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- b) **Ordinance 1st Reading entitled "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 Classification of Property Known as 901 San Antonio Road: Taube-Koret Campus for Jewish Life Project from GM to PC Planned Community, a Comprehensive Plan Amendment to Change the Land Use Map from Light Industrial to Mixed Use, a Variance from a Height Requirement, and a Below Market Rate Housing Plan"**..... 5

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The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:09 p.m.

COUNCIL MEMBERS

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

Absent: Mossar

HUMAN RELATIONS COMMISSION

Present: Atito, Blum, Lenoir, Lew, Mendoza, Savage, Wilson

STUDY SESSION

1. Joint Meeting with the Human Relations Commission regarding Human Relations Commission issues

No Action Required.

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

Special Meeting
September 25, 2006

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:10 p.m.

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

ORAL COMMUNICATIONS

Mike Gray, 119½ S. Main Street, Ulysses, Kansas, spoke regarding unfair parking tickets and systemic problems.

Gail Wooley, 1685 Mariposa, spoke regarding the Juana Briones House.

W. Ron Sutton, 4898 Dolores Drive, Pleasanton, spoke regarding health care issues in America.

Dr. Hatano, Tokyo, Japan, spoke regarding health promotion and exercise.

Elaine Meyer, 609 Kingsley Avenue, referred to her comments at the last Council meeting regarding a housing project.

CONSENT CALENDAR

MOTION: Council Member Morton moved, seconded by Cordell, to approve Item Nos. 1 through 3a on the Consent Calendar.

Council Member Barton noted he could not participate in Items 1a and 1b due to a conflict of interest because of his wife's employment by two of the developers.

MOTION: Council Member Mossar moved, seconded by Beecham, to move Item 3A to become 3B.

1. a) **Ordinance 1st Reading** entitled "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 Classification of Property Known as 901 San Antonio Road: BUILD/BRIDGE Project from GM to PC Planned Community, a Comprehensive Plan Amendment to Change the Land Use Map from Light Industrial to Mixed Use, and a Below Market Rate Housing Plan" *(Item continued from September 11, 2006)*

Resolution 8644 entitled "The Council of the City of Palo Alto Hereby Approves Architectural Review (PLN-00031) for 901 San Antonio – BUILD/BRIDGE Project (BUILD, Owner; Steinberg Architects, Applicant) for Planned Community Zone Change PC- _____."

Resolution 8645 entitled "The Council of the City of Palo Alto Approves the Mitigation Monitoring and Reporting Program and Findings Concerning Significant Environmental Impacts in Accordance with the California Environmental Quality Act for the BUILD Planned Community Project at 901 San Antonio Road, for which an Environmental Impact Report has been Prepared"

Approval No. 2006-08 entitled "Record of the Council of the City of Palo Alto Land Use Action for 901 San Antonio Road: BUILD/BRIDGE Project, Tentative Map 06PLN-00050"

- b) **Ordinance 1st Reading entitled "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 Classification of Property Known as 901 San Antonio Road: Taube-Koret Campus for Jewish Life Project from GM to PC Planned Community, a Comprehensive Plan Amendment to Change the Land Use Map from Light Industrial to Mixed Use, a Variance from a Height Requirement, and a Below Market Rate Housing Plan"** *(Item continued from September 11, 2006)*

Resolution 8646 entitled "The Council of the City of Palo Alto Approving Architectural Review and Design Enhancement Exception (05PLN-00295) for 901 San Antonio – Taube-Koret Campus for Jewish Life Project (Taube-Koret Campus for Jewish Life, Owner; Steinberg Architects, Applicant) for Planned Community Zone Change PC- _____."

Resolution 8647 entitled "The Council of the City of Palo Alto Approving the Mitigation Monitoring and Reporting Program and Findings Concerning Significant Environmental Impacts in Accordance with the California Environmental Quality Act for the TKCJL Planned Community Project at 901 San Antonio Road, for which an Environmental Impact Report has been Prepared."

Approval No. 2006-09 entitled "Record of the Council of the City of Palo Alto Land Use Action for 901 San Antonio Road: TKCJL Project, Tentative Map 06PLN-00114"

Below Market Rate (BMR) Housing plan, including a total of 24 assisted living and congregate care units with associated housing services provided by the Jewish Senior Residence available to low income seniors.

Greg Schmid, 3428 Janice Way, spoke regarding Item No 1. He said he saw no public uses in the eight parcels recently rezoned in South Palo Alto. There were no parks, gardens, jogging or bicycle paths, and no new access points to the Baylands. He questioned what happened to the options for public space in his neighborhood.

2. Resolution 8648 entitled "The City of Palo Alto Hereby Adopts the Annual Update Amending the Administrative Penalty Schedule and Civil Penalty Schedules for Certain Violations of the Palo Alto Municipal Code and the California Vehicle Code Established by Resolution No. 8546"
3. Approval of a Contract with Prudential Overall Supply in the amount of \$140,000 for Uniform Rental Services

~~3A. Colleagues Memo from Mayor Kleinberg, and Council Members Drekmeier and Klein re Resolution in Support of Proposition 87~~

MOTION PASSED 8-0 for 1a and 1b, Barton not participating.

MOTION PASSED 9-0 for Items 2 and 3.

- 3B. (Old Item 3A) Colleagues Memo from Mayor Kleinberg, and Council Members Drekmeier and Klein re Resolution in Support of Proposition 87

Council Member Mossar expressed concern about moving forward with the proposed resolution in light of the Council's adopted policy on the handling of ballot measures and other legislative advocacy. She would like the matter referred to the Policy and Services (P&S) Committee.

MOTION: Council Member Mossar moved, seconded by Barton, to refer to Policy and Services Committee (P&S) the colleague's memo from Mayor Kleinberg, and Council Members Drekmeier and Klein for consideration in support of Proposition 87.

Council Member Mossar said it was important the Council followed the policies they previously adopted.

Council Member Barton concurred with the comments of Council Member Mossar.

Council Member Klein opposed the motion and said he believed it was far more important to get the message out to the constituents now rather than days before the election, which would be the case if the matter had to first come before the P&S Committee. He was in favor of suspending Council's policy on the issue of advocacy or opposition to the upcoming propositions.

Council Member Morton concurred with Council Member Klein.

Jon Foster, 1636 Channing, spoke regarding Item No. 3A. He encouraged the Council to endorse Proposition 87, the California Clean Energy Initiative.

Council Member Mossar said she had inquired of staff at the previous meeting whether the recommendation met the Council's adopted policy, which staff did not answer. She referred to bullet point number 5 of the staff report (CMR:315:02), which listed the guidelines to use when evaluating ballot measures or legislative issues. The Council adopted the policy when difficulties arose in the area of endorsement or opposition to particular legislative and ballot measures.

Council Member Morton said Proposition 87 was an issue with local as well as national implications. It was more important for the Council to take a stand on the issue than adhere to the customary hearing process.

Council Member Beecham asked why the Colleagues Memo was placed on the Consent Calendar.

City Manager Frank Benest said he did not know.

Council Member Beecham said attached to the Colleagues Memo was an analysis from the Attorney General. He asked about the position of the League of California Cities.

Council Member Klein said he did not know the League's position.

Mayor Kleinberg said the League of California Cities did not have a position.

Council Member Beecham concurred with the comments of Council Member Mossar. He said the Colleagues Memo did not comply with the policies he believed should come before the Council.

Council Member Drekmeier said Proposition 87 was a critical issue for California and it was important to act in a timely manner to influence the people. He was opposed to sending the item to the P&S Committee.

Council Member Klein concurred with the comments of Council Member Drekmeier.

Vice Mayor Kishimoto said Proposition 87 addressed important programmatic goals of the City, which included sustainability and green energy. She could not support the motion.

Council Member Cordell said while rules and policies were made to be followed exceptions could be made under certain circumstances. The purpose of airing the matter was to ensure sufficient public input, let people know what Council's position was, and to understand the issues. She felt it was appropriate and reasonable to look at the specific circumstances of Proposition 87, and the upcoming election. Given the exigencies involved, the Council should move forward to adopt the resolution. She was opposed the motion.

Council Member Mossar clarified the policy was adopted in July 2002.

Mayor Kleinberg said she would not support the motion. The resolution was in keeping with the various policies the City and the Council had adopted. She had not heard any of her colleagues state their opposition to Proposition 87. What was being vetted was a question about process. There was a strong argument to support the resolution, a persuasive list of connections with the City's local operations, and how it would impact businesses in terms of job creation, public health, and sustainability.

MOTION WITHDRAWN BY MAKER AND SECONDER

Council Member Beecham said although he had not expressed opposition or support for Proposition 87, his position on any individual proposition should not be assumed.

MOTION: Council Member Klein moved, seconded by Drekmeier, that the Council waive the referral of this item to the Policy and Services Committee (P&S), as noted in CMR:313:02, Ballot Measure and Legislative Advocacy Process, and adopt the resolution urging a "yes" vote on Proposition 87.

Council Member Drekmeier said the oil companies made approximately \$78 billion in profit the previous year at the expense of human health and the environment. It was an issue in Palo Alto because of flooding from the high tides of San Francisquito Creek, and the heavy rains from the Hetch-Hetchy Reservoir in the Sierras. It was important for Palo Alto to transition its economy from oil-based to renewable energy, and Proposition 87 was a big step forward.

MOTION PASSED 6-3, Barton, Beecham, Mossar no.

PUBLIC HEARINGS

- *4. Public Hearing - To consider a Request for Site and Design Review of a new 76,500 square foot research and development building, including parking structure and associated site improvements, to establish a cohesive SAP campus in the Stanford Research Park at 3412 Hillview Avenue [06PLN-00157]. Design Enhancement Exceptions are requested to exceed the maximum allowable building height and site coverage. Applicant: Stanford Management Company on behalf of The Board of Trustees of the Leland Stanford Junior University. Zone District: RP-5(D).

Approval No. 2006-07 entitled "Record of the Council of the City of Palo Alto Land Use Action for 3412 Hillview Avenue: Site and Design Review and DEE Application 06PLN-00157"

Council Member Cordell stated she would not participate in Item No. 4 due to a conflict of interest because she is employed by Stanford University.

Council Member Klein stated he would not participate in Item No. 4 due to a conflict of interest because his wife is employed by Stanford University.

Council Member Mossar stated she would not participate in Item No. 4 due to a conflict of interest because her husband is employed by Stanford University.

Chief Planning and Transportation Official Curtis Williams said the proposed project involved the demolition of two existing office buildings and the construction of one consolidated SAP campus building, along with a two-story parking deck and some limited surface parking areas. The project exhibited a number of sustainability features. Staff's recommendation to Council was for approval of the Site and Design Review, and two Design Enhancement Exceptions (DEEs); one for height and the other for site coverage. The project had been reviewed and recommended for approval by the Planning and Transportation Commission (P&TC) and the Architectural Review Board (ARB). A Negative Declaration (Attachment I of the staff report [CMR:376:06]) had also been prepared for the project and needed Council's approval as well.

Mayor Kleinberg disclosed she had a telephone conversation with Jean Snider about the matter but there was nothing discussed not already in the record.

Mayor Kleinberg declared the Public Hearing opened at 8:00 p.m.

Jean Snider, Applicant, 2770 Sand Hill Road, provided background information on SAP's presence in the Stanford Research Park (Research Park) through an aerial view of the area. The Stanford Land Management
09/25/06

Company (SLMC), the P&TC and the ARB supported staff's recommendation because: 1) the design was site specific in its sensitivity to the open space and existing grade while still adhering to the specific needs and requirements of SAP; 2) the project creatively incorporated many sustainable elements; and 3) the project would secure SAP's long-term presence in the Research Park by creating a contiguous campus.

Aliza Peleg, Managing Director, SAP Labs, 3410 Hillview Avenue, said SAP was the third largest software company in the world and was headquartered in Germany. Over the past ten years in Palo Alto, SAP had grown dramatically from approximately 30 people to more than 1,500 people. She encouraged the Council's support and approval of the project.

Ted Korth, Korth Sunseri Hagey Architect, 650 California Street, San Francisco, provided additional background information on SAP's presence in the Research Park. After discussions with the ARB and P&TC, some of the goals over the course of the design included: 1) an integrated building with natural contours of the site; 2) a more organic and less symmetrical building design; 3) preservation of Coyote Hill; 4) a parking concept that ensured proper screening, shading and appearance; 5) identifiable and incorporated sustainable features; 6) enhancement of pedestrian connections between the different SAP buildings; and 7) a color and material palette that would compliment the natural characteristics of the site.

Mayor Kleinberg declared the Public Hearing closed at 8:10 p.m.

MOTION: Council Member Barton moved, seconded by Beecham, to approve the following actions regarding 3412 Hillview Avenue:

1. Approve the Negative Declaration for the project at 3412 Hillview Avenue, with a finding that the project will not result in significant environmental impacts; and
2. Approve the Site and Design Review and DEE applications to allow the construction of a new research and development building in the RP-5(D) Research Park Combining District, based on the findings and conditions of approval in the draft Record of Land Use Action.

Council Member Barton said the applicant did a great job of working with staff, the ARB and P&TC to develop a project with a lot of green components. He expressed approval of the Negative Declaration given the equivalent square footage between the existing and the new building in terms of usage, the DEE based on the increase in green space and the impervious surface, and the height of the building relative to its sloping on the site. It was important to be able to support local businesses in Palo Alto, and find a way for them to reinvest and participate in the community.

Council Member Beecham expressed support for the comments made by Council Member Barton.

Council Member Morton concurred with the comments of his colleagues. He complimented the architect on the proposed landscaping and expressed support for the project.

Council Member Drekmeier disclosed he met with the applicant and conducted a site visit. Although he was not a proponent of tearing down buildings and building new ones, the existing building was designed for other uses; much of which was subterranean. He indicated the hope of having solar panels placed on the parking structure. He asked where Palo Alto stood with its three-party agreement to protect Coyote Hill and the surrounding area.

City Attorney Gary Baum said his staff was looking into the matter.

Council Member Drekmeier complimented the applicant and the architect on the attractiveness of the building.

Vice Mayor Kishimoto said she was pleased with the new generation of buildings being developed in the Research Park. She suggested future developments in the Research Park incorporate working with the new Transportation Demand Management (TDM) programs. She said the DEE for site coverage parking was a great improvement over asphalt parking lots. She asked whether there was a more coherent rule staff had anticipated for future developments.

Chief Planning and Transportation Official Curtis Williams said staff had addressed parking in single family areas. In the multi-family and commercial areas, the way parking was counted in Floor Area Ratio (FAR) was something staff anticipated bringing before the P&TC and Council at a later date.

Vice Mayor Kishimoto asked whether the parking structures for the proposed project counted toward the FAR.

Mr. Williams said the parking structure did count towards the FAR, whereas surface parking did not.

Mayor Kleinberg expressed her thanks to SAP for locating such an enormous facility in Palo Alto. She encouraged the 1,500 plus employees to shop in the Palo Alto business districts (Downtown, California Avenue, Midtown). She complimented the Stanford Land Management Company (SLMC) for allowing SAP to remain in the community and for the synergy they provided.

MOTION PASSED 6-0, Cordell, Klein, Mossar not participating.

REPORTS OF OFFICIALS

5. Approval of Amendment No. 4 to C9102718 with RossDrulisCusenbery Architecture Inc. in the amount of \$1,037,490 for Preliminary Design, Environmental Review, and Cost Estimating for the Public Safety Building, Capital Improvement Program Project PE-98020

Resolution 8649 entitled "The City of Palo Alto Hereby Declares Intention to Reimburse Expenditures from the Proceeds of Bonds to be issued by the City"

Director of Public Works Glenn Roberts provided the Council with an overview of the project schedule, as described in the staff report (CMR:374:06). Staff's recommendation was to embark on a specific course of action with RossDrulisCusenbery (RDC) Architects to approve the contract amendment, which would set in motion preparation of the Environmental Impact Report (EIR). With the approved contract amendment and the budgetary resources, RDC would be able to complete 25 percent of the preliminary design. The current budgetary resources were originally estimated in the preparation of the 2006-07 budget, prior to the final recommendations of the Blue Ribbon Task Force (BRTF) and before any fee negotiations with RDC. The scope of work to be performed under the contract amendment included: 1) preparation of the EIR; 2) completion of the 25 percent preliminary design; 3) development of Leadership in Energy and Environmental Design (LEED) and sustainable green building elements; 4) consideration of building design to allow for future expansion; and 5) preparation of cost estimates. Staff anticipated returning to the Council in July 2007 for another contract amendment to carry through the 35 percent design, update the cost estimates, and prepare materials to inform the public prior to the June 2008 election.

Mayor Kleinberg said the timeline indicated final EIR approval would take place before a new Council. She asked whether it would be possible to accelerate the final certification to December 2007 to be approved by the existing Council.

Mr. Roberts said staff would do everything it could to accommodate that timeline. He stated, however, that sometimes those processes were not totally within staff's control.

Council Member Barton said normally the EIR was contracted but directed by the City as a way of keeping a neutral position. He asked whether he was correct in assuming it had been subcontracted out because the City was indeed the applicant.

Mr. Roberts said essentially that was correct. It was also being done to facilitate the timing of the process. Staff chose to stay with the original consultant selection process, which included potential sub-consultants for environmental services. With regard to the EIR fee, it was included in the amended contract. The total fee on a project, similar to the one proposed, would range between eight and ten percent for the architect's fee, and the total soft costs (environmental review, project development, and bond issuance) could range up to 20 percent. He reminded the Council a premium was being paid to hire a world class design firm, and to complete the design on an accelerated timeline.

Council Member Barton said there was no site control. He asked if staff could explain how the schedule worked around purchasing a site, and whether the architect would have the go ahead without site control.

Mr. Roberts said staff had entered into preliminary discussions with the property owners. A verbal agreement was obtained for right of entry into the property whereby staff could conduct stage one and stage two environmental review analyses.

Council Member Morton asked whether there were alternative steps if the proposed site was found to be contaminated to the extent the police building could not be built on it. He also inquired if there was a risk that had been overlooked.

Mr. Roberts said he did not believe so. Even though staff did not have site control and had not completed the environmental analysis, there was considerable knowledge about the site. The owners had conducted a stage one review on the largest portion of the site. The site was underlain at some depth by a contamination plume which was well documented. He believed staff had a reasonable basis of knowledge about the site that they did not expect any fatal flaws.

City Attorney Gary Baum said the City was at some risk in taking the project in its current fashion; however, based upon staff's knowledge, experience and the accelerated timeline, it was a reasonable way to proceed. Staff would continue do all the due diligence necessary.

Victor Ojakian, Former Mayor, 526 Addison Avenue, encouraged the Council to approve the project as recommended by staff. He concurred with Council Member Barton the amount of the contract was not disproportionate to a project of its size. He expressed hope that the current Council, who placed the item as a priority and put in a lot of work, would be the Council who decided the matter. He anticipated an attempt to promote fundraising efforts separate from the bond measure, but it could not be accomplished until the EIR, the preliminary design, and site acquisition were completed.

Robert Moss, 4010 Orme Street, endorsed staff's recommendation to approve a contract amendment. He anticipated the community being opposed to the overall cost of the project. He suggested having the bond election during the November 2007 General Municipal Election rather than holding a Special Election in June 2008, as a way of curbing added expenses. He also suggested staff include a timeline for having an agreement of acquisition of the site.

Joy Ogawa, Yale Street, said although she was not convinced a new police building of 50,000 square feet was necessary, she questioned why staff had deliberately ignored the lower cost alternative of the Alma Substation site. It could provide a savings of approximately \$4 to \$8 million in land costs. She was strongly opposed to staff's recommendation and poor decision-making.

MOTION: Council Member Beecham moved, seconded by Mossar, to approve staff's recommendations as follows:

1. Approve and authorize the City Manager or designee to execute the contract amendment in a not-to-exceed amount of \$1,037,490 to RossDrulisCusenbery Architecture for engineering and architectural design services for the Public Safety Building Project, CIP Project PE-98020, including \$943,190 for basic services and \$94,300 for additional services; and
2. Approve a Resolution of Intent declaring the City's intention to reimburse expenditures from the proceeds of bonds to be issued by the City.

Council Member Beecham said he believed the \$1 million being spent on the project was necessary, and was a down payment on what the community was obligated to do. The community needed to recognize a substantial investment in the City's infrastructure had not been completed in the last 30 years. Now was the time to address the issue and move forward.

Council Member Mossar said there was clear recognition for the need to fund infrastructure, and the community was supportive of the need for a new police building. She felt the project was ready, and it was time to take the next step to complete the process.

Mayor Kleinberg reminded the public a diverse group of thoughtful and professional citizens, who were a part of the BRTF, chose the Park Boulevard location as the optimum site for the police building. She stressed there was no collusion or pretext on the part of the City.

MOTION PASSED 9-0.

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Mossar reported on the following issues:

- San Francisquito Creek JPA Alternate Member Kishimoto would represent the City on October 11, 2006, when Stanford University presented its Notice of Preparation, Habitat for Conservation, with the U.S. Fish and Wildlife Service.
- The feasibility study for the San Francisquito Creek Flood Control Project had been raised to a priority project in the Integrated Regional Water Management Plan.
- As a representative on the Policy Advisory Committee for the Peninsula Corridor Study, an announcement was 'at places' that evening for the Dumbarton Dialogue Project, which was formed and funded by Caltrans to do outreach for the Peninsula Corridor Study. She recommended her colleagues review the work product.

Council Member Mossar also requested copies of all Council policies and the process for reviewing and revising Council policies and procedures.

Assistant City Manager Harrison advised staff had realized there was a need to put all the policies together in one place and to ensure that new Council Members received them, and she assured it would be done.

Council Member Drekmeier, as representative on the Lower Peninsula Flood Control Commission, reported that annually the Creek was dredged downstream of Highway 101 and an earthen dam built. Unfortunately, that could not be done this year because the mud was too soft. Therefore, the area had not been dredged and there was concern the flow could be impeded going upstream of Highway 101 through the bridge since it would not have the same capacity to flow out into the Bay.

Mayor Kleinberg advised the Red Ribbon Task Force on Disaster Planning would be convened on October 5, 2006, and there would be a complete announcement on the Task Force.

CLOSED SESSION

Beth Bunnenberg, 2351 Ramona Street, expressed concerns on behalf of the community about the future of the Juana Briones property and its possible demolition. The site of the Juana Briones adobe was designated a state landmark in 1970, and the City Council designated the property as a Category 1 on the City's Historic Building Inventory on March 30, 1987. On January 25, 1988, the City of Palo Alto extended a Mills Act (Historic Property Preservation) agreement with the property owner of that date. She understood the recent Appellate Court ruling applied to the Mills Act. She urged the Council to look at the historic preservation ordinance provisions as

it pertained to the demolition of Category 1 and 2 properties. She also suggested looking into the possibility of the California Environmental Quality Act (CEQA) as there might be Native American remains and artifacts on the site, as well as archeological historic pieces from early inhabitants.

Council adjourned to a closed session at 9:00 p.m.

6. CONFERENCE WITH CITY ATTORNEY -- EXISTING LITIGATION
Subject: Jaim Nulman, Avelyn Welczer v. City of Palo Alto, California Court of Appeal, Sixth Appellate District, No. H027764 (SCC #CV779831)
Authority: Government Code section 54956.9(a)

Mayor Kleinberg stated no reportable action was taken.

ADJOURNMENT: The meeting adjourned at 9:45 p.m.