



City Council Staff Report

From: City Manager

Report Type: **ACTION ITEMS**

Lead Department: Planning and Development Services

Meeting Date: **August 12, 2024**

Report #:2406-3117

TITLE

ACTION/LEGISLATIVE: Ordinance of the Council of the City of Palo Alto Amending Palo Alto Municipal Code (PAMC) Title 18 (Zoning) and Title 21 (Subdivisions and Other Divisions of Land) to Clarify Existing Regulations and to Implement Recent State Housing Laws. Chapters 18.14 (Housing Incentives), 18.18 (Downtown Commercial District), 18.30(F) (Automobile Dealership (AD) Combining District Regulations), 18.42 (Standard for Special Uses), 18.52 (Parking Regulations) and 18.77 (Processing of Permits and Approvals), and 21.12 (Tentative Maps and Preliminary Parcel Maps) are Amended, and Chapter 21.11 (Streamlined Subdivisions Resulting in Ten or Fewer Parcels) is Added. CEQA - Exempt Pursuant to Guidelines Section 15061(b)(3).

RECOMMENDATION

Staff and the Planning and Transportation Commission (PTC) recommend Council adopt the attached ordinance and provide direction on whether further staff resources should be dedicated to implementation of AB 2097.

EXECUTIVE SUMMARY

The attached draft ordinance would amend PAMC Titles 18 and 21 to address or implement provisions of six State laws noted below. The draft ordinance would amend Title 18, Zoning, Chapters 18.14 (Housing Incentives), 18.42 (Standard for Special Uses), 18.52 (Parking Regulations), and 18.77 (Processing of Permits and Approvals), amend Title 21, Subdivisions and Other Divisions of Land, Chapter 21.12 and add a chapter (Chapter 21.11).

1. *Senate Bill (SB) 684*, effective July 1, 2024 (Government Codes (GC) 65852.28, 65913.4.5, and 66499.41), facilitates faster approval by ministerial process for projects with up to ten homes or fewer with size and density criteria in zones allowing multiple-family residential use and no larger than five acres in an urban area.
2. *Senate Bill (SB) 4*, effective January 1, 2024 (GC 65913.16) and set to expire January 1, 2036, facilitates faster approval by ministerial process for 100% affordable, low-income housing on lands owned by colleges and religious organizations providing for the use of objective standards.

3. *Assembly Bill (AB) 2162*, effective January 1, 2019 (GC 65650-65656), makes certain supportive housing projects a use by-right in zones permitting multi-family housing uses.
4. *Assembly Bill (AB) 894*, effective January 1, 2024 (GC 65863.1), requires public agencies to approve shared parking arrangements in certain circumstances.
5. *Assembly Bill (AB) 2097*, effective January 1, 2023 (GC 65863.2 and amending Section 65585), prohibits public agencies from imposing or enforcing a minimum parking requirement on a residential, commercial, or other development project that is within one-half mile of defined “major transit stop” (though transient lodging such as hotels are exempted from this law).
6. *Assembly Bill (AB) 970*, effective January 1, 2023 (amending GC 65850.7 and adding GC 65850.71), does not have a limit on how many parking spaces can be removed to accommodate Electric Vehicle Storage Equipment (EVSE); the draft ordinance eliminates the City’s restriction.

In addition to the State law items, there are several non-State law ‘clean-up’ items in the draft ordinance which provide non-substantive clarifications to:

- Fix a footnote reference (Footnote 3 to Table 3 of Section 18.18.060 (Development Standards) of Chapter 18.18 (Downtown Commercial (CD) District))
- Clarify permitted and conditionally permitted uses in Sections 18.30(F).040 and 18.20(F).045, respectively
- Added proposed NVCAP zone districts NV-MXM and NV-MXH to the list of zones cited (CS and CN) for applicability of the section
- Amend Section 21.12.090 to clarify that tentative maps may be placed on the City Council's consent agenda, consistent with the City's practice.

These revisions, unrelated to recent state legislation, do not represent any change in policy.

BACKGROUND

On May 29, 2024, the Planning and Transportation Commission (PTC) voted to forward the staff recommendation to the City Council for adoption of the draft ordinance, except for a change to PAMC Section 18.52.040(d) in response to AB 2097. Discussion of this change was continued to July 10, 2024, because the PTC wished to have a broader policy discussion on the City response to AB 2097.

With respect to AB 2097, the PTC ultimately recommended minor changes to the proposed language in PAMC 18.52.040(d), and further recommended that the City Council:

1. Consider some modification of PAMC section 18.52.040(a) to mandate at least a minimal number of ADA parking spaces for projects within ½ mile of public transit, consistent with 65863.2 and the position taken by some cities responding to AB 2097,

2. Direct staff to develop a policy to provide ADA parking spaces on streets and other public property within these areas within a ½ mile of public transit, and
3. Investigate the desirability of requiring at least a minimal number of EVSE parking spaces for projects within ½ mile of public transit, consistent with 65863.2 and the position taken by some cities responding to AB 2097.

The PTC staff reports¹, videos² and presentations³ are viewable via links provided below. The ordinance the PTC recommends would amend Titles 18 and 21 to address or implement provisions of State laws - Senate Bills (SB) SB 684, SB 4, AB 2162, AB 894, AB 970 and AB 2097, and make several non-substantive revisions.

The six State laws the ordinance addresses are described further below:

1. **SB 684:**

Provides for a streamlined approval process for specific types of housing development projects by making it a ministerial task, thereby bypassing discretionary review or hearings, and expands CEQA exemptions for housing developments. It requires cities to allow up to the "Mullin" densities specified by the Government Code (30 du/acre for Palo Alto). It requires projects to provide the number of projected units (market rate and BMR) for sites identified in a housing element or the maximum number of units allowed by the General Plan if not identified in HE. It sets specific timelines for local agencies to approve or deny applications for such projects, such that failure to act within 60 days would result in automatic approval. If denied, the City must provide written feedback within 60 days on how to remedy the application.

The law allows the City to establish objective zoning, subdivision, or design standards for qualifying projects. The attached ordinance refers to the City's existing objective standards established for Senate Bill (SB) 9 projects and for housing development projects (as defined in GC 65589.5) as set forth in PAMC Title 18, Chapter 18.24 (Contextual Design Criteria and Objective Design Standards). SB 684 also addresses the issuance of building permits, outlining the conditions under which a permit would be granted prior to final map recordation. It states that local agencies are not required to permit accessory or junior accessory dwelling units on

¹ Links to July 10, 2024 PTC staff report: <https://www.cityofpaloalto.org/files/assets/public/v/1/agendas-minutes-reports/agendas-minutes/planning-and-transportation-commission/2024/ptc-7.10-muni-code-title-18.pdf> and May 29, 2024 staff report: <https://www.cityofpaloalto.org/files/assets/public/v/1/agendas-minutes-reports/agendas-minutes/planning-and-transportation-commission/2024/05.29-ptc-Zoning-Amendments.pdf>

² Links to May 29, 2024 video: <https://midpenmedia.org/planning-and-transportation-commission-2-5292024/> and July 10, 2024 video: <https://midpenmedia.org/planning-and-transportation-commission-2-7102024/>

July 10, 2024 PTC videos:

³ Link to staff presentations: https://www.cityofpaloalto.org/files/assets/public/v/1/agendas-minutes-reports/agendas-minutes/planning-and-transportation-commission/2024/ptc-5.29-ordinance-update_staff-presentation.pdf

parcels created under SB 684. Existing provisions regarding SB-9 urban lot splits and two-unit housing developments don't apply to SB 684 projects.

2. SB 4:

Streamlines the building process for faith-based institutions and certain colleges by providing a process that allows 'qualified developers' to build qualifying housing projects regardless of zoning restrictions if certain requirements are satisfied. Such projects are therefore a "use by right" on land owned by independent higher education or religious institutions. Among other criteria, 100% of the units (exclusive of manager units) must be affordable to lower-income households, with allowances for 20% moderate-income and 5% staff units. Ancillary ground-floor uses are also permitted:

- In a single-family residential zone, childcare centers and facilities operated by community-based organizations for the provision of recreational, social, or educational services for use by the residents of the development and members of the local community in which the development is located; and
- In all other zones, the development may include commercial uses that are permitted without a conditional use permit.

Housing projects eligible for "use by right" status can also qualify for density bonuses, incentives, and other concessions, including reduced parking standards. No additional parking requirements can be imposed if the development is within half a mile of high-quality public transit or one block from a car-share vehicle. The City must provide written documentation outlining conflicts with objective planning standards within a specified timeframe and failure to do so deems the project compliant. Design reviews can only focus on ministerial review criteria and cannot inhibit or preclude such streamlined approval. The bill would extend the CEQA exemption for ministerial project approvals. The provisions of this bill are set to expire on January 1, 2036.

3. AB 2162:

Makes certain supportive housing projects a "use by right" in zones that permit multifamily housing. To qualify:

- (1) The project must be deed restricted to be affordable to lower income households for a period of at least 55 years
- (2) At least 25% of the units or 12 units, whichever is greater, must be restricted to residents in supportive housing (i.e. housing for a target population that is linked to onsite or offsite services)
- (3) A certain percentage of square footage must be provided for on-site services
- (4) The project cannot exceed 50 units, unless the City allows larger projects to be a use by right

The City has implemented AB 2162 since it was adopted, including with the recent approval of the Mitchell Park Place supportive housing project at 525 East Charleston Avenue. As part of the Housing Element review process, however, HCD has asked that the City incorporate the bill

into its zoning code. Implementation of AB 2162 is included as Program 6.5(D) of the City's 2023-2031 Housing Element.

4. AB 894:

Requires the City to approve shared parking agreements for contiguous or nearby uses where a parking analysis shows that the proposed shared parking is "underutilized." Parking is "underutilized" if at least 20 percent of parking spaces in a development are vacant during the time that the parking will be shared.

5. AB 2097:

Enables 100% reductions in required parking spaces for all uses except hotels within one-half mile of the three train stations serving Palo Alto; these are the Palo Alto (aka University Av) station, California Avenue Station, and San Antonio station. The requirements of AB 2097 generally apply to fixed rail station locations (with the slightly offset location of the bus transfer service station near the University Avenue transit stop as shown on the attached map (Attachment B). The applicable projects are development projects (any activity that requires a building permit) on property depicted within the shaded radius circles on the City's map are exempt from minimum parking requirements. Developers must still meet local requirements for loading zones and bicycle parking (i.e. all standards other than automobile parking). AB 2097 also states that it does not affect requirements for electric vehicle supply equipment or parking spaces accessible to persons with disabilities.⁴ However, because these spaces are only required as a percentage of automobile parking provided, Palo Alto's approach is to only require these spaces when a developer voluntarily provides parking spaces on site.

6. AB 970:

Has no limit on how many parking spaces can be removed to accommodate Electric Vehicle Storage Equipment (EVSE); the draft ordinance eliminates the restriction in the local ordinance.

ANALYSIS

The proposed Palo Alto Municipal Code (PAMC) ordinance changes are briefly noted below:

- **To address SB 684 and SB 4:** Modifies PAMC Section 18.77.074, Ministerial and By Right Process, to add SB 684 and SB 4 to the list of State bills subject to that code section.
- **To address SB 684:** Adds Section 18.42.185 (Standards for Up to Ten Units on Lots Subdivided Pursuant to Senate Bill 684) of Chapter 18.42 (Standards for Special Uses) and

⁴ "This section shall not reduce, eliminate, or preclude the enforcement of any requirement imposed on a new multifamily residential or nonresidential development that is located within one-half mile of public transit to provide electric vehicle supply equipment installed parking spaces or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the development if this section did not apply."

adds Chapter 21.11 (Streamlined Subdivisions Resulting in Ten or Fewer Parcels). The new Section 18.42.185 includes a reference to 'Ministerial and By Right Process' in PAMC section 18.77.074. This process enables review of SB 684 project submittals against a checklist of required submittals and allow for applicant consultation with staff on compliance with objective standards and zoning regulations before creating expensive structural/mechanical drawings and applying for a building permit. Courtesy notices to neighboring properties will continue to be required; however, with non-discretionary projects, there are no mandatory hearings or appeal process.

- **To address SB 4:** Adds Section 18.14.060 (By Right Affordable and Supportive Housing Projects) that would enable a ministerial review process for 100% affordable housing projects on land owned by an independent institution of higher education or a religious institution. This section would clarify which objective standards apply to qualifying projects, depending on the project size and scope. The ordinance proposes to apply the RM-30 development standards to projects under this section. This is consistent with the City's treatment of housing opportunity sites in the R-1 zones, as well as the requirement in SB 4 that qualifying projects may build to 30 du/ac and receive an additional story of height beyond the base district. As with SB 684 projects, a ministerial review process would be utilized for SB 4 projects to assist developers with their project submittals in consultation with staff. Many religious institutions in Palo Alto are located on land owned R-1 (Single-Family Residential). For discretionary projects in R-1 neighborhoods, notice cards are sent to property addresses within 150 feet of the project. Courtesy notices to neighboring properties will continue to be required; however, with non-discretionary projects, there are no mandatory hearings or appeal process.
- **To address AB 2162:** Adds Section 18.14.060 (By Right Affordable and Supportive Housing Projects) that would also make qualifying supportive housing projects a use by-right, permitting only ministerial review, and clarify which objective standards apply to qualifying projects.
- **To address AB 894:** Amends Section 18.52.050 (Adjustments by the Director) to note that shared parking agreements meeting the requirements of AB 894 will be approved, even if they are inconsistent with existing provisions related to off-site parking or exceed the current maximum parking adjustment.
- **To address AB 2097:** Revises 18.52.030 (Basic Parking Regulations) addresses a requirement for TDM plans for projects utilizing AB 2097 to reduce automobile parking requirements. In addition, the revision to 18.52.040 (Off-Street Parking, Loading, and Bicycle Facility Requirements) requires projects, 50 dwelling units or more and doing away with automobile parking entirely, to provide a short-term loading area for rideshare and similar services. It incorporates the PTC recommended revision, on July 10, 2024, to item (d), deleting the phrase 'where feasible'.

- **To address AB 970:** The ordinance revises Section 18.52.050, Adjustments to Existing Parking Facilities, item (a)(1) Accessibility and EVSE-Related Equipment to delete some verbiage and add a phrase “to accommodate accessibility requirements”.
- **To provide non-substantive clarifications:** The attached draft ordinance’s following non-substantive clarifications or 'clean-up' items would amend PAMC Titles 18 and 21.
 - Chapter 18.18 (Downtown Commercial (CD) District) to fix a footnote 3 of Table 3 of Section 18.18.060 (Development Standards)
 - Chapter 18.20(F).045 to clarify permitted and conditionally permitted uses
 - Chapter 18.30(F).040 (Automobile Dealership (AD) Combining District Regulations) to clarify the permitted and conditionally permitted uses.
 - Chapter 18.42 (in Section 8) to amend Section 18.42.040 (Late Night Uses and Activities) to add zone districts NV-MXM and NV-MXH to the list of zone districts cited (CS and CN) for applicability of the section. The City Council is scheduled to review and adopt the North Ventura Coordinated Area Plan (NVCAP) on August 5, 2024.
 - Section 21.12.090 to clarify that tentative maps may be placed on the City Council's consent agenda, consistent with the City's practice.

PTC Recommendation on Additional Consideration of AB 2097

The PTC’s July 10, 2024 recommendations suggest a broader policy discussion in response to AB 2097. As noted above, AB 2097 does not preclude the City from imposing EV Charging and ADA parking space requirements that would have applied in the absence of the bill. Palo Alto has joined the majority of cities in applying EV and ADA requirements only when parking is offered voluntarily. The PTC recommended that the City Council consider adopting the position of some cities that new development must always provide ADA (and potentially EV) parking spaces, even when no other parking is provided on site. Significant staff resources are required to support a meaningful discussion of such a policy, including analysis of impacts on housing development and on small sites in the Downtown and California Avenue areas, where development is physically constrained and additional curb cuts may not be desirable. Staff resources would need to be reallocated from other priorities in the department’s work plan.

FISCAL/RESOURCE IMPACT

In conjunction with Council adoption of the ordinance, PDS staff would coordinate with Public Works Engineering regarding objective standards related to subdivisions proposed pursuant to SB 684. At this time, staff does not plan to utilize consultants to prepare the objective standards.

If the Council directs staff to engage in further study in response to AB 2097, further resources would be needed; staff would return in response to Council direction with cost estimates for fee study and consultant costs.

STAKEHOLDER ENGAGEMENT

Staff had prepared an informational report published in the November 8, 2023 PTC packet. The PTC conducted a study session April 24, 2024, and conducted two hearings of the draft ordinance, on May 29, 2024, and July 10, 2024.

ENVIRONMENTAL REVIEW

The draft Ordinance is considered exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that updating the municipal code to incorporate existing requirements of State laws will have a significant effect on the environment, and similarly, there would be no significant effect from the non-substantive clarifications.

ATTACHMENTS

Attachment A: Draft Ordinance Amending Sections of PAMC Title 18 and Title 21

Attachment B: AB2097 Map

APPROVED BY:

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