



Planning & Transportation Commission

Staff Report (ID # 10857)

Report Type: Action Items **Meeting Date:** 12/11/2019

Summary Title: 470 Olive Avenue: Nonconforming Use Exception (2nd Hearing)

Title: PUBLIC HEARING/QUASI-JUDICIAL. 470 Olive Avenue [18PLN-00148]: Recommendation on Applicant's Request for a Zoning Code Text Amendment to Allow an Exception to the Nonconforming Use Amortization Provisions that are Applicable to the Site. The Applicant has Requested the Text Amendment to Allow an Existing Office Use to Remain in a Single Family Residential Zoning District for Five Years. The Existing Commercial Structure is Located on Two Parcels: 470 Olive Avenue is Zoned Single Family Residential (R-1) and 2951 El Camino Real is Zoned Service Commercial (CS). Environmental Assessment: Exempt from CEQA Per Guidelines Section 15301 (Existing Facilities). For More Information Contact the Project Planner Samuel Gutierrez at samuel.gutierrez@cityofpaloalto.org

From: Jonathan Lait

Recommendation

Staff recommends the Planning and Transportation Commission (PTC) take the following action(s):

1. Recommend adoption of the attached ordinance (Attachment A) extending the amortization of non-conforming uses at 470 Olive Avenue.

Report Summary

The applicant seeks a text amendment to Title 18 of the Palo Alto Municipal Code (Zoning Code) to allow an unpermitted office use to legally occupy the subject site. The applicant's proposed text amendment for a five-year extension went before the PTC on October 30, 2019, with a staff recommendation of denial. The PTC requested that staff (1) prepare an ordinance limiting

the extension to a two year period, and (2) return to the PTC for additional review and recommendation to the City Council. Staff revised the text amendment language per the PTC's direction. The amendment would allow office use occupancy for two years on a site currently zoned R-1 (Single-Family Residential).

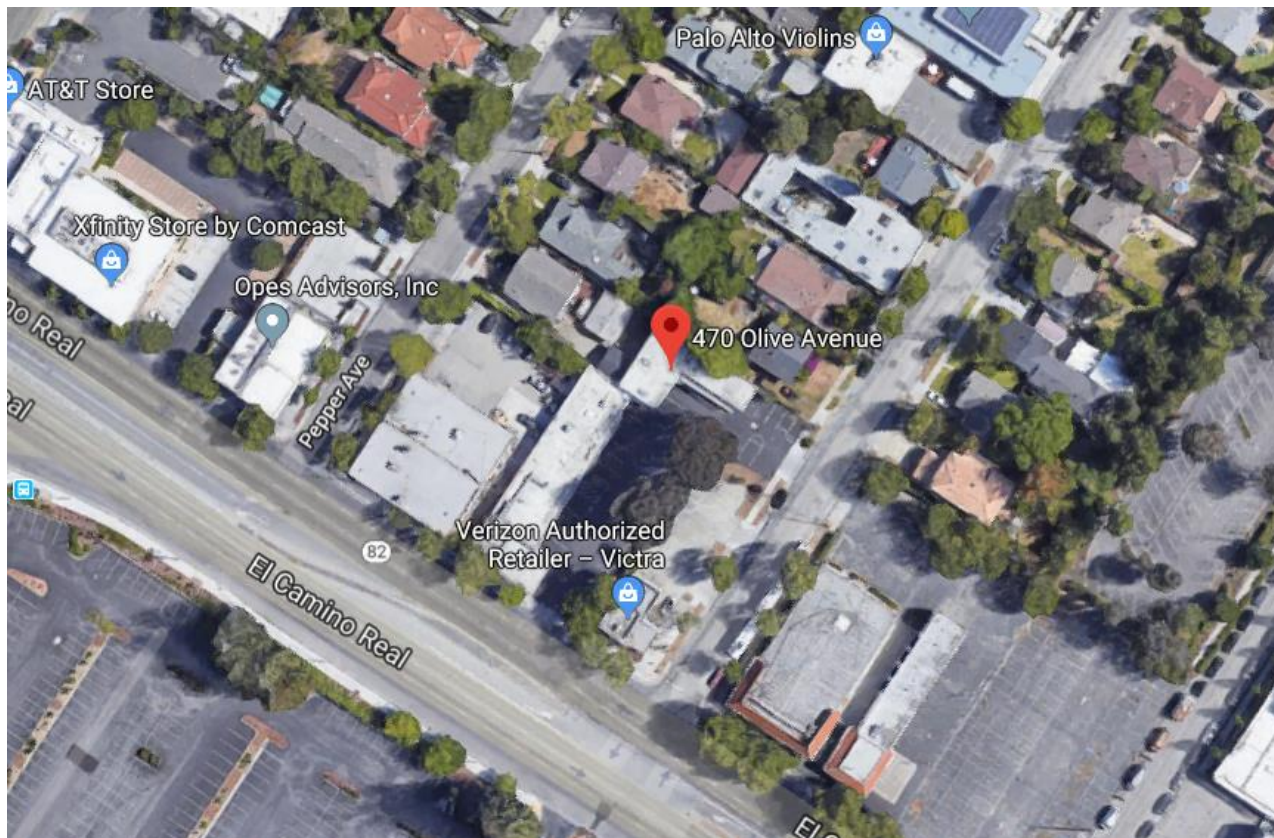
Background

Project Information

Owner:	Jessica Rose Agramonte
Architect:	N/A
Representative:	N/A
Legal Counsel:	N/A

Property Information

Address:	470 Olive Avenue
Neighborhood:	Ventura
Lot Dimensions & Area:	50' by 119.7'; 5,983 sf
Housing Inventory Site:	No
Located w/in a Plume:	Yes; COE Plume Area
Protected/Heritage Trees:	None
Historic Resource(s):	Determined to have no historic status
Existing Improvement(s):	Approximately 3,710 sf; Single-Story Building; Approximately 18' tall; Built 1968
Existing Land Use(s):	General Office Use
Adjacent Land Uses & Zoning:	North: Single Family Residential (R-1) West: General Office (CS) East: Single Family Residential (R-1) South: Retail (CS)
Special Setbacks:	None
Aerial View of Property:	



Source: Google Maps

Land Use Designation & Applicable Plans/Guidelines

Zoning Designation:	Single Family Residential (R-1)
Comp. Plan Designation:	Single Family (SF)
Context-Based Design:	Not Applicable
Downtown Urban Design:	Not Applicable
SOFA II CAP:	Not Applicable
Baylands Master Plan:	Not Applicable
ECR Guidelines ('76 / '02):	Not Applicable
Proximity to Residential Uses or Districts (150'):	Yes; adjacent to R-1 Residential Uses & District
Located w/in AIA (Airport Influence Area):	Not Applicable

Prior City Reviews & Action

City Council:	Pre-Screening; October 2, 2017 (http://bit.ly/470olive2017) (Transcript https://www.cityofpaloalto.org/civicax/filebank/documents/62983)
PTC, HRB, ARB:	PTC; First Hearing, October 30, 2019 (Staff report: https://www.cityofpaloalto.org/civicax/filebank/documents/73824)

10/30 PTC video link: <https://midpenmedia.org/planning-transportation-commission-63-10302019/>

Project Description

The applicant requests a zoning code text amendment to allow for an exception to the nonconforming use amortization provisions applicable to the site. The applicant's proposed text amendment was to allow an existing office use to remain for five years in an R-1 Single Family Residential Zoning District. The existing commercial structure is located across two parcels. One parcel is zoned R-1 Single Family Residential (470 Olive Ave) with frontage only on Olive Avenue. The other parcel is zoned CS Service Commercial (2951 El Camino Real) and has frontage only on El Camino Real.

Requested Entitlements, Findings, and Purview:

The following discretionary applications are being requested and subject to PTC purview: Zoning Text Amendment. The Zoning Text Amendment process for this type of application is set forth in PAMC 18.80.010. Amendments to the title may be done by changing the boundaries of districts, or by changing the regulations applicable within one or more districts, or by changing any other provision of this title, whenever the public interest or general welfare may so require. The PTC's recommendation will be forwarded to the City Council for final action.

Analysis¹

On October 30, 2019, the PTC considered the applicant's request for a zoning text amendment allowing an exception to the nonconforming use amortization provisions for 470 Olive Street. The request was for a five-year amortization exception to allow an existing office use to remain in an R-1 Single Family Residential Zoning District.

The PTC held a thorough and robust discussion regarding the history of the site, the existing conditions, and the requested text amendment. Staff recommended denial because the previous property owners had not taken the necessary actions to retain the nonconforming use on the site. In addition, staff did not recommend allowing an office use to continue on land zoned for single-family use. The PTC, among other discussion points, recognized the unique nature of the site, the property, and the forthrightness of the applicant in coming forward to address the issues directly.

Initially, the PTC considered a motion to move that the applicant work with Staff on acceptable non-conforming use of the Olive property that will come in compliance within 5-years of the NVCAP proposal.

¹ The information provided in this section is based on analysis prepared by the report author prior to the public hearing. Planning and Transportation Commission in its review of the administrative record and based on public testimony may reach a different conclusion from that presented in this report and may choose to take an alternative action from the recommended action.

After further discussion the PTC changed the motion with friendly amendments and ultimately proposed the following motion, directing staff to:

1. Come back with a proposal that would satisfy the Text Amendment vehicle for continuing the use with relationship to the NVCAP process and that the Text Amendment would come back with a shorter time duration than the requested 5-year period.

Thus, Staff has returned with:

1. Modified amendment to limit the requested exception to two years from the date of a possible City Council approval, and
2. A revised zoning text amendment, that the PTC can act upon and forward to City Council.

The revised text amendment is attached to this report as Attachment B.

Environmental Review

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. Specifically, Exempt from CEQA Per Guidelines Section 15301 (Existing Facilities).

Public Notification, Outreach & Comments

The Palo Alto Municipal Code requires notice of this public hearing be published in a local paper and mailed to owners and occupants of property within 600 feet of the subject property at least ten days in advance. Notice of a public hearing for this project was published in the *Daily Post* on November 29, 2019, which is 12 days in advance of the meeting. Postcard mailing occurred on November 26, 2019, which is 15 days in advance of the meeting.

Public Comments

As of the writing of this report, no project-related, public comments were received.

Report Author & Contact Information

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PTC² Liaison & Contact Information

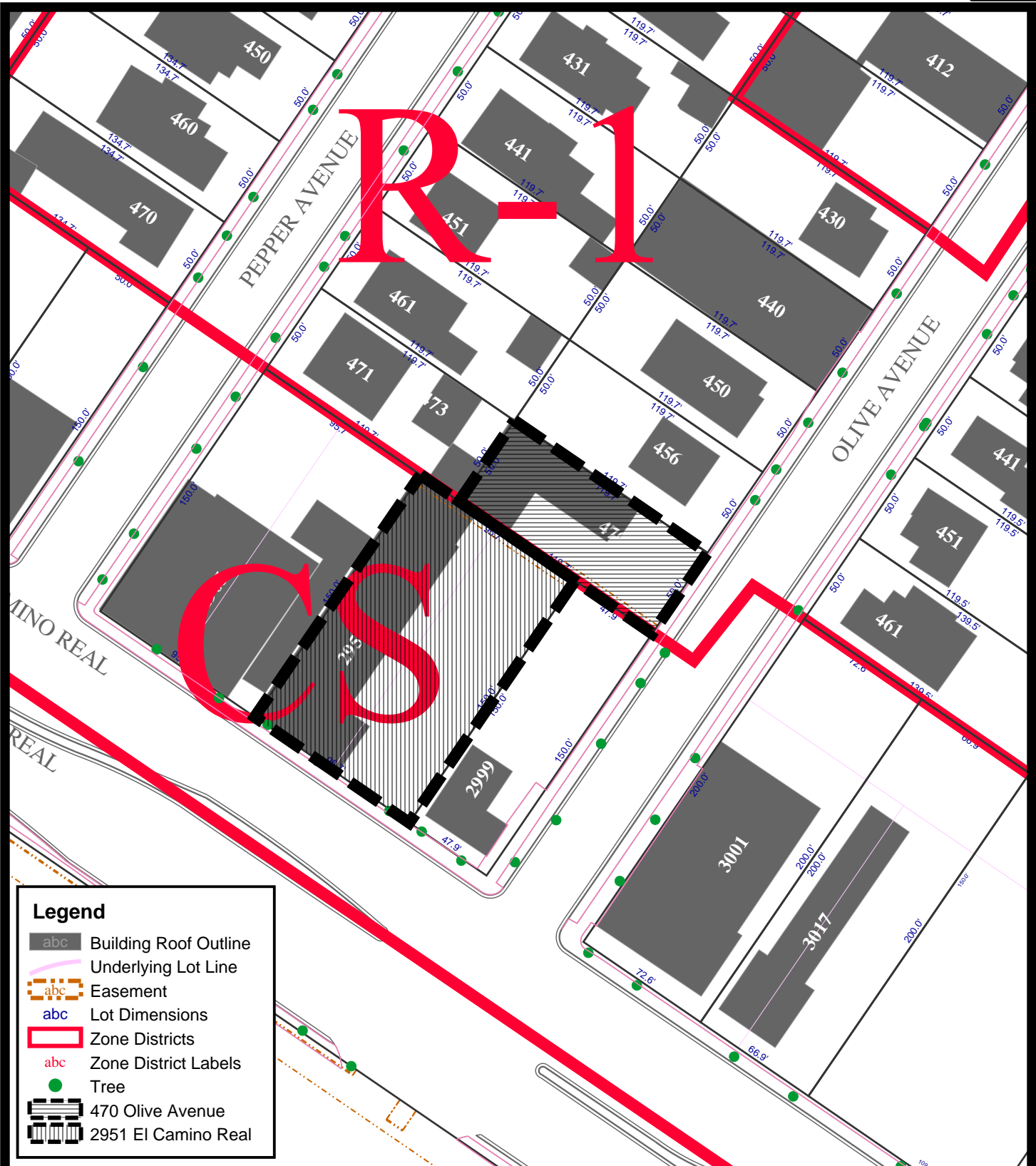
Rachael Tanner, Assistant Director
 (650) 329-2167

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Attachments:

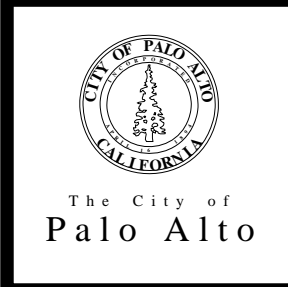
- Attachment A: Vicinity Map and Photos (PDF)
- Attachment B: Zoning Text Amendment Draft Ordinance (DOCX)

² Emails may be sent directly to the PTC using the following address: planning.commission@cityofpaloalto.org



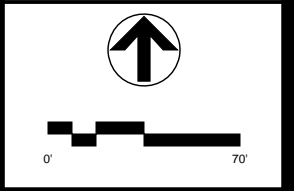
Legend

- Building Roof Outline
- Underlying Lot Line
- Easement
- Lot Dimensions
- Zone Districts
- Zone District Labels
- Tree
- 470 Olive Avenue
- 2951 El Camino Real



470 Olive Avenue

This map is a product of the City of Palo Alto GIS



470 Olive Avenue (site) and 2951 El Camino Real



Source: Google Maps

470 Olive Avenue



Google

Source: Google Maps

2951 El Camino Real



Source: Google Maps

NOT YET APPROVED

Ordinance No. _____
 Ordinance of the Council of the City of Palo Alto
 Amending Zoning Regulations to Extend Amortization of
 Non-Conforming Office Uses at 470 Olive Avenue

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

- A. July 20, 1978, the Council rezoned the 470 Olive Avenue portion of the site to R-1 to achieve consistency between the zoning map and the Comprehensive Plan Land Use Designation Map. This action rendered the commercial use of the 470 Olive Avenue parcel as “legal nonconforming.” Commercial uses onsite became subject to amortization, with a termination date of September 11, 1998 as the existing building was determined to be a “Type III” structure (PAMC 18.70.070(2)&(3)).
- B. On October 5, 1987, the City Council approved an exception to the nonconforming use termination provision for the site, subject to conditions. However, the prior property owner did not implement the required conditions. Instead, the owner confirmed, via a letter to the City dated March 28, 1988, that they would not pursue the Council-approved exception.
- C. In 2014, the extensive retail use was changed to an office use. The owner was unable to obtain a Use and Occupancy Permit for the conversion to office use, given the R-1 zoning of the property and 1998 amortization deadline. As a result, the owner submitted a Council Prescreening application for a request to rezone the property. On October 2, 2017, Council conducted a prescreening discussion regarding the owners request.
- D. On May 1, 2018, the property owner submitted a formal application for a text amendment exemption for a non-conforming use amortization for the site, and professed an interest in future development of multifamily housing on the site.
- E. On October 30, 2019 and December 11, 2019, the Planning and Transportation Commission considered the requested text amendment and recommended that the City Council adopt a short-term extension of the amortization of the non-conforming uses at 470 Olive Avenue until December 31, 2021 to allow for potential coordination with planning efforts associated with the North Ventura Coordinated Area Plan (NVCAP) and/or to permit the property owner to maintain the existing office for two years use while exploring the possibility of developing multifamily housing on the site.

SECTION 2. Section 18.70.070 (Nonconforming use – Required termination) of Chapter 18.70 (Nonconforming Uses and Noncomplying Facilities) of the Palo Alto Municipal Code is hereby amended to add Subsection (b)(2)(H) as follows:

NOT YET APPROVED

(H) The non-conforming office uses located at 470 Olive Avenue on or before December 31, 2021.

SECTION 3. The City Council finds that this ordinance falls under the California Environmental Quality Act (CEQA) Guidelines Sections 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations).

SECTION 4. This ordinance shall be effective on the commencement of the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Deputy City Attorney

City Manager

Director of Planning and Community Environment

Director of Administrative Services