



City of Palo Alto

City Council Staff Report

(ID # 9188)

Report Type: Consent Calendar

Meeting Date: 5/7/2018

Summary Title: AH Combining District Ordinance (2nd Reading)

Title: SECOND READING: Adoption of an Ordinance Amending Palo Alto Municipal Code Title 18 (Zoning) to add a New Chapter 18.30(J) (Affordable Housing Combining District) to Promote the Development of 100 Percent Affordable Housing Projects Located Within One-half Mile of a Major Transit Stop or One-quarter Mile of a High-Quality Transit Corridor by Providing Flexible Development Standards and Modifying the Uses Allowed in the Commercial Districts and Subdistricts. CEQA: This Ordinance is Within the Scope of the Comprehensive Plan Environmental Impact Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution Nos. 9720 and 9721. (FIRST READING: April 9, 2018 PASSED: 7-2 Holman, Kou no)

From: City Manager

Lead Department: Planning and Community Environment

Recommendation

Staff recommends that the Council conduct a second reading and adopt the attached ordinance (Attachment A).

Background

On April 9, 2018, the City Council reviewed and adopted on first reading a draft ordinance amending Section 18.30 of the municipal code. The staff report and video of the April 9, 2018 hearing are linked below:

Staff Report: <https://www.cityofpaloalto.org/civicax/filebank/documents/64347>

Video: <http://midpenmedia.org/city-council-152-2-3-2-2-2/>

The ordinance has been modified to incorporate changes directed by the Council on first reading, which are summarized below.

1. Specifies that the provisions of the ordinance apply to 100% affordable projects that provide rental units only.
2. Clarifies that the ordinance applies to deed restricted units at 120% of AMI and below.
3. Specifies that the Town and Country Village Shopping Center, Midtown Shopping Center, and Charleston Shopping Center shall not be eligible for the application of the combining district.
4. Modifies the development standards table to include a provision authorizing the Planning Director to recommend a waiver from the transitional height standard.
5. Modifies the minimum vehicle parking standard to 0.75 per bedroom.
6. States that the Council shall have the ability to modify retail parking requirements.

The modifications to the ordinance in Attachment A from the draft ordinance presented at the first reading on April 9, 2018 are shown in strikethrough (deletions) and underlines (additions).

Attachments:

Attachment A: AH Combining District Ordinance (DOCX)

Attachment B: Action Minutes AH Ordinance First Reading (DOCX)

Attachment C: Public Letters to Council regarding the Affordable Housing Combining District (PDF)

Not Yet Adopted

Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Amending Chapter 18.30 of Title 18 (Zoning) of the Palo Alto Municipal Code to Add a New Chapter 18.30(J), Affordable Housing (AH) Combining District Regulations

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

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

- A. Housing in California is becoming increasingly unaffordable. The average California home currently costs about 2.5 times the national average home price and monthly rent is 50% higher than the rest of the nation. Rent in San Francisco, San Jose, Oakland, and Los Angeles are among the top 10 most unaffordable in the nation. With rising population growth, California must not only provide housing but also ensure affordability.
- B. Despite a high median income in Palo Alto, nearly 30 percent of all households overpaid for their housing (more than 30 percent of their income) in 2010.
- C. The lack of an adequate supply of housing at all levels of affordability drives up the rents and costs of ownership of housing, which has a detrimental effect upon residents who may be displaced from their community and local employees who must endure longer commutes for lack of housing opportunities near work.
- D. It is in the public interest that a continuum of housing be provided for a broad spectrum of persons, including those earning moderate, low, and very low incomes.
- E. The high cost of land acquisition and development, construction, and operation of housing projects have discouraged the production of affordable housing projects. Allowing higher density housing, reduced parking requirements, and an increase in the allowable gross floor area in appropriate locations improves the feasibility of affordable housing projects.
- F. Encouraging the development of transit-oriented multi-family housing affordable to moderate, low, and very low-income residents supports City and State goals to reduce vehicle miles traveled and associated greenhouse gas and other air emissions.

SECTION 2. Chapter 18.30 (Combining Districts) of Title 18 (Zoning) of the Palo Alto Municipal Code is hereby amended to add Section 18.30(J) as follows:

**New Chapter 18.30(J)
AFFORDABLE HOUSING (AH) COMBINING DISTRICT REGULATIONS**

Sections:

18.30(J).010 Specific Purpose

18.30(J).020 Applicability of Regulations

18.30(J).030 Definitions

18.30(J).040 Zoning Map Designation

18.30(J).050 Site Development Review Process

18.30(J).060 Conformance to Other Combining Districts and Retail Preservation

18.30(J).070 Permitted Uses

18.30(J).080 Conditional Uses

18.30(J).090 Development Standards

18.30(J).010 Specific Purpose

The affordable housing combining district is intended to promote the development of 100% affordable rental housing projects located within one-half mile of a major transit stop or one-quarter mile of a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, by providing flexible development standards and modifying the uses allowed in the commercial districts and subdistricts.

18.30(J).020 Applicability of Regulations

- (a) The affordable housing combining district may be combined with the CD, CN, CS, and CC districts set forth in Chapters 18.16 and 18.18 of this Title, in accord with the Chapter 18.08 and Chapter 18.80. Where so combined, the regulations established by this Chapter shall apply for 100% affordable housing projects in lieu of the uses allowed and development standards and procedures applied in the underlying district. A property owner may elect to use the site consistent with the underlying district, in which case the applicable regulations in Chapter 18.16 and 18.18 for the commercial districts shall apply. The Town and Country Village Shopping Center, Midtown Shopping Center, and Charleston Shopping Center shall not be considered eligible for the application of the affordable housing combining district.
- (b) The affordable housing combining district provides flexibility in development standards that allow for a density increase that would in most cases exceed density bonuses under state law, Government Code Section 65915. Therefore, a project applicant may utilize the affordable housing combining district and the provisions of this Chapter as an alternative to use of the state density bonus law implemented through Chapter 18.15 (Density Bonus) of this Title, but may not utilize both the affordable housing combining district and density bonuses. If an applicant utilizes state density bonus law, the regulations in Chapter 18.16 or 18.18 for the applicable underlying commercial district shall apply.

18.30(J).030 Definitions

For purposes of this Chapter, the following definitions shall apply.

- (a) "100% affordable housing project" means a multiple-family housing project consisting entirely of for-rent Affordable Units, as defined in Section 16.65.020 of this code, and available only to households with income levels at or below 120 percent of the area median income for Santa Clara County, as defined in Chapter 16.65.

18.30(J).040 Zoning Map Designation

The affordable housing combining district shall apply to properties designated on the zoning map by the symbol "AH" within parentheses, following the commercial designation with which it is combined.

18.30(J).050 Site Development Review Process

Not Yet Adopted

All projects shall be subject to architectural review as provided in Section 18.76.020 and shall not be subject to the requirements of site and design review in Chapter 18.30(G).

18.30(J).060 Conformance to Other Combining Districts and Retail Preservation

The following requirements shall apply to projects in the AH affordable housing combining district:

- (a) Where applicable, the requirements of Chapter 18.30(A) (Retail Shopping (R) Combining District Regulations), Chapter 18.30(B) (Pedestrian Shopping (P) Combining District Regulations), and Chapter 18.30(C) (Ground Floor (GF) Combining District Regulations), and Pedestrian Shopping (P) Combining Districts shall apply.
- (b) Where applicable, the retail preservation requirements of Section 18.40.180 shall apply except as provided below.
 - i. Waivers and Adjustments

A. Except in the R or GF combining districts, the City Council shall have the authority to reduce or waive the amount of retail or retail like gross floor area required in Section 18.40.180 for any 100% affordable housing project if the City Council determines that it would be in the public interest. Any such reduction or waiver shall not be subject to the waiver and adjustments requirements in Section 18.40.180(c). In the R and GF combining districts, any reduction or waiver in retail or retail like gross floor area shall remain subject to the requirements of Section 18.40.180(c) or the combining district as applicable.

A.B. The City Council shall have the authority to modify retail parking requirements associated with a 100% affordable housing project that also require ground floor retail.

18.30(J).070 Permitted Uses

The following uses shall be permitted in the AH affordable housing combining district:

- (a) 100% affordable housing projects;
- (b) In conjunction with a 100% affordable housing project, any uses permitted in the underlying district, provided the uses are limited to the ground floor.

18.30(J).080 Conditional Uses

The following uses may be permitted in the AH affordable housing combining district in conjunction with an 100% affordable housing project, subject to issuance of a conditional use permit in accord with Chapter 18.76 (Permits and Approvals), provided that the uses are limited to the ground floor:

- (a) Business or trade school.
- (b) Adult day care home.
- (c) Office less than 5,000 square feet when deed-restricted for use by a not-for-profit organization.
- (d) All other uses conditionally permitted in the applicable underlying zoning district.

18.30(J).090 Development Standards

Not Yet Adopted

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

**Table 1
Development Standards**

AH Combining District⁽¹⁾		
Minimum Site Specifications		Subject to regulations in:
Site Area (ft ²)	None required	
Site Width (ft)		
Site Depth (ft)		
Minimum Setbacks		Setback lines imposed by a special setback map pursuant to Chapter 20.08 of this code may apply
Front Yard (ft)	Same as underlying district	
Rear Yard (ft)	Same as underlying district	
Rear Yard abutting residential zoning district (ft)	Same as underlying district	
Interior Side Yard if abutting residential zoning district (ft)	Same as underlying district	
Street Side Yard (ft)	Same as underlying district	
Build-to-Lines	Same as underlying district	
Permitted Setback Encroachments	Same as underlying district	
Maximum Site Coverage	None Required	
Landscape/Open Space Coverage	20% ⁽²⁾	
Usable Open Space	25 sq ft per unit for 5 or fewer units ⁽²⁾ , 50 sq ft per unit for 6 units or more ⁽²⁾	
Maximum Height (ft)	50'	
For those portions of a site within 50 ft of a R1, R-2, RMD, RM-15, or RM-30 zoned property	35' ⁽³⁾	
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	
Maximum Residential Density (net)	None Required	
Maximum Residential Floor Area Ratio (FAR) – Residential Portion of a Project	2.0:1	
Maximum Non-Residential FAR	0.4:1	

Not Yet Adopted

Vehicle Parking	<p>0.755 per bedroom or unit, whichever is greater, except as preempted by state law. The Director may modify this standard based on findings from a parking study that show fewer spaces are needed for the project.</p> <p>The required parking ratio for special needs housing units, as defined in Section 51312 of the Health and Safety Code shall not exceed 0.3 spaces per unit.</p>	<p>Adjustments to the required ratios shall be considered per Chapter 18.52 (Parking).</p>
	<p>For Commercial Uses, See Chapters 18.52 and 18.54 (Parking).</p>	
TDM Plan	<p>A transportation demand management (TDM) plan shall be required pursuant to Section 18.52.050(d) and associated administrative guidelines</p>	<p>18.52.050(d)</p>

Notes:

(1) These developments shall be designed and constructed in compliance with the performance criteria outlined in Chapter 18.23, as well as the context-based design criteria outlined in Section 18.13.060 for residential-only projects, Section 18.16.090 for mixed use projects in the CN, CC, and CS districts, and Section 18.18.110 for mixed use projects in the CD district, 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.

(2) Landscape coverage is the total area of the site covered with landscaping as defined in Chapter 18.04. For the purposes of this Chapter 18.30(J), areas provided for usable open space may be counted towards the landscape site coverage requirement. Landscape and open space areas may be located on or above the ground level, and may include balconies, terraces, and rooftop gardens.

[\(3\) The Planning Director may recommend a waiver from the transitional height standard.](#)

SECTION 3. 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 4. 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.

Not Yet Adopted

SECTION 5. The City Council finds that the environmental impacts of this Ordinance were disclosed, analyzed and evaluated as part of that certain Final Environmental Impact Report for the Comprehensive Plan Update considered and certified by the City Council on November 13, 2017, by Resolution Nos. 9720 and 9721 (“EIR”). The City Council considered the EIR prior to taking action on this Ordinance, in conformance with the California Environmental Quality Act (“CEQA”), together with state and local regulations implementing CEQA.

SECTION 6. This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Deputy City Attorney

City Manager

Director of Planning and Community
Environment

Attachment B: Action Minutes - AH Combining District First Reading

Action Items

PUBLIC HEARING: Adoption of an Ordinance Amending Palo Alto Municipal Code Title 18 (Zoning) to add a new Chapter 18.30(J) (Affordable Housing Combining District) to Promote the Development of 100 Percent Affordable Housing Projects Located Within One-half Mile of a Major Transit Stop or One-quarter Mile of a High-quality Transit Corridor by Providing Flexible Development Standards and Modifying the Uses Allowed in the Commercial Districts and Subdistricts. California Environmental Quality Act (CEQA): This Ordinance is Within the Scope of the Comprehensive Plan Environmental Impact Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution Numbers 9720 and 9721. The Planning and Transportation Commission Suggested an Alternative and did not Recommend Adoption of the Ordinance at Their Meeting on March 14, 2018.

MOTION: Vice Mayor Filseth moved, seconded by Council Member Holman to continue Agenda Item Number 8 – to a date uncertain.

MOTION PASSED: 8-1 Kou no

Public Hearing opened at 8:21 P.M.

Public Hearing closed at 9:51 P.M.

MOTION: Council Member Fine moved, seconded by Council Member Scharff to:

1. Find the proposed draft Ordinance within the scope of the Comprehensive Plan Environmental Impact Report (EIR) and adopt the proposed Ordinance amending Chapter 18.30 of Title 18 of the Municipal Code to add a new chapter establishing an Affordable Housing (AH) Combining District and related regulations;
2. Direct Staff to improve the Ordinance with the following changes:
 - a. Explore including the RP, RM15, and RM30 zones in the Combining District;
 - b. Add an additional 1.5 residential Floor Area Ratio (FAR) to the maximum residential FAR;
 - c. Allow the Planning Director to recommend a waiver for transitional height standards;
 - d. Specify a parking requirement of 0.75 per unit, except as preempted by state law, and allow the Planning Director to modify this standard based on a parking study that shows fewer spaces are needed. For special needs housing units, maintain a requirement of no more than 0.3 spaces per unit; and
 - e. Clarify that this Overlay includes all AMI standards including up to 120 percent Area Median Income (AMI);

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to replace in the Motion Part 2.b., "allow the

Planning Director to" with "if requested by an applicant, allow the Planning Director to recommend adding up."

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "excluding Town and Country Village Shopping Center." (New Part 1.a.)

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER restate Motion Part 2.b., "explore, if requested by an applicant, the City Council may authorize adding up to an additional 1.5 residential Floor Area Ratio (FAR) to the maximum residential FAR."

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion Part 1.a., "the Midtown Shopping Center, and Charleston Shopping Center."

SUBSTITUTE MOTION: Council Member Holman moved, seconded by Council Member Kou to accept the Planning and Transportation Commission's (PTC) recommendations and direct Staff to:

- A. Work with the property owner of a site at El Camino Real and Wilton Court to develop a site-specific Planned Community (PC) zoning ordinance and development agreement for affordable housing; and
- B. Work with the PTC on the series of additional recommendations developed by an ad hoc committee of the PTC with the following modifications:
 1. We recommend the City pursue a PC with PAH to advance the Wilton Court project. We believe a serious negotiation over the Wilton Court project will inform how to write a better city-wide ordinance. Solutions;
 2. We recommend separating affordable housing into two work items: under 60% AMI (AH60) and 60% to 120% AMI (AH120);
 3. For AH60 we recommend the following options for retail preservation:
 - i. Where retail is retained, offer a zoning (height) concession;
 - ii. Where affordable housing provider financing precludes retail: City or a 3rd party may participate in project financing, potentially in exchange for an ownership position;
 - iii. As a last resort, City may waive the retail requirement as provided by the retail preservation ordinance;
 4. For AH60 we recommend City financial contributions to develop parking to meet demand based on measured parking utilization rates of comparable properties. The City may exercise an option to build additional parking available to the public;
 5. We recommend maintaining the transition height standards in all the C districts adjacent to residential districts. We recommend a community process with outreach before changing transition heights for AH60 housing;
 6. We recommend an open space standard for AH60, but we recommend against roof gardens adjacent to low density residential districts;
 7. We recommend folding AH120 work into the Housing Workplan effort. The regional consensus is to accomplish AH120 with inclusionary standards. We are not in a position today to make a recommendation on the right inclusionary standard;
 8. With a goal to develop a by-right process for 100 percent 60 percent AMI projects.

SUBSTITUTE MOTION FAILED: 3-6 DuBois, Holman, Kou yes

AMENDMENT: Council Member Holman moved, seconded by Vice Mayor Filseth to add to the Motion, "remove the 0.4 Maximum Non-Residential FAR allowance."

AMENDMENT RESTATED: Council Member Holman moved, seconded by Vice Mayor Filseth to add to the Motion, "remove Section 18.30(J).070.(b)."

AMENDMENT RESTATED: Council Member Holman moved, seconded by Vice Mayor Filseth to add to the Motion, "replace in Section 18.30(J).070.(b), 'any uses permitted in the underlying district' with 'retail or retail like used.'"

AMENDMENT AS AMENDED FAILED: 4-5 DuBois, Filseth, Holman, Kou yes

AMENDMENT: Vice Mayor Filseth moved, seconded by Council Member Holman to replace in the Motion Part 2.d., "0.75 per unit" with "1.00 per bedroom."

AMENDMENT WITHDRAWN BY THE MAKER

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion "return to Council following the parking study to reevaluate parking requirements." (New Part 2.f.)

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion "Council has the ability to modify retail parking requirements." (New Part 2.g.)

AMENDMENT: Council Member Tanaka moved, seconded by Council Member DuBois to add to the Motion Part 1, "limit the Combining District to rental Below Market Rate (BMR) units." (New Part 1.b.)

AMENDMENT PASSED: 7-2 Fine, Wolbach no

AMENDMENT: Council Member Wolbach moved, seconded by Council Member XX to add to the Motion, "with a goal to develop a by-right process for 100 affordable units eligible for tax credits."

AMENDMENT WITHDRAWN BY THE MAKER

MOTION AS AMENDED RESTATED: Council Member Fine moved, seconded by Council Member Scharff to:

1. Find the proposed draft Ordinance within the scope of the Comprehensive Plan Environmental Impact Report (EIR) and adopt the proposed Ordinance amending Chapter 18.30 of Title 18 of the Municipal Code to add a new chapter establishing an Affordable Housing (AH) Combining District and related regulations:
 - a. Excluding Town and Country Village Shopping Center, the Midtown Shopping Center, and Charleston Shopping Center;
 - b. Limit the Combining District to rental Below Market Rate (BMR) units
2. Direct Staff to improve the Ordinance with the following changes:
 - a. Explore including the RP, RM15, and RM30 zones in the Combining District,;
 - b. Explore, if requested by an applicant, the City Council may authorize adding up to an additional 1.5 residential Floor Area Ratio (FAR) to the maximum residential FAR;
 - c. Allow the Planning Director to recommend a waiver for transitional height standards;
 - d. Specify a parking requirement of 0.75 per unit, except as preempted by state law, and allow the Planning Director to modify this standard based on a parking study that shows fewer spaces are needed. For special needs housing units, maintain a requirement of no more than 0.3 spaces per unit;
 - e. Clarify that this Overlay includes all AMI standards including up to 120 percent Area Median Income (AMI);
 - f. Return to Council following the parking study to reevaluate parking requirements; and

- g. Council has the ability to modify retail parking requirements.

MOTION AS AMENDED PASSED: 7-2 Holman, Kou no

Carnahan, David

From: trudy myrrh-art.com <trudy@myrrh-art.com>
Sent: Thursday, April 19, 2018 2:18 PM
To: Council, City
Subject: Housing zning

City Council—

I have been concerned about housing for the least of these, the truly poor for years. Until recently, “poor” was not in the lexicon of the discussion.

I approve a housing zoning district.

—Gertrude

Gertrude Reagan
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resident since 1963