



CITY COUNCIL MEETING AGENDA

7:00 PM - Tuesday, September 10, 2024
via Videoconference and In Person

PARTICIPATION: Members of the public may participate by being present at the Los Altos Council Chamber at Los Altos City Hall located at 1 N. San Antonio Rd, Los Altos, CA during the meeting. Public comment is accepted in person at the physical meeting location, or via email to PublicComment@losaltosca.gov.

RULES FOR CONDUCT: Pursuant to Los Altos Municipal Code, Section 2.05.010 "Interruptions and rules for conduct": Understanding that the purpose of the city council meetings is to conduct the people's business for the benefit of all the people, in the event that any meeting of the city council is willfully interrupted by a person or group of persons so as to render the orderly conduct of the meeting impossible, the mayor, mayor pro tem, or any other member of the city council acting as the chair may order the removal of the person or persons responsible for the disruption and bar them from further attendance at the council meeting, or otherwise proceed pursuant to Government Code Section 54957.0 or any applicable penal statute or city ordinance.

REMOTE MEETING OBSERVATION: Members of the public may view the meeting via the link below, but will not be permitted to provide public comment via Zoom or telephone. Public comment will be taken in-person, and members of the public may provide written public comment by following the instructions below.

<https://losaltosca-gov.zoom.us/j/83563109379?pwd=XmHX1QaaIah7qDUvTZObbV3pYoB4Rs.1>

Telephone: 1-669-444-9171 / Webinar ID: 835 6310 9379 / Passcode: 487487

SUBMIT WRITTEN COMMENTS: Prior to the meeting, comments on matters listed on the agenda may be emailed to PublicComment@losaltosca.gov. Emails sent to this email address are sent to/received immediately by the City Council. Emails sent directly to the City Council as a whole or individually, and not sent to PublicComment@losaltosca.gov will not be included as a public comment in the Council packet.

Please note: Personal information, such as e-mail addresses, telephone numbers, home addresses, and other contact information are not required to be included with your comments. If this information is included in your written comments, they will become part of the public record. Redactions and/or edits will not be made to public comments, and the comments will be posted as they are submitted. Please do not include any information in your communication that you do not want to be made public.

Correspondence submitted in hard copy/paper format must be received by 2:00 p.m. on the day of the meeting to ensure distribution prior to the meeting. Comments provided in hard copy/paper format after 2:00 p.m. will be distributed the following day and included with public comment in the Council packet.

The Mayor will open public comment and will announce the length of time provided for comments during each item.

AGENDA

CALL MEETING TO ORDER

ESTABLISH QUORUM

PLEDGE ALLEGIANCE TO THE FLAG

REPORT ON CLOSED SESSION

CHANGES TO THE ORDER OF THE AGENDA

SPECIAL ITEMS

Issue Proclamation Recognizing September 17 - 23, 2024 as Constitution Week

Issue Proclamation Recognizing September as Emergency Preparedness Month

Receive Presentation from Resilient Los Altos on Emergency Preparedness

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. The Mayor will announce the time speakers will be granted before comments begin. 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 noted on the agenda before any discussion or action.

[09-10-2024](#) Written Public Comments

CONSENT CALENDAR

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.](#) Approve the Special and Regular Meeting Minutes of August 27 and August 28, 2024
- [2.](#) Move to adopt a Resolution accepting completion of the On-Call Sanitary Sewer Spot Repairs and CCTV Inspection Services for FY 23/24 and authorize the Public Works Director to record a Notice of Completion as required by law, and find that this action is Exempt from Environmental Review pursuant to Section 15300.2 of the State Guidelines Implementing the California Environmental Quality Act of 1970
- [3.](#) Adopt an Ordinance of the City Council of the City of Los Altos Adding Chapter 3.60 to Title 3 Revenue and Finance of the Los Altos Municipal Code Enacting Regulations for Development

Impact and In-Lieu Fees and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970.

4. Two separate actions for City Council consideration:

-Adopt an Ordinance of the City Council of the City of Los Altos Repealing in its Entirety the Traffic Impact Fee Ordinance, Chapter 3.48 of the Los Altos Municipal Code and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970; and

-Adopt an Ordinance of the City Council of the City of Los Altos Amending Chapter 3.49 to Title 3 Revenue and Finance of the Los Altos Municipal Code for Affordable Housing Fees and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970

5. Authorize the City Manager to execute the Subdivision Improvement Agreement and approve the Final Map for the project located at 5150 El Camino Real.

6. Adopt a Resolution of the City Council of the City of Los Altos suspending enforcement of the City of Los Altos Municipal Code, local laws and regulations imposing all-electric requirements for new construction or otherwise prohibiting use or installation of gas appliances contained within City of Los Altos Municipal Code Title 12 and find that this action is exempt from environmental review pursuant to Section 15061 of the State Guidelines implementing the California Environmental Quality Act of 1970.

7. Two separate actions for City Council consideration:

-Allocation additional funding in the amount of \$131,000 into fiscal year 2024/25 Parks & Recreation operating budget for the median and roadway shoulder maintenance agreement; and

-Authorize the City Manager to execute an agreement with Del Conte's Landscaping in the amount not to exceed \$208,116 annually for median and roadway shoulder maintenance

8. Re-adopt a Resolution accepting the Santa Clara County Multi-Jurisdictional Hazard Mitigation Plan (MJHMP), including Volume 1 and the Los Altos Annex

9. Adopt a Resolution awarding the construction contract for the Lincoln Park Drinking Fountains Project CF-01030 to EPS, Inc. of San Mateo, California as the lowest responsible bidder submitting a responsive bid with a Base Bid amount not-to-exceed \$98,000, and up to 15% contingency, if needed, in the amount not-to-exceed \$14,700, for a total construction amount not-to-exceed \$112,700

PUBLIC HEARINGS

- 10.** Appeal the Approval of Tree Removal Permit (24-0062) for twenty-five (25) Apricot Trees located behind the Los Altos Police Department at 1 N. San Antonio Road

DISCUSSION ITEMS

- 11.** Accept Environmental Commission Recommendations #1, #2, and #5 for Accelerating Building Electrification.

INFORMATIONAL ITEMS ONLY

There will be no discussion or action on Informational Items

- 12.** Update on RFP for community engagement and design services for downtown park with underground parking
- 13.** Tentative Council Calendar and Housing Element Update Implementation Calendar

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

ADJOURNMENT

(Council Norms: It will be the custom to have a recess at approximately 9:00 p.m. Prior to the recess, the Mayor shall announce whether any items will be carried over to the next meeting. The established hour after which no new items will be started is 11:00 p.m. Remaining items, however, may be considered by consensus of the Council.)

SPECIAL NOTICES TO THE PUBLIC

In compliance with the Americans with Disabilities Act, the City of Los Altos will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk 72 hours prior to the meeting at (650) 947-2610.

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.

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.

Melissa Thurman

From: Randy Rhody <randyrhody@gmail.com>
Sent: Saturday, September 7, 2024 1:48 PM
To: Public Comment
Subject: PUBLIC COMMENT - CITY COUNCIL MEETING 9/10/24 - ITEM #7 PUBLIC HEARING FOR APPEAL

**I SUPPORT THE HISTORIC LOS ALTOS HERITAGE (CIVIC CENTER)
ORCHARD**

AND WANT TO

STOP THE "DEATH BY A THOUSAND CUTS."

Randy Rhody
Linden Avenue, Los Altos

Melissa Thurman

From: Chi Buckley <chi.buckley@gmail.com>
Sent: Tuesday, September 3, 2024 8:07 AM
To: Public Comment
Subject: Motorized scooters and bikes need regulation

Greetings,

Can the city please address the use of motorized scooters and bikes and put some policy around this asap? Kids are blasting down sidewalks in them, I see e-bikes on the wrong side of the street, it feels like chaos driving in some neighborhoods bc there are no rules for the road with these things. E-bikes especially are traveling 30mph +, kids are not wearing helmets on regular bikes or e-bikes, instead they dangle on the side of the handlebars. City should require a minimum age limit or some kind of license to operate these things + take a class just like drivers training. On that topic, maybe a city wide offering to teach kids how to ride bikes in general is good. The 2way bike lane in almond sure is confusing maybe kids think they can ride 2 ways on any street. Thanks for considering!

Best,

Chi Buckley 94022

Melissa Thurman

From: Pat Marriott <patmarriott@sbcglobal.net>
Sent: Saturday, September 7, 2024 4:53 PM
To: Public Comment
Subject: PUBLIC COMMENT ITEM #10 SEPTEMBER 10,2024

Council Members:

I've been inundated with information about our Historic Orchard for years and we, as a city, still cannot agree on anything. It's disappointing and distressing.

Are there boundaries? Some say yes, some say no, seemingly dependent on what's convenient at the moment.

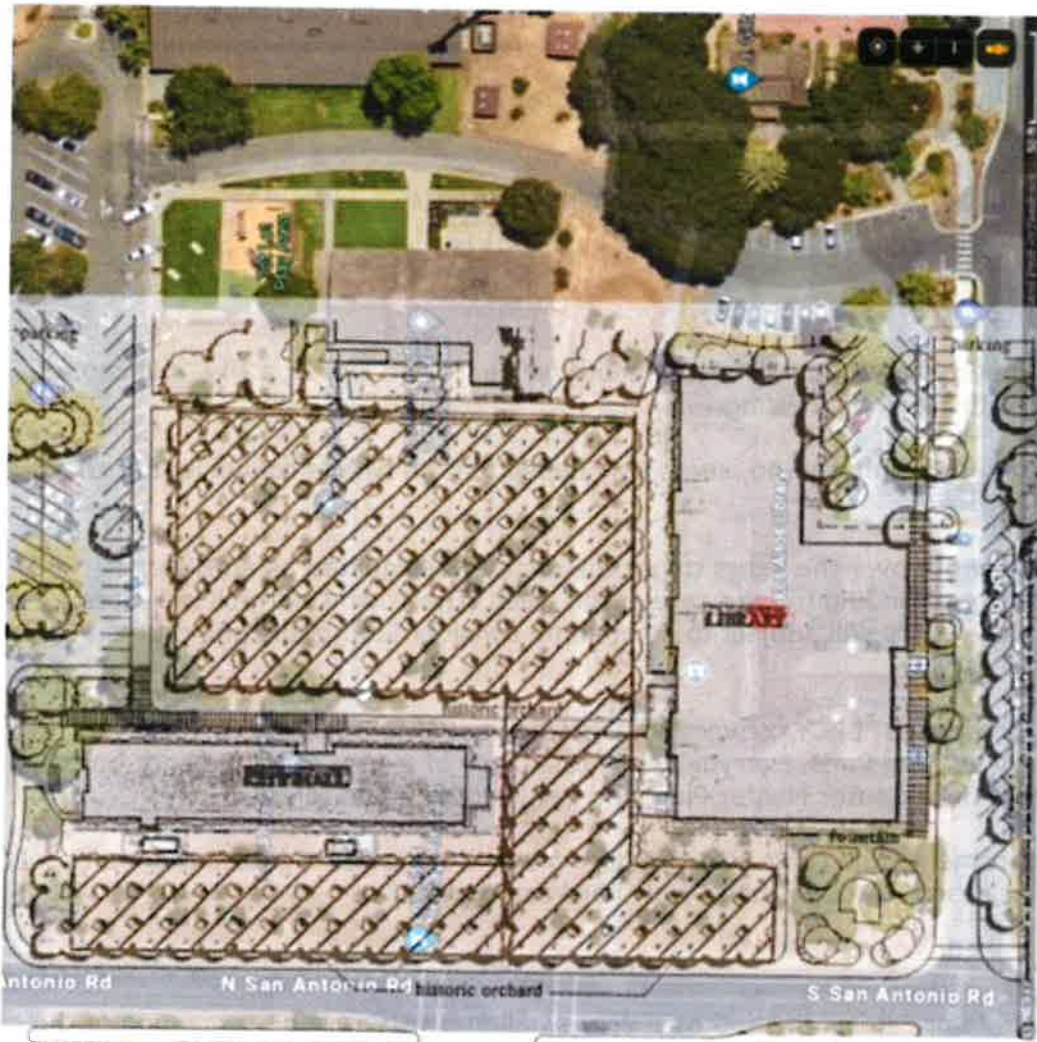
Many residents have done major work over the years to get the orchard designated as an Historic Resource, get signage and finally get funding to take care of the trees. The Town Crier poll indicates residents care about the orchard, yet it's still subject to what some consider land grabs and others consider legitimate use.

We have Orchard vs. Library, Orchard vs. LACY conversion. Orchard vs. Police Building. Orchard vs. Community Garden. Also Library vs. Dog Park. Everybody wants a piece of a very small pie and, because the city could never implement a Civic Center Master Plan, the battle could go on forever.

I've slogged through the old documents and can't help wondering why no one has digitized them after all these years so we could at least search through them. How hard can that be?

I ask for the following:

- Respect for the orchard as an Historic Resource and as a very small and very rare bit remaining of the Valley of Heart's Delight.
- Serious consideration of what will happen if the city continues the "build, baby, build" philosophy at the expense of the orchard. We're all up in arms over Sacramento forcing us to cover every square inch of land with dense housing. We should be equally concerned about building on the orchard.
- Agreement on orchard boundaries, which I think/hope we have in this map:



SAN ANTONIO ROAD "EXHIBIT A"

LEGEND

 HISTORIC ORCHARD

- Finally, PLEASE get a surveyor and an objective, reliable historical consultant to research the orchard. Please put an end to the ongoing battles that are pitting residents against one another.

Thank you,
Pat Marriott

Melissa Thurman

From: Ken Hake <kkhake@sbcglobal.net>
Sent: Saturday, September 7, 2024 7:35 PM
To: Public Comment
Subject: save the cots!!

please don't tear out the apricot trees. it is a sustainable and unique part of our community. in fact, you should add to them and create community events around harvest time.

respectfully,

Ken Hake
445 Monroe Dr

Sent from my iPhone

Melissa Thurman

From: Jane Holt <cajanemh@gmail.com>
Sent: Sunday, September 8, 2024 11:06 PM
To: Public Comment
Subject: parking

I think developers should plan and pay for replacement parking and parking for tenets.
One concern is they took out handicap parking on main street at store owners request.(Lost 1/2 parking space per block)
so we need handicap parking.

sincerely
Jane Holt

1960 Churton Ave.
Los Altos, CA 94024-6907
650-964-0228 H
650-996-2530 C
866-828-0431 H Fax

Melissa Thurman

From: Bruno Delagneau <bdelagneau@comcast.net>
Sent: Monday, September 9, 2024 5:27 AM
To: Public Comment
Subject: [External Sender]Item 11 on council agenda

Dear Mayor and council members,

As a member of the Environmental Commission and a subcommittee member for electrification, I would like to provide additional context and clarification around EC recommendations 3 and 4 for accelerating building electrification in the city. These two recommendations are currently not supported by staff according to the report in the packet.

Recommendation 3 suggests providing building incentives for 100% electric buildings. These incentives include 1) increased FAR and/or lot coverage (mentioned in the report) but also 2) setback incentives (not mentioned in the report). Item 1 is in effect in several California cities including Sunnyvale but is not supported by staff because of some policy decisions already taken. Item 2 proposes to reduce setbacks for electrical equipment (heat pumps, batteries, inverters etc) to 4 ft instead of the current 5 ft. This would be in line with SB9 and ADU setbacks. The subcommittee also recommended to even lower these setbacks further to 3 ft for equipment generating noise of less than 60db. Similar regulations are already in place in other California cities including Palo Alto.

I urge the council to reconsider the staff recommendation of item 1 and also consider our setback recommendation which was left out of the report.

Recommendation 4 proposes to charge an environmental fee when installing any new gas appliance (up to 10% of the total cost). This would only affect a small proportion of the residents, which based on current permit data is estimated at around 140 each year. In addition, residents have a choice and can avoid paying the fee by installing a heat pump or an electric appliance. Because gas appliances emit carbon dioxide, carbon monoxide, formaldehyde, nitrous oxide, their use have a medically demonstrated negative impact on our health and contribute to climate change. Continuing to install gas appliances when there are other clean and safe options has a societal cost and should not be encouraged. The fee collected could be put in a green fund to finance further climate action or sustainability work.

I urge the council to consider recommendation 4 and ask staff to come back with a plan of action for its implementation. If the council wishes, the EC could also support staff's work.

In the current legal situation, we should consider all possibilities to encourage residents to avoid gas appliances and switch to electric. As an example, today in Los Altos 5 gas water heaters are installed for only one 1 heat pump water heater. Anything we can do to change that trend will be welcome, and options should only be dismissed after careful and thorough evaluation.

Thank you for your attention.

Bruno Delagneau, MD

Sent from my iPad

Melissa Thurman

From: Juno Szalay <jupeli@comcast.net>
Sent: Monday, September 9, 2024 8:37 AM
To: Public Comment
Subject: PUBLIC COMMENT - CITY COUNCIL MEETING 9/10/24 - ITEM #7 PUBLIC HEARING FOR APPEAL

Hi,
I am speaking up to save the Los Altos Heritage Orchard. Please do NOT remove the remaining apricot trees in the area defined as the "northeast sector" of the Los Altos Heritage Orchard,
Concerned resident,
Juno Szalay

Juno Szalay
JuPeLi@comcast.net
(650) 796-9165

Melissa Thurman

From: Couture, Terri <Terri.Couture@cbnorcal.com>
Sent: Monday, September 9, 2024 8:49 AM
To: Public Comment
Subject: City council meeting Sept 10, agenda item 10

Dear City council and public

I am a Parc commissioner, but these thoughts below are my own thoughts and are not to be reflected as a message from me as a commissioner.

Los Altos was a farming & ranching community and the Heritage Orchard is testament to our history. Ask the buyers who purchase homes in Los Altos what attracted them. You will find answers like open space, big yards, peace, quiet and friendly environment. They have chosen Los Altos instead of the concrete jungle they were from.

The Los Altos residents have spoken to save the orchard. There are so many different records that show the history of the Orchard and people who have strived to restore and keep the orchard. Why isn't this a high priority?

There are so many infrastructures in the town that have badly needed repairing over the years, and we need to prioritize these goals. The orchard is part of Los Altos.

Inch by inch, the trees and large yards are disappearing. The creep is very noticeable to people who have been here for a long time. The feel is not the same.

With all this new hardscape of pavements, solar panels, and more residences we losing the very soul of the town and its it is getting hotter. In town it may be 80 degrees, but in my back yard its a pleasant 75 degrees because of the trees and vegetation that my neighbors and I cherish, and work hard to keep alive.

PLEASE do more homework on saving the Orchard before you condemn it forever.

Thank you

Terri Couture

***Wire Fraud is Real*. Before wiring any money, call the intended recipient at a number you know is valid to confirm the instructions. Additionally, please note that the sender does not have authority to bind a party to a real estate contract via written or verbal communication.**

Melissa Thurman

From: Anne Schmidt <alories5@gmail.com>
Sent: Monday, September 9, 2024 9:03 AM
To: Public Comment
Subject: PUBLIC COMMENT - CITY COUNCIL MEETING 9/10/24 - ITEM #7 PUBLIC HEARING FOR APPEAL

Dear Los Altos City Council

Unfortunately I am out of town this week, but I'd like my comments to be noted.

My family has been living in Los Altos for 3 generations. We cherish our town's history and roots and take pride in the little farming town that it once was. The apricot orchard that you are suggesting to remove reminds us every day as we pass by, of our connection to the past. It is also so beautiful and picturesque and a breath of fresh air among the urban sprawl, busy roads and higher and higher buildings being built downtown. Even more importantly are the numerous benefits to our community by having a "green space" (improved health and cognitive function of its residents, reduced air pollution, reduced surface temperature, reduced crime, increased property values, increased biodiversity and more). I believe the removal of these trees would be a big mistake that you could never undo. I am disheartened that the people I have elected do not have the same love for Los Altos and cherish it the way that I do by protecting it. Please vote to appeal the decision to remove our beloved apricot trees.

Respectfully,

Anne Schmidt

Sent from my iPhone



**CITY OF LOS ALTOS
CITY COUNCIL MEETING MINUTES
TUESDAY, AUGUST 27, 2024
7:00 p.m.
1 N. San Antonio Rd. ~ Los Altos, CA**

Agenda Item # 1.

*Jonathan D. Weinberg, Mayor
Pete Dailey, Vice Mayor
Neysa Fligor, Councilmember
Lynette Lee Eng, Councilmember
Sally Meadows, Councilmember*

CALL MEETING TO ORDER – Jonathan D. Weinberg, Mayor, called the meeting to order at 7:00 p.m.

ESTABLISH QUORUM – All Councilmembers were present.

PLEDGE OF ALLEGIANCE – Jonathan D. Weinberg, Mayor, led the Pledge of Allegiance.

REPORT ON CLOSED SESSION

There were no public comments during the Closed Session meeting:

There was no reportable action taken for the Closed Session meeting of August 27, 2024 at 5:00 p.m.

CHANGES TO THE ORDER OF THE AGENDA

Motion by Lee Eng to table Item 10 and to have a study session on the same item. **Failed due to lack of a second.**

SPECIAL ITEM

Issue Proclamation Recognizing September as Childhood Cancer Awareness Month

Jonathan D. Weinberg, Mayor, read the proclamation recognizing September as Childhood Cancer Awareness Month.

PUBLIC COMMENT

The following members of the public spoke during Public Comment:

- Paul Horsager
- Sue
- Jean R.
- Alicia Schoolcraft
- Eric Matthews
- Alice Mansell
- Roberta Phillips

CONSENT CALENDAR

Motion by Fligor and Second by Dailey to approve the Consent Calendar, with Councilmember Lee Eng opposed on Item 4. **Motion carried unanimously by roll call vote for Items 1, 2, 3 and 5 and Item 4 carried 4-1 with Councilmember Lee opposed by roll call vote.**

1. Approve the Special and Regular Meeting Minutes for July 9 and July 13, 2024
2. Adopt a Resolution Amending the FY 2024-25 CIP budget increasing TDA Revenues by \$129,725 to fund the Intersection Access Barrier Removal Project (TS-01058); and to

program \$129,725 in Transportation Development Act (TDA) funds for the Intersection Access Barrier Removal Project (TS-01058) to fund the construction of the Hetch Hetchy Pathway Enhancements and Access Improvement Project and find that this action is Exempt from Environmental Review Pursuant to Section 15301(c) of the State Guidelines Implementing the California Environmental Quality Act of 1970

3. Adopt a Resolution accepting the Santa Clara County Multi-Jurisdictional Hazard Mitigation Plan (MJHMP), including Volume 1 and the Los Altos Annex
4. Approve the use of electronic voting during City Council meetings
5. Review and accept the Santa Clara County Multi-Jurisdictional Program for Public Information Annual Report for Fiscal Year 2024 (Year 3)

PUBLIC HEARINGS

6. Hold a Public Hearing and Adopt a Resolution of the City Council of the City of Los Altos declaring certain property surplus land located within city limits and finding that such declaration is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3)

Nick Zornes, Assistant City Manager of Land Use, presented the report.

Jonathan D. Weinberg, Mayor, opened the Public Hearing.

The following members of the public spoke during the Public Hearing:

- Nancy Strom
- Alice Mansell
- Willem De Lange
- Jon Baer
- Bill Bassett
- Roberta Phillips
- Anne Paulson
- Eric Steinle
- Maria Bautista

Jonathan D. Weinberg, Mayor, closed the Public Hearing.

The City Council took a recess at 9:02 p.m.

The City Council reconvened at 9:15 p.m.

Motion by Dailey and Second by Meadows to adopt a resolution declaring certain property surplus land located within city limits and finding that such declaration is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3). **Motion carried 4-1 with Councilmember Lee Eng opposed, by roll call vote.**

7. Hold a Public Hearing and Adopt a Resolution of the City Council of the City of Los Altos declaring the building located at 4898 El Camino Real, Los Altos, CA, 94022, a

City of Los Altos
City Council Regular Meeting Minutes
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Public Nuisance Pursuant to Chapter 11.10 of the Los Altos Municipal Code and Directing the City Manager to abate the nuisance

Nick Zornes, Assistant City Manager of Land Use, presented the report.

Jonathan D. Weinberg, Mayor, opened the Public Hearing.

There were no speakers during the Public Hearing.

Jonathan D. Weinberg, Mayor, closed the Public Hearing.

Motion by Lee Eng and Second by Meadows to adopt a resolution declaring the building located at 4898 El Camino Real, Los Altos, CA, 94022, a Public Nuisance Pursuant to Chapter 11.10 of the Los Altos Municipal Code and Directing the City Manager to abate the nuisance. **Motion carried unanimously by roll call vote.**

- 8. Hold a Public Hearing and Introduce an Ordinance of the City Council of the City of Los Altos Adding Chapter 3.60 to Title 3 Revenue and Finance of the Los Altos Municipal Code Enacting Regulations for Development Impact and In-Lieu Fees and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970

Nick Zornes, Assistant City Manager of Land Use, presented the report.

Jonathan D. Weinberg, Mayor, opened the Public Hearing.

There were no speakers regarding the item.

Jonathan D. Weinberg, Mayor, closed the Public Hearing.

Neysa Fligor, Councilmember, requested to add language to Section 3.60.040 to include:

- To the extent allowed by applicable law

Motion by Weinberg and Second by Fligor to Introduce an Ordinance, as amended and by title only, of the City Council of the City of Los Altos Adding Chapter 3.60 to Title 3 Revenue and Finance of the Los Altos Municipal Code Enacting Regulations for Development Impact and In-Lieu Fees and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970. **Motion carried 4-1 with Councilmember Lee Eng opposed, by roll call vote.**

DISCUSSION ITEMS

- 9. Introduce an Ordinance of the City Council of the City of Los Altos Repealing in its Entirety the Traffic Impact Fee Ordinance, Chapter 3.48 of the Los Altos Municipal

Code and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970; and
Introduce an Ordinance of the City Council of the City of Los Altos Amending Chapter 3.49 to Title 3 Revenue and Finance of the Los Altos Municipal Code for Affordable Housing Fees and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970

Nick Zornes, Assistant City Manager of Land Use, presented the report.

There were no speakers regarding the item.

Motion by Weinberg and Second by Fligor to Introduce an Ordinance, by title only, of the City Council of the City of Los Altos Repealing in its Entirety the Traffic Impact Fee Ordinance, Chapter 3.48 of the Los Altos Municipal Code and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970. **Motion carried by roll call vote.**

Motion by Weinberg and Second by Fligor to Introduce an Ordinance, by title only, of the City Council of the City of Los Altos Amending Chapter 3.49 to Title 3 Revenue and Finance of the Los Altos Municipal Code for Affordable Housing Fees and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970. **Motion carried by roll call vote.**

10. Direct staff to explore private sector parking enforcement services, make parking restrictions uniform in similarly situated neighborhoods, and discuss other options for parking control measures as necessary

Gabriel Engeland, City Manager, presented the report.

The following members of the public spoke regarding the item:

- Corinne Finegan
- Camilla McCrea
- Nadim Maluf
- Lynn Emrick
- Larry Lang
- Michael Emrick
- Bonnie Whalen
- Reza Safai
- David Williams
- Eric Volta

Directional item only. No motion taken.

11. Designate a Voting Representative Delegate and Alternate to Vote on Proposed Resolutions at the CalCities 2024 Annual Conference in Long Beach, CA on October 16-18, 2024

Melissa Thurman, City Clerk, presented the report.

There were no public comments regarding the item.

Motion by Weinberg and Second by Meadows to appoint Neysa Fligor to serve as the Voting Representative Delegate and Jonathan D. Weinberg as the Voting Representative Alternate to vote at the CalCities 2024 Annual Conference in Long Beach, CA on October 16-18, 2024.

Motion carried 4-0-1 with Councilmember Lee Eng abstained by roll call vote.

INFORMATIONAL ITEMS ONLY

There will be no discussion or action on Informational Items

12. Tentative Council Calendar and Housing Element Implementation Update Calendar

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

- **Lynette Lee Eng, Councilmember** – Requested future agenda items:
 - Parket Re-Evaluation and Discussion (*No Support*)
 - Election Resolution presented by public commenters (*No Support*)

ADJOURNMENT – The regular meeting adjourned at 11:20 p.m.

The meeting minutes were prepared by Melissa Thurman, City Clerk, for approval at the regular meeting of September 10, 2024.

Jonathan D. Weinberg
Mayor

Melissa Thurman, MMC
City Clerk

The August 27, 2024 City Council meeting recording may be viewed via the following external website: <https://www.youtube.com/@CityofLosAltosCA>

The City of Los Altos does not own or operate YouTube. The video referenced on these minutes were live at the time the minutes were published.



**CITY OF LOS ALTOS
CITY COUNCIL MEETING MINUTES
WEDNESDAY, AUGUST 28, 2024
4:00 p.m.
1 N. San Antonio Rd. ~ Los Altos, CA**

Agenda Item # 1.

*Jonathan D. Weinberg, Mayor
Pete Dailey, Vice Mayor
Neysa Fligor, Councilmember
Lynette Lee Eng, Councilmember
Sally Meadows, Councilmember*

SPECIAL MEETING

CALL MEETING TO ORDER: Mayor Weinberg called the meeting to order at 4:00 p.m.

ESTABLISH QUORUM:

All Councilmembers were present and in person during the meeting.

PUBLIC HEARING

1. Hold Public Hearing No. 3 to receive a presentation from the City's consulting demographer, Redistricting Partners, to discuss and provide further directions as to the development of district boundaries and the presentation of the first draft district maps for the City of Los Altos; solicit public input on the maps and on the order of elections of the five new districts

Jon Maginot, Assistant City Clerk, provided the report.

Elizabeth Stitt, Redistricting Partners, presented the draft maps.

Jonathan D. Weinberg, Mayor, opened the Public Hearing.

The following members of the public spoke during the Public Hearing:

- Allison Aldrich
- Myra Orta
- Steve Chessin
- Jeanine Valadez
- Eric Steinle
- Lindsey P.
- Freddie Wheeler
- Larry Lang

Jonathan D. Weinberg, Mayor, closed the Public Hearing.

Informational item only. No motion taken.

ADJOURNMENT – The meeting adjourned at 6:06 p.m.

The meeting minutes were prepared by Melissa Thurman, City Clerk, for approval at the regular meeting of September 10, 2024.

Jonathan D. Weinberg
Mayor

Melissa Thurman, MMC
City Clerk

The August 28, 2024 City Council Special Meeting recording may be viewed via the following external website: <https://www.youtube.com/@CityofLosAltosCA>

The City of Los Altos does not own or operate YouTube. The video referenced on these minutes were live at the time the minutes were published.



City Council Agenda Report

Meeting Date: September 10, 2024
Prepared By: Public Works Department
Approved By: Gabe Engeland

Subject: Resolution No. 2024-__: On-Call Sanitary Sewer Spot Repairs and CCTV Inspection Services FY 2023-2024 Project Acceptance

COUNCIL PRIORITY AREA

- Business Communities
- Circulation Safety and Efficiency
- Environmental Sustainability
- Housing
- Neighborhood Safety Infrastructure
- General Government

RECOMMENDATION

Move to adopt Resolution No. 2024-__ accepting completion of the On-Call Sanitary Sewer Spot Repairs and CCTV Inspection Services for FY 23/24 and authorize the Public Works Director to record a Notice of Completion as required by law, and find that this action is Exempt from Environmental Review pursuant to Section 15300.2 of the State Guidelines Implementing the California Environmental Quality Act of 1970

FISCAL IMPACT

The final cost of this project is \$97,597.36 for the On-Call Sanitary Sewer Spot Repairs and CCTV Inspection Services for FY 23/24 from account 8210-5280; any remaining expenditure budget will be returned to the Sewer Fund for future allocation. The following table summarizes the final cost of this project.

Project Item	Original Project Budget	Final Cost
Construction (Spot Repair and CCTV Inspections)	\$100,000.00	\$96,778.60
Printing/Environmental Doc/Misc.	\$1,500.00	\$818.76
Total Cost	\$101,500.00	\$97,597.36

SUMMARY

- Adopt Resolution No. 2024-___ accepting completion of the On-Call Sanitary Sewer Spot Repairs and CCTV Inspection Services for FY 23/24
- Authorize the Public Works Director to record a Notice of Completion as required by law

BACKGROUND

The City’s Sewer Maintenance Division in the Public Works Department maintains a long list of sewer system deficiencies that require spot repairs. In order to make progress on those repairs and plan for emergency repairs, the City requested bids for On-Call Sanitary Sewer Spot Repairs and CCTV Inspection Services.

On October 31, 2023, the City Manager executed a contract with C2R Engineering, Inc. for On-Call Sanitary Sewer Spot Repairs and CCTV Inspection Services for the not-to-exceed amount of \$100,000.

ENVIRONMENTAL REVIEW

The acceptance of the work is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(b), involving the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public sewerage involving negligible or no expansion of existing or former use, and none of the circumstances stated in CEQA Guidelines Section 15300.2 applies.

PREVIOUS COUNCIL CONSIDERATION

September 12, 2023

DISCUSSION/ANALYSIS

C2R Engineering, Inc. completed the repairs and CCTV inspection of On-Call Sanitary Sewer Spot Repairs and CCTV Inspection Services per the project plans and specifications. This project consisted of the repair or replacement of five sewer laterals using the pipe bursting method or open trench method, the completion of four mainline repairs using the open trench method, televising 573 feet of 6-inch sewer mainlines, and televising 314 feet of 8-inch sewer mainlines.

ATTACHMENT

1. Resolution 2024-_____

RESOLUTION NO. 2024-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
ACCEPTING COMPLETION AND DIRECTING THE PUBLIC WORKS
DIRECTOR TO FILE A NOTICE OF COMPLETION OF THE ON-CALL
SANITARY SEWER SPOT REPAIRS AND CCTV INSPECTION SERVICES
FY 2023-2024**

WHEREAS, the Los Altos Public Works Director has filed with the City Clerk of Los Altos an Engineer's Certificate for the completion of all work provided within and pursuant to the contract between said City and C2R Engineering, Inc., dated October 31, 2023; and

WHEREAS, it appears to the satisfaction of this City Council that work under said contract has been fully installed and completed 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 authorizes the following:

1. That acceptance of completion of said work is hereby made and ordered; and
2. That the Public Works Director is directed to execute and file for recording with the County Recorder of the County of Santa Clara, Notice of Acceptance of Completion thereof, as required by law; and
3. That the acceptance of the work is exempt from review under the California Environmental Quality Act ("CEQA") under CEQA Guidelines Section 15301 (b) for reasons stated in the staff report, and none of the circumstances described in CEQA Guidelines Section 15300.2 apply, and
4. All remaining budget expenditures will be returned to the Sewer Fund.

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 10th day of September 2024 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jonathan D. Weinberg, MAYOR

Attest:

Melissa Thurman, MMC
CITY CLERK



City Council Agenda Report

Meeting Date: September 10, 2024

Prepared By: Nick Zornes

Approved By: Gabriel Engeland

Subject: Development Impact Fee and In-Lieu Fee Ordinance

COUNCIL PRIORITY AREA

- Business Communities
- Circulation Safety and Efficiency
- Environmental Sustainability
- Housing
- Neighborhood Safety Infrastructure
- General Government

RECOMMENDATION

Adopt an Ordinance of the City Council of the City of Los Altos Adding Chapter 3.60 to Title 3 Revenue and Finance of the Los Altos Municipal Code Enacting Regulations for Development Impact and In-Lieu Fees and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970.

FISCAL IMPACT

Not Applicable.

ENVIRONMENTAL REVIEW

Pursuant to CEQA Guidelines Section 15378(b)(4) and 15273(a)(1) and (a)(2) this item is exempt from environmental review. CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies.

PREVIOUS COUNCIL CONSIDERATION

June 11, 2024, June 25, 2024, August 27, 2024.

BACKGROUND

On May 28, 2024, the Los Altos City Council adopted a Development Impact Fee Nexus Study to provide a comprehensive review and support for the establishment of Impact Fees within the City. Development Impact Fees in California are governed by the Mitigation Fee Act, which includes AB1600 and AB602.

On June 11, 2024, the Los Altos City Council held a Public Hearing for the consideration of the proposed Development Impact and In-Lieu Fees based on the adopted nexus study. At the hearing the City Council received a presentation from the Assistant City Manager, asked clarifying questions, received public testimony, and discussed the item under consideration. The item was continued to a date certain of June 25, 2024, to allow additional time for the City Council to review the proposed changes to Development Impact and In-Lieu Fees.

On June 25, 2024, the Los Altos City Council held a Public Hearing and adopted the Development Impact and In-Lieu Fees Resolution based on the adopted nexus study. The City Council however, continued to a date certain of August 27, 2024, the proposed Ordinance (Chapter 3.60) for the administrative component of the Development Impact and In-Lieu Fees. The City Council also gave direction to exempt all Below Market Rate (BMR) units from the payment of Development Impact and In-Lieu Fees in the administrative ordinance (Chapter 3.60) and to return with an update to the Art in Public Places Ordinance to create more of an equitable requirement throughout the city.

On August 27, 2024, the Los Altos City Council considered the ordinance, and introduced it for adoption to be heard at the following meeting.

RECOMMENDATION

Adopt an Ordinance of the City Council of the City of Los Altos Adding Chapter 3.60 to Title 3 Revenue and Finance of the Los Altos Municipal Code Enacting Regulations for Development Impact and In-Lieu Fees and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970.

ATTACHMENTS

- 1. Draft Ordinance – Adopting Chapter 3.60**
- 2. Appendix A – Chapter 3.60 Text**

ORDINANCE NO. 2024-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS ADDING CHAPTER 3.60 TO TITLE 3 REVENUE AND FINANCE OF THE LOS ALTOS MUNICIPAL CODE ENACTING REGULATIONS FOR DEVELOPMENT IMPACT AND IN-LIEU FEES

WHEREAS, the mitigation Fee Act contained in Government Code Section 66000 permits the City to impose development impact fees on new development for the purposes of funding public facilities necessary to serve that new development; and

WHEREAS, the City of Los Altos has existing Development Impact Fees; and

WHEREAS, new development projects attract new residents and employees to the City, generating an increased demand for park, transportation, public safety and general government facilities; and

WHEREAS, the City of Los Altos has determined that City parks, transportation, public safety and general government facilities are reaching capacity, and that the city requires a cost-effective and efficient way of serving future residents and employees while maintain existing levels of service; and

WHEREAS, the City of Los Altos wishes to update existing Development Impact fees, and establish new Development Impact Fees in direct relationship to associated development within the City; and

WHEREAS, the City desires to adopt a Park Impact Fee on new development to fund the costs associated with increased demand for community parks and recreational facilities created by new development; and

WHEREAS, the City Council has determined additional funds are necessary for maintain and operating the City’s Public Safety Infrastructure; and

WHEREAS, the City Council desires to acquire vehicles and transportation-related equipment and improve, replace and/or construct one or more public safety facilities to serve new development in the City; and

WHEREAS, the City Council has determined that the creation of a Public Safety Impact Fee on new development within the City would provide the necessary funding for police and fire services related to new development; and

WHEREAS, the City’s General Plan and Complete Streets Master Plan calls for strategies to provide an efficient, reliable, and convenient transit system; improved bicycle routes; and a balanced street system to serve automobiles, pedestrians, bicycles, and transit; and

WHEREAS, it is appropriate for new development to pay for improvements and development to the transportation network proportionate to the demands the new development places on the City’s transportation infrastructure; and

WHEREAS, the City desires to impose a Transportation Impact Fee on new development to fund the costs associated with maintaining adequate street and transportation facilities related to new development; and

WHEREAS, the City Council has determined additional funds are necessary for maintain and operating the City's General Government Infrastructure related to Municipal Operations; and

WHEREAS, the City Council desires to replace and/or construct new municipal facilities to serve new development in the City; and

WHEREAS, the City Council has determined that the creation of a General Government Impact Fee on new development within the City would provide the necessary funding for municipal operations related to new development; and

WHEREAS, the City Council has determined the physical development or funding of public art within the community is necessary; and

WHEREAS, the City Council has determined that the creation of a Public Art Development Fee on new development within the City would provide the necessary funding for public art within the community related to new development; and

WHEREAS, the City Council has determined funds are necessary for mitigating the impacts associated with non-residential development with the City; and

WHEREAS, the City Council has determined that the creation of a Commercial Linkage Fee on new development within the City would provide the necessary funding for the creation of affordable housing related to new development; and

WHEREAS, the City Council has determined funding the creation of affordable housing is necessary to further the City's Housing related goals; and

WHEREAS, the City Council has determined that the creation of an Affordable Housing Fee on new development within the City in-lieu of construction of affordable units onsite would provide the necessary alternatives in helping to construct more housing within the City; and

WHEREAS, on January 24, 2023, the City Council approved the City's Sixth Cycle Housing Element Update; and

WHEREAS, Program 2.B of the Housing Element calls for the establishment of an affordable housing in-lieu fee; and

WHEREAS, Program 2.B of the Housing Element requires the City of Los Altos to conduct a feasibility analysis to support the establishment of an affordable housing in-lieu fee for residential development; and

WHEREAS, Program 2.B of the Housing Element requires the City of Los Altos to adopt an affordable housing in-lieu fee based on the feasibility study prepared; and

WHEREAS, on January 23, 2024, the City Council adopted an Inclusionary Housing In-Lieu Fee based on the results of the Inclusionary Housing Economic Feasibility Study completed by Bae Urban Economics; and

WHEREAS, Program 3.D of the Housing Element calls for the City of Los Altos to Evaluate and Adjust Impact Fees; and

WHEREAS, Program 3.D of the Housing Element expressly requires the modification of Development Impact Fees to be charged on a per square foot basis rather than per unit to encourage the development of higher densities and smaller, more affordable housing units; and

WHEREAS, Program 3.D of the Housing Element expressly requires the modification of Development Impact Fees to be completed no later than December 2024; and

WHEREAS, Government Code Section 66016 requires the City of Los Altos adopt a Nexus Study to support modifications to existing Development Impact Fees, and the establishment of new Development Impact Fees; and

WHEREAS, consultant Matrix Consulting Group, and subconsultants DKS Associates, and Strategic Economics on behalf of the City of Los Altos prepared the Development Impact Fee Nexus Study dated May 2024 (the “Nexus Study”); and

WHEREAS, the Nexus Study substantiates a methodology that will charge each new development project only for the costs necessary to mitigate the impacts expected to be caused by that development project; and

WHEREAS, there is a reasonable relationship between the Development Impact Fees and the development projects on which the Fees will be imposed because the Fees will only fund costs necessitated by each new development; and

WHEREAS, the Development Impact Fees will not exceed the estimated reasonable cost of providing the land and facilities for which the Fees are imposed; and

WHEREAS, the Development Impact Fees will not be levied, collected, or imposed for general revenue purposes, but are levied specifically to fund facilities of the types set forth in the Nexus Study; and

WHEREAS, the Nexus Study establishes proposed amounts and provides an evaluation of the need for new Development Impact Fees and establishes the nexus between the imposition of the new Fees and the estimated reasonable costs of providing the services for which the Fees are charged; and

WHEREAS, the Nexus Study identifies the City’s existing level of parks, transportation, public safety and general government services, identifies the level of service, and includes an explanation of why the level of service is appropriate; and

WHEREAS, the Nexus Study includes information that supports the City’s actions, as required by Government Code Section 66001(a); and

WHEREAS, the Nexus Study calculates the maximum justifiable Development Impact Fees that can be charged on new development, and therefore, the City Council may adopt reduced Development Impact Fees below the maximum justifiable amount identified within the Nexus Study if doing so effectuates a policy of the City; and

WHEREAS, on May 28, 2024, the City Council adopted a Nexus Study for Development Impact Fees in Compliance with Assembly Bill 602 (AB602) following a thirty-day public notice and review period; and

WHEREAS, the amendments were processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; and

WHEREAS, the City Council held a duly noticed public hearing on June 11, 2024, and June 25, 2024; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended; and

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

SECTION 1. AMENDMENT OF TITLE 3 OF THE MUNICIPAL CODE. Chapter 3.60 is hereby added to the Los Altos Municipal Code as set forth in Appendix A to this Ordinance, underline indicates addition, strikethrough indicates deletion.

SECTION 2. CONSTITUTIONALITY; AMBIGUITIES. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions hereof. Any ambiguities in the Los Altos Municipal Code created by this Ordinance shall be resolved by the Development Services Director, in their reasonable discretion, after consulting the City Attorney.

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 hereof.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on August 27, 2024, and was thereafter, at a regular meeting held on September 10, 2024, passed and adopted by the following vote:

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

Jonathan D. Weinberg, MAYOR

**APPENDIX A
AMENDMENTS TO CHAPTER 3.60**

APPENDIX A

Chapter 3.60 DEVELOPMENT IMPACT AND IN-LIEU FEES

3.60.010 Purpose.

Development Impact and In-Lieu Fees are fees imposed on specific development projects to defray the cost of new or additional public facilities that are needed to serve those developments. Common types of impact and in-lieu fees include traffic mitigation, multi-modal transportation facilities fees, park facilities fees, sewer facilities fees, library facilities fees, public art fees, public safety facilities fees, general government facilities fees, and commercial linkage fees. For purposes of this chapter the term "fee" shall be used to refer to any such development impact or in-lieu fee, regardless of how denominated elsewhere in this code.

3.60.015 Applicability.

- A. This Chapter applies to any development impact and in-lieu fee payment imposed under any provision of this code.
- B. The following fees are hereby established and shall be imposed as a condition of the approval of, or permit for, any development, whether residential or nonresidential, except as otherwise exempted by this chapter:
 - i. A fee, known as a "Park Impact Fee," to fund acquisition of land and improvements for parks within the City of Los Altos, in an amount as set forth in the municipal fee schedule.
 - ii. A fee, known as a "Transportation Impact Fee," to expand the citywide multimodal transportation network to accommodate increased demand from new development within the City of Los Altos, in an amount as set forth in the municipal fee schedule.
 - iii. A fee, known as a "Public Safety Impact Fee," to upgrade existing Police and Fire stations, relocate, and reconstruct existing stations, as well as replace outdated public safety equipment within the City of Los Altos, in an amount as set forth in the municipal fee schedule.
 - iv. A fee, known as a "General Government Impact Fee," to upgrade existing City Hall, Public Works Facilities, Library Branches and City equipment within the City of Los Altos, in an amount as set forth in the municipal fee schedule.
 - v. A fee, known as a "Public Art Development Fee," to either place public art on private property or contribute to the public art fund within the City of Los Altos, in an amount as set forth in the municipal fee schedule and implementing ordinance.
 - vi. A fee, known as a "Commercial Linkage Fee," to impose a fee on new development for its impact on creating the need for affordable housing in the community within the City of Los Altos, in an amount as set forth in the municipal fee schedule.
 - vii. A fee, known as a "Affordable Housing Fee," to either construct inclusionary housing units onsite as a part of new development or contribute to the affordable housing fund within the City of Los Altos, in an amount as set forth in the municipal fee schedule.

3.60.020 Exemptions.

The provision of this chapter shall not apply to the following:

- A. Any city-owned buildings, structures or parcels;
- B. Public school buildings or structures for the use of education facilities;
- C. Residential housing units, either for sale or rental, which, by recordable means, is permanently obligated to be 100% affordable;
- D. Accessory dwelling units (ADU) less than 750 square feet in size. Any impact fees to be charged for an accessory dwelling unit of 750 square feet or more shall be proportional to the square footage of the primary dwelling unit;

- E. Junior accessory dwelling units (JADU).
- F. Any Below Market Rate (BMR) unit which, by recordable means, is obligated to be affordable for a minimum of 55-years.

3.60.025 Establishment of Fees.

The establishment of any fee shall be supported by an adopted Nexus Study consistent with all provisions of the Mitigation Fee Act. To establish a nexus between new development and the need for new facilities or infrastructure each fee shall determine the following the purpose of the fee, impact relationship, proportionality, benefit relationship and the use of fee revenue.

3.60.030 Annual Adoption of Fees.

All fees shall be adopted annually during the City of Los Altos annual budget process unless modification of fees prior is necessary to meet the intent or legal requirement of the fee.

3.60.035 Creation of Separate Fund Accounts.

The Finance Director is hereby directed to establish and maintain the following funds, into which all fees of each type described in this chapter, and any interest thereon, shall be deposited. Each fund shall be maintained as a separate account in a manner to avoid any commingling of the fees with other revenues, funds or accounts of the city. The separate funds established by this Chapter are:

- A. Park Development Fund;
- B. Transportation Improvement Fund;
- C. Public Safety Fund;
- D. General Government Fund;
- E. Public Art Development Fund;
- F. Affordable Housing Fund.

3.60.040 Payment of Fees.

A fee shall be paid on or before the issuance of the first building permit for the project. For a phased project, payments may be made for each portion of a phased project prior to issuance of the first building permit for that phase, to the extent allowed by applicable law. If there is no building permit for the project, the fee shall be paid upon issuance of the first city permit or other approval. If no city permit(s) or other approval is required, and the obligation to pay the fee is triggered by a change in use, payment of the fee must be made before the change in use occurs.

3.60.045 Deferred Payment of Fees.

For housing developments only as defined by the Housing Accountability Act (HAA), payment of a development impact fee (excluding any in-lieu fee) may be deferred to the date of final building inspection approval of the development, provided the owner of the real property for which the fees are required enters into a recordable agreement with the city prior to issuance of the building permit for the development, which from the date of recordation, shall constitute a lien on the property and shall be enforceable against successors in interest to the property owner. The agreement shall provide that final occupancy approval shall not be given until the fees are paid. The Development Services Director or their designee may execute the agreement on behalf of the city in a form acceptable to the city attorney.

3.60.050 Calculation of Fees.

A fee shall be payable at the rate specified in the City Council adopted municipal fee schedule. When the Calculation of Fees is determined based upon a square footage basis for a housing development the fee shall take into account only habitable square footage as defined by the California Building Code.

3.60.055 Credit of Existing Habitable Square Footage.

Credit of existing habitable square footage shall only be given for existing square footage that is known and provided on the latest County of Santa Clara Assessors Office Tax Roll. No credit shall be provided for non-habitable square footage. Any proposed development shall pay the net new habitable square footage above the existing assessed square footage.

3.60.060 Notice of Protest Rights.

- A. Each applicant is hereby notified that, in order to protest the imposition of any impact fee required by this chapter, the protest must be filed in accordance with the requirements of this chapter and the Mitigation Fee Act. Failure of any person to comply with the protest requirements of this chapter or the Mitigation Fee Act shall bar that person from any action or proceeding or any defense of invalidity or unreasonableness of the imposition.
- B. On or before the date on which payment of the fee is due, the applicant shall pay the full amount required by the city and serve a written notice to the Development Services Director with all of the following information:
 - 1. a statement that the required payment is tendered, or will be tendered when due, under protest; and
 - 2. a statement informing the city of the factual elements of the dispute and the legal theory forming the basis for the protest.
 - 3. The applicant shall bear the burden of proving, to the satisfaction of the director, entitlement to a fee adjustment.

3.60.065 Informal Hearing.

- A. The director shall schedule an informal hearing regarding the protest, to be held no later than sixty days after the imposition of the impact fees upon the development project, and with at least ten days' prior notice to the applicant (unless either date are otherwise agreed by the director and the applicant).
- B. During the informal hearing, the director shall consider the applicant's protest, relevant evidence assembled as a result of the protest, and any additional relevant evidence provided during the informal hearing by the applicant and the city. The director shall provide an opportunity for the applicant to present additional evidence at the hearing in support of the protest.
- C. The director shall issue a written determination regarding the protest. The director's determination shall support the fee imposed upon the development project unless the applicant establishes, to the satisfaction of the director, entitlement to an adjustment to the fee.
- D. The director may elect to appoint a designee to hear and decide a protest under this section.

3.60.070 Appeal of Director Determination.

- A. Any applicant who desires to appeal a determination issued by the director shall submit a written appeal to the director and the city manager. A complete written appeal shall include a complete description of the factual elements of the dispute and the legal theory forming the basis for the appeal of the director's determination. An appeal received by the city manager more than ten calendar days after the director's determination may be rejected as late. Upon receipt of a complete and timely appeal, the city manager shall appoint an independent hearing officer to consider and rule on the appeal.
- B. The independent hearing officer shall, in coordination with the applicant and the director, set the time and place for the appeal hearing, and provide written notice thereof. The independent hearing officer shall consider relevant evidence, provide an opportunity for the applicant and the city to present additional noncumulative evidence at the hearing, and preserve the complete administrative record of the proceeding.
- C. Within thirty days after the independent hearing officer closes the hearing and receives post-hearing briefs (if any), the independent hearing officer shall issue a written decision on the appeal hearing which shall include a statement of findings of fact in support of the decision. The independent hearing officer's discretion shall be limited to a determination that either supports the director's determination or orders the city to refund all or a portion of the impact fees to the applicant. The applicant shall bear the burden

of proving entitlement to a fee adjustment. The decision of the hearing officer is final and conclusive and is subject to judicial review.

3.60.075 Cost of Appeal/Protest.

The applicant shall pay all city costs related to any protest or appeal pursuant to this chapter, in accordance with the fee schedule adopted by the city. At the time of the applicant's protest, and at the time of the applicant's appeal, the applicant shall pay a deposit in an amount established by the city to cover the estimated reasonable cost of processing the protest and appeal. If the deposit is not adequate to cover all the city costs, the applicant shall pay the difference within twenty days after receipt of written notice from the director.

3.60.080 Administration.

The city manager or their designee is authorized to adopt administrative regulations or guidelines that are consistent with and that further the terms and requirements set forth in this code. All such administrative regulations or guidelines must be in writing. Such regulations or guidelines may interpret any provision of this chapter, as well as any provision of this code relating to the calculation of a fee.

3.60.085 Annual Adjustments.

Annual adjustments will provide the ability to increase any fee covered by this chapter based upon the Construction Code Index (CCI). Annual increase based upon CCI shall only be allowed for eight (8) years post adoption of the Nexus Study. The City of Los Altos shall reevaluate its development impact and in-lieu fees no later than every eight (8) years.

3.60.090 Annual Reporting.

Pursuant to Government Code Section 66006 within 180-days of the close of the fiscal year, the City of Los Altos must make available to the public detailed information regarding impact fees. The annual reporting required as a part of this chapter must be submitted and reviewed by the City Council within 15 days of being posted publicly. The detailed information shall include but is not limited to:

1. Impact Fee Description and Fund Number;
2. Impact Fee Amount;
3. Beginning and Ending balance of the account or fund;
4. Amount of the fees collected in the fiscal year and the total interest earned;
5. Identification of project(s) one which the funds are being earmarked for;
6. Identification of the approximate date on which the projects would commence;
7. Identification of any interfund loans or transfers related to capital projects, and the amount of the transfer;
8. Amount of any refunds or allocations made on behalf of the impact fee funds.

3.60.095 Severability.

If any portion of this chapter is held to be invalid, unconstitutional, or unenforceable by a court of competent jurisdiction, that decision will not affect the validity of the remaining portions of this code. The city council declares that this chapter and each portion would have been adopted without regard to whether any portion of this chapter would be later declared invalid, unconstitutional, or unenforceable.



City Council Agenda Report

Meeting Date: September 10, 2024

Prepared By: Nick Zornes

Approved By: Gabriel Engeland

Subject: Amendments to Municipal Code Chapters 3.48 and 3.49

COUNCIL PRIORITY AREA

- Business Communities
- Circulation Safety and Efficiency
- Environmental Sustainability
- Housing
- Neighborhood Safety Infrastructure
- General Government

RECOMMENDATION

Two (2) separate actions for City Council consideration:

Adopt an Ordinance of the City Council of the City of Los Altos Repealing in its Entirety the Traffic Impact Fee Ordinance, Chapter 3.48 of the Los Altos Municipal Code and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970.

Adopt an Ordinance of the City Council of the City of Los Altos Amending Chapter 3.49 to Title 3 Revenue and Finance of the Los Altos Municipal Code for Affordable Housing Fees and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970.

FISCAL IMPACT

Not Applicable.

ENVIRONMENTAL REVIEW

Pursuant to CEQA Guidelines Section 15378(b)(4) and 15273(a)(1) and (a)(2) this item is exempt from environmental review. CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies.

PREVIOUS COUNCIL CONSIDERATION

June 11, 2024, June 25, 2024, August 27, 2024.

BACKGROUND

On June 11, 2024, the Los Altos City Council considered an item for Development Impact and In-Lieu Fees. The item was continued to a date certain of June 25, 2024, to provide the City Council with additional time to consider the subsequent action. At that time the Assistant City Manager informed the City Council that this includes amendments to Chapter 3.48 and 3.49 of the Los Altos Municipal Code would need to be agendized separately as there was insufficient information provided in the agenda to meet the statutory requirements.

ANALYSIS

The proposed amendments to Chapter 3.48 and 3.49 of the Los Altos Municipal Code are to further implement the Development Impact and In-Lieu Fees under consideration tonight. The proposed amendment to Chapter 3.48 repeals in its entirety the existing ordinance as the new Chapter 3.60 covers all necessary provisions for the collection of Development Impact and In-Lieu Fees associated with Traffic Impact Fees (TIF). The proposed amendment to Chapter 3.49 amends the city's Affordable Housing Fee Ordinance which covers the legal framework for the collection of such fees. As previously noted, the proposed amendments are in tandem to the consideration of Development Impact and In-Lieu Fees also under consideration on the June 25, 2024, agenda.

RECOMMENDATION

Two (2) separate actions for City Council consideration:

Adopt an Ordinance of the City Council of the City of Los Altos Repealing in its Entirety the Traffic Impact Fee Ordinance, Chapter 3.48 of the Los Altos Municipal Code and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970.

Adopt an Ordinance of the City Council of the City of Los Altos Amending Chapter 3.49 to Title 3 Revenue and Finance of the Los Altos Municipal Code for Affordable Housing Fees and find that this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and (a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970.

ATTACHMENTS

1. **Draft Ordinance – Repealing Chapter 3.48**
2. **Appendix A – Chapter 3.48 Text**
3. **Draft Ordinance – Amending Chapter 3.49**
4. **Appendix A – Chapter 3.49 Text**

ORDINANCE NO. 2024-XX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
REPEALING IN ITS ENTIRETY THE TRAFFIC IMPACT FEE ORDINANCE,
CHAPTER 3.48 OF THE LOS ALTOS MUNICIPAL CODE**

WHEREAS, the City Council is empowered pursuant to Article XI, Section 7 of the California Constitution to make and enforce within the City all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, the City Council repeals in its entirety the Traffic Impact Fee Ordinance, Chapter 3.48 of the Los Altos Municipal Code; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15378(b)(4) and 15273(a)(1) and 15273(a)(2) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended; and

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

SECTION 1. AMENDMENT OF CHAPTER 3.48 OF THE MUNICIPAL CODE. Chapter 3.48 of the Los Altos Municipal Code is hereby amended as set forth in Appendix A to this Ordinance, underline indicating addition, and strikethrough indicating deletion.

SECTION 2. CONSTITUTIONALITY; AMBIGUITIES. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions hereof. Any ambiguities in the Los Altos Municipal Code created by this Ordinance shall be resolved by the Director of Development Services, in their reasonable discretion, after consulting the City Attorney.

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 sixty-first day following the adoption hereof.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on August 27, 2024, and was thereafter, at a regular meeting held on September 10, 2024, passed and adopted by the following vote:

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

Jonathan D. Weinberg, MAYOR

**APPENDIX A
AMENDMENTS TO CHAPTER 3.48**

APPENDIX A

Title 3 - REVENUE AND FINANCE
 Chapter 3.48 **RESERVED TRAFFIC IMPACT FEE**

Chapter 3.48 RESERVED TRAFFIC IMPACT FEE**Sections:****3.48.010 RESERVED FOR FUTURE USE -Authority-**

This chapter is enacted pursuant to Sections 66000 through 66008 of the California Government Code. The fees established are based on an analysis of potential future growth and its impact on the city's transportation system as identified in the 2005 city of Los Altos traffic impact fee program report, herein referred to as the traffic impact fee report.

{Ord. 05-286 § 1 (part)}

3.48.020 Application-

This chapter applies to fees charged as a condition of development approval to defray the cost of certain transportation improvements required to serve new development within the city. This chapter does not replace other subdivision map exactions or other measures required to mitigate site-specific impacts of a development project including, but not limited to, mitigations pursuant to the California Environmental Quality Act, regulatory and processing fees, fees required pursuant to a development agreement, or assessment district proceedings, benefit assessments, or taxes.

{Ord. 05-286 § 1 (part)}

3.48.030 Intent and purpose-

- A. Adequate transportation improvements are needed to protect the health, safety, and general welfare of the citizens, to facilitate transportation, and to promote economic well-being within the city. Transportation improvements are provided for residents, businesses, and employees within the city. Individual traffic improvements are part of an integrated transportation system serving and providing benefits to the entire city. New development within the city will create an additional burden on the existing street system. Improvements to the existing street system in the city are needed both to mitigate the cumulative impacts of new development and to accommodate future development by maintaining the appropriate level of service on streets and intersections, or providing offsetting sidewalk and bicycle improvements to meet the goals and policies of the city's general plan and the county of Santa Clara's congestion management program requirements.
- B. All types of development require and use the street system. There are no adequate public funds available to maintain designated levels of service at all intersections in the city. In order to ensure that the appropriate level of service is maintained and to promote the health, safety, and general welfare of the community, it is necessary that new development pay a fee representing its share of costs of the necessary improvements. The traffic impact fee is based upon the evidence that new development generates additional residents, employees, and structures, which in turn place an additional cumulative burden upon the local street system, and should be expected to pay a share of the new facilities.
- C. The purpose of this fee is to help provide adequate transportation-related improvements to serve cumulative development within the city. However, the fee does not replace the need for all site-specific

traffic improvements that may be needed to mitigate the impact of specific projects upon the city's street system. The transportation improvements for which the fee will be used are identified in the city's capital improvement program and/or in the traffic impact fee report in effect at the time this chapter is enacted or as subsequently amended.

{Ord. 05-286 § 1 (part)}

3.48.040 Fee requirement.

- A. — A traffic impact fee is hereby imposed on new development which generates traffic and meets the requirements of this section. The amount of the fee shall be established periodically by the city council. The fee shall be based on the percentage of the cost of the new improvements attributable to new development as determined in the traffic impact fee program report in effect at the time this chapter is enacted or as subsequently amended.
- B. — The fee shall be applicable to development projects throughout the city as follows:
 - 1. — Single family housing — per residential unit;
 - 2. — Multiple family housing — per residential unit;
 - 3. — Senior housing — per residential unit;
 - 4. — Commercial — per one thousand (1,000) gross square feet;
 - 5. — Office — per one thousand (1,000) gross square feet.
- C. — Residential units and nonresidential uses shall only be charged for net increases. No fee shall be charged for the remodeling, restoration or replacement of an existing residential unit or the remodeling, restoration or replacement of existing gross floor area for a nonresidential use.
- D. — When a multiple family or senior housing project replaces a nonresidential project the traffic impact fee shall either be the unit cost for every one thousand (1,000) square feet of net new building area, or the unit cost for the total number of residential units, whichever is less.
- E. — The city engineer shall determine the appropriate traffic impact fee for projects that do not fall into one of the categories defined herein based on the number of additional p.m. peak hour trips the project generates in excess of any current p.m. peak hour trips generated by current site uses, as indicated in the most current edition of the Institute of Transportation Engineers Trip Generation Manual and based on the traffic impact fee program report in effect at the time this chapter is enacted or as subsequently amended. Any determination made by the city engineer pursuant to this subsection may be appealed to the city council.

{Ord. 08-325 § 1; Ord. 05-286 § 1 (part)}

3.48.050 Fee adjustment.

- A. — The traffic impact fee shall be adjusted automatically each July 1st by the increase or decrease in the Engineering News-Record Construction Cost Index for the San Francisco Bay Area for the period ending December 31st of the preceding calendar year.
- B. — In addition to the automatic adjustment of subsection A of this section, the city council may periodically adjust the traffic impact fee to reflect revisions in the transportation improvement projects, increases in land values or other factors.

{Ord. 08-325 § 2; Ord. 05-286 § 1 (part)}

3.48.060 Fee payment.

The fee shall be paid in full to the city before any building permit is issued or any final subdivision map is recorded, whichever is applicable or occurs first.

{Ord. 05-286 § 1 (part)}

3.48.070 Authority for additional mitigation.

Fees collected pursuant to this chapter are not intended to replace or limit requirements to provide mitigation of traffic impacts not mitigated by the fee, created by a specific project, and imposed upon development projects as part of the development review process.

{Ord. 05-286 § 1 (part)}

3.48.080 Exemptions.

Public park facilities, city buildings, and those government facilities entitled to an exemption under law are exempt from the traffic impact fee.

{Ord. 05-286 § 1 (part)}

3.48.090 Fee credit.

The city engineer may adjust the fee imposed pursuant to this chapter in consideration for certain on-site and off-site facilities or improvements constructed or paid for by the developer. In determining an adjustment, the director shall consider a credit for the value of improvements if the improvements are identified in the city's capital improvement program and/or the traffic impact fee report in effect at the time this chapter is enacted or as subsequently amended. Credit shall not be given for subdivision map exactions or other measures required to mitigate site-specific impacts of a development project.

{Ord. 05-286 § 1 (part)}

3.48.100 Accumulation and use of funds.

- A.— The city shall deposit the fees collected under this chapter in a special fund designated solely for transportation improvements.
- B.— The fees and interest earned on accumulated funds shall be used only to:
 - 1.— Complete the traffic improvement projects specified in the city's capital improvement program and/or the traffic impact fee report in effect at the time this chapter is enacted or as subsequently amended; or
 - 2.— Pay costs required for the administration of this chapter.

{Ord. 05-286 § 1 (part)}

3.48.110 Periodic review.

The fee authorized by this chapter, and as established by the traffic impact fee report, shall be reviewed every five years in order to make findings required by the California Government Code.

~~(Ord. 05-286 § 1 (part))~~

ORDINANCE NO. 2024-__

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AMENDING CHAPTER 3.49 OF TITLE 3 REVENUE AND FINANCE OF THE LOS
ALTOS MUNICIPAL CODE FOR AFFORDABLE HOUSING FEES**

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

WHEREAS, the City Council held a duly noticed public meeting on June 11, 2024, and June 25, 2024; and

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

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

SECTION 1. AMENDMENT OF TITLE 3 OF THE MUNICIPAL CODE. Chapter 3.49 is hereby amended of the Los Altos Municipal Code as set forth in Appendix A to this Ordinance.

SECTION 2. CONSTITUTIONALITY; AMBIGUITIES. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions hereof. Any ambiguities in the Los Altos Municipal Code created by this Ordinance shall be resolved by the Development Services Director, in their reasonable discretion, after consulting the City Attorney.

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 sixty-first day following the adoption hereof.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on August 27, 2024, and was thereafter, at a regular meeting held on September 10, 2024, passed and adopted by the following vote:

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

Jonathan D. Weinberg, MAYOR

**APPENDIX A
AMENDMENTS TO CHAPTER 3.49**

APPENDIX A

Title 3 - REVENUE AND FINANCE
Chapter 3.4962 AFFORDABLE HOUSING IMPACT FEES

Chapter ~~3.49~~ 3.62 AFFORDABLE HOUSING IMPACT FEES

3.4962.010 Purpose.

This chapter requires the payment of housing impact fees for the impact of residential and non-residential development on the need for affordable housing in the City of Los Altos and to implement the housing element of the city's general plan and California Government Code Section 65583(c), which expresses the state housing policy that requires cities to assist in the development of adequate housing to meet the needs of lower income households.

3.4962.020 Affordable Housing Fund. ~~Housing mitigation fund.~~

All ~~housing~~ impact fees ~~associated with the creation or retention of affordable housing~~ shall be placed in the city's ~~affordable~~ housing ~~mitigation~~ fund and used to support the development ~~and retention~~ of affordable housing within the city ~~and the region~~.

3.4962.030 Applicability.

- A. New Construction. Projects that include, single-family parcels, new market rate multiple-family dwelling ownership units, new market rate rental housing units and non-residential construction shall be subject to the affordable housing ~~impact~~ fees required in this chapter. Payment of the affordable housing ~~impact~~ fees shall be a condition of approval for all development projects subject to this chapter.
- B. Pipeline Projects. The following development projects shall be exempt from payment of the affordable housing ~~impact~~ fees required in this chapter:
 - 1. Projects for which a development application pursuant to this title has been filed and deemed complete by July 13, 2018; and
 - 2. Projects that have received final approval pursuant to this title by July 13, 2018, and which are subsequently the subject of a pending application for modifications to the approved plans or permit, except that any increase in floor area from the amount already approved shall be subject to the housing impact fees required by this chapter.

3.4962.040 Affordable Housing ~~impact~~ fFee.

- A. Adoption of Affordable Housing ~~Impact~~ Fees. Affordable Housing ~~impact~~ fFees amounts for each applicable use shall be established by city council resolution, which may be amended from time to time by council. The fee amounts shall be adjusted annually based on the provisions set forth in Chapter 3.60 of the Los Altos Municipal Code, on the Consumer Price Index for all urban consumers for the San Francisco-Oakland-San Jose area unless otherwise modified by council. Such fees shall not exceed the cost of mitigating the impact of developments on the need for housing for lower income households in the city.
- B. Timing of Payment. Housing impact fFees shall be paid in accordance with the provisions set forth in Chapter 3.60 of the Los Altos Municipal Code, prior to issuance of the first building permit for the project. A developer may pay all or a portion of the fee owed at any time prior to issuance of the building permit, at the rate in effect at the time payment is made. For phased projects, the amount due shall be paid on a pro rata basis across the entire square footage of the approved development, and each portion shall be paid prior to the issuance of any building permit for each phase.

3.4962.050 Affordable Housing ~~impact~~Fees for residential ownership development.

- A. Applicability. Affordable housing ~~impact~~ fees shall be imposed on all new residential ownership developments that result in a net increase of one unit or more, excluding accessory dwelling units, regardless of zoning designation of the project site, unless the applicant elects to provide one of the alternatives listed in subsection (D).
- B. Calculation of Fee. The amount of the fee, as further described in the fee resolution, is imposed on a per square foot basis for new gross habitable floor area commensurate with the building type (e.g., townhome or condominium). The following formula shall be used in calculating the required affordable housing ~~impact~~ fee for new residential housing developments: (New gross habitable square foot area of all units) minus (existing gross habitable square foot area of all units) multiplied by (per square foot fee) equals (total affordable housing ~~impact~~ fee).
- C. Gross habitable Square Foot Area. Gross habitable square foot area means the total living area of each dwelling unit within a project measured to the outside of the exterior walls and does not include areas outside of the dwelling units such as common areas, corridors, parking facilities, outside storage lockers and shared laundry facilities.
- D. Alternatives in-Lieu of an Affordable Housing ~~Impact~~ Fee. As an alternative to paying the affordable housing ~~impact~~ fee for residential ownership developments, a developer may request to provide affordable ownership units on the project site, dedicate land for affordable housing, or provide affordable units off-site, as detailed in this section.
 - 1. On-site units. A developer may request to mitigate the housing impacts through construction of affordable residential ownership units on the subject development site consistent with the requirements outlined in Chapter 14.28. ~~However, payment of the in-lieu impact fee does not preclude a developer from meeting the inclusionary housing requirements specified in Chapter 14.28.~~
 - 2. Off-site units or dedication of land. As an additional alternative, a developer may request to designate affordable units in an off-site location or dedicate land for the construction of affordable units within the Los Altos City Limits. The city priority shall be for a location that is accessible to public transit. Any off-site units shall be either new or renovated to near-new conditions. Such requests shall be granted in the sole discretion of the city council if the city council determines that the proposed alternative will mitigate the impact of the project on the need for affordable housing. When off-site units or dedication of land is proposed as an alternative to on-site construction of affordable units, the developer shall demonstrate how the alternative will Affirmatively Further Fair Housing (AFFH).
 - 3. In calculating the number of required affordable units either on-site or off-site, any fraction of a whole unit shall be satisfied by either developing one additional affordable unit or by paying the remaining fee amount as further described in the fee resolution.
 - 4. All affordable units developed either on-site or off-site shall be subject to the city's standard affordable housing agreement and deed restriction.
 - 5. The applicant must enter into an affordable housing developer agreement with the city to be recorded against the property prior to recordation of a final or parcel map or issuance of any building permit, acknowledging that the affordable units or land dedication are provided in consideration for a direct financial contribution from the city in the form of a waiver of the affordable housing ~~impact~~ fee.
 - 6. The city council may approve this request if the proposed alternative forms of affordable housing opportunities in the city are equal to or greater than the payment of the affordable housing fee.
- ~~E. The city council may approve this request if the proposed alternative forms of affordable housing opportunities in the city are equal to or greater than the payment of the housing impact fee.~~

3.4962.060 Affordable Housing ~~impact~~ Fees for multiple-family residential rental development.

- A. Applicability. Affordable housing ~~impact~~ fee shall be imposed on all new residential rental developments that result in a net increase of one unit or more, excluding accessory dwelling units, regardless of zoning designation of the project site, unless the applicant elects to provide one of the alternatives listed in subsection (D). For purposes of this section, new market-rate rental housing developments shall include developments that have recorded a condominium map, but the developer intends to initially rent the units.
- B. Calculation of Fee. The amount of the fee, as further described in the fee resolution, is imposed on a per square foot basis for new gross habitable floor area commensurate with the building type (e.g., townhome or condominium). The following formula below shall be used in calculating the required affordable housing ~~impact~~ fee for new residential rental housing developments: (New gross habitable square foot area of all units) minus (existing gross habitable square foot area of all units) multiplied by (per square foot fee) equals (total affordable housing ~~impact~~ fee).
- C. Gross habitable Square Foot Area. Gross habitable square foot area means the total living area of each dwelling unit within a project measured to the outside of the exterior walls and does not include areas outside of the dwelling units such as common areas, corridors, parking facilities, outside storage lockers and shared laundry facilities.
- D. Alternatives in-Lieu of an Affordable Housing ~~Impact~~ Fee. As an alternative to paying the affordable housing ~~impact~~ fee for residential rental developments, a developer may request to provide affordable units on the project site, dedicate land for affordable housing, or provide affordable units off-site, as detailed in this section.
 - 1. On-site units. A developer may request to mitigate the housing impacts through construction of affordable residential rental units on the subject development site consistent with the requirements outlined in Chapter 14.28. ~~However, payment of the in-lieu impact fee does not preclude a developer from meeting the inclusionary housing requirements specified in Chapter 14.28.~~
 - 2. Off-site units or dedication of land. As an additional alternative, a developer may request to designate affordable units in an off-site location or to dedicate land for the construction of affordable units within the Los Altos City Limits. The city priority shall be for a location that is accessible to public transit. Any off-site units shall be either new or renovated to near-new conditions. Such requests shall be granted in the sole discretion of the city council if the city council determines that the proposed alternative will mitigate the impact of the project on the need for affordable housing. When off-site units or dedication of land is proposed as an alternative to on-site construction of affordable units, the developer shall demonstrate how the alternative will Affirmatively Further Fair Housing (AFFH).
 - 3. In calculating the number of required affordable rental units either on-site or off-site, any fraction of a whole unit shall be satisfied by either developing one additional affordable unit or by paying the remaining fee amount as further described in the fee resolution.
 - 4. All affordable units developed either on-site or off-site shall be subject to the city's standard affordable housing agreement and deed restriction.
 - 5. The applicant must enter into an affordable housing developer agreement with the city to be recorded against the property prior to recordation of a final or parcel map or issuance of any building permit, acknowledging that the affordable units or land dedication are provided in consideration for a direct financial contribution from the city in the form of a waiver of the affordable housing ~~impact~~ fee.
 - 6. The city council may approve this request if the proposed alternative forms of affordable housing opportunities in the city are equal to or greater than the payment of the affordable housing fee.

~~E. The city council may approve this request if the proposed alternative forms of affordable housing opportunities in the city are equal to or greater than the payment of the housing impact fee.~~

3.4962.070 Affordable Housing ~~impact~~ Fees for non-residential development.

- A. Applicability. A non-residential affordable housing ~~impact~~ fee and commercial linkage fee shall be imposed on all new construction of commercial, office, retail and hotel/motel development projects, as defined by Chapter 14.02.070 of the Zoning Code, that result in a ny net increase of square footage five hundred (500) square feet or greater of new floor area, regardless of zoning designation of the project site, unless the applicant elects to provide one of the alternatives listed in subsection (D).
- B. Calculation of Fee. The amount of the affordable housing ~~impact~~ fee and commercial linkage fee, as further described in the fee resolution, is imposed on a per square foot basis for new gross floor area. The following formula below shall be used in calculating the amount of the affordable housing ~~impact~~ fee: (Gross square feet non-residential floor area) minus (existing square feet floor area) multiplied by (per square foot fee) equals (total affordable housing ~~impact~~ fee).
- C. Exemptions to New Gross Floor Area. The following areas are exempt from the new gross floor area used in affordable housing ~~impact~~ fee and commercial linkage fee calculations for non-residential developments:
 - 1. Any incidental and accessory storage, structures or appurtenances, such as sheds, trash enclosures, ground-mounted equipment enclosures, garden features, trellises or shade structures;
 - 2. Architectural design features not utilized for occupancy or storage; and
 - 3. Existing floor area square footage of structures that were vacated or demolished no more than twelve (12) months prior to the filing date of the development application.
- D. Alternatives in-Lieu of an Affordable Housing ~~Impact~~ Fee. As an alternative to paying the affordable housing ~~impact~~ fee, a developer may request the following:
 - 1. On-site units. A developer may request to mitigate the housing impacts through construction of affordable residential units on the subject development site. If applicable, the number of affordable units shall be those indicated ~~at~~in Chapter 14.28.
 - 2. Off-site units or dedication of land. As an additional alternative, a developer may request to designate affordable units in an off-site location or to dedicate land for the construction of affordable units within the Los Altos City Limits. The city priority shall be for a location that is accessible to public transit. Any off-site units shall be either new or renovated to near-new conditions. Such requests shall be granted in the sole discretion of the city council if the city council determines that the proposed alternative will mitigate the impact of the project on the need for affordable housing. When off-site units or dedication of land is proposed as an alternative to on-site construction of affordable units, the developer shall demonstrate how the alternative will Affirmatively Further Fair Housing (AFFH).
 - 3. In calculating the number of required affordable units either on-site or off-site, any fraction of a whole unit shall be satisfied by either developing one additional affordable unit or by paying the remaining fee amount as further described in the fee resolution.
 - 4. All affordable units developed either on-site or off-site shall be subject to the city's standard affordable housing agreement and deed restriction.
 - 5. The applicant must enter into an affordable housing developer agreement with the city to be recorded against the property prior to recordation of a final or parcel map or issuance of any building permit, acknowledging that the affordable units or land dedication are provided in consideration for a direct financial contribution from the city in the form of a waiver of the affordable housing ~~impact~~ fee.
 - 6. The city council may approve this request if the proposed alternative forms of affordable housing opportunities in the city are equal to or greater than the payment of the affordable housing fee.

~~E. The city council may approve this request if the proposed alternative forms of affordable housing opportunities in the city are equal to or greater than the payment of the affordable housing impact fee.~~

3.4962.080 Exception to Municipal Code Section 14.28.

Those projects that pay an affordable housing ~~impact~~ fee in compliance with this chapter shall not be required to comply with the affordable housing requirements (inclusionary units) found at Section 14.28.030 of the Municipal Code.

3.4962.090 Waiver.

Notwithstanding any other provision of this chapter, the requirement to pay the affordable housing ~~impact~~ fee may be waived, adjusted or reduced by the city council if an applicant shows, based on substantial evidence, that there is no reasonable relationship between the impact of the proposed development and the requirement to pay the affordable housing ~~impact~~ fee, or that applying the requirements of this chapter would take property in violation of the United States Constitution or California Constitution or would result in any other unconstitutional result.

3.4962.100 Enforcement.

The provisions of this chapter shall apply to all agents, successors and assigns of an applicant proposing or constructing a development governed by this chapter. The city may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including but not limited to, actions to revoke, deny or suspend any permit, including a development approval, building permit or certificate of occupancy. The city shall be entitled to costs and expenses for enforcement of the provisions of this chapter, or any agreement pursuant thereto, as awarded by the court, including reasonable attorneys' fees.

3.4962.110 Severability.

If any portion of this chapter is held to be invalid, unconstitutional, or unenforceable by a court of competent jurisdiction, that decision will not affect the validity of the remaining portions of this ~~zoning~~ code. The city council declares that this chapter and each portion would have been adopted without regard to whether any portion of this chapter would be later declared invalid, unconstitutional, or unenforceable.



City Council Agenda Report

Meeting Date: September 10, 2024

Prepared By: Oscar Olais

Approved By: Gabe Engeland

Subject: Authorize City Manager to execute the Subdivision Improvement Agreement and move to approve the Final Map for 5150 El Camino Real.

COUNCIL PRIORITY AREA

- Business Communities
- Circulation Safety and Efficiency
- Environmental Sustainability
- Housing
- Neighborhood Safety Infrastructure
- General Government

RECOMMENDATION

Authorize the City Manager to execute the Subdivision Improvement Agreement and move to approve the Final Map of 5150 El Camino Real

FISCAL IMPACT

None

ENVIRONMENTAL REVIEW

Not Applicable.

PREVIOUS COUNCIL CONSIDERATION

August 23, 2022

BACKGROUND

On August 23, 2022, Council approved the multi-family design review application and the associated Tentative Map for the new development at 5150 El Camino Real. The recommended action will finalize the tentative map for the project.

A Tentative Map (AKA, Tentative Parcel Map or Tentative Tract Map) is a map showing the layout of a proposed Subdivision, including the general description of the associated infrastructure. The approved Tentative Map also sets conditions such as access, frontage, grading improvements, stormwater protection, and so forth which must be met before the final Parcel Map or Tract Map can be filed. An approved Tentative Map does not divide the property, rather it sets the conditions under which the division can occur. To divide the property, one must file a final Parcel Map or Tract Map (i.e., Final Map).

The attached Final Map is the instrument that divides the property. It must conform to and incorporate all the Tentative Map conditions and must also comply with the standards for Tract Maps or Parcel Maps as set forth in the State Subdivision Map Act. It must also include plans describing the various improvements to the project site and to all other affected properties, including public roadways and public and private utilities.

ANALYSIS

Final Map for the development at 5150 El Camino Real conforms to the Tentative Map approved on August 23, 2022. The map and survey have been checked and found satisfactory. All conditions of approval have been complied with and appropriate controls to ensure compliance have been established. All required fees and deposits have been received. The Final Map is available in the Engineering Services Department office for inspection.

DISCUSSION

- 1) Do not authorize the City Manager to execute the subdivision improvement agreement and move to not approve Parcel Map

Advantages: None

Disadvantages: Developer will not be able to continue construction. Council must provide reasons for disapproval.

ATTACHMENTS

- 1. Final Map
- 2. Subdivision agreement

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE, OR INTEREST IN, AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN ON THIS MAP; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; AND THAT WE CONSENT TO THE MAKING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

- 1) WE ALSO HEREBY DEDICATE TO PUBLIC USE EASEMENTS FOR ANY AND ALL PUBLIC SERVICE FACILITIES, INCLUDING POLES, WIRES, CONDUITS, GAS, WATER, HEAT MAINS AND ALL APPURTENANCES TO THE ABOVE, UNDER, UPON, OR OVER THOSE CERTAIN STRIPS OF LAND LIVING BETWEEN THE FRONT AND/OR SIDE LINES OF LOTS AND THE DASHED LINES AND/OR THOSE CERTAIN AREAS LIVING BETWEEN DASHED LINES EACH DESIGNATED AS "PSE" (PUBLIC SERVICE EASEMENT), THE PUBLIC SERVICE EASEMENTS TO BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT PUBLIC SERVICE REGULATION SYSTEMS AND APPURTENANCES HERETO, LAWFUL FENCES AND ALL LAWFUL UNSUPPORTED ROOF OVERHANGS.
- 2) WE ALSO HEREBY DEDICATE TO PUBLIC USE EASEMENTS FOR EMERGENCY ACCESS PURPOSES ON OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AND DELINEATED AS "EAE" (EMERGENCY ACCESS EASEMENT).
- 3) WE ALSO HEREBY DEDICATE TO PUBLIC USE EASEMENTS FOR STORM DRAINAGE PURPOSES UNDER, ON OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AND DELINEATED AS "SDE" (STORM DRAINAGE EASEMENT), SAID EASEMENTS TO BE KEPT OPEN AND FREE FROM ALL BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT REGULATION SYSTEMS AND APPURTENANCES HERETO, LAWFUL FENCES AND ALL LAWFUL UNSUPPORTED ROOF OVERHANGS.
- 4) WE ALSO HEREBY DEDICATE TO PUBLIC USE EASEMENTS FOR SIDEWALK PURPOSES AND APPURTENANCES HERETO AND THE RIGHT TO CONSTRUCT, INSTALL, USE, REPAIR, REPLACE AND MAINTAIN A PUBLIC SIDEWALK ON OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AND DELINEATED AS "PAE" (PEDESTRIAN ACCESS EASEMENT).
- 5) WE HEREBY DEDICATE TO PUBLIC USE EASEMENTS FOR THE PURPOSE OF RESTRICTING THE CONSTRUCTION OF ANY BUILDING STRUCTURES, OR OTHER IMPROVEMENTS AND THE SURFACE UNLESS PERMITTED BY THE CITY OF LOS ALTOS, THAT CERTAIN AREA OF LAND DESIGNATED AND DELINEATED HEREIN AS "NIE" (NO BUILD EASEMENT).

THE REAL PROPERTY DESCRIBED BELOW IS RESERVED AS AN EASEMENT FOR PRIVATE PURPOSES:

- 1) WE HEREBY RESERVE A PRIVATE VEHICLE ACCESS AND UTILITY EASEMENT DESIGNATED AS "VAUE" TO BE USED FOR PRIVATE VEHICULAR INGRESS AND EGRESS AND PRIVATE UTILITIES IN FAVOR OF ALL LOTS OF THIS SUBDIVISION, AS DESCRIBED IN THE APPROVED CONDITIONS, COVENANTS AND RESTRICTIONS GOVERNING THIS SUBDIVISION.
- 2) WE HEREBY RESERVE A PRIVATE PEDESTRIAN ACCESS EASEMENT DESIGNATED AS "PAUE" TO BE USED FOR PRIVATE PEDESTRIAN INGRESS AND EGRESS IN FAVOR OF ALL LOTS OF THIS SUBDIVISION, AS DESCRIBED IN THE APPROVED CONDITIONS, COVENANTS AND RESTRICTIONS GOVERNING THIS SUBDIVISION.

AS OWNER:
 5150 ECR LOS ALTOS LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

AS MEMBER:
 BY: PREG 5150 ECR LOS ALTOS, LP, A CALIFORNIA LIMITED PARTNERSHIP

AS GENERAL PARTNER:
 BY: SUNSET NODE DEVELOPMENT CO., INC., A CALIFORNIA CORPORATION

BY: DRE NAME: DON PETERSON TITLE: VICE PRESIDENT

DATE: 8/19/2024

OWNER'S ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTIFICATION OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF California COUNTY OF San Mateo

ON 8/19/2024 BEFORE ME, Z. Vanessa Hernandez, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/HEY DECEASED THE SAME IN HIS/HER/HEIR AUTHORIZED CAPACITIE(S), AND THAT HE/SHE/HEIR SIGNATURE(S) ON THE INSTRUMENT, ON THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT, I IDENTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:
 SIGNATURE: Z. Vanessa Hernandez
 NAME (PRINT): Z. Vanessa Hernandez
 PRINCIPAL COUNTY OF BUSINESS: San Mateo
 MY COMMISSION NUMBER: 2462123
 MY COMMISSION EXPIRES: September 4, 2027

TRACT NO. 10540 5150 EL CAMINO REAL

CONSISTING OF FOUR (4) SHEETS, A TWO LOT SUBDIVISION FOR APARTMENT AND CONDOMINIUM PURPOSES (16 RESIDENTIAL UNITS) BEING A SUBDIVISION OF LOTS 1 THROUGH 6, INCLUSIVE, AS SHOWN ON TRACT NO. 7261, FILED FOR RECORD IN BOOK 511 OF MAPS, AT PAGES 4 AND 5, SANTA CLARA COUNTY RECORDS.

CITY OF LOS ALTOS, SANTA CLARA COUNTY, CALIFORNIA

cbg CIVIL ENGINEERS • SURVEYORS • PLANNERS
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 ROSEVILLE • (916) 788-4456
 WWW.CBANDG.COM

AUGUST 2024

CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE HEREON FINAL MAP OF TRACT 10540, THAT THE SUBDIVISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT, AS AMENDED, AND OF ANY LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH.

RISAO-SHI OHEN, REC 7007
 CITY ENGINEER, CITY OF LOS ALTOS, CALIFORNIA
 REC EXPIRES: 06-30-2025



DATE _____

CITY LAND SURVEYOR'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THE HEREON SUBDIVISION MAP AND I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

Mark A. Helton
 MARK A. HELTON, LS 7078
 CITY OF LOS ALTOS, CALIFORNIA
 LICENSE EXPIRES: 12-31-2024



DATE 8-21-2024

CITY CLERK'S STATEMENT

I HEREBY STATE THIS MAP, DESIGNATED AS TRACT NO. 10540, CONSISTING OF FOUR (4) SHEETS, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF LOS ALTOS, STATE OF CALIFORNIA, BY RESOLUTION NO. _____ AT A DULY AUTHORIZED MEETING OF SAID COUNCIL HELD ON THE _____ DAY OF _____, 20____, AND THAT BY SAID RESOLUTION ALL STREETS AND PORTIONS THEREOF, AND ALL EASEMENTS SHOWN ON SAID MAP AND OFFERED FOR DEDICATION WERE REJECTED ON BEHALF OF THE PUBLIC. I HEREBY STATE AND CERTIFY THAT ANY OFFERS FOR EASEMENTS FOR UTILITY PURPOSES ALONG OR BORDERING SAID STREET RIGHTS-OF-WAY, SUCH AS TO SUCH EXPRESS OR IMPLIED OFFERS OF EASEMENTS FOR PUBLIC PURPOSES, THE SAME ARE ACCEPTED.

PURSUANT TO SECTIONS 66434(G) AND 66498.20.2 OF THE SUBDIVISION MAP ACT, THE FOLLOWING DESCRIBED PUBLIC EASEMENTS ARE HEREBY ABANDONED AND SHOWN HERECON:

1. PUBLIC UTILITY EASEMENT (PUE) OVER LOT 6 AS SHOWN ON TRACT NO. 7261 (511 M 4)
2. PUBLIC USE EASEMENTS FOR STORM DRAINAGE PURPOSES (SDE) AS SHOWN ON TRACT NO. 7261 (511 M 4)

BY: _____ DEPUTY
 CELISSA THURMAN
 CITY CLERK, CITY OF LOS ALTOS, CALIFORNIA

DATE _____

COUNTY RECORDER'S STATEMENT

FILE NO. _____ FEE \$ _____ PAND _____
 ACCEPTED FOR RECORD AND FILED IN BOOK _____ DAY OF _____, 20____, AT _____ M. AT THE
 CLARA COUNTY RECORDS, THIS _____ OF MAPS AT PAGE(S) _____, SANTA
 CLARA COUNTY RECORDS, REQUEST OF FIRST AMERICAN TITLE INSURANCE COMPANY.

REGINA ALCONCIBRAS, COUNTY RECORDER
 SANTA CLARA COUNTY, CALIFORNIA

BY: _____ DEPUTY

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF 5150 ECR LOS ALTOS LLC, IN SEPTEMBER, 2022. I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY, AND IS NOT INCOMPLETE AS SHOWN; THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS AS SHOWN; THAT ALL MONUMENTS ARE SET IN THOSE POSITIONS ON OR BEFORE DECEMBER 31, 2028; THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

Mark H. Weber
 MARK H. WEBER, P.L.S.
 L.S. NO. 7860
 LICENSE EXPIRES: 03-31-2026



DATE 8/19/2024

SIGNATURE OMISSIONS

PURSUANT TO GOVERNMENT CODE SECTION 66436 OF THE CALIFORNIA SUBDIVISION MAP ACT, THE SIGNATURES OF THE FOLLOWING PARTIES HAVE BEEN OMITTED:

1. PASTORIC GAS AND ELECTRIC COMPANY:
 A. EASEMENT FOR ELECTRIC POLE LINE AND INCIDENTAL PURPOSES PER BK. 1422, PG. 579.
2. AN EASEMENT FOR UNDERGROUND GAS PIPE LINE AND INCIDENTAL PURPOSES PER BK. 1760, PG. 316.
3. EASEMENT FOR ELECTRIC POLE LINE AND INCIDENTAL PURPOSES PER BK. 3558, PG. 518.

GEOTECHNICAL SOILS REPORT

A SOILS REPORT ON THIS PROPERTY HAS BEEN PREPARED BY ENCO, INC. DATED MARCH 9, 2016, PROJECT NO. 147231000.00, SIGNED BY TONY BRAJAFORU, PE, AND JOSEF BOITLIE, GE, A COPY OF WHICH HAS BEEN FILED WITH THE CITY OF LOS ALTOS.

TRACT NO. 10540 5150 EL CAMINO REAL

CONSISTING OF FOUR (4) SHEETS, A TWO LOT SUBDIVISION FOR APARTMENT AND CONDOMINIUM PURPOSES (196 RESIDENTIAL UNITS) BEING A SUBDIVISION OF LOTS 1 THROUGH 6, INCLUSIVE, AS SHOWN ON TRACT NO. 7261, FILED FOR RECORD IN BOOK 511 OF MAPS, AT PAGES 4 AND 5, SANTA CLARA COUNTY RECORDS.

CITY OF LOS ALTOS, SANTA CLARA COUNTY, CALIFORNIA



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SCALE: 1" = 40'
AUGUST 2024



BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CENTERLINE OF DISTEL DRIVE. THE BEARING SHOWN ON TRACT NO. 9915 (617 M 43) AS N29200°E. (2)

LEGEND

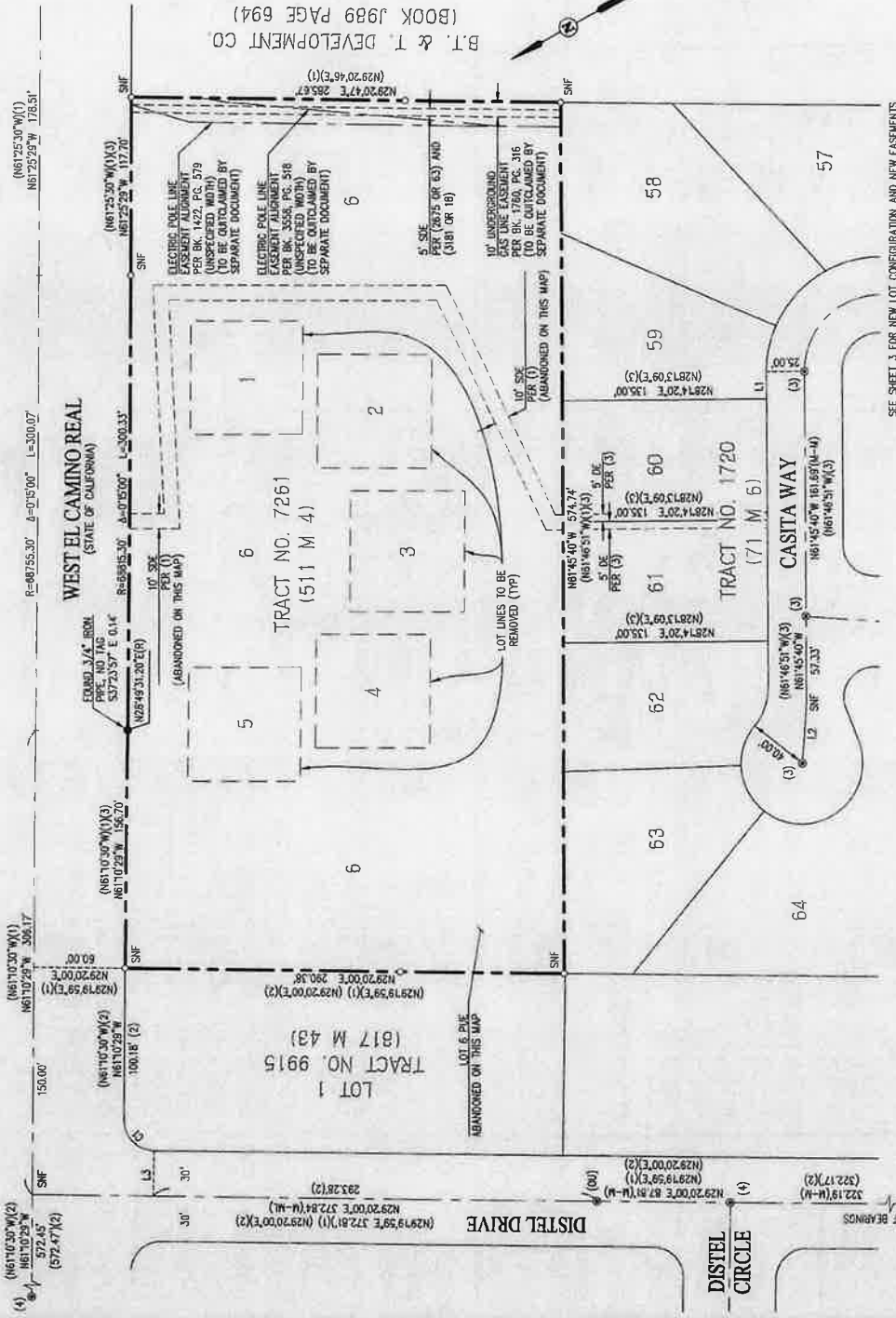
- SUBDIVISION BOUNDARY LINE
- RIGHT OF WAY LINE
- LOT LINE
- LOT LINE TO BE REMOVED
- EASEMENT LINE
- CENTERLINE / MONUMENT LINE
- TOTAL
- RADIAL
- MONUMENT TO MONUMENT
- MONUMENT TO MONUMENT LINE
- FOUND STANDARD STREET MONUMENT
- FOUND MONUMENT AS NOTED
- SET 5/8" REBAR AND CAP, OR NAIL AND TAG, LS 7880
- DE DRAINAGE EASMENT
- EAE EMERGENCY ACCESS EASEMENT
- NBE NO BUILD EASEMENT
- PAE PEDESTRIAN ACCESS EASEMENT
- PAUE PRIVATE VEHICLE ACCESS AND UTILITY EASEMENT
- PPAE PRIVATE PEDESTRIAN ACCESS EASEMENT
- PSE PUBLIC SERVICE EASEMENT
- PUE PUBLIC UTILITY EASEMENT
- SUE STORM DRAIN EASEMENT
- SNF SEARCHED, NOT FOUND
- OU ORIGIN UNKNOWN

REFERENCES:

- (1) INDICATES REFERENCE NUMBER
- (2) TRACT NO. 7261 (511 M 4)
- (3) TRACT NO. 9915 (817 M 43)
- (4) TRACT NO. 1720 (71 M 6)
- (5) TRACT NO. 5660 (314 M 17)

NOTE:

1. DISTANCES SHOWN HEREON ARE FEET AND DECIMALS THEREOF, AND ARE GROUND LEVEL DISTANCES.
2. TIES SHOWN ARE PERPENDICULAR TO MONUMENT LINES AND CENTERLINES UNLESS OTHERWISE NOTED.
3. THE AREA WITHIN THE DISTINCTIVE BORDER LINE IS THE AREA WITHIN THE SUBDIVISION BOUNDARY LINE OR LESS.
4. THE DISTINCTIVE BORDER LINE DESIGNATES THE BOUNDARY OF THE SUBDIVISION.



B.T. & T. DEVELOPMENT CO
(BOOK 1989 PAGE 694)

SEE SHEET 3 FOR NEW LOT CONFIGURATION AND NEW EASEMENTS

CURVE TABLE		
NO	RADIUS	DELTA
C1	20.00'	89°29'30"
		31.24'

LINE TABLE		
NO	BEARING	LENGTH
L1	N81°45'40"W	18.00'
L2	N57°58'48"W	40.00'
L3	N60°40'00"W	50.00'

TRACT NO. 10540 5150 EL CAMINO REAL

CONSISTING OF FOUR (4) SHEETS, A TWO LOT SUBDIVISION FOR APARTMENT AND CONDOMINIUM PURPOSES (196 RESIDENTIAL UNITS) BEING A SUBDIVISION OF LOTS 1 THROUGH 6, INCLUSIVE, AS SHOWN ON TRACT NO. 7261, FILED FOR RECORD IN BOOK 511 OF MAPS, AT PAGES 4 AND 5, SANTA CLARA COUNTY RECORDS

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 SCALE: 1" = 40'
 AUGUST 2024



BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CENTERLINE OF DISTEL DRIVE, THE BEARING SHOWN ON TRACT NO. 9915 (817 M 43) AS N2920'00"E. (2)

LEGEND

- SUBDIVISION BOUNDARY LINE
- RIGHT OF WAY LINE
- LOT LINE
- LOT LINE TO BE REMOVED
- EASEMENT LINE
- CENTERLINE / MONUMENT LINE
- (T) TOTAL
- (R) RADIAL
- (M-H) MONUMENT TO MONUMENT
- (M-HL) MONUMENT TO MONUMENT LINE
- FOUND STANDARD STREET MONUMENT
- FOUND MONUMENT AS NOTED
- SET 5/8" REBAR AND CAP, OR NAIL AND TAG, LS 7980
- DE DRAINAGE EASEMENT
- EAE EMERGENCY ACCESS EASEMENT
- NBE NO BUILD EASEMENT
- PAE PEDESTRIAN ACCESS EASEMENT
- PALE PRIVATE VEHICLE ACCESS AND UTILITY EASEMENT
- PPAE PRIVATE PEDESTRIAN ACCESS EASEMENT
- PSE PUBLIC SERVICE EASEMENT
- PUE PUBLIC UTILITY EASEMENT
- SDE STORM DRAIN EASEMENT
- SUF SEARCHED, NOT FOUND
- OU ORIGIN UNKNOWN

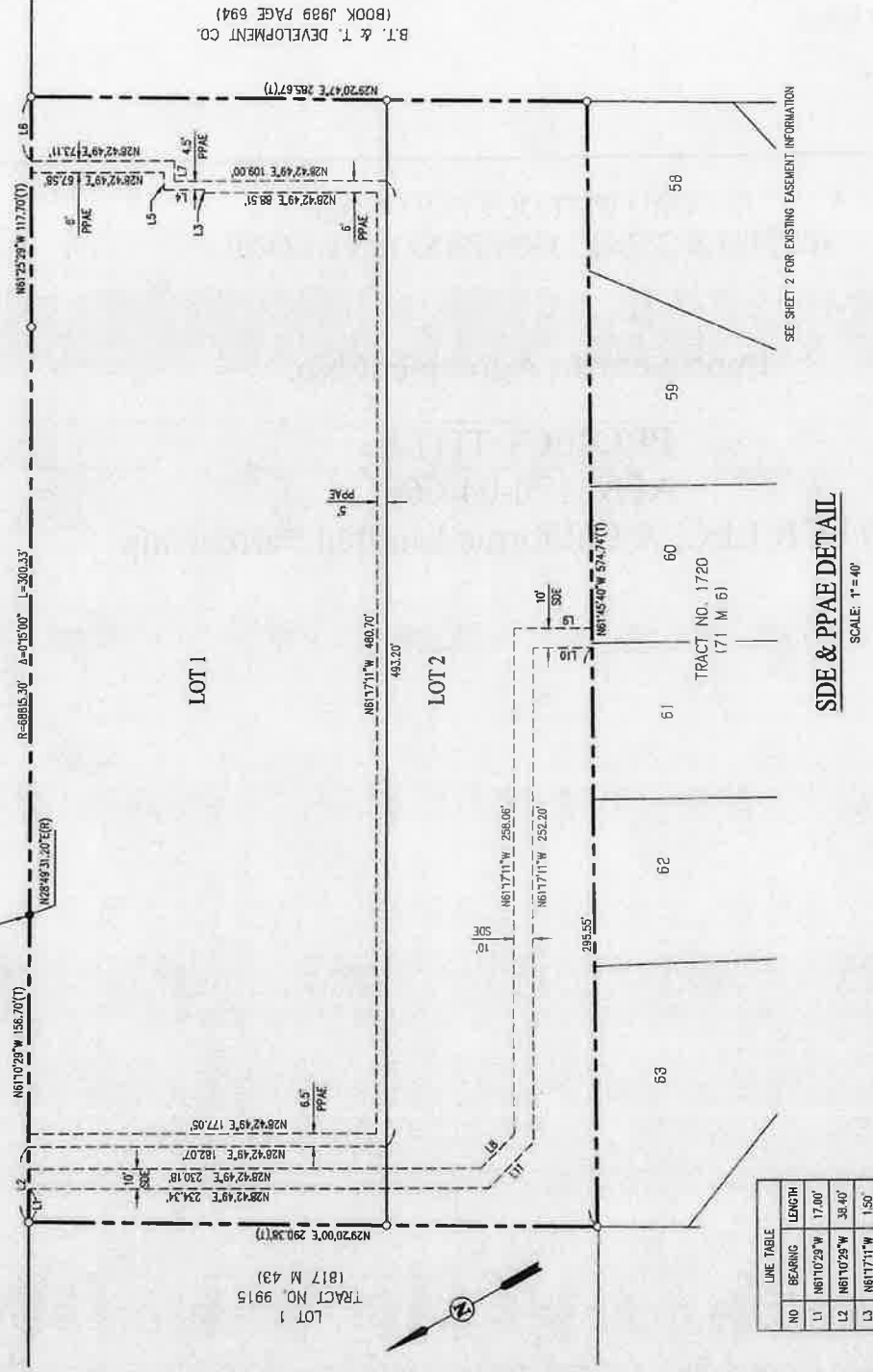
NOTE:

1. DISTANCES SHOWN HEREON ARE FEET AND DECIMALS THEREOF, AND ARE GROUND LEVEL DISTANCES.
2. LINES SHOWN ARE PERPENDICULAR TO MONUMENT LINES AND CENTERLINES UNLESS OTHERWISE NOTED.
3. 3.50 ACCESS (105.154 SQUARE FEET), MORE OR LESS.
4. THE DISTINCTIVE BORDER LINE DENOTES THE BOUNDARY OF THE SUBDIVISION.

REFERENCES:

- (1) INDICATES REFERENCE NUMBER
- (1) TRACT NO. 7261 (511 M 4)
- (2) TRACT NO. 9915 (817 M 43)
- (3) TRACT NO. 1720 (71 M 6)
- (4) TRACT NO. 5060 (314 M 17)

WEST EL CAMINO REAL (STATE OF CALIFORNIA)



B.T. & T. DEVELOPMENT CO.
(BOOK J999 PAGE 694)

SEE SHEET 2 FOR EXISTING EASEMENT INFORMATION

SDE & PPAE DETAIL

SCALE: 1" = 40'

NO	BEARING	LENGTH
L1	N81°02'29"W	17.00'
L2	N81°10'29"W	38.40'
L3	N81°17'11"W	1.50'
L4	N28°42'49"E	21.00'
L5	N81°17'11"W	8.90'
L6	N81°25'29"W	32.73'
L7	N81°17'11"W	10.40'
L8	N16°18'08"W	24.49'
L9	N28°41'52"E	40.28'
L10	N28°41'52"E	30.37'
L11	N16°18'08"W	32.77'

RECORDING REQUESTED BY:

City of Los Altos

WHEN RECORDED, MAIL TO:

City Clerk, City of Los Altos

1 North San Antonio Road

Los Altos, CA 94022

RECORD WITHOUT FEE UNDER
§§ 27383 & 27388.1 GOVERNMENT CODE

Improvement Agreement No.

PROJECT TITLE
APN: 170-04-066
5150 ECR LLC, A California Limited Partnership

**IMPROVEMENT AGREEMENT
5150 El Camino Real**

This Improvement Agreement (this "Agreement") is made and entered into by and between the CITY OF Los Altos, a municipal corporation (hereinafter "City"), and 5150 ECR, LLC (hereinafter "Developer"). City and Developer may be collectively referred to herein as the "parties."

RECITALS

- A. In accordance with the Subdivision Map Act (California Government Code Sections 66410, *et seq.*), and the Subdivision Ordinance (Los Altos Municipal Code, Title 13), and the Street Ordinance (Los Altos Municipal Code, Title 9), the Developer has submitted to the City a Tract Map (hereinafter "Tract Map") for the project known as 5150 ECR (hereinafter "Project").
- B. The Project is geographically located within the boundaries of the Tentative Subdivision Map known as 5150 ECR Tentative Map (hereinafter "Tentative Map"). The Tentative Map is on file with the City Engineer and is incorporated herein by reference. The area within the boundaries of the Tentative Map is described in **Exhibit A** hereto (the "Property").
- C. The City's approval of the Tentative Map was subject to specified conditions of approval (hereinafter "Conditions"). The Conditions are attached hereto as **Exhibit B** and incorporated herein by reference.
- D. As required by the Conditions, the Tentative and Tract Maps, and the other Project entitlements, Developer shall construct public improvements in connection with the Project along El Camino Real, including but not limited to the following: installation of approximately 580 linear feet of concrete vertical curb and gutter, 3500 square feet of concrete sidewalk, 700 square feet of valley gutter, 320 square feet of concrete driveway approach, one (1) square feet of median curb and landscape replacement, installation of 6 accessible ramp, 43 feet of sewer lateral, one (1) of sewer manhole, , two (2) of abandon existing sewer lateral in place (fill with slurry), two (2) of storm drain manhole, 24 linear feet of 12 inch storm drain pipe, 15 linear feet of 15 inch storm drain pipe, 250 linear feet of 18" storm Drain pipe, 560 linear feet of abandon existing storm drain pipe in place (fill with slurry), 32 linear feet of removing existing storm drain pipe, eight (8) street signs, 580 linear feet of striping, one (1) VTA Bus Shelter, 1,580 square feet of landscape along El Camino Real, and installation of all appurtenances associated with above listed improvements (collectively, the "Work").

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS IDENTIFIED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:

- 1. **SCOPE OF WORK.** The Developer shall perform, or cause to be performed, the Work described in the Plans and Specifications and the Conditions (hereinafter "Work"), to the satisfaction of the City Engineer. The Work shall be performed, and all materials and labor shall be provided, at the Developer's sole cost and expense. No change shall be made to the Scope of Work unless authorized in writing by the City Engineer.
- 2. **PERMITS, LICENSES, AND COMPLIANCE WITH LAW.** The Developer shall, at the Developer's expense, obtain and maintain all necessary permits and licenses for the performance of the Work. The Developer shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement. *WITHOUT LIMITING THE GENERALITY OF*

THE FOREGOING, DEVELOPER HEREBY AGREES TO BE BOUND BY THE LABOR CODE PROVISIONS ATTACHED HERETO AT EXHIBIT C.

3. **DEVELOPER’S AUTHORIZED REPRESENTATIVE.** At all times during the progress of the Work, Developer shall have a competent foreperson or superintendent (hereinafter “Authorized Representative”) on site with authority to act on behalf of the Developer. The Developer shall, at all times, keep the City Engineer informed in writing of the name and telephone number of the Authorized Representative. The Developer shall, at all times, keep the City Engineer informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work.
4. **IMPROVEMENT SECURITY.** The Developer shall furnish faithful performance and labor and material security concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work. The Developer shall furnish warranty security prior to the City's acceptance of the Work. The form of the security shall be as authorized by the Subdivision Map Act (including Government Code Sections 66499, *et seq.*) and Section 13.20.210 the Los Altos Municipal Code, and as set forth below:
 - 4(a). **Faithful Performance** security in the amount of \$1,724,494.10 (which amount is equal to the estimated cost to construct the Work in accordance with the Plans and Specifications) to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete) pursuant to Government Code Sections 66499.1, 66499.4, and 66499.9.
 - 4(b). **Labor and Material** security in the amount of \$862,247.05 (which amount is equal to fifty (50) percent of the estimated cost to construct the Work in accordance with the Plans and Specifications) to secure payment by the Developer to laborers and materialmen pursuant to Government Code Sections 66499.2, 66499.3, and 66499.4.
 - 4(c). **Warranty** security in the amount of \$172,449.41 (which amount is equal to ten (10) percent of the estimated cost to construct the Work in accordance with the Plans and Specifications) to secure faithful performance of this Agreement (from the date on which the City accepts the Work as complete until one year thereafter) pursuant to Government Code Sections 66499.1, 66499.4, and 66499.9.
5. **BUSINESS TAX.** The Developer shall apply for and pay the business license tax for a business license, in accordance with Los Altos Municipal Code Chapter 4.04.
6. **INSURANCE.** Developer shall, throughout the duration of this Agreement, maintain insurance to cover Developer (including its agents, representatives, contractors, subcontractors, and employees) in connection with the performance of services under this Agreement. **Exhibit D** of this Agreement identifies the minimum insurance levels with which Developer shall comply; however, the minimum insurance levels shall not relieve Developer of any other performance responsibilities under this Agreement (including the indemnity requirements), and Developer may carry, at its own expense, any additional insurance it deems necessary or prudent. The general liability and automobile policies required under **Exhibit D** shall contain, or be endorsed to contain, provision for the City, its officers, officials, employees, agents and volunteers, to be covered as additional insureds as respects alleged liability arising out of activities performed by or on behalf of the Developer under this Agreement. Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any services, the Developer shall furnish written proof of insurance (certificates and endorsements), in a form acceptable to the City. Developer shall provide substitute written proof of insurance no later than 30 days prior to the expiration date of any insurance policy required by this Agreement.

7. **REPORTING DAMAGES.** If any damage (including death, personal injury or property damage) occurs in connection with the performance of this Agreement, Developer shall immediately notify the City Risk Manager's office by telephone at, and Developer shall promptly submit to the City's Risk Manager and the City Manager or designee, a written report (in a form acceptable to the City) with the following information: (a) a detailed description of the damage (including the name and address of the injured or deceased person(s), and a description of the damaged property), (b) name and address of witnesses, and (c) name and address of any potential insurance companies.
8. **INDEMNIFICATION.** Developer shall indemnify, hold harmless, and defend (with counsel reasonably acceptable to the City) the City and its elected officials, officers, agents and employees from and against any and all claims (including all litigation, demands, damages, liabilities, costs, and expenses, and including court costs and attorneys' fees) resulting or arising from performance, or failure to perform, under this Agreement (with the exception of the gross negligence or willful misconduct of the City).
9. **TIME OF PERFORMANCE.** Time is of the essence in the performance of the Work, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The Developer shall submit all requests for extensions of time to the City, in writing, no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due.
 - 9(a). **Commencement of Work.** No later than fifteen (15) days prior to the commencement of Work, the Developer shall provide written notice to the City Engineer of the date on which the Developer shall commence Work. The Developer shall not commence Work until after the notice required by this section is properly provided, and the Developer shall not commence Work prior to the date specified in the written notice.
 - 9(b). **Schedule of Work.** Concurrently with the written notice of commencement of Work, the Developer shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect the Developer's prosecution of the Work.
 - 9(c). **Completion of Work.** The Developer shall complete all Work by no later than three hundred sixty-five (365) days after the City's execution of this Agreement.
10. **INSPECTION BY THE CITY.** In order to permit the City to inspect the Work, the Developer shall, at all times, provide to the City proper and safe access to the Project site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation. Developer shall reimburse the City for the costs of the City Engineer's inspections of the Work, as required by Los Altos Municipal Code Section 13.20.190.
11. **DEFAULT.** If either party ("demanding party") has a good faith belief that the other party ("defaulting party") is not complying with the terms of this Agreement, the demanding party shall give written notice of the default (with reasonable specificity) to the defaulting party, and demand the default to be cured within ten days of the notice. If: (a) the defaulting party fails to cure the default within ten (10) days of the notice, or, (b) if more than ten (10) days are reasonably required to cure the default and the defaulting party fails to give adequate written assurance of due performance within ten (10) days of the notice, then (c) the demanding party may terminate this Agreement upon written notice to the defaulting party.

11(a). The Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:

11(a)(1). The Developer is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.

11(a)(2). The Developer abandons the Project site.

11(a)(3). The Developer fails to perform one or more requirements of this Agreement.

11(a)(4). The Developer fails to replace or repair any damage caused by Developer or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.

11(a)(5). The Developer violates any legal requirement related to the Work.

11(b). In the event that the Developer fails to cure the default, the City may, in the discretion of the City Engineer, take any or all of the following actions:

11(b)(1). Cure the default and charge the Developer for the costs therefore, including administrative costs and interest in an amount equal to seven percent (7%) per annum from the date of default.

11(b)(2). Demand the Developer to complete performance of the Work.

11(b)(3). Demand the Developer's surety (if any) to complete performance of the Work.

- 12. ACCEPTANCE OF WORK.** Prior to acceptance of the Work by the City Engineer, the Developer shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the Project site. Neither the final certificate of payment, nor any provision in this Agreement, nor partial or entire use or occupancy of the improvements by the City shall constitute an acceptance of the Work not done in accordance with this Agreement or relieve Developer of liability pursuant to Section 13, below. The Developer's obligation to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, the City Engineer has accepted the Work as complete, and the City Council has authorized the release of the security for faithful performance as described in Government Code Section 66499.7.
- 13. WARRANTY PERIOD.** The Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City. In the event that (during the one year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of the Developer under this Agreement, the Developer shall be in default.
- 14. RELATIONSHIP BETWEEN THE PARTIES.** Developer is, and at all times shall remain, an independent contractor solely responsible for all acts of its employees, agents, contractors, or subcontractors, including any negligent acts or omissions. Developer is not City's agent, and shall have no authority to act on behalf of the City, or to bind the City to any obligation whatsoever, unless the City provides prior written authorization to Developer.
- 15. CONFLICTS OF INTEREST PROHIBITED.** Developer (including its employees, agents, contractors, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Developer maintains or acquires a conflicting interest, any contract with the City (including this Agreement) involving Developer's conflicting interest may be terminated by the City.
- 16. NONDISCRIMINATION.** Developer shall comply with all applicable federal, state, and local laws regarding nondiscriminatory employment practices, whether or not said laws are expressly

stated in this Agreement. Developer shall not discriminate against any employee or applicant because of race, color, ancestry, ethnicity, religious creed, national origin, physical disability, mental disability, medical condition, marital or family status, sexual orientation, gender or gender identification, age (over 40), veteran status, or sex.

17. **NOTICES.** All notices required or contemplated by this Agreement shall be in writing and shall be delivered to the respective party as set forth in this section. Communications shall be deemed to be effective upon the first to occur of: (a) actual receipt (or refusal) by a party, or (b) actual receipt (or refusal) at the address designated below, or (c) three (3) working days following deposit in the United States Mail of registered or certified mail sent to the address designated below. Either party may modify their respective contact information identified in this section by providing notice to the other party.

TO: City

To: Developer

Attn: City Clerk's Office
City of Los Altos
1 N. San Antonio Road
Los Altos, CA 94022

Attn: 5150 ECR LLC,
A California Limited
Liability Company
1900 S. Norfolk Street, Suite 150
San Mateo, CA 94403

18. **HEADINGS.** The heading titles for each paragraph of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.
19. **SEVERABILITY.** If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.
20. **GOVERNING LAW, JURISDICTION, AND VENUE.** The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Santa Clara.
21. **ATTORNEYS' FEES.** In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
22. **ASSIGNMENT AND DELEGATION.** This Agreement, and any portion thereof, shall not be assigned or transferred, nor shall any of the Developer's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force or effect. A consent by the City to one assignment shall not be deemed to be a consent to any subsequent assignment.

23. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
24. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
25. **CONFLICTS.** If any conflicts arise between the terms and conditions of this Agreement and the terms and conditions of the attached exhibits or any documents expressly incorporated, the terms and conditions of this Agreement shall control.
26. **ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the Work described herein. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.
27. **COVENANT RUNNING WITH THE LAND.** This Agreement is entered into as a condition of the Tentative Map, is an instrument affecting the title or possession of the real property, and is intended to run with the land. All the terms, covenants and conditions herein imposed shall be binding upon and inure to the benefit of City, Developer, the successors in interest of Developer, their respective successors and permitted assigns, and all subsequent owners of a fee interest in the Property or of a beneficial interest substantially equivalent to a fee interest. The obligations of the Developer under this Agreement shall be the joint and several obligations of each and all of the parties comprising Developer, if Developer consists of more than one individual and/or entity. Upon the sale or division of the Property, the terms of this Agreement shall apply separately to each parcel and the fee owners of each parcel shall succeed to the obligations imposed on Developer by this Agreement.
28. **MISCELLANEOUS.** This Agreement may be executed in counterparts, each of which shall be deemed an original. There are no third-party intended beneficiaries of this Agreement. This Agreement represents the contributions of both parties, each of whom has had the opportunity to be represented by competent counsel, and the rule stated in Civil Code Section 1654 that ambiguities in a contract be construed against the drafter shall have no application hereto.
29. **SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Developer and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the City and Developer do hereby agree to the full performance of the terms set forth herein.

**CITY OF LOS ALTOS – IMPROVEMENT AGREEMENT
5150 ECR**

CITY OF LOS ALTOS

**LIMITED LIABILITY COMPANY
5150 ECR, LLC**

By: _____
Gabe Engeland
Title: City Manager
Date: _____

By: _____
Don Peterson
Title: Vice President
Date: _____

APPROVED AS TO FORM:

By: _____
Jolie Houston
Title: City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

The land referred to is situated in the County of Santa Clara, City of Los Altos, State of California, and is described as follows:

Lot 18 in Block 4, as shown on that certain Map entitled, “Map No. 1 of the Town of Los Altos”, which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on October 25, 1907, in Book “L” of Maps, at Page(s) 99.

EXCEPTING THEREFROM: that portion granted to The City of Los Altos, a Municipal Corporation, recorded on November 19, 1970 in Book 9127 of Official Records, at Page 563, under Recorder’s Series Number 3907414.

APN: 167-38-061

**EXHIBIT B
CONDITIONS OF APPROVAL**

**EXHIBIT B
CONDITIONS**

GENERAL

1. Approved Plans

The project approval is based upon the plans documentation received on May 20, 2022, except as modified by these conditions.

2. Affordable Housing

The project shall provide the City 29 below market rate units as follows:

- a. Fourteen (14) one-bedroom condominium units at the low-income level; and
- b. Fifteen (15) two-bedroom condominium units at the low-income level;

3. Exterior Lighting

- a. Any exterior lighting above the ground floor on the sides and rear of the condominium and townhouse buildings shall be shrouded and/or directed down to minimize glare.
- b. All ground level exterior lighting along pathways, in common areas and as part of the landscaping shall incorporate the lowest wattage necessary to comply with applicable Building and Energy Codes and shall be designed to face downward and away from shared property lines to minimize off-site glare.

4. Rear Yard Landscape Buffer

- a. The existing grade within five (5) feet of the rear property line within the 20-foot landscape buffer should be maintained to the greatest extent feasible.
- b. The existing Podocarpus trees along the rear property line shall be maintained to the greatest extent feasible.
- c. The existing fence along the rear property line shall be maintained, repaired and/or replaced based on consultations with the owner(s) of each adjacent property.
- d. Grading and trenching shall be minimized within the dripline of any tree that is directly adjacent to the property line. If grading or trenching within a tree dripline is required, it shall be done under supervision of a licensed arborist and the owner of the tree shall be notified in advance.

5. Phased Parking

Once construction is initiated by the developer, there shall be continuous progress without phasing of the development. The project shall provide the resident and guest parking spaces required for the rental and townhouse units

6. Phase Development

Once construction is initiated by the developer, there shall be continuous progress without phasing of the development.

7. Tree Preservation

The applicant shall use best efforts, as reasonably determined by the Community Development Director, to preserve tree number six as identified in the arborist report dated May 8, 2018.

8. Bicycle Parking

The project shall be updated to include additional grade level Class I and II bicycle parking spaces.

9. Transit Facility Enhancements

The development project shall coordinate with the Santa Clara County Valley Transportation Authority (VTA) to preserve the existing bus stop along the southern project frontage both during and post construction. During construction the transit facility cannot be blocked or relocated without approval from the VTA. Upon completion of project construction, the transit stop must be accommodated within the project's frontage improvements and include a new illuminated shelter with a dynamic message board facility for use by the City and VTA for community outreach efforts. The shelter and dynamic message board will be selected with input from both the VTA and City of Los Altos and be maintained by the frontage including refuge pick-up. The transit facility shall include enhanced red transit stop roadway markings and signage to highlight the facility and restrict parking. Based upon VTA input, the transit facility may also include additional enhancements to accommodate ride share drop off and pick up of residents and micro-mobility facilities such as electric bike share and other regional systems.

10. Parking Restrictions along El Camino Real

The project frontage, including the portion of El Camino Real north of the project site to Distel Drive shall include parking restrictions to accommodate future enhanced bicycle facilities for southbound El Camino Real.

11. Route to School Maps

A Route to School map shall be developed and provided to residents identifying the suggested Routes to School. The map shall be maintained and regularly updated to ensure accurate and safe routes to school.

12. 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. *Note: Any work within El Camino Real will require applicant to obtain an encroachment permit with Caltrans prior to commencement of work.*

13. Public Utilities

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

14. Americans with Disabilities Act

All improvements shall comply with Americans with Disabilities Act (ADA).

15. Stormwater Management Plan

The applicant shall submit a complete Stormwater Management Plan (SWMP) and a hydrology calculation showing that 100% of the site is being treated; is in compliance with the Municipal Regional Stormwater NPDES Permit (MRP). Applicant shall provide a hydrology and hydraulic study, and an infeasible/feasible comparison analysis to the City for review and approval for the purpose to verify that MRP requirements are met.

16. Sewer Lateral

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

17. Transportation Permit

A Transportation Permit, per the requirements specified in California Vehicle Code Division 15, is required before any large equipment, materials or soil is transported or hauled to or from the construction site.

18. Affordable Units

The Project's below market rate units shall be constructed concurrently with the market rate units.

19. 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 SUBMITTAL OF BUILDING PERMIT

20. Green Building Standards

The applicant shall provide verification that the project will comply with the City's Green Building Standards (Section 12.26 of the Municipal Code) from a qualified green building professional.

21. Property Address

The applicant shall provide an address signage plan as required by the Building Official.

22. Screening Trees

The project shall address privacy screening trees as follows:

- The landscape plan shall provide fast-growing evergreen screening trees along the side property lines (east and west) and rear property lines (south) as required by the Community Development Director.
- All evergreen screening trees within the rear yard adjacent to the rear property line shall be at the approximate heights at 2 years growth as represented on the project architect's submittal dated November 20, 2019. The trees shall be planted as soon as practicable after building permit issuance to minimize views of the townhouses and condominium buildings.

- Along rear property line, the evergreen screening trees shall be planted a distance of 5’ to 10’ from the rear property line in a staggered manner so that they are not lined up parallel to the rear property line.
- The applicant shall work with the City to preserve trees along El Camino Real.
- The applicant shall work with the neighbors whose rear yard backs up to the project site, and who are interested, to plant trees on the neighbor’s private property at the rear line of their fence to address privacy concerns.

23. Fence

The project plans shall be revised to incorporate fences along the side (east and west) property lines and south (rear) property line with a minimum height ten feet based on consultations with the owner(s) of each adjacent property for the purpose of attenuating noise and improving privacy.

24. Common Open Space

The project plans shall revise the common open space area to provide family- and children-oriented open space and amenities, including, but not limited to a playground for young children, dedicated area for dogs, outdoor cooking facilities, and other family-oriented amenities.

25. Affordable Unit Term

All below market residential units subject to this approval shall remain affordable for the maximum period provided by law.

26. Parkland Dedication

Unless not prohibited by or it is not economically infeasible due to reasons beyond the applicant’s control, the applicant and City shall enter into good faith negotiations toward executing a memorandum of understanding (MOU) or Exclusive Negotiating Agreement (ENA) prior to issuance of the project’s first building permit. The agreement would allow the city and applicant/developer to negotiate the terms of an agreement that will provide a public park at 745 Distel Drive. The agreement shall:

- a. Provide for a “turn key” park and detail the process by which the park design will be developed and approved.
- b. Provide for payment to the city of the difference between the total cost of the park and the in-lieu park fee amount that would otherwise be paid.
- c. Require the payment of the estimated difference between the total cost of the park and the otherwise required in-lieu fee at the time of issuance of the first building permit for the project.
- d. Include an “opt-out” clause.

In the event that an MOU or ENA is not executed by the parties prior to issuance of the project’s first building permit, the applicant shall instead pay the applicable in lieu park fee.

Park in-lieu fees would be for the acquisition of parklands, unless there is a separate action/motion to alter the use of the funds.

27. Water Efficient Landscape Plan

Provide a landscape documentation package prepared by a licensed landscape professional showing how the project complies with the City’s Water Efficient Landscape Regulations.

28. Air Quality Filtration and Ventilation Requirements

The project shall install air filtration at residential units exposed to annual PM_{2.5} exposure above 0.3 µg/m³. To ensure adequate health protection to sensitive receptors, a ventilation system is proposed to meet the following minimal design standards:

- a. Install air filtration in residential buildings. Air filtration devices shall be rated MERV13 or higher for portions of the site that have annual PM_{2.5} exposure above 0.3 µg/m³. The ventilation system, whether mechanical or passive, shall filter all fresh air circulated into the dwelling units.
- b. As part of implementing this measure, an ongoing maintenance plan for the buildings’ heating, ventilation, and air condition (HVAC) air filtration system shall be required.
- c. Ensure that the use agreement and other property documents: (1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks, (2) include assurance that new owners or tenants are provided information on the ventilation system, and (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed.

29. Noise Level Requirements

To ensure consistency with the General Plan and Noise Control Ordinance, the applicant shall incorporate the following requirements into the project design:

- a. When refining the project’s site plan, locate outdoor use areas away from El Camino Real and continue to shield noise-sensitive outdoor spaces with buildings or noise barriers where feasible.
- b. Provide a suitable form of forced-air mechanical ventilation, as determined by the building official, for all residential buildings, so that windows can be kept closed to control noise.
- c. Provide sound-rated windows to northeast, northwest, and southeast facing condominium units to maintain interior noise levels at acceptable levels. Preliminary calculations show that sound-rated windows with minimum STC Rating of 33 to 34 would be satisfactory for units fronting El Camino Real and windows with minimum STC Rating of 28 to 29 would be satisfactory for northwest and southeast facing condominium units to achieve acceptable interior noise levels, assuming a wall construction with STC 46 or greater and 40 percent windows or less. The specific determination of what noise insulation treatments are necessary shall be conducted on a unit-by-unit basis during final design of the project once final building plans and elevations are available.

30. Traffic Signal Modification at El Camino Real and Rengstorff Avenue

The traffic signal facility at the intersection of El Camino Real & Rengstorff Avenue shall be revised to be consistent with the current State of California design standards. Traffic signal modification shall be coordinated with the California Department of Transportation – Caltrans and the City of Mountain View and modifications may include new pole standards replacement, curb ramp reconfiguration, accessible pedestrian signal upgrades for ADA accessibility, bulb-out improvements for mobility enhancements, streetlight upgrades, and other improvements necessary to comply with planned Caltrans and City of Mountain View

Grand Boulevard design standard for El Camino Real. It shall be the responsibility of the developer and their contractor agents to obtain any necessary Encroachment Permits from both Caltrans and the City of Mountain View prior to the commencement of work and approval of off-site improvement plans by the City. The traffic signal modification plan shall include a photometric analysis of the intersection to help identify necessary lighting upgrades to maintain an average 4.0 foot-candle light distribution through the entire intersection.

31. Intersection Driveway Configuration

The new driveway configuration for the 5150 El Camino Real project shall include a detached driveway at the El Camino Real & Rengstorff Avenue intersection, with both aligning with movements on the Rengstorff Avenue side of the intersection, and maintain clearly defined pedestrian access through the intersection across the driveway with traffic signal controls.

PRIOR TO FINAL MAP RECORDATION

32. Covenants, Conditions and Restrictions

The applicant shall include provisions in the Covenants, Conditions and Restrictions (CC&Rs) as follows:

- a. Along rear property line -- trees shall be planted a distance of 5' to 10' from the rear property line in a staggered manner so that they are not lined up parallel to the rear property line.
- b. Storage on private patios and decks shall be restricted; and rules for other objects stored on private patios and decks shall be established with the goal of minimizing visual impacts.
- c. Long-term maintenance and upkeep of the landscaping and street trees, as approved by the City, shall be a duty and responsibility of the property owners. Specifically, the landscape buffer, including both trees and landscaping, along the rear property line shall be permanently maintained as required by the CT District per Municipal Code Section 14.50.110(C).
- d. Both parking spaces in a tandem space shall be owned by the same unit and cannot be owned or used by separate units.
- e. The parking spaces on the dead-end drive aisles should be reserved for residents and guest parking spaces should be located near the driveway ramp.
- f. The maintenance, upkeep, and replacement of any removed plant or tree as shown on the project landscape plan and on-going maintenance of street trees, as approved by the City, shall be a duty and responsibility of the property owners in perpetuity.

33. Pedestrian Access Easement

The applicant shall dedicate to the public the public sidewalk along the El Camino Real frontage that is on the project site to the City of Los Altos for use as a pedestrian access easement, and a private access easement along the east and west side of the two-five-story buildings and along the townhouses for use as a private pedestrian access easement. Applicant shall submit documentation to the City for review and approval for the recordation of the public easement to the City of Los Altos and private easement in accordance with the CC&Rs for the project.

34. No Build Easement

The applicant shall record a seven-foot wide no build easement for along the south property line of Lot No. 1 above grade over which no buildings shall be constructed.

35. Emergency Vehicle Access Easement

The applicant shall dedicate the roadway along the east and west side of the two-five-story buildings and along the townhouses to the City of Los Altos for use as an emergency vehicle access easement. Applicant shall submit documentation to the City for review and approval for the recordation of the public easement to the City of Los Altos.

36. Public Utility Dedication

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

37. 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 as modified by Condition No. 26, affordable housing impact fees, public art impact fee and map check fee plus deposit as required by the City of Los Altos Municipal Code.

PRIOR TO ISSUANCE OF BUILDING PERMIT

38. Final Map Recordation

The applicant shall record the final map. Plats and legal descriptions of the final map shall be submitted for review by the City Land Surveyor. Applicant shall provide a sufficient fee retainer to cover the cost of the map review by the City.

39. Well Destruction

Prior to a final on the grading permit, any on-site well(s) encountered shall be removed or mitigated to eliminate hazards associated with abandoned wells, subject to any required permits from the Department of Environmental Resources, Santa Clara Water District and in accordance with all laws and policies (Santa Clara County and California State Model Well Standards).

40. Electric Vehicle Charging and Electric Vehicle Ready Stalls

The project plans shall show the electric vehicle charging (EVC) stalls and electric vehicle ready (EVR) stalls consistent with the project plans received on November 20, 2019 or the Los Altos Municipal Code, whichever results in the greater number of EVC or EVR stalls.

41. Photovoltaic Panels and System

The project plans shall show the photovoltaic panels and system consistent with the project plans received on November 20, 2019 or the Los Altos Municipal Code, whichever results in the greater number of photovoltaic panels and system.

42. Affordable Housing Agreement

The Applicant shall execute and record an Affordable Housing Agreement, in a form approved and signed by the Community Development Services Director and the City Attorney, which includes the use of the City's adopted housing priority policy as may be amended from time to

time, that offers 298 below market rate rental units affordable to low-income households, for an indefinite period 99 years, as defined in Condition No. 2. The below market rate units shall be constructed concurrently with the market rate units, shall be provided at the location on the approved plans, and shall not be significantly distinguishable with regard to design, construction or materials. Upon completion of the townhouses on Lot No. 2, five townhouses shall not be sold for five years from the date of occupancy and shall be held by an entity controlled by Prometheus Real Estate Group, Inc. If 172 rental units on Lot No. 1 have not commenced vertical construction within five years from completion of townhouses, the five unsold townhouse units shall be dedicated as affordable units. If the 172 rental units on Lot No. 1 have commenced vertical construction within five years from the completion of the townhouses, the condition for five unsold townhouse units be dedicated as affordable will terminate.

43. Performance Bond

The applicant shall submit a cost estimate for the improvements in the public right-of-way and shall submit a 100-percent performance bond and 50-percent labor and material bond (to be held six months after acceptance of improvements) for the public right-of-way work.

44. Maintenance Bond

A one-year, ten-percent maintenance bond shall be submitted upon acceptance of improvements in the public right-of-way.

45. Stormwater Management Plan

The applicant shall submit a complete Stormwater Management Plan (SWMP) and a hydrology calculation showing that 100% of the site is being treated; is in compliance with the Municipal Regional Stormwater NPDES Permit (MRP). Applicant shall provide a hydrology and hydraulic study, and an infeasible/feasible comparison analysis to the City for review and approval for the purpose to verify that MRP requirements are met.

46. Storm Water Filtration Systems

The applicant shall insure the design of all storm water filtration systems and devices are without standing water to avoid mosquito/insect infestation.

47. Grading and Drainage Plan

The applicant shall submit detailed plans for on-site and off-site grading and drainage plans that include drain swales, drain inlets, rough pad elevations, building envelopes, and grading elevations for review and approval by the City Engineer.

48. Sewage Capacity Study

The applicant shall show sewer connection to the City sewer main and submit calculations showing that the City's existing 8-inch sewer main will not exceed two-thirds full due to the additional sewage capacity from proposed project. For any segment that is calculated to exceed two-thirds full for average daily flow or for any segment that the flow is surcharged in the main due to peak flow, the applicant shall upgrade the sewer line or pay a fair share contribution for the sewer upgrade to be approved by the City Engineer.

49. Construction Management Plan

The applicant shall submit a construction management plan on a monthly basis for review and approval by the Community Development Director and the City Engineer that includes the following:

- a. The construction management plan shall address any construction activities affecting the public right-of-way, including but not limited to excavation, traffic control, truck routing, staging area, pedestrian protection, material storage, earth retention and construction vehicle parking. The staging area shall remain in one location at the project site. All construction parking shall occur on-site or locations approved by the Community Development Director. No construction parking shall be permitted in residential neighborhoods.
- b. Applicant, Developer, or Contractor shall designate a “disturbance coordinator” who can address complaints/concerns/issues/questions related to construction or development during, including dust control and excessive vibration, all phases of the project and provide the City of Los Altos with the name and contact information of the person appointed to this position.
- c. Applicant, Developer, or Contractor shall post publicly visible sign(s) with the telephone number and name of “disturbance coordinator” and include copy on the sign indicating that this is the project contact who can address complaints/concerns/issues/questions related to construction or development during all phases of the project.
- d. Applicant/Developer/Contractor shall maintain and submit a copy to the City of Los Altos Community Development Department a log of all complaints/concerns/issues/questions related to construction or development during all phases of the project. The log shall provide a description of the complaint/concern/issue/question at hand and the efforts taken to address them. Every effort shall be made to respond to a submitted complaint/concern/issue/question within 24 hours.
- e. All vehicles involved with or related to the construction of this project shall be limited to parking on the project site or the property at 745 Distel Drive. There shall be no construction parking of any type in any of the neighboring residential areas and all involved in the construction and development of this project shall be notified verbally and in writing of these limitations and provided with maps of approved parking locations.
- f. 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. Applicant shall pay the applicable fees before the transportation permit can be issued by the Traffic Engineer.

50. Solid Waste Ordinance Compliance

The applicant shall be in compliance with the City’s adopted Solid Waste Collection, Remove, Disposal, Processing & Recycling Ordinance (LAMC Chapter 6.12) which includes a mandatory requirement that all commercial and multi-family dwellings provide for recycling and organics collection programs.

51. Solid Waste and Recyclables Disposal Plan

The applicant shall contact Mission Trail Waste Systems and submit a solid waste and recyclables disposal plan indicating the type, size and number of containers proposed, and the frequency of pick-up service subject to the approval of the Engineering Division. The applicant shall also submit evidence that Mission Trail Waste Systems has reviewed and approved the size and location of the proposed trash enclosure. The enclosure shall be designed to prevent

rainwater from mixing with the enclosure's contents and shall be drained into the City's sanitary sewer system. The enclosure's pad shall be designed to not drain outward, and the grade surrounding the enclosure designed to not drain into the enclosure. In addition, applicant shall show on plans the proposed location of how the solid waste will be collected by the refusal company. Include the relevant garage clearance dimension and/or staging location with appropriate dimensioning on to plans.

52. Sidewalk Lights

The applicant shall maintain the existing light fixture and/or install new light fixture(s) in the El Camino Real sidewalk as directed by the City Engineer.

PRIOR TO FINAL OCCUPANCY

53. Condominium Map

The applicant shall record the condominium map as required by the City Engineer.

54. Landscape and Irrigation Installation

All on- and off-site landscaping and irrigation shall be installed and approved by the Community Development Director and the City Engineer. Provide a landscape Certificate of Completion, signed by the project's landscape professional and property owner, verifying that the trees, landscaping and irrigation were installed per the approved landscape documentation package.

55. Signage and Lighting Installation

The applicant shall install all required signage and on-site lighting per the approved plan. Such signage shall include the disposition of guest parking, the turn-around/loading space in the front yard and accessible parking spaces.

56. Green Building Verification

The applicant shall submit verification that the structure was built in compliance with the California Green Building Standards pursuant to Section 12.26 of the Municipal Code.

57. Acoustical Report

The applicant shall submit a report from an acoustical engineer ensuring that the rooftop mechanical equipment meets the City's noise regulations.

58. Sidewalk in Public Right-of-Way

The applicant shall install new sidewalk, vertical curb and gutter, and driveway approaches from property line to property line along the frontage of El Camino Real as shown on the approved plans and as required by the City Engineer.

59. Public Infrastructure Repairs

The applicant shall repair any damaged right-of-way infrastructures and otherwise displaced curb, gutter and/or sidewalks and City's storm drain inlet shall be removed and replaced as directed by the City Engineer or his designee. The applicant is responsible to resurface (grind and overlay) half of the street along the frontage of El Camino Real and Jordan Ave. if determined to be damaged during construction, as directed by the City Engineer or his

EXHIBIT C

LABOR CODE PROVISIONS

1. This Agreement is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance.
2. The Work is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.
3. Developer shall not enter into a contract with a contractor for the performance of the Work unless the contractor and its subcontractors are registered with the California Department of Industrial Relations to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions.

EXHIBIT D

INSURANCE REQUIREMENTS

Developer’s performance of Work under this agreement shall not commence until Developer shall have obtained all insurance required under this Exhibit and such insurance shall have been reviewed and approved by the Risk Manager. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

Developer shall procure and maintain for the duration of the contract all necessary insurance against claims now and in the future for alleged injuries to persons or damages to property which may arise from or in connection with the performance of the Work by the Developer, the Contractor it’s agents, representatives, employees and contractors.

INSURANCE COVERAGE AND LIMITS RESTRICTIONS

- 1. It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.
- 2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City’s own insurance or self-insurance shall be called upon to protect it as a named insured.

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

- 1. Insurance Services Office Commercial General Liability coverage:
 - a. Blanket contractual liability
 - b. Broad form property coverage
 - c. Personal injury
- 2. Insurance Services Office form covering Automobile Liability, code 1 (any auto).
- 3. Workers’ Compensation insurance as required by the State of California and Employer’s Liability insurance.
- 4. Such other insurance coverages and limits as may be required by the City.

B. MINIMUM LIMITS OF INSURANCE

Developer shall maintain limits no less than:

- 1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage and a \$2,000,000 aggregate. If Commercial General Liability insurance or other form with a general aggregate liability is used, either the general aggregate limit shall apply separately to this agreement or the general aggregate limit shall be twice the required occurrence limit.
- 2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- 3. Employer’s Liability:
 - Bodily Injury by Accident - \$1,000,000 each accident.
 - Bodily Injury by Disease - \$1,000,000 policy limit.
 - Bodily Injury by Disease - \$1,000,000 each employee.

4. Such other insurance coverages and limits as may be required by the City of.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

1. Any deductibles or self-insured retentions must be declared to and approved by the City of. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City of ****CITY****, its officers, officials, employees, and volunteers; or the Developer shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.
2. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.
3. The City reserves the right to obtain a full certified copy of any insurance policy and endorsement. Failure to exercise this right shall not constitute a waiver of the right to exercise later.

D. ADDITIONAL INSURED REQUIREMENTS:

The required general liability and automobile policies are to contain, or be endorsed to contain the following provisions:

- a. The City, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds as respects alleged: liability arising out of activities performed by or on behalf of the Developer; products and completed operations of the Developer; premises owned, occupied or used by the Developer; or automobiles owned, leased, hired or borrowed by the Developer. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents or volunteers.
- b. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
- c. The Developer’s insurance shall apply separately to each insured against whom a claim is made or suit is brought except, with respect to the limits of the insurer’s liability.
- d. Developer shall furnish properly executed Certificates of Insurance from insurance companies acceptable to the City and signed copies of the specified endorsements for each policy prior to commencement of work under this agreement. Such documentation shall clearly evidence all coverages required above including specific evidence of separate endorsements naming the City and shall provide that such insurance shall not be materially changed, terminated or allowed to expire except after 30 days prior written notice by certified mail, return receipt requested, has been filed with the City Clerk.
Such insurance shall be maintained from the time work first commences until completion of the work under this agreement. Developer shall replace such certificates for policies expiring prior to completion of work under this agreement.

E. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A: VII.

F. COMPLETED OPERATIONS

Developer shall maintain insurance as required by this contract to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event the Developer fails to obtain or maintain completed operations coverage as required by this

agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by the Developer.

G. CROSS-LIABILITY

The Liability policy shall include a cross-liability or severability of interest endorsement.

H. FAILURE TO MAINTAIN INSURANCE COVERAGE

If Developer, for any reason, fails to maintain insurance coverage, which is required pursuant to this Agreement, the same shall be deemed a material breach of contract. The City, at its sole option, may terminate this agreement and obtain damages from the Developer resulting from said breach. Alternatively, the City may purchase such required insurance coverage, and Developer shall reimburse the City for any premium costs advanced by the City for such insurance.

I. PRIMARY AND NON-CONTRIBUTORY

For any claims related to this project, the Developer’s insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be in excess of the Developer’s insurance and shall not contribute with it. The additional insured coverage under the Developer’s policy shall be primary and non-contributory” and will not seek contribution from the City’s insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.

J. SUBCONTRACTORS

Developer shall require its contractors to maintain the same levels of insurance and provide the same indemnity that the Developer is required to provide under this Agreement. A contractor is anyone who is under contract with the Developer or any of its contractors to perform work contemplated by this Agreement. The Developer shall require all contractors to provide evidence of valid insurance and the required endorsements prior to the commencement of any work.

K. SUBROGATION WAIVER

Developer agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all Contractors, subcontractors or others involved in any way with the services to do likewise.

L. VERIFICATION OF COVERAGE

Developer shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before the services commence.



City Council Agenda Report

Meeting Date: September 10, 2024

Prepared By: Nick Zornes

Approved By: Jolie Houston

Subject: Resolution Suspending Enforcement of Los Altos Reach Codes

COUNCIL PRIORITY AREA

- Business Communities
- Circulation Safety and Efficiency
- Environmental Sustainability
- Housing
- Neighborhood Safety Infrastructure
- General Government

RECOMMENDATION

Adopt a Resolution of the City Council of the City of Los Altos suspending enforcement of the City of Los Altos Municipal Code, local laws and regulations imposing all-electric requirements for new construction or otherwise prohibiting use or installation of gas appliances contained within City of Los Altos Municipal Code Title 12 and find that this action is exempt from environmental review pursuant to Section 15061 of the State Guidelines implementing the California Environmental Quality Act of 1970.

FISCAL IMPACT

There is no fiscal impact to the City of Los Altos for the preparation of this report and resolution. However, should the City of Los Altos not suspend the enforcement of Reach Codes as described within the Draft Resolution the City is susceptible to legal challenge given the United States Court of Appeals for the Ninth Circuit conclusion in the California Restaurant Association v. City of Berkley, 89 F.4th 1094 (9th Cir. 2024) case.

ENVIRONMENTAL REVIEW

This Ordinance is exempt from environmental review pursuant to Section 15061 of the State Guidelines implementing the California Environmental Quality Act of 1970.

PREVIOUS COUNCIL CONSIDERATION

November 29, 2022, City Council adoption of the existing Title 12 regulations.

BACKGROUND

On November 29, 2022, the City Council adopted the existing Title 12 regulations which, among other things, established the City’s Reach Codes with various requirements for electrification of development within the City. In general, the enactment of Title 12, the exiting building code

regulations within the City go above and beyond in various areas to further require additional electrification greater than the standard requirements established in the 2022 California Building Codes (CBC 2022).

The City Council adopted these all-electric building requirements in accordance with the City's sustainability goals and policy plans, and by recommendation of the Los Altos Environmental Commission. The City drafted the existing regulations contained within Title 12, based on the 2020 Los Altos Reach Codes which were previously in effect, and the new 2022 California Building Codes. Initially the City planned to go beyond the existing regulations in place today dependent upon a comprehensive Cost Effectiveness Analysis from Silicon Valley Clean Energy (SVCE) however, the comprehensive Analysis was never produced and subsequently the United States Court of Appeals for the Ninth Circuit concluded Reach Codes to prohibit the use of gas fuel is preempted under the Federal Energy Policy and Conservation Act (EPCA).

LEGAL CHALLENGE TO REACH CODES

In July 2019, the City of Berkeley City Council adopted Ordinance No. 7,672—Prohibition of Natural Gas Infrastructure in New Buildings, which, subject to some exceptions, prohibited natural gas infrastructure in newly constructed buildings in the City of Berkeley. By its own terms, the ordinance sought to “eliminate obsolete natural gas infrastructure and associated greenhouse gas emissions in new buildings thereby reducing the environmental and health hazards produced by the consumption and transportation of natural gas.” In November 2019, the California Restaurant Association (CRA), an association of restaurant owners and chefs, filed a lawsuit in the United States District Court for the Northern District of California (“District Court”) against the City of Berkeley alleging that Berkeley’s ordinance banning natural gas infrastructure in new buildings is unenforceable because it is preempted by EPCA.

The District Court dismissed the lawsuit based on its finding that the EPCA did not preempt Berkeley’s ordinance banning natural gas infrastructure in new buildings because the ordinance did not directly regulate or mandate any particular type of product or appliance and its impact on consumer products was at best indirect. The CRA appealed the District Court’s ruling to the United States Court of Appeals for the Ninth Circuit, and the Ninth Circuit Court of Appeals reversed the District Court’s ruling and held that Berkeley’s ordinance is preempted by the EPCA.

In its decision, the Ninth Circuit Court of Appeals concluded that the EPCA expressly preempts state and local regulations, including building codes, concerning the energy use of covered natural gas appliances, and that the EPCA preemption applies to regulations addressing the appliances themselves and building codes that concern the use of natural gas. The Ninth Circuit Court of Appeals stated further that “by enacting [the] EPCA, Congress ensured that states and localities could not prevent consumers from using covered products in their homes, kitchens, and businesses.”

As a result of the Ninth Circuit Court of Appeals’ decision, the City of Berkeley settled the lawsuit, has repealed their gas ban ordinance, and decided not to seek further review of the decision by the U.S. Supreme Court due to the potential effects that could be rendered by the high court which would extend beyond the Ninth Circuit.

ANALYSIS

The Los Altos Municipal Code sections 12.22.010 and 12.22.020 expressly regulate or impose all-electric requirements on new construction of single-family residences, multi-family residences, with exceptions for cooking and fireplaces, and for non-profit restaurants. Therefore, under the Ninth Circuit Court of Appeals decision in the Berkeley case, these code sections as adopted today are preempted by the EPCA.

DISCUSSION

As mentioned above, the existing Los Altos Municipal Code Title 12 leaves the City of Los Altos susceptible to legal challenge given the conclusion of the Ninth Circuit Court of Appeals.

On July 29, 2024, the City of Los Altos received a letter from the law firm which represents the California Restaurant Association which is the group who formally challenged the City of Berkeley gas ban ordinance. Upon review of the Los Altos Municipal Code Title 12 it was found that the City of Los Altos ordinance is functionally indistinguishable from Berkeley’s Ordinance and is therefore preempted. The letter further requests the City of Los Altos to informally and amicably resolve this issue, which is why the draft resolution to suspend the all-electric requirements is before the City Council.

On August 14, 2024, the Los Altos Environmental Commission Electrification Sub-Committee presented recommendations to the Commission on methods to accelerate building electrification. Among other recommendations, the Environmental Commission Sub-Committee recognized that the 2022 Reach Codes are not enforceable due to the Ninth Circuit Court of Appeals conclusion. Furthermore, beyond other methods of accelerating electrification which will be covered in another item before the City Council the Environmental Commission unanimously recommends waiting for the New California Building Codes in 2025 before making further regulatory changes at the local level. By virtue of the Environmental Commission recommendations a formal suspension of the 2022 Reach Codes is consistent with local electrification policy recommendations of the community representatives.

ATTACHMENTS

- 1. Draft Resolution**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
SUSPENDING ENFORCEMENT OF THE CITY OF LOS ALTOS MUNICIPAL CODE,
LOCAL LAWS AND REGULATIONS IMPOSING ALL-ELECTRIC REQUIREMENTS
FOR NEW CONSTRUCTION OR OTHERWISE PROHIBITING USE OR
INSTALLATION OF GAS APPLIANCES CONTAINED WITHIN CITY OF LOS
ALTOS MUNICIPAL CODE TITLE 12**

WHEREAS, on November 29, 2022, the City Council adopted Ordinance No. 2022-487 which, among other things, established the City’s first all-electric requirements for new construction; and

WHEREAS, subject to few exceptions, Los Altos Municipal Code (LAMC) Sections 12.22.010 and 12.22.020, enacted by and through Ordinance No. 2022-487, impose all-electric requirements on new construction of single-family residences, multi-family residences, with exceptions for cooking and fireplaces, and for non-profit restaurants. Opportunities to apply for exceptions were also available for non-residential buildings, laboratories and public buildings; and

WHEREAS, since the enactment of LAMC Sections 12.22.010 and 12.22.020, the United States Court of Appeals for the Ninth Circuit concluded in *California Restaurant Association v. City of Berkley*, 89 F.4th 1094 (9th Cir. 2024) that the Energy Policy and Conservation Act (42 U.S.C. §6297(c)), expressly preempts State and local regulations, including building codes, concerning the energy use of covered natural gas appliances and stated that the Energy Policy and Conservation Act preemption applies to regulations addressing the appliances themselves and building codes that concern the use of natural gas; and

WHEREAS, because LAMC Sections 12.22.010 and 12.22.020 expressly regulate the use of gas appliances covered by the Energy Policy and Conservation Act, the City Council finds that suspending enforcement of these LAMC Sections and any local regulations implementing these LAMC Sections or otherwise prohibiting use or installation of gas appliances contained within Title 12 is necessary in light of the Ninth Circuit Court of Appeals decision in the *California Restaurant Association* case.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. SUSPENSION OF CERTAIN LAMC SECTIONS. The City Council suspends enforcement of the LAMC Title 12 and any local laws and regulations imposing all-electric requirements or otherwise prohibiting use or installation of gas appliances, including, but not limited to, LAMC Sections 12.22.010 and 12.22.020.

This suspension shall apply to all applications for building permits or other development project entitlements including, without limitation, pending applications, new applications, requests for modification of pending applications, and requests for modification of previously issued permits or entitlements.

SECTION 2. CONSTITUTIONALITY; AMBIGUITIES. If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid or unconstitutional,

such decision shall not affect the validity of the remaining portions hereof. Any ambiguities in the Los Altos Municipal Code created by this Resolution shall be resolved by the Director of Development Services, in their reasonable discretion, after consulting the City Attorney.

SECTION 3. EFFECTIVE DATE. This Resolution shall become effective immediately upon adoption.

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 10th day of September 2024 by the following vote:

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

Jonathan D. Weinberg, MAYOR

Attest:

Melissa Thurman, CITY CLERK



City Council Agenda Report

Meeting Date: September 10, 2024
Prepared By: Manny A. Hernandez
Approved By: Gabe Engeland

Subject: Operating Budget Increase for Fiscal Year 2024/25 for Maintenance Services and Agreement Award: Roadway Median and Shoulder Maintenance Services

COUNCIL PRIORITY AREA

- Business Communities
- Circulation Safety and Efficiency
- Environmental Sustainability
- Housing
- Neighborhood Safety Infrastructure
- General Government

RECOMMENDATION

- 1) Allocate additional funding in the amount of \$131,000 into fiscal year 2024/25 Parks & Recreation operating budget for the median and roadway shoulder maintenance agreement.
- 2) Authorize the City Manager to execute an agreement with Del Conte's Landscaping in the amount not to exceed \$208,116 annually for median and roadway shoulder maintenance.

FISCAL IMPACT

The following action will increase the general fund operating budget for median maintenance in fiscal year 2024/25 an additional \$131,000. The median maintenance agreement will not exceed \$208,116.

ENVIRONMENTAL REVIEW

Categorically Exempt pursuant to CEQA section 15301 – Existing Facilities consisting of the operation, or minor alteration of existing public structures and facilities involving negligible or no expansion of existing or former use.

PREVIOUS COUNCIL CONSIDERATION

None

BACKGROUND

City Maintenance staff maintains roadway medians and shoulders on Los Altos roadways and County of Santa Clara owned Foothill Expressway. The Parks Maintenance Division deploys a four-person crew to handle landscape on medians, shoulders, pathways, easements and all downtown landscaping. Maintaining road adjacent landscaping is time consuming and challenging with the limited hours allowed for lane closures, proper lane closure procedure and the precautions that need to be adhered to when working adjacent to vehicular traffic.

Evaluating the workload of the 4-person Boulevard Crew, staff concluded that some of the locations they oversee would be better maintained under contracted maintenance services. This would allow the boulevard crew to focus on areas that have a more intricate planting schedule such as downtown and San Antonio Road. It would also give the crew more opportunity to stay on top of the maintenance of the many resident-adjacent easements that see rapid weed growth and require non-chemical abatement.

ANALYSIS

Using a combination of staff and professional contracts to maintain City landscape is common among public agencies. City of Los Altos Parks & Recreation staff evaluated the roadway median and shoulders that have proved to be challenging to keep at a high level of maintenance and selected five (5) areas to maintain under a maintenance contract. The roadway median and shoulder areas that are being proposed for contracted maintenance are the following.

- Foothill Expressway (Blue Oak Lane to Cristo Rey Drive)
- Medians and City of Los Altos side shoulder on Homestead Rd and Grant Rd
- Medians on South El Monte Ave. (Viola Place and Voorhees Dr.)
- Hetch Hetchy pedestrian path shoulders (Via Del Pozo to Adobe Creek bridge)
- Medians and shoulders on Fremont Ave. (Grant Rd. to Stevens Creek crossing)

Foothill expressway is County of Santa Clara property that is City maintained under an ongoing Landscape Agreement between the City of Los Altos and the County. With the pesticide restrictions set forth by the County on the expressway, it is very time consuming and takes a large number of man-hours to control the weeds, maintain irrigation and prune the oleanders and trees in a regular manner with the current staffing numbers. Being a large and highly visible area, staff feels that having a contractor maintain Foothill will keep the medians and shoulders better maintained year-round due to the attention it would receive.

The Homestead median area is a high traffic location where crews spend a lot of time repairing and re-planting as vehicles regularly damage the landscape. Landscaping repairs are needed in that location due to gopher damage as well. South El Monte medians also see a lot of crew hours for weed control, trash pick-up and plant maintenance.

Hetch Hetchy pedestrian pathway is at the far north end of Los Altos and has ample open space for weeds to grow quickly, many times encroaching on the pathway before crews are scheduled to deploy to that area. Foxtail weeds are prevalent on the Hetch Hetchy pathway and are troublesome to pathway users and their pets. Non-chemical control of these weeds is important in this well-traveled pathway through Los Altos.

Fremont Avenue is a two-lane road between Grant and the 85 highway that sees high traffic at times. There are trees, irrigation and mixed landscaping to maintain in that area.

DISCUSSION

In the budget submitted by Parks & Recreation for contracted maintenance of roadway medians and shoulders for fiscal year 2024/25, staff was planning contracted maintenance only on Foothill Expressway and estimated \$78,000 for that agreement. After further consideration of maintenance efficiencies, expectation of maintenance levels and changes in Park Maintenance staffing levels in 2024/25, staff is proposing including the above areas for contracted maintenance at an additional cost of \$131,000. The use of contracted landscape maintenance in the proposed areas is expected to provide a higher level of maintenance in those areas and allow the Boulevard Crew to continue to maintain downtown and all other medians, shoulders and easements in Los Altos at the highest levels without the need to hire additional maintenance staff or purchase additional vehicles and equipment.

ATTACHMENTS

1. Resolution Authorizing 2024/25 Operating Budget Increase and Award of Maintenance Services Agreement.

RESOLUTION NO. 2024-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
INCREASING THE 2024/25 PARKS AND RECREATION GENERAL FUND
OPERATING BUDGET IN THE AMOUNT OF \$131,000 FOR CONTRACTED
MAINTENANCE SERVICES**

**AUTHORIZE THE CITY MANAGER TO EXECUTE AN AGREEMENT ON
BEHALF OF THE CITY WITH DEL CONTE’S LANDSCAPING IN THE
AMOUNT OF \$208,116 ANNUALLY FOR ROADWAY MEDIAN AND
SHOULDER MAINTENANCE**

WHEREAS, the City utilizes contract services as part of the city-wide maintenance plan for parks, trees, easements and roadway medians; and

WHEREAS, proper roadway median and shoulder landscape maintenance is important for vehicular safety and general aesthetics of the City; and

WHEREAS, the medians and shoulder areas recommended for contractual maintenance are areas that staff feels will have the most positive impact on overall city maintenance and maintenance crews; and

WHEREAS, the Del Conte’s Landscaping has provided good quality landscape maintenance services for other public agencies and private companies under similar agreements; and

WHEREAS, On August 8, 2024, five (5) proposals were received for the Median and Shoulder Maintenance Services Request for Bids and Del Conte’s Landscaping submitted the low and responsive bid to provide these services.

WHEREAS, the proposed work is exempt from environmental review pursuant to section 15301 of the state guidelines for the California Environmental Quality Act (CEQA) as the proposed Existing Facilities consisting of the operation, or minor alteration of existing public structures and facilities involving negligible or no expansion of existing or former use.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby authorizes the increase in the Parks & Recreation operating budget in the amount of \$131,000 for contracted maintenance services AND authorizes the City Manager to execute an agreement, on behalf of the City, with Del Conte’s Landscaping for roadway median and shoulder maintenance services totaling \$208,116 annually for a full agreement term of up to 5 years.

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 10th day of September 2024 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jonathan Weinberg, MAYOR

Attest:

Melissa Thurman, CITY CLERK



City Council Agenda Report

Meeting Date: September 10, 2024

Prepared By: Kathryn Krauss

Approved By: Gabriel Engeland

Subject: Re-adoption of the Santa Clara County Multi-Jurisdictional Hazard Mitigation Plan (MJHMP), including Volume 1 and the Los Altos Annex

COUNCIL PRIORITY AREA

- Business Communities
- Circulation Safety and Efficiency
- Environmental Sustainability
- Housing
- Neighborhood Safety Infrastructure
- General Government

RECOMMENDATION

Re-adopt a Resolution accepting the Santa Clara County Multi-Jurisdictional Hazard Mitigation Plan (MJHMP), including Volume 1 and the Los Altos Annex. The resolution for this item was not included in the 08.27.24 packet and is attached to this report.

FISCAL IMPACT

Not Applicable

ENVIRONMENTAL REVIEW

Not Applicable

PREVIOUS COUNCIL CONSIDERATION

January 9, 2018

August 27, 2024

DISCUSSION

Hazard mitigation involves the use of long-term and short-term policies, programs, projects, and other activities to alleviate the death, injury, and property damage that can result from a disaster. Santa Clara County and a partnership of local governments and special districts within the county have developed a Multi-Jurisdictional Hazard Mitigation Plan (MJHMP) to reduce risks from natural disasters in the Santa Clara County Operational Area (OA)—defined as the unincorporated county and incorporated jurisdictions within the geographical boundaries of the county. The plan reaffirms the planning partners commitment to implementing cost-effective, environmentally sound, technically feasible mitigation actions. It also complies with federal and

state hazard mitigation planning requirements to establish eligibility for funding under Federal Emergency Management Agency (FEMA) grant programs.

The whole community of the Santa Clara County OA—including individual and families, businesses, community and nonprofit organizations, schools and academia, and all levels of government—is the ultimate beneficiary of this MJHMP. Implementing the plan will reduce risk for those who live in, work in, and visit the OA. The plan provides a viable planning framework for natural hazards of concern for the area. Participation in development of the plan by key stakeholders helped ensure outcomes will be mutually beneficial. The resources and background information in the plan are applicable across the OA, and the plan’s goals and recommendations can lay the groundwork for the development and implementation of local mitigation activities and partnerships for years to come.

Hazard mitigation plans are updated on a five-year cycle. A jurisdiction or special district covered by a plan that has expired is not able to pursue elements of federal funding under the Robert T. Stafford Act for which a current hazard mitigation plan is a prerequisite. Title 44 of the Code of Federal Regulations (44 CFR) stipulates that hazard mitigation plans must present a schedule for monitoring, evaluating, and updating the plan. This provides an opportunity to reevaluate recommendations, monitor the impacts of actions that have been completed, and determine if there is a need to change the focus of mitigation strategies. This update meets the requirements for hazard mitigation plans in order to maintain the eligibility for federal grant funding for Planning Participants.

Additionally, on April 19, 2022, FEMA updated the Local Mitigation Planning Policy Guide. This means that all plans updated and approved after April 19, 2023, must adhere to the new mitigation planning policy requirements. The 2023 update of the Santa Clara MJHMP has incorporated all changes and is in compliance with all elements of the updated Local Mitigation Planning Policy Guide. The Santa Clara County Multi-jurisdictional Hazard Mitigation Plan is one of the only MJHMPs in the state to incorporate the updated guidance.

In 2022, Santa Clara County reconvened the planning team and a consultant was hired to support the planning process. This allowed participants to focus on ongoing hazard events including multiple atmospheric rivers and a winter storm while ensuring that mitigation planning effort continued moving forward. The Core Planning Team invited stakeholders from each jurisdiction to participate in a series of planning meetings on each of the components of the planning process. After each meeting, planning partners had the opportunity to add their input through forms such as Capability Assessment, Risk Assessment and Mitigation Project Worksheet. The Multi-Jurisdictional Hazard Mitigation Planning Team for Los Altos was made up of the following personnel:

- Kathryn Krauss, City of Los Altos, Captain of Operations, Police Department
- Vency Woo, City of Los Altos, Management Analyst
- Irene Silipin, City of Los Altos, HR Manager
- Marisa Lee, City of Los Altos, Transportation Services Manager
- Veronica Tinoco, City of Los Altos, Building Official

- Stephanie Williams, City of Los Altos, Planning Services Manager/ Floodplain Manager
- Franklin Wong, City of Los Altos, Public Works. CIP Manager
- Vivian Chu, City of Los Altos, Finance Manager
- Manny Hernandez, City of Los Altos, Parks and Rec Director
- Jon Maginot, City of Los Altos, Assistant City Manager
- Angela Averiett, City of Los Altos, Police Chief
- June DU, City of Los Altos, Finance Director
- Sonia Lee, City of Los Altos, Public Information Officer
- Nick Zornes, City of Los Altos, Development Services Director
- Brian Glass, City of Los Altos, Assistant Fire Chief

The opportunity for public participation was an important step of the hazard mitigation planning process. For this plan update, the Core Planning Team developed and implemented a whole community, multi-lingual, in-person, and virtual approach to public outreach. Since the County was already working on updating the County’s Safety Element, which includes different but similar hazard risk and disaster response and recovery considerations, the two planning teams collaborated to share information on this Multijurisdictional Hazard Mitigation Plan (MJHMP). Two in-person listening sessions were held and one virtual town hall meeting was held to inform the public about the Safety Element and MJHMP update and to garner feedback about hazards of concern and levels of preparedness in the community.

The Santa Clara County Community Wildfire Protection Plan (CWPP) was also being updated simultaneously with the MJHMP, and the two project teams collaborated to share information. Four in- person meetings were held to share information about the CWPP and MJHMP and solicit feedback from the public about the plans.

The County and planning partners also requested public participation through a digital survey posted on the Santa Clara County Office of Emergency Management’s website available in English, Spanish, Chinese, Vietnamese, and Tagalog. This survey received almost 600 responses. Finally, the public was provided the opportunity to review and provide input on the draft MJHMP.

Once the MJHMP is adopted by all the jurisdictional partners and approved by FEMA, the partnership will collectively and individually become eligible to apply for hazard mitigation project funding from both the Pre-Disaster Mitigation Grant Program (PDM) and the Hazard Mitigation Grant Program (HMGP). Upon adoption of Volume 1 and the City of Los Altos Annex of the MJHMP and subsequent approval of said plan by CALOES and FEMA, the City will be eligible to apply to apply for specified grants mentioned above. The grant funds are made available to states and local governments and can be used to implement the long-term hazard mitigation measures specified within the City of Los Altos annex of the MJHMP before and after a major disaster declaration. The MJHMP is considered a living document such that, as awareness of additional hazards develops and new strategies and projects are conceived to offset or prevent

losses due to natural disasters, the MJHMP will be evaluated and revised on a continual 5-year time frame.

ATTACHMENTS

1. Resolution Adopting Local Hazard Mitigation Plan

The Final Draft Volume I Santa Clara County Multi-Jurisdictional Hazard Mitigation Plan (MJHMP) and City of Los Altos Annex Draft Volume II MJHMP were included in the 08.27.24 meeting packet and can be accessed at:

<https://www.losaltosca.gov/citycouncil/page/city-council-meeting-192>

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF LOS ALTOS
ADOPTING VOLUME I AND THE CITY OF LOS ALTOS ANNEX WITHIN VOLUME
II OF THE 2023 SANTA CLARA COUNTY MULTI-JURISDICTIONAL LOCAL
HAZARD MITIGATION PLAN AS THE CITY OF LOS ALTOS' LOCAL HAZARD
MITIGATION PLAN**

WHEREAS, the Bay Area is subject to various earthquake-related hazards such as ground shaking, liquefaction, landslides, fault surface rupture, and tsunamis; and

WHEREAS, the Bay Area is subject to various weather-related hazards including wildfires, floods, and landslides; and

WHEREAS, the City of Los Altos recognizes that disasters do not recognize city, county, or special district boundaries; and

WHEREAS, the City of Los Altos seeks to maintain and enhance a disaster-resilient region by reducing the potential loss of life, property damage, and environmental degradation from natural disasters, while accelerating economic recovery from those disasters; and

WHEREAS, the City of Los Altos is committed to increasing the disaster resilience of the infrastructure, health, housing, economy, government services, education, environment, and land use systems in the Santa Clara County as a whole; and

WHEREAS, the federal Disaster Mitigation Act of 2000 requires all cities, counties, and special districts to have adopted a Local Hazard Mitigation Plan to receive disaster mitigation funding from FEMA; and

WHEREAS, in June 2022, the Santa Clara County Emergency Operational Area Council initiated a hazard mitigation planning process that was guided by a 19-member coalition of partner agencies, including Santa Clara County, 15 city and town governments, the Santa Clara County Fire District, Valley Water, and the Valley Transportation Authority; and

WHEREAS, the result of this effort is a two-volume Santa Clara County Multi-Jurisdiction Hazard Mitigation Plan (“SCC MJHMP”), a multi-hazard mitigation plan; and

WHEREAS, upon adoption of the SCC MJHMP Volume I and City of Los Altos Annex within Volume II and the subsequent approval of said plan by FEMA and Cal OES, the City of Los Altos will be eligible to apply for and potentially receive specified grants;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Los Altos adopts Volume I and the City of Los Altos’ Annex to the 2023 Santa Clara County Multijurisdictional Hazard Mitigation Plan as the City’s Local Hazard Mitigation Plan.

The above and foregoing resolution was passed and adopted at a regular meeting of the Los Altos City Council held on the 10th day of September 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Jonathan D. Weinberg
Mayor

ATTEST:

Melissa Thurman, MMC
City Clerk



City Council Agenda Report

Meeting Date: September 10, 2024
Prepared By: Manny A. Hernandez
Approved By: Gabriel Engeland

Subject: Adopt a Resolution awarding the construction contract for the Lincoln Park Drinking Fountains Project CF-01030 to EPS, Inc. of San Mateo, California as the lowest responsible bidder submitting a responsive bid with a Base Bid amount not-to-exceed \$98,000, and up to 15% contingency, if needed, in the amount not-to-exceed \$14,700, for a total construction amount not-to-exceed \$112,700.

COUNCIL PRIORITY AREA

- Business Communities
- Circulation Safety and Efficiency
- Environmental Sustainability
- Housing
- Neighborhood Safety Infrastructure
- General Government

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a construction contract with EPS, Inc. dba Express Plumbing of San Mateo, California in an amount not-to-exceed \$98,000, and up to 15% contingency not-to-exceed \$14,700, for a total amount not-to-exceed \$112,700, to complete the Lincoln Park Drinking Fountains project.

FISCAL IMPACT

The construction will be the Base Bid in the amount not-to-exceed \$98,000, and up to 15% contingency, if needed, in the amount not-to-exceed \$14,700 for a total amount not-to-exceed \$112,700.

The funding sources for the construction contract include:

- \$180,000 approved budget for CF-01030 from funding source In-Lieu Park Fund.
- \$40,000 Grant from Los Altos Rotary Endowment Fund

Funds already encumbered to the project:

- BKF Engineers (Design services) \$16,816
- Ferguson, Inc. (Drinking fountains) \$20,538.68

ENVIRONMENTAL REVIEW

The proposed project is exempt from environmental review pursuant to section 15301 of the state guidelines for the California Environmental Quality Act (CEQA) as the proposed project is consisting of exterior alterations involving such things as plumbing conveyances.

PREVIOUS COUNCIL CONSIDERATION

None

BACKGROUND

The FY 23/24 Capital Improvement and Major Maintenance Program included Project CF-01030 which intends to provide new drinking fountains at various park locations throughout the City that include bottle fillers and dog bowl fountains. Lincoln Park was identified to receive two new drinking fountains based on programmed uses and a \$40,000 funding grant from the Rotary Club of Los Altos. Staff worked with the Rotary Club of Los Altos to select drinking fountain products that would meet the needs of Rotarians, City staff and the community. Staff and Rotary Club members also worked together to identify suitable locations for the new drinking fountains.

ANALYSIS

The construction contract includes the sewer and water utilities and connections. It also includes installing the drinking fountains, which were purchased by the City. Engineered plans were completed and permitted by BKF Engineers in Summer of 2024. Staff released the construction documents for public bidding on July 18, 2024, posting the project to the City of Los Altos Request for Bids webpage. A Notice to Contractors was published in the Los Altos Town Crier on July 24 and July 31, 2024. A pre-bid conference was held on August 07, 2024 at the project site with two (2) contractors in attendance. Nine (9) sealed bids were received on August 14, 2024 and read aloud in the Los Altos Council Chambers. The Engineer’s Estimate was \$110,000. The Base Bid includes all critical improvements necessary to complete the project. The EPS, Inc. bid was 89% of the Engineer’s Estimate.

DISCUSSION

EPS, Inc. dba Express Plumbing of San Mateo submitted the lowest responsive proposal in the amount of \$98,000 for the specified plumbing and installation of the drinking fountains at Lincoln Park. With a \$14,700 construction contingency, the full cost of plumbing and installation will not exceed \$112,700.

ATTACHMENTS

1. **Resolution No. #####**
2. **Los Altos Rotary Endowment Fund Letter dated June 22, 2023**

RESOLUTION NO. 2024-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION
CONTRACT WITH EPS, INC. FOR LINCOLN PARK DRINKING FOUNTAINS
PROJECT IN AN AMOUNT NOT-TO-EXCEED \$98,000 AND UP TO 15%
CONTINGENCY FUNDS NOT-TO-EXCEED \$14,700**

WHEREAS, the proposed project, which consists of providing sewer and water utilities and installing two drinking fountains (furnished by the City); and

WHEREAS, EPS, Inc. was the lowest responsible, responsive bidder for the Project; and

WHEREAS, the proposed project is exempt from environmental review pursuant to section 15301 of the state guidelines for the California Environmental Quality Act (CEQA) as the proposed project is consisting of exterior alterations involving such things as plumbing conveyances.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby:

1. Authorizes the City Manager to execute a Construction Contract in an amount not-to-exceed \$98,000 and up to 15% contingency funds not-to-exceed \$14,700 to perform the Lincoln Park Drinking Fountains Project.
2. Authorizes the City Manager to take such further actions as may be necessary to implement the foregoing agreement.

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 10th day of September 2024 by the following vote

**AYES:
NOES:
ABSENT:
ABSTAIN:**

Jonathan D. Weinberg, MAYOR

Attest:

Melissa Thurman, MMC
City Clerk



City Council Agenda Report

Meeting Date: September 10, 2024

Prepared By: Nick Zornes

Approved By: Gabriel Engeland

Subject: Appeal the Approval of Tree Removal Permit (24-0062) for twenty-five (25) Apricot Trees located behind the Los Altos Police Department at 1 N. San Antonio Road.

COUNCIL PRIORITY AREA

- Business Communities
- Circulation Safety and Efficiency
- Environmental Sustainability
- Housing
- Neighborhood Safety Infrastructure
- General Government

RECOMMENDATION

Deny the appeal and uphold the decision of the Development Services Department to allow the removal of twenty-five (25) apricot trees in the secured rear yard of the Los Altos Police Department at 1 N. San Antonio Road.

FISCAL IMPACT

Not Applicable.

ENVIRONMENTAL REVIEW

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

PREVIOUS COUNCIL CONSIDERATION

Not Applicable.

BACKGROUND

On June 25, 2024, the Los Altos History Museum requested a Tree Removal Permit for twenty-five (25) apricot trees in the secured rear yard area of the Los Altos Police Department located at 1 N. San Antonio Road. The Permit was granted as requested with no modifications. As a part of the request a 2:1 ratio for replacement of trees was required by the Development Services Director.

On June 28, 2024, Mary Lion filed an Appeal of Administrative Decision, which was completed and accompanied by additional documentation (Attachment 5) by Catherine Nunes, Mary Cunneen

Lion, and Alice Mansell. The basis of appeal was outlined with five (5) main points which are documented in Attachment 5 of this Agenda Item.

APPLICANTS APPEAL – REASON FOR APPEAL

1. Permit applicant, History Museum without legal authority to pull permits on this property.
2. Permit failure to provide adequate justification for removal of trees and loss of tree sites in this location.
3. Failure of permit and approval process to recognize the historical standing of the property, tree and tree sites.
4. Permit review process and decision not compliant with the City’s planning, environmental and preservation process.
5. Permit and entitlement approval for removal of both trees and tree sites by the City constitutes “demolition by neglect”.

ANALYSIS

The Los Altos Municipal Code Chapter 11.08, Tree Protection Regulations, establishes standards for proper tree removal and replacement, preservation and protection during construction.

Pursuant to the Los Altos Municipal Code (LAMC) Section 11.08.100 – Determination on permit:

- A. Criteria. Each application for a tree removal permit shall be reviewed and determined based on the following tree removal criteria:
 1. The tree is dead, in poor health (as defined in the most recent edition of the Guide for Plant Appraisal), or has a risk rating of moderate, high, or extreme which cannot be mitigated through sound arboricultural practices to a low-risk rating.
 2. The tree species is identified as an invasive or undesirable species (as defined by list on file with the development services department).
 3. The tree is interfering or will interfere with a utility, public transportation, waterway, or other public infrastructure system.
 4. The tree is causing damage to an enclosed structure which cannot be mitigated in another way.
 5. Preservation of the tree will impede the use of real property and no reasonable or feasible alternative (as determined by the development services director) exists to preserve the tree in the current location.
- B. Additional recommendations. The approval authority may refer the application to another department, commission or person for a report and recommendation. The approval authority may also require the applicant to furnish a written report from an independent certified arborist acceptable to the approval authority; such report shall be obtained at the expense of the applicant.
- C. Action. Based on the criteria outlined in subsection A of this section, the approval authority shall either approve, conditionally approve, or deny the application. Conditions of approval may require any of the following:
 1. One or more replacement trees be planted as outlined in section 11.08.120 Tree Replacement Criteria;
 2. Payment of an in-lieu fee in compliance with section 11.08.120;

3. A combination of replacement trees and in-lieu fees that in total provide for the number of replacement trees as outlined in section 11.08.110.

The Tree Removal Permit was granted Pursuant to Section 11.08.100(A)(1) and (3) as all twenty-five (25) trees are infected with Brown Rot, and twenty-four (24) trees are rated to be in poor health or structure based on the most recent edition of the Guide for Plant Appraisal.

DISCUSSION

The Appeal of Administrative Determination, Reason for Appeal asserts several issues that will be addressed in the following:

1. **Permit applicant, History Museum without legal authority to pull permits on this property.**
 - The request was made initially by the History Museum in January 2024 when it was discovered that the trees in the secured area of the Los Altos Police Department are covered by fungal diseases which can be airborne spores and bacteria and risk the overall health of the nearby apricot trees that were planted in the historic orchard. Attachment 4.
 - Since the trees were outside the Historic Landmark boundary and also outside of the scope of the Los Altos History Museum’s contract with the City, it was directed by the City Manager to submit a Tree Removal Permit and follow the standard process as all applicants within the City.
 - Pursuant to LAMC 11.08.030, Chapter 11.08 shall apply to every owner of real property within the city and *to every person responsible for removing a tree* regardless of whether such person is engaged in a tree removal business. The Association of the Los Altos Historical Museum, DBA Los Altos History Museum is an active California nonprofit public benefit corporation and is a legal entity with the authority to apply for a City permit.
2. **Permit failure to provide adequate justification for removal of trees and loss of tree sites in this location.**
 - The request to remove trees is adequate Pursuant to Section 11.08.100 of the LAMC because it met the tree removal criteria as follows:
 - All twenty-five (25) trees are infected with Brown Rot, and twenty-four (24) trees are rated to be in poor health or structure based on the most recent edition of the Guide for Plant Appraisal. (Attachment 2 and 3)
 - On January 22, 2007, Brown Rot and various other plant diseases were identified to be present in the Civic Center Orchard. (Attachment 7)
 - Based on this historic information it was determined that diseases have been present within the orchard for several years which make it increasingly more challenging to combat.
3. **Failure of permit and approval process to recognize the historical standing of the property, tree and tree sites.**
 - Pursuant to Resolution No. 91-31, which was adopted on October 8, 1991 (Attachment 10) the Historical Landmark boundary was modified to what exists

today which expressly excludes the secured area behind the Los Altos Police Department.

- The assertion that the permit and approval process did not recognize the historical standing of the property is incorrect and inapplicable since the tree permit was granted for an area outside of the Historic Landmark boundary.
- The appellants interpretation of the Historic Orchard boundaries is incorrect. The Historic Landmark boundaries are clearly depicted in Exhibit A of Resolution No. 91-31.

4. Permit review process and decision not compliant with the City’s planning, environmental and preservation process.

- The appellants are incorrect in their assertion that the process and decision are not compliant with the City’s planning, environmental and preservation processes.
- The permit review and determination were rendered in accordance with LAMC Chapter 11.08. (Attachment 6) Specifically, the tree removal permit was reviewed and approved pursuant to the criteria contained in LAMC 11.08.100.
- Pursuant to LAMC Section 11.08.080(B)(1) – Approval Authority, the approval authority for tree removal shall be the Development Services Director.
 - Because the Tree Removal Permit request is for twenty-five (25) trees to be removed outside of the Historical Landmark boundary, the removal authority is designated to the Development Services Director.

5. Permit and entitlement approval for removal of both trees and tree sites by the City constitutes “demolition by neglect”.

- No evidence of “demolition by neglect” has been provided as a part of this appeal. (Attachment 5)

CONCLUSION

Based on the above-mentioned responses to the appellants’ Reason for Appeal and lack of substantial evidence, it is recommended that the City Council Deny the appeal and uphold the decision of the Development Services Department to allow the removal of twenty-five (25) apricot trees in the secured rear yard of the Police Station at 1 N. San Antonio Road.

ATTACHMENTS

1. Tree Removal Application
2. Arborist Letter
3. Plant Appraisal (Pursuant to Section 11.08.100(A)(1))
4. History Museum – January 2024 Removal Request
5. Appeal of Administrative Decision – Received June 28, 2024
6. Los Altos Municipal Code Chapter 11.08 – Tree Protection Regulations
7. January 22, 2007, Memo – Civic Center Orchard Condition
8. Resolution No. 81-23 – Designating a Historical Landmark
9. Ordinance No. 90-225 – Historic Preservation Ordinance
10. Resolution No. 91.31 – Modifying an Apricot Orchard as a Historical Landmark



TREE REMOVAL PERMIT

REMOVAL OF (25) APRICOT TREES IN THE REAR
YARD OF THE POLICE DEPARTMENT AT 1 SAN
ANTONIO RD

Date Approved: 6/25/2024 – Date Posted: 6/26/2024

Applicant: Ken Buscho, Los Altos History Museum

Permit #: TREE24-0062

Basis for Approval (Pursuant to Section 11.08.090 LAMC):

The condition of the tree with respect to disease, and the potential to cause further disease to other trees within the orchard and immediately adjacent; in general, poses a danger of falling; and proximity to existing or proposed structures and interference with utility services.

Replacement Tree(s) & Required Conditions (Pursuant to Section 11.08.090 LAMC):

Yes – 2 to 1 street tree (or other tree species as approved by the City Manager), each replacement tree shall be a minimum 24-inch box tree. The location of the replacement trees shall be approved by the City Manager.

Project Planner:

Xiomara Aguirre, (650) 947-2741, xaguirre@losaltosca.gov

Appeals (Pursuant to Section 11.08.110 LAMC)

The findings or conditions of this tree removal permit may be appealed by the applicant or any interested party within 10 calendar days from the date posted.

INSTRUCTIONS FOR ON-SITE POSTING

The standards for posting a notice of tree removal on the site are as follows:

- The notice shall be posted between four (4) feet and six (6) feet off the ground;
- The notice shall be posted as follows:
 - For trees visible from a public street, the notice shall be hung on the tree trunk in a location that is fully visible from the front or exterior side property line;
 - For trees behind a fence, hedge or otherwise obscured from view from the adjacent street, the notice shall be posted on a stake, fence post or similar fixture within three (3) feet of the front or exterior side property line;
- The notice shall be posted in a way that is readily viewable from the adjacent public right of way, sidewalk, and/or street;
- The notice shall be posted for at least **10 days prior** to the removal of the tree;
- The applicant must maintain the notice in a weatherproof and clearly legible manner for the 10-day appeal period.
- To document the start date of the posting, take a photo of the posted notice and email it to planning@losaltosca.gov with “Proof of Tree Removal Permit Posting for 1 SAN ANTONIO RD” in the subject line.

June 6, 2024

Terence Welch
 Backyard Orchards
 P.O. Box 2
 Aptos, CA 95001

ISA Certified Arborist WE-0153A

On May 31, 2024, I inspected the apricots behind the locked gate at the Los Altos Police Station. These apricots are beyond the age where they are commercially viable, and have had both major limbs and twigs killed by Brown Rot. They are not being pruned or maintained in any way.

The attached spreadsheet lists the trees, shows their size, and rates their both their health and structure (scale of 1-5, with 1 being the best). These old trees generally had plenty of Brown Rot killed twigs, and decayed wood down the middle of the trunks, which was the result of large diameter limbs dying and being pruned out of the tree.

These trees are a source of fungal spores of Brown Rot, *Monilinia laxa*. Spore masses form on twig cankers, and on flower parts which have become infected. Because they can spread through the air, they increase the chance that healthy, maintained trees nearby will become infected with Brown Rott. Symptoms of Brown Rot on stone fruit trees (apricot, plum, peach, cherry, etc) are dead twigs, dead flowers, mummified fruits, and often larger dead limbs and leaders. Blenheim apricot is particularly susceptible to Brown Rot.

There is no effective organic treatment for Brown Rot at this time. In an orchard in Portola Valley, I have tried different organic sprays purported to help reduce Brown Rot, with no apparent success. Conventional farmers utilize chemical sprays to control Brown Rot.

To reduce Brown Rot infections, Infected shoots and branches should be pruned out as soon as possible, infected fruits should be picked up from the ground, and should be removed from the tree. All this infected material should be removed from the orchard, as it can be a source of new airborne spores. Rain and insects can also move the fungal spores throughout the orchard. Wet weather during bloom creates the ideal conditions for Brown Rot infections

Removing these non-maintained trees would reduce the amount of airborne spores, and reduce the total amount of infections in nearby, maintained trees.

List of Blenheim Apricot Trees at Los Altos Police Station
5/31/2024

Tree Numbe	Diameter	Health	Structure	Comment
1	5	1	2	Newer tree
2	20	2	5	
3	18	2	5	
4	12	1	5	
5	15	4	4	
6	20	3	5	
7	2	5	5	Rootstock only
8	15	1	5	
9	6	5	5	
10	11	5	5	
11	18	5	5	
12	8	4	5	
13	6	5	5	
14	10	3	5	
15	12	3	5	
16	12	4	5	
17	12	2	5	
18	16	2	5	
19	18	4	5	
20	12	4	5	
21	21	4	3	
22	8	2	5	
23	7	3	5	
24	16	4	3	
25	13	5	5	

See Measured at Best=1, Best=1
 Satellite approx 2' Worst=5 Worst=5
 Photo above grade.
 DBH not applicable
 as the trees were branched
 low to the ground



51 South San Antonio Road
Los Altos, California 94022
www.LosAltosHistory.org
650.948.9427

Office of the City Manager
1 S. San Antonio Road
Los Altos CA 94022

January 26, 2024

Dear Gabe,

The Los Altos History Museum gathers and presents compelling stories and artifacts that bridge the past and the present by fostering the creative energy of staff and volunteers to challenge established narratives and produce engaging educational programs and exhibits for the community.

Board of Directors

- Larry Lang, President
- Vicki Holman, 1st Vice President
- Kuljeet Kalkat, 2nd Vice President
- Wayne Hooper, Treasurer
- Jay Thomas, Secretary
- Gary Hedden, Past President
- Gerri Acers Allison Aldrich
- Wynn Belton Kelly Davis
- Christopher Fling Tyler Furuichi
- Margo Horn Janet Klinkle
- Kuljeet Kalkat Alex Wang

Staff

- Dr. Elisabeth Ward, Executive Director
- Sophia Abarca, Curator of Collections
- Diane Holcomb, Director of Communications
- Jordan Grealish, Exhibits Specialist
- Ken Buscho, Operations Manager
- Lisa Porter, Events Manager
- Lillie Moore, Museum Educator
- Barbara Klein, Bookkeeper
- Faustino Carillo, Gardener

The Los Altos History Museum's legal name is the Association of the Los Altos Historical Museum; tax i.d. number 94-2542813. We are a 501(c)(3) organization and your gifts are tax deductible.

Los Altos History Museum is excited that we are partnering with the City to bring the Heritage Orchard back to life. It has come to our attention that the apricot trees in the locked compound behind the Police Station have been unpruned for several years. This is a concern for us in as much as it contributes to the prevalence of fungal diseases in the Heritage Orchard.

We are hereby asking the City to remove the unpruned apricot trees in the Police Compound. This recommendation is made in concert with the expert opinion of Terence Welch, the professional orchardist working with the Museum.

Because these trees are outside of the Historical Landmark, and outside of the Museum's contract to maintain the orchard, complete removal of the trees will be a better and longer lasting solution than just a one-time pruning. Airborne spores and bacteria can spread at any time from trees in adjacent properties. The trees in the Heritage Orchard are being actively pruned and monitored repeatedly for indications of eutypa, canker and brown rot. With the recent investment by the City in new trees, we are especially anxious to provide as fungal-free of an environment as possible.

Assuming the City concurs, and makes a plan for removing those untended trees, we would like to emphasize that it is essential that woody debris from the old trees should be disposed off-site.

This recommendation is consistent with the plan for coordinated Integrated Pest Management in properties surrounding the Heritage Orchard in the Orchard Maintenance Plan.

The three apricot trees adjacent to the Friends of the Library sheds are under the care of Museum Volunteers, who are responsible for their pruning and hand watering. We do not include those three trees in our recommendation for removal.

With thanks,
Elisabeth Ward

Dr. Elisabeth I. Ward
Executive Director



CITY OF LOS ALTOS APPEAL FORM
 1 North San Antonio Road, Los Altos, CA 94022; (650) 947-2700

RECEIVED Agenda Item # 10.

JUN 28 2024

City of Los Altos

NOTE TO APPLICANT:

Please attach any supplemental documents to this form as part of your appeal.

Type of Appeal:

<input checked="" type="checkbox"/> Appeal of Administrative Determination	Fees – Please Refer to Master Fee Schedule: https://www.losaltosca.gov/communitydevelopment/page/forms-and-handouts-0
<input type="checkbox"/> Appeal of Development Review Commission Decision	
<input type="checkbox"/> Appeal of Planning Commission Decision	

Appellant Contact Information:

Name: Catherine Nunes Telephone Number: 650-949-3228
 Mailing Address: 64 Hillview Ave, Los Altos CA 94022
 Email Address nunescath@gmail.com

Signature: _____

Project Information (about the project for which the appeal is being submitted):

Planning Commission/DRC Meeting Date: _____
 Administrative Determination Date: June 25, 2024
 Planning Division File #: _____
 Property Address: 1 San Antonio Road, rear yard of Police Station, northeast sector Civic Center Property (Heritage Orchard)
 Assessor's Parcel Number: _____ (Can be found on staff report)

Reason for Appeal / Explanation of Error or Abuse of Discretion.

Please describe the alleged error or abuse, or how the decision is not supported by substantial evidence in the record. Please identify if this appeal will be under Chapter 1.12 of the Municipal Code (Appeal Ordinance) or an appeal under Section 14.76.100 of the Municipal Code (Design Review Appeal). Attach additional pages if necessary.

ADDITIONAL DETAIL AND LETTER ATTACHED

1. Permit applicant, History Museum without legal authority to pull permits on this property.
2. Permit failure to provide adequate justification for removal of trees and loss of tree sites in this location.
3. Failure of permit and approval process to recognize the historical standing of the property, trees and tree sites.
4. Permit review process and decision not compliant with the City's planning, environmental and preservation process
5. Permit and entitlement approval for removal of both trees and tree sites by the City constitutes "demolition by neglect"

The Los Altos Planning Department Counter is open Monday – Friday (closed alternate Fridays)
From 7:30 p.m. – 5:00 p.m.
Telephone: (650) 947-2700
If you need assistance from the City Clerk's office, please call 650-947-2610.

JUN 28 2024

City of Los Altos

To: City Clerk, City of Los Altos, California
Date: June 27, 2024

Subject :

Request for Appeal and Withdrawal of Apricot Tree Removal Permits on Civic Center Land, and the Subsequent Violations Adherence with Historic Preservation Code and Impacts on the Heritage Orchard.

This appeal is for the denial and withdrawal of the Tree Removal Permit approved 6/25/2024 and posted 6/26/2024 for the **“Removal of (25) Apricot Trees in the Rear Yard of the Police Department at 1 San Antonio Rd.”** This explanation for the appeal is an attachment to the City of Los Altos appeal form and fees have been paid.

1. History Museum Without Legal Authority to Request a Permit

The posted tree removal permit has been submitted by Ken Buscho, Los Altos History Museum which does not have the governing authority to seek such a permit.

The History Museum was contracted for maintenance services per the July 2023 agreement with the City of Los Altos. The City did not delegate its government authority to the Museum. The Museum is NOT an authorized City government instrumentality or have discretionary powers for any major plans, permits or permanent removal any part of this historic resource (or its trees) under this contract agreement. (Exhibit 1)

The City and City Council remain the authority, and the City must follow proper procedures in order to remove, alter, change or take such actions with proper review, including the application of permits to remove these trees.

2. Permit failure to provide adequate justification for removal of trees

The tree summary and site evaluation conducted by the orchardist at the History Museum are inadequate for the permit removal application or permit approval of tree removal based on their condition.

According to the orchardist documentation, most of the 25 trees included in this tree removal permit are stressed and in need of immediate water and care (maintenance), this is not cause for removal. Twelve (12) of the trees were rated as healthy or in satisfactory health (1,2,3 on a scale of 5), and there is no justification for the transference of airborne brown rot spores noted by orchardist.

Plus as clarified by the orchardist letter (no report) the typical treatment is for pruning out brown rot, NOT removal. The arborist would have to conduct testing and take action to adequately mitigate this disease, which is not resourced at this time. The basis for this tree removal permit constitutes a summary letter and spreadsheet, not a certified arborist report. Many trees are in stress due to lack of water and care, but are not in immediate need of removal.

The portion of the written tree removal permit adding justifications including “trees falling, proximity to existing and “proposed” structures, and interference with utility lines” are not supported in the documentation and are invalid reasons for the immediate removal of these protected trees. These appear to be unsupported City matters, as notes of future

development projects of the purview of the Museum applicant, and falling trees and utilities the orchardist review, and as such are wrongful and unsupported additions to this permit.

3. Failure of permit to recognize historical standing and property including land, trees and tree sites of the Heritage Orchard.

The Heritage (Civic Center) Orchard– is a historic resource inclusive of fruit trees, tree sites and their lands and landmarks on the Civic Center property. It is protected under the rules, regulations and stewardship of the City’s historical preservation policies and laws.

Furthermore, any changes or alterations to the Heritage Orchard require, as does any City and State registered historic resource, proper review by the Historical Commission with proper survey that may include a Historical Resource Evaluation (HRE) by a qualified preservation professional before proceeding.

With regard to heritage trees, it warrants a tree evaluation by a certified arborist with appropriate mitigation and handling for protected trees. To our knowledge, none of this has been done.

Any valid removal of these protected apricot orchard trees, should be replaced with apricot trees in the same tree sites and location. This is NOT the planting of future City trees anywhere in the City–this is not consistent with proper mitigation or care standards of preservation in a historic resource.

4. Failure in the City’s permit approval to properly study and review the application under preservation and protection ordinances and environmental law.

Per City and State registered official documents, the Heritage Orchard is a registered historic resource consisting of a landmark, tree sites, and fruit (trees) across the Civic Center site, and it is stipulated trees can NOT be removed, unless replaced on the tree sites.

The protected tree stipulation and site location on the Civic Center inclusive of the Police Station is evidenced in the historic resource description in the 2011 State or California Department of Parks Record HR#15 and in the County recordings as the recorded description. Note Lands/trees/sites included in the “northeast sector of the complex” is the location of the orchard elements surrounding the Police Station. (Exhibit 2)

“Portions of the Smith orchard lands within the Civic Center remain along N. San Antonio Road, north of the Los Altos Library, and in the northeast sector of the complex. A number of trees dating to the period of Smith’s residence appear to remain. As the City replaces dead or diseased trees as needed, a number of younger trees are also apparent within the orchard tracts. ... Another stipulation was that the remaining apricot trees not be removed; the city maintains and replaces the trees as needed today.

To make a finer point, this description from City official documentation in the 2006 Heritage Orchard Management Plan the description of Heritage Orchard location, acreage and tree sites. It states: (Exhibit 3)

Description of Orchard: The heritage orchard is located at 1 North San Antonio Road in the Civic Center grounds. It surrounds the City Hall building, and parts of the Library, Youth Center and Police Department.

Acreage: 2.84 acres

Number of tree sites: 444

There are no subsequent formal City actions, plans or written documentation that supersedes this historical resource disposition. Discretionary, arbitrary or interpretative judgements by the City of these documents, or the boundaries or scope of the historic resource, do not constitute to the preservation ordinances and Certified Local Government requirements and do not have any standing..

6. Permit and Approval Constitutes "Demolition by Neglect"

Finally, removal of these trees and their tree sites, despite their condition due to neglect, is "demolition by neglect" which is also unlawful under the states, and subject to disqualification as abiding by CEQA and failure to abide by Standards of the Department of Interior.

Any tree removal, movement of tree sites or development within or adjacent to Heritage Orchard without proper consideration, ordinance adherence and preservation steps is illegal and is subject the City and the History Museum to liability and potentially legal actions for damages to a historic resource.

Respectively, we ask that this permit be denied and withdrawn.

Signed residents and orchard volunteers,

Catherine Nunes, Mary Cunneen Lion, Alice Mansell

**State of California The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD**

Primary # _____
HRI # _____
Trinomial _____
NRHP Status Code _____

Other Listings _____
Review Code _____ Reviewer _____ Date _____

Page 1 of 2 *Resource Name or #: (Assigned by recorder) 1 N. San Antonio Road

P1. Other Identifier: HRI #:15; Civic Center Orchard

*P2. Location: Not for Publication Unrestricted

*a. County Santa Clara and (P2c, P2e, and P2b or P2d. Attach a Location Map as necessary.)

*b. USGS 7.5' Quad _____ Date _____ T _____; R _____ of _____ of Sec _____; _____ B.M.

c. Address 1 N. San Antonio Road City Los Altos Zip 94022

d. UTM: (Give more than one for large and/or linear resources) Zone _____, _____ mE/ _____ mN

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate)
170 42 029

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

The Civic Center Orchard represents a portion of the apricot orchard planted by Mr. and Mrs. J. Gilbert Smith, early Los Altos settlers, and is related to the nearby Smith farm house. The residence, which currently serves the community as the History House, sits near the southeast corner of the Civic Center complex. Portions of the Smith orchard lands within the Civic Center remain along N. San Antonio Road, north of the Los Altos Library, and in the northeast sector of the complex. A number of trees dating to the period of Smith's residence appear to remain. As the City replaces dead or diseased trees as needed, a number of younger trees are also apparent within the orchard tracts.

*P3b. Resource Attributes: (List attributes and codes) HP39. Other Orchard

*P4. Resources Present: Building Structure Object Site District Element of District Other (Isolates, etc.)



P5b. Description of Photo:
Looking SE

July 2011

*P6. Date Constructed/Age and

Source: Historic Prehistoric

Both

Planted 1902

Los Altos History Museum

*P7. Owner and Address:

City of Los Altos

1 N. San Antonio Road Los Altos,

CA 94022

*P8. Recorded by:

Circa: Historic Property Development

582 Market Street, Suite 1800

San Francisco, CA 94104

*P9. Date Recorded: _____

July 2011

*P10. Survey Type:

Intensive

*P11. Report Citation:
Los Altos Historic Resources Inventory Update Report (Circa: Historic Property Development, March 2012).

*Attachments: NONE Location Map Continuation Sheet Building, Structure, and Object Record
 Archaeological Record District Record Linear Feature Record Milling Station Record Rock Art Record
 Artifact Record Photograph Record Other (List): _____

State of California The Resources Agency Primary #
DEPARTMENT OF PARKS AND RECREATION HRI#
BUILDING, STRUCTURE, AND OBJECT RECORD

*NRHP Status Code CA Reg: 5S1

Page 2 of 2

*Resource Name or # (Assigned by recorder) 1 N. San Antonio Road

B1. Historic Name: _____

B2. Common Name: Civic Center Orchard

B3. Original Use: Agricultural B4. Present Use: Mixed

*B5. Architectural Style: n/a

*B6. Construction History: (Construction date, alterations, and date of alterations)

Established c.1900.

*B7. Moved? No Yes Unknown Date: _____ Original Location: _____

*B8. Related Features:

J. Gilbert Smith House

B9a. Architect: n/a b. Builder: n/a

*B10. Significance: Theme Early Development/Agriculture Area Los Altos

Period of Significance c.1900-1961 (50 year mark) Property Type Orchard Applicable Criteria NR/CR/Local

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity.)
In approximately 1901, J. Gilbert Smith purchased 10 acres of farmland to grow apricots and establish a home site. Living in a tent on his land during construction, Smith completed the house in 1905. He later married Margaret Hill Smith and the couple developed a sizeable apricot orchard on the property. The Smiths sold their property to the city of Los Altos in 1954, two years after incorporation, for the construction of the City's Civic Center complex. A stipulation of the sale was that the couple would be allowed to reside in the house and surrounding acre until their passing, at which point the house would become the city's history museum. Upon Mrs. Smith's death in 1973, the property reverted to the city. Another stipulation was that the remaining apricot trees not be removed; the city maintains and replaces the trees as needed today. The house and orchard are now City of Los Altos Historical Landmarks and the house itself is a California Point of Historical Interest. On September 8, 1991 the City Council unanimously passed and adopted a resolution adding the Civic Center's apricot orchard along San Antonio Road to the West, the Library to the South, the Youth Center to the East, the Civic Center parking lot to the North, as a Historical Landmark.

Evaluation: The Civic Center orchard is one of the last active apricot orchards remaining in Los Altos and was first planted by early Los Altos resident, J. Gilbert Smith. Despite the orchard's decrease in size and adjacent new construction, the site retains a fair degree of integrity. Therefore, it is listed on the Los Altos Historic Resources Inventory as a Historic Resource and is assigned the California Register Status Code 5S1: "Individual property that is listed or designated locally."

B11. Additional Resource Attributes: (List attributes and codes) _____

*B12. References:

Los Altos Historical Commission: Los Altos HRI (9.28.1997); McAlester, Virginia and Lee. A Field Guide to American Houses. New York: Alfred A. Knopf, 2002; DPR series forms by G. Laffey (1997); Sanborn Maps; Los Altos HRI (February 2011).

B13. Remarks:

Vicinity map provided by the City of Los Altos and amended by Circa: Historic Property Development.

*B14. Evaluator: Circa: Historic Property Development

*Date of Evaluation: July 2011

(This space reserved for official comments.)





MAINTENANCE DIVISION

APRICOT ORCHARD MANAGEMENT & GUIDELINES



Description of Orchard: The heritage orchard is located at 1 North San Antonio Road in the Civic Center grounds. It surrounds the City Hall building, and parts of the Library, Youth Center and Police Department.

Acreage: 2.84 acres

Number of tree sites: 444

Type of apricot tree: Blenheim apricot on Nemagard and Lovell rootstock

Current condition: Fair/Poor

Number of trees older than 5 years: 182

Number of trees less than 5 years: 262

Number of trees that died and were replanted in 2005: 135

Number of trees that died and need to be replanted in 2006: 40

Diseases and pests affecting orchard:

1. Ring nematodes in the soil reduce the vigor of the trees by restricting the flow of nutrients in the trees, leading to tree decline and death of the trees. – Severe problem.
2. Associated with the nematodes is a bacterial canker, when the nematodes are reduced the incidence of bacterial canker will be reduced. – Severe problem.
3. Brown rot on the fruit reduces the value of the fruit. Stresses the trees as it invades the young shoots, reducing the vigor and ultimately killing the shoots and parts of the support wood, as seen by gumming of the wood. Severe problem.
4. Eutypa limb die back from soil bacteria entering trimming wounds after late season trimming. Moderate problem.
5. Seasonal aphids suck the juices treated with cultural practices or ladybugs. – Mild problem.

Current watering practices:

1. The current use of above ground aluminum agricultural irrigation pipes combined with impact heads results in excessive water use with water runoff and silt flow into storm drains. This method also provides inconsistent watering resulting in drought stressed trees in the summer. It provides excessive water to the cover crop promoting the incidence of ring nematodes and bacterial canker.

Chapter 11.08 TREE PROTECTION REGULATIONS¹

11.08.010 Purpose and intent.

The purpose of this chapter is to protect and promote the growth of a healthy and sustainable tree canopy in Los Altos. Trees in Los Altos are highly valued by the community and provide several benefits, including shade and climate resilience, habitat for wildlife, carbon sequestration and improved air quality, protection against wind and flood hazards, and aesthetic quality.

This chapter establishes standards for proper tree removal and replacement, preservation, and protection during construction.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.020 Definitions.

The following words and phrases when used in this article shall have the meaning set forth herein, except where the context clearly indicates a different meaning:

"Damage" means any intentional action or negligence which causes injury, death or disfigurement of a tree. Actions include, but are not limited to, cutting, girdling, poisoning, overwatering, unauthorized relocation or transportation of a tree or trenching, excavating, altering the grade or paving within the dripline of a tree.

"Certified arborist" means a person having expertise in the care and maintenance of trees, who is certified by the International Society of Arboriculture (ISA) or the American Society of Consulting Arborists (ASCA).

"Development review application" means application for land alteration or development, including but not limited to tentative subdivision map, design review, variance, use permit, rezoning, planned unit development and tree removal.

"Dripline" means the outermost line of the tree's canopy projected straight down to the ground surface. As depicted in a plan view, the dripline generally appears as an irregularly shaped circle.

"Heritage tree" means any tree so designated by the historical commission, based on the finding that the tree has character, interest, or value as part of the development of, and/or exemplification of, the cultural, educational, economic, agricultural, social, indigenous, or historical heritage of the city.

"Native species" as defined by list on file with the development services department.

"Protected tree" (See Section 11.08.040).

"Significant pruning" means the cutting or taking away of more than thirty-three (33) percent of the living foliage material (including branches) of a tree in any twelve (12) month period such that it damages a tree as determined by a certified arborist or as otherwise determined by the development services director. (See the definition for tree removal in this section.)

¹Ord. No. 2024-506, § 1(App. A), adopted Feb. 13, 2024, amended Chapter 11.08 in its entirety to read as set out herein. Former Chapter 11.08, §§ 11.08.010—11.08.140 pertained to similar subject matter, and derived from Prior code §§ 10-2.26501—10-2.26515 and Ord. 07-314 § 2 (part).

"Tree" including protected tree, means a woody perennial plant characterized by having a main stem or trunk or a multi-stemmed trunk system with a more or less definitely formed crown and is usually over ten (10) feet high at maturity.

"Tree removal" means the removal of a tree, including significant pruning. (See the definition for significant pruning in this section.)

"Undesirable/invasive species" as defined by list on file with the development services department.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.030 Application of chapter.

This chapter shall apply to every owner of real property within the city and to every person responsible for removing a tree regardless of whether such person is engaged in a tree removal business.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.040 Actions prohibited.

- A. It is unlawful to damage or kill any protected tree.
- B. It is unlawful to remove any protected tree from private or public property in any zoning district without first obtaining a tree removal permit.

(See Section 11.08.160 for violation/penalties.)

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.050 Protected trees.

A protected tree is any of the following:

- A. Any tree that is thirty-eight (38) inches in circumference (twelve (12) inches in diameter) measured at forty-eight (48) inches (four-feet) above grade;
- B. Any tree of a native species that is ten (10) inches in diameter or greater measured at forty-eight (48) inches above grade;
- C. Any tree designated by the historical commission as a heritage tree or any tree under official consideration by the historical commission for heritage tree designation;
- D. Any tree which was required by the city to be either saved or planted in conjunction with a development review application.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.060 Heritage tree designations.

- A. Applications. Applications for designation of a heritage tree may be filed by the owner of the property on which the tree is located. The city council or planning commission or zoning administrator may also, by resolution or motion, refer a proposed designation to the historical commission, or the historical commission may also consider a proposed designation upon its own initiative. Applications by property owners shall be prepared in accordance with instructions provided by the development services director.

- B. Study. The historical commission shall conduct a study of the proposed heritage tree, based upon such information or documentation as it may require from the applicant, the commission staff, or from other available sources.
- C. Property owner notification. The historical commission shall notify the owner of the property on which the tree is located of the meeting at which the commission will consider the tree for designation. The notice shall be mailed to the recorded owner(s) as shown on the last equalized assessment roll and shall be mailed at least thirty (30) days prior to the meeting unless the property owner(s) agree in writing to a lesser notification period. Failure to receive notice shall not invalidate any proceedings under this chapter.
- D. Action on designation. The historical commission may either recommend denial or approval of designation based on the criteria outlined in Section 12.44.030 of this code.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.070 Tree removal permits required.

In order to remove any protected tree, a tree removal permit must be obtained. All applications for a tree removal permit shall be prepared in accordance with instructions provided by the development services director.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.080 Approval authority.

Notwithstanding the provisions of Section 11.08.100 of this chapter, the approval authority for tree removal requests shall be as follows:

- A. For heritage trees: the approval authority shall be the historical commission.
- B. For all other protected trees:
 - 1. The approval authority for tree removal shall be the development services director.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.090 Notification.

Once the city issues a tree removal permit, city staff or, at their discretion, the applicant, shall post notice of the decision on the application for such permit on the subject property and [it] shall be legible and visible from the public right-of-way. Such notice shall state the decision on the application and shall provide information on the appeal process pursuant to this chapter.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.100 Determination on permit.

- A. Criteria. Each application for a tree removal permit shall be reviewed and determined based on the following tree removal criteria:
 - 1. The tree is dead, in poor health (as defined in the most recent edition of the Guide for Plant Appraisal), or has a risk rating of moderate, high, or extreme which cannot be mitigated through sound arboricultural practices to a low-risk rating.

2. The tree species is identified as an invasive or undesirable species (as defined by list on file with the development services department).
 3. The tree is interfering or will interfere with a utility, public transportation, waterway, or other public infrastructure system.
 4. The tree is causing damage to an enclosed structure which cannot be mitigated in another way.
 5. Preservation of the tree will impede the use of real property and no reasonable or feasible alternative (as determined by the development services director) exists to preserve the tree in the current location.
- B. Additional recommendations. The approval authority may refer the application to another department, commission or person for a report and recommendation. The approval authority may also require the applicant to furnish a written report from an independent certified arborist acceptable to the approval authority; such report shall be obtained at the expense of the applicant.
- C. Action. Based on the criteria outlined in subsection A of this section, the approval authority shall either approve, conditionally approve, or deny the application. Conditions of approval may require any of the following:
1. One or more replacement trees be planted as outlined in section 11.08.120 Tree Replacement Criteria;
 2. Payment of an in-lieu fee in compliance with section 11.08.120;
 3. A combination of replacement trees and in-lieu fees that in total provide for the number of replacement trees as outlined in section 11.08.110.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.110 Waivers and exemptions.

- A. Hazardous or dangerous condition of a tree requiring immediate action for the safety of life or property, a tree may be removed upon the order of the development services director, the public works director or any member of the police or fire department without the necessity of applying for a tree removal permit.
1. In the event that a protected tree is thought to be dead or diseased and warrants the removal, a property owner can submit photographs of the subject tree to the development service department for review and consideration of an exemption from the requirement of a tree removal permit.
 - a. Trees removed pursuant to the provisions of section 11.08.110(A)(1) are subject to field verification and on-site inspection by the development services department.
- B. Employees of the city may take such action with regard to trees on city-owned property as may be necessary to maintain the safety of city operations and/or the safe conditions on city property, without the necessity of applying for a tree removal permit.
- C. Public utilities subject to the jurisdiction of the public utilities commission of the State of California may also take such action as may be necessary to comply with the safety regulations of said commission and as may be necessary to maintain a safe operation of their facilities without the necessity of applying for a tree removal permit.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.120 Tree replacement.

- A. Trees approved for removal (including dead trees) shall be replaced based on the number and size of trees approved for removal as follows:
 - 1. Replace the tree 1:1 with a tree of a similar size canopy at maturity.
 - 2. Where 1:1 replacement in kind is not feasible, replace the tree with two (2) or more trees, such that the replacement trees (combined) provide a similar size canopy at maturity.
 - 3. Replacement tree shall be a minimum of 24-inch box size container unless a smaller container is recommended by the certified arborist based on tree species or planting location.
- B. The development services director shall have the authority to approve an increase in the number of the on-site replacement trees and reduce the required size of the trees, when appropriate.
- C. Replacement Plan. A tree replacement plan prepared by a certified arborist shall be made a requirement of the tree removal permit and be provided with the tree removal application. It shall include and adhere to the following:
 - 1. The number, species and site plan of the proposed location of replacement trees;
 - 2. Replacement trees shall be planted within thirty (30) days from removal of the tree when the site is ready for planting and area is suitable for new planting, unless accepted arboricultural practices dictate a preferential planting period based on the species chosen as the replacement tree and seasonal factors;
 - 3. Any person who is required to plant replacement trees as a condition of a tree removal permit shall maintain such trees in a healthy condition to ensure their long-term survival;
 - 4. Replacement trees shall be obtained and planted at the expense of the applicant.
- D. No replacement tree shall be required when it is determined that the existing tree is or has caused direct damage to an existing structure or property.
 - 1. When a replacement tree is not required pursuant to section 11.08.120(D), a field inspection shall be completed by the development services department to verify any damage onsite.
- E. Where replacement is not possible on-site as determined by the certified arborist, the applicant shall pay an in-lieu fee in an amount set forth by the city council and shall be paid to the street tree fund.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.130 Appeals.

Any action of the approval authority may be appealed by the applicant or any interested party to the city council. Said appeal shall be in writing, shall state the reasons for the appeal, shall be accompanied by a fee which shall be set by city council resolution and shall be filed with the city clerk within ten (10) calendar days of the decision.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.140 Tree protection during construction.

Protected trees designated for preservation shall be protected during development of a property by compliance with the following, which may be modified by the development services director:

- A. Protective fencing shall be installed no closer to the trunk than the dripline, and far enough from the trunk to protect the integrity of the tree. The fence shall be a minimum of five feet in height and shall be set securely in place. The fence shall be of a sturdy but open material (i.e., chain link), to allow visibility to the trunk for inspections and safety. There shall be no storage of any kind within the protective fencing. The fence shall be in place until construction has been completed.
- B. The existing grade level around a tree shall normally be maintained out to the dripline of the tree. Alternate grade levels may be approved by the development services director.
- C. Drain wells shall be installed whenever impervious surfaces will be placed over the root system of a tree (the root system generally extends to the outermost edges of the branches).
- D. Trees that have been damaged by construction shall be repaired in accordance with accepted arboriculture methods. If a tree is damaged beyond repair, damage shall be categorized as a violation in accordance with Section 11.08.160 and shall require replacement tree(s) in accordance with Section 11.08.120.
- E. No signs, wires, or any other object shall be attached to the tree.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.150 Delegation of functions.

The development services director may delegate any or all of the administrative duties authorized by this chapter to one or more staff members. All requests for tree removal(s) shall provide all appropriate documentation as identified by this chapter, including any waivers or exceptions granted.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)

11.08.160 Violations—Penalties.

The violation of any provision contained in this chapter is hereby declared to be a misdemeanor and shall be punishable as prescribed in Chapter 1.20 of this code. Violations pursuant to this section of the code shall incur a penalty fine for each tree removed without proper authorization. In addition thereto, any person unlawfully removing or destroying any protected tree without a permit shall be penalized as follows:

- A. Replacing the unlawfully removed tree with one or more new trees in accordance with section 11.08.120 or in the opinion of the development services director, will provide equivalent aesthetic quality in terms of size, height, location, appearance and other characteristics of the unlawfully removed tree.
- B. Where replacement trees will not provide equivalent aesthetic quality because of the size, age or other characteristics of the unlawfully removed tree, the development services director shall calculate the value of the removed tree in accordance with the latest edition of the Guide for Establishing Values of Trees and Other Plants, as prepared by the council of tree and landscape appraisers. Upon the determination of such value, the development services director may require either a cash payment to the city to be added to the street tree fund, or the planting of replacement trees as designated by the development services director, or any combination thereof, in accordance with the following:
 - 1. To the extent that a cash payment is required for any portion or all of the value of the removed tree, such payment shall be doubled to reflect the estimated installation costs that would be incurred if replacement trees are planted; and

2. To the extent that the planting of replacement trees is required, the retail cost of such trees, as shown by documentary evidence satisfactory to the development services director, shall be given for transportation, installation, maintenance and other costs incidental to the planting and care of the replacement trees.
- C. Any person who is required to plant replacement trees pursuant to subsection A or B of this section shall maintain such trees in a good and healthy condition, as determined by the development services director. The development services director may require a maintenance bond or other security deposit approved by the city finance department which shall be provided to the city by the person required to plant replacement trees. The bond shall be in an amount of money and for a period of time determined by the development services director.

(Ord. No. 2024-506, § 1(App. A), 2-13-2024)



MEMORANDUM

DATE: January 22, 2007
TO: Brian McCarthy, Public Works Superintendent
FROM: Doug Riley, Public Works Supervisor
SUBJECT: CIVIC CENTER ORCHARD CONDITION

RECOMMENDATION

Staff recommends continuing to follow the Orchard Management plan for the apricot trees in the Civic Center orchard that was implemented in August 2006. The plan requires extra contract work and staff work to improve the long term health and vigor of the apricot trees.

BACKGROUND

Due to a lack of water and various diseases and pests the apricot trees in the orchard were dying. The Orchard Management plan was implemented to improve the health and vigor of the trees in the orchard.

DISCUSSION

The Orchard Management Plan recommended increasing the frequency of irrigation during the summer to reduce draught stress of the apricot trees. Water stressed trees are less vigorous and unable to defend themselves from root diseases like ring nematodes. Staff directed the contractor to water 3-4 times during the summer instead of the typical 1-2 times. The plan also recommended mowing the cover crop instead of disking. Disking reduces the incidence of ring nematodes and a soil bacterial canker that kills the trees. To keep the cover crop in control and attractive mowing is recommended 4-5 times per year instead of disking 2-3 times per year. Trimming the trees in July after the fruit harvest reduces the spread of brown rot and eutypa limb die back. The Plan also recommends the removal of the interior sucker growth on the apricot trees to reduce the spread of eutypa.

This extra work will be on going to improve the health and vigor of the orchard. The extra work will cost more. The cost increase should be fairly constant at about \$8000.00 total per year

The City of Saratoga has 14 acres of orchard and contracts most of the orchard work at a rate of \$5000/acre. The cost per acre for the City contractor including the extra work FY06 was \$2927/acre.


Doug Riley
Public Works Supervisor

RESOLUTION NO. 81-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
DESIGNATING A HISTORICAL LANDMARK

WHEREAS, by virtue of its adoption of Ordinance No. 78-16, the City Council of the City of Los Altos did establish a procedure for the designation and preservation of historical landmarks within the City of Los Altos; and

WHEREAS, in accordance with that Ordinance, the Historical Commission has made positive findings under Section 2-8.104(c) with regard to a portion of the property at One North San Antonio Road known as the Civic Center Apricot Orchard (a portion of APN 170-42-29), as described in Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, the City Council concurs with the decision of the Historical Commission in this regard;

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City Council of the City of Los Altos does hereby determine that the subject property is designated as a historical landmark and is subject to the terms and conditions outlined in Ordinance No. 78-16;

I HEREBY CERTIFY that the foregoing is a true copy of a Resolution duly passed and adopted by the City Council of the City of Los Altos on the 12th day of May, 1981, by the following roll call vote:

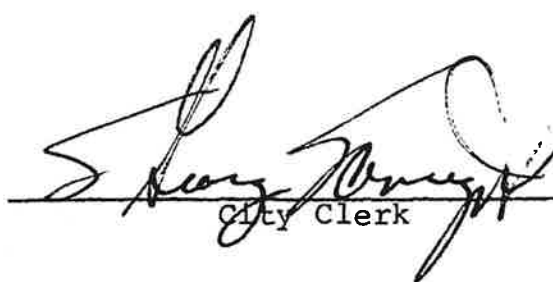
AYES: Mayor pro tem Reed, Councilmen Kallshian and Lave

NOES: None

ABSENT: Mayor Eng and Councilman Grimm



Mayor



City Clerk

EXHIBIT "A"
RESOLUTION NO. 81-23

Historical designation to include one (1) structure referred to as History House or J. Gilbert Smith residence, the surrounding garden, and the Apricot Orchard on the land described below.

All other structures on the land, as well as a presently undefined portion of the orchard necessary to accommodate the future Council Chambers, are specifically excluded.

LEGAL DESCRIPTION

PARCEL NO. 1: Beginning at an underground wooden monument standing in the center line of San Antonio Avenue, formerly Griffin Road, at the Southwest corner of that certain 59.75 acre parcel of land conveyed by George D. Wise to George D. Newhall by Deed dated October 2, 1894 and recorded December 28, 1894 in Book 177 of Deeds, page 140, Santa Clara County Records, from which monument the common corner of Sections 19, 20, 29 and 30 Township 6 S.R. 2 W., M.D.M., bears N. 0° 01' W. 39.81 chains distant; said point of beginning also being point of intersection of said center line of San Antonio Avenue with the Southerly line of that certain 6.75 acre parcel of land conveyed by Margaret Hill Smith, et al, to Margaret Hill Smith, et vir, by Deed dated July 31, 1943 and recorded August 4, 1943 in Book 1151 of Official Records, page 526, Santa Clara County Records; running thence along said center line of San Antonio Road, N. 0° 01' W. 300.00 feet to the intersection thereof with the Northerly line of said 6.75 acre parcel of land; thence leaving said center line and running along said Northerly line of the 6.75 acre parcel of land N.89° 46' E. 755.00 feet; thence leaving said Northerly line and running Southerly in a direct line 300.0 feet to a point on the Southerly line of the said 59.75 acre parcel of land, said point also being on the Southerly line of the said 6.75 acre parcel of land, that bears, N. 89° 46' E. 755.0 feet from the point of beginning; running thence along said Southerly line of the 59.75 acre parcel of land being also the Southerly line of the said 6.75 acre parcel of land S. 89° 46' W. 755.0 feet to the point of beginning, and being a portion of the 59.75 acre parcel of land of Geo. D. Newhall, as shown on that certain Map entitled, "Map

the portion of the Newhall & Wise Tract, being a part of S. 29, T. 6 S.R. 2 W., Santa Clara Co., Calif., filed for record December 28, 1894 in Book "H" of Maps, page 103, Santa Clara County Records.

PARCEL NO. 2: Beginning at the point of intersection of the center line of San Antonio Avenue, formerly Griffin Road with the Northerly line of Lot 4, as shown on the Map hereinafter referred to; running thence Easterly along said Northerly line, 480.0 feet; thence leaving said Northerly line and running Southerly and parallel with said center line of San Antonio Avenue, 330.0 feet to a point on the Southerly line of said Lot 4; running thence Westerly along said Southerly line 480.0 feet to a point in said center line of San Antonio Avenue; running thence Northerly along said center line 330.0 feet to the point of beginning, and being a portion of Lot 4, as shown on that certain Map entitled, "Map of 301.20 for 320 acres of School Land included in Certificate of Purchase No. 117 dated Sacramento June 27th, 1862 located under the Act of the Legislature of the State of California, passed April 22, 1861, issued in the name of Leonard S. Clark, location No. 68 in San Francisco, to wit, the fractional North West and South West quarters of Section 32 and the South West quarter of Section 29, in T. 6 S.R. 2 W., of Mt. Diablo Meridian," which said Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California, on July 28, 1864 in Book "A" of Maps, at pages 70 and 71, and a copy thereof was recorded in said Office on May 26, 1877 in Book "A" of Maps, at page 19, and being commonly known as the Map of the Leonard S. Clark Subdivision.

PARCEL NO. 3: Beginning at a point on the Northerly line of Lot 4, distant Easterly thereon 480.0 feet from the intersection thereof with the center line of San Antonio Avenue, formerly Griffin Road, as said lot and center line are shown on the Map hereinafter referred to; running thence Easterly along said Northerly line 180.0 feet to the Northeast-erly corner of said Lot 4, as shown on said Map; running thence South-erly along the Easterly line of said Lot 4 a distance of 330.0 feet to the Southeast-erly corner thereof; running thence Westerly along the Southerly line of said Lot 4, a distance of 180.0 feet; thence leaving said Southerly line and running Northerly and parallel with said center line of San Antonio Avenue, 330.0 feet to the point of beginning and being a portion of Lot 4, as shown on that certain Map entitled, "Map of 301.20 for 320 acres of School Land included in Certificate of Purchase No. 117 dated Sacramento June 27th, 1862, located under the Act of the Legislature of the State of California, passed April 22, 1861, issued in the name of Leonard S. Clark, location No. 68 in San Francisco, to wit, the fractional North West and South West quarters of Section 32 and the South West quarter of Section 29, in T. 6 S.R. 2 W., of Mt. Diablo Meridian," which said Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California, on July 28, 1864 in Book "A" of Maps, at pages 70 and 71, and a copy thereof was recorded in said Office on May 26, 1877 in Book "A" of Maps, at page 19, and being commonly known as the Map of the Leonard S. Clark Subdivision.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING CHAPTER 5 AND 8 OF TITLE 2 OF THE LOS ALTOS MUNICIPAL CODE RELATING TO THE HISTORICAL COMMISSION AND DESIGNATION AND PRESERVATION OF LANDMARKS AND CULTURAL RESOURCES MANAGEMENT.

THE CITY COUNCIL OF THE CITY OF LOS ALTOS DOES ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS: The City Council of the City of Los Altos hereby finds:

- (a) That the City's General Plan Chapter 3 Goals 5 and 6 calls for the preservation and enhancement of the City's historic and cultural resources;
- (b) That the City Council has heard and considered evidence submitted at properly advertised joint City Council/Historical Commission work sessions and Historical Commission, Planning Commission and City Council public meetings, such evidence indicating a distinct need for adoption of an ordinance amending the Municipal Code relative to historical resources;
- (c) That the City Council finds that the adoption of said amendments to the Municipal Code is in the best public interests.

SECTION 2. AMENDMENT OF CODE: Section 2-5.02 and 2-5.09 of Chapter 5, of Title 2 of the Los Altos Municipal Code are hereby amended to read as follows:

Section 2-5.02. Membership.

All voting commissioners shall be residents of the City, except that: a) three (3) voting members of the Library Commission need not be residents; and b) two (2) voting members of the Historical Commission need not be residents provided the criteria of Section 2-8.201 are met.

Section 2-5.09. Powers and Duties of the Historical Commission.

The Historical Commission shall have those powers and duties granted it by Section 2-8.204 of the Los Altos Municipal Code and/or as may be entrusted to it by the Council from time to time and shall submit an annual report to the Council.

SECTION 3. AMENDMENT OF CODE: Sections 2-8.101 through 2-8.203 of the Los Altos Municipal Code are hereby amended, and Sections 2-8.204 through 2-8.504 are hereby added to the Los Altos Municipal Code, as contained in Exhibit A attached hereto and incorporated herein by reference as if set forth in full.

SECTION 4. PUBLICATION: A summary of this ordinance shall be published as required in Government Code Section 36933.

* * * * *

The above and forgoing Ordinance was duly and regularly introduced at a meeting of the City Council of the City of Los Altos on the 27th day of March, and was thereafter, at a regular meeting held on the 10th day of April passed and adopted by the following roll call vote:

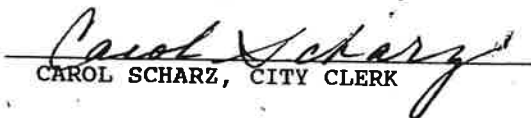
AYES: Mayor Reeder, Councilmembers Bruno, Lave, & Spangler

NOES: None

ABSENT: Councilmember Laliotis



DAVID REEDER, MAYOR



CAROL SCHARZ, CITY CLERK

EXHIBIT A
Ordinance 90-225**CHAPTER 8. DESIGNATION AND PRESERVATION**
OF LANDMARKS AND CULTURAL RESOURCES MANAGEMENT**Article 1. General Provisions****Sec.2-8.101 Purpose**

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

(a) Safeguard the heritage of the City by providing for the protection of irreplaceable historic resources representing significant elements of its history;

(b) Enhance the visual character of the City by encouraging the compatibility of architectural styles which reflect established architectural traditions;

(c) Encourage public knowledge, understanding and appreciation of the City's past, and foster civic and neighborhood pride and sense of identity based upon the recognition and use of the City's historic resources;

(d) Stabilize and improve property values within the City and increase the economic and financial benefits to the City and its inhabitants derived from the preservation, rehabilitation, and use of historic resources;

(e) Integrate the conservation of historic resources into the public and private development process and identify as early as possible and resolve conflicts between the preservation of such resources and alternative land uses.

Sec.2-8.102 Definitions

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

(a) **Alteration** means any exterior change or modification of a designated historical landmark or any property within an historic district including, but not limited to, exterior changes to or modifications of structure, architectural details or visual characteristics, grading, surface materials, the addition of new

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structures, removal or alteration of natural features, disturbance of archeological sites or areas, and the placement or removal of any exterior objects such as signs, plaques, light fixtures, walls, fences, steps or gates affecting the exterior visual qualities of the property, but does not include painting, ordinary maintenance and landscaping.

(b) **Designated historic district** means a distinct section of the City, specifically defined in terms of geographical boundaries, designated as an historic resource pursuant to this Chapter.

(c) **Designated historic landmark** means a building, improvement, structure, natural feature, site or area of land under single or common ownership, designated as an historic resource pursuant to this Chapter.

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

(e) **Historical Commission** means the historical preservation commission established pursuant to this Chapter and **Commissioner** means a member of the Historical Commission.

(f) **Commission staff** means the Planning Director and her/his authorized representatives.

(g) **Historic resource** means any public or private property designated by the City, pursuant to this Chapter, as an historic landmark or historic district, and those properties listed on the City's Historical Resources Inventory.

(h) **Historic Resources Inventory** means the City's official inventory of the historic resources, as adopted and amended from time to time by resolution of the Historical Commission. A property may be listed on the Historical Resources Inventory without being designated pursuant to this Chapter as an historic landmark or historic district.

(i) **Improvement** means any building, structure, parking facility, fence, gate, wall, work of art or other appurtenance or addition thereto constituting a physical betterment of real property, or any part of such betterment.

(j) **Preservation** means identification, study, protection, restoration, rehabilitation or enhancement of cultural resources.

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Article 2. Historical Commission**Sec.2-8.201 Creation; qualification and residency of members**

An Historical Commission consisting of seven unpaid members, with the following qualifications, shall be appointed by the City Council:

(a) Two members who, by reason of training and experience, are (1) knowledgeable in the field of construction and structural rehabilitation, such as a licensed architect, engineer or contractor, or (2) social/architectural historian or urban planner. Such members must either reside or have a place of business within the City; provided, however, with the approval of the City Council, any such members who do not maintain an office within the City may reside within the geographic area covered by the 94022 and 94024 U.S. Postal Service zip code.

(b) Five members appointed at large having demonstrated interest in preservation of the historic resources within the City. Such members must be residents of the City.

(c) The original appointment of members of the Commission shall be as provided in Section 2-5.03.

The term of office of members of the Commission shall be as provided in Section 2-5.03.

Sec.2-8.202 Organization

(a) The Commission shall elect annually, on or before January 31st, one of its members to serve in the office of Chairman, and may elect such other officers from among its members as designated in its charter. Should a mid-year vacancy in any office occur, the Commission shall elect a replacement officer at the next regular or noticed special meeting to serve until the next annual election of officers.

(b) The Planning Director or her/his authorized representative shall act as Secretary for the Historical Commission, shall be the custodian of its records, shall conduct official correspondence, and shall generally supervise the clerical and technical work performed at the request or on behalf of the Historical Commission.

(c) The Historical Commission shall meet monthly, or more frequently upon call of the Chairman or Commission staff, as necessary. All meetings shall be open to the public and a public

record shall be kept of all Commission proceedings and actions.

A majority of Commissioners shall constitute a quorum, with the Chairman having a vote. The City Council shall prescribe rules and regulations for the conduct of its business, thereafter, giving the powers and authority to perform the duties hereinafter enumerated.

Sec. 2-8.203 Powers and Duties

The Historical Commission shall be advisory only to the City Council, the Planning Commission and the agencies and departments of the City, and shall establish liaison and work in conjunction with such authorities to implement the purposes of this Chapter. The Historical Commission shall have the following powers and duties:

(a) Conduct, or cause to be conducted, a comprehensive survey of properties within the boundaries of the City for the purpose of establishing the Historic Resources Inventory. To qualify for inclusion in the Historic Resources Inventory, a property must satisfy the criteria listed in this Chapter. The Inventory shall be publicized and periodically updated, and a copy thereof shall be kept on file in the Planning Department.

(b) Recommend to the City Council specific proposals for designation as an historic landmark or historic district.

(c) Recommend to the appropriate City agencies or departments, projects and action programs for the recognition, conservation, enhancement and use of the City's historic resources, including standards to be followed with respect to any applications for permits to construct, change, alter, remodel, remove or otherwise affect such resources.

(d) Review and comment upon existing or proposed ordinances, plans or policies of the City as they relate to historic resources.

(e) Review and comment upon all applications for building demolition or grading permits involving work to be performed upon or within a designated historic landmark or historic district, and all applications for tentative map approval, rezoning, building site approval, use permit, variance approval, design review or other approval pertaining to or significantly affecting any historic resource. The Commission's comments shall be forwarded to the City agency or department processing the application within thirty days after receiving the request for such comments.

(f) Investigate and report to the City Council on the availability of federal, state, county, local or private funding

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sources or programs for the rehabilitation and preservation of historic resources.

(g) Cooperate with county, state and federal governments and with private organizations in the pursuit of the objectives of historical preservation.

(h) Provide resource information on the restoration, alteration, decoration, landscaping or maintenance of any cultural resource including the landmark, landmark site, historic district, or neighboring property within public view.

(i) Participate in, promote and conduct public information and educational programs pertaining to historic resources.

(j) Perform such other functions as may be delegated to it by resolution or motion of the City Council.

Article 3. Designation of Historical Resources

Sec.2-8.301 Criteria

The Historical Commission may recommend to the City Council the designation of a proposed historic landmark or historic district if it satisfies one part from each of the three criteria listed below:

(a) It should have achieved its significance more than fifty years ago. (Exceptions are made to this rule if the building(s) or site(s) is/are truly remarkable for some reason -- such as being associated with an outstanding architect, personage, usage or event.)

(b) It should fit into at least one of the following categories:

(1) It has character, interest, or value as part of the development of, and/or its exemplification of, the cultural, educational, economic, agricultural, social or historical heritage of the City;

(2) It is identified with persons or events significant in local, State, or National history;

(3) It embodies distinctive characteristics of a style, type, period, or method of architecture or construction, or is a valuable example of the use of indigenous materials or craftsmanship;

(4) It is representative of a notable work of a builder, designer, or architect;

(5) It has a unique location or singular physical characteristics, whether man-made or natural, representing an established or familiar visual feature of a neighborhood, community, or the City of Los Altos; or it has a relationship to any other landmark, and its preservation is essential to the integrity of that landmark;

(6) The property has the potential for yielding archeological information.

(7) It embodies or contributes to a unique natural setting or environment constituting a distinct area or district within the City having special character or special historical, architectural or aesthetic interest or value.

(c) It should not be altered significantly, so that its integrity is not compromised.

Sec.2-8.302 Applications

(a) Applications for designation as an historic landmark or historic district may be submitted to the Historical Commission by any of the following:

(1) The owner or owners of a building, improvement, structure, natural feature, site or area of land, requesting designation of their property as an historic landmark;

(2) The owners of at least twenty-five percent of the frontage of all recorded lots abutting a specific geographic section of the City, requesting designation as an historic district;

(3) The owners of at least twenty-five percent of the area of all recorded lots within a specific geographic section of the City, requesting designation of the entire section as an historic district.

(b) The City Council or the Planning Commission may also, by resolution or motion, refer a proposed designation to the Historical Commission for its recommendation and the Historical Commission may consider a proposed designation upon its own initiative.

Sec.2-8.303 Historic Landmark Designation

(a) The Historical Commission shall conduct a study of the proposed designation, based upon such information or documentation as it may require from the applicant, the Commission staff, or from other available sources. The Commission may, in its discretion, receive written or verbal comments from any persons having an interest in the proposal or any information relevant thereto.

(b) The Commission shall conduct a public hearing on the proposal. Notice of the time, place, and purpose of the hearing shall be given at least ten (10) days prior to the date of the hearing by publication at least once in a newspaper of general circulation within the City and by mail to the applicant, to the owner or owners of the property, and to the owners of abutting properties. Such written notice shall contain a complete description of the proposed designation and shall advise the property owners that written objections to the proposal may be filed with the Historical Commission in addition to oral comments at the hearing.

(c) Based on its findings to the following issues, the Commission shall render a written report of its recommendation to the City Council within a reasonable time:

- (1) That the proposed landmark has significant historical, architectural, cultural, or aesthetic interest or value; and
- (2) That the approval or modified approval of the application is consistent with the purposes and criteria of this chapter.

The report shall be accompanied by all of the relevant information and documentation and either shall recommend the designation as originally proposed, recommend a modified designation, or recommend that the proposed designation be rejected. The report shall set forth in detail the reasons for the Historical Commission's decision and the information and documentation relied upon in support thereof. A copy of the report shall be sent to the property owner or owners.

(d) The City Council shall consider the report at its next available regular meeting and determine whether or not to accept the Historical Commission's recommendations. The City Council shall by resolution either approve the proposed designation, in whole or in part or as modified, or shall, by motion, disapprove the proposal in its entirety.

(e) The City must notify the owner and all adjacent property owners of the date on which the City Council will consider this report.

(f) In the event a designating resolution is adopted by the City Council, such resolution shall become effective immediately following adoption thereof and the designated property shall thereafter be subject to the regulations set forth in this Chapter and to such further restrictions or controls as may be specified in the designating resolution. After approval of a designating resolution, the secretary of the Commission shall notify the property owner by mail, outlining the basis for the designation and the regulations which result from such designation. The secretary shall also cause such resolution to be recorded in the office of the County Recorder.

(g) Adoption of a designating resolution shall be based upon a finding by the City Council that the designated property has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the City, the County, the State or the Nation, and satisfies the criteria set forth in this article.

(h) Until final action has been taken by the City Council on the proposed designation as an historic landmark no building, alteration, grading, demolition or tree removal permit shall be issued for any work to be performed upon or within the property which is the subject of the proposed designation, unless approved by the Historical Commission or the City Council. This

restriction shall become effective as of the time the study is initiated, and shall extend until the designating resolution becomes effective.

Sec. 2-8.304 Historic District Designation

(a) Following the same procedures set forth in Section 2-8.303 (a), (b), and (c), the Historical Commission shall conduct a study of, and hold a public hearing on any proposed historic district and forward to the City Council and to the Planning Commission a report and recommendations, together with the information and documentation pertaining thereto.

(b) The Planning Commission shall conduct a public hearing on the proposed designation within sixty days after receipt of the Historical Commission's report. Notice of the public hearing shall be given in the manner provided in this chapter.

(c) The Planning Commission either shall recommend approval of the designation as originally proposed, or approval of the designation as modified by the Historical Commission or the Planning Commission, or both, or recommend that the proposed designation be rejected. If the Planning Commission recommends approval or modified approval of the designation, it shall instruct the Commission staff to prepare, and shall approve, a proposed form of ordinance for adoption by the City Council, designating the historic district and establishing a zoning overlay for such district. The proposed ordinance may include such regulations or controls over the designated property as the Planning Commission deems reasonably necessary for the conservation, enhancement and preservation thereof.

(d) The recommendations of the Planning Commission, together with the report and recommendations of the Historical Commission and the information and documentation pertaining thereto, and the proposed ordinance, if any, shall be transmitted to the City Council and considered at its next available regular meeting.

(e) The City Council shall determine whether the proposed historic district should be considered for designation as an historic resource, and adopt a resolution initiating final designation proceedings. Such resolution shall schedule a public hearing on the proposed designation to be conducted within sixty days. Notice of the public hearing shall be given in the manner provided in this Chapter. The resolution may further provide that during the pendency of the final designation proceedings, no building, alteration, grading, demolition or tree removal permit shall be issued for any work to be performed upon or within the properties which are the subject of the proposed designation, or may be issued only upon specified conditions or under specified circumstances.

(f) At the conclusion of the public hearing, but in no event later than sixty days from the date set in the resolution for the initial public hearing, the City Council either shall adopt an ordinance designating the historic district, in whole or in part, or as modified, or shall, by motion, disapprove the proposal in its entirety.

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

(h) Adoption of a designating ordinance shall be based upon a finding by the City Council that the designated property has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the City, the County, the State or the nation, and satisfies one or more of the criteria set forth in this Chapter.

Sec 2-8.305 Notice of Public Hearings

(a) Notice of the time, place and purpose of public hearings conducted by the City Council, the Planning Commission, and the Historical Commission pursuant to this Chapter shall be given not less than ten days nor more than thirty days prior to the date of the hearing by mailing such notice as follows:

(1) In the case of a proposed historic landmark, notice shall be given as set forth in Section 2-8.303 (b) of this chapter.

(2) In the case of a proposed historic district, notice shall be mailed to all persons shown on the latest available equalized assessed roll of the County as owning any property within the boundaries of the proposed district. Notice of the public hearing shall also be published once in a newspaper having general circulation in the City not later than ten days prior to the date of the hearing.

(b) Failure to send any notice by mail to any property owner whose name and address is not a matter of public record shall not invalidate any proceedings in connection with a proposed designation. The City Council, Planning Commission or Historical Commission may, but shall not be obligated to, give such other notices as they deem appropriate or desirable.

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Sec. 2-8.306 Notice of Designation

(a) Following adoption by the City Council of an ordinance designating a historic landmark or historic district, the Commission staff shall send notice of the designation, together with a copy of the ordinance, to the owner or owners of the designated historic landmark, or to the owners of all property within a designated historic district. The notice shall inform such owners that the designated property will be added to the Los Altos Historical Resources Inventory and may be eligible for certain privileges and benefits under local, state or federal law. The notice shall include a statement of the regulations and restrictions upon the designated property. The City Council also shall send notice of the designation to:

- (1) The Historical Commission;
- (2) The Planning Commission;
- (3) Any agency or department of the City requesting such notice or affected by the designation;
- (4) The Santa Clara County Historical Heritage Commission;
- (5) The California State Historic Preservation Officer;
- (6) The Los Altos Town Crier

(b) Notice of the designation and the complete legal description of the designated property shall be recorded in the office of the Recorder for the County.

Sec. 2-8.307 Termination of Designation

The only legitimate reason for terminating the designation is when the resource no longer meets the criteria due to loss of integrity. When a landmark is terminated, the Building Department shall be notified, and the appropriate cancellation notice of previously recorded notice of designation shall be recorded in the office of the County Recorder.

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Article 4. Permits**Sec.2-8.401 Permit required**

It is unlawful for any person to alter, demolish, remove, relocate or otherwise change in any manner any exterior architectural feature or natural feature of a designated historic landmark or to construct, alter, demolish, remove or relocate any building, improvement, other structure or natural feature upon any property located within a designated historic district, or to place, erect, alter or relocate any sign upon or within a designated historic landmark or historic district, without first obtaining a written permit to do so in the manner provided in this Article. Approval shall be based upon conformance with the Secretary of the Interior's Standards for Preservation Projects, the State Historic Building Code, and the designating ordinance.

Sec.2-8.402 Applications

Applications for permits, on forms prescribed by the Historical Commission, shall be submitted to the Planning Director, who shall forward the application to the Historical Commission for review and comment.

Sec.2-8.403 Supporting Data

The application shall include the following data:

- (a) Documentation establishing ownership of the designated property by the applicant for the permit;
- (b) A clear statement of the proposed work;
- (c) A site plan showing all existing buildings, structures, trees over six inches in diameter, property lines, easements and the proposed work;
- (d) Detailed plans showing both the existing and proposed exterior elevations, materials and grading;
- (e) Specifications describing all materials to be used and all processes that would affect the appearance or nature of the materials.
- (f) Notes indicating any deviation from the Secretary of the Interior's Standards for Historic Rehabilitation.
- (g) Where the application is for demolition, a detailed statement of the necessity for demolition together with photographs of the structure to be demolished;

(h) Such other information or documents as may be requested by the Historical Commission.

Sec.2-8.404 Historical Commission action

The Historical Commission shall complete its review and issue a recommendation to the Planning Director within forty-five days after receipt of the application and all supporting data. Unless legally required, there shall be no notice, posting or publication requirements for action on the application, but all decisions shall be made at regular or noticed special meetings of the Historical Commission. The Historical Commission's recommendation shall be in writing and shall state the reasons relied upon in support thereof. Upon receipt of the Historical Commission's recommendations, the Planning Director shall forward a copy thereof to the applicant.

Sec.2-8.405 Issuance of permit

If the Historical Commission recommends issuance of the permit requested in the application, or issuance of such permit subject to conditions, the Planning Director shall proceed to issue the permit in accordance with the recommendation after the expiration of ten days from the date the recommendation is delivered to the Planning Director, provided that no appeal has been filed during such time and provided further, that no other approval under this Code is required for issuance of such permit. In the event the Historical Commission recommends denial of the application, the Planning Director shall notify the applicant that the requested permit will not be granted.

Sec.2-8.406 Appeal

(a) Any recommendation issued by the Historical Commission with respect to the granting or denial of a permit may be appealed by the applicant or any interested person to the Planning Commission. The appeal shall be taken by filing with the Secretary of the Planning Commission a written notice thereof within ten days from the date the Historical Commission delivers its recommendation to the Planning Director. The notice of appeal shall be signed by the appellant and shall set forth all the grounds for the appeal and shall be accompanied by a fee to cover the administrative cost of handling the appeal as set by the Council by resolution. Upon receipt of the notice of appeal and filing fee, the Secretary of the Planning Commission shall set the appeal for hearing at the next available regular meeting of the Planning Commission. The Planning Commission shall conduct a hearing de novo on the appeal and may adopt, reject or modify the recommendations of the Historical Commission. Only the grounds specified in the notice of appeal shall be considered.

(b) The decision of the Planning Commission may be further appealed to the City Council by either the applicant or any interested person, in accordance with the procedure set forth in Title 1, Section 1-4.01, of the Los Altos Municipal Code.

Sec.2-8.407 Criteria

The Planning Director, on the recommendation of the Historical Commission, or Planning Commission or City Council on appeal, shall authorize issuance of a permit, or a conditional permit, if and only if, it is determined that:

(a) The proposed work is consistent with the purposes and objectives of this Chapter; or

(b) The proposed work does not adversely affect the character or integrity of the designated historic landmark or historic district; or

(c) In the case of construction of a new building, structure or other improvement upon or within a designated historic landmark or historic district, the exterior of such improvement will not adversely affect and will be compatible with the external appearance of the existing landmark or district.

Sec.2-8.408 Hardship

Notwithstanding the criteria of Article 4 of this Chapter, the Planning Director, on the recommendation of the Historical Commission, or the Planning Commission or City Council on appeal, may approve an application for a permit to conduct any proposed work upon or within a designated historic landmark or property located within a designated historic district, if the applicant presents clear and convincing evidence demonstrating that a disapproval of the application will work immediate and substantial hardship on the applicant because of conditions peculiar to the person seeking to carry out the proposed work or because of conditions peculiar to the particular improvement, building, structure, topography or other feature involved. If a hardship is found to exist under this Section, the Historical Commission or the Planning Commission or City Council shall make a written finding to that effect, and shall specify the facts and reasons relied upon in making such finding.

Article 5. MISCELLANEOUS PROVISIONS

Sec.2-8.501 Fees

(a) No fee shall be charged for the filing, processing or public noticing of any application for designation.

(b) The City Council shall by resolution adopt a schedule of fees to be charged for any application for termination of a designation, for the filing and processing of applications for any permit required under this Chapter, and for appeals to the Planning Commission and City Council pursuant to this Chapter.

Sec.2-8.502 Ordinary maintenance and repair

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

Sec.2-8.503 Duty to keep in good repair

The owner, occupant, or the person in actual charge of a designated historic landmark or property located within a designated historic district shall keep and maintain in good condition and repair all exterior portions thereof, all interior portions thereof when subject to special regulation or control as specified in the designating ordinance or permit, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature or natural feature.

It shall be the duty of the Building Official to enforce this section.

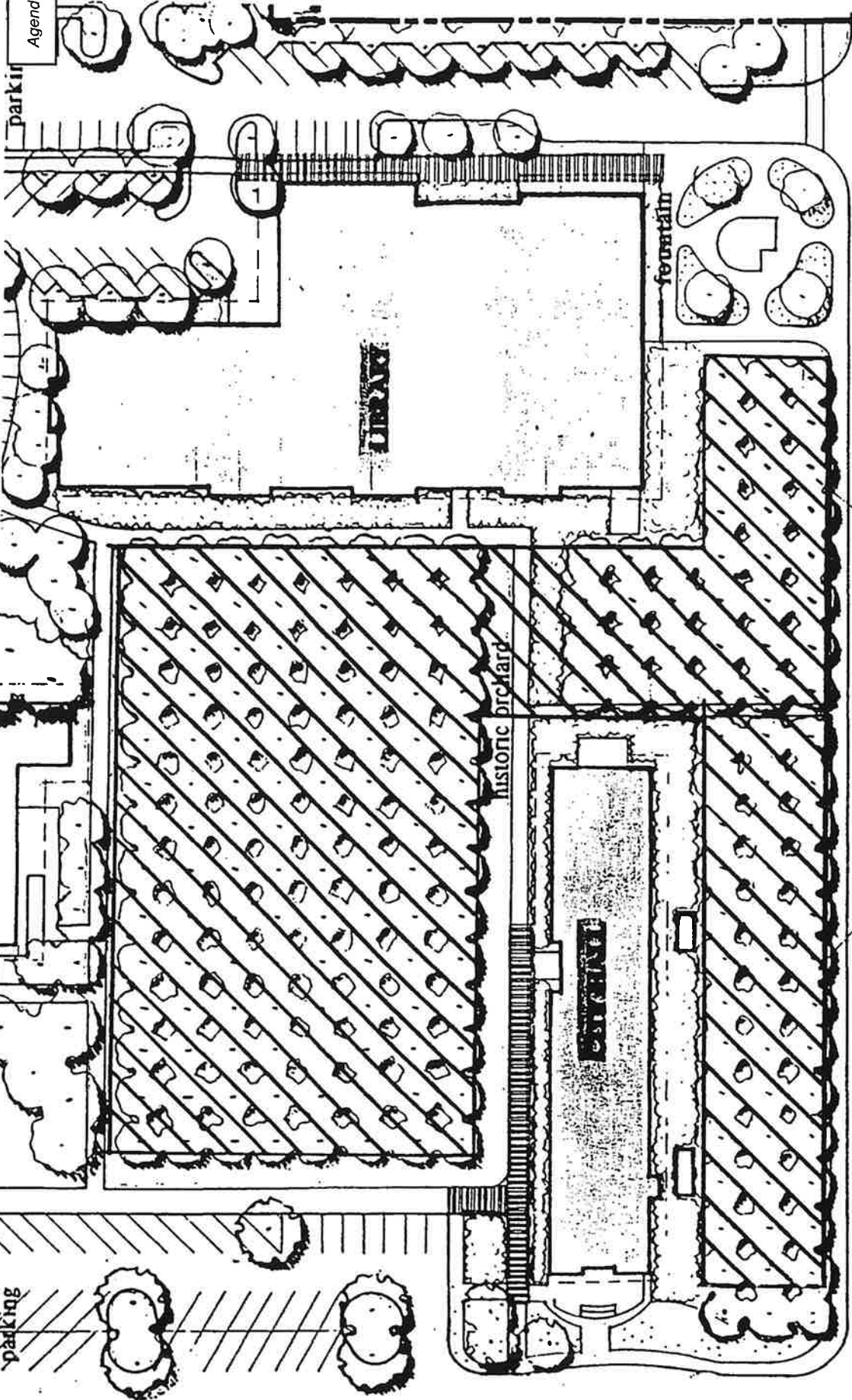
Sec.2-8.504 Enforcement

The violation of any provision contained in this Chapter is hereby declared to be unlawful and shall constitute a misdemeanor, subject to the penalties as prescribed in Title 1, Chapter 2 of this Code.

parkin

parkin

parking



historic orchard

"EXHIBIT A"

SAN ANTONIO ROAD

LEGEND



HISTORIC ORCHA



City Council Agenda Report

Meeting Date: September 10, 2024
Prepared By: Nick Zornes
Approved By: Gabriel Engeland

Subject: Electrification Incentives

COUNCIL PRIORITY AREA

- Business Communities
- Circulation Safety and Efficiency
- Environmental Sustainability
- Housing
- Neighborhood Safety Infrastructure
- General Government

RECOMMENDATION

Accept Environmental Commission Recommendations #1, #2, and #5 for Accelerating Building Electrification.

FISCAL IMPACT

At this time there is no direct fiscal impact associated with the acceptance of the Environmental Commission Recommendation. Staff will solicit potential service providers, and if necessary, will provide a mid-year budget adjustment request in January 2025.

ENVIRONMENTAL REVIEW

This Ordinance is exempt from environmental review pursuant to Section 15061 of the State Guidelines implementing the California Environmental Quality Act of 1970.

PREVIOUS COUNCIL CONSIDERATION

- January 23, 2024 (Adoption of 2024 City Council Strategic Goals) – Attachment 1
- February 27, 2024 (Acceptance of Environmental Commission 2024 Work Plan) – Attachment 2

BACKGROUND

On January 23, 2024, the Los Altos City Council adopted a resolution affirming the City Council’s 5-Year Strategic Goals. Among other goals, the resolution included Goal #3 which is:

Environmental Sustainability, the City of Los Altos will be a leader in environmental sustainability through education, incentives and adaptation initiatives, and practices identified in the City Climate Action and Adaptation Plan.

On February 27, 2024, the Los Altos City Council conducted a Study Session to meet with individual commissions and discuss each 2024 Commission Work Plan. Among other commissions the Los Altos Environmental Commission presented their 2024 Work Plan proposal which included Project, Goals, and Tasks. The following Work Plan Item was identified by the Environmental Commission and accepted by the Los Altos City Council:

- Project:** Accelerate Building Electrification (CAAP Item 2.1)
- Goal:** Reduce GHG Emissions coming from residential and commercial buildings.
- Tasks:** Work with staff to research and develop decarb programs. Assist staff with outreach/education.

ANALYSIS

In March 2024, the Environmental Commission formed a subcommittee made up of three (3) commissioners (B. Delagneau, R. Humayun, and L. Teksler) for Building Electrification. The subcommittee’s overarching task was to work on various ideas for Building Electrification and return to the Environmental Commission to present recommendations for how the City of Los Altos should proceed. On August 14, 2024, the subcommittee presented its recommendations to the Environmental Commission. The following recommendations were presented (Attachment 3):

- #1 – Partner with outside third party to accelerate electrification of residences.
- #2 – Develop a comprehensive citywide educational/outreach plan.
- #3 – Provide Zoning Incentives for elective Electrification.
- #4 – Charge an Environmental Fee for the usage of Gas Appliances.
- #5 – Other Considerations – Reach Codes are no longer enforceable, Recommendation to wait for New California Building Codes in 2025 (CBC 2025) before making additional local regulatory changes such as Reach Codes.

DISCUSSION

Staff support most recommendations made by the Building Electrification Subcommittee and accepted by the Environmental Commission.

Recommendation #1, to partner with an outside third-party vendor to accelerate electrification of residences within the city is advantageous and in line with what other neighboring jurisdictions are doing to electrify such as the City of Mountain View. The Management Analyst II in charge of Sustainability efforts within the city is already engaging potential vendors regarding this topic and obtaining proposals for the desired scope of work.

Recommendation #2, develop a comprehensive citywide educational/outreach plan. As a part of the efforts that will be accomplished by Recommendation #1, the partnership with an outside third-party vendor for electrification acceleration includes significant outreach and marketing programming as part of the scope of services. Additionally, the City of Los Altos is close to executing an agreement for the development and deployment of a new city website which will

accomplish several of the other goals included in Recommendation #2. City staff introduced the idea of tabling at the Los Altos Farmers Market to the Environmental Commission in Summer 2024, and it is planned for this effort to continue as items are necessary for Public Outreach. Additionally, the Environmental Commission has taken on the stewardship of planning and hosting the Annual EV Fair here at the Civic Center and will further develop their plan on hosting this event.

Recommendation #3, provide zoning incentives for elective electrification, such as increased Floor Area Ratio, and Lot Coverage in exchange for all-electric development. The Assistant City Manager of Land Use does not recommend proceeding with this recommendation currently. The Los Altos City Council has already increased the allowance of floor area ratio and lot coverage for residential development in prior action late last year and yearly this year. Additionally, other policy decisions have been made which require a 2:1 ratio for replacement of trees on private property, taking away the potential lot area for additional square footage.

Recommendation #4, charge and environmental fee for the use of gas appliances within the city, in other words a user fee/tax, or surcharge. After consultation with the City Attorney, not only would this item require a comprehensive Nexus Study and Engineers Report, but it would most likely trigger a vote of the people as it deals with taxation, and user charges. The Assistant City Manager of Land Use does not recommend proceeding with this recommendation.

Recommendation #5, the Environmental Commission acknowledges that Reach Codes adopted in 2022 are not enforceable due to the United States Ninth Circuit Court of Appeals decision in 2023. With the upcoming California Building Code update the Environmental Commission recommended pausing any further local amendments such as Reach Codes until review of the 2025 California Building Codes. The Assistant City Manager of Land Use agrees with this recommendation as any new modifications or amendments to local building codes would take several months to research, review and deploy which most likely would be preempted by the 2025 CBC.

ATTACHMENTS

- 1. 2024 – City Council Strategic Goals**
- 2. 2024 – Environmental Commission Work Plan**
- 3. August 14, 2024 – Building Electrification Subcommittee Recommendations**

RESOLUTION NO. 2024-xx

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AFFIRMING THE CITY COUNCIL’S 5-YEAR STRATEGIC GOALS**

WHEREAS, the Mission of the City of Los Altos is “to foster and maintain the City of Los Altos as a great place to live and to raise a family;” and

WHEREAS, the City Council is committed to providing essential services to the community; and

WHEREAS, on February 23, 2021, the City Council adopted 5-Year Strategic Goals to help maintain Los Altos as the great place it is and on April 26, 2022 and February 21, 2023 the Council reviewed and revised the goals; and

WHEREAS, on January 9, 2024, the City Council reviewed its 5-Year Strategic Goals.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby adopts the following as its 5-Year Strategic Goals:

The City Council Strategic Goals highlight those areas identified by the Council for emphasis and focus. The City Council will accomplish these goals by engaging the community and making decisions which are equitable, sustainable and fiscally prudent. The City Council will ensure that appropriate resources are allocated to maintain Los Altos as a great place to live and work, including providing a work culture and environment that supports recruitment and retention of exceptional employees to provide City services and maintenance and improvement of the City’s assets.

1. **Business Communities:** The City of Los Altos will support the different business communities including implementing specific projects and/or elements of the Housing Element Update and Downtown Vision Plan and launching initiatives to bolster the other business communities.
2. **Circulation Safety and Efficiency:** The City of Los Altos will continue implementing the City’s policies as expressed in the Complete Streets Master Plan and other plans which support improving circulation safety and efficiencies, with an emphasis on improving Safe Routes to Schools.
3. **Environmental Sustainability:** The City of Los Altos will be a leader in environmental sustainability through education, incentives and adaptation initiatives, and practices identified in the City’s Climate Action and Adaptation Plan.
4. **Housing:** The City of Los Altos will implement the Housing Element, programs, and policies to facilitate, incentivize and administer the availability of housing that is safe, diverse and affordable for all income levels to meet the needs of the Community and seek to increase and protect its green space.

- 5. **Neighborhood Safety Infrastructure:** The City of Los Altos will conduct a public safety facilities condition assessment on the condition of the police station and the two firehouses and based on the public safety needs of the community, develop a plan to replace, repair and/or rehabilitate the City's public safety infrastructure.

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 23rd day of January, 2024 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jonathan D. Weinberg, MAYOR

Attest:

Melissa Thurman, MMC, City Clerk

Environmental Commission

2024 Work Plan

Project	Goal	Tasks	Target Date	Assignments	Status
Dark Skies/Bird Safety (CAAP Item 2.1)	Increase residential and commercial building energy efficiency, reduce light pollution, and protect wildlife.	Provide staff with guidance on lighting and bird safety guidelines/ordinance.	Mid 2024	Hecht, Lu	In Progress
Single Use Plastics Ordinance (CAAP Item 3.1B)	Reduce waste and increase landfill diversion by eliminating non-essential single-use plastics.	Provide staff with guidance on policy recommendations for the ordinance and assist with community outreach.	Mid 2024	TBD	In Progress
Accelerate Building Electrification (CAAP Item 2.1)	Reduce GHG emissions coming from residential and commercial buildings.	Work with staff to research and develop decarb programs. Assist staff with outreach/education.	Ongoing	TBD	Not Started
EV Fair (CAAP Item 1.4A)	Reduce air pollution through education and awareness of EV resources and incentive programs.	Attend planning meetings, table at event, provide feedback, and assist with public outreach.	March 2024 (Yearly Event)	TBD	In Progress
Adaptation/Resilience (CAAP Item 7.1, 7.2, 8.1)	Integrate adaptation into emergency preparedness and response to ensure public safety during extreme weather events.	Develop a plan to address community climate adaptation and safety.	Pending completion of projects #1-3	TBD	On Hold

Recommendation 1

- Partner with outside third party to accelerate electrification of single home residences
 - Target start Q1 2025
 - Program should go until at least 2027, extendable to 2029
 - In line with BAAQMD phase out plan
 - Three to four potential partners
 - BlocPower, Onsemble, QuitCarbon and Zero Homes (not evaluated)
 - Request format to be discussed (RFP, RFQ or open call)
 - RFP or RFQ preferred



Recommendation 2

- Develop a comprehensive citywide educational/outreach Plan
 - Action 1: Update/improve and maintain sustainability page
 - Easier access, links on city home page
 - links to partner organizations (SVCE, BayRen, BA communities, Acterra etc)
 - Action 2: Continue EV fair and add more building electrification booths
 - Action 3: Have link to sustainability page on planning permit application
 - Action 4: Develop training platform for city groups such as BAT and Resilient Los Altos
 - Action 5: Create a series of lectures/town halls on the benefits of electrification
 - Four per year over two years (to be extended as needed)
 - HVAC heatpumps, HPWH, Solar and batteries, Induction cooktops
 - Action 6: Add building electrification booth at farmers' market
 - Action 7: Advertising/articles in Town Crier (can be in conjunction with 2 and 5)



Recommendation 3

- Add building incentives for all electric new homes or remodels/additions
 - Can be done at the planning stage
 - Example of incentives:
 - Increase lot coverage (5%)
 - Increase FAR
 - Priority review timeline
- Have incentives for new HVACHP, solar inverters and battery equipment
 - Lower setbacks to 4 feet (in line with SB9 and ADU guidelines)
 - Consider lowering further (3 feet) for equipment with an average noise level below 60db



Recommendation 4

- Gas appliances are an environmental and health hazard
 - Emission of nitrogen oxide, carbon monoxide and formaldehyde in homes
 - Increased risks of asthma in children, acute respiratory episodes in seniors with COPD, and chronic pulmonary insufficiency
 - Emission of CO2 and methane outside
 - Contributes to climate change
 - Emission of harmful pollutants has a societal cost
 - Individuals installing new gas appliances should contribute to the city's effort to make the town cleaner, healthier and safer for all
- We propose that the city charges an environmental fee for each new gas appliance
 - Up to an equivalent of 10% of the install cost
 - Proceeds to go into an environmental fund to finance CAAP actions



Other considerations

- Reach Codes:
 - 2023 reach codes not enforced due to 9th district court ruling
 - BAAQMD still planning to enforce regulations 9-4 (gas fired furnaces) and 9-6 (gas fired boilers and water heaters)
 - Emissions rule (NOx)
 - Would ban GWH after 2027
 - Would ban gas furnaces after 2029, Large gas furnaces banned after 2031
 - Preference for using emissions-based ordinance similar to Los Altos Hills (NOx) or New York City (GHG) ordinance
 - One-margin or flex-path options not optimal
 - Still mix energy buildings with no option for 0 emission homes
- Recommendation is to wait for new California building codes in 2025 before making a decision





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

M E M O R A N D U M

DATE: September 10, 2024

TO: City Council

FROM: Anthony Carnesecca, Assistant to the City Manager

SUBJECT: UPDATE ON RFP FOR COMMUNITY ENGAGEMENT AND DESIGN SERVICES FOR DOWNTOWN PARK WITH UNDERGROUND PARKING

The City of Los Altos is preparing to issue a Request for Proposals for Community Engagement and Design Services for a downtown park with underground parking. It should be released in the coming weeks with a close date near the end of October and will return to City Council after responses have been reviewed for a recommendation and Council consideration.

As presented previously, City staff completed an initial site analysis and identified Plaza #1 and Plaza #2 as the preferred location for the downtown park with underground parking. City Council directed staff to move the project forward at Plazas #1 and #2 with community engagement and conceptual design as part of their strategic priorities for the 2024 calendar year and allocated funds in the FY24-29 Capital Improvement and Major Maintenance Budget focused on community engagement and design services for the project.

City staff has prepared an RFP that will have a consultant conduct community engagement on potential design amenities, investigate existing conditions, and garner consensus on the project before returning to City Council with a budget, program, and style for the project moving forward. The RFP will not be a public record until the contract is deemed final.

The consultant will then refine aspects of the project into three feasible conceptual design alternatives, cost estimates and funding sources for the alternatives and provide a final update to City Council. City Council will then have the opportunity to move forward with the preferred design and allocate the appropriated budget to design full bid-ready construction documents.

PROGRAM	SUB PROJECT	INITIATION DATE	HEU COMPLETION DATE	STATUS
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).	Budget & Hire Planning Technician		December 31, 2022	COMPLETED
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).	Amend ADU Ordinance based upon HCD's letter		6 months or less	COMPLETED
Program 6.G: Housing mobility	Allow more than one JADU (at least two per site)		with ADU Ordinance Update	COMPLETED
Program 3.H: Amend design review process and requirements.	Eliminate 3rd Party Architectural Review		February 28, 2023	COMPLETED
Program 3.H: Amend design review process and requirements.	Dismiss Design Review Commission		February 28, 2023	COMPLETED
Program 3.L: Eliminate the requirement of story poles.			March 31, 2023	COMPLETED
Program 2.E: Conduct annual ADU rental income surveys.	Budget & Hire Housing Manager	March 31, 2023		COMPLETED
Program 4.J: Facilitate alternate modes of transportation for	Adopt VMT Policy &		June 30, 2023	COMPLETED
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).	RFP-Permit Ready ADU Plans		July 31, 2023	COMPLETED
Program 1.H: Facilitate housing on City-owned sites.	Financial Analysis	July 1, 2023	December 31, 2023	IN-PROGRESS
Program 3.D: Evaluate and adjust impact fees.		August 1, 2023	December 31, 2024	COMPLETED
Program 1.H: Facilitate housing on City-owned sites.	Release RFP	December 31, 2023		COMPLETED
Program 6.C: Target housing development in highest resource areas.	Initial Outreach		September 31, 2023	
Program 6.D: Promote Housing Choice (Section 8) rental assistance program.			September 31, 2023	
Program 2.A: Continue to implement and enhance inclusionary housing requirements.			December 31, 2023	ONGOING
Program 2.B: Establish an affordable housing in-lieu fee and commercial linkage fee.	Housing in-lieu fee.		December 31, 2023	COMPLETED
Program 2.F: Water and Sewer Service Providers.			December 31, 2023	COMPLETED
Program 3.B: Modify building height in mixed-use zoning districts.	Downtown Districts		December 31, 2023	COMPLETED

Program 3.E: Ensure that the density bonus ordinance remains consistent with State law.				December 31, 2023	ONGOING
Program 3.H: Amend design review process and requirements.	Code Amendments			December 31, 2023	COMPLETED
Program 3.K: Standardize multimodal transportation requirements.	Bicycle Storage and Charging Regulations			December 31, 2023	COMPLETED
Program 3.K: Standardize multimodal transportation requirements.	Remove CSC Review of Housing Developments			December 31, 2023	COMPLETED
Program 4.C: Allow Low Barrier Navigation Centers consistent with AB 101.				December 31, 2023	COMPLETED
Program 4.D: Allow transitional and supportive housing consistent with State law.				December 31, 2023	COMPLETED
Program 4.E: Allow employee/farmworker housing consistent with State law.				December 31, 2023	COMPLETED
Program 4.F: Reasonably accommodate disabled persons' housing needs.				December 31, 2023	COMPLETED
Program 6.B: Maintain and expand an inventory of affordable housing funding sources.	Prepare Inventory.			December 31, 2023	
Program 6.E: Prepare and distribute anti-displacement information.				December 31, 2023	
Program 1.A: Rezone for RHNA shortfall.				January 31, 2024	COMPLETED
Program 1.G: Rezone housing sites from previous Housing Elements.				January 31, 2024	COMPLETED
Program 3.G: Amend Conditional Use Permits findings applicable to housing developments.				March 31, 2024	COMPLETED
Program 3.I: Allow residential care facilities consistent with State law.				January 31, 2024	COMPLETED
Program 3.J: Explicitly allow manufactured homes consistent with State law.				January 31, 2024	COMPLETED
Program 3.F: Reduce Conditional Use Permit requirement for residential mixed-use and multi-family.				September 31, 2024	COMPLETED
Program 1.B: Facilitate higher density housing in the Commercial Thoroughfare (CT) District.				January 31, 2024	COMPLETED

Program 1.C: Allow housing in the Office Administrative (OA) District.				January 31, 2024	COMPLETED
Program 1.E: Update the Loyola Corners Specific Plan.				January 31, 2024	COMPLETED
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).	Adopt-Permit Ready ADU Plans			December 31, 2024	IN-PROGRESS
Program 3.A: Prepare a Downtown parking plan and update citywide parking requirements.	Downtown Parking Plan			December 31, 2024	IN-PROGRESS
Program 3.A: Prepare a Downtown parking plan and update citywide parking requirements.	Comprehensive Parking Ordinance Update			December 31, 2024	COMPLETED
Program 3.B: Modify building height in mixed-use zoning districts.	Neighborhood (CN) District			December 31, 2024	COMPLETED
Program 3.C: Remove floor-to-area ratio (FAR) restriction at Rancho Shopping Center and Woodland Plaza.				December 31, 2024	COMPLETED
Program 3.M: Modify parking requirements for emergency shelters consistent with State law.				December 31, 2024	COMPLETED
Program 2.B: Establish an affordable housing in-lieu fee and commercial linkage fee.	Commercial linkage fee.	December 31, 2025			COMPLETED
Program 1.D: Allow housing on certain Public and Community Facilities District sites and facilitate housing on religious institution properties.				December 31, 2025	
Program 6.G: Housing mobility	Allow housing on all religious sites within the City			December 31, 2025	
Program 1.F: Rezone Village Court parcel.				January 31, 2024	COMPLETED
Program 4.H: Provide additional density bonuses and incentives for housing that accommodates special needs groups.				December 31, 2025	
Program 4.I: Allow senior housing with extended care facilities in multi-family and mixed-use zoning districts.				December 31, 2025	
Program 1.I: Incentivize Downtown lot consolidation.				July 31, 2026	

Program 4.G: Assist seniors to maintain and rehabilitate their homes.			July 31, 2026	
Program 6.C: Target housing development in highest resource areas.	Follow-up Outreach		September 31, 2026	
Program 1.H: Facilitate housing on City-owned sites.	Entitlement Review		December 31, 2026	
Program 3.N: Modify standards in the R3 zoning districts.			December 31, 2026	COMPLETED
Program 4.J: Facilitate alternate modes of transportation for residents.	Capital Improvement Project for above head pedestrian crossing signals on San Antonio Road near Downtown Los Altos		December 31, 2027	
Program 5.F: Incentivize the creation of play areas for multi-family housing projects.			December 31, 2027	
Program 1.K: Participate in regional housing needs planning efforts.			Ongoing	
Program 1.L: General Plan amendments.			Ongoing	
Program 1.M: SB 9 implementation.			Ongoing	
Program 1.N: Facilitate and monitor pipeline housing projects.			Ongoing	
Program 2.C: Assist in securing funding for affordable housing projects.			Ongoing	
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).			Ongoing	
Program 2.E: Conduct annual ADU rental income surveys.	Annual Survey		Annually	ONGOING
Program 4.A: Support efforts to fund homeless services.			Ongoing	
Program 4.B: Continue to participate in local and regional forums for homelessness, supportive, and transitional housing.			Ongoing	
Program 5.A: Monitor condominium conversions.			Ongoing	

Program 5.B: Continue to administer the City's affordable housing programs.				Ongoing	
Program 5.C: Restrict commercial uses from displacing residential neighborhoods.				Ongoing	
Program 5.D: Implement voluntary code inspection program.				Ongoing	
Program 5.E: Help secure funding for housing rehabilitation and assistance programs.				Ongoing	
Program 6.A: Assist residents with housing discrimination and landlord-tenant complaints.				Ongoing	
Program 6.B: Maintain and expand an inventory of affordable housing funding sources.	Inform, Evaluate Apply/Submit			Ongoing	
Program 6.F: Affirmatively market physically accessible units.				Ongoing	
Program 7.A: Promote energy and water conservation and greenhouse gas reduction through education and awareness campaigns.				Ongoing	
Program 7.B: Monitor and implement thresholds and statutory requirements of climate change legislation.				Ongoing	



City of Los Altos 2024 Tentative Council Agenda Calendar

SEPTEMBER 24, 2024

SPECIAL MEETING:

- Conduct Interview Sessions for the 2024 Commission Recruitment Period
- Appointment of Commissioners

REGULAR MEETING:

- Hold a Public Hearing to Review Draft Maps for District-Based Elections (Public Hearing #4)

OCTOBER 8, 2024

PUBLIC HEARING:

- Hold a Public Hearing to Adopt Final Maps for District-Based Elections (Public Hearing #5)

DISCUSSION:

- Discuss and Provide Report for a Community Center Café

Remaining 2024 City Council agenda calendar items are pending and will be published at a later date.

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.

