TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: PLANNING AND COMMUNITY ENVIRONMENT

DATE: MARCH 24, 2008 CMR: 179:08

SUBJECT: APPROVAL OF 1) A TENTATIVE MAP AND A RECORD OF LAND USE ACTION TO SUBDIVIDE THE ELKS LODGE SITE (4249 AND 4251 EL CAMINO REAL) INTO TWO LOTS; AND 2) A VESTING TENTATIVE MAP AND A RECORD OF LAND USE ACTION FOR 4249 EL CAMINO REAL TO SUBDIVIDE THE RESIDENTIAL LOT INTO A 45 UNIT COMMON INTEREST DEVELOPMENT

RECOMMENDATION
Staff recommends that City Council approve:

(A) The Tentative Map which proposes to subdivide the Elks Lodge site, located at 4249 and 4251 El Camino Real, into two lots, based upon the findings and conditions contained within the draft Record of Land Use Action (Attachment A-1); and

(B) The proposed Vesting Tentative Map to subdivide the 3.97-acre portion of the Elks Lodge site, located at 4249 El Camino Real, into 45 multi-family condominium residential units, private streets and a 0.48 public park, based upon the findings and conditions contained within the draft Record of Land Use Action (Attachment A-2).

The Planning and Transportation Commission (PTC) made no recommendation on the proposed Vesting Tentative Map and Record of Land Use Action for 4249 El Camino Real. Two motions taken at the March 24, 2008 hearing, one to approve with conditions and one to deny, ended in tied votes.

BACKGROUND
The proposed Palo Alto Elks/SummerHill project is the second phase of a redevelopment plan for the approximately 8 acre site owned by the Benevolent and Protective Order of Elks (BPOE). The entire Elks Lodge site is proposed to be redeveloped in three phases:

Phase 1
Juniper Homes is developing five parcels fronting Wilkie Way with five single-family detached homes. The development was approved by the City on July 30, 2007. Three of the
five homes have received ARB approval and the remaining two homes have received staff-level ARB approval, with input from the ARB.

Phase 2
The middle 3.9-acre parcel would front Deodar Street and would be located between the Juniper Homes development and the future Elks Lodge. SummerHill is in the process of acquiring this site to develop 45 multi-family units and a 0.48-acre park. The project was reviewed by the ARB in four public hearings, one of which was a preliminary review, and was approved on October 30, 2007. The Tentative Map to subdivide one lot into two was considered by the PTC on November 22, 2007. The Vesting Tentative Map for the residential project was considered by the PTC on March 12, 2008.

Phase 3
The approximately three-acre site fronting El Camino Real retained by BPOE would be developed for a new Elks Lodge. The preliminary architectural review of conceptual plans by the Architectural Review Board in a public hearing on August 2, 2007 provided a forum for comments on a two-story, 40-foot tall building over a one-level underground parking garage. The new Elks Lodge development plans have not yet been finalized or submitted for formal ARB review and action.

DISCUSSION
The Tentative Maps proposed by SummerHill Homes (SummerHill) on behalf of the property owner, BPOE, involve two components:

1) Tentative Map for a two-lot subdivision of the approximately 7-acre Elks Lodge site to enable the construction of a new Elks Lodge on a 2.82 acre parcel (Lot 1) to be retained by BPOE; and a second, 3.97 acre parcel (Lot 2) to be purchased by SummerHill for its proposed multi-family development. Approximately 0.34 acres of the Elks Lodge site, currently public access via an easement for a portion of Deodar Street, would be permanently dedicated.

2) Vesting Tentative Map to subdivide the resulting 3.97-acre residential portion into 45 multi-family condominium units, private streets and dedicated public park.

The remainder of the 7-acre site will be developed with a new Elks Lodge by the property owner, and will be subject to a subsequent Architectural Review Board (ARB) design review process. Council requested both map applications be presented at a single hearing to facilitate its evaluation.

The project site is in the RM-15 and RM-30 zones, with a Multiple Family Residential Comprehensive Land Use Designation, which allow the proposed uses. The residential project includes five pairs of attached units and 35 detached townhome-style units that range from two to three-story buildings. An approximately 0.34-acre of the Elks Lodge portion of the site is being dedicated to the City as a public right of way to establish Deodar Street, which will be constructed with pedestrian walkways on both sides. The residential development and Vesting Tentative Map include a 0.48-acre dedicated public park, located at the eastern edge of the site, designed to serve residents of this project and neighboring developments, but open to the public at large. The park exceeds the 0.23-acre size required by the Parkland Dedication Ordinance.
The park will be dedicated as parkland with a public access easement over it, retained in ownership and maintained by the project homeowners association.

The two-lot Tentative Map was continued from the January 22, 2008 City Council hearing to allow staff and the applicant to respond to Council’s request for the provision of pedestrian and bicycle access to Wilkie Way. The Council had also expressed concerns about the use of private streets to provide access across the site and a preference to review the subject two-lot subdivision at the same time as the residential condominium subdivision in order to analyze the project as a whole. The Vesting Tentative Map to subdivide 45-unit condominium residential units was heard on March 12, 2008 by the PTC to enable both Tentative Maps to be heard at the March 24, 2008 City Council hearing.

Pedestrian Access
There has been considerable discussion by the City Council, ARB, and PTC, as well as input at public hearings, regarding pedestrian and bicycle access to Wilkie Way and El Camino Real from and to the proposed SummerHill development. The proposed five-lot development by Juniper Homes is situated along Wilkie Way, adjacent to the subject site. The applicant for the Juniper Homes development was receptive to providing a pedestrian and bicycle access along the existing emergency vehicle access route enabling access to Wilkie Way. However, residents of the Charleston Meadows neighborhood were opposed to such access. The Juniper Homes Final Map approval was granted by the City Council without this type of easement. This decision eliminated the direct option for connectivity from Wilkie Way to the proposed park and residences of the SummerHill development. The ARB was also concerned about the lack of bike and pedestrian connectivity between the existing and new neighborhoods and agreed that it was an important aspect of community design. It made a unanimous resolution in favor of connectivity. Several members of the public spoke both in favor of and against providing a connection to Wilkie Way. The PTC had also expressed concern regarding the lack of connection to Wilkie Way during the November 28, 2007 hearing on the two-lot tentative map.

SummerHill has proposed bicycle and pedestrian access easements from Deodar Street to the public park. The park would also have direct access to the public Deodar Street. Should a future easement opportunity arise on the adjacent Dinah’s property, the project also includes a four-foot wide public access easement along Street A to facilitate pedestrian and bicycle connectivity from Deodar Street to an adjacent new access point at Dinah’s property.

Applicant’s Alternatives
In response to City Council’s requests, the applicant has provided an alternative point of connection. If the City acquires access rights on the adjacent Dinah’s property on or before March 24, 2009, the applicant is offering to incorporate into this tentative map a new access point, with a 4-foot wide sidewalk, at the southeastern perimeter of the site to lead to the public park from the adjacent property. This would allow a shorter pedestrian/bicycle route from Wilkie Way to the park. Should this alternative connection path be provided, the applicant would withdraw the offer to provide access along Street A as discussed above. However, the applicant has also indicated that SummerHill would be open to maintaining both access points.
In response to concerns regarding private streets, the applicant will dedicate public access easements over all of the private streets, including the sidewalks. The applicant’s detailed proposal is provided as Attachment F.

**BOARD/COMMISSION REVIEW AND RECOMMENDATIONS**

The Commission recommended at the public hearing held on November 28, 2007, that the City Council approve the two-lot Tentative Map to subdivide the Elks Lodge into two lots, as submitted, based on the findings and conditions contained within the draft Record of Land Use Action (Attachment A-1).

On March 24, 2008, three members of the PTC voted to recommend that the City Council approve and three members voted to recommend that City Council not approve the Vesting Tentative Map to subdivide the 3.97-acre portion of the Elks Lodge site into 45 multi-family condominium residential units, private streets and 0.48-acre public park (Commission Tuma was absent). Because there was no majority vote either for or against the recommendation, the Commission took no action on the proposed condominium Vesting Tentative Map. The Commissioners who voted against the Vesting Tentative Map were concerned that the lack of public streets conflicts with policies L-17, T-23, T-25 and C-30 of the Comprehensive Plan. Specifically, they were concerned with the project’s narrow private streets, lack of traditional on-street parking, and potential impact on Wilkie Way. The Commissioners who voted to recommend approval of the Vesting Tentative Map also made additional recommendations, including: 1) retaining the original proposed four-foot wide public access easement along Street A instead of the new applicant-proposed alternative point of connection near the park, 2) accepting the public access easements to be dedicated on all the internal private streets and sidewalks, and 3) requiring that the City pay for park maintenance instead of the project’s future Homeowner’s Association.

**The staff has the following comments in response to the concerns raised:**

The project as proposed meets planning objectives for the City of Palo Alto. The proposed development is consistent with the Comprehensive Plan, the Zoning Ordinance and the development direction of the larger general area. The applicant proposal of 11.4 units per acre is at the lower end of the allowed density range for the site’s Multi-Family Comprehensive Plan Land Use and the Zoning District (RM-15 and RM-30) designations. The Housing Element targets an estimated 97 dwelling units for the entire Elks Lodge site. The project would add to the City’s diversity of housing types, create a safe and attractive neighborhood, respect the adjacent uses, and preserve the site’s natural features, including a minimum of 30 mature trees. The design of the project was thoroughly reviewed by City staff and the ARB over the course of the past year and through four ARB public hearings. The proposal meets all safety and design requirements per applicable codes and City staff, including the number of guest and resident parking spaces, open space and street width/configuration. The inclusion of private streets in the project is consistent with previous developments, including those within the project’s vicinity. The fact that the applicant has also proposed public easements over the private streets and sidewalks means that the public will be guaranteed access in perpetuity. The Tentative Maps reflect the development plan set that was approved by the ARB and the Planning Director in October 2007. The full detailed ARB approved plans are available for review at the Planning and Transportation Division office.
The City Attorney has advised that the current Comprehensive Plan and Zoning Ordinance do not preclude the creation of private streets where the streets serve only the new development. The findings by the minority of the Planning and Transportation Commission recommending denial of the map due to lack of public streets are likely insufficient to withstand legal challenge should the Council deny the map on that basis.

Nearly all of the large multi-family developments approved within the past several years have included private streets. A change in policy to prohibit private streets would require an amendment to the Comprehensive Plan and the Zoning Ordinance. However, a vesting tentative map confers a vested right to proceed with a development in substantial compliance with the ordinances, policies, and standards in effect at the time the application for approval of the map is complete. Because this is a vesting tentative map, subsequent changes to the Comprehensive Plan or Zoning Ordinance could not be made to apply to this project.

**RESOURCE IMPACTS**

There will be a resource impact when the Elks site is developed. SummerHill’s proposed 45 unit condominium project and the new, two-story Elks building will result in additional revenues and long-term cost impacts as this and other developments continue.

At this stage of the proposal, however, it is difficult to provide reasonable, estimated incremental revenues. The transaction value for the 3.97 acre acquisition by SummerHill, for example, is not available. Therefore, an estimate for documentary transfer taxes cannot be determined. Should this project move forward, the City would realize new revenues as follows:

- One-time documentary transfer taxes from the sale of land to SummerHill and from the sale of the condominium units
- Ongoing, incremental property taxes based on changing land values and the sale price of the condominium units
- Ongoing Utility Users Tax from telephone usage and consumption of water, gas and electric services
- Ongoing sales tax from the consumption of tangible goods within City boundaries
- One-time development impact fees including facilities and traffic fees

Direct costs associated with review of this development will be recouped through permit fees. City service costs associated with this development and those developments implemented since adoption of the last Comprehensive Plan will be addressed cumulatively in the forthcoming update to that Plan.

**POLICY IMPLICATIONS**

The proposed map is consistent with the Comprehensive Plan in that the site is designated for multi-family residential use and the continued use and renovation of the Lodge was expressly permitted by prior action of the Council. The proposal to have the City maintain the proposed public park, instead of the Homeowner’s Association, and to convert all private streets into public streets have policy and resource impact implications. This would require changes to existing policy and would potentially affect future projects.
ENVIRONMENTAL REVIEW
The Initial Study and Draft Mitigated Negative Declaration discussed the potential impacts of the two lot subdivision, the SummerHill Homes residential condominium development and the new Elks Lodge development. The documents were made available for a 20-day public review period between August 31, 2007 and September 19, 2007. No written public comments were received during this review period. Two of the ARB public hearings allowed for additional public comments after the review period. The Environmental Assessment found that the impacts produced by the project, including the development of the multi-family homes and the new Elks Lodge, would have less than significant impacts on the environment with the incorporation of mitigation measures. These impacts are described in the assessment contained in Attachment E. Since State law requires the adoption of an Initial Study and Mitigated Negative Declaration prior to taking action on a discretionary project, these environmental documents were adopted on October 25, 2007 by the Director of Planning and Community Environment, prior to the approval of the ARB application for the proposed SummerHill Homes project.

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ATTACHMENTS
A.1 Draft Record of Land Use Action for the Two-Lot Tentative Map
A.2. Draft Record of Land Use Action for the Vesting Tentative Map for the 45-unit residential condominiums
B. CMR 100:08, dated January 22, 2008 (without attachments)
C.1. Planning & Transportation Commission Staff Report, November 28, 2007 (without attachments)
C.2. Planning & Transportation Commission Staff Report, March 12, 2008 (without attachments)
D.1. Excerpt of the Planning & Transportation Commission Minutes, November 28, 2007
D.2. Draft Excerpt of the Planning & Transportation Commission Minutes, March 12, 2008
E. Initial Study and Mitigated Negative Declaration, adopted October 25, 2007
F. Correspondence from the applicant, including the applicant’s Alternatives Connections packet dated February 27, 2008
G. Applicant’s Project Description
H. ARB approved street perspectives and landscape site plan (Councilmembers only)
I.1 Two-Lot Tentative Map (Councilmembers only)
I.2 Vesting Tentative Map (Councilmembers only)

COURTESY COPIES
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