



# Planning & Transportation Commission

## Staff Report (ID # 9002)

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**Report Type:** Action Items **Meeting Date:** 3/14/2018

**Summary Title:** Affordable Housing (AH) Combining District Draft Ordinance

**Title:** PUBLIC HEARING: Recommendation to the City Council Regarding the Adoption of an Ordinance Amending Palo Alto Municipal Code (PAMC) Title 18 (Zoning) to Add a New Chapter 18.30(K) (Affordable Housing Combining District) to Promote the Development of 100% Affordable Housing Projects Located Within One-Half Mile of a Major Transit Stop or High-Quality Transit Corridor, by Providing Flexible Development Standards and Modifying the Uses Allowed in the Commercial Districts and Subdistricts. CEQA: This Ordinance is Within the Scope of the Comprehensive Plan Environmental Impact Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution Nos. 9720 and 9721. For More Information Contact Graham Owen at [Graham.Owen@cityofpaloalto.org](mailto:Graham.Owen@cityofpaloalto.org). (Continued from February 14, 2018)

**From:** Hillary Gitelman

### Recommendation

Staff recommends the Planning and Transportation Commission (PTC) take the following action(s):

1. Find the proposed draft ordinance within the scope of the Comprehensive Plan Environmental Impact Report (EIR) certified and adopted on November 13, 2017 by Council Resolution Nos. 9720 and 9721; and
2. Recommend to the City Council adoption of an ordinance (Attachment A) amending Chapter 18.30 of Title 18 of the Municipal Code to add a new chapter establishing an Affordable Housing (AH) Combining District and related regulations.

### Background

On February 14, 2018, the PTC held a public hearing on the subject ordinance. A video recording of the meeting is available online: <https://youtu.be/58DuloYevNs?t=3694>. The accompanying staff report is also available online: <https://www.cityofpaloalto.org/civicax/filebank/documents/63360>. The PTC formed an ad hoc committee to discuss the ordinance and present a recommendation for the PTC's consideration. The ad hoc included Commissioners Gardias, Summa, and Waldfogel; their recommendation was forwarded to staff on March 6, 2018 and is included in this report as Attachment B.

Based on the PTC deliberation on February 14<sup>th</sup> and input from the ad hoc committee, staff made some adjustments to the proposed ordinance. These changes are presented in Attachment A and the new edits are shown in a strikeout/underline format. The changes respond to some commissioner comments regarding high quality transit corridors/boundaries, qualifying housing affordability income levels, parking, and transitional height limits.

More specifically, the proposed changes modify the number of eligible properties slightly by limiting qualifying project sites to within one-half mile of a major transit stop or *quarter mile* from a high-quality transit corridor. Previously the ordinance included properties within a half mile from a high-quality transit corridor.

Parking was increased from .5 spaces per unit to .5 spaces per unit or bedroom, whichever is greater. The definition of an 100% affordable housing project was modified to restrict eligible projects to those rented at 60% the area median income level for Santa Clara County, or lower. This change corresponds with comments from a representative of Palo Alto Housing that their projects typically limit income levels to this threshold to qualify for federal income tax credits.

A transitional height limit was added to the ordinance limiting the height of any qualifying building or structure within 50 feet of a residential property (RM-30 or lower density) to 35 feet in height, compared to the 50-foot standard previously proposed. The daylight plane requirement remains and is unchanged.

None of the proposed changes are believed to impact the potential future filing of an application for a 100% affordable housing project near Wilton Avenue and El Camino Real.

The ad hoc committee reports having conducted a series of interviews with affordable housing providers, market rate developers and community members, and having documented several observations that help them form the seven recommendations included in their letter. Principally, the ad hoc recommends the future Palo Alto Housing project discussed in the context of this ordinance be pursued through a development agreement, separate and apart from the proposed ordinance. Such an approach, suggests the ad hoc, would better inform the regulatory requirements of the subject ordinance. This concept was explored with the City Council in September 2017, but was framed using the Planned Community process. It is unclear if the ad hoc is recommending the Planned Community approach. However, any development

agreement would 1) require the mutual agreement of the city and the applicant, and 2) still require a legislative change to adjust the underlying zoning for the property.

The ad hoc's second recommendation to adjust the qualifying affordable income levels to 60% of the county's annual median income has been incorporated into the revised ordinance. Another ad hoc recommendation regarding transitional height limits has been included, however, the staff recommended approach extends to fewer properties than the ad hoc's recommendation.

Other ad hoc recommendations offer perspectives on the retail preservation waiver, parking, and open space, which are not addressed in the attached ordinance. Many of these concepts represent significant policy changes and may require city funds to implement. Staff recommends these concepts, if supported by a majority of the commission, be advanced to the city council for its consideration, but that the draft ordinance be transmitted to the city council in its current form with a commission recommendation at the March 14<sup>th</sup> meeting.

## **Environmental Review**

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. Specifically, the project is consistent with and implements several policies and programs previously reviewed in the Environmental Impact Report (EIR) for the Comprehensive Plan Update, which was certified and adopted on November 13, 2017 by Council Resolution Nos. 9720 and 9721. No additional environmental analysis is warranted at this time. All future development that may be impacted by the proposed Code change will be subject to a project specific CEQA analysis as part of the required planning entitlement review (e.g. Rezoning, Architectural Review, Subdivision, etc.) to determine if there are any environmental impacts.

## **Alternative Actions**

In addition to the recommended action, the Planning and Transportation Commission may:

1. Recommend approval of the draft ordinance with modifications;
2. Continue the ordinance to a date (un)certain; or
3. Recommend denial of the draft ordinance.

### **Report Author & Contact Information**

Graham Owen, Associate Planner  
(650) 329-2552

[graham.owen@cityofpaloalto.org](mailto:graham.owen@cityofpaloalto.org)

### **PTC<sup>1</sup> Liaison & Contact Information**

Jonathan Lait, AICP, Assistant Director  
(650) 329-2679

[jonathan.lait@cityofpaloalto.org](mailto:jonathan.lait@cityofpaloalto.org)

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<sup>1</sup> Emails may be sent directly to the PTC using the following address: [planning.commission@cityofpaloalto.org](mailto:planning.commission@cityofpaloalto.org)

**Attachments:**

- Attachment A: AH Combining District Regulations Ordinance (PDF)
- Attachment B: Ad Hoc AH Committee Memo (DOCX)

**Not Yet Adopted**

Ordinance No. \_\_\_\_\_

Ordinance of the Council of the City of Palo Alto Amending Chapter 18.30 of Title 18 (Zoning) of the Palo Alto Municipal Code to Add a New Chapter 18.30(K), Affordable Housing (AH) Combining District Regulations

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

**SECTION 1.** Chapter 18.30 (Combining Districts) of Title 18 (Zoning) of the Palo Alto Municipal Code is hereby amended to add Section 18.30(K) as follows:

**New Chapter 18.30(K)  
AFFORDABLE HOUSING (AH) COMBINING DISTRICT REGULATIONS**

**Sections:**

**18.30(K).010 Specific Purpose**

**18.30(K).020 Applicability of Regulations**

**18.30(K).030 Definitions**

**18.30(K).040 Zoning Map Designation**

**18.30(K).050 Site Development Review Process**

**18.30(K).060 Conformance to Other Combining Districts and Retail Preservation**

**18.30(K).070 Permitted Uses**

**18.30(K).080 Conditional Uses**

**18.30(K).090 Development Standards**

**18.30(K).010 Specific Purpose**

The affordable housing combining district is intended to promote the development of 100% affordable housing projects located within one-half mile of a major transit stop or one-quarter mile of a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, by providing flexible development standards and modifying the uses allowed in the commercial districts and subdistricts.

**18.30(K).020 Applicability of Regulations**

- (a) The affordable housing combining district may be combined with the CD, CN, CS, and CC districts set forth in Chapters 18.16 and 18.18 of this Title, in accord with the Chapter 18.08 and Chapter 18.80. Where so combined, the regulations established by this Chapter shall apply for 100% affordable housing projects in lieu of the uses allowed and development standards and procedures applied in the underlying district. A property owner may elect to use the site consistent with the underlying district, in which case the applicable regulations in Chapter 18.16 and 18.18 for the commercial districts shall apply.
- (b) The affordable housing combining district provides flexibility in development standards that allow for a density increase that would in most cases exceed density bonuses under state law,

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Government Code Section 65915. Therefore, a project applicant may utilize the affordable housing combining district and the provisions of this Chapter as an alternative to use of the state density bonus law implemented through Chapter 18.15 (Density Bonus) of this Title, but may not utilize both the affordable housing combining district and density bonuses. If an applicant utilizes state density bonus law, the regulations in Chapter 18.16 or 18.18 for the applicable underlying commercial district shall apply.

**18.30(K).030 Definitions**

For purposes of this Chapter, the following definitions shall apply.

- (a) “100% affordable housing project” means a multiple-family housing project consisting entirely of Affordable Units, as defined in Section 16.65.020(f) of this code, and available only to households with income levels at or below 60 percent of the area median income for Santa Clara County.

**18.30(K).040 Zoning Map Designation**

The affordable housing combining district shall apply to properties designated on the zoning map by the symbol “AH” within parentheses, following the commercial designation with which it is combined.

**18.30(K).050 Site Development Review Process**

All projects shall be subject to architectural review as provided in Section 18.76.020 and shall not be subject to the requirements of site and design review in Chapter 18.30(G).

**18.30(K).060 Conformance to Other Combining Districts and Retail Preservation**

The following requirements shall apply to projects in the AH affordable housing combining district:

- (a) Where applicable, the requirements of Chapter 18.30(A) (Retail Shopping (R) Combining District Regulations), Chapter 18.30(B) (Pedestrian Shopping (P) Combining District Regulations), and Chapter 18.30(C) (Ground Floor (GF) Combining District Regulations), and Pedestrian Shopping (P) Combining Districts shall apply.
- (b) Where applicable, the retail preservation requirements of Section 18.40.180 shall apply except as provided below.
  - i. Waivers and Adjustments

Except in the R or GF combining districts, the City Council shall have the authority to reduce or waive the amount of retail or retail like gross floor area required in Section 18.40.180 for any 100% affordable housing project if the City Council determines that it would be in the public interest. Any such reduction or waiver shall not be subject to the waiver and adjustments requirements in Section 18.40.180(c). In the R and GF combining districts, any reduction or waiver in retail or retail like gross floor area shall remain subject to the requirements of Section 18.40.180(c) or the combining district as applicable.

**18.30(K).070 Permitted Uses**

The following uses shall be permitted in the AH affordable housing combining district:

- (a) 100% affordable housing projects;

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(b) In conjunction with a 100% affordable housing project, any uses permitted in the underlying district, provided the uses are limited to the ground floor.

**18.30(K).080 Conditional Uses**

The following uses may be permitted in the AH affordable housing combining district in conjunction with an 100% affordable housing project, subject to issuance of a conditional use permit in accord with Chapter 18.76 (Permits and Approvals), provided that the uses are limited to the ground floor:

- (a) Business or trade school.
- (b) Adult day care home.
- (c) Office less than 5,000 square feet when deed-restricted for use by a not-for-profit organization.
- (d) All other uses conditionally permitted in the applicable underlying zoning district.

**18.30(K).090 Development Standards**

The following development standards shall apply to projects subject to the AH affordable housing combining district in lieu of the development standards for the underlying zoning district, except where noted below:

**Table 1  
Development Standards**

<b>AH Combining District<sup>(1)</sup></b>		
<b>Minimum Site Specifications</b>		<b>Subject to regulations in:</b>
Site Area (ft <sup>2</sup> )	None required	
Site Width (ft)		
Site Depth (ft)		
<b>Minimum Setbacks</b>		Setback lines imposed by a special setback map pursuant to Chapter 20.08 of this code may apply
Front Yard (ft)	Same as underlying district	
Rear Yard (ft)	Same as underlying district	
Rear Yard abutting residential zoning district (ft)	Same as underlying district	
Interior Side Yard if abutting residential zoning district (ft)	Same as underlying district	
Street Side Yard (ft)	Same as underlying district	
Build-to-Lines	Same as underlying district	
Permitted Setback Encroachments	Same as underlying district	
<b>Maximum Site Coverage</b>	None Required	
<b>Landscape/Open Space Coverage</b>	20% <sup>(2)</sup>	

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<b>Usable Open Space</b>	25 sq ft per unit for 5 or fewer units <sup>(2)</sup> , 50 sq ft per unit for 6 units or more <sup>(2)</sup>	
<b>Maximum Height (ft)</b>	50'	
<u>Within 50 ft of a R1, R-2, RMD, RM-15, or RM-30 zoned property</u>	<u>35'</u>	
<b>Daylight Plane for lot lines abutting one or more residential zoning districts</b>	Daylight plane height and slope shall be identical to those of the most restrictive residential zoning district abutting the lot line	
<b>Maximum Residential Density (net)</b>	None Required	
<b>Maximum Residential Floor Area Ratio (FAR) – Residential Portion of a Project</b>	2.0:1	
<b>Maximum Non-Residential FAR</b>	0.4:1	
<b>Vehicle Parking</b>	<p>0.5 per <u>bedroom or unit, whichever is greater</u>. The Director may modify this standard based on findings from a parking study that show fewer spaces are needed for the project.</p> <p>The required parking ratio for special needs housing units, as defined in Section 51312 of the Health and Safety Code shall not exceed 0.3 spaces per unit.</p>	Adjustments to the required ratios shall be considered per Chapter 18.52 (Parking).
	For Commercial Uses, See Chapters 18.52 and 18.54 (Parking).	
<b>TDM Plan</b>	A transportation demand management (TDM) plan shall be required pursuant to Section 18.52.050(d) and associated administrative guidelines	18.52.050(d)

Notes:

(1) These developments shall be designed and constructed in compliance with the performance criteria outlined in Chapter 18.23, as well as the context-based design criteria outlined in Section 18.13.060 for residential-only projects, Section 18.16.090 for mixed use projects in the CN, CC, and CS districts, and Section 18.18.110 for mixed use projects in the CD district, provided that more restrictive regulations may be recommended by the architectural review board and approved by the director of planning and community environment, pursuant to Section 18.76.020.

(2) Landscape coverage is the total area of the site covered with landscaping as defined in Chapter 18.04. For the purposes of this Chapter 18.30(K), areas provided for usable open space may be counted



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towards the landscape site coverage requirement. Landscape and open space areas may be located on or above the ground level, and may include balconies, terraces, and rooftop gardens.

**SECTION 2.** Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

**SECTION 3.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 4.** The City Council finds that the environmental impacts of this Ordinance were disclosed, analyzed and evaluated as part of that certain Final Environmental Impact Report for the Comprehensive Plan Update considered and certified by the City Council on November 13, 2017, by Resolution Nos. 9720 and 9721 ("EIR"). The City Council considered the EIR prior to taking action on this Ordinance, in conformance with the California Environmental Quality Act ("CEQA"), together with state and local regulations implementing CEQA.

**SECTION 5.** This ordinance shall be effective on the thirty-first date after the date of its adoption.  
INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

APPROVED:

\_\_\_\_\_  
Deputy City Attorney

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director of Planning and Community  
Environment

Ad Hoc Affordable Housing Overlay Committee: Przemek Gardias, Doria Summa, Asher Waldfogel

Through a series of interviews over a very short period of time with affordable housing providers, market rate developers and community members we have observed that:

1. Affordable housing development below 60% AMI and above 60% AMI are in different financing markets, have different financial hurdles and metrics and need different solutions.
2. Under 60% AMI projects must cost under \$500K per door to compete for limited tax-credit financing.
3. Affordable housing providers believe they do not need to provide parking above .5 spaces/unit, but cities may finance additional parking based on demand studies.
4. Actual parking demand in affordable units is between .5 and 1.3 spaces per unit in Palo Alto. Parking standards need to meet actual demand.
5. Retail space does not qualify for tax-credit financing.
6. Affordable housing projects that retain retail will need additional sources of funding and/or zoning concessions.
7. Existing PAMC development transitional height standards limit building heights to 35 feet within 150 feet of residential districts. This is a concern, particularly along the El Camino Corridor.
8. Affordable housing providers want more certainty in the development process. A general process that requires site-specific zoning changes does not meet their needs.

Here are our recommendations:

RECOMMENDATION 1: We recommend the City pursue a development agreement with PAH to advance the Wilton Court project. We believe a serious negotiation over the Wilton Court project will inform how to write a better city-wide ordinance.

RECOMMENDATION 2: We recommend separating affordable housing into two work items: under 60% AMI (AH60) and 60% to 120% AMI (AH120).

RECOMMENDATION 3: For AH60 we recommend the following options for retail preservation

- I. Where retail is retained, offer a zoning (height) concession.
- II. Where affordable housing provider financing precludes retail: City or a 3rd party may participate in project financing, potentially in exchange for an ownership position.
- III. As a last resort, City may waive the retail requirement as provided by the retail preservation ordinance.

RECOMMENDATION 4: For AH60 we recommend City financial contributions to develop parking to meet demand based on measured parking utilization rates of comparable properties. The City may exercise an option to build additional parking available to the public.

RECOMMENDATION 5: We recommend maintaining the transition height standards in all the C districts adjacent to residential districts. We recommend a community process with outreach before changing transition heights for AH60 housing.

RECOMMENDATION 6: We recommend an open space standard for AH60, but we recommend against roof gardens adjacent to low density residential districts.

RECOMMENDATION 7: We recommend folding AH120 work into the Housing Workplan effort. The regional consensus is to accomplish AH120 with inclusionary standards. We are not in a position today to make a recommendation on the right inclusionary standard.