

City Council Questions

January 24, 2023 - Council Meeting

ITEM 3.1 Legislative Program Priorities for 2023

1. What is the rationale for wanting modifications to the existing State Density Bonus Law? What modifications are being sought?

Through recent development projects, Staff discovered that density bonus applicants can request waivers for certain requirements under State DBL, that can impact the equitable distribution of affordable housing unit types. This conflicts with the City’s BMR guidelines that units must be reasonably equitably distributed and must be generally the same sizes as market-rate units, which are in place to promote equity.

2. If we have a particular interest and would like to propose legislation independent of what the council and city are doing what is the protocol for doing that?

There is no established protocol for individual councilmembers to take positions separate from those of the City as the focus is on Council action related to the City’s Legislative Platform. If an issue arises where separate action is of interest to an individual councilmember, they are advised to discuss this with the City Manager.

3. Which were the “13 pieces of State legislation (achieving a desired outcome on 12 of those measures)?”

The 13 pieces of State legislation that the City engaged on during the FY 2021-2022 Legislative Session are summarized in the table below. The one piece of legislation for which the City’s position did not prevail was AB 1944 (Lee and C. Garcia) – Open and Public Meetings, which the City supported but was pulled from committee and failed to advance.

	Bill	Issue	City Position	LCC Position	Final Legislative Action
1.	AB 988 (Bauer-Kahan)	Mental Health 988 Suicide Crisis Lifeline	Support	No position	Signed into law 9/29/22
2.	AB 1416 (Santiago)	Elections Ballot Labels	Support	No position	Signed into law 9/29/22
3.	AB 1594 (Ting)	Firearms: Civil Suits	Support	No position	Signed into law 7/12/22
4.	AB 1711 (Seyarto)	Privacy: Breach	Oppose Unless Amended	Oppose	Vetoed 9/23/22
5.	AB 1944 (Lee and C. Garcia)	Local Government: Open and Public Meetings	Support	Support	Pulled from committee/failed to advance
6.	AB 1985 (R. Rivas)	Organic Waste	Support	Support	Signed into law 9/16/22
7.	AB 2011 (Wicks)	Affordable Housing and High Roads Act	Watch – Received an amendment in bill that addressed	Oppose	Signed into law 9/28/22

	Bill	Issue	City Position	LCC Position	Final Legislative Action
			the city's affordability requirements		
8.	AB 2179 (Grayson)	Covid-19 Relief	Support	No position	Signed into law 3/31/22
9.	AB 2181 (Berman)	VTA Board of Directors	Oppose Unless Amended	No position	Pulled from committee/failed to advance
10.	AB 2571 (Bauer-Kahan)	Firearms: Advertising to Minors	Support	No position	Signed into law 6/30/22
11.	SB 1000 (Becker)	Radio Communications	Watch – Met with author's staff to express general concerns regarding costs to Counties and Cities.	Oppose	Held in Committee due to cost concerns expressed by local agencies
12.	SB 1327 (Hertzberg)	Firearms: Private Rights of Action	Support	No position	Signed into law 7/27/22
13.	May Revise	Excess ERAF Trailer Bill Language	Oppose	No position	Proposed budget language rejected 6/1/22

4. For the “13 pieces of State legislation,” was the City’s position identical to the League of California Cities’ position on each of the bills?

The League of California Cities took positions on five of the 13 bills the City engaged on during the FY 2021-2022 Legislative Session. Of these five, the City and League had the same position on three bills (AB 1711 – Oppose, AB 1944 – Support, and AB 1985 –Support).

5. How many grants and earmarks, totaling how much money, did the City receive in 2022? Is the number (of grants and earmarks, as well as the amount of money) similar to, greater than, or less than what the City has received historically?

Grants have historically been applied for and managed across the City departments, not through the legislative program in the City Manager’s Office, since they tend to be awarded through a formula funding or competitive funding process and are not typically subject to legislative advocacy. Staff has not maintained a comprehensive record of such grants. State or Federal earmarks opportunities are enhanced through intergovernmental relationships, analysis and coordination which are supported by advocacy services. With Representative Eshoo’s support, the City secured two federal earmarks for a total of \$3,250,000 in 2022. The earmarks are a part of the Consolidated Appropriations Act, 2023 signed into law by President Biden in December 2022, which includes \$2,500,000 for the City of Mountain View’s Bernardo Avenue Undercrossing Project and \$750,000 for the Crestview Hotel Support Housing Project. In 2021, with the support of Senator Josh Becker, the City secured \$8 million in State earmark funding for the Lot 12 Affordable Housing Project, however this earmark was awarded prior to the City contracting with our legislative advocate. Earmarks have not been common in recent years and staff does not recall the City receiving any Federal or State earmarks before 2021.

6. What does a “baseline” year for the City look like? In other words, what metrics are used to measure effectiveness of the program, and how has the result differed from years during which we did not use a legislative advocacy consultant?

Prior to 2022 the City did not track whether legislative outcomes accomplished the City’s advocacy positions. As part of the annual budget process, staff tracked the number of communications regarding the City’s position on legislation or legislative issues made annually to the State Legislature, Congress, and other branches of government. A summary of the number of communications or positions taken for a five-year period is provided below.

Fiscal Year	# of Communications/ Positions
FY 17-18	15
FY 18-19	13
FY 19-20	11
FY 20-21	25
FY 21-22	44

With the enhanced legislative program, including a formal legislative platform and additional legislative advocacy resources, we are able to better focus and track the City’s legislative efforts.

In addition to the count of bills for which the City’s position prevailed, other key performance measures of the legislative advocacy consultant include:

- Legislation Tracked - 741 pieces of legislation tracked and assessed for impacts on City operational, legal, or loss of local decision making.
- Federal Earmarks - Securing two federal earmarks for a total of \$3,250,000 in the Consolidated Appropriations Act, 2023; and
- Deliverables and Touchpoints - 505 combined deliverables and touchpoints provide to and on behalf of the City that included legislative updates, legislative and budgetary position letters, policy and political analysis, and meetings with the state legislature on behalf of the City.

Staff recognizes that some elements of an effective intergovernmental program can be difficult to measure and may take time to lead to more tangible outcomes. These elements include research, analysis, relationship building, communication, access, and shared awareness of legislative priorities. Contract advocacy services expand staff capacity to undertake these elements, thus expanding the City’s opportunities to influence bill content, sponsor legislation and seek funding earmarks.

During the 2023-24 Legislative Session, staff and the legislative advocate will continue to track performance of the program through the legislative metrics outlined above and develop new ones to measure the effectiveness of the City’s intergovernmental program.

7. Has RPPG assisted staff or individual Councilmembers with regional assignments?

RPPG has not focused on Councilmember regional assignments. They have provided analysis and background information on bills that were considered by the Cities Association Legislative Action Committee (LAC) as part of their 2021-22 Legislative Positions. RPPG also assisted staff with developing federal briefing papers for the Councilmembers who attended the 2022 NLC Cities Conference. In February RPPG will present to the Cities Association General Membership on the upcoming FY 2023-24 Legislative Session.

ITEM 4.3 Fiscal Years 2023-24 and 2024-25 Council Work Plan Development Process

1. One of the evaluation criteria is: “proposed projects’ contribution to advancing the Council’s Strategic Priorities.” Can this be supplemented with the proposed projects’ contribution also to other existing Council goals and objectives, like our greenhouse gas emission reduction goals?

Yes. If applicable, staff can note whether proposed potential projects align with existing work plans and initiatives. In the example mentioned above, a project that would reduce greenhouse gas emissions would align with the Sustainability and Climate Resiliency Strategic Priority as well as Sustainability Action Plan goals.

2. In this "goal setting/workplan" exercise we are assuming that the goals set during our strategic planning process are still the same, correct? We are not re-visiting the goals.

The Council will have the opportunity to review and confirm the Strategic Priorities during the February 28th Study Session. The Council Goal-Setting Subcommittee and staff recommend retaining the existing Strategic Priorities, which were developed by the Council during the last planning cycle with input from the community, to support continuity between the FY 21-23 and FY 23-25 Council Work Plans.

ITEM 6.1 Resolution Appointing a Retired Annuitant as Interim Police Chief Under Government Code Section 21221(h)

1. Please explain this sentence. The retired annuitant is also required to reach normal retirement age at separation and a 180-day waiting period before a retired annuitant can be employed by a CalPERS agency unless the nature of the employment meets one of the exceptions and is approved via resolution by the governing body.

When hiring a retired annuitant, there are a number of criteria that could trigger a requirement for Council approval. One of these criteria is when a retired annuitant is being hired for an interim appointment, which is the case in the recommended appointment of Mr. Bosel as Interim Police Chief. It is for this reason, that Council approval is required. Other CalPERS requirements that could trigger the need for Council approval are that the retired annuitant had not reached normal retirement age and that there has not been a 180-day waiting period. These two requirements have been met and therefore do not trigger the need for Council approval.

ITEM 7.1 General Plan, Zoning, and Precise Plan Amendments Related to the Housing Element Update

1. I assume the Village Center listed as Rengstorff/Middlefield in Table 1 on page 7 of the staff report should be Rengstorff/Old Middlefield, correct?

Yes, that is correct.

2. Please confirm that the Maximum Residential Densities in the General Plan for the Village Centers are not changing. Table 2 page 9 of the staff report.

Confirmed. The maximum residential densities in the General Plan are not changing.

3. Please clarify what is meant by proportional number of stories. Page 9 of the staff report.

The sentence in the staff report on Page 9 states,

“To ensure that residential density allowed in the General Plan is not constrained, the number of stories must be one greater than the proportional number of stories in the El Camino Real Precise Plan since ground-floor commercial is newly required.”

The El Camino Real Precise Plan has demonstrated that 1.85 FAR is an appropriate density/intensity with the given setbacks at 4 stories. Most projects in the El Camino Precise Plan generally result in a site building coverage of approximately 0.5 FAR. If you apply this FAR average per floor to the maximum FARs in the General Plan including required setbacks, you get approximately 2 stories at 1.05 FAR, 3 stories at 1.35 FAR and 4 stories at 1.85 FAR.

4. Please clarify that the major development standards related to Mixed-Use Village Center development are **proposed** for addition to the Zoning Ordinance and Grant-Phyllis Precise Plan, and not already added as is stated on the top of page 10 of the staff report.

Yes, the standards are proposed and are not already in the Zoning Ordinance and Grant-Phyllis Precise Plan. The first sentence on Page 10 in the staff report should read as follows,

“The following highlights the major development standards related to Mixed-Use Village Center developments that would be ~~were~~ added to the Zoning Ordinance and Grant-Phyllis Precise Plan.”

5. In the Further Staff Analysis section on page 12 of the staff report, it says “If the standard would physically prevent the construction of the residential floor area allowed in the General Plan: Reduction of minimum Neighborhood Commercial Floor Area and Ground-Floor Building Frontage (Storefront) to 50% of required¹; and ...”. The draft ordinance provides more detail. Which body has the final approval on these exemptions. Is it the Council? The Zoning Administrator? Or could it be either one depending on the proposed development?

Council would have authority for projects subject to the Grant-Phyllis Precise Plan. The Zoning Administrator would have authority for projects subject the Zoning Ordinance.

6. The ALUC's decision was a requirement not a recommendation. Why is it not possible to include the requirement to dedicate an aviation easement to the US Government on behalf of Moffett Federal Airfield for the parcel within the Moffett Field Airport Influence Area as part of this effort?

Staff is planning on bringing a comprehensive code amendment related to state law updates, processes, and the aviation easement standards to Council later this year (with some other minor clean-up items). Aviation easements are applied to development applications, so with the City-wide code amendment it would apply to any affected development proposal, including at sites affected by these rezonings.

7. Do the air pollutant emissions that exceed the threshold of significance occur during construction, or when the new buildings are completed, and people are living in the buildings? Or both?

The EIR found that there is the potential for emissions from development projects allowed by the HEU to exceed significance thresholds during both construction and operation. Mitigation Measure AIR-1 would require a project-specific assessment for projects exceeding BAAQMD screening levels and identifies emission reduction measures for projects exceeding the significance thresholds for criteria pollutants. Mitigation Measure AIR-1 is expected to be effective at reducing criteria pollutant emissions from construction and operation of individual projects developed to below the BAAQMD thresholds; however, the specific emissions associated with future projects are not currently known, and therefore the effectiveness of emission reduction measures cannot be definitively determined. Therefore, the EIR determined that criteria air pollutants from construction and operation of subsequent projects developed under the proposed HEU would conservatively be significant and unavoidable with mitigation.

During construction, it is possible that projects with substantial ground disturbance, specialty construction equipment, or compressed and highly intensive construction schedules could exceed construction significance thresholds, particularly if the equipment required by the mitigation measure is not commercially available.

During operation, reactive organic gas (ROG) emissions from consumer products used during project operations may remain significant. ROG emissions from residential uses are primarily generated from the use of consumer products are chemically formulated products used by household and institutional consumers, including, but not limited to, degreasers, fertilizers/pesticides, detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; and automotive specialty products. Consumer product emissions are largely based on personal choices and usage patterns of consumers that the City does not have control over.

8. The staff report indicates that "these rezonings need to happen before the start of the Sixth Cycle planning period (January 31, 2023); otherwise, there may be a shortfall of existing sites with the necessary residential zoning to accommodate the RHNA" (p4). However, the "second reading for the proposed ordinances is scheduled for February 14, 2023 (p16)." Doesn't this mean that the rezonings will NOT be in effect before the Sixth Cycle planning period? What does "need to happen" mean?

There are several requirements for inventory sites that must be rezoned to meet a lower-income RHNA shortfall. For example, the City cannot require commercial on such sites. **Therefore, if the City wishes to require commercial at Village Centers and at relevant sites in the El Camino Real Precise Plan, the sites must either be approved before January 31, or must not be needed to address a shortfall (i.e., must be less than the intended buffer).**

The following table shows how many units in the latest Housing Element Update draft are related to each of the rezoning categories, including the one pipeline site that has not yet been rezoned (1020 Terra Bella Ave).

Category of sites	Lower-income units in sites inventory	Adopted by January 31 without 2 nd reading?	Comply with shortfall requirements?
1020 Terra Bella Ave	108	N	Y
R4 (Evelyn & Linda Vista)	387	N	Y
El Camino Real Precise Plan	409	Y	N
Grant Park Plaza Village Center	201	Y	N
<i>Zoning Ordinance Village Centers</i>	82	N	N

The buffer in the sites inventory for the RHNA (Regional Housing Needs Allocation) in the latest Housing Element draft is 1,024 lower income units (23% of RHNA).

The Grant Park Plaza and El Camino Real Precise Plan amendments contribute 610 units to the sites inventory (14% of RHNA). If the City does not adopt these amendments before January 31 and the buffer is less than 14% in the final inventory, the City cannot require commercial in these areas. If adopted tonight, the El Camino Real and Grant Park Plaza Village Center changes would be effective January 24, 2023.

On the other hand, the Zoning Ordinance General Plan Village Centers (e.g., Blossom Valley, Rengstorff/Old Middlefield, Rengstorff/Central and 400 Moffett) are the only category that is neither adopted by January 31 (due to the second reading), nor complies with the shortfall requirements (because commercial will be required). However, only 82 lower income units are in the sites inventory in this category. Therefore, the overall lower-income buffer must be greater than 82 units (less than 2% of the RHNA) if the City wishes to require commercial on these sites – in other words, these sites must not be necessary to address a shortfall. The City will continue to work on the draft Housing Element to ensure the lower-income buffer is at least 82 units, and will ensure that other sites comply with the shortfall requirements if necessary.

9. The staff report shows that the Rengstorff/Old Middlefield Village Center has no existing maximum height limit” (p9) but is proposed to add a new height limit. How does this not conflict with SB 330’s prohibition against adding new development standards?

The commercial zoning has no height limit but would not apply to residential development. The General Plan designation’s height limit (which would apply to residential and mixed-use projects) is 3 stories. The proposed height in order to accommodate the required neighborhood commercial is 4 stories, which would not constrain the ability to build residential at the maximum density. SB330 does not prohibit all new development standards; rather, it prohibits “any standard that would lessen the intensity of housing”. The intent of the analysis in the staff report is to show that the new height standard would not “lessen the intensity of housing”.

10. For Village Centers that already have residential uses (Middlefield/Whisman, Moffett Boulevard), what is the maximum density/FAR permitted in the zoning, and what is the maximum density/FAR in the General Plan? Does the General Plan allow greater density or FAR than the zoning allows?

Middlefield/Whisman is allowed up to 1.0 FAR (base density) in the General Plan, and the East Whisman Precise Plan allows up to 1.0 FAR base density and 1.35 FAR with bonus FAR allocation subject to specific requirements.

The majority of Moffett Boulevard is allowed up to 1.85 FAR in the General Plan (typically 55-75 DU/acre), but is zoned CRA, which only allows 43 dwelling units per acre at 1.35 FAR. In this case, the General Plan allows greater density. Based on state law, projects proposed in this area are already allowed the higher density, even though the zoning is not currently consistent. Council has expressed interest in a new Moffett Boulevard Precise Plan which would bring the zoning into alignment with the General Plan.

11. Is there a penalty imposed on the consultant for failing to achieve certification of the Housing Element before the statutory deadline? Alternatively, since work is continuing beyond the deadline in the contract, will an additional appropriation be necessary to continue working with the consultant?

No, there is no penalty imposed on the consultant for not achieving certification before the statutory deadline. At this point we do not believe that an additional appropriation will be necessary, though we do anticipate a need to use the remainder of the contingency budget. We have been able to do some reallocation of the budget between tasks to use our existing budget to cover the work associated with the additional rounds of HCD review and additional rounds of revision to the HEU document.

12. How is this condition evaluated: “if the standard would physically prevent the construction of the residential floor area allowed in the General Plan.” What objective criteria would be considered?

In general, it would be evaluated similarly to “waivers” in State Density Bonus law. The standard itself would need to have a rational relationship to the physical limits to residential floor area, and applicants would need to show that compliance with the exception would leave them with less floor area than allowed under the general plan. As with waivers, staff generally works with applicants through the informal review process to help identify options that can reduce exceptions or identify alternate exceptions that may be more contextually appropriate.

13. Staff do not recommend eliminating lot area or width minimums from R4 standards for market-rate projects because “the R4 standards would be difficult to comply with on smaller sites.” What does this mean? Why would the standards be “difficult to comply with” on a lot that is 0.99-acre or 0.98-acre? Which standards are particularly burdensome to meet, and why?

When the R4 standards were developed to accommodate high density projects, a lot area minimum of one (1) acre was established (for sites to be zoned to R4) because the standards would be difficult to meet on smaller sites. Some examples of R4 standards that are progressively difficult to meet at smaller project sizes include open area and side and rear setbacks. Larger site sizes allow greater flexibility to design projects to address neighborhood transitions and other compatibility issues that the code may not be able to anticipate.

14. Please explain why the shopping center at the NE corner of ECR and Grant Road isn't being considered as a village center.

The BMW dealership at the NE corner of ECR and Grant Road is not identified in either the General Plan or the El Camino Real Precise Plan as a Village Center. The Mountain View Shopping Center at 121 East El Camino Real (SE corner of El Camino Real and Grant Road) is an El Camino Real Village Center in the El Camino Real Precise Plan. The Precise Plan already set standards for minimum commercial uses and public open spaces consistent with the General Plan.

15. How does the Housing Element address vehicle residents and emergency shelter creation? Is it true that the city is not credited in any way for creating emergency “housing” like safe parking, shelter spaces and transitional housing but may be sanctioned if we lose some of those spaces that we have created in the past by, for example, getting comments we need to respond to and possibly not having our Housing Element deemed complete?

The Housing Element Update responds to homelessness as part of the goals and programs sections, referring to a continuum of services that the City supports.

A new State law requires the City to identify adequate sites for emergency shelters in the Housing Element, based on existing and projected unhoused populations. Any draft submitted to HCD after March 31 would require compliance with that law. Staff is currently assessing the details of the law and opportunities for compliance.

HCD staff has specifically asked about what will happen with safe parking residents at the VTA Evelyn site once construction begins on housing there. Staff is developing HEU language that includes:

- working to get the residents into new affordable housing that becomes available prior to construction,
- moving the residents to other safe parking lots, and
- also exploring preferences for those residents (and other displaced households) at the Evelyn housing site and other sites in the city pipeline.

It is also important to note that safe parking is inherently temporary in nature, and that will be referenced as well. Staff don't expect penalties.

16. What was the intended benefit of the Village Center Overlay when we put it in the General Plan and are there other ways to achieve those benefits if we are not using the overlay any longer?

The overlay requirement and process is in the El Camino Real Precise Plan; not the General Plan. The intended benefit was to create a gatekeeper process for higher-intensity development on El Camino Real, additional discretion related to transitions and design, and additional public benefits. While the City cannot continue the gatekeeper process for residential development, the standards in the Precise Plan continue to guide design, transitions, and public benefits. The overlay process still exists for nonresidential development.

17. Are the Walgreens and Panera shopping center sites identified as Village Centers?

The Walgreens shopping center at El Camino Real and Grant Road and Panera site at El Camino Real and El Monte Avenue are both “El Camino Real Village Centers” in the El Camino Real Precise Plan. The Precise Plan already set standards for minimum commercial uses and public open spaces consistent with the General Plan. The Walgreens site at 1905 West El Camino Real is also identified as a Village Center in the El Camino Real Precise Plan.

18. Has any benchmarking been done to see if we need to reduce standards or if housing fits in without reducing standards?

Standards are not being “reduced” through these amendments, other than an increase in allowed height and FAR in order to accommodate the required commercial floor area and parking. For the new standards, the El Camino Real Precise Plan is used as a benchmark for the standards. In addition, the Housing Element update includes a program that will further analyze residential standards to ensure allowed housing can fit in the current standards.

19. What steps can we take to make sure Village Centers meet the goals residents envisioned for them when we put them in the General Plan despite a reduction in standards?

The General Plan’s goals and policies related to Village Centers can be found on pages 49 and 50 of the General Plan (<https://www.mountainview.gov/civicax/filebank/blobdload.aspx?blobid=10702>). They primarily focus on access to neighborhoods, mixed of uses (including commercial and other neighborhood-serving uses), and public spaces. These goals and policies are reflected in the new standards.

20. How do we make sure Village Centers do not become mostly expensive apartments with narrow sidewalks, poor and dangerous pedestrian circulation, welcoming architecture on the interior, bleak architecture on the exterior, great private open space and little to no public space?

The City has limited control over the rents in new apartments, other than through the BMR program. 15’ minimum front setbacks provide space for sidewalk widening if necessary. Pedestrian circulation safety is reviewed through the Multimodal Transportation Analysis (MTA) process. Projects will continue to be reviewed by the DRC for design. The minimum public open space requirement will ensure some public open space is provided.

21. Can we encourage standard reductions consist of an additional story of stepped back height instead of sacrificing public and pedestrian space like we did at the San Antonio Center?

The Village Center standards, to some extent, already allow for greater height in exchange for public and pedestrian space. Projects are allowed an additional story in part to allow for the provision of required public open area. In addition, the 15’ minimum front setbacks provide space for sidewalk widening if necessary.

Upper floor step-backs are not included in the Village Center standards, except as part of neighborhood transitions adjacent to residential uses. These tend to be costly to implement and were not studied in the El Camino Real Precise Plan benchmarks.