

ORDINANCE NO. 1028

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK, AMENDING CHAPTER 16.02 (GENERAL PROVISIONS), CHAPTER 16.68 (BUILDINGS), CHAPTER 16.80 (NONCONFORMING USES AND BUILDINGS), AND CHAPTER 16.82 (PERMITS) OF TITLE 16 OF THE MENLO PARK MUNICIPAL CODE

The City Council of the City of Menlo Park does ordain as follows:

SECTION 1. The City Council of the City of Menlo Park hereby finds and declares as follows:

- A. The General Plan (Land Use and Circulation Elements) and M-2 Area Zoning Update public outreach and participation process known as ConnectMenlo began in August 2014 and has included over 60 organized events including workshops and open houses, mobile tours of the City of Menlo Park and nearby communities, informational symposia, stakeholder interviews, focus groups, recommendations by a General Plan Advisory Committee composed of City commissioners, elected officials, and community members, and consideration by the Planning Commission and City Council at public meetings.
- B. The Planning Commission held a duly noticed public hearing on October 19, 2016 and October 24, 2016 to review and consider the ConnectMenlo General Plan and M-2 Area Zoning Update, including amendments to Title 16 of the Menlo Park Municipal Code to implement the General Plan vision for the M-2 Area, and the Final Environmental Impact Report, whereat all interested persons had the opportunity to appear and comment.
- C. The amendments to Chapter 16.02 (General Provisions) would ensure compliance with the Mitigation Monitoring and Reporting Program (MMRP) associated with the ConnectMenlo General Plan and M-2 Area Zoning Update; Chapter 16.68 (Buildings) would apply the administrative architectural control review by the Community Development Director to the LS (Life Sciences) and O (Office) zoning districts; the amendments to Chapter 16.80 (Nonconforming Uses and Structures) allow for existing uses at the rezoned properties to remain without being considered nonconforming; and the amendments to Chapter 16.82 (Permits) would implement the goals, policies, and programs of the General Plan Update, while still ensuring that the use and storage of hazardous materials is reviewed and approved by the necessary reviewing departments and agencies.
- D. The City desires to amend Chapter 16.02 (General Provisions) of Title 16 of the Menlo Park Municipal Code to ensure compliance with the MMRP associated with the ConnectMenlo General Plan and M-2 Area Zoning Update.

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- E. The City desires to amend Chapter 16.68 (Buildings) of Title 16 of the Menlo Park Municipal Code to create consistency with the updated Land Use Element of the General Plan and to implement General Plan goals, policies, and programs such as LU-1.A, *Zoning Ordinance Consistency*, which identifies the need to update the Zoning Ordinance for consistency with the General Plan as applicable.
- F. The City desires to amend Chapter 16.80 (Nonconforming Uses and Structures) of Title 16 of the Menlo Park Municipal Code to create consistency with the updated Land Use Element of the General Plan and to implement General Plan goals, policies, and programs such as LU-1.A, *Zoning Ordinance Consistency*, which identifies the need to update the Zoning Ordinance for consistency with the General Plan as applicable.
- G. The City desires to amend Chapter 16.82 (Permits) of Title 16 of the Menlo Park Municipal Code to create consistency with the updated Land Use Element of the General Plan and to implement General Plan goals, policies, and programs such as LU-4.1, *Priority Commercial Development*, which encourages emerging technology and entrepreneurship.
- H. The City Council held a duly noticed public hearing on November 15, 2016 and November 29, 2016 to review and consider the ConnectMenlo General Plan and M-2 Area Zoning Update, including amendments to Title 16 of the Menlo Park Municipal Code to implement the General Plan vision for the M-2 Area, and the Final Environmental Impact Report, whereat all interested persons had the opportunity to appear and comment.
- I. After due consideration of the proposed amendments to Title 16, public comments, the Planning Commission recommendation, and the staff report, the City Council finds that the proposed amendments to Title 16 are consistent with the ConnectMenlo General Plan and M-2 Area Zoning Update and are appropriate.

SECTION 2. An Environmental Impact Report was prepared and certified by the City Council on November 29, 2016, in accordance with the provisions of the California Environmental Quality Act and CEQA Guidelines. The Environmental Impact Report considered the amendments to Chapter 16.68 (Buildings), Chapter 16.80 (Nonconforming Uses and Structures), and Chapter 16.82 (Permits). Findings and a statement of overriding considerations were adopted by the City Council on November 29, 2016 by Resolution No. 6356; and

SECTION 3. The following section of Title 16, Zoning, Chapter 16.02, *General Provisions*, of the Menlo Park Municipal Code is hereby added to reference compliance with the requirements in the MMRP, as applicable:

16.02.070 Mitigation Monitoring. All development, as applicable, shall comply with the Mitigation Monitoring and Report Program (MMRP) established through Resolution No. 6356, associated with the Environmental Impact Report prepared for the ConnectMenlo

General Plan and M-2 Area Zoning Update, adopted on the 29th day of November, 2016.

SECTION 4. The following section of Title 16, Zoning, Chapter 16.68, *Buildings*, of the Menlo Park Municipal Code is hereby amended to provide for administrative architectural control approve by the Community Development Director in the O (Office) and LS (Life Sciences) districts to read as follows:

16.68.020 Architectural control. When an application is made for a building permit for the construction, alteration or remodeling of any building other than a single-family dwelling, duplex and accessory building, or for any structure, dwelling or duplex on land designated as a historic landmark site, it shall be accompanied by architectural drawings showing elevations of the proposed building or structure, proposed landscaping or other treatment of the grounds around such building or structure, and proposed design of, and access to, required parking facilities. Such drawings shall be considered by the planning commission, architectural committee, or community development director which shall approve said application if the following findings are made:

- (1) That the general appearance of the structures is in keeping with character of the neighborhood;
- (2) That the development will not be detrimental to the harmonious and orderly growth of the city;
- (3) That the development will not impair the desirability of investment or occupation in the neighborhood;
- (4) That the development provides adequate parking as required in all applicable city ordinances and has made adequate provisions for access to such parking;
- (5) That the development is consistent with any applicable specific plan.

The community development director shall be limited to approving minor modifications to buildings located in the M-2 (General Industrial) district, the O (Office) district, and the LS (Life Sciences) district. For purposes of this section, a minor modification is considered one in which there is no increase in gross floor area.

SECTION 5. The following section of Title 16, Zoning, Chapter 16.80, *Nonconforming Uses and Buildings*, of the Menlo Park Municipal Code is hereby amended to provide for exemptions for approved projects from the requirements of the O (Office), LS (Life Sciences), and R-MU (Residential Mixed Use) to read as follows:

16.80.130 Exemption from the O (Office), LS (Life Sciences), and R-MU (Residential Mixed Use) districts.

- (A) All buildings in existence or approved within the O (Office), LS (Life Sciences), and R-MU (Residential Mixed Use) districts as of the date of adoption of the ConnectMenlo General Plan and M-2 Area Zoning Update and the subsequent rezoning of properties in the M-2 Area, effective on January 5, 2017, shall be exempt from the development standards of the zoning districts identified in this section.
- (B) No building exempt under subsection (a) of this section shall be subject to amortization by reason of a building that is nonconforming due to the development standards of the O (Office), LS (Life Science), and R-MU (Residential Mixed Use) districts, as specified in subsection (a) of this section.
- (C) Any building exempt under subsection (a) of this section may be restored to its condition at the time of destruction if the building or office use is destroyed by fire, explosion, or other catastrophe, but such restoration shall comply with:
- a. The building codes in effect at the time of restoration; and
 - b. The requirements of Section 16.80.040 with respect to nonconformities other than a nonconformity created as a result of the development standards of the O (Office), LS (Life Science), and R-MU (Residential Mixed Use) districts specified in subsection (a) of this section.
- (D) Properties within the O (Office), LS (Life Sciences), or R-MU (Residential Mixed Use) districts that are regulated by a use permit or conditional development permit (CDP) as of the date of adoption of the ConnectMenlo General Plan Update and subsequent rezoning of properties in the M-2 Area, effective on January 5, 2017, shall continue to be regulated by said permit(s). Such permit(s) shall lapse upon comprehensive redevelopment of the property, or property owners may apply to modify or cancel said permit(s) in accordance with the requirements of this title.

SECTION 5. The following section of Title 16, Zoning, Chapter 16.80, *Permits*, of the Menlo Park Municipal Code is hereby amended to incorporate the use of hazardous materials into the administrative permit process to read as follows:

16.82.440 Granting. In considering an application, the community development director or designee shall consider and give due regard to the nature and condition of all adjacent uses and structures, and to general and specific plans for the area in question and surrounding areas, and the impact of the application thereon.

The community development director or designee shall determine whether or not the establishment, maintenance, or operation of the use applied for will, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of

such proposed use, or whether it will be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the city. If the community development director or designee finds that the aforementioned conditions, plus the following findings as applicable, will not result from the particular use applied for, he/she may grant the administrative permit and provide notice of the decision in writing to the planning commission and interested parties, as defined for the purposes of this section as people who ask to be informed of the decision via email, fax or United States Postal Service mail:

(1) Alcohol sales:

(A) That a public convenience or necessity would be served by the issuance of license to sell alcohol.

(2) Outdoor seating:

(A) That the outdoor seating would maintain unimpeded pedestrian access on the public right-of-way.

(3) Outside storage:

(A) That the outside storage of vehicles and/or equipment would not be visible from surrounding properties or the public right-of-way and the screening would be consistent with existing site features;

(B) That the outside storage does not displace required parking without making provisions for replacing the lost parking;

(C) That the outside storage complies with the provisions of the Noise Ordinance (Chapter 8.06 of the Municipal Code).

(4) Hazardous materials:

(A) The review and approval or conditional approval from the Menlo Park Building Division and outside reviewing agencies, such as but not limited to the San Mateo County Environmental Health Division, the Menlo Park Fire Protection District, and the applicable sanitary district;

(B) The compatibility of the proposed use and storage of hazardous materials with the neighboring land uses, such as residential uses, schools, or other sensitive receptors;

(C) That the quantities and types are permissible by the current California Fire Code and the building is designed appropriately for said types and quantities, per the current California Building Code, as determined by the Fire Marshall and Community Development Director or his/her designee;

(D) For outside storage of hazardous materials, the following criteria shall be met by the project proposal:

- i. That the outside storage of hazardous materials would not be visible from surrounding properties or the public right-of-way and the screening would be consistent with existing site features and/or building materials;
- ii. That the outside storage of hazardous materials does not displace required parking without making provisions for replacing the lost parking, or an accompanying application for administrative review of a parking reduction request;
- iii. That the outside storage of hazardous materials complies with the provisions of the Noise Ordinance (Chapter 8.06 of the Municipal Code);
- iv. For emergency generators, the routine testing shall be conducted between the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday and shall comply with the noise limitations for daytime hours (Chapter 8.06 of the Municipal Code);
- v. No operations, including manufacturing, assembling, or research and development, involving the use of hazardous materials shall take place outside a building. Only the storage of hazardous materials, with the exception of emergency generators, is permitted outside the building.

(E) Any comments received on the application.

INTRODUCED on the 29th day of November, 2016.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of the City Council of the City of Menlo Park on the 6th day of December, 2016, by the following vote:

AYES:	Carlton, Keith, Ohtaki
NOES:	None
ABSENT:	Cline, Mueller
ABSTAIN:	None

APPROVED:



Richard Cline
Mayor, City of Menlo Park

ATTEST:



Pamela Aguilar, CMC
City Clerk