



**TOWN OF LOS GATOS
PLANNING COMMISSION AGENDA
AMENDED
SEPTEMBER 23, 2020
110 EAST MAIN STREET
LOS GATOS, CA
7:00 PM**

*Melanie Hanssen, Chair
Kathryn Janoff, Vice Chair
Mary Badame, Commissioner
Jeffrey Barnett, Commissioner
Kendra Burch, Commissioner
Matthew Hudes, Commissioner
Reza Tavana, Commissioner*

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” and return it to the Staff Liaison. 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 Planning Commission meeting.

Effective Proceedings: The purpose of the Planning Commission 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 Planning Commission 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 Commissioners without first being recognized; interrupting speakers, Commissioners 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 Planning Department by 1 p.m. or the Clerk’s Office no later than 3:00 p.m. on the day of the Planning Commission meeting.
- Persons wishing to submit written comments to be included in the materials provided to the Planning Commission must provide the comments to the Planning Department as follows:
 - For inclusion in the regular packet: by 11:00 a.m. the Friday before the meeting
 - For inclusion in any Addendum: by 11:00 a.m. the Monday before the meeting
 - For inclusion in any Desk Item: by 11:00 a.m. on the day of the meeting

***Planning Commission meetings are broadcast Live on KCAT, Channel 15 (on Comcast) on the 2nd and 4th Wednesdays at 7:00 p.m.
Live and Archived Planning Commission meetings can be viewed by going to:
<https://www.kcat.org/government-meetings>***

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]

IMPORTANT NOTICE REGARDING SEPTEMBER 23, 2020 PLANNING COMMISSION MEETING

This meeting is being conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic. The live stream of the meeting may be viewed on television and/or online at: <https://meetings.municode.com/PublishPage/index?cid=LOSGATOS&ppid=4bc370fb-3064-458e-a11a-78e0c0e5d161&p=0>. **In accordance with Executive Order N-29-20, the public may only view the meeting on television and/or online and not in the Council Chamber.**

PARTICIPATION

If you are not interested in providing oral comments real-time during the meeting, you can view the live stream of the meeting on television (Comcast Channel 15) and/or online at <https://www.youtube.com/channel/UCFh35XRBWer1DPx-F7vvhcg>.

If you are interested in providing oral comments real-time during the meeting, you must join the Zoom webinar at:

<https://losगतosca.gov.zoom.us/j/93937326319?pwd=V3F2WThJbUFFT1NpbkxDdjh4ekhmQT09>

Passcode: 821855.

During the meeting:

- When the Chair announces the item for which you wish to speak, click the “raise hand” feature in Zoom. If you are participating by phone on the Zoom app, press *9 on your telephone keypad to raise your hand. If you are participating by calling in, press #2 on your telephone keypad to raise your hand.
- When called to speak, please limit your comments to three (3) minutes, or such other time as the Chair may decide, consistent with the time limit for speakers at a Council meeting.

If you are unable to participate in real-time, you may send an email to PlanningComment@losगतosca.gov with the subject line “Public Comment Item # ” (insert the item number relevant to your comment) or “Verbal Communications – Non Agenda Item.” Comments will be reviewed and distributed before the meeting if received by 11:00 a.m. on the day of the meeting. All comments received will become part of the record. The Chair has the option to modify this action on items based on comments received.

REMOTE LOCATION PARTICIPANTS

The following Planning Commissioners are listed to permit them to appear electronically or telephonically at the Planning Commission meeting: CHAIR MELANIE HANSEN, VICE CHAIR JANOFF, COMMISSIONER BADAME, COMMISSIONER BARNETT, COMMISSIONER BURCH, COMMISSIONER HUDES, AND COMMISSIONER TEVANA. All votes during the teleconferencing session will be conducted by roll call vote.

MEETING CALLED TO ORDER

ROLL CALL

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

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION) *(Before the Planning Commission acts on the consent agenda, any member of the public or Commission may request that any item be removed from the consent agenda. At the Chair's discretion, items removed from the consent calendar may be considered either before or after the Public Hearings portion of the agenda)*

1. *Approve Minutes of the September 9, 2020 Planning Commission Meeting.

PUBLIC HEARINGS *(Applicants/Appellants and their representatives may be allotted up to a total of five minutes maximum for opening statements. Members of the public may be allotted up to three minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of three minutes maximum for closing statements. Items requested/recommended for continuance are subject to the Commission's consent at the meeting.)*

2. Consider approval of a request for modification to an existing Architecture and Site Application (S-13-090) to remove underground parking for construction of a commercial building (Market Hall) in the North 40 Specific Plan Area. Located at 14225 Walker Street. APN 424-56-017. Architecture and Site Application S-20-012. Property Owner/Applicant: Summerhill N40, LLC. Project Planner: Jocelyn Shoopman.
3. *Forward a recommendation to the Town Council for approval of modifications to Chapter II. (Constraints Analysis), Chapter III. (Site Planning), and Chapter IX. (Project Review and Approval Process) of the Hillside Development Standards and Guidelines (HDS&G) regarding the visibility analysis. Applicant: Town of Los Gatos.

REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT

SUBCOMMITTEE REPORTS / COMMISSION MATTERS

ADJOURNMENT *(Planning Commission policy is to adjourn no later than 11:30 p.m. unless a majority of the Planning Commission votes for an extension of time)*

Writings related to an item on the Planning Commission meeting agenda distributed to members of the Commission within 72 hours of the meeting are available for public inspection at the reference desk of the Los Gatos Town Library, located at 100 Villa Avenue; the Community Development Department and Clerk Department, both located at 110 E. Main Street; and are also available for review on the official Town of Los Gatos website. Copies of desk items distributed to members of the Commission 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
PLANNING COMMISSION
REPORT**

MEETING DATE: 09/23/2020

ITEM NO: 1

**DRAFT
MINUTES OF THE PLANNING COMMISSION MEETING
SEPTEMBER 9, 2020**

The Planning Commission of the Town of Los Gatos conducted a Regular Meeting on Wednesday, September 9, 2020, at 7:00 p.m.

This meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID19 pandemic and was conducted via Zoom. All planning commissioners and staff participated from remote locations and all voting was conducted via roll call vote.

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

ROLL CALL

Present: Chair Melanie Hanssen, Vice Chair Kathryn Janoff , Commissioner Mary Badame, Commissioner Jeffrey Barnett, Commissioner Kendra Burch, Commissioner Matthew Hudes, and Commissioner Reza Tavana

Absent: None.

VERBAL COMMUNICATIONS

None.

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

1. Approval of Minutes – August 26, 2020

MOTION: **Motion by Commissioner Hudes to approve adoption of the Consent Calendar. Seconded by Commissioner Tavana.**

VOTE: **Motion passed unanimously.**

PUBLIC HEARINGS

2. 14225 Walker Street (Market Hall)

Architecture and Site Application S-20-012

APN 424-56-017

Property Owner/Applicant: Summerhill N40, LLC

Project Planner: Jocelyn Shoopman

Consider approval of a Request for Modification to an Existing Architecture and Site Application (S-13-090) to remove underground parking for construction of a commercial building (Market Hall) in the North Forty Specific Plan area. Located at 14225 Walker Street. Continued from the August 26, 2020 Planning Commission meeting.

Commissioner Burch indicated that she would recuse herself from participating in the public hearing due to the proximity of her home to the subject site.

Jocelyn Shoopman, Associate Planner, presented the staff report.

Opened Public Comment.

Michael Keaney, Development Manager for Summerhill Homes (Applicant)

- The Market Hall garage had an excess of 179 parking spaces related to the potential development of Phase 2 included in the previous developer, Grosvenor's, design. Summerhill homes has no involvement in the potential development of Phase 2 and no obligation in the conditions of approval of the North Forty Specific Plan for Market Hall to provide parking for future phases. They request the elimination of the basement portion of the garage, reducing the parking spaces by 127 and leaving 176, 52 in excess of what is required by the Town's parking regulations, leading to several benefits to the Town of Los Gatos such as shorter construction, reduced truck trips, and reduced construction and operating costs.

Maria Ristow:

- She believes they should retain the underground parking because of the concern that the entire North Forty has been envisioned as one project under the Specific Plan and there would be no way to go back and dig out under a parking structure if they don't put the underground parking in now.

Leana Palmer:

- She opposes eliminating the underground parking because Grosvenor planned the entire 40 acres and the underground parking to accommodate some of the parking that would be required on the other Phase 2 portion. Because Summerhill took over for Grosvenor they need to follow through with the plan already in place. The underground parking is needed

so parking doesn't overflow into the streets and residential neighborhoods around the parking structure.

Kendra Burch

- She asked the Planning Commission to consider continuing the item to allow the Commission and residents time to review all documents.

Barbara Dodson

- She opposes eliminating the underground garage. Summerhill's proposal focuses on parking just for the Market Hall, however that is just one element of the parking for the entire Transition District A, B, and C. The Summerhill proposal cannot be approved because it provides 24 fewer parking spaces than required by the Town.

Michael Keaney, Development Manager for Summerhill Homes (Applicant)

- This modification would result in a more pedestrian and bike-friendly development consistent with the Specific Plan. Retaining the underground parking would waste financial resources and increase operating costs, which would have a negative financial impact on the affordable senior housing project. Parking would not flow out into the residential area if the underground parking is eliminated because the Market Hall would have 45 more parking spaces than required, creating a surplus of parking in the parking structure.

Closed Public Comment.

Commissioners discussed the matter.

MOTION: **Motion by Commissioner Badame** to continue the public hearing for 14225 Walker Street (Market Hall) to the meeting of September 23, 2020.
Seconded by Commissioner Hudes.

Commissioner Barnett requested the motion be amended to include the continuance with public comment as well.

The Maker of the Motion agreed to the amendment to the motion.

The Seconder of the Motion agreed to the amendment to the motion.

VOTE: **Motion passed unanimously.**

3. 15925 Quail Hill Drive

Architecture and Site Application S-19-012

APN 527-02-007

Applicant: Gary Kohlsaat, Kohlsaat & Associates, Inc.

Property Owner: John and Allison Diep

Project Planner: Jennifer Armer

Request approval for demolition of an existing single-family residence and detached accessory dwelling unit, and construction of a two-story single-family residence on property zoned HR-1.

Jennifer Armer, Senior Planner, presented the staff report.

Opened Public Comment.

Gary Kohlsaat (Applicant)

- The architecture is now completely different from the old design with a contemporary style that is appropriate for the more rural conditions on this hillside. The approach to overall massing, grading, and excavation is much less extreme. The entrance orientation has been changed to Drysdale Drive to make it more neighborhood friendly. There is less excavation and significantly reduced vertical cuts. The house remains in the same location because that is where the driveway comes in well. The consulting architect made no recommendations to modify the architecture. The big exception they ask for is where they have considerably reduced the cut and excavation for a garage level, but to do that they must cut 7.5-feet for the garage and the one corner. The other exception requested is asking for more cut for taller light wells for the entry. The cuts for these two exceptions are not visible from the street, and the minor exceptions are above the house. The original main house had a lot of fill that pushed out and created steep slopes and they propose to naturalize and restore the hill.

Gary Kohlsaat (Applicant)

- The Applicant summarized by saying he and his design team have confidence in their design and the entire application. They have fit the home into a difficult hillside, the architecture is appropriate, and the size of the house is not the largest in the neighborhood or the smallest.

Closed Public Comment.

Commissioners discussed the matter.

MOTION: **Motion by Commissioner Badame** to approve an Architecture and Site Application for 15925 Quail Hill Drive. **Seconded by Vice Chair Janoff.**

VOTE: **Motion passed unanimously.**

4. 50 University Avenue, Suite B260

Variance Application V-20-001
APN 529-02-044
Applicant: Peter Liu
Property Owner: SRI Old Town LLC
Project Planner: Erin Walters

Consider a request for approval for a Variance from the Town Code to Exceed the Maximum Allowable Sign Area and an exception from the Commercial Design Guidelines to Exceed the Maximum Letter Height for a Wall Sign (Sephora) to property zoned C-2:LHP:PD.

Erin Walters, Associate Planner, presented the staff report.

Opened Public Comment.

Natalia Shorten, Sephora (Applicant)

- She is Senior Director of Store Design. They propose a 30-inch high sign versus the mandated 12-inches, a modest and reasonable request and an appropriate size for the store's location and building proportions to ensure the sign is seen from the main road. The request for 30-inch high letters on their storefront is not unprecedented, as seen with Talbots, Wine Cellar, White House Black Market, and Steamer's Grill House. They have the support of most of their co-tenants.

Closed Public Comment.

Commissioners discussed the matter.

MOTION: **Motion by Commissioner Badame** to approve Variance from the Town Code and an Exception from the Commercial Design Guidelines for 50 University Avenue. **Seconded by Commissioner Burch.**

VOTE: **Motion passed unanimously.**

OTHER BUSINESS

5. Consider Formation Of A Subcommittee Regarding Objective Standards.

Commissioners discussed the matter.

MOTION: **Motion by Chair Hansen** to establish a Planning Commission subcommittee of up to three members for at least six months to work on the goal of finding areas for new objective standards in the General Plan and other documents. **Seconded by Commissioner Hudes.**

Commissioners discussed the matter.

VOTE: **Motion passed unanimously.**

REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT

Joel Paulson, Director of Community Development

- A community workshop regarding policing was held on September 8, 2020 and will be posted online, with another upcoming panel regarding affordable housing scheduled for September 29, 2020.
- A possible third workshop may be scheduled in October with the topic to be determined.

SUBCOMMITTEE REPORTS/COMMISSION MATTERS

Conceptual Development Advisory Committee

Commissioner Barnett

- The CDAC met on September 9, 2020 and considered one item:
 - o 212 College Avenue.

General Plan Advisory Committee

Commissioner Hanssen

- The GPAC met on September 3, 2020 for a second review of the Mobility Element.
- GPAC will meet on September 17, 2020 to finish discussion regarding the Mobility Element and proceed to the second draft of the Hazards and Safety Element.

Commission Matters

None.

ADJOURNMENT

The meeting adjourned at 10:03 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the September 9, 2020 meeting as approved by the Planning Commission.

/s/ Vicki Blandin



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 09/23/2020

ITEM NO: 2

DATE: September 18, 2020
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider Approval of a Request for Modification to an Existing Architecture and Site Application (S-13-090) to Remove Underground Parking for Construction of a Commercial Building (Market Hall) in the North 40 Specific Plan Area. Located at 14225 Walker Street. APN 424-56-017. Architecture and Site Application S-20-012. Property Owner/Applicant: Summerhill N40, LLC. Project Planner: Jocelyn Shoopman.

REMARKS:

On August 26, 2020, the Planning Commission continued this item to allow Commissioners to complete a site visit and to allow for additional public comments to be provided.

On September 9, 2020, the Planning Commission continued this item to allow the Commissioners and public additional time to review the project's compliance with the Town's objective standards pursuant to the Housing Accountability Act.

Attachment 12 includes the applicant's response regarding the project's compliance with the parking requirements in the Specific Plan. Attachment 13 includes a memorandum from the Town Attorney and Attachment 14 contains public comments received between 11:01 a.m., Wednesday, September 9, 2020 and 11:00 a.m., Friday, September 18, 2020.

EXHIBITS:

Previously received with August 26, 2020 Staff Report:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval
4. Project Description
5. Letter of Justification
6. Development Plans, received May 18, 2020

PREPARED BY: JOCELYN SHOOPMAN
Associate Planner

Reviewed by: Planning Manager and Community Development Director

PAGE 2 OF 2

SUBJECT: 14225 Walker Street/S-20-012

DATE: September 18, 2020

EXHIBITS (continued):

7. Public comments received by 11:00 a.m., Friday, August 21, 2020

Previously received with August 26, 2020 Addendum Report:

8. Public comments received between 11:01 a.m., Friday, August 21, 2020 and 11:00 a.m., Tuesday, August 25, 2020.

Previously received with August 26, 2020 Desk Item Report:

9. Public comments received between 11:01 a.m., Tuesday, August 25, 2020 and 11:00 a.m., Wednesday, August 26, 2020.

Previously received with September 9, 2020 Staff Report:

10. Public comments received between 11:01 a.m., Wednesday August 26, 2020 and 11:00 a.m., Friday, September 4, 2020

Previously received with September 9, 2020 Desk Item Report:

11. Public comments received between 11:01 a.m., Friday, September 4, 2020 and 11:00 a.m., Wednesday, September 9, 2020

Received with this Staff Report:

12. Applicant's response to the project's compliance with the parking requirements in the Specific Plan

13. Town Attorney Memorandum

14. Public comments received between 11:01 a.m., Wednesday, September 9, 2020 and 11:00 a.m., Friday, September 18, 2020

VIA E-MAIL

September 17, 2020

Jocelyn Shoopman
Associate Planner
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

Re: Los Gatos North Forty; Request for Modification (S-20-012) to an Existing
Architecture and Site Application Approval (S-13-090)

Dear Ms. Shoopman:

At the Planning Commission hearing on September 9, 2020 there were a number of questions about the calculations used for determining the required and proposed parking for the Market Hall and the Transition District as a whole. In our A&S Amendment we provided documentation on the parking change associated with the Market Hall located on Lot 27. Sheet A.11 in the plans focused on the changes to the Market Hall. The table that it was based on was Sheet 3.22 of the approved A&S plans. The required parking shown on Sheet 3.22 reflected the parking that would be required based on a mix of uses that could be allowed by the specific plan. In order to clarify what the required parking is today based on the current Town Code we have prepared Exhibit A attached to this letter. This table takes the square footage proposed for Market Hall and combines it with the Gross Square Footage identified on Sheet 3.22 of the approved A&S for the remainder of the Transition District. The result of this analysis shows that the Transition District would be required to provide 273 parking spaces and is currently estimated to provide 319 spaces. This is a surplus of 46 parking spaces.

In addition, at Staffs request we have provided a summary of the residential square footage totals for the project, a table of the parking proposed and required for the residential portion of Phase I within the Lark District and Transition District D, and a site plan with a count of all of the surface parking currently proposed for Phase I.

Lastly, we have prepared a line by line response to the letter provided by Barbara Dodson questioning the accuracy of the parking requirements. Exhibit A is a complete summary of the required parking for the Transitional District and helps explain most of the questions in the letter.

As can be seen in Exhibit A, the Market Hall meets the Towns parking requirements and based on the Gross Square footage from the approved A&S the Transition District as a whole will have a surplus of 46 parking spaces.

Please let us know if you need any additional information.

Very Truly Yours,

SummerHill Homes



Michael Keaney

CC: Joel Paulson

Exhibit A

Transition District Parking Summary											
	Commercial SF	Residential Units			Required Parking					Proposed Parking Provided	
	Square Footage	Affordable	1-Bedroom	2-Bedroom	Gross Commercial Required Parking 1:300	Gross Community Room Square Footage 1:590	Residential Required Parking 0.5 per unit + 0.5 per unit (guest)	1-Bedroom Required Parking 1 per Unit + 0.5 per unit (guest)	Required Parking 1 per Unit + 0.5 per unit (guest)		Subtotal
Commercial Transition District											
Market Hall											
Gross Commercial SF	20,760				69					69	176
Gross Community Room SF	2,772					5				5	
Affordable Residential		50					50			50	
Subtotal										124	
Building A1											
Gross Commercial SF	11,438				38					38	
1 Bedroom Residential			6					9		9	
2 Bedroom Residential				4					10	10	
Subtotal										57	
Building A2											
Gross Commercial SF	11,198				37					37	
Building B2											
Gross Commercial SF	5,745				19					19	
Building C1											
Gross Commercial SF	10,644				35					35	
Subtotal: Building A1, A2, B2, C1	39,025				130					149	143
Transition District Total	62,557	50	6	4	199	5	50	9	10	273	319
									Surplus		46

Square Footage Based on approved Building Permit and Minor Revisions Estimated with the Elimination of the Basement

Gross Commercial Square Footage Based on Column 18 on Sheet 3.22 of A&S Approved Plans

Unit Count Based on Column 1 on Sheet 3.22 of A&S Approved Plans

Notes:

- The total in the Gross Commercial Required Parking column has one more parking space than required when adding up the column because when the decimals are aggregated and rounded off, it results in one more parking space being required than there would be if each parcel is considered separately.

Prepared By: Michael Keaney, SummerHill Homes

Date: September 14, 2020

Lark District & Transition District Area D				
	Number of Units	Required Parking Per Unit	Total Required	Total Provided
Covered Parking Stalls				
1 Bedroom	69	1	69	69
2 Bedroom and 2+ bedroom	191	2	382	382
Subtotal			451	451
Guest Parking Stalls				
1 Bedroom	71	0.5	35.50	
2 Bedroom and 2+ Bedroom	189	0.5	94.50	
Subtotal			130	130
Total	260		581	581

Prepared By: Michael Keaney, SummerHill Homes

Date: September 14, 2020

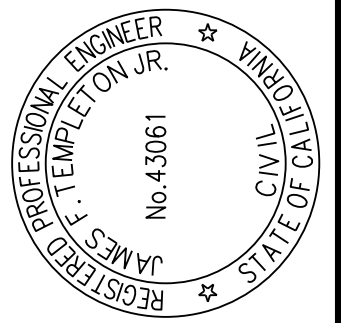
Total Residential SF Lark District and Transition District D	
	Total SF
Bellaterra Approved Building Permit	
Rowhomes	169,458
Garden Clusters	113,466
Condo Clusters	122,440
Subtotal	405,364
Hirschman Parcel	
Garden Cluster	11,112
Parcel A Loft Units*	12,195
Affordable Housing	44,966
Total	473,637

* SF from Sheet 3.22 of Approved A&S Plans

Prepared By: Michael Keaney, SummerHill Homes

Date: September 14, 2020

CONTRACTOR AGREES THAT IT SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY. THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND THAT THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PERFORMANCE OF WORK ON THIS PROJECT, INCLUDING THE PERFORMANCE OF WORK ON THIS PROJECT, INCLUDING THE PERFORMANCE OF WORK ON THIS PROJECT, INCLUDING THE PERFORMANCE OF WORK ON THIS PROJECT.



DATE: APRIL 4, 2020
 SCALE: AS SHOWN ON PLAN
 DESIGN: JDB
 DRAWN: FR
 CHECK: CTR
 ENCR: NB

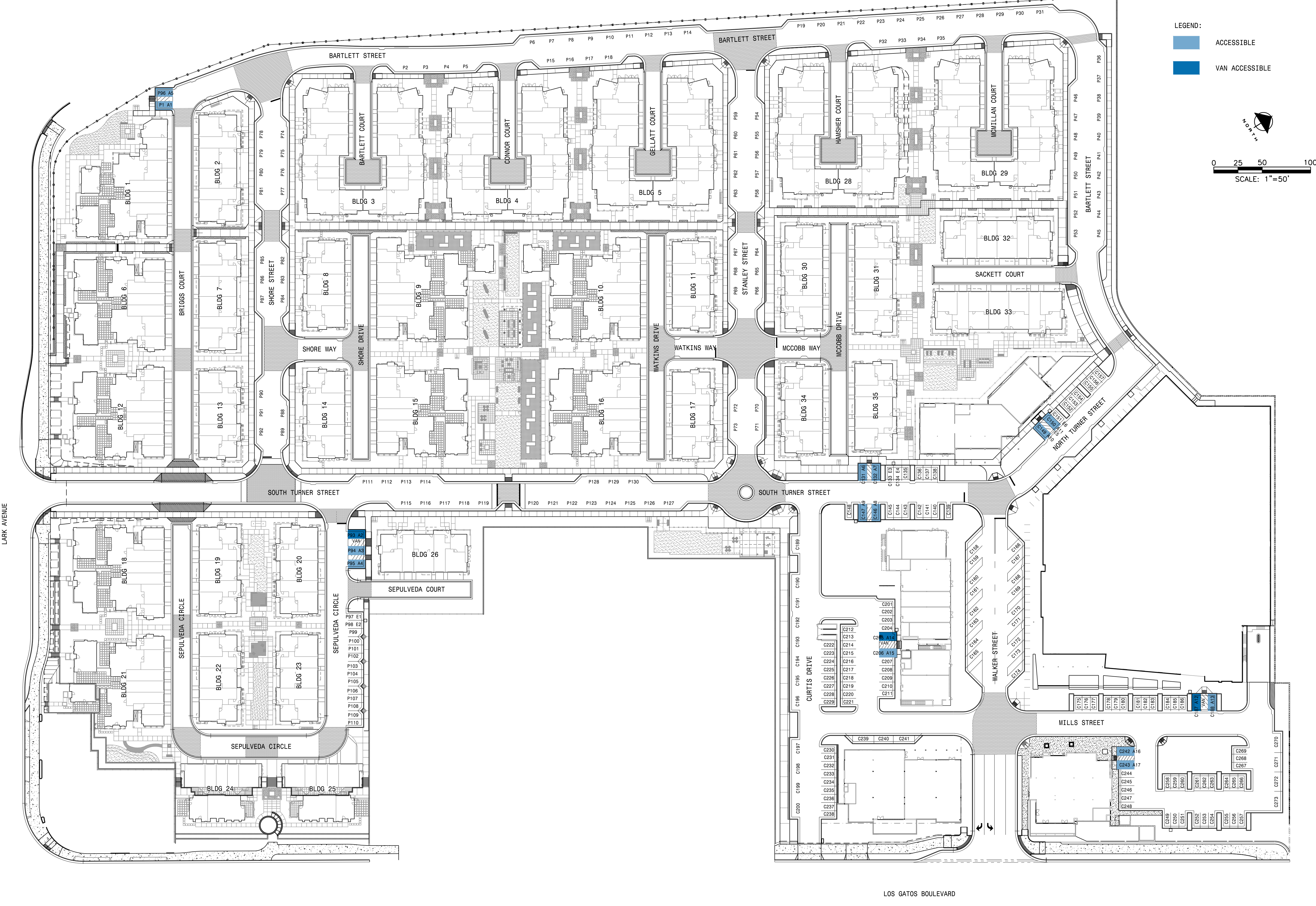
PLAN FOR THE IMPROVEMENT OF
**LOS GATOS NORTH 40 - PHASE 1
 COMMERCIAL
 PARKING SPACES**

LOS GATOS
 CALIFORNIA

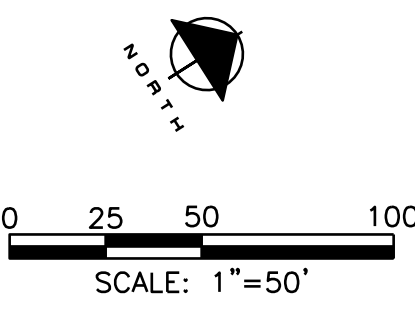
MACKAY & SOMPS
 ENGINEERS PLANNERS SURVEYORS
 51428 FRANKLIN DR., PLEASANTON, CA 94588 (925)225-0890

REVISIONS	BY	DATE

SHEET 1 OF 3



LEGEND:
 ACCESSIBLE
 VAN ACCESSIBLE



SummerHill Responses to Letter from Barbara Dodson:
Responses Provided in Red Text

Barbara Dodson
239 Marchmont Drive
Los Gatos, CA 95032
September 3, 2020

Dear Members of the Planning Commission:

SUBJECT: ELIMINATION OF THE UNDERGROUND GARAGE IN THE NORTH FORTY

I oppose the elimination of the underground parking garage. I think it will result in an insufficient amount of parking, and while looking at the SummerHill proposal I think I've come across the fact that SummerHill's provision of parking for the Transition District A, B, & C, with the elimination of the garage, will be below the Town's required number of parking stalls.

I think that SummerHill's proposal has focused on parking for the Market Hall and argued that without the underground garage SummerHill would still be fulfilling the Town's requirements for parking. However, the Market Hall parking in the garage is just one component of the parking for the entire Transition District A, B & C. With the elimination of the parking garage, SummerHill will not meet the Town's requirements for the Transition District A, B & C.

According to Sheet A.11 in SummerHill's proposal, the Town's requirement for parking stalls in the Transition District A, B, & C is 354. With the elimination of the underground garage, SummerHill will be providing only 330 parking spots.

Response: Sheet A.11 in the A&S Amendment Application was an attempt to only show the changes related to the Market Hall and Lot 27. It was based on clouding revisions to Sheet 3.22 from the approved A&S plan set. Sheet 3.22 from the approved plan set did not calculate parking based on what is required by the current Town code. Sheet 3.22 was an attempt to estimate parking requirements that could be anticipated with a hypothetical set of land uses and the code requirements in place at that time. Exhibit A accurately reflects the parking required by the code and what is currently being provided.

The bottom line for me is that we can't approve the SummerHill proposal because it provides 24 fewer parking spots than required by the Town.

Response: If the A&S amendment is approved the Market Hall will provide 176 parking spaces, and there will be 143 parking spaces in the transition district. This is a total of 319 parking spaces. Based on the SF proposed in the A&S approval for the transition district this is a surplus of 46 parking spaces. Exhibit A has a summary of the required and proposed parking for the transition district.

I hope I have my numbers correct in the explanatory material below.

Just as a note: SummerHill has provided inconsistent numbers, making it confusing to figure out exactly what is being proposed. In some places, SummerHill says it's providing 330 spaces for the Transition District A, B, & C; in other places it says it's providing 331.

Response: The 330 required parking spaces was consistent with the concept described above to calculate the required parking based only on the change to the Market Hall building on Lot 27 and not analyze the full district based on the parking required by the Town code. The correct parking requirement per the Town code for the transition district is shown on the attached Exhibit A.

As another example, in the table titled "Market Hall-Parking Requirements," SummerHill gives the required number of parking spaces for the Community Room as 5, but in A.11 the required number of parking spaces for the Community Room is listed as 4. In the table titled "Market Hall-Parking Requirements," SummerHill gives the required number of parking spaces for the Market Hall as 62 as 5, but in A.11 the required number of parking spaces for the "Specialty Market" is listed as 55.

Response: The required parking for the community room increased because the square footage increased. Exhibit A has a complete summary of the required parking for the transition district, including the Community Room.

1. SUMMERHILL'S NUMBERS SHOW THAT IT IS NOT PROVIDING THE AMOUNT OF HOUSING THAT THE TOWN REQUIRES FOR THE TRANSITION DISTRICT (Areas A, B, C).

In the adopted Developer's Phase 1 Plan from 2016: Based on the table titled Transition District Area A, B & C Building Area and Parking Tabulations (Table 3.22, page 58), the required number of parking stalls was 354 for the Transition District Area A, B & C (69 residential stalls/residential guest stalls + 285 commercial stalls). The original developer committed to providing more than that: 458 (389 commercial stalls (total for the specialty market, retail, restaurant/café, bar/tavern, and community room); and 69 residential/residential guest stalls.

Response: The required parking table on sheet 3.22 was not based on what is required by the code for parking. Exhibit A summarizes what is required by the code.

TOTAL ADOPTED IN 2016 FOR THE TRANSITION DISTRICT Area A, B & C:

458 PARKING STALLS

- The SummerHill proposal provides for only 330 parking spaces for the Transition District A, B & C. (See A.11: Transition District Building Area and Parking Tabulations on page 62 in the Agenda Packet. This is SummerHill's revised version of Table 6.22.)

Response: Exhibit A more accurately shows the required and provided parking for Market Hall and the transition district. 273 parking spaces are required and 319 are being provided.

- By eliminating the underground garage, SummerHill would provide 24 fewer parking spaces than required by the Town for the Transition District A, B & C. (354-330=24)

Response: Per Exhibit A there are currently 46 more spaces provided in the transition district than are required.

• Both Table 6.22 in the Developer’s proposal and Table A.11 in SummerHill’s proposal show that the Town requirement for commercial stalls is 285. Table A.11 shows that under SummerHill’s proposal, SummerHill would provide only 261 commercial parking stalls.

Response: Exhibit A includes commercial and residential parking that is required. Currently there are 69 residential parking spaces required and 204 commercial spaces required.

• Under its proposal, SummerHill would provide 24 fewer than the required number of commercial parking stalls ($285-261=24$) for the Transition District A, B & C.

Response: Per Exhibit A there is a surplus of 46 spaces in the transition district.

THE MATH using numbers from Sheet A.11

Town required number of parking spaces for the Transition District A, B & C: 354

285 required commercial spaces + 39 required residential stalls +
30 required residential guest stalls = 354 required parking spaces

Number of total spaces proposed by SummerHill: 330

261 commercial spaces + 39 residential stalls +
30 residential guest stalls = 330 provided parking spaces

Response: As mentioned in an earlier response sheet A.11 was an attempt to only show the changes related to the Market Hall and Lot 27. It was based on clouding revisions to Sheet 3.22 from the approved A&S plan set. Sheet 3.22 from the approved plan set did not calculate parking based on what is required by the current Town code. Exhibit A accurately reflects the parking required by the code and what is currently being provided.

OTHER MATH using numbers from Table 6.22 on page 58 of the Developer’s Proposal, which is the proposal adopted by the Town

Parking spaces in the adopted plan in 2016: 458

Parking spaces SummerHill wants to eliminate: 127

Number of total spaces proposed by SummerHill

for the Transition District A, B, & C: 331

The Summerhill proposal drops the number of total parking spaces for the Transition District A, B & C below the Town’s requirement of 354. SummerHill is shortchanging the Town by 24 (or 23, depending on which Table you use) parking spaces.

Response: The numbers referenced above are based on the parking table on sheet 3.22 of the approved A&S plan, but these numbers are not reflective of what is required by the Town code.

2. SUMMERHILL SAYS IT IS PROVIDING EXCESS PARKING. HOW DID SUMMERHILL COME UP WITH ITS (I believe, incorrect) NUMBERS? SUMMERHILL APPEARS TO HAVE CONFUSED THE REQUIRED NUMBER OF

COMMERCIAL PARKING SPACES WITH THE REQUIRED NUMBER OF TOTAL PARKING SPACES. (See the notes in red in A.11 on the right -- p. 62 in the Agenda Packet.)

- In the red notes next to the section outlined in red called Retail, SummerHill implies that it will provide a TOTAL OF 330 parking spaces for retail.
- SummerHill does its math to reach 330 commercial stalls by including 39 residential stalls and 30 residential guest stalls.
- SummerHill has a deficit of 24 parking stalls below the requirement of 285 commercial stalls. It does not have 45 extra commercial stalls as is claimed.

Also note on Sheet A.11 that in the column headed "Total. Required Number of Commercial Stalls." SummerHill lists 285. Then, just 2 columns to the right, under "Provided Commercial Stalls," it lists 261. In its own chart, SummerHill clearly shows that there is a deficit of 24 commercial parking stalls.

Response: The numbers referenced above are based on the parking table on sheet 3.22 of the approved A&S plan, but these numbers are not reflective of what is required by the Town code. Exhibit A summarized the required and proposed parking for the transitional district.

3. THE PARKING GARAGE ALREADY HAD AN INSUFFICIENT NUMBER OF PARKING SPACES. The developer wants to drop the number of parking spaces in the garage from 303 to 176. But there was already a lack of parking in the garage in the adopted plan. Specifically, the parking for the 50-unit senior complex wasn't realistic. The allotment was 1 space per senior unit for a total of 50 spaces--½ space for each resident and ½ space for guests. The developer said most of the seniors wouldn't be able to afford cars. It also assumed each senior unit would have just one resident.

In fact it's possible that each senior unit will have two or even more residents. There may be one or more cars connected to each unit for a possible total of more than 50 cars. This uses up all the unit spaces and then some without accounting for guests.

Response: Eden has thirty-six properties containing two thousand seven hundred and four units. Four of those properties are in Santa Clara County and contain three hundred and five units. All of the suburban properties are parked at a ratio of 0.5 spaces per units. Urban properties in their portfolio have fewer spaces per unit. Eden's lease agreement limits the number of occupants in a 1-bedroom unit to two occupants.

Suppose the residents of the 50 senior units use their 50 parking spots. 126 spaces remain for the Market Hall, Bakery, and Community Room. Let's say 10 seniors and their guests use 30 additional spaces. We're down to 96 spaces.

Response: The senior parking is on the 3rd floor and is gated.

How about employees at the Market Hall and bakery? Let's say they use 20 spaces. We're down to 76 spaces for shoppers and people using the community room. Is this enough???

Response: The Town codes required parking for this land use is intended to accommodate parking for customers and employees.

How about overflow parking from other areas? There will be 71 one-bedroom units with one garage each. Suppose two people live in these units and each person has a car. We now have 71 more cars that will be seeking parking. The garage would be a logical space for these residents to use.

Response: The residential portion of the project meets its parking requirement. The garage is private property. It will have a gate that will be closed after hours.

4. WE NEED AN EXPLANATION FOR WHY THE DEVELOPER THINKS THE NEW PARKING ALLOCATIONS ARE ADEQUATE. The developer claims to be justifying the new lowered parking allocations using city code and the specific plan. Logic and common sense have clearly not been applied here. For example, the 2,032 square foot bakery has 7 spaces. Is this for employees as well as patrons? Will there be seating within the bakery? If yes, 7 parking spaces are hardly enough. How about the community room? It gets 4 parking spaces for its 2,772 square feet. Obviously more than 5 people can easily attend a meeting in such a space. Where are they supposed to park?

Response: Per Exhibit A, the parking in the transition district will exceed what is required.

5. PARKING WILL STILL BE NEEDED FOR FUTURE DEVELOPMENT. The SummerHill proposal states that "The Market Hall was originally designed with a basement level by Grosvenor, with the intent to use the excess parking for future development in Phase II of North 40. With Grosvenor no longer involved in Phase I of the project, SummerHill has no need for parking beyond what is required by Town Code and the specific plan."

But the need for parking for future development has not changed. There will still be future development and thus still a need for parking.

Response: Future phases of the project will be required to meet their parking requirements on their portion of the project.

Sincerely,

Barbara Dodson

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TOWN OF LOS GATOS
OFFICE OF THE TOWN ATTORNEY

MEMORANDUM

To: Planning Commission
From: Robert Schultz, Town Attorney
Date: September 18, 2020
Subject: The Role of the Planning Commission and the Applicability of the Housing Accountability Act and By Right Development to the Application for Modification to an Existing Architecture and Site Application (S-13-090) to Remove Underground Parking for Construction of a Commercial Building (Market Hall) in the North 40 Specific Plan Area.

The Planning Commission at their last meeting requested further analysis of the applicability of the Housing Accountability Act to the Application for Modification to an Existing Architecture and Site Application (S-13-090) to Remove Underground Parking for Construction of a Commercial Building (Market Hall) in the North 40 Specific Plan Area (Phase 1 Modification Application). This memorandum addresses the Role of the Planning Commission in addition to the applicability of the Housing Accountability Act and the Town's Housing Element/ By Right Development to the Phase 1 Modification Application.

Role of the Planning Commission

Based upon the questions and comments put forth by the Planning Commissioners at the last meeting, I thought it would be important to first review the role of the Planning Commission as it relates to all land use decisions.

The Planning Commission acts on behalf of the Town Council in deciding on and recommending land use activities and related matters. The Planning Commission derives its authority and duties through California Government Code Section 65101. That authority is further detailed in the Los Gatos Town Code defining the composition and duties of the Planning Commission. One of the duties of the Planning Commission is to review individual projects for consistency with the General Plan, any applicable specific plans, the zoning ordinance, and other land use policies and regulations. The Planning Commission is required to evaluate the facts and information and then deliberate and determine how the applicable ordinance or law applies to the information provided.

Pursuant to the landmark case of *Topanga Assn. For A Scenic Community v. County of Los Angeles (1974)*, the Planning Commission must explain land use decisions through the adoption of findings. Topanga defined findings as legally relevant sub-conclusions which expose the agency's

mode of analysis of facts, regulations, and policies, and bridge the analytical gap between raw data and ultimate decision. Therefore, the findings of the Planning Commission must be relevant to adopted, applicable criteria in statutes, ordinances or policies. In a way, The Planning Commission operates as a court in that the Planning Commission must apply the Town's local land use regulations to a specific application just as a court applies the law to a specific set of facts. Basically, the findings of the Planning Commission are an explanation of how they progressed from the facts through established fixed rule, standard, law, or policies to the decision.

Based upon the forgoing, and as I explained in our last meeting, findings such as the proposed modification is a "cost saving/profit increasing strategy" or that "they stand to make millions of dollars" or that the developers must "stick with their commitment" or "uphold the agreement" or that this is a "bait and switch" or "will force visitors, shoppers & residents to find parking elsewhere" or that the developers "are bullies and are ruining our town" are inadequate and improper findings pursuant to *Topanga Assn. For A Scenic Community v. County of Los Angeles (1974)*. Although all of these statements may not lack evidentiary support, they lack legal relevance and even if they are assumed to be correct, those findings simply do not meet the legal requirements set forth in code and case law.

Background of North 40 Phase 1 Project

The approved North 40 Phase 1 Project includes: 260 residential condominiums/rowhomes, 10 rental apartments (including two live-work units), 49 affordable senior rental units, one additional unit to be reserved for a moderate-income manager of the senior units, and approximately 62,000 square feet of commercial floor area and a four-story parking garage with 303 parking spaces. The approved parking garage consisted of three above grade levels and one below grade level. The approved project subdivides the 20.7-acre Phase 1 project area into 113 lots to provide for 320 residential units and commercial space. (Phase 1 Project).

Prior to the approval, the Town Council denied the Phase 1 Project based on the Project's inconsistencies with the Town's General Plan, Housing Element, and Specific Plan. Thereafter, the applicants filed a lawsuit against the Town asserting that: (1) the Town of Los Gatos violated the Town's Housing Element; (2) the Town violated the State's Housing Accountability Act; and (3) the Town violated the State Density Bonus Law. The lawsuit requested the Court to direct "the Town to comply with its clear, mandatory, and ministerial duty to approve the project in compliance with the Town's Housing Element, the Housing Accountability Act, and the Density Bonus Law."

On June 9, 2017, the Santa Clara County Superior Court issued a Decision and Judgment against the Town. The Decision and Judgment determined that the findings adopted by the Town Council were discretionary determinations made under subjective policies in the Specific Plan, instead of under objective policies as required by the Housing Accountability Act.

On September 10, 2017, the Town Council rescinded its denial of the Phase 1 Project pursuant to the court order and approved the project as set forth above. The Applicants are now requesting a modification to the Phase 1 Project, (an existing and approved Architecture and Site Application), to remove the underground parking for the Market Hall. The removal of the below grade level would eliminate 127 parking spaces. No exterior modifications to the existing Market Hall building are proposed (Phase 1 Modification Application).

Applicability of Housing Accountability Act

The Court Decision and Judgment directed the Town to reconsider the Project under the provisions of Government Code §65589.5(j) of the Housing Accountability Act (HAA). The HAA was originally enacted in 1982 and is often referred to as California’s “Anti NIMBY law.” The intent of the legislation was to address the “problems in some cases where local governments adopt housing policies and then fail to comply with their own policies when specific projects are at stake. The obvious problem is that when developers of housing cannot rely on housing policies in proposing projects, then substantial uncertainty is created.”

The HAA requires local governments to approve any “housing development project,” including specified mixed use projects, if they comply with “applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project’s application is determined to be complete...” The Court Decision and Judgment determined that the Applicant’s “project is within the statutes definition of a housing development project.” Subdivision (j) of Section 65589.5 reads:

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project’s application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

- (1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
- (2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

The HAA defines “objective” as “involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.” (Gov. Code § 65589.5(h)(8).

Since the Decision and Judgment required the Town to consider the Phase 1 Project under the HAA, the HAA would certainly apply to any modifications to the Phase 1 Project. Therefore, in order to deny the Phase 1 Modification Application, the Planning Commission must cite to specific written objective identified Town Standards and Policies and cannot deny the Phase 1 Modification Application for subjective criteria. As explained in *Honchariw v. County of Stanislaus*, the HAA was intended to “take away an agency’s ability to use what might be called a ‘subjective’ development ‘policy’.

Applicability of Housing Element/By Right Development

In addition to complying with the HAA, the Town must comply with Housing Element Law. Housing Element Law requires the Town to demonstrate how the community plans to accommodate its “fair share” of its regional housing needs. To do so, the Town must establish an inventory of sites designated for new housing that is sufficient to accommodate its fair share. The Town must also identify regulatory barriers to housing development and propose strategies to reduce or eliminate those barriers.

The Town’s Housing Element required adoption of the North 40 Specific Plan with certain development assumptions in order to meet existing and projected housing needs in the Town and to obtain certification of the Housing Element from the State. The Town’s Housing Element (Action HOU 1.7) required the Town to rezone 13.5 acres within the North 40 Specific Plan Area to comply with a minimum density of 20 units per acre and establish “by-right” development for these units. More specifically, the Town’s Housing Element states:

Additional opportunities for affordable housing are being facilitated through the consideration of the North 40 Specific Plan and associated rezoning of 13.5 acres with a minimum density of 20 units per acre to yield 270 units. The Specific Plan would provide certainty regarding objective criteria in the form of development standards and design guidelines that would be implemented through “by right development” in the consideration of Architecture and Site applications. This process involves site and architectural review and if a proposal meets the objective criteria in the Design Guidelines, then the project is approved. Therefore, the Planning application process and review is not an undue burden or constraint on the production of affordable housing.

Based upon the Town’s Housing Element, the approval of the Phase 1 Project and now this Phase 1 Modification Application are entitled to “by right” development. This means that pursuant to our Housing Element, the Planning Commission must only apply objective standards in its review, analysis, and determination on whether to approve or deny the Phase 1 Modification Application.

These are the same legal principles that are set forth under the HAA and are adopted in the Court's Decision and Judgment and restrict the Planning Commission from using subjective criteria and findings to condition or deny this Phase 1 Modification Application.

Conclusion

Under the Housing Accountability Act and Housing Element Law, the Phase 1 Modification Application may only be reviewed for conformance with objective Town standards and policies and the Planning Commission must apply those policies to facilitate the proposed housing development and must not use subjective standards or policies to deny the Phase 1 Modification Application.

RWS

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From: voicemail@verizon.com <voicemail@verizon.com>
Sent: Wednesday, September 9, 2020 11:37 AM
To: Sally Zarnowitz <SZarnowitz@losgatosca.gov>
Subject: New Voicemail Message from 408-XXX-XXXX

Hello, I'm calling regarding the underground parking garage. It is extremely important that it be kept underground and promises be kept. It is extremely important. Thank you.

EXHIBIT 14

Barbara Dodson

239 Marchmont Drive
Los Gatos, CA 95032
September 16, 2020

Dear Members of the Planning Commission:

SUBJECT: THE SUMMERHILL PLAN WOULD CREATE A PARKING SHORTAGE IN THE TRANSITION AREA A, B & C IN THE NORTH FORTY

Since our Town lawyer is now claiming that we need “objective” criteria for denying SummerHill’s proposal, here’s my personal list of **objective** reasons to reject SummerHill’s proposal.

1. The SummerHill proposal would create a parking shortage in the Transition District A, B & C. The Market Hall and garage cannot be considered in isolation. The application inappropriately focuses on the Market Hall and garage without admitting its impact on the total amount of parking needed for commercial uses in the Transition District A, B and C. This wider impact is that parking in the Transition District A, B and C would be reduced by between 4 and 24 spaces. . *(Note: There is 11,438 sq ft of commercial area in Building A1; 11,198 in Building A2; and restaurant/retail of 10,644 sq ft marked for Area C. The proposal deals only with parking in area B.)*

SummerHill doesn’t provide consistent numbers, although their numbers always show that their proposal would create a shortage, not an excess, of parking spaces for the Transition District. Here are two ways in which the SummerHill numbers show parking shortages.

A SHORTAGE OF 24 SPACES. This is shown just using numbers in A.11. The **required** number of commercial spaces is 285 (column 36). The **provided** number of commercial spaces is 261 (column 39). There is a shortage of 24 spaces

A SHORTAGE OF 4 SPACES. This uses Sheet A.11 and Exhibit 4. The required number of commercial stalls in the Transition District is 285 (A.11). In Exhibit 4, Market Hall commercial stalls are given as 126 (176 – 50 resident-related stalls). Also in Exhibit 4, additional Transition District Parking is given as 155. Thus the total commercial parking SummerHill would provide would be 126 + 155, which equals 281. There is no excess parking. In this way of looking at it, there is a clear shortage of 4 spaces for the district (285 required – 281 provided).

2. To put item 1 above in another way: The application is based on the false assumption that the garage was intended for use only by occupants of the Market Hall complex—senior housing, senior guests, market hall, bakery, and community room. In fact, the garage was also intended for use by customers at nearby retail

outlets, restaurants, and bars in addition to occupants of the Market Hall complex itself. (Just think about Santana Row. Are shoppers limited to parking in the garage under the hotel if they want to shop at Anthropologie, which has a different parking lot across the street?) Given this fact, the parking in the underground garage is needed to accommodate these parking requirements.

3. Building on the point in item 2 above, the applicant fails to clearly show where the parking for the retail, restaurant/café, and bar/tavern that are not inside the Market Hall would be located and whether the removal of the underground garage has an impact on the availability of parking for these commercial outlets. Exhibit 4: Transition District Parking shows that Parking Areas A, B, and C (which provide surface parking) would provide a total of 155 spaces. But based on A.11, retail, restaurant/café, and bar tavern outside of the Market Hall would require 213 spaces. Here's the math from A.11:

Retail spaces	55
Restaurant/café spaces	124
Bar/tavern spaces	34
Total:	213

There is a 58-space difference ($213 - 155 = 58$). Where would these 58 spaces be located? Were they originally planned for the garage? (Following on this, Exhibit 4 in the SummerHill proposal says there would be an “excess” of 52 spaces in the parking garage. If the 58 unaccounted for spaces are considered, then there is a **shortage** of 6 spaces in the parking garage.)

4. The applicant provides conflicting numbers about how much parking it would provide in the Transition District. In some places, the applicant says that there would be 331 total spaces in the Transition District; in others the applicant uses a total of 330 spaces. Other inconsistencies are: 7 spaces for the bakery listed in Exhibit 4 versus no listing in A.11; 5 spaces for the community room in Exhibit 4 versus 4 spaces for the community room in A.11; 62 spaces listed for the Market Hall in Exhibit 4 versus 55 spaces for the “specialty market” listed in A.11.

Numbers for the amount of total commercial parking are also inconsistent. In A.11 the total of provided commercial parking is given as 261. However, using Exhibit 4, when you add the amount of commercial parking, you get a total of 281 (commercial parking of 126 in the garage + 155 in parking areas A, B). How much commercial parking will actually be provided? There's no way of knowing based on this proposal. The Commission cannot approve the application without consistent numbers and accurate data being given.

5. The applicant makes false statements and uses bogus math.

Example 1: The applicant says that removing the subterranean parking level “leaves the Market Hall project with an excess of 52 parking spaces above what is required by the zoning code to serve the **commercial interests** at North 40.” (page 49,

Exhibit 5) However, A.11 under Commercial Required Parking Tabulations, in column 36, under the heading **REQUIRED/Number of Commercial Stalls**, we have the number 285.” Since removing the subterranean parking level actually leaves the project with only 261 commercial spaces and a **deficit of 24 spaces**, the applicant has made a false statement.

Example 2: The computations $39 + 30 + 261 = 330$ and $330 \text{ PROVIDED} - 285 \text{ REQ'D} = 45 \text{ EXTRA}$ in red to the right of A.11 creates a false impression. They imply that SummerHill would provide 45 extra commercial spaces. But to come up with the 45 Extra supposedly commercial stalls, SummerHill mixes residential stalls (the 39 and the 30) with commercial stalls (the 261). SummerHill then uses the required number of commercial stalls (the 285) to come up with its extra 45. In fact, lookin at the situation this way, SummerHill has a **shortage of 24 parking stalls** for the Transition District A, B & C.

6. If the applicant claims that the numbers in A.11 are no longer accurate or are out of date, then the entire application must be thrown out for containing inaccurate data. It is the applicant’s responsibility to provide accurate data. Commissioners cannot make their decisions without accurate data.

.....
I’m wondering if you might ask SummerHill these questions based on Sheet A.11. I’d love to get answers.

Main Questions

- Under Commercial Required Parking Tabulations, in column 36, under the heading **REQUIRED/Number of Commercial Stalls**, we have the number 285. Is this number still accurate? If not, what is the accurate number?
- Under TOTAL PROVIDED PARKING TABULATIONS, **PROVIDED Commercial Stalls, we have 261** (column 39). **Since this number is not the total of the numbers provided in the table (the total is 285), where does this number come from and what is the explanation for this reduced number of parking stalls?**

Subquestions

Under Commercial Required Parking Tabulations, in column 27, under the heading Specialty Market/Number of Stalls, we have the number 55. Is this number still accurate? If not, what is the accurate number?

- Under Commercial Required Parking Tabulations, in column 29, under the heading Retail/Number of Stalls, we have the number 68. Is this number still accurate? If not, what is the accurate number?
- Under Commercial Required Parking Tabulations, in column 33, under the heading Bar/Tavern/Number of Stalls, we have the number 34. Is this number still accurate? If not, what is the accurate number?
- Under Commercial Required Parking Tabulations, in column 35, under the heading Community Room/Number of Stalls, we have the number 4. Is this number still accurate? If not, what is the accurate number?

- Looking at the tabulations in red to the right of A.11, what is the number 126 labeled Revised Bldg B1 Retail based on?
- What is the computation $39 + 30 + 261 = 330$ supposed to show? *The implication of the bottom two computations in red*

$$39 + 30 + 261 = 330$$

$$330 \text{ PROVIDED} - 285 \text{ REQ'D} = 45 \text{ EXTRA}$$

is that SummerHill is providing 45 extra commercial parking spaces. However, the numbers 39 and 30 used in the computations are the numbers for residential stalls and residential guest stalls respectively. Therefore SummerHill is making a false statement; it is NOT providing "45 Extra" if indeed it is trying to show that it is providing extra commercial stalls.

*In fact, SummerHill has a **deficit of 24 parking stalls** for the Transition District A, B & C.*

- In the bottom computation in red, why is the number 285 being used? (*THIS APPEARS TO BE AN ADMISSION THAT 285 COMMERCIAL STALLS ARE REQUIRED AS LISTED IN COLUMN 36. HOWEVER, IN COLUMN 39 SUMMERHILL ADMITS THAT IT IS PROVIDING ONLY 261 COMMERCIAL STALLS, 24 STALLS BELOW THE REQUIREMENT.*)

Thank you for your service to the Town.

Sincerely,
Barbara Dodson

From: Jean Mundell <jmundell@earthlink.net>
Sent: Monday, September 14, 2020 9:43 AM
To: Jocelyn Shoopman <jshoopman@losgatosca.gov>
Subject: north 40

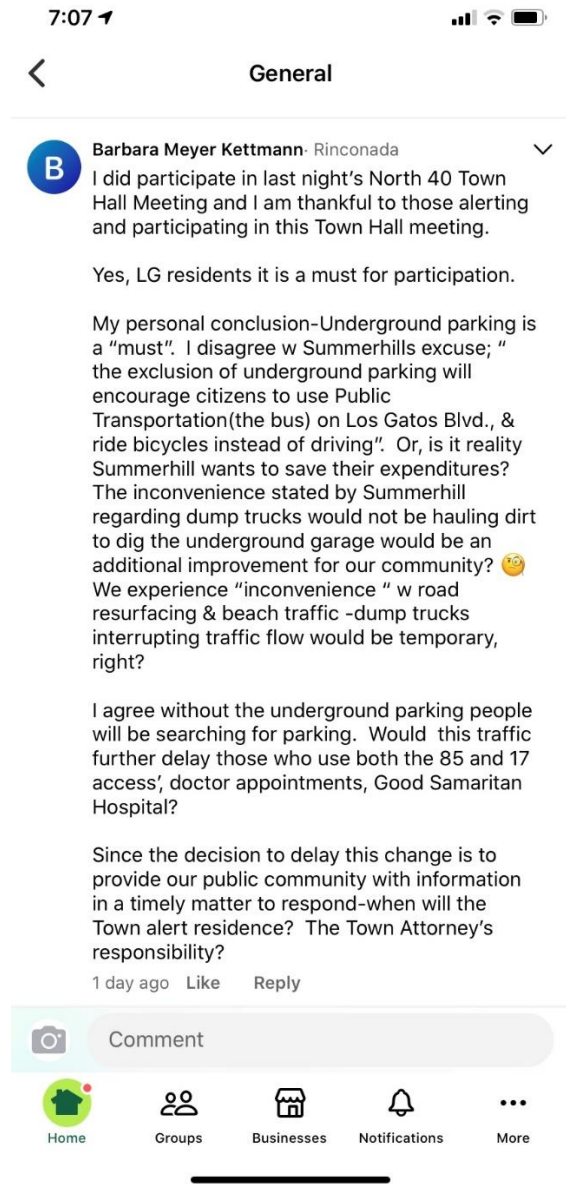
This has been a long and arduous process. Plans should be followed as agreed upon.

No backsliding.

Jean Mundell
I live off Lark Ave. Need I say more?

From: Barbara Kettmann <abckett@gmail.com>
Sent: Monday, September 14, 2020 7:23 AM
To: Jocelyn Shoopman <jshoopman@losgatosca.gov>
Subject: North 40

To the Town Council of Los Gatos



I thought I have registered w the Town. Los Gatos Home owner since 1986. Keep original plans for underground parking and please does the Town have current meeting notes posted, links for Zoom? Last week the link I was given to access was listening & viewing Council members only.

Regards,
Barbara Kettmann
Sent from my iPhone

From: Lori Day <lday4family@gmail.com>
Sent: Sunday, September 13, 2020 11:39:07 AM
To: Joel Paulson <jpaulson@losgatosca.gov>
Subject: North 40 Changes

Dear Joel,

I am writing to you regarding the requested change to remove the underground parking in the North 40. We ask that the Planning Commission deny this request, parking is necessary in order for the North 40 to be successful and not to move penetrate the surrounding neighborhood. Let's keep the developer to task and the approved plan.

Thank you

Lori & Chris Day
204 Dover St.
Los Gatos 95032

From: Charles Wade <charles.wade13@gmail.com>
Sent: Saturday, September 12, 2020 4:12:02 PM
To: Joel Paulson <jpaulson@losgatosca.gov>
Subject: N. 40 Garage

Mr Paulson, I think it is atrocious that the developers would even try for this change. Traffic and parking were big items in all the years this was negotiated. To change at this point makes a mockery of all the efforts expended to make this a positive addition to LG. Thanks.

From: Angela Di Berardino <angiedib@yahoo.com>
Sent: Friday, September 11, 2020 3:39 PM
To: Jocelyn Shoopman <jshoopman@losgatosca.gov>
Subject: North 40!!!!

Underground parking is essential to combatting our parking problems!!! Everybody KNOWS that!!! Do NOT allow this to be removed!!!!!!!!!!!!

Sent from my iPhone

From: Babette Ito <babetteito@gmail.com>
Sent: Friday, September 11, 2020 8:50 AM
To: Jocelyn Shoopman <jshoopman@losgatosca.gov>
Subject: North 40 parking

Hi - I'm a resident of 15 years in Los Gatos. Please do not allow the developers to get away with what they agreed to in the current plan - especially the parking. The street congestion will be bad enough and will affect the hospital ambulance and other emergency vehicles. There needs to be underground parking.
Thank you

--
Yours,
Babette Ito
mobile: 408-279-9064

From: Jocelyn Fong <JFong@losgatosca.gov>
Sent: Thursday, September 10, 2020 4:57:36 PM
To: Joel Paulson <jpaulson@losgatosca.gov>
Subject: Voicemail: No name.(9/9) 11:36 AM

Someone called saying they wanted to keep the underground parking.

Jocelyn Fong
CDD Administrative Assistant

From: r pathak

Sent: Wednesday, September 9, 2020 12:24:55 PM (UTC-08:00) Pacific Time (US & Canada)

To: Planning

Cc: Pathak Rahul

Subject: need Underground Parking

Dear Staff,

Is the the Town of Los Gatos committed to underground Parking at North 40?

Thank you,
Sookmunny

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**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 09/23/2020

ITEM NO: 2

ADDENDUM

DATE: September 22, 2020
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider Approval of a Request for Modification to an Existing Architecture and Site Application (S-13-090) to Remove Underground Parking for Construction of a Commercial Building (Market Hall) in the North 40 Specific Plan Area. Located at 14225 Walker Street. APN 424-56-017. Architecture and Site Application S-20-012. Property Owner/Applicant: Summerhill N40, LLC. Project Planner: Jocelyn Shoopman.

REMARKS:

Exhibit 15 includes a letter from the applicant responding to a public comment on the project's compliance with the parking requirements in the Specific Plan.

Exhibit 16 includes additional public comments received between 11:01 a.m., Friday, September 18, 2020 and 11:00 a.m., Tuesday, September 22, 2020.

EXHIBITS:

Previously received with August 26, 2020 Staff Report:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval
4. Project Description
5. Letter of Justification
6. Development Plans, received May 18, 2020
7. Public comments received by 11:00 a.m., Friday, August 21, 2020

Previously received with August 26, 2020 Addendum Report:

8. Public comments received between 11:01 a.m., Friday, August 21, 2020 and 11:00 a.m., Tuesday, August 25, 2020.

PREPARED BY: JOCELYN SHOOPMAN
Associate Planner

Reviewed by: Planning Manager and Community Development Director

PAGE 2 OF 2

SUBJECT: 14225 Walker Street/S-20-012

DATE: September 22, 2020

EXHIBITS (continued):

Previously received with August 26, 2020 Desk Item Report:

9. Public comments received between 11:01 a.m., Tuesday, August 25, 2020 and 11:00 a.m., Wednesday, August 26, 2020.

Previously received with September 9, 2020 Staff Report:

10. Public comments received between 11:01 a.m., Wednesday August 26, 2020 and 11:00 a.m., Friday, September 4, 2020

Previously received with September 9, 2020 Desk Item Report:

11. Public comments received between 11:01 a.m., Friday, September 4, 2020 and 11:00 a.m., Wednesday, September 9, 2020

Previously received with September 23, 2020 Staff Report:

12. Applicant's response to the project's compliance with the parking requirements in the Specific Plan
13. Town Attorney Memorandum
14. Public comments received between 11:01 a.m., Wednesday, September 9, 2020 and 11:00 a.m., Friday, September 18, 2020

Received with this Addendum Report:

15. Applicant's response to a public comment regarding the project's compliance with the parking requirements in the Specific Plan
16. Public comments received between 11:01 a.m., Friday, September 18, 2020 and 11:00 a.m., Tuesday, September 22, 2020.

VIA E-MAIL

September 21, 2020

Jocelyn Shoopman
Associate Planner
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

Re: Response to Letter Submitted by Barbra Dodson, dated September 16, 2020

Dear Ms. Shoopman:

We have reviewed the comment letter prepared by Barbra Dodson on September 16, 2020. It contains many of the same comments and questions that were included in her letter dated September 3, 2020. We provided a response to that letter on September 17, 2020. The more recent letter examines Sheet A.11 in the plans. As mentioned in our previous response, Sheet A.11 in our plan set was intended to show only the changes proposed to Market Hall by the proposed amendment to the approved A&S. The table on Sheet A.11 was based on what was shown on Sheet 3.22 of the approved A&S plans. The required parking shown on Sheet 3.22 reflected the parking that would be required based on a mix of uses that could be allowed by the specific plan and the code requirements in place at that time.

In order to clarify what the required parking is based on the current Town Code, we have prepared Exhibit A attached to this letter. This table takes the square footage proposed for Market Hall and combines it with the Gross Square Footage identified on Sheet 3.22 of the approved A&S for the remainder of the Transition District. The result of this analysis shows that the Transition District would be required to provide 273 parking spaces and is currently estimated to provide 319 spaces. This is a surplus of 46 parking spaces.

We have attached Exhibit A for your reference.



Please let us know if you have any question.

Very Truly Yours,

SummerHill Homes

Michael Keaney

CC: Joel Paulson

Exhibit A

Transition District Parking Summary											
	Commercial SF	Residential Units			Required Parking					Proposed Parking Provided	
	Square Footage	Affordable	1-Bedroom	2-Bedroom	Gross Commercial Required Parking 1:300	Gross Community Room Square Footage 1:590	Residential Required Parking 0.5 per unit + 0.5 per unit (guest)	1-Bedroom Required Parking 1 per Unit + 0.5 per unit (guest)	Required Parking 1 per Unit + 0.5 per unit (guest)		Subtotal
Commercial Transition District											
Market Hall											
Gross Commercial SF	20,760				69					69	176
Gross Community Room SF	2,772					5				5	
Affordable Residential		50					50			50	
Subtotal										124	
Building A1											
Gross Commercial SF	11,438				38					38	
1 Bedroom Residential			6					9		9	
2 Bedroom Residential				4					10	10	
Subtotal										57	
Building A2											
Gross Commercial SF	11,198				37					37	
Building B2											
Gross Commercial SF	5,745				19					19	
Building C1											
Gross Commercial SF	10,644				35					35	
Subtotal: Building A1, A2, B2, C1	39,025				130					149	143
Transition District Total	62,557	50	6	4	199	5	50	9	10	273	319
									Surplus		46

Square Footage Based on approved Building Permit and Minor Revisions Estimated with the Elimination of the Basement

Gross Commercial Square Footage Based on Column 18 on Sheet 3.22 of A&S Approved Plans

Unit Count Based on Column 1 on Sheet 3.22 of A&S Approved Plans

Notes:

- The total in the Gross Commercial Required Parking column has one more parking space than required when adding up the column because when the decimals are aggregated and rounded off, it results in one more parking space being required than there would be if each parcel is considered separately.

Prepared By: Michael Keaney, SummerHill Homes

Date: September 14, 2020

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Barbara Dodson

239 Marchmont Drive
Los Gatos, CA 95032
September 16, 2020

Dear Members of the Planning Commission:

SUBJECT: THE SUMMERHILL PLAN WOULD CREATE A PARKING SHORTAGE IN THE TRANSITION AREA A, B & C IN THE NORTH FORTY

Since our Town lawyer is now claiming that we need “objective” criteria for denying SummerHill’s proposal, here’s my personal list of **objective** reasons to reject SummerHill’s proposal.

1. The SummerHill proposal would create a parking shortage in the Transition District A, B & C. The Market Hall and garage cannot be considered in isolation. The application inappropriately focuses on the Market Hall and garage without admitting its impact on the total amount of parking needed for commercial uses in the Transition District A, B and C. This wider impact is that parking in the Transition District A, B and C would be reduced by between 4 and 24 spaces. .
(Note: There is 11,438 sq ft of commercial area in Building A1; 11,198 in Building A2; and restaurant/retail of 10,644 sq ft marked for Area C. The proposal deals only with parking in area B.)

SummerHill doesn’t provide consistent numbers, although their numbers always show that their proposal would create a shortage, not an excess, of parking spaces for the Transition District. Here are two ways in which the SummerHill numbers show parking shortages.

A SHORTAGE OF 24 SPACES. This is shown just using numbers in A.11. The **required** number of commercial spaces is 285 (column 36). The **provided** number of commercial spaces is 261 (column 39). There is a shortage of 24 spaces

A SHORTAGE OF 4 SPACES. This uses Sheet A.11 and Exhibit 4. The required number of commercial stalls in the Transition District is 285 (A.11). In Exhibit 4, Market Hall commercial stalls are given as 126 (176 – 50 resident-related stalls). Also in Exhibit 4, additional Transition District Parking is given as 155. Thus the total commercial parking SummerHill would provide would be 126 + 155, which equals 281. There is no excess parking. In this way of looking at it, there is a clear shortage of 4 spaces for the district (285 required – 281 provided).

2. To put item 1 above in another way: The application is based on the false assumption that the garage was intended for use only by occupants of the Market Hall complex—senior housing, senior guests, market hall, bakery, and community

room. In fact, the garage was also intended for use by customers at nearby retail outlets, restaurants, and bars in addition to occupants of the Market Hall complex itself. (Just think about Santana Row. Are shoppers limited to parking in the garage under the hotel if they want to shop at Anthropologie, which has a different parking lot across the street?) Given this fact, the parking in the underground garage is needed to accommodate these parking requirements.

3. Building on the point in item 2 above, the applicant fails to clearly show where the parking for the retail, restaurant/café, and bar/tavern that are not inside the Market Hall would be located and whether the removal of the underground garage has an impact on the availability of parking for these commercial outlets. Exhibit 4: Transition District Parking shows that Parking Areas A, B, and C (which provide surface parking) would provide a total of 155 spaces. But based on A.11, retail, restaurant/café, and bar tavern outside of the Market Hall would require 213 spaces. Here's the math from A.11:

Retail spaces	55
Restaurant/café spaces	124
Bar/tavern spaces	34
Total:	213

There is a 58-space difference ($213 - 155 = 58$). Where would these 58 spaces be located? Were they originally planned for the garage? (Following on this, Exhibit 4 in the SummerHill proposal says there would be an “excess” of 52 spaces in the parking garage. If the 58 unaccounted for spaces are considered, then there is a **shortage** of 6 spaces in the parking garage.)

4. The applicant provides conflicting numbers about how much parking it would provide in the Transition District. In some places, the applicant says that there would be 331 total spaces in the Transition District; in others the applicant uses a total of 330 spaces. Other inconsistencies are: 7 spaces for the bakery listed in Exhibit 4 versus no listing in A.11; 5 spaces for the community room in Exhibit 4 versus 4 spaces for the community room in A.11; 62 spaces listed for the Market Hall in Exhibit 4 versus 55 spaces for the “specialty market” listed in A.11.

Numbers for the amount of total commercial parking are also inconsistent. In A.11 the total of provided commercial parking is given as 261. However, using Exhibit 4, when you add the amount of commercial parking, you get a total of 281 (commercial parking of 126 in the garage + 155 in parking areas A, B). How much commercial parking will actually be provided? There's no way of knowing based on this proposal.

The Commission cannot approve the application without consistent numbers and accurate data being given.

5. The applicant makes false statements and uses bogus math.

Example 1: The applicant says that removing the subterranean parking level “leaves the Market Hall project with an excess of 52 parking spaces above what is required by the zoning code to serve the **commercial interests** at North 40.” (page 49, Exhibit 5) However, A.11 under Commercial Required Parking Tabulations, in column 36, under the heading **REQUIRED/Number of Commercial Stalls**, we have the number 285.” Since removing the subterranean parking level actually leaves the project with only 261 commercial spaces and a **deficit of 24 spaces**, the applicant has made a false statement.

Example 2: The computations $39 + 30 + 261 = 330$ and $330 \text{ PROVIDED} - 285 \text{ REQ'D} = 45 \text{ EXTRA}$ in red to the right of A.11 creates a false impression. They imply that SummerHill would provide 45 extra commercial spaces. But to come up with the 45 Extra supposedly commercial stalls, SummerHill mixes residential stalls (the 39 and the 30) with commercial stalls (the 261). SummerHill then uses the required number of commercial stalls (the 285) to come up with its extra 45. In fact, looking at the situation this way, SummerHill has a **shortage of 24 parking stalls** for the Transition District A, B & C.

6. If the applicant claims that the numbers in A.11 are no longer accurate or are out of date, then the entire application must be thrown out for containing inaccurate data. It is the applicant’s responsibility to provide accurate data. Commissioners cannot make their decisions without accurate data.

.....
I’m wondering if you might ask SummerHill these questions based on Sheet A.11. I’d love to get answers.

Main Questions

- Under Commercial Required Parking Tabulations, in column 36, under the heading **REQUIRED/Number of Commercial Stalls**, we have the number 285. Is this number still accurate? If not, what is the accurate number?
- Under TOTAL PROVIDED PARKING TABULATIONS, **PROVIDED Commercial Stalls, we have 261** (column 39). **Since this number is not the total of the numbers provided in the table (the total is 285), where does this number come from and what is the explanation for this reduced number of parking stalls?**

Subquestions

Under Commercial Required Parking Tabulations, in column 27, under the heading Specialty Market/Number of Stalls, we have the number 55. Is this number still accurate? If not, what is the accurate number?

- Under Commercial Required Parking Tabulations, in column 29, under the heading Retail/Number of Stalls, we have the number 68. Is this number still accurate? If not, what is the accurate number?
- Under Commercial Required Parking Tabulations, in column 33, under the heading Bar/Tavern/Number of Stalls, we have the number 34. Is this number still accurate? If not, what is the accurate number?
- Under Commercial Required Parking Tabulations, in column 35, under the heading Community Room/Number of Stalls, we have the number 4. Is this number still accurate? If not, what is the accurate number?
- Looking at the tabulations in red to the right of A.11, what is the number 126 labeled Revised Bldg B1 Retail based on?
- What is the computation $39 + 30 + 261 = 330$ supposed to show? *The implication of the bottom two computations in red*

$$39 + 30 + 261 = 330$$

$$330 \text{ PROVIDED} - 285 \text{ REQ'D} = 45 \text{ EXTRA}$$

is that SummerHill is providing 45 extra commercial parking spaces. However, the numbers 39 and 30 used in the computations are the numbers for residential stalls and residential guest stalls respectively. Therefore SummerHill is making a false statement; it is NOT providing "45 Extra" if indeed it is trying to show that it is providing extra commercial stalls.

*In fact, SummerHill has a **deficit of 24 parking stalls** for the Transition District A, B & C.*

- In the bottom computation in red, why is the number 285 being used? (*THIS APPEARS TO BE AN ADMISSION THAT 285 COMMERCIAL STALLS ARE REQUIRED AS LISTED IN COLUMN 36. HOWEVER, IN COLUMN 39 SUMMERHILL ADMITS THAT IT IS PROVIDING ONLY 261 COMMERCIAL STALLS, 24 STALLS BELOW THE REQUIREMENT.*)

Thank you for your service to the Town.

Sincerely,

Barbara Dodson

From: Sharon Elder <sharonelder@me.com>
Sent: Monday, September 21, 2020 9:22:55 AM
To: Joel Paulson <jpaulson@losgatosca.gov>
Subject: North 40 underground parking structure

Hi, my name is Sharon Elder and the resident of Los Gatos. It's my understanding that the developers of the North 40 project are now proposing to remove the underground parking structure that was originally passed as part of their overall plan.

I feel that by removing this parking structure will force traffic on the side roads and dissuade shoppers from going to these new shopping developments because they will have nowhere to park.

I feel that in good faith the developers of the North 40 project should continue with our original plan which was to build and ensure that there is sufficient parking for their development. Their plan was passed because it made allowances for parking that they are now renegeing on.

Rgds
Sharon Elder
Marchmont Drive, Los Gatos

Sent from my iPhone

From: Amy Nishide <aknishide@yahoo.com>
Sent: Friday, September 18, 2020 7:19:01 PM
To: Planning Comment <PlanningComment@losgatosca.gov>
Subject: North 40 parking garage proposed elimination

I am against this. Not including the the parking is extremely short-sighted. The entire North 40 was envisioned as one plan under the specific plan and should be built. Just because Summerhill took over for Grosvenor, doesn't mean the garage can be eliminated. In the future, parking overflow could spill into the neighborhood and create significant issues. Don't be short-sighted. Think long term.

Amy Nishide
Los Gatos

She believes they should retain the underground parking because of the concern that the entire North Forty has been envisioned as one project under the Specific Plan and there would be no way to go back and dig out under a parking structure if they don't put the underground parking in now.

239 Marchmont Drive
Los Gatos, CA 95032
September 20, 2020

Dear Members of the Planning Commission:

Obviously it's hard for members of the community to keep up with SummerHill's ever changing story. SummerHill submitted an application in which it said it would be providing either 330 or 331 parking spaces in the Transition District. Now, with its new Exhibit A, it says it will be providing 319 spaces. Previously SummerHill claimed excess of 52 spaces; now the excess is 46.

Can approval really be based on an addendum that contradicts the original proposal?

Assuming that Sheet A.11 had old information that is no longer reliable, we still have Exhibit 4 that

SummerHill created for this proposal. Based on Exhibit 4, we should still have 331 spaces. Where did the 12 spaces shown in Exhibit go when Exhibit A was put together? What is the breakdown? If we accept Exhibit 4, there should still be 176 spaces in a garage without an underground area. There should still be 155 spaces in Parking Areas A, B, and C combined. So why aren't there still 331 parking spaces in the Transition District?

It looks like SummerHill aims to reduce the parking in Parking Areas A, B, and C along with eliminating the underground garage. In Exhibit 4, Parking Areas A, B, and C provide a combined total of 155 spaces. Exhibit A lists only 143 spaces to be provided in addition to the spaces in the above-ground garage. It looks like SummerHill plans to reduce the parking in Parking Areas A, B, and C by 12 spaces. Doesn't SummerHill have to apply for approval of this additional change as well?

I urge you to deny this application on the basis that SummerHill has provided ever changing numbers, making it impossible for the Commission to make a decision. If Exhibit A now provides accurate numbers, this just shows that the application itself contains numbers that are NOT accurate and statements that are false.

Some questions:

From the SummerHill comments, it sounds like parking requirements in the Town Code were different in 2016 when the Phase 1 proposal was approved. It sounds like the old requirements are used in Sheet A.11 (which shows a requirement for 354 parking spots in the Transition District A, B & C) and that SummerHill is reducing parking based on requirements that have changed since 2016. If that's the case, wouldn't SummerHill still have to abide by parking requirements that were in place at the time of approval?

If the above question is not relevant, what changed between 2016 and now so that 354 spaces were required then but only 319 are required now?

SummerHill was party to the 2016 proposal that was approved by Town Council, along with Grosvenor and Eden Housing. Why should SummerHill now be allowed to distance itself from what was approved just because Grosvenor has pulled out?

Just as a note, I find it alarming that SummerHill projects that it will provide roughly 9% less parking than the Town used as part of the basis for approval of Phase 1. The 2016 proposal included a total of 1,039 parking spaces. SummerHill now plans to provide a total of 900 spaces for Phase 1.

Thank you for your service to the community.

Sincerely,

Barbara Dodson



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 09/23/2020

ITEM NO: 2

DESK ITEM

DATE: September 23, 2020
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider Approval of a Request for Modification to an Existing Architecture and Site Application (S-13-090) to Remove Underground Parking for Construction of a Commercial Building (Market Hall) in the North 40 Specific Plan Area. Located at 14225 Walker Street. APN 424-56-017. Architecture and Site Application S-20-012. Property Owner/Applicant: Summerhill N40, LLC. Project Planner: Jocelyn Shoopman.

REMARKS:

Exhibit 17 includes an additional letter from the applicant responding to a public comment on the project's compliance with the parking requirements in the Specific Plan.

EXHIBITS:

Previously received with August 26, 2020 Staff Report:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval
4. Project Description
5. Letter of Justification
6. Development Plans, received May 18, 2020
7. Public comments received by 11:00 a.m., Friday, August 21, 2020

Previously received with August 26, 2020 Addendum Report:

8. Public comments received between 11:01 a.m., Friday, August 21, 2020 and 11:00 a.m., Tuesday, August 25, 2020.

Previously received with August 26, 2020 Desk Item Report:

9. Public comments received between 11:01 a.m., Tuesday, August 25, 2020 and 11:00 a.m., Wednesday, August 26, 2020.

PREPARED BY: JOCELYN SHOOPMAN
Associate Planner

Reviewed by: Planning Manager and Community Development Director

PAGE 2 OF 2

SUBJECT: 14225 Walker Street/S-20-012

DATE: September 23, 2020

EXHIBITS (continued):

Previously received with September 9, 2020 Staff Report:

10. Public comments received between 11:01 a.m., Wednesday August 26, 2020 and 11:00 a.m., Friday, September 4, 2020

Previously received with September 9, 2020 Desk Item Report:

11. Public comments received between 11:01 a.m., Friday, September 4, 2020 and 11:00 a.m., Wednesday, September 9, 2020

Previously received with September 23, 2020 Staff Report:

12. Applicant's response to the project's compliance with the parking requirements in the Specific Plan

13. Town Attorney Memorandum

14. Public comments received between 11:01 a.m., Wednesday, September 9, 2020 and 11:00 a.m., Friday, September 18, 2020

Previously received with September 23, 2020 Addendum Report:

15. Applicant's response to a public comment regarding the project's compliance with the parking requirements in the Specific Plan

16. Public comments received between 11:01 a.m., Friday, September 18, 2020 and 11:00 a.m., Tuesday, September 22, 2020

Received with this Desk Item Report:

17. Additional response from the applicant responding to a public comment regarding the project's compliance with the parking requirements in the Specific Plan

VIA E-MAIL

September 23, 2020

Jocelyn Shoopman
Associate Planner
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

Re: Los Gatos North Forty; Request for Modification (S-20-012) to an Existing
Architecture and Site Application Approval (S-13-090)

Dear Ms. Shoopman:

SummerHill Has prepared the attached response to the Letter submitted by Barbara Dodson and included in the Staff Report Addendum. As we have previously stated, our application is for Market Hall, Lot 27, but in order to help answer questions from the community and the Planning Commission we have prepared and provided Exhibit A: Transition District Parking Summary, which accurately summarizes the parking that is required and provided for the Transition District.

As can be seen in Exhibit A, the Market Hall meets the Towns parking requirements and based on the Gross Square footage from the approved A&S, the Transition District as a whole will have a surplus of 46 parking spaces.

Please let us know if you need any additional information.

Very Truly Yours,

SummerHill Homes

Michael Keaney

CC: Joel Paulson

SummerHill Responses to Letter from Barbara Dodson Received 9/21/20:
Responses Provided in Red Text

239 Marchmont Drive
Los Gatos, CA 95032
September 20, 2020

Dear Members of the Planning Commission:

Obviously it's hard for members of the community to keep up with SummerHill's ever changing story. SummerHill submitted an application in which it said it would be providing either 330 or 331 parking spaces in the Transition District. Now, with its new Exhibit A, it says it will be providing 319 spaces. Previously SummerHill claimed excess of 52 spaces; now the excess is 46.

Response: Our application was for a modification to Market Hall on Lot 27. It does not propose any changes to the parking for Building A1, A2, B2, or C1. Our Project Description included a table that showed Transition District Parking. It has Parking Area A, B and C as unchanged and only changed Market Hall. The total is correctly shown as 331 spaces. The parking for Area A, B and C is based on counting the surface stalls shown on the Site Plan from the approved A&S plan set. The Market Hall has a surplus of 52. The Transition district as a whole has a surplus of 46 spaces based on the square footages and land uses proposed in the A&S Plans on Sheet 3.22.

Can approval really be based on an addendum that contradicts the original proposal?

Response: The request for a modification for the Market Hall on Lot 27 has always identified a required parking of 124 stalls and a proposed parking of 176 stalls. This is included in our Letter of Justification which is Exhibit 5 of the staff report.

Assuming that Sheet A.11 had old information that is no longer reliable, we still have Exhibit 4 that SummerHill created for this proposal. Based on Exhibit 4, we should still have 331 spaces. Where did the 12 spaces shown in Exhibit go when Exhibit A was put together? What is the breakdown? If we accept Exhibit 4, there should still be 176 spaces in a garage without an underground area. There should still be 155 spaces in Parking Areas A, B, and C combined. So why aren't there still 331 parking spaces in the Transition District?

Response: Exhibit 4 includes a table showing "Original Parking" in the A&S Approved Plan set and what was included for Market Hall with the basement parking. The "New Parking" column has the 176 stalls for Market Hall proposed in our modification, and shows the remainder of the Transition District as unchanged. Exhibit A is a summary of:

1. Required parking per the Town Code
2. Proposed parking for Market Hall without the basement and surface parking as shown on the Phase I Commercial Parking Spaces Exhibit prepared by MacKay and Soms.

The approved In-Tract Private Improvement Plans include 58 surface parking stalls, the same as shown on the approved A&S Plan Set. The 12 space difference between 331 shown in Exhibit 4 (Approved A&S Plan Set) and the 319 in Exhibit A (Mackay and Soms Phase I Parking Exhibits) is a result of conceptual modifications to the commercial surface parking lots. This still results in a surplus of 46 parking stalls for the Transition District. It should be noted that the commercial surface parking lot designs are preliminary and no application has been filed at this time. The remaining commercial buildings in Phase I will have to comply with the parking requirements in the Town Code and the Specific Plan to obtain a building permit.

It looks like SummerHill aims to reduce the parking in Parking Areas A, B, and C along with eliminating the underground garage. In Exhibit 4, Parking Areas A, B, and C provide a combined total of 155 spaces. Exhibit A lists only 143 spaces to be provided in addition to the spaces in the above-ground garage. It looks like SummerHill plans to reduce the parking in Parking Areas A, B, and C by 12 spaces. Doesn't SummerHill have to apply for approval of this additional change as well?

Response: Our application only applies to Market Hall, Lot 27. All other information is provided for reference only. The remaining commercial buildings in Phase I will have to comply with the Town Code parking requirements and the Specific Plan to obtain a building permit.

I urge you to deny this application on the basis that SummerHill has provided ever changing numbers, making it impossible for the Commission to make a decision. If Exhibit A now provides accurate numbers, this just shows that the application itself contains numbers that are NOT accurate and statements that are false.

Response: Our request to remove the basement parking from the Market Hall and provide 176 parking stalls, 52 more than required by the Town code is described in our Letter of Justification and Project Description. It is accurate and has never changed.

Some questions:

From the SummerHill comments, it sounds like parking requirements in the Town Code were different in 2016 when the Phase 1 proposal was approved. It sounds like the old requirements are used in Sheet A.11 (which shows a requirement for 354 parking spots in the Transition District A, B & C)) and that SummerHill is reducing parking based on requirements that have changed since 2016. If that's the case, wouldn't SummerHill still have to abide by parking requirements that were in place at the time of approval?

If the above question is not relevant, what changed between 2016 and now so that 354 spaces were required then but only 319 are required now?

SummerHill was party to the 2016 proposal that was approved by Town Council, along with Grosvenor and Eden Housing. Why should SummerHill now be allowed to distance itself from what was approved just because Grosvenor has pulled out?

Response: The Specific Plan Parking Requirements for Parking Non-Residential Parking is established in Section 2.5.8.a: Non-Residential Use: The number of off-street parking

spaces shall be consistent with the parking required in Downtown as required within Division 4 of the Zoning Ordinance. This section of the code was updated after the approval of the A&S for Phase I. Exhibit A reflects what is required by the current Town Code.

Just as a note, I find it alarming that SummerHill projects that it will provide roughly 9% less parking than the Town used as part of the basis for approval of Phase 1. The 2016 proposal included a total of 1,039 parking spaces. SummerHill now plans to provide a total of 900 spaces for Phase 1.

Response: With the proposed modification there are currently proposed to be 46 more stalls than are required for the Transition District.

Thank you for your service to the community.

Sincerely,

Barbara Dodson

Exhibit A

Transition District Parking Summary											
	Commercial SF	Residential Units			Required Parking					Proposed Parking Provided	
	Square Footage	Affordable	1-Bedroom	2-Bedroom	Gross Commercial Required Parking 1:300	Gross Community Room Square Footage 1:590	Residential Required Parking 0.5 per unit + 0.5 per unit (guest)	1-Bedroom Required Parking 1 per Unit + 0.5 per unit (guest)	Required Parking 1 per Unit + 0.5 per unit (guest)		Subtotal
Commercial Transition District											
Market Hall											
Gross Commercial SF	20,760				69					69	176
Gross Community Room SF	2,772					5				5	
Affordable Residential		50								50	
Subtotal							50			124	
Building A1											
Gross Commercial SF	11,438				38					38	
1 Bedroom Residential			6					9		9	
2 Bedroom Residential				4					10	10	
Subtotal										57	
Building A2											
Gross Commercial SF	11,198				37					37	
Building B2											
Gross Commercial SF	5,745				19					19	
Building C1											
Gross Commercial SF	10,644				35					35	
Subtotal: Building A1, A2, B2, C1	39,025				130					149	143
Transition District Total	62,557	50	6	4	199	5	50	9	10	273	319
									Surplus		46

Square Footage Based on approved Building Permit and Minor Revisions Estimated with the Elimination of the Basement

Gross Commercial Square Footage Based on Column 18 on Sheet 3.22 of A&S Approved Plans

Unit Count Based on Column 1 on Sheet 3.22 of A&S Approved Plans

- Notes:
- The total in the Gross Commercial Required Parking column has one more parking space than required when adding up the column because when the decimals are aggregated and rounded off, it results in one more parking space being required than there would be if each parcel is considered separately.

Prepared By: Michael Keaney, SummerHill Homes
 Date: September 14, 2020

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**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 09/23/2020

ITEM NO: 3

DATE: September 18, 2020

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Forward a Recommendation to the Town Council for Approval of Modifications to Chapter II. (Constraints Analysis), Chapter III. (Site Planning), and Chapter IX. (Project Review and Approval Process) of the Hillside Development Standards and Guidelines Regarding the Visibility Analysis, Town Wide. Applicant: Town of Los Gatos.

RECOMMENDATION:

Forward a recommendation to the Town Council for approval of modifications to Chapter II. (Constraints Analysis), Chapter III. (Site Planning), and Chapter IX. (Project Review and Approval Process) of the Hillside Development Standards and Guidelines (HDS&G) regarding the visibility analysis.

CEQA:

The project is Categorical Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that this project will have a significant effect on the environment.

FINDINGS:

- As required, pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, this project is Exempt, Section 15061(b)(3); and
- The modifications to the HDS&G are consistent with the General Plan.

PREPARED BY: JOCELYN SHOOPMAN
Associate Planner

Reviewed by: Planning Manager and Community Development Director

BACKGROUND:

On February 2, 2016, the Town Council adopted modifications to Chapter V. of the HDS&G regarding light reflectivity value (LRV) and returned modifications to Section B. of Chapter II. of the HDS&G regarding the visibility analysis to staff with direction.

In response to the Council's direction, the Policy Committee held five meetings on April 20, 2017, May 18, 2017, June 26, 2017, July 20, 2017, and December 14, 2017 to discuss modifications to the visibility analysis.

On December 19, 2017, the Town Council approved the modifications to Chapter II. (Constraints Analysis), Section B. of the HDS&G regarding the visibility analysis.

On March 3, 2020, the Town Council considered an appeal of an Architecture and Site application for the construction of a hillside home that was 24 percent visible. The appeal was based in part on the appellant's concern about the inclusion of retaining walls and exterior features of the home in the elevation drawing for the purposes of the visibility analysis. At this meeting, the Town Council voted to refer an evaluation of Chapter II. (Constraints Analysis), Section B. of the HDS&G, regarding the visibility analysis to the Policy Committee.

Modifications to the HDS&G regarding the visibility analysis were forwarded to the Policy Committee on July 28, 2020. The Policy Committee continued discussion of the modifications to allow for additional public comment to be provided (Exhibit 2). On August 11, 2020, the Policy Committee reviewed five items, detailed in the Discussion section of this report regarding the visibility analysis. After discussion, the Committee recommended approval of modifications to Chapter II. (Constraints Analysis), Section B. and Chapter III. (Site Planning), Section D. of the HDS&G. The Committee had a split vote on the remaining items regarding modifications to, Chapter II. (Constraints Analysis), Section B. related to recent amendments to Chapter 9 (Fire Prevention and Protection) of the Town Code and Chapter 29, Division 2 (Zoning Regulations) of the Town Code, and modifications to Chapter IX. (Project Review and Approval Process) regarding the approval process (Exhibit 4).

DISCUSSION:

Chapter II. (Constraints Analysis), Section B. contains the required steps for completing a visibility analysis. The Chapter defines a visible home as a single-family residence where 24.5 percent or more of an elevation can be seen from any of the Town's established viewing areas (Exhibit 6).

Ordinance 2301 (Exhibit 9) was adopted by the Town Council on January 21, 2020, to amend Chapter 9 (Fire Prevention and Protection) to require that a defensible space of 100 feet be maintained from each side and from the front and rear of any building or structure, but not beyond the property line except as provided by law. Ordinance 2303 (Exhibit 10) was adopted

DISCUSSION (continued):

by the Town Council on January 21, 2020 to amend Chapter 29, Division 2 (Zoning Regulations) of the Town Code, to state that the removal or maintenance of an existing tree as required by Chapter 9 of the Town Code, is exempt and may be removed or severely pruned without Town approval or issuance of a tree removal permit.

Chapter III. (Site Planning), Section D. contains standards and guidelines for incorporating defensible space into site planning and landscape design. The chapter provides figures to illustrate the required zones of defensible space that should be maintained around a single-family residence (Exhibit 7).

Chapter IX. (Project Review and Approval Process), Section B. stipulates the deciding body for a project depending on a project's compliance with the HDS&G, the Town Code, and potential impacts on surrounding properties and the overall community (Exhibit 8).

A. Modifications to Chapter II. (Constraints Analysis) Regarding Elevations

Based on the direction provided by the Policy Committee, staff has prepared a modification to Chapter II., Section B. of the HDS&G for the Planning Commission's consideration. The potential amendment, shown in underline font in Exhibit 6, would make the following change:

- Provide written guidelines as to what elements of an exterior can be included in an elevation for purposes of the visibility analysis. An elevation would be defined as only pertaining to the visible building elevations of a home, not including exterior features such as walls, decks, and detached accessory structures.

B. Modifications to Chapter II. (Constraints Analysis) Regarding Trees Subject to Clearing

Chapter 9 of the Town Code requires that a defensible space of 100 feet be maintained from each side and from the front and rear of any building or structure, but not beyond the property line except as provided by law (Exhibit 9). In conformance with Santa Clara County Fire Department Guidelines, the 100 feet of defensible space is segregated into the following zones (Exhibit 11):

- Zone 1: New construction must create a noncombustible area a minimum of five feet from structures.
- Zone 2: Maintain an effective defensible space by removing and clearing away flammable vegetation and combustible growth from areas within 30 feet of such buildings or structures. This includes removing all dead vegetation and dead or dry leaves, trimming

DISCUSSION (continued):

trees regularly to keep branches a minimum of six feet from the grade, tree branches a minimum of ten feet from other trees, and ten feet away from a chimney.

- Zone 3: Maintain an additional reduced fuel zone of 70 feet from all buildings and structures with an emphasis on vertical and horizontal separation of fuels/vegetation. A distance beyond 70 feet may be required when the Fire Chief or his/her designee, determines that due to steepness of terrain or other conditions, a distance of 70 feet is insufficient. This includes creating horizontal and vertical spacing between shrubs and trees, removing dead plants, tree material, and vegetation adjacent to accessory structures within the area, and maintaining distances between canopy tops.

Staff requested input from the Policy Committee regarding whether existing trees or branches subject to clearing in Zone 2 and Zone 3 should be included in a visibility analysis. The Policy Committee had a split vote regarding this item and requested that the item be forwarded to the Planning Commission for discussion noting the disagreements of the Committee (Exhibit 4).

C. Modifications to Chapter II. (Constraints Analysis) Regarding Exceptions for Tree Removal

Chapter 29, Division 2 of the Town Code states that the removal or maintenance of an existing tree as required by Chapter 9 of the Town Code, is an exception and may be removed or severely pruned without Town approval or issuance of a tree removal permit (Exhibit 10):

29.10.0970. Exceptions.

- (1) A fruit or nut tree that is less than eighteen (18) inches in diameter (fifty-seven-inch circumference).
- (2) Any of the following trees that are less than twenty-four (24) inches in diameter (seventy-five (75) inches in circumference):
 - (1) Black Acacia (*Acacia melanoxylon*)
 - (2) Tulip Tree (*Liriodendron tulipifera*)
 - (3) Tree of Heaven (*Ailanthus altissima*)
 - (4) Blue Gum Eucalyptus (*E. globulus*)
 - (5) Red Gum Eucalyptus (*E. camaldulensis*)
 - (6) Other Eucalyptus (*E. spp.*) - Hillsides only
 - (7) Palm (except *Phoenix canariensis*)
 - (8) Privet (*Ligustrum lucidum*)
- (3) Any removal or maintenance of a tree to conform with the implementation and maintenance of Defensible Space per Chapter 9 – Fire Prevention and Protection with the exception of any tree listed in subcategories (3) and (10) of Sec.29.10.0960 – Scope of Protected Trees.

DISCUSSION (continued):

Staff requested input from the Policy Committee regarding whether existing trees meeting the exceptions listed in Section 29.10.0970 of the Town Code that are proposed to remain as part of an application should be included in a visibility analysis. The Policy Committee had a split vote regarding this item and requested that the item be forwarded to the Planning Commission for discussion noting the disagreements of the Committee (Exhibit 4).

D. Modifications to Chapter III. (Site Planning) Regarding Image Update

Based on the direction provided by the Policy Committee, staff has prepared a modification to Chapter III. of the HDS&G for the Planning Commission's consideration. The potential amendment, shown in underline font in Exhibit 7, would make the following change:

- Update the image on Page 29, Section D. to be in compliance with the amended defensible space zones based on the amendments made to Chapter 9 (Fire Prevention and Protection) and Chapter 29, Division 2 (Tree Protection) of the Town Code.

E. Modifications to Chapter IX. (Project Review and Approval Process) Regarding Approvals

A single-family home that meets the allowable floor area ratio and is not visible from any established viewing area may be approved by the Development Review Committee (DRC). Through completion of a visibility analysis, if a home is determined to be visible, the maximum allowable height is 18 feet. Currently, review by the Planning Commission is required for a visible single-family home regardless of the height (Exhibit 8).

The Policy Committee had a split vote regarding whether a visible home that meets the allowable floor area ratio and the maximum allowable height of 18 feet should be allowed to be approved by the DRC, as opposed to the current requirement for Planning Commission approval. The Committee requested that this item be forwarded to the Planning Commission for discussion noting the disagreements of the Committee (Exhibit 4).

PUBLIC COMMENTS:

Public comments received by 11:00 a.m., Friday, September 18, 2020 are included as Exhibit 12.

CONCLUSION:

A. Recommendation

Based on the direction of the Town Council Policy Committee, staff recommends that the Planning Commission review the information included in the staff report and forward a

CONCLUSION (continued):

recommendation to the Town Council for approval of the modifications to Chapter II. (Constraints Analysis) and Chapter III. (Site Planning) of the HDS&G, with any additional modifications to Chapter IX. (Project Review and Approval Process) of the HDS&G. The Commission should also include any comments or recommended changes in taking the following actions:

1. Make the required finding that the modifications to the Hillside Development Standards and Guidelines are consistent with the General Plan (Exhibit 1); and
2. Forward a recommendation to the Town Council for approval of the proposed modifications to Chapters II, III, and IX of the HDS&G (Exhibits 6 through 8).

B. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction; or
2. Forward a recommendation to the Town Council for denial of the proposed modifications to Chapters II, III, and IX of the Hillside Development Standards and Guidelines.

EXHIBITS:

1. Required Findings
2. Town Council Policy Committee July 28, 2020 Minutes
3. Town Council Policy Committee July 28, 2020 Planning Staff Report (with Attachments 1 through 6)
4. Town Council Policy Committee August 11, 2020 Minutes
5. Town Council Policy Committee August 11, 2020 Planning Staff Report (with Attachment 7)
6. Draft Modifications to Chapter II (Constraints Analysis) of the HDS&G
7. Draft Modifications to Chapter III (Site Planning) of the HDS&G
8. Chapter IX (Project Review and Approval Process) of the HDS&G
9. Ordinance 2301 Chapter 9 (Fire Prevention and Protection) of the Town Code
10. Ordinance 2303 Chapter 29, Division 2 (Tree Protection) of the Town Code
11. Town of Los Gatos, 2020, *Be Wildfire Ready*, <<https://www.losgatosca.gov/2581/Be-Wildfire-Ready>>
12. Public comments received by 11:00 a.m., Friday, September 18, 2020

PLANNING COMMISSION – September 23, 2020
REQUIRED FINDINGS FOR:

Consider Modifications to Chapter II. (Constraints Analysis), Chapter III. (Site Planning), and Chapter IX. (Project Review and Approval Process) of the Hillside Development Standards and Guidelines.

FINDINGS

Required Findings for CEQA:

- 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).

Required Findings for General Plan:

- The proposed modifications to Chapter II. (Constraints Analysis), Chapter III. (Site Planning), and Chapter IX. (Project Review and Approval Process) of the Hillside Development Standards and Guidelines are consistent with the General Plan.

EXHIBIT 1

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**DRAFT
Minutes of the Town Council Policy Committee Regular Meeting
July 28, 2020**

The Town Council Policy Committee of the Town of Los Gatos conducted a regular meeting on Tuesday, July 28, 2020, at 5:00 p.m. via teleconference.

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

ROLL CALL

Members Present: Marcia Jensen, Barbara Spector.

Staff Present: Laurel Prevetti, Town Manager; Robert Schultz, Town Attorney; Joel Paulson, Community Development Director; Jennifer Armer, Senior Planner; Jocelyn Shoopman, Associate Planner; Holly Zappala, Management Analyst.

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

1. Approve the Draft Minutes of January 28, 2020.

Approved.

VERBAL COMMUNICATIONS

David Weissman

- Commented that Item #2 was placed on the Policy Committee agenda as a result of comments he had made at a prior Town Council meeting. He requested that when items are placed on an agenda that have been prompted by a comment from a speaker at a public meeting that the speaker be given advance notice of the item's placement on the agenda.

OTHER BUSINESS

2. Discuss and Provide Direction on Potential Modifications to the Hillside Development Standards and Guidelines Regarding Visibility.

In light of Mr. Weissman's comment, the Committee requested that this item be continued to the August Policy Committee meeting to allow sufficient time for review. The Committee also requested that Mr. Weissman be notified of the date and time of the August meeting once determined.

EXHIBIT 2

PAGE 2 OF 2

SUBJECT: Draft Minutes of the Regular Town Council Policy Committee Meeting of July 28,
2020

DATE: August 11, 2020

3. Discuss and Provide Direction to Staff on Potential Outdoor Lighting Regulation Modifications.

Jennifer Armer, Senior Planner, presented the staff report.

After discussion, the Committee agreed to forward a recommendation to the Planning Commission to approve the proposed modifications.

ADJOURNMENT

The meeting adjourned at 5:18 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the July 28, 2020 meeting as approved by the Town Council Policy Committee.

Holly Zappala, Management Analyst



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

MEETING DATE: 7/28/2020

ITEM NO:

DATE: July 24, 2020
TO: Council Policy Committee
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discuss and Provide Direction on Potential Modifications to the Hillside Development Standards and Guidelines Regarding Visibility.

RECOMMENDATION:

Discuss and provide direction on potential modifications to the Hillside Development Standards and Guidelines (HDS&G) regarding visibility.

BACKGROUND:

On February 2, 2016, the Town Council adopted modifications to Chapter V. of the HDS&G regarding light reflectivity value (LRV) and returned modifications to Section B. of Chapter II. of the HDS&G regarding the visibility analysis to staff with direction.

In response to the Council's direction from February 2, 2016, the Policy Committee held five meetings on April 20, 2017, May 18, 2017, June 26, 2017, July 20, 2017, and December 14, 2017 to discuss modifications to the visibility analysis.

On December 19, 2017, the Town Council unanimously approved the modifications to Section B. of Chapter II. of the HDS&G regarding the visibility analysis.

DISCUSSION:

On March 3, 2020, the Town Council considered an appeal of an Architecture and Site application for the construction of a hillside home that was 24 percent visible. The appeal was based in part on the appellant's concern about the inclusion of retaining walls in the elevation drawing for the purposes of the visibility analysis. At this meeting, the Town Council unanimously voted to refer an evaluation of Section B. of Chapter II. of the HDS&G, regarding the visibility

PREPARED BY: Joel Paulson
Community Development Director

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

DISCUSSION (continued):

analysis to the Policy Committee. Based on the discussion of the Town Council at the meeting, staff has presented the following topics for the Committee's discussion.

A. Chapter II. (Constraints Analysis) of the HDS&G

The HDS&G define a visible home as a single-family residence where 24.5 percent or more of an elevation can be seen from any of the Town's established viewing areas (Attachment 1). The HDS&G do not include written guidelines regarding what can be included in an elevation.

An architectural elevation is an orthographic drawing of the exterior of a residence from a horizontal point of view, wherein an exterior side is projected perpendicularly onto a drawing plane. Vertical planar surfaces of the exterior that are parallel to the drawing plane retain their true scale. Vertical planar surfaces of the exterior that are not parallel to the drawing surface are foreshortened. Depending on the dimensions of the drawing plane, vertical planar surfaces below the finished floor of the residence but above the grade as it steps down a slope, such as retaining walls, may be included in the drawing.

Staff is requesting input from the Committee on the following topic related to the visibility analysis:

1. Should an elevation be defined in the HDS&G, providing written guidelines as to what elements of an exterior can be included in an elevation for the purposes of the visibility analysis?

Chapter 9 (Fire Prevention and Protection) of the Town Code

On January 21, 2020, the Town Council adopted amendments to Chapter 9 (Fire Prevention and Protection) of the Town Code. The amendments require that a defensible space of 100 feet be maintained from each side and from the front and rear of any building or structure, but not beyond the property line except as provided by law (Attachment 2). In conformance with Santa Clara County Fire Department Guidelines, the 100 feet of defensible space is segregated into the following zones (Attachment 3):

- Zone 1: New construction must create a noncombustible area a minimum of five feet from structures.
- Zone 2: Maintain an effective defensible space by removing and clearing away flammable vegetation and combustible growth from areas within 30 feet of such buildings or structures. This includes removing all dead vegetation and dead or dry leaves, trimming trees regularly to keep branches a minimum of six feet from the grade, tree branches a minimum of ten feet from other trees, and ten feet away from a chimney.

DISCUSSION (continued):

- Zone 3: Maintain an additional reduced fuel zone of 70 feet from all buildings and structures with an emphasis on vertical and horizontal separation of fuels/vegetation. A distance beyond 70 feet may be required when the Fire Chief or his/her designee, determines that due to steepness of terrain or other conditions, a distance of 70 feet is insufficient. This includes creating horizontal and vertical spacing between shrubs and trees, removing dead plants, tree material, and vegetation adjacent to accessory structures within the area, and maintaining distances between canopy tops.

Staff is requesting input from the Committee on the following topics related to the visibility analysis:

1. Should existing trees or branches subject to clearing located within 30 feet (Zone 2) of a single-family residence not be included in a visibility analysis?
2. Should existing trees or branches subject to clearing located within an additional reduced fuel zone of 70 feet (Zone 3) of a single-family residence not be included in a visibility analysis?

Chapter 29 (Tree Protection) of the Town Code

On January 21, 2020, the Town Council adopted amendments to Chapter 29 (Tree Protection) of the Town Code, which added that the removal or maintenance of an existing tree as required by Chapter 9 of the Town Code, is exempt and may be removed or severely pruned without Town approval or issuance of a tree removal permit (Attachment 4):

29.10.0970. Exceptions.

- (1) A fruit or nut tree that is less than eighteen (18) inches in diameter (fifty-seven-inch circumference).
- (2) Any of the following trees that are less than twenty-four (24) inches in diameter (seventy-five (75) inches in circumference):
 - (1) Black Acacia (*Acacia melanoxylon*)
 - (2) Tulip Tree (*Liriodendron tulipifera*)
 - (3) Tree of Heaven (*Ailanthus altissima*)
 - (4) Blue Gum Eucalyptus (*E. globulus*)
 - (5) Red Gum Eucalyptus (*E. camaldulensis*)
 - (6) Other Eucalyptus (*E. spp.*) - Hillsides only
 - (7) Palm (except *Phoenix canariensis*)
 - (8) Privet (*Ligustrum lucidum*)

DISCUSSION (continued):

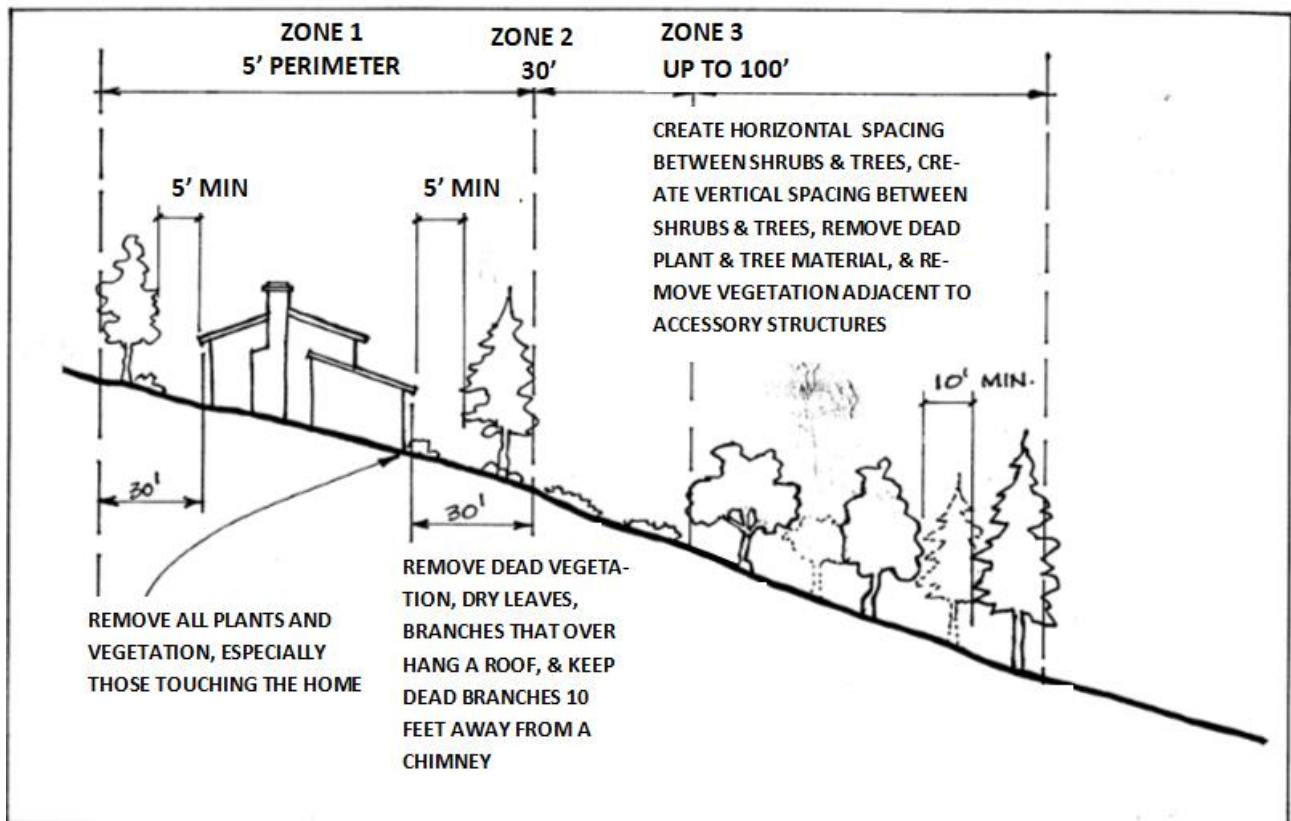
- (3) Any removal or maintenance of a tree to conform with the implementation and maintenance of Defensible Space per Chapter 9 – Fire Prevention and Protection with the exception of any tree listed in subcategories (3) and (10) of Sec.29.10.0960 – Scope of Protected Trees.

Staff is requesting input from the Committee on the following topic related to the visibility analysis:

1. Should all existing trees listed in Section 29.10.0970 of the Town Code that are proposed to remain as part of an application not be included in a visibility analysis?

B. Chapter III. (Site Planning) of the HDS&G

Based on the amendments made to Chapter 9 (Fire Prevention and Protection) and Chapter 29 (Tree Protection) of the Town Code, the following image on page 29, Section D. (Safety) of the HDS&G has been modified to be in compliance with the required defensible space zones and would replace the existing image (Attachment 5).



DISCUSSION (continued):

C. Chapter IX. (Project Review and Approval Process) of the HDS&G

A single-family home that meets the allowable floor area ratio and is not visible from any established viewing area may be approved by the Development Review Committee (DRC). Through completion of a visibility analysis, if a home is determined to be visible, the maximum allowable height is 18 feet. Currently, review by the Planning Commission is required for a visible single-family home (Attachment 6).

Staff is requesting input from the Committee on the following topic:

1. Should a visible home that meets the allowable floor area ratio with a maximum height of 18 feet be allowed to be approved by the DRC?

Staff will be available at the meeting to answer questions and looks forward to receiving direction on potential modifications to the HDS&G.

COORDINATION:

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

Attachments:

1. Chapter II. (Constraints Analysis) of the HDS&G (eight pages)
2. Ordinance 2301 Chapter 9 (Fire Prevention and Protection) of the Town Code (five pages)
3. Town of Los Gatos, 2020, *Be Wildfire Ready*, <<https://www.losgatosca.gov/2581/Be-Wildfire-Ready>> (eight pages)
4. Ordinance 2303, Chapter 29 (Tree Protection) of the Town Code (five pages)
5. Chapter III. (Site Planning) of the HDS&G (ten pages)
6. Chapter IX. (Project Review and Approval Process) of the HDS&G (five pages)

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SUBJECT: Hillside Development Standards and Guidelines Modifications

DATE: July 24, 2020



**DRAFT
Minutes of the Town Council Policy Committee Special Meeting
August 11, 2020**

The Town Council Policy Committee of the Town of Los Gatos conducted a special meeting on Tuesday, August 11, 2020, at 5:00 p.m. via teleconference.

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

ROLL CALL

Members Present: Marcia Jensen, Barbara Spector.

Staff Present: Laurel Prevetti, Town Manager; Robert Schultz, Town Attorney; Joel Paulson, Community Development Director; Jocelyn Shoopman, Associate Planner; Holly Zappala, Management Analyst.

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

1. Approve the Draft Minutes of July 28, 2020.

Approved.

VERBAL COMMUNICATIONS

Lee Fagot

- Commented that the Town should review its Police services and that it would be beneficial for the Police Department to contract with professional social service workers and mental health specialists to work with law enforcement officers in responding to calls regarding mental health crises. He also supported additional Police training regarding racial and social issues.

OTHER BUSINESS

2. Discuss and Provide Direction on Potential Modifications to the Hillside Development Standards and Guidelines Regarding Visibility.

Jocelyn Shoopman, Associate Planner, was available to respond to questions.

EXHIBIT 4

David Weissman

-Commented that when calculating the visibility of a proposed hillside home, exterior structures such as decks and stairs, should not be included because they would not be visible from valley floor viewing areas. He said that exterior features should only be included if they are necessary for the visibility analysis under discussion. Additionally, he added that trees that can be removed should also not be included in the visibility analysis.

Lee Quintana

-Agreed with David Weissman's comments and added that the definition of elevation should use simple language and be easy to understand.

After discussion, the Committee agreed to forward the following items to the Planning Commission for further discussion and recommendation to Town Council:

1. **Elevation.** The Committee approved a motion to forward a recommendation for elevation to be defined as only pertaining to the visible building elevations of the house, not including any exterior walls or decks and other ancillary structures, for the purposes of visibility analysis.
2. **Trees.** The Committee was split and approved a motion to forward the item without a recommendation, noting the positions of each of the Committee members.
 - Vice Mayor Spector recommended that existing trees and branches, subject to clearing in Zones 2 and 3 and all trees listed in Section 29.10.0970 of the Town Code that are proposed to remain as part of an application but that can be removed without a permit and not require a replacement, not be included in visibility analysis, noting she did not want to expand the opportunity for visibility with discretionary homeowner actions.
 - Mayor Jensen recommended that existing trees and branches that must be removed due to new mandatory fire prevention standards should not be included for the purpose of visibility analysis. Any trees that are subject to removal, but not required for removal, should not fall into that same category, noting that almost any trees could be removed, in which case no trees would count as a screen.
3. **Deciding Body: Development Review Committee versus Planning Commission.** The Committee was split and approved a motion to forward the item without a recommendation, noting the positions of each of the Committee members.
 - Vice Mayor Spector recommended that visible homes that meet the allowable floor area ratio with a maximum height of 18 feet go before the Planning Commission as the deciding body, noting that there may be other issues that may need consideration by the Planning Commission in addition to those referenced in the staff report.
 - Mayor Jensen recommended that visible homes that meet the allowable floor area ratio with a maximum height of 18 feet go before the Design

PAGE 3 OF 4

SUBJECT: Draft Minutes of the Regular Town Council Policy Committee Meeting of August 11, 2020

DATE: September 22, 2020

Review Committee as the deciding body, noting that it is a public hearing and subject to appeal to the Planning Commission, and would reduce the cost to the applicant.

ADJOURNMENT

The meeting adjourned at 5:28 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the August 11, 2020 meeting as approved by the Town Council Policy Committee.

Holly Zappala, Management Analyst

PAGE 4 OF 4

SUBJECT: Draft Minutes of the Regular Town Council Policy Committee Meeting of August
11, 2020

DATE: September 22, 2020



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

MEETING DATE: 8/11/2020

ITEM NO: 2

DATE: August 6, 2020
TO: Council Policy Committee
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discuss and Provide Direction on Potential Modifications to the Hillside Development Standards and Guidelines Regarding Visibility.

REMARKS:

On July 28, 2020, the Council Policy Committee continued this item to allow for public comments to be provided. Attachment 7 contains public comments received by 11:00 a.m., Friday, August 7, 2020.

Attachments:

Previously received with July 28, 2020 Staff Report:

1. Chapter II. (Constraints Analysis) of the HDS&G (eight pages)
2. Ordinance 2301 Chapter 9 (Fire Prevention and Protection) of the Town Code (five pages)
3. Town of Los Gatos, 2020, *Be Wildfire Ready*, <<https://www.losgatosca.gov/2581/Be-Wildfire-Ready>> (eight pages)
4. Ordinance 2303, Chapter 29 (Tree Protection) of the Town Code (five pages)
5. Chapter III. (Site Planning) of the HDS&G (ten pages)
6. Chapter IX. (Project Review and Approval Process) of the HDS&G (five pages)

Received with this Staff Report:

7. Public comments received by 11:00 a.m., Friday, August 7, 2020

PREPARED BY: Joel Paulson
Community Development Director

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

PAGE 2 OF 2

SUBJECT: Hillside Development Standards and Guidelines Modifications

DATE: July 24, 2020



II. CONSTRAINTS ANALYSIS AND SITE SELECTION

A. Prior to Selecting a Building Site.

1. Constraints analysis.

Each development application subject to the Hillside Development Standards and Guidelines shall be accompanied by a constraints analysis when it is deemed necessary by the Town to identify the most appropriate area or areas on the lot for locating buildings given the existing constraints of the lot. This is a critical step in the overall planning and design of projects in the hillsides. When all constrained areas have been identified and mapped, the remaining area(s) will be designated as the "LEAST RESTRICTIVE DEVELOPMENT AREA" (LRDA). These are the areas most appropriate for development.

To ensure that new development is sensitive to the goal and objectives of the Hillside Development Standards and Guidelines and respects the existing site constraints, the following elements shall be mapped by appropriate professionals and taken into consideration when determining a site's LRDA:

- Topography, with emphasis on slopes over 30%
- Vegetation such as individual trees, groupings of trees and shrubs, habitat types
- Drainage courses and riparian corridors
- Septic systems
- Geologic constraints including landslides and active fault traces
- Wildlife habitats and movement corridors
- Visibility from off site
- Areas of severe fire danger
- Solar orientation and prevailing wind patterns
- Significant Ridgelines



Many of the above topics are covered in more detail in Chapter II.B. and Chapter III. The accurate determination of the LRDA early in the planning process could avoid delays once an application has been submitted. Site specific studies such as geotechnical or other environmental evaluations, tree survey and/or topographic survey may be necessary to accurately determine the LRDA.



2. Consultation with Neighbors.

Before siting and designing the house and landscaping, the property owner, architect or builder should meet with neighbors to discuss any special concerns they might have. Resolution of issues early in the design process can save time and cost as well as reducing the processing time for applications. If a conflict occurs between a property owner's desire to develop their property and legitimate issues raised by a neighbor, a design solution will be sought that attempts to balance all issues or concerns that are raised by both parties.

3. Pre-application meeting/staff consultation/site visit.

Before designing a project, the property owner/architect/builder is strongly encouraged to meet with Town staff to consider a building location that best preserves the natural terrain and landscape of the lot and positively addresses the objectives of the Hillside Development Standards and Guidelines. On heavily wooded lots, or on lots where trees may be impacted by proposed development, an arborist's report shall be prepared which evaluates potential tree impacts. The report shall be prepared at the applicant's expense.

B. Visibility Analysis.

1. Viewing areas.

Each development project with the potential for being visible (see glossary for definition) from any established viewing area shall be subject to a visibility analysis. ("Potential" is defined as capable of being seen from a viewing area if trees or large shrubs are removed, significantly pruned, or impacted by construction.) The visibility analysis shall be conducted in compliance with established Town procedures using story poles that identify the building envelope. After installing the story poles, the applicant shall take photographs of the project from appropriate established viewing areas that clearly show the story poles and/or house and subject property. Visual aids such as photo simulations or three dimensional illustrations and/or a scale model may be required when it is deemed necessary to fully understand the impacts of a proposed project.

The following steps shall be taken in completing a visibility analysis:

- a. Install story poles per adopted policy.
- b. After the installation of story poles, photographs of the project shall be taken from the applicable viewing areas using 50 MM and 300 MM lenses. Other location(s) as deemed appropriate by the Community Development Director may be chosen in addition to the existing viewing areas.



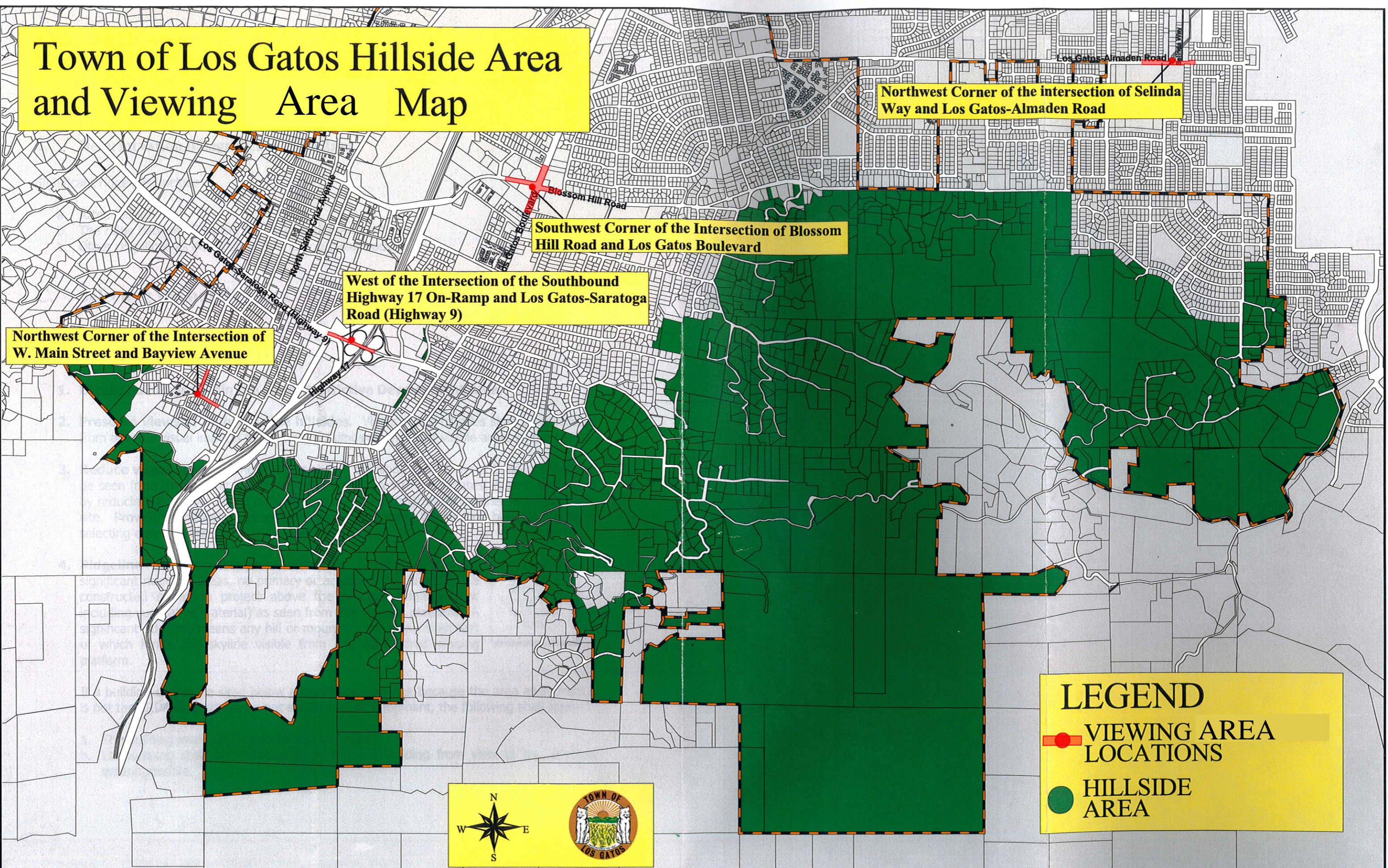
- c. A photograph with a 50 MM lens will represent the visibility of the proposed residence from the naked eye.
- d. A photograph with a 300 MM lens will represent an up-close perspective and help identify any visible story poles, netting, trees, and/or shrubbery.
- e. Existing vegetation and/or landscaping proposed to be removed entirely or partially shall not be included in the visibility analysis.
- f. If determined necessary by the Community Development Director, three dimensional illustrations or photo simulations of the structure may be required.
- g. A visible home is defined as a single-family residence where 24.5% or more of an elevation can be seen from any of the Town's established viewing areas, and/or determined by the Community Development Director. Percentages shall be rounded to the nearest whole number.
- h. An elevation is defined as the visible building elevations of a home, not including exterior features such as walls, decks, and detached accessory structures.
- i. A Deed Restriction shall be required that identifies the on-site trees that were used to provide screening in the visibility analysis and requires replacement screening pursuant to the Hillside Development Standards and Guidelines and/or the Tree Protection Ordinance, if these trees die or are removed.
- j. Trees with a poor health rating (less than 50 percent overall condition rating) shall not be included in the visibility analysis.
- k. The Community Development Director shall determine if the use of a third party consultant is required to peer review an applicant's visibility analysis.
- l. A five-year Maintenance Agreement shall be required for on-site trees that were used to provide screening in the visibility analysis and requires their preservation.

The locations of the viewing areas are shown on the map on the next page, and are as follows:

1. Blossom Hill Road/Los Gatos Boulevard
2. Los Gatos - Almaden Road/Selinda Way (across from Leigh High School)
3. Hwy 17 overcrossing/Los Gatos - Saratoga Road (Highway 9)
4. Main Street/Bayview Avenue
5. Other location(s) as deemed appropriate by the Community Development Director

Viewing area locations are intended to provide a general vicinity for the visibility analysis and photo locations. Where there are obstructions (buildings, signs, or foreground vegetation) that block a clear and unobstructed view of the site, the origination point shall be adjusted in consultation with staff to the nearest point that provides a clear and unobstructed view by moving away from the viewing area location along a public road up to 500 feet in any direction.

Town of Los Gatos Hillside Area and Viewing Area Map





Northwest Corner of the intersection of Selinda Way and Los Gatos-Almaden Road

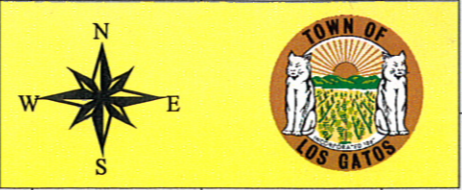
Southwest Corner of the Intersection of Blossom Hill Road and Los Gatos Boulevard

West of the Intersection of the Southbound Highway 17 On-Ramp and Los Gatos-Saratoga Road (Highway 9)

Northwest Corner of the Intersection of W. Main Street and Bayview Avenue

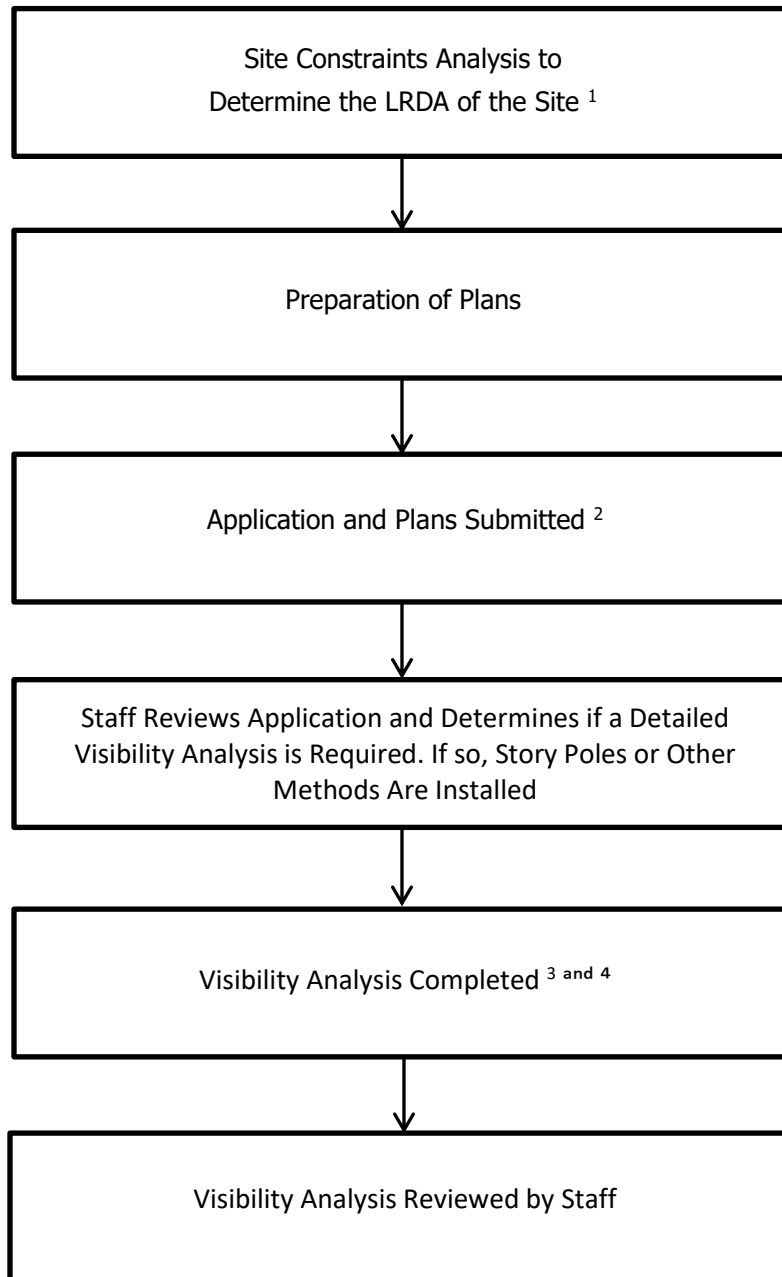
LEGEND

-  VIEWING AREA LOCATIONS
-  HILLSIDE AREA





2. Visibility Analysis Processing Flow Chart



¹ Page 12 and page 56 of the HDS&G <http://www.losgatosca.gov/DocumentCenter/View/168> and <http://www.losgatosca.gov/DocumentCenter/View/175>

² Page 63 of the HDS&G <http://www.losgatosca.gov/DocumentCenter/View/175>

³ Page 13 of the HDS&G <http://www.losgatosca.gov/DocumentCenter/View/168>

⁴ Division 2 – Tree Protection Ordinance https://library.municode.com/ca/los_gatos/codes/code_of_ordinances?nodeId=CO_CH29ZORE_ARTIINGE_DIV2TRPR



2. Determination of significant ridgelines.

Significant ridgelines include:

- a. Aztec Ridge;
- b. The ridge between Blossom Hill Road and Shannon Road;
- c. Other ridgelines as determined by the approving body

C. Selecting the building site.

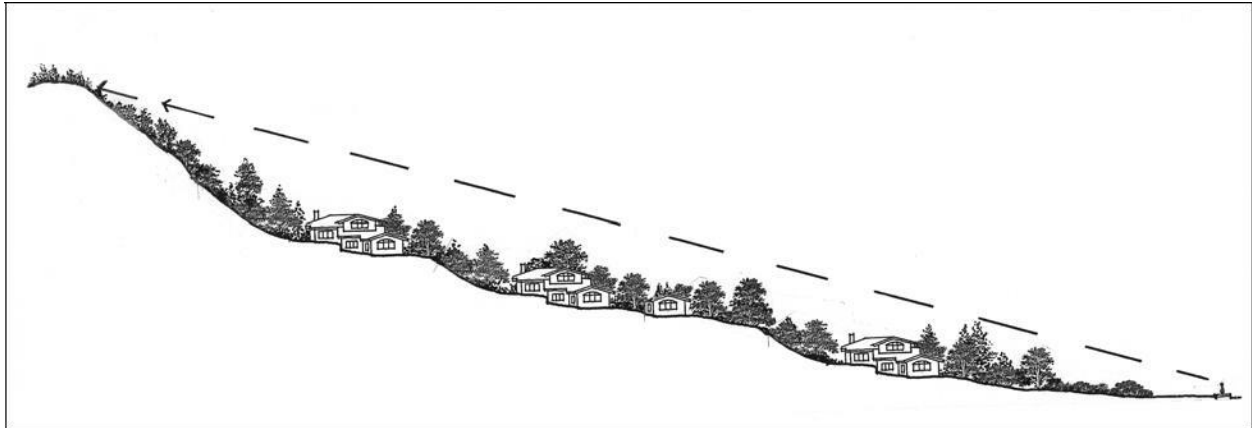
Standards:

1. **Locate buildings within the Least Restrictive Development Area.**
2. **Preserve views of highly visible hillsides.** Views of the hillsides shall be protected from adverse visual impacts by locating buildings on the least visible areas of the LRDA.
3. **Reduce visual impact.** The visual impact of buildings or portions of buildings that can be seen from the viewing areas shall be mitigated to the greatest extent reasonable by reducing the height of the building or moving the structure to another location on the site. Providing landscape screening is not an alternative to reducing building height or selecting a less visible site.
4. **Ridgeline view protection.** Whenever possible within the significant ridgeline areas, no primary or accessory building shall be constructed so as to project above the physical ridgeline (not including vegetative material) as seen from any viewing areas.

Refer to the
Blossom Hill
Comprehensive
Open Space
Study

If a building cannot be sited below a significant ridgeline because the area away from it is not the LRDA or is otherwise not suitable for development, the following shall apply:

- a. The building shall not exceed 18 feet in height.
- b. Landscaping shall be provided to screen the building from view to the greatest extent possible.



Houses do not project above significant ridgeline

- 5. Preserve natural features.** Existing natural features shall be retained to the greatest extent feasible and integrated into the development project. Site conditions such as existing topography, drainage courses, rock outcroppings, trees, significant vegetation, wildlife corridors, and important views will be considered as part of the site analysis and will be used to evaluate the proposed site design.
- 6. Avoid hazardous building sites.** Building in areas with more than 30 percent slope or areas containing liquefiable soil with poor bearing capacity, slide potential, fault rupture zones and other geotechnical or fire hazards shall be avoided unless no alternative building site is available.
- 7. Protect riparian corridors.** Building sites shall be set back an appropriate distance from riparian corridors to be determined on a site by site basis. Natural drainage courses should be preserved in as close to their natural location and appearance as possible.
- 8. Protect wildlife.** Existing wildlife usage of the site and in particular any existing wildlife corridors shall be identified and avoided to the maximum extent possible.

Guidelines:

- 1. Solar orientation.** Building sites should be selected to take maximum advantage of solar access.
- 2. Solar orientation.** Building sites should be selected to take maximum advantage of solar access.



- 3. Impact on adjacent properties.** Building sites should be located where they will have the least impact on adjacent properties and respect the privacy, natural ventilation and light, and views of neighboring homes.
- 4. Minimize grading.** The building site should be located to minimize grading.



III. SITE PLANNING

The intent of this section is to ensure that new development fits into the topography with minimum impacts to the site physically and visually.

Refer to the
Town's
Grading
Ordinance

A. Grading.

A grading permit shall be obtained as required by the Town's Grading Ordinance. Vegetation removal may qualify as grading.

Standards:

1. The following cut and fill criteria are intended to ensure that new construction retains the existing landform of the site and follows the natural contours.

Cuts and fills in excess of the following levels are considered excessive and contrary to the objectives of the Hillside Design Standards and Guidelines. Grade to the minimum amount necessary to accommodate buildings and to site structures consistent with slope contours. These are maximum numbers and may be reduced by the deciding body if the project does not meet other grading standards or is not consistent with the goals and objectives of the Hillside Development Standards and Guidelines.

Table 1
Maximum Graded Cuts and Fills

Site Element	Cut*	Fill*
House and attached garage	8'**	3'
Accessory Building*	4'	3'
Tennis Court*	4'	3'
Pool*	4'***	3'
Driveways*	4'	3'
Other (decks, yards) *	4'	3'

* Combined depths of cut plus fill for development other than the main residence shall be limited to 6 feet.

** Excludes below grade square footage pursuant to Section 29.40.072 of the Town Code.

*** Excludes excavation for pool.

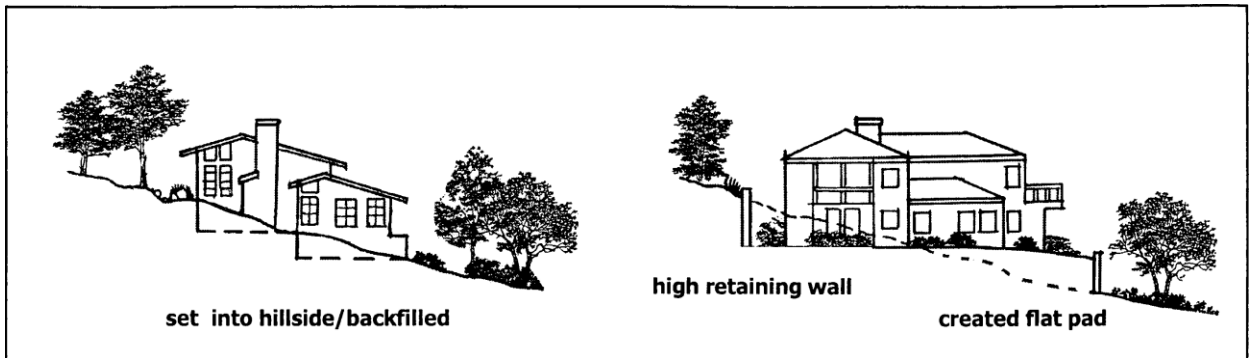
2. Earthwork quantities (grading) shall be categorized as follows:
 - a. access: driveway, parking and fire turnaround, if applicable
 - b. house footprint
 - c. below grade square footage pursuant to Section 29.40.072 of the Town Code

TOWN OF LOS GATOS
HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES





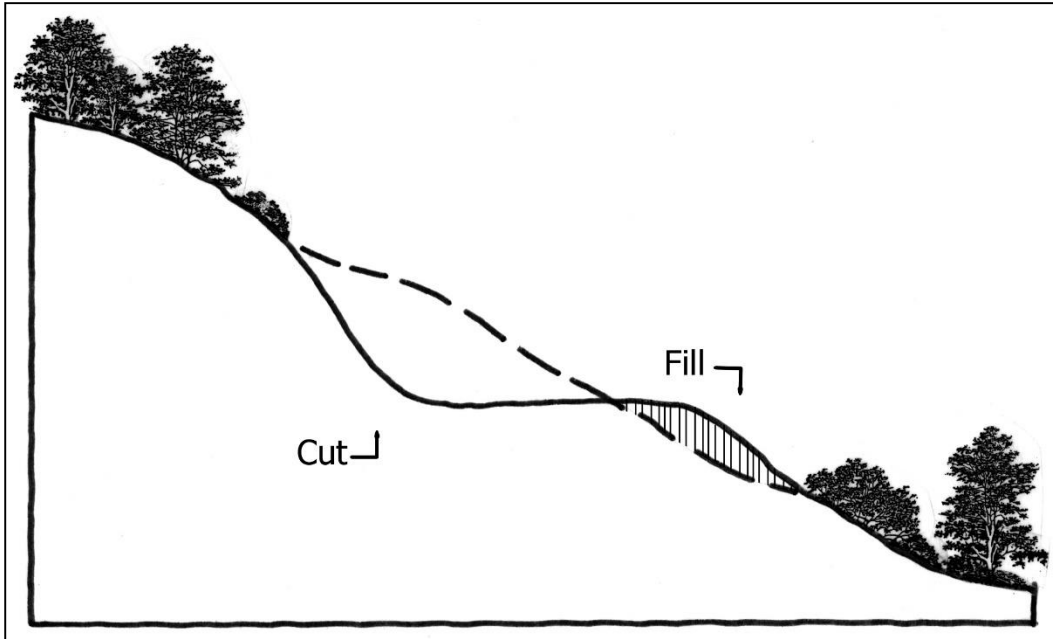
- d. other areas including landscaping, hardscape and outdoor spaces
 - e. total
3. Buildings shall be located in a manner that minimizes the need for grading and preserves natural features such as prominent knolls, ridgelines, ravines, natural drainage courses, vegetation, and wildlife habitats and corridors to the maximum extent possible.
 4. Unless specifically approved by the Town, strip grading for the purpose of clearing land of native vegetation is prohibited except for small areas adjacent to buildings, access drives, and parking areas.
 5. Graded areas shall not be larger than the area of the footprint of the house, plus that area necessary to accommodate access, guest parking, and turnaround areas.
 6. After placing development the site shall be restored as closely as possible to its original topography.



Do this

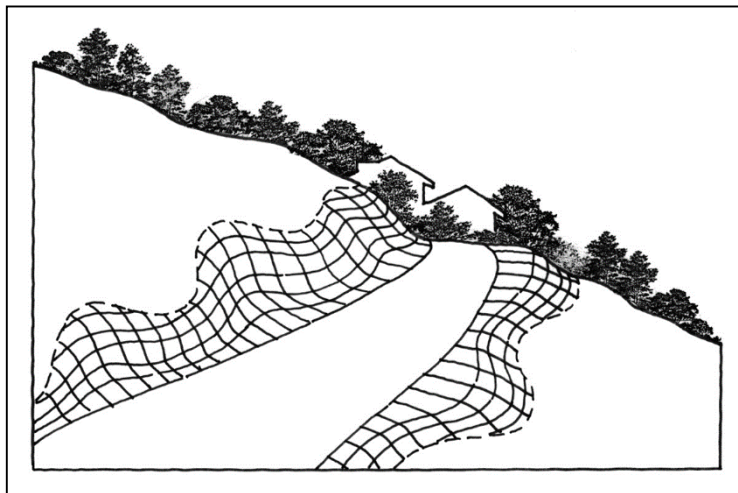
Don't do this

7. Contour grading techniques shall be used to provide a variety of both slope percentage and slope direction in a three-dimensional undulating pattern similar to existing, adjacent terrain. The following concepts shall be utilized:
 - a. Hard edges left by cut and fill operations shall be given a rounded appearance that closely resembles the natural contours of the land.



Rounded edges resemble natural slope

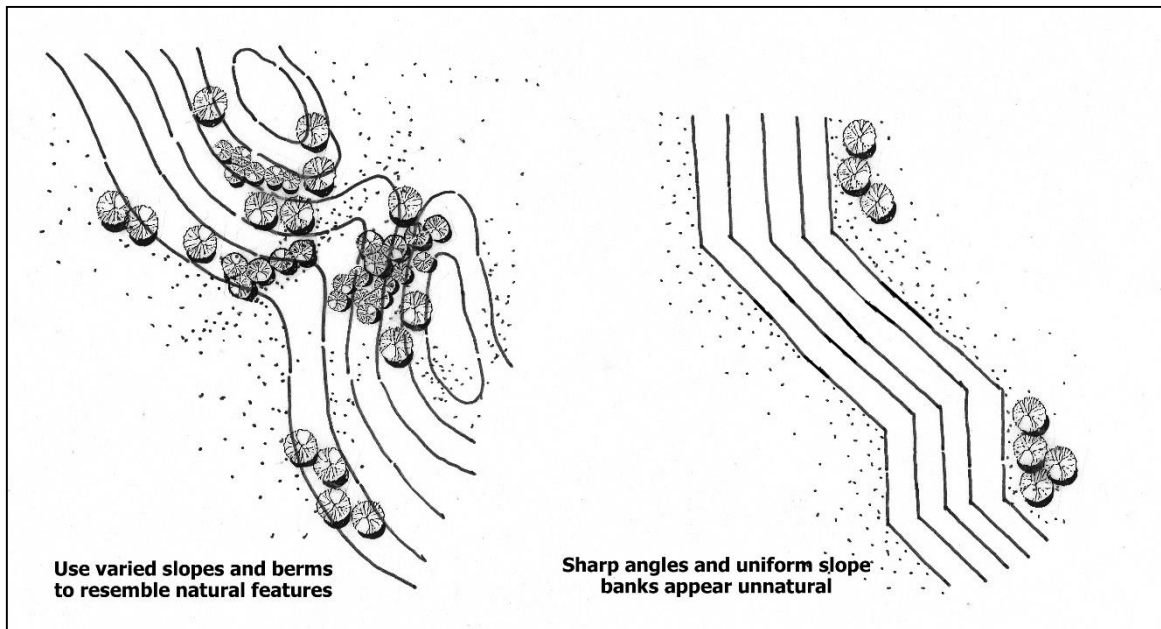
- b. Manufactured slopes adjacent to driveways and roadways shall be modulated by berming, regrading, and landscaping to create visually interesting and natural appearing streetscapes. However, preservation of trees and elimination of retaining walls is a priority.



Modulate manufactured slopes to appear natural



- c. Where cut and fill conditions are created, slopes shall be varied rather than left at a constant angle, which creates an unnatural, engineered appearance.



Do this

Don't do this

- d. The angle of any graded slope shall be gradually transitioned to the angle of the natural terrain. Creation of new grades slopes, significantly steeper than local natural slopes should be minimized.
8. Grading plans shall include provisions for restoration of vegetation on cuts and fills. All manufactured slopes shall be planted with native, fire-resistant, low water using plantings to control erosion.
9. An erosion/sedimentation control plan shall be included with all site plans and/or grading plans. The erosion/sedimentation control plan shall provide interim (during construction) and ultimate plans for control of erosion and sedimentation or describe in detail why this is not necessary.
10. Grading shall not occur during the rainy season (October 1 to April 1) unless approved by the Town Engineer. If grading is planned to occur between October 1 and April 1, interim provisions for erosion and sedimentation control shall be in place before grading begins.



Guidelines:

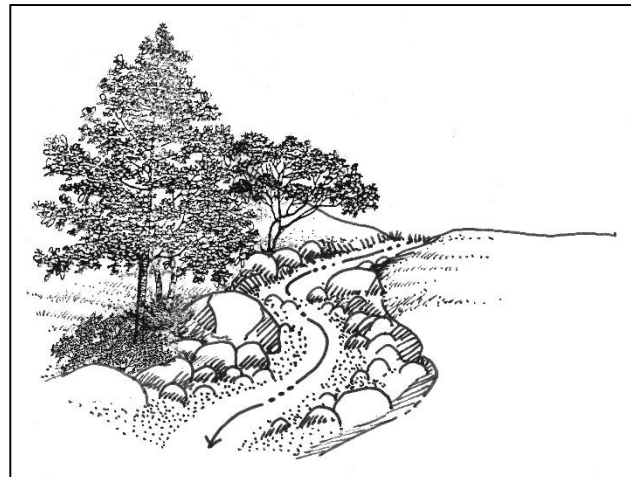
1. The creation of permanent flat pads, except for the house footprint and area needed for access, parking and turnaround, should be avoided

B. Drainage.

Standards:

1. Runoff shall be dispersed within the subject property to the greatest extent feasible. Runoff concentration that requires larger drainage facilities shall be avoided.
2. Upslope drainage shall not negatively impact downslope development.
3. Natural drainage courses shall be preserved with any native vegetation intact and shall be enhanced to the extent possible, and shall be incorporated as an integral part of the site design in order to preserve the natural character of the area.
4. Manmade drainage channels shall receive a naturalizing treatment such as rock and landscaping so that the structure appears as a natural part of the environment.

**Manufactured
drainage courses
shall simulate
natural drainage
courses**



Guidelines:

1. Manmade drainage channels should be placed in the least visible locations possible.
2. Lining of natural drainage courses is discouraged.



3. Dry Stream effects (manufactured drainage courses designed to simulate natural drainage courses) that move water over the property are preferred over channeling or underground methods.

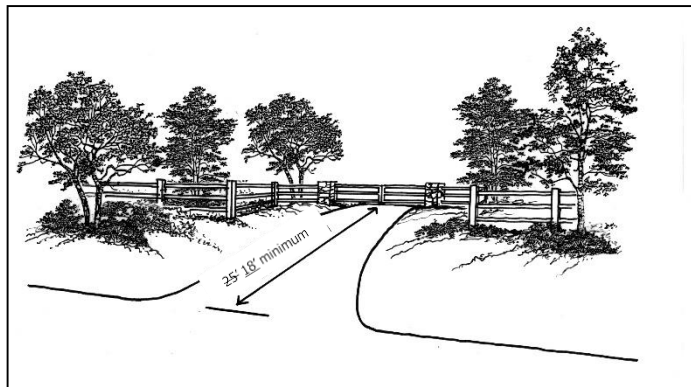
C. Driveways and parking.

It is recommended that the Fire Department be consulted early in the design process about water supply, accessibility and the need for emergency vehicle turnarounds, turnouts, etc.

Standards:

See
Chapter
VII.B.
Standard 2

1. Driveways shall be located so as to minimize the need for grading.
2. Driveways shall be paved in compliance with Town standards, and shall be installed prior to occupancy.
3. When a gated entrance is provided, the gates shall be set back a minimum of 18 feet from the right-of-way to allow vehicles to pull completely off the roadway while waiting for the gates to open. Gated entrances serving more than one house may be required to have a greater setback. Gates should open away from or parallel to the street.



**Entrance gates shall
be set back at least
18 feet from the
street**

4. Driveways shall have an all-weather surface in compliance with Fire Department weight loading requirements (40,000 pounds).
5. The maximum slope of a driveway shall not exceed 15 percent unless it can be demonstrated that a flatter driveway cannot be constructed without excessive grading (more than 4 feet of cut or 3 feet of fill). Driveway slopes in excess of 15 percent require approval by the Town Engineer and Santa Clara County Fire Department.



Guidelines:

1. Driveways serving one residence should have a 12-foot minimum width.
2. The maximum length of a driveway should be 300 feet unless the deciding body makes specific findings for deviation and places additional conditions such as turnouts and secondary accesses to reduce hazards. A turnaround area shall not have a grade that exceeds five (5) percent.
3. Driveway approaches should be located a safe distance from intersections. On adjoining properties, driveways should be spaced a minimum of 20 feet apart or located immediately adjacent to each other.
4. Shared driveways serving more than one lot are encouraged as a means of reducing grading and impervious surfaces.
5. Driveways should be located and maintained so as to ensure an adequate line of sight.

D. Safety.

Geologic hazards.

Potential geologic hazards, if not avoided or mitigated, can result in damage to the environment and structures and can place public safety at risk.

Standards:

1. Site specific geologic engineering investigations and reports are required of qualifying projects in State of California Seismic Hazard Zones (Liquifaction and Earthquake Induced Landslide Areas) and in areas believed to be geologically hazardous as determined by the Director of Community Development and /or Town Engineer. Refer to California Geological Survey Seismic Hazard Zones Map, Los Gatos Quadrangle, dated September 23, 2002.
2. Construction shall be avoided in areas with geologic hazards (e.g., slope instability, seismic hazards, etc.) as identified in the site specific geologic investigations and reports, unless adequate mitigation design measures are proposed to achieve a low level of risk.

Guidelines: None.



Fire hazards.

The hillsides above Los Gatos are areas of high fire hazard. House fires in the hillsides have the potential to become wildfires if not controlled quickly. A dependable, adequate water supply, automatic fire sprinklers, access for fire fighting equipment and fast response times are critical factors in gaining quick control over a structural fire. Factors that affect the speed at which a wildfire spreads include topography, available fuel, weather (wind, humidity) and availability of fire fighting resources. Lack of adequate circulation or evacuation routes can also impact public safety.

Development in the hillsides presents inherent conflicts between creating and maintaining a fire safe environment, preserving existing vegetation, and minimizing the visual impacts of new development. These conflicts can be minimized by incorporating the concept of fire defensible space into site planning and landscape design. The concept of defensible space involves reducing fuel load, designing structures and landscaping with fire safety in mind, and locating structures to minimize their exposure to wildfires.

Standards:

1. Building locations shall be selected and structures designed to minimize exposure to wildfires (also see Chapter V. Section I.).
2. A landscape plan shall be provided and will be reviewed by the Town's Landscape Consultant with input from the Fire Department. The landscape plan shall create defensible space around the home, and if there is a fire ladder on the property it shall be eliminated in an environmentally sensitive manner.
3. Development shall have adequate fire access (also see Chapter III section C. and Chapter VII section b.2.).
4. A dependable and adequate water supply for fire protection and suppression purposes, as required by the Santa Clara County Fire Department, shall be provided for all properties. If no public hydrant is available, there shall be an on-site water supply in a storage facility with an appropriate outlet valve in close proximity to an accessible hard road surface.
5. Water for fire suppression shall be available and labeled before any framing may begin.
6. Above ground water tanks shall not be located in required setback areas.



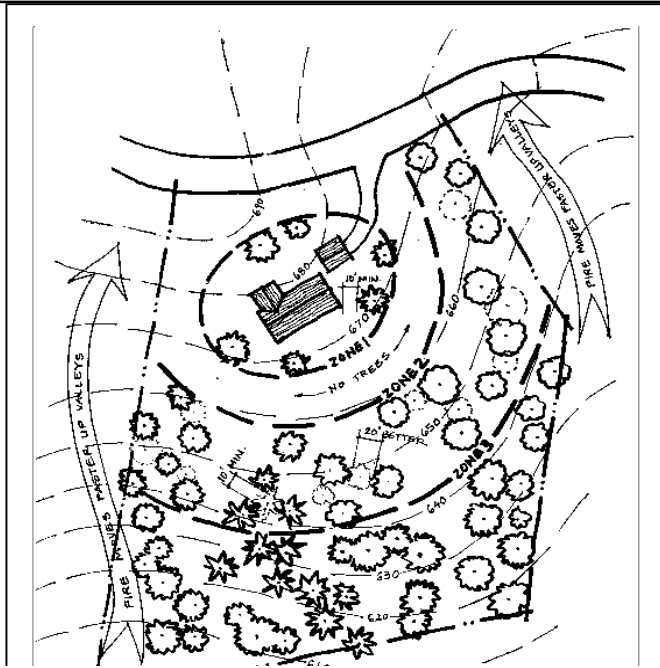
Guidelines:

1. Development should avoid areas subject to severe fire danger. In order to achieve this, development should:
 - a. Be set back from the crest of a hill
 - b. Not be located at the top of a canyon
 - c. Not be located on or adjacent to slopes greater than 30%
 - d. Not be located within densely wooded areas

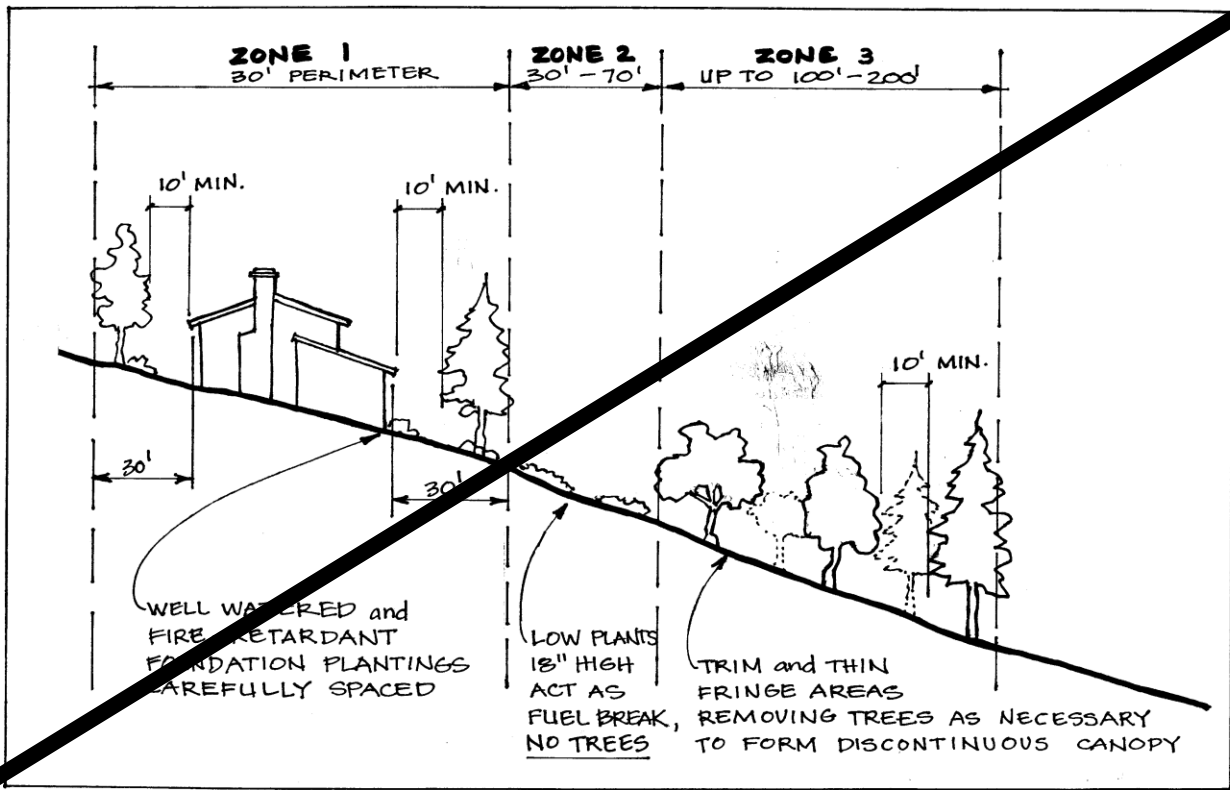
If this is not possible, measures designed to assure the highest degree of fire prevention, and fast effective means of evacuation and fire suppression shall be provided.

2. The fuel load within a defensible space should be minimized by use of selective pruning, thinning and clearing as follows:
 - Removal of flammable species and debris
 - Removal of dead, dying or hazardous trees
 - Mow dead grasses
 - Removal of dead wood from trees and shrubs
 - Thin tree crowns (maximum of 25%)
3. Discontinuous fuel sources should be created and maintained within a defensible space through use of the following techniques (see illustrations on page 27):
 - Thin vegetation to form discontinuous groupings of trees or shrubs
 - Limb trees up from the ground
 - Establish a separation between the lowest branches of a tree and any understory shrubs.
4. Landscaping within a defensible space should be designed with fire safety in mind. Landscaping in defensible space should be:
 - Fire resistant and drought tolerant
 - Predominantly low growing shrubs and groundcovers (limit shrubs to 30% coverage)
 - Limited near foundations (height and density)
5. Above ground tanks should not be located in areas of high visibility unless it can be demonstrated to the satisfaction of the decision making body that no other feasible locations are available.

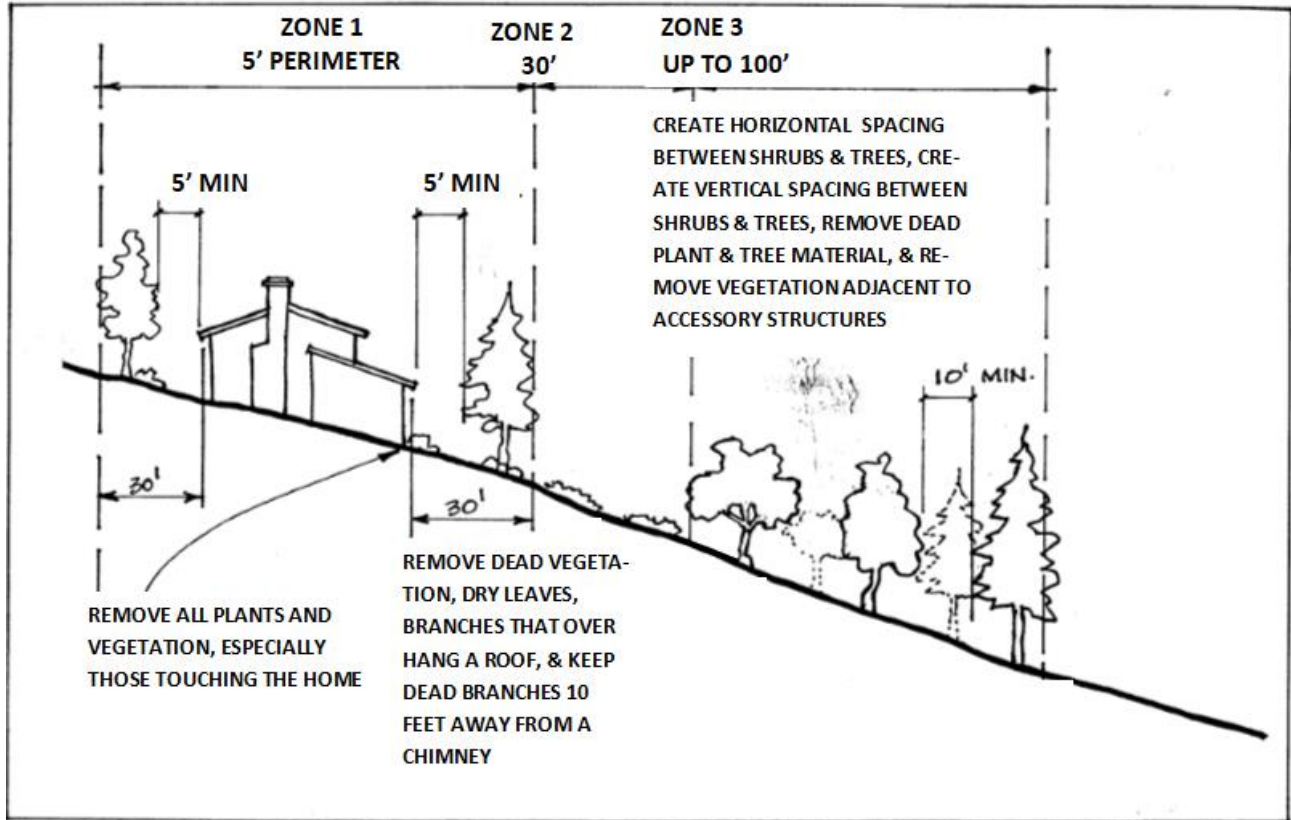
Refer to
Appendix
A



**Defensible space
 should be
 maintained
 around the home**



TOWN OF LOS GATOS
HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES



TOWN OF LOS GATOS
HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES



TOWN OF LOS GATOS
HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES





IX. PROJECT REVIEW AND APPROVAL PROCESS

A. Architecture and Site Approval

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

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

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

B. Project Approval Authority

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

The Planning Commission is the decision making body for projects that have the greatest potential impact, while the DRC and Director make decisions on projects with less impact, as described in Subsections below.



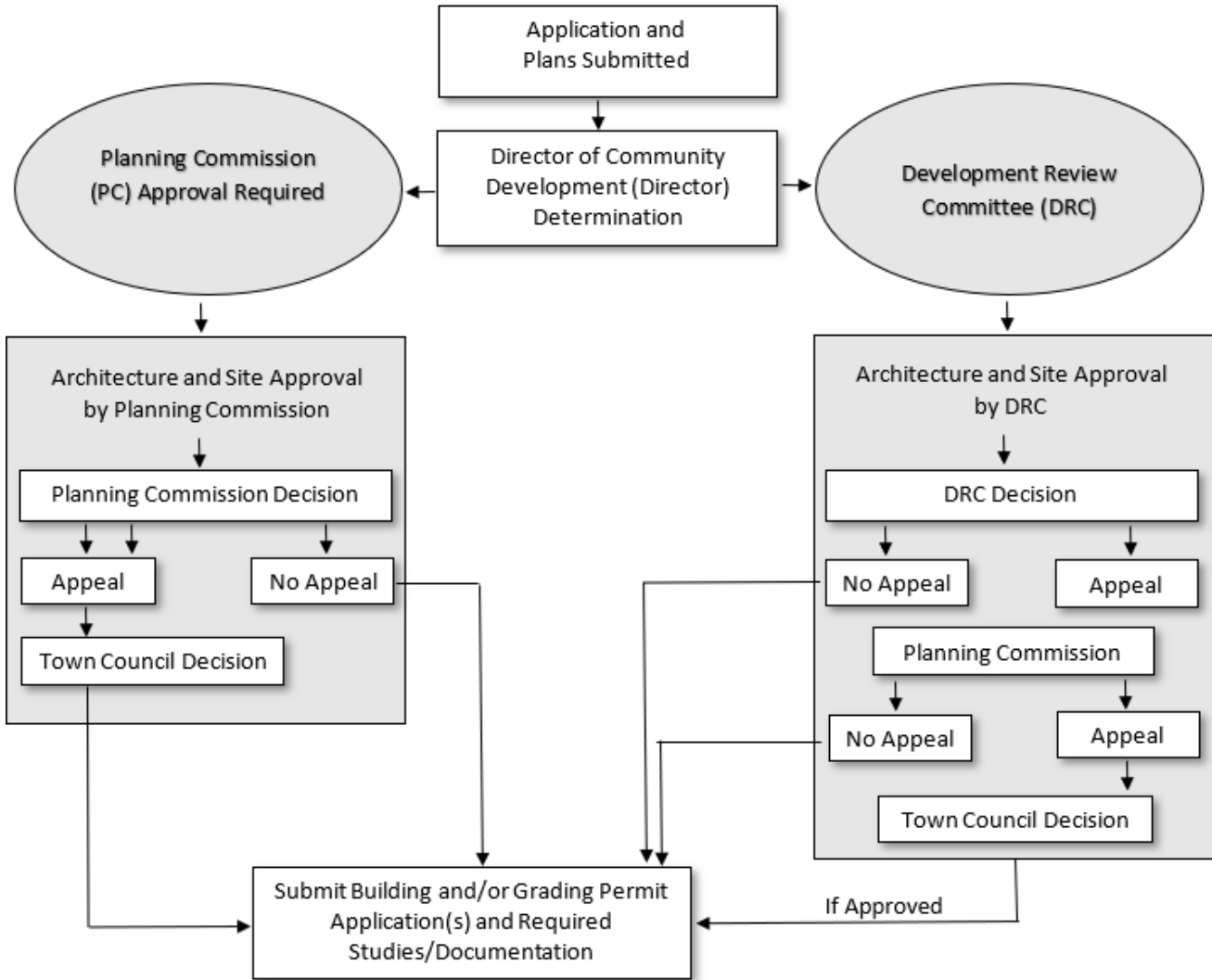
The subdivision and architecture and site approval processes are discretionary actions on the part of all decision making bodies. When reviewing projects, the decision making body may:

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

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



Architecture and Site Review Process





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

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

- a. Accessory dwelling units pursuant to Section 29.10.320 of the Town Code.
- b. Accessory buildings that have a combined gross floor area greater than 450, but less than 600 square feet may be approved with a Minor Residential Application pursuant to Section 29.20.480 of the Town Code.
- c. Swimming pools that do not require a grading permit.

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

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

- a. New houses that meet the allowable floor area ratio and that are not visible from any established viewing area.
- b. Accessory buildings, that have a combined gross floor area of 600 square feet or more but do not exceed 1,000 square feet in combined gross floor area.
- c. Swimming pools and game courts requiring a grading permit and/or retaining walls.
- d. Grading permits.



3. Projects That Require Planning Commission Approval

The Planning Commission has the authority to approve all architecture and site projects that do not fall within the authority of the DRC and any projects referred to it by the Director. The Planning Commission approves standard subdivisions and makes recommendations to the Town Council on Planned Development applications.

C. Application Period of Validity

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

D. Required findings

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

E. Exceptions

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

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

- a. building height
- b. maximum floor area



ORDINANCE 2301

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 9 (FIRE PREVENTION AND PROTECTION) OF THE TOWN CODE REGARDING WEED ABATEMENT REGULATIONS

WHEREAS, the Town of Los Gatos; has traditionally adopted Chapter 49 of the California Fire Code (with amendments) which incorporates the legal requirements associated with State mandated defensible space;

WHEREAS, the State mandates 100 feet of defensible space around buildings and structures within Very High Fire Hazard Severity Zones;

WHEREAS, State law allows for jurisdictions to adopt additional defensible space standards based on severity of wildfire risk;

WHEREAS, the Los Gatos Wildland Urban Interface (WUI) planning area includes primarily Very High Fire Hazard Severity Zone (VHFHSZ) areas.

WHEREAS, the Town Council recognizes that in addition to the State mandated requirements the development and maintenance of defensible space is essential to reducing wildfire risk within the community;

WHEREAS, the proposed amendment changes will reduce the risk of wildfire and effectuate safer passage for first responders and residents in the event of a wildfire;

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

SECTION II

CHAPTER 49 REQUIREMENTS FOR WILDLAND-URBAN INTERFACE FIRE AREAS

Section 4902 Definitions of Town Code Chapter 9 are hereby added/amended to read as follows:

DEFENSIBLE SPACE. An area around the perimeter of a structure in which vegetation, debris, and other types of combustible fuels are treated, cleared, or reduced to slow the rate and intensity of potentially approaching wildfire or fire escaping from structure(s).

REDUCED FUEL ZONE. In this area of the defensible space, efforts are placed on ensuring fuels/vegetation are separated vertically and horizontally depending on the vegetation type.

Wildland-Urban Interface Fire Area. A geographical area identified by the state as a " Fire Hazard Severity Zone" in accordance with the Public Resources Code, Sections 4201 through 4204, and Government Code Sections 51175 through 51189, or other areas designated by the enforcing agency to be at a significant risk from wildfires. The Wildland-Urban Interface Fire Area is defined as all areas within the Town of Los Gatos as set forth and delineated on the map entitled "Wildland-Urban Interface Fire Area" which map and all notations, references, data, and other information shown thereon are hereby adopted and made a part of this chapter. The map properly attested, shall be on file in the Office of the Town Clerk of the Town of Los Gatos.

Section 4906.2 Application of Town Code Chapter 9 are hereby amended to read as follows:

2. Land designated as a Very-high Fire Hazard Severity Zone or as a Wildland Urban Interface Fire Area by the Town of Los Gatos.

Section 4907.2 Defensible Space Fuel Modification are hereby added to read as follows:

4907.2 Defensible Space Fuel Modification.

Persons owning, leasing, controlling, operating, or maintaining buildings or structures, and/or lands in, upon, or adjoining the locally adopted Wildland-Urban Interface Fire Area, shall at all times comply with the following:

1. Maintain defensible space of 100 feet from each side and from the front and rear of any building or structure, but not beyond the property line except as provided by law. The 100 feet of defensible space should be segregated into the following zones:
 - a. Maintain an effective defensible space by removing and clearing away flammable vegetation and other combustible materials from areas within 30 feet of such buildings or structures.

Exception: When approved by the Fire Chief or his/her designee, single specimens of trees, ornamental shrubbery or similar plants used as ground covers, provided that they do not form a means of rapidly transmitting fire from the native growth to any structure.
 - b. Maintain an additional reduced fuel zone of 70 feet from all buildings and structures with an emphasis on vertical and horizontal separation of fuels/vegetation. Distances beyond an additional 70 feet may be required when the Fire Chief or his/her designee, determines that due to steepness of terrain or other conditions, 70 additional feet is insufficient.

Exception: When approved by the Fire Chief or his/her designee grass and other vegetation located more than 30 feet from buildings or structures and less than 18 inches in height above the ground need not be removed where necessary to stabilize the soil and prevent erosion.

- c. New construction must create a noncombustible area a minimum of 5 feet from structures.
2. Remove portions of trees, which extend within 10 feet of the outlet of any chimney or stovepipe.
3. Maintain any tree, shrub, or other plant adjacent to or overhanging any building or structure free of dead limbs, branches or other combustible material.
4. Maintain the roof of any structure and roof gutters free of leaves, needles, or other combustible materials.
5. Maintain defensible space as determined by the Fire Chief or his/her designee around water tank structures, water supply pumps, and pump houses.
6. Remove flammable vegetation a minimum of 10 feet around liquefied petroleum gas tanks/containers.
7. Firewood and combustible materials shall not be stored in unenclosed spaces beneath buildings or structures, or on decks or under eaves, canopies or other projections or overhangs. The storage of firewood and combustible material within the defensible space shall be located a minimum of 30 feet from structures and separated from the crown of trees by a minimum horizontal distance of 15 feet.

Exception: Firewood and combustible materials not for consumption on the premises shall be stored as approved by the Fire Chief or his/her designee.

8. Clear areas within 10 feet of fire apparatus access roads and driveways of non- fire-resistive vegetation growth.

Exception: Single specimens of trees, ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents, or similar plants used as ground cover, provided they do not form a means of readily transmitting fire.

Section 4907.3 Defensible Space Along Property Lines are hereby added to read as follows:

4907.3 Defensible space along property lines. Pursuant to Government Code Section 51182 and Public Resources Code Section 4291(a)(2):

1. When an occupied building is less than 100 feet from a property line and combustible vegetation on an adjacent parcel presents a fire hazard for the occupied building as determined by the Fire Chief or his/her designee then the owner of the adjacent parcel where the hazard exists shall be responsible for fuel management, including removal to the satisfaction of the Fire Chief or his/her designee.

Section 4907.4 Corrective Actions are hereby added to read as follows:

4907.4 Corrective actions. When the Fire Chief or his/her designee determines defensible space to be inadequate the Town Council is authorized to instruct the Fire Chief or his/her designee to give notice to the owner of the property upon which conditions regulated by Sections 4907.2 and 4907.3 exist to correct such conditions. If the owner fails to correct such conditions, the Town Council is authorized to cause the same to be done and make the expense of such correction a lien upon the property where such conditions exist.

SECTION III

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 IV

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 V

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 VI

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 21st day of January 2020 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 4th day of February 2020 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: Rob Rennie, Marico Sayoc, Barbara Spector, Mayor Marcia Jensen
NAYS: None
ABSENT: None
ABSTAIN: None

SIGNED:



MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 2/5/20

ATTEST:



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

DATE: 2/5/2020

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ORDINANCE 2303

**ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 29 (TREE PROTECTION) OF THE TOWN CODE
REGARDING WEED ABATEMENT REGULATIONS**

WHEREAS, the Town of Los Gatos; recognizes that the community benefits from preserving the scenic beauty of the Town;

WHEREAS, the Town Council acknowledges that trees provide multiple benefits it also recognizes that a significant portion of the Town is located in a Very High Fire Hazard Severity Zone;

WHEREAS, the State mandates 100 feet of defensible space around buildings and structures within Very High Fire Hazard Severity Zones;

WHEREAS, the Town Council recognizes that the development and maintenance of defensible space is essential to reducing wildfire risk within the community;

WHEREAS, the proposed amendment changes will reduce the risk of wildfire and effectuate safer passage for first responders and residents in the event of a wildfire;

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

SECTION II

DIVISION 2 – TREE PROTECTION

Section 29.10.0950. Intent of Town Code Chapter 29 are hereby amended to read as follows:

Sec. 29.10.0950. - Intent.

This division is adopted because the Town of Los Gatos is forested by many native and non-native trees and contains individual trees of great beauty. The community of the Town benefit from preserving the scenic beauty of the Town, preventing erosion of topsoil, providing protection against flood hazards and risk of landslides, counteracting pollutants in the air, maintaining climatic balance, and decreasing wind velocities. It is the intent of this division to regulate the removal of trees within the Town in order to retain as many trees as possible consistent with the purpose of this section and the reasonable use of private property. While trees provide multiple benefits, it is also the intent of this division to acknowledge that a

portion of the Town is located in a Very High Fire Hazard Severity Zone as defined by the California Department of Forestry and Fire Protection (CAL FIRE) and the associated wildfire threat that exists for the community. It is the intent of this division to preserve as many protected trees as possible throughout the Town through staff review and the development review process. Special provisions regarding hillsides are included in section 29.10.0987 of this division in recognition of the unique biological and environmental differences between the hillside and non-hillside areas of the Town. This section does not supersede the provisions of Chapter 26 of this Code.

Section 29.10.0955 Definitions of Town Code Chapter 29 are hereby added to read as follows:

Defensible Space means an area around the perimeter of a structure in which vegetation, debris, and other types of combustible fuels are treated, cleared, or reduced to slow the rate and intensity of potentially approaching wildfire or fire escaping from structures.

Section 29.10.0970 Exceptions are hereby amended to read as follows:

The following trees are excepted from the provisions of this division and may be removed or severely pruned without Town approval or issuance of a tree removal permit:

- (1) A fruit or nut tree that is less than eighteen (18) inches in diameter (fifty-seven-inch circumference).
- (2) Any of the following trees that are less than twenty-four (24) inches in diameter (seventy-five (75) inches in circumference):
 - (1) Black Acacia (*Acacia melanoxylon*)
 - (2) Tulip Tree (*Liriodendron tulipifera*)
 - (3) Tree of Heaven (*Ailanthus altissima*)
 - (4) Blue Gum Eucalyptus (*E. globulus*)
 - (5) Red Gum Eucalyptus (*E. camaldulensis*)
 - (6) Other Eucalyptus (*E. spp.*)-Hillsides only
 - (7) Palm (except *Phoenix canariensis*)
 - (8) Privet (*Ligustrum lucidum*)
- (3) Any removal or maintenance of a tree to conform with the implementation and maintenance of Defensible Space per Chapter 9 – Fire Prevention and Protection with the exception of any tree listed in subcategories (3) and (10) of Sec.29.10.0960 – Scope of Protected Trees.

Section 29.10.0992 Required Findings are hereby added to read as follows:

The Director, Director's designee, or deciding body shall approve a protected tree removal permit, severe pruning permit, or pruning permit for Heritage trees or large protected trees only after making at least one (1) of the following findings:

- (1) The tree is dead, severely diseased, decayed or disfigured to such an extent that the tree is unable to recover or return to a healthy and structurally sound condition.
- (2) The tree has a tree risk rating of Extreme or High on the ISA Tree Risk Rating Matrix as set forth in the ISA Tree Risk Assessment Best Management Practices, or successor publication.
- (3) The tree is crowding other protected trees to the extent that removal or severe pruning is necessary to ensure the long-term viability of adjacent and more significant trees.
- (4) The retention of the tree restricts the economic enjoyment of the property or creates an unusual hardship for the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly situated properties, and the applicant has demonstrated to the satisfaction of the Director or deciding body that there are no reasonable alternatives to preserve the tree.
- (5) The tree has, or will imminently, interfere with utility services where such interference cannot be controlled or remedied through reasonable modification, relocation or repair of the utility service or the pruning of the root or branch structure of the tree; or where removal or pruning is required by a public utility to comply with California Public Utility Commission (CPUC) or Federal Energy Regulatory Commission (FERC) rules or regulations.
- (6) The tree has caused or may imminently cause significant damage to an existing structure that cannot be controlled or remedied through reasonable modification of the root or branch structure of the tree.
- (7) Except for properties within the hillsides, the retention of the protected tree would result in reduction of the otherwise-permissible building envelope by more than twenty-five (25) percent.
- (8) The removal of the tree is unavoidable due to restricted access to the property.
- (9) The removal of the tree is necessary to repair a geologic hazard.
- (10) The removal of the tree and replacement with a more appropriate tree species will enhance the Town's urban forest.
- (11) The removal of the tree is necessary to conform with the implementation and maintenance of Defensible Space per Chapter 9 – Fire Prevention and Protection per direction by the Fire Chief or his/her designee.

SECTION III

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 IV

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SECTION V

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 VI


This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 21st day of January 2020 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 4th day of February 2020 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: Rob Rennie, Marico Sayoc, Barbara Spector, Mayor Marcia Jensen
NAYS: None
ABSENT: None
ABSTAIN: None

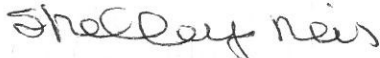
SIGNED:



MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 2/5/20

ATTEST:

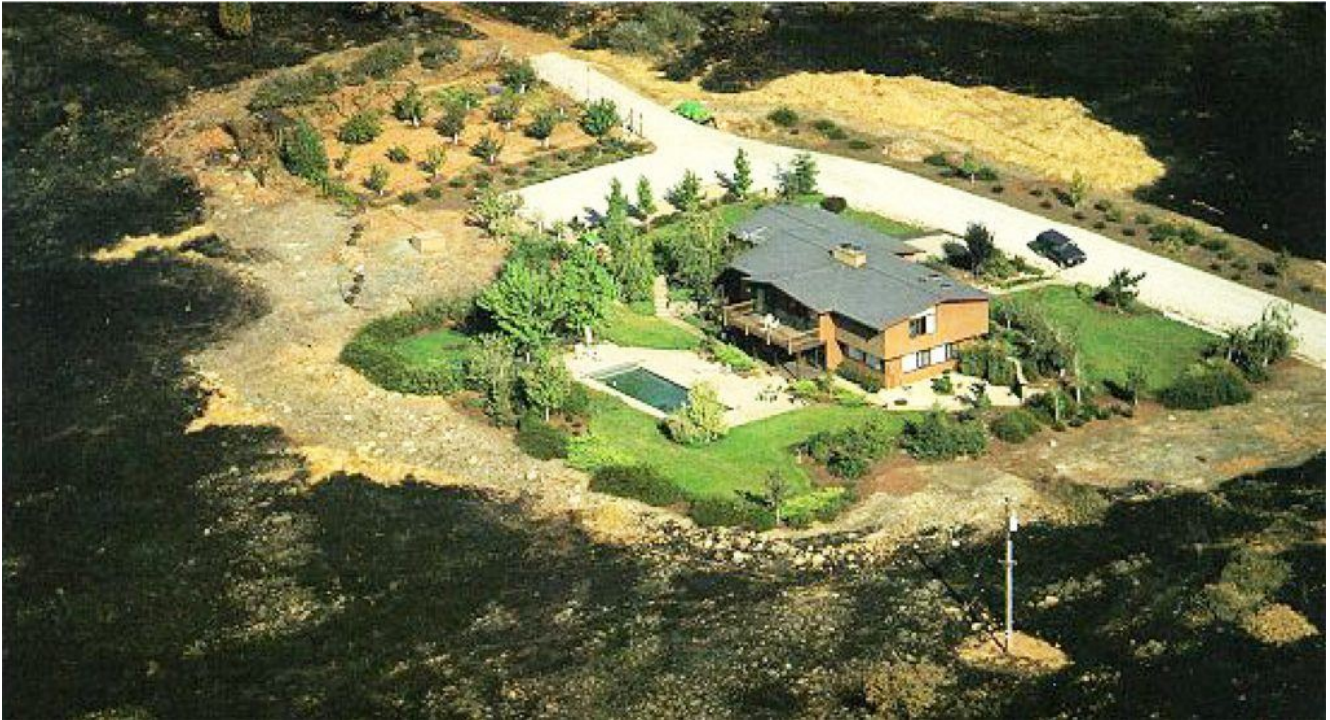


TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 2/5/2020

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Defensible Space Saves Lives



Did you know that actively maintaining defensible space around your home will dramatically increase your home's chance of surviving a wildfire? Defensible space is the buffer you create between a building on your property and the grass, trees, shrubs, or any wildland area that surround it. This space is needed to slow or stop the spread of wildfire and protect your home from catching fire. Defensible space is also an important protection for our firefighters and other emergency responders entrusted with defending our homes and neighborhoods.

Protecting Your Home

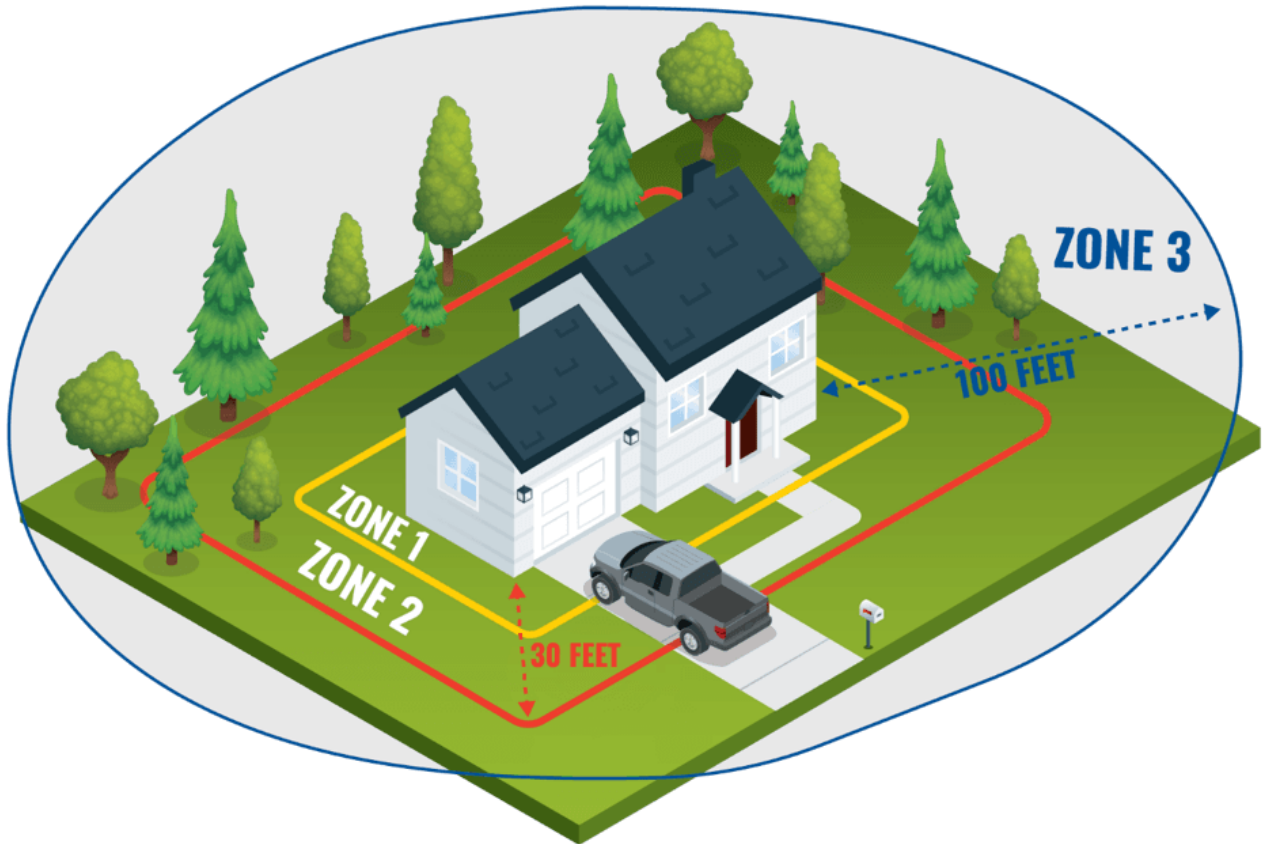
It's State law, that if you have property in a Very-high Fire Hazard Severity Zone or Wildland Urban Interface (WUI) Fire Area, you must have 100-feet of defensible space around any building or structure. If you are unsure whether or not you live in a mandatory defensible space zone, [click this link](#) to view a map of State and Town designated areas in Los Gatos.

In addition to State law, the Town of Los Gatos recently enacted several Municipal Codes amendments which enhance the safety of WUI residents. Specifically for new construction, there is a mandated 5-foot nonflammable zone and the Town enacted provisions that align with State law to recognize the importance of neighbors maintaining defensible space across property lines in certain instances. The new ordinances can be viewed through the links below:

[Ordinance 2301 - Amend Chapter 9 \(Fire Prevention & Protection\)](#)

Defensible Space Zones

Following are guidelines from Santa Clara County Fire Department on how to create and maintain effective defensible space zones:



Zone 1, extends 0 to 5 feet out: The Noncombustible Zone

- Remove all plants and vegetation, especially those touching your home.
- Clean roofs and gutters of dead leaves, debris and pine needles that could catch embers.
- Replace or repair any loose or missing shingles or roof tiles to prevent ember penetration.
- Reduce embers that could pass through vents in the eaves by installing 1/8 inch metal mesh screening.
- Clean debris from exterior attic vents and install 1/8 inch metal mesh screening to block embers.
- Repair or replace damaged or loose window screens and any broken windows.
- Screen or box-in areas below patios and decks with wire mesh to prevent debris and combustible materials from accumulating.
- Move any flammable material away from wall exteriors – mulch, flammable plants, leaves and needles, firewood piles – anything that can burn. Remove anything stored underneath decks or porches.
- Mandated for new construction

Zone 2, extends 30 feet out: The Clean and Green Zone

- Remove all dead plants, grass and weeds (vegetation).
- Remove dead or dry leaves and pine needles from your yard, roof and rain gutters.
- Trim trees regularly to keep branches a minimum of 10 feet from other trees.
- Remove branches that hang over your roof and keep dead branches 10 feet away from your chimney.

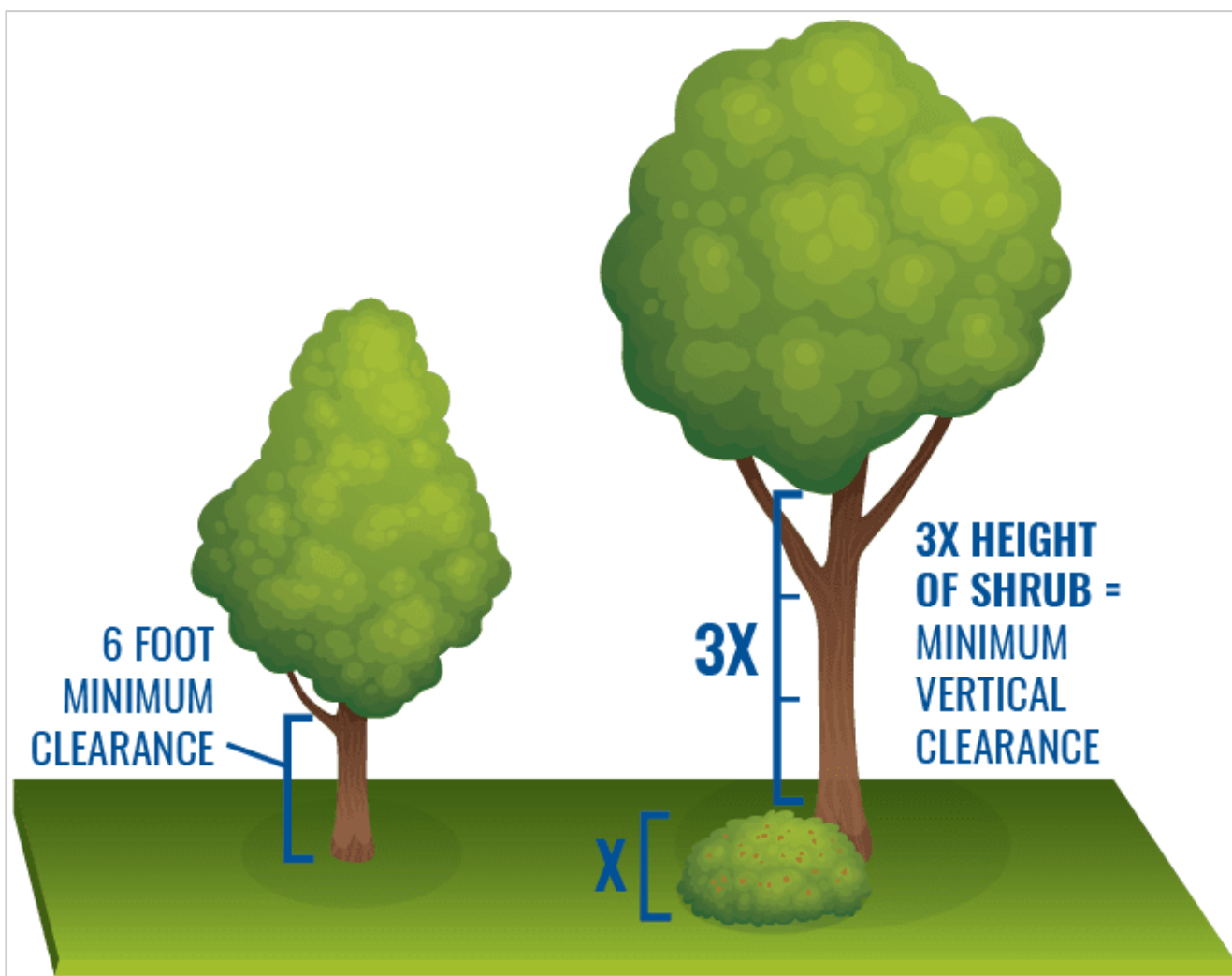
- Create a separation between trees, shrubs and items that could catch fire, such as patio furniture, wood piles, swing sets, etc.

Zone 3, extends 100 feet out: The Reduced Fuel Zone

- Create horizontal spacing between shrubs and trees. (See diagram below)
- Create vertical spacing between grass, shrubs and trees. (See diagram below)
- Dispose of heavy accumulations of ground litter/debris.
- Remove dead plant and tree material.
- Remove small conifers growing between mature trees.
- Remove vegetation adjacent to storage sheds or other outbuildings within this area.
- Trees 30 to 60 feet from the home should have at least 12 feet between canopy tops.
- Trees 60 to 100 feet from the home should have at least 6 feet between the canopy tops.

Plant and Tree Spacing

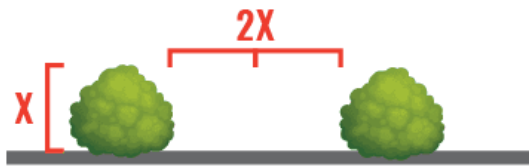
For vertical spacing remove all tree branches at least 6 feet from the ground. If there is a shrub near the tree, the branch clearance needs to be 3 times the height of the shrub. *Example: A 5-foot shrub is growing near a tree. $3 \times 5 = 15$ feet of clearance needed between the top of the shrub and the lowest tree branch.*



spacing between shrubs and trees depends on the slope of the land and the height of the shrubs or trees. Check the chart below to determine spacing distance.

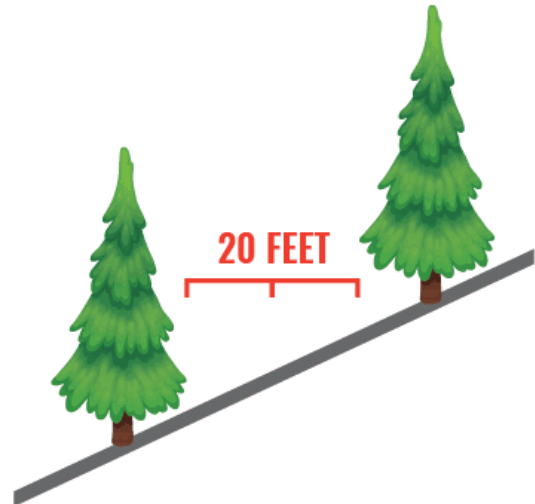
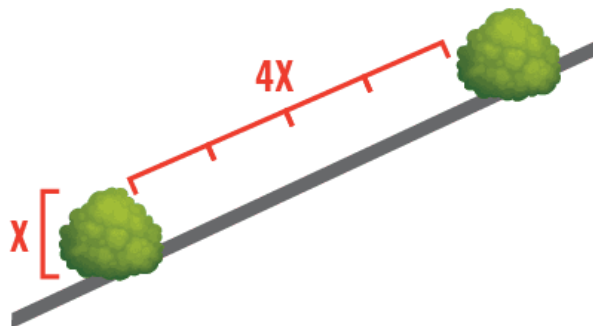
Need your property inspected?

SHRUBS

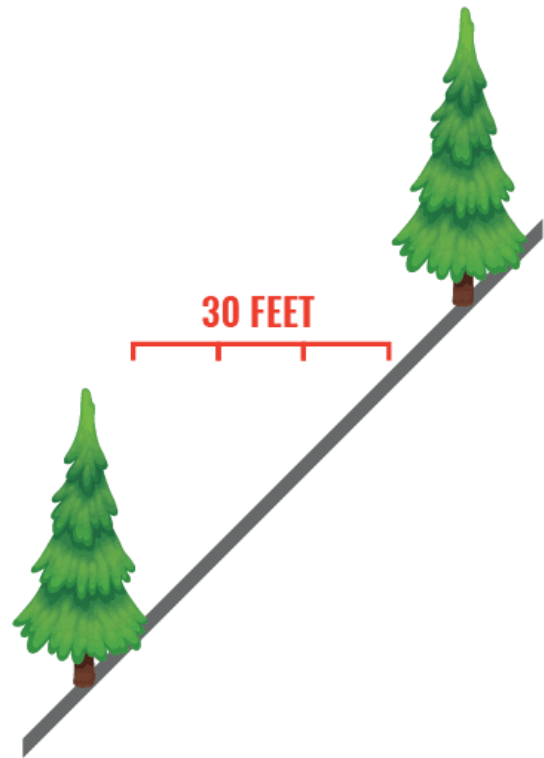
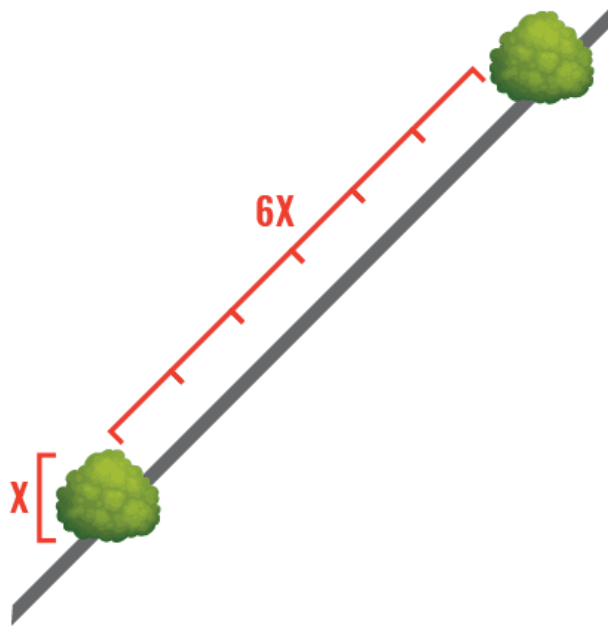


FLAT TO MILD SLOPE (LESS THAN 20%)

TREES



MILD TO MODERATE SLOPE (20%-40%)



MODERATE TO STEEP SLOPE (MORE THAN 40%)

like a free inspection review of your property, contact the Fire Prevention Division at (408) 378-4010.

Defensible Space Along Property Lines

Neighbors, neighborhoods, and communities are working together to help create unified defensible space.

Wildfire safety is a shared responsibility since fire doesn't respect property or political boundaries. Adequate defensible space is essential to ensuring that individual homes and neighborhoods are safeguarded from the devastation of wildfires. This includes working with your neighbors to protect both, your structures and the neighbor's building that may be close to parcel lines. Neighbors are encouraged to work together to help provide defensible space for their respective properties. The most effective solution is a cooperative approach.

In limited circumstances, neighbors are unable to reach a mutual agreement. The Fire Chief, or his/her designee, can assist in determining the risk one property's vegetation poses to another property's structure. If the risk exists, the property owner of the vegetation shall be responsible for fuel management. The Town adopted provisions in its Municipal Code consistent with California Government Code Section 51182(a)(2) which allows jurisdictions to require defensible space beyond property lines in certain circumstances. For an assessment of vegetation around your structures, call the Fire Prevention Division at (408) 378-4010.

Example: A structure is within 70-feet of its property line. The adjacent property poses a significant vegetation threat negating the ability to achieve 100-feet of defensible space around the structure. In the event the neighbors couldn't reach a mutual understanding, the Fire Department would assess if the adjacent property owner would need to assist its neighbor by completing fuel management on another 30 feet on their property.

Nonflammable Vegetation



Not all plants combust equally. There are many beautiful trees and plants to grow in your garden that will reduce your property's risk of being affected by a wildfire. Check out the list below, compiled by [University of California Master Gardeners Santa Clara County](#):

Trees: California live oaks, native redwoods, California bay laurel, maples, citrus, cherry, apple, strawberry tree, dogwood, ash, loquat, 'Little Gem' magnolia, toyon, white alder, weeping bottlebrush, redbud.

Large shrubs: Aloe, ceanothus, cotoneaster, escallonia, currant, pineapple guava, flowering quince, Island bush poppy, Pacific wax myrtle, photinia, pittosporum, mock orange, plumbago, podocarpus, laurel, viburnum.

Flowering plants: Azalea, camellia, hibiscus, lavender, monkey flower, California fuchsia, coral bells, society garlic, salvia, rhododendron.

Ground covers: Woolley yarrow, Ajuga reptans, purple rockrose, creeping coprosma, creeping thyme, ice plant, mock strawberry, wild strawberry, evergreen candytuft, lantana, Lamium, African daisy, wooly thyme, star jasmine, sedum.

Vines: Trumpet vine, potato vine, Cape honeysuckle.

Understanding Fire Weather

Red Flag Warnings are often preceded by a Fire Weather Watch, which is a National Weather Service (NWS) notice indicating that weather conditions in the next 12-72 hours may result in extreme fire behavior and trigger a Red Flag Warning. As of 2019, a Red Flag Warning may be accompanied by a Public Safety Power Outage, where PG&E shuts off power to power lines in areas at high risk of wildfire. NWS issues a Red Flag Warning when weather conditions in the next 24 hours may result in extreme fire behavior. These conditions may include: Low relative humidity, strong winds, dry fuels, and the possibility of dry lightning strikes.



LOW RELATIVE HUMIDITY



STRONG WINDS



DRY FUELS



POSSIBILITY OF DRY LIGHTNING STRIKES

Tips for Red Flag Warnings

1. Do not use lawnmowers or spark-producing equipment in or near dry vegetation. Follow local fire restrictions on powered equipment use.
2. Report unattended outdoor fires immediately to 911.
3. Avoid all outdoor burning.
4. Extinguish outdoor fires properly, never leave barbecues or cooking fires unattended. Always drown them with plenty of water.
5. Soak ashes and charcoal in water and dispose of them in a metal can. These materials can ignite days after a fire or BBQ is extinguished.
6. Be READY for wildfire by maintaining at least 100 feet of defensible space around your home.
7. Ensure access roads to your home are cleared and properly labeled.
8. Do not throw cigarettes or matches out of a vehicle. They can ignite dry vegetation on the side of the road and start a wildfire.
9. Do not pull your vehicle over in dry grass.
10. Ensure trailer chains do not drag on the ground.
11. Report any sign of smoke or fire immediately by dialing 9-1-1.

Stay Informed

Be aware of when a Red Flag Warning is issued by [registering for AlertSCC](#). AlertSCC is a free and easy way to get emergency alerts sent directly to your cell phone or mobile device, landline, or email. Alerts can include:

- Red Flag Warning
- Fire
- Earthquake
- Severe weather
- Crime incident that affects your neighborhood
- Instructions during a disaster
- Post-disaster information about shelters, transportation, or supplies

To: Planning Commission, meeting of September 23, 2020
Re: HDS&G Modifications
From: Dave Weissman, September 18, 2020

There are 2 loosely connected issues, that relate to visibility, in this agenda item. The **first item** relates to defining “elevation” for purposes of calculating visibility of an A&S application. I ask that the Commissioners read my letter in your packet, sent to the Policy Committee, and dated 8/6/2020. The Policy Committee voted 2-0 in favor of both defining elevation in Town codes and limiting elevation to include only the proposed home, not any accessory elements distinct from the home. I took this same position in my letter.

The **second item** concerns Fire Prevention and Protection. Now this Town has demonstrated a unique and consistent interest for the ecological health of our hillsides. For instance:

The 2004 Hillside Guidelines, page 51, require that all landscaping located “further than 30 feet from the primary residence, shall be indigenous and appropriate for the immediate natural habitat.”

The 2015 Tree Protection Ordinance revision was amended (Sec. 29.10.0970) to encourage the removal of non-native hillside trees. Specifically, no permit was needed and no replacement trees were required. Additionally, for protected trees removed during construction, Sec. 29.10.0987 requires all trees farther than 30’ from the house be replaced with native trees. Those trees within 30’ of the house, if native, must also be replaced with native trees.

Then, in 2019, the Town revised how the Visibility Analysis for proposed hillside homes was to be done. Relevant to our discussion are 2 adopted provisions:

1. Existing vegetation proposed to be removed shall not count as screening.
2. Trees counted as screening shall have a Deed Restriction prohibiting their removal. If that trees dies, it must be replaced.

Then the Paradise Firestorm arrived and prompted a necessary reevaluation of the Town’s good intentioned actions of the previous 15 years. We all agree that fire safety must take precedence.

So, folks can have different opinions as to what constitutes defensible space, but what our Town Council passed in January, 2020, is very clear: Section 4907.2 says that homeowners “shall at all times comply with the following” defensible space fuel modifications, and an extensive list is presented.

But these new defensible space policies created conflicts with previous Town efforts aimed at decreasing visibility of hillside homes and protecting the ecological health of the hillsides. And such conflicts were addressed at the Policy Committee meeting of 8/11/2020. At that meeting, Mayor Jensen took issue with the word “subject” that staff used in their report, saying that “subject” means the homeowner has the option of removing or not removing vegetation. I disagree with Ms. Jensen: the homeowner doesn’t have an option but is required to comply with specific conditions set forth in Sec. 4907.2. Simply put – a better term than “subject” to have been used in the staff report, would have been “required.” Homeowners don’t have a choice here, according to Sec. 4907.2, nor do I believe that they should. Hillside fire protection is everyone’s business – we must all work together.

So, I recommend the following actions (based on the numbering used in the staff report to the Policy Committee):

- A. **Yes** on item 1 – elevation should be defined and should only include the actual home, as was passed 2-0 by the Policy Committee.
- B. **Yes** on items 2 & 3 – existing trees and branches required to be removed for defensible space by Sec. 4907.2, should not be counted in the visibility analysis.
- C. **Yes** on item 4 – These non-native, and in some cases extremely flammable trees (think Eucalyptus) should be removed in the interest of defensible space. They should not be counted as providing screening, even if the builder says that they will be retained, because when the house is sold, whether it be in 1 week or 10 years, the new owner can then remove the entire tree without permits or replacement. In contrast, native trees, which are fire resistant, are still protected under Sec 29.10.0970 (3) and should be counted as providing screening.
- D. The Deed Restriction clause on page 14, h, of the Hillside Standards, should be amended to only apply to **native trees** protected under Sec. 29.10.0970 (3).



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 09/23/2020

ITEM NO: 3

ADDENDUM

DATE: September 22, 2020

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Forward a Recommendation to the Town Council for Approval of Modifications to Chapter II. (Constraints Analysis), Chapter III. (Site Planning), and Chapter IX. (Project Review and Approval Process) of the Hillside Development Standards and Guidelines Regarding the Visibility Analysis, Town Wide. Applicant: Town of Los Gatos.

REMARKS:

Exhibit 13 includes additional public comments received between 11:01 a.m., Friday, September 18, 2020 and 11:00 a.m., Tuesday, September 22, 2020.

EXHIBITS:

Previously received with September 23, 2020 Staff Report:

1. Required Findings
2. Town Council Policy Committee July 28, 2020 Minutes
3. Town Council Policy Committee July 28, 2020 Planning Staff Report (with Attachments 1 through 6)
4. Town Council Policy Committee August 11, 2020 Minutes
5. Town Council Policy Committee August 11, 2020 Planning Staff Report (with Attachment 7)
6. Draft Modifications to Chapter II (Constraints Analysis) of the HDS&G
7. Draft Modifications to Chapter III (Site Planning) of the HDS&G
8. Chapter IX (Project Review and Approval Process) of the HDS&G
9. Ordinance 2301 Chapter 9 (Fire Prevention and Protection) of the Town Code
10. Ordinance 2303 Chapter 29, Division 2 (Tree Protection) of the Town Code
11. Town of Los Gatos, 2020, *Be Wildfire Ready*, <<https://www.losgatosca.gov/2581/Be-Wildfire-Ready>>
12. Public comments received by 11:00 a.m., Friday, September 18, 2020

PREPARED BY: JOCELYN SHOOPMAN
Associate Planner

Reviewed by: Planning Manager and Community Development Director

PAGE 2 OF 2

SUBJECT: Hillside Development Standards and Guidelines Modifications

DATE: September 22, 2020

Received with this Addendum Report:

13. Public comments received between 11:01 a.m., Friday, September 18, 2020 and 11:00 a.m., Tuesday, September 22, 2020.

From: Kathy Hemingway
Sent: Monday, September 21, 2020 5:25 PM
To: Jocelyn Shoopman <jshoopman@losgatosca.gov>
Subject: Comments in Regards to the Fire Prevention Section of the Hillside Development Standards and Guidelines

Dear Ms. Shoopman,

Hillside Development Standards and Guidelines comments for inclusion in the Planning Commission Staff Report/Addendum/Desk Item for the meeting on September 23 regarding the fire prevention standards for the Town of Los Gatos:

My comment is in regards to the Fire Prevention section of the Hillside Development Standards and Guidelines. In light of the recent and ongoing fires, I believe that fire is one of the biggest concerns in the rural, hillside areas. Just recently, the Planning Commission approved the installation of 4 fire pits on a property in our vicinity. Two were located in the backyard of the home but the other two were spaced in two separate areas along the hillside. At least the two in the backyard are visible by someone who might be in the home but the other two cannot be seen from the home. The flames are around 2 feet high and can be heard from a distance. Several times the fire pits have been left burning with no one around. I would like to propose that fire pits not be allowed in the rural areas or at least they must be installed within direct view and access from the home. And perhaps, for those homes with the fire pits already installed, the ordinance should disallow use of the fire pits during the annual fire season. There is nothing safe about fire where a combustible could find its way into the flames, catch fire, and then be blown to catch other combustibles. And if they are out of sight, out of mind, they are even more dangerous. I understand the appeal of sitting by the fire pit at night but unfortunately, the latest events have shown how truly vulnerable our rural areas are to any form of fire.

Thank you for the opportunity to express my concerns,

Kathy Hemingway

14680 Shannon Road

Los Gatos, CA

EXHIBIT 13

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