Adoption of an Ordinance to Amend Chapters 18.18, Downtown Commercial (CD) District and 18.52, Parking and Loading Requirements, to Eliminate Certain Parking Exemptions within the Downtown Area

Recommendation

Staff recommends that the Planning and Transportation Commission (PTC) recommend that Council adopt an Ordinance (Attachment A) to amend PAMC Chapters 18.18, Downtown Commercial (CD) District, and 18.52 (Parking and Loading Requirements), to make “permanent” the changes previously adopted by Council via Interim Urgency Ordinance that will otherwise “sunset” on November 4, 2015.

The changes are:

1. Modify Section 18.18.070(a)(1), and delete Sections 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to eliminate the parking exemption for the 200 square foot Minor Floor Area Bonus for buildings not eligible for Historic or Seismic Bonus.

2. Eliminate the parking exemption for on-site use of Historic and Seismic Bonus Floor Area by deleting Sections 18.18.090(b)(1)(B) (Historic and Seismic), 18.52.070(a)(1)(B) (Seismic) and 18.52.070(a)(1)(C)(i) (Historic) to.

3. Amend Section 18.18.080(g) and (h), respectively to:
   a. Remove the on-site parking exemption for floor area bonuses derived through historic and seismic upgrades via the transfer of development rights (TDR) program (where up to 5,000 square feet (SF) of floor area for each type of upgrade is allowed for receiver sites in the CD or downtown PC zoning districts), and
   b. Correct the Architectural Review chapter number referenced in the interim ordinance to Chapter 18.76.

4. Amend Section 18.52.070(a)(3) to disallow the parking exemption for floor area developed or used previously for non-residential purposes and vacant at the time of the engineer’s report during the parking district assessment.

5. Amend Section 18.18.070(a) (2), (3) and (4) to add language clarifying that the bonus floor area is not exempt from parking requirements, and citing the code-allowed options to meet parking requirements.
Executive Summary

The attached ordinance would “permanently” amend the City’s zoning regulations related to exemptions from provision of parking spaces for the development of new floor area. The ordinance changes were recommended on a 5-0-2 vote by the PTC and staff, and were adopted and later extended by Council via Interim Urgency Ordinance that will expire or “sunset” on November 4, 2015. The changes in this ordinance are consistent with the previously adopted changes as reflected in Council minutes (Attachment B, with CMR), and would become effective 31 days following Council adoption. The Ordinance (Attachment A) eliminates three parking exemptions related to bonus floor area in the Downtown as well as an esoteric parking exemption for once-vacant buildings.

Given the continuing parking shortage Downtown and Council’s direction to address it through a variety of strategies, staff recommends the permanent elimination of these parking exemptions.

Background

Planning and Transportation Commission Review

On September 25, 2013, the Planning and Transportation Commission (PTC) reviewed and Recommended, by a 5-0-2 vote (Commissioners Tanaka and Martinez absent), ordinances relating to parking exemptions in the zoning code. Excerpted PTC minutes are attached to this report as Attachment C. The report and meeting minutes of the September 25, 2013 PTC meeting were provided to Council (as Attachments F and G of the October 21, 2013 CMR).

During the September 2013 meeting, the Commissioners noted that:

- the ordinances are a step in the right direction,
- charging higher in-lieu fees for not providing required parking on a site could incentivize providing parking on site,
- an update to the parking ratio and further progress in transportation demand management, such as looking at incentives for other modes of transportation to bring fewer cars downtown and using a business registry to obtain mode data from businesses, are needed.
- there should be clear guidelines for what constitutes “remodel”, given that the interim ordinance was written to disallow only replacement of grandfathered facilities.
- the parking exemptions were put in place as incentives based on conditions at that time; however, based on current conditions they are no longer needed.
- long term planning efforts, such as the update of the Comprehensive Plan and the California Avenue Concept Plan, should move forward to provide guidance on development and parking issues.

There were four public speakers, including three residents of Professorville or Downtown North, and one property owner with a planning application pending review by the Architectural Review Board. The residents noted concern with destruction of neighborhoods and the applicability of the California Environmental Quality Act (CEQA) and that the intrusion of parking into the neighborhoods has increased over the years. Two of these speakers asked that
the City stop approvals of all permits via a moratorium. One of the speakers has since received an entitlement and the project, which includes the 200 sf bonus floor area, is now under construction (636 Waverley Street).

2013 Council Direction

On March 18, 2013, the Council gave additional direction on several items related to parking policy. This included directing staff to review and provide recommendations on Municipal Code parking exemptions and the City’s Transfer of Development Rights (TDR) program.

On October 21, 2013, the City Council held a public hearing to conduct a Parking Exemptions Code Review (Agenda Item 11). Council voted to delete Section 18.18.090(b) Exceptions to On Site Parking Requirement, item (1)B which exempted from parking requirement the bonus floor area derived from seismic or historic rehabilitation. This was included in the interim ordinance and is included in the attached ordinance; and to further clarity this 2013 ruling in this “permanent” ordinance, the attached ordinance now includes a modification to Section 18.18.070 (a) items 2, 3, and 4, stating that historic or seismic (or both) bonus floor area that is used on the site of the project generating the bonus area must be parked. Council also asked staff to return with replacement incentives (other than parking) for historic and seismic bonus. Staff’s position continues to be that achievement of bonus floor area for use on site or transfer is an appropriate incentive for seismic and historic rehabilitation projects.

During the term of the Interim Ordinance staff studied the impacts on development of permanently removing these floor area bonuses and parking exemptions. Much of this was done during the policy recommendation phases of the Downtown Development Cap Study. The following items had been identified for further analysis and consideration: residential parking program (now underway), in-lieu parking provisions (still under consideration), adjustments to parking requirements, SOFA 2 parking exemptions, and other, city-wide parking exemptions.

Within the SOFA 2 Plan Area are several sites within the Downtown Assessment District. The sites are located north of Forest Avenue, between Alma and Emerson Streets. The SOFA 2 Code allows for parking reductions and exemptions. Residential Transition (RT) zoned sites in the SOFA 2 area are allowed to participate in the City’s TDR program by transferring bonus floor area achieved via historic and seismic rehabilitations to CD zoned receiver sites. Bonuses can also be used within the SOFA 2 area. The same parking exemptions had been available for bonus floor area generated in the SOFA 2 area. The SOFA 2 regulations and policies related to incentives for bonus floor area may need to be revised following adoption of the proposed ordinance.

Staff’s work has been focused in the Downtown area, with recent projects directed at improving the parking issues, such as the Residential Permit Parking program and other forthcoming initiatives. The previous “interim” changes are now recommended for permanence, with the additional minor modifications.
Description of Proposed Ordinance

The ordinance carries to permanence the interim changes that focused on several parking exemptions that only affect downtown properties zoned Commercial Downtown (CD), whether inside or outside the assessment district. This ordinance would make permanent a previously passed interim ordinance to eliminate parking exemptions within the Downtown Area. The ordinance permanently eliminates four (4) key code provisions related to floor area and parking only within the CD zone district.

1. Modify Section 18.18.070(a)(1), and delete Sections 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to eliminate the parking exemption for the 200 square foot Minor Floor Area Bonus for buildings not eligible for Historic or Seismic Bonus.

2. Eliminate the parking exemption for on-site use of Historic and Seismic Bonus Floor Area by deleting Sections 18.18.090(b)(1)(B) (Historic and Seismic), 18.52.070(a)(1)(B) (Seismic) and 18.52.070(a)(1)(C)(i) (Historic) to.

3. Amend Section 18.18.080(g) and (h), respectively to:
   a. Remove the on-site parking exemption for floor area bonuses derived through historic and seismic upgrades via the transfer of development rights (TDR) program (where up to 5,000 square feet (SF) of floor area for each type of upgrade is allowed for receiver sites in the CD or downtown PC zoning districts), and
   b. Correct the Architectural Review chapter number referenced in the interim ordinance to Chapter 18.76.

4. Amend Section 18.52.070(a)(3) to disallow the parking exemption for floor area developed or used previously for non-residential purposes and vacant at the time of the engineer’s report during the parking district assessment.

5. Amend Section 18.18.070(a) (2), (3) and (4) to add language clarifying that the bonus floor area is not exempt from parking requirements, and citing the code-allowed options to meet parking requirements.

Discussion

Floor Area Bonus/TDR Categories

In 1986, the City enacted its floor area bonus/TDR program to encourage private property owners to upgrade seismically unsafe buildings and to encourage preservation of known historic buildings in the downtown area zoned CD. Lacking the financial resources to provide monetary incentives for safety upgrades and historic preservation, the City instead adopted development regulations that would provide property owners in the downtown area incentive to upgrade and preserve their properties through a bonus program. In 2002, the floor area bonus/TDR program was expanded to the SOFA 2 area.

According to City records, as of October 2013, the downtown had approximately 78 buildings that were eligible for a seismic or historic bonus under the TDR program. These buildings fall
into three general categories: (1) properties which have applied for and received TDRs under the City’s ordinance; (2) properties which have been seismically or historically upgraded, but which have not applied for or received floor area bonuses/TDRs and (3) properties which may be eligible for floor area bonuses/TDRs, but which have chosen not to upgrade.

Table 3 summarizes the potential floor area bonuses/TDR bonuses and parking exemptions of the 78 eligible historic and seismic buildings previously identified by the City in 2013. (Note that some of the City’s records are incomplete and therefore this table is subject to further refinement.)

Table 1: Floor Area/Potential TDR Bonuses for Originator Sites by Entitlement, October 2013

<table>
<thead>
<tr>
<th>Origination Type</th>
<th>Floor Area</th>
<th>Parking Exemptions</th>
<th>Number of Properties</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Properties with Documented Bonuses &amp; TDRs</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Downtown</td>
<td>123,783</td>
<td>471</td>
<td>32</td>
</tr>
<tr>
<td>SOFA</td>
<td>7,813</td>
<td>31</td>
<td>3</td>
</tr>
<tr>
<td>City Owned</td>
<td>7,500</td>
<td>30</td>
<td>3</td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td>139,095</td>
<td>532</td>
<td>38</td>
</tr>
<tr>
<td><strong>Property Upgraded, No Claim</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Downtown</td>
<td>29,307</td>
<td>117</td>
<td>11</td>
</tr>
<tr>
<td>SOFA</td>
<td>7,500</td>
<td>30</td>
<td>3</td>
</tr>
<tr>
<td>City Owned</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td>36,807</td>
<td>147</td>
<td>14</td>
</tr>
<tr>
<td><strong>Eligible Properties but not Upgraded</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Downtown</td>
<td>65,976</td>
<td>264</td>
<td>25</td>
</tr>
<tr>
<td>SOFA</td>
<td>2,500</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>City Owned</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td>68,476</td>
<td>274</td>
<td>26</td>
</tr>
<tr>
<td><strong>GRAND TOTAL</strong></td>
<td>244,378</td>
<td>998</td>
<td>78</td>
</tr>
</tbody>
</table>

**Notes:**
1. City Owned properties include three properties outside of the Downtown area that could only be used in the Downtown area. Properties included: Children’s Library, College Terrace Library, and Sea Scout Building.
2. TDRs generated in the SOFA may be used on site or transferred into the downtown area. Assumption is that SOFA current remaining 5,000SF (20 parking) TDRs will be transferred into the downtown area.

Thus, if all floor area bonuses/TDR bonuses were in fact utilized, there would be a total of 244,378 additional square feet added to the downtown and a total of 953 exempt parking spaces.

While all properties in fact did not take advantage of the bonus/TDR program, the City’s data collected to date shows that the TDR program was successful in incentivizing the private redevelopment and upgrade of historic and seismically unsafe buildings in the downtown. Table 4 summarizes the floor area bonuses/TDRs that were created, the TDRs that were transferred to
a receiver site, the TDRs that were used on site and finally the TDRs that were created but which still remain. (Again note that some of the City’s records are incomplete and it is expected that these numbers will be further refined.)

### Table 2: Documented TDR Bonuses Used in the Downtown Area by Origin, October, 2013

<table>
<thead>
<tr>
<th></th>
<th>Floor Area</th>
<th>Parking Exemptions</th>
<th>Number of Properties</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Properties with Documented Bonuses &amp; TDR’s By Origination</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Downtown</td>
<td>123,783</td>
<td>471</td>
<td>32</td>
</tr>
<tr>
<td>SOFA</td>
<td>7,813</td>
<td>31</td>
<td>3</td>
</tr>
<tr>
<td>City Owned</td>
<td>7,500</td>
<td>30</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>139,095</td>
<td>532</td>
<td>38</td>
</tr>
<tr>
<td><strong>TDR’s Transferred</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Downtown</td>
<td>57,926</td>
<td>212</td>
<td>14</td>
</tr>
<tr>
<td>SOFA</td>
<td>2,000</td>
<td>8</td>
<td>1</td>
</tr>
<tr>
<td>City Owned</td>
<td>2,500</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>62,426</td>
<td>230*</td>
<td>16</td>
</tr>
<tr>
<td><strong>Floor Area Bonuses Used On Site</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Downtown</td>
<td>47,586</td>
<td>219</td>
<td>20</td>
</tr>
<tr>
<td>SOFA</td>
<td>2,000</td>
<td>8</td>
<td>1</td>
</tr>
<tr>
<td>City Owned</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>58,022</td>
<td>229*</td>
<td>21</td>
</tr>
<tr>
<td><strong>Bonuses/TDR’s Remaining</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Downtown</td>
<td>10,334</td>
<td>40</td>
<td>7</td>
</tr>
<tr>
<td>SOFA</td>
<td>3,313</td>
<td>13</td>
<td>2</td>
</tr>
<tr>
<td>City Owned</td>
<td>5,000</td>
<td>20</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>18,647</td>
<td>73</td>
<td>11</td>
</tr>
</tbody>
</table>

*Some FAR transferred was not eligible for parking exemption.

Thus, according to the City’s records from late 2013, there were 18,647 square feet of floor area bonuses/TDRs that had not been used and there were, before the adoption of the interim ordinance, 73 available parking space exemptions.

### Policy Implications

The Transportation Element of the Palo Alto Comprehensive Plan contains a primary goal regarding parking to provide attractive, convenient public and private parking facilities. To
implement this goal, Policy T-45 states: “Provide sufficient parking in the University Avenue/Downtown and California Avenue business district to address long-range needs.” The proposed changes to the zoning regulations to eliminate some of the exemptions to the existing parking requirements will improve parking availability in these areas and would be consistent with the goals and policies of the Transportation Element of the Comprehensive Plan. (Refer to Attachment E, Transportation Element Goals and Policies regarding Parking).

The Land Use and Natural and Urban Environment Elements contain the following policies and programs which encourage the use of incentives to preserve historic buildings and encourage seismic retrofits.

**Land Use Element:**
*Policy L-56:* To reinforce the scale and character of University Avenue/Downtown, promote the preservation of significant historic buildings.
*Program L-59:* Allow parking exceptions for historic buildings to encourage rehabilitation. Require design review findings that the historic integrity of the building exterior will be maintained.
*Program L-60:* Continue to use a TDR Ordinance to allow the transfer of development rights from designated buildings of historic significance in the Commercial Downtown (CD) zone to non-historic receiver sites in the CD zone. Planned Community (PC) zone properties in the Downtown also qualify for this program.
*Program L-66:* Revise existing zoning and permit regulations as needed to minimize constraints to adaptive reuse, particularly in retail areas.

**Natural And Urban Environment Element:**
*Program N-70:* Continue to provide incentives for seismic retrofits of structures in the University Avenue/Downtown area.

Staff believes the proposed permanent changes remain consistent with the policies above, as historic rehabilitation incentives would still be provided through the provision of additional floor area associated with the TDR program. Furthermore, the proposed ordinance would still allow historic buildings to be renovated and restored to retain their “grandfathered” status.

**Resource Impact**
The zoning evaluation work would be done within the currently approved work program of the Planning and Community Environment Department.

**Timeline**
In order for these provisions to stay in effect the permanent ordinance will need to be adopted by the City Council 31 days prior to the expiration (November 4, 2015). City Council action on an Ordinance requires two actions, an introduction of the ordinance and a second reading. The City Council is scheduled to review this ordinance on October 5, 2015.

**Environmental Review**
The proposed Ordinances eliminate certain exemptions to the parking regulations within the Downtown and California Avenue areas of the City of Palo Alto, which will result in projects that will comply with the remaining parking regulations established in the Palo Alto Municipal Code. Further, each individual project submitted under the revised regulations will be subject to its own environmental review. Consequently, these ordinances are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations since it can be seen with certainty that there is no possibility the adoption and implementation of this Ordinance may have a significant effect on the environment and Section 15301 in that these proposed ordinances will have a minor impact on existing facilities.

ATTACHMENTS:

- Attachment A: Parking Regulations Ordinance (PDF)
- Attachment B: Council Reports and Minutes of 10-15-12, 10-21-13 and 11-4-13 (PDF)
- Attachment C: PTC 09.25.13 Verbatim Minutes Excerpt (PDF)

Department Head: Molly Stump, City Attorney
Ordinance No. ______
Ordinance of the Council of the City of Palo Alto Amending Chapters 18.18, Downtown Commercial (CD) District and 18.52, Parking and Loading Requirements, to Eliminate Certain Parking Exemptions within the Downtown Area

The Council of the City of Palo ORDAINS as follows:

SECTION 1. Findings and Recitals. The Council of the City of Palo Alto finds and declares as follows:

A. Parking demand in downtown Palo Alto has increased since the end of the recession, with occupancies in public garages increasing from [insert] to [insert] in just the last two years.

B. In the same period, there have been increasing spill-over impacts on nearby residential streets as employees and customers seek parking outside of the commercial core, causing the City to pursue the first ever residential preferential parking program in downtown.

C. Development of new office space has continued to occur, and existing office space is fully occupied, evidenced by the low 2.83 vacancy rate at the end of 2014, as reported by Newmark Cornish & Carey.

D. No new public parking structures have been added to the City’s inventory since 2003.

E. The lack of available daytime downtown parking for employees has resulted in complaints from both merchants and other businesses about the lack of parking for their employees. At the same time, the lack of available daytime downtown parking for employees has also resulted in complaints from residents in the downtown and adjacent areas about congested parking in their neighborhoods.

F. The lack of available daytime downtown parking results in traffic seeking available parking spaces to circulate for longer periods of time, resulting in related impacts on air quality from increased emissions.

G. The Downtown Parking Code was adopted at a time when the downtown was underdeveloped and incentives for redevelopment were needed. One of the primary incentives incorporated into the Code was a series of parking exemptions. These parking exemptions contributed to encouraging both the rehabilitation of historic and seismically unsafe buildings and redevelopment in the Downtown core in general. The City is now at a point where most of the historic and seismically unsafe buildings have been renovated and the downtown has transformed into an economically thriving area.
H. Recognizing these facts, on November 4, 2013, the City Council adopted an interim ordinance eliminating a number of these parking exemptions on an interim basis. These included the parking exemption related to the 200 square foot Minor Floor Area Bonus for buildings not eligible for Historic Bonus; the Transfer of Development Rights provision that allows a 5,000 square foot floor area exemption from on-site parking requirements and for floor area transferred to a receiver site within the CD zone district; and the parking exemption for floor area developed or used previously for non-residential purposes and vacant at the time of the engineer’s report during the parking district assessment.

I. Unless a new ordinance is adopted to permanently establish these provisions, these zoning code amendments shall “sunset” on November 4, 2015.

J. The Palo Alto Zoning Ordinance Chapters 18.18 (Downtown Commercial District) and 18.52 (Parking and Loading Requirements) provide for a variety of exemptions and reductions to parking requirements within the downtown area that result in less parking being provided than the calculated demand for parking in new projects.

K. The Transfer of Development Rights provisions for Historic and Seismic Upgrades to Structures and the minor floor area bonuses were enacted to encourage restoration of historic buildings and to make existing structures seismically safe and the program has been successful. However continued application of the parking exemptions granted by these provisions will exacerbate Downtown parking deficiencies.

SECTION 2. Subsection 18.18.070(a) (Floor Area Bonuses) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

(a) Available Floor Area Bonuses

(1) Minor Bonus for Buildings Not Eligible for Historic or Seismic Bonus

A building that is neither in Historic Category 1 or 2 nor in Seismic Category I, II, or III shall be allowed to increase its floor area by 200 square feet without having this increase count toward the FAR, subject to the restrictions in subsection (b). Such increase in floor area shall not be permitted for buildings that exceed a FAR of 3.0:1 in the CD-C subdistrict or a FAR of 2.0:1 in the CD-N or CD-S subdistricts. This bonus is not subject to transfer and must be fully parked. In addition to any applicable parking provisions, this bonus may be parked by the payment of in lieu parking fees under Section 18.18.090.

(2) Seismic Rehabilitation Bonus

A building that is in Seismic Category I, II, or III, and is undergoing seismic rehabilitation, but is not in Historic Category 1 or 2, shall be allowed to increase its floor area by 2,500 square feet or 25% of the existing building, whichever is greater, without having this increase count toward the FAR, subject to the restrictions in subsection (b). Such
increase in floor area shall not be permitted for buildings that exceed a FAR of 3.0:1 in the CD-C subdistrict or a FAR of 2.0:1 in the CD-N or CD-S subdistricts. This bonus area must be fully parked. In addition to any applicable parking provisions, this bonus may be parked by the payment of in lieu parking fees under Section 18.18.090.

(3) Historic Rehabilitation Bonus
   A building that is in Historic Category 1 or 2, and is undergoing historic rehabilitation, but is not in Seismic Category I, II, or III, shall be allowed to increase its floor area by 2,500 square feet or 25% of the existing building, whichever is greater, without having this increase count toward the FAR, subject to the restrictions in subsection (b). Such increase in floor area shall not be permitted for buildings that exceed a FAR of 3.0:1 in the CD-C subdistrict or a FAR of 2.0:1 in the CD-N or CD-S subdistricts, except as provided in subsection (5). This bonus area must be fully parked. In addition to any applicable parking provisions, this bonus may be parked by the payment of in lieu parking fees under Section 18.18.090.

(4) Combined Historic and Seismic Rehabilitation Bonus
   A building that is in Historic Category 1 or 2, and is undergoing historic rehabilitation, and is also in Seismic Category I, II, or III, shall be allowed to increase its floor area by 5,000 square feet or 50% of the existing building, whichever is greater, without having this increase count toward the FAR, subject to the restrictions in subsection (b). Such increase in floor area shall not be permitted for buildings that exceed a FAR of 3.0:1 in the CD-C subdistrict or a FAR of 2.0:1 in the CD-N or CD-S subdistricts, except as provided in subsection (5). This bonus area must be fully parked. In addition to any applicable parking provisions, this bonus may be parked by the payment of in lieu parking fees under Section 18.18.090.

(5) Historic Bonus for Over-Sized buildings
   A building in Historic Category 1 or 2 that is undergoing historic rehabilitation and that currently exceeds a FAR of 3.0:1 if located in the CD-C subdistrict or 2.0:1 if located in the CD-S or CD-N subdistricts shall nevertheless be allowed to obtain a floor area bonus of 50% of the maximum allowable floor area for the site of the building, based upon a FAR of 3.0:1 if in the CD-C subdistrict and a FAR of 2.0:1 in the CD-S and CD-N subdistricts, subject to the restrictions in subsection (b) and the following limitation:

   (A) The floor area bonus shall not be used on the site of the Historic Category 1 or 2 building, but instead may be transferred to another property or properties under the provisions of Section 18.18.080.

   SECTION 3. Section 18.18.080 (Transfer of Development Rights) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

   **18.18.080 Transfer of Development Rights**
(a) Purpose
The purpose of this section is to implement the Comprehensive Plan by encouraging seismic rehabilitation of buildings in Seismic Categories I, II, and III, and encouraging historic rehabilitation of buildings or sites in Historic Category 1 and 2, and by establishing standards and procedures for the transfer of specified development rights from such sites to other eligible sites. Except as provided in subsection (e)(1) and for city-owned properties as provided in Chapter 18.28, this section is applicable only to properties located in the CD district, and is the exclusive procedure for transfer of development rights for properties so zoned.

(b) Establishment of Forms
The city may from time to time establish application forms, submittal requirements, fees and such other requirements and guidelines as will aid in the efficient implementation of this chapter.

(c) Eligibility for Transfer of Development Rights
Transferable development rights may be transferred to an eligible receiver site upon:
(1) certification by the city pursuant to Section 18.18.070 of the floor area from the sender site which is eligible for transfer, and
(2) compliance with the transfer procedures set forth in subsection (h).

(d) Availability of Receiver Sites
The city does not guarantee that at all times in the future there will be sufficient eligible receiver sites to receive such transferable development rights.

(e) Eligible Receiver Sites
A site is eligible to be a receiver site only if it meets all of the following criteria:

(1) It is located in the CD commercial downtown district, or is located in a planned community (PC) district if the property was formerly located in the CD commercial downtown district and the ordinance rezoning the property to planned community (PC) approves the use of transferable development rights on the site.

(2) It is neither an historic site, nor a site containing a historic structure, as those terms are defined in Section 16.49.020(e) of Chapter 16.49 of this code; and

(3) The site is either:
(A) located at least 150 feet from any property zoned for residential use, not including property in planned community zones or in commercial zones within the downtown boundaries where mixed use projects are.

(B) separated from residentially zoned property by a city street with a width of at least 50 feet, and separated from residentially zoned property by an intervening property zoned CD-C, CD-S, or CD-N, which intervening property has a width of not less than 50 feet.

(f) Limitations On Usage of Transferable Development Rights
No otherwise eligible receiver site shall be allowed to utilize transferable development rights under this chapter to the extent such transfer would:

(1) Be outside the boundaries of the downtown parking assessment district, result in a maximum floor area ratio of 0.5 to 1 above what exists or would otherwise be permitted for that site under Section 18.18.060, whichever is greater, or result in total additional floor area of more than 10,000 square feet.

(2) Be within the boundaries of the downtown parking assessment district, result in a maximum floor area ratio of 1.0 to 1 above what exists, or would otherwise be permitted for that site under Section 18.18.060, whichever is greater, or result in total additional floor area of more than 10,000 square feet.

(3) Cause the development limitation or project size limitation set forth in Section 18.18.040 to be exceeded.

(4) Cause the site to exceed 3.0 to 1 FAR in the CD-C subdistrict or 2.0 to 1 FAR in the CD-S or CD-N subdistricts.

(g) Parking Requirements
The first 5,000 square feet of floor area transferred to a receiver site, whether located in the CD District or in the PC District, shall be exempt from the otherwise applicable on-site parking requirements. Any additional square footage allowed to be transferred to a receiver site pursuant to this chapter shall be subject to the parking regulations applicable to the district in which the receiver site is located.

(h) Transfer Procedure
Transferable development rights may be transferred from a sender site (or sites) to a receiver site only in accordance with all of the following requirements:

(1) An application pursuant to Chapter 18.76 16.48 of this code for major ARB review of the project proposed for the receiver site must be filed. The application shall include:
(A) A statement that the applicant intends to use transferable development rights for the project;

(B) Identification of the sender site(s) and the amount of TDRs proposed to be transferred; and

(C) Evidence that the applicant owns the transferable development rights or a signed statement from any other owner(s) of the TDRs that the specified amount of floor area is available for the proposed project and will be assigned for its use.

(2) The application shall not be deemed complete unless and until the city determines that the TDRs proposed to be used for the project are available for that purpose.

(3) In reviewing a project proposed for a receiver site pursuant to this section, the architectural review board shall review the project in accordance with Section 18.76.02016.48.120 of this code; however, the project may not be required to be modified for the sole purpose of reducing square footage unless necessary in order to satisfy the criteria for approval under Chapter 18.76 16.48 or any specific requirement of the municipal code.

(4) Following ARB approval of the project on the receiver site, and prior to issuance of building permits, the director of planning and community environment or the director’s designee shall issue written confirmation of the transfer, which identifies both the sender and receiver sites and the amount of TDRs which have been transferred. This confirmation shall be recorded in the office of the county recorder prior to the issuance of building permits and shall include the written consent or assignment by the owner(s) of the TDRs where such owner(s) are other than the applicant.

(i) Purchase or Conveyance of TDRs - Documentation

(1) Transferable development rights may be sold or otherwise conveyed by their owner(s) to another party. However, no such sale or conveyance shall be effective unless evidenced by a recorded document, signed by the transferor and transferee and in a form designed to run with the land and satisfactory to the city attorney. The document shall clearly identify the sender site and the amount of floor area transferred and shall also be filed with the department of planning and community environment.

(2) Where transfer of TDRs is made directly to a receiver site, the recorded confirmation of transfer described in subsection (h)(4) shall satisfy the requirements of this section.

SECTION 4. Subsection 18.18.090(b) (Exceptions to On-Site Parking Requirement) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:
(b) Exceptions to On-Site Parking Requirement

The requirement for on-site parking provided in subsection (a) of this section shall not apply in the following circumstances:

1. The following square footage shall be exempt from the on-site parking requirement of subsection (a):
   
   (A) Square footage for handicapped access which does not increase the usable floor area, as determined by Section 18.18.060(e);
   
   (B) An increase in square footage in conjunction with seismic or historic rehabilitation, pursuant to Section 18.18.070;
   
   (C) An increase in square footage for buildings not in Seismic category I, II, or III or Historic category 1 or 2 pursuant to Section 18.18.070(a)(1);
   
   (DB) Square footage for at or above grade parking, though such square footage is included in the FAR calculations in Section 18.18.060(a).

2. A conversion to commercial use of a historic building in Categories 1 and 2 shall be exempt from the on-site parking requirement in subsection (a), provided that the building is fifty feet or less in height and has most recently been in residential use. Such conversion, in order to be exempt, shall be done in conjunction with exterior historic rehabilitation approved by the director of planning and community environment upon the recommendation of the architectural review board in consultation with the historic resources board. Such conversion must not eliminate any existing on-site parking.

3. Vacant parcels shall be exempt from the requirements of subsection (a) of this section at the time when development occurs as provided herein. Such development shall be exempt to the extent of parking spaces for every one thousand square feet of site area, provided that such parcels were at some time assessed for parking under a Bond Plan E financing pursuant to Chapter 13.16 or were subject to other ad valorem assessments for parking.

4. No new parking spaces will be required for a site in conjunction with the development or replacement of the amount of floor area used for nonresidential use equal to the amount of adjusted square footage for the site shown on the engineer's report for fiscal year 1986-87 for the latest Bond Plan G financing for parking acquisition or improvements in that certain area of the city delineated on the map of the University Avenue parking assessment district entitled, "Proposed Boundaries of University Avenue Off-Street Parking Project #75-63 Assessment District, City of Palo Alto, County of Santa Clara, State of California," dated October 30, 1978, and on file with the city clerk. However,
square footage which was developed for nonresidential purposes or which has been used for nonresidential purposes but which is not used for such purposes due to vacancy at the time of the engineer's report shall be included in the amount of floor area qualifying for this exemption. No exemption from parking requirements shall be available where a residential use changes to a nonresidential use, except pursuant to subsection (2).

SECTION 5. Subsection 18.52.070(a) (Parking Regulations for CD Assessment District, On Site Parking) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

(a) On Site Parking
Any new development, any addition or enlargement of existing development, or any use of any floor area that has never been assessed under any Bond Plan G financing pursuant to Title 13, shall provide one parking space for each two hundred fifty gross square feet of floor area, with the following exceptions:

(1) Square footage for:

(A) Handicapped access which does not increase the usable floor area, pursuant to Section 18.18.070(CD District Floor Area Bonuses).

B] An increase in square footage granted for seismic rehabilitation, pursuant to Section 18.18.070 (CD District Floor Area Bonuses).

(CB) Category I or II Historic Structures may take advantage of the following exceptions during the life of the historic building:

(i) An increase in square footage pursuant to CD FAR Exceptions for Historic Structures as contained in Section 18.49.060(b)(3), and

(ii) A conversion to commercial use that is 50 feet or less in height and that has most recently been in residential use, if such conversion is done in conjunction with exterior historic rehabilitation approved by the director upon recommendation by the Architectural Review Board and in consultation with the Historic Resource Board. Such conversion must not eliminate any existing on-site parking.

(D) A minor increase of two hundred square feet or less, pursuant to CD district FAR Exceptions for Historic Structures as contained in Section 18.49.060(b)(4).

(EC) At or above grade parking, though included in the site FAR calculations (pursuant to CD district FAR Exceptions for non-historical/non-seismic buildings in Section 18.49.060(a)) shall not be included in the on-site parking regulations of this section.
(2) Vacant parcels subject to redevelopment shall be exempt at the time when development occurs from the on-site parking requirements of one parking space for each two hundred fifty gross square feet of floor area to the extent of 0.3 parking spaces for every one thousand square feet of site area, provided that such parcels were at some time assessed for parking under a Bond Plan E financing pursuant to Chapter 13.16 or were subject to other ad valorem assessments for parking.

(3) No new parking spaces will be required for a site in conjunction with the development or replacement of the amount of floor area used for nonresidential use equal to the amount of adjusted square footage for the site shown on the engineer’s report for fiscal year 1986-87 for the latest Bond Plan G financing for parking acquisition or improvements in that certain area of the city delineated on the map of the University Avenue parking assessment district, entitled Proposed Boundaries of University Avenue Off-Street Parking Project #75-63 Assessment District, City of Palo Alto, County of Santa Clara, State of California, dated October 30, 1978, and on file with the city clerk. However, square footage which was developed for nonresidential purposes or which has been used for nonresidential purposes but which is not used for such purposes due to vacancy at the time of the engineer’s report shall be included in the amount of floor area qualifying for this exemption. No exemption parking requirements shall be available where a residential use changes to a nonresidential use, except pursuant to subdivision (1)(C) of this subsection.

SECTION 6. CEQA. The proposed Ordinance eliminates certain exemptions to the parking regulations within the Downtown area of the City of Palo Alto, which will result in projects that will comply with the remaining parking regulations established in the Palo Alto Municipal Code. Further, each individual project submitted under the revised regulations will be subject to its own environmental review. Consequently, this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations since it can be seen with certainty that there is no possibility the adoption and implementation of this Ordinance may have a significant effect on the environment and Section 15301 in that this proposed ordinance will have a minor impact on existing facilities.

SECTION 7. Severability. If any provision, clause, sentence or paragraph of this ordinance, or the application to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable.

SECTION 8. Applicability to Pipeline Projects. This ordinance shall not apply to any projects which have received all final planning entitlement approval as of the ordinance’s effective date. Any bonus square footage certified and recorded under Sections 18.18.070 prior to the effective date of this ordinance shall continue to be exempt from parking to the extent previously allowed under Sections 18.18.080 and 18.52.070. Staff is authorized to
establish administrative regulations to administer the inventory and transfer of this bonus square footage.

SECTION 9. Effective Date. This ordinance shall be effective on the thirty-first date after the date of its adoption.
Summary Title: Downtown Parking Exemption

Title: Adoption of Interim Urgency Ordinance to Place Temporary Moratorium on use of "Exempt Floor Area Ratio" Parking Exemption Contained in Section 18.52.060(c) of the Zoning Ordinance in the Downtown and California Avenue Assessment Districts

From: City Manager

Lead Department: Planning and Community Environment

Recommendation

Staff recommends that Council adopt the Interim Urgency Ordinance (Interim Ordinance) establishing a moratorium on the use of the Exempt Floor Area parking exemption set forth in Section 18.52.060(c) of the Palo Alto Municipal Code in connection with any permit, entitlement or development project, pending further study of Downtown and California Avenue parking issues (Attachment A).

Executive Summary

On July 16, 2012, the City Council considered the status of ongoing parking efforts for Downtown and directed staff to look at a variety of approaches to address concerns of businesses and neighbors. Some of the issues to be addressed, particularly in light of the downtown development cap, will include evaluation of zoning measures that might more accurately depict realistic parking ratios and assess the desirability and viability of parking exemptions. Staff has identified, however, that one particular parking exemption, applicable to both the Downtown and the California Avenue areas, is likely to immediately exacerbate parking problems without seeming to provide for any public purpose. This provision (Section 18.52.060(c) of the Zoning Ordinance) appears to allow exemption from parking for any property within the relevant assessment district, up to a 1:1 floor area ratio (FAR) in the Downtown area and up to 0.5:1 in the California Avenue area (see Attachment B.) This clause was included in language adopted in the 1980s to encourage downtown development and as a compromise for then-recently enacted downzoning and establishment of parking assessments. While the basis for those amendments is now outdated and downtown development is thriving,
the provision remains in place and applicants are now invoking it to further exempt parking. 
This is generally in addition to exemptions due to transfer of development rights (TDR) or other 
allowances pursuant to the code.

Staff recommends that the “Exempt Floor Area exemption” be suspended, at least for the 
duration of staff’s study of downtown parking, to enable a more complete analysis of its effect 
in combination with other parking measures. An interim “urgency” ordinance is attached that 
would allow for such a moratorium on the use of this exemption. According to State law, the 
moratorium may be adopted on an “urgency” basis by Council with a 4/5 vote, meaning at least 
eight (8) Council members would need to agree to impose the change for a maximum of 45 
days. The ordinance would become effectively immediately. State law requires that staff report 
back within 45 days on a procedure for review of the ordinance, at which time a public hearing 
would be held and the moratorium may be extended for an additional 10 months and 15 days. 
State law permits a second extension of the ordinance for a maximum duration of two years.

Background

The City of Palo Alto has studied parking limitations, particularly in Downtown, multiple times 
since the 1980s, when the original assessments for the Downtown and California Avenue areas 
were established, and Downtown was rezoned (downzoned) to more restrictive building 
standards. Downtown parking was re-evaluated in the 1990s, leading up to the construction of 
two new parking garages. Zoning requirements that limit downtown commercial development 
also mandated that the staff prepare an annual report to monitor downtown development, the 
use of transferable development rights (TDRs) and parking changes (the most recent report is 
included as Attachment C).

Over the past year, staff has developed considerable data and initiated programs to evaluate 
the status of parking in Downtown and in the California Avenue area, as well as to assess the 
impact of overflow parking on nearby residential neighborhoods. On July 16, 2012, the City 
Council considered the status of ongoing parking efforts and directed staff to look at a variety 
of approaches to address concerns of businesses and neighbors. Staff is initiating studies of the 
potential for adding parking facilities Downtown and in the California Avenue area, means to 
more efficiently use available parking garages and lots, technology to enhance customer service 
and the customer experience, and evaluation of the downtown development cap and related 
zoning provisions.

Some of the issues to be addressed, particularly in light of the downtown development cap, will 
include evaluation of zoning measures that might more accurately depict realistic parking ratios 
and assess the desirability and viability of parking exemptions. Staff has identified, however, 
that one particular parking exemption, applicable to both Downtown and the California Avenue 
area, is likely to immediately exacerbate parking problems without seeming to provide for any
public purpose. This provision (Section 18.52.060(c) of the Zoning Ordinance) appears to allow exemption from off-street parking requirements for any property within the relevant assessment district, associated with floor area up to a 1.0:1 floor area ratio (FAR) in Downtown and up to 0.5:1-1.0:1 FAR in the California Avenue area. This clause appears to have been added to the Zoning Code in the 1980s to encourage Downtown development and as a compromise for then-recently enacted downzoning and the establishment of parking assessments. The language is quite convoluted, resulting in varying interpretations by staff and applicants. The City has not been able to locate complete documentation of the history of the exemption. Property owners who never paid into the assessment district have argued that the Exempt Floor Area exemption allows them to retroactively “buy into” the assessment district in order to take advantage of the provision. The exemption has not, to staff’s knowledge, been requested or implemented until recently, specifically:

- In 2007, a one-story project at 135 Hamilton Avenue was exempted for approximately 7,700 square feet on a 10,000 square foot lot (approximately 31 parking spaces), providing no parking spaces on a site that had not ever paid into the assessment district (note: the project was approved, but was not built and the permit has expired). The applicant, however, was required and had agreed to pay into the assessment district to qualify for the exemption.

- In 2011, a subsequent application for the same site was submitted for a four-story building, with 10,000 square feet (40 parking spaces) to be exempted from providing on-site parking spaces or paying in-lieu fees, and another 5,000 square feet (20 parking spaces) exempted through the use of TDRs. This project has received review by the Architectural Review Board and is now under redesign. The applicant is again offering to pay into the assessment district to qualify for this exemption. (Note: the applicant has also recently provided a letter stating his intent to revise the application to accommodate the prior one-story proposal).

- In 2011, the applicants for the four-story Lytton Gateway project at 335 Alma Street requested the 1:1 FAR exemption for the portion of the floor area that was located within the Downtown assessment district, approximately 14,400 square feet (58 spaces). The project was considered as a Planned Community rezoning, however, and the Council did not accept the exemption as a given, instead requiring additional parking and contributions to the City’s In-Lieu Parking Fund.

- In September 2012, a Preliminary Architectural Review application was filed for a 4,903 square foot office development (with two residences above) at 636 Waverley Street, requesting exemption for the 1:1 FAR equivalent, amounting to 14 spaces of the total 20 required for the office on-site, in addition to other exemptions allowing existing parking deficiencies to be carried over to the new development.

- Staff has spoken with owners of at least two other sites, for which the 1:1 FAR exemption is being considered, but applications have not yet been submitted.
Given the current parking deficits in the City’s two assessment districts (downtown and California Avenue) and the outdated rationale for applying this exemption, staff has been discouraging recent applications since the 135 Hamilton Avenue and 335 Alma (Lytton Gateway) projects from using this parking exemption. To staff’s knowledge, no project applicant has requested use of the exemption for the California Avenue area.

Discussion

Staff believes that the basis for the “Exempt Floor Area Exemption”, i.e., encourage development Downtown and compromise for the downzoning and parking assessment requirements, is now outdated, as downtown does not require encouragement to develop, and any equity issues have long been addressed. Nevertheless, the provision remains in place and applicants are now invoking it to further exempt parking. There is also some ambiguity as to whether applicants who have never paid into the assessment district can qualify for the exemption by paying into the district retroactively, and if so, how to calculate the payment. Further, applicants are sometimes coupling this exemption with other parking exemptions due to transfer of development rights (TDR) or other allowances pursuant to the code. The result of the continued use of this exemption would be to exacerbate parking deficiencies in the Downtown and California Avenue assessment district areas.

Proposed Ordinance

The proposed Interim Ordinance (Attachment A) would suspend use of the “Exempt Floor Area Exemption” pending further study and changes to existing parking and zoning requirements, including re-evaluation of the Downtown development cap. Floor area will of course remain exempt from parking to the extent assessments have been paid for the site. Staff believes it is appropriate to apply the moratorium to both the Downtown and California Avenue areas, as it will in both areas exacerbate parking deficiencies documented previously by staff. Staff distinguishes this provision from others for review, particularly the transferable development rights (TDRs) section, as in those cases other public purposes are readily identified (seismic and historic rehabilitation), and significant investments (either rehabilitation or purchase of TDRs) have been made pursuant to the zoning ordinance. Those provisions will, however, be evaluated as part of the more comprehensive parking studies.

Interim Ordinance Process

State law allows for a city to enact an interim ordinance on an “urgency” basis, upon a vote of 4/5 of the members of the Council, to protect the health, safety or welfare of the community (the draft ordinance includes the relevant findings). No public hearing and no input from the Planning and Transportation Commission is required prior to the enactment of the urgency ordinance. An ordinance adopted pursuant to this provision of State law takes effect
immediately and does not require second reading. The next steps, pursuant to State law, would be to:

1. Return to Council not later than 45 days later for a public hearing with an interim report with steps taken to alleviate the parking problems associated with the continued use of the Exempt Floor Area Exemption. At that time the Council will also be asked to extend the Interim Ordinance for up to an additional 10 months and 15 days (as allowed under Government Code Section 65858) to allow staff to propose zoning changes; and

2. Recommendation of zoning changes, following public hearing and recommendation by the Planning and Transportation Commission, to either revise the ordinance as necessary or consider permanent elimination of the exemption, prior to the expiration of the 10-month, 15-day extension.

Applicability to Pending Projects
Cities may revise zoning requirements at any time, except where a property owner has acquired a “vested right” to build a particular structure by obtaining a permit and performing substantial work in reliance on that permit. A vested right is not created by the existence of particular zoning, or by preparatory work performed in advance of obtaining a permit. While the Interim Ordinance as written does not make exceptions for projects that have begun the planning process but not completed it by securing final permits (“pipeline projects”), in the past the City generally has excepted pipeline projects from new ordinance requirements. The City is not legally required to make such exceptions, but the Council may make a policy decision to do so. Two projects are currently under review:

   a)  135 Hamilton Avenue, which has been under discussion and review for more than a year and has been reviewed once by the Architectural Review Board; and

   b)  636 Waverley, which was submitted as a Preliminary Architectural Review application on September 10, 2012.

Staff has discussed the application of the Exempt Floor Area Exemption for a couple of other projects, but owners have not yet submitted applications for those projects. Council may choose to either include or exempt one or both of the “pipeline” projects from application of the moratorium. If the Council chooses to exclude one or both projects from the moratorium, staff suggests that exclusion be conditional upon: a) preparation of a robust transportation demand management (TDM) program for the project, and b) payment of the equivalent “assessment” amount or increment to the In-Lieu Parking Fund (rather than to pay down the bonds) to contribute to construction of additional parking spaces in the future (note: the amount of the “assessment” should be the present value of a stream of assessments as would originally have been applied over the life of the parking bonds). Staff will be prepared to suggest language to implement these requirements should Council desire.
Policy Implications

Staff believes that the interim ordinance is necessary to assure parking availability for businesses and to protect nearby neighborhoods from further parking intrusion. The ordinance is also consistent with Council’s recent direction to study parking improvements and requirements for Downtown.

Environmental Review

Environmental review is not required for the urgency ordinance, as it simply maintains the status quo, and is exempt under Section 15061(b)(3) of the California Code of Regulations, pursuant to the California Environmental Quality Act (CEQA). Subsequent ordinance changes will, however, require further environmental review prior to consideration by the Planning and Transportation Commission and Council.

Attachments:

- Attachment A: Downtown Parking Exemption Urgency Ordinance (DOCX)
- Attachment B: Section 18.52.060 of Zoning Ordinance (DOCX)
- Attachment C: December, 2011 Downtown Monitoring Report to Council (PDF)
The City Council of the City of Palo Alto met on this date in the Council Conference Room at 5:05 P.M.

Present: Burt arrived @ 7:55 P.M., Espinosa arrived at 5:10 p.m., Holman, Klein, Price, Scharff, Schmid arrived @ 8:06 P.M., Shepherd, Yeh

Absent:

CLOSED SESSION

1. Conference with Legal Counsel
   Conference with Legal Counsel - Government Code Section 54956.9(b), (c)
   Potential Litigation Relating to the Mitchell Park Library and Community Center Construction
   Significant Exposure to Litigation Pursuant to Subdivision (b) of Section 54956.9: 1 Potential Case
   Potential Initiation of Litigation Pursuant to Subdivision (c) of Section 54956.9: 1 Potential Case

The City Council reconvened from the Closed Session at 6:00 P.M. and Mayor Yeh advised no reportable action.

Council Member Price left the meeting at 6:00 P.M. and returned at 7:00 P.M.

STUDY SESSION

2. City Council Study Session with Assemblyman Gordon Proposed Topics of Discussion.

The City Council participated in a study session with Assembly Member Rich Gordon. Assembly Member Gordon discussed the State budget and cuts that may be made if some of the ballot legislation does not pass in November.
This past year the State Legislature took action on several items, including Worker’s Compensation and a pension reform package. He gave an update on the San Joaquin Valley Browns Water Project and the proposed bond measure. Assembly Member Gordon spoke about reform efforts for the Regional Housing Mandate requirements, and the California Environmental Quality Act (CEQA). He stated one of his main concerns is the State budget, how much has been cut and the programs that have had to be cut. In the coming year, he sees water, education reform, and CEQA as the main topics for discussion.

CITY MANAGER COMMENTS

James Keene, City Manager spoke regarding; 1) the Energy Compost Facility Considerations Public Meeting on Wednesday October 17, 2012 from 5 p.m. to 7 p.m. at the Palo Alto Downtown Library, 2) Palo Alto Firefighters would host a pancake fundraiser on October 20, 2012 at Fire Station 6 with proceeds going to Project Safety Net, 3) Friends of Palo Alto Junior Museum & Zoo would host Halloween Zoo Night on Friday October 26, 2012, 4) a backyard compost workshop would be held at the Eden Garden on October 26, 2012, and 5) San Francisquito Creek Joint Powers Authority would meet on October 18, 2012.

MINUTES APPROVAL

MOTION: Council Member Espinosa moved, seconded by Council Member Klein to approve the minutes of July 16, July 23, September 4, and September 10, 2012.

MOTION PASSED: 7-0 Burt and Schmid absent

ORAL COMMUNICATIONS

Deborah Klughers, spoke regarding Palo Alto progressive stance on recycling and her support of Proposition 37.

Tony Kramer, spoke regarding Palo Alto noise code and the AT&T DAS project. He had concerns with a letter that he has received regarding this project from Curtis Williams, Director of Planning and Community Environment.

Rita Vrhel, spoke regarding an application by Mr. John Miller to be heard by the Council on November 5, 2012. She had concerns with the application for Elizabeth Seton School regarding vehicle traffic and noises for her neighborhood.
Stephanie Munoz, spoke regarding developments and the consideration of over five-story buildings.

Rob Moore, spoke regarding 1095 Channing Avenue and he also experienced noise and traffic as previously noted by Ms. Vrhel.

Irene Kane, spoke regarding 1095 Channing Avenue and her support of comments by Ms. Vrhel. Alternative routes should be set including the encouragement of carpooling. It is not fair that the neighbors on Channing would absorb all the traffic for this application.

CONSENT CALENDAR

MOTION: Council Member Espinosa moved, seconded by Council Member Price to approve Agenda Item Nos. 3-8.

Council Member Klein advised he would not be participating in Agenda Item No. 5 because he has previously represented the Casa Olga organization.


4. Approval of Contract in a Not to Exceed Amount of $545,338 with Forrest Richardson & Associates for Design Services and Preparation of the Environmental Impact Report for the Golf Course Redesign and the Potential Expansion of the Baylands Athletic Center and Adoption of the Budget Amendment Ordinance 5166 to Reallocate $545,338 from the Infrastructure Reserve Fund to the Recreation Division Operating Budget.

5. Approval of Amendment No. 2 to an Agreement Between the City of Palo Alto and Casa Olga Relating to the University Avenue Area Off-Street Parking Assessment District.

6. Adoption of (1) Resolution 9293 of Intent and (2) Ordinance to Amend the Contract Between the Board of Administration of the California Public Employees’ Retirement System (CalPERS) and the City of Palo Alto to Implement California Government Code Section 20475: Different level of benefits provided for new employees, Section 21363.1: 3.0% @ 55 Full Formula, and Section 20037: Three Year Final Compensation for Safety Police Employees.
MINUTES

7. Approval of Contract with Muzak, LLC, in the Amount of $201,992 for Media Broadcast System for the Mitchell Park Library and Community Center (CIP PE-09006)


MOTION PASSED for 3, 4, 6-8: 7-0 Burt, Schmid absent

MOTION PASSED for 5: 6-0 Klein not participating, Burt, Schmid absent

AGENDA CHANGES, ADDITIONS AND DELETIONS

None

ACTION ITEMS


James Keene, City Manager, said that evening’s session was focused on a Staff provided overview of the information on pension and healthcare benefits. A separate meeting related to the pension issue was scheduled for November 13, 2012. A focused discussion on the healthcare benefits and cost issues was scheduled for December 10, 2012. A number of cities in California bond ratings were reduced while Palo Alto retained its AAA bond rating. More than any other state, California restricted the ability of local governments as it related to their taxing revenue fiscal management policies. The Council wanted to discuss the State’s role and the State control that existed on cities and how much flexibility a city had to chart its own course. There were significant benefit enhancements made before the 2008 financial crisis, but the significance of that event was clear to the Council which focused on the structural issues that had surfaced. Despite the actions taken, the trend lines on pension costs and the way California Public Employees' Retirement System (CalPERS) allocated those costs to cities and the healthcare side rose and would continue to do so in the future. The public discussions were held to increase public awareness. During the last summer’s discussions, the Governor had proposed a 12 point plan which had not been enacted. The Governor worked with the State Legislature and passed statewide pension reform legislation which made a number of significant statewide pension changes. Staff planned to summarize that legislation in its presentation. He thought the evenings and subsequent discussions were a reflection of the Council’s commitment to open government and transparency. Staff felt it was important to focus on the
employee culture, productivity, and engagement. There were more details on California Public Employees’ Pension Reform Act (PEPRA) that remained unclear and were being studied. Staff believed that by November they would be able to provide more informed results. Managing costs was very important but was only a means to an end. The end was determining how the City supported a high quality of life with the resources it had. He said they needed to determine how they supported and maintained a committed and competent City Staff. Generally there were things that were clear such as the City would have fewer employees on Staff in the future. Some of that was because the embedded costs of fulltime staff were significant. That meant that how the City recruited and maintained Staff was an important factor. He stressed the importance of public/private partnerships. He said that the kind of governmental organizations that evolved over time had to adapt in order to ensure they could provide value to the community and the City employees. That required a more flexible, less bureaucratic atmosphere that was clearly focused on responsibilities and outcomes. Staff’s goal for the Council Meeting was for the Council, Staff, and the community to understand the issues. Benefits and cost cutting were not the sole focus even though those decisions were necessary. The slowness of the cost savings that accrued on the pension side would not relieve the City of the pressures. Lastly he thought that the City needed to look at fiscal and tax reform in conjunction with what they did on the cost side. They would see that they had to manage costs and how they were constrained by the State. At the same time the City was also constrained by the State and what they could do on the revenue side.

Kathryn Shen, Chief People Officer, said Human Resources was passionate about how the City attracted and maintained talented employees. They faced economic and social pressures as employment costs had grown in terms of pension and healthcare and that was in large part due to the generous CalPERS enhancements that were offered over the years. The City had a legacy of being in the CalPERS system and did not have any alternatives like San Diego, San Francisco, and San Jose.

Mr. Keene believed what Ms. Shen meant was that the other cities had independent pension systems. They had to go to their voters, but Palo Alto was part of the statewide system.

Ms. Shen agreed. She stated they were pressured to decrease the number of employees which could lead to fewer City services and a reduction of funds into the system. That was a value judgment the City needed to make about what kind of services it wanted to offer with its core employees. There were a greater number of retirees than active employees. Retirees lived longer lives and could live 20 to 40 years after retirement. The fastest
growing age group in the United States was those 85 years old and older. Retirement and pension liability carried over for a greater number of years than it had in prior generations. Cost savings achieved from pension reform accrued slowly because current employees kept their current pension plans. Pension reform only applied to new employees, which is the reason for the slow accrual. The PEPRA law created inequality between new and current employees in that there was a new pension tier and lesser benefits. That was a problem for the work culture of the City. With respect to employment demographics, Generation Y, workers age 33 and younger, valued a career path and a work/life balance. They were also civic minded and interested in giving back to their community. She explained that different generations of employees required different benefits and employees valued choice and flexibility. Palo Alto was an innovative city so employees expected the latest technology and best systems, which was not always the case. The City needed to increase its effectiveness through technology. She explained that changes to non-economic benefits such as rewards and recognition could provide value to the City employees. Alternate and non-financial work arrangements such as flexible hours, the 9/80 schedule, remote access, job sharing had value for employees and should be further explored. Palo Alto was proactive in that all employee groups were already on a two tiered pension system, employees paid the full employee share of their CalPERS expense, the highest cost healthcare plan was eliminated, employees and future retirees paid some of the healthcare benefit cost, there were pay freezes and cuts, variable pay was eliminated, and they eliminated the spiking caused by the final year reversal. Benefit costs were still increasing. In 2002 the percent of benefits to salary was about 23 percent. Currently it was 63 percent and growing. In 2022, Mr. Perez projected it would be about equal. As indicated by Mr. Keene, CalPERS restricted the City’s options. The City could not influence CalPERS rate of investment return. CalPERS rules were all or nothing and the cost of leaving CalPERS was prohibitive. CalPERS healthcare system offered limited options and did not contain a high deductible option. CalPERS did not provide patient experience and the City could not understand what healthcare was accessed by its employees. There were no wellness program incentives. The marketplace alternatives to CalPERS were expensive. She showed a chart containing the City’s active and retired employees but noted it did not include employees that worked for the City and were vested but were currently working elsewhere. When those employees retired they would pull from the CalPERS retirement system. Overall there were more retirees than active members.

Mr. Keene said the City’s retiree base was significantly larger than its active employees. He explained that the larger the gap between what CalPERS had and what it needed to provide for the retirees was made up by billing the cities, which meant that the City’s cost would fall on the active employees.
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With a static workforce and a growing retiree group the City needed to understand the financial implications.

Ms. Shen added that the retirees had a two percent inflation factor built into their pension. The active employees received no such raise.

Mr. Keene said that under the PEPRA law that Cost of Living Adjustment (COLA) for retirees was not eliminated. Active employees had not received adjustments, but retirees automatically received a two percent increase annually. He said the City did not want to incent people to retire so they would receive raises.

Ms. Shen said the PEPRA established new pension tiers, which applied to new employees only. The new tier paid two percent at age 62 while the current tier was two percent at age 60. Employees shared the normal pension costs. The pension was based on a three year final compensation versus a one year, which eliminated the spiking and applied to new employees. PEPRA prohibited the purchase of additional service time called “air time.” It also lowered the cap on compensation that was pension eligible and sought to follow a Social Security template in which payments were limited by earnings.

Mr. Keene said that only applied to a selected group of employees where the cap existed and would raise other implications.

Ms. Shen agreed. Other changes included: benefits were calculated on base pay; increased disability for certain Public Safety employees; a limit on post retirement public employment; and replacement plans were eliminated. The City’s legal team planned to provide an in depth analysis for the Council’s November pension meeting. She provided a 10 year look at the pension cost. From 2002 to 2012 the pension grew over 500 percent. The City needed to ensure the pensionable employees were the core it wanted to provide the services to the community.

Mr. Keene said that with respect to the chart the drop in 2009 was due to a reduced workforce size. Some of the outer years were projections that were not based on actual CalPERS projections. He said that by 2013 the employee portion of the pension costs, which was seven, eight, or nine percent was picked up by the employees. The chart excluded the employee paid portion, which needed to be taken into consideration when you determined the acceleration of costs.

Ms. Shen said PEPRA was the new pension law. With respect to healthcare over the past 10 years it had the same increased cost trajectory. Retiree
medical was increasing at a faster rate than the active employee insurance as older people tended to use more medical services. She read a Kaiser paper which suggested a six percent healthcare inflation factor over the next 5 years. Healthcare was the area she saw the City having more flexibility on in terms of the benefit package offered and money saved. Palo Alto had decreased its Staff over the years. The General Fund staffing was reduced by over 30 percent. The total including the Enterprise Fund and the General Fund showed a Staff reduction of 10 percent from 2002 to 2012.

Mr. Keene said most of the reduction was due to cuts, but they had shifted some General Fund employees to an internal service fund. He said the 30 percent shown on the chart was only for the General Fund.

Ms. Shen said the citywide reduction was 10 percent. They looked at turnover in City Staff because of retirements. Currently 30 percent of the Staff were age and service eligible to retire. That number increased to 50 percent in five years. The continuing retirement turnover presented an opportunity to recruit new employees that needed to be highly skilled and dedicated to the public good. Recruitment, training, and employee development were key for having and retaining good Staff. A taskforce for training and employee development was created. They knew employee development was very important and that employees looked forward to having their skills developed. She showed research that illustrated why employees stayed with an organization beyond having a market salary. The City had a great market salary rate. The top three reasons employees stayed with an organization were that they liked their work, the job conditions were great, and they trusted management and leadership. Aside from salary and benefits the top three reasons employees left were because there was no opportunity to advance, they could not see that their work made a difference, and they did not trust management and leadership. The City’s key focus was to maintain and grow purpose and the integrity of the workforce. It was important not to bifurcate employees and to provide a satisfying and innovative work environment. Staff requested Council direction over the course of the next several meetings. They wanted to explore the dynamic between the salary, benefits, and other employee motivators. Staff wanted to educate the public and the employees about the pension reform and alternatives to offer savings, retirement, healthcare, employee wellness, paid time off, and flexible benefits. They wanted to create or update a set of policies and plan for pension and health benefit contingencies. They also wanted direction to explore strategies to retain, attract, and engage employees.

Mr. Keene said that in 2008 there was a need for a dramatic reset and Palo Alto made leading changes in the region. He noted that Labor made
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sacrifices through negotiations during that period. In the future they could not remain in the mindset of making cutbacks; they had to reshape the work environment in all the ways discussed by Ms. Shen. When employees retired the City lost experience and institutional memory, but it created job opportunities for people in the organization. The right work culture afforded all employees the opportunity for new work experiences. He said the City did not need to pay more to do that, it just needed to invite employees to have those opportunities. Many people would take that as there was a benefit in the work itself. A career perspective about expanding one’s own skills had its own rewards. There were challenges, but from Management and Labor’s perspective there were opportunities to move forward and reshape the organization.

Ms. Shen stated they met with the different employee and Labor groups including the Management Professionals several weeks prior and reviewed the colleague’s memorandum. They were advised of the three meeting format and other people would have further involvement at the November and December meetings.

Mr. Keene said the colleague’s memorandum was constructed to raise a series of questions. They did not go through the questions point by point, but they were prepared to work through them in the form that the City Council wanted.

Mayor Yeh said that the meeting was a public session and was an important part of the discussion on the issues.

Tony Spitaleri, representative from the International Association of Firefighters Local Chapter encouraged the Council to consider its employees as co-partners in the discussions. The meeting attended by Labor several weeks prior was hastily called. They were unsure of the format of that evening’s meeting. He stated he would make his statement and then wait for the November 13th meeting where he hoped there was a discussion with the employee groups similar to when they looked at the medical benefit cost. He stressed the importance of facts in the discussion as the statements were made in public. He offered the cost of living as an example. The CalPERS COLA was up to two percent annually; it was not automatic as implied. He looked forward to the November and December meetings and hoped that they had a positive atmosphere similar to the one they had during the medical discussions. Labor was anxious to know the format of the November 13th meeting. He said if they were only able to make statements that were not a good discussion and that might put Labor in a position that was resistant to change.
Council Member Espinosa indicated that the sharing of information with the City’s entire labor force was very important and asked how the information was shared.

Ms. Shen said they intended to create a communication plan that included meetings with all employees. Human Resources (HR) Staff discussed an HR forum for engagement on the issues.

Mr. Keene said they would distribute the information via the internet and other internal vehicles. He acknowledged there was a lot of complicated information and stated an effective dialogue was important. Communication was part of the larger focus on employee culture and collaboration throughout the organization as a whole.

Council Member Espinosa asked about the format and the content of the November and December meetings.

Mr. Keene said that was partly up to the Council. Staff scheduled the meetings in response to the Council’s request and would take any direction the Council wanted, but it seemed that there was a survey discussion that the Council needed to be involved in. He said Staff tried to compile the facts and challenges to lay the groundwork for any other forum or approach the Council deemed necessary.

Ms. Shen said HR Staff considered inviting pension and healthcare experts to guide the discussions. They wanted Council direction regarding how to involve members of the public and the employee groups.

Council Member Holman followed up on Council Member Espinosa’s question regarding the format. She thought that evening was to be more of an informal meeting or study session which involved more dialogue. She agreed the Council needed the survey information and thought it was important to communicate with Staff and engage them directly in the process, but was not sure the appropriate way to do that.

Mr. Keene said a nighttime meeting would not be effective as many employees commuted home in the evenings. If there was a real interest in employees meeting with Council they needed to conduct daytime meetings.

Council Member Holman said it was time to have honest dialogue with the community and Staff. She heard from some Staff that there was a general feeling that the Council Members did not care about Staff that they only cared about saving money. She stated that was not the case and Council needed to engage with Staff and dissuade that perspective. Council had
fiscal responsibilities and was obligated to the public to manage a sound fiscal organization, but it did not behoove the City to have an unhappy workforce.

Ms. Shen said City Staff was honored to engage with Council and know that Council was concerned about their career paths, well-being, and contributions to the City.

Council Member Holman stated that both employees and the Council needed to believe the other party was working in good faith for the health of the organization. She said the presentation was informative but noted she did not see the terms relationship, relationship with the public, job performance, job ownership, meaningful participation in problem solving and initiatives, teamwork, and the responsibility of managers to manage such that employees who were not good were evaluated as such. She said that retaining employees that were not good greatly diminished morale. She asked about the outreach they had with Staff regarding those topics.

Mr. Keene welcomed the kind of comments made by Council Member Holman. He thought the terms were essentially included, but they only used representative aspects for the sake of brevity. The discussion included the changes in the benefits and pay of Staff, the public perception and opinion of public employees, and issues in the City’s workforce. Those topics were frequently discussed in many venues within the City. Earlier that day they held a manager’s meeting and discussed the public perception of public employees and motivation. He saw fostering conversations as part of Staff’s responsibility and that Ms. Shen was formalizing and embedding that process into the organization.

Ms. Shen had looked at the organization of the HR Department and how it partnered with other departments. They were moving to a model where HR professionals served the departments in small teams. Those teams became embedded in the department’s business, understood the issues, and could provide better advice and counsel to employees and managers. She said that part of what Council Member Holman wanted was having HR spend more time delivering those services than processing transactions. HR was restructuring so that it could ensure managers and employees were the best they could be. She had spent time with the Executive Leadership Team and their direct reports discussing what development and learning needed to occur. Most of it was around how to lead a team, provide actionable feedback, and ensure productivity. She said HR’s comprehensive employee development plan would include those items.
Council Member Holman asked Staff to make recommendations on how to best engage with the Staff through daytime meetings or other means.

Council Member Price said the City provided goods and services to a community that was invested in its success, both fiscally and otherwise. The conversation included the public and needed to provide information so that the public was more aware of the constraints and opportunities the City had. She observed the discussion of leadership and organization had to work within a political environment which meant the behaviors and engagement of elected officials was part of the discussion. Everyone was responsible for being thoughtful and aware of the kinds of decisions they made. The 1990’s had “Reinventing Government” and she felt this was “Reimagining Government.” She was interested in the delivery of goods and services in the future and asked what the assumptions were related to that. She looked forward to hearing from the pension specialists and panel on healthcare, but also wanted to hear from people who specialized in looking at the evolving workforce and its needs. Both she and her husband were retired public employees, but the likelihood of their children working in the public sector or for a nonprofit was small. She wanted a work environment that was engaging for Generation Y. She asked if social media was being used to work with employees that could not attend public forums or nighttime meetings. She also asked to what degree the community was allowed to make its opinions known. She asked if there were things they did within their digital city that captured additional opportunities for civic engagement and employee involvement.

Ms. Shen liked the idea of combining social media and the forum for healthcare and pension. She said Staff would recommend to Council how that might work. Work culture changed and people no longer worked at the same place for their entire career and younger generations moved between the public, private, and nonprofit sectors and contributed where they could. The model where an employee stayed with an employer for their entire career was changing and as the City attracted younger workers to replace retirees they had to acknowledge that. The future workforce did not have to look like the current workforce. The City had to accept some turnover and that new employees and ideas were good things. The City wanted to provide consistent services and continually improve, but it was acceptable if employees contributed and then moved on.

Mr. Keene said that choosing to enter the public service workforce was the barrier in many ways. As a member of the Board of the Institute for Local Governments, one of the big initiatives they looked at on behalf of the California League of Cities was about how to attract people to municipal
work. Most younger people who were service oriented wanted to work for nonprofits where they could immediately be hands on with a clear mission.

Council Member Schmid appreciated the data that compared global and city governments with the private sector. He thought it was striking how well Palo Alto had done. The City was a model for the country. He noted the private sector wanted more participation from employees on all levels and afforded more mobility related to pensions. He saw three critical issues to address. First was the issue of risk. The City was in a situation where the State set the rules and the local communities bore the entire risk. This meant that State Assembly Members, State Senators, the legislative committees in Sacramento, and the Chief Aides needed to be critical participants in the discussion and needed to work with the City. The second issue was that the cities had regressive income streams. The City’s two major revenue sources were property tax and sales tax. Property taxes were capped by Proposition 13. Pensions and benefits were service oriented and grew faster than tax revenue. He asked which revenue sources should be dedicated to pensions and benefits. The third critical issue was the age structure of the City’s workforce. More than half of the workforce was 10 years from retirement, which was unsustainable. He asked where the young people were and if the retirement age structure would level out.

Ms. Shen said the City bore the brunt of the risk. She liked Council Member Schmid’s idea to invite State legislators to the discussion and indicated Staff would look at revenue sources. She felt the City could also do a better job of recruiting and attracting young professionals. Because the City always received large numbers of applicants it had usually been passive in terms of recruiting, but that could change. The City could partner with universities. The intern program was very active with 30 to 35 interns per summer. They wanted to increase the program and capture interns as hires when they graduated.

Council Member Burt said the coauthors of the colleague’s memorandum wanted several things in the evening’s meeting that they had not yet heard. Specifically they wanted to know the boundaries of the discussion. Of the various forms that could be considered he asked what was allowed by law and what was outside of the current legal alternatives. He also asked what changes needed to occur if the City wanted to look at those alternatives. He wanted that summary at the beginning of the next meeting to the extent possible. Second they wanted to know what the rules were within the current CalPERS system and employee laws. Because of previous closed session labor negotiations Council Members understood the laws were complicated. They saw the meetings as an opportunity for the public and employees to understand what existed in those structures both in and
outside of CalPERS that restricted and governed what cities could and could not do. That set the boundaries for the conversation and then they could discuss if the boundaries could move. There was no perfect answer because of the many variables, but they needed to balance services and the long term obligations of healthcare and pensions. One variable was the rate of return for CalPERS. The City was governed by what CalPERS set as the rate of return, but many experts believe that to be very optimistic. Out of the City, the citizens, the City’s workforce, and the State the City and the citizens bore the long term liability of the system. That was a problem, but how they changed that was challenging both in discussion and implementation. What they needed to do and what they could do was the real matter for discussion.

Ms. Shen said Staff needed time to explore Council Member Burt’s questions. She summarized that he wanted to know what was allowed by law and what the rules were of the current CalPERS system. He also wanted a broader discussion which possibly included the League of Cities or other experts to determine when they achieved equilibrium between the retirees and the active employees.

Mr. Keene said they needed to understand the financial picture each year and over time so they could see the tradeoffs involved when they were not at equilibrium.

Council Member Burt clarified that Council was interested in what was allowed before the legislative changes so the public was informed on that as well. Understanding the rules of CalPERS and the labor law would answer many of the public’s questions. He clarified that by labor law he meant legislation and court rulings. The other part of the discussion around constraints was what changes needed to be made legally to enable the City to take constructive action.

Council Member Shepherd said that although the issue was raised in a colleague’s memorandum it had been a topic of discussion for some time, specifically the rules mentioned by Council Member Burt. She requested Staff return with an answer on what it meant to be a unionized workplace as that would form some boundaries of the conversation. They had projected discounts with CalPERS at 7.5 percent, which was what CalPERS thought it would make on investments. CalPERS actually manifested itself in either negative percentages or one percent, which created what the City actually owed for its current pensioners. Labor was distressed that fell on the current workers. The decisions made in 2002 and 2007 regarding changing the pension schedule affected how the City currently functioned.
Mr. Keene thought Council Member Shepherd said that most of what happened fell on current workers. The changes that had been or needed to be made would exclude or grandfather current workers from that.

Council Member Shepherd said they had asked concessions of current workers. They shared the medical costs. There was nowhere to go other than current employees and new hires which put the City into angst and disruption in having a consistent thoughtful way to work with the workers. She was interested in Council Member Schmid’s comments regarding the age structures. She heard current infants had a life expectancy of up to 100, which meant there needed to be a Social Security tier two nationally. She appreciated Ms. Shen’s attention to crafting public sector careers. City Staff was often more involved than the Council Members because they served the public. Even though the City offered market rate or near market rate salaries they demanded and expected intelligent workers. She was glad for the reset and the opportunity to think broadly about what it meant to be a public sector worker.

Ms. Shen said she and Mr. Keene discussed an open employee program where employees could bid on task force and projects in other departments so they could see possibilities within other departments. She thought implementing such a program could make a career with Palo Alto exciting and cutting edge.

Council Member Shepherd said it was amazing what the City had to offer employees. The range of available jobs was spectacular. The City kept its credit rating and had reserves and effectively tried to maintain its equilibrium, which was of real interest to people who wanted to be mobile in their careers.

Council Member Klein said the City and public were dependent on high quality City employees. Earlier in the year he spoke with a venture capitalist who asked why Public Safety employees’ salaries could not be cut in half. He told him that the City would lose those employees because of the market rate, which shocked the venture capitalist. The community and its workers faced a conundrum. They wanted to offer appropriate scale wages and benefits, but were unable to pay for them at the scale at which they were presently increasing. Because of that he thought the next meetings needed to focus on the Bureau of Labor Statistics figures which indicated that employees with over 1,000 employees paid 77 percent of the cost of family medical plans. Palo Alto had over 1,000 employees and paid 90 percent. He understood that few cities offered family coverage and that was something they needed to focus on. He was not automatically saying they should cut it because they wanted to maintain a high quality workforce. He wanted more
data regarding the issue to determine if they needed employees to pay a higher percentage. Assemblyman Gordon said he was informed that PEPRA solved roughly 50 percent of the unfunded pension liability issue. He was astonished by that because the number he heard was approximately 10 percent. He wanted further analysis of what PEPRA did and purported to solve. They needed to examine vested rights for existing and retired employees because without doing that he felt it was close to an insoluble problem. He hoped to hear from the City Attorney as well, as the private sector did not have vested rights. The current draconian solution was for cities to file bankruptcy to reduce pension obligations. He agreed with Council Member Burt that they needed a better understanding of CalPERS rules and hoped that had always been part of the process. If vested rights were a major part of the problem, the City needed to know what it could do about that. He asked if there was potential for buying out benefits. Different employees had different needs but the City was unable to offer different packages like the private sector could. For example, a younger employee could prefer a higher salary to pension benefits. He wanted to think on a broader scale and promote an atmosphere of change.

Ms. Shen said she noted the Council wanted to focus on healthcare and data regarding the employer cost. Her past employer went to 20 percent employee paid healthcare in the 1990’s with the understanding it would probably be 30 percent within ten years. Private employees were more used to paying a greater share of healthcare costs. With respect to pensions they would look at the percent of unfunded liability and what had and had not been solved by PEPRA. She stated they would look at the issue of vested rights and buying out benefits with the City Attorney. PEPRA was going to be thoroughly reviewed. It was more complicated than first anticipated.

Mr. Keene said Staff wanted a better understanding of PEPRA before the pension discussion with Council. Generally related to pension Palo Alto had done almost everything it had the discretion to do without significant changes or rule flexibility. He thought some PEPRA requirements would move the City backward due to the way they were written. He thought Council Member Klein’s point about balance and what changes were needed was necessary.

Vice Mayor Scharff said the City had either given its employees no raises in the last four years or they had given them over a 40 percent raise. Pension and medical benefits went up 40 percent over the past four years. However, if he was an employee he would view it as he had not received a raise while the cost of living increased. The City made many changes, but the trend line on the pension benefits was still increasing by 10 percent or $3 million per year. Finance Committee looked at it and said there was a $4 million budget
gap which they closed that year. The following year there was another gap. The City needed to break that cycle as services and employees suffered. That was unacceptable and he would have preferred to have given the employees a 20 percent pay cut in 2009 and then raises going forward. He said that having budget gaps every year with no foreseeable end was a huge problem. He wanted a solution and understood the constraints. He asked if they could provide income that was not part of CalPERS. To determine solutions they needed to understand the rules. He said the evening’s meeting gave him no understanding of the rules. If the rules were known they could determine ways around them and could advocate for changes in the legislature. The City had to be solution oriented or it would continue to pay the employees less each year and reduce services thereby degrading the overall quality of life. There were many unanswered questions in the colleague’s memorandum. He wanted Staff to address every issue.

Mr. Keene said that was Staff’s intention. They explicitly said they wanted to provide initial context and discuss the work environment. Staff understood the structure Council wanted them to return with, but even then some questions would remain unanswered. He thought they could explain the boundaries the City faced, possible workarounds, and anything that required legislative or constitutional change.

Ms. Shen added she spoke with the benefit broker, Wells Fargo, whose spokesperson would engage with Council in November. Wells Fargo took other cities through the benefit buy out process and had knowledge and history with that.

Vice Mayor Scharff said Palo Alto was out of the recession as sales and property taxes were increasing. He did not expect income to increase much more on a year to year basis, but expenses were still rising. He suggested outsourcing as a solution in order to sustain the benefits for the core group of pensionable employees. Productivity increased with a more flexible work environment and technology. There were limited options as to how to get the same work done with less money. He wanted solutions for how those things could be achieved.

Mayor Yeh asked for a response to the Vice Mayor’s comments.

Ms. Shen said they had no response but that she had captured what he wanted looked at. Staff was going to consider outsourcing, technology, and what the core group of employees looked like. HR Staff’s effectiveness was limited by the current system so she planned to work with IT on a request for new HR technology.
Mayor Yeh wanted workplace culture as the starting point. He had worked for local governments and experienced opportunities in the private sector and one of the areas he appreciated that Staff focused on was making local government a destination career. That 50 percent of the City Staff was eligible for retirement in 10 years was shocking. The potential loss of institutional knowledge was something that needed consideration. Workplace culture could be handled separately from compensation, but as resources for compensation were limited it was of paramount importance. He believed that if people enjoyed their work, compensation was somewhat secondary. He knew it was a large discussion and everything Staff presented on creating flexibility for people to explore other departments was a good step and expressed his support. In the pension meeting he wanted to discuss CalPERS governance. It was essential for the Council and the public to understand what happened from the governing board perspective. He appreciated Assemblyman Gordon’s initiative which enabled the CalPERS Board meetings to be webcast. It was important people saw how investment decisions were made and policy direction from the legislature was implemented. CalPERS was the largest pension fund in the world. He was open to ideas regarding compensation flexibility and what was and was not part of CalPERS. He framed healthcare as a fundamental human right and it was tough for him to embrace reform on since there was much reform on the federal level. The Affordable Care Act was a moving target for local governments. When the dependent age increased to 26 it increased the City’s long term liabilities. In future meetings he wanted opportunities to brainstorm and have true dialogue. He wanted an active solicitation of Labor about how the discussion was framed. He was open to something that was public, facilitated, less formal, during the day, and included social media. He wanted to know what each Labor group’s preliminary thoughts were on the questions raised in the colleague’s memorandum. The discussions were challenging but essential because he believed in the services and knowledge City Staff provided the community and that employees understood the difficult financial realities faced by the City. He was pleased with the tenor and tone of the conversation so far and hoped it could be sustained throughout the remaining sessions.

Ms. Shen pointed out that the static that 50 percent of the employees in five years would be eligible to retire was simply a statement of eligibility. She did not expect 50 percent of the employees to actually retire. Much depended on the status of the economy and the employee’s alternatives. Even if half of the eligible employees retired it would be difficult for the City if there was not a plan in place.

Council Member Holman asked about the tenure of employees and if the City was not attracting younger employees. She asked if there were
departments with higher turnover and how the age of the City’s workforce compared to other Bay Area communities. She also asked of the cost of living in Palo Alto and housing in particular was a barrier to younger employees. She understood that some larger cities were not in CalPERS and were self-funded and wondered if Palo Alto could remove itself from CalPERS.

Ms. Shen said they would look at employee tenure and provide the information. The City did not have a retention issue. The turnover rate was between one and two percent depending on the employee group. Staff was also compiling a report that compared the City to neighboring communities.

Council Member Klein said the larger cities had not opted out of CalPERS, they had always had their own systems. With few exceptions they had been less successful than CalPERS. He said San Diego’s system was scandal ridden and he did not see the larger cities as a better model than CalPERS. Every pension system struggled with increased costs and stagnant income.

Mayor Yeh asked Staff for final comments.

Ms. Shen pointed out that Council was provided binders because Staff intended to provide additional supplemental information. She asked that any requests for specific references be directed to her attention.

Mr. Keene said Staff was returning in November with the pension and December with healthcare and he wanted to set the expectations. Staff understood the framework of the colleague’s memorandum and its questions. They also had to consider Council’s suggestions over the coming three weeks. Palo Alto was considered a leader in the State with what it had done and its knowledge of the situation. Staff’s inability to answer questions was a matter of the capacity to do research. He needed Council to know that Staff was working on the information but could not provide everything by the November meeting. However, he said Staff could ensure the community had a better understanding of what the City could or could not do and what was necessary to pursue other options.

NO ACTION REQUIRED

10. Interim Urgency Ordinance 5167 to Place Temporary Moratorium on use of "Exempt Floor Area Ratio" Parking Exemption Contained in Section 18.52.060(c) of the Zoning Ordinance in the Downtown and California Avenue Assessment Districts.
Curtis Williams, Planning and Community Environment Director recommended City Council adopt an interim urgency ordinance that established a moratorium on the use of an exempt floor area provision in the zoning code related to parking exemptions. The Council previously considered on multiple occasions issues surrounding downtown parking and directed Staff to look at measures that evaluated parking supply, parking demand, Zoning Ordinance provisions, and Downtown Development Cap Study. The exemption provision, Section 18.52.060(c), of the zoning ordinance had the potential to further exacerbate downtown parking problems if it continued to be applied to projects. Section 18.52.060(c) allowed exemption from parking for any property within the downtown or California Avenue districts that had up to a 1.0 Floor Area Ratio (FAR). The language was adopted in the 1980’s when the Downtown Plan was adopted and shortly after the assessment district was in place. Staff believed it was done to encourage downtown development. Staff suggested the moratorium because the provision outlasted the economic circumstances of downtown development and existing and potential parking deficiencies continued to occur. Staff intended to study the issues and return to Council. He explained the measure was an interim urgency ordinance. State law allowed a Council to adopt such an ordinance without the review of the Planning and Transportation Commission (P&TC) and full public hearing notice, but only if there was a four fifths vote, or 8 of the 9 Council Members approval. It also required Staff to return to Council within 45 days with details on a comprehensive parking ordinance. Mr. Rodriguez and Staff planned to provide that report by November 5, 2012. With respect to the pending projects in the development review process, the ordinance did not provide for specific exceptions. It was the Council’s option to include exemptions. In the past the Council generally exempted projects in process from Ordinance changes. The only exception he remembered was the Green Building Ordinance, which only exempted projects currently in the building permit process. There were two projects currently in the review process that utilized the 1.0 FAR exemption. The first was 135 Hamilton Avenue, which had been in process for over a year and went to the Architectural Review Board (ARB) six weeks prior. The Applicant was currently reviewing design changes and would return to the ARB. He noted that the site had a project approved but not built in 2009 for a one story building that utilized the 1.0 FAR parking exemption. The second project was 636 Waverley Street, which was submitted in September 2012 and was scheduled to go to the ARB in November for the architectural review application. Staff suggested that if Council chose to exempt either or both of the projects that they contain a robust Transportation Demand Management (TDM) Program requirement that the assessment district funds be placed in the in lieu parking fund instead. He said that the Applicant for 135 Hamilton Avenue submitted a request that the application be amended to include review and
approval of the single story project that was submitted and approved in 2009 but had since expired. That did not qualify as an amendment, but the Council could consider it if it made a determination that there was a distinguishing characteristic from that project as opposed to new applications.

Molly Stump, City Attorney added that many people asked if there was an expectation or right of downtown property owners to continue with the current zoning rules in place. Legally the answer was clearly no. She said the Council could choose to allow projects to continue utilizing the rule and to change it in the future, but legally it was clear. Property owners acquired a vested legal right to continue on with the status quo rules only once a final building permit had been issued and substantial work took place that relied on the building permit. Once a building permit was issue and work began, the vested right was limited by the building permit. Once a permit expired so did the legal right. She said it was important that the Council treat similarly situated individuals in a similar way. When distinctions were made they needed a rational basis for the different rule. That was a standard that required careful thinking and articulation.

Chop Keenan of Emerson Street said he was a long time parking zealot in Palo Alto. He was Chair of the Downtown Parking Committee in the 1990’s. They met monthly and discussed a variety of parking issues. He said parking equaled prosperity. 90 days ago he proposed a public/private collaboration on Lot P to build 190 additional spaces. He acknowledged that was separate from the evening’s conversation but stated he mentioned it to show his commitment for parking in Professorville. On 135 Hamilton Avenue in 2007 he has a 7,700 foot building approved on a 10,000 foot lot with a 1:1 FAR exemption. The ARB stated it was an important corner and wanted it built to the maximum FAR with residential units. Consequently he returned in December 2011 with a 20,000 square foot building that met the criteria with the 1:1 FAR exemption. There was over a half a million dollars invested in the project. In January 2012 they received a notice of incompletion, which was promptly answered and turned around. On August 29, 2012, the Mitigated Negative Declaration was published. The ARB meeting was held on September 30, 2012, and they were currently working on the ARB’s comments. He asked that the project be exempted from the moratorium.

Jim Baer said with the exception of the project at 135 Hamilton Avenue he fully supported the urgency Ordinance eliminating the 1:1 FAR exemption both downtown and on California Avenue. He stated he was involved in 75 projects between those two areas. The 135 Hamilton Avenue project needed an exemption because of process, fairness, and equity.
spaces which were relieved under the exemption represented less than one percent of the parking deficit identified in Mr. Alsman’s handout. The project was initially approved in 2007 by the ARB, with the ARB Chair demanding a larger project. Until 2007 he and Mr. Keenan were unaware of the 1:1 FAR exemption and were astonished it existed. The 1980’s zoning ordinance update included no lobbying by downtown owners. The 2007 approval would have lasted until the submittal of a building permit was required by January 2010. The new project was submitted in December 2011. Prior to that he met with Mr. Williams and Staff had had dialogue about 101 Lytton, which looked at the 1:1 FAR exemption. Planning Staff issued a notice of incompletion in January 2012 but nothing was included about parking or the 1:1 FAR exemption. 135 Hamilton Avenue was an actively pursued project that included rental units and used TDR as allowed and was fully parked other than the 1:1 FAR exemption.

David Kleiman spoke regarding 636 Waverley Street, which was a smaller project about 10,000 square feet in total. They were only weeks away from the first ARB hearing. He requested clarity as soon as possible on the parking issue. Passing the moratorium without granting an exception for his project was unfair because there was a reasonable expectation based on past history of Council’s action for already started projects. They spent substantial money and time readying the project. The parking was to code; the project did not ask for exceptions to any zoning. He felt it was unreasonable for the City to ask them to pay an in lieu fee or to purchase TDR’s when the existing code clearly exempted the project.

Ken Alsman was concerned about all the issues surrounding parking in downtown. He urged Council to accept Staff’s recommendation on the moratorium with no exceptions. He thought 135 Hamilton Avenue would generate at least 70 unparked cars upon completion. He completed an analysis of the 18 projects Palo Alto had approved, under consideration and construction but not occupied and estimated they would generate in excess of 700 additional unparked cars.

Richard Brand stated he was a member of the University South Neighborhood Group Board. Following the residential parking permit meeting in July he thought the process was broken, but there was a proposal and he applauded Staff’s efforts to correct the root problem. He thought the 1980’s ordinance was created to revitalize the downtown and it was extremely successful. He respected the developer’s points regarding their investments, but the City had worked on the downtown parking problem for over a year. He thought if there were exemptions granted they needed to have financial conditions that required parking near the
development. Parking needed to be located where the development occurred and not five blocks away.

Robert Moss urged the Council to adopt the urgency Ordinance recommended by Staff without any exceptions. He said when Staff returned to Council in 45 days the conditions for exemptions could be discussed at that time. He said people in Downtown North and Professorville had complained of spillover parking for many years. Most garages in downtown had been built in the last 15 years as a result of the parking impacts. If the proposal at 27 University Avenue was built, he thought it created a huge parking overflow. He recommended the Council adopt the urgency Ordinance and consider the exemptions carefully.

Council Member Schmid left the meeting at 10:21 P.M.

John R. Shenk, Thoits Family Board of Directors, stated that he wanted to make sure there was clarity around if this moratorium were to go forward that projects or properties that have paid into the assessment district are not somehow harmed. He believed 135 Hamilton Avenue and 636 Waverley Street should be looked at with a deferential eye and given an exemption.

Mr. Williams said the ordinance change did not affect any other provisions of the parking and downtown regulations. Projects that had paid into the assessment district were allowed to build to their assessments or rebuild to the level they existed at currently.

Council Member Klein said his questions were related to whether 135 Hamilton Avenue and 636 Waverley Street were subject to any amount of assessment. He heard different things from the Applicants than what was stated in the report. Page four of the report indicated that people who paid into the assessment district were able to obtain the benefit of the 1:1 exclusion, but there was a sentence which read, "there's also some ambiguity to whether applicants who have never paid into the assessment district can qualify for the exemption by paying into the district retroactively and if so how to calculate the payment." He asked if there was no moratorium and the projects moved forward under the exemption if they would have been required to make any payment. If so, he wanted to know how the payment was to have been calculated.

Mr. Williams said the concept of buying into the assessment district was confusing. The projects would have had to do so and that was a condition of the approval at 135 Hamilton Avenue in 2009. No method had been determined at that time, but Staff suggested one way to do it. He did not know if Staff spoke to Mr. Kleiman about it, but they had talked to Mr.
Keenan and Mr. Baer previously about the condition. It was also attached to the most recent conditions for approval for 135 Hamilton Avenue when it went to the ARB.

Council Member Klein said Mr. Kleiman stated he did not believe he should have to pay any amount. He asked if that was correct.

Mr. Kleiman said he raised the question during a meeting with Amy French and Mr. Williams. He was not sure there was a mechanism in the Municipal Code or by practice to allow a later assessment of a property like his that had not been assessed in the parking district. He was open for discussion, but the code stated that properties that had not been assessed were exempt. Based on that there was no rationale for an exempt property to pay into the district. He asked what the rationale was for a property to be assessed aside from the City’s standpoint of revenue.

Mr. Williams said Staff’s interpretation was that it only allowed a project to take advantage of the 1:1 if it was assessed.

Council Member Klein recalled that in 1987 there was a different system for assessments on the parking district. There were no bonds at that time. Staff recalculated annually on the basis of who was in business.

Mr. Williams agreed. There was a mechanism at the time it was adopted for changing the assessments annually.

Council Member Klein said the bonds came later. He asked how much that would be compared to what was charged at the Lytton/Alma project.

Mr. Williams said the calculation under the assessment district was much less. For 136 Hamilton Avenue depending on the methodology used $150,000 to $350,000. That was six spaces under the in lieu fee. If the in lieu fee was applied for all 40 spaces it was $2.5 million.

Council Member Klein said he needed to think about that.

Vice Mayor Scharff thought the ordinance needed to be passed, but he had questions related to the potential exemptions. He did not believe the projects should be completely grandfathered in, especially the one story building. He thought they should apply the TDM to the four story building and that some parking was necessary. He agreed that parking equaled prosperity.
MOTION: Vice Mayor Scharff moved, seconded by Council Member Shepherd to adopt the Interim Urgency Ordinance establishing a moratorium on the use of the Exempt Floor Area parking exemption set forth in Section 18.52.06 (c) of the Palo Alto Municipal Code in connection with any permit, entitlement or development project, pending further study of Downtown and California Avenue parking issues. Return to Council within 45 days regarding the potential exemptions.

Vice Mayor Scharff believed the City owed Professorville, Downtown North, and other areas a commitment to resolve the parking issues and solve the problem. The difficult parking issues that required serious thought related to the exemptions.

Council Member Shepherd was conflicted about the projects in process. She was prepared to go forward with the urgency ordinance but not with the exemption. The TDR exemption was easy; it was the 40 parking exempted at 135 Hamilton Avenue that concerned her.

Council Member Espinosa noted that if the item returned in 60 days he would probably no longer be on the Council. He believed in fairness and equity and thought the Council often forgot the time and money spent on moving projects through the City’s system. The Council avoided changing rules during the process in the past for good reasons. He believed it was inappropriate for the Council to change the rules related to projects in process.

Council Member Holman was unclear about the 60 days mentioned in the Motion because the ordinance lasted for 45 days.

Vice Mayor Scharff said they were not exempted until they returned to Council for discussion.

Ms. Stump said the urgency ordinance provided that the use of the 1:1 was under a moratorium effective on the Council’s vote that evening. That applied to all projects, including the projects in process unless the Council specifically exemption them. The Motion as stated applied to all projects and considered an exemption in 60 days.

Vice Mayor Scharff agreed to 45 days if Staff believed that to be appropriate. He had wanted to give Staff time and had not been sure 45 days was enough.

Mr. Williams believes they were required by State law to have a public hearing in 45 days.
Council Member Holman said the projects were included according to Staff so her only concern was the 45 days.

Vice Mayor Scharff called a point of order that the Motion was seconded by Council Member Shepherd.

Council Member Price supported the Motion and concurred with Council Member Espinosa regarding the issues of fairness and the process laid out.

Council Member Klein confirmed that the two in process projects could not move forward for 45 days.

Mr. Williams said it was not unusual to have a preliminary design review without all of the compliance details worked out.

Council Member Klein asked if the 45 days would delay the final approval of the projects.

Mr. Williams thought it would delay them, but indicated the projects could move forward in the interim at their own risk in terms of ARB review. He said that either project could solve the issue by paying in lieu fees, but was not sure that either developer was interested in moving forward until the parking issue was resolved.

Council Member Klein stated he reluctantly supported the ordinance because he wanted to exempt the projects in process. He also agreed with Council Member Espinosa’s comments because the Council’s job was to be fair and equitable. He generally supported the Motion because the City needed a definition of “in process” for future ordinance changes. Secondly Staff had to return to Council with a recommendation of what the projects in process needed to pay. He believed that the Council made it clear in 1987 that they should pay some amount, and urged Staff to use a formula other than the bond formula, which did not exist in 1987.

James Keene, City Manager said Staff would review that, but indicated the opposite could be argued. In 1987 the thinking was to redress the situation as it was then and currently they attempted to redress the current situation which was more complex.

Council Member Klein was open to suggestions, but stated the bonds did not make sense because it was a static amount. 2012 Inflation or property values needed to be taken into consideration.
Mr. Keene said that was why Staff needed the 45 days.

Vice Mayor Scharff agreed with Council Members Burt and Espinosa that it was necessary to treat people fairly, but the question was how much of an in lieu fee the projects in process needed to pay and how to calculate that figure. He did not believe the projects needed to be delayed through the process.

Council Member Burt asked if Staff needed the full 45 days.

Mr. Williams said yes.

Council Member Shepherd was opposed to moratoriums because they ended up with bad projects. She cited Alma Plaza as an example. However, she noticed that there was a consideration that there was an exemption from any in lieu or parking assessment for the buildings.

Mr. Williams thought there was an understanding that a fee was to be paid to the assessment district. An in lieu parking fee was a separate thing in the process. Staff suggested that it was more purposeful to provide money to the in lieu fund. The question was how much was reasonable and under what standards. Staff planned to return with a recommendation.

Council Member Shepherd confirmed they were not looking at a complete redesign on the projects.

Council Member Holman said the possibility of providing additional onsite parking had not been discussed. She suggested they look at that as well.

Mayor Yeh supported the Motion because Staff needed additional time for analysis and discussion with the project applicants. He was unclear about the projects in process eligibility for the 1:1 and wanted clarity.

Council Member Burt requested TDM be included in the Motion.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that the staff report in 45 days will contain a proposal for the exemptions to include the preparation of a robust Transportation Demand Management (TDM) program for the projects.

Mr. Keene said the way the Motion was crafted allowed Staff to return within 45 days with more information. Because Council Member Schmid was no longer in the meeting, the Council needed a unanimous vote to pass the Motion.
MOTION PASSED: 8-0 Schmid absent

COUNCIL MEMBER QUESTIONS, COMMENTS AND ANNOUNCEMENTS

Council Member Price reported on attending a fundraiser for Outlet, which is a member of Project Safety Net. The Mental Health Board held a meeting regarding Veterans services. She also attended a crisis intervention training program conducted at Stanford University.

Council Member Holman asked about a letter from a citizen regarding a construction project. She asked Staff to provide information to Council regarding the letter.

Council Member Shepherd reminded everyone that the League of California Cities is recruiting for several of their policy setting committees.

Mayor Yeh noted that three members of the public had commented on Elizabeth Seton School item and asked when it would come back to Council.

Curtis Williams, Director of Planning & Community Environment stated that that item will be on Council’s agenda on November 5, 2012.

Mayor Yeh asked if it was standard timing to come before Council.

Mr. Williams answered yes and stated that Council could set a Public Hearing for a later date.

Mayor Yeh asked about the DAS process and an individual appeal process.

Mr. Williams stated that was also coming to Council on November 5, 2012 and would be the same process as the Elizabeth Seton School item.

Mayor Yeh appointed Council Member Burt to the new Caltrain Policy Maker Committee. Each January the new Mayor will appoint to this committee. He thanked the Council and public for their participation in Bike Palo Alto.

Adjournment: The meeting was adjourned at 11:03 P.M.
Summary Title: Parking Exemptions Code Ordinances

Title: Parking Exemptions Code Review: Review and Recommendation to City Council to Adopt: 1. Ordinance to Repeal Ordinance 5167 and Amend the Palo Alto Municipal Code to Delete Sections 18.52.060(a)(2) and 18.52.060(c) Related to Parking Assessment Districts to Eliminate the “Exempt Floor Area” Parking Exemption Which Allows for Floor Area up to a Floor Area Ratio (FAR) of 1.0 to 1.0 to be Exempt From Parking Requirements Within the Downtown Parking Assessment Area and Floor Area up to an FAR of 0.5 to 1.0 to be Exempt Within the California Avenue Area Parking Assessment District. 2. Interim Ordinance to Amend Chapters 18.18, Downtown Commercial (CD) District, and 18.52, (Parking and Loading Requirements) to Make the Following Changes to be Effective for a Period of Two Years: a. Delete Sections 18.18.070(a)(1), 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to Eliminate the 200 Square Foot Minor Floor Area Bonus and Related Parking Exemption for Buildings not Eligible for Historic or Seismic Bonus. b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to Eliminate the Parking Exemption for On-site Use of Historic and Seismic Bonus. c. Amend Section 18.18.080(g) to Remove the On-site Parking Exemption for Historic and Seismic Transfer of Development Rights up to 5,000 Square Feet of Floor Area to a Receiver Site in the CD or PC Zoning Districts. d. Amend Section 18.18.120(a)(2) and (b)(2) Related to Grandfathered Uses and Facilities to Clarify that a Grandfathered Use May be Remodeled and Improved, But May Not be Replaced and Maintain its Grandfathered Status. e. Amend Section 18.52.070(a)(3) Related to Remove the Sentence Allowing Square Footage to Qualify for Exemption That Was Developed or Used Previously for Nonresidential Purposes but was Vacant at the time of the Engineer's Report. These actions are exempt from the California Environmental Quality Act (CEQA) under Section 15061 and 15301 of the CEQA Guidelines.

From: City Manager
Recommendation

Staff and the Planning and Transportation Commission (PTC) recommend that Council adopt:

1. An Ordinance to amend the Palo Alto Municipal Code (PAMC) to permanently delete Sections 18.52.060(a)(2) and 18.52.060(c) related to Parking Assessment Districts to eliminate the “Exempt Floor Area” parking exemption which allows floor area up to a floor area ratio (FAR) of 1.0 to 1.0 to be exempt from parking requirements within the Downtown Parking Assessment Area, and floor area up to an FAR of 0.5 to 1.0 to be exempt within the California Avenue area parking assessment district (Attachment A); and

2. An Interim Ordinance (Attachment B) to amend PAMC Chapters 18.18, Downtown Commercial (CD) District, and 18.52 (Parking and Loading Requirements), to make the following changes, to be effective for a period of two years:

   a. Delete Sections 18.18.070(a)(1), 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to eliminate the 200 square foot Minor Floor Area Bonus and related parking exemption for buildings not eligible for Historic or Seismic Bonus.

   b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to eliminate the parking exemption for on-site use of Historic and Seismic Bonus.

   c. Amend Section 18.18.080(g) to remove the on-site parking exemption for floor area bonuses derived through historic and seismic upgrades via the transfer of development rights (TDR) program (where up to 5,000 square feet (SF) of floor area for each type of upgrade is allowed for receiver sites in the CD or downtown PC zoning districts).

   d. Amend Sections 18.18.120(a)(2) and (b)(2) related to Grandfathered Uses and Facilities to clarify that a grandfathered use/facility may be remodeled and improved while maintaining ‘grandfather’ status, but that the floor area may not be demolished and replaced onsite while maintaining such ‘grandfathered’ status.

   e. Amend Section 18.52.070(a)(3) to disallow the parking exemption for floor area developed or used previously for non-residential purposes and vacant at the time of the engineer’s report during the parking district assessment.

Executive Summary

The Palo Alto Municipal Code (PAMC) Chapter 18.80 sets forth the process for amendments to the City’s zoning regulations. The attached ordinances would amend the City’s zoning regulations related to exemptions from provision of parking spaces for the development of new floor area. The ordinances are recommended unanimously by the PTC and staff and would
become effective 31 days following Council adoption. The City Council is requested to consider and adopt the first ordinance (Attachment A) before mid-November, as it amends Chapter 18.52 to address “Exempt Floor Area parking exemption” in both the Downtown and California Avenue Parking Assessment Districts. Adoption by mid-November would allow this ordinance to become effective before the end of the current moratorium on Exempt Floor Area Parking Exemptions, December 28, 2013. The Interim Ordinance (Attachment B) addresses parking exemptions related to floor area bonuses, and is proposed to expire in two years (sunset) from the date of Council action unless the ordinance is replaced by a permanent code change or otherwise modified.

Pursuant to Section 18.80.090, the attached Ordinances include findings as to why the public interest or general welfare requires these amendments. The findings cited to support the urgent need for limiting parking exemptions in the Downtown Assessment District include the increase in development within the past five years, including eight projects approved between 2008 and 2012 which included seismic, historic and minor floor area bonuses totaling 28,676 square feet with parking exemptions granted equivalent to 115 parking spaces. In addition, as of October 1, 2013, there are three additional projects pending in the downtown totaling approximately 77,788 square feet and requesting exemptions equivalent to 100 parking spaces. Also, there have been no new parking structures added to the City’s inventory since 2003 and there has been a drop in the downtown commercial vacancy rate from a high of 6.39 per cent in 2008-2009 to a 1.6 per cent rate in the 2011-2012 reporting period. The Downtown Parking Survey conducted in Spring of 2013 shows that within the downtown core area, the on-street parking occupancy between 12:00 noon and 2:00 p.m. reached 87.9 per cent overall, and parking in hourly public lots and garages was at 87.2 per cent occupancy, while permit parking was at 65.9 per cent occupancy. The parking surveys also show that compared to previous years, on-street parking use has increased in the Downtown North, Professorville and South of Forest Avenue neighborhoods.

**Background**

**Planning and Transportation Commission Review**

On September 25, 2013, the Planning and Transportation Commission (PTC) reviewed and recommended, by a 5-0-2 vote (Commissioners Tanaka and Martinez absent), the two attached ordinances relating to parking exemptions in the zoning code. The PTC Report and meeting minutes are provided as Attachments F and G. The Commissioners noted that the ordinances are a step in the right direction. They discussed how charging higher in-lieu fees for not providing required parking on a site could incentivize providing parking on site, and how an update to the parking ratio and further progress in transportation demand management, such as looking at incentives for other modes of transportation to bring fewer cars downtown and using a business registry to obtain mode data from businesses, are needed. The PTC wanted to ensure there are clear guidelines for what constitutes “remodel”, given that the interim ordinance was written to disallow only replacement of grandfathered facilities. Commissioners
also noted that the parking exemptions were put in place as incentives based on conditions at that time; however, based on current conditions they are no longer needed. The Commissioners would like to see the long term planning efforts, such as the update of the Comprehensive Plan and the California Avenue Concept Plan move forward to provide guidance on development and parking issues.

There were four public speakers, including three residents of Professorville or Downtown North and one property owner with a planning application pending review by the Architectural Review Board (scheduled October 17, 2013). The residents noted concern with destruction of neighborhoods and the applicability of the California Environmental Quality Act (CEQA) and that the intrusion of parking into the neighborhoods has increased over the years. Two of these speakers asked that the City stop approvals of all permits via a moratorium. The property owner (of 636 Waverley) noted that his project would be directly affected by a moratorium. He also noted that his project included a 200 sf bonus floor area. Staff looked into this and can confirm that the bonus floor area is requested for additional residential area above the 1:1 allowable residential floor area. However, it is not associated with exemption for parking since residential parking is determined by the number of bedrooms; i.e. two or more bedrooms require the provision of two covered parking spaces on site, not total floor area.

**Council Direction**

On July 16, 2012, the City Council considered the status of ongoing parking efforts for the Downtown and directed staff to look at a variety of approaches to address the concerns of businesses and neighbors. Council requested an evaluation of existing zoning regulations, and an assessment of realistic parking ratios and the desirability and viability of parking exemptions. Following that meeting, staff identified one particular parking exemption, applicable to the Downtown and California Avenue assessment districts likely to exacerbate the parking problems without providing a public purpose. This provision had allowed exemptions from parking requirements for any property within the two parking assessment districts; specifically, up to a 1:1 floor area ratio (FAR) in the Downtown Assessment District and up to a 0.5:1 ratio in the California Avenue Assessment District.

On October 15, 2012, the City Council adopted an Interim Urgency Ordinance that established a 45-day moratorium on the use of this “Exempt Floor Area” parking exemption pending further study of Downtown and California Avenue parking issues (refer to Attachment C, CMR Report and Minutes Excerpt dated October 15, 2012). On December 10, 2012, the City Council adopted another Interim Urgency Ordinance to extend this moratorium for a period of one year through December 28, 2013 (refer to Attachment D, CMR Report and Minutes Excerpt dated December 15, 2012).

On March 18, 2013, the Council gave additional direction on several items related to parking
policy. This included directing staff to review and provide recommendations on Municipal Code parking exemptions and the City's Transfer of Development Rights (TDR) program. Since that time, staff has examined the Municipal Code, and is recommending the subject changes. It is important to note that this is the first step. Staff will most likely have additional recommendations in the coming year. While the staff recommended interim suspension of the subject parking exemptions is narrowly focused in the Downtown area, future recommendations may be citywide and/or more comprehensive in nature. Furthermore, the subject “interim” changes may or may not be recommended for permanent inclusions after additional analysis is conducted during the two-year, interim stage.

**Description of Proposed Ordinances**

There are two types of ordinances under review. The first is a standard ordinance revision permanently eliminating the Chapter 18.52 definition and rules for “Exempt Floor Area” within the boundaries of the City’s two assessment districts. The ordinance would permanently eliminate the use of this parking exemption for floor area of a building “at or nearest grade”. This would affect the Downtown and California Avenue Parking Assessment Districts.

The second ordinance focuses on several parking exemptions that only affect downtown properties zoned Commercial Downtown (CD), whether inside or outside the assessment district. This is an interim ordinance which would be in effect for a trial 2-year period.

**Ordinance to Eliminate the Exempt Floor Area Parking Exemptions:** The first ordinance would make permanent the elimination of the “Exempt Floor Area” parking exemptions related to the Downtown and California Avenue Parking Assessment Districts. There is currently a one year moratorium on the use of this exemption that expires on December 28, 2013. In the Downtown Assessment District Area, this zoning code section allows floor area equal to the lot size to be “un-parked”. For example, on a 10,000 sq. ft. property, the first 10,000 sq. ft. of building would have to provide zero parking spaces. This provision was originally included in the zoning code in the 1980s to encourage downtown development by providing a benefit to offset the parking assessments enacted at that time. This was also done at the same time when properties were downzoned within the downtown area. This strategy was successful in its time, but the downtown area is now thriving and the exemption is no longer needed to encourage development.

In the California Avenue Assessment District Area, this code section allows floor area equal to half the lot size to be un-parked. For example, on a 10,000 square foot lot in the California Avenue area, the first 5,000 sq. ft. of building would have to provide zero parking. Given that there is no longer a need to incentivize development in the Downtown and California Avenue areas and parking shortages are prevalent, the permanent elimination of this unnecessary parking exemption is recommended.
**Interim Ordinance to Eliminate other Parking Exemptions within the Downtown Area:** Since the Council direction given in March, staff identified four (4) key areas where additional code changes could be made to eliminate future use of parking exemptions for properties in the Downtown area zoned CD. The second ordinance would be an interim ordinance for a period of two years to eliminate the following four code provisions related to floor area and parking only within the CD zone district.

1. **Parking Exemptions Associated with the Transfer of Development Rights (TDR) Program:** The TDR program encourages seismic and historic rehabilitation of buildings within the CD district by allowing for the transfer of certain development rights to eligible CD-zoned sites that are not historic properties. These provisions include both transfer of bonus floor area to another site and provisions for exempting some of the bonus floor area from parking requirements. The program has been successful and has resulted in seismic and historic restoration of many older buildings in the Downtown area. However, staff believes an incentive can still be provided through bonus FAR area, without increasing nearby parking issues. The Interim Ordinance, therefore, would prohibit the creation of new bonuses as they relate to parking. Specifically, 5,000 SF of transferred bonus floor area to a site would no longer be exempt from on-site parking requirements. This exemption has been applied to floor area transferred to a receiver site within a CD or PC district from another CD-zoned site or even from an RT zoned site within the SOFA district. TDRs that have already been approved and earned under existing zoning code provisions before the effective date of this ordinance would still be allowed to be utilized. Likewise, “receiver” properties could still utilize TDRs for parking exemptions that were transferred after the effective date of the ordinance provided they came from qualifying “sender” sites that had earned the TDRs before the effective date of the ordinance. Eliminating the use of already approved and earned TDRs would likely be subject to judicial challenge under a “taking” or “vested rights” legal theory. Staff is expecting to address the provision of parking related to already earned TDRs during future recommendations.

2. **Minor Exemptions for Buildings Not Eligible for Historic or Seismic Bonus:** The CD zone district regulations also contain an exemption that allows a one-time 200 square foot floor area bonus increase for any building that does not qualify for the seismic or historic bonuses. This increase, which has been used to increase floor area in both new buildings and existing buildings, does not count towards the site’s gross floor area (GFA) and floor area ratio (FAR), and is exempt from on-site parking requirements. Although it is minor, any CD zoned property not eligible for the other bonuses may request it and the impacts have been and will continue to be cumulative. The Interim Ordinance proposes to eliminate this 200 square foot minor floor area bonus.
3. **Grandfathered Uses and Facilities:** The CD Zone District contains provisions for “grandfathered uses and facilities” that allow continuation of uses and rebuilding of facilities that were in place prior to August 28, 1986 but which are no longer conforming to the standards of the district. One of the provisions allows that the grandfathered uses/facilities are permitted to remodel, improve or replace site improvements on the same site as long as it is within the same footprint and does not result in an increase in floor area, height, building envelope or building footprint. Because the existing code language allows replacement of a grandfathered facility’s “site improvements”, this provision has been used when completely rebuilding a structure to allow the same amount of floor area without providing parking for the replacement floor area that is considered “grandfathered”. Any additional square feet beyond that grandfathered must be served by on site parking. The Interim Ordinance proposes to clarify that one may remodel or improve the grandfathered floor area and keep the parking exemption, but the floor area may not be demolished and rebuilt into a replacement structure. Staff believes that this exemption will not be proposed for permanent elimination in entirety after the interim ordinance as it could “lock” property owners into older buildings that do not function well for modern businesses. However, during this interim period, staff would like to quantify the impact of building modernization, particularly in terms of parking, so that suitable impact fees, conditions and/or municipal code provisions can be incorporated.

4. **Unoccupied/Vacant Floor Area Exemption:** This portion of the interim ordinance would eliminate, with respect to properties within the CD assessment district, a sentence in Section 18.52.070(a)(3) allowing exemption for existing floor area developed or used previously for nonresidential purposes but unoccupied at the time of the engineer’s report for the parking district assessment. In other words, as currently written, the Municipal Code allows for floor area that was unoccupied at the time the Downtown Assessment District was created, and therefore not assessed, to be “grandfathered” for rebuilding purposes. These properties are not responsible for providing or paying for additional parking when a building is razed and rebuilt, even though payments were not made to the assessment district for the previously unoccupied square footage. The interim ordinance will eliminate this existing inequity in the Code.

**Discussion**

**TDR Categories**

In 1986, the City enacted its TDR program designed to encourage private property owners to upgrade seismically unsafe buildings and to encourage preservation of known historic buildings in the downtown area zoned CD. Lacking the financial resources to provide monetary incentives for safety upgrades and historic preservation, the City instead adopted development regulations that would provide property owners in the downtown area incentive to upgrade and preserve their properties through a bonus program. In 2002, the TDR program was expanded to the
SOFA 2 area.

According to City records, the downtown has approximately 78 buildings that are eligible for a seismic or historic bonus under the TDR program. These buildings fall into three general categories: (1) properties which have applied for and received TDRs under the City’s ordinance; (2) properties which have been seismically or historically upgraded, but which have not applied for or received TDRs and (3) properties which may be eligible for TDRs, but which have chosen not to upgrade.

Table 3 summarizes the potential TDR bonuses and parking exemptions of the 78 eligible historic and seismic buildings previously identified by the City. (Note that some of the City’s records are incomplete and therefore this table is subject to further refinement.)

<table>
<thead>
<tr>
<th>Origination Type</th>
<th>Floor Area</th>
<th>Parking Exemptions</th>
<th>Number of Properties</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Properties with Documented Bonuses &amp; TDRs</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Downtown</td>
<td>123,783</td>
<td>471</td>
<td>32</td>
</tr>
<tr>
<td>SOFA</td>
<td>7,813</td>
<td>31</td>
<td>3</td>
</tr>
<tr>
<td>City Owned</td>
<td>7,500</td>
<td>30</td>
<td>3</td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td>139,095</td>
<td>532</td>
<td>38</td>
</tr>
<tr>
<td><strong>Property Upgraded, No Claim</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Downtown</td>
<td>29,307</td>
<td>117</td>
<td>11</td>
</tr>
<tr>
<td>SOFA</td>
<td>7,500</td>
<td>30</td>
<td>3</td>
</tr>
<tr>
<td>City Owned</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td>36,807</td>
<td>147</td>
<td>14</td>
</tr>
<tr>
<td><strong>Eligible Properties but not Upgraded</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Downtown</td>
<td>65,976</td>
<td>264</td>
<td>25</td>
</tr>
<tr>
<td>SOFA</td>
<td>2,500</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>City Owned</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td>68,476</td>
<td>274</td>
<td>26</td>
</tr>
<tr>
<td><strong>GRAND TOTAL</strong></td>
<td>244,378</td>
<td>998</td>
<td>78</td>
</tr>
</tbody>
</table>

Notes: P&TC Packet 60 of 129
1. City Owned properties include three properties outside of the Downtown area that could only be used in the Downtown area. Properties included: Children’s’ Library, College Terrace Library, and Sea Scout Building.

2. TDRs generated in the SOFA may be used on site or transferred into the downtown area. Assumption is that SOFA current remaining 5,000SF (20 parking) TDRs will be transferred into the downtown area.

Thus, if all TDR bonuses were in fact utilized, there would be a total of 244,378 additional square feet added to the downtown and a total of 953 exempt parking spaces.

While all properties in fact did not take advantage of the TDR program, the City's data collected to date shows that the TDR program was successful in incentivizing the private redevelopment and upgrade of historic and seismically unsafe buildings in the downtown. Table 4 summarizes the TDRs that were created, the TDRs that were transferred to a receiver site, the TDRs that were used on site and finally the TDRs that were created but which still remain. (Again note that some of the City’s records are incomplete and it is expected that these numbers will be further refined.)

Table 4: Documented TDR Bonuses Used in the Downtown Area by Origin, October, 2013

<table>
<thead>
<tr>
<th>Properties with Documented Bonuses &amp; TDR’s By Origination</th>
<th>Floor Area</th>
<th>Parking Exemptions</th>
<th>Number of Properties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Downtown</td>
<td>123,783</td>
<td>471</td>
<td>32</td>
</tr>
<tr>
<td>SOFA</td>
<td>7,813</td>
<td>31</td>
<td>3</td>
</tr>
<tr>
<td>City Owned</td>
<td>7,500</td>
<td>30</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>139,095</td>
<td>532</td>
<td>38</td>
</tr>
</tbody>
</table>

TDR’s Transferred

| Downtown                                                 | 57,926     | 212                | 14                   |
| SOFA                                                     | 2,000      | 8                  | 1                    |
| City Owned                                               | 2,500      | 10                 | 1                    |
| Total                                                    | 62,426     | 230*               | 16                   |

TDR’s Used On Site

| Downtown                                                 | 47,586     | 219                | 20                   |
| SOFA                                                     | 2,000      | 8                  | 1                    |
| City Owned                                               | 0          | 0                  | 0                    |
| Total                                                    | 58,022     | 229*               | 21                   |
### TDR’s Remaining

<table>
<thead>
<tr>
<th></th>
<th>Downtown</th>
<th>SOFA</th>
<th>City Owned</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>10,334</td>
<td>3,313</td>
<td>5,000</td>
<td>18,647</td>
</tr>
<tr>
<td>FAR</td>
<td>40</td>
<td>13</td>
<td>20</td>
<td>73</td>
</tr>
<tr>
<td>Exemptions</td>
<td>7</td>
<td>2</td>
<td>2</td>
<td>11</td>
</tr>
</tbody>
</table>

*Some FAR transferred was not eligible for parking exemption.

Thus, according to the City’s records there are currently 18,647 square feet of TDRs that have not been used and 73 available parking space exemptions.

### Approved and Pending Projects

The Council has fairly broad discretion to decide how new regulations should be applied to projects that have begun planning review but not received final planning entitlements. (These pending projects are generally referred to as “pipeline” projects.) However, under State law, projects that have obtained their entitlements and building permits and have begun work in reliance on the building permit are largely exempt from new zoning provisions. (This is sometimes referred to as the “vested rights doctrine.”) A key issue raised when the moratorium on use of the “exempt floor area” parking was adopted in 2012 was the applicability of the ordinance to projects that were in process (on file, pending decisions by the Director, Council or building permit issuance). At that time, Council elected to exempt projects that had received building permits, and those who had received Planning Permit approval. Planning projects that had been submitted, but not yet approved, were subject to the moratorium. While Council is required to exempt projects receiving building permits, it is a policy call whether to exempt projects that are in earlier phases of entitlement review. As noted in the table below, there are a number of projects that have received recent planning approval or are currently under planning review.
### Table 5 – Summary of Approved Planning Entitlements with Parking Exemptions

<table>
<thead>
<tr>
<th>Address</th>
<th>Description</th>
<th>Subject Parking Exemptions Applied (# of spaces)</th>
<th>Planning Entitlement Status</th>
<th>Building Permit Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>135 Hamilton</td>
<td>A four-story, 28,085 square foot mixed-use building (19,998 square feet commercial and two residential units) and below grade parking on a vacant lot. Zone: CD-C(P) (exemption using 5000 SF TDR and 200 SF exemption)</td>
<td>TDR 20 Bonus 1 Total 21</td>
<td>Approval Effective 2/7/13</td>
<td>Building Permit under review. It is expected that this permit will be issued prior to ordinance adoption.</td>
</tr>
<tr>
<td>611 Cowper</td>
<td>A 34,703 square foot four-story mixed use building (three floors commercial and one floor residential) with below grade parking, replacing two buildings totalling 7,191 SF commercial floor area and 1,270 SF residential floor area. Zone: CD-C(P) (Exemption using grandfathered spaces, 10,000 SF TDR exemption and 400 SF exemptions for two parcels)</td>
<td>Grandfather: 11 TDR 40 Bonus 2 Total 53</td>
<td>Approval Effective 8/16/13</td>
<td>No Building Permit Application submitted to date</td>
</tr>
</tbody>
</table>

### Table 6 – Summary of Pending Applications Requesting Subject Exemptions

<table>
<thead>
<tr>
<th>Address</th>
<th>Request</th>
<th>Subject Parking Exemptions Applied (# of spaces)</th>
<th>Planning Entitlement Status</th>
<th>Building Permit Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>240 Hamilton</td>
<td>A 15,000 square foot mixed use building, replacing an (approx.) 7,000 SF building (building plus mezzanine). Zone: CD-C(P) (Exemption using 4,327 SF TDR exemption, 200 SF bonus, and “grandfathered” floor area, including 2,000 that was not assessed)</td>
<td>Grandfather: 8 TDR 17 Bonus 1 Total 26</td>
<td>Approved 7/23/13 but Appealed to Council. Hearing to be scheduled.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>261 Hamilton</td>
<td>Application for relocation of basement SF in retail storage use to third story office atop an historic category III, “grandfathered” commercial building (over 3.0:1 FAR) having 38,926 SF (37,800 SF assessed for parking); 37,800 SF retail/office at end. Zone: CD-C(GF)(P). (requesting creation of 15,000 SF FAR TDR via rehabilitation).</td>
<td>No Subject Exemptions Applied – Bonus Floor Area to be used off site equal to 60 parking space exemption</td>
<td>Formal ARB submitted 6/18/13</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Address</td>
<td>Request</td>
<td>Subject Parking Exemptions Applied (# of spaces)</td>
<td>Planning Entitlement Status</td>
<td>Building Permit Status</td>
</tr>
<tr>
<td>-------------</td>
<td>--------------------------------------------------------------------------</td>
<td>--------------------------------------------------</td>
<td>------------------------------------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>429 University</td>
<td>22,750 SF building with below grade parking for 29 cars, replacing “grandfathered&quot; building. Zone: CD-C(GF)(P). (exemption using 5,000 SF TDR, 200 SF bonus and grandfathered building).</td>
<td>Grandfather: TBD¹ TDR 20 Bonus 1 Total TBD²</td>
<td>Prelim ARB submitted 9/12/13</td>
<td>Not applicable</td>
</tr>
<tr>
<td>261 Hamilton</td>
<td>Application for relocation of basement SF in retail storage use to third story office atop an historic category III, “grandfathered” commercial building (over 3.0:1 FAR) having 38,926 SF (37,800 SF assessed for parking); 37,800 SF retail/office at end. Zone: CD-C(GF)(P). (requesting creation of 15,000 SF FAR TDR via rehabilitation).</td>
<td>No Subject Exemptions Applied – Bonus Floor Area to be used off site equal to 60 parking space exemption</td>
<td>Formal ARB submitted 6/18/13</td>
<td>Not applicable</td>
</tr>
<tr>
<td>640 Waverley</td>
<td>ARB application for a new 10,463 SF mixed use building with 2 dwelling units and 5,185 SF commercial area (replacing 1,829 SF of “grandfathered” floor area) providing 17 spaces. Zone: CD-C(P). (exemptions grandfathered, mixed-use parking reduction and 200 SF bonus).</td>
<td>TBD³</td>
<td>Prelim ARB submitted 9/16/13</td>
<td>Not applicable</td>
</tr>
<tr>
<td>500 University</td>
<td>Three-story 26,806 SF commercial building replacing 15,899 SF previously assessed for 64 spaces not provided on site; includes 24 parking spaces below grade. Zone: CD-C(GF)(P). (Exemption using grandfathered building, TDR and 200 SF bonus).</td>
<td>TDR 20 Bonus 1 Total 21</td>
<td>Prelim ARB reviewed. No formal submittal.</td>
<td>Not applicable</td>
</tr>
<tr>
<td>301 High</td>
<td>Addition and remodel of existing building. Proposes 6,706 SF (including existing 6,255 SF plus bonus an ADA area). Zone: CD-N(P). (requests 200 SF bonus).</td>
<td>Bonus 1</td>
<td>Formal ARB Submitted 5/20/13</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

¹ TBD = To be determined; project was recently submitted and floor area and parking determination are still under review.
² Ibid.
³ Ibid.
In light of Council’s previous policy decision on this issue, staff makes the following recommendations for pipeline projects:

- 1:1 Exemption Elimination: Apply new ordinance to all pipeline projects that have not received final planning entitlement approval
- 200 Square Foot Bonus Exemption Elimination: Apply interim ordinance to all pipeline projects that have not received final planning entitlement approval
- On and Off site use of TDR Parking Exemption: Only apply to newly created TDRs. TDRs approved and created before effective date of interim ordinance eligible for on or off site parking exemption. TDRs created after effective date of ordinance would be eligible for square footage bonus, but not parking bonus.
- Grandfather Exemption Elimination: Apply interim ordinance to all pipeline projects that have not received final planning entitlement approval
- Vacant Building Exemption: Apply to all pipeline projects that have not received final planning entitlement approval

**Next Steps**

The Interim Ordinance is proposed to be in place for a period of two years, during which time staff will study the impacts on development of permanently removing these floor area bonuses and parking exemptions. Much of this will be done during the policy recommendation phases of the Downtown Development Cap Study. The following are some of the items that have been identified for further analysis and consideration: residential parking program, in-lieu parking provisions, adjustments to parking requirements, SOFA 2 parking exemptions (additional details below), and other, city-wide parking exemptions. Other adjustments to the Municipal Code may also be considered. Furthermore, historically made interpretations of the Municipal Code may be taken to the PTC for consideration and recommendation to Council.

**SOFA 2 Plan Area Policies and Programs:**

Within the SOFA 2 Plan Area are several sites within the Downtown Assessment District. The sites are located north of Forest Avenue, between Alma and Emerson Streets. The SOFA 2 Code allows for parking reductions and exemptions. Residential Transition (RT) zoned sites in the SOFA 2 area are allowed to participate in the City’s TDR program by transferring bonus floor area achieved via historic and seismic rehabilitations to CD zoned receiver sites. Bonuses can also be used within the SOFA 2 area. The same parking exemptions are currently available for bonus floor area generated in the SOFA 2 area. Following Council action on the proposed ordinances, the SOFA 2 regulations and policies related to incentives for bonus floor area may need to be reviewed in light of the proposed ordinances.
Policy Implications

The Transportation Element of the Palo Alto Comprehensive Plan contains a primary goal regarding parking to provide attractive, convenient public and private parking facilities. To implement this goal, Policy T-45 states: “Provide sufficient parking in the University Avenue/Downtown and California Avenue business district to address long-range needs.” The proposed changes to the zoning regulations to eliminate some of the exemptions to the existing parking requirements will improve parking availability in these areas and would be consistent with the goals and policies of the Transportation Element of the Comprehensive Plan. (Refer to Attachment E, Transportation Element Goals and Policies regarding Parking).

The Land Use and Natural and Urban Environment Elements contain the following policies and programs which encourage the use of incentives to preserve historic buildings and encourage seismic retrofits.

Land Use Element:

Policy L-56: To reinforce the scale and character of University Avenue/Downtown, promote the preservation of significant historic buildings.

Program L-59: Allow parking exceptions for historic buildings to encourage rehabilitation. Require design review findings that the historic integrity of the building exterior will be maintained.

Program L-60: Continue to use a TDR Ordinance to allow the transfer of development rights from designated buildings of historic significance in the Commercial Downtown (CD) zone to non-historic receiver sites in the CD zone. Planned Community (PC) zone properties in the Downtown also qualify for this program.

Program L-66: Revise existing zoning and permit regulations as needed to minimize constraints to adaptive reuse, particularly in retail areas.

Natural And Urban Environment Element:

Program N-70: Continue to provide incentives for seismic retrofits of structures in the University Avenue/Downtown area.

Staff believes the proposed changes remain consistent with the policies above, as historic rehabilitation incentives would still be provided through the provision of additional floor area associated with the TDR program. Furthermore, the proposed ordinance would still allow historic buildings to be renovated and restored to retain their “grandfathered” status.

Resource Impact

The zoning evaluation work would be done within the currently approved work program of the
Planning and Community Environment Department.

**Timeline**

The Ordinance establishing the moratorium on the use of Parking Exemptions within the Downtown and California Avenue Parking Assessment areas will expire on December 28, 2013. In order for these provisions to stay in effect the permanent ordinance will need to be adopted by the City Council 31 days prior to the expiration ((by November 27, 2013). City Council action on an Ordinance requires two actions, an introduction of the ordinance and a second reading.

**Environmental Review**

The proposed Ordinances eliminate certain exemptions to the parking regulations within the Downtown and California Avenue areas of the City of Palo Alto, which will result in projects that will comply with the remaining parking regulations established in the Palo Alto Municipal Code. Further, each individual project submitted under the revised regulations will be subject to its own environmental review. Consequently, these ordinances are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations since it can be seen with certainty that there is no possibility the adoption and implementation of this Ordinance may have a significant effect on the environment and Section 15301 in that these proposed ordinances will have a minor impact on existing facilities.

**Attachments:**

- Attachment A: Ordinance for Elimination of 1 to 1 Parking Exemption (PDF)
- Attachment B: Interim Ordinance to Eliminate Certain Parking Exemptions within the Downtown Area (PDF)
- Attachment C: CMR and Excerpt Minutes dated October 15, 2012 (PDF)
- Attachment D: CMR and Excerpt Minutes dated December 15, 2012 (PDF)
- Attachment E: Transportation Element Parking Goals & Policies (PDF)
- Attachment F: Excerpt Minutes of the September 25, 2013 Planning and Transportation Commission Meeting (DOCX)
- Attachment G: September 25, 2013 Planning and Transportation Commission Staff Report (PDF)
The City Council of the City of Palo Alto met on this date in the Council Conference Room at 5:34 P.M.

Present:  Berman, Burt, Holman, Klein, Kniss, Price arrived at 5:57 P.M., Scharff, Schmid, Shepherd

Absent:

STUDY SESSION

1. Potential List of Topics for the Study Session with Senator Jerry Hill.

PUBLIC COMMENTS

Stuart Carl noticed heavier commercial airline noise over his home. After the Asiana plane crash, the Federal Aviation Administration required overseas flights to lower routes into San Francisco, which seemed to result in the increased noise. The closest noise monitoring station was located in Menlo Park.

Senator Jerry Hill reported the Legislative Session was successful. The State should complete the fiscal year with a $2 billion to $4 billion surplus. Educational funding would equalize after the enactment of Proposition 30. The Governor wanted to make some changes to the California Environmental Quality Act (CEQA); however, the proposed legislation was not successful. Senate Bill (SB) 375 regarding transit development areas would affect three concerns: aesthetics, parking and traffic. Concerns about hydraulic fracturing, "fracking," resulted in legislation creating standards that required permitting, monitoring and disclosure of proprietary chemicals. Legislation would allow $500 million to be used as a manufacturing tax credit for businesses who wanted to locate or remain in California. Biotech and, Research and Development businesses would be eligible for a sales tax credit on manufacturing equipment. Tax credits were available for good paying jobs in economically depressed areas. Approximately $100 million would be available for the Governor's use to attract businesses to the State.
With respect to the release of state prisoners, legislation enacted a program to provide mental health and substance abuse services and job training to inmates. The pilot program saved approximately $500 million and reduced the recidivism rate to less than 20 percent. Implementation of the Affordable Care Act in California was proceeding better than the Federal implementation. The Silicon Valley legislative delegation would send a letter to the Governor and to the Insurance Exchange to request use of independent, e-based companies. The water bond was scheduled for the 2014 ballot. He did not support the bond in the Assembly. Two proposed bills would improve water quality, provide water storage, and improve flood control. The main issue was those who benefited from improvements would pay for the improvements. He authored a bill to lower the approval threshold for school parcel taxes. By collective agreement the bill and similar ones were tabled until early 2014 to develop a strategy for a comprehensive approach. He authored legislation to codify the agreement related to the blended two-track system and funding for electrification.

Council Member Kniss requested Senator Hill elaborate regarding the Delta and land use along that pathway.

Senator Hill indicated there were two issues: levee restoration and maintenance, as well as conveyance of water to Southern California. The effects of the Governor's proposal and the Delta Plan on the Delta and the ecosystem of the Bay were serious concerns. The main problem was insufficient funding.

Council Member Burt noted SB 4 regarding fracking did not require treatment of surface waters. He inquired whether Senator Hill anticipated additional regulations to require controls on emissions.

Senator Hill explained that fracking was ideally a closed system. The problem occurred when water and chemicals stored in wells leaked into the water supply.

Council Member Burt reviewed two recent Attorney General positions regarding High Speed Rail (HSR), and asked if the Legislature had discussed the positions.

Senator Hill had not heard any discussion with respect to the Attorney General's opinion. He understood that funding for HSR would have to be appropriated by the Legislature.

Council Member Schmid believed the homeless issue involved many different levels of government. In comparing homeless surveys of surrounding...
counties, he learned that Santa Clara County provided about half the number of shelters as San Mateo and San Francisco. He requested Senator Hill comment on coordination of efforts among all levels of government.

Senator Hill recalled efforts to develop housing and services for the homeless in San Mateo County. He was not aware of State or Federal funding that was available for homeless programs or services.

Council Member Klein inquired about general prospects for tax reform and possible actions when tax increases expired in 2018.

Senator Hill indicated the dependence on corporate and personal income taxes skewed the State's fiscal picture. The budget surplus resulted from growth in the Silicon Valley and an improved economic outlook. The answer was not increasing taxes, but broadening the tax base.

Council Member Berman requested Senator Hill support inclusion of local infrastructure projects when considering legislation to lower the percentage threshold for local projects. Given the state of infrastructure across the nation and state, any assistance would be appreciated.

Senator Hill believed infrastructure projects would be important. Approximately 25 percent of the electorate would vote no to any tax increase, which increased the difficulty of obtaining a super majority vote.

Council Member Holman noted two issues with respect to local control were housing mandates and density bonus law. If the intention was to provide more affordable housing, then the basis was questionable. The density bonus law required communities to concede open space. She inquired whether the Legislature was considering local control and consequences of State mandates.

Senator Hill reported the Governor was attempting to enact local control related to education and realignment. In his opinion, certain areas of the Legislature and the Governor’s Office were not sensitive to local issues. There had been efforts to create economic development opportunities for local governments.

Council Member Holman inquired about ways the Council could support Senator Hill in attempting to restore local control.

Senator Hill welcomed suggestions and ideas.
Vice Mayor Shepherd felt the lack of local control affected the Council's relationship with its constituents. She inquired about ways the Council could improve its advocacy of local control.

Senator Hill stated the impression was that the League of California Cities was antagonistic towards the State. That antagonism could give the impression that the time was ripe for legislative changes. They needed to continue the conversation regarding issues relevant to local government.

Vice Mayor Shepherd understood that businesses were required to act as agents in transitioning employees to the Affordable Care Act, and inquired about streamlining the process so that businesses did not have to take on the agent role.

Senator Hill, as a business owner, had not found a burden placed on businesses as a result of implementation of the Affordable Care Act.

Council Member Price asked about Senator Hill’s top priorities for the next Legislative Session.

Senator Hill reported his priorities were ensuring the safety of public utilities, developing the threshold change for voter approval and monitoring of water quality. In addition, he would follow up on legislation proposed in the 2013 session.

Council Member Price requested comments regarding sea level rise, particularly related to the Bay area.

Senator Hill noted the Environmental Quality Committee would review that topic in 2014.

Mayor Scharff requested Senator Hill be sensitive to local control issues. The community was concerned about the Association of Bay Area Governments (ABAG) mandates. There did not seem to be accountability for or legislative oversight of the California Department of Housing and Community Development (HCD).

Senator Hill would look into the problem and discuss how to effect change.

Mayor Scharff inquired about the Bay Area Rapid Transit (BART) strike.

Senator Hill indicated the number of unions created a problem for negotiations because of the politics of each union. Some solution needed to be found that protected labor’s interests without inconveniencing the public.
The City Council adjourned to the Closed Session at 6:34 P.M.

CLOSED SESSION

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS, CALIFORNIA GOVERNMENT CODE SECTION 54956.8

Properties:
Cubberley Community Center, 4000 Middlefield Road, Palo Alto 94306 (including 8 acres owned by the City of Palo Alto and remaining acres owned by the Palo Alto Unified School District); and Ventura School site, 3990 Ventura Court, Palo Alto 94306

Agency Negotiators:
James Keene, Pam Antil, Lalo Perez, Joe Saccio, Hamid Ghaemmaghami, Greg Betts, Rob De Geus, Thomas Fehrenbach, Aaron Aknin, Molly Stump

Negotiating Parties:
City of Palo Alto and Palo Alto Unified School District

Under Negotiation:
Lease and/or Purchase/Sale*
Price and Terms of Payment

*Purchase/sale is listed to comply with Brown Act legal requirements, and include various types of transactions including but not limited to easements, options, rights of first refusal and land exchanges.

The City Council adjourned to the Council Chambers at 8:00 P.M.

Mayor Scharff announced there was no reportable action.

SPECIAL ORDERS OF THE DAY


Patrick Klein indicated the Palo Alto Players was in its 83rd season.

Jeannie Smith introduced God of Carnage and invited the public to attend the show.
AGENDA CHANGES, ADDITIONS, AND DELETIONS
None

CITY MANAGER COMMENTS

James Keene, City Manager, announced that the United Nations Association Film Festival would continue through October 27, 2013. Roger Stoller's artwork, *Cloud Forest*, was installed October 11-12, 2013 at the new Mitchell Park Library. Caltrain celebrated its 150th Anniversary the prior weekend. Palo Alto was named the Number 1 Most Livable City on the Top 100 Best Places to Live by the website livability.com. Joe Teresi, Senior Engineer was named as the City of Millbrae's 2013 Man of the Year. Jessica Sullivan was employed as the City's Parking Manager.

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Vice Mayor Shepherd traveled with delegates from the Bay Area Council to the City's Smart City Partner in China. Speaking at a symposium, she explained the Smart City effect in Palo Alto. Chinese businesses and cities wished to emulate Silicon Valley. She visited the Chinese school that hosted Palo Alto students in 2013 and secured a relationship to continue the exchange program.

Council Member Price attended two Walk and Roll events which celebrated alternative transportation modes to schools. She spoke at the Ride to Recovery Program at the Veterans Administration Hospital. The Program acknowledged physical injuries and mental health impacts of military service. She acknowledged the Fire Department and partners for hosting a successful pancake breakfast. Funds raised at the breakfast would support Project Safety Net. The Teen Council was restructuring their work and goals to identify new concepts for events and activities.

Council Member Berman attended National Unity Day at Duveneck Elementary. Also at Duveneck Elementary, he chose raffle tickets for the Walk and Roll event.

Mayor Scharff traveled to Heidelberg and Enskede with City Manager Keene to sign Smart City partnerships. Universities in both cities were interested in learning about sustainability issues and start-up cultures.
ORAL COMMUNICATIONS

Stephanie Munoz felt the Council should build senior housing rather than giving away development rights at 27 University Avenue and Buena Vista.

Paul Machado and his neighbors mapped parking in his neighborhood using City guidelines. The map did not include area projects that would further impact the neighborhood.

Winter Dellenbach urged residents to vote yes on Measure D. She was disturbed by misinformation regarding the campaign. The Maybell Avenue Project was an appropriate use of Planned Community (PC) Zoning to provide affordable housing.

Cheryl Lilienstein, President of Palo Altans to Preserve Neighborhood Zoning, opposed high-density rezoning of residential neighborhoods and Measure D. She asked when Ms. Gitelman would begin work as Director of Planning and Community Environment.

James Keene reported Ms. Gitelman would begin work on October 28, 2013.

Ms. Lilienstein requested the Council place a moratorium on the processing of all high-density building permits to allow Ms. Gitelman time to learn about the issues. Palo Altans to Preserve Neighborhood Zoning wished to schedule a meeting with Ms. Gitelman after the election.

Ruth Lowy requested the Council not create spot zoning, but to consider a comprehensive plan. Overzoning created problems for the City.

Mora Oomman invited the public to attend the California Avenue Trick or Treat and Halloween Carnival. The event was family friendly, and organizers hoped to build community.

MINUTES APPROVAL

**MOTION:** Vice Mayor Shepherd moved, seconded by Council Member Price to approve the minutes of August 19, 2013.

**MOTION PASSED:** 8-1 Berman abstaining

CONSENT CALENDAR

**MOTION:** Vice Mayor Shepherd moved, seconded by Council Member Price to approve Agenda Item Numbers 4-10.
4. Approval of a Stewardship Agreement Between the City of Palo Alto and the Santa Clara County Fire Safe Council (FSC) in the Amount of $50,000 from the Public Works CIP PO-12003 for the Initial Year of Services for Treatment Work Indicated in the Foothill Fire Management Plan (FFMP).

5. Policy and Services Recommendation to Accept the City Auditor's Office Fiscal Year 2014 Proposed Work Plan and Risk Assessment.


8. Approval of a Utilities Enterprise Fund Contract with Efacec Advanced Control Systems, Inc. in the Amount of $107,647 for Software and Hardware Support Services for the City's Utility SCADA System (EL-02010) and 10% Contingency of $10,700 for Related, but Unforeseen Work; for a Total Authorized Amount of $118,347.


MOTION PASSED FOR AGENDA ITEM NUMBERS 4-10: 9-0

ACTION ITEMS

11. Public Hearing: Parking Exemptions Code Review: Review and Recommendation to City Council to Adopt: 1. Ordinance to Repeal Ordinance 5167 and Amend the Palo Alto Municipal Code to Delete Sections 18.52.060(a)(2) and 18.52.060(c) Related to Parking Assessment Districts to Eliminate the “Exempt Floor Area” Parking Exemption Which Allows for Floor Area up to a Floor Area Ratio (FAR) of 1.0 to 1.0 to be Exempt From Parking Requirements Within the Downtown Parking Assessment Area and Floor Area up to an FAR of 0.5 to 1.0 to be Exempt Within the California Avenue Area Parking Assessment District. 2. Interim Ordinance to Amend Chapters 18.18, Downtown Commercial (CD) District, and 18.52, (Parking and Loading Requirements) to Make the Following Changes to be Effective for a
Period of Two Years: a. Delete Sections 18.18.070(a)(1), 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to Eliminate the 200 Square Foot Minor Floor Area Bonus and Related Parking Exemption for Buildings not Eligible for Historic or Seismic Bonus. b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to Eliminate the Parking Exemption for On-site Use of Historic and Seismic Bonus. c. Amend Section 18.18.080(g) to Remove the On-site Parking Exemption for Historic and Seismic Transfer of Development Rights up to 5,000 Square Feet of Floor Area to a Receiver Site in the CD or PC Zoning Districts. d. Amend Section 18.18.120(a)(2) and (b)(2) Related to Grandfathered Uses and Facilities to Clarify that a Grandfathered Use May be Remodeled and Improved, But May Not be Replaced and Maintain its Grandfathered Status. e. Amend Section 18.52.070(a)(3) Related to Remove the Sentence Allowing Square Footage to Qualify for Exemption That Was Developed or Used Previously for Nonresidential Purposes but was Vacant at the time of These actions are exempt from the California Environmental Quality Act (CEQA) under Section 15061 and 15301 of the CEQA Guidelines.

Aaron Aknin, Acting Director of Planning and Community Environment, reported Staff recommended the Council not proceed with Section 2d of the proposed Ordinance related to the grandfather status, which uses facilities to clarify that a grandfathered use may be remodeled and improved, but may not be replaced and maintain its grandfathered status. After meeting with the City Attorney, Staff believed additional review was necessary and would return with a recommendation. In the Downtown area, the Exempt Floor Area Ordinance allowed properties to build an amount of square footage equal to the lot size without providing parking. Approximately one year ago, the Council enacted a moratorium on use of the Ordinance, which would expire at the end of December 2013. Staff recommended the Ordinance be permanently deleted from the Municipal Code. The Ordinance applied to a lesser degree to California Avenue. The Planning and Transportation Commission (PTC) recommended the Ordinance be permanently deleted. The Minor Floor Area Exemption was a 200-square-foot exemption applied to any property that was not eligible for a historic or seismic rehabilitation bonus. Staff recommended deletion of the exemption for the two-year interim period in order to study potential impacts. Transfer of Development Rights (TDR) sites were eligible for either historic or seismic rehabilitation. With rehabilitation, property owners were allowed a 2,500-square-foot bonus onsite for either category to build floor area beyond the amount allowed under current Code provisions without providing parking. Staff recommended elimination of the parking exemption associated with the floor area bonus. Transfer of rights to a receiver site would be allowed for the
floor area provision and not the parking provision. The Vacant Space provision allowed property owners to tear down vacant space and rebuild without providing parking. The value of the Minor Floor Area Exemption would equal approximately $60,750, the price of the current in-lieu fee. The value of the bonus TDR was approximately $600,000. Transfer or use of the maximum amount was valued at approximately $1.2 million. The Vacant Space was valued at $500,000 or less. When the moratorium was enacted for the 1.0 to 1.0 Floor Area Exemption, the Council did not subject projects with planning entitlements to the moratorium. Projects in the pipeline were subject to the moratorium. Staff proposed a similar policy in that projects with planning entitlements would not be subject to the interim ordinance.

Public Hearing opened at 8:53 P.M.

Matthew Harris requested the Council create a blue ribbon task force with respect to planning and design.

Herb Borock noted in Attachment B the recommended sunset provision counted the effective date as 31 days from the first reading, rather than 31 days from the second reading. He suggested the correct date be included at the time of the second reading.

Ken Alsman welcomed the proposed changes. If the Council adopted the proposed Ordinance, then it needed to take three additional steps. One was to stop all existing construction projects in the pipeline, because the projects would add another 200-400 cars in the neighborhoods. Second, the Council should stop providing full credit in the Assessment District for a 1.0 to 250 ratio. Third, the Council had to stop accepting California Environmental Quality Act (CEQA) conclusions of no impact.

Elizabeth Wong indicated the parking shortage needed to be resolved by all stakeholders with costs shared by property owners in Downtown and surrounding areas. The proposals would not solve the parking shortage, but would prevent retailers from coming to Palo Alto.

Dr. Paul Karol stated the parking situation was borderline critical at the current time. After completion of projects in the pipeline, the parking situation would become a disaster. He requested the Council gather data before making any decisions.

Katie Morganroth believed the proposed Ordinance was unfair and one-sided. Neighbors and developers were working toward a plausible solution. The proposed Ordinance would result in the loss of square footage for her commercial project, the breaking of commitments with tenants, and the loss
of four jobs. She asked the Council to exclude pipeline projects from the proposed Ordinance and to postpone a vote until February 14, 2014.

Ken Hayes believed many projects would not have been developed without seismic or historic bonuses. Residents, businesses, commercial property owners and parking advocates should collaborate to find a creative solution. The proposed Ordinance was one-sided and unfair. He requested the Council postpone its vote for a defined period while stakeholders developed a creative solution fair to all.

David Kleiman reported his project was fully parked and compliant with all City Codes, but would be severely impacted by the proposed Ordinance. The Council did not have sufficient time to receive adequate input on the economic effects of the proposed Ordinance. The solution should include increased availability of parking spaces, access to an offsite lot for lower-paid employees, permit parking in key neighborhoods and metered parking.

James Lin felt the proposed Ordinance did not solve the parking problem and was unfair. He asked the Council to exclude pipeline projects from the proposed Ordinance.

Jaime Wong stated developers followed the City's rules to add value and provide a vibrant and exciting Downtown. Without development, the City would lose businesses. Developers could be creative and could compromise.

Andrew Wong indicated the proposed Ordinance was patently unfair. Staff did not address the benefits provided by the exemptions. He proposed the Council not apply the proposed Ordinance to pipeline projects. The proposed Ordinance did not address the parking issue.

Jason Holleb asked the Council not to impact the defined pipeline projects. The Council should allow time for development of a parking solution.

Neilsen Buchanan spoke regarding saturated parking in neighborhoods. If the Council passed the proposed Ordinance, it would receive goodwill and collaboration.

Michael Griffin urged the Council to eliminate the parking exemptions adopted to encourage development in the Downtown area. The price of a vibrant Downtown was parking issues in surrounding neighborhoods.

Stephanie Munoz suggested the Council refund fees paid by projects in the pipeline. The Council should take back the parking obligations.
Eric Rosenblum felt removing the parking exemptions would be bad for the neighborhood and harmful to Palo Alto's interests. Parking should be decoupled from buildings, and parking cash-outs could be used to allow greater capacity for residents in under-utilized buildings.

Robert Moss suggested the Council pass the proposed Ordinance with a few modifications. First, projects which received Council approval should be allowed to proceed. Second, the Council should set a time limit to provide a corrective action. Third, the Council had to determine long-term methods for improving parking.

Adina Levin, Friends of Caltrain, reported Palo Alto was moving towards requiring self-parking of buildings. An unintended consequence was increased driving. The development community was willing to work towards a solution.

Sal Giovanotto did not believe the moratorium was fair. The City was fine without any changes.

Public Hearing closed at 9:31 P.M.

Council Member Kniss inquired about the general impact on the six projects in the pipeline.

Mr. Aknin indicated Table 5 on page 11 of the Staff Report showed the projects with planning entitlements. Those projects would not be subject to the proposed Ordinance. Table 6 showed other projects in the pipeline without approval. Those projects would be subject to the proposed Ordinance. The project affected by the most impacts would be 240 Hamilton Avenue with nine spaces. The remaining projects would have no impact or a one-space impact in terms of fees. The majority of projects used grandfather square footage paid into the Assessment District or existing TDRs. Those would not be subject to the proposed Ordinance.

Council Member Kniss requested Staff address the 200-square-foot former exemption.

Mr. Aknin believed the Ordinances adopted in 1986 initially allowed small expansions to a building, not necessarily a new building. The exemption was now applied to new projects. Staff's recommendation was to eliminate the exemption, because the incentive was not needed for new buildings.

Council Member Kniss asked if projects other than 240 Hamilton Avenue were running one or two spaces.
Mr. Aknin responded yes.

James Keene, City Manager, suggested Staff clarify impacts to projects.

Mr. Aknin reported that the proposed Ordinance did not prevent projects from proceeding. Projects would have to pay an in-lieu fee equivalent to the amount of the exemption. One parking space was equivalent to $60,000. The 240 Hamilton Avenue project was impacted by more than $500,000.

Mayor Scharff inquired whether pipeline projects would lose 200 square feet of Floor Area Ratio (FAR) and have to redesign projects or if projects simply have to pay for parking spots.

Mr. Aknin stated yes, as currently drafted.

Mayor Scharff asked if projects would have to be redesigned to deal with that issue.

Mr. Aknin answered yes. If projects were over the FAR amount, applicants would have to redesign projects or buy existing TDRs to backfill that amount.

Council Member Klein inquired whether the two projects in Table 5 were excluded from the proposed Ordinance.

Mr. Aknin indicated they would be excluded as recommended by Staff.

Council Member Klein asked if the two projects could proceed.

Mr. Aknin replied yes.

Council Member Klein counted seven projects in the pipeline.

Mr. Aknin noted the 261 Hamilton Avenue project was shown twice in the table; therefore, only six projects were in the pipeline.

Council Member Klein asked if the six projects could proceed if the applicants paid the parking in-lieu fee.

Mr. Aknin needed to determine whether applicants would have to reduce overall square footage in terms of FAR when the 200 square feet was applied to both floor area and the parking situation. From a parking standpoint, the applicants could pay the in-lieu fee and proceed with the project.
Council Member Klein inquired whether the project at 240 Hamilton Avenue would be exempt from 26 spaces under previous law.

Mr. Aknin answered yes.

Council Member Klein requested an explanation of the lower fee for the project at 240 Hamilton Avenue.

Mr. Aknin reported the applicant could proceed with the project because of existing TDRs. With respect to actual parking exemptions, the grandfathered mezzanine level accounted for eight spaces and the bonus FAR accounted for one space. With those reductions, the lower fee amount was correct. The mezzanine level would also be removed from FAR; therefore, the applicant would have to reduce the building by that square footage as well.

Council Member Klein asked if the applicant for the project at 429 University Avenue would be charged for the 20 spaces covered by the TDR.

Mr. Aknin indicated that the applicant paid that amount to someone else, so it would not pay the City anything for those.

Council Member Klein inquired whether the applicant would be charged a parking in-lieu fee for one space at $60,000.

Mr. Aknin replied yes.

Council Member Klein requested comment on the project at 640 Waverley Street.

Mr. Aknin explained that the project was covered by the 200-square-foot bonus. The project was also grandfathered, which Staff did not propose to remove in the current recommendation. The project also had a mixed-use parking reduction, which Staff did not propose to remove. The project would have to comply with the 200-square-foot bonus.

Council Member Klein understood the project at 500 University Avenue had the same situation.

Mr. Aknin agreed. The applicant recently submitted an application indicating construction of an additional floor underground; therefore, the project would be over-parked by approximately 21 spaces.
Council Member Klein did not understand the furor as the impact appeared to be at most $60,000 to two or three projects. He asked if the changes had been explained to everybody.

Mr. Aknin remarked that adding $60,000 in a pro forma was a major concern for developers. A second issue was likely related to the FAR itself. The Council could determine that the bonus would remain for FAR but not for parking. In that case, developers would lose 200 square feet.

Council Member Klein had difficulty understanding the majority of the applicants' concerns. He assumed each and every applicant met with Staff.

Mr. Aknin talked to a handful of people who provided comments.

Council Member Klein inquired whether pipeline projects were being treated consistent with past Council actions.

Molly Stump, City Attorney, reported in 2012 the Council faced a considerable pipeline issue when it suspended use of the 1.0 to 1.0 exemption. In that case, the actions were consistent with proposed actions for this item. Legally, the vested right applied only once a building permit was pulled and substantial work performed under the building permit. None of the projects in either Table 5 or Table 6 were at that point. Staff proposed projects in Table 5 proceed with no change. The remaining projects had submitted applications but had not received final planning entitlement.

Council Member Klein recalled that in 2012 the Council applied a different standard for pipeline projects than in previous years.

Ms. Stump understood that actions taken a year ago were a change from the traditional approach.

Council Member Klein inquired about the impact to projects contained in Table 6 if the pre-2012 pipeline policy was applied to them.

Cara Silver, Senior Assistant City Attorney, indicated that in the seven to eight years prior to 2012, the Council exempted projects that filed an application. All projects in Table 6 had formally filed an application, but had not received planning entitlement approval.

Council Member Klein asked if other projects could be included in Table 6 under the old standard.
Mr. Aknin was not aware of any other projects.

Vice Mayor Shepherd noted the tentative Council schedule included a Residential Parking Permit (RPP) Program, and inquired about the timing for that discussion.

Mr. Aknin reported Staff was working on the framework for a Citywide opt-in Ordinance. Staff hoped to present it to the Council by the end of 2013.

Vice Mayor Shepherd agreed some of the Ordinances needed to be amended; however, she questioned whether the amendments should be contemporaneous with other relief. She understood that a TDR could still be utilized for a project not in the pipeline if the developer had already purchased a TDR but not designed it into a building.

Mr. Aknin concurred.

Vice Mayor Shepherd understood a developer could not sell a TDR if the Council enacted the proposed Ordinance with the parking exemption. The TDR purchaser would have to pay for the parking exemption when he made the application.

Ms. Stump explained that TDRs created as of the effective date of the proposed Ordinance could be used under the old rules.

Vice Mayor Shepherd requested an explanation of "created."

Ms. Stump indicated the TDR was certified because work had been performed to seismically or historically rehabilitate the building even if the TDR had not been sold.

Vice Mayor Shepherd stated a TDR could be sold if the building was not seismically retrofitted; however, the developer would need to provide parking onsite or pay an in-lieu fee.

Ms. Stump agreed. New seismic or historic projects would not be able to generate parking relief. They would generate the FAR.

Vice Mayor Shepherd inquired whether the proposed RPP Program would apply only to Professorville or also to Downtown North.

Mr. Aknin reported the goal was to offer first a Citywide opt-in Ordinance. He believed the first neighborhoods to opt into the Ordinance would be the residential neighborhoods surrounding the Downtown area.
Council Member Price asked if neighborhoods around California Avenue would be allowed to participate in the RPP Program.

Mr. Aknin believed neighborhoods surrounding California Avenue would follow shortly after the Downtown area once a Citywide opt-in Ordinance was enacted.

Mr. Keene explained that a Citywide Program would have metrics associated with parking intrusion. Neighborhoods would have to meet performance criteria to be eligible for an RPP Program.

Council Member Price requested Staff clarify public comments regarding additional architectural and design fees.

Mr. Aknin indicated the primary concern was reducing the building size by a certain amount of square feet. For example, the 240 Hamilton Avenue project would spend additional architectural fees for new drawings to reduce the building if the applicant was not allowed to rebuild the 2,000 square feet mezzanine level into normal floor area and not allowed to build the new 200 square feet.

Ms. Stump noted the Ordinance as drafted deleted both the 200 square feet and the parking from the Code. The Council could retain the 200 square feet and indicate the project had to be parked.

Mr. Keene stated the developer would pay the $60,000 parking in-lieu fee and the 200 square feet would remain in the building.

Mayor Scharff asked if that could apply to the 2,000 mezzanine as well.

Council Member Price felt the concept of cash-out for parking was a valid approach. She asked if the Council could discuss that approach in the current item or if Staff would review that as part of a Transportation Demand Management (TDM) Program for the private sector.

Mr. Aknin indicated that approach would be part of a TDM strategy. It was a proven strategy that worked well. A cash-out approach was separate from the current discussion.

Council Member Price recalled that a number of community members were willing to engage with the City regarding these items. She inquired about a method for Staff to utilize the expertise and enthusiasm offered by stakeholders.
Mr. Aknin suggested stakeholders participate in the Downtown Development CAP process and contact him to schedule meetings.

Council Member Price requested Mr. Aknin provide his phone number and email address.

Mr. Aknin stated his email address was aaron.aknin@cityofpaloalto.org and his direct line was 650-329-2679.

Council Member Burt did not believe the proposed Ordinance would encourage people to utilize modes of travel other than driving. Projects other than the 500 University Avenue project involved small amounts of change. He inquired whether Staff assumed applicants would pay in-lieu parking fees rather than make design changes.

Mr. Aknin answered yes. He did not have exact numbers about how the 200 square foot FAR would affect projects. As the City Manager and the City Attorney mentioned, the Council could proceed with the FAR bonus separate from the parking exception.

Council Member Burt requested Staff explain how the Staff recommendation with respect to the 200 square foot exemption would change parking issues.

Mr. Aknin explained that Staff wished to review parking exemptions to determine which ones were no longer necessary to incent development. The 200-square-foot exemption in particular was originally directed at minor building expansions.

Council Member Burt inquired about the net impact for pipeline projects if the Council did not include the 200-square-feet exemption.

Mr. Keene suggested there would be no real impact as long as the parking in-lieu fee payment was retained. The applicant kept the square footage but paid the in-lieu parking fee.

Council Member Burt recalled that Ken Hayes implied that the impacts of these changes would be much more significant than Staff indicated. He asked Mr. Hayes to clarify the impacts to projects given Staff's clarifications and retention of the 200-square-foot exemption for pipeline projects.

Mr. Hayes indicated his clients were concerned that projects in the application process were in jeopardy to a certain extent. The issues were
not knowing whether TDRs would continue to be exempt from parking and whether that would apply to projects in the pipeline.

Council Member Burt asked Mr. Hayes to focus his response on the impact to pipeline projects if the Council retained the 200-square-foot exemption along with a parking in-lieu fee.

Mr. Hayes stated the impact on all the projects in which he was involved, with the exception of the 240 Hamilton Avenue project, would be payment of in-lieu fee, the $60,000.

Council Member Burt inquired whether Mr. Hayes was interpreting the impact the same as Staff.

Mr. Hayes responded yes.

Council Member Burt commented that engagement of Downtown property owners was a positive development. The impact of the proposed Ordinance was nominal compared to the impact of RPP Programs and a TDM Program. There was a need to fund and construct an additional garage Downtown; however, he did not want to see the parking garage increase the number of trips to Downtown. There would be some degree of crisis with implementation of an RPP Program if Downtown property owners did not identify a solution.

Council Member Holman agreed that engagement of commercial property owners was positive. Payment of in-lieu fees did not solve the parking problem. In theory cash-outs were a good idea; however, they were not effective without monitoring and enforcement. Parking saturation in neighborhoods affected property values. Once TDRs were created, they were entitled entities. She asked if TDRs were a real asset.

Ms. Silver explained that TDRs were created at the time that the building was certified as historically renovated or seismically retrofitted. At that point, the City recorded a document that required historic rehabilitation and seismic retrofitting to remain in place and created the TDR. Under Staff's proposal, any TDR that was formally created following the effective date of the proposed Ordinance could be transferred or used onsite for bonus square footage; however, it would not have the additional parking incentive.

Council Member Holman understood that if a project used a TDR, the City could not charge the project in-lieu fees because the TDR was an asset that had been paid for.
Ms. Silver indicated that was not the analysis. The Council had some discretion on the issue. Staff recommended that certification was an appropriate dividing line. If the Council wished to change that benchmark, Staff would evaluate it. It was not entirely clear where the benchmark should be as a legal matter. It was more of a policy matter.

Council Member Holman asked if Staff considered the impact of eliminating the parking exemption for bonus square footage and TDRs related to Planned Community (PC) projects. She inquired whether the Council's granting of additional square footage as part of a PC destroyed the value of TDRs and bonus square footage.

Ms. Stump understood Council Member Holman's question to relate to the TDR program and bonus square footage. That consideration was not within the work performed for the item. The item responded to Council direction to proceed with parking issues in the near term.

Council Member Holman simply wanted to voice her concern and consider possible unintended consequences.

Council Member Berman inquired about the timeline for someone paying in-lieu fees.

Mr. Aknin stated the applicant paid in-lieu fees at the time it obtained a building permit.

Council Member Schmid noted that Tables 3 and 4 provided the TDR bonuses used. The 532 amount of parking exemptions seemed to be the number of TDRs used in Downtown.

Mr. Aknin agreed.

Council Member Schmid asked if 147 TDRs were originated but had not yet been used.

Mr. Aknin answered yes.

Council Member Schmid inquired whether 274 TDRs would be originated under the new terms without the parking exemptions.

Mr. Aknin explained that eligible properties were on either a seismic list or a historic property list, but the improvements had not been made. Those properties would not be able to claim the parking exemption, only the FAR exemption.
Council Member Schmid asked if the middle group, the 147, could still claim the parking exemption.

Mr. Aknin replied yes.

Council Member Schmid referenced the parking exemptions in Attachment C of the March 5, 2012 report, and asked about a cause for the gap between 323 exemptions and 532 TDRs.

Mr. Aknin noted the March 5, 2012 report was part of the annual report to the Council. Staff performed the most in-depth analysis of TDRs that had ever been performed in preparing the Staff Report.

Council Member Schmid inquired whether the annual reports might have some questionable data.

Mr. Aknin indicated that the annual reports considered parking that came online since the TDR. The table within the Staff Report only showed the number of TDRs used. It did not show any offset from parking built Downtown.

Council Member Schmid was interested in the dynamics of the current situation. People from Downtown North and Professorville indicated there was a dynamic in the neighborhoods that was quite different than in the past. He asked if the gap between exemptions reported in the annual reports and in the Staff Report was a possible explanation of the changing dynamic.

Mr. Aknin suggested the change in dynamic was affected more by the change in occupancies within buildings than by the new floor area. Downtown Palo Alto contained approximately 3.5 million square feet of non-commercial area in 1986. The growth rate was less than 10 percent over the last 30 years. Obviously the parking problem grew by more than 10 percent. A change in use had a greater proportional effect than TDRs on the overall parking situation.

Council Member Schmid commented that the Council could proceed with the proposed Ordinance; however, the future would bring bigger issues. Good data would be critical to making good decisions.

Mayor Scharff asked how Section 3 related to losing 2,000 square feet of FAR as it only mentioned parking. Section 2e disallowed the parking
exemption; whereas, Section 2a mentioned the floor area bonus and related parking.

Ms. Stump suggested the problem was in the drafting of the proposed Ordinance. After additional review, Staff now recommended the Council separate those two pieces. It was a matter of drafting an Ordinance quickly and working through the language of the Code.

Mayor Scharff assumed Staff could amend an Ordinance in any manner with appropriate Council direction.

Ms. Stump indicated the vacant property piece was slightly more complex, because Staff could not provide the implications in the Downtown Commercial (CD) Zone for that exemption.

Mayor Scharff asked why the Council could not simply require the applicant to park the project.

Ms. Stump stated in theory the Council could require that. Staff could do that as a policy matter if the Council wished to make that policy direction.

Mayor Scharff inquired whether deleting "and selected" from Section 2a would allow retention of the 200-square-foot exemption.

Ms. Stump recommended the Council describe changes in conceptual terms in a Motion and allow Staff to work through the Code. There were places where the Code looped around on itself. Staff requested the opportunity to ensure an Ordinance was drafted correctly.

**MOTION:** Mayor Scharff moved, seconded by Council Member Burt to adopt:

1. An Ordinance to amend the Palo Alto Municipal Code (PAMC) to permanently delete Sections 18.52.060(a)(2) and 18.52.060(c) related to Parking Assessment Districts to eliminate the “Exempt Floor Area” parking exemption which allows floor area up to a floor area ratio (FAR) of 1.0 to 1.0 to be exempt from parking requirements within the Downtown Parking Assessment Area, and floor area up to an FAR of 0.5 to 1.0 to be exempt within the California Avenue area parking assessment district (Attachment A); and

2. An Interim Ordinance (Attachment B) to amend PAMC Chapters 18.18, Downtown Commercial (CD) District, and 18.52 (Parking and Loading Requirements), to make the following changes, to be effective for a period of two years:
a. Delete Sections 18.18.070(a)(1), 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to eliminate the parking exemption related to the 200 square foot Minor Floor Area Bonus for buildings not eligible for Historic or Seismic Bonus (keep sq footage but eliminate parking exemption).

b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to eliminate the parking exemption for on-site use of Historic and Seismic Bonus.

c. Amend Section 18.18.080(g) to remove the on-site parking exemption for floor area bonuses derived through historic and seismic upgrades via the transfer of development rights (TDR) program (where up to 5,000 square feet (SF) of floor area for each type of upgrade is allowed for receiver sites in the CD or downtown PC zoning districts).

d. Amend Section 18.52.070(a)(3) to disallow the parking exemption for floor area developed or used previously for non-residential purposes and vacant at the time of the engineer’s report during the parking district assessment. (keep sq footage but eliminate parking exemption).

Mayor Scharff felt it was important to eliminate out-of-date ordinances. The Council wanted to move toward projects fully parking themselves, a robust TDM program, an RPP Program and a parking garage. Holistically, those were the components of a resolution for the parking issue. With respect to grandfathering projects, last year the Council did not grandfather in the two projects. It would be unfair for the Council to treat pipeline projects in 2013 differently than it treated pipeline projects in 2012. It became a money issue in terms of paying in-lieu parking fees as opposed to redesigning the project.

Council Member Burt recalled in July 2012 the Council gave a general notice of intention to change regulations. In March 2013 the Council provided additional direction. He was interested in why colleagues would not second the Motion.

Council Member Kniss inquired whether the project at 240 Hamilton Avenue was on appeal.

Mr. Aknin responded yes.

Council Member Kniss noted the Council would discuss several items related to parking. The amendments along with an RPP Program and a TDM Program should be considered together. The five pipeline projects would pay a total of $300,000 for in-lieu parking fees.
Mr. Aknin indicated a couple of pipeline projects had zero impact.

Council Member Kniss felt the only pipeline project affected by a major impact was 540 Hamilton Avenue at approximately $540,000. She was undecided regarding the Motion and wished to hear colleagues' comments.

Vice Mayor Shepherd requested the Mayor split Motion Items One and Two for purposes of voting.

Mayor Scharff agreed to split the Motion for purposes of voting.

**MOTION SEPARATED FOR THE PURPOSE OF VOTING:** Mayor Scharff bifurcated the Motion to allow separate votes for Item Numbers One and Two.

**BIFURCATED MOTION:** Mayor Scharff moved, seconded by Council Member Burt to adopt:

1. An Ordinance to amend the Palo Alto Municipal Code (PAMC) to permanently delete Sections 18.52.060(a)(2) and 18.52.060(c) related to Parking Assessment Districts to eliminate the “Exempt Floor Area” parking exemption which allows floor area up to a floor area ratio (FAR) of 1.0 to 1.0 to be exempt from parking requirements within the Downtown Parking Assessment Area, and floor area up to an FAR of 0.5 to 1.0 to be exempt within the California Avenue area parking assessment district (Attachment A); and

**MOTION PASSED:** 9-0

**BIFURCATED MOTION:** Mayor Scharff moved, seconded by Council Member Burt to adopt:

2. An Interim Ordinance (Attachment B) to amend PAMC Chapters 18.18, Downtown Commercial (CD) District, and 18.52 (Parking and Loading Requirements), to make the following changes, to be effective for a period of two years:
   a. Delete Sections 18.18.070(a)(1), 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to eliminate the parking exemption related to the 200 square foot Minor Floor Area Bonus for buildings not eligible for Historic or Seismic Bonus (keep sq footage but eliminate parking exemption)
   b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to eliminate the parking exemption for on-site use of Historic and Seismic Bonus.
c. Amend Section 18.18.080(g) to remove the on-site parking exemption for floor area bonuses derived through historic and seismic upgrades via the transfer of development rights (TDR) program (where up to 5,000 square feet (SF) of floor area for each type of upgrade is allowed for receiver sites in the CD or downtown PC zoning districts).

d. Amend Section 18.52.070(a)(3) to disallow the parking exemption for floor area developed or used previously for non-residential purposes and vacant at the time of the engineer’s report during the parking district assessment. (keep sq footage but eliminate parking exemption)

Vice Mayor Shepherd expressed concern about the possible unintended consequences of incentivizing people to seismically retrofit their historic buildings. She wanted to understand whether the amount of in-lieu fees was appropriate. Generally she disagreed with moratoriums. She also was having difficulty with not allowing the 540 Hamilton Avenue project to proceed.

Mr. Keene remarked that use of a parking exemption as an incentive was outdated. He recommended the Council direct Staff to return separately with other incentives related to historic and seismic improvements. There might be other credits the City could offer.

Vice Mayor Shepherd questioned whether the revisions should be delayed and presented with a TDM Program. She could support a Motion with better incentives and inclusion of a TDM Program.

Council Member Holman did not agree with delaying revisions, but did agree that other programs needed to be brought forward. She inquired about the reason for a two-year effective period.

Mr. Aknin explained that the Downtown Development CAP Study Phase 1 and Phase 2 would require one to two years.

Council Member Holman recalled reading in PTC Minutes that Phase 1 would require six months and asked if 1 1/2 years were needed for Phase 2.

Mr. Aknin indicated between one and two years was needed.

Mr. Keene stated the application, interpretation and policy changes generated by Phase 2 would take time.
Council Member Holman requested a timeline for presentation of the RPP and TDM Programs.

Mr. Aknin reported Staff planned to provide an Ordinance regarding an RPP Program to the Council in December 2013. Some time in spring to early summer 2014 a program could be implemented. He did not have an estimate for a TDM Program. The initial portion could be effective sometime in 2014. It would take time to provide a thorough TDM Program.

Council Member Holman inquired about better utilization of parking garages.

Mr. Aknin stated Staff was issuing a Request for Proposal (RFP) for attendant parking at Lot R. Staff would consider different methods throughout 2014.

Council Member Holman was sensitive to bonus square footage for seismic and historic improvements and TDRs. The City Manager mentioned consideration of other ways to incentivize improvements and TDRs. She asked about the difficulty of pipeline projects to park required spaces rather than paying in-lieu fees.

Mr. Aknin noted the 500 University Avenue project was now fully parked. The 240 Hamilton Avenue project was utilizing lifts to provide parking for residents. To provide that incremental space or two might require digging further into the ground, which would add a disproportionate amount of cost. Within Downtown, it would be best to have parking spread out.

Council Member Holman requested Staff consider cooperative use of private garages.

Council Member Schmid favored proceeding with the proposed Ordinance. The Council should give the public a clear signal that these issues were important.

Council Member Berman was inclined to support the Motion. These measures were the beginning of a solution. He wished to ensure that Council decisions did not cause applicants to redesign projects. This process was similar to past processes in similar situations. Removing the grandfather issue mitigated the negative consequence for applicants. The increased number of single-occupancy drivers was the cause of parking problems. He did not wish to incentivize single-occupancy car trips.

**AMENDMENT:** Council Member Klein moved, seconded by Vice Mayor Shepherd to exempt the pipeline projects at 240 Hamilton Avenue, 261
Council Member Klein wished to refute the Mayor's arguments with respect to pipeline projects. He was concerned because the City's integrity was at stake. The City had a policy that projects in the application process had some rights, and the Council should not change that policy to remove those rights. The Council had an overriding obligation to be fair to people.

Vice Mayor Shepherd did not support giving away free parking. The Council needed to adjust to the knowledge-based economy by building garages in Downtown and building up Downtown infrastructure.

Council Member Kniss commented that consistency and predictability made a City successful. The City apparently did not know how to handle success and needed a long-term solution to a cyclical problem.

Council Member Holman felt it was reasonable to support the Motion. The Council had a practice, rather than a policy, not to include pipeline projects. The practice as changed in 2012 was appropriate to follow in this situation. Fairness was important. With the Council's discussion of parking issues over the past year, applicants had to know changes were coming.

Mayor Scharff concurred with Council Member Holman's comments. If the Council moved forward with the new approach, then people would have the sense of consistency. It was important for the Council to address parking solutions. Each project should pay its fair share for parking.

**AMENDMENT TO MOTION FAILED**  4-5 Klein, Shepherd, Kniss, Price yes

**INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND THE SECONDER** to add to 2b and 2c “to have Staff return with replacement incentives for historic and seismic bonus” to read as follows:

b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to eliminate the parking exemption for on-site use of Historic and Seismic Bonus and to have Staff return with replacement incentives for historic and seismic bonus.

c. Amend Section 18.18.080(g) to remove the on-site parking exemption for floor area bonuses derived through historic and seismic upgrades via the transfer of development rights (TDR) program (where up to 5,000 square feet (SF) of floor area for each type of upgrade is allowed for receiver sites in the CD or downtown PC zoning districts)
and to have Staff return with replacement incentives for historic and seismic bonus.

Council Member Burt inquired whether Vice Mayor Shepherd was adding language to the Motion.

Vice Mayor Shepherd responded yes.

Council Member Holman suggested that language should also apply to 2c

Ms. Stump agreed that 2b and 2c were a pair.

Council Member Klein felt the Council should not wait for other aspects to be presented. The proposed Ordinance would not change the main problem, but was the beginning step.

**MOTION AS AMENDED PASSED:** 8-1 Kniss no

Peter Pirnejad, Development Services Director, reported Staff recommended the Council adopt eight Ordinances which would adopt by reference the various parts of the 2013 California Building Standards Code. Seven of the Ordinances contained proposed local amendments to the State Model Codes along with the necessary findings of fact supporting each local amendment. Every three years, the State of California adopted new building standards, codified in Title 24 of the California Code of Regulations. Upon publication of the new Building Standards Codes, local jurisdictions were allowed 180 days to amend the modern State Codes to enact more stringent local building standards. Local amendments had to be supported with findings based on unique local, climactic, geologic, and topographic conditions. Staff worked with neighboring jurisdictions to ensure consistency and uniformity of Code enforcement throughout the region. Staff planned to hold technical training sessions to discuss details of the changes on October 30, 2013 and, if needed, in November 2013.

Council Member Klein left the Council meeting at 11:10 P.M.

Public Hearing opened and closed with no speakers at 11:11 P.M.

**MOTION:** Vice Mayor Shepherd moved, seconded by Council Member Kniss to adopt the following:


**MOTION PASSED:** 8-0 Klein absent

13. Approval of Contract for the Downtown Development CAP to Dyett & Bhatia Urban & Regional Planners in the Amount Not to Exceed $200,000 (Continued from October 7, 2013).

Neilson Buchanan felt the vision, scope and funding for the first phase was light. The parking in Downtown North was saturated between 9:00 A.M. and 4:00 P.M. He was concerned about the unintended consequences of disenfranchising several hundred workers through permit parking.

James Keene, City Manager, noted a misstatement in the Resource Impact on page 5. The anticipated cost was $250,000. Phase 2 involved decision making and was the more complicated piece of the study. For the most part, Phase 1 would occur in 2014. The second phase would not cost $50,000. It could cost considerably more.

Aaron Aknin, Acting Director of Planning and Community Environment, reported the Downtown Development CAP was presented to the Council because of a study completed approximately 30 years ago. A Development CAP was implemented as a result of the study and included a number of other provisions. The Downtown Development CAP was associated with the Downtown Commercial (CD) District and limited growth to 10 percent of 3.5 million square feet of commercial space. The Comprehensive Plan, the Zoning Code and the 1986 study indicated an analysis should be performed to determine impacts. In accordance with Council direction, Staff presented the Request for Proposal (RFP) scope of work to the Planning and Transportation Commission (PTC), who modified the scope of work. Staff presented an informational report to the Council in March 2014 and proceeded with the process in the May-June timeframe. The Phase 1 analysis would encompass review of historic documents, analysis of existing conditions, and an analysis of projected conditions. In terms of impacts, the study had to include potential developments in the 27 University Avenue Arts and Innovation District, the South of Forest Area (SOFA) and in Menlo Park. Staff recommended the contract be awarded to Dyett & Bhatia, a well-known planning firm.
Council Member Price asked if the ten-year period would encompass 2003-2013.

Mr. Aknin explained that the consultant would perform an economic analysis for the projected conditions analysis to determine the demand for development within a five-year and ten-year period, 2013-2018 and 2013-2023.

Council Member Price inquired about Staff's proposed use of a series of focus groups.

Mr. Aknin indicated some type of steering committee would be formed at the end of the Phase 1 analysis. Staff would return to the Council with additional recommendations related to the steering committee and additional scope related to Phase 2.

Council Member Price had worked with Dyett & Bhatia and felt they were very good with good reputations.

**MOTION:** Vice Mayor Shepherd moved, seconded by Council Member Price to approve and authorize the City Manager or designee to execute contract with Dyett & Bhatia Urban & Regional Planners (Attachment A) in the amount of $200,000 for the Downtown Development Cap Study - Phase 1 project.

Vice Mayor Shepherd noted the first phase involved data gathering. Staff did not improvise any policy questions for Council. She wanted to proceed with the study before the holiday traffic began in order not to skew the data.

Council Member Price stated the scope of services was clearly stated and looked forward to seeing the results of the first phase.

Council Member Holman indicated the 27 University Avenue and Menlo Park projects were not included on the map or referenced in the language of the scope of services. She asked if Staff could amend the contract to include those projects.

Mr. Aknin agreed. Staff expected the consultants to perform the traffic analysis for those projects.

Council Member Holman stated the contract only collected data for existing conditions. The square footage added to Downtown did not have the same type of impact because of changes in pattern. Comparing the prior Level of
Service (LOS) to the amount of added development could be a good indicator of the impacts of development.

Mr. Aknin explained that Phase 1 would review background documentation, including the 1986 report and Environmental Impact Report (EIR). The EIR contained all traffic information associated with the 1986 report. The Phase 1 analysis would include a scientific poll of Downtown office uses to determine the average per square foot office density for workers.

Council Member Holman did not recall the contract referencing the 1986 study and EIR.

Mr. Aknin indicated it was contained in the background document review.

Council Member Holman asked that the contract be revised to include that information.

Mr. Aknin expressed concern that stating the documents to be reviewed could limit which documents the consultant reviewed. He preferred broad language so that other documents could be reviewed as needed.

Council Member Holman asked if the intention was to consider some LOS studies.

Mr. Aknin stated the consultant would have to review the previous EIR, which contained the traffic analyses.

Council Member Holman noted that the scope of services mentioned analysis of up to eight intersections. She inquired about the intersections to be analyzed and the rationale for analyzing only eight intersections.

Mr. Aknin reported that Staff had not defined the intersections to be analyzed. Once the contract was approved, Staff would meet with the traffic team to identify those intersections. Within the current model, Staff had more than 50 intersections with data. That information could be input and additional details gathered regarding the eight specific intersections within the Downtown and immediately surrounding area.

Council Member Holman asked if Mr. Aknin could assure the Council that the consultant would review data for up to 50 intersections with additional analysis for up to eight intersections.

Mr. Aknin indicated that the contract budgeted a detailed analysis of up to eight intersections. He could not commit to which eight intersections.
Council Member Schmid referenced Item 3d, Parking Analysis, regarding the Urban Land Institute and Institute of Transportation Engineers (ITE). He viewed the ITE as the Bible of planning and transportation. Urban Land Institute sustaining members were all large developers, large builders, financiers and mortgage brokers. He inquired about Staff's intentions with respect to the Urban Land Institute and ITE.

Mr. Aknin commented that in general planners were hesitant to apply ITE trip generations, because they were nationwide averages focused on standalone uses in suburban areas. Suburban modes of transportation and travel patterns generally were inconsistent with modes of transportation and travel patterns in urban areas. The Urban Land Institute focused more on downtown areas, while ITE trip generation focused more on standalone uses.

Council Member Schmid believed new cars, new parking and new workers occurred because of changes in the workplace. He asked if that should be mentioned explicitly, and whether Staff had suggestions for the consultant to help the City with that problem.

Mr. Aknin explained that results from surveys of parking habits and employment density would be utilized to determine parking and transportation demand management (TDM) requirements. Parking and TDM requirements would need to be equally weighted, because each parking space equaled one car trip into Downtown.

Council Member Schmid did not understand that Task 4 would be performed prior to Task 2.

Mr. Aknin stated Task 4 would be one of the first items performed.

Council Member Schmid noted the traffic modeling utilized LOS; however, the 1988 Land Use Transportation Survey in Palo Alto, the 1998 Comprehensive Plan EIR and the Stanford Traffic Plan utilized different measures. He inquired about a method to determine the historical pattern of change.

Mr. Aknin reported modeling and measurements changed over the prior 30 years. The more important thing was to review the EIR and how it discussed each intersection to obtain a qualitative analysis of how the intersections were functioning.
Council Member Schmid asked why the study would not utilize point-to-point measurements as recommended by the ITE and as used in Menlo Park's latest traffic study.

Mr. Aknin indicated the study would consider both intersections and roadway segments. The measurements pertained to the intersections themselves. Another consideration was determining how intersections operated for pedestrians and bicyclists.

**MOTION TO CALL THE QUESTION:** Council Member Burt moved, seconded by Vice Mayor Shepherd to call the question.

**MOTION TO CALL THE QUESTION PASSED:** 6-2 Schmid, Holman no, Klein absent

**MOTION PASSED:** 7-1 Schmid no, Klein absent

**ADJOURNMENT:** The meeting was adjourned at 11:39 P.M.
Summary Title: Second Reading - Parking Exemptions Code Ordinances

Title: SECOND READING: 1. Adoption of an Interim Ordinance to Amend Chapters 18.18, Downtown Commercial (CD) District, and 18.52, (Parking and Loading Requirements) to Make the Following Changes to be Effective for a Period of Two Years: a. Delete Sections 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to Eliminate the Parking Exemption related to the 200 Square Foot Minor Floor Area Bonus for Buildings not Eligible for Historic or Seismic Bonus. b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to Eliminate the Parking Exemption for On-site Use of Historic and Seismic Bonus. c. Amend Section 18.18.080(g) to remove the On-site Parking Exemption for Historic and Seismic Transfer of Development Rights up to 5,000 Square Feet of Floor Area to a Receiver Site in the CD or PC Zoning Districts. d. Amend Section 18.52.070(a)(3) to Remove the Sentence Allowing Square Footage to Qualify for Exemption That Was Developed or Used Previously for Nonresidential Purposes but was Vacant at the time of the Engineer's Report. 2. Adoption of an Ordinance to Repeal Ordinance 5167 and Amend the Palo Alto Municipal Code to Delete Sections 18.52.060(a)(2) and 18.52.060(c) Related to Parking Assessment Districts to Eliminate the “Exempt Floor Area” Parking Exemption Which Allows for Floor Area up to a Floor Area Ratio (FAR) of 1.0 to 1.0 to be Exempt From Parking Requirements Within the Downtown Parking Assessment Area and Floor Area up to an FAR of 0.5 to 1.0 to be Exempt Within the California Avenue Area Parking Assessment District. These actions are exempt from the California Environmental Quality Act (CEQA) under Section 15061 and 15301 of the CEQA Guidelines (First Reading: October 21, 2013 PASSED: 8-1 Kniss no)

From: City Manager

Lead Department: Planning and Community Environment

Recommendation
Staff recommends that Council adopt on second reading the following:

1. **Adopt an Interim Ordinance (Attachment A) to amend PAMC Chapters 18.18, Downtown Commercial (CD) District, and 18.52 (Parking and Loading Requirements), to make the following changes, to be effective for a period of two years:**

   a. Delete Sections 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to eliminate the parking exemptions related to the 200 square foot Minor Floor Area Bonus for buildings not eligible for Historic or Seismic Bonus.

   b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to eliminate the parking exemption for on-site use of Historic and Seismic Bonus floor area.

   c. Amend Section 18.18.080(g) to remove the on-site parking exemption for floor area bonuses derived through historic and seismic upgrades via the transfer of development rights (TDR) program (where up to 5,000 square feet (SF) of floor area for each type of upgrade has been allowed without having to be “parked” for receiver sites in the CD or downtown PC zoning districts).

   d. Amend Section 18.52.070(a)(3) to disallow the parking exemption for floor area developed or used previously for non-residential purposes and vacant at the time of the engineer’s report during the parking district assessment.

2. **Adopt an Ordinance to amend the Palo Alto Municipal Code (PAMC) to permanently delete Sections 18.52.060(a)(2) and 18.52.060(c) related to Parking Assessment Districts to eliminate the “Exempt Floor Area” parking exemption which allows floor area up to a floor area ratio (FAR) of 1.0 to 1.0 to be exempt from parking requirements within the Downtown Parking Assessment Area, and floor area up to an FAR of 0.5 to 1.0 to be exempt within the California Avenue area parking assessment district (Attachment B).**

**Background**

On October 21, 2013, the City Council approved, with amendments to the original staff recommendation, an interim ordinance to be effective for a period of two years to eliminate parking exemptions related to the following:

1. **200 square foot Minor Floor Area Bonus.**
2. **On-site use of Historic and Seismic Bonuses.**
3. **Floor Area Bonuses derived through historic or seismic upgrades via the transfer of development rights (TDR) program.**
4. Floor area developed or used previously for non-residential purposes and vacant at the time of the engineer’s report during the parking district assessment.

Per staff’s recommendation at the Council hearing, the Council did not modify the existing building replacement provision of code section 18.18.120(a)(2) and (b)(2) pertaining to grandfathered uses and facilities as originally proposed. In addition, the Council modified the ordinance to keep the 200 square foot Minor Floor Area Bonus for buildings not on the City’s list of historic resources or seismic categories, but to eliminate the parking exemption associated with this bonus. In addition, Council clarified that this bonus must be parked and that if it cannot be parked on site, it can pay in lieu parking fees. A revised Interim Ordinance which reflects Council’s action is included as Attachment A.

The Council also approved an Ordinance to Repeal Ordinance 5167 and amend Palo Alto Municipal Code related to Parking Assessment Districts to eliminate the “Exempt Floor Area” parking exemption which allows for floor area up to a floor area ratio (FAR) of 1.0 to 1.0 to be exempt from parking requirements within the Downtown Parking Assessment Area and floor area up to an FAR of 0.5 to 1.0 to be exempt from parking requirements within the California Avenue area parking assessment district (Attachment B). There had been a moratorium on the use of this ordinance since October 2012.

**Discussion**

At the October 21, 2013 Council hearing on the proposed ordinances, there were a number of public speakers, including residents of the neighborhoods surrounding the downtown area, and developers and commercial property owners with projects pending review that could be impacted by the Council’s action on the interim ordinance. The residents expressed concern with the intrusion of parking into the neighborhoods, indicating data has been collected to document the increased impacts of parking in the area. Developers with projects in the pipeline (submitted for planning review but not yet approved) expressed concern that the rules would change in the middle of the process and asked that Council consider exempting the pipeline projects from the interim ordinance.

After some discussion, the Council determined that the projects that had received final planning approvals and/or building permits (refer to Table 5 in Attachment C, Council Report Parking Exemptions dated October 21, 2013) would be exempt from the interim ordinance. The Council also determined that the pipeline projects listed in Table 6 of the October 21st CMR Report, reduced to five projects given the at-places memo (Attachment D) regarding project changes for one of listed projects, would be subject to the provisions of the Interim Ordinance. These projects would either need to be revised to reduce floor area, provide the required parking spaces on site or pay the in-lieu fees (if in the assessment district). Staff has already spoken to several of these applicants, who now intend to provide additional parking onsite.
and/or pay in-lieu fees.

**Timeline**

The Interim Ordinance to eliminate certain parking exemptions for a period of two years would become effective 31 days after Council’s adoption. The interim ordinance would be in effect for two years from its effective date unless amended or made permanent by Council. The Ordinance establishing the moratorium on the use of Parking Exemptions within the Downtown and California Avenue Parking Assessment areas will expire on December 28, 2013. In order for the current provisions to stay in effect, the permanent ordinance will need to be adopted by the City Council 31 days prior to the expiration (by November 27, 2013).

**Environmental Review**

The proposed Ordinances would eliminate certain exemptions to the parking regulations within the Downtown and California Avenue areas of the City of Palo Alto, which will result in projects that will comply with the remaining parking regulations established in the Palo Alto Municipal Code. Each development project submitted under the revised regulations will be subject to its own environmental review. Consequently, these ordinances are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations since it can be seen with certainty that there is no possibility the adoption and implementation of these Ordinances may have a significant effect on the environment. Further, the actions are compliant with Section 15301 in that these proposed ordinances will have a minor impact on existing facilities.

**Attachments:**

- Attachment A: Interim Ordinance Parking Regulations  (PDF)
- Attachment B: Ordinance to Eliminate 1 to 1 Parking Exemption  (PDF)
- Attachment C: CMR Parking Exemptions dated October 21, 2013  (PDF)
- Attachment D: Parking Exemptions At Places  (PDF)
- Attachment E: October 21, 2013 City Council Action Minutes  (DOC)
The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:08 P.M.

Present:   Berman, Burt, Holman, Klein, Kniss, Price Scharff, Schmid Shepherd

Absent:

STUDY SESSION

1. Potential List of Topics for the Study Session with Santa Clara County Supervisor Joe Simitian.

SPECIAL ORDERS OF THE DAY

2. Acknowledgement of Recipients of Mayor’s “Green Leader Business Award”.

APPROVAL OF MINUTES

MOTION: Council Member Kniss moved, seconded by Council Member Price to approve the minutes of September 30, 2013 and October 7, 2013.

MOTION PASSED: 9-0

CONSENT CALENDAR

MOTION: Vice Mayor Shepherd moved, seconded by Council Member Price to approve Agenda Item Numbers 3-8.

3. Resolution 9379 entitled “Resolution of the Council of the City of Palo Alto Repealing Resolution No. 9225 and Expanding the City Manager’s Authority to Execute Transactions under the Master Renewable Energy Certificate Purchase and Sale Agreement with Thirteen Pre-qualified
ACTION MINUTES

Suppliers in an Amount Not to Exceed $5,000,000 per Year During Calendar Years 2013-2018.”

4. Staff Recommendation to Allow Special Promotional Golf Course Fees for the Palo Alto Municipal Golf Course (Golf Course) to Include: Loyalty Cards - Play 5 Rounds And Get 1 Free, Limited Two for One Green Fee Offers, Saturday and Sunday - Kids Play Free With One Paid Adult and Good Deed Gift Certificates.


6. Resolution 9380 entitled “Resolution of the Council of the City of Palo Alto Approving the City's Revised Sanitary Sewer Management Plan and Designating Certain Employee Classifications as Legally Responsible Officials.”

7. SECOND READING PARKING EXEMPTION ORDINANCE: Adoption of an Ordinance 5213 entitled “Ordinance of the Council of the City of Palo Alto to Repeal Ordinance 5167 and Amend the Palo Alto Municipal Code to Delete Sections 18.52.060(a)(2) and 18.52.060(c) Related to Parking Assessment Districts to Eliminate the “Exempt Floor Area” Parking Exemption Which Allows for Floor Area up to a Floor Area Ratio (FAR) of 1.0 to 1.0 to be Exempt From Parking Requirements Within the Downtown Parking Assessment Area and Floor Area up to an FAR of 0.5 to 1.0 to be Exempt Within the California Avenue Area Parking Assessment District”; and adoption of an Interim Ordinance 5214 entitled “Ordinance of the Council of the City of Palo Alto to Amend Chapters 18.18, Downtown Commercial (CD) District, and 18.52, (Parking and Loading Requirements) to Make the Following Changes to be Effective for a Period of Two Years: a. Delete Sections 18.18.070(a)(1), 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to Eliminate the 200 Square Foot Minor Floor Area Bonus and Related Parking Exemption for Buildings not Eligible for Historic or Seismic Bonus. b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to Eliminate the Parking Exemption for On-site Use of Historic and Seismic Bonus. c. Amend Section 18.18.080(g) to remove the On-site Parking Exemption for Historic and Seismic Transfer of Development Rights up to 5,000 Square Feet of Floor Area to a Receiver Site in the CD or PC Zoning Districts. d. Amend Section 18.52.070(a)(3) related to Remove the Sentence Allowing Square Footage to Qualify for Exemption That Was Developed or Used
Previously for Nonresidential Purposes but was Vacant at the time of the Engineer’s Report. These actions are exempt from the California Environmental Quality Act (CEQA) under Section 15061 and 15301 of the CEQA Guidelines (First Reading: October 21, 2013 PASSED: 8-1 Kniss no).”

8. Recommendation From the Council Appointed Officers Committee to List a Salary Range in the Brochure for the City Auditor’s Recruitment.

MOTION PASSED: 9-0

ACTION ITEMS

9. Update from Rail Committee.

No Action Taken.


MOTION: Council Member Kniss moved, seconded by Vice Mayor Shepherd to recommend the City Manager enter into a contract with Hatch, Mott, McDonald (HMM) to perform Phase 1 of the additional grade separation design services as outlined on page 3 of the report to include Staff recommendations of: submerging the roadway at Churchill, Meadow, Charleston, while leaving Alma at-grade, trenching the corridor from San Antonio under Adobe Creek, Charleston, Meadow, and Barron Creek before coming back to the surface just prior to Matadero Creek.

MOTION PASSED: 7-2 Holman, Klein no

11. Approval of Outreach Plan to Solicit and Encourage Input from the Community on Palo Alto’s Core Values.

MOTION: Council Member Berman moved, seconded by Council Member Kniss to accept Staff recommendation on the proposed outreach plan to solicit and encourage input from the community on Palo Alto’s core values using Open City Hall, smart screens, and video concept as outlined in the staff report.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to include direct solicitation to community groups, a form on the website, and face to face community outreach.
ACTION MINUTES

MOTION PASSED: 9-0

ADJOURNMENT: The meeting was adjourned at 10:53 P.M.
EXCERPT

Parking Exemptions Code Review: Review and recommendation to City Council to adopt:

A. Ordinance of the Council of the City of Palo Alto amending Chapter 18.52 (Parking and Loading Requirements) of Title 18 (Zoning) of the Palo Alto Municipal Code to Eliminate the "Exempt Floor Area" Parking Exemption as Contained in Sections 18.52.060(a)(2) and 18.52.060(c) of the Palo Alto Municipal Code.

B. Interim Ordinance of the Council of the City of Palo Alto to amend Chapters 18.18, Downtown Commercial (CD) District and 18.52, Parking and Loading Requirements, to Eliminate Certain Parking Exemptions within the Downtown Area.

These actions are exempt from the California Environmental Quality Act (CEQA) under Section 15061 and 15301 of the CEQA Guidelines.

Chair Michael: The next item on the agenda is the Parking Exemptions Code Review where the Planning and Transportation Commission (PTC) will review and recommend to the City Council whether to adopt two ordinances, an ordinance amending Chapter 18.52 of Title 18 to eliminate the "Exempt Floor Area" parking exemption and secondly to adopt an interim ordinance to amend Chapters 18.18 and 18.52 dealing with the Downtown Commercial (DC) district and parking and loading requirement to eliminate certain parking exemptions within the downtown area. And we'll begin with a staff report.

Aaron Aknin, Interim Director – Planning: Thank you Chair and Commission. Aaron Aknin, Interim Planning Director. So I've been with the City for a little bit over a year now and I can tell you that the zoning code and particularly how it relates to parking is very complex. There are a number of provisions that were adopted over the time and a lot of those provisions were adopted in the 1980's. And what happened during the 1980's was there was a downzoning of almost all the properties within the downtown area and other areas within the City. And at that time it appears that there were different concessions and compromises made within the code and some of those were exemptions for parking that were really there to provide incentive to property owners to develop within the downtown area. Well as the Commission knows now there doesn't, there isn't a need for much incentive. A lot of development is going on downtown and the parking issue is in the forefront of the public conversation right now.

So last year, over a year ago the Council asked staff to take a look at various parking exemptions within the code and Curtis Williams who was the Director at that time pointed to one particular parking exemption, which was called the 1:1 Floor Area Exemption in the downtown area and the 0.5 Floor Area Exemption in the Cal Ave. area. And what that exemption allowed a property owner to do is essentially park an equivalent amount of floor, a floor area amount equivalent to the lot size without providing parking. So in the downtown area if you have a 10,000 square foot lot the first 10,000 square feet of building would not have to provide parking. In October of last year the Council voted on a moratorium on the use of that. This is now before you tonight as the first part of the code revisions where we're recommending that that just become a permanent part of the zoning ordinance, that that go away. And that would impact the downtown area as well as the Cal Ave. area. So that's the first part of the zoning code amendments that are before you.

The second part is somewhat unique as we're proposing the second part to four provisions within the code as an interim ordinance that would be good for a period of two years. So the first part of the interim ordinance that's before you, the Commission has heard of Transferrable Development Rights (TDR). Currently within the code if you historically rehabilitate a building within the downtown area you're allowed to have either a 2,500 square foot bonus onsite to construct without providing parking or you could take that bonus and transfer it to another site. You could also have another 2,500 square feet
that allows you to if you seismically retrofit a building that's within a certain category also to build onsite or to transfer off to another site. And that's good for both, not have to provide parking as well as a bonus Floor Area Ratio (FAR) over what's allowed and under the base zoning. What staff is proposing tonight is that TDR's and bonuses still exist, but they only exist as they relate to Floor Area Ratio; that the parking component of those go away for this interim period. So that's the first provision.

Second provision we have something called the Minor Floor Area Bonus, which allows a 200 square foot addition where the first 200 square feet of a building to not be parked. This was another one of the compromise codes that was created within the 1980's so this 200 square foot one we're proposing that that incentive is no longer needed and that go away as well.

Now the third one is one that I really think that should truly be an interim ordinance and be something that we think about and that we take a look at over the next two year period. And that's grandfathered buildings and the ability to rebuild grandfathered floor area. So there are a lot as the Commission knows there are a lot of buildings that are older within the downtown area and currently as it goes that they are grandfathered and they're built before 1986 and let's say they don't provide any parking onsite, they are above the Floor Area Ratio, you could tear down that older building and rebuilding it with a modern building. Now from a standard practice that is a good thing. You want the ability to be able to have buildings modernized and be created for modern uses. You don't want to be in a situation where you have a dilapidated building stock 10, 20 years down the line because there's so much value captured within that existing building and you just wouldn't be able to make it penciled to tear it down if you had to meet the current zoning code standards.

However, the reason that we're proposing this as an interim ordinance is we know that there is some type of, there could be some type of impact related to modernizing buildings, in particular how it relates to parking. So when you take an older retail building, tear it down and maybe make it partially retail and higher end office space there could be a greater impact in terms of parking. Now the property, most of these property owners have paid into an assessment, the assessment district so there are still rights associated with that; however, we want to be able to quantify the impact of building modernization so that there could be a proportionate impact fee associated with modernizing buildings. So that's the third one.

The fourth one is an unusual code that's found, which says most of the buildings were assessed in the mid-1980's to create parking structures. If you had a part of your building that was vacant at that time, but being used for non-residential vacant space it was not assessed. However, if that space was in existence you're still allowed to tear it down and rebuild it with this grandfathered status as if it were assessed. So we're saying that that portion of the code be done away with on an interim basis for the next two years as we start a Downtown Development Cap and other studies.

So those are the main points. You will see that there are a number of projects that are in the pipeline that at least take advantage of a portion of these. Staff isn't entering a recommendation about what to do with those, but what we are saying is previous, the most, the previous decision from the Council as it related to the 1:1 FAR moratorium is that it applied to, the moratorium applied to projects that had not been approved yet for their planning entitlements. So if they were in the pipeline, had not been approved, they were not allowed to take advantage of that moratorium or that exemption anymore. They did have to provide the parking.

So there's a number of people in the audience tonight and I know we received e-mails that this isn't going far enough. I would say that this is a first step. This is the first time that we're really taking a look at the code and recommending changes to the code in several decades. So and it is a big step and during the Downtown Development Cap process and perhaps even before then we'll be able to dive deeper into the parking code, into the zoning code to see what's appropriate. So at this point I could take any questions from the Commission.

Chair Michael: So thank you Director Aknin. So at this point we'll turn to the Commission with any clarifying questions of staff; up to five minutes each. Commissioner King.
Commissioner King: I’ll ask can you, I was a little bit confused or I was confused by your tables particularly so can you walk me through that and just with particular care toward Table 1. I think you’re saying those have parking exemptions, we’re not arguing about those. Those projects will be under the old rules or rules as they stand today. And then Table 2 what that means and particularly “not applicable,” I was confused by what “not applicable” means under building permits (interrupted)

Mr. Aknin: So Table 1, 135 Hamilton is really the only one that’s in the building permit process. Cowper did have its planning approval so if you were to use the precedent that was set during the last moratorium that would still be allowed to use the existing zoning code provisions. 240 Hamilton all the way down those have not received planning approval yet.

Commissioner King: And so under staff’s recommendation they would now be under new rules and would lose the exemptions?

Mr. Aknin: Well we’re not actually entering it. I think this is a larger policy discussion that we have to have both with the Commission and with the Council. But what we are saying is that the most recent precedent that has been set by Council on the moratorium itself is that it applied to everything that had not been approved from a planning standpoint.

Commissioner King: And that would be 240 Hamilton down (interrupted)

Mr. Aknin: On down.

Commissioner King: Through your tables?

Mr. Aknin: Yeah.

Commissioner King: Ok, thank you. And then the other question I had is regarding let’s see over here… let’s see on number three, Page 5, grandfathered uses and facilities. So this remodel or improve I’m curious as to how much gamesmanship can happen there. So this remodel or improve I’m curiosus as to how much gamesmanship can happen there. I know with single family residences people to maintain typically setbacks or their property tax base will do a remodel and leave one wall up and I’ve actually seen projects in Palo Alto where then that one wall gets taken down after a certain phase of inspections so it’s basically completely new construction. And so how do we determine the details of who determines whether it’s a remodel or a rebuild?

Amy French, Chief Planning Official: The standard practice for nonconforming structures in the residential zones is that they need to leave 75 percent of the walls in place as exterior walls to be considered retaining their nonconforming status. For commercial buildings the practice has been 50 percent, so retaining 50 percent of the walls. That’s a practice of policy; it’s not a code provision.

Commissioner King: Ok so to me that sounds vague that people could again, you could basically rebuild the thing and just go through a slight pain of leaving up those walls, the studs only, and then you rebuild everything around it. So am I wrong, but it seems like it’s ripe with the capacity to not, to actually do a rebuild while calling it a remodel.

Ms. French: I guess the definition of what a wall is, I mean for the residential policy that we have in place we do say that you have to leave siding. It can’t be a see through wall; it can’t be just studs and be considered a wall. For commercial we could have a tight definition, a tight policy of what we consider to be leaving a wall, how much of the wall that can be done as an administrative policy.

Commissioner King: Ok, that would be my concern and suggestion was that we are very tight on making sure that those two things are clearly separate. And then the other question I had is regarding the Transfer Development Rights. So is it, can you explain, so those can be sold to another party, a third party or kept, retained by the owner for one of their other parcels? Is that correct?
Ms. French: Yeah. It's called Bonus Floor Area. It can be used onsite unless and it can be transferred to an eligible site. It cannot be a historic site that it's transferred to. Those are not eligible for receiving those bonus floor area transferred rights. Yeah, so it can be transferred to other sites owned by other people and there's a process in our code that lays out how we go through that process.

Commissioner King: Ok, and then my other question and that transfer of development right consists of both entitlements for square footage, you could get more square footage on the parcel to which its transferred as well as parking benefits or exceptions, correct?

Ms. French: Right. So you might be transferring more than 5,000 square feet of floor area, Bonus Floor Area to a site, but you can only get up to 5,000 square feet of parking exemption of that floor area.

Commissioner King: Ok, and Chair may I finish on this question? So then my question is so it seems to me if you're saying that we're going to, those are going to retain, they are going to be maintained exactly the same that if you compare that to let's say someone had a building site and they've owned that for however long, now we're going to say, “Oh, we're actually now stripping from that the parking exceptions.” So you're going to lose those parking exceptions on an existing site that hasn't been applied for permits, it's, I own a building. Let's say I own a building and it currently has under our current code there are exceptions for which I might be eligible for parking that 1:1 FAR. We're now talking about removing those from my, if I own that parcel. So I'm a little confused on if the TDR’s contain both square footage and parking benefits why I would lose mine as the property, as a property owner of an existing parcel and yet the TDR owner would not lose those parking exceptions as well.

Ms. French: So because we have a process to transfer that bonus floor area on both ends, right? So there's the process to send the transferred area and the process to receive the transferred area. When we go through the Architectural Review Board (ARB) process it's documented where, that there's transferable rights that are being placed upon that site. When there is a historic rehab or seismic rehab or both in some cases that are documented through a legal document as far as how much floor area can be transferred off the site. And then at such time as it's placed onto the new site it's documented through the county recorders, it's very formal and legal that way.

Commissioner King: Ok and all, oh, Aaron.

Mr. Aknin: Can you just repeat your, was she able to answer your question there or can you repeat it?

Commissioner King: Well, mine's about the parking exception portion and it seems like we're saying that there's a reference in here that that would be takings if we stripped the parking from somebody's TDR, if we stripped out the parking exceptions.

Mr. Aknin: So if you, so I think what I should have said in my presentation if someone's historically rehabilitated their building and earned and recorded that right to that, they still get that. That's not being taken away as part of this proposal. What we're saying is that we suspend the ability to create the bonus associated with not having to park square footage in the future whether you historically rehab your building and try to add on to your building un-parked or you try to transfer that off of your site to another site. So it's the same whether or not you're trying to keep it onsite or trying to sell it to another property owner.

Commissioner King: Ok.

Mr. Aknin: And it's looking forward not (interrupted)

Commissioner King: It seems inconsistent. It seems that we're penalizing, it seems inconsistent that the same parking wouldn't be stripped from an existing parcel or from a TDR, but that's we'll continue the discussion later. Thank you.

Chair Michael: Commissioner Alcheck.
**Commissioner Alcheck:** One of the components of the temporary interim ordinance would be to study or quantify the effects of this concern about locking property owners into older buildings. How do, I’m curious to know like what’s our strategy of quantifying that in the interim? Is it just a matter of how many fewer remodels we get compared to a typical year or?

**Mr. Aknin:** No I think it’s just taking a look historically when we've seen older buildings turn into newer buildings what has the impact of that been. So when we've seen older retail buildings turn into newer office buildings how many more occupants are associated with this newer office building than previous buildings in the parking impact associated with that.

**Commissioner Alcheck:** Ok. I need to think about that for a minute.

**Chair Michael:** Commissioner Panelli did you have any questions of the... Vice-Chair Keller?

**Vice-Chair Keller:** Thank you. So the first question is what is the downtown FAR that’s allowed if you don’t get any bonuses or whatever?

**Ms. French:** So if you for a mixed-use project you can get a 2:1 FAR for a brand new building parked. With transferred floor area you can get up to 3:1. If you have an existing building that’s already at 2:1 let’s say it’s commercial you can still transfer because it exists, you can still transfer development rights to that building to get it up to 3:1.

**Vice-Chair Keller:** Ok, thank you.

**Ms. French:** Over 1:1 above what exists in the downtown, above what exists or what is allowed.

**Vice-Chair Keller:** Right. Thank you. So one of the things that’s interesting is that in some sense we need to, I, we can think about separating the idea of what people can build from what people have to pay for parking. In other words right now we’ve linked those together, but it might make sense to think about possibly separating them. And towards that regard in terms of the buildings with vacant space, the old buildings with vacant space, that space was never assessed. Is that right?

**Mr. Aknin:** Correct. In that particular provision that space was never assessed.

**Vice-Chair Keller:** But for a grandfathered building that was larger than zoning allowed that space was assessed?

**Mr. Aknin:** Yes.

**Vice-Chair Keller:** Ok. So and the assessments are an annual assessment to pay for the bonds. Is that right?

**Cara Silver, Senior Assistant City Attorney:** It’s an annual assessment unless the owners are permitted to prepay. And so if they don’t elect to prepay at the beginning of the assessment then it goes to an annual assessment over I think it’s a 30 year cycle, but we’re well into that cycle.

**Vice-Chair Keller:** So they either pay annually or they pay at the beginning, but essentially that’s an ongoing payment? Ok. And this... such a payment to create a new bond for a new garage requires a two-thirds vote? Is that right?

**Ms. Silver:** Of the assessment district property owners. Yes.

**Vice-Chair Keller:** And does each one get one vote or how does it work? Is it by parcel? Is it by dollar amount? How do they, how do you actually calculate the votes?
Ms. Silver: You know I’m not sure. I think it is by property owner.

Vice-Chair Keller: So by parcel?

Ms. Silver: Each parcel gets one vote I believe.

Vice-Chair Keller: Each parcel? Thank you. And that’s only the commercial properties, not residential properties that are voting. Is that right?

Ms. Silver: It depends on how you set up the assessment district. There are a number of different ways to do that, but in downtown we only have a commercial property owner assessment district.

Vice-Chair Keller: Ok. And is it possible to create a Mello-Roos district for downtown parking assessment?

Ms. Silver: Yes it is.

Vice-Chair Keller: And would that require a majority vote and a majority vote of whom?

Ms. Silver: I believe that Mello-Roos is also two-thirds now, but I would have to check on that. And again it would be a two-thirds vote of whoever is in the district. The one benefit of the Mello-Roos is that you don’t have to have a completely congruous district, you can have little pockets and they don’t have to be congruous.

Vice-Chair Keller: Ok, thank you. So the interesting thing is the, for the grandfathered property they’ve paid into the assessment district already so what are we allowing and not allowing? Explain how the grandfather works in this environment.

Mr. Aknin: Currently or proposed?

Vice-Chair Keller: Proposed. Currently and proposed. Explain the difference to me what’s happening?

Mr. Aknin: So currently if you have a building and it’s above the allowed FAR it’s grandfathered in so let’s say currently you’re allowed to have a 5,000 square foot building and you have a 10,000 square foot building with no parking. You’re allowed to tear down that building and build the exact same amount of square footage without providing parking. As we’re proposing it now during this two year period you could renovate your building, you could remodel your building, you could continue to use your building as is and continue to receive the same parking benefit by being paid into the assessment district, but you wouldn’t be allowed just during this two year period tear down your building and still keep your grandfathered status to be, go up and beyond FAR that’s allowed right now and parking that’s allowed right now.

Vice-Chair Keller: So when you say, could I finish this?

Chair Michael: Yeah.

Vice-Chair Keller: So when you’re exceeding the FAR that’s allowed could you give me an example? Are you saying that the FAR is above 2.0 is that the idea?

Mr. Aknin: There’s some cases, but it’s mostly the situations where maybe you have 7,000, 8,000 square feet of building without parking onsite or you have an 8,000 square foot building where 5,000 square feet of FAR is allowed onsite.

Vice-Chair Keller: So for example if it’s not mixed-use if it’s all commercial (interrupted)

Mr. Aknin: Yeah.
Vice-Chair Keller: Then what's the maximum FAR if you have all commercial?

Mr. Aknin: One.

Vice-Chair Keller: 1:1?

Mr. Aknin: Yeah.

Vice-Chair Keller: So if you have no retail, you only have, is retail and commercial considered a mixed-use?

Mr. Aknin: No. When we say mixed-use the housing component allows you to have 1.0 and then the commercial component would be also 1.0 so that's how you get to your 2.0.

Vice-Chair Keller: So if you have no housing then what's the maximum?

Mr. Aknin: 1.0.

Vice-Chair Keller: So if you have no housing it's 1.0 and if you have housing then it's 2.0?

Mr. Aknin: Yeah and then you're allowed to transfer up to another 1.0 using TRD's onto your site. So that's how you get up to the 3.0 max.

Vice-Chair Keller: Ok. So then what happens is that you, if you have no housing the maximum is 2.0 FAR, you can't go to 3.0? Is that right?

Mr. Aknin: Correct.

Vice-Chair Keller: Ok. And if you already had 2.0 and you're grandfathered could you go to 3.0 without adding housing?

Mr. Aknin: Yes with the TDR.

Vice-Chair Keller: With the TDR. Alright, thank you.

Chair Michael: So we're going to open the public hearing now and we have a number of speaker cards. Vice-Chair Keller will announce the speakers and you will each have three minutes.

Vice-Chair Keller: Thank you. The first speaker is Ken Alsman to be followed by David Kleiman.

Ken Alsman: Did you guys really read this whole thing? It's amazing. It took me quite a while to get through most of it. I have questions; I think one of the things that needs to be changed is the California Environmental Quality Act (CEQA) process. It's used in a sense as a mitigation for CEQA on this. The way the CEQA is currently handled every project in town downtown has been approved with no significant impact. It doesn't make any sense to me that we got to this place with no significant impact.

A clarification on who gets excluded, these projects that are in this list can all be included in a moratorium or in the code including 135. They will add another perhaps 400 or more cars parking in the neighborhood. This is not an issue about the code and the commercial as much as it really is inherent in the need to address serious problems with the destruction of our neighborhoods by commercial parking.

On the assessment district Mr. Keller mentioned I just want to indicate that the square foot assessment on commercial is less than ten cents per square foot per month, again $7.00 a month rents and that is generally paid by the tenant as a part of the triple net rents. When the assessment district was formed it was formed on the basis of one parking space per every 250 square feet, but they only built, that would
have required 9,000 parking spaces. They only built 900. So they’re 10 percent, they built 10 percent. That’s what they’re paying for with their 10 cents.

As a resident of Professorville and in light of your initial discussion for the first hour and a half about the historic preservation I think that a major Environmental Impact Report (EIR) needs to be done because you are in the process, you, the City Council, the downtown businesses of destroying a National Register Historic District, which is referred to as Professorville. That has never been mentioned in a single CEQA document related to any development downtown. Please excuse me for being so upset about this. I’ve been at this for 10 years. It’s amazing.

I really think you need to stop all approvals of all projects that have not received, have not begun construction. If they got a permit, good for them, they can hold it for the next three or four years until they can solve the parking problem. The only way you’re going to get these developers to the table to talk about real solutions is to stop giving them these subsidies.

Chair Michael: So thank you Mr. Alsman. Next speaker?

Vice-Chair Keller: Next speaker is David Kleiman to be followed by Neilson Buchanan.

David Kleiman: Good evening. I have, I agree with many of Ken’s points on the fact that we have a parking issue. On the other hand I have a slightly different viewpoint being the owner of some downtown office buildings that will be redeveloped. One of them is one of the buildings on the list that is in progress 636 Waverly and I will be very directly and very negatively impacted by the adoption of these moratoria. Specifically I was told when I lost the, there’s the first moratorium that’s in effect, which is the 5,000 square foot exemption I went from a building that had five or six parking spaces to 21. I’ve been able to accommodate those via engineering and design onsite. I don’t have approval for that yet and I’m very concerned that there might be a permanent moratorium that will turn into or something that will become permanent before I’m able to get that project finally approved.

I think that we have a parking problem, but I don’t think we should start limiting property rights, which is really what people who are upset about parking are asking you to do. I think that we should solve the parking problem by building more parking in the downtown area, more parking garages and I think that there should be permit parking so that people that are upset stop turning up the volume and perhaps asking you and the City Council to limit property owner’s rights in the name of solving the parking issue. So I’m in favor of more garages, I’m in favor of developers who are building new developments parking onsite, but I don’t think that when people like me spend millions of dollars to buy property and then hundreds of thousands to millions engineering developments go through that process, have certain realistic I think expectations, and then lose those rates midstream I think it’s bad planning. I think you want certainty. I think the reason Palo Alto’s so great is because certainty was there up until very recently and I think we’ll all lose if we lose that certainty. Thank you.

Chair Michael: I believe Vice-Chair Keller has a question for you if you would like to stay up for a moment.

Vice-Chair Keller: Yes, I’m just wondering if the project you’re proposing to build is fully self-parked or if you’re relying at all on parking exemptions or things like that?

Mr. Kleiman: No, it’s fully self-parked. I am relying on something that hasn’t been brought up and hasn’t been lost yet, which is some shared parking. It’s a mixed-use building. There is a provision in Palo Alto’s code like virtually every municipality around the country where you can, there’s a shared parking benefit because exactly our situation, we’re going to live in one of the two residential units. Whoever we sell or rent the other unit to typically would drive outside the building to work and people that work in the commercial portion can use those spaces and there’s a formula that’s widely accepted, same one used, and we will take advantage of that. And that does reduce our total required parking from I don’t know, 24 to 21 or 25 to 23, I forget the exact numbers right now. But otherwise through the use of parking lifts we will be fully parked and I think we’re one of the few projects in Palo Alto where that would have
ever occurred. In a lot that’s half the size of this area we have 5 parking lifts, four cars high. So it’s pretty extreme.

Vice-Chair Keller: So if there were a moratorium and I’m not saying there should be or would be it sounds to me like you would suggest that fully parked projects be exempted from such a moratorium. Is that what you’re, that make sense to you?

Mr. Kleiman: Yes and I would say that as another example I’m in the 200 square foot bonus where we are taking advantage of that. We would need to redesign our building after having spent literally almost a million dollars on design fees and engineering to get it to work at the point where we’re going to apply for a building permit while we’re still going through the process of approvals. Let’s say we lose that 200 square foot exemption. All of a sudden we’re one parking space short. It doesn’t seem like much, but it’s a big deal reengineering a building when you’re midstream. So I would say if you’re going to pass that at least allow some period of time that’s at least one to two years, because that’s really how long it takes to plan and get a building approved in Palo Alto before it goes into effect. So the people who are in the planning process now like me don’t go through the process and tell their engineers and architects hey, assume we can use the 200 square feet. They’ll know hey, we can’t. They’ll design buildings, those will get approved. It’s a level playing field. People go in with a reasonable set of expectations.

Vice-Chair Keller: Thank you very much.

Mr. Kleiman: Thank you.

Vice-Chair Keller: The next speaker is Neilson Buchanan followed by Jeff Levinsky.

Neilson Buchanan: I know you’re tired from hearing from some of us so frequently, but I am not against development. I don’t mind if you use imminent domain and build proper parking garages 70 feet tall and do it right. I don’t mind if you build a new Channing House that’s 10 stories tall. There are a number of things that are going to have to change in Palo Alto and I’m, I, it needs to be planned for my grandchildren, not for me.

It seems to me that the wheels of progress are beginning to turn in terms of the Council and the leadership throughout the City recognizing we’ve got some severe traffic and parking problems. And we’re severely overcommitted development versus the impact of parking and traffic. I don’t need to go into all that. Pat Burt waxed on quite nicely about the need to have cumulative traffic studies that just project by project wasn’t working out any more than parking negative impact brought by project by project has dug a great big hole.

So what are we doing about it? Fortunately I do see the wheels of progress turning. There’s a foot’s on the break trying to slow things down on certain things. There’s remedies being offered to the neighborhoods for permit parking, but when I look back at it and I’m the one that’s been trying to quantify well what impact will this have? Just stayed up last night just thinking about what is the Downtown North impact? Is that 400 workers being displaced and going to have to park somewhere else? I think this is a great chance to really quit digging the hole deeper. It’s a great time to put a moratorium; moratorium will bring everybody to the table, as it should. And why don’t we really understand how much of the foot’s on the break, how many feet are on the accelerators? Because traffic, parking is simply an imbalance and for the life of me I can’t figure out what is it going to get better or worse? The things that could make it worse take a long time. The things that make parking worse take a very short period of time to make things to get fixed take a long time. Thank you.

Vice-Chair Keller: The next speaker is Jeff Levinsky.

Jeff Levinsky: Good evening Commissioners and staff. It’s great that you are reviewing this item tonight because as you’ve heard the parking situation is already a crisis and it’s just getting worse month by month. However, the staff report chose to focus on some of the exemptions that cause under parking, but unfortunately the moment that those are cut off the developers will just switch to the many other
exemptions that litter the code. So I and others are concerned that any piecemeal approach is not going
to work.

For example, the staff declined to propose a moratorium on the in lieu fees that many developers
downtown can take advantage of. The in lieu fees do not turn into parking spaces. In fact the City's
own analysis for building a garage on Lot P from just a few months ago shows it costs over $90,000 for
each new space and that's before you factor in land costs and taxes, which are immense, yet the City
currently collects less than $70,000 for each in lieu space. So if the staff proposal is adopted as is expect
developers just to switch to paying in lieu fees and consequently we'll have an even greater shortage of
parking with yet more cars clogging the neighborhoods. If the City ever decides to build the garages
guess who will have to pay the difference? It's not going to be the developers, it's going to be the
taxpayers. That's right, we're going to end up subsidizing the developers and that's what the staff
proposal leaves in place.

That's just one of the loopholes. You could sit here all night tonight and be here for years and argue
over how to plug every exemption in turn. Every few months the staff will come back and say “Surprise!
Developers just switched to a different one” and now we have to plug that one. And all the time the
parking problem will grow and grow and become even harder to solve. Enough. Do not lead the City
down that hopeless path. The only situation that, the only solution that makes sense is a moratorium on
all under parked projects across Palo Alto and all the exemptions, all the special rules, all the waivers, all
the giveaways, if you want to build it you need to park it. Thank you.

Chair Michael: So now we close the public hearing and come back to the Commission. In the first round
of comments Commissioners please use up to five minutes. Who would like to start? Commissioner
Panelli.

Commissioner Panelli: I'd like staff to comment directly on a couple of the items that were actually in Mr.
Levinsky’s e-mail and assigned by several of the other members of the community, specifically the
item about in lieu fees and number two the mixed-use allowance. Can you provide a little bit more color
about how the in lieu fee is calculated in the past and maybe how the thought is, how that's going to be
in the future?

Mr. Aknin: So regarding the in lieu fee, the in lieu fee was established awhile back and it was basically
just an estimate through engineering of how much it would cost if you had a sizable parking garage built
on a per space basis. And I think it was our, I think it was based on our most recent construction of
garages and then escalated by a certain amount. So that's how we came, and it's still a pretty accurate
number overall. The Lot P did come in at a little higher per space; it actually came in lower per space
when you considered the subsidy that would be given by the private/public partnership because of the lot
size. When you get a bigger lot there is less space dedicated to ramps so it goes down. So that wasn't
the most optimal space if it wasn't a space where a lot of it wasn't a public/private partnership.

Commissioner Panelli: But I want to just be clear because what I'm hearing is that there is no inclusion of
any amortization of land cost as part of that. It's just the cost of construction of an average space.

Mr. Aknin: Of an average incremental space above what is already on that, above that parking lot. So if
you replaced a 100, if that, if you had a base of land that provided 100 spaces and you did a 600 space
parking lot you'd only get credit for that 500 space delta. So it doesn't consider the land cost itself, but it
does consider the base amount of parking in that land.

Commissioner Panelli: But ostensibly shouldn't it consider some land cost if we're basically saying here's a
fee you can pay to build a space somewhere else?

Mr. Aknin: I mean it could, but I mean that, I'd honestly want to come back with you since that wasn't
really the subject of tonight, but that's something we could bring back to you. There was a lot of work
that was done in the past even before I was here.
Commissioner Panelli: And let me give you an explanation of what’s going on in my head and this is something since I’ve joined the Commission I’ve been harping on, which is one-time costs for permanently entitled benefits. And I’ve got to think that we’re not capturing the full cost with these in lieu fees. We’re not capturing land cost and we’re not capturing ongoing maintenance costs. So if a parking garage is dilapidated in 100 years that property owner already has that fully entitled right to what they got 100 years before, but somebody’s got to pay for replacing that parking garage at some point, right? Or at least maintaining it, repairing it. So I think there’s a problem, there’s an inherent problem in the in lieu fee process and if I think if you really want to solve the problem make the in lieu fees more expensive than just providing the parking spot and voilà I think you’ll start seeing all of a sudden property owners building their or parking their own buildings. So that’s on that.

The mixed-use allowance and I am sympathetic to Mr. Kleiman about you want certainty. I absolutely am, and I understand there are plenty of government bodies that have adopted this mixed-use allowance, but that is an old paradigm when people actually left their homes and went to work somewhere. I’d venture to guess that many people on this Commission here actually work out of their homes. And so I’m not sure that this concept of shared parking based on this assumption that some people are going to be gone during the day and others are going to be gone during the evening I’m just not sure that’s really reality anymore. I mean some of these folks at startups who occupy some of this office space are working 16, 18 hour days so they’re there or they’ll stay the night because they’re doing an all-nighter. So I just, I think those two items I think the e-mail from Mr. Levinsky really needs some attention paid to it. But in general I’m pretty supportive of what has been proposed in the staff report and I would like to see, I see it as a very good first step.

Mr. Aknin: Through the Chair, can I just respond to one thing? I do agree we need to quantify the in lieu fee and make sure that it’s the right amount so that we do pay for the maintenance cost that may not be, I mean typically what you do is you charge permit fees to cover the maintenance costs within these garages, so that’s how maintenance is taken care of. But in terms of capturing the value over a longer period of time I do agree.

What I would say is the general planning practice widely accepted and something I personally agree with too is you don’t always want all spaces provided on each site in a downtown area where there is a lot of pedestrian activity. If you have 50 spaces under each commercial building you’re having a lot of cars going over the sidewalk to access that in an area that you have a lot of pedestrian activity. So it does make sense in some cases to be able to take in lieu fees that do capture the whole amount if you’re actually able to provide that parking within an area where people could park once and walk to multiple locations. So it’s a balance of both, but I do agree on capturing the costs part.

Chair Michael: Commissioner King.

Commissioner King: Thank you. So I am, it does resonate the fairness of people at some point in the process and now having to incur additional fees. I’m curious and maybe the Senior Assistant City Attorney can advise me if we’re getting somewhere we shouldn’t be discussing this, but if possible could staff walk through sort of a timeline? It looks like, what was the date? 2012, October or 2012 was when Council enacted the moratorium. So I’m curious at 636 Waverly and if you know the timing where were they in the process, did we switch things up on them, and how will this vote or if this goes though how will this impact that project?

Mr. Aknin: So there were two projects that were caught up in the moratorium, which was 636 Waverly and 135 Hamilton had applied and drawn plan ups relying on the 1:1 floor area exemption that they were no longer able to take advantage of.

Commissioner King: So at the time, just to sort of interrupt so as of October of last year they were in, they were moving forward with incurring costs for planning the project?

Mr. Aknin: Yes. Yes, so in Mr. Kleiman’s he’s further along the line than a lot of people further down on the list, so I mean he has gone through a lot within this last year and has worked closely with staff on
this and has made a ton of modifications based on he, I mean I agree with him, he's one of the few projects that's been innovative, used lifts to try to do it. We weren't actually aware that he was still using the 200 square foot minor floor area exemption. We'll have to double check that. What he would do in that case if he wasn't able to do that he could one of two things: reduce his building by 200 square feet or pay an in lieu fee for an equivalent amount.

Commissioner King: Ok so that, so those were, if this were to go forward those would be, that would be you're saying the only impact to him would be potential loss or payment incurring an in lieu fee for that 200 square foot exception?

Mr. Aknin: Correct, if he is in fact still applying for that one.

Commissioner King: Ok. And can you clarify in lieu fee? So that's an in lieu parking fee, so that will be the impact?

Mr. Aknin: Correct.

Commissioner King: And do you know what that would be?

Mr. Aknin: It’s about $60,000.

Commissioner King: So it would be one space for that 200 square feet because that's roughly to the 250 square foot per space?

Mr. Aknin: You round up so it would be one space.

Commissioner King: Ok. Ok, thank you.

Chair Michael: Commissioner Alcheck.

Commissioner Alcheck: I think that the fact that the staff is recommending these modifications is a good sign. I would support them on that basis alone, but I want to comment on this notion a few people have mentioned tonight we've got to get everyone to the table; we've got to force the developers to deal with this issue. I want to suggest that this, these modifications will affect future property developers and I think we really want to force all commercial parcel owners: developing, developed, not developing to the table to help solve this problem whether it's just to support the solution financially or to help participate in coming up with the right solution. And I think many of us agree that the solution in some respects is to build more parking downtown and we need to figure out a way to fund that or make it happen.

I still believe very strongly that restricting commercial users from using the residential neighborhood streets to park is the best way to do that because that's not just going to incentivize the people who are developing right now or wishing to develop, that will make every business downtown go right to their landlord and say “We're not going to make your rent payment next month if I can't get my employees into the store, I can't get my employees into the store unless there's a parking solution.” If you don't become part of this solution then you're going to kiss these seven dollar, eight dollar rents goodbye. We want to create an incentive for the small number of multiple parcel owners to become the leadership of this initiative and if they've already developed their parcels this moratorium will in fact only make their parcels even more valuable because they will have benefited from Transfer of Development Rights, from space that they were able to develop without proper, I don't want to say without proper, without facilitating a positive impact on parking that new developers will be struggling to meet that sort of same result. And so I'm not suggesting that I don't think we should try this out, but I want to reiterate that if you stop letting somebody park in front of Mr. Buchanan's home that person will go right up their chain to the person who can make it happen.

And I would prefer, and this is going to sound funny, but I would prefer that sort of market driven approach where we say, we're not going to tell you how many spaces you have to put on your property
per se, how many more spaces you want to put on your property, but if you don’t participate in this acquisition of property, if we don’t look at this notion of parcel owners I think Commissioner Keller in his line of questions was sort of alluding to this notion that the very people that we’d like to participate in the solution here need to sort of bring it on themselves to some extent if it’s going to be the best format. And the only incentive they’ll have to do that is if they get pressure up the chain.

So, again I’m curious to know if we’re just going to put all existing and future applicants at a disadvantage compared to the applicants of the last few years like in terms of what they’re capable of doing with their land, that expectation of what current applicants or potential current applicants have and their realization that they weren’t able to do what maybe their neighbor has been able to do, but really what we want to do is put their neighbor and them in the same boat. And we want to put the business owners in the same boat. And we want everybody to appreciate that we’ve got a parking problem and we’re taking advantage of some of these residential streets to too great an extent.

So if they all get together and volunteer and lead the process for what I feel like again is this parking garage solution and I just want to say for the record I completely agree with you. I’m in no way opposed to a 15 story parking garage in downtown Palo Alto if that’s what we need. And I think Mr. Buchanan’s comment that we need to plan for our grandchildren’s Palo Alto is incredibly insightful. Our height limits our self-imposed. If the parking garage that needs to get built needs to be bigger and taller than it should be and I think we need to encourage every parcel owner, not just those who are interested in developing from 2013 on to be a part of this process. So.

Chair Michael: Vice-Chair Keller.

Vice-Chair Keller: Thank you. So first I have a question. When a developer pays the in lieu parking fee do they also pay the annual or whatever parking assessment for all that land as well? For all that square footage?

Mr. Aknin: So currently they’ve paid a certain square footage so let’s say they paid 5,000 square feet of assessment into it. If they were to propose a new building that was 8,000 square feet they would have to pay for that in lieu fees for that additional 3,000 square feet.

Vice-Chair Keller: No what I’m saying is suppose they paid the in lieu fees. Do they also pay the annual assessment on that square footage as well?

Mr. Aknin: No.

Vice-Chair Keller: So it’s one or the other?

Mr. Aknin: Yeah or both. I mean if they have an 8,000 square foot building they could be paying 5,000 worth of assessments from a previous building that’s carried forward into their new building and then have to pay the delta amount in in lieu fees.

Vice-Chair Keller: What I meant is for any given foot, square foot of (interrupted)

Mr. Aknin: Yeah.

Vice-Chair Keller: You either pay the assessment or you pay the in lieu fee?

Mr. Aknin: Right.

Vice-Chair Keller: But not both?

Mr. Aknin: Correct.
Vice-Chair Keller: Ok. Thank you. So a couple of comments; first of all there's a concept in economics called the tragedy of the commons and essentially this came about because people would graze their sheep I guess in the commons. And it was beneficial for people to go and graze their sheep in the commons because you didn't care, you just put as many sheep as you could do there and to graze their sheep, but unfortunately the commons became uninhabitable and you couldn't put any more sheep there so the benefit to each individual person of putting more sheep in the commons to the individual it's a benefit, but to the community it's not a benefit. And essentially what we have here is that Downtown North and Downtown South are essentially the commons in that regard.

So firstly I agree entirely with the proposals that are done here. Some of these exemptions, a lot of these exemptions were put into place as far as I understand in the 1980's. Now I moved to Palo Alto not as long as maybe Mr. Alsman was or other people, but I moved here in 1977 and I remember when I was a grad student here that you could roll up the sidewalks in Palo Alto in the evening because it was very dead. And one of the reasons it was kind of dead is because in some sense a lot of commercial usage had gone to the Stanford Shopping Center. And so incentives were put into effect to try to incentivize development in downtown Palo Alto, but the conditions for which those incentives were put into place are no longer needed and haven't been needed for some time.

So therefore what we need to do and in particular when I became Vice-Chair I talked about the potential that we should look at things that are there because of older conditions when those conditions no longer exist we need to change the code to remove the incentives that are no longer needed, like for example housing was you couldn't force, you couldn't get people to build housing in the Eighties and early Nineties and then suddenly economics change and now you can't stop them from building housing. So when economics change you need to change. When conditions change you need to change the rules accordingly and the City is remiss in not having made these changes earlier when they were, when the effects that caused these changes were no longer the case.

A couple of things, firstly the in lieu fees not only need to take into account the cost of building a space now, they need to take into account the cost of building a space when. In other words if we're not going to build those parking garages for 10 years you take into account the escalated cost of building that parking space 10 years from now based on construction costs and then escalate that back down based on the cost, the value you can get from interest in putting that money in the bank for 10 years. And that's the cost you have to charge for parking space plus any maintenance and whatever that goes in there. So in that case if $60,000 is the cost of building a parking space it's not going to be that 10 years from now when we finally get around to building the parking garages if it's 10 years or whatever the time period it is.

The issue is that for existing land I mean there's a limited amount of land in which we can build parking garages and so I am sympathetic with Commissioner Panelli's comment about considering land costs. I'm also sympathetic with the idea of thinking about what we do with under parked projects. But it seems to me the extent that we, that if there were a moratorium certainly a project like one that Mr. Kleiman is suggesting, which is basically virtually self-parked would make, does make sense to proceed on. May I continue? Or should we go on for another round?

Chair Michael: We'll try and wrap it up.

Vice-Chair Keller: Ok. So I like the principle of the mixed-use allowance in the large. If you have a large commercial property with a large residential component to it then statistically it makes sense to have a mixed-use reduction. But when you have one or two parking spaces the mixed-use reduction effectively means that you don't have any space for the residential because you don't have a statistical, the statistics helping you and you wind up essentially eliminating parking for residential, which doesn't make sense particularly for people who keep their cars in their houses and take public transit. Some people use their cars only for the weekend and take public transit. That's what we expect to happen downtown. So therefore we need to think about whether the mixed-use allowance makes sense for onsies, twosies, threesies in terms of housing units. I think not.
The next thing is in terms of the requirement that parking be provided one space per every 250 square foot of and I think that needs to be updated. And in terms of the Transportation Element we've got that suggestion and that's coming forward as another thing that's going to happen and come back to us in the next meeting will be a proposal to evaluate that and figure out what it should be. And obviously we don't put a number in there because it requires an analysis to put a number in there and the Comp Plan is, when you put the Comp Plan in there you say we want the, we want to change this number, you don't actually say what you'd change it to. So that's what's going on there.

Next is that there's a proposal that's being pushed forward by the City Council that I think is very interesting and useful, unfortunately there was some sort of disagreement as to what the wording of the Motion should be, but there's Transportation Demand Management (TDM) moving forward. And when Transportation Demand Management that is going to deal with also not only adding parking, but in terms of what Commissioner Alcheck refers to as needing to deal with this with the property owners and in some sense the extent that you can deal with parking by, parking shortage by adding more parking you could also deal with the parking shortage by bringing in fewer cars. And companies like Google and Apple and other companies have shuttles coming from San Francisco, but the small companies in downtown Palo Alto and some of the other companies elsewhere in the City can't afford their own shuttles coming from different places. So TDM measures can involve bringing in shuttles from San Francisco and other places like that or East Bay in order to provide reduction of the amount of cars that are coming here. So I think that that's also worthwhile part of the mix.

Finally, one important part of the problem is that we don't have good data in terms of what the businesses in Palo Alto have in terms of residents, I mean in terms of employees, where they live, how they get here, things, all kinds of things like that. We don't have any data on that. Now some cities get that data through a business license tax. However, for some reason business license tax is very controversial in Palo Alto, but there's no reason why we need a business license tax in order to have a business registry. We could nonetheless have a business registry that gathers all the information we want in a self-serve capacity where you go up, where all the business owners in Palo Alto have to go to a site, register at that site with the information they need, that the City needs about them. If they register you get a free downloaded signed secure .pdf that says you've registered as a business registry in Palo Alto free. And if you don't register then there will be fines saying you didn't register, you didn't give the right information and there are penalties for doing that and that there's penalties for doing lots of things like that. And that will allow us to get the data we need because after all it's going to be hard to enforce TDM measures in downtown Palo Alto or any of our businesses if you don't have the data and a business registry is one way to get that data. Thank you.

Chair Michael: So it's very clear to the Commission and to the Council and to others that parking is a major concern in the community. And it's a big problem. I think that the effort of the code review is tangible, but a small step in the right direction. I would like to align some of my comments with Commissioner Alcheck in terms of trying to identify the substance of what the larger problem is and it's apparent that this targeted effort at cleaning up some archaic parking exemptions in the code isn't addressing the big picture although it is a, it's taken very much in good faith as a step forward.

I think that the notion of the problem of the tragedy of the commons was also referred to by Vice-Mayor Shepard recently and she was referring to the height limit essentially as the commons as a form of the commons in Palo Alto. If we allow up zoning to go into the, above 50 feet we're really taking something which is an asset of the community. It's part of the commons and likewise I think the use of the public streets including for parking is part of the commons. And I don't think that as a community and as a City government we really have a clear sense of what are the implications of that.

I've been really struck by the comments from Mr. Alsmann and others who in a very rational way put forth requests that the City impose some sort of a moratorium on going ahead with individual projects and on one hand I think that that's not particularly feasible. It doesn't seem to me to be, it seems coercive and unlikely to achieve the desired effect of bringing people together in a rational effort to collective problem solving. On the other hand as a Member of the Planning Commission I've been struck by the difficulty of engaging and completing the long range planning efforts mainly the Comprehensive Plan, working on the
Downtown Development Cap, the California Avenue Area Concept Plan or even putting together the Residential Neighborhood Parking Permit Program that might well be part of the long term solution. And I see both the Planning Commission and the Council spending and the staff spending a significant amount of time and energy working on individual projects while the long term planning languishes.

And so I feel very embarrassed by the responsibility that the Planning Commission has as being part of the problem in terms of this inertia in this delay. It definitely complicates our role and certainly I feel personally the problem of not being able to point to an updated Comprehensive Plan as a source of the division, the policy and the programs that guide our decisions and I can see that this would erode public trust in how those decisions are made and kind of the quality of life in the community as we try to evaluate what we like to do into the future and how to impact some of these planning decisions and approvals. So and just as a question for the Council I wonder what it would take to increase the urgency of finalizing these very, very important long term planning efforts, which are in the home stretch in many respects. And also the question of how the Planning Commission might work with staff, work with, provide a forum for community input, which I think happens on a continual basis, but we could possibly improve in that regard and working with Council in terms of coming up with I think solutions to the what are the real problems.

So I don’t for a minute think that what we’re considering tonight is going to address the urgency and intensity and the magnitude and the reality of the concerns that we’re hearing from the community. I think it is with some implementation questions it’s a step in the right direction and I would support it, but I don’t want to leave any impression that this is going to alleviate what I think is a lack of urgency in doing the heavy lifting on completing the overall planning, which is not addressing the substance of the real problem. So let me go back to my colleagues on the Commission for any further comments and/or a Motion.

Mr. Alsman: Mr. Chairman I recognize this is out of order and I would appreciate if I could just have thirty seconds to, for a little clarification?

Chair Michael: I’ll give you two minutes.

Mr. Alsman: First of all with respect to the in lieu fees that has been on the books I believe for around 10 years. Up until the latest building over on Lytton and Alma the total amount in it was about $100,000. That’s how much was collected. I don’t believe that there has been much collected since that except for the new building that’s under construction and that was only because the neighbors started to raise a lot of ruckus about how much parking was going to be there and an in lieu fee was attached to it.

With respect to the assessment district Art’s arguments about paying the full board effectively the assessment district, the assessment pays for $6,000 out of the $60,000. It pays for 10 percent of the real parking need. I mean I just once you get into the numbers it gets really strange to me. With respect to Mr. Alcheck’s comments I don’t disagree with you, but we’ve been fighting for residential parking for 10 or more years. We need every weapon that you can employ to help get these developers to understand the problems they’re creating, to get the good developers, and there are good developers around, not greedy, but good developers who want the City to be successful, who want their tenants to be successful, who don’t want to put all of the costs on their employees or on the residents, but want to have a profitable good project in town. So you need all the weapons. You need a moratorium, you need the parking permits, and you need everything you can muster because you’ve got one hell of a force to fight. Thank you.

Chair Michael: So for the record that was, those comments were from Ken Alsman. Thank you very much. Ok, so coming back to the Commission. Commissioner Alcheck would you like to begin?

Commissioner Alcheck: So I just want to throw out two things that we can sort of chew on, which is I just reviewed in a non-formal capacity I had an opportunity to view a project that’s getting built in San Jose adjacent to their City Hall where there’s 130 plus units with a mix of two, three, and four bedrooms and only one parking space per bedroom, per unit. So dramatic potential for four hundred and
something occupants in this residential building and there's going to be 100 parking spaces. And I
mention that because there are different visions for what urban areas are supposed to be.

You mentioned this notion of we can provide more parking or we can have less cars and the second
comment, which is going to be very farfetched is that I believe in our lifetime and there's some degree of
range there, but I believe in all of our lifetimes we will be at a place where transportation is very
different. We are already seeing cars that are driving themselves. I love that movie Minority Report and
cars latching onto... people movers latching onto each other and moving along. I mention that only
because the population of this City is going to continue to grow, but the number of cars may not or cars
as we know it or the amount of space we need for such modes of transportation is not a necessary
increase or riser. I'm not really sure what term to use there, but my point only is that I'd like to believe
that in our lifetimes we will see a very different type of transportation evolve in a way that cars have and
personal transportation has not evolved in the last 50 years. And other cities are choosing to create
situations of direct conflict where you can absolutely see that this building is going to be under parked
and the city is saying “Yeah, use the bus.” And that's a standard of life question for some people and for
other people it's a city, it's an urban vision.

I would just like to suggest that there's this third view which in time transportation solutions may improve
to such a great extent that the parking that we have provided may be perfectly adequate for 2050. And I
mention that only because in my previous comment I said we have to plan for the City of our
grandchildren and as I sort of thought about that some more I thought well the city for our grandchildren
may not need anywhere close to the number of parking spaces we have. So I know they're farfetched. I
just wanted to throw that out there that this notion of providing, your comment where we could either
provide more parking spaces or reduce the number of cars that have to come downtown is an interesting
one and that's it.

Chair Michael: Vice-Chair Keller.

MOTION

Vice-Chair Keller: So actually what I meant to say is that you could do, you could actually add more
parking or reduce the amount of cars that come in or some combination of the two. I didn't mean it was
exclusively either or. Just to be clear.

So one of the things in terms of your futurism things one of the ideas of self-driving cars is I think it will
deal with traffic, but it won't deal with parking. Because self-driving cars will allow you to pack more cars
on a given roadway segment because they'll move, the turbulent flow that happens with human driven
cars won't occur, but reducing the turbulent flow will allow more cars to flow and that means we'll have
more cars in that regard, which is unfortunately the opposite of what we would like.

The second thing is that we should not expect the Santa Clara Valley Transportation Authority (VTA) to
provide more transit. The only thing we can expect is maybe the 522 bus will run more often and the 22
bus I'm not sure, but the issue is especially Bus Rapid Transit (BRT) that may occur, I don't, light rail
doesn't seem to work as well in Santa Clara Valley. It's more expensive and ridership is never achieved
what it promised. We'll probably have more Caltrains going on here, but essentially other than that the
only way we'll get more transit in Palo Alto is providing it ourselves. And that's either through increases
in the Palo Alto Shuttle or increases through Transportation Demand Management where their own
shuttles like Google has done for the employers here.

And essentially the way to reduce both cars and traffic is through these Transportation Demand
Management features on employers because we really can't provide them on our residents because
there's no mechanism for providing on residents. Obviously you could take away parking, but when you
do that you basically get Arbor Real which has parking imposed, separating into the neighborhood and
I'm not sure that that's any better than, they have night impacted parking as opposed to day impact for
north and south, north of downtown and south of downtown.
So I think we have a hard problem and maybe things will be great and then there’ll be enough transit and people won’t have to have as many cars in 2050, but that’s 37 years away and I’m worried about how we get from point A to point B and in terms of what we have now we have too many cars parking in places around the neighborhoods where we don’t want them. And the residents don’t want them. And so we have a bunch of things we need to push levers all the time, at the same time to try to squeeze the worms back in the can so to speak. So I’m going to take the opportunity to move staff recommendation and I think I’ve given a lot of comments already on thoughts that I had so I’m just going to simply say that.

SECOND

Commissioner Alcheck: Second.

Chair Michael: Thank you. So we have a Motion by Vice-Chair Keller seconded by Commissioner Alcheck. Let me just comment at this point. So I was, I had in the last few days I had the chance to do one of those items on your bucket list. I hiked to the top of Half Dome and I got up at 3:00 in the morning and we started hiking at 4:30 in the morning with flashlights and took, was hiking for 11 hours up and down. And it was incredible. So I got back and I was in my room, had a couple of Advil, took a shower, took out my tablet, logged into the Wi-Fi and there was an unusual article in the New York Times that was by a philosopher professor and he was talking about the afterlife not in the traditional religious sense, but he said there are a lot of things that go on that you do simply because you assume that there will be generations to follow and like Neilson Buchanan’s grandchildren I think if we really reject the notion of apocalypse, which I’m not sure we can be confident in that rejection, but if we assume that there’s going to be a continued Palo Alto with continued character of the community then there’s going to continue to be traffic and parking problems. We’re going to have to grapple with some of these problems and so I’m willing to go so far as to endorse that notion of an afterlife and I think we have a big responsibly towards some urgency about tackling the problem.

I also think that there’s a little bit of a confusion perhaps only in my mind. Palo Alto thinks of itself as a city. I think many years ago it was a suburb. Now it in some discussions it’s like a little big city or a big little suburb, I’m not sure exactly what it is, but some of these programs that are applicable and are well proven best practices are hard to implement in Palo Alto because of this sort of this hybrid aspect of what makes this place so special. I know in some cities the cities have stopped having any parking requirements whatsoever of developers. They are just saying “Hey, you build a building with no parking it’s going to be less valuable than a building that has parking. So if that’s what you want to do go for it. You’ll eventually learn your lesson and collectively the community will be better off for just letting the market forces work.” But we seem to have the notion that we can do some planning, which I think is an interesting maybe a bit of hubris.

Maybe if you have sort of the relationship between development requirements, parking, transportation you have to assume that if you constrain parking with adjacency to mass transit that there actually is mass transit that’s usable and that’s maybe applicable in some cases to people who are commuting to work, but what about people like Commissioner Panelli pointed out who are very engaged, very productive professionals, business people, whatever, but they don’t commute? And the driving that they do and the parking that they take up is in a completely different pattern of usage. So with all that I think that the effort that the staff has made to comb through the code and eliminate archaic exemptions is worth our voting on and approving, but I think that the message to the Council is to really, really, really ratchet up the effort on finalizing the long term planning much of which is completely out of date and that puts the Planning Commission and me in a bind with respect to what rules we apply to address the concerns of the community.

So before we turn it over to the Commission for a vote I’d like to say that we use a committee, a subcommittee structure on the Commission and we have recently appointed two Commissioners to work on a parking subcommittee. I’m asking those two Commissioners, Vice-Chair Keller and Commissioner Panelli to come back to the PTC with a specific written proposed charter for the, what the Parking Committee will actually do. I think this is probably the most significant undertaking in front of us with
the possible exception of the amendment of the Comprehensive Plan and I think this proposed charter of
our Parking Subcommittee should be something we should welcome public input and Council direction as
to what our Parking Subcommittee should be working on and that we should tee up urgently a study
session on parking issues informed in part by the work of our committee along with the staff.

So with that you've made a Motion. It's been seconded. Does anybody want to comment on the Motion
before we vote? Commissioner King.

Commissioner King: Thank you. Yeah, I won't attempt an amendment, but I would just like to clarify
with staff on my comment regarding the Item 2D regarding the remodel versus demolish that in my
opinion ideally you want clear guidelines that support the intent of the policy and that if a person reading
the ordinance were to look at photos of various projects they would be able to clearly say “Oh yes, this
one's a remodel and this one's a demolish.” Thank you. I'm good.

VOTE

Chair Michael: Any other comments? So we have a Motion. It's been seconded. All in favor say aye
(Aye). Any opposed? Motion passes unanimously with Commissioners Martinez and Tanaka absent. Ok
and that closes the public hearing.

MOTION PASSED (5-0-2, Commissioners Martinez and Tanaka absent)

Commission Action: Approved staff recommendation for City Council to adopt the Parking
Exemptions Code. Motion by Vice-chair Keller second by Commissioner Alcheck (5-0-2,
Commissioners Martinez and Tanaka absent)