

RESOLUTION NO. 4172

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO
AMENDING THE EAST PALO ALTO GENERAL PLAN TO IDENTIFY AND
ADDRESS FLOOD HAZARDS, IN ACCORDANCE WITH THE REQUIREMENTS OF
AB 162**

WHEREAS, AB 162 was adopted into law in 2007, requiring local governments to amend the Land Use, Safety and Conservation Elements of their General Plans to identify and address potential flood hazards; and

WHEREAS, staff drafted General Plan amendments to implement the specific requirements of AB 162; and

WHEREAS, the East Palo Alto Planning Commission held a public hearing on May 9, 2011, to receive public testimony and consider the proposed General Plan amendments; and

WHEREAS, the Planning Commission determined that the adoption and implementation of the proposed General Plan amendments were exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) guidelines; and

WHEREAS, the Planning Commission, at the conclusion of the public hearing on May 9, 2011, voted to recommend to the City Council adoption of the General Plan amendments; and

WHEREAS, the General Plan amendments are consistent with the City's General Plan because the General Plan amendments being proposed only modify the document by providing more up-to-date hazard mapping, expanding on existing descriptions and inserting new policies which expand upon existing policies; and

WHEREAS, the General Plan will continue to remain internally consistent with approval of the General Plan amendments; and

WHEREAS, the East Palo Alto City Council held a public hearing on 7/5 2011, to receive public testimony and to consider adoption of the General Plan amendments; and

WHEREAS, at the conclusion of the public hearing on 7/5 2011, the City Council affirmed the Planning Commission's determination that the adoption and implementation of the proposed General Plan amendments were exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) guidelines; and

WHEREAS, at the conclusion of the public hearing on 7/5 2011, the City Council voted to adopt the proposed General Plan amendments; and

NOW THEREFORE BE IT RESOLVED by the East Palo Alto City Council as follows:

The City Council hereby amends the Land Use, Safety and Open Space and Conservation Elements of the East Palo Alto General Plan as shown in Exhibit A.

PASSED AND APPROVED on this 5th day of July, 2011 by the following vote:

AYES: Woods, Abrica, Evans, Martinez, Romero
Naes: 0
Absent: 0
Abstain: 0




Carlos Romero, Mayor

ATTEST:



ML Gordon, City Clerk

APPROVED AS TO FORM:



Valerie J. Armento, Interim City Attorney

CITY COUNCIL/REDEVELOPMENT AGENCY
TUESDAY, JULY 5, 2011
PUBLIC HEARING
ITEM No. 15

PUBLIC HEARING

Housing Element Implementation FY 2012/2011

RECOMMENDATION

1. Receive the staff report and presentation on the nine Planning Commission recommendations;
2. Open a public hearing;
3. Accept testimony from the public; and
4. Close the public hearing; and
 - a. Adopt by Resolution actions 3.4, 4.8 and 5.2
 - b. Introduce by Ordinance and schedule adoption for July 19, 2011 for actions 1.5, 5.3, 5.6, 5.7, 5.9 and 5.10; and
5. Accept and file the Planning Division letter which provides the required yearly update to the Department of Housing and Community Development (HCD) on the implementation of the Housing Element (*see Attachment 2 – Planning Division letter to HCD*); and
6. Schedule a study session on the state of housing in East Palo Alto for September 20, 2011 so residents and housing providers can meet with Council to determine which of the Housing Element goals as identified in Table 2 of this report should be implemented in FY 11/12 and 12/13(*see Attachment 3 – Proposed Study Session and state of housing presentation pursuant to actions 11.2 and 11.4*).

MISSION STATEMENT

The City of East Palo Alto provides responsive, respectful, and efficient public municipal services to enhance the quality of life and safety of our multi-cultural community.



CITY OF EAST PALO ALTO
Community Development Department— Planning Division
1960 Tate Street • East Palo Alto, CA 94303
Tel: (650) 853-3185 • Fax: (650) 853-3179

Date: July 5, 2011

To: Honorable Mayor and Members of the City Council

Via: ML Gordon, City Manager

From: Carlos Martinez, Provisional Deputy Director Community Development Department
Brent A. Butler, AICP, CFM, Planning Manager
Guido Persicone, AICP, Associate Planner

Subject: Public Hearing: Housing Element Implementation Fiscal Year 2010 - 2011

RECOMMENDATION:

Staff recommends that the City Council:

- 1) Receive the staff report and presentation on the nine Planning Commission recommendations; and
- 2) Open a public hearing; and
- 3) Accept testimony from the public; and
- 4) Close the public hearing; and
 - a. Adopt by Resolution,
 - i. Action 3.4 to amend the General Plan related to flood hazard mitigation; and
 - ii. Action 4.8 To create an infill and small-lot development design toolkit with ideas and examples of techniques to assist developers of small parcels while providing usable open space
 - iii. Action 5.2 to encourage development of senior housing; and
 - b. Introduce by Ordinance and schedule adoption for July 19, 2011 on:
 - i. Action 1.5 to allow second units in multifamily residential zones (R2 and RM); and
 - ii. Action 5.3 to reduce housing barriers to persons with disabilities; and
 - iii. Action 5.6 to allow emergency shelters in the light industrial district (M1); and
 - iv. Action 5.7 to add transitional and supportive housing as a permitted use in the single family zoning district (R1); and
 - v. Action 5.9 to allow single room occupancy units in the high density zoning district (RM); and

- vi. Action 5.10 to reduce the distance (from 1,000 to 750 feet) required between residential care facilities that serve ten or more residents (*See Attachment 1 – PC staff reports, resolutions/ ordinances, minutes, proof of notice*); and
- 5) Accept and file the Planning Division letter which provides the required yearly update to the Department of Housing and Community Development (HCD) on the implementation of the Housing Element (*See Attachment 2 – Planning Division letter to HCD, dated June 30, 2011*); and
- 6) Schedule a study session on the state of housing in East Palo Alto for September 20, 2011 so residents and housing providers can meet with Council to determine which of the Housing Element goals as identified in Table 2 of this report should be implemented in Fiscal Year 2011/2012 and 2012/2013 (*See Attachment 3 – Proposed Study Session and state of housing presentation pursuant to actions 11.2 and 11.4*).

ALIGNMENT WITH CITY COUNCIL STRATEGIC PLAN:

This recommendation is primarily aligned with:

Priority# 6 - *Create a Healthy and Safe Community.*

INTRODUCTION:

This staff report explains the recommendations and alternatives considered by the Planning Commission for nine of the ten action items identified by consultant, AECOM, as necessary to implement within FY 10/11. The report identifies the other less critical Housing Element actions that either are complete, ongoing or underway. As identified later in this report, nineteen (19) additional actions are completed or underway since nearly thirty action items should be completed by the fall of 2011 to fully carry out the Housing Element by June 30, 2014 (*See Attachment 2 – Planning Division letter to HCD, dated June 30, 2011*). This supplemental staff report accompanies the Planning Commission record of action and focuses largely on next steps.

Only one action, identified as necessary to be completed in FY 10/11 by AECOM, is not advancing forward to the City Council. Housing Element Action 3.2 has been removed from consideration pending the outcome of the City's deliberation of the Ravenswood 4 Corners Specific Plan (Specific Plan). The rezoning that the Specific Plan carries out will accommodate the City's regional housing needs allocation (RHNA) and therefore eliminate the need to adopt Action 3.2, which rezones three parcels located at the north end of Pulgas Avenue to High Density Residential or General Commercial (mixed-use).

BACKGROUND:

Housing and Community Development (HCD) Compliance and Status

Adopted by the East Palo Alto City (EPA) Council on June 15, 2010, the Housing Element (Element) was certified by HCD on May 27, 2011. HCD granted the Association of Bay Area Governments (ABAG), and by extension the association's ninety-one member governments, an additional two-years to complete the statutory update of the Housing Element for the planning period from December 31, 2001 to June 30, 2007, thereby extending the required update from June 30, 2007 to June 30, 2009

East Palo Alto (EPA) Housing Element

The EPA General Plan's Housing Element contains an Action Plan in Chapter 5 (plan), with twelve goals that are implemented by seventy-one actions. Unlike the other six required elements of the General Plan,³ five of which are required to be revised every ten years, the Housing Element is revised and implemented over five years as required by housing element law. With plan implementation scheduled over sixty-months, roughly 40% of the plan was targeted to be implemented by June 30, 2011. This translates into the need for 28 action items or more to be carried out or near completion by the July 5, 2011 City Council meeting.

Fiscal Year 2010/2011 activities have focused on implementing Goal 5. For example, six of the nine items scheduled to be adopted as resolutions or introduced as ordinances on July 5 will implement the policies and actions in Goal 5, as identified in Table 1 (see page 5). As part of the proposed study session on September 20, 2011, the City Council would be able to direct staff resources by selecting goals to be implemented in FY 11/12.

Proposed Fiscal Year 2011/1012 Emphasis

Two recent experiences poignantly argue for a focus on improved housing and neighborhood conditions, which is an objective of Goal 9. First, the outcome of the May 19, 2011 emergency preparedness table top exercise, sponsored by the EPA Police Department, indicates a need to better prepare residents for natural disasters. During this exercise, the Planning Division became aware of the need for residents to be able to provide for themselves in the event of a large-scale earthquake, and that housing rehabilitation in advance of an earthquake may be the best approach since flooding, damaged roads, and power lines may reduce Fire and Police access. This is especially significant since wood-framed apartment buildings, particularly those with first-story tuck-under parking, have proven to be vulnerable to earthquake damage.⁴ Given that the entire City is within a designated liquefaction zone⁵, and that a number of multifamily buildings currently for sale are known to have tuck-under parking, resident exposure to

³ The General Plan's required elements are: 1) Land Use, 2) Circulation, 3) Housing, 4) Safety, 5) Noise, 6) Conservation, and 7) Open Space Elements. The City of East Palo Alto 1999 General Plan contains Economic Development, as an optional element.

⁴ Selvaduary et. al, Collaborative for Disaster Mitigation, San Jose State University, San Jose, 2003

⁵ US Geological Survey, Palo Alto Quadrangle Seismic Hazard Zone, Map released: October 18, 2006.

loss of life and damage to property could be high. Second, the City's above average number of foreclosures would also be addressed by actions in Goal 9.

Recommendation for FY 11/12

Goal 9 - Improved housing and neighborhood conditions in East Palo Alto

Policy 9.1: Implement both proactive and reactive code enforcement to correct Housing, Health, and Safety Code violations.

Policy 9.2: Improve existing housing conditions and neighborhood quality through housing rehabilitation and neighborhood improvement efforts.

Policy 9.4: Assist homeowners faced with foreclosure and reduce the inventory of vacant foreclosed homes in the City, in part by creating programs to prevent residents from losing their homes and to enable residents to purchase foreclosed homes.

To ensure that this is consistent with the community's interest, the Planning Division has scheduled outreach meetings for the month of July, including one at the Planning Commission's July 16, 2011 retreat, and the other at the Rent Stabilization Board's July 27, 2011 meeting. If other goals are recommended to be incorporated in the FY 11/12 work plan, these will be included as part of the proposed September study session on the state of Housing in East Palo Alto.

TABLE 1: Twelve Goals of the East Palo Alto Housing Element

Goal	Description	Actions
Goal 1	Sufficient numbers and varieties of housing units needed to: <ul style="list-style-type: none"> o meet the State's mandate to replace affordable units/bedrooms demolished due to Redevelopment Agency Action; o address the City's Regional Housing Needs Determination; o and facilitate housing development for all income segments within East Palo Alto, including extremely low-, very low-, low-, moderate- and above-moderate housing. 	2 policies and 11 actions
Goal 2	Balanced development that links housing to jobs	2 policies and 3 actions
Goal 3	Available residential sites for the development of a range of housing types and prices	1 policy and 5 actions
Goal 4	Reduced constraints and enhanced incentives for housing development within the city particularly in regards to affordable housing	5 policies and 9 actions
Goal 5	Adequate housing for special needs groups in the city, including seniors, physically challenged, HIV positive or living with AIDS, homeless, at-risk youth (leaving the foster care system, small and large families, veterans, farm workers, and female-headed households)	2 policies and 9 actions
Goal 6	Financial and policy assistance for low- and moderate-income households to ease housing cost burden and overcrowding	4 policies and 9 actions
Goal 7	Increased homeownership opportunities for income-qualified households	2 policies and 3 actions
Goal 8	Minimized displacement of renters	1 policy and 4 actions
Goal 9	Improved housing and neighborhood conditions in East Palo Alto	5 policies and 7 actions
Goal 10	Decent, safe living environments for City residents regardless of age, gender, race, color, ancestry, national origin, familial status, marital status, sexual preference, religion, disability, language or any other arbitrary factor	2 policies and 3 actions
Goal 11	Implemented housing policies and broad participation in associated programs	1 policy and 4 actions
Goal 12	Increased energy efficiency in existing and new housing development, in part as a means of reducing housing costs	1 policy and 2 actions

Source: Housing Element, adopted June 15, 2011

B. Action Taken in FY 10/11

The nine actions selected for the public hearing July 5, 2011 implement housing policy and law. Thirteen other actions, identified in the letter to HCD are listed as underway, complete or ongoing. Collectively, these twenty-two actions establish EPA's record for FY 10/11 implementation. Some of these items, such as the Specific Plan (Action 2.1), require Council action; others, such as Action 1.1, do not. Attached is the Planning Division letter to HCD which identifies the other actions nearly completed as part of the status update (see Attachment 2 – Planning Division letter to HCD).

At the May 3, 2011 City Council study session, the Council directed staff to summarize the action items and to schedule their adoption before the City Council. City staff has inserted into the record section C below which contains Table 2, a decision point table to address the Council directive. A detailed summary of Commission action is incorporated into section D; which summarizes the entire Planning Commission record, including the staff report, resolutions/ordinances, minutes, proof of notice, and public comment (Refer to Attachment 1 – Planning Commission records).

C. Issues for Consideration for each Ordinance or Resolution

TABLE 2: Action to be Considered by Council July 5, 2011		
Action Item	Summary	Decision Points
1.5 <i>Second Units Ordinance Amendments</i>	Allow second units in the R2 and RM zoning districts.	Does the City Council want to sustain the Commission's recommendation that parcels with 5,500 sq. ft. become permitted uses in the R2 and RM?
3.4 Resolution amending the <i>General Plan to identify and address flood Hazards</i>	General Plan amendment to require analysis and implementation of AB 162 related to flood hazard mitigation.	Does the City Council agree with the action measures proposed by staff and recommended for adoption by the Planning Commission?
Action 4.8 An ordinance adopting an <i>Infill/Small Lot Toolkit</i>	An ordinance to encourage the development of small develops parcels by amending the development standards, and providing a toolkit.	Does the City Council want to direct staff to incorporate additional policies to encourage the development of small parcels?
Action 5.2 An Ordinance adding a chapter on <i>Senior Housing</i>	A policy document to encourage the development of senior housing.	Does the City Council want to direct staff to incorporate additional policies to encourage senior housing in East Palo Alto?
Action 5.3 An Ordinance adding a new section related to <i>Reasonable Accommodation</i>	A municipal code amendment required by Federal and State law to reduce housing barriers to disabled persons	Does the City Council desire reasonable accommodation procedures for persons with disabilities, and also have it administered through the Community Development Department?
Action 5.6 <i>Emergency Shelter</i>	An ordinance to allow emergency shelters in the M-1 (light industrial) zoning district.	Does the City Council want to sustain the management standards recommended by the Commission for shelters in East Palo Alto?
Action 5.7 <i>Transitional and Supportive Housing</i>	An ordinance adding transitional and supportive housing as a permitted use in the R1(Single Family Zoning District)	Does the City Council want to sustain the Commission's recommendation to allow this use in the R1 zoning district?
Action 5.9 <i>SRO in High Density Housing</i>	An ordinance to allow single room occupancy units in the RM high density zoning district.	Does the City Council want to sustain the Commission's recommendation to allow this use in the RM zoning district?
Action 5.10 <i>Residential Care Facility</i>	An ordinance to reduce the buffer between care facilities that serve ten(10) or more residents from 1,000 feet to 750 feet.	Does the City wish to reduce the buffer between residential care facilities to 750feet, as required by HCD.
Source: Attachment1 – Planning Commission record		

D. Detailed Summary of Planning Commission Action

This section provides a detailed summary of the actions taken by the advisory body. As illustrated below, all of the actions undertaken by the Planning Commission were unanimous with the exception of Action 4.8.

Action 1.5 Purpose: To allow second units in R-2 and R-M zones.

Recommendation: On October 11, 2010, the Planning Commission by a unanimous vote recommended that the City Council amend the Zoning Ordinance Chapters 7, 8, 22.5 by adding secondary dwelling units as a permitted use in the R-2 (Chapter 7) and RM (Chapter 8) Districts; by adding a definition of second unit (Chapter 22.5); and by adding development standards (Chapter 22.5).

Planning Commission Vote: Allen; Second- Quezada. 5-0 (see Attachment 1)

CEQA: Adopt the Planning Commission finding that this action is not a project pursuant to Section 15061 (b) (3) of the CEQA Guidelines	Reason/Schedule: To be consistent with Government Code § 65852.2 (c) schedule adoption at the next regularly scheduled meeting, July 19, 2011.
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Action 3.4 Purpose: To include analysis and policies regarding flood hazard and management, and an annual review of the Land Use Element for areas subject to flooding to facilitate the identification of sites for future Housing Element updates.

On June 6, 2011, the Planning Commission by a unanimous vote recommended that the City Council

Planning Commission Vote: Allen; Second- Huerta. 5-0 (see Attachment 1)

CEQA: Adopt the Planning Commission finding that this action is not a project pursuant to Section 15378 of the CEQA Guidelines	Reason/Schedule: To be consistent with Government Code § 65350 review the item by conducting a public hearing on the item for adoption on July 5, 2011
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Action 4.8 Purpose: To create an infill and small-lot development design toolkit with ideas and examples of techniques to assist developers of small parcels while providing usable open space, contributing to a pedestrian environment, and enhancing community character.

Recommendation: On June 6, 2011, the Planning Commission voted to recommend amending Chapters 1, 6, 22 by respectively adding a definition of Open Space, Usable; by adding development standards; and amending the General Provisions and Exceptions for a legal parcel.

Planning Commission Vote: Quezada; Second-Sherrad. 4-1-1 [no, Allen; abstained Huerta] (see Attachment 1)

<p>CEQA: Adopt the Planning Commission finding that this action is categorically exempt pursuant to Class 32 (infill development), § 15332 of the CEQA Guidelines</p>	<p>Reason/Schedule: To be consistent with Government Code § 65583.2 (b) (3), schedule adoption at the next regularly scheduled meeting, July 19, 2011.</p>
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Action 5.2 Purpose: To reduce project costs and enhance unit affordability by revising zoning and development requirements for senior projects to allow elements such as smaller unit sizes, parking requirement reduction, and common dining facilities.

Recommendation: On April 25, 2011, the Planning Commission unanimously recommended adding Chapter 14.12, Senior Housing, to the Municipal Code with sections on intent, housing development, and policy tools.

Planning Commission Vote: Allen; second – Skinner. Vote: 5-0 (see Attachment 1)

<p>CEQA: Adopt the Planning Commission finding that this action is not a project pursuant to § 15061 (b) (3).</p>	<p>Reason/Schedule: To be consistent with Government Code § 65580-65589.8, schedule adoption at the next regularly scheduled meeting, July 19, 2011.</p>
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Action 5.3 Purpose: To provide zoning and land-use exceptions for housing serving persons with disabilities (reasonable accommodation).

Recommendation: On January 24, 2011, the Planning Commission by a unanimous vote recommended that the City Council amend the Municipal Code by adding Chapter 14.1, which includes eight new sections including purpose, findings, applicability, application, review authority, procedures, findings and decision, and appeal.

Planning Commission Vote: (Sherrard; Second- Allen. Vote 6-0) (see Attachment 1)

CEQA: Adopt the Planning Commission finding that this action is not a project pursuant to Section 15061 (b) (3) of the CEQA Guidelines

Reason/Schedule: To be consistent with Government Code § 65400 (a) (2) introduce ordinance on July 5, 2011, and adopt at the next regularly scheduled meeting on July 19, 2011.

Action 5.6 Purpose: To allow for emergency shelters in the M-1 (Light Industrial) Zoning District as a permitted use.

Recommendation: On February 28, 2011, the Planning Commission by a unanimous vote recommended that the City Council amend the Zoning Ordinance Chapters 1 and 17 by including Emergency Shelter, as a permitted use with new development standards.

Planning Commission Vote: (Allen; Second- Skinner. Vote 5-0) (see Attachment 1)

CEQA: Adopt the Planning Commission finding that this action is not a project pursuant to Section 15061 (b) (3) of the CEQA Guidelines

Reason/Schedule: To be consistent with Senate Bill 2, which amends Government Code Sections 65582, 65583, 65589.5, introduce on July 5, 2011; adopt on July 19, 2011.

Action 5.7 Purpose: To permit transitional and supportive housing as a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zoning district.

Recommendation: On April 25, 2011, the Planning Commission moved to recommend that the City Council amend the Zoning Ordinance Chapter 1 by adding new sections on supportive and transitional housing and target population.

Planning Commission Vote: Sherrard; second – Allen. Vote: 5-0

<p>CEQA: Adopt the Planning Commission finding that this action is not a project pursuant to Section 15378 of the CEQA Guidelines</p>	<p>Reason/Schedule: To be consistent with Senate Bill 2, which amends Government Code Sections 65582, 65583, 65589.5, introduce on July 5, 2011; adopt on July 19, 2011.</p>
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Action 5.9 Purpose: To allow single-room occupancy (SRO) projects in high density residential zones.

Recommendation: On June 13, 2011, the Planning Commission voted to recommend that the City Council amend the Zoning Ordinance Chapter 1 by adding single room occupancy to the list of definitions and adding as a permitted use in RM Districts,

Planning Commission Vote: Allen; Second – Huerta. Vote: 6-0

<p>CEQA: Adopt the Planning Commission finding that this action is categorically exempt pursuant to Class 32 (infill development), § 15332 of the CEQA Guidelines</p>	<p>Reason/Schedule: To be consistent with the Government Code § 65583 introduce ordinance on July 5, 2011, and adopt at the next regularly scheduled meeting, July 19, 2011.</p>
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Action 5.10 Purpose: To reduce the spacing requirement for residential care facilities, as identified in Section 6515.5 of the East Palo Alto Zoning Ordinance to seven hundred and fifty feet (750) for facilities that house ten persons or more.

On May 9, 2011, the Planning Commission recommended adoption of the zoning text amendment by the City Council.

Planning Commission Vote: Allen; second – Sherrard. Vote: 5-0.

<p>CEQA: Adopt the Planning Commission finding that this action is not a project pursuant to Section 15378 of the CEQA Guidelines</p>	<p>Reason/Schedule: To be consistent with the Government Code § 65583 introduce ordinance on July 5, 2011; adoption on July 19, 2011.</p>
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1) Planning Commission record, including staff reports with resolutions or ordinances, PC minutes, proof of notice, and public comment, if any for:

A) **Action 1.5** Second Unit Ordinance Amendments.



STAFF REPORT

*City of East Palo Alto
Community Development Dept.
Planning Division*

Project: Proposal to modify the city's second unit regulations as required by the revised 2010 East Palo Alto Housing Element by amending Chapters 7 (R-2); Chapter 8 (RM) and Chapter 22.5 (Second Dwelling Unit) of the Zoning Ordinance.

Date: October 11, 2010

To: Honorable Chairperson & Members of the East Palo Alto Planning Commission

From: Guido F. Persicone, AICP, Associate Planner

Introduction

Applicant/Owner: City of East Palo Alto

Location: Citywide

Environmental Review: Not a project under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines

Staff Recommendation: Planning Division staff recommends that the Planning Commission:

1. Affirm that the project is not a project under Section 15061(b)(3) of the CEQA guidelines; and
2. Find that the revised Housing Element is consistent with the East Palo Alto General Plan's objectives, goals, policies and implementation programs pursuant to Government Code Section 65300.5.
3. Recommend that the City Council adopt the attached draft ordinance (Attachment C), which would amend Chapters 7, 8, and 22.5 of the Zoning Ordinance.

II. Planning Commission Action

Regulatory Framework

In June of 2010 the City Council adopted the revised 2010 Housing Element, pending final certification by the California Department of Housing and Community Development (State HCD). Under the provisions of Section 65400(a)(2) of the Government Code, the City is required to provide by April 1 of each year a status report on the implementation of the Housing Element to the City Council, the Office of Planning and Research and State HCD. Failure to implement the Housing Element in a timely fashion authorizes judicial action to order compliance and to grant sanctions to an aggrieved party.¹ Due to this restrictive timeline, at the September 27, 2010, the Commission provided direction to staff on the Housing Element action items it wished to review first. One such item was the revisions to the secondary dwelling ordinance, identified as Actions 1.5 and 5.5 of the Housing Element:

Action 1.5: Amend the Second Unit Ordinance to allow second units in the R-2 and RM zones.

Time Frame: June 2011

Resources: Staff time

Responsible Agencies: Planning Division and Planning Commission

Action 5.5: Explore the feasibility of various City policies/programs to reduce overcrowding. Policies and programs to be considered include, but are not limited to, the following:

- An "amnesty" program to legalize illegal units and potentially waive the permit fees if the landlord agrees to end overcrowding conditions.
- A reward program to encourage tenants vacating a unit to report severe overcrowding conditions.
- Incentives (e.g., fee waivers) for home owners making room additions that would be rented to lower income families/persons.
- *Adjustments to the second unit ordinance that reduces the minimum lot size to 5,500 lot square feet.*

Time Frame: If appropriate and feasible, establish programs and policies by 2012

Resources: Staff time

Responsible Agencies: Building Services Division, Police Department, Planning Division,

City Attorney's Office

In addition to the requirements identified within the Housing Element, per Section 65852.2(c) of the Government Code the City is mandated by State law to allow secondary dwelling units in all residential zones unless it makes findings of fact to support exclusion of these units from a residential zoning district:

No local agency shall adopt an ordinance which totally precludes second units within single family or multi-family zoned areas unless the ordinance contains findings acknowledging that the ordinance may limit housing opportunities of the region and further contains findings that specific adverse impacts on the public health, safety and welfare that would result from allowing second units within single family and multi-family zoned areas justify adopting the ordinance.

Secondary Dwelling Units

According to the United States Housing and Urban Development Office of Policy Development and Research, there is growing awareness and acceptance that secondary dwelling units are an

¹ Government Code 65400(b).

inexpensive way to increase affordable housing supply.² Since secondary dwelling units are not located on a separate lot they are an affordable housing option for many low and moderate income residents.³ Additionally, they provide income that can mitigate the increase in the cost of living.⁴ The City Council, recognized the benefit of these residential units when modifying the secondary dwelling unit ordinance in 2003 to be in conformance with Assembly Bill 1866 (AB 1866) by stating in the preamble to the ordinance that these type of units “increase the supply of affordable housing by allowing second units to be established on lots containing a single family dwelling.”⁵ With slight modifications to the ordinance, City staff can increase the capacity of the City to provide this affordable housing option to persons at all income levels.

Proposed modifications

In order to comply with State law the ordinance modifications are identified in Attachment A (Zoning Text Modifications) as strikethrough deletions and bold font additions to the East Palo Alto Zoning Ordinance.

In addition to the required modifications necessitated by State law, it is important to point out that when the City Council recommended Housing Element Action Item 5.5 no direction was given on the minimum proposed lot size for detached secondary dwelling unit.

Currently the standard is 7,500 square feet. The Planning Commission has an opportunity to either recommend a reduced lot size standard or to keep the current design standard.

Policy Options

As recommended in the Matrix Consulting Firm Management Study, staff will be providing the Commission policy options of how the reduced lot size will impact the City’s capacity to increase the number of secondary dwelling units within this Regional Housing Needs Allocation (RHNA) cycle. These policy options will be provided using the Geographic Information System (GIS) computer program at the Commission meeting.

Consistency with the General Plan

Decisions affecting land use and development should be consistent with the General Plan. Actions consistent with the General Plan further the plan’s objectives and policies. The proposed project furthers the following General Plan goals and policies:

- Housing Element Policy 2.1 Implement program to increase affordable housing opportunities

The adoption of the proposed modifications will increase the capacity of the City to issue permits for units that are on existing infill lots which can be used by persons at all income levels implementing Housing Element Policy 2.1

- Housing Goal 4.0 To address the housing needs of senior citizens, physically disabled, homeless, large families and female headed households.

The United States Department of Housing and Urban Development has indicated that secondary dwelling units are a unique housing type that are affordable to persons with

² U.S. Department of Housing and Urban Development Office of Policy Development and Research, Office of Policy Development and Research, Accessory Dwelling Units: Case Study, June 2008.

³ Ibid, page 2.

⁴ Ibid, page 2.

⁵ Section 6425 of the East Palo Alto Ordinance.

special needs as these units are relatively more affordable and accessible. By making revisions to this ordinance the City will increase its capacity to serve this housing population.

Environmental Review

Section 15061(b)(3) of the CEQA Guidelines state that CEQA only applies to projects which have the potential for causing significant effects on the environment. Since this would amend the Zoning Ordinance, no foreseeable physical change would occur to the environment from the adoption of the revised ordinance.

III. Conclusion

Staff is recommending adoption of the proposed Zoning Ordinance amendments. Adoption of the Zoning Ordinance amendments will increase access to affordable housing and ensure adopted City regulations are in conformance with State law.

IV. Attachments

Attachment A: Zoning Text Modifications

Attachment B: U.S. Department of Housing and Urban Development Office of Policy
Development and Research, Office of Policy Development and Research,
Accessory Dwelling Units: Case Study, June 2008.

Attachment C: Draft Ordinance with Proposed Zoning Ordinance Amendments

Attachment D: Geographic Information Systems Analysis (to be provided at the meeting)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO AMENDING SECTIONS 6171, 6181, 6426, AND 6429 OF THE CITY OF EAST PALO ALTO ZONING ORDINANCE PERTAINING TO SECONDARY DWELLING UNITS

THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO ORDAINS AS FOLLOWS:

SECTION 1. Subsection (c) of Section 6171 of the East Palo Alto Zoning Ordinance is hereby amended to read as follows:

SECTION 6171. PERMITTED USES

The following permitted uses shall be allowed in the R-2 district:

- ...
(c) Accessory structures and uses located on the same site as a permitted use, including garages, carports, garden sheds, greenhouses, shade structures, recreation rooms, home hobby shops; and secondary dwelling units;
...

SECTION 2. Subsection (c) of Section 6181 of the East Palo Alto Zoning Ordinance is hereby amended to read as follows:

SECTION 6181. PERMITTED USES

The following permitted uses shall be allowed in the R-M districts:

- ... (c) Accessory structures and uses located on the same site as a permitted use, including garages and carports, garden sheds, greenhouses, shade structures, recreation rooms, home hobby shops, structures for housing swimming pool equipment; and secondary dwelling units;
...

SECTION 3. Section 6426 of the East Palo Alto Zoning Ordinance is hereby amended to read as follows:

SECTION 6426. DEFINITION OF A SECOND UNIT

The term "second unit," as used in this Chapter, means a separate dwelling unit containing living, sleeping, kitchen and sanitation facilities which are defined as a partial bathroom (a water closet, sink or a toilet) or a full bathroom (water closet, sink and a toilet). Located upon a site within a residential zoning district that already contains one legally created dwelling unit; provided, however, an existing residence may be converted to a second unit in conjunction with the development of a new main dwelling unit on the site and in conformity with the development standards for a new second unit as set forth in Section 6429 of this Chapter. Subject to the restrictions contained in this Chapter, a second unit may be either attached to or detached from the main dwelling unit.

SECTION 4. Subsection (b) of Section 6429 of the East Palo Alto Zoning Ordinance is hereby amended to read as follows:

SECTION 6429. DEVELOPMENT STANDARDS

Except as otherwise provided in Section 6432, each second unit shall comply with all of the following development standards:

- (b) Lot size. If the second unit is attached to the main dwelling, the site area of the lot upon which the second unit is located shall be not less than 5,500 square feet. If the second unit is detached from the main dwelling, the lot upon which the second unit is located shall be not less than 7,500 square feet;

SECTION 5. ENVIRONMENTAL DETERMINATION. This ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines § 15061(b)(3) in that it is not a project. The Planning Manager is directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

SECTION 6. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 7. CONSISTENCY WITH GENERAL PLAN. This ordinance is consistent with the East Palo Alto General Plan and the General Plan's objectives, goals, policies and implementation programs.

SECTION 8. PUBLICATION. The City Clerk is directed to post and/or publish this ordinance as required by law.

* * *

Introduced at a regular City Council meeting held _____, 2011, and adopted at a regular City Council meeting held _____, 2011, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Carlos Romero, Mayor

ATTEST:

APPROVED AS TO FORM:

ML Gordon, City Clerk

Valerie J. Armento, Interim City Attorney

Attachment D: Geographic Information Systems Analysis (to be provided at the meeting)

B) **Action 3.4** Pursuant to Government Code Section 65302, amend Safety and Conservation Elements of the General Plan.



STAFF REPORT

City of East Palo Alto
Community Development Dept.
Planning Division

Project: Consideration of amendments to the General Plan to implement AB 162, to identify and address potential flood hazards

Date: May 9, 2011

To: Honorable Chairperson & Members of the Planning Commission

From: Wayland Li, AICP, Associate Planner

I. Introduction

Applicant/Owner: City of East Palo Alto

Request: Proposal to amend the East Palo Alto General Plan to identify and address potential flood hazards in accordance with the requirements of AB 162.

Location: Citywide

Environmental Review: Exempt from environmental review under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines

Staff Recommendation: Planning Division staff recommends that the Planning Commission:

1. Review the report as prepared, acknowledging that mapping is necessary for completion; and
2. Continue the public hearing to May 23, 2011.

II. Planning Commission Action

Recommendation

Planning Division staff recommends that the East Palo Alto Planning Commission:

1. Review the report as prepared, acknowledging that mapping is necessary for completion; and
2. Continue the public hearing to May 23, 2011.

Proposal

Staff is seeking a recommendation from the Planning Commission that the City Council adopt the attached resolution (Attachment A) which would amend the Land Use, Safety and Open Space/Conservation Elements of the General Plan for the purpose of implementing the provisions of Assembly Bill AB 162.

Staff is recommending continuance of this item to the Planning Commission meeting of May 23, 2011 because maps have not yet been completed for Figure S-1 (Flood Zones) and Figure S-5 (Dam Failure Inundation Areas) of the Safety Element. These figures should be available for the Planning Commission meeting of May 23, 2011.

Project Background

Assembly Bill AB 162 was approved by the California Legislature in 2007 for the purpose of increasing local awareness of potential flood hazards. The bill requires that local governments amend their General Plans as follows:

1. Conservation Element amended to identify and consider the location of natural resources used for groundwater recharge and stormwater management;
2. Land Use Element amended to identify and annually review areas subject to flooding;
- 3(a). Safety Element amended to include flood mapping information from the Department of Water Resources (DWR) or the Federal Emergency Management Agency (FEMA); and
- 3(b). Safety Element amended to establish goals, policies and mitigation measures to protect from the risk of flooding;

AB 162 requires that the above General Plan amendments be adopted in conjunction with the required Housing Element update.

Summary of Required General Plan Amendments

Amendment 1. Identification of Groundwater Recharge and Stormwater Management Resources in the Conservation Element

Requirement:

AB 162 requires the Conservation Element of the General Plan to identify rivers, creeks, streams, flood corridors, riparian habitat, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

Implementation:

A new policy has been added to the Conservation and Open Space Element of the General Plan which designates San Francisquito Creek and the Baylands Nature Preserve as resources that shall be maintained for purposes of accommodating floodwater, groundwater recharge and stormwater management. San Francisquito Creek and the Baylands Nature Preserve both currently serve in this capacity.

Amendment 2. Identification and Review of Flood Hazard Areas in the Land Use Element

Requirement:

AB 162 requires the Land Use Element to identify and annually review those areas covered by the General Plan that are subject to flooding as identified by flood plain mapping prepared by FEMA or the State DWR.

Proposed Implementation:

The Flood Zone Map shown in Figure S-1 in the Safety Element of the General Plan has been updated to reflect the current extent of flood zone, as identified by FEMA through the community's Flood Insurance Rate Map (FIRM). The Land Use Element has been amended to include a reference to the updated flood map in the Safety Element. In subsequent years, the City will be required to review the flood mapping in the General Plan and verify it adequately documents the City's vulnerability to flood hazards.

Amendment 3(a). Identification of Flood Hazards in the Safety Element

Requirement:

AB 162 requires the Safety Element of the General Plan be amended to include information which depicts the City's vulnerability to flood hazards, based on:

1. Flood hazard zones;
2. National Flood Insurance Program maps published by FEMA;
3. Information about flood hazards that is available from the United States Army Corps of Engineers;
4. Designated floodway maps that are available from the Central Valley Flood Protection Board;
5. Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the Office of Emergency Services;
6. Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.
7. Maps of levee protection zones;
8. Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls;
9. Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding;
10. Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities; and

11. Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

Proposed Implementation:

Several of the above items are not applicable to the City of East Palo Alto. The City is not located in the jurisdiction of the Central Valley Flood Protection Board and is not in a DWR designated Levee Protection Zone. The City's existing General Plan adequately addresses the requirement for identifying individuals and agencies responsible for flood protection and response by designating the Emergency Preparedness Plan as the document which provides this information.

Staff is proposing to address the remaining items by amending the Safety Element of the General Plan as follows:

1. The Flood Zone Map shown in Figure S-1 in the Safety Element of the General Plan has been updated to reflect the current extent of flood zone, as identified by the community's Flood Insurance Rate Map (FIRM) and to overlay essential public facilities on the map.
2. A new figure, (S-5), has been added to the Safety Element to include mapping information regarding potential flood risks from dam failure, as documented by the Association of Bay Area Governments (ABAG) in accordance with Section 8589.5 of the California Government Code.
3. Discussion was inserted which states that flood mapping data from DWR and the Army Corps of Engineers indicate that flooding can occur outside of FEMA designated flood zones. Historic flooding information, potential for levee failure and the low elevation of the City also indicate that the entire City is potentially vulnerable to flooding.

Amendment 3(b). Establishment of Goals, Policies and Objectives in the Safety Element

Requirement:

Establish a set of comprehensive goals, policies, objectives and implementation measures for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

1. Avoiding or minimizing the risks of flooding to new development;
2. Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones;
3. Maintaining the structural and operational integrity of essential public facilities during flooding;
4. Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones; and
5. Establishing cooperative working relationships among public agencies with responsibility for flood protection.

Proposed Implementation:

The existing General Plan already addresses several of the above items. Policies currently exist which deal with minimizing flood risks, requirements for new construction in flood hazard areas and establishing relationships among public agencies for flood protection. Staff is proposing to address the remaining items by amending the Safety Element of the General Plan as follows:

1. A new policy has been inserted which states that essential public facilities shall be located outside of the Special Flood Hazard Area (SFHA) when feasible and if an essential public facility is located in the SFHA, that construction methods are utilized to minimize damage from flooding.
2. A new policy has been inserted which states that Low Impact Development (LID) engineering principles and techniques shall be utilized to control and manage stormwater runoff. Improved stormwater management can help prevent and reduce the impact of flooding.

Environmental Review

Staff has determined that the proposed General Plan amendments are categorically exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, which exempts activities where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The General Plan amendments being proposed only modify the document by providing more up-to-date hazard mapping, expanding on existing descriptions and inserting new policies which are consistent with existing policies. There are no substantive changes being proposed which could result in a significant environmental impact.

Furthermore, pursuant to Section 15162 of the CEQA does not require a new Negative Declaration or Environmental Impact Report (EIR) if a previously certified EIR adequately addressed the extent of the possible environmental impacts of the proposed project. An EIR was previously produced and certified in the 1999 to address the environmental impacts of the City's General Plan. The proposed amendments only serve to update and reinforce existing aspects of the General Plan and therefore would not create any new environmental impacts. The proposed new policies would minimize the potential risk and impact of flooding, and thus serves as mitigations for potential environmental impacts.

III. Attachments

Attachment A: Draft Resolution

Conservation and Open Space
Element Revision #1

Policy 2.2: Conserve and protect important watershed areas and soils through appropriate site planning and grading techniques, revegetation and soil management practices, and other resource management techniques.

Policy 2.3: Preserve existing and increase the number of trees within the community.

Policy 2.4: Maximize enjoyment and promotion of natural resource areas, such as the baylands, Cooley Landing, San Francisquito Creek, and the shoreline.



Solid Waste

Conservation/Open Space Issue 3: Need to reduce amounts of solid waste.

To maintain the long-term quality of life in East Palo Alto, the community must manage the generation, use and disposal of solid waste. Recycling, reuse and reduction of solid waste can dramatically reduce the amount of material that will otherwise use expensive land fill space.

Conservation/Open Space Goal 3.0: Reduce per capita volume of solid waste.

Policy 3.1: Reduce the per capita production of solid waste in East Palo Alto in concert with San Mateo County source reduction and recycling plans.

Air Quality

Conservation/Open Space Issue 4: Need to improve air quality.

Air quality in the Bay Area does not presently meet state and federal standards. Cooperation among all agencies in the area is necessary to achieve desired improvements to air quality. East Palo Alto can participate and contribute its share in those efforts by proper planning for land use and transportation.

Conservation/Open Space Goal 4.0: Improve air quality.

Policy 4.1: Cooperate with the Bay Area Association of Governments and the Bay Area Air Quality Management District in their efforts to implement the regional Air Quality Management Plan.

Policy 4.2: Cooperate and participate in regional air quality management planning programs and enforcement measures.

Policy 4.3: Implement land use and economic development policies aimed at achieving a greater balance between jobs and housing in East Palo Alto.

Human Resources

Conservation/Open Space Issue 5: Desire to utilize human resources.

East Palo Alto has many community and business groups which represent important resources for accomplishing long-term community improvements. These groups are sources of volunteer leaders and workers who have a distinct understanding of their neighborhoods and areas. These important human resources should be used to achieve community goals and improvements.

* Policy 2.5: Conserve and protect natural resources, such as the Baylands and San Francisquito Creek, which are important for accommodating floodwater, groundwater recharge and stormwater management.

jobs and housing.

The Weeks Neighborhood Plan was prepared by the East Palo Alto Historical and Agricultural Society, the National Park Service - Rivers, Trails and Conservation Assistance Program, and Urban Ecology, Inc. Although not adopted by the City of East Palo Alto, the Plan envisions maintaining and enhancing the neighborhood's agricultural heritage and creating a more sustainable community. Sustainability of the neighborhood, as described by the plan, would balance human and natural needs with economic development.

Relationship to Other General Plan Elements

According to state planning law, the Land Use Element must be consistent with the other General Plan Elements. Each element is independent and all the elements together comprise the General Plan. All elements of the General Plan are interrelated to a degree, and certain goals and policies of each element may also address issues that are the primary subjects of other elements. The integration of overlapping issues throughout the General Plan elements provides a strong basis for implementation of plans and programs, and achievement of community goals.

The Land Use Element relates very closely to all of the other General Plan elements. This Element establishes the planned land use pattern for East Palo Alto based on the historic formation of the City and the community's vision of the future. Alternatively, the other

General Plan elements ensure that infrastructure and public facilities are available to accommodate planned land uses, and that the unique qualities of East Palo Alto are safeguarded and enhanced.

For example, the Housing Element of the General Plan provides the basis for establishing housing stock that meets the affordability requirements and other special needs of the community. The Circulation Element provides a Circulation Plan to accommodate increased traffic from planned development. The use of alternative transportation modes and reduction of automobile trips are addressed in the Circulation Element to meet the transportation demands from new development, and to mitigate the impact of development on regional air quality and traffic conditions. The Land Use Element itself serves to reduce automobile trips by encouraging the development of office, commercial and industrial uses, and consequently, improving the jobs-to-housing balance.

A number of areas are designated for parks and open space on the Land Use Policy Map for recreational and aesthetic purposes. The Conservation and Open Space Element provides policy and plans to maintain and enhance existing parks and recreational facilities and to develop new facilities to meet new demand from population growth. Conservation and Open Space policy is also designed to protect natural and cultural resources. The Safety and Noise Elements ensure that planned land uses identified in the Land Use Element are compatible and will not result in public safety hazards or excessive noise.

*

* The Flood Zone map (Figure S-1) in the Safety Element constrains and guides the organization of land uses in the Land Use Policy Map (Figure LU-1) in the Land Use Element. State Law (Section 65300.2(a) of the California Government Code) requires the Land Use Element to annually review the flood hazard map in the Safety Element to consider its relationship with the Land Use Element.

Safety Element Revision #1

Certain natural conditions and human activities in the community create risks to individuals and properties within the community. Excessive risk from such hazards can be avoided or reduced through the Safety Element.

Three major issues are addressed by the goals, policies and plan of the Safety Element. These major issues include: 1) reducing risk from natural hazardous conditions; 2) reducing risk from hazards associated with human activities; and 3) preparing for emergency conditions. Each issue and the related goals and policies are included in the following section of the Element.

Natural Hazards

Safety Issue 1: Desire to reduce risks associated with natural hazardous conditions, such as geologic conditions, seismic activity and flooding.

In the Bay Area, communities are subject to risk attributable to certain natural hazards, such as geologic conditions, seismic activity, fire and flooding. This risk of exposure to such hazards should be minimized through appropriate planning, development engineering and building construction practices.

Safety Goal 1.0: Reduce the risk to the community from hazards associated with geologic conditions, seismic activity and flooding.

Policy 1.1: Reduce the risk of impacts from

geologic and seismic hazards by applying proper development engineering and building construction requirements.

Policy 1.2: Protect the community from flooding hazards by providing and regularly maintaining flood control facilities.



Human Activity Hazards

Safety Issue 2: Need to reduce risks attributable to human activity such as aircraft overflights, hazardous materials, fire and criminal activity.

Certain human activities, such as flying, use of hazardous or toxic materials, use of combustibles, and criminal actions, expose the population of East Palo Alto to risk. The risk of exposure to these hazards can be reduced to acceptable levels through proper planning and regulation of human activities.

Safety Goal 2.0: Protect the community from hazards associated with aircraft overflights, hazardous materials use, fire, ground transportation accidents, and criminal activity.

Policy 2.1: Work with the City of Palo Alto and its airport operator to reduce the risk posed by aircraft overflights.

Policy 2.2: Cooperate with responsible federal, state and county agencies to minimize amounts and reduce the risk from the use and transport of hazardous materials.

Policy 2.3: Provide fire protection to reduce

* Policy 1.3: Reduce the risk and severity of flooding hazards by applying proper engineering principles to manage rainfall, thereby reducing the volume and intensity of stormwater runoff.

Safety Element Revision #2

the risk of fire.

Policy 2.4: Provide well-designed City roadways to reduce the risk of ground transportation accidents.

Policy 2.5: Provide police protection to address criminal activity.

Policy 2.6: Minimize exposure of the community to hazardous materials by discouraging establishment of businesses that increase risk.

Safety Goal 3.0: Improve the ability of the City to respond to natural and human-caused emergencies.

Policy 3.1: Support the development of local preparedness plans and multi-jurisdictional cooperation and communication for emergency situations.

Policy 3.2: Educate residents and businesses regarding appropriate actions to safeguard life and property during and immediately after emergencies.



Hazards Response

Safety Issue 3: Need to be prepared for emergency conditions.

Major emergencies arise periodically in developed urban areas. Proper preparation for emergencies is an essential action to minimize the disruption, personal injury, and property damage associated with such events. Preventative measures and preparatory responses before an emergency occurs will hasten recovery from these emergencies.

Related Goals and Policies

The goals and policies described in the Safety Element are related to and support subjects included within other General Plan elements. In turn, many goals and policies from the other elements directly or indirectly support the goals and policies of the Land Use Element. These supporting goals and policies are identified in Table LU-1.

Table S-1
Safety
Related Goals and Policies by Element

Safety Issue Area	Related Goals and Policies by Element						
	Land Use	Circulation	Conservation and Open Space	Noise	Safety	Economic Development	Housing
Natural Hazards	2.2, 3.3						3.1
Human Activity Hazards	3.2, 3.3	4.1, 4.2, 4.3	5.2, 5.3			8.1	3.1
Hazards Response	4.1, 4.2	5.1, 5.2	5.2, 5.3				3.1

* Policy 3.3: When feasible, locate public emergency response facilities, including hospitals, emergency shelters, fire stations, emergency command centers and emergency communication facilities, in areas outside of a flood hazard zone. If emergency facilities are located in a flood hazard zone, employ construction methods to minimize damage and retain functionality during flood events.

Safety Element Revision #3

Damage from earthquakes are most often a result of liquefaction. Areas within East Palo Alto have been identified as having the potential for liquefaction to occur during a seismic event. East Palo Alto to the west of University Avenue and to the south of Highway 101 is identified as in the low to high range. There is a 1 to 10 percent probability of liquefiable sediments in these areas. The area of East Palo Alto to the east of University Avenue and to the north of Highway 101 is in the low to moderate range. There is a .1 to 1 percent probability of liquefiable sediments in this area. Because East Palo Alto is situated adjacent to the San Francisco Bay, the eastern portions of the City have the potential to be impacted by tsunami (tidal wave action). These geologic hazards, combined with groundshaking, can result in substantial structural damage and related loss of life and personal injury.

The City will continue to enact programs to reduce geologic hazards to protect public safety. To minimize hazards from earthquakes and other geologic hazards, the most recent state seismic guidelines and guidelines for other geologic hazards will be implemented for structural design. The stability of residential structures, critical structures and vital emergency facilities will be given particular attention. During the review of development proposals involving grading, unstable soils, and other hazardous conditions, surveys of soil and geologic conditions by a state-licensed engineering geologist will be required. Based on the results of the survey, design measures will be incorporated into projects to minimize geologic hazards. Open space easements will be considered to avoid geologic hazards.

Earthquake preparedness is one of the best methods to minimize human suffering and property damage and accelerate recovery. The City will promote earthquake preparedness in

the community, adopt a disaster preparedness plan, and continue to conduct mock exercises. The programs will be coordinated with emergency service providers and school districts to maximize public participation and effectiveness.

~~Two water bodies - the~~
Flood Hazards San Francisco Bay, and
~~the San Francisquito~~
Creek are located adjacent to East Palo Alto. The San Francisco Bay acts as the City's eastern boundary. The San Francisquito Creek forms the City's border with Palo Alto to the south, and also empties into the Bay. The creek is channelled for flood control, on the segment west of Highway 101. East of Highway 101 the creek is bounded by levees through Palo Alto Baylands Nature Preserve. Floods along any water course can be expected. While floods are generally perceived as potential hazards, the degree of hazard associated with a flood is related to the types of land use in the floodplain. For example, tidal flooding benefits marshland; however, floods in residential areas are considered hazardous due to the potential for injury and property damage. Business and commercial activities can be impeded by floods due to facility damage and access problems.

East Palo Alto participates in the National Flood Insurance Administration (NFIA) program, which is administered by the Federal Emergency Management Agency (FEMA). The NFIA program provides federal flood insurance subsidies and federally-financed loans for property owners in flood-prone areas. To qualify for federal flood insurance, the City must identify flood hazard areas and implement a system of protective controls. Flood prone areas in the City have been mapped by FEMA. Figure S-1 *Flood Zones* shows the inundation areas for 100-year and 500-year floods. A 100-year flood means that

a flood of this size has a one percent chance of occurring in a given year, and a 500-year flood means that a flood of this size has a 0.2 percent chance of occurring in a given year. Two areas within East Palo Alto have been identified as subject to serious flooding. The eastern edge of the City, including the wetlands area, is subject to a 100-year flood. Flood insurance is required in these areas. The other area subject to flooding is the western most portion of the City north of Highway 101. This portion of the City is subject to a 500-year flood.



The City will continue to control development in the floodway and floodway fringe. Figure S-2 *Floodplain Schematic* shows the diagram of the floodplain including the floodway and floodway fringe. Development will be prohibited in the floodway unless encroachment will not obstruct flows and increase flood levels. In the floodway fringe, development encroachment will be permitted if the lowest floor of the structures is one foot above the highest estimated flood elevation.

A flood control system is in place in the City, however it is currently deficient. The City has adopted a master plan for storm drainage, and ensure regularly scheduled maintenance of flood control channels and completion of necessary repairs. The City will also investigate the availability of federal funds for levee reconstruction and identify needed improvements for new development projects.

Human Activity Hazards

Human activity hazards addressed in the Safety Plan include aircraft overflights, hazardous materials, fire and crime.

~~Aircraft Overflight~~ The City experiences overflights from aircraft using the Palo Alto Airport. Overflight hazards increase near runways from which aircraft are taking off or landing. Figure S-3 *Palo Alto Airport Proposed North Safety Zone* identifies the area of greatest hazard in East Palo Alto which is entirely included within open space and undeveloped land.

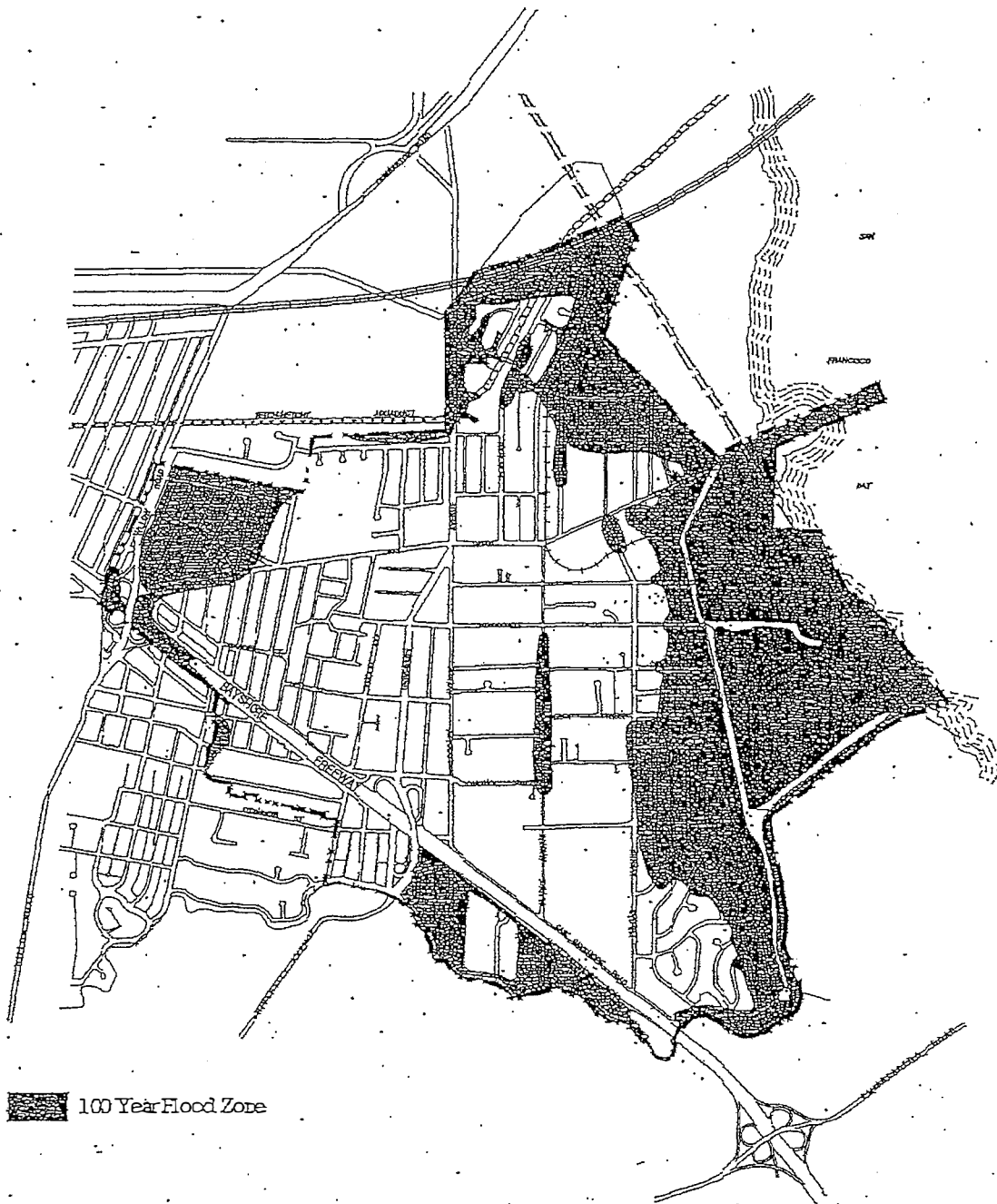
~~Hazardous Materials~~ Public safety concerns associated with the possible and confirmed presence of hazardous materials exist in East Palo Alto. Figure S-4 *Hazards Materials Concentrations* identifies general areas of concern. With the diversity of industrial activities, particularly in the Ravenswood industrial area, the potential for hazardous materials represents a risk. To address this risk, the City will cooperate with federal, state and local agencies to regulate the use of hazardous materials and waste. This cooperative effort includes working with San Mateo County to implement the County Hazardous Waste Management Plan as it applies to East Palo Alto.


~~Fire~~ The Menlo Park Fire Protection District has one fire station located on the corner of University and Rummymede. Structural and chemical fires are two fire safety issues in the City. Two chemical plants in East Palo Alto are cause for extra fire prevention measures due to the solvent reclamation operation and the manufacturing of bio-rational pesticides. Both chemical plants are first-class facilities that operate in compliance with applicable federal, state, county, and local regulations, however their very nature holds the potential for explosion or chemical fire.

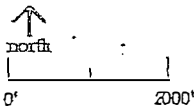
* Although areas located within the flood hazard zone have the highest risk of flooding, the entire city is potentially vulnerable. The Dam Failure Inundation Map (Figure S-5), as well as flood mapping data from the State Department of Water Resources and the Army Corps of Engineers, indicate that areas located outside of the flood hazard zone have the potential for flooding as well. Floods in 1972 and 1998 proved this by inundating areas well outside of the flood hazard zone. Levee failures along San Francisquito Creek or along the Baylands or blockages in the storm drain system also have the potential to flood areas outside of the flood hazard zone.

Safety Element Revision #4

Updated Figure S-1 (Flood Hazard Map)



 100 Year Flood Zone

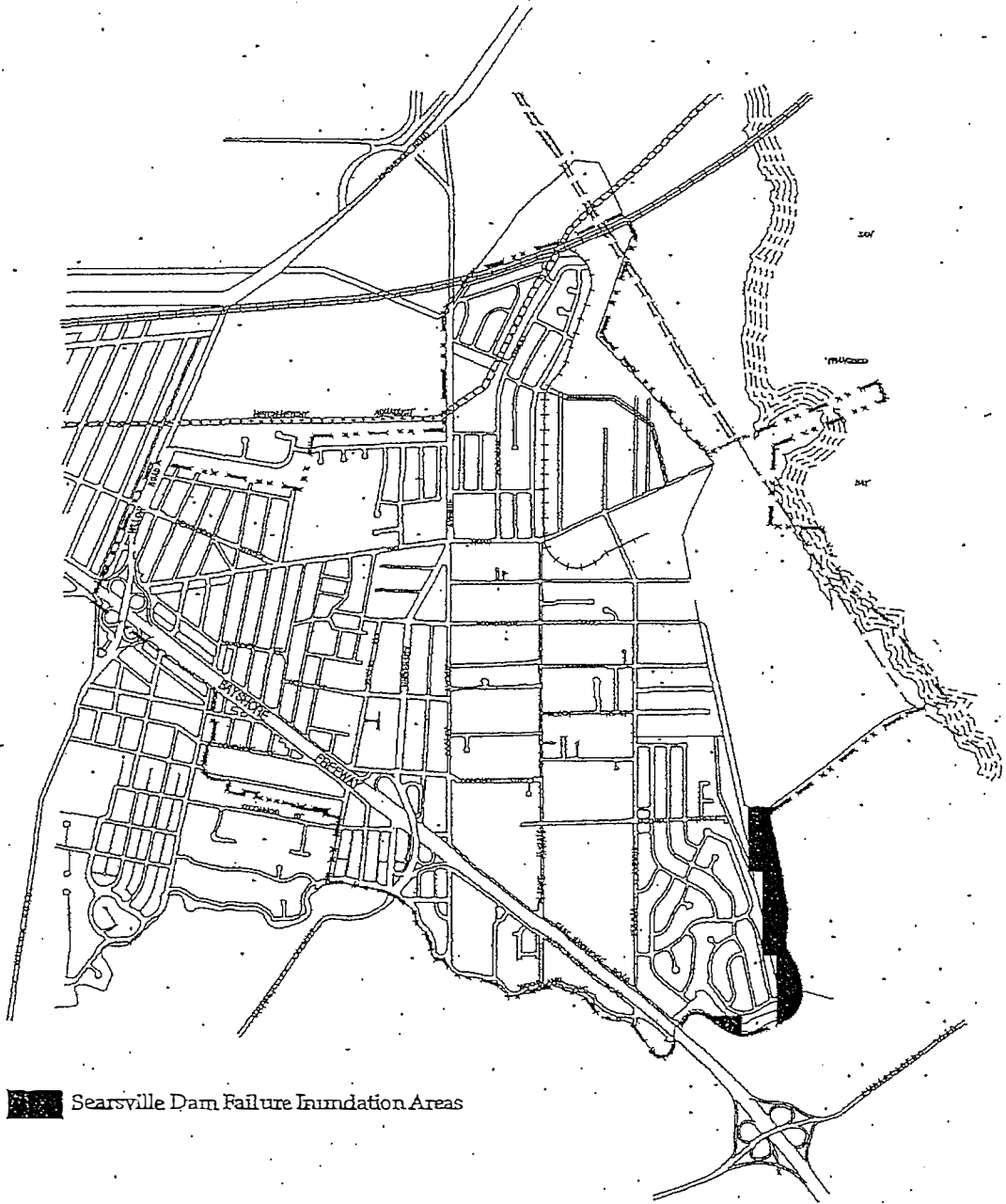



SOURCE: FEMA Flood Insurance Rate Map
Community Panel Number 060708 0001 B (1999)

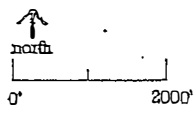
Figure S-1
Flood Zones

Safety Element Revision #5

New Figure S-5 (Dam Failure Inundation Map)



 Searsville Dam Failure Inundation Areas



SOURCE: Association of Bay Area Governments, 1995.
 This hazard map is generalized from maps dam owners are required to prepare and file with the state Office of Emergency Services.

Figure S-5
 Dam Failure
 Inundation Areas

C) **Action 4.8** Infill and Small Lot Development Toolkit. Create an infill and small-lot development design toolkit to assist developers of small parcels.



Item 8
June 6, 2011

STAFF REPORT

City of East Palo Alto
Planning Division

Project: Housing Element Action Item 4.8
Zone Text Amendment recommendation
Planning Commission Public Hearing, June 6, 2011

File Number: ZTA 11-01

Date: June 6, 2011
To: City of East Palo Alto Planning Commission

From: Brad Tarr, AICP
Senior Planner

I. INTRODUCTION

Action Item: Create an infill and small-lot development design toolkit to assist developers of small parcels. This toolkit will provide ideas and examples of techniques to develop small lots while providing usable open space, contributing to a pedestrian environment, and enhancing community character.

Location: Most single-family dwelling neighborhoods (Kavanaugh, Palo Alto Park, Weeks, Willow).

Environmental Review: Categorical Exemption, Class 32 (infill development). The project qualifies because it is consistent with the applicable general plan designation; is less than five acres of such land; has no habitat value for endangered, rare or threatened species; would not be adversely affected because of this qualification in regard to traffic, noise, air or water quality; and is able to be served by utilities and other public services.

Staff Recommendation: Staff recommends approval of a draft ordinance (Attachment 1) which advocates that (a) the project qualifies as a categorical exemption from CEQA; (b) development standards be reduced accordingly; and (c) the toolkit be adopted as a Development Policy.

II. PLANNING COMMISSION ACTION

The Planning Commission shall hold a public hearing for the purpose of soliciting stakeholder, public and agency comment on this implementation measure contained in the draft 2010 Housing Element. It is one of two that are associated with Goal 4.0:

Reduced constraints and enhanced incentives for housing development within the city, particularly in regards to affordable housing.

And Policy 4.5:

Encourage the development of single-family housing and small multi-family housing developments on small parcels.

III. HISTORY

At the public hearing on January 25, 2010, the Planning Commission recommended adoption of the draft Housing Element. On January 10, 2011, the Commission recommended approval of this Action Item to the City Council; unfortunately, it had, unbeknownst to staff, not been published in the Daily News, necessitating its reconsideration. The Element was certified by the State Office of Housing and Community Development on May 27, 2011

IV. ANALYSIS

A. Developing small lots

No comparable Action Item concerning the targeting of small lot development was identified in the previous 2001 Housing Element.

As mentioned above, the City does have an inventory of undeveloped lots which do not meet the minimum standards of the R-1-5000 zoning district with regard to lot size. Most of these are substandard due to being narrower than the minimum 50-foot width requirement.

Partly in recognition of this situation, the zoning ordinance provides relief on front, side- and rear-yard setbacks [**emphasis added**]:

1. *A covered porch structure, one story in height, open on the street side and at least one other side may project five (5') feet into the required [front or side] setback. If a covered porch is incorporated into the design of a single family residence, such that a street-facing attached garage wall/door is set back a minimum of five (5') feet from the front of the porch, the street-facing garage wall/door may be set back a minimum of twenty (20) feet from the front property line [Section 6406d].*
2. *The Planning Commission, may by Use Permit issued in accordance with Chapter 24 of this Ordinance, grant a reduction in of the front yard setback to not less than 5 feet upon an application including not less than five contiguous lots, provided that at least one uncovered off-street parking space is provided in addition to each off-street parking space required by Section 6119 of this Ordinance Code for each lot having a setback of less than 20 feet [Section 6407.1].*
3. *Side setbacks for existing, legally subdivided lots which do not meet current minimum zoning standards with respect to width can be reduced to no less than 10% of the lot width or 3 feet, whichever is greater. This provision applies only to portions of the structure under 18 feet in height [Section 6164.2].*

4. *Where design review approval is requested for three or more single-family dwellings to be constructed upon contiguous lots within the same subdivision, the Planning Commission shall have the authority to reduce any of the side or rear requirements prescribed in this Section, without the granting of a variance, if the Commission finds and determines that:*
 - (1) *The reduction in the size of one yard will be offset by an equal or greater increase in the size of another yard on the same lot; and*
 - (2) *The reduction will enable a more advantageous placement of the dwelling on the site in terms of increasing useable open space, or minimizing privacy impacts, or enhancing the aesthetic appearance of the dwelling in relation to other structures on adjacent sites [Section 6164.3d].*

These provisions have been applied to development projects that, especially in nos. 1 and 3 above, would otherwise have faced a variance requirement. In addition, Chapter 29 of the zoning ordinance provides for Planned Community Permit applications:

It is the purpose of the planned community permit . . . to facilitate the creative development of land by allowing certain zoning standards to be modified, without the granting of a variance, where such modification will better promote the land use and design objectives of the City . . . [Section 6570].

A PC permit may authorize a modification or exemption from any or all of the following zoning standards, but only to the extent expressly stipulated under the terms of the PC permit:

- (1) *Site area;*
 - (2) *Distance between structures;*
 - (3) *Site frontage, width or depth;*
 - (4) *Site coverage;*
 - (5) *Setbacks for front, side or rear yards, and/or*
 - (6) *Structure height.*
- [Section 6271].

The Commission may agree that the provisions of Chapter 29 for Planned Community Permits are generous, as the only qualification to obtain such are a design review, a tentative map or a use permit, the three most common varieties of the Planning Permit Application. Nonetheless, as the City is committed to encouraging ever more the development of small parcels, provisions for small lot development through other measures was examined: Staff would also mention that the charge in the Action Item of "contributing to a pedestrian environment" could be addressed through more extensive application of street dedication requirements so as to enable the provision of sidewalks and other amenities. The current system is that the Building Division establishes in effect an "intensity threshold", based on building valuation as a "major development", which enables the Public Works Division to require a dedication or improvement. Also, staff reviewed

- Comparison with other municipalities. The City of Alameda was selected in particular as there are an abundance of undersized lots therein. Attachment 2 contains excerpts from the Development Regulations General Provisions and Exceptions chapter.

Additional areas in which Alameda's regulations provide for relief include Section 30-5.6(a)(3) for rear yards (highlighted for reference) which establishes a certain percentage of lot depth, in contrast to East Palo Alto's specific 20-foot minimum rear setback; in Section 30-5.7(c)(5), small decks are permitted to encroach into a yard area under certain conditions (with similar regulations for patios in Section 30-5.7(g)); in Section 30-5.7(k), extensions of non-conforming side yard setbacks, even if zero feet, as long as shading and view blockage do not occur, can be established.

Draft Ordinance (Attachment 1) would extend zoning standard relief for qualifying small lots in these categories that have the aim of encouraging infill development.

- Expert opinion. Here is a reader question answered by Robert Parker, AICP, coauthor of the February 2008 *Zoning Practice* article "A National Survey of Development Standards and the Impact on Housing Affordability" from which the following is reported:

"The identification of a set of land use policies that will lead to development of more affordable housing while achieving other community goals is difficult at best. Many jurisdictions in the United States are facing housing affordability problems. A considerable body of literature exists on land use policy and affordable housing that summarizes approaches that communities have used to address the housing affordability issue.

"This section summarizes some of the policy approaches that communities can consider to address housing affordability. Much of the information is from *Affordable Housing: Proactive and Reactive Planning Strategies*, S. Mark White, American Planning Association Planning Advisory Service Report Number 441, 1992. Table 1 provides a summary of policy approaches.

TABLE 1: POTENTIAL AFFORDABLE HOUSING APPROACHES		
Reactive Measures: Modification of Regulatory Standards		
Measure	Description	Potential Issues
Zoning and Subdivision reform	Zero Lot Line zoning ¹	May lead to inconsistent development patterns.
	Cluster zoning ²	
	Mixed-Use zoning	
	Planned Unit Development	Narrow streets may impede emergency vehicles.
	Street Width	
Lot coverage & dimension req.		

Source: Matrix developed by ECNorthwest; information from *Affordable Housing: Proactive and Reactive Strategies*, White, 1992

1 defined as "The practice of placing the building on one of the side lot lines in order to increase the usable side yard space" (from Carbine & Associates, a Tennessee development firm.

2 defined as a type of zoning in which density is determined for an entire area, rather than on a lot-by-lot basis. Within the cluster zone, the developer has greater flexibility in designing and placing structures so long as the overall density requirement is met (from teachmeanfinance.com)

It may be advisable to omit consideration of cluster zoning for small lot development, as the latter tend to be scattered over the various neighborhoods and not grouped together. The City's zoning regulations already include Mixed-Use zoning, Planned Unit Development, and lot coverage and dimension requirements, the most relevant of which are excerpted in the preceding section.

Zero Lot Line zoning is a tool that some communities have used to increase the usable open space on lots facing space challenges. Section 30-5.12 of the Alameda Development Regulations (Attachment 2) includes a definition of usable open space (a definition not included in East Palo Alto's zoning regulations). Should the Commission decide that establishing and increasing the usable open space as defined is consistent with the intent of Action Item 4.8, Draft Ordinance (Attachment 1) would feature such inclusion.

B. Toolkit

If the Commission decides that Chapter 29 is sufficiently generous in breadth of development standards that are subject to modification under the Planned Community Permit process, it may view the situation as, rather not the lack of regulatory flexibility that the Action Item is aimed to address, but a successful site plan template that incorporates "usable open space, contributing to a pedestrian environment, and enhancing community character". In processing plans in East Palo Alto, a particular developer of narrow (e.g., 25-foot wide lots) has managed to get two single-family projects approved. Please see Attachments 3 and 4 for the site plan/floor plan/elevation packages that were approved. If these plans are used as the "toolkit" for would-be developers of undersized lots, it can be included as a handout and adopted as a Development Policy through the aforementioned Draft Ordinance (Attachment 1).

FINDING OF FACT

Section 6550 of the City Zoning Regulations states that the Planning Commission, "whenever the public necessity and convenience and the general welfare require such amendment" [to the zoning regulations], make such finding.

VI. ATTACHMENTS

1. Draft Ordinance
2. Excerpts from City of Alameda Development Regulations
3. Site Plan/Floor Plan/Elevations for 1234 Jervis Avenue, East Palo Alto
4. Site Plan/Floor Plan/Elevations for 1225 Westminster Avenue, East Palo Alto
5. Minutes of January 10, 2011

Infill/Small Lot Toolkit

The purpose of the Infill/Small Lot Toolkit is to provide the development community, City staff, and policymakers a brief description of the specific design standards and policy tools that can be implemented in East Palo Alto to encourage the development of small or Infill lots.



City of East Palo Alto

Community Development Department
Planning Division
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94303
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City of East Palo Alto



INFILL/SMALL LOT HOUSING TOOLKIT

The City of East Palo Alto provides responsive, respectful, and efficient public services to enhance the quality of life and safety for our multi-cultural community



Tel: 650 853-3185

Email: planning@cityofepa.org

2010 Housing Element

In June of 2010 the City Council adopted the revised Housing Element. Included within this policy document was Action 4.8 which directed staff to prepare a policy toolkit that would encourage the development of infill and small parcels in East Palo Alto. The Planning Commission recommends that the City Council implement or highlight the following policy tools:

Policy Tools

-Zoning Code Provisions

Section 6406d of the Zoning Ordinance allows for reduced setbacks if a porch is incorporated into the design of a residential structure.



-Use Permit Provisions

Upon submittal of a use permit to the Planning Division front yard setbacks can be reduced by five (5) feet for five or more contiguous lots.

-Reduced Setbacks

Side yard setbacks can be reduced to ten (10) percent of the lot width or three (3) feet, whichever ever is greater for legally subdivided lots.

-Planned Community Permit

Applicants are encouraged to apply for a planned community permit in order to provide greater flexibility in the design of a proposed project, including reduced setbacks, and increased height limits. If these design concessions will provide an incentive for the development of infill or small lots



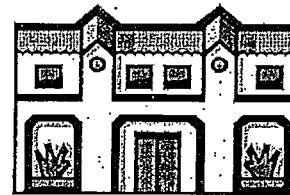
-Additional Design Standards

Pre Approved Site Development Plans

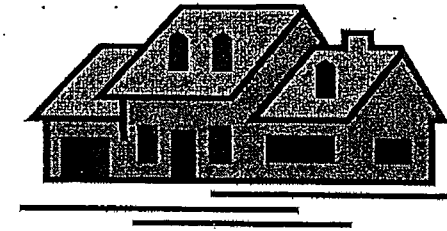
In order to accommodate affordable housing developers the Planning Commission has recently approved two small lot projects at 1234 Jervis and 1225 Westminster which the development community can use as templates for future projects.

City of Alameda

Section 30 of the City of Alameda's Zoning Ordinance provides additional design standards which can be incorporated into small lots in East Palo Alto including: allowing or continuing non conforming side yard setbacks of



zero(0) feet so long as shading and view blockage do not occur; and providing a certain percentage of a rear yard for usable open space, as opposed to East Palo Alto's minimum rear yard setback of twenty (20) feet.



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ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO
ADDING SECTION 6102.64.5, AND AMENDING SECTIONS 6164, AND 6406 OF THE
EAST PALO ALTO ZONING ORDINANCE**

WHEREAS, in September, 2010 the City Council adopted a draft Housing Element; and

WHEREAS, included in the Element was Policy 4.8, in which the City pledged to encourage the development of single-family housing and small multi-family housing developments on small parcels; and

WHEREAS, the City does have an inventory of residentially-zoned lots primarily in single-family neighborhoods which are substandard with regard to minimum lot size requirements as set forth in the East Palo Alto zoning ordinance; and

WHEREAS, the City recognizes that modifying development standards for such lots increases the likelihood that such lots will be developed; and

WHEREAS, the East Palo Alto Planning Commission wishes to facilitate implementations of Action Item 4.8 of the Housing Element, to create an infill and small-lot development design toolkit to assist developers of small parcels. This toolkit will provide ideas and examples of techniques to develop small lots while providing usable open space, contributing to a pedestrian environment, and enhancing community character; and

WHEREAS, the proposed zoning text amendments are consistent with the General Plan, and the General Plan's objectives, goals, policies and implementation programs; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of East Palo Alto as follows:

SECTION 1. Section 6102.64.5 of the East Palo Alto Zoning Ordinance, is hereby added as follows, with succeeding definitions renumbered as necessary:

SECTION 6102.64.5. OPEN SPACE, USABLE Usable open space is that area of a building site which is landscaped or otherwise developed and maintained for recreation or outdoor living by the occupants. Usable open space shall not include yards or other areas having a width of less than eight (8') feet, except for balconies which may have a minimum horizontal dimension of five (5') feet, or areas devoted to motorized vehicle access or storage.

SECTION 2. Section 6164 of the East Palo Alto Zoning Ordinance shall be hereby amended to read as follows:

SECTION 6164. DEVELOPMENT STANDARDS

The following development standards shall apply to R-1-5000 lots:

Site Area	Site Frontage	Site Width	Site Depth	Structure Coverage	Front Yard	Side Yard	Exterior Side	Rear Yard 1 st Story	Rear Yard 2 nd Story
5,000 sq ft.	50 ft	50ft	100 ft	50% net	20 ft	5 ft	N/A	20 ft.	20 ft.
6,000 sq ft.	60 ft	60 ft	100 ft	50% net	20 ft	5 ft	12 ft	20 ft	20 ft

In the case of a lot meeting the definition of Legal Parcel pursuant to Section 7009(53) of the City Subdivision Regulations, such land shall be considered to have met the site area qualifications standard of this Section, unless the Planning Commission is unable to find that site is not physically suitable for the proposed density of development.

SECTION 3. Subsection (e) of Section 6406 of the East Palo Alto Zoning Ordinance shall be hereby added to read as follows:

SECTION 6406.

- (e) A legal parcel, meeting the definition thereof as set forth in Section 7009(53) of the Subdivision Regulations and which has less than 100 feet of lot depth, the rear yard shall be 20% of the average lot depth but in no case shall it be less than twelve (12') feet.

SECTION 4. The preceding amendments are hereby determined to be categorically exempt from environmental review, pursuant to Section 15301 (a) of the California Environmental Quality Act Guidelines.

SECTION 5. The East Palo Alto City Council does hereby adopt as a Development Policy for use as a toolkit to aid the building of residential single-family dwellings on narrow legal parcels the plans attached as Residential Templates A and B s, herein incorporated by reference and to be included in the Appendix of Title 10.

SECTION 6. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 7. PUBLICATION.

The City Clerk is directed to post and/or publish this ordinance as required by law.

Housing Element Action Item 4.8
June 6, 2011
Page -8-

AYES:
NOES:
ABSTAIN:
ABSENT:

Carlos Romero, Mayor

ATTEST:

ML Gordon, City Clerk

APPROVED AS TO FORM:

Valerie J. Armento, Interim City Attorney

D) Action 5.2 Senior Housing Toolkit.



STAFF REPORT

*City of East Palo Alto
Community Development Dept.
Planning Division*

Project: Implement Action 5.2 of the East Palo Alto Housing Element which states: "reduce project costs and enhance unit affordability by revising zoning and development standards for senior projects."

Date: March 14, 2011

To: Honorable Chair and Members of the Planning Commission

From: Guido F. Persicone, AICP, Associate Planner

Introduction

Applicant/Owner: City of East Palo Alto

Location: Citywide

Environmental Review: Not a project under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines

Staff Recommendation: Planning Division staff recommends that the Planning Commission: Adopt the draft ordinance (Attachment D)

II. Planning Commission Action

Regulatory Framework

In June of 2010 the City Council adopted the revised 2010 Housing Element, pending final certification by the California Department of Housing and Community Development (State HCD). Under the provisions of Section 65400(a)(2) of the Government Code, the City is required to provide by April 1 of each year a status report on the implementation of the Housing Element to the City Council, the Office of Planning and Research and State HCD. Failure to implement the Housing Element in a timely fashion authorizes judicial action to order compliance and to

grant sanctions to an aggrieved party.¹ Due to this restrictive timeline, on September 13, 2010 the Commission provided direction on which Housing Element items to review first. One such item was Action 5.2:

Action 5.2: Reduce project costs and enhance unit affordability by revising zoning and development requirements for senior projects to allow elements such as smaller unit sizes, parking requirement reduction and common dining facilities.

Time Frame: Revise the Zoning Ordinance by June of 2011

Resources: Staff time

Responsible Agencies: Planning Division and Housing Services.

In addition to the requirements identified within the Housing Element, the City is required to analyze any special needs housing, including but not limited to persons with disabilities, and the elderly and to address and where appropriate, remove governmental constraints, for the maintenance, improvement and development of housing for these particular housing subgroups.²

Senior Housing

The City currently has several programs that assist seniors. The East Palo Alto Senior Center provides daily lunches, exercise programs, transportation to appointments. By enactment of Chapter Chapter 24.3 (Residential Care Facilities) of the East Palo Alto Zoning Ordinance the City provides housing for disabled persons and the elderly. Additionally, under the provisions of the Density Bonus regulations adopted by the City Council in 2009, senior housing projects are eligible for reductions in parking standards and increased density. Furthermore, an applicant/developer of a senior housing project with a density bonus may seek a waiver of development or zoning standards if it can be demonstrated the waiver is necessary to make the housing development economically feasible.³

Additionally Policy Tools

However, additional regulatory tools are needed because the San Mateo Health Department recently completed a study on seniors and their major conclusions are:

The Senior population will increase rapidly by 72 percent by 2030.

In the year 2030, seniors will be more diverse than today, with the greatest increase in Latino and Asian/Pacific Islander.

Older working adults will, by and large, retire in the communities where they live.⁴

As such, staff has endeavored to provide the Commission several policy documents (see Attachments A-C) to review so that a discussion can occur

¹ Government Code 65400(b).

² Government Code 65583(b) (7) and (b)(3)

³ Government Code Section 65915(e) and (f).

⁴ Aging Friendly San Mateo Staff Report, Twenty-One Elements Group, www.21elements.com

about specific policy tools. Additionally, staff has prepared a draft ordinance (see Attachment D) with several tools that could induce senior housing in East Palo Alto. Additional input from the Commission on the ordinance is anticipated.

Consistency with the General Plan

Decisions affecting land use and development should be consistent with the General Plan. Actions consistent with the General Plan further the plan's objectives and policies. The proposed project furthers the following General Plan goals and policies:

- Housing Element Policy 2.1 Implement program to increase affordable housing opportunities

The adoption of a policy document that will facilitate a streamlined development review process for senior housing projects will bolster the City's ability to meet its Regional Housing Needs Allocation (RHNA), as set by the State of California and Housing Element Policy 2.1.

- Housing Goal 4.0 To address the housing needs of senior citizens, physically disabled, homeless, large families and female headed households.

By creating a Senior Housing Toolkit the City will be providing the development community specific recommendations to increase the likelihood of senior housing being built in East Palo Alto.

Environmental Review

Section 15061(b)(3) of the CEQA Guidelines state that CEQA only applies to projects which have the potential for causing significant effects on the environment. Adoption of an ordinance will not have any foreseeable physical changes to the environment.

III. Conclusion

Planning staff is recommending review of the attached material and adoption of the draft ordinance.

IV. Attachments

- A: Aging Friendly San Mateo, December 10, 2008
- B: Aging in Place, A Toolkit for Local Governments
- C: 21 Elements Summary of Senior Housing Policies
- D: Draft Ordinance
- E: The Unruh Act.

Senior Housing Toolkit

The purpose of the Senior Housing Toolkit is to provide the development community, City staff, and policymakers a brief description of the specific design standards and policy tools that can be implemented in East Palo Alto to encourage senior housing.



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City of East Palo Alto



SENIOR HOUSING TOOLKIT

The City of East Palo Alto provides responsive, respectful, and efficient public services to enhance the quality of life and safety for our multi-cultural community



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2010 Housing Element

In June of 2010 the City Council adopted a new Housing Element. Included within this document is Action 5.2 a policy toolkit that would encourage senior housing in East Palo Alto. After consultations with affordable housing developers, the County Housing Authority and the City's Housing Director, the Planning Commission recommended that the City Council encourage senior housing through the implementation of the following policy tools:



Policy Tools

-Reduced Off Street Parking

One parking space shall be provided per unit in a senior housing project. The parking can be tandem or uncovered. The Planning Commission is authorized to modify or reduce this standard if the applicant can demonstrate that complying with this requirement will place an undue financial or site development burden upon the project.

-Density Bonus

All eligible projects may receive a density bonus under the provisions of Section 65915 of the Government Code, and the Zoning Ordinance, as administered by the City. This authorizes greater residential density than that which is allowed in the zoning ordinance.

-Planned Community Permit

Applicants are encouraged to apply for a planned community permit in order to provide greater flexibility in the design of a proposed project, including reduced setbacks, and increased height limits, if these design concessions will provide an incentive for the development of senior housing.

-HUD Funding

Applicants are encouraged to apply for Section 202 (Supportive Housing for the Elderly) funding.

Additional Design Standards

Additionally, project proponents should attempt to incorporate, where feasible, the following design standards into the implementation of a senior housing project:

One Level Living

In order to accommodate seniors, who might experience a loss of mobility, all living features (kitchen, bath, fireplace, laundry) should be located on one level.

Management Plan

A management plan for the senior housing project shall be submitted to the Planning Division Manager.

The management plan shall include, but not be limited to, what medical, preventive health, and other services are available to residents.



Transportation

Project proponents are encouraged to identify sites within one quarter mile of a transit station, rail station, commuter rail station bus station or bus stop.

Open Space and Services

Project proponents are encouraged to identify sites located within a half mile of a park, recreational facility and/or medical services.



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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO
ADDING CHAPTER 14.12 (SENIOR HOUSING) TO THE EAST PALO ALTO
MUNICIPAL CODE.

THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO ORDAINS AS FOLLOWS:

SECTION 1. CHAPTER 14.12 ADDED TO THE MUNICIPAL CODE.

A new chapter, Chapter 14.12, Senior Housing, is hereby added to the Municipal Code to read:

CHAPTER 14.12

SENIOR HOUSING

SECTION 14.12.010 PURPOSE.

It is the policy of the City of East Palo Alto consistent with California Housing Element Law (Government Code §§ 65580-65589.8) to provide senior housing and to reduce project cost and enhance unit affordability by revising zoning and development standards for such projects.

SECTION 2. SENIOR CITIZEN HOUSING DEVELOPMENT

a) Senior Housing. To qualify as a senior citizen housing development, a project must be restricted to eligible occupants and qualify as "housing for older person" under the Federal Fair Housing Act (46 U.S.C. §§ 3600 *et seq.*), and "senior citizen housing" under the Unruh Act (Cal. Civ. Code §§ 51 *et seq.*) and be subject to federal and state housing laws forbidding discrimination based on familial status.. project Definitions. As used in this chapter terms shall have the meanings provided:

(i)

"Eligible Occupants" means at least one person in residence in each unit shall be a senior citizen and each other resident who is not a senior citizen in the same unit shall be required to be a qualified permanent resident, a permitted health care resident, or a person whose occupancy is permitted under subdivision (b) of Civil Code Section 51.4.

(i) "Permitted Health Care Resident" has the meaning set forth in the Unruh Civil Rights Act.

(ii) "Qualified Permanent Resident" has the meaning set forth in the Unruh Civil Rights Act.

(iv) "Senior Citizen" has the meaning set forth in the Unruh Civil Rights Act.

- (v) "Senior Citizen Housing Development" means a residential development developed, substantially rehabilitated, or substantially renovated for senior citizens.
- c)
- d) **Affordability.** Units within a senior housing development shall be restricted as to affordability based upon the income restrictions placed upon housing units as enforced by the federal government, the state government or any funding agency.
- e) **Term of Senior Housing Obligations.** The obligations shall apply during the funding term, . The expiration of funding obligations shall in no way reduce the requirements that the project comply with local, state and federal law, including but not limited to the applicable zoning and permit requirements..
- f) **Advertising.** All advertising and publications shall disclose the status of the project as a senior citizen housing development.
- g) **Lease Provisions.** All leases and/or rental agreements shall provide for the enforcement of this chapter, state and federal senior citizen housing development requirements and the project's written rules regarding such restrictions.
- h) **Annual Report; Recertification.** On an annual basis, the project operator shall submit a report to the City which contains, a certification or recertification of the occupant eligibility for each unit, copies of the advertising published regarding the project, the current form of lease/rental agreement with its attachments, and such other documents as may be reasonably requested by the City. The annual report shall be based on information supplied by the tenant or occupant of each unit in a certified statement on a form provided or previously approved by the City.
- i) **Ineligible Parties.** Unless otherwise prohibited by state or federal law, the project operator shall prohibit any person who has not been determined to be an eligible occupant based on the annual report from continuing to rent or occupy a unit and shall cause any such person to vacate any unit so rented or occupied. Unless otherwise prohibited by state or federal law, when a unit is completely vacated, for any reason whatsoever, the unit shall then again be rented or otherwise made available only to eligible occupants.
- j) **Accessibility and Services.** To the extent that specific physical features and services are required for the project, property and units to meet federal and state requirements, the project operator covenants to construct, maintain, repair and provide such physical features and services, as applicable.

SECTION 3. SENIOR HOUSING POLICY TOOLS

Senior housing development project design standards and principles:

- a. **Off-Street Parking.** One parking space shall be provided per unit. Parking may be tandem or uncovered, so long as applicants submit a parking study to document the appropriateness and feasibility of the parking proposed. The Planning Commission is authorized to modify the parking requirement if the applicant can demonstrate that complying with the requirement will place an undue financial or site development burden upon the project.
- b. **Bicycle Parking.** One Class I bicycle parking space for every 30 units plus one Class II parking space for every 30 units shall be provided.
- c. **One level living.** All living features (kitchen, bath, fireplace, laundry) in residential units should be located on one level. At least one entrance must be accessible without stairs. Additionally, project applicants shall ensure adequate accessibility to senior residents by complying with Chapters 11A (Housing Accessibility) and Chapter 11B (Accessibility to Public Buildings, Public Accommodations, Commercial Buildings and Publicly Funded Housing) of the California Building Code.
- d. **Density Bonus.** All eligible projects may receive a density bonus, under the provisions of Section 65915 of the Government Code, and the provisions of the Zoning Ordinance, as administered by the City.
- e. **Planned Community Permit.** Applicants are encouraged to apply for a planned community permit in order to provide greater flexibility in the design of the proposed project, including reduced setbacks and increased height limits, if these design concessions will provide an incentive for the development of senior housing.
- f. **Lighting.** The applicant shall submit a lighting plan showing all parking lot and exterior building lighting, including details on standard design, coverage and intensity for review and approval by the Planning Director prior to issuance of any building permits.
- g. **Security.** A security plan shall be submitted to the Planning Division Manager for review by the Police Department to ensure crime prevention through environmental design (CPTED) principles are incorporated into the project.
- h. **Management Plan.** A management plan for the senior housing project shall be submitted to the Planning Division Manager or designee. The management plan shall include but not limited to an identification of what medical, preventive health, and other services are available to residents.
- i. **Transportation.** Project proponents are encouraged to identify sites located within one quarter mile of a transit station, rail station, commuter rail station, bus station or bus stop.
- j. **Access to Open Space and Services.** Project proponents are encouraged to identify sites located within a half mile of a park, recreational facility and/or medical services.
- k. **United States Housing and Urban Development (HUD) Funding.** Applicants are encouraged to apply for Section 202 (Supportive Housing

for the Elderly) funding.

SECTION 4. ENVIRONMENTAL DETERMINATION. This ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines § 15061(b)(3) in that it is not a project. The Planning Division Manager is directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

SECTION 5. CONSISTENCY WITH GENERAL PLAN. This ordinance is consistent with the East Palo Alto General Plan and the General Plan's objectives, goals, policies and implementation programs.

SECTION 6. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 7. PUBLICATION. The City Clerk is directed to post and/or publish this ordinance as required by law.

* * *

Introduced at a regular City Council meeting held _____, 2011, and adopted at a regular City Council meeting held _____, 2011, by the following vote:

**AYES:
NOES:
ABSTAIN:
ABSENT:**

Carlos Romero, Mayor

ATTEST:

APPROVED AS TO FORM:

ML Gordon, City Clerk

Valerie J. Armento, Interim City Attorney

E) **Action 5.3** Reasonable Accommodations Ordinance.



STAFF REPORT

*City of East Palo Alto
Community Development Dept.
Planning Division*

Date: January 24, 2011
To: Honorable Chairperson and Planning Commissioners
From: Guido F. Persicone, AICP, Associate Planner
Project: Proposal to adopt a reasonable accommodations ordinance as required by Action 5.3 of the revised 2010 East Palo Alto Housing Element.

I. Introduction

Applicant/Owner: City of East Palo Alto
Location: Citywide
Environmental Review: Not a project under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines
Staff Recommendation: Planning Division staff recommends that the Planning Commission:

1. Affirm that the project is not a project under Section 15061(b)(3) of the CEQA guidelines; and
2. Recommend that the City Council adopt the attached draft ordinance (Attachment A).

II. Planning Commission Action

Regulatory Framework

Under the provisions of Section 65400(a)(2) of the Government Code, the City is required to provide by April 1 of each year a status report on the implementation of the Housing Element to the City Council, the Office of Planning and Research, and California Department of Housing and Community Development (HCD). Failure to implement the Housing Element in a timely fashion

authorizes judicial action to order compliance and to grant sanctions to an aggrieved party.¹ Due to this timeline, the Commission provided staff the order of items it wished to review during Fiscal Year FY 2010-2011 (FY 10-11) at the September 27, 2010 meeting.

In June of 2010 the City Council adopted the revised 2010 Housing Element, after a year of public review and hearings by the Planning Commission and gathering input through joint meeting(s) with the City Council. While certification by the State HCD is anticipated shortly, the Planning Division is implementing actions within the Chapter 5 of the Plan for the purpose of ensuring compliance with State housing policy and law within one year of adoption. This staff report is limited to implementation of Action 5.3, as identified below:

Action 5.3: Adopt a reasonable accommodation ordinance to provide zoning and land-use exceptions for housing serving persons with disabilities. Design this procedure to be ministerial, with minimal or no processing fees; proposals will be subject to approval by the Planning Manager, applying following decision-making criteria:

- The request for reasonable accommodation will be used by an individual with a disability protected under fair housing laws
- The requested accommodation is necessary to make housing available to an individual with a disability protected under fair housing laws
- The requested accommodation would not impose an undue financial or administrative burden on the City
- The requested accommodation would not require a fundamental alteration in the nature of the City's land use and zoning program

Time Frame: Adopt a Reasonable Accommodation Ordinance by June 2011

Resources: General Fund

Responsible Agencies: Planning Division and Housing Development Division

In addition to the requirements identified within the Housing Element, per Section 65583(c) (3) of the Government Code, the City is mandated by State law to provide accommodations to persons with disabilities:

Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, *and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities (emphasis added).*

Reasonable Accommodation

According to the California Independent Living Council the need for accessible and affordable housing for Californians with disabilities will increase significantly over the course of the present decade. The report's major findings include that between 1999 and 2010 the number of Californians with some form of physical or psychological disability is expected to increase by 19 percent, from approximately 6.6 million to 7.8 million.² The proposed ordinance provides a fair and reasonable means of accommodating the special housing needs of individuals with disabilities, as required by state and federal law. The Fair Housing laws require that cities and counties provide flexibility or even waive certain requirements when it is necessary to eliminate barriers to housing opportunities

¹ Government Code 65400(b).

² State of California, Office of the Attorney General, Bill Lockyer, May 15, 2001.

for people with disabilities: An example of such a request might be to place a ramp in a front yard to provide access from the street to the front door.³

Process

The State Attorney General, in a 2001 letter, advised jurisdictions not to use existing variance or conditional use permit processes because they do not provide the correct standard for making fair housing determinations and because the focus of review, in the case of a variance is on the topography of the site or the unique character of the lot, and not on accommodations that can be made to reduce barriers to housing.⁴

As proposed in the draft ordinance (see Attachment A), a new process would be created in which the Planning Manager, his designee or other permitting authorities, would determine that the individual making the request for accommodation has a disability as defined in the law and verified by an appropriate professional, or is developing housing for individuals with disabilities.

If the individual has established the need for the accommodation based on the disability, the Planning Manager, his designee or other permitting authorities, would determine that it is reasonable, and grant the request, unless he/she can establish that granting the request would create an undue financial burden to the City or would result in a fundamental alternation in the City's land use and zoning policies/programs.⁵

City Council Strategic Plan Goals

Adoption of an reasonable accommodations ordinance will implement the City Council Strategic Goal of Improving Organizational Effectiveness and Efficiency by providing an administrative process to better serve physically disabled persons.

Consistency with the General Plan

Decisions affecting land use and development should be consistent with the General Plan. Actions consistent with the General Plan further the plan's objectives and policies. The proposed project furthers the following General Plan goals and policies:

- Housing Goal 4.0 To address the housing needs of senior citizens, physically disabled, homeless, large families and female headed households.

By making reasonable accommodations to existing and proposed housing development projects for persons with disabilities, the City's development review process would be in conformance with State and Federal Fair Housing laws and would also implement Housing Goal 4.0 of the Housing Element.

- Housing Element Policy 6.0 To ensure decent, safe living environments for City's residents regardless of age, sex, family composition, race, ethnicity, physical or mental disability or income.

³ San Mateo Countywide Housing Element Update Kit, Reasonable Accommodations Report, <http://www.21elements.com/Reasonable-Accommodations-and-Discrimination-Based/View-category.html>

⁴ Ibid, page 2.

⁵ Ibid, page 2.

The proposed ordinance will reduce barriers to special needs housing used by disabled persons, thus implementing Housing Element Policy 6.0.

Environmental Review

Section 15061(b)(3) of the CEQA Guidelines state that CEQA only applies to projects which have the potential for causing significant effects on the environment. Since this would amend the Zoning Ordinance, no foreseeable physical change would occur to the environment from the adoption of the revised ordinance.

III. Conclusion

Staff is recommending adoption of the proposed Ordinance. Adoption of the ordinance will increase access to housing for disabled persons and ensure adopted City regulations are in conformance with State and Federal law.

IV. Attachments

Attachment A: Draft Reasonable Accommodations Ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO ADDING CHAPTER 14.10 (REASONABLE ACCOMMODATION) TO THE MUNICIPAL CODE.

THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO ORDAINS AS FOLLOWS:

SECTION 1. A new Chapter 14.10 is hereby added to Title 14 of the East Palo Alto Municipal Code (hereinafter "E.P.A.M.C.") to be numbered and titled and to read as follows:

Chapter 14.10 - REASONABLE ACCOMMODATIONS

Sections:

- 14.10.010 - Purpose
- 14.10.020 - Findings
- 14.10.030 - Applicability
- 14.10.040 - Application Requirement
- 14.10.050 - Review Authority
- 14.10.060 - Review Procedures and Findings
- 14.10.070 - Appeal of Determination

14.10.010 - Purpose

It is the policy of the City of East Palo Alto, pursuant to the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act (hereinafter Acts), to provide individuals with disabilities reasonable accommodation onto rules, policies, practices and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities. This chapter establishes a procedure for making requests for reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures to comply fully with the intent and purpose of fair housing laws. This chapter is intended to apply to those persons who are defined as disabled under the Acts.

14.10.020 - Findings

The City Council finds and determines that:

1. The federal Fair Housing Amendment Act of 1988 and California's Fair Employment and Housing Act impose an

affirmative duty on local governments to make reasonable accommodation in their land use and zoning regulations and practices when such accommodation may be necessary to afford individuals with disabilities an equal opportunity to housing.

2. The East Palo Alto Housing Element identifies and sets forth a plan for removing governmental constraints to housing for individuals with disabilities by providing reasonable accommodation.
3. A fair housing reasonable accommodation procedure for individuals with disabilities and developers of housing for individuals with disabilities to seek relief in the application of land use, zoning and building regulations, policies, practices and procedures furthers compliance with federal and state fair housing laws and provides greater opportunities for the development of critically needed housing for individuals with disabilities.
4. This chapter is consistent with the East Palo Alto General Plan and its objectives, goals, policies and implementation programs.

14.10.030 - Applicability

A request for reasonable accommodation may be made by any person with a disability, the person's representative, or any entity, when the application of a zoning law or other land use regulation, policy or practice is perceived to act as a barrier to fair housing opportunities.

A request for reasonable accommodation may include a modification or exception to the rules, standards and practices for siting, development and use of housing or housing related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of his or her choice.

14.10.040 - Application Requirement

Request for reasonable accommodation shall be submitted on an application form provided by the Planning Division or in the form of a letter to the Planning Division and shall contain the following information:

1. Application Material

- a. The applicant's name, address and telephone number.
- b. Address of the property for which the request is being made.
- c. The current use of the property.
- d. The basis for the claim that the individual is considered disabled under the Acts.
- e. The code provision, regulation or policy from which reasonable accommodation is being requested.
- f. What specific accommodation is requested and why the accommodation is necessary to make the specific property accessible to the individual.

2. Processing Fee

- a. The applicant shall pay a processing fee to the City as adopted by resolution of the City Council. The applicant may apply for a fee waiver, which may be granted at the discretion of the City Council.

If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (including but not limited to: conditional use permit, design review, general plan amendment, zone change, annexation, etc), then the applicant shall file the information required above for reasonable accommodation together for concurrent review with the application for discretionary approval.

14.10.050 - Review Authority

1. Planning Manager. If no approval is sought other than the request for reasonable accommodation, the request shall be reviewed by the Planning Manager, or designee.
2. Other Reviewing Authority. If a request for reasonable accommodation is submitted for concurrent review with another discretionary land use application, it shall be determined by the authority making the final discretionary land use decision.

14.10.060 - Review Procedures and Findings

1. Planning Manager. The Planning Manager shall make a written determination on the request within 45 days and either grant, grant with modifications or deny a request for reasonable accommodation.
2. Other Reviewing Authority. The determination on whether to grant, grant with modifications or deny a request for reasonable accommodation made by the authority responsible

for reviewing the discretionary land use application shall be made at the time of the discretionary land use decision. The determination shall then be provided in writing to the applicant.

3. Findings. The written decision to grant, grant with modifications or deny a request for reasonable accommodation shall be based on consideration of the following factors:
 - a. Whether the housing, which is the subject of the request, will be used by a disabled individual.
 - b. Whether the accommodation requested is necessary to make specific housing available to a disabled individual.
 - c. Whether the requested accommodation would impose an undue financial or administrative burden on the City, in which instance it would not be deemed to be reasonable.
 - d. Whether the requested accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning, in which instance it would not be deemed to be reasonable.
 - e. Potential impact on surrounding uses.
 - f. Physical attributes of the property and structures.
 - g. Alternative accommodations which may provide an equivalent level of benefit.
4. Conditions of Approval. In granting a request for reasonable accommodation the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the accommodation complies with the findings .

14.10.070 - Appeal of Determination

A determination by the reviewing authority to grant, grant with modifications or deny a request for reasonable accommodation may be appealed, pursuant to Chapter 30 of the Zoning Ordinance.

SECTION 2. ENVIRONMENTAL DETERMINATION.

This ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines § 15061(b)(3) in that it is not a project. The Planning Manager is directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

SECTION 3. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City

Council hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. PUBLICATION.

The City Clerk is directed to post and/or publish this ordinance as required by law.

* * *

Introduced at a regular City Council meeting held _____, 2011,
and adopted at a regular City Council meeting held _____,
2011, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Carlos Romero, Mayor

ATTEST:

ML Gordon, City Manager

APPROVED AS TO FORM:

Valerie J. Armento, Interim City Attorney

F) **Action 5.6** Emergency Shelters in the M-1 Zoning District



STAFF REPORT

City of East Palo Alto
Community Development Dept.
Planning Division

Project: Proposal to allow emergency shelters in the M-1 (Light Industrial) zoning district as an addition to the permitted use category as required by Action 5.6 of the revised 2010 East Palo Housing Element.

Date: February 28, 2011

To: Honorable Chairperson & Members of the East Palo Alto Planning Commission

From: Guido F. Persicone, AICP, Associate Planner

Introduction

Applicant/Owner: City of East Palo Alto

Location: Citywide

Environmental Review: Not a project under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines.

Public Notice: A public notice was published in the Daily News on February 18, 2010 pursuant to Section 65090 of the Government Code (see Attachment C).

Staff Recommendation: Planning Division staff recommends that the Planning Commission:

1. Affirm that the project is not a project under Section 15061(b)(3) of the CEQA guidelines; and
2. Recommend that the City Council adopt the attached draft ordinance (Attachment A).

II. Planning Commission Action

Regulatory Framework

In October of 2007, the State adopted Senate Bill 2 (SB 2)¹ which clarified and strengthened requirements of housing element law. In particular, the legislation requires housing elements to be

¹ See Attachment D (Senate Bill 2 Legislation).

adopted with specific language mandating that cities allow emergency shelters by right in at least one zoning district. Accordingly, in June of 2010 the Council adopted the 2010 Housing Element which included Action 5.6:

Action 5.6: Revise the Zoning Ordinance, according to State law, to permit emergency shelters in one or more zones without a conditional use permit or other discretionary action. Each zone will have sufficient capacity to accommodate at least one year-round shelter.

Time Frame: Revise the Zoning Ordinance by June 2011

Resources: Staff time

Responsible Agencies: Planning Division and Building Services Division

The timeframe to amend the zoning ordinance is within one year of the Housing Element adoption, or June of 2011. Staff is requesting that the Commission forward a recommendation to proceed with the proposed zoning text amendments to the M-1 (Light Industrial) zoning district as required by state law.

Discussion

According to the San Mateo County Center on Homelessness there are approximately 248 homeless persons in East Palo Alto, and at any one time approximately 1.2 percent of the State's total population is homeless.² Some thirty percent of California's homeless are considered chronically homeless, or have been homeless for six months or more. This population tends to be comprised of single adults who face such obstacles as mental illness, substance abuse issues and chronic health problems or disabilities that prevent them from working.³ SB 2 facilitates efforts to help provide emergency housing for this special needs population.

In accordance with State law, emergency shelters may only be subject to those development and management standards that apply to projects within the same zone, except the city may apply written objective standards that include all of the following:

Objective Standard	Staff Recommendation
The maximum number of beds or persons permitted to be served nightly by the facility.	Staff is recommending that the maximum number of beds for a facility in East Palo Alto be sixty (60). ⁴
Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.	One space for each two employees on largest shift; but no less than 1 space for each 2,000 sq. ft. of floor area. ⁵
The size and location of exterior and interior waiting and client intake areas (aka "dedicated space").	A standard of ten square feet per bed plus a cubicle space for each 20 clients is a best management practice. A portion of the

² Appendix 3A: Point in Time Count of Homeless People, Housing Element Update Kit, SB 2 Policy and Technical Paper, October 10, 2008 and Senate Bill 2 Memorandum, California Department of Housing and Community Development, Division of Housing Policy Development, May 7, 2008.

³ SB 2 Memorandum, Homeless Needs Section, California Department of Housing and Community Development, Division of Housing Policy Development, May 7, 2008.

⁴ Sixty is being recommended to ensure the proposed ordinance, as implemented during the Regional Housing Needs Allocation cycle, provides the capacity to serve the identified housing population. This figure was also recommended by the Center for Homelessness.

⁵ All uses not enumerated which are permitted in the M-1 zoning district must follow this parking standard.

	dedicated space shall be a patio area in the rear of the property. ⁶
The provision of on-site management.	On-site management shall be present at all times the shelter is in operation. Shelters shall be required to develop a management plan in accordance with the San Mateo County Housing our People Effectively (HOPE) Quality Assurance Standards included as Attachment B. On-site management may elect to receive or accept clients without a voucher from a social service provider. ⁷
Establish the proximity to other emergency shelters provided that emergency shelters are not required to be more than 300 feet apart.	Proposed shelters in East Palo Alto will be 300 feet from any other shelter for the homeless. ⁸
The length of stay.	Temporary shelter shall be provided for no more than sixty consecutive days. Extensions up to a total stay of 180 days may be provided if no alternative housing is available by recommendation of a physician or a qualified representative. ⁹
Lighting.	The applicant shall submit a lighting plan showing all proposed parking lot and exterior building lighting, including details on standard design, coverage and intensity for review and approval by the Planning Manager prior to issuance of any building permits. ¹⁰
Security during hours that the emergency shelter is in operation.	A security plan shall be submitted to the Planning Manager for review by the East Palo Alto Police Department to ensure crime prevention through environmental design (CPTED) principles are incorporated into the project.

Consistency with the General Plan

Decisions affecting land use and development should be consistent with the General Plan. Actions consistent with the General Plan further the Plan's objectives and policies. The proposed project furthers the following General Plan goals and policies:

- Program 4.3 Shelter for the homeless

⁶ This was the standard recommend by the Shelter Network and the Safe Harbor Homeless Shelter as identified in the *San Mateo Countywide Housing Element Update Kit, Zoning in the Wake of SB 2 Report*.

⁷ This standard of not allowing "walk up admissions" was recommended by Dr. Brian Greenberg of Shelter Network, email correspondence to City staff on January 13, 2011. The Planning Commission on February 28, 2011 requested that it be modified to give onsite management the opportunity to accept clients without a voucher.

⁸ Government Code Section 65583(4)(v).

⁹ The Planning Commission requested that a physician or other qualified professional representatives make the recommendation if additional time in the emergency shelter is required.

¹⁰ Light pollution should be avoided since the M-1 Light Industrial is adjacent to the Faber-Laumeister Tract, which has endangered species that could be harmed and harassed by the intrusion of light in the evening.

By revising the zoning ordinance to allow an emergency shelter in the M-1 (Light Industrial Zoning District) city staff will implement Program 4.3.

- o Land Use Policy 1.4 Provide areas within the community where public service and nonprofit organizations can operate.
Implementing SB 2 through the implementation of Action 5.6 will provide a zoning district for organizations to provide public services to homeless persons and families.

Environmental Review

Section 15061(b)(3) of the CEQA Guidelines state that CEQA only applies to projects which have the potential for causing significant effects on the environment. Since this would lead to amendment of the Zoning Ordinance, no foreseeable physical change would occur to the environment from the adoption of the revised ordinance.

III. Conclusion

Staff is recommending adoption of the proposed Ordinance and asks the Commission to recommend it to the City Council. Adoption of the ordinance will increase access to emergency housing for homeless persons and ensure adopted City regulations are in conformance with State law.

IV. Attachments

- Attachment A: Draft Ordinance
- Attachment B: San Mateo County Housing our People Effectively (HOPE) Quality Assurance
- Attachment C: Palo Alto Daily News Legal Advertisement
- Attachment D: Senate Bill 2 (SB 2) Legislation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO ADDING SECTION 6102.33.7, AND 6275, AND AMENDING SECTION 6271 OF THE CITY OF EAST PALO ALTO ZONING ORDINANCE PERTAINING TO EMERGENCY SHELTERS.

THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO ORDAINS AS FOLLOWS:

SECTION 1. Section 6102.33.7 of the East Palo Alto Zoning Ordinance is hereby added, as follows:

SECTION 6102.33.7. EMERGENCY SHELTER

Housing with minimal supportive services for homeless persons that is limited to an occupancy of six months or less by homeless persons, in accordance with Section 50801(e) of the Health and Safety Code.

SECTION 2. Subsection (a)(63) of Section 6271 of the East Palo Alto Zoning Ordinance is hereby added as an additional permitted use, as follows, with the succeeding permitted uses renumbered alphabetically thereafter as appropriate:

SECTION 6271. USES PERMITTED

....
(63) Emergency Shelter.
....

SECTION 3. Section 6275 of the East Palo Alto Zoning Ordinance is hereby added, as follows:

SECTION 6275. EMERGENCY SHELTER DEVELOPMENT STANDARDS

Each emergency shelter shall comply with all of the following development standards before the use will be approved by the Planning Director within the M-1 (Light Industrial) zoning district:

- (a) Property Development Standards. The shelter for the homeless shall conform to all property development standards of the M-1 (Light Industrial) zoning district, except as modified by these performance standards.
- (b) Maximum Number of Persons/Beds. The shelter for the homeless shall contain a maximum of 60 beds and shall serve no more than 60 homeless persons.

clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 7. CALIFORNIA HOUSING ACCOUNTABILITY ACT

Per Sections 65580 through 65589.8 of the Government Code emergency shelters shall be exempt from discretionary permit requirements (special use permits, conditional use permits, variance, discretionary design review standards).

SECTION 8. PUBLICATION. The City Clerk is directed to post and/or publish this ordinance as required by law.

Introduced at a regular City Council meeting held _____, 2011, and adopted at a regular City Council meeting held _____, 2011, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Carlos Romero, Mayor

ATTEST:

ML Gordon, City Clerk

APPROVED AS TO FORM:

Valerie J. Armento, Interim City Attorney

February 18, 2011

G) **Action 5.7** Transitional and Supportive Housing as a Residential Use.



STAFF REPORT

*City of East Palo Alto
Department of Planning
and Community Development*

Project: Housing Element Action Item 5.7
Land Use Zone identification for transitional and supportive housing
development
Planning Commission Public Hearing, April 25, 2011

File Number: ZTA 11-006

Date: April 25, 2011

To: City of East Palo Alto Planning Commission

From: Brad Tarr, AICP
Senior Planner

I. INTRODUCTION

Project: Pursuant to SB 2, zoning will be amended to permit transitional and supportive housing as a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone.

Location: Citywide

Zoning Designation: R-1-5000, Single-Family Residential District

General Plan Designation: Low/Medium Density Residential (1-8 du/ac)

Environmental Review: Pursuant to Section 15378 of the CEQA Guidelines, a "project" is the whole of an action which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change. The enactment produces neither of these results, and thus does not qualify as a project. Staff will undertake an environmental review of a proposed development that would be processed under the proposed zone text amendment (ZTA).

Staff Recommendation: Staff recommends that the Commission pass the accompanying draft ordinance (Attachment 2).

II. PLANNING COMMISSION ACTION

The Planning Commission shall hold a public hearing for the purpose of soliciting stakeholder, public and agency assistance agency comment on this implementation measure contained in the 2010 Housing Element. It is one of two that are associated with Goal 5.0:

Provide adequate housing for special needs groups in the city, including seniors, the physically challenged, HIV positive or living with AIDS, the homeless, at-risk youth (leaving the foster care system), small and large families, veterans, farm workers, and female-headed households.

and Policy 5.1:

Encourage the development of housing units suitable for persons with special needs, especially for seniors, veterans, and large families as needed.

III. HISTORY

At the public hearing on January 25, 2010, the Planning Commission recommended adoption of the draft Housing Element. The City Council passed Resolution 3074 on June 15, 2010, and the final revisions to the Element were approved by the Council on March 1, 2011.

IV. ANALYSIS

This Policy survives from the previous 2001 Housing Element, although the specific resource relative to this kind of housing identified it as part of a "Continuum of Care" strategy undertaken by the San Mateo County Housing Division which the City supported.

In several instances in the new Element, the approach has been to identify a zoning designation to include a specific special needs group; for example, Action 5.6 names the M-1 zone as that to accommodate emergency shelters as a use-by-right. Similarly, this Action Item would do the same in the low-to-medium density (R-1-5000) residential zones, as staff proposes, for transitional and supportive housing developments which are defined in Attachment 1 which are relevant with regard to Senate Bill 2 that requires this zone text amendment.

Staff is proposing this particular zoning designation since one specific development was granted Architectural Supervision and Use Permit authority that would provide transitional housing—EPA Can Do's Emancipated Youth residential and life skills training facility which was re-approved in 2010 for 855 Runnymede Street. This particular project was classified as an Institutional use which meant it had a means of being approved through the Use Permit process even though the density exceeded that of the maximum for an exclusively residential project.

With the zone text amendment, the Commission will be building on the direction applicable to the Emancipated Youth project, in that Architectural Supervision and Use Permit filings will be necessary to obtain approval. This will be classified as another housing product listed as a Permitted Use.

FINDING OF FACT

Section 6550 of the City Zoning Regulations states that such regulations may be amended whenever the public necessity and convenience and general welfare require such amendment. As Action Item 5.7 has already been adopted by the City Council, the Planning Commission's role is to recommend which such zone(s) shall be identified for the transitional and supportive housing.

VI. ATTACHMENTS

1. Health & Safety Code and SB 2 highlights.
2. Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO ADDING SECTIONS 6102.48.1, 6102.48.2 AND 6102.77.1 AND AMENDING SECTION 6161 OF THE EAST PALO ALTO ZONING ORDINANCE RELATED TO ADDING TRANSITIONAL AND SUPPORTIVE HOUSING AS A PERMITTED USE IN THE R1 (SINGLE FAMILY RESIDENTIAL ZONING DISTRICT)

WHEREAS, on June 15, 2010, the City Council adopted a draft Housing Element; and

WHEREAS, on March 1, 2011, the final policy revisions to the Element were made in response to comments made by the State Department of Housing and Community Development in order to receive certification; and

WHEREAS, included in the Element was Policy 5.1 in which the City pledged to encourage the development of housing units suitable for persons with special needs, especially for seniors, veterans, and large families as needed; and

WHEREAS, transitional and supportive housing were previously identified as one housing type suitable for such special needs persons; and

WHEREAS, Senate Bill 2, signed into law on October 13, 2007, requires in part that a land use zone be identified where such housing can be developed; and

WHEREAS, the aforementioned Housing Element update project was determined to provide the opportunity to formally enact such requirement into local regulations; and

WHEREAS, this ordinance is consistent with the East Palo Alto General Plan and the General Plan's objectives, goals, policies and implementation programs; and

THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO ORDAINS AS FOLLOWS:

SECTION 1. Section 6102.48.1 of the East Palo Alto Zoning Ordinance is hereby added, as follows:

SECTION 6102.48.1. HOUSING, SUPPORTIVE Housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

SECTION 2. Section 6102.48.2 of the East Palo Alto Zoning Ordinance is hereby added, as follows:

SECTION 6102.48.2. HOUSING, TRANSITIONAL and "transitional housing development" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of

the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

SECTION 3. Section 6102.77.1 of the East Palo Alto Zoning Ordinance is hereby added, as follows:

SECTION 6102.77.1 TARGET POPULATION Persons with low incomes having one or more disabilities, including mental illness, HIV or AIDS; substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5, commencing with Section 4500 of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated youth, families, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

SECTION 4. Section 6161 of the East Palo Alto Zoning Ordinance is hereby amended to include "Supportive Housing" and "Transitional Housing" as a Permitted Use alphabetically to the Permitted and Conditional Use Table, as follows:

<u>Land Use:</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
... SUPPORTIVE HOUSING	X	
... TRANSITIONAL HOUSING	X	
...		

SECTION 5. ENVIRONMENTAL DETERMINATION. This ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines § 15061(b)(3) in that it is not a project. The Planning Director is directed to file a Notice of Exemption in accordance with CEQA and the State CEQA Guidelines.

SECTION 6. CONSISTENCY WITH GENERAL PLAN. This ordinance is consistent with the East Palo Alto General Plan and the General Plan's objectives, goals, policies and implementation programs.

SECTION 7. SEVERABILITY: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 8. PUBLICATION. The City Clerk is directed to post and/or publish this ordinance as required by law.

Introduced at a regular City Council meeting held _____, 2011, and adopted at a regular City Council meeting held _____, 2011, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Carlos Romero, Mayor

ATTEST:

ML Gordon, City Clerk

APPROVED AS TO FORM:

Valerie J. Armento, Interim City Attorney

H) **Action 5.9** Single-Room-Occupancy projects in High Density Residential Zones.



STAFF REPORT

*City of East Palo Alto
Department of Planning
and Community Development*

Project: Housing Element Action Item 5.9
Zone Text Amendment recommendation
Planning Commission Public Hearing, June 13, 2011

File Number: ZTA 11-02

Date: June 13, 2011

To: City of East Palo Alto Planning Commission

From: Brad Tarr, AICP
Senior Planner

I. INTRODUCTION

Action Item: Allow by right the development of Single-Room Occupancy projects in High Density Residential Zones.

Location: The predominant high-density neighborhoods are west of the 101 Freeway (Willow, Woodland), with significant pockets north of University @ Runnymede to Weeks Street and southeasterly of East Bayshore @ Clarke Avenue.¹

Environmental Review: Categorical Exemption, Class 32 (infill development). The project qualifies because it is consistent with the applicable general plan designation; is less than five acres of such land; has no habitat value for endangered, rare or threatened species; would not be adversely affected because of this qualification in regard to traffic, noise, air or water quality; and is able to be served by utilities and other public services.

Staff Recommendation: Staff recommends approval of a draft ordinance (P.C. Resolution 11-3; Attachment 1) which advocates that (a) the project qualifies as a categorical exemption from CEQA; (b) the definition of single room occupancy be added to the list of definitions; and (c) the list of permitted uses in R-M zone categories be adjusted accordingly.

II. PLANNING COMMISSION ACTION

¹ See page 3 of the Analysis section.

The Planning Commission shall hold a public hearing for the purpose of soliciting stakeholder, public and assistance agency comment on this implementation measure contained in the draft 2010 Housing Element. It is one of two that are associated with Goal 5.0:

Provide adequate housing for special needs groups in the city, including seniors, the physically challenged, HIV positive or living with AIDS, the homeless, at-risk youth (leaving the foster care system), small and large families, veterans, farm workers, and female-headed households.

And Policy 5.1:

Encourage the development of housing units suitable for persons with special needs, especially for seniors, veterans, and large families as needed.

Attachment 2 is the discussion in the Housing Element concerning this special needs population.

III. HISTORY

At the public hearing on January 25, 2010, the Planning Commission recommended adoption of the draft Housing Element. The City Council passed Resolution 3074 on June 15, 2010. The Certified Element was approved by the Council on March 15, 2011.

The Commission considered this Action Item on February 14, 2011; unfortunately, unbeknownst to staff, a public hearing notice was not published, necessitating a revisiting to the Commission.

IV. ANALYSIS

This Policy survives from the previous 2001 Housing Element. Actions identified then to address special needs groups generally involved a more active Housing Division partnering with housing providers to actually develop special needs units, exploring rent subsidies, and revising development standards for some of the identified special needs groups.

In several instances in the new Element, the approach has been to identify a zoning designation to include a specific special needs group; for example, Action 5.6 names the M-1 zone as that to accommodate emergency shelters as a use-by-right. Similarly, this Action Item would do the same in the high density (R-M) residential zones for single-room occupancy unit developments.

Single room occupancy (SRO) units are those that are clustered in an apartment building arrangement comprised of single rooms of 1-2 tenants, often with shared kitchen and/or bathroom facilities, and are a form of low-cost housing. No SRO's currently exist in East Palo Alto.

The Action Item would permit SRO developments to be a permitted use in R-M districts. There are several with different permitted densities. Section 6181.3 includes a listing:

SECTION 6181.3. SITE DENSITY

The minimum net site area per dwelling unit in each R-M district shall be as follows:

<u>District</u>	<u>Structure Coverage</u>
R-M-500:	500 sq. ft.
R-M-1,000	1,000 sq. ft.
R-M-2,000	2,000 sq. ft.
R-M-3,000 :	3,000 sq. ft.

The General Plan Land Use Policy Map (Attachment 3), and Zoning Map (Attachment 4), show where these densities are located: in the southwest portion in the Willows Neighborhood; the northern part of the University Corridor; and on Weeks Street east of University Avenue. The last area is owned by the City and is under study as part of the Ravenswood Specific Plan, and may be subject to revision as part of that review process.

The R-M-500 designation is the densest permitted without applying density bonus regulations (see Attachment 3). The amendment to Section 6181, Permitted Uses in the R-M Districts, would create a subsection (k) permitting SRO developments therein; however, the provisions of Chapter 28, Architectural Supervision, would still apply as to design review considerations. Other changes would include an addition to Chapter 1 to provide a SRO definition, as "apartment", "dwelling, multiple", and "dwelling unit" all exclude this type of housing. Attachment 1 is a draft ordinance recommending these changes to the zoning ordinance to execute in a regulatory manner Action Item 5.9.

FINDING OF FACT

Section 6550 of the City Zoning Regulations states that the Planning Commission, "whenever the public necessity and convenience and the general welfare require such amendment" [to the zoning regulations], make such finding.

VI. ATTACHMENTS

1. Draft Ordinance.
2. Housing Element Special Needs population policy discussion.
3. Land Use Policy Map.
4. Zoning Map.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO ADDING SECTION 6102.71 AND AMENDING SECTION 6181 OF THE EAST PALO ALTO ZONING ORDINANCE TO CREATE A DEFINITION OF SINGLE ROOM OCCUPANCY DEVELOPMENT AND IDENTIFY THE RM-500 ZONING DISTRICT AS A USE BY RIGHT IN THIS ZONING DISTRICT

THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO ORDAINS AS FOLLOWS:

SECTION 1. Section 6102.71 of the East Palo Alto Zoning Ordinance is hereby added, as follows:

SECTION 6102.71. SINGLE ROOM OCCUPANCY A multiple tenant building that houses one or two people in individual rooms (sometimes two rooms, or two rooms with a bathroom or half bathroom), or to the single room dwelling itself. Tenants typically share bathrooms and/or kitchens, while some rooms may include kitchenettes, bathrooms, or half-baths. It is more commonly known by the acronym SRO.

SECTION 2. Subsection (k) of Section 6181 "Permitted Uses" is hereby added, as follows:

SECTION 6181. PERMITTED USES

(k) Single-room occupancy developments in the R-M-500 zone.

SECTION 3. ENVIRONMENTAL DETERMINATION. This ordinance qualifies for a Class 32 (Infill Development; Section 15332) categorical exemption from CEQA. The Planning Division Manager is directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

SECTION 3. CONSISTENCY WITH GENERAL PLAN. This ordinance is consistent with the East Palo Alto General Plan and the General Plan's objectives, goals, policies and implementation programs.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 5. PUBLICATION. The City Clerk is directed to post and/or publish this ordinance as required by law.

Housing Element Action Item 5.9

June 13, 2011

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Introduced at a regular City Council meeting held _____, 2011, and adopted at a regular City Council meeting held _____, 2011, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Carlos Romero, Mayor

ATTEST:

ML Gordon, City Clerk

APPROVED AS TO FORM:

Valerie J. Armento, Interim City Attorney

1) **Action 5.10** Reduced spacing requirements for residential care facilities.



STAFF REPORT

City of East Palo Alto
Community Development Department
Planning Division

Project: Implement Housing Action Plan Item 5.10 by reducing spacing requirements for residential care facilities to seven hundred and fifty feet (750) for facilities that house ten or more persons”

Date: May 9, 2011

To: Honorable Chair and Members of the Planning Commission

From: Guido F. Persicone, AICP, Associate Planner

Introduction

Applicant/Owner: City of East Palo Alto

Location: Citywide

Environmental Review: Not a project under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines

Staff Recommendation: Planning Division staff recommends that the Planning Commission: Adopt the draft ordinance (Attachment B)

II. Planning Commission Action

Background

The Planning Division completed this action based on recommendations of the consultant, AECOM, for the purpose of removing a constraint to the production of residential care facilities. That constraint was identified as the distance between residential care facilities. The Planning staff reviewed the impact of varying distance requirements between residential care facilities, and presented this information to the City Council on February 15, 2011, and on March 1, 2011 respectively. Action on this issue, which will amend

Action Item 5.2 of the Housing Element Action Plan, Chapter 5, will implement the direction received, and be in conformance with State guidance.

California Department of Housing and Community Development (HCD)

HCD in its December 3, 2010 letter thought that the distance between residential care facilities was too great, and recommended that we reduce the distance requirements between facilities to 500 feet. After review by the City Council, and in response to a recent fire at a residential care facility, the Planning staff was directed to consult with HCD for the purpose of determining if a compromise that reduces the distance between residential care facilities to 750 feet from 1,000 instead of the recommended 500 feet would be acceptable. Upon confirmation that this will indeed meet the state requirements, the Planning staff is returning to implement this change. The exact language in the Housing Action Plan appears below.

Action 5.10: Reduce the spacing requirement for residential care facilities, as identified in Section 6515.5 of the East Palo Alto Zoning Ordinance to seven hundred and fifty feet (750) for facilities that house ten persons or more.

Time Frame: January 1, 2012

Resources: Staff time

Responsible Agencies: Planning Division and Housing Services

As such, City staff has endeavored to prepare a draft ordinance (see Attachment B) for review by the Commission.

Consistency with the General Plan

Decisions affecting land use and development should be consistent with the General Plan. Actions consistent with the General Plan further the plan's objectives and policies. The proposed project furthers the following General Plan goals and policies:

- Housing Element Policy 2.1 Implement program to increase affordable housing opportunities

The adoption of a zoning text amendment that will reduce a barrier to establishing a residential care facility will increase access to affordable housing for disabled persons and senior citizens, implementing Housing Element Policy 2.1.

- Housing Goal 4.0 To address the housing needs of senior citizens, physically disabled, homeless, large families and female headed households.

By reducing a barrier to housing for disabled and other individuals there is increased likelihood residential care facilities will be established in East Palo Alto for special needs housing populations.

Environmental Review

Section 15061(b)(3) of the CEQA Guidelines state that CEQA only applies to projects which have the potential for causing significant effects on the environment. Adoption of an ordinance will not have any foreseeable physical changes to the environment.

III. Conclusion

Planning staff recommends review of the attached material and adoption of the draft ordinance.

IV. Attachments

- A: Palo Alto Daily News Legal Advertisement
- B: Draft Ordinance

B: Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO AMENDING SECTION 6515.5 (RESIDENTIAL CARE FACILITIES) OF THE EAST PALO ALTO ZONING ORDINANCE

THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO ORDAINS AS FOLLOWS:

SECTION 1. Subsection (d) of Section 6515.5 of the East Palo Alto Zoning Ordinance is hereby amended, as follows:

SECTION 6515.5 STANDARDS FOR RESIDENTIAL CARE FACILITIES

...
(d)

A residential care facility for ten or more residents shall not be located within 750 feet of the boundaries of a parcel with another such facility consisting of ten or more residents, nor within 500 feet of the boundaries of a parcel with a residential care facility of more than six residents; and

...

SECTION 2. ENVIRONMENTAL DETERMINATION. This ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15061(b)(3) in that it is not a project. The Planning Division Manager is directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

SECTION 3. CONSISTENCY WITH GENERAL PLAN. This ordinance is consistent with the East Palo Alto General Plan and the General Plan's objectives, goals, policies and implementation programs.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 5. PUBLICATION. The City Clerk is directed to post and/or publish this ordinance as required by law.

* * *

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AYES:

NOES:

ABSTAIN:

ABSENT:

Carlos Romero, Mayor

ATTEST:

ML Gordon, City Clerk

APPROVED AS TO FORM:

Valerie J. Armento, Interim City Attorney

2: Planning Division Letter to HCD notifying them of action taken



CITY OF EAST PALO ALTO
Community Development Department— Planning Division
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 Tel: (650) 853-3185 • Fax: (650) 853-3179

Acting Director Cathy E. Creswell
 State of California
 Department of Housing and Community Development
 Division of Housing Policy Development
 1800 Third Street, Suite 430
 Sacramento, CA 94252-2053

June 30, 2011

Re: - Fiscal Year 2010/2011 (FY 10/11) Housing Element Implementation

By this letter, the City of East Palo Alto is providing you an update on the measures taken to implement the Housing Element for the period from June 30, 2009 to June 30, 2011. Of the seventy-one actions identified in the Housing Element's twelve goals, only those actions that are implemented or have yearly activities underway are listed. This includes those actions where planning has started. Collectively, twenty-eight actions establish the City of East Palo Alto's record for FY 10/11 implementation.

TABLE 1: Goals Implemented By Specific Actions												
30 June 2009 to 30 June 2011												
Goal	1	2	3	4	5	6	7	8	9	10	11	12
Number of Actions Completed or Underway	3	1	1	4	7	3	2	0	3	0	3	1
Source: In June 2011, the Planning Division completed an interview of responsible agencies, including the San Mateo Office of Housing, the Rent Stabilization Program, the City Attorney's Office, and other City Divisions and Departments.												

The actions include nine measures recommended by the City's consultant, AECOM, as important to be completed within one year of adoption. The nine actions which fall in this category are scheduled to be adopted in July 2011 and were drafted during FY 10/11 by Planning Division Staff with the assistance of the City's Attorney's Office, and voted upon by the Planning Commission with a unanimous recommendation in all but one instance. *They include:*

- (1) Action 1.5 to allow second units in multifamily and high density residential zones (R2 and RM);
- (2) Action 3.4 to amend the General Plan related to flood hazard mitigation;
- (3) Action 4.8 to create a policy that encourages infill and small lot development through a Toolkit;
- (4) Action 5.2 to encourage development of senior housing;
- (5) Action 5.3 to reduce housing barriers to persons with disabilities;
- (6) Action 5.6 to allow emergency shelters in the light industrial district (M1);

ATTACHMENT 1 – Nineteen Supplemental Actions for FY 10/11

Table 2: Additional Housing Element Actions Undertaken in FY 10/11		
STATUS	Action	Implementation Measures
Completed /Ongoing	<i>Action 1.1:</i> Meet with local non-profit and for-profit developers to promote the affordable housing goals outlined in this Housing Element.	Meetings and discussions with non-profit and for profit developers are ongoing: e.g., (1) January 27, 2011 Development Review Committee meeting for a 54 unit Single Room Occupancy (SRO) project proposed for the Gateway 101 Redevelopment Area (Pad D); (2) Planning Division's July 7, 2010 roundtable discussion with fifteen housing providers; (3) Palo Alto Housing Corporation, through housing services issues a letter of interest.
Completed /Underway	<i>Action 1.2:</i> Support the formation of a consortium of non-profit affordable housing developers to acquire and maintain property as affordable housing	The Planning Division has begun preliminary planning, and conducted outreach to agencies, such as the Federal Reserve Bank of San Francisco, and the San Mateo Office of Housing
Underway	<i>Action 2.1:</i> Develop a specific plan for the Ravenswood/4 Corners Transit Oriented Development Area	Environmental Impact Report to be completed Summer 2011. The Redevelopment Agency, working with Design, Community and Environment (DCE), and sub consultants continues to develop a specific plan for the Ravenswood/4 Corners Transit Oriented Development Area.
Completed	<i>Action 4.3:</i> Explore the possibility of providing low-interest loans and/or grants to pay for housing affordable to extremely low-, very low- and low-income households	Habitat for Humanity received a \$300,000 grant to provide four single family homes.
Completed /Underway	<i>Action 4.4:</i> Evaluate, improve, and promote City ordinances that facilitate affordable housing development, including: (a) secondary units; (b) off-street parking standards;	The Engineering Division is advertising a request for proposal to study off-street parking standards in response to resident concerns, and the Planning Division completed a Zoning Code Omnibus review of ordinances, and 42 changes have been identified as necessary.
Completed /Underway	<i>Action 4.9:</i> Develop two pre-approved affordable housing packages and two	The Planning Division has created a toolkit which contains floor plans, elevations, and

		<p>still pertains to 147 units in mobile home parks.</p>
<p>Completed /Underway</p>	<p><i>Action 6.3:</i> Work with non-profit fair housing service providers to provide education on tenant rights.</p>	<p>The Rent Stabilization Board held two workshops in March 2011, one focused on landlord roles and responsibilities, and the other on tenant roles and responsibilities, in maintaining rental units, and providing information on the new Rent Stabilization and Just Cause Eviction Ordinance and the implementation process.</p> <p>The Rent Board distributed new informational brochures on tenant and landlord responsibilities for habitability and just cause eviction protections, and how to access the Rent Stabilization Program and the Rent Board for assistance.</p> <p>Community Legal Services in East Palo Alto, under a contract with the City, conducted over 12 tenant informational workshops on the Rent Stabilization and Just Cause Eviction Ordinance.</p> <p>CLSEPA has developed informational brochures on tenant rights after foreclosures, on the rights and responsibilities of tenants and landlords in evictions, and on roles and responsibilities for tenants and landlords in maintaining the habitability of rental units.</p>
<p>Completed /Underway</p>	<p><i>Action 7.1:</i> Make first-time homebuyer funds and mortgage enhancement available through as many means as possible, including:</p> <ol style="list-style-type: none"> 1) Participate in the San Mateo County Mortgage Credit Certificate Program (MCC), which aims to enhance the affordability of both new and existing homes for first-time low- to moderate-income homebuyers. Educate prospective buyers about the MCC (i.e., distribute materials), seeking to 	<p>The City is participating in the San Mateo County Mortgage Credit Certificate Program (MCC)</p> <p>Since July of 2009, the MCC Program assisted one borrower in East Palo Alto.</p>

	report for review by the City Council, stakeholders, and the general public.	City.
Underway	Action 11.2: The City Council shall hold public meetings and study sessions to discuss various housing policies in the city and to exchange input and information with residents and developers about housing needs, resources, and program options. To the extent possible, publish a schedule of study sessions.	Requested in the July 5, 2011 Staff report
Underway	Action 11.4: Report to the City Council on the state of housing in East Palo Alto.	Requested in the July 5, 2011 Staff report
Ongoing	Action 12.1: Enforce State Energy Code for new residential construction and additions/renovations to existing structures.	The City has enforced the State Energy Code for new residential construction and additions/renovations to existing structures.
Source: Chapter 5, East Palo Alto Housing Element		

for tenants and landlords in maintaining the habitability of rental units.

3: September 20, 2011 Study Session on State of Housing in East Palo Alto



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Community Development Department— Planning Division
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Tel: (650) 853-3185 • Fax: (650) 853-3179

*Proposed Study Session and State of Housing presentation
(Actions 11.2 and 11.4).*

PROPOSED STUDY SESSION

The State of Housing will be an opportunity for the various City Departments and Divisions to discuss the actions undertaken to implement the Housing Element. This would be followed by a panel discussion of housing developers. In advance, the City Council would submit a list of questions which would develop the focus of the study session.

Speakers: San Mateo Department of Housing, City of East Palo Alto, and Housing Developers (not-for-profit, and for-profit)

Participants: To be determined in July and August

Date: September 20, 2011

Location: City Council Chambers

STEP	DATE	ACTIVITIES
City Council questions for Panel and City Divisions and Departments	July and August	Councilors will provide the City Manager a list of questions or focus areas
Outreach	August and September	Invite Speakers
Panelists	September	Develop Panel
*This is a proposed format for the study session. During the July 5, 2011 City Council meeting, input from Council will be used to finalize the study session scope.		

HOUSING ELEMENT ACTIONS IMPLEMENTED

Action 11.2: The City Council shall hold public meetings and study sessions to discuss various housing policies in the city and to exchange input and information with residents and developers about housing needs, resources, and program options. To the extent possible, publish a schedule of study sessions.

Time Frame: Semi-annual public meetings and study sessions

Resources: Staff time

Responsible Agencies: Housing Services and Planning Division

Action 11.4: Report to the City Council on the state of housing in East Palo Alto.

Time Frame: At least twice a year

Resources: Staff time

Responsible Agencies: Housing Services



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