

## CITY OF MOUNTAIN VIEW

ENVIRONMENTAL PLANNING COMMISSION  
STAFF REPORT  
NOVEMBER 1, 2023

### 6. PUBLIC HEARINGS

#### 6.1 Request for Amendments to Chapter 36 (Zoning) of the City Code

#### RECOMMENDATION

That the Environmental Planning Commission recommend the City Council:

1. Find the proposed amendments to Chapter 36 (Zoning) of the Mountain View City Code to be exempt under the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061, subsections (b)(1) through (b)(3), as the amendments are to align with State legislation, implement adopted Housing Element programs, relate to ministerial activities otherwise categorically exempt under the CEQA Guidelines, and are otherwise covered by the common-sense exemption that the amendments will not result in a significant effect on the environment.
2. Adopt an Ordinance of the City of Mountain View Amending Chapter 36 (Zoning) of the City Code to Align with Recently Enacted State Law and to Implement 2023-2031 Housing Element Programs, Including Updates to Accessory Dwelling Unit and Junior Accessory Dwelling Unit Regulations, the Land Use Table and Development Standards in Residential, Commercial and Industrial Zones Related to Low Barrier Navigation Centers, Child Day Care, Employee Housing and Other Residential Uses, and Parking Requirements, and Provisions for Micro-Enterprise Home Kitchen Operations and Hydrogen Fuel Stations; to Modify Provisions Related to Entitlement Applications, Development Review, Hearing and Extension Processes; to Clarify or Streamline Existing Procedures and Practices; to Incorporate Permit Provisions for Moving Buildings; and to Make Minor Modifications, Clarifications, and Technical Corrections (Exhibit 1 to the EPC Staff Report).

#### PUBLIC NOTIFICATION

The Environmental Planning Commission's (EPC) agenda is advertised on Channel 26, and the agenda and this report appear on the City's website. A newspaper notice has been circulated for this meeting, and notification of this meeting has been posted on the City's Accessory Dwelling Unit [webpage](#).

## BACKGROUND

City staff regularly reviews and updates Chapter 36 (Zoning Code) of the City Code for consistency with State-adopted bills and to improve clarity, consistency, and usability of standards within the Chapter. These updates occur annually or biannually. The proposed 2023 Zoning Code amendments include:

- New State legislation signed into law in 2022 (effective in 2023), primarily focused on accessory dwelling unit regulations, new residential land uses identified under State Law, parking regulations, permit streamlining of hydrogen fueling stations, and other miscellaneous regulations;
- Implementation of Programs in the City's [2023-2031 Housing Element](#), adopted by the City Council on April 11, 2023; and
- Other updates intended to address City Code inconsistencies, update procedures based on current practices, and improve clarity or usability of regulations in Chapter 36.

This report is organized with amendments categorized by State Legislation, Accessory Dwelling Unit updates, Housing Element implementation, and other clarifications of zoning procedures and standards. Each amendment related to a State Law or Housing Element Program includes reference to the associated law or program. A summary table of the proposed amendments is also included for reference as Exhibit 2 to this Report. Staff has also identified amendments proposed by Staff where EPC has latitude to recommend changes because they are not required under State Law, but recommended by Staff.

## ANALYSIS

### State Legislation Updates

#### *Parking-Related Regulations*

Recent State laws have limited the City's ability to enforce minimum parking requirements or require discretionary review for parking reductions, such as with a Conditional Use Permit (CUP), in certain circumstances. Current parking regulations in residential, commercial, and industrial zoning districts require compliance with a minimum number of parking spaces per land use (e.g., 1 parking space per 100 square feet of restaurant space). If a particular land use cannot meet the required number of parking spaces on-site, then an applicant can apply for a CUP, whereby staff evaluates the appropriateness of reduced parking on that property by requiring a parking study, reviewing business operations and/or implementation of a Transportation Demand Management (TDM) program.

Three State laws have been adopted that impact City parking regulations and procedures, including:

1. **No Minimum Parking Near Major Transit Stops.** [Assembly Bill \(AB\) 2097](#) (Residential, commercial, or other development types: parking requirements) became effective January 1, 2023 and prohibits cities from enforcing minimum parking requirements on developments within one-half mile of a major transit stop as defined by [Public Resources Code Section 21064.3](#); however, a city can enforce a maximum parking standard. For the City of Mountain View, the existing light rail stations (Downtown, Whisman Station, and Middlefield) and Caltrain stations (San Antonio and Downtown) meet the definition of a “major transit stop” under State Law.

Most areas of the City are subject to minimum parking requirements, as established in residential, commercial, and industrial zoning districts. Other areas of the City located within Precise Plans (such as East Whisman Precise Plan or North Bayshore Precise Plan) have parking maximums whereby a property is not subject to a minimum parking requirement but, rather, cannot exceed a maximum amount. Within one-half mile of the City’s major transit stops, there is a mix of residential and commercial zoning districts and Precise Plans that include either parking minimums or maximums (see Exhibit 3—AB 2097 Map—for the specific areas subject to this law). AB 2097 also specifies certain uses, such as hotels, as exempt, meaning the City can retain parking minimums for such land uses regardless of their location and proximity to a major transit stop. AB 2097 also does not prevent a city from requiring electric vehicle parking and parking for disabled persons that would otherwise be required.

***Proposed Amendments:*** To comply with AB 2097, staff is proposing to amend the Zoning Code to add a new subsection (b) to Section 36.32.50 of the parking regulations referencing the relevant Government Code Sections and noting that sites located within one-half mile of a major transit stop are not required to provide minimum on-site parking unless otherwise exempt by the statute (see Page 51 of Exhibit 1 for redlined text). Additionally, City staff will maintain a map of the areas subject to the one-half-mile radius from the major transit stops, which will also be available to the public.

2. **Allow Reduced Parking to Accommodate Electric Vehicle Charger Stations.** [AB 970](#) (Electric vehicle (EV) charging stations: permit approval) became effective January 1, 2023 and requires EV charging stations, including any associated equipment (e.g., transformers, switchboards), to be reviewed and approved ministerially through a building permit. While the current City Code aligns with this requirement, there are circumstances where the current code provisions would require a planning permit to accommodate the installation of EV charging stations, specifically when removal of

required parking spaces is requested. (The Monta Loma Plaza at 580 North Rengstorff Avenue is one example of EV charger placement and design within a parking space.) If the installation of the EV charging stations result in reducing parking requirements below what is required by the Zoning Code, a CUP for a parking reduction is required under the Zoning Code. AB 970 prohibits the City from requiring a discretionary permit like a CUP to approve an EV charging station. Therefore, the Zoning Code needs to be updated to create an exemption from zoning permit requirements in cases where EV charging stations are proposed to align with AB 970.

*Proposed Amendments:* Staff proposes adding a new Section 36.32.67, subsection (a), to allow an exemption for the installation of EV charging stations, and its associated equipment, from requiring any zoning permit if the installation results in a reduction in parking spaces (see Page 56 of Exhibit 1 for redlined text).

- 3. Allow Reduced Parking to Accommodate More Bedrooms at Multi-Family Residential Properties.** [AB 916](#) (Zoning: Bedroom Addition) became effective January 1, 2023. This law prohibits cities from requiring a discretionary permit with a public hearing, like a CUP, for any project that modifies an existing multi-family residential unit to increase the number of bedrooms by up to two new additional bedrooms within the existing unit. The City's current multi-family residential parking requirements are based on the number of bedrooms per unit. Thus, if a multi-family residential unit seeks to increase the number of bedrooms, this may impact the required number of parking spaces on-site and, if the spaces could not be accommodated on-site, it could require the applicant to apply for a CUP for a parking reduction.

*Proposed Amendments:* To ensure consistency with this State law, a new Section 36.32.67, subsection (b), is proposed in the parking regulations (Division 4 of Article X) to provide an exemption from a CUP for a parking reduction resulting from an increase in the number of bedrooms within a multi-family residential unit in accordance with AB 916. Instead, the City will require a Development Review Permit (DRP) that is reviewed by staff administratively, without a public hearing, to track site modifications resulting from improvements proposed at a multifamily residential site consistent with this law, such as the potential for new parking (see Page 57 of Exhibit 1 for redlined text).

#### *Other State Laws*

- 4. Add Microenterprise Home Kitchen Operations.** [AB 626](#) (Microenterprise Home Kitchen Operations, MEHKO) updated the California Health and Safety Code in 2019

to establish the MEHKO regulations, allowing County Health Departments to establish programs for retail food facilities that operate from a private residential home where food is prepared, cooked, served, and consumed by customers within the private home or picked up from the home and delivered to other customers. In 2023, the Santa Clara County Environmental Health Department established a program to permit [MEHKO operations](#), which staff is proposing to incorporate into the Zoning Code.

*Proposed Amendments:* Amendments are proposed to the existing home occupations regulations located in Division 11 (Home Occupation) of Article IX (Standards for Specific Land Uses). The current home occupation regulations recognize Cottage Food Operations (CFOs)—adopted into law in 2012—which are another type of retail food business that can operate from a private home that explicitly prohibits on-site dining (which is now permitted with a MEHKO). The proposed code amendments would add provisions for MEHKOs and provide operational criteria for both MEHKOs and CFOs, as outlined by State laws.

Operational criteria that have been added for MEHKOs based on State legislation include allowances for on-site dining at the home, including outdoors, and no limit on the number of vehicle/pedestrian trips to the home business. Staff has proposed additional operating provisions to limit potential impacts to adjacent residents by including provisions of operating hours and limiting the location of outdoor dining; the EPC, in its discretion, may consider recommending or modifying these additional operating provisions proposed by staff. The redlined text is included on Pages 46 through 49 of Exhibit 1.

5. **Allow Hydrogen Fueling Stations with a Building Permit.** [Senate Bill \(SB\) 1291](#) (Hydrogen Fueling Stations) became effective on January 1, 2023. To promote and streamline implementation of alternative energy, the bill requires hydrogen fueling stations to be reviewed and approved administratively, such as through a building permit, if the hydrogen fueling station is: (a) located on a commercial or industrial zoned site without residential units; or (b) located on a site with an existing gas service station. If a hydrogen fueling station is proposed under any other site condition (like on a residentially zoned property), then the City can apply discretionary review and require a planning permit, like a CUP. Currently, the City has one hydrogen fueling station at an existing gas service station at 830 Leong Drive, which required a CUP to install prior to enactment of this law.

*Proposed Amendments:* The proposed amendments add hydrogen fueling stations as a new land use category that is permitted in commercial and industrial zones in accordance with SB 1291. This includes adding the category

to the commercial and industrial land use tables on respective Pages 25 and 36 in Exhibit 1, as well a definition for hydrogen fueling station on Page 83.

To maintain compatibility with neighboring properties, staff is proposing compliance with objective standards added as a new Division 24 (Hydrogen Fueling Station) in Article IX (Standards for Specific Land Uses). Such provisions include compliance with the City's stationary noise standards, design requirements that do not permit the new station to impede vehicular circulation or life safety access and limit impacts on Heritage trees (see Page 50 of Exhibit 1 for redlined text). EPC can provide modifications on these objective standards added by City staff.

6. **Noticing for Public Hearings.** Government Code Sections 65090 through 65096 provides minimum noticing requirements for a City to publish a notice in a newspaper for a public hearing, in lieu of sending mailed notices, if the noticing radius for the hearing item includes more than 1,000 property owners within 300' of the subject site. Language reflecting this State law was previously in Section 36.56.20 of the Zoning Ordinance but was deleted in Ordinance No. 14.18 adopted by Council on November 27, 2018 (see redlined Ordinance—Exhibit 1—on [November 13, 2018](#)). The 2018 Zoning Code update was focused on updates to Gatekeeper procedures and included expanding the City's minimum public hearing notice timelines from 10 days to 14 days and the noticing radius from 300' to 750'. While the City can have more expansive noticing requirements, which were adopted in 2018, reference to minimum State Law noticing requirements continues to be helpful.

*Proposed Amendments:* Staff is proposing to reinsert the language from State Law in Section 36.56.20.c regarding the minimum noticing requirements (see Pages 78 and 79 of Exhibit 1 for redlined text). The noticing threshold that may trigger this State Law is typically a long-range policy planning project, such as General Plan Update or a new Precise Plan. However, for these types of long-range planning projects (along with many other City projects), City staff does additional outreach with community workshops, meetings with established neighborhood groups and local advocacy groups, and has email notification lists for any interested party to be notified of upcoming meetings. City staff also often continues to provide mailed postcards to property owners and tenants impacted by a long-range planning project, in accordance with the City's noticing requirements which exceed State Law. By reintroducing the noticing requirements per State Law, it provides City staff and the public with disclosure of the minimum requirements.

## **Accessory Dwelling Unit Updates**

In 2022, Governor Newsom signed three bills into law related to accessory dwelling units ([AB 2221](#), [AB 345](#), and [SB 897](#)) that permit two-story accessory dwelling units (ADUs), allow separate land ownership opportunities, and clarify existing ADU regulations. These laws became effective January 1, 2023, with AB 345 effective on January 1, 2022. In addition to aligning with these laws, staff is proposing additional amendments that provide clarification to existing standards, based on frequent questions or comments from the community and staff experience with implementing ADU regulations over the last three years.

### *Compliance with State Law*

1. **Two-Story Height Allowance.** SB 897 requires cities to allow two-story ADUs based on whether the ADU is located on a multi-family or single-family residential site or the ADUs proximity to major transit stops. Specifically, the following height limits are established under this State law:
  - a. A 25' height maximum for ADUs attached to a single-family home;
  - b. An 18' height maximum for a detached ADU within one-half mile of a major transit stop or a high-quality transit corridor; or
  - c. An 18' height maximum on a site with a multi-family, multi-story residential unit.

The current Zoning Code allows attached ADUs to a single-family home to be up to 28' in height, consistent with the maximum height of a two-story, single-family home, but the habitable living area of the ADU must be contained entirely on one story (which is based on prior ADU law). Additionally, current regulations allow for a maximum height of 16' for one-story, detached ADUs and up to a maximum height of 28' for detached units located on the second story only, above a garage or other accessory structure.

***Proposed Amendments:*** The Zoning Code will continue to allow a maximum height of 28' for attached ADUs to the single-family home, but the amendments will now allow for one- or two-story attached ADUs consistent with the height provisions of this State law. Additionally, the Zoning Code will continue to allow a maximum height of 28' for detached ADUs contained on the second story only (above an accessory structure); however, the amendments will add height provisions allowing 18' tall one- or two-story detached ADUs consistent with SB 897 (located in the tables in Sections 36.12.80 and 36.12.85 on Pages 14, 15, and 16 of Exhibit 1, respectively). Due to the introduction of additional height

limitations, staff is modifying reference to the height standards in the exceptions to development standards in Section 36.12.95(b) on Page 18 of Exhibit 1.

2. **Separate Ownership of ADUs.** AB 345 requires cities to allow separate ownership, or conveyance of property, of an ADU from the main dwelling unit, if the unit is built by a nonprofit corporation and complies with specific requirements identified in [Government Code Section 65852.26](#). The existing Zoning Code prohibits separate ownership of an ADU from the main single-family house.

*Proposed Amendments:* An amendment is proposed to Section 36.12.100 in Division 10 (Accessory Dwelling Units) of Article IV (Residential Zones) in the Zoning Code to reference this Government Code section's allowance for separate ownership in these certain circumstances (see Page 18 of Exhibit 1 for redlined text).

3. **Front Setback Exemption.** AB 2221 mandates that an exception from minimum required front building setbacks must be allowed to accommodate up to an 800 square foot ADU. The Zoning Code currently provides exceptions to development standards for lot coverage, floor area ratio, open space, or detached accessory dwelling unit locations but does not explicitly list exception from a required front setback.

*Proposed Amendments:* The proposed amendment includes adding the front setback as a development standard for which an exemption is allowed to accommodate an ADU under Section 36.12.95(b), as seen in redlined text on Page 18 of Exhibit 1.

4. **Entrances.** The current Junior Accessory Dwelling Unit (JADU) regulations note that a separate building entrance from the primary unit is optional, but this is no longer correct. SB 897 clarifies that an interior entry between the single-family home and JADU is required if the JADU does not have a separate bathroom.

*Proposed Amendment:* Staff has included proposed amendments to Section 36.12.90 to clarify the building entrance requirements for JADUs (see Page 17 of Exhibit 1 for redlined text).

Additionally, staff has seen many projects proposed with entrances to ADUs that are not compliant with the building requirements per the California Residential Code as many design proposals have included a sliding door as a main entrance when a traditional side-hinged door is required.



*Proposed Amendment:* To address this, staff has included amendments to Section 36.12.80 that add clarity regarding the entrance door Building Code requirements for ADUs (see Page 15 of Exhibit 1 for redlined text).

5. **Corrections of Nonconforming Conditions or Violations.** SB 897 prohibits cities from requiring corrections of nonconforming zoning conditions, Building Code violations, or unpermitted structures on a property where an ADU is proposed unless the condition(s) pose(s) a public health and safety risk or is directly affected by the construction of the ADU. For example, if the existing single-family residential home has a nonconforming side building setback and the property owner submits an application to construct a code compliant ADU, the City cannot require the property owner to correct the nonconformity of the home in order to issue the permit for the ADU.

*Proposed Amendments:* The proposed amendments include replacing Section 36.12.115 (renumbered to Section 36.12.110) with new language to reflect this provision (see Page 19 of Exhibit 1 for redlined text). The existing, unrelated text in the current Section 36.12.115 regarding fire sprinklers will be moved to Chapter 8 (Buildings) of the City Code, where fire sprinkler requirements are located.

#### *Clarifications to Existing Standards*

Additional amendments are proposed to ADU regulations based on staff's experience implementing existing regulations. These changes are intended to provide clarity based on frequent questions or permit scenarios seen and improve implementation of ADU regulations. None of the following amendments are required by State law and, therefore, the EPC has more discretion to recommend changes.

6. **Maximum Number of ADUs.** The State Department of Housing and Community Development (HCD) has provided feedback to some other cities on their Housing Elements regarding the maximum number of ADUs referenced in their Zoning Codes, particularly the inconsistency with translating text from State law into user-friendly tables.

*Proposed Amendments:* Based on HCD's preference to include the State Law text over tables summarizing the law, staff is proposing to replace the table in Section 36.12.75 with the text from State Law (see Pages 13 and 14 of Exhibit 1 for redlined text). The proposed changes do not substantively modify the City's implementation of ADU regulations, and the City will continue to provide and prepare user-friendly ADU web content for the public. However, the City is required to send updates to ADU regulations in the Zoning Code to HCD for

approval, following Council adoption of the Ordinance. To avoid any delay or concerns, staff is proposing to align the Code with the feedback we have seen from HCD on other cities' ADU ordinance updates.

7. **Maximum Floor Area Exemption.** In alignment with State Law, the current Zoning Code allows single-family residential sites to exceed the maximum permitted floor area for up to an 800 square foot ADU. For example, a single-family home with a maximum allowable floor area of 2,500 square feet can have an existing home of 2,000 square feet and an ADU of 800 square feet, for a total site floor area of 2,800 square feet (300 square feet over the maximum allowable). However, the current Code only allows the FAR exemption to accommodate the square footage of an ADU at the time the ADU is permitted, without flexibility in the order in which a property owner may wish to make improvements to their single-family property.

For example, if a homeowner builds an ADU, which is within their maximum allowable floor area of their property, and subsequently submits for a permit for an addition to their single-family home after the construction of the ADU, they would not be able to exceed the maximum allowed floor area on their property with the home addition as the ADU square footage exemption can only count toward the site's total allowable floor area for a permit that includes an ADU. On the other hand, had the same property owner submitted and constructed their home addition first, before the ADU, or in combination with the ADU, then they could have used the ADU floor area exemption to construct the ADU. This creates an unintended consequence of: (1) potentially discouraging the construction of ADUs; and (2) complicating standards and permitting procedures that are intended to be universal for all single-family residential properties by essentially dictating the order in which improvements are constructed or requiring two separate permits to be submitted on the same property—one for the ADU and one for the home addition.

*Proposed Amendments:* Therefore, staff is recommending an amendment to the development standards exceptions in Section 36.12.95(b) that exempts a maximum of 800 square feet of an ADU toward the maximum allowable floor area on single-family residential property (see Page 18 of Exhibit 1 for redlined text). By exempting the floor area of an ADU universally for single-family properties, homeowners can build improvements on their property in whichever order they wish while retaining the possibility for an 800 square foot ADU as required by State Law.

8. **Second-Story Decks and Balconies.** On [March 22, 2022](#), the Council reviewed and approved amendments to Chapter 36 (Zoning) and Chapter 28 (Subdivisions) of the City Code to allow Urban Lot Splits and the creation of Dual Urban Opportunity (DUO) development standards per Senate Bill 9. At this public hearing, Councilmembers

noted that they did not support development standards that would allow second-story decks and balconies for DUO developments, due to the close proximity of the DUO units to property lines (minimum 4' setback).

*Proposed Amendments:* Consistent with this direction for DUO developments, staff is proposing an amendment that explicitly prohibits second-story decks and balconies on detached ADUs (which have the same setbacks as DUO developments), but allows them on attached ADUs, if the second-story balcony complies with the same setbacks as a second-story balcony on a single-family home. A common proposal from homeowners for attached ADUs is for a second-story balcony, which staff believes could be allowed consistent with the standards of a single-family home—effectively allowing a balcony that otherwise would be indiscernible to the neighborhood as to whether it serves the primary house or ADU. Therefore, in the provisions for single-family ADUs in Section 36.12.80, staff is proposing to add language to address the second-story balconies discussed in this section, in addition to referring to existing code sections for at-grade patios/decks, and the prohibition for roof decks (see Page 15 in Exhibit 1 for redlined text). These amendments clarify existing ADU regulations regarding the prohibition of roof decks and second-story balconies on detached ADUs.

9. **Covered Entrances.** Staff has received requests to permit a covered porch over the front entrance for ADUs (similar to covered porches allowed for single-family homes), which is not allowed in the current Code and, if proposed, the square footage of the covered porch counts toward the maximum square footage of the ADU.

*Proposed Amendments:* Staff has included proposed amendments in Section 36.12.80 to allow a 15 square foot covered and unenclosed porch at the entrance to be exempt from any development standards, so long as it complies with Building and Fire Code requirements (see Page 15 in Exhibit 1 for redlined text). By allowing this covered porch, it permits ADUs to have designs similar to single-family homes and provides weather protection for ADU residents entering or exiting their unit.

10. **Underlying Development Standards for Multi-family ADUs.** Staff has seen some confusion by applicants on which development standards apply to multi-family ADUs, if these units are proposed to be greater than 800 square feet in size. The current Code does not clearly indicate applicable development standards.

*Proposed Amendments:* Mirroring the language included for ADUs on single-family residential sites in Section 36.12.80, staff is proposing amendments to Section 36.12.85 that reference that the underlying zoning district standards apply to any multi-family residential ADU (see Page 15 of Exhibit 1 for redlined text).

11. **Other Miscellaneous ADU Updates.** Staff is proposing other clarifying amendments, including:
- a. Removing Description of Review Process—Delete the permit review process outlined in Section 36.12.75 and relocate it into Chapter 8 (Buildings) of the City Code as it references the building permit review process (see Pages 12 and 13 of Exhibit 1 for redlined text).
  - b. Additional Single-Family ADU Regulations—Add single-family ADU regulations in Section 36.12.80 regarding the size limitations of gross floor area that are in State Law, clarifications regarding encroachments for stairs, and adding references to accessory structures and decks as allowed in the R1 (Single-Family Residential) Zoning District (see Pages 14 and 15 of Exhibit 1 for redlined text).
  - c. Adding Maximum Floor Area for Multi-Family ADU—Add amendments to Section 36.12.85 to clarify the maximum floor area allowed for ADUs at multi-family sites, which is proposed to be 1,200 square feet based on the maximum allowed in State Law (Page 16 of Exhibit 1).
  - d. Removing Habitable Floor Area—Remove the term “habitable” in Section 36.12.80 which is not consistent with the rest of the ADU standards and is not a term used in State Law (Page 14 of Exhibit 1).
  - e. Adding Roof Eave Exception—Add Section 36.12.95.b.4 to permit a 2’ roof eave encroachment for ADUs to be consistent with roof eave encroachment allowed for single-family residential homes, which has been a common request from property owners in order to be consistent with the design of their single-family home (see Page 18 of Exhibit 1 for redlined text).

### **2023–2031 Housing Element Implementation**

The City’s [2023–2031 Housing Element](#) outlines programs to be implemented over the next eight years. Zoning Code amendments proposed in this Ordinance address: Program 1.1 for Zoning Ordinance updates consistent with State laws; and Program 1.2 regarding eliminating minimum parking standards for affordable housing developments.

The following amendments implement State laws, which the Housing Element also identifies for implementation in its programs:

1. **Add Low-Barrier Navigation Centers.** [AB 101](#) (Housing Development and Financing) was adopted in 2019 and is listed to be implemented in Housing Element Policy

Program 1.1.a. The law creates specific provisions for low-barrier navigation centers, which are temporary, service-rich shelters for unhoused persons. AB 101 requires navigation centers to be permitted in mixed-use and nonresidential zoning districts where multi-family residential uses are allowed. Currently, the City has standards for emergency shelters, which are an example of a type of navigation center, but emergency shelters do not require the level of services that can be included in a low-barrier navigation center. An example of a low-barrier navigation center is LifeMoves Mountain View (Project Homekey) located at 2566 Leghorn Street in Mountain View.

*Proposed Amendments:* To align with State Law, the proposed amendments will:

- Add a definition of a low-barrier navigation center in Section 36.60.27 (see Page 85 of Exhibit 1 for redlined text);
- Add the land use category as a permitted use in the Commercial Land Use table in Section 36.18.05 for Commercial Neighborhood (CN), Commercial Services (CS), and Commercial/Residential Arterial (CRA) (see Page 22 of Exhibit 1 for redlined text); and
- Include the required operating provisions consistent with State Law to the provisions for emergency shelters in Division 10 (Emergency Shelters) of Article IX (Specific Land Use Standards) (see Pages 44 through 46 of Exhibit 1 for redlined text).

Due to the similarities of navigation centers with emergency shelters, staff is also proposing that low-barrier navigation centers be added as a conditionally permitted use in zoning districts that currently allow emergency shelters. This allows navigation centers and emergency shelters to have similar permitting requirements and expands the locations of shelters beyond what is minimally required by law, which State Law allows a city to do.

Thus, staff is proposing low-barrier navigation centers also be permitted or conditionally permitted in the following zoning districts in alignment with emergency shelters: Limited Industrial (ML), General Industrial (MM), and Commercial-Office (CO) (see Pages 22 and 38 of Exhibit 1 for redlined text). Staff has also added low barrier navigation centers as conditionally permitted in the PF (Public Facility) Zoning District (see Page 44 of Exhibit 1 for redlined text). The EPC does have discretion to provide modifications to staff's proposed additional zoning district locations for low-barrier navigation centers.

2. **Add Employee Housing.** The provisions of Health and Safety Code Section 17000 *et seq.* require employee housing to be permitted in residential zones and agricultural zones under certain provisions. Per Housing Element Policy Program 1.1.b, the City is required to add provisions for employee housing as this is currently not identified as an existing land use. State Housing Law notes that employee housing with six employees or fewer shall be permitted in structures that are single-family houses and must have the same permitting requirements as single-family houses in that same zoning district.

Proposed Amendments: To align with State Law, the proposed amendments will:

- Add employee housing as a land use category that is a permitted use in all residential zoning districts (R1, R2, R3, and R4 Zoning Districts) as shown in Section 36.10.05 and in the Agricultural Zoning District as a principally permitted use as shown in Section 36.24.10 (see Pages 8 and 43 of Exhibit 1, respectively). Staff also proposes adding a footnote to the residential land use table to clarify that the housing type must follow the same permitting requirements as a single-family home; and
  - Add a definition of employee housing in Section 36.60.13, consistent with Government Code Section 17008. This section notes that employee housing with less than six employees in a structure or with no more than 36 beds or 12 units in structures in an agricultural zone may be treated the same as a single-family house (Pages 82 of Exhibit 1).
3. **Allow Mobile Home Parks in All Residential Zones.** Per Housing Element Policy Program 1.1.c, Government Code Section 65852.7 requires all mobile home parks to be permitted in all residential zones with or without a planning permit. Currently, mobile home parks are permitted in the Mobile Home (RMH) Zoning District with a Mobile Home Park Permit (MHPP), which is intended for review of a new mobile home park development or the addition of new structures or site modifications within an existing mobile home park in compliance with development standards.

Proposed Amendments: The proposed amendments will:

- Add amendments to the residential land use table in Section 36.10.05 and to the commercial land use table in Section 36.18.05 to permit mobile home parks in all zoning districts where residential land uses are permitted with approval of a planning permit, in this case a MHPP. The zoning

districts where MHPP's are proposed to be added include: R1, R2, R3, R4, and CRA (see Pages 8 and 22 of Exhibit 1 for redlined text).

- The MHPP permitting process currently references mobile home parks being applicable to the RMH Zoning District, but this has been modified to make MHPP applicable to all zoning districts where mobile home parks are a permitted use per Sections 36.48.40 and 36.48.45 (see Pages 72 and 73 of Exhibit 1 for redlined text).
4. **Revise Residential Care Home.** To implement Housing Policy Program 1.1.d, the City is required to remove barriers for permitting housing development types that affect disabled persons, such as residential care homes. The current Zoning Code allows residential care homes with six clients or less as an allowed use in all residential zoning district. Only a building permit is required if any improvements are proposed to accommodate the operation. This aligns residential care homes with the same permitting requirements as a single-family home, which does not require a planning permit to construct, but requires a building permit. Therefore, the City's current Zoning Regulations align with Government Code Section 1569.85, which requires residential care homes with six or less clients to have the same permitting requirements of single-family houses in the same zoning district.

However, the City's current Zoning Code requires residential care homes with seven or more clients to obtain a CUP to operate. The CUP requirement for residential care homes with seven or more clients is seen as a barrier, as HCD emphasized in their prior comments to the City, as the CUP process holds these types of housing to a higher level of discretion versus other housing types in the same zoning district that are permitted (i.e., single-family, multi-family, supportive housing, transitional housing, etc.). HCD's guidance led to the City to commit to modify residential care homes to be a permitted use in all residential zoning districts.

*Proposed Amendments:* The amendments propose to retain one "residential care home" land use category in the Residential Land Use Table in Section 36.10.05 as a permitted use. Staff has also added a footnote to clarify the permitting process consistent with Government Code Section 1569.85 (see Page 8 of Exhibit 1 for redlined text). No planning permit is required for single-family houses or duplexes; therefore, residential care homes with six clients or less in single-family houses or duplexes are not subject to any planning permit. However, residential care homes with seven or more clients would be permitted, but subject to a planning permit if in the R3 and R4 Zoning Districts to ensure consistency with the R3 and R4 development standards.

Additionally, staff is proposing the addition of a residential care home definition in Section 36.60.39, which does not currently exist in the Zoning Code (see Page 90 and 91 of Exhibit 1 for redlined text).

5. **Update Reasonable Accommodation Requirements.** Per Housing Element Policy Programs 1.1.e and 2.3, the proposed amendments include removing barriers to housing for special-needs populations by removing unnecessary findings associated with permits issued for reasonable accommodations—specifically findings associated with impacts to surrounding properties, whether alternative designs were considered, or if the proposal is detrimental to the public health and safety. The current Zoning Code requires a planning permit for a property where improvements are proposed that do not comply with zoning development standards for individuals with disabilities seeking reasonable accommodation to their place of residence.

*Proposed Amendments:* The proposed amendments in Section 36.08.65 remove findings that are subjective and/or difficult to support—specifically Findings 4, 5, and 6 (see Pages 4 and 5 in Exhibit 1 for redlined text).

6. **Eliminate Minimum Parking for Affordable Housing Projects.** The current Code requires parking based on the number of bedrooms per multi-family residential unit, inclusive of affordable housing developments—which often have less parking than required by the Code. Per Housing Element Policy Program 1.2, the proposed amendments include removal of a minimum number of parking spaces for affordable housing projects.

*Proposed Amendments:* The amendments add to the parking standards table in Section 36.32.50.c that affordable housing developments have no minimum parking requirements. However, staff has proposed minimum bicycle parking spaces with quantities based on the [Valley Transportation Authority's Bicycle Technical Guidelines](#) (see Page 53 in Exhibit 1 for redlined text).

### **Clarifications to Zoning Procedures and Regulations**

Staff has incorporated proposed amendments to improve the organization of the Zoning Ordinance, provide additional definitions and standards for clarification, and to clarify existing procedures.

#### *Clarification to Procedures*

The following includes clarification to procedures that are either not currently reflected in the Code, were previously raised by Council, or provide clarity to an existing process. With the exception of one of the amendments listed below regarding public noticing, all of the



amendments below are proposed by staff and are not required by State Law. The EPC can provide recommendations on these staff-proposed changes.

1. **Design Review (Development Review Committee).** City staff is proposing changes to the Code to reflect the current role of the Development Review Committee (DRC), which is that they are no longer a decision-making or recommending body, but act in a consulting capacity to the Zoning Administrator and Planning staff in the design review process. The proposed updates to Article XVI (Zoning Ordinance Administration), including Section 36.44.15 (Zoning Administrator) are intended to accurately represent and preserve the current design review process.

*Proposed Amendments:* Prior to 2003, design review was referred to as Site Plan and Architectural Review (SPAR) by the SPAR Committee, which was comprised of City staff and consulting professional architects. Initially, SPAR was a formal hearing body with approval authority over small residential and nonresidential additions, single-family home new construction and additions, and provided formal recommendations on design for large developments to the City Council. In 2003, Zoning Code updates were adopted that established the current development review process, identifying the DRC as the successor to the SPAR Committee. Over the decades, zoning standards and procedures have streamlined zoning permits, which has reduced the authority of the DRC. The last remaining item that the DRC had formal approval authority over was removed from the Zoning Code in 2011 with an amendment that no longer required zoning permits for rear yard encroachments of single-family homes that met adopted development standards.

Despite these substantive changes over the years, the Zoning Code was not modified to accurately reflect the consulting role the DRC plays in the design review process today; instead, parts of the Zoning Code imply that the DRC has a formal role in recommending items for approval in lieu of providing design input as a consultant to City staff. As a result, staff is proposing clarifying amendments that will remove DRC references to their role as a formal recommending or review authority in the Zoning Code and instead replace references to the design review process by which staff will continue to oversee the DRC as consultants. The DRC is comprised of a Deputy Zoning Administrator from the City and two consulting licensed professional architects with backgrounds in residential and commercial design who have consultant contracts with the City's Community Development Department.

The proposed amendments clarify design review as a component of the development review process under the authority of the Zoning Administrator, as has been the practice for many years, and removes the DRC as a reviewing body

from the Review Authority table in the Administration section of the Zoning Ordinance (see Pages 61 through 63, 65 through 69, 71, 73, 74, and 77 of Exhibit 1 for redlined text). In most of these locations, where it refers to the Committee, staff has replaced it with references to the design review process. These amendments will not alter the DRC public meetings or opportunities for public participation in design review.

2. **Permit Extensions.** All planning permits are valid for two years from the date of approval. If a development project has been entitled (received approval), but needs additional time to obtain a building permit and start construction, then a zoning permit extension is required, which would be reviewed and acted upon by the Zoning Administrator at a public hearing. The Zoning Code allows for approval of a permit extension by up to two years. However, staff has seen some confusion by applicants on whether a one- or two-year extension is possible based on the current language in the Code.

*Proposed Amendments:* The proposed amendment would clarify that a zoning permit extension may be granted for a maximum of two (2) years in total, either as two (2) one-year extensions, or one (1) two-year extension (see Page 80 of Exhibit 1 for redlined text).

3. **Review One Planning Application at a Time.** Currently, the City does not have any regulations regarding the number of planning applications being processed on for the same project site at the same time. Processing multiple planning applications for new development at the same project site can be confusing to the public, a burden to staff time and resources, and overcomplicate the process if it is uncertain which project application will continue forward.

*Proposed Amendments:* The proposed amendments add a new Section 36.56.12 to clarify that only one active planning permit application for a new development on a project site may be submitted for review at any one time. However, multiple planning permits are allowed to be under review on the same project site when it involves improvements to an existing building—such as a CUP for a new business being simultaneously reviewed with a Development Review Permit for a facade improvement to the same existing building (see Page 78 of Exhibit 1 for redlined text). Introducing these minimum standards will help reduce potential confusion regarding new development and allow simultaneous submittals for permits common for smaller businesses—where the property owner may be obtaining a permit for facade improvements to the building and the business tenant may be obtaining a CUP to operate on-site.

4. **Additional Noticing Radius.** In 2022, the City Council voiced an interest in expanding the noticing radius for development projects adjacent to City-owned public parks or properties. Currently, mailed notices of public hearings are sent to property owners and tenants within 750' of the project site, which is measured from the property lines of the project site.

*Proposed Amendments:* In response to Council interest, staff has included amendments that require mailed notices be prepared for a 750' radius as measured from the project site boundary and any adjacent City-owned property, such as a City park or City building. This will allow the greatest number of residents and property owners to be notified of a project site located adjacent to City-owned land (see Pages 78 and 79 of Exhibit 1 for redlined text).

5. **Informal Planning Applications.** The City allows an informal application to be submitted for a planning permit prior to the submittal of a formal application in order to allow applicants an opportunity for preliminary feedback from City departments regarding their proposed project.

*Proposed Amendments:* Staff proposes adding clarifying language about the informal application process to Article XVI (Zoning Ordinance Administration) regarding the purpose and intent (see Pages 64 of Exhibit 1 for redlined text).

6. **Notice of Permit Decision.** The Code currently requires a decision on a Zoning Permit to be provided by mail. Since the COVID-19 pandemic, the City has shifted to primarily electronic communications, such as email.

*Proposed Amendments:* Thus, staff has included amendments to Article XVI that allow for notification of the decision on a planning permit to be delivered by mail or email (see Pages 69 through 71, 73, 75, and 80 of Exhibit 1 for redlined text).

7. **Inactive Permit Application.** On [April 12, 2022](#), the Council adopted Ordinance No. 3.22 that added a requirement that planning permit applications will be automatically closed after three months of inactivity.

*Proposed Amendments:* While the Zoning Code is clear regarding three months, staff proposes to revise three months to 90 days for greater clarity and consistency with other time references in the Chapter, which are based on number of days (Page 81 of Exhibit 1).

8. **Update Review Authority Table.** Staff proposes modifications to the review authority table in Section 36.44.10 to correctly identify the recommending body and final decision body for various permits.

*Proposed Amendments:* Specifically, the Review Authority table has been modified to clarify the following: (See Pages 60 and 61 in Exhibit 1.)

- Remove the DRC as a recommending body from the review table, as previously discussed in this report;
- Revise lot line adjustments, a type of land subdivision, which staff is proposing to be reviewed administratively by the Community Development Director without a public hearing. This is a common practice among cities for lot line adjustments, such as the Cities of Sunnyvale and Los Altos. Lot line adjustments are referenced in this table for transparency of information, but the regulations are in Chapter 28 of the City Code—which staff is also proposing amendments in tandem with these Chapter 36 amendments. Amendments to Chapter 28 are reviewed by the City Council;
- Relocate permit extensions within the table; and
- Add ministerial approvals per State Law as being approved by the Community Development Director. For example, an SB 35 housing development project is required to be approved ministerially by City staff if the project complies with State Law. The City has processed an SB 35 housing development at Lot 12 in downtown, which was approved by the Community Development Director.

#### *Clarifications of Zoning Standards*

The following items are intended to clarify existing development standards, streamline minor design modifications, and correct formatting.

9. **Equipment Screening.** Staff has received numerous questions from applicants on the screening requirements for rooftop mechanical equipment and ground-level mechanical equipment, particularly whether the screening is required on all sides of the equipment and how tall screening is required to be. While the Zoning Code has an existing requirement to screen rooftop equipment, the Code does not have requirements for ground-level equipment. Additionally, none of the current standards are clear on the extent of screening.

*Proposed Amendments:* The proposed amendments to the general development standards of commercial and industrial zones of Sections 36.18.30 and 36.20.25 provide clear design standards for rooftop equipment, such as requirements for rooftop equipment to be screened on all sides and for the

height of the screen to be at least as tall as the equipment. Additionally, ground-level equipment enclosure screening requirements have been added for clarity as this was previously not codified, but often requested by staff for new equipment. Ground-level equipment typically requires similar design materials compatible with the building design on-site and has a height limit of 8', unless additional height is needed to further screen equipment (see Pages 26 and 39 of Exhibit 1).

10. **Definition of a Studio Use.** The Code currently lists “studio” as a land use category, which is also referenced in some Precise Plans. However, there has been confusion over the years by applicants as to what constitutes a studio use since there is no definition.

*Proposed Amendments:* Therefore, staff is proposing to add a definition to Section 36.60.41 for a studio. Based on implementation of studio uses over the years, staff is proposing the use be defined as a business operating in a class-like setting with a fixed schedule typically for creative arts or fitness-related activities, such as martial arts, cycling or painting. (see Page 95 of Exhibit 1).

11. **Add Industrial Zone General Development Standards.** To improve consistency in formatting of the Zoning Ordinance, the text amendments include adding a Division 4 to Article VI (Industrial Zones) to incorporate general development standards for the industrial zones—ML (Limited Industrial) and MM (General Industrial). This would follow the same formatting as the general development standards for commercial zones within the Chapter, reducing repetitive language throughout the Code.

*Proposed Amendments:* Staff proposes to carry over provisions from the general development standards for commercial zones to the industrial zones as there are similar development in both areas, such as rooftop equipment and trash enclosures. Staff is also proposing to carry over the same provision regarding late-night uses and activities to the industrial zones, as currently exists in the commercial zones, in order to provide a clear path for correcting any disruptive activities on a site. Over the decades, the City has allowed for residential development to be approved in industrial zones (such as along Colony Street and Wyandotte Street), which can sometimes result in incompatible activities. So, by adding this language into the Code, there is clear authority and direction on corrective actions the City can pursue should an activity become disruptive to residents (see Pages 38 through 40 of Exhibit 1 for redlined text).

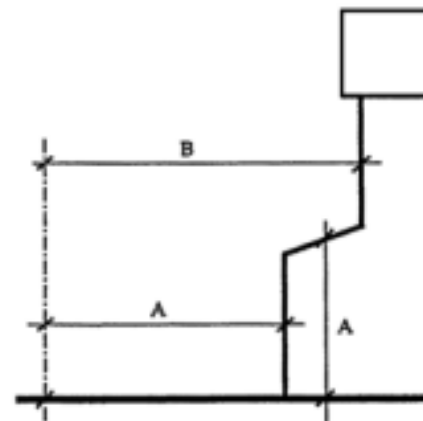
By centralizing the general development standards, staff has also removed the repetitive language under each industrial zoning district development standards

table regarding rooftop equipment, trash enclosure, fence, walls and storage (see Pages 40 and 42 of Exhibit 1 for redlined text).

- 12. Relocate Moving Building Regulations.** The City has procedures and permitting requirements for allowing the relocation of an existing building from one location to another within the City. The requirements for moving a building currently reside in Chapter 8 of the City Code but have procedures that are implemented by the Zoning Administrator and zoning regulations. Therefore, City staff is proposing to relocate a portion of the procedures to Chapter 36 (Zoning) to provide clarity and transparency to the requirements.

*Proposed Amendments:* A new Division 7 has been created with Sections 36.08.70 through 36.08.95 regarding moving buildings, which relocates existing procedures from Chapter 8 (Building) to Chapter 36 (Zoning). This section pertains to moving buildings within the City, typically in anticipation of redevelopment or to preserve a historic structure. The new section identifies the process of moving buildings, the City review process associated with moving buildings, and the application requirements. There is no major change proposed from current practice, other than aligning public hearing requirements with current requirements within the Chapter and rewording content for clarity (see Pages 5 through 7 of Exhibit 1 for redlined text).

- 13. R1 (Single-Family Residential) Zoning District Front Setback Clarification.** The existing Zoning Code requires a 5' building setback for the second story of a single-family home located above a garage, where the garage projects forward. The intent of the regulation is for a second floor to have an additional 5' setback from the first floor building wall below, so as to create a break in the building massing. Unfortunately, without reference to an "additional" 5', there can be confusion by applicants on the 5' setback mentioned.



**Figure 1: Distance B represents an additional 5' setback for a second story above a projecting garage on the first story.**

*Proposed Amendments:* The proposed amendment to Section 36.10.25 is intended to clarify the 5' setback is an additional distance (see Page 11 of Exhibit 1 for redlined text).

- 14. Correct Bicycle Parking Facility Requirement.** There is an incorrect reference to the type of bike parking facility required for restricted access.

*Proposed Amendments:* The bicycle parking standards for restricted bicycle access incorrectly reference Class II facilities, but should reference Class I facilities. Section 36.32.85 includes the correction (see Page 57 of Exhibit 1 for redlined text).

15. **Correct Rowhouse Guest Parking Requirement.** The guest parking requirements for rowhouse developments are incorrectly located under the townhouse development requirements.

*Proposed Amendments:* Staff has relocated the guest parking standards for rowhouse developments to the correct section in the parking standards table (see Pages 54 of Exhibit 1 for redlined text).

16. **Update Family Child-Care Regulations to Align with State Law.** On [June 23, 2020](#), the City Council adopted amendments to Chapter 36 that included permitting large family child care in all residential zoning districts (Ordinance No. 7.20). Unfortunately, some of the amendments included in that Ordinance were accidentally overwritten by a subsequent Zoning Code update immediately following adopting ADU regulations (Ordinance No. 11.20).

*Proposed Amendments:* Staff is proposing amendments to the residential and commercial land use tables to allow large family childcare and small family childcare uses to be permitted in all residential zoning districts to meet State Law requirements (see Pages 9 and 21 of Exhibit 1 for redlined text).

17. **Other Text Cleanups.** There are various clean-ups proposed throughout this Ordinance, including:

- Removing sections noted as “reserved,” but do not include any text. These are locations where text has been deleted or removed in the past, but the numbering remains (such as Section 36.06.56 through 36.06.59). It is not necessary to reserve numbers;
- Grammatical edits related to capitalizing, use of commas, periods, *etc.*;
- Spelling out the word Section, instead of using abbreviations;
- Correct references, spellings, or abbreviations;
- Minor reformatting and retitling of the land use tables for consistency across the tables within the Chapter; and

- Reorganizing listed land uses within the residential land use table to follow alphabetical order, such as relocating the general plan mixed-use village center use.

Proposed Amendments: Staff made these edits throughout the Ordinance.

### **Other City Code Amendments**

In addition to amendments to Chapter 36 outlined in this Report, Staff is preparing amendments to other City Code chapters, including: Chapter 8 (Buildings), Chapter 25 (Neighborhood Preservation), Chapter 28 (Subdivisions), Chapter 32 (Trees, Shrubs, and Plants) and Chapter 35 (Water, Sewage, and Other Municipal Services). The amendments relate to implementing changes reflected in this Report regarding ADU regulations and updating references to design review and the DRC. These Chapters will be reviewed by the City Council.

### **ENVIRONMENTAL REVIEW**

The proposed text amendments to Chapter 36 (Zoning) of the City Code comply with the California Environmental Quality Act pursuant to Section 15061, subsections (b)(1) through (b)(3), as the amendments are to align with State legislation, implement adopted Housing Element programs, relate to ministerial activities otherwise categorically exempt under the CEQA Guidelines, and are otherwise covered by the common-sense exemption that the amendments because it includes minor amendments to clarify existing City Code requirements or to be consistent with State Law. Therefore, it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment.

### **NEXT STEPS**

Following a recommendation from the EPC at this public hearing, the proposed Chapter 36 zoning amendments, including the EPC's recommendation(s), will be presented at a City Council public hearing for consideration of adoption, tentatively scheduled for December 5, 2023.

Since the amendments impact properties located within the airport influence area for Moffett Airfield, the Zoning Ordinance amendments are being reviewed by the Santa Clara County Airport Land Use Commission (ALUC) for consistency with the Moffett Airfield Comprehensive Land Use Plan (CLUP) regulations. These amendments were sent to ALUC in September 2023 and are currently pending a response, which staff anticipates in November 2023.



After adoption of the Zoning Ordinance amendments by the City Council, staff will submit the ordinance amendments to HCD for review and acceptance of the ADU regulation updates. State Law requires HCD to review all updates to ADU regulations.

Aside from review by other agencies, the City is a member of the Planning Collaborative from the Cities Association of Santa Clara County, who has created a user-friendly webpage regarding ADU resources for all County residents: [www.aduscc.org](http://www.aduscc.org). The City will continue to work with the Planning Collaborative on updating any necessary content following adoption of the new ADU regulations.

## **CONCLUSION**

The proposed zoning amendments by staff are intended to ensure compliance with State Law and Housing Element Program Policies identified in the Sixth-Cycle 2023-2031 Housing Element, address State ADU regulation compliance and frequently asked questions, provide clarification to zoning regulations, current practices or procedures, and corrections to improve the clarity and consistency of Chapter 36.

## **ALTERNATIVES**

1. Recommend approval of the Chapter 36 Zoning Amendments with modifications.
2. Recommend additional information from staff and continue the item.
3. Recommend disapproval of the Chapter 36 Zoning Text Amendments. Disapproval of a portion of the zoning text amendments required by law or the Housing Element will result in the City being out of compliance with State Law.

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KP-LH/4/CDD  
823-11-01-23SR

- Exhibits:
1. Draft Ordinance Amending Chapter 36 (Zoning)
  2. Summary Table of Draft Amendments
  3. AB 2097 Map