



City Council Staff Report

From: City Manager

Report Type: CONSENT CALENDAR

Lead Department: Planning and Development Services

Meeting Date: September 23, 2024

Report #:2408-3400

TITLE

REINTRODUCED FIRST READING: Adopt an Ordinance Adding Chapter 18.29 and Amending Chapters 18.14, 18.24, 18.70, and 16.65 in the Palo Alto Municipal Code as well as Amendments to the Zoning District Map, and Rezoning of Parcels Within the NVCAP area (PREVIOUSLY INTRODUCED: August 5, 2024 PASSED 6-1, Kou no)

RECOMMENDATION

Adopt an Ordinance Adding Chapter 18.29 and Amending Chapters 18.14, 18.24, 18.70, and 16.65 in the Palo Alto Municipal Code as well as Amendments to the Zoning District Map, and Rezoning of Parcels Within the NVCAP area.

BACKGROUND

The City Council approved a resolution adopting the North Ventura Coordinated Area Plan and certifying associated environmental documents on August 5, 2024. In conjunction with the resolution, the City Council introduced an ordinance (6-1) that adds Chapter 18.29 and amends Chapters 18.14, 18.24, and 16.65 in the Palo Alto Municipal Code. Council directed the following modifications to the ordinance:

1. Amend the ordinance and NVCAP to require parking in compliance with PAMC 18.52 and 18.54 for areas beyond the boundary of AB 2097.
2. Amend the proposed ordinance section 18.29.100 to allow a nonconforming use to be discontinued for up to two years instead of one year as set forth in PAMC 18.70.
3. To the extent allowed by State Law require EV and ADA parking spaces within the NVCAP boundaries.
4. Apply a 15-foot setback from Park Boulevard on either side of the street.

Attachment A provides a draft ordinance incorporating this Council direction as well as one additional amendment proposed by staff.

ANALYSIS

Following the City Council's review on August 5, 2024, two changes are proposed to the subject ordinance that staff believes consistent with prior Council direction. These changes arguably

introduce new or refined policy direction and therefore staff is re-introducing the ordinance as first reading; a second reading will follow about two weeks later if approved on consent. Three councilmembers may pull the ordinance off consent if there are questions or concerns with the changes.

Council Motion to Extend Nonconforming Use Timeline

In the course of preparing the Council-directed amendments, staff encountered a policy question regarding a situation where an existing empty building or tenant space that was previously occupied by a conforming land use loses its ability to re-establish that prior use under the new NVCAP regulations. For instance, if a building was previously occupied by a permitted auto repair use but is vacant or has been vacant for some time upon ordinance adoption – that use could be precluded from being re-established immediately upon the effective date of the rezoning ordinance. This approach does not afford property owners in that or a similar situation sufficient time (from ordinance adoption) to find a replacement tenant should there be interest in extending the newly nonconforming use. It may also be inconsistent with the direction Council provided to extend the period of discontinuance for other existing, but soon to be non-conforming land uses, from one to two years. Accordingly, staff has modified the ordinance to reflect a two-year discontinuance period for existing land uses that become nonconforming after ordinance implementation and for buildings or tenant spaces that are vacant at time of ordinance adoption and were previously occupied by a formerly conforming land use. These amendments were added into PAMC Chapter 18.70 (Nonconforming Uses and Noncomplying Facilities) rather than Chapter 18.29 (North Ventura (NV) District Regulations) for administrative convenience and because similar questions may arise outside of the NVCAP.

Transition of Office Uses in the NVCAP

The ordinance presented to the Council in August did not accurately reflect prior Council guidance on treatment of existing office buildings within the project boundary after ordinance implementation. Staff reported and the ordinance reflected a policy that would have office uses terminate based on a schedule set forth in the zoning code, typically ten years for older buildings and up to 35 years for recent construction (PAMC 18.70.070). This policy is inconsistent with prior Council direction from January 10, 2022, where staff was directed to allow office uses to naturally transition into conforming uses over time and not deliberately amortize these land uses.

To align the NVCAP with the City Council's prior direction, staff modified the language under the NVCAP ordinance Section 18.29.100 to permit existing office use and facilities to remain, but recognizing that they are still nonconforming use in the NVCAP area. The language is based on the nonconforming use provisions from the Downtown Commercial (CD) zoning district chapter. recognizing that they are still nonconforming use in the NVCAP area. The language is based on the nonconforming use and noncomplying facilities provisions from the Downtown Commercial (CD) zoning district chapter.

Property owners with office holdings in the project boundary who have been following the NVCAP process alerted staff of this discrepancy and would have likely objected at the hearing if they had fully appreciated the implications of the draft ordinance. Note, this modification is not applicable to the development agreement between the City and the Sobrato Organization approved in 2023.

Either policy direction is available to the Council to implement but staff has modified the ordinance to reflect the prior guidance allowing for a natural transition as opposed to forced amortization.

As noted previously, because these issues were not raised when the Council previously discussed the item, this ordinance is being re-presented as a new first reading. Should the Council wish to discuss the issue or provide alternative direction to staff, this it may pull the item from the consent calendar and scheduled for another hearing and direction provided to staff. The ordinance otherwise reflects what was previously reviewed or directed by Council.

FISCAL/RESOURCE IMPACT

The implementation of the proposed ordinances is not anticipated to have any direct fiscal impacts on the City budget.

ENVIRONMENTAL REVIEW

On August 5, 2024, the City Council adopted the NVCAP and certified the Supplemental Environmental Impact Report (SEIR) and other associated environmental documents. Because the ordinance is implementing the adopted NVCAP, no additional environmental analysis is needed pursuant to California Public Resources Code Section 21080.5.

ATTACHMENTS

Attachment A: Ordinance adding Chapter 18.29 and amending Chapters 18.14, 18.24, 18.70, and 16.65

APPROVED BY:

Jonathan Lait, Planning and Development Services Director