

## **ORDINANCE NO. 2019-457**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING CHAPTERS 14.78 AND 14.80 OF THE LOS ALTOS MUNICIPAL CODE PERTAINING TO THE CITY'S DESIGN REVIEW AND USE PERMIT APPROVAL PROCESSES AND MAKING FINDINGS OF CEQA EXEMPTION**

**WHEREAS**, the City of Los Altos initiated an application (19-CA-01) to amend Title 14 of the Los Altos Municipal Code, the Zoning Ordinance, in order to clarify and update the requirements and processes related to design review (Chapter 14.78) and public notification meeting requirements for use permits (Chapter 14.80), referred herein as the "code amendments" (CA) or the "amendments"; and

**WHEREAS**, the amendments are in the best interest for the protection and/or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City because they will clarify the role of the Complete Streets Commission in the design review process, formalize the public notification requirements for design review study sessions, update the review requirements for design review applications, update the public notification meeting requirements for use permits and remove antiquated and outdated language; and

**WHEREAS**, the amendments are in conformance with the City of Los Altos General Plan, specifically Land Use Element Implementation Programs LU 2 and LU 3, because they will update the Zoning Ordinance to be consistent with current practices and procedures for processing design review and use permit applications; and

**WHEREAS**, required public notices and public hearings were duly given and duly held in accordance with the applicable provisions of the California Government Code and Chapter 14.86 of the Los Altos Municipal Code; and

**WHEREAS**, the CA was processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; and

**WHEREAS**, the Complete Streets Commission held a duly noticed public meeting to provide input on the CA on August 28, 2019; and

**WHEREAS**, the Planning Commission held duly noticed public hearings on the CA on March 21, 2019 and October 17, 2019 at which it recommended adoption of the CA; and

**WHEREAS**, the City Council held duly noticed public hearings on the CA on January 14, 2020 and January 28, 2020; and

**WHEREAS**, the location and custodian of the documents or other materials which constitute the record of proceedings upon the City Council's decision are based in the Office of the City Clerk; and

**WHEREAS**, this Ordinance is exempt from environmental review, each as a separate and independent basis, pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended ("CEQA Guidelines"), and CEQA Guidelines Section 15378(b)(5) because the Ordinance implements an organizational or administrative activity that will not result in a direct or indirect physical change in the environment and, it can be seen with certainty that there is no possibility of a significant impact to the environment.

**NOW THEREFORE**, the City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1. AMENDMENT OF CODE:** Sections 14.78.020 and 14.78.030 in Chapter 14.78 of Title 14 of the Los Altos Municipal Code are hereby replaced in their entirety as follows:

**14.78.020 - Requirement for design review.**

Any work that requires a building permit, including new building construction, existing building alterations and expansions, and site improvements, but excluding properties in an R1 or R3-4.5 district, shall be subject to design review pursuant to this chapter as follows:

A. Administrative Design Review.

1. Site improvements, exterior alterations or modification, or additions to existing buildings of up to 500 square feet require approval by the community development director or their designee.

B. Planning Commission Design Review.

1. Additions to existing buildings that exceed 500 square feet but are equal to or less than 50 percent of the total floor area on the subject site and do

not increase the existing height of the building(s) require approval by the planning commission at a public meeting.

C. City Council Design Review.

1. All new buildings, and additions to existing buildings that exceed 50 percent of the total floor area on the subject site and/or increase the height of the existing building(s), require approval by the city council at a public meeting.
2. Prior to consideration by the city council, the planning commission shall review the application at a public meeting and provide a recommendation to the city council.

**14.78.030 - Public meeting requirements.**

Notice of public meetings before the planning commission and/or city council shall be given at least ten (10) days prior to the date of the meeting by all of the following methods:

- A. Mailing of notices via first-class mail to all property owners within one thousand (1,000) feet of the project site at the mailing address on record with the county assessor; and
- B. Mailing of notices via first-class mail to all commercial business tenants within one thousand (1,000) feet of the project site at the addresses shown on the latest city business license records; and
- C. Posting of a notice on the project site in accordance with the standards set by the city council and community development director or their designee; and
- D. All meetings before the planning commission and/or city council conducted under this section, excluding study sessions, shall be noticed separately and conducted as public hearings and shall satisfy all notification requirements applicable to public hearings, including a notice published in a newspaper of general circulation within the city.

**SECTION 2. AMENDMENT OF CODE:** Sections 14.78.060 and 14.78.070 in Chapter 14.78 of Title 14 of the Los Altos Municipal Code are hereby amended as follows:

**14.78.060 - Design review findings.**

In approving applications for design review approval under this chapter, the community development director or their designee, planning commission and the city council shall make the following findings:

- A. The proposal meets the goals, policies and objectives of the general plan and any specific plan, design guidelines and ordinance design criteria adopted for the specific district or area.
- B. The proposal has architectural integrity and has an appropriate relationship with other structures in the immediate area in terms of height, bulk and design.
- C. Building mass is articulated to relate to the human scale, both horizontally and vertically. Building elevations have variation and depth and avoid large blank wall surfaces. Residential or mixed-use residential projects incorporate elements that signal habitation, such as identifiable entrances, stairs, porches, bays and balconies.
- D. Exterior materials and finishes convey high quality, integrity, permanence and durability, and materials are used effectively to define building elements such as base, body, parapets, bays, arcades and structural elements. Materials, finishes, and colors have been used in a manner that serves to reduce the perceived appearance of height, bulk and mass, and are harmonious with other structures in the immediate area.
- E. Landscaping is generous and inviting, and landscape and hardscape features are designed to complement the building and parking areas, and to be integrated with the building architecture and the surrounding streetscape. Landscaping includes substantial street tree canopy, either in the public right-of-way or within the project frontage.
- F. Signage is designed to complement the building architecture in terms of style, materials, colors and proportions.
- G. Mechanical equipment is screened from public view and the screening is designed to be consistent with the building architecture in form, material and detailing.
- H. Service, trash and utility areas are screened from public view, or are enclosed in structures that are consistent with the building architecture in materials and detailing.

**14.78.070 - Variances.**

- A. Purpose. In order to avoid such practical difficulties, unnecessary physical hardships and results inconsistent with the objectives of the zoning plans stated in Article 1 of Chapter 14.02, as would result from a strict or literal

application of the provisions of this chapter, the planning commission may approve or recommend variances to the regulations controlling site area, width, depth and coverage, yards, and other open spaces, parking spaces, loading spaces, height of structures, allowable building floor area and fences for a property located in any district, except for those located in an R1 or R3-4.5 district.

B. Procedure. The approving authority for variance applications shall be as follows:

1. The planning ~~and transportation~~ commission shall be the approving authority for all variance applications that are not subject to city council design review pursuant to section 14.78.020.C. -A public hearing shall be required. Notice of the meeting shall be given not less than ten (10) days prior to the date of the meeting\_by the methods required in section 14.78.030

2. The city council shall be the approving authority for all variance applications that are subject to city council design review pursuant to section 14.78.020.C. of the application and the evidence submitted, the following positive findings can be made:

1. That the granting of the variance will be consistent with the objectives of the zoning plan set forth in article 1 of chapter 14.02;
2. That the granting of the variance will not be detrimental to the health, safety, or welfare of persons living or working in the vicinity or injurious to property or improvements in the vicinity; and
3. That variances from the provisions of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

D. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and district in which such property is situated.

**SECTION 3. AMENDMENT OF CODE:** Sections 14.78.090 and 14.78.100 in Chapter 14.78 of Title 14 of the Los Altos Municipal Code are hereby replaced as follows:

**14.78.090 – Multimodal transportation review.**

- A. An application for city council design review pursuant to 14.78.020.C shall be subject to a multimodal transportation review as part of the approval process in order to assess potential project impacts to various modes of transportation such as but not limited to bicycle, pedestrian, parking, traffic impacts on public streets, and/or public transportation.
- B. Projects subject to a multimodal transportation review pursuant to this section shall be reviewed by the complete streets commission at a public meeting with the commission providing a recommendation to the planning commission and the city council on the multimodal transportation impact analysis and on the elements of the project that pertain to bicycle, pedestrian, parking, traffic and public transportation issues.
- C. Notice of an agenda item before the complete streets commission at which multimodal transportation review is conducted shall be per the public notice meeting requirements of Subsection 14.78.030.

**14.78.100 - Appeals.**

- A. Within fifteen (15) days of an action (approval or denial) on an administrative design review application, the decision may be appealed to the planning commission by any interested party.
- B. Within fifteen (15) days of an action (approval or denial) on a design review and/or variance application by the planning commission, the decision may be appealed to the city council by any interested party.
- C. Within fifteen (15) days of an action (approval or denial) on a design review and/or variance application by the planning commission may be called up for review by the city council if two members of the city council submit requests to the city clerk pursuant to Section 1.12.040.

**SECTION 4. AMENDMENT OF CODE:** Section 14.80.030 in Chapter 14.80 in Title 14 of the Los Altos Municipal Code is hereby replaced as follows:

**14.80.030 - Public meeting notification requirements**

Notice of public meetings before the planning commission and/or city council shall be given at least ten (10) days prior to the date of the meeting by all of the following methods:

- A. Mailing of notices via first-class mail to all property owners within one thousand (1,000) feet of the project site at the mailing address on record with the County Assessor; and
- B. Mailing of notices via first-class mail to all commercial business tenants within one thousand (1,000) feet of the project site at the addresses shown on the latest city business license records; and
- C. Posting of a notice on the project site in accordance with the standards set by the community development director or their designee; and
- D. All meetings before the planning commission and/or city council conducted under this section, excluding study sessions, shall be noticed separately and conducted as public hearings and shall satisfy all notification requirements applicable to public hearings, including a notice published in a newspaper of general circulation within the city.

**SECTION 5. AMENDMENT OF CODE:** Section 14.80.050 in Chapter 14.80 in Title 14 of the Los Altos Municipal Code is hereby amended to replace all references to with planning commission.

**SECTION 6. AMENDMENT OF CODE:** Section 14.80.070 in Chapter 14.80 in Title 14 of the Los Altos Municipal Code is hereby replaced as follows:

**14.80.070 - Appeals.**

- A. Within fifteen (15) days of any action on a use permit by the planning commission, the decision may be appealed to the city council by any interested party.
- B. Within fifteen (15) days of any action (approval or denial) on a use permit by the planning commission may be called up for review by the city council if two members of the city council submit requests to the city clerk pursuant to Section 1.12.040.

**SECTION 7. AMENDMENT OF CODE:** Sections 14.80.080 and .090 in Chapter 14.80 in Title 14 of the Los Altos Municipal Code are hereby amended as follows:

**14.80.080 - Revocation.**

A use permit may be revoked by the planning commission and/or city council, whichever body initially approved the permit, based upon a determination by the community development director or their designee that the holder of the permit has failed to comply with any condition thereof or has violated any applicable

provision of this chapter. The revocation procedure shall be the same as prescribed in this chapter for the initial use permit.

**14.80.090 - New applications.**

Following the denial of a use permit application or the revocation of a use permit by the planning commission or council, no application for a use permit for the same or substantially the same conditional use on the same or substantially the same site shall be filed within six (6) months after the date of the denial or revocation of the use permit.

**SECTION 8. AMENDMENT OF CODE:** Section 14.80.110 in Chapter 14.80 in Title 14 of the Los Altos Municipal Code is hereby amended as follows:

**14.80.110 - Modification of a use permit**

For modifications to an approved use permit, the planning commission shall be the decision-making body. The action of the planning commission shall be final unless:

- A. It is appealed in writing to the city council, and the appropriate fee is paid, within fifteen (15) days of the date of the action;
- B. Two members of the city council submit requests to the city clerk pursuant to Section 1.12.040.

**SECTION 9. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 10. CEQA.** This ordinance is not subject to review under the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*) because the ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §15378. The ordinance amends Los Altos Municipal Code provisions pertaining to the review and processing of design review and use permit applications. It does not commit the City of Los Altos or any other party to any direct course of action, other than to review and process design review and use permit applications in an updated manner and will not result in any physical changes in and of itself. Moreover, as a separate and independent basis, to the extent the ordinance was determined to be subject to CEQA, it would be exempt from further review pursuant to the 'common sense' exemption

(14 CCR §15061(b)(3)), as it can be seen with certainty that there is no possibility that the adoption of the ordinance may have a significant effect on the environment.

**SECTION 11. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 12. EFFECTIVE DATE.** This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on January 14, 2020 and was thereafter, at a regular meeting held on January 28, 2020 passed and adopted by the following vote:

AYES: Bruins, Enander, Fligor, Lee Eng, Pepper

NOES: None

ABSENT: None

ABSTAIN: None

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Janis C. Pepper, MAYOR

Attest:

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Dennis Hawkins, CMC, CITY CLERK