



**TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
NOVEMBER 19, 2019
110 EAST MAIN STREET
LOS GATOS, CA**

Steve Leonardis, Mayor
Marcia Jensen, Vice Mayor
Rob Rennie, Council Member
Marico Sayoc, Council Member
Barbara Spector, Council Member

PARTICIPATION IN THE PUBLIC PROCESS

How to participate: The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please complete a “speaker’s card” located on the back of the chamber benches and return it to the Clerk Administrator. If you wish to speak to an item NOT on the agenda, you may do so during the “Verbal Communications” period. The time allocated to speakers may change to better facilitate the Town Council meeting.

Effective Proceedings: The purpose of the Town Council meeting is to conduct the business of the community in an effective and efficient manner. For the benefit of the community, the Town of Los Gatos asks that you follow the Town’s meeting guidelines while attending Town Council meetings and treat everyone with respect and dignity. This is done by following meeting guidelines set forth in State law and in the Town Code. Disruptive conduct is not tolerated, including but not limited to: addressing the Town Council without first being recognized; interrupting speakers, Town Council or Town staff; continuing to speak after the allotted time has expired; failing to relinquish the podium when directed to do so; and repetitiously addressing the same subject.

Deadlines for Public Comment and Presentations are as follows:

- Persons wishing to make an audio/visual presentation on any agenda item must submit the presentation electronically, either in person or via email, to the Clerk’s Office no later than 3:00 p.m. on the day of the Council meeting.
- Persons wishing to submit written comments to be included in the materials provided to Town Council must provide the comments as follows:
 - For inclusion in the regular packet: by 11:00 a.m. the Thursday before the Council meeting
 - For inclusion in any Addendum: by 11:00 a.m. the Monday before the Council meeting
 - For inclusion in any Desk Item: by 11:00 a.m. on the day of the Council Meeting

***Town Council Meetings Broadcast Live on KCAT, Channel 15 (on Comcast) on the 1st and 3rd Tuesdays at 7:00 p.m.
Rebroadcast of Town Council Meetings on the 2nd and 4th Mondays at 7:00 p.m.
Live & Archived Council Meetings can be viewed by going to:
www.losgatosca.gov/Councilvideos***

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CLERK DEPARTMENT AT (408) 354-6834. NOTIFICATION 48 HOURS BEFORE THE MEETING WILL ENABLE THE TOWN TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28 CFR §35.102-35.104]

**TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
NOVEMBER 19, 2019
7:00 PM**

MEETING CALLED TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

- i. Community Pledge Leader - Trevor Schwartz, President Los Gatos Morning Rotary

PRESENTATIONS

- ii. Small Business, Big Applause - Yeung Shing Restaurant

CLOSED SESSION REPORT

CONSENT ITEMS *(Items appearing on the Consent Items are considered routine and may be approved by one motion. Any member of the Council or public may request to have an item removed from the Consent Items for comment and action. If an item is pulled, the Mayor has the sole discretion to determine when the item will be heard. Unless there are separate discussions and/or actions requested by Council, staff, or a member of the public, it is requested that items under the Consent Items be acted on simultaneously.)*

- 1. Approve Commissioner Interview Meeting Minutes of November 5, 2019.
- 2. Approve Council Meeting Minutes of November 5, 2019.
- 3. Adopt an Ordinance Amending Chapter 29 (Zoning Regulations) of the Town Code Regarding Demolition Regulations
Town Code Amendment Application A-19-007. Project Location: Town Wide. Applicant: Town of Los Gatos.
- 4. Adopt an Ordinance Effecting Amendments to Chapter 23 (Streets and Sidewalks) of the Town Code Regarding Right of Way Dedication, Installation of Curbs, Gutters and Sidewalks and Undergrounding of Utilities.
- 5. Adopt an Ordinance of the Town of Los Gatos Amending Chapter 18, Article VI, Section 18.60.020 of the Los Gatos Town Code Entitled Permits for Retailers of Tobacco Products to Prohibit the Sale of Electronic Cigarettes.
- 6. Agreement for Consultant Services to Provide Senate Bill 743 Implementation Technical Assistance:
 - a. Authorize the Town Manager to Negotiate and Execute an Agreement for Consultant Services with Fehr & Peers in an Amount Not to Exceed \$122,820
 - b. Authorize Revenue and Expenditure Budget Adjustment in the amount \$122,820 from the General Plan Update Deposit Account
- 7. Authorize the Town Manager to Submit Grant Applications for the Measure B Bicycle and Pedestrian Competitive Grant Program for Five Candidate Projects.
- 8. Adopt a Resolution Approving the Final Map for Tract No. 10514 (258 Union Avenue) and Accepting the Dedications.

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda. To ensure all agenda items are heard and unless additional time is authorized by the Mayor, this portion of the agenda is limited to 30 minutes and no more than three (3) minutes per speaker. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications will be opened prior to adjournment.)*

COUNCIL / MANAGER MATTERS

APPOINTMENT OF MAYOR AND VICE MAYOR

ADJOURNMENT *(Council policy is to adjourn no later than midnight unless a majority of Council votes for an extension of time)*

Writings related to an item on the Town Council meeting agenda distributed to members of the Council within 72 hours of the meeting are available for public inspection at the front desk of the Los Gatos Town Library, located at 100 Villa Avenue, and are also available for review on the official Town of Los Gatos website. Copies of desk items distributed to members of the Council at the meeting are available for review in the Town Council Chambers.

Note: The Town of Los Gatos has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a decision of the Town Council must be brought within 90 days after the decision is announced unless a shorter time is required by State or Federal law.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 11/05/2019

ITEM NO: 1

**DRAFT
Minutes of the Special Town Council Meeting - Closed Session
November 5, 2019**

The Town Council of the Town of Los Gatos conducted a Special Meeting on Tuesday, November 5, 2019, to conduct Board, Commission, and Committee interviews at 5:00 p.m.

MEETING CALLED TO ORDER AT 5:00 P.M.

ROLL CALL

Present: Mayor Steven Leonardis, Vice Mayor Marcia Jensen, Council Member Rob Rennie, Council Member Marico Sayoc, Council Member Barbara Spector.

Absent: None

VERBAL COMMUNICATIONS

None.

BOARD/COMMISSION/COMMITTEE APPOINTMENTS

Town Council interviewed applicants for the vacant positions on Town Boards, Commissions, and Committees.

- Arts and Culture Commission (2 vacancies, 1 applicant)
 - Maureen Cappon-Javey
- Building Board of Appeals (1 vacancy, no applicants)
 - No applications were received.
- Community and Senior Services Commission (3 vacancies, 1 applicant)
 - Jeffrey Blum
- Complete Streets and Transportation Commission (6 vacancies, 8 applicants)
 - Doug Brent
 - Robert Buxton
 - Bill Ehlers
 - Peter Hertan
 - Maria Ristow
 - Cheryl Ryan did not interview, unable to attend.
 - Jeff Thompson
 - Gillian Verga

- Council Finance Committee (2 vacancies, 2 applicants)
 - Terry Duryea
 - Rick Tinsley
- General Plan Committee (1 vacancy, 2 applicants)
 - Jeffrey Barnett
 - Jeffrey Blum
- Historic Preservation Committee (1 vacancy, 1 applicant)
 - Steven Raspe
- Library Board (2 vacancies, 4 applicants)
 - Trish Goldfarb
 - John Housley
 - Gail Long
 - Cheryl Ryan did not interview, unable to attend.
- Parks Commission (3 vacancies, 4 applicants)
 - Mike Buncic
 - Sandy Gordon
 - Alicia Shah did not interview, unable to attend
 - Rob Stephenson
- Personnel Board (2 vacancies, no applicants)
 - No applications were received.
- Planning Commission (2 vacancies, 3 applicants)
 - Jeffrey Barnett
 - Matthew Hudes
 - Phoebe Peasley
- Sales Tax Oversight Committee (3 vacancies, no applicants)
 - No applications were received.

ADJOURNMENT

Special Meeting adjourned at 6:46 p.m.

Attest:

Shelley Neis, Town Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 11/19/2019

ITEM NO: 2

**DRAFT
Minutes of the Town Council Meeting
November 5, 2019**

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Tuesday, November 5, 2019, at 7:00 p.m.

MEETING CALLED TO ORDER AT 7:00 P.M.

ROLL CALL

Present: Mayor Steven Leonardis, Vice Mayor Marcia Jensen, Council Member Rob Rennie, Council Member Marico Sayoc, Council Member Barbara Spector.

Absent: None

PLEDGE OF ALLEGIANCE

The Van Meter Elementary School Student Council led the Pledge of Allegiance. The audience was invited to participate.

PRESENTATIONS

Mayor Leonardis presented a commendation to the CERT (Community Emergency Response Team) volunteers.

BOARD/COMMISSION/COMMITTEE APPOINTMENTS

The Clerk announced the voting process, distributed, and collected the ballots. The meeting continued while the Clerk tallied the votes.

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)

1. Approve Closed Session Meeting Minutes of October 15, 2019.
2. Approve Council Meeting Minutes of October 15, 2019.
3. Adopt an Ordinance to Amend Chapter 4 (Animals and Fowl) Article VI Sections 4.60.050 and 4.60.055 And Article VIII - Beekeeping of the Town Code. **ORDINANCE 2294**
4. Adopt Amendments to Chapter 11 (Garbage, Refuse and Weeds) of the Town Code regarding Weed Abatement regulations. **ORDINANCE 2293**
5. Adopt a Resolution Extending the Temporary Streamlining Resolutions until Code Amendments may be Adopted. **2019-051**
6. Authorize the Town Manager to Enter into an Agreement to Participate in the CalPERS California Employers' Pension Prefunding Trust (CEPPT) Program and Delegate Authority to the Town Manager to Request Disbursements.
7. Adopt a Resolution Authorizing the Town Manager to Apply for a Proposition 68 Per Capita Program Grant for Park Improvements. **2019-052**

Consent Items – continued

8. Adopt a Resolution to Authorize the Application for and Receipt of Planning Grants Program Funds. **2019-053**
9. Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of Interstate Grading and Paving and Authorize Recording by the Town Clerk for PPW Job No. 18-811-9901 Annual Street Repair and Resurfacing Project (Arterial/Collector Overlay).
10. Shannon Road Complete Streets Project (CIP Project #813-0218):
 - a. Adopt a Resolution of Local Support Authorizing the Filing of an Application for One Bay Area Grant funding Assigned to the Metropolitan Transportation Commission, committing any Necessary Matching Funds, and Providing Assurance on Completion of the Shannon Road Complete Streets Project. **2019-054**
 - b. Authorize Revenue and Expenditure Budget Adjustments in the Amount of \$119,204 from Available Utility Undergrounding Fund Balance.
 - c. Authorize the Town Manager to Conduct a Request for Proposals and Negotiate and Execute a Consultant Agreement for the Shannon Road Complete Streets Project Design in an Amount not to Exceed \$200,000.

MOTION: Motion by Vice Mayor Jensen to approve the Consent Items. **Seconded** by Council Member Rennie.

VOTE: Motion passed unanimously.

VERBAL COMMUNICATIONS

Bruce Preville spoke about the environment and urged the Council to adopt Reach Codes.

Lisa Wade spoke about the environment and urged Council to commit to promoting a plant-based diet plan.

Tina Plautz spoke about the R Community software program.

John Shepardson provided comment on various topics.

Karla Albright urged the Council to adopt reach codes.

Mary Mackey of Green Monday urged the Council to adopt a Sustainability Action Plan that promotes a plant-based diet program.

Dashiell Leeds urged the Council to adopt reach codes.

BOARD/COMMISSION/COMMITTEE APPOINTMENTS

The Town Council appointed applicants for the vacant positions on Town Boards, Commissions, and Committees.

- Arts and Culture Commission
 - Maureen Cappon-Javey was re-appointed.
- Building Board of Appeals
 - No applications were received.
- Community and Senior Services Commission
 - Jeffrey Blum was appointed.
- Complete Streets and Transportation Commission
 - Doug Brent was not appointed.
 - Robert Buxton was appointed
 - Bill Ehlers was appointed.
 - Peter Hertan was appointed.
 - Maria Ristow was appointed.
 - Cheryl Ryan did not interview and was not appointed.
 - Jeff Thompson was appointed.
 - Gillian Verga was appointed.
- Council Finance Committee
 - Terry Duryea was re-appointed.
 - Rick Tinsley was re-appointed.
- General Plan Committee
 - Jeffrey Barnett was not appointed.
 - Jeffrey Blum was not appointed.
- Historic Preservation Committee
 - Steven Raspe was appointed.
- Library Board
 - Trish Goldfarb was re-appointed.
 - John Housley was re-appointed.
 - Gail Long was not appointed.
 - Cheryl Ryan did not interview and was not appointed.

Board/Commission/Committee Appointments – continued

- Parks Commission
 - Mike Buncic was re-appointed.
 - Sandy Gordon was re-appointed.
 - Alicia Shah did not interview and was not appointed.
 - Rob Stephenson was appointed.
- Personnel Board
 - No applications were received.
- Planning Commission
 - Jeffrey Barnett was appointed.
 - Matthew Hudes was re-appointed.
 - Phoebe Peasley was not appointed.
- Sales Tax Oversight Committee
 - No applications were received.

Council Matters

- Council Member Sayoc stated she attended the League of California Cities conference.
- Council Member Spector stated she attended the Council Policy Committee meeting.
- Mayor Leonardis stated he attended the following meetings and events: San Jose Water, West Valley Mayors and Managers meeting, Democracy Tent, ground breaking for The Club of Los Gatos, Los Gatos Union School District, and Elite Gym ribbon-cutting.
- Vice Mayor Jensen stated she attended the following meetings: the Council Policy Committee, Los Gatos Union School District, and Santa Clara Valley Water District.
- Council Member Rennie stated he attended the California Local Agency Formation Commission (LAFCO) Conference and the Housing and Committee Development Committee meeting.

Manager Matters

- There was no report.

PUBLIC HEARINGS

11. Town Code Application Amendment A-19-009. Project Location: Town Wide. Consider an ordinance repealing and replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town of Los Gatos Municipal Code with the New 2019 California Building and Fire Codes, as amended.

Robert Gray, Building Official, presented the staff report.

Public Hearing Item #11 – continued

Opened Public Comment.

Rob Stump provided comments regarding the proposed Ordinance amendments.

Closed Public Comment.

Council discussed the matter.

MOTION: Motion by to **Vice Mayor Jensen** to introduce an ordinance repealing and replacing Chapter 6, Building Regulations, and Chapter 9, Fire Prevention and Protection, of the Town of Los Gatos Municipal Code with the New 2019 California Building and Fire Codes as amended. **Seconded by Mayor Leonardis.**

VOTE: Motion failed 2/3. Council Members Rennie, Spector, and Sayoc voting no.

MOTION: Motion by to **Council Member Rennie** to continue this item to the December 3 Council Meeting and direct staff to include: (1) reach code language that is similar to the language approved by the City of San Jose that bans gas in new buildings, accessory dwelling units, and new residential low-rise building, except for gas cooking; and (2) language regarding 100-foot defensible space across property lines. **Seconded by Council Member Sayoc.**

VOTE: Motion passed 3/2. Mayor Leonardis and Vice Mayor Jensen voting no.

12. General Plan Amendment Application GP-19-001. Project Location: Town Wide. Applicant: Town of Los Gatos.

Approve proposed General Plan Amendments by Resolution to Language Specific to Highway 17 in Goal TRA-4 and Supporting Policies. **RESOLUTION 2019-055**

Matt Morley, Parks and Public Works Director, presented the staff report.

Opened Public Comment.

Jim Lord provided comments on the proposed amendments.

Closed Public Comment.

Council discussed the matter.

Public Hearing Item #12 – continued

MOTION: Motion by Council Member Rennie to approve the proposed General Plan Amendments by Resolution to language specific to Highway 17 in Goal TRA-4 and supporting policies. **Seconded** by Council Member Sayoc.

VOTE: Motion passed 3/2. Vice Mayor Jensen and Council Member Spector voting no.

13. Project Location: Town Wide. Applicant: Town of Los Gatos.

Consider Modifications to Chapter III (Site Planning), Chapter IV (Development Intensity), Chapter V (Architectural Design), Chapter VI (Site Elements), Chapter VIII (Subdivision and Planned Development Projects), Chapter IX (Project Review and Approval Process), and Chapter X (Glossary) of the Hillside Development Standards and Guidelines.

Jennifer Shoopman, Associate Planner, presented the staff report.

Opened Public Comment.

Noel Cross spoke in support of the amendments and urged Council to adopt reach codes.

Closed Public Comment.

Council discussed the matter.

MOTION: Motion by to Vice Mayor Jensen to adopt the recommendations of the Policy Committee. **Seconded** by Mayor Leonardis.

VOTE: Motion passed 4/1. Council Member Spector voting no.

MOTION: Motion by to Council Member Sayoc to bring the issue regarding Below Grade construction to the Policy Committee. **Seconded** by Council Member Rennie.

VOTE: Motion passed unanimously.

14. Town Code Amendment Application A-19-007. Project Location: Town Wide. Applicant: Town of Los Gatos.

Consider Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Demolition Regulations.

Jennifer Armer, Senior Planner, presented the staff report.

Public Hearing Item #14 – continued

Opened Public Comment.

No Public Comment.

Closed Public Comment.

Council discussed the matter.

MOTION: Motion by to Council Member Spector to introduce an ordinance by title only effecting amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding demolition regulations. **Seconded** by Mayor Leonardis.

VOTE: Motion passed unanimously.

The Town Clerk read the title of the ordinance.

15. Introduce an Ordinance by Title Only, Effecting Amendments to Chapter 23 (Streets and Sidewalks) of the Town Code Regarding Right of Way Dedication, Installation of Curbs, Gutters and Sidewalks and Undergrounding of Utilities.

Lisa Petersen, Parks and Public Works Assistant Director/Town Engineer, presented the staff report.

Opened Public Comment.

No Public Comment.

Closed Public Comment.

Council discussed the matter.

MOTION: Motion by to Mayor Leonardis to introduce an ordinance, by title only, effecting amendments to Chapter 23 (Streets and Sidewalks) of the Town Code regarding right of way dedication, installation of curbs, gutters and sidewalks and underground of utilities. **Seconded** by Council Member Sayoc.

VOTE: Motion passed unanimously.

The Town Clerk read the title of the ordinance.

16. First Reading and Introduction of An Ordinance of the Town of Los Gatos Amending Chapter 18, Article VI, Section 18.60.020 of the Los Gatos Town Entitled Permits for Retailers of Tobacco Products to Prohibit the Sale of Electronic Cigarettes.

Robert Schultz, Town Attorney, presented the staff report.

Opened Public Comment.

Sara Sink spoke in support of the amended ordinance.

Nicole Coxe with the Santa Clara County Public Health Department stated that the Santa Clara County Board of Supervisors' unanimously approved a County Ordinance that included the same changes brought forward by the Town.

David Weissman spoke in support of the amended ordinance.

Closed Public Comment.

Council discussed the matter.

MOTION: Motion by to Mayor Leonardis to introduce the Ordinance. Seconded by Council Member Sayoc.

VOTE: Motion passed unanimously.

The Town Clerk read the title of the ordinance.

OTHER BUSINESS

17. Acting as the Property Owner Representative for the Town's Parcels Included in the Proposed Property Business Improvement District (PBID), Discuss the Draft Service Plan for a PBID in Downtown Los Gatos, Provide Input on the Structure and Parameters of the Draft Plan, and Direct Staff on the Next Steps for Working with the PBID Steering Committee on Behalf of the Town.

Monica Renn, Economic Vitality Manager, presented the staff report.

Opened Public Comment.

Bobby Caya spoke in support of the proposed PBID.

Andrea Romano spoke in support of the proposed PBID.

Other Business Item #17 – continued

Ginger Rowe spoke in support of the proposed PBID.

Catherine Somers spoke in support of the PBID.

Sue Farwell spoke in support of the PBID.

John Shepardson spoke in support of the PBID.

Sue Farwell spoke in support of the PBID.

Jim Foley spoke in support of the PBID.

Closed Public Comment.

Council discussed the matter.

ADJOURNMENT

The meeting adjourned at 10:41 p.m.

Attest:

Shelley Neis, Town Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 11/19/2019

ITEM NO: 3

DATE: November 11, 2016
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt an Ordinance Amending Chapter 29 (Zoning Regulations) of the Town Code Regarding Demolition Regulations
Town Code Amendment Application A-19-007. Project Location: Town Wide.
Applicant: Town of Los Gatos.

RECOMMENDATION:

Adopt an Ordinance amending Chapter 29 (Zoning Regulations) of the Town Code regarding demolition regulations (Attachment 1).

DISCUSSION:

On November 5, 2019, the Town Council considered and voted to introduce an Ordinance amending Section 29.10.020 of the Town Code regarding demolition regulations. Adoption of the attached Ordinance (Attachment 1) would finalize that decision.

Attachment:

1. Draft Ordinance

PREPARED BY: Jennifer Armer, AICP
Senior Planner

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE REGARDING DEMOLITION REGULATIONS

WHEREAS, the Town Council would like to streamline the land use process to reduce the time and cost impacts for businesses and residences;

WHEREAS, the current definition of demolition within Town Code includes a requirement that remaining exterior walls must retain either the existing interior or existing exterior wall covering, a requirement which design professionals and property owners often find difficult to implement;

WHEREAS, the proposed modifications will allow greater flexibility for good design and repair without triggering technical demolition;

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Planning Commission for public hearing on September 11, 2019;

WHEREAS, on September 11, 2019, the Planning Commission reviewed and commented on the proposed amendments regarding the demolition regulations and forwarded a recommendation to the Town Council for approval of the proposed amendments;

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 5, 2019; and

WHEREAS, on November 5, 2019, the Town Council reviewed and commented on the proposed amendments regarding demolition regulations and the Town Council voted to introduce an Ordinance.

ATTACHMENT 1

1 of 4

Ordinance

November 19, 2019

NOW, THEREFORE, THE PEOPLE OF THE TOWN OF LOS GATOS AND THE TOWN COUNCIL DO HEREBY ORDAIN AS FOLLOWS:

SECTION I

Section 29.10.020 of Town Code Chapter 29 are hereby amended to read as follows:

Sec. 29.10.020. - Definitions.

...

Demolition (nonhistoric structures) means removal of more than fifty (50) percent of the exterior walls. ~~The remaining exterior walls must retain either the existing interior or existing exterior wall covering.~~ The following is exempt from this definition:

- a. Repair. The removal and replacement of in kind non-repairable ~~exterior and/or interior wall covering~~ resulting in no change to its exterior appearance or character if approved by the Community Development Director.

...

Wall, exterior means one of the sides of a building connecting foundation and roof. An exterior wall encompasses the total height and width of the side of the building, ~~the exterior or interior wall covering~~ and the studs/structural elements used in the framing of the wall.

Wall covering, exterior means the finished surface of an exterior or interior wall.

~~*Wall covering, interior* means the finished surface of an interior wall.~~

...

SECTION II

With respect to compliance with the California Environmental Quality Act (CEQA), the Town Council finds as follows:

A. These Town Code amendments are not subject to review under CEQA pursuant to sections and 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code would have significant impact on the environment; and

B. The proposed Town Code amendments are consistent with the General Plan and its Elements.

SECTION III

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION IV

Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

SECTION V

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on November 5, 2019, and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on November 19, 2019 and becomes effective 30 days after it is adopted.

In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

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

DATE: _____



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 11/19/2019

ITEM NO: 4

DATE: November 6, 2016
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt an Ordinance Effecting Amendments to Chapter 23 (Streets and Sidewalks) of the Town Code Regarding Right of Way Dedication, Installation of Curbs, Gutters and Sidewalks and Undergrounding of Utilities

RECOMMENDATION:

Adopt an Ordinance effecting amendments to Chapter 23 (Streets and Sidewalks) of the Town Code regarding right of way dedication, installation of curbs, gutters and sidewalks and undergrounding of utilities

DISCUSSION:

On November 5, 2019, the Town Council considered and voted to introduce an Ordinance adding Section 23.10.005 and amending Section 23.10.010 of the Town Code regarding right of way dedication and installation of public improvements. Adoption of the attached Ordinance (Attachment 1) would finalize that decision.

Attachment:

1. Draft Ordinance

PREPARED BY: Lisa Petersen, P.E.
Assistant Parks and Public Works Director/Town Engineer

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 23 (STREETS AND SIDEWALKS) OF THE TOWN CODE REGARDING DEMOLITION REGULATIONS RIGHT OF WAY DEDICATION, INSTALLATION OF CURBS, GUTTERS, AND SIDEWALKS, AND UNDERGROUNDING OF UTILITY REGULATIONS

WHEREAS, the Town Code provides guidance of installation of curbs, gutters and sidewalks and undergrounding of utilities for subdivisions but remains silent on building permit projects;

WHEREAS, recent changes to the Town code will prevent certain building permits from going through the Architectural and Site application process where they previously were reviewed for dedication of needed right of way and installation of Town improvements in the right of way;

WHEREAS, as part of the development process, jurisdictions typically require public right of way dedications and installation of improvements in the right of way for new construction or projects with significant modifications to existing buildings;

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Policy Committee on July 23, 2019 and September 24, 2019;

WHEREAS, on September 24, 2019, the Policy Committee recommended bringing the amendments to the Town Council;

WHEREAS, it has been determined that there is no possibility that this project will have a significant impact on the environment; therefore, the project is not subject to the California Environmental Quality Act, Section 15061 (b)(3);

WHEREAS, the proposed amendments to Chapter 23 of the Town Code regarding right of way dedication, installation of curbs, gutters, and sidewalks, and undergrounding of utilities regulations are consistent with the General Plan;

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 5, 2019; and

ATTACHMENT 1

WHEREAS, on November 5, 2019, the Town Council reviewed and commented on the proposed amendments regarding land use appeals and the Town Council voted to introduce an Ordinance.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS FOLLOWS:

SECTION I

Los Gatos Town Code Article I – Streets and Regulations Section 23.10.005 is hereby added to read as follows:

Sec. 23.10.005 – Requirements – General

Any person who proposes a substantial remodel to erect, construct, add to, alter or repair any building or structure for which a building permit is required by the Town adjacent to an unimproved street, or who seeks a use permit, planned development permit, or architectural and site approval from the Town for land adjacent to an unimproved street must agree to improve, or agree to improve in an agreement with the Town, said street by the installation of improvements, under the provisions of this chapter. This may include dedication or an irrevocable offer of dedication of land that is needed for streets, alleys including access rights and abutters' rights, drainage, public utility easements and open space land or easement, park lands, trail rights of way or easements, and other public easements. In addition, the owner/developer shall improve or agree to improve all streets, alleys, including access right and abutters' rights, drainage, public utility easements, and other public easements as determined by the Town Engineer. These improvements may include, but are not limited to, installation of curbs, gutters, and sidewalk, pavement, bicycle improvements, and undergrounding of utilities.

Los Gatos Town Code Article I – Streets and Regulations Section 23.10.010 is hereby amended to read as follows:

Sec. 23.10.010. - Definition.

1. For purposes of this chapter, the following words and phrases shall have the following meanings:

2. *Median strip.* A paved or planted strip of ground dividing a roadway into lanes according to the direction of travel.
3. *Parked vehicle.* Shall mean a legally parked vehicle.
4. *Roadway.* That portion of a public street normally or ordinarily used for motor vehicle travel. It shall not include driveways, sidewalks, curbs, other areas adjacent to public streets, or other areas out of or off of the public streets. It shall include any median strip and any concrete island separated from a sidewalk used as a staging area for pedestrians crossing an intersection.
5. *Solicit or solicitation.* Any transaction or attempted transaction involving an offer, whether oral or written, of goods, property or services, or a request for money, property or services. This term shall not include the mere advertisement of goods and/or services by a motorist, where no immediate transaction is attempted.
6. *Substantial remodel.* Defined as meeting three or more of the following criteria:
 - The valuation of the work exceeds either \$200,000 or 20% of the total value of the improvements;
 - Seventy-five percent (75%) or more of the existing roof framing (square footage area) will be removed;
 - Fifty percent (50%) or more of the existing exterior wall [Square Foot (SF)] will be removed; or
 - Fifty percent (50%) or more of the existing interior wall [Lineal Foot (LF)] will be removed.

(Code 1968, § 26-1; Ord. No. 2185, § I, 2-1-10)

SECTION III

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 5th day of November 2019 and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the 19th day of November 2019. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

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

DATE: _____



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 11/19/2019

ITEM NO: 5

DATE: November 11, 2019
TO: Mayor and Town Council
FROM: Robert Schultz, Town Attorney
SUBJECT: Adopt an Ordinance of the Town of Los Gatos Amending Chapter 18, Article VI, Section 18.60.020 of the Los Gatos Town Code Entitled Permits for Retailers of Tobacco Products to Prohibit the Sale of Electronic Cigarettes

RECOMMENDATION:

Adopt an Ordinance amending Chapter 18, Article VI, Section 18.60.020 of the Town Code to prohibit the sale of electronic cigarettes and all flavored tobacco products and modify other provisions of the prior Ordinance relating to permits for retailers of tobacco products.

DISCUSSION:

On November 5, 2019, the Council considered and voted to introduce an ordinance amending Chapter 18, Article VI, Section 18.60.020 of the Town Code to prohibit the sale of electronic cigarettes and all flavored tobacco products and modify other provisions of the prior Ordinance relating to permits for retailers of tobacco products. Adoption of the attached ordinance (Attachment 1) would finalize that decision.

Attachments:

1. Draft Ordinance

PREPARED BY: Robert Schultz
Town Attorney

Reviewed by: Town Manager, Assistant Town Manager, and Finance Director

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ORDINANCE NO.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 18, ARTICLE VI SECTION 18.60.020 OF THE LOS GATOS TOWN CODE ENTITLED PERMITS FOR RETAILERS OF TOBACCO PRODUCTS TO PROHIBIT THE SALE AND DISTRIBUTION OF ELECTRONIC CIGARETTES PRODUCTS AND OTHER TOBACCO PRODUCTS

WHEREAS, tobacco use causes death and disease and continues to be an urgent public health challenge; and

WHEREAS, on May 19, 2016 the Town Council adopted Ordinance 2254 to regulate smoking within the Town of Los Gatos to protect the public and environment from secondhand smoke; and

WHEREAS, on May 16, 2017 the Town Council adopted Ordinance 2259 adding Section 18.60.020 to the Town Code to require permits for retailers of tobacco products; and

WHEREAS, electronic cigarettes, also known as e-cigarettes, e-vaporizers, or electronic nicotine delivery systems are battery-operated devices that people use to inhale an aerosol that typically contains nicotine. In addition to nicotine, the aerosol from e-cigarettes may include up to 31 other components, including formaldehyde, acetaldehyde, glycidol, acrolein, acetol, and diacetyl. Several of these compounds are likely carcinogens, and acrolein is a powerful irritant; and

WHEREAS, electronic cigarettes often mimic conventional tobacco products in shape, size, and color, with the user exhaling a smoke-like vapor similar in appearance to the exhaled smoke from cigarettes and other conventional tobacco products; and

WHEREAS, The Surgeon General has declared the use of electronic cigarettes among youth an "epidemic" and nationwide, electronic cigarette use has increased at alarming rates since the first products became available about 10 years ago, and while there have been many successful efforts to reduce underage tobacco use, the growing availability of e-cigarettes has reversed those positive trends; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 5, 2019; and

WHEREAS, on November 5, 2019, the Town Council held a duly noticed public hearing and took testimony regarding this Ordinance; and

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WHEREAS, the Town Council has considered, and by adopting this Ordinance ratifies and adopts Staff Report dated October 31, 2019, describing the effects of tobacco products and electronic cigarettes.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS FOLLOWS:

SECTION I.

Los Gatos Town Code Article VI – Smoking Regulations Section 18.60.020 is hereby repealed and reenacted to read as follows:

Sec. 18.60.020 – Permits for retailers of tobacco products.

(a) *Intent.* This Section is adopted to:

- (1) Ensure compliance with the business standards and practices of the Town;
- (2) Encourage responsible retailing of Tobacco Products;
- (3) Discourage violations of laws related to Tobacco Products, especially those that prohibit or discourage the Sale or Distribution of Tobacco Products and electronic smoking devices to persons under 21;
- (4) Respond to a new wave of addiction to Electronic Cigarette Products;
- (5) Reduce vulnerability to unexplained illnesses associated with Electronic Cigarette Products; and
- (6) Protect the public health and welfare.

This Section does not expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or alter the penalties provided by such laws.

(b) *Definitions.*

For the purposes of this Section, the following definitions shall apply:

1. *Arm's Length Transaction* means a Sale in good faith and for valuable consideration that reflects the fair market value in the open market between two or more informed and willing parties, neither of which is under any compulsion to participate in the transaction. A Sale between relatives, related companies or partners, or a Sale for which a significant purpose is avoiding the effect of the violations of this Section is not an Arm's Length Transaction.
2. *Designee* means the agency selected or designated by the Town to enforce or administer the provisions of this Section.
3. *Distribute or Distribution* means the transfer, by any Person other than a common carrier, of a Tobacco Product to another Person for Sale or personal consumption.

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4. *Electronic smoking device* means any of the following products:
 - (1) Any device or delivery system that can be used to deliver nicotine in aerosolized or vaporized form, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.
 - (2) Any component, part, or accessory of such a device or delivery system that is used during its operation.
 - (3) Any flavored or unflavored liquid or substance containing nicotine, whether Sold separately or Sold in combination with any device or delivery system that could be used to deliver nicotine in aerosolized or vaporized form.
 - (4) Any product for use in an electronic nicotine device or delivery system whether or not it contains nicotine or tobacco or is derived from nicotine or tobacco.
 - (5) Electronic Cigarette Products shall not include any battery, battery charger, carrying case, or other accessory not used in the operation of the device if Sold separately. Electronic Cigarette Products shall not include any product that has been approved by the United States Food and Drug Administration for Sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and Sold solely for such approved use. *See* 21 U.S.C. § 387(a). As used in this subsection, nicotine does not include any food products as that term is defined pursuant to Section 6359 of the California Revenue and Taxation Code.
5. *Ownership* means possession of a ten percent or greater interest in the stock, assets, or income of a business, other than a security interest for the repayment of debt. Notwithstanding any other definition in this Code, an Owner means a Person who possesses Ownership.
6. *Permit* means a valid permit issued by the Town or its Designee to a Person to act as a Retailer.
7. *Retailer* means any Person who Sells or Distributes Tobacco Products for any form of consideration. Retailing shall mean the doing of any of these actions. This definition is without regard to the quantity of Tobacco Products Sold or Distributed.
8. *School* means a public or private elementary, middle, junior high or high school.
9. *Tobacco product* means (unless specifically noted elsewhere):
 - a. Any product subject to Subchapter IX [21 U.S.C. § 387 et seq. ("Subchapter IX")) of the Federal Food, Drug, and Cosmetic Act (See 21 U.S.C. § 387a(b) (products subject to Subchapter IX); 21 C.F.R. §§ 1100.1- 1100.3 (tobacco products subject to Subchapter IX)]. Products subject to Subchapter IX include, but are not limited to, cigarettes, cigarette tobacco, roll-your-own tobacco, smokeless tobacco, cigars, pipe tobacco, waterpipe tobacco, and Electronic Cigarette Products. Products that are not subject to Subchapter IX include accessories of Tobacco Products, such as, but not limited to, ashtrays, spittoons, and conventional matches and lighters that solely provide an external heat source to initiate but not maintain combustion of a Tobacco Product.

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(c) *Requirements and prohibitions.*

1. *Permit required.* It shall be unlawful for any Person to act as a Retailer in the Town of Los Gatos without first obtaining and maintaining a Permit pursuant to this Section for each location at which Retailing occurs.
2. *Lawful business operation.* It shall be a violation of this Section for any Retailer to violate any local, state, or federal law applicable to Tobacco Products, or the Retailing of such Tobacco Products.
3. *Display of Permit.* Each Permit shall be prominently displayed in a publicly visible place at the location identified in the Permit.
4. *Notice of minimum age for purchase of Tobacco Products.* Retailers shall post conspicuously, at each point of purchase, a notice stating that selling Tobacco Products to anyone under 21 years of age is illegal and subject to penalties. Such notice shall be subject to the approval of the Town or its Designee.
5. *Positive identification required.* No Retailer shall Sell or Distribute a Tobacco Product to another individual who appears to be under 30 years of age without first examining the individual's identification to confirm that the individual is at least the minimum age required under state law to purchase and possess the Tobacco Product.
6. *Minimum age for individuals selling Tobacco Products.* No individual who is younger than the minimum age established by State law for the purchase or possession of Tobacco Products shall engage in Retailing.
7. *False and misleading advertising prohibited.* A Retailer without a Permit:
 - a. Shall keep all Tobacco Products out of public view.
 - b. Shall not display any advertisement relating to Tobacco Products that promotes the Sale or Distribution of such products from the Retailer's location or that could lead a reasonable consumer to believe that Tobacco Products can be obtained at that location.
8. *Limitation on storefront advertising.* No more than 15 percent of the square footage of the windows and clear doors of physical storefront used for Retailing Tobacco Products shall bear advertising or signs of any sort, and all advertising and signage shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance to the premises. However, this latter requirement of this subsection 8. shall not apply to an establishment where there are no windows or clear doors, or where existing windows are located at a height that precludes a view of the interior of the premises by an individual standing outside the premises.
9. *Flavored Tobacco Products.*
 - a. No retailer shall sell a Tobacco Product containing, as a constituent or additive, an artificial or natural flavor or aroma (other than tobacco) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa,

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chocolate, cherry, mint, menthol, or coffee, that is a characterizing flavor or aroma of the Tobacco Product, smoke or vapor produced by the Tobacco Product.

b. A Tobacco Product shall be subject to a rebuttable presumption that the product is prohibited by paragraph (a) of this subsection if:

(i) The product's manufacturer or any other Person associated with the manufacture or Sale of Tobacco Products makes or disseminates public statements or claims to the effect that the product has or produces a characterizing flavor or aroma, other than tobacco; or

(ii) The product's label, labeling, or packaging includes a statement or claim including any text and/or images used to communicate information that the product has or produces a characterizing flavor or aroma other than tobacco.

10. *Vending machines prohibited.* No Tobacco Product shall be Sold or Distributed to the public from a vending machine or appliance, or any other coin or token operated mechanical device designed or used for vending purposes, including, but not limited to, machines or devices that use remote control locking mechanisms.
11. *Prohibition on Sale or Distribution of Tobacco Products to persons under 21 years.* No Retailer shall Sell or Distribute any Tobacco Product to any individual who is under 21 years of age.
12. *Prohibition on Sale or Distribution of Electronic Cigarette Products.* No Retailer that is issued a new Permit after December 19, 2019 shall Sell or Distribute Electronic Cigarette Products after Permit issuance. No Retailer that receives a Permit renewal after December 19, 2019 shall Sell or Distribute Electronic Cigarette Products after Permit renewal. Regardless of the date of Permit issuance or renewal, no Retailer shall Sell or Distribute Electronic Cigarette Products after June 30, 2020.

(d) *Eligibility requirements for a permit.*

1. No Permit may be issued to authorize Retailing at or from other than a fixed location. For example, Retailing by Persons on foot or from vehicles is prohibited.
2. No Permit may be issued to authorize Retailing at a temporary or recurring temporary event. For example, Retailing at flea markets and farmers' markets is prohibited.
3. No Permit may be issued to authorize Retailing at any location where the profession of pharmacy is practiced by a pharmacist licensed by the State in accordance with the Business and Professions Code and where prescription drugs are offered for Sale.
4. No Permit may be issued to authorize Retailing at any location within 1,000 feet of a School, as measured by a straight line between any point along the property line of any parcel on which a School is located and any point along the perimeter of the applicant's proposed business location; provided, however, that the prohibition contained in this subsection (d)(4) shall not apply to the following:
 - a. Any Retailer of Tobacco Products operating lawfully on January 1, 2018 (the effective date of the predecessor Ordinance Code); and

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- b. Any Retailer of electronic smoking devices operating lawfully on January 1, 2018 (effective date of predecessor Ordinance Code), however, any such Retailer is subject to the prohibition on the Sale and Distribution of Electronic Cigarette Products established in Section (c) (12) of this Ordinance; and
 - c. Any lawfully operating Retailer of Tobacco Products that would otherwise become ineligible to receive or renew a Permit due to the creation or relocation of a School.
5. No Permit may be issued to authorize Retailing at a location which is within 500 feet of a location occupied by another Retailer, as measured by a straight line between any point along the property line of any parcel on which a Retailer is located and any point along the perimeter of the Permit applicant's proposed business location, provided, however, that the prohibition contained in this subsection (d)(5) shall not apply to:
- a. Any Retailer of Tobacco Products operating lawfully on January 1, 2018 (effective date of predecessor Ordinance Code); and
 - b. Any Retailers of electronic smoking devices operating lawfully on January 1, 2018 (effective date of predecessor Ordinance Code); however, any such Retailer is subject to the prohibition on the Sale and Distribution of Electronic Cigarette Products established in in Section (c) (12) of this Ordinance.
6. Any exemption granted to a Retailer pursuant to subsection 4 and 5 shall cease to apply upon the earlier of the following to occur:
- a. The Retailer fails to timely renew the Permit pursuant to this Section.
 - b. A new Person obtains Ownership in the business.

(e) *Application procedure.*

- 1. It is the responsibility of each Retailer to be informed of all laws applicable to Retailing, including those laws affecting the issuance of a Permit. No Retailer may rely on the issuance of a Permit as a determination by the Town that the Retailer has complied with all laws applicable to Retailing. A Permit issued contrary to this Section, contrary to any other law, or on the basis of false or misleading information supplied by a Retailer shall be revoked pursuant to this Section.
- 2. All Permit applications shall be submitted on a form supplied by the Town or its Designee to implement this Section.
- 3. A permitted Retailer shall inform the Town or its Designee in writing of any change in the information submitted on an application for a Permit within 14 calendar days of a change.
- 4. All information specified in an application pursuant to this Section shall be subject to disclosure under the California Public Records Act (Government Code Section 6250 et seq.) or any other applicable law, subject to any exemptions.

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(f) *Issuance of permit.*

1. Upon the receipt of a complete application for a Permit, the application fee, and the annual Permit fee, the Town or its Designee shall issue a Permit unless substantial evidence demonstrates that one or more of the following bases for denial exists:
 - a. The information presented in the application is inaccurate or false.
 - b. The application seeks authorization for Retailing at a location for which this Section prohibits issuance of a Permit.
 - c. The application seeks authorization for Retailing by a Person to whom this Section prohibits issuance of a Permit.
 - d. The application seeks authorization for Retailing that is prohibited pursuant to this Section (e.g., mobile vending, Electronic Cigarette Products) or that is unlawful pursuant to any other law.
2. A Permit shall be revoked if the Town finds that one or more of the bases for denial of a Permit under this Section existed at the time application was made or at any time before the Permit was issued. Such a revocation shall be without prejudice to the filing of a new Permit application.

(g) *Permit term, renewal, and expiration.*

1. *Term of Permit.* The term of a Permit is one year. A Permit is invalid upon expiration.
2. *Renewal of Permit.* The Town or its Designee shall renew a valid Permit upon timely payment of the annual Permit fee. The Town or its Designee may, in its discretion, agree to renew any expired Permit within the three-month period following expiration if the Retailer pays the annual Permit fee and applicable late charges. For every calendar month, or fraction thereof, that a Retailer fails to renew an expired Permit, a late charge equal to 20 percent of the annual Permit fee shall be assessed. A Permit renewed within three calendar months of expiration shall be treated as if timely renewed.
3. *Issuance of Permit after revocation or expiration of Permit.* To apply for a new Permit more than three calendar months after expiration of a Permit or following revocation of a Permit that was wrongly issued, a Retailer must submit a complete application for a Permit, along with the application fee and annual Permit fee. The Town or its Designee shall issue a retailer permit pursuant to the requirements of this Section.

(h) *Permits nontransferable.*

1. A Permit may not be transferred from one Person to another or from one location to another. Whenever a new Person obtains ownership in a business for which a Permit has been issued, a new Permit shall be required, but any exemption granted pursuant to Section (d) shall cease to apply.
2. Notwithstanding any other provision of this Section, prior violations of this Section at a location shall continue to be counted against a location and Permit ineligibility and suspension periods shall continue to apply to a location unless:

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- a. One hundred percent of the interest in the stock, assets, or income of the business, other than a security interest for the repayment of debt, has been transferred to one or more new owners; and
- b. The Town or its Designee is provided with clear and convincing evidence, including an affidavit, that the business has been acquired in an Arm's Length Transaction.

(i) *Permit conveys a limited, conditional privilege.*

Nothing in this Section shall be construed to grant any Person obtaining and maintaining a Permit any status or right other than the limited, conditional privilege to act as a Retailer at the location in the Town identified on the face of the permit. All Permits are issued subject to the Town's right to amend this Section, and Retailers shall comply with all provisions of this Section, as amended.

(j) *Fees.*

The Town or its Designee shall not issue or renew a Permit prior to full payment of any applicable fees. The Town shall, from time to time, establish by resolution the fees to issue or to renew a Permit. The fees shall be calculated so as to recover the cost of administration and enforcement of this Section, including, for example, issuing a Permit, administering the Permit program, Retailer education, Retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this Section. All fees and interest earned from such fees shall be used exclusively to fund administration and enforcement of this Section.

(k) *Compliance monitoring.*

1. Compliance with this Section shall be monitored by the Town or its Designee. In addition, any peace officer may enforce the penal provisions of this Section. The Town Manager may designate any number of additional individuals to monitor and facilitate compliance with this Section.
2. The Town or its Designee or other individuals designated to enforce the provisions of this Section shall check each Retailer at least once per 12-month period to determine if the Retailer is complying with all laws applicable to Retailing, other than those laws regulating underage access to Tobacco Products. Nothing in this paragraph shall create a right of action in any Retailer or other Person against the Town, its Designee or its agents.

(l) *Prevention of underage Sales.*

1. The Town or its Designee shall check each Retailer to determine whether the Retailer is conducting business in a manner that complies with laws regulating youth access to Tobacco Products. Nothing in this paragraph shall create a right of action in any Retailer or other Person against the Town, its Designee, or its agents.
2. The Town or its Designee shall not enforce any law establishing a minimum age for Tobacco Product purchases against an individual who otherwise might be in violation of

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such law because of the individual's age ("Youth Decoy") if the potential violation occurs when:

- a. The Youth Decoy is participating in a compliance check supervised by a peace officer or a code enforcement official of the Town;
- b. The Youth Decoy is acting as an agent of the Town to monitor compliance with this Section; or
- c. The Youth Decoy is participating in a compliance check funded in part, either directly or indirectly through subcontracting, by the Town, or the California Department of Public Health.

(m) *Penalties for a violation by a Retailer with a Permit.*

1. *Administrative fine.* In addition to any other penalty authorized by law, an administrative fine shall be imposed and a Permit shall be suspended if any court of competent jurisdiction determines, or the Town or its Designee finds based on a preponderance of the evidence, that the Retailer, or any of the Retailer's agents or employees, has violated any of the requirements, conditions, or prohibitions of this Section, has pled guilty, "no contest" or its equivalent to such a violation, or has admitted to such a violation.
2. *Amount of fine.* The amount of the administrative fine for each such violation shall be as follows:
 - a. A fine not to exceed \$100.00 for a first violation within a 12-month period;
 - b. A fine not to exceed \$200.00 for a second violation within a 12-month period; and
 - c. A fine not to exceed \$500.00 for each additional violation within a 12-month period.
3. *Time period for Permit suspension.* The period of the suspension shall be as follows:
 - a. For a first violation of this Section at a location within any 60-month period, the Permit shall be suspended for up to 30 calendar days.
 - b. For a second violation of this Section at a location within any 60-month period, the Permit shall be suspended for up to 90 calendar days.
 - c. For each additional violation of this Section at a location within any 60-month period, the retailer Permit shall be suspended for up to one year.
4. *Waiver of penalties for first violation.* The Town or its Designee may waive any penalties for a Retailer's first violation of any requirement, condition or prohibition of this Section, other than a violation of a law regulating youth access to Tobacco Products, if the Retailer admits the violation in writing and agrees to forego a hearing on the allegations. Regardless of the Town's or its Designee's waiver of penalties for a first violation, the violation will be considered in determining the penalties for any future violation.
5. *Corrections period.* The Town or its Designee shall have discretion to allow a Retailer a period of time to correct any violation of any requirement, condition or prohibition of this Section, other than a violation of a law regulating youth access to Tobacco Products. If

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the Town or its Designee exercises its discretion to provide a Retailer's corrections period, and a Retailer's a retailer's violation is corrected within the time allowed for correction, no penalty shall be imposed under this Section.

6. *Written notice of penalties.* Whenever a fine is issued and/or a Permit is suspended based on a violation of this Section, the Town or its Designee shall provide the Retailer written notice of the violation and the fine and suspension, including when the suspension shall take effect.

(n) *Penalties for Retailing without a Permit.*

1. *Administrative fine.* In addition to any other penalty authorized by law, an administrative fine and an ineligibility period for application or issuance of a Permit shall be imposed if a court of competent jurisdiction determines, or the Town or its Designee finds based on a preponderance of evidence, that any Person has engaged in Retailing at a location without a valid Permit, either directly or through the Person's agents or employees, has pled guilty, "no contest" or its equivalent to such a violation, or has admitted to such a violation.
2. *Amount of fine.* The amount of the administrative fine for each such violation shall be as follows:
 - (a) A fine not to exceed \$100.00 for a first violation within a 12-month period;
 - (b) A fine not to exceed \$200.00 for a second violation within a 12-month period; and
 - (c) A fine not to exceed \$500.00 for each additional violation within a 12-month period.
3. *Time period for Permit ineligibility.*
 - (a) For a first violation of this Section at a location within any 60-month period, no new Permit may be issued for the Person or the location (unless Ownership of the business at the location has been transferred in an Arm's Length Transaction) until 30 calendar days have passed from the date of the violation.
 - (b) For a second violation of this Section at a location within any 60-month period, no new Permit may be issued for the Person or the location (unless Ownership of the business at the location has been transferred in an Arm's Length Transaction) until 90 calendar days have passed from the date of the violation.
 - (c) For each additional violation of this Section at a location within any 60-month period, no new Permit may be issued for the Person or the location (unless Ownership of the business at the location has been transferred in an Arm's Length Transaction) until one year has passed from the date of the violation.
4. *Waiver of penalties for first violation.* The Town or its Designee may waive any penalties for a Retailer's first violation of this Section, unless the violation also involves a violation of a law regulating youth access to Tobacco Products, if the Retailer admits the violation

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in writing and agrees to forego a hearing on the allegations. Regardless of the Town's or its Designee's waiver of penalties for a first violation, the violation will be considered in determining the penalties for any future violation.

5. *Written notice of penalties.* Whenever a fine is issued and/or a Permit is suspended pursuant to this section, the Department shall provide the Retailer written notice of the fine and suspension, including when the suspension shall take effect.
6. *Appeals.* Any penalties imposed under this Section may be appealed pursuant to this Section. A timely appeal shall stay enforcement of the appealed penalties while the appeal is ongoing.

(o) *Appeals.*

1. Any Retailer served with a written notice of penalties may request an administrative hearing to appeal the existence of the violation, the amount of the fine, and/or the length of the suspension by returning a completed hearing request form to the Town or its Designee within 10 days from the date of the written notice of penalties.
2. The Retailer shall include the following in or with the hearing request form:
 - (a) A statement indicating the reason the Retailer contests the written notice of penalties;
 - (b) Any evidence the Retailer wants the Hearing Officer to consider;
 - (c) An advance deposit of the amount of any fine challenged; and
 - (d) The address of the Retailer and, if available, an email address that can be used for contact and correspondence by the Town or its Designee. The Retailer may request service of notice by mail.
3. The hearing request form shall be deemed filed on the date received by the Town or its Designee. A timely appeal shall stay enforcement of the appealed penalties while the appeal is ongoing.
4. After receiving a timely hearing request form, the Town or its Designee shall schedule an administrative hearing. The Town or Designee shall provide the Retailer at least ten calendar days' written notice of the date, time, and place of the administrative hearing and the name of the Hearing Officer who will conduct the hearing. The notice shall be given to the Retailer either by email, if requested, or by first class mail, postage prepaid.
5. Between the time the Retailer requests the administrative hearing and the time of the Hearing Officer's decision, the Retailer, the Town and its Designee, and each of their representatives shall not engage in ex parte communications with the Hearing Officer regarding the matters at issue in the hearing.
6. The hearing shall be conducted by the Hearing Officer on the date, time, and place specified in the notice to the Retailer. A Retailer's failure to appear at the hearing shall

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constitute an abandonment of the hearing request and a failure to exhaust administrative remedies as a precedent to judicially challenge the existence of the violation and the imposition of the fine and suspension.

7. At the hearing, the Retailer and the Town or its Designee shall have the opportunity to present evidence, including witnesses, relevant to the Hearing Officer's determination of the matter. Neither the provisions of the Administrative Procedure Act (Government Code Section 11500 et seq.) nor the formal rules of evidence in civil or criminal judicial proceedings shall apply to such hearing. The Hearing Officer may admit any evidence, including witnesses, relevant to the determination of the matter.
 8. The written notice of penalties and any other reports prepared by or for the Town or its Designee concerning the violation shall be admissible and accepted by the Hearing Officer as prima facie evidence of the violation and the facts stated in those documents. The Hearing Officer may continue the hearing from time to time, in his or her sole discretion, to allow for its orderly completion of the hearing.
 9. After receiving the evidence submitted at the hearing, the Hearing Officer may further continue the hearing and request additional information from either the Town, its Designee or the Retailer.
 10. After considering the evidence and testimony submitted, the Hearing Officer shall issue a written decision regarding the matters properly raised in the request for administrative hearing. The Hearing Officer's decision, shall:
 - (a) Be based on a preponderance of the evidence.
 - (b) Include a statement of the reasons for the decision.
 - (c) Be issued within 20 calendar days of the close of the hearing.
 - (d) Be served on both the Retailer and the Town and its Designee. The decision shall be given to the Retailer either by email, if requested, or by first class mail, postage prepaid.
 11. Based on the Hearing Officer's decision, the Town or its Designee shall promptly refund to the Retailer any amount of the advance fine deposit the Town or its Designee is not entitled to.
 12. The Hearing Officer's written decision shall constitute the final administrative decision. of the Town.
- (p) *Enforcement.*
1. Any violation of this Section is hereby declared to be a public nuisance.
 2. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Section shall also constitute a violation of this Section.
 3. Whenever evidence of a violation of this Section is obtained in any part through the participation of an individual under the age of 21 years old, such individual shall not be

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required over his or her objection to appear or give testimony in any civil or administrative process brought to enforce this Section and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

4. Violations of this Section may be remedied by a civil action brought by the Town or its Designee, including, but not limited to, administrative or judicial nuisance abatement proceedings, civil code enforcement proceedings, and suits for injunctive relief. For the purposes of the civil remedies provided in this Section, each day on which a Tobacco Product is offered for sale in violation of this Section, and each individual retail Tobacco Product that is distributed, Sold, or Distributed in violation of this Section, shall constitute a separate violation of this Section.
5. Any Person found guilty of violating any provision of this Section shall be deemed guilty of an infraction, punishable as provided by California Government Code § 25132.
6. The remedies provided by this Section are cumulative and in addition to any other remedies available at law or in equity.

(q) *No conflict with federal or state law.*

Nothing in this Chapter shall be interpreted or applied so as to create any requirement, power, or duty that is preempted by, or in conflict with, federal or state law, rules, or regulations.

SECTION II

The Town Council finds and determines that the adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines under the General Rule (Section 15061(b)(3)), which sets forth that the CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that the proposed Town Code text amendments will have no significant negative effect on the environment.

SECTION III

If any provision of this ordinance or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION IV

Except as expressly modified in this Ordinance, all other Sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

DRAFT

SECTION V

This Ordinance shall take effect on January 1, 2020. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

SECTION VI

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on November 5, 2019 and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on November 16, 2019.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS
GATOS
LOS GATOS, CALIFORNIA

ATTEST:

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



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 11/19/2019

ITEM NO: 6

DATE: November 14, 2019
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Agreement for Consultant Services to Provide Senate Bill 743 Implementation Technical Assistance:
a. Authorize the Town Manager to Negotiate and Execute an Agreement for Consultant Services with Fehr & Peers in an Amount Not to Exceed \$122,820
b. Authorize Revenue and Expenditure Budget Adjustment in the amount \$122,820 from the General Plan Update Deposit Account

RECOMMENDATION:

Agreement for consultant services to provide Senate Bill 743 implementation technical assistance:

- a. Authorize the Town Manager to negotiate and execute an Agreement for Consultant Services with Fehr & Peers in an amount not to exceed \$122,820.
- b. Authorize Revenue and Expenditure Budget Adjustment in the amount \$122,820 from the General Plan Update Deposit Account.

BACKGROUND:

The California Environmental Quality Act (CEQA) was enacted in 1970, requiring identification of any significant environmental impacts of state or local actions including approval of new developments or infrastructure projects. The process of identifying these impacts is typically referred to as the environmental review process. Historically, most cities and towns, including Los Gatos, evaluate transportation impacts based on intersection Level of Service (LOS).

On September 27, 2013, Governor Jerry Brown signed Senate Bill 743 into law and started a process intended to fundamentally change transportation impact analysis as part of the CEQA compliance. These changes include elimination of auto delay, level of service (LOS), and other similar measures of vehicular capacity or traffic congestion as a basis for determining significant impacts. The law directed the Governor's Office of Planning and Research (OPR) to update the

PREPARED BY: YING SMITH
Transportation and Mobility Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Community Development Director, and Parks and Public Works Director

BACKGROUND (continued):

CEQA Guidelines to include new criteria (e.g., metrics) for determining the significance of transportation impacts. OPR identified vehicle miles traveled (VMT) as the most appropriate transportation impact metric.

The Town of Los Gatos is the lead agency for environmental clearance under CEQA for projects within the Town's jurisdiction. As such, the Town is required to implement the new CEQA guidelines immediately, but no later than July 1, 2020. Jurisdictions may retain a LOS standard in their local transportation policies. This way, the LOS analysis could still be used as additional information to aid in the decision-making process that would be outside of the CEQA review process.

On October 8, 2019 the Town Council and Planning Commission held a Joint Study Session to review background information on the updated CEQA Transportation Analysis Guidelines and the requirements to transition to the new VMT metric in transportation impact analysis.

DISCUSSION:

There are several decisions that the Town will need to make regarding SB 743 implementation and CEQA guidelines. The questions that need to be answered can be complex and technically detailed, including establishing thresholds of significance for VMT impacts, defining feasible mitigation measures to address VMT impacts, and developing a set of procedures for staff and project applicants to follow when conducting VMT analysis. It is essential that the new Transportation Analysis Guidelines provide a legally defensible process for conducting CEQA analysis. In addition, these decisions are closely related to the General Plan update currently underway. Staff is recommending retaining consultant services to advise and assist the Town through the complex process of transitioning from LOS to VMT.

Fehr & Peers was selected from the Town's engineering on call list to assist the Town in preparing the CEQA Transportation Analysis Guidelines using VMT and any updates to the Town's local transportation policies. Fehr & Peers is the transportation consultant on the General Plan update team and has extensive experience assisting jurisdictions in the transition to using VMT. Fehr & Peers, in coordination with Town staff, has developed a scope of work and schedule that will facilitate future tasks leading to the Council decisions in 2020. The Consultant Service Agreement includes several critical tasks to advise and assist the Town in making decisions:

White Paper: Provides background on the legal framework and technical details. This white paper will take into consideration the size, location and development environment of Los Gatos.

DISCUSSION (continued):

Stakeholder Outreach, Education and Discussions: The consultant will prepare initial outreach and education materials on SB 743 for various media including website, social media, and printed materials.

Case Study Project Evaluations: The consultant will prepare case studies of three different land use projects previously completed within the Town, to evaluate applicability of the VMT thresholds, estimation methodologies, and proposed mitigation measures.

Local Transportation Analysis Policy: The consultant will develop proposed updates to the Town's local transportation analysis policies, including policies referenced in the 2020 General Plan and the Traffic Impact Policy.

New Transportation Analysis Guidelines: The guidelines will include defining the VMT analysis method, impact thresholds that are supported by quantitative evidence, and mitigation programs for use in projects.

CONCLUSION:

Staff recommends the Town Council to authorize the Town Manager to execute the Agreement for Consultant Services and approve the necessary budget adjustments.

COORDINATION:

This report was coordinated with the Community Development and Finance Departments.

FISCAL IMPACT:

Funding for this agreement comes from the General Plan Update Deposit Account. Projects processed through the Community Development Department pay a fee that is set aside in a deposit account to advance General Plan updates and related efforts. The new Transportation Analysis Guidelines will be codified in the General Plan as well as Town policies, making the use of these funds appropriate for this proposed use. The recommended budget action will reduce revenue in the General Plan Update Deposit Account by \$122,820 and appropriate the funds to the Department of Parks and Public Works.

ENVIRONMENTAL ASSESSMENT:

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

Attachment

1. Consultant Agreement with Scope.

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on November 19, 2019 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and FEHR AND PEERS, ("Consultant"), whose address is 160 W. Santa Clara Street, Suite 675, San Jose, CA 95113. This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 The Town desires to engage Consultant to provide Senate Bill (SB) 743 implementation assistance to the Town of Los Gatos.
- 1.2 The Consultant represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Consultant warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Consultant acknowledges Town has relied upon these warranties to retain Consultant.

II. AGREEMENTS

- 2.1 Scope of Services. Consultant shall provide services as described in that certain Proposal sent to the Town on November 11, 2019, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. This contract will remain in effect from November 19, 2019 to June 30, 2021. Consultant shall perform the services described in this agreement as referenced in Exhibit A.
- 2.3 Compliance with Laws. The Consultant shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Consultant represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 2.4 Sole Responsibility. Consultant shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.5 Information/Report Handling. All documents furnished to Consultant by the Town and all reports and supportive data prepared by the Consultant under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Consultant's services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Consultant in connection with the performance of its services

pursuant to this Agreement are confidential until released by the Town to the public, and the Consultant shall not make any of these documents or information available to any individual or organization not employed by the Consultant or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Consultant pursuant to this Agreement are for the purpose of evaluating a defined project, and Town's use of the information contained in the reports prepared by the Consultant in connection with other projects shall be solely at Town's risk, unless Consultant expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Consultant which is and has been confirmed in writing by Consultant to be a trade secret of Consultant.

- 2.6 Compensation. Compensation for Consultant's professional services **shall not exceed \$122,820**, inclusive of all costs. Payment shall be based upon Town approval of each task.
- 2.7 Billing. Billing shall be monthly by invoice within thirty (30) days of the rendering of the service and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

Payment shall be net thirty (30) days. All invoices and statements to the Town shall be addressed as follows:

Invoices:

Town of Los Gatos

Attn: Accounts Payable

P.O. Box 655

Los Gatos, CA 95031-0655

- 2.8 Availability of Records. Consultant shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Consultant shall make these records available to authorized personnel of the Town at the Consultant's offices during business hours upon written request of the Town.
- 2.9 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Consultant. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
- 2.10 Independent Contractor. It is understood that the Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the Town. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Consultant may perform some obligations under this Agreement by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement. Consultant agrees to

testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Consultant shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Consultant or is based on allegations of Consultant's negligent performance or wrongdoing.

- 2.11 Conflict of Interest. Consultant understands that its professional responsibilities are solely to the Town. The Consultant has and shall not obtain any holding or interest within the Town of Los Gatos. Consultant has no business holdings or agreements with any individual member of the Staff or management of the Town or its representatives nor shall it enter into any such holdings or agreements. In addition, Consultant warrants that it does not presently and shall not acquire any direct or indirect interest adverse to those of the Town in the subject of this Agreement, and it shall immediately disassociate itself from such an interest, should it discover it has done so and shall, at the Town's sole discretion, divest itself of such interest. Consultant shall not knowingly and shall take reasonable steps to ensure that it does not employ a person having such an interest in this performance of this Agreement. If after employment of a person, Consultant discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Consultant shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.
- 2.12 Equal Employment Opportunity. Consultant warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Consultant nor its subcontractors do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.

III. INSURANCE AND INDEMNIFICATION

- 3.1 Minimum Scope of Insurance:
- i. Consultant agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
 - ii. Consultant agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

- iii. Consultant shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Consultant agrees that all certificates and endorsements are to be received and approved by the Town before work commences.
- iv. Consultant agrees to have and maintain, for the duration of the contract, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure Consultant for professional errors or omissions in the performance of the particular scope of work under this agreement.

General Liability:

- i. The Town, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of Consultant, premises owned or used by the Consultant. This requirement does not apply to the professional liability insurance required for professional errors and omissions.
- ii. The Consultant's insurance coverage shall be primary insurance as respects the Town, its officers, officials, employees and volunteers. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Town, its officers, officials, employees or volunteers.
- iv. The Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

3.2 All Coverages. Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.

3.3 Workers' Compensation. In addition to these policies, Consultant shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the Town before beginning services under this Agreement. Further,

Consultant shall ensure that all subcontractors employed by Consultant provide the required Workers' Compensation insurance for their respective employees.

- 3.4 Indemnification. The Consultant shall save, keep, hold harmless and indemnify and defend the Town its officers, agent, employees and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work to the extent caused by a willful wrongdoing or negligent act or omissions of the Consultant, or any of the Consultant's officers, employees, or agents or any subconsultant.

IV. GENERAL TERMS

- 4.1 Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.
- 4.2 Governing Law. This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.
- 4.3 Termination of Agreement. The Town and the Consultant shall have the right to terminate this agreement with or without cause by giving not less than fifteen days (15) written notice of termination. In the event of termination, the Consultant shall deliver to the Town all plans, files, documents, reports, performed to date by the Consultant. In the event of such termination, Town shall pay Consultant an amount that bears the same ratio to the maximum contract price as the work delivered to the Town bears to completed services contemplated under this Agreement, unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in light of the particular facts and circumstances involved in such termination.
- 4.4 Amendment. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Consultant.
- 4.5 Disputes. In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.

- 4.6 Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

Town of Los Gatos
Attn: Town Clerk
110 E. Main Street
Los Gatos, CA 95030

Fehr and Peers
160 W. Santa Clara Street, Suite 675
San Jose, CA 95113

or personally delivered to Consultant to such address or such other address as Consultant designates in writing to Town.

- 4.7 Order of Precedence. In the event of any conflict, contradiction, or ambiguity between the terms and conditions of this Agreement in respect of the Products or Services and any attachments to this Agreement, then the terms and conditions of this Agreement shall prevail over attachments or other writings.
- 4.8 Entire Agreement. This Agreement, including all Exhibits, constitutes the complete and exclusive statement of the Agreement between the Town and Consultant. No terms, conditions, understandings or agreements purporting to modify or vary this Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

IN WITNESS WHEREOF, the Town and Consultant have executed this Agreement.

Town of Los Gatos by:

Consultant, by:

Laurel Prevetti, Town Manager

Recommended by:

Name and Title

Matt Morley, Director of Parks and Public
Works

Approved as to Form:

Robert Schultz, Town Attorney

Attest:

Shelley Neis, CMC, Town Clerk

November 11, 2019

Ying Smith
Town of Los Gatos
41 Miles Avenue
Los Gatos, CA 95030

Subject: Proposal for Senate Bill 743 Implementation Assistance for Town of Los Gatos

Dear Ying:

We appreciate the opportunity to present our proposal to provide Senate Bill (SB) 743 implementation assistance to the Town of Los Gatos. This proposal covers tasks to prepare a white paper addressing the implementation of SB 743 for the Town of Los Gatos, stakeholder outreach, education and discussion, and general professional support on implementing methods, metrics, and thresholds for Vehicle Miles Traveled (VMT) analysis. Per our conversations with the Town, we will assist Town staff through the process of developing a set of procedures for environmental impact analysis of land use and transportation projects. In consultation with Fehr & Peers, Town staff will form recommendations and/or alternatives to present to Town Council in June 2020 for its consideration and approval. Given its relevancy, this scope complements other tasks under the previously approved scope for the Town of Los Gatos 2040 General Plan Update.

Scope of Work

Our proposed scope of work, schedule, and fee estimate are described below.

Task 1. Kick-Off Meeting

Town staff and up to four Fehr & Peers staff will meet to launch this effort, review project schedule, scope, and discuss and finalize the desired outcomes of this project.

Schedule: We expect to hold a kick-off meeting within two weeks of a signed agreement.



Task 2. Develop a White Paper Discussing SB 743 Compliance Requirements

There are several decisions that the Town will need to make regarding SB 743 implementation and California's new California Environmental Quality Act (CEQA) guidelines. The questions that need to be answered can be complex and technically detailed. Fehr & Peers will prepare a White Paper that is designed to provide information on each of these decisions, focusing on metrics to measure VMT, methods to calculate VMT, potential significant impact thresholds, and potential mitigation measures. This White Paper will take into consideration the size, location and development environment of Los Gatos and will include up to three project examples selected in coordination with Town staff, showing how different types of projects in different locations would be affected by a transportation analysis focused on VMT instead of Level of Service (LOS). These examples are intended to be used to illustrate how different compliance elements apply to different projects and may include estimates for VMT per capita for a given TAZ or location; however, they will not include precise VMT estimates for each example. The White Paper will also include discussion of the following topics and decisions:

Defining Policy and Legal Framework. The White Paper will begin with a background discussion of recent changes to the CEQA Guidelines and summary of relevant local planning documents, including the 2020 General Plan (September 2010), Traffic Impact Policy (#1-05, March 2017), and Complete Streets Policy (#3-01, February 2019).

Selecting VMT Metrics. The Town has the discretion to choose the most appropriate methods to evaluate a project's VMT, including how the results of that method are expressed. Generally, VMT is expressed in one of two ways: per-capita (i.e. VMT per resident, VMT per worker, VMT per service population) or in total (all VMT associated with a project or plan). Fehr & Peers will describe the benefits and limitations of each of these metrics such that the Town can determine how each metric will affect the case study projects.

Selecting VMT Calculation Methods. Selecting a VMT methodology can be done simultaneously with selecting a metric, as one is likely to inform the other. A VMT methodology consists of the approach used to analyze a project's VMT effects. There are three potential project types that may use either a consistent methodology, or may require unique methodologies for each:

- **Transportation Plans and Projects**, such as changes in roadway configurations, new roadways, etc.



- **Land Use Projects**, such as individual developments
- **Land Use Plans**, such as area plans, specific plans, and general plans.

The VMT methodology may consider the following approaches:

1. Screening Methods

The first set of VMT methods consist of a variety of screening methods, which could be used to exempt a project from additional analysis. Some examples of screening criteria include small sized projects, low VMT areas, affordable housing projects, and areas that are consistent with the Sustainable Communities Strategy.

2. Model and/or Algebraic Methods

If a project requires further VMT analysis, a transportation model or a simplified algebraic method could be considered depending on the level of detail required for the project, and the project's general complexity.

Selecting VMT Impact Significance Thresholds. The Town has discretion to choose its threshold of significance for identifying a VMT impact. The intent of the threshold is to identify whether a project has substantial environmental impacts due to traffic (such as noise, air, pollution, and safety concerns), and whether a project balances the needs of congestion management with statewide goals such as the promotion of infill development. The White Paper will present the following possible thresholds and supporting evidence for each, as well as high-level qualitative discussion of which case study projects would be likely to fall above or below each threshold:

- Total VMT threshold using the Town-level and County-level baseline VMT (two thresholds)
- Partial VMT threshold for residential projects using home-based VMT using the Town-level and County-level baseline VMT (two thresholds)
- Partial VMT threshold for non-retail employment projects using home-based work VMT using the Town-level and County-level baseline VMT (two thresholds)
- Boundary VMT using the Town-level and County-level baseline VMT

Identifying VMT Mitigation Actions. The Town will also need to determine if projects will be able to mitigate significant VMT impacts, and whether those measures can reduce an impact to a less-than-significant level. The most commonly used means of mitigating a VMT impact are



transportation demand management and changes to the project or introduction of a project alternative. This task will include a high-level review of how other jurisdictions have incorporated transportation demand management into their mitigation measures for VMT impacts, and a discussion of the potential risks and uncertainties related to VMT mitigation measures. We will also note how various mitigation strategies might apply to each of the case studies as it is relevant to Los Gatos.

Workflow and Schedule: The agreed upon workflow and tasks should include:

1. Fehr & Peers will provide Town staff white paper(s) on each question identified in the Oct. 8 staff report.
 - a. This step can be accomplished by having one memo/white paper to cover all topics, or separate memos;
 - b. The white paper should contain information, not recommendations, and should include generic and Town-specific information that takes into considerations Los Gatos' size, location, and development environment;
 - c. Town staff will review the draft White Paper and provide comments to Fehr & Peers;
 - d. Fehr & Peers will incorporate staff comments and finalize the white paper.
2. Town staff, upon consultation with Fehr & Peers, will make recommendations and/or provide options to Council.
3. Fehr & Peers will provide additional analysis and information based on Town staff's recommendations, and/or provide alternatives.

We expect to take eight weeks to complete a draft White Paper. We have budgeted a total of eight staff hours to update the White Paper based on comments received and will resubmit as final; this is estimated to require two weeks following receipt of comments.

Task 3. Stakeholder Outreach, Education and Discussions

Task 3.1. Develop Initial Outreach and Education Materials

Fehr & Peers will work with Town staff to prepare initial outreach and education materials on SB 743 for various media including website, social media, and printed materials. Rather than developing new content, Fehr & Peers will leverage the existing content and materials they have prepared on SB 743 and modify it for the Town of Los Gatos. Initial outreach and education materials will present an appropriate level of background information and technical details on SB 743 and include:



- a list of frequently asked questions (FAQs) and answers;
- summary sheet on SB 743 and the transition from LOS to VMT; and
- YouTube link to Fehr & Peers' "What is VMT?" video.

Additional education and outreach materials that require modification for a less-technical audience can be prepared for an additional fee.

Schedule: We expect it to take two weeks to develop initial outreach and education content.

Task 3.2. Perform Case Study Project Evaluations

Fehr & Peers will work with the Town of Los Gatos to evaluate up to three different land use projects based on the thresholds, methodologies, and mitigation measures identified in previous tasks. Below are three types of projects that Los Gatos could consider as part of this evaluation:

- Office building (~70 ksf) project near existing residential land uses.
- Residential development (approximately 250 to 500 units).
- Mixed use project, which includes a combination of office and residential land uses.

These case studies will be used to evaluate applicability of the VMT thresholds, estimation methodologies, and proposed mitigation measures. Fehr & Peers will create a case study report based on the evaluations of the selected projects.

Schedule: We expect it to take six weeks to complete a draft case study report. Town staff will review the draft case study report and provide comments to Fehr & Peers. We have budgeted a total of eight staff hours to update the draft case study report based on comments received and will resubmit as final; this is estimated to require two weeks following receipt of comments.

Task 3.3. Attend Public Meetings

Fehr & Peers will attend and participate in up to four public meetings with the Town of Los Gatos. This will include attending, presenting, and responding to questions at either a Town Council, Commissions, Committee, or other public meeting. Select meetings may also include presenting additional information from the White Paper developed as part of Task 2. Prior to each meeting, we will participate in one conference call (for a total of four) to identify an appropriate level of depth for each presentation and generally confirm content and duration.



Task 4. Update Local Transportation Analysis Policy

Based on the outcomes from Tasks 1-3, Fehr & Peers will develop proposed updates to the Town's local transportation analysis policies, including policies referenced in the 2020 General Plan (September 2010), Traffic Impact Policy (#1-05, March 2017), and Complete Streets Policy (#3-01, February 2019). Fehr & Peers will document the proposed policy modifications for consideration in a memorandum, which will address how the Town of Los Gatos can continue to use LOS analysis as part of land use entitlement once SB 743 is fully certified.

Schedule: We expect it to take four weeks to complete a draft memorandum. Town staff will review the draft document and provide comments to Fehr & Peers. We have budgeted a total of six staff hours to update the draft document on comments received and will resubmit as final; this is estimated to require two weeks following receipt of comments.

Task 5. Develop Transportation Analysis (TA) Guidelines

Fehr & Peers will draft new transportation analysis (TA) guidelines for the Town of Los Gatos based on decisions from Task 2 and consultation with Town staff, council members, planning commission, and/or the public. The TA guidelines will include defining the VMT analysis method, impact thresholds that are supported by quantitative evidence, and mitigation programs for use in projects. This will include discussion of analysis and screening methods for land use projects, transportation projects, and specific/general plans, including an assessment of how the Town's General Plan will influence future transportation analysis. The final deliverable will include three main components:

1. Transportation Analysis Methodologies per SB 743 Compliance
2. Updates to the Town's Local Transportation Analysis Policies
3. CEQA Analysis for Transportation Improvements (to be completed by Town staff)

Fehr & Peers will work in close partnership with Town staff in both the Public Works and Planning Departments, as well as the Town's legal counsel, and will focus on the technical basis for selecting the thresholds requested. Technical memorandum documenting the basis and substantial evidence for each recommendation will be provided as appropriate. This effort would likely occur in coordination with VTA's development of guidance and screening tools for communities throughout Santa Clara County.



We will deliver a draft document to Town staff for review. We have budgeted a total of six staff hours to update the documentation based on comments received and resubmit as final. We have budgeted another four hours of staff time to assist Town staff in developing the ordinance for Council review.

Schedule: We expect it to take six weeks to complete a draft TA guidelines report. This budget includes one round of comment and revision, which is expected to require an additional two weeks following receipt of comments.

Task 6. Additional Analysis Enhancements On-Call

If requested by Town staff, Fehr & Peers will be available for on-call support to perform additional analysis enhancements on Tasks 1-5 above. We have allocated \$20,000 to respond to as-needed requests from Town staff, as well as the Town's legal counsel, council members, planning commission, and/or the public.

Fee Estimate

Fehr & Peers will perform the scope of work (see **Table 1**) on a time and materials basis with a not-to-exceed limit of \$122,820 which includes all professional and support staff time, as well as reimbursement for direct expenses.

Table 1: Fee Estimate for Senate Bill 743 Implementation Assistance for Town of Los Gatos

| Task | Fee Estimate |
|---|------------------|
| Task 1. Kick-Off Meeting | \$4,150 |
| Task 2. Develop a White Paper Discussing SB 743 Compliance Requirements | \$20,770 |
| Task 3. Stakeholder Outreach, Education and Discussions | \$45,850 |
| Task 4. Update Local Transportation Analysis Policy | \$15,060 |
| Task 5. Develop Transportation Analysis (TA) Guidelines | \$16,990 |
| Task 6. Additional Analysis Enhancements On-Call | \$20,000 |
| Total | \$122,820 |



Should you have any questions, please call Julie Morgan at (925) 357-3370 or Charlie Coles at (408) 533-8976. Otherwise, please provide us with a contract. The terms of this proposal are valid for a period of 60 days.

Sincerely,

FEHR & PEERS

Julie Morgan, AICP
Principal-In-Charge

P19-3614-SJ

ACCEPTED BY:

Signature: _____

Name: _____

Title: _____

Company: _____

Date: _____

Attachment A: Detailed Fee Estimate

Attachment B: Billing Rates

Attachment A: Fee Estimate - Proposal for Senate Bill 743 Implementation Assistance for Town of Los Gatos (11/11/2019)

| Task | Principal | Project Manager | SB 743 Expert | Modeling Lead | Engineer/Planner | Graphics | Support | Direct Labor | Direct Costs | Task Total |
|--|-----------|-----------------|---------------|---------------|------------------|----------|---------|--------------|--------------|------------|
| Billing Rate--> | \$335 | \$160 | \$240 | \$200 | \$160 | \$135 | \$135 | | | |
| Task 1. Kick-Off Meeting | 4 | 4 | 4 | 0 | 4 | 0 | 2 | \$3,850 | \$300 | \$4,150 |
| Task 2. Develop a White Paper Discussing SB 743 Compliance Requirements | 12 | 20 | 24 | 0 | 30 | 4 | 10 | \$19,670 | \$1,100 | \$20,770 |
| Task 3. Stakeholder Outreach, Education and Discussions | | | | | | | | | | |
| <i>Task 3.1. Develop Initial Outreach and Education Materials</i> | 2 | 4 | 8 | 0 | 8 | 0 | 4 | \$5,050 | \$400 | \$5,450 |
| <i>Task 3.2. Perform Case Study Project Evaluations</i> | 8 | 16 | 24 | 0 | 24 | 12 | 12 | \$18,080 | \$1,000 | \$19,080 |
| <i>Task 3.3. Attend Public Meetings (4)</i> | 8 | 20 | 24 | 0 | 30 | 16 | 12 | \$20,220 | \$1,100 | \$21,320 |
| Task 4. Update Local Transportation Analysis Policy | 4 | 8 | 24 | 0 | 30 | 0 | 8 | \$14,260 | \$800 | \$15,060 |
| Task 5. Develop Transportation Analysis (TA) Guidelines | 8 | 12 | 24 | 0 | 24 | 4 | 10 | \$16,090 | \$900 | \$16,990 |
| Task 6. Additional Analysis Enhancements On-Call | 8 | 16 | 28 | 0 | 30 | 4 | 10 | \$18,650 | \$1,000 | \$20,000 |
| Total | 54 | 100 | 160 | 0 | 180 | 40 | 68 | \$115,870 | \$6,600 | \$122,820 |
| Notes: Other Direct Costs / Reimbursable expenses are invoiced at cost plus 10% for handling. Personal auto mileage is reimbursed at the then current IRS approved rate (58 cents per mile as of Jan 2019). Voice & Data Communications (Telephone, fax, computer, e-mail, etc.) are invoiced at cost as a percentage of project labor. Fehr & Peers, November 2019. | | | | | | | | | | |



2019-2020

(July 2019 through June 2020)

Hourly Billing Rates

| Classification | Hourly Rate | | |
|-------------------------------|--------------------|---|----------|
| Principal | \$215.00 | - | \$350.00 |
| Senior Associate | \$180.00 | - | \$340.00 |
| Associate | \$155.00 | - | \$250.00 |
| Senior Engineer/Planner | \$130.00 | - | \$200.00 |
| Engineer/Planner | \$120.00 | - | \$160.00 |
| Senior Engineering Technician | \$145.00 | - | \$195.00 |
| Senior Project Accountant | \$160.00 | - | \$165.00 |
| Senior Project Coordinator | \$120.00 | - | \$165.00 |
| Project Coordinator | \$110.00 | - | \$155.00 |
| Technician | \$125.00 | - | \$165.00 |
| Intern | \$90.00 | - | \$105.00 |

- *Other Direct Costs / Reimbursable expenses are invoiced at cost plus 10% for handling.*
- *Personal auto mileage is reimbursed at the then current IRS approved rate (58 cents per mile as of Jan 2019).*
- *Voice & Data Communications (Telephone, fax, computer, e-mail, etc.) are invoiced at cost as a percentage of project labor.*

Fehr & Peers reserves the right to change these rates at any time with or without advance notice.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 11/19/2019

ITEM NO: 7

DATE: November 6, 2019
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Submit Grant Applications for the Measure B Bicycle and Pedestrian Competitive Grant Program for Five Candidate Projects

RECOMMENDATION:

Authorize the Town Manager to submit grant applications for the Measure B Bicycle and Pedestrian Competitive Grant Program for five candidate projects.

BACKGROUND:

The voter-approved 2016 Santa Clara County Ballot Measure B included a Bicycle and Pedestrian Program Category. The Santa Clara Valley Transportation Authority (VTA) Board of Directors adopted the 2016 Measure B Bicycle and Pedestrian Program Category Guidelines, which direct the implementation and advise how the program category funds should be allocated.

Following Board approval of the Bicycle and Pedestrian Program Guidelines, VTA staff has worked with local jurisdictions in developing a competitive grant program for bicycle and pedestrian capital projects. This program category is expected to be funded at approximately \$6.6 million per year within three 10-year funding cycles. Awarded projects will be funded in the 10-year period in a priority order based on the project's score and implementation schedule.

The Capital Projects Competitive Grant Criteria (Attachment 1) were approved by the VTA Board of Directors at the October 3, 2019 meeting. Town staff has actively participated in the development of the criteria and worked to maximize Measure B funding opportunities to support the Town's transportation priorities. It is anticipated that a call for projects will be

PREPARED BY: Ying Smith
Transportation and Mobility Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Parks and Public Works Director

SUBJECT: Authorize the Town Manager to Submit Grant Applications for the Measure B
Bicycle and Pedestrian Competitive Grant Program for Five Candidate Projects
DATE: November 6, 2019

BACKGROUND (continued):

released soon with a submission deadline in January 2020. As such, staff is requesting Council approval of the five candidate projects identified below for grant program submittal.

DISCUSSION:

This grant program has specific eligibility requirements. Candidate projects were identified and listed in Attachment A of the Measure B ballot language (Attachment 2). Town staff reviewed the priority projects in the Town's Bicycle and Pedestrian Master Plan (BPMP) and is recommending five candidate projects. These projects meet the eligibility requirements and are considered to be the Town's most competitive projects under the established criteria. The candidate projects and their reference to the Town's BPMP prioritizations are:

- **Construction for the Los Gatos Creek Trail Connector to Highway 9**
Town Priority: This is a high priority project in the BPMP and is included in the 2019/2020 – 2023/2024 Capital Improvement Program.
Status: The project is currently in the final design and environmental clearance phase.
Eligibility: Listed on Attachment A of 2016 Measure B
- **Final design for the Highway 17 bike/pedestrian overcrossing**
Town Priority: This project is included in the 2019/2020 – 2023/2024 Capital Improvement Program.
Status: The project is currently in the feasibility analysis and conceptual design phase.
Eligibility: Blossom Hill Road is identified as a Priority Cross County Bicycle Corridor in the *Santa Clara Countywide Bicycle Plan*
- **Kennedy Road sidewalk between Los Gatos Boulevard and Englewood Avenue**
Town Priority: "Add missing sidewalks along identified school walking routes" is one of the high priority Town-wide improvements in the BPMP. Sidewalk improvements are included in the 2019/2020 – 2023/2024 Capital Improvement Program.
Status: The project is currently in the conceptual design phase.
Eligibility: Sidewalk on Kennedy Road is included in the VTA's *Pedestrian Access to Transit Plan* as one of the recommended projects.
- **Final design and Construction for the Winchester Boulevard Complete Streets project**
Town Priority: The Town Council authorized proceeding with conceptual design at its October 1, 2019 meeting.

SUBJECT: Authorize the Town Manager to Submit Grant Applications for the Measure B Bicycle and Pedestrian Competitive Grant Program for Five Candidate Projects
DATE: November 6, 2019

DISCUSSION (continued):

Status: The conceptual design phase will begin in December. Complete Streets improvements between Blossom Hill Road and Albright Way will be most feasible to implement in the near term.

Eligibility: Winchester Boulevard is identified as a Cross County Bicycle Corridor in the *Santa Clara Countywide Bicycle Plan*.

- **Construction for the Highway 9/Massol Avenue Rectangular Rapidly Flashing Beacon**
Town Priority: This is a high priority project in the BPMP and is included in the 2019/2020 – 2023/2024 Capital Improvement Program.
Status: Final design is completed and was submitted to Caltrans for encroachment permit application.
Eligibility: Listed on Attachment A of 2016 Measure B as one of the Highway 9 Pedestrian Safety Improvements

Of the five recommended projects, the Highway 9/Massol Avenue project is “shovel ready.” The remaining four projects are in design phase and it is a good strategy to move forward with pursuing grant funding opportunities concurrent with the design process. As staff makes progress in the design and engineering phases, staff will return to Council with design options for Council consideration in selecting the final design concepts for the individual projects. Given the competitiveness of this Measure B grant program, staff believes moving forward with multiple applications will increase the Town’s ability to compete for the grant dollars for one or more projects.

It is anticipated that preparing the applications will require significant staff time. The Council’s decision will help staff focus resources to prepare grant applications on the selected projects. The Town Council decision and the public feedback are also valuable in illustrating community engagement and support.

CONCLUSION:

Staff is recommending authorizing submittal of grant applications for the above five candidate projects in the Measure B Bicycle and Pedestrian Competitive Grant Program.

ALTERNATIVES:

The Town Council may choose all or some of these candidate projects to submit to the Measure B competitive program.

PAGE 4 OF 4

SUBJECT: Authorize the Town Manager to Submit Grant Applications for the Measure B
Bicycle and Pedestrian Competitive Grant Program for Five Candidate Projects

DATE: November 6, 2019

COORDINATION:

This report was coordinated with the Bicycle and Pedestrian Advisory Commission (BPAC). The BPAC unanimously supported staff's recommendation at its October 3, 2019 meeting. After staff clarified the eligibility requirements with VTA, the last two projects were added for consideration.

FISCAL IMPACT:

There is no fiscal impact as a result of the recommended action. If the grant applications are awarded, the Council will have the opportunity to review the funding agreement to accept the grant funds and commit to local match funds.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Measure B Bicycle and Pedestrian Capital Projects Competitive Grant Criteria
2. 2016 Measure B Ballot Language Attachment A

2016 Measure B Bike/Ped Capital Projects Competitive Grant Criteria

Screening Criteria

- 2016 Measure B Eligible
 - Identify source of eligibility
 - Attachment A of 2016 Measure B
 - Countywide Bicycle Plan, etc.
- Complete Streets Reporting Requirement Attached
- Grant request \geq \$50,000

| Criteria | Max Points |
|---|------------|
| 1. Connections to/Serves Schools, Transit or Employment Centers | 20 |
| 2. Gap Closure/Crosses Barriers | 20 |
| 3. Safety | 20 |
| 4. ADA Access or Convenience/Comfort | 20 |
| 5. Project Readiness/Project Delivery | 10 |
| 6. Non-2016 Measure B Contribution | 10 |
| 7. Community Engagement | 5 |
| 8. Current or Projected Usage | 10 |
| 9. Targets Populations with Specific Needs | 10 |
| TOTAL | 125 |
| Tie Breaker – Geographic Distribution | |

Criterion #1 – Connections to/serves schools, transit, or employment centers (Max. 20 points)

Does the project provide connections to schools, transit or employment centers within required biking or walking distance?

Points awarded if:

- Bicycles: Any point of project is within 1 ½ miles actual biking distance
- Pedestrians: Any point of project is within ½ mile actual walk distance

Point Distribution:

- Can receive a maximum of 20 points
 - Points are not additive. Projects will be scored within the “HIGH,” “MEDIUM,” or “LOW” point range based on its highest category destination
 - Example: If the project scores in the HIGH category for all three elements, 20 points can be received.

| Points | Schools (K-12) Combined Enrollment | # of Jobs (w/n actual bike/ped distance) | Transit (Frequency of Service) |
|-------------------------|---------------------------------------|---|--|
| High 15 - 20 | ≥ 1501 | ≥ 2000 | Connects to >1 Frequent transit route or regional rail service |
| Med 8 - 14 | 301 - 1500 | 501 - 1999 | Connects to 1 Frequent transit route or regional rail service |
| Low 1 - 7 | ≤ 300 | ≤ 500 | Connects to local transit service |

Other:

- School is K-12; Colleges & universities can be captured in the ‘# of Jobs’ element
- Employment center is defined by number of jobs
- Transit is defined as: ‘Transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, or sightseeing transportation.’
 - FTA: <https://www.transit.dot.gov/about/regional-offices/region-9/there-fta-dictionary>
- Frequent transit route as defined by VTA:
 - 15 minute or better frequency from 6:30a to 6:30p, M through F
- Local transit route as defined by VTA
 - All non-frequent routes
- Regional rail service is defined as:
 - Caltrain
 - ACE
 - Capital Corridor
 - BART

Criterion #2 – Gap Closure/Crosses Barriers (Max. 20 points)

Does the project provide for a continuous bicycle or pedestrian travel-way where there was previously none?

Points awarded if:

- Project builds new bicycle or pedestrian infrastructure where there is currently no infrastructure;
 - e.g. Closes gaps in sidewalk; completes trail segments; constructs new bike/ped bridge or undercrossing; provides dedicated space for bicyclist on roadway where there is currently shoulder less than 4 feet.
- OR - Project builds a new bicycle or pedestrian connection across a major barrier (waterway, railway, freeway, expressway).
 - Facilities provided must be dedicated
 - e.g. Class I, II, or IV bikeways; sidewalk

Point Distribution:

- Can receive a maximum of 20 points
 - High: 9-13pts
 - 75% or more of the project cost is for gap closure
 - Med: 4-8pts
 - 25% - 74% of the project cost is for gap closure
 - Low: 1-3pts
 - Less than 25% of the project cost is for gap closure
 - 5 pts: Project builds a new bicycle or pedestrian connection across a major barrier
 - 2 pts: Project is identified as an ABC in Appendix 6.1 of the 2018 Countywide Bicycle Plan or see <https://gis.vta.org/bikeplan/>

Criterion #3 – Safety (Max. 20 points)

Does the project make bicycling or walking safer?

Definition of Safety: Potential for reducing the number and/or rate or the risk of pedestrian and bicyclist fatalities and injuries, including the identification of safety hazards for pedestrians and bicyclists.

Points awarded if:

- Project demonstrates improved safety for bicyclists and/or pedestrians

Point Distribution:

- Can receive a maximum of 20 points
- High: 15-20pts
 - Project will address a demonstrated safety issue using proven/demonstrated countermeasure
- Med: 8-14pts
 - Project will improve a situation with safety issues
- Low: 1-7pts
 - Project will generally improve safety issues; Has potential to reduce exposure/risk of conflicts between motor-vehicles and bikes/peds

Other:

- Project sponsor to provide narrative describing safety issue/s that project will address

Criterion #4 – ADA Access or Convenience/Comfort (Max. 20 points)

Does the project address Americans with Disabilities Act (ADA) access issues or make bicycling or walking more convenient or comfortable?

Points awarded if:

- Project upgrades an existing facility to meet current Americans with Disabilities Act (ADA) requirements; OR
- Project provides a shorter route, reduces pedestrian or bicyclist delay, and/or upgrades existing bike/ped infrastructure to lower-stress infrastructure

Point Distribution:

- Can receive a maximum of 20 points
 - High: 15-20pts
 - 75% or more of the project cost is to upgrade existing facility to meet current ADA requirements; or
 - Project significantly reduces delay, provides a shorter route, and/or decreases current level of traffic stress by two or more factors
 - Med: 8-14pts
 - 25% - 74% of the project cost is to upgrade existing facility to meet current ADA requirements; or
 - Project moderately reduces delay, provides a moderately shorter route, and/or decreases current level of traffic stress by less than two factors
 - Low: 1-7pts
 - Less than 25% of the project cost is to upgrade existing facility to meet current ADA requirements; or
 - Project provides minimal reductions in delay, minimally shorter route, and/or does not change current level of traffic stress.

Other

- Project sponsor will identify if the project addresses an ADA issue or convenience/comfort.
- A level of traffic stress analysis is not required. However, a project that provides the analysis to substantiate reductions in traffic stress may receive the maximum points versus those projects that do not.
- References to tools/methods to measure level of traffic stress will be included on the application.
- Though this criterion overlaps some with criterion #2, Gap Closure/Crosses Barrier, criterion #2 is specific to new facilities/infrastructure where none exist. It is possible for a project to receive points for both criterion #2 and criterion #4.

Criterion #5 – Project Readiness/Project Delivery (Max. 10 points)**How close is the project to being delivered?**

Points awarded if:

- Project has any of the following phases completed.
- Points are additive.

Point Distribution:

- Can receive a maximum of 10 points

| Categorical Exclusion or Categorical Exemption | | Not Categorical Exclusion or Categorical Exemption | |
|--|--------|--|--------|
| Phase | Points | Phase | Points |
| Design Complete | 5 | ENV Complete | 4 |
| ROW Complete | 5 | Design Complete | 3 |
| | | ROW Complete | 3 |

Criterion #6 – Non-2016 Measure B Contribution (Max. 10 points)**How much non-2016 Measure B contribution is the project sponsor providing?**

Points awarded if:

- The project sponsor pledges/provides more than the required 10% non-2016 Measure B contribution

Point Distribution:

- 10pts: Provides $\geq 30\%$ non-2016 Measure B contribution
- 7pts: Provides 20% - 29% non-2016 Measure B contribution
- 4pts: Provides 18% - 19% non-2016 Measure B contribution
- 2pts: Provides 16% - 17% non-2016 Measure B contribution
- 1pts: Provides 11% - 15% non-2016 Measure B contribution
- 0pts: Provides the minimum 10% non-2016 Measure B contribution

Other:

- If the project sponsor states that they will provide a higher percentage of matching funds, they will be required to provide the matching percentage.
- If project costs increase and are anticipated to be over budget, 2016 Measure B funds will not be increased. Project sponsor is responsible for cost overruns.
- If the project is anticipated to be delivered under budget, 2016 Measure B funds will be reduced in proportion to project sponsor's contribution

Criterion #7 - Community Engagement (Max. 5 points)**Has the project been developed with input from the community?**

Points awarded if:

- Project is developed through a collaborative planning process that included broad partnerships among a variety of stakeholders (e.g. documents community input/outreach including local BPAC)

Point Distribution:

- Can receive a maximum of 5 points

Criterion #8 – Usage (Max. 10 points)**How many existing or projected users will the project benefit?**

Points awarded if:

- Projected or existing users are identified using a defensible, quantifiable methodology
 - Project sponsors using projections must provide documentation and justification

Point Distribution:

- Can receive a maximum of 10 points
- Project score is based on the highest usage category by mode or the total usage if mode split is not available.

| Points | | Two-way peak hour volume | | |
|--------|-----------|--------------------------|-------------|----------|
| | | Bicyclists | Pedestrians | "Total" |
| High | 10 points | ≥ 51 | ≥ 101 | ≥ 151 |
| Medium | 5-9 pts | 25-50 | 50 -100 | 75 - 150 |
| Low | 1-4 pts | ≤ 24 | ≤ 49 | ≤ 74 |

Criterion #9 - Targets Populations with Specific Needs (Max. 10 points)

Does a project serve a Community of Concern?

Points awarded if:

- 50% or more of the project limits is located within ½ mile of a Community of Concern (as defined by MTC at the time of the call for projects).
- The project connects directly to a Community of Concern (as defined by MTC at the time of the call for projects).
- MTC definition/map of Communities of Concern:
<https://mtc.maps.arcgis.com/home/item.html?id=1501fe1552414d569ca747e0e23628ff>

Point Distribution:

- Can receive a maximum of 10 points

Other:

- Map identifying the project and relationship to the COC required
- The project sponsor must articulate the benefit of the project to the COC

Tie Breaker

Geographic Distribution

- If two projects have the same score, the project in the geographic area with fewer awarded 2016 Measure B bicycle/pedestrian capital projects – for the current call for projects - will be ranked higher.

ATTACHMENT A

ENVISION SILICON VALLEY BICYCLE AND PEDESTRIAN CANDIDATE LIST

Project

Implementation of Santa Clara Countywide Bicycle Plan*

Trails in Expressway Rights-of-Way

Alum Rock Trail

Coyote Creek Trail Completion

Lions Creek Trail

Lower Silver Creek Trail

Miramonte Ave Bikeways

Fremont Road Pathway

Los Gatos Creek Trail Connector to SR 9

Berryessa Creek Trail

West Llagas Creek Trail

Gualadupe River Trail-Extension to Almaden

Three Creeks Trail East from Guadalupe River to Coyote Creek Trail

Five Wounds Trail from William Street to Mabury Road/Berryessa

Hwy 237 Bike Trail: Great America Parkway to Zanker (Class I, II, and IV)

Lower Gudalupe River Access Ramps

Los Gatos Creek Trail Gap Closure

Calabazas Creek Trail

San Tomas Aquino Trail Extension to South & Campbell Portion

Union Pacific Railroad Trail

Stevens Creek Trail Extension

Hamilton Avenue/Highway 17 Bicycle Overcrossing

Ped/Bike Bridge over SR 17 from Railway/Sunnyside to Campbell Technology Pkwy

Mary Avenue Complete Streets Conversion

UPRR Bike/Ped Bridge Crossing: Stevens Creek Boulevard to Snyder Hammond House/Rancho San Antonio Park

Montague Expwy Bike/Ped Overcrossing at Milpitas BART Station

Shoreline/101 Bike Ped Bridge

Mayfield Tunnel Ped/Bike under Central Expressway connecting to San Antonio Caltrain station

South Palo Alto Caltrain Bike/Ped Crossing

Matadero Creek Trail Undercrossing

Caltrain Capitol Undercrossing

Phelan Avenue Pedestrian & Bike Bridge over Coyote Creek

Newhall Street Bike/Ped Overcrossing over Caltrain Tracks

Kiely Bicycle & Pedestrian Overcrossing

Winchester Bicycle and Pedestrian Overcrossing

Bernardo Caltrain Undercrossing

San Tomas Aquino Creek Trail Underpass at 49er Stadium

Latimer Avenue Bicycle/Pedestrian Overcrossing

Bike & ped safety education at approximately ~200 schools

Implementation of Pedestrian Access to Transit Plan (VTA)*

Bike amenities at transit stops and on transit vehicles

Countywide Vision Zero Program (VTA)*

Highway 9 Pedestrian Safety Improvements

*These plans are currently being developed/updated and projects are being identified.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 11/19/2019

ITEM NO: 8

DATE: November 14, 2019
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution Approving the Final Map for Tract No. 10514 (258 Union Avenue) and Accepting the Dedications

RECOMMENDATION:

Adopt a resolution (Attachment 1) approving the Final Map for Tract No. 10514 (258 Union Avenue) and accepting the dedications.

BACKGROUND:

On March 27, 2019, the Planning Commission considered the subdivision project at 258 Union Avenue, received public comment, and approved its respective applications.

The developer, Cashmere Bouquet 1031, L.L.C., has filed the Final Map for Tract No. 10514 to subdivide and create seven new parcels and to dedicate to the Town both Public Service and Emergency Vehicle Access Easements. Acceptance of the dedications will allow for this.

DISCUSSION:

The parcel map merges two existing parcels, totaling 0.75 acres, and subdivides the resultant into one parcel for the construction of a mixed-use commercial building with three attached multi-family condominiums on the northern portion of the site, and six parcels for the construction of detached single-family condominiums with a private driveway on the southern portion of the site. The developer has provided all necessary maps and drawings. The developer is required to provide the required contracts, bonds, and liability insurance to guarantee the construction of all improvements. The developer has paid the appropriate fees to fully comply with the previously imposed development conditions and Town ordinances.

PREPARED BY: Lisa Petersen
Assistant Public Works Director/Town Engineer

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Director of Parks and Public Works

PAGE 2 OF 2

SUBJECT: Adopt a Resolution Approving the Final Map for Tract No. 10514 (258 Union Avenue) and Accepting the Dedications

DATE: November 14, 2019

DISCUSSION (continued):

The developer is dedicating property as a public service easement and emergency vehicle access easement within the proposed private drive between the single-family parcels. The easement dedications are all shown on the attached map (Attachment 2).

CONCLUSION:

Staff recommends that the Town Council adopt a resolution approving the final map and accepting the dedications for Tract No. 10514 (258 Union Avenue).

COORDINATION:

This project has been coordinated with the Town Attorney and the Community Development Department.

FISCAL IMPACT:

There is no fiscal impact for the Town as the dedication of additional public access easements involves private property.

ENVIRONMENTAL ASSESSMENT:

An Initial Study and Mitigated Negative Declaration was prepared for the project by the Town's Environmental Consultant, EMC Planning Group Inc. (available online at <http://www.losgatosca.gov/258Union>). The 20-day public review period began on January 18, 2019 and ended on February 7, 2019. The project will not result in a significant effect on the environment because mitigation measures have been added for Air Quality, Biological Resources, Geology and Soils, Hazardous Materials, Noise, and Transportation, mitigating potential impacts to a less-than-significant level.

Attachments:

1. Resolution Approving the Final Map for Tract No. 10514 (258 Union Avenue) and Accepting the Dedications
2. Final Map for Tract No. 10514 (258 Union Avenue)

RESOLUTION 2019-

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
APPROVING THE FINAL MAP FOR TRACT NO. 10514 (258 UNION AVENUE)
AND ACCEPTING THE DEDICATIONS**

WHEREAS, on March 27, 2019, the Planning Commission of the Town of Los Gatos approved the Architecture and Site Application S-18-033, Conditional Use Permit Application U-18-010, Subdivision Application M-18-004, and Mitigated Negative Declaration ND-19-001 with conditions; and

WHEREAS, the developer, Cashmere Bouquet 1031, L.L.C., is required to dedicate property for public service easements and emergency vehicle access easements within the Development; and

WHEREAS, the developer has complied with the conditions of Architecture and Site Application S-18-033, Conditional Use Permit Application U-18-010, Subdivision Application M-18-004, and Mitigated Negative Declaration ND-19-001.

NOW, THEREFORE, BE IT RESOLVED that the certain Final Map of Tract No. 10514 (258 Union Avenue) in the Town of Los Gatos, dated November 2019, and prepared by Hanna & Brunetti Civil Engineers and Land Surveyors, for approval by the Town Engineer of the Town of Los Gatos, is hereby approved; all offers of land for public use therein made on said map are hereby accepted, in substantial conformance to the Conditions of approval as set forth above and subject to final Town Attorney approval.

ATTACHMENT 1

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los

Gatos held on the 19th day of November 2019, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

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

DATE: _____

OWNER’S STATEMENT

WE HEREBY STATE THAT WE ARE ALL OF THE PARTIES HAVING ANY RECORD TITLE INTEREST IN THE SUBDIVIDED REAL PROPERTY SHOWN WITHIN THE DISTINCTIVE BORDERLINE ON THIS MAP, AND WE HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS MAP AND ALL DEDICATIONS AND OFFERS OF DEDICATION THEREIN.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES (DESIGNATED •):

- AN EASEMENT FOR CONSTRUCTION, MAINTENANCE AND ACCESS TO ANY AND ALL PUBLIC SERVICE FACILITIES INCLUDING POLES, WIRES, CONDUITS, STORM SEWERS, SANITARY SEWERS AND GAS, WATER AND HEAT MAINS AND ALL PUBLIC UTILITES AND SERVICES AND ALL APPURTENANCES UNDER, ON, OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AND DELINEATED AS "P.S.E." (PUBLIC SERVICE EASEMENT).

SAID EASEMENT SHALL BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT PUBLIC SERVICE STRUCTURES, IRRIGATION SYSTEMS AND APPURTENANCES THERETO, LAWFUL FENCES AND ALL LAWFUL ROOF OVERHANGS.

- AN EASEMENT FOR EMERGENCY ACCESS PURPOSES ON OR OVER THAT CERTAIN STRIP OF LAND DESIGNATED AND DELINEATED AS "E.V.A.E." (EMERGENCY VEHICLE ACCESS EASEMENT).

SAID EASEMENT SHALL BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT PUBLIC SERVICE STRUCTURES, IRRIGATION SYSTEMS AND APPURTENANCES THERETO, LAWFUL FENCES AND ALL LAWFUL ROOF OVERHANGS.

ALL OF THE PRIVATE EASEMENTS DESCRIBED BELOW SHALL BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT PUBLIC SERVICE STRUCTURES, IRRIGATION SYSTEMS AND APPURTENANCES THERETO, LAWFUL FENCES AND ALL LAWFUL ROOF OVERHANGS.

THERE IS SHOWN ON THE HEREON MAP A PROPOSED EASEMENT FOR A PRIVATE DRIVE DESIGNATED AND DELINEATED AS "P.I.E.E." (PRIVATE INGRESS–EGRESS EASEMENT) FOR INGRESS TO AND EGRESS FROM THE INDIVIDUAL LOTS SHOWN ON THIS MAP. SAID EASEMENT IS NOT INTENDED FOR THE USE OF THE GENERAL PUBLIC BUT FOR THE EXCLUSIVE USE OF THE OWNERS OF LOTS 1 THROUGH 6.

THERE IS ALSO SHOWN ON THE HEREON MAP A PROPOSED EASEMENT FOR PRIVATE OPEN SPACE PURPOSES DESIGNATED AND DELINEATED AS "Pr.O.S.E." (PRIVATE OPEN SPACE EASEMENT). SAID EASEMENT IS NOT INTENDED FOR THE USE OF THE GENERAL PUBLIC BUT FOR THE EXCLUSIVE USE OF THE OWNERS OF LOTS 1 THROUGH 6.

THERE IS ALSO SHOWN ON THE HEREON MAP A PROPOSED EASEMENT FOR PRIVATE STORM DRAINAGE PURPOSES DESIGNATED AND DELINEATED AS "Pr.S.D.E." (PRIVATE STORM DRAINAGE EASEMENT) FOR THE INSTALLATION AND MAINTENANCE OF PRIVATE STORM DRAINAGE FACILITIES.

THERE IS ALSO SHOWN ON THE HEREON MAP A PROPOSED EASEMENT FOR PRIVATE WATER PURPOSES DESIGNATED AND DELINEATED AS "Pr.W.E." (PRIVATE WATER EASEMENT) FOR THE INSTALLATION AND MAINTENANCE OF PRIVATE WATER FACILITIES.

THERE IS ALSO SHOWN ON THE HEREON MAP A PROPOSED EASEMENT FOR PRIVATE UTILITY PURPOSES DESIGNATED AND DELINEATED AS "Pr.U.E." (PRIVATE UTILITY EASEMENT) FOR THE INSTALLATION AND MAINTENANCE OF PRIVATE UTILITY FACILITIES.

THERE IS ALSO SHOWN ON THE HEREON MAP A PROPOSED EASEMENT FOR PRIVATE LANDSCAPING & MAINTENANCE PURPOSES DESIGNATED AND DELINEATED AS "Pr.L.M.E." (PRIVATE LANDSCAPING & MAINTENANCE EASEMENT) FOR THE INSTALLATION AND MAINTENANCE OF PRIVATE LANDSCAPING FACILITIES.

THERE IS ALSO SHOWN ON THE HEREON MAP A PROPOSED EASEMENT FOR PRIVATE PARKING PURPOSES DESIGNATED AND DELINEATED AS "Pr.P.E." (PRIVATE PARKING EASEMENT) FOR VEHICULAR PARKING. SAID EASEMENT IS NOT INTENDED FOR THE USE OF THE GENERAL PUBLIC BUT FOR THE EXCLUSIVE USE OF THE PWNERS OF LOTS 1 THROUGH 6.

THERE IS ALSO SHOWN ON THE HEREON MAP A PROPOSED EASEMENT FOR PRIVATE UTILITY PURPOSES DESIGNATED AND DELINEATED AS "Pr.U.E." (PRIVATE UTILITY EASEMENT) FOR THE INSTALLATION AND MAINTENANCE OF PRIVATE UTILITY FACILITIES.

THE USE, MAINTENANCE, REPAIR AND/OR REPLACEMENT OF SAID PRIVATE EASEMENTS SHALL BE AS DEFINED IN THE CONVENANTS, CONDITIONS AND RESTRICTIONS (C.C.&R.S) CREATED FOR THIS SUBDIVISION. SAID EASEMENTS ARE NOT OFFERED NOR ACCEPTED FOR DEDICATION BY THE TOWN OF LOS GATOS.

"THE PRIVATE STREETS, UTILITIES CONSTRUCTED WITHIN THIS MAP SHALL BE OWNED, OPERATED AND MAINTAINED BY THE DEVELOPER, SUCCESSORS OR ASSIGNS."

OWNER:
CASHMERE BOUQUET 1031, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

BY: ITS:

PRINTED NAME

TRUSTEE’S STATEMENT

THE UNDERSIGNED COMPANY, FIDELITY NATIONAL TITLE COMPANY, AS TRUSTEE UNDER THE DEED OF TRUST RECORDED 12/08/2017, DOCUMENT: 23822412 OF OFFICIAL RECORDS OF SANTA CLARA COUNTY, CALIFORNIA, DOES HEREBY JOIN IN AND CONSENT TO THE FOREGOING OWNER’S STATEMENT AND ALL DEDICATIONS SHOWN HEREIN.

BY:

PRINTED NAME

ITS:

TRUSTEE’S ACKNOWLEDGMENT

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

STATE OF CALIFORNIA

COUNTY OF

ON BEFORE ME,

A NOTARY PUBLIC, PERSONALLY APPEARED

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/ THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND

NOTARY’S SIGNATURE:

NOTARY’S NAME:

NOTARY’S PRINCIPAL PLACE OF BUSINESS:

NOTARY’S COMMISSION NUMBER:

EXPIRATION OF NOTARY’S COMMISSION:

OWNER’S ACKNOWLEDGMENT

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

STATE OF CALIFORNIA

COUNTY OF

ON BEFORE ME,

A NOTARY PUBLIC, PERSONALLY APPEARED

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/ THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND

NOTARY’S SIGNATURE:

NOTARY’S NAME:

NOTARY’S PRINCIPAL PLACE OF BUSINESS:

NOTARY’S COMMISSION NUMBER:

EXPIRATION OF NOTARY’S COMMISSION:

TRACT NO. 10514

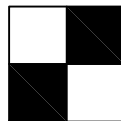
BEING A MIXED USE PROJECT OF
RESIDENTIAL LOTS AND CONDOMINIUM UNITS

BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 13,
TOWNSHIP 8 SOUTH, RANGE 1 WEST, M.D.B.&M.

LYING WITHIN THE TOWN OF LOS GATOS,
COUNTY OF SANTA CLARA, STATE OF CALIFORNIA

OCTOBER, 2019

SCALE: AS SHOWN



HANNA & BRUNETTI - CIVIL ENGINEERS AND LAND SURVEYORS
7651 EIGLEBERRY STREET - GILROY, CA. 95020 - 408 842-2173

TOWN SURVEYOR’S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP, AND I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

DEAN A. JURADO, ACTING TOWN SURVEYOR

P.L.S. NO. 9032

LICENSE EXPIRES: 9–30–2019

DATE

SURVEYOR’S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF BILL HIRSCHMAN ON APRIL 17, 2019, AND THAT SAID SURVEY IS TRUE AND COMPLETE AS SHOWN. I HEREBY STATE THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR WILL BE SET IN THOSE POSITIONS BEFORE OCTOBER 2020, AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.

JOHN K. KING

P.L.S. NO. 6809

DATE



SOILS AND GEOLOGICAL REPORT

A SOILS AND/OR GEOTECHNICAL REPORT ON THIS PROPERTY HAS BEEN PREPARED BY MURRAY ENGINEERS, INC., DATED APRIL 18, 2018. A COPY OF WHICH HAS BEEN FILED WITH THE TOWN OF LOS GATOS.

STATEMENT OF THE COUNCIL
OF THE TOWN OF LOS GATOS

IT IS ORDERED THAT THE MAP OF TRACT NO. 10514 IS HEREBY APPROVED, THAT ALL PUBLIC STREETS, PUBLIC EASEMENTS AND OTHER PARCELS OF LAND SHOWN UPON SAID MAP AND THEREIN OFFERED FOR DEDICATION ARE HEREBY ACCEPTED FOR THE PURPOSES FOR WHICH THEY ARE OFFERED.

I HEREBY STATE THAT THE FOREGOING ORDER WAS ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOS GATOS, CALIFORNIS, AT A MEETING HELD ON THE DAY OF , 20 ; BY RESOLUTION NO. .

SHELLEY NEIS – CLERK ADMINISTRATOR
TOWN OF LOS GATOS

DATE

TOWN ENGINEER’S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP, THE SUBDIVISION AS SHOWN IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE VESTING TENTATIVE MAP (M–18–004) AND ANY APPROVED ALTERATIONS THEREOF, AND THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE VESTING TENTATIVE MAP (M–18–004) HAVE BEEN COMPLIED WITH.

LISA PETERSEN – TOWN ENGINEER

R.C.E. NO. 46792

REGISTRATION EXPIRES: 6–30–2021

DATE

COUNTY RECORDER’S STATEMENT

FILED THIS DAY OF , 20 AT

M. IN BOOK OF MAPS, AT PAGE(S)

THRU , SANTA CLARA COUNTY RECORDS, AT THE REQUEST OF FIDELITY NATIONAL TITLE COMPANY.

FEE:

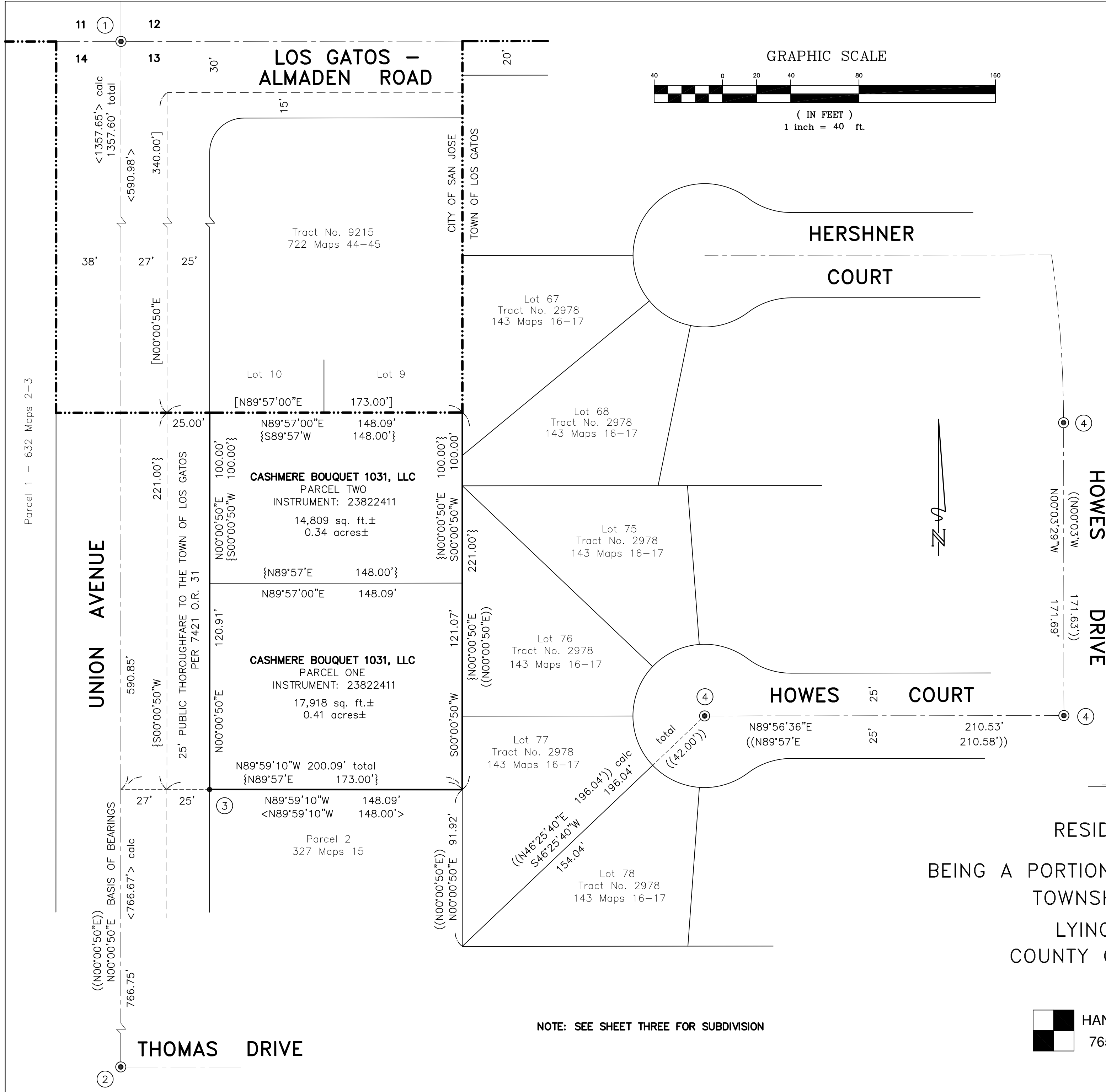
FILE NO.

REGINA ALCOMENDRAS, COUNTY RECORDER
SANTA CLARA COUNTY, CALIFORNIA

BY: DEPUTY

SHEET ONE OF THREE SHEETS

JOB NO. 19017



BASIS OF BEARINGS

THE BEARINGS SHOWN ON THIS MAP ARE BASED ON THE MONUMENT LINE OF UNION AVENUE (THE LINE BETWEEN SECTIONS 13 AND 14) AS FOUND MONUMENTED AND SHOWN AS NORTH 00°00'50" EAST ON THAT PARCEL MAP, FILED IN BOOK 327 OF MAPS, AT PAGE 15, SANTA CLARA COUNTY RECORDS.

LEGEND

- --- DENOTES FOUND MONUMENT AS NOTED
- { } --- DENOTES RECORD DATA PER DOC. NO. 23822411
- (()) --- DENOTES RECORD DATA PER 143 MAPS 16-17
- < > --- DENOTES RECORD DATA PER 327 MAPS 15
- [] --- DENOTES RECORD DATA PER 722 MAPS 44-45
- DENOTES DISTINCTIVE BORDER LINE
- DENOTES LOT LINE
- DENOTES CENTERLINE / MONUMENT LINE
- DENOTES OLD LOT LINE
- DENOTES TIE LINE
- DENOTES CITY LIMITS LINE
- sq.ft. --- DENOTES 'SQUARE FEET'
- calc --- DENOTES 'CALCULATED'
- CNR --- DENOTES 'COULD NOT READ'
- O.R. --- DENOTES 'OFFICIAL RECORDS'

FOUND MONUMENTS

- BRASS DISC, STAMPED 'SCCO', IN MONUMENT BOX (SECTION CORNER), SHOWN FOUND ON 722 MAPS 44-45 <2X2 HUB w/ TACK> ((3/4" IRON PIPE))
- 3/4" IRON PIPE, TAGGED (CNR), IN MONUMENT BOX, SHOWN AS FOUND STANDARD CITY MONUMENT ON 327 MAPS 15
- 3/4" IRON PIPE, TAGGED (CNR), SHOWN SET ON 327 MAPS 15
- 1" IRON PIPE, OPEN, IN MONUMENT BOX, SHOWN AS SET STANDARD CITY MONUMENT ON 143 MAPS 16-17

TRACT NO. 10514

BEING A MIXED USE PROJECT OF
RESIDENTIAL LOTS AND CONDOMINIUM UNITS

BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 13,
TOWNSHIP 8 SOUTH, RANGE 1 WEST, M.D.B.&M.

LYING WITHIN THE TOWN OF LOS GATOS,
COUNTY OF SANTA CLARA, STATE OF CALIFORNIA

OCTOBER, 2019 SCALE: 1" = 40'

HANNA & BRUNETTI - CIVIL ENGINEERS AND LAND SURVEYORS
7651 EIGLEBERRY STREET - GILROY, CA. 95020 - 408 842-2173

SHEET TWO OF THREE SHEETS JOB NO. 19017

