



TOWN OF LOS GATOS
TOWN COUNCIL POLICY COMMITTEE

Council Policy Committee - (2016)

Marico Sayoc, Vice Mayor
Marcia Jensen, Council Member

AGENDA
TOWN COUNCIL CHAMBERS
110 EAST MAIN STREET
November 17, 2016 - 10:00 A.M.

MEETING CALLED TO ORDER

ROLL CALL

VERBAL COMMUNICATIONS *(Three minute time limit)*

AGENDA ITEMS

(The reports for each item are provided in the order of the agenda)

1. Approval of the October 27, 2016 Council Policy Committee Draft Minutes
2. Review and Discuss Facilities Use Policy for Town Council Chambers
3. Review and Discuss Transportation Impact Fees
4. Consider rescinding the Specialty Retail Policy if amendments to the Town Code are adopted defining specialty retail and clarifying food use definitions, then forward recommendations to the Town Council
5. Discuss and Consider Amendments to Uses allowed in the LM Zone

ADJOURNMENT

cc: Post *(also posted on Town Web)*
Town Council

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Town Manager's Office at (408) 354-6834. Notification 48 hours before the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting [28 CFR §35.102-35.104]

TOWN OF LOS GATOS
COUNCIL POLICY COMMITTEE
October 27, 2016

110 E. Main Street
Town Council Chambers
Los Gatos, California

DRAFT ACTION MINUTES

Call to Order

The Council Policy Committee meeting was called to order at 10:00 a.m.

Members and Staff present:

Vice Mayor Marico Sayoc
Councilmember Marcia Jensen
Laurel Prevetti, Town Manager
Robert Schultz, Town Attorney
Joel Paulson, Community Development Director
Matt Morley, Parks and Public Works Director
Monica Renn, Economic Vitality Manager
Shelayne Hammack, Management Analyst

Verbal Communications

None

Agenda Items

1. Approval of October 13, 2016 Council Policy Committee Meeting Minutes
Committee Action:

The Committee unanimously approved the draft minutes with no changes.

2. Review and Discuss Land Use Definitions

The Committee discussed the need for a common goal for economic vitality in the downtown area. They suggested the use of pilots (such as parklets, events, and road diets) and infrastructure changes to encourage economic vitality and calm traffic.

The Committee agreed that land use definitions need to be fixed and aligned. The Committee asked staff to bring to Council on consent the rescission of the Planning Director's Specialty Formula Retail Policy. The Committee also discussed pop ups and how can they be implemented in Los Gatos.

They would like to bring a third party downtown retail expert to the December 6th Town Council Study Session to generate discussion. Lastly, the Committee requested that staff amend Conditional Use Permit table for LM zone and bring it back to them for review.

3. Review and Discuss Traffic Impact Fees

The Committee discussed how traffic impact fees are affecting the expansion and growth of downtown businesses. They discussed Conditional Use Permit modifications for alcohol off-sale going directly to Council and potentially bypassing the Development Review Committee and Planning Commission to decrease fees. The Town is currently not getting a lot of traffic impact fees from downtown. Staff will return with a draft Traffic Impact Policy update considering downtown as a "shopping center"

Next meeting is on November 17, 2016 at 10:00 a.m.

The meeting was adjourned at 10:54 a.m.



**TOWN OF LOS GATOS
POLICY COMMITTEE REPORT**

MEETING DATE: 11/17/2016

ITEM NO: 3

DATE: NOVEMBER 14, 2016
TO: COUNCIL POLICY COMMITTEE
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: REVIEW AND DISCUSS TRAFFIC IMPACT FEES

RECOMMENDATION:

Review and discuss potential modifications to the Traffic Impact Fees.

BACKGROUND:

The Traffic Impact Mitigation fee was revised by Council in 2014. The fee is intended to capture the costs of traffic impacts related to growth from new construction. This fee has been applied to new developments and changes that intensify the previous use. The fees are based on a study that identified the Town's traffic improvement needs related to growth and the expected cost per vehicle trip necessary to mitigate the growth. The vehicle trips associated with individual uses are most often identified through data provided by the Institute of Traffic Engineers (ITE).

DISCUSSION:

The methodology the Town utilizes for recovering Traffic Impact fees aligns well for most situations. However, in the case of the Central Business District (downtown), it is typical for uses to change frequently with traffic generated not by a single use, but rather by the downtown as a whole. This occurs because the downtown is a destination, where people go to take advantage of a variety of restaurants, services, shops, and activities and to experience the ambiance and charm of the destination. In order to sustain the downtown as this type of experience, the Council may wish to facilitate changes in use and acknowledge that these changes do not create a growth related traffic impact. With a modification to the Traffic Impact Policy, fees could be reduced or eliminated that are currently inhibiting new businesses from establishing and contributing to the vitality of the downtown.

PREPARED BY: MATT MORLEY
PARKS AND PUBLIC WORKS DIRECTOR

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SUBJECT: REVIEW AND DISCUSS TRAFFIC IMPACT MITIGATION FEE POLICY
MODIFICATIONS

NOVEMBER 14, 2016

DISCUSSION (cont'd):

Specifically, staff is recommending a modification to the Traffic Impact Policy to consider changes in use within the downtown (i.e., the C-2 zone) as exempt from the fees due to no change in square footage and therefore, no traffic impacts. The current Policy, redlined version, and clean proposed Policy are attached for review as Attachments 1 through 3.

The modified Policy addresses only change in use. Where structures are expanded or new structures are added, the additional square footage would still be required to pay the Traffic Impact fee at the ITE Shopping Center rate. Shopping Center is utilized as it represents a blend of uses in a single destination.

CONCLUSION:

The Council Policy Committee members may have other ideas that they wish to discuss in addition to those presented here. Staff looks forward to the Committee's discussion and direction.

Attachments:

1. Current Traffic Impact Mitigation Fee Resolution and Policy
2. Redlined Traffic Impact Mitigation Fee Policy
3. Proposed Traffic Impact Mitigation Fee Policy

RESOLUTION 2014-059

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
AMENDING THE TRAFFIC IMPACT POLICY
AND RESCINDING RESOLUTION 1991-174**

WHEREAS, on August 5, 1991, the Town of Los Gatos adopted Resolution 1991-174 adopting a Traffic Impact Policy; and

WHEREAS, Chapter 15, Article VII of the Town of Los Gatos Town Code provides for the establishment of Traffic Impact Mitigation Fees; and

WHEREAS, on March 24, 2014, the Town Council at a duly noticed Public Hearing considered and took action on the specific amount to be charged for traffic mitigation fees; and

WHEREAS, on May 19, 2014, the Town Council adopted Resolution 2014-017 confirming actions taken by the Council on March 24, 2014 amending the Town's Traffic Impact Mitigation Fees; and

WHEREAS, on May 19, 2014, the Town Council, in conjunction with amending the Town's Traffic Impact Mitigation Fees also adopted a number of additional provisions related to the assessment of Traffic Impact Mitigation Fees, including provisions related to specialty retail uses, traffic credit for existing or former uses, secondary dwelling units, low income housing, and credit for payment and construction of Traffic Mitigation Improvement Projects; and

WHEREAS, a revision of the 1991 Traffic Impact Policy is needed to conform the Town's Traffic Impact Policy with the recent changes to the Town's Traffic Impact Mitigation Fees enacted with the adoption of Resolution 2014-017.

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Los Gatos, County of Santa Clara, State of California that the attached Traffic Impact Policy (Exhibit A), dated August 19, 2014 is hereby adopted.

FURTHER RESOLVED, this resolution rescinds provisions of Resolution No. 2002-175 related to Community Benefit offerings for projects generating more than five new peak hour trips.

FURTHER RESOLVED, the elimination of Community Benefit shall only apply to traffic impacts and not to Community Benefit requirements for projects set forth elsewhere in Council Policy or Town Code.

FURTHER RESOLVED, this resolution rescinds Resolution No. 1991-174.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos held on the 19th day of August, 2014 by the following vote:

COUNCIL MEMBERS:

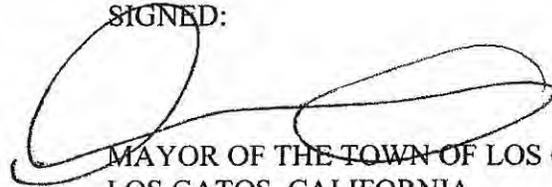
AYES: Marcia Jensen, Diane McNutt, Joe Pirzynski, Barbara Spector, Mayor Steven Leonardis

NAYS:

ABSENT:

ABSTAIN:

SIGNED:



**MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

ATTEST:



**CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

Exhibit A

TOWN OF LOS GATOS TRAFFIC IMPACT POLICY Approved August 19, 2014

I. DEFINITIONS

Average Daily Trips. Average Daily Trips (ADT) are the total number of trips, both in-bound and out-bound, within a 24 hour weekday period, generated by a particular use or development.

Pass-By Trip. Trips generated by the proposed Project that would be attracted from traffic passing the proposed project site on an adjacent street that contains direct access to the Project.

Peak Hour Trip. Peak Hour Trips are vehicle trips, both in-bound and out-bound, occurring during a one hour period either during the A.M. Peak (7 A.M. to 9 A.M.) or the P.M. Peak (4 P.M. to 6 P.M.), generated by a particular use or Project.

Project. A Project subject to this policy encompasses all land use development projects affecting the built environment, including changes in occupancy or intensification of existing uses, over which the Town has administrative or legislative authority, that require review and approval and issuance of a building permit, certificate of use or occupancy, or other land use approval by Town staff, Commissions, or Council.

Specialty Retail. Specialty Retail uses are defined as walk-in and impulse businesses such as juice bars, yogurt shops, coffee shops, donut shops, and similar uses which do not generally serve meals and have limited or no seating. Specialty Retail uses are defined under this policy for purposes of establishing trip generation data and this definition does not provide any land use or zoning guidance.

II. GENERAL CONDITIONS AND APPLICABILITY

1. This policy is intended to provide guidance to Town staff and the development community in implementing the provisions of the Town Municipal Code, Chapter 15, Article VII, Traffic Impact Mitigation Fees.
2. Projects that are determined by the Town to generate one or more new net Average Daily Trips are subject to this policy.
3. Projects that will generate 20 or more new Peak Hour Trips shall be required to complete a comprehensive traffic impact analysis report as described in more detail in Section VI, TRAFFIC IMPACT MITIGATION REPORT.
4. Consistent with Transportation Impact Analysis (TIA) Guidelines adopted by the Santa Clara County Transportation Authority (VTA) Congestion Management Program, Pass-by Trips shall not be considered in calculating the 20 new Peak Hour Trip threshold that triggers the requirement for conducting a comprehensive traffic impact analysis report.
5. In order to determine how much new traffic a Project will generate, the Town will use applicable trip generation rates and pass-by trip data from the most recent edition of the Institute of Traffic

Engineers (ITE) *Trip Generation Manual*. Alternatively, trip generation rates from the following resources may be used if determined by the Town to be more appropriate than the available ITE rates: San Diego Association of Governments (SanDAG); California Department of Transportation (Caltrans); or the City of San Jose. A Town-sponsored or peer-reviewed traffic study may also be used to determine trip generation rates.

6. Nothing in this Policy shall prohibit or restrict a Project applicant from completing a traffic study for a Project anticipated to generate less than 20 new Peak Hour trips.

III. TRAFFIC IMPACT MITIGATION FEES

1. All Projects that generate one or more new Average Daily Trips are required to pay Traffic Impact Mitigation Fees.
2. All required Traffic Impact Mitigation Fees shall be paid in full to the Town in association with and prior to issuance of a building permit. If no building permit is required, the fee shall be paid in full prior to issuance of a certificate of use and occupancy, or similar entitlement. The amount due shall be calculated based on the fee in place as approved by the Town Council by resolution at the time the fee is paid.
3. The per trip amount of the fee shall be as set forth by the Town Council by resolution, pursuant to Town Municipal Code, Chapter 15, Article VII, Traffic Impact Mitigation Fees.
4. Fees shall be calculated by multiplying net new ADT by the per trip amount in place at the time the fees are paid.
5. ADT shall be determined by using the applicable trip generation rate and pass-by trip data from the most recent edition of the Institute of Traffic Engineers (ITE) *Trip Generation Manual*. When a use is not listed in the ITE *Trip Generation Manual*, or where ADT data is not available, the Town Traffic Engineer shall use available Peak Hour Trip data or select the most appropriate trip generation rate and pass-by trip classification for use in calculating ADT. Trip generation rates from alternate sources may be used if determined by the Town Traffic Engineer to be more appropriate than the available ITE rates. Examples of alternate sources of data include: San Diego Association of Governments (SanDAG); California Department of Transportation (Caltrans); City of San Jose; comparable store/business traffic studies.

IV. CREDIT FOR EXISTING TRIPS

1. In calculating new Peak Hour Trips for purposes of determining whether or not a traffic impact analysis report is required pursuant to this Policy, trip credit shall be granted for an existing use or the most recent former use within the past five years prior to submittal of a Project application.
2. In calculating new Average Daily Trips for purposes of determining the amount of the Traffic Impact Mitigation Fee due, trip credit shall be granted for an existing use or the most recent former use within the past five years prior to submission of a Project application.

3. Where the property is vacant, the most recent former use within the past five years prior to submission of a Project application shall be used. If the property has been vacant for more than five years, no credit shall be given. Vacancy for purposes of Fee Credit shall include any vacant or unoccupied property, structure or building where no active, approved use is currently present.
4. Where a portion of the space is changing use, credit will apply to the proportionate square footage of the space under review.
5. Where the change in use results in fewer trips than the existing or former use, no credit or refund will be due the applicant.

V. CREDIT FOR TRAFFIC MITIGATION IMPROVEMENTS

1. Credit against Traffic Impact Mitigation Fees due shall be granted up to the amount of the Estimated Project Cost shown on Attachment 1, Town of Los Gatos Traffic Mitigation Improvements Project List, for any listed projects for which the developer, as a condition of approval, is required to either construct at the developer's sole cost, or contribute a fixed or percentage amount of funding toward future construction of the listed improvement. Where construction is fully funded and completed by the developer, said credit shall be equal to the Project Cost as shown in Attachment 1. Where payment is a fixed amount or a percentage of Project Cost, credit shall be equal to the actual amount due, whether the project is constructed by the developer or others.
2. No credit shall be given for any public right-of-way dedication required for completion of projects listed on Attachment 1.
3. Credit will be given on a case-by-case basis and shall not exceed the impact fee payable. Any request for credit shall be made prior to the payment of the Traffic Impact Mitigation Fees. No credit shall be given for installation of Town-standard frontage improvements, Project access improvements, or internal circulation improvements.
4. Credit shall only be granted for payment of costs or construction of projects listed in Attachment 1, unless otherwise approved by the Town Council.

VI. TRAFFIC IMPACT ANALYSIS REPORT

1. Traffic impact analysis reports required pursuant to this policy shall be prepared consistent with the Transportation Impact Analysis (TIA) Guidelines adopted by the Santa Clara County Transportation Authority (VTA) Congestion Management Program (August 2009), or as such Guidelines may be amended or updated from time to time, except that the threshold for preparation of a traffic report under this policy is 20 new Peak Hour trips, whereas the VTA TIA threshold is 100 new Peak Hour Trips.
2. Traffic impact analysis reports shall be funded in full by the project applicant. Project applicants shall deposit funds with the Town in an amount deemed necessary to cover the cost of an independent consultant report, plus staff administrative and review costs. Following deposit of funds, the Town will hire a professional transportation consultant to complete the required study.

Alternatively, the project applicant may hire their own professional engineering or transportation consultant to complete a traffic study, in which case they must deposit with the Town funds sufficient for the Town to hire a professional firm to conduct a peer review of the applicant-prepared traffic report, plus staff administrative and review costs.

3. The Town shall conduct an open, competitive process to establish a list of firms which are qualified to prepare traffic reports and/or conduct peer review of traffic studies under contract to the Town. The list of firms shall be selected in accordance with the Town Purchasing Policy. A new list shall be created at a minimum of once every five years.

VII. OTHER PROVISIONS

1. The Institute of Traffic Engineers (ITE) *Trip Generation Manual* trip generation rates for Specialty Retail Center shall apply to all Specialty Retail uses as defined in this policy.
2. A secondary dwelling unit with a floor area of six hundred square feet or less shall be exempt from this policy.
3. The Town Council may exempt housing developments for very low, low and moderate income residents (as defined by Town Ordinance, General Plan, or statute) from all or a portion of the traffic impact mitigation fee upon making a finding that the development provides a significant community benefit by meeting current needs for affordable housing.

Attachment 1

Town of Los Gatos Traffic Mitigation Improvements Project List

Source	Description	Estimated Project Cost (2014 \$)	Growth Related Project Cost	Mitigation Impact Fee Eligible Cost
GPV TP 2035	Blossom Hill Rd and Union Ave Intersection Improvements	\$ 1,200,000	90.00%	\$ 1,060,000
GPV TP 2035	Los Gatos - Almaden Rd Improvements	\$ 3,000,000	50.00%	\$ 1,500,000
GPV TP 2035	Los Gatos Blvd Widening - Samaritan Dr to Carrino Del Sol - Road widening, new sidewalks and bike lanes	\$ 4,000,000	50.00%	\$ 2,000,000
GPV TP 2035	Union Ave Widening and Sidewalks - complete ped and bike routes	\$ 3,000,000	50.00%	\$ 1,500,000
GPV TP 2035	Wood Rd Gateway on Santa Cruz Ave - roundabout	\$ 1,200,000	50.00%	\$ 600,000
GPV TP 2035	Central Traffic Signal Control System	\$ 750,000	9.68%	\$ 72,600
GPV TP 2035	Hwy 9 Los Gatos Creek Trail connector - new path and bridge for	\$ 1,000,000	50.00%	\$ 500,000
GPV TP 2035	Hwy 9/N Santa Cruz Ave Intersection Improvements	\$ 1,400,000	90.00%	\$ 1,260,000
CIP	Roberts Road Improvements from bridge to University	\$ 600,000	50.00%	\$ 300,000
CIP	Pollard Road Widening from Knowles to York Avenue	\$ 2,500,000	50.00%	\$ 1,250,000
CIP	Sidewalks infill - Van Meter, Fischer and Blossom Hill Schools	\$ 1,000,000	50.00%	\$ 500,000
CIP	Winchester Blvd/Lark Avenue Intersection Improvements	\$ 850,000	90.00%	\$ 765,000
CIP	Westbound Lark to Hwy 17 northbound ramps - add two right-turn	\$ 3,750,000	90.00%	\$ 3,375,000
CIP	Unfunded Deferred Street Maintenance (Annual RMS Survey)	\$ 10,500,000	9.68%	\$ 1,016,400
GP	Lark/Los Gatos Intersection Improvements - Add Third Left Turn Lanes for Eastbound and Northbound Approaches	\$ 1,200,000	90.00%	\$ 1,080,000
GP	Complete Street Improvements - Lark from Garden Hill to Los Gatos	\$ 2,100,000	50.00%	\$ 1,050,000
GP	Complete Street Improvements - SR 9 from University to Los Gatos	\$ 650,000	50.00%	\$ 325,000
GP	Complete Street Improvements - Blossom Hill Road from Old Blossom Hill Road to Regent Drive	\$ 3,000,000	50.00%	\$ 1,500,000
GP	Complete Street Improvements - Knowles from Pollard to Winchester	\$ 2,000,000	50.00%	\$ 1,000,000
GP	Complete Street Improvements - Winchester from Blossom Hill to Lark	\$ 1,500,000	50.00%	\$ 750,000
GP	Blossom Hill Road widening over Highway 17	\$ 2,000,000	50.00%	\$ 1,000,000
GP	Local Bikeway Improvements	\$ 750,000	50.00%	\$ 375,000
		Total		\$ 22,799,000

Notes:

VTP = Valley Transportation Plan, 2035 by Santa Clara Valley Transportation Authority.

Town CIP = Town of Los Gatos, Capital Improvement Program and pending construction project list.

Source: Town of Los Gatos.

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3. The Town Council may exempt housing developments for very low, low and moderate income residents (as defined by Town Ordinance, General Plan, or statute) from all or a portion of the traffic impact mitigation fee upon making a finding that the development provides a significant community benefit by meeting current needs for affordable housing.

3.4. Uses within the Central Business District (C-2 Zone) are expected to change periodically as part of the natural business cycle. For the purpose of Traffic Impact Fees, changes in use without changes in net building square footage within the C-2 Zone shall not be considered to create a traffic impact, shall be exempt from this policy, and no fees shall be charged for a change in use. Any increases in building square footage shall pay impact fees at the ITE Shopping Center rate or comparable equivalent rate for the expanded area, as determined by the Town Traffic Engineer.

Attachment 1

Town of Los Gatos Traffic Mitigation Improvements Project List

Source	Description	Estimated Project Cost (2014 \$)	Growth Related Project Cost	Mitigation Impact Fee Eligible Cost
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CIP	Winchester Blvd/Lark Avenue Intersection Improvements	\$ 850,000	90.00%	\$ 765,000
CIP	Westbound Lark to Hwy 17 northbound ramps - add two right-turn	\$ 3,750,000	90.00%	\$ 3,375,000
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GP	Lark/Los Gatos Intersection Improvements - Add Third Left Turn Lanes for Eastbound and Northbound Approaches	\$ 1,200,000	90.00%	\$ 1,080,000
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GP	Complete Street Improvements - Blossom Hill Road from Old Blossom Hill Road to Regent Drive	\$ 3,000,000	50.00%	\$ 1,500,000
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GP	Local Bikeway Improvements	\$ 750,000	50.00%	\$ 375,000
		Total		\$ 22,799,000

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 Source: Town of Los Gatos.

Exhibit A

TOWN OF LOS GATOS TRAFFIC IMPACT POLICY Approved August 19, 2014

I. DEFINITIONS

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Pass-By Trip. Trips generated by the proposed Project that would be attracted from traffic passing the proposed project site on an adjacent street that contains direct access to the Project.

Peak Hour Trip. Peak Hour Trips are vehicle trips, both in-bound and out-bound, occurring during a one hour period either during the A.M. Peak (7 A.M. to 9 A.M.) or the P.M. Peak (4 P.M. to 6 P.M.), generated by a particular use or Project.

Project. A Project subject to this policy encompasses all land use development projects affecting the built environment, including changes in occupancy or intensification of existing uses, over which the Town has administrative or legislative authority, that require review and approval and issuance of a building permit, certificate of use or occupancy, or other land use approval by Town staff, Commissions, or Council.

Specialty Retail. Specialty Retail uses are defined as walk-in and impulse businesses such as juice bars, yogurt shops, coffee shops, donut shops, and similar uses which do not generally serve meals and have limited or no seating. Specialty Retail uses are defined under this policy for purposes of establishing trip generation data and this definition does not provide any land use or zoning guidance.

II. GENERAL CONDITIONS AND APPLICABILITY

1. This policy is intended to provide guidance to Town staff and the development community in implementing the provisions of the Town Municipal Code, Chapter 15, Article VII, Traffic Impact Mitigation Fees.
2. Projects that are determined by the Town to generate one or more new net Average Daily Trips are subject to this policy.
3. Projects that will generate 20 or more new Peak Hour Trips shall be required to complete a comprehensive traffic impact analysis report as described in more detail in Section VI, TRAFFIC IMPACT MITIGATION REPORT.
4. Consistent with Transportation Impact Analysis (TIA) Guidelines adopted by the Santa Clara County Transportation Authority (VTA) Congestion Management Program, Pass-by Trips shall not be considered in calculating the 20 new Peak Hour Trip threshold that triggers the requirement for conducting a comprehensive traffic impact analysis report.
5. In order to determine how much new traffic a Project will generate, the Town will use applicable trip generation rates and pass-by trip data from the most recent edition of the Institute of Traffic

Engineers (ITE) *Trip Generation Manual*. Alternatively, trip generation rates from the following resources may be used if determined by the Town to be more appropriate than the available ITE rates: San Diego Association of Governments (SanDAG); California Department of Transportation (Caltrans); or the City of San Jose. A Town-sponsored or peer-reviewed traffic study may also be used to determine trip generation rates.

6. Nothing in this Policy shall prohibit or restrict a Project applicant from completing a traffic study for a Project anticipated to generate less than 20 new Peak Hour trips.

III. TRAFFIC IMPACT MITIGATION FEES

1. All Projects that generate one or more new Average Daily Trips are required to pay Traffic Impact Mitigation Fees.
2. All required Traffic Impact Mitigation Fees shall be paid in full to the Town in association with and prior to issuance of a building permit. If no building permit is required, the fee shall be paid in full prior to issuance of a certificate of use and occupancy, or similar entitlement. The amount due shall be calculated based on the fee in place as approved by the Town Council by resolution at the time the fee is paid.
3. The per trip amount of the fee shall be as set forth by the Town Council by resolution, pursuant to Town Municipal Code, Chapter 15, Article VII, Traffic Impact Mitigation Fees.
4. Fees shall be calculated by multiplying net new ADT by the per trip amount in place at the time the fees are paid.
5. ADT shall be determined by using the applicable trip generation rate and pass-by trip data from the most recent edition of the Institute of Traffic Engineers (ITE) *Trip Generation Manual*. When a use is not listed in the ITE *Trip Generation Manual*, or where ADT data is not available, the Town Traffic Engineer shall use available Peak Hour Trip data or select the most appropriate trip generation rate and pass-by trip classification for use in calculating ADT. Trip generation rates from alternate sources may be used if determined by the Town Traffic Engineer to be more appropriate than the available ITE rates. Examples of alternate sources of data include: San Diego Association of Governments (SanDAG); California Department of Transportation (Caltrans); City of San Jose; comparable store/business traffic studies.

IV. CREDIT FOR EXISTING TRIPS

1. In calculating new Peak Hour Trips for purposes of determining whether or not a traffic impact analysis report is required pursuant to this Policy, trip credit shall be granted for an existing use or the most recent former use within the past five years prior to submittal of a Project application.
2. In calculating new Average Daily Trips for purposes of determining the amount of the Traffic Impact Mitigation Fee due, trip credit shall be granted for an existing use or the most recent former use within the past five years prior to submission of a Project application.

3. Where the property is vacant, the most recent former use within the past five years prior to submission of a Project application shall be used. If the property has been vacant for more than five years, no credit shall be given. Vacancy for purposes of Fee Credit shall include any vacant or unoccupied property, structure or building where no active, approved use is currently present.
4. Where a portion of the space is changing use, credit will apply to the proportionate square footage of the space under review.
5. Where the change in use results in fewer trips than the existing or former use, no credit or refund will be due the applicant.

V. CREDIT FOR TRAFFIC MITIGATION IMPROVEMENTS

1. Credit against Traffic Impact Mitigation Fees due shall be granted up to the amount of the Estimated Project Cost shown on Attachment 1, Town of Los Gatos Traffic Mitigation Improvements Project List, for any listed projects for which the developer, as a condition of approval, is required to either construct at the developer's sole cost, or contribute a fixed or percentage amount of funding toward future construction of the listed improvement. Where construction is fully funded and completed by the developer, said credit shall be equal to the Project Cost as shown in Attachment 1. Where payment is a fixed amount or a percentage of Project Cost, credit shall be equal to the actual amount due, whether the project is constructed by the developer or others.
2. No credit shall be given for any public right-of-way dedication required for completion of projects listed on Attachment 1.
3. Credit will be given on a case-by-case basis and shall not exceed the impact fee payable. Any request for credit shall be made prior to the payment of the Traffic Impact Mitigation Fees. No credit shall be given for installation of Town-standard frontage improvements, Project access improvements, or internal circulation improvements.
4. Credit shall only be granted for payment of costs or construction of projects listed in Attachment 1, unless otherwise approved by the Town Council.

VI. TRAFFIC IMPACT ANALYSIS REPORT

1. Traffic impact analysis reports required pursuant to this policy shall be prepared consistent with the Transportation Impact Analysis (TIA) Guidelines adopted by the Santa Clara County Transportation Authority (VTA) Congestion Management Program (August 2009), or as such Guidelines may be amended or updated from time to time, except that the threshold for preparation of a traffic report under this policy is 20 new Peak Hour trips, whereas the VTA TIA threshold is 100 new Peak Hour Trips.
2. Traffic impact analysis reports shall be funded in full by the project applicant. Project applicants shall deposit funds with the Town in an amount deemed necessary to cover the cost of an independent consultant report, plus staff administrative and review costs. Following deposit of funds, the Town will hire a professional transportation consultant to complete the required study.

Alternatively, the project applicant may hire their own professional engineering or transportation consultant to complete a traffic study, in which case they must deposit with the Town funds sufficient for the Town to hire a professional firm to conduct a peer review of the applicant-prepared traffic report, plus staff administrative and review costs.

3. The Town shall conduct an open, competitive process to establish a list of firms which are qualified to prepare traffic reports and/or conduct peer review of traffic studies under contract to the Town. The list of firms shall be selected in accordance with the Town Purchasing Policy. A new list shall be created at a minimum of once every five years.

VII. OTHER PROVISIONS

1. The Institute of Traffic Engineers (ITE) *Trip Generation Manual* trip generation rates for Specialty Retail Center shall apply to all Specialty Retail uses as defined in this policy.
2. A secondary dwelling unit with a floor area of six hundred square feet or less shall be exempt from this policy.
3. The Town Council may exempt housing developments for very low, low and moderate income residents (as defined by Town Ordinance, General Plan, or statute) from all or a portion of the traffic impact mitigation fee upon making a finding that the development provides a significant community benefit by meeting current needs for affordable housing.
4. Uses within the Central Business District (C-2 Zone) are expected to change periodically as part of the natural business cycle. For the purpose of Traffic Impact Fees, changes in use without changes in net building square footage within the C-2 Zone shall not be considered to create a traffic impact, shall be exempt from this policy, and no fees shall be charged for a change in use. Any increases in building square footage shall pay impact fees at the ITE Shopping Center rate or comparable equivalent rate for the expanded area, as determined by the Town Traffic Engineer.

Attachment 1

Town of Los Gatos Traffic Mitigation Improvements Project List

Source	Description	Estimated Project Cost (2014 \$)	Growth Related Project Cost	Mitigation Impact Fee Eligible Cost
GP/VTP 2035	Blossom Hill Rd and Union Ave Intersection Improvements	\$ 1,200,000	90.00%	\$ 1,080,000
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GP/VTP 2035	Central Traffic Signal Control System	\$ 750,000	9.68%	\$ 72,600
GP/VTP 2035	Hwy 9 Los Gatos Creek Trail connector - new path and bridge for	\$ 1,000,000	50.00%	\$ 500,000
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CIP	Sidewalks infill - Van Meter, Fischer and Blossom Hill Schools	\$ 1,000,000	50.00%	\$ 500,000
CIP	Winchester Blvd/Lark Avenue Intersection Improvements	\$ 850,000	90.00%	\$ 765,000
CIP	Westbound Lark to Hwy 17 northbound ramps - add two right-turn	\$ 3,750,000	90.00%	\$ 3,375,000
CIP	Unfunded Deferred Street Maintenance (Annual PMS Survey)	\$ 10,500,000	9.68%	\$ 1,016,400
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		Total		\$ 22,799,000

Notes:

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Source: Town of Los Gatos.

RESOLUTION 2014-059

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
AMENDING THE TRAFFIC IMPACT POLICY
AND RESCINDING RESOLUTION 1991-174**

WHEREAS, on August 5, 1991, the Town of Los Gatos adopted Resolution 1991-174 adopting a Traffic Impact Policy; and

WHEREAS, Chapter 15, Article VII of the Town of Los Gatos Town Code provides for the establishment of Traffic Impact Mitigation Fees; and

WHEREAS, on March 24, 2014, the Town Council at a duly noticed Public Hearing considered and took action on the specific amount to be charged for traffic mitigation fees; and

WHEREAS, on May 19, 2014, the Town Council adopted Resolution 2014-017 confirming actions taken by the Council on March 24, 2014 amending the Town's Traffic Impact Mitigation Fees; and

WHEREAS, on May 19, 2014, the Town Council, in conjunction with amending the Town's Traffic Impact Mitigation Fees also adopted a number of additional provisions related to the assessment of Traffic Impact Mitigation Fees, including provisions related to specialty retail uses, traffic credit for existing or former uses, secondary dwelling units, low income housing, and credit for payment and construction of Traffic Mitigation Improvement Projects; and

WHEREAS, a revision of the 1991 Traffic Impact Policy is needed to conform the Town's Traffic Impact Policy with the recent changes to the Town's Traffic Impact Mitigation Fees enacted with the adoption of Resolution 2014-017.

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Los Gatos, County of Santa Clara, State of California that the attached Traffic Impact Policy (Exhibit A), dated August 19, 2014 is hereby adopted.

FURTHER RESOLVED, this resolution rescinds provisions of Resolution No. 2002-175 related to Community Benefit offerings for projects generating more than five new peak hour trips.

FURTHER RESOLVED, the elimination of Community Benefit shall only apply to traffic impacts and not to Community Benefit requirements for projects set forth elsewhere in Council Policy or Town Code.

FURTHER RESOLVED, this resolution rescinds Resolution No. 1991-174.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos held on the 19th day of August, 2014 by the following vote:

COUNCIL MEMBERS:

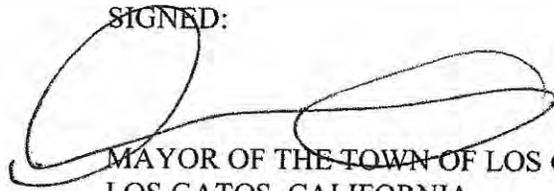
AYES: Marcia Jensen, Diane McNutt, Joe Pirzynski, Barbara Spector, Mayor Steven Leonardis

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line and another large, stylized 'S'.

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

A handwritten signature in black ink, appearing to read 'Jackie Rose' with a stylized flourish at the end.

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

Exhibit A

TOWN OF LOS GATOS TRAFFIC IMPACT POLICY Approved August 19, 2014

I. DEFINITIONS

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1. All Projects that generate one or more new Average Daily Trips are required to pay Traffic Impact Mitigation Fees.
2. All required Traffic Impact Mitigation Fees shall be paid in full to the Town in association with and prior to issuance of a building permit. If no building permit is required, the fee shall be paid in full prior to issuance of a certificate of use and occupancy, or similar entitlement. The amount due shall be calculated based on the fee in place as approved by the Town Council by resolution at the time the fee is paid.
3. The per trip amount of the fee shall be as set forth by the Town Council by resolution, pursuant to Town Municipal Code, Chapter 15, Article VII, Traffic Impact Mitigation Fees.
4. Fees shall be calculated by multiplying net new ADT by the per trip amount in place at the time the fees are paid.
5. ADT shall be determined by using the applicable trip generation rate and pass-by trip data from the most recent edition of the Institute of Traffic Engineers (ITE) *Trip Generation Manual*. When a use is not listed in the *ITE Trip Generation Manual*, or where ADT data is not available, the Town Traffic Engineer shall use available Peak Hour Trip data or select the most appropriate trip generation rate and pass-by trip classification for use in calculating ADT. Trip generation rates from alternate sources may be used if determined by the Town Traffic Engineer to be more appropriate than the available ITE rates. Examples of alternate sources of data include: San Diego Association of Governments (SanDAG); California Department of Transportation (Caltrans); City of San Jose; comparable store/business traffic studies.

IV. CREDIT FOR EXISTING TRIPS

1. In calculating new Peak Hour Trips for purposes of determining whether or not a traffic impact analysis report is required pursuant to this Policy, trip credit shall be granted for an existing use or the most recent former use within the past five years prior to submittal of a Project application.
2. In calculating new Average Daily Trips for purposes of determining the amount of the Traffic Impact Mitigation Fee due, trip credit shall be granted for an existing use or the most recent former use within the past five years prior to submission of a Project application.

3. Where the property is vacant, the most recent former use within the past five years prior to submission of a Project application shall be used. If the property has been vacant for more than five years, no credit shall be given. Vacancy for purposes of Fee Credit shall include any vacant or unoccupied property, structure or building where no active, approved use is currently present.
4. Where a portion of the space is changing use, credit will apply to the proportionate square footage of the space under review.
5. Where the change in use results in fewer trips than the existing or former use, no credit or refund will be due the applicant.

V. CREDIT FOR TRAFFIC MITIGATION IMPROVEMENTS

1. Credit against Traffic Impact Mitigation Fees due shall be granted up to the amount of the Estimated Project Cost shown on Attachment 1, Town of Los Gatos Traffic Mitigation Improvements Project List, for any listed projects for which the developer, as a condition of approval, is required to either construct at the developer's sole cost, or contribute a fixed or percentage amount of funding toward future construction of the listed improvement. Where construction is fully funded and completed by the developer, said credit shall be equal to the Project Cost as shown in Attachment 1. Where payment is a fixed amount or a percentage of Project Cost, credit shall be equal to the actual amount due, whether the project is constructed by the developer or others.
2. No credit shall be given for any public right-of-way dedication required for completion of projects listed on Attachment 1.
3. Credit will be given on a case-by-case basis and shall not exceed the impact fee payable. Any request for credit shall be made prior to the payment of the Traffic Impact Mitigation Fees. No credit shall be given for installation of Town-standard frontage improvements, Project access improvements, or internal circulation improvements.
4. Credit shall only be granted for payment of costs or construction of projects listed in Attachment 1, unless otherwise approved by the Town Council.

VI. TRAFFIC IMPACT ANALYSIS REPORT

1. Traffic impact analysis reports required pursuant to this policy shall be prepared consistent with the Transportation Impact Analysis (TIA) Guidelines adopted by the Santa Clara County Transportation Authority (VTA) Congestion Management Program (August 2009), or as such Guidelines may be amended or updated from time to time, except that the threshold for preparation of a traffic report under this policy is 20 new Peak Hour trips, whereas the VTA TIA threshold is 100 new Peak Hour Trips.
2. Traffic impact analysis reports shall be funded in full by the project applicant. Project applicants shall deposit funds with the Town in an amount deemed necessary to cover the cost of an independent consultant report, plus staff administrative and review costs. Following deposit of funds, the Town will hire a professional transportation consultant to complete the required study.

Alternatively, the project applicant may hire their own professional engineering or transportation consultant to complete a traffic study, in which case they must deposit with the Town funds sufficient for the Town to hire a professional firm to conduct a peer review of the applicant-prepared traffic report, plus staff administrative and review costs.

3. The Town shall conduct an open, competitive process to establish a list of firms which are qualified to prepare traffic reports and/or conduct peer review of traffic studies under contract to the Town. The list of firms shall be selected in accordance with the Town Purchasing Policy. A new list shall be created at a minimum of once every five years.

VII. OTHER PROVISIONS

1. The Institute of Traffic Engineers (ITE) *Trip Generation Manual* trip generation rates for Specialty Retail Center shall apply to all Specialty Retail uses as defined in this policy.
2. A secondary dwelling unit with a floor area of six hundred square feet or less shall be exempt from this policy.
3. The Town Council may exempt housing developments for very low, low and moderate income residents (as defined by Town Ordinance, General Plan, or statute) from all or a portion of the traffic impact mitigation fee upon making a finding that the development provides a significant community benefit by meeting current needs for affordable housing.

3.4. Uses within the Central Business District (C-2 Zone) are expected to change periodically as part of the natural business cycle. For the purpose of Traffic Impact Fees, changes in use without changes in net building square footage within the C-2 Zone shall not be considered to create a traffic impact, shall be exempt from this policy, and no fees shall be charged for a change in use. Any increases in building square footage shall pay impact fees at the ITE Shopping Center rate or comparable equivalent rate for the expanded area, as determined by the Town Traffic Engineer.

Attachment 1

Town of Los Gatos Traffic Mitigation Improvements Project List

Source	Description	Estimated Project Cost (2014 \$)	Growth Related Project Cost	Mitigation Impact Fee Eligible Cost
GP/VTP 2035	Blossom Hill Rd and Union Ave Intersection Improvements	\$ 1,200,000	90.00%	\$ 1,080,000
GP/VTP 2035	Los Gatos - Almaden Rd Improvements	\$ 3,000,000	50.00%	\$ 1,500,000
GP/VTP 2035	Los Gatos Blvd Widening - Samaritan Dr to Camino Del Sol - Road widening, new sidewalks and bike lanes	\$ 4,000,000	50.00%	\$ 2,000,000
GP/VTP 2035	Union Ave Widening and Sidewalks - complete ped and bike routes	\$ 3,000,000	50.00%	\$ 1,500,000
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CIP	Roberts Road Improvements from bridge to University	\$ 600,000	50.00%	\$ 300,000
CIP	Pollard Road Widening from Knowles to York Avenue	\$ 2,500,000	50.00%	\$ 1,250,000
CIP	Sidewalks infill - Van Meter, Fischer and Blossom Hill Schools	\$ 1,000,000	50.00%	\$ 500,000
CIP	Winchester Blvd/Lark Avenue Intersection Improvements	\$ 850,000	90.00%	\$ 765,000
CIP	Westbound Lark to Hwy 17 northbound ramps - add two right-turn	\$ 3,750,000	90.00%	\$ 3,375,000
CIP	Unfunded Deferred Street Maintenance (Annual PMS Survey)	\$ 10,500,000	9.68%	\$ 1,016,400
GP	Lark/Los Gatos Intersection Improvements - Add Third Left Turn Lanes for Eastbound and Northbound Approaches	\$ 1,200,000	90.00%	\$ 1,080,000
GP	Complete Street Improvements - Lark from Garden Hill to Los Gatos	\$ 2,100,000	50.00%	\$ 1,050,000
GP	Complete Street Improvements - SR 9 from University to Los Gatos	\$ 650,000	50.00%	\$ 325,000
GP	Complete Street Improvements - Blossom Hill Road from Old Blossom Hill Road to Regent Drive	\$ 3,000,000	50.00%	\$ 1,500,000
GP	Complete Street Improvements - Knowles from Pollard to Winchester	\$ 2,000,000	50.00%	\$ 1,000,000
GP	Complete Street Improvements - Winchester from Blossom Hill to Lark	\$ 1,500,000	50.00%	\$ 750,000
GP	Blossom Hill Road widening over Highway 17	\$ 2,000,000	50.00%	\$ 1,000,000
GP	Local Bikeway Improvements	\$ 750,000	50.00%	\$ 375,000
		Total		\$ 22,799,000

Notes:

VTP = Valley Transportation Plan, 2035 by Santa Clara Valley Transportation Authority.

Town CIP = Town of Los Gatos, Capital Improvement Program and pending construction project list.

Source: Town of Los Gatos.

Exhibit A

TOWN OF LOS GATOS TRAFFIC IMPACT POLICY Approved August 19, 2014

I. DEFINITIONS

Average Daily Trips. Average Daily Trips (ADT) are the total number of trips, both in-bound and out-bound, within a 24 hour weekday period, generated by a particular use or development.

Pass-By Trip. Trips generated by the proposed Project that would be attracted from traffic passing the proposed project site on an adjacent street that contains direct access to the Project.

Peak Hour Trip. Peak Hour Trips are vehicle trips, both in-bound and out-bound, occurring during a one hour period either during the A.M. Peak (7 A.M. to 9 A.M.) or the P.M. Peak (4 P.M. to 6 P.M.), generated by a particular use or Project.

Project. A Project subject to this policy encompasses all land use development projects affecting the built environment, including changes in occupancy or intensification of existing uses, over which the Town has administrative or legislative authority, that require review and approval and issuance of a building permit, certificate of use or occupancy, or other land use approval by Town staff, Commissions, or Council.

Specialty Retail. Specialty Retail uses are defined as walk-in and impulse businesses such as juice bars, yogurt shops, coffee shops, donut shops, and similar uses which do not generally serve meals and have limited or no seating. Specialty Retail uses are defined under this policy for purposes of establishing trip generation data and this definition does not provide any land use or zoning guidance.

II. GENERAL CONDITIONS AND APPLICABILITY

1. This policy is intended to provide guidance to Town staff and the development community in implementing the provisions of the Town Municipal Code, Chapter 15, Article VII, Traffic Impact Mitigation Fees.
2. Projects that are determined by the Town to generate one or more new net Average Daily Trips are subject to this policy.
3. Projects that will generate 20 or more new Peak Hour Trips shall be required to complete a comprehensive traffic impact analysis report as described in more detail in Section VI, TRAFFIC IMPACT MITIGATION REPORT.
4. Consistent with Transportation Impact Analysis (TIA) Guidelines adopted by the Santa Clara County Transportation Authority (VTA) Congestion Management Program, Pass-by Trips shall not be considered in calculating the 20 new Peak Hour Trip threshold that triggers the requirement for conducting a comprehensive traffic impact analysis report.
5. In order to determine how much new traffic a Project will generate, the Town will use applicable trip generation rates and pass-by trip data from the most recent edition of the Institute of Traffic

Engineers (ITE) *Trip Generation Manual*. Alternatively, trip generation rates from the following resources may be used if determined by the Town to be more appropriate than the available ITE rates: San Diego Association of Governments (SanDAG); California Department of Transportation (Caltrans); or the City of San Jose. A Town-sponsored or peer-reviewed traffic study may also be used to determine trip generation rates.

6. Nothing in this Policy shall prohibit or restrict a Project applicant from completing a traffic study for a Project anticipated to generate less than 20 new Peak Hour trips.

III. TRAFFIC IMPACT MITIGATION FEES

1. All Projects that generate one or more new Average Daily Trips are required to pay Traffic Impact Mitigation Fees.
2. All required Traffic Impact Mitigation Fees shall be paid in full to the Town in association with and prior to issuance of a building permit. If no building permit is required, the fee shall be paid in full prior to issuance of a certificate of use and occupancy, or similar entitlement. The amount due shall be calculated based on the fee in place as approved by the Town Council by resolution at the time the fee is paid.
3. The per trip amount of the fee shall be as set forth by the Town Council by resolution, pursuant to Town Municipal Code, Chapter 15, Article VII, Traffic Impact Mitigation Fees.
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IV. CREDIT FOR EXISTING TRIPS

1. In calculating new Peak Hour Trips for purposes of determining whether or not a traffic impact analysis report is required pursuant to this Policy, trip credit shall be granted for an existing use or the most recent former use within the past five years prior to submittal of a Project application.
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3. Where the property is vacant, the most recent former use within the past five years prior to submission of a Project application shall be used. If the property has been vacant for more than five years, no credit shall be given. Vacancy for purposes of Fee Credit shall include any vacant or unoccupied property, structure or building where no active, approved use is currently present.
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V. CREDIT FOR TRAFFIC MITIGATION IMPROVEMENTS

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Alternatively, the project applicant may hire their own professional engineering or transportation consultant to complete a traffic study, in which case they must deposit with the Town funds sufficient for the Town to hire a professional firm to conduct a peer review of the applicant-prepared traffic report, plus staff administrative and review costs.

3. The Town shall conduct an open, competitive process to establish a list of firms which are qualified to prepare traffic reports and/or conduct peer review of traffic studies under contract to the Town. The list of firms shall be selected in accordance with the Town Purchasing Policy. A new list shall be created at a minimum of once every five years.

VII. OTHER PROVISIONS

1. The Institute of Traffic Engineers (ITE) *Trip Generation Manual* trip generation rates for Specialty Retail Center shall apply to all Specialty Retail uses as defined in this policy.
2. A secondary dwelling unit with a floor area of six hundred square feet or less shall be exempt from this policy.
3. The Town Council may exempt housing developments for very low, low and moderate income residents (as defined by Town Ordinance, General Plan, or statute) from all or a portion of the traffic impact mitigation fee upon making a finding that the development provides a significant community benefit by meeting current needs for affordable housing.
4. Uses within the Central Business District (C-2 Zone) are expected to change periodically as part of the natural business cycle. For the purpose of Traffic Impact Fees, changes in use without changes in net building square footage within the C-2 Zone shall not be considered to create a traffic impact, shall be exempt from this policy, and no fees shall be charged for a change in use. Any increases in building square footage shall pay impact fees at the ITE Shopping Center rate or comparable equivalent rate for the expanded area, as determined by the Town Traffic Engineer.

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		Total		\$ 22,799,000

Notes:

VTP = Valley Transportation Plan, 2035 by Santa Clara Valley Transportation Authority.

Town CIP = Town of Los Gatos, Capital Improvement Program and pending construction project list.

Source: Town of Los Gatos.



TOWN OF LOS GATOS
POLICY COMMITTEE REPORT

MEETING DATE: 11/17/2016

ITEM NO: 4

DATE: NOVEMBER 9, 2016

TO: COUNCIL POLICY COMMITTEE

FROM: LAUREL PREVETTI, TOWN MANAGER

SUBJECT: CONSIDER RESCINDING THE SPECIALTY RETAIL POLICY IF AMENDMENTS TO THE TOWN CODE ARE ADOPTED DEFINING SPECIALTY RETAIL AND CLARIFYING FOOD USE DEFINITIONS, THEN FORWARD RECOMMENDATIONS TO THE TOWN COUNCIL.

RECOMMENDATION:

Consider rescinding the Specialty Retail Policy if amendments to the Town Code are adopted defining specialty retail and clarifying food use definitions, then forward recommendations to the Town Council.

BACKGROUND:

Consideration to streamlining the Town's ordinances and polices that apply to food use business have been considered by the Town Council, Council Policy Committee, and Planning Commission over the last 14 months. After the discussion at the Policy Committee on October 27, 2016, staff began working through the recommendation to rescind the Specialty Retail Policy and learned that it may be necessary to also modify definitions in the Town Code in order to obtain the goal of streamlining and simplifying the process.

DISCUSSION:

At the Policy Committee's October 27, 2016 meeting, staff indicated that simply rescinding the Specialty Retail Policy would create a more streamlined and simpler process that clearly identifies the differences between restaurant and retail uses. As a result, the Policy Committee

PREPARED BY: MONICA RENN
Economic Vitality Manager

Reviewed by: Town Manager, Town Attorney, Community Development Director

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NOVEMBER 9, 2016

DISCUSSION (cont'd):

directed staff to prepare a recommendation for rescission of the Specialty Retail Policy to the Council in December of 2016. Upon preparing the report, it was further discovered that there are multiple definitions in the Code that pertain to food use businesses and that in order to reach the desired result identified by the Policy Committee's recommendation to simplify the process for businesses and align the definitions with those used to assess traffic mitigation fees, edits to the Chapter 29, Section 29.10.020. Definitions, would also be needed.

Section 29.10.020 defines various terms and uses referenced throughout Chapter 29, and defines Retail Use and Restaurants as follows:

Retail use means providing on site sales directly to the consumer for consumer or household use, including but not limited to the following: small markets/businesses which sell meat, vegetables, dairy products, baked goods, candy and/or other food products, household cleaning and maintenance products, cards, stationary, notions, books, cosmetics, specialty items, hobby materials, toys, household pets and supplies, apparel, jewelry, fabrics, cameras, household electronic equipment, CD music and movies, sporting equipment, kitchen utensils, home furnishings, home appliances, art supplies and framing, art work, antiques, paint, wallpaper, carpet, floor covering, office supplies, musical instruments, hardware, homeware, computers and related equipment/supplies, bicycles, automotive parts and accessories (excluding service and installation), and flowers, plants and garden supplies (excluding nurseries). Retail sales that are incidental to the primary use will not satisfy this definition.

Restaurant means a retail food service establishment in which food or beverage is prepared, served and sold to customers for on-site or take-out consumption.

Restaurant, drive-in means a restaurant where food or beverages are sold to be eaten in vehicles whether on or off the premises or are delivered directly to the occupants of vehicles.

Restaurant, fast food means a restaurant with a large carry-out clientele, long hours of service, some open for breakfast but all open for lunch and dinner, and high turnover rates for eat-in customers.

Restaurant, high turnover (sit-down) means a restaurant with turnover rates generally of less than one (1) hour, is usually moderately prices and frequently belong to a

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NOVEMBER 9, 2016

DISCUSSION (cont'd):

restaurant chain, generally service breakfast, lunch and dinner, and are sometimes open twenty-four (24) hours a day.

Restaurant (minor) means any restaurant that satisfies the following criteria:

1. Provides less than 25 seats;
2. Serves no alcoholic beverages;
3. Proposes no significant exterior changes that would alter the architectural character of the building; and,
4. Provides a net increase of less than five peak hour traffic trips.

Restaurant, quality means a restaurant of high quality and with turnover rates usually of at least one (1) hour or longer, generally do not serve breakfast, may not serve lunch, but always serve dinner.

The Town Code does not define specialty retail; rather the Town has a Planning Department Policy that was adopted on August 1, 1996 allowing for certain food uses to be classified as specialty retail, a use that does not fit into a restaurant category (Attachment 1), and follows those provisions set forth for retail, including formula retail restrictions. This Department Policy is inconsistent with how the Town defines specialty retail from a traffic mitigation fee perspective and thus causes confusion and complication with applicants. Additionally, the Policy expands on the definition of restaurant that does not align with the language in the Code.

In addition to the Code language, the Town's Traffic Impact Policy specifically defines specialty retail below:

Specialty Retail uses are defined as walk-in and impulse businesses such as juice bars, yogurt shops, coffee shops, donut shops and similar uses which do not generally serve meals and have limited or no seating.

When calculating the traffic mitigation fee for restaurants, the Town uses those definitions provided by the International Traffic Engineers (ITE) to define the type of restaurant, and then assess the fee based on that category's rate. These definition categories include fast food, high-turnover sit down, and quality restaurants with the majority of restaurants falling in the high-turnover sit down category.

SUBJECT: CONSIDER RESCINDING THE SPECIALTY RETAIL POLICY IF AMENDMENTS TO THE TOWN CODE ARE ADOPTED DEFINING SPECIALTY RETAIL AND CLARIFYING FOOD USE DEFINITIONS, THEN FORWARD RECOMMENDATIONS TO THE TOWN COUNCIL.

NOVEMBER 9, 2016

DISCUSSION (cont'd):

After several discussions at both the Policy Committee and Town Council levels, staff understands that there is a desire to have process changes take place as an effort to provide clearer language and a simpler more streamlined process for businesses. Staff recommends the following amendments to the Town Code, in addition to defining Specialty Retail as a way to reach the goal of a simpler process. Should the Policy Committee agree, then staff could prepare the recommendation for the full Council to consider at a future meeting.

Staff recommends the following amendments, noted in red, to the definitions included in Town Code Section 29.10.020:

Retail use means providing on site sales directly to the consumer for consumer or household use, including but not limited to the following: small markets/businesses which sell meat, vegetables, dairy products, baked goods, candy and/or other food products, household cleaning and maintenance products, cards, stationary, notions, books, cosmetics, specialty items, hobby materials, toys, household pets and supplies, apparel, jewelry, fabrics, cameras, household electronic equipment, CD music and movies, sporting equipment, kitchen utensils, home furnishings, home appliances, art supplies and framing, art work, antiques, paint, wallpaper, carpet, floor covering, office supplies, musical instruments, hardware, homeware, computers and related equipment/supplies, bicycles, automotive parts and accessories (excluding service and installation), and flowers, plants and garden supplies (excluding nurseries). Retail sales that are incidental to the primary use will not satisfy this definition.

Specialty Retail means a business providing a specialty food or beverage intended for off-site consumption. Specialty food retail uses typically have few types of items, but often offer a variety of options within the single item type. Items are paid for before consumption and include uses such as juice bars, frozen dessert shops, coffee/tea shops, bagel/donut shops, bakeries, sandwiches, and similar uses. Specialty Retail is not considered a restaurant, rather a retailer and is subject to retail provisions set forth in Chapter 29 of the zoning code. Seating for the purpose of onsite consumption may not be offered.

Restaurant means a retail food service establishment in which food or beverages are prepared ~~and~~, served ~~and sold~~ to customers for on-site ~~or take-out~~ consumption.

Restaurant (minor) means any restaurant that satisfies the following criteria:

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NOVEMBER 9, 2016

DISCUSSION (cont'd):

2. Serves no alcoholic beverages;
3. Proposes no significant exterior changes that would alter the architectural character of the building; and,
4. Provides a net increase of less than five peak hour traffic trips.

Restaurant, drive-in means a restaurant where food or beverages are sold to be eaten in vehicles whether on or off the premises or are delivered directly to the occupants of vehicles.

Restaurant, fast food means a restaurant ~~with a large carry-out clientele, long hours of service, some open for breakfast but all open for lunch and dinner, and high turnover rates for eat-in customers.~~ providing ready to eat meals to a high volume of customers, food is available upon a short waiting time, and the turnover rate for dine-in customers is typically very high.

Restaurant, high turnover (sit-down) ~~means a restaurant with turnover rates generally of less than one (1) hour, is usually moderately priced and frequently belong to a restaurant chain, generally service breakfast, lunch and dinner, and are sometimes open twenty-four (24) hours a day.~~ means a restaurant which provides full meals to customers in a casual setting with turnover rates typically less than an hour. Orders may be taken at a counter or table-side, and the primary focus of the restaurant is onsite dining though take out may be available.

Restaurant, full-service sit down quality ~~means a restaurant of high quality and with turnover rates usually of at least one (1) hour or longer, generally do not serve breakfast, may not serve lunch, but always serve dinner.~~ means a restaurant which provides full service meals, where customers order and are served at their table. Characteristics typical of a full-service sit down restaurant include: Turnover rates greater than an hour; the availability of reservations; limited take out business; and all serve the majority of their clients for dinner.

At their March 15, 2016 meeting, the Council voted to send the Traffic Impact Policy to the Council Policy Committee for review and recommendations for amendments. In addition, the need remains to clarify what specialty retail is in this economic time, and how it is applied to business models that are currently in the market. The suggested amendments in this report

SUBJECT: CONSIDER RESCINDING THE SPECIALTY RETAIL POLICY IF AMENDMENTS TO THE TOWN CODE ARE ADOPTED DEFINING SPECIALTY RETAIL AND CLARIFYING FOOD USE DEFINITIONS, THEN FORWARD RECOMMENDATIONS TO THE TOWN COUNCIL.

NOVEMBER 9, 2016

DISCUSSION (cont'd):

accomplish both the alignment of Traffic Impact Policy and ITE definitions to the use definitions in the Town Code; and, clarifies specialty retail by providing provisions within the Code that may be easily accessed by stakeholders.

Another discussion point that the Policy Committee may elect to discuss is the allowance for specialty retailers to have limited seating areas. Current economic trends are showing that online shopping is at an all-time high, thus many retailers are seeking innovative ways to enhance the in-store customer experience. This is often achieved by blending consumable products and gathering opportunities that cannot be offered to the online customer, creating a whole new way of defining business and retail categories. Staff has experienced an increased interest from current and prospective businesses of blending such business models to create a fuller more enriched customer experience. As this is considered, requests have increased for adding small quantities of seating, stand up counters or benches within businesses to cater to evolving consumer trends of specialty food on-the-go, or the enhanced retail experience. Because of this, the Policy Committee may want to consider allowing specialty retail locations the ability to add limited number of seats, at a rate much lower than the allowance for a restaurant. The sample chart in Attachment 2 illustrates some options should this Committee want to consider allowing specialty retailers to offer seating.

CONCLUSION:

The Policy Committee has several options before them and may wish to also provide additional feedback or amendments to the definitions and/or Council recommendations for staff to include in a report for the Town Council. If amendments are forwarded to the Town Council for discussion, then go through the ordinance amendment process, staff would then recommend that the Specialty Retail Policy be rescinded given that the Code would define these uses.

To structure this conversation, the Policy Committee may wish to address the following points:

- Discuss the proposed definition for specialty retail, consider the following discussion points, and make a recommendation for the Council:
 - Should a definition of specialty retail be added to the Town Code Section 29.10.020?

SUBJECT: CONSIDER RESCINDING THE SPECIALTY RETAIL POLICY IF AMENDMENTS TO THE TOWN CODE ARE ADOPTED DEFINING SPECIALTY RETAIL AND CLARIFYING FOOD USE DEFINITIONS, THEN FORWARD RECOMMENDATIONS TO THE TOWN COUNCIL.

NOVEMBER 9, 2016

CONCLUSION (cont'd):

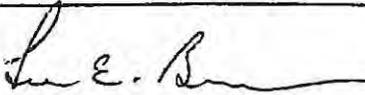
- If yes, is the definition proposed by staff acceptable to the Policy Committee?
- Should specialty retail uses be governed by those provisions that other retail establishment follow?
- Does the Policy Committee recommend allowing specialty retail locations the ability to have limited seats as the definition in the Traffic Impact Policy allows?
- If yes, is the definition proposed by staff acceptable to the Policy Committee?
- Should specialty retail uses be governed by those provisions that other retail establishment follow?
- Does the Policy Committee recommend allowing specialty retail locations the ability to have limited seats as the definition in the Traffic Impact Policy allows?
 - If yes, at what calculation?
- Discuss and provide direction on the red-lined amendments provided in this report for the restaurant use definition
- Discuss and provide direction on the red-lined amendments to the restaurant use categories.
- Although no amendments to the retail use definition have been recommended by the staff in this report, the Committee may wish to review and discuss this definition.

Attachments:

1. Specialty Retail Policy
2. Options for discussion if seating at specialty retail is considered

**PLANNING DEPARTMENT POLICY
TOWN OF LOS GATOS**

Subject: Description of Restaurants and Specialty Retail Businesses That Offer Food Products
Page: Section Number:

Approved:  Effective Date: Revised Date:
Lee E. Bowman, Planning Director August 1, 1996

PURPOSE

To provide guidelines for determining whether a business serving food products is specialty retail or restaurant.

POLICY

It is best to obtain a written description of a proposed business from the applicant to provide a "paper trail" and avoid possible misunderstanding. If a proposed business is not described below staff shall obtain a written description of a proposed business from the applicant so the Planning Director may make the final determination.

Specialty Retail - Specialty Retail include those businesses which offer pre-packaged foods (e.g. pre-made sandwiches, candy, donuts and other bakery items, frozen pizza to go, bagels without condiments, etc.). No seating for customers is allowed in any business where food products are sold.

Restaurant - A definition of restaurant is contained in the Zoning Ordinance (§ 29.10.020). Restaurants include those businesses offering food or drinks that are ordered by a customer and prepared while the customer waits (e.g. bagels with condiments, gourmet coffee shops (except sales of whole bean or ground coffee), sandwiches, ice cream, yogurt, pizza or Chinese to-go, health drinks, etc.). Any business that sells food products and offers seating for customers is considered a restaurant.

NAIDEBUDPOLICY.

SEATING CHART CALCULATIONS BASED ON SQUARE FOOTAGE

SEAT CALCULATIONS FOR DISCUSSION

BUSINESS SQUARE FOOTAGE	RESTAURANT SEATS ALLOWED IN C2 WITHOUT SEP. BAR (SF/300*4)	RESTAURANT SEATS ALLOWED OUTSIDE OF C2 (SF/235*3)	SPECIALTY FOOD RETAIL, SEATS TO CONSIDER AT 1 PER 200 SF	SPECIALTY FOOD RETAIL, SEATS TO CONSIDER AT 1 PER 250 SF	SPECIALTY FOOD RETAIL, SEATS TO CONSIDER AT 1 PER 300 SF
<u>500</u>	<u>6.7</u>	<u>6.4</u>	<u>2.5</u>	<u>2.0</u>	<u>1.7</u>
<u>750</u>	<u>10.0</u>	<u>9.6</u>	<u>3.8</u>	<u>3.0</u>	<u>2.5</u>
<u>1000</u>	<u>13.3</u>	<u>12.8</u>	<u>5.0</u>	<u>4.0</u>	<u>3.3</u>
<u>1250</u>	<u>16.7</u>	<u>16.0</u>	<u>6.3</u>	<u>5.0</u>	<u>4.2</u>
<u>1500</u>	<u>20.0</u>	<u>19.1</u>	<u>7.5</u>	<u>6.0</u>	<u>5.0</u>
<u>2000</u>	<u>26.7</u>	<u>25.5</u>	<u>10.0</u>	<u>8.0</u>	<u>6.7</u>
<u>2250</u>	<u>30.0</u>	<u>28.7</u>	<u>11.3</u>	<u>9.0</u>	<u>7.5</u>
<u>2500</u>	<u>33.3</u>	<u>31.9</u>	<u>12.5</u>	<u>10.0</u>	<u>8.3</u>
<u>2750</u>	<u>36.7</u>	<u>35.1</u>	<u>13.8</u>	<u>11.0</u>	<u>9.2</u>
<u>3000</u>	<u>40.0</u>	<u>38.3</u>	<u>15.0</u>	<u>12.0</u>	<u>10.0</u>
<u>3500</u>	<u>46.7</u>	<u>44.7</u>	<u>17.5</u>	<u>14.0</u>	<u>11.7</u>
<u>4000</u>	<u>53.3</u>	<u>51.1</u>	<u>20.0</u>	<u>16.0</u>	<u>13.3</u>



**TOWN OF LOS GATOS
POLICY COMMITTEE REPORT**

MEETING DATE: 11/17/2016

ITEM NO: 2

DATE: NOVEMBER 14, 2016
TO: COUNCIL POLICY COMMITTEE
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: REVIEW AND DISCUSS FACILITIES USE POLICY FOR TOWN COUNCIL CHAMBERS

RECOMMENDATION:

Review and discuss Facilities Use Policy for Town Council Chambers.

BACKGROUND:

On August 2, 2016 Town Council approved the Town Facilities Use Policy. The Policy was amended on October 18, 2016 to include special event parameters for the use of Oak Meadow Park (see Attachment 1). Since that time, staff has received an inquiry from New Museum Los Gatos (NUMU) regarding use of Council Chambers that raises policy questions that should be addressed by the Committee and ultimately, the Town Council.

DISCUSSION:

NUMU signed its lease prior to the Town Facilities Use Policy being adopted. Section 5.1.4 of the lease states: "Meeting rooms for public use consistent with current purposes of the Museum of Los Gatos and authorized under a Conditional Use Permit. In addition, the Town Council Chambers may be reserved in accordance with Town policies at cost." The recently-adopted Policy states:

The Town Council Chambers and Lobby may be reserved by federal, state, county, and municipal agencies, and schools for activities that benefit Los Gatos

PREPARED BY: SHELAYNE HAMMACK
Management Analyst

Reviewed by: Town Manager, Interim Assistant Town Manager, Town Attorney

DISCUSSION (cont'd):

residents and students. The Town Council Chambers and Lobby may also be reserved by agencies providing government education programs.

1. The Town may grant permission to use the Town Council Chambers and Lobby in the following priority schedule:
 - a. Town Council /Board, Commission, and Committees, including ceremonials
 - b. Town Departments
 - c. Town established Organizations and Committees (in which Town employees or Town officials participate)
 - d. Government Agencies and Officials
 - e. All other users

It is Staff position that NUMU does not fall into any of the categories set forth in the Policy; therefore they do not have the ability to reserve the Chambers. NUMU disagrees with Staff's interpretation and believes they should be considered "All other users." When staff met with NUMU representatives on October 25, NUMU expressed concerns regarding their inability to use the Council Chambers for their events due to the recently-adopted Policy and Staff's interpretation. NUMU also informed Staff that an upcoming event had been scheduled for November 5 in the Council Chambers and that the Town had not notified them of the change in the Policy. As a result, NUMU was informed by staff that they could hold the event in November and this issue would be brought to the Policy Committee for discussion.

There are three potential options for the Committee's consideration. The first option is to keep Council Policy 1-04 as is and continue to enforce the restricted use of the Chambers by federal, state, county, and municipal agencies. The second option is to consider amending the Council Policy 1-04 to allow other types of groups to use the Chambers if Council approval is granted. An example is the Irish Literary Festival held in October that was approved by the Town Council for use of several spaces in the Civic Center for the activities, including the Council Chambers. NUMU events could be held in the Council Chambers as well, if authorized in advance by the Town Council. However, if Council was to adopt this type of amendment it could not deny the use of the Council Chamber to any user based upon the content of the event.

The third option is to amend the lease agreement with NUMU to state: ".....In addition, the Town Council Chambers may be reserved at cost." This exception is based on the long history that the Town has had with NUMU and its use of the Council Chambers for many of its events.

PAGE 3 OF 3

SUBJECT: REVIEW AND DISCUSS FACILITIES USE POLICY FOR TOWN COUNCIL CHAMBERS
NOVEMBER 9, 2016

CONCLUSION:

Based on the information in this report, staff is looking to the Policy Committee for immediate direction on the use of the Council Chambers in order to reply to a request from NUMU and other interested parties.

Attachments:

1. Town Facilities Use Policy



TITLE: TOWN FACILITIES USE

POLICY NUMBER: 1-04

EFFECTIVE DATE: 8/3/16

PAGES: 7

ENABLING ACTIONS:

REVISED DATES: 10/18/16

APPROVED:

Barbara [unclear]

PURPOSE

To establish a policy for managing use of the Town of Los Gatos Town facilities for use by the general public, official Town business, and governmental agencies. Which will:

1. Preserve core functions.
2. Provide for public access and use of civic facilities.
3. Facilitate and coordinate multiple uses of civic facilities.

SCOPE

Guiding Principles

1. Civic facilities are intended to be used primarily for administrative operations of the Town programs, and of the Town for the community. Therefore, official Town business, programs, and activities shall have priority use of all civic facilities.
2. Civic facilities are further intended to serve as a hub of civic and cultural activity and a major gathering center for community meetings and an active program of outdoor events.
3. Designated portions of the civic facilities may be used by the public for events including concerts, festivals, ceremonies, or other similar activity for the purposes of celebration, education or cultural enrichment.

4. It is the Town's intent to provide spaces that are affordable and accessible for cultural, civic, and celebratory activities, without compromising security and official Town business needs.

POLICY

Policy Overview

1. The Town Council will establish the civic facilities use policy. The Town Manager and his or her designee will issue permits and use agreements for events, and act as the final authority for the application of the policy.
2. The Town Manager's Office is responsible for the day-to-day operation of scheduling and administering facilities' reservation.
3. The granting of permission to use any civic facility shall not in any way constitute an endorsement of the views of the persons and/or group reserving the facility.
4. Users of civic facilities for outdoor events will be required to enter into an agreement and comply with all requirements set forth in this Town Facilities Use Policy.
5. All civic facility use reservations shall be made subject to the condition that the Town maintains the right to cancel or change any reservation if civic facilities are needed for official Town business. In no event shall the Town have any liability whatsoever for any cancellation made under the Town's authority to do so.
6. Use of civic facilities must not interfere with the conduct of official Town business or be unduly disruptive to others present in Town Hall or to adjacent properties.
7. All commercial activities shall be prohibited except as provided in an appropriate permit, or license issued by the Town, or provided for in an agreement with the Town.

Public Use – Civic Facilities

A. Civic Center Lawn

The Civic Center lawn, as a focal point for the Town of Los Gatos Civic Center, shall be used as the regular location for community gatherings and events free and open to all members of the public including concerts, festivals, ceremonies, or other similar activity for the purposes of celebration, education or cultural enrichment.

1. Reservations are processed on a "first come, first served" basis. A tentative reservation may be made up to one year in advance by submitting an application for a Special Event Permit, and Release of Liability. All required paperwork must be submitted with original signatures.
2. Events are limited to one event per week. Recurring or continuing events shall require both a Town agreement and Town Council approval.
3. Private parties are not allowed.
4. Scheduled events must not interfere with the conduct of official Town business or be unduly disruptive to others present in Town Hall or to adjacent properties.
5. The following must be submitted and approved no later than two months prior to the scheduled event:
 - a. Special Event Permit Application or Town agreement.
 - b. Certificate of Insurance and Endorsement, naming the Town as an additional insured and making coverage primary, \$1,000,000 liability insurance.
 - c. Release of Liability, Assumption of Risk and Indemnity Agreement.
 - d. Complete payment of all applicable fees and charges for use as established within the Municipal Code and are contained in the Town's Fee Schedule. All checks are to be made payable to "The Town of Los Gatos".

B. Civic Center Deck and Stairs

The Civic Center Deck and Stairs shall be used as the regular location for community gatherings and events free and open to all members of the public including concerts, festivals, ceremonies, or other similar activity for the purposes of celebration, education or cultural enrichment.

1. Reservations are processed on a "first come, first served" basis. A tentative reservation may be made up to one year in advance by submitting an application for a Special Event Permit, and Release of Liability. All required paperwork must be submitted with original signatures.
2. Events are limited to one event per week. Recurring or continuing events shall require both a Town agreement and Town Council approval.

3. Private parties are not allowed.
4. Scheduled events must not interfere with the conduct of official Town business or be unduly disruptive to others present in Town Hall or to adjacent properties.
5. The following must be submitted and approved no later than two months prior to the scheduled event:
 - a. Special Event Permit Application or Town agreement.
 - b. Certificate of Insurance and Endorsement, naming the Town as an additional insured and making coverage primary, \$1,000,000 liability insurance.
 - c. Release of Liability, Assumption of Risk and Indemnity Agreement
 - d. Complete payment of all applicable fees and charges for use as established within the Municipal Code and are contained in the Town's Fee Schedule. All checks are to be made payable to "The Town of Los Gatos".

C. Council Chamber and Lobby

The Town Council Chambers and Lobby may be reserved by federal, state, county, and municipal agencies, and schools for activities that benefit Los Gatos residents and students. The Town Council Chambers and Lobby may also be reserved by agencies providing government education programs.

1. The Town may grant permission to use the Town Council Chambers and Lobby in the following priority schedule:
 - a. Town Council/Board, Commission, and Committees, including ceremonials
 - b. Town Departments
 - c. Town established Organizations and Committees (in which Town employees or Town officials participate)
 - d. Government Agencies and Officials
 - e. All other users
2. Reservations are processed on a "first come, first served" basis. A tentative reservation may be made up to six months in advance by submitting an Application, and Release of Liability. All required paperwork must be submitted with original signatures.

3. The following must be submitted and approved no later than two weeks prior to the scheduled event:
 - a. Application for Use of Room
 - b. Certificate of Insurance and Endorsement, naming the Town as an additional insured and making coverage primary, \$1,000,000 liability insurance
 - c. Release of Liability, Assumption of Risk and Indemnity Agreement
 - d. Complete payment of Building Attendant. All checks are to be made payable to "The Town of Los Gatos".
4. During the evenings (after 5 p.m.), on the weekends (Saturdays and Sundays), and on Holidays, all users will be charged a Facility Use Fee and other applicable charges for Town services as set forth in the Fee Schedule, unless the meeting or event is for official Town business, and the meeting or event is planned, managed, and led by the Town Council or Town Department.
5. A Building Attendant is required for all meetings regardless of meeting time or size. The Town will schedule the Building Attendant and invoice the applicant for the actual time scheduled. The Building Attendant will be responsible for the opening and closing of the facility and overseeing that the room is returned to its original condition.
6. Use is limited to a maximum of ten hours, per event, subject to other scheduled events, or Town use
7. Groups composed of minors must be supervised by at least one (1) adult for every ten (10) children under the age of 18 at all times while they are using the facility.
8. Alcohol is not permitted in the Council Chambers or Lobby.
9. Applicants are responsible for setting up before and cleaning up after each event in the Chambers and/or Lobby. Applicants shall be responsible for removing all personal property, owned or rented, prior to vacating the facility.
 - a. Absolutely no open flames are allowed in the Chambers or Lobby.
 - b. No foreign substance may be applied to the floor, walls, or ceiling (this includes decorations).
 - c. No rice, birdseed, confetti, etc., may be thrown in or around the Town Council Chambers.
 - d. Gambling or wagering is prohibited.

Use of the Town Council Chambers will not be restricted because of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, medical condition, religion, place of national origin, or any other basis prohibited by law.

10. Any exceptions to the use regulations must be approved, in writing, by the Town Manager.

D. Civic Facilities Conference and Meeting Rooms

Conference and Meeting Rooms located within Town Hall, the Library, the Police Operations Building, and the Parks and Public Works Corporation Yard shall be used solely for conducting official Town business.

1. The Town may grant permission to use the Meeting Rooms in the following priority schedule:
 - a. Town Council and Town Council Committees
 - b. Planning Commission
 - c. Others Boards and Commissions
 - d. Town Departments
 - e. All other Town uses

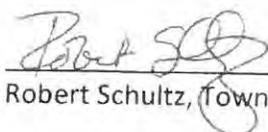
E. Town Plaza Park and Oak Meadow Park

Town Plaza Park and Oak Meadow Park, as focal points for the Town of Los Gatos, shall be used as a location for free gatherings that are open to the public. Events allowed include concerts, festivals, ceremonies, or other similar activity for the purposes of celebration, education or cultural enrichment.

1. Reservations are processed on a "first come, first served" basis. A tentative reservation may be made up to one year in advance by submitting an application for a Park Use Permit and/or a Special Event Permit, and Release of Liability. All required paperwork must be submitted with original signatures.
2. Events are limited to one event per week.
3. No event may completely shut down the park. The park must always remain accessible to the public.
4. Private parties (outside of Town designated reservable spaces) and fee for entrance events are not allowed. Incidental item sales may be allowed if they are consistent with the event activities, as approved.

5. Public entrances to the event venue must remain open to the public. This includes gates, roads, sidewalks, pathways, and parking lots. If shuttle buses are approved, the parking lot may be closed with a parking attendant present. Parking spots cannot be reserved, unless to increase handicap spots.
6. Recurring, multi day, or events beyond the scope of the Town's Special Event Permit shall require a Town agreement and receive Town Council approval.
7. The following must be submitted and approved no later than six months prior to the scheduled event:
 - a. Park Use Permit, Special Event Permit Application or Town Agreement.
 - b. Certificate of Insurance and Endorsement, naming the Town as an additional insured and making coverage primary, \$1,000,000 liability insurance.
 - c. Release of Liability, Assumption of Risk and Indemnity Agreement.
 - d. Complete payment of all applicable fees, deposits, and charges for use as established within the Municipal Code, Park Use Fees, and as contained in the Town's Fee Schedule. All checks are to be made payable to "The Town of Los Gatos".

APPROVED AS TO FORM:



Robert Schultz, Town Attorney



**TOWN OF LOS GATOS
POLICY COMMITTEE REPORT**

MEETING DATE: 11/17/2016

ITEM NO: 5

DATE: NOVEMBER 14, 2016
TO: COUNCIL POLICY COMMITTEE
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: DISCUSS AND CONSIDER AMENDMENTS TO USES ALLOWED IN THE LM ZONE.

RECOMMENDATION:

Discuss and consider amendments to uses allowed in the LM zone.

BACKGROUND:

Changes to the uses allowed in the LM zone have not been considered or adopted in several years. As the business environment and consumer products change, including in the areas of retail, manufacturing and service, it may be an appropriate time to discuss and consider the uses allowed in the LM zone, and consider the need for a Maker Movement Policy, or Code amendments. While discussing other land use items and discussions for future Policy Committee agendas at their October 27, 2016 meeting, this issue was raised and staff was asked to bring back a report that outlines some of the issues staff is experiencing while working with our business community.

DISCUSSION:

The Town Code defines the LM zone as a commercial-industrial zone that is intended for small scale light industrial, repair and service-oriented activities that provide services to Town residents in addition to retailing, service and administrative service (Attachment 1). As the business environment continues to change, and the types of products and services that consumers are looking for also evolves, the Town has limited areas in which many of these new businesses can fully operate. Starting in 2013, the Maker Movement began to gain momentum,

PREPARED BY: MONICA RENN
Economic Vitality Manager

Reviewed by: Town Manager, Town Attorney, Community Development Director

DISCUSSION (cont'd):

especially in Silicon Valley. The Maker Movement is a broad term that defines businesses that invent, design, and create products or services in a specific niche; typically a blend of technology and traditional artisanship.

Alongside the Maker Movement, businesses that were typically seen as only office uses began blending other services and retail components into their work to provide a more holistic and personal approach to serving their customers. This is a trend that the retail shopping environment has also experienced. As a result of both of these evolutions, the Town is experiencing the need for a place in town where businesses can do these types of work. Most of these businesses are not solely a retailer, or looking to be a full service restaurant, and therefore are not looking for the foot traffic or environment of a downtown. Rather, they are a destination for customers and business owners seeking more of an industrial environment where rents are typically lower, building foot prints are large enough to house the manufacturing, sales and office space for their use, and onsite parking is available. For Los Gatos, this would be the Town's LM zone, which is located along University Avenue, both north and south of Blossom Hill Road (Attachment 2).

Two issues seem to arise continuously for several businesses calling the Town to consider locating in the LM zone, and are discussed below:

1. Defining ancillary office and allowing it in the LM.
2. Off-site sale of alcohol is prohibited in the LM.

Office in the LM Zone

While it may remain inappropriate for entire buildings to become office uses in the LM, staff recommends considering an amendment to the LM zone uses to allow for ancillary office use at less than 50 percent of the building space and business model. This would allow a business to manufacture and sell their products with their business offices also onsite. An example of this would be an architect (office use), with an onsite interior designer (office use) that offers a showroom of products for purchase by both design customers and the general public (retail use), and storage or receivership of furniture/home good items for their own or other professional's to purchase (wholesale/warehouse use). Businesses that are multifaceted are becoming more a norm and less of an exception; however, with so many use types in one location, it is a challenge for the businesses to find a location that fits within our Town Code provisions. There is no commercial zone in Los Gatos where such a business could occupy at this time. The Commercial Highway, or CH zone comes close, but limits sales to those sells the majority of their items to the ultimate consumer, as opposed to wholesale.

DISCUSSION (cont'd):

Off-site sale of alcohol in the LM

Part of the Maker Movement is the business model of those whom design, manufacture and sell alcohol-related items within one location. These are typically small batch or low quantity items that can be sold for off-site consumption directly to the consumer. Examples include small wineries, micro-breweries, micro-distilleries, and artisan food items that come with beer and wine pairings such as single meal caterers and gourmet pre-packaged picnic baskets. Currently, onsite sale and consumption of alcohol is allowed with a Conditional Use Permit (CUP) within the LM zone, although off-site sales are not. The Alcohol Beverage Control (ABC) does not offer licenses for on-site only, so from a state perspective, businesses with on-site sale privileges also have the privilege to sell for off-site consumption. It is the language in the CUP Table of the Town Code 29.20.185 (Attachment 3) that prohibits the ability to sell off-site.

Staff recommends an amendment to the CUP chart within the Town code to allow off-site sale of alcohol in the LM zone. This could be achieved by either:

1. Adding the allowance to do so on the current line (1) *Establishments selling alcoholic beverages for consumption off-premise*; or
2. Adding an additional category within the CUP table for small batch wineries, breweries and distilleries and identify the appropriate zones for this use, such as LM. This would not change the process that requires Town Council approval.

The Policy Committee and Council could also elect to adopt a Maker Movement policy that further defines and shapes this zone as a location for this type of manufacturing that is combined with sales and tasting areas for micro-breweries, micro-distilleries, and small batch wineries to make their products, offer tastings, and sell bottles of their products to be consumed off-site.

If amendments are considered to allow for businesses to occupy the LM zone with multiple use types in one space, staff would determine the parking rates based on the percentage of each use within the building so that the whole building is not providing parking at a single use rate. This is similar to how staff currently calculates parking requirements for multi-tenant buildings and would be done as a standard of practice without the need for a Code amendment. Staff recognizes that there may be few properties in the LM that can currently support the parking requirements for large amounts of office use, so staff would work with tenants to help them understand the parking requirements and look for solutions such as alternative use of parking agreements if fitting.

CONCLUSION:

Through staff's work with prospective businesses, brokers, and building owners, it has become known that the Town could consider amendments to Chapter 29 of the Town Code to create more opportunities for businesses to locate and thrive in Los Gatos. As presented in the discussion of this report, the Policy Committee may wish to consider amendments to the uses allowed in the LM zone by discussing each of the following:

- Would the Policy Committee like to consider recommending amendments to the Town Council for uses allowed in the LM zone?
- If yes:
 - Does the Policy Committee recommend adding ancillary office use to the allowed uses in the Zone?
 - Does the Policy Committee recommend adding off-site alcohol sales in the LM?
 - If yes, is it also recommended to add a category on the CUP Table that allows for micro-breweries, micro-distilleries, and small production wineries?
 - Or, is it preferred to just amend the CUP Table to allow off-site sales and add a Maker Movement policy that further defines the uses within this zone?

Attachments:

1. Section 29.70.105 LM or Commercial-Industrial Zone
2. Zoning map showing the boundaries of the LM Zone
3. Section 29.20.185 Conditional Use Permit Table

Sec. 29.70.105. - Intent.

The LM or commercial-industrial zone is intended for small scale light industrial, repair and service-oriented activities that provide services to Town residents in addition to retailing, service and administrative activities.

(Ord. No. 1316, § 4.72.010, 6-7-76; Ord. No. 1363, 8-1-77; Ord. No. 1735, 9-21-87)

Sec. 29.70.100. - Permitted uses.

(a) Activities allowed in the LM or commercial-industrial zone are those service-oriented and light industrial uses which may be inappropriate in a general commercial zone and which are in the following categories:

- (1) Retailing.
- (2) Personal service businesses.
- (3) Service businesses necessary for the conduct of households or businesses.
- (4) Office activities approved on or before July 1, 1982; provided, that no change of use to office shall be permitted in the LM zone.
- (5) Limited manufacturing.
- (6) Wholesaling and warehousing.

(b) Examples of proper LM activities are plumbing, heating and electrical contracting, equipment repair, laundry and dry-cleaning plants, paint supplies, janitorial services, and towing businesses. Examples of activities which are not proper in the LM zone are large scale light industrial activity, professional or medical offices and general business offices.

(c) Retail sales of firearms, ammunition and/or destructive devices are subject to the following:

- (1) Retail sales of firearms, ammunition and/or destructive devices may be allowed in the LM zone with a conditional use permit subject to all of the restrictions and requirements set forth in this chapter and sections 14.130.010 through 14.130.075 of the Town Code. However, retail sales of firearms, ammunition and/or destructive devices shall not be permitted within two hundred fifty (250) feet of:
 - a. Any premises occupied by a public or private day care center, day care home, nursery school, elementary, junior high, middle, or high school, or any other youth educational institution whether public or private.
 - b. Any premises occupied by a government building, place of worship, public park or public trail.
 - c. Any premises occupied by a business which is primarily engaged in providing activities or instruction to persons under the age of eighteen (18) not listed in section a. above, existing prior to November 6, 2013.
- (2) All distances referred to in this section shall be measured between the closest points on the exterior property lines or area boundaries of the real property involved, except when the applicant proposes to occupy one (1) unit of a multi-unit structure located on a single parcel, where distances shall be measured from the exterior boundaries of the unit so occupied.

(Ord. No. 1316, § 4.72.020, 6-7-76; Ord. No. 1363, 8-1-77; Ord. No. 1546, 8-16-82; Ord. No. 1735, 9-21-87; Ord. No. 2220, § I(Exh. A), 10-7-13; Ord. No. 2233, § I(Exh. A), 8-5-14)

Sec. 29.70.115. - Conditional use permit.

In addition to the activities authorized by section 29.70.110, the activities listed in the table in section 29.20.185 are allowed if a conditional use permit is issued.

(Ord. No. 1316, § 4.72.030, 6-7-76; Ord. No. 1363, 8-1-77)

Sec. 29.70.120. - Area and width.

The minimum lot area in a LM or commercial-industrial zone is eight thousand (8,000) square feet; and the minimum lot width is fifty (50) feet.

(Ord. No. 1316, § 4.72.050, 6-7-76)

Sec. 29.70.125. - Yards.

Minimum front, side and rear yards in a LM or commercial-industrial zone shall be as follows:

(1)	Front	15 feet
(2)	Side	None required
(3)	Rear	None required
(4)	Side abutting street	15 feet

(5) The following minimum yard requirements apply along those property lines of a lot in the LM zone which abut or are across the street from a lot in a residential zone:

- a. Front25 feet
- b. Side abutting street15 feet
- c. Side or rear20 feet

Plus one (1) foot for each foot of building height over twenty (20) feet. A six-foot high masonry wall is required along the property line.

(Ord. No. 1316, § 4.72.070, 6-7-76; Ord. No. 1337, 11-1-76; Ord. No. 1363, 8-1-77)

Sec. 29.70.130. - Height.

The maximum height of any building in a LM or commercial-industrial zone is thirty-five (35) feet.

(Ord. No. 1316, § 4.72.080, 6-7-76; Ord. No. 1337, 11-1-76)

Sec. 29.70.135. - Lot area coverage.

Maximum building coverage of a lot in a LM or commercial-industrial zone, including any type of accessory building, is fifty (50) percent.

(Ord. No. 1316, § 4.72.090, 6-7-76; Ord. No. 1337, 11-1-76)

Secs. 29.70.140—29.70.210. - Reserved.

Sec. 29.20.185. - Table of conditional uses.

An "X" indicates that an activity is allowed in a zone if a conditional use permit is issued. Activities listed in this table are only allowed where a conditional use permit is issued, or where the activity is specifically listed in the permitted uses for the zone.

TABLE OF CONDITIONAL USES		RC	HR	R1	RD	R-M	R-1D	RMH	O	C-1	C-2	CH	LM	CM
(1)	Commercial													
a.	Banks									X	X	X		
b.	Savings and loan office									X	X	X		
c.	Drive-up window for any business									X	X	X		
d.	Supermarket									X	X	X		
e.	Super drugstore									X	X	X		
f.	Department store									X	X	X		
g.	Shopping center									X	X	X		
h.	Motel										X	X		
i.	Hotel										X	X		
j.	Restaurant including those with outdoor dining areas or takeout food									X	X	X	X	X
k.	Establishment selling alcoholic beverages for consumption on premises													
1.	In conjunction with a restaurant									X	X	X	X	
2.	Without food service (bar)										X			
l.	Establishment selling alcoholic beverages for consumption off-premises									X	X	X		

a.	Public building; police, fire, community center, library, art gallery, museum	X	X	X	X	X	X		X	X	X	X	X	X
b.	Club, lodge, hall, fraternal organization			X	X	X	X		X	X	X	X	X	X
c.	Church, monastery, convent, and other institutions for religious observance	X	X	X	X	X	X		X	X	X	X	X	
d.	Mortuary, columbarium, mausoleum						X			X	X	X		
e.	Public transportation and parking facilities	X	X	X	X	X	X		X	X	X	X	X	X
f.	Park, plaza, playground	X	X	X	X	X	X		X	X	X	X	X	X
g.	Nonprofit youth groups	X												
(4)	Schools													
a.	Public schools or college not otherwise specified	X	X	X	X	X	X		X	X	X	X	X	
b.	Private school or college not otherwise specified; including a new private school or college to be located on grounds or within buildings formerly occupied by a public school	X	X	X	X	X	X		X	X	X	X	X	
c.	Nursery school/day care center, provided that each shall be on a site not less than 20,000 square feet in area and in a building not less than 2,000 square feet in floor area	X	X	X	X	X	X		X	X	X	X	X	
d.	Small family day care home								X	X	X	X		
e.	Large family day care home								X	X	X	X		
f.	Vocational or trade school									X	X	X		

	g.	Business or professional school or college								X	X	X	X	X	
	h.	Art, craft, music, dancing school								X	X	X	X	X	
(5)	Health Services														
	a.	Hospital								X					
	b.	Convalescent hospital			X		X	X		X	X	X	X		
	c.	Residential care facility-small family home								X	X	X	X		
	d.	Residential care facility-large family home	X	X	X	X	X	X		X	X	X	X		
	e.	Residential care facility-group home	X	X	X	X	X	X		X	X	X	X		
(6)	Transmission Facilities/Utilities														
	a.	Public utility service yard, station, transmission lines, storage tank, drainage or communication facilities	X	X	X	X	X	X		X	X	X	X	X	X
	b.	Antenna facilities operated by a public or private utility for transmitting and receiving cellular telephone and other wireless communications	X	X	X	X	X	X		X	X	X	X	X	X
	c.	Radio and/or broadcast studios								X	X	X	X	X	X
(7)	Automotive (Vehicle sales, service and related activities)														
	a.	New vehicle sales and rental										X	X	X	
	b.	Used vehicle sales only incidental to new vehicle sales and rental										X	X	X	

c.	Vehicle tires and accessories, sales, servicing, recapping												X	X	
d.	Vehicle body repair and painting												X	X	
e.	Vehicle repair and service (garage)												X	X	
f.	Service station									X	X	X	X		
g.	Parking lots or storage garages, not accessory to another use												X	X	
h.	Car wash												X		
i.	Truck terminal													X	X
j.	Alternating use of offstreet parking spaces	X	X	X	X	X				X	X	X	X	X	X
k.	Recreational vehicle and equipment storage yard												X	X	X
l.	Temporary auto storage for automobile dealers	X	X	X	X	X	X			X	X	X	X	X	X
m.	Parking lots that serve a nearby commercial use located on a previously unimproved property in the R-1:12 zone on an arterial street			X											
n.	>Sales, service, and repair of electric vehicles as set forth in Section 29.10.020												X	X	X
(8)	Residential Uses														
a.	One-family dwelling												X	X	X
b.	Two-family dwelling												X	X	X

c.	Multiple-family dwelling								X	X	X	X	X	
d.	Boardinghouse					X					X	X	X	
e.	Apartment hotel					X					X	X		
f.	Mobile home park					X								
g.	Residential condominium					X			X	X	X	X	X	
h.	Caretaker residence	X	X											
i.	Reserved													
j.	Conversion of a mobile home park to condominium ownership					X		X						
k.	Live/work units								X	X	X	X	X	
(9)	Agriculture and Animal Services													
a.	Botanical nursery	X	X	X	X	X	X		X	X	X	X	X	X
b.	Dairying	X	X											
c.	Veterinary hospital (without kennel)										X	X	X	X
d.	Kennel	X	X											X
e.	Commercial and private stables and riding academies	X	X	X	X	X								
f.	Wineries that have been legally and continuously operating for at least 50 years or is operated in conjunction with a vineyard	X												
g.	Aviaries and other wholesaling animal-raising facilities	X	X	X										

	h.	Vineyards, orchards, and agricultural or farming activities greater than 3,000 s.f.	X	X	X															
(10)	Light Industrial																			
	a.	Large recycling collection facilities																X	X	
	b.	Large recycling collection facilities operated by a public agency	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
	c.	Equipment rental yard											X	X	X					
	d.	Construction materials yard																X	X	
	e.	Bulk fuel storage and sales																X	X	
	f.	Dry cleaning plants											X	X	X					
	g.	Hazardous waste management facility																	X	
(11)	Other																			
	a.	Outdoor storage																X	X	X
	b.	Changing the activity in a nonconforming building	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	
	c.	24 hour businesses or businesses open between the hours of 2:00 a.m. and 6:00 a.m.											X	X	X	X	X	X	X	

