

Special Meeting  
May 1, 2006

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The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:10 p.m.

Present: Barton Beecham, Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Morton, Mossar

### PUBLIC HEARING

1. Pre-Screening Public Hearing: A request by McNellis Partners and Greenbriar Homes Communities, Inc. for Preliminary Review of the Demolition of the Approximately 45,000 Square Foot Retail Building (the Vacant Albertson's Store and Two Adjacent Buildings Developed as Planned Community #1362) and Construction of: (1) a Three-Story, Mixed-Use Building Fronting Alma Street Comprised of Approximately 19,200 Square Feet of Commercial Area and Fourteen Residential Apartments on the Upper Floors (with Associated Underground Tenant Parking Spaces), (2) Forty-Five Detached Single Family Residences, and (3) Landscaped Parking Facilities on the Remainder of the Site at 3401, 3415, and 3445 Alma Street (Alma Plaza) [06PLN-00020]

City Attorney Gary Baum reported the pre-screening was governed by Chapter 18.97 of the Zoning Code. No formal action would be taken, but the public and the Council would provide their input.

Mayor Kleinberg explained the Alma Plaza proposed project was designed to be discussed with the Council, staff, and the developer. She said the developer would give a presentation and Planning Commissioner Lee Lippert would provide brief highlights of the proposed project.

Planning and Transportation Commissioner Lee Lippert said the Planning and Transportation Commission (P&TC) discussed the Alma Plaza project at its meeting on April 26, 2006. He said the draft minutes had an error on line 7 of page 38. It should read Zanotto's Downtown Market versus Sandles. He said the P&TC made a recommendation by a majority of the members as summarized below:

- The proposed project for the Alma Plaza site would be a mixed-use with a substantial amount of retail comparable to other existing neighborhood centers in Palo Alto.
- There would be less housing than was currently proposed for the project, which included better transition to residential neighborhoods regarding design, Floor Area Ratio (FAR), and density.
- Signalization into Alma Plaza for accessibility improvements would be carefully considered.

- Easement issues needed to be rectified and the pedestrian and bicycle access was essential to a successful center.
- Parking would be based on new and existing codes.
- Housing would be more compatible and transitional for single-family housing and referred to the Palo Alto Housing Corporation (PAHC) letter dated April 21, 2006, regarding Below Market Rate (BMR) contribution issues.
- The zoning would remain as a Planned Community (PC).

Mr. Lippert suggested the motion include the applicant would consider mixed-housing compatible with the City.

Council Member Beecham questioned whether the Council could make a motion that evening and inquired whether the P&TC had a different process.

City Attorney Baum recommended the Council not follow the P&TC's process. He suggested the Council provide comments and avoid passing any motions.

Developer John McNellis, McNellis Partners and Greenbriar Homes Communities, said the plan would be revised to include feedback from the Council and the P&TC. The independent studies ordered by the City confirmed the financial failure and the physical difficulties of the site.

Nina Gruen, Gruen Gruen and Associates, spoke about the study completed in 1992 relative to the planning policy audit of retail areas in the City. The study recommended smaller retail along the Alma Street frontage, higher density, and residential usage on the back portion of the site. Also recommended, was to tear down the existing center and create new retail space fronting Alma Street. She said Gruen Gruen and Associates updated the study in 2006, and found no new changes to the findings and recommendations. She said the P&TC had focused on additional retail so that Alma Plaza could sustain itself.

Mr. McNellis said what would work for Alma Plaza was a smaller neighborhood-serving market. He spoke about a proposed 10,850 square foot supermarket surrounded by 51 homes. He asked for clear direction related to the retail of the project.

Council Member Cordell said she was concerned with Comprehensive Plan (Comp Plan) Policy L-37 maintaining the scale of the local serving focus of Palo Alto's four neighborhood centers (Alma Plaza, Edgewood, Midtown, and Charleston).

Mr. Emslie said the proposed project met the intent of the Comp Plan. The Comp Plan allowed residential and retail land-use designation. The neighborhood center would contain quality tenants with a range of sizes.

Council Member Cordell asked if the Comp Plan referred to a specific square footage to maintain the scale.

Mr. Emslie said that was correct.

Council Member Cordell was supportive of the concept presented by the developer for a mixed-use site. She suggested the developer continue to be flexible and asked for additional square footage for the proposed project.

Council Member Barton asked whether the square footage included retail space in the basement.

Mr. McNellis said the square footage included the storage space in the basement.

Council Member Barton asked whether there were parking easements.

City Attorney Baum said generally the City was not responsible for easements between properties. He said if property owners filed claims against one another for parking on their properties it would be a civil matter between the properties. There appeared to be an easement for access and an easement for egress for one of the adjacent properties.

Mayor Kleinberg asked staff to describe the adjacent properties and easements.

Mr. McNellis said there had been repeated claims indicating the apartments would have the ability to park at the shopping center and an easement would be granted.

City Attorney Baum said neither easement should have any bearing upon the City.

Mr. McNellis said there was no parking easement in favor of the apartments.

Council Member Barton spoke about the importance of the proposed project and was in favor of a mixed-use building.

Council Member Morton asked whether the developer would be able to reduce housing in the Planned Community (PC) Zone.

Mr. Emslie said the developer was proposing to change the use of the PC for the residential portion, which would require an amendment to the PC or a zone change to reflect the commercial and residential sections. The City would have complete discretion over the development proposed. The

legislative body would be the decision maker to create and apply laws for the zoning of the site.

Council Member Morton said both housing and commercial were part of the PC Zoning. He asked whether different types of stores would be considered for the proposed project and whether there were restrictions for specific retail.

Mr. Emslie said the developer would have the ability, through an amendment to the PC, to define the range of uses for the site. The categories would be defined for a wide range of retail uses.

City Attorney Baum said the developer proposed the Development Agreement, which provided a broader discretion. He said housing could not be eliminated on the site due to the housing laws.

Council Member Morton asked whether housing could be reduced.

Mr. Baum said yes.

Council Member Morton asked if 25,000 square feet was requested for retail space with no existing tenant, would the City be at risk for prohibiting the developer from maximizing the project.

Mr. Baum said as long as the City had a rational basis for the conclusion, the City could require it. He said the limitations were practical versus legal.

Council Member Morton was concerned about the viability of the proposed project under today's economy. He suggested flexibility for the developer to produce a project for the size of the site.

Vice Mayor Kishimoto questioned the difficulty of producing 17,000 to 19,000 square feet of retail if it was based on parking and accessibility. Smaller retail had expressed an interest for the proposed project.

Ms. Gruen said there was a demand for convenience retail. She suggested there was not enough demand for the 30,000-plus square foot grocery store. She said Alma Plaza would be a neighborhood center and would be ideal for the 9,000 to 12,000 square foot grocery store.

Vice Mayor Kishimoto asked whether 19,000 square feet would be the limit for the retail site.

Ms. Gruen suggested less than 30,000 square feet for a successful market.

Vice Mayor Kishimoto said the City was an urban village type of model and smaller markets within walking distance were suitable.

Ms. Gruen said in the 1980s and early 1990s, 20,000 square feet was not reasonable for successful groceries. The City had a concept and wanted smaller stores and ended up with several neighborhood centers.

Vice Mayor Kishimoto said it was important to designate approximately four neighborhood commercial areas around the City and supporting housing should compliment retail. The size of the commercial retail 17,000-plus square feet was desired by the community. She said the Housing Element called for a minimum of eight Below Market Rate (BMR) units and suggested 25,000 square feet for housing at 1,250 square feet per house. She spoke about walkable and bikeable access to the neighborhood center and incorporating the pedestrian connections on Ramona Street and Emerson Street and suggested driveway access on a number of housing units on Ramona Street.

Council Member Klein asked what effect the high cost of gasoline would have on the analysis.

Ms. Gruen said the effect of gasoline prices would be minimal.

Council Member Klein said when the price of gasoline increases, behavior would change significantly. The retail would need to be attractive to the community and enhance the living experience in the City. He was concerned about the impact on the Palo Alto Unified School District to accommodate students generated by the housing and he did not think the retail was sufficient. He expressed a concern regarding the project design.

Council Member Mossar said the neighborhood center should be an enjoyable and comfortable place to shop. She spoke about the importance of open space, upscale pedestrian amenities, seating and shade, public art, bicycle access, and parking. She said easements and managing traffic would be worked out in the process. The design should utilize feasible "green building" principles.

Council Member Drekmeier said the community was concerned with not enough retail and housing in the City. He said the project should be focused on the neighborhood and encouraged neighborhood input on the services needed. He said the community should be able to walk and bike to the center. There should be trees and "green buildings" and below grade parking.

Council Member Beecham said the City was looking at a combination of housing and retail. He said good pedestrian access, open space, and a vital

environment would attract shoppers. He said the size would work for the proposed project and welcomed the community's input for a successful project.

Council Member Morton asked whether there was a square footage limitation on the amount of retail for a single store.

Mr. McNellis said by way of a private deed, there was an 18,000 square feet limitation on the size of the supermarket alone.

Council Member Morton asked if the City insisted on a 25,000 square foot store, would it be in violation of the deed restriction.

Mr. McNellis said the City could not build a supermarket larger than 18,000 square feet.

Mayor Kleinberg said the City needed affordable units in the mixed-use building. She suggested the retail tenants sell a variety of goods for the most neighborhood serving. She recommended the streetscape should be more residential than commercial. She suggested the developer concentrate on the community needs and how to maximize the use as well as serve the neighborhood.

Marilyn Keller, 3476 Waverley Street said 75 percent of Palo Altans were in support of quality retail that would service housing. She said 307 residents near Alma Plaza signed the petition to support primarily retail as it was zoned.

Jeff Greenfield, 3476 Waverley Street, urged the Council to honor the spirit of the Comp Plan for consideration of the redevelopment of Alma Plaza.

Penny Ellson, 513 El Capitan Place, reported 58 residents in the Green Meadow Community supported the Alma Plaza project and future operation of a neighborhood retail center with housing.

Bill Chapman, 3583 Louis Road, said Alma Plaza had approximately 180,000 square feet, which was a small shopping center. He said 20,000 square feet was 11 percent of Alma Plaza and the remaining square feet was housing and parking.

Kurt Reitman, 3525 Alma Street, expressed concern about the insufficient parking for the retail proposal. He said the proposed utilization of parking on the frontage street impacted the existing use of 3501 and 3520 Alma Street tenants and the apartment building.



Sasson Golafshan, 445 Bryant Street, said the site for the proposed project was located in a poor location with accessibility issues. He said the space did not allow for any retail to succeed.

Mark Thomas, 195 Walter Hays Drive, expressed concern of the poor location for the proposed project. He said visibility was a key element for a successful retail property.

Tim Steele, 315 Homer Street, expressed support for the project.

Marcus Wood, 196 Colorado Street, was opposed to the project.

Reza Moodi, 3375 Alma Street, said the Alma Plaza project would not attract shoppers due to the location.

Mayor Kleinberg indicated it was getting close to 8:00 p.m. and the remaining speakers would have to wait until 9:00 p.m.

Mr. McNellis said he would continue to work on the project.

ADJOURNMENT: The meeting adjourned at 8:00 p.m.

The City Council of the City of Palo Alto met on this date in the Council Chambers at 8:00 p.m.

Present: Barton, Beecham, Cordell, Drekmeier, Klein, Kishimoto, Kleinberg, Morton, Mossar

### STUDY SESSION

#### 1. Preparation for Pandemic/Avian Flu

Dr. Martin Fenstersheib, Public Health Officer, Santa Clara County Public Health Department, showed a PowerPoint presentation on Santa Clara County preparations for a possible pandemic/avian flu. He presented the components of the County's Pandemic Flu Plan. He discussed the need to coordinate all agencies, community based organizations, and businesses in order to prepare for a pandemic flu. He commended the City of Palo Alto for creating a Pandemic Flu Planning Committee, and encouraged the City to work with the Public Health Department as new information was available.

**No action required.**

**Council Break: 9:05 p.m. – 9:12 p.m.**

### ORAL COMMUNICATIONS

Mayor Kleinberg offered further public comment to those who wished to speak on the proposed Alma Plaza Project.

Tony Hughes, 839 Northampton Drive, spoke regarding the Alma Plaza Project and requested the Council to encourage the developer to include more retail space for small independent businesses.

Maria Christina Urrela, 2074 Sandlewood Court, spoke in support of the Alma Plaza Project.

Len Filppu, 3621 Ramona Circle, spoke regarding the Alma Plaza Project and urged Council to support the Comprehensive Plan.

Martin Stone, 260 El Verano Avenue, spoke regarding the Alma Plaza Project and Planned Community (PC) Zoning.

Bob Moss, 4010 Orme Street, spoke regarding the Alma Plaza Project and how it was viable for the commercial site. Mr. Moss also spoke regarding Moffett Field Air Force Base, Hangar No. 1, and urged the Council Members to join their neighbors to preserve Hangar 1, as a historical landmark.

Monica Young Arima, 1051 Bryant Street, spoke regarding the negative impact of the Santa Clara County Land Conservation Initiative on flower growing farmers.

#### SPECIAL ORDERS OF THE DAY

Mayor Kleinberg said the City received flyers regarding May as the National Bike Month. She encouraged everyone to utilize the 43 miles of bike roads and paths in the City. She acknowledged Stroke Awareness Month.

Margene Shzma, National Association of Mental Health (NAMI), received a Proclamation in observance of Mental Health Month.

Mayor Kleinberg urged everyone to familiarize themselves with the signs of a stroke to help save lives.

#### APPROVAL OF MINUTES

**MOTION:** Council Member Mossar moved, seconded by Barton, to adopt the minutes of March 20, 2006, as submitted.

**MOTION PASSED 9-0**

#### CONSENT CALENDAR

Barbara Gross, 520 Cowper Street, spoke regarding Agenda Item No. 2 and noted she looked forward to the Public Hearing on May 15, 2006.

Eileen Richardson, Kipling Street, spoke regarding No. 2 and the Downtown Street Team, which is a program that started as a result of the Business Improvement District (BID).

Gina Fallon, 94 Loma Verde, spoke regarding No. 5 and thanked Council for taking the appeal seriously.

**MOTION:** Council Member Morton moved, seconded by Barton, to approve Item Nos. 2 through 6 on the Consent Calendar.

**MOTION PASSED 9-0.**

2. Resolution No. 8599 entitled "Resolution of the Council of the City of Palo Alto Approving the Report of the Advisory Board for Fiscal Year 2006-07 in Connection with the Palo Alto Downtown Business Improvement District (BID)"

Resolution No. 8600 entitled "Resolution of the Council of the City of Palo Alto Declaring Its Intention to Levy an Assessment Against Businesses within the Downtown Palo Alto Business Improvement District for 2006-07 and Setting the Time and Place for a Public Hearing for May 15, 2006 at 7:00 PM"

3. Resolution No. 8601 entitled "Resolution of the Council of the City of Palo Alto Summarily Vacating Various Public Service Utility Easements Used for Overhead Electric Transmission Lines Located on 1629 to 1939 Edgewood Drive"
4. Approval of Amendment No. 1 to the Management Agreement with Brad Lozares for Golf Professional Services at 1875 Embarcadero Road to Extend the Term of the Agreement and to Increase the Management Fee
5. 3270 West Bayshore Road [06-Ap-03, 04, 05, 06]: Appeals by Gina Fallon et al, Susan Fineberg et al, William Chapman III, M.D., and Michael Hmelar of the Director of Planning and Community Environment's Approval of an Architectural Review Board Application and Design Enhancement Exception Requested by Classic Communities on Behalf of West Bayshore Associates for the Demolition of Two Office Buildings and the Development of 96 Residential Units on a 6.5 Acre Parcel in the ROLM Zone District
6. Resolution No. 8602 entitled "Resolution of the Council of the City of Palo Alto Approving the City of Palo Alto Interim Electric Utility Resource Adequacy Program and Delegating the Authority to the City Manager to Make Changes to the Elements of the Program to Conform to Changes in State Law and Policy that Implement Prudent Utility Practices"

#### PUBLIC HEARINGS

7. Finance Committee Recommendation re: Proposed Fiscal Year 2006/07 Community Development Block Grant (CDBG) Funding Allocations and Draft Action Plan

City Attorney Baum noted Council Member Morton had a conflict of interest for Project Sentinel. There should be a separate vote for the allocation for Project Sentinel.

Mayor Kleinberg asked whether Council Member Morton needed to discuss the conflict of interest and whether a separate motion was needed.

Council Member Morton stated he would not participate in the item due to a conflict of interest because his firm provided auditor/accounting services for Project Sentinel.

Julie Caporgno, Advanced Planner, clarified that the Community Working Group was not a recipient of any funding allocation to be determined that evening.

Eloiza Murillo-Garcia, CDBG Planner, said the funding recommendation was to provide \$26,800 to Project Sentinel for provisions of fair housing services in the City. She said as a recipient for CDBG funds, the City would be required to provide fair housing services.

Mr. Baum directed staff to separate the Project Sentinel portion of the item to allow Council Member Morton to participate in the balance of the item.

**MOTION:** Council Member Klein moved, seconded by Kishimoto, to approve the Project Sentinel allocation of \$26,800 for FY 2006-2007.

**MOTION PASSED** 8-0, Morton not participating.

Ms. Caporgno said what was before the Council was a reimbursement to the City regarding a loan to the Community Working Group in March.

Ms. Murillo-Garcia said the CDBG program was on a two-year funding cycle for Fiscal Year 2006-07. The total amount available for allocation was \$995,784. The primary focus for the funding was relative to Capital Improvement Projects (CIP). She recommended full funding for economic and social opportunities for housing, energy, and service program. Funding was also recommended for Stevenson's House retrofit of windows and doors and the fire alarm project. The Citizen Advisory Committee (CAC) and staff did not recommend funding for Lytton Gardens.

Steve Mullen, CAC CDBG Member said he was concerned about the allocations for the future. The needs outstripped the available dollars for public services by 100 percent and the largest requests were reduced on a pro-rata basis.

Council Member Morton asked whether the City's administration costs for the program had increased to 20 percent.

Mr. Mullen said that was true for the current year.

Vice Mayor Kishimoto asked whether there was a process to review and consider any changes.

Assistant City Manager Emily Harrison said staff was not ready to respond because they had just heard about the recommendations that evening. She asked whether the recommendations were from the full CAC rather than the chair.

Mr. Mullen said yes.

Vice Mayor Kishimoto said the trends should be reviewed.

Mayor Kleinberg asked why grants were made to groups outside of the City.

Ms. Caporgno said the groups outside the City indicated how they served Palo Alto residents.

Mayor Kleinberg stated for the record, the group was serving the City's population.

Mr. Mullen said the Alano Group had confidentiality issues with respect to the substance abuse clients it served.

Council Member Morton expressed a concern of the percentage of administrative costs. He requested staff to report back to justify or reduce the administrative costs.

Mayor Kleinberg concurred with Council Member Morton's comment.

**MOTION:** Council Member Beecham moved, seconded by Morton, that the City Council approves the Finance Committee recommendations, as follows:

1. Resolution No. 8604 entitled "Resolution of the Council of the City of Palo Alto Approving the Use of CDBG Funds for Fiscal Years 2006/07."
2. Authorize staff to submit the 2006/07 Action Plan to the Department of Housing and Urban Development (HUD) by the May 15, 2006 deadline.

3. Authorize the City Manager, on behalf of the City, to execute the 2006/07 application and Action Plan for CDBG funds and any other necessary documents concerning the application, and to otherwise bind the City with respect to the application and commitment of funds.

**MOTION PASSED 9-0.**

8. Resolution No. 8603 entitled "Resolution of the City of Palo Alto Amending Utility Rate Schedules E-15, G-5, and W-5, and Charges Pertaining to Service Connection Fees"

Vice Mayor Kishimoto said the item addressed rate changes introduced for large developments in anticipation of the City gradually moving towards an automated meter reading system. She asked staff whether there was an industry standard software and hardware for the meter reading. She said the set of fees would be for the type of meter reading. She said staff informed the Finance Committee there was no standard.

**MOTION:** Vice Mayor Kishimoto moved, seconded by Mossar, to approve the staff recommendation to adopt the resolution to amend fees for Utility connection schedules E-15, G-5, and W-5. In accordance with Government Code Section 66017, the effective date for these rate schedules is July 1, 2006, to meet the code requirement for a minimum 60-day delay in implementation after Council approval applicable to water connection fees. For consistency, rate schedules E-15 and G-5 are similarly effective July 1, 2006.

**MOTION PASSED 9-0**

Council Comments, Announcements, and Reports from Conferences

Council Member Mossar announced she attended a meeting last week, as a representative of the Bay Conservation and Development Commission (BCDC) on the Regional Airport Planning Commission, to initiate the process to update the Regional Airports Master Plan since the three major airports in the Bay Area believe they cannot move forward to add runway capacity. Therefore, they would like to move general aviation and commuter airport traffic out of the major airports. Palo Alto Airport is considered to be a prime target for increased usage and Moffett Field will also be studied.

Council Member Morton referred to the Palo Alto Wildlife Rescue Agency. He questioned surveillance regarding preparation for avian flu and how non-profit organizations, such as Wildlife Rescue, might fit into an early warning system.

Council Member Beecham reported on his trip to Washington, DC, last week as a representative for the Northern California Power Agency (NCPA). Issues discussed included renewables, efficiency standards, climate change, security costs and the California ISO.

Council Member Barton said he attended the Annual Meeting of the Association of Bay Area Governments (ABAG) last week in San Francisco. There was a vote taken to increase the dues structure and also to allow, at council's discretion, an administrator to attend in place of a council member. The meeting was associated with the earthquake conference and significant information was obtained.

Mayor Kleinberg reported on the program in Council Chambers last week concerning the commemoration of 1906 Earthquake and Fire with eight different organizations displaying information and historical photos showing how Palo Alto helped San Francisco. She thanked all the organizations that participated, as well as the Palo Alto Police and Fire Departments. She reported she also attended the Visions and Values Conference the prior week put on by the Silicon Valley Leadership Group and co-sponsored by Palo Alto.

#### CLOSED SESSION

The meeting adjourned at 10:10 p.m. to a Closed Session.

9. CONFERENCE WITH CITY ATTORNEY -- EXISTING LITIGATION  
Subject: California State Automobile Association Inter-Insurance Bureau v. City of Palo Alto; SCC #CV813502  
Authority: Government Code section 54956.9(a)

The City Council met in Closed Session to discuss matters regarding Agenda Item No. 9.

**Mayor Kleinberg reported there was no reportable action taken.**

FINAL ADJOURNMENT: The meeting adjourned at 10:25 p.m.