



# City of Palo Alto

## City Council Staff Report

(ID # 9974)

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Report Type: Consent Calendar

Meeting Date: 4/1/2019

Summary Title: Housing Work Plan 2018: Second Reading

**Title: SECOND READING: Adoption of an Ordinance Amending Various Sections of Title 18 of the Palo Alto Municipal Code Related to Residential and Mixed-use Development Standards Including, but not Limited to, Minimum and Maximum Unit Density, Unit Size, Floor Area Ratio, Height, and Open Space Including Rooftop Gardens; Parking Requirements Including, but not Limited to, Regulations Related to In-lieu Parking for Downtown Commercial Office Uses and Retail Parking for Mixed Use Projects; Exclusively Residential Projects in Certain Commercial Zoning Districts; Ground-floor Retail and Retail Preservation Provisions; the Entitlement Approval Process; and Other Regulations Governing Residential, Multi-family Residential and Commercial Zoning Districts, all to Promote Housing Development Opportunities in These Zoning Districts in Furtherance of Implementation of the Comprehensive Plan. CEQA: Determination of Consistency With the Comprehensive Plan Environmental Impact Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution No. 9720. The Planning and Transportation Commission Recommended Approval of the Proposed Ordinance on October 10, 2018 (FIRST READINGS: December 3, 2018 and January 28, 2019, PASSED)**

**From: City Manager**

**Lead Department: Planning and Community Environment**

### **RECOMMENDATION**

Staff recommends that the City Council adopt the attached ordinance (Attachment A).

### **BACKGROUND**

The City Council reviewed the subject ordinance and made motions for approval with modifications on December 3, 2018 and January 28, 2019. The ordinance amends various

sections of Palo Alto Municipal Code to implement new policies to spur greater housing production. A summary of the more substantive changes is provided below:

### Citywide

- Site and Design review will no longer be required for housing projects containing nine or more units. Projects located in environmentally or ecologically sensitive areas and designated with a D-Combining District will continue to be subject to Site and Design review requirements.
- Parking for multi-family housing units is reduced from 1.25 and 1.50 spaces, respectively for studios and one-bedroom units, to 1 parking space. Senior housing has a new parking requirement of .75 per unit. 100% affordable housing projects may request a parking reduction up to 100 percent based on maximum anticipated demand<sup>1</sup>, and guest parking requirements are eliminated.
- 100% affordable housing projects will be exempt from the retail preservation requirements, but subject to R- and GF-Combining Districts. Affordable housing is defined as 120% of area median income (AMI), except in CS and CN zoned properties adjacent to El Camino Real, where affordable housing projects must also not exceed an average income greater than 80% of the AMI, not including the manager's unit.
- Rooftop gardens standards are established and apply in areas of the City permitting this form of useable open space (CD-C, CC-2, CN and CS properties adjacent to El Camino Real, with some exceptions).

### Multi-Family Residential Zones

- RM 15 is changed to RM 20 representing an increase in unit density to 20 units per acre.
- Minimum density requirements are established, though existing single family and two-family homes in the multi-family districts may be replaced at the same density and not meet the minimum density requirement. No property will be considered a noncomplying use for not meeting the minimum density requirement.
- A consistent open space standard of 150 square feet per unit is established.
- 100% affordable housing projects are exempt from the retail requirement that applies to some projects in the RM-40 zoning district.
- Properties that exceed the maximum density for the property may be re-established at the same density, provided the project complies with all other applicable requirements, including parking.

### Downtown (CD-C) District

- A Housing Incentive Program is established creating a discretionary review and waiver process that allows housing projects to use commercial floor area in addition to

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<sup>1</sup> This waiver applies Citywide, including the Downtown Parking Assessment.

increased housing floor area; the maximum floor area is 3.0:1. HIP projects are subject to architectural review and are considered an alternative to the State Density Bonus law. Qualifying 100% affordable housing projects may request waivers from any development standards, including parking, provided such requests to do not exceed allowances provided for by the Affordable Housing Overlay. Affordable housing is defined as projects with 120% AMI or less with average household incomes no greater than 60% of AMI.

- Exclusively residential projects are permitted in this district – commercial floor area is no longer required to build housing. However, the City’s retail preservation requirements and GF-Combining district standards (ground floor retail) still apply.
- Housing density limits have been removed.
- Curb cuts (driveway aprons) are precluded from occurring directly from University Avenue.
- 75% of rooftop gardens may qualify to meet the useable open space requirements.
- No parking is required for up to 1,500 square feet of ground floor retail in a mixed use housing project.
- The average unit size for Downtown housing projects shall not exceed 1,500 square feet.
- New office development<sup>2</sup> above the ground floor will not be permitted to participate in the In-Lieu parking program for a period of one year from the effective date of this ordinance<sup>3</sup>.

#### CC(2) Properties and CN / CS Properties Adjacent to El Camino Real

- A Housing Incentive Program is established creating a discretionary review and waiver process that allows housing projects to use commercial floor area in addition to increased housing floor area; the maximum floor area is 2.0:1 for CC(2) properties and 1.5:1 for CN and CS properties. HIP projects are subject to architectural review and are considered an alternative to the State Density Bonus law. Projects located on CN and CS properties may seek waivers to site coverage as well. Qualifying 100% affordable housing projects may request waivers from any development standards, including parking, provided such requests to do not exceed allowances provided for by the

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<sup>2</sup> This provision will not apply to projects that have been filed and deemed complete prior to the effective date of the subject ordinance.

<sup>3</sup> The City Council motion reads in part ‘...for the period of one year or until the Planning and Transportation Commission returns to the City Council with a detailed study and recommendation.’ Because of the ambiguity associated with the last clause of this motion, staff drafted a defined one year term to this provision. It is not staff’s understanding that the City Council, upon receiving a report and recommendation from the PTC, would seek to immediately revert back to allowing projects with office uses above the ground floor to resume participation in the in-lieu parking program. It is more likely the Council wanted to see a report and ordinance recommendation and that new policies be implemented prior to elimination of this provision. Moreover, it appears to be the Council’s intent that this be accomplished within one year of the effective date of this subject ordinance.

Affordable Housing Overlay. Affordable housing is defined as projects with 120% AMI or less with average household incomes no greater than 60% of AMI.

- Exclusively residential projects are permitted in this district – commercial floor area is no longer required to build housing. However, the City’s retail preservation requirements and R-Combining district standards (ground floor retail) still apply.
- For projects with ground floor housing, new design standards are established.
- Housing density limits have been removed.
- 60% of rooftop gardens may qualify to meet the useable open space requirements.
- Minimum commercial floor area restrictions no longer apply to housing only or mixed-use housing projects, however, compliance with the City’s retail preservation ordinance and the R-Combining district still apply.
- No parking is required for up to 1,500 square feet of ground floor retail in a mixed use housing project.
- Curb cuts (driveway aprons) are precluded from occurring directly from California Avenue.

The subject ordinance will take effect on the 31<sup>st</sup> day following Council’s adoption of the ordinance on second reading. The ordinance includes a pipeline provision that exempts projects that have been filed and determined complete for application processing prior to the effective date of the ordinance. However, qualifying exempt projects may opt in and seek to use components of the ordinance, in which case the project would be subject to the ordinance in its entirety. At the time this report was prepared, there was one Downtown project that would be exempt.

Since the Council’s action to adopt on first reading the subject ordinance, staff has received complaints from individuals that have recently purchased transferred development rights (TDRs) from the City. The City sold TDRs from the College Terrace Library and Avenidas properties to help fund the City’s Junior Museum and Zoo and Avenidas projects. TDRs are used by developers to increase the amount of commercial floor area when redeveloping Downtown properties. Individuals that purchase TDRs generally expect to participate in the City’s in-lieu parking program. With the subject ordinance’s one year prohibition on using in-lieu parking for office uses above the first floor, one of the recent bidders who has not yet completed the transactional requirements, may cause those TDRs to be released. Based on City procedures the TDRs will either be offered to the next qualifying candidate or re-offered to the public in another round of bidding. The value of future TDRs may be affected by this land use policy prohibiting in-lieu parking if even on a temporary basis.

In addition to the Council’s actions on the subject ordinance, staff received direction to return with additional information and recommendations on the following topics:

- For the RM zones, staff is to review the concept of when a project is over the number of units and will not make the project non-compliant and return to Council in 2019 for review.
- For the CD-C zone, staff and the Planning and Transportation Commission are to further study decoupled parking, in-lieu parking, and off-site parking for residential developments and return to Council in 2019.
- For the CD-C zone, staff and the Planning and Transportation Commission are to analyze the changes to housing production by: (i) Changing the hotel FAR; (ii) Elimination of ability of commercial uses above ground to participate in the in-lieu parking program; and (iii) Methods to match increases in residential FAR with a decrease in commercial FAR for mixed use projects.
- For the CC(2) zone, staff is to analyze the interaction of housing production in the CC(2) zones in regards to the hotel FAR and methods to match increases in residential FAR with a decrease in commercial FAR for mixed-use projects

Minutes from the prior City Council meetings is included in Attachment B; prior staff reports are available online:

November 26, 2018

staff report: <https://www.cityofpaloalto.org/civicax/filebank/documents/67731>

December 3, 2018

staff report: <https://www.cityofpaloalto.org/civicax/filebank/documents/67968>

January 28, 2018

staff report: <https://www.cityofpaloalto.org/civicax/filebank/documents/68607>

**Attachments:**

**Attachment A: Housing Workplan Implementation Ordinance (PDF)**

**Attachment B: Combined Meeting Excerpts (11.26.18 12.3.18 and 1.28.19) (PDF)**

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Ordinance No. \_\_\_\_

Ordinance of the Council of the City of Palo Alto Amending Title 18 (Zoning) of the Palo Alto Municipal Code, Including Chapters 18.04 (Definitions), 18.13 (Multiple Family Residential RM-15, RM-30 and RM-40) Districts), 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, and CS) Districts), 18.18 (Downtown Commercial (CD) District), 18.40 (General Standards and Exceptions), and 18.52 (Parking and Loading Requirements), to Establish or Modify Development Standards for Residential and Mixed-Use Projects Including, But Not Limited to, Minimum and Maximum Unit Density, Unit Size, Floor Area Ratio, Height, and Open Space Including Rooftop Gardens, to Modify Parking Requirements and Adjustments, to Temporarily Limit In-Lieu Parking for Downtown Commercial Office Uses Above the Ground Floor, to Allow Exclusively Residential Projects in Certain Commercial Zoning Districts, to Exempt Certain Affordable Housing Projects from Retail Preservation, to Simplify the Entitlement Process Removing Site and Design Review for Residential and Mixed-Use Projects, and to Make Other Technical Corrections and Clarifications, All to Promote Housing Development Opportunities in the Multi-Family Residential Zoning Districts and Commercial Zoning Districts in Furtherance of Implementation of the Comprehensive Plan

The Council of the City of Palo Alto ORDAINS as follows:

**SECTION 1.** Findings and Declarations. The City Council finds and declares as follows:

A. California is in the midst of a housing crisis due to a severe shortage of housing that is affordable to large segments of the population, including above-moderate and moderate income households and, most acutely, lower-income households. According to the California Department of Housing and Community Development (HCD), throughout the State, housing production averaged less than 80,000 new homes over the last 10 years, and ongoing production continues to fall far below the projected need of 180,000 additional homes annually. The lack of supply, with a deficit that deepens each year, has been a key driver of the lack of affordability for millions of households throughout the State. The majority of Californian renters pay more than 30 percent of their income toward rent, and nearly one-third pay more than 50 percent of their income toward rent.

B. In the nine-county Bay Area, which contains job centers that have produced a substantial number of new jobs, the lack of housing affordability is even more severe. The Bay Area continues to produce housing units in insufficient numbers to adequately house both existing and projected populations. Between 2011 and 2015, the Bay Area added 500,000 jobs but built only 65,000 new homes. Limited housing, with increasing demand and constraints on

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production, have resulted in high housing cost burdens that fall most heavily on lower income households who are more likely to be renters. Between 2000 and 2016, rents increased 24 percent while renter incomes rose just 9 percent. Six of every 10 economically insecure residents are renters and 75 percent of them pay more than 30 percent of their income for housing.

C. For Palo Alto, as a job center with among the highest housing prices and greatest jobs to housing imbalances in the Bay Area, the housing shortage threatens the city's prosperity, diversity, stability, environment, quality of life, and community character.

D. The cost pressures associated with substantially increased housing prices and rents have resulted in displacement and contributed to homelessness, separated families, and loss of diversity. Residents in search of affordability are driven to move to far outlying areas, requiring longer commutes to job centers in the Bay Area, including Palo Alto. According to a recent report by the Bay Area Economic Council, more than 100,000 Bay Area mega-commuters travel 90 minutes or more to reach their jobs, contributing to a 78 percent increase since 1990 in the number of mega-commuters crossing county and regional boundaries to get to work. Of the nearly 200,000 commuters crossing regional boundaries in 2013, 69 percent were commuting into the Bay Area for work. This results in health and quality of life impacts to individuals, as well as community-wide and region-wide impacts in terms of increased traffic congestion, air pollution and greenhouse gas emissions. Without the construction of more housing near urban centers and jobs, the State's ability to achieve its climate change goals is in jeopardy.

E. In November 2017, the City adopted an updated Comprehensive Plan that projected 3,545 to 4,420 new housing units between 2015 and 2030, and included policies to encourage housing production. The Council subsequently approved a Housing Work Plan with a recognition that if Palo Alto remains on its current course, the City will fall short of meeting its Regional Housing Needs Assessment (RHNA) allocation of 1,988 units at varying levels of affordability and the goals inherent in the Comprehensive Plan policies. The Housing Work Plan detailed the actions needed to spur the production of housing, and included the proposed zoning changes reflected in this Ordinance to remove barriers and disincentives to housing development at higher densities where appropriate near transit, jobs and services, and that is affordable for a range of income levels.

**SECTION 2.** Subsection (a)(142) of Section 18.04.030 of Chapter 18.04 (Definitions) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) is amended to read as follows:

**18.04.030 Definitions**

...

(142) "Usable open space" means outdoor or unenclosed area on the ground, or on a roof, balcony, deck, porch, patio or terrace, designed and accessible for outdoor living, recreation, pedestrian access, or landscaping, but excluding parking facilities, driveways, utility or service areas, or areas with mechanical equipment. Usable open space may be covered if at least 50% open on the sides. Usable open space shall be sited and designed to accommodate all groups including children, seniors, and other adults, different activities, groups, including active and passive recreation and uses, and should be located convenient to the intended users (e.g., residents, employees, or public). Any usable open space that is not landscaped shall be developed to encourage outdoor recreational use and shall include elements such as decks, seating, decorative paved areas and walkways which do not serve as an entrance walkway. Usable open space shall be screened from utility or service areas, and areas with mechanical equipment. Parking, driveways and required parking lot landscaping shall not be counted as usable open space.

**SECTION 3.** The title of Chapter 18.13 of Title 18 (Zoning) of the PAMC is amended to read as follows:

Chapter 18.13

MULTIPLE-FAMILY RESIDENTIAL (RM-~~2015~~, RM-30 AND RM-40) DISTRICTS

**SECTION 4.** Section 18.13.010 (Purposes) and Section 18.13.040 (Development Standards) of **Chapter 18.13 (Multiple Family Residential RM-15, RM-30 and RM-40) Districts** of Title 18 (Zoning) of the PAMC are amended as follows:

**18.13.010 Purposes**

This section specifies regulations for three multiple family residential districts.

(a) RM-~~2015~~ Low Density Multiple-Family Residence District [RM-~~2015~~]

The RM-~~2015~~ low-density multiple-family residence district is intended to create, preserve and enhance areas for a mixture of single-family and multiple-family housing which is compatible with lower density and residential districts nearby, including single-family residence districts. The RM-~~2015~~ residence district also serves as a transition to moderate density multiple-family districts or districts with nonresidential uses. Permitted densities in the RM-~~2015~~ residence district range from eight to ~~fifteen~~ twenty dwelling units per acre, ~~with no required minimum density.~~



(b) RM-30 Medium Density Multiple-Family Residence District [RM-30]

The RM-30 medium density multiple-family residence district is intended to create, preserve and enhance neighborhoods for multiple-family housing with site development standards and visual characteristics intended to mitigate impacts on nearby lower density residential districts. Projects at this density are intended for larger parcels that will enable developments to provide their own parking spaces and to meet their open space needs in the form of garden apartments or cluster developments. Permitted densities in the RM-30 residence district range from sixteen to thirty dwelling units per acre, ~~with no required minimum density.~~

(c) RM-40 High Density Multiple-Family Residence District [RM-40]

The RM-40 high density multiple-family residence district is intended to create, preserve and enhance locations for apartment living at the highest density deemed appropriate for Palo Alto. The most suitable locations for this district are in the downtown area, in select sites in the California Avenue area and along major transportation corridors which are close to mass transportation facilities and major employment and service centers. Permitted densities in the RM-40 residence district range from thirty-one to forty dwelling units per acre, ~~with no required minimum density.~~

**Section 18.13.040 Development Standards**

(a) Site Specifications, Building Size and Bulk, and Residential Density

The site development regulations in Table 2 shall apply in the multiple-family residence districts, 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 the regulations set forth in Chapter 18.76, performance criteria set forth in Chapter 18.23, and the context-based design criteria set forth in Section 18.13.060.

**Table 2  
Multiple Family Residential Development Table**

	<del>RM-2015</del>	RM-30	RM-40	Subject to regulations in:
<b>Minimum Site Specifications</b>				
Site Area (ft <sup>2</sup> )		8,500		
Site Width (ft)		70		
Site Depth (ft)		100		

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	<b>RM-2015</b>	<b>RM-30</b>	<b>RM-40</b>	<b>Subject to regulations in:</b>
<b>Substandard Lot Specifications</b>				
Site Area (ft <sup>2</sup> )	Less than 8,500 square feet and/or less than 70 feet in width			
Site Width (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)	20	20	0-25 <sup>(1)</sup>	18.13.040(b)
On arterial roadways <sup>(1)</sup>	0-20 <sup>(1)</sup>	0-20 <sup>(1)</sup>	0-25 <sup>(1)</sup>	
Interior Side Yards (ft)				
For lots with width of 70 feet or greater	10	10	10	
For lots with width of less than 70 feet	6 feet			
Interior Rear Yards (ft) <sup>3</sup>	10	10	10	
Street Side and Street Rear Yards (ft)	16	16	0-16 <sup>(2)</sup>	
<b>Maximum Height (ft)</b>	30	35	40	
Maximum height for those portions of a site within 50 feet of a more restrictive residential district or a site containing a residential use in a nonresidential district			35	
<b>Daylight Planes<sup>(7)</sup></b>				
<ul style="list-style-type: none"> <li>Daylight Plane for side and rear lot lines for sites abutting any R-1, R-2, RMD, or RM-2015 district or abutting a site containing a single-family or two-family residential use in a nonresidential district:</li> </ul>				
Initial Height (ft)	10			
Angle (degrees)	45			
<ul style="list-style-type: none"> <li>Daylight Plane for side and rear lot lines for sites abutting a RM-30, RM-40, Planned Community, or nonresidential district that does not contain a single-family or two-family</li> </ul>				

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	<b>RM-<del>2015</del></b>	<b>RM-30</b>	<b>RM-40</b>	<b>Subject to regulations in:</b>
residential use:				
For lots with width of 70 feet or greater	None			
For lots with width of less than 70 feet, limited to the first 10 feet from the property line (no daylight plane beyond 10 feet):				
Initial Height (ft)	10			
Angle (degrees)	45			
<b>Maximum Site Coverage:</b>				
Base	35%	40%	45%	
Additional area permitted to be covered by covered patios or overhangs otherwise in compliance with all applicable laws	5%	5%	5%	
<b>Maximum Floor Area Ratio (FAR)<sup>(4)</sup></b>	0.5:1	0.6:1	1.0:1	
<del><b>Maximum Residential Density (units)</b></del>				
Maximum number of units per acre <sup>(3)</sup>	<del>2015</del>	30	40	<u>18.13.040(g)</u>
<del><b>Minimum Residential Density (units)</b></del>				
<u>Minimum number of units per acre<sup>(8)</sup></u>	<u>11</u>	<u>16</u>	<u>21</u>	
<b>Minimum Site Open Space<sup>(5)</sup> (percent)</b>	35	30	20	18.13.040(e)
<b>Minimum Usable Open Space (sf per unit)<sup>(5)</sup></b>	<del>150200</del>	150	<del>150100</del>	
<b>Minimum common open space (sf per unit)</b>	<del>75100</del>	75	<del>7550</del>	18.13.040(e)
<b>Minimum private open space (sf per unit)</b>	50	50	50	
<b>Performance Criteria</b>	See provisions of Chapter 18.23			Ch. 18.23
<b>Landscape Requirements</b>				18.40.130
<b>Parking<sup>(6)</sup></b>	See provisions of Chapter 18.52			Ch. 18.52

(1) Minimum front setbacks shall be determined by the Architectural Review Board upon review pursuant to criteria set forth in Chapter 18.76 and the context-based criteria outlined in Section 18.13.060. Arterial roadways do not include residential arterials.

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- (2) Minimum street side setbacks in the RM-40 zone may be from 0 to 16 feet and shall be determined by the Architectural Review Board upon review pursuant to criteria set forth in Chapter 18.76 and the context-based criteria outlined in Section 18.13.060.
- (3) Provided that, for any lot of 5,000 square feet or greater, two units are allowed, subject to compliance with all other development regulations.
- (4) Covered parking is not included as floor area in multi-family development, up to a maximum of 230 square feet per required parking space that is covered. Covered parking spaces in excess of required parking spaces count as floor area.
- (5) Subject to the limitations of Section 18.13.040(e). Usable open space is included as part of the minimum site open space; required usable open space in excess of the minimum required for common and private open space may be used as either common or private usable open space; landscaping may count towards total site open space after usable open space requirements are met.
- (6) Tandem parking is allowed for any unit requiring two parking spaces, provided that both spaces in tandem are intended for use by the same residential unit. For projects with more than four (4) units, not more than 25% of the required parking spaces shall be in a tandem configuration.
- (7) Each daylight plane applies specifically and separately to each property line according to the adjacent use.
- (8) The minimum density for a site may be reduced by the Director if, after the proposal is reviewed by the Architectural Review Board, the Director finds that existing site improvements or other parcel constraints, preclude the development from meeting the minimum density. A site with an existing single-family use or two-family use may be redeveloped at the existing density, either single-family or two-family as applicable. An existing or replaced single-family or two-family residence shall not be considered a nonconforming use, and the provisions of Chapter 18.70 shall not apply, solely based on the minimum density requirement.

### (b) Setbacks, Daylight Planes and Height - Additional Requirements and Exceptions

#### (1) Setbacks

- (A) Setbacks for lot lines adjacent to an arterial street, expressway or freeway, as designated in the Palo Alto Comprehensive Plan, shall be a minimum of twenty-five feet (25'), except that lesser setbacks may be allowed or required by the Planning Director, upon recommendation by the Architectural Review Board, where prescribed by the context-based criteria outlined in Section

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18.13.060. Special setbacks of greater than 25 feet may not be reduced except upon approval of a design enhancement exception or variance.

(B) Required parking spaces shall not be located in a required front yard, nor in the first ten feet (10') adjoining the street property line of a required street side yard.

(C) Projections into yards are permitted only to the extent allowed by Section 18.40.070 of this code.

(2) Height and Daylight Planes

(A) Exceptions to maximum height limitations are permitted only to the extent allowed by Section 18.40.090 of this code.

(B) The following features may extend beyond the daylight plane established by the applicable district, provided that such features do not exceed the height limit for the district unless permitted to by Section 18.40.090 of this code:

- i. Television and radio antennas;
- ii. Chimneys and flues that do not exceed 5 feet in width, provided that chimneys do not extend past the required daylight plane a distance exceeding the minimum allowed pursuant to Chapter 16.04 of this code.
- iii. Cornices and eaves, excluding flat or continuous walls or enclosures of usable interior space, provided such features do not extend past the daylight plane more than 4 feet, and so long as they do not encroach into the side setback greater than 2 feet.

...

(e) Usable Open Space

The following usable open space regulations shall apply:

(1) Required Minimum Site Open Space. Each site shall, at a minimum, have a portion of the site, as prescribed in Table 2, developed into permanently maintained open space. Site open space includes all usable open space plus landscape or other uncovered areas not used for driveways, parking, or walkways.

(2) Usable Open Space (Private and Common). Each project shall, at a minimum, have a portion of the site, as prescribed in Table 2, developed into permanently maintained

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usable open space, including private and common usable open space areas. Usable open space shall be located protected from the activities of commercial areas and adjacent public streets and shall provide noise buffering from surrounding uses where feasible. ~~Parking, driveways and required parking lot landscaping shall not be counted as usable open space.~~

(A) Private Usable Open Space. Each dwelling unit shall have at least one private usable open space area contiguous to the unit that allows the occupants of the unit the personal use of the outdoor space. The minimum size of such areas shall be as follows:

- (i) Balconies (above ground level): 50 square feet, the least dimension of which shall is 6 feet.
- (ii) Patios or yards in the RM-~~2045~~ and RM-30 districts: 100 square feet, the least dimension of which is 8 feet for at least 75% of the area.
- (iii) Patios or yards in the RM-40 district: 80 square feet, the least dimension of which is 6 feet for at least 75% of the area.

(B) Common Usable Open Space. The minimum designated common open space area on the site shall be 10 feet wide and each such designated area shall comprise a minimum of 200 square feet. In the RM-30 and RM-40 districts, part or all of the required private usable open space areas may be added to the required common usable open space in a development, for purposes of improved design, privacy, protection and increased play area for children, upon a recommendation of the Architectural Review Board and approval of the Director.

(f) Personal Services, Retail Services, and Eating and Drinking Services in the RM-30 and RM-40 Districts

Within a single residential development containing not less than 40 dwelling units, personal services, retail services, and eating and drinking services solely of a neighborhood-serving nature to residents in the development or in the general vicinity of the project may be allowed upon approval of a conditional use permit, subject to the following limitations and to such additional conditions as may be established by the conditional use permit:

- (1) Total gross floor area of all such uses shall not exceed 5,000 square feet or three percent of the gross residential floor area within the development, whichever is smaller, and may not occupy any level other than the ground level or below grade levels.

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- (2) A maximum of 2,500 square feet of retail and/or service and/or eating and drinking uses shall be allowed per establishment.
- (3) Personal services, retail services, and eating and drinking services provided in accordance with this section shall not be included in the gross floor area for the site.
- (4) The conditional use permit for the project may preclude certain uses and shall include conditions that are appropriate to limit impacts of noise, lighting, odors, parking and trash disposal from the operation of the commercial establishment. The hours of operation shall be limited to assure compatibility with the residential use and surrounding residential uses.
- (5) Allowable Neighborhood-Serving Uses. A neighborhood-serving use primarily serves individual consumers and households, not businesses, is generally pedestrian oriented in design, and does not generate noise, fumes or truck traffic greater than that typically expected for uses with a local customer base. A neighborhood-serving use is also one to which a significant number of local customers and clients can walk, bicycle or travel short distances, rather than relying primarily on automobile access or the provider of the goods or services traveling off-site. Allowable neighborhood-serving personal services, retail services and eating and drinking services may include, but are not limited to, "agent" dry cleaners, flower shops, convenience grocery stores (excluding liquor stores), delicatessens, cafes, fitness facilities, day care facilities, and similar uses found by the Planning Director to be compatible with the intent of this provision.
- (6) Sign programs, including size, number, color, placement, etc. shall be permitted only as specified in the conditional use permit and by the Planning Director upon recommendation of the Architectural Review Board.
- (7) Off-street parking and bicycle facilities, in addition to facilities required for residential uses, shall be provided as may be specified by the conditional use permit. However, there shall not be less than one parking space for each employee working or expected to be working at the same time.
- (8) For any project, other than a 100% affordable housing project, containing forty (40) or greater units and located more than 500 feet from neighborhood commercial services, as determined by the Director, a minimum of 1,500 square feet of neighborhood serving retail, personal service, and/or eating or drinking uses shall be provided, subject to the above limitations. No conditional use permit is required, but the commercial use shall be reviewed by the Architectural Review Board as part of the architectural review approval. A minimum of one parking space for each

employee working or expected to be working at the same time shall be provided. A “100% affordable housing project” as used herein means a multiple-family housing project consisting entirely of affordable units, as defined in Section 16.65.020 of this code, available only to households with income levels at or below 120% of the area median income for Santa Clara County, as defined in Chapter 16.65, and where the average household income does not exceed 80% of the area median income level, except for a building manager’s unit.

~~(g) Below Market Rate Units and Rental Housing Protection~~

- ~~(1) In developments of five or more units on sites of less than five acres, not less than fifteen percent (15%) of the units shall be provided at below market rates (BMR) to very low, low and moderate income households in accordance with Program H 36 of the Palo Alto Comprehensive Plan Housing Element. In developments of five or more units on sites of five acres or more, not less than twenty percent (20%) of the units shall be provided at below market rates (BMR). Specified percentages are applied to all proposed units in a project, including those designated as BMR units.~~
- ~~(2) Further details of the BMR program requirements, including their applicability to subdivisions and for density bonus purposes, are found in the discussion of Programs H 36 and H 38 of the Palo Alto Comprehensive Plan Housing Element.~~
- ~~(3) Below market rate units shall be fully integrated into the development unless good cause is shown for an exception.~~

(g) Redevelopment of Sites with Non-complying Density

For a parcel with a residential use that exceeds the maximum unit density of the applicable zoning district, the Director may grant an exception to the maximum unit density standard and allow the parcel to be redeveloped to replace the legally established residential units at the existing density, subject to all of the following:

- (1) The applicant must make the request for exception under this provision at the time of project application;
- (2) The project is a residential rental project;
- (3) The project complies with all other applicable development standards; and
- (4) The project shall not be eligible for a density bonus under Chapter 18.15 (Density Bonus). The applicant must elect whether to utilize state density bonus law or the exception described herein as an alternative to state density bonus law.



(h) Performance Criteria

In addition to all other provisions of this chapter, all multi-family development shall comply with applicable provisions of Chapter 18.23 (Performance Criteria for Multiple Family, Commercial, ~~Industrial~~ Manufacturing and Planned Community Districts).

**SECTION 5.** The Residential Uses portion of Table 1 of subsection (a) of Section 18.16.040 (Land Uses) of **Chapter 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, and CS) Districts)** of Title 18 (Zoning) of the PAMC is amended as follows:

**Section 18.16.040 Land Uses**

The uses of land allowed by this Chapter in each commercial zoning district are identified in the following tables. Land uses that are not listed on the tables are not allowed, except where otherwise noted. Where the last column on the following tables (“Subject to Regulations in”) includes a section number, specific regulations in the referenced section also apply to the use; however, provisions in other sections may apply as well.

(a) Commercial Zones and Land Uses

Permitted and conditionally permitted land uses for each commercial zone are shown in Table 1:

**TABLE 1**  
**~~CD~~-PERMITTED AND CONDITIONALLY PERMITTED USES**  
**P = Permitted Use      CUP = Conditional Use Permit Required**

LAND USE	CN <sup>(4)</sup>	CC, CC(2)	CS <sup>(4)</sup>	Subject to Regulations In:
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...

RESIDENTIAL USES				
Multiple-Family	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>	18.16.060(b) <u>and (c)</u>
Home Occupations	P	P	P	
Residential Care Homes	P	P	P	

...

(1) Residential is only permitted: (i) as part of a mixed use development, pursuant to the provisions of Section 18.16.060(b), or (ii) on sites designated as ~~Housing Opportunity Sites~~ housing inventory sites in the Housing Element of the Comprehensive Plan, (iii) on CN or CS sites on El

Camino Real, or (iv) on CC(2) sites, all pursuant to the provisions of Section 18.16.060(b) and (c).

...

**SECTION 6.** Subsections (b) and (c) of Section 18.16.060 (Development Standards) of **Chapter 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, and CS) Districts)** of Title 18 (Zoning) of the PAMC are amended as follows:

**Section 18.16.060 Development Standards**

...

(b) Mixed Uses and Residential

Table 4 specifies the development standards for new residential mixed use developments and residential developments. These developments shall be designed and constructed in compliance with the following requirements and the context-based design criteria outlined in Section 18.16.090, 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.

Table 4  
Mixed Use and Residential Development Standards

	CN	CC	CC(2)	CS	Subject to regulations in:
<b>Minimum Site Specifications</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)	0' - 10' to create an 8' - 12' effective sidewalk width <sup>(8)</sup>	None Required <sup>(8)</sup>	0' - 10' to create an 8' - 12' effective sidewalk width <sup>(8)</sup>	0' - 10' to create an 8' - 12' effective sidewalk width <sup>(8)</sup>	
Rear Yard (ft)	10' for residential portion; no requirement for commercial portion				

Not Yet Approved

	CN	CC	CC(2)	CS	Subject to regulations in:
Rear Yard abutting residential zone district (ft)	10'				
Interior Side Yard if abutting residential zone district (ft)	10'				
Street Side Yard (ft)	5'				
Build-to-Lines	50% of frontage built to setback <sup>(1)</sup> 33% of side street built to setback <sup>(1)</sup>				
Permitted Setback Encroachments	Balconies, awnings, porches, stairways, and similar elements may extend up to 6' into the setback. Cornices, eaves, fireplaces, and similar architectural features (excluding flat or continuous walls or enclosures of interior space) may extend up to 4' into the front and rear setbacks and up to 3' into interior side setbacks				
<b>Maximum Site Coverage</b>	50%	50%	100%	50%	
<b>Landscape/Open Space Coverage</b>	35%	30%	20%	30%	
<b>Usable Open Space</b>		20 sq ft per unit for 5 or fewer units <sup>(2)</sup> , 150 sq ft per unit for 6 units or more <sup>(2)</sup>			
<b>Maximum Height (ft)</b>					
Standard	35' <sup>(4)</sup>	50'	37'	50'	
Within 150 ft. of a residential zone district (other than an RM-40 or PC zone) abutting or located within 50 feet of the side	35'	35' <sup>(5)</sup>	35' <sup>(5)</sup>	35' <sup>(5)</sup>	
<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>Residential Density (net) <sup>(3)</sup></b>	15 or 20 <sup>(9)</sup>	See sub-section (e) below	<u>No maximum</u>	30	<u>18.16.060(i)</u>
<u>Sites on El Camino Real</u>	<u>No maximum</u>		<del>30</del>	<u>No maximum</u>	
<b>Maximum Residential Floor Area Ratio (FAR)</b>	0.5:1 <sup>(4)</sup>		0.6:1	0.6:1	
<b>Maximum Nonresidential Floor Area Ratio (FAR)</b>	0.4:1		2.0:1	0.4:1	

Not Yet Approved

	CN	CC	CC(2)	CS	Subject to regulations in:
<b>Total Mixed Use Floor Area Ratio (FAR)</b>	0.9:1 <sup>(4)</sup>		2.0:1	1.0:1	
<b>Minimum Mixed Use Ground Floor Commercial FAR <sup>(6)</sup></b>	0.15:1 <sup>(10)</sup>		0.15:1 <sup>(10)</sup> 0.25:1 <sup>(7)</sup> <sub>(10)</sub>	0.15:1 <sup>(10)</sup>	
<b>Parking</b>	See Chapters 18.52 and 18.54 (Parking)				18.52, 18.54

- (1) Twenty-five-foot driveway access permitted regardless of frontage; build-to requirement does not apply to CC district.
- (2) Required usable open space: (1) may be any combination of private and common open spaces; (2) does not need to be located on the ground (but rooftop gardens are not included as open space except as provided below); (3) minimum private open space dimension six feet; and (4) minimum common open space dimension twelve feet.  
  
For CN and CS sites on El Camino Real and CC(2) sites that do not abut a single- or two-family residential use or zoning district, rooftop gardens may qualify as usable open space and may count as up to 60% of the required usable open space for the residential component of a project. In order to qualify as usable open space, the rooftop garden shall meet the requirements set forth in Section 18.40.230.
- (3) Residential density shall be computed based upon the total site area, irrespective of the percent of the site devoted to commercial use.
- (4) For CN sites on El Camino Real, height may increase to a maximum of 40 feet and the FAR may increase to a maximum of 1.0:1 (0.5:1 for nonresidential, 0.5:1 for residential).
- (5) For sites abutting an RM-40 zoned residential district or a residential Planned Community (PC) district, maximum height may be increased to 50 feet.
- (6) Ground floor commercial uses generally include retail, personal services, hotels and eating and drinking establishments. Office uses may be included only to the extent they are permitted in ground floor regulations.
- (7) If located in the California Avenue Parking Assessment District.
- (8) A 12-foot sidewalk width is required along El Camino Real frontage.
- (9) Residential densities up to 20 units/acre ~~only are allowed~~ on CN zoned housing inventory sites identified in the Housing Element. Other CN zoned sites not located on El Camino Real are subject to a maximum residential density of up to 15 units/acre.

Not Yet Approved

(10) In the CC(2) zone and on CN and CS zoned sites on El Camino Real, there shall be no minimum mixed use ground floor commercial FAR for a residential project, except to the extent that the retail preservation requirements of Section 18.40.180 or the retail shopping (R) combining district (Chapter 18.30(A)) applies.

~~(1) Residential and nonresidential mixed use projects shall be subject to site and design review in accord with Chapter 18.30(G), except that mixed use projects with nine or fewer residential units shall only require review by the architectural review board.~~

(12) Nonresidential uses that involve the use or storage of hazardous materials in excess of the exempt quantities prescribed in Title 15 of the Municipal Code, including but not limited to dry cleaning plants and auto repair, are prohibited in a mixed use development with residential uses.

(23) Residential mixed use development is prohibited on any site designated with an Automobile Dealership (AD) Combining District overlay.

(c) Exclusively Residential Uses

Exclusively residential uses are generally prohibited in the CN, CS, and CC, and CC(2) zone districts, except on housing inventory sites identified in the Housing Element, subject to the standards in Section 18.16.060(b), and on CS and CN sites on El Camino Real and CC(2) sites, subject to the following.

(1) On CS and CN sites on El Camino Real and on CC(2) sites, where the retail shopping (R) combining district or the retail preservation provisions of Section 18.40.180 do not apply, exclusively residential uses are allowed subject to the standards in Section 18.16.060(b) and the following additional requirements:

(A) Residential units shall not be permitted on the ground-floor of development fronting on El Camino Real unless set back a minimum of 15 feet from the property line or the 12-foot effective sidewalk setback along the El Camino Real frontage, whichever is greater. Common areas, such as lobbies, stoops, community rooms, and work-out spaces with windows and architectural detail are permitted on the ground-floor El Camino Real frontage.

(B) Parking shall be located behind buildings or below grade, or, if infeasible, screened by landscaping, low walls, or garage structures with architectural detail.

...

(k) Housing Incentive Program

- (1) For an exclusively residential or residential mixed-use project in the CC(2) zone or on CN or CS zoned sites on El Camino Real, the Director may waive the residential floor area ratio (FAR) limit and the maximum site coverage requirement after the project with the proposed waiver or waivers is reviewed by the Architectural Review Board, if the Director finds that a project exceeding these standards is consistent with the required architectural review findings. In no event shall the Director approve a commercial FAR that exceeds the standard in Table 4 of Section 18.16.060(b) or a total FAR (including both residential and commercial FAR) in excess of 2.0 in the CC(2) zone or 1.5 in the CN or CS zone.
- (2) For a 100% affordable housing project in the CC(2) zone or on CN or CS zoned sites on El Camino Real, the Director may waive any development standard including parking after the project with the proposed waiver or waivers is reviewed by the Architectural Review Board, if the Director finds that a project with such waiver or waivers is consistent with the required architectural review findings. In no event shall the Director approve development standards more permissive than the standards applicable to the Affordable Housing (AH) Combining District in Chapter 18.30(J). A "100% affordable housing project" as used herein means a multiple-family housing or mixed-use project in which the residential component consists entirely of affordable units, as defined in Section 16.65.020 of this code, available only to households with income levels at or below 120% of the area median income, as defined in Section 16.65.020, and where the average household income does not exceed 60% of the area median income level, except for a building manager's unit.
- (3) This program is a local alternative to the state density bonus law, and therefore, a project utilizing this program shall not be eligible for a density bonus under Chapter 18.15 (Residential Density Bonus).

(l) Parking and Vehicular Access on California Avenue Restricted

Vehicular access to CC(2) zoned sites on California Avenue which requires vehicular movement across the sidewalk on California Avenue shall be prohibited, except where required by law and as applied to parcels owned, leased or controlled by the City.

**SECTION 7.** Subsections (b) and (c) of Section 18.18.060 (Development Standards) of **Chapter 18.18 (Downtown Commercial (CD) District)** of Title 18 (Zoning) of the PAMC are amended as follows:

**Section 18.18.060 Development Standards**

...

(b) Mixed Use and Residential

Table 3 specifies the development standards for new residential mixed use developments and residential developments. These developments shall be designed and constructed in compliance with the following requirements and the context-based design criteria outlines in Section 18.18.110, 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:

**TABLE 3  
MIXED USE AND RESIDENTIAL DEVELOPMENT STANDARDS**

	CD-C	CD-S	CD-N	Subject to regulations in Section:
<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)	None required		10'	
Rear Yard (ft)	10' for residential portion; no requirement for commercial portion			
Interior Side Yard (ft)	No requirement	10' if abutting residential zone	10' if abutting residential zone	
Street Side Yard (ft)	No requirement	5'	5'	
Permitted Setback Encroachments	Balconies, awnings, porches, stairways, and similar elements may extend up to 6' into the setback. Cornices, eaves, fireplaces, and similar architectural features (excluding flat or continuous walls or enclosures of interior space) may extend up to 4' into the front and rear setbacks and up to 3' into interior side setbacks			
<b>Maximum Site Coverage</b>	No requirement	50%	50%	
<b>Landscape Open Space</b>	20%	30%	35%	

Not Yet Approved

	CD-C	CD-S	CD-N	Subject to regulations in Section:
<b>Coverage</b>				
<b>Usable Open Space</b>	200 sq ft per unit for 5 or fewer units <sup>(4)</sup> ; 150 sq ft per unit for 6 units or more <sup>(1)</sup>			
<b>Maximum Height (ft)</b>				
Standard	50'	50'	35'	
Within 150 ft. of an abutting residential zone	40' <sup>(4)</sup>	40' <sup>(4)</sup>	35' <sup>(4)</sup>	
<b>Daylight Plane for lot lines abutting one or more residential zoning districts or a residential PC district</b>	Daylight plane height and slope identical to those of the most restrictive residential zone abutting the lot line			
<b>Residential Density (net)<sup>(2)</sup></b>	<del>40</del> <u>No maximum</u>	30	30	
<b>Maximum Weighted Average Residential Unit Size<sup>(5)</sup></b>	<u>1,500 sq ft per unit</u>	<u>No maximum</u>	<u>No maximum</u>	
<b>Maximum Residential Floor Area Ratio (FAR)</b>	1.0:1 <sup>(3)</sup>	0.6:1 <sup>(3)</sup>	0.5:1 <sup>(3)</sup>	
<b>Maximum Nonresidential Floor Area Ratio (FAR)</b>	1.0:1 <sup>(3)</sup>	0.4:1	0.4:1	
<b>Total Floor Area Ratio (FAR)<sup>(3)</sup></b>	2.0:1 <sup>(3)</sup>	1.0:1 <sup>(3)</sup>	0.9:1 <sup>(3)</sup>	18.18.070
<b>Parking Requirement</b>	See Chapters 18.52 and 18.54			Chs. 18.52, 18.54

- (1) Required usable open space: (1) may be any combination of private and common open spaces; (2) does not need to be located on the ground (but rooftop gardens are not included as open space except as provided below); (3) minimum private open space dimension 6'; and (4) minimum common open space dimension 12'.

For CD-C sites that do not abut a single- or two-family residential use or zoning district, rooftop gardens may qualify as usable open space and may count as up to 75% of the required usable open space for the residential component of a project. In order to qualify as usable open space, the rooftop garden shall meet the requirements set forth in Section 18.40.230.



Not Yet Approved

- (2) Residential density shall be computed based upon the total site area, irrespective of the percent of the site devoted to commercial use. There shall be no deduction for that portion of the site area in nonresidential use.
- (3) FAR may be increased with transfers of development and/or bonuses for seismic and historic rehabilitation upgrades, not to exceed a total site FAR of 3.0:1 in the CD-C subdistrict or 2.0:1 in the CD-S or CD-N subdistrict.
- (4) For sites abutting an RM-40 zoned residential district or a residential Planned Community (PC) district, maximum height may be increased to 50 feet.
- (5) The weighted average residential unit size shall be calculated by dividing the sum of the square footage of all units by the number of units. For example, a project with ten 800-square foot 1-bedroom units, eight 1,200-square foot 2-bedroom units, and two 1,800-square foot 3-bedroom units would have a weighted average residential unit size of  $((10 \times 800) + (8 \times 1200) + (2 \times 1800)) \div (10 + 8 + 2) = 1,060$  square feet.

~~(1) Residential and nonresidential mixed use projects shall be subject to site and design review in accord with Chapter 18.30(G), except that mixed use projects with nine or fewer units shall only require review and approval by the architectural review board.~~

(12) Nonresidential uses that involve the use or storage of hazardous materials in excess of the exempt quantities prescribed in Title 15 of the Municipal Code, including but not limited to dry cleaning plants and auto repair, are prohibited in a mixed use development with residential uses.

(c) Exclusively Residential Uses

(1) Exclusively residential uses are allowed in the CD-C subdistrict, except in the ground floor (GF) combining district.

(2) Exclusively residential uses are generally prohibited in the ~~CD district and~~ CD-N and CD-S subdistricts. Such uses are allowed, however, where a site is designated as a ~~Housing Opportunity Site~~ housing inventory site in the Housing Element of the Comprehensive Plan. Such sites shall be developed pursuant to the regulations for the multi-family zone designation (RM-~~2015~~, RM-30, or RM-40) identified for the site in the Housing Element.

...

(l) Housing Incentive Program

- (1) For an exclusively residential or residential mixed-use project in the CD-C zone, the Director may waive the residential floor area ratio (FAR) limit after the project with the proposed waiver is reviewed by the Architectural Review Board, if the Director finds that the project exceeding the FAR standard is consistent with the required architectural review findings. In no event shall the Director approve a commercial FAR in excess of 1.0 or a total FAR (including both residential and commercial FAR) in excess of 3.0. Nor shall the use of transferable development rights under Section 18.18.080 be allowed to cause the site to exceed a FAR of 3.0.
- (2) For a 100% affordable housing project in the CD-C zone, the Director may waive any development standard including parking after the project with the proposed waiver or waivers is reviewed by the Architectural Review Board, if the Director finds that a project with such waiver or waivers is consistent with the required architectural review findings. In no event shall the Director approve a FAR in excess of 3.0 or approve other development standards more permissive than the standards applicable to the Affordable Housing (AH) Combining District in Chapter 18.30(J). A "100% affordable housing project" as used herein means a multiple-family housing or mixed-use project in which the residential component consists entirely of affordable units, as defined in Section 16.65.020 of this code, available only to households with income levels at or below 120% of the area median income, as defined in Section 16.65.020, and where the average household income does not exceed 60% of the area median income level, except for a building manager's unit.
- (3) This program is a local alternative to the state density bonus law, and therefore, a project utilizing this program shall not be eligible for a density bonus under Chapter 18.15 (Residential Density Bonus).

(m) Parking and Vehicular Access on University Avenue Restricted

Vehicular access to CD-C zoned sites on University Avenue which requires vehicular movement across the sidewalk on University Avenue shall be prohibited, except where required by law and as applied to parcels owned, leased or controlled by the City.

**SECTION 8.** Subsection (d) of Section 18.18.090 (Parking and Loading) of **Chapter 18.18 (Downtown Commercial (CD) District)** of Title 18 (Zoning) of the PAMC is amended as follows:

**Section 18.18.090 Parking and Loading**

...

(d) In-lieu Parking Provisions

## Not Yet Approved

In connection with any expansion of the supply of public parking spaces within the CD commercial downtown district, the city shall allocate a number of spaces for use as "in-lieu parking" spaces to allow development to occur on sites which would otherwise be precluded from development due to parking constraints imposed by monetary contribution to the city to defray the cost of providing such parking. Contributions for each required parking space shall equal the incremental cost of providing a net new parking space in an assessment district project plus cost for the administration of the program, all as determined pursuant to [Chapter 16.57](#) of Title 16 of this code, by the director of planning and community environment, whose decision shall be final. Only sites satisfying one or more of the following criteria, as determined by the director of planning and community environment, shall be eligible to participate in the in-lieu parking program:

- (1) Construction of on-site parking would necessitate destruction or substantial demolition of a designated historic structure;
- (2) The site area is less than 10,000 square feet, but of such an unusual configuration that it would not be physically feasible to provide the required on-site parking;
- (3) The site is greater than 10,000 square feet, but of such an unusual configuration that it would not be physically feasible to provide the required on-site parking;
- (4) The site is located in an area where city policy precludes curb cuts or otherwise prevents use of the site for on-site parking; or
- (5) The site has other physical constraints, such as a high groundwater table, which preclude provision of on-site parking without extraordinary expense.

Office uses above the ground floor shall not be eligible to participate in the in-lieu parking program for one year from the effective date of Ordinance No. \_\_\_\_\_, from May 2, 2019 through May 1, 2020.

...

**SECTION 9.** Section 18.40.180 (Retail Preservation) of **Chapter 18.40 (General Standards and Exceptions)** of Title 18 (Zoning) of the PAMC is amended as follows:

### **Section 18.40.180 Retail Preservation**

- (a) Conversion of Retail and Retail-Like Uses Prohibited.
  - (1) Any ground floor Retail or Retail-Like use permitted or operating as of March 2, 2015 may be replaced only by another Retail or Retail-Like use, as permitted in the applicable district.

Not Yet Approved

(A) A ground floor Retail or Retail-Like use in the RT-35 district on properties with frontage on Alma Street between Channing Avenue and Lincoln Avenue may additionally be replaced by a Private Educational Facility use, provided that such use shall not be thereafter replaced by an Office use.

(2) The phrase 'use permitted or operating' as used in this section means:

(A) A lawfully established use conducting business, including legal non-conforming uses.

(B) An established use conducting business without required city approvals, but is a permitted or conditionally permitted use in district.

(C) For parcels vacant on March 2, 2015, the last use that was lawfully established, or established without required permits, and permitted or conditionally permitted in the district.

(b) Non-conforming Uses.

(1) The requirements imposed by subsection (a) shall not apply to Retail or Retail-like uses that are no longer permitted or conditionally permitted in the applicable district.

(2) Nothing in this section shall modify the provisions of Chapter 18.70 regarding the expansion, change, discontinuance, or termination of a non-conforming use.

(c) Waivers and Adjustments; and Exemptions.

(1) Grounds. The following shall be grounds for a request for waiver or adjustment of the requirements contained in this section:

(A) Economic Hardship. An applicant may request that the requirements of this section be adjusted or waived based on a showing that applying the requirements of this section would effectuate an unconstitutional taking of property or otherwise have an unconstitutional application to the property; or

(B) Alternative Viable Active Use. Except in the GF or R combining districts, an applicant may request that the requirements of this Section 18.40.160 be adjusted or waived based on a showing that: the permitted retail or retail-like use is not viable; the proposed use will support the purposes of the zoning district and Comprehensive Plan land use designation; and the proposed use will encourage active pedestrian-oriented activity and connections.

Not Yet Approved

(2) Documentation. The applicant shall bear the burden of presenting substantial evidence to support a waiver or modification request under this Section and shall set forth in detail the factual and legal basis for the claim, including all supporting technical documentation. Evidence in support of a waiver under subsection (c)(1)(B) must demonstrate the viability of existing and future uses on the site, based on both the site characteristics and the surrounding uses; specifically whether a substitute use could be designed and/or conditioned to contribute to the goals and purposes of the zoning district. Examples of such evidence include:

(A) A 10-year history of the site's occupancy and reasons for respective tenants vacating the site;

(B) A map that indicates all the existing surrounding uses, both residential and non-residential, within one City-block; include the corresponding zone district on the map;

(3) Any request under this section shall be submitted to the Director together with supporting documentation. The Director, in his or her sole discretion, may act on a request for waiver or refer the matter to the City Council.

(A) A decision by the Director shall be placed on the City Council's consent calendar within 45 days.

(B) Removal of the recommendation from the consent calendar shall require three votes, and shall result in a new public hearing before the City Council, following which the City Council shall take action on the waiver request.

(C) The decision of the Council is final.

(4) Exemptions. The provisions of this Section 18.40.180 shall not apply to:

(A) A 100% affordable housing project not within the Ground Floor (GF) and/or Retail (R) combining districts or on a site abutting El Camino Real . A "100% affordable housing project" as used herein means a multiple-family housing project consisting entirely of affordable units, as defined in Section 16.65.020 of this code, available only to households with income levels at or below 120% of the area median income, as defined in Chapter 16.65, except for a building manager's unit.

(B) A 100% affordable housing project on a site abutting El Camino Real in the CN and CS zone districts outside the Retail (R) combining district. A "100% affordable housing project" as used herein means a multiple-family housing project consisting entirely of affordable units, as defined in Section 16.65.020 of

this code, available only to households with income levels at or below 120% of the area median income, as defined in Chapter 16.65, and where the average household income does not exceed 80% of the area median income level, except for a building manager's unit.

...

**SECTION 10. Chapter 18.40 (General Standards and Exceptions)** of Title 18 (Zoning) of the PAMC is amended to add a new Section 18.40.230 (Rooftop Gardens) as follows:

**Section 18.40.230 Rooftop Gardens**

Where allowed under this Title, in order to qualify as usable open space, a rooftop garden shall meet the following standards:

- (a) Permanent fixtures on the rooftop shall be placed so as not to exceed height limit for the applicable zoning district, except:
  - (i) Elevators, stairs and guardrails may exceed the height limit to allow for access to the rooftop useable open space. These fixtures shall be designed to the lowest height and size feasible in order to comply with applicable building codes.
  - (ii) Permanent fixtures associated with the useable open space, such as trellises, shade structures, furniture, and furnishings such as planters, lighting and heaters, may exceed the height limit by up to 12 feet.
  - (iii) For the height limit exceptions in (i) and (ii) above, all fixtures shall not intersect a plane measured at a forty-five degree angle from the edge of the building starting at the rooftop garden surface sloping upward and inward toward the center of the property.
- (b) The rooftop garden shall be located on the third or higher story.
- (c) The rooftop garden shall be accessible to all residents of dwelling units on the parcel, but not to commercial tenants of a residential mixed-use development.
- (d) Structures or fixtures providing a means of access or egress (i.e., stairway, elevator) shall be located away from the building edge to the extent feasible to minimize visibility from the public right-of-way and adjacent buildings and privacy impacts. These access structures or fixtures, when exceeding the height limit, shall be subject to the provisions of subsection (a)(iii) above.
- (e) Any lighting shall be shielded from public views and have full cutoff fixtures that cast downward-facing light, or consist of low-level string lights; no up-lighting is permitted.

Lights shall be dimmable to control glare and placed on timers to turn off after 10:00 PM. Photometric diagrams must be submitted by the applicant to ensure there are no spillover impacts into windows or openings of adjacent properties.

- (f) At least 15% but no more than 25% of the rooftop shall be landscaped with raised beds for gardening, C.3 stormwater planters, or other landscaping. All required landscaped areas shall be equipped with automatic irrigation systems and be properly drained.
- (g) Rooftop equipment that emit noise and/or exhaust, including but not limited to vents, flues, generators, pumps, air conditioning compressors, and other protrusions through the roof, shall be directed away and screened from the useable open space areas.
- (h) Rooftop open space noise levels shall not exceed exterior residential noise level as defined by Section 9.10.030(a) of this code.
- (i) The use of sound amplifying equipment shall be prohibited. Signs shall be affixed adjacent to access elevators and stairs within the rooftop garden providing notice of this prohibition.

**SECTION 11.** Table 1 (Minimum Off-Street Parking Requirements) and Table 2 (Minimum Off-Street Parking Requirements for Parking Assessment Districts) of subsection (c) of Section 18.52.040 (Off- Street Parking, Loading and Bicycle Facility Requirements) of **Chapter 18.52 (Parking and Loading Requirements)** of Title 18 (Zoning) of the PAMC are amended as follows:

**Section 18.52.040 Off- Street Parking, Loading and Bicycle Facility Requirements**

...

- (c) Tables 1, 2 and 3: Parking, Bicycle, and Loading Requirements

Tables 1 and 2 below outline vehicle and bicycle parking requirements in general and for Parking Assessment Districts, respectively. Table 3 outlines loading requirements for each land use. For mixed-use projects, the requirements for each land use shall be applied and required for the overall project.

**Table 1  
Minimum Off-Street Parking Requirements**

Use	Vehicle Parking Requirement (# of spaces)	Bicycle Parking Requirement	
		Spaces	Class <sup>1</sup> Long Term (LT) and Short Term (ST)
<b>RESIDENTIAL USES</b>			
<b>Multiple-Family Residential</b>	<u>1 per micro unit</u> <sup>(2)</sup> 1-25 per studio unit	1 per unit	100% - LT

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	<p>1.5 per 1-bedroom unit</p> <p>2 per 2-bedroom or larger unit</p> <p>At least one space per unit must be covered</p> <p>Tandem parking allowed for any unit requiring two spaces (one tandem space per unit, associated directly with another parking space for the same unit, up to a maximum of 25% of total required spaces for any project with more than four (4) units)</p>		
(a) Guest Parking	<p><del>No additional guest parking required For projects exceeding 3 units; 1 space plus 10% of total number of units, provided that if more than one space per unit is assigned or secured parking, then guest spaces equal to 33% of all units is required.</del></p>	1 space for each 10 units	100%-ST
<b>Senior Housing</b> <sup>(3) (5)</sup>	<u>0.75 per unit</u>		
...			
<b>RETAIL USES</b> <sup>(4)</sup>			
<b>Retail:</b>			
(a) Intensive (retail not defined as extensive)	1 per 200 sq. ft. of gross floor area	1 per 2,000 sf	20% - LT 80%-ST
(b) Extensive (retail with more than 75% of gross floor area used for display, sales and related storage, with demonstrably low parking demand)	1 per 350 sq. ft. of gross floor area	1 per 3,500 sf	20% - LT 4080% - ST



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generation per square foot of gross floor area)			
(c) Open lot	1 space for each 500 square feet of sales, display, or storage site area	1 per 5,000 sf	100%-ST
<b>Drive-up windows providing services to occupants in vehicles</b>	Queue line for 5 cars, not blocking any parking spaces, in addition to other applicable requirements	None additional	
<b>Eating and Drinking Services:</b>			
(a) With drive-in or take-out facilities	3 per 100 sq. ft. of gross floor area	3 per 400 sf	40% - LT 60% - ST
(b) All others	1 space for each 60 gross sq. ft. of public service area, plus 1 space for each 200 gross sq. ft. for all other areas.	1 per 600 sf of public service area, plus 1 per 2,000 sf for other areas	
...			

- (1) Long Term (LT) and Short Term (ST) bicycle spaces as described in Section 18.54.060.
- (2) A “micro-unit” as used herein means a residential unit of 450 square feet or less.
- (3) Senior housing for purposes of this provision means an independent living facility, not a convalescent or residential care facility.
- (4) For residential mixed-use developments in the CD-C zone, CC(2) zone, and on CN and CS zoned sites abutting El Camino Real, the first 1,500 square feet of ground-floor retail uses shall not be counted toward the vehicle parking requirement.
- (5) Because these parking standards are reduced from the standards otherwise applicable to multiple-family residential development, projects that utilize these reduced parking standards shall not be eligible for further parking reductions through adjustments under Section 18.52.050, Table 4.

**Table 2**  
**Minimum Off-Street Parking Requirements for Parking Assessment Districts**  
**(IF USE IS NOT LISTED, REFER TO TABLE 1 FOR REQUIREMENTS)**

Use	Vehicle Parking Requirement (# of spaces)	Bicycle Parking Requirement	
		Class <sup>1</sup>	Spaces
<b>For Downtown University Avenue Parking Assessment District:</b>			
All uses (except residential) <sup>2</sup>	1 per 250 square feet	1 per 2,500 square feet	40% - LT 60% - ST
<b>For California Avenue Parking Assessment District:</b>			
...			
<b>Retail:<sup>2</sup></b>			
(a) Intensive	1 per 240 sf of gross floor area	1 per 2,400 sf	20% - LT 80% - ST
(b) Extensive	1 per 350 sf of gross floor area	1 per 3,500 sf	
(c) Open Lot	1 for each 500 square feet of sales, display, or storage site area.	1 per 5,000 sf	100% - LT
...			

1. Long Term (LT) and Short Term (ST) bicycle spaces as described in Section 18.54.060.
2. For residential mixed-use developments in the CD-C zone, CC(2) zone, and on CN and CS zoned sites abutting El Camino Real, the first 1,500 square feet of ground-floor retail uses shall not be counted toward the vehicle parking requirement.

**SECTION 12.** Table 4 (Allowable Parking Adjustments) of Section 18.52.050 (Adjustments by the Director) of **Chapter 18.52 (Parking and Loading Requirements)** of Title 18 (Zoning) of the PAMC is amended as follows:

**Section 18.52.050 Adjustments by the Director**

Automobile parking requirements prescribed by this chapter may be adjusted by the director in the following instances and in accord with the prescribed limitations in Table 4, when in his/her opinion such adjustment will be consistent with the purposes of this chapter, will not create undue impact on existing or potential uses adjoining the site or in the general vicinity, and will be commensurate with the reduced parking demand created by the development, including for visitors and accessory facilities where appropriate. No reductions may be granted that would result in provision of less than ten (10) spaces on a site. The following are adjustments that apply to developments not located within a parking assessment district. Adjustments within the parking assessment districts are contained in Section 18.52.080. The decision of the regarding parking adjustments may be appealed as set forth in Chapter 18.78 (Appeals).

**Table 4  
Allowable Parking Adjustments**

Purpose of Adjustment	Amount of Adjustment	Maximum Reduction <sup>2a2</sup>
On-Site Employee Amenities	Square footage of commercial or industrial uses to be used for an on-site cafeteria, recreational facility, and/or day care facility, to be provided to employees or their children and not open to the general public, may be exempted from the parking requirements	100% of requirement for on-site employee amenities
Joint Use (Shared) Parking Facilities	For any site or sites with multiple uses where the application of this chapter requires a total of or more than ten (10) spaces, the total number of spaces otherwise required by application of Table 1 may be reduced when the joint facility will serve all existing, proposed, and potential uses as effectively and conveniently as would separate parking facilities for each use or site. In making such a determination, the director shall consider a parking analysis using criteria developed by the Urban Land Institute (ULI) or similar methodology to estimate the shared parking characteristics of the proposed land uses. The analysis shall employ the city's parking ratios as the basis for the calculation of the base parking requirement and for the determination of parking requirements for individual land uses. The director may also require submittal and approval of a TDM program <sup>1</sup> to further assure parking reductions are achieved.	20% of total spaces required for the site
<u>100% Affordable Housing <sup>(4)</sup></u>	<u>Based on maximum anticipated demand; applicant may request up to a 100% reduction in parking.</u>	
<del>Housing for Seniors</del>	<del>The total number of spaces required may be reduced for housing facilities for seniors, commensurate with the reduced</del>	50% of the total spaces required for the site

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Purpose of Adjustment	Amount of Adjustment	Maximum Reduction <sup>2a2</sup>
	<del>parking demand created by the housing facility, including for visitors and accessory facilities, and subject to submittal and approval of a parking analysis justifying the reduction proposed.</del>	
Affordable Housing Units and Single Room Occupancy (SRO) Units <sup>(3)</sup>	The total number of spaces required may be reduced for affordable housing and single room occupancy (SRO) units, commensurate with the reduced parking demand created by the housing facility, including for visitors and accessory facilities. The reduction shall consider proximity to transit and support services and the director may require traffic demand management measures <sup>1</sup> in conjunction with any approval.	<ul style="list-style-type: none"> <li>a. 40% for Extremely Low Income and SRO Units</li> <li>b. 30% for Very Low Income Units</li> <li>c. 20% for Low Income Units</li> </ul>
Housing Near Transit Facilities	The total number of spaces required may be reduced for housing located within a designated Pedestrian/Transit Oriented area or elsewhere in immediate proximity to public transportation facilities serving a significant portion of residents, employees, or customers, when such reduction will be commensurate with the reduced parking demand created by the housing facility, including for visitors and accessory facilities, and subject to submittal and approval of a TDM program. <sup>1</sup>	20% of the total spaces required for the site.
Transportation and Parking Alternatives	Where effective alternatives to automobile access are provided, other than those listed above, parking requirements may be reduced to an extent commensurate with the permanence, effectiveness, and the demonstrated reduction of off-street parking demand effectuated by such alternative programs. Examples of such programs may include, but are not limited to, transportation demand management (TDM) programs or	20% of the total spaces required for the site

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Purpose of Adjustment	Amount of Adjustment	Maximum Reduction <sup>2a2</sup>
	innovative parking pricing or design solutions. <sup>1</sup> (note: landscape reserve requirement is deleted).	
Combined Parking Adjustments	Parking reductions may be granted for any combination of the above circumstances as prescribed by this chapter, subject to limitations on the combined total reduction allowed.	a. 30% reduction of the total parking demand otherwise required b. 40% reduction for affordable housing projects <del>c. 50% reduction for senior housing projects</del>
Modification to Off-Street Loading Requirements	The director may modify the quantity or dimensions of off-street loading requirements for non-residential development based on existing or proposed site conditions; availability of alternative means to address loading and unloading activity; and, upon finding that: 1) the off-street loading requirement may conflict with Comprehensive Plan goals and policies related to site design planning, circulation and access, or urban design principles; and 2) the use of shared on-street loading would not conflict with Comprehensive Plan goals and policies related to site design planning, circulation and access or urban design principles; maximum reduction in one loading space.	One loading space may be waived

1. See Section 18.52.050(d) below regarding requirements for TDM programs.
2. No parking reductions may be granted that would result in provision of less than ten (10) parking spaces on site, except for 100% affordable housing projects.
3. No parking reductions may be granted for projects that are entitled to the reduced parking standards in Table 1 of Section 18.52.040 for senior housing.
4. Applies to 100% affordable housing projects and the residential component of 100% affordable housing mixed-use projects. "100% affordable housing" as used herein means a multiple-family housing project consisting entirely of affordable units, as defined in Section 16.65.020 of this code, available only to households with income levels at or below 120% of the area median income, as defined in Chapter 16.65, except for a building manager's unit.

(a) Combining Parking Adjustments

Parking reductions may be granted for any combination of circumstances, prescribed by this chapter, so long as in total no more than a 30% reduction of the total parking demand otherwise required occurs, or no less than a 40% reduction for affordable housing projects (including Single Room Occupancy (SRO) units), ~~or no less than 50% reduction for senior housing projects.~~

...

**SECTION 13.** Subsection (c) of Section 18.52.070 (Parking Regulations for CD Assessment District) of **Chapter 18.52 (Parking and Loading Requirements)** of Title 18 (Zoning) of the PAMC is amended as follows:

**Section 18.52.070 Parking Regulations for CD Assessment District**

...

(c) In-lieu Parking Provisions

In connection with any expansion of the supply of public parking spaces within the CD commercial downtown district, the city shall allocate a number of spaces for use as "in-lieu parking" spaces to allow development to occur on sites which would otherwise be precluded from development due to parking constraints imposed by monetary contribution to the city to defray the cost of providing such parking. Contributions for each required parking space shall equal the incremental cost of providing a net new parking space in an assessment district project plus cost for the administration of the program, all as determined pursuant to [Chapter 16.57](#) of Title 16 of this code, by the director of planning and community environment, whose decision shall be final. Only sites satisfying one or more of the following criteria, as determined by the director of planning and community environment, shall be eligible to participate in the in-lieu parking program:

- (1) Construction of on-site parking would necessitate destruction or substantial demolition of a designated historic structure;
- (2) The site area is less than 10,000 square feet, but of such an unusual configuration that it would not be physically feasible to provide the required on-site parking;
- (3) The site is greater than 10,000 square feet, but of such an unusual configuration that it would not be physically feasible to provide the required on-site parking;

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- (4) The site is located in an area where city policy precludes curb cuts or otherwise prevents use of the site for on-site parking; or
- (5) The site has other physical constraints, such as a high groundwater table, which preclude provision of on-site parking without extraordinary expense.

Office uses above the ground floor shall not be eligible to participate in the in-lieu parking program for one year from the effective date of Ordinance No. \_\_\_\_\_, from May 2, 2019 through May 1, 2020.

...

**SECTION 14.** Section 18.52.080 (Adjustments to Parking Assessment Area Requirements by the Director) of **Chapter 18.52 (Parking and Loading Requirements)** of Title 18 (Zoning) of the PAMC is amended to add a new subsection (f) as follows:

**Section 18.52.080 Adjustments to Parking Assessment Area Requirements by the Director**

...

**(f) Affordable Housing**

For 100% affordable housing projects, the director may waive up to 100% of the parking requirement based on maximum anticipated demand. "100% affordable housing" as used herein means a multiple-family housing project consisting entirely of affordable units, as defined in Section 16.65.020 of this code, available only to households with income levels at or below 120% of the area median income, as defined in Chapter 16.65, except for a building manager's unit.

**SECTION 15.** Any and all references to "RM-15" in the Palo Alto Municipal Code or appendices thereto shall mean "RM-20".

**SECTION 16.** 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 17.** This Ordinance shall not apply to any project for which the application has been deemed complete as of the effective date of the Ordinance, for the last required discretionary approval for the project. However, the project applicant may elect to be subject to this Ordinance in which case the Ordinance in its entirety shall apply to the project.

**SECTION 18.** 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

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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 19.** The Council finds that the potential environmental impacts related to this Ordinance were analyzed in the Final EIR for the Comprehensive Plan Update, which was certified and adopted by the Council by Resolution No. 9720 on November 13, 2017. The Ordinance is consistent with and implements the program evaluated in the EIR.

**SECTION 20.** This Ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

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

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

APPROVED:

\_\_\_\_\_  
Assistant City Attorney

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

\_\_\_\_\_  
Director of Planning & Community  
Environment





# CITY OF PALO ALTO CITY COUNCIL FINAL MINUTES

Special Meeting  
November 26, 2018

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:06 P.M.

Present: DuBois, Filseth, Fine, Holman, Kniss, Kou; Scharff arrived at 5:10 P.M., Tanaka, Wolbach

Absent:

## Special Orders of the Day

### ~~1. Proclamation Honoring Sikh Awareness Month.~~

~~Council Member Wolbach read the proclamation into the record.~~

~~JJ Singh thanked the Council and Council Member Wolbach for the Proclamation. Sikh Americans had been part of the fabric of America for more than a century. The Sikh religion, founded 549 years ago, was the fifth largest religion in the world. Sikhs had contributed to agriculture, technology, and sports.~~

~~Maria Bhatia advised that Sikhs began immigrating to California in the 1890s. Of the 500,000 Sikhs in the United States, approximately 40 percent lived in the Bay Area. Sikhs believed in truthfulness, being God-conscious, and community service. Sikhism was more a way of life than a religion. She shared a brief history of Sikhism, emphasizing the effects of the 1947 Partition, 1984 genocide, and 9/11. As a minority, Sikhs faced hate crimes and bullying. Inclusion and diversity appreciation was critical to a successful society. The public was invited to visit the Sikh Gurdwara in San Jose.~~

~~Mr. Singh on behalf of American Sikhs appreciated the opportunity to share information about Sikhs.~~

~~Ms. Bhatia presented books to the Palo Alto Library, the Council, and Staff.~~

~~Council Member Kou appreciated the presentation and shared her experiences with Indian celebrations.~~

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~~MOTION PASSED: 9-0~~

~~Mr. Keene acknowledged Mr. de Geus' leadership in the project.~~

12. PUBLIC HEARING: Adoption of an Ordinance Amending Various Sections of Title 18 of the Palo Alto Municipal Code Related to Residential and Mixed-use Development Standards Including, but not Limited to; Minimum and Maximum Unit Density, Unit Size, Floor Area Ratio, Height, and Open Space Including Rooftop Gardens; Parking Requirements Including, but not Limited to; Regulations Related to In-lieu Parking for Downtown Commercial Uses and Retail Parking for Mixed Use Projects; Exclusively Residential Projects in Certain Commercial Zoning Districts; Ground-floor Retail and Retail Preservation Provisions; the Entitlement Approval Process; and Other Regulations Governing Residential, Multi-family Residential and Commercial Zoning Districts, all to Promote Housing Development Opportunities in These Zoning Districts in Furtherance of Implementation of the Comprehensive Plan. California Environmental Quality Act (CEQA): Determination of Consistency With the Comprehensive Plan Environmental Impact Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution No. 9720. The Planning and Transportation Commission Recommended Approval of the Proposed Ordinance on October 10, 2018.

Mayor Kniss announced the item had been divided into five sections, and the Council would discuss the sections one-by-one. Council Members were recused from three of the five sections. The Council might continue one or more sections to a subsequent meeting but would hear public comment on all sections.

Jean Eisberg, AICP Lexington Planning, reported the Housing Work Plan identified ways to meet goals for dwelling units. The Housing Element and the Comprehensive Plan contained projections for the number of units that may be built over time. Notably, the City had not produced housing in the quantities stated in the projections. The Housing Work Plan focused on the 2018 Zoning Ordinance revisions and providing incentives and removing constraints for multifamily housing in the Downtown, California Avenue, and El Camino Real Districts. The Housing Work Plan also mentioned removing residential density constraints in the Multifamily Residential (RM) Districts. Over the past year, Staff worked with the Planning and Transportation Commission (PTC) and the Architectural Review Board (ARB), held a community meeting, and met with a number of advisers from the development and architecture community. The development and architecture advisers generally agreed with the contents of the Housing Work Plan including the

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importance of streamlining the review process and modifying zoning standards to reduce constraints. They cited density and parking as the top two issues for site planning, massing, and determining the number of units in a project. They expressed concern that the current zoning standards did not support the City's goals to produce multifamily housing and recommended the City review types of development that it wanted "by right" or through modifications to density, parking, and related standards. Lastly, the advisers raised concerns about the length of time of the entitlement process. Staff held a community meeting in June, and approximately 30 people attended the meeting. Participants supported proposed revisions to development standards and review processes and expressed concerns about potential impacts on existing neighborhoods, traffic, and services. The PTC discussed current zoning standards, supported the draft Ordinance, and recommended the Council consider reinstating the additional guest parking requirement. The main concepts of the draft Ordinance were streamlining the review process, increasing densities, adjusting development standards, and a Housing Incentive Program (HIP). HIP was an alternative to the State Density Bonus Law. The draft Ordinance would affect multifamily uses Citywide, RM Districts, and the Downtown District, the California Avenue District, and the El Camino Real District. Proposed Citywide changes would require 150 square feet of open space per unit in multifamily residential projects; eliminate the site and design review process for residential projects of ten or more units; maintain ARB review and appeals to the City Council for residential projects of ten or more units; exempt 100-percent affordable housing projects from the Retail Preservation Ordinance, except along El Camino Real; and revise parking standards for multifamily residential uses. Proposed changes to multifamily zones would increase the maximum density of the RM-15 zone to RM-20; establish a minimum density; and allow replacement of nonconforming unit density. Changes in the Downtown District would eliminate the maximum residential density; establish a maximum average unit size; exempt the first 1,500 square feet of ground-floor retail from parking requirements within a residential mixed-use building; preclude curb cuts on University Avenue; eliminate the in-lieu parking fee for nonresidential uses above the ground floor; allow 100-percent residential projects except in the Ground-Floor Combining District and sites subject to the Retail Preservation Ordinance; and allow rooftop open space to qualify as usable open space. Many of the proposed changes to the Downtown District would apply to the California Avenue and El Camino Real Districts. By law, a HIP needed to provide more density bonus than allowed under State law and incentivized a developer to utilize the HIP rather than the State Density Bonus Law. The HIP would maintain the ARB review process. Under Senate Bill (SB) 35, projects that met certain affordability requirements and were consistent with the City's zoning and objective standards were eligible for streamlined review such that California Environmental Quality Act (CEQA) and discretionary reviews were

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eliminated and projects near transit were not subject to parking requirements. The HIP could provide more density than SB 35 combined with the Density Bonus Law. In the California Avenue District, the HIP would increase the allowed residential floor area ratio (FAR) from 0.6 to 2.0; allow Affordable Housing Overlay development standards; and maintain discretionary review by the ARB. In the El Camino Real District, proposed changes would require ground-floor design residential standards; preclude ground-floor units that front El Camino Real; and in the HIP eliminate the 50-percent lot coverage requirement. Staff anticipated that the Ordinance would be consistent with the Comprehensive Plan and Final Environmental Impact Report (EIR) and that future projects may be eligible for exemptions under CEQA.

Michael Alcheck, Planning and Transportation Commissioner, advised that the PTC's work on the proposed Ordinance included analyses and interaction with Staff and the community. The PTC realized that instituting a commercial cap, an annual limit, or both did not make a residential project in and of itself feasible. A majority of Commissioners consistently expressed strong reservations about reductions in parking standards. One Commissioner repeatedly voiced support for completely reimagining the approach to parking. For many Commissioners, experimenting with parking standards was a questionable endeavor. The PTC did not benefit from regional housing developers' comments. Staff's suggestions were largely responsive to their conversations with residential multifamily developers, but the PTC had no direct input. Therefore, the hurdles presented may not have appeared as large as they may be.

Public Hearing was opened at 9:15 P.M.

Neilson Buchanan noted residents inside the commercial core would have full access to free and almost-free residential parking permits, but they would not be allowed to park in the commercial core. This would result in a maldistribution of resident parking in the zones closest to the commercial core. Staff had failed to mention this issue.

Carol Scott remarked that the proposed Ordinance was not ready for Council review and approval. No meetings were held with residents who would be affected by the proposed Ordinance. Density should not export negative externalities to residential neighborhoods. Developers should take full responsibility for needs created by the developments. The design of the parking study was flawed, and its conclusions were wrong.

Bonnie Packer, League of Women Voters of Palo Alto, felt the proposed Ordinance was a first step towards housing for all. The Council should reject the requirement for 100-percent affordable housing projects on El Camino

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Real or in the Ground-Floor Retail Combining District to have retail. Requiring retail in an affordable housing project would essentially kill the project. The Council should direct Staff to return with more possibilities for housing by increasing height and density in certain locations.

Bryan Globus stated action was needed to prevent the loss of familial bonds and of a generation of hard workers due to the housing crisis. The proposed Ordinance was a step towards resolving the housing crisis.

Max Kapczynski, Palo Alto Forward, indicated the Housing Work Plan would enable the production of all types of housing. Policies must allow the growth of housing. Height and density incentives for 100-percent affordable housing projects and exempting 100-percent affordable housing projects from the Retail Preservation Ordinance would benefit the projects.

Paul Machado related that the proposed Ordinance did little to address traffic and parking concerns. The Council should exclude future projects from participating in Residential Preferential Parking Permit (RPP) Programs.

Gertrude Reagan supported reasonable changes in the height requirement, expansion of transit zones, and easing the retail requirement. She preferred small units.

Jim Jurkovich believed the proposed Ordinance was the wrong approach to creating more housing opportunities. He did not support elimination of the design review process. In the Downtown District, the amount of density should be established rather than determined by the Planning Department. Parking exceptions should be removed from the proposed Ordinance.

Grant Dasher advised that a lot of misinformation was being circulated about the proposed Ordinance. The policy decision was made in the Comprehensive Plan, and the policy needed to be implemented. The only way to achieve 300 housing units was to change parking and zoning requirements. The parking requirements should align with the changes proposed in the study. The in-lieu parking fee should not be eliminated.

Elaine Uang commented that the PTC recognized that halting commercial development would not incentivize residential development. To encourage residential development, the City needed to zone for it or legalize more residential square footage. The HIP is a good gesture. Most multifamily projects provided more parking than was needed.

Roberta Ahlquist believed affordable housing should be defined. The proposal did little to address the needs of low-income workers. While housing was being debated, low and moderate-income housing was being demolished.

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Bob Moss remarked that the proposed Ordinance was one of the worst he had ever seen. Developers made money by building housing in Palo Alto without incentives; incentives were not needed. The retention of ground-floor retail along El Camino was essential. Increasing the density and height were terrible proposals.

Randy Tsuda, Palo Alto Housing Chief Executive Officer, urged the Council to adopt a narrowly crafted exemption from the Retail Preservation Ordinance for 100-percent affordable housing projects on El Camino. He opposed a guest parking requirement in addition to the reduced parking standards. One parking space per bedroom provided adequate parking for residents and guests. He supported additional incentives of height and FAR for affordable housing projects in Downtown and California Avenue.

John Guislin stated the Staff Report and proposed Ordinance were examples of inadequate data collection, subpar analysis, and biased collection of input. The proposed Ordinance would worsen traffic.

Hamilton Hitchings related that the proposed Ordinance enabled mostly luxury apartments and condominiums. Like SB 35, the proposed Ordinance should require 50 percent affordable housing including the 15 percent inclusionary housing. The provision to eliminate the parking requirements for the first 1,500 square feet of retail meant the City would have to build more garages. As currently written, the proposed Ordinance targeted zoning incentives to increase the supply of under-parked luxury housing while doing little to help those who needed quality affordable housing.

Mark Mollineaux was impressed with many of the proposals in the Ordinance. Staff did a good job of dealing with hard problems such as parking. He supported eliminating ground-floor retail requirements for 100-percent affordable housing projects along El Camino Real.

Paul Leone supported the proposed Ordinance. With the rise of construction costs, the effectiveness of the proposed Ordinance was questionable. The City should create conditions favorable for the construction of affordable housing projects in Palo Alto.

Linnea Wickstrom requested the Council's support for proposals that would remove barriers to affordable housing.

L. David Baron encouraged the Council to adopt the proposed Ordinance. While the proposed Ordinance would not create sufficient housing to fulfill the Comprehensive Plan goal, additional proposals in the future could. He supported in-lieu parking fees for both residential and commercial projects in Downtown and changes to building height, FAR, parking, and retail

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preservation to encourage 100-percent affordable housing projects. He preferred zoning standards for El Camino Real be implemented through zones rather than standards.

David Meyer, SV@Home, advised that the proposed Ordinance reflected best practices that SV@Home supported and that had succeeded across Santa Clara County. For the proposed changes to be effective, they had to be passed as a package. He recommended the Council remove the retail requirement for 100-percent affordable housing projects on El Camino Real and allow increased height and density for 100-percent affordable housing projects in Downtown and California Avenue.

Waldemar Kaczmarek suggested the Council give existing residents parking permits in their neighborhoods and then change the parking requirements as needed for new developments.

David Adams indicated the parking survey utilized an indirect method of data collection. The RM-15 District should remain as a transition zone, and the review processes should not change. Given the proposed Ordinance, the Ventura neighborhood would be a dumping ground for high-density housing.

Beth Rosenthal urged the Council not to approve the proposed Ordinance. The approval of new office development should occur only when sufficient housing was built to address the jobs/housing imbalance. Incentives should be offered to new housing projects only. She suggested the Council delay adoption of the proposed Ordinance until the new City Manager and Council Members took office and obtain additional community input.

Peter Rosenthal disputed the data around seniors not needing or having cars. The proposed Ordinance was not the way to address housing issues. The proposed Ordinance would increase traffic and parking problems.

Shannon McEntee urged the Council not to relax parking requirements. Because of the cost of housing, the number of people living in each housing unit was increasing, which increased the need for parking.

Jerry Underdal saw no point in continuing the item to allow the new Council Members to discuss the issues.

Deb Goldeen reported people slept in their cars in rest stops because they worked in the Bay Area but could not afford to live in the Bay Area. The community had been criminally negligent from a social justice perspective for not having a decent housing stock.

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John Kelley commented that the City had to build more housing. Without a series of dramatic steps, additional housing would not be built. He encouraged the Council to treat 100-percent affordable housing projects much more liberally than other types of projects.

Becky Sanders advised that the proposal contained no economic analysis that demonstrated how the proposal would increase housing production. The desired results may not occur. The proposed Ordinance would create market-rate housing.

Jeff Levinsky reported the proposed Ordinance would not create more low-income housing. The Staff Report admitted the proposed Ordinance potentially would not result in any new housing. The proposed Ordinance encouraged more office development and eliminated opportunities for housing. The Council should insist that any lowered parking requirements only apply to new housing rather than existing buildings.

Elaine Meyer suggested the Council continue the item to the new year. The proposed Ordinance contained no increase in set-asides for below-market-rate (BMR) housing.

Hilary Bayer believed the Council should end commercial growth in Palo Alto and create incentives to convert existing commercial space to housing until a jobs/housing balance was attained.

David Schrom felt the proposal taxed residents by imposing externalities on residents and transferred wealth to people who built at higher densities in Palo Alto.

Trina Lovercheck hoped the Council would adopt the proposed Ordinance with revisions to exempt affordable housing projects from the Retail Preservation Ordinance; to lower parking requirements; to allow greater density and height in the Downtown areas; and to preserve ground-floor retail on University Avenue, California Avenue, Midtown, and other retail areas.

Loren Brown had submitted a proposal for three potential housing sites on Park Boulevard.

Evan Goldin supported the proposed Ordinance, especially the changes in parking requirements. Perhaps the proposed Ordinance could include unbundled parking.

Public Hearing was closed at 10:30 P.M.



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Molly Stump, City Attorney, advised the Council to discuss first the sections of the proposed Ordinance for which Council Members needed to recuse themselves. The Council could not ask general questions because the questions would involve the conflicted sections.

James Keene, City Manager, recommended the Council identify an appropriate time to break the discussion and end the meeting.

Council Member Scharff suggested the Council begin with the first section.

Council Member DuBois suggested the Council ask general questions first.

Mayor Kniss reiterated the City Attorney's prohibition for general questions.

Vice Mayor Filseth asked if a representative of Fehr & Peers was present and if he would be present for the next discussion.

Jonathan Lait, Planning and Community Environment Acting Director, did not know if the representative would be present at a future meeting.

Vice Mayor Filseth believed parking would be a significant topic and anticipated many questions regarding the parking study. He asked if the Council could discuss the parking study in light of Council Members' conflicts.

Ms. Stump indicated the Council could speak with Fehr & Peers about the parking study, its conclusions and methodology. However, Council Members could not discuss policy and applying parking information to policies.

Mayor Kniss asked which section the Council as a whole could discuss.

Ms. Stump understood Vice Mayor Filseth wanted to discuss the parking study with Fehr & Peers rather than the sections of the proposed Ordinance.

Mr. Keene reported the City Attorney may guide Council Members away from policy issues.

Council Member Holman had questions that did not relate to specific sections of the Code and wanted an opportunity to ask those questions.

Ms. Stump advised that questions, comments, or Motions pertaining to procedural aspects and not pertaining to specific policy proposals could be expressed with the full Council present.

Council Member Kou objected to hearing the item at the present time as acting on the proposal was highly unethical. Making a decision on parking and the in-lieu parking fee would affect a property owner directly.

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Mayor Kniss advised that the new Council would have only one new Council Member.

Council Member Kou stated the issue was public trust. The Council's action could further public mistrust and cause allegations of Council decisions being made behind closed doors.

Mayor Kniss replied that the Council was not conducting business behind any kind of door.

Council Member Kou requested the City Clerk provide the letter from the property owner.

Council Member Kou clarified that the Motion should continue Item Number 12 and Item Number 6 from the December 3 Agenda.

Ms. Stump advised the Council to limit its deliberations to the agendized item.

**MOTION:** Council Member Kou moved, seconded by Council Member DuBois to continue Agenda Item Number 12 to early January 2019.

Council Member Kou explained that dates and proposals were put before Council by a property owner. The Council's decision would work towards the dates set as ultimatums.

Council Member DuBois felt the new City Council and City Manager should be seated before the Council worked through the issues. The proposal presented many items for discussion and action. He expressed concern that the Council would rush to complete the item prior to the end of the calendar year.

Council Member Holman supported the Motion. The public had spoken strongly and positively regarding affordable housing. The Staff Report and its contents were not ready for discussion. The proposed changes may not create any housing. The proposed Ordinance could create some level of market-rate housing but impose parking demand and other ill-defined things onto the community. The Staff Report did not provide data, evidence, or examples that it would create affordable housing as the community interpreted the proposed Ordinance.

Council Member Fine would not support the Motion. The topic of housing creation began with a 2017 Colleagues' Memo, which received unanimous support from the Council. The proposed Ordinance aligned with Council goals of 2017 and 2018. It was exceptionally important for the Council not to delay the matter. Staff had followed the process, and actions had been transparent.

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Council Member Wolbach commented that the point of the Colleagues' Memo was to reverse incentives that favored commercial development, large housing units, and pricier housing. The proposed Ordinance attempted to address those incentives. The proposed Ordinance was a first step in addressing housing. He was not clear regarding Council Member Kou's ethical concerns. The debate regarding growth was over, and the question was how to achieve the Comprehensive Plan goal for housing. To say the proposed Ordinance was not ready for discussion was classic analysis paralysis or filibustering.

Mayor Kniss would not support the Motion.

Vice Mayor Filseth indicated the new Council would be remarkably similar to the current Council. The topics in the proposed Ordinance warranted a great deal of discussion. Clearly, not all the housing contemplated by the Comprehensive Plan goal would be affordable housing. The proposed Ordinance would stimulate the growth of market-rate housing and would not make housing more affordable or more accessible. The economics of market-rate housing came from parking and density. The danger of under-parking projects was increased parking in neighborhoods. If projects were accurately parked and if over-parking existed, there were no costs to externalize onto the neighborhoods. Without altering height limits, setbacks, or other development standards, increasing density within the existing building envelope would improve the economics of housing. Because of the amount of discussion needed to understand the many aspects of the proposed Ordinance, the discussion should begin at the current time.

**MOTION FAILED:** 3-6 DuBois, Holman, Kou yes

Mr. Keene inquired whether the Council would discuss the parking study and then possibly continue the item to a subsequent meeting.

Council Member Scharff wanted to discuss at least one section.

Mayor Kniss announced the Council would ask questions regarding the parking study and then determine how to proceed.

Council Member Holman asked if the Council could ask broad, general questions.

Ms. Stump advised that the question would determine whether it could be asked.

Mayor Kniss directed Council Members to ask questions regarding the parking study rather than parking in general.

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Ms. Stump reiterated the need for the Council to avoid discussing the policy proposals contained in the proposed Ordinance.

Vice Mayor Filseth emphasized the importance of understanding under-parked and over-parked. He requested the consultant briefly describe the methodology of the parking study.

Ryan Caldera, Fehr & Peers Transportation Engineer, reported the PTC requested a count of cars parked on the street. He first identified if a residential complex was isolated or near other residential complexes. At midnight, he counted the cars parked on streets next to residential complexes and in neighboring commercial parking lots, basically any area in which a resident might park.

Vice Mayor Filseth noted the peak parking time for residents was night. He asked if a neighborhood's individual characteristics of parking affected Mr. Caldera's view of parking.

Mr. Caldera explained that his counts were more conservative because of those characteristics. In areas where parking was not 100-percent utilized, the cutoffs for residential units were clear. In areas with higher parking utilization, the counts required a bit of engineering judgment and observation of the streets.

Vice Mayor Filseth noted the public questioned the accuracy of parking counts.

Mr. Caldera stated he was confident in the accuracy of the results.

Vice Mayor Filseth asked if counts were fairly consistent between different complexes.

Mr. Caldera replied yes. The counts were confirmed by the results from parking lot counts. In most parking lots, he observed vacant parking spaces. Consultants contacted all the units for which they observed onsite parking demand and sought permission to conduct interviews with residents. The Mark was the only unit that permitted resident interviews. Consultants elected not to conduct interviews at units without permission. Survey results from The Mark were anecdotal, but the results showed the residents preferred to park onsite. The residents also felt the right amount of parking included some vacant spaces. During the first round of data collection, consultants conducted five surveys per site at different time periods. The surveys conducted at midnight or later showed the highest parking demand. Surveys were conducted three times on a weekday and twice on the weekend at lunch time and after midnight. The data was supplemented with a second round of surveys. Consultants utilized the highest of the onsite observations and the

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on-street parking results to calculate the number of parking demand vehicles. To calculate the demand rate, consultants divided the number of demand vehicles by the number of units and then by the number of bedrooms for each complex. Consultants did not discuss any type of reduction for affordable demand but left that to Staff's discretion. Surveys did include guest parking spaces. The total demand rate included guest spaces, accessible spaces, leasing office spaces, staff spaces, all parking available onsite.

Vice Mayor Filseth asked if consultants collected data from both affordable and market-rate facilities.

Mr. Caldera replied yes.

Vice Mayor Filseth inquired about observations on the gradation between affordable and market-rate facilities.

Mr. Caldera explained that the sample size prevented consultants from finding a statistical difference. There could be a difference, but consultants could not determine a statistically significant difference at the three market-rate observations and the three affordable observations.

Vice Mayor Filseth remarked that other studies suggested a difference between parking demand for the two facilities; however, the question was whether the situations were truly comparable. He inquired whether there was a statistical difference for proximity to a Caltrain station.

Mr. Caldera indicated there was a difference in demand between those nearest transit and those medium and far from transit.

Vice Mayor Filseth requested the amount of the difference.

Mr. Caldera was unsure of the exact number, but it was a statistically significant difference. He corrected his earlier comments in that consultants observed a lower demand for senior housing.

Vice Mayor Filseth clarified that there was a statistically significant difference between senior housing and general housing but not specifically affordable senior housing versus market-rate senior housing.

Council Member DuBois remarked that the consultant saw about 1.31 parking space demand per bedroom over the nine properties. In the past, the City had higher parking requirements; therefore, there were empty spaces. The consultants saw a demand of more than one space per bedroom.

Mr. Caldera explained that consultants compared the parking supply at each location with the Palo Alto Municipal Code. All the complexes were over-

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parked based on the Municipal Code, but parking lots at all complexes had vacant spaces. This suggested the parking code may require an over supply.

Council Member DuBois advised that the parking results aligned with the suburban guidelines recommendation for 1.2-1.4 spaces per bedroom. He asked if consultants verified that guest parking was occupied or if consultants were indicating on average complexes had vacant guest spaces.

Mr. Caldera reported consultants observed the occupancy of guest parking spaces, especially during the overnight period. Guest parking spaces were occupied at no higher rate than other spaces.

Council Member Holman asked if the analysis compared parking utilization to the Municipal Code or to the development of the project.

Mr. Caldera related that consultants conducted both comparisons. Consultants compared the actual supply to the actual demand.

Council Member Holman requested the rationale for conducting the surveys at nine complexes.

Mr. Lait did not believe any sample size would be sufficient to answer questions around parking. Staff attempted to draw from published resources and observe local examples. The three categories for observations were affordable housing, senior housing, and market-rate housing and proximities to transit options. Decisions were made based on the cost of the study and the data obtained from the study. Choosing nine complexes was an administrative decision.

Council Member Holman commented that it was difficult to draw conclusions from the study because of the small sample size. She inquired about statistical conclusions that could be drawn from an analysis of only one complex.

Mr. Caldera clarified that statistical conclusions were drawn from the parking demand. Interviews from The Mark were anecdotal.

Council Member Holman requested Mr. Caldera's recommendations for Municipal Code changes for projects near transit.

Ms. Stump cautioned Council Members to avoid questions of policy.

Council Member Fine requested the names of other cities in the region for which Fehr & Peers had conducted similar studies.

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Mr. Caldera reported his office typically worked in the area from Redwood City south to San Luis Obispo. The firm worked across the West Coast. Offices were located in Denver, Salt Lake City, and Washington, D.C.

Council Member Fine asked if the consultants were seeing similar demand profiles for similar projects in the Bay Area.

Mr. Caldera answered yes. The findings aligned with typical expectations for apartment complexes in the Bay Area.

Council Member Fine asked about the trend for parking requirements and multifamily development and where Palo Alto fell in the spectrum of parking requirements.

Mr. Caldera stated Palo Alto's place in the spectrum depended upon the city being compared to Palo Alto.

Council Member Fine inquired whether over supply of parking related to vacant parking spaces.

Mr. Caldera responded yes. The over supply data reflected the fact that consultants could not determine which on-street parking spaces were part of a complex.

Council Member Fine requested possible interactions between the RPP Programs and proposed parking changes.

Mr. Caldera indicated he could not address the issue because the consultants did not consider RPP Programs as part of the study.

Council Member Fine noted the PTC had reviewed the data and requested follow-up data. The proposed Ordinance did not right-size parking requirements to the level suggested by the data.

Council Member Scharff requested confirmation that there was no difference between affordable housing and market-rate housing with respect to parking supply rates.

Mr. Caldera observed that the same supply rates could be used for affordable housing and market-rate housing, and both would be accurate.

Council Member Scharff requested clarification of the supply rates for affordable housing and market-rate housing per unit and per bedroom.

Ms. Eisberg explained that most senior housing units had one bedroom. Therefore, the per bedroom and per unit rates were typically the same.

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Affordable units tended to have two or more bedrooms, which changed the demand rates per unit and per bedroom for affordable projects. More family members could be living in affordable units than in market-rate units.

Council Member Scharff asked if affordable units usually had more than two vehicles.

Ms. Eisberg could not speak to the number of vehicles. Because Palo Alto had a standard by bedroom, consultants reported the demand rate by bedroom and by unit.

Council Member Scharff inquired whether the City should require more parking for a three-bedroom unit than a two-bedroom unit.

Mr. Lait suggested Council Members limit their questions to methodology.

Vice Mayor Filseth understood the consultants were saying there could be a system requiring parking based on the number of units.

Council Member Scharff did not find in the Executive Summary the effect of proximity to transit on parking demand.

Mr. Caldera reported the consultants did not suggest any further reductions based on proximity to transit. Generally, a good Transportation Demand Management (TDM) program could reduce trip generation and parking demand rates. The consultants proposed rates based on observed supply and demand.

Council Member Scharff inquired whether an urban or suburban setting affected parking rates.

Mr. Caldera advised that more parking was typically required for a suburban development, and less parking was required for an urban development.

Council Member Scharff asked if the complexes in other cities were suburban or urban.

Mr. Caldera indicated much of the historical parking data was obtained in more urban areas near transit.

Ms. Eisberg added that the link to Figure 1 contained a map of the literature review.

Vice Mayor Filseth noted the over supply range in Table 4 contained quite a bit of variation and requested an explanation of the range.



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Mr. Caldera explained that the range resulted from the inability to link on-street cars to individual complexes.

Mayor Kniss asked if the consultants had an answer to the PTC's query regarding where residents park and why.

Mr. Caldera reported consultants conducted a resident intercept survey at The Mark to answer the PTC's query. The goals for the survey were to determine if residents parked onsite or offsite, if residents felt safe parking onsite or offsite, why residents parked onsite or offsite, and the residents' perceptions of the general parking supply at The Mark. Anecdotal evidence suggested a perception of having more spaces available was the right amount of parking and a preference for parking onsite.

Mayor Kniss remarked that she parked as close as possible to her destination and was puzzled by the PTC's question.

Mr. Keene noted the items on the following week's Agenda. If the Council directed, Staff would notice the continuation of Agenda Item Numbers 9 and 10 on the December 3 Agenda. He inquired whether public hearings for the two items should be opened during the December 3 meeting.

Ms. Stump advised that the Mayor should open the public hearing and continue it to a date certain. The Council did not need to take public comment. The Council should vote to continue Item Number 12 to December 3 and clarify that the item would not include new Staff presentations or public comment.

Mr. Keene would confer with the Mayor and Vice Mayor regarding subsequent dates for Agenda Item Numbers 9 and 10 from the December 3 Agenda.

**MOTION:** Council Member Fine moved, seconded by Council Member Wolbach to continue this item to next week.

**MOTION PASSED:** 9-0

~~Mayor Kniss announced the Council would take up Agenda Item Number 12 on December 3 at the point the discussion ended on November 26.~~

~~14. Approval of a Five-year Operating and Revenue Sharing Agreement With Team Sheeper for Operations of the Rinconada Pool STAFF REQUEST THIS ITEM BE CONTINUED TO DECEMBER 10, 2018.~~

~~State/Federal Legislation Update/Action~~

~~None.~~



# CITY OF PALO ALTO CITY COUNCIL FINAL MINUTES

Special Meeting  
December 3, 2018

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:03 P.M.

Present: DuBois, Filseth, Fine;, Holman arrived at 5:06 P.M., Kniss, Kou, Scharff, Tanaka, Wolbach

Absent:

Council Member Tanaka participated from The Prince Park Tower Tokyo, Main Lobby 4-8-1 Shibakoen Minato, Tokyo 105-8563 Japan

## Closed Session

- ~~1. CONFERENCE WITH CITY ATTORNEY  
Subject: Written Liability Claim Against the City of Palo Alto  
By Keith Bunnell (Claim No. C18-0049)  
Authority: Government Code Section 54956.9 (e)(3).~~

~~**MOTION:** Council Member Scharff moved, seconded by Council Member Fine to go into Closed Session.~~

~~**MOTION PASSED:** 7-0 Holman, Tanaka absent~~

~~Council went into Closed Session at 5:03 P.M.~~

~~Council returned from Closed Session at 5:46 P.M.~~

~~Mayor Kniss announced no reportable action from the Closed Session.~~

## Special Orders of the Day

- ~~2. Appointment of Three Candidates to the Architectural Review Board and Three Candidates to the Parks and Recreation Commission for Three-year Terms Ending December 15, 2021; and two Candidates to the Planning and Transportation Commission for Four-year Terms Ending December 15, 2022.~~

~~Wynne Furth remarked that her colleagues on the Architectural Review Board (ARB) were well-qualified as architects and as reviewers of design. They~~

# FINAL MINUTES

~~Denial of a Minor Architectural Review Consistent With Condition of Approval Number 3 From Record of Land Use Action Number 2017-02, for a Previously Approved Mixed-use Building (14PLN-00222), for the Proposed Exterior Building Materials, Colors, and Craftsmanship. Environmental Assessment: Use of Mitigated Negative Declaration Prepared for 14PLN-00222. Zoning District: CD-C(G)(P) (Downtown Commercial With Ground Floor and Pedestrian Shopping Overlay).~~

**MOTION FOR AGENDA ITEM NUMBERS 3-5, 7-8 and 10 PASSED: 9-0**

**MOTION FOR AGENDA ITEM NUMBER 6 PASSED: 6-3** Holman, Kou  
Tanaka no

Council Member Holman advised that she objected to exemptions from Impact Fees.

Council Member Kou remarked that the consequences of not assigning parking to units were unknown. The Development Impact Fee exemptions could be used to mitigate parking impacts.

## Action Items

9. PUBLIC HEARING. Adoption of an Ordinance Amending Chapter 18.18 (Downtown Commercial District) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) to Repeal Section 18.18.040 Regarding a Nonresidential Square Footage Cap in the CD Downtown Commercial Zoning District to Implement and Conform to the Updated Comprehensive Plan; Section 18.18.040 Implemented Policy L-8 of the Prior 1998 Comprehensive Plan, Which was Removed as Part of the Adoption of the Comprehensive Plan Update. California Environmental Quality Act (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 No. 9720 (Staff REQUESTS THIS ITEM BE CONTINUED TO A DATE UNCERTAIN IN 2019).
10. PUBLIC HEARING: Adoption of an Ordinance Amending Section 18.18.120 (Grandfathered Uses and Facilities) of Chapter 18.18 (Downtown Commercial District) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) to Adjust Regulations Relating to Noncomplying Facilities. California Environmental Quality Act (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 No. 9720; Alternatively, the Ordinance is Exempt From Environmental Review Under CEQA Guidelines Section 15061(b)(3) (STAFF REQUESTS THIS ITEM BE CONTINUED TO DECEMBER 10, 2018).

# FINAL MINUTES

12. PUBLIC HEARING: Adoption of an Ordinance Amending Various Sections of Title 18 of the Palo Alto Municipal Code Related to Residential and Mixed-use Development Standards Including, but not Limited to, Minimum and Maximum Unit Density, Unit Size, Floor Area Ratio, Height, and Open Space Including Rooftop Gardens; Parking Requirements Including, but not Limited to, Regulations Related to In-lieu Parking for Downtown Commercial Uses and Retail Parking for Mixed Use Projects; Exclusively Residential Projects in Certain Commercial Zoning Districts; Ground-floor Retail and Retail Preservation Provisions; the Entitlement Approval Process; and Other Regulations Governing Residential, Multi-family Residential and Commercial Zoning Districts, all to Promote Housing Development Opportunities in These Zoning Districts in Furtherance of Implementation of the Comprehensive Plan. CEQA: Determination of Consistency with the Comprehensive Plan Environmental Impact Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution No. 9720. The Planning and Transportation Commission Recommended Approval of the Proposed Ordinance on October 10, 2018 (Continued From November 26, 2018).

[The Council returned to Agenda Item Number 2 before proceeding with this item.]

Molly Stump, City Attorney, advised that the Council could ask questions that were not specific to any of the areas.

Council Member Holman inquired whether an independent economic analysis was prepared for any of the work before the Council.

Jonathan Lait, Planning and Community Environment Interim Director, replied no.

Council Member Holman inquired whether any other economic analysis was performed or whether any one provided an economic analysis.

Mr. Lait answered not for the specific effort to implement the Work Plan. Staff relied on documents produced as part of the Comprehensive Plan Update, other studies, and some conversations. Staff did not contract for an economic analysis of any of the concepts presented in the proposed Ordinance.

Council Member Holman inquired whether any developers, property owners, or architects provided an economic analysis.

Mr. Lait responded no. Staff met with developers, property owners, and architects to obtain their opinions regarding concepts Staff was exploring.

# FINAL MINUTES

Council Member Holman asked how Staff developed conjectures regarding the impacts of the proposed changes without an economic analysis.

Mr. Lait indicated Staff informally solicited some of that information. Because prior zoning changes did not make housing production more onerous, Staff believed the contemplated changes would provide a net benefit to housing production. If the Council wishes, Staff could obtain a pro forma analysis.

Council Member Holman asked if Staff met with or held discussions with retail operators.

Mr. Lait related that discussions were not held with specific retail tenants.

Council Member Holman asked if there was an analysis of permeability as maintaining permeability of parcels had long been a goal.

Mr. Lait asked if Council Member Holman meant permeability from a water perspective.

Council Member Holman replied yes.

Mr. Lait answered no.

Council Member Holman asked if there was an analysis of the impacts to the canopy.

Mr. Lait responded no. In large part, the existing development standards were retained in the proposed Ordinance. The overall building envelope that could be approved remained intact with the proposed Ordinance. The proposed changes addressed parking, unit density, and similar topics. Staff did not anticipate any changes to the environment. Environmental issues could be addressed through Discretionary Review.

Council Member Holman inquired whether Staff believed increased lot coverage could affect the canopy.

Mr. Lait explained that Staff was concerned about the impact of any development standard on the canopy. The proposed Ordinance should not trigger environmental concerns. If environmental issues were triggered, they could be addressed in the Individual Review process.

Council Member Holman noted the Staff Report did not contain any tables comparing the impacts of the proposed changes with impacts of Senate Bill (SB) 35 and density bonus laws.

# FINAL MINUTES

[The Council returned to Agenda Item Number 2 before proceeding with this item.]

Mr. Lait clarified that the proposed changes did not exempt the City from SB 35 regulations. Staff did not anticipate receiving any development applications that sought to qualify for SB 35. Depending on housing production, the City could be subject to a lower threshold for onsite affordability on an SB 35 project, in which case Staff anticipated receiving more applications for those types of projects. The purpose of the Housing Incentive Program (HIP) was to create more advantages for redevelopment of sites than those provided by the base zoning district and the State Density Bonus Law. The HIP should be more attractive to potential developers while ensuring the City maintained its design review process.

Council Member Holman inquired about a comparison of the impacts of the proposed changes with the impacts of Comprehensive Plan policies and programs. Staff Reports generally explained a change and listed which Comprehensive Plan policies and/or programs the change would implement.

Mr. Lait stated the Housing Work Plan tied a number of goals to the Comprehensive Plan. Each task in the Work Plan was derived from any number of housing-related goals.

Council Member Holman inquired whether Staff analyzed the potential noise impacts of rooftop gardens used as open space given the lack of Code enforcement efforts.

Mr. Lait advised that no noise study was prepared. Staff introduced some design elements to keep rooftop gardens away from the edges of buildings. Rooftop gardens were one means to increase the number of units for a site. Rooftop gardens warranted the Council's deliberation as to the appropriateness and extent of the proposed change. In the coming year, all City departments would respond to the Code enforcement audit prepared by the City Auditor's Office.

Council Member Holman inquired regarding the requirement for rooftop garden lighting to be shielded.

Mr. Lait explained that the proposed Ordinance addressed lighting and additional setback requirements for lighting. Lighting plans would be required in the review process.

[The Council returned to Agenda Item Number 2.]

# FINAL MINUTES

Council Member Kou asked if Staff researched the number of below-market-rate (BMR) units and market-rate units produced in Mountain View and the affordability of rental units in Mountain View.

Mr. Lait reported Staff did not engage with Mountain View. The proposed Ordinance pertained to both affordable and market-rate units and contained many provisions to spur housing production at different income levels.

Council Member Kou wanted to understand the affordability of housing in Mountain View after the construction of many high-density projects.

Mr. Lait stated Staff worked diligently to draft language that would not result in significant changes to the character of Palo Alto. He did not know whether the regional production of housing was sufficient to decrease rents. Studies conducted in Seattle following an increase in housing production showed some changes to rental prices and an increase in the number of incentives offered to renters.

Council Member Kou expressed concern about noise and lighting from rooftop gardens and the City's ability to enforce the Noise Ordinance. She requested the rationale for Staff not including the Palmer fix in the proposed Ordinance.

Mr. Lait indicated the City had contracted with a firm to explore increases in the in-lieu housing requirement and the Palmer fix. Hopefully, that could be presented to the Council in the first half of 2019.

Council Member Kou suggested Staff should have prioritized the Palmer fix.

Mr. Lait believed that was a policy conversation for the Council. Staff needed to address many aspects of housing and was doing their best to present items to the Council as quickly as possible.

James Keene, City Manager, remarked that Staff made a good faith effort to provide some proposals for Council consideration and knew additional work was needed. Staff attempted to respond to the guidance in the Comprehensive Plan and to advance some proposals. If the proposals were not effective, Staff would develop additional proposals.

Mayor Kniss requested Council Member Kou conclude her comments.

Council Member Kou indicated she had many points to discuss. She requested the rationale for Staff not including Development Impact Fees.

Mr. Lait explained that Development Impact Fees were collected for every project subject to the Ordinance when the building permit was issued.

# FINAL MINUTES

Council Member Kou asked if increasing Development Impact Fees equivalent to the County of Santa Clara's (County) fees had been discussed.

Mr. Lait answered no.

Mr. Keene believed a cursory analysis to identify the highest possible and justifiable impact fee, the amount of funds that fee would yield to subsidize affordable housing, and the number of affordable housing units that could be constructed with impact fee funds would be relatively easy to prepare. However, the number of affordable housing units would likely fall far short of the Comprehensive Plan goal.

Council Member Fine remarked that the proposed Ordinance was a good opportunity to produce more BMR and market-rate housing. Mountain View was on track to produce approximately 1,100 housing units including approximately 150-160 BMR units. Housing impact fees applied to all housing projects. He asked if the proposed housing minimums would preclude someone from redeveloping at the same number of units per acre.

Ms. Stump requested Council Member Fine hold his question until the appropriate section was before the Council for discussion.

Council Member DuBois requested the income levels for 100-percent affordable housing as stated in the Municipal Code.

Mr. Lait explained that the Code did not define 100-percent affordable housing. The common definition of 100-percent affordable housing was 100 percent deed restricted to affordable housing. Section 16.65.020 listed the definitions for very-low-income households, low-income households, and moderate-income households.

Council Member DuBois asked if Staff intended the HIP to be in lieu of SB 35.

Mr. Lait advised that the HIP was not in lieu of SB 35. Developers could utilize the incentives of the HIP rather than SB 35.

Council Member DuBois asked if projects qualifying for SB 35 would utilize the State's definition of affordability.

Mr. Lait reported the State's definition did not extend to 120 percent.

Council Member DuBois asked if Staff considered the different definitions of 100 percent affordable housing. The HIP seemed to apply to market-rate housing, while SB 35 applied to BMR housing.



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Mr. Lait indicated SB 35 applied to any development as long as it was two-thirds residential and 50 percent of units were deed restricted to 80 percent of the average median income (AMI).

Council Member DuBois asked if the HIP was 100 percent of units deed restricted up to 120 percent AMI.

Mr. Lait related that the HIP could be reviewed in depth with each section presented. Staff was guided in part by the Council's action on the affordable housing overlay. The PTC recommended an AMI threshold, but the Council increased it to 120 percent AMI to be consistent with the moderate-rate income.

Council Member DuBois asked if the Ordinance capped the HIP at 120 percent AMI.

Mr. Lait clarified that in portions of the Ordinance that discussed incentives for 100-percent affordable housing projects, the AMI could be no more than 120 percent.

Council Member DuBois suggested the Council discuss whether rooftop gardens should be the third floor of a building. He inquired whether the proposed Ordinance contained a requirement for the rooftop garden to contain vegetation.

Mr. Lait disclosed that 15 percent of rooftop gardens was required to be vegetation.

Council Member DuBois asked why the amount of vegetation was limited to 15 percent.

Mr. Lait explained that the percentage would distinguish usable open space from unusable open space.

Council Member DuBois asked if a developer could move the square footage of the rooftop garden elsewhere in the building envelope.

Mayor Kniss noted the Council would discuss rooftop gardens as a section later in the meeting.

Mr. Lait was not aware of a loophole that would allow the square footage to be moved elsewhere. He did not believe the rooftop space could be converted to floor area in the building. If the building's height was at the height limit, the developer would need to enclose space above the height limit. If the building's floor area ratio (FAR) was at the maximum amount allowed, adding floor area by enclosing the rooftop garden would be problematic.

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Council Member DuBois asked if an accessory dwelling unit (ADU) would be allowed on a parcel zoned R-1.

Ms. Stump asked Council Member DuBois to hold his question until the appropriate section was presented to the Council.

Council Member DuBois asked if the provision for parking for the first 1,500 square feet applied to existing tenants in existing buildings.

Mr. Lait would respond after reviewing the Municipal Code.

Mayor Kniss announced Citywide revisions would be taken up as Section 5, multifamily zones as Section 1, the Downtown as Section 2, California Avenue as Section 3, and El Camino Real as Section 4.

Vice Mayor Filseth advised that he would not participate in this part of the Agenda Item due to his owning property in an RM-15 zone.

Council Member Holman advised that she would not be participating in this part of the Agenda Item due to her owning property within 500 feet of an RM-2 zone.

Jean Eisberg, Lexington Planning, reported changes for multifamily zones include increasing the maximum density of the RM-15 zone to 20 units per acre; establishing minimum unit densities; and allowing redevelopment and replacement of existing housing units with nonconforming densities.

Mr. Lait reported none of the proposed changes would render a single-family home or a multifamily project that did not comply with the proposed minimum densities as a noncomplying use, and such language needed to be added to the proposed Ordinance.

**MOTION:** Council Member Fine moved, seconded by Council Member Wolbach to accept the following changes related to Multi-Family Zones:

- A. Unit Density. Replace RM-15 zoning designation, which allows 15 units per acre with a RM-20 designation that allows 20 units per acre, to align with Housing Element density allowance;
- B. Minimum Density. Establish a minimum unit density as provided below. Allow fewer units when determined by the Planning Director, after review by the Architectural Review Board (ARB), that existing site improvements or parcel constraints preclude meeting this minimum standard:
  - i. RM-20: 11 units/acre

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- ii. RM-30: 16 units/acre
  - iii. RM-40: 21 units/acre;
- C. Non-complying Unit Density. Allow redevelopment and replacement of legally established residential housing units that exceed the maximum unit density allowed for the parcel, subject to the following criteria:
- i. Other than unit density, the project complies with all applicable development standards.
  - ii. The project is a residential rental project.
  - iii. The development shall not be eligible for a density bonus pursuant to Palo Alto Municipal Code (PAMC) Chapter 18.15. The applicant must elect whether to utilize state density bonus law or the exception described herein as an alternative to state density bonus law; and
- D. Administrative Code Clean Up. Modify PAMC Section 18.13.040(g) regarding below market rate (BMR) housing units to reflect regulatory requirements of Chapter 16.65 of Title 16.

Council Member Wolbach remarked that he would have preferred more aggressive measures, but the proposed Ordinance was a good start.

Council Member Scharff asked if anything would become nonconforming as a result of the proposed Ordinance.

Mr. Lait advised that a land use would not become nonconforming for failure to comply with the minimum densities established by the proposed Ordinance. He could not think of a use that would become nonconforming based on the standards.

Council Member Scharff noted a project with a higher unit density was no longer nonconforming.

Mr. Lait clarified that an existing land use with a higher unit density would remain nonconforming after adoption of the proposed Ordinance, but the proposed Ordinance would allow the use to be rebuilt to that density.

Council Member Scharff inquired whether the proposed Ordinance should state "a use identified as nonconforming based solely on a higher-than-allowed density is no longer nonconforming." Rebuilding or remodeling a nonconforming property was challenging.

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Mr. Lait suggested the Council discuss the issue as Staff had not analyzed the issue. Projects for nonconforming uses were subject to limitations. Redeveloping a multifamily building that exceeded unit density and other development standards was not the type of redevelopment Staff wished to incentivize in the proposed Ordinance.

Council Member Scharff felt an existing housing development should not be labeled as nonconforming solely because the unit density exceeded the maximum allowed.

Mr. Lait requested time to consider the possible consequences of broader language. The language should state clearly that following redevelopment under the proposed Ordinance a nonconforming use was no longer considered nonconforming.

Council Member Scharff asked if redevelopment included remodeling.

Mr. Lait replied yes as long as the remodel project did not intensify or expand a nonconforming use.

Council Member Scharff suggested amending the Motion to direct Staff to remove the designation of noncomplying from projects that exceeded the maximum unit density only by a few units.

Council Member Fine requested the effect of the language proposed by Council Member Scharff.

Mr. Lait requested time to consider the language and its ramifications. The amendment would pertain to Section 18.70, which had not been noticed.

Ms. Stump suggested Staff take the Amendment as direction to return with an analysis in a future phase of the Housing Work Plan.

Council Member Scharff wanted to amend the Code at the current time.

Mr. Lait advised that a footnote stating "no property that exceeds the maximum unit density allowed for the zone and property shall not be a noncomplying use for the purposes of Chapter 18" could be added to the RM table.

Council Member Fine reiterated his request for the practical implications of the language.

Council Member Scharff indicated a property owner could remodel the use without the strictures of non-intensification.

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Ms. Stump recommended the Council phrase new concepts as direction to Staff so that Staff could review them in-depth and draft appropriate language. The Council could use a parking lot for new concepts.

Council Member Wolbach concurred with the use of a parking lot or a running list of items for Staff and the PTC to develop for the 2019 housing revisions.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to direct Staff to review the concept of when a project is over the number of units, it will not make the project non-compliant, and return to Council in 2019 for review.

Council Member Kou asked if the Amendment would include more cars and parking.

Council Member Scharff stated the intention of the Amendment was not to allow necessarily more units, but to allow other modifications without the strictures of a nonconforming use.

Council Member Kou asked if increasing the number of units was possible.

Council Member Scharff did not believe increasing the number of units was possible.

Council Member Kou remarked that she supported the Housing Work Plan because she assumed tasks would be prioritized and presented in phases and Staff would obtain good data. She asked how minimum unit density was done prior to the proposed change.

Mr. Lait explained that the Code currently did not contain minimum unit densities. For example, a single-family home could be built in a multifamily district, which would foreclose the possibility of a number of units being built on the site. To encourage housing production, a minimum unit density required more than one unit be built on a parcel zoned for multifamily.

Council Member DuBois inquired whether a property owner could demolish and rebuild a single-family home or a single-family home with an ADU in an RM zone.

Mr. Lait answered no because the new structure would have to comply with the minimum unit density.

Council Member DuBois requested clarification of noncomplying.

Mr. Lait suggested a hypothetical scenario of a single-family home existing on a parcel zoned for a maximum of five units and a minimum of three units

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under the proposed Ordinance. If the single-family was demolished, the replacement project would have to contain at least three units.

Council Member DuBois asked if the home in the scenario could be refurbished or remodeled rather than demolished and rebuilt.

Mr. Lait responded yes.

Council Member Scharff would not support the Motion if a property owner could not demolish and rebuild a single-family home, a single-family home with an ADU, or a duplex in a multifamily district.

Council Member DuBois concurred with Council Member Scharff's sentiments.

Council Member Fine related that under Council Member Scharff's comment the minimum unit densities would not apply to single-family homes or duplexes. He inquired regarding the number of single-family homes existing in RM districts.

Mr. Lait could provide the number at a later time.

Council Member Fine commented that the purpose of the changes was to encourage owners of RM properties to densify their properties. He asked if Council Member Scharff was willing to limit the proposal to single-family homes.

Council Member Scharff answered no as duplexes felt like single-family neighborhoods and duplexes were typically exempted with single-family homes.

Mayor Kniss noted the Council needed to know the number of single-family homes built in RM districts.

Council Member Scharff stated the number would not affect his opinion on the matter.

Council Member Wolbach recalled Staff's comments at the beginning of the discussion regarding adding language to the Ordinance.

Mr. Lait reiterated the language that a single-family, duplex, or triplex property would not be deemed a noncomplying use for failure to meet the minimum density.

Council Member Wolbach recalled Mr. Lait's request for the Council to include language in the Motion.

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Mr. Lait distinguished Council Member Scharff's last comment from his requested language.

Council Member Tanaka left the meeting at 7:58 P.M.

Mayor Kniss suggested the Council utilize Vice Mayor Filseth's property as an example because Vice Mayor Filseth's single-family home was located in an RM-15 zone. She asked whether Vice Mayor Filseth could demolish his single-family home and construct a new single-family home with an ADU.

Mr. Lait advised that the Motion should clearly state the Council's intention.

Council Member Scharff expressed concern for existing owners of single-family homes located in multifamily districts because they would have to sell their homes and lose their low property tax valuations if the proposed Ordinance did not allow them to redevelop their single-family home as a single-family home.

Mayor Kniss reported the property would be reassessed under a redevelopment.

Council Member Scharff clarified that the property would be partially reassessed.

Council Member Fine clarified that the property owner could choose to rebuild in compliance with the minimum density requirements.

Council Member Wolbach asked if the amendment should state that the redevelopment would not reduce the number of units such that a duplex could not be rebuilt as a single-family home.

Mayor Kniss concurred with Council Member Wolbach's suggestion.

Mr. Lait asked if a single-family home with an ADU would qualify.

Council Member Scharff replied no.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion to allow a single-family home to be rebuilt as a single-family home and a duplex to be rebuilt as a duplex without meeting the minimum density requirements.

Council Member DuBois requested the rationale for noncomplying density requiring rental ownership.

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Mr. Lait explained that it was a policy consideration to allow the continuation of rental housing in that situation as opposed to converting the rental units to ownership units.

Council Member DuBois asked if existing nonconforming ownership units would be forced to convert to rental ownership.

Mr. Lait commented that redevelopment of a condominium building was not likely.

Council Member DuBois asked Staff to comment regarding the different definitions for affordable housing.

Mr. Lait reported the Code required a housing project that exceeded 40 or more units to have a component of retail. An affordable housing project located in an RM zone would not be subject to the retail requirement because of the difficulty in financing an affordable housing project with a retail component. If a project meets the affordable housing requirement of up to 120 percent AMI, the project should be exempt from the requirement. The Council had the discretion to change the AMI threshold.

Council Member DuBois did not understand why the requirement for retail in a multifamily project of 40 or more units with a threshold of 120 percent of AMI was removed.

Mr. Lait reiterated the Code requirement for retail space in an affordable housing project of 40 or more units. The proposed change would eliminate the requirement for retail space.

Council Member DuBois proposed adding language to define affordable housing as 120 percent AMI not to exceed an average of 60 percent AMI excluding the manager's unit. The language would allow a range of units. To qualify for no retail component, the project would have to be mostly BMR units.

Council Member Fine indicated the traditional definition of affordable housing had been 100 percent AMI, but the housing crisis had caused many cities to define affordable housing as 120 percent AMI. The purpose of removing retail from affordable housing projects was to prevent the residential units from subsidizing the retail space on the ground floor.

Council Member DuBois wanted to continue the exclusion and make the affordable housing truly BMR by adding the average clause.



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Council Member Scharff asked if the elimination of retail from an affordable housing project of 40 units would apply in the R Combining District and the Downtown Combining District.

Mr. Lait advised that the proposed changes did not apply to the Downtown district. The project had to be located in an RM district for the retail requirement to be waived.

Council Member Scharff asked where the RM districts were located.

Ms. Eisberg noted the proposed change stated the housing project was located more than 500 feet from neighborhood commercial services. That language could exclude much of the Downtown area.

Council Member Kou asked how the language conformed to walkability to retail.

Council Member Scharff remarked that eliminating the requirement would not affect shopping centers.

Mayor Kniss asked if a project on Alma would be required to have retail.

Mr. Lait answered yes. The retail requirement is intended to provide shopping within walking distance of residences.

Council Member DuBois indicated the map of RM zones appeared to include the Midtown Shopping Center.

Mr. Lait explained that the map had not been refined to remove those properties in the RM zone that were more than 500 feet away from commercial services.

Council Member DuBois related that the Comprehensive Plan called out some shopping districts in the City and asked if that was protected in any way.

Mr. Lait did not believe those were RM zoned.

Council Member DuBois asked if the Council should discuss parking within each section or as an individual topic.

Mr. Lait advised that parking would be considered in the Citywide section.

**MOTION AS AMENDED RESTATED:** Council Member Fine moved, seconded by Council Member Wolbach to accept the following changes related to Multi-Family Zones:

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- A. Unit Density. Replace RM-15 zoning designation, which allows 15 units per acre with a RM-20 designation that allows 20 units per acre, to align with Housing Element density allowance;
- B. Minimum Density. Establish a minimum unit density as provided below. Allow fewer units when determined by the Planning Director, after review by the ARB, that existing site improvements or parcel constraints preclude meeting this minimum standard:
  - iv. RM-20: 11 units/acre
  - v. RM-30: 16 units/acre
  - vi. RM-40: 21 units/acre;
- C. Non-complying Unit Density. Allow redevelopment and replacement of legally established residential housing units that exceed the maximum unit density allowed for the parcel, subject to the following criteria:
  - i. Other than unit density, the project complies with all applicable development standards.
  - ii. The project is a residential rental project.
  - iii. The development shall not be eligible for a density bonus pursuant to PAMC Chapter 18.15. The applicant must elect whether to utilize state density bonus law or the exception described herein as an alternative to state density bonus law;
- D. Administrative Code Clean Up. Modify PAMC Section 18.13.040(g) regarding below market rate (BMR) housing units to reflect regulatory requirements of Chapter 16.65 of Title 16;
- E. Direct Staff to review the concept of when a project is over the number of units, it will not make the project non-compliant and return to Council in 2019 for review; and
- F. Allow a single-family home to be rebuilt as a single-family home and a duplex to be rebuilt as a duplex without meeting the minimum density requirements.

**MOTION AS AMENDED PASSED:** 6-0 Filseth, Holman recused, Tanaka absent

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Council Member Scharff advised he would not be participating in this part of the Agenda Item due to his owning property within 500 feet of the Downtown Commercial-Community (CD-C) Zoning District.

Council took a break at 8:20 P.M. and returned at 8:29 P.M.

Ms. Eisberg summarized proposed changes for the Downtown CD-C Zoning District as eliminating the maximum density requirement; establishing a maximum average unit size of 1,500 square feet; exempting the first 1,500 square feet of ground-floor retail from parking requirements within residential mixed-use buildings; precluding curb cuts on University Avenue; eliminating the in-lieu fee option available for commercial space above the ground floor; allowing residential-only development except in the Ground-Floor (GF) Combining District and in areas where the Retail Preservation Ordinance applied; allowing rooftop open spaces; and establishing a HIP. The HIP would increase residential FAR from 1.0 up to 3.0; allow the Affordable Housing Overlay standards without the legislative process; require Discretionary Architectural Review; and prohibit the use of Transferable Development Rights (TDRs).

**MOTION:** Council Member Fine moved, seconded by Council Member Wolbach to accept the following changes related to Downtown CD-C Zoning District:

- A. Unit Density. Eliminate the unit density requirement restricting the maximum density to 40 units per acre. With the proposed amendment, unit density would be controlled by other existing development standards, such as height, floor area, parking requirements, etc.;
- B. Unit Size. Establish a maximum average housing unit size of 1,500 square feet, (weighted average by the number of bedrooms);
- C. Retail Parking. Exempt the first 1,500 square feet of ground-floor retail from parking requirements within residential mixed-use buildings;
- D. Driveway Approach. Reinforce existing city policy and guidelines to preclude curb cuts on University Avenue, except for City-owned parcels or City-sponsored projects;
- E. Residential Only Development. Allow housing-only projects to be constructed downtown, except in the ground floor (GF) combining district. Retail preservation ordinance standards apply for market rate housing projects. Note, current zoning standards permit housing only when part of a commercial, mixed use development or on housing opportunity sites (i.e., in the Housing Element);

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- F. Open Space. Allow rooftops to qualify for up to 75 percent of the usable open space requirement for the multi-family residential portion of a project, subject to objective performance standards;
- G. Housing Incentive Program (HIP). Establish a process that would allow property owners to apply to receive greater floor area than otherwise allowed under the zoning code and under State Density Bonus Law through waivers granted by the Director of Planning after review by the ARB. This program would be an alternative to the State Density Bonus Law and SB 35 streamlining, since it allows for more density. Components of the HIP include the following:
- i. Floor Area Ratio (FAR) waiver to increase residential FAR from 1.0 up to 3.0, except for portion of FAR required to remain commercial by the requirements of the retail preservation ordinance or GF combining district.
  - ii. No TDRs may be used in conjunction with a qualifying HIP project
  - iii. Require discretionary architectural review consistent with PAMC 18.76.020 (Architectural Review); and
- H. Strike Section 8 of the Ordinance and direct the Planning and Transportation Commission to review it further.

Council Member Fine believed the HIP and a number of proposed changes were moving in the right direction. The original Colleagues' Memo was intended to explore unbundled parking and an in-lieu parking program. The PTC proposed removing the in-lieu commercial parking requirements from second-story commercial space. That would be a significant change for the Downtown and would preclude the rebuilding of many commercial structures. The Chamber of Commerce, Downtown property owners, and the business community did not provide feedback regarding the issue. He requested Staff review the concept further.

Council Member Wolbach would have preferred more aggressive measures, particularly for parking. The intent of the Colleagues' Memo was to create more incentives for housing development. The Housing Work Plan does not appear to be the proper place to eliminate a requirement that does not pertain to housing.

**INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER** to direct Staff and the Planning and Transportation Commission to further study decoupled parking, in lieu parking, and offsite parking for residential developments and return to Council in 2019.

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Mr. Lait advised that Staff intended to return to the Council following the Council Retreat for a discussion of the Housing Work Plan and anticipated amendments.

Council Member Wolbach read the parking suggestions from the Colleagues' Memo and requested Staff explore those suggestions.

Mr. Lait reported the Staff Report included some additional development standards that would apply to 100-percent affordable housing projects, such as allowing an FAR up to 4.0 and a height up to 60 feet. Staff could present the information following or as part of a Council discussion of the proposed Ordinance.

Council Member Holman noted the proposed Ordinance would allow an FAR of 3.0; however, she recalled a discussion of allowing an FAR of 3.0 for hotels in the Downtown only. An FAR of 3.0 in the CD-C District would have significant environmental impacts.

Mr. Lait clarified that the table on page 18-19 of the proposed Ordinance contained existing standards. The HIP was set out separately in the proposed Ordinance to highlight it as a waiver from development standards.

Ms. Eisberg related that the Comprehensive Plan stated residential development could utilize some commercial FAR allowance in transit-oriented locations. This change would place residential development on par with commercial development.

Council Member Holman understood the change would convert commercial FAR to housing FAR.

Ms. Eisberg added that a 3.0 FAR project would be 100-percent residential. Under the existing standards, a mixed-use project could have an FAR of 3.0.

Council Member Holman remarked that TDRs would be necessary for a 3.0 FAR in a mixed-use project.

Mr. Lait indicated based on review of the certified Environmental Impact Report (EIR) and the programmatic nature of the Comprehensive Plan, Staff believed the proposed changes were consistent with Council policies and fell within the environmental analysis. If the Council believed an expanded analysis was required, it could direct Staff to perform an expanded analysis.

Council Member Holman felt the provision to allow 75 percent of the required usable open space for the residential component on the rooftop could impact

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ground-floor open space or individual balconies. She requested the rationale for Staff combining private open space with public open space.

Mr. Lait disclosed that Commercial Districts did not have a requirement for private open space. Moderating the usable open space requirement would allow more housing units onsite. The PTC felt allowing more usable open space on rooftops was more appropriate in Downtown than in other areas of the City.

Council Member Holman commented that the changes were difficult to visualize without drawings.

Mr. Lait suggested Staff may request additional funding to prepare drawings for future discussions. Not all projects may achieve an FAR of 3.0 because of other development standards and Building Code provisions.

Council Member Holman reiterated her concerns regarding sources of lighting and noise on rooftop gardens. She asked if rooftop lighting was allowed to be pointed directly up.

Mr. Lait advised that Subpart (e) on Page 25 of the proposed Ordinance addressed light sources. Additional language could state "no light sources shall be visible from the public right-of-way" and "direct light sources shall be screened from the public right-of-way" and could prohibit up-lighting. Another provision prohibited the use of rooftop gardens after 10:00 P.M.

Council Member Holman disclosed that rooftop up-lighting affected bird safety and light pollution; therefore, up-lighting on a rooftop should be prohibited, and light sources should be shielded.

**INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER** to add to the Ordinance a requirement that for rooftop gardens, no up lighting is allowed and light sources should be shielded.

Council Member Holman did not know how the prohibition against amplification equipment would be enforced.

Mr. Lait recognized the challenges of enforcing the Noise Ordinance. Alternative language could be "any use of the rooftop open space that generates noise that is audible beyond the property boundaries is a violation of this Ordinance." This language would provide a lower and simpler threshold test for Code Enforcement Officers' and Police Officers' use. Police Officers could respond to disruptive rooftop activities without a noise complaint.

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**AMENDMENT:** Council Member Holman moved, seconded by Council Member XX to add to the enforcement officers' tool kit to conduct code enforcement activities if disruptive noise is perceived offsite from the subject property.

Mr. Lait questioned whether a discussion of rooftop open space would be appropriate in the Citywide section.

Ms. Stump recommended the Council discuss the standards under the Citywide section.

Council Member Holman requested clarification of the process to refine standards for the different sections when Council Members were recused from the sections.

Mr. Lait clarified that the standards applied Citywide while the percentage of open space allocated to rooftops varied with each section. A discussion of allowing or not allowing roof decks was a Citywide discussion. Within the discussion of Downtown, Staff sought approval of the 75-percent threshold.

Ms. Stump advised Council Member Holman that she could propose a specific set of standards for the Downtown only. Staff had proposed a set of standards that would apply throughout the City.

Council Member Fine understood Council Member Holman's concern about noise; however, the Amendment was unreasonable.

Council Member Holman explained that the Amendment pertained to ongoing, persistent noise.

Council Member Fine believed disruptive noise would be a better description of ongoing, persistent noise.

Mr. Lait suggested the proposed Ordinance was not the best place to describe noise and enforcement.

**AMENDMENT RESTATED:** Council Member Holman moved, seconded by Council Member XX to add to the enforcement officers' tool kit to conduct code enforcement activities if disruptive noise is perceived offsite from the subject property.

## **AMENDMENT WITHDRAWN BY THE MAKER**

Council Member Holman questioned the process for the Director to waive any development standard after the project with the proposed waiver(s) was reviewed by the ARB given the limited number of times the ARB could review a project.

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Mr. Lait reported a waiver request would be embedded in a proposal and reviewed by Planning Staff who would send a recommendation to the ARB. The application would be subject to the usual ARB process.

Council Member Holman felt the language gave the Planning Director a great deal of latitude.

Mr. Lait remarked that requesting a waiver would not be as arduous as applying for a variance. Staff expected developers to file applications that exceeded the FAR, and the ARB would act on those applications as long as the ARB could make the required findings.

Council Member Holman asked how the ARB would judge spillover parking.

Mr. Lait explained that Subpart (2) on Page 21 of the proposed Ordinance dealt with 100-percent affordable housing projects. If the 100-percent affordable housing project met the Federal tax credit standards for funding, the project could follow the standard discretionary review process rather than the legislative process to apply the overlay zone to the property. The Director could waive up to those amounts provided in the Affordable Housing (AH) Overlay. The AH Overlay established different parking standards.

Council Member Holman asked if the proposed change allowed projects larger than projects under the AH Overlay.

Mr. Lait replied that the proposed change would allow an FAR up to 3.0, while the AH Overlay allowed an FAR up to 2.0. The parking requirement was lower under the AH Overlay. The open space requirement was lower for 100-percent affordable housing projects.

Council Member Holman stated the rooftop open space requirement should be consistent, but it was not consistent with the AH Overlay requirement.

Mr. Lait advised that the PTC struggled with the issue as well. This subpart was Staff's effort to align the AH Overlay with the goals to streamline review and provide housing incentives.

Council Member Holman seemed to recall the funding for affordable housing was 80 percent and less.

Mr. Lait indicated the Federal tax credit requirements changed in 2018. Staff attempted to draft the proposed Ordinance so that the standards could change as Federal tax credit requirements change. For a project to be eligible for the HIP, it had to be funded with Federal tax credits. In order to target the income



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level, the proposed Ordinance should create an incentive that streamlined review and allowed developers to take advantage of allowances.

Council Member DuBois asked if the meetings with developers included discussions of placing restrictions on commercial development so that housing projects were more attractive than commercial projects.

Mr. Lait replied no.

Ms. Eisberg reported the discussion focused more on the influence of retail requirements on developers' ability to build residential projects.

Council Member DuBois noted that the proposed changes may not result in additional housing because commercial projects remained attractive. The Council needed to consider some penalties as well as incentives to encourage housing production. The hotel FAR could be reduced to 1.5 to incentivize housing. The Council should evaluate the elimination of the in-lieu fee for commercial parking. The Council should encourage the conversion of commercial FAR to residential FAR.

Council Member Fine requested more clarity around the methods to convert commercial FAR to residential FAR.

Ms. Eisberg related that a residential development was more expensive to construct than a commercial development. Incentive would increase the number of residential units to make up for the cost difference.

Council Member DuBois wanted a penalty such as redefining the Downtown mixed-use to be more residential.

Ms. Eisberg suggested less FAR, additional development standards, and onsite parking for commercial developments as penalties.

Mr. Lait suggested the easiest way to encourage residential development would be to reduce the FAR below 1.0 for commercial development.

Council Member Wolbach did not believe it was fair to say penalties were needed for commercial development.

**INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER** to direct Staff and the Planning and Transportation Commission to analyze interaction of housing production by:

A. Changing the hotel Floor Area Ratio (FAR);

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- B. Elimination of ability of commercial uses above ground to participate in the in-lieu parking program; and
- C. Methods to match an increase in residential FAR with a decrease in commercial FAR for mixed-use projects.

Council Member Tanaka returned to the meeting at 9:37 P.M.

Mr. Keene reminded the Council that Ms. Eisberg would not be present for future meetings and the Council had three additional sections to discuss.

Council Member Kou asked if ownership condominiums would be limited to 1,500 square feet.

Mr. Lait indicated the 1,500-square-foot maximum applied to rental housing and condominium units.

Council Member Kou asked if the individual units would have balconies.

Mr. Lait anticipated some units would not have a private balcony.

Council Member Kou asked if the rooftop open space would likely be incorporated into projects without balconies.

Mr. Lait explained that the purpose of the rooftop open space was to allow a greater number of units inside the building envelope.

Council Member Kou asked how rooftop open space would affect nonconforming buildings.

Mr. Lait advised that the proposed change was consistent with current requirements for open space. For smaller units, the requirement was 200 square feet per unit. The proposed change was 150 square feet per unit for all units.

Council Member Kou asked if the rooftop open space applied to new construction only.

Mr. Lait related that existing nonconforming buildings would continue to be nonconforming with respect to the open space requirement. The rooftop open space would typically apply to new construction.

Council Member Kou requested advantages and disadvantages for a developer to utilize the HIP.

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Mr. Lait reported the HIP would allow a maximum building height of 50 feet, an FAR of 3.0, and 100-percent housing projects outside the GF Combining District. With these changes as part of the base district zoning requirement, a project that qualified for the local BMR program could receive a maximum 35-percent bonus in addition to the 3.0 FAR. The HIP also preserved the City's design review process.

Council Member Kou asked if a project under SB 35 could have a maximum FAR of 1.0.

Mr. Lait answered yes.

Council Member Kou requested the minimum distance between a rooftop open space and residences.

Mr. Lait explained that a roof deck was not an option if the building abutted a single-family or two-family residential use or zoning district.

Council Member Kou suggested noise from a rooftop open space could have less impact on residences directly below the rooftop. She expressed concern about enforcing noise prohibitions. She inquired whether the 150-foot distance between roof decks and residences was a change.

Mr. Lait did not believe the City had specific standards for roof decks. If the Council wished to change the standard for roof decks, it should do so in the current discussion.

Council Member Kou requested a depiction of a 100-foot area abutting residences located on Lytton.

Mr. Lait did not have the tools to prepare a depiction.

**AMENDMENT:** Council Member Kou moved, seconded by Council Member XX to require that rooftop gardens should be 100 feet away from any low-density residential zones.

Council Member Fine expressed interest in measuring the distance by number of parcels or properties rather than feet. He requested the rationale for limiting the distance to abutting properties.

Mr. Lait explained that Staff chose abutting properties because those properties would suffer the most impacts.

Council Member Fine felt the language of abutting properties was likely a stronger standard given the depth of some of the properties on Lytton.

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## AMENDMENT WITHDRAWN BY THE MAKER

Vice Mayor Filseth requested the circumstances under which a project could propose a 4.0 FAR.

Mr. Lait reported that the proposed Ordinance did not contain a provision to allow a 4.0 FAR.

Vice Mayor Filseth remarked that the primary focus of the discussion was reducing the open space requirement for spaces other than the rooftop. He inquired whether typical projects provided the majority of the open space requirement through private open space or ground-floor landscaping and gardens.

Mr. Lait indicated ownership projects typically provided more private open space than rental projects.

Vice Mayor Filseth inquired regarding the grounds on which an appeal of a planning decision could be filed.

Mr. Lait stated the existing grounds for an appeal would continue to apply.

Vice Mayor Filseth asked if the ARB would consider parking requirements for projects under the proposed Ordinance.

Mr. Lait explained that the parking requirement would be set; therefore, there would not be much discussion of parking.

Vice Mayor Filseth requested the number of parking spaces that would result from the parking exemption for the first 1,500 square feet of ground-floor retail.

Mr. Lait replied six parking spaces.

Vice Mayor Filseth asked if a developer could provide required parking by leasing space from another building or parking lot.

Mr. Lait indicated a project could provide off-street parking offsite within some parameters.

Vice Mayor Filseth inquired regarding the term of a lease for offsite parking.

Mr. Lait advised that the deed restriction usually stated the lease would extend for the life of the project.

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Vice Mayor Filseth asked where the six cars would park due to the parking exemption for the first 1,500 square feet of ground-floor retail space.

Mr. Lait announced that parking would be discussed under the Citywide section.

Vice Mayor Filseth commented that the proposed Ordinance would reduce parking requirements Citywide and exempt some parking for retail. The in-lieu parking program contributed to the parking problem. In a perfect Ordinance, the Council would suspend the in-lieu concept pending a PTC discussion and a decision regarding the Downtown parking garage. He proposed deleting Part H from the Motion.

Council Member Fine included Part H in the Motion because the Council did not understand where the in-lieu parking program was failing, because Staff did not engage the business community or commercial property owners, and because Staff had not explored the consequences of requiring onsite parking.

Vice Mayor Filseth felt Council Member Fine's comments supported suspension of Part H. Part H could incentivize developers to make private agreements for parking.

Council Member Fine suggested Section 8 was such a significant change to commercial uses that it did not belong in the proposed Ordinance.

Council Member DuBois noted Council Member Fine struck the in-lieu program for both commercial and residential uses.

Council Member Wolbach asked if Section 8 allowed an in-lieu program for residential uses.

Ms. Eisberg answered no.

Vice Mayor Filseth noted the PTC did not consider an in-lieu program for residential because there was no parking.

Council Member Fine wanted to understand the impacts of onsite parking and the existing gap for in-lieu parking spaces. Suspending the in-lieu parking program for a year could be reasonable. He inquired whether any pending projects included in-lieu parking.

Mr. Lait did not believe there were any pending projects.

**INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER** to modify the Motion Part H. to state "add language to Section 8 of the Ordinance indicating office uses above the ground floor shall

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not be eligible to participate in the in-lieu parking program for the period of one year or until the Planning and Transportation Commission returns to the City Council with a detailed study and recommendation.”

Council Member DuBois asked how the Amendment would affect the proposed Ordinance.

Council Member Fine indicated Section 8 would be deleted from the proposed Ordinance and would return to the PTC for further discussion. For the next year, the commercial in-lieu parking program would be suspended.

Council Member DuBois stated Section 8 extended the in-lieu parking program to ground-floor commercial space.

Mr. Lait suggested the Amendment state a time period.

Mayor Kniss announced the Council would take up the Citywide section next.

**AMENDMENT RESTATED AND INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER** to modify the Motion Part H. to state “add language to Section 8 of the Ordinance indicating office uses above the ground floor shall not be eligible to participate in the in-lieu parking program for the period of one year or until the Planning and Transportation Commission returns to the City Council with a detailed study and recommendation.”

Council Member Holman asked how loading was addressed in Section 18.18.090 of the proposed Ordinance.

Mr. Lait advised that Parking and Loading was the existing title of the section. The proposed Ordinance did not change any aspect of loading.

Council Member Holman asked if the in-lieu parking program applied to new development rather than current development.

Mr. Lait answered yes. Changes of uses within existing buildings would be new development.

Council Member Holman requested the Second Reading of the Ordinance return to the Council as an Action Item.

Council Member Kou requested the square footage of a project with a 3.0 FAR on a 10,000 square-foot lot.

Mr. Lait replied 30,000 square feet.

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Council Member Kou asked what the building would look like.

Mr. Lait shared a photo of a 45,000-square-foot building on a 15,000-square-foot lot.

**MOTION AS AMENDED RESTATED:** Council Member Fine moved, seconded by Council Member Wolbach to accept the following changes related to Downtown CD-C Zoning District:

- A. Unit Density. Eliminate the unit density requirement restricting the maximum density to 40 units per acre. With the proposed amendment, unit density would be controlled by other existing development standards, such as height, floor area, parking requirements, etc.;
- B. Unit Size. Establish a maximum average housing unit size of 1,500 square feet, (weighted average by the number of bedrooms);
- C. Retail Parking. Exempt the first 1,500 square feet of ground-floor retail from parking requirements within residential mixed-use buildings;
- D. Driveway Approach. Reinforce existing city policy and guidelines to preclude curb cuts on University Avenue, except for City-owned parcels or City-sponsored projects;
- E. Residential Only Development. Allow housing-only projects to be constructed downtown, except in the ground floor (GF) combining district. Retail preservation ordinance standards apply for market rate housing projects. Note, current zoning standards permit housing only when part of a commercial, mixed use development or on housing opportunity sites (i.e., in the Housing Element);
- F. Open Space. Allow rooftops to qualify for up to 75 percent of the usable open space requirement for the multi-family residential portion of a project, subject to objective performance standards;
- G. Housing Incentive Program (HIP). Establish a process that would allow property owners to apply to receive greater floor area than otherwise allowed under the zoning code and under State Density Bonus Law through waivers granted by the Director of Planning after review by the ARB. This program would be an alternative to the State Density Bonus Law and SB 35 streamlining, since it allows for more density. Components of the HIP include the following:
  - i. FAR waiver to increase residential FAR from 1.0 up to 3.0, except for portion of FAR required to remain commercial by the

# FINAL MINUTES

- requirements of the retail preservation ordinance or GF combining district.
- ii. No TDRs may be used in conjunction with a qualifying HIP project
  - iii. Require discretionary architectural review consistent with PAMC 18.76.020 (Architectural Review);
- H. Add language to Section 8 of the Ordinance indicating office uses above the ground floor shall not be eligible to participate in the in-lieu parking program for the period of one year or until the Planning and Transportation Commission returns to the City Council with a detailed study and recommendation;
- I. Direct Staff and the Planning and Transportation Commission to further study decoupled parking, in lieu parking, and off-site parking for residential developments and return to Council in 2019;
- J. Add to the Ordinance a requirement that for rooftop gardens, no up lighting is allowed and light sources should be shielded; and
- K. Direct Staff and the Planning and Transportation Commission to analyze interaction of housing production by:
- i. Changing the hotel FAR;
  - ii. Elimination of ability of commercial uses above ground to participate in the in-lieu parking program; and
  - iii. Methods to match increases in residential FAR with a decrease in commercial FAR for mixed use projects.

**MOTION AS AMENDED PASSED:** 6-1 Kou no, Scharff recused, Tanaka absent

Mr. Lait requested the Council take up the proposed parking standards within a half mile of a fixed rail station because three Council Members had to recuse themselves from the discussion.

Ms. Stump reported Council Members Kniss, Filseth, and Scharff should recuse themselves from the discussion.

Vice Mayor Filseth suspected the Council would be interested in structuring parking standards such that an applicant could choose to utilize new or old standards. He asked if the three recused Council Members could discuss such a structuring of standards.



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Ms. Stump replied no because the proposed standards would impact property located within 500 feet of the recused Council Members' properties.

Council Member Scharff noted Google Maps calculated 0.7 mile as the distance between his property interest and a rail station.

Ms. Stump advised that the Planning Department's map was used to calculate the distances.

Council Member Fine announced all five Council Members must support a Motion for it to pass. The topic of discussion was proposed parking standards for the area within a half mile of a fixed rail station.

**MOTION:** Council Member Wolbach moved, seconded by Council Member Fine to approve the Staff recommendation regarding parking standards for properties within ½-mile of a Fixed Rail Station:

- A. Micro Unit (<450 square feet) - 0.5;
- B. Studio - 0.8;
- C. 1 Bedroom - 0.8; and
- D. 2+ Bedroom - 1.6

Council Member Wolbach remarked that parking was a key issue for encouraging housing production. The Motion decreased the requirements for studio units and created a new standard for micro units located in the proximity of the California Avenue and the Downtown train stations. The proposed standards were reasonable.

Council Member Fine believed there was some slack in parking standards, and the challenge was right-sizing the standards without negatively impacting neighboring areas. Decreasing parking standards near transit was reasonable.

Mr. Lait reported the reduction of parking standards for proximity to a fixed rail station was based on the 20-percent reduction contained in the Zoning Code and that applicants could request the reduction. Staff suggested making that existing language by right with an additional requirement for the project to provide the transit passes for each unit.

Council Member Fine noted the standards would provide 0.8 space for a micro unit, a studio unit, and a one-bedroom unit and 1.6 spaces for a two-plus-bedroom unit.

Ms. Eisberg clarified that the micro unit would have 0.5 space.

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Council Member DuBois believed community backlash would occur if the standards were reduced too much. He asked if there was a special parking requirement for affordable housing.

Ms. Eisberg advised that the existing standard was reduced by 20-40 percent for affordable housing based on income level. Currently, the applicant had to request the waiver. Under the proposed Ordinance, the reduction would occur by right.

Council Member DuBois inquired regarding the table for 100-percent affordable housing on page 27 of the proposed Ordinance.

Council Member Fine reminded Council Member DuBois that the topic for discussion was parking standards within a half mile of fixed rail stations.

Council Member DuBois asked if the entire table on page 27 of the proposed Ordinance was part of the discussion.

Ms. Eisberg responded no. One row, multifamily residential near fixed rail station, of the table was open to discussion.

Council Member DuBois believed the parking study contained some serious flaws. Car usage was not decreasing, and many households owned two vehicles. He questioned whether low-income residents were being penalized by not having parking. Occupants of micro and studio units were more likely to be individuals and to be car lite.

**AMENDMENT:** Council Member DuBois moved, seconded by Council Member Holman to amend the Motion Part C. to 1.0 and Part D. to 2.0.

Ms. Eisberg related that the parking requirements would be the same as the proposed parking requirement for micro and studio units.

Council Member Wolbach asked if a developer could request a parking requirement of 0.8 for one-bedroom units.

Ms. Eisberg clarified that a developer could request a 20-percent reduction of the 1.5 requirement for a one-bedroom unit.

Council Member DuBois recalled that Palo Alto Housing's CEO requested parking standards of one space per bedroom.

Council Member Wolbach asked if Council Member DuBois intended to require a waiver to reduce the parking requirements for one and two-bedroom units and allow the parking standards for micro and studio units by right.

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Council Member DuBois inquired whether this would replace the current language about the 20-percent reduction.

Ms. Eisberg explained that that provision could continue to apply to transit locations outside the half-mile from fixed rail.

Council Member DuBois clarified that his Amendment would modify the table.

Council Member Wolbach asked if a developer could still petition for the 20-percent reduction.

Mr. Eisberg replied no.

Council Member Holman asked if the category of multifamily residential near fixed rail included 100-percent affordable housing and senior housing.

Mr. Lait related that parking standards for guest parking, 100-percent affordable housing, and senior housing were not a part of the discussion. He inquired whether there was interest in allowing a developer to request a parking reduction up to 20 percent.

Council Member DuBois responded no.

Council Member Holman asked if Staff engaged with residents of affordable housing projects to determine the occupants' needs.

Mr. Lait explained that the existing parking standards may not match the demand for parking. The proposed change applied the 20-percent reduction provided in the Code.

Council Member Holman commented that some of the larger affordable housing projects were located near rail. The Council had no information regarding the effectiveness of Transportation Demand Management (TDM) programs.

## **SECOND TO THE AMENDMENT WITHDRAWN BY THE SECONDER**

### **AMENDMENT FAILED DUE TO LACK OF A SECOND**

Mr. Lait reiterated that the reduced parking standards could not be used in addition to the 20-percent reduction. The requirement for transit passes would be a condition of approval for projects, and Staff could enforce the condition of approval. Staff continued to refine TDM requirements.

Council Member Holman requested the rationale for adopting a requirement that could not be enforced at the current time.

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Mr. Lait clarified that imposing TDM programs on housing was challenging. The action would not adopt a TDM plan. The action would take the highest value element of a TDM plan and make it a Code requirement, which would be relatively easy to enforce.

Council Member Kou believed the scope of the parking study was extremely limited. Including housing near the California Avenue station would help tremendously with the parking problem. She questioned whether the parking requirements accounted for growth.

Council Member Fine determined that five Council Members would not support the Motion and asked the City Attorney to comment on the procedure.

Ms. Stump reported the Council could not adopt a policy without the support of all five Council Members. Mr. Lait had stated the reduction was contained within the existing Code. Staff needed to review one Council Member's conflict more closely, and depending upon that review one Council Member could be allowed to participate in the topic. In addition, Council Member Tanaka could be present for a future discussion of the topic.

Council Member Wolbach felt Council Members needed more time to understand the topic.

**SUBSTITUTE MOTION:** Council Member DuBois moved, seconded by Council Member Wolbach to continue the discussion of the proposed parking standards within ½-mile of a fixed rail station to a date uncertain.

Council Member Holman questioned the wisdom of continuing the item.

Ms. Stump explained that the minority or the majority of the Council present did not have the ability by Ordinance to bind a future Council. If the Council wished to take up the topic in the future, it could do so.

**SUBSTITUTE MOTION PASSED:** 3-2 Holman, Kou no; Filseth, Kniss, Scharff recused; Tanaka absent

Council took a break at 11:07 P.M. and returned at 11:09 P.M.

Council Member DuBois left the meeting at 11:10 P.M.

Council Member Fine reported the Council failed to reach agreement on the parking standards within a half mile of rail stations and continued the topic to a future date.

Ms. Eisberg reported the change in the open space standard appeared within the individual districts, but the proposed standard was the same across the

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districts. The proposed standard was 150 square feet of open space per dwelling unit for residential projects. Currently, residential projects of 10 or more units were subject to site and design review. The proposed change would maintain ARB review and appeals to the City Council for residential projects of ten or more units. The next change would exempt 100-percent affordable housing projects from the Retail Preservation Ordinance except along El Camino Real. An affordable housing project located along El Camino Real would need to comply with the Retail Preservation Ordinance.

Vice Mayor Filseth noted the exemption did not apply to the GF Combining District and the R Combining District.

Ms. Eisberg advised that the proposed parking standards for multifamily residential uses would apply to all zoning districts because the City regulated parking by bedroom. The proposed Citywide parking standard for a micro unit, a studio unit, and a one-bedroom unit was one space and two spaces for a two-plus bedroom unit. The guest parking requirement was included in the proposed Citywide parking standards. Staff proposed the existing reductions in parking requirements for senior housing and affordable housing become by right.

**MOTION:** Council Member Wolbach moved, seconded by Council Member Scharff to approve the following changes related to Citywide Revisions:

- A. Open Space. Establish a consistent open space requirement for multi-family housing units in multi-family residential and commercial districts of 150 square feet (current code ranges from 100 to 200 square feet depending on the number of units provided). Micro units, defined herein as units with less than 450 square feet, are proposed to have a commensurate requirement of 40 square feet/unit;
- B. Review Process. Eliminate Site & Design Review, which currently applies to residential and residential mixed-use projects with 10 more units in commercial zones. Site & Design applications are reviewed by the Planning and Transportation Commission (PTC), Architectural Review Board (ARB) and City Council. By contrast, commercial-only development projects and housing projects in multi-family zones are reviewed only by the ARB. The amendment makes the review of housing projects (including mixed-use development) no more burdensome than the review process for commercial projects and retains options for appeals to Council;
- C. Retail Preservation. Exempt 100 percent affordable housing projects (120 percent Area Median Income [AMI] and below) from the retail

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preservation requirement except in the Ground Floor (GF) and Retail (R) combining districts; and

- D. Parking. Adjust multifamily parking requirements based on maximum anticipated demand. Coincidentally, the changes generally reflect the standards permitted by State Density Bonus Law. Other changes are proposed to incentivize affordable housing and reflect lower parking demand near transit.

Council Member Wolbach hoped future revisions would be more aggressive. He supported the compromise as presented.

Council Member Scharff did not believe that affordable housing projects should break the blocks in the California Avenue area. There would probably not be sufficient affordable housing projects along El Camino Real to make it a different street. Multifamily parking requirements should be adjusted based on maximum anticipated demand. He asked if the parking requirement for a micro unit would be one space.

Mr. Lait stated there was a benefit in defining the parking requirement for a micro unit at the current time.

Council Member Scharff asked if the parking requirements for three-bedroom units and four-bedroom units would be two parking spaces.

Mr. Lait replied yes. The existing parking standard required two parking spaces for three-bedroom and four-bedroom units.

Council Member Scharff noted the parking requirements would change for studio and one-bedroom units only.

Mr. Lait explained that the guest parking requirement would be eliminated.

Council Member Scharff requested the proposed parking standards for affordable housing.

Ms. Eisberg clarified that the existing reductions, which a developer had to request for affordable housing projects, would become by right reductions. The standard would not change, but applying it would be less difficult.

Council Member Scharff remarked that affordable housing projects would allow people to park in the neighborhoods. The parking study indicated the proposed parking requirement was not accurate for affordable housing.

Ms. Eisberg explained that the parking study did not show a significant difference between market-rate and affordable housing generation rates. The

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parking study showed excess parking supply for almost all categories. The parking demand rate for senior housing was different.

Council Member Scharff did not see a different parking demand rate for low-income housing.

Ms. Eisberg added that the demand rates for market-rate and affordable housing were similar.

Vice Mayor Filseth commented that the parking standard for a one-bedroom unit would decrease from 1.5 to 1 parking space, and the parking study showed parking demand for both market-rate and affordable housing should be approximately one space. Affordable housing for very-low incomes could receive a 30-percent reduction, which reduced the 1.5 standard to approximately 1. Applying the 30-percent reduction to the proposed parking standard of one would reduce the standard to 0.25, which would under-park the project and increase parking in the neighborhoods. The focus should be on maximum demand. Adding the bonus reduction resulted in a parking standard less than the maximum demand. The question was how to make the parking standard equal the maximum demand so that projects were not under-parked.

Mr. Lait indicated the issue was a policy decision for the Council. The proposed parking standard was guided by the Council's action on the AH Overlay, which established a parking standard of 0.75 space per unit. The Council could change the reduction percentages for 100-percent affordable housing projects.

**AMENDMENT:** Council Member Scharff moved, seconded by Vice Mayor Filseth to add a new Part E. to strike the proposed affordable housing standards related to parking for multi-family residential uses; and that an affordable multi-family development may ask for a reduction in parking requirements based on maximum demand.

Council Member Fine asked if the Amendment would require the applicant to request the 40-percent, 30-percent, and 20-percent reductions.

Council Member Scharff suggested the percentages be deleted and the applicant could request a reduction in parking if it was warranted.

Council Member Fine thought that was the current standard.

Council Member Scharff believed the reduced parking requirements in addition to the percentage reductions would be too great a reduction.

# FINAL MINUTES

Council Member Fine reiterated that parking was a large cost of constructing affordable housing. The applicant's request for parking reductions would be evaluated.

Council Member Scharff suggested the applicant could request a reduction if it could demonstrate a reduced demand.

Council Member Fine remarked that the Council was not willing to reduce the parking requirement for affordable housing.

Council Member Scharff wanted to require sufficient parking to fulfill demand. The Council appeared to be willing to require less parking than the demand for parking because the project was affordable housing.

Council Member Wolbach would be willing to entertain the Amendment if there was an opportunity for an affordable housing provider to demonstrate a lower demand when requesting a reduction. He asked if the Amendment proposed retaining the percentage reductions and eliminating the by-right provision.

Council Member Scharff wanted to eliminate the reduction percentages and allow the applicant to request a reduction of any justifiable percentage.

Council Member Fine clarified that the Code needed to contain a provision that allowed applicants to apply for an exception.

Council Member Scharff stated affordable housing providers could apply for an exemption, but the applicant had to justify the exemption.

Council Member Wolbach suggested changing the phrase "allow reductions by right" to "allow reductions as justified."

Council Member Scharff wanted to eliminate the reduction percentages and allow an affordable housing provider to adjust multifamily parking requirements based on maximum anticipated demand.

Mayor Kniss felt the proposed Amendment was too broad and did not provide a starting point.

Council Member Wolbach would not accept the Amendment without obtaining the opinions of affordable housing providers.

Council Member Fine advised that the Amendment would make parking for affordable housing projects more difficult than the existing standard. Finally, the City did not grant exceptions as a rule. A good compromise would be retaining the reduction percentages.



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Council Member Holman suggested the Amendment include "a reduction of up to 50 percent" as an indication of the maximum reduction a developer could request.

**INCORPORATED INTO THE AMENDMENT WITH CONSENT OF THE MAKER AND SECONDER** to add to the Amendment "up to 50 percent based on maximum..."

Council Member Holman expressed confusion regarding Subpart D of the Motion and the Amendment.

Mr. Lait clarified that Subpart D contained the proposed changes shown on Page 10 of the Staff Report and Page 26 of the proposed Ordinance. The Amendment proposed striking the affordable housing piece.

Council Member Holman would support the Amendment.

Council Member Kou inquired whether the parking standards applied to nursing home facilities or affordable housing for developmentally disabled individuals.

Mr. Lait reported senior housing did not include convalescent care facilities but affordable housing included housing for individuals with developmental disabilities.

Council Member Kou requested the category into which Channing House could be placed.

Mr. Lait did not know.

Council Member Holman noted Channing House was senior living with some care facility.

Mr. Lait remarked that parking standards for commercial or support services included customer, resident, and employee parking.

Council Member Kou did not believe affordable housing tenants should be treated differently from market-rate housing tenants.

Council Member Scharff felt the Amendment would be much clearer if it stated an applicant could reduce parking standards up to 50 percent. The community did not support affordable housing projects when the projects created externalities in neighborhoods.

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Mayor Kniss noted the Council had not approved an affordable housing project in ten years. Vague standards would be the death of affordable housing projects in the future. She could not support the Amendment.

Vice Mayor Filseth commented that affordable housing projects would have more cars than they could accommodate under the Amendment. The justification for a parking reduction would not be based on factual evidence, and the community would not believe the justification. A true compromise between neighbors and affordable housing projects could result in a smaller affordable housing project or the need for additional funding. The Amendment would ask affordable housing applicants to have a true conversation with neighbors and to justify the request for a parking reduction.

**INCORPORATED INTO THE AMENDMENT WITH CONSENT OF THE MAKER AND SECONDER** to add the word "add" to the Amendment so it reads "... and add that an affordable multi-family ... ."

**INCORPORATED INTO THE AMENDMENT WITH CONSENT OF THE MAKER AND SECONDER** to change the percentage from 50 to 100.

Council Member Holman could not imagine an applicant ever justifying a 100-percent reduction.

Council Member Scharff suggested theoretically an affordable housing project could require no parking.

Council Member Holman asked if a 100-percent reduction was legal.

Ms. Stump answered yes.

Council Member Holman inquired about the type of evidence an applicant could provide.

Mr. Lait reported the applicant should explain fully the use of the building and provide clear and convincing evidence that a reduction of 70-100 percent was viable. That kind of evidence would be difficult to develop. He needed to discuss deed restrictions and enforcement mechanisms with the City Attorney's Office.

Vice Mayor Filseth commented that an affordable housing developer could lease parking from a nearby building such that onsite parking was not needed.

Mr. Lait indicated that would be offsite parking, which was permissible.

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**INCORPORATED INTO THE AMENDMENT WITH CONSENT OF THE MAKER AND SECONDER** to add the word "demonstrated" to the Amendment so it reads "... based on maximum demonstrated demand."

Council Member Kou asked if the applicant would have to state where the cars would be parked.

Council Member Holman clarified that the applicant would have to demonstrate the project's demand for parking.

Council Member Fine would not support the Amendment as developers needed certainty in order to obtain financing.

Mayor Kniss would not support the Amendment because it was too vague. Eliminating requirements was admirable but not attainable.

Council Member Scharff raised the meaning of "demonstrated" and suggested the applicant should provide a fact-based maximum anticipated demand. The phrase "maximum anticipated demand" included the concept that it had to be justified.

Council Member Holman suggested "anticipated and justifiable demand."

Council Member Scharff recommended deleting "demonstrated" in order to avoid a tie vote.

**INCORPORATED INTO THE AMENDMENT WITH CONSENT OF THE MAKER AND SECONDER** to remove the word "demonstrated" from the amendment and replace it with the word "anticipated."

**AMENDMENT AS AMENDED RESTATED:** Council Member Scharff moved, seconded by Vice Mayor Filseth to amend the Motion to add a new Part E, " to strike the proposed affordable housing standards related to parking for multi-family residential uses; and add that an affordable multi-family development may ask for a reduction in parking requirements up to 100 percent based on maximum anticipated demand".

**AMENDMENT PASSED:** 5-2 Fine, Kniss no, DuBois, Tanaka absent

Council Member Holman requested the Council continue the remainder of the item to a future meeting as she had several questions but needed to leave the meeting.

Mayor Kniss suggested the Council vote on the Motion.

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Council Member Holman reiterated that she had questions regarding retail and open space.

Council Member Holman asked if the proposed Ordinance included retail parking.

Ms. Eisberg answered yes.

Council Member Holman requested Staff point out the provisions of the Motion that referred to retail parking.

Ms. Eisberg advised that retail parking appeared on page 29 of the proposed Ordinance. Retail parking was buried in Part D of the Motion.

Mr. Lait suggested a deliberative action regarding the waiver of the 1,500 square feet for retail could be added to the Motion.

Council Member Holman asked if the Motion included the waiver for retail.

Mr. Lait did not believe the Motion directly referenced the waiver for retail.

Council Member Holman could vote on the Motion without a direct reference to the retail waiver. She did not support a retail waiver because there had been no outreach to the retail community and because retail needed parking for customers. The Council had no input and no data that supported a 1,500-square-foot exemption.

**INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER** to exempt the first 1,500 square feet of ground-floor retail from parking requirements within residential mixed-use buildings.

Council Member Scharff related that adding 1,500 square feet of retail would not induce new car trips and increase parking demand.

Council Member Holman believed the retail exemption would create new demand and remove parking need from other existing retail uses or restaurants.

Mayor Kniss suggested the Council vote on the Motion.

Council Member Holman advised that she was not ready to vote on the Motion. The Motion was not clear. Eliminating the ground-floor retail protections on El Camino Real was not thoughtful. An AH Overlay applied to the area as well.

Mayor Kniss called the question.

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Vice Mayor Filseth indicated ground-floor retail was only for 100-percent affordable housing.

Council member Wolbach stated that El Camino Real would never be lined with only 100-percent affordable housing projects.

Vice Mayor Filseth asked if the PTC would review the 1,500-square-foot exemption as part of parking.

Mr. Lait reported the PTC had discussed it.

Vice Mayor Filseth clarified that the PTC would review the exemption as part of its review of in-lieu parking and other parking issues.

Council Member Holman inquired whether the Motion included rooftop gardens.

Council Member Kou remarked that the discussion of the Motion had been limited when the issues affected the entire City.

**MOTION AS AMENDED RESTATED:** Council Member Wolbach moved, seconded by Council Member Scharff to approve the following changes related to Citywide Revisions:

- A. Open Space. Establish a consistent open space requirement for multi-family housing units in multi-family residential and commercial districts of 150 square feet (current code ranges from 100 to 200 square feet depending on the number of units provided). Micro units, defined herein as units with less than 450 square feet, are proposed to have a commensurate requirement of 40 square feet/unit;
- B. Review Process. Eliminate Site & Design Review, which currently applies to residential and residential mixed-use projects with 10 more units in commercial zones. Site & Design applications are reviewed by the PTC, ARB and City Council. By contrast, commercial-only development projects and housing projects in multi-family zones are reviewed only by the ARB. The amendment makes the review of housing projects (including mixed-use development) no more burdensome than the review process for commercial projects and retains options for appeals to Council;
- C. Retail Preservation. Exempt 100 percent affordable housing projects (120 percent AMI and below) from the retail preservation requirement except in the Ground Floor (GF) and Retail (R) combining districts;

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- D. Parking. Adjust multifamily parking requirements based on maximum anticipated demand. Coincidentally, the changes generally reflect the standards permitted by State Density Bonus Law. Other changes are proposed to incentivize affordable housing and reflect lower parking demand near transit;
- E. Strike the proposed affordable housing standards related to parking for multi-family residential uses; and add that an affordable multi-family development may ask for a reduction in parking requirements up to 100 percent based on maximum anticipated demand; and
- F. Exempt the first 1,500 square feet of ground-floor retail from parking requirements within residential mixed-use buildings.

**MOTION AS AMENDED PASSED:** 5-2 Holman, Kou no, DuBois, Tanaka absent

Council Member Holman reiterated that the Motion did not include rooftop gardens.

Mr. Lait reported the Motion included the development standards related to rooftops.

Mayor Kniss announced the remainder of the item was continued to a date uncertain.

## ~~State/Federal Legislation Update/Action~~

~~None~~

## ~~Council Member Questions, Comments and Announcements~~

~~Council Member Fine reported Caltrain's business planning assumed level boarding and grade separations along the entire Corridor. Caltrain was exploring overtake locations based on different scenarios and up to 16 trains per hour. The Rail Committee would follow up on these topics.~~

~~Council Member Scharff advised that the Metropolitan Transportation Commission (MTC) CASA Committee had released its suggestions. Council Members should review the suggestions and the impacts to local control.~~

~~Council Member Fine requested the best method to provide input to MTC.~~

~~Council Member Scharff suggested Council Members attend the MTC meeting or send an email to MTC.~~



# CITY OF PALO ALTO CITY COUNCIL FINAL MINUTES

Special Meeting  
January 28, 2019

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:08 P.M.

Present: Cormack, DuBois, Filseth, Fine, Kniss, Kou, Tanaka

Absent:

## Closed Session

~~1. CONFERENCE WITH LABOR NEGOTIATORS~~

~~THIS ITEM WILL NOT BE HEARD THIS EVENING.~~

## Agenda Changes, Additions and Deletions

~~None.~~

## City Manager Comments

~~Mayor Filseth announced that public comment for Agenda Item Number 7 was heard on December 3, 2018; therefore, the Council would not hear additional public comment during the meeting.~~

~~Ed Shikada, City Manager, reported the North Ventura Coordinated Area Plan (NVCAP) community meeting was scheduled for February 5. Staff was planning a Town Hall meeting for March 11 regarding the NVCAP. More than 160 people attended the third Cubberley Co-Design community meeting. The Council would receive results of the Co-Design community meetings in a Study Session scheduled for February 11. On February 2, the Council would hold its annual Retreat. The Magical Bridge Playground was featured at the World Economic Forum in Davos, Switzerland.~~

~~Council Member Kniss asked how the Magical Bridge came to be a part of the Forum.~~

~~Mr. Shikada did not know.~~

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~~Council Member Tanaka commented that the Media Center was an asset, especially for high school students. He questioned whether locating the Media Center closer to or on a Palo Alto high school campus would be more convenient for students.~~

~~Council Member Cormack appreciated Staff listing alternatives in the Staff Report. She inquired about viewership numbers.~~

~~Ms. Perdy Pelosi stated Nielsen ratings were not available for community access television. Reports of issues with channels were the best measure of viewership. If the Council wished, she could provide viewership information for online programming.~~

~~**MOTION AS AMENDED RESTATED:** Council Member DuBois moved, seconded by Council Member Kniss to:~~

- ~~A. Direct Staff to negotiate agreements (real estate purchase and building use) to purchase the Media Center's building at 900 San Antonio Road, using cable television public, education and government (PEG) fees;~~
- ~~B. Direct Staff to negotiate a new agreement between the City of Palo Alto, on behalf of the Joint Powers, and the Media Center for PEG access channel support services that will conform to the terms of the real estate purchase and building use agreements;~~
- ~~C. Approve Amendment Number Two to Agreement Number C12142180 between the City of Palo Alto, representing the Joint Powers communities, and the Media Center to extend the existing agreement for six months to June 30, 2019, to allow time to complete the new arrangement for the use of PEG fees; and~~
- ~~D. The Media Center shall be provided the first right of refusal should the JPA choose to dispose of the asset~~

~~**MOTION AS AMENDED PASSED:** 7-0~~

- 7. PUBLIC HEARING: Adoption of an Ordinance Amending Various Sections of Title 18 of the Palo Alto Municipal Code Related to Residential and Mixed-use Development Standards Including, but not Limited to; Minimum and Maximum Unit Density, Unit Size, Floor Area Ratio, Height, and Open Space Including Rooftop Gardens; Parking Requirements Including, but not Limited to; Regulations Related to In-lieu Parking for Downtown Commercial Uses and Retail Parking for Mixed Use Projects; Exclusively Residential Projects in Certain



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Commercial Zoning Districts; Ground-floor Retail and Retail Preservation Provisions; the Entitlement Approval Process; and Other Regulations Governing Residential, Multi-family Residential and Commercial Zoning Districts, all to Promote Housing Development Opportunities in These Zoning Districts in Furtherance of Implementation of the Comprehensive Plan. CEQA: Determination of Consistency With the Comprehensive Plan Environmental Impact Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution Number 9720. The Planning and Transportation Commission Recommended Approval of the Proposed Ordinance on October 10, 2018 (Continued From December 3, 2018).

Mayor Filseth announced the Council would not hear public comment as it had heard public comment when the Agenda Item was presented in December.

Jonathan Lait, Planning and Community Environment Interim Director, reported the Council addressed this item on November 26 and December 3. In Multifamily Residential (RM) districts, the Council changed RM-15 zoning to RM-20, established minimum densities for development, allowed nonconforming properties to be redeveloped under the new requirements, and discussed redevelopment of single-family and duplex properties without requiring them to meet minimum densities. In the Downtown Commercial (CD(C)) district, the Council eliminated the density requirement, established a minimum average unit size, exempted a portion of the retail component and waived some parking in mixed-use developments, precluded curb cuts on University Avenue, and allowed housing-only projects except where preempted by the ground-floor (GF) or retail preservation overlay, allowed rooftops to qualify for a portion of the open space requirement for multifamily buildings, modified open space performance standards, established a Housing Incentive Program (HIP), and created a one-year moratorium on the in-lieu parking program for upper-story office uses. The Council discussed but did not act on possible reductions to parking requirements based on proximity to rail. Regarding Citywide issues, the Council established a consistent open space standard for multifamily housing, eliminated Site and Design Review from multifamily projects but maintained Architectural Review Board (ARB) review, exempted 100-percent affordable housing projects from the retail preservation requirement except in GF and retail shopping (R) combining districts, modified multifamily parking requirements, and exempted 1,500 square feet of ground-floor retail space from parking requirements. In the RM district, the Council would discuss exempting 100-percent affordable housing projects from the requirement for a minimum of 1,500 square feet of neighborhood-serving retail in the RM zone. For the California Avenue (CC(2)) zoning district, the

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Council would consider eliminating the maximum residential density requirement, allowing residential-only development except where precluded by the R overlay or the retail preservation requirement, precluding curb cuts on California Avenue except for City projects, allowing rooftop open space to qualify for up to 60 percent of the open space requirement, and implementing an HIP. In the El Camino Real area, the Council would discuss eliminating residential density standards, allowing rooftop open space to qualify for up to 60 percent of the open space requirement, allowing residential-only development except where retail preservation requirements were established, requiring ground-floor residential design standards, and implementing an HIP. With respect to Citywide revisions, Staff requested the Council update the definition of open space and rooftop open space performance standards and clarify the exemption of 100-percent affordable housing projects from the Retail Preservation Ordinance. The proposed Ordinance in Attachment A contained the language originally proposed by Staff and not the Council's December 3 actions. The Council had broad discretion regarding the review process. Staff proposed eliminating Site and Design Review so that housing projects would receive the same review as commercial projects. The Council could revise the proposed Ordinance so that retail preservation exemptions for affordable housing projects were keyed to 80 percent of area median income (AMI). The Municipal Code did not prohibit rooftop decks, but projects often did not propose rooftop decks because of height and accessibility requirements.

Mayor Filseth suggested the Council ask general questions prior to Council Members recusing themselves.

Molly Stump, City Attorney, recommended the Council ask general questions in an attempt to avoid conflicted topics.

Mayor Filseth announced the Council would discuss the RM-15 areas first, the California Avenue area second, and then the El Camino Real area. The proposed Ordinance attempted to balance the community's desire for more housing with not changing the City's landscape. The proposed Ordinance attempted to improve the economics of building housing by reducing parking requirements and increasing unit densities.

Mayor Filseth advised he would not be participating in this part of the Agenda Item due to his owning property in an RM-15 zone.

Vice Mayor Fine requested Mr. Lait describe the issue for the RM zoning district.

Mr. Lait explained that the Code required a multifamily development of 40 or more units in the RM zone to provide 1,500 square feet of neighborhood-

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serving retail space. Because developers had difficulty obtaining financing for affordable housing projects with retail space, Staff proposed exempting affordable housing projects from the requirement for neighborhood-serving retail space. In the December meeting, the Council's intention to exempt large affordable housing projects from the retail requirement was not memorialized in the Motion.

Council Member DuBois hoped the Council would revisit some of the Citywide issues discussed in the December meeting. The Council should consider more generally some of the amendments it made to the Downtown district.

Mr. Lait indicated the Council directed Staff to explore and present those items in a future Agenda Item.

Council Member DuBois clarified that some of the components of the Downtown discussion could be applied Citywide. He did not support waiving the retail requirement for affordable housing projects restricted to 20 percent above AMI. He expressed concern that the affordable housing overlay would favor market-rate housing. He wanted to ensure the overlay was attractive to below-market-rate (BMR) projects by providing additional incentives. He proposed retaining the retail exemption for BMR projects. He inquired whether existing retail space in the RM zone had to provide parking for retail employees.

Mr. Lait advised that the Council's discussion of parking exemptions in Downtown did not apply in this situation.

**MOTION:** Council Member DuBois moved, seconded by Council Member Kniss to exempt 100-percent affordable housing projects from meeting the minimum 1,500 square feet neighborhood-serving retail requirement in RM zones, with an average not to exceed 60 percent of the area median income, except for a building manager's unit.

Mr. Lait related that Title 16 of the Municipal Code established the parameters of an affordable housing project, which was very-low, low, and moderate housing. Moderate was defined as units at 120 percent of AMI or approximately \$125,000 for a family of four.

Ed Shikada, City Manager, remarked that Palo Alto's moderate affordable units were significantly less than market rate.

Council Member DuBois noted the proposed Ordinance contained multiple definitions of affordable housing.

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Mr. Lait clarified that the State utilized the Federal standard and applied the moderate level. The City's moderate level was consistent with the State standard. Across agencies, the income levels were pretty consistent. A 120-percent AMI project would not be perceived as a market-rate project.

Council Member DuBois added that the proposed Ordinance contained conditions for projects to qualify for Federal tax credits. If a housing project was restricted to 120 percent, it might not qualify for Federal tax credits.

Mr. Lait agreed that it probably would not.

Council Member DuBois intended to capture incentives that would allow nonprofit developers of affordable housing to find locations to build in Palo Alto. Perhaps the Motion should include the language about Federal tax credits.

Mr. Lait explained that language throughout the proposed Ordinance referred to 120 percent of AMI. Where the language deviated from 120 percent, the intention was to apply by-right the affordable housing overlay. When a project that proposed a deed restriction to Federal tax income levels was subject to the review process, the project would apply for the HIP and take advantage of the elements of the affordable housing overlay. That was the only area where the language was keyed to the 80-percent standard.

Council Member DuBois requested the proper wording to limit the retail exemption to those projects.

Vice Mayor Fine offered language of projects subsidized at the rate of 100-percent AMI or below.

Council Member DuBois wished to ensure a project that was eligible for a retail exemption could qualify for Federal tax credits.

Vice Mayor Fine suggested a BMR project at 30 percent could have a source of financing other than Federal tax credits.

Council Member DuBois clarified that a project would be eligible for Federal tax credits but would not be required to obtain Federal tax credits.

Vice Mayor Fine asked if Council Member DuBois intended to make the retail exemption contingent on a qualification for tax credits.

Council Member DuBois explained that a project would qualify as affordable housing under Federal law.

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Mr. Lait stated the language of "with an average not to exceed 60 percent of the area median income except for the manager's unit" met Council Member DuBois' intent.

Council Member DuBois revised the language to "not to exceed 80 percent."

Mr. Lait preferred 60 percent or 120 percent in order to be consistent.

Council Member DuBois asked if the financing requirement had increased from 60 percent to 80 percent.

Mr. Lait answered yes.

Council Member DuBois inquired whether the requirement should be 80 percent throughout the Code.

Mr. Lait explained that a provision of the Code provided flexibility for the requirement to change.

**MOTION RESTATED:** Council Member DuBois moved, seconded by Council Member Kniss to exempt 100-percent affordable housing projects from meeting the minimum 1,500 square foot neighborhood-serving retail requirement in RM zones, with an average not to exceed 60 percent of the area median income, except for a building manager's unit.

Council Member Kniss asked if the Motion incorporated the language Mr. Lait suggested.

Mr. Lait responded yes.

Council Member Cormack asked if most projects in Palo Alto met the 60 percent threshold.

Mr. Lait noted the City did not have an extensive track record on the issue. Recent discussions with housing providers disclosed that funding was available at the 60/80 percent threshold.

Council Member Cormack inquired whether a project with a threshold of 120 percent would be required to provide retail space.

Council Member DuBois explained that the average would be 60 percent such that a few units could meet a threshold of 120 percent.

Council Member Cormack asked if a project for which the average exceeded 60 percent would be required to provide retail space.

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Mr. Lait answered yes. It would not be restricted to 120 percent; it would be whatever the market would bear.

Vice Mayor Fine noted the Council had discussed development standards and levels of subsidy a number of times. AMI was based on standards for the County of Santa Clara, not the City of Palo Alto. The market rate in Palo Alto was roughly twice AMI. He felt 60 percent was too stringent. Palo Alto Housing had reported affordable housing projects could not be a mixed-use project and receive low-income tax credits.

Council Member DuBois understood Staff indicated a provision in the proposed Ordinance allowed them to adjust the percentage to 80 percent.

Mr. Lait recommended the Motion state 80 percent. The Council may wish to consider changing the language of Number 2 on Packet Page 326 to 80 percent.

Council Member DuBois concurred with changing both references to 80 percent.

Vice Mayor Fine felt 100 percent would be fair. A project could utilize low-income housing tax credits and other Federal affordable housing financing instruments with a restriction of up to 100 percent.

Council Member DuBois proposed 80 percent because of the Federal tax credits and in consideration of people with very low and low incomes.

Vice Mayor Fine agreed the City should provide more regulatory flexibility for low-income units. However, the City would be lucky to receive an application for a project at 80 or 100 percent.

**AMENDMENT:** Vice Mayor Fine moved, seconded by Council Member Cormack to change the Motion to state "... not to exceed 100 percent of the area median income ... ."

Vice Mayor Fine commented that the City could provide flexibility because of the dearth of affordable housing in Palo Alto.

Council Member DuBois believed a project above the 80-percent threshold should not have any restrictions against retail. The Council should require 1,500 square feet of retail for a project of 40 units or more. Not requiring retail space was an incentive for developers to provide housing for lower incomes.

Council Member Kniss would support the Amendment because of Vice Mayor Fine's argument.

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Council Member Kou recalled Palo Alto Housing speaking about the difficulty of obtaining tax credits for projects with a threshold of 100 percent. To address the Palo Alto issue, the Council should utilize 80 percent rather than 100 percent. She would not support the Amendment.

**AMENDMENT FAILED:** 3-3 DuBois, Kou, Tanaka no, Filseth recused

**INCORPORATED INTO THE WITH THE CONSENT OF THE MAKER AND SECONDER** to change the Motion to state "... not to exceed 80 percent of the area median income."

**MOTION AS AMENDED RESTATED:** Council Member DuBois moved, seconded by Council Member Kniss to exempt 100 percent affordable housing projects from meeting the minimum 1,500 square feet neighborhood serving retail requirement in RM zones, with an average not to exceed 80 percent of the area median income, except for a building manager's unit.

**MOTION AS AMENDED PASSED:** 6-0 Filseth recused

Council took a break from 8:17 P.M. to 8:25 P.M.

Mayor Filseth returned to the meeting at 8:25 P.M.

Council Member Kniss advised she would not be participating in this part of the Agenda Item due to her owning property within 500 feet of the California Avenue CC(2) zoning district.

Mr. Lait reported Staff proposed eliminating the density standard for residential projects in the CC(2) zone. The existing standards for height, setbacks, and floor area as provided in the Code would be the controls. Residential-only developments would be allowed in the CC(2) zone except in locations where the R overlay and the Retail Preservation Ordinance applied. Currently, housing was allowed in the CC(2) zone in mixed-use projects only. Staff proposed a provision to preclude curb cuts on California Avenue, except for City projects, principally because of Senate Bill (SB) 35. The Council would determine whether a curb cut for a City project would be allowed. Allowing rooftop open space to fulfill up to 60 percent of the open space requirement freed up space for housing units. Consistent with the Downtown Commercial district, Staff proposed an HIP for the California Avenue area in order to preserve local control, to ensure a review process, and to provide for environmental review. As an incentive, the HIP would allow more residential floor area through a waiver process. Currently, an office building could be constructed in the California Avenue area with a 2.0 floor area ratio (FAR) and a residential project with a 0.6 FAR.

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Mayor Filseth inquired whether future revisions of the affordable housing overlay development standards would impact this.

Mr. Lait explained that a developer could request a waiver to match those standards. If the standards changed, the waiver would change.

Council Member Kou asked if the HIP could supersede SB 35.

Mr. Lait replied no. The benefits of the HIP were intended to entice a developer to utilize the HIP process rather than the SB 35 process.

Council Member Kou inquired whether the HIP would require Planning and Transportation Commission (PTC) review of a project.

Mr. Lait responded no. Eliminating Site and Design Review for housing projects created the same review process for housing projects as for commercial projects.

Council Member Kou asked if the Planning Director would be the ultimate decision maker.

Mr. Lait explained that the ARB provided a recommendation to the Director, and the Director made the decision under the existing process. The Director's decision was appealable to the City Council. Staff did not propose a change to the existing process.

Council Member DuBois believed a discussion of housing interaction with hotel FAR and increasing residential FAR in exchange for decreasing commercial FAR would be logical.

Mr. Lait advised that the Council could direct Staff to review those concepts. Staff may want to study changing hotel FAR to 2.0 for other parts of the City. He wanted to include some language to clarify that when Staff returned with a work plan for the next year or two.

Council Member DuBois asked if the total FAR would remain at 2.0 under the HIP.

Mr. Lait clarified that Staff proposed allowing residential FAR to increase from 0.6 up to 2.0.

Council Member DuBois asked if a 2.0 FAR had been allowed but not encouraged.

Mr. Lait remarked that a 2.0 FAR for residential projects could cause some developers to consider residential rather than commercial projects. The



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economics would continue to favor commercial projects, but a 2.0 FAR for residential projects would create some parity between residential and commercial projects.

Council Member DuBois inquired whether the California Avenue area included some Neighborhood Commercial (CN) zoning.

Mr. Lait reported CN zoning was part of the El Camino Real discussion. The standards applied to some CC(2) zones located on El Camino Real.

Council Member DuBois asked if a minimum amount of housing in a mixed-use building was necessary for a project to qualify for the HIP.

Mr. Lait indicated a minimum of three units qualified as multifamily under local standards.

Council Member DuBois inquired whether a project for a commercial building containing three housing units would qualify for the HIP.

Mr. Lait replied yes.

Council Member DuBois requested the benefits such a project would achieve.

Mr. Lait advised that the project would qualify for the benefits provided by the HIP.

Council Member DuBois stated the project could construct three very large housing units and some office space and be exempt from some parking.

Mr. Lait explained that the HIP entitled a project to an FAR of up to 2.0 for residential units and a waiver from the affordable housing overlay.

Council Member DuBois commented that Senate Bill (SB) 35 focused on affordable housing, while the HIP could provide non-affordable housing.

Mr. Lait related that the Downtown Commercial district restricted the average unit size to 1,500 square feet. The Council could direct Staff to consider an average unit size for the California Avenue area. When reviewing projects, Staff encouraged developers to increase the number of housing units by reducing their size.

Council Member DuBois expressed concern regarding the interaction of parking requirements and Residential Preferential Parking Permit (RPP) districts. Parking requirements should err in favor of over-parking until a balance could be achieved. He inquired whether the discussion of Citywide issues would include parking.

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Mr. Lait reported a discussion of parking occurred previously.

Council Member DuBois remarked that any action taken at the end of a long Council meeting should not be considered final.

Mr. Lait advised that the Motion from the December meeting was clear with respect to parking.

Council Member DuBois noted the Council was attempting to incentivize a large amount of housing in Downtown. Historic studies found the City to be under-parked by more than 1,000 cars. Most parking garages were funded through Business Assessment Districts. The Council may want to consider allowing residents in the Downtown and California Avenue areas to purchase permits in garages and reconsider the number of permits allowed per unit in RPP districts and the types of businesses eligible for parking permits. In December, the Council referred part of the parking analysis to the PTC. He was unclear whether offsite parking meant on-street parking or private offsite parking. He hoped the Council would provide an explicit definition of offsite parking and ask the PTC to make recommendations regarding the impacts on RPP districts. The Staff presentation did not note the Council's referral to the PTC.

Mr. Lait concurred that the presentation summarized only those topics before the Council.

Council Member DuBois asked which part of the parking discussion was continued.

Mr. Lait related that a reduction of the parking requirements for properties located within a half mile of fixed rail stations was continued due to a 3-3 vote.

**MOTION:** Council Member DuBois moved, seconded by Council Member XX to direct the Planning and Transportation Commission to study interactions between the RPP districts and these Ordinance changes.

Mayor Filseth asked if Council Member DuBois wished to ensure the instruction to consider offsite parking included interaction with local RPPs.

Council Member DuBois clarified that the PTC should evaluate the number of permits, opting out of an RPP as part of a Transportation Demand Management (TDM) program, and the types of businesses eligible to participate in RPP districts.

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Mayor Filseth inquired whether language of "include interactions with local RPPs" would provide the PTC with latitude to evaluate the points Council Member DuBois raised.

Mr. Shikada responded yes.

Council Member DuBois wanted the PTC to evaluate the interactions with RPP districts in Downtown and California Avenue.

Mr. Shikada reported the evaluation was already part of the work plan as directed by the Council in December and as part of the sustainability of the RPP Program. The interaction between off-street parking requirements and RPP districts would be evaluated Citywide.

Council Member DuBois wanted the evaluation to occur before any RPP applications were submitted.

Mr. Shikada understood the priority of parking for the Council and community.

## **MOTION WITHDRAWN BY THE MAKER**

**MOTION:** Council Member DuBois moved, seconded by Vice Mayor Fine to approve the following modifications to the Ordinance related to the California Avenue CC(2) Zoning District:

- A. Unit Density. Eliminate the unit density requirement restricting the maximum density, which is currently 30 dwelling units per acre;
- B. Residential Only Development. Allow housing-only projects to be constructed, except on properties in the retail shopping (R) combining district or where the retail preservation ordinance applies;
- C. Driveway Approach. Reinforce existing City policy and guidelines to preclude curb cuts on California Avenue, except for City-owned parcels or City-sponsored projects;
- D. Open Space. Allow rooftops to qualify for up to 60 percent of the usable open space requirement for the multi-family residential portion of a project, subject to objective performance standards;
- E. Housing Incentive Program (HIP)
  - i. Increase residential FAR from 0.6 to 2.0;

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- ii. Allow Affordable Housing Overlay development standards (without legislative process);
  - iii. Discretionary review by ARB required; and
- F. Direct Staff to analyze the interaction of housing production in the CC(2) zones in regards to the hotel FAR and methods to match increases in residential FAR with a decrease in commercial FAR for mixed-use projects.

Council Member DuBois noted Part F of the Motion contained the same language as the Motion for the Downtown zone. The Council incentivized hotel production by increasing the FAR temporarily but never decreased the FAR. The analysis would determine whether the proposed Ordinance would encourage housing if other incentives remained in place.

Vice Mayor Fine requested clarification of the Council temporarily increasing hotel FAR.

Council Member DuBois explained that hotel FAR had been 1.5, and the Council increased it to 2.0 after the loss of a hotel. The increase in hotel FAR was discussed as a temporary measure to spur hotel production.

Vice Mayor Fine asked if the Motion included the Staff recommendation.

Council Member DuBois answered yes.

Vice Mayor Fine remarked that the Motion did a good job of encouraging housing production without significantly changing the community. He asked if the Planning Director would have the ability to waive some or all restrictions.

Mr. Lait reported Staff would review waivers through the usual application review process. Some waivers could be approved and some denied. The waivers were meant to be utilized.

Vice Mayor Fine requested an update of the City's status regarding SB 35 and the Regional Housing Needs Assessment (RHNA).

Mr. Lait indicated an update would be provided in March.

Vice Mayor Fine concurred with evaluating the interactions of the RPP districts and other parking issues with the changes. He did not agree with the linking of increased housing production with decreased hotel FAR, but he would support it in order to see the results of the evaluation.

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Council Member Kou asked if the City's requirement for 15-percent inclusionary housing was low on the BMR side.

Mr. Lait explained that because the City was at the 50-percent mark, the State requirement would be a higher affordable standard than the City's current affordability provision. The City came close to not fulfilling its requirements for the most recent period. If a year passed in which the City failed to produce and issue building permits for housing units, it could fall under the 10-percent provision. In that regard, the City's standard would be higher than the State provision.

Council Member Kou inquired whether the HIP required a minimum number of units.

Mr. Lait responded that the minimum number was 15 percent.

Council Member Kou asked if the affordability requirement was 50 percent under the HIP.

Mr. Lait reported a qualifying SB 35 project would have to meet a number of standards including two-thirds of the development would have to be dedicated to residential uses and 50 percent of those residential uses would be subject to an affordability standard. The existing Zoning Code included a 15-percent inclusionary requirement for ownership units and an in-lieu fee for rental housing. The HIP would continue the 15-percent requirement for onsite affordability for ownership units and subject to the in-lieu fees for rental housing. In the future, the Council would consider an Ordinance that would look at increasing the 15 percent to 20 percent.

Mr. Shikada explained that under SB 35 a project with two-thirds residential uses and 50-percent affordable would not be required to provide parking if it was located near transit. Also, the project would not be subject to design review or a California Environmental Quality Act (CEQA) analysis. Palo Alto's customary review requirements would be waived if a project chose to proceed under SB 35. The intent of the HIP was to retain the customary review requirements while providing incentives.

Council Member Kou requested the rationale for Staff proposing a maximum residential FAR of 2.0 when SB 35 allowed an FAR of 1.0 or 1.35.

Mr. Lait clarified that Staff proposed a 3.0 FAR for Downtown, 2.0 for California Avenue, and 1.5 for El Camino Real in order to recognize the different intensities of development in each area and to provide residential development with the same FAR as office development.

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Council Member Kou noted the 15-percent inclusionary requirement pertained to ownership properties, and rental properties were not addressed.

Mr. Lait related that rental properties would be addressed in a separate policy initiative.

Council Member Kou wanted a provision that addressed noise pollution and enforcement of noise issues.

Mr. Lait recalled the Council's December 3 discussion of the Noise Ordinance and enforcement. Staff had acknowledged that enforcement needed work. Including noise and enforcement in the proposed Ordinance would be difficult.

Council Member Kou believed noise issues needed to be addressed.

Mayor Filseth clarified the issue as allowing rooftops to qualify towards the open space requirement. He inquired whether a Motion could address the Noise Ordinance for rooftop decks.

Ms. Stump advised that the Council could not change the Noise Ordinance itself, but the Council could direct Staff to work on it.

Mayor Filseth inquired whether the City had a perceived problem with noise on rooftop decks at the current time independent of the pending Motion.

Mr. Lait noted the City received complaints about noise, but the complaints could not be isolated to rooftop decks. There were few rooftop decks in the City. People who chose to live in Downtown, the California Avenue area, or the El Camino Real area might experience a bit more noise due to the different activities in the area. If that was not acceptable from a policy perspective, concerns about noise could moderate the Council's interest in rooftop decks. A rooftop deck would impact the number of units produced on a site.

Mayor Filseth understood rooftop decks were currently legal. The intent of the proposed Ordinance was to spur housing production, which meant rooftop decks were favorable with or without the rooftop bonus. A noise problem on rooftop decks appeared to be independent of the proposed Ordinance. If the proposed Ordinance did spur housing production, in all likelihood rooftop decks would be more numerous in the next several years. The Council may need to review it in the future.

Mr. Lait reported the Council could impose standards to help mitigate noise impacts. Existing development standards did not allow rooftop access to

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exceed the height limit, which probably was part of the reason for the lack of roof decks.

Council Member DuBois asked if the Council would discuss rooftop performance standards.

Mayor Filseth reported they would be discussed under Citywide issues.

Council Member Cormack requested the rationale for proposing 60 percent and 75 percent for usable open space on rooftops.

Mr. Lait explained that Staff originally proposed 75 percent for all areas, and the PTC felt each neighborhood warranted a specific percentage.

Council Member Cormack requested clarification of the interaction of housing production with the hotel FAR.

Council Member DuBois advised that the language of Part F was the same language the Council adopted on December 3 for Downtown. These programs were intended to incentivize housing, but the Council was not changing any commercial zoning requirements. He questioned whether providing housing incentives without decreasing commercial FAR would result in any housing development.

Council Member Cormack asked how the interaction would be analyzed.

Council Member DuBois reiterated Staff's comment that the issue was a part of the work plan.

Council Member Cormack inquired regarding the number of hotels on California Avenue.

Mr. Lait did not know.

Council Member Cormack asked if Part F required the same analysis of California Avenue as of the Downtown.

Mr. Lait answered yes. He did not find any other California Avenue hotels.

Council Member Cormack questioned whether the California Avenue area was the right location to reduce hotel FAR.

Council Member DuBois believed commercial development would continue until commercial FAR was converted to residential FAR.

Council Member Cormack asked if the provision should be applied Citywide.

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Council Member DuBois responded yes; however, the structure of the meeting prevented that. Hotels were allowed only in certain zones.

**MOTION PASSED:** 5-1 Kou no, Kniss recused

Council took a break from 9:19 P.M. to 9:31 P.M.

Council Member Kniss returned to the meeting at 9:30 P.M.

Council Member Kniss commented on the live broadcast of the meeting not indicating the item under discussion.

Council Member Cormack agreed that some broadcasts did not have a banner indicating the item being discussed.

Mr. Lait reported Staff proposed to eliminate the maximum residential density, to allow rooftop open space to qualify for up to 60 percent of the open space requirement, to allow residential-only development except in locations where precluded by the Retail Preservation Ordinance, to prohibit ground-floor dwelling units from fronting directly on El Camino Real, and to adopt an HIP. On December 3, the Council adopted a Citywide proposal to exempt the first 1,500 square feet of retail space in a mixed-use project from parking requirements. Under the HIP, an applicant could increase the FAR from 0.5 in the CN zone and 0.6 in the Service Commercial (CS) zone up to 1.5 and eliminate or reduce the 50-percent lot coverage requirement.

Vice Mayor Fine asked if the phrase "ground-floor design residential standards" was an existing requirement.

Mr. Lait advised that the standards were new.

Vice Mayor Fine wanted to understand ground-floor design standards.

Mr. Lait explained that a residential unit could not face El Camino Real.

Vice Mayor Fine shared the schools of thought for locating buildings close to or away from El Camino Real.

**MOTION:** Vice Mayor Fine moved, seconded by Council Member Kniss to approve the following modifications to the Ordinance related to properties adjacent to El Camino Real in the CN and CS Zoning Districts:

- A. Unit Density. Eliminate the unit density requirement restricting the maximum density, which currently ranges from 15 to 30 dwelling units per acre;



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- B. Open Space. Allow rooftops to qualify for up to 60 percent of the usable open space requirement for the multi-family residential portion of a project, subject to objective performance standards;
- C. Residential Only Development. Allow housing-only projects to be constructed except on properties where the retail preservation ordinance applies;
- D. Ground Floor Residential Design Standards. Adopt objective design standards to create an attractive active appearance for residential development on the ground-floor, while also maintaining privacy for residents:
  - i. Individual dwelling units shall not be permitted on the ground-floor fronting El Camino Real. Instead, the ground-floor frontage on El Camino Real may include common areas, such as lobbies, stoops, community rooms, and work-out spaces with windows and architectural detail to create visualize interest. Ground floor residential would be permitted beyond the common areas or if set back away from El Camino Real;
  - ii. Parking shall be located behind buildings or below grade, or, where those options are not feasible, screened by landscaping, low walls, or structured garages with architectural detail;
- E. Housing Incentive Program (HIP).
  - i. Increase residential FAR from 0.5 (CN) and 0.6 (CS) to 1.5;
  - ii. Eliminate 50 percent lot coverage requirement;
  - iii. Allow Affordable Housing Overlay development standards (without legislative process); and
  - iv. Discretionary review by ARB required.

Vice Mayor Fine noted the proposals were similar to the proposals for Downtown and California Avenue.

Council Member Kniss inquired regarding State requirements for rooftop decks.

Mr. Lait indicated SB 35 did not address rooftops. Rooftop decks were subject to local zoning requirements.

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Council Member Kniss asked if there was a way to get around the zoning requirements.

Mr. Lait related that the roof deck would have to exceed the height limit.

Council Member Kniss requested the impacts to the building of incorporating a rooftop deck into a project.

Mr. Lait explained the requirements for elevators and stairs and for permanent features. The building could be designed to the maximum height limit, and the proposed change would allow a stair and elevator to exceed the height limit so that the rooftop could be used as a deck and count toward the open space requirement.

Council Member Kniss asked if a floor of the building would have to be removed in order to incorporate a rooftop deck unless the Council provided an exception for access elements to exceed the height limit.

Mr. Lait replied yes. The PTC suggested a rooftop deck count towards only 60 percent of the open space requirement so that the building would have some modulation.

Council Member DuBois inquired whether the CS and CN zones applied to South Palo Alto rather than the length of El Camino Real.

Mr. Lait clarified that the area was primarily south of the University. Town & Country and the hotels were zoned Community Commercial (CC). Staff did not propose any changes to the CC zones.

Council Member DuBois asked if the housing in CN and CS zones would be almost identical with the proposed changes. He asked if CN would be protected in any way in terms of neighborhood commercial uses.

Mr. Lait advised that Staff proposed only one change to land uses, and that was residential uses could occur on the ground floor if it was not already required as part of retail preservation.

Council Member DuBois asked if the proposed change would increase allowed lot coverage from 50 percent to 100 percent.

Mr. Lait explained that a developer could request a waiver from the requirement for 50 percent of the lot not to be covered. In theory, lot coverage could increase to 100 percent, which could reduce the height of a building. The waiver would be available through the HIP only.

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Council Member DuBois reiterated his concern about a project with only three housing units being eligible for the HIP. He questioned whether developers would be motivated to include only three housing units in order to obtain 100-percent lot coverage.

Mr. Lait noted a waiver request was subject to discretionary approval. The review process would probably not result in the use of waivers for projects with only a few penthouses.

Council Member DuBois remarked that the Council had done nothing to make commercial development less attractive in the areas where the Council wanted to incent housing. Housing was more likely to occur in residential areas rather than in more dense areas close to transportation. He inquired whether the policy for replacement of trees would remain in effect.

Mr. Lait responded yes.

Council Member Kou was concerned about the CS and CN zones abutting single-family homes. Buildings would be massive next to residential homes. The community would raise issues with this. The proposals for El Camino needed additional study.

**MOTION PASSED:** 6-1 Kou no

Mr. Lait reported the proposed changes were to redefine open space and to establish open space performance standards. The proposed Ordinance did not provide an exemption from the retail preservation requirement for 100-percent affordable housing projects on El Camino Real. The Council could include an exemption from the retail preservation requirement. The definition of open space was not new. Staff transferred it from one section to another section of the Code.

Mayor Filseth requested Staff review the development standards for rooftop decks.

Mr. Lait advised that Citywide standards for rooftop decks included prohibiting up-lighting; allowing features that provide access to the rooftop deck to extend above the height limit; allowing permanent features to exceed the height limit by no more than 12 feet; and prohibiting access and permanent features from intersecting a plane measured at a 45-degree angle.

Vice Mayor Fine asked if the intersecting a plane standard moved features toward the center of the building.

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Mr. Lait answered yes. Additional standards allowed a rooftop garden on a second or higher story; limited use of the deck to residents of the building; required access features to be pushed away from the building edge; required lighting to be turned off at 10:00 P.M.; required 15-25 percent of the rooftop to be landscaped with raised beds; required equipment that emitted noise and/or exhaust to be directed away from open space; required compliance with the City's Noise Ordinance; and prohibited sound-amplifying equipment.

Council Member Kniss noted locations of rooftop gardens in the Downtown area. Perhaps Staff could provide the Council with examples of existing rooftop decks.

Mr. Lait added that a rooftop deck would be subject to Architectural Review and the standards.

Council Member DuBois requested the rationale for limiting shade structures to a height of 12 feet.

Mr. Lait explained that 12 feet provided a bit of space between headroom and a structure off the elevator.

Council Member DuBois was concerned that a shade structure could be another roof.

Mr. Lait added that the shade structure would be subject to the prohibition against intersecting a plane measured 45 degrees from the edge of the building. Depending on the height of the building, the shade structure probably would not be visible from the street.

Council Member DuBois asked if there could be a coverage limit for shade structures.

Mr. Lait clarified that a portion of a shade structure may count toward floor area. Floor area was not allowed above the height limit.

Council Member DuBois inquired whether Staff discussed hours of use.

Mr. Lait responded no, other than the lighting cutoff time of 10:00 P.M. A standard limiting the hours of use would be simple to add.

Council Member DuBois inquired regarding enforcement of residents only using a rooftop deck.

Mr. Lait remarked that someone would complain to the City about a commercial tenant utilizing a roof deck, at which time Staff could pursue the matter through typical Code enforcement means.

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Council Member DuBois expressed concern about allowing a rooftop deck at the second or higher story because of noise and suggested revising the standard to the third or higher story.

**MOTION:** Council Member DuBois moved, seconded by Vice Mayor Fine to approve the following modifications to the Ordinance related to city-wide Rooftop Open Space Performance Standards:

- A. Permanent fixtures on the rooftop shall be placed so as not to exceed height limit for the applicable zoning district, except:
  - i. Elevators, stairs and guardrails may exceed the height limit to allow for access to the rooftop useable open space as and to the extent required to comply with the Americans With Disabilities Act (ADA). These fixtures shall be designed to the lowest height and size feasible;
  - ii. Permanent fixtures associated with the useable open space, such as trellises, shade structures, furniture, and furnishings such as planters, lighting and heaters, may exceed the height limit by up to 12 feet;
  - iii. For the height limit exceptions in (i) and (ii) above, all fixtures shall not intersect a plane measured at a forty-five-degree angle from the edge of the building starting at the rooftop garden surface sloping upward and inward toward the center of the property;
- B. The rooftop garden may be located on the second or higher story or on a roof deck;
- C. The rooftop garden shall be accessible to all residents of dwelling units on the parcel, but not to commercial tenants of a residential mixed-use development;
- D. Structures or fixtures providing a means of access or egress (i.e., stairway, elevator) shall be located away from the building edge to the extent feasible or screened to minimize visibility from the public right-of-way and adjacent buildings and privacy impacts. These access structures or fixtures, when exceeding the height limit, shall be subject to the provisions of subsection (A)(iii) above;
- E. Any lighting shall have cutoff fixtures that cast downward-facing light or consist of low-level string lights. Lights shall be dimmable to control glare and placed on timers to turn off after 10:00 PM. Photometric

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diagrams must be submitted by the applicant to ensure there are no spillover impacts into windows or openings of adjacent properties;

- F. At least 15 percent but no more than 25 percent of the rooftop shall be landscaped with raised beds for gardening, C.3 stormwater planters, or other landscaping. All required landscaped areas shall be equipped with automatic irrigation systems and be properly drained;
- G. Rooftop equipment that emit noise and/or exhaust, including but not limited to vents, flues, generators, pumps, air conditioning compressors, and other protrusions through the roof, shall be directed away and screened from the useable open space areas;
- H. Rooftop open space noise levels shall not exceed exterior residential noise level as defined by Section 9.10.030(a) of this code;
- I. The use of sound amplifying equipment shall be prohibited. Signs shall be affixed adjacent to access elevators and stairs within the rooftop garden providing notice of this prohibition;
- J. Change the Ordinance Section 10, B to replace "second" with "third;" and
- K. Change the Ordinance Section D to delete "or screened."

Vice Mayor Fine asked if a roof deck on a two-story building would be located at the floor plate of a third story.

Mr. Lait replied the finished floor level of the third floor.

Vice Mayor Fine questioned whether story or a specific number of feet was the correct measurement.

Mr. Lait asked if the intent was to distance the noise from the lower levels to the upper levels. Roof decks were already allowed below the height limit. Staff's intent was to allow a roof deck to exceed the height limit.

Vice Mayor Fine asked if the three-story regulation could preclude roof decks that would be desirable.

Council Member DuBois asked if roof decks at a height of 25 feet were desirable.

Vice Mayor Fine reiterated that a two-story building could have a roof deck under the existing standards.

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Council Member DuBois was concerned that noise would result from roof decks on multifamily housing. Requiring a roof deck at the third story or higher on a multifamily residential building could reduce noise for nearby single-family and R-2 homes.

Mayor Filseth asked Council Member DuBois if he intended to prevent low, noisy roof decks.

Council Member DuBois answered yes.

Mr. Lait reiterated that the existing Code allowed roof decks below the height limit. The proposed Ordinance did not address roof decks below the height limit.

Council Member DuBois believed the use of roof decks was a change.

Mr. Lait anticipated developers would maximize the number of housing units and place the roof deck atop the maximum number of housing units. He asked if deleting the provision would eliminate the concern.

Council Member DuBois responded no because roof decks could be located on multiple levels.

Mr. Lait reiterated that the proposed Ordinance did not change an existing policy.

Vice Mayor Fine inquired whether a 50-foot building with a roof deck on top could have a secondary roof deck.

Mr. Lait answered no.

Vice Mayor Fine requested Staff return to the Council if issues arose with implementing a roof deck at the third or higher story.

Council Member Cormack asked if the location of the landscaping affected the discussion.

Vice Mayor Fine responded no.

Mr. Lait clarified that the terms rooftop deck and rooftop garden were used interchangeably.

Council Member Kniss inquired regarding the potential demand for rooftop decks.

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Mr. Lait reported discussions with developers revealed a number of constraints to providing housing, one of which was the open space requirement. To address it, Staff proposed a roof deck count toward the requirement instead of decreasing the requirement.

Council Member Kniss remarked that a rooftop deck was different from a rooftop garden based on the number of plants found on a rooftop garden.

Mr. Lait added that landscaping was required to make a rooftop deck more like a garden.

Council Member Kniss felt a rooftop deck provided a practical purpose rather than an aesthetic purpose.

Mr. Lait requested the Motion include the Citywide up-lighting prohibition established on December 3.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion a new Part L "Include in the Ordinance Citywide up-lighting requirements."

Mr. Lait noted Council Member DuBois requested a change to the definition of open space.

Council Member Cormack inquired regarding safety barriers for rooftop decks.

Mr. Lait advised that a guardrail or parapet would be required. Staff would not allow a rooftop deck to be established without necessary safety barricades.

Council Member Cormack requested the standard height limit of safety barricades.

Mr. Lait responded approximately 42 inches. The ARB would review the design of safety barricades.

Council Member Cormack was not inclined to limit the hours of use of a roof deck.

Council Member Tanaka expressed concern that Part B might eliminate many possibilities and suggested deleting Part B from the Motion.

Council Member DuBois advised that Part B was the primary standard he wanted to charge because of noise and privacy issues.



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Vice Mayor Fine concurred with Council Member Tanaka.

**MOTION:** Council Member Tanaka moved, seconded by Council Member XXX to remove Part B from the Motion.

## **MOTION FAILED DUE TO THE LACK OF A SECOND**

Council Member Kou thought Staff would have proposed Code enforcement prior to allowing a rooftop deck to count towards the open space requirement and allowing a building to cover 100 percent of the lot. These properties would abut single-family homes and less dense apartment buildings. The Council should not forget the impacts of these standards on existing residents.

**MOTION AS AMENDED RESTATED:** Council Member DuBois moved, seconded by Vice Mayor Fine to approve the following modifications to the Ordinance related to city-wide Rooftop Open Space Performance Standards:

- A. Permanent fixtures on the rooftop shall be placed so as not to exceed height limit for the applicable zoning district, except:
  - i. Elevators, stairs and guardrails may exceed the height limit to allow for access to the rooftop useable open space as and to the extent required to comply with the Americans With Disabilities Act (ADA). These fixtures shall be designed to the lowest height and size feasible;
  - ii. Permanent fixtures associated with the useable open space, such as trellises, shade structures, furniture, and furnishings such as planters, lighting and heaters, may exceed the height limit by up to 12 feet;
  - iii. For the height limit exceptions in (i) and (ii) above, all fixtures shall not intersect a plane measured at a forty-five-degree angle from the edge of the building starting at the rooftop garden surface sloping upward and inward toward the center of the property;
- B. The rooftop garden may be located on the second or higher story or on a roof deck;
- C. The rooftop garden shall be accessible to all residents of dwelling units on the parcel, but not to commercial tenants of a residential mixed-use development;

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- D. Structures or fixtures providing a means of access or egress (i.e., stairway, elevator) shall be located away from the building edge to the extent feasible or screened to minimize visibility from the public right-of-way and adjacent buildings and privacy impacts. These access structures or fixtures, when exceeding the height limit, shall be subject to the provisions of subsection (A)(iii) above;
- E. Any lighting shall have cutoff fixtures that cast downward-facing light or consist of low-level string lights. Lights shall be dimmable to control glare and placed on timers to turn off after 10:00 PM. Photometric diagrams must be submitted by the applicant to ensure there are no spillover impacts into windows or openings of adjacent properties;
- F. At least 15 percent but no more than 25 percent of the rooftop shall be landscaped with raised beds for gardening, C.3 stormwater planters, or other landscaping. All required landscaped areas shall be equipped with automatic irrigation systems and be properly drained;
- G. Rooftop equipment that emit noise and/or exhaust, including but not limited to vents, flues, generators, pumps, air conditioning compressors, and other protrusions through the roof, shall be directed away and screened from the useable open space areas;
- H. Rooftop open space noise levels shall not exceed exterior residential noise level as defined by Section 9.10.030(a) of this code;
- I. The use of sound amplifying equipment shall be prohibited. Signs shall be affixed adjacent to access elevators and stairs within the rooftop garden providing notice of this prohibition;
- J. Change the Ordinance Section 10, B to replace "second" with "third;"
- K. Change the Ordinance Section D to delete "or screened;" and
- L. Include in the Ordinance Citywide up-lighting requirements.

**MOTION AS AMENDED PASSED:** 6-1 Kou no

Mr. Lait requested the Council update the open space requirement.

Council Member DuBois expressed concern regarding dwelling units having 150 square feet of open space and micro units having 40 square feet of open space. He suggested the Council passed the requirement without discussion. The people most likely to spend the least amount of time in their units had the least amount of open space. He did not find the requirement

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in the proposed Ordinance. Otherwise, the open space requirement was standard throughout the proposed Ordinance at 150 square feet.

Council Member Kniss requested Council Member DuBois' preferred amount of open space for micro units.

Council Member DuBois wanted to hear his colleagues' comments.

Vice Mayor Fine asked if the 150 square feet was based on the average unit size of 1,500 square feet.

Mr. Lait explained it was based on existing Code provisions and standardized across unit sizes.

Vice Mayor Fine remarked that people who chose to live in a micro unit often spent much of their time in other locations.

Council Member Kniss was not inclined to change the amount absent a compelling reason. Most micro-unit dwellers knew the locations of public open space.

Council Member Cormack asked if the requirement overlapped with the language of "part or all of the required private usable open space areas may be added to the required."

Council Member DuBois clarified that the standards required a specific amount of total open space, which could be divided between private and public open spaces.

Council Member Cormack asked if Council Member DuBois wanted a minimum amount of private open space.

Council Member DuBois stated the minimum amount was 150 square feet of open space, which could be a combination of public and private open space. However, 40 square feet of open space was required for a micro unit.

Mr. Lait reported the existing standards contained a minimum private open space requirement, and private open space was defined differently from common open space. The current standard for private open space in a multifamily zone was 50 square feet. The standards for usable open space were different, which were defined in the proposed Ordinance.

Vice Mayor Fine asked if Staff wanted the Council to discuss the definition of usable open space.

Mr. Lait answered yes.

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**MOTION:** Vice Mayor Fine moved, seconded by Council Member Kniss to approve the proposed modifications to the definition of “usable open space” in Section 18.04.030 of the Ordinance.

Vice Mayor Fine remarked that the language redefined and, in some cases, restricted usable open space.

Mayor Filseth requested the impacts of the proposed language.

Mr. Lait indicated Staff moved language from one provision into Section 18.04.030. The remaining language expanded the applicability of the space so that developers were aware of all users of the space. The existing Code language did not consider seniors or children as users of open space.

Mayor Filseth requested the consequences of changing the existing language.

Mr. Lait clarified that the proposed language would allow the ARB to ensure the quality of the space catered to different user groups in a generic way.

Mayor Filseth inquired whether a space had to be usable by seniors in order to qualify for open space.

Mr. Lait stated Staff was striving for more universal access to and enjoyment of open space. Open space did not have to cover every possible user group. Staff meant to add qualitative purpose to the definition of open space.

Council Member Cormack expressed delight with the proposed language as it expanded everyone's view of open space.

**MOTION PASSED:** 6-1 Kou no

Council Member DuBois reported the Council needed to discuss the retail exception in the El Camino Real area.

Mr. Lait advised that the retail exemption for affordable housing projects in the El Camino Real area was not included in the proposed Ordinance.

**MOTION:** Council Member DuBois moved, seconded by Mayor Filseth to approve the following modifications to the Ordinance related to properties adjacent to El Camino Real in the CN and CS Zoning Districts:

- A. Exempt 100 percent affordable housing projects (120 percent AMI and below) from the retail preservation requirement, with an average not to exceed 80 percent of the area median income, except in the building manager's unit.

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Council Member DuBois inquired whether language regarding one parking space for each employee was needed.

Mr. Lait recalled the Council addressed the exemption under the Citywide provision on December 3. The PTC had recommended against a retail preservation exemption in the El Camino Real area. If the Council was interested in an exemption for the El Camino area, Staff would add language that would affirmatively allow affordable housing projects to meet the standard. The parking component confused things a bit and was outside the typical regulatory standard that applied elsewhere.

Council Member DuBois commented that the exemption for the RM zone required one parking space for employee working.

Mr. Lait noted similar exemptions for the Downtown and California Avenue areas did not contain the employee parking standard.

Council Member DuBois felt the remainder of the City was similar to the RM zones. The parking standard should be applied to areas of the City outside the Downtown and California Avenue areas. Citywide, the Council had exempted the first 1,500 square feet of retail from parking.

Mr. Lait clarified that the 1,500 square feet of retail was separate from the exemption for retail space. The 1,500-square-foot Citywide exemption for mixed-use projects would not require parking for the first 1,500 square feet.

Council Member DuBois reiterated that different standards applied to different zones. Parking was required in RM zones but not in other zones.

Mr. Lait agreed that the standard for RM zones required one parking space.

Council Member DuBois requested the rationale for not requiring a parking space in zones other than CC(2), CS, and CN.

Mr. Lait explained that the 1,500 square feet applied to the Downtown area, the California Avenue area, and CN and CS zones on El Camino. The term Citywide was, in actuality, specific to these zones.

Council Member DuBois asked which zones were left once the Downtown area, California Avenue area, and CN and CS zones on El Camino were removed.

Mr. Lait answered Middlefield, San Antonio, zoning that was not on El Camino, in California Avenue, or in Downtown.

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Council Member DuBois suggested the standard for RM zoning should be applied to those zones.

Mr. Lait stated the proposed Ordinance did not affect those areas. The only true Citywide change contained in the proposed Ordinance pertained to the open space standard and the parking standard.

Vice Mayor Fine preferred the 100 percent AMI and proposed the Motion include that the developer could apply for a waiver if the project was up to 100 percent AMI.

Council Member DuBois noted the Motion applied just to the CS and CN zones along El Camino because the exemption was omitted from the proposed Ordinance.

Council Member Cormack requested a location in the ground-floor and retail combining district.

Mr. Lait advised that the GF would not apply on El Camino, but the R district might. GF applied to Downtown only. The retail preservation requirement should be protected in locations subject to retail preservation. Under the Motion, Staff would craft carve-out language for 100-percent affordable housing projects at or below 80-percent AMI to be exempt from the retail preservation requirement.

**MOTION:** Council Member DuBois moved, seconded by Mayor Filseth to approve the following modifications to the Ordinance related to properties adjacent to El Camino Real in the CN and CS Zoning Districts:

- B. Exempt 100 percent affordable housing projects (120 percent AMI and below) from the retail preservation requirement, with an average not to exceed 80 percent of the area median income, except in the building manager's unit.

Council Member Cormack asked if the Motion would cause all three zoning districts to be consistent with the Council's action for the Wilton Court project.

Mr. Lait would have to review the Downtown area to ensure the requirement was consistent with the El Camino and California Avenue areas.

Council Member DuBois inquired whether the language of "except in the retail combining districts" could be deleted or moved.

Mr. Lait recommended the language remain in the Motion because a few properties on El Camino were subject to the R district.

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Council Member DuBois suggested the phrase should follow "retail preservation requirement."

Mr. Lait noted the Council previously adopted Citywide provisions for 120 percent AMI. The percentage was reduced to 80 for the California Avenue area.

Mayor Filseth recalled that the Council changed the percentage for the RM district.

Mr. Lait recommended the Council make the percentage 80 across all three areas.

Council Member Cormack noted Downtown would be different with 120 percent. She inquired whether there was a policy reason for having a different percentage for Downtown.

Mr. Lait encouraged the Council to implement the same standard across all areas.

Council Member Cormack asked how the Council could accomplish that.

Mayor Filseth indicated the Council could approve the Motion and offer a subsequent Motion for Downtown.

Vice Mayor Fine proposed a compromise of 100 percent across all areas.

Council Member Cormack would support the compromise.

Council Member DuBois reiterated his wish to provide an incentive for 100-percent affordable housing with an average of 80 percent BMR that was tied to Federal funding and credits.

Council Member Cormack requested the circumstances under which the Council could change the percentage at some point in the future.

Council Member Kniss reported the Council could always revise an Ordinance.

Mr. Lait understood the Council was interested in affordable housing projects that qualified for the Federal income tax credit limit. Staff could work with the City Attorney's Office to draft language that tied the exemption to the Federal income tax credit so that any project that qualified for the credit could take advantage of the program.

**MOTION PASSED: 7-0**

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Mayor Filseth commented that the totality of the Council's actions was a significant step toward encouraging housing production. Housing supply and demand in the Region were extremely mismatched. The City of Palo Alto had limited job growth to the point that it was as low as 200 and 300 new jobs a year. The Housing Ordinance and the Accessory Dwelling Unit (ADU) Ordinance should create close to 300 housing units per year. Consequently, Palo Alto was approaching jobs/housing growth sustainability while the Region overall continued to add jobs faster than housing. There was no compelling evidence that some State and Regional measures under discussion would affect the jobs/housing balance.

## ~~State/Federal Legislation Update/Action~~

~~None.~~

## ~~Council Member Questions, Comments and Announcements~~

~~Council Member DuBois advised that he would not be present for the Council Retreat but would provide the City Clerk with his thoughts.~~

~~Council Member Kou announced Racing Hearts would hold its 2019 5K and 10K on March 24.~~

~~Adjournment: The meeting was adjourned at 11:10 P.M.~~