



City of Los Altos Tentative Council Agenda Calendar  
As of May 14, 2019

All items and dates are tentative and subject to change unless a specific date has been noticed for a legally required Public Hearing. Items may be added or removed from the shown date at any time and for any reason prior to the publication of the agenda eight days prior to the next Council meeting.

Date	Agenda Item (Date identified by Council)	Department
<b>May 28, 2019</b>	Blach Neighborhood Traffic	Engineering Services
	Cuesta/Arboleda Traffic Improvements	Engineering Services
	Open Government Committee recommendations	Administration
<b>June 11, 2019</b>	389 First Street Design Review	Community Development
	425 First Street Design Review	Community Development
	Budget	Administrative Services
	Investment Policy	Administrative Services
	Non-represented employee compensation	Administrative Services
	User Fee Study	Administrative Services
<b>June 25, 2019</b>	Density Bonus Ordinance	Community Development
<b>July 9, 2019</b>	Trakit Demonstration (Special Presentation)	Community Development
<b>August 13, 2019</b>		
<b>August 27, 2019</b>	R3-4.5 Zoning Code Amendments	Community Development
<b>September 3, 2019</b>	Commission interviews	Administration
<b>September 10, 2019</b>	999 Fremont Avenue Design Review	Community Development
<b>September 24, 2019</b>	5150 El Camino Real Design Review	Community Development

<b>October 22, 2019</b>		
<b>November 5, 2019</b>	Joint meetings with Commissions (Design Review, Financial, Historical, Library, Planning, Public Arts)	Administration
<b>November 12, 2019</b>		
<b>November 26, 2019</b>		
<b>December 3, 2019</b>	Council reorganization	Administration
<b>December 10, 2019</b>		
<b>To be scheduled</b>	Recycled Water Expansion (Study Session) 4898 El Camino Real Design Review 444-450 First Street Design Review 4350 El Camino Real Design Review Climate Action Plan update Downtown Vision Implementation General Plan Update Gun control  Healthy Cities Initiative  Housing Impact vs. Housing in-Lieu Discussion Parking regulations  Safe Routes to Schools Update Stevens Creek Trail request from Mountain View Understanding Traffic Impact fees Workforce Housing	Engineering Services  Community Development Community Development Community Development Community Development Community Development Community Development Administration/City Attorney Recreation & Community Services  Community Development Community Development  Engineering Services Public Works Community Development Community Development



## CITY COUNCIL CLOSED SESSION

**TUESDAY, MAY 14, 2019 – 5:15 P.M.**

Redwood Conference Room  
City Hall  
1 North San Antonio Road, Los Altos, California

1. Conference with Labor Negotiators  
Pursuant to Government Code Section 54957.6(a)  
Employee organization: Sanitary Truck Drivers and Helpers Local No. 350  
Agency designated representatives: Chris Jordan, City Manager  
Christopher Diaz, City Attorney  
Sharif Etman, Administrative Services Director  
Jen Leal, Human Resources Manager  
Lisa Charbonneau, Lead Negotiator
  
1. Conference with Legal Counsel – Existing Litigation  
Pursuant to Government Code Section 54956.9(d)(1)  
*Ryan Langone v. City of Los Altos, Workers' Compensation Appeals Board, ADJ11226146;*  
*ADJ9890587*

### ADJOURNMENT

#### SPECIAL NOTICES TO THE PUBLIC

If you wish to provide written materials, please provide the City Clerk with **10 copies** of any document that you would like to submit to the City Council for the public record.

For other questions regarding the City Council meeting proceedings, please contact the City Clerk at (650) 947-2720.



## REGULAR CITY COUNCIL MEETING

**TUESDAY, MAY 14, 2019 – 7:00 P.M.**

Los Altos Youth Center  
1 North San Antonio Road, Los Altos, California

*Note:* Councilmember Bruins may participate via teleconference call from the Redwood Conference Room at Los Altos City Hall, 1 North San Antonio Road, Los Altos, California.

### ESTABLISH QUORUM

### PLEDGE OF ALLEGIANCE

### CLOSED SESSION ANNOUNCEMENT

### CHANGES TO THE ORDER OF THE AGENDA

### SPECIAL PRESENTATION

1. Recognition of Historical Commission Essay Contest Winners
2. Mayoral Proclamation recognizing Foster Care/Resource Parent Awareness Month
3. Mayoral Proclamation recognizing opening of The Nail Bar

### PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Members of the audience may bring to the Council's attention any item that is not on the agenda. Please complete a "Request to Speak" form and submit it to the City Clerk. Speakers are generally given two or three minutes, at the discretion of the Mayor. Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during the Public Comment Period. According to State Law (also known as "the Brown Act") items must first be noticed on the agenda before any discussion or action.

### CONSENT CALENDAR

**7:35**

These items will be considered by one motion unless any member of the Council or audience wishes to remove an item for discussion. Any item removed from the Consent Calendar for discussion will be handled at the discretion of the Mayor.

1. Council Minutes: Approve the minutes of the April 9, 2019 and April 23, 2019 regular meetings (J. Maginot)
2. Ordinance No. 2019-456: Managing PCBs During Building Demolition: Adopt Ordinance No. 2019-456 amending the Los Altos Municipal Code by adding Chapter 6.15 and establishing a program for assessing and managing PCBs-containing priority building materials during demolition projects in accordance with the Municipal Regional Stormwater Permit requirements (A. Fairman)

Anita Enander  
Councilmember

Jan Pepper  
Vice Mayor

Lynette Lee Eng  
Mayor

Jeannie Bruins  
Councilmember

Neysa Fligor  
Councilmember

3. Sanitary Sewer Root Foaming material and equipment purchase: Authorize the purchase of material and equipment from WECO Industries in an amount not to exceed \$155,085 for Sanitary Sewer Root Foaming (G. Gabler)
4. Resolution No. 2019-11: Windimer Drive Storm Drain Ditch, Project CD-01012 acceptance: Adopt Resolution No. 2019-11 accepting completion of the Windimer Drive Storm Drain Ditch, Project CD-01012 and authorize the Interim Engineering Services Director to record a Notice of Completion (A. Trese)

## **PUBLIC HEARING**

5. Ordinance No. 2019-458: Development Review Process Code Amendments: Introduce and waive further reading of Ordinance No. 2019-458 to amend Chapters 14.78 and 14.80 of the Los Altos Municipal Code regarding the Development Review Process (Z. Dahl) **7:40**

## **DISCUSSION ITEMS**

6. Resolution No. 2019-07: Two-Lot Subdivision at 831 Arroyo Road: Adopt Resolution No. 2019-07 to approve subdivision application 18-DL-01 (831 Arroyo Road) subject to the listed findings and conditions (Z. Dahl) **7:55**
7. Request from the Friends of the Los Altos Library to Utilize Land on the Civic Center Campus: Direct staff to enter into a lease agreement with Friends of the Library allowing that organization to utilize approximately 500 sq. ft. of land between the Police Station and the History Museum at no cost until the new Community Center is constructed (C. Jordan) **9:00**
8. FY 2019/20 – 2020/21 Operating Budget and 5-year Capital Improvement Plan: Discuss the FY 2019/20 – 2020/21 Operating Budget and 5-year Capital Improvement Plan and provide direction as desired by the City Council (S. Etman) **9:30**
9. Lehigh Hanson and Stevens Creek Quarry: Authorize the Mayor to send a letter to the Santa Clara County Planning Department supporting the requests for prompt action on the violations at Lehigh Hanson and Stevens Creek Quarry outlined in a January 31, 2019 letter from the City of Cupertino (Environmental Commission) **10:30**
10. City Council Authorization for Mayor to send letter opposing SB 50: Authorize the Mayor to send a letter to the City's State Legislators expressing the opposition of the City Council to SB 50 (C. Jordan) **10:40**
11. Discussion of Stanford University General Use Permit: Consider the proposed General Use Permit and determine whether to provide comments to Santa Clara County **10:50**

## **COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS**

## **ADJOURNMENT**

### SPECIAL NOTICES TO THE PUBLIC

In compliance with the Americans with Disabilities Act and California Law, it is the policy of the City of Los Altos to offer its programs, services and meetings in a manner that is readily accessible to everyone, including individuals with disabilities. If you are a person with a disability and require information or materials in an appropriate alternative format; or if you require any other accommodation, please contact department staff. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility. The City ADA Coordinator can be reached at (650) 947-2607 or by email: [ada@losaltosca.gov](mailto:ada@losaltosca.gov).

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.losaltosca.gov/citycouncil/meetings>. Council Meetings are televised live and rebroadcast on Cable Channel 26. On occasion the City Council may consider agenda items out of order.

If you wish to provide written materials, please provide the City Clerk with 10 copies of any document that you would like to submit to the City Council for the public record. Written comments may be submitted to the City Council at [council@losaltosca.gov](mailto:council@losaltosca.gov). To ensure that all members of the Council have a chance to consider all viewpoints, you are encouraged to submit written comments no later than 24 hours prior to the meeting.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, and that are distributed to a majority of the legislative body, will be available for public inspection at the Office of the City Clerk's Office, City of Los Altos, located at One North San Antonio Road, Los Altos, California at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the City Clerk at (650) 947-2720 for the final document.

If you challenge any planning or land use decision made at this meeting in court, you may be limited to raising only those issues you or someone else raised at the public hearing held at this meeting, or in written correspondence delivered to the City Council at, or prior to, the public hearing. Please take notice that the time within which to seek judicial review of any final administrative determination reached at this meeting is governed by Section 1094.6 of the California Code of Civil Procedure.

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF  
THE CITY OF LOS ALTOS, HELD ON TUESDAY, APRIL 9, 2019,  
BEGINNING AT 7:00 P.M. AT LOS ALTOS YOUTH CENTER, 1 NORTH  
SAN ANTONIO ROAD, LOS ALTOS, CALIFORNIA**

**ESTABLISH QUORUM**

PRESENT: Mayor Lee Eng, Vice Mayor Pepper, Councilmembers Bruins, Enander and Fligor

ABSENT: None

**PLEDGE OF ALLEGIANCE**

Mayor Lee Eng led the Pledge of Allegiance to the flag.

**PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

The following individuals provided public comment: Los Altos residents Grace Lilygren, Victoria Hausch, Ryan Brown, Oliver Yu and Phoebe Bressack.

**SPECIAL ITEM**

- A. 40 Main Street Appeal: Provide direction to staff to return at the next regular City Council meeting with a resolution granting or denying the appeal and making appropriate findings

City Attorney Diaz introduced the item and outlined the appeal proceedings. Community Development Director Biggs presented the report.

Councilmember Fligor disclosed ex parte communications with several residents that reached out to her regarding the project and with Ted Sorensen. Councilmember Bruins disclosed ex parte communications with Bill Maston and Ron Packard. Councilmember Enander disclosed ex parte communications with several residents that contacted her regarding the project. All Councilmembers indicated that those communications did not include information that was not already part of the written record.

Mayor Lee Eng opened the public hearing.

Dan Golub, representing the appellant, presented the appeal.

Public Comment: The following individuals provided public comment: Los Altos residents Lynn Bennion, Karina Nilsen, Robert Moffat, Maria Bautista, Ron Packard and Jon Baer (on behalf of himself, Lou Becker and David Casas).

Dan Golub provided the rebuttal.

Mayor Lee Eng closed the public hearing.

Councilmember Enander stated that though she had served on the Planning Commission during the appellants' previous application process, she was reviewing this item de novo.

Action: Upon a motion by Councilmember Enander, seconded by Councilmember Bruins, the Council unanimously directed staff to prepare a resolution with findings denying the appeal based on Council comments.

*Mayor Lee Eng recessed the meeting at 9:06 p.m. The meeting resumed at 9:16 p.m.*

## **CLOSED SESSION ANNOUNCEMENT**

1. Conference with Legal Counsel – Anticipated Litigation  
Pursuant to Government Code Section 54956.9(d)(2) – One case
2. Conference with Labor Negotiators  
Pursuant to Government Code Section 54957.6(a)  
Employee organization: Sanitary Truck Drivers and Helpers Local No. 350  
Agency designated representatives: Chris Jordan, City Manager  
Christopher Diaz, City Attorney  
Sharif Etman, Administrative Services Director  
Jen Leal, Human Resources Manager  
Lisa Charbonneau, Lead Negotiator

Mayor Lee Eng announced that no action was taken during the closed session.

## **CHANGES TO THE ORDER OF THE AGENDA**

The Council moved item number 6 to immediately before item number 5 and removed item number 4 from the agenda as the appointment had previously been made and confirmed by the Council.

## **CONSENT CALENDAR**

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

1. Council Minutes: Approved the minutes of the March 12, 2019 and March 26, 2019 regular meetings.
2. Funding Agreement: Valley Transportation Authority for Measure B Funds: Authorized the City Manager to execute the Funding Agreement between the City of Los Altos and Santa Clara Valley Transportation Authority for acceptance of 2016 Measure B Local Streets and Roads Program sales tax distributions and directed staff to allocate funds towards Street Improvement Program projects within the Capital Improvement Program.



## DISCUSSION ITEMS

3. Homestead Road Safe Routes to School Project: Receive an update on the Homestead Road Safe Routes to School – Planning Phase project and provide input on the Concept Plan Line drawing

Interim Engineering Services Director Fairman and Transportation Services Consultant Rodriguez presented the report.

Public Comment: The following individuals provided public comment: Los Altos residents Nanette Jackson, Patricia Steele, Stacy Banerjee, Cathy Lazarus and Stefanie Singer.

Councilmembers provided feedback on the Concept Plan Line drawing.

Direction: Councilmembers generally directed the Mayor to send a letter to Santa Clara County with comments from the City on the proposed project.

## STUDY SESSION

6. Housing Accountability Act/Density Bonus/CT Zone: Receive a presentation on the State Housing Accountability Act and Density Bonus laws and the CT Zone and discuss and provide direction as appropriate

Assistant City Attorney Lee, Community Development Director Biggs and City Attorney Diaz presented the reports.

Public Comment: The following individuals provided public comment: Mircea Voskerician, Alex Comsa, and Los Altos residents Sue Russell (representing the League of Women Voters), Matt Hershenson, Lili Najimi, Phan Truong, Eric Steinle, Scott O'Brien, Caroline Bedard, Pierre Bedard and Fred Haubensak.

Direction: Councilmembers generally directed staff to draft amendments to the City's Density Bonus ordinance to clarify that developers are allowed to select an on-menu item once, and to process those amendments as quickly as possible. Councilmembers also directed staff to begin looking at potential amendments to the City's Zoning Code to change subjective development criteria to objective criteria ~~and to explore opportunities to implement Council direction in ways that do not require code amendments, such as recommending conditions of approval to achieve the direction provided by Council.~~

## DISCUSSION ITEMS CONTINUED

5. Tentative Council Calendar: Review the Tentative Council Calendar and provide direction on placement of items on the Calendar

The Council continued item number 5 to a future meeting.

## **COUNCIL/STAFF REPORT AND DIRECTIONS ON FUTURE AGENDA ITEMS**

Councilmember Bruins requested the Mayor and City Manager discuss ways to structure a frank conversation regarding the unhealthy political culture, its detrimental impacts and how Council can begin to address it~~address certain types of unacceptable behavior being exhibited by members of the community.~~

## **ADJOURNMENT**

Mayor Lee Eng adjourned the meeting at 12:18 a.m.

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Lynette Lee Eng, MAYOR

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Jon Maginot, CMC, CITY CLERK

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF  
THE CITY OF LOS ALTOS, HELD ON TUESDAY, APRIL 23, 2019,  
BEGINNING AT 7:00 P.M. AT LOS ALTOS YOUTH CENTER, 1 NORTH  
SAN ANTONIO ROAD, LOS ALTOS, CALIFORNIA**

**ESTABLISH QUORUM**

PRESENT: Mayor Lee Eng, Vice Mayor Pepper, Councilmembers Bruins, Enander and Fligor

ABSENT: None

**PLEDGE OF ALLEGIANCE**

Brownie Girl Scouts, Troop 60762 led the Pledge of Allegiance to the flag.

**SPECIAL PRESENTATIONS**

Mayor Lee Eng presented two proclamations recognizing Cooks Junction and the 1915 Armenian Genocide.

**CLOSED SESSION ANNOUNCEMENT**

1. Conference with Legal Counsel – Anticipated Litigation  
Pursuant to Government Code Section 54956.9(d)(2) – One case
  
2. Conference with Legal Counsel – Existing Litigation  
Pursuant to Government Code Section 54956.9(d)(1)  
*Casas v. City of Los Altos*  
*Santa Clara County Superior Court*  
*Case No. 18CV333542*
  
3. Conference with Legal Counsel – Existing Litigation  
Pursuant to Government Code Section 54956.9(d)(1)  
Name of Case: *Satish Ramachandran v. City of Los Altos, et al.*  
*United States District Court, Northern District of California*  
*Case No. 5:18-cv-01223-HRL*

Mayor Lee Eng announced that no action was taken during the closed session.

**CHANGES TO THE ORDER OF THE AGENDA**

The Council continued item number 1 to allow staff time to review the previous Council meeting and to revise the minutes as needed.

## **SPECIAL ITEM**

- A. Planning Commission appointment: Appoint an individual to fill a vacancy on the Planning Commission

This item was continued to provide an opportunity for the Council to interview the two remaining candidates.

## **PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

The following individuals provided public comment: Mary Jo Kelly, Darwin Poulos and Suzanne Epstein, all representing the Friends of the Library.

## **CONSENT CALENDAR**

Councilmember Fligor pulled item number 8; Councilmember Enander pulled items number 9 and 10; Councilmember Bruins pulled item number 10a.

Upon a motion by Vice Mayor Pepper, seconded by Councilmember Enander, the Council unanimously approved the Consent Calendar, with the exception of items number 8, 9, 10 and 10a, as follows:

1. Council Minutes: Approve the minutes of the April 9, 2019 regular meeting – *Continued to a future meeting.*
2. Resolution No. 2019-16: Authorizing Prequalification of Bidders for Public Works Contracts (Los Altos Community Center): Adopted Resolution No. 2019-16 authorizing prequalification of bidders for public works contracts to streamline the bidding process for construction of the new Los Altos Community Center.
3. Resolution No. 2019-09: Senate Bill 1 funding: Adopted Resolution No. 2019-09 to incorporate a list of projects for funding with Road Maintenance and Rehabilitation Account revenues created by Senate Bill 1 in Fiscal Year 2019-20.
4. Resolution No. 2019-10: Structural Reach Replacement, Project WW-01002: Adopted Resolution No. 2019-10 accepting completion of the Structural Reach Replacement, Project WW-01002 and authorized the Interim Engineering Services Director to record a Notice of Completion as required by law.
5. Ordinance No. 2019-456: Managing PCBs during building demolition: Introduced and waived further reading of Ordinance No. 2019-456 amending the Los Altos Municipal Code by adding Chapter 6.15 and establishing a program for assessing and managing PCBs-containing priority building materials during demolition projects in accordance with the Municipal Regional Stormwater Permit requirements.

6. Silicon Valley Regional Interoperability Authority Equipment Installation License Agreement: Authorized the City Manager to execute the Silicon Valley Regional Interoperability Authority Equipment Installation License Agreement.
7. Approval of Extension of Contract for City Attorney Services: Authorized the City Manager to send a letter to Best, Best & Krieger extending the contract for City Attorney services for an additional year.
8. Resolution No. 2019-13: 40 Main Street Appeal: Adopt Resolution No. 2019-13 denying an appeal and upholding staff's determination that the proposed project is not subject to and does not qualify for streamlined processing pursuant to Government Code Section 65913.4, SB 35 – *pulled for discussion (see page 4)*.
9. Lehigh Hanson and Stevens Creek Quarry: Authorize the Mayor to send a letter to the Santa Clara County Planning Department supporting the requests for prompt action on the violations at Lehigh Hanson and Stevens Creek Quarry outlined in a January 31, 2019 letter from the City of Cupertino – *pulled for discussion (see page 7)*.
10. Resolution No. 2019-15: Making Findings of Substantial Complexity and Authorizing Ten Percent Retention for Construction of the Los Altos Community Center Project: Adopt Resolution No. 2019-15 making findings of substantial complexity and authorizing ten percent retention for construction of the Los Altos Community Center – *pulled for discussion (see page 5)*.
- 10a. City Council Authorization for Mayor to send letter opposing SB 50: Authorize the Mayor to send a letter to the City's State Legislators expressing the opposition of the City Council to SB 50 – *pulled for discussion (see page 7)*.

## **PUBLIC HEARING**

11. Ordinance No. 2019-457: Storm Drainage Fee: Conduct a public hearing and receive written protests for the proposed Storm Drainage Fee; introduce and waive further reading of Ordinance No. 2019-457 adding Chapter 3.52, Storm Drainage Fee to the Los Altos Municipal Code and directing the City Clerk to submit the Storm Drainage Fee to the affected property owners in a mail ballot proceeding in accordance with Article XIII-D of the State Constitution, Section 53755.5 of the Government Code and City of Los Altos Resolution No. 2018-40

Interim Engineering Services Director Fairman and Jerry Bradshaw of SCI Consulting Group presented the report.

Mayor Lee Eng opened the public hearing.

Public Comment: The following individuals provided public comment: Los Altos residents Tami Mulcahy, Roberta Phillips, Michael Thomas, Don Weiden, Robert Greenfield, Jon Baer, Anthony Del Gaudio, Jason Wang, Gary Stoy and Mark (no last name given).

Mayor Lee Eng closed the public hearing.

Deputy City Manager/City Clerk Maginot reported that the City had received 96 written protest letters.

Mayor Lee Eng and Councilmember Enander expressed concerns over establishing a property-related fee for residents.

Action: Upon a motion by Councilmember Bruins, seconded by Councilmember Fligor, the Council introduced and waived further reading of Ordinance No. 2019-457 adding Chapter 3.52, Storm Drainage Fee to the Los Altos Municipal Code and directing the City Clerk to submit the Storm Drainage Fee to the affected property owners in a mail ballot proceeding in accordance with Article XIII-D of the State Constitution, Section 53755.5 of the Government Code and City of Los Altos Resolution No. 2018-40 and directed staff to conduct extensive public outreach regarding the mailing of the ballots, by the following vote: AYES: Bruins, Fligor and Pepper; NOES: Enander and Lee Eng; ABSTAIN: None; ABSENT: None.

*Mayor Lee Eng recessed the meeting at 9:06 p.m. The meeting resumed at 9:16 p.m.*

12. Resolution No. 2019-12: 980 Covington Road Historic Landmark Designation and Historic Preservation Agreement: Adopt Resolution No. 2019-12 designating the property at 980 Covington Road as a Historic Landmark and authorizing the City Manager to execute a Historic Preservation Agreement with the property owner

Community Development Director Biggs and Associate Planner Gallegos presented the report.

Mayor Lee Eng opened the public hearing.

Bonnie Bamburg presented the application.

Public Comment: The following individuals provided public comment: Los Altos residents Jon Baer and Hiep Nguyen.

The applicant provided a rebuttal.

Mayor Lee Eng closed the public hearing.

Action: Upon a motion by Councilmember Bruins, seconded by Councilmember Enander, the Council unanimously denied the Historic Landmark designation application.

#### **ITEM PULLED FROM CONSENT CALENDAR**

8. Resolution No. 2019-13: 40 Main Street Appeal: Adopt Resolution No. 2019-13 denying an appeal and upholding staff's determination that the proposed project is not subject to and does not qualify for streamlined processing pursuant to Government Code Section 65913.4, SB 35

Councilmember Fligor proposed a change to the draft Resolution.

Action: Upon a motion by Councilmember Fligor, seconded by Councilmember Bruins, the Council unanimously adopted Resolution No. 2019-13 denying an appeal and upholding staff's determination that the proposed project is not subject to and does not qualify for streamlined processing pursuant to Government Code Section 65913.4, SB 35, as modified to include language from the 11<sup>th</sup> Whereas in the second finding and determination.

## **DISCUSSION ITEMS CONTINUED**

13. Resolution No. 2019-07: Two-Lot Subdivision at 831 Arroyo Road: Adopt Resolution No. 2019-07 to approve subdivision application 18-DL-01 (831 Arroyo Road) subject to the listed findings and conditions

Community Development Director Biggs and Associate Planner Gallegos presented the report.

Rick Hartman, representing the applicant, presented the application.

Public Comment: The following individuals provided public comment: Los Altos residents Anita Siegel, Roberta Phillips, Eric Fischer-Colbrie, Joanna Liu, Jason Guesman, Sue Greathouse, Nancy Ellickson, Carol Stratford, David Blake and Joanne Reed.

The applicant provided a rebuttal.

Motion: Motion made by Councilmember Enander, seconded by Vice Mayor Pepper to adopt Resolution No. 2019-07 to approve subdivision application 18-DL-01 (831 Arroyo Road) as modified to: 1) revise Condition No. 18 to include language that the applicant shall remove and construct a City-specified and approved configuration along the entire front edge increasing visibility and reducing travel speeds; and 2) add a condition to preserve the neighborhood character and the ratio of open space and low-profile buildings in the neighborhood, any structures built on the two parcels shall be limited to single-story as defined in the City's Zoning Code; with direction to the City Attorney that if he deems the added condition is improper under the Subdivision Map Act then the item shall be returned to Council for further consideration. The motion was withdrawn.

Action: Upon a motion by Councilmember Enander, seconded by Vice Mayor Pepper, the Council unanimously continued the item to a future meeting.

## **ITEM PULLED FROM CONSENT CALENDAR**

10. Resolution No. 2019-15: Making Findings of Substantial Complexity and Authorizing Ten Percent Retention for Construction of the Los Altos Community Center Project: Adopt Resolution No. 2019-15 making findings of substantial complexity and authorizing ten percent retention for construction of the Los Altos Community Center

Action: Upon a motion by Councilmember Enander, seconded by Councilmember Bruins, the Council unanimously adopted Resolution No. 2019-15 making findings of substantial complexity and authorizing ten percent retention for construction of the Los Altos Community Center.

## DISCUSSION ITEMS CONTINUED

14. Resolution No. 2019-14: 49 Lyell Street appeal: Adopt Resolution No. 2019-14 upholding the Design Review Commission's denial of a variance request at 49 Lyell Street

Community Development Director Biggs and Assistant Planner Hassan presented the report.

Peter Brewer presented the application.

Public Comment: The following individuals provided public comment: Los Altos residents Thomas Barreira and Design Review Commissioner Jude Kirik.

The applicant provided a rebuttal.

Motion: Motion made by Vice Mayor Pepper, seconded by Councilmember Fligor, to approve the variance request and direct staff to return with findings supporting the variance. The motion failed by the following vote: AYES: Fligor and Pepper; NOES: Bruins, Enander and Lee Eng; ABSTAIN: None; ABSENT: None.

Action: Upon a motion by Councilmember Bruins, seconded by Councilmember Enander, the Council adopted Resolution No. 2019-14 upholding the Design Review Commission's denial of a variance request at 49 Lyell Street, by the following vote: AYES: Bruins, Enander and Lee Eng; NOES: Fligor and Pepper; ABSTAIN: None; ABSENT: None.

*Mayor Lee Eng recessed the meeting at 12:11 a.m. The meeting resumed at 12:16 a.m.*

15. City Council 2019 Strategic Priorities: Review the draft Strategic Priorities, amend as necessary and either adopt the list of Strategic Priorities or request additional changes

Public Comment: The following individuals provided public comment: Los Altos residents Carl Orta, Susan Holtzapple, Erik Lanzendorf, Jody Glaser, Lakshmi Iyenger, Satya Ramaswamy, Myra Orta, Kim Mosley (representing the Chamber of Commerce), Stacy Banerjee, Roberta Phillips and Sandy Goldstein.

Direction: Councilmembers discussed the draft Strategic Priorities and generally agreed on the seven draft priorities and directed staff to provide an update to Council with staffing capacity for each priority.

16. Discussion of Stanford University General Use Permit: Consider the proposed General Use Permit and determine whether to provide comments to Santa Clara County

This item was continued to a future meeting.



## ITEMS PULLED FROM CONSENT CALENDAR

9. Lehigh Hanson and Stevens Creek Quarry: Authorize the Mayor to send a letter to the Santa Clara County Planning Department supporting the requests for prompt action on the violations at Lehigh Hanson and Stevens Creek Quarry outlined in a January 31, 2019 letter from the City of Cupertino

This item was continued to a future meeting.

- 10a. City Council Authorization for Mayor to send letter opposing SB 50: Authorize the Mayor to send a letter to the City's State Legislators expressing the opposition of the City Council to SB 50

This item was continued to a future meeting.

## COUNCIL/STAFF REPORT AND DIRECTIONS ON FUTURE AGENDA ITEMS

None

## ADJOURNMENT

Mayor Lee Eng adjourned the meeting at 1:33 a.m.

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Lynette Lee Eng, MAYOR

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Jon Maginot, CMC, CITY CLERK



**CONSENT CALENDAR**

**Agenda Item # 2**

**AGENDA REPORT SUMMARY**

**Meeting Date:** May 14, 2019

**Subject:** Ordinance No. 2019-456: Managing PCBs During Building Demolition

**Prepared by:** Aida Fairman, Interim Engineering Services Director

**Approved by:** Chris Jordan, City Manager

**Attachment(s):**

1. Ordinance No. 2019-456

**Initiated by:**

Staff; Municipal Regional Stormwater Permit requirements

**Previous Council Consideration:**

April 23, 2019

**Fiscal Impact:**

Negligible administrative costs associated with reviewing PCB screening assessments as part of building demolition permit review.

**Environmental Review:**

Adoption of this Ordinance is exempt from review under the California Environmental Quality Act (CEQA) as an action taken by a regulatory agency to protect the environment (CEQA Guidelines Section 15308).

**Policy Question(s) for Council Consideration:**

None

**Summary:**

- The City's Municipal Regional Stormwater Permit (MRP) requires that the City adopt and begin implementation of a program to manage polychlorinated biphenyls (PCBs) in building materials by July 1, 2019
- Establish requirements for applicants for building demolition permits to conduct the following actions to manage building materials that potentially contain PCBs:
  - Conduct a screening assessment of PCBs in Priority Building Materials
  - When the assessment identifies one or more Priority Building Materials with PCBs, comply with all applicable federal and state laws, including potential notification of and reporting to appropriate regulatory agencies; additional sampling for and abatement of PCBs may be required
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**Reviewed By:**

City Manager

*CJ*

City Attorney

*CD*

Finance Director

*SE*

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**Subject:** Ordinance No. 2019-456: Managing PCBs During Building Demolition

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- Remodeling, partial building, wood framed structure, and single-family residence demolition projects are exempted through the screening process

**Staff Recommendation:**

Adopt Ordinance No. 2019-456 amending Los Altos Municipal Code by adding Chapter 6.15 and establishing a program for assessing and managing PCBs-containing priority building materials during demolition projects in accordance with the Municipal Regional Stormwater Permit requirements



**Subject:** Ordinance No. 2019-456: Managing PCBs During Building Demolition

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### **Purpose**

Establish a program for assessing and managing PCBs-containing priority building materials during building demolition projects in accordance with MRP requirements.

### **Background**

PCBs have been detected in elevated levels in certain sport fish in San Francisco Bay (Bay). Urban stormwater runoff is considered a significant pathway for PCBs into the Bay. Accordingly, regulatory agencies are requiring that Bay Area municipalities address sources of PCBs in stormwater runoff discharged to the Bay from municipal separate storm sewers systems (MS4s). This regulation targets selected priority building materials that may contain relatively high levels of PCBs, especially in buildings constructed or remodeled from January 1, 1950 to December 31, 1980. During demolition, these building materials and associated PCBs may be released to the environment and transported to the Bay by stormwater runoff. The priority building materials are caulking, thermal/fiberglass insulation, adhesive/mastic, and rubber window gaskets.

Water quality within the San Francisco Bay Region is regulated by the San Francisco Bay Regional Water Quality Control Board (Regional Water Board). One way that the Regional Water Board protects water bodies within the San Francisco Bay Region is to develop Total Maximum Daily Loads (TMDLs), which are programs to restore water quality in water bodies impaired by pollutants such as PCBs. Currently there is a TMDL established for PCBs in the Bay. To achieve the goals of the TMDL, a reduction in the amount of inputs of PCBs to the Bay is required. The PCBs TMDL estimates that 20 kilograms per year (kg/year) of PCBs enters the Bay in stormwater runoff, and requires that this input be reduced to 2 kg/year by 2030, a 90% reduction.

In 2015, the Regional Water Board reissued the MRP,<sup>1</sup> a National Pollutant Discharge Elimination System (NPDES) permit that regulates discharges of stormwater runoff from MS4s. The MRP includes provisions to reduce discharges of PCBs in stormwater runoff to the Bay. These include Provision C.12.f, which requires Permittees to develop new programs to manage PCBs-containing building materials during demolition. Remodeling, partial building, wood framed structure, and single-family residence demolition projects are exempt. The MRP requires that Permittees adopt and implement these new programs by July 1, 2019.

### **Discussion/Analysis**

The new PCBs requirement is analogous to the process currently implemented for asbestos-containing materials. It requires that the City of Los Altos initially notify demolition permit applicants about the new requirements to conduct a PCBs in Priority Building Materials Screening Assessment. This screening assessment is a two-step process used to: 1) determine whether the building proposed for demolition is high priority for PCBs-containing building materials based on the building age, use,

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<sup>1</sup> Order No. R2-2015-0049



**Subject:** Ordinance No. 2019-456: Managing PCBs During Building Demolition

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and construction type; and if so 2) demonstrate the absence or presence and concentration of PCBs in Priority Building Materials through existing information or representative sampling and chemical analysis of the Priority Building Materials.

The first step of the screening assessment determines whether or not the building is an *applicable structure*.<sup>2</sup> It is anticipated that most projects in Los Altos will not involve the demolition of *applicable structures*. Demolition permit applicants for projects that don't involve *applicable structures* will only need to address the initial screening questions and certify the answers.

Applicants shall follow the directions provided in the *PCBs in Priority Building Materials Screening Assessment Applicant Package* (Applicant Package) (BASMAA 2018). Per the Applicant Package, for certain types of buildings built between 1950 and 1980, the Applicant must conduct further assessment to determine whether or not PCBs are present at concentrations  $\geq 50$  ppm,<sup>3</sup> which may include sampling and analysis by a certified laboratory.

When the PCBs in Priority Building Materials Screening Assessment identifies one or more Priority Building Materials with PCBs, the Applicant must comply with all related applicable federal and state laws, including potential notification of the appropriate regulatory agencies, including the United States Environmental Protection Agency (EPA), the Regional Water Board, and/or the California Department of Toxic Substances Control (DTSC). Agency contacts are provided in the Applicant Package. Additional sampling for and abatement of PCBs may be required. Depending on the approach for sampling and removing building materials containing PCBs, the Applicant may need to notify or seek advance approval from USEPA before building demolition. Even in circumstances where advance notification to or approval from USEPA is not required before the demolition activity, the disposal of PCBs waste is regulated under the Toxic Substances Control Act (TSCA). Additionally, the disposal of PCBs waste is subject to California Code of Regulations (CCR) Title 22 Section 66262. Additional information is provided in the Applicant Package.

The focus of this regulation is on PCBs runoff prevention to protect water quality. The regulation does not:

- Ask for municipal oversight or enforcement of human health protection standards.
- Ask for municipal oversight of PCBs abatement or remediation of materials or lands contaminated by PCBs.
- Establish remediation standards.

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<sup>2</sup> *Applicable structures* are defined as structures built or remodeled from January 1, 1950 to December 1, 1980, with remodeling, partial building, wood framed structure, and single-family residence demolition projects being exempt.

<sup>3</sup> MRP Provision C.12.f states: "Permittees shall develop and implement or cause to be developed and implemented an effective protocol for managing materials with PCBs concentrations of 50 ppm or greater in applicable structures at the time such structures undergo demolition so that PCBs do not enter MS4s."



**Subject:** Ordinance No. 2019-456: Managing PCBs During Building Demolition

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At all demolition sites, routine construction controls (including erosion and sediment controls) should also be implemented per the requirements of the MRP and the statewide Construction General Permit issued by the California State Water Resources Control Board.

### **Options**

- 1) Adopt Ordinance No. 2019-456 amending Los Altos Municipal Code by adding Chapter 6.15 to establish a program for assessing and managing PCBs-containing priority building materials during demolition projects in accordance with MRP requirements

**Advantages:** Establishes direct legal authority for implementing a PCBs management program required by the MRP

**Disadvantages:** None – ordinance is an MRP requirement

- 2) Do not approve changes to the City Municipal Code

**Advantages:** None

**Disadvantages:** Failure to implement PCBs management program by July 1, 2019 would be non-compliant with MRP requirements, or PCBs program establishment would rely on indirect legal authority through the existing Municipal Code

### **Recommendation**

The staff recommends Option 1.

**ORDINANCE NO. 2019-456**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
LOS ALTOS AMENDING THE LOS ALTOS MUNICIPAL CODE  
BY ADDING A NEW CHAPTER 6.15 ENTITLED “MANAGING  
POLYCHLORINATED BIPHENYLS (PCBS) IN PRIORITY  
BUILDING MATERIALS DURING THE DEMOLITION OF  
CERTAIN BUILDINGS”**

**WHEREAS**, polychlorinated biphenyls (PCBs) have been detected in elevated levels in fish and sediment in the San Francisco Bay making fish unsafe to eat; and

**WHEREAS**, urban runoff through storm drain systems and other discharges is considered a significant pathway for PCBs into the Bay; and

**WHEREAS**, PCBs in caulk and other priority building materials that were used in building construction and remodeling projects between 1950 and 1980 have been found to have particularly high PCBs concentrations; and

**WHEREAS**, during demolition these building materials may be released to the environment and transported to receiving waters by stormwater runoff; and

**WHEREAS**, the San Francisco Bay Regional Water Quality Control Board adopted on November 19, 2015 the reissued Municipal Regional Permit (MRP), a National Pollutant Discharge Elimination System (NPDES) permit that regulates discharges of stormwater runoff from municipal separate storm sewers systems (MS4s); and

**WHEREAS**, the MRP includes provisions that implement the requirements in the PCBs Total Maximum Daily Load (TMDL), a program to address the Bay’s impairment by PCBs; and

**WHEREAS**, the MRP requires the permittees, including the City of Los Altos, to reduce discharges of PCBs in stormwater runoff to the San Francisco Bay; and

**WHEREAS**, the MRP, Provision C.12.f., requires the Permittees, including the City of Los Altos, to develop and implement new programs to manage PCB-containing building materials during demolition activities; and

**WHEREAS**, more specifically, the MRP requires the Permittees to require buildings that were built or remodeled during the period from January 1, 1950 to December 31, 1980 be screened for the presence of PCBs in priority building materials prior to demolition and include a method for ensuring that PCBs are not discharged to the storm drain from demolition of applicable structures; and

**WHEREAS**, applicable structures include, at a minimum, commercial, public, institutional and industrial structures constructed or remodeled between the years 1950 and 1980 with building materials with PCBs concentrations of 50 ppm or greater; and

**WHEREAS**, remodeling projects, partial building demolitions, and demolitions of wood framed structures, and single-family residences are exempt from the requirement to screen for the presence of PCBs in priority building materials; and

**WHEREAS**, the MRP requires that these new programs be adopted by June 30, 2019 and implemented by July 1, 2019; and

**WHEREAS**, this Ordinance is exempt from environmental review pursuant to Section 15308 of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended because it is an action taken to implement Municipal Regional Stormwater Permit to assure the maintenance, restoration, enhancement or protection of the water quality from PCB-containing materials during building demolition activities where the regulatory process includes procedures for the protection of the environment.

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

**SECTION 1. AMENDMENT OF CODE.** Los Altos Municipal Code is hereby amended by adding to Title 6 a new Chapter 6.15 entitled “Managing Polychlorinated Biphenyls (PCBs) in Building Materials during the Demolition of Certain Buildings.”

**CHAPTER 6.15 - MANAGING POLYCHLORINATED BIPHENYLS (PCBS) IN PRIORITY BUILDING MATERIALS DURING THE DEMOLITION OF CERTAIN BUILDINGS**

**6.15.010 – Purpose.**

The provisions of this Chapter shall be construed to accomplish the following purposes:

- A. Require building demolition permit applicants (Applicants) to conduct a PCBs in Priority Building Materials Screening Assessment and submit information documenting the results of the screening. Such documentation to include: (1) the results of a determination whether the building proposed for demolition is high priority for PCBs-containing building materials based on the structure age, use, and construction; and (2) the concentration of PCBs in each Priority Building Material present; and (3) for each Priority Building Material present with a PCBs concentration equal to or greater than 50 ppm, the approximate amount (linear or square feet) of that material in the building.
- B. Inform Applicants with PCBs present in one or more of the Priority Building Materials (based on the above screening assessment) that they must comply with all related applicable federal and state laws. This may include reporting to the U.S. Environmental Protection Agency (US EPA), the San Francisco Bay Regional Water Quality Control Board (Regional Water Board), and/or the California Department of Toxic Substances Control (DTSC). Additional sampling for and abatement of PCBs may be required.
- C. Meet the requirements of the Federal Clean Water Act, the California Porter-Cologne Water Quality Control Act, and the Municipal Regional Stormwater Permit Order No. R2-2015-0049.



The requirements of this ordinance do not replace or supplant the requirements of California or Federal law, including but not limited to the Toxic Substances Control Act, 40 Code of Federal Regulations (CFR) Part 761, and California Code of Regulations (CCR) Title 22.

**6.15.020 – Definitions.**

- A. “Applicable Structure” means buildings constructed or remodeled from January 1, 1950 to December 31, 1980 unless exempt pursuant to Section 6.15.040.
- B. “Applicant” means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever, who applies to the city for a building permit to undertake any demolition project as required by Chapter 12.08 of the City of Los Altos Municipal Code.
- C. “Building Department” means the Building Department of the City of Los Altos.
- D. “Building” means a structure with a roof and walls standing more or less permanently in one place. Buildings are intended for human habitation or occupancy.
- E. “Demolition” means the wrecking, razing, or tearing down of any structure. This definition is intended to be consistent with the demolition activities undertaken by contractors with a C-21 Building Moving/Demolition Contractor’s License.
- F. “DTSC” means the State of California Department of Toxic Substances Control.
- G. “EPA” or “US EPA” means the United States Environmental Protection Agency.
- H. “PCBs” means polychlorinated biphenyls.
- I. “PCBs in Priority Building Materials Screening Assessment” means the two-step process used to: 1) determine whether the building proposed for demolition is high priority for PCBs-containing building materials based on the structure age, use, and construction; and if so 2) determine the concentrations (if any) of PCBs in Priority Building Materials revealed through existing information or representative sampling and chemical analysis of the Priority Building Materials in the building. Directions for this process are provided in the PCBs in Priority Building Materials Screening Assessment Applicant Package.
- J. “PCBs in Priority Building Materials Screening Assessment Applicant Package” or “Applicant Package” means the document package prepared and approved by the Bay Area Stormwater Management Agencies Association (BASMAA), August 2018, as may be amended, that includes an overview of the screening process, Applicant instructions, a process flow chart, a screening assessment form, and the Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition..
- K. “Priority Building Materials” means the following:
  - 1. Caulking: e.g., around windows and doors, at structure/walkway interfaces, and in expansion joints;
  - 2. Thermal/Fiberglass Insulation: e.g., around HVAC systems, around heaters, around boilers, around heated transfer piping, and inside walls or crawls spaces;
  - 3. Adhesive/Mastic: e.g., below carpet and floor tiles, under roofing materials, and under flashing; and
  - 4. Rubber Window Gaskets: e.g., used in-lieu of caulking to seal around windows in steel-framed buildings.
- L. “Regional Water Board” means the California Regional Water Quality Control Board, San Francisco Bay Region.

- M. “Remodel” means to make significant finish and/or structural changes that increase utility and appeal through complete replacement and/or expansion. A removed area reflects fundamental changes that include multiple alterations. These alterations may include some or all of the following: replacement of a major component (cabinet(s), bathtub, or bathroom tile), relocation of plumbing/gas fixtures/appliances, significant structural alterations (relocating walls, and/or the addition of square footage).

**Section 6.15.030 – Applicability.**

This Chapter applies to the demolition of buildings constructed or remodeled from January 1, 1950 to December 31, 1980 (Applicable Structures). Applicable Structures include, at a minimum, commercial, multi-family residential, public, institutional, and industrial buildings.

**Section 6.15.040 – Exemptions.**

Applications for remodeling, partial building demolition, wood framed structures, and single-family residence demolition projects shall not be deemed an Applicable Structure.

**Section 6.15.050 – PCBs in Priority Building Materials Screening Assessment and Applicant Certification.**

- A. An Applicant for a building demolition permit shall conduct a PCBs in Priority Building Materials Screening Assessment and submit the associated information and results as part of the building demolition permit application, including the following (see Applicant Package for more details):
1. Owner and project information, including location, year building was built, description of building construction type, and anticipated demolition date.
  2. Determination of whether the building proposed for demolition is an Applicable Structure based on the structure age, use, and construction.
  3. If the project involves an Applicable Structure, indicate the concentration of PCBs in each Priority Building Material present. Demonstrate the presence or absence and concentration of PCBs in Priority Building Materials through existing information on specific product formulations (if available) or representative sampling and chemical analysis of the Priority Building Materials in the building by a certified analytical laboratory. If PCBs concentrations are determined via representative sampling and analysis, the Applicant shall include a contractor’s report documenting the assessment which includes the completed QA/QC checklist from the *Protocol for Assessing Priority PCBs-Containing Materials before Building Demolition* and the analytical laboratory reports.
  4. For each Priority Building Material present with a PCBs concentration equal to or greater than 50 ppm, the approximate amount (linear or square feet) of that material in the building.
  5. Applicant’s certification of the accuracy of the information submitted.

- B. Applicants shall follow the directions provided in the PCBs in Priority Building Materials Screening Assessment Applicant Package (Applicant Package). Any representative sampling and analysis must be conducted in accordance with the *Protocol for Assessing Priority PCBs-Containing Materials before Building Demolition* included in the Applicant Package.
- C. The City Manager, or his or her designee, may specify a format or guidance for the submission of the information.
- D. Failure to submit complete information required by this Section may cause the building demolition permit application and submittal documents to be deemed incomplete.

**Section 6.15.060 – Agency Notification, Abatement, and Disposal for Identified PCBs.**

When the PCBs in Priority Building Materials Screening Assessment identifies one or more Priority Building Materials with PCBs in excess of regulatory limits, the Applicant must comply with all applicable federal and state laws that relate to management and cleanup of PCBs, including but not limited to PCBs in Priority Building Materials, other PCBs-contaminated materials, PCBs-contaminated liquids, and PCBs waste, and which may require notification of the appropriate regulatory agencies, including US EPA, the Regional Water Board, and/or the DTSC.

**Section 6.15.070 – Recordkeeping.**

Applicants conducting a building demolition project must maintain documentation of the results of the PCBs in Priority Building Materials Screening Assessment for a minimum of five years after submittal.

**Section 6.15.080 – Obligation to Notify City of Los Altos of Changes.**

The Applicant shall submit to the Building Department written notifications documenting any changes in the information submitted with the permit application pursuant to Section 6.15.050.

**Section 6.15.090 – Liability.**

The Applicant is responsible for safely and legally complying with the requirements related to management and cleanup of PCBs. Neither the issuance of a building permit under Chapter 12.08, nor the compliance with the requirements of this Chapter, shall relieve any person from responsibility for damage to persons or property resulting therefrom, or as otherwise imposed by law, nor impose any liability upon the City of Los Altos for damages to persons or property.

**Section 6.15.100 – Enforcement.**

Failure to submit the information required in this Chapter or submittal of false information may be enforced by administrative citation and order under Chapter 1.30.

**Section 6.15.130 – City Projects**

City departments shall comply with all the requirements of this Chapter except they shall not be required to obtain permits and approvals under this Chapter for work performed within City owned properties and areas, such as rights-of-way.

**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. PUBLICATION.** 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.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on \_\_\_\_\_, 2019 and was thereafter, at a regular meeting held on \_\_\_\_\_, 2019 passed and adopted by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

\_\_\_\_\_  
Lynette Lee Eng, MAYOR

Attest:

\_\_\_\_\_  
Jon Maginot, CMC, CITY CLERK



**CONSENT CALENDAR**

**Agenda Item # 3**

**AGENDA REPORT SUMMARY**

**Meeting Date:** May 14, 2019

**Subject:** Sanitary Sewer Root Foaming material and equipment purchase

**Prepared by:** Grant Gabler, Maintenance Supervisor

**Reviewed by:** Manny Hernandez, Maintenance Services Director

**Approved by:** Chris Jordan, City Manager

**Attachment(s):**

None

**Initiated by:**

Maintenance Division

**Previous Council Consideration:**

None

**Fiscal Impact:**

\$155,085 – Funds are available in Capital Improvement Project WW-01003 – Sanitary Sewer Root Foaming

**Environmental Review:**

Categorically Exempt pursuant to CEQA Section 15301 (c)

**Policy Question(s) for Council Consideration:**

None

**Summary:**

- The Sewer System Management Plan requires that root foaming be performed in the City's sewer collection system. This work had been historically contracted out however in 2016 Sewer maintenance staff started performing the work in-house
- Sewer maintenance staff have been using old sewer root foaming equipment which is mounted on our existing truck. The equipment has had several issues which have caused delays in completing projects. An updated unit is available at a discount with a trade-in of the current unit. This equipment and material purchasing are necessary to perform the work without future lengthy delays

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**Reviewed By:**

City Manager

CJ

City Attorney

CD

Finance Director

SE

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**Subject:** Sanitary Sewer Root Foaming material and equipment purchase

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**Staff Recommendation:**

Authorize the purchase of material and equipment from WECO Industries in an amount not to exceed \$155,085 for Sanitary Sewer Root Foaming



**Subject:** Sanitary Sewer Root Foaming material and equipment purchase

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**Purpose**

Authorize the purchase of material and equipment from WECO Industries in an amount not to exceed \$155,085 for Sanitary Sewer Root Foaming.

**Background**

As described in the City of Los Altos' Sewer System Management Plan (SSMP) the City treats one third of the City's sewer collection system for roots every year, completing the full system on a 3-year cycle. Root intrusion into sanitary sewer mains is one of the primary causes of sanitary sewer overflows.

In 2016 maintenance staff took on this task as a pilot project. To complete this work, root foaming equipment was installed onto the existing sewer jetting truck. In addition, root foaming material is purchased in accordance with guidelines set forth by the Palo Alto Treatment Plant. Because the root foaming equipment has become out dated, and staff have had several delays caused by equipment break down, an updated foaming unit is needed to complete the project in a timely manner.

**Discussion/Analysis**

City's maintenance staff continues to perform the sewer root foaming. To complete the current project that consists of root foaming 253,223 linear feet of sewer mains, the existing root foaming unit needs to be replaced with the updated unit along with the purchase of materials that is applied to the sewer mains.

Equipment and material are sole sourced with the vendor WECO Industries as they are the exclusive provider of the root foaming product that is preferred by the Palo Alto Treatment Plant.

**Options**

- 1) Authorize the City Manager to execute an agreement with WECO Industries in an amount not to exceed \$155,085 for equipment and purchase of material for Sanitary Sewer Root Foaming

**Advantages:** It will allow maintenance staff to complete the project and treat the one third of the sewer collection system as per the requirements in the SSMP

**Disadvantages:** None

- 2) Do not authorize the City Manager to execute an agreement with WECO

**Advantages:** None. As, the sole provider of the preferred root foaming product, there will be no advantage to public bidding the project



**Subject:** Sanitary Sewer Root Foaming material and equipment purchase

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**Disadvantages:** Maintenance staff will be unable to complete the project and treat the sewer collection system as per the requirements in the SSMP. The City will be at risk of future sanitary sewer overflows

**Recommendation**

The staff recommends Option 1.





**CONSENT CALENDAR**

**Agenda Item # 4**

**AGENDA REPORT SUMMARY**

**Meeting Date:** May 14, 2019

**Subject:** Resolution No. 2019-11: Windimer Drive Storm Drain Ditch, Project CD-01012  
Acceptance

**Prepared by:** Andrea Trese, Assistant Civil Engineer

**Reviewed by:** Aida Fairman, Interim Engineering Services Director

**Approved by:** Chris Jordan, City Manager

**Attachment(s):**

1. Resolution No. 2019-11

**Initiated by:**

City Council, Capital Improvement Plan – Project CD-01012

**Previous Council Consideration:**

April 24, 2018; September 25, 2018; February 26, 2019

**Fiscal Impact:**

The following table summarizes the final costs of this project:

<b>Project Item</b>	<b>Original Project Budget</b>	<b>Final Cost</b>
Design	\$101,690.00	\$107,690.00
Construction	\$297,480.00	\$375,102.00
Inspection and testing services	\$50,000.00	\$50,000.00
Printing/Environmental Doc/Misc.	\$3,208.00	\$3,208.00
Construction contingency	\$44,622.00	\$0.00
<b>Total Cost</b>	<b>\$497,000.00</b>	<b>\$536,000.00</b>

**Environmental Review:**

Categorically Exempt pursuant to CEQA Section 15301 (b).

**Policy Question(s) for Council Consideration:**

None

**Summary:**

- Adopt Resolution No. 2019-11 accepting completion of the Windimer Drive Storm Drain Ditch, Project CD-01012
- Authorize the Interim Engineering Services Director to record a Notice of Completion

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**Reviewed By:**

City Manager

CJ

City Attorney

CD

Finance Director

SE

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**Subject:** Resolution No. 2019-11: Windimer Drive Storm Drain Ditch, Project CD-01012  
Acceptance

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**Staff Recommendation:**

Move to adopt Resolution No. 2019-11 accepting completion of the Windimer Drive Storm Drain Ditch, Project CD-01012 and authorize the Interim Engineering Services Director to record a Notice of Completion



**Subject:** Resolution No. 2019-11: Windimer Drive Storm Drain Ditch, Project CD-01012 Acceptance

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### **Purpose**

Accepting completion of the Windimer Drive Storm Drain Ditch, Project CD-01012.

### **Background**

The 2016 Stormwater Master Plan identified and prioritized areas for storm drainage infrastructure improvements. The Windimer drainage ditch improvement project was designated as a high priority in the plan due to historic risk of flooding for nearby properties.

On August 5, 2016 the City Manager executed an agreement with Cal Engineering & Geology, Inc. (CE&G) for the design of the Windimer Drive Storm Drain Ditch, Project CD-01012 in the amount of \$74,278. On April 24, 2018, the Council approved Amendment No. 1 to the agreement with CE&G in the amount of \$27,412 for a total contract of \$101,690. On September 6, 2018, one bid was opened for the Windimer Drive Storm Drain Ditch, Project CD-01012. On October 30, 2018, the construction contract was executed with C2R Engineering, Inc. in the amount of \$297,480. On February 26, 2019, additional contingency funds for design (\$6,000) and construction (\$33,000) were approved by Council to address unanticipated issues.

### **Discussion/Analysis**

C2R Engineering, Inc. completed the construction for the Windimer Drive Storm Drain Ditch improvements. This project consisted of clearing and repairing the ditch, replacing leaning segments of retaining walls, construction of a new drop inlet and a secondary drop inlet, and installation of gates for long-term maintenance access. A total of eight change orders were issued in this project for costs associated with unanticipated conditions and associated changes in project scope and restoration items.

### **Options**

- 1) Adopt Resolution No. 2019-19 accepting completion of the Windimer Drive Storm Drain Ditch, Project CD-01012; and authorize the Interim Engineering Services Director to record a Notice of Completion as required by law

**Advantages:** The 5% retention to the Contractor will be released 35 days after the Notice of Completion is recorded

**Disadvantages:** None

- 2) Do not adopt Resolution No. 2019-11 accepting completion of the Windimer Drive Storm Drain Ditch, Project CD-01012; and do not authorize the Interim Engineering Services Director to record a Notice of Completion as required by law



**Subject:** Resolution No. 2019-11: Windimer Drive Storm Drain Ditch, Project CD-01012  
Acceptance

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**Advantages:** None

**Disadvantages:** The recordation of the Notice of Completion and the release of the 5% retention would be delayed

**Recommendation**

The staff recommends Option 1.

**RESOLUTION NO. 2019-11**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS  
ACCEPTING COMPLETION OF AND DIRECTING THE ENGINEERING  
SERVICES DIRECTOR TO RECORD A NOTICE OF COMPLETION FOR THE  
WINDIMER DRIVE STORM DRAIN DITCH, PROJECT CD-01012**

**WHEREAS**, the Engineering Services Director has filed with the City Clerk of the City of Los Altos an Engineer's Certificate as to completion of all the work provided to be done under and pursuant to the contract between the City of Los Altos and EPS, Inc. on June 27, 2018; and

**WHEREAS**, it appears to the satisfaction of this City Council that said work under the contract has been fully completed and done as provided in said contract, and the plans and specifications therein referred to.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Los Altos hereby finds and authorizes the following:

1. The acceptance of completion of said work is hereby made and ordered.
2. That the Engineering Services Director is directed to execute and file for record with the County Recorder of the County of Santa Clara, notice of completion thereof.

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the \_\_\_\_ day of \_\_\_\_, 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Lynette Lee Eng, MAYOR

Attest:

\_\_\_\_\_  
Jon Maginot, CMC, CITY CLERK



**PUBLIC HEARING**

**Agenda Item # 5**

**AGENDA REPORT SUMMARY**

**Meeting Date:** May 14, 2019

**Subject:** Ordinance No. 2019-458: Development Review Process Code Amendments

**Prepared by:** Zachary Dahl, Planning Services Manager

**Reviewed by:** Jon Biggs, Community Development Director

**Approved by:** Chris Jordan, City Manager

**Attachment(s):**

1. Ordinance No. 2019-458
2. Planning Commission Meeting Minutes, March 21, 2019
3. Planning Commission Agenda Report, March 21, 2019

**Initiated by:**

Staff

**Previous Council Consideration:**

None

**Fiscal Impact:**

None

**Environmental Review:**

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

**Policy Question(s) for Council Consideration:**

- Are the amendments in conformance with the General Plan?
- Are the amendments in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City?

**Summary:**

- The proposed Code amendments to the City's design review and use permit review processes (Zoning Code Chapters 14.78 and 14.80) are intended to clarify the role of the Complete Streets Commission in the design review process, formalize the public notification

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**Reviewed By:**

City Manager

CJ

City Attorney

CD

Finance Director

SE

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**Subject:** Ordinance No. 2019-458: Development Review Process Code Amendments

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requirements for design review study sessions, update the review requirements for use permits and design review applications, and remove antiquated and outdated language

- The Planning Commission held a public hearing and recommended approval of the proposed Code amendments on March 21, 2019

**Staff Recommendation:**

Introduce and waive further reading of Ordinance No. 2019-458 to amend chapters 14.78 and 14.80 of the Los Altos Municipal Code regarding the Development Review Process



**Subject:** Ordinance No. 2019-458: Development Review Process Code Amendments

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### **Purpose**

Review and adopt an ordinance that amends the City's design review and use permit review processes (Zoning Code Chapters 14.78 and 14.80) to clarify the role of the Complete Streets Commission in the design review process, formalize the public notification requirements for design review study sessions, update the review requirements for use permits and design review applications, and remove antiquated and outdated language.

### **Background**

As part of the continuing effort to maintain and update the City's ordinances, staff periodically identifies Zoning regulations that need to be amended to meet the current and future needs of the community. The recommended amendments relating to the review and processing of design review and use permit applications were identified by staff as meriting consideration. In particular, the Code needs to be amended to clarify the role of the Complete Streets Commission in the design review process and formalize the public notification requirements for design review study sessions before the Planning Commission. In addition, staff identified an opportunity to update the review requirements for minor and non-controversial use permits and design review applications to better utilize the Planning Commission as a decision-making body while preserving the ability of the City Council to be the final decision-maker when necessary or desired.

On March 21, 2019, the Planning Commission held a public hearing to consider the proposed Code amendments. There were no public comments provided at the meeting or any written correspondence submitted on the proposed Code amendments. The Commission expressed general support for the Code amendments as drafted. Following the discussion, the Commission voted 5-0, with Commissioner Ahi absent, to recommend approval of the ordinance, with a few minor grammatical edits. The Planning Commission agenda report and meeting minutes are included as Attachments 2 and 3.

### **Discussion/Analysis**

The proposed code amendments will update the City's design review and use permit review processes to clarify the role of the Complete Streets Commission in the design review process, formalize the public notification requirements for design review study sessions, update the review process to allow the Planning Commission to be the decision-making body for use permits and design review applications for smaller additions in commercial, office, multi-family and public facility districts, and remove antiquated and outdated language. However, the amendments include specific provisions that allow the City Council to call-up any decision made by the Planning Commission or any member of the public to appeal a decision to the City Council. In response to comments provided by the Planning Commission, some minor edits to Section 14.78.020 (Requirement for design review) were made to improve its intent and clarity. Otherwise, no changes have been made to the amendments based on the Commission's recommendation. A detailed





**Subject:** Ordinance No. 2019-458: Development Review Process Code Amendments

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breakdown of the proposed amendments can be found in the Planning Commission's agenda report (Attachment 3).

Overall, the amendments are in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, or welfare, and are in conformance with the General Plan. As outlined in Ordinance No. 2019-458, the proposed amendments do appear to be in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City because they will clarify the role of the Complete Streets Commission within the design review process, formally establish the public notification requirements for design review study sessions, update the review requirements for use permits and design review applications to better utilize the Planning Commission as a decision-making body for certain applications, and update or remove antiquated and outdated language. The proposed amendments are also in conformance with the City of Los Altos General Plan because they will update the Code to be consistent with current practices and procedures for processing design review and use permit applications.

### **Options**

- 1) Introduce and waive further reading of Ordinance No. 2019-458

**Advantages:** The role and responsibilities of the Complete Streets Commission within the design review process will be clarified, the public notification requirements for design review study sessions will be established, the review requirements for use permits and design review applications would be updated to better utilize the Planning Commission as a decision-making body for minor and non-controversial applications and antiquated and outdated language will be updated

**Disadvantages:** None identified

- 2) Decline to introduce Ordinance No. 2019-458

**Advantages:** The Zoning Code will be maintained in its current form

**Disadvantages:** The role of the Complete Streets Commission within the design review process will remain undefined and public notification for design review study sessions will not be provided

### **Recommendation**

Planning Commission and staff recommend Option 1.

**ORDINANCE NO. 2019-458**

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

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

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

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

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

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

**WHEREAS**, the Planning Commission held a duly noticed public hearing on the CA on March 21, 2019, at which it recommended approval of the CA; and

**WHEREAS**, the City Council held a duly noticed public hearing on the CA on May 14, 2019; and

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

**WHEREAS**, this Ordinance is exempt from environmental review, each as a separate and independent basis, pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended (“CEQA Guidelines”), and CEQA Guidelines Section 15378(b)(5) because the Ordinance implements an organizational or administrative activity that will not result in a direct or indirect physical change in the Ordinance No. 2019-458

environment and, it can be seen with certainty that there is no possibility of a significant impact to the environment.

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

**SECTION 1. AMENDMENT OF CODE:** Sections 14.78.020, 14.78.030 and 14.78.040 in Chapter 14.78 of Title 14 of the Los Altos Municipal Code are hereby replaced in their entirety as follows:

**14.78.020 - Requirement for design review.**

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

A. Administrative Design Review.

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

B. Planning Commission Design Review.

1. Additions to existing buildings that exceed 500 square feet but are equal to or less than 50 percent of the floor area of an existing structure require approval by the planning commission at a public meeting.

C. City Council Design Review.

1. All new buildings, and additions to existing buildings that exceed 50 percent of the floor area of an existing structure, require approval by the city council at a public meeting.
2. Prior to consideration by the city council, the planning commission shall review the application at a public meeting and provide a recommendation to the city council.

**14.78.030 - Public meeting requirements.**

Notice of public meetings shall be given at least ten (10) days prior to the date of the meeting by all of the following methods:

- A. Mailing of notices via first-class mail to all property owners within five hundred (500) feet of the project site at the mailing address on record with the County Assessor; and
- B. Mailing of notices via first-class mail to all commercial business tenants within five hundred (500) feet of the project site at the addresses shown on the latest city business license records; and
- C. Posting of a notice on the project site in accordance with the standards set by the community development director; and
- D. All meetings before the planning commission conducted under this section, excluding study sessions, shall be noticed and conducted as public hearings and shall satisfy all notification requirements applicable to public hearings, including a notice published in a newspaper of general circulation within the city.

**14.78.040 - Design review study session.**

- A. Projects subject to design review pursuant to Section 14.78.020 of this chapter are eligible for a design review study session before the planning commission.

- B. Projects subject to City Council Design Review pursuant to Section 14.78.020(C) of this chapter shall be required to have a pre-application design review study session before the planning commission.
- C. Study session review is available at any point in the application process and may be requested by an applicant.
- D. Public notice shall be given at least ten (10) days prior to the date of the study session by the methods required in Section 14.78.030 (A-C).

**SECTION 2. AMENDMENT OF CODE:** Sections 14.78.090 and 14.78.100 in Chapter 14.78 of Title 14 of the Los Altos Municipal Code are hereby replaced as follows:

**14.78.090 - Transportation review.**

- A. An application for planning commission or city council design review pursuant to 14.78.020 shall be subject to a transportation review as part of the approval process in order to assess potential project bicycle, pedestrian, parking and/or traffic impacts on public streets when the project generates 50 or more net new daily trips and is required to prepare a transportation impact analysis.
- B. Projects subject to a transportation review pursuant to this section shall be reviewed by the complete streets commission at a public meeting with the commission providing a recommendation to the planning commission and/or the city council on the transportation impact analysis and on the elements of the project that pertain to bicycle, pedestrian, parking and traffic issues.

**14.78.100 - Appeals.**

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

**SECTION 3. AMENDMENT OF CODE:** Sections 14.80.030 and .040 in Chapter 14.80 in Title 14 of the Los Altos Municipal Code are hereby replaced as follows:

**14.80.030 - Public meeting requirements**

Notice of public meetings shall be given at least ten (10) days prior to the date of the meeting by all of the following methods:

- A. Mailing of notices via first-class mail to all property owners within five hundred (500) feet of the project site at the mailing address on record with the County Assessor; and
- B. Mailing of notices via first-class mail to all commercial business tenants within five hundred (500) feet of the project site at the addresses shown on the latest city business license records; and
- C. Posting of a notice on the project site in accordance with the standards set by the community development director; and

D. All meetings before the planning commission conducted under this section, excluding study sessions, shall be noticed and conducted as public hearings and shall satisfy all notification requirements applicable to public hearings, including a notice published in a newspaper of general circulation within the city.

**14.80.040 - Use permit review**

- A. The planning commission is the decision-making body for all use permits.
- B. The planning commission shall review the use permit application and all support information, receive public comment and any pertinent evidence concerning the proposed use and the conditions under which it would be operated or maintained, and shall make findings as specified in Section 14.80.060 of this chapter.
- C. The commission may add conditions as necessary to ensure compliance with the findings specified in Section 14.80.060 of this chapter.
- D. The commission shall take action on the use permit as follows:
  - 1. Approve the conditional use, with or without conditions.
  - 2. Approve the conditional use for a limited period of time, with or without conditions.
  - 3. Deny the conditional use per negative findings as specified in Section 14.80.060 of this chapter.

**SECTION 4. AMENDMENT OF CODE:** Section 14.80.045 in Chapter 14.80 in Title 14 of the Los Altos Municipal Code is hereby removed.

**~~14.80.045 – Hearings – Procedures for office and commercial districts.~~**

~~Notwithstanding the provisions of Section 14.80.040 of this chapter, the planning and transportation commission shall be the decision-making body for conditional use permit applications in all OA and C districts for businesses proposed in existing structures. This section shall not apply to conditional use permit applications that are subject to the requirements of Chapter 14.78 of this title. All other applicable provisions of this chapter shall remain in effect. The action of the planning and transportation commission shall be final unless it is appealed in writing to the city council, and the appropriate fee is paid, within fifteen (15) days of the date of the action.~~

**SECTION 5. AMENDMENT OF CODE:** The title of Section 14.80.060 in Chapter 14.80 in Title 14 of the Los Altos Municipal Code is hereby amended as follows:

**14.80.060 - Use permit findings.**~~**Commission and council action.**~~

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

**14.80.070 - Appeals.**

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

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

**14.80.080 - Revocation.**

A use permit may be revoked by the community development director or their designee, planning ~~and transportation~~ commission and/or city council, whichever body initially approved the permit, based upon a determination by the community development director that the holder of the permit has failed to comply with any condition thereof or has violated any applicable provision of this chapter. The revocation procedure shall be the same as prescribed in this chapter for the initial use permit.

**14.80.090 - New applications.**

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

**SECTION 8. 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 9. CEQA.** This ordinance is not subject to review under the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*) because the ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §15378. The ordinance amends Los Altos Municipal Code provisions pertaining to the review and processing of design review and use permit applications. It does not commit the City of Los Altos or any other party to any direct course of action, other than to review and process design review and use permit applications in an updated manner and will not result in any physical changes in and of itself. Moreover, as a separate and independent basis, to the extent the ordinance was determined to be subject to CEQA, it would be exempt from further review pursuant to the ‘common sense’ exemption (14 CCR §15061(b)(3)), as it can be seen with certainty that there is no possibility that the adoption of the ordinance may have a significant effect on the environment.

**SECTION 10. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 11. EFFECTIVE DATE.** This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on May 14, 2019 and was thereafter, at a regular meeting held on \_\_\_\_\_, 2019 passed and adopted by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Lynette Lee Eng, MAYOR

Attest:

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Jon Maginot, CMC, CITY CLERK

**MINUTES OF A REGULAR MEETING OF THE PLANNING COMMISSION OF THE  
CITY OF LOS ALTOS, HELD ON THURSDAY, MARCH 21, 2019 BEGINNING AT 7:00  
P.M. AT LOS ALTOS CITY HALL, ONE NORTH SAN ANTONIO ROAD,  
LOS ALTOS, CALIFORNIA**

**ESTABLISH QUORUM**

PRESENT: Chair Samek, Vice-Chair Lee, Commissioners Bodner, Bressack and Meadows  
ABSENT: Commissioner Ahi and One Vacancy  
STAFF: Community Development Director Biggs, Planning Services Manager Dahl and  
City Attorney Lee

**PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

None.

**ITEMS FOR CONSIDERATION/ACTION**

**CONSENT CALENDAR**

**1. Planning Commission Minutes**

Approve minutes of the regular meeting of February 21, 2019.

Action: Upon motion by Commissioner Meadows, seconded by Commissioner Bressack, the Commission approved the minutes from the February 21, 2019 Regular Meeting as written.

The motion was approved (5-0) by the following vote:

AYES: Samek, Lee, Bressack, Bodner and Meadows

NOES: None

ABSENT: Ahi

**PUBLIC HEARING**

**2. 19-CA-01 – City of Los Altos – Planning Process Amendments**

Code amendments to the City's design review and use permit review processes (Zoning Code Chapters 14.78 and 14.80) to clarify the role of the Complete Streets Commission in the design review process, formalize the public notification requirements for design review study sessions, update the review requirements for use permits and design review applications and remove antiquated and outdated language. *Project Planner: Dahl*

Planning Services Manager Dahl presented the staff report recommending approval of Code Amendment 19-CA-01 to the City Council subject to the listed findings.

Public Comment

None.

Commission Discussion

The Commission discussed the proposed amendments and expressed general support for the amendments as drafted.



Action: Upon motion by Commissioner Bressack, seconded by Commissioner Meadows, the Commission recommended approval of Code Amendment 19-CA-01 to the City Council, subject to the listed findings.

The motion was approved (5-0) by the following vote:

AYES: Samek, Lee, Bressack, Bodner and Meadows

NOES: None

ABSENT: Ahi

## DISCUSSION

### 3. Downtown Buildings Committee (DBC) Recommendation Review

*Project Manager: Biggs*

Community Development Director Biggs presented the staff report on the Downtown Buildings Committee Recommendations and Floor Area Ratios for the Commission to evaluate and develop draft recommendations and tools that can be implemented to achieve a desired look and feel for future development in Los Altos.

#### Public Comment

Commercial property owner Mircea Voskerician expressed concern about implementing an FAR requirement, noting that without an appropriate density, FAR does not make sense and that the evaluation should be more comprehensive before moving forward.

Alex Cosma encouraged the development of a City-wide comprehensive plan and went through a slide presentation, that supported his recommendation for a comprehensive plan.

Resident Eric Steinle spoke about the City's noticing requirements, noting that the notification radius needs to be increased to 1,000 feet, especially in the commercial districts, to ensure that affected residents are properly notified.

#### Commissioner Discussion

The Commission discussed the topic and provided the following comments:

- Commissioner Bressack:
  - What is the goal of implementing an FAR; what is trying to be accomplished;
  - Commission needs to review the Downtown Vision Plan;
  - Should be linked to the SB35 objective criteria;
  - FAR is a tool – not a cure all; and
  - FAR can be burdensome on development; may not get the results we want; and
- Commissioner Bodner:
  - FAR is one tool in a complex tool box;
  - Need to see how FAR would align with Downtown Vision Plan;
  - The Downtown Vision recommendations should take precedent over DBC recommendations since it is more recent, more comprehensive and had more community outreach and buy-in;
  - More information is needed to before moving forward.

- Vice-Chair Lee:
  - Need more background information;
  - FAR is a tool that can be used first to evaluate what can be done on a site;
  - Higher density areas have hierarchy to their buildings; and
  - Downtown needs development and vitality; FAR could hinder these objectives.
  
- Commissioner Meadows:
  - Need examples of where FAR's have been used successfully.
  
- Chair Samek:
  - What is the goal trying to be achieved with an FAR;
  - FAR is only one tool; evaluation of density and site development standards also needed; and
  - Development of a specific plan for the El Camino Corridor would be a multi-year process.

Action: None

## **COMMISSIONERS' REPORTS AND COMMENTS**

Commissioner Bressack reported on the February 26, 2019 City Council meeting, Vice-Chair Lee reported on the March 12, 2019 City Council meeting, and Chair Samek reported on his Commissioner Chair meeting with Mayor Eng.

## **POTENTIAL FUTURE AGENDA ITEMS**

Planning Services Manager Dahl reported that the Planning Commission meeting for April and May are going to be held in the Hillview Social Hall at 97 Hillview Avenue and reviewed the tentative agendas for the upcoming meeting.

Chair Samek, Vice-Chair Lee and Commissioners Bodner noted that they would be available to attend the April 18, 2019 meeting.

## **ADJOURNMENT**

Chair Samek adjourned the meeting at 8:57 P.M.

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Zachary Dahl, AICP  
Planning Services Manager



## PLANNING COMMISSION AGENDA REPORT

**Meeting Date:** March 21, 2019

**Subject:** 19-CA-01 – Development Review Process Code Amendments

**Prepared by:** Zachary Dahl, Planning Services Manager

**Initiated by:** Staff

### **Attachments:**

- A. Draft Ordinance Amending Zoning Code Chapters 14.78 and 14.80
- B. Zoning Code Chapters 14.78 and 14.80 – Current Language
- C. Ordinance No. 2017-434

### **Recommendation:**

Recommend approval of amendments to Zoning Code Chapters 14.78 and 14.80 to the City Council subject to the listed findings

### **Environmental Review:**

This Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (“CEQA”) Guidelines. The Ordinance is not a project within the meaning of Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical changes in the environment, directly or indirectly.

### **Summary:**

The proposed Code amendments to the City’s design review and use permit review processes (Zoning Code Chapters 14.78 and 14.80) are intended to clarify the role of the Complete Streets Commission in the design review process, formalize the public notification requirements for design review study sessions, update the review requirements for use permits and design review applications, and remove antiquated and outdated language.

### **Background**

As part of the continuing effort to maintain and update the City’s ordinances, staff periodically identifies Zoning regulations that need to be amended to meet the current and future needs of the community. The recommended amendments related to the review and processing of design review and use permit applications has been identified by staff as meriting consideration. In particular, the Code needs to be amended to clarify the role of the Complete Streets Commission in the design review process and formalize the public notification requirements for design review study sessions. For reference purposes, underlined text is proposed language and ~~strike through text~~ is language proposed to be removed. Also, the existing language in Zoning Code Chapters 14.78 and 14.80 is included as Attachment B.

## **Discussion/Analysis**

### *Complete Streets Commission Review Process*

In 2012, the City Council expanded the charter of the Planning Commission to include transportation related roles and created the Bicycle and Pedestrian Advisory Commission (BPAC). One of the roles of the BPAC was to review development applications and act in an advisory capacity to the Planning and Transportation Commission on bicycle and pedestrian matters. The Zoning Code was amended to reflect the BPAC's role in the development review process (Zoning Code Section 14.78.090).

In 2017, the City Council adjusted the charter of the Planning Commission and created the Complete Streets Commission (CSC) to replace the BPAC. Ordinance No. 2017-434, which codified this change, is included at Attachment C. The powers and duties of the newly created CSC included an advisory role for all areas related to transportation. However, the Zoning Code (Section 14.78.090) was not amended to reflect the newly created CSC or its role within the development review process. Since the creation of the CSC in September 2017, staff has continued to route all development applications to the CSC for review, and expanded their purview to include bicycle, pedestrian, parking and traffic issues. But, an amendment to the Code is necessary to clarify the role of the CSC within the development review process.

To update the role and capacity of the CSC within the development review process, staff considered the Commission's powers and duties specified in Section 2.08.160, which generally includes an advisory role for bicycle, pedestrian, parking and traffic projects and issues within the City, and the General Plan's Circulation Element, which provides guidance on how transportation analysis should be conducted for new development projects. Within the Circulation Element, there is a specific implementing program (C8) that outlines the criteria for reviewing traffic and circulation for new development, and it requires the preparation of a transportation impact analysis for all projects that generate 50 or more net new daily trips. Therefore, to clarify the CSC's role within the development review process, staff recommends amending the Code as follows:

#### **14.78.090 - Transportation review.**

- A. An application for planning commission of city council design review pursuant to 14.78.020 shall be subject to a transportation review as part of the approval process in order to assess potential project bicycle, pedestrian, parking and/or traffic impacts on public streets when the project generates 50 or more net new daily trips and is required to prepare a transportation impact analysis.
- B. Projects subject to this section shall be reviewed by the complete streets commission at a public meeting with the commission providing a recommendation to the planning commission and/or the city council on the transportation impact analysis and on the elements of the project that pertain to bicycle, pedestrian, parking and traffic issues.

Since this threshold for a transportation review is specified in the General Plan, it is appropriate for the review specified in the Zoning Code to be in alignment. This proposed amendment would continue to require that all new development applications, except for the smallest ones that generate a minimal number of new trips, to be reviewed by the CSC before it is scheduled for review by the Planning Commission.

*Design Review Study Sessions*

In 2012, the Zoning Code was amended to include a section that provided criteria for design review study sessions before the Planning Commission. The goal was to encourage potential projects to schedule a pre-application study session in order to receive early design input from the Commission while the project's architectural design was still in the conceptual design phase. Since 2012, every large development application approved by the City has utilized the design review study session process to help guide its architectural and site design choices. And, following the City Council's adoption of the Downtown Building Committee recommendations in 2016, staff began including public notification (mailed and posted on the site) for study sessions to increase public awareness of new development proposals. The design review study session process has now become a standard first step for new development applications and an important early notification tool for interested members of the public. Therefore, staff recommends amending the Code to codify the role of the design review study session within the development review process as follows:

**14.78.040 - Design review study session.**

- A. Projects subject to design review pursuant to Section 14.78.020 of this chapter are eligible for design review study session before the planning commission.
- B. Projects subject to City Council Design Review pursuant to Section 14.78.020(C) of this chapter are required to have a pre-application design review study session before the planning commission in order to receive early design input.
- C. Study session review is available at any point in the application process and may be requested by an applicant or required by the community development director.
- D. Public notice shall be given at least ten (10) days prior to the date of the study session by the methods required in Section 14.78.030 (A-C).

The proposed amendment would now require large projects to have a pre-application study session, still allow any design review application to request a study session if appropriate and codify the requirement that all study sessions provide public notification.

*Design Review Approval Process*

As currently specified in the Zoning Code, there are two levels of design review required in a non-single-family (R1) zone district. Small projects that include exterior alterations, renovations and additions up to 500 square feet are subject to administrative design review that is approved by the Community Development Director or their designee. Any project that includes a new building or addition that exceeds 500 square feet is subject to a public design review process that currently includes review by the Complete Streets Commission, Planning Commission and City Council. This requirement for larger projects to be subject to a more intensive public review process before approval is a long-standing City requirement and community expectation.

However, for additions to existing buildings that exceed 500 square feet, but are non-controversial and do not meaningfully changing the use or character of the building or site, this review process can be excessive. A good example of this type of project is the renovation and expansion of the existing clubhouse for the apartment complex at 2270 Homestead Court that was approved by the City in 2017. The project included an increase in the size of the clubhouse from 1,900 square feet to 3,970 square feet in order to better meet the needs of the 216 apartment units in the complex. This was a relatively small project and generated no public interest or concern, but because it was an addition of more than 500 square feet, it was subject to a public design review process that included three public

meetings and took over six months to complete. Therefore, to allow smaller additions to existing buildings to be subject to a public design review process that is more equivalent to the magnitude of the project, staff recommends amending the Code as follows:

**14.78.020 - Requirement for design review.**

All new building construction, existing building alterations and expansions, and site improvements, excluding properties in an R1 or R3-4.5 district, shall be subject to design review pursuant to this chapter as follows:

- A. Administrative Design Review.
  - 1. Site improvements, exterior alterations or modification, or additions of up to 500 square feet shall be reviewed and approved by the community development director.
  - 2. The community development director in his or her discretion may refer any project to the planning commission for review and approval.
- B. Planning Commission Design Review.
  - 1. Additions to an existing building that exceeds 500 square feet and are equal to or less than 50 percent of the floor area of an existing structure shall be reviewed and approved by the planning commission at a public meeting.
- C. City Council Design Review.
  - 1. All new buildings and additions to existing buildings that exceed that exceed 50 percent of the floor area of an existing structure shall be reviewed and approved by the city council at a public meeting.
  - 2. Prior to consideration by the city council, the planning commission shall review the application at a public meeting and provide a recommendation to the city council.

The proposed amendment would still require public design review for an addition that exceed 500 square feet but is less than 50 percent of the size of the existing building, but it would allow the project to be approved by the Planning Commission. The Commission's action could be appealed to the City Council or rereviewed by the City Council if requested by two or more council members (see proposed amendment below), but otherwise, would allow smaller, non-controversial projects to have a less intensive and time-consuming public design review process.

*Use Permit Approval Process*

Similar to the proposed amendment to the to the design review process, staff has identified an opportunity to improve the City's use permit approval process. Currently, the Planning Commission is the decision-making body for use permits related to businesses proposed to occupy existing buildings in commercial and office districts. But all other use permits require review and approval by both the Planning Commission and City Council. In some cases, when a use permit generates a significant amount of public interest or concern, it is appropriate for the City Council to be the decision-making body. However, when a use permit is more minor in its request and non-controversial, it appears appropriate to allow the Planning Commission to be the decision-making body. Therefore, to allow the Planning Commission to be the decision-making body for all use permits unless appealed or called-up by the City Council, staff recommends amending the Code as follows:

**14.80.040 - Use permit review**

- A. The planning commission is the decision-making body for all use permits.
- B. The commission shall review the use permit application and all support information, receive public comment and any pertinent evidence concerning the proposed use and the

- conditions under which it would be operated or maintained, and shall make findings as specified in Section 14.80.060 of this chapter.
- C. The commission may add conditions as necessary to ensure compliance with the findings specified in Section 14.80.060 of this chapter.
  - D. The commission shall take action on the use permit as follows:
    - 1. Approve the conditional use, with or without conditions.
    - 2. Approve the conditional use for a limited period of time, with or without conditions.
    - 3. Deny the conditional use per negative findings as specified in Section 14.80.060 of this chapter.

The proposed amendment would allow the Planning Commission to be the decision-making body for all use permits, but allow the Commission's action to be appealed to the City Council or rereviewed by the City Council if requested by two or more council members (see proposed amendment below). This would allow minor and non-controversial use permits to have a less intensive and time-consuming approval process while still preserving the Council's ability to be the decision-maker if necessary.

*Public Notification, Appeals and Call-Ups*

In order to remove outdated and antiquated language and improve internal consistency between the design review and use permit chapters, staff is recommending the following amendments:

**(14.78.030 and 14.80.030) - Public meeting requirements.**

Notice of public meetings shall be given at least ten (10) days prior to the date of the meeting by all of the following methods:

- A. Mailing of notices via first-class mail to all property owners within five hundred (500) feet of the project site at the mailing address on record with the County Assessor;
- B. Mailing of notices via first-class mail to all commercial business tenants within five hundred (500) feet of the project site at the addresses shown on the latest city business license records; and
- C. Posting of a notice on the project site in accordance with the standards set by the community development director.
- D. All meetings before the planning commission conducted under this section, excluding study sessions, shall be noticed and conducted as public hearings and shall satisfy all notification requirements applicable to public hearings, including a notice published in a newspaper of general circulation within the city.

**14.78.100 - Appeals or call-ups.**

- A. Within fifteen (15) days of an action (approval or denial) on an administrative design review application, the decision may be appealed to the planning commission by any interested party.
- B. Within fifteen (15) days of an action (approval or denial) on a design review and/or variance application by the planning commission, the decision may be appealed to the city council by any interested party.
- C. The action (approval or denial) on a design review and/or variance application by the planning commission may be called up for review by the city council if two members of the city council submit requests to the city clerk to reconsider the action within fifteen (15) days of the date of the action. No fee shall be required for such a call up.

**14.80.070 - Appeals or call-ups.**

- A. Within fifteen (15) days of an action (approval or denial) on a use permit by the planning commission, the decision may be appealed to the city council by any interested party.
- B. The action (approval or denial) on a use permit by the planning commission may be called up for review by the city council if two members of the city council submit requests to the city clerk to reconsider the action within fifteen (15) days of the date of the action. No fee shall be required for such a call up.

The proposed amendments would create consistent public notification requirements for both design review and use permit applications, create a process for the City Council to call-up Planning Commission actions if so desired, and remove outdated and conflicting language.

A couple of other minor clean-ups to Chapter 14.80 include replacing the title of Section 14.80.060 “~~Commission and council action~~” with “Use permit findings,” which more accurately reflects the provisions in this section, and removing “transportation” from when the Planning Commission is referenced.

*Code Amendment Findings*

In order to approve amendments to the Zoning Code, the Planning Commission needs to find that the amendments are in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, or welfare, and are in conformance with the General Plan. As outlined in the draft ordinance (Attachment A) the proposed amendments do appear to be in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, and welfare of the City because they will clarify the role of the Complete Streets Commission in the design review process, formalize the public notification requirements for design review study sessions, update the review requirements for use permits and design review applications, and remove antiquated and outdated language. The proposed amendments are in conformance with the City of Los Altos General Plan because they will update the Code to be consistent with current practices and procedures for processing design review and use permit applications.

**Options**

The Planning Commission can recommend approval, approval with modifications, or denial of the proposed amendments. The advantages of the proposed amendments would be that the role of the Complete Streets Commission within the design review process would be clarified, the public notification requirements for a design review study session would be formalized, antiquated and outdated language would be updated or removed, and the review requirements for use permits and design review applications would be updated to better utilize the Planning Commission as a decision-making body for minor and non-controversial applications. Since the proposed amendments are intended to codify existing practices and policies that are already in place, staff has not identified any disadvantages.

Once the Planning Commission makes a recommendation, the amendments will be forwarded to the City Council for consideration and adoption.



# ATTACHMENT A

## ORDINANCE NO. 2019-\_\_\_

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

**WHEREAS**, the City of Los Altos initiated an application (19-CA-01) to amend Title 14 of the Los Altos Municipal Code in order to clarify and update the requirements and processes related to design review (Chapter 14.78) and use permits (Chapter 14.80), referred herein as the “CA”; and

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

**WHEREAS**, the amendments are in conformance with the City of Los Altos General Plan because they will update the Code to be consistent with current practices and procedures for processing design review and use permit applications; and

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

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

**WHEREAS**, the Planning Commission held a duly noticed public hearing on the CA on March 21, 2019, at which it recommended \_\_\_\_\_ of the CA; and

**WHEREAS**, the City Council held a duly noticed public hearing on the CA on \_\_\_\_\_, 2019; and

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

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

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

**SECTION 1. AMENDMENT OF CODE:** Sections 14.78.020, .030 and .040 in Chapter 14.78 in Title 14 of the Los Altos Municipal Code are hereby replaced as follows:

**14.78.020 - Requirement for design review.**

All new building construction, existing building alterations and expansions, and site improvements, excluding properties in an R1 or R3-4.5 district, shall be subject to design review pursuant to this chapter as follows:

A. Administrative Design Review.

1. Site improvements, exterior alterations or modification, or additions of up to 500 square feet shall be reviewed and approved by the community development director.
2. The community development director in his or her discretion may refer any project to the planning commission for review and approval.

B. Planning Commission Design Review.

1. Additions to an existing building that exceeds 500 square feet and are equal to or less than 50 percent of the floor area of an existing structure shall be reviewed and approved by the planning commission at a public meeting.

C. City Council Design Review.

1. All new buildings and additions to existing buildings that exceed that exceed 50 percent of the floor area of an existing structure shall be reviewed and approved by the city council at a public meeting.
2. Prior to consideration by the city council, the planning commission shall review the application at a public meeting and provide a recommendation to the city council.

**14.78.030 - Public meeting requirements.**

Notice of public meetings shall be given at least ten (10) days prior to the date of the meeting by all of the following methods:

- A. Mailing of notices via first-class mail to all property owners within five hundred (500) feet of the project site at the mailing address on record with the County Assessor;
- B. Mailing of notices via first-class mail to all commercial business tenants within five hundred (500) feet of the project site at the addresses shown on the latest city business license records;  
and
- C. Posting of a notice on the project site in accordance with the standards set by the community development director.
- D. All meetings before the planning commission conducted under this section, excluding study sessions, shall be noticed and conducted as public hearings and shall satisfy all notification requirements applicable to public hearings, including a notice published in a newspaper of general circulation within the city.

**14.78.040 - Design review study session.**

- A. Projects subject to design review pursuant to Section 14.78.020 of this chapter are eligible for design review study session before the planning commission.
- B. Projects subject to City Council Design Review pursuant to Section 14.78.020(C) of this chapter are required to have a pre-application design review study session before the planning commission in order to receive early design input.
- C. Study session review is available at any point in the application process and may be requested by an applicant or required by the community development director.

- D. Public notice shall be given at least ten (10) days prior to the date of the study session by the methods required in Section 14.78.030 (A-C).

**SECTION 2. AMENDMENT OF CODE:** Sections 14.78.090 and .100 in Chapter 14.78 in Title 14 of the Los Altos Municipal Code are hereby replaced as follows:

**14.78.090 - Transportation review.**

- A. An application for planning commission of city council design review pursuant to 14.78.020 shall be subject to a transportation review as part of the approval process in order to assess potential project bicycle, pedestrian, parking and/or traffic impacts on public streets when the project generates 50 or more net new daily trips and is required to prepare a transportation impact analysis.
- B. Projects subject to this section shall be reviewed by the complete streets commission at a public meeting with the commission providing a recommendation to the planning commission and/or the city council on the transportation impact analysis and on the elements of the project that pertain to bicycle, pedestrian, parking and traffic issues.

**14.78.100 - Appeals or call-ups.**

- A. Within fifteen (15) days of an action (approval or denial) on an administrative design review application, the decision may be appealed to the planning commission by any interested party.
- B. Within fifteen (15) days of an action (approval or denial) on a design review and/or variance application by the planning commission, the decision may be appealed to the city council by any interested party.
- C. The action (approval or denial) on a design review and/or variance application by the planning commission may be called up for review by the city council if two members of the city council submit requests to the city clerk to reconsider the action within fifteen (15) days of the date of the action. No fee shall be required for such a call up.

**SECTION 3. AMENDMENT OF CODE:** Sections 14.80.030 and .040 in Chapter 14.80 in Title 14 of the Los Altos Municipal Code are hereby replaced as follows:

**14.80.030 - Public meeting requirements**

Notice of public meetings shall be given at least ten (10) days prior to the date of the meeting by all of the following methods:

- A. Mailing of notices via first-class mail to all property owners within five hundred (500) feet of the project site at the mailing address on record with the County Assessor;
- B. Mailing of notices via first-class mail to all commercial business tenants within five hundred (500) feet of the project site at the addresses shown on the latest city business license records; and
- C. Posting of a notice on the project site in accordance with the standards set by the community development director.
- D. All meetings before the planning commission conducted under this section, excluding study sessions, shall be noticed and conducted as public hearings and shall satisfy all notification requirements applicable to public hearings, including a notice published in a newspaper of general circulation within the city.

**14.80.040 - Use permit review**

- A. The planning commission is the decision-making body for all use permits.
- B. The commission shall review the use permit application and all support information, receive public comment and any pertinent evidence concerning the proposed use and the conditions under which it would be operated or maintained, and shall make findings as specified in Section 14.80.060 of this chapter.
- C. The commission may add conditions as necessary to ensure compliance with the findings specified in Section 14.80.060 of this chapter.
- D. The commission shall take action on the use permit as follows:
  - 1. Approve the conditional use, with or without conditions.
  - 2. Approve the conditional use for a limited period of time, with or without conditions.
  - 3. Deny the conditional use per negative findings as specified in Section 14.80.060 of this chapter.

**SECTION 4. AMENDMENT OF CODE:** Section 14.80.045 in Chapter 14.80 in Title 14 of the Los Altos Municipal Code is hereby removed.

**~~14.80.045 - Hearings - Procedures for office and commercial districts.~~**

~~Notwithstanding the provisions of Section 14.80.040 of this chapter, the planning and transportation commission shall be the decision-making body for conditional use permit applications in all OA and C districts for businesses proposed in existing structures. This section shall not apply to conditional use permit applications that are subject to the requirements of Chapter 14.78 of this title. All other applicable provisions of this chapter shall remain in effect. The action of the planning and transportation commission shall be final unless it is appealed in writing to the city council, and the appropriate fee is paid, within fifteen (15) days of the date of the action.~~

**SECTION 5. AMENDMENT OF CODE:** The title of Section 14.80.060 in Chapter 14.80 in Title 14 of the Los Altos Municipal Code is hereby amended as follows:

**14.80.060 - Use permit findings. ~~Commission and council action.~~**

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

**14.80.070 - Appeals or call-ups.**

- A. Within fifteen (15) days of an action (approval or denial) on a use permit by the planning commission, the decision may be appealed to the city council by any interested party.
- B. The action (approval or denial) on a use permit by the planning commission may be called up for review by the city council if two members of the city council submit requests to the city clerk to reconsider the action within fifteen (15) days of the date of the action. No fee shall be required for such a call up.

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

**14.80.080 - Revocation.**

A use permit may be revoked by the community development director, planning ~~and transportation~~ commission and/or city council, whichever body initially approved the permit, based upon a

determination by the community development director that the holder of the permit has failed to comply with any condition thereof or has violated any applicable provision of this chapter. The revocation procedure shall be the same as prescribed in this chapter for the initial use permit.

**14.80.090 - New applications.**

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

**SECTION 8. 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 9. CEQA.** This ordinance is not subject to review under the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*) because the ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §15378. The ordinance amends Los Altos Municipal Code provisions pertaining to the review and processing of design review and use permit applications. It does not commit the City of Los Altos or any other party to any direct course of action, other than to review and process design review and use permit applications in an updated manner and will not result in any physical changes in and of itself. Moreover, as a separate and independent basis, to the extent the ordinance was determined to be subject to CEQA, it would be exempt from further review pursuant to the ‘common sense’ exemption (14 CCR §15061(b)(3)), as it can be seen with certainty that there is no possibility that the adoption of the ordinance may have a significant effect on the environment.

**SECTION 10. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 11. EFFECTIVE DATE.** This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on \_\_\_\_\_, 2019 and was thereafter, at a regular meeting held on \_\_\_\_\_, 2019 passed and adopted by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

\_\_\_\_\_  
Lynette Lee Eng, MAYOR

Attest:

\_\_\_\_\_  
Jon Maginot, CMC, CITY CLERK

## Chapter 14.78

### DESIGN AND TRANSPORTATION REVIEW—MULTIPLE-FAMILY, PUBLIC AND COMMUNITY FACILITIES, OFFICE AND ADMINISTRATIVE, AND COMMERCIAL DISTRICTS\*

#### Sections:

- 14.78.010 Purpose.
- 14.78.020 Requirement for administrative design review.
- 14.78.030 Requirement for public hearing design review.
- 14.78.040 Recommendation for pre-application study session design review.
- 14.78.050 Initial application review.
- 14.78.060 Design review findings.
- 14.78.070 Variances.
- 14.78.080 Expiration of design review and/or variance approval—Extensions.
- 14.78.090 Requirement for transportation review.
- 14.78.100 Appeals.

#### 14.78.010 Purpose.

The purpose of this chapter is to preserve and protect the character and public safety of the city and to enhance the aesthetic qualities and bicycle and pedestrian safety and functionality of its multiple-family, public and community facilities, office and administrative and commercial districts by requiring design and transportation review of new structures and certain expansions of existing structures.

(Ord. No. 2012-382, § 1, 5-22-2012)

\*Editor's note—Ord. No. 2012-382, § 1, adopted May 22, 2012, amended Ch. 14.78 in its entirety, in effect repealing and reenacting said chapter to read as herein set out. Former Ch. 14.79, §§ 14.78.010—14.78.050, pertained to similar subject matter and derived from Ord. No. 04-260, § 1; and Ord. No. 07-306, § 9.

#### 14.78.020 Requirement for administrative design review.

A. No building permit shall be issued for any new main or accessory structure, or addition or alteration thereto within an R3, PCF, PUD, PC, OA or C district, until such construction has received administrative design review approval by the community development director or their designee. Window replacements, reroofing and rooftop venting and exhausting equipment, and mechanical equipment are exempt from this requirement.

B. Whenever, as determined by the community development director or their designee, the construction, expansion or modification of a main or accessory structure may be in conflict with the design review findings contained in this chapter, the project shall be referred to the planning and transportation commission for action on the design review approval.

(Ord. No. 2012-382, § 1, 5-22-2012; Ord. No. 2016-423, § 1, 5, 9-27-2016)

#### 14.78.030 Requirement for public hearing design review.

A. In each of the following cases, no building permit shall be issued for property within an R3, PCF, PUD, PC, OA or C district until the proposed improvements have received design review approval by the city council pursuant to this chapter:

1. Any new main structure or accessory structure over five hundred (500) square feet;
2. Any expansion over five hundred (500) square feet to an existing main or accessory structure;

B. Applications for design review shall be reviewed in the following manner:

1. The planning and transportation commission shall review the application as a whole. The planning and transportation commission shall forward a recommendation to the city council.

2. The city council shall be the approving authority for applications for design review under this chapter.

C. A public meeting notice for the planning and transportation commission meeting and the city council meeting shall be required. 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. The planning and transportation commission 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. 2012-382, § 1, 5-22-2012; Ord. No. 2016-423, § 5, 9-27-2016)

**14.78.040 Recommendation for pre-application study session design review.**

Projects subject to design review pursuant to Section 14.78.030 of this chapter are eligible for pre-application design review before the planning and transportation commission. This review is in a study session format and is best served early in the design preparation process. This review is encouraged to receive early design input from the commission. Study session review is also available at any point in the application process, and may be requested by an applicant or may be required by the community development director or their designee.

(Ord. No. 2012-382, § 1, 5-22-2012; Ord. No. 2016-423, § 1, 9-27-2016)

**14.78.050 Initial application review.**

All applications filed with the community development department in compliance with this zoning code shall be accompanied by the payment of a processing fee in such amount as established by resolution of the city council and initially processed as follows:

A. Review for completeness. The community development director or their designee shall re-

view all applications for completeness and accuracy before accepting them as complete. The determination of completeness shall be based on the city's list of required application contents as prescribed in the "submittal requirements" documents provided by the community development department.

B. Notification of applicant. The community development director or their designee shall notify the applicant in writing within thirty (30) days of the filing of the application with the community development department that either the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, as specified in the letter, shall be provided. If subsequent written comments from the community development director or their designee identify deficiencies not initially raised within thirty (30) days of the filing of the application, then this subsequent letter will be considered the notification of incompleteness for the purposes of determining the application expiration date.

C. Appeals of administrative decisions. Determinations of incompleteness or denials of an extension request may be appealed to the city council pursuant to Chapter 1.12 (Appeals).

D. Expiration of application. If the applicant does not provide the information and materials necessary for a complete application within one hundred eighty (180) days after notification of incompleteness, the application shall be deemed expired. After expiration of the application or extension, if granted, a new application, including fees, plans, exhibits, and other materials will be required to commence processing of any project on the same property.

E. Extensions. The applicant may request, in writing, within the one hundred eighty (180) day time period, an extension of up to one hundred eighty (180) days to the community development director or their designee. Approval of the extension is contingent on the applicant demonstrating that there are extenuating circumstances that have caused a delay in the submittal of the required information.

F. Environmental information. After an application has been accepted as complete, the community development director or their designee may require additional information as necessary for the project's environmental review.  
(Ord. No. 2016-423, § 6, 9-27-2016)

#### **14.78.060 Design review findings.**

In approving applications for design review approval under this chapter, the planning and transportation commission and the city council shall make the following findings:

A. The proposal meets the goals, policies and objectives of the general plan and any specific plan, design guidelines and ordinance design criteria adopted for the specific district or area.

B. The proposal has architectural integrity and has an appropriate relationship with other structures in the immediate area in terms of height, bulk and design.

C. Building mass is articulated to relate to the human scale, both horizontally and vertically. Building elevations have variation and depth, and avoid large blank wall surfaces. Residential or mixed-use residential projects incorporate elements that signal habitation, such as identifiable entrances, stairs, porches, bays and balconies.

D. Exterior materials and finishes convey high quality, integrity, permanence and durability, and materials are used effectively to define building elements such as base, body, parapets, bays, arcades and structural elements. Materials, finishes, and colors have been used in a manner that serves to reduce the perceived appearance of height, bulk and mass, and are harmonious with other structures in the immediate area.

E. Landscaping is generous and inviting, and landscape and hardscape features are designed to complement the building and parking areas, and to be integrated with the building architecture and the surrounding streetscape. Landscaping includes substantial street tree canopy, either in the public right-of-way or within the project frontage.

F. Signage is designed to complement the building architecture in terms of style, materials, colors and proportions.

G. Mechanical equipment is screened from public view and the screening is designed to be consistent with the building architecture in form, material and detailing.

H. Service, trash and utility areas are screened from public view, or are enclosed in structures that are consistent with the building architecture in materials and detailing.

(Ord. No. 2012-382, § 1, 5-22-2012; Ord. No. 2016-423, § 6, 9-27-2016; Ord. No. 2016-427, § 3, 11-8-2016)

*Editor's note*—Ord. No. 2016-423, § 6, adopted September 27, 2016, enacted a new § 14.78.050 and renumbered the remaining §§ 14.78.050—14.78.080 as §§ 14.76.060—14.76.090. The historical notation has been retained with the amended provisions for reference purposes.

#### **14.78.070 Variances.**

A. Purpose. In order to avoid such practical difficulties, unnecessary physical hardships and results inconsistent with the objectives of the zoning plans stated in Article 1 of Chapter 14.02, as would result from a strict or literal application of the provisions of this chapter, the planning and transportation commission may approve or recommend variances to the regulations controlling site area, width, depth and coverage, yards, and other open spaces, parking spaces, loading spaces, height of structures, allowable building floor area and fences for those properties located within an R3, PCF, PUD, PC, OA or C district.

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

1. The planning and transportation commission shall be the approving authority for all variance applications that are not subject to Section 14.78.030 of this chapter. A public hearing shall be required. 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.



2. The city council shall be the approving authority for all variance applications that are subject to Section 14.78.030 of this chapter. The planning and transportation commission shall review the variance application and forward a recommendation to the city council.

C. Findings. A variance request may be granted as applied for if, on the basis of the application and the evidence submitted, the following positive findings can be made:

1. That the granting of the variance will be consistent with the objectives of the zoning plan set forth in Article 1 of Chapter 14.02;

2. That the granting of the variance will not be detrimental to the health, safety, or welfare of persons living or working in the vicinity or injurious to property or improvements in the vicinity; and

3. That variances from the provisions of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

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

(Ord. No. 2012-382, § 1, 5-22-2012; Ord. No. 2016-423, §§ 6, 7, 9-27-2016)

*Editor's note*—See editor's note, § 14.78.060.

#### **14.78.080 Expiration of design review and/or variance approval—Extensions.**

A. Design review and/or variance approvals granted pursuant to this chapter shall expire twenty-four (24) months from the date on which the approval became effective, unless prior to such expiration date a building permit is issued for the improvements constituting the subject of the approval and construction thereof is commenced and prosecuted diligently toward completion.

B. Design review and/or variance approvals may be extended for a period of time not exceeding twelve (12) months. The application for extension shall be filed prior to the expiration date and shall be accompanied by the payment of a fee in such amount as established from time to time by resolution of the city council. Extensions of the approval are contingent on the community development director or their designee finding that the project complies with all current zoning ordinance regulations.

(Ord. No. 2012-382, § 1, 5-22-2012; Ord. No. 2016-423, §§ 6, 8, 9-27-2016)

*Editor's note*—See editor's note, § 14.78.060.

#### **14.78.090 Requirement for transportation review.**

A. Purpose. Projects subject to design review pursuant to Section 14.78.030 of this chapter shall also be subject to a transportation review in order to assess potential project bicycle, pedestrian, parking and/or traffic impacts on public streets.

B. Procedure. Projects subject to this section shall be reviewed in the following manner:

1. The bicycle and pedestrian advisory commission shall consider the project/subject at a public meeting and shall act in an advisory capacity to the planning and transportation commission on bicycle and pedestrian matters.

2. The planning and transportation commission shall also consider the project/subject at a public meeting and act in an advisory capacity to the city council on bicycle, pedestrian, parking and traffic matters.

(Ord. No. 2012-382, § 1, 5-22-2012; Ord. No. 2016-423, § 6, 9-27-2016)

*Editor's note*—See editor's note, § 14.78.060.

#### **14.78.100 Appeals.**

A. Within fifteen (15) days of an approval or denial of an administrative design review application, the decision may be appealed to the planning and transportation commission.

B. Within fifteen (15) days of an approval or denial of a design review and/or variance applica-

14.78.100

tion by the planning and transportation commission, the decision may be appealed to the city council.

(Ord. No. 2016-423, § 9, 9-27-2016)

## Chapter 14.80

### USE PERMITS\*

#### Sections:

- 14.80.010 Conditional uses.**
- 14.80.020 Initial application review.**
- 14.80.030 Hearings—Notices.**
- 14.80.040 Hearings—Procedure.**
- 14.80.045 Hearings—Procedures for office and commercial districts.**
- 14.80.050 Hearings—Procedures for personal wireless communication facilities.**
- 14.80.060 Commission and council action.**
- 14.80.070 Council action.**
- 14.80.080 Revocation.**
- 14.80.090 New applications.**
- 14.80.100 Expiration of use permit approval—Extensions.**
- 14.80.110 Modification of a use permit.**

#### **14.80.010 Conditional uses.**

Uses which are permitted in certain districts upon the granting of a use permit shall be deemed conditional uses. Such uses, because of their unusual characteristics, shall be given special consideration to the end that they be located properly with respect to the objectives of the zoning plan and with respect to their effects upon surrounding properties. The specific conditions under which each such use is permitted shall be considered in the light of general public interests and the interests of persons residing or working in the vicinity of the use. (Prior code § 10-2.2801)

#### **14.80.020 Initial application review.**

All applications filed with the community development department in compliance with this zoning code shall be accompanied by the payment

\*Editor's note—Ord. No. 2012-383, § 3, adopted May 22, 2012, changed all references to the "planning commission" within Ch. 14.80 to the "planning and transportation commission."

of a processing fee in such amount as established by resolution of the city council and initially processed as follows.

A. Review for completeness. The community development director or their designee shall review all applications for completeness and accuracy before accepting them as complete. The determination of completeness shall be based on the city's list of required application contents as prescribed in the "submittal requirements" documents provided by the community development department.

B. Notification of applicant. The community development director or their designee shall notify the applicant in writing within thirty (30) days of the filing of the application with the community development department that either the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, as specified in the letter, shall be provided. If subsequent written comments from the community development director or their designee identify deficiencies not initially raised within thirty (30) days of the filing of the application, then this subsequent letter will be considered the notification of incompleteness for the purposes of determining the application expiration date.

C. Appeals of administrative decisions. Determinations of incompleteness or denials of an extension request may be appealed to the city council pursuant to Chapter 1.12 (Appeals).

D. Expiration of application. If the applicant does not provide the information and materials necessary for a complete application within one hundred eighty (180) days after notification of incompleteness, the application shall be deemed expired. After expiration of the application or extension, if granted, a new application, including fees, plans, exhibits, and other materials will be required to commence processing of any project on the same property.

E. Extensions. The applicant may request, in writing, within the one hundred eighty (180) day time period, an extension of up to one hundred

eighty (180) days to the community development director or their designee. Approval of the extension is contingent on the applicant demonstrating that there are extenuating circumstances that have caused a delay in the submittal of the required information.

F. Environmental information. After an application has been accepted as complete, the community development director or their designee may require additional information as necessary for the project's environmental review. (Ord. No. 2016-423, § 11, 9-27-2016)

#### **14.80.030 Hearings—Notices.**

The commission shall hold at least one public hearing on each application for a use permit. 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 all of the following methods:

A. Mailing of notices via first class mail to the owners of all properties within five hundred (500) feet of the boundaries of the site at the addresses shown on the latest equalized assessment roll;

B. For projects in other than R zoning districts, the mailing of notices via first class mail to the business tenants within five hundred (500) feet of the boundaries of the site at the addresses shown on the latest city business license records;

C. Publication of a notice in a newspaper of general circulation within the city; and

D. Posting of a notice on the project site in accordance with the standards set by the planning director.

Notice of the city council meeting at which the use permit is scheduled to be considered shall also be provided as set forth in subsections A and B of this section not less than ten (10) days prior to the meeting. (Ord. 00-382 § 4; prior code § 10-2.2803)

#### **14.80.040 Hearings—Procedure.**

At the public hearing the commission shall review the application and statements, plans, and drawings submitted therewith and shall receive

pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with respect to the issues set forth in Section 14.80.060 of this chapter on which the commission is required to make findings prior to transmitting its report to the council. (Prior code § 10-2.2804)

#### **14.80.045 Hearings—Procedures for office and commercial districts.**

Notwithstanding the provisions of Section 14.80.040 of this chapter, the planning and transportation commission shall be the decision-making body for conditional use permit applications in all OA and C districts for businesses proposed in existing structures. This section shall not apply to conditional use permit applications that are subject to the requirements of Chapter 14.78 of this title. All other applicable provisions of this chapter shall remain in effect. The action of the planning and transportation commission shall be final unless it is appealed in writing to the city council, and the appropriate fee is paid, within fifteen (15) days of the date of the action. (Ord. 07-312 § 11; Ord. 01-394 § 6; Ord. No. 2016-423, § 12, 9-27-2016)

#### **14.80.050 Hearings—Procedures for personal wireless communication facilities.**

A. Notwithstanding the provisions of Section 14.80.040 of this chapter, hearings for personal wireless services and facilities shall be conducted in accordance with the provisions of this chapter, except as follows:

1. Administrative review. The community development director or their designee shall be the approving authority for all distributed, repeater, or microcell antenna systems and building-mounted antennas that comply with applicable zoning regulations.

2. Planning and transportation commission review. The planning and transportation commission shall be the approving authority for all monopole antennas that comply with applicable zoning regulations.

3. Planning and transportation commission and city council review. The planning and transportation commission and city council shall be the approving authority for all antennas that require a variance to the applicable zoning regulations.

B. Notice of public hearings shall be in accord with Sections 14.80.030(C) and (D) of this chapter. The action of the community development director or their designee may be appealed to the planning and transportation commission. The action of the planning and transportation commission may be appealed to the city council. Actions of the community development director or their designee and planning and transportation commission are final unless appealed in writing within fifteen (15) days of the date of action. (Ord. 06-304 § 2; Ord. 05-277 § 2; prior code § 10-2.2804.1; Ord. No. 2016-423, § 1, 9-27-2016)

#### **14.80.060 Commission and council action.**

The commission and council shall make a specific finding on each of the following issues:

A. That the proposed location of the conditional use is desirable or essential to the public health, safety, comfort, convenience, prosperity, or welfare;

B. That the proposed location of the conditional use is in accordance with the objectives of the zoning plan as stated in Chapter 14.02 of this title;

C. That the proposed location of the conditional use, under the circumstances of the particular case, will not be detrimental to the health, safety, comfort, convenience, prosperity, or welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;

D. That the proposed conditional use will comply with the regulations prescribed for the district in which the site is located and the general provisions of Chapter 14.02;

E. When the proposed conditional use and/or structure is located in the CRS District, the commission and council shall make a specific finding on each of the following issues:

1. That the proposed use and/or structure is in scale with the existing development and it enhances the unique village character of the CRS District; and

2. That the proposed use and/or structure will not cause degradation in the level of service of the streets and intersections within the CRS District;

F. When the proposed conditional use is a flag lot, the commission and council shall make a specific finding on each of the following issues. Any negative findings may result in denial of the use permit or in conditions of approval which alter the minimum development standards, e.g., height, floor area, and setbacks, for the district in which the property is located.

1. That the size of the proposed flag lot is sufficient to mitigate development impacts and is compatible with the existing lots in the immediate neighborhood;

2. That the proposed flag lot will not result in unreasonable noise impacts for neighbors adjoining the access corridor;

3. That the proposed flag lot will not result in unreasonable privacy invasion or unreasonable massing as a result of building height;

4. That the proposed flag lot will not result in incompatible setbacks from neighboring properties;

5. That the allowed floor area ratio in accordance with district regulations will not result in adverse impacts on neighboring properties;

G. When the proposed conditional use is a large family day care home as defined by the California Health and Safety Code, the commission and council shall make a specific finding on each of the following issues:

1. That the day care home provides a minimum of four off-street parking spaces;

2. That the day care home provides staggered drop-off and pick-up times in order to minimize traffic impacts;

3. That the day care home provides noise mitigation measures in order to minimize the noise levels generated by outdoor play areas, and that children's outdoor play only occurs between the hours of 8:00 a.m. and 7:00 p.m.;

4. That the day care home is not located within one thousand five hundred (1,500) feet of another large family day care home, as measured following the street, or within five hundred (500) feet of another large family day care home as measured from any property line;

5. That the day care home is visually incidental and secondary to the residential use of the property;

6. That the day care home is the principal residence of the child care provider;

7. That if the day care home is located on a flag lot, that lot shall be a minimum of fifteen thousand (15,000) square feet;

H. When the proposed conditional use is a nonconforming ground floor office use, the planning and transportation commission and city council shall make one or more of the following findings:

1. That access to the space to be occupied can only be reached through another business;

2. That there is no direct frontage to the space to be occupied from the street or parking plaza; and/or

3. That the building to be occupied is constructed in such a manner that its conversion to retail is infeasible or would cause unreasonable economic hardship due to the type of construction, the structural remodeling required to convert to retail, lack of window display, or other constraint identified with the findings;

I. When a conditional use permit is required for a medical or dental office, or medical, dental or animal clinic or hospital, the planning and transportation commission shall make a specific finding that there is adequate on-site parking to support the facility, including staff, patients, visitors

and other ancillary support services. This determination shall be based on a parking demand analysis prepared by a qualified professional and presented to the planning and transportation commission at a public hearing;

J. When conditional expansion in the LC/SPZ District is requested as provided for in Section 14.42.040, the commission and council shall make a specific finding on each of the following issues:

1. That the proposed construction is found to meet the specific purposes of the district pursuant to Section 14.42.020 of the Los Altos Municipal Code;

2. That the proposed square footage contributes to expansion potential pursuant to Section 14.42.040 of the Los Altos Municipal Code in the following order:

i. The square footage contributes to the permitted fifteen thousand (15,000) square foot new ground-level retail until such total square footage is achieved, at which time,

ii. The square footage contributes to the permitted four thousand (4,000) square foot second-level retail services until such total square footage is achieved, at which time,

iii. The square footage contributes to the permitted four thousand (4,000) square foot second-level office;

3. That the use occupying the proposed square footage builds upon the existing strengths of the Loyola Corners Neighborhood Commercial Center and adds business which is appropriate in terms of use, physical scale, and size of the site.

Notwithstanding the above findings, the planning and transportation commission and city council may find that a use which meets all code criteria may not be in the best interest of the Loyola Corners Commercial Neighborhood Center;

K. When an extension of time is requested for an office use in the LC/SPZ District as provided for in Section 14.42.030 of this chapter, the commission and council may in its sole discretion

make a determination as to the length of the term, provided findings on each of the following issues can be made:

1. That there is a five percent or greater vacancy rate (excluding the space in question) in the LC/SPZ zoning district;

2. That the property owner has demonstrated to the satisfaction of the commission and council that the use has been economically beneficial to the Loyola Corners Neighborhood Commercial Center;

3. That the use has proven to be of a type that receives significant on-site clientele visitations;

4. That the use has maintained a pedestrian-friendly exterior by maintaining visual access into the building interior through windows which are not permanently blocked during business hours; and

5. That continuance of the use would not further move the area from an ideal cost/benefit ratio of seventy (70) percent retail and thirty (30) percent office which is determined necessary to: (i) provide a retail center whose function it is to provide retail services to the surrounding community; (ii) provide a lively, active, and diversified shopping experience; and (iii) ensure that a reasonable portion of the commercial activities are generating taxable retail sales. (Ord. 07-312 § 12; Ord. 05-294 § 4; Ord. 05-271 § 3; prior code § 10-2.2805) (Ord. No. 2015-406, § 6, 2-10-2015)

#### **14.80.070 Council action.**

A. In the case of approval or an appeal, the council shall review the use permit application and consider the report of the commission. The council may grant the use permit or deny the use permit application. The council may hold a public hearing if it determines such hearing is necessary or desirable.

B. A use permit may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the council may prescribe. (Prior code § 10-2.2806)

#### **14.80.080 Revocation.**

A use permit may be revoked by the community development director or their designee, planning and transportation commission and/or city council, whichever body initially approved the permit, based upon a determination by the community development director or their designee that the holder of the permit has failed to comply with any condition thereof or has violated any applicable provision of this chapter. The revocation procedure shall be the same as prescribed in this chapter for the initial use permit. (Prior code § 10-2.2807)

(Ord. No. 2011-368, § 3, 7-26-2011; Ord. No. 2016-423, § 1, 9-27-2016)

#### **14.80.090 New applications.**

Following the denial of a use permit application or the revocation of a use permit by the council, no application for a use permit for the same or substantially the same conditional use on the same or substantially the same site shall be filed within six months after the date of the denial or revocation of the use permit. (Prior code § 10-2.2808)

#### **14.80.100 Expiration of use permit approval—Extensions.**

A. Use permit approvals granted pursuant to this chapter shall expire twenty-four (24) months from the date on which the approval became effective, unless prior to such expiration date, a building permit is issued for the improvements constituting the subject of the use permit approval, and construction thereof is commenced and prosecuted diligently toward completion.

B. Use permit approvals may be extended for a period of time not exceeding twelve (12) months. The application for extension shall be filed prior to the expiration date and shall be accompanied by the payment of a fee in such amount as established from time to time by resolution of the city council. Extensions of use permit approval are contingent on the community development director or their designee finding that the project com-

plies with all current zoning ordinance regulations. (Ord. 05-279 § 1; prior code § 10-2.2809; Ord. No. 2016-423, § 1, 9-27-2016)

**14.80.110 Modification of a use permit.**

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

A. It is appealed in writing to the city council, and the appropriate fee is paid, within fifteen (15) days of the date of the action;

B. Two members of the city council submit requests to the city clerk to reconsider the action within fifteen (15) days of the date of the action. (Ord. No. 2016-423, § 13, 9-27-2016)



# ATTACHMENT C

## ORDINANCE NO. 2017-434

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS CREATING A COMPLETE STREETS COMMISSION

**WHEREAS**, issues relating to transportation are a high priority to the Los Altos City Council and to the Los Altos community; and

**WHEREAS**, since 2012, the City's Planning and Transportation Commission has been responsible for providing recommendations to the City Council regarding all transportation-related matters; and

**WHEREAS**, the City's Bicycle and Pedestrian Advisory Commission has also provided recommendations to both the Planning and Transportation Commission and the City Council regarding matters related to its focus areas; and

**WHEREAS**, the City Council has determined that to bring greater focus on transportation-related matters, the City Council desires to create a Complete Streets Commission; and

**WHEREAS**, the Planning and Transportation Commission will become the Planning Commission; and

**WHEREAS**, the Bicycle and Pedestrian Advisory Commission will now become the Complete Streets Commission.

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

#### **SECTION 1. AMENDMENT OF CODE:**

##### **2.08.060 - Powers and duties of the planning ~~and transportation~~ commission.**

The ~~planning and transportation~~ commission shall have those powers and duties given it by the State Planning Act (Title 7 of Chapter 3 of the Government Code of the state, commencing with Section 65100), as amended from time to time, and such other powers as granted it by the other provisions of this Municipal Code, or as may be entrusted to it by the council from time to time, and shall submit an annual report to the council.

~~The planning and transportation commission shall act in an advisory capacity to the council on transportation issues. Transportation issues shall include automobile circulation, pedestrian, bicycle and handicapped access, and public transportation on all public streets, roadways and paths within the city limits of the City of Los Altos.~~

~~The planning and transportation commission shall advise the council on existing and proposed city policies related to traffic calming and traffic enforcement.~~

~~The planning and transportation commission shall advise the council on projects and budget priorities for traffic-related capital improvements.~~

**2.08.160 - Powers and duties of the ~~bicycle and pedestrian advisory~~ complete streets commission.**

~~The bicycle and pedestrian advisory commission advises the council on bicycle and pedestrian issues, recommends updates to the city's bicycle transportation plan, identifies and prioritizes projects that will improve bicycle and pedestrian safety and access within Los Altos and shall submit an annual report to the council.~~

- Help to create multi-modal transportation solutions and policies that enable safe, attractive, comfortable and independent access and travel for pedestrians, bicyclists, transit users, and motorists of all ages and abilities, including connectivity across jurisdictional boundaries.
- Shall advise the council on existing and proposed city policies related to traffic calming and traffic enforcement.
- Shall advise the council on projects and budget priorities for transportation-related capital improvements.
- Provide for community engagement and serve as a conduit for community input.

**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. PUBLICATION.** 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.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on September 12, 2017 and was thereafter, at a regular meeting held on September 26, 2017 passed and adopted by the following vote:

AYES: BRUINS, LEE ENG, MORDO, PEPPER, PROCHNOW  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

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Mary Prochnow, MAYOR

Attest:

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Jon Maginot, CMC, CITY CLERK



**DISCUSSION ITEMS**

**Agenda Item # 6**

**AGENDA REPORT SUMMARY**

**Meeting Date:** May 14, 2019

**Subject:** Resolution No. 2019-07: Two-Lot Subdivision at 831 Arroyo Road

**Prepared by:** Zachary Dahl, Planning Services Manager (for Sean Gallegos)

**Reviewed by:** Jon Biggs, Community Development Director

**Approved by:** Chris Jordan, City Manager

**Attachments:** (Attachments previously provided on April 23, 2019)

1. Resolution No. 2019-07
2. Applicant Cover Letter
3. City Council Meeting Minutes, March 26, 2019
4. City Council Agenda Report, March 26, 2019
5. Public correspondence
6. Updated Tentative Map

**Initiated by:**

Ying-Min Li, Applicant and Property Owner

**Previous Council Consideration:**

March 26, 2019; April 23, 2019

**Fiscal Impact:**

It is estimated that the project will pay \$77,500 to the City's Park in-Lieu fund and \$6,774.20 to the City's Traffic Impact Fee fund.

**Environmental Review:**

This project is categorically exempt from environmental review pursuant to Section 15315 (Minor Land Divisions) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

**Policy Questions for Council Consideration:**

- Does the proposed subdivision result in an orderly and compatible development pattern, within the subdivision and in relation to its surroundings?
- Does the subdivision provide for quality site planning and design?

**Summary:**

- The application includes a tentative map to subdivide the property at 831 Arroyo Road into two conforming parcels – an interior lot and a corner lot

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**Reviewed By:**

City Manager

CJ

City Attorney

CD

Finance Director

SE

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**Subject:** Resolution No. 2019-07: Two-Lot Subdivision at 831 Arroyo Road

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- On February 7, 2019, the Planning Commission reviewed the application and recommended approval to the City Council
- On March 26, 2019, the City Council reviewed the application and voted to continue it to the April 23, 2019 Council meeting with direction to review the covenants that encumbered the property, provide an additional map showing the placement of houses on adjacent properties and review the placement of the corner lot's new driveway

**Recommendation:**

The Planning Commission recommends adoption of Resolution No. 2019-07 to approve subdivision application 18-DL-01 subject to the listed findings and conditions



**Subject:** Resolution No. 2019-07: Two-Lot Subdivision at 831 Arroyo Road

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### **Purpose**

Review the application and reach a decision on whether to approve the tentative map for a two-lot subdivision.

### **Background**

On March 26, 2019, the City Council held a public meeting to consider the application for a two-lot subdivision at 831 Arroyo Road. The applicant's representative, Rick Hartman, presented the application, and ten members of the public provided comments in opposition to the proposed subdivision. They expressed concerns that the new house would not adhere to the neighborhood's 40-foot setback line, that it would not be compatible with the existing Arroyo Road neighborhood context, that the proposed lot sizes were too small, and that there could be safety issues at the corner of Arroyo Road and Mountain View Avenue. Following the presentation and public comment, the Council discussed the application and voted unanimously to continue the item to the April 23, 2019 Council meeting to allow further staff review of potential covenants that encumbered the land, directed staff to provide an additional map clearly showing the adjacent property with accompanying structures, and directed staff to prepare a finding or condition of approval requiring safe egress of the parcels. The meeting minutes and agenda report from the March 26, 2019 meeting are attached for reference (Attachments 3 and 4).

### **Discussion/Analysis**

#### *Tentative Map Updates*

In response to concerns raised at the Council meeting, the applicant updated the tentative map to include a provision that specifies that the 30-foot visibility triangle at the corner of Mountain View Avenue and Arroyo Road shall be maintained, that the new driveway for the corner lot shall be setback on Mountain View Avenue at least 25 feet from the edge of the 25-foot radius corner at the intersection and that the house on the corner lot shall face Arroyo Road and maintain a minimum setback of 25 feet from this property line (32 feet from the back edge of the curb). Staff has reviewed these provisions and determined that they are consistent with all applicable City requirements and policies, and will enhance sight visibility for vehicles and pedestrians at the corner. In addition, a neighborhood vicinity map that shows all properties and houses in the vicinity of the site has been included in the project plans. This vicinity map shows the building footprint and front yard setback for all surrounding properties on Arroyo Road and Mountain View Avenue. As shown on the map, and previously documented by staff, while a majority of the houses along Arroyo Road have a front yard setback of 40 feet or more, there are multiple properties with houses that have a front yard setback that ranges from 25 to 40 feet. A cover letter from the applicant that includes additional information about the application and how they have responded to the Council direction is included as Attachment 2.



**Subject:** Resolution No. 2019-07: Two-Lot Subdivision at 831 Arroyo Road

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To further ensure that the subdivision improves safety and visibility at the corner of Mountain View Avenue and Arroyo Road, and maintains an appropriate relationship within the Arroyo Road neighborhood context, the following condition (No. 2) has been included:

**Corner Lot Requirements**

The newly created corner lot (Parcel 2) shall adhere to the following requirements:

- a. The new house shall have a front elevation that faces Arroyo Road.
- b. The new house shall have a setback of at least 25 feet from the exterior side property line adjacent to Arroyo Road.
- c. The driveway for the new house shall have a setback of at least 25 feet from the from the edge of the 25-foot radius corner at the intersection with Arroyo Road.
- d. The 30-foot visibility triangle at the corner of Mountain View Avenue and Arroyo Road shall be maintained free and clear of all landscaping and built objects that exceed three feet in height.

*Declaration of Restrictions*

In response to concerns raised by neighbors that the 40-foot building setback line restriction was binding on all properties along Arroyo Road and needed to be enforced by the City, staff and the City Attorney re-reviewed the declaration of restrictions that contained this provision.

In May of 1927, the subdivision map of Montebello Acres, the original subdivision that created Arroyo Road, among other streets, was recorded with the County of Santa Clara. Subsequently, in June of 1945, Harry Hoefler, the owner of all of the properties along Arroyo Road, Raymundo Avenue and the south side of Rincon Avenue (now Vista Grande Avenue) recorded a declaration of restrictions against them. The restrictions, which were contained in Clause No. 1, are as follows:

- a) No dwelling house with a setback of less than 40 feet from-the street line shall be erected or maintained on the lots above described.
- b) No dwelling house or out-buildings or garages, shall be erected closer than 15 feet to the side lot line.
- c) No dwelling house or garage shall be constructed on any of the lots without first submitting the plans and specifications for said dwelling house or garage to Harry Hoefler, his heirs or assigns, and no dwelling or garage shall be constructed thereon without first obtaining the written consent of the above named persons.

In December of 1952, the City of Los Altos was incorporated, and the Montebello Acres neighborhood was included in that original annexation. Subsequently, in 1969, the City adopted its first comprehensive Zoning Ordinance, which included site standards and design review requirements for all properties in the City. Since its adoption, the City has adhered to the site standards, including setbacks, and design review requirements contained in the Zoning Ordinance, and considered the



**Subject:** Resolution No. 2019-07: Two-Lot Subdivision at 831 Arroyo Road

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enforcement of covenants, conditions and restrictions (CC&Rs) as a civil matter between property owners and their respective Homeowners Association (HOA).

The City considers prevailing setback patterns in a neighborhood as one element in a project's neighborhood compatibility evaluation and works to ensure that those type of patterns are respected when appropriate, but these are different from a setback requirement, which requires strict adherence.

In addition to the 40-foot setback from the street, the declaration of restrictions also requires properties to provide a 15-foot side yard setback and obtain approval from Harry Hoefler, his heirs or assigns, before building a new structure. Staff has not found any evidence that either of these two restrictions has been enforced or adhered to since the 1969 Zoning Ordinance was adopted. In addition, there are multiple examples of legal structures along Arroyo Road that have setbacks of less than 40 feet.

The City Attorney's office has also opined that the restriction is a private restriction burdening and benefitting the property owners in the Montebello Acres subdivision. Because this is a private restriction, the City has no role in enforcing it as it derives no benefit from the restriction. Instead, the homeowners in the Montebello Acres subdivision that have properties that benefit from the restriction have enforcement authority.

Finally, it should be noted that there is nothing in the law prohibiting a city from establishing setbacks and other land use limitations distinct from the limitations contained in a private property restriction. To put another way, the City's Zoning Ordinance with its distinct land use limitations acts as the government regulatory layer for a property owner to comply or face a government enforcement action. In addition to the government regulatory layer, a property owner must also comply with any valid private restrictions that may burden the property.

In short, the City has no authority or role in enforcing a private restriction. A city can also establish limitations and standards in its zoning ordinance that may deviate from those set forth in a private property restriction.

#### *Public Correspondence*

Following the publication of the March 26, 2019 City Council meeting agenda, staff received numerous emails and comment letters from neighbors and residents, primarily in opposition to the proposed two-lot subdivision. All public correspondence received after March 18, 2019 are contained in Attachment 5.

#### **Options**

- 1) Adopt Resolution No. 2019-07 to approve the tentative map for a two-lot subdivision at 831 Arroyo Road



**Subject:** Resolution No. 2019-07: Two-Lot Subdivision at 831 Arroyo Road

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**Advantages:** The subdivision would create two new parcels that meet all applicable site standards for the R1-10 District and maintain an orderly and compatible development pattern on Mountain View Avenue and Arroyo Road

**Disadvantages:** None identified

2) Direct staff to bring back a resolution denying the application based on specific negative findings

**Advantages:** The existing parcel would remain unchanged.

**Disadvantages:** The City would lose the potential to subdivide into two conforming lots and create two new single-family dwelling units.

**Recommendation**

The Planning Commission recommends Option 1.



**RESOLUTION NO. 2019-07**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS  
APPROVING A TENTATIVE MAP FOR A TWO-LOT SUBDIVISION AT 831  
ARROYO ROAD**

**WHEREAS**, the City of Los Altos received a subdivision application that includes a tentative map from Ying-Min Li for a two-lot subdivision, application 18-DL-01, referred herein as the “Project”; and

**WHEREAS**, the Project is categorically exempt from environmental review as a minor land division that involves the creation of four or fewer new parcels in accordance with Section 15315 of the California Environmental Quality Act of 1970 as amended (“CEQA”); and

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

**WHEREAS**, the Planning Commission held a duly noticed public hearing on the Project on February 7, 2019 and the City Council held a duly noticed public meetings on the Project on March 26, 2019 and April 23, 2019; and

**WHEREAS**, the City Council has reviewed all written evidence and oral testimony presented to date on this matter; and

**WHEREAS**, the location and custodian of the documents or other materials which constitute the record of proceedings upon the City Council’s decision was made are located in the Office of the City Clerk.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Los Altos hereby approves the Project subject to the findings and conditions of approval attached hereto as Exhibit “A” and incorporated by this reference.

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 14<sup>th</sup> day of May 2019 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Lynette Lee Eng, MAYOR

Attest:

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Jon Maginot, CMC, CITY CLERK

## **EXHIBIT A**

### **FINDINGS**

With regard to division of land application 18-DL-01, the City Council finds the following in accordance with Chapter 4, Article 1, Section 66474 of the Subdivision Map Act of the State of California:

- A. The proposed subdivision is in conformance with the Los Altos General Plan, including specifically applicable policies contained in the Housing Element Policy 1.5 and Infrastructure and Waste Disposal Element Policies 1.3 and 2.2 by creating two single-family lots, which fall within the allowed density range. The project conforms with all applicable goals, policies and programs in the Los Altos General Plan by maintaining a similar layout to two previously approved subdivisions along Mountain View Avenue to the north and maintaining a compatible and orderly development to the Montebello Acres subdivision. The new lots meet the R1-10 District's minimum lot size requirements of 10,000 square feet for an interior lot and 11,000 square feet for a corner lot. The new lots also meet all applicable site standards for the R1-10 District, including width, depth and frontage.
- B. The site is physically suitable for this type and density of development because it is in conformance with the Single-Family, Medium Lot and Other Open Space land use designations of the General Plan, has a density that does not exceed four dwelling units per acre and complies with all applicable R1-10 District site development standards;
- C. The design of the subdivision and the proposed improvements will not cause substantial environmental damage, or substantially injure fish or wildlife because the site is located within a developed suburban context and is not in or adjacent to any sensitive habitat areas;
- D. The design of the subdivision will not cause serious public health problems because the site is located within a suburban context and has access to urban services including sewer and water; and
- E. The design of the subdivision will not conflict with access easements because there are no access easements associated with or encumbering this property.

## CONDITIONS

### **GENERAL**

1. **Approved Plans**

Project approval is based upon the tentative map dated April 8, 2019, except as may be modified by these conditions.

2. **Corner Lot Requirements**

The newly created corner lot (Parcel 2) shall adhere to the following requirements:

- a. The new house shall have a front elevation that faces Arroyo Road.
- b. The new house shall have a setback of at least 25 feet from the exterior side property line adjacent to Arroyo Road.
- c. The driveway for the new house, if placed along Mountain View Avenue, shall have a setback of at least 25 feet from the from the edge of the 25-foot radius corner at the intersection with Arroyo Road.
- d. The 30-foot visibility triangle at the corner of Mountain View Avenue and Arroyo Road shall be maintained free and clear of all landscaping and built objects that exceed three feet in height.

3. **Public Utilities**

The developer shall contact electric, gas, communication and water utility companies regarding the installation of new utility services to the site.

4. **Protected Trees**

All existing trees on the site are protected as shown on the submitted plans and shall not be removed unless approved by the City during any subsequent development review or tree removal permit application.

5. **Encroachment Permit**

An encroachment permit, and/or an excavation permit shall be obtained prior to any work done within the public right-of-way and it shall be in accordance with plans to be approved by the City Engineer.

6. **Stormwater Management Plan**

The project shall comply with the City of Los Altos Municipal Regional Stormwater (MRP) NPDES Permit No. CA S612008, Order No. R2-2015-0049 dated November 19, 2015. The improvement plan shall include the “Blueprint for a Clean Bay” plan sheet as page 2 in all plan submittals.

7. **Sewer Lateral**

Any proposed sewer lateral connection shall be approved by the City Engineer.

8. **Indemnity and Hold Harmless**

The applicant/owner agrees to indemnify, defend, protect, and hold the City harmless from all costs and expenses, including attorney’s fees, incurred by the City or held to be the liability of the City in connection with the City’s defense of its actions in any proceedings brought in any State or Federal Court, challenging any of the City’s action with respect to the applicant’s project.

## **PRIOR TO MAP RECORDATION**

### **9. Demolition**

The applicant shall obtain and final a demolition permit from the Building Division to remove all existing structures on the property.

### **10. Payment of Fees**

The applicant shall pay all applicable fees, including but not limited to sanitary sewer impact fees, parkland dedication in-lieu fees, traffic impact fees and map check fee plus deposit as required by the City of Los Altos Municipal Code.

### **11. Easement Dedication**

The applicant shall dedicate public utility easements as required by the utility companies to serve both parcels.

### **12. Right-of-Way Dedication**

The applicant shall dedicate an area of land having a 25-foot radius adjacent to the intersection at Arroyo Road and Mountain View Avenue to the public right-of-way.

## **PRIOR TO ISSUANCE OF A BUILDING PERMIT**

### **13. Map Recordation**

The applicant shall record the tentative map.

### **14. Construction Management Plan**

Detailed plans for any construction activities affecting the public right-of-way include but are not limited to excavations, pedestrian protection, material storage, earth retention, and construction vehicle parking, and shall be provided to the City Engineer for review and approval. The applicant shall also submit on-site, and off-site grading and drainage plans that include drain swales, drain inlets, rough pad elevations, building envelopes, and grading elevations for approval by City staff.

### **15. Routing and Staging Plan**

A truck routing and staging plan for the proposed excavation of the site shall be submitted for review and approval by the City Engineer. A Transportation Permit, per the requirements in California Vehicle Code Division 15, is required before any large equipment, materials or soil is transported or hauled to or from the site.

### **16. Utility Plan**

The applicant shall submit a utility plan which includes the location of the sanitary sewer laterals for each lot.

### **17. Stormwater Pollution Prevention**

The project shall comply with the Stormwater Pollution Prevention Measures per Chapter 10.16 of the Los Altos Municipal Code.

## **PRIOR TO OCCUPANCY**

### **18. Curb and Gutter Replacement**

The applicant shall remove and replace the concrete curb/gutter along the entire frontage per the City Engineer's instructions

### **19. Underground Utilities**

The applicant shall be responsible for the removal/undergrounding of the existing overhead utilities.



**DISCUSSION ITEMS**

**Agenda Item # 7**

**AGENDA REPORT SUMMARY**

**Meeting Date:** May 14, 2019

**Subject:** Request from the Friends of the Los Altos Library to Utilize Land on the Civic Center Campus

**Prepared by:** Chris Jordan, City Manager

**Attachment(s):**

1. Memorandum from the Friends of the Los Altos Library
2. Site A map
3. Site B map

**Initiated by:**  
City Manager

**Previous Council Consideration:**

**Fiscal Impact:**  
Not Applicable

**Environmental Review:**  
Not Applicable

**Policy Question(s) for Council Consideration:**

Does the City Council wish to provide a free lease of land on the civic center campus to the Friends of the Library? If so, how much land and at what location? And, for how long should the lease be in effect?

**Summary:**

- The Friends of the Library have been utilizing space at the Hillview Community Center for over 40 years at no cost to the Friends
- With the upcoming demolition of the Community Center, the Friends have sent a memorandum to the City Council requesting Council approval to utilize land on the civic center campus
- The Friends wants to utilize the City's property until the redevelopment of the current library

**Staff Recommendation:**

Approve a motion directing staff to enter into a lease agreement with Friends of the Library allowing that organization to utilize approximately 500 sq. ft. of land between the Police Station and the History Museum at no cost until the new Community Center is constructed

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**Reviewed By:**

City Manager

CJ

City Attorney

CD

Finance Director

SE

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**Subject:** Request from the Friends of the Los Altos Library to Utilize Land on the Civic Center Campus

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### **Purpose**

The Council is asked to consider the request of the Friends of the Los Altos Library (FoL) to utilize land at the civic center campus.

### **Background**

The FoL is a non-profit that provides funds to the Los Altos Library. As explained in the attached memorandum (Attachment 1) from the FoL, the Friends provides approximately \$165,000 annually to the Library. The FoL operation is centered around space provided by the City at Hillview Community Center to the FoL at no cost. Currently, the City is providing approximately 1,200 square feet.

With the anticipated demolition of the Hillview Community Center in the next few months, the City informed the FoL almost two years ago that it would need to vacate the premises by this summer. The FoL has yet to find temporary or permanent accommodations and is now requesting space on the civic center campus.

### **Discussion/Analysis**

Staff has reviewed the various suggestions by the FoL.

#### *All Locations on the Civic Center Campus*

Since the beginning of the planning for the new community center in 2017, staff has urged the FoL to find a location that is not on the civic center campus. Staff is always concerned about placing temporary structures on this campus because more uses can exacerbate an already challenging parking situation, and we are concerned about the aesthetics of placing such temporary buildings on this site. Staff has been willing to discuss possible smaller, temporary buildings during the period of construction of the new community center because the civic center campus will be hosting a large construction project and the entire site will be less attractive during this period. However, any temporary structures cannot interfere with the orderly operations of the City, nor can they block or restrict access to facilities or to underground utilities.

#### *Area between the Police Station and History Museum*

There are several, small apricot trees in this location that should be avoided. The City also needs to maintain access to the cell tower as occasionally the tower requires maintenance involving the use of a large truck that is placed on this site. This site also includes underground utilities as shown on Attachment 2. We also anticipate that this will be the only access to the baseball field so space needs to be set aside for pedestrians. To accommodate all of these competing challenges, staff has outlined two locations where storage sheds for the FoL could be placed - one 200 sq. ft. location and one that is approximately 289 sq. ft.



**Subject:** Request from the Friends of the Los Altos Library to Utilize Land on the Civic Center Campus

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*Area near the Library parking lot and Soccer Field*

This space is approximately 600 sq. ft. The placement of any temporary facility in this location will need to be set back from the parking lot and away from the Oak trees in that location. Staff's main concern with this location is aesthetics - a temporary building here can be viewed from both the library and Hillview Avenue.

*Term of Occupancy*

The FoL are requesting to place temporary facilities on the civic center campus "until the existing library can be redeveloped." As mentioned above, staff recognizes that the civic center campus will look like a construction site until the new community center is constructed. Under the circumstances, staff does not object to 2 or 3 small temporary sheds on the campus. However, with the opening of the new community center, staff believes that the civic center campus should be viewed as a welcoming site to our citizens and one that they can take pride in. Continuing to have small temporary facilities on the campus could diminish that belief in the community. Therefore, if the Council is agreeable to allowing the FoL to utilize some portion of the civic center campus per the FoL request, staff would recommend that the term be limited to the period while the community center is under construction.

**Options**

- 1) Direct staff to enter into a no cost lease agreement with the FoL under the terms requested by the FoL – including two storage sheds and mobile work space on the civic center campus until the redevelopment of the existing library.

**Advantages:** This would allow the FoL to maintain operations in a manner that most closely resembles the FoL's current business model.

**Disadvantages:** The civic center campus would be the site of one or more temporary buildings totaling at least 1,000 sq. ft. for probably five years at a minimum.

- 2) Direct staff to enter into a no cost lease agreement with the FoL for the space that staff has outlined (totaling just under 500 sq. ft.) near the police station for the duration that the community center is under construction.

**Advantages:** This allows the FoL space to store books and materials near the library in keeping with the FoL's current business model for approximately 18 months.



**Subject:** Request from the Friends of the Los Altos Library to Utilize Land on the Civic Center Campus

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**Disadvantages:** This does not allow adequate space for the FoL to catalogue and materials and to administer operations as the FoL currently does at the Hillview Community Center.

3) Deny the FoL's request for temporary space on the civic center campus.

**Advantages:** There will be no temporary buildings on the civic center campus housing FoL materials or offices.

**Disadvantages:** This would likely disrupt the FoL's operations and result in a decrease in FoL contributions to the Library.

4) Provide other direction to staff regarding locating FoL facilities on the civic center campus.

**Recommendation**

The staff recommends Option 2.



## Agenda Request to Los Altos City Council : Friends of the Library of Los Altos and Community, Inc. Space Needs

April 19, 2019

To: Mayor Lynette Lee Eng  
Vice Mayor Jan Pepper  
Councilmember Jeannie Bruins  
Councilmember Anita Enander  
Councilmember Neysa Fligor

Cc: Chris Jordan, City Manager  
Jon Maginot, Deputy City Manager and City Clerk

From: Friends of the Library of Los Altos and Community, Inc.

### Purpose and Request

Friends of the Library of Los Altos and Community, Inc. (FoL) is a long standing institution in the Los Altos community, having been formed more than 60 years ago to support the Los Altos Library (the Library). To continue effective operations, FoL requests that the Los Altos City Council (the Council) allow us to locate two storage sheds and a mobile work space on the Civic Center campus, to substitute for the Hillview Community Center classroom and storage space which the City has supplied to FoL for the last 44 years.

City staff informs us that storage sheds with aggregate area less than 500 square feet require only City Council approval; the mobile work space requires initial Council approval, review by the Planning Department, Design approval, and final Council approval.

**Accordingly, FoL submits the following two items and requests that they be included in the agenda of the Council meeting to be held on May 14, 2019:**

- 1. Approval of two storage sheds to be placed between the Police Station and the History House on locations that have been determined suitable by City Staff.**
- 2. Initial approval of a mobile work space to be located on Civic Center grounds.**

For further details, including a description of FoL and what FoL provides to the Library (including approximately \$165,000 annually to fund reading, education, programs, safe spaces, information access, among other things) and the community at large, see below.

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# Friends of the Los Altos Library

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## Submission

This submission to the Council summarizes our requests, the contribution of FoL to our community, and the assistance that we have received from the City in the past.

- Hillview Community Center is scheduled to be demolished this summer -- there is no allocation for space for FoL in the new community center.
- We would like to continue operations in temporary space until the existing Library can be redeveloped.
- At this time, we have an offer from City staff of approximately 489 square feet of space, subject to Council approval, for two storage sheds located between the Police Station and History Museum.
- We have also requested approval to install a mobile work space of approximately 800 -1,000 square feet adjacent to the sheds, similar to the units next to the Police building, to house book donation processing.
  - We understand that the City is considering an alternative location for a mobile work facility of 15 feet by 40 feet on a parcel of land across from the Library entrance. Although smaller than we desire, we are open to discussing this option further with the City.
- We have offered to pay for all three of the structures.

## About Friends of the Los Altos Library

FoL is a long standing institution in the Los Altos community, having been formed more than 60 years ago to support the Los Altos Library.

- We believe that doing all we can to support and improve our Library for the benefit of everyone in our community is worthwhile - for reading, education, programs, safe spaces, information access - and that the City is a better place for all of us as a consequence.
- We have over 150 regular volunteers who work nearly 20,000 volunteer hours annually, and more than 600 contributing members.
- As all cities in Santa Clara County do for their libraries, our City has provided FoL space at no cost to support our efforts for the past 44 years.

Thousands of residents enjoy our quarterly Book Sales, the daily Ongoing Sale in the Library and the Cafe in the Library, all sponsored by FoL. By sorting, pricing and selling donated books we are able to donate approximately \$165,000 to the Library each year to pay for: a dedicated collection of best seller and new books for our Library users; almost all children's and teen's programs; adult lectures; additional furniture; events and prizes for the summer reading program; and the Senior Book Club. Our contributions enable more educational and enrichment opportunities than would be possible from County funds. Also, residents greatly appreciate having a convenient way to recycle their used books for a good cause.

FoL online

<https://losaltoslibraryfriends.org/>

[https://www.facebook.com/friends\\_of\\_los\\_altoslibrary/](https://www.facebook.com/friends_of_los_altoslibrary/)

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## Background

Our operations and space requirements are completely dominated by the logistics of moving books and storing them for sale. Several times each week books are cleared from the donation room in the Library. The typical weekly volume is 150-180 bankers boxes (5,000 or more books). After sorting and pricing, books go five different ways - to ongoing sales in the Library, to online sales, to storage for quarterly sales, to donations, and to recycling. We have a small number of skilled volunteers who physically move this volume of books between the Library and Hillview several times a week, without whom the operation would not happen. Our operation currently requires 1,200 square feet of classroom and storage space.

Since 1975, the City has provided space at no cost for FoL to operate, just as all other cities in the County do for their Friends of the Library organizations. This arrangement, along with the efforts of our volunteers, enables us to contribute the vast majority of our annual revenues directly to the Library.

Since we learned that Hillview was closing, FoL researched alternatives to the Hillview location that we are losing. We determined that the best way to continue contributing at the same funding level and provide a meaningful and enjoyable experience for our hundreds of local volunteers each year is to continue to operate from the Civic Center campus. The donation room is in the Library, convenient to all and open seven days and evenings a week. And, due to the extraordinary volume of donations, we wish to continue to move books in the most efficient and expeditious way possible, which necessitates working space in or near the Library.

Over the last two years we have worked with City staff to review potential space. We have an offer from the City staff of approximately 489 square feet of space for two storage sheds located between the Police Station and the History Museum, subject to Council approval. We need these sheds to be in place immediately to store the donations that will continue to arrive in the Library. Thus, we request that Council, at its May 14, 2019 meeting, approve installation of these sheds.

Furthermore, we need replacement work space to sort, price and prepare books for our sales. City staff has informed us there is not available building space for our needs, so FoL has proposed a mobile classroom-type unit with the needed 800-1,000 square feet.

Our preference is to locate the mobile work facility in the same area as the two sheds, between the Police Station and the History Museum. This will minimize book movement from the Library and enable easy access to LAYC where our quarterly book sales will be held after Hillview closes. As we described above, we would pay for all of the structures, as well as some of the site development work, such as replacing three apricot trees if necessary for siting the mobile work facility in this location (tree removal is not necessary for siting the two sheds).

We understand that City staff has identified a possible alternative location for a smaller mobile work facility across from the Library entrance near the parking lot. We are told that this location would provide no more than 600 square feet, although we do not yet know the details of this alternative (exact placement, site preparation requirements, etc.). Although smaller than we desire, we are open to discussing this option further with the City.

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# Friends of the Los Altos Library

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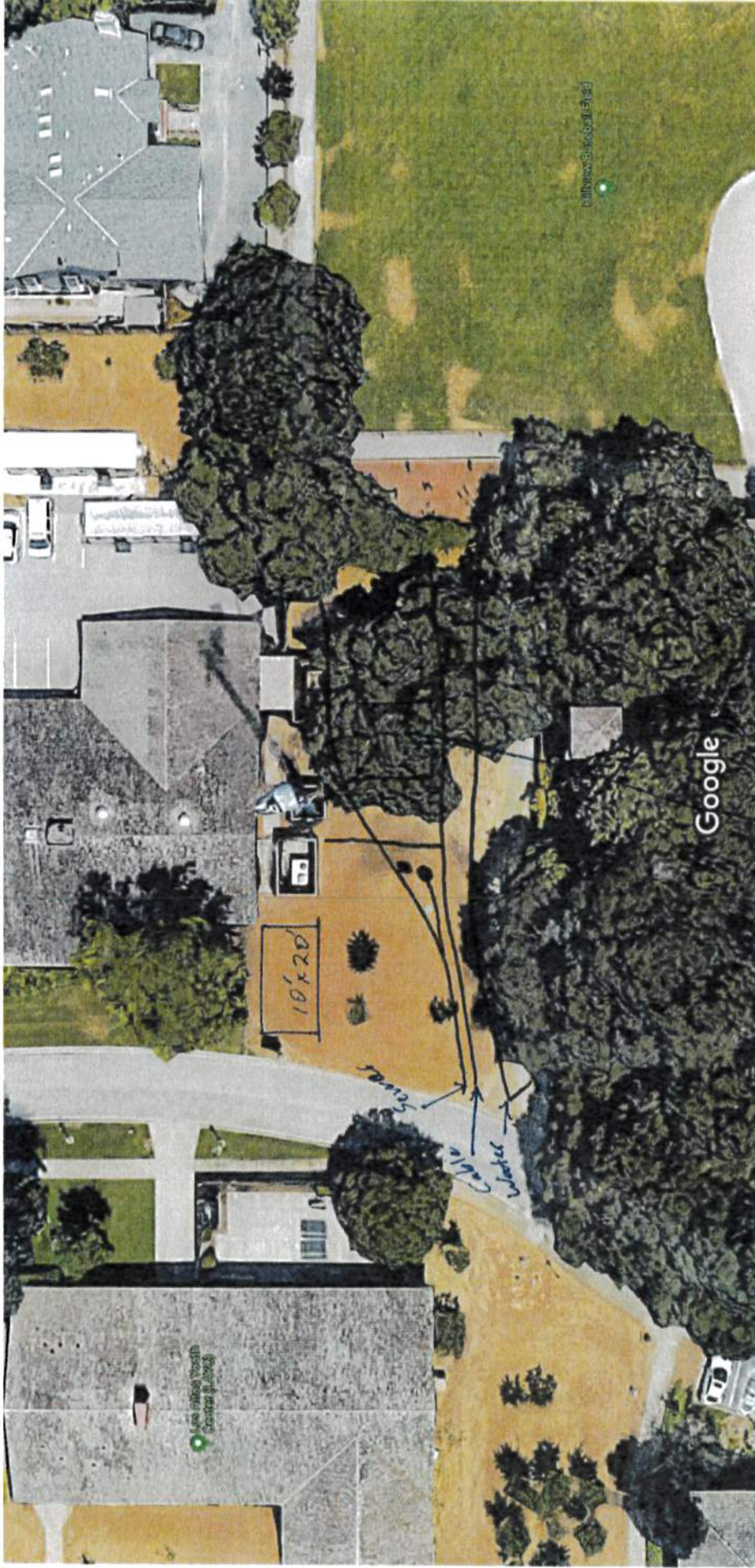
FoL has also been working with the Library and the Library District to find possible short term temporary work space during the transition. A very small space in the Library (about 20% of our current space) has been identified as a possible work space for our use (expected to be less than four months). Use of this space will not be sufficient for us to carry out our full operations but will allow us to continue a minimum level of sales and revenue generation. Note, however, FoL use of this space will decrease available space for patrons in our already overcrowded Library and will cause loss of a beloved reading area.

Our partnership with the City allows us to provide public services to both the Los Altos and Los Altos Hills communities in the form of direct support for our Library. We believe being on the Civic Center campus aids in our efforts to accomplish this goal. We are confident that with your help we will be able to serve our neighbors for many years to come.

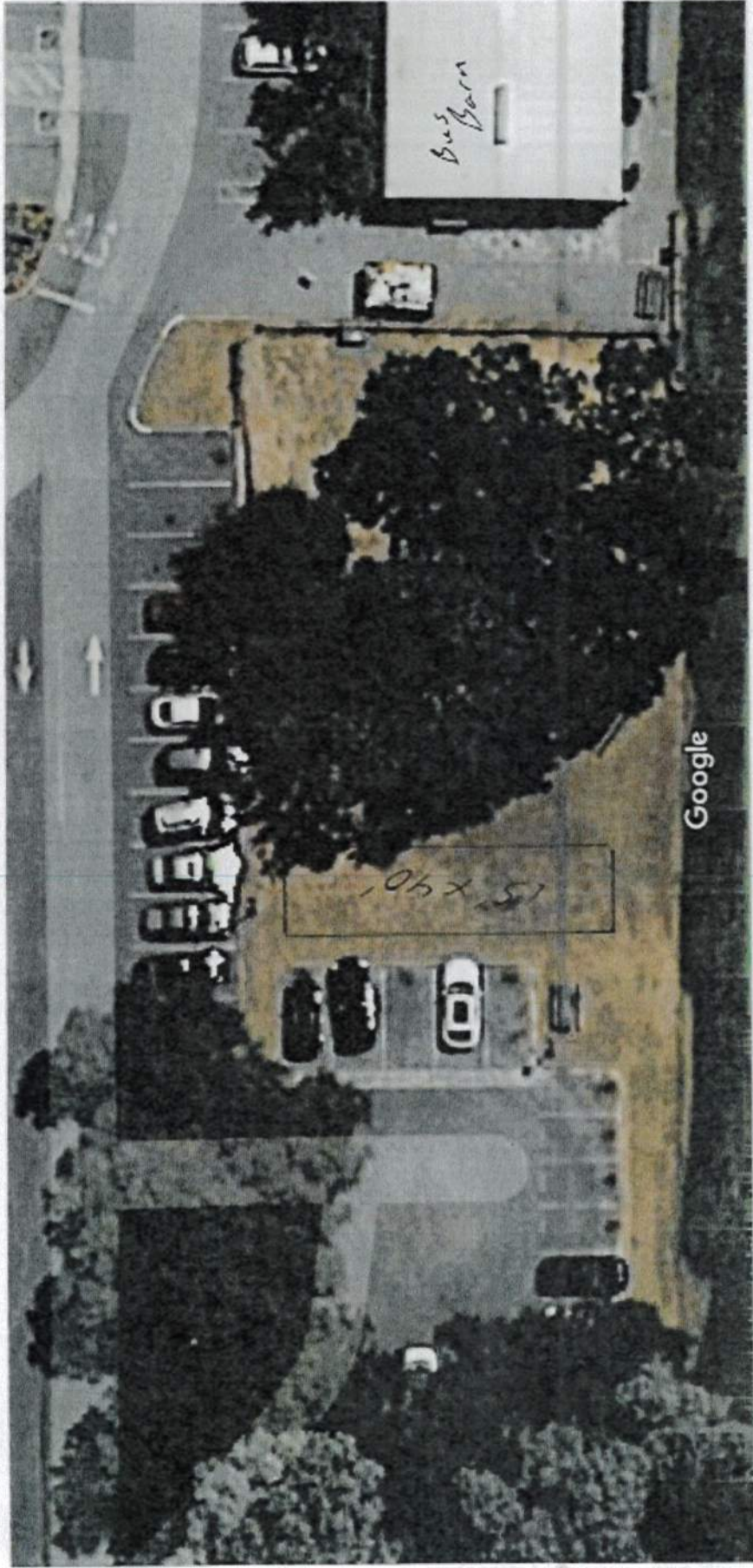
For additional information please contact Mary Jo Kelly, President, FoL at [maryjokelly2007@gmail.com](mailto:maryjokelly2007@gmail.com) or Margaret Brooks, Vice President of FoL at [mmbrooks6947@gmail.com](mailto:mmbrooks6947@gmail.com).

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Google Maps



Imagery ©2019 Google, Map data ©2019 Google 20 ft



Map data ©2019 Google 20 ft



**DISCUSSION ITEMS**

**AGENDA ITEM #8**

**AGENDA REPORT SUMMARY**

**Meeting Date:** May 14, 2019

**Subject:** Proposed FY 2019-20 and FY 2020-21 Operating Budgets and Proposed Five-year FY 2020-24 Capital Improvement Plan

**Prepared by:** Sharif Etman, Administrative Services Director

**Approved by:** Chris Jordan, City Manager

**Attachment(s):**

1. CIP Funding Summary by Funding Source
2. CIP Closed Projects for FY 2018-19
3. CIP Proposed Funding Changes
4. Defund CIP Projects
5. CIP Program Summary

**Initiated by:**

Staff

**Previous Council Consideration:**

None

**Fiscal Impact:**

The purpose of the study session is to review the proposed budget and has no fiscal impact.

**Environmental Review:**

Not applicable

**Policy Question(s) for Council Consideration:**

- Does the Council have any suggested modifications to the two-year Operating Budgets for FY 2019-20 and FY 2020-21?
- Does the Council have any suggested modifications to the prioritization of projects in the Proposed Five-year FY 2020-24 Capital Improvement Plan?

**Summary:**

- The Proposed two-year Operating Budgets are balanced and addresses all the current needs outlined by City Council and staff
- The Proposed Five-year FY 2020-24 Capital Improvement Plan includes 55 projects with a total budget of \$97.6M



**Subject:** Proposed FY 2019-20 and FY 2020-21 Operating Budgets and Proposed Five-year FY 2020-24 Capital Improvement Plan

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**Staff Recommendation:**

Discuss the Proposed FY 2019-20 and FY 2020-21 Operating Budgets and Proposed Five-year FY 2020-24 Capital Improvement Plan and suggest modifications as desired by City Council





**Subject:** Proposed FY 2019-20 and FY 2020-21 Operating Budgets and Proposed Five-year FY 2020-24 Capital Improvement Plan

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**Purpose**

To review and discuss the Proposed FY 2019-20 and FY 2020-21 Operating Budgets and Proposed Five-year FY 2020-24 Capital Improvement Plan.

**Background**

The City Manager proposes, and the City Council approves the operating budget and Capital Improvement Program budget. The approved budget serves as the annual plan and resource allocation that guides and ensures implementation of City Council policies and priorities. The budget implements the vision and direction for the range of services that meet the needs of the community.

**Discussion/Analysis**

The budget study session for the proposed operating budget and capital improvement program (CIP) budget is scheduled for Tuesday, May 14, 2019. The purpose of the study session is to focus on a broader and higher-level discussion for Council regarding our proposed operating and capital budgets and provide direction and feedback to staff. Accordingly, a summary of the operating budget is included with major themes / changes highlighted and the 5 Year CIP budget is attached (Attachments 1-5) with new and updated projects highlighted for discussion.

The final proposed budget will be presented to the Council at its regular meeting scheduled for June 11, 2019.

Optimism continues to be the theme of the next two-year proposed budget. Property tax, which accounts for over 50% of the City continues to grow at a record rate. Sales Tax, the next largest source of revenue is expected to remain flat. All other revenues have been adjusted accordingly.

For the current fiscal year, the projected revenue over expenditure amount is expected to be over \$5M. The proposed budget is balanced and projects a revenue over expenditure amount of approximately \$4.3M for FY 2019-20 and \$4.8M for FY 2020-21 (including transfers). These amounts are contingent on the continued growth of our property tax and spending within our proposed budget and essential to fund our CIP projects, unfunded liability payments and maintain proper reserve levels.

**Proposed Operating Budgets**

The FY 2019-20 and FY 2020-21 Proposed Operating Budgets are balanced and continue to highlight Council priorities while maintaining financial integrity. Highlights of the proposed operating budget include:



**Subject:** Proposed FY 2019-20 and FY 2020-21 Operating Budgets and Proposed Five-year FY 2020-24 Capital Improvement Plan

**General Fund Revenue**

	2017/18 BUDGET	2017/18 ACTUAL	2018/19 BUDGET	2018/19 PROJECTED	2019/20 PROPOSED BUDGET	2020/21 PROPOSED BUDGET	FY 19/20 % Change Over 18/19
<b>GENERAL FUND</b>							
Property Tax	20,132,700	21,428,501	21,137,200	23,527,000	25,639,810	27,687,029	8%
Sales Tax	3,268,700	3,243,554	3,301,400	3,301,400	3,301,400	3,301,400	0%
Utility Users Tax	2,630,000	2,732,325	2,680,000	2,700,000	2,781,000	2,864,430	3%
Motor VLF	13,000	16,530	13,000	-	-	-	0%
Transient Occupancy Tax	2,626,500	3,072,982	2,705,300	3,000,000	3,360,000	3,764,400	11%
Business License Tax	500,000	547,065	500,000	500,000	510,000	520,200	2%
Construction Tax	185,000	165,900	190,600	190,600	190,600	190,600	0%
Documentary Transfer Tax	535,000	732,409	535,000	535,000	540,350	551,157	1%
<b>Total Taxes</b>	<b>29,890,900</b>	<b>31,939,266</b>	<b>31,062,500</b>	<b>33,754,000</b>	<b>36,323,160</b>	<b>38,879,216</b>	<b>7%</b>
Interest Income	195,000	229,110	210,000	350,000	362,900	381,045	4%
Rental Income	24,000	24,106	24,000	24,000	24,000	24,000	0%
<b>Total Income</b>	<b>219,000</b>	<b>253,216</b>	<b>234,000</b>	<b>374,000</b>	<b>386,900</b>	<b>405,045</b>	<b>3%</b>
Recreation Fees	2,176,000	2,021,371	2,239,000	2,100,000	1,477,000	1,477,000	-42%
Community Development Fees	2,880,200	3,282,530	2,880,200	3,623,600	3,623,600	3,623,600	0%
Franchise Fees	2,006,400	2,206,735	2,066,500	2,218,000	2,284,540	2,353,076	3%
Administrative Fees	918,500	915,800	918,500	918,500	918,500	918,500	0%
Police Fees	329,000	272,764	329,000	329,440	329,440	329,440	0%
<b>Total Fees</b>	<b>8,310,100</b>	<b>8,699,200</b>	<b>8,433,200</b>	<b>9,189,540</b>	<b>8,633,080</b>	<b>8,701,616</b>	<b>-6%</b>
Miscellaneous Revenue	130,400	232,847	130,400	130,400	131,476	116,876	1%
<b>Total General Fund Revenue</b>	<b>38,550,400</b>	<b>41,124,529</b>	<b>39,860,100</b>	<b>43,447,940</b>	<b>45,474,616</b>	<b>48,102,754</b>	<b>12%</b>



**Subject:** Proposed FY 2019-20 and FY 2020-21 Operating Budgets and Proposed Five-year FY 2020-24 Capital Improvement Plan

**Revenue items of note are:**

- Property Tax revenue continues to reach record growth levels and is budgeted for 8% growth over the prior year’s actuals.
- Sales Tax revenue is flat and may decrease slightly in the coming years.
- Transient Occupancy Tax (TOT) remains consistent with a 3% increase and estimated \$270K increase due to the 1% increase in the tax rate from 11% to 12%, effective July 1, 2019. The following year, another 1% percent increase to the TOT rate has been incorporated as well.
- Investment Income continues to increase due to the strong economy and prudent investments made by the City.
- Community Development Revenue increased by nearly \$750K from this current fiscal year compared to last year. For the next two fiscal years, revenue is expected to remain strong due to timing on ongoing projects and strong construction throughout the City.
- Recreation Department Revenue will experience an estimated \$600K decrease due to the construction of the new Community Center. This is an estimate and will vary depending on the timing of construction and timing and enrollment of programs offered.

We are currently completing a city-wide Cost Allocation Plan and User Fee Study that is anticipated to be brought to City Council for discussion in June. This User Fee Study will highlight all the fees that may be increased in order to capture current actual costs incurred by the City. The potential revenue increase to the City is anticipated to be in the hundreds of thousands of dollars annually. The last Cost Allocation Plan and User Fee Study approved by Council was five fiscal years ago.

**General Fund Expenditures**

GENERAL FUND	2016/17 ACTUAL	2017/18 ACTUAL	2018/19 BUDGET	2018/19 PROJECTED BUDGET	2019/20 PROPOSED BUDGET	2020/21 PROPOSED BUDGET	% Change over 2018/19
<b>Expenditures</b>							
Legislative	219,647	236,342	254,773	247,130	295,774	300,326	20%
Executive	1,676,685	1,724,474	2,676,949	2,676,949	2,645,622	2,835,615	-1%
Administrative Services	2,648,440	2,812,099	3,462,477	3,358,602	3,615,655	3,836,261	8%
Community Development	2,808,271	3,067,911	3,084,823	2,992,279	3,839,253	3,979,605	28%
Engineering	2,113,597	2,358,128	2,761,307	2,678,468	2,960,607	3,031,443	11%
Maintenance Services	5,008,797	5,538,385	5,480,907	5,316,480	5,614,983	5,909,261	6%
Public Safety	16,441,424	17,465,713	18,711,248	18,149,911	19,489,439	20,635,650	7%
Recreation and Community Services	2,342,772	2,509,279	2,773,792	2,690,578	2,665,910	2,790,719	-1%
<b>Total General Fund Expenditures</b>	<b>33,259,633</b>	<b>35,712,331</b>	<b>39,206,276</b>	<b>38,110,396</b>	<b>41,127,243</b>	<b>43,318,880</b>	<b>8%</b>



**Subject:** Proposed FY 2019-20 and FY 2020-21 Operating Budgets and Proposed Five-year FY 2020-24 Capital Improvement Plan

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**Expenditure Items of note are:**

- Legal Fees have increased significantly in the past year. The upcoming two-year budget reflects those increases accordingly.
- The total cost of crossing guards will be paid in full by the City of Los Altos. This equates to approximately \$60K in increased cost to the City.
- A Safe Routes to School Coordinator (contract position) is being proposed for upcoming budget. The cost is approximately \$60K per fiscal year.
- A Sustainability Coordinator position (\$170K) is being proposed for the following fiscal year. This unique position will 75% funded by Solid Waste Fees and 25% by General Fund.
- The Maintenance Services Department is now a standalone department within the City budget.

**Proposed Five-year Capital Improvement Plan**

The Proposed Five-year FY 2020-24 Capital Improvement Plan identifies current and future capital projects and their associated funding sources. The projects outlined in the first year are proposed for full funding with the future years presented for planning purposes only. The proposed plan includes 55 projects with a total budget of \$97.6M.

The Proposed Five-year FY 2020-24 Capital Improvement Plan includes three new projects, the replacement of ten vehicles, the de-funding of three projects, along with the updated budget of \$34.7M for the Los Altos Community Center.

The following are proposed additions to the capital improvement plan:

- Veterans Community Plaza Shade Structure - \$60K (in-Lieu Park Fund)
  - The proposed project will evaluate various options and potentially assist in the procurement of shade structures for the Veterans Community Plaza in downtown Los Altos.
- MSC Fuel Dispensing Station Overhead Canopy - \$260K (CIP)
  - The fuel dispensing island at the Municipal Services Center (MSC) has an above ground holding tank with a containment wall around it. The canopy is necessary to limit storm water entering the contained area and to provide cover for the fueling station to prevent excessive weathering of the electronic screens and keypads.
- Diamond Court Reconstruction - \$200K (\$100K Resident Contribution, \$100K CIP)
  - Diamond Court is a private street and the street pavement has been maintained by the residents in the past. Due to the lack of scheduled pavement maintenance, the condition of pavement at Diamond Court is deteriorating and needed a full depth section reconstruction treatment.



**Subject:** Proposed FY 2019-20 and FY 2020-21 Operating Budgets and Proposed Five-year FY 2020-24 Capital Improvement Plan

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The following three projects are proposed for de-funding:

- Santa Rita Ave Bike Blvd
- El Monte Walkway Improvement
- Bicycle Count Stations

The following capital improvement projects identified in the FY 2019-23 Capital Improvement Plan have been completed or anticipated to be completed in FY 2018-19:

- First Street Utility Undergrounding Phase 2
- Foothill Expressway Median Trees
- Downtown Vision
- Public Arts Master Plan
- First Street Resurfacing
- Arboretum Drive Speed Feedback Sign
- Los Altos Ave/W Portola Ave Crosswalk Improvements
- Covington Rd at Riverside Ave Pedestrian Improvements
- Springer Rd/Fremont Ave Pedestrian Improvements
- Grant Rd/Morton Ave Pedestrian Improvements
- Traffic Sign Battery Backup System
- Crosswalk Improvements at St. Joseph Ave and Deodora Dr
- South Sewer Replacement
- SCVWD Sewer Main

Vehicle Replacements although not part of the Five-year CIP, are funded out of the Capital and Equipment Fund and are summarized below. (\$920K)

- Marked Patrol Vehicles (3)
- Motorcycle (1)
- Admin Vehicle (1)
- Table and chairs for Grant Park
- Street Crew Cab Truck F-450
- Streets Supervisor Crew Cab GMC
- Parks Ford Utility
- Facilities Supervisor Truck (1)
- Parks Supervisor Truck (1)



**Subject:** Proposed FY 2019-20 and FY 2020-21 Operating Budgets and Proposed Five-year FY 2020-24 Capital Improvement Plan

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**Recommendation**

The City Council should ask questions of staff and provide suggested modifications to the Proposed Budget, which is scheduled for final Council consideration on June 11, 2019

Proposed Five-Year FY 2020-24 Capital Improvement Program Summary

Project #	Project Name	Funding Sources	Prior Appropriations	2019/20 Budget	2020/21 Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	Total
<b>Civic Facilities</b>									
<b>Parks and Trails</b>									
CF-01009	Annual Pathway Rehabilitation	in-Lieu Park Fund	\$ 71,335	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 321,335
CF-01017	Annual Park Improvement Project	in-Lieu Park Fund	\$ 500,000	\$ 250,000	\$ 390,000	\$ 280,000	\$ 250,000	\$ 280,000	\$ 1,950,000
<b>Buildings</b>									
CF-01002	Los Altos Community Center Redevelopment	CIP	\$ 4,600,271	\$ 11,400,000	\$ 17,399,729				\$ 34,700,000
		in-Lieu Park Fund			\$ 1,300,000				
CF-01003	Annual Civic Facilities Improvement	CIP	\$ 2,734,276	\$ 1,200,000	\$ 1,200,000	\$ 1,200,000	\$ 1,200,000	\$ 1,200,000	\$ 8,734,276
		Technology Fund		\$ 250,000					\$ 250,000
CF-01010	Annual ADA Improvements (Facilities)	CIP	\$ 300,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 675,000
CF-01011	City Hall Emergency Backup Power Generator	CIP	\$ 55,000		\$ 30,000				\$ 85,000
CF-01013	MSC Fuel-Dispensing Station Overhead Canopy	CIP				\$ 260,000			\$ 260,000
CF-01016	Waterline Backflow Preventers	CIP	\$ 173,671						\$ 173,671
CF-01018	MSC Parking Lot Resurfacing	CIP	\$ 300,000						\$ 300,000
CF-01019	Veterans Community Plaza Shade Structure	in-Lieu Park Fund	\$ 60,000						\$ 60,000
<b>Community Development</b>									
<b>Infrastructure</b>									
CD-01015	Lincoln Park Utility Undergrounding	CIP	\$ 25,000	\$ 200,000	<del>\$ 200,000</del>				\$ 225,000
CD-01017	First Street Streetscape Design -- Phase II	CIP	\$ 261,243						\$ 261,243







Project #	Project Name	Funding Sources	Prior Appropriations	2019/20 Budget	2020/21 Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	Total
TS-01018	Foothill Expressway Improvement between El Monte Ave & San Antonio Rd								
TS-01022	Annual Collector Street Traffic Calming	Traffic Impact Fees	\$ 629,505	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 879,505
TS-01030	El Monte/Springer Intersection Improvements	Traffic Impact Fees	\$ 311,000						\$ 311,000
TS-01037	San Antonio Road/West Portola Avenue Improvements (School Route Project)	Traffic Impact Fees	\$ 837,125	\$ -					\$ 837,125
TS-01038	El Monte Ave Sidewalk Gap Closure - Edith Ave to Almond Ave (School Route Project)	CIP	\$ 191,000						\$ 191,000
		CDBG	\$ 303,933	\$ 320,000					\$ 623,933
TS-01040	Fremont Ave/Truman Ave Intersection Improvements (School Route Project)	Traffic Impact Fees	\$ 40,000	\$ 10,000					\$ 50,000
TS-01041	Los Altos Ave/Santa Rita School Crossing Improvements (School Route Project)	CIP	\$ 40,000	\$ 10,000					\$ 50,000
TS-01049	Traffic Signal Control Upgrades	VRF-ITS	\$ 363,000						\$ 363,000
TS-01050	Carmel Terrace Sidewalk Gap Closure Project	CIP	\$ 350,000						\$ 350,000
TS-01051	University Ave/Milverton Rd Sidewalk Gap Closure Project	CIP	\$ 55,000						\$ 55,000

Project #	Project Name	Funding Sources	Prior Appropriations	2019/20 Budget	2020/21 Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	Total
TS-01052	Annual Bicycle/Pedestrian Access Improvements	CIP	\$ 350,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 2,100,000
		TDA Article III Grant	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 300,000
		Traffic Impact Fees	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 600,000
TS-01055	Fremont Ave Pedestrian Bridge Rehabilitation	CIP	\$ 250,000						\$ 250,000
TS-01057	In-Road Light System Maintenance	CIP	\$ 75,000						\$ 75,000
TS-01058	Intersection Access Barrier Removal	CDBG	\$ 280,000						\$ 280,000
<b>TOTAL</b>			<b>\$ 22,813,948</b>	<b>\$ 18,162,000</b>	<b>\$ 23,916,729</b>	<b>\$ 5,200,000</b>	<b>\$ 4,910,000</b>	<b>\$ 4,940,000</b>	<b>\$ 79,942,677</b>
<b>Wastewater</b>									
<i>Sewer</i>									
WW-01001	Annual Sewer System Repair Program	Sewer	\$ 1,437,313	\$ 610,000	\$ 610,000	\$ 610,000	\$ 610,000	\$ 610,000	\$ 4,487,313
WW-01002	Annual Structural Reach Replacement	Sewer	\$ 1,654,129	\$ 800,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ 5,654,129
WW-01003	Annual Root Foaming	Sewer	\$ 555,000	\$ 200,000	\$ 200,000	\$ 200,000	\$ 200,000	\$ 200,000	\$ 1,555,000
WW-01005	Annual CIPP Corrosion Replacement	Sewer	\$ 653,000	\$ 400,000	\$ 450,000	\$ 465,000	\$ 480,000	\$ 500,000	\$ 2,948,000
WW-01006	Annual Fats, Oils, Grease Program (FOG)	Sewer	\$ 292,464	\$ 62,000	\$ 64,000	\$ 66,000	\$ 68,000	\$ 70,000	\$ 622,464
WW-01008	Annual GIS Updates	Sewer	\$ 335,681	\$ 62,000	\$ 64,000	\$ 66,000	\$ 68,000	\$ 70,000	\$ 665,681
WW-01009	Sewer System Management Plan Update	Sewer	<del>\$ 24,000</del>		\$ 50,000		<del>\$ 28,000</del>		\$ 50,000
WW-01011	Sanitary Sewer Video Inspection	Sewer	\$ 380,000	\$ 400,000					\$ 780,000
<b>TOTAL</b>			<b>\$ 5,307,588</b>	<b>\$ 2,534,000</b>	<b>\$ 2,238,000</b>	<b>\$ 2,207,000</b>	<b>\$ 2,226,000</b>	<b>\$ 2,250,000</b>	<b>\$ 16,762,588</b>

Project #	Project Name	Funding Sources	Prior Appropriations	2019/20 Budget	2020/21 Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	Total
<i>Equipment Replacement</i>									
	Marked Patrol Vehicles (3)	Equipment Replacement Fund		\$ 145,000	\$ 145,000				\$ 290,000
	Motorcycle (1)	Equipment Replacement Fund		\$ 35,000					\$ 35,000
	Admin Vehicle (1)	Equipment Replacement Fund			\$ 65,000				\$ 65,000
	Tables and Chairs for Grant Park	Equipment Replacement Fund		\$ 10,000	\$ 10,000				\$ 20,000
	Streets Crew Cab Truck-F450	Equipment Replacement Fund		\$ 60,000					\$ 60,000
	Streets Supervisor Crew Cab GMC	Equipment Replacement Fund		\$ 45,000					\$ 45,000
	Parks Ford Utility	Equipment Replacement Fund		\$ 45,000					\$ 45,000
	Tire Machine and Balancer	Equipment Replacement Fund		\$ 12,000					\$ 12,000

Project #	Project Name	Funding Sources	Prior Appropriations	2019/20 Budget	2020/21 Budget	2021/22 Budget	2022/23 Budget	2023/24 Budget	Total
	Asphalt Reclaimer/Stablizer	Equipment Replacement Fund		\$ 150,000					\$ 150,000
	Facilities Supervisor Truck	Equipment Replacement Fund			\$ 33,000				\$ 33,000
	Parks Supervisor Truck	Equipment Replacement Fund			\$ 33,000				\$ 33,000
	Brake Lathe Machine	Equipment Replacement Fund			\$ 11,000				\$ 11,000
	Asphalt Spreader Box	Equipment Replacement Fund			\$ 120,000				\$ 120,000
<b>TOTAL</b>				\$ 502,000	\$ 417,000	\$ -	\$ -	\$ -	\$ 919,000
<b>GRAND TOTAL</b>			\$ 28,121,536	\$ 21,198,000	\$ 26,571,729	\$ 7,407,000	\$ 7,136,000	\$ 7,190,000	\$ 97,624,265

**CIP Closed Projects**

**Summary of Savings by Fund**

CIP	\$	1,111,577
Sewer	\$	547,214.37
	<b>\$</b>	<b>1,658,791.60</b>

Project #	Project Name	Funding Sources	Prior Appropriations	YTD Expenditures	ESTIMATED SAVINGS
CD-01007	First Street Utility Undergrounding Phase II	CIP	161,749	\$ 78,251	\$ 83,498.00
CD-01010	Foothill Expressway	CIP	\$ 49,500	\$ 17,218	\$ 32,281.87
CD-01013	Downtown Vision	CIP	\$ 330,000	\$ 323,691	\$ 6,308.53
CD-01016	Public Arts Master Plan	CIP	\$ 50,000	\$ 50,000	\$ -
TS-01002	First Street Resurfacing	CIP	\$ 280,030	\$ 116,306	\$ 280,030.00
TS-01039	Arboretum Drive Speed Feedback Sign	CIP	\$ 30,000	\$ 12,647	\$ 17,353.03
TS-01042	Los Altos Ave/W Portola Ave Crosswalk Improvements	CIP	\$ 125,822	\$ 86,444	\$ 39,378.30
TS-01045	Covington Rd at Riverside Ave Pedestrian Improvements	CIP	\$ 96,477	\$ 31,875	\$ 64,602.00
TS-01046	Springer Rd/Fremont Ave Pedestrian Improvements	CIP	\$ 157,697	\$ 37,340	\$ 120,357.00
TS-01047	Grant Rd/Morton Ave Pedestrian Improvements	CIP	\$ 119,483	\$ 28,829	\$ 90,654.00
TS-01053	Traffic Sign Battery Backup System	CIP	\$ 250,000	\$ 84,915	\$ 165,085.50
TS-01054	Crosswalk Improvements at St. Joseph Ave and Deodora Dr	CIP	\$ 237,706	\$ 25,677	\$ 212,029.00
WW-01004	South Sewer Replacement	Sewer	\$ 938,495	\$ 397,801	\$ 540,694.37
WW-01010	SCVWD Sewer Main	Sewer	\$ 81,881	\$ 75,361	\$ 6,520.00
					<b>\$ 1,658,791.60</b>

## Proposed Five-Year FY 2020-24 Capital Improvement Program Summary

	2019/20	2020/21	2021/22	2022/23	Total Impact
Traffic Impact	\$ 35,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 110,000
Gas Tax	\$ 50,000	\$ (50,000)	\$ 50,000	\$ (50,000)	\$ -
In-Lieu Park	\$ (2,700,000)	\$ 140,000	\$ 30,000	\$ -	\$ (2,530,000)
Equipment Replacement	\$ 332,000	\$ -	\$ -	\$ -	\$ 332,000
CIP	\$ (529,700)	\$ 442,000	\$ 160,000	\$ 100,000	\$ 172,300
Sewer	\$ (14,000)	\$ 53,000	\$ 34,000	\$ 11,000	\$ 84,000
	<b>\$ (2,826,700)</b>	<b>\$ 610,000</b>	<b>\$ 299,000</b>	<b>\$ 86,000</b>	<b>\$ (1,831,700)</b>

Project #	Project Name	2019/20 Budget	2020/21 Budget	2021/22 Budget	2022/23 Budget	Total
<b>Traffic Impact Fees</b>						
TS-01007	Annual Neighborhood Traffic Management	\$ (25,000)	\$ (25,000)	\$ (25,000)	\$ (25,000)	\$ (100,000)
TS-01022	Annual Collector Street Traffic Calming	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 200,000
TS-01040	Fremont Ave/Truman Ave Intersection Improvements (School Route Project)	\$ 10,000				\$ 10,000
<b>Traffic Impact Fees Total</b>		<b>\$ 35,000</b>	<b>\$ 25,000</b>	<b>\$ 25,000</b>	<b>\$ 25,000</b>	<b>\$ 110,000</b>

**Gas Tax Fund**

TS-01009	Annual City Alley Resurfacing	\$ 50,000	\$ (50,000)	\$ 50,000	\$ (50,000)	
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**In Lieu Park Fund**

CF-01002	Los Altos Community Center Redevelopment	\$ (2,700,000)				\$ (2,700,000)
CF-01017	Annual Park Improvement		\$ 140,000	\$ 30,000		\$ 170,000
<b>In Lieu Park Total</b>		<b>\$ (2,700,000)</b>	<b>\$ 140,000</b>	<b>\$ 30,000</b>	<b>\$ -</b>	<b>\$ (2,530,000)</b>

**Equipment Replacement**

CD-01006	Police Records Management & Dispatch System	\$ 332,000				\$ 332,000
<b>Equipment Replacement Total</b>		<b>\$ 332,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 332,000</b>

**CIP Fund**

CD-01015	Lincoln Park Utility Undergrounding		\$ 200,000	\$ (200,000)		\$ -
CD-01020	Climate Action Plan Implementation Program		\$ 50,000			\$ 50,000
CD-01021	Coomunity Chamber AV Equipment	\$ 180,000				\$ 180,000
CF-01018	Downtown Lighting Cabinet Replacement		\$ 87,000			\$ 87,000
CF-01011	City Hall Emergency Backup Power Generator		\$ 30,000			\$ 30,000
CF-01013	MSC Fuel-Dispensing Station Overhead Canopy			\$ 260,000		\$ 260,000
TS-01006	Annual Traffic Sign Replacement	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 100,000
TS-01013	Annual Transportation Enhancements	\$ 75,000	\$ 50,000	\$ 75,000	\$ 75,000	\$ 275,000
TS-01033	Miramonte Ave Path	\$ (581,200)				\$ (581,200)
TS-01036	Miramonte Ave/Berry Ave Intersection Improvements (School Route Project)	\$ (250,000)				\$ (250,000)
TS-01038	El Monte Ave Sidewalk Gap Closure - Edith Ave to Almond Ave (School Route Project)	\$ 320,000				\$ 320,000
TS-01041	Los Altos Ave/Santa Rita School Crossing Improvements (School Route Project)	\$ 10,000				\$ 10,000
TS-01043	Santa Rita Avenue Bike Boulevard (School Route Project)	\$ (65,000)				\$ (65,000)
TS-01044	El Monte Walkway Improvement (School Route Project)	\$ (200,500)				\$ (200,500)
TS-01048	Bicycle Count Stations (School Route Project)	\$ (143,000)				\$ (143,000)
TS-01059	Diamond Court Reconstruction	\$ 100,000				\$ 100,000
<b>CIP Fund Totals</b>		<b>\$ (529,700)</b>	<b>\$ 442,000</b>	<b>\$ 160,000</b>	<b>\$ 100,000</b>	<b>\$ 172,300</b>

**Sewer Fund**

WW-01003	Annual Root Foaming	\$ (81,000)	\$ (81,000)	\$ (81,000)	\$ (81,000)	\$ (324,000)
WW-01005	Annual CIPP Corrosion Replacement	\$ 67,000	\$ 110,000	\$ 115,000	\$ 120,000	\$ 412,000
WW-01009	Sewer System Management Plan Update		\$ 24,000		\$ (28,000)	\$ (4,000)
<b>Sewer Fund Totals</b>		<b>\$ (14,000)</b>	<b>\$ 53,000</b>	<b>\$ 34,000</b>	<b>\$ 11,000</b>	<b>\$ 84,000</b>

## Defunding Projects

Projects	CIP	Downtown Parking	Traffic Impact Fee	Park-In- Lieu	TOTAL
<b>Transportation- Pedestrian/Bicycle Safety</b>					
Santa Rita Ave Bike Blvd	65,000				65,000
El Monte Walkway Improvement	200,500				200,500
Bicycle Count Stations	143,000				143,000
<b>TOTAL</b>	<b>\$ 408,500</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 408,500</b>



**Proposed Five-Year FY 2020-24 Capital Improvement Program Summary**

<b>Funding Source</b>	<b>Prior Appropriations</b>	<b>2019/20 Budget</b>	<b>2020/21 Budget</b>	<b>2021/22 Budget</b>	<b>2022/23 Budget</b>	<b>2023/24 Budget</b>	<b>Total Project Funding</b>
CIP/General Fund	14,993,487	15,050,000	20,126,729	2,820,000	2,560,000	2,560,000	58,110,216
Community Development							
Block Grant	583,933	320,000	0	0	0	0	903,933
Equipment Replacement	228,331	834,000	417,000	0	0	0	1,479,331
Gas Tax	1,636,914	750,000	750,000	750,000	750,000	750,000	5,386,914
in-Lieu Park Fund	631,335	300,000	1,740,000	330,000	300,000	330,000	3,631,335
Measure B	0	550,000	550,000	550,000	550,000	550,000	2,750,000
Other Funding	336,000	600,000	500,000	500,000	500,000	500,000	2,936,000
Sewer Fund	5,307,588	2,534,000	2,238,000	2,207,000	2,226,000	2,250,000	16,762,588
TDA Article III Grant	50,000	50,000	50,000	50,000	50,000	50,000	300,000
Technology Reserve	847,199	0	0	0	0	0	847,199
Traffic Impact Fees	2,043,750	210,000	200,000	200,000	200,000	200,000	3,053,750
Vehicle Registration Fee	1,463,000	0	0	0	0	0	1,463,000
<b>Total</b>	<b>\$ 28,121,536</b>	<b>\$ 21,198,000</b>	<b>\$ 26,571,729</b>	<b>\$ 7,407,000</b>	<b>\$ 7,136,000</b>	<b>\$ 7,190,000</b>	<b>\$ 97,624,265</b>



**CONSENT CALENDAR**

**Agenda Item # 9**

**AGENDA REPORT SUMMARY**

**Meeting Date:** May 14, 2019

**Subject:** Letter to County Planning regarding Lehigh Hanson and Stevens Creek Quarry

**Prepared by:** Environmental Commission

**Reviewed by:** Jon Biggs, Community Development Director

**Approved by:** Chris Jordan, City Manager

**Attachment(s):**

1. Draft letter to the County

**Initiated by:**

City Council

**Previous Council Consideration:**

None

**Fiscal Impact:**

None

**Environmental Review:**

Not applicable

**Policy Question(s) for Council Consideration:**

- Does the Council wish to send the County of Santa Clara Planning Department a letter supporting the requests of the City of Cupertino as outlined in their letter dated January 31, 2019?

**Summary:**

- The City of Cupertino sent a letter to the County of Santa Clara Planning Department that included a comprehensive analysis of recent violations by Lehigh Hansen and Stevens Creek Quarry
- The City Council and the Environmental Commission at their respective meetings on January 22, 2019 and February 11, 2019, received public comments regarding the violations and the potential environmental and health risks associated with said violations
- The City Council directed the Environmental Commission to research the topic and create a plan of action

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**Reviewed By:**

City Manager

*CJ*

City Attorney

*CD*

Finance Director

*SE*

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**Subject:** Letter to County Planning regarding Lehigh Hanson and Stevens Creek Quarry

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**Environmental Commission Recommendation:**

Following some limited research, the Environmental Commission at its March 11, 2019 meeting discussed preparing a letter for City Council that authorizes the Mayor to send the letter to the Santa Clara County Planning Department supporting the requests for prompt action on the violations outlined in a January 31, 2019 letter from the City of Cupertino



**Subject:** Letter to County Planning regarding Lehigh Hanson and Stevens Creek Quarry

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### **Purpose**

Support the City of Cupertino in their request for prompt County of Santa Clara action concerning reported violations at the Lehigh Hanson and Stevens Creek Quarry. The violations could have adverse environmental and health impacts on the City of Cupertino, surrounding communities and their residents.

### **Background**

The City of Cupertino sent a letter to the County of Santa Clara Planning Department that included a comprehensive analysis of recent violations by Lehigh Hansen and Stevens Creek Quarry. The City Council and the Environmental Commission at their respective meetings on January 22, 2019 and February 11, 2019, received public comments regarding the violations and the potential environmental and health risks associated with said violations. The City Council directed the Environmental Commission to research the topic and create a plan of action

### **Discussion/Analysis**

The Lehigh Hanson and Stevens Creek Quarry industrial facilities have very long operational histories that include disputes with the County of Santa Clara and other parties. For this reason, the Environmental Commission recommended a narrow letter supporting the prompt resolution of violation and permitting issues related to the City of Cupertino's January 31, 2019 letter.

### **Options**

- 1) Send letter supporting the City of Cupertino to Santa Clara County

**Advantages:** Support City of Cupertino efforts and express concern for the potential adverse environmental and health impacts

**Disadvantages:** None

- 2) Do Nothing

**Advantages:** None

**Disadvantages:** No statement of support on the efforts of the City of Cupertino on a matter of concern

### **Recommendation**

The Environmental Commission recommends Option 1.



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

May 15, 2019

Rob Eastwood  
Principal Planner  
County of Santa Clara  
70 West Hedding Street  
East Wing, Seventh Floor  
San Jose, CA 95110

Sent via email: [Rob.Eastwood@pln.sccgov.org](mailto:Rob.Eastwood@pln.sccgov.org)

Dear Mr. Eastwood,

The City Council of the City of Los Altos is writing in support of the letter submitted to the Planning Department by the City of Cupertino on January 31, 2019 regarding reported violations at Lehigh Hanson and Stevens Creek Quarry, attached.

The City of Los Altos requests increased frequency and thoroughness of County inspections of Lehigh Hanson and Stevens Creek Quarry activities to ensure full and ongoing compliance with operating permits to promptly identify violations. The City also requests that the County prosecute violations, impose appropriate fines and focus resources and attention on expeditiously resolving all known pending reclamation and permitting issues.

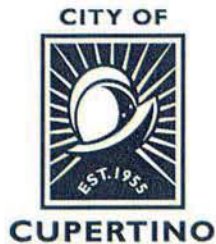
Prompt and persistent action by the County of Santa Clara is necessary to resolve the issues stated above and to address the potential adverse environmental and health concerns of the residents of Los Altos, Cupertino and adjacent communities.

Sincerely,

Lynette Lee Eng  
Mayor

Attachment: Letter from City of Cupertino dated January 31, 2019

c: City Council  
City Manager



**CITY MANAGER'S OFFICE**

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366  
CUPERTINO.ORG

January 31, 2019

Rob Eastwood  
Principal Planner  
County of Santa Clara  
70 West Hedding Street  
East Wing, Seventh Floor  
San Jose, CA 95110  
[Rob.Eastwood@pln.sccgov.org](mailto:Rob.Eastwood@pln.sccgov.org)

Dear Mr. Eastwood,

The County of Santa Clara issued a Notice of Violation to Lehigh Hanson (Lehigh) on August 17, 2018 for illegal grading of a haul road outside the boundaries of the 2012 Reclamation Plan Amendment approved for Lehigh's Permanente Quarry. The haul road followed an existing utility access road that allowed Lehigh to ship aggregate mined on its property to the neighboring Stevens Creek Quarry (SCQ) for processing and sale. The County required that Lehigh halt further grading and use of the haul road, a portion of which falls within the jurisdictional boundaries of the City.<sup>1</sup>

Since the Notice of Violation,<sup>2</sup> Lehigh has continued to haul material to SCQ, now via City of Cupertino streets. An estimated twenty to twenty-seven trucks circulate continuously between the quarries each workday. This dramatic change in the volume and composition of traffic on Stevens Creek and Foothill Boulevards causes hazardous conditions for pedestrians, bicyclists, and drivers, as well as significant backups, idling, and associated noise and emissions. The loaded quarry trucks have also dropped quantities of sediment and debris on City streets, resulting in runoff of potentially contaminated material to the City's storm drain system, which discharges to nearby creeks.

The recent expansion in operations, at both SCQ and Lehigh, and the associated hauling through City streets, are unacceptable and illegal. The two quarries appear to have struck a deal that allows Lehigh to ship its aggregate offsite for processing at a facility subject to less stringent

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<sup>1</sup> As a portion of the illegal grading occurred within the jurisdictional boundary of the City, the City has been waiting to coordinate with the County to take enforcement action against Lehigh as provided by the City and County ordinance.

<sup>2</sup> Available at [https://www.sccgov.org/sites/dpd/DocsForms/Documents/2250\\_NOV\\_20180817.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/2250_NOV_20180817.pdf).

environmental controls and SCQ to extend the life of its aggregate business as its own deposits run out. But SCQ is neither authorized nor entitled to process aggregate or overburden mined offsite. It is required to comply with the conditions of approval established by its 1996 Use Permit for Parcel A (Conditions of Approval) and the 2002 Mediated Conditions governing Parcel B (Mediated Conditions).<sup>3</sup> These conditions provide for SCQ to process and export aggregate mined on its property. They also prohibit SCQ from trucking material in from Permanente Quarry, either over the boundary it shares with Lehigh or using City streets not identified in its designated, mandatory haul routes.

Likewise, Lehigh cannot ship (potentially contaminated) aggregate for processing and sale offsite without first obtaining a use permit from the County and undergoing environmental review.

Accordingly, the County's Notice of Violation and enforcement against Lehigh do not address the primary violations of County law, which continue to this date. The County must order SCQ to cease and desist processing aggregate hauled in from offsite, and Lehigh to cease and desist shipping its aggregate to offsite locations for processing and sale. Such action will moot Lehigh's pending Reclamation Plan Minor Amendment for Rock Plant Haul Road Reclamation and Boundary Adjustment, dated November 2018 (proposed Reclamation Plan Amendment) and its application for the same dated November 9, 2018 (Application).<sup>4</sup>

Lehigh's grading and road improvements are illegal. But neither new steps to permit that road nor Lehigh's proposed Reclamation Plan Amendment can provide Lehigh and SCQ a compliant means for SCQ to process Lehigh's aggregate. Their current use of City streets only exacerbates their violations by violating additional Conditions of Approval, endangering Cupertino's residents, and creating nuisance conditions. The County must therefore reject Lehigh's proposed Reclamation Plan Amendment and immediately halt SCQ's and Lehigh's illegal expansion of their respective operations.

**I. Stevens Creek Quarry's processing and sale of imported aggregate violates applicable permits, conditions, and County law.**

The Stevens Creek Quarry consists of two areas commonly referred to as Parcels A and B. Parcel A contains offices, scales, and a concrete recycling facility, and Parcel B contains a quarry pit, rock crusher, and material stockpiles. Parcel A is governed by a use permit originally issued in 1984 and renewed with Conditions of Approval in 1996. Parcel B is subject to a set of

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<sup>3</sup> Conditions of Approval available at [https://www.sccgov.org/sites/dpd/DocsForms/Documents/1253\\_SCQ\\_UsePermit\\_ParcelA\\_COA.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/1253_SCQ_UsePermit_ParcelA_COA.pdf); Mediated Conditions available at [https://www.sccgov.org/sites/dpd/DocsForms/Documents/1253\\_SCQ\\_Agreement\\_ParcelB\\_COA.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/1253_SCQ_Agreement_ParcelB_COA.pdf).

<sup>4</sup> Proposed RPA available at [https://www.sccgov.org/sites/dpd/DocsForms/Documents/2250\\_HaulRoad\\_RPA.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/2250_HaulRoad_RPA.pdf); Application available at [https://www.sccgov.org/sites/dpd/DocsForms/Documents/2250\\_HaulRoad\\_AppForms.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/2250_HaulRoad_AppForms.pdf).

Mediated Conditions—the result of mediation between SCQ and a group of neighbors—with which SCQ is required to comply pursuant to its 2008 Reclamation Plan Amendment. In May 2018, the County and SCQ entered into a Compliance Agreement and Stipulation to Comply (Compliance Agreement), in which SCQ acknowledged that it had violated County and State law and agreed to steps to bring SCQ into compliance with both, including that SCQ “shall submit an application for a Use Permit and Reclamation Plan Amendment for Parcels A and B.”<sup>5</sup> Accordingly, SCQ is currently operating under a combination of a use permit and the associated Conditions of Approval, Mediated Conditions, Reclamation Plan, and Compliance Agreement.<sup>6</sup>

Rather than bringing its operations into long-overdue compliance as it committed to do only eight months ago, SCQ intensified and expanded its non-conforming use during the very period in which it has been subject to the Compliance Agreement. All of SCQ’s approvals anticipate—and allow—an export mining operation. But as SCQ exhausts its own raw materials, it has developed a new line of business to extend the life of its aggregate processing operation.<sup>7</sup> The County should immediately halt SCQ’s latest attempt to flout State, County, and local law and prohibit any import of aggregate from offsite until SCQ has applied for, performed environmental review of, and obtained a use permit and Reclamation Plan Amendment.

The Conditions of Approval and Mediated Conditions both specify practices for trucks loading material at SCQ and hauling it elsewhere for delivery. Neither set of conditions refers to or contemplates delivery trucks unloading for the aggregate operation. For example, Condition of Approval 44 requires SCQ to “supply [the County with] monthly totals of vehicular (truck) traffic serviced by the quarry operations.” Mediated Condition 20(a) limits hours of operation so that “[b]eginning at 6:00 a.m., trucks shall be able to stack, *load* and haul.” Mediated Condition 14 requires “[t]ruck *loading* practices to be such as to eliminate spillage on public roads” and 15 mandates that “[a]ll truck parking, queuing and *loading*, shall be carried out on the property.” *See also* Mediated Condition 12(a) (dust control for areas where “haulage vehicles” are “used” or “*loaded*”), 12(b) (“Dozing, digging, scraping, and *loading* of excavated materials shall be done in a manner which reduces to the minimum level possible the raising of dust.”), 20(b) (“Plant operation does not include material *loading* and hauling, because it is covered in the use permit for parcel “A”), 24 (SCQ “shall maintain control over . . . hauling and *loading* hours”). And

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<sup>5</sup> Compliance Agreement at 9, available at [https://www.sccgov.org/sites/dpd/DocsForms/Documents/1253\\_2018\\_ComplianceAgreement\\_StipulatedOrdertoComply.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/1253_2018_ComplianceAgreement_StipulatedOrdertoComply.pdf).

<sup>6</sup> In November 2018, the Regional Water Quality Control Board also issued a Technical Report Order requiring SCQ to update its Stormwater Pollution Prevention Plan and to collect data on specific water quality parameters including metals such as selenium due in part to concerns that aggregate imported from Permanente Quarry could introduce new contaminants to the site, which lacks specialized water quality treatment facilities. *See* Technical Report Order Per Water Code Section 13267, Stevens Creek Quarry, Inc., Santa Clara County (Nov. 8, 2018), available at <https://www.cupertino.org/home/showdocument?id=23484>.

<sup>7</sup> SCQ’s entire mining area, including both its quarry pit and all buildings and facilities, encompasses approximately 123 acres, of which 13 are depleted and now undergoing reclamation. *See* Surface Mining Inspection Report at 5 (Sept. 14, 2018), available at [https://www.sccgov.org/sites/dpd/DocsForms/Documents/1253\\_2018\\_MRRC.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/1253_2018_MRRC.pdf).



Mediated Condition 13 limits the “[h]aul route being approved [to] Stevens Canyon Road-Foothill Boulevard to Highway 280 and Foothill Expressway. No other route to be used.” (Emphasis added.) Thus, SCQ’s approvals describe operations exclusively as trucks loading at and leaving the quarry, not delivering to it or travelling on Stevens Creek Boulevard west of Foothill Boulevard.

SCQ was already years out of compliance with its Reclamation Plan prior to adding its new import business, with numerous and persistent violations that culminated in the Compliance Agreement. Nonetheless, its expanded aggregate processing activities further violate its Reclamation Plan by causing a “change or expansion to a surface mining operation that substantially affects the completion of the previously approved Reclamation Plan,” including by “exten[ding] the termination date of the mining operation.” 14 C.C.R. § 3502(d). Washing and crushing Lehigh’s aggregate without the rigorous water quality protections required at the Permanente Quarry could also “substantially affect the approved end use of the site” or cause inconsistency with “previously adopted environmental determinations,” as the Regional Water Quality Control Board has recently indicated in requiring data specifically targeted at contaminants of concern imported with the Lehigh aggregate.<sup>8</sup>

The County should not allow SCQ to expand its operations and worsen its violations while nominally following the steps identified in the Compliance Agreement. Instead, the County should require that SCQ immediately halt all imports of aggregate while it works to achieve compliance for even its existing operations.

**II. Lehigh does not have a vested right to construct a “customer access” road for processing aggregate offsite.**

Lehigh claims that the new haul road in its proposed Reclamation Plan Amendment falls within the vested rights that the County recognized in 2011 and thus requires no permit beyond the proposed Reclamation Plan Amendment. It is wrong. The County found that “[q]uarry surface mining operations on Vested Parcels” specified by the County “are a legal non-conforming use, and do not require a County use permit for *continued surface mining operations within the geographic area bounded by the Vested Parcels.*”<sup>9</sup> The County also found “that vested rights do not exist over” other parcels within the Permanente Quarry property. *Id.*

By Lehigh’s own admission, the proposed haul road “will not expand the area in which mineral deposits are harvested.”<sup>10</sup> Its sole purpose is to allow Lehigh to ship aggregate offsite for

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<sup>8</sup> See Technical Report Order Per Water Code Section 13267, Stevens Creek Quarry, Inc., Santa Clara County (Nov. 8, 2018), available at <https://www.cupertino.org/home/showdocument?id=23484>.

<sup>9</sup> Santa Clara County Board of Supervisors Resolution 2011-85 ¶ 4 (emphasis added), available at <http://sccgov.iqm2.com/Citizens/FileOpen.aspx?Type=4&ID=3038&highlightTerms=2011-85>.

<sup>10</sup> Proposed RPA at 1; Application at 1.

processing and sale on the neighboring property.<sup>11</sup> Shipping material offsite is not part of Lehigh’s historical—and thus vested—use of the Permanente Quarry property. To the contrary, Lehigh processed its own aggregate onsite until 2011.<sup>12</sup> Lehigh refused to even consider shipping overburden offsite in its environmental impact report for the 2012 Reclamation Plan Amendment because “[t]oo little is . . . known about the range of possible destinations, distances, . . . and about whether some marketable or other use could be made of the materials.”<sup>13</sup> Thus, neither the road nor the activities that it would facilitate is a “continued surface mining operation[.]” Resolution 2011-85 ¶ 4. Nor would the processing take place “within the geographic area bounded by the Vested Parcels.” *Ibid.* Accordingly, the proposed offsite haul road and aggregate processing are not vested. As a result, they require, at a minimum, use and grading permits and environmental review. Santa Clara County Zoning Ordinance § 4.10.370(I)(D), Code of Ordinances § C12-406.

More generally, a determination of vested rights is limited to “uses normally incidental and auxiliary to the nonconforming use” (*Hansen Bros. Enters. v. Bd. of Supervisors* (1996) 12 Cal.4th 533, 565), which courts interpret narrowly (*County of San Diego v. McClurken* (1951) 37 Cal.2d 683, 687). Shipping aggregate offsite for processing and sale, after decades of processing and selling that same material onsite, falls well outside of Lehigh’s vested rights. Addressing analogous facts, the court in *Paramount Rock Company v. County of San Diego* held that a ready-mix concrete business exceeded the scope of its vested right when it switched from importing gravel and crushed rock as of the vesting date to use of an onsite rock crushing plant to produce that material. (1960) 180 Cal.App.2d 217, 221-22, 233. Lehigh has clearly done the same by switching from onsite rock crushing to exporting aggregate for processing at a nearby facility with less stringent environmental controls.

In fact, the new business arrangement between SCQ and Lehigh appears to be a mutually beneficial end run around the rigorous water quality controls under which Lehigh operates and the diminishing material available to SCQ on its own property. The Conditions of Approval for Lehigh’s 2012 Reclamation Plan Amendment require, among other things, a demanding Verification and Water Quality Monitoring Program that began 90 days after approval of that amendment and must continue for at least five years following completion of reclamation of the Permanente Quarry. Final Conditions of Approval (June 26, 2012), Condition 76.<sup>14</sup> This requirement expressly targets metals including selenium and provides that reclamation will not

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<sup>11</sup> See Letter from E. Guerra to J. Onciano and R. Lee (Jan. 9, 2019) (“To be clear, Lehigh did not and does not believe that an RPA is necessary for a road that is used for customer access to Lehigh’s quarry.”), available at <https://www.cupertino.org/home/showdocument?id=23408>.

<sup>12</sup> See Draft Environmental Impact Report for Lehigh Permanente Quarry Reclamation Plan Amendment (DEIR) at 2-11 to 2-12 (Dec. 2011) (describing Rock Plant facilities), available at [https://www.sccgov.org/sites/dpd/DocsForms/Documents/Lehigh\\_DEIR\\_201112.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/Lehigh_DEIR_201112.pdf); Workplan for Characterization of Eastern and Western Materials Storage Areas, Permanente Quarry at 3, available at [https://www.waterboards.ca.gov/rwqcb2/water\\_issues/hot\\_topics/Lehigh/04-13-13/Pond\\_Workplan.pdf](https://www.waterboards.ca.gov/rwqcb2/water_issues/hot_topics/Lehigh/04-13-13/Pond_Workplan.pdf).

<sup>13</sup> DEIR at 3-17.

<sup>14</sup> Available at [https://www.sccgov.org/sites/dpd/DocsForms/Documents/Lehigh\\_20120607\\_COA\\_Final.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/Lehigh_20120607_COA_Final.pdf).

be complete until five years of data show that runoff and point source discharges from the Permanente Quarry comply with applicable water quality standards. *Id.*, Condition 77. Another condition requires the design and implementation of a specialized facility to treat water discharged to Permanente Creek to bring concentrations of selenium within the water quality objective set in the applicable basin plan. *Id.*, Condition 82. Several additional conditions require that Lehigh design, implement, and monitor stringent controls of water and water quality. *E.g.*, *Id.*, Conditions 74-84. And while these conditions attach to the reclamation plan, many require Lehigh to act within 30 to 90 days of approval of the 2012 amendment. Accordingly, operations at Permanente Quarry are subject to exceptionally rigorous water quality controls and constant monitoring that ensures that those operations do not allow contaminants, especially metals such as selenium, to enter the watershed. These controls are expensive and unusual. Lehigh has a rock plant onsite that processed its aggregate for sale until 2011. Its decision to ship the same materials, which implicate the same water quality concerns, to a neighboring business that operates without such essential protections constitutes improper evasion of these requirements, as well as an impermissible expansion and extension of both quarries' operations.

### **III. Stevens Creek Quarry and Lehigh are prohibited from hauling aggregate from the Permanente Quarry to Stevens Creek Quarry.**

Even if Lehigh were allowed to outsource its aggregate and SCQ were allowed to process it, they are prohibited from hauling the material from the Permanente Quarry to SCQ. SCQ operates under express limits on its ingress and egress locations, and a designated, mandatory haul route. As recognized by the County in its Notice of Violation, Lehigh's current reclamation plan does not extend to the property line that it shares with SCQ. Thus, the businesses may not haul aggregate between their properties either on private or public roads.

#### **A. A new haul road between the Permanente Quarry and Stevens Creek Quarry properties would be illegal.**

SCQ'S Conditions of Approval for both Parcels A and B prohibit access over the ridge between it and the Permanente Quarry: "Ingress and egress locations [to Parcel B] to be limited to three (3) existing driveways onto Stevens Canyon Road." Mediated Condition 8, Condition of Approval 13. Likewise, Lehigh is prohibited from conducting mining activity—which the haul road purports to be—outside the boundaries of an approved reclamation plan.<sup>15</sup> Thus, under their current approvals, neither SCQ nor Lehigh can build a haul road between the two properties.

SCQ's Conditions of Approval also expressly limit its haul truck traffic to "Stevens Canyon Road-Foothill Boulevard to Highway 280 and Foothill Expressway. *No other route to be used.*" Mediated Condition 13, Condition of Approval 17 (emphasis added). The County Standards for Surface Mining Operations (Santa Clara County Zoning Ordinance § 4.10.370(II)(A)(4)(c), (d)) require that quarries in the County specify haul roads to be used and the number and location of access points in permit conditions. Accordingly, Lehigh would be

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<sup>15</sup> *E.g.*, Notice of Violation at 2.

bound by similar limits on haul routes and access if it obtained a use permit to allow export of its aggregate.

Nonetheless, Lehigh blithely proposes a new haul road to directly link the Permanente Quarry and SCQ properties, without acknowledging that such a route would violate SCQ's mandatory operating conditions. Even if Lehigh's proposed Reclamation Plan Amendment was complete, both the operation and proposed haul route would remain illegal.

**B. Lehigh's proposed Reclamation Plan Amendment is inadequate and incomplete.**

Lehigh responded to the County's Notice of Violation by applying to amend its Reclamation Plan, ignoring other constraints that preclude the new business arrangement. Lehigh's proposed Reclamation Plan Amendment is cursory and insufficient. It asserts that the new haul road is encompassed by its vested right to mine, and thus not subject to environmental review. Then it states that it will leave the road in place as a permanent improvement, without providing any explanation of how a steep, private haul road constructed specifically for heavy trucks will be consistent with the long-term use of the Permanente Quarry as open space following reclamation. Finally, Lehigh simply states that because "the project is a reclamation plan boundary adjustment. . . no impacts would occur."<sup>16</sup> This is incorrect.

As an initial matter, and as discussed above, Lehigh's proposed haul road is not encompassed by its vested right to conduct surface mining on designated parcels. That road thus requires discretionary use and grading permits, and environmental review.

Even if Lehigh did not require a permit for the portion of the proposed road located on its property (the road and the aggregate processing that it would enable) extends onto the SCQ property, for which Lehigh does not even allege vested status. Under this analysis, the proposed road would also be subject to the California Environmental Quality Act, Public Resources Code §21000 et seq (CEQA). *See Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 276 (full environmental review required of both reclamation plan and new proposed mining activity, even though the mining activity was located on federal land and subject to federal, rather than county, approval). Lehigh is improperly piecemealing the project by characterizing the project as only the proposed Reclamation Plan Amendment, excluding both the road that admittedly gave rise to the amendment, located both on and off Lehigh's property, and the aggregate processing for which the road and proposed Reclamation Plan Amendment are intended. *See Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1223 ("[T]here may be improper piecemealing when the reviewed project legally compels or practically presumes completion of another action."); *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1231 (environmental review improperly excluded road when "project cannot be completed and opened legally without the completion of the road realignment").

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<sup>16</sup> Application at 10.

Even considering the proposed Reclamation Plan Amendment in isolation, as Lehigh would have the County do, reclamation plans and their amendments are subject to CEQA. *See City of Ukiah v. County of Mendocino* (1987) 196 Cal.App.3d 47, 54, fn. 4 (“We reject [the] argument that CEQA is entirely inapplicable [to a reclamation plan] . . . [A] reclamation plan is an ‘entitlement for use’ inasmuch as the SMARA prohibits surface mining operations unless a reclamation plan has been submitted and approved. Thus, a reclamation plan is a ‘project’ under CEQA.”); *see also El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1596 (affirming reliance on negative declaration to approve reclamation plan). Lehigh’s application illustrates why. It provides minimal information on the baseline conditions where the road will be built, although other documents show that the road essentially traces the route of the Berrocal fault.<sup>17</sup> The limited information about construction of the road describes a 36-foot wide road engineered for 45-ton trucks that climbs over a steep hillside, requiring at least 100,000 to 150,000 cubic yards of cut and fill and a significant retaining wall.<sup>18</sup> Yet Lehigh challenges the need even to submit a reclamation plan amendment, much less environmental review to, for example, consider alternatives or identify mitigation.<sup>19</sup> Even if the County were to accept Lehigh’s premise that construction of the new road falls within its vested rights, Lehigh provides no explanation of why the purportedly mining-related road should remain in place once the property is reclaimed. Such a bald omission is particularly inappropriate when Lehigh’s own analysis notes the likely occurrence of erosion and need for maintenance associated with the steep design.<sup>20</sup> Nor does Lehigh’s application consider how to reclaim this proposed infrastructure. CEQA is designed to force disclosure and consideration of such information at the outset, before an agency approves a project.

Lehigh fails to support its assertion that the proposed Reclamation Plan Amendment falls within CEQA’s categorical exemptions for minor alteration of existing facilities (Class 1); minor alterations to land, water, or vegetation which do not involve removal of healthy, mature, scenic trees (Class 4); or the “common sense” exemption “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment” (14 C.C.R. § 15061(b)(3)). Because exempt projects require no CEQA review, courts construe the exemptions narrowly “to afford the fullest possible environmental protection.” *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1193-94.

The Class 1 categorical exemption applies only to operation of “existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.” 14 C.C.R. § 15301. In this instance, there is no existing facility, nor will there be at the time of the lead

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<sup>17</sup> *See* Stevens Creek Quarry Reclamation Plan Amendment, Appx. D (Slope Stability Report), fig. 6, 12, available at [https://www.sccgov.org/sites/dpd/DocsForms/Documents/1253\\_SCQ\\_RPA.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/1253_SCQ_RPA.pdf).

<sup>18</sup> Proposed RPA at 4.

<sup>19</sup> Letter from E. Guerra to J. Onciano and R. Lee (Jan. 9, 2019), available at <https://www.cupertino.org/home/showdocument?id=23408>.

<sup>20</sup> Application, Appx. B at 6.

agency's determination regarding the proposed Reclamation Plan Amendment. In addition, the proposed Reclamation Plan Amendment is for the sole reason of expanding use of the larger property to allow offsite processing of Lehigh's aggregate. For both reasons, the Class 1 exemption does not apply.

The Class 4 categorical exemption applies to "minor . . . alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees." 14 C.C.R. § 15304. Examples include "[g]rading on land with a slope of less than 10 percent." *Id.* § 15304(d). Lehigh's reliance on this exemption is ironic considering its initial, wholly unpermitted improvement of the PG&E road, which involved bulldozing an estimated 56 trees.<sup>21</sup> For purposes of the proposed Reclamation Plan Amendment, Lehigh simply attributes all tree removal to the purportedly vested road construction.<sup>22</sup> Even limiting consideration solely to the proposed Reclamation Plan Amendment, Lehigh's own documents show that the proposed road will have an average grade of over 14 percent and be as steep as 20 percent. Presumably the surrounding slopes are comparably steep, if not steeper. This is precisely the information that CEQA would disclose and allow the County to consider and address through alternatives or mitigation measures.

Nor can Lehigh or the County say "with certainty that there is no possibility that the activity in question may have a significant effect on the environment." 14 C.C.R. § 15061(b)(3). Even setting aside the flaws discussed above, Lehigh has provided scant information—far from the substantial evidence required—to support its assertion that reclamation of the haul road will have no significant impact on the steeply sloped and wooded hills through which the haul road is proposed to cut.

**C. The quarries' interim solution of hauling aggregate on Cupertino City Streets is also illegal.**

The County's Notice of Violation preventing Lehigh from using the haul road that it improved illegally along the route of an existing PG&E access easement did not stop Lehigh from shipping its aggregate to SCQ for processing. Instead, the businesses began hauling aggregate on City streets, using heavy trucks to haul Lehigh's aggregate east on Stevens Creek Boulevard into Cupertino and then south on Foothill Boulevard, with empty trucks making the reverse trip. In addition to causing hazardous conditions described in Section IV below, the quarries' new haul route through the largely residential streets violates SCQ's express restriction to hauling from "Stevens Canyon Road-Foothill Boulevard to Highway 280 and Foothill Expressway. *No other route to be used.*" Mediated Condition 13, Condition of Approval 17 (emphasis added). Accordingly, the County should again enforce against the illegal expansion of both quarries' operations and violation of SCQ's Mediated Conditions to protect Cupertino residents.

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<sup>21</sup> Memo to E. Guerra and T. Jackson at 3 (Oct. 12, 2018), available at <https://www.cupertino.org/home/showdocument?id=23406>.

<sup>22</sup> Application, Addendum at 3.

#### **IV. The quarries' illegal operations are creating hazardous conditions in the City of Cupertino that create a public nuisance.**

The quarries' decision to route haul trucks through the City's residential streets is endangering pedestrians, cyclists, and cars; imposing increased noise and emissions on surrounding homes; and dropping significant quantities of sediment and debris on City streets and in City storm drains. Use of these streets as a regular haul route violates the permit conditions described above. Those conditions reflect local infrastructure that cannot safely—and should not have to—accommodate high volumes of heavy commercial traffic on routes that were not designed to accommodate such traffic. The quarries' recent hauling creates nuisance conditions against which the City must consider legal action if the County does not enforce the existing legal restrictions.

Stevens Creek and Foothill Boulevard both are almost entirely residential along the current haul route and include designated bike lanes. They provide a single lane for traffic in each direction and limited turn lanes at their intersections that cannot accommodate multiple trucks attempting to turn without blocking through traffic. Trucks hauling material from Permanente Quarry to SCQ have routinely been crossing the dividing line of Foothill Boulevard as they turn onto it from Stevens Creek Boulevard. This is due to the geometry of the southwest corner of this intersection, where an existing utility pole and traffic pole limit large vehicles from making the turn without crossing the dividing line and facing oncoming traffic in the wrong lane. Empty trucks traveling from SCQ back to the Permanente Quarry are causing serious congestion issues on Foothill Boulevard as the trucks wait to turn left onto Stevens Creek Boulevard. When more than two trucks wait to make the turn, through traffic on Foothill Boulevard is restricted due the trucks filling up the turn pocket and blocking the through northbound lane of Foothill Boulevard. This issue is especially acute during the morning commute when it is common to have vehicles waiting 15 minutes or more to clear the intersection, resulting in not only delays and traffic hazards but also substantial noise and emissions.

In addition, the quarries' haul trucks are not tarped, as required by local and state law, and residents and City staff have observed regular instances in which they drop dust, sediment, and debris on City streets. *See* Cupertino Municipal Code § 9.18.215(A)(6) (“It is unlawful for any person to drive or move any open vehicle or trailer within the City unless there is a tarp over the contents or the material is constructed and located so as to ensure that all litter is prevented from being blown or deposited upon any street.”); Cal. Veh. Code § 23114(a) (“[A] vehicle shall not be driven or moved on any highway unless the vehicle is so constructed, covered, or loaded as to prevent any of its content or load . . . from dropping, sifting, leaking, blowing, spilling, or otherwise escaping from the vehicle.”).

Significant and consistent disruption of traffic can create a public nuisance when such disruption unlawfully obstructs the free passage or use of a street. *People v. Amdur* (1954) 123 Cal.App.2d Supp. 951, 959. “Any obstruction” that is not temporary and incidental to the primarily intended use of the street or authorized by ordinance “constitutes a public nuisance *per se*.” *Id.* at 959-60. In this case, the haul trucks' presence on residential City streets is neither temporary, given the frequency and duration of their presence, nor incidental to the primarily intended use of the streets for residential purposes. Moreover, the trucks' haul route is not

authorized by ordinance, but rather violates mandatory conditions of operation required by the County.

Likewise, discharge of mining waste, aggregate, sediment, or debris to the City's stormwater system is both a violation of the City's NPDES permit and a public nuisance. Municipal Regional Stormwater NPDES Permit, Order R2-12015-0049, NPDES Permit No. CAS612008 at 5; *see also* Cupertino Municipal Code §§ 9.18.020 (50), 9.18.040(A)-(C), 9.18.215(A)(6), 1.09.180. Moreover, Lehigh's mining waste and soil are known to contain elevated levels of contaminants such as selenium, heightening the City's concern about the material dropped in City streets.<sup>23</sup>

The hazardous conditions resulting from the high volume of haul trucks currently using City streets would not exist if the County enforced existing requirements that limit operations at both SCQ and Permanente Quarry. And even if SCQ were allowed to process Lehigh's aggregate, neither business can use the current route through residential City streets as a haul route. If the County simply enforced existing requirements, many of the nuisance conditions currently affecting the City would be resolved.

The City therefore requests that the County enforce SCQ's Conditions of Approval and Mediated Conditions and prohibit it from both importing aggregate for processing and deviating from its specified haul route. Likewise, the City asks the County to order Lehigh to cease and desist from exporting aggregate and other materials for processing offsite unless and until it obtains a use permit for such activities from the County.

As the current conditions created by the two quarries are not acceptable to the City, we respectfully request that the County acknowledge this letter by February 4, 2019 and have the two quarries cease and desist the exporting and processing of material between the two facilities no later than February 8, 2019. Thank you for your prompt attention to this matter, and please do not hesitate to contact my office with any questions.

  
\_\_\_\_\_  
Timm Borden  
Interim City Manager

CC: Supervisor Joseph Simitian

1081984.6

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<sup>23</sup> The Regional Water Quality Control Board has thus far taken the only enforcement action to require characterization of material hauled from Lehigh to SCQ, or at least of water quality affected by that material, by May 2019. As a result, the City will not know until approximately nine months after the quarries started hauling through City streets whether the debris their trucks have dropped on City streets and in City storm drains is dangerously contaminated.





**CONSENT CALENDAR**

**Agenda Item # 10**

**AGENDA REPORT SUMMARY**

**Meeting Date:** May 14, 2019

**Subject:** City Council Authorization for Mayor to Send Letter Opposing SB 50

**Prepared by:** Chris Jordan, City Manager

**Attachment(s):**

1. Letter from Palo Alto Opposing SB 50
2. Cities Association Adopted "Position Paper on Housing"

**Initiated by:**

Mayor Lee Eng

**Previous Council Consideration:**

January 8, 2019

**Fiscal Impact:**

Not Applicable

**Environmental Review:**

Not Applicable

**Policy Question(s) for Council Consideration:**

Does the Council wish to oppose SB 50? And, if so, does the Council wish to authorize the Mayor to send a letter to our state legislators reflecting that position?

**Summary:**

- On January 8, 2019 the City Council discussed SB 50 and decided not to take a position at that time
- The City of Palo Alto recently sent a letter to Assembly Member Marc Berman and State Senator Jerry Hill opposing SB 50
- The Cities Association of Santa Clara County has adopted a "Position Paper on Housing" to reflect the thinking of the cities

**Staff Recommendation:**

The Mayor is requesting that the Council approve a motion supporting the Mayor sending a letter to our state legislators expressing the opposition of the City Council to SB 50



OFFICE OF THE CITY MANAGER

CITY OF  
**PALO  
ALTO**  
250 Hamilton Avenue, 7th Floor  
Palo Alto, CA 94301  
650.329.2392

April 17, 2019

Honorable Jerry Hill  
California State Senate  
State Capitol, Room 5035  
Sacramento, CA 95814

Honorable Marc Berman  
California State Assembly  
State Capitol, Room 6011  
Sacramento, CA 95814

**RE: Input from the City of Palo Alto related to priority housing legislation, including an Oppose Unless Amended position on SB 50 (Wiener)**

Dear Senator Hill and Assembly Member Berman:

On behalf of the City of Palo Alto, we applaud the Legislature for crafting bills to address the housing emergency in the San Francisco Bay Area and in California. There is a recognized need to address housing, and we want to be part of the conversation and the solution.

To that end, I write today to:

- (1) Update you on broad actions our City Council has taken to facilitate affordable housing; and
- (2) Formally note our City's support of the [Housing Position Paper](#) adopted by the Cities Association of Santa Clara County, and our enthusiasm for legislation consistent with its provisions; and
- (3) Convey the City's input related to some of the 2019 priority housing legislation, including an Oppose Unless Amended position for SB 50 (Wiener)

**PALO ALTO'S ACTIONS TO INCREASE AFFORDABLE HOUSING**

***Ordinance changes***

Our voters have clearly indicated they would like to see more housing, and particularly Affordable Housing, within our city. In April 2018, our Council adopted an Affordable Housing Overlay (Affordable Housing Combining District) Ordinance. This ordinance allows for the development of 100% affordable rental housing in areas near transit not currently zoned for residential uses. It also allows for increased density and heights, fewer parking spaces, and the possibility of streamlined administrative approval of modifications to some requirements.<sup>1</sup>

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<sup>1</sup> Of this action, Silicon Valley at Home lauded the Palo Alto City Council for taking "bold action" to respond to community needs, noting that the move "exemplifies the local leadership we need to address the housing crisis" (April 13, 2018). *City of Palo Alto Approves Affordable Housing Overlay*, retrieved from <https://siliconvalleyathome.org/city-of-palo-alto-approves-affordable-housing-overlay/>.



More recently, the City Council significantly amended ordinances related to residential and mixed-use development standards and commercial zoning districts. These changes relate to density, unit size, floor area ratio, parking, and more. A high-level summary<sup>2</sup> of the changes include:

- Eliminating site and design review for housing projects containing nine or more units and not located in certain environmentally or ecologically sensitive areas
- Allowing for increased unit density in multi-family residential zones and removing density limits altogether in certain areas
- Creating a Housing Incentive Program that utilizes a discretionary review and waiver process to allow housing projects to use commercial floor area in addition to increased housing floor area
- Exempting certain 100% affordable housing projects from retail preservation requirements
- Reducing parking requirements for multi-family units

#### ***Recently approved affordable housing developments***

In January 2019, the City Council approved a 59-unit affordable housing development designated for residents making no more than 60 percent of the area median income. In June 2018, the City approved a 57-unit workforce complex, with a portion of the units reserved as affordable housing. This development was possible due to the creation of a new district allowing workforce housing within a half mile of rail stations. This new complex serves in part as a parking test case, as the district aims for one vehicle per household; while tenants will pay for any parking space they utilize, they will be given Caltrain Go Passes and VTA EcoPasses. Also per negotiation, the developer of this complex is also building a new bus shelter at a nearby intersection.

#### ***Affordable housing programs***

The above ordinance changes and newer development approvals are in addition to our Below Market Rate program, which aims to create and retain a supply of affordable housing for people with low and moderate income. The City has approximately 250 owner-occupied and 460 rental units in this housing program that are sold or rented to qualifying households and managed by a local non-profit partner.

Palo Alto also maintains an Affordable Housing Fund to provide financial assistance for the development of housing affordable to very low, low, and moderate-income households that live or work in Palo Alto. Through this fund, the City offers long-term loans with low interest rates and usually deferred payment; any cost necessary to develop the housing can be funded by the City. Money in the fund comes from impact fees

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<sup>2</sup> Specific changes are described in a City staff report for the April 1, 2019 Council meeting, available at <https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=52156.04&BlobID=69992>

charged to new commercial development, and from market rate housing developers, when they provide an "in lieu" fee rather than building affordable units as part of a condominium (for sale) housing development.

Over the last four years the City has appropriated roughly \$28 million from this fund for below market rate housing. We are actively seeking to grow this fund more quickly, and as we get money we will see it is spent.

***Input on some of the priority housing legislation***

The City is monitoring all the many housing related bills currently in the legislature. Overall, we support bills offering new and unique funding streams. These bills include AB 816 (Quirk-Silva), which creates a housing subsidy pool program whereby cities may apply for grants to fund affordable housing, and SB 5 (Beall and McGuire), which creates a local-State partnership to provide up to \$2 billion annually for approved affordable housing, infrastructure, and economic development projects. In general we support bills consistent with the Cities Association Housing Position Paper, and we hope that other bills will be amended to be consistent.

Regarding SB 50 (Wiener), we have concerns with the bill unless amended and are in the process of developing amendments for consideration. We support regional solutions that take a balanced approach and holistically considers housing, transportation/transit, and jobs. We recognize that building housing without adequate transportation infrastructure may exacerbate, not alleviate, the housing crisis. Regional transit agencies and MTC must support improved transit services to existing and new neighborhoods and address accompanying funding needs.

SB 50 targets our state's housing affordability crisis by promoting inclusive growth while protecting existing affordability. We commend the author and appreciate the Senator's recent comments that the legislation is still a work in progress, and that local jurisdictions would maintain their approval process including granting CUPs, honoring the CEQA process, maintaining discretionary review, and other items. However, we are not in a position to support this legislation in its current form.

The bill's current requirements to limit local governments statewide in regulating broad categories of residential development proposals clearly applies a "one size fits all" approach to local land use decisions. The proposal to render cities unable to regulate parking, density, and height, as examples, strikes at the ability of local governments to not only define the nature of their communities, but also fails to acknowledge individual situations where these regulations are necessary to avoid spillover impacts on surrounding neighborhoods. Furthermore, we support maintaining local control of the entitlement process. It seems clear that SB50 takes material control away from local jurisdictions in terms of entitling projects to proceed; for example, a local rule that a project could not be entitled without one parking space per unit would be overridden under SB50.

Other bills have worthwhile goals, but impose many restrictions on cities. These bills include SB 13 (Wieckowski), and SB 330 (Skinner). These bills delve far into historically local issue-areas, such as public hearings, parking standards, housing incentives, and application review timeframes. They do not allow for flexibility and impose standard requirements to cities with varying abilities to apply the requirements.

**Support for the Cities Association’s Housing Position Paper**

On March 14, 2019, the Santa Clara County Cities Association adopted a policy paper related to the affordable housing crises.<sup>3</sup> On April 15, 2019, our City Council voted (Filseth, DuBois, Cormack, and Kou in favor; Fine and Kniss opposed; Tanaka absent) to formally support the paper, which sets out the types of housing legislation the region supports, opposes, and how our cities are addressing the housing need. When generally considering affordable housing legislation, we support the notion of increasing financial support in the form of revenue ballot measures and point-of-sale sales taxes, increased production incentives, and mechanisms for our communities to grow to support new residents.

As our local and regional efforts demonstrate, local governments can and do take action to address affordable housing needs. As local elected officials, we are able to apply the current housing crisis to the needs of our residents and the nature of our cities, and respond by appropriately amending local rules. However, localities can only control so much. For example, even after streamlining the development process, offering incentives, increasing density and height limits, and relaxing standards, cities cannot control whether developers ultimately build affordable housing. Therefore, we ask that the legislature “credit” cities for doing our part, and not penalize us for developers not actually building homes.

Thank you for your efforts on behalf of the Bay Area, and for your consideration of our work at the local and regional levels.

Sincerely,



Eric Filseth

Mayor

cc:

Members, California State Bay Area Caucus  
Members, Senate Governance and Finance Committee  
Palo Alto City Council  
Ed Shikada, Palo Alto City Manager

Santa Clara Cities Association  
League of California Cities  
Townsend Public Affairs  
SV@Home

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<sup>3</sup> An association of 15 cities in Santa Clara County, working together to address shared regional issues. The paper is available at <https://citiesassociation.org/documents/position-paper-on-housing-adopted-march-14-2019/>



## Cities Association of Santa Clara County: Position Paper on Housing

The Cities Association of Santa Clara County (CASCC) is an association of the fifteen cities of the county that works collectively to discuss and find solutions on issues at a regional level.

CASCC recognizes the need for increased housing opportunities, especially for people earning below the area median income. We fully **endorse** local and regional efforts to encourage the production of more housing, preserve and increase subsidized below market rate housing at moderate- and below-income levels, and provide benefits to minimize the impact for current residents in rapidly changing neighborhoods.

The CASA Compact is a high-level document with only limited detail. Small and medium sized cities were not well represented in it's creation yet represent 66% of the Bay Area population. CASCC wants to ensure that their member cities' voices are heard as the details of legislation are being crafted. CASCC further encourages MTC, ABAG and the State Legislature collaborate with all cities on the ideas contained within the CASA Compact so that we can collectively formulate workable solutions to address the Bay Area's housing needs. It is the consensus of the CASCC that:

**We support** legislation that will provide voters statewide with the opportunity to apply a 55 percent threshold for revenue generating ballot measures for investments in affordable housing and housing production.

**We support** legislation that will return e-commerce/internet sales tax revenue to the point of sale – not the point of distribution as currently mandated – to provide cities that have a significant residential base with a commensurate fiscal stimulus for new housing.

**We support** Governor Newsom's investments proposed in the state budget that will benefit California cities including a substantial increase in state funding for affordable and workforce housing and to address the growing homelessness crisis in our state.

**We support** incentives for the production of new accessory dwelling units to streamline the entitlement of those ADU's.

**We support** removing barriers to planning complete communities, ensuring that adequate resources are available for new schools and parks to serve our growing population.

**We support** additional transportation investments to expand the Bay Area transit network that provide connections from job centers to existing housing as well as planned future housing.

**We support** establishing tenant protections as cities deem appropriate for their residents.

**We support** maintaining local control of the entitlement process. We urge the State to recognize that cities control entitlements, while developers build. Cities should therefore primarily be measured by entitlements when calculating RHNA attainment, and not penalized when funding is inadequate to build affordable housing.

**We support** ABAG, an elected body, to serve as the governance structure that administer new affordable housing funds and monitor housing production rather than establishing yet another agency to take on that role.

**We oppose** a one-size-fits-all approach to housing densities and land-use decision-making.

**We oppose** any diversion of existing revenue sources from cities.

**Cities in Santa Clara County are actively addressing the housing shortage.**

- All 15 cities have State-approved plans for new housing growth.
- Permits for 30,000 new residential homes have been approved since 2015 which represents over 50% of the state's housing goal for Santa Clara County of 58,836 new homes by 2023.
- Over 6,000 new residential units were approved in Santa Clara County in 2018.
- Santa Clara County voters increased local taxes to support \$950 million in affordable housing funds. As of 2018, \$234 million has been invested for 1,437 new multi-family units and 484 rehabilitated units.
- The Cities Association of Santa Clara County is leading the effort to form a 2023-2031 RHNA Sub-Region within the County.

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About us: The Cities Association of Santa Clara County is an association of the fifteen cities of the county and the elected representatives of more than 1.9 million Bay-Area residents. Since 1990, the city representatives have been gathering to discuss and find consensus and solutions for regional issues. The cities of our association are diverse and include cities of a few thousand people and a city of a million people.



**DISCUSSION ITEM**

**Agenda Item # 11**

**AGENDA REPORT SUMMARY**

**Meeting Date:** May 14, 2019

**Subject:** Discussion of Stanford University General Use Permit

**Prepared by:** Chris Jordan, City Manager

**Attachment(s):**

1. Summary of Amendments to the Stanford University General Use Plan Amendments

**Initiated by:**

Two members of the City Council (Lee Eng and Enander)

**Previous Council Consideration:**

February 12, 2019

**Fiscal Impact:**

Not Applicable.

**Environmental Review:**

Not Applicable.

**Policy Question(s) for Council Consideration:**

- Does the City Council wish to provide comments to Santa Clara County, which is currently reviewing Stanford University's proposed new General Use Permit?

**Summary:**

- Council members have asked to discuss Stanford's new General Use permit
- Supervisor Simitian's office has asked if the City would like to provide written comments on the GUP
- The Council discussed this on February 12, 2019 and decided not to take any action
- Information about the proposed permit can be found here: <https://gup.stanford.edu/>

**Staff Recommendation:**

The City Council can consider the proposed General Use Permit and determine if it wants to provide comments to Santa Clara County

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**Reviewed By:**

City Manager

City Attorney

Finance Director

CJ

CD

SE

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**Summary of Major Stanford University Community Plan Amendments and General Use Permit Conditions of Approval  
Recommended by the Department of Planning and Development,  
County of Santa Clara, as of March 12, 2019 and Subject to Changes**

<b>GENERAL USE PERMIT (GUP) CONDITIONS OF APPROVAL<sup>1</sup></b>		
<b>Section</b>	<b>Topic</b>	<b>Summary</b>
<b>Development</b>	Academic	Phased development of a maximum of 2,275,000 square feet of academic development to be considered for approval in 25% increments and not more frequently than once every 5 years.
<b>Development</b>	Housing	A minimum of 2,172 units, inclusive of affordable units, and 2,600 student beds; with a maximum of 2,892 units, inclusive of affordable units, and 2,807 beds to be constructed. A minimum of 70% of market rate units, 40% of affordable units not covered by the affordable housing impact fee ordinance, and 100% of beds to be constructed on-campus. Any off-campus units must be constructed within a 6-mile radius of the Community Plan boundary unless an exception is granted. All housing construction will be subject to the linkage policy as required by the Community Plan.
<b>Development</b>	Other	Approval of a maximum of 40,000 square feet of child care/trip reducing facilities and 50,000 square feet of temporary surge space.
<b>Transportation</b>	Avoid worsening traffic congestion	Establish a three-tier system: Tier 1—no net new commute trips during peak hour/direction and peak period; Tier 2—set reverse commute trips baseline during peak hour and peak period and avoid baseline exceedance; and, Tier 3—limit growth in average daily traffic.
<b>Transportation</b>	Safe Routes to School	A Safe Routes to School improvements, as specified in Stanford’s application, and Safe Routes to School study is required.
<b>Parking</b>	Parking Space Cap	Maximum of 21,651 parking spaces. Maximum of one space per residential unit not counted towards parking space cap.

<sup>1</sup> This summary of the General Use Permit Conditions of Approval is not exhaustive, and addresses topic areas that have generated significant public comments.

<b>Open Space, Parks &amp; Recreation</b>	Parks & Open Space Study	Stanford to pay for an updated Parks and Open Space Study to be prepared by the County and subject to review and approval by the Planning Commission.
<b>Biological Resources</b>	Tree Removal	All trees removed require 1:1 replacement ratio except for Oak Trees that will required 3:1 replacement ratio. Allow preparation of vegetation management plan that tracks tree removal and replacement at a programmatic level.
<b>Visual Resources</b>	El Camino Frontage Plan	Stanford to pay for an updated El Camino Frontage Plan to be prepared by the County and subject to review and approval by the Planning Commission.
<b>Geology &amp; Hydrology</b>	Stormwater Runoff	Within 18 months of the effective date of the GUP, Stanford shall prepare an updated Campus-wide hydrology and drainage plan for peer review by the County and approval by the Planning Commission.
<b>Cultural Resources</b>	Structures 50-years or Older	Architecture and Site Approval (ASA) applications including proposed demolition or modification of buildings 50-years or older will be reviewed by the County for possible inclusion on the County's Heritage Resource Inventory.
<b>Public Services &amp; Utilities</b>	Community Services Study	Stanford to pay for the preparation of a Community Services Study by the County that will be reviewed and approved by the Planning Commission.

**STANFORD UNIVERSITY COMMUNITY PLAN UPDATES**

<b>Chapter</b>	<b>Topic</b>	<b>Summary</b>
<b>Growth and Development</b>	Academic Growth Boundary (AGB)	Extend duration of Academic Growth Boundary from 25 years to 99 years and continue the four-fifths vote requirement of the Board of Supervisors for any modification to the AGB during the 99-year period.
<b>Growth and Development</b>	Community Services Study	Community Services Study to determine the types and service levels of community (including municipal) services required to serve the population associated with campus development. Study would be prepared under the Direction of the County and reviewed and approved by the Planning Commission.
<b>Growth and Development</b>	Update Maximum Development	Update the amount of maximum development allowed within the area covered by the Community Plan with additional development above that amount requiring a Community Plan amendment.
<b>Growth and Development</b>	Ensure ongoing development meets Community Plan policies and objectives	Recognize that the County should ensure that ongoing development authorized under the General Use Permit must comply with the Community Plan policies and GUP conditions through phased review and approvals.
<b>Land Use</b>	Public School Site Designation	Relocate public school site designation from east side of campus to west side of campus to be in closer proximity to campus population centers.
<b>Land Use</b>	Alignment of Zoning with Community Plan Designations	The County will evaluate the land development standards as appropriate to determine if they should be updated to implement the Community Plan policies.
<b>Housing</b>	Housing Policy and Jobs/Housing Balance	Reflect County's affordable housing goals to ensure that housing development matches ongoing job growth within the Community Plan, addressing affordable housing needs.
<b>Circulation</b>	Avoid Worsening Traffic Congestion	Require Stanford to avoid worsening traffic congestion during commute and non-commute hours.
<b>Community Plan wide</b>	Charts, figures, and data	Where appropriate, update outdated charts, figures, and data to reflect current conditions.