



DATE: March 27, 2018

CATEGORY: Public Hearing

DEPT.: Community Development

TITLE: **Gatekeeper Process Update and Minor Code Amendments**

RECOMMENDATION

Introduce an Ordinance Amending Sections of Chapter 36 of the Mountain View City Code Related to an Update of the Gatekeeper Process of Division 12 and Division 13 of Article XVI and Other Minor Code Amendments, to be read in title only, further reading waived, and set a second reading for April 24, 2018 (Attachment 1 to the Council report).

BACKGROUND

Proposed Project

Staff is proposing amendments to the General Plan and Zoning Amendment sections of the Zoning Ordinance (commonly referred to as the “Gatekeeper process”) to provide consistency with the current Gatekeeper review process and incorporate modifications as directed by Council. Staff has also identified minor Code amendments in other sections of the Zoning Ordinance which are intended to increase clarity and reduce inconsistencies within the Code.

Prior Hearings and Meetings

City Council Study Session

On March 7, 2017, City Council held a Study Session to discuss modifications to the Gatekeeper process (see Attachment 2—[City Council Study Session Report—March 2017](#)). At this Study Session, Council directed staff to update the Gatekeeper process to include:

- An application fee and noticing requirements;

- Review criteria;
- Exempt multi-zoned parcels less than two acres that are owned by a single entity;
- Establish an expiration date for approved Gatekeepers; and
- Require Council approval for substantial changes to approved Gatekeepers or upon sale of the project.

Staff has incorporated Council's direction into the proposed amendments to the Gatekeeper process.

Environmental Planning Commission

On March 7, 2018, the Environmental Planning Commission (EPC) held a public hearing to discuss staff's proposed updates to the Gatekeeper process and other minor code amendments (see Attachment 4–[Environmental Planning Commission Staff Report – March 7, 2018](#)). Six people spoke at the hearing and generally supported the proposed modifications to the Gatekeeper process and other Code amendments with further modifications which provide greater transparency to the process; such as an increased noticing radius, increased noticing time, and greater outreach to residents through social media, Nextdoor, or other web-based platforms.

The EPC voted unanimously to recommend the City Council adopt the proposed Zoning Ordinance Amendments with modifications to the Gatekeeper process amendments. The EPC's recommended modifications to the Gatekeeper process are discussed in the Analysis section of this report below.

ANALYSIS

The amendments discussed in this report are inclusive of all amendments proposed by staff. The proposed amendments to the Zoning Ordinance text are included as an attachment (See Attachment 5–Draft Ordinance with Changes Identified). Unless otherwise noted, the EPC unanimously approved staff's amendments without modification.

General Plan and Zoning Amendments (Gatekeeper Process)

- General Modifications—Staff proposes to update the General Plan and Zoning Amendment sections to be consistent with the current Gatekeeper process and incorporate Council’s direction from the Study Session.
- Application Fee—An application fee is proposed to cover the cost of Planning’s review of the application, report preparation, noticing, etc. Staff is working with the Finance and Administrative Services Department to determine the correct fee for the Gatekeeper application and a proposed fee will be included in the budget process. This fee would not cover the cost associated with the review of the development project should the Gatekeeper be authorized. The development review fees would be submitted with the development application materials per the City’s fee schedule.
- Application Requirements—The current Gatekeeper process has minimal application requirements and does not explicitly require the submittal of preliminary plans. In practice, some Gatekeeper applicants submit preliminary plans because it provides context to their request. Staff proposes to amend the Code section to require the submittal of a preliminary plan set along with a project letter describing their request. The preliminary plan set requirement would be less stringent than the existing Informal Review requirements and include site plans, floor plans, elevations, and conceptual renderings.
- Noticing—The Zoning Ordinance currently does not require noticing of Gatekeeper hearings. Staff proposes that noticing be provided for surrounding properties, consistent with Section 36.56.20 (Notice of Hearing). This includes a mailing notices to properties within a three-hundred-foot (300’) radius of the project site ten (10) days before the hearing.

At the March 7 EPC public hearing, five members the public expressed interest in expanding the noticing radius and increasing the time between when the notice is mailed and the hearing. The EPC agreed with the public’s sentiments and recommended increasing the noticing requirements for Gatekeeper hearings to a minimum of a five-hundred-foot (500’) radius and require project sites greater than two (2) acres in total size to notice properties within a seven-hundred-fifty-foot (750’) radius. The EPC also recommended modifying the noticing time from a minimum of ten (10) days to fourteen (14) days before the Gatekeeper hearing. The proposed ordinance does not include these recommendations but the City Council could modify the ordinance if it so desires.

The EPC also discussed additional outreach methods for upcoming Gatekeeper hearings, including community meetings, social media announcements, and increasing the noticing radius for projects that include substantial tenant displacement.

- Council Reauthorization—The amended process would require a Gatekeeper project to return to the City Council for reauthorization if there is a change in the ownership of the project site, a formal application has not been submitted within a year of Council authorization, or if there are substantial changes from the authorized Gatekeeper proposal. The Community Development Director would determine if a change to a project, including number of units, square footage, or land use type, is considered substantial.
- Exempt Split-Zoned Projects Under Two Acres—Staff has found that projects of a small size that require a General Plan or zoning amendment do not necessitate substantially more staff time than a project of similar size that do not require such amendments. The proposed amendments would exempt split-zoned projects under two (2) acres in size which are owned by a single entity from requiring the Gatekeeper process. This would exempt properties that requested a Gatekeeper authorization previously, such as the Ambra properties (913 and 987 North Rengstorff Avenue) and the Escuela Retail Center properties (601-649 Escuela Avenue/1873 Latham Street).

At the March 7 EPC public hearing, two members of the public expressed that they were not supportive of exempting split-zoned projects less than two acres which are owned by a single entity because this gives an unfair advantage to only these properties and that all properties in the City which seek a General Plan or Zoning Amendment should be subject to same process. The EPC agreed with the public's sentiments and recommended removing the exemption of projects within more than one zoning district, under two acres in total size, and owned by a single entity from the Gatekeeper process. The proposed ordinance includes the language recommended by Staff but the City Council could modify the ordinance in accordance with the EPC's recommendation.

- Review Criteria—The proposed Amendment Authorization Criteria chart is not intended to be used as a ranking system but, rather, a simple visual tool to compare different benefits and criteria among the different applications. The chart would be used by Council in conjunction with the project description narrative provided by the applicant, which describes in detail how the proposed amendment(s) meet Council goals, General Plan objectives, and provide a benefit to the community

beyond what is already required for the project. The Amendment Authorization Criteria chart would be an external document which is referenced in the Zoning Ordinance and can be modified by staff upon Council direction to align with changes in Council goals. This approach is similar to the chart used during the Bonus FAR process in the North Bayshore Area (see Attachment 6).

Commercial

Proposed amendments to the commercial sections of the Zoning Ordinance focus on creating consistency between the development standards of the Zoning Ordinance and the General Plan.

- Commercial-Neighborhood (CN) Development Standards—The corresponding General Plan land use designation for the CN District is Neighborhood Commercial. This General Plan designation has an FAR of 0.35; however, the current CN District in the Zoning Code states that there is no FAR limitation. Staff proposes amending the CN District development standards table to allow a maximum FAR of 0.35 to be consistent with the FAR maximum of the Neighborhood Commercial designation of the General Plan.
- Commercial-Services (CS) Development Standards—Similarly, the CS District has no stated maximum FAR in the existing Zoning Ordinance, although one is listed in the General Plan. Staff proposes amending the CS development standards table to allow a maximum FAR of 0.40 to be consistent with the standards of the General Commercial designation of the General Plan.

Residential

Proposed amendments to the residential ordinances are intended to clarify existing language and increase consistency within the City Code.

- Accessory Dwelling Unit Reference—Staff previously amended the Zoning Ordinance in compliance with Senate Bill 1069, which included changing the name of companion units to accessory dwelling units. Throughout the Zoning Ordinance, most of the language has changed to identify these structures as accessory dwelling units instead of companion units. Staff proposes replacing the term “companion unit” with the term accessory dwelling unit in the R1 development standards chart where it is still used to be consistent with the previous Chapter 36 amendments and Senate Bill 1069.

- Projection of Second-Story Roof Eaves into Setbacks—The existing Setback and Floor Area Ratio Exceptions section of the Zoning Ordinance is inconsistent in allowing second-story roof eaves to project into the side and rear setbacks and allowing these minor architectural projections for new homes. Staff proposes a text amendment to make this section consistent and clarify that second-story roof eaves are allowed to project into the side and rear setbacks.

Medical Services Parking

Section 36.32.50 (Required Parking by Land Use table) incorrectly lists the automobile parking requirement for medical service clinics, offices, labs, under 20,000 square feet in the required bicycle parking spaces column. Staff proposes to amend this table to provide the correct automobile and bicycle parking requirements for medical service clinics, offices, labs, under 20,000 square feet.

Service Stations – Retail Sales

Section 36.30.15 (Service Stations – Retail Sales) currently prohibits the sale of alcoholic beverages at service stations. Changes to State law have preempted City or County ordinances which prohibit the concurrent retailing of motor vehicle fuel with beer and wine for off-sale consumption in zoning districts where the Zoning Ordinance allows beer and wine and motor vehicle fuel to be sold on separate sites. Staff proposes to amend this section to be consistent with State law.

Signs

Staff proposes adding text to Section 36.36.50 (Signs Allowed in Multiple Zoning Districts) which would allow buildings located adjacent to freeways with limited visibility from an adjacent public street a sign oriented towards the freeway for advertisement of on-site tenants.

Emergency Shelters in Industrial Zones

On December 4, 2012, the City Council held a public hearing in which they adopted an amendment to the Zoning Ordinance to list Emergency Shelters as a permitted use in the MM (General Industrial) District to be compliant with Senate Bill 2. However, Section 36.20.05 (Land Uses and Permit Requirements by Industrial District table) incorrectly lists Emergency Shelters as permitted in the ML (Limited Industrial) District and not permitted in the MM (General Industrial) District. Staff proposes to correct this error and list Emergency Shelters as permitted in the MM (General Industrial) District.

FISCAL IMPACT – None.

CONCLUSION

The amendments proposed by staff are intended to update the Gatekeeper process based on previous Council direction and to clarify existing regulations and update sections of the Zoning Ordinance which are outdated, inconsistent, or in conflict with current State law. These amendments are based upon staff’s experience implementing the Zoning Ordinance, addressing frequently asked questions at the public counter, and responding to common project proposals from members of the community and developers.

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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- Attachments:
1. Draft Ordinance with Zoning Ordinance Amendments
 2. [City Council Study Session Report – March 2017](#)
 3. Summary of Draft Amendments
 4. [Environmental Planning Commission Staff Report – March 7, 2018](#)

5. Draft Ordinance with Changes Identified
6. Draft Amendment Authorization Criteria Chart