



# Planning & Transportation Commission

## Staff Report (ID # 9701)

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**Report Type:** Action Items **Meeting Date:** 10/10/2018

**Summary Title:** 2018 Housing Work Plan Ordinance

**Title:** PUBLIC HEARING. The Planning and Transportation Commission Will Consider an Ordinance Amending Various Sections of Title 18 to the Palo Alto Municipal Code Related to Development Standards Including Minimum and Maximum Unit Density, Unit Size, Floor Area Ratio, Height, and Open Space; Parking Requirements, Including but not Limited to Regulations Related to In-Lieu Parking for Downtown Commercial Uses and Retail Parking for Mixed-Use Projects; Exclusively Residential Projects; Ground-Floor Retail Provisions; the Approval Process, and Other Regulations Governing Residential and Mixed-Use Development; All to Promote Housing Development Opportunities in Multi-Family Residential and Commercial Zoning Districts, in Furtherance of Implementation of the Comprehensive Plan. CEQA: Determination of Consistency with the Comprehensive Plan Environmental Impact Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution No.9720. For More Information, Contact (CONTINUED FROM SEPTEMBER 26, 2018)

**From:** Jonathan Lait

Staff recommends the Planning and Transportation Commission (PTC):

1. Conduct a public hearing on the proposed ordinance.
2. Recommend approval of the draft ordinance (Attachment A) to the City Council.
3. Consider and make recommendations to the City Council on additional regulations to promote further housing production opportunities to the City Council

## Background

On September 26, 2018, the PTC reviewed the final framework of proposed zoning changes to help implement the City Council's Housing Work Plan, approved in February 2018.

As specified in the draft Ordinance (Attachment A), zoning changes are proposed for the following geographies/zoning districts:

- Citywide
- Multifamily Districts – RM-15, RM-30, RM-40
- Downtown – CD(C)
- California Avenue – CC(2)
- El Camino Real – CS, CN

Topical changes within these zoning districts include:

- Density/intensity standards, including a Housing Incentive Program<sup>1</sup>
- Open space standards
- Parking standards
- Project review process
- Use regulations
- Administrative clean-up changes

For a complete discussion and analysis of these code changes, please see the September 26, 2018 PTC staff report, which is included as Attachment B.

### Key Changes Since the September 26, 2018 PTC Hearing

Based on comments from Commissioners and additional analysis, staff has made the following key changes to the draft ordinance provided in Attachment A:

1. Multi-family Zone Density: Clarification that owners of multi-family property with more units than allowed by the base district density standards may redevelop to the same unit density and that this option is an alternative to the State density bonus. A property owner may elect to redevelop the property in compliance with the base district regulations and seek a density bonus as provided for in local and state regulations.
2. Downtown Unit Size: The maximum residential unit size was changed to encourage a better mix of housing units, including larger family-sized units. The originally proposed maximum standard of 1,800 sq. ft. was revised to an average (weighted by unit type) of 1,350 sq. ft.<sup>2</sup>

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<sup>1</sup> Nothing proposed in the draft Ordinance would preclude an applicant from utilizing SB35 streamlining or State Density Bonus Law. Rather, the proposed zoning changes provide an alternate path for bonus density and potential other relief from standards that may provide greater incentives than what is offered under State law.

<sup>2</sup> Based on analysis of the weighted average by unit type (e.g., studios, 1-bedroom, 2-bedroom) of recent projects in Palo Alto.

3. Rooftop Open Space: The amount of rooftop open space area that could be used to satisfy the residential open space requirement changed from 75% to 60% on California Avenue and El Camino Real. This change is anticipated to encourage more ground floor open space and support more articulated buildings in these areas.
4. Retail Exemption in RM Districts: The current municipal code requires at least 1,500 sq. ft. of ground floor retail in residential projects with 40 or more units within the RM districts. The proposed ordinance clarifies that 100% affordable housing projects would be exempt from this requirement consistent with other recommendations previously discussed by the Commission.
5. Eliminate ECR Nodes & Corridors Concept: The proposal to further refine South El Camino Real Guidelines to support certain development and at specified locations has been removed and is not being pursued at this time.

## Discussion

Some items included in the last staff report were presented for consideration in the ordinance and discussed by the Commission. However, it was unclear whether there was majority support for these additional items and staff is seeking clarification. It is anticipated these concepts will also be presented to the Council for consideration, but not included in the draft ordinance without majority support from the voting Commissioners. Additionally, during the PTC's discussion of other topics were identified as related to open space and the affordable housing overlay. Each item is discussed below:

### Remove the legislative requirement to establish the Affordable Housing Overlay.

At the PTC's last meeting, it considered a request by Palo Alto Housing to apply the Affordable Housing Combining District (AH Overlay) to a property on El Camino Real. Following the hearing, some Commissioners expressed an interest in eliminating this legislative requirement given, in part, the limited scope of Commission review authority, and to facilitate application processing. Other Commissioners noted concern about removing the legislative requirement for housing units deed restricted above 60% adjusted median income (AMI).

If there is support for removing the legislative overlay requirement for 100% affordable housing projects deed restricted to 60% AMI, staff could incorporate that language into the Housing Incentive Program for each of the districts being amended.

### Affordable Housing Parking Requirements.

The Commission discussed the proposed parking requirements at the last meeting. Comments were made noting the inconsistent requirements between the AH Overlay and proposed changes. The AH Overlay establishes a .75 parking space requirement per unit for 100% affordable housing projects at 120% AMI and below. The proposed standards are slightly higher and dependent upon the level of deed restricted housing units. Parking is reduced at the following income levels: at 80% AMI (low income), the proposed parking standards would be reduced by 20% (.80 space / 1-bedroom); at 50% AMI (very low income), the proposed parking

standards would be reduced by 30% (.70 space / 1-bedroom); and, at 30% AMI (extremely low income), the proposed parking standards would be reduced by 40% (.60 space / 1-bedroom).

Staff seeks Commission guidance on whether to make any changes with respect to affordable housing parking requirements.

#### Affordable Housing Open Space Requirement.

There was brief discussion about reducing the required open space requirement for affordable housing projects from 150 square feet to 50 square feet. Less area dedicated to open space may translate into more affordable housing units, but this modest increase in density needs to be balanced by the need for quality living spaces and access to open space. Staff seeks Commission guidance on any proposed changes.

#### Higher Density and Height for Affordable Housing Projects in Downtown and near California Avenue.

An optional consideration from the last staff report was to allow greater height and density in the Pedestrian Transit Oriented Development (California Avenue) boundary and Downtown. To spur greater housing development in these two transit rich areas, the following increases were presented for 100% affordable housing projects deed restricted to 120% AMI and below:

- Up to 4.0 FAR and 60 feet of building height in Downtown CD(C)
- Up to 2.5 FAR and 50 feet of building height in California Avenue CC(2)

If there is support for these increases, staff would include these provisions in the Housing Incentive Program for the respective districts.

#### In-lieu Parking for Commercial Development Downtown.

In-lieu parking provides a significant incentive for commercial redevelopment. This incentive may discourage housing production in favor of office development when a site is being redeveloped. It was unclear at the last meeting if there was majority support from the Commission to advance this amendment and staff seeks the Commission's guidance.

### **Next Steps**

Staff envisions the Commission concluding the public hearing and making motion on the draft ordinance, Attachment A. Following action on the ordinance, staff seeks Commission feedback on the additional code changes identified above. Those items that have support will be incorporated into the ordinance after motion by the Commission.

The City Council is scheduled to consider the subject ordinance in late November.

### **Environmental Review**

The City Council certified a Final EIR ([http://www.paloaltocompplan.org/wp-content/uploads/2017/08/PaloAltoCompPlanFEIR\\_Aug2017.pdf](http://www.paloaltocompplan.org/wp-content/uploads/2017/08/PaloAltoCompPlanFEIR_Aug2017.pdf)) on November 13, 2017 to

analyze potential impacts associated with the updated Comprehensive Plan. As proposed, the draft Ordinance is consistent with the Comprehensive Plan and its Final EIR; no substantially greater or more severe impacts are anticipated and no development is proposed, beyond what is allowed by the Comprehensive Plan.

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**Attachments:**

- Attachment A: Draft 2018 Housing Work Plan Ordinance (PTC FINAL) (DOCX)
- Attachment B: PTC Staff Report, Dated September 26 2018 (w/o attachments) (PDF)

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<sup>3</sup> Emails may be sent directly to the PTC using the following address: [planning.commission@cityofpaloalto.org](mailto:planning.commission@cityofpaloalto.org)

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Ordinance No. \_\_\_\_\_

Ordinance of the Council of the City of Palo Alto Amending Title 18 (Zoning) of the Palo Alto Municipal Code, Including Chapters 18.04 (Definitions), 18.13 (Multiple Family Residential RM-15, RM-30 and RM-40) Districts), 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, and CS) Districts), 18.18 (Downtown Commercial (CD) District), 18.40 (General Standards and Exceptions), and 18.52 (Parking and Loading Requirements), to Establish or Modify Development Standards for Residential and Mixed-Use Projects Including Minimum and Maximum Unit Density, Unit Size, Floor Area Ratio, Height, and Open Space Including Rooftop Gardens, to Modify Parking Requirements and Adjustments, to Limit In-Lieu Parking for Downtown Commercial Uses Above the Ground Floor, to Allow Exclusively Residential Projects in Certain Commercial Zoning Districts, to Exempt Certain Affordable Housing Projects from Retail Preservation, to Simplify the Entitlement Process Removing Site and Design Review for Residential and Mixed-Use Projects, and to Make Other Technical Corrections and Clarifications, All to Promote Housing Development Opportunities in the Multi-Family Residential and Commercial Zoning Districts in Furtherance of Implementation of the Comprehensive Plan

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

**SECTION 1.** Subsection (a)(142) of Section 18.04.030 of Chapter 18.04 (Definitions) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) is amended to read as follows:

**18.04.030 Definitions**

...

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

**Commented [LS1]:** These amendments clarify the generally applicable attributes of "usable open space," consistent with the purpose and requirements included in the discussion of rooftop usable open space. **3.f, 4.e, 5.b**

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**SECTION 2.** The title of Chapter 18.13 of Title 18 (Zoning) of the PAMC is amended to read as follows:

Chapter 18.13

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

**SECTION 3.** Section 18.13.010 (Purposes) and Section 18.13.040 (Development Standards) of Chapter 18.13 (Multiple Family Residential RM-15, RM-30 and RM-40) Districts) of Title 18 (Zoning) of the PAMC are amended as follows:

**18.13.010 Purposes**

This section specifies regulations for three multiple family residential districts.

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

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

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

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

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

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

**Commented [LS2]:** The amendments to this Section, together with those to Table 2 of Section 18.13.040 that immediately follows, would establish a minimum density for each of the multi-family residential subdistricts and increase the maximum density in RM-15 (re-named RM-20) from 15 to 20 dwelling units/acre. The latter change and the proposed 8 units/acre minimum for RM-15 are a Housing Element program. **2.a**

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**Section 18.13.040 Development Standards**

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

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

**Table 2  
Multiple Family Residential Development Table**

	<del>RM-2015</del>	RM-30	RM-40	Subject to regulations in:
<b>Minimum Site Specifications</b>				
Site Area (ft <sup>2</sup> )	8,500			
Site Width (ft)	70			
Site Depth (ft)	100			
<b>Substandard Lot Specifications</b>				
Site Area (ft <sup>2</sup> )	Less than 8,500 square feet and/or less than 70 feet in width			
Site Width (ft)				
<b>Minimum Setbacks</b>	Setback lines imposed by a special setback map pursuant to Chapter 20.08 of this code may apply			
Front Yard (ft)	20	20	0-25 <sup>(1)</sup>	18.13.040(b)
On arterial roadways <sup>(1)</sup>	0-20 <sup>(1)</sup>	0-20 <sup>(1)</sup>	0-25 <sup>(1)</sup>	
Interior Side Yards (ft)				
For lots with width of 70 feet or greater	10	10	10	
For lots with width of less than 70 feet	6 feet			
Interior Rear Yards (ft) <sup>3</sup>	10	10	10	
Street Side and Street Rear Yards (ft)	16	16	16	



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	RM-2015	RM-30	RM-40	Subject to regulations in:
<b>Maximum Height (ft)</b>	30	35	40	
Maximum height for those portions of a site within 50 feet of a more restrictive residential district or a site containing a residential use in a nonresidential district			35	
<b>Daylight Planes<sup>(7)</sup></b>				
• Daylight Plane for side and rear lot lines for sites abutting any R-1, R-2, RMD, or RM-15 district or abutting a site containing a single-family or two-family residential use in a nonresidential district:				
Initial Height (ft)	10			
Angle (degrees)	45			
• Daylight Plane for side and rear lot lines for sites abutting a RM-30, RM-40, Planned Community, or nonresidential district that does not contain a single-family or two-family residential use:				
For lots with width of 70 feet or greater	None			
For lots with width of less than 70 feet, limited to the first 10 feet from the property line (no daylight plane beyond 10 feet):				
Initial Height (ft)	10			
Angle (degrees)	45			
<b>Maximum Site Coverage:</b>				
Base	35%	40%	45%	

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	RM- <del>2015</del>	RM-30	RM-40	Subject to regulations in:
Additional area permitted to be covered by covered patios or overhangs otherwise in compliance with all applicable laws	5%	5%	5%	
<b>Maximum Floor Area Ratio (FAR)<sup>(4)</sup></b>	0.5:1	0.6:1	1.0:1	
<del>Maximum Residential Density (units)</del>				
Maximum number of units per acre <sup>(3)</sup>	<del>2015</del>	30	40	<a href="#">18.13.040(g)</a>
<del>Minimum Residential Density (units)</del>				
<a href="#">Minimum number of units per acre<sup>(8)</sup></a>	<a href="#">11</a>	<a href="#">16</a>	<a href="#">21</a>	
	RM- <del>2015</del>	RM-30	RM-40	Subject to regulations in:
<b>Minimum Site Open Space<sup>(5)</sup> (percent)</b>	35	30	20	18.13.040(e)
<b>Minimum Usable Open Space (sf per unit)<sup>(5)</sup></b>	<del>150200</del>	150	<del>150100</del>	
<b>Minimum common open space (sf per unit)</b>	<del>75100</del>	75	<del>7550</del>	18.13.040(f)
<b>Minimum private open space (sf per unit)</b>	50	50	50	
<b>Performance Criteria</b>	See provisions of Chapter 18.23			Ch. 18.23
<b>Landscape Requirements</b>				18.40.130
<b>Parking<sup>(6)</sup></b>	See provisions of Chapter 18.52			Ch. 18.52

Commented [LS3]: This amendment, together with the same change to other Chapters, would establish a consistent open space standards for multi-family and residential mixed-use projects in multi-family residential and commercial zoning districts. **1.a**

- (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.
- (2) Minimum street side setbacks in the RM-40 zone may be from 0 to 16 feet and shall be determined by the Architectural Review Board upon review pursuant to criteria set forth in Chapter 18.76 and the context-based criteria outlined in Section 18.13.060.
- (3) Provided that, for any lot of 5,000 square feet or greater, two units are allowed, subject to compliance with all other development regulations.
- (4) Covered parking is not included as floor area in multi-family development, up to a maximum of 230 square feet per required parking space that is covered. Covered parking spaces in excess of required parking spaces count as floor area.

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- (5) Subject to the limitations of Section 18.13.040(e). Usable open space is included as part of the minimum site open space; required usable open space in excess of the minimum required for common and private open space may be used as either common or private usable open space; landscaping may count towards total site open space after usable open space requirements are met.
- (6) Tandem parking is allowed for any unit requiring two parking spaces, provided that both spaces in tandem are intended for use by the same residential unit. For projects with more than four (4) units, not more than 25% of the required parking spaces shall be in a tandem configuration.
- (7) Each daylight plane applies specifically and separately to each property line according to the adjacent use.

[\(8\) The minimum density for a site may be reduced by the Director if, after review by the Architectural Review Board, the Director finds that existing site improvements or other parcel constraints, preclude the development from meeting the minimum density.](#)

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

(1) Setbacks

- (A) Setbacks for lot lines adjacent to an arterial street, expressway or freeway, as designated in the Palo Alto Comprehensive Plan, shall be a minimum of twenty-five feet (25'), except that lesser setbacks may be allowed or required by the Planning Director, upon recommendation by the Architectural Review Board, where prescribed by the context-based criteria outlined in Section 18.13.060. Special setbacks of greater than 25 feet may not be reduced except upon approval of a design enhancement exception or variance.
- (B) Required parking spaces shall not be located in a required front yard, nor in the first ten feet (10') adjoining the street property line of a required street side yard.
- (C) Projections into yards are permitted only to the extent allowed by Section 18.40.070 of this code.

(2) Height and Daylight Planes

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

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

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

...

(e) Usable Open Space

The following usable open space regulations shall apply:

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

(2) Usable Open Space (Private and Common). Each project shall, at a minimum, have a portion of the site, as prescribed in Table 2, developed into permanently maintained usable open space, including private and common usable open space areas. Usable open space shall be located protected from the activities of commercial areas and adjacent public streets and shall provide noise buffering from surrounding uses where feasible. ~~Parking, driveways and required parking lot landscaping shall not be counted as usable open space.~~

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

- (i) Balconies (above ground level): 50 square feet, the least dimension of which shall be 6 feet.
- (ii) Patios or yards in the RM-~~2015~~ and RM-30 districts: 100 square feet, the least dimension of which is 8 feet for at least 75% of the area.

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(iii) Patios or yards in the RM-40 district: 80 square feet, the least dimension of which is 6 feet for at least 75% of the area.

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

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

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

- (1) Total gross floor area of all such uses shall not exceed 5,000 square feet or three percent of the gross residential floor area within the development, whichever is smaller, and may not occupy any level other than the ground level or below grade levels.
- (2) A maximum of 2,500 square feet of retail and/or service and/or eating and drinking uses shall be allowed per establishment.
- (3) Personal services, retail services, and eating and drinking services provided in accordance with this section shall not be included in the gross floor area for the site.
- (4) The conditional use permit for the project may preclude certain uses and shall include conditions that are appropriate to limit impacts of noise, lighting, odors, parking and trash disposal from the operation of the commercial establishment. The hours of operation shall be limited to assure compatibility with the residential use and surrounding residential uses.
- (5) Allowable Neighborhood-Serving Uses. A neighborhood-serving use primarily serves individual consumers and households, not businesses, is generally pedestrian oriented in design, and does not generate noise, fumes or truck traffic greater than

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that typically expected for uses with a local customer base. A neighborhood-serving use is also one to which a significant number of local customers and clients can walk, bicycle or travel short distances, rather than relying primarily on automobile access or the provider of the goods or services traveling off-site. Allowable neighborhood-serving personal services, retail services and eating and drinking services may include, but are not limited to, "agent" dry cleaners, flower shops, convenience grocery stores (excluding liquor stores), delicatessens, cafes, fitness facilities, day care facilities, and similar uses found by the Planning Director to be compatible with the intent of this provision.

- (6) Sign programs, including size, number, color, placement, etc. shall be permitted only as specified in the conditional use permit and by the Planning Director upon recommendation of the Architectural Review Board
- (7) Off-street parking and bicycle facilities, in addition to facilities required for residential uses, shall be provided as may be specified by the conditional use permit. However, there shall not be less than one parking space for each employee working or expected to be working at the same time.

(8) For any project, other than a 100% affordable housing project, containing forty (40) or greater units and located more than 500 feet from neighborhood commercial services, as determined by the Director, a minimum of 1,500 square feet of neighborhood serving retail, personal service, and/or eating or drinking uses shall be provided, subject to the above limitations. No conditional use permit is required, but the commercial use shall be reviewed by the Architectural Review Board as part of the architectural review approval. A minimum of one parking space for each employee working or expected to be working at the same time shall be provided. A "100% affordable housing project" as used herein means a multiple-family housing project consisting entirely of affordable units, as defined in Section 16.65.020 of this code, available only to households with income levels at or below 120% of the area median income for Santa Clara County, as defined in Chapter 16.65, except for a building manager's unit.

Commented [LS4]: These revisions would exempt 100% affordable housing projects from the retail requirement in the RM district.

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

~~(1) In developments of five or more units on sites of less than five acres, not less than fifteen percent (15%) of the units shall be provided at below market rates (BMR) to very low, low and moderate income households in accordance with Program H-36 of the Palo Alto Comprehensive Plan Housing Element. In developments of five or more units on sites of five acres or more, not less than twenty percent (20%) of the units shall be provided at below market rates (BMR). Specified percentages are applied to~~

Commented [LS5]: This deletion is an administrative clean-up as the BMR program is now addressed in Chapter 16.65 of the code. 2.d

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~~all proposed units in a project, including those designated as BMR units.~~

~~(2) Further details of the BMR program requirements, including their applicability to subdivisions and for density bonus purposes, are found in the discussion of Programs H-36 and H-38 of the Palo Alto Comprehensive Plan Housing Element.~~

~~(3) Below market rate units shall be fully integrated into the development unless good cause is shown for an exception.~~

(g) Redevelopment of Sites with Non-complying Density

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

(1) The applicant must make the request for exception under this provision at the time of project application;

(2) The project is a residential rental project;

(3) The project complies with all other applicable development standards; and

(4) The project shall not be eligible for a density bonus under Chapter 18.15 (Density Bonus). The applicant must elect whether to utilize state density bonus law or the exception described herein as an alternative to state density bonus law.

**Commented [LS6]:** This new subsection would authorize the Director to grant a zoning exception to allow residentially used sites in the multi-family zoning district that exceed the density standard to be redeveloped as a residential rental project with the same number of units. This option would be an alternative to state density bonus law. **2.c**

(h) Performance Criteria

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

**SECTION 4.** The Residential Uses portion of Table 1 of subsection (a) of Section 18.16.040 (Land Uses) of **Chapter 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, and CS) Districts)** of Title 18 (Zoning) of the PAMC is amended as follows:

**Section 18.16.040 Land Uses**

The uses of land allowed by this Chapter in each commercial zoning district are identified in the following tables. Land uses that are not listed on the tables are not allowed, except where otherwise noted. Where the last column on the following tables ("Subject to Regulations in")

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includes a section number, specific regulations in the referenced section also apply to the use; however, provisions in other sections may apply as well.

(a) Commercial Zones and Land Uses

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

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

LAND USE	CN <sup>(4)</sup>	CC, CC(2)	CS <sup>(4)</sup>	Subject to Regulations In:
...				
<b>RESIDENTIAL USES</b>				
Multiple-Family	p <sup>(1)</sup>	p <sup>(1)</sup>	p <sup>(1)</sup>	18.16.060(b)
Home Occupations	P	P	P	
Residential Care Homes	P	P	P	

...

(1) Residential is only permitted: (i) as part of a mixed use development, pursuant to the provisions of Section 18.16.060(b), or (ii) on sites designated as Housing Opportunity Sites in the Housing Element of the Comprehensive Plan, (iii) on CN or CS sites on El Camino Real, or (iv) on CC(2) sites outside of the retail shopping (R) combining district, pursuant to the provisions of Section 18.16.060(b) and (c).

**Commented [LS7]:** These amendments, together with other changes to the commercial zoning chapter 18.16, would allow residential only development in certain parts of the commercial zoning district, specifically in the CC(2) subdistrict and on CN or CS sites on El Camino Real. **4.b; 5.d**

...

**SECTION 5.** Subsections (b) and (c) of Section 18.16.060 (Development Standards) of **Chapter 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, and CS) Districts)** of Title 18 (Zoning) of the PAMC are amended as follows:

**Section 18.16.060 Development Standards**

...

(b) Mixed Uses and Residential

Table 4 specifies the development standards for new residential mixed use developments and residential developments. These developments shall be designed and



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constructed in compliance with the following requirements and the context-based design criteria outlined in Section 18.16.090, provided that more restrictive regulations may be recommended by the architectural review board and approved by the director of planning and community environment, pursuant to Section 18.76.020.

Table 4  
Mixed Use [and Residential](#) Development Standards

	CN	CC	CC(2)	CS		Subject to regulations in:
<b>Minimum Site Specifications</b>						
Site Area (ft <sup>2</sup> )		None required				
Site Width (ft)						
Site Depth (ft)						
<b>Minimum Setbacks</b>						Setback lines imposed by a special setback map pursuant to Chapter 20.08 of this code may apply
Front Yard (ft)	0' - 10' to create an 8' - 12' effective sidewalk width <sup>(8)</sup>	None Required <sup>(8)</sup>	0' - 10' to create an 8' - 12' effective sidewalk width <sup>(8)</sup>	0' - 10' to create an 8' - 12' effective sidewalk width <sup>(8)</sup>		
Rear Yard (ft)		10' for residential portion; no requirement for commercial portion				
Rear Yard abutting residential zone district (ft)		10'				
Interior Side Yard if abutting residential zone district (ft)		10'				
Street Side Yard (ft)		5'				
Build-to-Lines		50% of frontage built to setback <sup>(1)</sup> 33% of side street built to setback <sup>(1)</sup>				
Permitted Setback Encroachments		Balconies, awnings, porches, stairways, and similar elements may extend up to 6' into the setback. Cornices, eaves, fireplaces, and similar architectural features (excluding flat or continuous walls or enclosures of interior space) may extend up to 4' into the front and rear setbacks and up to 3' into interior side setbacks				

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	CN	CC	CC(2)	CS		Subject to regulations in:
Maximum Site Coverage	50%	50%	100%	50%		
Landscape/Open Space Coverage	35%	30%	20%	30%		
Usable Open Space		20 sq ft per unit for 5 or fewer units <sup>(2)</sup> , 150 sq ft per unit for 6 units or more <sup>(2)</sup>				Commented [LS8]: This change implements in this commercial zoning district the citywide modification to provide for a single open space requirement regardless of the number of multi-family units. 1.a
Maximum Height (ft)						
Standard	35' <sup>(4)</sup>	50'	37'	50'		
Within 150 ft. of a residential zone district (other than an RM-40 or PC zone) abutting or located within 50 feet of the side	35'	35' <sup>(5)</sup>	35' <sup>(5)</sup>	35' <sup>(5)</sup>		
Daylight Plane for lot lines abutting one or more residential zoning districts		Daylight plane height and slope shall be identical to those of the most restrictive residential zoning district abutting the lot line				
Residential Density (net) <sup>(3)</sup>	15 or 20 <sup>(9)(11)</sup>	See subsection (e) below	No maximum <del>30</del>	30 <sup>(11)</sup>		Commented [LS9]: This amendment, including new footnote 11 referenced here, would eliminate residential unit density maximums in the CC(2) subdistrict and on CS and CN sites on El Camino Real. 4.a; 5.a
Maximum Residential Floor Area Ratio (FAR)	0.5:1 <sup>(4)</sup>		0.6:1	0.6:1		
Maximum Nonresidential Floor Area Ratio (FAR)	0.4:1		2.0:1	0.4:1		
Total Mixed Use Floor Area Ratio (FAR)	0.9:1 <sup>(4)</sup>		2.0:1	1.0:1		
Minimum Mixed Use Ground Floor Commercial FAR <sup>(6)</sup>	0.15:1 <sup>(10)</sup>		0.15:1 <sup>(10)</sup> 0.25:1 <sup>(7)</sup> <sup>(10)</sup>	0.15:1 <sup>(10)</sup>		
Parking		See Chapters 18.52 and 18.54 (Parking)				18.52, 18.54

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

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

For CN and CS sites on El Camino Real and CC(2) sites that do not abut a single- or two-family residential use or zoning district, rooftop gardens may qualify as usable open space and may

Commented [LS10]: Changes to this footnote would allow rooftop open space to qualify as usable open space for multifamily residential or residential mixed-use projects in the CC(2) subdistrict and on CN and CS zoned sites on El Camino Real, and specify standards. 4.e; 5.b

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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 following standards:

- (a) Permanent fixtures on the rooftop shall be placed so as not to exceed height limit for the applicable zoning district, except:

  - (i) Elevators, stairs and guardrails may exceed the height limit to allow for access to the rooftop useable open space as and to the extent required to comply with the Americans With Disabilities Act (ADA). These fixtures shall be designed to the lowest height and size feasible.
  - (ii) Permanent fixtures associated with the useable open space, such as trellises, shade structures, furniture, and furnishings such as planters, lighting and heaters, may exceed the height limit by up to 12 feet.
  - (iii) For the height limit exceptions in (i) and (ii) above, all fixtures shall not intersect a plane measured at a forty-five degree angle from the edge of the building starting at the rooftop garden surface sloping upward and inward toward the center of the property.
- (b) The rooftop garden may be located on the second or higher story or on a roof deck.
- (c) The rooftop garden shall be accessible to all residents of dwelling units on the parcel, but not to commercial tenants of a residential mixed-use development.
- (d) Structures or fixtures providing a means of access or egress (i.e., stairway, elevator) shall be located away from the building edge to the extent feasible or screened to minimize visibility from the public right-of-way and adjacent buildings and privacy impacts. These access structures or fixtures, when exceeding the height limit, shall be subject to the provisions of subsection (a)(iii) above.
- (e) Any lighting shall have cutoff fixtures that cast downward-facing light or consist of low-level string lights. Lights shall be dimmable to control glare and placed on timers to turn off after 10:00 PM. Photometric diagrams must be submitted by the applicant to ensure there are no spillover impacts into windows or openings of adjacent properties.
- (f) At least 15% but no more than 25% of the rooftop shall be landscaped with raised beds for gardening, C.3 stormwater planters, or other landscaping. All required landscaped areas shall be equipped with automatic irrigation systems and be properly drained.
- (g) Rooftop equipment that emit noise and/or exhaust, including but not limited to vents, flues, generators, pumps, air conditioning compressors, and other protrusions through the roof, shall be directed away and screened from the useable open space areas.

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[\(h\) Rooftop open space noise levels shall not exceed exterior residential noise level as defined by Section 9.10.030\(a\) of this code.](#)

[\(i\) The use of sound amplifying equipment shall be prohibited. Signs shall be affixed adjacent to access elevators and stairs within the rooftop garden providing notice of this prohibition.](#)

- (3) Residential density shall be computed based upon the total site area, irrespective of the percent of the site devoted to commercial use.
- (4) For CN sites on El Camino Real, height may increase to a maximum of 40 feet and the FAR may increase to a maximum of 1.0:1 (0.5:1 for nonresidential, 0.5:1 for residential).
- (5) For sites abutting an RM-40 zoned residential district or a residential Planned Community (PC) district, maximum height may be increased to 50 feet.
- (6) Ground floor commercial uses generally include retail, personal services, hotels and eating and drinking establishments. Office uses may be included only to the extent they are permitted in ground floor regulations.
- (7) If located in the California Avenue Parking Assessment District.
- (8) A 12-foot sidewalk width is required along El Camino Real frontage.
- (9) Residential densities up to 20 units/acre only on CN zoned housing inventory sites identified in the Housing Element.

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

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

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

[\(10\) 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.](#)

[\(11\) For sites on El Camino Real in the CS and CN zones, there shall be no maximum residential unit density.](#)

(c) Exclusively Residential Uses

**Commented [LS11]:** This change would eliminate site & design review for residential and residential mixed use projects in the commercial zoning district, and only apply the architectural review process like all other projects in this zoning district. **1.b**

**Commented [LS12]:** These changes allow for exclusively residential uses in the CC(2) zone and CN or CS zoned sites on El Camino Real, except where the retail preservation ordinance applies. The changes also require that for frontages on El Camino Real, an exclusively residential project be designed to maintain ground-floor interest.

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

- (i) Residential units shall not be permitted on the ground-floor when fronting on El Camino Real. Common areas, such as lobbies, stoops, community rooms, and work-out spaces with windows and architectural detail are permitted on the ground-floor El Camino Real frontage.
- (ii) Parking shall be located behind buildings or below grade, or, if infeasible, screened by landscaping, low walls, or garage structures with architectural detail.

...

(i) Housing Incentive Program

(i) For an exclusively residential or residential mixed-use project in the CC(2) zone or on CN or CS zoned sites on El Camino Real, the Director may waive the residential floor area ratio (FAR) limit and the maximum site coverage requirement after review by the Architectural Review Board, if the Director finds that a project exceeding these standards is consistent with the required architectural review findings. In no event shall the Director approve a total FAR (including both residential and commercial FAR) in excess of 2.0 in the CC(2) zone or 1.5 in the CN or CS zone. If a project utilizes the entire FAR of 1.5 in the CN for residential use, for example, it may not add commercial FAR to the project.

(ii) This program is a local alternative to the state density bonus law, and therefore, a project utilizing this program shall not be eligible for a density bonus under Chapter 18.15 (Density Bonus).

(i) Parking and Vehicular Access on California Avenue Restricted

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

**Commented [LS13]:** This new subsection would authorize the Director to grant zoning waivers to allow increased FAR for the residential portion of a project in the CC(2) subdistrict and on CN or CS zoned sites on El Camino Real, subject to architectural review. **4.f; 5.h**

**Commented [LS14]:** This new subsection would preclude curb cuts on California Avenue, except for City parcels. **4.d**

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**SECTION 6.** Subsections (b) and (c) of Section 18.18.060 (Development Standards) of **Chapter 18.18 (Downtown Commercial (CD) District)** of Title 18 (Zoning) of the PAMC are amended as follows:

**Section 18.18.060 Development Standards**

...

(b) Mixed Use [and Residential](#)

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

**TABLE 3  
MIXED USE [AND RESIDENTIAL](#) DEVELOPMENT STANDARDS**

	CD-C	CD-S	CD-N	Subject to regulations in Section:
<b>Minimum Setbacks</b>				Setback lines imposed by a special setback map pursuant to Chapter 20.08 of this code may apply
Front Yard (ft)	None required		10'	
Rear Yard (ft)	10' for residential portion; no requirement for commercial portion			
Interior Side Yard (ft)	No requirement	10' if abutting residential zone	10' if abutting residential zone	
Street Side Yard (ft)	No requirement	5'	5'	

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	CD-C	CD-S	CD-N	Subject to regulations in Section:
Permitted Setback Encroachments	Balconies, awnings, porches, stairways, and similar elements may extend up to 6' into the setback. Cornices, eaves, fireplaces, and similar architectural features (excluding flat or continuous walls or enclosures of interior space) may extend up to 4' into the front and rear setbacks and up to 3' into interior side setbacks			
Maximum Site Coverage	No requirement	50%	50%	
Landscape Open Space Coverage	20%	30%	35%	
Usable Open Space	<del>200 sq ft per unit for 5 or fewer units<sup>(1)</sup>;</del> 150 sq ft per unit <del>for 6 units or more<sup>(1)</sup></del>			
Maximum Height (ft)				
Standard	50'	50'	35'	
Within 150 ft. of an abutting residential zone	40' <sup>(4)</sup>	40' <sup>(4)</sup>	35' <sup>(4)</sup>	
Daylight Plane for lot lines abutting one or more residential zoning districts or a residential PC district	Daylight plane height and slope identical to those of the most restrictive residential zone abutting the lot line			
Residential Density (net) <sup>(2)</sup>	<del>40</del> <u>No maximum</u>	30	30	
<u>Maximum Weighted Average Residential Unit Size</u>	<u>1,350 sq ft per unit</u>	<u>No maximum</u>	<u>No maximum</u>	
Maximum Residential Floor Area Ratio (FAR)	1.0:1 <sup>(3)</sup>	0.6:1 <sup>(3)</sup>	0.5:1 <sup>(3)</sup>	
Maximum Nonresidential Floor Area Ratio (FAR)	1.0:1 <sup>(3)</sup>	0.4:1	0.4:1	
Total Floor Area Ratio (FAR) <sup>(3)</sup>	2.0:1 <sup>(3)</sup>	1.0:1 <sup>(3)</sup>	0.9:1 <sup>(3)</sup>	18.18.070

Commented [LS15]: This change implements in the downtown commercial zoning district the citywide modification to provide for a single open space requirement regardless of the number of multi-family units. **1.a**

Commented [LS16]: This change implements a maximum average unit size for residential units in a project. **3.b**

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	CD-C	CD-S	CD-N	Subject to regulations in Section:
<b>Parking Requirement</b>	See Chapters 18.52 and 18.54			Chs. 18.52, 18.54

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

[For CD-C sites that do not abut a single- or two-family residential use or zoning district, rooftop gardens may qualify as usable open space and may count as up to 75% of the required usable open space for the residential component of a project. In order to qualify as usable open space, the rooftop garden shall meet the following standards:](#)

- [\(a\) Permanent fixtures on the rooftop shall be placed so as not to exceed height limit for the applicable zoning district, except:](#)

[\(i\) Elevators, stairs and guardrails may exceed the height limit to allow for access to the rooftop useable open space as and to the extent required to comply with the Americans With Disabilities Act \(ADA\). These fixtures shall be designed to the lowest height and size feasible.](#)

[\(ii\) Permanent fixtures associated with the useable open space, such as trellises, shade structures, furniture, and furnishings such as planters, lighting and heaters, may exceed the height limit by up to 12 feet.](#)

[\(iii\) For the height limit exceptions in \(i\) and \(ii\) above, all fixtures shall not intersect a plane measured at a forty-five degree angle from the edge of the building starting at the rooftop garden surface sloping upward and inward toward the center of the property.](#)

- [\(b\) The rooftop garden may be located on the second or higher story or on a roof deck.](#)

- [\(c\) The rooftop garden shall be accessible to all residents of dwelling units on the parcel, but not to commercial tenants of a residential mixed-use development.](#)

- [\(d\) Structures or fixtures providing a means of access or egress \(i.e., stairway, elevator\) shall be located away from the building edge to the extent feasible or screened to minimize visibility from the public right-of-way and adjacent buildings and privacy impacts. These access structures or fixtures, when exceeding the height limit, shall be subject to the provisions of subsection \(a\)\(iii\) above.](#)

- [\(e\) Any lighting shall have cutoff fixtures that cast downward-facing light or consist of low-level string lights. Lights shall be dimmable to control glare and placed on timers to turn off after 10:00 PM. Photometric diagrams must be submitted](#)

**Commented [LS17]:** Changes to this footnote would allow rooftop open space to qualify as usable open space for multifamily residential or residential mixed-use projects in the CD-C zone and specify standards. **1.a**



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by the applicant to ensure there are no spillover impacts into windows or openings of adjacent properties. Photometric diagrams must be submitted by the applicant to ensure there are no spillover impacts into windows or openings of adjacent properties.

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

- (2) Residential density shall be computed based upon the total site area, irrespective of the percent of the site devoted to commercial use. There shall be no deduction for that portion of the site area in nonresidential use.
- (3) FAR may be increased with transfers of development and/or bonuses for seismic and historic rehabilitation upgrades, not to exceed a total site FAR of 3.0:1 in the CD-C subdistrict or 2.0:1 in the CD-S or CD-N subdistrict.
- (4) For sites abutting an RM-40 zoned residential district or a residential Planned Community (PC) district, maximum height may be increased to 50 feet.

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

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

**Commented [LS18]:** This change would eliminate site & design review for residential and residential mixed use projects in the downtown commercial zoning district, and only apply the architectural review process like all other projects in this zoning district. **1.b**

(c) Exclusively Residential Uses

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

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

...

(l) Housing Incentive Program

(i) For an exclusively residential or residential mixed-use project in the CD-C zone, the Director may waive the residential floor area ratio (FAR) limit after review by the Architectural Review Board, if the Director finds that the project exceeding the FAR standard is consistent with the required architectural review findings. In no event shall the Director approve a total FAR (including both residential and commercial FAR) in excess of 3.0. Nor shall the use of transferable development rights under Section 18.18.080 be allowed to cause the site to exceed a FAR of 3.0.

(ii) This program is a local alternative to the state density bonus law, and therefore, a project utilizing this program shall not be eligible for a density bonus under Chapter 18.15 (Density Bonus).

(m) Parking and Vehicular Access on University Avenue Restricted

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

**Commented [LS19]:** This new subsection would authorize the Director to grant zoning waivers to allow increased FAR for the residential portion of a project in the CD-C subdistrict, subject to architectural review. **3.h**

**Commented [LS20]:** This new subsection would preclude curb cuts on University Avenue, except for City parcels. **3.d**

**SECTION 7.** Section 18.40.180 (Retail Preservation) of **Chapter 18.40 (General Standards and Exceptions)** of Title 18 (Zoning) of the PAMC is amended as follows:

**Section 18.40.180 Retail Preservation**

- (a) Conversion of Retail and Retail-Like Uses Prohibited.
  - (1) Any ground floor Retail or Retail-Like use permitted or operating as of March 2, 2015 may be replaced only by another Retail or Retail-Like use, as permitted in the applicable district.
    - (A) A ground floor Retail or Retail-Like use in the RT-35 district on properties with frontage on Alma Street between Channing Avenue and Lincoln Avenue may additionally be replaced by a Private Educational Facility use, provided that such use shall not be thereafter replaced by an Office use.

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- (2) The phrase 'use permitted or operating' as used in this section means:
- (A) A lawfully established use conducting business, including legal non-conforming uses.
  - (B) An established use conducting business without required city approvals, but is a permitted or conditionally permitted use in district.
  - (C) For parcels vacant on March 2, 2015, the last use that was lawfully established, or established without required permits, and permitted or conditionally permitted in the district.

(b) Non-conforming Uses.

- (1) The requirements imposed by subsection (a) shall not apply to Retail or Retail-like uses that are no longer permitted or conditionally permitted in the applicable district.
- (2) Nothing in this section shall modify the provisions of Chapter 18.70 regarding the expansion, change, discontinuance, or termination of a non-conforming use.

(c) Waivers and Adjustments, and Exemptions.

- (1) Grounds. The following shall be grounds for a request for waiver or adjustment of the requirements contained in this section:
  - (A) Economic Hardship. An applicant may request that the requirements of this section be adjusted or waived based on a showing that applying the requirements of this section would effectuate an unconstitutional taking of property or otherwise have an unconstitutional application to the property; or
  - (B) Alternative Viable Active Use. Except in the GF or R combining districts, an applicant may request that the requirements of this Section 18.40.160 be adjusted or waived based on a showing that: the permitted retail or retail-like use is not viable; the proposed use will support the purposes of the zoning district and Comprehensive Plan land use designation; and the proposed use will encourage active pedestrian-oriented activity and connections.
- (2) Documentation. The applicant shall bear the burden of presenting substantial evidence to support a waiver or modification request under this Section and shall set forth in detail the factual and legal basis for the claim, including all supporting technical documentation. Evidence in support of a waiver under subsection (c)(1)(B) must demonstrate the viability of existing and future uses on the site, based on both the site characteristics and the surrounding uses;

**Commented [LS21]:** The changes to this subsection would exempt 100% affordable projects (excluding manager's unit) from the Retail Preservation Ordinance, except in the GF and R combining districts. 1.c

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specifically whether a substitute use could be designed and/or conditioned to contribute to the goals and purposes of the zoning district. Examples of such evidence include:

- (A) A 10-year history of the site's occupancy and reasons for respective tenants vacating the site;
  - (B) A map that indicates all the existing surrounding uses, both residential and non-residential, within one City-block; include the corresponding zone district on the map;
- (3) Any request under this section shall be submitted to the Director together with supporting documentation. The Director, in his or her sole discretion, may act on a request for waiver or refer the matter to the City Council.
- (A) A decision by the Director shall be placed on the City Council's consent calendar within 45 days.
  - (B) Removal of the recommendation from the consent calendar shall require three votes, and shall result in a new public hearing before the City Council, following which the City Council shall take action on the waiver request.
  - (C) The decision of the Council is final.

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

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

...

**SECTION 9.** Table 1 (Minimum Off-Street Parking Requirements) and Table 2 (Minimum Off-Street Parking Requirements for Parking Assessment Districts) of subsection (c) of Section 18.52.040 (Off- Street Parking, Loading and Bicycle Facility Requirements) of **Chapter 18.52 (Parking and Loading Requirements)** of Title 18 (Zoning) of the PAMC are amended as follows:

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

...

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

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

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

Use	Vehicle Parking Requirement (# of spaces)	Bicycle Parking Requirement	
		Spaces	Class <sup>1</sup> Long Term (LT) and Short Term (ST)
<b>RESIDENTIAL USES</b>			
<b>Multiple-Family Residential</b>	<u>1 per micro unit <sup>2</sup></u> <del>1.25</del> per studio unit <sup>2</sup> <del>1.5</del> per 1-bedroom unit <sup>2</sup> 2 per 2-bedroom or larger unit <sup>2</sup> At least one space per unit must be covered Tandem parking allowed for any unit requiring two spaces (one tandem space per unit, associated directly with another parking space for the same unit, up to a maximum of 25% of total required spaces for any project with more than four (4) units)	1 per unit	100% - LT
	(a) Guest Parking	<u>No additional guest parking required</u> <del>For projects exceeding 3 units; 1 space plus 10% of total number of units; provided that if more than one space per unit is assigned or secured parking, then guest spaces equal to 33% of all units is required.</del>	1 space for each 10 units

**Commented [LS22]:** The changes to the Residential Uses in this Section implement reduced parking requirements for multifamily residential projects, and convert the parking adjustments available for senior housing and affordable housing (100% affordable projects near fixed rail only) into by-right reductions. Footnote 2 allows further parking reductions for multifamily residential projects near a fixed rail station. **1.d**

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Use	Vehicle Parking Requirement (# of spaces)	Bicycle Parking Requirement	
		Spaces	Class <sup>1</sup> Long Term (LT) and Short Term (ST)
<a href="#">Affordable Housing</a> <sup>(4)</sup>	<ul style="list-style-type: none"> <li>a. <a href="#">40% reduction in the applicable parking requirement for Extremely Low Income units</a></li> <li>b. <a href="#">30% reduction for Very Low Income units</a></li> <li>c. <a href="#">20% reduction for Low Income units</a></li> </ul>	<a href="#">1 per unit</a>	<a href="#">100% - LT</a>
<a href="#">Senior Housing</a>	<a href="#">0.75 per unit</a>		
...			
<b>RETAIL USES<sup>3</sup></b>			
<b>Retail:</b>			
(a) Intensive (retail not defined as extensive)	1 per 200 sq. ft. of gross floor area	1 per 2,000 sf	20% - LT 80%-ST
(b) Extensive (retail with more than 75% of gross floor area used for display, sales and related storage, with demonstrably low parking demand generation per square foot of gross floor area)	1 per 350 sq. ft. of gross floor area	1 per 3,500 sf	20% - LT 4080% - ST
(c) Open lot	1 space for each 500 square feet of sales, display, or storage site area	1 per 5,000 sf	100%-ST
<b>Drive-up windows providing services to occupants in vehicles</b>	Queue line for 5 cars, not blocking any parking spaces, in addition to other applicable requirements	None additional	

Commented [LS23]:  
Alternative option: 0.75 per unit

Not Yet Approved

Use	Vehicle Parking Requirement (# of spaces)	Bicycle Parking Requirement	
		Spaces	Class <sup>1</sup> Long Term (LT) and Short Term (ST)
<b>Eating and Drinking Services:</b>			
(a) With drive-in or take-out facilities	3 per 100 sq. ft. of gross floor area	3 per 400 sf	40% - LT 60% - ST
(b) All others	1 space for each 60 gross sq. ft. of public service area, plus 1 space for each 200 gross sq. ft. for all other areas.	1 per 600 sf of public service area, plus 1 per 2,000 sf for other areas	
...			

(1) Long Term (LT) and Short Term (ST) bicycle spaces as described in Section 18.54.060.

(2) On a parcel located within one-half mile radius of a major fixed rail transit station (as measured from the platform), the following reduced vehicle parking requirements shall apply to housing projects other than 100% affordable housing projects: 0.5 spaces per unit for a micro-unit; 0.8 spaces per unit for a studio or 1-bedroom unit; 1.6 spaces per unit for a 2-bedroom or larger unit. A “micro-unit” as used herein means a residential unit of 450 square feet or less. Projects that qualify for and utilize this reduced parking requirement shall provide at least one annual transit pass (i.e., Caltrain go-pass) per unit to the unit occupant on an ongoing basis for the life of the project.

**Commented [LS24]:** This proposed change implements the reduced parking requirements for housing near a major fixed rail station. **1.d**

(3) For residential mixed-use developments in the CD-C zone, CC(2) zone, and on CN and CS zoned sites abutting El Camino Real, the first 1,500 square feet of ground-floor retail uses shall not be counted toward the vehicle parking requirement.

**Commented [LS25]:** The changes to the Retail Uses in this Section would exempt the first 1500 sf of ground-floor retail from parking requirements citywide to relieve physical and financial constraints of providing retail. **3.c, 4.c, 5.c**

~~(2)~~(4) Applies to 100% affordable housing projects and the residential component of 100% affordable housing mixed-use projects. “100% affordable housing” as used herein means a multiple-family housing project consisting entirely of affordable units, as defined in Section 16.65.020 of this code, available only to households with income levels at or below 120% of the area median income for Santa Clara County, as defined in Chapter 16.65, except for a building manager’s unit.

Table 2

Not Yet Approved

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

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

1. Long Term (LT) and Short Term (ST) bicycle spaces as described in Section 18.54.060.

2. [For residential mixed-use developments in the CD-C zone, CC\(2\) zone, and on CN and CS zoned sites abutting El Camino Real, the first 1,500 square feet of ground-floor retail uses shall not be counted toward the vehicle parking requirement.](#)

**SECTION 10.** Table 4 (Allowable Parking Adjustments) of Section 18.52.050 (Adjustments by the Director) of **Chapter 18.52 (Parking and Loading Requirements)** of Title 18 (Zoning) of the PAMC is amended as follows:

**Section 18.52.050 Parking and Loading Requirements**

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

**Commented [LS26]:** These changes remove parking reductions available because these reductions will become by-right parking standards for the specific types of developments referenced. **1.d**



Not Yet Approved

the parking assessment districts are contained in Section 18.52.080. The decision of the regarding parking adjustments may be appealed as set forth in Chapter 18.78 (Appeals).

**Table 4**  
**Allowable Parking Adjustments**

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

Not Yet Approved

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

Not Yet Approved

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

1. See Section 18.52.050(d) below regarding requirements for TDM programs.
2. No parking reductions may be granted that would result in provision of less than ten (10) parking spaces on site.

(a) Combining Parking Adjustments

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

...

(e) Projects with Reduced Parking Requirements Ineligible for Additional Adjustments.

Not Yet Approved

[Multiple family housing \(including affordable housing\) near a major fixed rail station and senior housing, which are subject to reduced vehicle parking requirements under Section 18.52.040, shall not be eligible for further reduction through an adjustment by the Director under this Section 18.52.050.](#)

**SECTION 11.** 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 12.** 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 13.** The Council finds that the potential environmental impacts related to this Ordinance were analyzed in the Final EIR for the Comprehensive Plan Update, which was certified and adopted by the Council by Resolution No. 9720 on November 13, 2017. The Ordinance is consistent with and implements the program evaluated in the EIR.

**SECTION 14.** This Ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

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

\_\_\_\_\_  
Mayor

Not Yet Approved

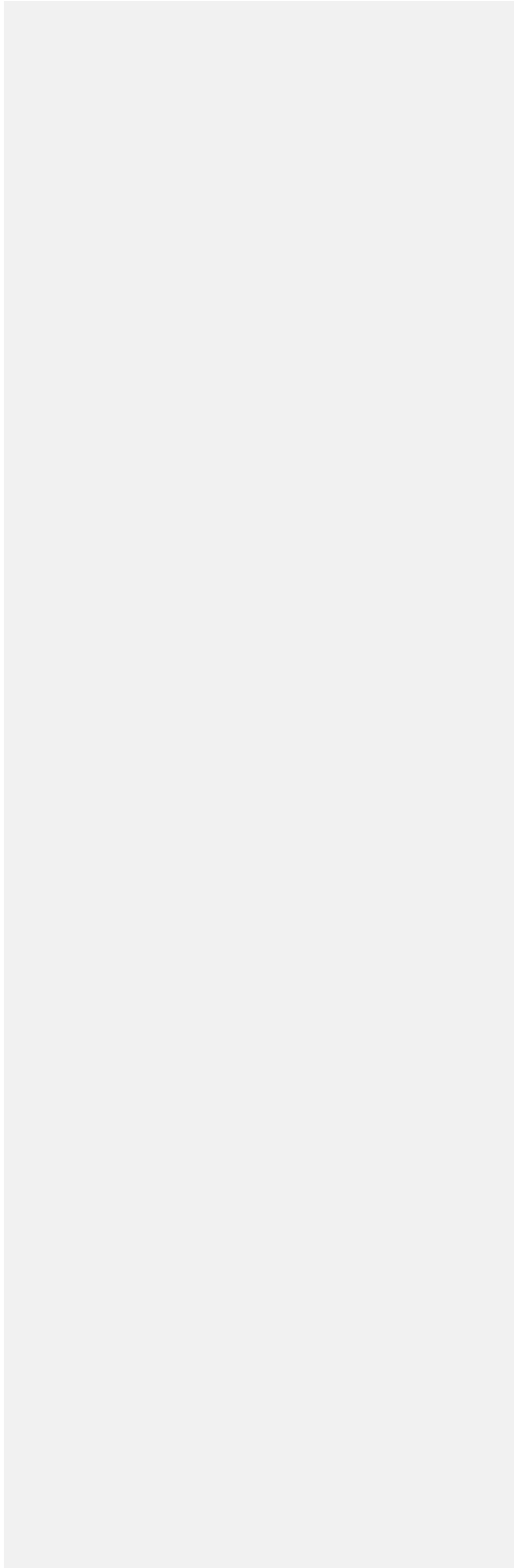
APPROVED AS TO FORM:

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

APPROVED:

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

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





# Planning & Transportation Commission

## Staff Report (ID # 9407)

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**Report Type:** Action Items **Meeting Date:** 9/26/2018

**Summary Title:** 2018 Housing Work Plan Ordinance Framework

**Title:** PUBLIC HEARING. The Planning and Transportation Commission Will Consider an Ordinance Amending Various Sections of Title 18 to the Palo Alto Municipal Code Related to Development Standards Including Minimum and Maximum Unit Density, Floor Area Ratio, Height, and Open Space; Parking Requirements; Ground– Floor Retail Provisions; the Approval Process, and Other Regulations Governing Residential and Mixed-Use Development; All to Promote Housing Development Opportunities in Zoning Districts, in Furtherance of Implementation of the Comprehensive Plan. CEQA: Determination of Consistency with the Comprehensive Plan Environmental Impact Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution No.9720.

**From:** Jonathan Lait

Staff recommends the Planning and Transportation Commission (PTC):

1. Conduct a public hearing and provide comments on the draft Comprehensive Plan Implementation/Housing Ordinance and continue the hearing to October 10, 2018.

### Report Summary

The Background section of this report summarizes the purpose of the Housing Work Plan and work completed to date on the Comprehensive Plan Implementation/Housing Ordinance.

The Discussion of this report presents draft zoning revisions that would meet the intent of the Housing Work Plan referral to the PTC. Changes are proposed in the following areas:

- Density/intensity Standards, including a Housing Incentive Program (a local alternative to State Density Bonus Law and SB35 streamlining)

- Open Space Standards
- Parking Standards
- Project Review Process
- Use Regulations

Changes are proposed as a complete package. Although refinements and modifications to standards may be warranted, removal of some concepts may erode the effectiveness of achieving the goal of providing additional housing units.

The Analysis section of the report analyzes potential impacts of the draft zoning revisions, including how the revisions would increase housing production and affordability, and implications under State Density Bonus Law and SB35 streamlining provisions.

City staff are preparing a draft ordinance in accordance with recommendations in this report.

## **Background**

On February 12, 2018, the City Council approved a Housing Work Plan, which outlines steps to implement the City's vision and adopted policies and programs for housing production, affordability, and preservation. The Work Plan includes select policies and programs from the adopted Comprehensive Plan, adopted Housing Element, and a City Council colleagues' memo.

The Work Plan describes the City's progress towards the housing production goals at various income levels (i.e. RHNA) identified in the Comprehensive Plan Housing Element. The Work Plan also explains the City's progress towards the housing projections developed during preparation of the updated Comprehensive Plan (i.e., 3,545-4,420 new units between 2015 and 2030). In both cases, the City is behind in its effort to meet these goals. The approved Housing Work Plan indicates what action is needed to spur the production of housing.

The City Council referred to the PTC specific Work Plan items related to a 2018 zoning amendment ordinance. The PTC has held four study sessions to analyze various aspects of the Work Plan and to consider possible zoning changes to facilitate implementation of both the Work Plan and (by extension) the Comprehensive Plan housing production targets. A summary of previous study sessions is provided, as follows:

- March 14<sup>th</sup>: The PTC discussed the Work Plan goals, timeline, and the PTC's role in implementation.
- April 25<sup>th</sup>: The PTC discussed key issues in the zoning code as they relate to the Council referral, including issues regarding development standards and the entitlement process.
- May 30<sup>th</sup>: The PTC discussed parking topics as they relate to housing production, including a new study of parking occupancy in multi-family residential developments in Palo Alto.
- August 29<sup>th</sup>: The PTC discussed a conceptual framework for the ordinance, including ideas for zoning changes to development and parking standards, use regulations, and

the public review process. The report is available online: <https://www.cityofpaloalto.org/civicax/filebank/documents/66513>.

As Council directed, staff has conducted two complementary community outreach efforts: (1) meetings with developers and architects who regularly use the City's zoning code; and (2) a community meeting with the public at-large.

The City is pursuing these zoning updates in parallel with several other zoning and policy changes to achieve Work Plan, Comprehensive Plan, and Housing Element goals. Specifically, changes to local implementation of State Density Bonus Law, an updated Accessory Dwelling Unit Ordinance, a new Affordable Housing Overlay, and a new Workforce Housing Overlay are intended to facilitate affordable housing at varying income levels and market rate housing opportunities, consistent with the City's adopted policy. In 2019, the second phase of the Housing Work Plan will include policy discussions regarding the below market rate housing program inclusionary requirements; no net-loss housing policies; protections for cottages and duplexes in the R1 and R2 districts, among other initiatives.

As the subject zoning changes are implemented through individual development projects, the City will continue to evaluate the effects of the code change, and make additional revisions over time, as necessary.

## **Discussion**

This section provides an overview of proposed zoning changes, by location and/or zoning district: citywide, multi-family, Downtown, California Avenue, and El Camino Real. The following zoning revisions represent a continued effort to increase housing production and shift redevelopment interests toward housing. The recommendations represent a modest step in that direction, but City policy on commercial development, high property values, commercial rents, construction costs and other market influences blunt efforts to expand housing opportunities without significant concessions on housing density and parking.

The proposed suite of amendments is intended to be considered as a complete package. Although refinements and modifications to standards may be warranted, each concept is inter-related to site planning and housing production objectives, and eliminating one concept could limit the ordinance's effectiveness.

Recent action by the State legislature with the passage of SB 35 and other housing reforms requires careful examination of how changes in local housing policy may result in development that is larger than anticipated and permitted by-right. The recommendations below are intended to support State and regional housing policy interests, while ensuring Palo Alto retains local control of development with opportunities for analysis of project related impacts.

Consistent with the 2018 Work Plan, the recommendations promote market rate and affordable housing unit production. Commercial floor area is not decreased, but residential



uses may apply unused commercial floor area toward housing. Future policy direction may consider further incentives for housing by reducing the amount of commercial floor area that can be achieved. For example, on California Avenue, commercial land uses today can reach a 2.0 FAR. Adjusting housing from .6 to up to 2.0 FAR as proposed is helpful, but may not persuade a land owner redeveloping their property to build residential housing instead of commercial. Decreasing office floor area or significantly increasing residential FAR and possibly height limits are standards that could be adjusted further in the future if the proposed changes and market conditions do not result in new housing projects.

In addition to the recommended changes below, staff seeks PTC feedback on a couple remaining policy considerations which are presented in this section. Most of the information below has been conceptually reviewed by the PTC at its last meeting with some new additions and refinements.

Summary of Proposed Zoning Code Amendments<sup>1</sup>

1. CITYWIDE

- a. Open Space. Establish a consistent open space requirement for multi-family housing units in multi-family residential and commercial districts of 150 square feet (current code ranges from 100 to 200 square feet depending on the number of units provided).
- b. Review Process. Eliminate Site & Design Review, which requires—in commercial zones—PTC, Architectural Review Board (ARB) and City Council review of residential and residential mixed-use projects with 10 or more dwelling units. Maintain ARB review and opportunities for appeals to City Council.
- c. Retail Preservation. Exempt 100% affordable housing projects (120% AMI and below) from the retail preservation requirement except in the Ground Floor (GF) and Retail (R) combining districts.
- d. Parking. Adjust multifamily parking requirements based on maximum anticipated demand and to reflect state authorized parking standards for qualifying state density bonus housing projects (see Table 1). Other changes are proposed to incentivize affordable housing and reflect lower parking demand near transit.

Table 1. Existing and Proposed Parking Standards

<i>Use/Unit Type</i>	<i>Existing</i>	<i>Proposed</i>	
		<i>Citywide</i>	<i>Within ½-Mile of Fixed Rail Station*</i>

<sup>1</sup> Further analysis of these concepts provided in the Analysis section of the report.

Micro Unit (<450 sq. ft.)	No current standard	1	0.8
Studio	1.25	1	0.8
1 Bedroom	1.5	1	0.8
2+ Bedroom	2	2	1.6
Guest	1+10% of total units	included above	
Senior Housing	up to 50% reduction from existing standard	0.75 No additional parking reduction.	
Affordable Housing	Potential reduction by income level: 40% for extremely low 30% for very low 20% for low income	Allow existing reductions by right	
Housing Near Transit	up to 20% reduction	See far right column	See far right column
Mixed-use Projects	up to 20% reduction	no change	
<i>* Projects that qualify for this standard must provide annual transit passes (ie; Go Passes) to each tenant.</i>			

2. MULTI-FAMILY ZONES (RM-15, RM-30, RM-40)

- a. Unit Density. Replace RM-15 zoning designation, which allows 15 units per acre with a RM-20 designation that allows 20 units per acre to align with Housing Element density allowance.
- b. Minimum Density. Establish a minimum unit density as provided below, but allow fewer units when determined by the planning director, after review by the ARB, that existing site improvements or parcel constraints preclude meeting this minimum standard:
  - RM-20: 11 units/acre
  - RM-30: 16 units/acre
  - RM-40: 21 units/acre
- c. Non-complying Unit Density. Allow redevelopment and replacement of legally established housing units that exceed the maximum unit density allowed for the parcel, subject to the following criteria:
  - i. Other than unit density, the project complies with all applicable development standards.
  - ii. The development shall not be eligible for a density bonus pursuant to PAMC Chapter 18.15, if the total number of units being replaced or newly constructed exceeds 135% of the maximum unit density permitted for the parcel. Utilization of this provision shall be an alternative to density bonus that the applicant could elect to request.

- iii. Application of this provision shall apply to rental housing only, not ownership units.
  - d. Administrative Code Clean Up. Modify PAMC Section 18.13.040(g) regarding below market rate (BMR) housing units to reflect regulatory requirements of Title 16.65.
3. DOWNTOWN CD-C ZONING DISTRICT
- a. Unit Density. Eliminate the unit density requirement restricting the maximum density to 40 units per acre. With the proposed amendment, unit density would be controlled by other existing development standards, such as height, floor area, parking requirements, etc.
  - b. Unit Size. Establish a maximum housing unit size of 1,800 square feet.
  - c. Retail Parking. Exempt the first 1,500 sq. ft. of ground-floor retail from parking requirements within residential mixed-use buildings.
  - d. Driveway Approach. Reinforce existing city policy and guidelines to preclude curb cuts on University Avenue, except for City-owned parcels or City-sponsored projects.
  - e. Residential Only Development. Allow housing-only projects to be constructed downtown, except in the ground floor (GF) combining district. Retail preservation ordinance standards apply for market rate housing projects. Note, current zoning standards permit housing only when part of a commercial, mixed-use development or on housing opportunity sites (i.e., in the Housing Element).
  - f. Open Space. Allow rooftops to qualify for up to 75% of the usable open space requirement for the multi-family residential portion of a project, subject to objective performance standards (see September 20, 2018 ARB Staff Report: <https://www.cityofpaloalto.org/civicax/filebank/documents/66725>).
  - g. Transfer of Development Rights (TDRs). Reiterate what is already provided for in the zoning code that the maximum limit for projects that include TDRs is a 3.0 FAR. A project using TDRs and any other existing or proposed floor area bonuses, plus any incentive or concessions granted in accordance with the BMR program could not exceed a maximum 3.0 FAR.
  - h. Housing Incentive Program (HIP). Establish a process that would allow property owners to apply to receive greater floor area than otherwise allowed under the zoning code and under State Density Bonus Law. This program would be an alternative to the local BMR program and State Density Bonus Law and would not be available for qualifying SB 35 (streamlining) housing projects. Significant components of the HIP include the following:
    - i. Increase residential FAR from 1.0 to 2.0.
    - ii. Allow residential projects to use the commercial FAR, except for that portion of the commercial FAR required to remain commercial by the requirements of the retail preservation ordinance or GF combining district. When used with subsection (i) above, a 100% residential project could achieve a 3.0 residential FAR; less if commercial is required or proposed on the ground floor.
    - iii. No TDRs may be used in conjunction with a qualifying HIP project.

- iv. Require discretionary architectural review consistent with PAMC 18.76.020 (Architectural Review)
- v. OPTIONAL CONSIDERATION FOR PTC. Allow 100% affordable housing projects at a specified AMI percentage to achieve a higher FAR and additional feet in height when located within .5 miles of a major transit stop (i.e., the Caltrain station).
- i. OPTIONAL CONSIDERATION FOR PTC. In-lieu parking provides a significant incentive for commercial redevelopment based on current application of this code section. While a comprehensive analysis of the in-lieu parking program is not proposed with this ordinance, staff recommends the Commission discuss the appropriateness of including restrictions on the use of in-lieu parking for commercial uses above the ground floor as a means to further incentive housing development.

#### 4. CALIFORNIA AVENUE CC-2 ZONING DISTRICT

- a. Unit Density. Eliminate the unit density requirement restricting the maximum density, which currently ranges from 30 to 50 dwelling units per acre. With the proposed amendment, unit density would be controlled by other existing development standards, such as height, floor area, parking requirements, etc.
- b. Residential Only Development. Allow housing only projects to be constructed, except on properties in the retail shopping (R) combining district. Current zoning standards permit housing only when part of a commercial, mixed-use development.
- c. Retail Parking. Exempt the first 1,500 sq. ft. of ground-floor retail from parking requirements within residential mixed-use buildings.
- d. Driveway Approach. Reinforce existing City policy and guidelines to preclude curb cuts on California Avenue, except for City-owned parcels or City-sponsored projects.
- e. Open Space. Allow rooftops to qualify for up to 75% of the usable open space requirement for the multi-family residential portion of a project, subject to objective performance standards.
- f. Housing Incentive Program (HIP). Establish a process that would allow property owners to apply to receive greater floor area than otherwise allowed under the zoning code. This program would be an alternative to the local BMR program and state density bonus law and would not be available for qualifying SB 35 (housing streamlining) housing projects. Significant components of the HIP include the following:
  - i. Allow residential projects to use the commercial FAR allowance, except for that portion of the commercial FAR required to remain commercial by the requirements of the retail preservation ordinance or GF combining district. Therefore, a 100% residential project could achieve a 2.0

residential FAR (0.6 currently, plus an additional 1.4 FAR); less if commercial is required or proposed on the ground floor.

- ii. Require discretionary architectural review consistent with PAMC 18.76.020 (Architectural Review)
- iii. OPTIONAL CONSIDERATION FOR THE PTC. Allow 100% affordable housing projects at a specified AMI percentage to achieve a 2.5 FAR and extend to 50 feet in height when located within .5 miles of a major transit stop (i.e., the Caltrain station).

## 5. PROPERTIES ADJACENT TO EL CAMINO REAL IN THE CN AND CS ZONING DISTRICTS

- a. Unit Density. Eliminate the unit density requirement restricting the maximum density, which currently ranges from 30 to 50 dwelling units per acre. With the proposed amendment, unit density would be controlled by other existing development standards, such as height, floor area, parking requirements, etc.
- b. Open Space. Allow rooftops to qualify for up to 75% of the usable open space requirement for the multi-family residential portion of a project, subject to objective performance standards.
- c. Retail Parking. Exempt the first 1,500 sq. ft. of ground-floor retail from parking requirements within new residential mixed-use buildings that are subject to the retail preservation ordinance.
- d. Residential Only Development. Allow housing only projects to be constructed along El Camino Real, except in defined South El Camino nodes (see below). Retail preservation ordinance standards apply for market rate housing projects. Current zoning standards permit housing only when part of a commercial, mixed-use development.
- e. Nodes and Corridors. Expand on the nodes and corridors concept in the South El Camino Real Design Guidelines and clearly define street boundaries showing the location of specific nodes. Seek Council support to conduct a retail preservation fee nexus study and allow property owners to pay an in-lieu fee to remove protected retail preservation land uses within the defined corridors. Funds collected from this program could be used for low interest loans supporting small business owners with rent subsidies or construction loans for tenant improvements. See Attachment 2 for node boundaries.
- f. Pedestrian (P) Combining District. Extend the requirements of the (P) combining district to properties located in the defined node boundaries.
- g. Ground Floor Residential Design Standards. Adopt objective design standards to create an attractive active appearance for residential development on the ground-floor, while also maintaining privacy for residents:
  - i. Individual dwelling units shall not be permitted on the ground-floor fronting El Camino Real. Instead, the ground-floor frontage on El Camino Real may include common areas, such as lobbies, stoops, community rooms, and work-out spaces with windows and architectural detail to

- create visualize interest. Ground floor residential permitted beyond the common areas and away from El Camino Real.
- ii. Parking shall be located behind buildings or below grade, or, where those options are not feasible, screened by landscaping, low walls, or structured garages with architectural detail.
- h. Housing Incentive Program (HIP). Establish a process that would allow property owners to apply to receive greater floor area than otherwise allowed under the zoning code. This program would be an alternative to the local BMR program and State Density Bonus Law and would not available for qualifying SB 35 (housing streamlining) housing projects. Significant components of the HIP include the following:
- i. Increase residential FAR from .5 (CN) and .6 (CS) to 1.0.
  - ii. Allow residential projects to use the commercial FAR allowance (0.5 in the CN and 0.4 in the CS), except for that portion of the commercial FAR required to remain commercial by the requirements of the retail preservation ordinance or GF combining district. When used with subsection (i) above, a 100% residential project could achieve a 1.5 residential FAR in the CN and 1.4 in the CS; less if commercial is required or proposed on the ground floor.
  - iii. Eliminate the 50% lot coverage requirement and instead rely on site planning, landscape and setback requirements.
  - iv. Require discretionary architectural review consistent with PAMC 18.76.020 (Architectural Review)

## Analysis

The City’s recently updated Comprehensive Plan includes goals and policies which were projected to stimulate production of 3,545 and 4,420 new units between 2015 and 2030. Table 2 explores this low and high range under scenarios where all BMR units are built on site through the 15% inclusionary housing program or where in-lieu fees are paid and leveraged on a 2:1 basis such that affordable housing developers build stand-alone BMR projects. This could be achieved through a combination of zoning updates and other efforts underway (i.e., an updated Accessory Dwelling Unit Ordinance, a new Affordable Housing Overlay, and a new Workforce Housing Overlay). Beyond this analysis, actual maximum buildout rates are also based on economics of the overall housing market over the next 11 years (through 2030).

Table 2 Maximum Buildout Through 2030, by Affordability Level

		Inclusionary (15% of Units)		In-lieu Fee/Leveraged (2:1)	
		BMR	Market Rate	BMR	Market Rate
	<b>Total</b>				

	<i>Total</i>	<i>Inclusionary (15% of Units)</i>		<i>In-lieu Fee/Leveraged (2:1)</i>	
		<i>BMR</i>	<i>Market Rate</i>	<i>BMR</i>	<i>Market Rate</i>
<b>Net New Maximum (Low Range)</b>	3,545	532	3,013	1,064	2,482
<b>Net New Maximum (High Range)</b>	4,420	663	3,757	1,326	3,094
<b>Existing</b>	29,189	2,182	27,007	2,182	27,007
<b>Total/Potential Maximum (Low Range)</b>	32,734	2,714	30,020	3,246	29,489
<b>Total/Potential Maximum (High Range)</b>	33,609	2,845	30,764	3,508	30,101
<b>% Increase (Existing to Potential)</b>	12 - 15%				

Source: Projected Estimates and Existing BMR: City of Palo Alto Comprehensive Plan and Planning and Community Environment Department, September 2018. Existing Estimate: State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2018. Sacramento, California, May 2018.

To achieve the stated housing targets, the City’s development standards require modification. The proposed amendments do not fundamentally change the buildable envelope of projects in the affected zoning districts. There are no recommended changes to height<sup>2</sup>, setbacks, and transitional height limits (daylight plane)<sup>3</sup>. There are proposed increases to floor area, which may result in bulkier buildings, but it remains defined by the envelope already prescribed by the code. Moreover, the proposed FAR thresholds are maximums and not guaranteed to be achieved on every property being redeveloped.

Floor area, density allowance and parking are some of the greatest drivers influencing unit yield, which informs a property owner’s decision to redevelop property. Other factors, many of which are addressed in the proposed amendments, support land use decisions that can spur housing development. Lot consolidation, not addressed in the proposed amendments, is another area requires further exploration and should be considered in phase 2 of this multi-year housing work plan.

State Density Bonus Law / SB 35 (Housing) Streamlining

<sup>2</sup> This report asks the PTC to explore whether increased height for 100% affordable housing projects is appropriate Downtown.

<sup>3</sup> Along El Camino Real, changes are recommended to lot coverage.

A key consideration that went into these recommendations was the inter-relatedness between the City's existing and proposed standards; bonuses, waivers and incentives authorized by the State Density Bonus program and application of State law, notably SB 35.

### **SB 35 Streamlining**

Effective January 1, 2018, SB 35, the "by right" housing bill, allows residential or residential mixed use projects with at least 2/3 residential floor area, that meet certain affordability requirements, and are consistent with the City's zoning and other "objective standards" to secure a streamlined review process (90 to 180 days depending on the project size). No CEQA review is required and no discretionary review (e.g., ARB, PTC or Council review) is permitted beyond advisory comments. Projects near transit may take advantage of zero parking requirements. Presently, in Palo Alto, housing projects with 50% or more housing units deed restricted to affordable housing income levels and that meet other specific requirements, may be eligible projects.

### **State Density Bonus Law**

California's Density Bonus Law gives developers the right to build additional dwelling units and obtain flexibility in local development requirements, in exchange for building affordable or senior housing. State Density Bonus Law may be used in combination with SB35.

The City's density, height, and other development standards represent the "base" or "floor" standards for a project proposed under SB35 and State Density Bonus Law. Under State Density Bonus Law, an applicant can achieve up to 35% additional density bonus (i.e., increased FAR from 1.0 to 1.35 or 2.0 to 2.7) in exchange for providing affordable housing on site. The provision of 11% of units at Very-Low Income levels or 20% of units at Low Income levels qualify a project for the 35% density bonus which means that many residential projects in Palo Alto—which are subject to the City's 15% inclusionary housing ordinance—would automatically qualify for such a bonus.

The State Density Bonus Law and the City's density bonus ordinance provide developers an opportunity to seek development incentives or concessions that support the construction of the affordable housing units. When preparing the recommended changes, staff sought to provide sufficient incentives to encourage developers to use a local alternative to the State Density Bonus. The Housing Incentive Program (HIP), identified in the Discussion section above, is that alternative program. When electing the development standards in this program, the developer is not eligible for additional bonuses or incentives. The developer could opt not to apply for the HIP and use the base zoning standards in conjunction with State law, but those standards and incentives yield less floor area and therefore would be a less attractive alternative.

By right housing development in accordance with SB 35 has occurred in nearby jurisdictions. Some of the provisions included in the City's proposed ordinance are intended to introduce clear objective standards that would apply to by right housing development, such as



clarification of existing policies related to TDRs and curb cuts on California and University Avenues. As directed by the Council through its adopted Housing Work Plan, staff is concurrently working on other changes to the zoning code that will introduce more objective standards that can be applied to future housing projects, including SB 35 development. None of the recommendations in this report preclude SB 35 or State Density Bonus development.

The balance of this report provides more information supporting the key recommendations in the proposed ordinance.

### Parking

Any project that is eligible for a State Density Bonus is also eligible for a by-right parking reduction. Since compliance with the City's BMR program generally qualifies a developer for a density bonus, and thus reduced parking, staff recommends using that model to establish the multi-family parking requirements citywide. From this new base, staff recommends further parking reductions for affordable housing projects and housing near fixed rail transit stations.

The current code provides an opportunity to reduce parking for affordable housing projects up to 40%. This represents a discretionary request, which complicates application processing for affordable housing providers. Supported by findings from the parking study and other empirical data, staff recommends the discretion be removed from the parking reduction and that the City's existing standard be applied by right based on deed restricted housing income levels. Instead of requesting a 20%, 30% or 40% parking reduction based on income as allowed by code today, an affordable housing provider would be automatically eligible for a reduction. The recommended parking requirements are provided in the Discussion section above.

Similarly, the zoning code also allows for a 20% reduction for housing near transit. Staff recommends applying that standard by right eliminating the controversy that often surrounds requests for parking reductions. In exchange for using this proposed standard, property owners would be required to provide transit passes (Caltrain) for tenant occupants over a specified age.

Additionally, the zoning changes include an exemption for the first 1,500 sq. ft. of ground-floor retail from parking requirements. According to the developer/architect interviews conducted, provision of parking for the commercial portion of mixed use residential buildings can be challenge to making a project viable. This exemption would help to relieve physical and financial constraints, and instead provide an incentive for including retail uses in a project.

At the last PTC meeting there were comments made concerning the City's residential preferential parking program, which is unchanged by the proposed ordinance. In response to Commission comments from the August 29<sup>th</sup> hearing, the following responses are provided:

- *Residential Preferential Parking Program (RPP)*. Some commissioners expressed interest in expanding the RPP, which generally limit the number of non-resident vehicles that can be parked in the neighborhood. There is a process to establish an RPP in a given

neighborhood; the program which is established in PAMC Chapter 10.50 is not proposed to change as part of this zoning update.

- *Maximum Standards.* Some Commissioners expressed interest in development parking maximums instead of minimums. Parking maximums are gaining popularity, especially in communities where there is a shared opinion that parking takes up an excessive amount of land and an overabundance of parking increases traffic. They work best in areas with good transit service where “car-lite” living is feasible (see text box at right). Based on feedback received from PTC members, staff is not pursuing parking maximums at this time.

A nearby example of parking maximums are in Mountain View, as part of the North Bayshore Precise Plan:

- 0.25 space per micro-unit
- 0.50 space per 1 bedroom unit
- 1.0 space per 2 or 3 bedroom unit

These rates were developed to support Mountain View’s goal of restricting the amount of traffic entering and exiting North Bayshore.

Aligning parking supply and demand would help set the right amount of parking based on use and location, and free up space to be used for additional housing units, community space, or other amenities. However, staff has heard from developers that the proposed parking standards are still challenging to accommodate new housing development particularly given the small lots Downtown. At this time, staff is not prepared, based on the available data, to make further reductions. Exploring options for small lot consolidation in the future may help address this perceived constraint.

### Application Processing Time

How a use is approved by the City, whether it is permitted through an administrative (staff-level) approval or a public review process, can present an incentive or disincentive to its development. These revisions seek to streamline the review process, while still providing opportunities for public and decision-maker input.

The public review process provides opportunities for community input and feedback from decision-makers, but also adds time, expense, and uncertainty from the perspective of applicants. Streamlining the review process by maintaining Architectural Review and eliminating Site & Design Review would maintain the following processes, but eliminate the burden placed on projects to undergo review by three separate bodies:

1. Staff review of zoning compliance
2. Public noticing and public comment at ARB hearings
3. Project review of context-based design criteria by the ARB
4. Opportunity for appeal to the City Council would be maintained.

Notably, this proposed process represents the same process that currently exists for most project types in the city, including non-residential projects, residential projects with 10 or more

units in the RM districts, and residential or mixed-use projects with fewer than 10 units. Site & Design Review was originally created to address environmental issues in the Baylands area and was later applied to review mixed-use projects when the concept was relatively new.

### Density and Intensity Standards

Current density/intensity maximums are one of the major items restricting housing production, according to architects and developers interviewed, and to the quantitative analysis of housing opportunity sites completed for Downtown.<sup>4</sup>

#### *Unit Density*

Eliminating residential density standards in the commercial mixed-use districts would allow more flexibility for developers to increase the overall unit count without affecting the massing or design of a project. A density standard would still be retained in the form of FAR. This change could modestly increase the number of units proposed and the affordability of those units without impacting the massing and bulk of a project.

#### *Minimum Unit Size*

Setting reasonable minimum densities on conforming lots ensures that sites will not be underutilized, while not creating a burden on property owners and developers. This change could incrementally increase the number of units proposed and the affordability of those units, without impacting the building envelope already permitted pursuant to current regulations. Increasing the residential density maximum in RM-15 district from 15 to 20 (and renaming the district accordingly) would make the allowed densities in the Housing Element and district regulations consistent and provide an opportunity for some increased density.

The proposed zoning change contemplates circumstances whereby a property owner is not able to meet the minimum density standards and establishes a review and approval process to permit of fewer units if warranted due to site constraints.

#### *Commercial Floor Area May be Used for Residential Projects*

The proposed amendments include a provision to allow residential development to achieve the total FAR that is currently allowed for mixed-use projects, plus additional bonuses available to residential or residential mixed-use projects with HIP. Allowing residential FAR to compose the entire mixed-use FAR allowance would remove some of the disincentive that currently exists for residential development compared with commercial development, due to construction costs, lease rates, and development standards. This specific change would not increase the total amount of development currently allowed by the code, but may incrementally increase the amount of future residential development, and therefore decrease the amount of new commercial development.

#### *Maximum Unit Size*

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<sup>4</sup> Dyett & Bhatia and EPS. "Downtown Development Evaluation: Residential Capacity and Feasibility Analysis" October 30, 2017. <<https://www.cityofpaloalto.org/civicax/filebank/documents/64477>>

Due to a combination of parking requirements and high rental rates, the City has seen several large penthouse dwelling units constructed in Downtown in recent years. When a developer has a 12,000 square foot floor plate, they could choose to develop 12 units at 1,000 square feet which requires 26 parking spaces or 3 units at 4,000 square feet each that requires only 6 parking spaces. Without the benefit of an in-lieu parking fee, residential parking spaces must be provided on site. Developers say they cannot fit many spaces on site without going underground, which is prohibitively expensive. As a result, the developer builds a few luxury units rather than 12 moderately-sized units. This new standard is intended to eliminate the former option Downtown. Combined with reduced parking requirements (including for micro units), this standard would provide an incentive for small and moderate-sized units in the City's most walkable transit-oriented core.

### Open Space

On-site open space is an important factor in supporting livability in higher density residential areas, but current standards are applied inconsistently across districts and housing types. Standardization can clarify what is expected of developers, while flexibility in where open space may be located can provide opportunities to develop sites with the allowable massing and unit density.

### *Building Rooftops*

The zoning code requires open space for residential uses in the City's commercial districts. In areas of the City designated for higher density multi-family housing, options for how to configure the massing and site plan for a project can help maximize the number of units that are appropriate for a site. Moreover, rooftop decks in a climate such as Palo Alto can offer an amenity for residents to take advantage of views and community outdoor space. To address issues of privacy, noise, visibility, odors, and safety, staff prepared draft standards and guidelines for consideration by the public, ARB and PTC.

### *Standardized Requirements*

Layers of development standards make interpreting the City's code complicated and may reduce the development "envelope" available on a site. While these regulations are based on reasonable community desires (e.g., providing access to light, air, landscaping, and outdoor space), in combination they have the drawback of constricting the developable site area and therefore potential unit yield on a site. Providing a single standard for each district—regardless of how many units are on the site—simplifies the code and eliminates any bias for projects that are choosing between proposing five or six units. This concept maintains the current required landscaping areas and dimensional requirements.

The proposed ordinance also contemplates micro-units with a maximum floor area of 450 square feet and reduced parking requirements. While open space is an important component for any dwelling unit the 150 square foot approach is excessive for these units; staff recommends 40 square feet and welcomes Commission feedback on this approach.

## Retail Preservation

The Retail Preservation Ordinance has the benefit of preventing the conversion of retail uses and precluding office uses from occupying these spaces. However, the ordinance may also frustrate City efforts to enhance housing production by retaining retail in areas that do not have a strong retail environment and instances where a housing provider is unable or unwilling to include new retail floor area in their project due to financing, construction costs (more required parking) or other market considerations.

To balance the tradeoff between housing production and retail preservation, staff recommends a narrow exemption to the Retail Preservation Ordinance for affordable housing developments on sites outside of the GF and R overlays in Downtown and California Avenue, respectively.

### *Ground Floor Parking Reduction*

To support continued retention of ground floor retail uses while recognizing the challenges developers have making a mixed-use housing project viable, staff recommends mixed-use developments in the CN and CS commercial districts along El Camino Real be granted a parking waiver from the first 1,500 square feet of a retail or retail-like use. This reduction is approximately 8 parking spaces for a retail use or 18 spaces for a 1,500 square foot eating and drinking establishment. This waiver would apply only in instances where a property owner is required to re-establish the retail or retail-like use pursuant to the retail preservation ordinance.

### *South El Camino Nodes / Corridors & Future Retail Preservation Waiver*

Use regulations in the zoning code generally only permit multi-family residential uses as part of mixed-use developments in the Downtown, California Avenue, and many places along El Camino Real. Furthermore, the South El Camino Real Design Guidelines acknowledge that a continuous pedestrian-oriented environment along the 2+-mile corridor of El Camino Real is unrealistic.<sup>5</sup> Instead, the guidelines describe a “node” concept to focus investment in areas with existing pedestrian amenities, retail uses, and good transit access.

Staff and consultants reviewed existing land use, parcel size, project pipeline, and zoning information for the South El Camino Real corridor, and conducted a visual survey of sites on the corridor to understand vacancy rates, site conditions, character, and concentration of retail. These efforts revealed clear nodes of commercial development at the El Camino Way “triangle,” around California Avenue, and at the city’s southern border. Uses, street character, and projects under construction or in the pipeline are helping to create concentrations of retail and mixed-use development.

However, the approximately ½ mile stretch of the corridor extending from Page Mill Road south to Wilton Avenue/Kendall Avenue is more bric-a-brac in the land use pattern, provides viable

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<sup>5</sup> City of Palo Alto. *South El Camino Real Design Guidelines*. May 2012: 13.

sites of 10,000 square feet, often occupied by small 1-story buildings that may be appropriate for redevelopment. On the one hand, these uses and buildings may provide low rent opportunities for small local retail, service, and office users, and may be appreciated by residents regardless of whether or not they frequent these businesses. While most parcels are tenanted, with low vacancy rates, these parcels are underutilized and could present an opportunity for higher-density residential development.

To strengthen the nodes identified in the South El Camino Guidelines, staff recommends concentrating mixed-use development in these locations. Along the corridor, between nodes, staff envisions allowing 100% housing projects. Many of these properties, however, are subject to the retail preservation ordinance, which may impede housing redevelopment. Accordingly, staff recommends a nexus study be prepared to establish a fee that may be paid in-lieu of replacing retail on site (i.e., in-lieu of the Retail Preservation Ordinance). This fee would help to establish a fund to support small retail business development, retention and tenant improvements. The ability to waive the retail preservation requirement for market rate housing between the South El Camino Real nodes would not be allowed (except as already authorized by ordinance) until the in-lieu fee and related small business improvement program were established.

#### Additional Considerations

Included with this recommendation are two concepts to further incentivize housing and staff seeks the Commission's feedback on whether to include these provisions in the draft ordinance to the City Council.

#### *Increase Affordable Housing Density and Height Downtown*

To further incentivize affordable housing development in high-amenity transit-oriented locations, an additional FAR increase and/or 11-foot height bonus would allow for an additional floor of residential development and may provide a real incentive to complete a deal for a site that is appropriate for development.

#### *Eliminate Downtown Commercial Land Uses Above the Ground Floor From Participating in the In-lieu Parking Program*

Non-residential uses have the option of paying into the Downtown Parking Assessment District in-lieu of providing parking on site (at a rate of \$70,094/space). Given the high cost of land and the value of office lease rates, developers often choose to pay into the District and maximize their leasable area. Residential uses do not have this option; moreover, they likely cannot afford the per space rate, as it is currently set.

Eliminating the option for office developments to pay an in-lieu fee for commercial uses above the ground floor would require onsite parking for those uses. Staff would recommend the in-lieu fee remain available for ground floor retail and retail like uses, especially in districts where the city is requiring ground floor retail through the GF combining district or as required by the retail preservation ordinance. Staff will also recommend to the Council that a policy review of

the in-lieu parking program to align the historical application of this provision to the code language, or seek other policy changes to the in-lieu parking program.

While this is unlikely to be a popular concept for commercial developers Downtown, this concept is viewed and important to level the playing field for housing development versus office development.

### **Environmental Review**

The City Council certified a Final EIR ([http://www.paloaltocompplan.org/wp-content/uploads/2017/08/PaloAltoCompPlanFEIR\\_Aug2017.pdf](http://www.paloaltocompplan.org/wp-content/uploads/2017/08/PaloAltoCompPlanFEIR_Aug2017.pdf)) on November 13, 2017 to analyze potential impacts associated with the updated Comprehensive Plan. The 2018 Comprehensive Plan Implementation and Housing Ordinance will be evaluated pursuant to the California Environmental Quality Act (CEQA) once a draft ordinance is prepared. It is anticipated that the Ordinance will be consistent with the Comprehensive Plan and its Final EIR. At this time, no substantially greater or more severe impacts are anticipated and no development is proposed, beyond what is allowed by the Comprehensive Plan.

### **Next Steps**

it is anticipated that the PTC will make a recommendation on the draft ordinance at its next meeting (October 10<sup>th</sup>) and the City Council will consider the ordinance on November 26<sup>th</sup>.

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### **Attachments:**

- Figure 1 - Commercial Mixed Use Zoning Districts (PDF)
- Figure 2 - El Camino Real: Retail Mixed Use Nodes and Residential Corridors (PDF)

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<sup>6</sup> Emails may be sent directly to the PTC using the following address: [planning.commission@cityofpaloalto.org](mailto:planning.commission@cityofpaloalto.org)