TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: PLANNING AND COMMUNITY ENVIRONMENT

DATE: FEBRUARY 7, 2005 CMR: 108:05

SUBJECT: REVISIONS TO THE TRANSFER OF DEVELOPMENT RIGHTS ORDINANCE FOR CITY-OWNED PROPERTIES, AND REVISIONS TO THE DOWNTOWN CD ZONE ORDINANCE TO INCREASE RESIDENTIAL DENSITY LIMITS.

RECOMMENDATION
Staff and the Planning and Transportation Commission (PTC) recommend that the City Council:

• Approve the proposed revisions to the Zoning Code, Chapters 18.87, 18.49 and 18.32, to allow eligible City-owned historic properties (Category 1 or Category 2), including historic properties that are also seismic risk properties (Seismic Category I, II, or III), located in any zone district to be “sender sites” under the TDR ordinance, transferring historic or seismic rehabilitation floor area bonuses from these sites to eligible “receiver” sites located in the Downtown CD Zone District;

• Modify the procedures and requirements for granting floor area bonuses;

• Modify the residential density and site development requirements for residential mixed-use projects located in the CD-C zone district to facilitate use of TDR for residential use; and

• Determine whether staff should further explore possible changes to Chapter 18.87.055, increasing the maximum allowed parking exemption for bonus floor area, under certain conditions, from 5000 square feet to 10,000 square feet, as well as changes to Chapter 18.87.040 that reduce the required distance between certain TDR “receiver” sites and residentially zoned property.

BACKGROUND
Several revisions to the zoning code are being proposed that would result in changes to the City’s Transfer of Development Rights program, and to mixed use development standards and density in the Downtown:

1. For eligible City-owned Category I and II historic buildings undergoing a qualified historic rehabilitation:
   • Allow sale (transfer) of historic and seismic bonus floor area to eligible receiver sites in the Downtown;
   • Establish a public process for the City to advertise and sell TDRs;
• Restrict funds received from sale of TDR to approved rehabilitation projects;
• Revise timing requirement to allow sale of TDR after approval of the historic/seismic rehabilitation plan but prior to construction;

2. For all historic rehabilitation projects applying for floor area bonus, change the review process to:
   • Require a Historic Structure Report;
   • Allow the Director of Planning and Community Environment, considering the recommendation of the HRB, to determine that the rehabilitation plan complies with the Secretary’s Standards;
   • Require historic rehabilitation plans to show any material proposed to be removed or replaced;
   • Require the owner of the historic property to enter into a Protective Covenant with the City.

3. To encourage use of TDR for housing in the Downtown, allow mixed use site development and density standards from the SOFA 2 Coordinated Area Plan to be used in the CD Downtown District, until such time as new Downtown mixed use regulations are adopted in the Zoning Ordinance Update or until February 1, 2007, whichever occurs first.

In addition to these proposed zoning code changes, two other possible code changes that have been suggested by some property owners and developers are presented for Council discussion and direction to staff. These two possible changes are:
   • Increase the maximum allowed bonus floor area parking exemption from 5000 square feet to 10,000 square feet;
   • Decrease the required distance between Downtown “receiver” sites and residentially zoned property located across a public street.

BOARD/COMMISSION REVIEW AND RECOMMENDATIONS
Planning and Transportation Commission: On December 8, 2004, the Planning Transportation Commission voted 6-0-1-0, Commissioner Holman absent due to a conflict of interest, to accept staff’s recommendation to approve the proposed zoning code changes. The PTC also recommended that City Council direct staff to further explore two other zoning code changes suggested by Downtown property owners and developers, provided additional staff resources are identified. These changes would increase the maximum bonus floor area parking exemption from 5000 square feet to 10,000 square feet; and allow otherwise eligible “receiver” sites to be located across a public street from residential property.

Commissioners thought that further consideration of increasing the maximum parking exemption to 10,000 square feet would require an economic analysis to determine how much incentive in the form of parking exemption is needed to market the floor area bonus. There was concern about impacts on the parking assessment district, and a desire to avoid a change that would benefit a few property owners at the expense of the district. With regard to allowing location of “receiver” sites across the street from residential property, Commissioners suggested two considerations might be whether the new development on the “receiver” site had a residential component, and whether the new development had a lower FAR than the residential property. It
should be noted that the current CD zoning regulations stipulate that projects located within 150 feet of any residential zone are subject to the height limit of the most restrictive residential zone within that radius.

Beth Bunnenberg, 2351 Ramona Street, representing the Historic Resources Board, supported all of the proposed zoning code changes to the TDR program. Speaking as an individual, she recommended requiring a protection plan when City buildings are undergoing historic rehabilitation, since it is much cheaper to protect historic materials than to replace or repair after they have been lost or damaged. Jim Baer, 172 University Avenue, spoke in support of all the proposed zoning code changes. He explained that the main benefit of allowing the more flexible SOFA 2 mixed use standards to be used in Downtown is increased density, since existing zoning will allow only one or two dwelling units on the average size lot. He also supported further study of increasing the maximum bonus floor area parking exemption from 5000 square feet to 10,000 square feet, and of relaxing the distance requirement between a “receiver” site and residential property located across a street. Tony Carrasco, 583 Glenbrook, supported the proposed zoning code changes, except he did not support including the average unit size limit in the SOFA 2 mixed use standards, stating that more larger units are needed to attract retirees interested in relocating to the Downtown. He also stated that increasing the maximum allowed parking exemption to 10,000 square feet needs to be explored to increase the demand for TDR, because there is no market for TDR that is not exempt from parking.

Architectural Review Board: The PTC asked staff to consult with the ARB regarding the proposed change to the review process for historic rehabilitation bonus floor area projects in PAMC 18.49.060(c)(2)(B). With this change, most historic rehabilitation projects would be reviewed by the HRB for recommendation to the Director of Planning and Community Environment, rather than by both the ARB and the HRB as currently required. This is consistent with the ARB review process in PAMC 18.76.020 and 18.77.070, which provides for minor projects to be decided by the Director without review by the Architectural Review Board. Nearly all historic rehabilitation projects meet the definition of a minor project. Major projects would continue to be review by both the Architectural Review Board and the Historic Resources Board. This proposed change was presented to the ARB at its January 13, 2005 meeting, and all comments made by ARB members supported the proposed change.

RESOURCE IMPACT
If the City Council wants staff to further explore the two additional issues described above that have been suggested by developers, this could be most efficiently addressed in the Zoning Ordinance (ZOU) update process which is reevaluating the Downtown CD Zone District. In developing new mixed use standards for the commercial districts including CD, the ZOU is reviewing height restrictions within 150 feet of residential property, and the question of locating receiver sites across the street from residential properties could be incorporated with minimal impact on the ZOU process. However, staff has determined that studying the potential impacts of increasing the maximum parking exemption in the Downtown from 5000 square feet to 10,000 square feet would require additional staff time as well as financial resources to hire consultants to analyze urban design site constraints/opportunities, and assess economic and parking impacts on the Downtown Parking Assessment District. This analysis is not within the existing scope of the ZOU consultants, and staff estimates that approximately $40,000 in
additional funds would have to be approved to complete it. Staff anticipates that the PTC review of the ZOU mixed use development standards, including CD, will occur in March 2005. Additional study of possibly increasing the parking exemption would delay the schedule. Therefore, if the Council wants this issue studied staff recommends that it should be done after the Zoning Ordinance Update.

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ATTACHMENTS
A. Ordinance: Revisions to PAMC Chapter 18.32, Public Facilities Zone District; Chapter 18.87, Transfer of Development Rights Ordinance, and Chapter 18.49, CD Downtown Zone District.
B. Planning Commission Staff Report, December 8, 2004
C. List of City-owned historic buildings
D. Historic Structures Report Format
E. Minutes, ARB meeting, January 13, 20004
   Minutes, PTC meeting, December 8, 20004
   Minutes, HRB meeting, August 18, 20004
F. Background Documents:
   Memorandum from the City Attorney, Preservation Incentives for City-owned Historic Structures, December 4, 2003;
   City Managers Report, CMR:555:03, December 9, 2003
   Minutes of the Policy and Services Committee Meeting, December 9, 2003
   City Managers Report, CMR:289:04, June 7, 2004
   City Council Minutes, June 7, 2004

COURTESY COPIES
Chamber of Commerce, Audrey S. Jacob, Director of Government Relations
Sandy Sloan
Jim Baer
Tony Carrasco
Palo Alto History Museum, c/o Karen Holman
Carol Jensen
Environmental Volunteers, c/o Allen Berkowitz
Kathy Miller
Paula Simpson, Library Director