



DISCUSSION ITEMS

Agenda Item # 6

AGENDA REPORT SUMMARY

Meeting Date: January 23, 2018

Subject: Ordinance No. 2017-437: Historic Preservation Code Amendments

Prepared by: Sean K. Gallegos, Associate Planner

Reviewed by: Jon Biggs, Community Development Director

Approved by: Chris Jordan, City Manager

Attachment(s):

1. Ordinance No. 2017-437
2. City Council Meeting Minutes, November 28, 2017
3. City Council Agenda Report, November 28, 2017

Initiated by:

City Council

Fiscal Impact:

None anticipated

Environmental Review:

This Code amendment is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

Policy Question(s) for Council Consideration:

- Should the City's historic district designation process be maintained in its current form or should the City remove references to historic districts and their designation process from the Historical Preservation Ordinance?

Summary:

- The proposed amendments to the City's Historic Preservation Ordinance have removed all references to historic districts and their designation process

Staff Recommendation:

Move to introduce and waive further reading of Ordinance No. 2017-437 amending Chapter 12.44 of the Los Altos Municipal Code



Subject: Ordinance No. 2017-437: Historic Preservation Code Amendments

Purpose

The purpose of the amendments to the Historic Preservation Ordinance is to remove references to historic districts and their designation process from the ordinance.

Background

On March 28, 2017, the Council directed staff to work with the Historical Commission to review the City's Historic Preservation Ordinance (Municipal Code Chapter 12.44) and provide a recommendation on potential amendments or whether the current ordinance should be maintained.

At its April 24, 2017 meeting, the Historical Commission discussed amending Chapter 12.44 pertaining to the historic district designation process and voted to establish a subcommittee to further review the matter. The subcommittee was comprised of Commissioners Bai, Bartlett and Lang, and was tasked with working with staff to evaluate the concerns regarding the existing historic district designation process and develop code amendments to the process if deemed necessary.

On September 25, 2017, the Historical Commission held a public hearing to consider amendments to the Historic Preservation Ordinance. The Commission expressed general support for the amendments to Chapter 12.44 with a provision that the Code be aligned with the single-story overlay district process. Following a discussion of the proposed amendments, the Commission unanimously voted to recommend that the City Council amend the historic district designation process to be consistent with the City's existing process to establish a single-story overlay district.

During its review of the amendments to Chapter 12.44 recommended by the Historical Commission on November 28, 2017, the Council directed staff to revise the City's Historic Preservation Ordinance (Municipal Code Chapter 12.44) to remove references to the historic district designation process.

Discussion/Analysis

The proposed amendments, if adopted, will amend the Historic Preservation Ordinance, as follows:

- The references to historic districts shall be eliminated from Section 12.44.030 (Definitions), Section 12.44.040 (Criteria for Designation), Section 12.44.050 (Applications for Designation), Section 12.44.080 (Historic District Designation), Section 14.44.090 (Notice of Designation), Section 12.44.110 (Applicability), Section 12.44.130 (Notice of Public Meetings), Section 12.44.180 (Hardship), Section 12.44.190 (Fees), Section 12.44.200 (Ordinary Maintenance and Repair) and Section 12.44.210 (Duty to Keep in Good Repair).

Overall, the proposed amendments to the Historic Preservation Ordinance are in the best interest for the protection and promotion of the public health, safety, comfort, convenience, prosperity and welfare of the City and are in conformance with the Los Altos General Plan, because, while records



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indicate that there are limited opportunities for the formation of historic districts in Los Altos, the code maintains procedures for the designation and protection of individual resources.

Options

- 1) Approve the Historic Preservation Ordinance amendments

Advantages: The amendment simplifies the Historic Preservation Ordinance

Disadvantages: The ordinance will eliminate the ability to form historic districts in the City of Los Altos

- 2) Deny the Historic Preservation Ordinance amendments

Advantages: The City's existing historic district designation process would be maintained

Disadvantages: A future historic district could be established by the City without a vote of the property owners within the district

Recommendation

The staff recommends Option 1 as directed by the City Council.

ORDINANCE NO. 2017-437

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AMENDING CHAPTER 12.44, HISTORIC PRESERVATION, OF THE LOS
ALTOS MUNICIPAL CODE**

WHEREAS, the City of Los Altos initiated an application (17-CA-03) to amend Chapter 12.44 of the Los Altos Municipal Code pertaining to the historic district designation process; and

WHEREAS, in response to recent developments regarding the historic district designation process, the City Council directed staff to work with the Historical Commission to consider amendments to Chapter 12.44 of the Municipal Code; and

WHEREAS, the Historical Commission has reviewed and evaluated Chapter 12.44 of the Municipal Code, including the Los Altos General Plan Community Design and Historic Resources Element, to identify appropriate amendments to update the historic district designation process; and

WHEREAS, the Historical Commission held a public hearing on September 25, 2017 to review the proposed ordinance amendments and voted unanimously to recommend that the City Council approve the amendments to Chapter 12.44 of the Municipal Code finding that the proposed amendments are in the best interest for the protection or promotion of public health, safety, comfort, convenience, prosperity, or welfare and is in conformance with the adopted General Plan of the City; and

WHEREAS, the City Council held a duly noticed public hearing on amending Chapter 12.44 on November 28, 2017 and January 23, 2018; and

WHEREAS, the City Council, after consideration of the Historical Commission recommendation, determines that the amendments to Chapter 12.44 of the Municipal Code reflect the guidance provided by this Council and that it will eliminate references to historic districts and their designation procedure; 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 pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

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

SECTION 1. AMENDMENT OF CODE: The following sections of Chapter 12.44 (Historic Preservation) of the Los Altos Municipal Code shall be revised per the following modifications that are reflected by strikethroughs indicating deletions and underlining indicating additions to read as follows:

Chapter 12.44 - HISTORIC PRESERVATION

Sections:

Article 1. - General Provisions

12.44.010 - Purpose.

It is hereby declared as a matter of public policy that the recognition, preservation, enhancement and use of historic resources within the City of Los Altos is required in the interest of health, economic prosperity, cultural enrichment and general welfare of the people. The purpose of this chapter is to:

- A. Safeguard the heritage of the city by providing for the protection of irreplaceable historic resources representing significant elements of its history;
- B. Enhance the visual character of the city by encouraging the compatibility of architectural styles which reflect established architectural traditions;
- C. Encourage public knowledge, understanding and appreciation of the city's past, and foster civic and neighborhood pride and sense of identity based upon the recognition and use of the city's historic resources;
- D. Stabilize and improve property values within the city and increase the economic and financial benefits to the city and its inhabitants derived from the preservation, rehabilitation, and use of historic resources;
- E. Integrate the conservation of historic resources into the public and private development process and identify as early as possible and resolve conflicts between the preservation of such resources and alternative land uses; and
- F. Fulfill the city's responsibilities for Federal Section 106 reviews and for the California Environmental Quality Act.

12.44.020 - Area of application.

This chapter shall apply to all historic resources listed in the historic resources inventory, historic landmarks and properties, ~~and structures within a historic district.~~

12.44.030 - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context or the provision clearly requires otherwise:

"Alteration" means any act or process that changes any portion of the exterior architectural appearance of a structure or object, including, but not limited to, the erection, construction, reconstruction, removal of exterior architectural features or details, or the addition of new structures, but does not include painting, ordinary maintenance and landscaping.

"California Historical Building Code" is Part 8 of Title 24 (State Building Standards Code) and applies to all qualified historic structures, ~~districts~~ and sites, designated under federal, state and local authority. It provides alternative building regulations for the rehabilitation, preservation, restoration or relocation of structures designated as qualified historic buildings.

"California Office of Historic Preservation" means the governmental agency primarily responsible for the statewide administration of the historic preservation program in California.

"California Register of Historical Resources" is a comprehensive listing of California's historical resources, including those of local, state and national significance.

"Character defining features" means the defining elements, such as prominent architectural features, materials, craftsmanship or other elements, that, individually or in combination, identify a historic property, building or landscape.

"Commission staff" means the staff liaison assigned to the historical commission.

"Contributing resource" means a public or private property that is not a significant historic resource individually, ~~but contributes to the historic character of a historic district.~~

"DPR 523" means the California Department of Parks and Recreation Historic Resource Inventory Forms used for historic evaluations. The DPR 523A form provides descriptive information about a resource. The DPR 523B form provides an evaluation of the resources and includes a determination as to whether the resource is eligible for the National or State Register of Historic Places or listing on the Los Altos Historic Resources Inventory. ~~The 523D form is used to identify districts or clusters of buildings that consist of a concentration or continuity of associated historic resources. The district record is used for documenting the linkages among individual resources within the framework of an historic context.~~

"Exterior architectural feature" means the architectural elements embodying style, design, general arrangement and components of all the outer surfaces of an improvement, including but not limited to, the kind, size, shape and texture of building materials, and the type and style of windows, doors, lights, signs and other fixtures appurtenant to such improvement.

~~"Historic district" means a distinct section of the city, specifically defined in terms of geographical boundaries that has cultural, historic, architectural and/or archaeological significance and is designated as a historic district by the city council.~~

"Historic landmark" means a building, improvement, structure, natural feature, site or area of land, under single or common ownership that has significant historical, architectural, cultural, and/or aesthetic interest or value, and is designated as a historic landmark by the city council.

"Historic resource" is a property or structure that has been determined to be over fifty (50) years old, retains its physical integrity, has historical, architectural, cultural, and/or aesthetic value, and is listed on the historic resources inventory.

"Historic resources inventory" means the city's official inventory of the historic resources, as adopted and amended from time to time by resolution of the historical commission and/or the city council. A property or structure must be designated as a historic landmark, or a historic resource ~~or located within a historic district~~ in order to be listed.

"Historical commission" is a seven-member advisory commission appointed by the city council that is tasked with maintaining the historic resources inventory, making recommendations on historic landmarks ~~and historic districts~~, working with property owners on preservation, maintenance and other development activities related to historic resources, and other activities as identified in the municipal code.

"Improvement" means any building, structure, parking facility, wall, work of art or other appurtenance or addition thereto constituting a physical betterment of real property or any part of such betterment.

"Integrity" is the authenticity of the characteristics, also referred to as character defining features, from which resources derive their significance. Integrity is the composite of seven qualities: location, design, setting, materials, workmanship, feeling and association.

"Mills Act" is an economic incentive program in California for the restoration and preservation of qualified historic structures. Enacted in 1972, the Mills Act grants participating local governments the authority to enter into contracts with owners of qualified historic properties to reduce the property tax assessment in exchange for the restoration and maintenance of the historic resource.

"National Register of Historic Places" is the official inventory of districts, sites, buildings, structures and objects significant in American history, architectural, archeology and culture, maintained by the Secretary of Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966.

"Preservation" means the act of identification, study, protection, reconstruction, restoration, rehabilitation or enhancement of historic and/or cultural resources.

"Reconstruction" means the act or process of reproducing by new construction, the exact form and detail of a vanished building, structure or any part thereof, as it appeared at a specific period of time.

"Rehabilitation" means the act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural value.

"Restoration" means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

"Secretary of Interior's Standards" are the Federal Standards for the Treatment of Historic Properties that are utilized in the identification, evaluation, registration and treatment of historic properties. The list of ten (10) Rehabilitation Standards, published as the Secretary of the Interior's Standards, is aimed at retaining and preserving those features and materials that are important in defining the historic character of a resource.

Article 2. - Designation of Historic Resources

12.44.040 - Criteria for designation.

A structure, property or object may be eligible for designation as a historic resource or historic landmark, ~~or a group of properties may be eligible as an historic district~~, if it/they satisfy each of the three criteria listed below:

- A. Age. A structure or property should be more than fifty (50) years in age. (Exceptions can be made to this rule if the building(s) or site(s) is/are truly remarkable for some reason - such as being associated with an outstanding architect, personage, usage or event).
- B. Determination of Integrity. A structure or property should retain sufficient historic integrity in most of the following areas:
 1. Design: The combination of elements that create the form, plan, space, structure and style of a property.
 2. Setting: The physical environment of a historic property.
 3. Materials: The physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.
 4. Workmanship: The physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
 5. Feeling: A property's expression of the aesthetic or historic sense of a particular period of time.
- C. Historic Significance. A structure or property should be clearly associated with one or more of the following areas of significance:
 1. Event: Associated with a single significant event or a pattern of events that have made a significant contribution to broad patterns of local or regional history, or cultural heritage of California or the United States;
 2. Person/People: Associated with the lives of persons important to the local, California or national history;

3. Architecture/Design: Embodies the distinctive characteristics of a design-type, period, region or method of construction, or represents the work of a master or possesses high artistic value; or
4. Archaeology: Yields important information about prehistory or history of the local area, California or the nation.

The city's historic resource evaluation methodology, which provides more details about the above listed criteria, is available from the planning division.

12.44.050 - Applications for designation.

- A. Applications for designation as a historic landmark, ~~a historic district~~, or listing a historic resource on the historic resources inventory may be initiated by ~~any of the following~~:
 1. ~~The owner or owner~~ of a building, improvement, structure, natural feature, site or area of land, requesting designation of their property as a historic resource or historic landmark;
 2. ~~The owners of at least twenty five (25) percent of the frontage of all recorded lots abutting a specific geographic section of the city, requesting designation as a historic district;~~
 3. ~~The owners of at least twenty five (25) percent of the area of all recorded lots within a specific geographic section of the city, requesting designation of the entire section as a historic district.~~
- B. The city council or the planning commission may, by resolution or motion, refer a proposed designation to the historical commission. The historical commission may also consider a proposed designation upon its own initiative or by referral by the community development director.
- C. Applications for designation as a historic landmark, ~~a historic district~~, or listing a historic resource on the historic resources inventory shall be made to the historical commission. Applications must be accompanied by such historical and architectural information as is required by the historical commission in order to make an informed recommendation concerning the request.

Applications for designation shall be acted on as set forth in sections 12.44.050, 12.44.060 and 12.44.070 of this chapter.

12.44.060 - Historic resource listing.

- A. Once the application for designating a property as a historic resource and listing it on the historic resources inventory has been received, the historical commission shall consider the request at its next available scheduled meeting.
- B. The commission shall conduct a public hearing to consider the proposed listing. Notice of the hearing shall be given at least ten (10) days prior to the date of the hearing by mail to the applicant, to the owner or owners of the property and to the owners of abutting

properties, and by posting a notice on the property near the front property line in accordance with the standards set by commission staff.

- C. The commission shall consider the proposed historic resource and determine whether or not the property satisfies the three criteria outlined in Section 12.44.040. The commission shall by motion either approve or disapprove the designation of the property as a historic resource and listing it in the historic resources inventory.
- D. If the commission approves the historic resource for listing on the historic resources inventory, the listing shall become effective immediately and the designated property shall be subject to the regulations set forth in this chapter.
- E. Until final action has been taken by the commission on the request to list a property, no building, alteration, grading, demolition or tree removal permit(s) shall be issued for any work to be performed upon or within the subject property, unless approved by the historical commission or the community development director. This restriction shall become effective as of the time the application is submitted, and shall extend until the commission has taken action.
- F. Within fifteen (15) days of the action taken by the historical commission, the decision may be appealed to the city council. The appeal may be filed by the applicant or any interested party.

12.44.070 - Historic landmark designation.

- A. Once the application for the proposed designation has been received, the historical commission shall consider the request at its next available scheduled meeting.
- B. The commission shall conduct a public hearing to consider the proposed designation. Notice of the hearing shall be given at least ten (10) days prior to the date of the hearing by publication in at least one newspaper of general circulation within the city, by mail to the applicant, to the owner or owners of the property, and to the owners of abutting properties, and by posting a notice on the property near the front property line in accordance with the standards set by commission staff.
- C. The commission shall make a recommendation to the city council on the proposed designation. In order to make a positive recommendation, the commission shall make the following findings:
 - 1. That the proposed historic landmark satisfies the three criteria outlined in Section 12.44.040; and
 - 2. That the proposed landmark has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the city, the county, the state or the nation.
- D. The city council shall consider the proposed designation at its next available regular meeting and determine whether or not to accept the historical commission's recommendation. The city council shall by resolution either approve the proposed designation, in whole or in part or as modified, or shall, by motion, disapprove the proposal in its entirety.

- E. If the city council approves the landmark designation, the resolution shall become effective immediately and the designated property shall be subject to the regulations set forth in this chapter and to such further restrictions or controls as may be specified in the designating resolution.
- F. Adoption of a designating resolution by the city council shall be based upon the findings outlined in subsection (C) of this section.
- G. Until final action has been taken by the city council on the proposed landmark, no building, alteration, grading, demolition or tree removal permit(s) shall be issued for any work to be performed upon or within the subject property, unless approved by the historical commission or the city council. This restriction shall become effective as of the time the application is submitted, and shall extend until the designating resolution becomes effective.

~~12.44.080 – Historic district designation.~~

- ~~A. Following the same procedures set forth in Section 12.44.070(A) and (B), the historical commission shall hold a public hearing on any proposed historic district(s) and forward to the planning commission a report and recommendations, together with the information and documentation pertaining thereto. In order to make a positive recommendation, the commission shall make the following findings:

 - ~~1. That the proposed historic district satisfies the three criteria outlined in Section 12.44.040; and~~
 - ~~2. That the proposed historic district has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the city, the county, the state or the nation.~~~~
- ~~B. The planning commission shall conduct a public hearing on the proposed designation at its next available meeting after receipt of the historical commission's recommendation. Notice of the public hearing shall be given in the manner provided in this chapter.~~
- ~~C. The planning commission either shall recommend approval of the designation as originally proposed, or approval of the designation as modified by the historical commission or the planning commission, or both, or recommend that the proposed designation be rejected. If the planning commission recommends approval or modified approval of the designation, it shall also approve a proposed ordinance, for adoption by the city council, designating the historic district and establishing a zoning overlay for such district. The proposed ordinance may include such regulations or controls over the designated property as the planning commission deems reasonably necessary for the conservation, enhancement and preservation thereof.~~
- ~~D. The recommendation of the planning commission, the recommendation of the historical commission and the proposed ordinance, if any, shall be transmitted to the city council for consideration.~~

- ~~E. The city council shall schedule a public hearing at its next available meeting to consider the proposed historic district. Notice of the public hearing shall be given in all of the following methods:~~
- ~~1. Notice of such public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by publication in a newspaper of general circulation in the city.~~
 - ~~2. Mailing of notices to the recorded legal owners of all properties within the proposed district and all properties within five hundred (500) feet of the boundaries of the proposed district.~~
- ~~F. At the conclusion of the public hearing, the city council either shall adopt an ordinance designating the historic district, in whole or in part, or as modified, or shall, by motion, disapprove the proposal in its entirety.~~
- ~~G. In the event a designating ordinance is adopted by the city council, such ordinance shall become effective thirty (30) days following adoption thereof and the designated properties shall thereafter be subject to the regulations set forth in this chapter and such further regulations or controls as may be specified in the designating ordinance.~~
- ~~H. Adoption of a designating ordinance shall be based upon a finding by the city council that:~~
- ~~1. The proposed district satisfies the three criteria outlined in section 12.44.040; and~~
 - ~~2. The proposed district has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the city, the county, the state or the nation.~~
- ~~I. Until final action has been taken by the city council on the proposed historic district, no building, alteration, grading, demolition or tree removal permit(s) shall be issued for any work to be performed upon or within the subject district, unless approved by the historical commission or the community development director. This restriction shall become effective as of the time the application is submitted, and shall extend until the city council has taken action.~~

12.44.08090 - Notice of designation.

- A. Following adoption by the city council of a resolution designating a historic landmark ~~or an ordinance designating a historic district~~, the commission staff shall send notice of the designation, together with a copy of the resolution or ordinance, to the owner or owners of the designated historic landmark, ~~or to the owners of all property within the designated historic district~~. The city council also shall send notice of the designation to:
1. The Santa Clara County Historical Heritage Commission; and
 2. The California State Historic Preservation Officer.
- B. The designating resolution or ordinance shall be recorded with the county clerk-recorder.

12.44.090100 - Termination of designation.

The only legitimate reason for terminating the designation of a historic resource or historic landmark is when clear evidence is presented that shows the resource no longer meets the criteria of Section 12.44.040 due to loss of integrity and/or historic significance.

Article 3. - Permits

12.44.100110 - Applicability

- A. For historic landmark properties, a historical alteration permit (Section 12.44.150) is required in order to alter, demolish, remove, relocate or change any exterior architectural features of the designated landmark structure(s), or remove or relocate any improvements, structures or natural features that contribute to the integrity or the historic significance of the historic landmark.
- ~~B. For properties located within a historic district, an advisory review (Section 12.44.140) is required in order to alter, demolish, remove or relocate any building, improvement, other structure or natural feature that contribute to the integrity or the historic significance of the historic district.~~
- ~~B~~C. For historic resources listed on the historic resources inventory, an advisory review (Section 12.44.140) is required in order to alter, demolish, remove, relocate or otherwise change in any manner any exterior architectural feature or natural feature that contributes to the integrity or the historic significance of a historic resource.
- ~~C~~D. For subsections (B) ~~and (C)~~ of this section, the historical commission's review will take into account whether or not the proposed work adversely affects the physical integrity or the historic significance of the resource. The historical commission's recommendation to the community development director, planning commission, or city council, shall be advisory only.
- ~~D~~E. For non-residential properties that are historic landmarks; or historic resources ~~or located within an historic district~~, non-permanent improvements such as signage, awnings and landscaping that do not adversely affect the physical integrity or the historic significance of the resource may be exempted from historical commission review by the community development director.
- ~~E~~F. For residential properties that are historic landmarks; or historic resources ~~or located with an historic district~~, improvements such as swimming pools, fences, minor accessory structures such as trellises or barbecues, and landscaping that do not adversely affect the physical integrity or the historic significance of the resource may be exempted from historical commission review by the community development director.

12.44.110120 - Applications.

Applications for historical alteration permits or advisory review shall be submitted to the community development director. Applications shall include the following information:

- A. A clear statement of the proposed work;

- B. A site plan showing all existing buildings, structures, trees over six inches in diameter, property lines, easements and the proposed work;
- C. Detailed plans showing both the existing and proposed exterior elevations, including a street elevation, photographs of windows and/or special features, materials and grading;
- D. Specifications describing all materials to be used and all processes that would affect the appearance or nature of the materials;
- E. Notes indicating any deviation from the Secretary of the Interior's Standards for Historic Rehabilitation; and
- F. Such other information or documents as may be requested by the community development director or the historical commission.

Applications shall be noticed as set forth in section 12.44.120 and shall be acted on as set forth in section 12.44.130 and 12.44.140 of this chapter.

12.44.120130 - Notice of public meetings.

- A. Notification shall be provided when an application for a historical alteration permit is required for a historic landmark. Applicants shall be responsible for providing notification via first class mail to the adjoining property owners, in the manner set forth by the commission staff, at least ten (10) days prior to the meeting at which the application is to be reviewed. The property owners who shall be mailed notice include, but are not limited to, the following:
 - 1. The two adjoining property owners on each side;
 - 2. The three adjoining rear property owners; and
 - 3. The five adjoining front property owners across the street.
 - 4. As deemed appropriate or necessary, the commission staff may require that notification be mailed to a greater or lesser number of property owner(s) than are identified above based on the configuration of the properties adjoining the site of the application.
 - 5. Notice shall also be posted on the project site near the front property line in accordance with the standards set by the commission staff.
- B. Notice shall be provided when an application for an advisory review is required for a historic resource ~~or a property located within a historic district~~. Applicants shall be responsible for posting a notice on the project site near the front property line in accordance with the standards set by the commission staff.

12.44.130140 - Advisory review.

- A. For projects that require an advisory review, the historical commission shall complete its review and issue a recommendation at its next available scheduled meeting. In order to recommend approval, the commission shall find that:

1. The project complies with all provisions of this chapter; and
 2. The project does not adversely affect the physical integrity or the historic significance of the subject property.
- B. The historical commission recommendation shall be forwarded to the community development director, the planning commission, or the city council to be considered as part of their decision.

12.44.140150 - Historical alteration permit.

- A. For projects that require a historical alteration permit, the historical commission shall complete its review and issue a decision at its next available scheduled meeting. In order to approve a permit, the commission shall find that:
1. The project complies with all provisions of this chapter; and
 2. The project does not adversely affect the physical integrity or the historic significance of the subject property.
 3. The project is in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- B. If the historical commission approves the historical alteration permit, or approves such permit subject to conditions, the community development director shall issue the permit in accordance with the recommendation, provided that no other approval is required under this code. In the event the historical commission recommends denial of the permit, the community development director shall notify the applicant that the requested permit will not be granted.

12.44.150160 - Appeal.

Within fifteen (15) days of any approval or denial by the historical commission, the decision may be appealed to the city council. The appeal may be filed by the applicant or any interested party and shall be accompanied by a fee to cover the administrative cost of handling the appeal as set by city council resolution.

Article 4. - Miscellaneous Provisions

12.44.160170 - Incentives for preserving historic resources.

- A. California Historical Building Code. It is the purpose of the state historical building code to provide regulations and standards for the rehabilitation, preservation, restoration (including related reconstruction) or relocation as applicable to all historical buildings, structures and properties deemed of importance to the history, architecture, or culture of an area by an appropriate local or state governmental jurisdiction. Such standards and regulations are intended to facilitate the restoration or change of occupancy so as to preserve their original or restored elements and features, to encourage energy conservation and a cost effective approach to preservation, and to provide for reasonable safety from fire, seismic forces or other hazards for occupants and users of such

"buildings, structures and properties" and to provide reasonable availability and usability by the physically disabled. The state historical building code is defined in sections 18950 to 18961 of Division 13, Part 2.7 of Health and Safety Code (H&SC) Health and Safety Code, a part of California Law.

- B. Economic incentives. In order to carry out more effectively and equitably the purposes of this chapter, the city council may, by resolution, adopt a program of economic (i.e., Mills Act contracts) and other incentives to support the preservation, maintenance and appropriate rehabilitation of the city's historic resources.

12.44.170180 - Hardship.

Notwithstanding the criteria of this chapter, the community development director, on the recommendation of the historical commission, or the planning commission or city council on appeal, may approve an application for a permit to conduct any proposed work upon or within a historic resource, a historic landmark ~~or property located within a historic district~~, if the applicant presents clear and convincing evidence demonstrating that a disapproval of the application will cause immediate and substantial hardship on the applicant because of conditions peculiar to the person seeking to carry out the proposed work or because of conditions peculiar to the particular improvement, building, structure, topography or other feature involved. If a hardship is found to exist under this section, the historical commission or the planning commission or city council shall make a written finding to that effect, and shall specify the facts and reasons relied upon in making such finding.

12.44.180190 - Fees.

- A. No fee shall be charged for the filing, processing or public noticing of any application for designation.
- B. The city council shall by resolution adopt a schedule of fees to be charged for any application for termination of a designation, for the filing and processing of applications for any permit required under this chapter, and for appeals pursuant to this chapter.

12.44.190200 - Ordinary maintenance and repair.

Nothing in this chapter shall be construed to prevent the ordinary maintenance, painting, landscaping or repair of any exterior feature in or upon any historic resource; or historic landmark ~~or property located within a historic district~~ that does not involve a change in design, material or the external appearance thereof, nor does this chapter prevent the construction, reconstruction, alteration, restoration, demolition or removal of any historic resource; or historic landmark ~~or property located within any historic district~~ which has been certified by the city building inspector, or fire chief, or other code enforcement officer as being in unsafe or dangerous condition which cannot be rectified through the use of the California State Historic Building Code.

12.44.200210 - Duty to keep in good repair.

- A. The owner, occupant or the person in actual charge of a historic resource; or a historic landmark ~~or property located within a historic district~~ shall keep and maintain in good

condition and repair all exterior portions of the improvement or structure, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature or natural feature.

B. It shall be the duty of the building official to enforce this section.

12.44.210220 - Enforcement.

The violation of any provision contained in this chapter is hereby declared to be unlawful and shall constitute a misdemeanor, subject to the penalties as prescribed in Title 1, Chapter 1.20 of this code.

SECTION 2. 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 3. PUBLICATIONS. This ordinance shall be published as provided in Government Code section 36933.

SECTION 4. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

I HEREBY CERTIFY that the foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on the 23rd day of January 2018 and was thereafter, at a regular meeting held on _____ passed and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jean Mordo, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF
THE CITY OF LOS ALTOS, HELD ON TUESDAY, NOVEMBER 28, 2017,
BEGINNING AT 7:00 P.M. AT LOS ALTOS CITY HALL, 1 NORTH SAN
ANTONIO ROAD, LOS ALTOS, CALIFORNIA**

ESTABLISH QUORUM

PRESENT: Mayor Prochnow, Vice Mayor Mordo, Councilmembers Bruins, Lee Eng and Pepper

ABSENT: None

PLEDGE OF ALLEGIANCE

City Clerk/Assistant to the City Manager Maginot led the Pledge of Allegiance to the flag.

CHANGES TO THE ORDER OF THE AGENDA

Action: Upon a motion by Mayor Prochnow, seconded by Councilmember Bruins, the Council continued item number 4 to a future meeting, by the following vote: AYES: Bruins, Lee Eng, Pepper and Prochnow; NOES: Mordo; ASTAIN: None; ABSENT: None.

Public Comments on Items not on the Agenda was moved to before the Special Presentation.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

The following individuals provided comments on items not on the agenda: Los Altos residents Mike Ellerin, Hedda Hope, Leslie Sims, Stephen Heise, Michelle Phillips, Bill Lonergan, Roberta Phillips, Katheryn Maller and Premika Ratnam, and Kay Ingalls, Lisa Warren, Eleanor Taylor and Lilia Kurz.

SPECIAL PRESENTATION

A. Fiscal Year 2017/18 Comprehensive Annual Financial Report

Katherine Yuen of Maze & Associates presented the report.

CONSENT CALENDAR

Action: Upon a motion by Vice Mayor Mordo, seconded by Councilmember Pepper, the Council unanimously approved the Consent Calendar, as follows:

1. Council Minutes: Approved the minutes of the November 14, 2017 study session and regular meeting.
2. Contract Amendment: City Manager Employment Agreement: Approved Amendment No. 1 to the City Manager Employment Agreement.

3. Contract Amendment: El Monte Avenue Sidewalk Gap Closure, Project TS-01038: Authorized the City Manager to execute Amendment No. 2 to the agreement between the City of Los Altos and TJKM Transportation Consultant for professional design services for the El Monte Avenue Sidewalk Gap Closure, Project TS-01038.

DISCUSSION ITEMS

4. Proposal from Children's Corner to continue lease at new Community Center: Direct staff to prepare a lease agreement with Children's Corner reflecting the terms outlined in the proposal received from Children's Corner on November 15, 2017

Continued to a future meeting.

5. 400 Main Street Use Permit denial appeal: Adopt Resolution No. 2017-46 granting an appeal of a denial of a use permit application for an administrative office use in a vacant tenant space at 400 Main Street

Community Development Director Biggs presented the report.

All Councilmembers disclosed ex parte communications with Jeff Morris.

Jeff Morris, appellant, presented the appeal.

Public Comments

The following individuals presented public comments: Kim Cranston, Scott Hunter (representing Los Altos Village Association), and Los Altos residents Dennis Young, Nancy Bremeau and Ron Labetich.

Jeff Morris presented the rebuttal.

Action: Upon a motion by Councilmember Bruins, seconded by Vice Mayor Mordo, the Council adopted Resolution No. 2017-46 granting an appeal of a denial of a use permit application for an administrative office use in a vacant tenant space at 400 Main Street, as amended to add a Whereas stating that "the lease space has remained vacant since the building was completed and finals on the building permit were granted and the Planning Commission has agreed with the interpretation that these circumstances are unique and a use permit could be considered for other business establishments in the subject lease space because a retail establishment is not being displaced", by the following vote: AYES: Bruins, Mordo, Pepper and Prochnow; NOES: Lee Eng; ABSTAIN: None; ABSENT: None.

Mayor Prochnow recessed the meeting at 8:48 p.m. The meeting resumed at 8:57 p.m.

6. Downtown Green Five-Year Plan: Approve the closure of Third Street between Main and State Streets during the months of July and August for approximately six weeks and allocate \$125,000 over five years to support programming and maintenance of the Downtown Green

Mayor Prochnow recused herself due to a potential conflict of interest (owns property within 500 feet of the project area), stepped down from the dais and left the room. Vice Mayor Mordo conducted the meeting.

Economic Development Manager Quinn presented the report.

Public Comments

The following individuals provided public comments: Kim Cranston, Los Altos residents Mel Kahn, Nancy Bremeau, Bette Houtchens, Gary Hedden, Robin Abrams, Roberta Phillips, Ron Labetich and Roy Lave, and Lars Smith and Scott Hunter (representing Los Altos Village Association).

Action: Motion made by Councilmember Pepper, seconded by Vice Mayor Mordo, to approve the closure of Third Street (without specifying a location) during the months of July and August for approximately six weeks and allocate \$125,000 over five years to support programming and maintenance of the Downtown Green.

Councilmember Bruins offered an amendment, which was accepted, to direct staff to work to address the concerns of merchants related to parking, deliveries and location of the Green, as well as to conduct outreach to the merchants.

The motion, as amended, passed by the following vote: AYES: Bruins, Mordo, Pepper; NOES: Lee Eng; ABSTAIN: Prochnow; ABSENT: None.

Mayor Prochnow returned to the dais and resumed conducting the meeting.

7. Ordinance No. 2017-437: Historic Preservation Code Amendments: Introduce and waive further reading of Ordinance No. 2017-437 amending Chapter 12.44, Historic Preservation, of the Los Altos Municipal Code

Community Development Director Biggs and Associate Planner Gallegos presented the report. Historical Commissioners Larry Lang and Nomi Trapnell answered Council questions.

Public Comments

The following individual provided public comments: Los Altos resident Tom Brown.

Action: Upon a motion by Vice Mayor Mordo, seconded by Mayor Prochnow, the Council unanimously directed staff to prepare an ordinance remove references to Historic Districts from the Los Altos Municipal Code.

8. Ordinance No. 2017-438: Commercial Cannabis Uses: Adopt Urgency Ordinance No. 2017-438 establishing a moratorium in all Zoning Districts on the establishment, creation or expansion of any and all commercial cannabis uses

City Attorney Diaz presented the report.

Action: Upon a motion by Councilmember Bruins, seconded by Councilmember Pepper, the Council unanimously waived further reading and adopted Urgency Ordinance No. 2017-438 establishing a moratorium in all Zoning Districts on the establishment, creation or expansion of any and all commercial cannabis uses.

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

City Manager Jordan announced a Downtown Vision Scenarios Workshop on November 29, 2017 and a meeting of the Community Center Project Task Force on November 30, 2017.

Vice Mayor Mordo announced a meeting of North County Library Authority on December 4, 2017 and reported he attended a meeting of the South Flow Arrivals ad hoc committee.

Councilmember Pepper reported she attended a meeting regarding affordable housing at which Mayor Prochnow and Administrative Services Director Etman presented on November 15, 2017.

Councilmember Lee Eng reported she attended a meeting of the City/Cupertino Union School District Schools Issues Committee on November 15, 2017 with Councilmember Bruins.

Mayor Prochnow reported she attended a meeting of the City/Los Altos School District Schools Issues Committee on November 16, 2017 with Councilmember Bruins.

ADJOURNMENT

Mayor Prochnow adjourned the meeting at 10:46 P.M.

Mary Prochnow, MAYOR

Jon Maginot, CMC, CITY CLERK



DISCUSSION ITEMS

Agenda Item # 7

AGENDA REPORT SUMMARY

Meeting Date: November 28, 2017

Subject: Ordinance No. 2017-437: Historic Preservation Code Amendments

Prepared by: Sean K. Gallegos, Associate Planner

Reviewed by: Jon Biggs, Community Development Director

Approved by: Chris Jordan, City Manager

Attachment(s):

1. Ordinance No. 2017-437
2. Historical Commission Meeting Minutes, September 25, 2017
3. Historical Commission Agenda Report, September 25, 2017

Initiated by:

City Council

Fiscal Impact:

None anticipated

Environmental Review:

This Code amendment is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

Policy Question(s) for Council Consideration:

- Should the City's historic district designation process be maintained in its current form or amended to be consistent with the City's existing process to establish a single-story overlay district?

Summary:

- The proposed amendments to the City's Historic Preservation Ordinance have updated the historic district designation process to be consistent with the City's existing process to establish a single-story overlay district.
- The amendments include an increase in the percentage of property owner required to initiate a historic district, an updated process for establishing district boundaries, a resident voting process to authorize a historic district, clarification for when a historic district application is deemed complete, and updated public noticing requirements.

Staff Recommendation:

Move to introduce and waive further reading of Ordinance No. 2017-437 amending Chapter 12.44, Historic Preservation, of the Los Altos Municipal Code



Subject: Ordinance No. 2017-437: Historic Preservation Code Amendments

Purpose

The purpose of these amendments to the Historic Preservation Ordinance is to update the historic district designation procedures to align with the City's existing single-story overlay designation process.

Background

In response to public comments received at City Council meetings earlier this year, the Council directed staff to work with the Historical Commission to review the City's Historic Preservation Ordinance (Municipal Code Chapter 12.44) and provide a recommendation on potential amendments or whether the current ordinance should be maintained.

At its April 24, 2017 meeting, the Historical Commission discussed amending Chapter 12.44 pertaining to the historic district designation process and voted to establish a subcommittee to further review the matter. The subcommittee was comprised of commissioners Qing Bai, Russel Bartlett and Larry Lang, and was tasked with working with staff to evaluate the concerns regarding the existing historic district designation process and develop code amendments to the process if deemed necessary.

On September 25, 2017, the Historical Commission held a public hearing to consider amendments to the Historic Preservation Ordinance. The Commission expressed general support for the amendments to Chapter 12.44 with a provision that the code be aligned with the single-story overlay district process. Following a discussion of the proposed amendments, the Commission unanimously voted to recommend that the City Council amend the historic district designation process to be consistent with the City's existing process to establish a single-story overlay district.

Discussion/Analysis

The proposed amendments, if adopted, will amend the Historic Preservation Ordinance, as follows:

1. The requirement that 25 percent of owners of lots **abutting** a specific geographic section of the city can request for historic district designation will be eliminated;
2. The percentage of owners required to initiate a historic district designation process will be increased from 25 percent to 50 percent;
3. The City Council will now be required to review a historic district application to approve the proposed historic district boundary prior to determining an application is complete;
4. A mail-in-voting process for property owners to approve a proposed historic district, which requires sixty-six and two-thirds of property owners to support the district designation and is consistent with the Single-Story Overlay District procedure, will now be required;
5. The voting process and public notification requirements for a historic district designation, consistent with the Single-Story Overlay District process, will be added; and



Subject: Ordinance No. 2017-437: Historic Preservation Code Amendments

-
6. The Ordinance will be revised to clarify the required historical application fees, including historic district designation applications.

Following the Historical Commission's recommendation, staff and the City Attorney made some minor modifications to the ordinance to ensure clarity and internal consistency. The modifications include: 1) Section 12.44.080(L) has been updated to be consistent with the termination threshold for a Historic Resource or Landmark property; 2) the findings required to approve a historic district (12.44.080 (C) and (J)) have been clarified to be more directly applicable to a historic district; and 3) the fees section (12.44.190) has been modified to note that the fee for a historic district application is set by the City Council, which will allow the City to determine a reasonable fee that is commensurate with the staff time required to process the application.

Overall, the proposed amendments to the Historic Preservation Ordinance are in the best interest for the protection and promotion of the public health, safety, comfort, convenience, prosperity and welfare of the City and are in conformance with the Los Altos General Plan.

Options

- 1) Approve the Historic Preservation Ordinance amendments.

Advantages: Provides a historic district designation procedure that is consistent with the City's existing procedure for establishing a Single-Story Overlay District.

Disadvantages: The ordinance may restrict the ability of potential historic districts to form in the City of Los Altos.

- 2) Deny the Historic Preservation Ordinance amendments.

Advantages: The City's existing historic district designation process would be maintained.

Disadvantages: A future historic district could be established by the City without a vote or super majority support of the property owners within the district.

Recommendation

The staff recommends Option 1 as recommended by the Historical Commission.

ORDINANCE NO. 2017-437

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AMENDING CHAPTER 12.44, HISTORIC PRESERVATION, OF THE LOS
ALTOS MUNICIPAL CODE TO UPDATE THE HISTORIC DISTRICT
DESIGNATION PROCESS**

WHEREAS, in response to recent developments regarding the historic district designation process, the City Council directed staff to work with the Historical Commission to consider amendments to Chapter 12.44 of the Municipal Code; and

WHEREAS, the Historical Commission has reviewed and evaluated Chapter 12.44 of the Municipal Code, as well as the Community Design and Historic Resources Element of the Los Altos General Plan 2002-2020, to identify appropriate amendments to update the historic district designation process; and

WHEREAS, the Historical Commission held a public hearing on September 25, 2017 to review the proposed ordinance amendments and voted unanimously to recommend that the City Council approve the amendments to Chapter 12.44 of the Municipal Code finding that the proposed amendments are in the best interest for the protection or promotion of public health, safety, comfort, convenience, prosperity, or welfare and is in conformance with the adopted general plan of the City; and

WHEREAS, the City Council, in consideration of the Historical Commission recommendation, determines that the amendments to Chapter 12.44 of the Municipal Code will result in a historic district designation procedure that incorporates increased community input in the designation process, and will be consistent with the Community Design and Historic Resources Element of the Los Altos General Plan 2002-2020; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Sections 15061(b)(3) and 15378 of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

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

SECTION 1. AMENDMENT OF CODE: The following sections of Chapter 12.44 (Historic Preservation) of Title 12 of the Los Altos Municipal Code shall be revised per the following modifications, which are reflected by strikethroughs indicating deletions and underlining indicating additions, to read as follows:

12.44.050 - Applications for designation.

- A. Applications for designation as a historic landmark, a historic district, or listing a historic resource on the historic resources inventory may be initiated by any of the following:
 - 1. The owner or owner of a building, improvement, structure, natural feature, site or area of land, requesting designation of their property as a historic resource or historic landmark;
 - 2. ~~The owners of at least twenty-five (25) percent of the frontage of all recorded lots abutting a specific geographic section of the city, requesting designation as a historic district;~~
 - 23. The owners of at least ~~twenty-five (25)~~ fifty (50) percent of the area of all recorded lots within a specific geographic section of the city, requesting designation of the entire section as a historic district.
- B. The city council or the planning commission may, by resolution or motion, refer a proposed designation to the historical commission. The historical commission may also consider a proposed designation upon its own initiative or by referral by the community development director.
- C. Applications for designation as a historic landmark, a historic district, or listing a historic resource on the historic resources inventory shall be made to the historical commission. Applications must be accompanied by such historical and architectural information as is required by the historical commission in order to make an informed recommendation concerning the request.

Applications for designation shall be acted on as set forth in sections ~~12.44.060050~~, ~~12.44.070060~~ and ~~12.44.080070~~ of this chapter.

12.44.080 - Historic district designation.

- A. Once the application for the proposed historic district designation has been received, the application may not be deemed complete until the city council, with a recommendation from the historical commission, determines that the boundaries of the proposed district are clearly and appropriately defined.
- B. If the application is deemed complete, then staff will initiate the process for the proposed district to demonstrate eligibility. A proposed district shall demonstrate a minimum sixty-six and two-thirds percent (66 2/3 %) property owner support for the application by the manner set forth by the city council in order to be eligible for the historic district designation. The minimum required property owner support shall be determined based upon the number of yes votes in relation to the total number of valid votes received by the city. Each buildable lot shall be entitled to one vote which shall be allocated among the owners of record of said lot; for example, if there are two owners of record, each shall have one-half vote.
- ~~C. A. Following the same procedures set forth in Section 12.44.070(A) and (B), If the proposed district meets the eligibility requirements, then the historical commission shall hold a public hearing on any the proposed historic district(s) and forward a report and recommendation, together with the information and documentation pertaining thereto, to the planning commission a report and recommendations, together with the~~

~~information and documentation pertaining thereto.~~ Notice of the public hearing shall be given in the manner provided in Section 12.44.080(M). In order to recommend adoption of the proposed historic district, the historical commission shall make the following findings:

1. That the structures and/or properties within the proposed historic district satisfies the ~~three~~ criteria outlined in Section 12.44.040(A) and (B); and
2. That the proposed historic district has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the city, the county, the state or the nation.

~~DB.~~ The planning commission shall conduct a public hearing on the proposed designation at its next available meeting after receipt of the historical commission's recommendation. Notice of the public hearing shall be given in the manner provided in this chapter Section 12.44.080(M), which notice satisfies the requirements of Section 14.86.040, as well.

~~EC.~~ The planning commission's review of the application shall be limited to review of either shall recommend approval of the designation as originally proposed, or approval of the designation as modified by the historical commission or the planning commission, or both, or recommend that the proposed designation be rejected. If the planning commission recommends approval or modified approval of the designation, it shall also approve a proposed ordinance, for adoption by the city council, designating the historic district and establishing a zoning overlay for such district. The proposed ordinance may include such regulations or controls over the designated property as the planning commission deems reasonably necessary for the conservation, enhancement and preservation thereof.

~~FD.~~ The recommendation of the planning commission on the proposed ordinance and the recommendation of the historical commission on the application and the proposed ordinance, if any, shall be transmitted to the city council for consideration.

~~GE.~~ The city council shall schedule a public hearing at its next available meeting to consider the proposed historic district and the ordinance establishing it. Notice of the public hearing shall be given in the manner provided in Section 12.44.080(M), which notice satisfies the requirements of Section 14.86.040, as well. all of the following methods:

- ~~1. Notice of such public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by publication in a newspaper of general circulation in the city.~~
- ~~2. Mailing of notices to the recorded legal owners of all properties within the proposed district and all properties within five hundred (500) feet of the boundaries of the proposed district.~~

~~HF.~~ At the conclusion of the public hearing, the city council either shall adopt introduce an ordinance designating the historic district, in whole or in part, or as modified, or shall, by motion, disapprove the proposal in its entirety.

~~IG.~~ In the event a designating ordinance is adopted by the city council, such ordinance shall become effective thirty (30) days following adoption thereof and the designated properties shall thereafter be subject to the regulations set forth in this chapter and such further regulations or controls as may be specified in the designating ordinance.

JH. Adoption of a designating ordinance shall be based upon a finding by the city council that:

1. The structures and/or properties within the proposed district satisfy the three criteria outlined in section 12.44.040(A) and (B); and
2. The proposed district has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the city, the county, the state or the nation.

KI. Until final action has been taken by the city council on the proposed historic district, While an application for a proposed historic district designation is pending, city staff shall not issue any no building, alteration, grading, demolition or tree removal permit(s) shall be issued for any work to be performed upon or within the subject proposed district, unless approved by the historical commission or the community development director. This restriction shall become effective as of the time the application is submitted, and shall extend until the city council has taken action. For purposes of this restriction, an application is pending from the time it is deemed complete per Section 12.44.080(A) to the time city council takes final action on the application if it is denied; the application is otherwise withdrawn; or until any adopted ordinance pursuant to the application takes effect.

L. The historic district designation shall remain in effect for a minimum of seven years from the district's effective date under Section 12.44.080(I). After this minimum time period, removal of the designation may be considered by the city as follows:

1. An application for removal of a historic district designation shall be initiated pursuant to Section 12.44.100. If the proposed historic district designation removal meets the eligibility requirements, then the application for removal shall be noticed and reviewed by the historical commission, planning commission, and the city council, as provided in Sections 12.44.080(D)-(H), except that the only finding required for the historical commission's positive recommendation to the planning commission and the city council's determination shall be that the removal of the historical district designation meets the threshold established in Section 12.44.100.
2. In the event that the city council adopts an ordinance to remove the historic district designation, the removal shall be effective thirty (30) days following the adoption of the ordinance.

M. As required in this section, notice of a public hearing before the historical commission, planning commission, or city council shall be provided not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing as follows:

1. By mailing a notice to (1) the applicant, (2) the recorded legal owners of all properties within the proposed district, and (3) the recorded legal owners within five hundred (500) feet of boundaries of the proposed district at the address shown on the last equalized assessment roll;
2. By posting a notice on the property near the front property line in accordance with the standards set by commission staff; and
3. By publishing notice in a newspaper of general circulation within the city.

12.44.190 - Fees.

- A. No fee shall be charged for the filing, processing or public noticing of any application for advisory review, historic alteration permit, historic resource listing or historic landmark designation.
 - B. An application for a historic district designation shall be accompanied by the appropriate fee as set by the city council.
- CB. The city council shall by resolution adopt a schedule of fees to be charged for any application for termination of a designation, for the filing and processing of applications for any permit required under this chapter, and for appeals pursuant to this chapter.

SECTION 2. 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 3. 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 manner in which applications for designation as a historic landmark, historic district, or listing as a historic resource are governed. It does not commit the City of Los Altos or any other party to any direct course of action, other than to review applications as described herein, and will not result in any physical changes in and of itself. Moreover, 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 4. PUBLICATIONS. This ordinance shall be published as provided in Government Code section 36933.

SECTION 5. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

I HEREBY CERTIFY that the foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on the 28th day of November 2017 and was thereafter, at a regular meeting held on _____ passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mary Prochnow, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK

**MINUTES OF THE MEETING OF THE HISTORICAL COMMISSION OF THE CITY
OF LOS ALTOS, HELD ON MONDAY, SEPTEMBER 25, 2017, AT 7:00 P.M. AT LOS
ALTOS CITY HALL, ONE NORTH SAN ANTONIO ROAD, LOS ALTOS,
CALIFORNIA**

ROLL CALL

PRESENT: Chair Trapnell, Vice-Chair Horn, Commissioners Bartlett, Chapman and Lang

ABSENT: Commissioners Ahmadjian-Baer and Bai

PUBLIC COMMENTS

No resident comments

ITEMS FOR CONSIDERATION/ACTION

1. Commission Minutes

Action: Upon a motion by Commissioner Lang, seconded by Commissioner Chapman, the Commission moved to approve the minutes for August 28, 2017 with a revision to reflect that Commissioner Lang made the motion to approve item No. 2 and to delete the last sentence under Item. No. 5. AYES: Bartlett, Chapman, Land and Trapnell; NOES: None; ABSENT: Ahmadjian-Bar, Bai and Lang; ABSTAIN: Horn.

Action: Upon a motion by Vice-Chair Horn, seconded by Commissioner Chapman, the Commission moved to approve the minutes for July 24, 2017. AYES: Bartlett, Chapman, Horn Lang and Trapnell; NOES: None; ABSENT: Ahmadjian-Bar and Bai; ABSTAIN: None.

2. 17-CA-03 – City of Los Altos

Consider a recommendation that the City Council approve amendments to Chapter 12.44 of the Los Altos Municipal Code.

Staff and Commissioner Lang presented the report.

Public Comment

Residents Kurt Seifert and Tom Brown spoke in favor of modifying the Historical Preservation Ordinance. Residents Seifert and Brown recommended using consistent language in paragraph J of Section 12.44.080 to require that an application is defined as “complete” when the City Council has “approved the historic district boundary.”

Action: Upon a motion by Commissioner Lang, seconded by Commissioner Bartlett, the Commission recommends approval of amendments to Chapter 12.44 of the Los Altos Municipal Code with direction to bring the code into alignment with the single-story overly district process, with a provision that staff and the City Council may modify the code to address legal compliance requirements. AYES: Bartlett, Chapman, Horn, Lang and Trapnell; NOES: None; ABSENT: Ahmadjian-Baer and Bai; ABSTAIN: None

3. 17-H-05– D. Pasmooij – 10 Yerba Buena Avenue
Consider a recommendation that the City Council authorize the City Manager to execute a Mills Act agreement for a Historic Resource property.

Staff presented the report.

Public Comment

No public comment.

Action: Upon a motion by Commissioner Chapman, seconded by Commissioner Lang, the Commission continued the item with direction to modify and improve the maintenance schedule by amortizing the cost of current site improvements over time. AYES: Bartlett, Chapman, Horn, Lang and Trapnell; NOES: None; ABSENT: Ahmadjian-Baer and Bai; ABSTAIN: None

4. Commission Accomplishments and Workplan
Review the 2016-2017 Commission Accomplishments and the 2017-2018 Workplan

Staff presented the report.

Public Comment

Residents Jon Baer spoke in favor and provided information regarding the Mills Act.

Action: The Commission continued the Work Plan with the following direction:

- Correct typographical errors and references to previous workplan.
- The goal to “Update the submittal requirements handout for projects reviewed by the Historical Commission” shall be added to the work plan
- The goal to “Install Plaques in the Historic Landmark Orchard” shall be added as a goal to preserve the historic orchard and install historic landmark plaques for the site, and it shall be assigned to Vice-Chair Horn.
- The goal to “Administer the Mills Act Program” shall be added to the work plan and assigned to Commissioner Lang.
- The goal for the “Margaret Essay Contest” shall be revised to designate Chair Trapnell to oversee the program.

INFORMATIONAL ITEMS

5. Civic Center Apricot Orchard
Receive update from staff and Vice-Chair Horn.

Public Comment

No public comment.

6. Monthly Staff Report
Staff discussed the joint meeting City Council and Historical Commission meeting scheduled Tuesday, November 7, 2017.

**COMMISSION AND STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA
ITEMS**

None

ADJOURNMENT

Chair Trapnell adjourned the meeting at 8:43 p.m.

Sean K. Gallegos
Staff Liaison



DATE: September 25, 2017

AGENDA ITEM # 2

TO: Historical Commission
FROM: Sean K. Gallegos, Staff Liaison
SUBJECT: 17-CA-03 – Historical Preservation Ordinance Amendments

RECOMMENDATION:

Recommend approval of amendments to the Historic Preservation Ordinance, Chapter 12.44 of the Los Altos Municipal Code, to the City Council

PROJECT DESCRIPTION

The proposed amendments will amend Historic Preservation Ordinance sections 12.44.050 (Applications for Designation), 12.44.080 (Historic District Designation) and 12.44.19 (Fees) to update and clarify the process for designating a historic district to make it consistent with the single-story overly designation process.

BACKGROUND

In response to public comment received at recent City Council meetings, the Council directed staff to work with the Historical Commission to review the City's Historic Preservation Ordinance and provide a recommendation on potential amendments or whether the current ordinance should be maintained. A memo from the City Manager provides additional background information on this matter (Attachment A).

At its April 24, 2017 meeting, the Historical Commission discussed amending the Historic Preservation Ordinance as it pertained to the historic district designation process, which is reviewed by the Historical Commission. The Commission established a subcommittee, comprised of Commissioner Qing Bai, Russel Bartlett and Larry Lang, that was tasked with reviewing potential changes to the Historic Preservation Ordinance and bringing back a recommendation for the full Commission to consider.

DISCUSSION

Historic Preservation Ordinance Amendment

The Historical Commission, by its charter, is considered a more technical review body with the primary task of designating historic resources and landmarks, and determining if a project is in compliance with the City's Historic Preservation Ordinance and other associated regulations (such as the State Historic Building Code and the Department of the Interior Standards for Rehabilitation)

when required. Following a review and recommendation on potential code amendments by the Historical Commission, the action is forwarded to the City Council for their consideration.

As outlined in the attached memorandum (Attachment B), the subcommittee reviewed the Historic Preservation Ordinance, considering public comments and suggestions received from members of the public. The subcommittee recommended that the Ordinance be amended to be consistent with the single-story overlay processes established in Zoning Code Chapter 14.13 (See attachment C). The recommended amendments identified by staff and the subcommittee as meriting consideration are provided in Attachment D. For reference purposes, underlined text is proposed language and ~~strike-through text~~ is language proposed to be removed.

Code Amendment Findings

As requested by the City Council and as evaluated by staff, the proposed amendments are in the best interest for the protection and promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City of Los Altos. Staff also finds that the proposed amendments are in conformance with the City of Los Altos General Plan.

If the Historical Commission recommends approval of the amendments to the Historical Preservation Ordinance outlined herein, they will be forwarded to the California Office of Preservation to confirm that the amendments do not impact the City's ability to maintain its status as a Certified Local Government. Thereafter, a public hearing before the City Council will be scheduled to consider the code amendments.

ENVIRONMENTAL REVIEW

Pursuant to Article 5 of the California Environmental Quality Act Guidelines, ordinance amendments are not subject to an environmental analysis if they do not result in a direct or reasonably foreseeable indirect physical change in the environment. Because the ordinance amendments would simply be amending a procedural requirement, noticing requirement and fee requirement, staff finds that they would not result in a physical change to the environment, and therefore that they are not subject to the requirements of the California Environmental Quality Act.

PUBLIC NOTICING

Posting of the meeting agenda serves as notice to the general public.

CORRESPONDENCE

Staff received a letter regarding amendments to the Historic Preservation Ordinance from three residents (Attachment E). The letter raises issues such as the percentage of owners required for designating a historic district, the public noticing requirements for designation, the procedures for a historic district designation and the required fees for a historic district application. The letter also includes a recommendation that the historic district designation process be consistent with the City's process for establishing a single-story overlay district.

Attachments:

- A. Memo from the City Manager
- B. Historical Commission Subcommittee Memorandum
- C. Single-Story Overlay District Code, Zoning Code Chapter 14.13
- D. Proposed Code Amendments
- E. Public Correspondence

ATTACHMENT A



1 North San Antonio Road
Los Altos, California 94022-3087

MEMORANDUM

DATE: March 31, 2017

TO: Janis Ahmadjian-Baer, Chair
Members, Los Altos Historical Commission

FROM: Chris Jordan, City Manager

SUBJECT: REVIEW OF MUNICIPAL CODE SECTION 12.44

At its regular meeting of March 28, 2017, the City Council directed staff to work with the Historical Commission to review section 12.44 of the Los Altos Municipal Code. Of particular importance are those sections that discuss the process for making application for historic designation, and the process that is followed once an application has been received.

Community Development Department staff will be reviewing these sections and working with you to determine what, if any, amendments should be considered by the City Council. Following review by the Historical Commission, your recommendations will be submitted to the City Council for further consideration.

The City Council appreciates your willingness to review this matter and looks forward to receiving your recommendations.

C: Mary Prochnow, Mayor
Members, Los Altos City Council
Jon Biggs, Community Development Director
Sean Gallegos, Assistant Planner



ATTACHMENT B

1 North San Antonio Road
Los Altos, California 94022-3087

MEMORANDUM

DATE: September 15, 2017
TO: Historical Commission
FROM: Commissioners Qing Bai, Russell Barlett and Larry Lang
SUBJECT: Report on the proposed code amendment to the Historic Preservation Ordinance

RECOMMENDATION

The Historical Commission should formally recommend to the City Council that the Historic Preservation Ordinance (Municipal Chapter 12.44) be amended to align the process for designating a Historic District with the process for designating a Single-Story Single-Family Overlay District (Municipal Chapter 14.13), with appropriate adjustments as required.

BACKGROUND

At its regular meeting of March 28, 2017, the City Council directed staff to work with the Historical Commission to review the Historic Preservation Ordinance. Of particular interest was the process for designating Historic Districts, based on issues raised by several members of the public.

The Historical Commission named an ad hoc subcommittee comprising Commissioners Bai, Bartlett, and Lang. This subcommittee met on September 13, 2017 with Staff Liaison Sean Gallegos and Community Development Director Jon Biggs.

DISCUSSION

The subcommittee reviewed the Historic Preservation Ordinance, considering the comments and suggestions received from members of the public. The subcommittee also reviewed historic preservation ordinances and designated historic districts in surrounding communities, including San Jose, Palo Alto, Los Gatos, Saratoga, Campbell, and Menlo Park (see attachment).

To initiate the process of designating a local historic district, the current Los Altos ordinance requires an application from just twenty-five percent (25%) of owners in the area. Until the city council takes final action on such an application, building and other work permits are restricted, creating a potential burden for property owners in the proposed district.

This application threshold is substantially lower than the two-thirds (66⅔%) of owners required to approve a single-story overlay, a comparable process in current city practices. It is also substantially

lower than the thresholds in surrounding communities, typically at least sixty percent (60%). Importantly, such a low threshold would not necessarily represent the collaborative consensus among neighbors desirable for a successful historic district.

Several possibilities were considered to address this issue, bearing in mind the infrequency of historic district applications and the desire to avoid unnecessary complexity. Rather than devise an entirely new process, the subcommittee proposes amending the Historic Preservation Ordinance so that the process for designating a Historic District aligns with the process for designating a Single-Story Single-Family Overlay District, with appropriate adjustments as required.

This proposal and any other changes to the Historical Preservation Ordinance should be considered in light of the ongoing participation of the city in the Certified Local Government program, as administered by the California State Office of Historic Preservation and the National Park Service.

The subcommittee gratefully acknowledges the members of the public who gave thoughtful comments and suggestions on these matters at numerous meetings and in extensive written correspondence.

No other actions are recommended at this time.

**Notes for Los Altos Historic Commission:
Comparison of Historic District Designation Initiation**

- Los Altos
 - Historic districts [x0]
 - Requires 25 percent by frontage or area (§12.44.050)
 - No permits until final action by city council, unless approved by historical commission or community development director. Restriction effective when application is submitted, and extends until city council has taken action (§12.44.080)
- San Jose
 - National register districts [x3]
 - Creates no owner obligations nor invokes local zoning
 - No district listing if majority objects
 - Historic districts [x6]
 - Requires 60 percent (§13.48.120)
 - Conservation areas [x6] (easier approvals)
 - Requires 51 percent (§13.48.630)
- Palo Alto
 - National register districts [x4]
 - Professorville, Ramona St., Green Gables, Greenmeadow
 - Historic districts [x0]
 - “Any individual or group may propose” (§16.49.040)
 - City Council and Historic Resources Board reviewing design guidelines for Professorville since 2011
- Los Gatos
 - Historic district [x5, each with guideline ordinances]
 - Initiation of designation proceedings by resolution of Council or Planning Commission, date of initiation when resolution is adopted (§29.80.235)
 - No permits approved subsequent to date of initiation, but if final action not completed in 180 days, permits may be approved (§29.80.305)
- Saratoga

- Historic districts [x0]/Heritage lanes [x2]
 - Requires 60 percent by area/frontage (§13.15.020)
 - 41 percent objection halts for 12 months (§13.15.040)
- Campbell
 - Historic districts [x1, Alice Avenue, with design guidelines]
 - Requires 60 percent (§21.33.060)
- Menlo Park
 - The city maintains no local register of historic resources, but does have two historic properties protected by the (H) Historic Site District Zone

ATTACHMENT C

Chapter 14.13 - SINGLE-STORY SINGLE-FAMILY OVERLAY DISTRICT

Sections:

14.13.010 - R1-S overlay districts (R1-S).

The regulations, general provisions and exceptions set forth in this chapter and in Chapter 14.66 of this title shall apply in the R1-S district and shall supplement, and be used in conjunction with, the standards and requirements of the underlying zoning district. The purpose of the R1-S district is to modify the height and number of stories permitted in any R1 zoning district to preserve and maintain single-family neighborhoods of predominantly single-story character.

(Ord. 00-383 § 3 (part): prior code § 10-2.6201)

14.13.020 - Application (R1-S).

The R1-S district shall apply at the discretion of the city council; an application shall be accompanied by the appropriate fee as set by the city council. The R1-S district shall apply to only clearly defined neighborhoods as determined by the city council based upon adopted guidelines.

(Ord. 00-383 § 3 (part): prior code § 10-2.6202)

14.13.030 - Eligibility (R1-S).

A neighborhood shall demonstrate a minimum sixty-six and two-thirds percent (66 2/3 %) property owner support for the application by the manner set forth by the city council in order to be eligible for the R1-S district. The minimum required property owner support shall be determined based upon the number of yes votes in relation to the total number of valid votes received by the city. Each buildable lot shall be entitled to one vote which shall be allocated among the owners of record of said lot; for example, if there are two owners of record, each shall have one-half vote.

(Ord. 02-411 § 2: Ord. 00-383 § 3 (part): prior code § 10-2.6203)

14.13.040 - Expiration (R1-S).

The R1-S district regulations shall remain in effect for each neighborhood for a minimum of seven years. After seven years, removal of the R1-S regulations from such a neighborhood may be considered if it can be shown that a minimum of sixty-six and two-thirds percent (66 2/3 %) of the property owners desire that the R1-S zone be removed. The required property owner support to remove the R1-S district shall be shown using the same means to determine the initial eligibility for the R1-S district as set forth in Section 14.13.030 of this chapter.

(Ord. 02-411 § 3: Ord. 00-383 § 3 (part): prior code § 10-2.6204)

14.13.050 - Development standards (R1-S).

Unless otherwise specified by this chapter, the development standards of the underlying zoning district shall apply in the R1-S district. Development standards shall include but not be limited to site area, coverage, floor area ratio, front yard, side yards, rear yard, off-street parking, height of structures, design control, signs and fences. The height of structures in an R1-S shall be limited as follows:

- A. The overall height shall be limited to twenty (20) feet;
- B. The number of stories shall be limited to one, not including basements.

(Ord. 00-383 § 3 (part): prior code § 10-2.6205)

14.13.060 - Implementation of approved two-story residential design review applications.

A two-story residential design review application that is granted final approval by the city may be implemented, subject to the time limits listed below, regardless of whether a one-story overlay zone application is subsequently approved for a neighborhood that includes the same property after the two-story residential design review application has been approved.

Implementation of an approved two-story residential design review application pursuant to this section shall be subject to the following time limits:

- A. A complete building permit application shall be submitted within one year of design approval;
- B. The building permit shall be issued (picked-up) within eighteen (18) months of design approval; and
- C. The first building permit inspection shall be passed within twenty-four (24) months of the date of design approval.

(Ord. 00-389 § 2)

14.13.070 - Processing of two-story residential design review applications.

- A. City staff shall not accept a two-story residential design review application if a complete single-story overlay zone application has been filed with the city for a neighborhood that includes the same property. The prohibition on accepting two-story residential design review applications within a proposed single-story overlay zoning district shall apply for a period of six months after the date that the complete single-story overlay zone application is submitted to the city.
- B. A complete two-story residential design review application shall be reviewed, processed and acted upon regardless if a complete single-story overlay zone application is subsequently submitted for a neighborhood that includes the same property.

(Ord. 02-411 § 5)

14.13.080 - Replacement of an existing two-story structure.

An existing two-story home within an R1-S district that is damaged or destroyed by fire or other calamity, by act of God, or by a public enemy may be reconstructed as a two-story home pursuant to the underlying R1-10 zoning regulations and design review requirements. This redevelopment right does not apply to two-story structures voluntarily removed.

(Ord. 07-312 § 6)

ATTACHMENT D

Chapter 12.44 - HISTORIC PRESERVATION^[13]

Sections:

Footnotes:

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Editor's note— Ord. No. 2011-363, § 1, adopted March 8, 2011, amended Ch. 12.44 in its entirety to read as herein set out. The former Ch. 12.44, §§ 12.44.010—12.44.220, pertained to similar subject matter and derived from Ord. No. 04-257, § 1(part) and Ord. No. 08-324, § 2(part). Previously, said chapter derived from §§ 2-8.101, 2-8.102 and 2-8.301—2-8.504 of the prior code.

Article 1. - General Provisions

12.44.010 - Purpose.

It is hereby declared as a matter of public policy that the recognition, preservation, enhancement and use of historic resources within the City of Los Altos is required in the interest of health, economic prosperity, cultural enrichment and general welfare of the people. The purpose of this chapter is to:

- A. Safeguard the heritage of the city by providing for the protection of irreplaceable historic resources representing significant elements of its history;
- B. Enhance the visual character of the city by encouraging the compatibility of architectural styles which reflect established architectural traditions;
- C. Encourage public knowledge, understanding and appreciation of the city's past, and foster civic and neighborhood pride and sense of identity based upon the recognition and use of the city's historic resources;
- D. Stabilize and improve property values within the city and increase the economic and financial benefits to the city and its inhabitants derived from the preservation, rehabilitation, and use of historic resources;
- E. Integrate the conservation of historic resources into the public and private development process and identify as early as possible and resolve conflicts between the preservation of such resources and alternative land uses; and
- F. Fulfill the city's responsibilities for Federal Section 106 reviews and for the California Environmental Quality Act.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.020 - Area of application.

This chapter shall apply to all historic resources listed in the historic resources inventory, historic landmarks and properties, and structures within a historic district.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.030 - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context or the provision clearly requires otherwise:

"Alteration" means any act or process that changes any portion of the exterior architectural appearance of a structure or object, including, but not limited to, the erection, construction, reconstruction, removal of exterior architectural features or details, or the addition of new structures, but does not include painting, ordinary maintenance and landscaping.

"California Historical Building Code" is Part 8 of Title 24 (State Building Standards Code) and applies to all qualified historic structures, districts and sites, designated under federal, state and local authority. It provides alternative building regulations for the rehabilitation, preservation, restoration or relocation of structures designated as qualified historic buildings.

"California Office of Historic Preservation" means the governmental agency primarily responsible for the statewide administration of the historic preservation program in California.

"California Register of Historical Resources" is a comprehensive listing of California's historical resources, including those of local, state and national significance.

"Character defining features" means the defining elements, such as prominent architectural features, materials, craftsmanship or other elements, that, individually or in combination, identify a historic property, building or landscape.

"Commission staff" means the staff liaison assigned to the historical commission.

"Contributing resource" means a public or private property that is not a significant historic resource individually, but contributes to the historic character of a historic district.

"DPR 523" means the California Department of Parks and Recreation Historic Resource Inventory Forms used for historic evaluations. The DPR 523A form provides descriptive information about a resource. The DPR 523B form provides an evaluation of the resources and includes a determination as to whether the resource is eligible for the National or State Register of Historic Places or listing on the Los Altos Historic Resources Inventory. The 523D form is used to identify districts or clusters of buildings that consist of a concentration or continuity of associated historic resources. The district record is used for documenting the linkages among individual resources within the framework of an historic context.

"Exterior architectural feature" means the architectural elements embodying style, design, general arrangement and components of all the outer surfaces of an improvement, including but not limited to, the kind, size, shape and texture of building materials, and the type and style of windows, doors, lights, signs and other fixtures appurtenant to such improvement.

"Historic district" means a distinct section of the city, specifically defined in terms of geographical boundaries that has cultural, historic, architectural and/or archaeological significance and is designated as a historic district by the city council.

"Historic landmark" means a building, improvement, structure, natural feature, site or area of land, under single or common ownership that has significant historical, architectural, cultural, and/or aesthetic interest or value, and is designated as a historic landmark by the city council.

"Historic resource" is a property or structure that has been determined to be over fifty (50) years old, retains its physical integrity, has historical, architectural, cultural, and/or aesthetic value, and is listed on the historic resources inventory.

"Historic resources inventory" means the city's official inventory of the historic resources, as adopted and amended from time to time by resolution of the historical commission and/or the city council. A property or structure must be designated as a historic landmark, a historic resource or located within a historic district in order to be listed.

"Historical commission" is a seven-member advisory commission appointed by the city council that is tasked with maintaining the historic resources inventory, making recommendations on historic landmarks and historic districts, working with property owners on preservation, maintenance and other development activities related to historic resources, and other activities as identified in the municipal code.

"Improvement" means any building, structure, parking facility, wall, work of art or other appurtenance or addition thereto constituting a physical betterment of real property or any part of such betterment.

"Integrity" is the authenticity of the characteristics, also referred to as character defining features, from which resources derive their significance. Integrity is the composite of seven qualities: location, design, setting, materials, workmanship, feeling and association.

"Mills Act" is an economic incentive program in California for the restoration and preservation of qualified historic structures. Enacted in 1972, the Mills Act grants participating local governments the authority to enter into contracts with owners of qualified historic properties to reduce the property tax assessment in exchange for the restoration and maintenance of the historic resource.

"National Register of Historic Places" is the official inventory of districts, sites, buildings, structures and objects significant in American history, architectural, archeology and culture, maintained by the Secretary of Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966.

"Preservation" means the act of identification, study, protection, reconstruction, restoration, rehabilitation or enhancement of historic and/or cultural resources.

"Reconstruction" means the act or process of reproducing by new construction, the exact form and detail of a vanished building, structure or any part thereof, as it appeared at a specific period of time.

"Rehabilitation" means the act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural value.

"Restoration" means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

"Secretary of Interior's Standards" are the Federal Standards for the Treatment of Historic Properties that are utilized in the identification, evaluation, registration and treatment of historic properties. The list of ten (10) Rehabilitation Standards, published as the Secretary of the Interior's Standards, is aimed at retaining and preserving those features and materials that are important in defining the historic character of a resource.

(Ord. No. 2011-363, § 1, 3-8-2011)

Article 2. - Designation of Historic Resources

12.44.040 - Criteria for designation.

A structure, property or object may be eligible for designation as a historic resource or historic landmark, or a group of properties may be eligible as an historic district, if it/they satisfy each of the three criteria listed below:

- A. Age. A structure or property should be more than fifty (50) years in age. (Exceptions can be made to this rule if the building(s) or site(s) is/are truly remarkable for some reason - such as being associated with an outstanding architect, personage, usage or event).
- B. Determination of Integrity. A structure or property should retain sufficient historic integrity in most of the following areas:
 1. Design: The combination of elements that create the form, plan, space, structure and style of a property.
 2. Setting: The physical environment of a historic property.

3. Materials: The physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.
 4. Workmanship: The physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
 5. Feeling: A property's expression of the aesthetic or historic sense of a particular period of time.
- C. Historic Significance. A structure or property should be clearly associated with one or more of the following areas of significance:
1. Event: Associated with a single significant event or a pattern of events that have made a significant contribution to broad patterns of local or regional history, or cultural heritage of California or the United States;
 2. Person/People: Associated with the lives of persons important to the local, California or national history;
 3. Architecture/Design: Embodies the distinctive characteristics of a design-type, period, region or method of construction, or represents the work of a master or possesses high artistic value; or
 4. Archaeology: Yields important information about prehistory or history of the local area, California or the nation.

The city's historic resource evaluation methodology, which provides more details about the above listed criteria, is available from the planning division.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.050 - Applications for designation.

- A. Applications for designation as a historic landmark, a historic district, or listing a historic resource on the historic resources inventory may be initiated by any of the following:
 1. The owner or owner of a building, improvement, structure, natural feature, site or area of land, requesting designation of their property as a historic resource or historic landmark;
 2. ~~The owners of at least twenty-five (25) percent of the frontage of all recorded lots abutting a specific geographic section of the city, requesting designation as a historic district;~~
 3. The owners of at least ~~twenty-five~~ five (50~~25~~) percent of the area of all recorded lots within a specific geographic section of the city, requesting designation of the entire section as a historic district.
- B. The city council or the planning commission may, by resolution or motion, refer a proposed designation to the historical commission. The historical commission may also consider a proposed designation upon its own initiative or by referral by the community development director.
- C. Applications for designation as a historic landmark, a historic district, or listing a historic resource on the historic resources inventory shall be made to the historical commission. Applications must be accompanied by such historical and architectural information as is required by the historical commission in order to make an informed recommendation concerning the request.

Applications for designation shall be acted on as set forth in sections 12.44.050, 12.44.060 and 12.44.070 of this chapter.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.060 - Historic resource listing.

- A. Once the application for designating a property as a historic resource and listing it on the historic resources inventory has been received, the historical commission shall consider the request at its next available scheduled meeting.
- B. The commission shall conduct a public hearing to consider the proposed listing. Notice of the hearing shall be given at least ten (10) days prior to the date of the hearing by mail to the applicant, to the owner or owners of the property and to the owners of abutting properties, and by posting a notice on the property near the front property line in accordance with the standards set by commission staff.
- C. The commission shall consider the proposed historic resource and determine whether or not the property satisfies the three criteria outlined in Section 12.44.040. The commission shall by motion either approve or disapprove the designation of the property as a historic resource and listing it in the historic resources inventory.
- D. If the commission approves the historic resource for listing on the historic resources inventory, the listing shall become effective immediately and the designated property shall be subject to the regulations set forth in this chapter.
- E. Until final action has been taken by the commission on the request to list a property, no building, alteration, grading, demolition or tree removal permit(s) shall be issued for any work to be performed upon or within the subject property, unless approved by the historical commission or the community development director. This restriction shall become effective as of the time the application is submitted, and shall extend until the commission has taken action.
- F. Within fifteen (15) days of the action taken by the historical commission, the decision may be appealed to the city council. The appeal may be filed by the applicant or any interested party.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.070 - Historic landmark designation.

- A. Once the application for the proposed designation has been received, the historical commission shall consider the request at its next available scheduled meeting.
- B. The commission shall conduct a public hearing to consider the proposed designation. Notice of the hearing shall be given at least ten (10) days prior to the date of the hearing by publication in at least one newspaper of general circulation within the city, by mail to the applicant, to the owner or owners of the property, and to the owners of abutting properties, and by posting a notice on the property near the front property line in accordance with the standards set by commission staff.
- C. The commission shall make a recommendation to the city council on the proposed designation. In order to make a positive recommendation, the commission shall make the following findings:
 - 1. That the proposed historic landmark satisfies the three criteria outlined in Section 12.44.040; and
 - 2. That the proposed landmark has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the city, the county, the state or the nation.
- D. The city council shall consider the proposed designation at its next available regular meeting and determine whether or not to accept the historical commission's recommendation. The city council shall by resolution either approve the proposed designation, in whole or in part or as modified, or shall, by motion, disapprove the proposal in its entirety.
- E. If the city council approves the landmark designation, the resolution shall become effective immediately and the designated property shall be subject to the regulations set forth in this chapter and to such further restrictions or controls as may be specified in the designating resolution.

- F. Adoption of a designating resolution by the city council shall be based upon the findings outlined in subsection (C) of this section.
- G. Until final action has been taken by the city council on the proposed landmark, no building, alteration, grading, demolition or tree removal permit(s) shall be issued for any work to be performed upon or within the subject property, unless approved by the historical commission or the city council. This restriction shall become effective as of the time the application is submitted, and shall extend until the designating resolution becomes effective.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.080 - Historic district designation.

- A. Planning staff will forward the historic district designation application and proposed boundaries for a Historic District to the Historical Commission and subsequently to the City Council. The Historical Commission will provide a recommendation to the City Council that determines if the proposed historic district boundary is clearly defined. The City Council will then determine if the proposed historic district boundary is clearly defined. Once the City Council has approved the historic district boundary, the Historic District application will be deemed complete and the historic district designation application and rezoning request may proceed.
- BA. If the City Council determines that the proposed historic district boundary is appropriately defined, planning staff will initiate the mail-in voting process for properties within the proposed Historic District. A historic district shall demonstrate a minimum sixty-six and two-thirds percent (66 2/3 %) property owner support for the application to be eligible for the historic district designation. The minimum required property owner support shall be determined based upon the number of yes votes in relation to the total number of valid votes received by the city. Each buildable lot shall be entitled to one vote which shall be allocated among the owners of record of said lot; for example, if there are two owners of record, each shall have one-half vote.
- C. Following the same procedures set forth in Section 12.44.070(A) and (B), The voting process shall be based upon the adopted guidelines for the single-story overlay (R1)S process, if the proposed historic district receives a minimum of sixty-six and two-thirds percent (66 2/3 %) of property owner support, the historical commission shall hold a public hearing on any proposed historic district(s) and forward a report and recommendation to the planning commission. ~~a report and recommendations~~, together with the information and documentation pertaining thereto. In order to make a positive recommendation, the commission shall make the following findings:
 1. That the proposed historic district satisfies the three criteria outlined in Section 12.44.040; and
 2. That the proposed historic district has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the city, the county, the state or the nation.
- DB. The planning commission shall conduct a public hearing on the proposed designation at its next available meeting after receipt of the historical commission's recommendation. Notice of the public hearing shall be given in the manner provided in this chapter.
- EG. The planning commission either shall recommend approval of the designation as originally proposed, or approval of the designation as modified by the historical commission or the planning commission, or both, or recommend that the proposed designation be rejected. If the planning commission recommends approval or modified approval of the designation, it shall also approve a proposed ordinance, for adoption by the city council, designating the historic district and establishing a zoning overlay for such district. The proposed ordinance may include such regulations or controls over the designated property as the planning commission deems reasonably necessary for the conservation, enhancement and preservation thereof.

- ~~FD.~~ The recommendation of the planning commission, the recommendation of the historical commission and the proposed ordinance, if any, shall be transmitted to the city council for consideration.
- ~~GE.~~ The city council shall schedule a public hearing at its next available meeting to consider the proposed historic district. ~~Notice of the public hearing shall be given in all of the following methods:~~
- ~~1. Notice of such public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by publication in a newspaper of general circulation in the city.~~
 - ~~2. Mailing of notices to the recorded legal owners of all properties within the proposed district and all properties within five hundred (500) feet of the boundaries of the proposed district.~~
- ~~HF.~~ At the conclusion of the public hearing, the city council either shall adopt an ordinance designating the historic district, in whole or in part, or as modified, or shall, by motion, disapprove the proposal in its entirety.
- ~~IG.~~ In the event a designating ordinance is adopted by the city council, such ordinance shall become effective thirty (30) days following adoption thereof and the designated properties shall thereafter be subject to the regulations set forth in this chapter and such further regulations or controls as may be ~~specified in the designating ordinance.~~
- ~~IH.~~ Adoption of a designating ordinance shall be based upon a finding by the city council that:
1. The proposed district satisfies the three criteria outlined in section 12.44.040; and
 2. The proposed district has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the city, the county, the state or the nation.
- ~~JI.~~ City staff shall not issue ~~Until final action has been taken by the city council on the proposed historic district, no~~ building, alteration, grading, demolition or tree removal permit(s) ~~shall be issued~~ for any work to be performed upon or within the subject district, unless approved by the historical commission or the community development director. This restriction shall become effective as of the time ~~at the~~ complete application is submitted to the City, and shall extend until the city council has taken final action ~~on the proposed historic district.~~
- ~~K.~~ The historic district designation shall remain in effect for each historic district for a minimum of seven years. After seven years, removal of the historic district designation from such a neighborhood may be considered if it can be shown that a minimum of sixty-six and two-thirds percent (66 2/3 %) of the property owners desire that the historic district designation be removed. The required property owner support to remove the historic district shall be shown using the same means to determine the initial eligibility for the historic district as set forth in Section 12.44.080(B) of this chapter.
- ~~L.~~ A public meeting notice for the historical commission, planning and transportation commission and a city council meeting shall be required for applications for a historic district designation. Notice of the meeting shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the meeting by mailing, postage prepaid, a notice of the time and place of the meeting to the applicant and to the recorded legal owners of all properties within five hundred (500) feet of the boundaries of the site at the address shown on the last equalized assessment roll, and by posting a notice on the property near the front property line in accordance with the standards set by commission staff. The historical commission, planning and transportation commission and city council meeting shall also constitute a public hearing and a notice of that hearing shall be published in a newspaper of general circulation within the city.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.090 - Notice of designation.

- A. Following adoption by the city council of a resolution designating a historic landmark or an ordinance designating a historic district, the commission staff shall send notice of the designation, together with

a copy of the resolution or ordinance, to the owner or owners of the designated historic landmark, or to the owners of all property within the designated historic district. The city council also shall send notice of the designation to:

1. The Santa Clara County Historical Heritage Commission; and
2. The California State Historic Preservation Officer.

B. The designating resolution or ordinance shall be recorded with the county clerk-recorder.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.100 - Termination of designation.

The only legitimate reason for terminating the designation of a historic resource or historic landmark is when clear evidence is presented that shows the resource no longer meets the criteria of Section 12.44.040 due to loss of integrity and/or historic significance.

(Ord. No. 2011-363, § 1, 3-8-2011)

Article 3. - Permits

12.44.110 - Applicability

- A. For historic landmark properties, a historical alteration permit (Section 12.44.150) is required in order to alter, demolish, remove, relocate or change any exterior architectural features of the designated landmark structure(s), or remove or relocate any improvements, structures or natural features that contribute to the integrity or the historic significance of the historic landmark.
- B. For properties located within a historic district, an advisory review (Section 12.44.140) is required in order to alter, demolish, remove or relocate any building, improvement, other structure or natural feature that contribute to the integrity or the historic significance of the historic district.
- C. For historic resources listed on the historic resources inventory, an advisory review (Section 12.44.140) is required in order to alter, demolish, remove, relocate or otherwise change in any manner any exterior architectural feature or natural feature that contributes to the integrity or the historic significance of a historic resource.
- D. For subsections (B) and (C) of this section, the historical commission's review will take into account whether or not the proposed work adversely affects the physical integrity or the historic significance of the resource. The historical commission's recommendation to the community development director, planning commission, or city council, shall be advisory only.
- E. For non-residential properties that are historic landmarks, historic resources or located within an historic district, non-permanent improvements such as signage, awnings and landscaping that do not adversely affect the physical integrity or the historic significance of the resource may be exempted from historical commission review by the community development director.
- F. For residential properties that are historic landmarks, historic resources or located with an historic district, improvements such as swimming pools, fences, minor accessory structures such as trellises or barbecues, and landscaping that do not adversely affect the physical integrity or the historic significance of the resource may be exempted from historical commission review by the community development director.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.120 - Applications.

Applications for historical alteration permits or advisory review shall be submitted to the community development director. Applications shall include the following information:

- A. A clear statement of the proposed work;
- B. A site plan showing all existing buildings, structures, trees over six inches in diameter, property lines, easements and the proposed work;
- C. Detailed plans showing both the existing and proposed exterior elevations, including a street elevation, photographs of windows and/or special features, materials and grading;
- D. Specifications describing all materials to be used and all processes that would affect the appearance or nature of the materials;
- E. Notes indicating any deviation from the Secretary of the Interior's Standards for Historic Rehabilitation; and
- F. Such other information or documents as may be requested by the community development director or the historical commission.

Applications shall be noticed as set forth in section 12.44.120 and shall be acted on as set forth in section 12.44.130 and 12.44.140 of this chapter.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.130 - Notice of public meetings.

- A. Notification shall be provided when an application for a historical alteration permit is required for a historic landmark. Applicants shall be responsible for providing notification via first class mail to the adjoining property owners, in the manner set forth by the commission staff, at least ten (10) days prior to the meeting at which the application is to be reviewed. The property owners who shall be mailed notice include, but are not limited to, the following:
 - 1. The two adjoining property owners on each side;
 - 2. The three adjoining rear property owners; and
 - 3. The five adjoining front property owners across the street.
 - 4. As deemed appropriate or necessary, the commission staff may require that notification be mailed to a greater or lesser number of property owner(s) than are identified above based on the configuration of the properties adjoining the site of the application.
 - 5. Notice shall also be posted on the project site near the front property line in accordance with the standards set by the commission staff.
- B. Notice shall be provided when an application for an advisory review is required for a historic resource or a property located within a historic district. Applicants shall be responsible for posting a notice on the project site near the front property line in accordance with the standards set by the commission staff.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.140 - Advisory review.

- A. For projects that require an advisory review, the historical commission shall complete its review and issue a recommendation at its next available scheduled meeting. In order to recommend approval, the commission shall find that:

1. The project complies with all provisions of this chapter; and
 2. The project does not adversely affect the physical integrity or the historic significance of the subject property.
- B. The historical commission recommendation shall be forwarded to the community development director, the planning commission, or the city council to be considered as part of their decision.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.150 - Historical alteration permit.

- A. For projects that require a historical alteration permit, the historical commission shall complete its review and issue a decision at its next available scheduled meeting. In order to approve a permit, the commission shall find that:
1. The project complies with all provisions of this chapter; and
 2. The project does not adversely affect the physical integrity or the historic significance of the subject property.
 3. The project is in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- B. If the historical commission approves the historical alteration permit, or approves such permit subject to conditions, the community development director shall issue the permit in accordance with the recommendation, provided that no other approval is required under this code. In the event the historical commission recommends denial of the permit, the community development director shall notify the applicant that the requested permit will not be granted.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.160 - Appeal.

Within fifteen (15) days of any approval or denial by the historical commission, the decision may be appealed to the city council. The appeal may be filed by the applicant or any interested party and shall be accompanied by a fee to cover the administrative cost of handling the appeal as set by city council resolution.

(Ord. No. 2011-363, § 1, 3-8-2011)

Article 4. - Miscellaneous Provisions

12.44.170 - Incentives for preserving historic resources.

- A. California Historical Building Code. It is the purpose of the state historical building code to provide regulations and standards for the rehabilitation, preservation, restoration (including related reconstruction) or relocation as applicable to all historical buildings, structures and properties deemed of importance to the history, architecture, or culture of an area by an appropriate local or state governmental jurisdiction. Such standards and regulations are intended to facilitate the restoration or change of occupancy so as to preserve their original or restored elements and features, to encourage energy conservation and a cost effective approach to preservation, and to provide for reasonable safety from fire, seismic forces or other hazards for occupants and users of such "buildings, structures

and properties" and to provide reasonable availability and usability by the physically disabled. The state historical building code is defined in sections 18950 to 18961 of Division 13, Part 2.7 of Health and Safety Code (H&SC) Health and Safety Code, a part of California Law.

- B. Economic incentives. In order to carry out more effectively and equitably the purposes of this chapter, the city council may, by resolution, adopt a program of economic (i.e., Mills Act contracts) and other incentives to support the preservation, maintenance and appropriate rehabilitation of the city's historic resources.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.180 - Hardship.

Notwithstanding the criteria of this chapter, the community development director, on the recommendation of the historical commission, or the planning commission or city council on appeal, may approve an application for a permit to conduct any proposed work upon or within a historic resource, a historic landmark or property located within a historic district, if the applicant presents clear and convincing evidence demonstrating that a disapproval of the application will cause immediate and substantial hardship on the applicant because of conditions peculiar to the person seeking to carry out the proposed work or because of conditions peculiar to the particular improvement, building, structure, topography or other feature involved. If a hardship is found to exist under this section, the historical commission or the planning commission or city council shall make a written finding to that effect, and shall specify the facts and reasons relied upon in making such finding.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.190 - Fees.

- A. No fee shall be charged for the filing, processing or public noticing of any application for advisory review, historic alteration permit, historic resource listing or historic landmark designation.
- B. An application for a historic district designation shall be accompanied by the appropriate fee as set by the city council. The fee shall be commensurate with the fee charged for a single-story overlay rezoning application.
- C.B. The city council shall by resolution adopt a schedule of fees to be charged for any application for termination of a designation, for the filing and processing of applications for any permit required under this chapter, and for appeals pursuant to this chapter.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.200 - Ordinary maintenance and repair.

Nothing in this chapter shall be construed to prevent the ordinary maintenance, painting, landscaping or repair of any exterior feature in or upon any historic resource, historic landmark or property located within a historic district that does not involve a change in design, material or the external appearance thereof, nor does this chapter prevent the construction, reconstruction, alteration, restoration, demolition or removal of any historic resource, historic landmark or property located within any historic district which has been certified by the city building inspector, or fire chief, or other code enforcement officer as being in unsafe or dangerous condition which cannot be rectified through the use of the California State Historic Building Code.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.210 - Duty to keep in good repair.

- A. The owner, occupant or the person in actual charge of a historic resource, a historic landmark or property located within a historic district shall keep and maintain in good condition and repair all exterior portions of the improvement or structure, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature or natural feature.
- B. It shall be the duty of the building official to enforce this section.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.220 - Enforcement.

The violation of any provision contained in this chapter is hereby declared to be unlawful and shall constitute a misdemeanor, subject to the penalties as prescribed in Title 1, Chapter 1.20 of this code.

(Ord. No. 2011-363, § 1, 3-8-2011)

ATTACHMENT E

Sean Gallegos

From: Dafna Brown
Sent: Tuesday, April 04, 2017 11:55 AM
To: City Council
Cc: Jon Biggs; Chris Jordan; richard.nosky@berlinger.com; Sean Gallegos; Jon Maginot; David Kornfield; kurt seifert; Tom Brown
Subject: Municipal Code 12.44 and Discussion Item for Council Meeting Agenda
Attachments: Code Changes 03-28-17.docx



April 4, 2017

Honorable Mayor and City Council Members:

Thank you for agreeing at the last City Council meeting to reconsider Los Altos Municipal Code Section 12.44, which governs historical preservation. We note several items for your consideration:

1. Despite multiple requests to the City, we were unable to have a discussion of the historical designation of our neighborhood placed on the Historical Commission's agenda
2. We nevertheless raised this issue with the Commission on several occasions during public comment periods (most recently at the Commission's February 28, 2017 meeting)
3. Based on our comments, and surprised by the provisions of Section 12.44, the Commission requested staff review the appropriateness of Section 12.44
4. However, no subsequent action has since been taken by the City to follow-up the Commission's request.

Consequently, we agree with your renewed direction to the City Manager and staff to review Section 12.44 with the Historical Commission and to submit to Council recommended changes to Section 12.44. We are pleased to see the City Council finally take action on this important issue for all of Los Altos. Note that concern about Section 12.44 is already spreading outside the Fallen Leaf Park (FLP) neighborhood as more of Los Altos learns about it.

During the review of the law, we hope that you, the City Manager and staff will take the time to educate yourselves about the unfair and undemocratic provisions of Section 12.44. As you are aware, much of the necessary homework has already been done by those of us whose homes were almost subject to Section 12.44 against our will. At the March 28 City Council meeting, we submitted for public record specific recommended changes to Section 12.44 (we have attached to this letter an electronic copy of those recommendations for your convenience). As you will see from the attached, our objections are not to the *burdens* that may be imposed via Section 12.44 (which are substantial, but consistent with preserving an historical building). Rather, our objections are to the *process* by which such burdens may be imposed, and the *criminal penalties* applicable for non-compliance.

We have spent many hours (and significant personal funds with our own land use attorney) to understand the full ramifications of Section 12.44. As the City works through its reconsideration of Section 12.44, we are happy to make ourselves available to share what we have learned and to expedite the amendment of this wholly inappropriate law. It cannot be fixed too soon.

Finally, given the difficulty we have had getting the City's attention on this important issue, and the vivid contrast to the warm welcome and easy access to the City that the proponents of an historical designation for our neighborhood received, we would like to formally request a discussion item be placed on the agenda for the Council's next meeting to review how the City interacts with citizens on material issues of concern, such as the historical designation of one's neighborhood.

Thank you,

Tom Brown
Kurt Seifert
Dafna Brown
on behalf of the FLP Neighborhood

Cc:
Chris Jordan, City Manager
Jon Biggs, Community Development Director
Sean Gallegos, Historical Commission Liaison
David Kornfield, Planning Commission Liaison
Richard Nosky, Interim City Attorney
Jon Maginot, City Clerk
*Please enter this email and attachment into Public Record

Attachments: 12.44 Recommended Code Changes



City of Los Altos: Historical Preservation
Current Code and Recommendation for Changes
Presented by the Fallen Leaf Park Neighborhood
To the City Council on March 28, 2017

1) Current:

12.44.050 - Applications for designation.

A. Applications for designation as a historic landmark, a historic district, or listing a historic resource on the historic resources inventory may be initiated by any of the following:

2. The owners of at least **twenty-five (25)** percent of the frontage of all recorded lots abutting a specific geographic section of the city, requesting designation as a historic district.
3. The owners of at least **twenty-five (25)** percent of the area of all recorded lots within a specific geographic section of the city, requesting designation of the entire section as a historic district.

Change:

67% homeowner support for A2 and A3. Support shall be evidenced by the informed, written consent of neighbors utilizing a form that clearly explains the potential impacts of an historical designation. Further, the City shall be obliged by the revised section to verify that the signatories are still residents of the to be impacted neighborhood, are still living and are competent and of sound mind.

2) Current:

12.44.050 - Applications for designation.

B. The city council or the planning commission may, by resolution or motion, refer a proposed designation to the historical commission. **The historical commission may also consider a proposed designation upon its own initiative** or by referral by the community development director.

Change:

Amend: However, such an initiative by the community development director or historical commission shall still require 67% of homeowner support.

3) Current:

12.44.080 - Historic district designation.

A. Following the same procedures set forth in Section 12.44.070(A) and (B), the historical commission shall hold a public hearing on any proposed historic district(s) and forward to the planning commission a report and recommendations, together with the information and documentation pertaining thereto. In order to make a positive recommendation, the commission shall make the following findings:

1. That the proposed historic district satisfies the three criteria outlined in Section 12.44.040; and
 2. That the proposed historic district has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the city, the county, the state or the nation.
- B. The planning commission shall conduct a public hearing on the proposed designation at its next available meeting after receipt of the historical commission's recommendation. Notice of the public hearing shall be given in the manner provided in this chapter.
- C. The planning commission either shall recommend approval of the designation as originally proposed, or approval of the designation as modified by the historical commission or the planning commission, or both, or recommend that the proposed designation be rejected. If the planning commission recommends approval or modified approval of the designation, it shall also approve a proposed ordinance, for adoption by the city council, designating the historic district and establishing a zoning overlay for such district. The proposed ordinance may include such regulations or controls over the designated property as the planning commission deems reasonably necessary for the conservation, enhancement and preservation thereof.
- D. The recommendation of the planning commission, the recommendation of the historical commission and the proposed ordinance, if any, shall be transmitted to the city council for consideration.
- E. The city council shall schedule a public hearing at its next available meeting to consider the proposed historic district. Notice of the public hearing shall be given in all of the following methods:
1. Notice of such public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by publication in a newspaper of general circulation in the city.
 2. Mailing of notices to the recorded legal owners of all properties within the proposed district and all properties within five hundred (500) feet of the boundaries of the proposed district.
- F. At the conclusion of the public hearing, the city council either shall adopt an ordinance designating the historic district, in whole or in part, or as modified, or shall, by motion, disapprove the proposal in its entirety.
- G. In the event a designating ordinance is adopted by the city council, such ordinance shall become effective thirty (30) days following adoption thereof and the designated properties shall thereafter be subject to the regulations set forth in this chapter and such further regulations or controls as may be specified in the designating ordinance.
- H. Adoption of a designating ordinance shall be based upon a finding by the city council that:
1. The proposed district satisfies the three criteria outlined in section 12.44.040; and
 2. The proposed district has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the city, the county, the state or the nation.
- I. **Until final action has been taken by the city council** on the proposed historic district, no building, alteration, grading, demolition or tree removal permit(s) shall be issued for any work to be performed upon or within the subject district, unless approved by the historical commission or the community development director. This restriction shall become effective as of the time the application is submitted, and shall extend **until the city council has taken action**.

Change:

- (a) Paragraph A: A presentation by impacted neighbors who oppose an historical designation, if any, shall be included as an agenda item for such meeting and adequate time shall be provided for such presentation.
- (b) Paragraph A to H: Once the HD application reaches the Planning Commission, a similar process as described in Regulation R1-S (Single Story Overlay District) shall be followed, which includes a secret ballot and support of 75% of valid votes of impacted homes.
- (b) Paragraph I: Delete entirely; until new rule is in place, normal permit rules apply.

4) Current

12.44.110 - Applicability

- D. For subsections (B) and (C) of this section, the historical commission's review will take into account whether or not the proposed work adversely affects the physical integrity or the historic significance of the resource. The historical commission's recommendation to the community development director, planning commission, or city council, shall be advisory only.
- F. For residential properties that are historic landmarks, historic resources or located with an historic district, improvements such as swimming pools, fences, minor accessory structures such as trellises or barbecues, and landscaping that do not adversely affect the physical integrity or the historic significance of the resource may be exempted from historical commission review by the community development director.

Change:

- (a) Paragraph D: The last sentence should be replaced by: The historical commission's recommendation to the property owner(s), community development director, planning commission, or city council, shall be advisory only.
- (b) Paragraph F: Change to: For residential properties that are historic landmarks, historic resources or located with an historic district, improvements such as swimming pools, fences, minor accessory structures such as trellises, barbecues mailboxes, windows, fixtures, etc., painting and landscaping that do not adversely affect the physical integrity or the historic significance of the resource are exempted from historical commission reviews. The addition of HVAC and/or solar systems shall also be expressly exempted.

5) Current:

12.44.140 - Advisory review

- B The historical commission recommendation shall be forwarded to the community development director, the planning commission, or the city council to be considered as part of their decision.

Comment

This paragraph seems to conflict with paragraph 12.44.110 (D). Clarify that the historical commission's recommendation is advisory only.

6) Current:

12.44.190 - Fees.

A. **No fee** shall be charged for the filing, processing or public noticing of any application for designation.

Change:

For filing an application for a Historic District Designation, the same fee shall apply as for filing an application for a Single-Story Overlay District, currently \$4,500.

7) Current:

12.44.220 - Enforcement.

The violation of any provision contained in this chapter is hereby declared to be unlawful and **shall constitute a misdemeanor**, subject to the penalties as prescribed in Title 1, Chapter 1.20 of this code.

Change:

Violations should be handled in the same manner as other building code violations. No criminal penalties of any kind shall apply.