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July 28, 2003

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ADJOURNMENT: The meeting was adjourned at 12:37 a.m. in memory of Jacob Steinberg, a Palo Alto High School graduate and beloved member of the community.45

The City Council of the City of Palo Alto met on this date in the Council Conference Room at 5:35 p.m.

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

ABSENT: Freeman, Lytle

SPECIAL MEETING

1. Interview of Candidates to the Planning and Transportation Commission

No action required.

ADJOURNMENT: The meeting adjourned at 6:35 p.m.

Special Meeting
July 28, 2003

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:45 p.m.

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

ABSENT: Freeman, Lytle

CLOSED SESSION

1. Conference with City Attorney - Potential /Anticipated Litigation
Subject: Significant Exposure to Litigation on One Matter
Authority: Government Code section 54956.9(b)(1) &(b)(3)(A)

The City Council met in Closed Session to discuss matters involving potential/anticipated litigation, and existing litigation, as described in Agenda Item No. 1.

Mayor Mossar announced that no reportable action was taken on Agenda Item No. 1.

ADJOURNMENT: The meeting adjourned at 6:50 p.m.

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:00 p.m.

PRESENT: Beecham, Burch, Freeman (teleconferencing from the Renaissance New York Times Square, 714 Seventh Avenue, New York, NY, at 7:15 p.m.), Kishimoto, Kleinberg, Lytle, Morton, Mossar, Ojakian

ORAL COMMUNICATIONS

Christine Klofti, P.O. Box 754, spoke regarding the bicycle tunnel.

Ed Power, 2254 Dartmouth Street, spoke regarding honesty in government.

John Easter, 1175 Stanley Way, spoke regarding the 72-hour notice requirement for Council Members, who participate in Council meetings when out of the City.

Tom Jordan, 474 Churchill Ave., spoke regarding the ballot question wording language for the 800 High Street referendum.

Herb Borock, P.O. Box 632, spoke regarding housing terms.

Dorothy Bender, 591 Military Way, spoke regarding the ballot question wording for the 800 High Street referendum.

Norman Carroll, P.O. Box 213, spoke regarding tolerance of minorities.

Dieter Folta, 97 Erstwild Court, spoke regarding the neighborhood review board, the budget issue, and racial profiling.

APPROVAL OF MINUTES

MOTION: Council Member Ojakian moved, seconded by Burch, to approve the minutes of June 2, 2003, as submitted.

MOTION PASSED 9-0.

CONSENT CALENDAR

Mayor Mossar stated that the Consent Calendar would be moved forward ahead of Item Nos. 1 and 2.

Council Member Lytle requested that Consent Calendar Item Nos. 7 and 10 be removed.

Mayor Mossar asked Assistant City Manager Emily Harrison if the items needed to be heard at that evening's meeting.

Assistant City Manager Emily Harrison noted that Item Nos. 7 and 10 would return at another Council meeting.

Mayor Mossar announced that Item Nos. 7 and 10 would not be heard that evening.

MOTION: Council Member Morton moved, seconded by Ojakian, to approve Consent Calendar Items 3-6, 8, 9, 11 and 11A.

LEGISLATIVE

3. Ordinance 4799 entitled "Ordinance of the Council of the City of Palo Alto Amending Title 16 [Building Regulations] of the Palo Alto Municipal Code by Adding Chapter 16.11 Relating to Stormwater Pollution Prevention Measures" (*1st Reading July 14, 2003, Passed 9-0.*)

ADMINISTRATIVE

4. Resolution 8325 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Clarence Sackett Upon His Retirement"
5. Contract Between the City of Palo Alto and Underground Construction Company, Incorporated in the Amount of \$710,000 for 2003/04 Utility Trench and Substructure Installation
6. Approval of Contract Extension No. 8 and Increase in Expenditure Limit of the Rail Shuttle Bus Service Agreement with JPB for Palo Alto Shuttle Project
7. ~~876 San Antonio Avenue Approval Of A Request For Exemption From The Charleston Corridor Moratorium For A Nine Unit Housing Project~~



8. Oak Court Affordable Housing Project at 845 Ramona Street: Council Approval of the Amended Disposition and Development Agreement Between the City of Palo Alto and Palo Alto Housing Corporation and Oak Court Apartments, L.P., to Sell the City-Owned Property at 845 Ramona Street, to Approve Regulatory Agreements and to Provide a Development Loan in the Amount of \$1,960,000
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10. ~~Request by Sunrise Development Inc. for Approval of City Council to allow the Planning and Transportation Commission to conduct a preliminary review of an assisted living development project planned community proposed at 2701 El Camino Real~~



11. Planning and Transportation Commission Recommendation to the City Council to Approve the Permanent Installation of the Corner Modification for the Louis Road Traffic Calming Project
- 11A. Contract Between the City of Palo Alto and Trugreen Landcare in An Amount Not to Exceed \$125,000 for Contracting Out the FY 2003 – 2004 Stump Removal Project

MOTION PASSED 9-0 for Items 3-6, 8, 9, 11 and 11A.

UNFINISHED BUSINESS

Council Member Burch requested that Item No. 2 be moved forward ahead of Item No. 1 to become Item Nos. 11B and 11C, respectively.

- 11B. (Old Item No 2) Public Hearing: The Palo Alto City Council will consider an appeal by Omer Gokcek of the Director of Planning and Community Environment's approval of a Home Improvement Exception application (02-HIE-23) requested by Dean and Cindy Samos to allow a rear daylight plane encroachment and rear setback encroachment (approximately 45 square feet) to accommodate a second floor addition to existing single-story residence located at 346 Colorado Avenue *(Item continued from June 23, 2003)*

Director of Planning and Community Environment Steve Emslie said the appeal on the Home Improvement Exception Application (HIE) was a process allowed under the Zoning Code by which the strict application of the zoning standards could be modified slightly when the findings were of an inferior design. The Planning Commission unanimously found the HIE findings were present as the proposal resulted in a superior design. The project's individual review was not appealed and not a subject for Council's consideration that evening.

Planning Manager Amy French gave project details as outlined in the staff report (CMR:328:03). She noted the appellant was concerned about the noticing of the item. Attachment J of the staff report outlined the noticing. The Zoning Code did not require advance written notice to neighbors announcing the Council's review of variance use from HIE appeals, where a 12-day advance notice was required for a Commission review for HIE Appeals.

City Attorney Ariel Calonne noted the item was quasi-judicial and Council Members needed to disclose any contacts prior to the public hearing.

Council Member Kishimoto said she took a five-minute walk through the site.

Council Member Lytle said she toured the exterior of the site.

Council Member Kleinberg said she drove by and viewed the property but had no interaction with the Samos family.

Mayor Mossar said she visited the site and took a five-minute walk-through.

Council Member Burch said he drove by the site.

Council Member Ojakian said he went by site and spoke to Mr. Samos.

Council Members Beecham, Freeman and Morton said they had nothing to report.

Mayor Mossar declared the Public Hearing open at 7:35 p.m.

A.J. Gokcek, representing appellant, Omer Gokcek, who was away on government business, 765 San Antonio Road, said the reason he attended the meeting was to allow the appeal and reject the Director

of Planning and Community Environment's decision. He addressed the procedural issue of not receiving a 12-day mail notice prior to the hearing as stated in the Palo Alto Municipal Code (PAMC) Title 18.14.100 (d). He brought that fact to Ms. French's attention on July 22, 2003, who advised him that section 18.14 did not apply to HIE's, even though the project review was based on the individual's review guidelines in the R-1 Single Family Zone District. She had said there was an unwritten rule where the department gave hearing notifications via a courtesy telephone call. He questioned how an unwritten department policy could override an explicit and clear written rule. He felt proper notification was not given, nor were they informed about a mediation process. He felt the applicants did not meet the three factors of the HIE and believed that under Section 18.14 of the PAMC, a non-compliance facility could not be expanded.

Dean Samos, 346 Colorado Avenue, said in November 2002, they had submitted plans for Individual Review (IR) that conformed to all the guidelines with legally allowed setbacks and daylight plane requirements. During the ten-day comment period, neighbors, including Mr. Gokcek, regarding the plans, received no comments. At the final meeting for approval with the Planning Department, a suggestion was made that the design could be improved to minimize the second-story massing through an HIE. They complied with the City's request. One month later, a new plan was submitted that allowed for a 15-foot span, 2-feet 10-inches into the rear yard setback daylight plane, adding approximately 750 square feet to the house, keeping the footprint. Two months later, there was a Director's Hearing on the HIE. A letter was submitted by Mr. Gokcek eleven days after asking the City not to accept the HIE. His request was overturned by the City and the HIE was approved. After receiving the letter of approval from the City, Mr. Gokcek appealed the HIE approval without further comment. Three months later, a public hearing before the P&TC was scheduled. Fourteen neighbors wrote letters to the Planning Department in support and nine people spoke in support at the hearing. He urged Council to uphold the P&TC's recommendation.

Annette Ashton, 2747 Bryant Street, spoke in support of the Samos plan. She urged Council to approve the HIE and deny the appeal.

Ronni Kerrins, 3780 Clifton Court, spoke in support of the Samos plan.

Caroll Harrington, 830 Melville Avenue, urged Council to approve the HIE and deny the appeal.

Richard Govea, 2771 South Court, spoke in support of the Samos plan and urged the Council to deny the appeal.

Bret Kerrins, 3280 Clifton Court, spoke in support of the Samos plan and felt the HIE was followed accordingly.

Mr. Gokcek said he was not against their neighbors developing the property but felt their privacy had been violated as well as the City's rules and regulations. He spoke of three exceptions that were in violation. A rear daylight plane violation, a daylight plane protrusion violation, and a rear yard setback violation. A vote to deny the appeal was to say the PAMC and the review guidelines did not matter as long as the Director of Planning and Community Environment approved.

Mr. Samos said he did not feel they were in violation of the Gokcek's privacy and could not understand the negative impact it was having on them.

Senior Assistant City Attorney Wynn Furth said issues raised at the meeting were before the P&TC, and the record of that hearing gave a good understanding of the legal advise. The issue of giving adequate notice for the hearing was raised and Attachment J of the staff report (CMR:328:03) gave a good discussion. It made it necessary to have hearings at both levels due to recent changes in the Brown Act. Both parties were entitled to actual and adequate notice and she felt in this case that happened. The HIE was a form of zoning adjustment.

Mayor Mossar declared the Public Hearing closed at 8:07 p.m.

MOTION: Council Member Burch moved, seconded by Kleinberg, to approve the staff and Planning and Transportation Commission recommendation to deny the appeal and uphold the Director of Planning and Community Environment's original approval and add to Attachment A of CMR:328:03, the reference to a special setback on Colorado Avenue.

Council Member Burch said he cared about how the City treated the residents who were trying to do things correctly.

Council Member Kleinberg agreed with Council Member Burch and voted against the appeal. She felt that the exceptions that were allowed were reasonable and that the new design met the spirit and the letter of the law.

Council Member Lytle supported the motion and did not agree with the appellant's conclusion on non-conforming facilities of the PAMC and research into exceptions granted by the zoning over non-complying single-family residence.

Council Member Morton supported the HIE and felt that staff tried to make a better project both for the applicant and the neighborhood.

Council Member Kishimoto supported the P&TC in denying the appeal and agreed with Council Members Morton and Lytle. She felt the HIE led to better design, well within the Floor Area Ratio (FAR).

Vice Mayor Beecham agreed with his colleagues. He felt the appeal was not reasonable. The appellant did not present reasons on how privacy was invaded nor convincing in the interpretation of what was required and allowed by the City laws.

Council Member Freeman asked the Senior Assistant City Attorney if all legal issues were raised so the City would not be in harms way for future litigation.

Ms. Furth said she believed that Council had the legal right to act on the application and the legal right to deny the appeal.

Council Member Freeman supported the motion but had concerns regarding the procedural and compliance issues raised. She asked if the City was shielded from further litigation on those issues.

Ms. Furth said there had not been a prevention of a lawsuit, but she believed the Council acted within their rights and were successful in defending their conduct.

Council Member Freeman hoped the Director of Planning and Community Environment would follow up with issues the appellant might have had concerning staff's interaction with Palo Alto citizens.

Ms. Furth said the staff report (CMR:328:03) Attachment A, embodied the statement of facts, findings and conditions and asked the maker and the seconder of the motion if they wanted the addition of a reference to the special setback along Colorado Avenue to be added to the motion.

Council Member Burch said yes.

Council Member Kleinberg said she would like it added if the Planning Director could confirm it was correct.

Mr. Emslie said it was correct.

MOTION PASSED 9-0.

11C. (Old Item No 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 21, 2003 - Public Testimony closed)

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

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

Council Member Freeman asked why Mayor Mossar was not involved with the item but was involved with the 800 High Street project.

Mayor Mossar said the City did an appraisal and evaluation on her property on the impact of 800 High Street and determined that they were not significant and did not disqualify her from the discussion. The potential impact changes in SOFA 2 could change positively or negatively in a significant way on the value of her home disqualifying her from participating in that item.

City Auditor Sharon Erickson stated she would not participate in the item due to a conflict of interest because her husband's employer was formerly located within the SOFA Plan area.

Director of Planning and Community Environment Steve Emslie gave a brief outline of the presentation format that included seven policy proposals from the previous week's discussion, plus an eighth proposal to include historic preservation issues as a framework for Council's direction to SOFA 2. He said direction would be used to draft a

specific ordinance for Council's review. Staff was prepared to answer questions contained in Attachment A to the staff report (CMR:386:03) would be answered at the meeting.

Chief Planning Officer Lisa Grote gave a brief summary of the A Policy Proposal and reviewed questions outlined in Attachment A of the staff report (CMR:386:03). She said the consultant cost for the study was \$186,000 that included a design consultant for development and analysis of the prototype, economic consultants, and the person who built the model as well as meeting facilitators. Staff cost was of equal amount. If the Coordinated Area Plan (CAP) were not adopted, the existing regulations including ground floor protection that were in place and protected five uses would remain in affect in that area. She clarified the non-conforming use issues. The proposal was that the non-conforming uses for the entire SOFA area would continue to convert into conforming uses and recommended to be able to revert back to non-conforming uses should conforming uses not be successful. The exception was a portion along Emerson Street and Homer Avenue that prevented the use of retail, personal service, general business service, commercial recreation and other permitted uses from converting to office use.

Council Member Kishimoto gave a report on the Working Group. She gave an overview of the Council policy framework developed in 1997 that lead to the Working Group and the Commissions on SOFA accomplishments and the reason for launching into SOFA 2. She said reasons included services replaced with ground floor offices, parking impact from increased daytime population, and Planned Community (PC) being reviewed without a clear vision on how the area should evolve in the future. She summarized the Working Group's vision that included more housing and neighborhood-serving retail and services and pedestrian orientation. She discussed key policies emphasizing differences between the Working Group, the P&TC, and staff. She said the Working Group's vision valued the eclectic uses, attention to impact on parking and congestion, addressed housing issues of double potential for housing, the look and feel of the street and its relation to natural environment, and reduced speculative pressure on existing neighborhood businesses.

Council Member Freeman asked if her understanding was correct of the staff's perspective that the more density the less clearer the rules.

Ms. Grote said staff tried to make recommendations that actually defined how to get density much more clearer than it was defined.

Council Member Freeman asked how the affects on SOFA 1 changes impacted SOFA 2 such as traffic impacts.

Ms. Grote said before the SOFA 1 project was approved, a traffic analysis was taken to evaluate traffic and parking circulation impacts. Those projects were fully parked and had their onsite requirements that eliminated negative impact projects in the area.

Council Member Freeman asked when there was a rule stating that a different option could be requested after a certain number of non-productive months of rental had occurred, why was an option provided to revert back to non-conforming if a choice was made to a conforming structure.

Mr. Emslie clarified the traffic impact was an overall traffic study completed for all of SOFA. The environmental analysis concluded there was a net reduction in the build-out based on traffic generated by the Palo Alto Medical Foundation (PAMF) facilities. The P&TC considered an element of risk in converting and, given the choice of losing the non-conforming status, property owners would not rent to a risky retail tenant.

Council Member Freeman said under office uses it stated that building façades on new construction facing ground floor commercial space and remodeled involving more than incidental changes would be designed to facilitate easy conversion for retail uses in the future. She wanted to know about the feasibility of converting into housing. She asked if an incentive could be included to allow easy conversion without demolition.

Mr. Emslie said the conversion of housing to retail was problematic but could be done.

Council Member Freeman was concerned about the bicycle traffic going from the tunnel onto Homer Avenue. That issue was to be reviewed initially by the Working Group.

Ms. Grote said the recommendation was not to include it in the SOFA proposal.

Council Member Freeman asked what the zoning and parking consideration was for the Starbucks Coffee located at El Camino Real and Stanford Avenue and at Middlefield Road and Colorado Avenue.

Ms. Grote said the one on Middlefield Road was a CN and the one located on the El Camino Real was either a CN or CS. Both allowed a Starbucks Coffee type of use and the parking ratio was a retail rate. The Starbucks Coffee at the Middlefield Road location at Midtown had a shared parking arrangement with the entire Center. Not all parking was allotted for Starbuck use only.

Council Member Freeman asked if that was the same parking ratio for retail in SOFA 2.

Ms. Grote said she would need to confirm the parking ratio. Staff's recommendation was a blended rate for the SOFA 2 area of one space for every 250 square feet, regardless of use. She replied the intensive parking ratio for retail rate was one space for every 200 square feet and for extensive retail was one space for every 240 square feet

Mr. Emslie clarified intensive parking meant high customer turnover parking usage such as Starbucks Coffee. "Extensive" meant low volume use such as furniture store parking.

Council Member Kishimoto asked for clarification on the recommended changes to Ground Floor Dependent office.

Ms. Grote said with regard to allowable uses in the CD-S Zoning District, they were under Retail Protection Ordinance No. 4730, which protected five uses in conversion to office use and the comparison of what was currently proposed in the SOFA plan.

Council Member Kishimoto clarified that Ground Floor Dependent Office was eliminated entirely.

Ms. Grote said it was currently eliminated.

Council Member Lytle asked to view at some point an overhead of properties staff felt were likely to turnover in terms of housing incentives. It was concluded that there were several potential properties for housing. She asked how incentive zoning worked.

Mr. Emslie said the zoning plus concept intended to add an entitlement process for fact finding to determine if certain conditions were present to grant the entitlement.

Council Member Ojakian clarified if what was being asked was to give staff direction on policies that should incorporate into a document CAP that would return to the Council for action.

Vice Mayor Beecham said he expected an overall motion or to proceed to the eight items outlined in the staff report (CMR386:03) and to give Council's recommendations back to staff. It would be returned as an Ordinance and would require five votes to pass.

Council Member Ojakian said his preference was to discuss each eight areas individually.

MOTION: Council Member Ojakian moved, seconded by Burch, to exempt 800 High Street 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 agrees upon.

Council Member Ojakian said his reason for the motion was because the matter had been vetted and would not progress with added discussion. It was now in the hands of the voters and to do anything different would circumvent the will of the people. The 800 High Street half-block made up 5 percent of the surface area. He was concerned that a lot of time would be spent focused on the area when 95 percent of the area needed to be discussed and dealt with.

Council Member Burch hoped that any decision made by Council would not be pro or con on the election issue and would be left to the proponents and opponents to make their own case.

Ms. Furth said if the voters accepted the Ordinance, the Ordinance would govern. If not, whatever alternative the Council adopted would govern.

Council Member Ojakian said that was his intention.

Council Member Lytle asked if Council exempted 800 High Street from the CAP, what would happen if the referendum failed. One of the issues raised in the petition was that an area plan was not completed and one of the reasons for bringing the plan forward was to complete a plan.

Council Member Ojakian said if the voters did not pass the Ordinance, either the current RT-50 zoning, or the zoning Council agreed upon would apply.

Council Member Lytle said 800 High Street was not being exempted for consideration since a decision needed to be made as to where the boundary should go.

Ms. Furth said one way to deal with the issue was to provide in the SOFA CAP and the half block would be governed by the Ordinance approved by the voters and, if not, it would be governed by what the Council agreed upon. Both contingencies would be described in one document.

Council Member Kishimoto said she understood the motion but was not clear about the exemption portion of the motion.

Council Member Ojakian said the Ordinance being presented to the public had certain specifications. If the measure passed and the 800 High Street project were approved by the voters, then a specific zone would be applied over the area except for 800 High Street, which would be in accordance with the approved Ordinance. If it did not pass, it would revert back to the Council's decision.

Council Member Kleinberg asked why the Mayor was not present to vote on a zoning decision since she was not conflicted out of the 800 High Street project.

Ms. Furth said the motion was designed to deal with the matter to a certain extent. She explained that the adopted Ordinance would be placed before the voters. Since it was a referendum, the Council had the power to modify the Ordinance after the public voted on it. Should the voters' decision govern the area, then a statement should be made in the CAP that the Ordinance governed if approved by the people. The Mayor had a conflict since the CAP governed a larger area as a whole.

Council Member Kleinberg said she understood why the Mayor had a conflict over the entire area. She felt uncomfortable discussing 800 High Street zoning with someone who had the power to vote not present.

Vice Mayor Beecham said the motion as presented did not specify zoning for 800 High Street other than the action Council had already taken.

Council Member Kleinberg clarified a determination was being made at the meeting regarding the development of 800 High Street.

Ms. Furth said staff would appreciate guidance to have it clear in the CAP Council's intention was for the project to move forward if the voters approved 800 High Street.

Council Member Freeman said she had concerns because she felt it had not been agendized to provide direction on what to do with the results of a referendum.

Vice Mayor Beecham said the Senior Assistant City Attorney was not advising Council to do anything at that point.

Council Member Freeman said she thought the Senior Assistant City Attorney said staff would like direction on what to do with results of the referendum.

Ms. Furth said the timing of the adoption of the SOFA 2 Plan by Ordinance was before the public with a proposal on how to deal with the area; the CAP also covered the area. It was important the Council direct staff on how to draft the Ordinance in order to deal with the results of the election.

Council Member Freeman was still concerned and concurred with Council Member Kleinberg that the Mayor should be permitted to give her opinion on 800 High Street as an individual entity and not participate in the discussion. She said they wanted to get through the SOFA 2 CAP so people would understand the direction Council took in that area before having to make a selection on the ballot.

Vice Mayor Beecham said the overall discussion was on SOFA 2. There was a referendum on the ballot on an Ordinance approved previously by the Council. The issue going to the voters was not changed. The voters would be making a decision on November 4, 2003. If the voters supported the Ordinance by the Council; it would rule. He asked if it were not supported, what was decided at the meeting over all of SOFA 2, including the parcel, would rule.

Council Member Lytle said she heard the opposite and what would be voted on at the meeting would override the decision made earlier unless the specific provision into the action made at this meeting. She requested putting off the action until the end of the deliberations.

Council Member Kishimoto was in agreement with taking action at the end of the deliberations.

Vice Mayor Beecham asked if Council Member Ojakian was comfortable in postponing action.

Council Member Ojakian said he was comfortable to wait until the end of the meeting.

Council Member Burch agreed. He made it clear that any action made at the meeting would enable the opponents of 800 High Street to go out on the campaign and say that as a result of the Council's decision, 800 High Street would not have been approved if those rules were in place when it originally went forward.

MOTION WITHDRAWN WITH THE CONSENT OF THE MAKER AND SECONDER

MOTION: Council Member Ojakian, seconded by Burch, to approve the staff policy proposals for Item (2) Office Uses, as follows:

- a. Existing CD-S zoning would remain unchanged throughout SOFA 2 regarding the amount of office space allowed on a site up to 5,000 square feet, and including grandfathered office space over 5,000 square feet.
- b. Existing CD-S zoning regarding the location of ground floor office space (no restrictions) would remain unchanged, except on the Homer/Emerson corridor as provided below.
- c. Citywide Retail Protection Ordinance #4730 protecting certain ground floor uses would not apply in SOFA 2.
- d. A new office use would be allowed to locate in a street-facing ground floor space on the Homer/Emerson Corridor only if it is a Ground Floor Dependent office use. A Ground Floor Dependent office use is a business that benefits from a street-facing ground floor location in one or more of the following ways: 1) window displays promote goods or services provided at the place of business; 2) a significant number of customers, whether the general public or other businesses, come to the place of business for goods or services; and/or 3) goods or services are for sale to the general public at the place of business.
- e. All existing office tenants on the Homer/Emerson corridor may remain and may renew their leases indefinitely. However, a new office tenant may only replace an existing use or occupy a newly constructed commercial space in a street facing ground floor location on the Homer/Emerson corridor if the new office tenant is a Ground Floor Dependent business; or alternatively, Option A. Existing non-Ground Floor Dependent office tenants in street

facing ground floor space on Homer/Emerson could be replaced with other non-Ground Floor Dependent office uses. Option B. In addition to Option A, existing non-Ground Floor Dependent office uses may switch to a Ground Floor Dependent office or some other use, and then later reinstate a non-Ground Floor Dependent office.

- f. The determination that a business is a Ground Floor Dependent Office use would be an administrative decision by the Director of Planning.
- g. Throughout SOFA 2, building facades on all newly constructed street facing ground floor commercial space and remodels involving more than incidental changes to the street facing façade would be designed in a way that facilitates easy conversion to retail uses in the future.
- h. Ground floor housing cannot be converted to office use.

Council Member Kishimoto asked why the discussion on lifting the Citywide Retail Protection Ordinance would not apply in SOFA 2

Mr. Emslie said the message from property owners was the success of the district driven by a variety of forces. It was eclectic, and mix-office was important to maintain the vitality and economic engine for the area. The recommendation was to retain any restriction along Homer Avenue and Emerson Street.

Council Member Kishimoto asked to keep the Citywide Retail Protection Ordinance.

AMENDMENT: Council Member Kishimoto moved, seconded by Freeman, to keep Item c, Citywide Retail Protection Ordinance #4730 (which prohibits office from replacing retail, personal services, automotive services, housing, or restaurants on the ground floor), which will apply only to the Homer Avenue/Emerson Street Corridor, extending as far south as Channing Avenue and that Items d, e and f be deleted.

Council Member Freeman said she believed the Citywide Retail Protection Ordinance applied only to changes.

Ms. Grote said the Ordinance applied to the five uses in the SOFA area as it applied to the same uses in all commercial districts in the City, which meant the five uses could not convert to offices.

Council Member Freeman asked if it was possible to consider the Homer/Emerson Corridor.

Council Member Kishimoto said that would become the only C zone in the entire City without retail protection.

Council Member Freeman said for retail there would be an increase in sales taxes and as to whether or not the Council's vision was similar in creating and maintaining a retail district in the SOFA 2 area.

Council Member Burch said SOFA 2 was not dependent on the preservation of retail in comparison to Midtown.

Council Member Kleinberg asked that staff incorporate the Bay Area Economics (BAE) conclusion and the Sedway Group conclusion into the discussion. She felt uncomfortable making a zoning decision without reviewing the hard economics in terms of making a viable area and protecting property owner's rights.

Alexander Quinn, Bay Area Economics, gave a brief overview to the findings of the questions that focused mostly on retail. In properties where there were not synergies already prevalent, there would be less retail and more housing under the SOFA 2 Plan. A possible alternative was to limit ground floor office uses along retail nodes and allow ground floor office in areas that were less conducive to retail to maintain their office use. Based on the existing retail conditions, logical retail locations were Homer Avenue and Emerson Street. Corridors less conducive to retail included Alma Street and Ramona Street.

Vice Mayor Beecham asked the maker and seconder of motion if they would consider modification to limit ground floor retail zone to the Homer/Emerson Corridor.

Council Member Kishimoto asked if modification would be limited to only Homer Avenue and Emerson Street, and if it was different than staff's recommendation.

Vice Mayor Beecham said staff recommendation did not have the Ground Floor Retail Ordinance applied to it.

Council Member Kishimoto agreed to keep retail protection and apply it to the Homer/Emerson Corridor.

Council Member Freeman hoped consideration was given to the 100 new housing units in the SOFA 1 Plan and the retail they would be supporting. She said she would accept the modification.

Mr. Emslie clarified that one difference between the Retail Protection Ordinance Citywide and its application to SOFA 2 was automotive services. Staff recommended that automotive service not be included as one of the protective uses.

Council Member Kishimoto supported staff's recommendation to not include automotive service.

Council Member Freeman said automotive service was retail and what would their options be if they were to change.

Ms. Grote said they could become an office or other permitted use.

Council Member Freeman said she could not support the second.

Council Member Kishimoto said she misunderstood and would allow automotive service to change to recreation but not to office.

Vice Mayor Beecham clarified the Ground Floor Ordinance provided to rebuild a building as long as the same retail square footage was kept on the ground floor and could add other commercial space.

Ms. Furth replied that was correct.

Council Member Freeman said the Director of Planning and Community Environment misstated. It was not to go with the Planning Department's recommendation but to have ground floor retail on Homer Avenue and Emerson Streets.

Council Member Kleinberg said she would like decisions made along viable economic lines.

Council Member Lytle said because it was an historic and vital business district she asked not to intervene with its progress, not to take away the automotive service protection, and to keep the service in the community.

Vice Mayor Beecham said the motion addressed the Homer/Emerson Corridor. Staff recommended items d, e, f, and h of the staff report (CMR:386:03) as replacement for ground floor retail in the corridor. If

the motion was accepted, to be consistent, items d, e, f, and h should be deleted but not item g. He asked colleagues if he was reading it correctly. The Planning Department was unable to come to a conclusion for ground floor retail for the entire area because it also protected housing. Testimony was heard about a house that was still in the Corridor that had not changed from housing to business. He asked his colleagues if they wanted to make an exemption for that one housing unit.

Council Member Kishimoto asked if items g and h were being kept.

Vic Mayor Beecham said not item h.

Council Member Freeman asked why item h was being eliminated. It was not a retail issue but an office issue.

Council Member Ojakian said the property being discussed was 731 Emerson Street, which would be exempted. There were three other pieces of property that were closer to the residential area and could convert in the future, and he could see why those would not be included with 731 Emerson Street. Those ground floor housing units would be protected from conversion.

Vice Mayor Beecham said item h could be modified except for housing within the Emerson Corridor.

Ms. Furth said the entire motion applied to the Homer/Emerson Corridor only, and item h stated housing could not be converted to office use with the exception of 731 Emerson Street.

Council Member Beecham noted items h and g stayed with the modification of 731 Emerson Street.

Council Member Lytle said the exception for the housing conversion was that flexibility was being taken away from property owners in that corridor. They were older, historic buildings and to take away the rights was justification to relax some areas.

Council Member Kleinberg referred to property owners concerns and their request for flexibility as outlined on page 7 in the staff report (CMR:365:03) page 7. She referred to specific limitations of Homer/Emerson retail Corridor being extending as far south as Channing Avenue and asked that the specification be included into policy.

Mr. Emslie said it would be added.

Council Member Freeman asked if the property being discussed was located on Homer Avenue between Emerson and Ramona Streets on the north side of street.

Mr. Emslie said the house Council Member Freeman described was zoned residential.

Council Member Freeman said she was confused because that property would fall under any type of restriction unless isolated as individual points.

Mr. Emslie said the property was zoned residential, which prevented it from being converted.

Council Member Freeman clarified the current residential zoning would override decisions made for the Homer/Emerson Corridor.

Mr. Emslie said that was correct.

Council Member Freeman asked whether there were any other properties currently zoned that would not fall under the discussion.

Ms. Furth said there were multiple-family zones on the north side of Homer Avenue between Ramona and Emerson Streets. The corner closer to the Bay was RM-30 and the balance of the block that faced the older houses was RM-15. Proposals were for the RT portion of the corridors.

Council Member Freeman asked that the zoning be made more specific in the Ordinance. She asked for the location of the houses that would be exempt.

Vice Mayor Beecham said the address was 731 Emerson Street.

Council Member Ojakian said the house that was exempt was 731 Emerson Street, and the three other units were 929, 933 and 949 Emerson Street.

Council Emslie said it was south of the building commonly referred to as Old Indian Bowling Alley on Emerson Street.

Vice Mayor Beecham said the property was currently under residential use and would be exempted from converting because of limitations referred to by Council Member Lytle.

Mr. Emslie said it was zoned CDS.

Council Member Freeman asked if there were any other zoning that would trump plans for the corridor.

Mr. Emslie said there were two other residential buildings zoned as CD-S but were more in residential area and protected from conversion into offices. The only building exempted was 731 Emerson Street.

Council Member Freeman asked if the three locations being exempted were 731 Emerson and RM-30 and the RM-15 on Homer Avenue.

Mr. Emslie said those three locations were protected and continued to be protected against conversion because they were allowed to be used for residential. The motion would not impact properties zoned residential.

Council Member Freeman asked if all zoned properties had been identified in that area.

Mr. Emslie said everything had been accounted for.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND THE SECONDER to include the exemption of one housing unit, 731 Emerson Street, in the Homer Avenue/Emerson Street Corridor.

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

AMENDMENT: Council Member Freeman moved to add "housing" to item g under office uses after the word "commercial" in the second line.

AMENDMENT FAILED FOR LACK OF A SECOND

MOTION: Council Member Lytle, seconded by Kleinberg, to exempt from "g" historic structures.

Council Member Lytle said she had concerns regarding item g because it applied throughout the SOFA 2 district that had a variety of uses in

the CD-S District, and she wanted to encourage flexibility. There were several historic buildings that should not be modified if they were to remain with their historic integrity.

AMENDMENT WITHDRAWN BY MAKER AND SECONDER

AMENDMENT: Council Member Burch moved, seconded by Lytle, to replace Item g relating to newly constructed and remodeled ground floor building facades, with the provision that the (P) Combining District shall apply throughout SOFA 2.

Council Member Kleinberg said new ground commercial space that was on street level should have design flexibility.

Vice Mayor Beecham made a suggestion to design building facades to be "street friendly".

Council Member Lytle said she wanted to encourage auto services in the area.

Ms. Grote suggested recommending the existing "P" combining district regulations be retained because they referred to physical improvements.

AMENDMENT PASSED 6-1, Kishimoto "no", Morton, Mossar "not participating."

MOTION PASSED AS AMENDED 7-0, Morton, Mossar "not participating"

MOTION: Council Member Ojakian moved, seconded by Kleinberg, to approve the staff recommendations for Items a, b, and c, under (1) Parking, as follows:

- a. All allowed commercial uses (except eating and drinking): 1 space per 250 square feet.
- b. Eating and Drinking: uniform rate (1 space per 250 square feet) for first 1,500 square feet. All area over 1,500 square feet as required by PAMC Sect. 18.83.
- c. Exemption for Housing Units added to Existing Buildings: When new housing unit(s) are added to an existing building on a parcel that is too small to provide additional parking, an exemption to the vehicle parking requirement for the new housing units may be granted with an approved TDM program

through a Conditional Use Permit (CUP). To address concerns raised by the P&TC, there would be an exception for up to two housing units with a combined unit size not exceeding 2,500 square feet. Until a Residential Parking Permit Program is in place, a parking exemption may be granted with a CUP, and no TDM program would be required. At such time as a Residential Parking Permit Program is in place, up to two housing units with a combined unit size not exceeding 2,500 square feet will be exempt from parking requirements.

Council Member Kishimoto supported all three suggestions including the exemption for additional housing. She suggested adding street parking to support retail and to direct staff to return with a plan to optimize customer street parking by adding parking diagonal on the streets.

Vice Mayor Beecham said what he had heard from Planning and Transportation Commissioner Patrick Burt was to make one lane on High Street instead of the current two lanes in one direction, which would allow diagonal parking on one side of the street.

Council Member Ojakian said he concurred with staff and the P&TC on items a, b, and c. He was concerned that item c exempted some of the housing from the parking requirement.

Council Member Kishimoto supported all three suggestions including the exemption for additional housing. She said to support retail, an increase was needed for customer street parking. There had been suggestions, for example, to add diagonals to some of the streets. As part of the package, she asked staff to come up with a plan to optimize customer street parking.

Mr. Emslie said Commissioner Burt had stated that High Street, which was currently two lanes going in one direction should be one lane going in one direction, which would allow diagonal parking on at least one side of the street. He asked staff to come up with some other ideas for additional street parking.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to direct staff to come back with a plan to optimize street parking (i.e. diagonal parking and parking permits).

Council Member Kishimoto spoke regarding a potential issue with automobile intensive parking in retail areas such as Starbucks Coffee.

She suggested placing a 1,500-square-foot restriction to prevent the problem from developing.

Vice Mayor Beecham agreed that it is worth exploration. He also suggested that hours of operation could be limited for uses and permits be required for uses that extended into the evening hours.

Council Member Kleinberg hoped the Council would not, in their efforts to make Downtown Palo Alto a safe, friendly residential area, impose such limitations that it would prevent people from walking around in the evening, and frequenting retail stores such as a Jamba Juice that would enhance the neighborhood. The Council should be careful to watch their restrictions in regard to hours and types of uses.

Council Member Lytle noted her support for the motion upon where Council added the housing incentives. The parking relaxation, especially for housing and then the incentive bonus housing density, conflicted with the steps taken to preserve maximum flexibility and encourage the continued use and retention of the historic business service district SOFA. In the Downtown, it was the parking restrictions that had preserved the historic buildings. The same thing happened thus far in SOFA.

Mr. Emslie said his understanding regarding exemptions for housing was when new housing units were added to an existing building on a partial too small. Staff said there would be more or less ten housing units.

Council Member Lytle said the problem with existing building meant one saved a post or two under the Building Code definition. Some exterior walls could be salvaged and rebuilt and lots consolidated with parking incentives with the FAR and density bonuses.

Council Member Freeman asked staff what in the parking options would prevent us from being in a situation that the Council had been in with both Starbucks Coffee's . Both were really difficult situations.

Mr. Emslie said that the parking exemption would only apply to a very small scale of housing developments up to two units, not exceeding 2,500 square feet. In order to take advantage of the parking exemption, the City would have to obtain a Conditional Use Permit (CUP), and the Use permit would need to include a Traffic Demand Management (TDM) program to show how parking and dependency on the automobile would be reduced.

Council Member Freeman said she was not talking about that one but instead talking more about items a or b.

Mr. Emslie clarified one space for 250 square feet was slightly less parking than was required by the most extensive retail Ordinance the City had. The most parking that would be required was one space for 200 square feet. Staff would recommend the 250 square feet because it was consistent with other parking requirements for other commercial uses such as office. It would also provide an incentive for someone to be able to go back and forth. It removed barriers for retail to be in place in the district and would help maintain the non-conforming status.

Council Member Freeman questioned there was already a one to 200 square feet ratio at the current two Starbucks Coffees, that could be relaxed to a one to 250-square-foot ratio and there would be a high customer turnover intensive retail situation in that area. She was concerned that would create a parking situation that had already been experienced and had not worked. She asked if there was anything that could be added to prevent that.

Mr. Emslie said there was a higher amount of foot traffic where other areas were more auto-dependent such as El Camino Real and Midtown where there was less pedestrian traffic. It was fairly conservative to only provide incentives that went from five per 1000 parking spaces per square foot to four.

AMENDMENT: Council Member Freeman moved that an addition be made to item b, stating when eating and drinking establishments with a high customer turnover changed, the rate for the remainder of the City be used (one space for 200 square feet.)

Council Member Kishimoto said the success of the restaurants had added to the parking impact on Downtown North, for example, Zibbibo. She thought it was a requirement for one parking space per 60 square feet of eating area.

Ms. Grote said under the existing parking requirements, it was one space for every 60 square feet of public area where the table and chairs and primary service areas were. It was one per 200 square feet for the kitchen, preparation, bathroom and storage areas.

Council Member Kishimoto asked whether a Starbucks Coffee would actually require that calculation.

Ms Grote said Starbucks Coffee would actually be calculated at a retail rate rather than a restaurant rate because it was a fast food entity.

Council Member Kishimoto said that the City would need to allow for a more potential parking impact during certain times of the day in exchange for retail vitality. A significant part of the traffic would be by foot and some from the neighborhood.

Vice Mayor Beecham said the intent was to make the City pedestrian-friendly. People used the tunnel and the City was putting in housing. The Council wanted the City to be density-populated by people who lived and walked in the area.

Council Member Kleinberg said she had talked with the Planning Commissioners who said they were not designing a Downtown area. They were designing a sub-Downtown area. Starbucks Coffee wanted to market themselves on a street such as University Avenue, they did not want to be hidden away four blocks off University Avenue. The Council wanted to design an environment for a pedestrian and residential neighborhood with daytime foot traffic. It was not necessary for there to be enough parking.

Council Member Lytle said she was concerned about the parking relaxation issue in terms of harming what the Council just tried to do in reserving the general business service district. For example, eating and drinking establishments were allowed to replace other businesses and other uses. Her idea was to restrict the district to a Homer/Emerson Corridor similar to the office restriction.

Vice Mayor Beecham asked staff what applied to the remainder of the district.

Ms. Grote said the CD-S parking would apply to the remainder of the district if it were limited on Emerson and Homer Avenues.

Vice Mayor Beecham asked what applied to the restaurant district and was it calculated on actual basis for the plans.

Ms. Grote stated for restaurants it would be one space for every 60 square feet of seating and reception area and one space for every 200 square feet of preparation and service area. It would revert to the 18.83 parking requirements, which were the standard parking requirements.

Vice Mayor Beecham asked Council Member Lytle if she was making an amendment for items a and b.

Council Member Lytle replied yes.

Vice Mayor Beecham asked Council Member Ojakian whether that was acceptable.

Council Member Ojakian said he would not accept the amendment. The real area for making an exception was eating and drinking, and an establishment that was 1,500 square feet or less, which was not very big.

MOTION DIED FOR LACK OF A SECOND

AMENDMENT: Council Member Lytle moved, seconded by Freeman, to apply items a and b only to the Homer Avenue/Emerson Street Corridor.

Council Member Lytle said her concern was not about parking but about fear of loss of the other businesses. As a compromise, could the one space for every 250-square-foot ratio be allowed throughout and the restaurant would then only apply in that Corridor.

Council Member Ojakian said one space per 60 square feet.

Council Member Lytle suggested keeping the current zoning, so the general business service nature of that area would be preserved.

Council Member Freeman said her biggest worry was a high turnover customer like a "Starbucks" type establishment would come into the 1,500-square-foot building. The Director of Planning and Community Environment had said a "Starbucks" type establishment was not considered "eating and drinking".

Council Member Ojakian suggested there be some kind of a mechanism for reporting back periodically so people could be comfortable with what was happening.

Council Member Burch summarized where the available parking was located. Whole Foods had the most parking. Most of the parking was in the street area. Parking garages were being put on Bryant and High Streets. No business would go in if there were not enough parking for their customers.

Vice Mayor Beecham said there was a substitute amendment on the floor.

Council Member Lytle said her amendment was to apply items a and b only to the Corridor. The issue was how the uses could be switched over. Currently, the area was restricted. If 250 square feet were allowed as a general use to apply throughout the district, then anything that met the 250-square-foot requirement could replace whatever use was there currently.

AMENDMENT PASSED 4-3, Burch, Kleinberg, Ojakian "no."

Vice Mayor Beecham stated the vote would include item c, which was not voted on previously.

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

MOTION: Council Member Ojakian moved, seconded by Burch, to approve the staff recommendations for Items a and b under (3) Bonus Floor Area Program, as follows:

- a. A Conditional Use Permit (CUP) would approve projects under the Bonus Floor Area Program. The PTC will review the CUP at a public hearing and recommend to the Director of Planning. If the Director does not agree with the PTC recommendation, the decision will be referred to the City Council.
- b. Through the Bonus Floor Area Program, the FAR may be increased in RT-35 from 1.15 to 1.5 and in RT-50 from 1.5 up to 2.0 by providing one or more of the following special provisions:
 1. Additional ___% BMR component (BMR guidelines to be established)
 2. Substantial public parking (quantitative guidelines to be established)
 3. Provision of child-care facility that is open to the public (quantitative guidelines to be established)
 4. Provision of space at below market rate for community and non-profit services (quantitative guidelines to be established)

Council Member Ojakian said there might be some discussion around the FAR bonus because there were differences between the Working

Group's approach to that and staff's recommendation that both items a and b were approved by the P&TC. The intent was the additional FARs that applied to housing would act as a stimulant to create some projects and provide some of the things that were valued.

SUBSTITUTE MOTION: Council Member Kishimoto moved, seconded by Freeman, to accept the staff recommendation in Item a but to amend item b for the base floor area, to limit the Floor Area Ratio (FAR) be increased in RT-35 from 1.15 baseline up to 1.3 with the bonus and in RT-50 from 1.3 baseline up to 1.5.

Council Member Kishimoto said the reason for the substitute motion was the program was relatively easy to use because it would encourage housing. A 1.5 FAR for RT-35 and a 2.0 FAR for RT-50 were too high just to allow an administrative approval even with the additional public benefit.

Council Member Freeman disagreed. She hoped to come to a compromise on that particular densification issue. She was concerned because the City offered high bonuses and might cross the line of what might be comfortable for the majority of Palo Altans. She understood the need for affordable housing not just attainable, and hoped not to cross the line of becoming so dense that character and quality of life would be lost.

Council Member Kleinberg understood changing the nature of an area. She encouraged more transit-oriented development that was pedestrian-friendly and would support retail uses that were being encouraged. She would like to hear from Council Member Kishimoto about what was so different between a 1.3 FAR and a 1.5 FAR in an RT-35 that made her so uncomfortable with a 1.5 FAR and a 2.0 FAR. It had been well vetted through the P&TC.

Council Member Kishimoto said there were some 1.5 FAR's coming up in SOFA. It was the difference between a project of 2.0 FAR and a 2.2 FAR or a 1.8 and a 2.0 FAR. It gave more design flexibility. It might allow a setback that could help the building next door. It also might allow the preservation of an historic resource because of parking constraints or space utilization. It gave a 10 percent and 20 percent flexibility.

Council Member Lytle said they were talking about rental housing and affordable housing, not about a lot of parcels. There had only been one housing project in that area in the last 25 to 30 years.

Council Member Kishimoto encouraged applying for the PC that was for both the 100 percent rentals and BMRs and bonus areas.

Council Member Lytle said the housing potential in SOFA was to be used where it would not be conflicted between historic businesses and the transit-oriented housing. The focus should be density incentives on the three parcels staff had stated had good potential and did not conflict on all the other buildings the property owners wanted to keep and restore. Property owners should be allowed to add a unit here and there to their project if they could and still retain national standards. The Council did not envision SOFA 2 as being high-density transit-oriented housing except on a few vacant properties like 800 High Street. The closer they got to Alma Street the better it was for higher density parcels, and the further away from Alma Street, the more concerned she was about high-density parcels.

Vice Mayor Beecham clarified that was how the RT-50 and RT-35 were laid out.

Council Member Burch noted in Appendix A there were five points listed and, in the chart, only four. Projects eligible for PC zoning were left off.

Mr. Emslie said staff dropped the fifth bullet thinking it was redundant, which made the idea unclear.

Vice Mayor Beecham said as the Council moved forward, they were working from the staff report (CMR:386:03) and not from the presentation. Anything that needed to change in the presentation needed to be reflected in the report.

Council Member Kishimoto said it was 1.15 FAR for RT-50 without a bonus plan.

Mr. Emslie said it was a base of 1.15 FAR for RT-35 and 1.5 FAR for RT-50.

Council Member Kishimoto said the base FAR without the bonus was 1.15 FAR in SOFA 2.

Mr. Emslie said it was a base of 1.15 FAR for RT-35 and 1.5 FAR for RT-35 and 1.5 FAR for RT-50.

Vice Mayor Beecham asked Council Member Kishimoto whether it would be appropriate as a recommendation for the RT-35 to go up by .15 FAR proportionately in RT-50 it might go up .2 FAR. It would keep the proportionality of the bonus about the same, a .2 FAR, and would read RT-50 from 1.5 FAR up to 1.7 FAR.

Council Member Kishimoto said she would change the base on RT-50 from 1.3 FAR to 1.5 FAR.

Vice Mayor Beecham said the maximum including the bonus would be 1.5 FAR.

Council Member Lytle asked what RT-35 was changed to.

Council Member Kishimoto said the base for RT-35 was 1.15 FAR and with the bonus 1.3 FAR, and the base for RT-50 was 1.3 FAR and would go up to 1.5 FAR.

Vice Mayor Beecham said using his rough calculations of square footage for units and number of units, at 50 units per acre in a 1.3 limitation, there was not much size allowed for the units. He suggested 1.5 FAR was a more reasonable number as a base.

Council Member Kleinberg said concrete numbers were needed. to the numbers needed to be run to see what was economically feasible, what was an incentive, and what would draw money and revitalization into the area and make big enough units that would sell or rent. A concrete explanation was needed to tie the numbers to something that worked.

Council Member Lytle said even the lowest of the base numbers considered, which was the Working Group recommendation of 1.15 FAR would provide economic incentive and was before the market shifted 180 degrees. There was great pressure to build housing in commercial areas throughout the Bay Area because there was no loan or any other kind of money for commercial office development, and there was only money for housing development. Most cities were experiencing conversion of use as Palo Alto was. With the slightest bit of incentive, they would see some pressure. She was concerned with exactly the opposite; hat even under the most conservative map boundary, enormous pressure was being put on seven properties that were designated as historic structures. Under the P&TC recommendation there were seven or eight parcels under RT-50 that the market would affect. The finding needed to be modified.

Mr. Quinn said a number of iterations were done. The final iteration, after some peer review, the larger parcel was at the 1.5 FAR. If the economic value of the existing building was already significant or high, the incentive was not to redevelopment because it was already making a lot of money for the existing landowner.

Council Member Freeman referred to the staff report (CMR:386:03) the Council had received on the Phase 2 "Answers to Questions" number A-2, second paragraph. She said the designs that used a 1.5:1FAR in the RT-35 district and a 2.1 FAR in a RT-50 yielded 120 dwelling units. When a 1.15 FAR was used throughout the area, it yielded 90 units. The numbers were approximate. She suggested small steps be taken so the area would not become overly dense and lose its character. She reminded the Council there were 100 units in SOFA 1, which would clearly help with the foot traffic and retail and Downtown areas.

SUBSTITUTE TO SUBSTITUTE MOTION: Vice Mayor Beecham moved, seconded by Kleinberg, that the motion be taken for the base floor area and not the entire bonus floor area, which will state the base Floor area ration for RT-35 to be 1.15 FAR and for RT-50 it would be 1.5 FAR.

Council Member Kleinberg said the RT-35 numbers were fine but not the RT-50. The Council was adopting a base density in RT-50 that BAE said would not work. She thought what was suggested was 1.5 FAR up to 1.7 FAR, which would be a good compromise.

Council Member Lytle said there were some unit estimates based on BAE's advise. It put the spread at 120 units if the highest assumptions were used. If a 1.15 FAR were used, it would be 90 units. The Council should have discussed splitting four units between those two ends. She asked whether 1.5 FAR would be a breaking point with an estimate for a 90-unit yield under 1.15 FAR throughout the area and with a 1.5 FAR to 2.1 FAR there be a 120-unit yield. She suggested a compromise between a 40-unit split.

Mr. Emslie said the economic analysis at the break-even point did not include any public benefits in addition to the economics quoted previously in the report. Secondly, the number staff provided in the responses were not based on any feasibility as it was a gross number and was a basic holding capacity of the area. The numbers were much higher than would actually be yielded given the economics of the district as it was currently functioning.

Vice Mayor Beecham asked whether the numbers were based on economics.

Mr. Emslie said the analysis that was done was a residual land analysis and added up the costs that it took to redevelop land, which ended up with a number that could be used to buy the land. If it were high enough, \$150 to \$200 per square foot, as being the incentive for someone to sell his or her land. BAE developed an analysis, which stated it would take a minimum of 1.5 FAR in order to achieve the residual land that would provide the motivation for someone to turn over his or her income producing property for redevelopment purposes. Not every property would have the same residual value in order for the owner to be motivated to sell the property.

Vice Mayor Beecham asked since the analysis of a 1.5 FAR to a 2.0 FAR, the yield went from 90 to 120 units; was that for the entire district or for the RT-50.

Mr. Emslie said it is for both RT-35 and RT-50.

Vice Mayor Beecham clarified it was a difference between 30 units between the two versions.

Council Member Lytle said those were the properties targeting for the turnover, and the ones staff used in the assumption generally less than full income producing properties. The Council did not want to lose full income producing properties if they wanted to achieve the goals of the SOFA Plan. They wanted to retain the business and the historic buildings and add the housing where it would not affect those objectives.

Council Member Freeman said it was clearly stated on page 1 of the staff report (CMR:386:03) under A-2, second paragraph, that the designs used a 1.5 FAR in the RT-35 district and a 2.0:1 FAR in the RT-50, which yielded 120 dwelling units. But, a 1.1 5:1 FAR, which was much lower than either of those, was used throughout the design and yielded 30 units less.

Counsel Member Kleinberg said since the difference was not significant, maybe all could agree to a 1.15 FAR and the upper limit would be 90 units. She asked if it was economically feasible and if there would be a profit potential.

Vice Mayor Beecham said if it was decided that a mistake was made then getting the housing would be delayed over the next couple of years. The market would tell if the right decision was made.

Council Member Ojakian said the area had been downzoned to a 1.1 FAR several years prior. It would need five votes to pass, otherwise they were back to a 1.1 FAR.

Council Member Burch said the P&TC recommended the Council try their proposal.

SUBSTITUTE MOTION WITHDRAWN BY MAKER AND SECONDER

SUBSTITUTE MOTION RESTATED: Council Member Kishimoto moved, seconded by Freeman, to accept the staff recommendation in Item a but to amend Item b for the base floor area, to limit the Floor Area Ratio (FAR) be increased in RT-35 from 1.15 baseline up to 1.3 with the bonus and in RT-50 from 1.3 baseline up to 1.5 with the bonus by providing one or more of the provisions.

SUBSTITUTE MOTION PASSED 6-1, Burch "no."

Counsel Member Lytle suggested a CUP finding for historic buildings, and that they meet the national standards for historic preservation as one of the findings for achieving a bonus.

AMENDMENT: Council Member Lytle moved, seconded by Kleinberg, to include in the Conditional Use Permit (CUP) findings that any historic structures meet the Secretary of State Standards for Rehabilitation, to take advantage of the bonus floor area program.

Vice Mayor Beecham asked whether an historic building be rebuilt as an historic building and reused or was it likely to be torn down.

Mr. Emslie said there were a number of historic buildings that were over 1.1 FAR, and it was likely that if it was remodeled and expanded slightly, they could fall within the FAR. The idea of being able to maintain the basic form of the building with the opportunity to add the appropriate number of apartments upstairs was compatible for the property owners.

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

SUBSTITUTE MOTION PASSED AS AMENDED 7-0, Morton, Mossar
"not participating"

MOTION: Council Member Ojakian moved, seconded by Burch, to approve the staff recommendations as stated in the staff report CMR:386:03 under No. 4. Planned Community Zone, Items a through e, only for fully affordable housing projects, as follows:

- a. The Planning Community Zone could be used in SOFA 2 only for fully affordable housing projects, exclusively rental housing projects or social service uses, subject to the following provisions and exceptions:
 - "Affordable" housing is defined as in the City's Housing Element and includes income levels up to 100% of median income.
 - PC housing project may include a small retail or social service component.
 - Social service uses that are eligible for a PC zone are intended to be projects that could not be achieved under other zoning, and would not include, for example, an office building that happens to be occupied by social service functions.
 - A market rate rental housing project would be eligible for a PC zone only if it qualifies as a mixed income tax exempt bond financing rental project, or if the average unit size does not exceed 1,250 square feet. Development standards for Planned Community Zones in SOFA 2 would be as follows:
- b. In RT-35, the FAR limit would be 1.5.
- c. In the RT-50 zone the FAR will be established by the PC project (no FAR limit).
- d. Height and Daylight Plane requirements of the zone apply, unless a minor exception is granted through a Design Enhancement Exception (DEE).
- e. There is no individual residential unit size limit, except for market rate rental housing, as provided in 4.a.

Council Member Ojakian said the purpose behind that PC zone was it could only be used for fully affordable housing projects.

Council Member Kleinberg asked what was considered fully affordable housing.

Mr. Emslie said that 100 percent affordable was defined as from 0 income level up to 120 percent, counting median.

Council Member Kleinberg said it was not about base affordable housing but just the definition of the Comprehensive Plan. the City would not be providing housing for the lowest of income workers Downtown. She asked what was meant by small retail.

Mr. Emslie said that small retail was defined in the range of 1,500 to 2,000 square feet.

Council Member Kleinberg asked about the social service uses. She noted the recommendation limited PC zones to projects that could not be achieved under other zoning and would not include an office building that happened to be occupied by a social service functions.

Ms. Grote said the P&TC made the recommendation based on their desire not to have office buildings constructed that could easily convert from a social service type of office to a different type of office.

Council Member Kleinberg said she was concerned about the limitation and the underlying policy around that recommendation. She asked what social services uses could be achieved under some other zoning.

AMENDMENT: Council Member Kishimoto moved, seconded by Freeman, for 100 percent Below Market Rate (BMR), to accept the staff recommendation, but to separate out 100 percent rental and social services and put a Floor Area Ratio (FAR) cap of 2.0 for RT-50, where the staff proposal had contained no FAR cap. Also, that the FAR bonus above the base zoning is proportionate to public benefit (i.e. that if a 4.0 FAR is used, or some major increase over the base FAR, it would include low and very low income housing and not moderate.)

Council Member Kishimoto said the reason to break out the 100 percent rental and social services, for example, the BMR for Alma Place was between a 2.5 FAR and 3.9 FAR depending on whether parking was included. She wanted maximum flexibility for 100 percent BMR. For 100 percent rental there could be a high-end apartment with a 1,250-square-foot median space cap. She suggested a 2.0 FAR as the 100 percent rental CAP.

Council Member Freeman assumed it would be included under items b and c. Item b would stay the same and c would revert to in the RT-50 zone 2.0 FAR. She asked whether a value was needed for small retail.

She suggested changing it to PC housing projects that might include a small retail or non-profit social component of 1,500 square feet or greater.

Council Member Kishimoto asked whether it must have a retail or social service component.

Council Member Freeman said it was not a cap. The 1,250 square feet average unit size was derived from the chart in the answers from staff. She suggested another amendment that would make it 100 percent rather than 120 percent.

Council Member Kishimoto said she did not know the right answer. Council Member Kleinberg had suggested a number around 1,500 square feet or what staff would recommend.

Council Member Freeman asked whether that needed to be known before the Council voted.

Council Member Kleinberg said that was no size limit on the units that were in the 100 percent affordable projects.

Council Member Kishimoto clarified that was on the small retail and social service components.

Vice Mayor Beecham said Council Member Kishimoto could ask staff to return with a definition. Staff should confirm the 1,500 square feet was realistic or make another recommendation.

Council Member Freeman asked whether the Council would vote on whatever staff recommended as small.

Council Member Kishimoto said Council would be voting on the Ordinance.

Council Member Kleinberg asked whether PC zones that were 100 percent rental or social service, included mixed uses. She said there might be a social service component to a senior citizen housing unit that was 100 percent including some compatible internal serving uses.

Council Member Kishimoto said a mixed-use building could include a 100 percent rental with some social services.

Council Member Lytle asked whether it would be alright if there was an office for the building or an office that provided services to residences of the building.

Ms. Furth asked whether they would separate out the 100 percent affordable category that was being treated as a separate conceptual category with an unlimited FAR.

Council Member Lytle said also if that was included, it would not be 100 percent but 98 percent.

Ms. Furth said 100 percent of the residential units in the project could be affordable, and there could be incidental uses that would not be considered as separate uses under the zoning. Council Member Kishimoto said the 100 percent rental could have the same incidental small retail or social service.

Council Member Lytle said it would have to meet the same criteria as some use of the occupancy whether it was the social service occupancy or housing occupancy.

Ms. Furth asked whether the FAR limit in the RT-35 would apply to all uses or not to 100 percent affordable residential.

Council Member Kishimoto said that was to keep it for 1.5 for all the uses.

Ms. Furth asked whether the FAR amount for the unlimited residential was RT-50 only. The heightened daylight plane requirements would apply for both.

Council Member Freeman said item b would stay the same and item c would change from no FAR to 2.0 FAR.

Council Member Kishimoto said the exception was 100 percent BMR. The proposal would be 100 percent BMR so the Council could set the FAR limit.

Council Member Lytle said there had been discussion in the Housing Element where a motion to re-enforce that the 50-foot height limit was not supported. A variance could be granted to the heightened daylight plane. She wanted to see an FAR limit and a 2.0 FAR was a reasonable limit. It should be transitioning down as it moved away from the Central business district.

Council Member Kleinberg asked about an incremental decreasing housing cap on Alma Street regarding the noise and the transit.

Mr. Emslie said one reason was to mask the density as close to the transit as possible so it was convenient and could be used by future residents. Larger buildings provided sound attenuation for the neighborhoods that were East of Alma Street. Alma Place was a similar comparison.

Council Member Kleinberg asked whether the RT-50 could be cut in half along Alma Street.

Mr. Emslie said the P&TC addressed that through the FAR and the daylight plane. The requirements for transition and separation between zoning districts RT-50 and RT-35 related to the height and daylight plane.

Council Member Kleinberg asked whether the Sofa 2 area could have a 4.0 FAR limit and the remainder a 2.0 FAR.

Mr. Emslie said how the building related to the street was important in addition to the height and the setback.

Council Member Kleinberg said a variety of housing was needed . It was best to allow the bonus in a PC for affordable housing and not build BMR housing.

Mr. Emslie said the concept was to transition from Alma Street, and that would be done through both the FAR and requirement for daylight plane and height variation.

Council Member Kleinberg suggested not going to a 4.0 FAR, which was closer to the Central business district. She asked staff to make some suggestions to lessen the rest of Alma Street instead of a 4.0 FAR.

Council Member Kishimoto said the direction was a RT-50 PC. It did not limit the RT area.

Council Member Burch said the Council needed to do what the public deserved

SUBSTITUTE MOTION: Vice Mayor Beecham moved, seconded by Ojakian, to direct staff to come back with suggested height limitations for the Planned Community (PC) area that would reflect greater densities along Alma Street, backing down towards the eastern end of the area.

NO ACTION TAKEN.

MOTION: Council Member Ojakian moved, seconded by Kleinberg, to continue Item No. 11C (Old Item No. 1) to Wednesday, July 30, 2003, at 6 p.m.

MOTION PASSED 6-1, Freeman "no", Morton, Mossar "not participating."

MOTION TO RECONSIDER: Council Member Ojakian moved, seconded by Freeman, that the item be continued to Saturday, August 2, 2003, at 9 a.m.

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

ADJOURNMENT: The meeting was adjourned at 12:37 a.m. in memory of Jacob Steinberg, a Palo Alto High School graduate and beloved member of the community.

ATTEST:

APPROVED:

City Clerk

Mayor

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