



ARCHITECTURAL REVIEW BOARD
MINUTES: March 16, 2023
Council Chamber & Zoom
8:30 AM

Call to Order / Roll Call

The Architectural Review Board (ARB) of the City of Palo Alto met on this date in Council Chambers and virtual teleconference at 8:30 a.m.

Present: Chair David Hirsch, Boardmember Yingxi Chen, Boardmember Kendra Rosenberg, Boardmember Osma Thompson

Absent: Vice Chair Peter Baltay (arrived at 8:38)

Chair Hirsch stated there was not a need to read the Resolution Authorizing Use of Teleconferencing for the Architectural Review Board During Covid-19 State of Emergency.

Oral Communications

Veronica Dao, Administrative Associate III, stated there were none.

Agenda Changes, Additions and Deletions

Claire Raybould, Senior Planner and ARB Liaison reported the Ad Hoc meeting for the Silicon Bank Project scheduled for March 16 was canceled.

City Official Reports

1. Transmittal of 1) the ARB Meeting Schedule and Attendance Record, 2) Tentative Future Agenda items and 3) Recently Submitted Projects

Ms. Raybould displayed the ARB meeting schedule and said Boardmember Chen had a planned absence for the next hearing, and items scheduled for that meeting include a full project review for 3200 Park Boulevard - the Fry site development agreement, Chair and Vice Chair elections, and a study session on the annual report and Council work plan. New submitted projects include a formal application for the 420 Acacia project, staff will look to schedule a first hearing at a future meeting.

Chair Hirsch inquired if the 420 Acacia is the project for townhouses by Charities.

Ms. Raybould responded that Charities owned a large parcel and split and sold a portion of the property. The application was submitted by Dividend Housing.

Chair Hirsch suggested that would be a good project for preliminary preview prior to the formal hearing and asked if that would be a possibility.

Ms. Raybould stated if the project is seen by an ad hoc hearing, it would count as one of their five allotted hearings.

Chair Hirsch questioned if that had been confirmed.

Ms. Raybould stated she had and that the project could not be seen for an ad hoc hearing for approval, however it could be reviewed for general objective feedback by an ad hoc committee of two Boardmembers.

Chair Hirsch commented it would not be for a hearing, just a general overview preview.

Boardmember Thompson stated Vice Chair Baltay had joined the meeting and requested clarification that if two Boardmembers review the project and provide architectural feedback, it would count as a hearing, and requested additional information on what Chair Hirsch was requesting regarding an ad hoc.

Ms. Raybould stated it would not count as a hearing, however the intent would not be to get subjective architectural feedback from only two Boardmembers early in the project, because it would not represent Board's decision.

Chair Hirsch stated that it had been discussed previously that the ARB may want to consider doing an initial preview of a submitted application for objective feedback on possible additional information the Board need for the formal hearing.

Boardmember Thompson clarified the ad hoc would be intended to provide a content review.

Ms. Raybould added the feedback could be returned in a non-formal email format or through communications with staff.

Chair Hirsch commended Ms. Gerhardt for creating the list of projects presented at the meetings and the benefit of having it was intended for the ARB to be made aware of a project prior to seeing it at a formal hearing, it would be useful to include the name of the applicant rather than just the application number.

Ms. Raybould responded staff could add that information in the project description.

Chair Hirsch used the Fry project as an example of splitting the review process and inquired who made the decision to see that project in pieces rather than the project as a whole.

Ms. Raybould stated staff made the decision with the purpose of trying to get early feedback on the pieces, however they didn't want to move forward with the Cannery portion of the building until they received feedback from the Historical Resources Board, as well as provide enough review time for the ARB for each section of the project due to the size of it in its entirety, and they are now starting the formal hearings on each portion. This project is a development agreement for a planned community, so there is flexibility in the number of hearings allowed. The affordable housing projects are the projects that are limited to five hearings. Once the formal hearing scheduled in April takes place, every aspect of the Fry project will be submitted as a whole.

Vice Chair Baltay commented that this project is an example of how an early ad hoc review may have been helpful so that the decision to split the project would have included everyone concerned, the ad hoc could

have provided feedback on the process as well as the content, and for that reason he supported Chair Hirsch's position on having an earlier preliminary review of a project through an ad hoc committee.

Ms. Raybould responded to Chair Hirsch's question about whether a project is removed from the list once it is approved, that the 3300 El Camino project is still active, with staff looking to bring it forward during the April 20 meeting.

Chair Hirsch asked if the 3150 El Camino project was the project by Acclaim.

Ms. Raybould replied that was correct.

Chair Hirsch suggested the 3150 El Camino project may also benefit from a preliminary content review with an ad hoc committee.

Ms. Raybould answered the proposed developer had not yet submitted their actual application, however all of the information had been submitted for the SB330 pre-application and is available online under their pending projects. The information required for SB330 pre-applications include an undefined basic elevation such as massing drawings, and a site plan. The SB330 pre-application has been deemed complete for 3150 El Camino, however the formal application has not been filed.

Chair Hirsch stated that he and Boardmember Rosenberg will be the preview ad hoc committee for content review for the 3150 El Camino project and the 420 Acacia project.

Ms. Raybould stated she would send the links out for the information of the two properties, in addition to the 800 San Antonio project that was discussed in the previous meeting, and the submittal list that staff works from for the information required in a project application that is submitted for a hearing.

Chair Hirsch inquired if staff would be present for the ad hoc meeting so should the Boardmembers review the material that was submitted online.

Vice Chair Baltay commented the preliminary ad hoc reviews would not be a wise choice of staff's time, a possible process might be to review the project material and then ask questions if they had them, and staff could set up a meeting with staff if necessary.

Boardmember Thompson inquired how the ad hoc would relay the feedback to staff.

Vice Chair Baltay stated his understanding was the ad hoc would report their feedback during the next scheduled meeting, so not to tie up more time than is needed.

Chair Hirsch stated this is more like a process and development and it seems it would be a good idea to present their feedback as a list items requested, and the list can be shared with the Board at an appropriate time.

Boardmember Rosenberg clarified the goal of the ad hoc is to provide insight as to what information is missing that the ARB will want to see for any given application submitted, so that really wouldn't need to even be shared with the Board, it is more a communication from the ad hoc committee via staff to the applicant. She did believe the feedback might be better served in written format than a phone call.

Chair Hirsch noted that he felt there have been projects with information missing that the ARB wanted to see and this would be a good option in preventing delays during hearings and inquired if 340 Portage was also a part of that project and Ms. Raybould responded that it was a portion of the Fry and Cannery projects, that members of the public had requested staff refer to the Cannery project as 340 Portage since it has several addresses.

Chair Hirsch stated the townhomes for that project is one that the Boardmembers has invested a good amount of time on and requested that project be pushed to the next meeting so Boardmember Chen could be present for the hearing and she has a scheduled absence at the next meeting.

Ms. Raybould responded staff could get the project pushed to the April 20 meeting Agenda. They are anticipating 123 Sherman possibly moving forward on that hearing as well, and possibly the Stanford Shopping Center/Our House project. In addition, they expect an ad hoc report for the 3300 El Camino project.

Boardmember Thompson inquired if 3200 Park Boulevard was still scheduled.

Ms. Raybould confirmed that was correct.

Study Session

2. Study Session to Review and Discuss the City's Local Objective Standards for Senate Bill 9 Residential Units and Urban Lot Splits Previously Approved by Council Along with the City's SB9 Interim Ordinance 5538. The Planning and Transportation Commission Recommended a Permanent Ordinance to Replace the Interim Ordinance on February 8, 2023. Environmental Assessment: Not a Project. For More Information Contact Amy French at Amy.French@cityofpaloalto.org.

Chair Hirsch requested the staff presentation.

Vice Chair Baltay stated he would be recusing himself from this item on the advice of the City Attorney relative to current projects that Vice Chair Baltay has in the city. He would be available to rejoin them once the item was completed.

Boardmember Rosenberg stated as an over abundance of caution, she also has a project in progress, but it has already been permitted and approved with an ADU. She has recused herself from all her other projects in Palo Alto, she does not have any Senate Bill 9 (SB9) projects in Palo Alto.

Boardmember Thompson stated she had nothing to disclose.

Boardmember Chen reported she has a similar situation to Boardmember Rosenberg, she has ADU projects in Palo Alto, but not any SB9 projects.

Chair Hirsch stated he was retired and had no projects.

Amy French, Chief Planning Official, introduced the item and stated she would begin the presentation before passing it to Emily Foley for the more detailed information. SB9 (Government Code 66411.7) The California Home Act which created a ministerial process for two-unit housing development on single

family residential (SFR) parcels. It enabled urban lot splits for a one-time subdivision of an existing SFR parcel into two parcels. Approvals must be based only on objective standards and cannot preclude construction of 2 units of less than 800 square feet. Denials are only permitted if projects do not meet objective standards or if there are “specific, adverse impacts” on public health and safety. There are now limitations on how jurisdictions can regulate SB9 projects, including setback and parking requirements and requirement that attached buildings must be allowed. The parcels affected by SB9 are all SFR zoned properties within urbanized areas except for environmentally sensitive areas and environmental hazard areas (if specific mitigations are not possible) and listed historic properties and districts. Additionally, demolition is generally not permitted for rental units or deed-restricted rental units. City Council adapted Palo Alto’s municipal code and associated development review processes to accommodate SB9 by adopting an urgency ordinance on December 6, 2021 and interim ordinance on January 10, 2022. Council adopted urban lot split standards and refined the previously presented standards on March 31, 2022, which were further amended in accordance with Ordinances 5542 adopted on January 24 2022 and 5546 adopted on April 11, 2022. The Planning and Transportation Commission (PTC) recommended City Council adopt a permanent ordinance on February 8, 2023 to replace the interim Ordinances which included no proposed changes to the standards at this time. Staff’s recommendations are that the ARB review and comment on the adopted objective standards for urban lot splits and review and comment on the adopted objective standards for SB9 based on the Individual Review (IR) guidelines which informed the formation of the SB9 Objective Standards. The standards on the urban lot splits only apply to qualifying SB9 projects within Palo Alto, and Public Works Director is authorized to publish Objective Standards regarding Adjacent Public improvements related to SB9 projects. Council asked staff to share the approved standards with the PTC and ARB for consideration related to a permanent ordinance citing the standards and modifications to the SB9 standards can be accomplished outside the Council timeline for adopting the permanent ordinance. After a year into the new standards, staff has found there may be potential amendments to the standards to include:

- Increasing the size of detached units for larger lots to enable more use of cottage cluster development and of SB9.
- Modify lot split standards for larger lots and irregular shaped lots such as Residential Estate lots in the hills of Palo Alto

Ms. French continued with the SB9 approval processes, criteria and objective zoning standards, objective subdivision standards and design review standards and their limitations which may apply to SB9 urban lot split standards.

Emily Foley, Project Planner, continued the presentation with information about different scenarios that are allowable lot splits on R1 and RE zones properties. The criteria are that there be four units built under SB9.

Chair Hirsch inquired if the diagram shown was representative of site orientation for lot splits.

Ms. Foley explained that the diagram was attempting to show different scenarios. However, the orientation of the split units is based on the size of the lots, not all units would necessarily be seen from a street view if one unit was behind another. The process for building a one story home or a one story home with an Accessory Dwelling Unit (ADU) or Junior Accessory Dwelling Unit (JADU) requires the

building permit process. A two-story home requires the IR process, a two-story home with an ADU could be processed through the IR process OR the IR objective standard ministerial process OR SB9 process while a two-story home with a second home would follow the SB9 process. Two units and two detached ADU's on a single lot would be an SB9 process and a subdivision of an R-1 or RE lot would be the SB9 process OR possible parcel map if the lot was more than 12,000 square feet (SF).

Chair Hirsch requested clarification that ministerial means a project wouldn't be seen by the ARB.

Ms. Foley responded that ministerial means discretionary, the IR application is considered a discretionary review application, however it is handled at the staff level. There are discretionary projects that don't necessarily come before the ARB. Three or more units are considered multi-family so those would always come before the ARB, but under SB9, an applicant is allowed to build up to four units using objective standards and a ministerial process.

Boardmember Rosenberg requested an explanation of what would the circumstances that applicant building a two story home with an ADU would choose the IR, IR objective or SB9 process.

Ms. Foley stated that the IR objective process doesn't exist, the slide is outdated, it would be the SB9 objective standards to build a story home with an ADU whereas the IR process is using the current IR guidelines. At the time it was established, staff was hoping that the objective standards will streamline the Individual review process by taking out the discretionary back and forth process that often happens in some applications, however staff does not want to eliminate that as an option because they did their best to ensure the objectives design standards were that they were in line with the current IR guidelines. There are cases where some may perceive them as being more restrictive.

Boardmember Chen commented it seems like SB9 pertains more to housing development that is no more than two housing units per lot and in that case, and asked why a two-story home without an ADU seems like it qualifies for an SB9 process instead of an IR.

Ms. Foley responded that the way the SB9 Ordinance is written, it applies to the construction of two or more units, but that is also something that can be considered with how the objective design standards could be apply to houses that are currently going through the IR process.

Boardmember Rosenberg commented that if they were trying to streamline the IR process, SB9 really is focused on multi units on single family lots so a two-story home that's just the one home, SB9 would really only applies when there's more than one unit.

Ms. Foley explained SB9 is a State Law which encourages increased housing production on single family lots. The individual review process is a uniquely Palo Alto thing, although most city's have some type of discretionary process for larger homes. Duplexes or two-story use is now allowed in the IR or RE zone. Previously there had been some confusion about whether duplex means the units are inherently attached, they can be attached or detached. As a part of an SB9 process the property owner can choose to do a lot split. There are certain qualifications the project must meet, however the minimum lot size in Palo Alto is currently 6,000 SF, that would be reduced to 2,400 SF and it would require it be a minimum of a 60/40 split. The smaller of the two lots cannot be less than 40% of the existing whole lot. The City has previously required there be street frontage by doing a flag lot or easement or having 20 feet of street frontage, the

point with the ADUs is there's a maximum of four units. The setbacks have been reduced to increase the buildable area when doing an SB9 project. The rear and side setbacks have been reduced to 4" which is the same as the ADU setback requirement. The front yard requirement is unchanged at (20', varies).

Chair Hirsch inquired if the rear building could be two stories.

Ms. Foley replied no, the objective design standards do limit having second story within the rear yard.

Boardmember Rosenberg added that an ADU is allowed to be built up to 16 feet tall, even in that rear setback.

Boardmember Thompson inquired if the same setbacks are required for corner lots.

Ms. Foley stated that the street side yard is identified as a different yard type in the zoning code, with ADUs it was determined that the streetside setback was considered a side and could be built at the 4" setback, but staff has not yet had to visit what that would look like for an SB9 project.

Boardmember Rosenberg stated that's a really good question because in the past ADUs typically on a corner lot, they consider the short side the front side, regardless of what the address is. The street side of the ADU have to be respected regardless due to it being a special setback.

Ms. Foley responded that special setbacks are a third item that do have to be respected no matter what and Boardmember Rosenberg was correct that the zoning code does always identify the shorter of the two frontages as being the front, however for a streetside setback for ADUs, they are allowed to be four feet.

Boardmember Rosenberg stated in theory the SB9 would follow that ADU setback on that streetside as well.

Ms. Foley stated staff is assuming that came directly from the state, in that they would be consistent in that interpretation.

Boardmember Rosenberg stated that in the case where they split a corner lot such that one lot was no longer a corner lot, it would require a setback along its face. If they don't split the lot, it changes the requirements quite a bit for what can be developed on that property and where.

Ms. Foley stated if they split that lot they would have one corner lot and one interior lot and the new interior lot would use the interior lot setback rules.

Boardmember Rosenberg clarified if they didn't split the lot and wanted SB9, the applicant would be allowed to pull the sides out to the 4" setbacks along that entire length.

Ms. Raybould stated Boardmember Rosenberg was correct. Now the front yard would become what the streetside yard was, so they would then have to respect the streetside setback of 20 feet.

Ms. Foley stated it would depend on the configuration of the corner lot. It could be split without changing which one had the front setback.

Boardmember Rosenberg stated the point she was trying to make was that in certain situations the rules, in the way they are written, have a lot of unintended consequences. One being in the example of the

corner lot, staff may be accidentally encouraging someone to split or not split the property based on how the rules are written and how the applicant can best capture the use of the lot. As the ARB moves forward, they will need to be mindful of some of those issues because that would be a notable difference on some of the corner lots and oddly shaped lots. It is the exception to the rules that is going to be the where the meat of the pie is.

Ms. French stated the Planning Commission has recently made more changes to the ADU Ordinances. Staff went to City Council in December with another change due to State Law. Their intention was to get feedback from HCD on the most recent changes that were put before the Planning Commission so they could mitigate the interim process. They will return to the ARB once they have less of a moving target situation with the changes that are being made on the State level.

Boardmember Rosenberg commented that part of the reason it's such a moving target is due to the ADU standards being so new, and they keep changing. Now there is SB9, and all of the things together are making the process quite complicated.

Ms. Foley stated the conversation was a good transition to the next slide in the presentation as it explains more one of the consequences that had been referenced in the conversation.

Chair Hirsch questioned if the objective standards for ADUs on corner lots recognize that there will be an elevation facing one way or another.

Ms. Foley stated ADUs are not inherently part of an SB9 project, and ADUs will still be following the current ADU laws so the objective standards do not do design for ADUs necessarily, and in the same way that when they look at an IR project and an ADU is included in one of those, it is recognized that based on State law, ADUs are always ministerial projects that just need to check those boxes of what the zoning code requires for ADUs.

Chair Hirsch clarified his question in that when there is a lot split and the ADU is put in the corner of the property, what determines which side is the elevation.

Ms. Foley replied the zoning code always defines the front yard as being the shorter of the two frontages and it's possible that's in a lot split that would change it, it's also possible that the lot split wouldn't change which one is front. If it's 60' on one side and 100' on the other and you split it into two 30x100's the front stays the same. Additionally, when you are looking at the objective design standards, IR Guideline 4 refers to façade composition and does acknowledge that the owner should take advantage of the dual street frontages to present units with windows. The allowable floor area changes when a lot is split. This would apply more for larger lots due to the way floor area is calculated. When you have a 6,000 SF lot, the total allowable floor area is 3,350 SF, which when you split the lot, each lot is 3,000 SF with an allowable floor area on each lot being 2,150 SF for a total of 4,300 SF for both properties. The additional 800 SF does not apply to SB9 projects.

Ms. French presented how the Objective Standards translated from the IR Guidelines. The SB9 Objective Design Guidelines were based upon the IR Guidelines.

- Guideline ONE: Site Planning: Garage, driveway, and house
- Guideline TWO: Neighborhood compatibility for height, mass, and scale

- Guideline THREE: Resolution of architectural form, massing, and roof lines
- Guideline FOUR: Visual Character of street facing façades and entries
- Guideline FIVE: Privacy from second floor windows and decks.

Each IR Guideline is further broken down into key points and the SB9 objective standards converted the existing discretionary key points into objective standards. An example using Guideline One: site planning, Keypoint-5; Locate and upper floor well back from the front façade and/or away from side lot lines if the home is adjacent to small or one-story homes. Objective Standard 1.5B: Contextual Massing Stepback states where a home on an abutting lot across a side lot line is single story or has a second-story floor area less than 500 SF, each proposed structure located within 20 feet of the side lot line shall step back the upper floor from the lower floor along that side of the structure at least 7 feet for at least 50 percent of the depth of the structure. Because an urban lot split could potentially be narrower than a standard lot, the Keypoint is trying to discourage having a two-story wall plane if the side set back is less than 20'. The second floor needs to be stepped 7' back for at least half of the total length of the house. This would apply to standard Palo Alto lot sizes.

Ms. French added that in the ER district the IR guidelines do not apply for regular two-story homes, only in the R-1 and some houses adjacent to R-1 it applies. It's rare that the 20 foot setback on the side in the R-1, but because the SB9 applies to RE but not R-1, the math can get confusing.

Boardmember Thompson commented that if the house is within 20 feet of the property line, and the upper level is 7 feet setback in relationship to the side yard, if the house is 10 feet from the side yard that triggers then the upper level would be at 17 feet from the side yard.

Boardmember Rosenberg stated that she would have to argue in that case that penalizes someone who has already built farther away from the setback and inquired if that 7-foot setback is from the existing wall of the house or from the setback line.

Ms. Foley replied it is from the existing or proposed wall of the house on the first floor. In cases where there is maybe a rear garage, you have an eight or nine- or ten-foot driveway rather than a six-foot minimum setback, that will change the amount of setback by two or three feet.

Boardmember Rosenberg felt that unfairly penalizes people and it becomes much more subjective than objective and if that standard is set that if the house was built within 20' of the property line, then it should be off of their setback. During the lot splits, if they have to have a 10' wide driveway and then an additional 7 feet after that, they might all of a sudden not be allowed to build a second floor because you're required to have a 15-foot by 15-foot second floor minimum. She was concerned that there's some unfair penalization of some existing standards, some of that clarification would be helpful.

Ms. French commented that was a great point and that she would add that the R-1 zone also has combing districts, some of which are 10-foot setbacks as the minimum setback for the sides, as opposed to the six feet, and some have an 8' set back. There are different R-1 zones and of course you have the RE which allows SB9.

Ms. Foley stated it also combines into other ones and she felt they aren't going to get into those right now, but if you are adjacent to a single story house, there also has to be an additional 2' under the typical

daylight plane. They also don't consider that under SB9 you could be using 4-foot side setbacks instead of the 6' or the 8' or the 10', just because the example shown limits it to 7', where the daylight plane hits could be further restrictive or not.

Boardmember Rosenberg inquired how they could simplify some of that.

Ms. Foley stated they would love it to be simplified.

Chair Hirsch inquired why they would change the daylight plane concept at all.

Ms. Foley answered because typically in their current application of the IR standards in response to how it is currently subjective with things like well back from side lot lines and illustrations where it's not touching the daylight plane, it's been interpreted over the last 20 years, to be additionally reduced from the daylight plane.

Chair Hirsch stated he has a sub-standard lot on his house but held to the daylight plane as they controlling dimension of the second story. It was critical and he wouldn't have been able to build the house at all if he didn't have the right to build it to the daylight plane and he finds it sufficiently distant from the neighbors and doesn't understand how this happened along the way.

Boardmember Rosenberg commented there's a nearby city and they have an ordinance that is very similar to this where the second story always has to be stepped back in the front and on the sides and you end up drive around that city and you see a lot of "cake-toppers", where it looks more like wedding cakes, and she was inclined to say that when you allow the daylight plane to be the ruling factor instead of the setbacks, the goal is the respect your neighbor and not be an imposition in massing or in hogging daylight and wind. The daylight plane is highly effective in this and if that volume should be enough. The additional restriction of seven foot from this and from that, can cause a lot more issues than it's worth and it doesn't benefit anybody and penalizes the homeowner and can create some funky architecture. It makes it much more difficult to hit a moving target, where if you go with a setback or daylight plane and call it a day, that buildable envelope should just be respected and that could be it, and it could stay that simple. Boardmember Rosenberg stated that was her two cents.

Chair Hirsch stated his two cents as well.

Boardmember Thompson suggested the Board let staff continue with the presentation.

Chair Hirsch inquired what Boardmember Thompson's opinion was and stated if they didn't provide their opinions they would have to circle back anyway.

Ms. French stated that things change on the ADUs as it gets handed down from the State, so these kinds of things happen each year as they get feedback and push back.

Ms. Foley provided additional examples which restrict the second floor area due to setbacks in combination with other objective standards. In cases where there are flood zones, instead of being 18", it's 24" to allow more room to stay in compliance with the flood zone, since the required floor height is likely to be higher. In the case of neighborhood compatibility for height, mass, and scale, at least one single-story building form with dimensions no greater than 16' in height, no less than 8' in depth, and no

less than 12' in width shall be placed on each street facing building side. This was intended to limit the amount of flat two-story wall planes there are on any given house.

Ms. French stated that on the Palo Alto Municipal Code Title 21 for subdivisions, sections were modified so that the city could require lot splits have access to adjoin the public right of way. Three types of lot splits were considered in that process, and it also depends upon the street frontage which dictates the way the design of the addition would go and provided example drawings for side by side, the flag lot, and the flag lot with easement. For a single-family home, you cannot do a flag lot for an R-1 property, unless there's historical preservation. For SB9, they use the 10' minimum easement for clearance of an automobile. Public Works also has standards that are objective standards, however the Public Works director can modify public improvement standards similarly that the City can modify the SB9 standards that have been adopted, outside of the ordinance process. The goal is to keep the SB9 standards ministerial, including the urban lot splits. Handouts are in process, the consultants Urban Planning Partners who are working on handouts to try to help the public see what the opportunities are and to clarify the ministerial requirements eligibility, with links available to help people explore State law.

Boardmember Rosenberg thanked staff for the presentation and commented that it's a lot of information and pretty complicated, and she appreciates the time and effort that put into tying it all together.

Ms. Raybould stated that her understanding is that they have the objective standards, if they can't meet the SB9 objective standards it doesn't necessarily mean that they can't design how they want to, it just means that they have to chose to go through staff's discretionary process to do so. It's impossible to think of every design, some projects have come in for example, with roof lines that don't fall within the objective standards even though it's not an unreasonable design. They can choose to still move forward with the design of their choice, they just have to do it through the discretionary process. Staff is trying to strike a balance. They would like to streamline the process, and not create more work for staff, but also having strict enough standards that staff is comfortable with allowing people to move forward and no that they are still going to fall within what the City would see as reasonable under their IR process, which has been fairly successful with coming up with good designs for the community. And still retaining some ability to work with applicants that may not be able to meet every objective standard.

Boardmember Thompson reminded Chair Hirsch he may want to call for Public Comments and questions for the public hearing.

Chair Hirsch stated it's a question of how staff looks at the standards. As he looked through it from an outside view, he took one house through the discretionary process and was quite pleased with the results, and questioned what staff is seeking in terms of feedback.

Ms. Raybould responded that the ARB's feedback is important, examples of what they've already pointed out is very helpful. As they've gone through the changes made in the last year, the larger lots in the RE zone, there is possibly more potential with those lots than what's been restricted under the objective standards in their current form. There could be more opportunities either in the lot split standards and/or the objective standards that may speak better to some of the larger lots to better provide for more housing.

Ms. French asked Veronica Dao, Administrative Associate III, if there were any public comments, Ms. Dao stated she did not have any speaker cards that were submitted.

Ms. Foley stated the first example is within the Ordinance itself rather than in the objective standards which is why she wanted to call that example out specifically. Currently, taking a more conservative view when initially drafting the ordinance, in cases where three or four units are being developed simultaneously, it states that the maximum unit size is 800 SF, but the change makes it unattractive to homeowners and development.

Boardmember Chen commented the first thing most people want to know is whether or not they qualify for the SB9, and in the case of flood zones there was a scenario provided in which a project wouldn't qualify and requested clarification on if all houses in Palo Alto qualify for SB9 projects.

Ms. Foley replied to Boardmember Chen that the exact language in the Code says that the subject parcel cannot be located within the 100-year flood zone unless Public Work's standards can be met. So those Public Works standards are really just having that finished floor outside of the flood zone and elevated. The majority, if not all, of flood zone R1 properties are usually able to meet those requirements.

Boardmember Chen asked if an ADU has already been built and if the property owner wants to rebuild the primary home, could the project qualify as an SB9 project.

Boardmember Rosenberg commented that's an interesting question because if there is an ADU already built on a property with a small house, can they split the lot and then on the new split portion build the new two-story and have that go under SB9 rules and regulations or would that have to go under IR rules and regulations.

Ms. Foley stated they would be able to use SB9 objective standards for that.

Ms. Raybould added it would no longer be considered an ADU.

Ms. Foley stated those were two different situations.

Boardmember Rosenberg clarified that if there were an existing property that is 10,000 SF and there's a smallish house on it with a detached ADU, can they split that 10,000 SF while keeping the house and the ADU on one property, thus creating a new property that is bare and wanting to build a two-story house, would that new two-story house would then fall under SB9 regulations rather than IR due to the lot split.

Ms. Foley explained that any unit built on a property that is the result of an urban lot split would follow the SB9 standards.

Boardmember Chen requested clarification that in the situation Boardmember Rosenberg stated, if they did not do the lot split, would the rebuild of the main house remain under the IR process.

Ms. Foley stated based on how it's currently written, the applicant would have the option to do either.

Boardmember Chen commented that it seems that most applicants would choose the faster way to build a larger house when based on community comments, that's not necessarily what Palo Alto residents are wanting in their city.

Ms. Foley stated that an IR project takes between three and six months with two to three rounds of staff review. There is the possibility that neighbors would initiate a hearing process. The majority of them do go through at the staff level and then proceed to the building permits, but it is a two step process. For the SB9 projects, although in terms of formal applications there is only the building permit and no ability for neighbors to appeal and starting a hearing process, because there are so many objective standards, the City is requiring the project to go through a preliminary process, which in terms of feedback everyone has been in favor of that feedback, staff hasn't done too many of those types of those projects so they aren't yet seeing what the length of that process may be. The objective standards will likely need some refining before they get to the point where someone building a new two-story single family house by itself is viewing this process as preferable.

Boardmember Rosenberg inquired how the Board wants to proceed. She has read through the material and has a list of items that she's made from Keypoint to Keypoint.

Boardmember Thompson said it might be helpful if Boardmember Rosenberg goes first.

Boardmember Rosenberg commented that a lot of the Keypoints seemed to try to find exceptions for oddly shaped lots. It seemed they are trying to encourage shared driveways, if that's the case it might be better to have a 20' wide driveway. Keypoint 1.2A is highly problematic for pie shaped lots. She would like the Board and Council to consider adding an addendum saying that pie shaped lots and flag lots would be exempted from those requirements. The standard makes sense for rectangular lots. Even a large irregular shaped lot could work, but the more narrow lots with street frontage, there has to be an allowance for the garage to be the façade. There's a lot of benefits to that. On 1.2B, it states a 12 feet wide garage, is that a 12 feet wide minimum garage, with a maximum of 30% of the total façade?

Ms. Raybould stated the 12 feet minimum was not for the garage, it was for the portion of the house.

Ms. Foley stated if you're building a house from setback to setback, your garage is always allowed to be at least 12 feet, but if your buildable frontage is more than 36 feet, then the garage cannot take up more than 30% of that.

Boardmember Rosenberg commented that the verbiage states it can be 12', when it is better stated by saying it *should* be 12' minimum because anything less than that is bike storage.

Ms. French stated there's a 10' clearance on the interior of a garage so, depending on the shared wall of the house, staff is not going make them do less than 12 feet.

Boardmember Rosenberg clarified as long as the 10' x 20' foot interior is met it's considered a garage.

Ms. French stated that was correct.

Boardmember Chen commented that in 1.2B, the garage width as stated, means they are discouraging a two-car garage at the street front.

Boardmember Rosenberg agreed with Boardmember Chen's comment. They have to have a pretty wide house if you're maxing people out at 30%. There's no way that's going to happen on a pie shaped lot.

Ms. Foley commented they generally try to encourage two-car garages, the way the Keypoint was phrased in the original IR guidelines is to located garages to be subordinate to and minimally visible and significantly less prominent than the house, as a result of that, one car garages are encouraged, doing rear garages are encouraged and there is a contractual rear setback where if the majority of the house on the street has a rear garages then a new house is required to have that rear garage. There's a handful of houses that have a rear alley access and in those cases they have to have the house off of that alley. Additionally, due to the way the floor area calculation is structured where covered parking counts towards the floor area, by the zoning code you are only required to have one covered parking and one uncovered parking, that also discourages two car garages because many home owners don't want that additional 200 SF to go towards parking when it can be incorporated into the house.

Boardmember Chen inquired that under SB9 it could be different than a traditional single-family home.

Ms. Raybould clarified they only allow two units on each lot so only four units are allowed only if a lot split is done under SB9.

Boardmember Chen stated they could if they had 2 primary with 2 ADUs.

Boardmember Rosenberg stated in that case no one is accounting for parking.

Chair Hirsch commented he agreed, the reality is going to be much different than that.

Boardmember Rosenberg commented in the case of the shared one driveway leading up to a cottage style lot plan of 4 units, there would have to be covered carports, some place to put their cars. When the property is being shared by four families, parking needs to be considered.

Ms. French stated another consideration are the electric charging stations that are now required. There is an electrification ordinance that has been taken to the Planning Commission that will be continuing on to the Council, staff is working on considerations of noise and heat pump water equipment and such. Many people may use garages to have their vehicle charged.

Chair Hirsch stated he has a comment about one with regard to walkway separations. They have to have a planting strip and asked what the requirements are for those and why is it necessary to have a planting strip.

Ms. Foley stated it is to provide visual separation between what's driveway and what's walkway and to limit the entire space as being used as driveway.

Chair Hirsch stated he feels that's a very specific element that doesn't necessarily need to be included specifically for every house. He has that type of specificity for a lot of the material.

Boardmember Rosenberg agreed that some of it feels like an overreach and not necessary.

Ms. Raybould questioned if the ARB feels that the width of that is unnecessary or simply the standard in general.

Boardmember Rosenberg stated she feels the standard in general. Some of it feels like it's overly specific and not really necessary, for example, why is it that SB9 projects needs to account for a planting strip

between a walkway and a driveway when it may never come up, it may be too tight... the City is seems to be accounting for every inch they can get.

Ms. Foley commented she believes there is a zoning code that addresses that, she's trying to pull it up. Staff had discussed maximum width of driveways and maximum width of walkways and pathways in the zoning code.

Ms. French stated comments like these are very helpful for the practical development of the SB9 projects, if there are considerations where they should be looking at their zoning codes as well, those are also helpful. Staff does do periodical comprehensive zoning code updates.

Boardmember Thompson stated it seems like that standard is coming from the IR guideline of minimizing driveway paving impacts in order to highlight yards and pedestrian entry ways, so she can see where that would come from.

Boardmember Rosenberg commented in theory she likes it but in practice it's adding an extra hurdle that if the goal is to encourage SB9 developments and if the goal is to encourage more of this density housing, it's a bit of a nit-picky requirement to have in place for the applicants to have to deal with.

Boardmember Thompson responded she hears that point and believes that Ms. Raybould also make a good point that we can't account for everything. It seems like right now the process is the IR for the most part, which seems to be going well. This is just to help lots that might not even need to go through that process. This will be the in-between that makes it flow through to processes faster. She is slightly less inclined to remove all of those because there is the complication that a lot of them won't apply to a lot of lots. If they accept that, the alternative is still not a bad process.

Boardmember Rosenberg agreed that's correct and it does need to be made clear that the discretionary process is still an option for the lots that the IR standards don't comply.

Chair Hirsch stated they need to keep it as simple as possible, and make the process work so people don't have to go to the discretionary process.

[Crosstalk]

Boardmember Rosenberg raised the point of would they really want to go through the discretionary process because they don't like the planting strip, it seems ridiculous.

Ms. Raybould stated the goal of this process is to strike a balance. Generally, staff have taken a pretty conservative approach to these objective standards initially because they took the position of, they had to conform to the letter of the law. The goal of this process and moving forward with a permanent ordinance, is to think about it a little bit more and find the balance between what will streamline projects and allow people to move forward without creating unnecessary review times but also meet the high quality standards that staff is seeing through the IR process.

Ms. French added that many cities are in the same process where they did something more quickly just to get something they've been using to work, and now they've had a number of projects they can tell the story and figure out going forward, if there's something else they should be considering.

Chair Hirsch commented that's the reason the ARB is saying what they are about this particular type of detail. They are trying to make it more simple for the designer to decide the more specific details. Another example would be the types of trees that can be planted on property lines.

Ms. Foley replied she believes the screening landscaping only specifies that it's only one tree or shrub per 25' and it does require it to be evergreen but if there is a recommended list, they are allowed to propose other species.

Chair Hirsch inquired if that was true even under this process.

Boardmember Thompson inquired where there's a species list defined.

Ms. Raybould stated it does reference evergreen trees versus deciduous.

Boardmember Rosenberg commented that does make sense in terms of wanting to make sure they still maintain that level of privacy throughout the year, providing they aren't saying it must be a specific tree. Similar cities use various trees for planting, and that can be respected.

Boardmember Thompson commented there's a benefit to deciduous trees for thermal comfort and energy savings, maybe that should also be a consideration and not just privacy. That made her also wonder if the daylight plane also considers winter angles of the sun.

Boardmember Rosenberg replied that it does not consider winter sun angles. The goals of this one seem different, one is a privacy goal from the neighbor, considering the closeness in proximity and density goals, she would consider privacy more important. On properties with yard space there is definitely room for those considerations.

Chair Hirsch stated he is also bothered that evergreen trees are more like walls and there are other ways to create privacy. His personal preference is that windows are glazed in such a way that you can't see through them on the side yard.

Boardmember Rosenberg commented that's where she and the Chair disagree. She loves that in her back yard it's all oleander and she loves that all she sees is green. Her neighbor has an ADU and because of her oleander she isn't able to see the roof line of the ADU.

Boardmember Thompson commented that for her it's not so much about preference as it is about thinking about sustainability as they increase their density. Part of the standards should also consider the sustainable aspects as well. She would love for there to be more considerations for passive building throughout the standards. Green roofs could be incentivized. They are great thermal masses, great for bees, et cetera.

Boardmember Rosenberg commented that is an excellent point and Boardmember Thompson just opened a can of worms in that they must comply with the new State Law density requirements and the City has to figure out how they do that in the most responsible way possible. While the ARB's focus is on architecture and aesthetics and being good neighbors, they haven't been considering the electrical grid, or the sanitary sewer systems, water usage, or fire considerations. None of that is being discussed, however those are items that are outside of the purview of the ARB.

Boardmember Thompson questioned if those are truly outside the purview of the ARB.

Chair Hirsch intervened that they needed to move on and wanted to comment about 1.5B.

Boardmember Rosenberg stated she thinks garages on pie shaped lots and flag shaped lots needs to be exempted, and considerations need to be made for pie and flag shaped lots for the two-story issue.

Chair Hirsch commented that 1.5B is very restrictive and agreed with Boardmember Rosenberg that it will be very problematic in certain situations.

Boardmember Rosenberg commented they need to get more focus on daylight plane setbacks, and looking at the first image of the presentation it looks like a cute fourplex. That couldn't be built with any of these standards. If that's what they are encouraging to be built, they need to write the laws that allow that. It feels like the intent is Palo Alto is encouraging with the current standards are mini cul-de-sacs everywhere. If that's the goal, these standards are well written for that purpose.

Chair Hirsch requested they take a detailed look at 1.5B and see if it's possible to create something that's not so restrictive.

Boardmember Rosenberg commented the 7' should be from the property setback. By saying from existing houseline, it's unfair to the people that own the house.

Boardmember Thompson agreed that it is forcing a step back and to respond to Boardmember Rosenberg's question she believes it's intended to create a visual break.

Chair Hirsch stated the daylight plane does that.

Ms. Raybould added the intent is to create a visual break in the wall.

Boardmember Rosenberg stated she would have to argue that 7' is pretty intense for a visual break. That could be accomplished easily with 3' and still maintain buildability. Seven feet is the minimum dimension of a room, a staircase could be built in 7'. Requiring it because they don't like the way it looks feels restrictive. Adding that she would write it to say it has to stay a minimum of 7' from the existing setback and no less than 2' from the existing wall.

Boardmember Chen posed the question of how a driveway would affect that.

Ms. French added that it's like a big math problem. It could be where they draw the new lot line for the urban lot split will change the setback and it will be less than 7' so you could end up with a 4' setback from the existing wall.

Ms. Foley stated that would not apply in that case, it would only apply if you were building one two-story house and one one-story house under SB9, if you were building two two-story houses then SB9 wouldn't apply at all.

Boardmember Rosenberg stated her concern is that they are going to say 7' back from the lower floor and then you have to have a minimum 15' wide two-story building and then both the neighbors are single story, you can only get a 12' wide second story and they would be out. It's too restrictive.

Ms. French reminded that they could do it, but they would have to go through discretionary review.

Ms. Raybould still questions if the intent was 7' step back from the wall, it does seem like a large distance.

Boardmember Thompson commented that 4' or 5' might feel better, when you go down 10' to 2' to 10', it doesn't seem to flow.

Chair Hirsch stated he has 3' on his house and it works perfectly for the daylight plane.

Boardmember Thompson stated maybe the 4' would be a good compromise.

Boardmember Rosenberg commented a lot of this is compromise, there's a lot of information before them and they could nitpick to death and in an attempt to make sure they don't do that ...

Chair Hirsch stated they should go over the major items and make a decision. They already agreed that 1.5B is a significant one and suggested they include the review for the daylight plane as a possibility instead of using specific numbers.

Boardmember Rosenberg added that while it's important to keep in mind the neighbors, Palo Alto is requiring them to build by certain standards when what is being built may not still be there in two years.

Boardmember Thompson agreed sticking to the daylight plan is a good compromise and they should call it a day and asked if it was going to circle back again.

Ms. Raybould stated she believed there would be more opportunities going forward and for the interest of time for this study session, they could consider highlighting the key issues of each category even if they do not yet have the solutions at this point. That way staff can think about those key issues and come back with suggestions.

Chair Hirsch wondered if it makes more sense for the ARB to take it home and write up their comments.

Boardmember Rosenberg agreed she feels she could have a list and submit it to the other ARB Boardmembers to see where they get an agreement, and questioned if they would be allowed to do that.

Ms. French stated staff would prefer they do that through the staff liaison and share in that manner. It would be great to isolate to what each Boardmember provided, and come back with those initially and have staff come up with alternatives based on the comments they received.

Boardmember Rosenberg agreed that would be beneficial due to the fact they aren't even through the second set of comments.

Chair Hirsch stated he would ask that every Boardmember take good look at the information and say which ones they feel are critical, maybe try to keep it to ten each.

Ms. French stated they could continue the study session, if there are areas where it would be an ordinance change, they would have to do notifications.

Boardmember Thompson stated maybe at the next study session they could go straight to the discussion because they already received the staff presentation.

Chair Hirsch and Boardmember Rosenberg both agreed.

Boardmember Rosenberg questioned if a motion was needed to continue the study session.

Ms. French stated it's not necessary however it might be good to show the intention to the public that there will be another study session.

Chair Hirsch called for a five-minute break and to allow Vice Chair Baltay to return to the meeting.

The ARB took a break.

Action Items

3. Review and Adoption of the Revised Architectural Review Board By-Laws to Address Meeting Attendance in 2023

Boardmember Thompson stated that for the record Vice Chair Baltay has rejoined the meeting.

Ms. Raybould summarized that in the last session, the ARB feedback that staff received was that there wasn't really an interest in following the standard noticing procedures separate from what is provided under AB2449 which allows for remote attendance through just cause and emergency circumstances so what is presented today is a change to the by-laws that is much simplified in comparison to what was presented at the previous meeting. It simply references back to the allowances under AB2449 for just cause and emergency circumstances attending remotely. Staff did feel it was important for everybody's clarification that the by-laws included what that 20% would be, which is four total hearings. Staff created an internal protocol for remote ARB hearing attendance.

Chair Hirsch asked for ARB questions or comments.

Vice Chair Baltay confirmed that the sum total of the changes is now Article 6, Section 6.3, which has been added, and there were no other changes.

Ms. Raybould stated that was correct.

Boardmember Thompson asked if there were any comments from the public on this.

Ms. Dao stated there was no public comment.

Vice Chair Baltay commented that Boardmember Thompson was not present at the meeting when this item was first discussed and one of his concerns had been that attending remotely doesn't change how the ARB functions. The pushback from staff was that they could only attend remotely based on noticing requirements and reason for absence, and Vice Chair Baltay further wondered if they should, as a Board, push to have something that works better for them.

Boardmember Thompson stated she believed that this was in line with the ARB attendance protocol and for her benefit, having a just cause being a work related item is not on there and questioned why.

Ms. Raybould stated the allowances are derived from State Code and work-related absences are not allowed under AB2449. What they previously looked at was there is a protocol that can be followed, that talks about standard remote attendance procedures but it's very onerous and what was expressed to staff was there wasn't an interest in using that. The way they have wrote it is that if the Boardmembers choose to do that, they still can, however there are a number of procedures that staff has to follow which include advance noticing to the public, making the space you are located in available to members of the public,

and as Vice Chair Baltay notated, assuring that it's ADA compliant. Even though staff removed all that extra language, if the Boardmembers ever chose to do that they could certainly work with them to assure compliance. To simplify things, since there didn't seem to be much interest in following all of those procedures, they didn't include all the extra language in the by-laws.

Boardmember Thompson stated her position on this has evolved somewhat since they have begun to meet again in person. There's a tremendous benefit to being at the meeting in person and they have planned absences for a reason and felt that she's okay with things the way they were written. She believes they are a better Board when they are all in person.

MOTION: Boardmember Thompson moved, seconded by Vice Chair Baltay, to approve staff's recommended changes to the By-Laws.

VOTE: 5-0-0-0

Approval of Minutes

4. Draft Architectural Review Board Meeting Minutes for February 16, 2023.

Chair Hirsch introduced the item and called for any additions, deletions, or changes.

Boardmember Thompson abstained due to her being absent for that meeting.

Boardmember Rosenberg stated she had no adjustments or comments.

MOTION: Vice Chair Baltay, seconded by Boardmember Chen, moved to approve the meeting minutes for February 16, 2023, as presented.

VOTE: 4-0-1-0 (Boardmember Thompson abstained)

Boardmember Questions, Comments or Announcements

Chair Hirsch stated he will be out of town from July 13 to July 26, 2023.

Ms. Raybould stated that Boardmember Rosenberg has a planned absence on the July 20 meeting, if there are any other planned absences there will not be a quorum.

Boardmember Thompson stated that Boardmember Rosenberg absence is planned for the July 6 meeting and inquired if Vice Chair Baltay would be taking over as Chair.

Vice Chair Baltay stated there will be a vote for the next Chair at the next scheduled meeting.

Boardmember Thompson stated that Boardmember Chen would not be present for the next meeting.

Chair Hirsch asked if the item to vote on a new Chair could be deferred for one meeting.

Ms. Raybould answered she believes that's the case.

Boardmember Thompson commented it would be a good idea to have the full Board present to make that decision.

The Board Election will be pushed to the April 20, 2023 meeting.

Adjournment

Chair Hirsch adjourned the meeting.