



Planning & Transportation Commission Regular Meeting Agenda: February 10, 2021

Virtual Meeting
6:00 PM

<https://zoom.us/join>

Meeting ID: 999 2707 9067

Phone number: 1 669 900 6833

*****BY VIRTUAL TELECONFERENCE ONLY*****

Pursuant to the provisions of California Governor's Executive Order N-29-20, issued on March 17, 2020, to prevent the spread of COVID-19, this meeting will be held by virtual teleconference only, with no physical location. The meeting will be broadcast live on Cable TV and through Channel 26 of the Midpen Media Center at <https://midpenmedia.org/local-tv/watch-now/>.

Members of the public may comment by sending an email to planning.commission@cityofpaloalto.org or by attending the Zoom virtual meeting to give live comments. Instructions for the Zoom meeting can be found on the last page of this agenda.

TIME ESTIMATES

Listed times are estimates only and are subject to change at any time, including while the meeting is in progress. The Commission reserves the right to use more or less time on any item, to change the order of items and/or to continue items to another meeting. Particular items may be heard before or after the time estimated on the agenda. This may occur in order to best manage the time at a meeting or to adapt to the participation of the public

Call to Order / Roll Call

Oral Communications

The public may speak to any item not on the agenda. Three (3) minutes per speaker.^{1,2}

Agenda Changes, Additions, and Deletions

The Chair or Commission majority may modify the agenda order to improve meeting management.

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1. Spokespersons that are representing a group of five or more people who are identified as present at the meeting at the time of the spokesperson's presentation will be allowed up to fifteen (15) minutes at the discretion of the Chair, provided that the non-speaking members agree not to speak individually.
 2. The Chair may limit Oral Communications to 30 minutes for all combined speakers.
 3. The Chair may reduce the allowed time to speak to three minutes to accommodate a larger number of speakers.

City Official Reports

6:00 PM-6:15 PM

1. Directors Report, Meeting Schedule and Assignments

Action Items

Public Comment is Permitted. Applicants/Appellant Teams: Fifteen (15) minutes, plus three (3) minutes rebuttal. All others: Up to Five (5) minutes per speaker.^{1,3}

6:15 PM-8:15 PM

2. 855 El Camino Real (20PLN-00252): Recommendation on Applicant's Request to Amend the Palo Alto Municipal Code to Allow up to 20% of the Ground Floor Space at Town & Country Village to be Medical Office Use. Environmental Assessment: Exempt From the Provisions of the California Environmental Quality Act (CEQA) in Accordance With Guideline Section 15301 (Existing Facilities). Zoning District: CC (Community Commercial). For More Information Contact the Project Planner, Claire Raybould at Claire.Raybould@cityofpaloalto.org

8:15 PM-10:15 PM

3. PUBLIC HEARING/LEGISLATIVE: Review and Discuss Potential Ordinance Changes to Palo Alto Municipal Code Chapter 18.09, Accessory and Junior Accessory Dwelling Units. Environmental Assessment: Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines sections 15061(b)(3), 15301, 15302 and 15305.

Approval of Minutes

Public Comment is Permitted. Three (3) minutes per speaker.^{1,3}

10:15 PM-10:20 PM

4. January 13, 2021 Draft PTC Meeting Minutes

Committee Items

10:20 PM-10:30 PM

Commissioner Questions, Comments, Announcements or Future Agenda Items

Adjournment

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Palo Alto Planning & Transportation Commission

Commissioner Biographies, Present and Archived Agendas and Reports are available online: <http://www.cityofpaloalto.org/gov/boards/ptc/default.asp>. The PTC Commission members are:

Chair Bart Hechtman
Vice Chair Giselle Roohparvar
Commissioner Michael Alcheck
Commissioner Ed Lauing
Commissioner Doria Summa
Commissioner Carolyn Templeton

Get Informed and Be Engaged!

View online: <http://midpenmedia.org/category/government/city-of-palo-alto/> or on Channel 26.

Public comment is encouraged. Email the PTC at: Planning.Commission@CityofPaloAlto.org.

Material related to an item on this agenda submitted to the PTC after distribution of the agenda packet is available for public inspection at the address above.

Americans with Disability Act (ADA)

It is the policy of the City of Palo Alto to offer its public programs, services and meetings in a manner that is readily accessible to all. Persons with disabilities who require materials in an appropriate alternative format or who require auxiliary aids to access City meetings, programs, or services may contact the City's ADA Coordinator at (650) 329-2550 (voice) or by emailing ada@cityofpaloalto.org. Requests for assistance or accommodations must be submitted at least 24 hours in advance of the meeting, program, or service.

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Public Comment Instructions

Members of the Public may provide public comments to teleconference meetings via email, teleconference, or by phone.

1. **Written public comments** may be submitted by email to planning.commission@CityofPaloAlto.org
2. **Spoken public comments using a computer** will be accepted through the teleconference meeting. To address the Board, click on the link below for the appropriate meeting to access a Zoom-based meeting. Please read the following instructions carefully.
 - A. You may download the Zoom client or connect to the meeting in-browser. If using your browser, make sure you are using a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer.
 - B. You will be asked to enter an email address and name. We request that you identify yourself by name as this will be visible online and will be used to notify you that it is your turn to speak.
 - C. When you wish to speak on an agenda item, click on “raise hand”. The moderator will activate and unmute attendees in turn. Speakers will be notified shortly before they are called to speak. The Zoom application will prompt you to unmute your microphone when it is your turn to speak.
 - D. When called, please limit your remarks to the time limit allotted.
 - E. A timer will be shown on the computer to help keep track of your comments.
3. **Spoken public comments using a smart phone** will be accepted through the teleconference meeting. To address the Council, download the Zoom application onto your phone from the Apple App Store or Google Play Store and enter the Meeting ID below. Please follow instructions B-E above.
4. **Spoken public comments using a phone** use the telephone number listed below. When you wish to speak on an agenda item hit *9 on your phone so we know that you wish to speak. You will be asked to provide your first and last name before addressing the Board. You will be advised how long you have to speak. When called please limit your remarks to the agenda item and time limit allotted.

<https://zoom.us/join>

Meeting ID: 999 2707 9067 Phone number: 1 669 900 6833 (you may need to exclude the initial “1” depending on your phone service)

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Planning & Transportation Commission

Staff Report (ID # 12001)

Report Type: City Official Reports **Meeting Date:** 2/10/2021

Summary Title: City Official Report

Title: Directors Report, Meeting Schedule and Assignments

From: Jonathan Lait

Recommendation

Staff recommends that the Planning and Transportation Commission (PTC) review and comment as appropriate.

Background

This document includes the following items:

- PTC Meeting Schedule
- PTC Representative to City Council (Rotational Assignments)
- Tentative Future Agenda

Commissioners are encouraged to contact Vinh Nguyen (Vinhloc.Nguyen@CityofPaloAlto.org) of any planned absences one month in advance, if possible, to ensure availability of a PTC quorum.

PTC Representative to City Council is a rotational assignment where the designated commissioner represents the PTC's affirmative and dissenting perspectives to Council for quasi-judicial and legislative matters. Representatives are encouraged to review the City Council agendas (<http://www.cityofpaloalto.org/gov/agendas/council.asp>) for the months of their respective assignments to verify if attendance is needed or contact staff. Prior PTC meetings are available online at <http://midpenmedia.org/category/government/city-of-palo-alto/boards-and-commissions/planning-and-transportation-commission>.

The Tentative Future Agenda provides a summary of upcoming projects or discussion items.

Attachments:

- Attachment A: February 10, 2021 PTC Meeting Schedule and Assignments(DOCX)

City of Palo Alto
 Planning & Development Services
 250 Hamilton Avenue
 Palo Alto, CA 94301
 (650) 329-2442



Planning & Transportation Commission 2021 Meeting Schedule & Assignments

2021 Schedule

| Meeting Dates | Time | Location | Status | Planned Absences/Notes |
|---------------|---------|-----------------|-----------|-------------------------|
| 1/13/2021 | 6:00 PM | Virtual Meeting | Regular | |
| 1/27/2021 | 6:00 PM | Virtual Meeting | Regular | |
| 2/10/2021 | 6:00 PM | Virtual Meeting | Regular | |
| 2/24/2021 | 6:00 PM | Virtual Meeting | Regular | |
| 3/10/2021 | 6:00 PM | Virtual Meeting | Regular | |
| 3/31/2021 | 6:00 PM | Virtual Meeting | Regular | |
| 4/14/2021 | 6:00 PM | Virtual Meeting | Regular | |
| 4/28/2021 | 6:00 PM | Virtual Meeting | Regular | |
| 5/12/2021 | 6:00 PM | TBD | Regular | |
| 5/26/2021 | 6:00 PM | TBD | Regular | |
| 6/9/2021 | 6:00 PM | TBD | Regular | |
| 6/30/2021 | 6:00 PM | TBD | Regular | |
| 7/14/2021 | 6:00 PM | TBD | Regular | |
| 7/28/2021 | 6:00 PM | TBD | Regular | |
| 8/11/2021 | 6:00 PM | TBD | Regular | PAUSD Start Week |
| 8/25/2021 | 6:00 PM | TBD | Regular | |
| 9/8/2021 | 6:00 PM | TBD | Regular | |
| 9/29/2021 | 6:00 PM | TBD | Regular | |
| 10/13/2021 | 6:00 PM | TBD | Regular | |
| 10/27/2021 | 6:00 PM | TBD | Regular | |
| 11/10/2021 | 6:00 PM | TBD | Regular | |
| 11/24/2021 | 6:00 PM | Cancelled | Cancelled | Day Before Thanksgiving |
| 12/8/2021 | 6:00 PM | TBD | Regular | |
| 12/29/2021 | 6:00 PM | Cancelled | Cancelled | 2 Days Before NYE |

2021 Assignments - Council Representation (primary/backup)

| | | | | | |
|--|---|--|----------------|-----------------|-----------------|
| January Doria Summa Michael Alcheck | February Giselle Roohparvar Cari Templeton | March Michael Alcheck Bart Hechtman | April | May | June |
| July | August | September | October | November | December |



Planning & Transportation Commission 2021 Tentative Future Agenda

The Following Items are Tentative and Subject to Change:

| Meeting Dates | Topics |
|-------------------|---|
| February 24, 2021 | <ul style="list-style-type: none"> • 2020 Annual Comprehensive Plan and Housing Element Progress Report • 640 Fairmede: Preliminary Parcel Map with Exceptions • Ordinance to Update Density Bonus Code PAMC 18.15 |

Upcoming items:

| Topics |
|--|
| <ul style="list-style-type: none"> • Review of Boards and Commission Handbook • PTC Review of Objective Standards • Recommendation on the Preferred Plan Alternative for the North Ventura Coordinated Area Plan • 181 Addison Ave: Preliminary Parcel Map w/ Exceptions & Variance • Study Session: Parking Program Enhancements |



Planning & Transportation Commission

Staff Report (ID # 11841)

| | | |
|-----------------------|--|--------------------------------|
| Report Type: | Action Items | Meeting Date: 2/10/2021 |
| Summary Title: | 855 El Camino Real: Zoning Code Text Amendment to Allow Medical Office Use | |
| Title: | 855 El Camino Real (20PLN-00252): Recommendation on Applicant's Request to Amend the Palo Alto Municipal Code to Allow up to 20% of the Ground Floor Space at Town & Country Village to be Medical Office Use. Environmental Assessment: Exempt From the Provisions of the California Environmental Quality Act (CEQA) in Accordance With Guideline Section 15301 (Existing Facilities). Zoning District: CC (Community Commercial). For More Information Contact the Project Planner, Claire Raybould at Claire.Raybould@cityofpaloalto.org | |
| From: | Jonathan Lait | |

Recommendation

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

1. Recommend that City Council adopt the attached ordinance, which amends Chapter 18.16 and Chapter 18.40 of the municipal code to allow up to 15% of the ground floor area, and no more than 25% of the total floor area at Town & Country Village to be converted from a retail or retail-like use to a medical office use. Staff's recommendation differs from the applicant's request, which would allow up to 20% of the ground floor area, and no more than 30% of the total floor area of the site to be converted to a medical office use.

Report Summary

On December 8, 2020, Ellis Partners, the owner of Town & Country Village (Town & Country), located at 855 El Camino Real, filed a request for a Palo Alto Municipal Code (PAMC) Zoning Text Amendment. The amendment would allow a limited amount of medical office to be located within ground floor tenant spaces at the shopping center. The applicant's requested amendments are detailed in Attachment E.

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 Planning & Development Services
 250 Hamilton Avenue
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As discussed in their request, Town & Country began experiencing some vacancies prior to the COVID-19 pandemic, which the applicant attributes to shifts in retail trends. Since shelter in place began, Town & Country has experienced more significant increases in vacancies. Specifically, from January 1, 2020 to January 1, 2021 vacancies increased by 14%. Approximately 33,050 square feet (sf) of the ground floor retail space at Town & Country is currently vacant. Ellis Partners states that an additional 20,465 sf of retail space may become vacant due to the continued impact of the pandemic on retail uses. This includes the domino effect caused by reduced foot traffic to the shopping center because of vacancies.

To reduce its vacancy rate and increase foot traffic at Town & Country, Ellis Partners requests this Zoning Text Amendment allow up to 30% of the total site, including up to 20% of the ground floor area to be permanently converted from retail or retail-like uses to medical office uses. Currently, ground floor retail and retail-like spaces may not be converted to medical office uses. This is due to the City's Retail Preservation Ordinance (in PAMC Chapter 18.40) and the office use restrictions under PAMC Chapter 18.16.

Staff recommends that the PTC recommend adoption of the Ordinance in Attachment B, which allows for 15% of the ground floor area to be used for medical office use and no more than 25% of the total site area, less than the amount requested by the applicant.

Background

Project Information

| | |
|-----------------|-------------------------------|
| Owner: | Ellis Partners |
| Architect: | Not Applicable |
| Representative: | Dean Rubinson, Ellis Partners |
| Legal Counsel: | Not Applicable |

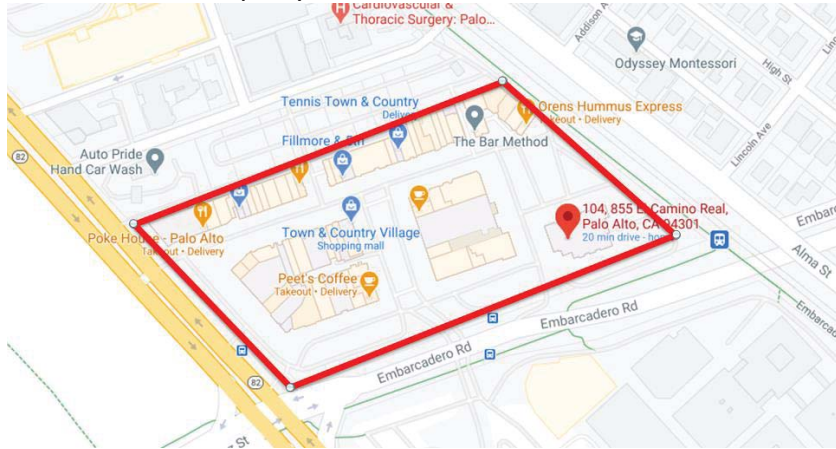
Property Information

| | |
|------------------------------|---|
| Address: | 855 El Camino Real |
| Neighborhood: | Town & Country Village |
| Lot Dimensions & Area: | (irregular, approximately 1,035 X 525); ~173,940 square feet (sf) |
| Housing Inventory Site: | Not Applicable |
| Located w/in a Plume: | Not Applicable |
| Protected/Heritage Trees: | Not Applicable |
| Historic Resource(s): | Not Applicable (property studied prior to the 2009 renovations) |
| Existing Improvement(s): | 171,980 sf; one- and two-story structures; established 1953 |
| Existing Land Use(s): | Ground floor retail/restaurant; Second Floor Office |
| Adjacent Land Uses & Zoning: | North: Commercial Services (CS) and Public Facilities (PF) Zoning (commercial service, major institution/special facility and public facility land use designations) West: Stanford University (unincorporated Santa Clara County) |

East: Caltrain right-of-way; Single family residential (R-1) and RT-35 Zoning (Public facility and single family land use designation)
South: PF Zone (Palo Alto High School); (School [S] land use designation)

Special Setbacks: Yes. 30 feet along Embarcadero Road and 25 feet along El Camino Real.

Aerial View of Property:



Source: Google Maps

Land Use Designation & Applicable Plans/Guidelines

| | |
|--|---------------------------|
| Zoning Designation: | Community Commercial (CC) |
| Comp. Plan Designation: | Commercial Center (CC) |
| Context-Based Design: | Applicable |
| Downtown Urban Design: | Not Applicable |
| SOFA II CAP: | Not Applicable |
| Baylands Master Plan: | Not Applicable |
| ECR Guidelines ('76 / '02): | Applicable |
| Proximity to Residential Uses or Districts (150'): | Not Applicable |
| Located w/in AIA (Airport Influence Area): | Not Applicable |

Prior City Reviews & Action

| | |
|---------------|------|
| City Council: | None |
| PTC: | None |
| HRB: | None |
| ARB: | None |

Council Discussions Regarding COVID-19 Relief

PAMC Section 18.79.030(A) requires a prescreening review for legislative changes, including

Zoning Text Amendments, prior to submittal of a formal application. The November 9, 2020 staff report to Council noted that this proposal was contemplated and discussed with staff prior to November 2020. This overlapped with Council's November 9 discussion regarding the expansion of uses and changes to retail preservation citywide. The November 9th hearing included a policy discussion directly relevant to the code amendments proposed and satisfied the requirements for a prescreening for the proposed project.

During the November 9, 2020 hearing, several Councilmembers supported allowing some medical office uses to replace ground floor retail and retail-like uses across the City. Councilmembers concluded that additional research was necessary to determine the appropriate amount and locations where this should be allowed before making legislative changes to the Zoning Code. Staff has completed additional research, as discussed herein, to support the recommendations for this site-specific request. However, Citywide, staff is evaluating proposed amendments to facilitate potential changes elsewhere. Staff will present that information and recommendations to the PTC before going to Council as part of a separate effort.

Project Description

A location map is included in Attachment A and the applicant's request letter is included in Attachment E. The applicant proposes to replace up to 20% (30,049 sf) of the ground floor retail and retail-like uses within Town & Country Village with Medical Office uses.

There are three relevant sections of the City's zoning ordinance that currently prohibit the use of this ground floor space for medical office. These include:

PAMC Section 18.16.050: Restricts the conversion of ground floor housing and non-office commercial uses to office uses, including medical, professional, and business offices.

PAMC Section 18.16.060(e)(1): Limits the percentage of square footage of office space at the site to 15% of the total floor area of the shopping center existing as of August 1, 1989.

PAMC Section 18.40.180 (a)(1): Prohibits the conversion of any ground floor retail and retail-like uses permitted or operating as of March 2, 2015 to non-retail and non-retail-like uses.

Town and Country consists of a total of 171,980 square feet (sf) of floor area. This includes 150,246 sf of ground floor space as well as 21,734 sf of second floor space. Currently, 13% (22,454 sf) of the site is used as office. Existing office uses are primarily located on the second floor (21,734 sf) with only 720 sf of existing office space located on the ground floor. The applicant's proposed project would allow up to 51,594 sf (30% of the total site) to be used for

office space; 30,049 sf of which could be located on the ground floor and used for medical office uses only.

The applicant's letter requests changes to Chapter 18.16 of the PAMC. The applicant acknowledges that conversion of ground floor retail or retail-like spaces to medical office use would be prohibited in accordance with the City's Ground Floor Retail Preservation ordinance. However, the applicant does not request specific revisions to address this. This is discussed further below in staff's analysis and findings. The draft ordinance in Attachment B includes section-specific language to address this.

Requested Entitlements, Findings and Purview:

The following discretionary applications are requested and subject to PTC purview:

- **Zoning Code Text Amendment:** The process for evaluating this type of application is set forth in PAMC 18.80.080. A request for a zoning text amendment requires at least one public hearing before the PTC; the PTC forwards its recommendations to the City Council for final action.

Analysis¹

Town & Country Village was first established in 1953. At the time, the retail center served as a thriving business within the City of Palo Alto. However, by the time Ellis Partners purchased the property in 2004, the site needed extensive renovation and lacked key uses that would serve as a specific anchor store to draw in customers. Ellis Partners embarked on an effort to revitalize the center, completing renovation efforts in 2009 with the opening of Trader Joe's grocery. The effort resulted in a new mix of innovative retail, eating and drinking, and personal service businesses on the ground floor that drew in a younger demographic. The efforts maintained the historic look and feel of the center, with its ranch-style layout and low one- to two-story wood buildings.

Neighborhood Setting and Character

The shopping center is located close to commercial, residential, and institutional (school) uses. These include Palo Alto High School immediately across Embarcadero Road, residential uses immediately opposite the Caltrain tracks, Palo Alto Medical Foundation north of the site along El Camino Real, and the Opportunity Center. A pedestrian/bicycle pathway under the Caltrain tracks makes the site a convenient, walkable destination from the Downtown and SOFA Districts. Despite many modifications to the uses and renovations to the buildings, especially on the interior, the site retains its original ranch-styled one- and two-story wood buildings. The applicant does not propose additional modifications to the building exteriors that could affect its compatibility with adjacent uses.

¹ The information provided in this section is based on analysis prepared by the report author prior to the public hearing. Planning and Transportation Commission in its review of the administrative record and based on public testimony may reach a different conclusion from that presented in this report and may choose to take an alternative action from the recommended action.

Economic Considerations

As of January 1, 2021, the vacancy rate at the site was 18.6%. Currently there are 20 vacant retail or retail like spaces on the ground floor and four vacant spaces on the second floor at Town & Country, totaling approximately 39,400 sf of vacant space. In the last month, the vacancy rate has increased and is now 22.9%, which is significantly higher than the vacancy rates at the center during the last recession, which peaked in 2010 at 7.8%². This current rate is also 18.3% higher than the vacancy rate at the center in January of last year.

The City utilizes the CoStar database as one method of measuring vacancy rates throughout the City. For this project, staff pulled the current and historic vacancy rates from various key shopping areas in the City to understand how the vacancy rates at Town & Country compare with other areas of the City. Graphs showing this information are presented in Attachment D.

The CoStar data shows that the vacancy rates these areas are currently experiencing appear to be generally comparable with those experienced in previous years, particularly during the past recession, with the exception of Stanford Shopping Center and Edgewood Plaza, which are experiencing lower vacancy rates than they did during the last recession (see further discussion below). However, the vacancy rates expressed in the CoStar data may not reflect the true vacancy rates due to the County's eviction moratorium, which has been extended through March 31, 2021. Also, some tenants may not have given official notice to property owners and managers about anticipated vacancies and some inventory may not be tracked through CoStar's database. This is true of Town & Country, which, based on data from Ellis Partners, is currently experiencing a higher rate of vacancy than what is shown in the CoStar data (Attachment E).

In all these areas, the data tends to show that in the past, vacancy rates this high were generally short-lived and rebounded within a year or so, even during the recession. However, where CoStar data projections were available, the data indicates that over the next few years these high rates of vacancy are expected to continue, and in some cases increase. In that regard, the projections are consistent with the anecdotal evidence that is being provided by developers and property owners regarding the current and future economic climate for retail. Developers generally expressed concern about the uncertainty of the continued pandemic and trends toward online retail. These trends have been exacerbated by the pandemic, and owners/developers believe it will likely be a slow recovery for brick and mortar retail in comparison to recovery in previous recessions.

Through conversations with property owners/developers, staff has attempted to obtain more accurate data regarding current vacancy rates for comparable shopping centers within the City, such as Stanford Shopping Center and Edgewood Plaza Shopping Center.

² This data is based on vacancy rates as of January 1st for each year

Edgewood Plaza has recently lost three more of their smaller retailers and is hovering between a 10 to 15% vacancy rate (pending efforts to fill vacancies). This is slightly higher than shown in the CoStar data. Although this appears to be a lower vacancy rate in comparison to previous years, this is because 50% of the site is occupied by a single retailer (grocer), so the vacancy rate was significantly higher when that retail space was vacant. Edgewood Plaza's owner, Sandhill Properties, noted that chain stores/businesses as well as some eating and drinking facilities have been able to stay open. However, many of the smaller businesses and traditional retailers have not been able to survive.

Stanford would not disclose their specific data on the vacancies at the Stanford Shopping Center. However, they indicated that they are generally experiencing fairly low vacancy rates, which is consistent with CoStar data. The low vacancy rate may be attributable to a few things. Many of the spaces at Stanford Shopping Center are filled by luxury and/or larger retailers rather than smaller, local retailers or personal service uses. These uses have generally fared better thus far in the pandemic in comparison to smaller businesses or specific uses that were required to close for longer periods (e.g. salons). In addition, staff notes that because many of the businesses surrounding the shopping center are large medical services uses, which have remained open throughout the pandemic, a large customer base for the shopping center has likely continued to utilize services there.

Town & Country on the other hand, had a number of smaller boutique retail stores that have struggled and personal service uses, which have been required by County mandate to close for longer periods during the pandemic. Further, although food retail and eating and drinking uses have fared better than traditional retail uses in the pandemic, Palo Alto High School students, Stanford students, Downtown office workers, and El Camino Real office tenants have historically provided a key customer base for food services at this site. The shelter-in-place order is currently affecting that customer base.

Consistency with the Comprehensive Plan, Area Plans and Guidelines³

The Comprehensive Plan land use designation for the project site is Community Commercial, which is intended for:

“larger shopping centers and districts that have a wider variety of goods and services than the neighborhood shopping areas. They rely on larger trade areas and include such uses as department stores, bookstores, furniture stores, toy stores, apparel shops, restaurants, theaters and non-retail services such as offices and banks...non-retail uses such as medical and dental offices may also locate in this designation.”

The proposal to add some medical office uses to the ground floor would be consistent with this land use designation. A complete analysis of the project's consistency with relevant Comprehensive Plan policies is included in Attachment C.

³ The Palo Alto Comprehensive Plan is available online:
<http://www.cityofpaloalto.org/gov/topics/projects/landuse/compplan.asp>

On balance staff's analysis concludes that the proposed project complies with the Comprehensive Plan goals and policies. Although allowing some medical office uses to replace ground floor retail spaces does limit the number of spaces for future retailers, allowing a more diverse mix of local-serving uses that generate foot traffic will support the remaining retail tenants at the site. Staff believes allowing a greater diversity of uses is necessary given the current economic climate.

That said, given the clear interest in the Comprehensive Plan in maintaining this area as a thriving retail center, staff recommends the PTC consider allowing a smaller percentage of retail/retail-like space to be converted than that requested by the applicant. Staff's recommendation reflects an interest in filling vacancies and allowing for some additional diversity on the ground floor, but would limit the total sf of new medical office space to 15% of the ground floor, instead of the applicant's requested 20%.

Citywide Cap and Annual Office Limit

The project would not affect the citywide cap on office/R&D, because medical offices are not included in that cap. In addition, the site is not located within the annual office limit boundaries. Therefore, any new medical office at this site would not be subject to the annual office limits pursuant to PAMC Section 18.40.210, which limits office within the office annual limit area to 50,000 net new square feet per year.

Zoning Compliance⁴

The project is located in the Community Commercial (CC) Zone District. The CC district applies only to the shopping centers at Town & Country Village and Stanford Shopping Center. It is "intended to create and maintain major commercial centers accommodating a broad range of office, retail sales, and other commercial activities of community-wide or regional significance. The Community Commercial district is intended to be applied to regional and community commercial centers identified by the Palo Alto Comprehensive Plan. Medical office uses are conditionally permitted within this zone district. As defined in PAMC Section 18.04.030(95) Medical office means "a use providing consultation, diagnosis, therapeutic, preventive, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans, licensed for such practice by the state of California. Incidental medical and/or dental research within the office is considered part of the office use, where it supports the on-site patient services. Medical office use does not include the storage or use of hazardous materials in excess of the permit quantities as defined in Title 15 of the Municipal Code..."

It is unclear when the site-specific office cap at Town & Country Village (Chapter 18.16) was initially established; however, in 2006 the City completed an update to the zoning language for its commercial districts. The City adopted Ordinance 4925, to better align the Zoning Code with the adopted Comprehensive Plan at the time. The ordinance reinforced the office limitations at

⁴ The Palo Alto Zoning Code is available online: http://www.amlegal.com/codes/client/palo-alto_ca

Town & Country Village, which remained capped at 15% of the site. The City adopted the permanent Retail Preservation Ordinance (PAMC Section 18.40.180) on March 20, 2017.

Because no physical changes are proposed as part of this application, a zoning consistency table is not included. As discussed above, there are three relevant sections of the City's zoning ordinance that currently prohibit the desired use of some of the ground floor square footage to be used for medical office. Therefore, approval of the medical office use on the ground floor at this site requires changes to PAMC Section 18.16.050, Section 18.16.060, and Section 18.40.180 as discussed in the project description. The applicant is seeking, through the requested Zoning Text Amendment, permission to allow for limited medical office use, in lieu of ground floor retail uses, on the ground floor at Town & Country Village. With adoption of the Ordinance in Attachment B, the project would be consistent with the Zoning Ordinance.

Multi-Modal Access & Parking

The project does not propose any exterior alterations, including any alterations to the site access or parking. The proposed project would allow for a portion of the ground floor retail or retail-like uses to be converted to medical office. However, the conversion of each space and any tenant improvements associated with that use would be evaluated on a case-by-case basis to ensure compliance with all other components of the municipal code. Medical office uses are a conditionally permitted use in the CC Zone District; therefore, a Conditional Use Permit (CUP) would be required for any new medical office use at the site. As part of the CUP application staff would evaluate the previous use of the space and proposed use of the space to determine whether the project complies with the parking requirements outlined in PAMC Chapter 18.52. Generally, ground floor uses of the site include intensive retail, eating and drinking services, and personal service uses. All these uses require a greater parking demand than medical office uses; therefore, the proposed project is not anticipated to result in changes that would affect compliance with parking requirements at this site.

Trip generation for retail uses varies widely based on the type of retail use (e.g. intensive retail versus extensive retail or a quality restaurant versus take out). Generally, medical office uses generate fewer daily vehicle trips as well as fewer peak hour vehicle trips in comparison to eating and drinking services and intensive retail uses. Therefore, the proposed project is not anticipated to impact vehicle traffic in comparison to existing uses.

Staff Recommendation

Staff's analysis concludes that, on balance, the proposed project, with the addition of the necessary code amendment to Section 18.40.180, is consistent with the Comprehensive Plan and Zoning Code. It will help to fill vacancies and allow a more diverse mix of local-serving uses that generate foot traffic to support the remaining retail tenants at the site.

However, because conversion of these spaces would be permanent, and because the Comprehensive Plan and current Zoning Ordinance expresses the clear intent to retain this area as a retail center, staff recommends that the PTC consider limiting the total square footage that

may be converted to 25% of the site (instead of the requested 30%) and only allowing 15% of the ground floor (instead of the requested 20%) to be used for medical office uses.

The requested 20% would result in substantially more office square footage on the ground floor (30,049 sf) than what exists on the second floor (21,734 sf). Staff's recommendation would limit the total medical office square footage on the ground floor to 15% (22,537 sf) of the ground floor area, which is more comparable to the 22,454 sf of total office use on the site currently. Limiting the total square footage of office use at the entire site to 25% (42,995 sf) would currently limit the total ground floor area that could be converted at this time to 21,261 sf.

Staff also recommends that the PTC consider limiting the size of ground floor medical office uses at the site to 5,000 sf or less. This will help to ensure that the types of medical office uses within these spaces are more local serving.

Resource Impact

In comparison to retail and retail-like uses, medical office use generally brings in less tax revenue to the City. Because the proposed change would be permanent in nature, this may result in less sales tax for the City over time. The applicant has endeavored to calculate the potential loss in tax revenue to the City if approximately 30,000 sf of the retail space (20% of the ground floor) were converted to medical office use. A breakdown of their calculation is included in Attachment B. In short, based on the sales tax revenue from Town & Country reported in the March 8, 2018 auditor's report, which is included in the applicant's letter in Attachment E, the applicant calculated that this could result in a worst-case scenario reduction in sales tax revenue of \$73,000 annually. This is equivalent to an 11.5% reduction in the sales tax revenue associated with Town & Country and approximately 1% of Palo Alto's annual sales tax revenue.

However, much of the tenant space that would be converted to medical office use is currently vacant and is not currently generating any sales tax revenue for the City. Due to the uncertain timeline of the continued pandemic and due to continued shifts in retail trends, it is difficult to know when, or to what extent, these tenant spaces could be filled in the future with retail or retail-like spaces. In addition, it is difficult to calculate the domino effect that these vacancies and further vacancies may have on current businesses at the site due to reduced foot traffic, and therefore how it could affect the tax revenue from those businesses both short-term and long-term. The addition of some medical office uses to the ground floor could help to generate foot traffic for other tenants, helping to boost the tax revenue the City brings in for those uses.

Environmental Review

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. Specifically, the project is exempt from CEQA in accordance with CEQA Guidelines Section 15301 (existing facilities). The proposed ordinance would allow for some of the tenant spaces to change to medical office uses but does not

expand the capacity of the site. Medical office uses are conditionally permitted within the CC zone district.

Public Notification, Outreach & Comments

The Palo Alto Municipal Code requires a notice of this public hearing to be published in a local paper and mailed to owners and occupants of property within 600 feet of the subject property at least ten days in advance. Notice of a public hearing for this project was published in the *Daily Post* on January 29, which is 13 days in advance of the meeting. Postcard mailing occurred on February 1, which is 10 days in advance of the meeting.

Public Comments

As of the writing of this report, staff had not received public comments on this specific project. However, many members of the public spoke at the November 9 Council study session. As noted, Council discussed the potential for allowing medical office uses to replace retail and retail-like uses on the ground floor throughout Palo Alto.

At that hearing, Council heard from members of the public who expressed opposition to these changes as well as from speakers who supported the change. Generally, the following points were made:

- Council should not allow professional office, medical and dental, financial services or adult education uses to replace allowed retail uses in core areas
- Concern that suspending the retail preservation ordinance could lead to permanent conversions of retail space. Areas that members of the public expressed specific concern about included businesses along El Camino Real in South Palo Alto, California Avenue, and the Downtown (University Avenue) area
- Concern that introducing uses other than retail would cause retail rents to increase
- Filling vacant spaces would be positive for surrounding uses
- Interest in providing flexibility in the types of retail uses
- Concerns about retail trends, which will make filling retail spaces difficult

Report Author & Contact Information

Claire Raybould, Senior Planner
 (650) 329-2116

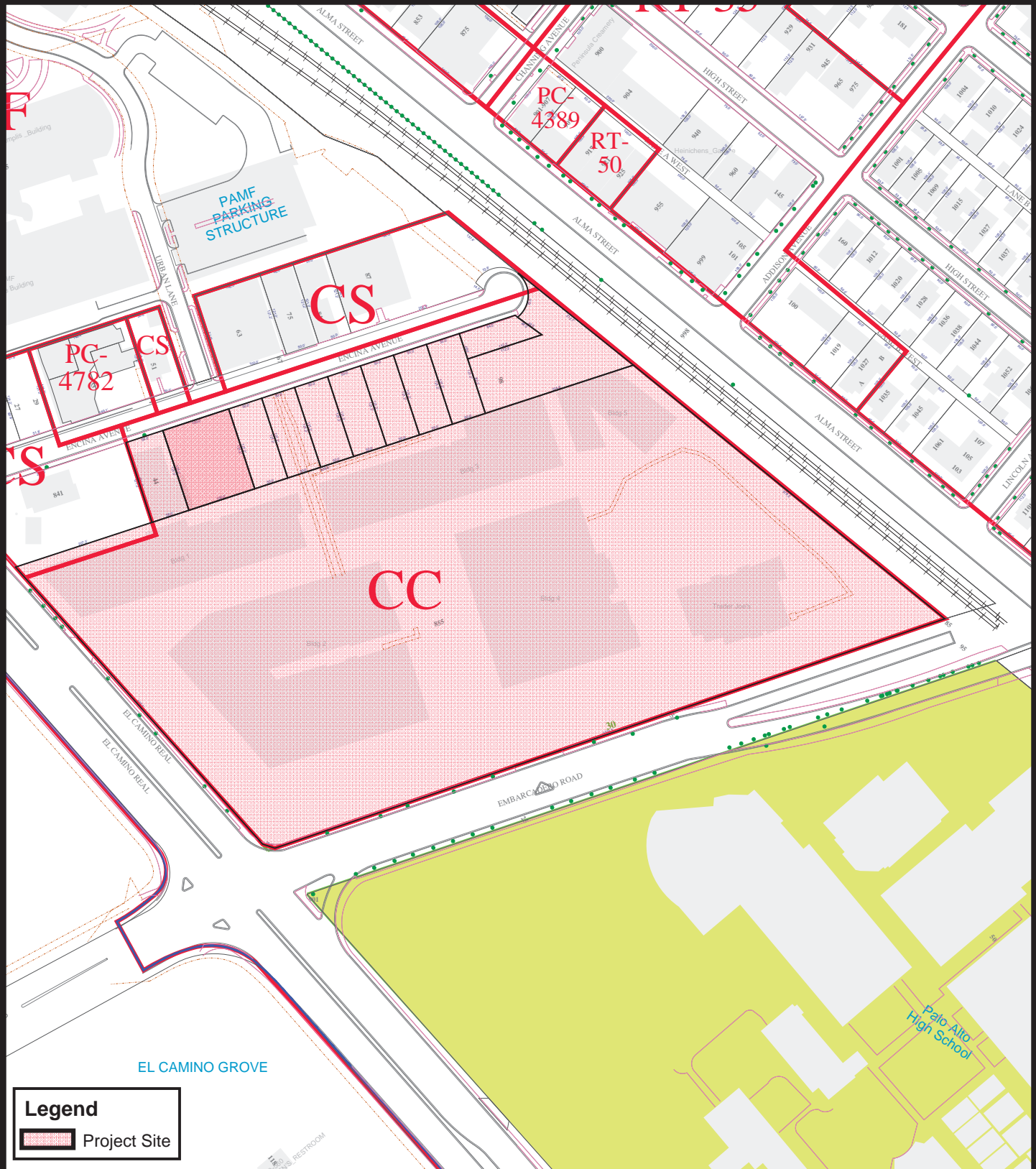
PTC⁵ Liaison & Contact Information

Rachael Tanner, Assistant Director
 (650) 329-2167

Attachments:

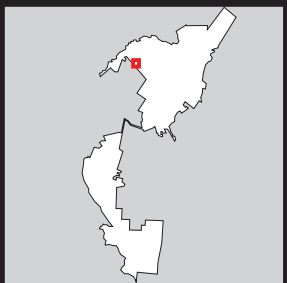
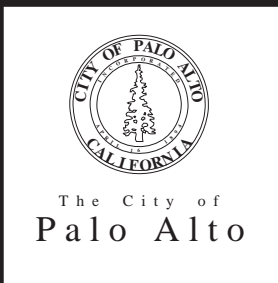
- Attachment A: Location Map (PDF)
- Attachment B: Draft Ordinance (DOCX)
- Attachment C: Comprehensive Plan Consistency Analysis (DOCX)
- Attachment D: CoStar Vacancy Rates for Retail Centers (DOCX)
- Attachment E: Applicant's Project Description with Site Plan (PDF)

⁵ Emails may be sent directly to the PTC using the following address: planning.commission@cityofpaloalto.org





Legend

 Project Site



Town & Country Village
855 El Camino Real

This map is a product of the
City of Palo Alto GIS

Ordinance No. _____
 Ordinance of the Council of the City of Palo Alto Amending Chapters 18.16 and
 18.40 of Title 18 (Zoning) of the Palo Alto Municipal Code to Allow A Limited
 Square Footage of Medical Office Uses on the Ground Floor at Town & Country
 Village

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

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

1. On December 8, 2020, Ellis Partners, the owner of Town & Country Village, located at 855 El Camino Real, filed a request for a Palo Alto Municipal Code Zoning Text Amendment to allow a limited amount of medical office to be located within ground floor tenant spaces at the shopping center.
2. As a result of the COVID-19 pandemic, Town & Country Village is currently experiencing a vacancy rate of 22.9%, which is 18.3% higher than the vacancy rate in January 2020 and significantly higher than vacancy rates experienced during the Great Recession, which peaked in 2010 at 7.8%.
3. Vacancies in retail environments can result in a domino effect, as reduced foot traffic to the shopping center because of vacancies can lead to additional vacancies.
4. Many of the tenants of Town & Country Village are smaller, independent businesses that have been more heavily impacted by the pandemic-fueled economic downturn.
5. Additional flexibility to allow some medical office uses on the ground floor will enhance the economic vitality of Town & Country Village while producing foot traffic similar to the retail uses currently allowed on the ground floor.

SECTION 2. Section 18.16.050 (Office Use Restrictions) of Chapter 18.16 (Community Commercial District) of Title 18 (Zoning) of the Palo Alto Municipal Code is hereby amended to read as follows:

18.16.050 Office Use Restrictions

...

(a) Conversion of Ground Floor Housing and Non-Office Commercial to Office

Medical, Professional, and Business offices shall not be located on the ground floor, unless any of the following apply to such offices:

- (1) Have been continuously in existence in that space since March 19, 2001, and as of such date, were neither non-conforming nor in the process of being amortized pursuant to Chapter 18.30(I);

(2) Occupy a space that was not occupied by housing, neighborhood business service, retail services, personal services, eating and drinking services, or automotive service on March 19, 2001 or thereafter;

(3) Occupy a space that was vacant on March 19, 2001;

(4) Are located in new or remodeled ground floor area built on or after March 19, 2001 if the ground floor area devoted to housing, retail services, eating and drinking services, personal services, and automobile services does not decrease;

(5) Are on a site located in an area subject to a specific plan or coordinated area plan, which specifically allows for such ground floor medical, professional, and general business offices; or

(6) Are located anywhere in Building E or in the rear 50% of Building C or D of the property at the southeast corner of the intersection of Park Boulevard and California Avenue, as shown on sheet A2 of the plans titled "101 California Avenue Townhouse/Commercial/Office, Palo Alto, CA" by Crosby, Thornton, Marshall Associates, Architects, dated June 14, 1982, revised November 23, 1982, and on file with the Department of Planning and Development Services.

(7) Are located anywhere in Town & Country Village, subject to a limitation of 22,537 square feet (15%) of the total ground floor area and only for medical office uses. Ground floor medical office uses shall be no more than 5,000 sf in size.

...

SECTION 3. Section 18.16.060 (Development Standards) of Chapter 18.16 (Community Commercial District) of Title 18 (Zoning) of the Palo Alto Municipal Code is hereby amended to read as follows:

18.16.060 Development Standards

(e) CC District Shopping Center Floor Area Ratio Regulations

(1) The maximum floor area ratio for the Town and Country Village Shopping Center shall be .35 to 1; and office uses at said shopping center shall be limited to ~~15%~~ 42,995 sf (25%) of the floor area of the shopping center existing as of August 1, 1989, except as further regulated by Section 18.16.050(a)(7). To the extent that Hotel use shall not be included as part of the .35 to 1 maximum floor area ratio, but shall not exceed an additional .25 to 1 floor area ratio, for a maximum site floor area ratio of .60 to 1.

SECTION 4. Section 18.40.180 (Retail Preservation) of Chapter 18.40 (General Standards and Exceptions) of Title 18 (Zoning) of the Palo Alto Municipal Code is hereby amended to read as follows:

18.40.180 Retail Preservation

(4) Exemptions. The following uses shall be exempt or partially exempt from the provisions of this Section [18.40.180](#), as provided below:

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

(B) A 100% affordable housing project on a site abutting El Camino Real in the CN and CS zone districts outside the Retail (R) combining district. A "100% affordable housing project" as used herein means a multiple-family housing project consisting entirely of affordable units, as defined in Section [16.65.020](#) of this code, available only to households with income levels at or below 120% of the area median income, as defined in [Chapter 16.65](#), and where the average household income does not exceed 80% of the area median income level, except for a building manager's unit.

(C) A high-density residential or mixed-use project in the CS zone district, but not within the Ground Floor (GF) or Retail (R) combining districts, shall be required to replace only 1,500 square feet of an existing retail or retail-like use. For the purposes of this partial exemption, high-density shall mean 30 or more dwelling units per acre.

(D) Medical Office uses allowed on the ground floor in the Town & County Village as further regulated by 18.16.060(e).

SECTION 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. The Council finds that this Ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 for existing facilities.

SECTION 7. This Ordinance shall be effective on the thirty-first date after the date of its adoption.

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Deputy City Attorney

Director of Planning and
Development Services

ATTACHMENT C
COMPREHENSIVE PLAN CONSISTENCY TABLE
855 El Camino Real, 20PLN-00291

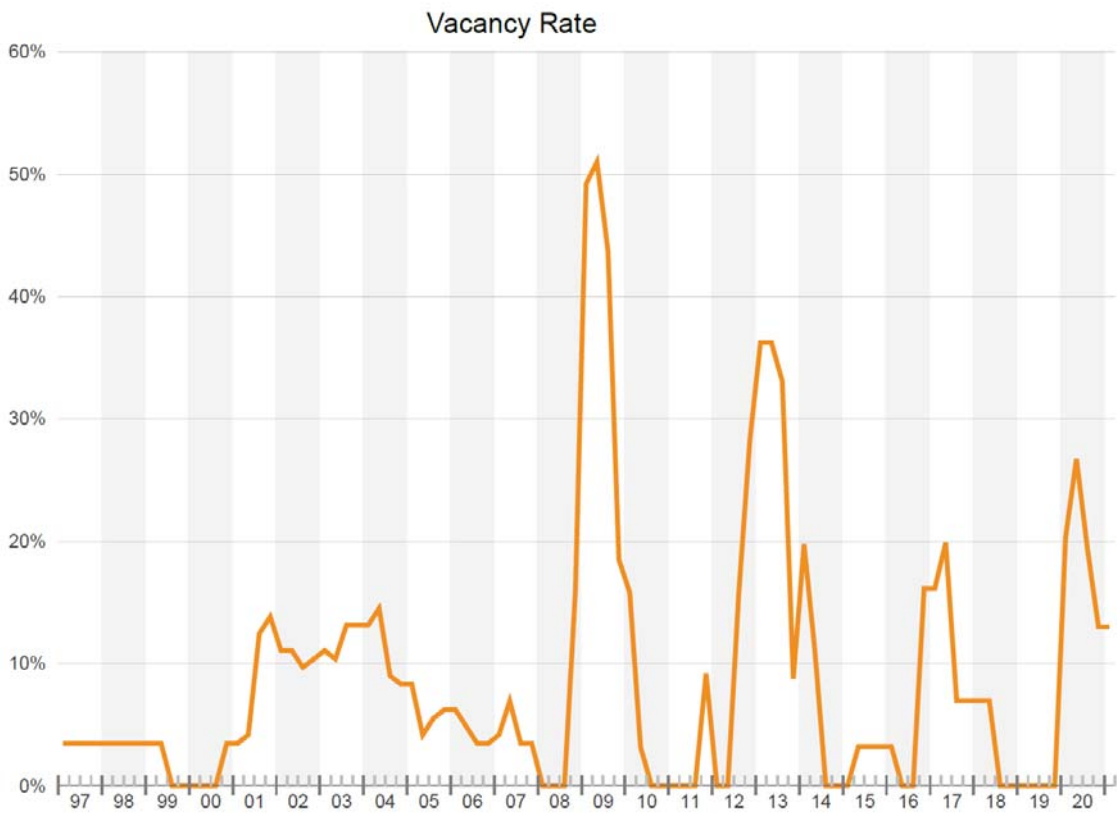
| <i>Comp Plan Goals and Policies</i> | <i>How project adheres or does not adhere to Comp Plan</i> |
|---|---|
| <p>The Comprehensive Plan land use designation for the site is community commercial.</p> | <p>The Community Commercial land use designation is intended for “larger shopping centers and districts that have a wider variety of good and services than the neighborhood shopping areas. They rely on larger trade areas and include such uses as department stores, bookstores, furniture stores, toy stores, apparel shops, restaurants, theaters and non-retail services such as offices and banks...non-retail uses such as medical and dental offices may also locate in this designation.” The proposal to add some medical office uses to the ground floor would be consistent with this land use designation.</p> |
| <i>Land Use and Community Design Element</i> | |
| <p>Policy L-1.1 Maintain and prioritize Palo Alto’s varied residential neighborhoods while sustaining the vitality of its commercial areas and public facilities.</p> | <p>The project will allow a more diverse mix of uses to help fill extensive vacancies on the ground floor of the shopping center while still limiting the allowed uses. The project is intended to help sustain the vitality of the Town & Country shopping center.</p> |
| <p>Policy L-1.6 Encourage land uses that address the needs of the community and manage change and development to benefit the community.</p> | <p>Although the use of these spaces for retail or retail like uses is more desirable, the project allows a use that is compatible with retail and retail like uses by serving as a draw to existing retail uses at the site while providing neighborhood serving uses. The project allows the property owner to better manage the rapidly changing needs of the center to maintain existing retail businesses.</p> |
| <p>Policy L-1.10 Maintain a citywide cap of 1.7 million new square feet of office/R&D development, exempting medical office uses in the Stanford University Medical Center (SUMC) vicinity. Use January 1, 2015 as the baseline and monitor development towards</p> | <p>As outlined in this policy, some medical office uses are exempt from the citywide cap. As outlined in the municipal code, medical office uses that are over 5,000 net new sf count toward the Annual Office Limit (PAMC 18.40.210) . Although the project would</p> |

| | |
|---|--|
| <p>the cap on an annual basis. Require annual monitoring to assess the effectiveness of development requirements and determine whether the cap and the development requirements should be adjusted. Continue to exempt medical, governmental and institutional uses from the cap on office/R&D development.</p> | <p>generally approve code amendments to allow more medical office uses at Town & Country Village, the City would require each new tenant to file for a Use & Occupancy permit. The City tracks the total sf of new office space that has been approved within the city to ensure that the city maintains its annual and overall caps. Any space being converted that is over 5,000 sf would be tracked when evaluating new Use & Occupancy permits. Conversion would not be allowed if the project would cause the city to exceed its Annual Office Limit.</p> |
| <p>Policy L-4.1 Encourage the upgrading and revitalization of selected Centers in a manner that is compatible with the character of surrounding neighborhoods, without loss of retail and existing small, local businesses.</p> | <p>The project would allow conversion of retail and retail like spaces to medical office use. However, these spaces are currently vacant and it is likely that the property owner, similar to many other developers within the area, will continue to have difficulty filling these spaces with similar uses. Allowing some medical office uses on the ground floor will help to create diversity at the center and drawing in customers for existing retail businesses that remain but continue to struggle.</p> |
| <p>Policy L-4.2 Preserve ground-floor retail, limit the displacement of existing retail from neighborhood centers and explore opportunities to expand retail.</p> | <p>The project does not preserve ground floor retail and retail like spaces for these uses. However, Town & Country, similar to other retail centers in the City and surrounding areas is experiencing unprecedented vacancy rates and many of these spaces are unlikely to be filled in the foreseeable future due to changing retail trends and lack of predictability with respect to the ongoing pandemic. Allowing a more diverse mix of uses, but still limiting those uses to one that is compatible with retail, will help to preserve the remaining retail spaces by serving as a draw to the center.</p> |
| <p>Policy L-4.5 Support local-serving retail, recognizing that it provides opportunities for local employment, reduced commute times, stronger community connections and neighborhood orientation.</p> | <p>Small medical office tenants would still provide neighborhood serving businesses at the center while also serving as a draw to the local community for the local-serving retail at the site.</p> |
| <p>Policy L-4.12 Recognize and preserve Town and Country Village as an attractive retail center serving Palo Altans and residents of</p> | <p>The project does not include any physical changes to the site and therefore preserves its existing pedestrian scale and architectural</p> |

| | |
|--|---|
| <p>the wider region. Future development at this site should preserve its existing amenities, pedestrian scale and architectural character while also improving safe access for bicyclists and pedestrians and increasing the amount of bicycle parking.</p> | <p>character. The diversity in uses will help to retain the commercial center as an attractive retail center by filling vacancies and serving as a draw to the center that will help to maintain the vitality of existing retail uses at the site.</p> |
| <p>Policy L-4.13 In Town and Country Village, encourage a vibrant retail environment and urban greening</p> | <p>The project retains a vibrant retail environment at the center.</p> |
| <p><i>Business and Economic Element</i></p> | |
| <p>Program B5.1.4 Revise zoning and other regulations as needed to encourage the revitalization of aging retail structures and areas. Encourage the preservation of space to accommodate small, independent retail businesses and professional services.</p> | <p>Although the project allows conversion of retail or retail like spaces to medical office uses, these medical office uses are general small professional services that are compatible with the existing retail businesses at the site. Therefore the project is consistent with this program.</p> |
| <p>GOAL B-6 Attractive, vibrant retail centers, each with a mix of uses and a distinctive character.</p> <p>Policy B-6.6 Retain Town and County Village as an attractive, local-serving retail center.</p> | <p>The project allows for more diversity in the mix of ground floor uses at the site but still retains the majority of the center for retail and retail like uses. The project also limits the additional uses to medical office uses, a use that is still compatible with retail and retail like uses.</p> |

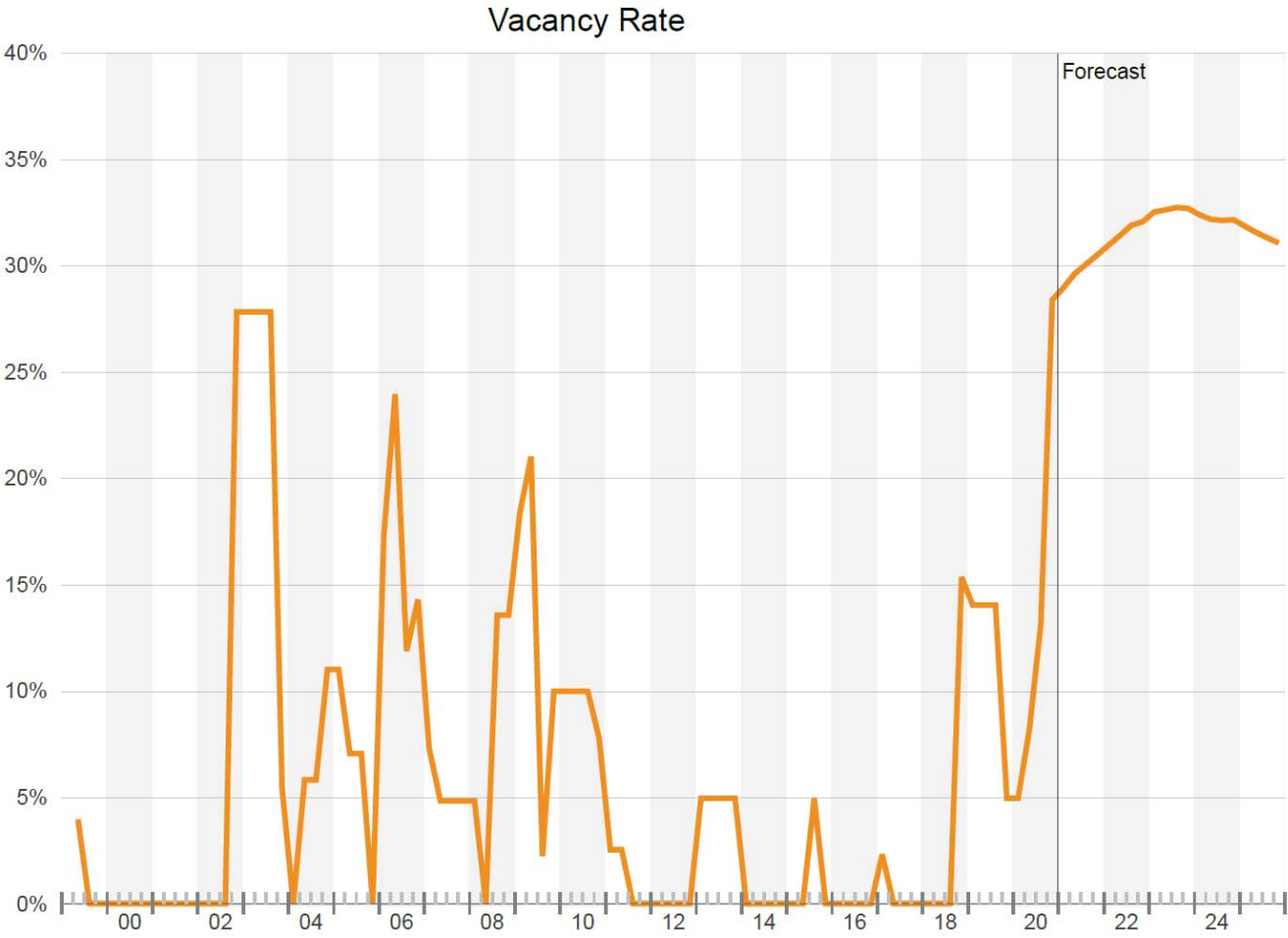
ATTACHMENT D
CoStar Data: Year to Year Vacancy Rates for City of Palo Alto Retail Centers¹

Town & Country Village

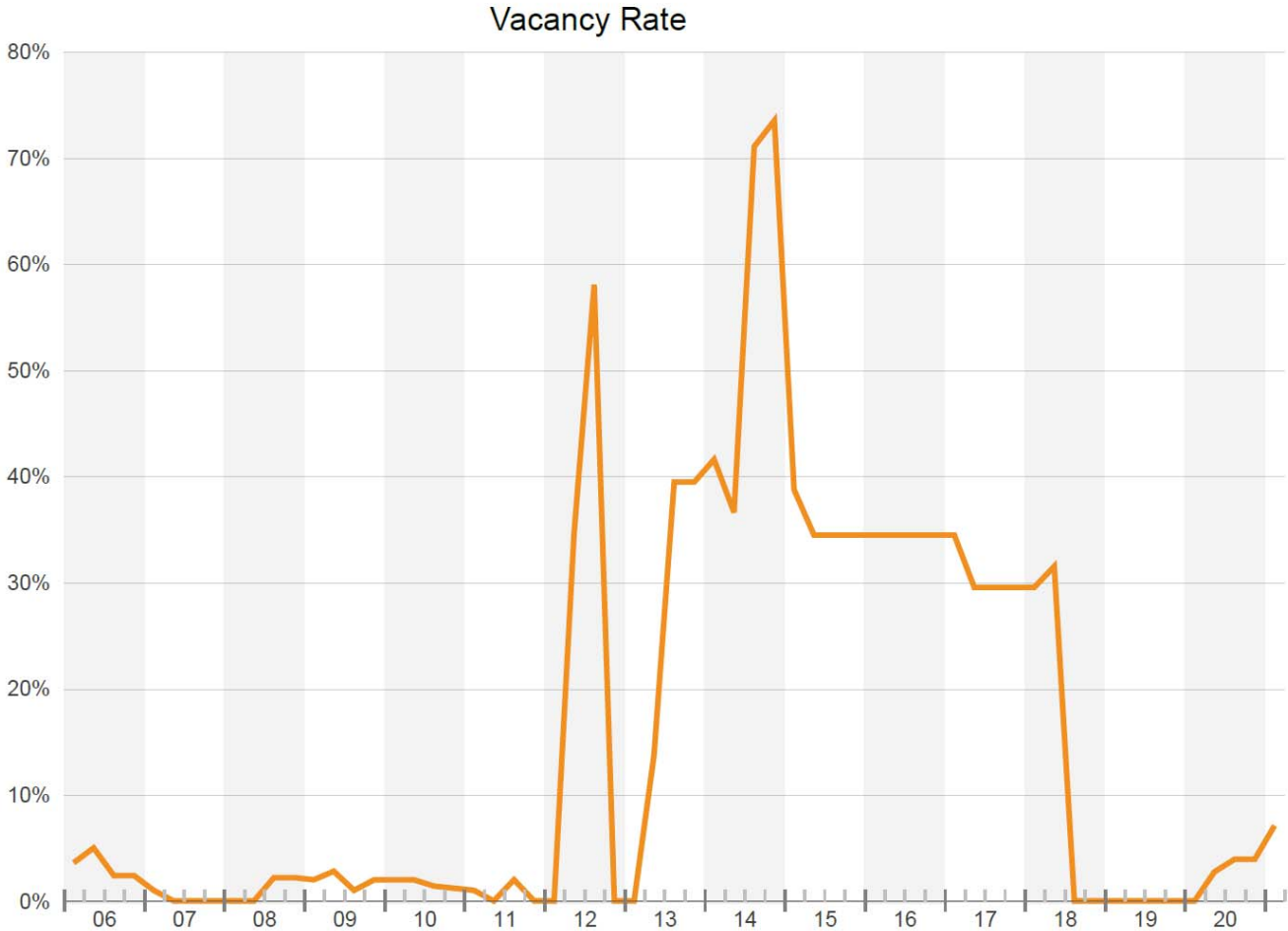


¹ The graphs in this attachment display all available information from CoStar Data; therefore, the availability of historical data and/or projections for a particular site varies.

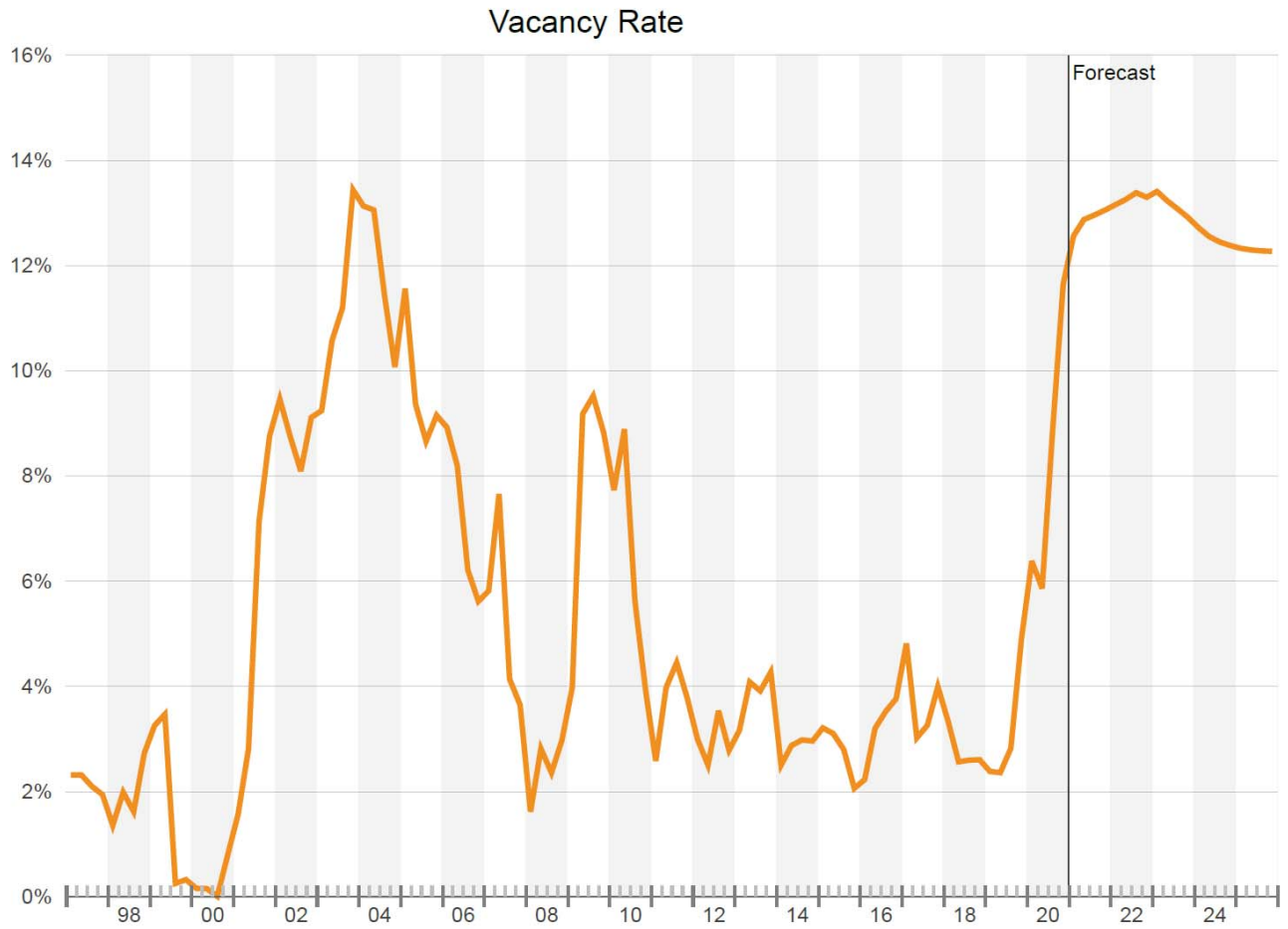
Midtown Shopping Center



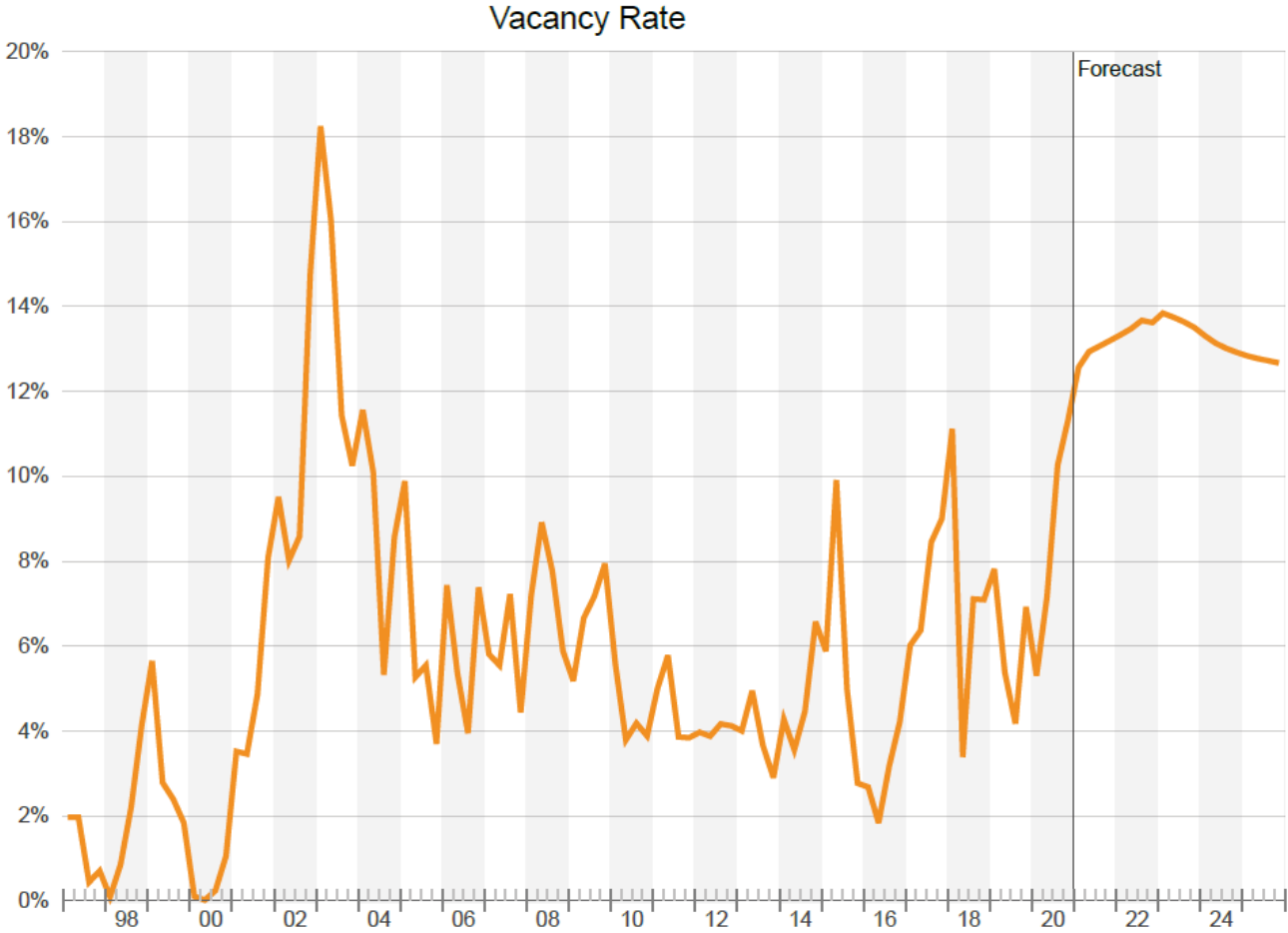
Edgewood Shopping Center



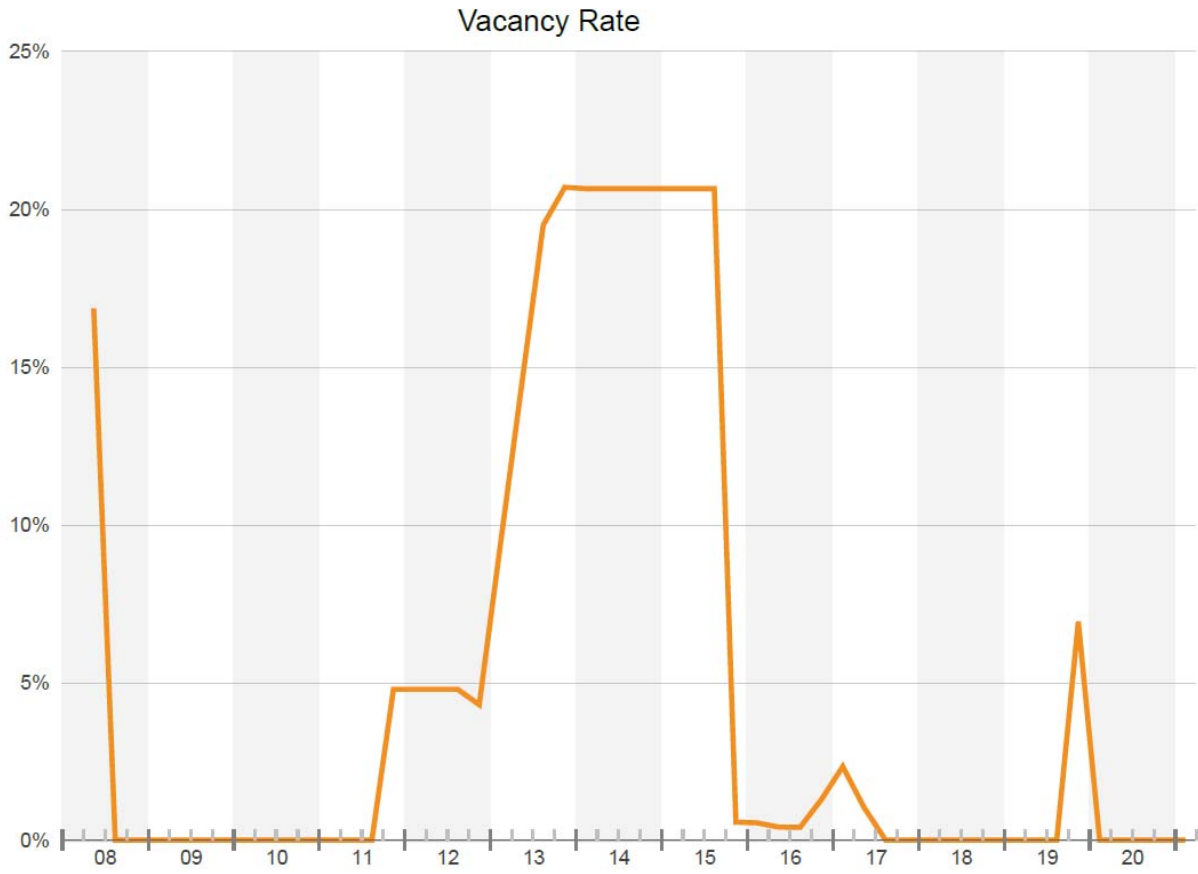
Downtown Vacancy Rate



California Avenue



Stanford Shopping Center



TOWN & COUNTRY VILLAGE

November 17, 2020

Jonathan Lait
Director of Planning - City of Palo Alto
250 Hamilton Ave
Palo Alto, CA 94301

Dear Mr. Lait:

Due to the dramatic impact on retail and restaurant tenants from the COVID-19 Pandemic, Town & Country Village has seen a precipitous drop in occupancy and many of our retail tenants have declared bankruptcy or simply defaulted on their leases and will not re-open. This is despite our collective efforts to assist our tenants in any way we can, such as providing outdoor dining within parking areas, enhancing our marketing and promotion efforts and voluntarily abating and/or deferring rent. The duration of these impacts is yet unknown, but it is certain that Town & Country Village will suffer significant financial losses, city tax revenues will be significantly reduced and the experience for shoppers will be severely changed. As shown on the attached site plan, our pre-COVID vacancy was only 13,212 SF and is now 32,891SF, with an additional 20,465 Sf of retail space considered likely to become vacant due to the continued impact of COVID on retail, including the domino effect caused by reduced foot traffic to the shopping center.

These detrimental effects are in part an acceleration of trends that were already occurring before the pandemic. Online shopping was already disrupting almost all categories of retail uses. The likes of Amazon have taken a huge toll on the viability of many retailers. They will either continue to fail or reduce and streamline their operations to stay alive. This all has the effect of significantly reducing the occupancy of a cherished community asset.

The good news is that market for medical-related tenants is growing, despite the pandemic, and we expect this new component of customer-facing merchandising to grow longer term. Examples of the types of medical service uses we would like to be allowed to implement as a convenience to our customers are membership based primary care practices such as One Medical, Carbon Health and Forward, Dental/Braces services such as Invisalign and Candid, health and wellness services such as

Modern Acupuncture, Hyper Wellness and B12LOVE and Medi-Spa services such as Awaken MD and Orange Twist. The design of these types of tenant spaces are typically geared toward pedestrian-facing retail settings and would be consistent with the character and merchandising mix at Town & County. Additionally, their traffic and parking demand are generally consistent with retail use. However, we are unfortunately unable to take advantage of this growing demand since our zoning use restrictions are outdated and do not reflect the evolution of viable uses for successful shopping centers that provide the community what they need. Specifically, we are limited by our inability to lease ground floor space to medical services and limited to 15% overall for office uses. Allowing for these types of medical services will allow Town & Country Village to offer more reasons to visit the property for these needs and to stay and shop for other goods and services in Palo Alto. It will also give us a much better chance of returning this cherished property to its Pre-COVID occupancy levels.

Retail and restaurant leasing will face a serious headwind for many years to come as a result of online retail disruption and this current pandemic. As such, we herewith request the following changes to the Palo Alto Planning Code to allow us to implement a more current and vibrant merchandising of Town & Country Village and mitigate the long-term challenges we have in maintaining a fully occupied and thriving shopping environment.

1) Proposed Changes to Section 18.16.040

Section 18.16.040 allows (subject to a Conditional Use Permit) Medical Office uses in the CC Zone (which governs this property and Stanford Shopping Center only), but as noted in the use table, it is subject to regulations in Section 18.16.050, which is excerpted below:

18.16.050 Office Use Restrictions

The following restrictions shall apply to office uses:

(a) Conversion of Ground Floor Housing and Non-Office Commercial to Office

Medical, Professional, and Business offices shall not be located on the ground floor, unless any of the following apply to such offices:

- (1) Have been continuously in existence in that space since March 19, 2001, and as of such date, were neither non-conforming nor in the process of being amortized pursuant to Chapter 18.30(l);
- (2) Occupy a space that was not occupied by housing, neighborhood business service, retail services, personal services, eating and drinking services, or automotive service on March 19, 2001 or thereafter;
- (3) Occupy a space that was vacant on March 19, 2001;
- (4) Are located in new or remodeled ground floor area built on or after March 19, 2001 if the ground floor area devoted to housing, retail services, eating and drinking services, personal services, and automobile services does not decrease;
- (5) Are on a site located in an area subject to a specific plan or coordinated area plan, which specifically allows for such ground floor medical, professional, and general business offices; or...

Based on our discussion with Amy French, Chief Planning Official, it appears that we are not permitted to utilize former ground floor retail spaces for Medical Office, Professional Office or General Business Office uses. **We therefore request a change to the zoning text to allow Medical Office uses to be permitted on ground floors at Town & Country Village, subject to a limitation of 20% of total ground floor area, or 30,049 SF.** We understand the historical goal of limiting Medical Office use of ground floor spaces to better activate retail storefronts, especially along public streets like University Avenue. Town & Country storefronts are significantly set back from public right-of-way and therefore we believe that the center's ground floor uses should be given more flexibility. With the unprecedented impacts of COVID-19 and the industry disruption referenced herein, and the fact that new medical uses have emerged that are integrating with retail shopping environments all over the country, it seems that this approach with the 20% limitation would strike the proper balance between the planning goals of the city and allowing this treasured community asset to avoid long-term, dramatic reductions in occupancy.

2) Proposed Changes to Section 18.16.060(e.1)

While Professional and General Business Office is a permitted use in the CC Zone, this section limits the percentage of Professional and General Business Office space at the property to 15% of the total floor area, or 25,797 SF. Consistent with the above request to allow up to 20% of the ground floor area to be used for medical uses, **we request that the maximum office percentage overall be increased to 30%**, which would allow for an additional 25,797 SF of space for these uses. The total office space allowed would be 51,594 SF, and since there is 21,734 SF of second floor space, the remaining 29,860 SF would likely be on the ground floor. This represents just under 20% of the ground floor area and would therefore be consistent with the requested change in item 1 above.

3) Changes to Section 18.40.180

We understand that changes would be required under the Retail Preservation Ordinance as well (in Section 18.40.180) to allow the above proposed changes to occur. We request that city staff propose the text changes in 18.40.180 to facilitate this request.

4) Potential Financial Impacts

We expect these proposed changes would mitigate the dramatic increase in ground floor vacancy and would drive badly needed foot traffic back to Town & Country which would have the effect of increasing retail sales volumes for the tenants that do survive. We believe that over the long term, having a full and vibrant center will produce more retail sales volume even with the Medical Office use component we are requesting. With that said, we understand that these changes might impact sales tax

revenue that is important to Palo Alto. Per your request, we have endeavored to calculate the potential magnitude of these impacts on Palo Alto's sales tax revenue. Using the sales tax revenue from Town & Country reported in the March 8, 2018 City Auditor Report, which we found online, attached to this letter, we calculated the following:

- *Total Palo Alto Sales Tax Revenue from Town & Country (Annual Average based on 2016 and 2017 reported data):* **\$637,000**
- *Estimated Portion of Town & Country Sales Associated with In-Line Retail Spaces (excludes Trader Joes, CVS and Restaurants):* **27%**
- *Estimated Palo Alto Sales Tax Revenue from Town & Country from In-Line Retail Spaces: **\$172,000***
- *Potential Reduction in Sales Tax Revenue to Palo Alto if ALL 30,049 SF of the 66,488 SF In-Line Retail was leased to Medical Office Tenants (30,049 ÷ 66,488 x \$172,000):* **\$78,000**

It is important to note that this represents a worst-case scenario, in which ALL of the square footage that is given the more flexible use designation is actually converted from retail to medical office. For reference, this potential \$78,000 impact would only be an 12.2% reduction in the sales tax revenue associated with Town and Country and approximately 1% of total Palo Alto sales tax revenue.

It is also worth noting that without the foot traffic generated by these potential new medical uses, we believe many of our remaining retail tenants that are currently generating sales tax will fail or experience significantly reduced sales, resulting in a sales tax revenue reduction of similar or greater magnitude.

5) Recent City Council Resolution

As you are aware, the City Council held meetings on September 14, 2020 and November 9, 2020 to consider potential changes to retail zoning ordinances in response to the COVID situation and its impact on the market. Jim Ellis, one of our founding partners addressed the Council at both meetings and explained the dire situation outlined above. As we understand it, the Council passed a motion on November 9, 2020 to:

“...quickly evaluate and propose changes to enable Diverse Retail Uses in more retail sites, including, food, medical, educational, financial and other professional office uses citywide or by district...”

We believe this Council action is consistent with the above requests.

We have active interest from medical-related tenants for our vacant ground floor space and every week is critical to our ability to maintain their interest in Town & Country and in Palo Alto in general. We appreciate your consideration of this request and look forward to hearing back from you regarding next steps. Please call me at (415) 373-7706 with any questions on this matter.

Best Wishes,

Dean Rubinson
Director of Development
Ellis Partners

Attachments

Town & Country Village SF Analysis

| CURRENT USES | Retail/Restaurant | Office | Total | |
|--------------|-------------------|--------|---------|-------------------------|
| Ground Floor | 149,526 | 720 | 150,246 | Office is For Eyes Opti |
| Second Floor | - | 21,734 | 21,734 | |
| Total | 149,526 | 22,454 | 171,980 | |

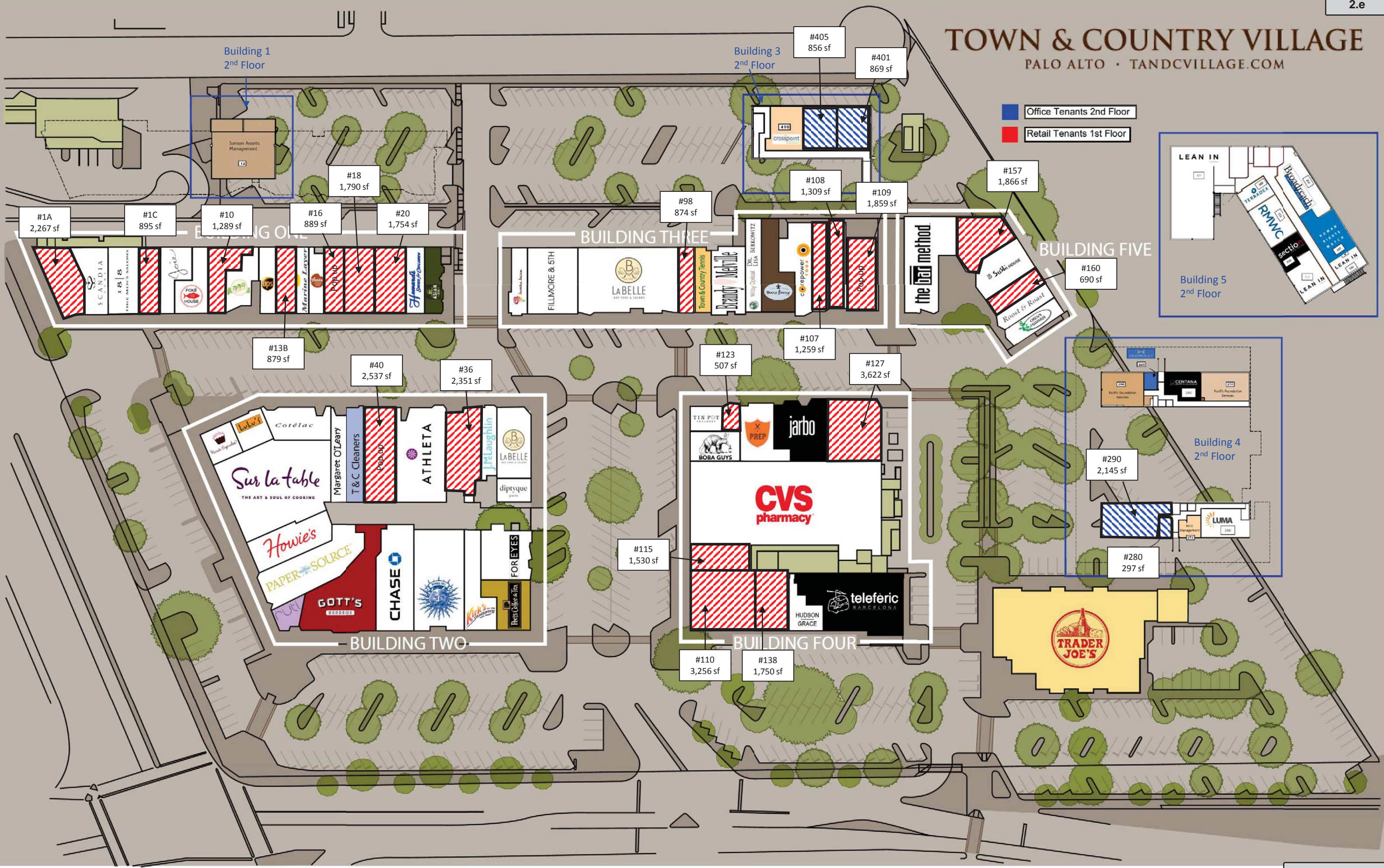
| Compliance Check | Total SF | Office SF (incl For Eyes) | | |
|----------------------|----------|---------------------------|-----|----------------------|
| Prop Wide Office Max | 171,980 | 22,454 | 13% | Within 15% Office Ma |

| PROPOSED CHANGES | Retail/Restaurant | Med Office | Office | Total |
|------------------|-------------------|------------|--------|---------|
| Ground Floor | 120,197 | 30,049 | - | 150,246 |
| Second Floor | - | | 21,734 | 21,734 |
| Total | 120,197 | 30,049 | 21,734 | 171,980 |

| Compliance Check 1 | Total SF | Office SF (Med and Prof Office) | | |
|-----------------------------|--------------|---------------------------------|-----|----------------------|
| Prop Wide Office Max | 171,980 | 51,783 | 30% | Within 30% Office Ma |
| Compliance Check 2 | Ground Fl SF | Med Office | | |
| Ground Floor Med Office Max | 150,246 | 30,049 | 20% | Within 20% Office Ma |

TOWN & COUNTRY VILLAGE

PALO ALTO · TANDCVILLAGE.COM



■ Office Tenants 2nd Floor
■ Retail Tenants 1st Floor



| Town and Country Retail Vacancy History | |
|---|----------------------------------|
| Year | Retail Vacancy % as of January 1 |
| 2010 | 7.8% |
| 2011 | 3.2% |
| 2012 | 1.8% |
| 2013 | 4.6% |
| 2014 | 0.6% |
| 2015 | 0.4% |
| 2016 | 1.4% |
| 2017 | 2.6% |
| 2018 | 1.4% |
| 2019 | 8.2% |
| 2020 | 4.6% |
| 2021 | 18.6% |

**Town and Country Village - Vacancy
Analysis**

| SUITE NO./TENANT NAME | RETAIL | OFFICE | RESTAURANT | TOTAL LEASABLE AREA |
|-----------------------------|---------------|--------------|---------------|------------------------|
| 1A VACANT | 2,267 | | | |
| 1B SCANDIA HOME | 1,618 | | | |
| 1C VACANT | 895 | | | |
| 3 SALON 18 8 | 2,092 | | | |
| 4 VACANT | 84 | | | |
| 5 JOIE | 1,296 | | | |
| 9 POKE LOVE | 1,374 | | | |
| 10 VACANT | 1,289 | | | |
| 10A SPROUT | 462 | | | |
| 11 SPROUT | 651 | | | |
| 13A UPS | 874 | | | |
| 13B VACANT | 879 | | | |
| 14 MARINE LAYER | 910 | | | |
| 15 ANTOINE'S COOKIE SHOP | 852 | | | |
| 16 VACANT | 889 | | | |
| 18 VACANT | 1,790 | | | |
| 20 VACANT | 1,754 | | | |
| 20B HOWARD'S SHOES | 901 | | | |
| 21 ASIAN BOX | 903 | | | |
| 12 JUNSON ASSETS MANAGEMENT | | 3,416 | | |
| Building 1 Subtotal | 21,780 | 3,416 | 0 | 25,196 |
| 33 LABELLE SALON | 1,904 | | | |
| 34 DIPTYQUE | 606 | | | |
| 35 J. MCLAUGHLIN | 972 | | | |
| 36 VACANT | 2,351 | | | |
| 37 ATHLETA | 3,728 | | | |
| 40 VACANT | 2,537 | | | |
| 42 T&C CLEANERS | 1,359 | | | |
| 43 MARGARET O'LEARY | 1,185 | | | |
| 47 IN HER SHOES (COTELAC) | 1,497 | | | |
| 49 LULU'S | 773 | | | |
| 50 KARA'S CUPCAKES | 875 | | | |
| 57 SUR LA TABLE | 6,824 | | | |
| 60 HOWIE'S ARTISAN PIZZA | | | 2,630 | |
| 63 PAPER SOURCE | 3,399 | | | |
| 64 RUTI | 588 | | | |
| 65 GOTT'S ROADSIDE | | | 4,424 | |
| 67 CHASE | 3,077 | | | |
| 74 BOOK'S INC. | 4,040 | | | |
| 75 KIRK'S | | | 1,951 | |
| 77 PEET'S | | | 1,434 | |
| 82 FOR EYES (DR. BERKOWICZ) | | 720 | | |
| 83 FOR EYES | 1,334 | | | |
| 70 VACANT | 226 | | | |
| 74A VACANT | 648 | | | |
| Building 2 Subtotal | 37,924 | 720 | 10,439 | 49,083 |
| 85 JAMBA JUICE | 894 | | | |
| 88 FILLMORE AND 5TH | 1,300 | | | |
| 91 FILLMORE & 5TH EXPANSION | 1,359 | | | |
| 95 LABELLE DAY SPA | 4,416 | | | |
| 96 LABELLE SALON | 926 | | | |
| 98 VACANT | 874 | | | |
| 99 T&C TENNIS | 866 | | | |
| 102 BRANDY MELVILLE | 1,836 | | | |
| 103 WILBY OPTICAL | 1,235 | | | |
| 104 DOUCE FRANCE | | | 1,795 | |

| | | | | |
|--------------------------------------|----------------|---------------|---------------|----------------|
| 105 COREPOWER YOGA | 2,014 | | | |
| 107 VACANT | 1,259 | | | |
| 108 VACANT | 1,309 | | | |
| 109 VACANT | 1,859 | | | |
| 401 VACANT | | 869 | | |
| 405 VACANT | | 856 | | |
| 410 T&C MGMT | | 867 | | |
| Building 3 Subtotal | 20,146 | 2,592 | 1,795 | 24,533 |
| 138 VACANT | 1,750 | | | |
| 110 VACANT | | | 3,526 | |
| 115 VACANT | 1,530 | | | |
| 116 CVS/PHARMACY | 13,278 | | | |
| 120 VACANT | 826 | | | |
| 121 TIN POT | 950 | | | |
| 123 VACANT | 507 | | | |
| 125 PREPCUTS | 1,760 | | | |
| 126 JARBO | 1,323 | | | |
| 127 VACANT | 3,622 | | | |
| 130 TELEFERIC BARCELONA | 2,884 | | 3,084 | |
| 135 HUDSON GRACE | 840 | | | |
| 200 PACIFIC FOUNDATION | | 1,620 | | |
| 220 HENDERSON STRATEGIC FINANCIAL | | 271 | | |
| 240 CENTANA MANAGEMENT | | 1,038 | | |
| 250 PACIFIC FOUNDATION | | 1,498 | | |
| 260 LUMA PARTNERS | | 1,422 | | |
| 272 HUMAN RIGHTS WATCH | | 486 | | |
| 280 VACANT | | 297 | | |
| 290 VACANT | | 2,145 | | |
| Building 4 Subtotal | 29,270 | 8,777 | 6,610 | 44,657 |
| 151 THE BAR METHOD | 3,186 | | | |
| 157 VACANT | 1,866 | | | |
| 158 SUSHI HOUSE | | | 1,633 | |
| 160 VACANT | 690 | | | |
| 161 ROOST & ROAST | 1,049 | | | |
| 162 NATIONAL CHICKEN (OREN'S HUMMUS) | 852 | | | |
| 307 LEAN IN | | 2,427 | | |
| 309 TERRADEX | | 367 | | |
| 311 RMWC | | 746 | | |
| 316 SECTION PARTNERS | | 441 | | |
| 317 LEAN IN | | 668 | | |
| 330 LEAN IN | | 414 | | |
| 333 HUMAN RIGHTS WATCH | | 813 | | |
| 350 BROADREACH CAPITAL PARTNERS | | 1,074 | | |
| Building 5 Subtotal | 7,643 | 6,949 | 1,633 | 16,224 |
| Trader Joes | 12,287 | | | |
| Building 6 Subtotal | 12,287 | 0 | 0 | 12,287 |
| TOTAL | 129,049 | 22,454 | 20,477 | 171,980 |
| % of TOTAL AREA | 75% | 13% | 12% | 100% |

| | | | | |
|--------------|--|--|--|----------------|
| Ground Floor | | | | 150,246 |
| Second Floor | | | | 21,734 |
| Total | | | | 171,980 |

| | | | | |
|------------------------------|--|--|--------------|---------------|
| Vacant Ground Floor < 5000SF | | | 20.5% | 35,226 |
| Vacant Ground Floor > 5000SF | | | | 0 |
| Vacant Second Floor | | | 2.4% | 4,167 |
| Total | | | 22.9% | 39,393 |



Planning & Transportation Commission

Staff Report (ID # 11756)

Report Type: Action Items **Meeting Date:** 2/10/2021

Summary Title: Action Item: ADU Code Changes to PAMC Chapter 18.09

Title: PUBLIC HEARING/LEGISLATIVE: Review and Discuss Potential Ordinance Changes to Palo Alto Municipal Code Chapter 18.09, Accessory and Junior Accessory Dwelling Units. Environmental Assessment: Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines sections 15061(b)(3), 15301, 15302 and 15305.

From: Jonathan Lait

Recommendation

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

1. Discuss potential modifications to Palo Alto Municipal Code Chapter 18.09;
2. Provide recommendations to staff on items to include in a draft ordinance.

Report Summary

The topics covered in this report are robust and complex. Staff hopes PTC may, through a motion(s), indicate and affirm items that should be further discussed as part of a draft ordinance(s). These items will return for future action when appropriate. The PTC need not decide tonight if each item should be incorporated into an ordinance and the exact parameters of an ordinance; but the PTC is asked to identify areas where modification is supported by many of the Commissioners.

The PTC considered the ADU ordinance on May 27, 2020 and voted to recommend the City Council adopt the ordinance. On October 26, 2020, City Council held a second reading and adopted Palo Alto's Accessory Dwelling Unit and Junior Accessory Dwelling Unit (ADU and JADU) Ordinance (Attachment A). The regulations for ADUs and JADUs are now consolidated into Palo Alto Municipal Code (PAMC) Chapter 18.09.

Between the time of PTC consideration and Council adoption, members of the local design community expressed concerns and desires for further changes to the ordinance. The Council adopted the ordinance as recommended but directed staff to continue working with stakeholders and to present any additional changes to the PTC.

The PTC is requested to consider the advantages and disadvantages of the topics below. Due to the variety and complexity of items, the PTC may choose to identify items for further work and eliminate others, with anticipation of focused discussions in the future to shape policy.

Staff will also bring forth a separate and future action item regarding incentives for affordable second units. Following that, staff will work on updating section 18.09 based on the collected feedback from both meetings.

A. Topics Staff Proposes for Regulatory Change

- i. Basements¹
- ii. Noise Producing Equipment Location Standards²

B. Regulatory Change Topics Proposed by Design Professionals (less staff support)

- i. Parking Provided for an ADU
- ii. Privacy
- iii. Increasing the Exemption for Development Impact Fees
- iv. Refunding Development Impact Fees
- v. Allowing Doorways Between Units

C. Topics Requiring Additional Analysis

- i. Street-side Setback on Corner Lots
 - a. Removing Requirement for Garages/Carports to be “Existing” Structures for Conversion on Corner Lots
 - b. Additional Bonus Floor Area and/or Reduced Setbacks for Unit Development
 - c. Allowing the Main House to Encroach into a 10 Foot Setback to Create an ADU/JADU
- ii. Retracting Prior Deed Restrictions
- iii. Flood Zone Height Exceptions

Background

On October 26, 2020, the Palo Alto City Council adopted Palo Alto Municipal Code Chapter 18.09, the most recent Accessory and Junior Accessory Dwelling Unit Ordinance (Attachment A). The October 5, 2020 first reading staff report³ and minutes⁴ are available online.

¹ A modification to PAMC Chapter 18.04 Section 18.04.030 (15) basement definition specific to detached ADUs and modification to PAMC Chapter 18.09.040 (units not exempt from city’s regulations).

² A modification to PAMC Section 18.09.040 (h) and Section 18.23.060 Noise and Vibration (B) Requirements.

³ Council staff report of October 5, 2020

<https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=59061.88&BlobID=78541>

The Council's adoption of the ordinance followed the PTC discussion and recommendation made during the public hearing on May 27, 2020. The May 27th PTC report⁵ and minutes⁶ are available online. A PTC representative speaking to Council noted the PTC did not recommend ADUs include basements outside the buildable area and noted the PTC needed more time to review some topics.

In addition, a group of local design professionals submitted to staff and City Council additional changes they identified. The professionals indicated these changes would further the construction of ADUs in Palo Alto. This group named themselves the "ADU Task Force." While very knowledgeable and passionate, the group is not appointed by the City in a formal capacity.

With adoption of new Chapter 18.09, Council simultaneously directed staff to return to the PTC to review additional potential changes to the ordinance.

Discussion

A. Proposed Areas for Regulatory Change (Supported by Department Staff)

i. Basements

By allowing basements under accessory units—no matter where they are located on the property—units could have greater variety of configurations and accommodate a range of property-specific layouts. Currently, accessory units may only include basements when located within the property's buildable area.

For ADUs that are subject to local standards (Chapter 18.09, Table 2), basement construction is currently prohibited within the rear or side property setbacks.⁷ While the subterranean portion of a unit would not impact neighboring properties' privacy, basements within setbacks can impact mature trees on neighboring properties. The architect group suggested the ordinance allow construction of a portion of an ADU underground to accommodate two full floors without exceeding the height limit. ADUs with two stories above grade within rear and side setbacks could negatively impact neighboring properties and are not recommended. If the PTC supports two stories above grade, staff recommends additional privacy mitigations be placed on those ADUs.

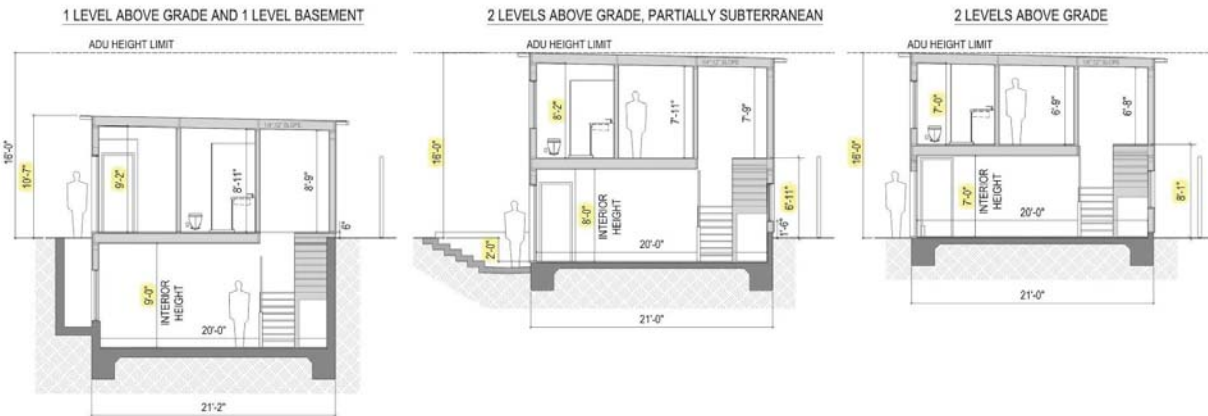
⁴ Council meeting minutes of October 5, 2020

<https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=42759.83&BlobID=79414>

⁵ PTC staff report of May 27, 2020 <https://www.cityofpaloalto.org/civicax/filebank/documents/76826>

⁶ PTC meeting minutes <https://www.cityofpaloalto.org/civicax/filebank/documents/77368>

⁷ Note: The City is unable to regulate basements for ADUs that comply with the development standards in Chapter 18.09 Table 1 (e.g., new construction, detached ADUs up to 800 square feet – including basement square footage).



Source: ATTACHMENT B

Zoning regulations for designing and constructing basements are clarified within the Single-Family Residential Zones Zoning Technical Manual with graphics. These regulations could be applied to basements under ADU units.

Many residents are concerned about impacts from basement construction, particularly impacts upon existing trees and groundwater (subsidence and dewatering). Public Works' dewatering regulations strive to address some concerns such as wasting removed groundwater. Dewatering can only occur during certain months of the year, and measures are in place to lessen impacts of dewatering. These measures only apply to sites with a high-water table, and not to all properties. Staff believes dewatering regulations appropriately address some impacts. Neighbors, however, will continue to have concerns about subsidence, impacts from basement construction noise and vibration, the health of nearby trees, potential for tree removals to enable ADUs.

If PTC supports allowing basements within rear and side setbacks, the following are proposed as regulations:

- The basement cannot encroach into the four-foot ADU setback.
- ADU Lightwells cannot be located closer than four feet to a property line. All lightwells would need to be screened from view from public rights of way.
- The new basement must not negatively impact tree roots on adjacent lots such that it would require the tree to be removed or fail. Protected trees on the subject property would continue to be subject to the City's tree regulations. Urban Forestry has identified that roughly 25% of the tree could be affected without significantly damaging it.
- Require that ADU basements⁸ be fully, such that the finished first floor is placed at grade underground (the left most option of the above image). A primary single-family home in the 'buildable area' of a lot is allowed finished first floor placement up to three feet above grade such that the basement beneath it does not count toward gross floor area.

⁸ Definition for basement: 18.04.030 (15) "Basement" means that portion of a building between the lowest floor and the ceiling above, which is fully below grade or partly below and partly above grade, but so located that the vertical distance from grade to the floor below is more than the vertical distance from grade to ceiling.

ADUs would not be allowed sunken first floor where a greater portion of the floor volume is located above grade to protect privacy impacts.

- All basements for accessory units shall count towards the unit's gross floor area.

ii. Noise Producing Equipment Location Standards

Instead of regulating the placement of noise-producing equipment on a site, the City could require less noisy equipment. Technological advancements have resulted in quieter equipment. Recent applications have included equipment purported to generate lower decibel (dB) levels than the lowest level that the Noise Ordinance allows (66 dB at the property line).

To provide more flexibility in the design of ADUs, the City could allow noise producing equipment within the minimum property setbacks. The PTC may recall that the ADUs (in most cases) must be set back a minimum of 4 feet from the property line. This would deviate from the current requirements (PAMC 18.09.040(h)), which requires the noise-producing equipment follow the same setback requirements as the ADU.

The PTC could also codify staff's current practice of requesting applicants provide documentation about the equipment to confirm the equipment and location conform to the Noise Ordinance. Currently, staff requests (1) a specification sheet identifying equipment decibel rating, and/or (2) a noise analysis when a louder unit is proposed, to determine appropriate placement. The added flexibility of location within property setbacks may help to alleviate ADU siting constraints, while also codifying requirements for additional documentation.

B. Regulatory Changes Proposed by Design Professionals (Limited or No Support from Department Staff)

i. Parking Provided for an ADU

The architect group raised concerns about PAMC Section 18.09.040(k)(iv). This section states that covered parking that is attached to an ADU will count towards the maximum size of the unit. The architect group asserts this dissuades property owners from providing parking for these units. The group recommends that covered parking attached to the ADU to not count towards the unit's maximum size and only count towards the parcel's total FAR allowance. As presently enacted in the ordinance, the way covered parking is counted for ADUs mirrors how covered parking is counted for single family homes.

The City receives very few applications for providing covered parking along with an ADU—whether that parking is attached or detached from the unit. The only zone where staff has seen owners propose covered parking for accessory units is the Residential Estate (RE) zone. The RE zoned properties are larger and often have excess floor area that cannot be used for the primary dwelling. Since the RE zone is not predominant throughout Palo Alto, unless changes

are made as the group suggest, it is unlikely that more applications for replacement parking would be received at scale.

Overall, staff are concerned that allowing the construction of covered parking attached to an ADU may not yield the outcomes the city is seeking. This could result in garages taking space where the City would prefer to have larger ADUs that provide quality homes for individuals and families. Furthermore, the stated purpose would be to provide on-site parking. If this occurs, it would reduce demand for on-street parking and be an amenity for ADU residents—a benefit for the property owner and neighbors. The City remains skeptical, however, if the garages would be used for this purpose. The garages could be used for storage of personal items and not vehicles. A garage also creates an opportunity for unauthorized expansion of the ADU after construction and occupancy. Finally, not counting the covered parking towards the ADU size could result in overly large structures, with massing that is incompatible with its context and undesirable.

If the goal is to find ways to encourage homeowners to develop covered parking when they construct an accessory unit, where they otherwise would not be required to provide covered parking, carports may be an avenue to consider. Carports are not as easily converted to habitable space outside the permit process. As an alternative, the City could identify a maximum size of garage that is not counted toward an ADU's size; staff recommend attached garages be no more than 220 square feet.

The PTC may suggest staff explore the carport, maximum garage size, or other options.

ii. Privacy

ADUs can impact the privacy of neighboring homes, especially when close to the property line. The ordinance recognizes and, to the extent feasible, mitigates these impacts by establishing objective measures that are easy to implement. The ordinance relies heavily on the words “second story” which some applicants have interpreted as not applicable to a loft space in an ADU. The PTC is requested to discuss the potential benefits and consequences of including “loft space” specifically in these regulations, and associated window regulations. Staff would recommend clarifying when privacy measures apply or adding additional language as an amendment to section 18.09.040.

In accordance with state law, privacy measures are only applied to ADUs that are subject to local standards (Chapter 18.09, Table 2). PAMC Section 18.09.040, subdivision (j) describes these measures and their applicability in greater detail.

The architect group also suggested additional ways to address privacy concerns. The group's suggestions are as follows:

- a) Windows obscured when sills are below five feet above adjacent finish floor on walls parallel to property lines when the structure is within eight feet of a property line.

- b) Set sills at five feet above adjacent finish floor on walls parallel to property lines when the structure is within eight feet of a property line.
- c) Sleeping rooms endeavor to have egress windows located on walls non-adjacent to property lines.
- d) Use of (operable) skylights in bathrooms and other spaces where windows could be considered optional.
- e) No exterior lighting mounted above seven feet on walls adjacent to property lines to keep it at or below maximum fence height.

The City's current privacy regulations require fully obscured windows for any second story/loft area facing adjacent properties. The architect group's proposal would reduce this requirement to only the portion of the window above five feet and only when less than eight feet from a property line. In the Individual Review process for two story homes, staff notes the five feet sill height requirement does sufficiently reduce privacy impacts for a full second story.

In loft areas, however, a person's eye level is much higher; therefore, staff would recommend the PTC support the existing Code which requires the obscure glazing on the full window. This would simplify pre-application discussions with applicants, minimize neighbor conflicts, and reduce post-construction site visits. Establishing a distance requirement that claims privacy is no longer an issue after a certain distance severely restricts staff's ability to best implement these practices and sets a bad precedent for where the City thinks privacy is no longer an issue that residents may not agree with

iii. Increasing the Exemption for Development Impact Fees

The State's 2020 laws exempt payment of impact fees for ADUs having less than 750 sf of floor area. For units equal to and greater than 750 sf, the impact fees charged must be proportional in size to the main house. The architect group suggested increasing exemptions beyond 750 sf. As seen in the City's published Quarterly ADU reports, the average unit size tends to be 446 square feet. Therefore, increasing the floor area exemption will not affect a substantial number of applications that the City receives. With the updated ADU ordinance, staff anticipates that the overall size of units will increase such that the average ADU size will be closer to the 750 square foot exemption.

While increasing the exemption for ADUs to include units of any size is an option, it is worth recognizing impact fees pay for the increased use of and need for parks, community centers, libraries, public safety, and general government services that would come with an increase in population caused by the construction of additional units. Staff does not support increasing the size exemption beyond 750 square feet for impact fees. Such fee reductions would reduce revenue for the City's programs that would serve the new ADU tenants. Replacing that lost revenue would need to come either from the City's General Fund or other revenue source. Given this, staff do not support this recommendation.

For reference, prior to 2018, Development Impact fees were charged for all ADUs; the cost was roughly \$7,000 to \$12,000 for a new ADU, depending on whether the property was within any traffic impact districts. In 2018, Palo Alto updated its ADU ordinance to enable JADUs and garage conversions that did not expand the square footage of the unit to be exempt from impact fees. This captured a fair number of ADU applications.

iv. Refunding Prior Development Impact Fees

The updated 2020 state law eliminated development impact fees for any unit less than 750 square feet. The architect group indicated a desire for Council to refund all development impact fees assessed for the units developed prior to the state law changes.

To refund all development impact fees that were paid for units less than 750 square feet before 2020, City Council would need to fill the gap refunds would create in the General Fund. According to Planning's Accela database, this would be approximately \$1 million. Effectively, this would mean the fees for these units would be paid by Palo Alto taxpayers. Staff do not support this recommendation.

v. Allowing Doorways Between Units

The architect group requested that the City enable attached ADUs to have a doorway or other means of access between the primary and secondary unit. Previous City ordinances and state law define ADUs as independent and self-sustaining units. Staff interpreted this to mean that no doorway connection is allowed between the primary and secondary units. The City's most recent ADU ordinance used more explicit language (PAMC 18.09.030(b)(g) and 18.09.040(e)) codifying staff's understanding that a doorway, or any means of access, is not allowed between the primary dwelling unit and an attached ADU.

Staff and the PTC noted discomfort with connections between the primary and secondary units. The concern expressed previously is that the units will be treated as an addition to the house, rather than as a separate housing unit. Given that the City does not have a program or the staffing capability in place to confirm how these units are used, staff does not recommend modifying this Code Section.

Topics Requiring Additional Analysis

i. Incentives to Maintain Street-side Setback on Corner Lots

Corner lots are unique, having both a front yard and street-side yard that are visible to and impact the streetscape. Palo Alto's local code generally provides restrictions specific to street side yards, including the required minimum setback. The California Housing and Community Development Department (HCD) has indicated that state law does not recognize this unique feature; the state law treats street-side yards as equivalent to other interior rear and side yards. Thus, the maximum setback that can be imposed on an ADU is four-feet from the

property line—even on a street-side yard.

This State law also impacts special setbacks, such as along Alma and Embarcadero. These streets, among others, require special setbacks that anticipate future road widening. On corner lots in these areas, ADUs may be constructed in the special setback as the City is not imposing any restriction on ADU development on street-side yards. In fact, some argue that the City is prohibited from placing further restrictions on street-side yards.

ADUs constructed on corner lots on the street facing side yard just 4 feet from the property line will be disruptive to the city’s development pattern and contrary to its standing urban design policies. Staff recommend developing strategies that incentivize construction of ADUs further back than four feet. Below are three incentive-based ideas to consider.

a. Removing Requirement that Garages be converted from “Existing” Garages/Carports on Corner Lots

Current state and local regulations require that there must be an “existing” garage or carport in order to benefit from reduced parking requirements; specifically not requiring covered parking for an ADU or JADU. In maintaining this requirement, it ensures that a structure must first be built and then later modified in order to benefit from the reduced parking requirements.

From a process standpoint, this means applicants must apply for two different permits. Imagine a property owner creating a home with a detached garage; then later applying for a permit to convert the garage to an ADU. This adds time, cost, and barriers to unit production without adding any value to the public. Instead the City could, as an incentive for properties to construct ADUs set back 16 feet from the lot line on the street-side, allow the construction of a new home along with an ADU at the same time. This incentive would only affect corner lots where a new primary home is constructed; as existing corner lots are allowed to build new ADUs without replacing any lost parking.

b. Providing Additional Bonus FAR and/or Reduced Setbacks for ADUs on Corner Lots

Another incentive to consider would be to provide for additional floor area or more flexible setbacks along the rear and side yards (i.e. less than four feet). Given corner lots’ present design challenges, increasing any bonus square footage may not eliminate the barriers inherent in developing a corner lot property. However, by providing a reduced setback(s) along the rear and interior side yards (e.g. no setbacks for accessory units on a corner lot) residents may feel more compelled to develop units in conformance with Palo Alto’s intended neighborhood context.

c. Allowing the Main House to have a 10 Foot Street-Side Setback if combined with an ADU/JADU

A third incentive for corner lots could be to allow the main house to have a reduced street-side

setback only under the condition that an accessory unit is also developed on the property with a 10-foot street side setback (instead of just 4 feet). Staff believes that providing this incentive will help to simultaneously encourage accessory unit development and provide additional flexibility to develop corner lots, while also supporting the City's streetscape and urban design principles established by the front yard setback requirement. Typically, a home on a corner lot is set back 16 feet from the property line on the street side yard. Having the distance become 10 feet, but aligned for both the ADU and primary home will have lesser impact and more visual continuity than having an ADU at 4-foot setback and the home at 16 feet on the street side.

Any one of these corner lot policies, or combination thereof, could provide an adequate enough incentive for a homeowner to not propose a four foot setback in the street-side yard. However, if PTC suggests staff continue enabling the four foot setback for street sides, as suggested by the Housing and Community Development Department, then these items need not be addressed. It would instead be important to identify that these reduced setbacks are applicable to standard corner lots as well as those with a special setback along the street-side frontage.

ii. Retracting Prior Deed Restrictions

The updated 2020 state law suspends owner occupancy requirements until January 1, 2025 for permits issued after January 1, 2020. Previously, policy stated a home must be owner occupied in order to construct an ADU. This restriction was included in deed-restrictions. The architect group indicated a desire for Council to rescind all prior deed restrictions that require owner occupancy.

Staff could require a homeowner to fill out, and have notarized, a designated form the City remove the deed restriction and owner occupancy requirements for applicants who received permits prior to the new state regulations. This would be an administrative process that the City would create for recordation at the Santa Clara County Recorder's office. The City would charge an hourly fee to process this type of application.

iii. Flood Zone Height Extension

The PTC is asked to consider if detached ADUs in flood zones should have the same height allowances as primary dwelling units. Likewise, the PTC is asked to consider if the height allowance should be conferred to existing structures planned for conversion to an ADU.

Currently, single family residences located in a flood zone can benefit from added height allowances in the Code. Sections 18.10 and 18.12 both allow for the maximum heights of the primary residence to be increased by one half the amount required to meet a property's base flood elevation (BFE). In addition to local law, the California Residential Code (R322.2) requires that "Buildings and structures in flood hazard areas, including flood hazard areas designated as Coastal A Zones, shall have the lowest floors elevated to or above the base flood elevation plus 1 foot (305 mm), or the design flood elevation, whichever is higher." This impacts the base flood elevation, and the additional height conferred to a home in the flood hazard area.

This height allowance, however, is not afforded to accessory buildings which are limited to a maximum height of 12 feet above grade when located within a property's setback. The 12-foot height limit applies to sheds, garages, and other such structures. In accordance with local and state laws ADUs have a 16-foot height limit.

Existing accessory buildings—that are not habitable living space—located in the flood zone that are converted to ADUs must meet the elevation requirements. To meet this standard, an existing structure may need to be raised. Alternatively, under current law, the accessory building could be demolished and reconstructed within the 16-foot height limit.

Staff do not recommend conferring the same height allowances to new, detached ADUs in flood zones as are conferred to single family dwellings. Such allowance is not required to accommodate an ADU. Furthermore, and more specifically, staff are concerned that providing additional height will impact the privacy of neighboring properties.

In the flood hazard area, new, detached ADUs are restricted to a maximum height of 16 feet. In nearly all cases, this height can accommodate the necessary flood elevation while still having a ceiling height for a quality housing unit (sloped properties have other dynamics and applicable codes). Similarly, existing structures can be demolished and reconstructed with the proper base floor elevation without being significantly impacted by the 16-foot height limit. It is true, however, that units located in a flood zone may not be able to accommodate a second story within the 16-foot height limit while also raising the foundation as necessary. Again, not having a second story would minimize privacy concerns.

The PTC may wish to consider recommending Council allow accessory dwelling units increased height above grade. If this is the will of the PTC, staff will return with specific recommendations. For example, for specific types of units such as conversions of existing structures, the PTC could recommend height increases only if the existing structure meets or exceeds the four-foot minimum ADU setback. Staff would also establish parameters or limits such that "X square foot" additions are allowed a height increase to "Y feet above grade" that would supersede maximum allowances established elsewhere in the code.

Environmental Review

This Study Session for the ADU Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines sections 15061(b)(3), 15301, 15302 and 15305 because it implements requirements related to accessory dwelling units as established in Government Code Section 65852.2, and these changes are also likely to result in few additional dwelling units dispersed throughout the City. As such, it can be seen with certainty that the proposed action will not have the potential for causing a significant effect on the environment.

Public Notification, Outreach & Comments

The Palo Alto Municipal Code requires notice of this public hearing be published in a local paper and mailed to owners and occupants of property within 600 feet of the subject property at least ten days in advance. Notice of a public hearing for this project was published in the *Daily Post* on January 29, 2021 which is 12 days in advance of the meeting. Postcard mailing occurred on January 27, 2021, which is 14 in advance of the meeting.

Report Author & Contact Information

Garrett Sauls, Associate Planner
(650) 329-2471

Garrett.Sauls@CityofPaloAlto.org

PTC⁹ Liaison & Contact Information

Rachael Tanner, Assistant Director
(650) 329-2167

Rachael.Tanner@cityofpaloalto.org

Attachments:

- Attachment A: Ordinance 5507 (PDF)
- Attachment B: Task Force Letter (PDF)

⁹ Emails may be sent directly to the PTC using the following address: planning.commission@cityofpaloalto.org

Ordinance No. 5507

Ordinance of the Council of the City of Palo Alto Amending Title 18 (Zoning) of the Palo Alto Municipal Code to Amend Requirements Relating to Accessory Dwelling Units and Junior Accessory Dwelling Units

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

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

- A. Housing in California is increasingly unaffordable. In 2017, the average California home cost about 2.5 times the national average home price and the monthly rent was 50% higher than the rest of the nation. Rents in San Francisco, San Jose, Oakland, and Los Angeles are among the top 10 most unaffordable in the nation.
- B. Housing in Palo Alto is especially unaffordable. The average Palo Alto home currently costs about 8 times the national average home price and the monthly rent is about 2.5 times the national average.
- C. Palo Alto has a jobs/housing imbalance. When addressing this imbalance, the City must not only provide housing but also ensure affordability.
- D. Assembly Bills (“ABs”) 68, 587, 671, and 881 and Senate Bill (“SB”) 13 (“State ADU Law”) pertain to accessory dwelling units (“ADUs”) and junior accessory dwelling units (“JADUs”) and were approved by the California Legislature on September 13, 2019 and signed by the Governor on October 9, 2019. These bills, codified primarily in California Government Code sections 65952.2 and 65952.22, are intended to spur the creation of lower cost housing by easing regulatory barriers to the creation of ADUs and JADUs.
- E. This ordinance is adopted to comply with the mandates of the State ADU Law.

SECTION 2. Section 18.42.040 (Accessory and Junior Accessory Dwelling Units) of Chapter 18.42 (Standards for Special Uses) of Title 18 (Zoning) of the Palo Alto Municipal Code (“PAMC”) is deleted in its entirety.

SECTION 3. Chapter 18.09 (Accessory Dwelling Units and Junior Accessory Dwelling Units) of Title 18 (Zoning) of the Palo Alto Municipal Code (“PAMC”) is added to read:

18.09.010 Purpose

The intent of this Chapter is to provide regulations to accommodate accessory and junior accessory dwelling units (ADU/JADU), in order to provide for variety to the city's housing stock and additional affordable housing opportunities. These units shall be separate, self-contained living units, with separate entrances from the main residence, whether attached or detached. The standards below are provided to minimize the impacts of units on nearby residents and throughout the city, and to assure that the size and location of such dwellings is compatible with the existing or proposed residence(s) on the site and with other structures in the area.

18.09.020 Applicable Zoning Districts

The establishment of an accessory dwelling unit is permitted in zoning districts when single-family or multi-family residential is a permitted land use.

18.09.030 Units Exempt from Generally Applicable Local Regulations

(a) Government Code section 65852.2, subdivision (e) provides that certain units shall be approved notwithstanding state or local regulations that may otherwise apply. The following types of units shall be governed by the standards in this section. In the event of a conflict between this section and Government Code section 65852.2, subdivision (e), the Government Code shall prevail.

- i. An ADU or JADU within the existing space of a single-family dwelling or an ADU within the existing space of an accessory structure (i.e. conversion without substantial addition).
- ii. An ADU or JADU within the proposed space of a single-family dwelling.
- iii. A detached, new construction ADU on a lot with a proposed or existing single-family dwelling, provided the ADU does not exceed 800 square feet, sixteen feet in height, or four-foot side and rear (i.e. interior) setbacks.
- iv. ADUs created by conversion of portions of existing multi-family dwellings not used as livable space.
- v. Up to two detached ADUs on a lot with an existing multi-family dwelling.

(b) The Development Standards for units governed by this section are summarized in Table 1.

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Table 1: Development Standards for Units Described in Government Code Section 65852.2(e)

| | Single-Family | | | Multi-Family | |
|---------------------------|--|---|--|---|--|
| | Conversion of Space Within an Existing Single-Family Home or Accessory Structure | Construction of Attached ADU Within the Space of a Proposed Single-Family Home | New Construction of Detached ADU | Conversion of Non-Habitable Space Within Existing Multi-family Dwelling Structure | Conversion or Construction of Detached ADU |
| Number of Units Allowed | 1 ADU and 1 JADU | | | 25% of the existing units (at least one) | 2 |
| Minimum size ¹ | 150 sf | | | | |
| Maximum size ¹ | N/A ² | | 800 sf | N/A | |
| Setbacks | N/A, if condition is sufficient for fire and safety | Underlying zone standard for Single Family Home (ADU must be within space of Single-Family Home) | 4 feet from side and rear lot lines; underlying zoning for front setback | N/A | 4 feet from side and rear lot lines; underlying zoning for front setback |
| Daylight Plane | N/A | | N/A | | |
| Maximum Height | N/A | | 16 ³ | N/A | 16 ⁴ |
| Parking | None | | | | |
| State Law Reference | 65852.2(e)(1)(A) | 65852.2(e)(1)(A) | 65852.2(e)(1)(B) | 65852.2(e)(1)(C) | 65852.2(e)(1)(D) |

- (1) Lofts where the height from the floor level to the underside of the rafter or finished roof surface is 5' or greater shall count towards the unit's floor area.
- (2) Up to 150 sf may be added for the purpose of ingress and egress only.
- (3) Units built in a flood zone are not entitled to any height extensions granted to the primary dwelling.

- (c) Development standards stated elsewhere in this Section or Title 18, including standards related to FAR, lot coverage, and privacy, are not applicable to ADUs or JADUs that qualify for approval under this section.
- (d) The establishment of accessory dwelling units and junior accessory dwelling units pursuant to this section shall not be conditioned on the correction of non-conforming zoning conditions; provided, however, that nothing in this section shall limit the authority of the Chief Building Official to require correction of building standards relating to health and safety.
- (e) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence. Nothing in this section shall preclude the Fire Marshal from accepting fire sprinklers as an alternative means of compliance with generally applicable fire protection requirements.
- (f) Rental of any unit created pursuant to this section shall be for a term of 30 days or more.
- (g) Attached units shall have independent exterior access from a proposed or existing single-family dwelling. Except for JADUs, attached units shall not have an interior access point to the primary dwelling (e.g. hotel door or other similar feature/apurtenance).
- (h) Conversion of an existing accessory structure pursuant to Government Code section 65852.2(e)(1)(A) may include reconstruction in-place of a non-conforming structure, so long

as the renovation or reconstruction does not increase the degree of non-compliance, such as increased height, envelope, or further intrusion into required setbacks.

- (i) Street addresses shall be assigned to all units prior to building permit final to assist in emergency response.
- (j) The unit shall not be sold separately from the primary residence.
- (k) Replacement parking is not required when a garage, carport, or covered parking structure is converted to, or demolished in conjunction with the construction of, an ADU.
- (l) JADUs shall comply with the requirements of Section 18.09.050.

18.09.040 Units Subject to Local Standards

(a) This section shall govern applications for ADUs and JADUs that do not qualify for approval under section 18.09.030 and for which the City may impose local standards pursuant to Government Code section 65852.2, subdivisions (a) through (d).

(b) The Development Standards for units governed by this section are provided in Table 2.

Table 2: All other Units

| | Attached | Detached | JADU |
|--------------------------------------|--|--|-----------------------------|
| Number of Units Allowed ¹ | 1 | | 1 |
| Minimum size | 150 sf | | |
| Maximum size | 900 sf (1,000 sf for two or more bedrooms); no more than 50% of the size of the single-family home | 900 sf (1,000 sf for two or more bedrooms) | 500 sf |
| Setbacks | 4 feet from side and rear lot lines; underlying zone standard for front setback | | |
| Daylight Plane Initial Height Angle | 8 feet at lot line 45 degrees | | |
| Maximum Height ³ | | | |
| Res. Estate (RE) | 30 feet | | |
| Open Space (OS) | 25 feet | | |
| All other eligible zones | 16 feet | | |
| Parking | None | | |
| Square Footage Exemption | Up to 800 sf ⁽⁴⁾ | | Up to 500 sf ⁽⁴⁾ |

- (1) An attached or detached ADU may be built in conjunction with a JADU on a lot with an existing or proposed single family home
- (2) Lofts where the height from the floor level to the underside of the rafter or finished roof surface is 5' or greater shall count towards the unit's floor area.
- (3) Units built in a flood zone are not entitled to any height extensions granted to the primary dwelling.
- (4) Lots with both an ADU and a JADU may exempt a maximum combined total of 800 square feet of the ADU and JADU from FAR, Lot Coverage, and Maximum House Size calculations.

(c) A single-family dwelling shall exist on the lot or shall be constructed on the lot in conjunction with the construction of an ADU/JADU.

- (d) ADU and/or JADU square footage shall not be included in FAR, Lot Coverage, and Maximum House Size calculations for a lot with an existing or proposed single family home, up to the amounts stated in Table 2. ADU and/or JADU square footage in excess of the exemptions provided in Table 2 shall be included in FAR, Lot Coverage, and Maximum House Size calculations for the lot.
- (e) Attached units shall have independent exterior access from a proposed or existing single-family dwelling. Except for JADUs, attached units shall not have an interior access point to the primary dwelling (e.g. hotel door or other similar feature/appurtenance).
- (f) No protected tree shall be removed for the purpose of establishing an accessory dwelling unit unless the tree is dead, dangerous or constitutes a nuisance under Section 8.04.050. Any protected tree removed pursuant to this subsection shall be replaced in accordance with the standards in the Tree Technical Manual.
- (g) For properties listed in the Palo Alto Historic Inventory, the California Register of Historical Resources, the National Register of Historic Places, or considered a historic resource after completion of a historic resource evaluation, compliance with the appropriate Secretary of Interior's Standards for the Treatment of Historic Properties shall be required.
- (h) Noise-producing equipment such as air conditioners, water heaters, and similar service equipment, shall be located outside of the setbacks for the ADU/JADU. All such equipment shall be insulated and housed, except that the planning director may permit installation without housing and insulation, provided that a combination of technical noise specifications, location of equipment, and/or other screening or buffering will assure compliance with the city's Noise Ordinance at the nearest property line. All service equipment must meet the city's Noise Ordinance in Chapter 9.10 of the Municipal Code.
- (i) Setbacks
 - i. Detached units shall maintain a minimum three-foot distance from the primary unit, measured from the exterior walls of structures.
 - ii. No basement or other subterranean portion of an ADU/JADU shall encroach into a setback required for the primary dwelling.
 - iii. Projections, including but not limited to windows, doors, mechanical equipment, venting or exhaust systems, are not permitted to encroach into the required setbacks, with the exception of a roof eave of up to 2 feet.
- (j) Design
 - i. Except on corner lots, the unit shall not have an entranceway facing the same lot line (property line) as the entranceway to the main dwelling unit unless the entranceway to the accessory unit is located in the rear half of the lot. Exterior staircases to second floor units shall be located toward the interior side or rear yard of the property.
 - ii. Privacy
 - A. Second story doors and decks shall not face a neighboring dwelling unit. Second story decks and balconies shall utilize screening barriers to prevent views into adjacent properties. These barriers shall provide a minimum five-foot, six-inch, screen wall from the floor level of the deck or balcony and shall not include perforations that would allow visibility between properties.

- B. Second story windows, excluding those required for egress, shall have a five-foot sill height as measured from the second-floor level, or utilize obscured glazing on the entirety of the window when facing adjacent properties. Second story egress windows shall utilize obscured glazing on the entirety of the windows which face adjacent properties.
- C. Second story windows shall be offset from neighbor's windows to maximize privacy.

(k) Parking

- i. Replacement parking is not required when a garage, carport, or covered parking structure is converted to, or demolished in conjunction with the construction of, an ADU.
- ii. Replacement parking is required when an existing attached garage is converted to a JADU. These replacement spaces may be provided as uncovered spaces in any configuration on the lot including within the front or street side yard setback for the property.
 - A. The Director shall have the authority to modify required replacement parking spaces by up to one foot in width and length upon finding that the reduction is necessary to accommodate parking in a location otherwise allowed under this code and is not detrimental to public health, safety or the general welfare.
 - B. Existing front and street side yard driveways may be enlarged to the minimum extent necessary to comply with the replacement parking requirement above. Existing curb cuts shall not be altered except when necessary to promote public health, safety or the general welfare.
- iii. When parking is provided, the unit shall have street access from a driveway in common with the main residence in order to prevent new curb cuts, excessive paving, and elimination of street trees, unless separate driveway access will result in fewer environmental impacts such as paving, grading or tree removal.
- iv. If covered parking for a unit is provided in any district, the maximum size of the covered parking area for the accessory dwelling unit is 220 square feet. This space shall count towards the total floor area for the site but does not contribute to the maximum size of the unit unless attached to the unit.

(l) Miscellaneous requirements

- i. Street addresses shall be assigned to all units prior to building permit final to assist in emergency response.
- ii. The unit shall not be sold separately from the primary residence.
- iii. Rental of any unit created pursuant to this section shall be for a term of 30 days or more.
- iv. The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence. Nothing in this section shall preclude the Fire Marshal from accepting fire sprinklers as an alternative means of compliance with generally applicable fire protection requirements.

18.09.050 Additional Requirements for JADUs

- (a) A junior accessory dwelling unit shall be created within the walls of an existing or proposed primary dwelling.
- (b) The junior accessory dwelling unit shall include an efficiency kitchen, requiring the following components: A cooking facility with appliances, and; food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
 - i. A cooking facility with appliances shall mean, at minimum a one burner installed range, an oven or convection microwave, a 10 cubic foot refrigerator and freezer combination unit, and a sink that facilitates hot and cold water.
 - ii. A food preparation counter and storage cabinets shall be of reasonable size in relation to a JADU if they provide counter space equal to a minimum 24-inch depth and 36-inch length.
- (c) For the purposes of any fire or life protection ordinance or regulation or for the purposes of providing service for water, sewer, or power, a junior accessory dwelling unit shall not be considered a separate or new unit.
- (d) The owner of a parcel proposed for a junior accessory dwelling unit shall occupy as a primary residence either the primary dwelling or the junior accessory dwelling. Owner-occupancy is not required if the owner is a governmental agency, land trust, or housing organization.
- (e) Prior to the issuance of a building permit for a junior accessory dwelling unit, the owner shall record a deed restriction in a form approved by the city that includes a prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, requires owner-occupancy consistent with subsection (d) above, does not permit short-term rentals, and restricts the size and attributes of the junior dwelling unit to those that conform with this section.

SECTION 4. Subsection (g) of Section 16.58.030 of Chapter 16.58 (Development Impact Fees) of Title 16 (Building) of the Palo Alto Municipal Code (“PAMC”) is amended to read:

- (f) Accessory dwelling units (ADU) less than 750 square feet in size. Any impact fees to be charged for an accessory dwelling unit of 750 square feet or more shall be proportional to the square footage of the primary dwelling unit ~~established by the conversion of an existing garage or carport, provided that the existing garage or carport was legally constructed, or received building permits, as of January 1, 2017, and is converted to an ADU with no expansion of the existing building envelope;~~

SECTION 5. Subsections (a)(4) and (a)(75) of Section 18.04.030 (Definitions) of Chapter 18.04 (Definitions) of Title 18 (Zoning) of the Palo Alto Municipal Code (“PAMC”) is amended to read:

[. . .]

- (4) “Accessory dwelling unit” means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-

family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

In some instances this Code uses the term second dwelling unit interchangeably with accessory dwelling unit. For the purposes of this definition, in order to provide “complete independent living facilities,” a dwelling unit shall not have an interior access point to another dwelling unit (e.g. hotel door or other similar feature/appurtenance).

[. . .]

(75) “Kitchen” means a room designed, intended or used for cooking and the preparation of food and dishwashing. Kitchen facilities include the presence of major appliances, utility connections, sink, counter, for storing, preparing, cooking, and cleaning.

(A) For ADUs, major appliances shall mean a minimum two burner installed range, and an oven or convection microwave, as well as a minimum 16 cubic foot freezer and refrigerator combination unit. Kitchens shall also include counter space for food preparation equal to a minimum 24-inch depth and 36-inch length, and a sink that facilitates hot and cold water.

[. . .]

SECTION 6. Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 7. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 8. The Council finds that the adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines sections 15061(b)(3), 15301, 15302 and 15305 because it constitutes minor adjustments to the City’s zoning ordinance to implement State law requirements related to accessory dwelling units as established in Government Code Section 65852.2, and these changes are also likely to result in few additional dwelling units dispersed throughout the City. As such, it can be seen with certainty that the proposed action will not have the potential for causing a significant effect on the environment.

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SECTION 9. This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED: October 5, 2020

PASSED: October 26, 2020

AYES: CORMACK, DUBOIS, FILSETH, FINE, KNISS, KOU, TANAKA

NOES:

ABSENT:

NOT PARTICIPATING:

ATTEST:

DocuSigned by:
Beth Minor
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City Clerk

DocuSigned by:
Adrian Fine
289F2F8A891E448...
Mayor

APPROVED AS TO FORM:

DocuSigned by:
Albert Yang
1586C45220134DC...
Assistant City Attorney

APPROVED:

DocuSigned by:
Ed Shibada
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City Manager

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Director of Planning & Development Services

Certificate Of Completion

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| Certificate Pages: 2 | Initials: 0 |
| AutoNav: Enabled | Envelope Originator: |
| Envelopeld Stamping: Enabled | Kim Lunt |
| Time Zone: (UTC-08:00) Pacific Time (US & Canada) | 250 Hamilton Ave |
| | Palo Alto , CA 94301 |
| | kimberly.lunt@cityofpaloalto.org |
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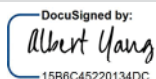
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Signer Events

Albert Yang
 Albert.Yang@CityofPaloAlto.org
 Assistant City Attorney
 City of Palo Alto
 Security Level: Email, Account Authentication
 (None)

Signature


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Jonathan Lait
 Jonathan.Lait@CityofPaloAlto.org
 Interim Director Planning and Community
 Environment
 City of Palo Alto
 Security Level: Email, Account Authentication
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Ed Shikada
 ed.shikada@cityofpaloalto.org
 Ed Shikada, City Manager
 City of Palo Alto
 Security Level: Email, Account Authentication
 (None)


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Adrian Fine
 adrian.fine@cityofpaloalto.org
 Security Level: Email, Account Authentication
 (None)

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| Signer Events | Signature | Timestamp |
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| Beth Minor Beth.Minor@CityofPaloAlto.org City Clerk City of Palo Alto Security Level: Email, Account Authentication (None) |  <p>DocuSigned by: <i>Beth Minor</i> 27523117DA804D7...</p> <p>Signature Adoption: Pre-selected Style Using IP Address: 199.33.32.254</p> | <p>Sent: 11/5/2020 5:21:12 PM Resent: 11/9/2020 8:12:46 AM Viewed: 11/9/2020 8:17:29 AM Signed: 11/9/2020 8:17:48 AM</p> |

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| Witness Events | Signature | Timestamp |
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| Envelope Sent | Hashed/Encrypted | 10/29/2020 2:23:33 PM |
| Certified Delivered | Security Checked | 11/9/2020 8:17:29 AM |
| Signing Complete | Security Checked | 11/9/2020 8:17:48 AM |
| Completed | Security Checked | 11/9/2020 8:17:48 AM |

| Payment Events | Status | Timestamps |
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City Of Palo Alto ADU Ordinance, First Reading, Meeting Date 10/5/2020 Agenda Item #8

To the Members of The Palo Alto City Council:

We want to begin by expressing commendation for what has been done to date by Council and PTC but particularly by Staff. This is a complex political and technical topic and we consider the ordinance to be mostly in alignment with the State Statutes. We applaud the effort where choices have been made to exceed limitations in a reasonable way, and understand clearly the boundaries established by State legislation.

What we need to remember is that the State is promoting this legislation to incentivize and streamline the creation of ADUs. We should also remember to view all of this through the local lens of prioritizing residential development as a clearly stated Palo Alto goal. As professionals, we seek a clear and precise set of rules we can rely on in the design process to achieve a predictable result for our clients.

A number of individuals spoke in warning when we came before Council in January, and we have been proven correct in stating Palo Alto's urgency ordinance was seriously flawed. Many elements did not properly conform to State legislation. Since then, Staff has adjusted their interpretations, in some cases after being challenged by the professional community, and partly when influenced by input from HCD. The updated document before you makes good progress toward alignment, but we still fall short in some important areas.

The Palo Alto ADU Task Force (PAADUTF), now approximately 20 individuals and growing, was created out of a grassroots desire for peer communication between professionals who are active in ADU development. Sharing information regarding regulatory interpretations, design methodology, and construction strategy, this group came together to evaluate the August 17 staff report and associated ordinance language. Unfortunately, we were not aware of the May 27 PTC hearing and recognize this was a missed opportunity to interact with staff. Over the course of five meetings conducted during August and September, the group developed a narrative along with an annotated review of the proposed ordinance. As indicated, two additional meetings were conducted with staff included to review and discuss the information. Several significant points from that discussion have been captured in your staff report. There are others that were not, that we nonetheless feel are critical to implement as part of this update.

Through direct and frequent interaction with HCD and supported by other experts active in ADU regulatory action, The PAADUTF has identified several specific areas where the proposed local ordinance departs from the State intent. We recognize Staff feels they have rigorously evaluated the language presented to you tonight, but we do not believe they are entirely correct. The HCD ADU Handbook, released just last week, seems to confirm a few areas where the proposed language is in conflict with HCD's guidance. As you have heard, if inconsistency is not corrected, there is a significant possibility the ordinance will be challenged and potentially deemed invalid.

The most significant issue is the approach taken in the ordinance regarding the Statewide Exemption ADU and how that language relates to all other units, particularly those exceeding 800 square feet.

Gov. Code, § 65852.2, subd. (c)(2)(C) *“Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.”*

Staff's interpretation of this section includes a vision that the Exemption Unit is an isolated obligation. In fact, the Statute language says clearly "**at least**", so we have been told any attempt at creating limitations for units which are larger (daylight plane restrictions, placement on the lot, a limitation for subterranean construction, or basement construction) is simply inconsistent with the State Statute.

Another significant departure is the approach taken in regard to 2-story construction. Staff is seeking to create limits on the basis of privacy, but the restrictions they have offered are inconsistent with the statutes. It is important to remember that the State put these new rules in place to shake up the norms, and we need to understand and align with that intent. As an example, HCD has described a scenario where if a lot is so small that 800 sf cannot be accommodated on one level, then 2-stories can be the only option. Because of this, HCD has confirmed there can be no restriction against 2-story units, under any condition. Whether in conformance with an Exemption ADU or larger, 2-story construction must be embraced. We would offer that Santa Cruz has done an excellent job in this area and has elected to allow 22' of height with additional restrictions for distance from the property line once beyond 16' of height. (<https://www.cityofsantacruz.com/government/city-departments/planning-and-community-development/accessory-dwelling-units-adus>)

Again, there are a number of specific areas of improvement in the proposed ordinance, and we applaud that. What we ask of you tonight is the consideration of 15 areas of concern we identify below, some of which have already been described by Staff. We believe all of these are important and nuanced topics that are truly necessary to implement. Some are changes only included to simplify the development of ADUs, but others are very technical responses to costly or avoidably complex limitations. We ask that you remember our pace is 1,000 units short of our RHNA requirement and that we need to do better and move faster. This set of considerations provides an easy way to encourage the development of additional units with minimal collateral impact when compared to larger, more dense projects with their significant timelines and approval hurdles.

15 Suggestions for Consideration:

1. Alignment with Gov. Code, § 65852.2, subd. (c)(2)(C)

- a. Remove language that improperly restricts daylight plane, placement on the lot, limitation for subterranean construction, or basement construction.

2. Two-Story

- a. Provide definition for subterranean 1st level construction. (1st level partially recessed in the ground)
 - i. Clarify how deep this can be without being interpreted as a 'basement'
 1. Suggest 36" max below existing natural grade as the threshold
- b. Confirm Staff's recommendations for privacy management
 - i. Windows obscured when sills are below 5' above adjacent finish floor on walls parallel to property lines when the structure is within 8' of a property line
 - ii. Set sills at 5' above adjacent finish floor on walls parallel to property lines when the structure is within 8' of a property line
 - iii. Sleeping rooms endeavor to have egress windows located on walls non-adjacent to property lines
 - iv. Use of (operable) skylights in bathrooms and other spaces where windows could be considered optional
 - v. No exterior lighting mounted above 7' on walls adjacent to property lines to keep it at or below maximum fence height
- c. Consider adopting language similar to that used in Santa Cruz:

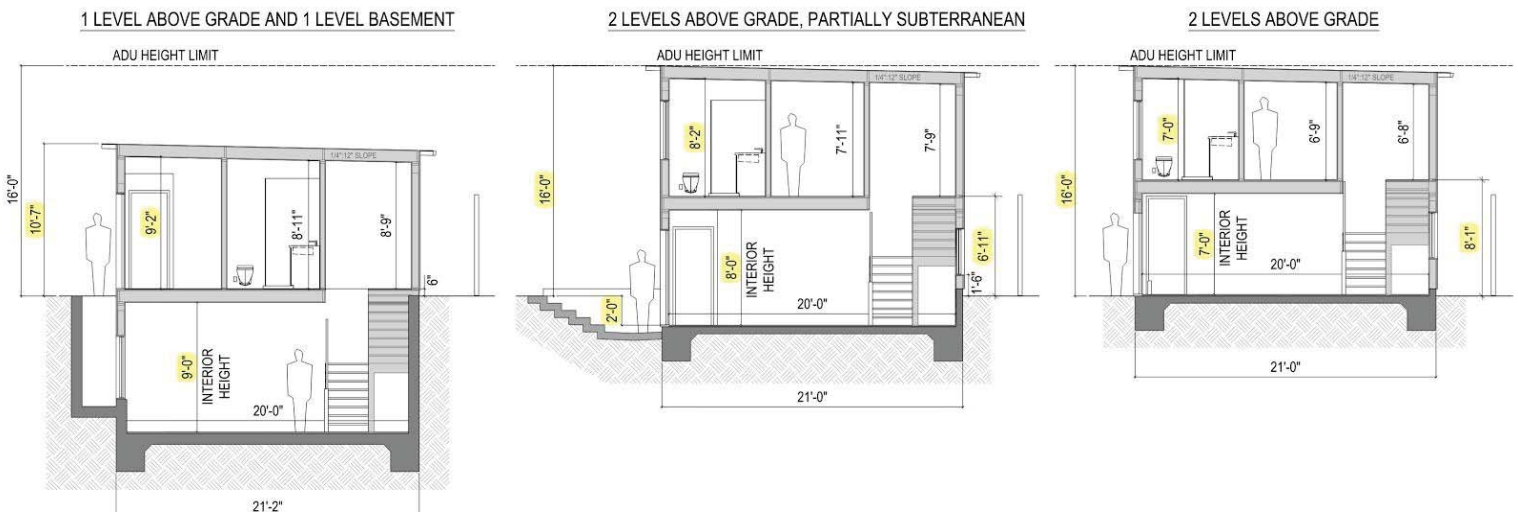
- i. ADUs higher than one story may be up to 22' tall at the peak, measured from average grade, and any portion of the structure that exceeds 16' in height must be set back a minimum of 5' from the side yard property line and 10' from the rear yard property line.
- ii. Exception: An ADU that faces an alley or street can be up to 22' tall and any portion of the structure that exceeds 16' in height must be set back 5' from the side and rear property lines.
- iii. Detached New Construction ADUs higher than one story shall limit the major access stairs, decks, entry doors, and windows to the interior of the lot or an alley if applicable. Windows that impact the privacy of the neighboring side or rear yards should be minimized or otherwise restricted as in (b.) above

3. Fees

- a. Significant cost is incurred relative to fees for Plan Check, Building Permit, Planning Impacts, Specialty Consultants, School Fees, etc. They are not always levied in a relative fashion.
 - i. Why not just charge a flat fee based on ADU floor area?
 - ii. Included in that methodology, remove some of the fees to further incentivize ADU construction.
- b. It is important to note that the proportionate language in regard to Planning Impact Fees for units >750 sf contained in Gov. Code, § 65852.2, subd. (f)(3)(A) creates a significant disincentive for individuals with existing small homes. Please note the following examples:
 - i. Project #1, Demolish an existing detached garage and replace it with a new conforming detached ADU.
 1. **Main house at 3,427 sf and new ADU at 800 sf = 23.3% = \$4,511.47**
 - ii. Project #2, Convert an existing detached garage and construct an addition to create a new detached ADU.
 1. **Main house at 1,209.6 sf and new ADU at 882 sf = 73.0% = \$14,101.46**
- c. *Both are roughly the same scope but because of the more modest house on Project #2, the weighted ratio pushes the fee to be \$10k more.*
- d. Add to this about \$9,000 for: School Impact Fees (\$3,000), Plan Check Fees (\$2,800) and Building Permit Fees (\$3,300) - That puts the fees for Project #2 at around \$23k, or almost 11% of the total anticipated project construction cost!

4. Subterranean/Basement Construction

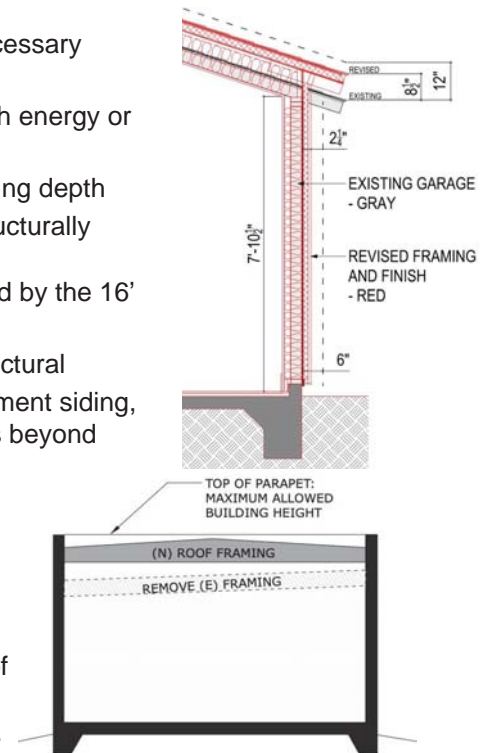
- a. Without some flexibility in this, floor to ceiling heights are substandard (+/- 7'-0"). Codifying this in a thoughtful way can provide tangible improvements in privacy management and enhancement to overall massing.
- b. Partially subterranean 1st floor lowers 2nd floor and allows 8' ceilings with a reasonable roof slope



- c. Adding a basement could reduce an entire floor of height/massing
 - 1. Reduce impact to neighbors
 - 2. Required exclusionary excavation techniques remove any concerns related to dewatering
- ii. Tree root impacts could be conditioned since the 800 sf exemption ADU is not obligated in regard to underground space
- iii. Add clarifying language requiring the interior basement FA to count toward the 800 sf exemption triggering the additional area beyond 800 sf to be deducted from overall site FA
- iv. No further encroachment other than that required for emergency egress.
- v. Consider, as an additional incentive, allowing a 1200 sf max ADU if 50% of FA is below grade?

5. Minimal increase to non-conforming structures

- a. Create an allowance to avoid complete demolition or unnecessary complexity due to energy or structural upgrades
 - i. Clarify that it can only be accessed for compliance with energy or structural obligations
 - 1. Grant an additional 12" of height – increase framing depth above top plate rather than hanging, which is structurally complex and reduces ceiling heights.
 - 2. Note that the structure height will still be restricted by the 16' height limit.
 - 3. Grant an additional 6" in plan on any side for structural seismic sheathing, exterior insulation, or replacement siding, so long as no portion of the structure encroaches beyond the property line.
 - ii. Add a clarification regarding structures with existing parapets. A non-conforming portion of the structure may be modified up to the height of the existing parapet. This can be done without creating an increased impact to neighbors. Previous interpretation of 'shrink-wrap' rules should not apply to recessed roof areas below the top of the parapet. This flexibility will allow the interior to be a reasonable residential height.



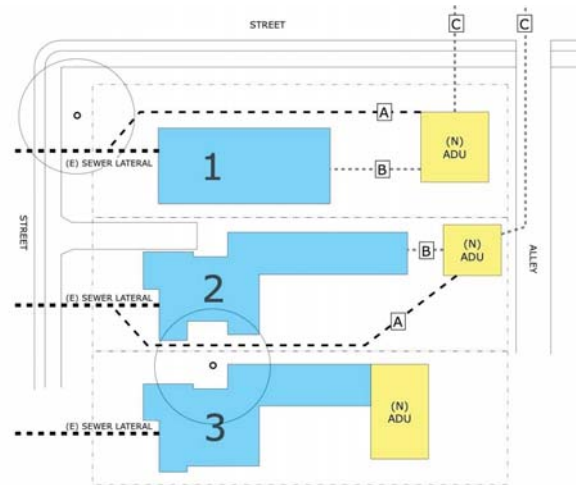
6. Utility Connections

- a. Separate meters placed only at the owner's discretion
- b. The requirement to provide a separate sewer line for detached ADUs has been directed by the Chief Building Official.
 - i. There is an exception in the Plumbing Code recognized in many jurisdictions to avoid the significant cost this causes (often greater than \$9,000) CPC 311.1 *Exception: Where one building stands in the rear of another building on an interior lot, and no private sewer is available or can be constructed to the rear building through an adjoining court, yard, or driveway, the building drain from the front building shall be permitted to be extended to the rear building.*
 - 1. Recognize that the high cost can be viewed as the basis for applying the exception
 - 2. Question - If no separate line is required for an attached ADU, why obligate the cost and complexity for a detached ADU. The outcome is the same so why regulate differently?
 - 3. An alternative to this might be a study performed by experts under CPC 301.3 "Alternate Materials and Methods of Construction Equivalency" with the establishment

of standards for equipment (backflow prevention) and cleaning/inspection schedules. Once established in the City, this could be relied on as an alternate approach.

- c. Routing of utilities at the discretion of property owner (rear alley or another alternate to avoid disruption to landscape or trees)

- i. This graphic compares three lots with an alley behind. Parcel 3 has an attached ADU and the sewer may connect to the main house line. There is no impact to the site. Parcels 1 and 2 have detached ADUs and are currently required to run their sewer line shown as 'A', around the main house, and out to the street at the front yard. This is highly problematic, especially if there are protected trees on site. A reasonable option would be to allow the sewer line placement shown by the 'B' or 'C' routing.



7. Garage replacement associated with Detached ADU

- a. When replacement covered parking is provided, and attached to an ADU, that area should not count against the 800 sf 'bonus'
- Staff has not indicated agreement with this.
 - It represents a significant disincentive toward the creation of covered parking spaces.
 - The space designated as a garage should count against the overall FA and not be allowed if the FAL or Lot Coverage will be exceeded as a result.

8. Retroactive Actions for all ADUs in process after 1/1/2020 (for projects without Building Final)

- a. Retract all enacted Deed Restrictions which are not in compliance with the updated regulations
- Require new Deed Restrictions in conformance with the updated requirements
- b. Refund any overpayment of fees for all projects in process (between approvals and Building Final) since January 1, 2020 for:
- Proportionate Impact Fees, if they remain in place
 - Other fees as adjusted by the revised ordinance
 - Council could elect to refund the full amount or an adjusted amount according to 16.06.110/R108.5 at 80%?

9. Green Building

- a. The current detached ADU regulations require Tier 2 with exceptions
- Tier 2 obligates requirements for third party preparation of documents and site evaluation which comes at significant cost
- b. If a homeowner proposes an addition/alteration to their home under 1,000sf, a third party is not required and the project is only required to meet CALGreen Mandatory measures
- c. To streamline the ADU permitting and construction process, detached ADUs under 1,000 sf should only be required to comply with CALGreen Mandatory for consistency

10. Noise producing equipment

- a. Allow placement at any location on the property as long as documentation is provided which confirms noise level will be below the 66 decibel limit at the property line. What should be codified for these issues are rules that direct the desired result. Don't overcomplicate what can be achieved simply.
- Equipment should be <66 dB without accessories such as blankets (can fail/degrade over time)

- ii. Asking for site-specific studies creates an additional unreasonable cost burden and must be avoided

11. Doorway between ADU and Primary Unit

- a. This really should be allowed as long as it is a hotel style communicating door. Note that it is allowed for a JADU so why not for an ADU?
 - i. Provides indoor access to care for or interact with the occupant but can be closed if privacy or separation is needed
- b. Don't create rules people will routinely circumvent - just remove the unnecessary regulation - Some may take advantage but there is little stopping them anyway

12. 60-day Processing

- a. Sets unrealistic expectations without clear narrative
- b. Explain how this will be interpreted/implemented
- c. Note that HCD has indicated the State says once an application is submitted, the City must approve within 60 days or it is automatically approved.
 - i. It is assumed that the clock is stopped when waiting for applicant response to comments, but there is nowhere this is codified and creates frustration for homeowners

13. Sprinkler requirements

- a. Clarify rules relative to the California State Fire Marshal Information Bulletin 17-001 (1/24/17)
 - i. Current PA implementation is not in alignment with Senate Bill 1069
 - ii. Safety concerns and physical constraints must be balanced against compliance with the State language

14. Flood Zone

- a. Better articulate requirements and permitted exceptions
 - i. Consider an example of the Exemption 800 sf ADU in the flood zone on a small lot – if reconstructing a non-conforming structure, it must be allowed to go higher than the 16 foot limitation by the delta between existing grade and the project site base flood elevation to raise the first floor level.

15. Remove requirement to convert “existing” garage/carport

- a. Only applies to projects where a new home is constructed with the intent of the garage or carport being converted to an ADU as a second ‘step’ after final inspection.
- b. Allow for a one-phase process
 - i. Offer incentive for streamlining
 - 1. Cannot be setbacks, height, etc. as these are enshrined in Gov. Code, § 65852.2, subd. (c)(2)(C)
 - 2. Could offer an additional fee reduction for saved staff time or something similar

While we recognize the Ordinance before you has been in process for the better part of a year, your action tonight will set the tone for what is possible until the next iteration of this language evolves. We are hopeful the commitment you have voiced toward incentivizing residential development, aligned with a stated goal of streamlining the approval of ADUs, will lead you to adopt some version of the 15 points we have presented. As professionals serving as guides to those who wish to construct an ADU, and being tasked with implementing the regulations, we want you to understand how important we believe these items are. If anything, we hope you might consider this as a starting point. We welcome your willingness to perhaps go further and, as many other cities have done, consider the adoption of additional language which will make ADUs more livable, desirable, and affordable.

Respectfully submitted,

Jessica Resmini, Architect

Randy Popp, Architect



Planning & Transportation Commission

Staff Report (ID # 12006)

Report Type: Approval of Minutes **Meeting Date:** 2/10/2021

Summary Title: January 13, 2021 Draft Meeting Minutes

Title: January 13, 2021 Draft PTC Meeting Minutes

From: Jonathan Lait

Recommendation

Staff recommends that the Planning and Transportation Commission (PTC) adopt the meeting minutes.

Background

Draft minutes from the January 13, 2021 Planning and Transportation Commission (PTC) meetings were made available to the Commissioners prior to the February 10, 2021 meeting date. The draft PTC minutes can be viewed on line on the City's website at <http://www.cityofpaloalto.org/gov/boards/ptc/default.asp>.