



City of Palo Alto

City Council Staff Report

(ID # 13864)

Report Type: Action Items

Meeting Date: 1/24/2022

Summary Title: Council Review of Changes to Height Transitions

Title: Public Hearing: Adoption of Ordinance Clarifying Ambiguities in Height Transitions and Amending the Setback for the RM-40 Zone District

From: City Manager

Lead Department: Planning and Development Services

Recommendation:

Staff recommends that Council consider proposed changes to height transitions and other development standards (Attachment A), take public comment, and adopt the ordinance.

Staff will return to Council at a future hearing with changes to objective design standards and other zoning regulations based on feedback from the Council at previous meetings. These documents would modify Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC).

Executive Summary:

The objective standards project aims to respond to State law by making changes to the Zoning Ordinance (Title 18) to transform subjective findings and context-based design criteria into objective design standards and streamline other Sections of Title 18 to encourage housing production. This report is a next step in the Council's review of objective standards, based on feedback received on October 4 and November 8, 2021.

The issue of height transition development standards is tangential to the objective standards project. However, it was included in the preliminary ordinance, reviewed by the Planning & Transportation Commission (PTC), as a clarifying update to improve usability of the code. This report and draft ordinance is the first of two ordinances expected in the first half of the year as part of the objective standards project.

This report provides an overview of height transitions, including how they apply to different districts and uses. It presents two key issues. First, that the language governing height transitions varies across districts and is sometimes ambiguous; this has resulted in the code

being interpreted and implemented differently over time. Second, community members have expressed concern that these lower height limits generally do not apply to the RM-40 district which is a high-density district.

Staff recommends a moderated approach to modifying the ambiguous code to codify a clear objective standard and avoid creating non-complying facilities. This moderated approach sets the horizontal measurement at the far end of the range—150 feet—but allows for reduction by the Planning Director, upon recommendation by the ARB. This avoids creating non-complying facilities for previously- and legally-approved projects and allows applicants to ask the ARB to take a more nuanced look at height transitions based on context.

Additionally, this report proposes changes to the RM-40 front and side setbacks to be consistent with all RM zones and to transform the subjective variable setbacks to objective standards. This change is being made at this time since it was a straightforward request by the Council and relates to the development standards tables already being modified herein.

A near-future second ordinance will address all other aspects of the objective standards project, based on feedback received from the Council on October 4 and November 8, 2021.

Background:

The California State legislature has made several changes to State housing laws in recent years to streamline housing approvals. These steps include reducing the amount of subjective discretion jurisdictions have to deny or reduce the density of residential and residential mixed-use projects. Instead, in many contexts, jurisdictions must rely solely on objective design and development standards. The objective standards project aims to respond to State law by making changes to the Zoning Ordinance (Title 18).

Relationship to State Housing Laws

SB330 Permit Review

Effective January 1, 2020, SB330 made several changes to existing State housing law, including the Housing Accountability Act and Permit Streamlining Act. The two most notable aspects of the bill for this report's purposes are as follows:

1. No Loss in Intensity of Housing: SB330 prohibits jurisdictions from enacting development policies, standards or conditions that would change current zoning and land use designations where housing is an allowable use. In such cases, jurisdictions cannot lessen the intensity of housing—such as reducing height, density, or floor area ratio, requiring new or increased open space, lot size, setbacks, or frontage, or limiting maximum lot coverage; effectively, this clause prohibits downzoning, though the City

may rebalance density between districts (Gov. Code 66300(b)(1)(A)); and

2. Uniformly Verifiable Standards: SB330 defines the meaning of “objective” as “involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official” (Gov. Code 65589.5 (h)(8). “Housing development projects” undergoing streamlined review are only required to meet objective standards. Therefore, standards that are ambiguous may not be considered objective standards, requiring compliance.

Summary of Public Hearings

The topic of height transitions was discussed with the Architectural Review Board (ARB) on April 15, 2021 and Planning and Transportation Commission (PTC) on March 10 and June 9, 2021, as part of the objective standards project.

ARB Review

At its April 1, 2021 meeting, the ARB voted to recommend City Council approval of the objective standards project in a 4-1 vote, following 13 meetings with the full ARB or Ad Hoc Committee. Additionally, the ARB discussed two aspects of height transition requirements between lower and higher density zoning districts during a study session on April 15th. First, the ARB discussed proposed text modifications recommended by City staff and later, by the PTC. Second, the ARB held a more holistic discussion of height transitions, focused on the best ways to regulate height and massing across districts in order to mitigate potential impacts while maintaining architectural quality and development feasibility.

PTC Review

At its June 9, 2021 meeting, the PTC made a motion to recommend that City Council adopt the objective standards project on a 4-1-1 vote, following two study sessions to review the objective standards. The PTC unanimously supported the draft objective design standards.

However, several Commissioners had concerns about the issue of height transitions between lower and higher density districts. Public comments focused on concerns about modifications to the height transition language across several of district regulations’ chapters. Specifically, community members expressed concern that the existing code does not require height reductions for new projects adjacent to RM-40 districts. These participants were concerned about privacy, light, and air impacts. As described in the analysis below, height transitions are not currently required for projects adjacent to RM-40 zoned sites; this is because the RM-40 is already a high-density district with some of the tallest permitted heights in the city at 40 feet. Therefore, modifications in the draft ordinance did not include changes that would impact the RM-40 district.

Community Webinar

At the request of the PTC, staff held a community webinar on July 19, 2021, to discuss the topic of existing height transitions and proposed modifications. Approximately 27 residents attended the online discussion. Many participants advocated for adding a height transition standard for the RM-40 district and generally for light, air, and privacy protections.

Records from previous meetings described above and the other 13 ARB meetings and 3 PTC meetings focused on objective standards can be found on the project webpage: bit.ly/ObjectiveStandards

City Council

The City Council reviewed the objective standards project over the course of two meetings: October 4 and November 8, 2021 (continued without discussion from September 27 and October 25, respectively). Given the public interest in the topic of height transitions, staff proposed to maintain the status quo and did not include the proposed changes to height transitions in the draft ordinance to the Council. As part of its November 8th motion, the Council voted 5-2 to include it (see item G in Table 1 below) along with other standards that would increase privacy and reduce the height of new buildings when adjacent to lower height residences.

As a result, staff has revived amendments to height transition standards and included them here in a stand-alone ordinance that only addresses development standards’ tables in Title 18. In response to community members and decision-makers’ requests, staff proposed a more moderated interpretation of ambiguous language.

Still, staff recommends revisiting the broader topic of height transitions as a substantive policy discussion in the near future, through the Housing Element update process. At that time, the City could consider more nuanced approaches that balance supporting high-density housing in appropriate locations with privacy/light/air access for existing residential uses.

Table 1 states the November 8th Council motion and identifies when the issue could be taken up: through the draft ordinance in Attachment A as part of this report, or a near future ordinance that brings back objective design standards and revisions to Title 18, or a different process. The table also identifies design-related topics that require work with the ARB to refine. A schedule for community meetings (Motion Item E) will be presented verbally at the Council hearing.

Table 1: November 8, 2021 Council Motion and Next Steps for Amendments

<i>Motion #/Topic</i>	<i>Tonight (January 24th)</i>	<i>Near Future Ordinance</i>	<i>Other</i>
-----------------------	--	----------------------------------	--------------

<i>Motion #/Topic</i>	<i>Tonight (January 24th)</i>	<i>Near Future Ordinance</i>	<i>Other</i>
A. Take Council feedback on overlays and then take to housing element working group and return to Council for further discussion;	n/a	n/a	Referred to Housing Element
B. Direct Staff to retain current Context-Based Design Criteria and Chapter 18 laws for development applications that do not fall under the State housing laws requiring objective standards;		✓	
C. Direct Staff to return with proposed objective standards and intent statements and to provide:		✓	
i. A detailed side-by-side comparison of the existing Context-Based Design Criteria and the proposed new laws;		✓	
ii. Adoptable changes to existing and proposed laws that would provide standards for privacy and other protections for all residents, regardless of their zones. Regarding privacy, to come back with stronger protections for elevated floors looking into neighboring lots. Stronger definitions of sight lines and how this applies. Address concerns about allowing 15% windows. In RM-40, retain 25' front set back;	✓ (RM-40 setback)	✓ (window and privacy standards)	Pending Review with ARB
iii. Refer to the S/CAP Ad Hoc Committee on the evaluation of approximate GHG impacts in construction;	n/a	n/a	Referred to S/CAP Ad Hoc
D. Prior to any rezoning of PF to workforce housing, the City Council would re-examine the affordability threshold of workforce housing;	n/a	n/a	Defer to Housing Element
E. Hold at least two meetings on the proposed changes before the next Council session for free-form discussion by the general public;	n/a	n/a	February and March
F. In Building Massing / Facades sections where there is a menu of choices, increase the number of required choices per category;		✓	Pending Review with ARB
G. Put in place a temporary height transition backstop. Initial ordinance should include objective height transition language, for example "No part of the building can be more than X' higher than the lowest adjacent building, up to the applicable height limit". Come back with a specific proposal along these lines for adoption this year and Staff can then propose additional amendments in the future; and	✓ (height transition development standards)	✓ (other height transitions standards)	Pending Review with ARB

<i>Motion #/Topic</i>	<i>Tonight (January 24th)</i>	<i>Near Future Ordinance</i>	<i>Other</i>
H. Evaluate and return with strengthened language to use “design standards” instead of “design intents”;		✓	
I. Evaluate whether "decision by director" option throughout objective standards puts those at risk and should be changed /remove; and		✓	
J. On appeal, consider sending directly to Council if required to meet streamlining requirements.		✓	

Additionally, Table 2 begins to respond to City Council comments on the objective standards project during its October 4, 2021 hearing. The table is divided into two sections, based on the level of consensus among Council members:

- Tier 1 issues mentioned or agreed upon by several Council members
- Tier 2 issues mentioned by just one or two Council members

Feedback on these topics will inform changes to the draft ordinance which the City Council will consider in the near-future ordinance.

Table 2: October 4, 2021 Council Discussion and High-Level Responses

<i>Topic</i>	<i>City Staff Response</i>
Tier 1: Issues Mentioned Or Agreed Upon By Several Council Members	
1. Meet Narrowest Application of State Requirements	The draft ordinance herein does not go beyond the minimum requirements of State law. The near-future objective design standards are proposed to apply to a narrow set of “housing development projects” as defined by the State (i.e., 3+ unit multifamily residential, mixed use with 2/3 residential floor area, and supportive/transitional housing).
2. Show Transformation of Design Criteria	City staff and consultants will include additional code citations in the crosswalk of existing context-based design criteria and proposed objective standards previously provided for consideration.
3. Prevent Privacy, Light and Air Impacts	The near-future ordinance and supporting staff report will highlight how the code includes privacy protections, including minimizing sight lines between neighboring properties, limiting shade impacts, daylight plane requirements, and screening through landscaping and fencing. These standards will be reviewed with the ARB prior to the Council’s consideration.
4. Clarify Terms, in Particular “Adjacent”	The near-future ordinance will clarify the terms adjacent and abutting.
5. Clarify Height Transitions	This issue is addressed in this staff report through proposed changes to eliminate ambiguities in the code.

Topic	City Staff Response
Tier 2: Questions/Comments Posed by Just One or Two Council Members	
6. Applicability to Faith-Based Institutions	Most faith-based institutions are located in R-1 districts that do not allow multi-family housing. However, new regulations in Government Code Section 65913.5 allow religious institutions to develop at higher densities. Specifically, religious institutions can develop 100% affordable housing in a residential or mixed use zone at densities up to 20 du/ac (even in an R-1 district), if the project meets objective standards. Currently, draft objective design standards do not apply in the R-1 district, since the existing Context-Based Design Criteria do not apply in the R-1. However, the Council could consider applying the objective design standards in this circumstance.
7. Relationship to Draft Tree Ordinance	City staff will add a reference to the proposed tree ordinance in Title 18, when the former is complete.
8. Standards for Rooftop Open Spaces	Title 18 currently allows rooftop gardens to satisfy a portion of the open space requirement in the CD-C (Downtown),CN/CS (El Camino Real Only) and CC(2) (Cal Ave.) districts. 15-25% of rooftop open space is required to be landscaped. No changes are proposed as part of the draft objective standards ordinance, except to relocate the code section. Rooftop decks may be built in all zones, as long as they are designed under height limit, but can only count toward the open space requirement in the narrow circumstances described above. The Council could consider adding criteria to increase privacy on rooftop decks.
9. Relationship to Historic Resources	Historic or eligible historic resources are unlikely to be able to meet objective standards in the case of rehabilitation proposals. Such projects would go through the typical discretionary review process subject to review and approval by the Historic Resources Board and/or Architectural Review Board. Historic resources on the National, State, or local register (i.e., Class 1 through 4 structures) are not eligible for streamlining under SB35. However, "eligible" but not "listed" historic resources following a State streamlining review process are currently not protected from demolition and new construction. The Council could direct staff to proceed with Comprehensive Plan program 7.1.1 to place properties deemed "eligible" for the National and State registers on the City's local historic inventory, requiring HRB review and recommendations to Council.
10. Reduce Rooftop Equipment Height	Title 18 currently allows rooftop equipment to exceed height requirements up to 15 feet to allow for mechanical equipment. This standard is currently duplicated in <i>PAMC Sections 18.23.050: Visual, Screening and Landscaping</i> and <i>PAMC Section 18.40.090: Height Exceptions</i> . Proposed code revisions maintain the height exception in Section 18.40.090 only and consolidate screening requirements into a new subsection 18.40.230 so that screening applies to all

Topic	City Staff Response
	projects, not just those adjacent to lower density residential districts. The Council could consider reducing the 15-foot allowance, but this could make several existing structures legal non-conforming.
11. Relationship to Baylands Master Plan	Objective design standards would apply to ROLM-zoned sites within the Baylands Master Plan area, since the ROLM district allows multifamily housing. Discretionary projects require Site and Design Review with the ARB, PTC and Council. The Baylands Master Plan primarily includes subjective guidelines, which can only provide guidance for projects that are only required to meet objective standards.
12. Bird Safe Glass Regulations	The City does not have bird safe glass regulations. However, the City has been enforcing good practices to limit bird strikes through architectural review findings and discretionary review of projects in the Baylands (e.g., auto dealerships with large expanses of glass) and projects with curtain walls (i.e., floor to ceiling windows) throughout the City. Requirements have included fritted glass or similar treatments, and reduced night lighting. The Council may wish to develop an objective standard that codifies this practice.

Discussion

This section provides an overview of height transitions, including how they apply to different districts and uses. It presents two key issues. First, height transitions vary across districts and are sometimes ambiguous. Second, they generally do not apply to the RM-40 district which is a high-density district. The discussion then offers a recommended approach to remove ambiguity and codify a clear objective standard for when height transitions apply, by district and use.

Additionally, this report responds to one component of Motion Cii, identified in Table 1. It recommends a change to the RM-40 front setback to be consistent with all RM zones.

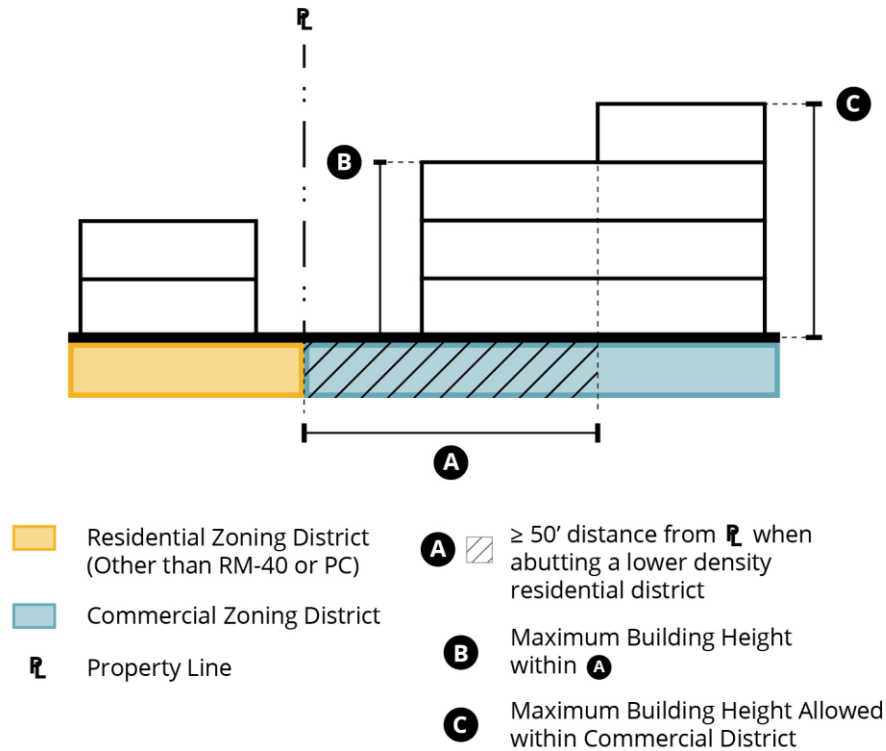
Height Transitions Overview

Title 18 currently includes two sets of height standards within most zoning districts. First, a general height standard. Second, a lower height standard for multifamily and commercial mixed-use districts when located abutting and within a certain horizontal distance from a residential district (typically, excluding RM-40 or PC zones).

Figure 1 illustrates the general concept for how height transitions are regulated in Title 18. Most zoning districts specify the following measurements which correspond to Figure 1:

- (A) horizontal distance from a residential zone;
- (B) reduced height limit within A; and
- (C) standard height limit beyond A.

Figure 1: Prototypical Transitional Height Standard, Existing



Variation by Zoning District

Table 3 reports height standards, by district. (Circled letters in the header row correspond to the labels on Figure 1.) Depending on the district, the height limits can also vary by use (non-residential only vs. residential/mixed use). The table reveals two issues:

(1) Different Zones Identify Different Horizontal Height Transition Zones.

For example, in Downtown, the transition zone is clearly within 150 feet of an abutting residential district; height transitions are required within this horizontal distance, except in the RM-40 and PC zones. The regulations are also clear in the Office/Research/Manufacturing zoning districts where regulations express three layers of height transition: a standard height, a reduced height within 150 feet of a residential district, and a further reduced height within 40 feet of a residential district. However, this district does not specify that the lower height only applies to “abutting” lots. As a result, the standard could theoretically be interpreted to apply

to sites separated by a street or even another lot. In practice, City staff have historically interpreted the standard to only apply to abutting parcels.

In contrast, height limits in the CS/CC/CN mixed use districts and Workforce Housing (WH) overlay are ambiguous. These standards refer to a 50-foot distance, a 150-foot distance and refer to distances relative to the “site” and the “side” of the abutting parcel, further adding to interpretation challenges.

Ambiguity in the regulations are problematic for several reasons. First, they are difficult for City staff and decision-makers to implement consistently. Notably, height standards in these districts have been interpreted and implemented inconsistently over time. This creates a problem for property owners and developers who are considering whether to make significant investments in Palo Alto. Second, ambiguity presents a challenge in light of recent changes in State law which—as described in the description of SB330 above—require standards to be “uniformly verifiable” and “involving no personal or subjective judgement” if the standards are going to be enforced for projects undergoing streamlined review (Gov. Code 65589.5 (h)(8)).

(2) The RM-40 district is treated differently than other residential zones.

Reduced heights are many times not required when abutting the RM-40 district. In fact, the code allows taller heights adjacent to the RM-40, up to 50 feet in some districts. Presumably this is because the RM-40 district is considered high density in that it allows heights up to 40 feet. As a result, a 50-foot building adjacent to a site that allows a 40-foot building represents similar massing potential, with only a 10-foot difference in the height allowance. As noted throughout this report, there are many other development standards and performance standards that require modulation of the massing, privacy and light protection, including: daylight plane, setbacks, screening, landscaping, and fencing.

Table 3: Existing Height Standards, by Zoning District

Zoning District (Use)		General <u>Vertical</u> Height Standard C	Reduced Height Limit	
			Height Within B Horizontal Feet of Residential Zone	A Horizontal Feet Distance Threshold
Multifamily Residential Districts				
RM-20		30	N/A	N/A
RM-30		35		
RM-40		40	35, Except RM-40 or PC	50
Commercial/ Mixed Use Districts				
CD-C/ CD-S	Non-Residential Only	50	Max. height of abutting residential district	150
	Residential/Mixed Use	50	40 50, abutting RM-40/PC	

Zoning District (Use)		General <u>Vertical</u> ^C Height Standard	Reduced Height Limit	
			Height Within ^B <u>Horizontal</u> Feet of Residential Zone	^A <u>Horizontal</u> Feet Distance Threshold
CD-N	Non-Residential Only	25	Max. height of abutting residential district	
	Residential/Mixed Use	35	40 50, abutting RM-40/PC	
CN	Non-Residential Only	25	N/A	N/A
	Residential/Mixed Use	35 (40 on ECR)	35, Except RM-40 or PC	
CC/CS	Non-Residential Only	50	35, Except RM-40 or PC	50 or 150 (Ambiguous)
	Residential/Mixed Use	50	35 50, abutting RM-40/PC	
CC(2)	Non-Residential Only	37	35, Except RM-40 or PC	
	Residential/Mixed Use	37	35 50, abutting RM-40/PC	
Office/Research/Manufacturing Districts				
MOR	Non-Residential Only	50	35	40
			35	150
	Residential/Mixed Use	35	N/A	N/A
ROLM	Non-Residential Only	35	25	40
			35	150
	Residential/Mixed Use	35	N/A	N/A
ROLM(E)	Non-Residential Only	35	25	40
			35	150
	Residential/Mixed Use	30	N/A	N/A
RP	Non-Residential Only	35-40	25	40
			35	150
	Residential/Mixed Use	35	30, Except all RMs and similar density PCs	150
Overlay/Other Districts				
PF		50	35, Except PC	150
WH		50	35, Except RM-40 or PC	50 or 150 (Ambiguous)
AH		50	35, Except RM-40 or PC	50, Director may waive
PTOD		40	N/A	N/A

Determining an Appropriate Threshold

If Council agrees the standard should be made unambiguous and objective, the next question is what is the appropriate standard? This is a policy question that needs to balance State law requirements, flexibility for new housing design, and access to light/air/privacy for existing adjacent uses.

The ARB held a study session on April 15, 2021 to discuss height transitions generally and its implications for design. The majority of ARB members agreed with staff's recommendations, outlined in a March 18, 2021 memo¹ to the ARB, as to how to streamline this Code language for ease of interpretation. Board members believed that the height limits and densities in the surrounding context mattered, concluding that the 150-foot threshold is likely too deep in places like Downtown, but that other locations may warrant transition areas in excess of 50 feet. Board members also suggested that setback and daylight plane requirements—which are already codified in Title 18—are better methods for regulating this transition area than a horizontal threshold.

Recommendation

To resolve the ambiguity at this time and respond to community and Council feedback, staff recommends a moderated approach. In the districts with ambiguous language--the CN, CC, CC(2), and CS districts and WH overlay--require a lower height standard abutting and within the 150 horizontal feet (rather than the 50 feet threshold as originally proposed to the PTC), but allow for a reduction up to 50 horizontal feet by the Planning Director, upon recommendation by the ARB.

The draft ordinance also recommends clarifying that the reduced height limit only applies to abutting conditions. This is consistent with how City staff have historically interpreted the standard. The lower height limit is not intended to apply to situations where parcels are separated by another lot or by a street. Most zoning districts with the lower height standard already include this “abutting” condition. However, to bring consistency and eliminate ambiguity across Title 18, the draft ordinance adds the term “abutting” to the lower height standard in the following zones: RM-40, ROLM, AH overlay, and PC.

Staff believes the 150-foot horizontal measurement is supportable under SB330 prohibitions on limited density, since the standard has been interpreted inconsistently over the years. Moreover, development (i.e., building footprint and massing) is still permitted within the 150-foot distance, just at lower limits. No changes are proposed to height limits overall; nor do changes propose extending lower height limits to projects adjacent to a RM-40 zoned site.

¹ bit.ly/HeightTransitionMemo

This moderated approach serves two purposes. First, it avoids creating non-conforming conditions for residential, commercial, and mixed-use projects that were previously approved with standard height limits within 150 feet of a lower density residential district. These legally-approved projects would not be considered non-conforming and would be eligible for modifications, subject to review by the ARB.

Second, it allows for development--most importantly multifamily residential and residential mixed-use projects that are supported by the Comprehensive Plan and Housing Work Plan--to be feasibly developed at the heights and densities permitted by the zoning district. Requiring review by the ARB to reduce the 150-foot threshold allows for the City's qualified architectural reviewers to take a more contextual approach to evaluating height transitions.

The Council could consider reducing heights adjacent to the RM-40 district. However, this would be a substantive policy change to Title 18, beyond the scope of the objective standards project. For residential uses, such a change would need to be evaluated under the "no net loss" provision of the City's Housing Element and State law, since it could reduce developable area for housing projects. The Council could consider reducing heights adjacent to RM-40 for non-residential uses only, which are not regulated by State law.

Notably, qualifying housing development projects that propose using State Density Bonus Law, may seek to use waivers or concessions to exceed the height standard (both the general height standard and the lower standard when adjacent to a lower density residential use). Additionally, staff expects that the Housing Element update process will look at height standards--both overall height limits and these transitional height standards. Further changes are likely to be recommended through that process.

Finally, the near-future objective standards ordinance will further expand privacy, light, and air protections to all residentially zoned properties, based on feedback from the Council and ongoing work with the ARB.

RM-40 Setback Requirements

As noted in Table 1, Motion Item Cii, the Council moved to change the RM-40 front setback from a variable 0-25 feet to a standard 25 feet. This motion item is being taken up here, since it is a straightforward change and modifies the development standards table being modified as part of the height transitions regulations described above. In the same vein, City staff recommend a change to the RM-40 variable side setback standard of 0-16 feet, to a standard 16 feet, consistent with the RM-20 and RM-30 zones.

Staff recommends a clear front setback standard of 20 feet, rather than 25 feet, to be consistent with the RM-20 and RM-30 districts. As part of the Housing Element update, staff expects that some RM-30 zoned parcels will be up-zoned to RM-40. A front setback of 20 feet

will eliminate issues of non-conformity on existing properties and provide a consistent standard for all RM zones. Moreover, the code will still allow for adjustments—above and below 20 feet—based on a recommendation from the ARB and in some cases, to meet special setbacks described on zoning maps. This is important since in more urban conditions, a reduced setback may be more appropriate to maintain a street wall, whereas larger sites in more suburban parts of the city may support deeper landscaped setbacks.

Stakeholder Engagement

As with all citywide projects, the eight (8) ARB hearings and the three (3) PTC hearings were noticed in the Daily Post. The ARB Ad Hoc meetings were not publicly noticed meetings. On January 22nd, March 23rd, May 10th, July 22nd, and September 15th, 2021, staff sent an email to a wide range of architect and consultants that have worked with the City in the recent past on development projects to solicit comments on the draft objective standards; six out of 30 stakeholders provided feedback.

Detailed comments can be found in the October 4, 2021 City Council staff report:

- Public Comments: <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/public-letters-to-council/2021/20211004-oct-4/20211004plccs-item-aa1.pdf>
- Stakeholder Comments (Attachment E) : <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/city-council-agendas-minutes/2021/10-october/20211004/20211004pccsm-amended-linked.pdf>

Several members of the public addressed the PTC at its June 9, 2021 hearing regarding height transition language, as summarized above. On July 19, 2021, staff held a webinar to discuss the topic of height transitions. Approximately 27 residents attended the online discussion.

Environmental Review

The ordinance revisions represent implementation of adopted plans and policy. Therefore, the revisions are exempt under CEQA and covered by the CEQA documents prepared for the Comprehensive Plan. The project aims to facilitate implementation of State law. The project does not propose to increase development beyond what was analyzed in the Comprehensive Plan.

Attachments:

Attachment12.a: Attachment A: Ordinance Amending Title 18 to Clarify Transitional Height Standards and Update Setbacks for RM-40 Zone District (PDF)

Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Amending Various Chapters of Title 18 (Zoning) to Clarify Transitional Height Standards and Update Setbacks for the RM-40 Zone District

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

SECTION 1. Findings and Declarations.

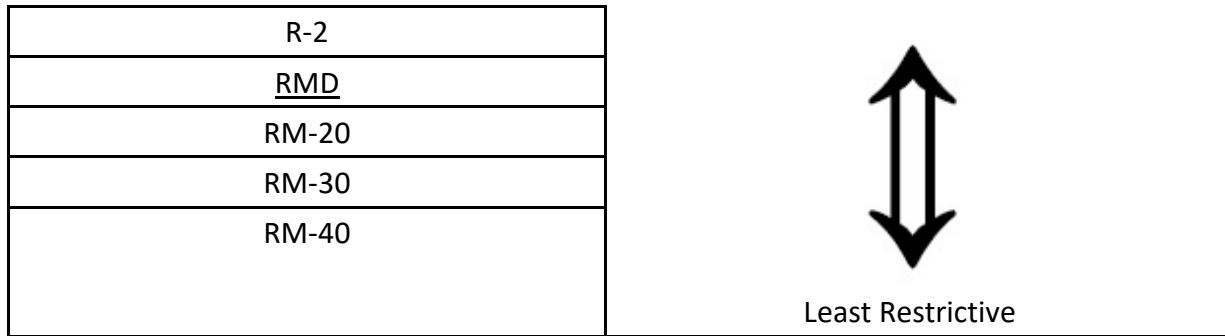
- A. Title 18 (Zoning) of the Palo Alto Municipal Code contains development standards governing the maximum height of structures in close proximity to lower density residential zones. The purpose of these development standards is to ensure the harmonious transition between lower and higher intensity development.
- B. The existing language on height transitions has created confusion among the public, project applicants, and City staff. This confusion, in turn, has resulted in differing interpretations of the law over the years.
- C. The City Council now wishes to clarify the zoning code with respect to height transitions. The clarifications to height transition standards contained in this ordinance are declarative of existing law.

SECTION 2. Section 18.08.030 (References to Districts) of Chapter 18.08 (Designation and Establishment of Districts) of Title 18 (Zoning) is amended as follows (new text underlined):

18.08.030 References to Districts

Reference within this title to residential districts generally and as a grouping, includes all districts identified in this section. Where references are made to more restrictive or less restrictive residential districts, such references shall apply sequentially between the most restrictive and the least restrictive.

Residential District	Restrictive Reference
RE	Most Restrictive
R-1 (20,000)	
R-1 10,000)	
R-1 (8,000)	
R-1 (7,000)	
R-1	



SECTION 3. Section 18.13.040 (Development Standards) of Chapter 18.13 (Multiple Family Residential (RM-20, RM-30 and RM-40) Districts) of Title 18 (Zoning) is amended as follows (new text underlined and deletions ~~struck through~~; omissions are noted with [. . .] for large sections of unchanged text):

18.13.040 Development Standards

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

The site development regulations in Table 2 shall apply in the multiple-family residence districts, provided that more restrictive regulations may be recommended by the Architectural Review Board and approved by the Director of Planning and Development Services, pursuant to the regulations set forth in [Chapter 18.76](#), performance criteria set forth in [Chapter 18.23](#), and the context-based design criteria set forth in Section [18.13.060](#).

**Table 2
Multiple Family Residential Development Table**

	RM-20	RM-30	RM-40	Subject to regulations in:
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]
Minimum Setbacks	Setback lines imposed by a special setback map pursuant to Chapter 20.08 of this code may apply			
Front Yard (ft)	20	20	0-25 20 (1)	18.13.040(b)
On arterial roadways (1)	0-20 (1)	0-20 (1)	0-25 (1)	
Interior Side Yards (ft)				
For lots with width of 70 feet or greater	10	10	10	
For lots with width of less than 70 feet	6 feet			
Interior Rear Yards (ft) ³	10	10	10	
Street Side and Street Rear Yards (ft)	16	16	0-16 (2)	

Maximum Height (ft)	30	35	40	
Maximum height for those portions of a site w Within 50 feet of a more restrictive <u>abutting</u> residential district or a site containing a residential use in a nonresidential district			35	<u>18.08.030</u>
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]

Footnotes:

(1) Minimum front setbacks shall be determined by the Architectural Review Board upon review pursuant to criteria set forth in Chapter 18.76 and the context-based criteria outlined in Section 18.13.060. Arterial roadways, do not include residential arterials. In the RM-40 district, lesser setbacks may be allowed by the Planning Director, upon recommendation by the Architectural Review Board pursuant to criteria set forth in Chapter 18.76. Special setbacks of greater than 25 feet may not be reduced except upon approval of a design enhancement exception or variance.

(2) Lesser setbacks may be allowed by the Planning Director, upon recommendation ~~Minimum street side setbacks in the RM-40 zone may be from 0 to 16 feet and shall be determined by the Architectural Review Board upon review~~ pursuant to criteria set forth in Chapter 18.76 ~~and the context-based criteria outlined in Section 18.13.060.~~

[. . .]

(8) The minimum density for a site may be reduced by the Director if, after the proposal is reviewed by the Architectural Review Board, the Director finds that existing site improvements or other parcel constraints, preclude the development from meeting the minimum density. A site with an existing single-family use or two-family use may be redeveloped at the existing density, either single-family or two-family as applicable. An existing or replaced single-family or two-family residence shall not be considered a nonconforming use, and the provisions of Chapter 18.70 shall not apply, solely based on the minimum density requirement.

[. . .]

SECTION 4. Section 18.16.060 (Development Standards) of Chapter 18.16 (Neighborhood, Community, And Service Commercial (CN, CC And CS) Districts) of Title 18 (Zoning) is amended as follows (new text underlined and deletions ~~struck through~~; omissions are noted with [. . .] for large sections of unchanged text):

18.16.060 Development Standards

(a) Exclusively Non-Residential Uses

Table 3 specifies the development standards for exclusively non-residential uses and alterations to non-residential uses or structures in the CN, CC, CC(2) and CS districts. These

developments shall be designed and constructed in compliance with the following requirements and the context-based design criteria outlined in Section [18.16.090](#), provided that more restrictive regulations may be recommended by the architectural review board and approved by the director of planning and development services, pursuant to Section [18.76.020](#).

Table 3
Exclusively Non-residential Development Standards

	CN	CC	CC(2)	CS	Subject to regulations in Section
[...]	[...]	[...]	[...]	[...]	[...]
Maximum Height (ft)					
Standard		50'	37' (4)	50'	
Within 150 ft. of an <u>abutting</u> residential district (other than an RM-40 or PC zone) <u>(9)</u> abutting or located within 50 feet of the site	25' and 2 stories	35'	35'	35'	18.08.030
[...]	[...]	[...]	[...]	[...]	[...]
Footnotes:					
(1) No parking or loading space, whether required or optional, shall be located in the first 10 feet adjoining the street property line of any required yard.					
[...]					
(9) <u>150-foot measurement may be reduced to 50 feet at minimum, subject to approval by the Planning Director, upon recommendation by the Architectural Review Board pursuant to criteria set forth in Chapter 18.76.</u>					

(b) Mixed Use and Residential

Table 4 specifies the development standards for new residential mixed use developments and residential developments. These developments shall be designed and constructed in compliance with the following requirements and the context-based design criteria outlined in Section [18.16.090](#), provided that more restrictive regulations may be recommended by the architectural review board and approved by the director of planning and development services, pursuant to Section [18.76.020](#).

**Table 4
Mixed Use and Residential Development Standards**

	CN	CC	CC(2)	CS	Subject to regulations in:
[...]	[...]	[...]	[...]	[...]	[...]
Maximum Height (ft)					
Standard	35'(4)	50'	37'	50'	
Within 150 ft. of an <u>abutting residential zone</u> district (other than an RM-40 or PC zone) <u>(5) abutting or located within 50 feet of the side</u>	35'	35' (5)	35' (5)	35' (5)	<u>18.08.030</u>
[...]	[...]	[...]	[...]	[...]	[...]

Footnotes:

(1) Twenty-five-foot driveway access permitted regardless of frontage; build-to requirement does not apply to CC district.

[...]

(5) ~~For sites abutting an RM-40 zoned residential district or a residential Planned Community (PC) district, maximum height may be increased to 50 feet.~~ 150-foot measurement may be reduced to 50 feet at minimum, subject to approval by the Planning Director, upon recommendation by the Architectural Review Board pursuant to criteria set forth in Chapter 18.76.

[...]

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

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

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

(c) Exclusively Residential Uses

[...]

SECTION 5. Section 18.18.060 (Development Standards) of Chapter 18.18 (Downtown Commercial (CD) District) of Title 18 (Zoning) is amended as follows (new text underlined and deletions ~~struck through~~; omissions are noted with [. . .] for large sections of unchanged text):

18.18.060 Development Standards

(a) Exclusively Non-Residential Use

Table 2 specifies the development standards for new exclusively non-residential uses and alterations to non-residential uses or structures in the CD district, including the CD-C, CD-S, and CD-N subdistricts. These developments shall be designed and constructed in compliance with the following requirements and the context-based design criteria outlined in Section 18.18.110, provided that more restrictive regulations may be recommended by the architectural review board and approved by the director of planning and development services, pursuant to Section 18.76.020:

Table 2				
Exclusively Non-Residential Development Standards				
	CD-C	CD-S	CD-N	Subject to regulations in Section:
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]
Maximum Height (ft)				
Standard	50	50	25	
Within 150 ft. of an abutting residential zone district	– (3)	– (3)	– (3)	<u>18.08.030</u>
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]

(b) Mixed Use and Residential

Table 3 specifies the development standards for new residential mixed use developments and residential developments. These developments shall be designed and constructed in compliance with the following requirements and the context-based design criteria outlines in Section 18.18.110, provided that more restrictive regulations may be recommended by the architectural review board and approved by the director of planning and development services, pursuant to Section 18.76.020:

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

	CD-C	CD-S	CD-N	Subject to regulations in Section:
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]
Maximum Height (ft)				
Standard	50'	50'	35'	<u>18.08.030</u>

Within 150 ft. of an abutting residential zone district (other than an <u>RM-40 or PC zone</u>)	40' (4)	40' (4)	35' (4)	<u>18.08.030</u>
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]

Footnotes:

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

For CN and CS sites on El Camino Real, CS sites on San Antonio Road between Middlefield Road and East Charleston Road and CC(2) sites that do not abut a single- or two-family residential use or zoning district, rooftop gardens may qualify as usable open space and may count as up to 60% of the required usable open space for the residential component of a project. In order to qualify as usable open space, the rooftop garden shall meet the requirements set forth in Section 18.40.230.

[. . .]

~~(4) Reserved. For sites abutting an RM-40 zoned residential district or a residential Planned Community (PC) district, maximum height may be increased to 50 feet.~~

(5) The weighted average residential unit size shall be calculated by dividing the sum of the square footage of all units by the number of units. For example, a project with ten 800-square foot 1-bedroom units, eight 1,200-square foot 2-bedroom units, and two 1,800-square foot 3-bedroom units would have a weighted average residential unit size of $((10 \times 800) + (8 \times 1,200) + (2 \times 1,800)) \div (10 + 8 + 2) = 1,060$ square feet.

[. . .]

SECTION 6. Section 18.20.040 (Site Development Standards) of Chapter 18.20 (Office, Research, And Manufacturing (MOR, ROLM, RP And GM) Districts) of Title 18 (Zoning) is amended as follows (new text underlined and deletions ~~struck through~~; omissions are noted with [. . .] for large sections of unchanged text):

18.20.040 Site Development Standards

Development in the office research, industrial, and manufacturing districts is subject to the following development standards, provided that more restrictive regulations may be required as part of design review under Chapter 18.76 of the Palo Alto Municipal Code.

(a) Development Standards for Non-Residential Uses

Table 2 shows the site development standards for exclusively non-residential uses in the industrial and manufacturing districts.

**TABLE 2
INDUSTRIAL/MANUFACTURING NON-RESIDENTIAL SITE DEVELOPMENT STANDARDS**

	MOR	ROLM	ROLM(E)	RP	RP(5)	GM	Subject to Regulations in Chapter:
[. . .]	[. . .]	[. . .]	[. . .]	[. . .]	[. . .]	[. . .]	[. . .]
Maximum Height (ft)							
Standard	50	35(4)		35(4)		50	
Within 150 ft. of an <u>abutting</u> residential zone (5)	35	35		35		35	<u>18.08.030</u>
Within 40 ft. of an <u>abutting</u> residential zone(5)	35	25		25		35	<u>18.08.030</u>
[. . .]	[. . .]	[. . .]		[. . .]		[. . .]	[. . .]

[. . .]

SECTION 7. Section 18.30(J).090 (Development Standards) of Subchapter 18.30(J) (Affordable Housing (AH) Combining District Regulations) of Chapter 18.30 (Combining Districts) of Title 18 (Zoning) is amended to read as follows (new text underlined and deletions ~~struck through~~; omissions are noted with [. . .] for large sections of unchanged text):

18.30(J).090 Development Standards

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

**Table 1
Development Standards**

AH Combining District (1)		
Minimum Site Specifications		Subject to regulations in:
[. . .]	[. . .]	[. . .]
Maximum Height (ft)	50'	
Within 50 ft of an <u>abutting</u> residential district (other than an <u>RM-40 or PC zone</u>) R1, R-2, RMD, RM-20, or RM-30 zoned property	35'(3)	<u>18.08.030</u>

[. . .]	[. . .]	[. . .]
---------	---------	---------

[. . .]

SECTION 8. Section 18.30(K).070 (Development standards) of Subchapter 18.30(K) (Workforce Housing (WH) Combining District Regulations) of Chapter 18.30 (Combining Districts) of Title 18 (Zoning) is amended to read as follows (new text underlined and deletions ~~struck through~~; omissions are noted with [. . .] for large sections of unchanged text):

18.30(K).070 Development Standards

(a) Where the WH combining district is combined with the public facilities district, the following development standards shall apply for workforce housing projects, including permitted incidental uses, in lieu of the development standards for the underlying PF zoning district:

**Table 1
Development Standards**

WH Combining District		
Minimum Site Specifications		Subject to regulations in:
[. . .]	[. . .]	[. . .]
Maximum Height (ft)		
Standard	50'	
Within 150 ft. of an <u>abutting</u> residential district (other than an RM-40 or PC zone) <u>abutting</u> or located within 50 feet of the site	35', except as limited by applicable daylight plane requirements	<u>18.08.030</u>
[. . .]	[. . .]	[. . .]

[. . .]

SECTION 9. Section 18.38.150 (Special requirements) of Chapter 18.38 (PC Planned Community District Regulations) of Title 18 (Zoning) is amended to read as follows (new text underlined and deletions ~~struck through~~; omissions are noted with [. . .] for large sections of unchanged text):

18.38.150 Special requirements.

Sites ~~abutting or~~ and having any portion located with ~~one hundred fifty~~ 150 feet of any RE, R-1, R-2, RM, or any PC district permitting single-family development or multiple-family development shall be subject to the following additional height and yard requirements:

- (a) Parking Facilities. The maximum height shall be equal to the height established in the most restrictive adjacent zone district.
- (b) All Other Uses. The maximum height within ~~one hundred fifty~~ 150 feet of any abutting RE, R-1, R-2, RM-20, or applicable PC district shall be ~~thirty five~~ 35 feet; provided, however, that for a use where the gross floor area excluding any area used exclusively for parking purposes, is at least ~~sixty~~ 60 percent residential, the maximum height within ~~one hundred fifty~~ 150 feet of an abutting RM-4-30 or RM-5-40 district shall be ~~fifty~~ 50 feet.

[. . .]

SECTION 10. 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 11. 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 12. The Council finds that the Ordinance is within the scope of and in furtherance of the Comprehensive Plan 2030 which was evaluated in that certain Final Environmental Impact Report certified and for which findings were adopted by Council Resolution Nos. 9720 and 9721 on November 13, 2017, all in accordance with the California Environmental Quality Act. The Ordinance does not propose to increase development beyond what was analyzed in the Comprehensive Plan. Pursuant to Section 15168 of the State CEQA Guidelines, the City has determined that no new effects would occur from and no new mitigation measures would be required for the adoption of this Ordinance.

//

//

//

//

//

SECTION 13. This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Assistant City Attorney

City Manager

Director of Planning & Development
Services