



**TOWN OF LOS GATOS
TOWN COUNCIL SPECIAL POLICY COMMITTEE MEETING
FEBRUARY 26, 2019
TOWN COUNCIL CHAMBERS – 110 EAST MAIN STREET
LOS GATOS, CA
5:00 P.M.**

*Marcia Jensen, Vice Mayor
Barbara Spector, Council Member*

MEETING CALLED TO ORDER

ROLL CALL

VERBAL COMMUNICATIONS *(Members of the public may address the Committee on any matter that is not listed on the agenda. Unless additional time is authorized by the Committee, remarks shall be limited to three minutes.)*

OTHER BUSINESS *(Up to three minutes may be allotted to each speaker on any of the following items.)*

1. Approve the January 24, 2019 Council Policy Committee Draft Minutes.
2. Provide direction on Commission Appointments Policy 2-11 in relation to Commissioner interviews, and the Town Agenda Format and Rules Policy 2-01 regarding remote meeting participation.
3. Provide direction on potential land use streamlining modifications.
4. Provide direction on potential modifications or updates to the Traffic Impact Mitigation Ordinance, Policy, and Fees.
5. Receive information on the development of Arborist Report Standards.
6. Determine meeting schedule for 2019 (verbal discussion only).

ADJOURNMENT



**MINUTES OF THE TOWN COUNCIL SPECIAL POLICY COMMITTEE MEETING
JANUARY 24, 2019**

The Town Council Policy Committee of the Town of Los Gatos conducted a Special Meeting on Thursday, January 24, 2019, at 5:30 p.m.

MEETING CALLED TO ORDER AT 5:30 p.m.

ROLL CALL

Members Present: Marcia Jensen, Barbara Spector

Staff Present: Laurel Prevetti, Town Manager; Arn Andrews, Assistant Town Manager; Matt Morley, Parks and Public Works Director; Sally Zarnowitz, Planning Manager.

VERBAL COMMUNICATIONS

None.

OTHER BUSINESS

1. Approval of December 20, 2018 Council Policy Committee Draft Minutes.

Approved.

2. Identify and Provide Direction on Future Work Plan Items.

Laurel Prevetti, Town Manager, presented the staff report

David Weissman

-Commented that based on his understanding of the 12/19/17 Town Council meeting, consistent arborist guidelines were to be developed. He believes that discrepancies between how the Town's two arborists report data creates inconsistencies. He requested that the Policy Committee add this topic to its work plan.

Lee Quintana

-Commented that the demolition policy should be a high priority.

Hillari Zigelboim, President/Board of Directors Mariposa Montessori Preschool

-Commented that the school is in the process of submitting an application to amend their Conditional Use Permit with the Town to expand their current enrollment from 50 to 70 students. To add 20 students, she stated that the Town would charge between \$75,000-\$95,000 for the traffic impact fees. She stated that as a not-for-profit organization they can't afford such a fee. She requested that the Committee review the existing policy and consider exemptions for not-for-profit organizations.

Jenny Fountain

-Commented that she is a resident and parent of a preschooler. Inquired about the intent and purpose of the existing Traffic Impact Policy, how it applies in this situation, and other related questions.

Reza Tevana

-Commented that he is an impacted parent and supports a review and amending of the Traffic Impact Policy.

After discussion, the Committee accepted the proposed work plan recommendations and asked for the addition of specialty retail. The Committee requested the Traffic Impact Policy for the next meeting. In addition, the Committee provided staff with the following direction:

- Review the 12/19/17 Town Council discussion and relevant Policy Committee discussions pertaining to arborist reports to determine if there is additional work needed by the Policy Committee.
- Schedule future Policy Committee meetings on non-Council Meeting Tuesdays with a start time of 5:00 p.m.

ADJOURNMENT

The meeting adjourned at 6:11 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the December 20, 2018 meeting as approved by the Town Council Policy Committee.

/s/Arn Andrews, Assistant Town Manager



**TOWN OF LOS GATOS
TOWN COUNCIL POLICY
COMMITTEE REPORT**

MEETING DATE: 02/26/2019

ITEM NO: 2

DATE: FEBRUARY 20, 2019
TO: TOWN COUNCIL POLICY COMMITTEE
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: DISCUSS THE COMMISSION APPOINTMENTS POLICY 2-11 IN RELATION TO COMMISSIONER INTERVIEWS, AND THE TOWN AGENDA FORMAT AND RULES POLICY 2-01 REGARDING REMOTE MEETING PARTICIPATION

RECOMMENDATION:

Discuss the Commission Appointments Policy 2-11 in relation to Commissioner interviews, and the Town Agenda Format and Rules Policy 2-01 regarding remote meeting participation.

BACKGROUND:

Staff continues to evaluate and identify areas of the Town Council Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum Policy 2-11 (Attachment 1) that may need to be clarified or amended. The Policy was last amended in February 2018. As questions and unintended consequences arise, staff is looking for the Committee's input and guidance.

Staff is also observing consequences associated with the strict remote meeting participation provisions contained in the Town Agenda Format and Rules Policy 2-01, which was last amended in August 2017.

Based on the direction of the Committee, staff would return to the Committee in March with red-line versions of the Policies to reflect the proposed changes.

PREPARED BY: SHELLEY NEIS
Town Clerk

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

DISCUSSION:

Application and Interview Process

The Town has been fortunate in the past few years to have ample applicants for most Commissions. Policy 2-11 currently states that all applicants must fill out an application and be interviewed (page 5), with an exception for incumbents applying for the same Commission who are unable to attend the interview. In that instance, they may submit a letter by the Friday before the interview date stating why they are not able to attend and why they should be reappointed (pages 3 and 5).

Staff suggests allowing incumbents who reapply for the same Commission to submit an application and a letter stating why they desire to be reappointed in place of being interviewed. The interview waiver could be in instances where there are no new applicants (unless they want to interview) or only interview if there are new applicants.

Currently, Policy 2-11 (page 3) states incumbent interviews by telephone may be considered under extraordinary circumstances. Many of the applicants travel extensively for business and the annual recruitment interviews are typically held at the holiday season when many are traveling, which does not allow for them to participate in the interview process. Staff suggests allowing telephone or video call interviews if arrangements are made with the Town Clerk by 3:00 p.m. the Friday before the interview date.

Remote Meeting Participation

The Town Agenda Format and Rules Policy 2-01 (Attachment 2) was last updated August 1, 2017 which amended Section M. Attendance at Meetings (page 5) to *actively discourage telephonic attendance and is only permitted in the event of extraordinary events such as a medical, family or similar emergency requiring a Council Member's absence or in the event the Council Member is out of the area on official Town business*. The Policy applies to all Town Boards, Commissions, and Committees and therefore, Commissioners are no longer able to participate remotely. This has caused an unintended consequence of Commissioners' having to surrender their position due to missing more than the allotted number of allowed absences (Policy 2-11, page 2).

Staff suggests allowing remote participation for Commissioners on a limited basis, no more than three (3) times for those Commissions that hold six (6) or more regular meetings in a consecutive 12-month period, with the exception of the Planning Commission, and no more than two (2) times for those Commissions that hold five (5) or fewer regular meetings in a consecutive 12-month period. The Planning Commission would be held to the same policy as the Town Council. This would preclude Commissioners from primarily calling in, as had happened in the past with some previous Commissioners.

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SUBJECT: DISCUSS THE COMMISSION APPOINTMENTS POLICY 2-11 AND TOWN AGENDA
FORMAT AND RULES POLICY 2-01

DATE: FEBRUARY 20, 2019

DISCUSSION (continued)

If remote meeting participation is allowed staff believes this will reduce the number of Commissioners surrendering their position due to attendance requirements.

CONCLUSION:

Modifications to the Policies may be necessary following the discussion.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office and the Town Attorney.

FISCAL IMPACT:

There is no fiscal impact.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Existing Town Council Commission Appointments Policy 2-11
2. Town Agenda Format and Rules Policy 2-01



TITLE: Commission Appointments, Residency and Attendance Requirements, and Establishing A Quorum

POLICY NUMBER: 2-11

EFFECTIVE DATE: 2/28/1990

PAGES: 7

ENABLING ACTIONS:

REVISED DATES: 6/13/1994; 6/16/2014;
4/7/2015; 10/18/2016; 2/21/2017;
2/6/2018

APPROVED:

Mark T. Lerman

PURPOSE

To establish a policy to encourage participation by the Town's residents on Town Boards, Commissions and Committees (hereinafter referred to as "Commissions"). The Town will encourage residents to participate on Commissions by advertising vacancies on Commissions for at least 30 days, preparing easily understood applications, maintaining clear descriptions of the role of each Board, Commission, and Committee and its respective members, providing current meeting schedules, and conducting public interviews of all Commission applicants, except as provided by this Policy.

SCOPE

This Policy applies to all applicants to Town Boards, Commissions and Committees.

POLICY

The Town Council encourages public participation in all decision-making and to be successful residents must be assured both that the participation is meaningful and that their input will be valued. The widest representation from the community can only be achieved if vacancies are well advertised so that anyone interested will have the opportunity to apply. Interviews of the applicants conducted in public by the Town Council demonstrates that it values these appointments and that all have an equal opportunity to be appointed. Applicants may apply to only one Commission during each recruitment cycle.

To ensure the greatest possible participation by the public, it is the Town's policy that no person shall be appointed to more than one Commission except in those cases where they are ex-officio members of other Boards, Commissions and Committees. This Policy does not apply to Commission members serving as representatives of their Commission who have been appointed by the Town Council. (Revised on 4/07/15)

RESIDENCY REQUIREMENTS

Residency within the incorporated municipal limits of the Town of Los Gatos, California is required for appointment and continued membership on all Town of Los Gatos Boards, Commissions, and Committees, with the exception of the Youth Commission.

Youth Commission:

The members shall be students who are entering grades 8 through 12. Membership for the students requires either residency in the incorporated limits of the Town of Los Gatos or residency in the unincorporated areas of the County of Santa Clara, which have a Los Gatos mailing address.

ATTENDANCE REQUIREMENTS

1. All members of all appointive Town Advisory Bodies should attend all regular and special meetings of said Advisory Bodies.
2. Any member not in attendance at a regular meeting of said Advisory Body for at least 70% of the meeting shall be considered absent.
3. Any member of an appointive Town Advisory Body who is absent from the number of regular meetings listed below appropriate to his or her Advisory Body shall, as a result, surrender his or her office on the Advisory Body and the office shall be considered vacant.
 - a. For an Advisory Body which holds six (6) or more regular meetings per a consecutive twelve (12) month period: three (3) regular meetings.
 - b. For an Advisory Body which holds five (5) or fewer regular meetings per a consecutive twelve (12) month period: two (2) regular meetings.
 - c. For an Advisory Body which holds sixteen (16) or more regular meetings per a consecutive twelve (12) month period: eight (8) regular meetings.
4. The vacant position shall be filled by appointment by a majority vote of the Town Council, for a term equal to the unexpired portion of the office vacated. Any member removed from office due to non-attendance may re-apply to serve on a Town Advisory Body, but will not be treated as an incumbent in any subsequent application to the same Advisory Body.
5. If a Youth Commissioner liaison misses three meetings of a liaison Commission during a *consecutive twelve (12) month period, the Youth Commission shall appoint a different Youth Commissioner as liaison.

*Consecutive twelve (12) month period is defined as any consecutive twelve-month period beginning with the first absence.

QUORUM REQUIREMENTS

The number of members needed to constitute a quorum on any Town Advisory Body shall be a majority of the total number of filled seats.

PROCEDURES

The following procedures will be followed by the applicant, the Town Clerk Administrator and the Town Council for the appointment of applicants to Town Commissions:

Responsibility and Actions: Town Clerk Administrator

A. Annual Recruitments

Adult Commission members' terms begin on January 1st and end December 31st, Youth Commissioners' terms follow the academic year and begin on August 1 and end on June 30. The Town Clerk Administrator shall perform the following duties in conducting an annual recruitment for Commission members:

1. Notify Town Council of vacancies on Commissions by indicating the names of the Commissions, the number of terms expiring or being vacated, names of individual(s) with expiring terms or vacating seats, advertising periods (at least 30 days) and the date of interview.
2. Advertise the vacancies, including the application deadline and the interview date, which shall be set for no later than the second Town Council meeting in December for Adult Commissioners, and by the fourth Wednesday in May, no earlier than 4:00 p.m., for Youth Commissioners.
3. Prepare and maintain easily understood applications for appointment to Commissions. Applications shall include the following policy information:
 - a. Prior to initial appointment to any Commission, non-incumbent applicants must be interviewed by the Town Council. The applications of those not appearing will be held for the next recruitment.
 - b. If an incumbent is requesting reappointment to the same Commission, the incumbent will be re-interviewed, or must submit a letter for distribution to the Council prior to the interviews, describing the reason why the applicant cannot be present for an interview and why the applicant should be reappointed to the Commission. Incumbent interviews by telephone may be considered under extraordinary circumstances.
 - c. Submissions deadlines are mandatory; no exceptions are permitted.
4. Applications:
 - a. *For adult applicants* — Accept applications, verify eligibility, and distribute copies of the applications of eligible applicants to the Town Council prior to the interviews for appointment.

- b. *For student applicants* — Accept applications, verify eligibility, and distribute copies of the applications of eligible applicants to the Town Council Selection Committee prior to the interviews for appointment.
5. Notify the applicant by letter or email as to the date and time of the interview.
6. Facilitate the Council voting process set forth below by informing Council as to how many votes are possible on each Commission, calling out applicants' names, and identifying the applicants receiving sufficient votes for appointment. This process does not apply to student applicants.
7. Applicants:
 - a. *For adult applicants* — After the interviews and Council vote are completed, notify all applicants of the Council's action, and explain Town policy of keeping application active for one year with notification of subsequent openings on that Commission to the interested applicants.
 - b. *For student applicants* — After the interviews are completed, notify all applicants of the Council Committee's action, and prepare a staff report for the Town Council to ratify the Committee's appointment at the first Town Council meeting in June.

Balloting Process

Unless determined otherwise, the Council shall conduct a ballot vote for the appointment of individuals to fill the vacancies for each Commission. Such ballot vote may be conducted at either a regular, adjourned or special meeting of the Town Council. The ballot vote process shall be conducted as follows:

1. The Clerk Administrator shall provide a ballot to each Town Council member listing the names of all applicants and "None of the above" for each respective Commission. Prior to the vote, the Clerk Administrator shall publicly announce the position vacancy and all applicant names that are listed on the ballot;
2. Each Council member may vote for the same number of applicants as there are current vacancies on the respective Commission. In no case, can a Council Member cast more votes than there are vacancies; or vote for the same candidate more than once on each ballot (i.e. cumulative voting -- e.g. where there are three vacancies, a Council member may not give all three votes to the same candidate). A Council Member is not required to vote for any of the candidates or for the total number of vacancies available.

3. The Clerk Administrator shall collect all ballots and shall publicly announce the name of each Town Council member and how that Council member cast his or her vote. In the case of a tie vote, the Clerk Administrator will announce that there is a tie and that a run-off vote shall be conducted, but will not announce the names of the applicants in the run-off. Once all voting is concluded and a decision made, the votes will be made public. The run-off ballot will also include a "None of the above" option.
4. Applicants receiving a majority number of votes shall be deemed appointed to the Commission. In the event of a tie, a run-off vote shall be conducted among the applicants receiving the highest number of votes from the previous round. This shall continue until a majority consensus on an applicant(s) is reached for the number of vacancies to be filled. In the event of an unbreakable tie, the Council may determine an alternative method for selecting the appointee(s) or direct the Clerk Administrator to re-advertise the vacancy.
5. If an applicant(s) is appointed to an Advisory Body which has vacancies for both full and partial, unexpired terms, the length of the appointee's term will be determined by the Mayor.

B. Mid-Term Recruitments

During the year, Commissions may experience vacancies that drop the number of filled seats to a number of members that is not sufficient to conduct Commission business. The Commission may request the Council to conduct a mid-term recruitment to fill seats. To the extent possible, the Clerk Administrator will consolidate mid-term recruitments to minimize the number of recruitments occurring throughout the year. In the event of a vacancy on the Planning Commission, the Town will automatically conduct a mid-term recruitment. Mid-term recruitments will not be conducted for student commissioners. The Clerk Administrator shall advertise mid-term vacancies on Commissions for at least 15 days.

Responsibility and Action: Applicant

1. Read the Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum Policy, complete and submit to the Clerk Administrator the application for appointment to a Town Commission by the advertised deadline date and time.
2. *For adult applicants:* Attend the Council meeting to be interviewed for Commission appointment.
For student applicants: Attend the Council Selection Committee interview session.
3. If an incumbent Commission member is requesting reappointment to the same Commission and cannot be present for the interview, submit a letter to the Clerk Administrator by the Friday immediately preceding the scheduled interview, describing

why applicant cannot be present for the interview and why the applicant should be reappointed to the Commission.

4. If appointed, prior to starting the Commission term, appointees are required to attend a Commissioner Orientation and take the "Oath of Office."
5. Attend Advisory Body meetings once term begins.
6. Read the Commissioners' Handbook. The Handbook is to be returned to the Clerk Administrator when the term is complete.

Responsibility and Action: Town Council

1. Review applications.
2. *For adult applicants* – Interview applicants individually by Commission at a public meeting with all applicants present.
For youth applicants – Town Council Selection Committee interviews applicants.
3. Determine if the incumbents not in attendance and having submitted a letter pursuant to this Policy should be considered for reappointment.
4. If there are limited applications for any vacancy to a Commission, the Mayor, on behalf of the Council, may request that the Clerk Administrator re-advertise the vacancy, reschedule the interviews, and notify all applicants of the new interview date.

COMPLIANCE - GROUNDS FOR DISMISSAL

A member may be removed from the Advisory Body prior to the end of his or her term by a three-fifths (3/5) vote of the Town Council and may not be reappointed for the following reasons:

1. Failure to attend Advisory Body meetings.
2. Failure to file the following documents required by the Fair Political Practices Commission (Adult Commissioners):
 - a. Form 700 – Assuming Office, Annual, and Leaving Office when term is complete.
 - b. Planning Commissioners are also required to complete AB 1234 Ethics Training and file the original certificate with the Clerk Administrator every two years.
3. Failure to comply with all Town Policies, Guidelines, and Handbooks.

CONFLICT OF INTEREST

Under the Fair Political Practice Act, an advisory board member has a disqualifying conflict of interest in a governmental decision if it is foreseeable that the decision will have a financial impact on his or her personal finances or other financial interests. In such cases, there is a risk of biased decision-making that could sacrifice the public's interest in favor of the official's private financial interests. To avoid actual bias or the appearance of possible improprieties, the public official is prohibited from participating in the decision.

The Fair Political Practice Act does not prohibit an advisory board member from participating in a decision simply by virtue of holding a position as a board member, director, officer or employment with a nonprofit corporation. However, the Town strongly encourages that in the event that a decision concerns a nonprofit corporation for which an advisory board member is a board member, director, officer or employed with that nonprofit corporation, the person should recuse him or herself and at a minimum shall disclose the potential conflict of interest before any discussion and decision.

APPROVED AS TO FORM:



Robert Schultz, Town Attorney



TITLE: Town Agenda Format and Rules

POLICY NUMBER: 2-01

EFFECTIVE DATE: 12/15/1986

PAGES: 6

ENABLING ACTIONS: 1986-183; 1987-024; 1988-124; 1993-181; 1994-057; 1996-108; 2001-077; 2004-033; 2009-002

REVISED DATES: 12/15/1986; 3/2/1987; 6/6/1988; 6/15/1992; 12/6/1993; 4/4/1994; 8/5/1996; 7/2/2001; 4/5/2004; 1/20/2009; 3/16/2009; 12/6/2010; 8/5/2013; 3/3/2015; 9/20/2016; 6/20/2017; 8/1/2017

APPROVED:

PURPOSE

To establish procedures which standardize Town agendas and insure an orderly meeting. This Policy applies to Town Council and all Town Boards, Commissions, and Committees.

POLICY

The following policies have been established:

A. Order of the Agenda

Subject to the Mayor's, or Chair's, discretion to change the order of consideration of any agenda item during any individual meeting:

- Meeting Called to Order
- Roll Call
- Pledge of Allegiance
- Appointments
- Presentations
- Closed Session Report
- Council Matters
- Manager Matters
- Consent Calendar
- Verbal Communications
- Public Hearings
- Other Business
- Adjournment (No later than midnight without vote)

B. Closed Session Report

At the first Council meeting following any Closed Session, the Town Attorney will report on the Closed Session describing what occurred, but without reporting any information which could damage the Town's position on a) potential or existing litigation, b) the acquisition or disposition of property, or c) any employee's privacy interests. In addition, the Closed Session agenda shall clearly identify the subject of each agenda item consistent with the requirements of the *Brown Act*.

C. Communications by Members of the Public

1. *Verbal Communications.* Comments by members of the public during the initial Verbal Communications portion of the agenda on items not on the Council agenda shall be limited to 30 minutes and no more than three (3) minutes per speaker. As an item not listed on the agenda, no response is required from Town staff or the Council and no action can be taken. However, the Council may instruct the Town Manager to place the item on a future agenda. At the conclusion of the first Verbal Communications, the agenda will proceed onto the Public Hearings and Other Business sections of the agenda. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications section can be opened prior to Adjournment.
2. *Public Hearings.* Presentations during the Public Hearings portion of the agenda by appellants and applicants, including any expert or consultant assisting with the presentation, shall be limited to a total of no more than ten (10) minutes for all speakers. Appellants and applicants shall be provided no more than five (5) minutes to rebut at the end of the public hearing. Other members of the public testifying at public hearings shall be limited to no more than three (3) minutes.
3. *Submittal of written materials by Applicant and Appellant.* To allow Town Council, Boards, Commissions, Committees, Town Staff, and the public the opportunity to review material in advance of a hearing, all materials submitted by the Applicant or Appellant must be received by the Town Clerk fourteen (14) days prior to the scheduled public hearing. Documents and materials received from the Applicant or Appellant after the deadline will be accepted; however, the Town Staff may not have the time to analyze the documents and material, and Town Council may not have the time to consider materials submitted after the deadline. The submittal of any additional material by the Applicant or Appellant shall not be considered prima facie evidence (sufficient to establish a fact or raise a presumption) under Town Code Section 29.20.300.
4. *Other Agenda Items.* Comments by members of the public concerning any other item on an agenda shall be limited to no more than three (3) minutes per item.
5. *Mayor's Discretion.* All time limits noted above shall be subject to change at the Mayor's discretion.

D. Consent Calendar

Items on the Council agenda that are considered to be of a routine and non-controversial nature are placed on the Consent Calendar. Typical items include meeting minutes, final reading and adoption of ordinances, resolutions approving agreements, awards of contracts, status staff reports, etc.

Consent items shall be approved by a single Council motion, unless a member from the Council or the public requests that an item be removed for separate Council action. Items removed from the Consent Calendar may be considered at that meeting at the Mayor's discretion.

E. Presentations

The Presentations portion of the agenda is intended to allow organized groups to make formal presentations to the Council and to recognize and honor deserving individuals and organizations. All matters included on the Presentations portion of the agenda require the prior approval of the Mayor and shall be limited to no more than ten (10) minutes, unless the Mayor grants additional time.

F. Council Matters

Members of Council may report on the activities of the committees to which they belong or the meetings they attend, question staff briefly on matters upon which the Council has taken action or given direction, make brief announcements, or discuss whether to place particular items on future agendas for action by the Council. Future agenda items to be briefly discussed here shall be identified consistent with Section G of this policy, or may be raised for the first time under this item.

G. Adjournment

Council meetings will be adjourned at midnight unless a majority of the Council Members present vote to extend the adjournment time.

H. Americans with Disabilities Notice on Town Agendas

As part of the requirements under the Americans with Disabilities Act, the Town is required to provide notice of whom to contact in advance of a public meeting for assistance to disabled individuals who might wish to participate. The following notice shall be provided in at least one location on each Town agenda for Council, Boards, Commissions, or Committees.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Clerk Administrator 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]

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I. Preparation of the Agenda

The agenda is prepared by staff in consultation with the Mayor for the Mayor's final approval. If there is a disagreement between the Mayor and staff, the Mayor makes the ultimate call on the Agenda and its items. Any member of the Council may submit a request through the Town Manager or directly to the Mayor to make a change or addition to the agenda. In no event may the subject of whether to amend the agenda be discussed outside of a public meeting by more than two (2) members of the Council.

Items thus proposed to be added to the agenda require the Mayor's agreement to be added for action. If the Mayor does not agree, the item shall be listed on the agenda for discussion purposes only under the Council Matters section of the agenda. Council may then discuss whether to place the item on a future agenda for action. Two (2) or more members of the Council must vote in favor of placing an item on a future agenda for action. The Mayor in good faith will make every effort to place the item on the first available Council agenda in consultation with the Town Manager.

If the wish of the Council is to add an item on the agenda of the current meeting, then the *Brown Act* generally requires a two-thirds (2/3) vote or a unanimous vote of those present if less than five (5) Council Members are present, with a finding that there is a need to take immediate action and the need for action came to the attention of the Town after the agenda was posted.

J. Agenda Schedule and Preparation

In general, questions or inquiries from Council Members to the Town Manager and/or Town Attorney regarding agenda items should be responded to within 24 hours, and then placed into Addenda and/or Desk Items, as appropriate.

Thursday, prior to the meeting Written agenda is finalized and printed. Agenda packets distributed to Town Council Members. Public comments on agenda items received by 11:00 a.m. will be included in the agenda packet.

Friday, prior to the meeting Additional information from staff available after the Thursday distribution of the agenda packet, and public comments received prior to 11:00 a.m. on Friday will be distributed to Town Council members as an Addendum to a staff report.

Monday, prior to the meeting Additional information from staff available after the Friday Addendum and received prior to 11:00 a.m. on Monday will be distributed to Town Council members as an Addendum to a staff report.

Day of Council Meeting Council comments and questions received by 7:00 a.m. and public comments received by 11:00 a.m. on the morning of a Council meeting will be included in a Desk Item for distribution Town Council members by 1:00 p.m. on the afternoon of a Council meeting. Council comments and questions received after 7:00 a.m. may be addressed during the Council

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meeting. Public comment received after 11:00 a.m. will not be distributed to the Council in the Desk Item; however, public comment may be submitted by individuals during the Council meeting.

In general, questions or inquiries from Council Members to the Town Manager and/or Town Attorney regarding agenda items should be responded to within 24 hours, and then placed into Addenda and/or Desk Items, as appropriate.

K. Agenda Posting

Council Agendas shall be posted at least 72 hours prior to a regular meeting, and at least 24 hours prior to a special meeting. Notice of any meeting of a formally appointed Committee where two Council Members could be present shall be posted at least 24 hours in advance of any such meeting with a note as to the time and location, and an invitation to the public to attend.

L. Conduct of Town Council Meetings

The Council shall adopt:

1. Robert's *Rules of Order* or
2. Some other rules of order, or
3. Allow the Mayor to conduct the meeting as deemed appropriate so long as all members of the Town Council concur.

M. Attendance at Meetings

The Town Council Rules provisions concerning Telephonic Attendance shall apply to all Boards, Commissions, and Committees as well as the Town Council. Requests by Council Members to attend a Council meeting via telephonic appearance are actively discouraged. Telephonic attendance shall only be permitted in the event of extraordinary events such as a medical, family or similar emergency requiring a Council Member's absence or in the event the Councilmember is out of the area on official Town business. In addition, at least a quorum of the Council must participate from a location within the Town.

N. Proposed Reconsideration of Prior Council Actions

Reconsideration of prior Council actions is discouraged and may only occur in special circumstances subject to the procedural restrictions outlined herein. Reconsideration does not include, and this Policy does not prohibit, the repeal of a resolution or ordinance in response to a lawsuit or a referendum challenging that adoption.

Step 1 – Motion to Place Reconsideration of a Prior Action on a Future Council Agenda

- a) The motion must be made by a Council Member who previously voted on the prevailing side of the prior action;
- b) The maker of the motion shall specifically articulate the new information, analysis and/or circumstances that warrant(s) reconsideration of the prior action;

- c) The motion must be adopted by a majority of the full Council; and
- d) The motion may only be made and considered at the next regularly scheduled meeting of the Council after the item was originally acted upon.

Step 2 – Full Reconsideration of the Prior Action, if a motion as outlined in Step 1 is approved.

- a) The full reconsideration of the prior action will be placed on the next available Council agenda following the agenda-setting and required public notification process.
- b) The agenda, public notification and staff report for the full reconsideration of the prior action shall clearly state that the item has been previously acted upon by the Council and is being reconsidered by the Council.
- c) Action on the reconsideration of the prior action shall adhere to regular Council policies and practices as if the item was being heard for the first time.
- d) The full reconsideration of the prior action (whether sustained, reversed or otherwise modified) will be the final action on that item, and no further reconsiderations will be considered.

O. Motions by the Chairperson

The Chairperson of the meeting may make or second motions. The Chairperson may also restate, or ask that the maker restate, all motions immediately prior to any vote.

APPROVED AS TO FORM:



Robert Schultz, Town Attorney



**TOWN OF LOS GATOS
POLICY COMMITTEE REPORT**

MEETING DATE: 2/26/2019

ITEM NO: 3

DATE: FEBRUARY 21, 2019

TO: POLICY COMMITTEE

FROM: LAUREL PREVETTI, TOWN MANAGER

SUBJECT: DISCUSS AND PROVIDE DIRECTION ON POTENTIAL LAND USE
STREAMLINING MODIFICATIONS.

RECOMMENDATION:

Discuss and provide direction on potential land use streamlining modifications.

BACKGROUND:

Over the last couple years, the Town has considered and approved a number of modifications and/or pilot programs that have streamlined the process and costs for businesses. Additional opportunities for streamlining opportunities for businesses will be considered by the Town Council on March 5, 2019.

DISCUSSION:

Staff has identified some additional opportunities to streamline land use processes for the Policy Committee's consideration. Staff has prepared an outline that contains possible streamlining opportunities that relate to the land use process and costs for businesses and residences (Attachment 1). Attachment 1 contains general comments and questions regarding potential streamlining opportunities as outlined below by category:

- Demolition Regulations (see Attachments 2 and 3);
- Hillside Development Standards and Guidelines Project Review and Approval Process (see Attachment 4);
- Deciding Body Modifications (see Attachments 5 through 10); and

PREPARED BY: JOEL PAULSON
Community Development Director

Reviewed by: Town Manager

DISCUSSION (continued):

- Architecture and Site Applications (see Attachment 10).

This meeting will allow for an initial conversation between staff and the Policy Committee. Staff will be prepared to walk through these topics and answer questions.

Staff is interested in the Policy Committee's discussion and direction on these general topics to help prioritize next steps. Given staff resource constraints, staff will bring individual topics back to the Policy Committee for a more thorough discussion.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office.

Attachments:

1. Possible Streamlining Opportunities
2. Demolition Affidavit
3. Demolition Diagram
4. Chapter IX of the Hillside Development Standards and Guidelines
5. Excerpt from the Town Code relating to Deciding Bodies
6. Excerpt from the Town Code relating to loss of Parking in the Parking Assessment District
7. Excerpt from the Town Code relating to Parking Lot Modifications
8. Excerpt from the Town Code relating to Valet Parking
9. Policy relating to Minor Exterior Modifications to Commercial Buildings
10. Excerpt from the Town Code relating to Minor Exterior Alterations to Commercial Building and the requirement for an Architecture and Site application for a change in architectural style

POSSIBLE STREAMLINING OPPORTUNITIES

DEMOLITION REGULATIONS

- The contiguity requirement can create extra work for property owners and design professionals.
- If contiguity is not maintained, then an Architecture and Site application is required.
- Should chimneys count as exterior siding?
- Should chimneys be exempt from the contiguity requirement?
- Should relocation of a house constitute a demolition?
- Should entryway modifications be exempt from the contiguity requirement?
- Is a 12-inch wall material connection contiguity requirement appropriate?
- Is a 12-inch contiguity requirement appropriate where 12 inches doesn't exist above an existing door or window?
- If retained, should existing shear wall beneath stucco or other exterior wall material be considered retained wall area?
- Should replacement of in kind non-repairable exterior wall covering as determined by Building Official, and resulting in no change to exterior appearance, be considered retained wall area for non-historic structures?
- If attached garage wall framing is retained, but exterior wall material is removed, should exterior garage walls with no interior finish be considered retained wall area?
- Should the requirement that the wall area remaining must be contiguous be removed?
- Should the 50% wall area requirement be removed?
- This would assist with remodels.

SINGLE-STORY SINGLE-FAMILY HOMES

- Should we require a discretionary process for single-story single-family homes?
- Should single-story single-family homes only require a building permit (if not located in a historic district? if not in hillsides?)?
- If in the hillside area, they must be under 5,000 sf and not visible from viewing platforms?
- Should there be a maximum height requirement?
- If located in a historic district, HPC review would be required prior to submitting a building permit.
- This would eliminate Architecture and Site application fees and processing time.
- This would eliminate the opportunity to file an appeal.
- How would or should we incorporate Architect, Arborist, Geotech, WELO, etc. peer reviews?
- How would we handle the potential loss of public improvement and dedication requirements?
- This could make the building permit process longer.
- This would remove public noticing requirements and not allow for public input.

HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES PROJECT REVIEW AND APPROVAL PROCESS

- Should we modify the Planning Commission review requirements:
 - Should new homes or additions to existing homes that result in square footage over 5,000 square feet (**including** garage over 400 square feet), but meet the allowed FAR, be reviewed and approved by the Development Review Committee rather than having to go to the Planning Commission?
 - Should new homes or additions to existing homes that result in square footage over 5,000 square feet (**not including** garage over 400 square feet), but meet the allowed FAR, be reviewed and approved by the Development Review Committee rather than having to go to the Planning Commission?
- This would save time and money for applicant's if the application isn't appealed.
- Should single-story additions over 800 square feet or greater than 20% of the existing square footage be handled at the building permit level rather than having to go to Development Review Committee?

DECIDING BODY MODIFICATIONS

- Should some of the items that require Planning Commission approval be revised to require Development Review Committee approval:
 - Should a reduction in on-site parking spaces for a property in the Parking Assessment District require a Variance application and Planning Commission approval if the resulting use is changed to a residential use?
 - Should restaurants without alcohol service require Planning Commission approval? (**pilot to be considered by Town Council on March 5, 2019**)
 - Should other Conditional Use Permits require Planning Commission approval (i.e. group classes)?
- Should some of the items that require Town Council approval be revised to require Planning Commission or Development Review Committee approval:
 - Should new restaurants with alcohol service require Town Council approval? (**pilot to be considered by Town Council on March 5, 2019**)
- Should parking lot improvements that are handled at the building permit level still be required to go to the Development Review Committee?
- Should valet parking be reviewed and approved by the Director of Community Development rather than having to go to Development Review Committee?
- Should valet parking be expanded beyond the Parking Assessment District area?
- Should review of minor commercial exterior modifications be handled at the building permit level instead of requiring Architecture and Site application approval? (**to be considered by Town Council on March 5, 2019**)

ARCHITECTURE AND SITE APPLICATIONS

- Should architectural style changes require an Architecture and Site application?

DEMOLITION AFFIDAVIT

Non-Historic Structures (Not in an historic district or on an historic site and/or constructed after 1941)

Demolition: The definition of demolition as set forth in Section 29.10.020 is attached.

Demolition of a structure means:

- Demolition of more than fifty (50) percent of all exterior wall areas.
- Failure to maintain a contiguous (connecting without a break) portion of existing exterior wall area that is 50% or more of the total exterior wall area.
- The remaining exterior wall area must maintain either the existing interior or existing exterior wall covering.

Historic Structures (Located in an historic district or on an historic site and/or constructed before 1941)

Demolition: The definition of demolition as set forth in Section 29.10.020 is attached.

Demolition of an historic structure means:

- Removal of more than twenty-five (25) percent of the wall area facing a public street(s) and/or fifty (50) percent of all exterior wall area; or
- Enclosure or alteration of more than twenty-five (25) percent of the wall area facing a public street and/or fifty (50) percent of the exterior wall area so that they no longer function as exterior walls.

All remaining exterior wall area must be contiguous. No new exterior wall covering shall be permitted over the existing exterior wall covering. There are exceptions for replacement, repair, or removal. Please see Section 29.10.020 for exceptions.

Additional Information:

- When a section of an exterior wall has both the interior and exterior wall covering removed, this section of wall is considered demolished, even if the structural components (i.e. studs or sheathing) of the wall remain, except for historical structures.
- Dry rot or any other damage does not exempt the project from any provision set forth by Section 29.10.09030. If you find dry rot and need to repair it, **STOP WORK** and contact the Planning Division at (408) 354-6872 to discuss the changes **BEFORE YOU PROCEED**.
- If you encounter an unanticipated situation that changes the scope of work, **STOP WORK** and contact the Planning Division at (408) 354-6872 to discuss the changes **BEFORE YOU PROCEED**.
- Exterior wall covering means the finished surface of an exterior wall (i.e. stucco, siding or shingles).
- Interior wall covering means the finished surface of an interior wall (i.e. sheetrock or plaster).
- Exterior wall means the side of a building connecting foundation and roof. A wall encompasses the total height and width of the side of the building, the exterior or interior wall covering, and studs/structural elements used in framing the wall.
- Existing wall area does not include existing door and window openings.
- If the connection from the roof all the way to the foundation is broken, contiguity is broken. A one foot minimum connection is typically required to qualify as contiguous.

I have read and understand all the information on this page:

Property Owner (sign and date)	Architect of Record (sign and date)
Engineer of Record (sign and date)	Contractor of Record (sign and date)

DEMOLITION AFFIDAVIT (continued)

Read this entire page, initial by your title, sign, and date at the bottom.

_____ **Property Owner:** I certify that I have reviewed the proposed plans and understand all the implications of the proposed scope of work as it pertains to the demolition affidavit. I understand that an unlawful demolition will result in a stop work order, fee penalties, and additional review (as a new structure) as prescribed by the Town. Furthermore, I am ultimately responsible for all persons working on this project.

_____ **Architect of Record:** I certify that I have reviewed the project demolition plan/colorized elevations and verify that it is accurate, does not propose a demolition as defined by the Town, and that the structural plans do not conflict with the demolition plans. I understand that an unlawful demolition will result in a stop work order, fee penalties, and additional review (as a new structure) as prescribed by the Town. This certification does not apply to work of any other consultant or contractor that is inconsistent with the plan that I have prepared or otherwise approved for this project.

_____ **Engineer of Record:** I certify that I have reviewed the project demolition plan/colorized elevations, and the structural plans do not conflict with the demolition plans. I understand that an unlawful demolition will result in a stop work order, fee penalties, and additional review (as a new structure) as prescribed by the Town. This certification does not apply to work of any other consultant or contractor that is inconsistent with the plan that I have prepared or otherwise approved for this project.

_____ **Contractor of Record:** I certify that I have reviewed the proposed plans and understand all the implications of the proposed scope of work as it pertains to the demolition affidavit. I certify that I have reviewed the project demolition plan/colorized elevations, and the structural plans do not conflict with the demolition plans. I understand that an unlawful demolition will result in a stop work order, fee penalties, and additional review (as a new structure) as prescribed by the Town.

I, Engineer of Record, Architect of Record, Property Owner, and Contractor of Record, hereby certify that I have read and fully understand Section 29.10.020 of the Town Code (attached) concerning the definition of an historic structure and the definition of a demolition and that I have read and fully understand Section 29.10.09030 (f) through (l) of the Town Code (attached) concerning penalties associated with unlawful demolition. I understand that if an unlawful demolition occurs, this application and permit will be subject to an additional development review process including a public hearing for which new requirements may be imposed and any existing nonconforming conditions will need to be addressed. New requirements may include undergrounding of electrical service, sidewalk improvements, and right-of-way dedication.

PROJECT ADDRESS	Building Permit Number
Engineer of Record (sign, print, and date)	Property Owner (sign, print, and date)
Architect of Record (sign, print, and date)	Contractor of Record (sign, print, and date)

Excerpts from Los Gatos Town Code
Chapter 29
Section 29.10.020

Demolition (historic structures) means:

- (1) Removal of more than twenty-five (25) percent of the wall(s) facing a public street(s) (or a street facing elevation if the parcel is a corridor lot or is landlocked) or fifty (50) percent of all exterior walls; or
- (2) Enclosure or alteration (i.e.: new window and/or window relocation) of more than twenty-five percent of the walls facing a public street (or a street facing elevation if the parcel is a corridor lot or is landlocked) or fifty (50) percent of the exterior walls so that they no longer function as exterior walls; or

All remaining exterior walls must be contiguous and must retain the existing exterior wall covering. No new exterior wall covering shall be permitted over the existing exterior wall covering. The following are exempt from this definition:

- a. Replacement. The exterior wall covering may be removed if the covering is not original to the structure.
- b. Repair. The removal and replacement of in kind non-repairable exterior wall covering resulting in no change to its exterior appearance or historic character if approved by the deciding body.
- c. Removal. The removal of an addition(s) that is not part of the original structure and which has no historic significance, as determined by the Historic Preservation Committee. Demolition shall be determined by subsections (1) and (2) above for the original structure, where walls enclosed by additions shall be considered as exterior walls.

Demolition (non historic structures) means removal of more than fifty (50) percent of the exterior walls. The remaining exterior walls must be contiguous and must maintain either the existing interior or existing exterior wall covering.

Excerpts from Los Gatos Town Code
Chapter 29
Section 29.10.09030

Sec. 29.10.09030. Demolitions.

- (a) Scope. Applications for demolition permits (Uniform Building Code, section 301(a), or any successor section) filed with the Building Department shall be submitted to the Planning Director for approval unless such permit is required as part of a code enforcement action by the Building Official, Council, or other authorized agency.

(b) Approval of permits. The Planning Director may approve the demolition permit application if:

(1) It is accompanied by a building permit for a replacement structure which meets all town regulations and has received all required approvals, or

(2) It is for demolition of an accessory building or structure.

(c) Demolition of historic structures. A demolition permit for a historic structure may only be approved if:

(1) The structure poses an imminent safety hazard; or

(2) The structure is determined not to have any special historical, architectural or aesthetic interest or value.

Any request to demolish an historic structure shall be reviewed by the Historic Preservation Committee. All applications to demolish an historic structure which has been identified as a contributor to an existing historic district, a potential historic district, or is eligible for local designation shall be accompanied by a detailed report describing all aspects of the structure's physical condition and shall incorporate pertinent information from the Town's Historic Resources Inventory describing the structure's historical and architectural characteristics. This report shall be prepared by a qualified person knowledgeable in historic preservation under contract with the Town at the applicant's expense. Applications for all other historic structures proposed for demolition shall be accompanied by a detailed report describing all aspects of the structure's physical condition prepared by an architect, licensed design professional or registered civil engineer at the applicant's expense.

(d) Architecture and site approval required. Issuance of a demolition permit requires architecture and site approval if:

(1) The conditions of subsection (b)(1) are not met, or

(2) An application is for demolition of an accessory building or structure and the Planning Director determines for any reason that the accessory building or structure ought not to be demolished.

(e) Findings. In architecture and site approval proceedings, the deciding body shall consider:

(1) Maintaining the Town's housing stock.

(2) Preservation of historically or architecturally significant buildings or structures.

(3) Property owner's desire or capacity to maintain the structure.

(4) Economic utility of the building or structure.

(f) Verification that work will not result in a demolition: Prior to issuance of a building permit and/or zoning approval for an addition where the work will result in the removal of over forty (40) percent of the exterior walls, the developer shall submit written verification from a registered structural engineer, certifying that the exterior walls shown to remain are structurally sound and will not be required to be removed for the addition. Prior to issuance of a building permit, the property owner and contractor shall sign an affidavit to the town that they are aware of the town's definition of a demolition and the penalties associated with an unlawful demolition.

(g) Penalties for unlawful demolition: A property owner who has unlawfully demolished a structure shall:

(1) File the required Planning and Building Department applications and pay the required fees as established by resolution for new applications and for work unlawfully completed.

(2) Be subject to the greater of the following penalties set by the Planning Director as an administration order:

a. If the structure has a Landmark Historic Preservation designation a fine equaling fifteen (15) percent of the building permit valuation at the time of demolition, as determined by the Planning Director; or

b. If the structure was an historic residence and does not have a Landmark Historic Preservation overlay zone, the fine shall be equal to ten (10) percent of the building permit valuation at the time of demolition, as determined by the Planning Director. If no building permit was issued, the fine shall be assessed on the building permit filed for the replacement structure.

(3) In all cases, no changes to the previously approved plans may be made except as determined by the Planning Director to meet current zoning and building code requirements. No building permits for new construction at this site shall be approved until the required applications have been filed and approved and the required penalty fee has been paid.

(h) Collection of penalty fees. The Town may collect the assessed penalty fees by use of all legal means including the recordation of a lien.

(1) Whenever the amount on the penalty fee pursuant to this chapter has not been satisfied in full within ninety (90) days and/or has not been successfully challenged by a timely writ of mandate, this obligation may constitute a lien against the real property on which the violation has occurred.

(2) The lien provided herein shall have no force and effect until recorded with the county recorder. Once recorded, the administration order shall have the force and effect and priority of a judgment lien governed by the provisions of sections 697.340 of the Code of Civil Procedure and may be extended as provided in sections 683.110 to 683.220, inclusive, of the Code of Civil Procedure.

(3) Interest shall accrue on the principal amount of the judgment remaining unsatisfied pursuant to law.

(4) Prior to recording any such lien, the Planning Director shall prepare and file with the Town Clerk a report stating the amounts due and owing.

(5) The Town Clerk shall fix a time, date and place for hearing such report and any protests or objections thereto by Town Council.

(6) The Planning Director shall cause written notice to be served on the property owner not less than ten (10) days prior to the time set for the hearing.

a. Demolition for Corrective Maintenance. If during the construction process for an approved construction the developer has determined that the structure is in a deteriorated condition that cannot be repaired, an architecture and site application can be filed requesting a demolition without a penalty provided the following conditions have been met:

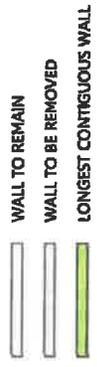
1. Construction work has ceased, and
2. The work completed prior to filing the application does not classify as a demolition, and
3. Documentation has been provided to justify the necessity of the demolition, and

4. No changes to the previously approved plans will be made except as determined by the Planning Director to meet current zoning and building code requirements. If a planning filing fee was paid for the original addition, this fee shall be credited to the architecture and site application fee. If the Development Review Committee determines that the application cannot be approved, the applicant shall pay the credited fee for the architecture and site application if the application is appealed to the Planning Commission.

(j) Salvage of Building Materials. When demolition of a structure is allowed, the town shall provide the developer of the structure to be demolished with information about the salvaging of building materials. At least ten (10) days prior to the date when the demolition is scheduled to commence, the developer shall provide the Planning Director with written notice, and an advertisement published in a newspaper of general circulation, of the availability of materials for salvage, including the name and telephone number of a contact person. Upon request, the Planning Director may make this information available to persons who may be interested in contacting the owner(s) to arrange for possible salvage of building materials. No salvaging of materials shall occur until a demolition permit has been approved by the Building Department.

(Ord. No. 1316, §§ 3.65.010--3.65.040, 6-7-76; Ord. No. 1375, 11-21-77; Ord. No. 1789, § V, 5-15-89; Ord. No. 1887, § I, 2-3-92; Ord. No. 2083, § I, 5-7-01)

- ◆ **DEMOLITION** means:
 - Removal of more than 50% of all exterior wall areas;
 - Failure to maintain a contiguous (connecting without a break) portion of existing exterior wall area that is 50% or more of the total exterior wall area; or
 - The remaining exterior wall area must maintain either the existing interior or existing exterior wall covering.
- For **Historic Structures**, removing or covering more than 25% of the wall area facing a public street(s) and/or 50% of all exterior wall area shall be deemed "Demolition."

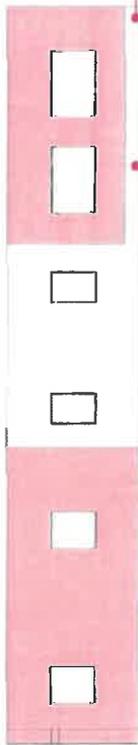


Less than 1 foot of existing wall surface area means this wall breaks continuity.

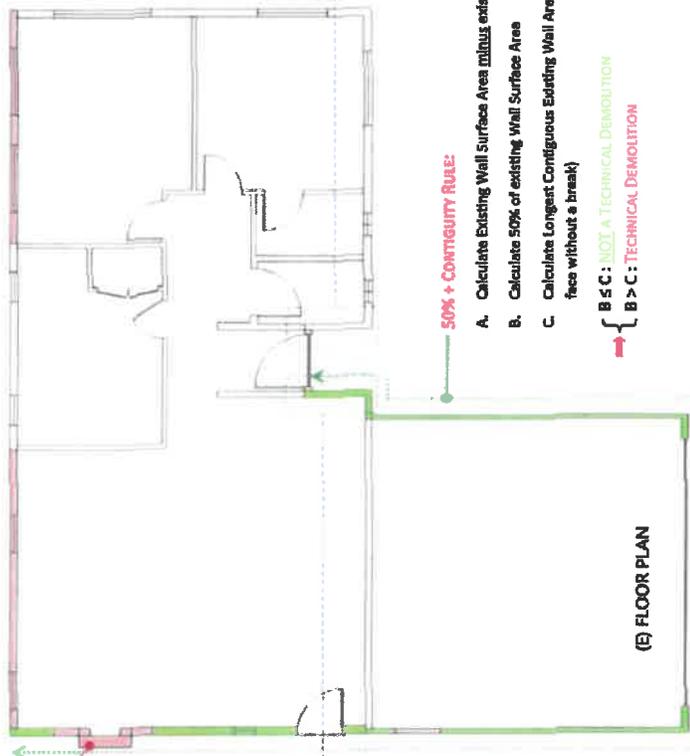
The remaining exterior wall area must maintain either the existing interior or existing exterior wall covering (except for street facing elevations of historic structures).

When a section of a wall has both the interior and exterior wall covering removed, this section of wall is considered demolished, even if the structural components (i.e., studs or sheathing) of the wall remain, except for historical structures for street facing elevations.

A one foot minimum section of existing wall surface area is required to qualify as contiguous.



(E) BACK ELEVATION



(E) FLOOR PLAN

(E) RIGHT ELEVATION

(E) LEFT ELEVATION

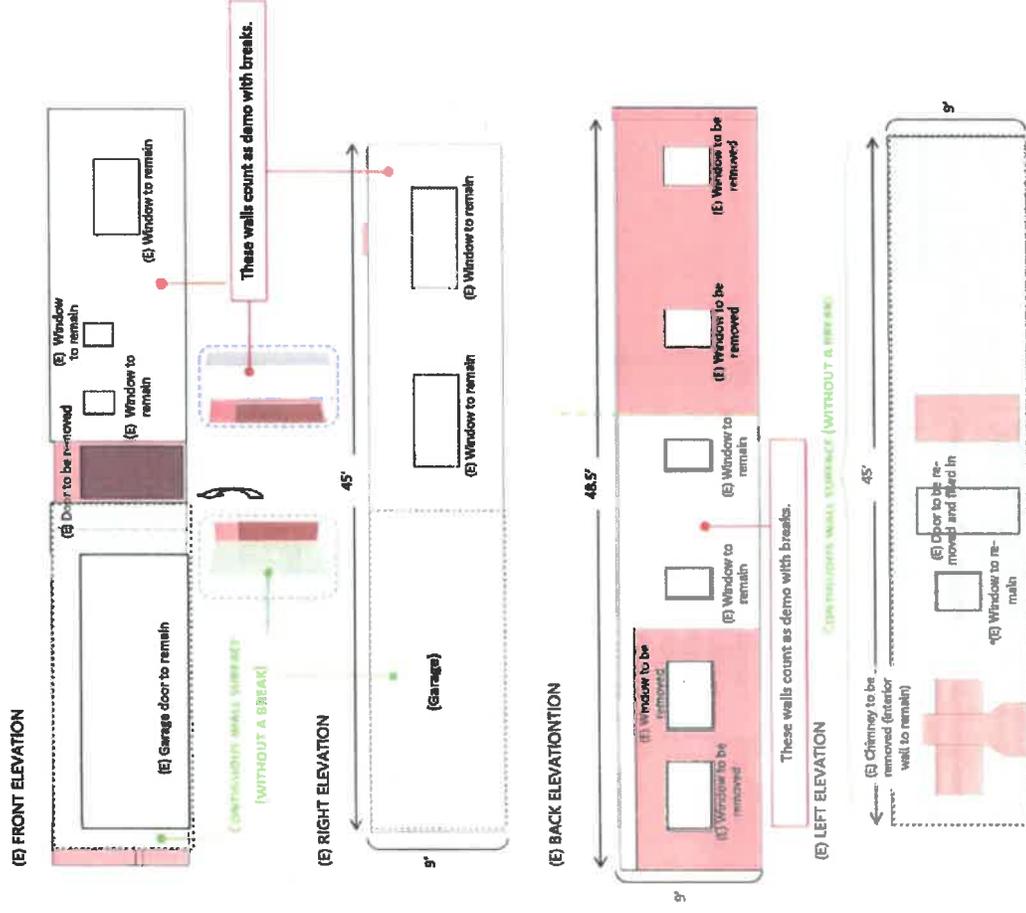
(E) FRONT ELEVATION



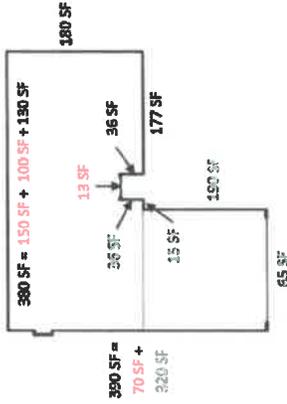
- 50% + CONTIGUITY RULE:**
- Calculate Existing Wall Surface Area minus existing windows, doors, vents
 - Calculate 50% of existing Wall Surface Area
 - Calculate Longest Contiguous Existing Wall Area to Remain (area of exterior wall surface without a break)

$B \leq C$: NOT A TECHNICAL DEMOLITION
 $B > C$: TECHNICAL DEMOLITION

ELEVATIONS (Example)



DEMOLITION CALCULATION (Example)



A. EXISTING WALL SURFACE AREA

	Total Wall Surface*	Wall to be Re-removed	Wall to Remain	Contiguous Wall
FRONT	342 SF	13 SF	329 SF	116 SF
RIGHT SIDE	370 SF	0 SF	370 SF	190 SF
LEFT SIDE	390 SF	70 SF	320 SF	320 SF
REAR	380 SF	250 SF	130 SF	0 SF
TOTAL	1,410 SF			626 SF

*Wall Surface minus Existing Windows/Doors/Ventils

B. CALCULATE 50% OF WALL SURFACE = 1410 SF ÷ 2 = 705 SF

C. LONGEST CONTIGUOUS EXISTING WALL AREA TO REMAIN (Highlight with Green/Red/Orange)

= FRONT (116 SF) + RIGHT (190 SF) + LEFT (320 SF) + REAR (0 SF) = 626 SF

B > C

(705 SF) (626 SF)

SUMMARY

Remaining longest existing exterior wall area (C) is less than 50% of total exterior wall area (B).

Thus, Technical Demolition



IX. PROJECT REVIEW AND APPROVAL PROCESS

A. Architecture and Site Approval

Architecture and site approval is required for all new construction including major additions and remodels in all areas of the Town shown on the Hillside Area Map on page 8. A subdivision or Planned Development application is required for any proposed land division.

The flow chart on page 66 outlines the steps an application for architecture and site approval will go through. The process begins with a preapplication meeting with the Community Development Department. It is highly recommended that applicants considering the design of a new home or remodel of an existing home take advantage of the preapplication meeting to discuss their ideas with Town staff **before** any plans are actually drawn and money and time are expended on a project that may not be entirely feasible.

An application for architecture and site approval or subdivision shall be accompanied by a written letter of justification that describes how the proposed project complies with the General Plan, Hillside Specific Plan and the Hillside Development Standards and Guidelines.

B. Project Approval Authority

Projects may be approved by the Planning Commission, Development Review Committee (DRC), or Director of Community Development (Director) depending on a project's potential impact on surrounding properties and the overall community.

The Planning Commission is the decision making body for projects that have the greatest potential impact, while the DRC and Director make decisions on projects with less impact, as described in Subsections D, E, and F below. For projects that fall within the Planning Commission's decision making authority, the DRC shall first review the project and provide its recommendation to the Commission.



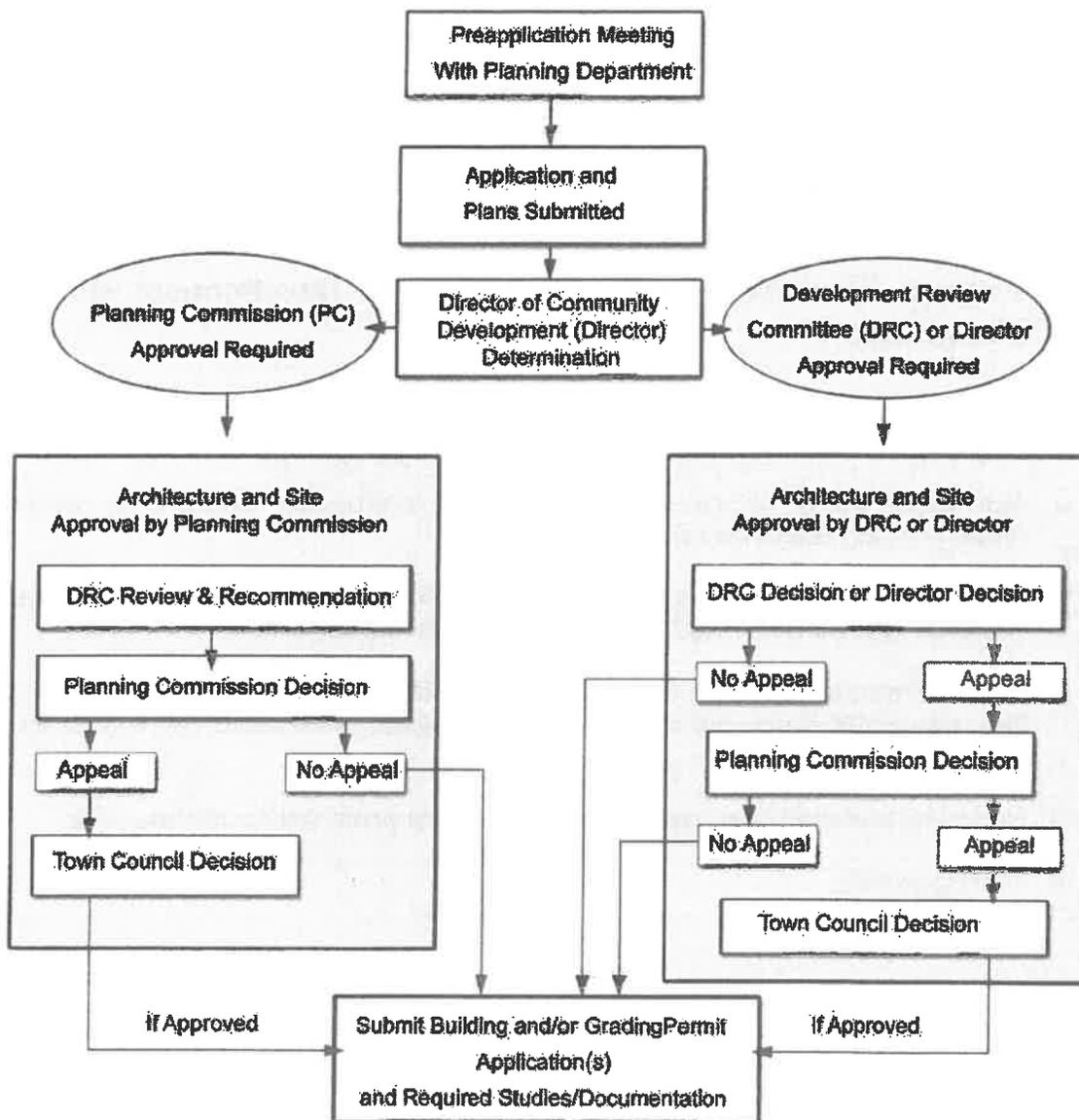
The subdivision and architecture and site approval processes are discretionary actions on the part of all decision making bodies. When reviewing projects, the decision making body may:

- (1) approve a project without imposing extra or special conditions;
- (2) approve a project and add special conditions to reduce the impact(s) of the project to an acceptable level and/or achieve compliance with these standards and guidelines; or
- (3) deny the project by stating specific reasons for its action.

The Director of Community Development may refer an application to the Planning Commission. The decisions of the Planning Commission, DRC, and Director are final unless appealed. Decisions of the Director and DRC may be appealed to the Planning Commission and decisions of the Planning Commission may be appealed to the Town Council. Appeal procedures are outlined in the Town's Zoning Regulations.



Architecture and Site Review Process





1. Projects That May be Approved by the Director of Community Development

The Director has the authority to review and approve the following types of projects provided they comply with all development standards and guidelines:

- a. Additions to houses that do not exceed 20% of the existing floor area of the house or 800 square feet of gross floor area, whichever is less. *
- b. Accessory structures not requiring a conditional use permit that have a gross floor area less than 600 square feet.
- c. Swimming pools that do not require a grading permit.

2. Projects That May be Approved by the Development Review Committee

The Development Review Committee (DRC) has the authority to review and approve the following types of projects provided they comply with all development standards and guidelines:

- a. New houses that do not exceed 5,000 square feet in gross floor area and that are not visible from any established viewing platform.
- b. Additions over 800 square feet or greater than 20% of existing floor area provided that the house size will not exceed 5,000 square feet with the addition(s).
- c. Accessory structures, except those requiring a conditional use permit that have a gross floor area of 600 square feet or more but do not exceed 1,000 square feet in gross floor area.
- d. Swimming pools and game courts requiring a grading permit and/or retaining walls.
- e. Grading permits.

* Additions of 500 square feet or greater require a review by the Santa Clara County Fire Department and may require geotechnical review.



3. Projects That Require Planning Commission Approval

The Planning Commission has the authority to approve all architecture and site projects that do not fall within the authority of the DRC or Director and any projects referred to it by the DRC or Director. The Planning Commission shall be the review authority for any residential project greater than 5,000 square feet in gross floor area. The Planning Commission approves standards subdivisions and makes recommendations to the Town Council on Planned Development applications.

C. Application Period of Validity

An approved architecture and site application shall be valid for a period of time specified in the Town's Zoning Regulations.

D. Subsequent Applications

Following approval of the original architecture and site review application, no subsequent applications for architecture and site approval shall be filed for the same property for a period of three years following final inspection and issuance of an occupancy permit.

E. Required findings

In addition to the considerations for architecture and site approval provided in the Town's Zoning Regulations, the decision making body shall also find that the proposed project meets or exceeds the objectives and requirements of the Hillside Development Standards and Guidelines and shall provide supportive evidence to justify making such findings.

F. Exceptions

Exceptions from the standards in this document may only be granted after carefully considering the constraints of the site. Any deviation from the standards contained in this document shall include the rationale and evidence to support the deviation. The burden of proof shall be on the applicant to show that there are compelling reasons for granting the requested deviation.

Major exceptions may only be granted by the Town Council or Planning Commission. Major exceptions include the following:

- a. building height
- b. maximum floor area

Sec. 29.20.745. - Development Review Committee.

The Development Review Committee shall:

- (1) Regularly review and make recommendations to the Planning Commission concerning the determination of all matters which come before the Planning Commission except zoning ordinance amendments, zone changes (not including rezoning to PD), general plan adoptions and amendments, specific plan adoptions and amendments, and capital improvement plans.
- (2) Review and make recommendations to the Council concerning community-oriented bulletin boards and kiosks proposed to be erected on public property.
- (3) May on its own motion review and make recommendations concerning matters not assigned to it.
- (4) Review and make recommendations on parking lot permits under [section 29.10.155\(I\)](#) including reconfiguration or trade-off of zoning requirements under other sections of this chapter, and under [section 29.10.145\(g\)](#) on use of valet parking for parking lots within a town parking assessment district. The development review committee has the authority to make final determinations for approval and revocation of parking lot permits for valet parking.
- (5) Determine and issue zoning approval for the storage of hazardous materials as provided in division 1 of article VII of this chapter.
- (6) Determine appropriate screening (fencing, landscaping or a combination) for hazardous materials storage sites as provided in division 1 of article VII of this chapter.
- (7) Determine and issue zoning approval for grading permits as provided in [section 29.10.09045\(b\)](#) and (c) of this chapter.
- (8) Determine and issue zoning approval for minor exterior alterations to commercial buildings.
- (9) Determine and issue zoning approval for lot line adjustments and lot mergers.
- (10) Issue large family day care home permits.
- (11) Under the provisions of [section 29.10.070](#) of this chapter and section 66424.2 of the Subdivision Map Act, determine whether lots have merged.
- (12) Determine and issue zoning approval for single-family dwellings.
- (13) Determine and issue zoning approval for minor subdivisions of land consisting of four lots or less.
- (14) Determine and issue zoning approval for minor modifications to Planned Developments when the Official Development Plan is not altered.
- (15) Determine and issue zoning approval for requests for reduction to setbacks on nonconforming lots.
- (16) Determine and issue zoning approval for minor restaurants that are located outside Downtown (the C-2 zone).
- (17) May refer any matter assigned by ordinance to the Development Review Committee for decision to the Planning Commission for decision.

- (18) Determine and issue zoning approval for special parking lot surfaces for nurseries or botanical gardens under [section 29.10.155](#)(1).
- (19) Determines requests for reasonable accommodation when action is not required of the Council, Planning Commission or the Planning Director.
- (20) Determines applications for demolition, conversion, and removal of accessory dwelling units.

No Planning Commission action is invalid because of omission of review and recommendation.

Sec. 29.20.750. - Planning Commission.

The Planning Commission:

- (1) May initiate general plan amendments and specific plans or amendments.
- (2) Hears and recommends all proposals for adoption and amendment of the general plan.
- (3) Hears and recommends all proposals for adoption and amendment of specific plans.
- (4) May initiate zone changes and amendments to this chapter.
- (5) Hears and recommends proposals for zone changes, rezonings, and amendments to this chapter, including those referred to it by the Town Council.
- (6) Determines whether to hear applications for rezoning made within one (1) year of a similar application.
- (7) Determines variance applications.
- (8) Determines conditional use permit applications that are not assigned to the Development Review Committee or the Town Council.
- (9) Determines applications for architecture and site approval except those items listed in [section 29.20.745](#).
- (10) Determines time extension when it would have had the power to grant the original approval.
- (11) Determines revocations and modifications of zoning approvals as provided in [section 29.20.310](#).
- (12) Determines matters referred to it by the Planning Director.
- (13) Hears appeals from decisions of the Planning Director.
- (14) Determines whether to allow all deviations from the standards of this chapter which are specifically authorized by this chapter except variances, and determines when stricter standards than those generally imposed by this chapter but specifically provided for in this chapter apply.
- (15) Determines applications to alter or demolish structures, sites and areas designated, determines whether the Commission must suspend action on applications to alter or demolish structures, sites and areas designated, under the provisions of division 3 of article VIII of this chapter, or for which designation proceedings are pending.
- (16) Determines location and adequacy of required open space for residential condominiums in any zone and for multiple-family developments in the R-M zone.
- (17) Determines applications for [section 29.10.0980](#) tree permits.
- (18) Determines requirements for access to remote areas in the RC and HR zones.

- (19) Determines applications for neighborhood identification signs, and signs on freestanding walls.
- (20) Performs any functions required by statute or ordinance but not specifically assigned by this chapter.
- (21) Determines whether a nonconforming use is no longer lawful.
- (22) Forwards a recommendation to the Town Council concerning mobile home park conversion permit applications.
- (23) Determines requests for reasonable accommodation when action is not required of the Council, Development Review Committee, or the Planning Director.
- (24) Determines requests for reasonable accommodation when action is not required of the Council, Development Review Committee, or the Planning Director.

Sec. 29.20.755. - Town Council.

The Town Council:

- (1) May initiate and refer general plan amendments and specific plans or amendments to the Planning Commission for recommendation.
- (2) Hears and determines Planning Commission recommendations for the adoption or amendment of the general plan or any specific plans and conditional use permits for establishments selling alcoholic beverages for on premises consumption and for retail sales of firearms, ammunition and/or destructive devices.
- (3) Adopts ordinances.
- (4) May initiate and refer zone changes and amendments to this chapter to the Planning Commission for recommendation. Nonsubstantive ordinance amendments may, but need not be, referred to the Planning Commission.
- (5) Hears appeals from decisions of the Planning Commission.
- (6) Determines whether to extend suspension under [section 29.80.285](#).
- (7) Determines applications for permits for signs on public property, including but not limited to community-oriented bulletin boards and kiosks.
- (8) Determines mobile home park conversion permit applications.
- (9) Appoints Historic Preservation Committee members.
- (10) Determines requests for reasonable accommodation when action is not required of the Planning Commission, Development Review Committee, or the Planning Director.

Sec. 29.10.150. - Number of off-street spaces required.

.....

(f) *Properties in parking districts.* Required spaces in parking districts shall be as follows:

- (1) For any building or open-air use in a public parking district, the number of required off-street parking spaces is:
 - a. None, when the gross floor area of the building and open area occupied by a use, combined, do not exceed the area of the building and open area occupied when the district is formed; or
 - b. When the area limitation in subsection (f)(1)a. is exceeded or the use is intensified, the required number is derived only on the basis of the excess area.
- (2) The creation of a parking assessment district relieves those properties located within the district which were nonconforming as to parking from having to supply on-site parking spaces in accordance with subsection (b).
- (3) The assessment formula was based on a number of factors that included existing floor area, existing use, in some cases potential floor area and included credits for existing on-site parking spaces and for participation in past assessment districts.
- (4) The Planning Director shall develop a table using the floor area, parking and previous assessment district information used to calculate the parking assessment and translating that information into a parking credit based on the parking requirements set forth in subsection (b).

When an application is filed to intensify the use within an existing building or to expand an existing building, this information will be used to calculate the amount of on-site parking, if any, that will be necessary to comply with the parking requirements set forth in subsection (b).

- (5) Any parking spaces that are credited in the parking assessment district calculation may not be eliminated.

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Sec. 29.10.145. - Requirements Generally

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(h) *Permit required for parking lot improvements.* No person shall erect, construct, relocate, enlarge, alter, repair, move, improve, remove, or convert any parking lot without a permit except:

- (1) When repainting the existing lines in the same configuration without any resurface or top coat;
- (2) When included as part of a zoning approval; or
- (3) Normal maintenance which does not involve extensive structural repairs when necessary to provide for health or safety.

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Sec. 29.10.145. - Requirements Generally

.....

(g) Commercial operation of parking spaces.

- (1) All privately owned off-street parking spaces required to be provided by this division, or required by the administrative approval authorized by this chapter, shall be operated without charge to the users thereof. No privately owned parking lot which contains such spaces shall be operated commercially or under a validation system whereby parkers patronizing business for which the spaces are provided are admitted to the lot free of charge or at reduced charges and other parkers are charged a fee, and the admission of vehicles to such lots shall not be restricted by gates or other physical means during periods when the use or uses for which the spaces are required are in operation. The provisions of this section shall not be deemed to prohibit the posting of signs at entrances to such parking lots identifying the businesses or uses for whose benefits the lots are operated, prohibiting other parking under threat, and enforcing such prohibitions.
- (2) Notwithstanding subsection (1) above, a parking lot located within a town parking assessment district may be operated with a charge for its use under the following circumstances if the town has instituted and continues to maintain a charge for use of town owned or operated parking lots in the district:
 - a. A charge is made for use of the private parking lot that does not exceed the highest hourly rate charged by the town for use of its lots. Such a charge may include a validation system whereby parkers are admitted to the lot free of charge or at reduced charges if certain businesses are patronized and may also include restriction by gates or other physical means; or
 - b. Use of valet parking, so long as the parking lot is usable at all times during which the parking spaces are in operation as required by this chapter, and the use of the valet parking has been approved by the Development Review Committee pursuant to a parking lot permit; or
 - c. A combination of a charge and valet system.
- (3) Notwithstanding subsection (1) above, a private parking lot, or sections of a private parking lot located within a Town parking assessment district may be operated as a valet parking lot under the following circumstances:
 - a. The valet parking may be provided with or without charge to the public; and
 - b. The valet parking lot service adheres to and maintains all fire codes and emergency access standards; and
 - c. The valet parking lot service shall not impair the safe and efficient use of existing adjacent non-valet parking; and

- d. The private valet parking lot is approved by the Development Review Committee pursuant to a parking lot permit. The Development Review Committee shall have the discretion to deny the parking lot permit application if any criteria set forth above and/or any other rules and regulations adopted by the Town Council cannot be met and shall have the ability to revoke the parking lot permit for valet parking with a minimum of ten (10) days notice.

.....

RESOLUTION 2005 - 038

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
ADOPTING A POLICY ON
MINOR ALTERATIONS TO COMMERCIAL BUILDINGS**

WHEREAS, the Town of Los Gatos is updating its commercial development standards and guidelines, and

WHEREAS, the Zoning Ordinance allows approval of minor projects by the Development Review Committee (DRC); and

WHEREAS, there is no definition of a minor project; and

WHEREAS, adoption of a policy defining minor projects will help provide clear direction to developers and business owners processing development applications (General Plan Goal L.G.7.2 and Implementing Strategy L.I.7.4) and will assist staff; and

WHEREAS, the General Plan Committee recommends that the policy on Minor Alterations to Commercial Buildings be adopted; and

WHEREAS, the Planning Commission has held a public hearing and forwarded a recommendation for adoption of the same document;

THEREFORE BE IT RESOLVED: the Town Council of the TOWN OF LOS GATOS does hereby adopt the policy on Minor Alterations to Commercial Buildings (attached as Exhibit A).

FURTHER RESOLVED, the policy shall apply to all development applications that have not been approved prior to adoption of the document.

PASSED AND ADOPTED at a regular meeting of the Town Council held on the 18th day of April, 2005, by the following vote:

COUNCIL MEMBERS:

AYES: Steve Glickman, Diane McNutt, Joe Pirzynski, Mayor Mike Wasserman

NAYS: Barbara Spector

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**

**TOWN COUNCIL POLICY
TOWN OF LOS GATOS**

Subject: Minor Alterations to Commercial Buildings

Enabling Action:
2005-

Page 1 of 2

Approved:

Effective
Date:

Mike Wasserman, Mayor

PURPOSE:

Section 29.20.745(8) of the Zoning Ordinance states that the Development Review Committee (DRC) shall "determine and issue zoning approval for minor exterior alterations to commercial buildings". The purpose of this policy is to define "minor exterior alterations" to commercial buildings that may be approved by the DRC as set forth in Section 29.20.745(8) of the Zoning Ordinance. To assist in the redevelopment of commercial buildings, the Town has created a streamlined review process for minor commercial improvement projects that comply with the Commercial Design Guidelines.

The following shall be used by staff when reviewing plans for minor exterior alterations to commercial buildings to determine if proposed projects can take advantage of the streamlined review process.

EXAMPLES OF MINOR ARCHITECTURAL IMPROVEMENTS:

The following are examples of minor architectural improvements that may be decided by the Development Review Committee (DRC) after considering public input at a duly noticed public hearing:

1. Replacing or changing out windows
2. Replacing or adding awnings
3. Changes to or addition of arcades
4. Replacement of or changes to exterior materials
5. Small scale additions (may not result in an increase of more than four peak hour trips)

Town Council Policy
Minor Alterations to Commercial Buildings
Page 2 of 2

DEFINITION:

For projects that include small scale additions, a minor commercial project is one which is in full compliance with the Town's Commercial Design Guidelines and Town Code and does not result in an intensification of use as described in Section 29.30.200 of the Zoning Ordinance or more than a minor increase in traffic as described in the Town's Traffic Impact Policy.

The Director of Community Development or the Development Review Committee may refer any minor commercial project to the Planning Commission if it is not in compliance with the Commercial Design Guidelines, there are impacts to surrounding properties that cannot be resolved by the DRC, or as otherwise deemed appropriate.

Sec. 29.20.145. - Approval required.

Architecture and site approval is required in all zones for the following:

- (1) New construction of any principal building;
- (2) An exterior alteration that changes the architectural style of a single-family and two-family residence.
- (3) Any exterior alteration or addition to a building excluding:
 - a. Alterations or additions to a single and two family dwelling that do not require approval by the Planning Commission or Development Review Committee pursuant to the Residential Design Guidelines or the Hillside Development Standards and Guidelines;
 - b. Minor exterior alterations to commercial and multifamily buildings.
- (4) Intensification of land use. For the purposes of this section only, intensification of land use means all changes in use which require more parking and/or results in an increase in peak hour trips for mixed use, multi tenant commercial, industrial or multifamily development projects if the trips exceed the traffic generation factor assigned to the project at the time of approval and/or an increase of five (5) or more peak hour trips;
- (5) Residence conversions;
- (6) Any development in a floodplain as required by article IX of this chapter; and as otherwise specified in this article.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 2/26/2019

ITEM NO: 4

DATE: FEBRUARY 15, 2019
TO: POLICY COMMITTEE
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: PROVIDE DIRECTION ON POTENTIAL MODIFICATIONS OR UPDATES TO THE TRAFFIC IMPACT MITIGATION ORDINANCE, POLICY, AND FEES.

RECOMMENDATION:

Provide direction on potential modifications or updates to the Traffic Impact Mitigation Ordinance, Policy, and Fees.

BACKGROUND:

Impact fees are designed to allow for the capture of fees to offset the impact created on local communities from new development and expanded uses of existing development. Traffic impact fees capture the cumulative impact of a project on the Town's roadways beyond the immediate vicinity of the project. By aggregating impact fees from a number of projects that create small traffic impacts, the Town is able to fund infrastructure improvements that result from that growth. In 2014, the Town Council revised the traffic impact fee, the first adjustment since 1994.

The fees are set through a study that identifies a number of factors in the calculation of the impact of each vehicle through an established process. The end result of the study is a calculation that divides the costs of anticipated growth-related improvements by the anticipated growth in the number of vehicle trips.

PREPARED BY: MATT MORLEY
Parks and Public Works Director

Reviewed by: Town Manager, Assistant Town Manager, Community Development Director, and Economic Vitality Manager

SUBJECT: PROVIDE DIRECTION ON POTENTIAL MODIFICATIONS OR UPDATES TO THE TRAFFIC IMPACT MITIGATION ORDINANCE, POLICY, AND FEES

February 15, 2019

BACKGROUND (continued):

The study and the calculations that follow an accepted standard are important to establish a nexus for the fees. It is legal to apply fees at a lesser amount, but not to exceed the amount identified in the study. The traffic impact fees in place prior to the change in 2014 provided significant discounts to projects that generated more than ten vehicle trips. This kept the actual dollar amount of the fee low and the Town Council seldom heard concerns.

Since the modifications to the policy in 2014, the Town Council has made an additional policy adjustment to allow for treatment of the downtown as a single business area, effectively eliminating any impact fees for changes of use and only applying the fee in situations where building square footage increases. This modification provided relief in the downtown as businesses evolve and accepts that, as a whole, traffic levels will remain constant in the downtown even with the changes in use.

The traffic impact fee calculation should receive periodic updates. A review cycle of five years is reasonable but should be guided by changes in the community, such as growth factors, capital project completion, etc. The Town's previous review cycle leading up to the 2014 update was ten years.

Fees for individual developments or changes in use where there is an increase in intensity of use are identified through a national average for each type of use as collected by the Institute of Transportation Engineers (ITE). This is considered the standard for evaluating trip generation in the traffic engineering industry.

DISCUSSION:

On a fairly regular basis, staff or the Town Council hear from businesses that trigger the payment of impact fees. At times, these fees have been presented as a barrier to businesses opening or expanding in their desired Los Gatos location. Businesses have the option of appealing the fee to the Planning Commission if they desire. Often businesses choose not to pursue this option due to the cost of the appeal and the risk of not having the fee waived or reduced.

One area the Policy Committee may wish to discuss is the need to carve out exceptions to the Policy for certain uses. Most recently the question has arisen with respect to a preschool that wishes to expand. The ITE identifies the trips generated by a preschool (equivalent to daycare) by the number of students, with 4.09 vehicle trips generated per student. At the current rate of \$930 per vehicle trip, the fee associated with a one student increase is \$3,804. The preschool has stated that the burden of the impact fee will not allow for expansion.

SUBJECT: PROVIDE DIRECTION ON POTENTIAL MODIFICATIONS OR UPDATES TO THE
TRAFFIC IMPACT MITIGATION ORDINANCE, POLICY, AND FEES

February 15, 2019

DISCUSSION (continued):

Creating exceptions in the Policy provides an opportunity to encourage growth in particular business types over an extended time period, potentially helping to fill gaps in business needs within the community. Potential downsides include having to identify which business types are eligible for exceptions and absorbing the impact from growth by way of increased traffic and increased general fund expenditures to mitigate traffic.

An alternative area for discussion may be the need to update the nexus study given the amount of time since the last study was completed. If the Committee wishes to pursue this option and given current workload, staff would advise approaching this effort late in the calendar year or including it in next year's strategic priority setting process. This would not meet the needs of a proposed preschool which has an application on file currently with the Town.

CONCLUSION:

Staff recommends that the Policy Committee provide direction to staff on modifications to the Traffic Impact Mitigation Fee program.

Attachments:

1. Town Code Chapter 15, Article VII – Traffic Impact Mitigation Fee
2. Traffic Impact Policy
3. ITE Trip Generation Information for “Day Care Center”

ARTICLE VII. - TRAFFIC IMPACT MITIGATION FEES

Sec. 15.70.010. - Short title.

This article shall be known as the "Town of Los Gatos Traffic Impact Mitigation Fee Ordinance" and may be so cited.

(Ord. No. 1828, § I(37.01.010), 7-2-90)

Sec. 15.70.015. - Purpose.

- (a) The Town Council finds that all new development and expansion of uses contribute to cumulative traffic impacts. These impacts are difficult to measure and mitigate on a project-by-project basis, yet are cumulatively measurable and mitigable. Failure to expand the capacity of the existing circulation system will cause unacceptable levels of service and congestion on streets and intersections, traffic accidents, air pollution, noise, and restrictions on access for emergency vehicles.
- (b) The Town Council finds that the purpose of the traffic impact mitigation fee is to assure that each new development or expansion of use pays its fair share of the transportation improvements needed to accommodate the cumulative traffic impacts. Existing and known future sources of revenue are inadequate to fund a substantial portion of the transportation improvements necessary to avoid unacceptable levels of service, congestion, and related adverse impacts.
- (c) The Town Council declares the traffic improvement area shall be the Town limits to finance transportation improvements where such improvements have been identified by the Town's general plan and any applicable specific plan.
- (d) The Town Council has determined that traffic impact mitigation fees are necessary in order to finance transportation and traffic improvements within the traffic improvement area.
- (e) In establishing the fees described in this article, the Town Council has found that these fees will replace the intersection capacity in-lieu fees and median island fees.

(Ord. No. 1828, § I(37.01.015), 7-2-90)

Sec. 15.70.020. - Scope.

This article establishes cumulative traffic impact mitigation fees through assessments on new developments and expansion of uses authorized through the approval of minor land divisions, major subdivisions, building permits, and all zoning approvals in the Town. This article further provides for the establishment of trust funds to receive the revenues collected by the Town, and authorizes the Council to establish the inventory of capital improvement facilities for which funds may be expended and the amount of fees to be assessed, subject to periodic review.

(Ord. No. 1828, § I(37.01.020), 7-2-90)

Sec. 15.70.025. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building permit shall mean the permit issued or required by the Town for the construction of any structure pursuant to and as defined by the building code.

Development shall mean residential or nonresidential improvements on a site.

Existing development shall mean any already existing habitable residential or nonresidential building or projects which rebuild or remodel the existing development without increasing the trips generated. No fee shall be charged for development already existing.

Expansion of use, to determine traffic increases, shall include any increase in the number of living units, gross floor area in a nonresidential development and/or any intensification of use which increases trips generated.

Future growth shall mean the level of future development anticipated in the Town consistent with the general plan and any applicable specific plan and shall be expressed as the difference between the existing and potential land use within the Town. Both the existing and potential land use data shall be used to estimate the number of trips arriving and/or leaving from various planning areas within the Town through the use of a trip generation rate.

Site shall mean a plot of ground consisting of one (1) or more lots or parcels on which a common improvement is proposed or exists.

Transportation improvements shall mean those improvements and related actions necessary to implement the circulation element of the Town's general plan and any applicable specific plan and shall include and not be limited to: paving, curb and gutter, sidewalks, medians with landscaping, drainage facilities, traffic signals, street lighting, signing, striping, noise walls, right-of-way and other improvements or actions necessary to mitigate significant cumulative traffic impacts.

Trip generation rate shall mean the number of vehicle trips over a weekday twenty-four-hour period generated by a particular type of land use and shall be expressed in terms of the number of acres or square feet of land for each land use category. The Town Engineer may exercise reasonable discretion to establish recommended trip generation rates for land use categories consisting of groupings of land uses having similar use and functional characteristics. When the trip generation rate is multiplied by the amount of land, the number of trips, both incoming and outgoing, shall be estimated.

Use shall mean the purpose for which a site or structure is arranged, designed, intended, constructed, erected, moved, altered or enlarged or for which either a site or a structure is or may be occupied or maintained.

Vehicle trip end shall mean an incoming or outgoing trip going to or coming from anywhere within the Town or outside the Town.
(Ord. No. 1828, § 1(37.02.010), 7-2-90)

Sec. 15.70.030. - Fee determination.

- (a) The traffic impact mitigation fee shall be based upon the unfunded cost of the transportation improvements necessary to upgrade the traffic circulation system as identified in the Town's general plan. The traffic/build-out analysis (prepared as a part of the Environmental Impact Report for the Town's general plan dated February 4, 1985, on file with the Planning Department) identified the projected new vehicle trip ends that will be generated by new growth occurring at the build-out of the Town in accordance with the existing general plan. All of the anticipated trip ends for each land use category were added up to determine the total number of additional trips that the Town's circulation system must accommodate consistent with the general plan.

- (b) The traffic impact mitigation fee shall be calculated in accordance with the following procedure:
- (1) The Town Engineer shall determine the estimated cost of the transportation improvements necessary to implement the circulation element of the Town's general plan.
 - (2) The Town Engineer may also take into account the relative benefit of particular transportation improvements to different land uses in order to allocate the cost of such improvements fairly and equitably among the different land uses.
 - (3) The Town Engineer in conjunction with the Town Finance Manager shall determine the current and anticipated funding available to pay the costs of constructing the transportation improvements. In determining the amount of funding available, the Town Engineer shall include funding from other governmental entities and Town revenues earmarked for roadway construction purposes.
 - (4) The Town Engineer shall determine the difference between the estimated costs and the estimated current and anticipated future funding available to complete the transportation improvements.
 - (5) The extent to which the estimated cost exceeds the estimated current and anticipated future funding shall be the unfunded cost of the transportation improvements to be raised via traffic impact mitigation fees.
- (c) The Town Engineer shall determine the fee for each land use in accordance with the following procedure:
- (1) The fee per vehicle trip end shall be calculated by dividing the unfunded cost of transportation system improvements by the total number of trip ends expected to be generated by future growth.
 - (2) The unadjusted traffic impact mitigation fee shall be calculated by multiplying the fee per trip end by the trip generation rate per land use category.
 - (3) The unadjusted traffic impact mitigation fee may then be adjusted by the Town Engineer, in a reasonable exercise of discretion, to make the fee reflect more accurately the interrelationships between the land use category, traffic impacts, transportation improvement costs, the Town's general plan and any applicable specific plan, local and regional social, economic, and commercial needs and a fair and equitable mitigation fee distribution. In addition, the Town Council expressly reserves its full legislative discretion to adjust or categorize the traffic impact mitigation fees to be assessed to the maximum extent permitted by law.
 - (4) The Town will utilize its best efforts to maintain records for the purposes of determining credits that may be due to any particular property. However, except as otherwise specifically provided by law, the ultimate burden and responsibility for establishing entitlement to any credit shall rest with the person claiming entitlement to a credit.
 - (5) Unusual circumstances may result in this policy placing an undue burden on a developer or landowner. In such cases, the Town reserves the right to enter into an agreement to deviate from the policy as may be approved by the Town Council.

(Ord. No. 1828, § 1(37.03.010), 7-2-90)

Sec. 15.70.035. - Amount and payment of fee.

- (a) The Town Council shall by resolution set forth the specific amount of traffic impact mitigation fees. These fees are subject to periodic review by the Town Council.
- (b) All projects which are determined by the Town Engineer to have the potential to generate additional present and future vehicle trips are required to pay the traffic impact mitigation fee.
- (c) The fee shall be paid in full to the Town Building Department prior to issuance of the building permit for the development. If no building permit is required for a change of use, the fee shall be paid in full prior to issuance of a certificate of use and occupancy.
- (d) No final subdivision map, parcel map or certificate shall be filed for recording until the traffic impact mitigation fee has been paid in full.

(Ord. No. 1828, § I(37.03.015), 7-2-90)

Sec. 15.70.040. - Establishment of trust fund.

There is hereby established a special trust fund into which all traffic impact mitigation fees and any interest thereon collected pursuant to this article, shall be deposited in a separate account in a manner to avoid any commingling of the fees with other revenues and funds of the Town.

(Ord. No. 1828, § I(37.04.010), 7-2-90)

Sec. 15.70.045. - Use of monies in trust fund.

- (a) Money in the trust fund established in this article shall be used solely for construction of identified traffic and transportation improvement projects.
- (b) The monies in the fund shall be eligible for expenditure only for projects related to mitigating the impacts of new development. These funds can not be used for routine repairs and maintenance.

(Ord. No. 1828, § I(37.04.015), 7-2-90)

Sec. 15.70.050. - Preclusion of additional mitigation measures not guaranteed.

This article shall not preclude the imposition of additional mitigation measures to address significant direct impacts of any development or expansion of use or to address otherwise unfunded transportation improvements, nor shall this article preclude adoption of statement of overriding considerations where desirable and appropriate.

(Ord. No. 1828, § I(37.04.020), 7-2-90)



TITLE: Traffic Impact Policy

POLICY NUMBER: 1-05

EFFECTIVE DATE: 3/22/2017

PAGES: 5

ENABLING ACTIONS: 1991-174; 2014-017; 2016-068; 2017-011

REVISED DATES: 8/5/91; 3/24/14; 12/6/16; 3/21/17

APPROVED:

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.

TITLE: Traffic Impact Policy	PAGE: 2 of 5	POLICY NUMBER: 1-05
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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.

TITLE: Traffic Impact Policy	PAGE: 3 of 5	POLICY NUMBER: 1-05
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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.
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.
3. Where the property is vacant, the most recent former use shall be used.
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

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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

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 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.

APPROVED AS TO FORM:



Robert Schultz, Town Attorney

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
GP/VTP 2035	Wood Rd Gateway on Santa Cruz Ave - roundabout	\$ 1,200,000	50.00%	\$ 600,000
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
GP/VTP 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/Lerk 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.

Land Use: 565 Day Care Center

Description

A day care center is a facility where care for pre-school age children is provided, normally during the daytime hours. Day care facilities generally include classrooms, offices, eating areas and playgrounds. Some centers also provide after-school care for school-age children.

Additional Data

Time-of-day distribution data for this land use are presented in Appendix A. For the 21 general urban/suburban sites with data, the overall highest vehicle volumes during the AM and PM on a weekday were counted between 7:15 and 8:15 a.m. and 4:45 and 5:45 p.m., respectively.

The sites were surveyed in the 1980s, the 1990s, the 2000s, and the 2010s in California, Florida, Georgia, Maryland, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Tennessee, Texas, Virginia, and Wisconsin.

Source Numbers

169, 208, 216, 253, 335, 336, 337, 355, 418, 423, 536, 550, 562, 583, 633, 734, 866, 869, 877, 878, 954, 959, 981

ATTACHMENT 3

Day Care Center (565)

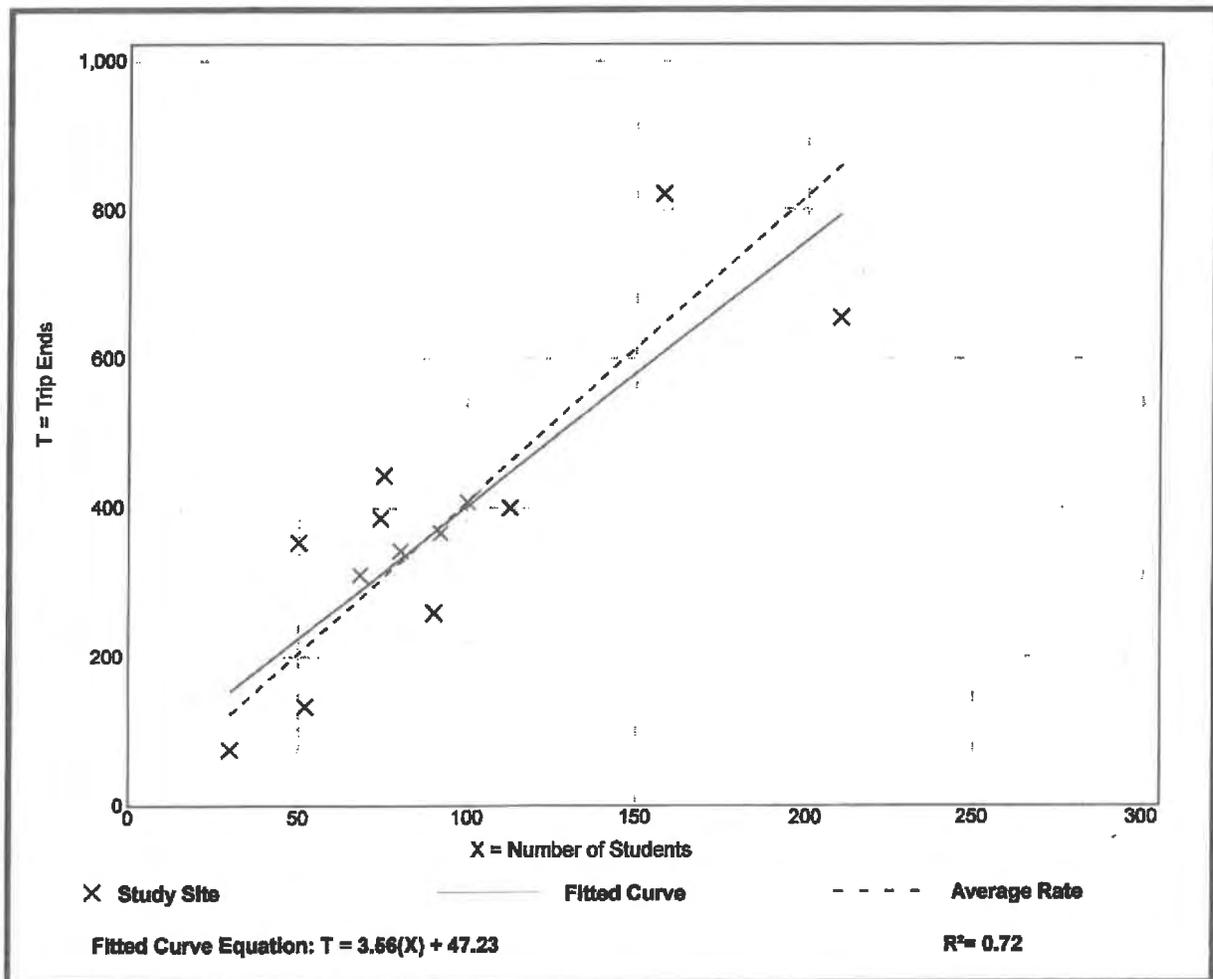
Vehicle Trip Ends vs: Students
On a: Weekday

Setting/Location: General Urban/Suburban
Number of Studies: 14
Avg. Num. of Students: 89
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per Student

Average Rate	Range of Rates	Standard Deviation
4.09	2.50 - 7.06	1.21

Data Plot and Equation





**TOWN OF LOS GATOS
POLICY COMMITTEE REPORT**

MEETING DATE: 2/26/2019

ITEM NO: 5

DATE: FEBRUARY 21, 2019
TO: POLICY COMMITTEE
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: RECEIVE INFORMATION ON ARBORIST REPORT STANDARDS.

RECOMMENDATION:

Receive information on arborist report standards.

BACKGROUND:

On January 24, 2019 Committee meeting, Dave Weissman requested that the Policy Committee add the development of arborist report standards to their work plan. At the meeting, the Policy Committee provided staff with the following direction:

- Review the December 19, 2017 Town Council discussion and relevant Policy Committee discussions pertaining to arborist reports to determine if there is additional work needed by the Policy Committee.

DISCUSSION:

Staff has reviewed the December 19, 2017 Town Council discussion. That discussion included direction to staff to develop consistent arborist report standards for the next Consulting Arborist Request for Proposals (RFP) process.

Currently, the Town uses two Consulting Arborists, Walter Levison Consulting Arborist and Monarch Consulting Arborists. While the Town does not have a document specifying arborist report standards, staff works with the arborists to ensure that the required information is

PREPARED BY: JOEL PAULSON
Community Development Director

Reviewed by: Town Manager

PAGE 2 OF 2

SUBJECT: ARBORIST REPORT STANDARDS

DATE: FEBRUARY 21, 2019

DISCUSSION (continued):

collected in each arborist report, such as affected trees, location, size, health/condition, etc. The consultants choose to present the information differently; however, the information from each Arborist meets the needs of the Town's environmental review and development application processes.

The Town conducts consultant RFP processes every five years. The Town issued the last RFP for Consulting Arborist services in August of 2015. Based on the date of the last RFP, the Town would begin the next RFP process in late summer of 2020.

Dave Weissman also referenced an e-mail that was sent to staff following the December 19, 2017 Town Council meeting which included suggestions for arborist reports. His suggestions are included as Attachment 1.

As requested by the Town Council in 2017, staff will develop arborist report standards for the next RFP process. Staff will include Dave Weissman's suggestions and any other suggestions that are provided by members of the public. Staff will also speak with the Town's Consulting Arborists to let them know of the future development of arborist report standards. This will allow staff to utilize their expertise and input during the creation of these standards.

If the Policy Committee is interested in reviewing arborist report standards, staff suggests that this item be placed on the Policy Committee's work plan for 2020.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office.

Attachment:

1. Dave Weissman's suggestions for Arborist Reports

12/29/2017 Arborist's reports

I have some thoughts on the motion, passed by the TC at the meeting of 12/19/2017, to standardize the Consulting Arborist's reports. The motion to approve the Visibility Revisions was made by Ms. Jensen. The motion was seconded by Ms. Sayoc, who added that she wanted consistent arborist standards when the next RFP was sent out. Ms. Spector also added that she wants consistent arborist's standards and such was then included into the motion by the original maker, and passed 5-0 by the whole TC.

Below, my draft liberally uses the wording of Deborah Ellis, for 2 reasons: she was the Town's Consulting Arborist for many years and now that she is retired, there should be little or no conflict of interest from the Town's current and future Consulting Arborists. Plus, most importantly, her reports were always clear and any reader could determine how and why she arrived at her conclusions. Her clear narrative is similar to the "Materials and Methods" section that appears in almost all scientific, peer reviewed papers.

My draft proposal, to be given all Consulting Arborist's, when an FTP is posted, is as follows:

On December 19, 2017, the Los Gatos Town Council voted to establish consistent and uniform Consulting Arborist standards for future Arborist Tree Reports. Sec. 29.10.1000 of the Town's Tree Protection Ordinance requires a tree survey be conducted prior to submittal of any development application proposing the removal of, or impact to, one or more protected trees. The development application shall include a Tree Survey Plan prepared by a certified or consulting arborist and include required information as outlined in Sec. 29.10.1000 (a). Additionally, the Consulting Arborist shall prepare a Tree Preservation Report as outlined in Sec. 29.10.1000 (c). The Tree Protection Plan and Tree Preservation Report can be combined into one document.

Tree health assessments before development are required by the Tree Protection Ordinance. Such information may also be used in the required View Analysis of the HDS&G. An overall condition rating shall be determined for each relevant tree, using the following guidelines:

Overall Condition Rating: Trees shall be rated for their condition on a scale of zero to 100, with zero being a dead tree and 100 being a perfect tree. A 60 is "average" (not great but not terrible either). There are two components to tree condition- vigor and structure, and each component is rated separately. The "Overall Condition Rating" is a generated number that considers both tree condition components and shall have a maximum interval of five to ten whole numbers (e.g., 45 to 50 and not 25 to 50, the latter with no ratings in between). Averaging the two components is not useful because a very low rating for either one could be a valid reason to remove a tree from a site-- even if the other component has a high rating. Numerically speaking, for each separate component: 100 is equivalent to Excellent (an 'A' academic grade), 80 is Good (B), 60 is Fair (C), 40 is Poor (D), 20 is Unacceptable (F) and 0 is Dead. Ratings such as "Fair/Good" and "Fair/Poor" are intermediate in nature, and sometimes useful. These broad categories can be further explained, as follows:

Excellent	Such trees are rare but they have unusually good health and structure and provide multiple functional and aesthetic benefits to the environment and the users of the site. These are great trees with a minimum rating of "Good" for both vigor and structure. Equivalent to academic grade 'A'.
Good	These trees may have some minor to moderate structural or condition flaws that can be improved with treatment. They are not perfect but they are in relatively good condition and provide at least one significant functional or aesthetic benefit to the environment and the users of the site. These are better than average trees equivalent to academic grade 'B'.
Fair	These trees have moderate or greater health and/or structural defects that it may or may not be possible to improve with treatment. These are "average" trees – not great but not so terrible that they absolutely should be removed. The majority of trees on most sites tend to fall into this category. These trees will require more intensive management and monitoring, and may also have shorter life spans than trees in the "Good" category. Retention of trees with moderate suitability for preservation depends upon the degree of proposed site changes. Equivalent to academic grade 'C'.
Poor	These trees have significant structural defects or poor health that cannot be reasonably improved with treatment. These trees can be expected to decline regardless of management. The tree species themselves may have characteristics that are undesirable in landscape settings or may be unsuitable for high use areas. I do not recommend retention of trees with low suitability for preservation in areas where people or property will be present. Equivalent to academic grade 'D'.
None	These trees are dead and are not suitable for retention in their location. In certain settings however, (such as wilderness areas, dead trees are beneficial as food and shelter for certain animals and plants including decomposers. Equivalent to academic grade 'F'.

Preservation Suitability Rating: The condition of the tree is considered relative to the tree species, and present or future intended use of the site, to provide an opinion on the tree's Preservation Suitability Rating (i.e. "Is this tree worth keeping on this site, in this location"), as is required in Sec. 29.10.1000 (b). This rating is based upon the scenario that the tree is given enough above and below-ground space to survive and live a long life on the site. Trees are to be rated high/moderate/low for retention [(Sec. 29.10.1000 (b))]. The Preservation Suitability rating is not always the same as the Condition Rating because, for example, some trees with poor condition or structure can be significantly improved with just a small amount of work- and it would be worthwhile to keep the tree if this were done.

Other items to consider and add:

1. Another thought on how to improve the usefulness and quality of the Tree Reports:

The Consulting Arborist's report shall contain (Sec. 29.10.1000 (c)) "...recommendations for specific precautions necessary for [tree] preservation during all phases of development..."

These recommendations are required to be followed in the Town's typical "Conditions of Approval." The Town's boilerplate wording is: "Arborist's Requirements: The developer shall implement, at their cost, all recommendations identified in the Arborist's report dated as received _____ for the project, on file in the CDD. These recommendations must be incorporated in the building plans, and completed prior to issuance of a building permit where applicable."

I suggest that the Consulting Arborist be required to add another category to their Tree Data Table: if his/her recommendations are followed, which they are required to be, for example by moving a retaining wall 6' farther from a tree, does that then change the preservation suitability of that tree from, say, moderate to high? Such information would be useful to the developer and to the deciding body.

2. Add somewhere: If trees already tagged with numbers by a previous arborist, then new arborist shall use the same numbers in their tree report. This action will permit easy following of tree health and survival through time.

3. For each tree, notes shall be provided, in the tree report, regarding pest and disease presence, recent and old mechanical injuries, major dead branches, etc. Probable impacts from proposed construction shall be noted, where relevant.