

**Planning Department  
Issue-Response Memorandum to PZC  
December 6, 2021**

**Title 21 Text Amendment to R-2 Zones  
Height and Bulk Standards**

**PZC Case No. 2021-0111**

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# Municipality of Anchorage

## Planning Department

### Memorandum



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**Date:** December 6, 2021

**To:** Planning and Zoning Commission

**Thru:**  Michelle J. McNulty, AICP, Director

**Thru:**  Kristine Bunnell, Long-Range Planning Manager

**From:**  Tom Davis, AICP, Senior Planner, Long-Range Planning Division

**Subject:** Case 2021-0111, Title 21 Text Amendment to R-2 Zoning Districts Height and Bulk Standards: Comment/Issue-Response Summary

This memo provides Planning Department responses to comments and questions raised by the public and the Planning and Zoning Commissioners regarding the Public Hearing Draft amendments to the building height and bulk regulations in the R-2 districts. These include:

- The written comments provided to the Planning and Zoning Commission in Supplementary Packet #1 on November 1, 2021, from:
  - South Addition Community Council
  - Carolyn Ramsey, President of Airport Heights Community Council
- November 1 public hearing testimony from John Thurber, representing South Addition Community Council.
- Questions from Commissioners during the November 1 work session and regular meeting.

The table on the following pages summarizes each issue referencing the sources above and then provides the staff response and recommendations for each issue. The table references the Public Hearing Draft code amendment language in *Attachment 3: Annotated Public Hearing Draft Title 21 Amendment Language* (November 1 packet for Case 2021-0111).

The recommendations in the following issue-response table are in addition to the Department's review and recommended edits to the Public Hearing Draft, which are provided separately in the November 1 staff report (pages 8-9 of November 1 packet for Case 2021-0111). The issue-responses below do not affect or modify the Department's recommended edits from November 1.

The issue-responses on the following pages are organized into three groups:

- A. Issues Regarding Allowing 3-Story Buildings By-Right and Housing Density (pp. 2-3)
- B. Issues Regarding Administrative Site Plan Review Process and Criteria (pp. 4-7)
- C. Issues Regarding the Height of Rooftop Appurtenances (pp. 7-9)

## A. Issues Regarding Allowing 3-Story Buildings By-Right and Housing Density

### Issue #1: Minimum Lot Size Threshold for Allowing 3-Story Buildings By-Right

SACC supports the inclusion of a minimum lot size threshold for allowing 3-story buildings by-right. However, the proposed half-acre minimum lot size threshold should be increased in the traditional urban neighborhood context of South Addition to protect the unique old-school/traditional development pattern. Increase the minimum lot size to a half-block or larger to ensure the 3-story development will be surrounded by public rights-of-way to remove adverse effects on neighboring parcels. A half-block minimum size is more likely to result in good design, thoughtful site layout, and compatible development that preserves the South Addition neighborhood character. (*SACC written comment #1*)

3-story buildings in R-2 zones are not compatible with the character of South Addition. We have seen impacts of 3-story buildings in R-3 zoned portions of South Addition: the 3-story buildings replace modest, more affordable housing units with large luxury dwelling units. Taller buildings also affect sunlight access. One third of the residents who commented on South Addition's draft neighborhood plan voiced concerns about the potential loss of sunlight from taller buildings. There is limited R-2 zoned land available for housing development in urban neighborhoods like South Addition. There is much more R-2 zoned land available elsewhere in town for 3-story housing development. SACC is developing a neighborhood plan that will include building compatibility standards that recognize the neighborhood's valued characteristics. South Addition would appreciate a temporary exemption from the 3-story entitlement until it can bring forward that neighborhood plan. (*John Thurber in public hearing testimony representing SACC*)

**Response:** Staff recognizes that increasing the minimum lot size from ½ acre (about 3 to 4 South Addition lots) to a half-block (approximately 6 lots or 1-acre) in South Addition would result in the loss of very few existing, developable tracts for 3-story homes. Map 2 on page 7 of the November 1 staff report, excerpted at right, indicates there are only 6 lots between ½ acre and 1 acre in size (shown in orange), in the traditional urban neighborhood portion of South Addition primarily east of L Street. However, lack of developable ½-acre sites is not a basis for exempting a specific neighborhood. Parts of other neighborhoods around town also have small lot sizes and few ½-acre buildable sites.



Likewise, existing 1- and 2-story buildings in an R-2 zone are not unique to South Addition. Although the *Anchorage Original Neighborhoods Historic Preservation Plan (ONHPP)* recognizes that South Addition has a unique and historic neighborhood character, its policies and strategies direct that any neighborhood-specific design guidelines and zoning policies be developed as part of the creation of a South Addition historic district or overlay zone. A Neighborhood Plan, when adopted, could also establish tailored design guidelines for developing area-specific zoning regulations. However, the Planning Department cannot presuppose the outcome of a historic district or a neighborhood plan that has not yet been adopted, and it would be inappropriate to exempt one neighborhood from an area-wide zoning standard.

**RECOMMENDATION:** No change.

### Issue #2: Location of Transitions to Higher-Intensity Zoning Districts

SACC supports the concept and intent of allowing 3-story buildings by-right in transitional sites that abut more intensive commercial and multifamily zoning districts. However, the implementation of this strategy in South Addition needs revision. B-1A zoning districts are not appropriate triggers for transitional sites. It is difficult to identify where those transitional sites are in one's neighborhood without a map or more descriptive definition. The neighborhood has asked for a map of such areas for South Addition, so its

residents could understand the impacts of this amendment. The transition development tool seems more appropriate to the more extensive R-2 zoned areas outside of South Addition because development patterns in South Addition do not offer transition areas. (*SACC written comment #2; John Thurber testimony*)

**Response:** The Planning Department recognizes the concern with allowing 3-story buildings as height transitions to the B-1A district. The Department’s November 1 staff report addresses the concern and clarifies the location of transition lots. Specifically, staff report recommendation #2 (page 8 in the November 1 case packet) provides the recommended edits and further discussion.

**RECOMMENDATION:** Move forward with the Department staff report recommendation #2 to modify the Public Hearing Draft to clarify the list of higher-intensity districts that create a height transition and leave out the B-1A district, as provided on page 8 of the November 1 case packet.

**Issue #3: R-2 Parcel Utilization and Housing Density Trends**

Is there data available regarding the utilization and density of development in the individual R-2A, R-2D, and R-2M districts, both recently and historically to show how that has changed? (*Commissioner Gardner*)

**Response:** The table below summarizes the residential density of developed lots in each of the R-2 zoning districts, as found in the *Anchorage 2040 Land Use Plan* housing capacity analysis. The second column of the table shows the average density per net acre on a parcel of land for all existing residentially developed building stock as of January 1, 2016.

<b>Density of Residentially Developed R-2A, R-2D, and R-2M Lots, in Dwelling Units Per Net Acre (DUA), Anchorage Bowl, 2016; including parcels zoned with Special Limitations (SLs)</b>			
Zoning District	Average Density of all Residentially Developed Lots	Average Density of Recently Developed Lots (2000-2015)	Maximum Allowed Density based on Lot Size Requirements, by Use
R-2A (3,284 lots developed)	6.0 DUA	5.3 DUA	6.0 DUA (detached home) 10.5 DUA (duplex)
R-2D (1,798 lots developed)	7.9 DUA	7.8 DUA	7.3 DUA (detached home) 14.5 DUA (duplex)
R-2M (7,056 lots developed)	9.1 DUA	9.7 DUA	7.3 DUA (detached home) 14.5 DUA (duplex) 17.4 DUA (8 MF units) 18+ DUA (16+ MF units)

Both historical and more recent development have underutilized R-2 zoned parcels as compared to maximum number of housing units and densities per acre that these zoning districts allow per lot size. Achieved densities tend to be a little more than half the maximum allowed densities. This probably reflects that many lots are developed with single-family homes instead of the duplexes allowed by-right, as well as lot sizes that may exceed the minimum allowed lot size. In the R-2M zone, this also indicates longstanding development trends favoring single-family homes and duplexes on lots large enough to allow three or more multifamily dwellings. More recently, in 2018, the Department found that, in the five years between 2013 to 2017, most of the new units in the R-2M zone were duplexes. This indicates that densities in the R-2M district have remained below the 17-18 DUA maximum allowed density in the R-2M zone.

**RECOMMENDATION:** No change.

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## **B. Issues Regarding Administrative Site Plan Review Process and Approval Criteria**

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### **Issue #4: Administrative Site Plan Review Procedure without Public Input**

Allowing exceptions for 3-story buildings is necessary in some cases. However, SACC is concerned about Administrative Site Plan Review as the procedure for allowing 3-story buildings anywhere in the neighborhood. It allows the potential for more intrusive development and adverse changes in the traditional pattern of development. Administrative Site Plan review is not a public process. It allows an exception on any lot subject to discretionary approval by the Planning Director, without public input. This procedure places an undue burden on the Planning Department by having to review and decide for each case without the benefit of public input, advice, or information. The exemption process should be changed to a public hearing site plan review. (*SACC written comment #3; John Thurber testimony on behalf of SACC*)

**Response:** Site Plan Review allows the flexibility to address site-specific circumstances while meeting the intent of the code and the policies of the Comprehensive Plan. Administrative Site Plan Review does not place an unusual burden to the Planning Department; it is one of the services that the Planning Department provides as set forth in Title 21. Each Administrative Site Plan Review case is given a case file that is available to the public. The Department's evaluation of the proposed site plan and design against the approval criteria is documented in the case file.

Administrative site plan review is more costly and time consuming for applicants than a by-right building/land use permit. (Page 2 of the November 1 staff report lists fees, timeframes, notice to Community Councils, etc.) Builders who wish to use this process will need to invest in more thoughtful site planning and design. A Major Site Plan Review, which requires a public hearing, would add more costs and time out of proportion to the 3-story building request and raising a prohibitive barrier.

The Planning Department acknowledges the concerns about the generalized language of the public hearing draft site plan approval criteria. See issue-responses #5 and #6 below regarding clarifications to the approval criteria to reduce the potential differences in interpretation of approval criteria.

**RECOMMENDATION:** No change to the proposed code text amendments: Move forward with allowing for 3-story buildings on most lots in R-2 zones through Administrative Site Plan Review approval process.

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### **Issue #5: Administrative Site Plan Review Allowing More Intrusive 3-Story Buildings in Middle of R-2 Neighborhoods than the 3-Story Buildings to be Allowed By-Right on Neighborhood Periphery**

SACC is concerned about the Administrative Site Plan Review exception process for allowing 3-story buildings anywhere in the neighborhood, in part because it allows the potential for more intrusive development and adverse changes in the traditional pattern of development (*John Thurber public hearing testimony on behalf of SACC*)

Because the Administrative Site Plan Review approval criteria in 21.06.030D.7.e. are discretionary and subject to interpretation, it is not clear if the Administrative Site Plan Review can ensure the 3-story building meets the even the minimum step-back standard in 21.06.030D.7.c. that applies to the by-right 3-story buildings. For sites that do not meet the parcel size or location criteria for allowing 3-story buildings by-right, will Administrative Site Plan Review subject 3-story buildings to the minimum height/bulk transition standard that applies to by-right 3-story buildings? It is a concern if the Administrative Site Plan Review approval criteria were to allow more intrusive 3-story development in the middle of R-2 neighborhoods than what will be allowed for by-right 3-story buildings on large lots and transition sites. (*Commissioner Bailey; Commissioner Gardner*)

**Response:** The generally applicable Administrative Site Plan Review procedure in Title 21 requires a development to meet the underlying zoning regulations and provide additional mitigation or features to meet the discretionary (Site Plan Review) approval criteria.

However, the public hearing draft *Three-story Entitlements through Administrative Site Plan Review* in the proposed section 21.06.030D.7. inadvertently did not state that the step-back standard that applies to by-right 3-story buildings is also a minimum baseline standard for 3-story buildings approved through the Administrative Site Plan Review.

The by-right height/bulk transition standards and exceptions proposed in subsections 21.07.030D.7.c. and d. will be the minimum baseline guidelines that developments should meet as part of conforming to the Administrative Site Plan Review approval criteria i. and ii. in subsection 21.07.030D.e. The addition of a sentence to convey this expectation could clarify for both applicants and review staff, while also leaving the applicant with the flexibility to propose site-specific alternatives that are equivalent and still meet the intent.

**RECOMMENDATION:** Clarify the public hearing draft subsection 21.06.030D.7.e., *Three-Story Entitlement through Administrative Site Plan Review* (Page 65, lines 10-14 in Attachment 3 in the November 1 case packet), to state that the height/bulk transition standards for by-right 3-story buildings must be met, and the underlying zoning district regulations of Title 21 must also be met, as follows:

**e. Three-story Entitlement through Administrative Site Plan Review**

Developments on sites that do not meet the criteria in 21.06.030D.7.b. may propose to exceed the two-and-one-half story limit through the administrative site plan review process in 21.03.180, subject to the following set of approval criteria, and provided the height/bulk transition standards in 21.06.030D.7.c. and d. are met. The following approval criteria apply instead of the generally applicable site plan review approval criteria in 21.03.180F., in order to limit the scope of design characteristics to be reviewed and provided clearer criteria:

- i. The site plan is consistent with any previously approved subdivision plat, planned development master plan, or any other precedent plan or land use approval.
- ii. The site plan complies with all applicable development standards set forth in this title.

*(Renumber public hearing draft approval criteria i. through iv.)*

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**Issue #6: Unclear Interpretation of Administrative Site Plan Review Approval Criteria**

The public hearing draft Administrative Site Plan Review criteria in public hearing draft section 21.06.030D.7.e. are unclear and subject to varying interpretations. Could staff provide some suggestions on how the criteria for compatibility be made more specific? Approval criteria i. and ii. use the word “compatible” as a standard. The applicant, Planning Department, and the community in the neighborhood can have different, opposing interpretations of the word “compatible” and whether a proposed development is “compatible” with its neighbors. What is the quantitative trigger for determining if a development has a building height, width, or length that is compatible with its neighbors? *(Commissioner Bailey, Commissioner Gardner; Commissioner Krishna)*

What is meant by the term “minimizing” in approval criteria iii. and iv.? The term “minimizing” in proposed approval criteria iii. and iv. could convey that the approval criteria are very stringent. The word “minimizing” could mean reducing something to zero unless there is an explanation that it means otherwise. Do approval criteria iii. and iv. mean that exterior motel-style stairs to second-story entries are not allowed, and that there shall be no disruptions caused by 3-stories to the privacy and outdoor use of adjacent properties? *(Commissioner Gardner)*

Could staff clarify what is meant by the difference in wording between approval criteria i. and ii., which are both about compatible building scale? Approval criteria i. calls for 3-story buildings to be compatible with the scale of adjacent properties. Approval criteria ii. calls for a 3-story building that “compliments or transitions to the scale of single-family and two-family development anticipated by the R-2 zoning for the area. Does the word “anticipated” mean to look at neighboring development that is anticipated in the future or that is currently in place? *(Commissioner Gardner)*

The first approval criteria i. seems to provide be the kind of standard that South Addition Community Council would want to have and support, especially if a neighborhood plan were adopted that provided guidelines for compatibility. The approval criteria seems to offer protections, especially if there is a neighborhood plan adopted. (*Commissioner Spinelli*)

**Response:** Approval criteria for site plan reviews and conditional uses are discretionary so they have no quantitative triggers or standards. If they did, these would not be discretionary approval procedures, and would be administered as a by-right land use permit review like any other Title 21 regulation.

The use of “compatible,” in combination with the other directives within the public hearing draft approval criteria i. and ii., provide adequate guidance for a discretionary review, and leave necessary flexibility to address the circumstances of each site. “Compatible” is defined in 21.15.040D. as follows:

**Compatible (or Compatibility)**

The characteristics of different uses, activities, or designs which allow them to be located near or next to each other in harmony. Some elements affecting compatibility include the height, scale, mass, bulk, and setbacks of structures. Other characteristics include traffic, parking, access and circulation, landscaping and buffering, drainage and storm water runoff, exterior lighting, dust, noise, hours of operation, and demand on public facilities and services. Compatible does not necessarily mean “the same as.” Rather, compatibility refers to the sensitivity of development proposals in maintaining the character of the surrounding context and avoiding adverse impacts on neighboring uses.

“Minimize” means to reduce to the least quantity possible. In approval criteria iii., minimizing exterior stairs (motel-style) to second story front entries means to avoid them as much as possible. However, it allows for cases where exterior stairs might be present based on site-specific circumstances.

Approval criteria iv., minimizing disruptions caused by third stories to the privacy and outdoor activities on adjacent properties, is a stringent standard. In review of this language, it could be difficult for a 3-story deck or room with windows to “minimize” disruptions to privacy or use of a backyard. A potential alternative word, “mitigate,” means to mollify or cause to become less severe, and could be a more appropriate word for approval criteria iv.

**RECOMMENDATION:** Clarify the wording of the public hearing draft approval criteria 21.06.030D.7.e.ii. and iv. (Page 65, in Attachment 3), as follows:

1. In criteria ii., on line 22, delete the words, “anticipated by the R-2 zoning for the area”.
2. In criteria iv., on line 30, change the words “minimizes disruptions” to “mitigate disruptions”.

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**Issue #7: Role of a Neighborhood Plan in Administrative Site Plan Review Approvals**

Would a neighborhood plan help protect the neighborhood? If a neighborhood plan was adopted and it included design guidelines regarding 3-story houses, would that neighborhood plan play into the *3-Story Entitlement through Administrative Site Plan Review* in the public hearing draft? (*Commissioner Spinelli*)

SACC does not yet have a neighborhood plan but is currently developing one. A neighborhood plan for South Addition will be likely to include neighborhood-specific building compatibility standards. Those could be a tool by which to measure a proposed development against in an Administrative Site Plan Review. But South Addition does not have such compatibility standards available yet. Until South Addition can complete a neighborhood plan, the neighborhood is vulnerable under the generalized Administrative Site Plan Review criteria. South Addition is currently addressing review comments from the Planning Department on its initial draft plan. SACC will then determine how to move forward and create a revised draft neighborhood plan. There is a lot of work left to do to finalize the plan. South Addition would appreciate a temporary exemption from the 3-story entitlement until it can bring forward that neighborhood plan. (*John Thurber testimony on behalf of SACC*)

**Response:** The Planning Department cannot presuppose the outcome of a neighborhood plan for South Addition not yet adopted, and it would be inappropriate to exempt one neighborhood from an area-wide zoning standard. In response to the Commissioner's question: Once adopted by the Assembly, a neighborhood plan element of the *Comprehensive Plan* can include neighborhood-specific design guidelines could apply to developments undergoing discretionary review procedures in Title 21. For example, the Administrative Site Plan Review approval procedures in Chapter 21.03 include approval criteria that the development must be consistent with the *Comprehensive Plan*.

However, the public hearing draft Administrative Site Plan approval criteria in 21.06.030D.7.e. are proposed to replace the generally applicable Administrative Site Plan review criteria. The public hearing draft replacement criteria do not require consistency with the *Comprehensive Plan*. The Department has reevaluated that and on page 9 of the staff report recommends edit #5 to add a criteria that the development must consider area-specific plans that have policies or guidelines for building massing and height.

**RECOMMENDATION:** Move forward with November 1 Department staff report recommendation #5 on page 9 of the November 1 packet, to modify the public hearing draft by adding another approval criteria to 21.06.030D.7.e., regarding conformance to neighborhood plans. No other changes.

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### C. Issues Regarding the Height of Rooftop Appurtenances

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#### **Issue #8: How the Step-Back Plane Would Affect 2-Story Buildings and their Rooftop Enclosures**

Do rooftop access enclosures need to adhere to the step-back plane? Also, please clarify if the proposed code amendment is more restrictive than current code with respect to 2-story building height and the height of rooftop enclosures and other projections on 2-story buildings? It would be helpful to see graphics that show how the proposed step-back plane requirement would change the step-back plane for common building styles and projections allowed today, comparing what is allowed and built under current code to the public hearing draft amendments. Are there common (*Commissioner Gardner; Commissioner Spinelli*)

**Response:** Staff misspoke at the November 1 Commission meeting while responding to this question of how the proposed height step-backs would affect 2-story buildings and building projections allowed under current code. As a correction to that answer, the public hearing draft step-back requirements on pages 61 and 63 would NOT apply to 2-story buildings at all. The proposed step-back requirement also does not apply to rooftop appurtenances atop the 2-story buildings. Two-story buildings and their rooftop stairwells will be unaffected by the proposed 3-story height step-backs. The proposed step-back requirement applies only to the newly entitled 3-story buildings under the public hearing draft amendments subsection 21.06.030D.7., *Three-story Entitlement in R-2A, R-2D, and R-2M Zoning Districts*.

The proposed amendments do reduce the maximum height exceptions for all rooftop appurtenances that project above the 30-foot height limit in the R-2 zones. The maximum height exception above the 30-foot height limit for stairwells is reduced from 15 to 12 feet. The maximum height exception above the 30-foot height limit for elevator access enclosures is reduced from 25 feet to 18 feet. These reductions are unlikely to have a constraining effect on rooftop access enclosures. The proposed 15-foot and 18-foot height exceptions for stairwells and elevator towers were researched and calibrated to accommodate the functional needs of access enclosures. For example, the types of elevator models used in 3-story buildings are anticipated to continue to need only 16-17 feet of clearance above a rooftop deck.

Another change to the rooftop enclosure height exceptions is the recommended new subsection 21.06.030D.6.c.v. (page 55, lines 44-46 of Attachment 3 in the November 1 case packet) which will require rooftop enclosures above the 30-foot height limit to be stepped back at least 4 feet from the perimeter of street-facing building façade walls. However, current code does not allow 3-story buildings, so it is uncommon under current code to have a 30-foot rooftop deck in the first place, where rooftop access enclosures could project as far above grade, atop a 30-foot building, as they are likely to project under the

public hearing draft amendments. A 2-story building with tall ceilings plus a daylight basement may have a rooftop deck as high as 24 to 28 feet above grade, but only under the proposed amendments are 30-foot rooftop decks likely to become more common.

**RECOMMENDATION:** No changes.

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**Issue #9: Propose Side-Yard Step-Backs for Rooftop Stairwell and Elevator Access Enclosures**

Airport Heights Community Council recommends to modify the public hearing draft proposed step-back for rooftop access enclosures from the front building façade wall (Subsection 21.06.030D.6.c.v. in Attachment 3, page 55, lines 44-46 in the November 1 case packet), by adding a requirement that rooftop stairwell and elevator access enclosures that exceed the 30-foot height limit in the R-2 zones must be set back at least four feet from the south-southwest exterior wall of the structure if there is an existing residential structure to the south-southwest of the project that is at least one story shorter than the proposed construction.

Airport Heights is impacted by potential 3-story buildings because it is partly zoned R-2D. Most homes and duplexes in Airport Heights are single-story with some daylight basements. Airport Heights was the first neighborhood to participate in the *Solarize Anchorage* project where 33 homes installed solar PV on their rooftops in 2018. Airport Heights is also home to multiple gardeners who help provide food sustainability to the neighborhood. Inadequate building setbacks and height limits reduce solar access to PV energy systems, yards, and gardening, and impact the property value, condition, and enjoyment of property. Rooftop access enclosures have become more common in new construction to skirt height limits and add additional closet, reading nook, or storage space to a structure at the expense of diminishing solar access for existing surrounding properties. (*Carolyn Ramsey/Airport Heights Community Council*)

**Response:** For 3-story buildings, the public hearing draft R-2 height amendments will require rooftop stairwell and elevator access enclosures and parapet walls on 3-story buildings to adhere to the transition in height to neighboring properties. The recommended building height transition is shown in Section 21.06.030D.7.c.i. (Attachment 3, page 61, lines 9-18 in the November 1 PZC case packet). Rooftop enclosures and parapets will be subject to this step-back requirement in Section 21.076.030D.7.d.iii. (Attachment 3, page 63, lines 13-15 and illustration). The step-back requirement applies to the property's side and rear lot lines where adjacent to other residential properties—including properties to the south, southwest, etc. The geometry of the step-back plane requirement (measured from 20 feet above the lot line and inclining over the development lot at an 8:12 rise-to-run angle) is such that a typical rooftop stairwell enclosure atop a 30-foot building would need to be set back approximately 33 feet from the site's side and rear lot lines adjacent to other residential properties. Requiring an additional step-back of four feet from the side building wall would seem to be redundant to and unnecessarily compound the 3-story building step-back recommended in the public hearing draft.

On 2-story buildings, the public hearing draft amendments to not require a step-back for rooftop stairwell and elevator access enclosures. The Department acknowledges that, under both current and proposed code, on a 2-story building, the top of the rooftop access enclosure will exceed the 30-foot height limit in the district, as a height exception; so that a rooftop stairwell could rise 12 feet above the 20-foot rooftop deck of a 2-story building, creating a 32-foot sidewall located at the 5-foot setback from the adjoining property. The public hearing draft proposed 4-foot step-back from the perimeter of street-facing building façade walls applies to rooftop enclosures on any residence, including 2-story residences, in Section 21.06.030D.6.c.v. (Page 55, lines 44-46 of the case packet). This recommendation in the public hearing draft is in response to the emerging impacts of stairwell access enclosures on buildings less than 3-stories tall in the R-2 zones.

**RECOMMENDATION:** No changes.

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**Issue #10: Absolute Maximum Height, including All Building Elements and Rooftop Enclosures**

Was an absolute maximum height including all building elements and appurtenances considered in developing the public hearing draft? (*Commissioner Bailey*)

**Response:** The combination of the 30-foot height limit for the main roof structure, plus the specific limits to how high rooftop enclosures may exceed the height limit (as discussed in Issue 7), effectively creates an absolute overall height limit. This reflects an almost universal practice for local zoning ordinances to break out the maximum height of rooftop appurtenances from the maximum allowed height of the main building form. The public hearing draft height step-back plane proposed for 3-story buildings will establish additional limitations for the height of the entire building envelope (3-D space) next to adjacent residences.

The combined height limit of 30 feet for the building, plus an additional 12 feet for rooftop stairwells, or 18 feet for rooftop elevator access enclosures, is based on a policy choice to *limit the height of rooftop stairwells and elevator towers as much as possible while still allowing enough height for 3-story rooftop access from both stairwells and elevator towers.*

**RECOMMENDATION:** No changes.

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**Issue #11: Potential Loophole in Open and Transparent Railings Definition**

The proposed new Title 21 term and definition “Open or Transparent Railing,” which is intended to define the characteristics of safety railings that will be allowed to extend more than 2 feet above the 30-foot rooftop height limit, indicates a minimum 65 percentage of its surface area to be “transparent or open area.” Does that 65 percent apply over the whole of the railing surface area? It seems as if the definition may enable applicants to consolidate the required amount of transparent/open surface area into large chunks, leaving other sections of the railing opaque. Would breaking that down a bit more in the definition help ensure that the transparent area is evenly distributed? (*Commissioner Gardner*)

**Response:** The draft definition for “Railing, Open or Transparent,” is found on page 69 of the case packet, in Subsection 21.15.040D. in the Attachment 3. The minimum requirement for 65 percent of the railing’s vertical surface area to be either open space or transparent panels between balusters is the result of design testing by private sector architects/landscape architects for practicality and effect. However, the definition’s language did not anticipate the possibility of consolidating open/transparent areas and so does not specify the frequency or distribution of the transparent or open surface across the length of the railing.

In review of the definition text and the graphic, it appears the text does leave open the possibility that a developer or contractor could group the transparent parts of a railing in one area, leaving the opaque sections shading the neighbors in another section. This may happen due to designing to frame a view or as a cost-cutting measure. Transparent panels are expensive, so someone may try to use transparent panels in “showy” areas, leaving opaque/cheaper panels for the less visible parts of the railing.

**RECOMMENDATION:** Modify the public hearing draft definition for “Railing, Open or Transparent” in Subsection 21.15.040D. as follows:

**Railing, Open or Transparent**

Any railing [TREATMENT] that is comprised of clear glass, similar transparent materials, and/or opening (i.e., empty spaces) between materials used in its construction, for at least 65 percent of its vertical surface area per railing panel.

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