

Special Meeting
August 2, 2003

1. Public Hearing: The City Council will consider the South of Forest Area (SOFA) 2 Coordinated Area Plan including properties in the boundaries of Forest Avenue, Ramona Street, Addison Avenue and Alma Street, of issues raised during meetings with the South of Forest Area, Phase 2 ("SOFA 2") property owners and Working Group and to request for confirmation or modification of the Planning and Transportation Commission's recommendations for the SOFA 2 Coordinated Area Plan..... 2
- ADJOURNMENT: The meeting adjourned at 1:22 p.m. 33

The City Council of the City of Palo Alto met on this date in the Council Chambers at 9:05 a.m.

PRESENT: Beecham, Burch, Freeman (teleconferencing from the Renaissance New York Times Square, 714 Seventh Avenue, New York, NY, at 9:05 a.m.), Kishimoto, Kleinberg, Lytle, Ojakian

ABSENT: Morton, Mossar (due to conflicts of interest)

Mayor Mossar would not participate due to a conflict of interest because she owned property near the SOFA Plan area.

Council Member Morton would not participate in the item due to a conflict of interest because he had a client within the SOFA Plan area.

UNFINISHED BUSINESS

1. Public Hearing: The City Council will consider the South of Forest Area (SOFA) 2 Coordinated Area Plan including properties in the boundaries of Forest Avenue, Ramona Street, Addison Avenue and Alma Street, of issues raised during meetings with the South of Forest Area, Phase 2 ("SOFA 2") property owners and Working Group and to request for confirmation or modification of the Planning and Transportation Commission's recommendations for the SOFA 2 Coordinated Area Plan *(Item continued from July 28, 2003 - Public Testimony closed)*

Vice Mayor Beecham reported that on Monday, July 28, 2003, the Council discussed Appendix A, Items 1, 2, and 3. Item 4 was continued to the current meeting. Action minutes from the meeting of July 28, 2003, showed the official action from that meeting.

Chief Planning Official Lisa Grote noted staff included a map of potential redevelopment sites in the Council's packet and provided at places a graphic of daylight planes for Homer and High Streets. The Working Group recommendations where the RT-50 was located were superimposed on the Planning and Transportation Commission (P&TC) recommendations.

Council Member Ojakian clarified the Council was discussing Items 4-8 but could revisit any of the items previously discussed.

Vice Mayor Beecham said that was correct.

Council Member Ojakian said Alma Street, in the area designated as RT-50, was an ideal area for additional housing. A portion of the area was within the circle drawn for transit-oriented development. Higher height limits along Alma Street were a preference. If the goal were to make the area transit-oriented and stimulate affordable housing, setting height limits at an appropriate level was important.

Council Member Lytle asked why there was a 2.0 Floor Area Ratio (FAR) limit on all affordable below market rate (BMR) projects but an unlimited FAR allowed for market rate projects. The 50-foot height limit on zoning was done through initiative, which might be eliminated in the future zoning update. She asked why the Council considered an unlimited FAR for projects that were not 100 percent affordable and a 2.0 FAR for those projects that were 100 percent affordable.

Vice Mayor Beecham noted that his Substitute Motion on July 28, 2003, should actually be designated as an Amendment to Council Member Kishimoto's Amendment.

AMENDMENT TO AMENDMENT: Vice Mayor Beecham moved, seconded by Ojakian, to direct staff to return with suggested height limitations appropriate for the Planned Community (PC) area in SOFA 2 that would reflect greater densities along Alma Street, backing down towards the eastern end of the area toward Middlefield Road.

Council Member Kleinberg suggested when staff was asked to return with a suggested height limitation for the PC area, that opportunities for investments in housing be maximized in keeping with the policy in the South of Forest Area (SOFA) Plan from the prior Council.

Council Member Kishimoto wanted to respect the 50-foot height limit.

Vice Mayor Beecham noted that his amendment to the motion was derived from Council Member Lytle's discussion that the Council had a variation of height on High Street from Alma Street. There was nothing in the motion that suggested or implied the Council wanted to revisit the 50-foot height limit.

Council Member Kishimoto expressed concern about the height of the building on a narrow street. Without the Planned Community (PC), the sidewalk was narrow. She suggested a wider setback be imposed along High Street.

Director of Planning and Community Development Steve Emslie said considering an additional setback was appropriate in order to increase the sidewalk width.

Council Member Kishimoto asked what the width of the sidewalk was.

Mr. Emslie responded the sidewalk was approximately six feet.

Council Member Kishimoto recommended increasing the sidewalk right-of-way to a minimum ten feet.

Vice Mayor Beecham said he would not accept the recommendation because he wanted to see a more comprehensive view and asked that staff return with a fuller package.

Council Member Kishimoto clarified the information would be brought back as part of the ordinance.

Vice Mayor Beecham said that was correct.

Council Member Kleinberg asked that direction to staff include statements by Council Member Ojakian about height limits on Alma Street, reflective of not only the need for private investment in housing, but also to include the direction by the previous Council that set up the SOFA Plan, that is, the policy framework that asked for attention to investment for housing.

INCORPORATED INTO THE AMENDMENT TO THE AMENDMENT WITH THE CONSENT OF THE MAKER AND SECONDER to request staff to provide information to the Council on suggested height limitations within 500 feet of a R-1 zoned parcel in SOFA 2 and impacts on housing investment opportunities should be considered.

Council Member Freeman believed that FAR and height were intrinsically intertwined and suggested that staff included both when the item returned to the Council.

Vice Mayor Beecham said the Council discussed height but would go back to the height issue. His amendment did not address the FAR issue.

Council Member Freeman suggested Council Member Kishimoto's notion of sidewalk be addressed as part of the height limitation when

staff returned with information on height. The Council tried to gather information to make the best solution possible.

Vice Mayor Beecham said the intent was to find the best solution possible in a civilized fashion to keep things clear and organized.

Council Member Freeman suggested separate motions be made on height, FAR, and sidewalks.

Council Member Kishimoto understood the Council was talking about height before FAR and setbacks. There would be three separate potential amendments.

Vice Mayor Beecham referred to the motion on page 11 of the Action Minutes, "To direct staff to come back with suggested height limitations for the PC area that would reflect greater densities along Alma, backing down toward the eastern end of the area."

Council Member Freeman asked about Council Member Kleinberg's addition.

Vice Mayor Beecham responded that Council Member Kleinberg's addition was incorporated into his amendment. Staff would advise the Council on how the limitations affected the ability to promote private investment in housing in the area.

Council Member Kleinberg clarified the wording included, "in accordance with the previous Council's policy framework for the SOFA Plan."

Vice Mayor Beecham said that was correct.

Council Member Freeman asked whether the FAR and sidewalks would be incorporated.

Vice Mayor Beecham responded that was possible.

MAKER AND SECONDER OF ORIGINAL AMENDMENT AGREED TO VICE MAYOR BEECHAM'S AMENDMENT ALONG WITH INCORPORATION

Ms. Furth asked for a reading of the motion.

Council Member Kishimoto said the original amendment was for 100 percent BMR, to accept the staff recommendation but separate out 100 percent rental and services, and put an FAR cap of 2.0 FAR for RT-35.

Ms. Furth clarified the first clause of the motion was to accept the staff recommendation for 100 percent BMR projects.

Council Member Kishimoto said that was correct.

Council Member Freeman noted that the staff recommendation was for no FAR limit in the RT-50 zone.

Council Member Kishimoto said that was correct.

Ms. Furth said the first clause in Council Member Kishimoto's amendment was to accept the staff recommendation for 100 percent BMR. The second clause was how to deal with 100 percent rental and social services.

Council Member Kishimoto said for 100 percent rental and social services, the amendment was to put an FAR cap of 2.0 for RT-50. In so far as the FAR was above the base zoning, the FAR bonus was proportionate to the public benefit. For example, there was a proportionate increase in very low-and low-income housing versus moderate. The accepted amendment was to direct staff to come back with suggested height limitations for the PC area that reflected greater densities along Alma Street, back toward the eastern end of the area, and take into account the previous Council's directives on increasing housing in the SOFA 2 area.

Senior Planner Virginia Warheit asked what was meant by "eastern end."

Vice Mayor Beecham responded the "eastern end" was toward Middlefield Road.

Council Member Freeman wanted two changes made to the motion. The Council, at a previous meeting, talked about "associated social services," rather than only "social services." A discussion was held about Alma Place and the fact there were offices in Alma Place that were associated with Alma Place social services. The word "associated" should be added.

Council Member Kishimoto asked that staff clarify what was intended by "social services."

Mr. Emslie said the staff recommendation was not predicated on social services being incidental or associated with the other use of the PC.

Council Member Kishimoto said her motion allowed social services capped by a 2.0 FAR in the RT-50 and 1.0 FAR in the RT-35.

Council Member Lytle understood the motion and friendly amendments included that the FAR for 100 percent affordable was the unlimited FAR, and the 2.0 applied to rental. In addition to the Housing objectives in the policy framework for SOFA, the Council needed to evaluate the height that would come back according to the policy framework objectives, such as transitioning to historic buildings and preserving a street tree system. The Housing objectives needed to be balanced. Expanding the 2,000-foot radius was better than trying to force all the housing the City thought it would get within the 2,000-foot radius at the expense of the street tree system and historic district.

Vice Mayor Beecham said the motion at one point was stated as coming back to the Council, not with recommendations based on trying to promote housing and private investment, but would give the Council impact. The direction to staff was not to come back with height limit based on the policies elucidated by the Council, but rather tell the Council how the policies were affected.

Ms. Furth said until directed otherwise, staff assumed all the policy framework was still in effect.

Council Member Kishimoto suggested directing staff to increase the sidewalk public right-of-way.

Mr. Emslie said the Council could direct staff to investigate the setback rather than right-of-way.

Council Member Kleinberg recalled speaking to the issue of inclusion of social services. The Council did not limit social services to related social services. The conversation at the July 29, 2003, Council meeting referred to offices. One policy statement in the policy framework was not sufficiently addressed. The economic feasibility issue was a make or break point. The policy framework indicated, "A determination of the economic and fiscal feasibility of a plan with specific analysis of

marketplace factors and incentives and disincentives, as well as a cost benefit analysis of public infrastructure investments and projected economic benefits to the city and the community.” The Council needed to be brought back to reality by the economic feasibility of promoting housing and retail and making it workable.

Council Member Ojakian understood the motion dealt with FARs in certain zones and looked at the type of building that could occur. A certain FAR pertained to affordable housing, and other housing had a different FAR. The motion allowed for an Alma Place to be built.

Mr. Emslie said there was only an FAR cap for a PC for rental and social services. There was no FAR cap for a PC for 100 percent affordable housing.

Ms. Furth said the issue of the non-residential portion of Alma Place remained. Incidental office was in Alma Place.

Council Member Ojakian clarified the maximum FAR for other projects that were not fully affordable was 2.0.

Mr. Emslie said FAR caps on market rate developments were addressed by the FAR caps in the Bonus Floor Area (BFA) Program, which the Council discussed at the July 28, 2003, Council Meeting.

Council Member Ojakian clarified if he wanted a project that was partially market rate, the FAR would not be above 2.0.

Mr. Emslie said that was correct.

Council Member Kleinberg pointed out the Bay Area Economics (BAE) report had indicated, in order to maximize investment in housing and the type of housing the policy framework asked the Council to emphasize, was that a 2.25 FAR was necessary. Staff was not asked to use the numbers, and using the 2.0 FAR if it defeated the policy framework was a concern.

Mr. Emslie responded the 2.0 FAR limit was based on the economic feasibility study. The conclusion was the 1.5 FAR was the minimum development potential that created the incentive for someone to redevelop a piece of property to sell. The 2.0 FAR was used as a cap because it did not take into account the public benefit. An extra .5 FAR was added to provide the ability for the public benefit to go along with the market rate project. The 1.5 FAR limit was based on reduced

parking. Staff believed that the public benefit and desire to fully park the developments justified the 2.0 FAR limit.

Council Member Ojakian clarified the additional .5 FAR was to count for the benefit.

Mr. Emslie said there was a list of public benefits such as increased number of BMRs, access to public parking, childcare facilities, and open space.

Council Member Ojakian asked about access to public parking when one factor was to have decreased parking. One characteristic of the area was there was no assessment district and, consequently, no parking.

Mr. Emslie explained that the lower parking was an option. Fully parked added additional expense to the development, which needed to be offset by a higher FAR.

Council Member Kleinberg said the 1.5 FAR with reduced parking was feasible with a reduction in the revenue, which did not sound like an inviting investment.

Mr. Emslie said income generated by the existing use was not taken into account. Costs for a development with reduced parking were added up, which told the investor what had to be paid for the land. The land value was used to benchmark the economic desirability of property owners to sell property. When everything was added up, the amount was \$150 per square foot for land, which was typical current market conditions. Anything above that increased the desirability of an owner to sell and an investor to purchase.

Council Member Freeman said the financial situation was clearly described in attachment A of the general questions, which stated, "the designs that use 1.5 to 1.0 FAR in the RT-35 and a 2.21 FAR in the RT-50 district yielded 120 dwelling units." The next paragraph indicated, "an additional 90 to 120 units of Phase II would be within the range analyzed in the EIR and well below the upper level of development analyzed in that document." The FAR suited all needs, both economically according to the analysis in the FAR and allowed the City go get a reasonable number of new housing units, including the possibility of an Alma Place. If the Council were focused on transit-oriented development, the Council should be focused on parking for

transit oriented, which was less than fully parked for non-transit oriented.

Council Member Lytle said the original policy framework for SOFA addressed the entire SOFA 1 and 2 areas. The policies for housing and encouraging housing were directed at those sites where the Palo Alto Medical Foundation (PAMF) would leave the area. The housing pressure was never intended in the original policy framework to apply to viable small businesses and the historic district. That happened because the Council currently talked about zoning boundaries that would cross over the historic buildings and local small business district. The economist mentioned at the July 28, 2003, Council Meeting, that if the Council went above 1.5 FAR, direct economic pressure was put on the properties to consolidate and redevelop as housing. When talking about investor needs, the Council talked about how much profit would be given away. The Council approached a point where it was in conflict with the other policies and policy framework. A compromise of 2.0 FAR was possible. The Council needed to recognize that the PC process was more prescriptive than what was current. The Council should not put pressure on the business district that the Council had an overlying objective to protect.

Council Member Kishimoto said with the average unit size of 1,250 square feet, 50 units per acre averaged 60,000, which was well under 1.5 FAR. Sixty units per acre were possible with 2.0 FAR. Page 11 of the BAE report talked about the larger property. The current economic value of the existing commercial property was taken into account.

Council Member Burch asked whether the Council would come up with something that was economically feasible for someone who wanted to develop the area and produce housing that the City wanted. Crafting something that would not allow an Alma Place, meant the City failed.

Council Member Kleinberg said when she talked about the FAR issue, she did not only talk about maximizing the number of units, but talked about the investment possibility. If the City were to get private investment, the City needed to look at unit size. The size of unit was directly related to the amount of revenue that could be taken back by the private developer. The City was in the business of inviting private investment. The BAE report was unclear that the project was feasible at 1.5 FAR. Page 11 of the report indicated, "Due to the marginal feasibility of the site, a 1.5 FAR zoning alternative may have difficulty providing a local public benefit such as open space, available parking, etc., which would be necessary to apply for the 1.5 FAR without

eliminating the site's economic feasibility. The 2.5 FAR low parking requirement would generate the highest land residual." Wording was not as clear as some would have asked the Council to believe.

Council Member Kleinberg understood in the transit-oriented development area, the Comprehensive Plan (Comp Plan) went higher than 2.0 FAR.

Mr. Emslie said that was correct. The number went to 3.0 FAR.

Council Member Kishimoto clarified the number went to 3.0 for areas resistant to redevelopment.

Council Member Ojakian said that was correct.

Council Member Freeman said the issue was complex. The goal was for preservation and improvement of the quality of life in Palo Alto. The issue needed to be looked at holistically; the Council touched upon a reasonable compromise that allowed substantial new housing and promoted housing at the low-and very low-income level rather than at the more moderate end of housing. The Council requested staff look at the notion of moving from a higher density to lower density going from Alma Street toward Middlefield Road. The Council touched upon all the issues. Council Member Kleinberg was concerned with the issue of who would want to invest. The solution was to be able to be presented with performance from developers. There was no shortage of people willing to invest. For the purpose of compromise, there was a good solution sitting on the table, which she would vote for.

Council Member Lytle said recognizing a hierarchy in planning was important. The Comp Plan was a set of policies that were the land use constitution for the community. The Zoning Ordinances implemented the Comp Plan. The Comp Plan set density limits and land use designations and gave direction to the Zoning Ordinance. Historic buildings needed to be preserved and local business needed to be protected.

Council Member Kishimoto emphasized a 2.0 FAR provided the 50-60 units per acre. If a 1.15 FAR was sufficient for economic redevelopment, a 1.5 or 2.0 FAR provided well over the economic development potential.

Mr. Emslie said BAE did not analyze nonprofit or affordable housing feasibility nor did it analyze rental, but rather market-driven housing.

Affordable housing often used large amounts of subsidy to make it feasible.

Council Member Freeman reemphasized that Alma Place was 100 percent below market.

Council Member Lytle clarified the nonprofit development community competed with the for-profit development community.

Mr. Emslie said that was correct.

Vice Mayor Beecham said recent affordable housing projects were peculiar events. Oak Court was part of a City deal where the City negotiated with the private developer to gain substantial control of the site and made it available for subsidized housing. Alma Place involved a land trade with the City helping to make land available for subsidized housing. The economics relative to subsidized housing and potential rental housing did not support the amendment.

AMENDMENT FAILED 3-4, Freeman, Kishimoto, Lytle “yes,” Morton, Mossar “not participating.”

Council Member Freeman asked about the regulation on the five votes.

Vice Mayor Beecham responded that the Council was giving policy direction to staff. The Council was able to give direction by majority vote of the quorum at the present meeting. When the item returned to the Council as an ordinance, five votes were needed for approval.

Council Member Ojakian said he wanted to change his original motion to allow for a higher FAR for market rate projects for rental or for sale that was needed to stimulate some development. The trade-off was to allow for some additional benefit to the City, which included extraordinary BMR units and possibly additional parking.

SUBSTITUTE MOTION: Council Member Ojakian moved, seconded by Kleinberg, to approve the staff recommendation for Item 4. Planned Community Zone, Attachment A of CMR:365:03, and to add the wording, “to allow market rate projects with a FAR of 2.5 in the RT-50 zone for market rate sale or rental units where they include extraordinary benefits above the Below Market Rate requirements and possibly some additional benefits such as public parking.”

Council Member Ojakian said the goal was to get housing in the area where the public benefited. The RT-50 zone ran along Alma Street, which was a good area for housing that fell within the transit area.

Council Member Kleinberg was glad there was an option, although she was unsure she would go as high as a 2.5 FAR. The area could not handle too much of a 2.5 FAR unless there were extraordinary benefits in combination. The Council talked about specific sites, rather than many parcels. She asked whether spot zoning could be allowed to prevent the fear of overdevelopment that some residents might have.

Ms. Furth said there was a problem if the Council selected parcels on the basis of ownership. Suitable areas could be designated. Neutral criteria as to ownership, for example, needed to be identified.

Council Member Kleinberg clarified specifying properties on Alma Street.

Ms. Furth responded that Alma Street was an area that had distinctive features.

Council Member Kleinberg expressed concern about what might happen in the future with a 2.5 FAR if it started to incrementally move eastward.

Mr. Emslie said there were a variety of factors that went into the planning objective. It was within the purview of the zone to address the developability of a particular piece of property in terms of its dimensions. Lot size was an important factor in determining what ultimately got built because of the need for structure parking.

Ms. Furth said if the Council had a set of standards that it believed was viable for a portion of the area, the characteristics of what the Council desired and feared needed to be described.

Vice Mayor Beecham suggested limiting the discussion to areas that had no R1 zoned parcel within 500 feet, which would insure not getting a potentially 2.5 FAR building next door to an R-1 zone parcel. Council Member Kishimoto asked whether the maker of the motion intended to include market rate and for-sale projects.

Council Member Ojakian said that was correct.

Council Member Kishimoto was unable to support the motion. She heard staff's point earlier that the BAE report differentiated between rental projects and for-sale projects. Rental could go up to \$3 per square foot. For-sale projects sold for almost twice that value. Palo Alto needed rental projects.

Council Member Freeman said the City was shy on low- and very low-income housing, and she was not willing to increase density for the purposes of developer incentives or increased density for inviting investment, which could be code words for insuring that developers made a lot of money at the sake of the quality of life in Palo Alto. A 2.0 FAR, which was .5 FAR less than what was recommended, was clearly documented in the RT-50 district as yielding 120 units and was higher than what she envisioned the area could sustain. The City had current projects making a profit at a lower FAR. What the 2.5 FAR option provided the City was unclear.

Council Member Burch said Council Member Ojakian tried to "up the percentage" of housing that was BMR. A way to find more affordable housing needed to be found. Encouraging an additional benefit was a creative way to find someone who was willing to go beyond the 15 or 20 percent requirement for BMR.

Council Member Lytle would not support the motion. The nonprofit community would not be able to compete with the for-profit community. Luxury condominiums would be built under the provision, as opposed to affordable housing. Undue pressure was put on local business and historic resources in the area. The 2.5 FAR was out of scale.

INCORPORATED INTO THE SUBSTITUTE MOTION BY THE MAKER AND SECONDER to restrict the FAR of 2.5 to locations not closer than 500 feet to the nearest R-1 zoned district parcel.

SUBSTITUTE TO SUBSTITUTE MOTION: Council Member Kishimoto moved, seconded by Freeman, to go back to the original staff recommendation.

Council Member Kishimoto said the substitute motion was a compromise for FAR for rental projects. She felt strongly that the Council did not want to open the PC for for-sale condominium projects. Palo Alto needed more rental projects for 100 percent affordable and social services without office.

Council Member Ojakian said projects had to be evaluated on the type of benefits provided to the City.

Council Member Freeman referred to Item c, that the RT-50 zone for the FAR would be established by the PC project, the no FAR limit should be changed to a 2.0 FAR limit, as described in A-2. in the General Questions provided to the Council.

Council Member Kishimoto asked for a summary of A-2.

Council Member Freeman responded that A-2. indicated that designs that used a 1.5 FAR in the RT-35 district and a 2 FAR in the RT-50 yielded 120 dwelling units. Further, "an additional 90-120 units in phase 2 would be within the ranged analyzed in the EIR."

Council Member Kishimoto said A-2 did not propose a FAR cap.

Council Member Freeman said what the Council was asked to vote on did not have an FAR cap, that is, no FAR limit for RT-50 zones. A 2.0 FAR limit was proposed, because the 2.0 FAR fit in with the EIR analysis. She withdrew her second to the amendment.

SECOND WITHDRAWN

SUBSTITUTE TO SUBSTITUTE MOTION FAILED FOR LACK OF A SECOND

SUBSTITUTE MOTION AS AMENDED PASSED 4-3, Freeman, Kishimoto, Lytle "no," Morton, Mossar "not participating."

Council Member Freeman said the Council was split on how it envisioned growth in the City. Getting a majority vote was difficult unless the Council could work on something better that would compromise from both ends.

Council Member Lytle said she would not be able to support a final ordinance that came back with the approved motion. There would be too much pressure for luxury housing and overdevelopment in areas where the Council wanted to go more moderately with balanced growth.

Council Member Kishimoto said speculation on the land drove up the cost for potential developers of BMR property. Page 8 of the BAE report compared rental projects with condominiums and explained why

there were not a lot of rental projects. Palo Alto needed more affordable or rental units.

Council Member Ojakian said the RT-50 zone was a limited area, and part of the area would be on a ballot for the voters to decide on.

Council Member Lytle suggested the Council revisit the question raised by Council Member Ojakian at the July 2, 2003, Council meeting regarding making not making a decision on 800 High Street ballot in order to get a compromise on the decision. If the Council were to decide on the eventual ordinance, depending on how the ballot turned out for 800 High Street, that decision would be respected.

Council Member Freeman asked for clarification on what the Council was asked to do.

Council Member Lytle suggested the Council reintroduce the motion made by Council Member Ojakian at the beginning of the July 28, 2003, proceedings, to include a provision that the Council defer to the outcome of the ballot, if the 800 High Street PC zone, which was being referended, was approved.

MOTION TO RECONSIDER: Council Member Lytle moved, seconded by Burch, to reconsider the previous motion of Council Member Ojakian to exempt the 800 High Street Referendum from the Coordinated Area Plan (CAP) and, if the voters reject the 800 High Street Referendum, it will revert to either the RT-50 zoning or the zoning that the Council agree upon. Further, to adopt the understanding to respect the results of the referendum on the 800 High Street vote even if it exceeds the outcome of SOFA 2 CAP.

Council Member Kleinberg said no one wanted to overdevelop and harm the area. The Council looked for a way to reassure itself and the public that the City could get the type of investment, housing, and transit-oriented development that the Comp Plan asked for. The characterization of who was in favor of development and who was against development was a concern. The opportunity for increasing desperately needed housing was favored. The proposed motion gave the Council an opportunity to reflect what it wanted to do in the RT-50 zone.

Council Member Freeman agreed no one wanted overdevelopment, but differing opinions existed with levels of development and what each Council Member believed was sufficient. The Council's current vote was

reflective of its voting on 800 High Street, which was a significant portion of the RT-50 zone. The Council should not vote on anything that would help or hinder the outcome of the referendum. The area should be evaluated without having to make a decision on 800 High Street. Council Member Ojakian's motion should include the RT-50 areas except for 800 High Street.

Vice Mayor Beecham said he supported what the majority of the Council did on 800 High Street, which was appropriate for the area. He supported a similar PC approach and did not believe there was much probability for PCs in the area, aside from what the City owned.

Council Member Lytle said the Council would honor the outcome of 800 High Street, even if it exceeded what the Council adopted in the Coordinated Area Plan (CAP), if approved by the voters.

MOTION TO RECONSIDER PASSED 7-0, Morton, Mossar "not participating."

Vice Mayor Beecham stated that the Council action would not affect the outcome as would be expressed by the voters in November.

Council Member Ojakian suggested the Council revisit the motion to adjust the area by lowering the FAR or exclude the for-sale project. The RT-50 zone would not be changed for fully affordable projects such as an Alma Place.

Council Member Lytle suggested the remaining RT-50 would be in the 1.5 FAR area, with the BMR being unlimited, and the rental being 2.0 FAR. The Council wanted to provide incentive for people to afford the properties and move forward with a good, affordable housing project.

BY A CONSENSUS OF THE COUNCIL to revisit the approved Substitute Motion on PC Zones (Item 4. Planned Community Zone).

MOTION: Council Member Ojakian, seconded by Kleinberg, to accept the staff recommendation for Item 4. Planned Community Zone, Attachment A of CMR:365:03, except that in the RT-50 district, the FAR for rental or social services projects would be 2.0:1 rental projects could have related social service office. If the voters reject the 800 High project, this and all other provisions of the CAP would apply on site. Clarify that market-rate for-sale projects in the RT-50 district would be able to achieve an FAR of 1.5:1 under the previously approved Floor Area Bonus Program.

Vice Mayor Beecham said the referendum, as written, was to support the ordinance. If the referendum failed, the zoning at 800 High Street reverted to the underlying zoning.

Council Member Freeman said she was unclear as how the PC parcels were included.

Ms. Furth responded that all the existing PCs remained; there was no proposal to modify any of the six existing PC districts in the area.

Council Member Freeman clarified the Council was talking about the RT-50.

Vice Mayor Beecham said that was correct.

MOTION PASSED 7-0, Morton, Mossar “not participating.”

Council Member Burch asked whether there was anything else the Council did to date that prevented Council Member Lytle from voting for the ordinance if it came back reflecting the Council’s suggestions.

Council Member Lytle said no.

MOTION: Council Member Ojakian moved, seconded by Kishimoto, to accept the staff recommendation for Item 5. Residential Density and Average Unit Size Limits.

Council Member Freeman clarified no maximum density limit applied in both RT-35 and RT-50.

Mr. Emslie said the density spoke to the number of units; when density caps worked in combination of FARs, if the density cap was too low, larger units were promoted. The cap restricted the number of units that could fit inside a building envelope. Staff recommended no cap, because it promoted more attainable housing.

Council Member Freeman asked whether there was a cap.

Mr. Emslie said the FAR defined the building envelope, and the density spoke to the number of units that fit inside the envelope.

MOTION PASSED 7-0, Morton, Mossar “not participating.”

MOTION: Council Member Ojakian moved, seconded by Kleinberg, to accept the staff recommendation on Item 6. Transfer of Development Rights.

Council Member Kleinberg said the Transfer of Development (TDR) program would be severely restricted and watched. The conditional use permit (CUP) would be used for transfer and residential use.

Council Member Kishimoto said the Working Group had a different recommendation, which was to not exempt any TDR use in SOFA 2 from parking requirements.

AMENDMENT: Council Member Kishimoto moved to not exempt TDR in the Sofa 2 Area Plan from parking requirements.

AMENDMENT FAILED FOR LACK OF A SECOND

Council Member Ojakian did not want to support the amendment. His hope was that, through other projects, the City would pick up some public parking, which would help the situation in the area.

Council Member Lytle wanted to hear policy pros and cons about exempting TDR parking. Staff was asked to provide information as to how much unparked floor area could be transferred to a site.

Ms. Grote said transferring square footage would not be exempt from parking. Using square footage on site was exempt from parking.

Vice Mayor Beecham pointed out that Item 6(a) indicated that the parking requirement would not apply to parcels located within the Downtown Parking Assessment District.

Council Member Kleinberg said the Council had many conversations about the rectitude of having transit-oriented buildings that required parking. The Council agreed that, unless the parking was a huge public benefit, the preference was to discourage residential units that had parking in terms of the usual requirements. That was part of the smart redevelopment of transit-oriented residential areas.

Ms. Furth replied the existing TDR program to encourage renovation and maintenance of historic structures was largely operated within the Downtown Parking District. In that case, there was more freedom to waive or modify parking requirements because parking was provided in another way. To date, essentially all TDRs were used for office.

Vice Mayor Beecham suggesting adding that parking requirements would apply to TDRs transferred to a site within SOFA 2 and not within a parking district.

Council Member Freeman asked for clarification on item 6(d) which indicated that the donor parcel would be dedicated as public open space away from the project site. The concern was removal of open space was encouraged in the district in favor of the open space going other places. Pocket parks might be a good idea.

Mr. Emslie responded that the open space must be within the SOFA area.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF MAKER AND SECONDER to add to the end of the first sentence in Item 6(d) "within the SOFA 2 area."

Mr. Emslie said a developer would be able to purchase a piece of property and get credit if the property were turned into dedicated open space.

Ms. Furth said there would be a separate parcel dedicated to the City, rather than open spaces within projects.

Council Member Kleinberg said TDR creative solutions might allow for individual parks within neighborhoods.

MOTION PASSED 7-0, Morton, Mossar "not participating."

Council Member Kishimoto clarified the TDR to a SOFA site, which was outside the parking assessment district, was not exempt for parking but was subject to CUP and TDM negotiation.

Mr. Emslie responded that any TDR needed to comply with the parking requirements of the zone it was being applied to.

MOTION: Council Member Ojakian moved, seconded by Burch, to accept the staff recommendation on Item 7. Non-Complying Facilities Provisions ("Grandfather Clause"), with any reference to FAR updated to reflect previous motions.

Council Member Ojakian noted that the Planning and Transportation Commission (P&TC) deleted the wording in Item 7 (c), "If the shift will make the building more suitable for retail use or for housing." There

were property owners who expressed concern they were able to keep what they had. The clause allowed that to happen.

Council Member Kleinberg referred to Item 7(b) and asked for interpretation of the words, "the grandfathered buildings may enlarge up to the RT-35 and RT-50 FARs that were approved by participating in the bonus area program, which can only be used for housing."

Mr. Emslie said it was only the incremental change.

Ms. Grote said the P&TC thought all buildings could benefit from being able to be brought closer to the street. The P&TC did not want to limit any building or use to the existing footprint.

MOTION PASSED 7-0, Morton, Mossar "not participating."

Council Member Lytle said her concern from the prior meeting where the SOFA 2 plan was discussed was solved by including in the CUP findings for the bonuses and the PC findings, and that the requirement be for historic buildings that meet National Standards.

Council Member Kishimoto referred to the third demolition finding which said, "The Council finds, after review and recommendation from the Historic Resources Board, that (a) demolition of a SOFA 2 historic resource would allow the achievement of a competing coordinated area plan goal at a level that would be of greater public benefit than historic preservation; and (b) that preservation of the historic resource would be a substantial impediment to the achievement of the public benefit. The Historic Resources Board (HRB) added, "Examination of alternatives is required including, but not limited to, preservation, alteration, demolition, and relocation." The addition was supported. The following wording was suggested, "that the achievement of a competing goal at a level that would be of substantially greater public benefit than historic preservation."

Council Member Kleinberg asked for a definition between "substantially" and "greater."

Ms. Furth said both words were discretionary decisions for the Council. A court was not likely to distinguish between a Council's determination that it was of greater importance rather than substantially greater importance.

Council Member Kleinberg said if the Council did not have a definition with certainty, a problem was created for owners to preserve historic buildings.

Ms. Furth said the purpose of the third finding was designed to let the Council decide whether a building known to be historic could be determined to be destroyed, relocated, or altered. The language said there had to be a competing coordinated area plan goal, which was similar to the language the Council approved on a Citywide basis using the Comp Plan to permit demolition of historic structures Citywide. The difference between "substantially" or "greater" was about Council communication.

Council Member Kishimoto said the historic fabric was extremely important to the value and character of the SOFA 2 plan, and the current Council wanted to send a signal to future councils, that the thresholds for historic preservation remained high.

Council Member Kleinberg asked whether there was any legal clarity to the phrase "substantially greater public benefit" as opposed to "greater public benefit."

Ms. Furth said should a reviewing court be asked to look at the Council's decision, the question was whether the court looked at the decision differently if the Council talked about "a greater public benefit" or a "substantially greater benefit." Courts wished to be deferential to city councils and applied the same standard. The wording was intended to be discretionary.

Council Member Kleinberg noted that any Council could come to different conclusions as to what the words meant. Her understanding was that "greater" protected historic buildings quite well.

Council Member Burch said adjectives were subjective, and what was substantial to one would not be substantial or significant to another.

Vice Mayor Beecham said no Council could bind a future Council. A future Council could say the benefit they looked at was substantially greater or simply greater.

MOTION: Council Member Kishimoto moved, seconded by Ojakian, to accept the staff recommendation on Item 8, as incorporated in Attachment B-4 of CMR:386:03 and to amend 5.110 Historic Preservation in the SOFA 2 area (b)(3) to include the word

“substantially” before the word “greater public benefit” in the fourth sentence.

Council Member Lytle said the National Standards were substantially stricter than the Council might think.

MOTION PASSED 7-0, Morton, Mossar “not participating.”

Council Member Freeman asked staff what the possibility was of including the opportunity of making Homer and Channing Avenues two-ways in the ordinance. The Council passed the Homer Avenue undercrossing, which had a great affect on the area. Action by the Council would be a completion of the area without having to bring it back.

Mr. Emslie did not believe staff was able to bring back a resolution by the time the ordinance came back. The study took longer than the drafting period.

Council Member Freeman asked about the drafting period.

Mr. Emslie responded the drafting period was mid- to late October.

Council Member Freeman asked whether there was a date certain that addressed the issue.

Ms. Furth said the Council’s decision on what to do on the streets did not have to be in the ordinance.

MOTION: Council Member Freeman moved, seconded by Lytle, that staff return with a timeframe when the Council will address the two-way direction on Homer and Channing Avenues.

Council Member Lytle said the Council needed to move forward with the conversion to a regular residential street and not reinforce the commute speeds through a residential area. A timeframe to get the work done was important.

Vice Mayor Beecham said the motion was for Homer and Channing Avenues within SOFA 2. A motion by Council Member Freeman, who lived on Channing would not include Channing Avenue within 500 feet of Council Member Freeman’s residence in terms of conflict of interest.

Council Member Freeman said she believed she was informed by the City Attorney that various streets were exempt from the conflict of interest.

Ms. Furth was not familiar with an exemption pertaining to streets. Both public and private improvements could be sources of conflicts of interest.

Council Member Kleinberg clarified the suggestion was that the Council would only do part of Channing or Homer Avenues.

Vice Mayor Beecham said the motion pertained only to SOFA 2 because Council Member Freeman might have a conflict in terms of participating in a motion that affected a street that she lived on.

Mr. Emslie said the Council could not study only the streets within SOFA 2.

Vice Mayor Beecham asked whether Council Member Freeman wished to continue to participate.

Council Member Freeman asked the Senior Assistant City Attorney for advice.

Ms. Furth responded that she did not know where Council Member Freeman lived or the relationship of her house to the project.

Council Member Freeman said she lived on Channing Avenue between Middlefield Road and Webster Avenue.

Ms. Furth indicated if Council Member Freeman lived on the portion of the street where the traffic was being debated, the test was whether there was any impact on the value of her home.

Council Member Freeman stated she would not participate in that portion of the item due to a conflict of interest because she owned property in the affected area.

Ms. Furth pointed out that there was no motion on the floor because Council Member Freeman was not participating.

MOTION: Council Member Lytle moved, seconded by Kishimoto, that staff return with a timeframe when the Council will address the two-way direction on Homer and Channing Avenues.

Council Member Ojakian did not believe the Council should vote on the issue because two colleagues were not present to participate.

Vice Mayor Beecham asked the maker and seconder to withdraw the motion and asked staff when they would return with a proposal on Channing and Homer Avenues.

Mr. Benest said a major traffic effort was going on with Charleston Avenue and asked that the Council hold off on a decision for Channing and Homer Avenues. The issue was controversial.

Mr. Emslie stated that staff was unable to take on any new projects at the current time. Committing to a time frame was difficult without doing a level of analysis. The Council was urged to allow staff to complete its current work plan.

MOTION WITHDRAWN BY MAKER AND SECONDER

Ms. Furth explained that the SOFA policy framework said, "evaluate reestablishing Homer Avenue and Channing Avenue as two-way streets in order to reduce speed and impact to traffic through the residential and mixed use neighborhood."

Vice Mayor Beecham said the question was the Council was unsure how best to reestablish Homer and Channing Avenues.

Council Member Lytle said she wanted to reaffirm the Council wanted to address the issue.

MOTION: Council Member Lytle moved, seconded by Kishimoto, that the Council reaffirm its commitment to evaluate a two-way conversion on Homer and Channing Avenues and for staff to return to Council with options.

Council Member Burch said he heard the Council committed itself to make Channing and Homer Avenues two-way.

Vice Mayor Beecham said the Council would bring back options to make a decision.

Council Member Kleinberg saw the action as an unnecessary vote. The Council was committed to the policy framework. Staff said it would be done.

MOTION PASSED 4-2, Burch, Ojakian “no,” Freeman, Morton, Mossar “not participating.”

Council Member Ojakian noted one of the Planning and Transportation Commissioners was present and asked whether his comments could be heard.

Vice Mayor Beecham said the public hearing was closed, and boards and commissions were not formally part of staff. There was no opportunity for the P&TC to take an action on what the Council did.

Vice Mayor Beecham said the remaining item before the Council was to verify the map and asked staff what was the best map to work from.

Mr. Emslie said the map was labeled, “South of Forest District Map.” The recommendation of staff and the P&TC was to proceed with the map.

Council Member Lytle said if 800 High Street and all historic buildings were removed, the boundaries were the same. The Working Group cut out 800 High Street and historic properties. The boundaries of the Working Group complied with the Comp Plan policy, which meant that boundaries were drawn down the back side of a parcel rather than along a street. She suggested using the Working Group boundary for RT-50, since the difference was historically designated properties in 800 High Street.

Council Member Burch said Ole’s Car Shop, the Peninsula Creamery Store, property on High Street across from Reach, and the *Palo Alto Weekly* would revert to RT-35, which he was opposed to.

MOTION: Council Member Burch moved, seconded by Ojakian, to accept the staff recommendations for the South of Forest Area District Map.

Council Member Burch said restricting Ole’s to RT-35 or eliminating the Peninsula Creamery did not make sense.

Council Member Kishimoto favored the Working Group’s version. The Peninsula Creamery building sold its TDR rights to the property across the street.

Council Member Kleinberg asked what was the delta in terms of units lost for potential housing if some of the potentially RT-50 properties

were changed to RT-35, or how much housing would there be if the property were left RT-50.

Council Member Freeman referred to the Working Group recommendation and clarified the Public Facilities (PF) zone was currently PF.

Mr. Emslie said that was correct.

Council Member Freeman clarified the PF would be changed to RT-50.

Mr. Emslie said that was correct.

Council Member Lytle said the Council had not made the findings for converting a PF zone to a housing designation. The findings, in State law, were the City had a surplus of public land to comfortably afford to give up for utilities and public facilities. The Council was not in a position for that.

Mr. Emslie said the area subject to the change to RT-50 included only one area that would potentially redevelop, which was the Ole's site. The other sites were historic or built out to close to 2.0 FAR. The delta of Ole's would be the difference between RT-50 and RT-35, which meant three or four units would be lost.

Council Member Lytle suggested using the Working Group recommendation plus Ole's, so the three or four units were not lost.

Mr. Benest reminded the Council the substation site was in the Housing Element as a designated site for housing. The Council took a policy direction in terms of identifying a preferred site.

Ms. Furth said Council Member Lytle referred to rules about disposition of public property. Staff would look into whether the Council could make the change because the change made the property consistent with the Housing Element.

Council Member Kleinberg clarified rezoning could be made contingent upon confirmation on the appropriate next step with compatibility of the Housing Element.

Ms. Furth said that was correct, and staff would advise the Council about other steps necessary before changing City property, which was leased to utilities, to another use.

Council Member Kleinberg clarified following the procedure as laid out would be part of the motion.

Ms. Furth said that was correct.

Council Member Ojakian asked about the impact of the transfer of development rights if the property at Channing Avenue and High Street were rezoned to RT-50.

Ms. Furth said staff tried to recall whether the covenants had been recorded on the two properties.

Council Member Ojakian asked what happened if the property were changed to RT-50.

Vice Mayor Beecham understood the TDR process in progress was under existing zoning.

Ms. Furth said that was correct. The bonus was calculated on the area of the lot.

INCORPORATED INTO MOTION WITH CONSENT OF MAKER AND SECONDER to delete from RT-50 the parcel to the southwest corner of High Street, south of Channing Avenue (parcel 900 High Street), to become RT-35.

Vice Mayor Beecham said the intent was to delete everything on High Street, south of Channing Avenue.

Council Member Kishimoto suggested deleting the two historic buildings that were mid-block on High Street, between Forest Avenue and Homer Avenue.

Council Member Kleinberg asked what the problem was, since the Council already provided for strict rules for the historic properties.

Mr. Emslie said if there were constraints under the protection of the historic, properties were not likely to redevelop. Whether the property was RT-50 or RT-35, spoke to the likelihood that the property would redevelop. The Council tried to match site constraints to the development potential. The development potential was expressed in the RT-50, based on economic analysis done by staff, and the propensity for lots closer to Alma Street to be redevelopable.

Council Member Kleinberg was concerned that the Council adopted policies but through the zoning was going backwards.

Council Member Ojakian said in the PC zone rules approved by the Council, the Council looked at how to allow for different housing to be built, based on the type of RT zone it was. A PC zone could go to an overriding consideration in relationship to the historic properties.

Mr. Emslie said that was correct. The discussion tried to predict what site constraints might be. The ordinance did not preclude the removal of any historic buildings. The Council could take advantage of the RT-50 zoning for historic property, provided the findings approved by the Council were met.

Council Member Ojakian said gathering parcels together to merge was not precluded in a RT-50 PC zone.

Mr. Emslie said that was correct.

Council Member Ojakian wanted to leave the parcels the way they were in relationship to what staff asked the Council to do.

Council Member Lytle said while she thought it was theoretically possible to get rid of a historic structure and do the RT-50, the Council put the property owner in a difficult dilemma. The Council adopted National Standards for historic preservation in order to get the maximum bonus FAR. A strong mixed signal was being sent. The preference was to draw boundaries more carefully and send the message that the Council tried to save the historic property.

Council Member Freeman said the Working Group recommendations followed the Council's deliberations at the prior meeting regarding preserving Homer Avenue and Emerson Street as business districts for retail purposes. The map presented to the Council showed all parcels along Homer Avenue and Emerson Street were RT-35. The map showed a tunnel of RT-35 in the midst of large RT-50 options. One option was to make the whole area RT-50 or go with the Working Group recommendation in order to retain the retail scale along Homer Avenue and Emerson Street, including for the purposes of biking through Homer Avenue. The Council should continue to look at the Working Group recommendation map.

Council Member Kishimoto said the Potential Development Map showed where the Council might expect new housing developments to

be added. The suggestion was made to include Ole's into RT-50, which helped to increase the potential for housing.

Vice Mayor Beecham said the Council was in agreement on all the items except for 744 and 790 High Street.

Virginia Warheit said the small parcel on the map was used as a garden for the building next door.

Council Member Freeman referenced the map in Attachment B.5 of CMR:386:03.

Vice Mayor Beecham said the section, 790 High Street, was on a category 3, and 744 was eligible or potential California register eligible.

AMENDMENT: Council Member Kishimoto, moved, seconded by Lytle, to delete parcels 744 and 790 from RT-50 to become RT-35.

Council Member Freeman said she believed that the corridor along Homer Avenue should remain RT-35, in keeping with the Comp Plan policy of mid-block changes of zoning.

Council Member Lytle was uncomfortable redesignating a public facility parcel into housing, when the Council had not received staff's report on the status of the public facility land and whether the Council could afford to surplus any of the land.

Council Member Freeman asked whether the Council came to the conclusion that there was no resolution on whether or not the Council could determine if a PF parcel could be changed to anything but PF without other investigations.

Ms. Furth said the Council designated in the Comp Plan for housing, and she believed the Council could change the zoning. Steps were required prior to disposing property.

Council Member Lytle said the Comp Plan Land Use Map was not modified and continued to show the property as PF. The Housing Element showed the site as one of the sites anticipated to be developed for housing in the future.

Ms. Furth stated the Comp Plan was included the first time the item went to the Council.

Council Member Kleinberg said the property should be left in the RT-50 zone because there were plenty of ways to preserve the property. Council Member Freeman's suggestion that the bike route be more charming was intriguing.

Council Member Ojakian said he had difficulty approving the CAP if the transformer station was not in RT-50. The site was ideal for an Alma Place type construction.

Council Member Lytle said she was willing to compromise her sentiments and vote for the motion in order to abide by the sentiments of other colleagues.

AMENDMENT PASSED 4-3, Burch, Kleinberg, Ojakian "no," Morton, Mossar "not participating."

Council Member Freeman said the adoption of the motion should be predicated on the legal opinion on legal ramifications for modifying a PF zoned area.

Vice Mayor Beecham said Council Member Freeman's suggestion was unnecessary because the parcel was included with the RT-50. The City could not do anything illegal.

AMENDMENT: Council Member Freeman moved that legal staff explain the legal process for transferring public facilities into other zoning.

Vice Mayor Beecham responded that Council Member Freeman's question was answered earlier in the meeting.

Ms. Furth said staff would come back to the Council with additional information. The extra legal steps required had to do with a later decision the City would make to transfer the property to a third party to develop it as housing.

Council Member Freeman clarified the Council could legally change a public facility to another zone by a Council vote.

Ms. Furth said that was correct.

Council Member Lytle said it would be helpful for the Attorney's Office to explain the disposition prior to taking final action.

AMENDMENT DIED FOR LACK OF A SECOND

MOTION PASSED AS AMENDED 7-0, Morton, Mossar “not participating.”

Council Member Ojakian suggested placing a monitoring mechanism for an annual review of the area.

Vice Mayor Beecham asked whether staff would bring back a monitoring mechanism with the ordinance.

Mr. Emslie said yes.

Council Member Freeman asked for clarification on the time of the ordinance coming back to the Council and the election. The concern was 800 High Street.

Mr. Emslie said the draft ordinance would return to the Council in late October.

Council Member Freeman asked whether it was reasonable to have the draft ordinance return to Council after the election. Having something come back a few weeks before an election might be influential to the vote.

Council Member Lytle said she was baffled by the notion of waiting until after the election when the Council had been consistent about saying it wanted to take action prior to the election. The P&TC had an opportunity to comment to the Council prior to the return of the ordinance.

Ms. Furth said staff would return with a resolution that amended the Coordinated Area Plan (CAP) map and an ordinance that adopted the CAP as the zoning and plan for the area. Both documents were before the P&TC twice.

Vice Mayor Beecham said there was a desire earlier in the meeting to hear from the P&TC liaison during the process, although he declined to do that. In the past, he recalled a P&TC representative sat at the staff table to provide comments. The issue was referred to P&S to clarify the role of boards and commissions in participating in Council in discussions after public hearings were closed.

BY A CONSENSUS OF THE COUNCIL refer to the Policy and Services (P&S) Committee the role of Boards and Commissions to participate at the staff table during Council meetings.

ADJOURNMENT: The meeting adjourned at 1:22 p.m.

ATTEST:

APPROVED:

City Clerk

Mayor

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