



**DATE:** November 13, 2018

**CATEGORY:** Public Hearing

**DEPT.:** Community Development

**TITLE:** **Updates to the Gatekeeper Process and Public Hearing Noticing Requirements**

### **RECOMMENDATION**

Introduce an Ordinance Amending Sections of Chapter 36 of the Mountain View City Code Related to the Gatekeeper Process of Division 12 and Division 13 of Article XVI and Public Hearing Noticing Requirements of Division 16 of Article XVI, to be read in title only, further reading waived, and set a second reading for November 27, 2018 (Attachment 1 to the Council report).

### **BACKGROUND**

Staff is proposing amendments to the General Plan and Zoning Amendment sections of the Zoning Ordinance (commonly referred to as the “Gatekeeper process”) and expanded noticing requirements as directed by Council.

### **Prior Hearings and Meetings**

#### *City Council*

On March 27, 2018, the City Council adopted an ordinance related to an update of the Gatekeeper process and other minor Code amendments (see Attachment 2—[City Council Report—March 27, 2018](#)). The ordinance was amended per the City Council’s direction to exempt project sites with more than one (1) zoning district, under two (2) acres in total size, and owned by a single entity, if the proposed change is consistent with one of the site’s existing land use designations or land use types from the Gatekeeper process. At this hearing, Council requested that staff return in the fall with additional draft Code amendments related to expanded noticing procedures and timelines for all public hearings, not just Gatekeepers.

At the second reading of the Ordinance on April 24, 2018, after additional public comment and Council discussion, Council directed staff to study and bring back

additional Gatekeeper exemption options for consideration in the fall pertaining to project sites less than two (2) acres in size and proposed for industrial to residential conversion. Staff has studied options for an additional Gatekeeper exemption and has provided a recommendation for an additional exemption, which is discussed in the Analysis section of this report.

### *Environmental Planning Commission*

On September 5, 2018, the Environmental Planning Commission (EPC) held a public hearing to discuss staff's proposed updates to the Gatekeeper process and noticing requirements (see Attachment 3—Environmental Planning Commission Staff Report—September 5, 2018).

The EPC unanimously voted to recommend approval of the expanded noticing requirements but did not support the additional Gatekeeper exemption. The EPC expressed reservations for loss of industrial zoned land with the conversions facilitated through the proposed exemption. They also expressed concern with the encroachment of residential areas into the industrial zones as it becomes challenging to allow the uses which are allowed only in industrial zones to operate in close proximity to residential uses.

## **ANALYSIS**

In response to Council's direction at the March 27, 2018 and April 24, 2018 hearings, staff proposes the following amendments to the Gatekeeper process and public hearing noticing requirements. A summary of these amendments can be found in Attachment 4—Summary of Draft Amendments.

### **Noticing Requirements**

The current public hearing noticing requirements require a written notice be mailed to property owners within a three hundred foot (300') radius of the project site a minimum of ten (10) days before the hearing. Based on Council direction, staff has prepared draft amendments which would require a notice be mailed to all property owners and tenants within a five hundred foot (500') radius for project sites less than two (2) acres and seven hundred fifty foot (750') radius for project sites greater than two (2) acres. This would be the requirement for all public hearings, including Administrative Zoning, Environmental Planning Commission, and City Council hearings.

Staff analyzed the potential costs associated with the increased noticing and found that the average total cost per project for a 300' notice is \$275, not counting staff time. This

cost varies depending on the location of the project site in the City and how many properties surround it. If the noticing radius is increased, the total average noticing cost per project for a 500' radius is estimated to be \$400, and \$570 for a 750' notice. Noticing costs are billed to project applicants as part of their cost recovery accounts or are inclusive of the standard application filing fees.

Staff does not recommend increasing the noticing period from 10 days to 14 days, and this change is not included in the draft amendments. In staff's experience, the 10-day noticing time is appropriate for noticing and has been effective in allowing adequate time for notification to residents of hearing dates, and an increase to this timeline will reduce the expeditious scheduling of projects for public hearings.

### **Gatekeeper Exemption**

Based on additional Council direction at the April 2018 Ordinance hearing, staff proposes an additional Gatekeeper exemption that would be applicable to industrial parcels less than two (2) acres in size, that abut an existing residentially zoned parcel, and that are proposed for conversion to a residential land use. This is different than the recently adopted Gatekeeper exemption that pertains specifically to split-zoned properties less than two (2) acres in size and that propose to change to one of the site's existing land use designations or types.

Exemptions to the Gatekeeper process do not exempt applicants from the Zoning Map Amendment or General Plan Land Use Designation Amendment processes which go through a planning permit and review process, including a public hearing with the Environmental Planning Commission and City Council for decision. These exemptions only allow applicants to proceed with a Planning application for these changes without the Gatekeeper hearing and would still need to meet all the City requirements and public hearing procedures for the amendment(s) and associated development project.

As noted earlier in this Staff Report, the EPC by a vote of 4-2, did not support this additional Gatekeeper exemption.

### **FISCAL IMPACT**

Modest increase in time to do expanded noticing and cost which would be recouped from the project applicants. An exemption from the Gatekeeper process might require additional staff resources to process a project with a Zoning or General Plan Amendment without an early indication of Council support from a Gatekeeper review.

## **CONCLUSION**

The proposed amendments are intended to update the Gatekeeper process based on previous Council direction and provide greater transparency to the public hearing process.

## **ALTERNATIVES**

1. Adopt the proposed ordinance with modified amendments to Chapter 36.
2. Do not adopt the proposed ordinance and retain the existing Chapter 36.
3. Provide other direction to staff.

## **PUBLIC NOTICING**

Agenda posting, newspaper publication, and a copy of the report on the City website.

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807-11-13-18CR

- Attachments:
1. Draft Ordinance with Zoning Ordinance Amendments
  2. [City Council Report – March 27, 2018](#)
  3. [Environmental Planning Commission Staff Report – September 5, 2018](#)
  4. Summary of Draft Amendments