

ORDINANCE NO. 4779

ORDINANCE OF THE COUNCIL OF THE CITY OF PALO ALTO
AMENDING SECTION 18.08.040 OF THE PALO ALTO
MUNICIPAL CODE (THE ZONING MAP) TO CHANGE THE
CLASSIFICATION OF PROPERTY KNOWN AS 800 HIGH
STREET FROM CD-S(P) TO PC PLANNED COMMUNITY AND
APPROVING A VARIANCE FROM A HEIGHT REQUIREMENT

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Application and Hearings.

(a) Application has been made to the City for approval of the demolition of an existing ±17,600 square foot manufacturing building at 140 Homer Avenue, and the construction on an approximately 1 acre site bounded by Homer Avenue, High Street, Channing Avenue and Lane 8 of a ±96,200 square foot mixed-use building including 61 for-sale dwelling units, ±1,900 square feet of retail space, and a subterranean parking garage (the "Project").

(b) The Architectural Review Board at its meeting of December 5, 2002 considered the Project, which then included 61 dwelling units, and recommended its approval, subject to certain conditions.

(c) The Planning Commission, after duly noticed public hearings held December 18, 2002 and January 15, 2003, recommended that Section 18.08.040 (the Zoning Map) of the Palo Alto Municipal Code be amended as hereinafter set forth to permit construction of the Project.

(d) The Council, after due consideration of the recommendations, finds that the proposed amendment is in the public interest and will promote the public health, safety and welfare, as hereinafter set forth.

SECTION 2. Variance.

The Project requires a variance from the height and daylight plane requirements of Section 18.68.150 of the Palo Alto Municipal Code, which reduces height limits from 50 feet to 35 feet within a 150-foot radius of a planned community district which includes residential uses.

(a) The Planning Commission, after duly noticed public hearings held December 18, 2002 and January 15, 2003, recommended that the variance be granted, on condition that certain alterations be made in the proposed massing of the structure along the Channing Avenue edge to provide a better transition to other development, even though this might result in the loss of one or two dwelling units.

(b) The Council finds, with respect to the subject property, that:

(i) There are exceptional or extraordinary circumstances or conditions applicable to the property involved that in this case, the 35 foot height restriction, designed to protect existing residential development from the impact of taller buildings in the vicinity, is triggered by a building which is itself 50 feet tall.

(ii) The granting of the application to construct a portion of the building above the 35 foot height at the southwest corner of the building is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship in that it would permit the higher housing density that is supported by the City's Comprehensive Plan, it permits the construction of up to five of the dwelling units in a project within 2,000 feet of the Palo Alto Intermodal Transit Station that otherwise would be omitted, it will enhance the design of the building, it is needed to preserve the quality of the living spaces within the building, it would preserve stairway access to the upper floors, and it would permit heights in keeping with an area that provides a transition from two and three story buildings on Alma Street and Homer Avenue to the single family residences further south along High Street.

(iii) The granting of the application will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience in that the proposed height in a portion of the southwest corner of the building would be adequate to provide and maintain privacy, light, air and natural screening for future residents of the development as well as the existing residents of the mixed use building located at 901 Alma Street. Because this project is itself residential, the prohibitions would not apply if the residence at 901 Alma Street had been constructed under multiple family zoning, without mixed use. Furthermore, privacy, light, and air will not be compromised given that the intrusions are comprised of articulated forms that are setback from property lines and only minimally cast shadow beyond property lines during short periods per day at certain weeks of the year. No

shadows will be cast on the residential units at 901 High Street. The applicant must propose further reductions in the massing of the building in the reduced height area for review and recommendation by the Architectural Review Board and approval by the Director of Planning and Community Environment.

(d) A variance from the height and daylight plane requirements of Section 18.68.150 of the Palo Alto Municipal Code is hereby granted. The extent of the deviation from these height and daylight plane requirements shall be that shown on the final development plans reviewed and approved pursuant to Section 5 below.

SECTION 3. Amendment of Zoning Map.

Section 18.08.040 of the Palo Alto Municipal Code, the "Zoning Map," is hereby amended by changing the zoning of certain property known as 800 High Street (the "subject property") from "CD-S(P) Downtown Commercial (Service) Pedestrian Overlay" to "PC Planned Community 4779." The subject property, consisting of approximately .96 acres, is shown on the map labeled Exhibit "A," attached hereto and incorporated herein by reference.

SECTION 4. Findings for Approval of Planned Community District.

The City Council, in approving the Planned Community district, hereby finds that:

(a) The site is so situated and the uses proposed for the site are such that general or combining zoning districts will not provide sufficient flexibility to allow the proposed development in that none of the City's conventional zoning districts could accommodate the proposed square footage, floor area ratio, and building height unless variances were granted.

(b) Development of the Project on the site will provide public benefits not otherwise attainable, as more specifically described below.

(i) The site has been largely unoccupied and in a deteriorated state for many years. While this has generated little parking demand or traffic, it has been an obstacle to creating an environment that welcomes pedestrians and residential uses. It is presently zoned to permit commercial development, including office uses, which would exacerbate the City's shortage of housing relative to jobs. The Project will replace a deteriorated, largely vacant manufacturing building with a well-designed structure built

to contemporary building and safety standards using materials of high quality.

(ii) The 1998 Comprehensive Plan promotes less dependence upon the automobile for daily travel. The site is within 2,000 feet of the Palo Alto Intermodal Transit Center and within easy walking distance of the University Avenue Business District and South of Forest Area businesses, including a grocery store within one block. When the Homer Avenue bicycle and pedestrian underpass is completed, the Project will also be within easy walking distance of the Town and Country Shopping Center and the campus of the Palo Alto Medical Foundation. The Comprehensive Plan allows for residential densities of up to 50 dwelling units per acre for sites such as this, as well as providing for 25% density bonuses when additional affordable housing is provided. However, because general zoning standards have not yet been adopted, a planned community district is necessary to implement these policies now.

(iii) The Family Service Laundry was built on the site in 1930 and later converted to the Peninsula Creamery Ice Cream Plant. That business closed and the building and site have been used for storage since the early 1990s. The building is potentially eligible for listing on the California Register of Historic Resources, both as one of a number of commercially important laundries in the area and for distinctive architectural characteristics. It could be a contributor to a future commercial historic district in the area as well. Preservation of the building has been studied and reviewed. The building has low suitability for conversion to residential uses and preservation would be significantly more expensive than new construction. The proposed replacement structure, which includes multifamily housing at a density appropriate for a transit oriented development, neighborhood serving retail spaces, publicly accessible plazas, underground parking and underground access to adjacent parcels on Alma Street, will advance other important Comprehensive Plan Goals, as well as goals of the adopted and proposed South of Forest Area coordinated area plans. These circumstances make the loss of this historic resource acceptable.

(iv) The site is unusual in that it consists of three parcels making up an entire half-block, surrounded on all sides by public rights-of-way and backing up to an electrical substation. Under existing CD-S(P) zoning, the three lots could be developed with office and other commercial uses with surface parking lots. This would worsen the City's shortage of housing and do nothing to address the parking shortage in the area. By redeveloping the entire site with underground parking, a more efficient, pedestrian-friendly design is possible. Appropriately dense housing,

including both modestly-sized "market rate" and "below market rate" units, can be constructed. The Project can also provide parking surplus to its needs.

(v) The subterranean garage under a portion of Lane 8 would permit future underground connection to parking structure(s) on the lot(s) adjacent to Alma Street. These include the City's electrical substation, which is designated in the Housing Element for conversion to housing. The availability of these subsurface connection(s) would permit construction of housing on the Alma Street site at higher densities than would otherwise be possible. It would also eliminate the need for driveways opening onto Alma Street or Lane 8. This is desirable because Alma Street is a high-volume arterial street, while under the proposed SOFA 2 coordinated area plan, Lane 8 is to be used primarily to support commercial development in the area.

(vi) By building two levels of underground parking under the site, a portion of Lane 8, and a small portion of High Street, the Project can provide additional parking spaces beyond those needed for its own residents, customers, employees, and guests. These spaces will be maintained by the Project's owners at their expense, but they will be available for such uses as the City may authorize, including short term or permit parking.

(vii) The Project will provide ten Below Market Rate Housing Units, the minimum required under the City's Comprehensive Plan for a project of this density. The Project's owner has signed a letter dated January 29, 2003 making a commitment to provide this housing. A formal Agreement to Provide Below Market Rate Housing must be executed prior to final adoption of this ordinance and recorded before the effective date of the ordinance. The tenth unit would not be obtainable without the use of a planned community zone because the City has not yet adopted an ordinance implementing this Comprehensive Plan policy. All the units further the City's Housing Element goals but are not "otherwise unattainable public benefits" under the City's planned community zone requirements.

(viii) The Project will provide publicly accessible open spaces at the corners of High Street and Channing Avenue and High Street and Homer Avenues. The open spaces will include seating, landscaping and a substantial setback from the property line beyond those required by City's zoning districts. They will provide comfortable public, albeit privately owned and maintained, places for informal socializing in an area short of such amenities. They will be open to the general public without charge.

(ix) The Project will build and maintain, as part of its private garage, sixty-three (63) parking spaces to be managed

by the City for the life of the building. (Six of these may be lost to future subterranean connections to adjacent properties on Alma Street.) Prior to issuance of a building permit, Project's owner will execute a license and operating agreement with the City for the use of parking spaces, which will be recorded upon final passage of this ordinance.

(c) The Council further finds that the Project provides public benefits, as described above, that are of sufficient importance to make the Project as a whole one with substantial public benefit.

(d) The uses permitted and the site development regulations applicable within the District are consistent with the Comprehensive Plan and are compatible with the existing and potential uses on the adjoining sites or within the general vicinity in that the Project would be consistent with the following Comprehensive Plan policies:

(i) Local Land Use Program L-8: "Limit new non-residential development in the Downtown area to 350,000 square feet, or 10 percent above the amount of development existing or approved as of May 1986. Reevaluate this limit when non-residential development approvals reach 235,000 square feet of floor area." The project involves the demolition of $\pm 17,600$ square feet of non-residential floor area, to be replaced with $\pm 1,900$ square feet of commercial floor area or less, a net reduction of $\pm 15,700$ square feet or more.

(ii) Policy L-9: "Enhance desirable characteristics in mixed use areas. Use the planning and zoning process to create opportunities for new mixed use development." The Project is a mix of residential, retail and public uses. The uses provided, (housing, neighborhood serving retail space, public parking) are all desired uses in the City and the South of Forest Area.

(iii) Policy L-25: "Enhance the character of the South of Forest Area (SOFA) as a mixed use area." The Project includes a mix of uses, as well as a plaza accessible to the public, street trees, and pedestrian amenities at ground level. Piecemeal development would probably produce a pattern of equally tall buildings interspersed with surface parking lots, resulting in multiple driveways and curb cuts, fewer design amenities, and a less pedestrian-friendly development. By replacing a former manufacturing site, now used for storage, with homes and local serving retail space, it advance the City Council's goals for the South of Forest Area coordinated plan.

(iv) Policy H-4: "Encourage mixed use Projects as a means of increasing the housing supply while promoting diversity and neighborhood vitality." The Project proposes 61 for-sale units that will increase the supply of for sale housing at both market and below market prices. Because the homes are condominiums, with an average size of 1,400 square feet and a maximum size of 1,750 square feet, they are expected to be less expensive than most Palo Alto dwelling while providing attractive dwellings for a range of households.

(v) Policy B-21: "Maintain uses in the South of Forest Area (SOFA) that complement the Downtown business district, allow for the continued operation of automotive services uses, and serve the needs of nearby neighborhoods." There is no significant existing use on site. The Project provides neighborhood serving retail space and housing, both of which are desired in SOFA. Automotive services often rely on on-street parking. This project is fully parked itself and provides additional city-owned parking spaces. It is designed to be compatible with adjacent commercial activities and the high levels of noise that are generated from time to time by truck loading and other activities in the area.

SECTION 5. Development Plan

Those certain plans entitled 800 High Street, Palo Alto, California prepared by Jon Worden Architect dated December 12, 2002, a copy of which is on file in the Planning Division office, and to which copy reference is hereby made, are hereby approved as the Development Plan for the subject property, pursuant to Palo Alto Municipal Code Section 18.68.120. Provided, the Development Plan shall be revised to (i) improve the quantity and quality of individual, shared and publicly accessible open space; and (ii) revise the massing of the southwestern corner of the building to provide a better transition to adjacent development, generally as shown in those plans titled 800 High Street, Palo Alto, California, prepared by Jon Worden Architect and dated February 10, 2003, a copy of which is on file in the Planning Division office, and to which copy reference is hereby made.

SECTION 6. Uses.

(a) Permitted Uses. The permitted uses shall be limited to the following:

(i) Multiple Family Residential Use: In those areas designated on the Development Plan as "housing units," multiple-family uses and uses customarily incidental to multiple-family uses. In any individual unit, home occupations accessory to the

residential use of that unit are permitted subject to Palo Alto Municipal Code provisions regulating home occupations.

(ii) Neighborhood Serving Retail: In the area designated on the Development Plan as "Retail," neighborhood-serving eating and drinking services, personal services, and retail services. A neighborhood-serving use is one that primarily serves individual consumers and households, rather than businesses, and that does not generate noise, fumes or truck traffic greater than that expected for uses with a local customer base. A neighborhood-serving use is also one which provides a significant portion of its goods, or services, or both, to customers who come to the premises.

(iii) Parking Garage: Two spaces per residential unit shall be reserved for the use of building tenants, as well as seven (7) guest parking spaces and seven (7) parking spaces to support retail use, as shown on the Plans. The balance of the parking spaces shall be managed by the City under a license and operating agreement. The City shall determine, from time to time, the use of the licensed spaces, which may include designation as parking spaces for residential units within the SOFA Community Area Plans. If final configuration of below market housing units, as approved by the City, requires additional parking spaces reserved for those units because of increase in number or units or number of bedrooms, the necessary number of parking spaces may be removed from the City parking allocation. If future, city-approved, subterranean connections with adjacent properties require removal of parking spaces, that number of spaces may be removed from the City parking allocation. The Director of Planning and Community Environment may, after consultation with the Planning and Transportation Commission, permit changes in the required number of spaces to be allocated for residential or commercial use upon demonstration by the Project's owners that such a reduction will still allow the Project to meet actual demand and not result in overflow parking.

(iv) Plazas. The plazas at High Street and Channing Avenue and at High Street and Homer Avenue shall be open and accessible to the general public. These plazas will provide comfortable space for informal socializing without charge. However, the High Street and Homer Avenue plaza may be designed to include seating that is restricted, during business hours, to patrons of the Project's retail use. Any such restricted access shall be according to a written agreement approved by the Director of Planning and Community Environment, and shall be supportive of, rather than in conflict with, the free public use.

(b) Conditional Uses. Telecommunication facilities.

SECTION 7. Site Development Regulations.

(a) Compliance with Development Plan. All improvements and development shall be substantially in accordance with a revised Development Plan, and subject to the conditions of approval and mitigation measures adopted by City Council Resolutions No. 8267 and 8268.

(i) Final plans, incorporating the revisions required under Section 5 above, and including materials and colors, complete lighting and photometric plans, detailed landscaping and irrigation plans encompassing on- and off-site planting areas, and signs shall be approved by the Director of Planning and Community Environment after review and recommendation by the Architectural Review Board ("ARB") prior to issuance of building permits.

(ii) Any other exterior changes to the buildings or any new construction not specifically permitted by the Development Plan or by these site development regulations shall require an amendment to this Planned Community Zone or, if eligible, approval under Chapter 18.99 of the Palo Alto Municipal Code, as it is amended from time to time.

(b) Tree Protection. The Development Plan requires the planting and protection of specified new trees within the development. These trees shall not be removed or destroyed without the prior approval of the City of Palo Alto in accordance with applicable procedures.

(c) Limit on Unit Size. The average unit size shall not exceed 1,400 square feet. The maximum unit size shall not exceed 1,750 square feet.

(d) Parking and Loading Requirements. The garage shall contain a minimum of two vehicle spaces per residential unit, seven vehicle spaces for guest parking, seven vehicle spaces to serve the retail use, sixty three spaces for City use, and one secured bicycle space for each residential unit. Additional shorter-term bicycle parking will be provided pursuant to the Project's parking agreement or transportation demand management program, or both. No on-site loading zones are specified. The number of parking spaces may be reduced as described in Section 6 (a) (iii) above.

(e) Special Conditions

(i) Below Market Rate (BMR) Housing Requirement.
The Project shall provide four (4) one-bedroom, one-bath units; four (4) two-bedroom, one-bath units, and two (2) three-bedroom,

two-bath units to be included in the City's Below Market Rate ("BMR") program. The units will be on all four residential floors of the building. All BMR units shall face either on to one of the project's private open space courts or on to Channing Avenue. Each BMR unit shall have either a private open space deck or a patio. Each BMR unit will be designated on the revised Development Plan approved by the Director of Planning and Community Environment. If, prior to the issuance of a building permit for the Project, the Project Owner and the City Manager determine and agree that the goals of the City's below-market rate housing program are better met if the space allocated to BMR units is reconfigured to provide more units or a different allocation of bedrooms, they may do so by amending the Agreement Regarding Provision of Below Market Rate Housing described below.

The provisions of this condition (e)(i) have been agreed to by the Project's owner and are set forth in an Agreement Regarding Provision of Below Market Rate Housing which shall be executed and may be recorded prior to the final passage of this ordinance.

(ii) Public Parking Agreement. Project's owner and City will enter into an agreement for use by the City of sixty-three (63) vehicle spaces in the parking garage and any associated bicycle parking which shall be recorded prior to issuance of any building permit. Compliance with that agreement is a requirement of this PC zoning district.

(iii) Underground Development Rights; Easement Dedications. Project's owner shall provide evidence satisfactory to the City Attorney of the right to develop the garage on land not owned by it. Owner shall also dedicate to the City an additional five feet along the entire length of Lane 8, and a right to locate and maintain utilities in the garage. These shall be in a form satisfactory to the City Engineer, the Utility Director, and the City Attorney.

(iv) Automobile Connection Between the Project and Alma Street Properties Through the Underground Garage. The garage shall be constructed to provide easy future connection to the City-owned substation at 841 Alma Street. The City, and its successors in interest, shall have the right, at no cost, to 24-hour a day ingress and egress from 841 to High Street through the Project parking garage. The City shall also have the right to grant to other properties in the 800 Block of Alma Street, ("800 Block Parcels") the use of its ingress and egress rights through the Project parking garage, via a subterranean garage at 841 Alma Street. If the Project is to be built on property owned by adjacent property owner(s) other than the City, the Project shall provide additional subterranean access points to those properties.

Any additional access points for possible future use by other 800 Block Parcels shall be located in a manner satisfactory to the Director of Planning and Community Environment. If the City subsequently approves an underground connection with those parcels as part of a development approval, the Project shall grant such access without charge, but subject to reasonable requirements for insurance and cost of construction. The number of spaces licensed to the City may be reduced by the number of spaces lost through opening of connections to 800 Block Parcels

(f) Development Schedule. Construction of the Project shall commence on or before September 1, 2003, and shall be completed and ready for occupancy on or before April 31, 2005. The Director of Planning and Community Environment may extend these time limits once by not more than one year, as described in 18.68.130 of the Palo Alto Municipal Code.

SECTION 8. The City as the lead agency for the Project has caused to be prepared a Final Environmental Impact Report ("Final EIR"). Pursuant to State CEQA Guidelines section 15132, the Final EIR consists of the following documents and records: "800 High Street Draft Focused EIR, October 11, 2002;" "800 High Street Final EIR, December, 2002", and the planning and other City records, minutes, and files constituting the record of proceedings. The Final EIR was prepared pursuant to the California Environmental Quality Act, Public Resources Code section 21000, et seq. ("CEQA"), and the State CEQA Guidelines, California Code of Regulations, Title 14, section 15000, et seq. The Final EIR is on file in the office of the Director of Planning and Community Environment and, along with the planning and other City records, minutes and files constituting the record of proceedings, is incorporated herein by this reference.

SECTION 9. Certification. The City Council certifies that the Final EIR has been completed in compliance with the California Environmental Quality Act. The Final EIR was presented to the City Council and the City Council has reviewed and considered the information contained in the Final EIR, staff reports, oral and written testimony given at public hearings on the proposed Project, and all other matters deemed material and relevant before considering for approval the various actions related to the Project. The City Council hereby finds that the Final EIR reflects the independent judgment of the City as lead agency.

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SECTION 10. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED: February 3, 2003

PASSED: February 18, 2003

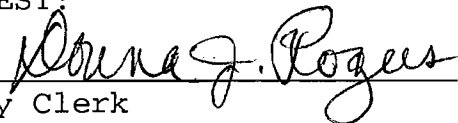
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NOES: FREEMAN, KISHIMOTO, LYTLE

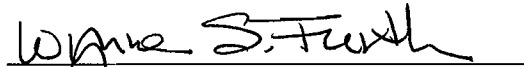
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ABSENT:

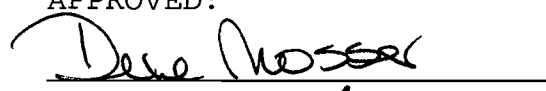
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City Clerk

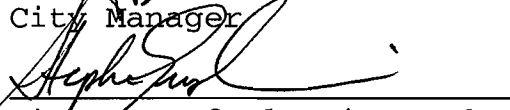
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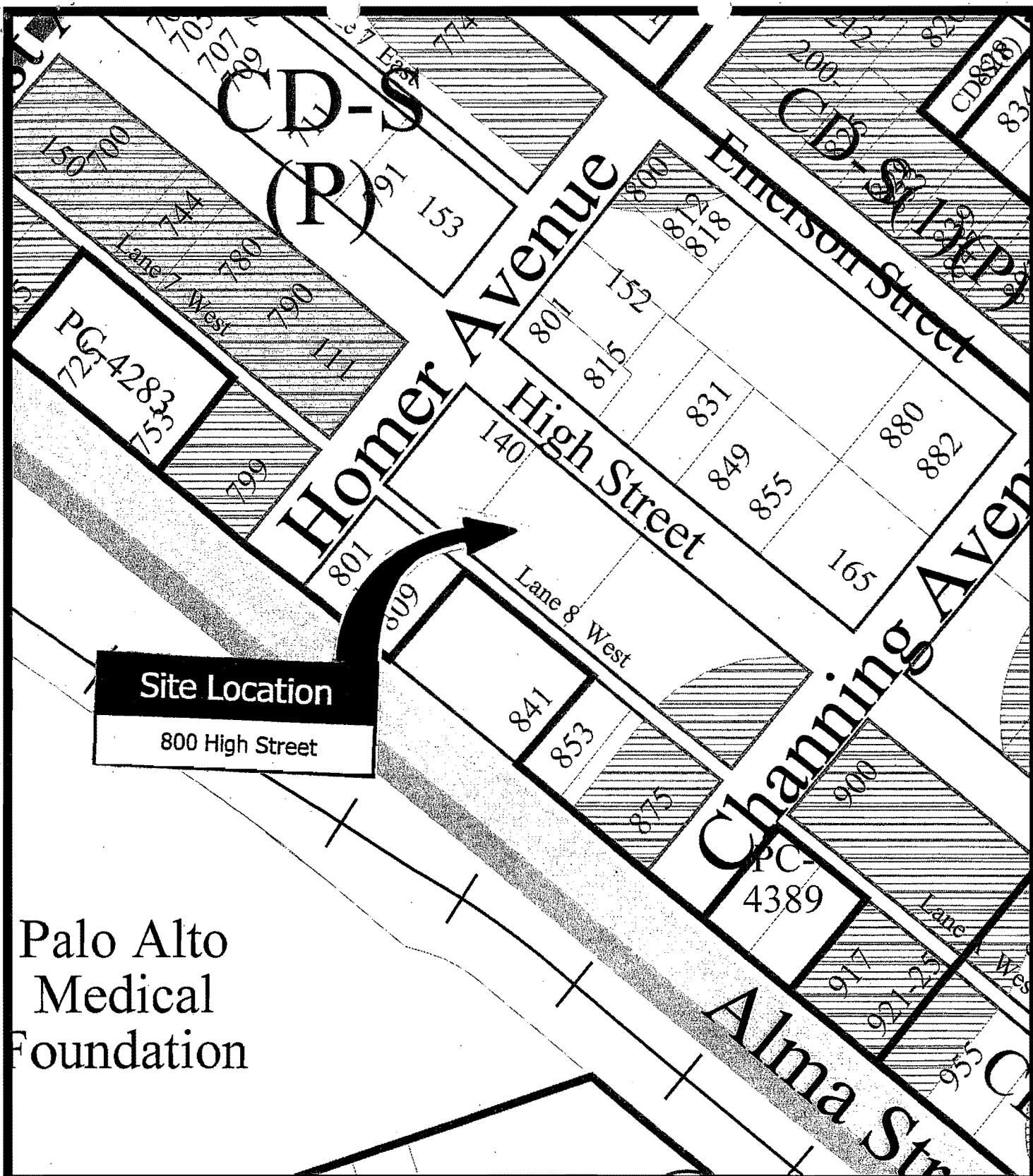

Senior Asst. City Attorney

APPROVED:


Mayor


City Manager

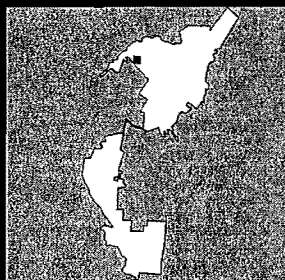

Director of Planning and
Community Environment



Palo Alto
Medical
Foundation



The City of
Palo Alto



800 High Street

02-PC-01

January 15, 2003

This map is a product of the
City of Palo Alto GIS

