



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

MEMORANDUM

DATE: 7/12/22

TO: Councilmembers

FROM: City Manager

SUBJECT: COUNCIL Q&A FOR JULY 12, 2022 CITY COUNCIL REGULAR MEETING

Reach Codes Study Session:

Question: Did Reach Codes 1.0 negatively impact Los Altos' electric grid?

Answer: The City of Los Altos does not have a separate electric grid. The infrastructure located within the City limits is not managed, maintained, or replaced by the City. The City cannot answer if this equipment was negatively impacted by the current Reach Codes.

However, the amount of additional electrical load from the new construction under the reach code is very minimal compared to the overall load in the city. To our knowledge there have not been grid stability problems associated with the adoption of reach codes.

Question: Did the electric grid serving Los Altos fail because of the policies enacted by Council in Reach Codes 1.0?

Answer: The City of Los Altos does not have reliable, specific information on what causes power outages or grid failures, as they delivery of electricity and the balance of energy demanded, and the ability to supply the energy, is not managed by the City of Los Altos. Los Altos has periodically experienced public safety power shutoffs (PSPS) events due to wildfire risk. Extreme heat and wildfires, are exacerbated by climate change which the reach codes aim to mitigate.

Question: Does staff believe that the electric grid serving Los Altos is able to support the menu of policies proposed in Reach Codes 2.0?

Answer: The City of Los Altos does not have any information showing the potential increase in electric use that could be caused by the adoption of Reach Codes 2.0 with regard to the balance of energy available during different times of energy demand.

It is expected that the increased demand resulting from these codes will happen gradually and over time. State agencies – the PUC, CAISO, Energy Commission, DGS, the Governor's Office – are looking to how to prepare for electrification. It will not be a no-cost or no-risk transition, but multiple state reports have found that it is the lowest-cost and lowest-risk approach.

Question: Please highlight the differences between Reach Codes 1.0 and 2.0.

Answer: The model reach code (2.0) defines new construction as anything where 50% or more of framing/foundation is modified whereas Los Altos' existing code only applies to totally new construction (additionally, Los Altos could choose to include additions of 750 ft² or more as new construction). The model code also applies to the exterior of the building, i.e. pool equipment, BBQs and firepits whereas our existing code only covers appliances inside the home. The model code includes an end of service date for gas in 2045 (which can only be done via the municipal code route).

The model code also asks the City Council to consider adopting Reach Codes in the municipal code as opposed to the building code. City staff and legal have not completed the review of the proposal to change where the Reach Codes would be adopted.

Question: How can Reach Codes 2.0 be adopted without expiring in another two years?

Answer: The proposed Reach Codes, like the current Reach Codes, would not expire if adopted by Council unless a specific provision was included in the adoption causing expiration or if the local code is preempted by State law. The current Reach Codes do not expire on January 1, 2022. These codes will be preempted by State Code. It is expected the State will continue to update their "Reach Codes" making the base code more stringent with future Building Code updates. The model code includes an end of service date for gas in 2045 (which can only be done via the municipal code route). However, the end of service date for gas, as proposed, has not been reviewed by legal.

Item 2 Construction Contract Award: CIPP Corrosion Rehabilitation, Project WW-01005:

Question: Why is this contingency so high (15%)? Isn't it City policy to have no more than a ten percent contingency?

Answer: Staff Recommends a 15% construction contingency due to the complexity of the project. There is a greater potential of unknowns and unforeseen conditions that could occur during construction such as utilities that were not marked and are encountered during the excavation or additional spot repairs needed in the trunk sewer mains before the cured-in-place lining of the pipes. Part of the temporary bypass pumping system will need to be buried to allow traffic flow on San Antonio Road across El Camino Real. Additionally, the work will take place within the Caltrans right-of-way, and the permit issued by Caltrans also has time constraints.

Item 4: Public Art Purchases: T2 and Midnight Stomp Series

Question: Page one of the staff report requests that Council budget \$45,000 from the public arts fund. But page two of the staff report says that the cost to purchase T2 is \$15,000 and the cost to purchase the Midnight Stomp Series is \$25,000. That equals \$40,000. Why is staff requesting that Council appropriate an additional \$5,000 from the Public Arts Fund?@

Answer: The purchase price of T2 is \$15,000 plus tax. \$20,000 should be sufficient to cover the purchase price plus tax.

Question: The staff report is not clear as to whether the cost to purchase the sculptures is already in our budget. Please clarify.

Answer: The dollars to purchase both sculptures were included in the 2022/23 CIP Project CD-01003 Annual Public Arts Projects which was approved by Council in June.

Question: Will spending this \$40,000/\$45,000 delay or otherwise impact the City's plans with respect to the Public Arts Fund?

Answer: No, these dollars were included in the Public Arts Commission's proposed plan for this fiscal year.

Question: Will the artwork be removed if we do not purchase it?

Answer: These artworks are currently on loan to the City. If the City does not purchase them, they will eventually be removed from the City.

Question: If the City purchases the artwork, do we have any contractual obligation to maintain, display, or otherwise use the artwork?

Answer: Should the City purchase the artwork, they will become assets of the City. Any maintenance would be the responsibility of the City. The City could remove or place in an alternate location as deemed appropriate.

Question: If we purchase the artwork, can the City later sell it?

Answer: Yes, the City could potentially sell the artwork at a future date.

Question: Instead of buying the artwork, could the City return it to the artists and bring in new artwork every year or two?

Answer: This is the general practice of the City. Most artworks come to the City as a result of calls for art which the Public Arts Commission conducts every 18-24 months. These artworks are loaned to the City for two years.

Question: How does the Public Arts Commission determine whether to recommend purchasing art that has been on loan to the city?

Answer: The Public Arts Commission considers the purchase of artwork loaned to the City on an ad hoc basis. Generally, the question of purchasing an artwork arises in one of three ways: 1) the artist approaches the City regarding a purchase; 2) staff recommends the purchase of a piece; or 3) the Commission initiates the conversation. For Midnight Stomp Series, the artist approached the City asking if there was a possibility of the City purchasing the pieces. Staff presented the request to the Commission and the Commission recommended purchase. For T2, staff initiated the conversation after the piece was installed in front of the new community center.

Once a potential purchase has been placed on the agenda of the Public Arts Commission, the Commission weighs the artistic value of the artwork as well as its fit and impact on the community. The Commission also considers the cost of the artwork and weighs the cost with other priorities for potential funding.

Question: Are there objective metrics to show whether the art has been generally liked or disliked by the public?

Answer: Without conducting statistically significant surveys (i.e. hiring a polling firm to survey the public), there are no objective metrics to measure the public's opinion of artworks. The Commission does generally keep track of any correspondence from the public regarding pieces as well as conversations Commission members have with their neighbors and other community members.

Item 5. Emergency Declaration Resolution

Question: Due to the summer break, we will not have a meeting within 30 days to declare a continuing emergency. What is the effect if we do not extend the emergency declaration until August 23?

Answer: The City will poll Council for a special meeting to adopt the 30 day emergency declaration. It will be the only item on the agenda

Item 6. Approve the Project Acceptance of the First Street Resurfacing Project:

Question: This project came in 44% under budget which is great! Does this suggest that our other street resurfacing CIP's are over budgeted? Based on these costs, can the City actually afford to be more aggressive in the cost to complete CIP projects?

Answer: The original budget included resurfacing in front of 100 First Street condo project. 100 First Street project was responsible to pave half of 1st Street along their frontage, but due to damages on both sides of the street had to repair both. City staff was able to remove this section of First Street from the project and obtain savings of this magnitude.

In the current market climate we expect the estimated costs of street resurfacing to be higher, not lower, than in years past.

Item 7. Sixth Cycle Housing Element 2023-2031

Question: Please provide for the locations identified on the site maps. (E.g. - addresses)

Answer: Provided on the Housing Element Update Website. <https://www.losaltoshousing.org>

Question: Could I please have a larger print of the maps. (Prior request)

Answer: Noted.

Question: Can we add housing to the OA district by utilizing the zoning that currently exists. (Examples- Marshall Court is R3-4.5, Lyell street is R3-1.8)

Answer: We could utilize existing development standards from other districts and create new regulations for the OA district, or we can completely rezone from OA to an R-district as long as we meet the density provided in the HEU.

Question: There is concern that the specific plan for Loyola Corners will be eliminated, is this true?

Answer: There is no program or language contained in the HEU that proposes eliminating any specific plan.

Question: If Village Court is rezoned for housing, can the surrounding single family homes maintain the protections they received under 62-PUD/C7?

Answer: As a part of any rezoning and creation of development standards the city may design new regulations that are in keeping with the intent of protecting nearby neighborhoods.

Question: How can we ensure that we have a variety of housing developmental units in how we dictate our zoning?

Answer: One of the most useful tools to accomplish this is by virtue of an Inclusionary Housing Ordinance.

Question: If city parking lots 7 & 8 are rezoned for housing, is there a mechanism to reclaim for city use if deemed necessary?

Answer: There are several factors that come into play with the use of City owned property. Most significantly is the Surplus Land Act. Additional specifics of the use of the land would be contained in whatever transaction is executed between the City, and a developer.

Question: If we put a housing overlay in OA, how do we guarantee that there will be no developer incentives or bonuses that increase the overall height, the allowed setbacks or parking requirements, even if the developer provides the minimum or greater number of affordable units.

Answer: Pursuant to Government Code Section 65915, (State Density Bonus law) a developer is entitled to the request of additional density, and incentives, concessions and waivers.

No city can deny or take action to preclude a developer from seeking use of State Density Bonus law.

Question: If we were to rezone some or all the OA properties along San Antonio Road to OA with housing overlay, what is the solution to overflow parking as the affected streets, Hillview, Hawthorn and Pepper have little to no parking along those streets owing to their being narrow? Can we condition housing on using the parking plazas for overflow parking?

Answer: There are several options that can be explored with an implementing ordinance post certification of the housing element, as well as an implementing project within the district of the subject sites. Options or solutions that could be explored is contained within new development standards that requires no ingress and egress on side streets (neighborhood streets listed above), this would look something like only allowing primary access to the subject sites from San Antonio Road itself. There are also specific traffic control devices that can be installed within the area to reduce traffic flows within the adjacent streets. Additionally, by way of the creation of a Neighborhood Parking District, the city could develop and enforce a parking permit program for the nearby streets to limit street parking to residents only. Lastly, a parking management plan could be something that the city requires on a case-by-case basis.

Question: Why isn't the large church property off Manressa rezoned for affordable housing, as are other church sites in town

Answer: Additional Church sites in the PCF Zone could be added.

Question: What is the compelling logic for the city council to cede all design review to the planning commission which is an unelected group of residents. While the City Council can hear appeals, there is no mechanism for the council to independently review a project and such a process puts an undue burden on neighbors.

- **Answer:** In development on the draft Housing Element and Pursuant to Government Code Section 65583(a) the City must conduct analysis on potential and actual governmental constraints; the City Council being the appeal authority only for the majority of land use decisions and the dismissal of the Design Review Commission was included as both were found to have constraints on the development of housing within the City.
- The City Council is the Legislative body, and the intent of any Planning Commission is to be Adjudicative/Quasi-Judicial. Most planning and zoning decisions made by elected officials, and appointed commissions fall into one of two categories: legislative decisions or quasi-judicial decisions. The basic difference

between the two categories is that legislative decisions establish policies for future application, while quasi-judicial, or administrative decisions are the application of those policies.

- Legislative, Example: The City Council has the power to enact laws and policies, consistent with state and federal law, regulating local and municipal affairs, usually through the enactment of ordinances and resolutions.
- Adjudicative/Quasi-Judicial, Example: The Planning Commission has the authority to interpret, and apply the Zoning Ordinance (which is adopted solely by the power of the City Council) on projects that come before it where in most cases the decision is final, however appealable to the higher body, the City Council. In circumstances of when amendments to the Zoning Code are required the Planning Commission takes an advisory role, with only the authority to recommend to the City Council what the final action should be. Because the Planning Commission does not possess legislative authority, they are unable to enact regulations without the review and approval of City Council.
- After review of all incorporated cities within Santa Clara County the City of Los Altos is the only city within the county that has its City Council take final action on development applications to the extent it does.
 - Final Action taken by the City Council in most jurisdictions throughout the County are on the following: Development Agreements, Planned Unit Developments (PUD), General Plan Amendments, Zoning Code Amendments, Zoning Map Amendments, and any other Legislative actions required of the City as it relates to Land Use.
- State law sets forth Planning and Zoning duties, and authorizes a City's Legislative body (City Council) to create a Planning Commission. A Planning Commission serves at the pleasure of the City Council. Each Commissioner appointed is selected by the elected City Council to represent the City in all matters of Land Use. A Planning Commission is authorized to apply in its independent judgement the adopted codes, regulations and policies of the City.
- Appeals heard by the City Council are in fact the mechanism that allows the independent review of a project when an appeal is filed in the manner defined within the City's Municipal Code. This process mirrors the standard of review in law, and is widely the most adopted process in municipal decision making.
- Design Review and Design Review Commissions are almost nonexistent today within Santa Clara County. Mountain View has a Design Review Committee that is made up of the Zoning Administrator for the city and two professional consulting architects; Palo Alto has an Architectural Review Board that only reviews commercial, industrial and multi-family.
 - Within the last several years Subjective Design Review has progressively been phased out of the Planning Process, either as a Best Practice, or due to recent changes in State law. As noted in the Housing Crisis Act of 2019, after January 1, 2020 a city shall be prohibited from imposing or enforcing subjective design criteria.
- According to State law, Objective Design Standards are standards or guidelines that can be uniformly applied without involving personal or subjective judgment by public officials or decision makers.

Analysis conducted of cities within Santa Clara County reflecting if the jurisdiction has Design Review Commission:

City:	Design Review Commission:	Source:
Campbell	NO	https://www.campbellca.gov/157/Boards-Commissions
Cupertino	NO	https://www.cupertino.org/our-city/commissions
Gilroy	NO	Boards, Commissions & Committees Gilroy, CA - Official Website (cityofgilroy.org)
Los Altos	YES	
Los Altos Hills	NO	Los Altos Hills, CA Official Website
Los Gatos	NO	Boards, Commissions & Committees The Los Gatos CA Official Site!
Milpitas	NO	Commissions – City of Milpitas
Monte Sereno	YES/NO. Site & Architectural Commission. Combined Planning and Design.	Commissions and Committees Monte Sereno, CA - Official Website
Morgan Hill	NO	Commissions City of Morgan Hill, CA - Official Website
Mountain View	NO. But does have a Design Review Committee, comprised of the Zoning Administrator and (2) consulting architects	CITY OF MOUNTAIN VIEW
Palo Alto	NO. But does have a Architectural Review Board; ONLY Reviews Commercial, and Multi-Family, no SFD Review.	Boards and Commissions – City of Palo Alto, CA
San Jose	NO	Boards & Commissions City of San Jose (sanjoseca.gov)
Santa Clara	NO	Boards and Commissions City of Santa Clara (santaclaraca.gov)
Saratoga	NO	Commissions & Committees Saratoga, CA
Sunnyvale	NO	Boards and Commissions Sunnyvale, CA

Analysis conducted of cities in Santa Clara County reflecting if the City Council takes Final Action on Land Use decisions:

City:	City Council Final Approval:	Source:
	(For majority of Development Application Decisions)	
Campbell	NO	Chapter 21.38 - APPLICATION FILING, PROCESSING AND FEES Code of Ordinances Campbell, CA Municode Library
Cupertino	NO	19.12.030 Approval Authority. (amlegal.com)
Gilroy	NO	Zoning 30.49 POWERS OF THE ZONING ADMINISTRATOR, THE PLANNING COMMISSION, AND THE HISTORIC HERITAGE COMMITTEE (codepublishing.com)
Los Altos	YES	
Los Altos Hills	NO	10-1.1010 Council review of actions. (qcode.us)
Los Gatos	NO	DIVISION 7. - ASSIGNMENT OF DUTIES Code of Ordinances Los Gatos, CA Municode Library
Milpitas	NO	Section 57 - Applications* Code of Ordinances Milpitas, CA Municode Library
Monte Sereno	NO	Title 12 - CITY COMMISSIONS Code of Ordinances Monte Sereno, CA Municode Library
Morgan Hill	NO	City of Morgan Hill Municipal Code Title 18 - Zoning (ca.gov)
Mountain View	NO	DIVISION 1. - AUTHORITY FOR LAND USE AND ZONING DECISIONS Code of Ordinances Mountain View, CA Municode Library
Palo Alto	NO	Chapter 19.04 PLANNING COMMISSION* (amlegal.com)
San Jose	NO	Chapter 20.100 - ADMINISTRATION AND PERMITS Code of Ordinances San Jose, CA Municode Library
Santa Clara	NO	Title 18 Zoning (codepublishing.com)
Saratoga	NO	Article 15-90 - APPEALS Code of Ordinances Saratoga, CA Municode Library
Sunnyvale	NO	Section 1010. Planning Commission. Powers and Duties. (qcode.us)
	*NO, Indicates that the City Council does NOT have final decision authority for Development Applications, they are the Appeal Authority.	

Question: If we rezone Loyola corners, how can we ensure a height limit for the portion that directly abuts R1 housing?

Answer: As a part of the implementing ordinances that the city can create specific development standards that allow for a buffer between adjacent properties, and a tiering of the building to reduce the overall mass of the building.

Question: Given their proposals for realigning the development process so that the DRC is disbanded and the Council becomes an appellate body and the planning commission has to take over whatever DRC responsibilities. Who made this decision?

Answer: RHNA requires a review of potential and actual governmental constraints as part of the housing element certification process. The process you describe is included in the review because it is a “potential or actual governmental constraint.”

The City Council, after receiving a recommendation from the Planning Commission, will determine what is submitted to HCD for approval. HCD will determine what it will certify as a Housing Element.

Question: Does anybody affected by this decision have anything to say about this?

Answer: The public has the opportunity to provide input and comment as part of the RHNA process. The Planning Commission makes formal recommendations on programs and constraints to City Council, and the City Council decides what is submitted to HCD. Every party potentially affected by constraints and programs as the ability to have their opinions included in the final City Council submission to HCD.

Tentative Agenda:

Question: The open government policy is no longer on our tentative calendar. Does that mean that this Council will not be reviewing the policy?

Answer: This was done so by error and it will be added to Future agenda topics to be scheduled.

Minutes

- See corrections in the accompanying pdf.
- For item #11, I asked the applicant questions, and I think all councilmembers did, as well. This would be after Nick was asked questions, so please add a sentence stating that.
- Please change the day to Thursday, instead of Tuesday for the adjourned to regular meeting on 7/30.

Answer: Noted