



# Architectural Review Board

## Staff Report (ID # 14335)

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**Report Type:** Approval of Minutes **Meeting Date:** 5/5/2022

**Summary Title:** Minutes of March 10, 2022

**Title:** Draft Architectural Review Board Meeting Minutes for March 10, 2022

**From:** Jonathan Lait

### Recommendation

Staff recommends the Architectural Review Board (ARB) adopt the attached meeting minutes.

### Background

Draft minutes from the March 10, 2022 Architectural Review Board (ARB) are available in Attachment A.

Draft and Approved Minutes are made available on the ARB webpage at [bit.ly/paloaltoARB](https://bit.ly/paloaltoARB)

### Attachments:

- Attachment A: Minutes of March 10, 2022 (DOCX)



ARCHITECTURAL REVIEW BOARD  
 MINUTES: Special Meeting, March 10, 2022  
 Council Chamber & Virtual Meeting  
 10:00 AM

**Call to Order / Roll Call**

The Architectural Review Board (ARB) of the City of Palo Alto met on this date for a Special Meeting in Council Chambers and virtual teleconference at 10:00 a.m.

Chair Thompson clarified that the Special Meeting Agenda was on the Objective Design Standards and the ARB's Draft Work Plan.

Present: Chair Osma Thompson, Vice Chair David Hirsch, Boardmember Peter Baltay

Absent: None.

**Oral Communications**

None.

**Agenda Changes, Additions and Deletions**

None.

**City Official Reports**

1. Transmittal of 1) the ARB Meeting Schedule and Attendance Record, 2) Tentative Future Agenda items and 3) Recent Project Decisions

Ms. Gerhardt, Manager of Current Planning, explained that the hearing was a special meeting. On March 17<sup>th</sup>, the ARB would hold a regular meeting on 2609 Alma, Castilleja school, and California Avenue. All meetings are hybrid at this point and all information is included on the agenda.

Vice Chair Hirsch asked what Castilleja would present.

Ms. Gerhardt stated they would present the Kellogg revisions and Option E findings. The packet will include a staff report with additional detail.

**Action Items**

2. Public Hearing: Discuss Revisions to Objective Design Standards based on Feedback from City Council and Analysis of Missing Standards (Continued from March 3, 2022)

Chair Thompson introduced the item and called for the staff report.

Ms. Gerhardt stated that Jean Eisberg would provide a presentation over Zoom. The ARB approved the Objective Standards in April, but the Council has requested specific comment on items listed in the staff

Page 1 of 42

Architectural Review Board Special Meeting  
 Summary Minutes: 3/10/22

report. At places, the ARB received updated crosswalk documents, there is a copy available for the public and it would be online momentarily.

Jean Eisberg, Lexington Planning (City's consultant) thanked the ARB and the public for attending the special meeting. The ARB is to focus on a few remaining key issues raised by Council relating to design themes. She went through the agenda and explained that the purpose of the project was to prepare objective design standards as State law relies increasingly on them. The standards apply to housing development projects undergoing streamlined review. The intention is to add new objective standards, clarify ambiguities, remove redundancies, and modernize standards in Title 18. The ARB approved the objective design standards in April 2021 following several meetings with the full ARB and an ad hoc committee. Staff also worked on the standards with the Planning and Transportation Commission (PTC) before going to City Council in Fall 2021. Following this ARB meeting there would be a community meeting on March 22<sup>nd</sup> and then two City Council hearings scheduled for April and May 2022. The first topic is privacy and sight lines. The Council was interested in adding standards for residential privacy regardless of the zone or density consisting of stronger protections for sight lines. Council also had concerns about allowing up to 15% of window openings in a confronting façade. In January, the ARB stated that the existing daylight plane and the setbacks were effective in controlling for privacy. They discussed a minimum building separation standard, including the guidelines and standards from the Individual Review (IR) Guidelines and SB9 proposals, and encouraging opaque windows or angling windows, a window offset requirement was not supported by the ARB. Lastly, they discussed encouraging eyes from units onto shared courtyards and open spaces for safety and community building. The staff report [break in audio/visual 41:52] ... suggest bolstering the intent statement in the building massing section of the draft standards. She read the proposed statement for the ARB. Staff has proposed conditions based on SB9 for facing windows or balconies/decks on residential properties within 20 feet of each other and she read that language for the ARB and indicated they were looking for feedback. With the Menu of Options there is a checklist attached to the staff report. The checklist is intended to be filled out by applicants requesting streamlining. It would become part of the record, the staff analysis, and the ARB's consideration. Staff is requesting feedback on expanding the menu of options. The Council is interested in having more selections available. Boardmembers should feel free to contact staff and provide opinions offline as well as within the meeting. The third issue is related to contextual height transitions and is related to what happens when there is a proposed new taller building adjacent to an existing shorter building. The ARB previously stated that the existing daylight plane and setbacks are effective at making the height transitions. Staff wants to provide the City Council with options based on its request in its Motion and therefore suggested the ARB consider a standard for an upper story setback on the side façade. She showed drawings and pictures showing how the side façade setback would function. The ARB could also consider other ways to implement the daylight plane option. Currently the daylight plane starts at 10 feet and goes up 45 degrees. The setback could be increased and then some increase in height could be accommodated before going into the daylight plane. The idea is to push the volume further away from the building while still allowing for feasible development. She showed another slide illustrating how it would work if the setback was larger. The updated crosswalk document is very lengthy and is organized by the four different zoning districts with context based design criteria. The idea was to be more transparent about the translation from the existing context based design criteria to the proposed intent statements and design standards. The first standard is related to the diversity of building types. The

second context based design criteria only appears in the RM District and requires a variety of unit types. The third item is also only in the RM District, and it states that each detached unit should have at least one useable side yard to provide passage from the front to the rear. Lastly, in the PTOD District only, the criteria required maintaining view corridors from Colorado Avenue and El Dorado Avenue west to the hills. The last two items do not yet appear in the objective design standards. A community meeting is scheduled for March 22<sup>nd</sup> at 6:00 via Zoom. The revised draft ordinance will go to the Council in April. She thanked the ARB for its feedback.

Chair Thompson called for the public comment.

Becky Sanders stated that she lives on Ventura and noted that objective standards protect privacy especially in neighborhoods like hers that feature smaller lots. Additionally, people that live in condos and Planned Communities (PC) should also be treated equally and everyone should enjoy the same level of privacy and protections while the City tries to reach its Regional Housing Needs Assessment (RHNA) numbers. She requested that they retain the privacy protections and find language that would fulfill the City's goals while retaining the objective standards. She thanked the ARB for its time.

Jeff Levinsky noted that [Terry Holzmeier 54:35] submitted a letter but he was unable to find it in the packet, which is a Brown Act violation. Last fall several people pointed out to Council that the subjective standards were not maintaining key residential protections in the current context based design criteria. The Council then issued a Motion in November to ensure the objective standards preserve privacies and other protections. Specifically, the Motion called to strengthen privacy and protection for residents, consider sight lines, and examine whether the 15% window rule was adequate. He did not see any of that in the staff report and cited the situation explained on Packet Page 11. Several years ago the Council heard an appeal from a resident regarding a proposed new building one house away. The resident was concerned about privacy, light pollution, and noise from the upper story tenants even though the project met the daylight plane rules. The City Council sided with the resident 8-1, but the new 20 foot rule would have provided that resident no protection. The rule also allows new windows if they are tilted by 15 degrees. He asked if any studies showed how that provided privacy. He also asked if a vertical tilt was allowed and for a definition of "facing windows." Ill defined terms should not be in any ordinance and really have no place in objective standards. Judges will throw the rules out if they are not carefully defined. The plant screening rule on Packet Page 12 fails to protect neighbors from third and fourth floors and also is too vague related to what is allowed. The ARB could fix some of the issues by not allowing sight lines from new windows, balconies, and decks into nearby residences and their private outdoor spaces. Sight line analysis seems objective, but the only mention of site lines in the staff report are in the Council Motion. Council stated that the protections should apply to all residents, but Packet Page 28 contains a rule about screening plants and windows that does not protect people in RM and PC zones. As the ARB crafts its response to the Council he requested they ensure privacy and other protections for all residents.

Chair Thompson called for ARB questions of staff.

Vice Chair Hirsch asked if they would discuss the presentation.

Chair Thompson indicated they would. Hearing no questions she suggested they start with the privacy and sightlines. She called for initial Boardmember thoughts.

Boardmember Baltay wanted to keep the conversation more informal. He was struck by the public comment about sightlines and asked if they could create an ordinance based on sight lines since that was objective.

Vice Chair Hirsch appreciated staff's report and thought they could be very conservative about sight line issues. Being from New York he is aware of sight line issues, and he did not know how much further Palo Alto could push sight lines. There should be flexibility with balconies because there are all kinds of possibilities for mitigation. Stopping balconies on the second floor is not sufficient in some cases.

Chair Thompson reminded Vice Chair Hirsch that they were only discussing sight lines at the moment.

Vice Chair Hirsch indicated that was his concern about sight lines.

Chair Thompson recalled that during the initial privacy conversation the ARB discussed that in some multifamily situations it was preferable to have eyes on certain areas. Based on that, the City might consider creating the rules by zone. In denser areas the daylight plane does not make sense. Height transitions are also related to privacy.

Boardmember Baltay noted that it was all tied together.

Ms. Gerhardt suggested that staff show the slide with the daylight planes. If a commercial building is next to R1 or another lower density zone then usually the daylight plane is in place. Staff was more concerned about what should happen when multifamily or commercial properties are adjacent to each other.

Boardmember Baltay suggested that from any residential unit if it was possible to look into any other private residential use at a standing height of less than five feet is not permitted. There would have to be screening for any sight line lower than 5 feet. That is so strict that anything that did not meet the standard would have to go through subjective review. There are so many districts and so many different uses that there were many loopholes and Council and the public have requested something stronger. Every time the issue comes up the Council comes down on the side of residential privacy. The 5 foot suggestion is what is used in the IR process.

Chair Thompson asked about the geometry an applicant would have to do.

Boardmember Baltay said that any sightline could be measured per his suggestion. They would also have to define private residential use as just overlooking property would not be enough.

Chair Thompson asked for a clearer definition.

Boardmember Baltay explained that anything viewed from a window would count. The idea is to be extremely restrictive in order to kick the project into a subjective review.

Vice Chair Hirsch stated that an angled distance is really the key factor in privacy.

Boardmember Baltay asked what distance was appropriate.

Vice Chair Hirsch indicated that he did not know.

Chair Thompson thought there were studies that could be looked at for the answer. Human cone of vision is 120 degrees, and there is a metric where visibility diminishes after a certain distance. She indicated that

she would research the idea further. If there is a stairwell with a clear story window that could not be reasonably seen from then there is no reason to obscure the window.

Boardmember Baltay agreed.

Vice Chair Hirsch noted that stairwells could make use of diffuse glass.

Boardmember Baltay said that there were several techniques to limit sight lines. When you are talking about the below five feet issue diffuse glass, physical barriers, and landscaping are all options. They also need to consider how multifamily and mixed-use buildings will function.

Chair Thompson stated the goal was not to make buildings infeasible.

Boardmember Baltay agreed and also thought the idea of putting five feet barriers on every porch was horrific. A creative architect could come up with something that would adhere to all the requirements.

Chair Thompson recalled a project that abutted residential property and the solution there was to have a planter barrier of a certain depth. The issue was how to objectify something like that.

Boardmember Baltay repeated that they could have a theoretical point at 5 feet or lower and within some distance of the window opening. He suggested 50 feet as a good distance.

Ms. Gerhardt said that single family homes in the IR process have used frosted windows on the sides due to 12 foot side yards; however, in a rear to rear situation which is usually approximately 40 feet apart they will utilize a landscape solution.

Chair Thompson said that she was more concerned about the third and fourth floors. At that level landscape does not help as much. It is possible that a balcony could require a planter, a solar shade, or another architectural feature.

Boardmember Baltay suggested asking staff to draft a different approach to privacy whereby they first determine that if a sight line violates someone's residential use it was a violation. Then it would be subject to two criteria; 1) the distance that you can get to the opening from the inside of the building and the distance from the outside of the building to the perceived other window. The residential use that is being protected would also have to be defined. Finally the permissible techniques to avoid the violation should be listed. Those could be obscured glass, landscaping, or physical barriers, which can all be objectively defined. That is what Council requested the ARB do.

Ms. Gerhardt stated that Packet Page 11 contained staff's proposed solutions.

Chair Thompson confirmed that they were in the potential standards column.

Ms. Gerhardt said that was correct and indicated that it went to Packet Page 12 as well.

Boardmember Baltay suggested clarification on the staff's recommendation.

Chair Thompson indicated that she would prefer to go through them one at a time.

Ms. Gerhardt asked Ms. Eisberg to share the table with the ARB and lead them through it.

Chair Thompson suggested they begin with the new intent statement on Packet Page 11.

Ms. Eisberg explained it was a new intent statement but was based on the language from the context based criteria.

Chair Thompson said that it was something the ARB would have to look to in its evaluation.

Ms. Gerhardt explained Council had requested they adopt changes to existing and proposed laws that would provide standards for privacy and other protections for all residents regardless of zone. They also requested stronger protections for privacy related to elevated floors looking into neighboring lots. She stated that the information she was relaying was also included on Packet Page 9 in City Council's Motion. Staff's proposed solutions are listed in the table with the second column indicating ARB direction and the third column containing the proposed standards.

Chair Thompson suggested they go one by one and asked if everyone had read the intent statement.

Vice Chair Hirsch said that Boardmember Baltay had requested a distance and noted that New York had a 30 foot yard requirement. If it were facing another 30 foot rear yard then there is a total of 60 feet for privacy in low rise developments. However, as it is the rear yard it is an open space and therefore social. So really 30 feet is the eyes on allowable distance to a neighboring property. He did not have a good idea for how to privatize that.

Chair Thompson stated that she researched if other cities had similar standards and was unable to find anything.

Vice Chair Hirsch liked the idea of using landscaping for privacy shields and noted that was in the proposal. Thirty feet provides plenty of room for landscaping.

Boardmember Baltay saw no issue with the intent statement. It was broad enough to cover what they were trying to do.

Chair Thompson asked Vice Chair Hirsch for his thoughts on the intent statement.

Vice Chair Hirsch said he had no issues with it and liked the statement.

Chair Thompson agreed that she was fine with it as well.

Boardmember Baltay read a line from the statement about the "location of pedestrian paths and mews, drive aisles."

Chair Thompson noted there was a comment about mews.

Boardmember Baltay suggested scrapping that part of the statement and say, "extend setbacks to residential uses."

Chair Thompson agreed.

Vice Chair Hirsch also agreed.

Chair Thompson instructed staff to scratch the parenthetical modifier and noted that solved the mews concern. On the objective standard there was a comment about within 20 feet of facing windows,

balconies, or decks. The first item was the upper story window privacy and she read the proposed standard.

Boardmember Baltay stated that code for egress safety is 44 inches so 5 feet would be a significant conflict. Privacy will be trumped by safety. The way the requirement is written is not practical.

Chair Thompson agreed that was a good point. She suggested that staff reconsider that as she agreed that having the windows start at 5 feet was not feasible. She asked if Boardmember Baltay was talking about the standard when he mentioned creating dimensions of user to window and then window to adjacent window.

Boardmember Baltay indicated that it was. His idea was different from staff's suggestion, and he thought they should review the staff suggestions first to see if they were feasible.

Chair Thompson agreed.

Boardmember Baltay said that the first bullet point did not work.

Ms. Gerhardt suggested frosted windows to 5 feet. For egress they would have to be operable so the frosting would not appear if the window was opened.

Boardmember Baltay indicated that was the current standard and he was fine with it.

Chair Thompson noted that it did not hold water if someone could just open a window.

Boardmember Baltay agreed but noted that was generally considered less of a privacy impact.

Vice Chair Hirsch asked that everyone utilize their microphone so he could hear the conversation.

Ms. Gerhardt noted that she was also having difficulty hearing.

Vice Chair Hirsch asked for an explanation of the 5 feet issue.

Chair Thompson explained that it was a potential objective standard where the windowsill would be required to be 5 feet above finished floor level. Boardmember Baltay had said that for egress that suggestion would not work.

Vice Chair Hirsch asked if they were only discussing the 1<sup>st</sup> floor.

Chair Thompson and Boardmember Baltay noted that it was for all floors.

Chair Thompson indicated the ARB was looking for something that would preserve privacy from an upper story unit. She suggested that the windowsills could project up to three feet. There could be a planter or a punched window.

Ms. Gerhardt asked about a recessed window.

Chair Thompson said that partially recessed could work as well. She then used her hands to demonstrate an angle.



Vice Chair Hirsch asked how they would build an extended sill and thought it would be tricky. It would also change an elevation significantly and might not relate at all to the rest of the building. He preferred an easier solution.

Boardmember Baltay said that the current standard required opaque or translucent glazing below 5 feet. One could not see through the glass unless the window was opened. For egress requirements the windows have to be operable.

Vice Chair Hirsch noted that would require windows to all have muntins.

Boardmember Baltay said that the whole window could be translucent. There would be a choice between windows divided in the middle or not. That's the standard the City had used.

Chair Thompson said that she was not following.

Vice Chair Hirsch noted that one would not want to divide a casement window.

Boardmember Baltay thought it was odd from the inside to have a half frosted and half clear window, so they were generally frosted.

Chair Thompson asked if that would compromise the quality of life of the unit's inhabitants.

Boardmember Baltay said that it absolutely would affect quality of life. It is a compromise between the quality of life for the person inside and the quality of life of the neighbor. This is Palo Alto's interpretation of how to handle the matter. Other towns had less protection, and some had more.

Chair Thompson stated that they could not allow for units with only frosted windows.

Boardmember Baltay said that it had been done.

Chair Thompson expressed disbelief.

Ms. Gerhardt noted that normally side windows were frosted, and rear and front windows are clear for single family homes. They have not done as much frosted glass in multifamily projects.

Chair Thompson said that generally in multifamily a unit had one face. It would be inhumane to frost all the windows.

Boardmember Baltay agreed. He noted that he did not believe angling the windows would be a realistic standard either as that could be twisted to create either a greater or a lesser privacy impact. As the public speaker noted it could be tilted downward and would have a much greater privacy impact. If the window were tilted away from the privacy issue that would be one thing, but it would also be difficult to standardize. Simply stating that it needed to be angled without further instruction was a large loophole.

Chair Thompson thought with a steep enough angle it would work.

Boardmember Baltay noted that the standard needed to state that the window had to be angled away from privacy violations.

Chair Thompson stated that it said, "away from facing windows." The standard might need to be more than 15 degrees. She suggested 30 degrees. An angled window could work as she has seen it done.

Boardmember Baltay agreed that tilted windows were a tool an architect could use to mitigate privacy impacts but argued it would be difficult to make into an objective standard.

Chair Thompson asked how they could edit the staff's recommendation.

Boardmember Baltay indicated it would have to be angled a minimum amount such that the privacy impact is reduced.

Vice Chair Hirsch asked if they were discussing corridor windows.

Chair Thompson explained that they were talking about bedroom windows.

Vice Chair Hirsch read "stair corridor window privacy."

Chair Thompson stated that was the next item and they were discussing upper story windows.

Vice Chair Hirsch thought the 5 foot issue was a matter of code.

Boardmember Baltay stated the answer to the 5 foot issue was that the glass must be opaque or translucent glazing below 5 feet. With respect to the angled question the answer would be that it has to be angled at a minimum of 15 degrees away from potential privacy impacts.

Chair Thompson could not support opaque glass up to 5 feet.

Vice Chair Hirsch agreed and said that he also could not support angling. The answer needs to be simple like offsetting windows or landscaping.

Chair Thompson said that angling was not hard.

Vice Chair Hirsch declared that it was not simple.

Boardmember Baltay asked how one would document the windows that they were attempting to separate other windows from and asked if applicants would have to provide a survey of neighboring properties. That was the reason why Vice Chair Hirsch's suggestion could not be an objective standard.

Chair Thompson noted that if it was a standard it would have to be verified by someone.

Boardmember Baltay further noted that clients wouldn't pay for a survey of a neighbor's property, the neighbor might not allow access to the property, and several other potential issues which caused problems establishing where neighbors' windows were located.

Ms. Gerhardt indicated that staff understood they should scratch angled windows. A project that wanted angled windows could go through the discretionary process.

Chair Thompson said she was for angled windows.

Vice Chair Hirsch stated he was not.

Boardmember Baltay said that it was a perfectly reasonable way to solve the problem so long as it was in context with the rest of the architecture. It is one way that an architect could solve a privacy issue.

Chair Thompson noted that it was a very effective way and was one of the only "best" ways.

Boardmember Baltay agreed and suggested they angle entire buildings.

Chair Thompson instructed staff not to scratch angled windows.

Boardmember Baltay indicated that he was not convinced any of the suggestions would ultimately work.

Ms. Gerhardt said that things needed to be both objective and easy to enforce.

Chair Thompson suggested they move to the next item.

Ms. Gerhardt requested clarification on the last item before the ARB moved forward.

Boardmember Baltay told Ms. Gerhardt that he did not believe any of the things staff suggested would work and the ARB would want a different solution. They did not provide details because they do not yet have a solution. Straw polls would not get the ARB closer to agreement. Council wanted a solution that was different and tougher. He suggested they review all the items first and then come back to the discussion.

Chair Thompson thought that everything was connected in some way and stated that they would revisit all the issues. She read the suggested solutions for the stair corridor window privacy.

Boardmember Baltay asked how it was different than the last issue other than qualifying that it was for stairs.

Chair Thompson explained the last one was for a habitable space like a bedroom or living room.

Ms. Gerhardt said that they did not include obscured glazing in the other standard.

Boardmember Baltay thought there were many loopholes in habitable space verses corridor verses a stairway, etcetera.

Chair Thompson said that it was cut and dry in multifamily projects. Corridor spaces are common areas, and the units are considered private.

Vice Chair Hirsch noted the possibility of a staircase in a duplex.

Chair Thompson agreed that could be a private staircase.

Boardmember Baltay explained that the IR guidelines have an established concept of “casual viewing” which has a lower potential for privacy impact. Over the past 20 years of the IR process the idea has evolved to be a reasonable compromise. If the privacy impact is low then staircases should be able to have whatever the architect wants.

Chair Thompson asked if Boardmember Baltay wanted to scrap the guideline.

Boardmember Baltay said he did.

Vice Chair Hirsch thought it was reasonable to request diffuse glass for the first two floors.

Chair Thompson said the standard was only up to 5 feet.

Vice Chair Hirsch agreed with Boardmember Baltay that stairways were less of a privacy concern.

Boardmember Baltay explained that a staircase or corridor in a common area of a multifamily unit was not a residential use. They are trying to get privacy from individual residential use to individual residential use. He suggested they have staff clearly define residential uses and outdoor occupiable spaces with an established use. After those are defined the standard could be that one cannot see between the two under certain conditions.

Vice Chair Hirsch said that the multifamily should also have a “no loitering” sign in the hallway.

Chair Thompson confirmed that the ARB potentially wanted to scratch the standard for the stair corridor. The next standard was about landscape privacy screening, and she read it aloud.

Vice Chair Hirsch thought there were trees aside from evergreens that were leafy all year long. If the idea was to have a solid leaf tree those could be considered as well as evergreens.

Boardmember Baltay asked if there was a landscape standard for privacy as some plants are denser than others.

Vice Chair Hirsch suggested they just needed to know if the trees would have leaves year round.

Chair Thompson thought the standard was trying to suggest that trees would have leaves and therefore would provide screening. The standard names a box size for a bigger tree.

Ms. Gerhardt explained that 24 inch box for trees is Palo Alto’s standard size even for single family homes. They must be 8 feet in height because they need to show over the fence.

Boardmember Baltay thought that made sense.

Vice Chair Hirsch said that trees were usually picked due to the width at the base.

Ms. Gerhardt noted that fences are generally 7 feet tall which is why they chose 8 feet for the landscaping. The neighbor can see that the landscaping is in place and will continue to grow.

Boardmember Baltay appreciated that.

Chair Thompson thought the standard worked for the first two floors.

Boardmember Baltay agreed and thought it was as good of a standard as they could get for landscaping.

Chair Thompson confirmed that they would keep the standard.

Boardmember Baltay brought up the line that read “shall be located to align with proposed second floor windows” and asked about balconies and decks.

Chair Thompson noted it said and/or.

Vice Chair Hirsch thought it should be consistent along the property line.

Chair Thompson repeated that it said and/or so it was one of the options.

Ms. Gerhardt indicated that they were reading the first sentence about landscaping and then read it aloud. Landscaping would be most beneficial for screening second floor windows.

Vice Chair Hirsch suggested they add “at a minimum.”

Ms. Gerhardt stated they could also add second floor balconies.

Chair Thompson noted that the second line mentioned balconies and read it aloud. She asked staff to explain the rationale behind the idea that there could be no balconies on the second floor.

Ms. Gerhardt explained it was related to distance.

Ms. Eisberg stated that it was based on the previous discussion where they were instructed to use similar privacy standards about access into looking into adjacent backyards.

Chair Thompson did not think they should prohibit second floor balconies, but rather suggest that balconies needed a barrier between the occupant and the edge of the balcony to maintain privacy.

Vice Chair Hirsch stated that would not satisfy people who were obsessed with privacy.

Boardmember Baltay thought balconies were very important in multifamily housing, especially in Palo Alto’s climate.

Chair Thompson asked people to imagine what quarantine would be like without a balcony.

Boardmember Baltay thought the public reacted to large single family homes with balconies, which are a clear violation of privacy. He called such balconies excessive. A one bedroom apartment with a balcony is a different use and receives a different reaction. Many builders would interpret the rule to mean no balconies.

Vice Chair Hirsch stated either option would be rejected by someone next door.

Chair Thompson said that would not happen if they found a good standard to allow balconies and protect privacy. A multifamily building might have the second level start at about 12 to 15 feet, placing balconies above potential landscape and fence barriers. She asked what the ARB could encourage to be done that would allow for the balconies and protect privacy. Planters can fail, but they are the nicest way to provide screening.

Boardmember Baltay asked how far from the edge of a balcony one needed to be in order to mitigate privacy impacts.

Chair Thompson suggested that on a balcony with a rail height of 42 inches and an eye level at 60 inches.

Boardmember Baltay noted that was a standing eye level and that a seated one was lower.

Chair Thompson indicated that seated one had a guardrail potentially blocking their view. Standing with your eye level at 60 inches there’s about 18 inches which need to be obscured.

Vice Chair Hirsch asked if a tree line on the edge of a property would be enough to allow for a second floor balcony.

Chair Thompson explained that trees are only required to be 8 feet high.

Vice Chair Hirsch suggested they make that higher as 8 feet is a low tree.

Ms. Gerhardt explained that 8 feet was chosen because trees of that size are still at a reasonable price point. The trees would grow taller eventually.

Vice Chair Hirsch stated that they needed to view those trees as they would be when mature.

Ms. Eisberg said that the intent in the sentence was that the screening would reach the second floor windows at maturity. At planting they would be at least 8 feet.

Vice Chair Hirsch questioned why the second floor balcony could not utilize the tree canopy so long as it was properly set back.

Chair Thompson summarized that Vice Chair Hirsch felt the landscaping could be enough to provide privacy for second floor balconies without an extension beyond the balcony.

Vice Chair Hirsch agreed. If balconies are allowed on the third floor then they should be allowed at the second floor as long as the landscaping is sufficient to protect privacy.

Boardmember Baltay did not understand why they would limit balconies on the second but not third floors. Further, the standard assumes that there is a neighbor below, but that might not always be the case.

Vice Chair Hirsch thought many things contributed to privacy issues. He explained the conditions around his own home and noted that landscaping was the way they remedied the issue. He felt very strongly that many privacy issues could be addressed with landscaping.

Chair Thompson saw Vice Chair Hirsch's point. The horizontal projection could make sense in some designs but would not in others. She supported scratching the balcony limitations.

Vice Chair Hirsch noted that they needed to tell the Council how they felt.

Chair Thompson stated that part of it was letting the Council know what was even feasible.

Ms. Eisberg interjected that the introduction to the series of bullet points was intended to establish a trigger for when the privacy requirements would come into effect. When a new project abutted a residential use regardless of size or district and is located within 25 feet to habitable windows or balconies or decks then it would trigger the standards. The whole thing is intended to make the applicant really think about site planning and privacy. The ARB could decide to scrap the balcony limitations or change it so that balconies were only allowed when they were set back a certain amount from a property line.

Chair Thompson thanked Ms. Eisberg for pointing that out. Further, she understood the stair corridor point better.

Vice Chair Hirsch stated that 30 feet would be sufficient, but 20 feet is another matter.

Chair Thompson clarified that they were discussing items within 20 feet of an adjacent building. She confirmed that Vice Chair Hirsch would keep the no balconies within 20 feet rule.

Vice Chair Hirsch agreed.

Boardmember Baltay thought that they should add “within 20 feet of facing residential windows not including garages or common areas or balconies or decks with a residential use or outdoor spaces.”

Chair Thompson thought it was acceptable to have eyes on common areas.

Boardmember Baltay said that common areas are acceptable, but not for private balconies.

Chair Thompson asked if that would create a who came first situation.

Boardmember Baltay indicated everything they were discussing was related to who got there first. So they should protect balconies, decks, and patios. They should also be clear that the ARB wants it to relate to private residential use, not common residential use.

Chair Thompson stated that they needed to add the word “private.”

Boardmember Baltay thought the best way to achieve Council’s goals would be to scrap everything and establish points to protect privacy. It is difficult to demonstrate that and would result in projects having to go through subjective review, but that is the way to get real privacy protections. He would work within the framework but wanted to have his opinion on the record.

Chair Thompson asked if the fact that they called out the 20 foot proximity made a difference.

Boardmember Baltay stated that was better, but that one could violate another’s privacy easily from 20 feet. 50 feet is a better dimension to ensure privacy, but that could not be an arbitrary thing as it is a large distance.

Chair Thompson thought it meant that if one was within 20 feet they would have to succumb to the extra privacy measures.

Boardmember Baltay noted that was a partially modified impact of the privacy laws, but something a distance of 25 feet away would receive no protection.

Chair Thompson agreed that was correct.

Boardmember Baltay thought the Council wanted the ARB to provide stronger protections.

Chair Thompson asked Boardmember Baltay to objectively define his suggestion.

Boardmember Baltay stated they needed to define “private residential spaces” as opposed to “common or public outdoor spaces.” They also need to define a distance from the plane one looks through to keep the viewer a greater distance away to meet the privacy requirements. On the other side they should define a distance of say 50 feet within a 45 degree angle. Then they should list the mitigation techniques.

Vice Chair Hirsch thought that there should be no balconies within 20 feet. Landscape otherwise handles the privacy issues in that dimension. Thirty feet is an appropriate distance for privacy based on his experience in New York. He did not find 50 feet to be an appropriate dimension for privacy.

Boardmember Baltay asked if Vice Chair Hirsch was suggesting they change 20 to 30 feet.

Vice Chair Hirsch explained that within 20 feet there should not be any balconies.

Chair Thompson suggested that there could be so long as they had an 18 inch barrier so that a person on the balcony could only see down at a 45 degree angle. That is similar to the daylight plane.

Vice Chair Hirsch stated that Ms. Eisberg convinced him there should not be balconies within 20 feet.

Boardmember Baltay thought that was extremely restrictive and could mean that some buildings could not have balconies. If one could design a balcony with no privacy impact then they should be able to do that.

Vice Chair Hirsch asked how a balcony would not have a privacy impact.

Chair Thompson explained that if eye height was 60 inches and the balcony railing was at 42 inches then the difference is 18 inches. If one looks down at a 45 degree angle, which is the same as the daylight plane, then an 18 inch horizontal barrier is required.

Vice Chair Hirsch inquired what the barrier would look like.

Chair Thompson said that it could be a planter or a shelf.

Boardmember Baltay indicated it could be a deeply recessed window.

Vice Chair Hirsch indicated children could still look under the barrier.

Chair Thompson stated they could require railings to be 85% opaque.

Boardmember Baltay did not believe they should prohibit balconies but that balconies within a range had to meet privacy standards. he suggested that the standard should be based off a 5 foot eye level.

Vice Chair Hirsch indicated balconies would only be private if people were sitting, not if they were standing and looking over the railing.

Chair Thompson noted that was when the 18 inch barrier would apply. She cited the roof terrace on the Oakland Museum of Art. If Palo Alto uses the daylight plane of 45 degrees as a standard then an 18 inch depth from a balcony guardrail that is 42 inches high would obscure vision.

Vice Chair Hirsch stated that the concept was terrific but that it might not work for all buildings.

Chair Thompson said it was an and/or.

Boardmember Baltay repeated that it was an available tool for architects. The ARB does not want to limit architects and builders but wants to achieve privacy goals.

Vice Chair Hirsch indicated he agreed.

Chair Thompson stated that they would keep balconies on the second story, but they would require an 85% solid railing and an 18 inch barrier.

Vice Chair Hirsch said that it should be solid in some form or opaque.

Boardmember Baltay asked why the third floor was not considered an equal privacy impact. He thought that the standard should apply to all balconies. The concept is that one floor vertical is enough to ensure



privacy but that would really depend on the adjacent building. If one was adjacent to a single story then a third floor balcony might be okay.

Chair Thompson asked Ms. Eisberg if there was a qualification built in.

Ms. Eisberg indicated there was no qualification for balconies on the upper stories.

Boardmember Baltay thought they should be more restrictive, and applicants could have a subjective review if they wanted something else.

Vice Chair Hirsch stated that if you were in an adjacent property a balcony on the third floor could be just as annoying as one on the second. On the third floor one might see over the trees.

Boardmember Baltay was not convinced that third floor balconies were a lower privacy impact than second.

Chair Thompson wondered if it was so close to the property line that it would not make a difference.

Ms. Gerhardt suggested they have two different measurements. There could be no balconies within a certain distance and then planter balconies in a larger distance. Possibly beyond 50 feet there could be a regular railing.

Chair Thompson summarized that the ARB was for balconies within 20 feet and that they would have to conform to the 85% solid railing and/or have the 18 inch horizontal screen.

Ms. Gerhardt displayed a picture for consideration.

Chair Thompson said that the 18 inches would have to be at 42 inches high.

Boardmember Baltay explained that was not necessarily true. To 42 inches it has to be 85% solid. If a person is 18 inches back from that it would also be acceptable. So Ms. Gerhardt's photo may meet the requirements if the railing were more solid.

Ms. Gerhardt confirmed that an 18 inch planter with an 85% solid railing would be acceptable.

Chair Thompson said that was correct.

Vice Chair Hirsch stated that he would say either/or because a deeper planter or higher plants would work.

Boardmember Baltay said a 5 foot high railing at 85% opacity would also work.

Chair Thompson noted that they were establishing minimums not maximums.

Vice Chair Hirsch did not want to require planters and was fine with opaque glass detailing.

Chair Thompson agreed. There just must be a horizontal barrier.

Ms. Gerhardt said that it had to keep a person back 18 inches from the railing.

Chair Thompson said that they could go right up to the edge of the railing so long as it had something that projected 18 inches.

Boardmember Baltay stated it needed to be defined like the daylight plane. Everything comes back to sightlines. The ARB should not tell an architect how to do it but should provide options. Those are things that need to be objectified. Architects should be provided parameters within which to solve the problem.

Ms. Gerhardt said they could do a 5 foot 85% solid railing as one option with the second being the 42 inch railing with something that either holds people back 18 inches or projects out 18 inches.

Boardmember Baltay agreed.

Chair Thompson thought the simple solution would be at a sightline of 60 inches above finished floor level the sightline needs to conform to a 45 degree angle.

Boardmember Baltay agreed that the daylight plane language had worked pretty well.

Ms. Gerhardt indicated there was an issue defining what line of sight meant.

Chair Thompson explained that it would be 60 inches to the architectural feature must be 45% perpendicular to the plane.

Ms. Gerhardt indicated they were starting at the top of the railing.

Chair Thompson agreed. It could also be from the closest habitable location on the balcony or floor.

Boardmember Baltay stated that Chair Thompson was trying to define a plane where one could break the privacy. So the sightline starts at that plane perpendicular to the plane there must be a 45 degree sightline. It is like the daylight plane in reverse.

Ms. Gerhardt noted that a second story balcony could look up to a fourth story window.

Chair Thompson agreed that one could look up.

Ms. Gerhardt asked if that needed to be blocked.

Boardmember Baltay said that it did not. The ARB feels that daylight planes do not block that so it is not important.

Chair Thompson agreed that looking down was the important point. So it would be a 45 degree downward angle as per the daylight plane.

Boardmember Baltay indicated that two balconies directly across from one another at 25 feet they could stare at each other.

Ms. Gerhardt stated that was why she kept returning to the 5 foot railing and 18 inch shield. That would be easier to implement.

Ms. Eisberg noted that people with children would be concerned about planters being a climbing hazard with children. Because of that she preferred the daylight plane idea or a vertical barrier that could not be climbed.

Chair Thompson said that the designer would have to confirm that at 60 inches above there was something obscuring a sight line that forces a habitant to look downward at a 45 degree angle. There were many ways to solve the safety issue.

Vice Chair Hirsch agreed that it should be an angled issue. The safety issue was not one for the ARB to decide. He assumed that no matter the dimension there would still be trees.

Ms. Eisberg said that was correct under the current proposal.

Vice Chair Hirsch thought the tree changed everything.

Chair Thompson said that it should be an and/or so people could choose the landscape privacy instead of the sightline plane idea. She further suggested that they call it the 45 degree sightline plan.

Vice Chair Hirsch confirmed there was also fencing.

Ms. Gerhardt noted that perimeter fencing was usually 7 feet.

Boardmember Baltay suggested that the railings be 85 % opaque to 5 feet high. Anything less or different would require a subjective review.

Chair Thompson thought 5 feet was intense and if an architect could make the sightline work at 42 inches that was sufficient.

Boardmember Baltay did not know how to codify that and again noted that there could be another balcony just across the way.

Vice Chair Hirsch stated that it would be 40 feet away.

Boardmember Baltay thought that did not matter.

Ms. Gerhardt noted it would only be 20 feet on the new project's side. It could be changed to say 40 foot separation between buildings.

Boardmember Baltay and Chair Thompson noted that was hugely restrictive.

Ms. Gerhardt said that if they were 40 feet away from another residential use there would be extra measures. She read the proposed language aloud and noted that it was a 20 foot separation.

Chair Thompson noted that the windows could be offset.

Ms. Eisberg confirmed that the distance was to the adjacent building and only counted if it had habitable windows, a deck, or a balcony.

Chair Thompson asked if offsetting the windows was noted.

Boardmember Baltay reminded everyone that was difficult to document.

Ms. Eisberg said that was an intent statement but not a standard.

Boardmember Baltay repeated that he thought opaque glazing to five feet was the answer. He did not think the angle could be objectified. Stair windows in a common residential area was not an issue. The landscaping should be along the entire adjoining areas between the two buildings.

Chair Thompson asked why it wouldn't align with the second floor.

Boardmember Baltay said that it could, but that he wanted to see more than that.

Chair Thompson read "aligned with second floor windows."

Boardmember Baltay stated that was fine. Balconies should just have 5 feet of 85% opacity.

Chair Thompson disagreed on the 5 foot guardrail requirement as it could be solved with something lower and deeper. She asked if the ARB liked the idea of a sightline plane.

Boardmember Baltay did not see how they could craft the regulations but agreed that the design idea was wonderful.

Chair Thompson said it could be handled just like the daylight plane.

Boardmember Baltay noted again that it would not work if there was a balcony directly across the way.

Chair Thompson asked if they were assuming two big multifamily buildings next to each other and stated that the privacy issues were not as big of a deal in that situation. The issue is between larger buildings next to lower density and lower scale. Otherwise there would be pyramid buildings everywhere. She suggested they look at the matter as a zoning issue.

Boardmember Baltay thought the privacy standards applied to multifamily buildings next to each other.

Chair Thompson disagreed.

Boardmember Baltay asked if it would apply in RM40 to RM40.

Ms. Gerhardt said that the objective standards would be applied to housing development projects. It has been refined to include extra criteria that would be applied if a building abutted a residential use within 20 feet.

Chair Thompson confirmed that it could be next to either a tall or short residential use.

Ms. Gerhardt stated that they had not defined that. If one was more than 20 feet away from a neighboring residential use then the standards do not apply.

Vice Chair Hirsch inquired where the 20 feet standard came from.

Ms. Gerhardt explained it was the staff proposal and the ARB could change it if they felt that was appropriate.

Chair Thompson explained that the additional measures happen within 20 feet. If someone was 30 feet then it did not apply.

Boardmember Baltay was open to increasing the 20 foot number.

Ms. Gerhardt asked the ARB to define at what point the extra measures would be required.

Boardmember Baltay noted that it was 20 feet of facing windows or outdoor uses. It is less restrictive. He stated that he could support 30 feet.

Chair Thompson stated that she did not. At 30 feet it is far enough away that one does not need the additional measures.

Vice Chair Hirsch said that it was 60 feet in the New York brownstones.

Boardmember Baltay stood by his statement that 50 total feet was needed to maintain privacy.

Vice Chair Hirsch asked if he meant window to window.

Boardmember Baltay said he meant person to person.

Vice Chair Hirsch disagreed and thought it should be window to window. Window to yard would be 30 feet.

Boardmember Baltay stated that 20 feet was pretty close.

Chair Thompson asked what would happen in a scenario under IR.

Boardmember Baltay said that there would be a tightly enforced 5 foot barrier.

Ms. Gerhardt said that with a two story home there could be two rear balconies facing each other. They would be 40 feet apart with trees in the middle.

Vice Chair Hirsch indicated he could agree with that.

Boardmember Baltay stated that the side yard was the issue.

Chair Thompson thought the standards would not work in a dense zone.

Boardmember Baltay said that they would drive applicants to a subjective review.

Chair Thompson thought the City wanted the buildings to happen regardless of subjective review. The point is to fulfill the State's desire to streamline.

Boardmember Baltay noted it was also to protect the privacy of the citizens.

Chair Thompson understood that.

Boardmember Baltay explained Council found backyard to backyard windows a violation of privacy when it has been appealed to them, even over 40 feet. Council tends to side with privacy protection, and he gave an example of that. The ARB has to listen to Council.

Vice Chair Hirsch explained the situation of his brownstone in New York and noted that he could not see his neighbor's activities.

Chair Thompson asked for suggested changes.

Boardmember Baltay asked at what distance they should make the standards applicable. Staff suggested 20 feet.

Chair Thompson indicated that she was fine with that standard.

Boardmember Baltay repeated that he suggested 30 feet.

Ms. Gerhardt noted that Vice Chair Hirsch suggested 60 feet.

Vice Chair Hirsch said that was not serious.

Ms. Gerhardt explained that it was currently written as window to window of 20 feet.

Vice Chair Hirsch did not want balconies within the 20 feet.

Boardmember Baltay indicated that was a separate question. The first thing they needed to decide is the distance that would trigger the privacy mitigations.

Vice Chair Hirsch said that he thought 30 feet was acceptable.

Ms. Gerhardt noted that by straw poll at 30 feet there would be extra measures. She asked the ARB to define the measures.

Boardmember Baltay suggested they start with windows.

Ms. Gerhardt heard that the 15% angle was too hard to define.

Chair Thompson asked what was hard to define.

Boardmember Baltay explained that it had to be angled away from the privacy impact.

Chair Thompson said that she did not see how that was hard to define.

Boardmember Baltay asked Ms. Gerhardt if the privacy impact was easy to define.

Ms. Gerhardt brought up Boardmember Baltay's point about architects having to survey for windows, etcetera.

Chair Thompson said that was for offset windows.

Boardmember Baltay was happy saying a window had to be angled 15 degrees away from the privacy impact as the objective standard but did not know if a judge would agree with that.

Ms. Gerhardt stated they would need to define privacy impact.

Chair Thompson asked why 15 degrees away from facing windows would not work.

Boardmember Baltay explained that did not cover a balcony or deck.

Chair Thompson requested that Boardmember Baltay sketch the scenario. She drew out a scenario for the other ARB members.

Ms. Gerhardt suggested that the drawing be held up for the screen.

Chair Thompson suggested that they go to 30 or 45 degrees and thought that solved the privacy issue. She asked why they would not allow that as an option.

Boardmember Baltay indicated he was in favor of it, but it had to be carefully defined.

Ms. Gerhardt requested clarification on the degree the windows need to be titled.

Chair Thompson said that she and Boardmember Baltay had different interpretations of where it was being measured from. so 15 degrees parallel to the façade works for privacy.

Vice Chair Hirsch disagreed and thought that whatever happened needed to do so in the plane of the window with diffuse glass.

Chair Thompson asked why architects could not be allowed to angle windows for privacy reasons.

Boardmember Baltay said that they had to define what they mean by “sufficient to ensure privacy.” If windows are angled improperly they do not achieve privacy. It is hard to define how that would need to be done.

Vice Chair Hirsch said that there were requirements for light and air ventilation for the building being built. Within that restriction privacy is created by making the glass opaque. If architects want to do something else then they can.

Ms. Gerhardt noted that she heard the frosted windows as a third option. First is the 5 foot windowsill, then the 15 degree angle, and then the frosted windows. They had agreed that the common spaces did not require those measures as they are seen as casual viewing.

Vice Chair Hirsch indicated he could agree with those.

Chair Thompson thought they agreed that the 5 foot measure did not work in private spaces.

Ms. Gerhardt agreed that it would not work with an egress window, which is why the other options are necessary.

Boardmember Baltay agreed to the angle so long as it was 15 degrees away from perpendicular to the wall of a building. That way the window is looking down the side of the building. It should also say something about being away from the privacy impact.

Vice Chair Hirsch appreciated creating the variety.

Boardmember Baltay thought it was important that the ARB be clear that if a window were operable it has a privacy impact when open. That is allowed and should be argued to Council that it is a necessary practical requirement.

Vice Chair Hirsch agreed.

Chair Thompson confirmed that egress windows needed to be able to open completely.

Boardmember Baltay said that there were standards.

Vice Chair Hirsch explained that in New York there were requirements related to children.

Boardmember Baltay said that did not apply in Palo Alto.

Ms. Gerhardt thought that the ARB rightfully said that was something for the architect to ensure.

Boardmember Baltay asked what they should say about stair corridor window privacy. He thought it was fine as defined.

Chair Thompson asked how the ARB would suggest they change staff's language on the windowsills.

Boardmember Baltay said that it should be a window with a sill lower than 5 feet may be allowed provided there is translucent or opaque glazing below 5 feet.

Ms. Gerhardt thought that the three options of a 5 foot sill, frosted up to 5 feet, or the 15 degree angle were generally understood by staff.

Chair Thompson confirmed that if a window were angled then it could potentially be floor to ceiling.

Ms. Gerhardt agreed but noted they needed to define things more exactly.

Chair Thompson stated that there were also landscape and balcony options to maintain the privacy.

Ms. Gerhardt said that if they left it as an "or" an applicant could use just the landscaping.

Chair Thompson indicated that for a multifamily with a double loaded corridor then a 5 foot sill would be rough.

Boardmember Baltay agreed that would not work. In that case they would have to use obscure glazing.

Chair Thompson thought that would be rough as well.

Boardmember Baltay agreed and noted that applicants would have to reposition buildings so they were more than 20 or 30 feet, depending on what the ARB decides. They could also choose to return to a subjective review or build in another City.

Chair Thompson was glad they were retaining the option to tilt the windows.

Ms. Gerhardt indicated that she crossed out the stair corridor item since the ARB considered it casual viewing.

Chair Thompson and the ARB agreed.

Ms. Gerhardt said that the ARB seemed content with the landscaping with a note to refine the amount of required trees.

Vice Chair Hirsch noted that the leafing of the trees selected was also important.

Ms. Gerhardt stated she did not know how to measure that aside from evergreen versus deciduous.

Vice Chair Hirsch did not want to just require evergreens.

Ms. Gerhardt indicated it currently read 50% evergreen.

Vice Chair Hirsch suggested language like "year round canopy" and noted many trees fit that category.



Ms. Gerhardt said there were a fair number of options in the evergreens.

Vice Chair Hirsch said that there are deciduous trees that keep their leaves year-round.

Ms. Gerhardt indicated that she would discuss the wording with the Urban Forester.

Chair Thompson stated that the ARB was mostly content with the landscape section.

Ms. Gerhardt asked if the landscaping was “and” or “and/or.”

Chair Thompson stated that she was okay with “and/or” because she was concerned about the quality of life that the window standard would put on the occupants.

Ms. Gerhardt said that they could leave it as “and/or” but they must understand that an architect could choose one or the other. She asked if the ARB was okay if they only did one and not the other.

Vice Chair Hirsch stated he thought that was acceptable.

Boardmember Baltay indicated he had to think about it. The methods are not perfect so two would be better than one, but they are onerous and to require both would be hard.

Chair Thompson was strongly in favor of “and/or.”

Vice Chair Hirsch clarified that they were discussing multiple dwelling buildings higher than three stories.

Boardmember Baltay stated that in that situation a tree had no impact.

Ms. Gerhardt indicated they could say “and/or” but the minimum would be “or.”

Chair Thompson suggested that they require an 18 inch planter on upper levels.

Boardmember Baltay suggested that the window standards always apply to buildings more than two stories. That would be easily objectifiable.

Chair Thompson said that they would still compromise the quality of life for the people on the upper levels.

Boardmember Baltay said they could do 50% glazing, a 5 foot sill height, or angled windows. Landscaping is not sufficient to mitigate privacy impacts for a third floor. The second floor could rely on the landscaping.

Chair Thompson clarified that she was suggesting a planting along the perimeter of the third floor. It could be on the edge of the window or the balcony.

Boardmember Baltay asked if they would require a planter box out of every window.

Chair Thompson said it was a suggestion.

Boardmember Baltay thought landscaping should only apply to the first two stories. He asked if staff could word it that way.

Ms. Gerhardt thought the window solution was for second stories and above. Landscaping mostly helps second floor issues. She recommended they call out the difference between the second and third floor.

Chair Thompson thought it was unreasonable that an adjacent building might have floor to ceiling windows and then a new project 30 feet away comes in and it has to have 5 foot sill heights.

Ms. Gerhardt agreed that it was first come first served.

Chair Thompson thought that it did not help anyone because the new building would not be attractive to look at either.

Boardmember Baltay asked if everything should apply to potential residential uses.

Chair Thompson stated that would limit light and air even when a project faced an open lot.

Ms. Gerhardt thought that given the Council's request it was best to say windows and landscaping. Alternately the ARB could leave the issue open and let the Council decide.

Chair Thompson stressed that in order for multifamily housing to be successful it must provide a good quality of living. Palo Alto does not want multifamily housing to fail.

Boardmember Baltay thought they needed to require both landscaping and window protections. Landscaping should be included in any project for quality of life.

Chair Thompson said that there had to be something else.

Boardmember Baltay again argued that applicants could go through a subjective review.

Ms. Gerhardt stated that it was 12:25 p.m.

Chair Thompson indicated that they got through one item out of four.

Boardmember Baltay reminded her that they had not settled the balcony issue. He asked what the railing height should be at 30 feet.

Vice Chair Hirsch asked if they were talking about balconies face of a building 20 feet away.

Chair Thompson stated that they agreed on 30 feet.

Ms. Gerhardt said that one option was a 5 foot railing and another was a 42 inch railing with an 18 inch depth. Railings must be 85% solid. They also discussed a 45 degree sight plane similar to the daylight plane.

Chair Thompson reminded Ms. Gerhardt that they were calling the second option the sight plane.

Ms. Gerhardt indicated that she might need someone to diagram the concept for her but that she could imagine it.

Vice Chair Hirsch asked if there was a maximum depth of the balcony.

Chair Thompson did not think they needed to define that. She asked how the ARB felt about multifamily to multifamily privacy. Many of the public and Council's concerns relate multifamily to single family.

Vice Chair Hirsch agreed that was the main concern.

Boardmember Baltay said that two neighboring six unit condominiums were typical of Palo Alto.

Ms. Eisberg explained that many of the public comment concerns at the Council meeting were from residents within RM zoned properties.

Vice Chair Hirsch requested she describe the properties.

Ms. Eisberg gave a condominium project on California Avenue as an example.

Chair Thompson clarified that would be up to four stories.

Ms. Eisberg stated that was correct.

Chair Thompson asked if the concerns were between condo projects.

Ms. Gerhardt indicated those citizens wanted the same privacy rights as single family homes.

Chair Thompson noted the ARB had to ensure that building occupants had access to light and air and that the quality of life is good. She restated her concern about 5 foot windowsills and a lower quality of life in a multifamily building. She asked about introducing a vertical screen beyond the balcony space.

Boardmember Baltay agreed that would meet the five foot requirement for sight lines. He suggested the standard be a 5 foot sightline with anything below it being 85% opaque or some other objectively demonstrated means of screening.

Ms. Gerhardt confirmed that if the architect could accomplish visual barriers in another way it would be acceptable.

Boardmember Baltay said they could write the code that way with an exception that says any other clearly demonstrated configuration that prevents a direct sightline below 5 feet to an adjacent residential property is acceptable. That is the direction an architect looks for and to be clearly demonstrated it would require a sectional diagram or blueprint. He asked if that met the requirement.

Chair Thompson and Vice Chair Hirsch indicated that they thought they understood.

Boardmember Baltay further explained that there would be a cross section completed that showed the sightline and how it protected privacy. The burden is on the applicant to make an objective drawing.

Chair Thompson said that although it would be difficult to document adjacent buildings it might be required.

Boardmember Baltay said that they needed to define what had to be protected and then let architects solve the problem. There must not be any sightlines below 5 feet between two points.

Chair Thompson asked if the City could require an applicant to document the adjacent buildings.

Boardmember Baltay said that it would drive everyone to subjective review.

Ms. Gerhardt understood what Boardmember Baltay was saying but did not know how to implement it. Staff was attempting to create a box that housing projects could fit into.

Chair Thompson said that the neighbors would have to agree.

Ms. Gerhardt said the City could not force neighbors to allow applicants onto their property.

Vice Chair Hirsch requested Boardmember Baltay restate his idea.

Boardmember Baltay said applicants would need to define the spaces on its property and the adjacent properties it is trying to protect. Then they could use defined tools to mitigate the privacy impacts. What the City would be doing is defining a privacy criterion that it wants met.

Vice Chair Hirsch said that if the applicant did not have a choice the matter was too complicated.

Boardmember Baltay explained that if it could not be perfectly enforced it was at least a standard for citizens to go by to seek enforcement.

Vice Chair Hirsch asked what the clear standard was.

Boardmember Baltay said that it was 50 feet from the plane of a building or edge of a balcony, and it has to be a private residential use, not common. If there are two buildings within 50 feet side by side it would apply all the time. Further, 50 feet may not be the correct distance and was open for further ARB or Council discussion.

Vice Chair Hirsch said that he saw many issues.

Boardmember Baltay explained that Council wanted them to make things more private, so they need to show Council what that meant. There is no "silver bullet" that accomplishes what they Council has requested.

Chair Thompson agreed.

Boardmember Baltay thought Council should understand the documentation required and the fact that it would open the City to lawsuits. At least the ARB will have answered Council's questions. He stated he could support everything they had discussed so long as balconies were required to have 5 foot sightlines.

Ms. Gerhardt confirmed that sightlines were straight out and down.

Boardmember Baltay indicated he meant got anything under 5 feet needed to have an obscured barrier if it was within the range.

Chair Thompson suggested that an applicant note the height of an adjacent building and...

Boardmember Baltay repeated he was fine with the exception they discussed where an applicant could objectively show that the privacy impacts were mitigated.

Ms. Gerhardt summarized Boardmember Baltay's suggestion and confirmed that she understood it.

Chair Thompson stated that if an adjacent building were only 20 feet tall and the proposed building was four stories then the rule would not be applicable.

Ms. Gerhardt agreed that was the case if they had an 85% solid standard 42 inch guardrail [audio cut out 3:02:00].

Boardmember Baltay ... should still apply.

Ms. Gerhardt said that the 30 feet was measured window to window.

Boardmember Baltay stated they should word it “residential use to residential use.” On 4 story buildings the balconies should not be required to have privacy screening if the neighbor is only two stories tall. It is also likely that the balcony would be more than 30 feet from the neighboring use.

Chair Thompson indicated that the applicant would have to prove that.

Boardmember Baltay and Ms. Gerhardt agreed that it would need to be documented.

Ms. Gerhardt asked if the ARB wanted to say, “neighboring use” or “residential window.”

Boardmember Baltay repeated that they had to define residential uses.

Ms. Gerhardt said that was in the first sentence and read it aloud for the ARB.

Boardmember Baltay stressed that the 30 feet would be measured use to use.

Ms. Gerhardt asked if there would be extra measures if the neighbor had a blank wall.

Boardmember Baltay said no. “Residential use” meant a window or patio or other place with a privacy impact. The 30 feet should be measured use to use. It would be challenging to show, but it would be objective.

Chair Thompson said that an applicant could learn where the edge of a building was and the height.

Boardmember Baltay thought that in order to create a good design an architect needed to know that information anyway.

Chair Thompson explained that she was more concerned about City staff’s ability to verify the distances.

Boardmember Baltay thought that they require the distance be shown in a drawing. If it turns out the document is incorrect then there is a record of it.

Ms. Gerhardt agreed that it would be difficult for staff to confirm the drawings. Staff can ensure that they are reasonably correct.

Chair Thompson indicated that they spent two and a half hours on one item. There are three items remaining and the crosswalk document.

Vice Chair Hirsch asked if she wanted to stop.

Chair Thompson said that she was trying to figure out the next step.

Vice Chair Hirsch suggested they discuss the work plan another time.

Chair Thompson agreed.

Boardmember Baltay indicated he would defer to the Chair.

Chair Thompson asked if she should make a Motion.

Ms. Gerhardt indicated they had not finished the current item. Before they adjourn they could make a Motion to continue it.

Chair Thompson indicated that she had many comments on menu of options and would need longer than 15 minutes to discuss them.

Ms. Gerhardt summarized that council asked they require more required options. The ARB has suggested that might not be physically possible in one building. Therefore they want to know if the ARB had additional options to add that would be required.

Chair Thompson asked if Vice Chair Hirsch had done research on the item.

Vice Chair Hirsch asked if they were discussing options for corner buildings.

Chair Thompson asked for a packet page.

Vice Chair Hirsch directed them to Packet Page 22. The distinction made about corner buildings with a primary retailer entrance was good. Under corner element material and fenestration he wanted it changed to say either shown as an element change in fenestration on the ground floor or the corner of the building.

Chair Thompson asked if he was suggesting that they add an item to make it recessed.

Vice Chair Hirsch indicated he was and that showing something solid to the ground eliminated the possibility of a recess.

Chair Thompson stated that there was nothing that indicated a recess was not permitted.

Ms. Eisberg shared her screen and stated it was the building orientation section of the draft standards. the drawing is talking about the orientation and does not preclude recesses or projection, which are discussed later on. The drawing is a simplification showing an entry.

Vice Chair Hirsch said that drawing ii. showed that the whole corner was changed in fenestration.

Ms. Eisberg explained that i. showed ground floor retail or primary building entrance and ii. Shows a different material application or fenestration pattern for the rest of the façade. The idea is to highlight the corner in some way.

Vice Chair Hirsch said that the use function could be on the ground floor and the top could be a continuation of the rest of the façade.

Ms. Eisberg said that the drawing showed building orientation and was trying to empathize the corner. There are three options to do that.

Vice Chair Hirsch confirmed that one was based on use and one on material and fenestration.

Ms. Eisberg agreed that i. is based on use. The point is that the entrance is within 25 feet of a corner and the assumption is that the entry is defined.

Vice Chair Hirsch indicated that he was confused about having an entry below with the material above continuing. He asked why the first one was not for the entry, use, and material change all together.

Ms. Eisberg thought that was what the Council was getting at. The corner should be emphasized with two or more options. Part of the question is if the ARB believes that to be too much.

Chair Thompson asked if they wanted to force applicants to do both.

Vice Chair Hirsch asked them to look at iii and opined that the ARB should not approve it. Corners should not have open space as that creates a weak building situation.

Chair Thompson asked why he thought that.

Vice Chair Hirsch thought it was inappropriate to cut out a building's primary corner.

Chair Thompson indicated she saw Vice Chair Hirsch's perspective. She thought they were providing applicants with options to design a strong building corner. There might be a situation where the open space in the corner made sense. She mentioned a current project that she is working on and noted that opening the corner gave them unexpected opportunities. A restaurant or café could have seating in an open entry plaza.

Vice Chair Hirsch thought that in that case the description was not broad enough.

Chair Thompson asked him which part of the description he was referring to.

Vice Chair Hirsch said that it did not mention several options.

Chair Thompson noted that the Legend named the options.

Ms. Eisberg interjected that one of the issues was that they were calling it common open space, but retail infers a mixed use scenario where there could be cafe seating. She suggested that staff could clean up the language. The idea was that there would be a relationship between the outdoor open space and the indoor communal space.

Vice Chair Hirsch stated that the space needed to be justified or there was an issue with the form of the building itself. If there was enough of a relationship between the spaces to make it sensible then he supported the idea.

Chair Thompson stated that it was 1:00 p.m. and they had three more issues. She asked if people could stay or if they could hold another special meeting before the hearing on the 17<sup>th</sup>.

Ms. Gerhardt stated another special meeting could be held legally but it would be difficult on the staff. Staff was available to continue meeting for the rest of the day.

Boardmember Baltay indicated that he could stay.

Ms. Gerhardt suggested they have lunch.

Ms. Eisberg stated she needed to leave by 2:00.

Vice Chair Hirsch said he would eat in chamber.

Chair Thompson indicated that she also had to leave at 2:00. She indicated that they could eat and talk.

Boardmember Baltay thought it was inappropriate to eat at the dais and suggested a 10 minute lunch break.

Chair Thompson noted that would give them 50 minutes to do everything else.

Boardmember Baltay thought menu options could be quick.

Chair Thompson announced a 10 minute break.

### **ARB Break**

Chair Thompson called the meeting back to order.

Ms. Gerhardt stated Ms. Eisberg had a suggestion for how to handle the remaining items.

Ms. Eisberg suggested they skip the menu of options.

Ms. Gerhardt asked Ms. Eisberg to pause a moment while the ARB spoke amongst themselves.

Ms. Eisberg suggested they move to the contextual height transitions since there are suggested standards for the ARB to give feedback on. Then they can work on the missing crosswalk items which are also specific. The menu of options will require additional ideas and the ARB could provide feedback via email.

Chair Thompson agreed that it would be easier to send Ms. Eisberg her comments on the menu of options via email and asked the other Boardmembers to do the same.

Boardmember Baltay agreed.

Chair Thompson introduced the height transitions.

Ms. Gerhardt directed them to Packet Pages 12 and 13.

Ms. Eisberg recapped that the Council wanted additional standards for a new project that is taller than an existing project by one or two stories. She shared her screen with the ARB and read the suggested draft standards and showed a diagram. One idea is to have an upper story setback, and another was to have an alternate daylight plane option.

Chair Thompson noted that the drawing did not look to scale.

Boardmember Baltay observed the same thing but understood the concept.

Vice Chair Hirsch asked how it would fit with a commercial height and a full floor of residential.

Ms. Eisberg agreed that everything depended on the use.

Chair Thompson confirmed that the drawing was abutting residential use.

Ms. Eisberg explained that she only mentioned residential use because the daylight plane does not come into play when one is abutting a commercial zone that has a residential use on it.

Vice Chair Hirsch asked for more explanation.

Ms. Eisberg explained that the concept was when you were more than 20 feet higher (interrupted)



Vice Chair Hirsch indicated that the drawing showed an existing house compared to a new building.

Ms. Gerhardt said that it would not be an existing house because then the daylight plane was used. This would demonstrate what would happen next to a commercial, RM40, or PC zone. She instructed the ARB to see the neighbor as a lower mixed use or commercial building.

Ms. Eisberg explained that the council's concerns were not related to specific uses, densities, or types. Council cared about the look and the context.

Boardmember Baltay thought staff was on the right track, but they needed to define the dimensions. The drawing is a bit off in scale. The objective could be to allow 3 stories of a building within 10 feet of the property line and anything above that should be stepped further back. Three stories would really be closer to 35 feet so the proposed daylight plane should start at 35 feet 10 feet in or 25 feet at the property line.

Vice Chair Hirsch asked if the new building would start at 35 feet.

Boardmember Baltay stated that it meant any building could be 35 feet high with residential use 10 feet from the property line. That allows for 2 stories of residential.

Chair Thompson thought that would meet the intent.

Ms. Eisberg asked if that would apply where there was not currently a daylight plane.

Boardmember Baltay said yes and that he thought the daylight plan was the best way to regulate it. The earlier proposal was too complicated.

Chair Thompson supported the "or" because the setback is measurable.

Boardmember Baltay was fine so long as it could be done both ways.

Vice Chair Hirsch used the diagram to discuss the idea and thought it would be good to have an alternative on a lower scale residential neighborhood versus mixed use. If the existing building was mixed use then 35 feet could work. If it were lower profile then it might look overwhelming.

Chair Thompson indicated concern about pyramid shaped buildings.

Ms. Gerhardt said that the RM zone included a daylight plane when adjacent to lower density. Only when adjacent to an RM40 or PC would there potentially not be a daylight plane. The City might want the extra requirement in those situations.

Chair Thompson confirmed that it was only applicable when stepping down to a lower building.

Ms. Gerhardt stated that they got to create that rule.

Ms. Eisberg indicated that was the way staff had currently suggested it.

Chair Thompson thought that if the adjacent existing building were three stories then it should not trigger this daylight plane. If a new project were next to something shorter she could understand the new restrictions.

Ms. Gerhardt indicated that the maximum height limit was 50 feet so if the adjacent building were 30 feet and an applicant wanted to build to 50 feet they would not trigger the extra measure.

Chair Thompson stated that the new requirements related to adjacent buildings less than 30 feet.

Boardmember Baltay thought that was an issue for the Planning and Transportation Commission (PTC). From an architectural point of view he supported a 35 foot daylight plane 10 feet away from the property line.

Chair Thompson and Vice Chair Hirsch agreed.

Chair Thompson requested staff display the upper story setback diagram for further review.

Ms. Gerhardt said that staff wanted the ARB to pick one or the other since they would create different outcomes.

Chair Thompson asked if the applicant could choose one or the other.

Ms. Gerhardt said that the architect would pick the second option.

Ms. Eisberg indicated that it would provide more building area.

Boardmember Baltay suggested they follow the logic laid out as they looked at the drawing they would get the look. The drawings were not helpful as they were not in scale. The 35 foot daylight plane was the simple way to handle the matter. The second option was complicated.

Chair Thompson pointed out that they were doing similar things already elsewhere in the objective standards.

Boardmember Baltay said that he approved it because it was the only standard they had possible but would prefer something simpler like the daylight plane.

Vice Chair Hirsch asked if the option was a transition to lower density building types on Packet Page 28.

Ms. Eisberg explained it would be in addition to.

Vice Chair Hirsch asked about the reasoning.

Ms. Eisberg stated that the Council was interested in more regulations than previously proposed.

Vice Chair Hirsch asked how they would choose between the two.

Chair Thompson asked how it was different from B1A

Vice Chair Hirsch appreciated the drawing and was surprised by the transition to the lower density building currently included in the book.

Chair Thompson said that she understood how it was different after hearing Vice Chair Hirsch's thoughts. She stated that she could support it.

Vice Chair Hirsch thought it was a substitute for the other idea not something to be used in addition.

Ms. Eisberg clarified that the first idea was the additional setback on the side yard. The issue with the transition to lower density building types is that it only applies when abutting a lower density district. Any building type that is one or two stories should have a transition. The upper floor setbacks apply in the contextual situation.

Chair Thompson thought that made sense. It was similar to B1A [see above note] but to the side. She asked if it would apply to specific districts or in all cases.

Ms. Eisberg said that based on the Council motion they should be thinking about privacy and contextual height in more residential districts including RM.

Boardmember Baltay asked what they had decided.

Chair Thompson stated that they were taking his feedback about the daylight plane going to 35 feet and over 45 degrees. With the upper story setback there were no modifications.

Vice Chair Hirsch said that he was still confused.

Ms. Gerhardt explained that they were adding both even though staff's request was to pick one or the other.

Boardmember Baltay asked which image they were referring to.

Chair Thompson said that the one on the screen was already in the objective standards.

Boardmember Baltay indicated he did not agree with it.

Chair Thompson said that it was the previous image but with the setback along the side requested by Vice Chair Hirsch.

Boardmember Baltay said that it allowed the building to the property line up to the height of the adjacent building.

Ms. Gerhardt said that staff was offering two suggestions and the ARB needed to pick one or create its own.

Boardmember Baltay thought the 10 foot setback for residential uses was necessary. Then buildings need to be stepped back as they got taller.

Chair Thompson asked if they could allow both.

Ms. Gerhardt said that they could allow both, but applicants would always pick the same one.

Chair Thompson asked what was wrong with the second option.

Boardmember Baltay said that it is on the property line so it would be a privacy issue.

Chair Thompson noted that on the property line there could not be windows.

Boardmember Baltay posited they could build three feet off the line and include windows. Council would not approve it.

Vice Chair Hirsch indicated his confusion.

Boardmember Baltay explained there were two choices for the side yard building profiles. The first is a 10 foot setback plus a daylight plane. The second allows up to the property line and up to the height of the adjacent building and then a modulated step back.

Chair Thompson requested staff show the other diagram.

Boardmember Baltay thought the option was more permissive than Council would allow.

Chair Thompson indicated there was a precedent written on the next page.

Ms. Gerhardt said it was taking the front idea and moving it to the side.

Chair Thompson recalled that Vice Chair Hirsch had argued for that.

Boardmember Baltay argued that it eliminated the 10 foot residential setback.

Ms. Eisberg stated the intention was not to eliminate a required setback. The diagram does not show a setback but if one were required it would be followed.

Boardmember Baltay thought it was very hard to compare in that case.

Vice Chair Hirsch confirmed that the drawing was on the property line.

Chair Thompson said it was if there were no required setback.

Ms. Eisberg explained that if there were no required setback the daylight plane allowed the building to begin at the property line.

Vice Chair Hirsch confirmed that it could go two floors.

Ms. Eisberg stated that if the daylight plane applied it could not go to two floors until you reached a certain point.

Chair Thompson indicated that the drawing said it would start within two vertical feet of the adjacent building.

Ms. Gerhardt explained that in the RM zone there was a 60 or 10 foot required side yard.

Boardmember Baltay did not believe there was anything in the code that would allow multifamily residential use to the property line.

Ms. Gerhardt stated that she would have to look at the commercial districts.

Chair Thompson said if it was possible there would be a street wall.

Ms. Gerhardt explained that in the CZ and CS zones there was no required side yards.

Boardmember Baltay qualified that was unless it was residential use.

Chair Thompson asked what happened if it was mixed use.

Ms. Gerhardt explained there was a 10 foot setback abutting or opposite residential districts.

Chair Thompson thought the diagram did not show it well, but it indicated that the step back would start within 2 vertical feet of the height of the adjacent building. She read the rest of statement and indicated it was similar to the B1A standard.

Boardmember Baltay indicated that if there was a 10 foot tall adjacent building a project would have to have a 6 foot setback at 12 feet for 70% of the length.

Chair Thompson agreed.

Boardmember Baltay stated that was a more permissible envelope and everyone would want that. The potential privacy impacts are huge.

Chair Thompson noted the other privacy screening mitigations for a façade within 30 feet of an adjacent building.

Boardmember Baltay stated that he could not support it and preferred a 35 foot daylight plane starting 10 feet away. Further, he did not think Council would support the idea.

Chair Thompson did not think it was bad.

Boardmember Baltay stated that the ARB's job was to give City Council what it wanted or needed.

Chair Thompson said the other privacy measures should be considered.

Boardmember Baltay thought that was a good point.

Chair Thompson asked if he had other objections that were not privacy related.

Boardmember Baltay indicated he had basic light and air concerns.

Chair Thompson did not think the zoning would allow for Boardmember Baltay's concerns.

Ms. Eisberg said that the zoning would allow the full height where there was no side yard setback.

Boardmember Baltay confirmed that the setback they discussed was for multifamily use not commercial.

Ms. Gerhardt repeated that multifamily had a 6 or 10 foot side yard and commercial has no side yard.

Boardmember Baltay stated that none of the standards discussed applied to commercial buildings.

Ms. Gerhardt said that the regulations were for housing development projects.

Boardmember Baltay agreed and stated that a commercial property could be on the property line and 50 feet tall.

Ms. Gerhardt agreed that if the building was 100% commercial it would not be subject to objective standards.

Chair Thompson noted that would be a discretionary review.

Boardmember Baltay thought the setbacks were important for light and air to residential units. A building needed to be more than 6 feet away from the property line in order to have a good view. It is too narrow for light.

Chair Thompson said that before it could go all the way to the end.

Boardmember Baltay said that was not true for residential.

Ms. Eisberg clarified that it could not if it was abutting residential. If the building were residential but in a commercial district there would not be a side yard.

Ms. Gerhardt agreed that if the project was zoned commercial there was no side setback.

Ms. Eisberg thought that only applied if it was a residential or mixed use project.

Ms. Gerhardt said that if the neighbor was residential there would be a 10 foot setback.

Vice Chair Hirsch asked if a commercial building in a commercial zone on the property line would be allowed side windows.

Boardmember Baltay explained that commercial does not have a side window requirement, but residential needed it.

Chair Thompson noted that units may not face that side.

Boardmember Baltay and Chair Thompson discussed how that possibility might unfold.

Chair Thompson noted that upper levels would have light and air if the neighboring building was lower.

Vice Chair Hirsch stated he did not understand the building type.

Chair Thompson asked if he meant the standard.

Ms. Gerhardt suggested that he imagine that the buildings in the drawing were both commercial or the taller one was mixed use that is how it would occur with no side setback.

Vice Chair Hirsch restated what he heard and confirmed that was correct.

Boardmember Baltay told Vice Chair Hirsch to imagine the second floor was commercial and the top two floors were residential.

Ms. Gerhardt indicated that the second floor would not be commercial because the mixed use project must be 2/3rds housing.

Chair Thompson confirmed it could be housing and go to the property line but could not have windows on that side and would be possible via a double loaded corridor.

Vice Chair Hirsch agreed. He asked for the purpose of the side yard setback.

Ms. Eisberg explained the alignment was related to the context of the neighboring building. With contextual height transitions much of it had to do with the view from the ground and not privacy.

Vice Chair Hirsch confirmed that the 6 foot setback was to provide a relationship to a lower level commercial building. He asked what would happen if the adjacent commercial building was taller.

Chair Thompson said that the new project could go within 2 feet of the height of the adjacent building. The relationship remained.

Vice Chair Hirsch confirmed it would be adjusted accordingly and that was how it would read.

Ms. Eisberg agreed.

Vice Chair Hirsch said it would always be in relation to the existing commercial building.

Ms. Eisberg said that was right.

Chair Thompson requested staff display Packet Page 28 and confirmed her understanding.

Ms. Eisberg agreed.

Chair Thompson asked if that was clear to everyone.

Vice Chair Hirsch understood the diagram but asked where the 70% would be. He thought it was on the face of the building and not the side.

Chair Thompson said that it was a new standard to be on the side.

Vice Chair Hirsch said that it should be on the side.

Chair Thompson confirmed that he approved.

Ms. Gerhardt explained that staff provided two options. The first was to step back on the side and the second was another daylight plane.

Chair Thompson wanted to permit both options.

Vice Chair Hirsch did not understand why the side setback was not applicable in all situations.

Boardmember Baltay and Chair Thompson noted that was what the daylight plane did.

Vice Chair Hirsch agreed that it should.

Chair Thompson said that it would either be the displayed diagram, or it would be a terraced daylight plane on the side.

Boardmember Baltay supported a 35 foot daylight plane.

Vice Chair Hirsch asked if the image was appropriate.

Chair Thompson stated that it needed to be edited.

Boardmember Baltay said that the image did not represent what they had discussed but showed the concept clearly.

Vice Chair Hirsch said that it would have a relationship to the adjacent building by stepping back.

Chair Thompson agreed.

Vice Chair Hirsch confirmed that the diagram was not correct.

Chair Thompson said it had not been updated.

Boardmember Baltay said if they wanted to move it forward they could, but he saw it as a wasted effort.

Chair Thompson thought it was fine.

Vice Chair Hirsch confirmed that there was no front setback.

Chair Thompson and Boardmember Baltay indicated that the front would also have a setback.

Ms. Gerhardt said that the front was already addressed in the proposed objective standards.

Vice Chair Hirsch confirmed that the front setback was to 70%.

Boardmember Baltay indicated that the remaining 30% could be vertical at the front of the building. The side could be concealed from sight at the front.

Ms. Gerhardt asked Ms. Eisberg to display the proposed standard. She explained that it showed the proposed setback on the front and that they were discussing doing something similar on the side. It would be front and side.

Chair Thompson indicated that it would not because it had to have a relationship to the adjacent building.

Vice Chair Hirsch confirmed that there was no situation where it would be the front only.

Ms. Gerhardt explained that the first sentence on Packet Page 13 discussed what would happen if a building was more than 20 feet above its neighbor.

Boardmember Baltay asked Chair Thompson to explain why she thought it had to be adjacent to the neighbor. He did not see a restriction on where the setback had to occur.

Ms. Gerhardt asked Ms. Eisberg to display the proposed diagram.

Chair Thompson noted that the height of the building was more than 20 feet.

Ms. Eisberg thought that needed to be added as the current standard discusses the front of the building.

Boardmember Baltay asked if they could make it so the setback had to be the full width of the adjacent building rather than 70%.

Vice Chair Hirsch asked why the front had to be 70%.

Chair Thompson said that one might want the façade to undulate and go into the front.

Vice Chair Hirsch agreed but asked why it needed to be 70%.

Chair Thompson said that it was the majority of the façade to keep context.

Ms. Gerhardt stated the ARB could choose any number it liked.



Vice Chair Hirsch suggested 40%.

Chair Thompson did not recall where 70% originated.

Boardmember Baltay indicated they discussed the numbers. He stated that they needed to make a decision on the side yard. He repeated that he preferred a 35 foot daylight plane on all residential circumstances.

Vice Chair Hirsch confirmed that would start above the roofline of the adjacent building.

Boardmember Baltay suggested that they use a 10 foot setback rather than a 6 foot and second they should suggest that the recess is in line with the adjacent building.

Chair Thompson noted that it was within two feet of the adjacent building.

Boardmember Baltay indicated he meant horizontally. The daylight plane would start 25 feet at the property line and 35 feet at the 10 foot setback.

Vice Chair Hirsch wanted to see what that would look like.

Chair Thompson thought it was acceptable to do both. She worried that going more than 6 feet cut into living space.

Boardmember Baltay said that a 6 foot balcony was too small.

Chair Thompson said it was standard in multifamily housing. Moving the setback to 10 feet would eliminate dwelling units.

Boardmember Baltay disagreed.

Vice Chair Hirsch sided with Chair Thompson.

Boardmember Baltay stated that was fine and the ARB should move on.

Chair Thompson confirmed that the majority decided to keep both.

Ms. Gerhardt asked Ms. Eisberg to display the diagram explaining the 35 feet. It would provide more development room and height.

Vice Chair Hirsch inquired about the regulation requiring front to back access in residential buildings.

Ms. Eisberg indicated that was a potential missing standard based on staff's review of the criteria.

Ms. Gerhardt stated that would be discussed next.

Vice Chair Hirsch asked about the 10 foot setback.

Ms. Gerhardt said that as it was shown it would be good space for landscaping.

Chair Thompson asked if it related to a setback or if it would happen without the setback.

Ms. Gerhardt explained setbacks and side massing reductions are separate issues. They always have a setback. Sometimes they are 6 feet, sometimes 10 feet, and sometimes 0. If they use the daylight plane then all the buildings would have a 10 foot setback regardless of the regular setback.

Chair Thompson indicated that they wanted to leave both options.

Ms. Gerhardt stated they would propose both to Council. She asked if the ARB wanted to use 35 feet.

Boardmember Baltay asked if they could use 25 feet from the property line. That would make the setback question moot.

Chair Thompson said that was true.

Ms. Gerhardt confirmed it would be the same angle. She stated that they would use the standard setback and then 25 feet from the property line.

Boardmember Baltay noted that the setback was defined elsewhere in the code.

Ms. Gerhardt agreed.

Vice Chair Hirsch noted that they had not had any discussion about parking.

Chair Thompson asked if the ARB could comment on the diagrams before they went to Council. The diagrams need to better illustrate the standard.

Boardmember Baltay agreed.

Ms. Eisberg said that the diagrams would not be used in the ordinance and were only for discussion purposes.

Chair Thompson repeated that if they would be shown to Council they should be edited.

Ms. Eisberg indicated that she had to leave the meeting.

Chair Thompson said that they got through #3 and would send individual feedback on the options via email. The final item was the crosswalks and was just provided to the ARB and they had not really had a chance to review it.

Ms. Eisberg explained that they pulled the four items out of the staff report. The fifth item was the maximum garage visibility.

Ms. Gerhardt recommended a Motion to continue to March 17<sup>th</sup>.

Chair Thompson asked if that would just be to address the crosswalks.

Ms. Gerhardt asked if Ms. Eisberg was available on the 17<sup>th</sup>.

Ms. Eisberg said she was not available but would try to work something out.

**MOTION:** Boardmember Baltay moved, seconded by Chair Thompson, to continue Items 2 and 3 to the date certain of March 17, 2022.

**VOTE: 3-0**

Chair Thompson thanked staff and the ARB. She requested that the drawings be sent to her for markup.

3. Discuss the Draft Architectural Review Board's (ARB) Draft Work Plan, Suggest Changes, and Recommend Submitting the Draft Work Plan to the City Council; and Discuss the ARB's Annual Report and any Bylaw Changes Needed (Continued from March 3, 2022).

Item continued to March 17, 2022.

**Subcommittee Items****Board Member Questions, Comments or Announcements**

Ms. Gerhardt indicated that Boardmember Baltay had asked about Chair and Vice Chair appointments. Generally Chair elections are held in December, but at that point they wanted to wait until the new members were installed to have the vote. She suggested another Chair/Vice Chair vote in early April when the new members were seated. The Bylaws are out of date and state October.

Chair Thompson indicated that they would think about it and thanked Ms. Gerhardt for the announcement.

**Adjournment**

Chair Thompson adjourned the meeting.