



COUNCIL REPORT

DATE: January 23, 2024

CATEGORY: Public Hearing

DEPT.: Community Development

TITLE: **Amendments to Chapter 8 (Buildings), Chapter 25 (Neighborhood Preservation), Chapter 28 (Subdivisions), Chapter 32 (Trees, Shrubs and Plants), Chapter 35 (Water, Sewage and Other Municipal Services), and Chapter 36 (Zoning), of the City Code (Second Reading)**

RECOMMENDATION

1. Find the proposed amendments to Chapter 8 (Buildings), Chapter 25 (Neighborhood Preservation), Chapter 28 (Subdivisions), Chapter 32 (Trees, Shrubs and Plants), Chapter 35 (Water, Sewage and Other Municipal Services), and Chapter 36 (Zoning) of the Mountain View City Code to be exempt under the California Environmental Quality Act (CEQA) 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 a Resolution of the City Council of the City of Mountain View Making Findings Required by California Public Utilities Code Section 21676 and Overruling the Santa Clara County Airport Land Use Commission's Determination of Inconsistency with the Comprehensive Land Use Plan for Moffett Federal Airfield Related to Zoning Ordinance Text Amendments to Chapter 36 (Zoning) of the City Code to Align with Recently Enacted State Law, Implement 2023-2031 Housing Element Programs, Modify and Clarify Administrative and Development Review Procedures, and Make Other Nonsubstantive Amendments, to be read in title only, further reading waived (Attachment 1 to the Council report). (2/3 vote of Council required)
3. 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 Tables 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 Fueling 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 Modifications, Clarifications, and Technical Corrections, to be read in title only, further reading waived (Attachment 2 to the Council report). (First reading: 7-0)

4. Adopt an Ordinance of the City of Mountain View Approving Amendments to Chapter 8 (Buildings), Chapter 25 (Neighborhood Preservation), Chapter 32 (Trees, Shrubs and Plants), and Chapter 35 (Water, Sewage and Other Municipal Services) to Replace References to the Development Review Committee with Design Review, Align with State Laws on Electric Vehicle Charging Requirements and Micro-Enterprise Home Kitchen Operations, and Relocate Certain Accessory Dwelling Unit Provisions from Chapter 36 into Chapter 8; and Amendments to Chapter 28 (Subdivisions) to Modify Lot Line Adjustment Procedures and Clarify Existing Subdivision Map Extension Procedures, to be read in title only, further reading waived (Attachment 3 to the Council report). (First reading: 7-0)

SUMMARY

On December 5, 2023, the City Council introduced an ordinance to amend Chapter 36 (Zoning) to align with State law and to implement the 2023-2031 Housing Element programs, including accessory dwelling unit (ADU) regulations; new residential land uses, such as low-barrier navigation centers and employee housing; add new home occupations; and implement current procedures or to clarify existing regulations (Attachment 2 to the Council report). The City Council also introduced an ordinance to amend Chapter 8 (Building), Chapter 25 (Neighborhood Preservation), Chapter 28 (Subdivision), Chapter 32 (Trees, Shrubs and Plants), and Chapter 35 (Water, Sewage and Other Municipal Services) to ensure consistency throughout the Code as a result of the changes made to Chapter 36, to align with State laws, and to reflect updates in procedures (Attachment 3 to the Council report).

At this hearing, the City Council approved the first reading of these ordinances by a 7-0 vote with modifications to Chapter 36 and Chapter 28 to:

1. Increase the height allowance of all single-family and multi-family detached ADUs from 18' to 28' to match the height of dual-urban opportunity (DUO) developments in Chapter 36 (see Pages 14 and 16 of Attachment 2);
2. Clarify the informal application process is voluntary by adding the word "voluntary" in Chapter 36 (see Page 64 of Attachment 2); and

3. Add a definition of “good-faith effort” for subdivision map extensions in Chapter 28 (see Page 9 of Attachment 3).

During the same hearing, Council unanimously adopted a resolution declaring and providing a Notice of Intent to overrule the Santa Clara County Airport Land Use Commission (ALUC) determination that the Chapter 36 text amendments are inconsistent with the height, noise, and safety policies of the Comprehensive Land Use Plan for Moffett Airfield. Following Council’s adoption of the Notice of Intent, staff notified ALUC and the California Department of Transportation’s Division of Aeronautics (Caltrans) on December 7, 2023 of the City’s intent to overrule the ALUC’s determination of the inconsistency as required under the Public Utilities Code. The ALUC and Caltrans had 30 days to provide a response to the City’s Notice of Intent. Any response received is considered advisory for Council consideration per Public Utilities Code Section 21676.

No comments were received from ALUC. On January 3, 2024, City staff received a response letter from Caltrans (Attachment 4—Caltrans Response Letter), which recognized the “City of Mountain View maintains compliance with the [Moffett Airfield CLUP] through other measures,” but also acknowledged that “the ALUC’s consideration to act conservatively in these text amendments ... is consistent with their duties” under the Public Utilities Code. In weighing both sides’ interests, Caltrans staff suggested that as an alternative to the ALUC’s specific recommendations the City could consider a simpler zoning text modification footnote “that states the assurance that all parcels in the airport influence area (AIA) will be compatible with the [] CLUP.” Cities must adhere to applicable regulations established by various state and regional agencies without need to expressly integrate them into local ordinances. The Public Utilities Code accounts for both the requirements on local agencies to comply with the purposes of State law, refer certain zoning and plan amendments to the ALUC, and the local agencies’ authority to override ALUC determinations in certain circumstances based on required findings. As a result, staff is not proposing to incorporate Caltrans’ suggested alternative nor make additional amendments at this time.

Based on the Caltrans response letter acknowledging that the City is in compliance with the Moffett Airfield CLUP, staff concludes that the Chapter 36 amendments remain consistent with the policies and requirements of the Moffett Airfield Comprehensive Land Use Plan and recommends Council adopt a resolution to overrule the ALUC determination, which must be adopted by a two-thirds majority of Council (Attachment 1 to the Council report).

This is the second reading of the ordinances for the text amendments to the City Code. If approved, the ordinances will become effective 30 days thereafter on February 22, 2024.

FISCAL IMPACT—None.

PUBLIC NOTICING

Agenda posting, and the ordinance was published at least two days prior to adoption in accordance with City Charter Section 522.

Prepared by:

Krishna Penollar
Senior Planner

Reviewed by:

Lindsay Hagan
Assistant Community Development Director

Approved by:

Aarti Shrivastava
Assistant City Manager/
Community Development Director

Arn Andrews
Assistant City Manager

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- Attachments:
1. Resolution to Overrule ALUC Determination
 2. Ordinance of Zoning Text Amendments (Chapter 36)
 3. Ordinance of Amendments to 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)
 4. Caltrans Response Letter