



City of Palo Alto

City Council Staff Report

(ID # 11815)

Report Type: Consent Calendar

Meeting Date: 12/7/2020

Summary Title: 788 San Antonio and Housing Incentive Program Expansion (2nd Reading)

Title: SECOND READING: Adoption of an Ordinance Amending Palo Alto Municipal Code (PAMC) Title 18, Chapters Chapter 18.04, 18.16, 18.40, and 18.52 to: 1) Expand the Housing Incentive Program to San Antonio Road, and 2) Amend Definition of Gross Floor Area and Amend Retail Preservation for Housing (FIRST READING November 16, 2020 PASSED: 4-3 DuBois, Filseth, Kou)

From: City Manager

Lead Department: Planning and Development Services

Recommendation:

Staff recommends that the City Council adopt an Ordinance (Attachment A) on second reading to amend Title 18 of the Palo Alto Municipal Code.

Background:

On November 16, 2020, the City Council reviewed and adopted on first reading a draft ordinance amending Chapters 18.04, 18.16, 18.40, and 18.52 of the Palo Alto Municipal Code ([staff report #11565](#)). There were two separate motions of approval concerning the Ordinance.

The first motion below passed, moved by Council Member Kniss and seconded by Vice Mayor DuBois, with a 7-0 vote.

- A. Adopt a Resolution certifying the Final Environmental Impact Report, adopting California Environmental Quality Act (CEQA) findings, a Statement of Overriding Considerations and a Mitigation, Monitoring and Reporting Program;
- B. Approve the 788 San Antonio Road project, construction hours, and the addition of a historical plaque;

- C. Adopt a Record of Land Use Action approving the requests for a Tentative Map, Variance and Architectural Review based on findings and subject to conditions of approval;
- D. And to the extent necessary for the project:
 - i. Adopt a Resolution amending Comprehensive Plan Land Use Element Program L2.4.1;
 - ii. Introduce an Ordinance approving text amendments to the Palo Alto Municipal Code Title 18.

The second motion below passed, moved by Council Member Kniss and seconded by Mayor Fine, with a 4-3 vote (DuBois, Filseth and Kou voting no).

- A. In order to extend the Housing Incentive Program (HIP) to the two-block area as defined in the administrative record:
 - i. Adopt a Resolution amending Comprehensive Plan Land Use Element Program L2.4.1;
 - ii. Introduce an Ordinance approving text amendments to the Palo Alto Municipal Code Title 18; and
- B. Direct Staff to return with parameters for a San Antonio Corridor transportation study

Attachments:

Attachment A - Ordinance Amending Title 18 (zoning) (PDF)

Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Amending Title 18 (Zoning) of the Palo Alto Municipal Code, Including Chapters 18.04 (Definitions) and 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, and CS) Districts), 18.40 (General Standards and Exceptions) and 18.52 (Parking and Loading Requirements) to Establish the Housing Incentive Program for CS Zoned Properties Along San Antonio Road Between Middlefield Road and East Charleston Road, Including Rooftop Gardens, Modified Parking Requirements; Change the Gross Floor Area Definition to Exempt Certain Subterranean Square Footage; Modify Retail Preservation for Certain Housing Projects

The Council of the City of Palo Alto ORDAINS as follows:

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

A. In November 2017, the City adopted an updated Comprehensive Plan that projected 3,545 to 4,420 new housing units between 2015 and 2030, and included policies to encourage housing production. The Council subsequently approved a Housing Work Plan with to support the City's efforts in meeting its Regional Housing Needs Assessment (RHNA) allocation of 1,988 units at varying levels of affordability and the goals inherent in the Comprehensive Plan policies. The Housing Work Plan detailed the actions needed to spur the production of housing, and included the proposed zoning changes reflected in this Ordinance to remove barriers and disincentives to housing development at higher densities where appropriate near transit, jobs and services, and that is affordable for a range of income levels.

B. On April 1, 2019, the City adopted the Housing Work Plan, which included various zoning ordinance amendments related to residential and residential mixed-use developments standards such as the housing incentive program, rooftop gardens and parking requirements.

C. On March 5, 2019, Ted O'Hanlon, representing Explore Real Estate on behalf of 788 SAPA Land Inc., the property owner for 788 San Antonio Road in Palo Alto, submitted an application for a high-density residential project. That project has since evolved to include a commercial component.

D. On May 20, 2019, the City Council held a duly noticed public hearing and was presented a pre-screening of the project that included potential zoning text amendments to implement the project and developments such as the project within the vicinity (CMR 10330).

E. On August 12, 2020, the Planning & Transportation Commission conducted a duly noticed public hearing, at which it reviewed, considered, and recommended the amendments to the Palo Alto Municipal Code described herein (CMR 11483).

F. On November 16, 2020, the City Council held a duly noticed public hearing and considered the subject amendment, including the recommendation from staff and the Planning & Transportation Commission and all public comments received prior to or at the hearing. The Council introduced the Ordinance for first reading.

G. The proposed Ordinance promotes the development of housing in accordance with the goals and policies in the City's Comprehensive Plan and the purposes of the City's Zoning Code.

H. The proposed ordinance was considered through the California Environmental Quality Act.

SECTION 2. Subsection (a)(65)(B) (Gross Floor Area, Non-residential & Multifamily Exclusions) of Section 18.04.030 of Chapter 18.04 (Definitions) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) is amended to add a new subdivision (vi) as follows:

18.04.030 Definitions

(a) Throughout this title the following words and phrases shall have the meanings ascribed in this section.

[. . .]

(65) "Gross floor area" is defined as follows:

[. . .]

(B) Non-residential & Multifamily Exclusions: For all zoning districts other than the R-E, R-1, R-2 and RMD residence districts, "gross floor area" shall not include the following:

[. . .]

(vi) In subterranean parking garages: Areas designed and required for electrical and fire equipment rooms, and other areas designated for similar purposes that do not increase the intensity of the use of the site; this exclusion only applies to the minimum area needed for equipment rooms, and similar purposes to comply with current code requirements.

[. . .]

SECTION 3. Subsection (k) (Housing Incentive Program) of Section 18.16.060 (Development Standards) of Chapter 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, and CS) Districts) of Title 18 (Zoning) of the PAMC is amended as follows:

18.16.060 Development Standards

[. . .]

(k) Housing Incentive Program

~~(1) For an exclusively residential or residential mixed-use project in the CC(2) zone or on CN or CS zoned sites on El Camino Real, the Director may waive the residential floor area ratio (FAR) limit and the maximum site coverage requirement after the project with the proposed waiver or waivers is reviewed by the Architectural Review Board, if the Director finds that a project exceeding these standards is consistent with the required architectural review findings. In no event shall the Director approve a commercial FAR that exceeds the standard in Table 4 of Section 18.16.060(b) or a total FAR (including both residential and commercial FAR) in excess of 2.0 in the CC(2) zone or 1.5 in the CN or CS zone.~~

(1) The Director may waive the residential floor area ratio (FAR) limit and the maximum site coverage requirement for a project that is reviewed by the Architectural Review Board, if the Director finds that the project with such waiver or waivers is consistent with the required architectural review findings in Section 18.76.020. The Director may only waive these development standards in the following areas and subject to the following restrictions:

(A) For an exclusively residential or mixed-use project in the CC(2) zone or on CN or CS zoned sites on El Camino Real. In no event shall the Director approve a commercial FAR that exceeds the standard in Table 4 of Section 18.16.060(b) or a total FAR (including both residential and commercial FAR) in excess of 2.0 in the CC(2) zone or 1.5 in the CN or CS zone.

(B) For an exclusively residential or mixed-use project on CS zoned sites on San Antonio Road between Middlefield Road and East Charleston Road. In no event shall the Director approve a commercial FAR that exceeds the standard in Table 4 of Section 18.16.060(b) or a total FAR (including both residential and commercial FAR) in excess of 2.0.

~~(2) For a 100% affordable housing project in the CC(2) zone or on CN or CS zoned sites on El Camino Real, the Director may waive any development~~

~~standard including parking after the project with the proposed waiver or waivers is reviewed by the Architectural Review Board, if the Director finds that a project with such waiver or waivers is consistent with the required architectural review findings. In no event shall the Director approve development standards more permissive than the standards applicable to the Affordable Housing (AH) Combining District in Chapter 18.30(J). A "100% affordable housing project" as used herein means a multiple family housing or mixed use project in which the residential component consists entirely of affordable units, as defined in Section 16.65.020 of this code, available only to households with income levels at or below 120% of the area median income, as defined in Section 16.65.020, and where the average household income does not exceed 60% of the area median income level, except for a building manager's unit.~~

(2) The Director may waive any development standard including parking for a project that is reviewed by the Architectural Review Board, if the Director finds that the project with such waiver or waivers is consistent with the required architectural review findings in Section 18.76.020. The Director may only waive these development standards in the following areas and subject to the following restrictions:

(A) For a 100% affordable housing project in the CC(2) zone or on CN or CS zoned sites on El Camino Real;

(B) For a 100% affordable housing project on CS zoned sites on San Antonio Road between Middlefield Road and East Charleston Road.

(C) In no event shall the Director approve development standards more permissive than the standards applicable to the Affordable Housing (AH) Combining District in Chapter 18.30(J). A "100% affordable housing project" as used herein means a multiple-family housing or mixed-use project in which the residential component consists entirely of affordable units, as defined in Section 16.65.020 of this code, available only to households with income levels at or below 120% of the area median income, as defined in Section 16.65.020, and where the average household income does not exceed 60% of the area median income level, except for a building manager's unit.

(3) This program is a local alternative to the state density bonus law, and therefore, a project utilizing this program shall not be eligible for a density bonus under Chapter 18.15 (Residential Density Bonus).

[. . .]

SECTION 4. Footnote (2) of Table 4 (Mixed Use and Residential Development Standards) of Section 18.16.060 (Development Standards) of Chapter 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, and CS) District) of Title 18 (Zoning) of the PAMC is amended as follows:

Section 18.18.060 Development Standards

[. . .]

(b) Mixed Use and Residential

Table 4 specifies the development standards for new residential mixed use developments and residential developments. These developments shall be designed and constructed in compliance with the following requirements and the context-based design criteria outlined in Section [18.16.090](#), provided that more restrictive regulations may be recommended by the architectural review board and approved by the director of planning and community environment, pursuant to Section [18.76.020](#).

**Table 4
Mixed Use and Residential Development Standards**

	CN	CC	CC(2)	CS	Subject to regulations in:
Minimum Site Specifications					
Site Area (ft ²)	None required				
Site Width (ft)					
Site Depth (ft)					
Minimum Setbacks					Setback lines imposed by a special setback map pursuant to Chapter 20.08 of this code may apply
Front Yard (ft)	0' - 10' to create an 8' - 12' effective sidewalk width ⁽⁸⁾	None Required ⁽⁸⁾	0' - 10' to create an 8' - 12' effective sidewalk width ⁽⁸⁾	0' - 10' to create an 8' - 12' effective sidewalk width ⁽⁸⁾	

Rear Yard (ft)	10' for residential portion; no requirement for commercial portion				
Rear Yard abutting residential zone district (ft)	10'				
Interior Side Yard if abutting residential zone district (ft)	10'				
Street Side Yard (ft)	5'				
Build-to-Lines	50% of frontage built to setback ⁽¹⁾ 33% of side street built to setback ⁽¹⁾				
Permitted Setback Encroachments	Balconies, awnings, porches, stairways, and similar elements may extend up to 6' into the setback. Cornices, eaves, fireplaces, and similar architectural features (excluding flat or continuous walls or enclosures of interior space) may extend up to 4' into the front and rear setbacks and up to 3' into interior side setbacks				
Maximum Site Coverage	50%	50%	100%	50%	
Landscape/Open Space Coverage	35%	30%	20%	30%	
Usable Open Space	150 sq ft per unit ⁽²⁾				
Maximum Height (ft)					
Standard	35' ⁽⁴⁾	50'	37'	50'	
Within 150 ft. of a residential zone district (other than an RM-40 or PC zone) abutting or located within 50 feet of the side	35'	35' ⁽⁵⁾	35' ⁽⁵⁾	35' ⁽⁵⁾	
Daylight Plane for lot lines abutting one or more residential zoning districts	Daylight plane height and slope shall be identical to those of the most restrictive residential zoning district abutting the lot line				
Residential Density (net)⁽³⁾	15 or 20 ⁽⁹⁾	See sub-section (e) below	No maximum	30	18.16.060(i)
Sites on El Camino	No			No	

Real	maximum		maximum	
<u>Sites on San Antonio Rd Between Middlefield Rd and E. Charleston Rd</u>	<u>15 or 20⁽⁹⁾</u>	=	<u>No Maximum</u>	
Maximum Residential Floor Area Ratio (FAR)	0.5:1 ⁽⁴⁾	0.6:1	0.6:1	
Maximum Nonresidential Floor Area Ratio (FAR)	0.4:1	2.0:1	0.4:1	
Total Mixed Use Floor Area Ratio (FAR)	0.9:1 ⁽⁴⁾	2.0:1	1.0:1	
Minimum Mixed Use Ground Floor Commercial FAR⁽⁶⁾	0.15:1 ⁽¹⁰⁾	0.15:1 ⁽¹⁰⁾ 0.25:1 ⁽⁷⁾⁽¹⁰⁾	0.15:1 ⁽¹⁰⁾	
Parking	See Chapters 18.52 and 18.54 (Parking)			18.52, 18.54

- (1) Twenty-five-foot driveway access permitted regardless of frontage; build-to requirement does not apply to CC district.
- (2) Required usable open space: (1) may be any combination of private and common open spaces; (2) does not need to be located on the ground (but rooftop gardens are not included as open space except as provided below); (3) minimum private open space dimension six feet; and (4) minimum common open space dimension twelve feet.

For CN and CS sites on El Camino Real, CS sites on San Antonio Road between Middlefield Road and East Charleston Road and CC(2) sites that do not abut a single- or two-family residential use or zoning district, rooftop gardens may qualify as usable open space and may count as up to 60% of the required usable open space for the residential component of a project. In order to qualify as usable open space, the rooftop garden shall meet the requirements set forth in Section 18.40.230.

- (3) Residential density shall be computed based upon the total site area, irrespective of the percent of the site devoted to commercial use.

[. . .]

SECTION 5. Subsection (c) (Waivers and Adjustments; and Exemptions) of Section 18.40.180 (Retail Preservation) of Chapter 18.40 (General Standards and Exceptions) of Title 18 (Zoning) of the PAMC is amended to add a new subsection (4)(C) as follows:

Section 18.40.180 Retail Preservation

[. . .]

(c) Waivers and Adjustments; and Exemptions

[. . .]

(4) Exemptions. The following uses shall be exempt or partially exempt from the provisions of this Section 18.40.180, as provided below shall not apply to:

[. . .]

(C) A high-density residential or mixed-use project in the CS zone district, but not within the Ground Floor (GF) or Retail (R) combining districts, shall be required to replace only 1,500 square feet of an existing Retail or Retail-Like use. For the purposes of this partial exemption, high-density shall mean 30 or more dwelling units per acre.

[. . .]

SECTION 6. Footnote 4 of Table 1 (Minimum Off-Street Parking Requirements) of Section 18.52.040 Off-Street Parking, Loading and Bicycle Facility Requirements of Chapter 18.52 (Parking and Loading Requirements) of Title 18 (Zoning) of the PAMC are amended as follows:

18.52.040 Off-Street Parking, Loading and Bicycle Facility Requirements

[. . .]

**Table 1
Minimum Off-Street Parking Requirements**

[. . .]

1. Long Term (LT) and Short Term (ST) bicycle spaces as described in Section 18.54.060.
2. A "micro-unit" as used herein means a residential unit of 450 square feet or less.

3. Senior housing for purposes of this provision means an independent living facility, not a convalescent or residential care facility.
4. For residential mixed-use developments in the CD-C zone, CC(2) zone, ~~and~~ on CN and CS zoned sites abutting El Camino Real, and on CS zoned sites abutting San Antonio Road between Middlefield Road and East Charleston Road, the first 1,500 square feet of ground-floor retail uses shall not be counted toward the vehicle parking requirement.
5. Because these parking standards are reduced from the standards otherwise applicable to multiple-family residential development, projects that utilize these reduced parking standards shall not be eligible for further parking reductions through adjustments under Section [18.52.050](#), Table 4.

[. . .]

SECTION 7. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 8. The City as the lead agency for the Project has determined that the project is subject to environmental review under provisions of the California Environmental Quality Act (CEQA) under Guideline section 15081, Decision to Prepare an EIR. Specifically, the City prepared a Program EIR to address a series of actions that can be categorized as one large project. A Historic Resource Evaluation was completed for the project because of the age of a certain existing building on-site and it was determined that the building is eligible for listing on the California Register of Historical Resources. The loss of the potential resource through demolition cannot be mitigated and required the preparation of an EIR. Statements of Overriding Considerations are proposed. All other potential significant impacts can be mitigated to a level of less than significant with the implementation of mitigation measures. A Final EIR was prepared for the project that includes responses to comments made during the public draft circulation period (ending on September 14, 2020) and revisions to the draft EIR.

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SECTION 9. This Ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED: November 16, 2020

PASSED:

AYES: KNISS, FINE, TANAKA, CORMACK

NOES: DUBOIS, FILSETH, KOU

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Assistant City Attorney

City Manager

Director of Planning & Development
Services