



## ARCHITECTURAL REVIEW BOARD

DRAFT MINUTES: July 18, 2024

Council Chambers & Zoom

8:30 AM

### **Call to Order / Roll Call**

The Architectural Review Board (ARB) of the City of Palo Alto met on July 18, 2024 in Council Chambers and virtual teleconference at 8:35 AM.

Present: Chair Kendra Rosenberg, Vice Chair Yingxi Chen, Board Member Mousam Adcock, Board Member Peter Baltay, Board Member David Hirsch

Absent: None

### **Oral Communications**

None

### **Agenda Changes, Additions and Deletions**

None

### **City Official Reports**

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

Planning Manager Jodie Gerhardt announced she is the ARB liaison to replace Claire Raybould who has been promoted to Principal Planner.

The potential item for August 1 on 660 University will be moved to a future date as the applicant is rethinking the project. As a result, the August 1 ARB meeting is cancelled. The next ARB meeting is scheduled for August 15, which will include two master sign programs and one more item may be added. Ms. Gerhardt called the Board's attention to the List of Pending Projects that staff is reviewing and will come to the ARB in the near future. A new seven-story multifamily housing project at 3781 El Camino is listed at the bottom of Packet Page 11. A new 335-unit housing project at 3606 El Camino is listed on Packet Page 12. The List of Potential Projects was displayed on the screen.

Board Member Hirsch asked for an update on 660 University. Project Planner Emily Kallas replied that the applicant's team requested to cancel the June 12 PTC hearing on the project. Ms. Kallas thought the applicant is reconsidering aspects of the project.

### **Action Item**

2. 4075 El Camino Way [23PLN-00202, Palo Alto Commons]: Consideration of an Amendment to a Planned Community Zone District (PC-5116) to allow additions to an existing 121-unit Assisted Living and Memory Care Facility. The additions would include 16 Assisted Living Units and 172 sf of support space. Environmental Assessment: Exempt from the provisions of the California Environmental Quality Act in accordance with CEQA Guidelines Section 15301 (Modifications to Existing Facilities). Zoning District: PC-5116 (Planned Community)

Disclosures: Board Member Baltay, Chair Rosenberg, Vice Chair Chen, and Board Member Hirsch visited the site earlier this week. Board Member Adcock visited the site and noticed some scaffolding on the south side that she believed was for maintenance work not related to this project.

Ms. Kallas addressed the ARB. There will be no change to the overall building height or wall setback adjacent to the single-family neighborhood. The proposed additions are primarily in existing step-backs on the upper floors. The Avant and Palo Alto Commons buildings on this property were built using PC 5116 in 2011 and PC 3775 in 1987. The assisted living units do not have kitchens, therefore, are not considered dwelling units for the purpose of the RHNA allocation. The project is located on 4075 El Camino Way, located near West Meadow Drive. The property contains two facilities; Avant is independent living for seniors and Palo Alto Commons is assisted living and memory care.

Staff review is ongoing for this project. PTC hearings were held in February and June 2024. This is the first ARB hearing. The next steps are to obtain formal recommendation from the ARB at a later meeting, obtain PTC recommendation, and the final decision by Council.

The project proposes filling in nine existing step-backed areas. This would add 1187 sf to the ground floor, including 172 sf for office or administrative space, providing 6891 sf total. The building is outside the 45-degree daylight plane.

A slide was shown of the elevations of the front entrance as seen from El Camino Way. The Board had materials with the proposed color scheme of gray, blue, beige, and brown. The rear elevation was shown facing the Wilkie Way single-family neighborhood. The right elevation faces West Meadow Street. The interior elevation faces the Avant building.

In PC Ordinance 3775, the initial approval for the Palo Alto Commons Building, the requirement was a 45-degree daylight plane measured 10 feet up. In the current PC zoning district, per Section 18.38 of the Palo Alto Municipal Code (PAMC), commercial projects are required to have a 3:6 daylight plane; however, this was considered a residential use because there was no differentiation between dwelling units and housing projects at the time. Staff believes it is appropriate to continue using the 45-degree daylight plane based on the existing PC ordinance. A PC project may request encroachments into the daylight plane. The proposed additions are below the 45-degree daylight plane but would encroach substantially into the 3:6 daylight plane.

Parking is a concern for this project. There are an adequate number of parking spaces per the code; however, staff is working with the applicant to ensure that parking is accessible to visitors. Staff expects to receive a TDM plan from the applicant to ensure access to parking spaces and to meet the original PC requirements.

At the June PTC meeting, the motion included recommendations for the ARB to consider the following: An upper floor setback from the Wilkie Way neighborhood, window privacy measures perhaps using the IR Guidelines, potential noise mitigation measures, and landscaping for privacy.

The proposed upper floor setbacks vary from 12 to 21 feet with the third floor setback generally further than the second floor. Ms. Kallas thought it was likely unfeasible or would result in a significant reduction of the project if the setback was increased to 20 feet.

For privacy, the PTC wanted the ARB to consider privacy glazing, screening, or alternative locations for the windows. Ms. Kallas pointed out that due to the assisted living use and size of the units, many units have one or two windows and the residents spend more hours of the day in their homes than a typical residence. Ms. Kallas stated the third floor windows are 19 to 21 feet away; therefore, the windows meet the IR Guidelines for windows facing a rear yard to be 20 feet away.

Ms. Kallas remarked that a noise study analyzed equipment and operational noise and found no noticeable increase to the existing noise conditions, so staff does not recommend applying noise measures.

The applicant proposed two additional screening trees. The plans show where existing screening landscaping is located. The plan set included shade models demonstrating how the building and landscaping would affect shade during different seasons and times of day.

A summary of the neighbor comments included in the report include: Desire for the current step-backs to be maintained, concern about increased shade, concern about parking on local streets rather than on site, and concern about noise.

Staff recommends that the ARB provide initial comments and feedback and that the project be continued to a date uncertain.

Architect Daniel Bowman delivered a slide presentation depicting the remodeled interior courtyard, proposed color scheme and landscaping screening. Architect Daniel Bowman stated that the majority of the building has trees. The FAR is proposed to increase from 1.19 to 1.25. There will be no protrusions into the 45-degree daylight plane. The landscape plan was shown. There are a few existing 60- to 70-foot tall redwood trees. Two trees are proposed in the middle where there is grass. The applicant believed the landscape plan provided screening without adding too much shade but was willing to add more trees if needed. Mr. Bowman remarked that most of the building does not directly view any neighbors, the majority if not all have been screened by trees, and they are mostly 40 feet away from the property line. Slides were shown of the existing and proposed neighbors' views as well as the daylight plane.

Per 18.38.150, PC zoning should have a 10-foot setback. The PAMC considers this site a corner lot. The front is on West Meadow Drive. If the applicant is required to have a 20-foot setback instead of the existing 10 feet, Mr. Bowman stated they would lose four units, with the remaining units being smaller and unable to accommodate two bedrooms.

Mr. Bowman stated that the shadow study showed there will not be much of an increased impact from shadowing on the neighbors' properties. Most of the shade will be added to the project's property.

Board Member Hirsch noted parking is limited on site and asked if there had been a response from Transportation regarding how visitors are directed to areas in the parking garage. Ms. Kallas replied that there have been some preliminary improvements to make the garage spaces accessible to visitors. Staff is waiting to receive the TDM plan from the applicant.

Board Member Adcock queried if West Meadow was considered the front yard in the original PC since the address is on El Camino and there is no gate on West Meadow to signify it is the front yard. Ms. Kallas explained that the setbacks were set in the PC but it did not use the words “front” or “side.” Chair Rosenberg remarked that the shorter side is typically considered the front for corner lots. Ms. Kallas stated that Chair Rosenberg was correct. The shorter side has access to a street. A front door does not equal the front setback. Ms. Gerhardt pointed out that since it is a customized zone, general setbacks (not front or rear) were determined when the building was originally built.

In reply to Vice Chair Chen inquiring if there was an open space requirement for this project, Ms. Kallas answered that because it is a PC, the development standards are custom to the existing building.

Board Member Hirsch wanted to know if there was a reason for not defining the front of a building. Ms. Kallas replied that whenever a property in Palo Alto has multiple street frontages, the zoning code defines the shorter of the street frontages as the front. As a PC, the setbacks for this site were approved through the design review process.

Board Member Baltay asked what the purpose of PC 5116 was. Ms. Kallas responded that PC 5116 was to build the Avant building on the same parcel.

Board Member Baltay did not see a landscape plan in the drawing set and thought the ARB normally received a landscaping plan showing the existing landscaping. Ms. Gerhardt replied that we do not always get a full landscape plan for projects that are adding to an existing structure but if the ARB desires, especially because of concerns about privacy issues, staff can get more information.

Board Member Baltay noticed a number of balconies on the second level were missing on the proposed elevations and wondered if there were other exterior changes to the building. Mr. Bowman responded that some of the balconies will be removed because they are memory care units and the residents cannot go out on those balconies. Board Member Baltay asked if the removal of balconies was shown on the floor plans. Mr. Bowman stated he could provide an updated floor plan at the next ARB meeting.

Chair Rosenberg noted that most of the building is at a 45-degree angle; however, some of the additions will have flat-facing windows looking at the Wilkie Way residents. Chair Rosenberg inquired how many units are being added with front-facing windows and how many windows. Mr. Bowman guessed at most four because there was nowhere in the unit to put a window on a 45-degree wall.

## **PUBLIC COMMENT**

1. Kevin Ji spoke on behalf of Manas K., Celine W., June L., and Adrian L. in opposition to the project at 4075 El Camino Way in its current form. Mr. Ji provided a handout to the ARB. Chair Rosenberg advised that items should be submitted to staff 10 days prior to meetings. Mr. Ji commented on the difficulty of preparing and submitting something within the same day of knowing an item is on the agenda. Mr. Ji is a resident of 4072 Wilkie Way.

As defined by PAMC Section 18.76.020(a), part of the purpose of architectural review is to enhance the desirability of residence or investment in the city as well as enhance the desirability of living conditions upon the immediate site or in adjacent areas. Mr. Ji and his neighbors opine that this project significantly reduces the desirability of living adjacent to it. As defined by state and local code cited in the staff report, senior assisted living facilities are considered a commercial use and do not qualify under RHNA standards. Per PAMC Section 18.38.150, the daylight plane angle for a commercial property is 3:6 with a 10-foot setback. Mr. Ji strongly disagrees with staff's assertion that the 45-degree angle should be used. If this project was considered housing, the setback would be 20 feet. The applicant's design shows a 10-foot setback. As a result, the proposed units are closer than other commercial or residential zoning would normally allow.

Mr. Ji believed that this project violated criteria for context-based design, harmonious transitions, and scale. PAMC 18.16.090(B)(iv) and 18.13.060(B)(ii) require low-density residential transitions. The three main sub-criteria are step-backs and transitions, privacy and sight lines, and sun/shade impacts. The proposed in-fill units are in violation of step-backs. There will no longer be a transition from a three-story building to a one-story single-family home. With the proposed three-story project being so close, he feels as though somebody is constantly watching over them. All the units along the Wilkie Way property line have at least one window facing toward Wilkie Way houses in some direction. The current design violates the 3:6 required for daylight planes and has significant daylight impacts. The reason there are many front yard gardens on Wilkie Way is because the backyard is covered by shade caused by the Palo Alto Commons building. Mr. Ji commented it is difficult to garden with his grandparents in his backyard. With the proposed construction, Mr. Ji believes he will no longer be able to garden. Due to the significant daylight and privacy impacts, the project does not enhance their residential area. On the contrary, it reduces their quality of life. Mr. Ji cited Palo Alto Comprehensive Plan Policies L-1.7, L-3.1, L-6.1, L-6.7, and L-6.8. The Wilkie Way community has been involved and is against the current project design as it is not compatible with their single-family residential area. Step-backs avoid abrupt changes in scale and density.

Mr. Ji suggested a few options. Construct the seven units that do not face the Wilkie Way property line. This option would avoid disrupting the current step-back formation, would have no shade impact on Wilkie Way, and would not violate the municipal guidelines on daylight planes. Another option is to build facing El Camino Way, away from Wilkie Way property line; however, Mr. Ji stated that Palo Alto Commons rejected that option because it was costly and needed exemptions. Mr. Ji pointed out that an exemption was needed for FAR on their current plan. The cost to live in the assisted living facility is between \$200,000 and \$300,000 per year, so Mr. Ji believed that the net cost of building on El Camino would be negligible in view of their revenue. Mr. Ji did not think that Palo Alto Commons has been transparent on the cost difference. The El Camino alternative would not disrupt the current step-back formation, and a commercial project is in alignment with the aesthetic of the El Camino corridor with other high-density developments such as the North Ventura Coordinated Area Plan. Mr. Ji was concerned about parking and stated that PTC Chairwoman Bryna Chang was told to park on the nearby residential streets when she visited the site.

2. Lily Lee spoke on behalf of JP, Austin T., Maegan C, Yichen, and Zhou. Ms. Lee is a resident of Wilkie Way. She agreed with the previous commenter. She supports the idea of adding seven interior units as well as units on the front side of the building. She supports seniors and is fine with parking and traffic impacts in exchange for the community benefit. The building is close to her house, covers her entire view, and creates a lot of shade. Ms. Lee has tried to plant in her backyard since 2003 but many have not survived. She tried to plant screening trees with the advice from an arborist but the trees have not thrived. Ms. Lee opined that the building is unattractive. Ms. Lee stated that her children do not feel comfortable with eyes on them. A 10-foot setback would not be granted if the original project came today, so Ms. Lee thought a 20-foot setback was more appropriate and reasonable given the transition area. Ms. Lee believed the 3:6 daylight plane was more appropriate.

Ms. Lee preferred the current green color because it blends in better with foliage, so she encouraged the applicant to use a color scheme more similar to nature, especially if new landscaping might provide more screening. If the new screening does not make the shade worse or has minimal impact on the shade, Ms. Lee preferred screening for her backyard. Ms. Lee encouraged the applicant to work with individual neighbors on what type of landscaping and screening might work best for their situations. Ms. Lee spoke with people who were visiting Palo Alto Commons and were not parking in the designated parking area. She heard the applicant state at the PTC meeting that maybe the employee who gave advice to park on Wilkie Way did not remember the parking plan.

3. Shashank Divekar is a resident of 4054 Wilkie Way. His single-family residence is directly behind Palo Alto Commons and shares a fence. He is opposed to this expansion. Balconies overlook him and he feels it invades his privacy; therefore, more units would make it worse. He agreed with the comments the previous speakers made. He believed the additional units will create a visual towering wall-like structure, impact his standard and quality of life, and decline property values.
4. Jenny Chen is resident of 4072 Wilkie Way. She shares a fence with Palo Alto Commons. She is strongly opposed to the proposed expansion project at 4075 El Camino Way in its current form. She echoed her neighbors' comments regarding valuation, significant daylight impacts, and privacy issues that this project would introduce. She thought the current setback should not be changed. When she bought her house, it was fully surrounded by about eight tall trees and she could not see Palo Alto Commons' buildings. After buying the house, her homeowner insurance would not issue an insurance policy unless she removed the trees. She stated she spent a lot of money to remove those trees and replace them with shorter trees. The windows face her house and can see her backyard and backside of the house. For that reason, she rarely opens her curtains. She asked the ARB to consider the privacy issue of Wilkie residents.
5. Mona He lives at 4040 Wilkie. She submitted two photos to the ARB. She is strongly opposed to Palo Alto Commons' expansion. The project violates PAMC 18.16.090(B)(iv), which requires low-density building transition from the neighborhood. When the project was initially built, it followed that standard with step-backs from the Wilkie community. The proposal is to fill in the current step-back. The submitted photos were taken from her backyard. Grass does not grow in her backyard. She bought the house in 2003. She planted four privacy trees but two have died

because there is not enough sunlight. She believed the 3:6 daylight plane was applicable because it is a convalescent facility. Since they are not residential buildings, the 45-degree does not apply. Ms. He pointed out that this is a flag lot, not a corner lot. The definition of a corner lot is two joined property lines to create an angle less than 135 degrees. West Meadow and El Camino do not join.

6. William Moss has lived on Wilkie Way since 1983. He feels like he lives in a fishbowl and was a violation of privacy. He stated that employees park on Wilkie Way.
7. Huibin Tang is a Stanford scientist. He played an audio recording of noise coming from Palo Alto Commons at 4 AM, 2:50 PM, and 9:50 PM. He will submit a photo via email for Ms. Gerhardt to place into the record. Mr. Tang stated that noise of 62 decibels wakes him up at 4:49 AM. Noise is 62.3 decibels throughout the day. At 9:37 PM, noise was at 63.3 decibels. Mr. Tang displayed a photo of 10 pipes pointing to his fence that generate this noise. Mr. Tang urged the ARB to think seriously about Palo Alto Commons' negative impact to the neighborhood.
8. Yanfeng Wang lives on Wilkie Way. She agreed with Kevin Ji's comments. Ms. Wang believes Palo Alto Commons is a commercial use with over 200 residents and over 50 employees in addition to visiting healthcare providers. She heard noise of 67 or 68 decibels in the summertime in the backyard when the air conditioner is running; without air conditioner, the lowest is 53 or 43 decibels. She took video of people parking on the street including in front of her house and walking to Palo Alto Commons.
9. Natalie Choo is a resident of Wilkie Way. She wanted senior housing done in a more thoughtful way with less of an impact to Wilkie Way residents. She appreciated Kevin Ji's presentation. Parking is a problem on Wilkie Way. A 10-foot setback from a one or two-story building to three stories makes a large presence in your backyard. Most of Wilkie Way gardens are on the front. Ms. Choo asked Palo Alto Commons to consider building toward El Camino, which is more commercial. She felt as though the burden of daily living and having large masses is being borne on the backs of a few small single-story houses.

Ms. Gerhardt stated this is a planned community (PC), a customized zone. Ms. Gerhardt clarified there are no violations because a new customized zone is being created. Ms. Gerhardt said that the portions of the code cited in the public comments do not apply to this property. Staff will continue to address the parking issue. Staff asked management of the facility to open the gates so below-grade parking can be used. The facility had concerns because it is a memory care facility. Staff is continuing to work with the facility to open the gate or use a callbox. If the gate is opened, there is sufficient parking for the existing and proposed units. Ms. Gerhardt stated that staff takes the noise complaint seriously. Staff will take a deeper look at the noise report for this project to ensure measurements were taken in the right places or whether additional measurements need to be taken to address neighbors' concerns and ensure compliance with the code. Staff will address air conditioner noise but cannot address people noise. Court cases have ruled that people noise in their backyard or open space is not a significant impact.

Board Member Hirsch asked for an explanation of a customized zone. Ms. Gerhardt explained that the City determines the setbacks and daylight plane. Chair Rosenberg clarified that we are following the setbacks and daylight plane initially established with this project in 1987. Vice Chair Chen asked if

customized means project by project or if PC was all the same. Ms. Gerhardt replied that you can customize PC any way you choose. For example, the City could choose to not have a daylight plane. Staff's recommendation is to stay within the parameters of the existing PC. Board Member Adcock asked if hypothetically this was an empty lot and a Housing Element site, what would the setbacks be for multifamily residential. Ms. Gerhardt replied that the City does not have a certified Housing Element, so it could be almost anything if it was a housing project. Chair Rosenberg remarked that this could be an eight-story built to the setbacks if this was SB 330 or Builders Remedy. Ms. Gerhardt pointed out it could be 100 stories tall because of the new California law.

Chair Rosenberg invited the applicant to approach the podium to provide comments in rebuttal or in response to items presented by public comment. Mr. Bowman stated that parking is per PAMC. In regard to the noise complaint, adding two HVAC units is below the maximum decibels allowed. The applicant is requesting the following PC changes: An increase in the FAR, increase in maximum units by an additional 16, and changing the setback on the Goodwill side to match Goodwill's setback of roughly 6 to 7 feet.

Steve Sandholtz represents the management company. The owners are locally based, a long-time Palo Alto family. The headquarters are in Utah but the entire business is in California, operating 16 communities and employing 1400 people. Mr. Sandholtz stated he has had many conversations with the neighbors and he has made adjustments to initial plans to address some of the neighbors' concerns. For example, some expansion units were relocated to the other side of the building that approaches toward the Goodwill site and the Avant courtyard to eliminate some of the density along the Wilkie Way neighbors. Mr. Sandholtz stated that the daylight plane calculation is what staff has concluded is the correct one to use. Mr. Sandholtz offered to address privacy by planting additional trees but that does not help the shade. Mr. Sandholtz stated that the applicant has done shadow studies that demonstrate the increased height of the building has virtually no impact on shade to the Wilkie neighbors. If adding trees helps with the privacy issue without exacerbating shade and is beneficial to the neighbors, the applicant is willing to consider it. The City conducted a noise study, which found that there were no issues relative to noise and nothing would change. Mr. Sandholtz remarked that the City conducted a parking study which concluded that the applicant is adequately parked. Mr. Sandholtz stated that the applicant does not control where everybody will park; however, they are adjusting their parking policies and engaged a consultant to prepare the TDM for their next Planning Commission meeting. Mr. Sandholtz is open to continue working with staff to make this project work. Mr. Sandholtz remarked that City Council was highly desirable of having additional senior housing units because there is demand. Mr. Sandholtz stated that the facility provides great care and service to over 150 residents that live in their combined community at Avant and Palo Alto Commons.

**The ARB took a break at 10:10 AM and resumed at 10:19 AM.**

**The ARB returned with all Board Members present.**

Chair Rosenberg invited the Board to ask questions of staff and the applicant. Board Member Adcock noted that the A1.2 landscape drawing in the showed two proposed trees but did not specify the species, proposed height, or mature height of those trees. While driving on Wilkie, Board Member Adcock noticed the northeast side landscaping on the Meadow Drive end has large redwoods and you



can barely see Palo Alto Commons versus traveling west away from Meadow Drive it becomes more open and you can see into the windows of Palo Alto Commons from Wilkie. Board Member Adcock asked why the applicant only proposed two trees. Mr. Bowman replied they are adding two trees because there is a gap in the trees where there is currently grass, so they wanted to add screening but not impact shade. The species has not been chosen. The mature height will be around 20 to 30 feet to avoid increasing shade. Board Member Adcock stated that two-thirds of the length seemed sparse looking at it from the Wilkie side. Mr. Bowman is willing to add more trees if the neighbors want.

Board Member Hirsch asked if the applicant had a landscape architect. Mr. Bowman replied that two trees is not a large enough scope for planning, so the applicant is waiting until the building submittal when the tree species is chosen. Board Member Adcock asked if it was required for planning submittal to have an idea of species and size. Ms. Gerhardt responded that if it was a new building we would receive a full landscape plan; however, we can have lesser requirements for additions. Ms. Gerhardt understood from the Board's discussion that a landscape plan was needed. Mr. Bowman stated he would have a landscape plan for the next meeting. Chair Rosenberg asked if there is a height limit for the Wilkie Way houses and if they could be two-story. Ms. Kallas confirmed there is no single-story overlay, so it is typical R-1 zoning along Wilkie Way. The height of a potential second story would be regulated through the individual review guidelines.

Chair Rosenberg had questions about the noise report. Ms. Gerhardt confirmed there was a noise report. Ms. Kallas believed that on-site monitoring was done for 72 hours. There were no violations or code issues based on the noise. Staff will take a closer look at where the monitors were placed on the property.

Vice Chair Chen asked where the new HVAC equipment would be located. Mr. Bowman replied it is shown on the roofing plan and believed it was labeled M-7. Two new units are proposed and will be stepped back from the building at least 50 feet away from the property line. Chair Rosenberg queried how close the existing HVAC units were to the property line. Mr. Bowman answered that they go up to the 10-foot setback on the first floor. The proposal is not impacting the existing HVAC units on the first floor. Chair Rosenberg asked if the applicant had considered replacing the old HVAC units. Mr. Bowman responded that they wanted to maintain the current HVAC units.

Board Member Adcock asked for details about the proposed areas of sloped roof. Mr. Bowman replied that asphalt roof shingles are proposed to match the homes on the R-1 side. There is currently no sloped roof. The reason for the sloped roof was one of the City staff's comments was Fire needed a 30-inch parapet but it could not go in the daylight plane, so the asphalt sloped roof pushed the 30 inches back so it does not go into the daylight plane.

In reply to Board Member Adcock's question, Mr. Bowman confirmed that no balconies are being added; however, some balconies will be removed from the Memory Care (MC) wing.

Board Member Adcock noticed scaffolding on site and wondered if it was for maintenance or painting. Mr. Bowman replied it is for maintenance of the wood siding that is rotting. The applicant is waiting for the ARB's approval before painting.

There are eight Wilkie Way properties adjacent to the rear of the Palo Alto Commons property. Chair Rosenberg noted that five of those eight properties have ADUs. Ms. Gerhardt did not do a file search on the adjacent properties but she believed they are ADUs. Looking on Google Maps, Chair Rosenberg did not know if it is a garage, shed, or ADU. Ms. Gerhardt and Ms. Kallas confirmed for Chair Rosenberg that ADUs are allowed up to a 16-foot-tall single story.

Chair Rosenberg invited discussion amongst the Board. Board Member Baltay thanked the community for attending tonight's meeting. The town wants additional senior living facilities and Board Member Baltay believed this is the right place. Board Member Baltay acknowledged the existing significant privacy impact from Palo Alto Commons onto the neighbors on Wilkie Way but the impact is not changed much by adding what the applicant is proposing. Board Member Baltay opined the massing is fine, and the change to the neighborhood pattern and use is minimal. Board Member Baltay agreed with the 10-foot setback at the neighbors' property, which is consistent with what is there now and what has been done elsewhere. The changes are small enough that Board Member Baltay can justify it as part of an extension of the existing PC that has been in place since 1987. Board Member Baltay is in favor of keeping a daylight plane of 45 degrees starting at 10 feet from the property line because it is the standard used throughout Palo Alto when you have new uses adjacent to existing residential. A less steep daylight plane is too restrictive and not consistent with other daylight plane protections provided to residences in Palo Alto. Board Member Baltay is fine with allowing the proposed minimal increase of approximately 10 percent in the coverage and the FAR, which is justified by the need to have additional units on the property. Board Member Baltay opined that the design of the proposed project layout, massing, materials, and colors were fine.

On Page A5.10, Board Member Baltay is somewhat concerned about Drawing 5, Proposed View 1. In the lowest corner of Drawing 5 are units 312B and 314B, two new units on the third floor. He thought those two units create a three-story facade very close to the neighbors. Board Member Baltay opined that modifying or eliminating those two units would minimize the increase of massing and bulk on the neighbors. Board Member Baltay does not think the remainder of the proposal is a significant change based on the photos and his site visit. Windows looking into neighbors' property is annoying and problematic but it is an existing privacy issue. Board Member Baltay stated that there is no way to design these units without having those windows and it is unreasonable to eliminate those windows or have obscured glass; however, good landscaping can help. Board Member Baltay suggested asking the applicant to comply with the ARB's objective standards regarding privacy guidelines for windows that face neighbors. The objective standards included choices on windowsill heights, obscured glazing on windows, and angling windows so they do not look directly into neighbors' properties.

Board Member Baltay remarked that the applicant needs to provide a good landscaping plan and do everything they can to ensure privacy is increased as much as possible between them and the neighbor. Board Member Baltay stated that the ARB's objective standards for landscape screening should be applied to this project. The objective standards specify the spacing and size of trees as well as distance to the property line. Board Member Baltay wanted to require the applicant to work with the neighbors individually as some may prefer smaller landscaping, and document it to the City.

Listening to the 4 AM audio recording during public comment, it is clear to Board Member Baltay that Palo Alto Commons has an HVAC unit with a ventilation output opposite the backyard, which was not

captured in the noise study because tests were not done near that particular property. Besides meeting the noise ordinance, Board Member Baltay proposed prohibiting ventilation or exhaust from noise-producing equipment in the rear 10-foot setback. Board Member Baltay wanted to require the applicant to modify the existing situation and install new HVAC equipment on the roof.

Board Member Baltay had trouble parking when he visited the site on Wednesday morning; therefore, he agreed there was an issue with parking for visitors and employees overflowing into the neighborhood. Staff should ask for a Transportation Demand Management Plan (TDM). The applicant has not been in compliance with PC 3775's requirement for a parking plan and it was never enforced. The applicant has to provide parking for employees and visitors on site or a plan to the Planning staff's satisfaction to mitigate or reduce impact on neighborhood parking. Employees should not park in front of houses on Wilkie Way. The proposed additional units will increase parking demand.

Board Member Hirsch stated that landscaping is critical for privacy. Board Member Hirsch thought it was possible to put some landscaping adjacent to the fence line to create a higher barrier for privacy on the Wilkie side but not too high to increase shadowing on the neighbors' properties but the applicant needs to coordinate with each of the affected residents. Board Member Hirsch agreed that the applicant needs to supply a landscape plan. Regarding the windows facing the Wilkie side in the proposed scheme, Board Member Hirsch thought the applicant may have to change the elevation treatment by providing some bays or putting skylights in the roofs of those units so the windows do not create a privacy issue for the Wilkie neighbors. Board Member Hirsch opined that the color scheme change was a good idea because he personally was bothered by the green. Board Member Hirsch wished the applicant had shown the ARB how the color scheme worked with a three-dimensional model because it is difficult to read the drawings as elevations and to note the way in which the colors change.

Board Member Hirsch thought the site was a good place to increase the number of dwellings for seniors in the community and a significant improvement for Palo Alto in general. Board Member Hirsch agreed with the angle of the roofline. Board Member Hirsch was concerned about the extreme impact of parking on the neighborhood. Visitors need to find easy access to parking areas. Board Member Hirsch hoped the City could work with the applicant on making it easy to use the garage and notifying residents' visitors, perhaps designating visitor parking spots in the garage closer to the entry and making the garage open instead of gated.

Board Member Adcock echoed Board Member Baltay's comment about the 45-degree daylight plane and 10-foot setback seeming reasonable based on similar projects the ARB has reviewed with single-family residences backing into a new development. From what Board Member Adcock has heard commented and as seen in the plans, based on the number of staff working at Palo Alto Commons, there is not enough parking to avoid spilling over to adjacent streets. Board Member Adcock wondered if the applicant considered increasing parking by extending the garage to under the front parking lot.

Board Member Adcock found the plans difficult to read between the angles and the split between the sheets. Referring to A2.2B, Board Member Adcock thought the layout of the units could be modified to have primary windows 45 degrees away from the Wilkie back fence instead of parallel. For example, the unit plan on the top of the page could have the bathroom or kitchen on that wall and not have a window but have windows on the other sides. Board Member Adcock observed during her visit that plenty of the

units are exposed toward Wilkie and it is not just about privacy of the Wilkie residents but also the Palo Alto Commons residents. The units would be greatly improved if windows are not parallel to the fence line. Referring to Sheet 5.7, there is space in the 10 feet to plant trees with a mature height of 16-20 feet to provide screening for the neighbors and privacy to Palo Alto Commons' residents from Wilkie, and Board Member Adcock urged the applicant to look into it further. In Section 1 on 5.7, there are areas of sloped roof and flat roof. Board Member Adcock is not sure how that resolves in massing and proportion. Board Member Adcock wondered about keeping the current design of parapet walls and work with the language of the existing building instead of adding a partial mansard-type roof that does not add to the building look.

Vice Chair Chen had mixed feelings on this project. Before this meeting, Vice Chair Chen thought the applicant did a great job to angle the units to not face the neighbors directly and to fill in pockets with new units; however, after hearing neighbors' comments and concerns and seeing the photos submitted of how the building appears from their backyard, she feels sad. The proposed additional units on the third floor add into their neighbors' backyard, which is a privacy issue, a visual impact, and a huge massing. Residents' attempting to plant trees in their backyard but not being successful maybe because of shading is an existing condition. Vice Chair Chen believed the 45-degree daylight plane and 10-foot setbacks were reasonable. Looking at the unit layout, several units had large windows facing the neighbors' backyard and Vice Chair Chen wondered if there was a way to reduce the impact. People living in the assisted living would want a more pleasant view instead of looking at their neighbors' backyard. Vice Chair Chen suggested adding units on the El Camino side by create four stories, which might reduce the cost and impact to the tenants because it takes a lot of effort to fill-in versus focusing on one area and adding an additional floor. Vice Chair Chen appreciated the provided shadow studies, which show there is not much increase to the neighbors; however, there is a big visual impact and privacy issue for Wilkie residents.

Chair Rosenberg thought a fourth story was a worthwhile consideration for the applicant. Chair Rosenberg commented that she lives in the neighborhood and drives past Wilkie Way every day, and she has family who has lived in this neighborhood for many years. Chair Rosenberg encouraged the public to understand that this property had a lot of nicely done things, such as the angles creating a lot of privacy and relief from what could be an otherwise very imposing building if it was built straight across the back. Chair Rosenberg believed it was appropriate to apply the existing the 45-degree daylight plane and 10-foot setback, which was better than the 6 feet it could be. It appeared that eight units had a direct-facing window to the back but two units could be flipped around with relative ease, as Board Member Adcock mentioned. Getting windows off the flat faces and onto the angles will provide more privacy for the neighbors. Regarding Board Member Baltay's comment about the proposed northernmost units seeming to have the most visual impact for the neighbors, Chair Rosenberg stated her concern with massing is not as strong as Board Member Baltay's.

Chair Rosenberg asked for more zoom-ins of the site plan for the next meeting and to include the neighbors on the zoomed-in A-2 series, depicting neighbors' ADUs, property lines, and any other relevant features to evaluate how the proposed project would impact the neighbors. Chair Rosenberg wanted to see the full landscaping plan. When the applicant comes back to the ARB, Chair Rosenberg

would appreciate knowing that the applicant had input from the neighbors and had considered landscape screening on a case-by-case basis.

Chair Rosenberg pointed out that properties on Wilkie Way are allowed to be built up to two stories and ADUs are allowed up to 17 feet tall. Going from a three-story to a two-story is a reasonable transition in height. Chair Rosenberg appreciated hearing the audio recording of the noise. Chair Rosenberg stated that noise is a significant concern and she supported keeping any noise-producing equipment out of the 10-foot setback. Chair Rosenberg wanted to ensure that noise studies will be updated and reevaluated. Chair Rosenberg pointed out that nobody brought up triple-pane windows; however, the noise seems to be from the mechanical equipment and not from within the units. Chair Rosenberg stated that parking needs to be addressed because it is inappropriate that staff is parking in front of homes to go to work around the corner. For the next hearing, Chair Rosenberg wanted to see a parking diagram showing the number of spaces to ensure that staff had appropriate parking as well as a use plan so employees understand they are not to park on Wilkie Way. Chair Rosenberg suggested signage may be placed on Wilkie Way noting that parking for the Commons is not appropriate. Regarding the color scheme, Chair Rosenberg preferred green but did not have any issue with blue. Chair Rosenberg stated that the height and daylight shade and shadow diagrams were highly effective as a counterargument to the public's concerns. The building has minimal impact on the shade and shadow.

Regarding the suggestion to build on the El Camino Way side of the project, Board Member Baltay commented on the complexity of building on top of a three-story wood-frame building built in 1987. The only way to do so is to structurally change the entire building. You cannot get shear walls below to support a new floor above. It is cost prohibitive and not realistic.

Board Member Baltay pointed out that Palo Alto's goals are to increase density and increase places for people of all walks of life to live. Elderly housing is desperately needed.

Chair Rosenberg summarized what the ARB is looking for the applicant to provide for the next hearing:

1. Landscape plan with neighbor input.
2. Parking diagram and plan as well as any additional information the applicant can provide of how they would instruct staff to make sure people are not parking on Wilkie Way.

In the parking garage plan, Board Member Adcock would like to see spaces assigned for staff parking, how that relates to the number of staff currently employed and projected for at least the next five years, what is the ratio of staff versus parking spaces, and the methods of transportation for the remaining staff (required carpool, biking, etc.)

Board Member Hirsch suggested the applicant look into an arrangement for rental of off-site parking. Board Member Baltay recalled the ARB recently reviewed and approved an addition to the Castilleja School, which is located in the middle of an intensely developed residential neighborhood and there were many parking questions. Through the TDM program, the ARB required employees to park offsite with the applicant providing transportation back and forth.

3. Include ADUs and property lines on the A2 series of sheets.

4. A count of how many windows are flat facing toward the neighbors. How does the applicant intend to mitigate privacy (frothing a portion of the window)? The applicant can refer to ARB's standards.
5. Staff to review noise studies, obtain a better understanding of where the noise is coming from, which equipment pieces are causing noise, and how decibels are rated at the property line.
6. A thorough diagram of the proposed new HVAC units, where they sit on the roof, how far from the neighbors, and their decibels. Make sure the HVAC units are not directionally pointed straight at the neighbors; it is great if they can be turned sideways. The ARB may decide that the applicant needs to keep HVAC units out of the 10-foot setback, so the ARB wants to know where the current HVAC units are located, their age, and decibels.
7. Board Member Baltay wanted the applicant to follow the ARB's objective standards for privacy regarding landscaping and window placement. Chair Rosenberg agreed.

Chair Rosenberg asked for a motion to continue to a date uncertain.

**MOTION:** Board Member Baltay moved to continue this project to a date uncertain, subject to the comments that have been recorded. Chair Rosenberg seconded the motion.

**VOTE:** Motion passed 5-0.

**The ARB took a break at 11:15 AM and resumed at 11:27 AM.**

**The ARB returned with all Board Members present.**

### **Study Session**

3. Study Session to Review the Draft Ordinances Updating Lighting Standards (Palo Alto Municipal Code (PAMC) Section 18.40.250) and introducing Bird-Safe Design standards (PAMC Section 18.40.280)

Chair Rosenberg announced that she needs to leave the meeting at noon, at which time she will pass the meeting over to Vice Chair Chen.

Project Planner Kelly Cha delivered a slide presentation. One of Council's 2024 priorities is to initiate an evaluation of strategies to protect natural habitats such as bird-safe glass and wildlife protection from light pollution. Comprehensive Plan Policy L-6.3 encourages bird-friendly design.

The existing section in the code on exterior lighting standards would be repealed and replaced with the new standards from the dark-sky ordinance once adopted. The lighting standards in the draft ordinance would apply to all new construction and any exterior modifications requiring a planning application or approval. Requirements include: Shielding exterior lighting, maximum 3000 kelvin, lighting extinguished by 10 PM, and 10-minute maximum motion sensor activation permitted after 10 PM. The ordinance includes sections on special purpose lighting, security lighting, outdoor recreational facilities, service station lighting, and string lighting.

Bird-safe design standards would be in a new section, PAMC 18.40.280, and would apply to all new construction and any exterior modifications requiring a planning application or approval. Staff included exemptions for historic structures, first-floor retail storefronts, 100% affordable housing projects, and single-family homes outside of the bird-sensitive area. The bird-sensitive area is defined as 300 feet buffered from creeks, watercourses, and some open spaces and parks larger than 1 acre. The ordinance requires installation of at least one of the following bird-safe treatments: Fenestration and glazing, exterior features, or threat factor. Ms. Cha offered to share a pdf document showing examples of materials and threat factors.

Ms. Cha expressed staff's concern about the burden these ordinances might put on property owners wanting to make small alterations to their homes or properties. Staff was open to consideration of replacing "any exterior modifications that require a planning application or approval" with "substantial remodel," "substantial improvement," or "substantial structural alteration."

Staff spoke with retailers, suppliers, architects, and designers and discovered there is limited availability and increased cost of products for bird-safe treatment for single-family homes or smaller-scale projects. Therefore, staff proposes an exemption for single-family homes outside of bird-sensitive areas.

The draft ordinance is existing grade. Staff researched other cities and found height threshold exemptions. Berkeley starts at 35 feet to exempt some single-family homes and lower-density residential buildings. San Francisco exempts below 45 feet. One option is to require bird treatment glazing for homes with 50% or more glazing or have a treated glass requirement on unbroken glass of 24 sq. ft. or larger.

Staff is seeking input from the ARB on the design standards. Next steps: PTC hearing for recommendations in August 2024 and City Council hearing for adoption in September 2024.

### **Public Comment**

1. Shani Kleinhaus spoke on behalf of the Santa Clara Valley Audubon Society. She is a PRC commissioner but is not speaking on their behalf. San Francisco recognized two types of hazards for birds, location and architectural or structural elements. Ms. Kleinhaus wanted any house or structure citywide proposing to include hazardous elements be retrofitted. Staff provided examples of hazardous elements in the ordinance. In Mountain View, Cupertino, and other cities, any building citywide that is not a single-family home requires retrofitting according to the guidelines. Ms. Kleinhaus asked for bird safety measures to be required citywide for all with the exception of single-family residences. The Santa Clara Valley Audubon Society will continue reviewing the ordinance and communicating with staff.
2. Rani Fischer is a Sunnyvale resident. She commented on her experience with a strong light from a building in an office park shining into her living room; however, the City of Sunnyvale could not address it because Sunnyvale's lighting code only covers the residential area. She urged the ARB to include existing buildings in the code for the benefit of residents, birds, and bats.
3. Dashiell Leeds is the Conservation Coordinator for the Sierra Club Loma Prieta Chapter. He is in support of the comments made by Ms. Kleinhaus and Ms. Fischer. He agreed with expanding the

applicability of bird-safe design and dark-sky standards. The Sierra Club Loma Prieta Chapter along with the Santa Clara Valley Audubon Society provided staff with a model ordinance based on the best practices of many jurisdictions. Recently adopted dark-sky ordinances in Malibu and Brisbane apply standards to existing lighting fixtures. Noncompliant lighting that can be adjusted without replacing the fixture can be brought into compliance within a short grace period. Noncompliant lighting requiring a fixture change could be allowed a grace period of several years to comply with the ordinance. Palo Alto should address existing lighting to allow neighbors suffering from light pollution to address their issue through code enforcement. The ordinance proposed a curfew of 10 PM for new buildings, which is ineffective at reducing light pollution because it does not apply to all existing structures. It is unfair for new buildings to comply with a lighting curfew while others do not.

4. Junyan Wang is an intern with the Santa Clara Valley Audubon Society. She has Master's Degrees in Ecology and Environmental Policy. Ms. Wang asked the ARB to reduce the maximum color temperature to 2700 kelvin, with the exception of industrial facilities having a maximum of 4000 kelvin. To human eyes, there is little difference between 2700 and 3000 kelvin; however, wildlife is more sensitive to bluer color temperatures than humans. Migratory birds use blue-green spectrum light for navigation and can be disoriented by high kelvin lights. In 2021, San Jose's citywide design standards and guidelines established a maximum color temperature of 2700 kelvin for most new developments with the exception of single-family residences. Ms. Wang urged the ARB to expand the proposed standards to apply citywide.

On Packet Pages 141 and 142, Board Member Adcock asked if 18-40-250 would be repealed and replaced with 18-26-040. Ms. Cha replied it was an error. Attachment A, 18-40-250, will replace the existing 18-40-250 section.

On Packet Page 144, Section 3, Item C, Board Member Adcock asked for clarification of "Maximum light intensity on a site shall not exceed a maintained value of 5 foot-candles. Areas of higher or lower levels of illumination should be indicated on project plans." Ms. Cha responded that staff will clarify the statement to read "maintained value of the average 5 foot-candles."

On Packet Page 144, Section 4, Item C, Board Member Adcock noted that this section applied to exterior lighting and wondered if tunnels and parking garages were considered interior. Ms. Cha explained that parking garages might be interior. Tunnels are usually not completely enclosed. Ms. Cha offered to change the language to specify whether it is interior or exterior and whether it applies to completely enclosed buildings.

On Packet Page 144, Section 4, Item D, Board Member Adcock supported keeping it to avoid light spillover from a building onto an adjacent property but thought there needed to be clarity on how the language is written because it includes interior lighting when the premise of the section is about exterior lighting. Ms. Cha replied that staff copied existing language; however, staff can consider removing it if it is not appropriate.

On Packet Page 145, Section E, Item V, Board Member Adcock asked why outdoor recreational facilities operated for general public use shall extinguish the outdoor lighting at 10:30 PM when everything else in the ordinance is 10 PM. Ms. Cha responded that Public Works and Parks Department commented to



staff that they have facilities with a close of business time of 10:30 PM. Chair Rosenberg asked if there is a reason those facilities must stay open until 10:30 PM and if it was for all seasons. Ms. Cha thought it is how the facilities have been operating. Ms. Cha could confirm if 10:30 PM was for all seasons. Board Member Adcock asked if recreational facilities included outdoor courts. Ms. Cha understood it to be anything operated by the City but staff could clarify.

On Packet Page 146, Section 4, Item I, Board Member Adcock requested specificity if the 42 lumens was per foot or per lamp in the limitation for string lighting not to exceed 3,000 kelvin or 42 lumens. Ms. Cha replied that staff's understanding is 42 lumens total brightness for the entire string light but staff could clarify it to read per foot. Chair Rosenberg asked if there is a reason for a difference in the forms of measurement because some parts of the ordinance uses foot candles while in others it uses lumens. Ms. Cha explained that foot candles are usually used for the spillage of lighting. Foot candles are difficult to use for string lighting, so staff used lumens.

Board Member Baltay asked Ms. Kleinhaus about the effectiveness of bird safety measures on the height of a building. Ms. Kleinhaus replied that birds are more prone to collision with buildings up to 60 feet tall, which is usually the height of taller trees. Migratory birds flying en masse on the flyways at night are very susceptible to tall lit buildings such as seen in huge bird kills in Chicago and Texas; however, Palo Alto does not have many tall buildings. Studies have shown that single-family homes with a lot of glass and vegetation have more bird collisions. The reason some cities exempted single-family homes is because there are not many solutions for bird safety such as premade windows. The first 60 feet are the most dangerous, so Ms. Kleinhaus did not recommend using Berkeley, San Francisco, or Cupertino's height exemptions.

Ms. Cha remarked that Berkeley's applicability is 35 to 75 feet. San Francisco has an exemption below 45 feet. The purpose of Palo Alto's ordinance is to protect the bird population and reduce mortality and collision. Products are not readily available for single-family homeowners. Staff referred to the CALGreen pilot program but is open for discussion as to what is the most appropriate height.

Chair Rosenberg asked if there was a count of how many birds are lost every year within Palo Alto. Ms. Kleinhaus answered that there is no way to determine that because it is rare to find a dead bird. Collisions occur very early in the morning when birds start foraging and animals such as cats, crows, gulls, raccoons, or possums pick up the dead birds before people see them. Studies done in Mountain View and San Francisco showed a substantial number of collisions. Chair Rosenberg was interested in hearing about Mountain View as it is more similar to Palo Alto. Ms. Kleinhaus spoke of a study on a commercial building in Mountain View mostly retrofitted with lines. Over 90 percent of bird collisions occurred within the first 60 feet in the areas with no lines. On the contrary, almost no collisions occurred where there were lines. One of those birds was a yellow warbler, a species of special concern. Ms. Kleinhaus did a study on a mirror-like commercial building that was very reflective. The building had surrounding fox territories and the scat of foxes was full of feathers.

Chair Rosenberg wanted to make sure the City was not putting undue burden for something that is unknown how great the problem is in Palo Alto. If the bird-safe glazing is effective and we do not have bird strikes, Chair Rosenberg wondered if foxes would starve because they cannot catch as many birds. Chair Rosenberg remarked that the Board is tasked with finding reasonable measures and is responsible

to reevaluate those measures to determine if something is not working or is placing undue burden on people who live and work in Palo Alto.

Board Member Adcock asked if Packet Page 148 regarding fenestration and glazing meant that film-type application is not allowed. Ms. Cha replied that staff is recommending permanent features due to the concern of decals or stickers being easily removed. Board Member Adcock pointed out that it is more difficult and expensive to obtain something permanent versus a more accessible frit-pattern film. Ms. Gerhardt remarked that the same standard applies when doing a privacy review on two-story houses. Board Member Hirsch suggested perhaps staff reconsider the possibility of allowing film. Board Member Adcock recommended a cost or area threshold; for example, a new 20,000 sf building requires a permanent feature but allow a film product for a 2000 sf addition.

On Staff Report Packet Page 139, Board Member Baltay noted a 2% to 10% estimated increased cost of a building, which is huge when you calculate a \$2M home is adding between \$40,000 and \$200,000 for glazing. Ms. Cha remarked that the 2% to 10% was based on staff's research of literature as well as information provided by Michael Baker International. Board Member Baltay stated that glazing is not widely used; however, obscured glass on a window is done at no extra cost. Chair Rosenberg pointed out that prices escalate when something is required.

At 12:14 PM, Chair Rosenberg left and handed the meeting over to Vice Chair Chen.

Based on her project experience, Board Member Adcock believed the 10% cost increase is likely for glazing, not for the entire project unless the whole building is glass. Board Member Adcock has noted a 10% increase when ordering regular glazing versus Number 3 surface fritted pattern. Board Member Baltay stated that customized glazing is needed for residential to meet this requirement. Board Member Adcock suggested allowing film for residential. Board Member Baltay agreed film is a good compromise. Board Member Hirsch advised staff to do more research on the increase of construction costs.

The proposed ordinance exempts 100% affordable housing. Vice Chair Chen thought it was not a pleasant experience to have all the glasses fritted or glazed for any housing project, including long-term care and multifamily. Fritted glass is okay for hotels because you do not have to see it every day. Board Member Baltay pointed out that Council asked the ARB for a professional opinion but the City Council makes the final decision.

For bird-sensitive area in Item B on Page 148, Board Member Baltay wanted a clear definition where the 300-foot measurement starts, if it is from the center or edge of the waterway. Ms. Cha explained that staff used whatever data was available when creating the map in Attachment E of the staff report. Creeks and watercourses were measured from the center line. Park and other water features were measured from the outer boundary. Once the ordinance is adopted, the map will be posted online for residents to determine if they are located in a bird-safe area. Board Member Baltay thought "open space" and "water feature" were too vague and suggested that staff provide a clear and simple delineation. For example, the City has standards applying to anything west of 280.

Board Member Hirsch wondered if dry periods affect the location of the bird population. Ms. Cha stated that is not her expertise. Board Member Baltay advised staff to make sure that Council understands the extent of staff time necessary to research information.

Board Member Baltay remarked that the ordinance was complex to require a percentage of the elevation that has to be treated. As a result, architects have to calculate percentages on every elevation of a building and document it to staff, which staff has to verify. Board Member Baltay suggested simplifying the standards to apply above or below a certain height instead of a percentage. Discussion amongst the Board ensued. Board Member Baltay stated it would add \$5000 of his staff's time to calculate and document percentages for a house. Board Member Baltay suggested a simpler regulation based on maximum dimensions for width, height, and area for untreated glass.

Ms. Cha asked for the Board's input on the three options for exemptions on Staff Report Page 140. Board Member Baltay was in favor of a regulation based on glass size. Board Member Adcock suggested applicability based on glazing percentage, and exemption based on square footage.

Ms. Cha referred the Board to Page 149, Section G.1, where it states if the building material is using a reflectance level that it should not be more than 20 percent, which can be expanded if the Board thought additional measures should be included. Board Member Baltay cautioned that reflectance of a material does not have a definition and could not be proven. Ms. Cha recalled the NVCAP Ad Hoc Committee's conclusion on bird-safe design was that some materials such as metals could create reflections and increase bird collisions, so staff added the provision in Section G.1. Ms. Gerhardt offered to clarify an LRV number. Board Member Baltay remarked that 20% LRV or below is very dark. Board Member Adcock agreed that LRV 20% was not correct. Ms. Cha asked if someone from Michael Baker could answer the question but there was no response. Ms. Cha explained that staff was trying to use an objective measure in the ordinance because the current code has subjective language stating "should not be highly reflective". Staff will review if it is feasible and applicable. Board Member Baltay pointed out that mostly windows kill birds, so the focus should be on large pieces of glass, especially ones you can see through. If buildings are being proposed with glass transom panels and mirrors, then the ordinance can be refined. Board Member Baltay advised keeping the ordinance simple will increase the likelihood of getting it passed and making a difference.

Vice Chair Chen invited Ms. Kleinhaus to comment. Ms. Kleinhaus stated that besides large surfaces of glass, the biggest problems are hazardous construction. For example, a wall around a patio with trees in it kills birds more than most other structures, so it needs to be retrofitted. Ms. Kleinhaus suggested having different applicability and solutions for offices, homes, and other construction. Wires kill birds but Ms. Kleinhaus did not know if the ordinance would include a bridge in Palo Alto that had wires. Ms. Kleinhaus is less concerned with metal walls. Staff's draft document includes hazardous examples such as transparent skyways, glass verandas, and greenhouses. The American Bird Conservancy tests materials to determine no more than 20% reflectivity. Many commercial buildings use materials that are 15% to 20% but Ms. Kleinhaus is not familiar with materials for homes.

Vice Chair Chen opened discussion on the definitions on Packet Page 138 to apply new standards to existing buildings. Board Member Baltay preferred "substantial remodel" because it has a clear definition with metrics. Board Member Adcock believed that "substantial remodel" 50/50/50 makes the most sense and stated her reasons for eliminating the other two choices. Board Member Hirsch agreed with Board Member Adcock.

Board Member Baltay suggested applying the regulations in the ordinance to a defined area of light sensitivity because there is a difference between a building downtown, a house with a street light in front of it, a building in the office park at Stanford, or a new house on Page Mill Road. Board Member Baltay opined that the light pollution problem is not addressed by regulating the type of front light fixtures somebody puts on their house on University Avenue.

Board Member Baltay suggested staff's definition of "fully shielded light fixture" be changed to "shielded." Board Member Baltay stated that many fixtures used on a wall cast an aura of light coming out all sides of it, which is a pleasing aesthetic. A security light it is usually angled at some degree with the light source deep within the cone to help focus the light, so it would not meet staff's definition of fully shielded. Board Member Baltay advised staff to find definitions by looking at codes for Los Altos Hills, Woodside, and Portola Valley. Ms. Gerhardt pointed out that security lights are listed in the exempt section. Board Member Baltay read security lights shall be fully shielded. Board Member Hirsch objects to fully shielded. Board Member Hirsch does not want lights eliminated that have a pinhole on top to provide a cone of light above because he thinks it is an attractive feature. Board Member Baltay remarked that fully shielded eliminates too much. Ms. Gerhardt explained that the fully shielded definition is very similar to the City of San Jose and many other cities. Board Member Adcock commented that the definition of light pollution is lighting upward without a cover above; therefore, a building overhang or part of the light fixture needs to shield it to prevent light pollution.

Board Member Baltay remarked that the proposed ordinance would require buildings to have a sophisticated automation system to turn off outdoor lights at 10 PM. Having a specific time is more complicated. When Board Member Baltay has presented customers with the option of a lighting control system costing between \$50,000 and \$80,000, customers decline that option and prefer a light switch on the wall. Board Member Baltay pointed out that energy efficiency in the building code requires every outdoor light fixture to have a photo sensor to avoid turning on during the daytime. Board Member Baltay stated that auto dealerships are gross violators of light pollution because they leave flood lights on all night long, which staff could address as a code enforcement issue. Board Member Baltay expressed concern with a code that does not allow residents to have outdoor parties past 10 PM. Ms. Cha replied that Section 4(a) on Page 144 states that lights should be fully extinguished by 10 PM or when people are no longer present in the exterior area.

Regarding Section F.1, Article 4, Board Member Baltay suggested staff may want to research if motion-activated security lights of 1600 lumens were bright enough. Ms. Cha stated that Section J on Page 147 stated if any public facility requires a deviation from these standards, they would have to meet the objective or intent of the ordinance but the Director might have some discretion to allow some deviations for different levels of brightness.

Board Member Adcock noted that Packet Page 147, Item 4, limited seasonal lights to October 15-January 15; however, another city starts in November, so she asked staff to verify to make it consistent with cities adjacent to Palo Alto. Ms. Cha explained that staff chose October to include Halloween but they can look at other cities and make it consistent.

Board Member Baltay supported the 3000 kelvin cutoff, 2700 is too warm and 4000 is too much. Board Member Adcock's main concern is the availability of fixtures with kelvin lower than 3000. A public

commenter mentioned that wildlife is more sensitive to 3000 versus 2700 kelvin, so Board Member Adcock wanted to ensure that staff follows through to confirm.

Ms. Cha stated that staff will revise the draft ordinance based on the feedback received today and will present the revised version to the PTC on August 14. Staff does not plan to return to the ARB. Vice Chair Chen stated this item was a study session, so there is no vote.

#### **Approval of Minutes**

##### **4. Draft Architectural Review Board Meeting Minutes for February 29, 2024**

Vice Chair Chen asked the Board to make a motion if there were no changes or comments.

**MOTION:** Board Member Adcock moved to approve the minutes as presented. Board Member Baltay seconded the motion.

**VOTE:** Passed 4-0-1. Chair Rosenberg absent.

##### **5. Draft Architectural Review Board Meeting Minutes for March 7, 2024**

Vice Chair Chen asked the Board to make a motion if there were no changes or comments. Board Member Hirsch noted in the middle of Page 167 it stated that Mr. Muir presented the 3265 Real project, which he thinks is El Camino Real. Staff will correct the minutes.

**MOTION:** Board Member Baltay moved to approve the minutes as presented with the correction by Board Member Hirsch. Board Member Hirsch seconded.

**VOTE:** Passed 4-0-1. Chair Rosenberg absent.

Ms. Gerhardt clarified that Board Member Hirsch's requested correction was for the first set of minutes.

#### **Adjournment**

Vice Chair Chen adjourned the meeting at 1:05 PM.