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December 2, 2002

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

PRESENT: Beecham, Burch, Freeman, Kishimoto, Kleinberg, Lytle (arrived at 6:40 p.m.), Morton, Mossar, Ojakian

SPECIAL MEETING

1. Study Session re Sustainability Indicators

Staff presented the draft of a Sustainability Inventory that would be used for the coming year to direct activities for the City organization that related to sustainability. It was not intended to include the community but only the City. The inventory included 13 categories, such as energy, water, air quality, and economic vitality. For each category, there was an explanation of what the category encompassed, such as goals and indicators of progress in achieving the goals. The inventory was based on the adopted Comprehensive Plan. The Council had some suggestions as to what indicators might be included in future versions of the inventory, but in general the comments focused on the Council's support for and pride in the accomplishments the staff had made in pursuing sustainability.

No action required.

ADJOURNMENT: The meeting adjourned at 6:47 p.m.

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

PRESENT: Beecham, Burch, Freeman, Kishimoto, Kleinberg, Lytle, Morton, Mossar, Ojakian

ORAL COMMUNICATIONS

Barbara Gross, 520 Cowper Street, spoke regarding the establishment of a Business Improvement District for the core Downtown district.

Sunny Dykwel, 480 Gary Court, spoke regarding the formation of a Business Improvement District for Downtown Palo Alto.

Stephanie Wansek, 823 Cowper Street, spoke regarding the creation of a Business Improvement District for Downtown Palo Alto.

Mayor Ojakian asked that the City Manager look into the matter of a Business Improvement District.

City Manager Benest said staff anticipated it would bring the issue to the Council in early 2003 for consideration.

Howell Lovell, 124 Fern, spoke regarding Canopy Annual Report and invitation.

Emily Renzel, 1056 Forest Avenue, spoke regarding Holiday House tour.
Beth Broderson, 455 Hale Street, spoke regarding Children's Theatre.

Winter Dellenbach, 859 La Para Avenue, spoke regarding Council issues.

Dorothy Bender, 591 Military Way, spoke regarding Council Member Morton's letter.

SPECIAL ORDERS OF THE DAY

1. Selection of Candidates to the Parks and Recreation Commission

MOTION: Vice Mayor Mossar moved, seconded by Burch, to interview all of the applicants.

MOTION PASSED 9-0.

2. Resolution of the Council of the City of Palo Alto Approving Renaming the Bryant Street Bicycle Boulevard as the Ellen Fletcher Bicycle Boulevard

MOTION: Vice Mayor Mossar moved, seconded by Kishimoto, to adopt the resolution.

Resolution 8229 entitled "Resolution of the Council of the City of Palo Alto Approving Renaming the Bryant Street Bicycle Boulevard as the Ellen Fletcher Bicycle Boulevard"

MOTION PASSED 9-0.

Mayor Ojakian said the Palo Alto Bicycle Committee brought up the idea of renaming the Boulevard in Ellen Fletcher's name. Ms. Fletcher was valuable in the community in setting Palo Alto in the forefront of what could be done with bicycles in the community.

Council Member Kishimoto said Ms. Fletcher was an inspiration and provided dedication and vision to the City and the larger, regional community. Ms. Fletcher made the community visibility better. Palo Alto needed to become a leading edge and a 21st Century model community where significant percentages of people chose to ride bikes rather than drive cars.

Council Member Kleinberg congratulated Ms. Fletcher for her values. Ms. Fletcher represented a bridge between the past and the future in terms of the best that Palo Alto was and the best it could be. Ms. Fletcher's perseverance and dedication to bicycles as an alternative mode of transportation pointed to the future. Heroes were needed in the community, and Ms. Fletcher was a hero.

Council Member Morton hoped the Council would see another boulevard parallel El Camino Real at Park Boulevard, in order to have a way to get north to south that did not require cars.

Council Member Freeman said riding bikes in Palo Alto promoted alternative transportation for people, safety, better air quality, neighborliness, and good, solid family togetherness. Seeing families riding bikes throughout Palo Alto was wonderful. Ms. Fletcher's vision and continued activism was appreciated.

Council Member Burch thanked Ms. Fletcher.

Ellen Fletcher said she was overwhelmed and speechless. The Bicycle Boulevard carried bicyclists who were timid and afraid to ride in traffic, who

used the boulevard as a throughway rather than Alma Street, and students and families. The boulevard was also a benefit to people in wheelchairs. The City staff, Council, and bicycle supporters were thanked for their efforts and support of the project.

Paul Goldstein, 1024 Emerson Street, Bicycle Advisory Committee Chair, was delighted that the City of Palo Alto named the Bryant Street Bicycle Boulevard in honor of Ellen Fletcher. Ms. Fletcher was deserving of the honor. The concept of a bicycle boulevard was breathtakingly simple and cost-effective. An ordinary residential street was made into a bicycle boulevard by reorienting stop signs to give the boulevard right-of-way and installing street closure every few blocks to discourage speeding automobiles and through traffic. A testimony to the Boulevard's effectiveness was the high volume of bicyclists who were seen using Bryant Street each day. Constructing additional bicycle boulevards was something to look forward to. The elegant simplicity of the Bicycle Boulevard was much like Ellen Fletcher. Ms. Fletcher often found simple, practical ways to make bicycling safer, more attractive, and convenient. Ms. Fletcher was usually identified with bicycling but also had a long record of community service, including three terms on the City Council. The Ellen Fletcher Bicycle Boulevard was a fitting tribute to his dear friend and fellow bicyclist.

John Ciccarelli, 2065 Yale Street, said a "fletcher" was someone who attached feathers to an arrow to let the arrow fly straight. Ms. Fletcher's aim was always true, and she was an inspiration to cyclists and community activists throughout the Bay Area and the country.

APPROVAL OF MINUTES

MOTION: Council Member Beecham moved, seconded by Burch, to approve the minutes of October 7, 2002, as corrected, and the minutes of October 15, 2002, as submitted.

Council Member Burch was concerned about setting a precedent. In the minutes of October 7, 2002, page 94-470, Council Member Kishimoto asked how many properties would be affected. A separate page was distributed which included verbatim discussion. Including verbatim minutes within the summary minutes concerned him as setting a precedent.

Mayor Ojakian reminded the Council that following the prior meeting, the City Clerk sent to the Council the rules regarding minutes.

Council Member Lytle said when the item was discussed at the prior meeting, the Council added to the motion a request that the City Clerk maintain the video for an indefinite amount of time.

City Clerk Donna Rogers responded that tapes were kept for six months, but she would keep that specific meeting tape for a longer period of time.

Vice Mayor Mossar shared Council Member Burch's concern. The minutes were supposed to be sense minutes. The City Clerk's office was asked about the length of time necessary to make changes to the October 7, 2002, meeting. Among three staff people, approximately four and one half hours were spent on the corrections.

Council Member Kishimoto asked that corrections be made to the minutes of October 7, 2002, because she was liaison to the South of Forest Area (SOFA) Working Group.

Council Member Freeman asked whether the Mayor or City Clerk wanted to present to the public what sense minutes meant.

Ms. Rogers explained that sense minutes were between verbatim and action minutes. Action minutes included only the motion; verbatim minutes were every word spoken. The City Clerk's staff tried to summarize the essence of the points being made.

Council Member Freeman said verbatim minutes were requested when there was a particularly sensitive issue that needed to be in the record. Vice Mayor Mossar set the precedent earlier in the year.

Vice Mayor Mossar had no recollection of ever requesting verbatim comments placed in the record and asked her colleague to make the information off line available to her.

Council Member Freeman said she would do that.

Council Member Morton asked whether the Council would approve only sense minutes unless the Council instructed the City Clerk to prepare verbatim minutes.

Ms. Rogers said she would only do sense minutes unless she received direction from a majority of the Council telling her not to.

MOTION PASSED 9-0.

CONSENT CALENDAR

MOTION: Council Member Morton moved, seconded by Burch, to approve Consent Calendar Item Nos. 3 and 4 and 6 - 9, with Item No. 5 being removed by staff.

Vice Mayor Mossar would not participate in Item No. 8 due to a conflict of interest because of family investment interest in AT&T.

Council Member Kleinberg would not participate in Item No. 9 due to a potential conflict of interest because her husband's former law firm represented Stanford in land use matters.

Vice Mayor Mossar would not participate in Item No. 9 due to a conflict of interest because her husband was employed by Stanford University.

Council Member Freeman referred to Item No. 7 and asked whether the actual recommendation in the staff report matched the resolution as far as timeframe for renewal was concerned.

City Attorney Ariel Calonne noted on Item No. 7, paragraph 2 should read: "Authorize the city manager or his designee to terminate on six months notice unless the vendor is responsive to city needs and quality of the vendor work is acceptable during the first year of the contract, which will determine the city's willingness to renew the contract."

Council Member Kishimoto would not participate in Item No. 8 due to a conflict of interest because of stock holdings in AT&T. The staff and Planning and Transportation Commission (P&TC) were congratulated for a fine job done on analyzing the County proposal for hillside open space zoning. Denise Dade, Legislative Representative for Committee for Green Foothills, had done an outstanding analysis, which helped the City and the citizens. Ms. Dade was leaving the Committee for Green Foothills.

Council Member Lytle echoed comments made by Ms. Kishimoto. The question was asked whether Palo Alto was able to review the matter once it went to the County Planning Commission.

Council Member Morton would not participate in Item No. 8 due to a conflict of interest because of stock holdings in AT&T. With regard to Item No. 9, the community had an intent interest in how the matter was handled at the County level.

Mayor Ojakian reported that the County's meeting was on Thursday, December 5, 2002.

Mr. Benest said staff attendance was coordinated through Lisa Grote.

LEGISLATIVE

3. Ordinance 4772 entitled "Ordinance of the Council of the City of Palo Alto Amending the Budget for Fiscal Year 2002-03 to Provide An Appropriation of \$36,332 as Payment to North American Title Company to Provide Title Insurance in Conjunction with the Purchase of Portions of Cubberley Property at 4000 Middlefield Road and the Terman Property at 655 Arastradero Road"
4. Resolution 8230 entitled "Resolution of the Council of the City of Palo Alto Amending and Restating the City's Deferred Compensation Plan and Trust (Retirement Plan) for Part-Time/Temporary/Seasonal Employees; and Approving and Authorizing Execution of a Trust Agreement for the Plan"

Resolution 8231 entitled "Resolution of the Council of the City of Palo Alto Appointing City Manager and Director of Administrative Services as City Administrators of the Deferred Compensation Plan and Trust (Retirement Plan) for Part-Time/Temporary/Seasonal Employees"

5. ~~Sublease of a Portion of the Cubberley Community Center by the Jewish Community Center; Approval of Related Budget Amendment Ordinance in the Amount of \$37,000 (***Item to be continued at the request of staff***)~~

~~Ordinance of the Council of the City of Palo Alto Amending the Budget for the Fiscal Year 2002-03 to Provide an Appropriation of \$37,000 to the Jewish Community Center for Refurbishing Costs at the Cubberley Community Center~~

ADMINISTRATIVE

6. Contract Between the City of Palo Alto and TruGreen LandCare in the Amount of \$300,000 for the 2002-2003 Tree Maintenance Project
7. Contract Between the City of Palo Alto and SCT in the Amount of \$123,669 for Software Maintenance and Support of Banner Software Modules
8. Approval of the Continuation of the Fiber to the Home Trial
9. Planning and Transportation Commission Review and Comment on the Proposed Santa Clara County District Text Revisions for the Stanford Open Space/Field Research (OS/F) Zoning District to Implement the 2000 Stanford Community Plan

MOTION PASSED 9-0 for Item Nos. 3, 4, 6, and 7.

MOTION PASSED 6-0 for Item No. 8, Kishimoto, Morton, Mossar “not participating.”

MOTION PASSED 7-0 for Item No. 9, Kleinberg, Mossar “not participating.”

PUBLIC HEARINGS

10. PUBLIC HEARING: The Palo Alto City Council will hold a Public Hearing pursuant to Government Code Section 30061, Title 3, Division 3, relating to the Supplemental Law Enforcement Services Fund, to consider the Police Chief’s request for funding frontline law enforcement programs

MOTION: Council Member Burch moved, seconded by Mossar, to approve the following staff recommendation: 1) adopt the Budget Amendment Ordinance in the amount of \$120,172 amending the fiscal year 2002-2003 budget to appropriate funds received by the City from the State of California and allocated by Santa Clara County for the continuation of the Citizens Options for Public Safety (COPS) program and amending the City’s Table of Organization dropping a Police Sergeant position and adding a Police Captain position; and 2) approve a transfer from the Supplemental Law Enforcement Service Fund to the general Fund in the amount of \$95,480 for salary and benefit expenses associated with the new Police Captain position.

Ordinance 4773 entitled “Ordinance of the Council of the City of Palo Alto Amending the Budget for Fiscal Year 2002-03 to Accept Grant Funding in the Amount of \$120,072 in the Supplemental Law Enforcement Services Fund (SLESF), to Transfer \$95,480 from SLESF to the General Fund, and to Add 1.0 Full-Time Equivalent Police Captain and Drop 1.0 Full-Time Equivalent Police Sergeant in the Police Department”

Council Member Freeman asked for clarification on a statement that discussed “not intermingling General Fund dollars with the SLESF dollars.”

Mayor Ojakian said State money had to be earmarked for the type of police programs that were in the grant.

Assistant Police Chief Lynn Johnson said intermingling was if the funds were used for something that was already being done. The COPS funds were over and above what was included in the normal operating budget.

Council Member Freeman clarified the money had to go into the General Fund in order to pay a salary.

Ms. Johnson said that was correct.

MOTION PASSED 9-0.

UNFINISHED BUSINESS



11. PUBLIC HEARING: The Palo Alto City Council will consider the revised Draft Housing Element of the Comprehensive Plan which incorporates changes based on state review and limited staff revisions, including modifications to the Housing Sites Inventory (***Continued from 11/12/02 - Public Testimony closed***)

Senior Assistant City Attorney Wynne Furth recalled at the last meeting that several Council Members asked whether it was possible to segregate the Housing Sites Inventory, which was one part of the large Housing Element, in order to allow individuals with a conflict to particular sites in the inventory to participate in the decision. Staff looked into that and found it was possible to separate out the Housing Element deliberation into two phases. The first phase was a discussion of the Housing Sites Inventory and adoption of the Housing Sites Inventory by members of the Council who did not have a conflict. Following that, the entire Council could return and deliberate the balance of the Housing Element without reopening the discussion of the Housing Sites Inventory and vote on the entire element, which would include the Inventory.

Mayor Ojakian was pleased that staff contacted the Fair Political Practices Commission (FPPC) for clarification.

Ms. Furth said the issue was raised in other cities in the context of comprehensive plans.

Council Member Freeman asked whether the entire inventory list would be voted on as one item or whether individual items could be voted on.

Ms. Furth said the inventory list was a unit as a whole. Separation was between the element as a whole and the inventory as a whole.

City Manager Frank Benest emphasized the City had a long tradition of supporting affordable housing. The City had a Below Market Rate (BMR) program since the 1970s. The BMR program, the first in the State, produced over 250 units of owner-occupied and rental units. The City required housing fees since the 1970s to offset demands on housing stock from new commercial development. Through funding from housing fees, the City assisted in the development of over 1,350 affordable rental units and over 25 different projects from throughout the City. The Housing Element update supported the long tradition. Staff recommended the Council (1) Approve 12/02/02

the CEQA addendum to the Comprehensive Plan EIR; (2) Amend the Comprehensive Plan by adopting the Housing Element, including the Housing Sites Inventory; and (3) Direct staff to forward the Housing Element to the State for final review and comment.

Director of Planning and Community Environment Steve Emslie found comments from previous meetings resided into three primary areas: (1) elements consistency with other Comprehensive Plan elements; (2) why the Housing Sites Inventory utilized minimum yields; and (3) issues related to impacts of traffic. The Housing Element built on existing housing, land use, and transportation elements in a variety of ways. Large projects needed to undergo evaluation by the Planning and Transportation Commission (P&TC), the Architectural Review Board (ARB), and City Council. The Housing Element promoted creation of affordable housing and encouraged mixed-use developments in order to address needs for neighborhood-serving retail and other community building uses such as neighborhood retail. Land for multiple-family housing was conserved at the expense of job producing uses. Because the Comprehensive Plan (Comp Plan) had a great deal of policies that dealt with the need for reducing dependency on the automobile by promoting transit-oriented development, staff felt the Housing Element complemented the Comp Plan in a substantial way. The Housing Element provided for a modest increment to the density on two of the seven transportation corridors, which were El Camino Real and San Antonio Road. The proposed rezoning in the Housing Element was consistent with the Comp Plan land use designations. The second issue had to do with the housing inventory numbers. Questions were raised that concerned the use of low-end numbers. The State provided guidance in the form of legislation, which said, "minimum levels in the housing element must be achieved when approving development." Staff modified the Housing Sites Inventory to provide the minimum number of units for each of the sites identified. The third issue dealt with how housing could be built without increasing traffic congestion. Staff believed the sites were in appropriate locations along major transportation arterials. Staff was preparing a citywide transportation study that evaluated creating a mitigation program and implementation of the program through an impact fee. The movement was to take job producing land uses and move those into housing categories, thereby bringing the City into better balance with its housing/jobs imbalance. Safeguards built into the Housing Element included Policy H-5, which addressed the need to provide compatibility with neighborhoods. Impact fees would serve to supplement the current impact fees. A broader impact fee for transportation would supplement the park and community facilities. Any project needed to go through extensive review through the ARB, P&TC, and the City Council.

Mr. Benest said staff believed the Housing Element was a reasoned approach and a balanced plan. The Housing Element enhanced the vision of the 1998 Comp Plan, addressed the State Mandate while retaining City flexibility, improved the jobs/housing balance through job reduction and housing production, preserved existing neighborhoods, resulted in minimum adverse impacts, and provided geographically balanced housing sites inventory. Staff recommended adoption.

Council Member Lytle said the agenda item was treated as two separate items. The first item was the Housing Site Inventory and those Council Members who needed to recuse themselves needed to do so.

Council Member Lytle asked whether the Council was required to do the Environmental Determination prior to taking action on the content of the Housing Element.

Ms. Furth said the Council needed to do the Environmental Determination prior to adopting the Housing Element.

Council Member Lytle asked whether there was a way to reorder the agenda items in order to get questions asked.

Mayor Ojakian said general questions had to be asked during discussion of the Housing Element issue.

Ms. Furth said those Council Members who did not have a conflict could ask any questions during the deliberation of the Housing Sites Inventory.

BY CONSENSUS OF THE CITY COUNCIL to bifurcate the Housing Sites Inventory portion of the item from the Housing Element.

Council Member Beecham would not participate in the Housing Sites Inventory part of the item due to conflict of interest because a client owned property within 500 feet of 800 High Street.

Council Member Freeman would not participate in the Housing Sites Inventory portion of the item due to a conflict of interest because her husband and she owned property within 500 feet of 2701 El Camino Real proposed for rezoning.

Council Member Morton would not participate in the Housing Sites Inventory portion of the item due to a conflict of interest because he had clients with interests in the properties.

Mr. Benest said staff was clear that the dwelling unit yields were minimal.

Mr. Emslie said staff clarified the amount of acreage that was attributed to housing.

Mr. Benest said the major change was adding information about the pending number of units and the acreage devoted to housing on a mixed-use project.

Vice Mayor Mossar asked whether it was typical for staff to make changes to a work product that was previously reviewed by a commission.

Mr. Benest said generally speaking, if the staff were clear, he had no problem with the practice.

Mayor Ojakian said the Council was voting on a housing inventory site list based on the recommendation of staff.

City Attorney Ariel Calonne wanted to lay out the legal standard. Questions were asked earlier about whether changes not seen by the P&TC needed to be referred back to the P&TC. The Palo Alto Municipal Code (PAMC) incorporated the 1955 version of State Law, which said, "legislative bodies shall not make any change or addition until the proposed change or addition has been referred to the Planning Commission." That language was interpreted over the years to mean what State Law currently said, which was "substantial modification not previously considered by the Planning Commission." The Attorney's Office staff met with the Planning staff and asked whether the changes were substantial or on matters that were given any substantial attention by the P&TC. The Attorney's Office staff was assured that the changes were neither substantial nor in areas that were controversial in front of the P&TC. His recommendation was that the inventory did not need to be referred back to the P&TC.

Council Member Kishimoto referred to site #5-28, the Opportunity Center, and asked about the point raised at the P&TC meeting that it might want to reduce the massing or number of units.

Mr. Emslie said the Opportunity Center plan had gone through its first P&TC hearing and ARB review hearing. Both groups were positive in terms of the architecture and massing. Staff felt the units that were accounted for in the Housing Site Inventory were appropriate for the site.

Council Member Kishimoto asked about the height on the building.

Mr. Emslie said the building was at 50 feet.

Council Member Kishimoto referred to site #5-31, 901-925 High Street, and recalled that 901-928 went to the ARB proposing 12 residential units and

12,000 square feet of commercial space. The property was mentioned as being 1.82 acres, and the current information indicated .46 acres. Mr. Emslie responded that the .46 was the correct acreage.

Council Member Kishimoto asked how was the Council to know that state law did not restrict the Council's ability to have some discretionary review.

Mr. Emslie said if the Council wanted to retain that discretion, the Council's option was to lower the units. The project conformed to all the zoning requirements. Staff believed the project was appropriate.

Mr. Benest stressed the Council needed overage on the mandate in order to allow flexibility. If the Council felt strongly about reducing the project, staff suggested substituting another site.

Mayor Ojakian said an option was that sites could be made up elsewhere.

Mr. Emslie said the Council might have to go back and amend the element in order to make up the sites.

Mr. Calonne said the element had to be amended in order to add units to make a later tradeoff.

Ms. Furth said the point was to make it clear in the document that there were enough sites.

Mr. Benest said the City was in a good position as long as the other sites were producing.

Council Member Lytle understood there was flexibility for the Council to move units to other sites. There was a back up list of sites, including some that she felt were more suitable. Mr. Emslie's presentation addressed the zoning minimums. Some of the sites were public facility sites that the Council had not determined as surplus. The question was asked about what the Dutra Bill said regarding rezoning actions and whether the Council had the same flexibility described by staff on those to move units.

Mr. Emslie believed the Council had flexibility for the sites that needed to be rezoned. Sites on the list that needed to be rezoned had to be done by the end of 2003.

Council Member Kleinberg referred to a letter from John McGaraghan about property at 657-663 Alma Street. Mr. McGaraghan stated that the owners, being nonresidents of Palo Alto, did not have prior information about the inclusion of their property on the inventory list. He requested the property

be removed from the inventory list or defer action on the item until the Vecchioli Family had adequate time to address the Housing Element impact on its proposed development of the property.

Ms. Furth said the notice of the Housing Element was appropriate. Prior to any property being rezoned, a noticed public hearing with specific notice to the concerned property owners would be sent out. At that time, property owners could raise objections, and the Council could decide whether to proceed with the rezoning or go ahead with the General Plan amendment to take the property off the list.

Council Member Kleinberg clarified there was no question of interference with property rights at the current point.

Mr. Emslie said at the outset of the creation of the housing site inventory, notices were sent to all the property owners that were considered for the housing inventory.

Council Member Kleinberg said a couple questions were raised about the type of alternative transportation modalities that would be interpreted as being appropriate for transit-oriented development. Someone suggested that the only true transit that could qualify was rail transit. Adequate transit to qualify for that type of development was questioned.

Mr. Emslie replied that for purposes of the Housing Element, the two corridors, El Camino Real and San Antonio Road, were specifically identified as appropriate for transit-oriented design and limited to only rail. Bus and rapid transit were included.

Council Member Kleinberg said the City Attorney's suggestion was to put only the very minimum yield in the inventory list in order to avoid the possibility of litigation arguing that the Council had not allowed enough of the yield. The question was asked whether Palo Alto did what other similarly situated cities, which were late on their Housing Element, in terms of using only the minimum yield.

Mr. Emslie understood other cities, such as Cupertino and Sunnyvale, were ahead of Palo Alto with having their Housing Elements approved.

Council Member Kleinberg asked whether there would be a problem to include one additional column as long as the list included the potential dwelling unit yield at the minimums to add back in the ranges in order for developers to know that the permissible ranges were and for the City to know what the range of potential units could be.

Ms. Furth said there was no legal objection to doing what Council Member Kleinberg suggested. Staff attempted to make clear how the City complied with the Dutra Bill. The Dutra Bill said whenever a City removed a unit that the State counted on to see that the City met its regional housing needs assessment, certain steps were necessary. If a range were included, staff was concerned that there could be unpleasant conversation about what the City promised to do.

Council Member Kleinberg asked what the goal was the last time the City made a commitment to the State to build houses.

Mr. Emslie said the City did not commit to build a specific number of units. The purpose of the Housing Element was to remove impediments that were barriers to creating the numbers.

Council Member Kleinberg clarified the point of the Housing Element was to incentivize building of houses.

Mr. Emslie said the point was to incentivize and remove barriers.

Council Member Kleinberg said the last Housing Element was supposed to incentivize and remove barriers to build housing. Her understanding was the incentives did not work too well or there were too many barriers.

Mr. Emslie said a report card needed to be done on each Housing Element. The goal in the last Housing Element was approximately 1,300 units.

Council Member Kleinberg was concerned if only the lowest minimum yield was listed, builders might not be inspired and motivated to build what was actually possible.

Council Member Burch noticed the new list of sites included the zoning for the Opportunity Center was PC pending, and there were 90 units requested, but 800 High Street showed PC pending 61 units requested with the minimum dwelling unit yield at 26.

Mr. Emslie said the Opportunity Center's application was reviewed, and staff felt more comfortable keeping the number closer to what was proposed. The project at 800 High Street had not progressed because of Council direction to adopt SOFA II first.

Council Member Burch felt Council Member Kleinberg was worried that people from the public would refer to the 26 units and question the need for more. The Hyatt Rickey's property had a big number in the pending application but a smaller number when getting into the minimum dwelling

units. The old list proposed moving the zoning at 4146 El Camino Real from RM-15 to RM-30, but currently was back to RM-15 in both places. The number dropped from between 10 and 20 units in the original down to five.

Mr. Emslie explained that site selection criteria, surrounding impacts of neighborhood compatibility were taken into account. Staff felt comfortable that the City was over its housing goal by 200 units.

Council Member Burch said the housing goal was 616 units but, of those, 241 were very low income, 50 were low income, and 325 were moderate income. In order to get 616 units, more than 818 units had to be built to come out with the needed number.

Mr. Emslie said the State considered affordable housing at a certain density range as on its face meeting affordable housing goals. For purposes of being consistent with State policy and because Palo Alto proposed a significant number of units at the higher density range, the units were viewed as being acceptable at meeting the City's efforts toward getting lower income units. The City provided more of the higher density units.

Council Member Burch asked whether the City could encourage a developer to build another Alma Place.

Mr. Emslie replied yes.

Mayor Ojakian said the inventory list provided what had to be done to meet the State requirements.

Mr. Benest suggested adding that the numbers were only minimum yields; the actual projects could produce higher yields.

Council Member Burch was concerned that the City was committed to build affordable housing.

Mayor Ojakian explained that the Dutra Bill and Assembly Bill 2292 were the same. The legislation was passed in September 2002 and took effect in January 2003. The question was asked as to what inventory list the Dutra Bill applied against if the Council did not pass the Housing Sites Inventory.

Ms. Furth explained if the Council did not adopt the Housing Element, the City would be out of compliance with the requirement that it adopt a Housing Element.

Mayor Ojakian asked whether there was anything under the Dutra Bill that came back and reprimanded the City if nothing was done.

Ms. Furth said the Dutra Bill encouraged litigation that challenged cities that failed to meet their requirements by requiring the cities to pay the legal fees of the prevailing party. If Palo Alto did not have a certified Housing Element, it was missing a presumption that the Comp Plan was consistent and had a valid Housing Element. There were practical advantages to the City in having a good, suitable Housing Element adopted, including the tough competition for funds.

Mayor Ojakian said the Dutra Bill put the City into an interesting position. The City was trying to meet what the minimum requirements were.

MOTION: Council Member Lytle moved, seconded by Kishimoto, to approve the Housing Sites Inventory.

Council Member Lytle clarified the City's ability to achieve BMR numbers in the past relied on the partnership with the nonprofit community where housing projects were built at 100 percent below market rate and did not rely on the construction of housing.

Mr. Emslie said that was correct, and the Housing Element supported the partnership.

Council Member Lytle said the inventory helped direct the nonprofit community and developers as much as it helped the for-profit developers.

Mr. Emslie agreed.

Council Member Lytle said when the last Housing Element was adopted; the City was in a different market situation. The bottom had dropped out of housing development financing due to complications such as condominium lawsuits.

Mr. Emslie said that was correct, and there was little private financing.

Council Member Lytle said the market at the current time fell out completely underneath office development but focused on housing. The idea of incentivizing was less necessary during a bull housing market.

Mr. Emslie said that was correct.

Council Member Lytle clarified the City was not amending the land use diagram with the Housing Element.

Mr. Emslie said that was correct.

Council Member Lytle supported the Housing Element based on answers to previous questions about the ability to amend the land use diagram as the City did discretionary review on individual projects and shifted the numbers if that were necessary, which preserved the integrity of the discretionary review process.

Vice Mayor Mossar said the Council discussed the Housing Element in October 2001, and the message from the Council at that time was loud and clear that affordable housing units were the goals. Staff was asked to return with a Housing Element that generated affordable housing. Answers were heard about meeting the requirements of the Dutra Bill and doing what had to be done in order to comply with the law. The question was raised whether the City was doing what it had to do in order to meet its obligations to the region, to the environment, and to those who needed places to live. The City had high, ethical, and moral obligations. Staff was asked whether it was comfortable that the City would be able to meet a goal of 616 affordable housing units.

Mr. Emslie said a 200-unit cushion was laudable. Policies were in place that gave the City the luxury to exceed its goals.

Mr. Benest said the Council set up a Top Five Priority on affordable housing and internally structured a multi-department team to shepherd the projects along. The Housing Element would provide a framework for moving forward.

Vice Mayor Mossar supported the motion, particularly given that the record showed that staff was committed to an obligation to produce real, on the ground, successful, affordable housing.

Council Member Kleinberg suggested an amendment to include in the inventory list, or as an addendum, a restitution of the density spread for minimum to maximum.

Council Member Lytle would not accept as an amendment.

SUBSTITUTE MOTION: Council Member Kleinberg, seconded by Burch, to approve the Housing Sites Inventory and include in the inventory list or as an addendum to the inventory list a recitation of the density spread from minimum to maximum.

Council Member Kleinberg said the Council needed to set higher goals and be realistic about producing over 600 affordable units. There was not a lot of money flowing into nonprofit development. The Council was low-balling its goals instead of putting what the potential range could be in order to incentivize private investment in order to get the needed affordable housing.

Council Member Burch felt the motion gave the developer the idea there was a range the Council looked at. There was an added advantage to show a higher number.

Vice Mayor Mossar supported the substitute motion. Council Member Lytle had said by stating a range of units, the California Environmental Quality Act (CEQA) analysis would not support the higher levels of housing. The question was asked whether it was Council Member Lytle's intention to say it was only viable up to the 818 units and beyond that would not pass the CEQA test.

Council Member Lytle said the list was flexible, but that the assumptions made on population, traffic, park acreage needs, and other infrastructure support that she read in the environmental determination were based on the more minimum level.

Vice Mayor Mossar asked staff for a comment on the issue of CEQA and the minimum versus a range of numbers.

Advanced Planning Manager Julie Caporgno said the range went to approximately 1,000 units and would still come within the high estimate under the Comp Plan.

Vice Mayor Mossar clarified the CEQA document evaluated the document provided by staff and gave flexibility of 150 to 450 units. Ms. Caporgno said that was correct.

Vice Mayor Mossar said the Council was told it could do anything it wanted. The Council could review a proposal at any of the given sites and do a different number. At that point, there was a different CEQA evaluation that took precedence over the CEQA evaluation.

Ms. Caporgno said there was some flexibility in the CEQA document because the Comp Plan EIR looked at 450 additional units. Staff looked at 290 additional units. Looking at the high end of the inventory sites, the City was covered under the Comp Plan EIR.

Vice Mayor Mossar asked what happened if the City wanted to build 1,000 more housing units than what was listed.

Ms. Caporgno said the Council would have a consistency problem and would not be able to use the Comp Plan EIR. Individual CEQA analysis would be done for any site that was not on the inventory.

Ms. Furth said if the Council wished to add some additional text about the

serious and committed numbers that represented a minimum number of units on the sites, the Council needed to make it clear that the numbers were included to give an example of the ranges that might be appropriate on the sites, subject to later analysis. She referred to the February 4, 2002, version of the plan.

Council Member Burch added up the high numbers from all the earlier documents, and the total came out to 1,246.

Mayor Ojakian clarified the Council's hands were not tied when it came to a project that was brought to the Council that had more units.

Ms. Furth said that was correct. There were other policies in the Comp Plan that would push the Council in a certain direction on some of the sites.

Mayor Ojakian said he would not support the substitute motion.

Vice Mayor Mossar said adding up the numbers did not take the housing yield past the tolerable limits for CEQA.

SUBSTITUTE MOTION FAILED 3-3, Burch, Kleinberg, Mossar "yes," Beecham, Freeman, Morton "not participating."

Council Member Burch suggested a friendly amendment to add the sentence suggested by the City Manager.

Ms. Furth said the wording was, "New State Legislation, AB 2292 requires compensating changes in the inventory if fewer units are permitted on a site. A larger number of units may be approved on any site when consistent with the Comprehensive Plan, Zoning and State Law." Staff could add stronger language.

Mayor Ojakian said Mr. Benest suggested adding language that said "these are only minimum."

Mr. Benest said, "Any individual site may be approved for a larger number of units."

Ms. Furth suggested, "The numbers were only minimums, and a substantially larger number may be approved on a particular site."
Mayor Ojakian said the number might be different based on individual project review.

Mr. Benest suggested, "An individual site may be approved for more units."

Council Member Lytle suggested adding language about how the Council might need to shift sites.

SUBSTITUTE MOTION: Council Member Burch moved, seconded by Mossar, to retain the Housing Sites Inventory and add language in the footnote that would indicate the number of units being presented are minimum, and a larger number of units may be approved on the sites.

SUBSTITUTE MOTION FAILED 4-2, Burch, Kleinberg, Mossar, Ojakian "yes," Beecham, Freeman, Morton "not participating."

Ms. Furth pointed out that five votes were necessary to adopt the Housing Sites Inventory.

Council Member Kishimoto said she did not know all the ramifications of the Dutra Bill, but the Housing Element was a rigid, legal document that was governed by State Law, which would open the City to potential lawsuits. Changes, additions, and increases in density at a later date were supported.

Vice Mayor Mossar said it was important to take the obligation freely and seriously. She did not have an intention of using the minimum densities as her guideline for making land use decisions as the Housing Element moved forward.

Council Member Kleinberg supported the motion with caution. The Council's responsibility was to build enough housing to provide BMR housing. Issues raised about indicating the range of densities was a concern because the Council was uncomfortable putting that into a legal document. The inventory list had the numbers and goals. The Council needed to find a way to encourage greater densities on some of the sites in order to get the type of housing that was needed.

Council Member Lytle did not consider the list to be a limited and binding list. The policies in the Land Use Map were more the expressions of the Council's commitment to housing. Meeting the requirements of State Law for housing elements was a legal requirement. The approach taken of showing a limited list and the minimum densities was the proper legal position. There were sites not on the list that were suitable for housing and would yield housing in the next five years. Additional sites shown in the Land Use Map would be proposed for housing. Some of the sites not on the list were more suitable for housing than those on the list.

Mayor Ojakian said the Council started out with two lists that yielded approximately 4,200 units, which did not set well with the Council. The Council instructed staff to come up with a smaller list. Affordable housing in

the community was important.

MOTION PASSED 6-0, Beecham, Freeman, Morton “not participating.”

RECESS: 9:50 p.m. to 10:00 p.m.

Mayor Ojakian announced the Closed Session item would not be discussed that evening.

MOTION: Council Member Burch, seconded by Morton, to bring Item Nos. 11A and 11B forward to be heard before the conclusion of the Housing Element item.

Council Member Beecham said Item 11A might go quickly, but Item 11B needed more time. The Council needed to ensure that it finished the Housing Element.

MOTION FAILED 2-7, Burch, Morton “yes.”

Vice Mayor Mossar asked staff to inform the Council what happened if the Housing Element were not approved. A question was asked about comments made by the Housing and Community Development (HCD) relative to traffic standards.

Mr. Benest said staff believed there were three major consequences if the Council did not move forward on the Housing Element. A certified Housing Element by the State allowed the City to secure some fairly substantial, affordable housing funding which would help move the City toward its Top Five Priorities. The State passed Proposition 46 that provided \$2.1 billion, which would help the City deal with several critical projects including Oak Court and the Opportunity Center. The City had a current application to HCD for “help” funding, which provided dollars to preserve some of the existing BMR condos that needed to be renovated. Staff anticipated some substantial penalties if the City did not have a certified Housing Element. Staff wanted to maintain local control of land use decisions, and without a certified Housing Element, any individual could sue the City.

Ms. Furth said if the City did not have a certified Housing Element, it was vulnerable to an attack that said the City failed to adopt a General Plan, and the Court could take a number of steps, ranging from stopping all development in the City and taking away the decision-making authority from the City. A letter from the HCD stated that cities, in looking at traffic standards, needed to take into consideration the impact of any new standards on housing and housing supply in the City. One of HCD’s concerns was that the City not adopt traffic standards that had the unintended

consequence of wiping out the work done on the Housing Element.

Vice Mayor Mossar asked about legislation that gave local government the authority to override traffic impacts when building housing.

Ms. Furth said development opportunity areas could be designated.

Mr. Emslie explained the Figueroa Bill, which was implemented and allowed cities to exempt or override traffic impacts for infill development near transit. The transit was defined as a one third mile radius from a transit station or transit intermodal station.

Ms. Furth explained there was a several year window and, if a project was not built within another window, the exemption was lost and the City had to go back to complying with a regional Congestion Management Plan.

Council Member Morton asked whether the concept of a transit corridor was an objectively or externally defined limit; could a transit corridor be 500 feet or 2,500 feet.

Mr. Emslie understood the City made the determination to define the terms for transit corridor.

Council Member Morton clarified if the City thought the transit corridor was overreaching, it could be narrowed down.

Mr. Emslie said that was his understanding.

Ms. Furth said the Comp Plan had a provision in the Transportation Element that said, for example, higher density housing was appropriate near transit stations and on transportation corridors.

Mr. Benest said siting standards allowed the City to fine tune proposals.

Ms. Furth said a transit corridor was used as an option rather than a mandate in the Housing Element. A transit corridor was defined as "a major bus or rail route, and may also be used to describe land uses along the route."

MOTION: Council Member Morton moved, seconded by Kishimoto, to 1) approve the addendum to the Comprehensive Plan EIR for the Housing Element; 2) adopt by resolution an amendment to the 1998-2010 Comprehensive Plan incorporating the revised Chapter 4 – Housing Element and Housing Element Technical Document including appendices and with the revision to narrow the transit-oriented development radius to 1200 feet

from 2000 feet of the transit centers; 3) direct staff to forward the Housing Element to the State Department of Housing and Community Development.

Resolution of the Council of the City of Palo Alto Amending the 1998-2010 City of Palo Alto Comprehensive Plan by Adopting the 2002 Housing Element and Housing Element Technical Document

Mr. Benest said there were two train stations in Palo Alto. Staff proposed modest, incremental density increases within 2,000 feet of the two transit or train stations. In addition, staff selected two of seven transportation corridors.

Council Member Morton was concerned with the 2,000 feet. He proposed reducing the amount to 1,200 feet and fronting along the other corridors.

Mr. Benest clarified Council Member Morton suggested within 1,200 feet as opposed to 2,000 feet of the two train stations.

Council Member Morton said that was correct.

Council Member Kishimoto noted she did not realize when she seconded the motion that Council Member Morton had included a revision to narrow the transit-oriented development radius to 1200 feet from 2000 feet of the transit centers. She asked that the revision be separated from the motion.

Vice Mayor Mossar said the issue of transit-oriented development, transit hubs, and transit corridors was key and the only way the City would build housing. The notion to narrow the radius around train stations rather than maximizing the radius around train stations was a great loss of opportunity. The repeated degradation of El Camino Real as a transit corridor was misplaced. The Valley Transportation Authority (VTA) system currently operated several express service busses along El Camino Real into the Research Park as well as 24-hour bus service on the Line 22, which was the most heavily utilized transit operation in the entire VTA system. That particular route was being converted over time to a bus rapid transit (BRT) corridor. A great beauty of BRT was that it was not as expensive as light rail or BART because existing streets were used. Decisions made in the past defined the type of transit options the City had, and decisions made in the future would define what type of transit options were in the community. Transit could not be justified if there were not enough people to use it.

Mayor Ojakian said the Council should make clear how it was voting on the items. There would be a motion around what City staff asked the Council to approve and a separate motion had to do with the 1,200 feet.

Vice Mayor Mossar did not support the motion as stated.

Council Member Lytle supported Council Member Mossar's concern about limiting the transit-oriented development options. The area around the transit centers was key in terms of finding suitable densities in the long run. A concern was that the bus routes described as transit corridors with the hope they would someday convert to bus rapid transit was a difficult leap to make. There were opportunities for higher density but no assurance that the entire corridor would someday convert to a high-density transit corridor. One of three concerns included the issue of the Housing Sites Inventory and the sites shown on the Comp Plan designation map. The City had little, vacant, underutilized land. Some of the land identified on the inventory was probably contaminated and was expensive to redevelop. The City upheld a 30-year tradition of providing its share of the region's affordable housing. The City needed to continue to provide its share of regional housing and go beyond that. The City had downzoned property and amortized commercial uses by explaining to the community and developers where it would be done. The Council anticipated a Zoning Ordinance update in the next year. The Zoning Map would be amended to show where the policies applied, and then the Comp Plan Land Use Map would be amended to reflect the zoning exercise.

Mr. Emslie anticipated the zoning code exercise would engender some change to the Comp Plan.

Council Member Lytle said much of the tension would go away, both for the development community and for the residents, once the Council answered questions such as where the policies that were more aggressive would apply. She suggested language for several of the policies that talked about relieving the community of zoning controls, "At locations identified in the Housing Sites Inventory to be identified in the upcoming Zoning Map and Comprehensive Land Use Map amendments as part of the Zoning Ordinance update. "That would be a universal openness for the Council to look at additional opportunities and where to apply some of the policies such as the transit corridor policy. Another concern was the 50-foot height limit, which was always a significant growth management tool in Palo Alto. The 50-foot height controlled scale intensity and location of infill development, as well as protecting views of the foothills and baylands, and protects light. She suggested language, "Continue to respect the 50-foot height limit as a prominent growth management and development intensity control; however, on a case by case basis, there may be instances where that can be exceeded without compromising our other objectives." A similar phrase about FAR and parking might be added. A third concern had to do with the way the plan read in terms of single-family. There were several programs and policies that talked about increasing the density in the single-family neighborhoods, such as duplexes and small lot residential development. There were appropriate

places for those things but converting single family to duplex or converting standard subdivisions of 6,000 square feet to smaller lots was not what the Council wanted to promote. Language was suggested that said, "through the use of overlay zoning to help take an action to determine whether those kinds of policies would be appropriate."

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER 1) to add language at several Policy locations identified in the Housing Sites Inventory and to be identified in the upcoming Zoning Map and Comprehensive Land Use Map amendments as part of the Zoning Ordinance Update; 2) to continue to respect the 50-foot height limit as a prominent growth management and development intensity control. However, on a case by case basis, there may be instances where that can be exceeded without compromising our other objectives to include Floor Area Ratio (FAR) and parking; and 3) through the use of overlay zoning to implement policies for increasing density in single family neighborhood.

Mayor Ojakian noted when it came time to vote; the staff recommendation and each suggested amendment would be voted on separately.

Council Member Kleinberg said the Council was told if there was a substantial modification proposed that was not previously considered by the P&TC that would have to go back to the P&TC.

Mr. Calonne said staff would analyze the motions.

Council Member Beecham said a simpler way to take action was to pose as the basic motion the approval of the staff recommendation. Each Council Member could pose their ideas as amendments.

SUBSTITUTE MOTION: Council Member Beecham moved, seconded by Kleinberg, to: 1) approve the addendum to the Comprehensive Plan EIR for the Housing Element; 2) adopt by resolution an amendment to the 1998-2010 Comprehensive Plan incorporating the revised Chapter 4 – Housing Element and Housing Element Technical Document including appendices; and 3) direct staff to forward the Housing Element to the State Department of Housing and Community Development.

Resolution 8232 entitled "Resolution of the Council of the City of Palo Alto Amending the 1998-2010 City of Palo Alto Comprehensive Plan by Adopting the 2002 Housing Element and Housing Element Technical Document"

Council Member Kishimoto called for a Point of Order because her understanding was that the main motion was going to be separated for purposes of voting.

Council Member Freeman clarified if the Council voted to accept the staff recommendation and later made amendments that did not pass, she might not want to support the staff recommendation.

Council Member Beecham said the point of the process was that the Council did not vote on the main motion until after voting on all the amendments.

Council Member Morton was concerned about the 2,000-foot circles impact the neighborhoods. Something smaller than 2,000 feet was suggested, such as 1,200 feet.

Ms. Furth said the Land Use Element of the Comprehensive Plan set a 2,000-foot radius as the circle within which suitable sites were looked for to locate transit-oriented development, which was 50 unit per acre. The P&TC was in a better position to comment on its efforts to add standards to the Housing Element and, therefore, the General Plan. The Land Use Element had to be amended in order to lower the 2,000 feet to 1,200 feet.

Council Member Morton withdrew his request to change the 2,000 feet to 1,200 feet.

AMENDMENT: Council Member Lytle moved, seconded by Kishimoto, that the following language be added to Goal H-1, page 6 of CMR:434:02: "The policies and programs for implementing Goal H-1 shall be implemented at locations identified in the Housing Site Inventory and identified in the upcoming Zoning Map and Comprehensive Plan Land Use Map amendments as part of the Zoning Ordinance update.

Council Member Kleinberg asked in what way the amendment would de-limit the ability to do the conversion in order to increase housing densities.

Mr. Emslie said the amendment did not prescribe a certain expectation in terms of what the zoning might be; it basically quantified where the policies would be attached to future housing sites.

Council Member Kleinberg asked why the language was not included.

Mr. Emslie said the language was staff's attempt to make it clear there would be criteria. The Zoning Code, the Zoning Code Map, the Comp Plan, and the Housing Sites Inventory would indicate where the policy framework was for the sites.

Council Member Lytle replaced the words, "wherever appropriate" in Program H-1 and H-3.

Ms. Furth was unclear how program H-3 read.

Council Member Lytle said H-3 read, "Encourage the conversion of nonresidential lands to residential use to both increase the supply of housing to residential use at locations identified in the Housing Sites Inventory and to be identified in the upcoming zoning map and Comprehensive Plan Land Use Map Amendments as part of the Zoning Ordinance update." The purpose was both to increase the supply of housing, particularly affordable housing, and decrease the potential for the creation of new jobs that exacerbate. Additional changes were in H-1, H-3, H-4, H-5, H-10, Policy H-3, Policy H-4, Program H-16, and Program H-51.

Mr. Emslie said none of the land use policies could exist outside the Zoning Code or the Housing Element. They had to be consistent with the zoning or have a variance, Planned Community or rezoning. Policies came out of the Zoning Code Update.

Mr. Ojakian asked whether the Housing Element had to be updated when the Zoning Code was updated.

Mr. Emslie said no.

Council Member Kleinberg suggested adding an explanatory sentence at the beginning to be more explicit.

Mr. Emslie said that could be done.

Ms. Furth suggested adding to Policy H-1, "These changes and redesignations will be implemented through the zoning ordinance update."

Council Member Lytle asked that the language include both "the zoning ordinance and the land use map."

Council Member Freeman asked for a friendly amendment to put the wording in a more global location.

Mr. Emslie asked that the Council direct staff to fit the wording in to make the most sense for readability.

Council Member Beecham supported the wording in Goal 1 or in Program H-1.

Ms. Furth suggested, "The policies and programs for implementing this Goal H-1 shall be implemented at locations identified in the Housing Sites Inventory and to be identified in the upcoming Zoning Map and Comprehensive Plan Land Use Map Amendments as part of the Zoning Ordinance update.

AMENDMENT PASSED 9-0.

AMENDMENT: Council Member Lytle moved, seconded by Freeman, on page 10, first bullet under New Development Standards and Zoning Districts, to insert the language "The 50-foot height limit will continue to be respected except through specific site applications and on an exception basis."

Mr. Benest said staff was not throwing out all the development standards for housing. Staff suggested flexibility in terms of height, FAR, and other development standards for 100 percent affordable housing.

AMENDMENT FAILED 3-5, Freeman, Kishimoto, Lytle "yes," Morton absent.

AMENDMENT: Council Member Lytle moved, seconded by Freeman, to insert language directing when there are changes in R-1 Districts, they are to be done through overlay zones.

Council Member Lytle asked that the wording be placed universally.

Council Member Freeman suggested that the wording be placed in a universal location rather than policy and program-by-program.

Vice Mayor Mossar would not support the motion, noting concern about not adding density in residential neighborhoods.

Council Member Kishimoto said there were specific types of neighborhoods, such as Eichler, which were less conducive to densification.

Ms. Furth said the Council had to decide on directives about considering zone changes. The question was whether the Council wanted to establish a policy at the current item that when zone changes were done, they were done through overlay zones or whether the Council wanted to reserve the decision for a later date.

AMENDMENT FAILED 3-6, Freeman, Kishimoto, Lytle, "yes."

AMENDMENT: Council Member Beecham moved, seconded by Mossar, in Program H-5, page 8, third line, delete the word “most” from “are most conducive.”

AMENDMENT PASSED 9-0.

AMENDMENT: Council Member Beecham moved, seconded by Mossar, in Program H-5, page 9, third bullet, to revise the wording from “allow a very high residential density” to “allow a high or very high residential density”.

AMENDMENT PASSED 9-0.

Council Member Kleinberg referred to Program H-5, page 9, which talked about being within 2,000 feet of an existing or planned rail transit station. The paragraph also stated, “development at the high end of the density range should only be permitted where it’s demonstrated.” She asked why there was a reference to ranges, since there no longer were ranges.

Ms. Furth said the item referred to the General Land Use densities in the Comp Plan.

AMENDMENT: Council Member Beecham moved, seconded by Freeman, in Program H-5, page 10, delete the first bullet “Permit higher densities under R-1 zoning district to accommodate smaller lots for courtyard homes or other similar types of housing” and replace with Program H-10.

Vice Mayor Mossar was concerned about relying on broad zoning tools when in fact there would be opportunities on a case-by-case basis to add housing units.

Council Member Beecham said his objective was to remove uncertainty in all R-1 communities about whether there would be smaller lots.

Council Member Lytle said there were parts of the community that were suburban, and it was difficult to retrofit a suburban area to urban standards. Other parts of the community were more urban, and it was easier to do infill redevelopment according to urban standards.

AMENDMENT FAILED 4-5, Beecham, Freeman, Kishimoto, Lytle “yes.”

AMENDMENT: Council Member Beecham moved, seconded by Kleinberg, on page 10, first bullet under New Development Standards and Zoning Districts, to clarify it is for the production of 100 percent affordable housing.

AMENDMENT PASSED 9-0.

AMENDMENT: Council Member Beecham moved, seconded by Morton, in Program H-5, page 10, second bullet under New Development Standards and Zoning Districts, change third line from “standards that provide the maximum amount of housing” to “standards that allow the maximum amount of housing.”

Vice Mayor Mossar asked whether changing “provide” to “allow” change the intent of the bullet point.

Ms. Furth said the change in wording made it clear that the City did not build housing.

AMENDMENT PASSED 9-0.

AMENDMENT: Council Member Beecham moved, seconded by Morton, to delete Program H-8 on page 11.

Council Member Beecham said he could support second dwelling units that were frequently occupied by members or relatives of the main household, but in general he could not support second dwelling units within what otherwise were basically single-family homes.

Ms. Furth said the State might have preempted the City on that.

Mayor Ojakian clarified recently passed State Law preempted Program H-8. Ms. Furth said staff thought it might. There was a requirement for ministerial review, but the City could not require a conditional use permit or variance on second units.

AMENDMENT FAILED 2-7, Beecham, Morton “yes.”

AMENDMENT: Council Member Beecham moved, seconded by Morton, in Policy H-12, Program H-32, page 22, first sentence, change the word “necessary” to “feasible.”

Mayor Ojakian did not support the motion because there was a dire need to make sure the Terman Apartments were preserved.

Council Member Burch agreed that the Terman Apartments needed to be preserved.

Council Member Beecham was not willing to commit the City to buy the Terman Apartments, if that was the way the wording was interpreted.

AMENDMENT FAILED 3-6, Beecham, Lytle, Morton “yes.”

AMENDMENT: Council Member Kishimoto, seconded by Freeman, in Program H-3, page 7, add a sentence to the end of the paragraph, "When considering conversions of non-residential land to residential uses, the city will also keep in mind the importance of the goal to preserve neighborhood retail services."

Mr. Benest said there were other policies in the Comp Plan. The Housing Element was part of a totality, and there were other policies that made it clear that the Comp Plan supported neighborhood-serving retail.

Council Member Kishimoto said when there was a policy to convert nonresidential lands; office would not convert because it was the highest paying rent. The neighborhood retail and neighborhood commercial services were lower value.

Council Member Freeman reminded the Council that the expectation was that all the elements in the Plan were consistent with each other.

Vice Mayor Mossar said there might be occasions when the City did not have productive retail, and it could be converted to housing. The Housing Element should not preclude that.

Ms. Furth said the City had policies about promoting and preserving retail service and if the Council was considering converting something, they would take that into consideration. By saying the Council did not want to reduce the land providing neighborhood retail services, the concern was that the Council was stating, for example, not to convert any parking areas to housing. If that were the intention, the Council needed to be clear. Wording was suggested, "When considering conversions of non-residential land to residential uses, the City will also keep in mind its important goal of preserving neighborhood retail services."

AMENDMENT FAILED: 4-5 Freeman, Kishimoto, Kleinberg, Lytle "yes."

AMENDMENT: Council Member Kishimoto moved, seconded by Lytle, in Program H-5, page 8, add a bullet "To ensure that high and very high density housing is located in zones that encourage and allow neighborhood services and retail."

Vice Mayor Mossar understood very high densities would be appropriate on Hamilton and Lytton Avenues.

Council Member Kishimoto said high and very high density should be located in places that allow and encourage neighborhood retail and services.

Vice Mayor Mossar said another hurdle was created. There was a lot of density on San Antonio Road.

Council Member Kleinberg asked if the wording would preclude some very high and high-density housing where there was not any.

Council Member Kishimoto said the wording encouraged or allowed neighborhood services. If there were no neighborhood commercial, affordable housing should not be held up.

AMENDMENT FAILED 2-7, Kishimoto, Lytle "yes."

AMENDMENT: Council Member Kleinberg moved, seconded by Mossar, in Policy H-2, page 7, change the word "consider" to "identify and implement."

AMENDMENT PASSED 5-4 Beecham, Freeman, Kishimoto, Ojakian "no."

AMENDMENT: Council Member Kleinberg moved, seconded by Mossar, in Program H-19, page 17, change the word "Consider" to "Eliminate."

Council Member Kleinberg said the intent of the word change was to demonstrate the Council's firm commitment to make the Housing Element happen.

Council Member Freeman understood the commitment issue but also realized there were often unintended consequences that came up. Using language that stated unequivocally eliminate did not allow any room for change.

Council Member Kleinberg said the explanatory paragraph said, "eliminating the requirement would expedite project approval and remove an impediment to housing production."

Council Member Morton suggested adding, "review the requirement."

Council Member Lytle agreed with the amendment because the site and design review process was applied to mixed use because the City did not have decent mixed-use regulations.

AMENDMENT PASSED 5-4, Freeman, Kishimoto, Morton, Ojakian "no."

AMENDMENT: Council Member Kleinberg moved, seconded by Lytle, in Policy H-14, page 26, change "The City should" to "The City will."

AMENDMENT PASSED 9-0.

AMENDMENT: Council Member Kleinberg moved, seconded by Burch, Program H-46, page 27, change beginning of sentence from "Consider" to "Recommend that the RDA consider."

Mr. Benest said the idea was good, but staff would not recommend it until sometime in the future.

Council Member Lytle did not believe there was sufficient tax increment in the projected future to support the vision at the current point in time.

AMENDMENT FAILED 2-7, Burch, Kleinberg "yes."

Council Member Freeman said staff reworked the documents in a positive way, which was appreciated. Letter E, on page 4 of the resolution discussed required park acreage. She asked what the existing permanent neighborhood parkland need, excluding high school and middle school property. She asked what the acreage number of 1.3 percent of existing need was equivalent to. Another question had to do with district versus neighborhood parkland and whether both were required for two acres for each 1,000 new individuals.

Mr. Emslie said the Comp Plan acknowledged the City had a deficit in meeting its parklands. A program was not in place that was fully funded to help meet the deficit by acquiring more parkland. There was a new park fee that addressed some of the needs but did not help equalize the parkland deficit. In considering major projects, staff looked for areas to acquire areas of dedicated parkland within the project area.

Council Member Freeman asked whether it was possible to ask Planning staff to identify areas that could be purchased or used for parkland.

Mr. Emslie said it was possible and something that Planning staff would do in conjunction with Community Services to supplement its desire for additional parkland.

Council Member Freeman asked how the Council could insert language that ensured that the locations were identified and brought back, based on the expected population increase.

Ms. Furth said the City was not in a position to identify privately-owned property for acquisition by the City when it had no method for funding that acquisition. The Community Services Department policy was clear that the City did not meet the four-acre standard when the Comp Plan was adopted, and the City did not anticipate meeting it. The proposal anticipated approximately 660 people, that meant between two and three acres of park

land the City hoped to secure. One of the principle mechanisms to secure property was the Coordinated Area Plan, which was the mechanism by which the City added slightly less than two acres to the existing City. Much of that parkland was near projects that were on the Site Inventory. Other areas were identified for Coordinated Area Plans. Until the City accumulated significant funds from impact fees, the ability to acquire that type of land was dependent upon fairly large projects or Coordinated Area Plans that let the Council pool a number of individual developments.

Council Member Freeman asked how plans could be developed for housing without evaluating the dedicated parkland.

Mr. Benest said the Comp Plan recognized staff should strive toward that goal. The community was built out. Through the redevelopment process, open space was added.

Council Member Lytle was concerned the deficit was being added to without a statement of overriding.

Council Member Furth said the statement, based on the addendum prepared for the Council, was that the City continued to not meet its guidelines. The proposed finding was that the existing need increased 1.3 percent and the Council adopted the impact fees. The law provided that impact fees were a suitable mitigation. The 1.3 percent increase in the deficit was not a significant new problem.

AMENDMENT: Council Member Freeman moved, seconded by Lytle, in Section 4E of the Resolution, page 4, change the last sentence to read: "The City Council finds and determines that the marginal increase in park shortage arising from the exemption of affordable housing units is significant, and if it were not, in anticipation of growing impact fees, will look for potential park land to close the deficit."

AMENDMENT FAILED 3-6, Freeman, Kishimoto, Lytle "yes."

SUBSTITUTE MOTION AS AMENDED PASSED 9-0.

Council Member Kleinberg thanked the Council for working collegiately for coming up with a Housing Element that would provide the necessary housing.

Council Member Beecham said the Council worked well together.

Council Member Freeman supported the motion because it was the best the Council could do at the time. There were opportunities to make further changes in the future.

Council Member Lytle thanked the staff for the considerable work they did on the Housing Element. A Saturday study session was a good idea for any legislative items that went before the Council.

COUNCIL MATTERS

11A. Colleagues Memo from Mayor Ojakian and Council Member Kishimoto re Proposed Changes to the Santa Clara County Cities Association (SCCCA) Bylaws

MOTION: Mayor Ojakian moved, seconded by Kishimoto, that the Council adopt the proposed changes to the Santa Clara County Cities Association (SCCCA) bylaws.

MOTION PASSED: 8-0, Mossar absent.

~~11B. Colleagues Memo from Vice Mayor Mossar and Council Member Beecham re Opening the Record of the October 30, 2002 Closed Session~~

MOTION: Vice Mayor Mossar moved, seconded by Beecham, to continue Item No. 11B to a date uncertain before the end of the year.

MOTION PASSED 8-1, Lytle "no."

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Freeman presented the City with a check in the amount of \$300 from the City of Niihari, Japan, for a tree in Eleanor Pardee Park. This check was for the funding of the tree. She thanked the Mayor for ensuring the Business Improvement District would be agendized.

Council Member Kleinberg announced an emergency preparedness neighborhood mobilization meeting at the Unity Church on December 3, 2002, to launch Palo Alto REDI, Resources for Emergencies and Disasters Initiative.

CLOSED SESSION

~~12. Conference with City Attorney — Existing Litigation~~

~~Subject: In re Pacific Gas and Electric Company, a California Corporation, Debtor, U.S. Bankruptcy Court case No.: 01-30923DM
Authority: Government Code 54956.9(a)~~

ADJOURNMENT: The meeting adjourned at 12:30 a.m.

ATTEST:

APPROVED:

City Clerk

Mayor

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