

September 20, 2004

- Special Meeting 3
 - 1. Joint Annual Meeting with Supervisor Liz Kniss..... 3
- ADJOURNMENT: The meeting adjourned at 7:00 p.m. 3
- Regular Meeting..... 4
- ORAL COMMUNICATIONS 4
- APPROVAL OF MINUTES 4
- 2. Ordinance 1st Reading entitled "Ordinance Of The Council Of The City Of Palo Alto Approving And Adopting Plans For Improvements To The Baylands Athletic Center located At John Fletcher Byxbee Recreation Area" 5
- 3. Resolution 8458 entitled "Resolution of the Council of the City Of Palo Alto in Support of Measure I, the Palo Alto Unified School District Parcel Tax" 5
- 4. Agreement in the Amount of \$113,672 between the City of Palo Alto and Palo Alto Housing Corporation (PAHC) and PAHC Apartments, Inc. for funds allocated during Fiscal Year 2003/04 under the Community Development Block Grant Program (Second Agreement) 5
- 5. Contract Between the City of Palo Alto and HRB Construction Incorporated in the Amount of \$1,187,968 for Construction of Mitchell Park Facilities Renovation Phase II - Capital Improvement Program Project PG-98003..... 5
- 6. Amendment Number Two to Joint Funding Agreement for the Silicon Valley Regional Interoperability Project 5
- 8. Public Hearing: The Palo Alto City Council will Consider Adopting a Resolution Confirming the Report of Delinquent Administrative Penalty Bills and Directing that a Lien be Recorded with the Santa Clara County Recorder's Office Against Properties Located at 1042 Metro

Circle, Palo Alto, APN: 127-04-041 and 3376 Ross Road, Palo Alto, APN: 127-48-033. <i>(Item to be continued at the request of staff to 10/04/04</i>	14
9. Public Hearing: The City of Palo Alto will consider an application by Richard & Sharon Reyes, Eldad & Charlotte Matityahu, Donald Douglas & Nina Moore, and Nortman Weintraub & Deborah London on behalf of Palo Alto Central for a Zoning Map amendment	15
10. Public Hearing: The City of Palo Alto will consider a request by Court House Plaza Company for a Comprehensive Plan Amendment from Light Industrial to Mixed Use, and a rezone	19
10A. (Old Item No. 1) Ordinance of the Council of the City of Palo Alto Amending the Budget For The Fiscal Year 2004-05 to Provide an Additional Appropriation of \$206,150 for Anticipated Increased Contract Costs For Preparation Of An Environmental Impact Report (EIR) On The Stanford/Mayfield Development Agreement And Associated Legal Services	19
COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS	19
11. Conference with City Attorney -- Anticipated Litigation	20
12. Conference with City Attorney -- Anticipated Litigation	20
FINAL ADJOURNMENT: The meeting adjourned at 9:30 p.m.	20

Special Meeting
September 20, 2004

The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:05 p.m.

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

ABSENT: Ojakian

SPECIAL MEETING

1. Joint Annual Meeting with Supervisor Liz Kniss

No action required.

ADJOURNMENT: The meeting adjourned at 7:00 p.m.

Regular Meeting
September 20, 2004

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:05 p.m.

PRESENT: Beecham, Burch, Cordell, Freeman, Kleinberg (arrived at 7:07 p.m.), Kishimoto, Morton, Mossar

ABSENT: Ojakian

ORAL COMMUNICATIONS

None.

APPROVAL OF MINUTES

MOTION: Council Member Morton moved, seconded by Kishimoto, to approve the minutes of August 2, 2004, as corrected.

MOTION PASSED 6-1-0, Freeman abstaining, Kleinberg, Ojakian absent.

CONSENT CALENDAR

Mayor Beecham announced that Item No. 4 be removed from the Consent Calendar at the request of staff.

Council Member Mossar stated she would not participate in Item No. 1 due to a conflict of interest because her husband was employed by Stanford University.

Council Member Cordell stated she would not participate in Item No. 1 due to a conflict of interest because she was employed by Stanford University.

MOTION: Council Member Freeman moved, seconded by Kishimoto, to remove Item No. 1, which would become Item No. 10A.

MOTION: Council Member Morton moved, seconded by Burch, to approve Consent Calendar Item Nos. 2, 3, 5 and 6.

LEGISLATIVE

2. Ordinance 1st Reading entitled "Ordinance Of The Council Of The City Of Palo Alto Approving And Adopting Plans For Improvements To The

Baylands Athletic Center located At John Fletcher Byxbee Recreation Area”

3. Resolution 8458 entitled “Resolution of the Council of the City Of Palo Alto in Support of Measure I, the Palo Alto Unified School District Parcel Tax”

ADMINISTRATIVE

- ~~4. Agreement in the Amount of \$113,672 between the City of Palo Alto and Palo Alto Housing Corporation (PAHC) and PAHC Apartments, Inc. for funds allocated during Fiscal Year 2003/04 under the Community Development Block Grant Program (Second Agreement)~~
5. Contract Between the City of Palo Alto and HRB Construction Incorporated in the Amount of \$1,187,968 for Construction of Mitchell Park Facilities Renovation Phase II - Capital Improvement Program Project PG-98003
6. Amendment Number Two to Joint Funding Agreement for the Silicon Valley Regional Interoperability Project

MOTION PASSED 8-0, Ojakian absent.

UNFINISHED BUSINESS

7. Public Hearing: The Palo Alto City Council will Consider a Zoning Ordinance Update - Adoption of a New Automobile Dealership (AD) Combining District, Which Would Create an Overlay Zone Providing for Flexible Development Standards for Auto Dealerships, Including Auto Display Areas, Fleet Storage, Landscaping and Screening and Full Service Operation. Adoption of an Ordinance Approving the Auto Dealership Overlay Zone Where Existing Auto Dealerships Selling New and Pre-Owned Autos Currently Exist in the City, Located at: 4180 El Camino Real (Peninsula Ford), 4190 El Camino Real (Carlsen Volvo), 3290 Park Blvd. (Park Avenue Motors), 762 San Antonio Road (Hengehold Motors), and 3045 Park Blvd. (Stanford European). Adoption of Ordinances Amending the Three Planned Community Sites to Allow the Auto Dealership Flexible Development Standards for Existing Automobile Dealerships Selling New Automobiles Located at 1730 Embarcadero Road (Carlsen Motor Cars, PC 2554), 1766 Embarcadero Road (Anderson Honda, PC 3350), and 690 San Antonio Road (Magnussen’s Dodge And Toyota, PC 2592). *(Continued at the request of staff from 8/9/04)*

City Manager Frank Benest said under the leadership of Mayors Ojakian and Mossar, the City Economic Base Ad Hoc Committee was formed. The purpose was to evaluate the City's economic position during difficult financial times. The Committee came to a number of relevant conclusions: 1) Palo Alto was part of a large market place and not immune to economic forces; 2) The City needed to retain key economic sectors and its existing businesses before it could focus on attracting new sectors of businesses; and 3) Auto dealerships (AD) were one of the most vulnerable and important sectors. AD sales provided significant revenue to the City. The Committee developed an AD policy and incorporated it in the item.

Administrative Services Director Carl Yeats presentation included economic data to help Council consider the item. Palo Alto lost two of its nine ADs in the past two years. In 2000, the ADs generated \$3.1 million in sales tax revenues and in 2003 that amount dropped to \$1.9 million. The average AD generated \$393,000 during the up cycle and in 2004 generated \$248,000. In most years, ADs represented 11 to 13 percent of the City's total sales tax base. Tax revenues from ADs had declined 22.1 percent or approximately \$600,000 in the past five years. Five of the seven ADs were in the top 25 sales tax generators, which made them a sizeable portion of the sales tax base in Palo Alto.

Director of Planning and Community Environment Steve Emslie gave an overview of the Ordinance. He said the object of the overlay zone was to create zones that were in conjunction with existing zones, and addressed the need for flexible development standards for ADs selling new automobiles. ADs established in the 1960's and 1970's did not meet the current standards imposed by car manufacturers. The auto overlay provided specific development standards for all ADs in the City. The Master Plan included a review to insure all Ads in the City complied with the standards. The overlay provided districts in the Zoning Code that could be used for future AD sites. It would assist a planner on processing permits for an AD, promote good neighborhood relations, establish a central point of contact to funnel projects through the process, and a retention strategy incorporating land use and economic development policies. The overlay zone was needed to provide standards necessary to compete with other competitors who met the auto manufacturers' demands. It addressed the ADs' full service needs and limited site conditions, such as insufficient service space, sales area, and other seller uses that new auto manufacturers considered mandatory. ADs needed to show car manufacturers their commitment in meeting identity needs and service operations essential for marketing conditions.

Planning and Transportation Commissioner Phyllis Cassel said the Planning and Transportation Commission (P&TC) recommended adopting a zoning

ordinance amendment for the purpose of creating an AD overlay zone. The overlay zone would allow for additional site and design standards specific to ADs selling new, pre-owned and used automobiles. It would apply to the existing ADs and recognize support services for the sale and maintenance of autos as part of the retail business. The overlay applied to ADs in Planning Community (PC) zoned sites. The P&TC supported the final AD overlay combining district to be part of the Zoning Ordinance Upgrade (ZOU). The P&TC recommended the overlay zone be applied to used auto sales, as well as ADs selling new and pre-owned autos. In addition, the P&TC recommended an additional 0.2 floor area ratio (FAR) over the current FAR with a height limitation of 20 feet.

Mayor Beecham declared the Public Hearing open at 7:20 p.m.

Marla Deghner, President of the Barron Square Homeowners Association, 588 Thain Way, located adjacent to the Ford AD on El Camino Real, voiced residents' concerns regarding visual obstruction created by off-loading vehicles; ADs not providing on-site employee and customer parking; non-compliance to display areas and landscape setbacks; noise violation created by deliveries in early morning hours; and ignoring good neighbor policies.

Heather Trossman, 769 Garland Drive, read a letter from Chamber of Commerce President John Barton endorsing the Zoning Code changes that benefited ADs located on land-locked lots. Immediate changes needed to be made for the purpose of AD retention, since they generated a significant amount of sales tax revenue.

Linda Leyva, representing the homeowners on Lambert Avenue located across from Park Motors, 241 Lambert Avenue, raised concerns regarding a residential area located next to a commercial zone area without a natural geographic boundary separation. The residents had issues on noise, parking, traffic, lighting, and signage. The residents were in support of the changes and viewed the Ordinance as a tool to develop communication between residents and ADs for the purpose of mitigating problems in a proactive manner.

Robert Wheatley, representing the El Camino Center, 3225 Ash Street, said that included a used car showcase site not included on the overlay property list. He wanted to know what the criteria and process would be to get it added to the list.

Mayor Beecham declared the Public Hearing closed at 7:28 p.m.

MOTION: Council Member Morton moved, seconded by Burch, to approve

the staff and Planning and Transportation Commission recommendation as follows:

1. Zoning ordinance amendment establishing Chapter 18.65 of Title 18 (Zoning Ordinance) for the purpose of creating the initial auto dealership overlay zone (Combining District) in the Service Commercial District (CS), General Manufacturing (GM) and General;
2. Manufacturing Combining District (GM (B)) to allow for additional site and design standards for automobile dealerships selling new, pre-owned and used automobiles (Attachment A of CMR:380:04).
3. Auto dealership overlay zone where existing auto dealerships selling new and pre-owned autos currently exist in the City, located at: 4180 El Camino Real (Peninsula Ford), 4190 El Camino Real (Carlsen Volvo), 3290 Park Blvd. (Park Avenue Motors), 762 San Antonio Road (Hengehold Motors), and 3045 Park Blvd. (Stanford European) (Attachment B).
4. Amendments to three Planned Community sites to allow additional site and design standards for existing automobile dealerships selling new automobiles located at 1730 Embarcadero Road (Carlsen Motor Cars, PC 2554), 1766 Embarcadero Road (Anderson Honda PC 3350), and 690 San Antonio Road (Magnussen's Dodge and Toyota, PC 2592) (Attachment C).
5. Direction to staff, through the Zoning Ordinance Update (ZOU), to develop a final Auto Sales Dealership overlay Combining District in addition to the initial flexible development standards to include the following; a) analyze and prepare "performance standards" for specific areas of the city including El Camino Real, San Antonio Road, Embarcadero Road and future sites having freeway visibility, c) standards for noise and lighting, b) standards for auto dealership's signage and auto display, and 4) environmental standards addressing auto dealers full service operation and auto storage.
6. Direction to staff to work with auto dealerships and other stakeholders to develop a strategy for a long term auto dealership retention and recruitment program, including the identification of potential new areas for multiple dealer development, potential resources to implement the long-term strategy, and a timeline for implementation.

Council Member Morton said he was a strong supporter of sales tax and revenue. He asked whether the Carlsen Porsche Audi AD was being replaced with another car line AD.

Mr. Emslie said the Carlsen Porsche car line was removed and not replaced. ADs carried a variety of car lines, and the existing car lot focused on Audi and Volkswagen sales.

Council Member Morton asked if the proposed zoning requirements would have made a difference to the loss of the Porsche car line.

Mr. Emslie said one of the main problems ADs faced was lack of space. Showrooms and vehicle storage space needed to meet car manufacturers' requirements.

Council Member Morton asked if adopting the measures would encourage a full car line AD replacement at the Nissan site occupied by a used car AD.

Mr. Emslie said freeway visibility was the auto-marketing trend and the likelihood of a new AD moving into a non-freeway site was remote. The measures were intended to provide an interim solution while staff looked for sites that were more favorable in meeting marketing conditions.

Council Member Morton said space was the issue and did not foresee gaining additional space. He asked how the overlay would resolve the issues faced by Barron Square residents.

Mr. Emslie said the ordinances did not fully address the operational issues. The adopted changes would establish lines of communication to dealerships and operators making them more aware of problems impacting the neighborhoods.

Council Member Morton stated he supported the ordinances. He said there would not be a major improvement to the existing situation since space was the issue. The City could only request dealers to be more mindful of their impact on residences.

Vice Mayor Burch supported the ordinances to retain the auto dealers. He said the measures would be in place should an AD decide to relocate to a different site in Palo Alto. He asked staff to respond to the question raised regarding site criteria and the overlay property list.

Mr. Emslie said the AD had several sites and, if the site were related to one site missed, the City would include it in the rezoning. He asked to confer with the citizen regarding the property in question so it could be included prior to finalizing the Ordinance.

Vice Mayor Burch addressed a noise complaint regarding a catering truck announcing its early morning arrival at the dealership site.

Mr. Emslie said the City would look into resolving the operational issue.

Planning Manager John Lusardi said the general managers of Peninsula Ford and Park Avenue Motors had contacted him regarding delivery issues. The ADs said they would be in contact with the trucking companies to correct and ensure operational issues do not reoccur. The Stanford Nissan site was omitted from the list because it had become a used car AD when the overlay rezoning process began. The initial recommendation by staff was to apply the overlay only to new car sales. The site would be included upon approval of the overlay.

Mayor Beecham said the main problem ADs faced was lack of space, and he felt if an AD were to leave, it would not be replaced. The overlay zoning would help improve their situation in getting customers and providing better services. He addressed the neighborhood interface issues and said there was a provision for ADs within 150 feet of a residential zone regarding noise and operations. Staff and the community had worked together to create better relationships with the dealerships.

Council Member Kishimoto had concerns regarding the display pads and buffer zone between the dealers and residential areas. She could not justify having display pads in landscaped buffer zone, and asked that the buffer zone be reduced from ten to five feet. She requested deletion of clause 18.65.050 (2)(c)(1) from Exhibit A, page 2 of staff report (CMR:380:04). She was open to having the City identify an AD area during the Zoning Ordinance Update (ZOU) process and returning with a special zone for that site.

Mr. Emslie said the sites were over-constrained and any space was helpful in meeting the space needs. The compensating factor was the requirement for a sound wall that mitigated noise coming from the site.

Council Member Morton said getting visibility was an issue and a competitive need. If the wall or signage were removed, it would undermine what staff and the P&TC tried to achieve.

Planning and Transportation Commission Chairperson Phyllis Cassel said lengthy discussions had taken place regarding height and size of the display pads and giving ADs added visibility. The decision was to go ahead with the pads since they were not excessively high and would be reviewed by the Architectural Review Board (ARB).

Council Member Morton said he would not accept that as an amendment.

AMENDMENT: Council Member Kishimoto moved, seconded by Freeman, to delete clause 18.65.050(2)(c)(1) in the Ordinance (Attachment B, Exhibit A of CMR:380:04) regarding automotive display pads.

Council Member Kishimoto said in reviewing the El Camino Design Guidelines, she referenced the section regarding the long-term vision for the Volvo AD site. The guideline stated, "should the corner building be remodeled, the architectural feature should be maintained and the building brought to the corner with a larger scale suited to the scale and importance of the intersection and designated as a gateway location." Automobiles between the sidewalk and the building should be removed and site developments, which better define the public right-of-way, should be added. Her conclusion was cars should be displayed in large showrooms without flashy lights or signs, and cars should not be placed near sidewalks. Dealerships needed to be distinguished through architectural features.

Council Member Freeman raised concerns regarding the display pads and lighting. She said staff report (CMR:380:04) described the display pads to be the non-rotating or non-moving, but the Ordinance did not describe the display pads as non-moving. The staff report stated the display pads' "up lighting" did not have a cut-off time, which meant neighboring residents would need to deal with excessive lights throughout the night. She felt the neighborhood issues were addressed.

Mayor Beecham said a document from staff had been received prior to the meeting, which explained other sections of the Code prohibiting rotating signs and also applied to the display pads.

Council Member Freeman said a display pad was not a sign. To avoid future discussions, she requested it specifically be outlined in the Ordinance.

Mr. Emslie said the language would be included in the Ordinance.

Council Member Morton said the display pads would be governed by other sections of the Code and language would be added to the Ordinance. He urged Council to vote for the original motion and against the amendment.

Council Member Mossar said Council needed to be flexible to maintain the dealerships in the City. Dealerships should be viewed as dealerships and not as landscaped architecture. A 50-foot dealership building similar to buildings found in San Francisco would not be allowed in Palo Alto. To bring forward

an idea in a ZOU of where dealerships should be placed was a long-range solution. She considered dealerships as friends and a benefit to the community. She supported staff's recommendation and the main motion but did not support the amendments.

Council Member Cordell supported staff's recommendation. She echoed Council Member Freeman's concerns regarding non-moving pads and up lighting. She asked if the issues impacting the neighborhood needed to be addressed in the Ordinance.

Mr. Emslie said the lighting issue would be addressed in the ARB review.

Council Member Cordell supported staff's recommendation but did not support the amendment.

Council Member Freeman had concerns regarding neighborhood issues being put off to a later time and placing the main focus on the dealerships.

Vice Mayor Burch supported the main motion but not the amendment.

AMENDMENT FAILED 2-6, Kishimoto, Freeman yes, Ojakian absent.

AMENDMENT: Council Member Kishimoto moved, seconded by Freeman, to change clause 18.65.070(a)(1) in the ordinance (Attachment B, Exhibit A to CMR:380:04) to not completely delete the eight-foot buffer, but to leave a five-foot buffer.

Council Member Freeman requested that residents next to dealership sites be given a certain level of protection.

Council Member Morton asked the buffer be replaced with a better sound barrier.

Mr. Emslie said staff agreed with that statement.

Council Member Morton urged Council to vote for the main motion and against the second amendment.

AMENDMENT FAILED 2-6, Kishimoto, Freeman yes, Ojakian absent.

Council Member Kleinberg asked whether the overlay restricted future areas where ADs could relocate.

Mr. Emslie said the action would provide the opposite affect. It would give

the ability to identify future sites to encourage ADs to relocate to a better site.

Council Member Kleinberg asked if it would create precedence for zoning other areas and become a standard for other locations in the ZOU.

Mr. Emslie said it could, but standards could be changed to accommodate current conditions at the time of rezoning.

Council Member Kleinberg asked if the overlay would limit different land use in areas where a dealership once existed.

Mr. Emslie said the overlay would work in conjunction with the existing land uses and nothing would be taken away.

Council Member Kleinberg requested a staff report be provided annually to track complaints and compliance with specific treatments of uses for the overlay.

INCORPORATED INTO MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to provide a staff report annually tracking complaints and compliance with the specific treatment of the uses for the overlay.

Council Member Freeman asked to have staff evaluate alternate auto dealership models that currently, or in the future, were in constrained land locations.

City Manager Frank Benest said staff had done extensive research of looking into boutique models on receiving, distributing, and displaying new cars. Results were shared and discussed with the Committee.

Council Member Freeman wanted feedback on the results.

AMENDMENT: Council Member Freeman moved, seconded by Kishimoto, to add number 7 to the staff recommendations to direct staff to evaluate alternate auto dealership models that were currently, or in the future, in constrained land locations.

AMENDMENT FAILED 2-6 Kishimoto, Freeman yes, Ojakian absent.

Ordinance 1st Reading entitled "Ordinance of the Council of the City of Palo Alto Renumbering and Amending Planned Community District PC-2592 (690 San Antonio Road) to Permit Certain Automobile Dealership Design Features"

Ordinance 1st Reading entitled "Ordinance of the Council of the City Of Palo Alto Amending Section 18.08.040 of the Palo Alto Municipal Code (The Zoning Map) to Change the Zone Classification of Property Located at 3045 Park Boulevard from 'Gm(B)' to 'Gm(B)(Ad)' and to Change the Zone Classification of Property Located at 4190 El Camino Real, 3290 Park Boulevard, 762 San Antonio Road, and 4180 El Camino Real from 'CS' to 'CS(AD)'"

Ordinance 1st Reading entitled "Ordinance of the Council of the City Of Palo Alto Creating a New Chapter 18.65 (Auto Dealer Combining District) and Amending Chapter 18.04 (Definitions) and 18.83 (Off-Street Parking and Loading Requirements)"

Ordinance 1st Reading entitled "Ordinance of the Council Of The City Of Palo Alto Renumbering and Amending Planned Community District Pc-2554 (1730 Embarcadero Road) to Permit Certain Automobile Dealership Design Features"

Ordinance 1st Reading entitled "Ordinance of the Council of the City Of Palo Alto Renumbering and Amending Planned Community District Pc-3350 (1766 Embarcadero Road) to Permit Certain Automobile Dealership Design Features"

MOTION PASSED 6-2, Freeman, Kishimoto no, Ojakian absent.

8. Public Hearing: The Palo Alto City Council will Consider Adopting a Resolution Confirming the Report of Delinquent Administrative Penalty Bills and Directing that a Lien be Recorded with the Santa Clara County Recorder's Office Against Properties Located at 1042 Metro Circle, Palo Alto, APN: 127-04-041 and 3376 Ross Road, Palo Alto, APN: 127-48-033. *(Item to be continued at the request of staff to 10/04/04)*

~~Resolution Of The Council Of The City Of Palo Alto Ordering That Certain Unpaid Administrative Penalties And Costs, Including Applicable Recording Fees, Be Assessed Charges Against The Properties Involved, Confirming Title Report Of The Director Of Administrative Services Of These Property Assessments, And Directing The Director Of Administrative Services To Record For Each Listed Property A Notice Of Lien With The Office Of The County Recorder Of The County Of Santa Clara, California~~

MOTION: Council Member Kishimoto moved, seconded by Morton, to continue the item to the October 4, 2004, regular City Council meeting.

MOTION PASSED 8-0, Ojakian absent.

PUBLIC HEARING

9. Public Hearing: The City of Palo Alto will consider an application by Richard & Sharon Reyes, Eldad & Charlotte Matityahu, Donald Douglas & Nina Moore, and Nortman Weintraub & Deborah London on behalf of Palo Alto Central for a Zoning Map amendment to delete the (R) Combining District on portions of Palo Alto Central (2401, 2409, 2417 Park Boulevard and 101 California Avenue #D101) to allow office uses within the rear 50 percent of Buildings C & D and all of Building E. A Negative Declaration is proposed in accordance with CEQA guidelines.

Chief Planner Lisa Grote presented the item, as outlined in staff report (CMR:420:04).

Planning and Transportation Commissioner Phyllis Cassel said the Planning and Transportation Commission (P&TC) agreed with the staff report. The item had been discussed on two occasions and the policy decision was made at the second meeting. The building was built with the idea it would be under different zoning, and changing to retail made it difficult for occupants in the retail spaces. The P&TC felt the outside facing Park Boulevard and California Avenue should retain a retail component. There were several concerns regarding the middle location of the restaurant. It could remain as a restaurant under the current zoning, but it could change if necessary.

Mayor Beecham declared the Public Hearing open at 8:29 p.m.

Robert Moss, 4010 Orme Street, said the ground floor had been zoned for retail and the owners had rented it out for office use. The City decided to rezone instead of enforcing proper use. He felt it was bad policy for Council to accept the recommendation.

Joy Ogawa did not agree with staff's recommendations. She said by Council adopting the recommendations, the message being sent was property owners who violated the Code did not get punished, but instead were rewarded with special privileges that property owners who followed the Code did not get.

Warren Beer, 153 California Avenue, supported the recommendation. He said retail in the plaza area lacked foot traffic and a majority of businesses failed. With frequent ownership change, the condominium community could not establish an ongoing community-based, decision-making process within

the condominium area.

Donald Douglas, 101 California Avenue, supported the recommendation. The office space recommendation for a zoning change was a backup provision to allow short-term rental for office space when not being occupied by retail.

Herb Borock, P.O. Box 632, spoke regarding the City's failure of not enforcing the Ordinance Code. Violators in non-residential properties would be permitted to continue what they were doing as long as there were no zoning change applications.

Mayor Beecham declared the Public Hearing closed at 8:42 p.m.

MOTION: Vice Mayor Burch moved, seconded by Morton, to approve the staff and Planning and Transportation Commission recommendation to: 1) approve a Negative Declaration (Attachment L of CMR:420:04), with a finding that the project will not result in significant environmental impacts; and 2) approve the ordinance (Attachment A) modifying PAMC Section 18.43.030 and rezoning portions of Palo Alto Central at 2401, 2409, 2417 Park Boulevard and 101 California Avenue, to allow office uses within the rear 50 percent of Buildings C and D and all of Building E. Further, to allow Stewart Title at 2409 Park Boulevard, to remain as a non-conforming use.

Vice Mayor Burch said the recommendation was a plan that would help a difficult situation.

Council Member Mossar recalled Palo Alto Central Parking as shared-parking between residents and businesses and asked whether the change to office use would impact the parking arrangement.

Chief Planner Lisa Grote said she believed it was shared-parking but did not have parking arrangements.

Council Member Kleinberg said Stewart Title offices at 2409 Park Boulevard had intentions of expanding to 2417 Park Avenue. She asked if staff had taken into consideration the pedestrian and parking issues should the business expand to 2417 Park Boulevard.

Ms. Grote said the Ordinance proposed the business stay in the back 50 percent of the space. The parking requirement for office use was less than retail use and would not increase the impact of vehicle traffic or parking requirements.

Council Member Kleinberg asked how staff felt about the message being sent regarding non-conforming uses.

Ms. Grote said it was a unique case. The location and building design was different than most. The case was an exception to the rule and not the standard way of dealing with code enforcement.

Council Member Kleinberg asked if Stewart Title were to leave, would the vacated space need to revert to retail and the back half to office use.

Ms. Grote said her understanding was if Stewart Title were amortized over time, concurrent with the length of its lease, the new tenant would need to meet the new requirements.

Council Member Kleinberg asked if the proposal were approved specifically for 2409 Park Boulevard and the tenancy changed, could the front be zoned for retail and the back for office use.

City Attorney Gary Baum said Stewart Title would be amortized for a reasonable amount of time, such as through the end of their lease. Otherwise, it would need to be set up as legal non-conforming and expire with a 12-month lapse, as stated in the Ordinance.

Ms. Grote said Stewart Title was in the process or may have already vacated the space.

Council Member Kleinberg proposed an amendment to have the building at 2409 Park Boulevard be zoned with the front half for retail and the back half converted to office.

Council Member Morton accepted the amendment.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that the previous location of Stewart Title at 2409 Park Boulevard would have retail in the front of the building and office space in the back of the building.

Council Member Kishimoto felt the building was in a good location. She had concerns about a building being rezoned due to its poor design. She asked what the size of the remaining internal area was in Buildings C and D.

Ms. Grote said she would provide Council Member Kishimoto with the information.

Council Member Morton supported the motion but was concerned because rezoning left the buildings with spaces too small for retail and inadequate for office use.

Council Member Mossar did not support the motion. She did not feel the zoning change was the solution to the problem.

Council Member Cordell was concerned about the area's commercial vitality and supported the motion. She questioned why the information regarding Stewart Title's departure was not made available at the meeting and questioned the City's failure of not enforcing non-conforming uses when it had been on going for three years. She said non-conforming issues needed to be dealt with promptly, and requested information brought before Council be current.

Council Member Freeman did not support the motion. She echoed Council Member Mossar and Cordell's concerns and could not justify making the changes until concrete information was provided. She asked why the building's space was referred to as "retail" for foot-traffic and "office" for parking purposes.

Mayor Beecham supported the motion. He said an important factor in having successful retail was to eliminate retail areas that did not work. Areas with low revenue, high turnover, and vacancies were not frequented by shoppers and discouraged other retailers from moving in. What worked for retail were welcome fronts and large display windows. The building was not designed for retail and had been unsuccessful with retail use for 20 years.

Ms. Grote said the internal footage located in Buildings C and D was approximately 200 feet deep.

Council Member Kishimoto asked if retail, which was approximately 100 feet deep, was viable.

Ms. Grote said Economic Resources Manager Susan Arpan considered the spaces viable for retail use.

Ordinance 1st Reading entitled "Ordinance of the Council of the City Of Palo Alto Modifying Section 18.43.030 of the Palo Alto Municipal Code and Rezoning Portions of the Property at 2401, 2409, 2417 Park Boulevard and 101 California Avenue #D101 to Allow Office Uses in Parts of the Ground Floor of Three Buildings on That Site"

MOTION PASSED 6-2, Freeman, Mossar no, Ojakian absent.

10. Public Hearing: The City of Palo Alto will consider a request by Court House Plaza Company for a Comprehensive Plan Amendment from Light Industrial to Mixed Use, and a rezone from the existing GM(B) district to a Planned Community to allow the construction of a four story building to include 45,115 square feet for Research and Development space and 2000 square feet of retail on the ground floor and 211,167 square feet for three level residential apartments totaling 177 units, plus a subterranean parking garage and related site improvements including the proposed vacation and landscaping of the adjacent section of Page Mill Road (195 Page Mill Road and 2825, 2865, 2873, 2891, and 2901 Park Boulevard). Environmental Assessment: Staff will develop the initial study and subsequent environmental documents in compliance with CEQA regulations. *(Item to be continued at the request of staff to 9/27/04)*

MOTION: Vice Mayor Burch moved, seconded by Kleinberg, to continue the item to the September 27, 2004, regular City Council meeting.

Council Member Mossar left the meeting at this point.

MOTION PASSED 7-0, Mossar, Ojakian absent.

- 10A. (Old Item No. 1) Ordinance of the Council of the City of Palo Alto Amending the Budget For The Fiscal Year 2004-05 to Provide an Additional Appropriation of \$206,150 for Anticipated Increased Contract Costs For Preparation Of An Environmental Impact Report (EIR) On The Stanford/Mayfield Development Agreement And Associated Legal Services

Council Member Cordell stated she would not participate in the item due to a conflict of interest because she was employed by Stanford University.

MOTION: Council Member Morton moved, seconded by Burch, to continue the item to September 27, 2004 Council meeting.

MOTION PASSED 6-0, Cordell not participating, Mossar, Ojakian absent.

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Cordell noted her earlier comment on Item No. 9 regarding Stewart Title was not directed to staff but at the applicant who should have

notified the City about the vacancy.

CLOSED SESSION

Council Member Morton stated he would not participate in Item Nos. 11 or 12 due to a conflict of interest because of family holdings in telecommunications stock.

The meeting adjourned at 9:20 p.m. to a Closed Session.

- 11. Conference with City Attorney -- Anticipated Litigation
Subject: Initiation of litigation by the City of Palo Alto against Cellco Partnership, dba Verizon Wireless

Authority: Government Code Section 54956.9(c)

- 12. Conference with City Attorney -- Anticipated Litigation

Subject: Initiation of litigation by the City of Palo Alto against Comcast Corporation of California IX, Inc.

Authority: Government Code Section 54956.9(c)

The City Council met in Closed Session to discuss matters of anticipated litigation, as described in Agenda Item No. 11 and 12.

Mayor Beecham announced there was no reportable action taken.

FINAL ADJOURNMENT: The meeting adjourned at 9:30 p.m.

ATTEST:

APPROVED:

City Clerk

Mayor

NOTE: Sense minutes (synopsis) are prepared in accordance with Palo Alto Municipal Code Sections 2.04.180(a) and (b). The City Council and Standing Committee meeting tapes are made solely for the purpose of facilitating the preparation of the minutes of the meetings. City Council and Standing Committee meeting tapes are recycled 90 days from the date of the meeting. The tapes are available for members of the public to listen to during regular office hours.