMARY MINUTES

2.68. As proposed, the stair and elevator exceeded the 50-foot height limit. The development was not going to increase the number of jobs and reduced the existing office floor area by slightly more than 1,700 square feet. The development provided 20 percent inclusionary housing. The Applicant requested Option 2 affordability and a 30-percent parking reduction. The four parking spaces off Alma created a vehicle/pedestrian conflict, encroached into the sidewalk, and were hazardous for vehicles backing into traffic on Alma. The Applicant was able to request a 41 percent parking reduction if it eliminated the four parking spaces along Alma or redesigned the parking facility to maintain a 30 percent parking reduction. There was sufficient room for additional bicycle parking. The Applicant requested a text amendment to the SOFA II CAP so that it was consistent with Municipal Code Chapter 18.38.

Heather Young, Applicant, advised that the project site was located on the edge of Downtown and more than 160 feet from a single-family residential (R-1) neighborhood. As one moved closer to Downtown, building heights increased and buildings became more dense. The Applicant proposed a ground-floor office use, three floors of residential units, a central courtyard, and a roof terrace. Each floor contained 12 micro studios. The residential entrance and ramp to the garage were located off the alley. The Applicant proposed using triple-stack parking machines and providing storage lockers and bike storage in the garage. Bicycle parking was located near the office and residential entrances. The reduction in office space and the addition of residential units resulted in a net housing gain of 41 units. Residential unit size ranged from 329 square feet to 407 square feet. A portion of the roof terrace was available for office tenants' use. The Applicant proposed a galley kitchen, a full bath with a stacked washer and dryer, a living space with sleeper sofa, office storage unit, and media storage unit, and an outdoor balcony for each residential unit. Components of the media unit converted to a coffee table and dining table.

Laura Beaton, speaking on behalf of Allan Akin, Neilson Buchanan, Mary Dimmit, Wolfgang Dueregger, Scott Van Duyne, John Guislin, Michael Hodos, Christian Pease, Carol Scott, and Geethan Srikantan, commented that the Council needed to ensure the project reflected a real and equitable approach to affordable housing by providing Below Market Rate (BMR) units and ensure the project was not included in the existing Downtown Residential Permit Parking Program (RPP). The applicant proposed market rates or almost market rates for more than half of the affordable units. The Applicant did not identify affordable units within the development or the units' access to amenities. Because of the requested parking waiver and the opportunity for unbundled parking, the risk of parking intrusion into surrounding neighborhoods was real.

SUMMARY MINUTES

Becky Sanders, Palo Alto Neighborhoods (PAN), noted the density of the proposed development was about 149 units per acre. Only three of the seven affordable units were truly affordable. She asked the Council to require 12 low-income housing units.

Scott O'Neil noted that the project was located near a Caltrain station and potentially acted as a sound barrier for noise from the Caltrain Corridor. He urged the Council to support the project and allow similar development along Alma.

Winter Dellenbach opposed the project. As the Applicant proposed the project, a tenant was going to pay \$27 less per month for an affordable housing unit than a market-rate unit. Only three of the proposed affordable housing units were legitimately BMR units.

Elan Loeb supported the project and any other actions that increased affordable housing. The project's proximity to the Caltrain station was important and a huge feature of the development.

Rohin Ghosh supported the project and appreciated its location next to public transit.

Linda Hibbs, Webster House Health Center Executive Director, supported the concept and project. The small size of micro units was a worthy tradeoff for workers' long commutes into Palo Alto.

Adam Schwartz supported the project and three- and four-story buildings along Alma.

Kelsey Banes urged the Council to support the project. Taller buildings provided more housing units.

Anne Paulson supported the project as suitable for young people who did not own vehicles. All of the proposed units were inexpensive because of their small size.

Frances Capompili supported the project as a way to empower renters and create jobs. More housing options benefited long-term residents.

Noelle Langmack supported the project, taller housing projects, and infill projects.

Terry Holzemer suggested the Council consider the developer's proposed public benefits in light of the requested bonuses. The developer vastly overstated the number of affordable units.

SUMMARY MINUTES

Rebecca Eisenberg remarked that the Council's refusal to tax businesses to raise affordable housing funds resulted in affordable housing projects with units one-third the size of hotel rooms.

Council Member Cormack indicated a wide variety of housing was important for people at all stages of life. Some people were going to find that the small units worked well for their lifestyles. The built-in furniture was clever. The location was within walking distance of services and shops. The Staff Report and Applicant presentation did not indicate whether parking spaces were going to be assigned or charged for, but that was something to consider in conjunction with an RPP. She asked if the Council approved Option 2 unanimously.

Mr. Lait replied yes.

Council Member Cormack felt the location was good, and a building height of 50 feet was acceptable in the environment and neighborhood.

Vice Mayor Burt believed these projects were important. This housing type was in the mix of housing types that the Council wanted in the community. The affordable housing project at 801 Alma provided even smaller units. The project's design, both internally and externally, was good. Common space in the courtyard and roof terrace was good. Providing very small units seemed to be the easiest way to comply with the PHZ affordable housing formula; therefore, there could be a proliferation of housing projects with very small units. The Council needed to clarify that approval of a parking reduction did not condone parking intrusion into surrounding neighborhoods. He inquired whether the project was eligible for participation in the RPP.

Molly Stump, City Attorney, advised that Staff held an initial discussion of the issue. It appeared that the building site as currently drawn fell within the Downtown RPP District. The Council had some discretion in drawing the RPP districts and amending them over time. However, the Council was not permitted to distinguish between multifamily and single-family residences in designing and administering a program such as the RPP.

Council Member Filseth requested the height of the project at 801 Alma.

Ms. French responded approximately 50 feet.

Council Member Filseth indicated that rent of \$3,000 per month did not enable renters to live in Palo Alto unless they were already able to afford the rent. The affordable percentage needed to actually be 20 percent rather than three units. Most residents parked at home at night, and the RPP was not applicable at night. Tenants for the project were likely to park on the

SUMMARY MINUTES

first block of Addison Street, which was not fair to Addison Street residents. The point of walkability and locations near transit was to get people out of their cars. Free parking in the neighborhoods and constraints on parking were not going to get people out of their cars. The affordability of housing units and parking had to be figured out before the project was allowed to proceed.

Mayor DuBois liked the design and the studio units. He expressed concern about residents and office workers mixing on the roof terrace, but his primary concern was parking. The minimum requirement for parking under the State Density Bonus Law was one parking space per housing unit. Excess parking spaces were provided for the office use, and the office use was required to provide a Transportation Demand Management (TDM) Plan. Perhaps a development agreement was the best way to ensure the project did not affect parking permits elsewhere. He was less interested in a text amendment for the entire SOFA II CAP. Perhaps a 50-foot height limit along Alma was the answer.

Council Member Stone appreciated the ingenious interior design. The project was compatible with the neighborhood and walkable to shopping, restaurants, retail, and the Caltrain station. Three of the seven units were affordable for households with 140 percent of the Area Median Income (AMI), which fulfilled the letter of the law but not the spirit of the law. He hoped the Applicant redesigned the project to provide more truly affordable units. He asked if the rental rate was approximately \$3,000 per month and, if so, he requested the rental rate for the affordable units.

Ms. Young responded yes. Rent, which included utilities, for very-low-income tenants was \$1,382, \$1,963 for low-income tenants, and \$2,973 for moderate-income tenants.

Council Member Stone noted the average rental rate for apartments in Palo Alto ranged from \$2,100 to \$2,700.

Ms. Young understood the Council's desire was to obtain as many very-low-income units as possible. The Applicant tailored the project to provide as many very-low-income units as possible within the formula component but was willing to reevaluate the unit mix and return with an option.

Council Member Kou concurred with comments regarding parking and affordability. Perhaps the City Attorney's Office and the Office of Transportation were willing to review San Francisco's RPP Ordinance because it excluded developments of higher density.

SUMMARY MINUTES

Ms. Stump advised that she received an update from San Francisco's lead transportation attorney earlier in the day. Council Member Kou's comment was not descriptive of San Francisco's RPP Ordinance. The City Attorney's Offices for Palo Alto and San Francisco held similar views of what State law allowed. An update regarding Council discretion was going to be provided to the Council.

NO ACTION TAKEN

2. 2239 Wellesley (21PLN-00045): Request by Cato Investments, LLC for Prescreening of Their Proposal to Rezone the Properties at 2239 and 2241 Wellesley from R-1 (Single Family Residential) to Planned Community/Planned Home Zoning (PHZ) and to Redevelop the Site With a 24-Unit Multi-family Development. Environmental Assessment: Not a Project; any Subsequent Formal Application Would be Subject to California Environmental Review Act (CEQA) Review.

Claire Raybould, Senior Planner for Planning and Development Services, reported the Applicant requested rezoning of two single-family residences (R-1) located at 2239 and 2241 Wellesley to Planned Home Zoning (PHZ). The Applicant proposed demolition of the two existing residences, merger of the two lots, and construction of a 24-unit multifamily residential development. The project was going to provide more housing than jobs as it was exclusively residential. The project included five affordable housing units with two of the units affordable for very-low-income households and three of the units affordable for low-income households. The Applicant also requested a 33 percent parking reduction. The project did not appear to comply with Council direction not to rezone sites within an R-1 Zone District to PHZ and direction for moderate adjustments to the base zoning. The project exceeded R-1 Zone District requirements for building height, floor area, daylight plane, setbacks, and density. The project required an amendment of the Land Use Map because it did not comply with the Comprehensive Plan Land Use Designation for single-family residential.

Matt Larson, Applicant representing Cato Investments, advised that the project targeted rents that were affordable for essential workers. Of the 24 units, 19 were going to be offered at rates affordable for moderate-income households, three for low-income households, and two for very-low-income households. The project did not need a public subsidy to provide affordable housing. The location was surrounded by many multifamily apartment buildings and walkable to transportation, job centers, Stanford University, grocery stores, and retail shops. In 1978, the parcels were zoned R-3. The proposed building height was only 2 feet 10 inches higher than the adjacent single-family home.

SUMMARY MINUTES

Nick Gomez, Applicant representing Cato Investments, indicated that the project proposed 16 parking spaces on the ground floor and a mix of studio and one-bedroom units. The ground floor also included two accessible units, a lobby, and a trash and utility space. The size of units ranged from 350 square feet to slightly less than 800 square feet. The building was taller than the adjacent residence due to the modular design. Massing was broken up with vertical, wood-sided bays, and horizontal wood siding provided warmth and articulation. Decks were included with studio units to provide some outdoor space. Green screens and wood slats screened the parking area from the street and adjacent residence.

Mr. Larson explained that reducing the number of units increased rent amounts. A development with 12 units increased the average rent by more than 50 percent, which exceeded the goal for moderate-income households. The Applicant was willing to build the project, commit to no profits for 20 years, and enter into a development agreement with the City.

Becky Sanders remarked that the project did not belong in an R-1 Zone District. If the Council approved the project and other developers received the same rezoning, it was theoretically possible to convert 2,700 acres of R-1 parcels to 191,000 residences. The project was worthy of consideration for a commercially zoned parcel.

Rachel Cox viewed the project as a precedent. Residences were required to comply with development standards. The project provided very little outdoor space. Approving the project was not logical given existing parking issues and the proposed building height.

Andrew Fetter commented regarding the developer's profit motives and land purchases. The project violated development standards for building height, daylight plane, setback, maximum site coverage, residential density, floor area ratio (FAR), and parking. The Applicant did not maintain the property while it was vacant.

Scott O'Neil remarked that achieving the Regional Housing Needs Allocation (RHNA) meant more housing whether residents wanted that housing as infill development or development of open space. Developing open space created more traffic, a greater carbon footprint, and more risk from wildfires.

Mark Whiteley opposed the project because it was not fit for the site. The project was going to obstruct views for children walking and biking to school and add traffic to an already busy street.

SUMMARY MINUTES

Susan C. noted that the project proposed greater density than allowed under the former R-3 zoning. An out-sized residence was not compatible with the College Terrace neighborhood.

Michael Quinn related that the City was not going to achieve its RHNA goals if residential construction did not occur in R-1 Zone Districts. The project was tasteful and good.

Kelsey Banes stated the Council needed to fix R-1 zoning because the status quo was exclusionary.

Adam Schwartz indicated that R-1 zoning was a barrier to new housing needed in the community. The project was appropriate for the College Terrace neighborhood.

Anne Paulson believed Palo Alto had to allow more housing but not in open space.

Rohin Ghosh felt approval of the project indicated there was a place for the younger generation in Palo Alto while denial of the project indicated the younger generation was not welcome in Palo Alto.

Truc commented that opposition to the project did not serve the demand for more housing units. One block from the proposed site was a parcel better suited for the project.

Noelle Langmack supported the project because it was a great opportunity for affordable housing. The neighborhood was filled with apartment buildings.

Laura Forrest suggested the project was better suited to the former Fry's location or parcels along El Camino Real.

Rebecca Eisenberg commented regarding differences in development standards between San Francisco and Palo Alto.

Vice Mayor Burt encouraged the Applicant to pursue housing projects in areas designated for them. The Applicant was allowed to construct an Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) on its R-1 lots. The Council previously supported projects that increased base zoning beyond the moderate level.

Council Member Kou inquired regarding the parking reduction.

Ms. Raybould advised that the Applicant hoped to utilize a concession under the State Density Bonus Law; however, the concession was unnecessary

SUMMARY MINUTES

because the Council determined the appropriate number of parking spaces for a PHZ project.

Council Member Kou asked if the Applicant proposed to restrict the units to people already working in Palo Alto and require tenants to provide proof of their jobs.

Mr. Larson reported the Applicant was willing to work with Staff, experts, and the community to ensure as much as legally possible that the policy preferences for tenants were met.

Council Member Kou asked if the Applicant was willing to deed restrict units.

Mr. Larson indicated that the Applicant was open to suggestions but had to comply with fair housing laws.

Council Member Kou remarked that the Applicant's divisive approach was not welcomed. Construction of affordable housing projects was possible without subsidies, but the projects needed to be located in suitable areas.

Council Member Filseth advised that the proposed project included five BMR units while previous PHZ proposals included 23 BMR units, 58 BMR units, and 110 BMR units. Five BMR units were better than none, but achieving the target BMR units was difficult with five units per project. The proposed units fit in the existing status quo for Palo Alto's market-rate housing. The project seemed to be a conventional apartment building except for its location in an R-1 zone and its need for parking. He encouraged the Applicant to explore other zones in Palo Alto.

Council Member Cormack noted the use of charged communications by both proponents and detractors of the project and acknowledged the emotional intensity generated by the project. Modular construction techniques reduced construction costs and construction time. She inquired whether there were many two-story apartment buildings located near the project site.

Jonathan Lait, Planning and Development Services Director, reported many duplexes and fourplexes were located in the area.

Ms. Raybould added that a six-unit development and an eight-unit development were located across the street from the project site.

Council Member Cormack remarked that the Council previously increased building height to obtain a floor of affordable housing. The additional story did not feel comfortable adjacent to one-story and two-story homes. Accepting the project was possible if it complied with the building height and

SUMMARY MINUTES

daylight plane. If the project complied with development standards, more affordable units were going to be eliminated.

Council Member Stone asked the Applicant to address the distribution of affordable units across the site.

Mr. Gomez advised that the Code required an equal distribution of affordable units across unit types.

Council Member Stone asked if the two very-low-income units were going to be a studio unit and a one-bedroom unit.

Mr. Larson answered yes.

Council Member Stone concurred with Council Member Filseth regarding the affordability of the proposed affordable units. The project did not comply with many development standards and was not consistent with the Comprehensive Plan.

Council Member Tanaka commented that small units were generally more affordable. Because of the number of variances requested for the project, neighborhood support of the project was important. Based on comments offered during his office hours, the community did not support the project.

Mayor DuBois noted that an Applicant was allowed to utilize an incentive program, the PHZ, or the State Density Bonus Law. He inquired whether an Applicant was allowed to utilize only one of those options.

Mr. Lait reported combining the PHZ and State Density Bonus Law was not possible.

Mayor DuBois believed the modular design appeared square and commercial. A residential design was appropriate for a residential zone. The project in the current location was not supported.

NO ACTION TAKEN

Oral Communications

Gail Price, Palo Alto Forward, hoped the Council took actions to support the Proclamation for Affordable Housing Month. Increasing Impact Fees for multifamily housing projects, limiting Planned Home Zone applications, and restricting new affordable housing proposals on single-family lots signaled non-support or creative roadblocks for housing projects with almost 600 units, some of which were Below Market Rate (BMR) units.

SUMMARY MINUTES

Winter Dellenbach looked forward to hearing the results of tests conducted in Matadero Creek following the fuel spill. The public wanted data rather than assurances. Fuel remained in the creek downstream from the containment site.

Becky Sanders related her impressions of Council and Applicant comments regarding the project located at 2951 El Camino Real and asked the Council to deny zoning conversions of single-family residential (R-1) parcels.

Jonathan Erman recommended the community support the arts by attending the Palo Alto Players' play.

Michael Quinn explained that not only was more housing needed but the number of new units needed to be large enough to reduce rents.

Kelsey Banes commented regarding exclusion and segregation in Palo Alto.

Rebecca Eisenberg believed construction of low-income housing was going to improve the community.

Council took a break at 7:26 P.M. and returned at 7:37 P.M.

Consent Calendar

MOTION: Mayor DuBois moved, seconded by Council Member Cormack to approve Agenda Item Number 3.

3. Adoption of Ordinances Responding to State Housing Bills Regarding Density Bonus and Affordable Housing. Environmental Assessment: Exempt Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3).

MOTION PASSED: 7-0

Action Items

4. PUBLIC HEARING / QUASI-JUDICIAL: 181 Addison Avenue [20PLN-00300] Request for Review of a Preliminary Parcel Map With Exception and Variance to Subdivide one Existing lot Into two Parcels With Less Than the Minimum 60 Foot Frontage. Environmental Assessment: Consistent With Previously Adopted Environmental Impact Report (EIR) for the City's Comprehensive Plan. Zoning District: R-2 (Two Family Residential) Within the South of Forest Avenue (SOFA) II Coordinated Area Plan (CAP).

Mayor DuBois disclosed no ex parte communications.

SUMMARY MINUTES

Council Member Kou disclosed no ex parte communications.

Amy French, Chief Planning Official, reported the lot was located at the corner of Addison and Emerson in the South of Forest Area (SOFA) II Coordinated Area Plan (CAP). The Applicant proposed demolition of an existing house, garage, and carport, subdivision of an oversized lot into two standard-sized lots, and requested an exception from the requirement for a 60-foot lot-width minimum. A variance was required to process the exception. The home, garage, and carport were built in 1914. The City's consultant evaluated the site in 2019 and determined that the site was not eligible for the California Register and, therefore, not a California Environmental Quality Act (CEQA) resource. The lot currently exceeded the minimum and maximum allowed site area. Mature redwood trees obscured one side of the home and were located within setbacks but outside the buildable area of the lot. Key considerations were lot width and building height. The Planning and Transportation Commission (PTC) unanimously recommended approval of the planning application. The lot was one of 14 lots in the SOFA II CAP that accommodated subdivision and resulted in two standard-sized lots. The project was consistent with the General Plan and provided additional housing opportunity, complied with Zoning requirements with the exception of the lot width requirement, and was not viewed as detrimental to the vicinity.

Public Hearing opened at 7:46 P.M.

Rebecca Eisenberg remarked that the Council was allowed to eliminate requirements for planning projects. Zoning requirements made lots and homes inaccessible for the vast number of people.

We Need More Homes indicated that public hearings for housing projects were a waste of time.

Public Hearing closed at 7:49 P.M.

Council Member Cormack was perplexed by scheduling the Agenda Item for 1¼ hours when the PTC held a brief discussion and voted unanimously. She inquired about the requirement for a gas meter.

Mr. Lait related that the Conditions of Approval needed to be revised to align with Building Code requirements for electrification.

Council Member Cormack was able to make the findings for the variance.

Mayor DuBois inquired regarding the Comprehensive Plan's support for combining lots where possible.

SUMMARY MINUTES

Mr. Lait advised that Comprehensive Plan policies and perhaps SOFA II policies supported lot consolidation to promote greater development.

Ms. French clarified that policies encouraged greater development in zones that allowed multifamily and other developments. The nonconforming lot size was the issue in the current project.

Mr. Lait added that the project was not inconsistent with those policies.

Mayor DuBois was able to make the findings.

Council Member Kou asked which R-2 lot was the smallest in the area.

Ms. French agreed to review the issue and respond shortly.

Council Member Kou asked if the SOFA II CAP contained a minimum requirement for the size of a lot.

Ms. French stated the minimum lot size requirement was contained in R-2 zoning standards.

Council Member Kou noted that the two resulting lots were reasonably sized. The frontages were acceptable even though they did not comply with the requirement. She asked if the two resulting lots were going to retain R-2 zoning.

Ms. French replied yes.

Council Member Kou inquired whether the Applicant intended to construct duplexes.

Ms. French understood the Applicant intended to construct a single-family residence on each lot, perhaps with Accessory Dwelling Units (ADU). The PTC Chair encouraged the Applicant to consider providing more units on the lots.

Khoi Le, Applicant, reported the plan was to construct a single-family residence and ADU on each parcel.

Council Member Kou asked if the Applicant wanted R-1 or R-2 zoning for each lot.

Mr. Le preferred R-2 zoning.

Ms. French advised that the smallest R-2 lot in the area was 37.5 feet wide and contained 4,222 square feet.

SUMMARY MINUTES

Vice Mayor Burt recalled the rationale for encouraging the consolidation of lots. The Council needed to consider policy incentives that encouraged more housing in transitional areas.

Council Member Stone requested the Applicant's plans for the trees on the site.

Mr. Le advised that the trees were going to be preserved.

MOTION: Council Member Kou moved, seconded by Council Member Stone to adopt a Record of Land Use Action (RLUA) approving the request for a Preliminary Parcel Map with Exception and Variance based on findings and subject to conditions of approval.

MOTION PASSED: 7-0

5. Direction to Staff Regarding 2023-31 Regional Housing Needs Allocation Appeal.

Jonathan Lait, Planning and Development Services Director, reviewed the Regional Housing Needs Allocation (RHNA) and the sixth cycle allocation for the City. The Association of Bay Area Governments (ABAG) was scheduled to consider the final RHNA methodology and draft allocations on May 20, 2021 and recommended its Administrative Committee act as the hearing body for appeals. State law provided three bases for an appeal. The bases regarding methodology and changes in circumstances were raised in the City's comment letters to ABAG. Based on decisions from the Southern California Association of Governments (SCAG), only two of fifty-two appeals in the sixth cycle were partially successful. In the fifth cycle, only three of 14 appeals to ABAG were successful.

Mark Mollineaux suggested filing an appeal may lead to a review and increase of the City's allocation or to other jurisdictions appealing the City's low allocation.

Gregory Schmidt remarked that the draft allocation was an astounding number and was going to result in rents of \$5,000 per month for studios, a huge increase in income inequality, and a dramatic decline in childcare. The Government Code called for an open public discussion of the consequences of concentrated job and housing growth. If the Council found a record of such a discussion in ABAG meetings over the past 18 months, it needed to accept the allocation. Otherwise, the Council needed to appeal the allocation.

SUMMARY MINUTES

Rebecca Eisenberg commented that limited resources was not a viable grounds for appeal and that limited resources were better spent on housing.

Michael Quinn believed an appeal was going to fail. The California Department of Housing and Community Development (HCD) was going to interpret an appeal as a bad faith action.

Terry Holzemer supported an appeal of the allocation because the Plan Bay Area 2050 process was flawed.

Mayor DuBois inquired regarding the issue with the Plan Bay Area 2050 forecast.

Mr. Lait explained that Plan Bay Area 2050 and ABAG's methodology were not the issues. Sites used in assumptions regarding future household growth were not likely to redevelop or even within the City's control. Attributing a certain number of housing units to those sites was not proper. If an appeal of this issue was successful, it was going to reduce the City's allocation by approximately 200 housing units.

Mayor DuBois asked if concerns raised in previous cycles regarding Stanford University remained valid for the sixth cycle.

Mr. Lait noted the concerns were not successful in the City's appeal of the fifth cycle allocation. The City's allocation increased due to its proximity to job centers, and Stanford University was a job center. Based on the methodology, Staff was not able to isolate the number of housing units attributed to Palo Alto as a result of its proximity to Stanford University.

Mayor DuBois requested clarification of the appeal and the transfer of housing units to the County of Santa Clara (County).

Mr. Lait understood that ABAG denied the City's appeal but supported a transfer of units if the City and County reached an agreement to do so.

Mayor DuBois asked if the City needed to file an appeal and reach an agreement with Stanford University.

Mr. Lait was unsure if that process existed for the sixth cycle. Early discussion of a subregion where jurisdictions were allowed to trade units was not realized. The County's allocation increased from 300 units in the fifth cycle to 3,000 units in the sixth cycle. The County too was looking to transfer some of its units.

Albert Yang, Assistant City Attorney, reported a recent change in State law removed the option to transfer units between a city and county.

SUMMARY MINUTES

Mayor DuBois expressed interest in some of the Stanford University issues raised in prior cycles. He inquired whether the City was accepting the allocation by not filing an appeal.

Mr. Lait answered yes. Staff's engagement with ABAG and work to add new strategies to the Plan Bay Area resulted in the City's allocation decreasing from 10,000 units.

Council Member Stone asked if there was any real risk of the City's allocation increasing if it filed an appeal.

Mr. Lait raised a concern about increasing the allocation need not be a factor in the Council's decision to file an appeal. Any jurisdiction and HCD were allowed to appeal the City's allocation regardless of the City filing an appeal.

Council Member Stone inquired whether ABAG's model assessed any type of systemic changes caused by a pandemic.

Mr. Lait advised that comment letters raised a concern about the inability to forecast for a pandemic that changed commutes and job locations. An appeal based on changes in circumstances caused by a pandemic probably was not viable because HCD considered ABAG's methodology and found it to be consistent with Plan Bay Area and its projections.

Tim Wong, Senior Planner of the Planning and Development Services, added that ABAG indicated the pandemic was a short-term impact while RHNA and Plan Bay Area projected over longer periods.

Mr. Yang interpreted Mayor DuBois' earlier question as did the City need to exhaust administrative remedies by appealing the allocation if the City later wished to file suit in court. Because statutes did not contain a provision for a city to seek judicial review through a lawsuit, the City was not able to file a lawsuit.

Vice Mayor Burt believed the City needed to file an appeal on principle. Rather than balancing jobs and housing and distributing job growth, HCD supported high job concentration and housing keeping up with job growth. The City needed to continue its policy for moderating office growth and accelerating housing growth, particularly growth of moderate-income and low-income housing. RHNA was political in nature.

Council Member Cormack requested clarification of other jurisdictions' ability to appeal the City's allocation.

SUMMARY MINUTES

Mr. Lait reported any jurisdiction that was part of ABAG and HCD was able to appeal another jurisdiction's RHNA allocation.

Council Member Cormack expressed concern that an appeal was going to divert Staff's attention from the Housing Element Update.

Mr. Lait related that Staff was working on a number of policy initiatives for the Council. If the appeal focused on technical discrepancies, the appeal was probably going to have a small impact on other work. If the appeal focused on issues outside the statutory bases, it was going to require more work and delay other work.

Molly Stump, City Attorney, advised that the small number of Staff limited their ability to shift work and to address discretionary items. The appeal was subject to a deadline, and other work was going to have to wait.

Council Member Cormack acknowledged the existing queue of work for Staff. Pursuing futile actions was not wise. Data indicated an appeal was not going to be successful.

Ed Shikada, City Manager, noted the emotional impact of a futile action on everyone who was working diligently to produce housing. Perhaps a political defense was more appropriate.

Council Member Filseth discussed below-market-rate (BMR) housing production and RHNA allocations across the Bay Area. Large mixed-use projects exacerbated regional housing problems. ABAG needed to track new demand creation in addition to new supply creation. The only strategy was to balance jobs and housing growth and to shift as much housing growth as possible to affordable housing. The City needed to do this despite HCD and RHNA.

Council Member Kou inquired whether the City Attorney contacted other jurisdictions regarding the basis for their appeals and the ability of the City to join their appeals.

Ms. Stump understood one lawsuit was filed in the San Diego region, and the cities did not prevail. One jurisdiction in Southern California decided not to pursue legal action after consulting with attorneys.

Mr. Wong added that one appeal in Southern California was partially upheld due to a housing site's location below a dam.

Council Member Kou suggested Staff look into the designation of high-quality transit as a basis for an appeal. The Council needed to consider all

SUMMARY MINUTES

bases for appeal as a matter of due diligence. RHNA allocations were a political matter. She supported filing an appeal.

Mayor DuBois felt the Council had a responsibility to protect the City from State override. ABAG assigned aspirational numbers. The City needed to attempt to develop realistic numbers based on pace of development and development locations. He supported an appeal based on technical issues and the pandemic and possibly public transit.

Vice Mayor Burt reviewed potential arguments for an appeal listed in the Staff Report. He inquired whether the Staff Report contained most of the arguments for an appeal such that they only needed some modification to be included in an appeal.

Mr. Lait related that if the Council directed, Staff planned to utilize the arguments in the Staff Report and specific technical deficiencies for an appeal.

Vice Mayor Burt remarked that the transformation in work patterns accentuated and reinforced the arguments raised more than a year ago. ABAG and HCD were not accepting the transformation or predictions for it to continue into the future.

Council Member Kou proposed adding the public transportation issue to the appeal.

Mr. Lait suggested that addressing the transportation issue may be more appropriate in a conversation with ABAG Staff rather than in a RHNA appeal.

Council Member Kou asked if ABAG increased the City's allocation based on a designation of high-quality public transportation.

Mr. Wong indicated that the City was not defined as a high-quality transit area, which partially reduced the City's allocation.

Council Member Kou requested Staff pursue a conversation with ABAG.

Council Member Filseth was not comfortable with filing an appeal simply to transfer housing units to another jurisdiction. He wanted to understand the ultimate goal of filing an appeal.

Council Member Stone felt Staff's arguments were strong and provided a reasonable opportunity for an appeal.

MOTION: Mayor DuBois moved, seconded by Vice Mayor Burt to direct Staff to prepare and file an appeal of the City's Regional Housing Needs

SUMMARY MINUTES

Allocation, based on Staff's identified technical errors and elements from the January 21, 2021 letter sent to the Association of Bay Area Governments (ABAG) Executive Board Members.

Mayor DuBois indicated that legal requirements stated in a letter from the public may be a way to map elements of the letter to real issues.

Council Member Stone felt an appeal ensured ABAG followed the proper process and utilized the correct methodology in assigning RHNA allocations.

Council Member Kou felt HCD and ABAG needed to provide meaningful examination of improving inter-regional jobs/housing balance.

Mayor DuBois related that the request for jurisdictional data and regional growth strategies covered Council Member Kou's point.

Council Member Kou wanted to understand whether HCD and ABAG strategies actually balanced jobs and housing in the region and the State and whether housing appreciated more due to up-zoning. Basically, she wanted HCD and ABAG to reexamine their methodologies and historical data and determine whether the strategies were successful or created more poverty and homelessness.

Mr. Lait asked if the Council intended to authorize the City Manager to sign the appeal.

Vice Mayor Burt proposed the Mayor review and sign the appeal on behalf of the Council.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER "... with the letter read, approved, and signed by the Mayor."

MOTION AS AMENDED: Mayor DuBois moved, seconded by Vice Mayor Burt to direct Staff to prepare and file an appeal of the City's Regional Housing Needs Allocation, based on Staff's identified technical errors and elements from the January 21, 2021 letter sent to the Association of Bay Area Governments (ABAG) Executive Board Members, with the letter read, approved, and signed by the Mayor.

MOTION AS AMENDED PASSED: 5-2 Cormack, Tanaka no

Council Member Questions, Comments and Announcements

Mayor DuBois reported he met with the Chairs of City Boards and Commissions to discuss meeting management and work plans.

SUMMARY MINUTES

Adjournment: The meeting was adjourned at 9:40 P.M.

ATTEST:

APPROVED:

City Clerk

Mayor

NOTE: Action minutes are prepared in accordance with Palo Alto Municipal Code (PAMC) 2.04.160(a) and (b). Summary minutes (sense) are prepared in accordance with PAMC Section 2.04.160(c). Beginning in January 2018, in accordance with [Ordinance No. 5423](#), the City Council found action minutes and the video/audio recordings of Council proceedings to be the official records of both Council and committee proceedings. These recordings are available on the City's website.