

March 7, 2025

VIA E-MAIL

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Honorable Mayor and Members of the City Council
CITY OF PALO ALTO
250 Hamilton Avenue
Palo Alto, CA 94301

Re: **City Council Special Meeting – March 10, 2025 – Agenda Item #7**
Comments and Objections to Threatened Permanent Street Closures

Honorable Mayor and Members of the City Council:

On behalf of a coalition of concerned citizens, property owners, merchants, and residents, we respectfully object to the proposal that the City Council take actions to permanently close portions (or additional portions) of the public streets known as California Avenue and Ramona Street.

There are many reasons for objecting to the proposed actions under this Agenda Item – particularly with regard to Ramona Street, e.g., preservation of the nationally-recognized unique historic and architectural features of Ramona Street, restoring public safety and accessibility to vital services and emergency vehicles, removing blockage of private driveways (including driveway access to a large underground garage below 250 University), and revival of economic and retail vitality. This letter, however, is focused on two critical legal requirements under California law that preclude the Council from approving the proposed actions – at least without further public engagement and analysis: (i) the California Vehicle Code and (ii) CEQA.

As the California Supreme Court explained in a similar case years ago:

“The streets of a city belong to the people of the state, and every citizen of the state has a right to the use thereof, subject to legislative control The right of control over street traffic is an exercise of a part of the sovereign power of the state ‘The use of highways for purposes of travel and transportation is not a mere privilege, but a common and fundamental right, of which the public and individuals cannot rightfully be deprived . . . [All] persons have an equal right to use them for purposes of travel by proper means, and with due regard for the corresponding rights of others.’” (*Rumford v. City of Berkeley* (1982) 31 Cal.3d 554, 550 [rejecting Berkeley’s attempts to install bollards to block portions of public streets, in violation of the limits on street closures established by the Legislature in the Vehicle Code] [emphasis by the Court].)

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The threatened permanent closure of Ramona Street between University Avenue and Hamilton, is of particular concern. That area includes the historically-important portions of the “Ramona Street Architectural District” that have been listed in the National Register of Historic Places, as well the City’s own Historic Registry. The coalition for preservation of Ramona Street includes people and businesses who seek to preserve the irreplaceable historic and architectural character of Ramona Street and its economic and cultural urban vitality.

According to the posted Agenda, the proposed actions would entail (1) amendments to the City’s Comprehensive (General) Plan to “re-classify” portions of Ramona Street and California Avenue as “car-free streets,” and “closing those streets to vehicular traffic;” and (2) adopting an Ordinance empowering the City Manager to “create regulations” for the use of those streets. Both of those proposed actions are subject to objection on numerous grounds, two of which are summarized below. The City Council may not lawfully “delegate” its limited legislative authority over public streets to unelected staff in the absence clear and objective standards and criteria.

The proposed closures are not only in derogation of controlling State law, but are also inconsistent with the City’s land use plans and policies, and insensitive to the rights and interests of the impacted communities.

1. Failure to Comply With the California Vehicle Code

As the Supreme Court has made clear, “the streets of a city belong to the people of the state ...” and “a city’s police powers do not extend to control of vehicular traffic on its streets; that field has been preempted.” (*Rumford, supra*, p. 553.)

The Legislature has therefore limited the authority of cities – even charter cities – to close public streets. The City is only authorized to permanently close a street or highway when the city council makes findings, supported by substantial evidence, that the street “is no longer needed for vehicular traffic.” (**Vehicle Code § 21101, subd. (a).**) The City has failed to do so. And nothing on the Agenda indicates that the Council expects to comply with this requirement of State law before it acts to permanently close Ramona Street. Not only would the proposed Council actions procedurally violate the Vehicle Code, but there is no substantial evidence that would support such a finding.

The record indicates that back in June 2020, in response to the then-prevalent Covid-19 pandemic, the City adopted an “interim urgency measure” to temporarily close California Avenue and portions of University Avenue, and to allow outdoor dining and retail in those areas.¹ The City

¹ **Council Resolution No. 9902 (June 23, 2020), Sec. 3: Additional Closures.** “The City Manager is authorized in his or her capacity as the Director of Emergency Services to extend the University Avenue closure to temporarily close the streets intersecting University Avenue in the Downtown area, from Emerson Street to Cowper Street, by issuance of an order, rule or regulation if the City Manager finds it is reasonably related to the protection of life and property as affected by

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then invoked the “public health” emergency, and cited subdivision (e) of Vehicle Code § 21101, which allows a city to approve “[t]emporarily closing a portion of any street for celebrations, parades, local special events, and other purposes when, in the opinion of local authorities ... the closing is *necessary for the safety and protection of persons who are to use that portion of the street during the temporary closing.*” (Emphasis added.)

Although the City subsequently took actions to periodically “extend” the “temporary” closures that had begun in 2020, at no time did the City ever take legal action purporting to determine that Ramona Street was “no longer needed for vehicular traffic” – as is required by State law in order to justify the threatened permanent or long-term closure of Ramona Street. The City Council may not lawfully approve a permanent street closure without first making an evidence-based finding that the street is “no longer needed for vehicular traffic” as required by Vehicle Code § 21101 (a).

[A] city is not expressly authorized to close a street for any purpose other than that it is unnecessary for present or future uses as a street. (*Citizens Against Gated Enclaves v. Whitley Heights Civic Assn.* (1994) 23 Cal.App.4th 812, 821) “What the City cannot do is wave the magic wand and declare a public street not to be a public street.” (*Zacks v. City of Sausalito* (2008) 165 Cal.App.4th 1163, 1184 [holding that property owner could pursue claims against the city for improperly acting to close a street without complying with the Vehicle Code].)

Not only does the newly-threatened permanent closure of Ramona Street violate California law, but the City’s past actions purporting to extend a temporary closure for nearly five (5) years also exceeded and violated the statutory limits on the City’s authority. For example, even though the City “re-opened” University Avenue in October 2021, the City improperly continued to extend the “temporary closure” of Ramona Street – long after the City of Council had rescinded its declaration of local health emergency on July 1, 2021. Even though that health crisis had been the only proffered excuse for the “temporary” closure of Ramona, on September 13, 2021, the Council voted to extend the street closures of portions of California Avenue and Ramona Street – to allow for the continued use of these streets for outdoor dining and other activities as may be allowed. The Council voted on each street separately and Resolution No. 9988 extended the temporary closure of Ramona Street only; a separate resolution (No. 9987) extended the closure of California Avenue. At the same meeting, the Council directed the City Manager to open the portion of University Avenue which was closed by Resolution No. 9909 – which should have automatically ended the “temporary” closure of Ramona pursuant to Resolution No. 9909.

The Court of Appeal recently made clear that the Vehicle Code “permits local authorities to close portions of streets only for a relatively short period of time, assuming there has been a

the Local Emergency. These side street closures shall only extend for one block from University Avenue, between University Avenue and Lytton Avenue to the north and between University Avenue and Hamilton Avenue to the south, and shall be in effect no longer than the period of the University Avenue closure.” (Emphasis added.)

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determination that the closure is necessary to safeguard and protect persons using the street during the temporary closing. It does not authorize local authorities to close streets to vehicular traffic for whatever nonpermanent duration of time they desire.” (*Comm. to Relocate Marilyn v. City of Palm Springs* (2023) 88 Cal.App.4th 607, 628 [holding that the City exceeded its authority and acted unlawfully by attempting to close a public street for a period of three (3) years].) The City’s imposition of prolonged temporary closures on Ramona Street, for more than four years, have exceeded the City’s limited authority to “temporarily” close streets under Veh. Code § 21101(e).

The City should not, and cannot legally, continue to put the Ramona Street community in “limbo.” The Council should take no action on the proposed Agenda items – unless and until the Council and the public are provided with substantial evidence that persuasively demonstrates the street “is no longer needed for vehicular use” -- as mandated by California law.

2. Violations of the California Environmental Quality Act (“CEQA”)

It would be a violation of CEQA for the City Council to take action on these Agenda items on the basis of the proposed “Addendum” to the EIR prepared in connection with the City’s adoption of the Comprehensive Plan (2030). That Plan and its “program-level” EIR were adopted back in November 2017 – more than seven (7) years ago – and the old EIR has become outdated and in many respects, no longer relevant to currently-existing conditions and environmental issues.

The old “program-level” 2017 EIR does not provide the necessary detailed analysis of the impacts of the new proposed actions, which are essentially “project level” actions targeted at specific street segments. (CEQA Guidelines, 14 Cal. Code of Regs. § 15146.) A new project-level activity cannot be approved based on an older program EIR “if its impacts were not evaluated in the [program] EIR.” (*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1164; *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1321.)

In the years since 2017, many things have changed in Palo Alto, making reliance on the Comprehensive Plan EIR unsustainable. One of those post-2017 changes to the project area is the Covid pandemic, and the City’s decision to impose a “temporary” closure of Ramona Street for public health reasons. There have been many other changes to Downtown Palo Alto since 2017. E.g., Council’s adoption of a new Housing Element; Council’s recent actions to convert parking lots to new and dense multi-family housing, and Council’s decision in 2019 to stop work on the new Downtown Parking Garage.

The Addendum is also fatally-flawed at the outset by failing to consider the relevant “baseline” conditions. The Addendum wrongly assumes that the conditions on Ramona, under the unlawfully prolonged “temporary” closure is the applicable baseline, rather than the conditions that existed prior to the closure resolution in 2020 or as they existed back in November 2017. The ensuing blockage of the street and the installation of barriers to obstruct vehicular access is another significant change in the relevant pre-2020 baseline condition.

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While reliance on an Addendum might be appropriate in some limited circumstances, that is not the case here. The CEQA Guidelines (14 Cal. Code of Regs. §15164) specify that “[a]n addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.” (Emph. added.)

The 2017 EIR obviously did not consider the notion of converting key “collector streets” such as Ramona or California into “car-free streets” and permanently closing them to through vehicular traffic, much less provide the necessary analysis of those significant changes to the Comprehensive Plan or their likely impacts. Such impacts include impairing and tarnishing the aesthetics and visual context of the historic architecture in the corridor – the Monterey Colonial and Spanish Colonial Revival-style buildings were constructed in the 1920’s and were designed around a street that was intended and built to serve automobile travel and access. The Addendum wrongly asserts (p. 32), without evidentiary support, that the Project will not change the context of the historic resources in the Ramona Street Architectural District,” and fails to provide any alternatives or project-specific mitigation measures.

Other impacts include impairment of air quality, cultural resources, geology, and soils. The Addendum (pp 26-28) admits that “the project” will cause air quality impacts during construction and that the long-term operational impacts of the project will also impact vehicular emissions. It wrongly dismisses those long term impacts without analysis by asserting (p. 28) that there will not be any additional GHG or air quality impacts “since the project is focused on pedestrian/*bicycle* improvements.” However, as the Addendum itself admits, inconsistently, the proposed closure of Ramona “will accommodate pedestrians only” and that “no mounted bicycles will be permitted.”

The street closure actions will create other unstudied impacts, e.g., circulation, land uses, noise, and public services [impaired accessibility for emergency and fire services]. We are informed that the leadership of the Fire Department has expressed concerns about the proposed blockage of access and limited room for maneuver resulting from the closure. It is doubtful that the City would approve private development of such a narrow (16’ wide) ‘fire lane’ in a high-density, multi-story, area with no turn-around capacity.

“Car-free streets” is a concept that was not even mentioned in the 2017 Plan – and thus why the City now needs to try to amend the Comprehensive Plan to introduce that concept. The impacts of the proposed amendments to the Plan – introducing two new categories of street types, and permanently closing a street that the Circulation Element identifies as a significant collector street, were not identified or studied in the 2017 EIR. These changes are not “minor” or “technical.” The 2017 EIR could not, and did not, analyze the current proposal, or the impacts of such street closures, nor any ‘alternatives’ to the closures, nor attempt to provide relevant and effective “mitigation measures” for the impacts of permanent street closures as is required under CEQA. (P.R.C. § 21080.5; Guidelines § 15252; *Friends, Artists & Neighbors of Elkhorn Slough v. Cal. Coastal Comm.* (2021) 72 Cal.App.5th 666, 701 [setting aside Commission’s action because its addendum failed to contain “a complete analysis of mitigation measures or alternatives”].)

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Agencies are instructed to prepare an addendum only for minor technical changes or additions to a project that “do not raise important new issues about the significant effects on the environment.” (*Ventura Foothill Neighbors v. County of Ventura* (2014) 232 Cal.App.4th 429, 435.)” (*OBC Business Owners v. City of Irvine* (2023) 88 Cal.App.5th 100, 121 [holding that the City erroneously relied on an addendum to a program EIR because there was insufficient evidence that the new project’s emissions would be consistent with the prior program EIR].)

There is simply no substantial evidence in this record supporting the consultant’s conclusory assertion in the Addendum (p. 2) that “the City of Palo Alto [*sic*] has determined that the proposed changes to the previously approved (2017) Comprehensive plan EIR will not result in potentially-significant impacts that were not previously identified or analyzed” The Addendum’s “check the box” findings of ‘no significance’ at Table 4.1 are not supported by any evidence.

If the City persists in pursuing these misguided and counter-productive street closures, a new or supplemental EIR is required – in addition to Vehicle Code compliance.

Conclusion

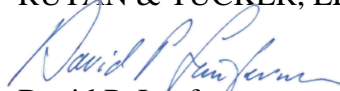
Based solely on the foregoing legal failings in the proposed actions, the Council should reject the proposed actions. The City failed to conduct reasonable or adequate outreach to the impacted community. Had it done so, the City would have learned that a large majority of the property owners on the impacted section of Ramona Street are strongly opposed to this proposal.

We respectfully request that the Council reject the Agenda items, or at a minimum defer any immediate action and direct Staff to address the Vehicle Code requirements and provide the necessary environmental analysis for the proposed actions.

Thank you for your consideration of these comments and concerns.

Very truly yours,

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