



**TOWN OF LOS GATOS  
COUNCIL MEETING AGENDA  
APRIL 20, 2021  
110 EAST MAIN STREET  
LOS GATOS, CA**

*Marico Sayoc, Mayor  
Rob Rennie, Vice Mayor  
Mary Badame, Council Member  
Matthew Hudes, Council Member  
Maria Ristow, Council Member*

**PARTICIPATION IN THE PUBLIC PROCESS**

**How to participate:** The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please follow the participation instructions on page 2 of this agenda. If you wish to speak to an item NOT on the agenda, you may do so during the “Verbal Communications” period, by following the participation instructions on page 2 of this agenda. The time allocated to speakers may change to better facilitate the Town Council meeting.

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

**Deadlines for Public Comment and Presentations are as follows:**

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

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

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

**TOWN OF LOS GATOS  
COUNCIL MEETING AGENDA  
APRIL 20, 2021  
7:00 PM**

**IMPORTANT NOTICE REGARDING THE APRIL 20, 2021 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 [www.losgatosca.gov/AgendasAndVideos](http://www.losgatosca.gov/AgendasAndVideos). **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 in real-time during the meeting, you can view the live stream of the meeting on television (Comcast Channel 15) and/or online at [www.LosGatosCA.gov/TownYouTube](http://www.LosGatosCA.gov/TownYouTube).

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

- Join from a PC, Mac, iPad, iPhone or Android device: click this link <https://us02web.zoom.us/j/88100552000?pwd=eng1RFZVenFBR3NqWmVraFVoWkU5QT09>. Password: 742744. You can also type in 85488467634 in the “Join a Meeting” page on the Zoom website at <https://zoom.us/join>.
- Join by telephone: Dial: 877 336 1839. Conference code: 969184

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 email to [PublicComment@losgatosca.gov](mailto:PublicComment@losgatosca.gov) the subject line “Public Comment Item #\_\_” (insert the item number relevant to your comment) or “Verbal Communications – Non Agenda Item.” Comments received by 11:00 a.m. the day of the meeting will be reviewed and distributed before the meeting. All comments received will become part of the record.

**TOWN OF LOS GATOS  
COUNCIL MEETING AGENDA  
APRIL 20, 2021  
7:00 PM**

**REMOTE LOCATION PARTICIPANTS**

*The following Council Members are listed to permit them to appear electronically or telephonically at the Town Council meeting: MAYOR MARICO SAYOC, VICE MAYOR ROB RENNIE, COUNCIL MEMBER MARY BADAME, COUNCIL MEMBER MATTHEW HUDES, and COUNCIL MEMBER MARIA RISTOW. All votes during the teleconferencing session will be conducted by roll call vote.*

**MEETING CALL TO ORDER**

**ROLL CALL**

**PRESENTATIONS**

- i. Arbor Day/Keep Los Gatos Beautiful Proclamation

**CLOSED SESSION REPORT**

**COUNCIL / MANAGER MATTERS**

*CONSENT ITEMS (Items appearing on the Consent Items are considered routine and may be approved by one motion. Any member of the Council or public may request to have an item removed from the Consent Items for comment and action. A member of the public may request to pull an item from Consent by following the Participation Instructions contained on Page 2 of this agenda. If an item is pulled, the Mayor has the sole discretion to determine when the item will be heard. Unless there are separate discussions and/or actions requested by Council, staff, or a member of the public, it is requested that items under the Consent Items be acted on simultaneously.)*

1. Approve Draft Minutes of April 6, 2021 Closed Session Town Council Meeting.
2. Approve Draft Minutes of April 6, 2021 Joint Meeting of the Town Council and Arts and Culture Commission.
3. Approve Draft Minutes of the April 6, 2021 Regular Town Council Meeting.
4. Adopt a Resolution Describing Improvements and Directing Preparation of the Town Engineer's Report for Fiscal Year 2021/22 for Landscape and Lighting Assessment Districts No. 1 and 2.
5. Authorize the Town Manager to Negotiate and Execute a Consultant Services Agreement with NCE for the Shannon Road Repair (CIP No. 811-0008) Design Services in an Amount Not to Exceed \$450,000.
6. Authorize the Town Manager to Execute a First Amendment to the Agreement for Services with KCAT-TV to Transfer 177 Additional Archived Town Council and Planning Commission Meetings to the Town-Branded YouTube Channel for a Total Cost of \$3,540.
7. Authorize the Town Manager to:  
Purchase Two Patrol Motorcycles from Long Beach BMW in an Amount not to Exceed \$65,750; and

Execute a Summary Vehicle Quotation to Extend the Commercial Motor Vehicle Master Lease Agreement with Mike Albert, LTD. in an Amount not to Exceed \$3,000 for a 12-Month Lease Extension for Two Electric Vehicles, for a Total Lease Amount Not to Exceed \$66,010.

8. Authorize a General Fund Appropriated Reserve Budget Transfer of \$50,000 from the Guardrail Replacement Project (CIP No. 812-0120) to the Shannon Road Class 1 Multi-Use Path Project (CIP No. 813-0218) and Approve Corresponding Revenue and Expenditure Budget Adjustments.
9. Authorize the Town Manager to Execute a First Amendment to Agreement for Services with Pacific Display Inc. for Additional Downtown Tree Lighting Repairs in an Amount of \$9,480 for a Total Agreement Not to Exceed \$242,085 and Authorize a Budget Transfer of \$9,480 from the Tree Replacement Fund to the General Fund to Fund the Increase.
10. Authorize the Town Manager to Execute a Construction Agreement for the Waterproofing Town-Wide Project (20-821-2010) with California Roofing Company for a Roof Replacement on the Engineering Building in an Amount of \$51,020 Plus an Additional \$5,102 for Unforeseen Repairs in an Amount Not to Exceed \$56,122.

**VERBAL COMMUNICATIONS** *(Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda consistent with the Participation Instructions contained on Page 2 of this agenda. To ensure all agenda items are heard and unless additional time is authorized by the Mayor, this portion of the agenda is limited to 30 minutes and no more than three (3) minutes per speaker. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications will be opened prior to adjournment.)*

**OTHER BUSINESS** *(Up to three minutes may be allotted to each speaker on any of the following items by following the Participation Instructions on page 2 of this agenda.)*

11. Review and Discuss the Activities of the Parks Commission.

**PUBLIC HEARINGS** *(Applicants/Appellants, their representatives, and members of the public wishing to address the Council on any Public Hearing item should follow the participation instructions contained on page 2 of this agenda. 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 Council's consent at the meeting.)*

12. Consider a Request for Approval for a Zone Change from O:LHP (Office with a Landmark and Historic Preservation Overlay) to R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) for Property Located at **246 Almendra Avenue**. APN: 510-14-019. Zone Change Application Z-20-001. Property Owner: Gary Filizetti. Applicant: Brett Brenkwitz.
13. Consider a Request for Approval for a Zone Change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay) and a General Plan Amendment to Change the Land Use Designation from Medium Density

Residential to Central Business District, for Property Located at **4 Tait Avenue**. APN: 510-44-054. Zone Change Application Z-20-002 and General Plan Amendment Application GP-20-001. Property Owner: Town of Los Gatos. Applicant: Jim Foley.

14. Introduction and First Reading of an Ordinance of the Town of Los Gatos Amending Chapter 25, by Renaming it to “Revenue and Taxation” and Adding Article VII, Sections 25.70.010- 25.70.140 of the Los Gatos Town Code Entitled Public Art Funding.

**OTHER BUSINESS** (*Up to three minutes may be allotted to each speaker on any of the following items by following the Participation Instructions on page 2 of this agenda.*)

15. Direct the Advancement of the Downtown Employee Parking Pilot and the Issuance of a Request for Proposals for Consultant Services for Wayfinding Signage.
16. Discuss and Provide Direction on the Following Actions to Continue the Town’s Support of Economic Recovery and Community Vitality, in Response to the Ongoing COVID-19 Pandemic, Including:
- a. Temporary Krail Parklets:
    - 1. Confirm sunset date of September 19, 2021;
    - 2. Provide Direction on the Temporary Tents and Other Weather Protection Structures;
  - b. Semi-Permanent Parklets:
    - 1. Provide Direction on Timeline for Grant Distribution and Parklet Construction;
    - 2. Provide Direction on Awnings and Other Weather Structures;
    - 3. Provide Direction on Maximum Number of Spaces for Parklets; and,
  - c. Approve the extension of Personal Services Businesses in Office Commercial Zones (Zone O) with an Economic Recovery Agreement.

**ADJOURNMENT IN HONOR OF FORMER PLANNING COMISSIONER CHARLES EREKSON** (*Council policy is to adjourn no later than midnight unless a majority of Council votes for an extension of time*).

*Writings related to an item on the Town Council meeting agenda distributed to members of the Council within 72 hours of the meeting are available for review on the official Town of Los Gatos website.*

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



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 1

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**DRAFT  
Minutes of the Town Council Special Meeting - Closed Session  
April 6, 2021**

The Town Council of the Town of Los Gatos conducted a special meeting via Teleconference via COVID-19 Shelter in Place Guidelines on Tuesday, April 6, 2021, to hold a Closed Session at 5:00 p.m.

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

**ROLL CALL**

Present: Mayor Marico Sayoc, Vice Mayor Rennie, Council Member Mary Badame, Council Member Matthew Hudes, Council Member Maria Ristow. (All participating remotely).

Absent: None

**VERBAL COMMUNICATIONS**

No one spoke.

**THE TOWN WILL MOVE TO CLOSED SESSION ON THE FOLLOWING ITEM:**

1. Conference with Labor Negotiator (Government Code §54957.6)  
To meet with Town Negotiators listed below in closed session pursuant to Government Code §54957.6 regarding negotiations with the Employee Organizations listed below:

Town Negotiators:

Donna Williams, Liebert Cassidy Whitmore

Arn Andrews, Assistant Town Manager

Lisa Velasco, Human Resources Director

Employee Organizations:

American Federation of State, County and Municipal Employees (AFSCME)

Town Employees Association (TEA)

Police Officers' Association (POA)

**ADJOURNMENT**

Closed Session adjourned at 5:42 p.m.

Attest:

Submitted by:

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Jenna De Long, Deputy Clerk

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Laurel Prevetti, Town Manager



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**DRAFT  
Minutes of the Special Joint Meeting of the Town Council and  
Arts and Culture Commission  
April 6, 2021**

The Town Council of the Town of Los Gatos conducted a special meeting via Teleconference via COVID-19 Shelter in Place Guidelines on Tuesday, April 6, 2021, at 5:45 p.m. to hold a Joint Town Council and Arts and Culture Commission Study Session.

**MEETING CALLED TO ORDER AT 5:46 P.M.**

**ROLL CALL**

Council Members Present: Mayor Marico Sayoc, Vice Mayor Rob Rennie, Council Member Mary Badame, Council Member Matthew Hudes, Council Member Maria Ristow. (All Participating Remotely.)

Absent: None

Arts and Culture Commissioners Present: Chair Michael Miller, Vice Chair Ellis Wecker, Commissioner Amy Fasnacht, Commissioner Pamela Murphy, Commissioner Thomas Spilsbury, Youth Commissioner Anjali Vaidya, Commissioner Maureen Cappon-Javey (joined the meeting at 5:50 p.m.) (All Participating Remotely.)

**VERBAL COMMUNICATIONS**

No one spoke.

**OTHER BUSINESS**

1. Review and Discuss the Arts and Culture Commission Accomplishments and Goals.

Ryan Baker, Library Director, presented the staff report.

Chair Miller presented the Commission's accomplishments and goals, and each Commissioner presented an update on the different programs, goals, and accomplishments of the Commission.

Opened Public Comment.

No one spoke.

Closed Public Comment.

PAGE 2 OF 2

SUBJECT: Draft Minutes of the Joint Town Council and Arts and Culture Commission  
Meeting of April 6, 2021

DATE: April 6, 2021

Council and the Commission discussed the items. The Council directed the Commission to continue its work in all areas and to return to the Council with its recommendations.

**ADJOURNMENT**

The meeting adjourned at 6:48 p.m.

Respectfully submitted:

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Jenna De Long, Deputy Clerk





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**DRAFT  
Minutes of the Town Council Meeting  
April 6, 2021**

The Town Council of the Town of Los Gatos conducted a regular meeting via Teleconference via COVID-19 Shelter in Place Guidelines on April 6, 2021, at 7:00 p.m.

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

**ROLL CALL**

Council Members Present: Mayor Marico Sayoc, Vice Mayor Rob Rennie, Council Member Mary Badame, Council Member Matthew Hudes, Council Member Maria Ristow. (All Participating Remotely.)

Absent: None

**PRESENTATIONS**

- i. Los Gatos Poetry Month Proclamation and Poetry Reading by new Poet Laureate
  - Poet Laureate Jen Siraganian read an original poem.

**CLOSED SESSION REPORT**

Robert Schultz, Town Attorney, stated Council met in Closed Session as duly noted on the agenda and there is no report.

**COUNCIL/TOWN MANAGER REPORTS**

**Manager Matters**

- Announced Youth Commission recruitment is open with applications due by 4:00 p.m. on April 30, 2021.
- Announced free COVID-19 testing will be held at the Adult Recreation Center on April 19; appointments are strongly recommended and will be available beginning April 12.

**Council Matters**

- Council Member Badame stated she attended two General Plan Advisory Committee (GPAC) meetings with Council Member Ristow; a Stop Asian Hate Rally with Mayor Sayoc, Council Member Ristow, and Vice Mayor Rennie; and met with residents.
- Council Member Hudes stated he attended a meeting of the League of California Cities Peninsula Division meeting, Homelessness Roundtable, and Mayors and Council Members Roundtable, and met with representatives of Harmonie Park and Grosvenor regarding the North 40 Phase II.

Council Matters - continued

- Council Member Ristow stated in addition to the items already mentioned, she attended the Council Policy Committee meeting with Mayor Sayoc; met with community member Kevin Arroyo, representatives of Harmonie Park and Grosvenor, and State and local representatives from the U.S. Humane Society; and conducted bicyclist and pedestrian counts for a Town grant.
- Vice Mayor Rennie stated he attended the Stop Asian Hate Rally; League of California Cities Homelessness Roundtable; Bay Area Air Quality Management District (BAAQMD) Legislative Committee and Mobile Source Committee meetings; two Turnout4Transit meetings; Green Foothills Community Night virtual event; Silicon Valley Clean Energy Authority (SVCEA) Risk Oversight Committee Special meeting, New Member Orientation, Finance and Administration Committee, and Legislative Committee meetings; Valley Transportation Authority (VTA) Special Board Meeting; Community Health and Senior Services Commission (CHSSC) meeting as a liaison; and West Valley Mayors and Managers meeting.
- Mayor Sayoc stated that in addition to the items mentioned above, she has been appointed to the Santa Clara County Hate Crime Task Force.

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

1. Approve Draft Minutes of the March 16, 2021 Joint Town Council and the Complete Streets and Transportation Commission Meeting.
2. Approve Draft Minutes of the March 16, 2021 Town Council Meeting.
3. Adopt the Proposed Town Council Policy: Travel and Expense Policy for Elected Town Officials as Recommended by the Council Policy Committee.
4. Appoint Jen Siraganian to the Honorary Position of Town Poet Laureate for a Term Beginning April 2021 and Concluding December 2023.
5. Consider a Request for Approval for a Zone Change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay) and a General Plan Amendment to Change the Land Use Designation from Medium Density Residential to Central Business District, for Property Located at 4 Tait Avenue. APN: 510- 44-054. Zone Change Application Z-20-002 and General Plan Amendment Application GP-20-001. Property Owner: Town of Los Gatos. Applicant: Jim Foley.
6. Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Public Right-of-Way Improvements Completed by Davidon Homes for the Highlands of Los Gatos on 15700 Shady Lane and Authorize the Town Clerk to Submit for Recordation.
7. Approve an Amendment to the Classification Plan to Create a Flexibly Staffed Parking Control Officer Job Series.
8. Adopt a Resolution Approving the Parcel Map for 20 Dittos Lane and Accepting Easement Dedications. **RESOLUTION 2021-005**
9. Adopt the Proposed Council Policy Committee Enabling Resolution as Recommended by the Council Policy Committee. **RESOLUTION 2021-006**

Consent Items – continued

10. Authorize the Town Manager to Issue a Request for Proposals to Hire a Consultant to Assist with the Town's Justice, Equity, Diversity, and Inclusion Work Plan.
11. Adopt a Resolution Denouncing Hatred and Violence Toward Diverse Los Gatos Communities. **RESOLUTION 2021-007**

Council Member Hudes pulled item 9.

Vice Mayor Rennie pulled item 10.

Cyndi Sheehan pulled item 11.

**MOTION: Motion by Council Member Badame to approve consent items 1-8. Seconded by Council Member Hudes.**

**VOTE: Motion passed unanimously. Item 5 passed 4/1, Council Member Ristow recused.**

#### **VERBAL COMMUNICATIONS**

Catherine Somers, Chamber of Commerce

- Requested the Town waive all special events fees to implement Picnic in the Park events and consider closing N. Santa Cruz Avenue on Thursday evenings May through September from 4 to 8 p.m. for a new event “Celebrate Home” and requested assistance from the Town with the funding and street closure.

John Lochner

- Requested Council consider supporting installation of a ferris wheel at Oak Meadow Park at no cost to the Town.

#### **OTHER BUSINESS**

12. Discussion with District Attorney Jeff Rosen and Community Leaders to Encourage Reporting of Hate Incidents and Crimes and Standing in Solidarity with Others.

Jeff Rosen, District Attorney, gave a presentation on the differences between hate crimes and hate incidents.

Laurel Prevetti, Town Manager, and Pete Decena, Police Chief, presented the staff report.

Kristi Grasty, Rabbi Melanie Aron, and Kareen Syed, panelists, commented on how to be upstanders and an ally.

Other Business Item #12 – Continued

Opened Public Comment.

Germaine Talesfore Gulan

- Commented on her experience of being harassed.

Maria Wong

- Shared her experience of being harassed due to her political ideology.

Alicia Cinema Stereo (Spargo)

- Shared the experience of a family that was verbally harassed based on race and the experience of a person that was yelled at for wearing a mask. Commented there should be consequences for hate speech and making others feel unsafe.

Louis LP

- Requested the Town refrain from setting rules and requested the individuals in the community to do the right thing.

Cyndi Sheehan

- Requested the Town protect the citizens no matter the characteristics of the individuals and shared her experience of being harassed.

Chris Novak

- Commented on concerns regarding groupthink and encouraged the Town to seek many viewpoints.

Kaye

- Commented on her experience of being discriminated against because of her political ideology.

Jeff Suzuki

- Commented on the disheartening comments of the previous speakers and concerns of people of color feeling unsafe. stated resources are needed in the community to respond to the hate incidents and hate crimes, and asked Council and staff to ask themselves if the resources are enough.

Yvette

- Commented that hate crimes due to race were being prioritized over hate crimes due to other characteristics.

Other Business Item #12 – Continued

Sanaz

- Commented on concerns that a political divide among community members and the potential for escalation.

Marsha Palitz-Elliott

- Commented on the coming together of stakeholders to increase understanding and finding comfort in being in our community, and requested the Town sponsor training opportunities.

Keith

- Commented on his experience of driving through a political rally and being harassed.

Catherine Somers, Chamber of Commerce

- Commented on the path of the discussion and how many different groups feel discriminated against and marginalized.

Dalila, Act for America

- Inquired about the source of the hate crime and incident statistics and commented regarding political divide among the community members.

Lynley Kerr Hogan

- Commented on her experience of being discriminated against and harassed.

Recessed at 9:14 p.m. and resumed at 9:22 p.m.

Eric West

- Commented on wanting to not lose his freedoms and shared his experience of being discriminated against.

Joseph

- Requested the Town renounce racism and hate of any group.

Amy Nishide

- Commented that masks are being made political and expressed concerns that systemic racism may be confused with prejudice and discrimination.

Vida Sabouri

- Commented concerning the influence on the children and teenagers in the community and requested the community consider tolerating each other.

Closed Public Comment.

Other Business Item #12 – Continued

Mayor Sayoc thanked the panelists and the community for participating in the discussion.

13. Provide Direction for the Potential Uses of the American Rescue Plan Act Funds Earmarked for Los Gatos.

Arn Andrews, Assistant Town Manager, presented the staff report.

Opened Public Comment.

Catherine Somers, Chamber of Commerce

- Requested the Council consider allocating funds toward waving rent for the Los Gatos Recreation Center and NUMU, non-profit partners, parklet program, and events.

Ami Davis, NUMU

- Thanked the Town for forgiving rent for the last year; requested continued rent forgiveness through fiscal year 2022 to assist in continued recovery from the effects of the pandemic.

Sue Farwell

- Requested the Town accelerate the Dixon Parking Plan, implement the employee parking program, parking shuttle, and allocate funds towards parklets installed prior to the pandemic.

Jim Foley

- Requested the Town consider allocating funds to the parklet program by reimbursing business owners for previously constructed parklets and funding future parklets.

Lee Fagot

- Requested the Town allocate all the funds for the rent relief for non-profits listed in the staff report and additional senior services.

Jan Schwartz, NUMU

- Thanked the Town for forgiving rent for the last year. Requested continued rent forgiveness through fiscal year 2022 to assist in continued recovery from the effects of the pandemic.

Nancy Rollett, LGS Recreation

- Thanked the Town for forgiving rent for the last year. Requested continued rent forgiveness through fiscal year 2022 to assist in continued recovery from the effects of the pandemic.

Closed Public Comment.

Other Business Item #13 – Continued

Council discussed the matter.

**MOTION: Motion by Council Member Ristow** to utilize approximately \$3.2 million to replace lost revenue sufficient to balance the FY 2020/21 and FY 2021/22 budgets. **Seconded by Council Member Badame.**

**VOTE: Motion passed 4/1, Council Member Hudes opposed.**

**MOTION: Motion by Council Member Ristow** to utilize \$250,000 to provide additional support to the parklet grant program of \$20,000 per business and to return to Council for further discussion on a loan program at a future date. **Seconded by Mayor Sayoc.**

**VOTE: Motion passed 4/1, Council Member Hudes opposed.**

**MOTION: Motion by Council Member Ristow** to utilize \$360,000 to provide a 100% waiver of rent and utilities for the Town of Los Gatos lessees New Museum of Los Gatos (NUMU), Friends of the Library, Billy Jones Railroad, Soccer and Little Leagues, and Los Gatos-Saratoga Community Education and Recreation (LGS Rec) for FY 2021/22. **Seconded by Council Member Hudes.**

**VOTE: Motion passed unanimously.**

**MOTION: Motion by Council Member Ristow** to utilize \$50,000 for continued Conditional Use Permit subsidies of fifty percent. **Seconded by Council Member Hudes.**

**VOTE: Motion passed unanimously.**

**Mayor Sayoc recused** herself from discussion and vote on allocation for non-profits due to conflict of interest with CASSY and left the meeting.

Council discussed item two of the staff report.

**MOTION: Motion by Council Member Ristow** to utilize \$60,000 to provide additional \$15,000 grants to West Valley Community Services, Counseling and Support Services for Youth (CASSY), Next Door Solutions, and Live Oak Senior Nutrition. **Seconded by Council Member Hudes.**

**VOTE: Motion passed 4/1, Mayor Sayoc recused.**

Mayor Sayoc rejoined the meeting.

Other Business Item #13 – Continued

The Council directed staff to return to Council at a future date with information on potentially eligible storm drainage projects, a loan program for parklets, and an additional grant for Los Gatos Recreation.

9. Adopt the Proposed Council Policy Committee Enabling Resolution as Recommended by the Council Policy Committee. **RESOLUTION 2021-006**

Shelley Neis, Town Clerk, presented the staff report.

Opened Public Comment.

Marcia Jensen

- Commented on the purpose, scope, and effectiveness of the Policy Committee and requested Council adopt the resolution.

Lee Fagot

- Requested Council add to the resolution a formal process of developing the Policy Committee workplan to be approved by Council to ensure alignment with Council priorities and ensure outreach to determine the needs of the community.

Closed Public Comment.

Council discussed the matter.

**MOTION:** Motion by Council Member Hudes to extend the meeting time until 12:30 a.m.  
**Seconded** by Council Member Ristow.

**VOTE:** Motion passed 4/1, Vice Mayor Rennie opposed.

**MOTION:** Motion by Mayor Sayoc to adopt the proposed Council Policy Committee enabling resolution as recommended by the Council Policy Committee with language change to clarify the Committee as an advisory, recommending body to the Town Council.  
**Seconded** by Council Member Ristow.

**VOTE:** Motion passed 3/2, Council Members Hudes and Badame opposed.



10. Authorize the Town Manager to Issue a Request for Proposals to Hire a Consultant to Assist with the Town's Justice, Equity, Diversity, and Inclusion Work Plan.

Laurel Prevetti, Town Manager, presented the staff report.

Opened Public Comment.

Lee Quintana

- Commented that the item should go back to the Policy Committee rather than involving an independent committee and that she had raised her hand before public comment was closed on item nine and she was disappointed that she was not allowed to speak.

Catherine Somers, Chamber

- Commented in favor of the item and requested Council have the vendor include the Chamber to create a stronger narrative of JEDI (justice, equity, diversity, inclusion).

Alicia Cinema Stereo (Spargo)

- Commented in favor of the item and requested Council have the vendor include the Chamber to create a stronger narrative of JEDI.

David Weissman

- Commented that he had raised his hand to speak on item nine before public comment was closed and he was very disappointed that he was not allowed to speak.

Closed Public Comment.

Council discussed the item.

**MOTION:** Motion by Council Member Badame to authorize the Town Manager to issue a request for proposals to hire a consultant to assist with the Town's Justice, Equity, Diversity, and Inclusion Work Plan with the amendment to bring the item back to Council for further consideration. **Seconded** by Council Member Ristow.

**VOTE:** Motion passed unanimously.

**MOTION:** Motion by Council Member Ristow to extend the meeting time until 12:40 a.m. **Seconded** by Council Member Hudes.

**VOTE:** Motion passed unanimously.

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SUBJECT: Draft Minutes of the Town Council Meeting of April 6, 2021

DATE: April 13, 2021

11. Adopt a Resolution Denouncing Hatred and Violence Toward Diverse Los Gatos Communities. **RESOLUTION 2021-007**

No staff report was given due to technical difficulties.

Opened Public Comment.

No one spoke.

Closed Public Comment.

**MOTION:**      **Motion** by **Council Member Ristow** to adopt a resolution denouncing hatred and violence toward diverse Los Gatos communities. **Seconded** by **Council Member Badame**.

**VOTE:**          **Motion passed unanimously.**

#### **ADJOURNMENT**

The meeting adjourned at 12:30 a.m.

Respectfully submitted:

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Jenna De Long, Deputy Clerk



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 3

DESK ITEM

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DATE: April 19, 2021  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Approve Draft Minutes of the April 6, 2021 Regular Town Council Meeting

REMARKS:

The Town received three public comments proposing amendments to the April 6, 2021 regular Town Council meeting minutes. Two of the comments are requests to improve the accuracy of their public comments and one is a request to add comments from a Guest Panelist.

Attachment 1 contains public comments received between 11:01 a.m., Thursday, April 15 and 11:00 a.m. Tuesday, April 20.

DISCUSSION:

As action minutes, details of the Council and Guest Panelist comments are not documented as the public has access to the video of the entire proceeding. Action style minutes are meant to capture what was decided, not what was said. Circumstances in which amendments to the minutes are warranted include improved accuracy and documenting Council direction previously not captured.

Council may approve, modify, or reject the proposed amendments in one motion or address each individual proposed amendment.

Proposed Amendment #1 in red font (Page 6):

Lee Fagot

- Requested the Town allocate all the **remaining unallocated funds from the staff proposal, approximately \$2 Million**, for the **full rent relief in Town owned property** for non-profits listed in the staff report and **to provide additional funding for additional senior services and the needed maintenance/repairs to the Adult Recreation Center building.**

PREPARED BY: Jenna De Long  
Deputy Clerk

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

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PAGE 2 OF 2

SUBJECT: Approve Draft Minutes of the April 6, 2021 Regular Town Council Meeting

DATE: April 20, 2021

Proposed Amendment #2 in red font (Page 9):

Lee Quintana

- Commented about concerns with ~~that~~ the item ~~should~~ going back to the Policy Committee rather than involving an independent committee that doesn't include participation from the public or Chamber, and that she had raised her hand before public comment was closed on item nine and she was disappointed that she was not allowed to speak.

Proposed Amendment #3:

Add Rabbi Aron's sentiment in response to verbal comments.

Staff does not recommend adding the response but if Council would like it included in the minutes, then staff would suggest also including the summary comments of the other Guest Panelists.

CONCLUSION:

Approve amendments #1 and #2 to the April 6, 2021 regular Town Council meeting minutes.

ATTACHMENTS:

Attachment received with this Desk Item Report:

1. Public Comment received between 11:01 a.m., Thursday, April 15 and 11:00 a.m. Tuesday, April 20.

Madam Mayor, Council members and Senior Staff;

Regarding the April 20, 2021 Council Meeting agenda item 3 to approve minutes of the April 6 Town Council meeting, please note the following corrections to be made to the minutes first:

Public Comment - Item #13 “Lee Fagot <sup>[11]</sup>~~[SEP]~~ Requested the Town allocate all the funds for the rent relief for non-profits listed in the staff report and additional senior services.” See the corrections, **in red**, to the above sentence, and which corrections, based on the audio recording of my 3 minutes and the answer to Council member’s question, which also indicates my intended message to the council.

Item 13 – Lee Fagot Requested the Town allocate all the **remaining unallocated** funds **from the staff proposal, approximately \$2 Million**, for the **full rent relief in Town owned property** for non-profits listed in the staff report and **to provide additional funding for** additional senior services **and the needed maintenance/repairs to the Adult Rec Center building.**

Further, my letter, shown as an attachment in the attached email below, sent to the Council prior to the April 6 meeting, was NOT included in that meeting's Agenda’s support documents. See below and as attached to this email, demonstrating consistency with my verbal comments, as noted above with corrections in **red**.

Thank you,  
Lee Fagot

March 6, 2021 Council meeting.

Item 13 - Provide Direction for the Potential Uses of the American Rescue Plan Act Funds Earmarked for Los Gatos

Madam Mayor and Council members

The Grant the Town received, \$5.7M, is being reapportioned tonight in the proposal you are considering, Item 13, at a rate that only allocates a bit more than \$3.7 M to various, and I agree, worthy projects, leaving about \$2m surplus. These “surplus” funds can be used for other economic recovery needs now. Lets allocate all the funds for the purposes they were intended – to keep the Town’s commitment to the various organizations that provide critical services to all our citizens, including many non-profits. And, in particular, lets target one of the most vulnerable constituents in our Town - our Senior citizens.

- Some additional data: at least 1/3 of our Town’s population will be 65 or older by early 2023 according to the Housing Element. These are folks who have been a strong part of our community for years, perhaps generations, and importantly, who have helped make our community the enjoyable place we all share.
- A “well-managed” Town should provide recreation and senior services to the full community; And, *NOTABLY* different from Los Gatos, most senior services are actually FUNDED by municipal governments for those citizens, whom they represent and they serve!
- LGS Adult Recreation acts as a gateway to provide valuable resources to these, our more vulnerable senior community members, collaborating with other non-profits to do so.
- It’s impossible now during COVID challenges to provide robust services when LGS Adult Rec cannot afford their current Staff salaries; and Seniors who do participate in many of the social programs make donations to help cover some of the operating costs, but operating costs are beyond the current revenue model.
- Ceasing lease payments to the Town for the E Main St. Adult Recreation Center facility provides much of the cost savings necessary to move forward to reinstall Staff FTEs during this critical time and provide the additional services identified as now necessary for our senior citizens.
- The community deserves an upgraded and more inclusive Senior Community Center and this should be part of the Town’s 20-year General Plan, or sooner! They provide many services that are unduplicated by any other Town partner.
  - Specifically, the facility needs to have its infrastructure updated to meet code and safety requirements. Currently, the facility is run down and in need of maintenance and refurbishment.
  - Many of the rooms can be repurposed so as to engage more adults for more inclusive programs. Paying the rent noted in the past to the Town precludes the LGS Recreation from making such investments in YOUR building. Please provide the ongoing funding to help the Rec make such changes. Invest in YOUR building.
- The Town’s commitment to an age-friendly initiative requires the Town government to be more VESTED in partnerships with those providing the services. This is an excellent opportunity to leverage such resources for best outcomes with these federal funds.

Also, I assume the Mayor is recusing herself from this vote due to the conflict of being the CEO of CASSY, which will receive additional (and needed, I might add), funding, as part of this initiative.

Thank you, and keep up the good work.  
Lee Fagot

To Mayor and Town Council

April 20, 2021 Town Council Meeting,

From: Lee Quintana

April 19, 2021

Mayor, I request Item #3 be pulled from the April 20,2021 consent calendar. I ask that the minutes be amended to accurately reflect my comments.- i.e I did not support the Consultant Work Plan going back to the Policy Committee.

Minutes of Item 10 April 6, 2021 Town Council state:

“Lee Quintana - Commented that the item should go back to the Policy Committee rather than involving an independent committee and that she raised her hand before public comment was closed on Item #9 and she was disappointed that she was not able to speak.”

I ask the Council to please amend the minutes (Item#3) of the April 6, 2021 Town Council Meeting to show that I was saying the direct opposite, that I did not think that the work program should go back to the Policy Committee. Below is the transcript I made from the video recording of the meeting.

“AT the last Policy Committee Meeting there was public comment on public participation or regarding public participation in matters concerning the JEDI. That (imput) is not reflected in the current staff report. What bothers me about this particular item is that a... it again goes back to the policy committee rather than involving an independent committee or.... This is hard for me because part of what I was going to say in the last hearing (on Item#9 Policy Committee Resolution - added for clarity), which I did raise my hand as the Mayor was saying are there any other people who wanted to speak, and apparently I don't move fast enough so... I see these two items as connected because there was a strong presence at the last Policy Committee meeting with the public and the Chamber of Commerce were asking to be able to participate in these areas. “

“I am not opposed at all to hiring a consultant. I think the RFP is a little thin but I do think the idea is good. But I do think that given that the public would like to participate in these things and that the current draft of the General Plan (2040) in its implementation section asks for a committee to address this issue. Those are my comments at this time.”

Thank you for your consideration.

**From:** Amy Nishide

**Sent:** Sunday, April 18, 2021 2:51 PM

**To:** Laurel Prevetti <[LPrevetti@losgatosca.gov](mailto:LPrevetti@losgatosca.gov)>; Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>; Council <[Council@losgatosca.gov](mailto:Council@losgatosca.gov)>

**Cc:** Rabbi Melanie Aron

**Subject:** April 6th meeting minutes change needed!

Dear Council,

It's imperative, in my opinion, that the minutes capture Rabbi Melanie's sentiment in response to verbal comment that "false equivalencies" to the Holocaust are not okay, negate or minimize the devastating suffering of those murdered, and they are not true. I plan to pull the minutes from consent to have this added, FYI.

Thank you for your attention,  
Amy Nishide





**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 4

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DATE: April 5, 2021  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Adopt a Resolution Describing Improvements and Directing Preparation of the Town Engineer's Report for Fiscal Year 2021/22 for Landscape and Lighting Assessment Districts No. 1 and 2

**RECOMMENDATION:**

Adopt a resolution (Attachment 1) describing improvements and directing preparation of the Town Engineer's report for Fiscal Year 2021/22 for Landscape and Lighting Assessment Districts No. 1 and 2.

**BACKGROUND:**

The Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500) allows local government agencies to form Landscape and Lighting Maintenance Districts for financing the costs and expenses for landscaping and lighting public areas.

In the early 1990's the Town established two Landscape and Lighting Districts comprised of six zones, five of which are in District No. 1, and one in District No. 2. Diagrams of the six zones are included in this report (Attachments 2.1-2.6). Property owners in each District pay an annual assessment on their property tax bill for the maintenance of common area landscaping or lighting.

The majority of the landscape and lighting services within the Districts are provided by a contractor retained and managed directly by the Town on behalf of the property owners, with some maintenance services also provided by Town staff.

**PREPARED BY:** Stefanie Hockemeyer  
Executive Assistant

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

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PAGE 2 OF 3

SUBJECT: Adopt a Resolution Describing Improvements and Directing Preparation of the  
Town Engineer's Report for Fiscal Year 2021/22 for Landscaping and Lighting  
Assessment Districts No. 1 and 2

DATE: April 5, 2021

BACKGROUND (continued):

Each year, the Town Council levies the assessments and reconfirms the Districts by a series of Resolutions and a Public Hearing. The process, which is set by the Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500), includes the following steps and their respective dates:

1. Council considers the adoption of a Resolution entitled Describing Improvements and Directing the Preparation of the Engineer's Report for FY 2021/22 – April 20, 2021.
2. Council considers the adoption of Resolutions Approving the 2021/22 Engineer's Report, Stating the Intention to Levy and Collect Assessments, and Setting a Public Hearing to Consider the Proposed Assessments – May 4, 2021.
3. Council conducts the public hearing and then considers the adoption of a Resolution Confirming the Assessment Diagrams and Levying and Authorizing Collection of Assessments for FY 2021/22 – June 15, 2021.

Provisions of SB 919 (the Proposition 218 Omnibus Implementation Act) adopted by the California State Legislature in 1997 (Chapter 38, Stats. 1997) are implemented during the renewal process. Proposition 218 becomes applicable only when increases in the current assessment rates are contemplated, due primarily to rising maintenance costs and increases in the costs of water and power. If that were to take place, the above noted process would be modified by introducing a mail-in balloting procedure for each zone that begins after the items in step 2 are approved by Council and concludes at the close of the public hearing.

At the conclusion of step 3, the Town Clerk transmits the assessment amounts to the County Assessor which appear as a separate item on the property tax bill for each parcel.

DISCUSSION:

Streets & Highways Code Section 22622 states, *"The legislative body shall adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and order the engineer to prepare and to file a report in accordance with Article 4 (commencing with Section 22565)."*

The attached Resolution describes the improvements (services) to be provided to the Districts and directs the preparation of the Engineer's Report.

PAGE 3 OF 3

SUBJECT: Adopt a Resolution Describing Improvements and Directing Preparation of the  
Town Engineer's Report for Fiscal Year 2021/22 for Landscape and Lighting  
Assessment Districts No. 1 and 2

DATE: April 5, 2021

CONCLUSION:

Adopt a Resolution describing improvements and directing preparation of the Town Engineer's report for Fiscal Year 2021/22 for Landscape and Lighting Assessment Districts No. 1 and 2.

FISCAL IMPACT:

The Town's Landscape and Lighting Assessment Districts do not impact the Town's General Fund. The impact of any proposed changes to District budgets on the assessments of individual property owners will be provided in the Engineer's Report.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Resolution Describing Improvements and Directing Preparation of Engineer's Report for Fiscal Year 2021/22.
2. Diagrams of Benefit Zones for Landscape and Lighting Districts No. 1 and 2 (labeled as Attachments 2.1 through 2.6)

**RESOLUTION 2021--**

**RESOLUTION OF THE TOWN COUNCIL  
OF THE TOWN OF LOS GATOS  
DESCRIBING IMPROVEMENTS AND  
DIRECTING PREPARATION OF ENGINEER'S REPORT  
FOR FISCAL YEAR 2021/22  
TOWN OF LOS GATOS  
LANDSCAPE AND LIGHTING ASSESSMENT DISTRICTS NO. 1 AND 2**

**WHEREAS**, the Town Council did, pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the Streets and Highways Code of the State of California, conduct proceedings for the formation of the Town of Los Gatos Landscaping and Lighting Assessment Districts No. 1 and 2; and

**WHEREAS**, the public interest, convenience and necessity require, and it is the intention of said Council to undertake proceedings for the levy and collection of assessments upon the several lots or parcels of land in said Districts, for the construction or installation of improvements, including the maintenance or servicing, or both, thereof, for the fiscal year 2021/22; and

**WHEREAS**, the improvements to be constructed or installed, including the maintenance or servicing, or both, thereof, are more particularly described in (Exhibit A) hereto attached and by reference incorporated herein; and

**WHEREAS**, the costs and expenses of said improvements, including the maintenance or servicing, or both, thereof, are to be made chargeable upon said Districts, the exterior boundaries of which Districts are the composite and consolidated area as more particularly shown on a map thereof on file in the Clerk Department of the Town of Los Gatos to which reference is hereby made for further particulars. Said map indicates, by a boundary line, the extent of the territory included in said Districts and of any zone thereof and shall govern for all details as to the extent of the assessment districts; and

**NOW, THEREFORE, BE IT RESOLVED:** The Engineer of said Town is hereby directed to prepare and file with said Town Clerk a report, in writing, referring to the assessment districts

by their distinctive designations, specifying the fiscal year to which the report applies, and, with respect to that year, presenting the following:

- a. Plans and specification of the existing improvements and for proposed new improvements, if any, to be made within the assessment districts or within any zones thereof;
- b. An estimate of the costs of said proposed new improvements, if any, to be made, the costs of maintenance or servicing, or both, thereof, and of any existing improvements, together with the incidental expenses in connection therewith;
- c. A diagram showing the exterior boundaries of the assessment districts and of any zones within said districts and the lines and dimensions of each lot or parcel of land within the districts as such lot or parcel of land is shown on the County Assessor's map for the fiscal year to which the report applies, each of which lots or parcels of land shall be identified by a distinctive number or letter on said diagram; and
- d. A proposed assessment of the total amount of the estimated costs and expenses of the proposed new improvements, including the maintenance or servicing, or both, thereof, and of any existing improvements upon the several lots or parcels of land in said districts in proportion to the estimated particular and distinct benefits to be received by each of such lots or parcels of land, respectively, from said improvements, including the maintenance or servicing, or both, thereof, and of the expenses incidental thereto.

**NOW, THEREFORE, BE IT FURTHER RESOLVED:** The Office of the Engineer of said Town is hereby designated as the office to answer inquiries regarding any protest proceedings to be had herein and may be contacted during regular office hours at 41 Miles Avenue, Los Gatos, California 95030 or by calling (408) 399-5770.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 20<sup>th</sup> day of April 2021 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

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

DATE: \_\_\_\_\_

## EXHIBIT A

### DESCRIPTION OF IMPROVEMENTS TOWN OF LOS GATOS LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT NO. 1

#### 1. General Description of Improvements:

The design, construction or installation, including the maintenance or servicing, or both, thereof, of landscaping, including trees, shrubs, grass or other ornamental vegetation, statuary, fountains or other ornamental structures and facilities, and public lighting facilities for the lighting of any public places, ornamental standards, luminaries, poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, braces, transformers, insulators, contacts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances, including the cost of repair, removal or replacement of all or any part thereof; providing for the life, growth, health and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing and treating for disease or injury; the removal of trimmings, rubbish, debris and other solid waste; electric current or energy, gas or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements; and the operation of any fountains or the maintenance of any other improvements.

#### 2. Specific Descriptions of Improvements:

**Blackwell Drive Benefit Zone** - Maintenance of the landscaping in the median island on Blackwell Drive constructed as a part of the public improvements required of Tract No. 8306, and maintenance of the street lights installed along Blackwell Drive and National Avenue installed as a part of the public improvements required of Tract No. 8306.

**Hillbrook Benefit Zone** - The maintenance of trees, landscaping, irrigation systems, hardscape and fences as currently exist on APN 523-11-028, located at the southeast corner of Blossom Hill Road and Hillbrook Drive.

**Kennedy Meadows Benefit Zone** - The maintenance of trees, landscaping, irrigation systems, trail and street lights within the open space areas (Parcels A and B) and along Kennedy Court and Forrester Court, installed as a part of the public improvements required of Tract No. 8612, and the implementation of mitigation and enhancement measures within the riparian and wetlands areas of said Tract described in the report prepared by H.T. Harvey Associates, dated November 11, 1994.

**Santa Rosa Heights Benefit Zone** - The maintenance of trees, landscaping, trails and retaining walls constructed as a part of the public improvements required of Tract No. 8400.

**Vasona Heights Benefit Zone** - The maintenance of trees, landscaping, irrigation systems, trails, emergency access roads and retaining walls within the open space areas required as a part of the public improvements required of Tract No. 8280.

## EXHIBIT A

### DESCRIPTION OF IMPROVEMENTS TOWN OF LOS GATOS LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT NO. 2

#### 1. General Description of Improvements:

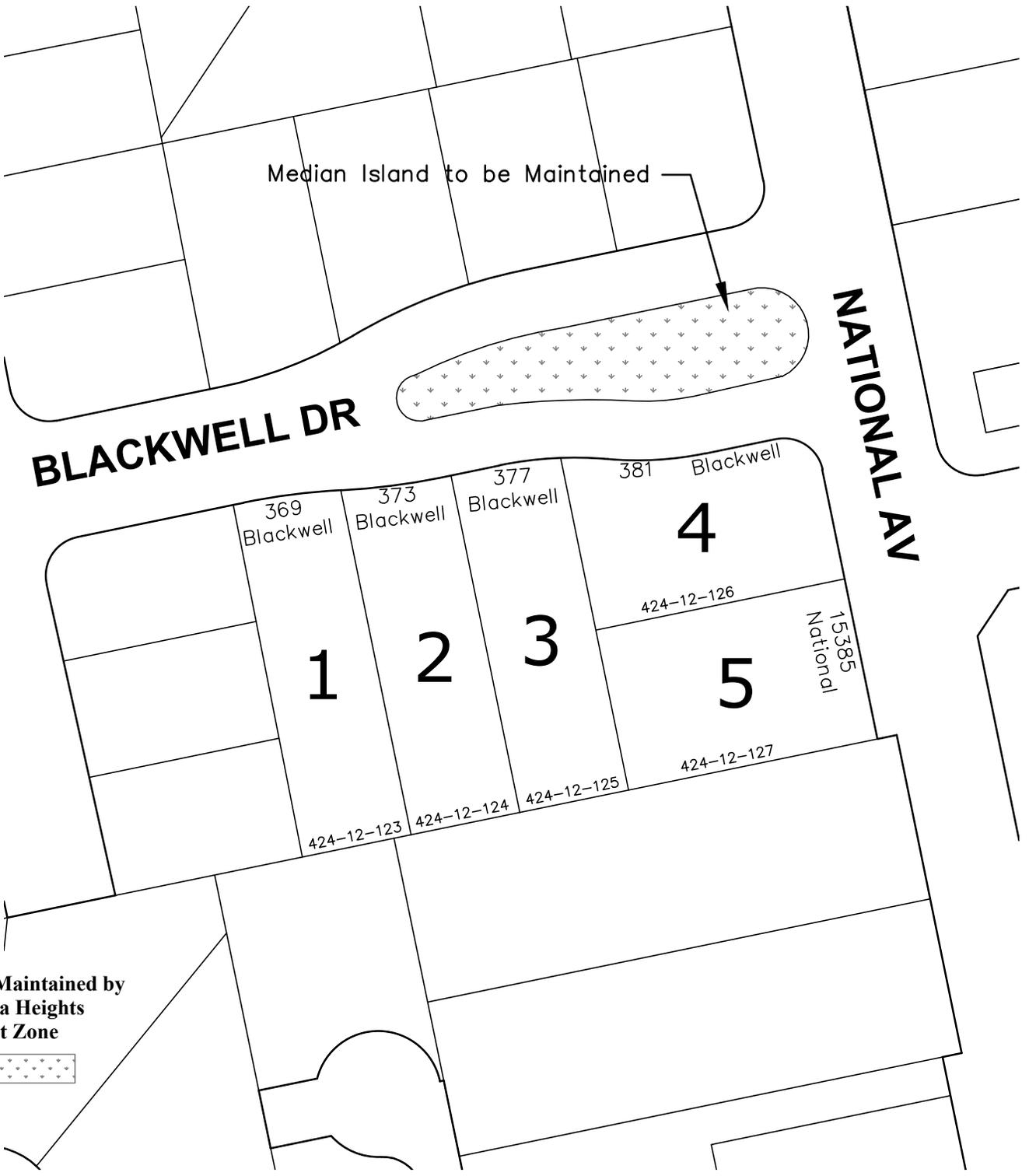
The design, construction or installation, including the maintenance or servicing, or both, thereof, of landscaping, including trees, shrubs, grass or other ornamental vegetation, statuary, fountains or other ornamental structures and facilities, and public lighting facilities for the lighting of any public places, ornamental standards, luminaries, poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, braces, transformers, insulators, contacts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances, including the cost of repair, removal or replacement of all or any part thereof; providing for the life, growth, health and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing and treating for disease or injury; the removal of trimmings, rubbish, debris and other solid waste; electric current or energy, gas or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements; and the operation of any fountains or the maintenance of any other improvements.

#### 2. Specific Description of Improvements:

**Gemini Court Benefit Zone** - The maintenance of trees, landscaping, irrigation systems, lighting, sound walls, and fences installed as a part of the public improvements required of Tract No. 8439.



PART "D"  
Assessment Diagram



Area Maintained by  
Vasona Heights  
Benefit Zone



Not To Scale

**Blackwell Drive Benefit Zone**  
**Landscaping & Lighting Assessment District No. 1**

PART "A"

Existing Improvements to be Maintained

**BLOSSOM HILL RD**

HILLBROOK  
SIGN

**HILLBROOK DR**

EX.  
OAK

523-11-028

LAWN

EX.  
OAK

EX. SHRUBS

EX. SHRUBS



Not To Scale

**Hillbrook Benefit Zone**

**Landscaping & Lighting Assessment District No. 1**

PART "D"  
Assessment Diagram

BLOSSOM HILL RD



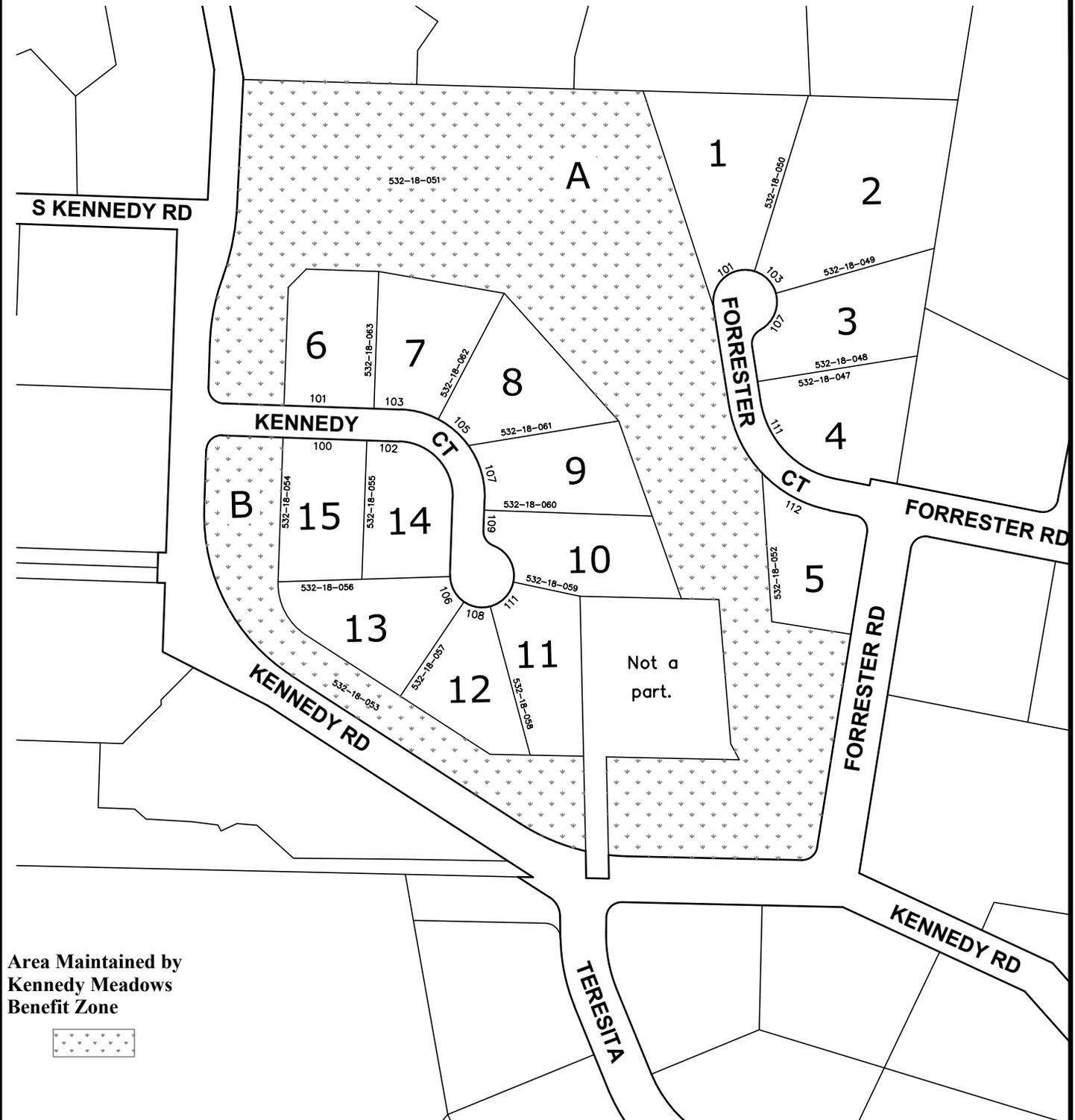
Area Maintained by  
Hillbrook Benefit  
Zone



Not To Scale

**Hillbrook Benefit Zone**  
**Landscaping & Lighting Assessment District No. 1**

PART "D"  
Assessment Diagram



Area Maintained by  
Kennedy Meadows  
Benefit Zone

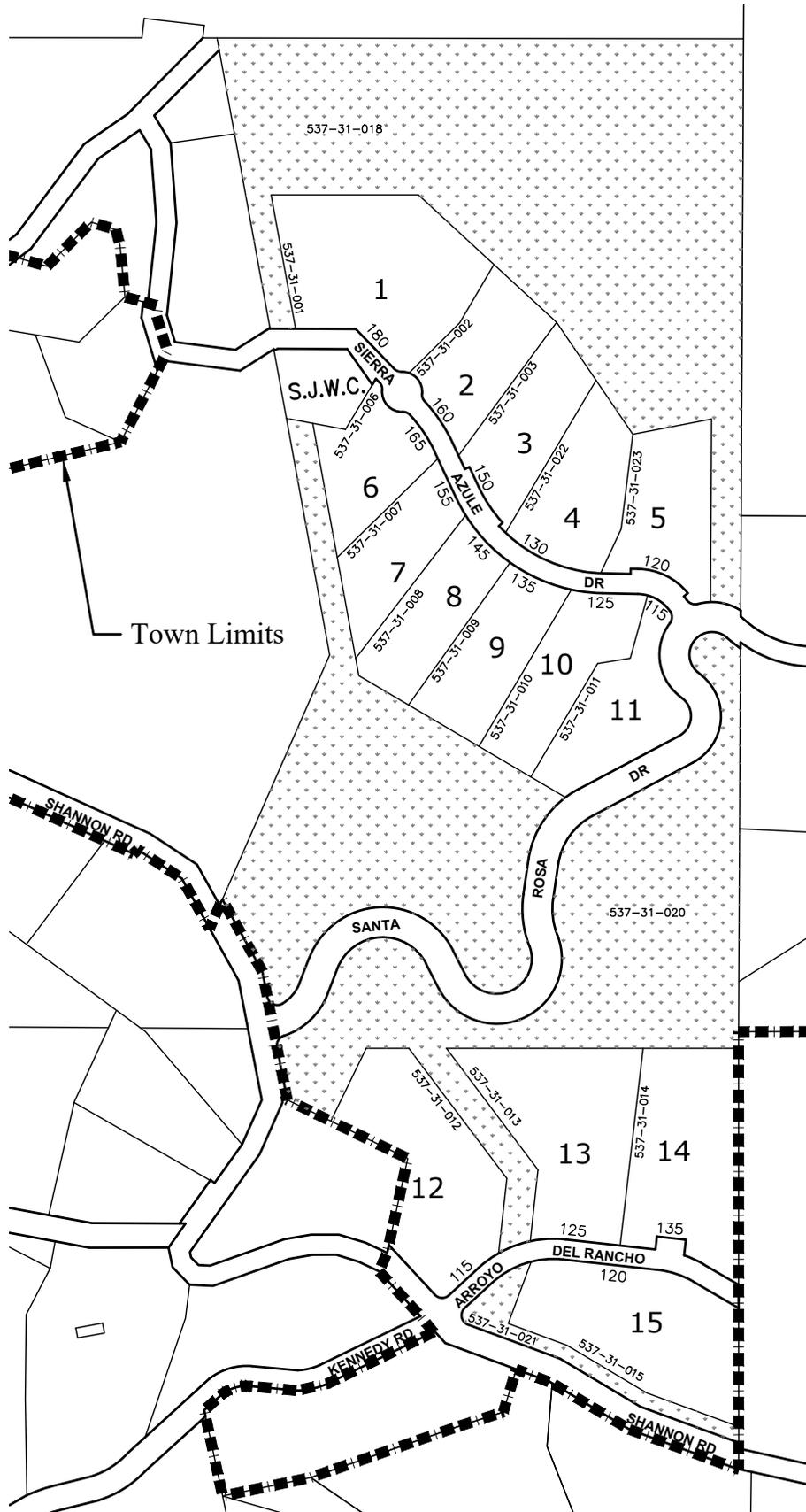


Not To Scale

**Kennedy Meadows Benefit Zone**  
**Landscaping & Lighting Assessment District No. 1**

ENGINEERING\ASMT-MAPS (LID)\Assessment mcp.dwg

**PART "D"**  
**Assessment Diagram**



**Area Maintained by  
Santa Rosa Heights  
Benefit Zone**

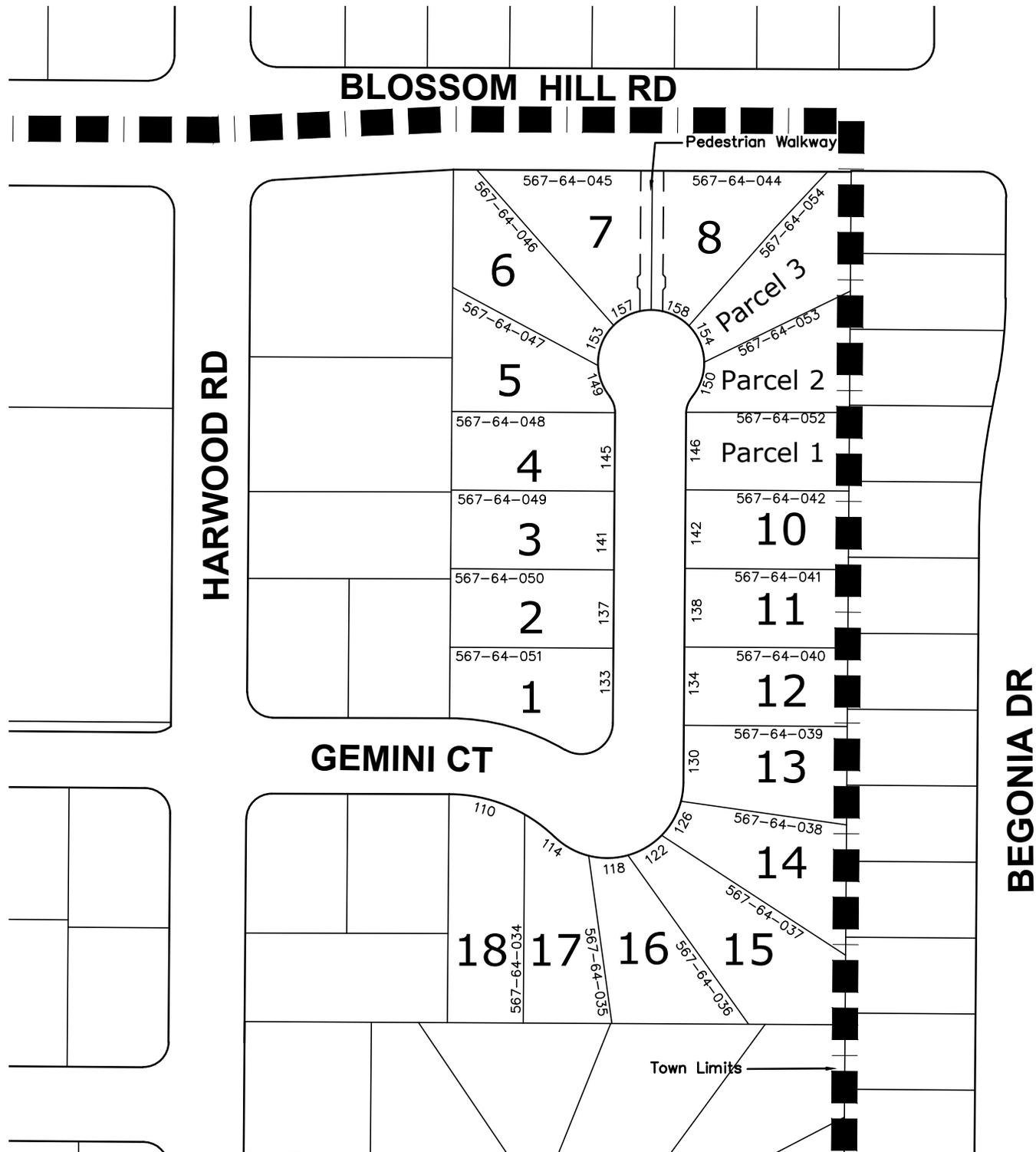


Not To Scale

**Santa Rosa Heights Benefit Zone**  
**Landscaping & Lighting Assessment District No. 1**



PART "D"  
Assessment Diagram



Not To Scale

**Gemini Court Benefit Zone**  
**Landscaping & Lighting Assessment District No. 2**



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 5

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DATE: April 15, 2021  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Authorize the Town Manager to Negotiate and Execute a Consultant Services Agreement with NCE for the Shannon Road Repair (CIP No. 811-0008) Design Services in an Amount Not to Exceed \$450,000

**RECOMMENDATION:**

Staff recommends that the Town Council authorize the Town Manager to negotiate and execute a consultant services agreement with NCE for the Shannon Road Repair (CIP No. 811-0008) design services in an amount not to exceed \$450,000.

**BACKGROUND:**

The Town's adopted Fiscal Year (FY) 2020/21-2024/25 Capital Improvement Program (CIP) Budget designates FY 2020/21 funding for the Shannon Road Repair (CIP No. 811-0008). The intent of the project is to investigate the ongoing pavement failures and ground settlements occurring on Shannon Road between Santa Rosa Drive and Diduca Way, and identify design solutions to stabilize and repair the embankment and roadway.

In 2018, the Town of Los Gatos took ownership of the 1,300-foot section of Shannon Road between Santa Rosa Drive and Diduca Way as part of an annexation of 14915 Shannon Road from the County of Santa Clara (County), as approved by the Town Council and certified by the Local Agency Formation Commission (LAFCO).

The annexed portion of Shannon Road had a history of pavement cracking and settlements. The County routinely paved over the roadway segment to repair the failures. There is reportedly up to 27 inches of asphalt along the outer edge of the road in certain locations due to repeated paving operations undertaken. Prior to the annexation, the County attempted to rectify the settlement issue by injecting polyurethane foam to fill voids under the roadway,

**PREPARED BY:** WooJae Kim  
Town Engineer

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

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PAGE 2 OF 4

SUBJECT: Authorize the Town Manager to Negotiate and Execute a Consultant Services Agreement with NCE, Inc. for the Shannon Road Repair (CIP No. 811-0008) Design Services in an Amount Not to Exceed \$450,000

DATE: April 15, 2021

BACKGROUND (continued):

assuming that would stop the settlement. Shannon Road was annexed to the Town shortly after completing the repair work.

Despite the foam injection by the County, the road embankment continued to creep downslope within a year causing pavement distress and failure. The settlement has now caused few of the injection pipes that were left embedded underground to protrude through the pavement surface. The continued deterioration of the roadway creates some urgency for a permanent solution to stabilize the embankment to avoid continuous periodic maintenance and before a more severe pavement failure. In addition to residential ingress and egress, Shannon Road is a primary route for emergency vehicles for the area.

On April 30, 2020, Council authorized a consultant services agreement with NCE to conduct a geotechnical analysis to investigate the root of the problem and recommend long term and cost-effective repair solutions.

DISCUSSION:

On December 7, 2020, NCE, in partnership with Cal Engineering and Geology (CE&G), submitted a Geotechnical and Alternatives Report for the Shannon Road Embankment Stabilization (Attachment 1). The Report discussed that oversteepening of the roadway embankment, substandard compaction of the colluvium road fill, seasonal rain that saturates and reduces the strength of the underlying soils, and severely weathered bedrock are the causes of the long term ongoing creep downslope of the embankment.

NCE and CE&G recommended retaining walls as the only permanent solution to stabilize the embankment to stop the settlement and creep of the roadway. The final design of the retaining walls would take about a year to complete once a designer is onboard. The construction of the retaining walls could take six to ten months to complete, during which half of the width of the roadway would need to be closed and reconstructed. All necessary steps would be taken to keep the other half of the roadway open to two-way traffic with traffic control. NCE noted that there may be utility relocations and right-of-way issues associated with the construction of retaining walls, to be determined during the design phase, which may prolong the overall project completion. The consultants established that the design and construction of the project would cost approximately \$5.5 million with the soldier pile and lagging retaining wall option.

For the design services for the Shannon Road Repair with environmental assessment and evaluation of right-of-way issues, staff issued a Request for Proposal (RFP) to the following nine On-Call Civil Engineering Firms on December 22, 2020:

PAGE 3 OF 4

SUBJECT: Authorize the Town Manager to Negotiate and Execute a Consultant Services Agreement with NCE, Inc. for the Shannon Road Repair (CIP No. 811-0008) Design Services in an Amount Not to Exceed \$450,000

DATE: April 15, 2021

DISCUSSION (continued):

- ActiveWayz Engineering
- Bellecci and Associates
- Carroll Engineering, Inc.
- Civil Engineering Associates
- CSG Consultants
- MNS Engineers
- NCE
- Ruggieri-Jensen-Azar
- Wilsey Ham

The Parks and Public Work Department's On-Call Civil Engineering Consultant List was established through a formal Request for Qualifications process in 2019. By the proposal due date of January 14, 2021, staff received proposals from NCE and MNS Engineers.

Through the proposal evaluation and interview process outlined in the RFP, staff selected NCE as the best qualified firm for the project. Although MNS Engineers submitted a comprehensive proposal, NCE gathered a more experienced team to complete the final design of the project. NCE's proposal addressed all the requirements in the RFP.

Staff is seeking authorization from Council for the Town Manger to negotiate and execute a consultant services agreement with NCE, Inc. in a contract amount not to exceed \$450,000. Attachment 2 is the proposal from NCE, and a draft consultant services agreement is included as Attachment 3.

CONCLUSION:

Approval of the recommendation will allow staff to execute a consultant services agreement with NCE to implement the design phase of the Shannon Road Repair project.

COORDINATION:

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

FISCAL IMPACT:

There is sufficient funding in the FY2020/21 CIP Budget to cover the final design cost for the Shannon Road Repair project. Design is anticipated to be completed by spring 2022, and

SUBJECT: Authorize the Town Manager to Negotiate and Execute a Consultant Services Agreement with NCE, Inc. for the Shannon Road Repair (CIP No. 811-0008) Design Services in an Amount Not to Exceed \$450,000

DATE: April 15, 2021

FISCAL IMPACT (continued):

construction could start as early as summer 2022. Approximately \$4 million in additional funds would be needed to complete the construction of the project.

Staff costs are tracked for all projects. Tracking of staff costs allows for accountability in the costs of the project, recovery of costs for grant funded projects, and identification of future staffing needs. This project will utilize both full-time budgeted and part-time staff. The costs for full-time staff are accounted for in the Department’s Operating Budget. Only part-time staff costs incurred will be charged to the project.

<b>Shannon Road Repair Project 811-0008</b>		
	<b>Budget</b>	<b>Costs</b>
GFAR	\$ 1,500,000	
<b>Total Budget</b>	<b>\$ 1,500,000</b>	
Geotechnical Analysis by NCE		\$ 79,950
Design Contract with NCE		\$ 450,000
Part-Time Staff Cost		\$ 50,000
Material Testing and Inspection		\$ 200,000
Construction and Contingency		\$ 4,700,000
<b>Total Expenditures</b>		<b>\$ 5,479,950</b>
<b>Remaining Balance</b>		<b>-\$ 3,979,950</b>

ENVIRONMENTAL ASSESSMENT:

An environmental assessment will be conducted during the design phase of the project.

Attachments:

1. CE&G Geotechnical Report
2. Proposal from NCE
3. Draft Consultant Services Agreement with NCE

**REVISED GEOTECHNICAL AND ALTERNATIVES REPORT**  
**SHANNON ROAD EMBANKMENT STABILIZATION PROJECT**

**CE&G DOCUMENT: 200300.001**

**7 DECEMBER 2020**

Prepared for:

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- Figure 2. Site Plan
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- Figure 3. Regional Geology Map
- Figure 4. Landside Activity Map
- Figure 5. Fault Activity Map
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## **APPENDICES**

- Appendix A. Boring Logs
- Appendix B. Laboratory Testing
- Appendix C. Conceptual Cost Estimate
- Appendix D. Site Photos

## 1.0 INTRODUCTION

### 1.1 GENERAL

Cal Engineering & Geology, Inc. (CE&G) has provided geotechnical engineering services to NCE for the planned embankment stabilization project located along Shannon Road, in Los Gatos, California (see Figure 1). The work has been completed to provide investigate the geotechnical conditions at the site and provide geotechnical design alternatives for stabilization of Shannon Road.

### 1.2 PROJECT DESCRIPTION

There have been long-term pavement cracking and embankment settlement issues along portions of approximately 1,300 linear feet of asphalt paved Shannon Road between Santa Rosa Drive and Diduca Way. The great majority of the distress has typically developed within the outer half of the road embankment. Prior to the recent acceptance of the road by the Town of Los Gatos (Town), we understand that the County (former owner of the road) had been addressing the settlement and pavement cracking for several decades. The County transferred ownership of the road to the Town in 2017. Routine maintenance is undertaken by the County typically consisted of sealing of asphalt pavement cracks and placement of additional hot mix asphalt concrete along the settling portions of the road to relevel the driving surface. Approximately two years ago, measures were undertaken by the County in an attempt to stabilize problem areas of the roadway by injecting polyurethane foam below the pavement along the outer half of the road embankment and within the areas of historic settlement and cracking. Shortly thereafter, the road was annexed to the Town. Despite the foam injection work, the road embankment has continued to deform and move downslope. Significant pavement distress has re-developed, reportedly at an increased rate. The settlement has caused some of the injection pipes that were left following injection to protrude up through the pavement surface. The Town has indicated that they wish to develop a long-term, cost-effective strategy to address the embankment stability issues along this stretch of Shannon Road, providing the repair is feasible from a cost perspective.

### 1.3 PURPOSE AND SCOPE OF SERVICES

The investigation completed by CE&G was undertaken to assess the existing surface and subsurface conditions in the immediate vicinity of the project area and to develop geotechnical design recommendations for potential improvements.

The scope of work completed for the geotechnical investigation and report included:

1. Completion of an office study to identify and evaluate relevant geologic and geotechnical information available for the site, including published geologic maps, and unpublished geotechnical information in our and the Town's (and County's) files regarding the site and vicinity.
2. Geologic reconnaissance to observe current site conditions and to mark for USA (Underground Service Alert).
3. Subsurface exploration using a truck-mounted drill rig, in accordance with the Town of Los Gatos Encroachment requirements.
4. Laboratory testing of samples collected during the subsurface exploration to determine key engineering index properties of selected earth materials.
5. Engineering analyses to develop and evaluate alternative geotechnical approaches to restore the road shoulder and embankment, and to develop parameters for the design of the recommended repairs.
6. Preparation of this geotechnical alternatives report.



## 2.0 SITE CONDITIONS

### 2.1 SITE DESCRIPTION

The project site is located along Shannon Road, between Santa Rosa Drive and Diduca Way, in Los Gatos. In this area, Shannon Road consists of a two-lane asphalt-paved roadway about 22 feet wide. The roadway ascends from southeast to northwest, from an approximate elevation of 570 to 685 feet above sea level along the 1,300-foot length of the project site. Shannon Road in the site vicinity is oriented approximately northwest-southeast and is in hilly terrain in the foothills of the Santa Cruz Mountains.

High-resolution orthoimagery was captured by CE&G's unmanned aircraft system (UAS) on 11 June 2020. A photogrammetrically-derived digital elevation model was used to model the local topography. Supplemental surface data for areas not covered by CE&G's UAS flight were derived from 2006 Santa Clara Valley Water District LiDAR data. Site topography is shown on the Site Plan, Figure 2, with a map book showing the roadway at a detailed scale on Figures 2A through 2J. Fill slopes below the roadway generally are steeper (up to approximately 65° in some locations) and taller to the southeast.

Plotted on the map book are parcel lines as part of a GIS database provided to us by the Town. A waterline is also shown, which is estimated from pavement marks made by the San Jose Water Company during USA utility locating. Both lines should be considered approximate.

## 3.0 GEOLOGY

### 3.1 GEOLOGIC SETTING

The project site lies in the Santa Cruz Mountains, within the Coast Ranges geomorphic province of California. This province is characterized by northwest-southeast trending mountain ranges and intervening valleys such as those occupied by San Francisco Bay and the Santa Clara Valley. The Santa Cruz Mountains are one such range, marking a mountain-range scale regional uplift southwest of the San Andreas fault. The geologic setting is shown on Figure 3, Regional Geologic Map.

#### 3.1.1 Bedrock Geology

Regional geologic mapping by McLaughlin and others (2001), shows bedrock in the site vicinity as the Monterey shale (middle and lower Miocene) and Temblor sandstone (middle Miocene to Oligocene?), which have been juxtaposed near the center of the project site by the Monte-Vista Shannon Fault (Figure 3). The Monterey shale generally consists of siliceous mudstone, diatomite, and porcellanite, whereas the Temblor sandstone primarily consists of pebbly, lithic arkosic sandstone, and fossiliferous conglomerate (McLaughlin and others, 2001). The Monterey shale in the vicinity of the site, along Shannon Road, is shown as dipping 47° to 53° to the southwest (McLaughlin and others, 2001). This mapping agrees with earlier mapping by Wentworth (1999).

The two bedrock units are juxtaposed along the Monte Vista-Shannon fault, mapped as a vertical to likely steeply southwest-dipping, southwest-side-down fault in the core of folded Tertiary age bedrock units. Activity of this fault is described in Section 3.4.1. The Monte Vista-Shannon fault is one of several faults that overall define a southwest-dipping oblique fold and thrust zone where the Santa Cruz Mountains are being thrust out over Santa Clara Formation valley floor alluvium. The fault trace closely parallels Shannon Road in the project area.

#### 3.1.2 Landslide Geology

According to the California Geological Survey's (CGS) Landslide Inventory Map, two landslides of uncertain age are shown as crossing Shannon Road in the area of the project site, see Figure 4 (CGS, 2002).

Geologic mapping prepared for the Town of Los Gatos General Plan Update, by Nolan Associates (1999) shows two small landslides that appear to correspond to two topographic swale areas evident on the project Site Plan (Figure 2).

## **3.2 REGIONAL GROUNDWATER**

Groundwater within the hillside slope areas encompassing the site is likely variable, with the water table commonly sloping downgradient toward the closest drainage axis. The distribution of groundwater may be complicated by faulting and shearing associated with the Monte-Vista Shannon fault. Fault zones can act as both conduits and barriers to groundwater movement. We are not aware of springs in the immediate project vicinity.

## **3.3 GEOHAZARD MAPPING**

### **3.3.1 State Geohazard Mapping**

The California Geological Survey (CGS) set up an Earthquake Zones of Required Investigation map for the Los Gatos 7.5-minute Quadrangle (CGS, 2002) that shows zones that are established to trigger further evaluation (for certain projects) of the potential for seismically-induced landsliding in hillside areas, and liquefaction potential in valley floor areas.

The project site is not mapped within the zone of required investigation for liquefaction. However, it is located in an area of required investigation for seismically-induced landsliding (CGS, 2002), for certain classes of projects (the Shannon Road project does not appear to be such a project). The project site is not located within an Earthquake Fault Zone (formerly Alquist-Priolo Earthquake Fault Zone). No distress was noted to the roadway following the 1989 Loma Prieta earthquake, which resulted in localized distress farther to the northwest.

### **3.3.2 Local Geohazard Mapping**

The County of Santa Clara's Geohazard Zoning maps show the site as within a zone of required investigation for fault rupture hazard for certain classes of projects; the Shannon Road project does not appear to be subject to this requirement.

## **3.4 SEISMICITY**

### **3.4.1 Active Faults**

The Shannon Road site is located within the greater San Francisco Bay Area, which is recognized as one of the more seismically active regions of California. The right-lateral strike-slip San Andreas fault system controls the northwest-southeast structural grain of the Coast Ranges and the Bay Area. The fault system marks the major boundary between two of earth's tectonic plates, the Pacific Plate on the west and the North American Plate on

the east. The Pacific Plate is moving north relative to the North American plate at approximately 40 mm/yr in the Bay Area (WGCEP, 2003).

The transform boundary between these two plates has resulted in a broad zone of multiple, subparallel faults within the North American Plate, along which right-lateral strike-slip faulting predominates. In this broad transform boundary, the San Andreas Fault accommodates less than half of the average total relative plate motion. Much of the remainder in the greater South Bay Area is distributed across faults such as the San Gregorio, Monte Vista-Shannon, Sargent, Berrocal, Hayward (southern segment), Calaveras, and Zayante-Vergeles fault zones.

Since the Shannon Road site is in the seismically active San Francisco Bay Area, it will likely experience significant ground shaking from moderate or large ( $M_w > 6.7$ ) earthquakes on one or more of the nearby active faults during the design lifetime of the project. Some seismic sources in the San Francisco Bay area and their distances from the site are summarized in Table 3-1. Figure 5 fault activity shows the faults in the vicinity of the project.

According to the United States Geological Survey's (USGS) Quaternary fault and fold database as well as mapping by McLaughlin (2001), the Monte-Vista Shannon Fault is mapped as cutting across Shannon Road near the center of the project site. The steeply southwest dipping Monte-Vista Shannon Fault in this area trends northwest and is mapped as a normal fault with the southwest side moving down with respect to the northeastern side of the fault (McLaughlin, 2001). The slip rate for the fault in this area is between 0.2 and 1.0 millimeters per year (USGS, 2006).

Seismogenic (capable of generating significant earthquakes) earthquake faults near the site include the Monte-Vista Shannon, Hayward, Sargent, and the San Andreas fault.

**Table 3-1. Distances to Selected Major Active Faults**

Fault Name	Approximate Distance and Direction from Site to the nearest Surface Fault Traces
Monte Vista-Shannon	0.0 km
San Andreas	7.9 km southwest
Sargent	9.5 km southwest
Hayward (southern segment)	16.9 km northeast
Zayante-Vergeles-Upper	21.4 km south-southeast
Calaveras (central segment)	21.9 km northeast
San Gregorio	34.1 km southwest

### 3.4.2 Liquefaction and Seismic Densification

Soil liquefaction is a phenomenon in which saturated, cohesionless soils (generally sands) lose their strength due to the build-up of excess pore water pressure during cyclic loading, such as that induced by earthquakes. Soils most susceptible to liquefaction are saturated, clean, loose, fine-grained sands, and silts. The primary factors affecting soil liquefaction include: 1) intensity and duration of seismic shaking; 2) soil type and relative density; 3) overburden pressure; and 4) depth to groundwater.

Based on subsurface information collected during this investigation, we judge the potential for liquefaction at this site to be low for the depths explored due to the lack of shallow groundwater beneath the site. Groundwater encountered in our borings is summarized in Section 4.3.4.

Seismic densification is the densification of unsaturated, loose to medium dense granular soils due to strong vibration such as that resulting from earthquake shaking. The potential for seismic densification is considered low for colluvial soils and low to moderate for the encountered fill and colluvial soils. We note that the proposed repair alternatives, specifically MSE walls, would remove and replace much of the fill and underlying colluvial soils in the area of the repair. The deeper soil and bedrock materials that were encountered are generally cohesive and/or too dense for seismically induced densification.

## 4.0 SITE INVESTIGATION

### 4.1 PREVIOUS INVESTIGATIONS

We are not aware of any previous geotechnical investigations at the site.

Approximately two years ago, measures were undertaken by the County to stabilize problematic areas of the roadway by injecting polyurethane foam below the outer half of the road embankment within the areas of historic settlement and cracking. After the foam injection was completed, the outer half of the road received a 2.5- to 3-inch pavement overlay. We are unaware of information regarding the lateral extent of the foam injection program, depths at which foam was injected, or the volume of foam injected. We understand that foam was injected vertically, on a grid pattern.

### 4.2 SITE RECONNAISSANCE

CE&G performed field reconnaissance of the site in advance of and on the day of our subsurface investigation. Reconnaissance, observations, and mapping were performed on June 11, June 22, June 25, and August 14, 2020. Select pictures from our reconnaissance and drilling are included in Appendix D. It should be noted the aerial photo shown in Figures 2A thru 2J were taken during reconnaissance on June 11, 2020, and show the road condition at that time.

The site is located along an approximately 1,300-foot-long stretch of Shannon Road that generally traverses a north-facing slope, climbing slowly from southeast to northwest. The asphalt pavement roadway occupies nearly the full width of the embankment. There is a minimal inboard shoulder, with a few culverts and/or drop inlets in the area. There is very minimal outer shoulder along most of the length of the project site. Slopes below the embankment slope steeply downward to an apparently alluvium-filled valley that parallels the road. No storm drains, culverts, or drop inlets were observed along the road in this area. There is currently an existing water line beneath the inboard lane (eastbound lane) of the road.

The asphalt pavement in the project area has a history of settlement and cracking. We understand that the bulk of the pavement distress has historically occurred in the outboard lane (westbound lane). New asphalt had been placed over the outer lane prior to CE&G's site visit; the new asphalt largely obscures previous settlement and cracking. However, some cracks that run parallel and subparallel to the road are still visible in the center and inboard edge of Shannon Road. The extent of roadway cracking and settlement is greater within roadway intervals that cross topographic swales we interpret as areas of past

landsliding. The added weight of repeated asphalt overlays on the outside lane of the roadway may have exacerbated the failures over time.

The road cut along Shannon Road in the area of the project site generally consists of steep (sometimes near vertical) cuts into either sedimentary bedrock or colluvium. The visible bedrock generally consists of bedded siltstone that dips southwest, into the cut, between approximately 38° and 51°. The two colluvial-filled swales along the inboard side of the road have lower, more gently sloped cuts, compared to the steeper road cuts in bedrock. The observed cuts in colluvial are mostly covered with brushy vegetation. The swales have been mapped as probable landslides of uncertain age by the CGS (Figure 4) and by the Town. Based on our field reconnaissance, review of aerial imagery, and geomorphic interpretation of Lidar data, we consider these features to be dormant landslides.

The outboard edge of Shannon Road in this area primarily consists of a moderately steep to steep fill prism that is vegetated and has multiple generations of asphalt concrete draped over its upper edge.

### **4.3 SUBSURFACE EXPLORATION**

#### **4.3.1 Scope of Explorations**

Prior to drilling, traffic control signage was set up by Cal-Vet Services, Inc., to provide site safety during exploration. The geotechnical borings were drilled by Cenozoic Exploration, LLC., from June 29 through July 01, 2020, using a truck-mounted Simco 2400 drill rig equipped with 6-inch-diameter solid-flight augers. A total of 13 geotechnical borings were drilled along the outboard side of Shannon Road, between Santa Rosa Drive and Diduca Way. The locations of the completed borings were marked in the field and recorded by using a hand-held GPS unit. The approximate locations of the borings are shown on Figure 2, and the boring depths and asphalt thicknesses are shown in Table 4-1.

**Table 4-1. Approximate Asphalt Pavement Thickness at Boring Locations**

<b>Boring ID</b>	<b>Depth (feet)</b>	<b>Approximate Asphalt Pavement Thickness (feet)</b>
B-1	20	1.5
B-2	12.5	1.8
B-3	17.5	1.5
B-4	29.5	1.3
B-5	29.5	2
B-6	22.5	2.3
B-7	17.5	2
B-8	24.5	2.3
B-9	15.5	1.5
B-10	22.5	1.5
B-11	31	2
B-12	27.5	1.3
B-13	20	1.3

Upon completion, the borings were backfilled with cement grout and an asphalt patch in the upper 12 inches to match the existing grade. Drill cuttings were distributed unobtrusively on site.

#### **4.3.2 Logging and Sampling**

The materials encountered in the borings were logged in the field by a CE&G geologist. The soils were visually classified in the field, office, and laboratory according to the Unified Soil Classification System (USCS) in general accordance with ASTM D2487 and D2488.

During the drilling operations, soil samples were obtained using one of the following sampling methods:

- California Modified (CM) Sampler; 3.0-inch outer diameter (O.D.), 2.5-inch inner diameter (I.D.) (ASTM D1586)
- Standard Penetration Test (SPT) Split Spoon Sampler; 2.0-inch O.D., 1.375-inch I.D. (ASTM D1586)

The samplers were driven 18 inches (unless otherwise noted on the boring logs) with a 140-pound hammer, manila line, and cathead, dropping 30 inches in general conformance with ASTM D6066 procedures. The number of blows required to drive the SPT or CM sampler 6 inches were recorded for each sample. The results are included on the boring



logs in Appendix A. The blow counts included on the boring logs are uncorrected and represent the field values.

Soil samples obtained from the borings were packaged and sealed in the field to reduce the potential for moisture loss and disturbance. The samples were delivered to CE&G's laboratory in Hayward, and Cooper Testing Laboratory, in Palo Alto, for laboratory testing and storage.

### **4.3.3 Soil and Bedrock Conditions Encountered**

Subsurface conditions encountered in the borings were generally consistent with regional geologic mapping with respect to bedrock type.

#### Polyurethane Foam:

Our borings encountered a relatively limited amount of foam repair that was previously performed. Foam that was injected into the slope for stabilization was encountered as veins/pockets that ranged from <1 inch to 5 inches thick. The foam is yellowish-white and was only encountered within the upper 4 to 7 feet of borings B-4, B-6, B-10, and B-13. Since sampling was not continuous, the thickness of individual foam layers was not generally clear. In general, the foam was dry, somewhat compressible, and did not affect the drilling rate.

#### Artificial Fill (Af):

Fill was encountered beneath the asphalt pavement in each of the borings. The fill generally consists of medium dense to dense silty sand with gravel, and sandy silt with gravel base rock, overlying medium dense/hard sandy lean clay, and sandy silt.

#### Colluvium (Qc):

Colluvial soils were encountered beneath the road fill prism, and above the underlying bedrock. The colluvium generally consists of sandy lean clay with and without gravel, silt/lean clay with sand, and gravely lean clay with sand. The clayey colluvium is generally very stiff to hard and the more sandy and silty soils are generally medium dense.

#### Bedrock:

Bedrock was encountered beneath the colluvial soils and consists of sandy siltstone, diatomaceous siltstone, and mudstone. Bedrock was encountered at depths ranging from about 8 feet and 17.5 feet below the ground surface. The bedrock encountered generally

ranged from moderately strong to extremely weak, and slightly to highly weathered. Some of the encountered beds were dipping approximately 40° to 50° to the southwest. In general, the encountered bedrock was similar to the Monterey Shale as described above.

For a more detailed description of the soil and bedrock encountered in the borings, the boring logs and laboratory test results are included in Appendix A and Appendix B. Cross sections are presented on Figures 6A thru 6C.

#### **4.3.4 Groundwater Conditions Encountered**

Groundwater was not encountered in any of the borings during this investigation.

#### **4.4 GEOTECHNICAL LABORATORY TESTING**

Laboratory testing was performed to obtain information regarding the physical and index properties of selected samples recovered from the exploratory borings. Tests performed included soil classification testing consisting of natural moisture content, dry unit weight, and grain size distribution. Tests were completed in general conformance with applicable ASTM standards. The results of the laboratory tests are summarized on the boring logs in Appendix A and in Appendix B.

## 5.0 CONCLUSIONS AND DISCUSSION

### 5.1 GENERAL SUMMARY

Based on the results of our investigation, we recommend repair of the distressed interval of the roadway. We do not recommend ongoing sealing and repaving as a long-term mitigation approach, as the reported increased rate at which cracking is occurring indicates that repair is needed, rather than a management approach. It is our opinion the site is geologically and geotechnically suitable to be stabilized utilizing a retaining wall structure. A discussion of our findings and the types of retaining walls to be considered for mitigating slope movement are included in the following sections.

### 5.2 PREVIOUS REPAIRS

We understand from the Town that the County had been addressing settlement and pavement cracking for several decades. Routine maintenance undertaken by the County had typically consisted of sealing of asphalt pavement cracks and placement of additional asphalt concrete along the settling portions of the roadway to relevel the driving surface. Approximately two years ago, measures were undertaken by the County to stabilize the problematic areas of the roadway by injecting polyurethane foam below the outer half of the road embankment within the areas of historic settlement and cracking. No engineering documents relating to the foam injection were produced by the County in response to Town requests. We do not know if a formal engineering evaluation was conducted prior to this work.

After the foam injection was completed, the outer half of the road received a 2.5- to 3-inch pavement overlay; details of the exact foam injecting methods are not well known at this time. Despite the foam injection work, the road embankment has continued to move downslope and significant pavement distress has re-developed. The settlement has caused some of the injection pipes to protrude up through the pavement surface.

We understand that the rate at which renewed cracking has affected the roadway has increased in the last approximately two years, indicating the foam injection was ineffective.

### 5.3 EXISTING CONDITIONS ASSESSMENT

The full section of road fill, colluvium underlying portions of the road embankment, and possibly the uppermost, severely weathered bedrock appear to be involved in long-term ongoing creep of the embankment. The reported increase in the rate of movement within the last couple of years suggests that sliding of this interval is locally incipient. Such shallow instability is likely associated with oversteepening of the fill prism's outboard face,

and saturation of the fill and colluvium causing the soils to settle and move laterally downslope.

No evidence of active deep-seated movement (landsliding involving bedrock) was observed at the site. In our judgment, the potential for deep-seated landsliding (involving bedrock) to adversely affect site improvements is generally low under static conditions, and low to moderate under seismic conditions.

Based on the general lack of distress to the inboard half of the roadway, we do not think that there is active landsliding involving the entire mass or full depth of the likely dormant landslides mapped by the CGS and Town of Los Gatos, and we did not observe evidence of a slide plane in our geotechnical borings. However, we conclude that the increase in creep rate affecting the colluvium/road fill section in the outboard half of the road may indicate incipient sliding of that area. The observed distress is concentrated in the outboard lane, within intervals where the roadway traverses the two swales within which past landsliding has been mapped.

The movement that has been occurring along the roadway is likely due to multiple factors. It is likely the underlain fill soils used during initial construction were not compacted to current standards, leading to settlement of the fill. The fill prism is commonly oversteepened along the outboard edge by the current earthwork standard of practice. Soils have also gradually crept downslope due to seasonal rain that saturates and reduces the strength of the underlying soils.

We considered whether the relatively recent foam injection may have impeded drainage of soils underlying the roadway, (by filling the voids in the generally granular soils), thus facilitating more movement under the roadway. The existing information does not give a clear picture of how continuous the foam is in the subsurface, and how effective a water barrier it could be.

We considered the reported time element in the reported distress. It is unclear from the information reviewed whether episodes of pavement distress have been associated with the rainy season, but we suspect that may be the case. Additionally, there may be a lag in response, in that movement facilitated by episodic saturation of soils at depth is only later manifested at the ground surface. We understand that the rate of roadway distress increased following foam injection, however, we do not conclude that there is a corresponding linkage between the two based on the available information.

We considered whether surface drainage patterns played a significant role in the observed distress. While we only observed the site during the dry season, we did not observe

ponding or features that would impede runoff from the site vicinity. The inboard ditch appears to be unobstructed with no undrained low intervals. The roadway is generally sloped such that sheet flow leaves the roadway and is not channeled along it. Open pavement cracks would provide avenues for infiltration of surface flow across the pavement surface.

We considered concentration of groundwater flow as a possible contributing cause. As noted, we did not observe groundwater in any of our borings and did not observe evidence to support this hypothesis, such as intervals reflecting different or fluctuating oxidation/reduction fronts through variable and mottled soil colors.

The settlement and lateral movement have been most evident in the outboard, eastbound lane, and in the two intervals traversing topographic swales mapped as having experienced landsliding in the past. The longitudinal profile (Figure 6A) illustrates how the thickness of fill and colluvium are greatest within these two intervals. Asphalt thicknesses up to approximately 2.3 feet observed in our borings indicate this process has been ongoing for some time.

#### 5.4 CONCLUSIONS

Based on our investigation and review, it is our engineering judgement that the fill and colluvial soil material that makes up and underlies the road embankment will continue to creep downslope, causing cracking and deterioration of the asphalt pavement. Below is a summary of our conclusions:

- Potential for deep-seated landsliding involving bedrock materials is low;
- The immediately adjacent cut slope above Shannon Road appears to be generally stable;
- The fill materials were likely not compacted, properly keyed, or benched to current standards;
- Creep has been occurring gradually over time, likely due to oversteepened roadway fill;
- Field investigations did not encounter free groundwater in the borings, indicating roadway fill and colluvial soils are not consistently saturated;
- Fill and colluvial soils are likely susceptible to creep and downhill movement when saturated;

- The foam injection performed appears to be ineffective in stabilizing the roadway;
- Consistent cracking has led to regular repairs of the roadway surface and will likely continue until the roadway is permanently stabilized;
- The reported extent of recent cracking and pavement distress indicates creep of the materials above the bedrock may be accelerating, with sliding incipient.

Mitigation of these conditions will be needed to effectively stabilize the road embankment and reduce the potential for continued movement and pavement distress.

## 5.5 REPAIR ALTERNATIVES CONSIDERED

In our judgment, repair of this section of the roadway should be pursued with deliberate speed, as we do not think the situation is amenable to long-term management. The reported increase in the rate of roadway distress is unlikely to decrease and may increase. The immediately adjacent cut slope above Shannon Road is judged to be acceptably stable, and remediation does not appear to be necessary at this time.

We have considered two methods to stabilize the embankment and repair the roadway: a mechanically stabilized embankment (MSE) retaining wall; and a soldier beam and lagging wall retaining wall. Selection of a repair alternative requires several considerations specific to the site and construction methods will need to be weighed, including:

- Maintaining public access during construction
- Variable thickness of the active landslide mass
- Surface runoff of the upslope hillside
- Limited space on the site, for material handling, stockpiling, and equipment access
- Right-of-way limitations

### 5.5.1 Retaining Method 1: MSE Retaining Wall

This repair method would involve removal of the roadway fill and underlying colluvial soils until stable bedrock materials are encountered. The MSE retaining wall would consist of a facing element with reinforcement layers in compacted soil forming a reinforced soil mass. A conceptual repair is shown in Figure 7. The conceptual repair uses segmental concrete blocks as the facing element with layers of geogrid reinforcement and granular soils for backfill. A wall drain with an outfall pipe would be included to prevent water buildup behind the wall. It is recommended this wall type be used in the areas where suitable

bedrock is relatively shallow (less than 8 feet), to reduce the volume of material that would need to be excavated and replaced.

A detriment to this repair is the roadway would need to be closed during construction, as the entire width of the road would likely need to be excavated and rebuilt. Although a steep cut could be made at the downhill right-of-way, construction would likely be much easier if cuts could extend laterally to the slope face, which could involve negotiations with adjacent property owners. In addition, a water line is located along the inboard lane of the roadway and would likely be within the roadway excavation. Coordination with the utility company would be needed to either possibly remove and replace the existing water line, or installation of temporary supports to secure it during construction. This repair may not be economical in areas where bedrock is deeper than approximately 8 feet below the pavement surface.

### **5.5.2 Retaining Method 2: Soldier Beam and Lagging Wall**

This repair method would utilize a soldier beam and lagging retaining wall to stabilize the slope. The retaining wall foundation would need to penetrate sufficiently into competent bedrock to mitigate the apparent past historic landsliding that has occurred at the site in the areas of deep colluvium. A conceptual repair is shown in Figure 7. The wall could consist of a soldier pile wall constructed of steel H-piles embedded in CIDH piles across the width of the slope mass. Wooden lagging would be used to retain material between the H-piles. For areas where the wall retains approximately 15 feet or more fill and colluvium, tieback anchors would likely be needed to provide lateral support. A subdrain would be placed behind the lagging, with an outfall pipe draining water buildup from behind the wall.

A benefit of this method is that construction could be at least in part be confined to the outboard lane, thus allowing the roadway to remain open during construction, with a more controlled, limited impact to the natural hillside downslope of the roadway. Construction could be confined to within the Town's right-of-way. A soldier beam and lagging wall is considered to be more economical in areas where bedrock is deeper.

### **5.5.3 Alternative 1: Combined MSE Wall and Soldier Beam and Lagging Wall**

Alternative 1 is to construct an MSE wall in areas where bedrock is shallow (less than about 8 feet deep) while constructing a soldier beam and lagging wall with tieback anchors in areas where bedrock is deeper. An overlap of wall types would also be needed at transitions between wall types to reduce differential movement.

### 5.5.4 Alternative 2: Soldier Beam and Lagging Wall

Alternative 2 is to construct a soldier beam and lagging wall for the full length of the roadway. Tiebacks would be needed in areas where bedrock is deeper due to the height of the exposed wall. Areas where shallow bedrock is present would not need tieback anchors to support the wall.

### 5.5.5 Retaining Wall Comparison

Table 5-1 summarizes the key aspects of each alternative, while Table 5-2 shows the approximate location for each retaining method. Both alternatives would likely involve some work outside of the ROW. That extent of such work would likely be less for the soldier beam and lagging wall. Construction duration and phasing will largely be determined by the contractor’s proposed approach and schedule.

**Table 5-1. Retaining Wall Comparison**

Repair Considerations	Alternative 1	Alternative 2
Estimated Project Total	\$6.2 Million	\$5.4 Million
Wall type	Combination MSE and Soldier Beam and Lagging Wall	Soldier Beam and Lagging Wall
Road Closures	Full road closure during construction	One lane may remain open during construction
Construction Footprint	Likely larger due to stockpiling of materials needed for backfill	Smaller footprint and less impact to hillside downslope of the roadway; less encroachment beyond ROW
Utility Clearance	Water line along inboard lane of roadway would be within roadway excavation	Overhead Utility pole and associated supports near Santa Rosa Drive may be impacted
Wall Height / Depth of Repair	Excavation would need to be performed until competent bedrock is encountered, tie back anchors for soldier beam and lagging wall	Cantilever wall likely for wall heights up to 15 feet, with tieback anchors likely for wall heights greater than 15 feet



**Table 5-2. Preliminary Retaining Wall Type by Station**

Station	Approximate Depth to Bedrock (ft)	Stabilization/Repair Type
0+00 to 1+75	13 to 17	Tieback Soldier Beam and Lagging Wall
1+75 to 2+75	10	MSE Wall or Soldier Beam & Lagging without Tiebacks
2+75 to 5+50	14	Tieback Soldier Beam and Lagging Wall
5+50 to 6+50	8 to 11	MSE Wall or Soldier Beam & Lagging without Tiebacks
6+50 to 9+75	12 to 18	Tieback Soldier Beam and Lagging Wall
9+75 to 12+50	7 to 9	MSE Wall or Soldier Beam & Lagging without Tiebacks

### 5.5.6 Recommended Alternative

Based on our preliminary engineering analysis, it is our judgement that Alternative 2, a soldier beam and lagging wall for the extent of the roadway, would be the recommended alternative. It is likely one lane of traffic along the roadway could be able to remain open during construction, as opposed to closing portions of the road for Alternative 1. Also, the cost of Alternative 2 is less than Alternative 1, given the excavation and backfilling required to complete Alternative 1.

Before a preferred alternative is selected, it is recommended we meet with the design team to review the two retaining wall types and discuss potential positives and negatives for each wall type.

## 5.6 GEOTECHNICAL CONSIDERATIONS

### 5.6.1 Final Design

Significant geotechnical issues that will affect the design and construction of a permanent slope repair include the following:

- **Depth to Competent Bedrock** – Competent bedrock varies in depth across the site and ranges from approximately 7 and 18 feet bgs in the project area, based on our exploration. Sheared (and thus weaker) bedrock, while not encountered in our

borings, may be present due to the mapped close proximity of the Monte Vista-Shannon fault.

- **Surface Water Drainage** – Surface water runoff should be collected from the roadway above and discharged in an appropriate energy dissipater away from the outboard slope area below the proposed repair. Surface drainage improvements should be designed to adequately collect and accommodate the volumes of water that reach these drainages.
- **Drillability** – Subsurface exploration was completed using solid-stem augers and did not encounter auger refusal to the depths explored in the borings. Based on the subsurface exploration, we anticipate conventional earthwork and excavation equipment may be used for stabilization/repair construction.

### 5.6.2 Interim Repairs

Interim measures to reduce the amount and rate of pavement distress are recommended. Cracks in the pavement surface should be filled and sealed in order to reduce the amount of water infiltrating into the underlying soils. Surface drainage, such as the inboard ditch and downstream drainage inlet should be cleared free of debris to reduce sheet flow over the roadway and the potential for infiltration through roadway cracks.

We considered the use of hydraugers or other subsurface drainage measures, as we suspect that seasonal groundwater facilitates movement. However, our drilling program (conducted in the dry season) did not clearly identify target areas for such measures, and the likelihood of significant beneficial effect is too low in our estimation. Installation of measures such as hydraugers would be a significant construction effort, likely requiring closure of at least one lane during installation, possible work outside of the ROW.

### 5.6.3 Monitoring

Until a repair can be designed and implemented, monitoring should be considered as a way to provide some level of advance notice that more rapid or more extensive failure may be imminent or occurring.

There are various potential monitoring approaches, including:

*Slope Inclinometers* – these would be installed in a geotechnical boring, with a flush Christy box at the ground (pavement) surface. They would require an initial reading, and record deformation (creep and/or sliding) of earth materials after comparison of episodic

readings. In this application, one lane of the roadway would need to be closed for installation, and for each subsequent reading.

*Repeat Surveys* – Installation of survey markers, likely within a flush Christy box. Installation within the roadway would require closure of one lane, as would subsequent readings. The closures needed for a reading at a given monument could be relatively brief, allowing for unimpeded traffic flow, with periodic short closures. Survey markers could be installed on posts outboard (downslope) of the traveled roadway.

*Repeat Distress Mapping* – Repeat mapping of existing cracks through use of a UAS (drone) would change detection analysis to highlight areas where cracks appear to be forming or extending. This approach would not capture any change in vertical offset across cracks. Repeat distress mapping would capture the evolution of distress in areas that are subsequently repaved or repaired, which “wipes clean” the roadway slate. This distress mapping would be very similar in scope to that used for preparation of our site base map (see Figures 2A – 2J).

## **5.7 GEOTECHNICAL DESIGN REPORT**

Once a preferred alternative has been selected, a geotechnical design report will need to be produced to accompany and aid in the structural design of the repairs. The geotechnical design report should utilize the data presented in this report and provide design recommendations and construction considerations. Depending on the alternative selected, additional field investigation may be needed for the final design. The geotechnical design report should include design recommendations pertaining to the excavation of the roadway, wall foundation requirements, lateral earth pressures against the wall, retaining wall drainage, wall backfill requirements, pavement design, and other information required by the project designer.

## 6.0 LIMITATIONS

The conclusions and recommendations presented in this report are based on the information provided regarding the planned construction, and the results of the geologic mapping, subsurface exploration, and testing, combined with interpolation of the subsurface conditions between boring locations. Site conditions described in the text of this report are those existing at the time of our last field reconnaissance and are not necessarily representative of the site conditions at other times or locations. This information notwithstanding, the nature and extent of subsurface variations between borings may not become evident until construction. If variations are encountered during construction, Cal Engineering & Geology, Inc. should be notified promptly so that conditions can be reviewed and recommendations reconsidered, as appropriate.

It is the Owner's responsibility to ensure that recommendations contained in this report are carried out during the construction phases of the project. This report was prepared based on preliminary design information provided which is subject to change during the design process. A geotechnical design report should be produced to provide geotechnical design and construction recommendations for the project.

The findings of this report should be considered valid for a period of three years unless the conditions of the site change. After a period of three years, CE&G should be contacted to review the site conditions and prepare a letter regarding the applicability of this report.

This report presents the results of a geotechnical and geologic investigation only and should not be construed as an environmental audit or study. The evaluation or identification of the potential presence of hazardous materials at the site was not requested and was beyond the scope of this investigation and report.

The conclusions and recommendations contained in this report are valid only for the project described in this report. We have employed accepted geotechnical engineering procedures, and our professional opinions and conclusions are made in accordance with generally accepted geotechnical engineering principles and practices. This standard is in lieu of all other warranties, either expressed or implied.

## 7.0 REFERENCES

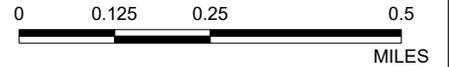
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## **Figures**



**BASEMAP REFERENCE**

1. STREET CENTERLINES FROM CALTRANS CALIFORNIA ROAD SYSTEM, DOWNLOADED ON 18 FEB 2020.
2. ORTHOIMAGERY FROM ESRI (MAXAR), 2017.



200300-NCE-ShannonRd.LosGatos\GIS\ArcGIS\Fig1-SiteLocation-scale-025a.mxd; 12/4/2020; kdrozynska



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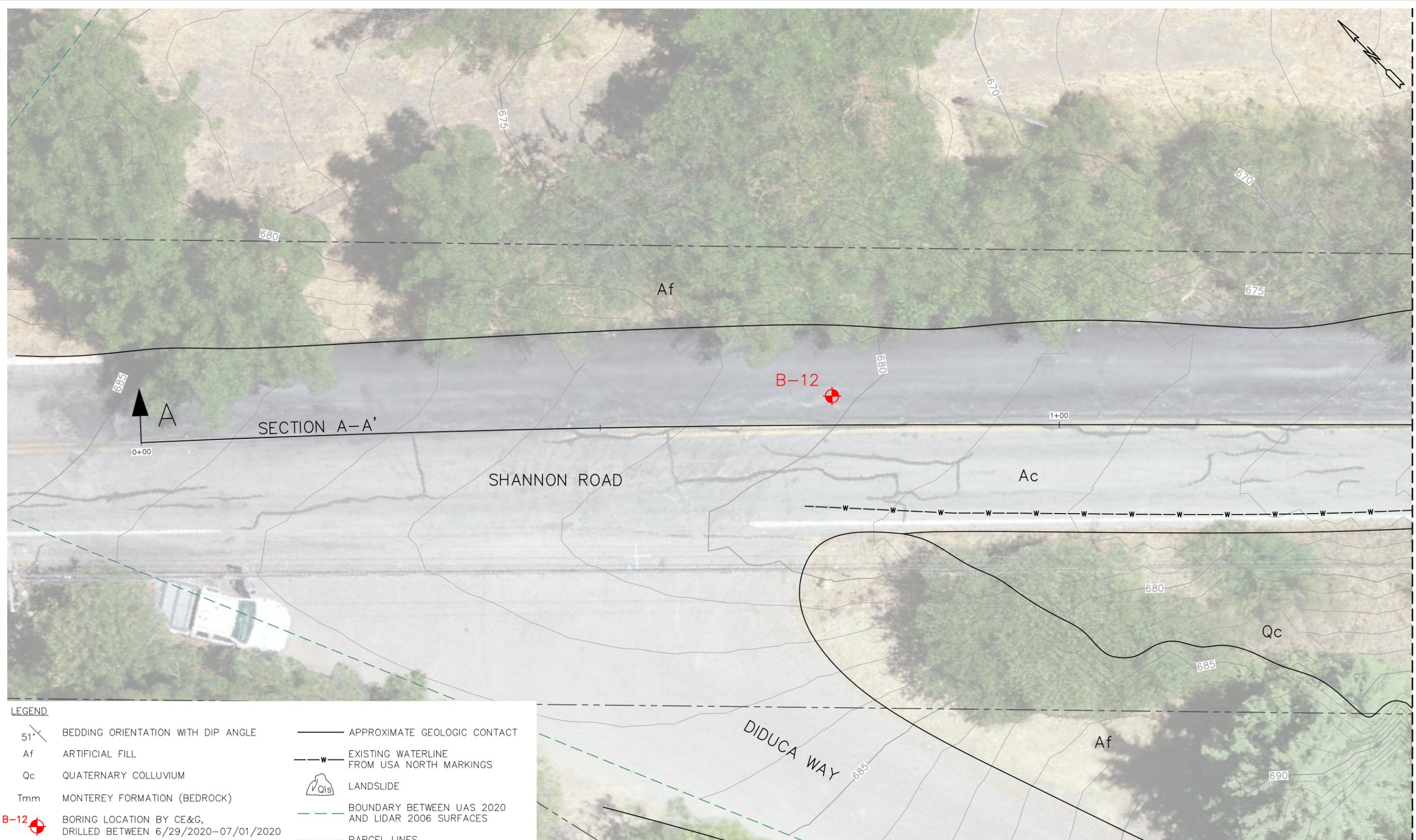
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**SITE LOCATION MAP**

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FIGURE 1

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MATCHLINE 1, SEE FIGURE 2B

**LEGEND**

	BEDDING ORIENTATION WITH DIP ANGLE		APPROXIMATE GEOLOGIC CONTACT
Af	ARTIFICIAL FILL		EXISTING WATERLINE FROM USA NORTH MARKINGS
Qc	QUATERNARY COLLUVIUM		LANDSLIDE
Tmm	MONTEREY FORMATION (BEDROCK)		BOUNDARY BETWEEN UAS 2020 AND LIDAR 2006 SURFACES
	BORING LOCATION BY CE&G, DRILLED BETWEEN 6/29/2020-07/01/2020		PARCEL LINES

- REFERENCES**
- HIGH RESOLUTION ORTHOIMAGERY CAPTURED BY CE&G ON 11 JUNE 2020.
  - CONTOURS CALCULATED FROM PHOTOGRAMMETRICALLY-DERIVED DIGITAL ELEVATION MODEL (UAV FLIGHT ON 11 JUNE 2020).
  - HOR. DATUM = NAD83; VERT. DATUM = NAVD88 (GEOID18). ROW AND PARCEL DATA PROVIDED BY LOS GATOS PARKS AND PUBLIC WORKS DEPARTMENT, SHAPEFILE RECEIVED ON 8/4/2020.



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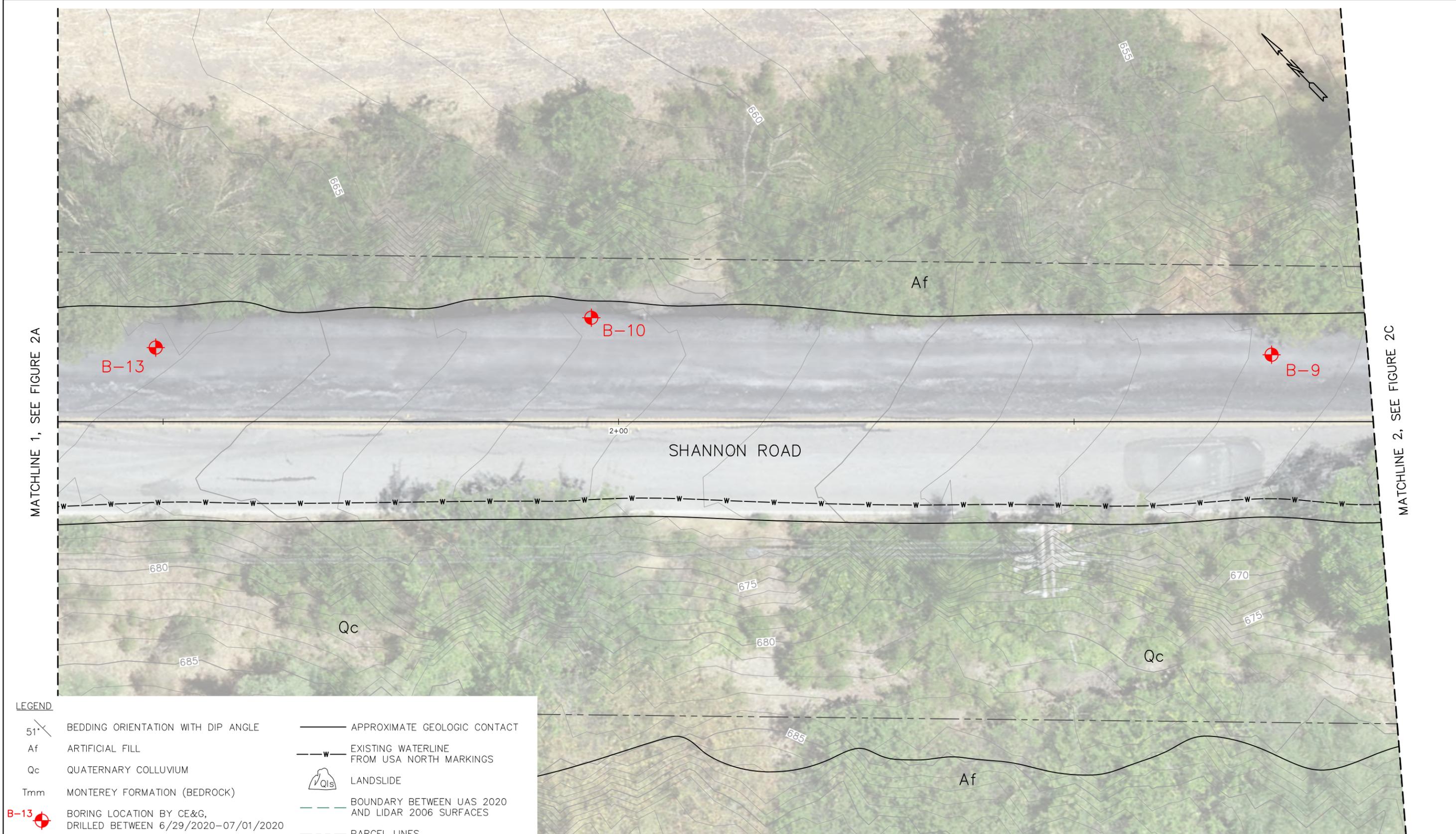
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**SITE PLAN**

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**LEGEND**

	BEDDING ORIENTATION WITH DIP ANGLE		APPROXIMATE GEOLOGIC CONTACT
Af	ARTIFICIAL FILL		EXISTING WATERLINE FROM USA NORTH MARKINGS
Qc	QUATERNARY COLLUVIUM		LANDSLIDE
Tmm	MONTEREY FORMATION (BEDROCK)		BOUNDARY BETWEEN UAS 2020 AND LIDAR 2006 SURFACES
	BORING LOCATION BY CE&G, DRILLED BETWEEN 6/29/2020-07/01/2020		PARCEL LINES

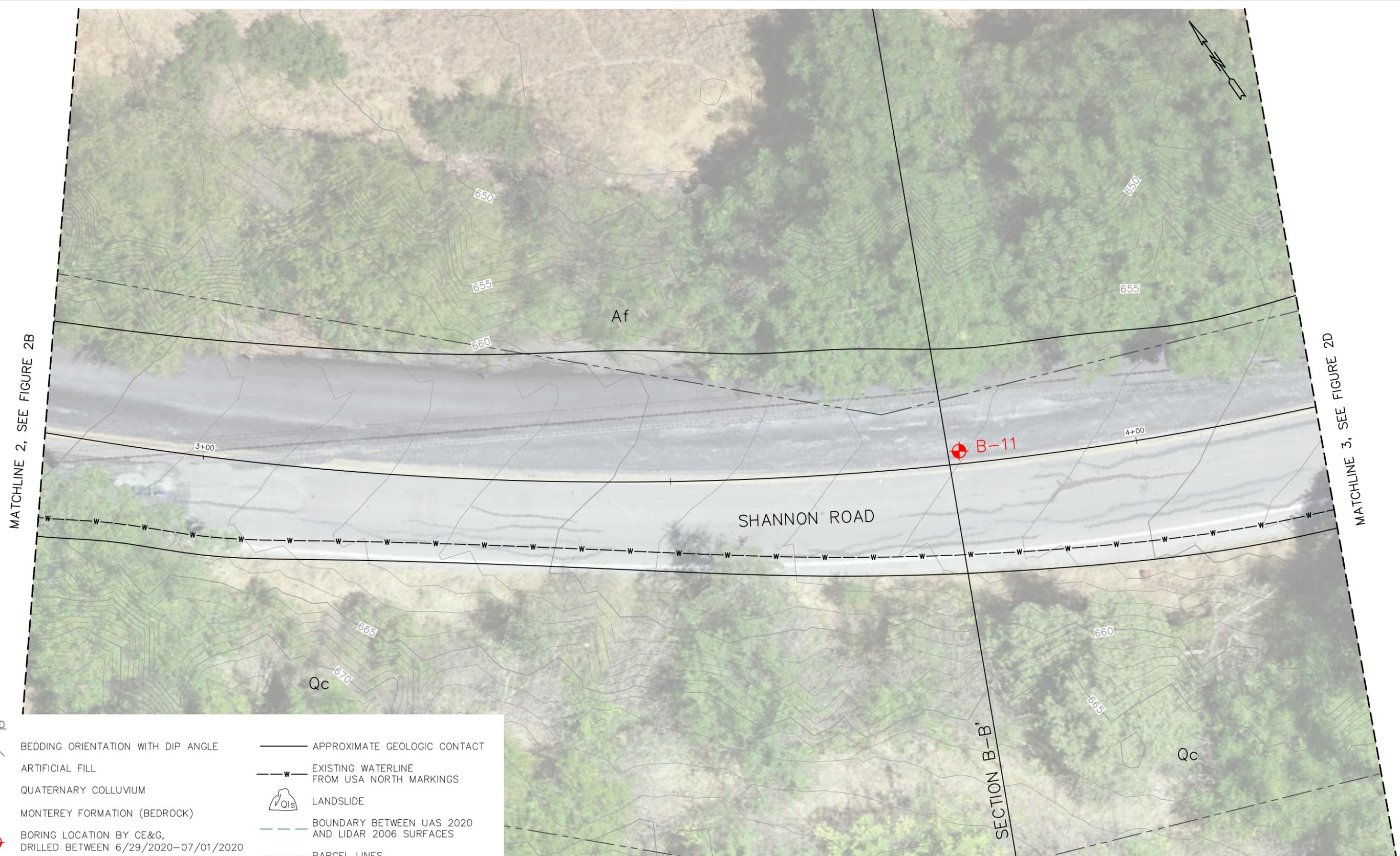
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**SITE PLAN**  
 200300      DECEMBER 2020      FIGURE 2B

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**LEGEND**

	BEDDING ORIENTATION WITH DIP ANGLE		APPROXIMATE GEOLOGIC CONTACT
Af	ARTIFICIAL FILL		EXISTING WATERLINE FROM USA NORTH MARKINGS
Qc	QUATERNARY COLLUVIUM		LANDSLIDE
Tmm	MONTEREY FORMATION (BEDROCK)		BOUNDARY BETWEEN UAS 2020 AND LIDAR 2006 SURFACES
	BORING LOCATION BY CE&G, DRILLED BETWEEN 6/29/2020-07/01/2020		PARCEL LINES

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200300	DECEMBER 2020	FIGURE 2C
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LEGEND	
	BEDDING ORIENTATION WITH DIP ANGLE
	ARTIFICIAL FILL
	QUATERNARY COLLUVIUM
	MONTEREY FORMATION (BEDROCK)
	BORING LOCATION BY CE&G, DRILLED BETWEEN 6/29/2020-07/01/2020
	APPROXIMATE GEOLOGIC CONTACT
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	LANDSLIDE
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	PARCEL LINES

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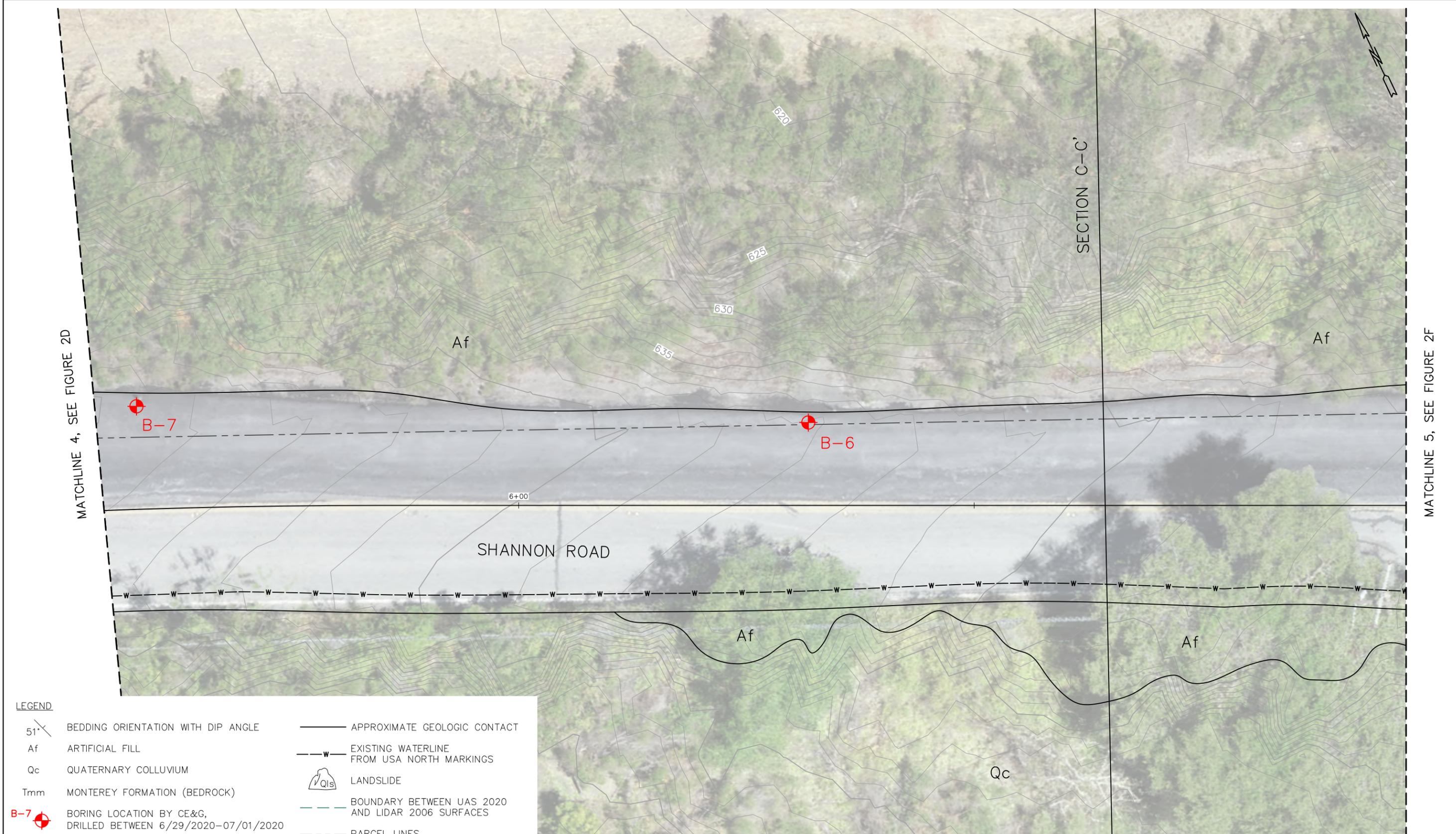
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**SITE PLAN**

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**LEGEND**

	BEDDING ORIENTATION WITH DIP ANGLE		APPROXIMATE GEOLOGIC CONTACT
	ARTIFICIAL FILL		EXISTING WATERLINE FROM USA NORTH MARKINGS
	QUATERNARY COLLUVIUM		LANDSLIDE
	MONTEREY FORMATION (BEDROCK)		BOUNDARY BETWEEN UAS 2020 AND LIDAR 2006 SURFACES
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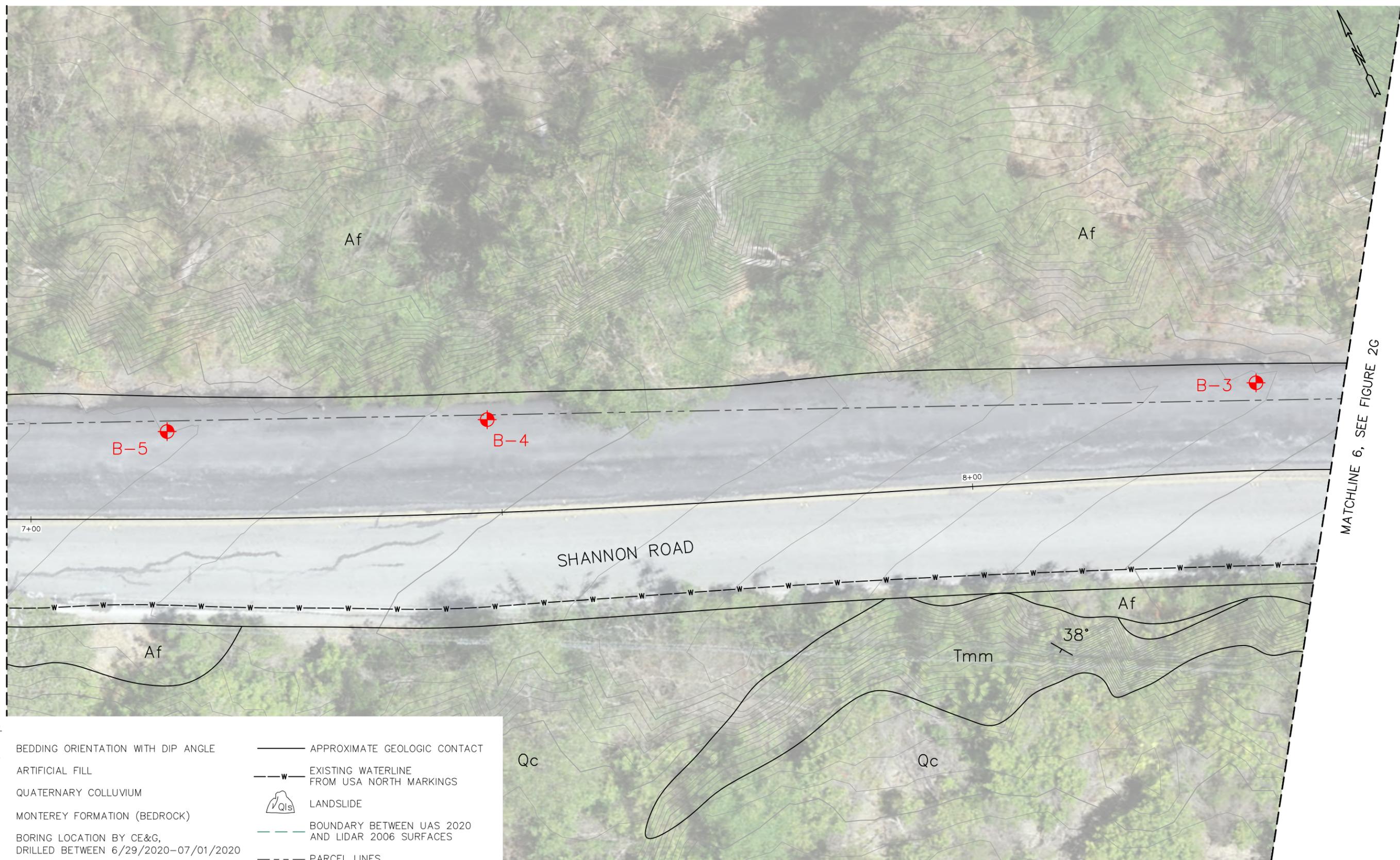
**SITE PLAN**

200300	DECEMBER 2020	FIGURE 2E
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MATCHLINE 5, SEE FIGURE 2E

MATCHLINE 6, SEE FIGURE 2G



**LEGEND**

51°	BEDDING ORIENTATION WITH DIP ANGLE		APPROXIMATE GEOLOGIC CONTACT
Af	ARTIFICIAL FILL		EXISTING WATERLINE FROM USA NORTH MARKINGS
Qc	QUATERNARY COLLUVIUM		LANDSLIDE
Tmm	MONTEREY FORMATION (BEDROCK)		BOUNDARY BETWEEN UAS 2020 AND LIDAR 2006 SURFACES
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**SITE PLAN**

200300	DECEMBER 2020	FIGURE 2F
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MATCHLINE 6, SEE FIGURE 2F

MATCHLINE 7, SEE FIGURE 2H

**LEGEND**

	BEDDING ORIENTATION WITH DIP ANGLE		APPROXIMATE GEOLOGIC CONTACT
Af	ARTIFICIAL FILL		EXISTING WATERLINE FROM USA NORTH MARKINGS
Qc	QUATERNARY COLLUVIUM		LANDSLIDE
Tmm	MONTEREY FORMATION (BEDROCK)		BOUNDARY BETWEEN UAS 2020 AND LIDAR 2006 SURFACES
			PARCEL LINES

- REFERENCES**
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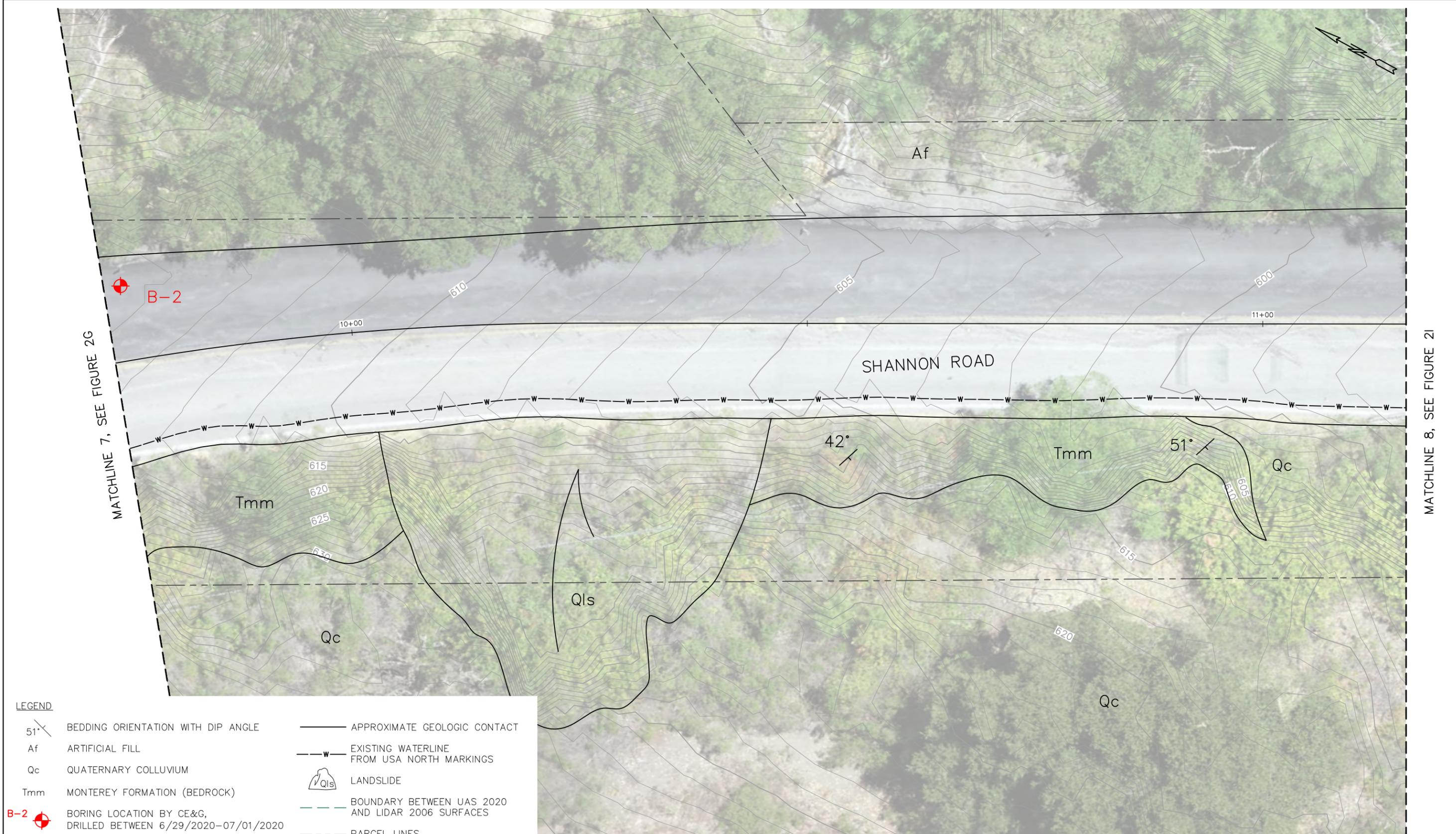
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**SITE PLAN**

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**LEGEND**

	BEDDING ORIENTATION WITH DIP ANGLE		APPROXIMATE GEOLOGIC CONTACT
	ARTIFICIAL FILL		EXISTING WATERLINE FROM USA NORTH MARKINGS
	QUATERNARY COLLUVIUM		LANDSLIDE
	MONTEREY FORMATION (BEDROCK)		BOUNDARY BETWEEN UAS 2020 AND LIDAR 2006 SURFACES
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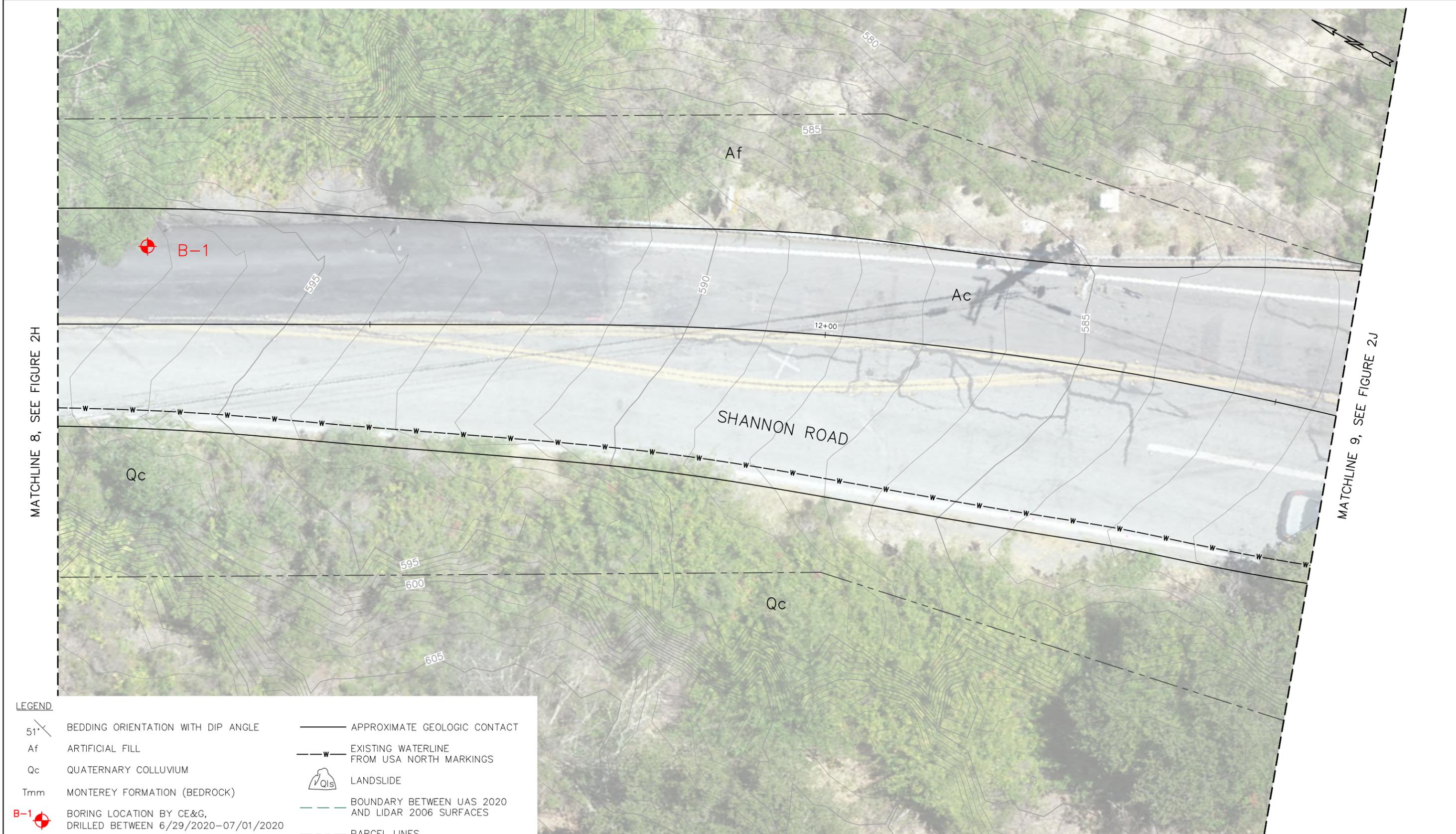
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**SITE PLAN**

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LEGEND	
	BEDDING ORIENTATION WITH DIP ANGLE
	ARTIFICIAL FILL
	QUATERNARY COLLUVIUM
	MONTEREY FORMATION (BEDROCK)
	BORING LOCATION BY CE&G, DRILLED BETWEEN 6/29/2020-07/01/2020
	APPROXIMATE GEOLOGIC CONTACT
	EXISTING WATERLINE FROM USA NORTH MARKINGS
	LANDSLIDE
	BOUNDARY BETWEEN UAS 2020 AND LIDAR 2006 SURFACES
	PARCEL LINES

- REFERENCES
- HIGH RESOLUTION ORTHOIMAGERY CAPTURED BY CE&G ON 11 JUNE 2020.
  - CONTOURS CALCULATED FROM PHOTOGRAMMETRICALLY-DERIVED DIGITAL ELEVATION MODEL (UAV FLIGHT ON 11 JUNE 2020).
  - HOR. DATUM = NAD83; VERT. DATUM = NAVD88 (GEOID18). ROW AND PARCEL DATA PROVIDED BY LOS GATOS PARKS AND PUBLIC WORKS DEPARTMENT, SHAPEFILE RECEIVED ON 8/4/2020.



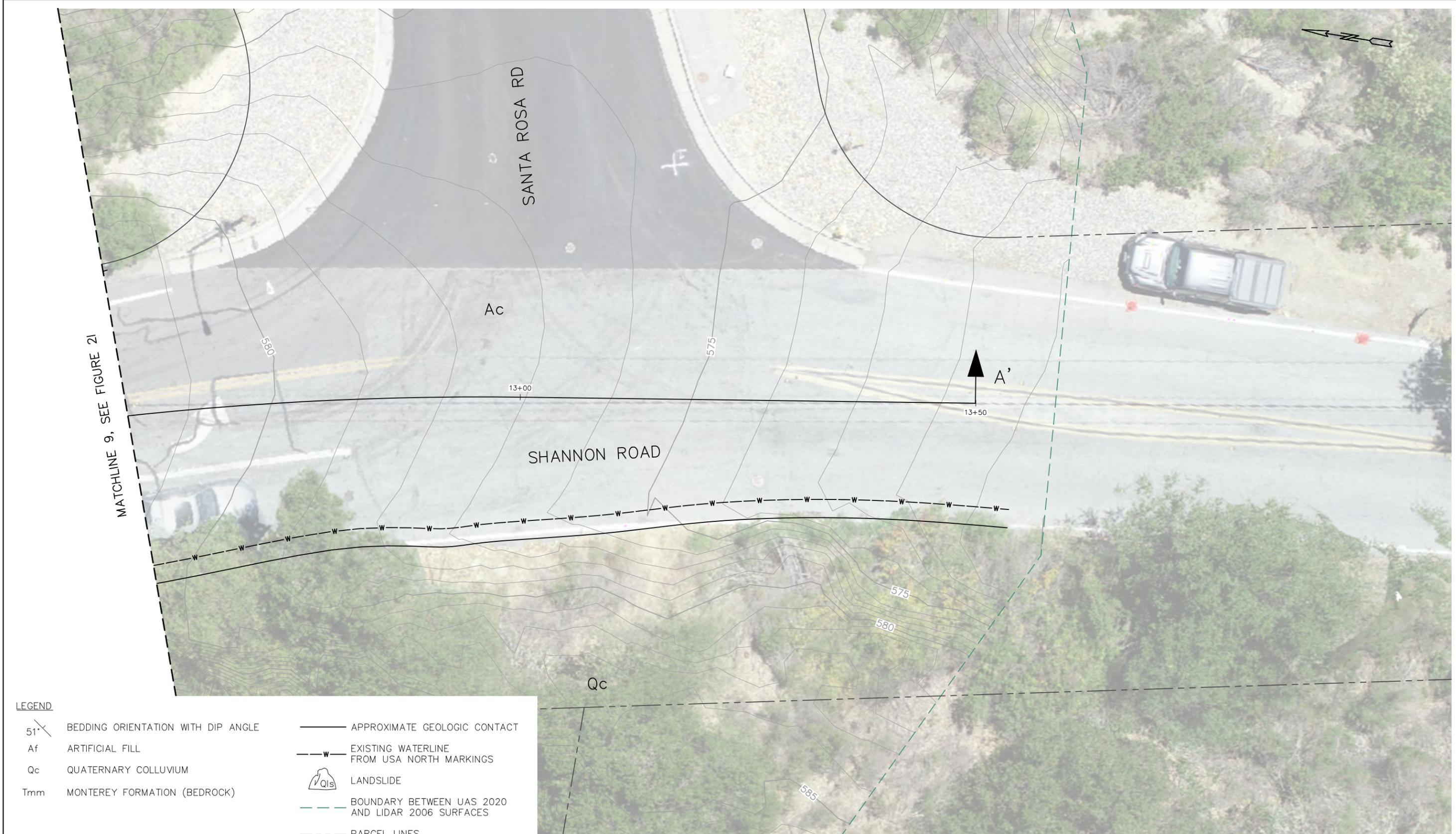
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Phone: (408) 440-4542

SHANNON ROAD EMBANKMENT STABILIZATION PROJECT		
SHANNON ROAD LOS GATOS, CALIFORNIA		
<b>SITE PLAN</b>		
200300	DECEMBER 2020	FIGURE 2I



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**LEGEND**

	BEDDING ORIENTATION WITH DIP ANGLE		APPROXIMATE GEOLOGIC CONTACT
Af	ARTIFICIAL FILL		EXISTING WATERLINE FROM USA NORTH MARKINGS
Qc	QUATERNARY COLLUVIUM		LANDSLIDE
Tmm	MONTEREY FORMATION (BEDROCK)		BOUNDARY BETWEEN UAS 2020 AND LIDAR 2006 SURFACES
			PARCEL LINES

- REFERENCES**
- HIGH RESOLUTION ORTHOIMAGERY CAPTURED BY CE&G ON 11 JUNE 2020.
  - CONTOURS CALCULATED FROM PHOTOGRAMMETRICALLY-DERIVED DIGITAL ELEVATION MODEL (UAV FLIGHT ON 11 JUNE 2020).
  - HOR. DATUM = NAD83; VERT. DATUM = NAVD88 (GEOID18). ROW AND PARCEL DATA PROVIDED BY LOS GATOS PARKS AND PUBLIC WORKS DEPARTMENT, SHAPEFILE RECEIVED ON 8/4/2020.



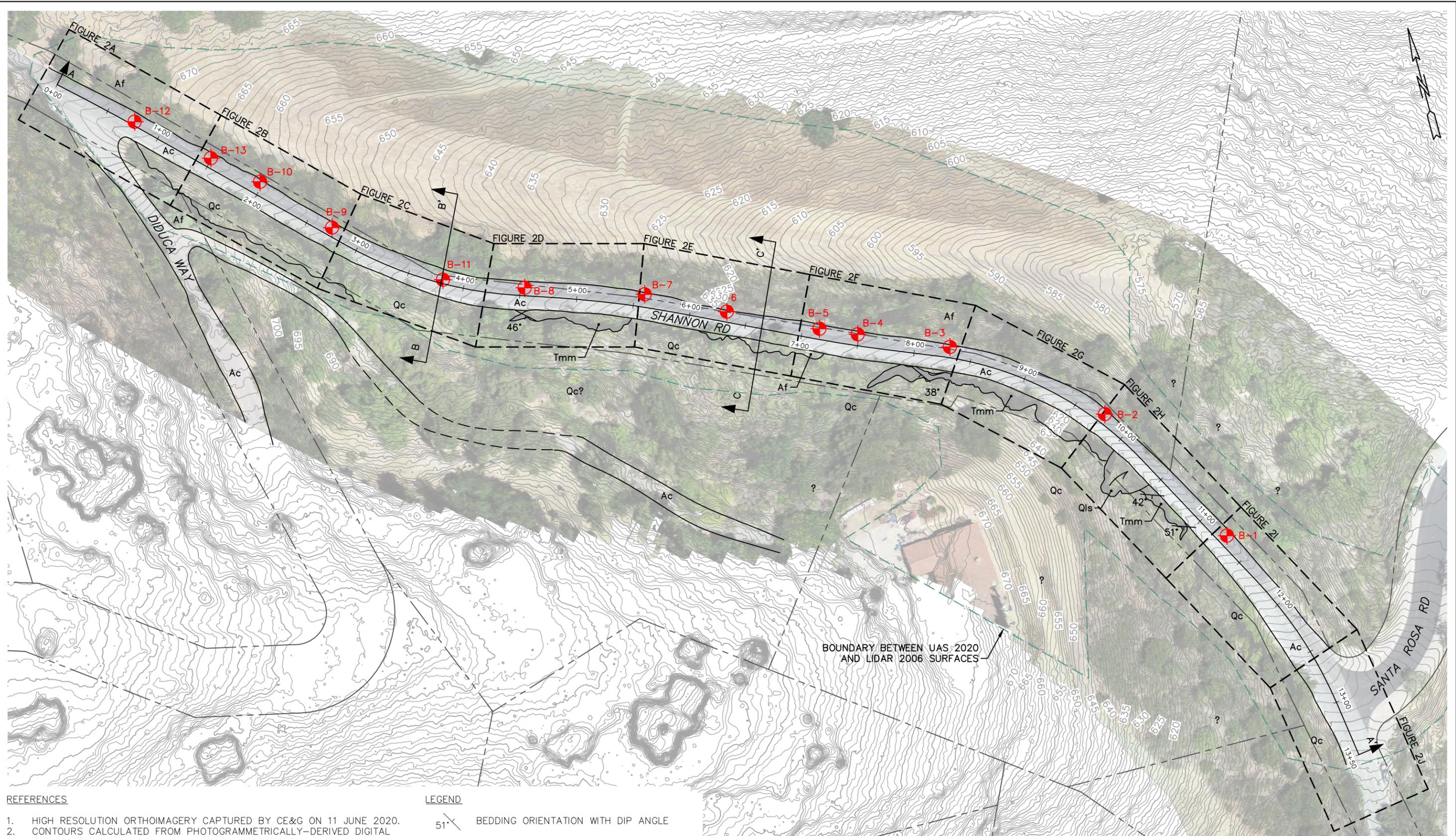
  
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**SHANNON ROAD EMBANKMENT STABILIZATION PROJECT**  
 SHANNON ROAD  
 LOS GATOS, CALIFORNIA  
**SITE PLAN**

200300	DECEMBER 2020	FIGURE 2J
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\200300-NCE-ShannonRdLosGatos\AutoCAD\Figures\Fig2-SitePlan.dwg 12-04-20 11:19:36 AM kdrozynsko



**REFERENCES**

1. HIGH RESOLUTION ORTHOIMAGERY CAPTURED BY CE&G ON 11 JUNE 2020.
2. CONTOURS CALCULATED FROM PHOTOGRAMMETRICALLY-DERIVED DIGITAL ELEVATION MODEL (UAV FLIGHT ON 11 JUNE 2020).
3. HOR. DATUM = NAD83; VERT. DATUM = NAVD88 (GEOID18).
4. ROW AND PARCEL DATA PROVIDED BY LOS GATOS PARKS AND PUBLIC WORKS DEPARTMENT, SHAPEFILE RECEIVED ON 8/4/2020.
5. SUPPLEMENTAL SURFACE DERIVED FROM 2006 LIDAR DATA.

**LEGEND**

- 51° BEDDING ORIENTATION WITH DIP ANGLE
- Af ARTIFICIAL FILL
- Qc QUATERNARY COLLUVIUM
- Tmm MONTEREY FORMATION (BEDROCK)
- B-13 BORING LOCATION BY CE&G, DRILLED BETWEEN 6/29/2020-07/01/2020

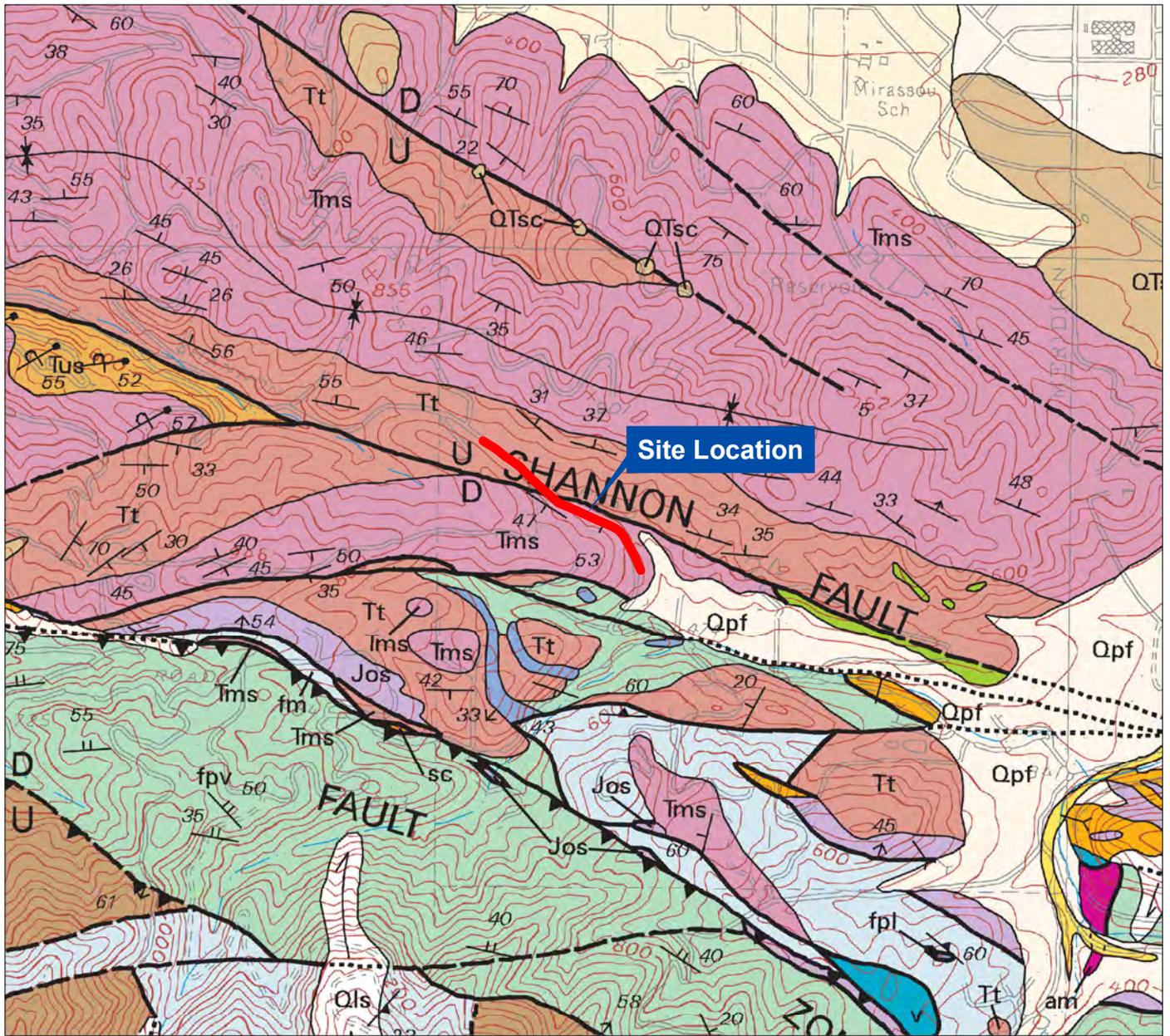


BOUNDARY BETWEEN UAS 2020 AND LIDAR 2006 SURFACES



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<b>SHANNON ROAD EMBANKMENT STABILIZATION PROJECT</b> SHANNON ROAD LOS GATOS, CALIFORNIA <b>SITE PLAN</b>		
200300	DECEMBER 2020	FIGURE 2

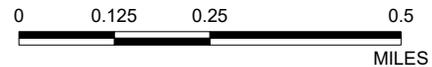


**BASEMAP REFERENCE**

1. REGIONAL GEOLOGY FROM MCLAUGHLIN (2001).

**MAP UNIT DESCRIPTION**

<table border="0"> <tr><td>Qls</td><td>LANDSLIDE DEPOSITS, UNDIVIDED (HOLOCENE AND PLEISTOCENE)</td></tr> <tr><td>Qhf</td><td>ALLUVIAL FAN DEPOSITS (HOLOCENE)</td></tr> <tr><td>Qpf</td><td>ALLUVIAL FAN DEPOSITS (PLEISTOCENE)</td></tr> <tr><td>QTsc</td><td>SANTA CLARA FORMATION (PLEISTOCENE AND PLOCENE)</td></tr> <tr><td>Tus</td><td>UNNAMED SANDSTONE (MIDDLE MIOCENE OR YOUNGER)</td></tr> <tr><td>Tms</td><td>MONTEREY SHALE (MIDDLE AND LOWER MIOCENE)</td></tr> <tr><td>Tt</td><td>TEMLOR SANDSTONE (MIDDLE MIOCENE TO OLIGOCENE?)</td></tr> </table>	Qls	LANDSLIDE DEPOSITS, UNDIVIDED (HOLOCENE AND PLEISTOCENE)	Qhf	ALLUVIAL FAN DEPOSITS (HOLOCENE)	Qpf	ALLUVIAL FAN DEPOSITS (PLEISTOCENE)	QTsc	SANTA CLARA FORMATION (PLEISTOCENE AND PLOCENE)	Tus	UNNAMED SANDSTONE (MIDDLE MIOCENE OR YOUNGER)	Tms	MONTEREY SHALE (MIDDLE AND LOWER MIOCENE)	Tt	TEMLOR SANDSTONE (MIDDLE MIOCENE TO OLIGOCENE?)	<table border="0"> <tr><td>fm</td><td>MELANGE OF THE CENTRAL BELT (UPPER CRETACEOUS)</td></tr> <tr><td>fpv</td><td>VOLCANIC ROCKS (LOWER CRETACEOUS)</td></tr> <tr><td>fms</td><td>SANDSTONE (UPPER AND (OR) LOWER CRETACEOUS)</td></tr> </table>	fm	MELANGE OF THE CENTRAL BELT (UPPER CRETACEOUS)	fpv	VOLCANIC ROCKS (LOWER CRETACEOUS)	fms	SANDSTONE (UPPER AND (OR) LOWER CRETACEOUS)
Qls	LANDSLIDE DEPOSITS, UNDIVIDED (HOLOCENE AND PLEISTOCENE)																				
Qhf	ALLUVIAL FAN DEPOSITS (HOLOCENE)																				
Qpf	ALLUVIAL FAN DEPOSITS (PLEISTOCENE)																				
QTsc	SANTA CLARA FORMATION (PLEISTOCENE AND PLOCENE)																				
Tus	UNNAMED SANDSTONE (MIDDLE MIOCENE OR YOUNGER)																				
Tms	MONTEREY SHALE (MIDDLE AND LOWER MIOCENE)																				
Tt	TEMLOR SANDSTONE (MIDDLE MIOCENE TO OLIGOCENE?)																				
fm	MELANGE OF THE CENTRAL BELT (UPPER CRETACEOUS)																				
fpv	VOLCANIC ROCKS (LOWER CRETACEOUS)																				
fms	SANDSTONE (UPPER AND (OR) LOWER CRETACEOUS)																				



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**REGIONAL GEOLOGY MAP**

200300

DECEMBER 2020

FIGURE 3



**BASEMAP REFERENCE**

1. LANDSLIDE DATA FROM CALIFORNIA GEOLOGICAL SURVEY LANDSLIDE INVENTORIES ACCESSED ONLINE ON 7/21/2020.
2. ORTHOIMAGERY FROM ESRI (MAXAR), 2017.

**MAP UNIT DESCRIPTION**

**ACTIVITY:**

- HISTORIC
- DORMANT YOUNG
- DORMANT MATURE
- DORMANT OLD/RELICT
- DORMANT AGE NOT SPECIFIED
- PROBABLE (75% CONFIDENCE OF BEING A LANDSLIDE BASED ON ONE OR TWO GEOMORPHIC FEATURES SUGGESTING A LANDSLIDE ORIGIN)

**CONFIDENCE:**

- DEFINITE
- PROBABLE
- QUESTIONABLE



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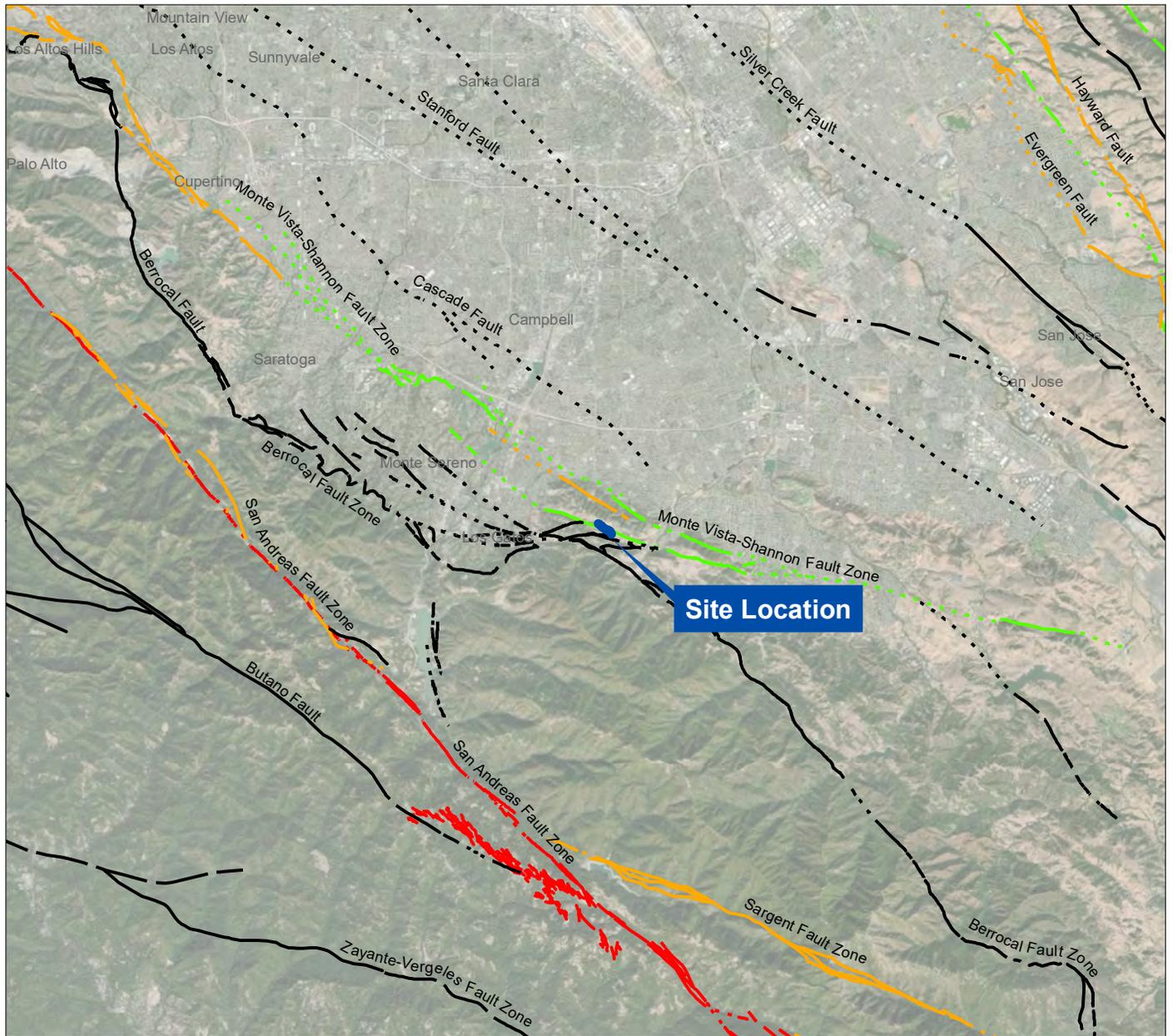
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LOS GATOS, CALIFORNIA

**LANDSLIDE ACTIVITY MAP**

200300

DECEMBER 2020

FIGURE 4



**BASEMAP REFERENCE**

1. FAULT LOCATIONS FROM US GEOLOGICAL SURVEY QUATERNARY FAULTS AND FOLDS DATABASE, ACCESSED ONLINE ON 12 DECEMBER 2017.
2. ORTHOIMAGERY FROM ESRI (MAXAR), 2017.

**MAP UNIT DESCRIPTION**

- |  |   |
|--|---|
| — Historical (<150 years), Well Constrained Location                     | — Late Quaternary (<130,000 years), Well Constrained Location                           |
| - - - Historical (<150 years), Moderately Constrained Location           | - - - Late Quaternary (<130,000 years), Moderately Constrained Location                 |
| · · · Historical (<150 years), Inferred Location                         | · · · Late Quaternary (<130,000 years), Inferred Location                               |
| — Latest Quaternary (<15,000 years), Well Constrained Location           | — Undifferentiated Quaternary (<1.6 million years), Well Constrained Location           |
| - - - Latest Quaternary (<15,000 years), Moderately Constrained Location | - - - Undifferentiated Quaternary (<1.6 million years), Moderately Constrained Location |
| · · · Latest Quaternary (<15,000 years), Inferred Location               | · · · Undifferentiated Quaternary (<1.6 million years), Inferred Location               |



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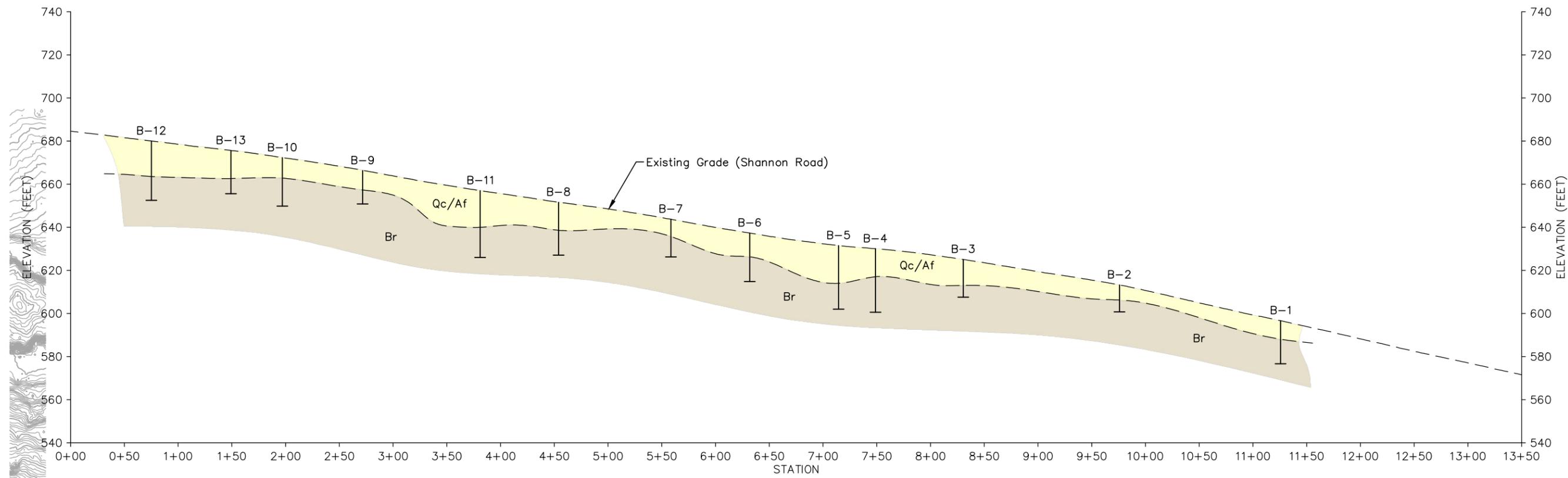
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SHANNON ROAD  
LOS GATOS, CALIFORNIA  
**FAULT ACTIVITY MAP**

200300

DECEMBER 2020

FIGURE 5

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**SECTION A-A'**



HORIZONTAL SCALE: 1" = 100'  
 VERTICAL SCALE: 1" = 50'  
 (2x EXAGGERATION)

**REFERENCES**

1. SURFACE CALCULATED FROM PHOTOGRAMMETRICALLY-DERIVED DIGITAL ELEVATION MODEL (UAV FLIGHT ON 11 JUNE 2020). VERTICAL DATUM = NAVD88 (GEOID18).

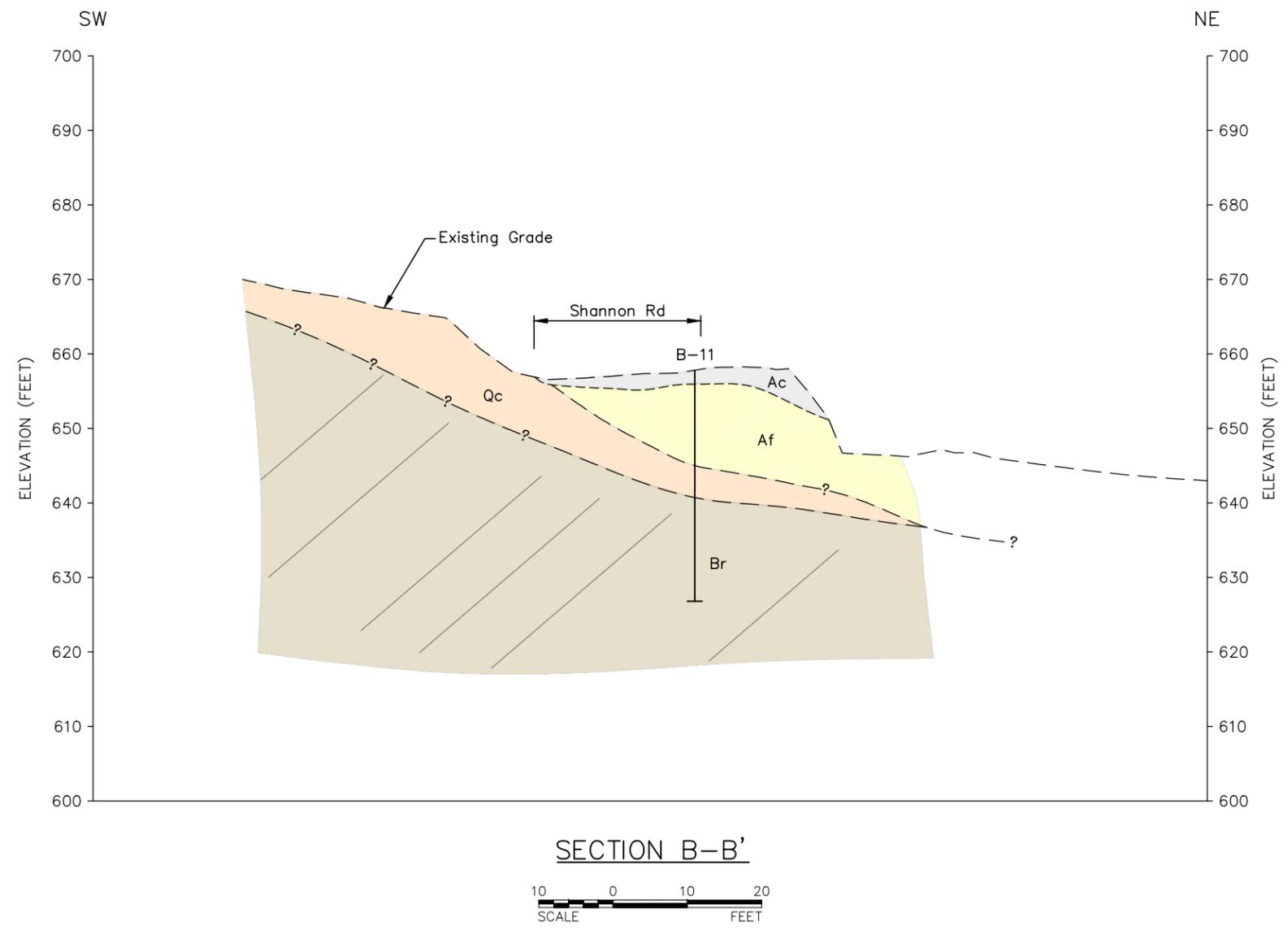
**LEGEND**

- Qc/Af QUATERNARY COLLUVIUM / ARTIFICIAL FILL
- Br BEDROCK

BORING LOCATIONS BY CE&G, DRILLED BETWEEN 6/29/2020-07/01/2020

<p><b>CAL ENGINEERING &amp; GEOLOGY</b></p>	6455 Almaden Expwy. Suite 100 San Jose, CA 95120 Phone: (408) 440-4542	SHANNON ROAD EMBANKMENT STABILIZATION PROJECT SHANNON ROAD LOS GATOS, CALIFORNIA <b>SECTION A-A'</b>	
		200300	DECEMBER 2020

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**REFERENCES**

1. SURFACE CALCULATED FROM PHOTOGRAMMETRICALLY-DERIVED DIGITAL ELEVATION MODEL (UAV FLIGHT ON 11 JUNE 2020). VERTICAL DATUM = NAVD88 (GEOID18).

BORING LOCATIONS BY CE&G, DRILLED BETWEEN 6/29/2020-07/01/2020

**LEGEND**

- Ac ASPHALT CONCRETE
- Af ARTIFICIAL FILL
- Qc QUATERNARY COLLUVIUM
- Br BEDROCK

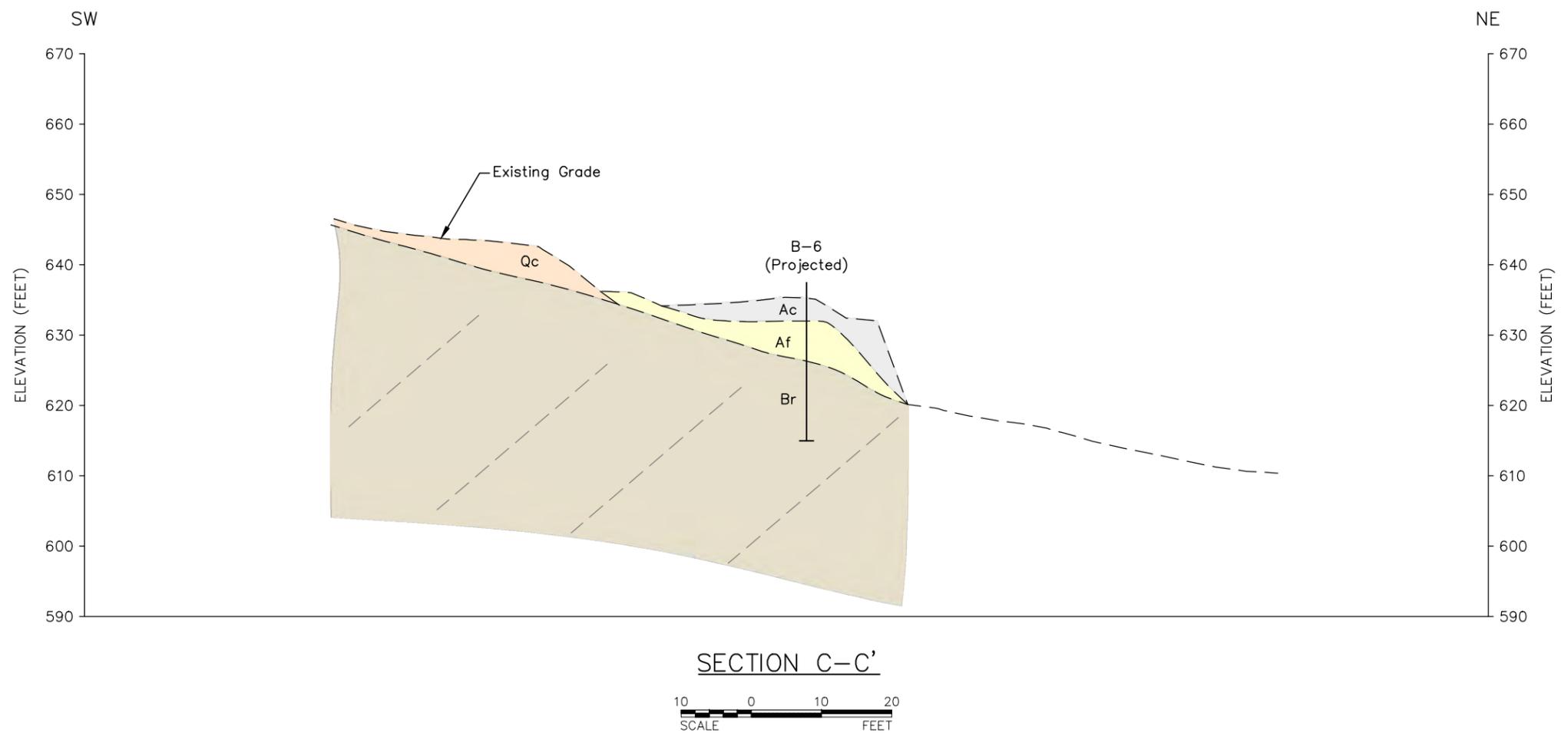


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**SECTION B-B'**

200300	DECEMBER 2020	FIGURE 6B
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**REFERENCES**

1. SURFACE CALCULATED FROM PHOTOGRAMMETRICALLY-DERIVED DIGITAL ELEVATION MODEL (UAV FLIGHT ON 11 JUNE 2020). VERTICAL DATUM = NAVD88 (GEOID18).

**LEGEND**

- Ac ASPHALT CONCRETE
- Af ARTIFICIAL FILL
- Qc QUATERNARY COLLUVIUM
- Br BEDROCK



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**SHANNON ROAD EMBANKMENT STABILIZATION PROJECT**  
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**SECTION C-C'**

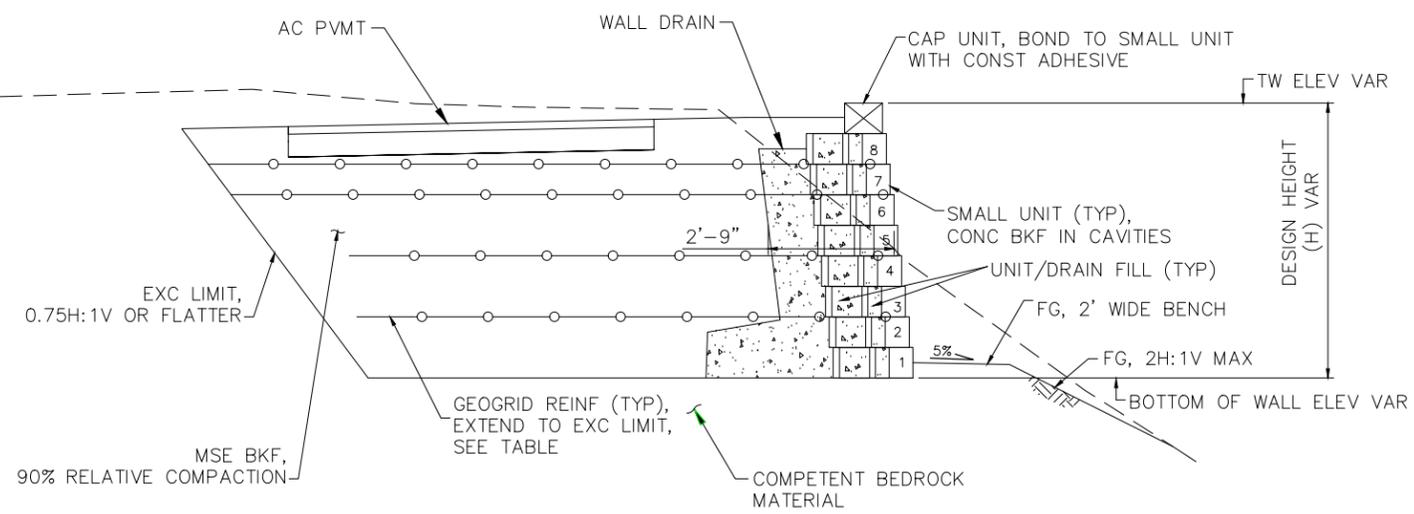
200300

DECEMBER 2020

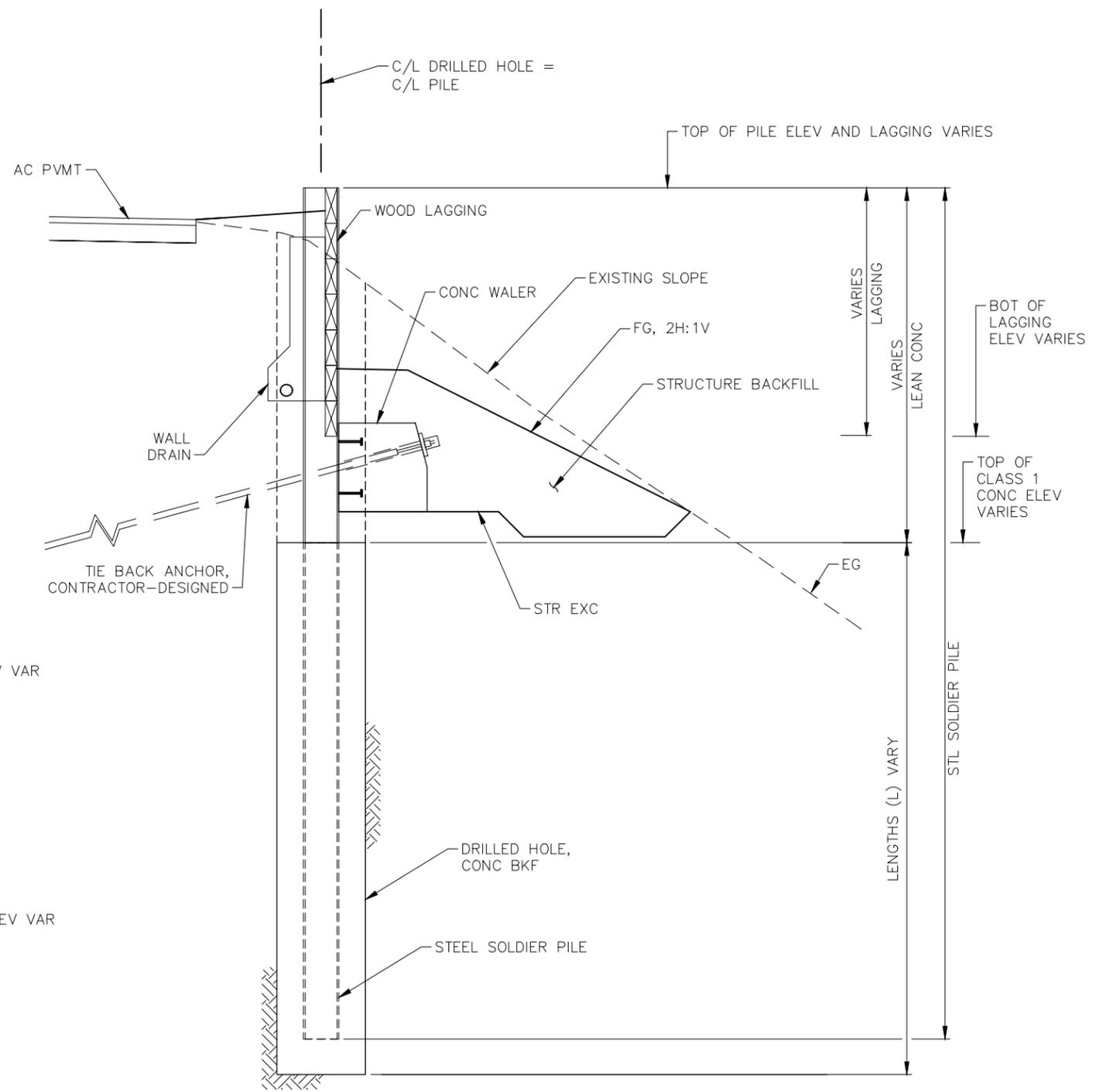
FIGURE 6C



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**CONCEPTUAL MECHANICALLY STABILIZED EMBANKMENT (MSE) WALL** 1  
NOT TO SCALE



**CONCEPTUAL SOLDIER BEAM AND LAGGING WALL** 2  
NOT TO SCALE



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		<b>CONCEPTUAL WALL ALTERNATIVES</b>		
		200300	DECEMBER 2020	FIGURE 7

## **Appendix A. Boring Logs**

# UNIFIED SOIL CLASSIFICATION SYSTEM (ASTM D-2487)

Field Identification		Group Symbols	Typical Names	Laboratory Classification Criteria					
<b>Coarse-Grained Soils</b> More than 50% of material is retained on the No. 200 sieve.	<b>Gravels</b> More than 50% coarse fraction retained on the No. 4 sieve	Clean Gravels < 5% Fines	<b>GW</b>	Well-graded gravels, gravel-sand mixtures, little or no fines	<b>CLASSIFICATION OF GRAVELS &amp; SANDS WITH 5% TO 12% FINES REQUIRES DUAL SYMBOLS</b> Gravel/Silty Gravel Gravel/Clayey Gravel Sand/Silty Sand Sand/Clayey Sand	$C_u = D_{60} \div D_{10} \geq 4$ and $C_c = (D_{30})^2 \div (D_{10} \times D_{60}) \geq 1 \ \& \ \leq 3$			
		Gravels with Fines >12% Fines	<b>GP</b>	Poorly graded gravels, gravel-sand mixtures, little or no fines			$C_u = D_{60} \div D_{10} < 4$ and/or $C_c = (D_{30})^2 \div (D_{10} \times D_{60}) < 1 \ \& \ > 3$		
		<b>Sands</b> More than 50% coarse fraction passes the No. 4 sieve	Clean Sands < 5% Fines	<b>GM</b>		Silty gravels, poorly graded gravel-sand-silt mixtures		Fines classify as <b>ML</b> or <b>MH</b>	If fines classify as <b>CL-ML</b> , use dual symbol <b>GC/GM</b>
			Sands with Fines >12% Fines	<b>GC</b>		Clayey gravels, poorly graded gravel-sand-clay mixtures	Fines classify as <b>CL</b> or <b>CH</b>		
	<b>Fine-Grained Soils</b> More than 50% of material passes the No. 200 sieve.	<b>Identification Procedures on Percentage Passing the No. 40 Sieve</b>				<b>PLASTICITY CHART</b>			
		<b>Silts &amp; Clays</b> Liquid Limit less than 50%	Clean Sands < 5% Fines	<b>SW</b>		Well-graded sands, gravelly sands, little or no fines	<p style="text-align: center;"><b>For Classification of Fine-Grained Soils and Fine-Grained Fraction of Coarse-Grained Soils</b></p> <p style="text-align: center;">Equation of "A"-Line: <math>PI = 4 @ LL = 4</math> to 25.5, then <math>PI = 0.73 \times (LL - 20)</math> Equation of "U"-Line: <math>LL = 16 @ PI = 0</math> to 7, then <math>PI = 0.9 \times (LL - 8)</math></p>		
			Sands with Fines >12% Fines	<b>SP</b>		Poorly graded sands, gravelly sands, little or no fines			
			<b>Silts &amp; Clays</b> Liquid Limit greater than 50%	<b>SM</b>		Silty sands, poorly graded sand-silt mixtures			
		<b>SC</b>		Clayey sands, poorly graded sand-clay mixtures					
		<b>ML</b>		Inorganic silts, very fine sands, rock flour, silty or clayey fine sands with slight plasticity					
<b>CL</b>	Inorganic clays of low to medium plasticity, gravelly, sandy, and/or silty clays, lean clays								
<b>OL</b>	Organic silts, organic silty clays of low plasticity								
<b>MH</b>	Inorganic silts, micaceous or diatomaceous fine sandy/silty soil, elastic silts								
<b>CH</b>	Inorganic clays of high plasticity, fat clays								
<b>OH</b>	Organic clays of medium to high plasticity								
<b>HIGHLY ORGANIC SOILS</b>		<b>PT</b>	Peat and other highly organic soils						

### KEY TO SAMPLER TYPES AND OTHER LOG SYMBOLS

<p><b>CS</b> California Standard Sampler</p> <p><b>CM</b> California Modified Sampler</p> <p><b>SPT</b> Standard Penetration Test Sampler</p> <p><b>SHL</b> Shelby Tube Sampler</p> <p><b>BU</b> Bulk Sample</p> <p><b>LL</b> Liquid Limit of Sample (ASTM D-4318)</p> <p><b>PI</b> Plasticity Index of Sample (ASTM D-4318)</p> <p><b>Q<sub>u</sub></b> Unconfined Compression Test (ASTM D-2166)</p>	<p> Depth at which Groundwater was Encountered During Drilling</p> <p> Depth at which Groundwater was Measured After Drilling</p> <p><b>PP</b> Pocket Penetrometer Test</p> <p><b>PTV</b> Pocket Torvane Test</p> <p><b>-#200</b> % of Material Passing the No. 200 Sieve Test (ASTM D-1140)</p> <p><b>PSA</b> Particle-Size Analysis (ASTM D-422 &amp; D-1140)</p> <p><b>C</b> Consolidation Test (ASTM D-2435)</p> <p><b>TXUU</b> Unconsolidated Undrained Compression Test (ASTM D-2850)</p>
--	---

### KEY TO SAMPLE INTERVALS

<p> Length of Sampler Interval with a CS Sampler</p> <p> Length of Sampler Interval with a CM Sampler</p> <p> Length of Sampler Interval with a SPT Sampler</p> <p> Length of Sampler Interval with a SHL Sampler</p>	<p> Bulk Sample Recovered for Interval Shown (i.e., cuttings)</p> <p> Length of Coring Run with Core Barrel Type Sampler</p> <p><b>NR</b> No Sample Recovered for Interval Shown</p>
---	--

## Rock Hardness Descriptions

<b>Very Hard</b>	Cannot be scratched with knife or sharp pick. Breaking of hand specimen requires several hard blows of geologist's pick.
<b>Hard</b>	Can be scratched with knife or pick only with difficulty. Hard blow of hammer required to detach hand specimen.
<b>Moderately Hard</b>	Can be scratched with knife or pick. Gouges or grooves to 1/4-inch deep can be excavated by hard blow of geologist's pick. Hand specimens can be detached by moderate blow.
<b>Medium</b>	Can be grooved or gouged 1/16-inch deep by firm pressure of knife or pick point. Can be excavated in small chips to pieces about 1-inch maximum size by hard blows of the point of a geologist's pick.
<b>Soft</b>	Can be gouged or grooved readily with knife or pick point. Can be excavated in chips to pieces several inches in size by moderate blows of a pick point. Small tin pieces can be broken by finger pressure.
<b>Very Soft</b>	Can be carved with knife. Can be excavated readily with point of pick. Pieces 1-inch or more in thickness can be broken with finger pressure. Can be scratched readily by fingernail.

## Bedding Thickness & Joint/Fracture Spacing Descriptions

Centimeters	Inches	Bedding	Joints/Fractures
< 2	< 3/4	Laminated	Extremely Close
2-5	3/4-2	Very Thin	Very Close
5-30	2-12	Thin	Close
30-90	12-36	Medium	Moderate
90-300	36-120	Thick	Wide
> 300	> 120	Very Thick	Very Wide

## Rock Weathering Descriptions

<b>Fresh</b>	Rock fresh, crystals bright, few joints may show slight staining. Rock rings under hammer if crystalline.
<b>Very Slight</b>	Rock generally fresh, joints may show thin clay coatings, crystals in broken face show bright. Rock rings under hammer if crystalline.
<b>Slight</b>	Rock generally fresh, joints stained, and discoloration extends into rock up to 1 inch. Joints may contain clay. In granitoid rocks some occasional feldspar crystals are dulled and discolored. Crystalline rocks ring under hammer.
<b>Moderate</b>	Significant portions of rock show discoloration and weathering effects. In granitoid rocks, most feldspars are dull and discolored; some show clayey. Rock has dull sound under hammer and shows significant loss of strength as compared with fresh rock.
<b>Moderately Severe</b>	All rock except quartz discolored or stained. In granitoid rocks, all feldspars dull and discolored and majority show kaolinization. Rock shows severe loss of strength and can be excavated with geologist's pick. Rock goes "clunk" when struck.
<b>Severe</b>	All rock except quartz discolored or stained. Rock "fabric" clear and evident, but reduced in strength to strong soil. In granitoid rocks, all feldspars kaolinized to some extent. Some fragments of strong rock usually left.
<b>Very Severe</b>	All rock except quartz discolored or stained. Rock "fabric" discernible. But mass effectively reduced to "soil" with only fragments of strong rock remaining.
<b>Complete</b>	Rock reduced to "soil." Rock "fabric" not discernible or discernible only in small scattered locations. Quartz may be present as dikes or stringers.

The above Bedrock Characteristics are based on the ASCE Manual No. 56, "Subsurface Investigation For Design And Construction Of Foundations Of Buildings," 1976.

CLIENT NCE

PROJECT NAME Shannon Road Embankment Stabilization

PROJECT NUMBER 200300

PROJECT LOCATION Los Gatos, CA

**LITHOLOGIC SYMBOLS**  
*(Unified Soil Classification System)*

-  ASPHALT: Asphalt
-  BEDROCK: Bedrock
-  CL: USCS Low Plasticity Clay
-  GM: USCS Silty Gravel
-  ML: USCS Silt
-  SM: USCS Silty Sand

**SAMPLER SYMBOLS**

-  California Modified Sampler
-  Standard Penetration Test

**WELL CONSTRUCTION SYMBOLS**

**ABBREVIATIONS**

- LL - LIQUID LIMIT (%)
- PI - PLASTIC INDEX (%)
- W - MOISTURE CONTENT (%)
- DD - DRY DENSITY (PCF)
- NP - NON PLASTIC
- 200 - PERCENT PASSING NO. 200 SIEVE
- PP - POCKET PENETROMETER (TSF)

- TV - TORVANE
- PID - PHOTOIONIZATION DETECTOR
- UC - UNCONFINED COMPRESSION
- ppm - PARTS PER MILLION
-  Water Level at Time Drilling, or as Shown
-  Water Level at End of Drilling, or as Shown
-  Water Level After 24 Hours, or as Shown



CAL ENGINEERING & GEOLOGY

**BORING NUMBER B-01**

PAGE 1 OF 1

CLIENT NCE  
 PROJECT NUMBER 200300  
 DATE STARTED 6/29/2020 COMPLETED 6/29/2020  
 DRILLING CONTRACTOR Genozoic Exploration, LLC.  
 DRILLING RIG/METHOD Simco 2400/ 6-in. Solid Flight Auger  
 LOGGED BY K. Loeb CHECKED BY P. Sorci  
 HAMMER TYPE 140 lb hammer with 30 in. cathead

PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT LOCATION Los Gatos, CA  
 GROUND ELEVATION 597 ft DATUM NAVD88 HOLE SIZE 6" in.  
 COORDINATES: LATITUDE 37.22207 LONGITUDE -121.92538  
 GROUNDWATER AT TIME OF DRILLING --- Not Encountered  
 GROUNDWATER AT END OF DRILLING --- N/A  
 GROUNDWATER AFTER DRILLING --- N/A

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
0		Asphalt Pavement (approximately 1.5')									
		Silty SAND w/ Gravel (SM): olive, dry, medium dense, angular gravel up to 1", fine to coarse sand [Embankment Fill]	CM	8-10-12	>4.5						
		Sandy Lean CLAY (CL): very dark brown, dry, hard, medium dry strength, low plasticity, fine to coarse sand, trace angular gravel [Colluvium/Fill]	SPT	6-7-8	>4.5						
5		Sandy SILT (ML): light gray, dry, medium dense	CM	6-14-16		82	28				
		Sandy Lean CLAY w/ Gravel (CL): dark yellowish brown, hard, fine to coarse sand, angular gravel	SPT	5-10-20							
10		Siltstone: brownish yellow to light gray, very weak to extremely weak, moderately weathered, some sandy siltstone interbeds [Bedrock]									
		becomes highly weathered to lean clay becomes moderately weathered, increase in sand	SPT	9-19-31							
		increased drilling difficulty									
15		becomes moderately to slightly weathered, moderately strong	SPT	11-21-40							
		becomes moderately weathered, weak, beds dip approximately 50 degrees	SPT	15-30-50							

Bottom of borehole at 20.0 ft. Borehole backfilled with neat cement grout.



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**BORING NUMBER B-02**

PAGE 1 OF 1

CLIENT NCE  
 PROJECT NUMBER 200300  
 DATE STARTED 6/29/2020 COMPLETED 6/29/2020  
 DRILLING CONTRACTOR Genozoic Exploration, LLC.  
 DRILLING RIG/METHOD Simco 2400/ 6-in. Solid Flight Auger  
 LOGGED BY K. Loeb CHECKED BY P. Sorci  
 HAMMER TYPE 140 lb hammer with 30 in. cathead

PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT LOCATION Los Gatos, CA  
 GROUND ELEVATION 614 ft DATUM NAVD88 HOLE SIZE 6" in.  
 COORDINATES: LATITUDE 37.222484 LONGITUDE -121.92567  
 GROUNDWATER AT TIME OF DRILLING --- Not Encountered  
 GROUNDWATER AT END OF DRILLING --- N/A  
 GROUNDWATER AFTER DRILLING --- N/A

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
0		Asphalt Pavement (approximately 1.7')									
		Silty GRAVEL w/ Sand (GM): olive, dry, medium dense, fine to coarse sand, subangular to angular gravel up to 1.5" [Embankment Fill]	CM	18-14-10							
		Sandy Lean CLAY w/ Gravel (CL): very dark brown matrix, dry, low plasticity, angular gravel [Colluvium/Fill]	SPT	4-5-6							
5											
		Siltstone: pale yellow to dark gray, dry, moderately weathered, very weak, thinly bedded and dips approximately 40 degrees [Bedrock] trace roots becomes olive yellow	CM	6-21-24							
			SPT	16-18-26							
10											
		becomes very weak, some highly weathered interbeds, oxidized	SPT	12-19-26							

Bottom of borehole at 12.5 ft. Borehole backfilled with neat cement grout.

CLIENT NCE  
 PROJECT NUMBER 200300  
 DATE STARTED 6/29/2020 COMPLETED 6/29/2020  
 DRILLING CONTRACTOR Genozoic Exploration, LLC.  
 DRILLING RIG/METHOD Simco 2400/ 6-in. Solid Flight Auger  
 LOGGED BY K. Loeb CHECKED BY P. Sorci  
 HAMMER TYPE 140 lb hammer with 30 in. cathead

PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT LOCATION Los Gatos, CA  
 GROUND ELEVATION 626 ft DATUM NAVD88 HOLE SIZE 6" in.  
 COORDINATES: LATITUDE 37.22272 LONGITUDE -121.92606  
 GROUNDWATER AT TIME OF DRILLING --- Not Encountered  
 GROUNDWATER AT END OF DRILLING --- N/A  
 GROUNDWATER AFTER DRILLING --- N/A

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
0		Asphalt Pavement (approximately 1.5')									
		Silty SAND w/ Gravel (SM): olive, dry, dense, fine to coarse sand, angular to subangular gravel up to 1" [Embankment Fill]	CM	15-18-18							
		Sandy SILT (ML): very dark brown, dry, medium dense, fine to medium sand	SPT	8-7-5							
5		becomes dark gray									
		Sandy SILT (SM): light olive brown, dry, medium dense, fine to coarse, trace fine gravel [Colluvium]	CM	6-15-20		75	29				85
			SPT	6-8-11							
10											
		Siltstone: yellowish brown, moderately to slightly weathered, varies from weak to moderately strong, beds dip approximately 50 degrees [Bedrock]	CM	4-18-40							
			SPT	16-21-33							
15											
		becomes very weak, moderately weathered									
		becomes weak	SPT	17-19-46							
Bottom of borehole at 17.5 ft. Borehole backfilled with neat cement grout.											





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**BORING NUMBER B-04**

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CLIENT NCE  
 PROJECT NUMBER 200300  
 DATE STARTED 6/29/2020 COMPLETED 6/29/2020  
 DRILLING CONTRACTOR Cenozoic Exploration, LLC.  
 DRILLING RIG/METHOD Simco 2400/ 6-in. Solid Flight Auger  
 LOGGED BY K. Loeb CHECKED BY P. Sorci  
 HAMMER TYPE 140 lb hammer with 30 in. cathead

PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT LOCATION Los Gatos, CA  
 GROUND ELEVATION 630.5 ft DATUM NAVD88 HOLE SIZE 6" in.  
 COORDINATES: LATITUDE 37.22279 LONGITUDE -121.92632  
 GROUNDWATER AT TIME OF DRILLING --- Not Encountered  
 GROUNDWATER AT END OF DRILLING --- N/A  
 GROUNDWATER AFTER DRILLING --- N/A

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
0		Asphalt Pavement (approximately 1.3')									
		Silty SAND w/ Gravel (SM): olive, dry, medium dense, fine to coarse sand, angular to subangular gravel up to 1.25", some foam in voids [Embankment Fill]	CM	13-14-10							
		Sandy Lean CLAY (CL): very dark brown, dry, hard, fine to medium sand, trace angular/fine gravel	SPT	6-6-7							
5		Sandy SILT w/ Gravel (ML): dark grayish brown, dry, medium dense, fine to coarse sand, angular to subrounded gravel up to 0.5"									
		Gravelly Lean CLAY (CL): very dark brown, moist, hard, angular gravel up to 2" [Colluvium]	CM	8-11-13	>4.5 >4.5	88	13				
		Sandy Lean CLAY (CL): dark olive brown, moist, low plasticity, very stiff, fine to medium sand	SPT	5-5-6	3.0						
10		contains various completely weathered rock fragments	CM	9-13-20							
		Sandy Siltstone: dark yellowish brown to white, highly weathered, friable to sandy silt, extremely weak [Bedrock]	SPT	5-6-9							
15		some mudstone interbeds	CM	16-26-25		66	44				
		Silty sandstone bed	SPT	10-12-14							

CLIENT NCE PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT NUMBER 200300 PROJECT LOCATION Los Gatos, CA

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
20		Sandy Siltstone: dark yellowish brown to white, highly weathered, friable to sandy silt, extremely weak [Bedrock] <i>(continued)</i>									
25		becomes olive to yellowish brown, weak to extremely weak, highly to moderately weathered	SPT	8-13-15							
				SPT	50						

Bottom of borehole at 29.5 ft. Borehole backfilled with neat cement grout.



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**BORING NUMBER B-05**

PAGE 1 OF 2

CLIENT NCE  
 PROJECT NUMBER 200300  
 DATE STARTED 6/30/2020 COMPLETED 6/30/2020  
 DRILLING CONTRACTOR Genozoic Exploration, LLC.  
 DRILLING RIG/METHOD Simco 2400/ 6-in. Solid Flight Auger  
 LOGGED BY K. Loeb CHECKED BY P. Sorci  
 HAMMER TYPE 140 lb hammer with 30 in. cathead

PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT LOCATION Los Gatos, CA  
 GROUND ELEVATION 632 ft DATUM NAVD88 HOLE SIZE 6" in.  
 COORDINATES: LATITUDE 37.22282 LONGITUDE -121.92643  
 GROUNDWATER AT TIME OF DRILLING --- Not Encountered  
 GROUNDWATER AT END OF DRILLING --- N/A  
 GROUNDWATER AFTER DRILLING --- N/A

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
0		Asphalt Pavement (approximately 2')									
		Silty GRAVEL w/ Sand (GM): olive, moist, medium dense to dense, angular gravel up to 1.5", fine to coarse sand [Embankment Fill]	CM	10-15-20			3				11
		Sandy Lean CLAY w/ Gravel (CL): very dark brown, moist, hard, fine to coarse sand, gravel fragments are friable	SPT	10-7-6	>4.5						
5		Lean CLAY (CL): very dark brown to black, moist, low plasticity, very stiff, little fine sand, trace roots [Colluvium]	CM	7-11-16	3.5	90	27	74	40	34	
			SPT	5-6-10	4.25						
10		Lean CLAY w/ Sand (CL): dark olive brown, dry, hard, fine sand, low plasticity, trace angular gravel up to 1.5"	CM	15-24-36	>4.5						
			SPT	9-15-19	>4.5						
15		Sandy Siltstone: light olive brown to dark yellowish brown, moist, some layering, extremely weak, highly weathered, friable to sandy silt, some oxidation [Bedrock]	SPT	9-14-16							

CLIENT NCE PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT NUMBER 200300 PROJECT LOCATION Los Gatos, CA

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
20		Sandy Siltstone: light olive brown to dark yellowish brown, moist, some layering, extremely weak, highly weathered, friable to sandy silt, some oxidation [Bedrock] (continued)									
		Increase in oxidation	SPT	8-12-14							
25		becomes highly to moderately weathered, interbeds of extremely weak to weak zones	SPT	27-44-46							

Bottom of borehole at 29.5 ft. Borehole backfilled with neat cement grout.



**CAL ENGINEERING & GEOLOGY**

**CLIENT** NCE  
**PROJECT NUMBER** 200300  
**DATE STARTED** 6/30/2020 **COMPLETED** 6/30/2020  
**DRILLING CONTRACTOR** Cenozoic Exploration, LLC.  
**DRILLING RIG/METHOD** Simco 2400/ 6-in. Solid Flight Auger  
**LOGGED BY** K. Loeb **CHECKED BY** P. Sorci  
**HAMMER TYPE** 140 lb hammer with 30 in. cathead

**PROJECT NAME** Shannon Road Embankment Stabilization  
**PROJECT LOCATION** Los Gatos, CA  
**GROUND ELEVATION** 638 ft **DATUM** NAVD88 **HOLE SIZE** 6" in.  
**COORDINATES: LATITUDE** 37.222951 **LONGITUDE** -121.92667  
**GROUNDWATER AT TIME OF DRILLING** --- Not Encountered  
**GROUNDWATER AT END OF DRILLING** --- N/A  
**GROUNDWATER AFTER DRILLING** --- N/A

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
0		Asphalt Pavement (approximately 2.25')									
		Silty SAND w/ Gravel (SM): olive, dry, dense, angular to subangular gravel up to 1.5", fine to coarse sand, some foam [Embankment Fill]	CM	21-33-25							
		Sandy SILT (ML): very dark brown, dry, medium dense, fine sand, trace coarse sand	SPT	7-7-9							
5		Lean CLAY w/ Sand (CL): very dark brown, moist, hard, low plasticity, fine sand, trace coarse sand [Colluvium]	CM	8-16-20							
		Gravelly Lean CLAY w/ Sand (CL): very dark grayish brown, dry, hard, angular gravel up to 1.5"	SPT	5-7-10							
10		Diotomaceous Siltstone: yellow, dry, slightly weathered, weak rock [Bedrock]	SPT	12-20-33							
15		Sandy Siltstone: brown, dry, very weak, moderately weathered	SPT	27-35-42							

CLIENT NCE PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT NUMBER 200300 PROJECT LOCATION Los Gatos, CA

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
20		Sandy Siltstone: brown, dry, very weak, moderately weathered (continued) becomes grayish brown, slightly weathered, weak	SPT	15-16-29							

Bottom of borehole at 22.5 ft. Borehole backfilled with neat cement grout.



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**BORING NUMBER B-07**

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CLIENT NCE  
 PROJECT NUMBER 200300  
 DATE STARTED 6/30/2020 COMPLETED 6/30/2020  
 DRILLING CONTRACTOR Cenozoic Exploration, LLC.  
 DRILLING RIG/METHOD Simco 2400/ 6-in. Solid Flight Auger  
 LOGGED BY K. Loeb CHECKED BY P. Sorci  
 HAMMER TYPE 140 lb hammer with 30 in. cathead

PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT LOCATION Los Gatos, CA  
 GROUND ELEVATION 644 ft DATUM NAVD88 HOLE SIZE 6" in.  
 COORDINATES: LATITUDE 37.2221 LONGITUDE -121.92693  
 GROUNDWATER AT TIME OF DRILLING --- Not Encountered  
 GROUNDWATER AT END OF DRILLING --- N/A  
 GROUNDWATER AFTER DRILLING --- N/A

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
0		Asphalt Pavement (approximately 2')									
		Silty GRAVEL w/ Sand (SM): olive, dry, medium dense, fine to coarse sand, angular to subangular gravel up to 1.75" [Embankment Fill]	CM	20-17-10							
		Sandy SILT (ML): very dark brown, dry, loose, fine to medium sand, trace roots [Colluvium]	SPT	5-4-4							
5		Sandy SILT w/ Gravel (ML): dark brown, dry, medium dense, angular gravel up to 2", fine to coarse sand	CM	10-12-7		69	29				
		Interbedded Diatomaceous Siltstone, Sandy Siltstone, and Mudstone: yellow siltstone to dark yellowish brown mudstone, dry, very weak, moderately to slightly weathered, oxidized [Bedrock]	SPT	11-8-11							
10			SPT	8-11-11							
15		Sandy Mudstone: dark yellowish brown, moist, extremely weak, moderately weathered	SPT	11-17-21							
Bottom of borehole at 17.5 ft. Borehole backfilled with neat cement grout.											



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**BORING NUMBER B-08**

PAGE 1 OF 2

CLIENT NCE  
 PROJECT NUMBER 200300  
 DATE STARTED 6/30/2020 COMPLETED 6/30/2020  
 DRILLING CONTRACTOR Genozoic Exploration, LLC.  
 DRILLING RIG/METHOD Simco 2400/ 6-in. Solid Flight Auger  
 LOGGED BY K. Loeb CHECKED BY P. Sorci  
 HAMMER TYPE 140 lb hammer with 30 in. cathead

PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT LOCATION Los Gatos, CA  
 GROUND ELEVATION 652 ft DATUM NAVD88 HOLE SIZE 6" in.  
 COORDINATES: LATITUDE 37.223122 LONGITUDE -121.927357  
 GROUNDWATER AT TIME OF DRILLING --- Not Encountered  
 GROUNDWATER AT END OF DRILLING --- N/A  
 GROUNDWATER AFTER DRILLING --- N/A

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
0		Asphalt Pavement (approximately 1.8')									
		Sandy SILT w/ Gravel (ML): olive, dry, medium dense, fine to coarse sand, angular to subangular gravel [Embankment Fill]	CM	9-10-12							
		Sandy Lean CLAY (CL): very dark brown, dry, hard, fine to medium sand	SPT	5-7-9							
5		Sandy Lean CLAY (CL): very dark brown, dry, hard, high dry strength, fine to medium sand [Colluvium]	CM	11-17-21	>4.5						
		Sandy Lean CLAY (CL): very dark brown, dry, hard, high dry strength, fine to medium sand	SPT	6-8-12	>4.5						
10		Sandy Lean CLAY w/ Gravel (CL): dark brown, dry, hard, high dry strength, fine to medium sand, angular gravel	SPT	6-9-13							
		Sandy Siltstone: yellowish brown, extremely weak to weak, highly to moderately weathered, friable [Bedrock]									
15		becomes dark gray to oxidized yellowish brown, very weak, moderately weathered	SPT	8-18-22							



CLIENT NCE PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT NUMBER 200300 PROJECT LOCATION Los Gatos, CA

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
20		Sandy Siltstone: yellowish brown, extremely weak to weak, highly to moderately weathered, friable [Bedrock] <i>(continued)</i>	SPT	14-23-32							

Bottom of borehole at 24.5 ft. Borehole backfilled with neat cement grout.

CLIENT NCE  
 PROJECT NUMBER 200300  
 DATE STARTED 6/30/2020 COMPLETED 6/30/2020  
 DRILLING CONTRACTOR Genozoic Exploration, LLC.  
 DRILLING RIG/METHOD Simco 2400/ 6-in. Solid Flight Auger  
 LOGGED BY K. Loeb CHECKED BY P. Sorci  
 HAMMER TYPE 140 lb hammer with 30 in. cathead

PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT LOCATION Los Gatos, CA  
 GROUND ELEVATION 667 ft DATUM NAVD88 HOLE SIZE 6" in.  
 COORDINATES: LATITUDE 37.22338 LONGITUDE -121.92778  
 GROUNDWATER AT TIME OF DRILLING --- Not Encountered  
 GROUNDWATER AT END OF DRILLING --- N/A  
 GROUNDWATER AFTER DRILLING --- N/A

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
0		Asphalt Pavement (approximately 1.5')									
		Sandy SILT w/ Gravel (ML): olive, dry, medium dense, fine to coarse sand, angular to subangular gravel [Embankment Fill]									
		Sandy SILT (ML): very dark brown, dry, loose, fine to coarse sand, trace fine gravel [Colluvium]	CM	5-5-6		66	27				
5			SPT	3-3-5							
		Sandy Siltstone and Mudstone: dark yellowish brown, moist, highly to moderately weathered, extremely weak, friable to sandy silt [Bedrock]	CM	10-21-39							
10											
		becomes oxidized, rock structure still visible									
15			SPT	11-15-18							

Bottom of borehole at 15.5 ft. Borehole backfilled with neat cement grout.

CLIENT NCE  
 PROJECT NUMBER 200300  
 DATE STARTED 7/1/2020 COMPLETED 7/1/2020  
 DRILLING CONTRACTOR Genozoic Exploration, LLC.  
 DRILLING RIG/METHOD Simco 2400/ 6-in. Solid Flight Auger  
 LOGGED BY K. Loeb CHECKED BY P. Sorci  
 HAMMER TYPE 140 lb hammer with 30 in. cathead

PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT LOCATION Los Gatos, CA  
 GROUND ELEVATION 673 ft DATUM NAVD88 HOLE SIZE 6" in.  
 COORDINATES: LATITUDE 37.22342 LONGITUDE -121.92801  
 GROUNDWATER AT TIME OF DRILLING --- Not Encountered  
 GROUNDWATER AT END OF DRILLING --- N/A  
 GROUNDWATER AFTER DRILLING --- N/A

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
0		Asphalt Pavement (approximately 1.5')									
		Silty SAND w/ Gravel (SM): very dark brown, moist, medium dense becomes olive, increase in gravel	CM	7-8-8							
		Lean CLAY w/ Sand (CL): very dark brown, dry, hard, low plasticity, fine sand [Colluvium]	SPT	5-5-7							
5		contains slope stabilization foam, slight increase in plasticity, decrease in sand	CM	8-12-15							
		SILT w/ Sand (ML): dark yellowish brown, moist, low plasticity, medium dense, very fine sand [Colluvium/Residual Soil]	SPT	4-8-10	3.0						
10		Sandy Siltstone: dark yellowish brown, mottled grayish brown w/ orange oxidation, completely to highly weathered to sandy silt, extremely weak [Bedrock]	SPT	5-7-10							
15		becomes highly weathered	SPT	9-12-25							
		becomes olive yellow, increase in sand, oxidized, extremely weak to weak									

CLIENT NCE PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT NUMBER 200300 PROJECT LOCATION Los Gatos, CA

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
20		Sandy Siltstone: dark yellowish brown, mottled grayish brown w/ orange oxidation, completely to highly weathered to sandy silt, extremely weak [Bedrock] <i>(continued)</i> becomes highly to moderately weathered, very weak becomes light olive brown, highly weathered	SPT	14-17-18							

Bottom of borehole at 22.5 ft. Borehole backfilled with neat cement grout.

CLIENT NCE  
 PROJECT NUMBER 200300  
 DATE STARTED 7/1/2020 COMPLETED 7/1/2020  
 DRILLING CONTRACTOR Genozoic Exploration, LLC.  
 DRILLING RIG/METHOD Simco 2400/ 6-in. Solid Flight Auger  
 LOGGED BY K. Loeb CHECKED BY P. Sorci  
 HAMMER TYPE 140 lb hammer with 30 in. cathead

PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT LOCATION Los Gatos, CA  
 GROUND ELEVATION 659 ft DATUM NAVD88 HOLE SIZE 6" in.  
 COORDINATES: LATITUDE 37.223192 LONGITUDE -121.927553  
 GROUNDWATER AT TIME OF DRILLING --- Not Encountered  
 GROUNDWATER AT END OF DRILLING --- N/A  
 GROUNDWATER AFTER DRILLING --- N/A

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
0		Asphalt Pavement (approximately 2')									
		Silty SAND w/ Gravel (SM): olive, moist, loose to medium dense, angular to subangular gravel up to 2", fine to coarse sand [Embankment Fill]	CM	5-6-7							
5		SILT w/ Sand (ML): very dark brown, moist, hard/loose to medium dense, fine to medium sand, trace roots [Colluvium]	SPT	4-5-6	>4.5						
10		Lean CLAY w/ Sand (CL): very dark brown, moist, very stiff, low plasticity, fine to medium sand  becomes very dark grayish brown, some carbonate veins, trace roots	CM	5-11-18	3.0 2.75	89	29				
			SPT	5-8-11	3.75						
15		trace angular gravel up to 0.5"	CM	11-11-25	>4.5	83	30				
			SPT	6-9-11	4.25 4.25						
		Sandy Siltstone and Mudstone: dark yellowish brown mottled light gray, moist, highly weathered, extremely weak to weak, oxidized [Bedrock]	SPT	11-18-22							

CLIENT NCE PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT NUMBER 200300 PROJECT LOCATION Los Gatos, CA

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
20		Sandy Siltstone and Mudstone: dark yellowish brown mottled light gray, moist, highly weathered, extremely weak to weak, oxidized [Bedrock] <i>(continued)</i>									
		becomes brownish yellow, extremely weak, highly oxidized	SPT	7-13-12							
25											
		becomes very dark grayish brown, near vertical bedding, moderately to slightly weathered, weak	CM	20-25-46							
30			SPT	16-26-50/4"							

Bottom of borehole at 31.0 ft. Borehole backfilled with neat cement grout.



CAL ENGINEERING & GEOLOGY

**BORING NUMBER B-12**

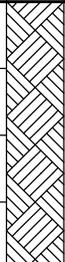
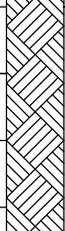
PAGE 1 OF 2

CLIENT NCE  
 PROJECT NUMBER 200300  
 DATE STARTED 7/1/2020 COMPLETED 7/1/2020  
 DRILLING CONTRACTOR Genozoic Exploration, LLC.  
 DRILLING RIG/METHOD Simco 2400/ 6-in. Solid Flight Auger  
 LOGGED BY K. Loeb CHECKED BY P. Sorci  
 HAMMER TYPE 140 lb hammer with 30 in. cathead

PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT LOCATION Los Gatos, CA  
 GROUND ELEVATION 680 ft DATUM NAVD88 HOLE SIZE 6" in.  
 COORDINATES: LATITUDE 37.22373 LONGITUDE -121.92825  
 GROUNDWATER AT TIME OF DRILLING --- Not Encountered  
 GROUNDWATER AT END OF DRILLING --- N/A  
 GROUNDWATER AFTER DRILLING --- N/A

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
0		Asphalt Pavement (approximately 1.3')									
		Silty SAND w/ Gravel (SM): olive, dry, medium dense, fine to coarse sand, angular to subangular gravel up to 1.5" [Embankment Fill]	CM	14-18-16			4				
		Sandy SILT (ML): dark yellowish brown, dry, medium dense, fine sand, trace roots	SPT	7-6-7							
5		Lean CLAY w/ Sand (CL): very dark brown, dry, hard, high dry strength, fine sand [Colluvium]	CM	8-17-25	>4.5		20	47	28	19	
		trace angular gravel	SPT	8-14-17	>4.5						
10		becomes dark yellowish brown, moist, fine to medium sand, some carbonate veins	CM	17-28-38							
			SPT	8-14-18							
15		Interbedded Siltstone and Mudstone: yellowish brown and dark yellowish brown, dry, extremely weak, completely to highly weathered [Bedrock]	SPT	7-10-12							

CLIENT NCE PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT NUMBER 200300 PROJECT LOCATION Los Gatos, CA

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
20		Interbedded Siltstone and Mudstone: yellowish brown and dark yellowish brown, dry, extremely weak, completely to highly weathered [Bedrock] <i>(continued)</i>									
		some oxidation	SPT	11-14-18							
25		Sandy Siltstone: dark yellowish brown and olive gray, weak, moderately to slightly weathered, thinly bedded									
			SPT	16-29-43							

Bottom of borehole at 27.5 ft. Borehole backfilled with neat cement grout.





CAL ENGINEERING & GEOLOGY

**BORING NUMBER B-13**

PAGE 1 OF 1

CLIENT NCE  
 PROJECT NUMBER 200300  
 DATE STARTED 7/1/2020 COMPLETED 7/1/2020  
 DRILLING CONTRACTOR Genozoic Exploration, LLC.  
 DRILLING RIG/METHOD Simco 2400/ 6-in. Solid Flight Auger  
 LOGGED BY K. Loeb CHECKED BY P. Sorci  
 HAMMER TYPE 140 lb hammer with 30 in. cathead

PROJECT NAME Shannon Road Embankment Stabilization  
 PROJECT LOCATION Los Gatos, CA  
 GROUND ELEVATION 676 ft DATUM NAVD88 HOLE SIZE 6" in.  
 COORDINATES: LATITUDE 37.22356 LONGITUDE -121.92809  
 GROUNDWATER AT TIME OF DRILLING --- Not Encountered  
 GROUNDWATER AT END OF DRILLING --- N/A  
 GROUNDWATER AFTER DRILLING --- N/A

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE	BLOW COUNTS (FIELD VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	MOISTURE CONTENT (%)	ATTERBERG LIMITS			FINES CONTENT (%)
								LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	
0		Asphalt Pavement (approximately 1.3')									
		Silty SAND w/ Gravel (SM): very dark brown, moist, medium dense [Embankment Fill]									
5		Lean CLAY w/ Sand (CL): very dark brown, dry, hard, high dry strength, some slope stabilization foam at 4'	CM	8-12-18			21				80
			SPT	5-8-11							
10		becomes very stiff	CM	9-15-21	3.5 4.5						
		Sandy Siltstone: light olive brown, moist, highly to completely weathered, extremely weak [Bedrock]									
15			SPT	7-9-11							
		becomes highly weathered	SPT	9-12-15							

Bottom of borehole at 20.0 ft. Borehole backfilled with neat cement grout.

## **Appendix B. Laboratory Testing**



CAL ENGINEERING & GEOLOGY

# SUMMARY OF LABORATORY RESULTS

PAGE 1 OF 1

CLIENT NCE

PROJECT NAME Shannon Road Embankment Stabilization

PROJECT NUMBER 200300

PROJECT LOCATION Los Gatos, CA

Borehole	Depth	Date Tested	Liquid Limit	Plastic Limit	Plasticity Index	Maximum Screen Size (mm)	%<#200 Sieve	Classification	Water Content (%)	Dry Density (pcf)	Saturation (%)	Void Ratio
B-01	7.0	7/28/2020						ML	27.7	81.9		
B-03	7.0	7/28/2020				0.106	85	SM	28.6	74.6		
B-04	7.0	7/28/2020						CL	13.3	88.4		
B-04	18.0	7/28/2020						BR	43.6	65.8		
B-05	2.5	7/28/2020				0.106	11	GM	2.9			
B-05	7.0	7/28/2020	74	40	34			CL	27.0	89.8		
B-07	7.0	7/28/2020						ML	28.6	69.5		
B-09	4.0	7/28/2020						ML	26.7	66.4		
B-11	9.0	7/28/2020						CL	28.9	89.3		
B-11	13.5	7/28/2020						CL	29.7	82.8		
B-12	2.5	7/28/2020						SM	3.9			
B-12	7.0	7/28/2020	47	28	19			CL	20.3			
B-13	4.0	7/28/2020				0.106	80	CL	20.8			

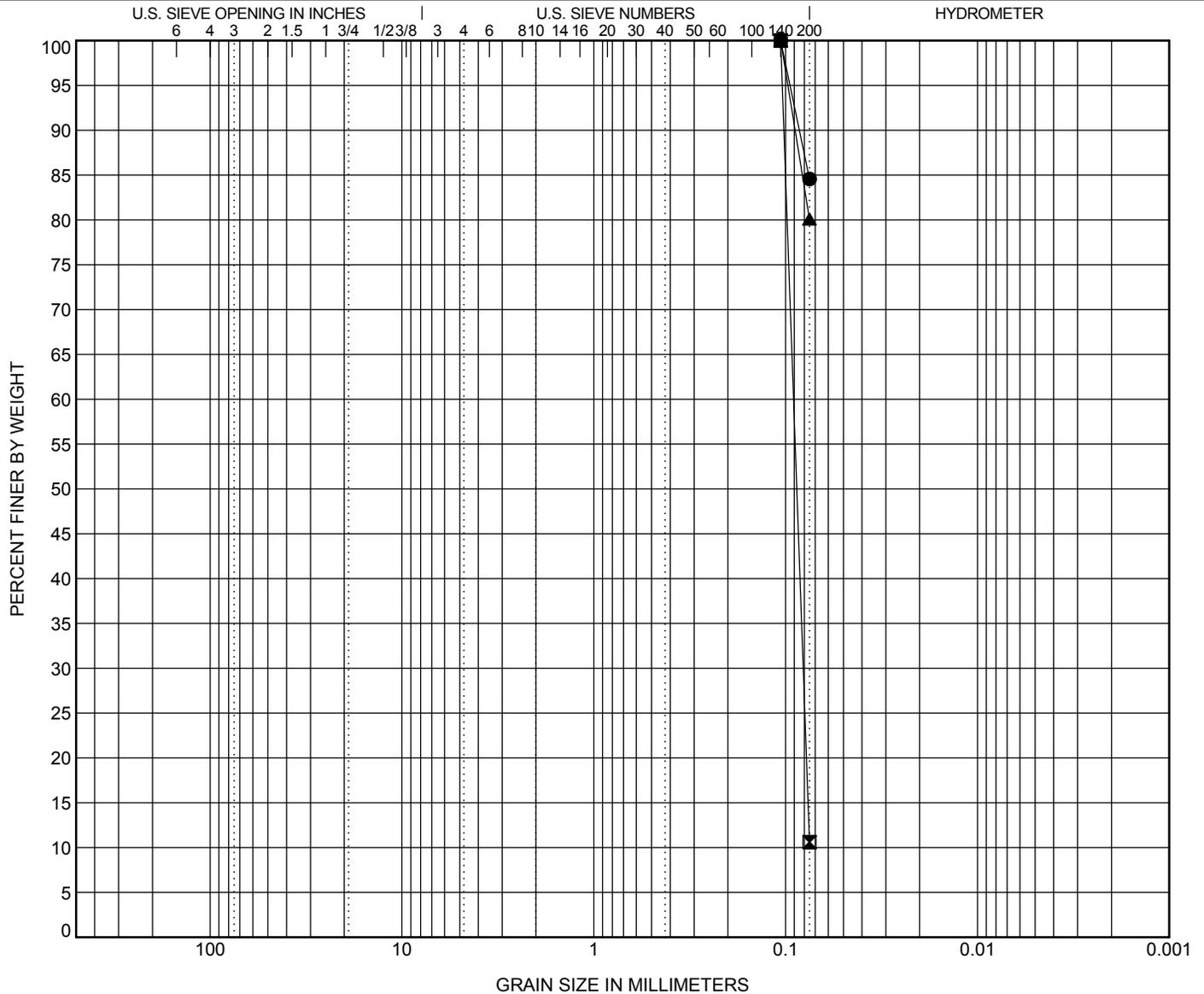


CLIENT NCE

PROJECT NAME Shannon Road Embankment Stabilization

PROJECT NUMBER 200300

PROJECT LOCATION Los Gatos, CA



COBBLES	GRAVEL		SAND			SILT OR CLAY
	coarse	fine	coarse	medium	fine	

BOREHOLE	DEPTH	DATE TESTED	Classification				LL	PL	PI	Cc	Cu
● B-03	7.0	7/28/2020	Sandy SILT (SM)								
☒ B-05	2.5	7/28/2020	Silty GRAVEL with Sand (GM)							0.96	1.21
▲ B-13	4.0	7/28/2020	Lean CLAY with Sand (CL)								
BOREHOLE	DEPTH	D100	D60	D30	D10	%Gravel	%Sand	%Silt	%Clay		
● B-03	7.0	0.106				0.0	15.4	84.6			
☒ B-05	2.5	0.106	0.091	0.081		0.0	89.4	10.6			
▲ B-13	4.0	0.106				0.0	19.9	80.1			

## **Appendix C. Conceptual Cost Estimate**

### Alternative 1: Combined MSE and Soldier Beam and Lagging Walls

Assumptions	Item	Caltrans Code	Unit Cost	Unit	Quantity	Total	Notes
MSE Wall							
525 LF	Maintain Traffic / Traffic Control		\$ 2,000	Day	40	\$ 80,000	
8' High	Excavation	192001	\$ 60	CY	3200	\$ 192,000	8'x20'x525'
	Block Wall	475010	\$ 90	SQFT	4200	\$ 378,000	8'x525'
	Reinforcement - geogrid	198215	\$ 10	SQYD	3200	\$ 32,000	20'x525'x8 strips
	Backfill	193013	\$ 130	CY	3200	\$ 416,000	Same as excavation
	Permeable Material	682001	\$ 200	CY	250	\$ 50,000	8'x525'x1.5'
	Pavement Section		\$ 100	SY	1170	\$ 117,000	(20'x525') / 9 sf per sy
Soldier Beam and Lagging Wall							
775 LF	Maintain Traffic / Traffic Control		\$ 2,000	Day	30	\$ 60,000	
15' High	CIDH (24" dia / 20 feet deep)	490603	\$ 320	LF	1950	\$ 624,000	25'x78
10' spacing	Steel Beam	490316	\$ 90	LF	2800	\$ 252,000	35'x78
78 beams	Wood Lagging	575004	\$ 30	SQFT	11700	\$ 351,000	15'x775'
	Tie back Anchors	500050	\$ 6,600	EA	78	\$ 514,800	10' spacing
	Structure Concrete (Whaler)	510050	\$ 1,470	CY	200	\$ 294,000	2.5'x2.5'x775'
	Permeable Material	682001	\$ 200	CY	450	\$ 90,000	15'x775'x1'
	Pavement Section	390130	\$ 100	SY	1750	\$ 175,000	(20'x775') / 9 sf per sy
<b>Subtotal</b>						<b>\$ 3,625,800</b>	
	Mobilization			7% of Subtotal		\$ 253,806	
	Staging/Stockpiling			3% of Subtotal		\$ 108,774	
	Water Pollution Control			3% of Subtotal		\$ 108,774	
	Contingency			30% of Subtotal		\$ 1,087,740	
<b>Total Construction Estimate</b>						<b>\$ 5,180,000</b>	<b>(Rounded)</b>
	Design			10% of Construction		\$ 518,000	
	Admin & Construction Management			10% of Construction		\$ 518,000	
<b>Alternative 1 Project Total</b>						<b>\$ 6,216,000</b>	

### Alternative 2: Soldier Beam and Lagging Wall

Assumptions	Item	Caltrans Code	Unit Cost	Unit	Quantity	Total	Notes
Soldier Beam and Lagging Wall - No Tie Back							
475 LF	Maintain Traffic / Traffic Control		\$ 2,000	Day	20	\$ 40,000	
10' High	CIDH (24" dia / 20 feet deep)	490603	\$ 320	LF	1000	\$ 320,000	20'x48
10' spacing	Steel Beam	490316	\$ 90	LF	1500	\$ 135,000	30'x48
48 beams	Wood Lagging	575004	\$ 30	SQFT	5000	\$ 150,000	10'x475'
	Permeable Material	682001	\$ 200	CY	220	\$ 44,000	8'x475'x1.5'
	Pavement Section	390130	\$ 100	SY	1050	\$ 105,000	(20'x475') / 9 sf per sy
Soldier Beam and Lagging Wall - Tie Back Sections							
775 LF	Maintain Traffic / Traffic Control		\$ 2,000	Day	30	\$ 60,000	
15' High	CIDH (24" dia / 20 feet deep)	490603	\$ 320	LF	1950	\$ 624,000	20'x78
10' spacing	Steel Beam	490316	\$ 90	LF	2800	\$ 252,000	35'x78
78 beams	Wood Lagging	575004	\$ 30	SQFT	11700	\$ 351,000	15'x775'
	Tie back Anchors	500050	\$ 6,600	EA	78	\$ 514,800	10' spacing
	Structure Concrete (Whaler)	510050	\$ 1,470	CY	200	\$ 294,000	2.5'x2.5'x775'
	Permeable Material	682001	\$ 200	CY	450	\$ 90,000	15'x775'x1'
	Pavement Section	390130	\$ 100	SY	1750	\$ 175,000	(20'x775') / 9 sf per sy
<b>Subtotal</b>						<b>\$ 3,154,800</b>	
	Mobilization			7% of Subtotal		\$ 220,836	
	Staging/Stockpiling			3% of Subtotal		\$ 94,644	
	Water Pollution Control			3% of Subtotal		\$ 94,644	
	Contingency			30% of Subtotal		\$ 946,440	
<b>Total Construction Estimate</b>						<b>\$ 4,510,000</b>	<b>(Rounded)</b>
	Design			10% of Construction		\$ 451,000	
	Admin & Construction Management			10% of Construction		\$ 451,000	
<b>Alternative 2 Project Total</b>						<b>\$ 5,412,000</b>	



**Appendix D. Site Photos**



Road Condition at Boring B-1 (June 22, 2020)



Exposed Bedrock Near Boring B-2 (June 25, 2020)



Road Condition at Boring B-4 (June 22, 2020)



Exposed Bedrock Near Boring B-2 (June 25, 2020)



6455 Almaden Expwy  
Suite 100  
San Jose, CA 95120  
Phone (408) 440-4542

SHANNON ROAD EMBANKMENT STABILIZATION PROJECT  
SHANNON ROAD  
LOS GATOS, CALIFORNIA

**SITE PHOTOS**

200300

FIGURE D-1

NOVEMBER 2018



Road Condition at Boring B-12 (June 25, 2020)



Road Condition During Drilling at Boring B-11  
(July 1, 2020)

March 3, 2021

Janice Chin, Assistant Engineer  
Town of Los Gatos, Parks and Public Works Department  
41 Miles Avenue  
Los Gatos, CA 95030  
(408) 399-5770  
Proposal sent via email to: [jchin@losgatosca.gov](mailto:jchin@losgatosca.gov)

**Proposal for On-Call Civil Engineering Services – TLG #20-811-0008 Shannon Road Repair**

Dear Ms. Chin and Members of the Selection Committee:

**INTRODUCTION**

NCE is pleased to provide the Town of Los Gatos (Town) our proposal to provide civil engineering services for the Shannon Road Repair Project (Project). As we lead the completion of the Geotechnical Alternatives Report (GAR) for this project we appreciate the opportunity to continue our work with the Town towards completing construction documents for stabilizing the embankment and roadway.

Based on our previous work at the site, the Shannon Roadway embankment has been experiencing ongoing slope creep and movement resulting in pavement cracking and localized failures requiring ongoing maintenance by Santa Clara County (County) and now the Town. This is mainly the result of colluvial and fill soils that are susceptible to slope creep and movement from an over steepened roadway embankment in combination with original fill materials used to construct the roadway likely not be compacted, keyed, and benched properly to current standards.

Given the severity of recent cracking and how quickly cracking occurred after prior maintenance, completing construction of this roadway repair is critical to prevent additional roadway damage and additional repairs and maintenance the current two stabilization alternatives presented in our Report to the Town include a (i) MSE wall in combination with soldier pile and lagging wall and (ii) soldier pile and lagging wall. Each of them addresses the site's unique geological conditions, site access, and general site constraints.

As an unplanned project receiving resources from the Town's capital improvement program, embankment stabilization also diverts resources from projects which are already planned. Furthermore, as a central thoroughfare for motorists and bicyclists in the eastern part of the community, Shannon Road provides access to a significant portion of the Town's residents. If the ongoing instability persists, it threatens the connection of this part of the Town with the rest of the community.

NCE has hand selected the right team to assist the Town with delivering the Shannon Road Repair Project as we have direct knowledge and experience with project site; excellent working relationship with the Town backed by the repeated ability to deliver; infrastructure, roadway, and pavement engineering design expertise; and a talented multidisciplinary team with innovative ideas for solving the challenges of this site. NCE's strength on this project is a carefully integrated and coordinated team with inhouse skillsets including civil engineering and pavement design that we supplement with long-time trusted teaming partners like **Cal Engineering & Geology** (geotechnical/structural), **Fehr & Peers** (traffic control), and **Mountain Pacific Surveys** (surveying).

Richmond, CA  
501 Canal Blvd., Suite I  
Richmond, CA 94804  
(510) 215-3620

Additionally, the NCE team will be led by proposed Project Manager, **Lee Taubeneck, PE**, who will be responsible for day-to-day project management. Lee brings extensive experience working on road widening projects in planning, design, QA/QC, ROW, utility, RFA and programming phases. Lee will be supported by **Ryan Shafer, PE, GE**, Principal of NCE’s Richmond office. Ryan will serve as Client Sponsor and will provide project oversight. Ryan has a solid integrated civil and geotechnical background and is knowledgeable and experienced with the Town’s infrastructure. In short, by selecting NCE, the Town will benefit from existing working knowledge of the site our ability to start and complete the design of this project quickly, ability to introduce cost saving designs (e.g., recycling roadway materials in-place and avoiding utility relocation/conflicts with wall design and planned excavation depths), and decades of diverse and considerable engineering experience delivering these types of projects.

### FIRM QUALIFICATIONS

NCE is a client-focused professional consulting firm integrating the disciplines of engineering, science, and planning to address the infrastructure and resources challenges facing our communities today and in the future. NCE has grown significantly in expertise and capabilities beyond its origin as a transportation research and pavement management firm working with the Federal Highway Administration (FHWA). NCE delivered civil engineering and pavement design services for scores of California municipalities. NCE is adept in delivering comprehensive civil engineering and pavement design projects. The NCE team provides the following benefits and distinguishing features:

- ❏ Familiarity with local regulations and working with the Town on capital improvement projects including the **Shannon Road Embankment Stabilization**.
- ❏ Knowledge and demonstrated pavement rehabilitation design expertise from designing thousands of local streets and roadways throughout California, Nevada and the West Coast.
- ❏ Highly qualified interdisciplinary team of professionals that have worked together on multiple projects involving conception, regulatory compliance and permitting, environmental documents, through design and construction monitoring.
- ❏ Technical resources with an in-depth understanding of sustainability, safety, community needs, and environmental constraints.
- ❏ Tailored approach with cost-effective strategies and practical solutions that promote cost savings, reduced construction disruptions/impacts, constructability, and that can be readily implemented.
- ❏ Responsive staff with proven experience in all facets of engineering, including applicable state and federal standards.

### PROJECT OFFICE LOCATION

The NCE team is capable of seamlessly conducting the Town’s scope of work for this contract. Our project manager has the demonstrated ability to manage multiple complex assignments and are supported by a highly qualified group of key personnel that have successfully worked together on multiple projects. NCE has successfully delivered work products for the Town on previous contracts with the majority of the services provided out of our Richmond office.

This contract will be managed and primarily conducted from our Richmond office. Additionally, NCE has over 100 employees available on an as-needed basis depending on service disciplines required from our multiple California and Nevada offices. **Table 1** provides the number of professional and non-professional

Table 1. NCE Personnel

	Type	No.
Firm	Professionals	97
	Non-professionals	11

personnel employed by NCE. **Table 2** provides the number of professional and non-professional personnel employed by NCE in our Richmond office. We can respond and be at the Town’s offices or project site within hours if required.

**Table 2. NCE Personnel**

	Type	No.
Richmond	Professionals	24
	Non-professionals	3

**RELEVANT EXPERIENCE**

This NCE team has delivered numerous roadway stabilization/shoring projects to address landslides, slope creep, and movement within municipal roadways. These types of projects blend our skillset and expertise with pavement and civil design for the maintenance and rehabilitation of roadways as well as ability to complete environmental documents and permitting for improvements extending into sensitive habitat along with CE&G’s specialization in developing geo-structural wall solutions and embankment repairs. NCE and CE&G have partnered on numerous projects together over the last decade including several recent similar projects with the City of Richmond and Walnut Creek.



**Rifle Range Road Landslide, “Project of the Year”, City of Richmond, CA.** The City of Richmond retained NCE to respond to a landslide that damaged half the width of Rifle Range Road and the portions of an adjacent private property.

On an emergency basis, NCE responded to this landslide by providing initial consulting regarding stabilization of the site and public safety. Within a week of the occurrence of the landslide, NCE initiated a topographic survey and geotechnical investigations construction was completed by. The construction was completed by December 2018 and received the 2019 APWA Norcal Project of the Year award.

The scope of work included landslide and geological mapping, geotechnical investigation, topographic surveying, retaining wall design and roadway reconstruction.

The retaining wall was designed 15-20-foot soldier pile and lagging wall that is anchored back into the subsurface by means of tie-backs. Soldier pile and lagging and required tie-back anchors angle and length had to be designed and placed so that the tie-back anchor could be set within the available right of way and avoid easements with private property owners. Design and construction had to consider the close proximity to underground utilities (i.e., sewer force main and water line), adjacent private homes, connection of the proposed new wall into an existing retaining wall installed downslope to repair a previous landslide, and maintaining access for the community given that the roadway is the only way in and out to various private homes and apartment complexes.





**Road Repair and Retaining Wall at 134 Rudgear Drive Project for the City of Walnut Creek, CA.** NCE was contracted by the City of Walnut Creek to prepare construction documents for the road repair within Rudgear Drive. The City originally constructed a pier supported retaining wall to stabilize a shallow slide. The retaining wall had deflected outwards likely the result of several factors including inadequate pier embedment, erosion from the roadway, and/or stormwater run-off. The repair included a pier supported grade beam in front of the existing wall to address slope creep and minor ground movement

within the road section. The design offered a cost saving approach that shored and stabilized the City roadway but did not require costly excavation and removal of the existing retaining wall.



**Via Verdi Slope Stabilization Project for the City of Richmond, CA.** The City of Richmond retained NCE to respond to a significant landslide at Via Verdi. It had immediate and potentially serious impacts to public access, utilities, street infrastructure, and the conveyance of creek waters and upstream dam releases. The landslide was large and deep and had impacts to the entire Via Verdi roadway. The ongoing movement was of concern to the City for maintaining safe access for the local community (Via Verdi served as the only point of access), frequent maintenance and monitoring by City crews, and disruption to sewer, gas, water, telecom, and electrical utilities.

NCE quickly deployed field investigations with land surveying and geotechnical exploratory work within days to evaluate slide mass characteristics and monitor ongoing movement. With this information NCE expedited plan delivery to allow for design and construction of an emergency access road at Via Verdi allowing full closure of Via Verdi within approximately a week and with careful coordination with affected utilities allowing bypass of utilities within and along the new emergency access road. The strong partnering and collaboration with the City on this project resulted in expedited delivery and turnaround on design documents allowing for construction of necessary repairs and temporary measures to minimize impacts to the local community.

NCE has maintained a quickened pace on Via Verdi and completed alternatives analysis, permitting, and nearing completion of construction and environmental documents. To stabilize the landslide, the project will construct a 350-linear-foot concrete box culvert within San Pablo Creek below the landslide area. The culvert will be quite large, 17.5 feet high and 24 feet wide, to convey San Pablo Creek and release waters from the upstream San Pablo Dam Reservoir. Once the concrete structure is constructed, approximately 18,000 to 20,000 cubic yards of engineered fill (rock/soil) would be placed around and over the culvert to buttress the landslide. When the culvert is in place 650 feet of affected roadway and utilities will be reconstructed. Creek slopes including areas above the culvert will be revegetated and steeper slopes will receive bioengineered slope protection that may include brush mattress and rip rap and pole plantings.

NCE has prepared the CEQA document (mitigated negative declaration and noticing) and has submitted permits, including the San Francisco Regional Water Quality Control Board 401 Permit, U.S. Army Corps of Engineers 404 Individual Permit (including an alternatives analysis), California Department of Fish and Wildlife Streambed Alteration Agreement, U.S. Fish and Wildlife Service Section 7 Consultation, and local agency permits. A NEPA document is currently under development.

Additional supplemental tasks that NCE advised the City on included designing best management practices (BMPs) and erosion control measures to winterize the project area to protect the site and local habitat in the upcoming winters. NCE completed the necessary stormwater pollution prevention plan (SWPPP) to be in compliance with the construction general permit and establish measures for additional protection of water resources. NCE is continuing to complete ongoing movement monitoring, assess potential additional landslide movement, and is continuing to develop construction documents, facilitate permit review, and complete environmental documents.

The subconsultants we have included below for this project have worked on numerous projects with NCE over the last 10 years and have been deliberately selected based on their relevant experience, ability to successfully deliver projects, and for their experience working with the Town.



**Cal Engineering & Geology (CE&G) will provide geotechnical and structural engineering services for design of the retaining wall.** Cal Engineering & Geology (CE&G) provides

geologic, geotechnical, and related civil engineering consulting, design, testing, and inspection services to both public and private sector clients. CE&G was founded in 1993 in Walnut Creek and has since expanded to include an office in San José, and a lab/office in Oakland with an AMRL (AASHTO) accredited soils and materials testing laboratory. Our clients include numerous counties, cities, water and flood control districts, special districts, and schools throughout the East Bay and the greater Bay Area. CE&G employs 23 fulltime equivalents including five registered geotechnical engineers, three professional engineers, three certified engineering geologists, and four special inspectors, as well as CADD/GIS specialists, and lab and field technicians. Most of CE&G's project managers have been with the company for over 10 years. The company has delivered scores of slope stabilization projects throughout Northern California. A project example of CE&G's relevant experience include:

-  **Foothill Road Stabilization, Sunol, CA.** CE&G was retained by Alameda County Public Works Agency for an emergency repair of Foothill Road; a major commuter bypass between State Route 84 and I-680 in Sunol. The downslope lane was closed after Arroyo de la Laguna eroded the toe of the roadway embankment as a result of the wettest winter in California history. The road was stabilized for emergency opening using cast-in-drilled-hole concrete piles connected together at the top with a concrete grade beam. Existing aerial utilities similar to those located along Shannon Road in Los Gatos required that a low-overhead clearance drill rig be utilized and, in some locations, by over excavating the roadway embankment. One-way traffic control was provided throughout the duration of the project using temporary signals. The permanent restoration is currently being designed which will include the construction of a concrete waler with ground anchors and shotcrete facing. Construction is scheduled for summer 2021. CE&G's experience with designing projects to accommodate low-overhead clearance and limited construction footprints with one-lane closures will benefit this project, the Town of Los Gatos, and the residents that utilize Shannon Road.

 **Fehr & Peers (F&P) will provide traffic engineering services for traffic handling and detours if required.** F&P specializing in providing transportation planning and traffic engineering services to public and private sector clients and emphasizes the development of creative,



cost-effective, and results-oriented solutions to planning and design problems associated with all modes of transportation. F&P bring national expertise in pedestrian safety, innovative bicycle planning, transit planning, and best practices in complete streets implementation. Through their transportation planning and traffic engineering design work on state highway improvement projects, they are well-versed with Caltrans's analysis procedures, both for project approval/environmental documents and for engineering plans, specifications, and estimates. A project example of F&P's relevant experience include:

- 
**Pathline Park Off-Site Improvements, Sunnyvale, CA.** F&P developed signing & striping, detour and traffic control plans for the Irvine Company's Pathline Park office development and off-site improvements of providing parking protected bike lanes along Mary Avenue in Sunnyvale, California. Detour and traffic control plans were developed for the utility and median work being done along Mary Avenue, Almanor Avenue, Palomar Avenue, and Pastoria Avenue. F&P coordinated with the civil engineer and construction contractor on developing work zones and traffic control staging for the two phases of the project. Detailed traffic control staging was provided along Mary Avenue to accommodate access to adjacent office uses while still maintaining an effective work schedule and accommodating the City of Sunnyvale's Temporary Traffic Control requirements. Bicyclists were accommodated as part of the traffic control, and pedestrians were accommodated using detours.



**Mountain Pacific Surveys (MPS) will provide surveying services.** MPS is a professional survey services firm providing boundary surveying and mapping, design surveys, right-of-way engineering, construction surveys, environmental surveys, monitor surveys, and photogrammetric engineering services to the public and private sector. The firm is a member in good standing with Operating Engineers Local 3 and Bay Counties Association, as well as active members of many professional organizations, including the California Land Surveyor's Association (CLSA) and American Society for Photogrammetry and Remote Sensing (ASPRS), to name a few. MPS offers our Clients state of the art field equipment (e.g., robotic total stations, digital levels, static and R.T.K. g.p.s. equipment) and office facilities (including the latest versions of all relevant software) for the successful completion of each project. To this end, they have fully automated their work processes to provide seamless integration from initial fieldwork through final product delivery. MPS continually update their methodologies as well as provide ongoing training to all of our personnel so as to ensure, a quality product. NCE has worked with MPS on dozens of projects for over 15 years. A project example of MPS's relevant experience include:

- 
**Via Verdi Slope Stabilization Project, Richmond, CA.** Mr. Weakley served as Project Manager for aerial mapping, supplemental conventional topographic and utility surveying, right of way determination, and settlement monitoring surveys in support of the City's emergency response to the Via Verdi Landslide, design of a temporary emergency access road, as well as design of the ultimate slope stabilization solution with a toe buttress and culvert within San Pablo Creek.
- 
**Almond Gove District Street Reconstruction Project, Los Gatos, CA.** Mr. Weakley served as Project Manager for all surveys related to improvement of concrete streets within the historic Almond Grove District.
- 
**City of Berkeley Street/Pavement Repair Project, Berkeley, CA.** Mr. Weakley serves as Project Manager for all surveys related tasks to a multi-year street and pavement repair project throughout the City.

## NCE TEAM ORGANIZATION

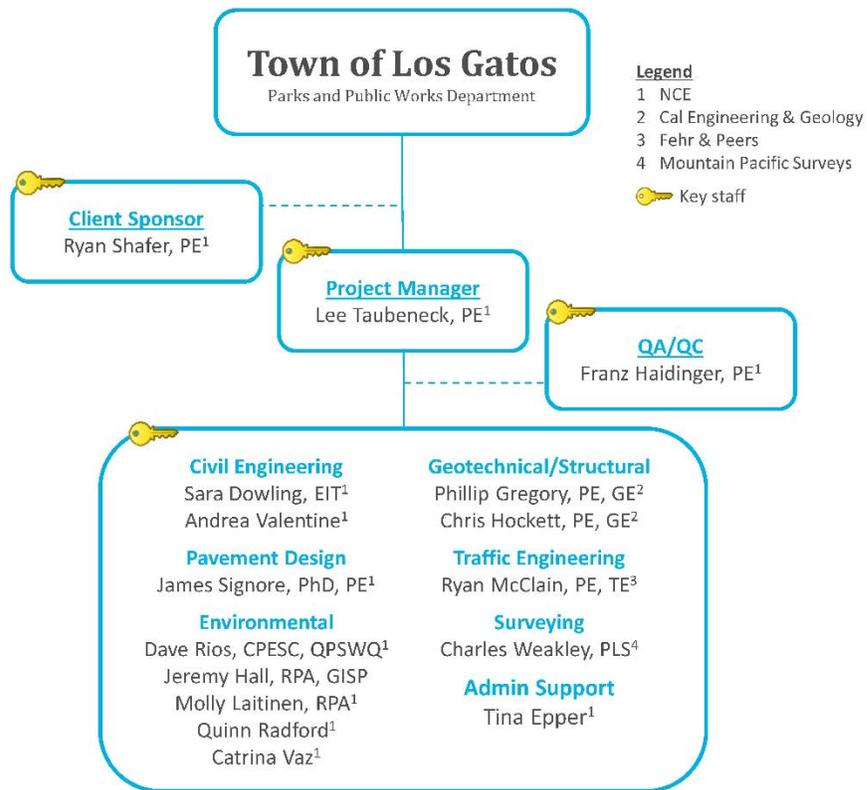
We are pleased to have Mr. Lee Taubeneck as our proposed Project Manager for this project. Lee brings more than 35 years of industry experience with expertise in local streets and roads. His relevant experience includes serving as the Caltrans Deputy Director for Caltrans District 4 Division of Transportation Planning and Local Assistance. Most recently Lee assisted the Town of Los Gatos with the initial investigation phase for this project. The geotechnical investigation provided enabled the Town to advance to the project's second phase, namely the development of contract-ready bid documents to stabilize the hillside and the roadway. He also currently managing the City of Oakley's rehabilitation of Laurel Road to upgrade to the City's main truck route pavement section, while correcting side-street sight distance issues, adding buffered class 2 bike lanes, and design of pedestrian crossing improvements.

We have also assembled a team of professionals to support Lee with demonstrated experience providing services for similar types of projects. Mr. Ryan Shafer will be the Client Sponsor providing key oversight and review similar to past projects with the Town and technical expertise with geotechnical, civil, and pavement engineering. NCE's Chief Engineering Officer Mr. Franz Haidinger will be the QA/QC Manager and Dr. James Signore will serve as the lead on pavement design, also both having worked with the Town on past roadway projects. James' research background with pavements at UC Berkeley, active on-call for pavement engineering and materials testing with Caltrans, and as practitioner designing roadways throughout the Bay Area and California region will allow him to bring cost saving alternative pavement treatment alternatives, which we will discuss further in our approach to the project below. . In addition, our key team members include a variety of technical professionals including engineers, CADD designers, as well as in-house administrative support staff. NCE has also included Cal Engineering & Geology (CE&G) on the team to provide geotechnical services and structural engineering, Fehr & Peers for traffic handling and detours, and Mountain Pacific Surveys for surveying services. We will also engage one of our utility location subconsultants that we have worked with on many past projects to locate underground utilities, in particular the water main.

The Town can count on our team to provide superior, responsive service on this project. All team members, including subconsultants, will be managed as an extension of NCE. **The NCE team is committed to the project for its duration; personnel will not be substituted without prior approval from the Town.**

## ORGANIZATIONAL CHART

**Figure 1** below illustrates the structure and team we propose for this project, the roles and responsibilities of each team member as well as the communication/reporting relationships of the key staff in relation to the Town for this project. Qualifications summaries for key personnel are provided below and their focused resumes are included in Attachment A.



**KEY PERSONNEL**

**Figure 1. NCE Team Organization**

Qualifications summaries for each key team member are provided below and their focused resumes are provided in Attachment A.



**Mr. Ryan Shafer, PE, GE, Client Sponsor.** In this role, Ryan will be responsible for communicating with the Town and champion of allocating of resources. Ryan is an experienced Principal and Project Manager that is highly skilled in managing interdisciplinary teams of engineers, scientists, and planners for complex projects requiring civil engineering, geotechnical engineering, pavement engineering, structural engineering, transportation and traffic engineering, hydrology and hydraulics, coastal engineering, regulatory permits, technical studies and resource assessments, and environmental documents. In addition, he has managed and provided civil and geotechnical engineering on a wide range of public and private projects, including vertical development, municipal roads, trails, drainage infrastructure, landfills, public transit, recreation areas and parks, industrial facilities including refineries, and waterfront structures giving him an understanding of how to work with diverse project types. His clients provide feedback that NCE is an effective partner and steward, understanding what is important to each community. He is a registered civil engineer and geotechnical engineer with more than 22 years of professional experience.



**Mr. Lee Taubeneck, PE, Project Manager.** The NCE team will be led by Lee, who will be responsible for day-to-day project management and will also be a point of contact for the Town. Lee is a transportation professional with extensive experience in the development of expressways, freeways, roads, transit systems, multi-use paths, trails, sidewalks, streets, and

highways. He has worked with public, private, and non-profit clients throughout California at both the local, regional, and State levels. He is an expert in transportation planning and design. He is a registered civil engineer with more than 37 years of professional experience.



**Mr. Franz Haidinger PE, QA/QC Manager.** Franz will be responsible for quality assurance and quality control on the deliverables developed by NCE. Franz brings a wealth of experience and expertise in civil and environmental engineering. He has lead engineering efforts in projects with civil design components such as pavement design for parking lots, curb and gutter layout, storm drain design, LID features like overland flow, bioswales, and small detention basins, grading, design of water services for irrigation and domestic water supply, and design of a sewer connections for future projects. The depth of his experience also includes the preparation of Drinking Water Source Assessments, SWPPPs, contaminated soil remediation, underground storage tank removals, permitting, operation and maintenance of groundwater treatment facilities and soil vapor extraction systems, and construction quality assurance. He is a registered civil engineer with 24 years of professional experience and currently serves as NCE's Chief Engineer.



**Mr. James Signore, PhD, PE, Pavement Design Lead.** James specializes in pavement design and evaluation, rehabilitation and maintenance, materials assessment, and training. He has experience in designing pavements for many local agencies, Caltrans, and for heavy vehicle loading applications for highways, airfields and ports. He has spent years researching pavement materials, having directed a state-of-the-art AMRL certified and Superpave mix design equipped research laboratory, and is well versed in state and local pavement practices and specifications. He has taught NHI's and ASCE's "Techniques for Pavement Rehabilitation" (including best practices for utility cuts and patches) seminars to practicing engineers for 20 years. He has also taught graduate courses in pavement engineering at San Jose State University and many of his former students are civil engineers at local agencies. Additionally, James is a Member of the Transportation Research Board Committee AFD70, Pavement Rehabilitation, AFD70-1, Pavement Interlayer Systems and the FAA Airport Pavement Technical Working Group. He is a registered civil engineer with 25 years of professional experience and holds a PhD in Civil Engineering.



**Ms. Sara Dowling, EIT, Project Engineer/Pavement Design.** Sara has been involved in design projects that include new intersection roadway, high-rise building foundation, airport taxiway pavement structure, spatial data analysis, and a green wastewater treatment plant. She was the fundraising chair for the Institute of Transportation Engineers and is currently a member of ASCE and Young Professionals in Transportation. Sara has experience in AutoCAD 3D, ArcGIS, MS Project, Technical Writing, Literature Review, EverFE, and C++.



**Andrea J. Valentine, CADD Design.** Andrea is a CADD drafter with nearly 40 years of experience providing layout and drawing of civil and structural plans, control lines, profiles, sections, and details based on engineers' sketches and markups. She works with engineers to provide lot line adjustment boundaries; develops, implements, and updates CADD standards; and sets up and maintains drafting records and documentation. Her program experience includes AutoCAD, Bentley Micro-station, and Microsoft Word and Excel. In addition to obtaining her BA, Andrea has taken various drafting, graphic arts, solar design, technical math, cartography, natural sciences, and computer training courses at various San Francisco Bay Area colleges.

**NCE Administrative Staff.** NCE also has a team of administrative professionals that will support the strategic engagement task by developing graphics, and content for presentations or collateral material.

## SUBCONSULTANT KEY PERSONNEL



**Mr. Phillip Gregory, PE, GE, Geotechnical Engineer.** Phillip is an experienced geotechnical engineer and manager who has completed more than 150 transportation and water infrastructure improvement projects for public agencies over the past 20+ years. Phil's expertise is in the analysis and design of earth embankments and slope stabilization measures including geosynthetic reinforced slopes, and embankments, CIDH pile structures, segmental block retaining soldier pile and lagging walls, soil nail retaining structures, light weight fill, and slope dewatering systems. Phillip is an experienced Caltrans-based specification writer and estimator of earth construction costs. Phillip managed the majority of the federally-funded storm damage repair projects that were completed by CE&G in 1993, 1998, and 2006. He is a registered civil engineer and geotechnical engineer with 33 years of professional experience.



**Mr. Chris Hockett, PE, GE, Structures Design.** Chris has expertise in managing geo-civil-structural design projects that involve the preparation of plans, specifications, and engineer's estimates, (PS&E) for roadway stabilization projects. Chris has designed stitch piers, retaining walls founded on deep and shallow foundations, mechanically reinforced embankments, segmental retaining walls systems, and tieback retaining walls on roadways for Cities and Counties throughout the Bay Area. Some of his recent roadway stabilization experience includes the structural design of a 300 foot long stitch pier system along Foothill Boulevard in Sunol and a 200 foot long soldier pile and wood lagging retaining wall with tieback anchors along Rifle Range Road in Richmond, and the geotechnical design of over 1,000 linear feet of stitch piers, and soldier pile and lagging debris walls and retaining walls along the award winning 1.7 mile long George Miller Regional Trail between Martinez and Port Costa. He is a registered civil engineer and geotechnical engineer with 13 years of professional experience.



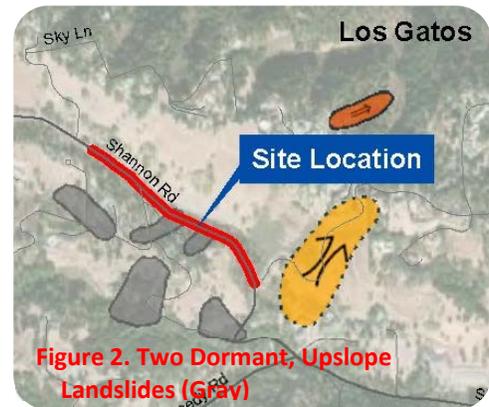
**Mr. Ryan McClain, PE, TE, Traffic Handling & Detours.** Ryan has worked in the transportation planning and engineering field since 2001. Focusing on multi-modal transportation design and analysis, Ryan provides alternatives development and assessment and transportation engineering design for complete streets projects ranging in size from single intersections to complex multi-jurisdictional corridors and master plans. Ryan works closely with agency staff, stakeholders, and the community to develop engineering solutions that work for all users. Ryan leads Fehr & Peers' companywide Complete Streets Design group is the vice chair of the international ITE Complete Streets Council. He frequently teaches courses on complete streets design, including recent classes for MTC throughout the Bay Area and lectures at UC Berkeley for the pedestrian/bicycle graduate class. In addition to his project roles, Ryan serves as the Office Leader for Fehr & Peers' Walnut Creek office, where he is responsible for overall office strategy and client relations. He is a registered civil engineer and traffic engineer with more than 20 years of professional experience.

**Mr. Charles Weakley, PLS, Surveying.** Charles is the President and manager in charge of all land survey work undertaken by Mountain Pacific Surveys and our aerial mapping company, Aerometric Surveys. His experience in land surveying includes photogrammetric control, precision as-built surveys, G.P.S. and cadastral surveys, boundary determinations and right-of-way calculations, topographic mapping, aerial photogrammetry, and construction layout of hundreds of subdivisions, roadway, commercial, and utility projects. Charles is responsible for all aspects of project administration, including contract negotiations. He is a professional land surveyor with 27 years of professional experience.

## PROJECT UNDERSTANDING AND PREVIOUS WORK

Having been called upon by the Town along with our geotechnical partners CE&G for the initial investigations of Shannon Road distress, NCE has extensive knowledge and understanding of the project. In early 2020, as downhill creep began to accelerate, we were called by the Town. The team completed extensive field research, reconnaissance, field borings, and laboratory analyses to enable site characterization. The *Revised Geotechnical Alternatives Report (RGAR, CE&G, December 2020)* was the culmination of these investigations and prepared two feasible alternatives and cost estimates.

Two probable landslides were identified by our investigations along the Road segment (**Figure 2**) composed of quaternary colluvium. The observed colluvium fills more gently sloped swales that have been mapped as probable landslides of uncertain age by the CGS and the Town. The colluvium swales are interpreted to be dormant landslides. The colluvium is composed of sandy lean clay with and without gravel, and silt/lean clay with sand. The colluvium was found beneath the Road prism and above the bedrock (siltstone). The Report correlates the two dormant slides with the thicker portions of the fill/colluvium above the bedrock, or roughly between stations 6+35 to 7+48, and stations 3+00 to 4+25.



The Town acquired title to the Road in 2017, in what at the time was determined to be a State of Good Repair. The outboard side of the Road segment is composed mostly of artificial fill. Given the vintage of the Road, it is likely that the embankment was not compacted to current standards, leading to settlement of the fill.

The former owner had been addressing settlement and cracking for several decades. Routine maintenance of the roadway consisted of HMA overlays to relevel the driving surface. The result was a thick structural section of AC pavement on the westbound or downhill side. The added mass of repeated overlays on the outside lane of the Road may have exacerbated the distress and failures over time.

The final overlay of the roadway prior to ownership transfer included polyurethane foam injection within the area of historic cracking and settlement, along with a 2.5-inch to 3-inch pavement overlay. Post-ownership transfer, settlement has not only continued, but accelerated. The steepened embankment of fill and overlying colluvium and likely lack of proper compaction, keying, and benching of fill materials appear to be involved in long term creep of the Road embankment. The RGAR concludes that sliding of the Road segment is locally incipient based on the increased rate of movement within the last few years, especially for the outboard (downhill) portion of the Road prism. Although minimal groundwater was encountered during the field investigations, soil saturation from precipitation could also be contributing to sustained creep downslope.

The RGAR completed by the NCE Team presents two viable alternatives and cost estimates for stabilizing the Road embankment. Either alternative establishes a structure outside the westbound (downhill) portion of the Road prism connecting them through the Road prism to help buttress the Road. One alternative proposes the use of tie-backs (soldier pile with lagging) to apply compressive forces against the Road prism, and the other uses geogrid fabric (MSE wall). During preliminary engineering the preferred alternative will be selected and confirmed with the Town based on available ROW, costs, traffic impacts, and environmental constraints. The current recommendation is the soldier pile and lagging wall

system that is less costly and disruptive allowing for one lane of traffic to remain open during construction depending on final design and construction means and methods.

### KEY ISSUES AND OPPORTUNITIES

NCE has identified several key issues and opportunities based on extensive knowledge of the site conditions, investigations, and alternatives report. The NCE team experience delivering similar projects for other public agencies affords the Town confidence that we can meet whatever challenges present themselves for the Shannon Road project. A photo of one of our successful projects is shown in **Figure 3**.



Figure 3. Soldier Beam and Lagging Retaining Wall, Bailey Road, Pittsburg

### CONSTRUCTION COST

As the downslope creep and repair of the Road was unexpected and not included in the Town's capital improvement plan, managing capital costs for construction must be considered a major issue and opportunity for reducing costs. Under planned circumstances the Town could entertain addressing Road conditions with a sufficient budget. Instead, it must consider using reserve funds and postponing other needed improvements to stabilize the incipient slope movement.

The NCE team as part of this proposal and our design approach has identified the following approach to managing and reducing construction costs below the current preliminary cost estimate that we developed:

- ❖ The inner lane exhibits less distress and is fair to good condition and suitable for use of conventional mill and overlay treatments to reduce current preliminary pavement reconstruction costs from \$100/sy to \$20 to \$25/sy.
- ❖ To prevent pavement distresses in the thickened asphalt section in the outer lanes from reflecting back up through the new pavement section and to allow the existing valuable asphalt to be recycled in-place, based on our experience and speaking further with a pavement recycling contractor, we recommend pre-milling at least the top 4- to 6-inches of the roadway to allow a Full Depth Reclamation (FDR) reclaimer to penetrate through the bottom of the very thick AC. Then the reclaimer can pulverize the existing roadway materials and recompact in-place, and then place a new 4- to 6-inch HMA wearing course. This approach will reduce the current preliminary reconstruction cost by 40 to 50% with a cost of \$50 to \$60/sy.
- ❖ Working around existing utility poles is another example of accomplishing the work for less cost not to mention less time to coordinate with PG&E and telecom utilities. While there are advantages to clearing utility poles from the face of the embankment to maintain consistent earth

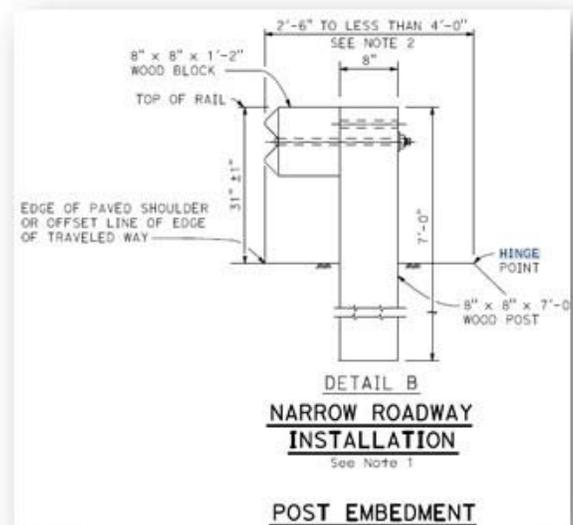


Figure 4. Narrow Roadway Guardrail Installation

pressures against the slope, earth pressures can still be maintained with a gap in the wall by bridging the gap with a grade or cantilever beam.

- Maintaining the existing roadway width, drainage patterns, and elevations to the extent possible will reduce the need for roadway cuts into the hillside, maintaining work within ROW, and less construction and materials costs.
- Another potential cost savings will be to place guard rail as close to the inside of the soldier piles as possible again to maintain the existing road prism as much as possible and within existing ROW. **Figure 4** reflects just such an installation with a narrow roadway installation.

## TRAFFIC HANDLING

Either as a detour or with one-way traffic control, maintaining eastbound and westbound traffic around or through the construction site will require careful coordination. Connections for power supply to traffic signals are often a constraint in working these situations. Our solution builds off our successful engagements with Fehr & Peers in the past on stabilization projects such as Via Verdi in Richmond. For the soldier pile and lagging alternative, the installation of 2 temporary traffic signals and a protective barrier will allow travelers to pass east or west with minimal queuing or delay. The power supply will be provided either by solar or conventional, low-noise generators. On the east, the temporary signal will be established at the intersection with Santa Rosa Drive. On the west, the temporary signal will be established at Diduca Way. Advance warning signs will be used to notify approaching vehicles of changes well in advance. A protective barrier in the form of either k-rail, sand barrels or water filled segmental barriers will be established on the outboard side of the centerline to inhibit the incursion of vehicles into the active work zone (cf. **Figure 5**).



Figure 5. One Way Traffic Control, Rifle Range Road

The soldier pile and MSE wall alternative will require the complete closure of the Road segment to allow for placement of the geogrid fabric. The solution here is a traffic detour either be set up along Kennedy Drive or along the combination of Hicks Road and Blossom Hill Road. As this out-of-direction travel will on average increase travel time by 10 minutes, more extensive public outreach will be needed in comparison with the soldier pile and lagging alternative to encourage public cooperation.

## RIGHT OF WAY

The current vertical drop-off on the downhill side of the Road ranges from 3 to approximately 20 feet with a slope of 1.5 (V) to 1 (H). In its current condition, the downhill slope is steep and a potential hazard for motorists. While channelizers and signs reflect the nature of the hazard, the risk has been present for several years. Consequently, the installation of guardrail is recommended for consideration. This will increase the width of the Road prism, add a bid item to the engineers estimate, and may have ROW implications. Also, the limits of public and private property lines in the RGAR were placed using parcel maps provided by the Town (cf. **Figure 6**). Several indicate that the current road may extend into private property, which would

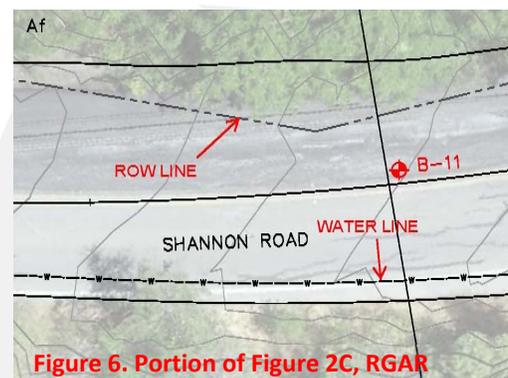


Figure 6. Portion of Figure 2C, RGAR



be unusual for a public roadway and will be further confirmed by ROW mapping during completion of topographic surveys. This will be important to confirm as work outside Town ROW can be time consuming to coordinate with outside stakeholders/property owners, particularly if ROW acquisition is required.

Our solutions for these ROW challenges are varied and multiple. First, we will refine the parcel maps provided by the Town with a topographic survey. For this reason, the topographic survey is included in the proposed schedule as one of the first items of work.

Next, we will complete a review of available Town data regarding collision records or accidents within this section of roadway. Perhaps, if little to no accidents or collisions have occurred, it may be possible to use a combination of reflectors, signs, and delineation to provide sufficient warnings that can avoid guardrail placement.

Finally, it is possible to erect the guardrail as a vertical extension of the MSE or soldier pile wall. If we find that ROW is indeed constrained, we can use this to shorten the horizontal dimensions of the project.

## UTILITIES

A water line is known to exist along the inside, eastbound travel lane. Our current assumption and approach to scoping this project is that this water line can be sufficiently located and roadway rehabilitation and repair methods can be completed to avoid conflict, lowering, or relocation of this waterline to reduce design and construction costs and additional coordination with the San Jose Water Company. If conflict cannot be avoided additional scope for utility coordination and design consideration will be required.

Overhead electric and telecommunication lines as shown in **Figure 7** are also apparent above the Road, which will require consideration during development of construction documents and during construction as to the types of equipment and coordination needed by contractor working next to these facilities.

Utility locations will be developed based on utility as-builts and record maps as well as use of ground penetrating radar (GPR) for improved accuracy on the depth of the water line below ground surface. Also, if required we will specify the use of low-overhead construction equipment working next to overhead lines.

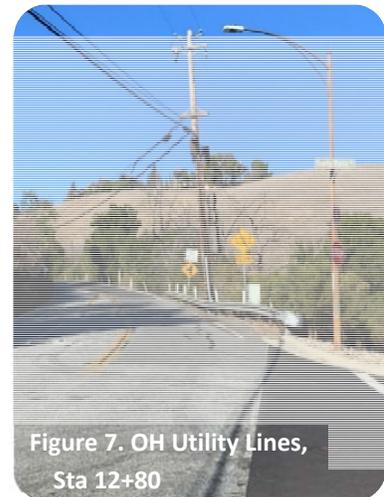


Figure 7. OH Utility Lines,  
Sta 12+80

## CONSTRUCTION SCHEDULE

The current estimated number of working days for construction, excluding bid award, negotiation, and mobilization, is likely greater than 60 days. With an notice to proceed for design in March and design not be completed until late Summer this places construction in the fall and early winter months. We will discuss the project schedule with the Town at the Kickoff meeting and discuss which tasks can be processed in parallel during preliminary engineering and design to enable earlier PS&E delivery and subsequently earlier advertisement and mobilization dates. We will also evaluate the potential to complete the project during the rainy season depending regulatory, construction, and other site constraints.

## KEY ASSUMPTIONS

In order to deliver the most cost-effective design strategy for this project, we have formulated the following key assumptions:

### TOWN'S RESPONSIBILITIES

NCE has assumed that the Town will be able to provide the following to the extent available:

1. Provide information regarding Town-owned utilities (i.e., sanitary sewer and storm drain).
2. Provide project requirements, including design schedule, budget, constraints, and criteria.
3. Provide review and approval of exceptions to geometric roadway design standards when appropriately documented with collision records, cautionary signage and delineation, and guardrail placement.

### TOPOGRAPHIC SURVEYING, BASE MAPS, AND RIGHT-OF-WAY

1. A topographic survey will be completed along the subject section of Shannon Road to establish a base map sufficient for developing civil design plans. This will also include record data location of the existing right-of-way for the mapping corridor.
2. It is assumed that all improvements will be completed within existing Town ROW. If based on title report review and ROW mapping the private parcel adjacent to the proposed project improvements is found to encroach into the roadway we have included additional ROW engineering services as part of optional Task 5B.

### UTILITY COORDINATION AND LOCATION

1. Assumes that utility poles on the uphill side of the alignment will not be impacted or relocated by the project. Further, it assumes that poles on the downhill side of the alignment can be bridged around by either the MSE Wall or Soldier Pile and Lagging Wall.
2. NCE will prepare and distribute utility notification letters to collect facility maps and as-builts, confirm utility planned work, and notify utilities of the Town's proposed slope stabilization project. NCE will prepare and distribute a second round of letters including utility location information based on ground penetrating radar (GPR) that is provided for the subject street section to solicit feedback and need for utility relocation or adjustments.
3. Low hanging overhead utility lines will be considered in construction documents as needed.
4. Regarding the water line beneath the eastbound lane within the project limits, beyond obtaining as-built records from the San Jose Water Company, NCE will conduct a ground penetrating radar survey to determine water line depths below grade. Traffic control for completing GPR to be provided by the NCE. In the event the MSE and Soldier Pile Combination Wall is selected as the preferred alternative, we assume that temporary supports during excavation for the geogrid fabric will enable continued operation of the water line in-situ.
5. No known utility covers or manholes are present along the alignment within the project limits.
6. For the purposes of this scope of work it is assumed that utility relocation or lowering is not required.

### PAVEMENT TESTING AND DESIGN

1. Pavement design will be based on Caltrans Standards with a combination of supplemental coring, laboratory testing of subgrade, and pavement condition surveys.
2. Pavement coring will be performed with spacing criteria and bulk samples as follows:

- a. Up to two pavement cores will be obtained approximately every 750 feet within the eastbound lane (inner lane) to estimate the pavement section thickness, as previous geotechnical exploratory borings were located within westbound (outer lane) only.
- b. Up to two bulk samples of subgrade for laboratory testing will be obtained.
3. Base repairs will be measured in length and width for the eastbound lane only to advise for the case if the soldier piles with lagging alternative is selected. It is the intent that base repair quantities will be for bidding quantity purposes only and that actual locations will be marked by NCE with the Town's inspectors prior to construction.
4. A no-fee encroachment permit will be pulled with the Town for all pavement testing if required.
5. A half-day of traffic control for pavement coring will be provided by NCE.

#### **TRAFFIC STRIPING**

1. Final traffic signing and striping is assumed to match existing striping, any revisions will be reviewed with the Town.
2. A review of SWITRS data including the most recent available 3-year continuous record of accidents within the project limits is included as part of this scope.

#### **TRAFFIC HANDLING PLANS**

1. In the case of selecting the combined MSE wall and soldier pile wall with lagging, traffic handling plans in the form of detour plans will be prepared assuming full Road closure. In the case of selecting the soldier pile with lagging wall alternative, the traffic handling plans will assume one-way traffic control with temporary traffic signals. In either case draft traffic handling plans will be submitted as part of preliminary engineering to the Town traffic engineering group for review and comment.

#### **DRAINAGE**

1. No major drainage improvements are assumed for this project requiring significant stormwater drain and pipe alteration and/or reconstruction.
2. The project will, to the extent possible, and within the context of proposed stabilization address visible drainage issues including structural backfill. However, it should be noted that no existing drop inlets or paved ditches exist within the Road segment.

#### **ENCROACHMENT PERMIT**

1. NCE will apply for no-fee Town encroachment permits for all field work, including pavement coring work, if required.

#### **BID PACKAGE**

1. NCE has assumed for the purposes of developing bid packages the following:  
Shannon Road Embankment Stabilization Project – Bid Fall 2021

#### **CEQA DOCUMENT**

1. The documentation required for CEQA is assumed and judged based on current information and planned roadway repair project to be a Categorical Exemption.
2. If for any reason the project does not qualify for a Categorical Exemption or new information arises indicating the presence of critical habitat or historical/tribal resources within or adjacent to the project, NCE can prepare and provide support for CEQA compliance, additional technical studies, and/or regulatory permits for additional scope and fee.

## SCOPE OF WORK

### TASK 1 – PROJECT MANAGEMENT

This task will include an initial kick-off meeting and progress meetings to update the Town with the results of studies and the development of contract documents. Regular meetings afford direction and feedback from the owner which are invaluable in navigating the multitude of decisions needed for successful project selection and implementation. Microsoft TEAMS software will be used to allow the seamless sharing of information and for virtual meetings. Agendas will be provided in advance of the meetings. A summary of meeting notes and action items will be provided after each meeting along with decisions reached and schedule updates. In keeping with the Town's *Agreement for Consultant Services*, progress reports and invoices will be submitted monthly.

NCE's Project Manager will arrange a Kick-Off Meeting with the Town to initiate work on the project. The objectives of the Kick-Off Meeting will be:

-  Review of the Scope of Work
-  Establish Lines of Communication
-  Confirm Deadlines
-  Establish Project Schedule and Milestones
-  Define Design and Operation Criteria.

Whether a simple preventive maintenance project or a complex reconstruction project, it is critical to establish effective lines of communication with, and coordination amongst, the various stakeholders from the start to ensure the delivery a high-quality project within budget and on schedule.

In addition to Town staff (Engineering, Maintenance, etc.), NCE will research and coordinate, as-needed, with other agencies such as PG&E, AT&T, Verizon, Comcast, San Jose Water Company, etc., to identify any potential conflicts, requirements, or design issues early to help minimize delays (and costs) later in the design process or during construction. At the Kick-Off Meeting, key deliverables for each Task and the Project Schedule would be reviewed and adjusted accordingly to meet Town needs.

NCE is very sensitive to construction costs, particularly the volatile price of materials, which have affected the scope of many similar projects. In order to keep the Town aware of overall project costs, NCE will begin developing Preliminary Engineering Cost Estimates as soon as we have developed our engineering design recommendations to closely monitor any potential funding issues, which may develop.

Throughout the project, NCE staff will be available to attend regularly scheduled progress meetings with the Town, to maintain good communications, to offer up efficiency and reduce the number of design review and coordination meetings. Therefore, we have assumed up to three (3) meetings. The purpose of the progress meetings will be to identify and resolve any design or funding issues that may surface in a timely manner, present design alternatives and recommendations to Town staff, and continue coordination with project stakeholders as necessary.

NCE will also prepare exhibits for Town outreach and Council meetings. Up to two outreach meetings and 2 Council meetings are included in our scope with up to 2 exhibits for each meeting. If attendance at additional exhibits or meetings is necessary, they can be added to the scope for an additional fee.

#### Deliverables:

-  Project schedule
-  Meeting agendas and summaries

-  Monthly progress reports and invoices
-  Project schedule update
-  Exhibits for public outreach and Council meetings.

## TASK 2 – PRELIMINARY ENGINEERING

Preliminary engineering gathers data needed to prepare roadway and structural designs and develop construction documents including design data gathering, topographic surveys and ROW information, seismic survey and geotechnical design, utility location and coordination, pavement design, and environmental.

### TASK 2A – DESIGN DATA GATHERING

NCE will review relevant available data and records from the Town, public and private utility providers, and other sources that may be appropriate to support the preparation of project contract documents. These may include, but are not limited to, the Town drainage structure inventory maps, aerial photographs of the Town; as-built Road improvement and infrastructure plans, striping and markings, as-built plans from utility providers, including any preliminary plans for future work that may conflict with this project. Along with the maps previously used with the phase 1 investigation, the gathered information will be compiled and included in the base map used for design. Based on our review we will identify any data gaps or missing information and provide this information to the Town for review and discussion. NCE will also confirm with adjacent County of Santa Clara property if encroachment permits are required to conduct proposed work.

Subsurface moisture beneath roadways is known to reduce the useful life of the pavement placed above. Currently, there are no known culverts for this segment of Shannon Road. Consequently, drainage occurs by sheet flow based on road superelevation and crown. While it is possible to insert a culvert through both the lagging of a soldier pile and an MSE wall without compromising wall integrity, a less expensive option is the employment of a roadside ditch or vee channel.

A brief review of existing drainage conditions will be reviewed with the Town and if drainage improvements are required beyond existing drainage facilities will be incorporated into the design.

#### Deliverables:

-  Drainage technical memo.

### TASK 2B – TOPOGRAPHIC SURVEY & ROW

NCE's Project Surveyor will complete monument/control recovery, field investigation and field surveys sufficient to prepare a design level topographic mapping product for the portion of Shannon Road beginning approximately 100 feet westerly of Diduca Way and extending to approximately 100 feet southerly of Santa Rosa Road. The mapping corridor will begin at a point approximately 5' from the edge of pavement on the southerly (upslope) side and extend to approximately 30 feet northerly of the northerly (downslope) edge of pavement.

The final topographic base sheet shall be compiled at 20 scale with a 1' contour interval and include cross sections/spot elevations at an approximate 50' interval. The topographic data to be collected is more specifically defined as:

-  Cross-sections at 50' intervals, along with additional spot elevations as required to define the road alignment and grade, as well as the slope/bank. Typically, the cross section will include top or toe of banks, ditches, edge and centerline of pavement, and grade breaks.

- ❏ Surveyed locations for significant surface features, such as pavement or concrete, driveways, striping, fences, surface utilities, trees (over 4-6" in diameter on tree survey requirements), signs, utility poles, and streetlights will be included. Sanitary and storm drain structures will include rim elevations, invert elevations, pipe size & direction for all accessible structures within the mapping limit.
- ❏ Location of all recovered street monumentation within the mapping corridor (for preservation and Record ROW purposes).
- ❏ Location of underground utility locator markings.
- ❏ Provide a finish drafted topographic survey in AutoCAD Civil3D, including a dtm surface.

Based upon a combination of record data and any monuments collected during topographic surveying, NCE's surveyor will calculate and show the record data location of the existing ROW for the length of the mapping corridor. Additionally, our surveyor will calculate and show the location of each adjoining parcel lot line from record data (assessor's parcel data, record mapping and apparent lines of occupation).

Horizontal and vertical datums shall be based upon the Town of Los Gatos survey network control.

Note: This scope does not include the preparation of legal descriptions for any easements that may be necessary to facilitate construction of the work. If work extends beyond existing Town ROW, our surveyor can provide this for additional scope and fee.

Before the survey can be made, an encroachment permit will be completed with the Town if required for traffic control, which is assumed to be provided by the Town as previously done for cost savings.

#### **Deliverables:**

- ❏ Topographic survey file
- ❏ Tree location survey file (> or = 4-6")

#### **TASK 2C – SEISMIC SURVEY AND GEOTECHNICAL DESIGN**

An essential component of accurate retaining wall design includes depths-to-bedrock. The depth to competent material directly impacts the design height and corresponding cost of the retaining wall. Exploratory borings are widely spaced and located several feet from the edge of the embankment where the retaining wall will be located. The result is a depth to bedrock profile that is interpolated both laterally and longitudinally. Assumptions based on the interpolation may result in a retaining wall that is over-designed or subject to potential changed conditions claims.

A geophysical seismic refraction survey (**Figure 8**) could be effectively used to more clearly identify the depth to bedrock along the downslope edge of the roadway. This additional information will fill in the gaps between the geotechnical borings and provide a continuous geologic profile showing the ground surface and the depth to competent material.

This study will allow accurate development of the *Geotechnical Design Report*. This report will include all the calculations and dimensions needed to complete the structure design of either the combination MSE and soldier pile wall or the soldier pile and lagging wall.

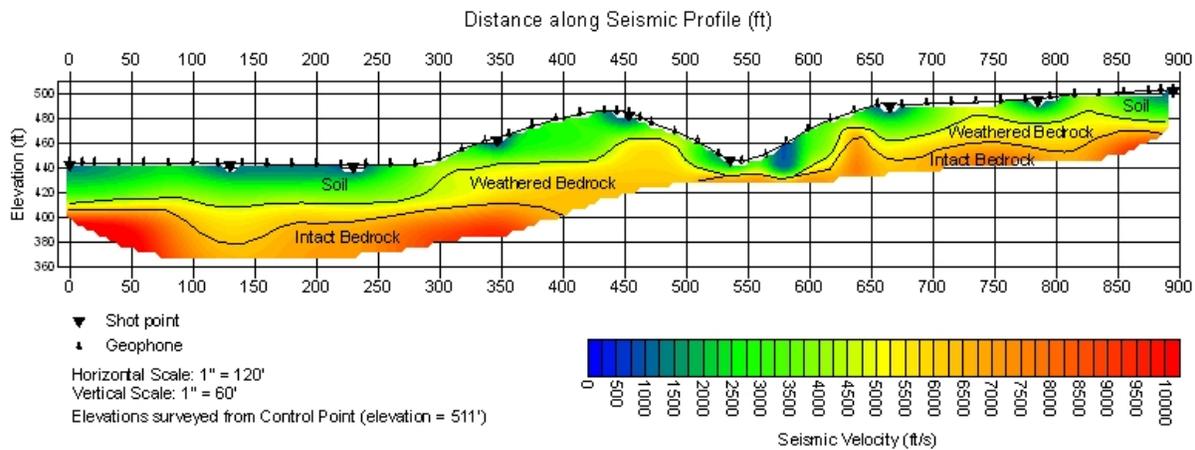


Figure 8. Determining Depth-to-Bedrock Using Seismic Velocity Contours, Bailey Rd, City of Pittsburg

#### Deliverables:

-  Seismic Refraction Survey – including seismic velocity tables and contour drawings
-  Geotechnical Design Report – including structure calculations.

#### TASK 2D – UTILITY LOCATION AND COORDINATION

NCE will coordinate with utility agencies early in the design process to help avoid potential construction delays and unnecessary disruptions to public services. Known utilities along this stretch of Shannon Road include both San Jose Water Company and PG&E. At least one telecommunications company is also present along the poles located on the uphill (eastbound) side of the Road. Initial contact with PG&E will enable identification of which telecom provider(s) occupy space on the PG&E poles.

Utility coordination will be a critical item to keep utility providers informed about the project and schedule. One of the first and earliest items that NCE will complete is reaching out to our contacts with PG&E and San Jose Water Company by telephone. This will be followed up by sending notification letters to applicable utility providers along with a preliminary project schedule for design and construction. We will also request utility as-builts and record drawings. This will allow utility providers to plan maintenance on their facilities prior to a moratorium during construction.

NCE will also carefully document all utility coordination notifications, emails, conversations, and meetings with utility contacts and information in a matrix format with dates of contacts and mailing detailed in this matrix. Follow-up calls will be made for each of the above notifications to confirm receipt. NCE will also keep the Town informed of any project delays related to utilities.

While the overhead utility poles themselves are located off the traveled way, lines strung between the poles cross over the Road prism itself. Consequently, drilling and excavation equipment associated with construction will need to be cognizant of these low overhead-lines and protect against line strikes.

The RGAR reflects the location of a water main along the inside (eastbound) travel way for the entire length of the Road segment. Although San Jose Water Company may have as-built information about this

water line, our scope includes a ground penetrating radar (GPR) survey to enable improved location accuracy below existing grade.

Using GPR, NCE's utility locator will field locate utility alignments and depths for utility mains and laterals to the extent that GPR methods can detect utilities. If GPR cannot establish utility alignments and or depths, potholing may need to be completed for additional scope and fee. GPR along utility mains will be marked at various locations along the subject street section, and the accuracy for the electronic depths will depend on the soil conditions and utility material. Traffic control will s be provided by NCE's utility locator.

Neither milling and overlay of HMA nor drilling of tie-backs are expected to come close to contacting the water line, however selection of the MSE alternative plus soldier pile wall alternative could expose the water line as a result of geogrid placement.

#### **Deliverables:**

-  Utility notification letters
-  Utility contact matrix
-  Marked utility depths and alignments and data.

#### **TASK 2E – PAVEMENT DESIGN**

NCE will perform a pavement condition survey of the travel lanes based on visible distresses. Pavement condition surveys serve the purpose of further refining the appropriate rehabilitation/reconstruction strategy in relation to the distress caused by downhill creep of the Road prism and traveled way.

This condition survey will generally note the presence of load related and environmental distresses, such as alligator cracking, longitudinal and transverse cracking, rutting, patches and utility cuts, distortions and depressions as they pertain to developing appropriate pavement treatments. In addition, potential base repairs will be identified in the condition survey. Base repairs will be marked in the field on the pavement in white paint, numbered, and verified prior to construction.

NCE will collect up to four (4) pavement section core samples (4" – 8" diameter cores) in the eastbound lane (inner lane). These will supplement the 13 borings already sampled in the westbound lane. For each core sample, NCE will measure and record the thickness and material type of each layer encountered in the pavement structural section, including the presence of any pavement reinforcing fabric. A half-day of traffic control by NCE is provided in our cost estimate for this subtask.

Bulk samples of subgrade will be obtained in support of structural section design. We will collect bulk samples of subgrade materials at the core locations for laboratory testing such as R-value, moisture content and Atterberg Limits (plasticity index) determinations. Our current fees assume 2 bulk samples will be obtained for testing. The thickness of aggregate base (AB) will be measured at all core locations.

Using the data obtained from the 4 supplemental corings, the laboratory test results from these samples, the 13 original borings and their laboratory data, NCE will perform pavement analysis and design services, and develop pavement rehabilitation and reconstruction recommendations for both the westbound and eastbound traveled lanes and shoulders. NCE will perform its analysis in accordance with the Caltrans Highway Design Manual.

NCE will develop pavement structural section recommendations expressed in the form of a Traffic Index (TI) that will be provided by the Town. NCE will develop recommendations including, but not limited to, the following:



- Reconstruction
  - Hot Mix Asphalt (HMA) over AB
  - Full Depth HMA
  - FDR
- Conventional Hot Mix Asphalt (HMA)
- Rubberized Hot Mix Asphalt (RHMA)
- Alternative rehabilitation methods if feasible (in-place recycling, mill & fill treatments, etc.)
- Locations and treatments of failed pavement sections (base repairs)
- Full-width milling and wedge grinding requirements.

NCE will then summarize its recommendations in a pavement design memorandum to the Town that, at a minimum, will include the following:

- Results of pavement condition surveys, coring, and laboratory testing
- Description of testing procedures and analysis performed for the project
- Recommended alternatives for rehabilitation and reconstruction.

NCE will submit two (2) copies of its draft technical memorandum to the Town for initial review. Upon receipt of any comments from the Town, NCE will then prepare its final technical memorandum, which will be signed and stamped by NCE’s Pavement Engineer. Two (2) copies of the final technical memorandum will then be provided to the Town reflecting any comments on the draft technical memorandum. NCE will also develop an encroachment permit application for the coring work.

**Deliverables:**

- Encroachment permit application – traffic control provided by Town for pavement coring
- Draft and Final pavement Technical Memorandums.

**TASK 2F – ENVIRONMENTAL (CEQA CATEGORICAL EXEMPTION)**

Projects that are subject to the discretionary approval of a government agency must comply with California Environmental Quality Act (CEQA) regulations and procedures. Based on our experience fulfilling CEQA requirements for roadway repair projects of similar nature, this project will likely qualify

for a Categorical Exemption as described at California Code of Regulations in Article 19, Section 15301 – Existing Facilities or Article 19, Section 15302 – Replacement or Reconstruction.

Notice of Exemption	Appendix E
To: Office of Planning and Research P.O. Box 3044, Room 113 Sacramento, CA 95812-3044  County Clerk County of: _____ _____	From: (Public Agency): _____ _____ _____ (Address)
Project Title: _____	
Project Applicant: _____	
Project Location - Specific: _____	
Project Location - City: _____ Project Location - County: _____	
Description of Nature, Purpose and Beneficiaries of Project: _____	

**Figure 9. California’s OPR’s Notice of Exemption Form**

A visual assessment of the project area will be conducted, databases will be reviewed, and the project area will be assessed for exceptions to the CEQA exemptions per CEQA Guidelines Section 15300.2. Factors related to the potential for exceptions to be documented in the administrative record include biological resources, historic resources, hazardous

waste lists, State scenic highways, flood hazard areas, and fault zones. NCE will prepare an administrative record supporting the determination for the Town’s files. NCE will then prepare a Notice of Exemption (NOE) form (**Figure 9**) for the Town to review, sign and file with the County Clerk. Whereas the project is

not of regional significance and there are no State responsible entities, there is no need to file with the State Clearinghouse.

The Categorical Exemption will be supported by an administrative record that includes brief biological and cultural resource technical memoranda. Based on preliminary database research, the project area contains no critical habitat for federally listed special status plant or animal species. However, three special status plant species have current ranges that overlap the project area, according to the US Fish and Wildlife Service. While we believe the potential is low for these plants to occur within and adjacent to the roadway, our proposed reconnaissance-level survey will confirm this assumption, and our findings will be presented in a tech memo and described below.

The biological resources technical memorandum will include a database review and a reconnaissance-level field survey. Additionally, in support of a potential tree removal permit application and during the reconnaissance-level field survey, NCE will also identify tree species greater than 4 inches in diameter (as collected by our surveyor during topographic surveys) that may require trimming or removal. The results of the field survey, relevant field observations, and findings will be presented in a biological resources technical memorandum.

NCE assumes the tree trimming and removal can be completed per Section 26.10.063 of the Town's municipal code for removal required for Capital Improvement Project, repair of a geologic hazard, and/or interferes use of pavements. A tree removal permit application will be completed and submitted to the Town for review.

The cultural resources technical memorandum will present the findings of a record search request from the Northwest Information Center and a brief pedestrian survey. Given NCE's experience with small road rehabilitation projects and the location of the present project on steep slopes, away from perennial water sources, the probability of encountering historical resources (as defined by CEQA) is judged to be low. For this project, NCE assumes no cultural resources will be identified. In addition, because an NOE is assumed for this project, AB52 Native American consultation is not required. If historical resources (which can also be tribal resources) are identified as a result of the records search, as part of the pedestrian survey, or as provided by the Town, NCE can initiate Native American consultation on behalf of the Town for a separate scope and fee.

**Deliverables:**

-  CEQA Notice of Exemption
-  CEQA Administrative Record
-  Biological resources technical memorandum
-  Cultural resources technical memorandum
-  Tree removal permit application

**TASK 3 – PLANS, SPECIFICATIONS, & ESTIMATES (PS&E)**

**TASK 3A – 35% PS&E**

Upon completion of preliminary engineering, the project team will prepare a 35% Plans, Specifications, and Estimate of Probable Construction Cost (PS&E) for the project. The 35% plans will depict the basic roadway repair plans and outline of details, required tie-in into existing features, new paving of associated roadway, drainage flow lines, traffic handling, draft profile-and-plan views, retaining wall and either tie-back or geogrid systems, structural and roadway detailing, and construction limits. The plans will be accompanied by and outline of draft technical specifications and an engineer’s estimate. The combined plans, specification, and estimate (PS&E) will be reviewed for quality assurance and edits incorporated prior to delivery to the Town. Upon completion of the Town’s review a Review meeting will be held to discuss the 35% PS&E package. The following plan sheets are anticipated:

<u>Name</u>	<u>No. of Sheets</u>
Title Sheet	1
Notes, Legend and Abbreviations	1
Survey Control	1
Traffic Handling	1 (Alt 1)/ 5 (Alt 2)
Excavation/ Demolition	2
Plan and Profile	3
Retaining Wall Plan and Profile	6
Pavement, Guardrail and Drainage Details	3
Retaining Wall Details	3
Water Pollution Control	2
Signing and Striping	3
	26/ 30

As part of the 35% design, CE&G will finalize the retaining wall design. Calculations made during development of the Geotechnical Design Report will be verified and included with a structures design.

The Engineer’s Cost Estimate will be prepared in MS Excel format and will be based on the most recent construction cost data available to NCE for projects of this type. Because of NCE’s involvement in the design and construction of numerous similar projects throughout California, we are confident in our ability to estimate the construction cost of the Town’s project. This initial estimate will then be updated and refined as the design effort progresses. It is assumed that the Town will require a 10-day review/comment period once the 35% PS&E package is submitted.

**Deliverables:**

-  35% Plans (electronic - pdf)
-  Outline of Technical Specifications
-  Engineer’s Estimate of Probable Construction Cost.

### TASK 3B – 65% PS&E

Upon completion of 35% PS&E review meeting, the NCE team will begin resolving comments and incorporating edits from the 35% review meeting into the 65% PS&E set of contract documents. The team will also conduct a constructability review prior to submittal to the Town to ensure anticipated means and methods by any contractors for completing the work in the field. NCE will provide a response to each comment that is included in a comment table provided by the Town. The 65% PS&E will include additional design information and details typically expected at this stage of completion. The 65% PS&E package will then be packaged and submitted similar to the 35% PS&E unless directed otherwise.

The contract documents (proposal, special provisions, and technical specifications) will be developed for the project to fit the anticipated work items. The Contract documents will be prepared in MS Word and according to the Town's format. For the purposes of this proposal NCE assumes that standard front end and specific provisions templates will be provided by the Town. The special provisions will follow both the Town's and Caltrans' standard formatting conventions.

NCE also believes that an efficient yet thorough Quality Control/Quality Assurance program is essential for getting the maximum value out of every dollar spent on construction. Projects designed by NCE therefore, contain technical specifications that attempt to optimize the balance between using rigid, but time-tested, specifications and meeting local agency needs, with the goal of obtaining the very best value for its clients.

NCE recognizes the value of incorporating Caltrans Standard Specifications in projects such as these, both because these specifications have been developed by an agency that designs and builds a vast amount of highway work, and because most contractors performing public works construction in Northern California are familiar with them. Caltrans, however, has the resources to administer projects quite differently than most local agencies, so NCE advocates modifying the Caltrans Standard Specifications to better fit the abilities, needs, and budgets of municipal agencies.

The Engineer's cost estimate will also be updated to reflect the revised quantities of work depicted on the plans. It is assumed that the Town will require a 10-day review/comment period once the 65% PS&E package is submitted.

#### Deliverables:

-  Tabulated response-to-comments at 35% PS&E Review meeting
-  35% Plans (electronic - pdf)
-  Technical Specifications
-  Engineer's Estimate of Probable Construction Cost.

### TASK 3C – 100% PS&E

The 100% PS&E will be revised to incorporate comments received from the Town. NCE will again meet with the Town to review these comments, from which the final (Bid Set) PS&E will be prepared. Similar to 100% PS&E, NCE will provide a response to each comment that is included in a comment table provided by the Town. The final (Bid Set) PS&E will include all notes and details necessary for construction. One reproducible copy of the final (Bid Set) PS&E will then be packaged and submitted similar to the 100% PS&E unless directed otherwise. Upon receipt of the Town's final review comments, the project documents will be finalized for bidding purposes.

A final quantity calculation will be tabulated, and this will be entered into the final Engineer's cost estimate for the project. All final documents will be reviewed, stamped, and signed by NCE's registered civil engineer, and the final PS&E will be delivered to the Town in both hard copy and electronic formats.

#### Deliverables:

- One wet-signed and one electronic file of the final plans, technical specifications, and engineer's estimate. The electronic files for the final construction plans, specifications, and engineer's estimate will be in AutoCAD 2018 or later version, Microsoft Word, and Microsoft Excel, respectively.

#### TASK 4 – CONSTRUCTION ADMINISTRATION

##### TASK 4A – BIDDING SUPPORT SERVICES

Services during advertisement and bidding include assistance during the pre-bid conference, responding to questions received about the project design, and preparation of any addenda and/ or clarifications to the PS&E that are deemed necessary. NCE can also assist the Town in determining the responsiveness of bids received, with checking and tabulating bid results, and with developing recommendations for award of a construction contract to the Town Council.

##### Deliverables:

- Attend pre-bid meetings
- Prepare responses to questions received regarding project design
- Prepare bid addenda as necessary
- Provide assistance with bid responsiveness (as needed).

##### TASK 4B – CONSTRUCTION SUPPORT SERVICES

NCE will provide support services to the Town during the construction phase of the project. At a minimum, these services are anticipated to include attendance at the pre-Construction Conference, reviewing Contractor submittals and responding to Contractor requests for information, field marking and verifying measurement of base repair (digout) areas, providing recommendations for any necessary construction changes due to unforeseen field conditions, assisting with the review of Contract Change Orders, participate in the final inspection and assistance with identifying punch list items, and preparation of Record Drawings from marked as-built plans supplied by the Town's Contractor. The Record Drawings will be furnished to the Town in both printed and electronic formats.

##### Deliverables:

- Attend pre-construction conference
- Assist with the review of contractor submittals and RFIs as necessary
- Provide recommendations for any necessary construction changes due to unforeseen conditions
- Assist with review of contract change orders
- Upon receipt from the contractor of redlines, record drawings in full-size hardcopy (1 copy, 22" x 34"), pdf, and CAD format.

#### TASK 5 – OPTIONAL ADDITIONAL SERVICES

The Town has requested clarification on issues that have the potential to arise during design and for one or both of the alternatives under consideration. The following supplements our original proposal to improve expectations should unforeseen circumstances arise. Two general areas of concern are environmental resource determinations and right-of-way engineering. These are outlined below.

##### TASK 5A-ENVIRONMENTAL SERVICES

At the discretion of the Town, NCE can conduct up to three (3) pre-construction nesting bird surveys as additional service and is included as an additional cost in our fee estimate. While these surveys are not

required, if there is the potential to impact nesting migratory birds in the project area, the Town should consider completing these surveys to minimize the risk of a nesting migratory bird take, a potential violation of federal and state laws protecting migratory birds. The intent of the pre-construction surveys is to verify no nesting migratory birds will be impacted by construction activities (e.g., tree removal, vegetation trimming or removal, or ground disturbance). Following each nesting bird survey or once all pre-construction surveys have been completed, NCE will prepare a brief letter report detailing the findings from the pre-construction survey. NCE assumes no nesting birds will be found.

We judge based on the type of roadway repair work to be completed we have developed the appropriate scope of environmental document services and in the less likely event additional cultural and biological resources and/or permitting are required beyond our current assumptions these services can be provided for additional scope and fee not currently estimated herein.

**Deliverables:**

-  Nesting bird survey letter report.

**TASK 5B-ROW ENGINEERING SERVICES**

The Geotechnical Alternatives Report identified two parcels encroaching into the operating right-of-way of the roadway. Our surveyor has identified the APNs for these parcels. While one of the parcels is owned by the Town, the other is identified as a private party. If necessary, a title reports will be obtained by our surveyor. In the unlikely event that the private party encroachment cannot be resolved by the topographic survey, ROW mapping, and title reports ROW services will be completed.

Depending on project needs and discussions with the private property owner, to secure the rights necessary for the project a permanent easement, temporary construction easement, and or partial fee acquisition may be required. For properties less than \$10,000 a valuation can be used in-lieu of appraisal. Should the property be over this threshold then an appraisal would be conducted. Services included for ROW would include the following for any rights needed:

1. Initial research and review of all parcel conditions including title review for potential encumbrances that would impact any acquisition.
2. An initial valuation estimate to determine if an appraisal is necessary for the rights seeking to be acquired.
3. Initial meeting with the property owner at the property to review the plans for the project, the impact to their property, discuss their concerns, and collect information germane to the valuation and negotiations.
4. Engage in information exchange and negotiations with the property owner necessary to secure agreements for rights needed.
5. Coordinate any appraisals needed with the owner and appraiser. Or prepare a valuation in-lieu of appraisal.
6. Prepare offer package including all documents needed to acquire and close any acquisitions.
7. Negotiate in good faith with the owner.
8. Participate in meetings with the Town's legal counsel and any study sessions with the Town Council needed.

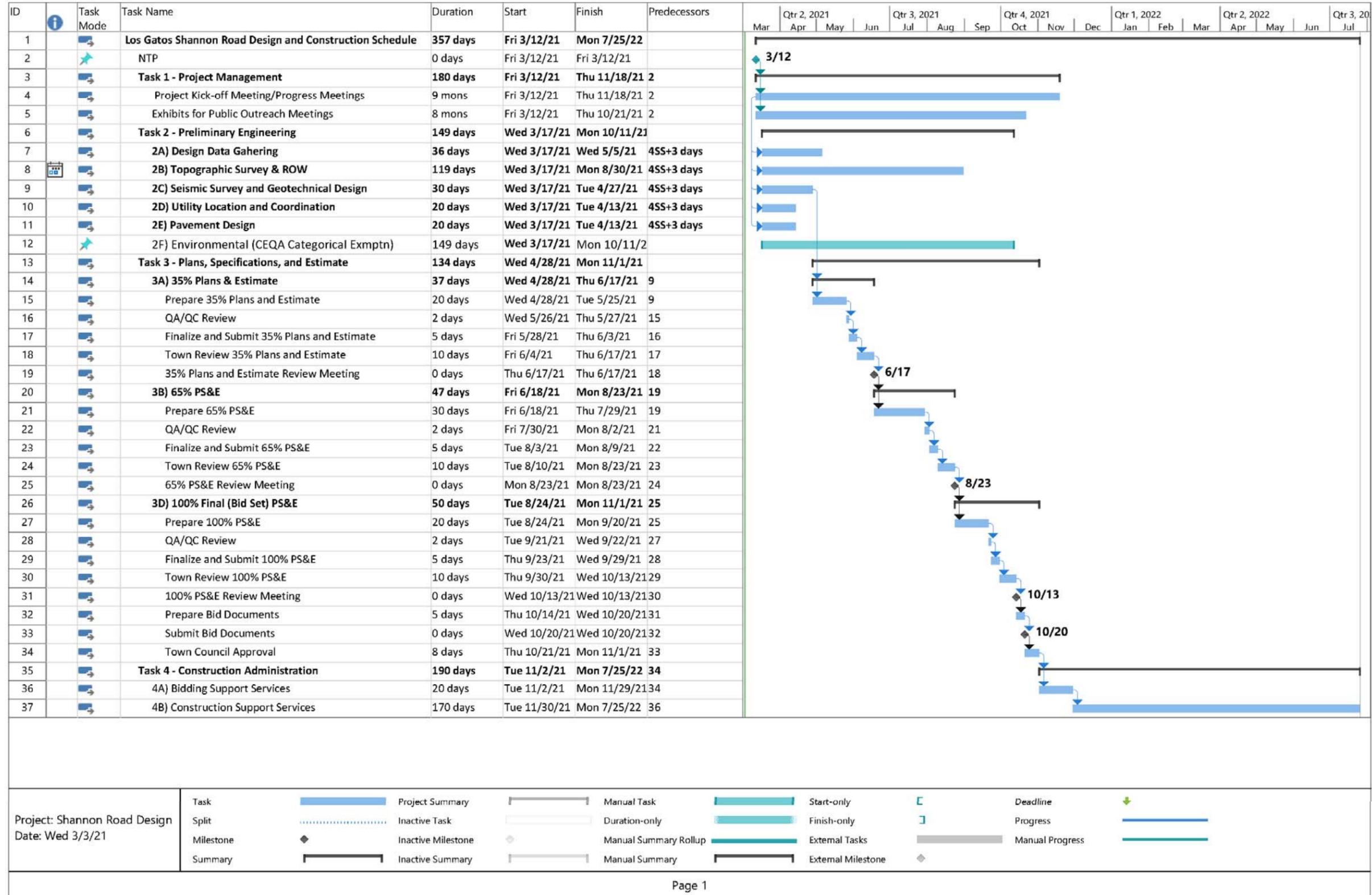
9. Open and coordinate escrows including and reconveyances.

\ In support of any necessary acquisition or easement our surveyor would prepare legal descriptions for the deed and plats. In the unlikely event of an issue developing with the parcel owned by the Town or annexed roadway area from the County our right-of-way consultant can also assist in attending meetings, performing negotiations with the County, release of rights or abandonments, and reconveyances.

-  Property Valuation and/or Appraisal
-  Title Report(s)
-  Legal Descriptions and Plats
-  Meetings and Negotiations
-  Land Rights Acquisition for Permanent Easement, Temporary Easement and/or Partial Fee Acquisition

## PROJECT SCHEDULE

The intent of this design schedule is to complete construction documents within 5 to 6 months for late summer bidding or earlier if possible and desired by the Town, which can be discussed further and confirmed with project objectives during project kick-off. Fall and Winter bidding will allow the Town to secure more competitive bidding but places construction in winter months and may require delay of construction to spring months depending on weather, construction, regulatory, and other site constraints.







### COST PROPOSAL

The following represent hourly rates for NCE and our team members:



#### SCHEDULE OF CHARGES 2020

##### PROFESSIONAL SERVICES

Principal.....	\$265/hour
Associate.....	\$215/hour
Senior .....	\$185/hour
Project.....	\$160/hour
Staff.....	\$140/hour

##### TECHNICAL SERVICES

Senior Construction Manager* .....	\$140/(\$165-PW)/hour
Senior Designer.....	\$150/hour
CADD Designer.....	\$130/hour
Senior Technician*.....	\$125/(\$150-PW)/hour
Construction Inspector*.....	\$125/(\$150-PW)/hour
CAD Technician .....	\$115/hour
Senior Field Scientist.....	\$120/hour
Field Scientist.....	\$100/hour
Project Administrator.....	\$105/hour
Field/Engineering Technician*.....	\$100/(\$125-PW)hour
Technical Editor.....	\$95/hour
Clerical .....	\$85/hour

##### CONTRACT LABOR

From time to time, NCE retains outside professional and technical labor on a temporary basis to meet peak workload demands. Such contract labor will be charged at regular Schedule charges.

##### LITIGATION SUPPORT

Engineer/Scientist.....	\$300/hour
Court Appearances & Depositions .....	\$500/hour

##### EQUIPMENT

Plotter Usage .....	(separate fee schedule)
Truck.....	\$100/day
Automobile .....	IRS Standard Mileage Rate+ 15%
Falling Weight Deflectometer Testing.....	\$3,500/Day
Coring.....	\$4,500/Day
Environmental Equipment .....	(separate fee schedule)

##### OUTSIDE SERVICES

Rental of equipment not ordinarily furnished by NCE and all other costs such as special printing, photographic work, travel by common carrier, subsistence, subcontractors, etc. .... cost + 15%

##### COMMUNICATION/ REPRODUCTION

In-house costs for long-distance telephone, faxing, postage, printing and copying ..... project labor charges x 5%

##### TERMS

Billings are payable upon presentation and are past due 30 days from invoice date. A finance charge of 1.5% per month, or the maximum amount allowable by law, will be charged on past-due accounts. NCE makes no warranty, either expressed or implied, as to its findings, recommendations, specifications, or professional advice except that they are prepared and issued in accordance with generally accepted professional practice.

\*A surcharge of \$25/hour applied for technicians and construction inspectors to comply with Prevailing Wage (PW) per requirements of California Department of Industrial Relations.

Engineering & Environmental Services

[www.ncenet.com](http://www.ncenet.com)

Richmond, CA  
501 Canal Blvd., Suite I  
Richmond, CA 94804  
(510) 215-3620

[www.ncenet.com](http://www.ncenet.com)

# FEHR PEERS

2020-2021

(July 2020 through June 2021)

## Hourly Billing Rates

Classification	Hourly Rate
Principal	\$180.00 - \$350.00
Senior Associate	\$185.00 - \$340.00
Associate	\$170.00 - \$245.00
Senior Engineer/Planner	\$135.00 - \$215.00
Engineer/Planner	\$115.00 - \$165.00
Senior Engineering Technician	\$145.00 - \$195.00
Senior Project Accountant	\$160.00 - \$165.00
Senior Project Coordinator	\$120.00 - \$165.00
Project Coordinator	\$85.00 - \$150.00
Technician	\$115.00 - \$160.00
Intern	\$90.00 - \$115.00

- *Other Direct Costs / Reimbursable expenses are invoiced at cost plus 10% for handling.*
- *Personal auto mileage is reimbursed at the then current IRS approved rate (56 cents per mile as of Jan 2021).*
- *Voice & Data Communications (Telephone, fax, computer, e-mail, etc.) are invoiced at cost as a percentage of project labor.*



Land Surveying • Mapping • Planning

**FEE SCHEDULE**  
**Effective January, 2021**

Principal Land Surveyor	\$180.00 per hour
Project Manager	\$155.00 per hour
Survey Technician	\$140.00 per hour
Clerical	\$ 70.00 per hour
1-Man Crew (including robotic equipment)	\$195.00 per hour
2-Man Crew (including conventional equipment)	\$290.00 per hour
2-Man GPS Crew (including up to 4 receivers)	\$300.00 per hour

**OTHER SERVICES**

Consultants, Special Equipment, Reproductions, Materials, and other outside charges	Cost + 10%
Mileage	\$0.54 per mile





## Schedule of Charges 2021

<b>Personnel</b>	<b>2021 Rates/Units</b>
Senior Principal Engineer/Geologist	\$ 290 per hour
Principal Engineer/Geologist	\$ 245 per hour
Associate Engineer/Geologist	\$ 220 per hour
Senior Engineer/Geologist	\$ 205 per hour
Project Engineer/Geologist	\$ 165 per hour
Staff Engineer/Geologist	\$ 150 per hour
Technician (Straight rate prevailing wage)	\$ 135 per hour
Senior GIS/CADD Specialist	\$ 145 per hour
GIS/CADD Specialist	\$ 130 per hour
UAS Manager	\$ 160 per hour
Project Assistant	\$ 100 per hour
Administration/Clerical	\$ 90 per hour
Special Inspector (Straight rate prevailing wage; no 4-hr min)	\$ 140 per hour
Deposition/Court Testimony (minimum 4 hours)	\$ 410 per hour
<b>Field and Laboratory Tests</b>	<b>2021 Rates/Units</b>
Concrete Compressive Strength Testing	\$ 41 per cylinder
Moisture Content (ASTM D 2216)	\$ 24 per test
Moisture & Density (ASTM D 4318)	\$ 32 per test
Atterberg Limits (ASTM D 4318)	\$ 208 per test
Compaction Curve, 4" mold (ASTM D 1557)	\$ 264 per test
Compaction Curve, 6" mold (ASTM D 1557)	\$ 326 per test
Wash over #200 Sieve (ASTM D 1140)	\$ 73 per test
Sieve Analysis with #200 Wash (ASTM D 422)	\$ 152 per test
Sieve & Hydrometer (ASTM D 422)	\$ 236 per test
<b>Reimbursables</b>	<b>2021 Rates/Units</b>
Mileage (per allowable federal)	\$0.56 per mile
Nuclear Gage	\$ 59 per day
Inclinometer	\$ 201 per day
Vane Shear Device	\$ 116 per day
UAS Equipment	\$ 371 per day
GNSS Mapping Equipment	\$ 212 per day

1. **Professional Services** - These are "all-up" rates, and include direct salary cost, overhead, general and administrative costs not separately accounted for, and profit. They shall remain in effect through December 31, 2021. Ongoing work continuing beyond December 31, 2021 will be invoiced at the applicable new year's rate.
2. **Travel Time** - Travel time will be charged at regular hourly rates, not to exceed eight (8) hours per day.
3. **Expenses** - All direct costs will be billed at actual cost plus 10%, unless there is explicit agreement otherwise. Direct costs include:
  - Third party services – Fees for subcontracted third party services (including drilling and backhoe services, special consultant fees, permits, special equipment rental, overnight mail or



## Schedule of Charges 2021

- messenger services and other similar project related costs)
  - Travel expenses, including airfares, hotel, meals, ground transportation, and miscellaneous expenses.
  - Reproduction costs, including photocopy, blueprints, graphics, photo prints or printing.
4. **Subconsultants** - To the extent that it becomes necessary to use subconsultants, Client will be invoiced at cost plus 10% to cover insurance liability and other overhead costs.
  5. **Accounting** - The cost of normal accounting services for invoicing has been considered in the overhead expense which is included in the above hourly rates. Additional requirements for invoice verification, such as copies of time sheets, detailed expense records, and supplemental daily work justification will be billed on an hourly basis.

NCE will provide the defined scope of work on a lump sum basis for an estimated fee of \$434,900. The price breakdown by task is attached. Total compensation will not exceed the amounts set forth without receipt of prior written authorization from the Town.



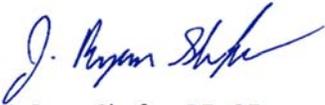
Town of Los Gatos  
Shannon Road Repair Project  
Fee Estimate  
March 3, 2021

Task Description	Labor Hours								Labor Expenses	Coring/FWD	Laboratory Testing	Utility Location	Geotechnical Services	Topographic Surveys	Traffic Engineering	ROW Engineering	Reimbursable Expenses	Total Cost
	Project Manager	Principal QA/QC	Associate Engineer	Project Engineer	Staff Engineer/Scientist	CADD Designer	Clerical											
<b>1. Project Management</b>	<b>Rate</b>	<b>\$215</b>	<b>\$265</b>	<b>\$215</b>	<b>\$160</b>	<b>\$140</b>	<b>\$130</b>	<b>\$85</b>										
Project Kick-off and Progress Meetings	76	12	8		36			40	\$ 29,680								\$ 200	\$ 29,900
Exhibits for Public Meetings	4			8	16	12			\$ 5,940								\$ 200	\$ 6,100
<b>Sub-Total</b>	<b>80</b>	<b>12</b>	<b>8</b>	<b>8</b>	<b>52</b>	<b>12</b>	<b>40</b>	<b>\$ 35,620</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 400</b>	<b>\$ 36,000</b>
<b>2. Preliminary Engineering</b>																		
2A. Design Data Gathering	8		8	12	14	20	2		\$ 10,090					\$ 4,400			\$ 200	\$ 14,700
2B. Topographic Survey and ROW	4			6	6	10	1		\$ 4,045			\$ 19,030					\$ 100	\$ 23,200
2C. Seismic Survey & Geotechnical Design	6			4	6	6	1		\$ 3,635			\$ 36,016					\$ 100	\$ 39,800
2D. Utility Location & Coordination	10			12	16	20	1		\$ 8,995		\$ 4,950						\$ 100	\$ 14,000
2E. Pavement Design	8	4	12	12	16	18	1		\$ 11,945	\$ 4,500	\$ 1,540						\$ 100	\$ 18,100
2F. Environmental (CEQA)	10	8	6		78		3		\$ 16,735								\$ 1,300	\$ 18,000
<b>Sub-Total</b>	<b>46</b>	<b>12</b>	<b>26</b>	<b>46</b>	<b>136</b>	<b>74</b>	<b>9</b>	<b>\$ 55,445</b>	<b>\$ 4,500</b>	<b>\$ 1,540</b>	<b>\$ 4,950</b>	<b>\$ 36,016</b>	<b>\$ 19,030</b>	<b>\$ 4,400</b>			<b>\$ 1,900</b>	<b>\$ 127,800</b>
<b>3. Plans, Specifications, &amp; Estimates (PS&amp;E)</b>																		
3A. 35% PS&E	24	12	8	48	40	58	4		\$ 31,220			\$ 14,432		\$ 5,500			\$ 310	\$ 51,500
3B. 65% PS&E	18	8	8	80	96	120	2		\$ 49,720			\$ 18,975		\$ 5,500			\$ 610	\$ 74,800
3C. Prep 100% PS&E	12	6	6	48	60	48	2		\$ 27,950			\$ 20,339		\$ 4,620			\$ 1,600	\$ 54,500
<b>Sub-Total</b>	<b>54</b>	<b>26</b>	<b>22</b>	<b>176</b>	<b>196</b>	<b>226</b>	<b>8</b>	<b>\$ 108,890</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 53,746</b>	<b>\$ -</b>	<b>\$ 15,620</b>			<b>\$ 2,520</b>	<b>\$ 180,800</b>
<b>4. Construction Administration</b>																		
4A. Bidding Support Services	16		8	12	20	8	2		\$ 11,090			\$ 1,451					\$ 200	\$ 12,700
4B. Construction Support Services	22	4	18	24	36	12			\$ 20,100			\$ 7,412					\$ 300	\$ 27,800
<b>Sub-Total</b>	<b>38</b>	<b>4</b>	<b>26</b>	<b>36</b>	<b>56</b>	<b>20</b>	<b>2</b>	<b>\$ 31,190</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 8,863</b>					<b>\$ 500</b>	<b>\$ 40,500</b>
<b>5. Optional Additional Services</b>																		
5A. Environmental Services																		
Nesting Bird Field Survey (up to 2)						12			\$ 1,560									\$ 1,600
Follow-up Bird Survey						6			\$ 780									\$ 800
Letter Report			2	8					\$ 1,710									\$ 1,700
5B. ROW Engineering Services																		
Property Valuation															\$ 2,200			\$ 2,200
Title Report												\$ 1,650						\$ 1,700
Legal Description and Plats												\$ 3,850						\$ 3,900
Appraisal														\$ 5,500				\$ 5,500
Land Rights Acquisition														\$ 8,800				\$ 8,800
Public Ownership Coordination with County														\$ 8,800				\$ 8,800
<b>Sub-Total</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>8</b>	<b>0</b>	<b>18</b>	<b>0</b>	<b>\$ 4,050</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 5,500</b>	<b>\$ -</b>	<b>\$ 25,300</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 35,000</b>
<b>Total Without Optional Additional Services</b>	<b>218</b>	<b>54</b>	<b>82</b>	<b>266</b>	<b>440</b>	<b>332</b>	<b>59</b>	<b>\$ 231,145</b>	<b>\$ 4,500</b>	<b>\$ 1,540</b>	<b>\$ 4,950</b>	<b>\$ 98,625</b>	<b>\$ 19,030</b>	<b>\$ 20,020</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 5,320</b>	<b>\$ 385,100</b>
<b>Total With Optional Additional Services</b>	<b>218</b>	<b>54</b>	<b>84</b>	<b>274</b>	<b>440</b>	<b>360</b>	<b>59</b>	<b>\$ 235,195</b>	<b>\$ 4,500</b>	<b>\$ 1,540</b>	<b>\$ 4,950</b>	<b>\$ 98,625</b>	<b>\$ 24,530</b>	<b>\$ 20,020</b>	<b>\$ 25,300</b>	<b>\$ -</b>	<b>\$ 5,320</b>	<b>\$ 420,100</b>

The NCE team is excited to have this opportunity to complete construction documents for the Shannon Road Repair project based on the work we have already completed to date. As a principal with NCE, I am authorized to sign contracts on behalf of NCE and will be the point of contact should you have questions. I can be reached via phone at (510) 215-3620 or via email at [rshafer@ncenet.com](mailto:rshafer@ncenet.com) or via mail at NCE, 501 Canal Boulevard, Suite I, Richmond, CA 94804. NCE looks forward to your favorable review of our qualifications and continuing our work with the Town.

Sincerely,

NCE



J. Ryan Shafer, PE, GE  
Principal



Lee Taubeneck, PE  
Project Manager

Attachments:

- A. Key Staff Resumes

Richmond, CA

501 Canal Blvd., Suite I  
Richmond, CA 94804  
(510) 215-3620

[www.ncenet.com](http://www.ncenet.com)



## **AGREEMENT FOR CONSULTANT SERVICES**

THIS AGREEMENT is made and entered into on (DATE) by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") Nichols Consulting Engineers, ("Consultant"), whose address is 501 Canal Blvd., Suite I, Richmond, CA 94804. This Agreement is made with reference to the following facts.

### **I. RECITALS**

- 1.1 The Town desires to engage Consultant to provide services to provide design and construction support services for Shannon Road Repair Project.
- 1.2 The Consultant represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Consultant warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Consultant acknowledges Town has relied upon these warranties to retain Consultant.

### **II. AGREEMENTS**

- 2.1 Scope of Services. Consultant shall provide services as described in that certain Proposal sent to the Town on (DATE), 2021, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. This contract will remain in effect from date of execution to December 31, 2023.
- 2.3 Compliance with Laws. The Consultant shall comply apply the reasonable standard of care with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Consultant represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 2.4 Sole Responsibility. Consultant shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.5 Information/Report Handling. All documents furnished to Consultant by the Town and all reports and supportive data prepared by the Consultant under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Consultant's services or at the Town's written request. All reports, information, data, and exhibits

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

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

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

Invoices:  
Town of Los Gatos  
Attn: Accounts Payable  
P.O. Box 655  
Los Gatos, CA 95031-0655

- 2.8 Availability of Records. Consultant shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Consultant shall make these records available to authorized personnel of the Town at the Consultant's offices during business hours upon written request of the Town.
- 2.9 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Consultant. No portion of these services shall be assigned or subcontracted without the written consent of the Town.

2.10 Independent Contractor. It is understood that the Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the Town. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to

Town employee(s). With prior written consent, the Consultant may perform some obligations under this Agreement by subcontracting but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement. Consultant agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Consultant shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Consultant or is based on allegations of Consultant's negligent performance or wrongdoing.

- 2.11 Litigation Support. CONSULTANT shall receive compensation for preparing for and/ or appearing in any litigation at the request of TOWN, except: (1) if such litigation costs are incurred by the CONSULTANT in defending its work or services or those of any of its sub-CONSULTANTS or (2) as may be required by the indemnification requirements of the CONSULTANT. Compensation for litigation services requested by the TOWN shall be paid at a mutually agreed upon rate and/ or at a reasonable rate for such services.
- 2.12 Conflict of Interest. Consultant understands that its professional responsibilities are solely to the Town. The Consultant has and shall not obtain any holding or interest within the Town of Los Gatos. Consultant has no business holdings or agreements with any individual member of the Staff or management of the Town or its representatives nor shall it enter into any such holdings or agreements. In addition, Consultant warrants that it does not presently and shall not acquire any direct or indirect interest adverse to those of the Town in the subject of this Agreement, and it shall immediately disassociate itself from such an interest, should it discover it has done so and shall, at the Town's sole discretion, divest itself of such interest. Consultant shall not knowingly and shall take reasonable steps to ensure that it does not employ a person having such an interest in this performance of this Agreement. If after employment of a person, Consultant discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Consultant shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.
- 2.13 Equal Employment Opportunity. Consultant warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Consultant nor its subcontractors do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.

### III. INSURANCE AND INDEMNIFICATION

#### 3.1 Minimum Scope of Insurance:

- i. Consultant agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
- ii. Consultant agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- iii. Consultant shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Consultant agrees that all certificates and endorsements are to be received and approved by the Town before work commences.
- iv. Consultant agrees to have and maintain, for the duration of the contract, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure Consultant for professional errors or omissions in the performance of the particular scope of work under this agreement.

#### General Liability:

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

- iv. The Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

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

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

3.4 Mutual Indemnification. CONSULTANT shall indemnify and hold harmless TOWN, its officers, agents, and employees from any and all claims, suits, losses, pure economic damages, costs (including reasonable attorney's fees) and demands, administrative fees, penalties and fines imposed, and demands, including reasonable attorney's fees connected therewith, on account of personal injury, including death, or property damage, sustained by any person or entity not a part to this Agreement between CONSULTANT and TOWN to the extent such injury, death or damage is caused by the negligence or willful misconduct of CONSULTANT or their respective employees, officers and agents.

CONSULTANT agrees to the full extent permitted by law, to indemnify, defend, and hold harmless TOWN, its officers, directors, and employees from and against any and all claims, demands, losses, penalties, fines and causes of action of every kind and character (including reasonable attorney fees) arising from or relating to Pre-existing Conditions.

3.5 Mutual Indemnification. TOWN shall indemnify and hold harmless CONSULTANT, its officers, agents, and employees from any and all claims, suits, losses, pure economic damages, costs (including reasonable attorney's fees) and demands, administrative fees, penalties and fines imposed, and demands, including reasonable attorney's fees connected therewith, on account of personal injury, including death, or property damage, sustained by any person or entity not a part to this Agreement between CONSULTANT and TOWN to the extent such injury, death or damage is caused by the negligence or willful misconduct of TOWN or its CONSULTANTS or their respective employees, officers and agents.

TOWN agrees to the full extent permitted by law, to indemnify, defend, and hold harmless CONSULTANT, its officers, directors, shareholders, employees, affiliates, and

subsidiaries and their successors from and against any and all claims, demands, losses, penalties, fines and causes of action of every kind and character (including reasonable attorney fees) arising from or relating to Pre-existing Conditions.

#### IV. GENERAL TERMS

- 4.1 Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.
- 4.2 Governing Law. This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.
- 4.3 Termination of Agreement. The Town and the Consultant shall have the right to terminate this agreement with or without cause by giving not less than fifteen days (15) written notice of termination. In the event of termination, the Consultant shall deliver to the Town all plans, files, documents, reports, performed to date by the Consultant. In the event of such termination, Town shall pay Consultant an amount that bears the same ratio to the maximum contract price as the work delivered to the Town bears to completed services contemplated under this Agreement, unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in light of the particular facts and circumstances involved in such termination.
- 4.4 Prevailing Wages. This project is subject to the requirements of Section 1720 et seq. of the California Labor Code requiring the payment of prevailing wages, the training of apprentices and compliance with other applicable requirements. Contractors and all subcontractors who perform work on the project are required to comply with these requirements. Prevailing wages apply to all projects over \$1,000 which are defined as a "public work" by the State of California. This includes: construction, demolition, repair, alteration, maintenance and the installation of photovoltaic systems under a Power Purchase Agreement when certain conditions are met under Labor Code Section 1720.6. This include service and warranty work on public buildings and structures.
  - 4.4.1 The applicable California prevailing wage rate can be found at [www.dir.ca.gov](http://www.dir.ca.gov) and are on file with the Town of Los Gatos Parks and Public Works Department, which shall be available to any interested party upon request. The contractor is also required to have a copy of the applicable wage determination posted and/or available at each jobsite.

- 4.4.2 Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime, weekend and holiday pay, and shift pay must be paid pursuant to applicable Labor Code section.
- 4.4.3 The public entity for which work is being performed or the California Department of Industrial Relations may impose penalties upon contractors and subcontractors for failure to comply with prevailing wage requirements. These penalties are up to \$200 per day per worker for each wage violations identified; \$100 per day per worker for failure to provide the required paperwork and documentation requested within a 10-day window; and \$25 per day per worker for any overtime violation.
- 4.4.4 As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, the contractor agrees to present to the TOWN, along with its request for payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term “certified payroll” shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional documentation requested by the Agency or its designee including, but not limited to: certified payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.
- 4.4.5 In addition to submitting the certified payrolls and related documentation to the TOWN, the contractor and all subcontractors shall be required to submit certified payroll and related documents electronically to the California Department of Industrial Relations. Failure to submit payrolls to the DIR when mandated by the project parameters shall also result in the withholding of progress, retention and final payment.
- 4.4.6 No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- 4.4.7 No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors MUST be a registered “public works contractor” with the DIR AT THE TIME OF BID. Where the prime contract is less than \$15,000 for maintenance work or less than \$25,000 for construction alternation, demolition or repair work, registration is not required.

- 4.4.8 Should any contractor or subcontractors not be a registered public works contractor and perform work on the project, Contractor agrees to fully indemnify the TOWN for any fines assessed by the California Department of Industrial Relations against the TOWN for such violation, including all staff costs and attorney's fee relating to such fine.
- 4.4.9 The TOWN shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted, reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., the TOWN may continue to hold sufficient funds to cover estimated wages and penalties under the contract.
- 4.5 Amendment. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Consultant.
- 4.6 Disputes. In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.
- 4.7 Dispute Resolution. TOWN and CONSULTANT agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, effective as of the date of this Agreement.
- 4.8 Force Majeure. Neither party to this Agreement will be liable to the other party for delays in performing the services, nor for the direct or indirect cost resulting from such delays, that may result from labor strikes, riots, war, acts of governmental authorities, health crises, extraordinary weather conditions or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.
- 4.9 Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

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

Nichols Consulting Engineers  
 501 Canal Blvd., Suite I  
 Richmond, CA 94804

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

- 4.10 Certifications /Warranties. CONSULTANT neither makes, nor offers, nor shall CONSULTANT be liable to TOWN for any express or implied warranties with respect to the



performance of Services. Estimates of cost, approvals, recommendations, opinions, and decisions by CONSULTANT are made on the basis of CONSULTANT's experience, qualifications, and professional judgment and are not guaranteed. CONSULTANT shall not be regarded as a guarantor with respect to any work product provided to TOWN.

- 4.11 Third Party Reliance Upon Reports. All CONSULTANT work products are prepared solely for use by TOWN and shall not be provided to any other person or entity without CONSULTANT's written consent. TOWN shall indemnify CONSULTANT from and against any and all claims, liability, damages, actions or proceedings brought by any person or entity claiming to rely upon information or opinions contained in reports or other work products provided to such person or entity, published, disclosed or referred to without CONSULTANT's written consent.
- 4.12 Ownership and Retention of Documents. Reuse or modification of any such documents by TOWN, without CONSULTANT's written permission, shall be at TOWN's sole risk, and TOWN agrees to indemnify and hold CONSULTANT harmless from all claims, damages, and expenses, including attorney's fees, arising out of such reuse by TOWN or by others acting through TOWN.
- 4.13 Order of Precedence. In the event of any conflict, contradiction, or ambiguity between the terms and conditions of this Agreement in respect of the Products or Services and any attachments to this Agreement, then the terms and conditions of this Agreement shall prevail over attachments or other writings.
- 4.14 Entire Agreement. This Agreement, including all Exhibits, constitutes the complete and exclusive statement of the Agreement between the Town and Consultant. No terms, conditions, understandings or agreements purporting to modify or vary this Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

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

Town of Los Gatos by:

Consultant, by:

\_\_\_\_\_  
Laurel Prevetti, Town Manager

\_\_\_\_\_

Recommended by:

\_\_\_\_\_  
Matt Morley  
Director of Parks and Public Works

\_\_\_\_\_  
J. Ryan Shafer, PE, GE  
Principal

Approved as to Form:

\_\_\_\_\_  
Robert Schultz, Town Attorney

Attest:

\_\_\_\_\_  
Shelley Neis, CMC, Town Clerk



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 6

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DATE: April 14, 2021  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Authorize the Town Manager to Execute a First Amendment to the Agreement for Services with KCAT-TV to Transfer 177 Additional Archived Town Council and Planning Commission Meetings to the Town-Branded YouTube Channel for a Total Cost of \$3,540.

**RECOMMENDATION:**

Authorize the Town Manager to execute a First Amendment to the Agreement for Services with KCAT-TV to transfer 177 additional archived Town Council and Planning Commission meetings to the Town-branded YouTube Channel for a total cost of \$3,540.

**BACKGROUND:**

Since 2003, the Town has had an agreement with KCAT to provide cablecasting of Town meetings, including the recording and broadcasting of Town Council and Planning Commission meetings on television local channel 15. In 2010, the Town Council approved a five-year agreement to continue the cablecasting services and distribution of public, education, and government (PEG) funding. In 2015, the Town Council approved a five-year agreement to continue the public access funding and cablecasting services. In 2019, the Town Council approved a first amendment to that agreement to add livestreaming services, including streaming the live video feed to a Town-branded YouTube page, on-call engineering services to support technical issues, YouTube channel organization and management, and providing an mpg4 file to Town staff the day after the meeting occurs.

On September 1, 2020, the Town Council approved the current five-year agreement to continue public access funding, cablecasting, and livestreaming services. This agreement can be found as Attachment 1 to this report.

**PREPARED BY:** Holly Zappala  
Management Analyst

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

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PAGE 2 OF 2

SUBJECT: Authorize the Town Manager to Execute a First Amendment to the Agreement for Services with KCAT-TV

DATE: April 20, 2021

DISCUSSION:

A provision was included in the current agreement to allow for the transfer of archived Town Council and Planning Commission meetings from fiscal years 2015/16 through 2017/18 to the Town-branded YouTube Channel at a cost of \$20 per meeting. The transfer of these 158 total meetings was completed in fiscal year 2020/21 and the public now has access to view all of those meetings in full.

Upon completion of the transfer of meetings dating back to 2015/16, it was discovered that another 177 archived Town Council and Planning Commission meetings from fiscal years 2011/12 through 2014/15 are also available to be transferred. At the same fee of \$20 per meeting, the total cost to add these additional meetings to the YouTube Channel is \$3,540.

CONCLUSION:

The increased public access to archived Planning Commission and Town Council meeting videos aligns with the Town's focus of increasing transparency for the community. Staff recommends the Town Council authorize the Town Manager to execute a First Amendment to the Agreement for Services with KCAT to transfer the 177 additional archived meetings to the Town-branded YouTube Channel, with the cost to be absorbed in the current budget (Attachment 2).

COORDINATION:

This report has been prepared in coordination with the Clerk Department, Town Attorney, Finance Department, and Town Manager's Office.

FISCAL IMPACT:

The fiscal impact is anticipated to be an additional \$3,540, to be absorbed in the FY 2020/21 budget cycle.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Existing Agreement for Services with KCAT
2. Draft First Amendment to Agreement for Services with KCAT

## **AGREEMENT FOR PUBLIC ACCESS FUNDING, CABLECASTING, AND LIVESTREAMING SERVICES**

THIS AGREEMENT is made and entered into on September 1, 2020 by and between TOWN OF LOS GATOS, a California municipal corporation, (“Town”) and KCAT-TV (“KCAT”), whose address is 20 High School Court, Los Gatos, CA 95030. This Agreement is made with reference to the following facts.

### **I. RECITALS**

- 1.1 KCAT is a non-profit public access television station that serves the community of Los Gatos and Monte Sereno. KCAT can be viewed via Comcast Channel 15 by roughly 10,000 cable households in Los Gatos and Monte Sereno.
- 1.2 The Town has always supported public access television within its jurisdictional limits and seeks, in this Agreement to provide a more stable funding source to support public, educational, and governmental cablecasting.
- 1.3 The Agreement will serve as a contract with the Town to pay for KCAT services rendered to cablecast and livestream Town Brown Act meetings.
- 1.4 The parties to this Agreement replace and supersede all previous agreements between the parties related to public access television.

### **II. REPRESENTATIONS AND WARRANTIES OF KCAT**

- 2.1 KCAT Status. KCAT shall be an independent contractor and not an agent or employee of the Town. KCAT shall be duly organized, validly existing and in good standing under the laws of the State of California and has the power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.
- 2.2 KCAT Authorization. KCAT has the authority to enter into and perform its obligations under this Agreement. The Board of Directors and KCAT (or the shareholders, if necessary) have taken all actions required by law, its articles of incorporation, its bylaws, or otherwise to authorize the execution of this Agreement. The persons signing this Agreement on behalf of KCAT have the authority to do so.
- 2.3 Equal Employment Opportunity. KCAT warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal opportunity employment. KCAT shall not discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.

- 2.4 Compliance with Laws and Regulations. KCAT shall comply with all existing and future Town, County, State, and Federal Laws, including all environmental laws.
- 2.5 Permits and Licenses. KCAT shall procure and maintain in force and effect all necessary governmental permits and licenses and give all notices necessary to the due and lawful performance of the work contemplated herein. KCAT shall pay the currently approved amount for an annual business license to operate in the Town as delineated in the Town code.

**III. TERM OF AGREEMENT**

- 3.1 Term of Agreement. The effective date of this Agreement shall be September 1, 2020. The term of this agreement shall be for a period of five years, commencing on September 1, 2020 and expiring at midnight on June 30, 2025. The Town shall, at its sole discretion, extend this Agreement on a year to year basis depending on the Town budget appropriations for these services. The terms and conditions of this Agreement, including compensation, shall be applicable during said extension unless the parties mutually agree on any changes.

**IV. SCOPE OF AGREEMENT**

- 4.1 Scope of Agreement. The Agreement granted to KCAT shall be for the video production of sixty (60) Regular Town Brown Act meetings per year. Production includes cablecast and live streaming services from the Town Council Chambers of, at a minimum:
  - Town Council meetings, generally scheduled on the first and third Tuesday of each month,
  - Planning Commission meetings, generally scheduled on the second and fourth Wednesdays of each month, and
  - Pension and OPEB Trusts Oversight Committee meetings as scheduled.

Additional meetings may include special meetings, study sessions, and regular or continued meetings. The Town Manager or their designee shall have the authority to designate a Special Town Brown Act meeting or any other Committee/Board meeting in place of a regular Town Brown Act meeting.

- 4.2 Administration of Agreement. The Town Manager, and/or their designee, shall administer this Agreement and supervise KCAT compliance with the Agreement terms and conditions.
- 4.3 Ownership of Video Recorded Town Brown Act Meetings. All Town Brown Act meetings video recorded and live streamed by KCAT pursuant to this Agreement shall be property of the Town.

## V. DIRECT SERVICES

- 5.1 General. The video production work to be done by KCAT pursuant to this Agreement shall include the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required, except as provided elsewhere in this Agreement. KCAT shall, at all times during the term of this Agreement, provide quality, efficient, technical and professional service to the reasonable satisfaction of Town and shall perform all work required under this Agreement.
- 5.2 Video Production Schedules. Town shall provide a list of all anticipated regular Town Brown Act meetings, including the dates, times and locations for each meeting. KCAT shall establish schedules for video production of meetings, including set up and take down, and shall notify the Town of said schedules.
- 5.3 Operations and Equipment. KCAT shall be responsible for the management and operation of the video production services provided pursuant to this Agreement, including but not limited to training and meeting-to-meeting supervision of operations. KCAT will provide appropriate technical staff, temporary operators, and an in-chamber assistant trained in the specific aspects of meeting coverage and use of the audio and video systems. Technical staff, temporary operators, and the in-chamber assistant will demonstrate proficiency with all relevant broadcasting equipment.

KCAT will arrange for two (2) alternates to act as temporary operators, if KCAT cannot provide agreed upon services due to illness, emergency, or other reasonable circumstances. The two (2) alternates shall be mutually agreed upon by the KCAT and the Town. Alternates shall be both technically trained and competent to operate the Town's video production equipment. In KCAT's presence, alternates shall work a minimum of one (1) Council Meeting per year, not to exceed six (6) hours per year, per alternate, as training on the Town's video production equipment.

The Town shall provide all equipment necessary at Council Chambers to record Brown Act meetings under this Agreement. KCAT will provide technical consultation for the repair, modification, and upgrade of the Town-owned video production equipment. KCAT shall provide all routine maintenance, repair, and replacement of all cablecasting equipment at the level necessary to permit the equipment to achieve its useful life. This maintenance does not include maintenance of the external cable link between Town Hall and KCAT. Said equipment shall be operated in a safe manner consistent with reasonable industry standards. KCAT will provide initial system checks, 60 (sixty) minutes prior to scheduled meetings to ensure that the video and sound production equipment is performing per specifications.

KCAT shall not use Town video broadcasting equipment for any other purpose other than this Agreement, unless written consent is given by the Town. Cablecasting and

broadcasting equipment shall be operated at all times by the technical and temporary staff covered in this Agreement.

KCAT will provide gavel to gavel meeting coverage and is responsible for securing the video production equipment room after cablecasting, tape duplication, or other activities.

- 5.4 Livestreaming. KCAT's livestreaming services include streaming the live video to the Town of Los Gatos branded YouTube page during the meeting, archiving the meeting recordings on the YouTube channel for viewing later, on-call engineering services to support technical issues, YouTube channel organization and management, and providing an mpg4 file to Town staff the day after the meeting occurs.

## VI. OTHER SERVICES

- 6.1 Playback. KCAT will air previously recorded meetings covered by this agreement on its Community Access Channel (Channel 15/ KCAT) based on its program/schedule availability.
- 6.2 Special Events. KCAT will work cooperatively with Town staff regarding the live cablecast of any additional special events at a mutually agreed upon price, date, and time.
- 6.3 Liaison with Town. KCAT shall maintain an on-going liaison with the Town regarding all video production and insertion point activities, and any matters relating to the performance of this Agreement, including complaints.
- 6.4 Records. KCAT shall maintain a general ledger and detailed books of account showing the receipt and expenditure of all funds received from Town for not less than five (5) years following completion of the work, the receipt of funds and the expenditure of funds under this Agreement. KCAT shall make these records available to authorized personnel of the Town at KCAT's offices during business hours upon written request of the Town.

If an audit conducted by the Town demonstrates inappropriate expenditures of public funds by KCAT, including PEG funds, KCAT shall reimburse said expenditures and restore the funding as may be required. If any audit by Town discloses a discrepancy in allowed expenditures of more than five percent (5%) in any one year, KCAT shall reimburse Town for the cost of the audit, including any staff time contributed to the securing or management of the audit and/or the required follow-up actions.

KCAT shall maintain detailed records and books of account showing the receipt of and expenditure of all PEG Funding and Grant Funding received from Town. KCAT acknowledges that PEG funding is strictly limited to certain expenditures for capital costs, equipment, and facilities.



On or before March 1st of each year, beginning with March 1, 2021, KCAT shall submit a written report and analysis of all funds received from Town in the prior calendar year and a listing of expenditures made with said funds or from the accumulation or interest/investment earnings on said funds. The report shall be submitted to the Town Manager.

- 6.5 Adjustments to Level of Video Production Services. The Town has the right to request additional video production services. Compensation for any additional video production service shall be pursuant to Article 7.1. Similarly, the Town has the right to reduce video production services in the event of budgetary reductions. Any reduction in compensation paid by TOWN would be negotiated and agreed upon by both parties.

## VII. KCAT'S COMPENSATION

- 7.1 Compensation. The Town shall compensate KCAT in the amount of **\$60,000 per year** or \$5,000 per month for sixty (60) regular Town Brown Act meetings. This price includes \$48,000 for annual cablecasting services and \$12,000 for annual live streaming services. This price includes set-up, testing, meeting time, transfer time, upload time, data storage fees, television programming, and site management. No overtime will be applicable. The Town Manager shall have the authority to designate a Special Town Brown Act meeting in place of a Regular Town Brown Act meeting.

The Town shall compensate KCAT for meetings exceeding the regular 60 Town Brown Act meetings or Special Meetings designated by the Town Manager at **\$1,000 per meeting**. This price includes \$800 for cablecasting services and \$200 for livestreaming services. Any such meeting above 60 shall be approved in writing by the Town Manager.

The Town will provide written notice to KCAT for additional meetings or cancellations as far in advance as is possible under the circumstances. The Town shall compensate KCAT a \$235 flat fee for the cancelation of any meeting other than the 60 meetings.

KCAT will provide to the Town at no cost, two (2) recordings of all meetings covered by this Agreement on broadcast quality DVD. Recordings of meetings shall be given to the Town for its records. Any additional recording requests by the Town shall be paid a \$20 per DVD duplication for meetings under two hours and \$30 per DVD for meetings over three hours.

At the Town's written request, KCAT will transfer any specified archived meeting recordings (years 2015 – 2018) to the Town-branded YouTube channel for a fee of \$20 per meeting transfer/upload.

The base compensation amount shall be adjusted annually each year beginning July 1, 2021, and will be determined by multiplying the percentage change in the Consumer Price Index for the San Francisco Bay Area, California, USA, as determined by the United States Department of Labor. Any CPI adjustment will be annually calculated on each April 1 to

take effect July 1. The index used shall be the index for the most recent full twelve-month period for which the index is available. Any CPI adjustment can be a decrease as well as an increase based on the above-mentioned index used, not to exceed +/- 3% per year.

- 7.2 Public Access Funding. Town agrees to pay forward to KCAT any PEG funds within fifteen (15) days of receipt by Town. Said funds are to be used for public access television services in Town, provided the expenditure of PEG funds so received shall be made in strict compliance with the law relative to PEG funding, as it may be amended from time to time.

Notwithstanding the obligation to pay forward PEG funds to KCAT, Town shall at all times retain a PEG funds balance received by Town in the amount of \$50,000 and said funds shall be placed in an equipment reserve account. These funds will be made available, as approved by the Town, for major maintenance, replacement or upgrading of the cablecast and related technology resources in the Town Council chambers. When money in the equipment reserve account is spent, it will be replenished by the Town depositing 10% of the PEG funding received until the \$50,000 is reached.

- 7.3 Invoices. KCAT shall submit to the Town by the 15th of each month an invoice for the services provided during the previous month. Said invoice shall indicate at a minimum the work performed during the month and the monthly fee. Recorded meetings for the month invoiced shall be submitted to the Town prior to payment of the invoice. All invoices and statements to the Town shall be addressed as follows (email is the preferable method of delivery):

Invoices:  
By email to: AP@losgatosca.gov or  
Town of Los Gatos  
Attn: Accounts Payable  
P.O. Box 655  
Los Gatos, CA 95031-0655

- 7.4 Payments. The Town shall pay monthly within twenty (20) days after receipt of a complete and accurate invoice and submission of the required number of recorded copies for Town meetings.

The Town reserves the right to withhold payment either wholly or partially if said electronically recorded audio/visual meeting content is not provided or if KCAT fails to provide on a consistent basis sufficient qualified personnel for video production activities.

## VIII. INDEMNIFICATION, INSURANCE AND BOND

- 8.1 Indemnification. KCAT shall indemnify and hold harmless the Town and its officers, officials, employees and volunteers from and against all claims, damages, losses and

expenses including attorney's fees and litigation expenses arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of KCAT or anyone directly or indirectly employed by KCAT, except where caused by the active negligence, sole negligence, or willful misconduct of the Town. KCAT's duty to indemnify and defend shall survive the expiration or earlier termination of the Agreement.

- 8.2 **Insurance.** Town requirements and such other insurance as required by law and to protect against loss from liability imposed by law for damages on account of bodily injury and property damage. The insurance shall name on the policy, as additional insured, the Town of Los Gatos, its officers, employees and agents. Insurance coverage with a minimum combined single limit in an amount established by the Town Attorney which must be maintained for the duration of this Agreement and the insurance company must provide the Town with thirty (30) days' written notice of cancellation of the policy. Coverage provisions, including limits, shall otherwise be in accordance with Town policy.

Lack of insurance does not negate the KCAT's obligation under this Agreement. KCAT agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, KCAT shall look solely to its insurance for recovery, except where caused by the active negligence, sole negligence, or willful misconduct of the Town. KCAT hereby grants to the Town, on behalf of any insurer providing insurance to either KCAT or Town with respect to the services of KCAT herein, a waiver of any right to subrogation which any such insurer of said KCAT may acquire against the Town by virtue of the payment of any loss under such insurance.

Insurance shall be secured and approved by the Town Attorney prior to commencement of work according to this Agreement.

Maintenance of proper insurance coverage is a material element of this Agreement and failure to maintain or renew coverage or to provide evidence of coverage and/or renewal may be treated by the Town as a material breach of Agreement. KCAT shall forward the Town specifications and forms to KCAT for compliance.

## IX. DEFAULTS AND REMEDIES

- 9.1 **Events of Default.** All provisions of this Agreement to be performed by KCAT are considered material. Each of the following shall constitute an event of default.

- A. **Fraud or Deceit.** If KCAT practices, or attempts to practice, any fraud or deceit upon the Town.
- B. **Insolvency or Bankruptcy.** If KCAT shall at any time during the term of this Agreement become insolvent, or if proceedings in bankruptcy shall be instituted by or against KCAT, or if KCAT shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy or a receiver of any property of KCAT shall be appointed in any suit or proceeding brought by or against KCAT, or if KCAT shall

make an assignment for the benefit of creditors, then and in each and every such case, TOWN may at its sole discretion immediately terminate this Agreement upon written notice to KCAT and without the necessity of suit or other proceeding and avail itself of any of the various remedies set forth in Article 9.10 herein below or any other remedies provided by law. KCAT shall provide written notice to Town in a timely manner in the event KCAT files for bankruptcy or takes any other action as protection from creditors during the term of this Agreement.

- C. **Failure to Maintain Coverage.** If KCAT fails to provide or maintain in full force and effect the insurance or performance surety requirements pursuant to Article 8.
- D. **Failure to Perform.** If KCAT ceases to provide video production services as required under this Agreement for a period of two (2) meetings, for any reason within the control of KCAT.
- E. **Failure to Provide Recorded Meetings/Records.** If KCAT fails to provide the required number of copies for each Town meeting recorded under this agreement and/or refuses to provide the Town with required information and/or records in a timely manner as provided for in the Agreement.
- F. **Acts or Omissions.** Any other act or omission by KCAT which violates the terms, conditions, or requirements of this Agreement as it may be amended from time to time, or any order, directive, rule, or regulation issued thereunder and which is not corrected or remedied within the time set in the written notice of violation or, if KCAT cannot reasonably correct or remedy the breach within the time set forth in such notice, if KCAT should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.
- G. **False or Misleading Statements.** Any representation or disclosure made to the Town by KCAT in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, which proved to be false or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement.

9.2 **Breach and Termination.** All terms and conditions of this Agreement are material and binding, and failure by KCAT to perform any portion of the work described herein or any related covenants or agreements shall be considered a breach of this Agreement. In the event this Agreement is breached in any manner, Town may at its sole option terminate this Agreement no less than twenty (20) days after written notice is given to KCAT setting forth the breach and KCAT fails, neglects, or refuses to remedy said breach. KCAT shall thereafter have no further rights, powers, or privileges against Town under or arising out of this Agreement. In the event a breach does not result in termination, but does result in costs being incurred by Town, said costs shall be deducted from any amounts due or to become due to KCAT.

In addition to all other remedies and damages provided by law in the event of a breach of this Agreement, Town may, at its sole discretion, assess the actual damage caused by the

breach as the remedy and obtain said remedy through set-off against KCAT's invoice or by any other appropriate procedure, including but not limited to wholly or partially withholding payment of any amounts billed to Town by KCAT. Town may also provide, directly or through a contract, the services required under this Agreement and deduct actual costs to Town from any amounts due or to become due to KCAT, including but not limited to start-up costs, labor, material, and equipment. The provisions of this Article shall not be exclusive, but shall be cumulative and in addition to any other remedies provided herein or pursuant to law.

In the event Town terminates this Agreement as provided herein, KCAT shall meet all terms and conditions of this Agreement through the effective date of said termination. In the event there is a transition to a different KCAT, KCAT shall cooperate with Town and any successor KCAT the Town may select to provide the services required herein. In the event KCAT fails to comply with the conditions of this paragraph, Town may withhold any compensation due KCAT until KCAT complies.

## **X. GENERAL PROVISIONS**

- 10.1 Relationship of Parties. KCAT shall be an independent contractor and not an agent or employee of TOWN. KCAT shall not represent that KCAT is an agent or employee of Town. KCAT shall not give any person any reason to believe KCAT is an agent or employee of Town. No act of KCAT shall bind or obligate Town.

KCAT assumes full and sole responsibility for the payment of all compensation and all other expenses related to KCAT's personnel, including but not limited to state and federal income taxes, Social Security contributions, workers compensation, and disability and unemployment insurance contributions. KCAT shall be responsible for the payment of all required state and federal taxes. KCAT agrees Town shall not be requested or obligated to withhold from payments to KCAT Social Security contributions or state and federal income taxes.

KCAT and KCAT's employees shall not be entitled to any employment benefits provided by the Town to Town employees. In the event KCAT provides similar benefits to KCAT's employees, KCAT shall be fully responsible for purchasing said benefits separately and independently of the relationship established between Town and KCAT under this Agreement.

- 10.2 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.
- 10.3 No Self Dealing. Due in-part to the public funding provided in this Agreement, no KCAT Board Member may be financially interested in any contract, expenditure, purchase, or grant made by KCAT. KCAT employees are likewise excluded from any financial interest in

any contract, expenditure, purchase, or grant by or from KCAT. For the purpose of this section, financial interest shall be determined pursuant to Government Code 1090, *et. seq.*

- 10.4 Project Manager. The Project Manager for KCAT for the work under this Agreement shall be Melissa Toren, KCAT-TV Executive Director, or an appropriate KCAT-TV Board designee. Town shall designate a Town staff member to serve as a liaison to the Board and who will serve as an ex-officio board member. The ex-officio board member shall be entitled to, but not required to attend all meetings of the Board and be permitted to participate in all discussions, but not vote. The ex-officio member shall receive advance written notice of all meetings of the board.
- 10.5 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to KCAT. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
- 10.6 Transition to Next Contractor. If the transition of services to another Contractor occurs through expiration of term, default and termination, or otherwise, KCAT will cooperate with TOWN and subsequent Contractor(s) to assist in an orderly transition.
- 10.7 Reservation of Rights. It is hereby expressly agreed by and between the parties hereto that Town shall have, and there is hereby reserved unto Town and to its officers and officials, all rights, powers, and privileges which might be expressly set out in this Agreement in favor of Town and its officers. The express mention of certain rights, powers, and privileges in favor of Town is not intended to and shall not be deemed or construed to exclude any other right, power, or privilege in favor of Town that might be expressly reserved herein.
- 10.8 Non-Waiver. No acquiescence, failure, or neglect of either party to insist upon strict performance of any or all of the provisions of this Agreement shall be construed to constitute a waiver of any term, condition, or provision of this Agreement nor of any performance required hereunder, nor of any remedy, damages, or other liability arising as a result of any failure of performance, neglect, or inability to perform at any time.
- 10.9 Severability. If any term or provision of this Agreement shall to any extent be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 10.10 Survival. Upon the expiration or termination of this Agreement, each party shall be released from all obligations and liabilities to the other occurring or arising after the date of such expiration or termination, except that any expiration or termination of this Agreement shall not relieve KCAT of KCAT's obligations under Articles 8.1, nor shall any such expiration or termination relieve KCAT from any liability arising from any breach of this Agreement.

- 10.11 Waiver of Performance. The parties to this Agreement shall be excused from performance hereunder during the time and to the extent that they are prevented from performing their respective responsibilities by an act of God, fire, strike, lockout, or commandeering of materials, products, plants, or facilities by the state or federal government, when satisfactory evidence therefore is presented to the other party, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.
- 10.12 Governing Law. This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.
- 10.13 Disputes. In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.
- 10.14 Entire Agreement and Notice. This Agreement, together with the Exhibits attached hereto and incorporated herein by reference, contains the full, complete, and entire agreement between the parties and replaces and supersedes all previous agreements, understandings, and arrangements between the parties with respect to the subject matter hereto. This Agreement may not be modified except by written agreement expressly authorized by TOWN and as mutually agreed by the parties. All notices hereunder and communications with respect to this Agreement shall be in writing and shall be effective upon the mailing thereof by registered or certified mail, return receipt requested, and postage prepaid as follows:

To Town:  
Town of Los Gatos  
Town Manager  
110 E. Main Street  
Los Gatos, CA 95030

To KCAT:  
KCAT-TV Station Manager  
20 High School Court  
Los Gatos, CA 95030

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

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

Town of Los Gatos by:

KCAT, by:

DocuSigned by:  
*Laurel Prevetti*  
853FEEA2EB39470...  
Laurel Prevetti, Town Manager

DocuSigned by:  
*Melissa Toren*  
4CA8B462111D4D6...

Melissa Toren Executive Director  
Printed Name and Title

Approved as to Form:

DocuSigned by:  
*Robert W. Schultz*  
2FE093855B744C...  
Robert Schultz, Town Attorney

Attest:

DocuSigned by:  
*Shelley Neis*  
B9666F65B1F34F6...  
Shelley Neis, MMC, CPMC  
Town Clerk



FIRST AMENDMENT TO AGREEMENT

This FIRST AMENDMENT TO AGREEMENT is dated for identification this \_\_\_\_ day of April, 2021 and amends that certain Agreement for Public Access Funding, Cablecasting, and Livestreaming Services dated September 1, 2020, made by and between the Town of Los Gatos ("Town"), and KCAT-TV, a non-profit public access television station ("KCAT").

RECITALS

- A. Town and KCAT entered into an Agreement for Public Access Funding, Cablecasting, and Livestreaming Services on September 1, 2020 ("Agreement"), a copy of which is attached hereto and incorporated by reference as Attachment 1 to this Amendment.

FIRST AMENDMENT

- 1. Agreement 20.143 for Public Access Funding and Cablecasting Services is amended to include the following:

At the Town’s written request, KCAT will transfer any specified archived meeting recordings to the Town-branded YouTube channel for a fee of \$20 per meeting transfer/upload.

KCAT will transfer 177 additional Town Council and Planning Commission meetings from previous fiscal years 2011/12 through 2014/15 for a total cost of \$3,540 to be completed during fiscal year(s) 2020/21 and/or 2021/22.

- 2. All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Town and KCAT have executed this Amendment.

**Town of Los Gatos, by:**

**KCAT-TV., by:**

\_\_\_\_\_  
Laurel Prevetti, Town Manager

\_\_\_\_\_  
Melissa Toren, Station Manager

Approved as to Form:

\_\_\_\_\_  
Robert Schultz, Town Attorney

Attest:

\_\_\_\_\_  
Shelley Neis, MMC, CPMC  
Town Clerk



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 7

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DATE: April 15, 2021  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Authorize the Town Manager to:  
a. Purchase Two Patrol Motorcycles from Long Beach BMW in an Amount not to Exceed \$65,750; and  
b. Execute a Summary Vehicle Quotation to Extend the Commercial Motor Vehicle Master Lease Agreement with Mike Albert, LTD. in an Amount not to Exceed \$3,000 for a 12-Month Lease Extension for Two Electric Vehicles, for a Total Lease Amount Not to Exceed \$66,010.

**RECOMMENDATION:**

Authorize the Town Manager to:

- a. Purchase two patrol motorcycles from Long Beach BMW in an amount not to exceed \$65,750 (Attachment 1); and
- b. Execute a summary vehicle quotation (Attachment 2) to extend the commercial motor vehicle master agreement with Mike Albert, LTD. in an amount not to exceed \$3,000 for a 12-month lease extension for two electric vehicles, for a total lease amount not to exceed \$66,010.

**BACKGROUND:**

As part of the Fiscal Year 2020/21 Operating Budget, the Equipment Replacement Fund was approved, providing funds for replacement of high mileage or older vehicles that have reached their replacement criteria or do not meet federal regulations for emissions. The Town's goal is to amortize a vehicle's replacement over its forecasted life and set funds aside on an annual basis to ensure the Equipment Replacement Fund has sufficient resources for the timely replacement of vehicles. In addition, this funding structure allows for a smoothing of operating expenditures and a more accurate reflection of the actual cost of operations.

**PREPARED BY:** Jim Harbin  
Superintendent

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

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PAGE 2 OF 4

SUBJECT: Authorize the Town Manager to:

- a. Purchase Two Patrol Motorcycles from Long Beach BMW in an Amount not to Exceed \$65,750 and
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DATE: April 15, 2021

BACKGROUND (continued)

In 2013, the Town participated in an initiative with the Cities of San Jose, Campbell, and Mill Valley to deploy Mitsubishi all electric vehicles (MiEVs) to lower the Town's carbon footprint in alignment with the Town's Sustainability Plan. The vehicles were secured under individual lease agreements with participating agencies through Mike Albert, LTD., and after usage reviews and lease extensions in 2016, 2018, and 2020, two MiEVs still remain in the fleet assigned to the Police Department at a current rate of \$135 per month per vehicle.

The Town Vehicle and Equipment Acquisition and Replacement Policy (Attachment 3) determines which assets should be replaced by evaluating predetermined age and/or mileage criteria. There are two assets recommended for replacement and two assets recommended for lease extensions at this time.

DISCUSSION:

Two Police Motorcycles

The Police Department currently operates a total of two 2015 Honda ST1300 motorcycles equipped as support vehicles for patrol. These two motorcycles are recommended for replacement as they are over six years old and have reached the identified criteria for replacement of 4 years and/or 42,000 miles. The lead time for purchasing and equipping new patrol vehicles will result in increased age and mileage.

Staff compared multiple vehicle models to determine the best option for replacement. In prior motorcycle purchases, staff has taken into consideration several factors including the purpose of the vehicle, capabilities of the proposed vehicle, the vehicle's fuel consumption, and overall cost.

The Police and Parks and Public Works Departments have evaluated options currently in production as a replacement vehicle. There are currently three motorcycle models in production with build out programs suitable for Police pursuit. While Honda and Harley Davidson are options as patrol motors, the build out to current Police pursuit standards is mostly custom and difficult to achieve as technology has outpaced those pursuit programs.

PAGE 3 OF 4

SUBJECT: Authorize the Town Manager to:

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DATE: April 15, 2021

DISCUSSION (continued):

The BMW R1250 is the preferred model for replacement as BMW's pursuit program leads the industry and most options come standard and are fully integrated, rather than add-ons and conversions installed by third party companies.

In accordance with the Town's Purchasing Policy Section 7c (Cooperative Purchasing), the purchase of these vehicles is based on a formal bid process completed by the State of California Department of General Services, which allows for other municipalities to purchase vehicles using the State formal bid process and pricing. The budget allows for replacement of each of the vehicles as recommended in this report.

Two Leased MiEVs

The lease agreement for the two MiEVs expires April 30, 2021 and staff reviewed mileage of both vehicles and determined the vehicles met minimum requirements for usage and should be evaluated again in 12 months. A reduced monthly rate has been negotiated for the two vehicles for an additional 12-month period effective May 1, 2021 through April 30, 2022. The cost per vehicle is \$125 per month totaling \$250 per month for both vehicles, for a total amount of \$3,000 for the 12-month term of lease. With this addition, the total cost of the lease since inception in 2013 will not exceed \$63,010.

During the FY 2019/20 lease renewal process there was never a lapse in payment for the lease with Mike Albert, LTD. After Council approval on May 19, 2020 the vendor received the signed lease from the Town and due to the timing of the vendors billing cycle the vendor adjusted the renewal effective date by two months to July 1, 2020, thus appearing to have a lapse of the lease. To allow for consistency, this lease will renew from May 1, 2021 through June 30, 2022.

CONCLUSION:

Authorize the Town Manager to purchase the vehicles and extend the lease agreements described in this report.

PAGE 4 OF 4

SUBJECT: Authorize the Town Manager to:

- a. Purchase Two Patrol Motorcycles from Long Beach BMW in an Amount not to Exceed \$65,750 and
- b. Execute a Summary Vehicle Quotation to Extend the Commercial Motor Vehicle Master Lease Agreement with Mike Albert, LTD. in an Amount not to Exceed \$3,000 for a 12-Month Lease Extension for Two Electric Vehicles, for a Total Lease Amount not to Exceed \$66,010.

DATE: April 15, 2021

FISCAL IMPACT:

There are sufficient funds available in the Equipment Replacement Fund to purchase these motorcycles. Funds for the MiEV lease extensions are available for the remainder of the current fiscal year and are contingent on approval of the Proposed FY2021/22 Operating Budget for the Police Department.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Motorcycle Bid Proposal Document
2. Lease Extension Documents
3. Town Vehicle and Equipment Acquisition and Replacement Policy





Mike Albert, Ltd  
 10340 Evendale Drive  
 Cincinnati, OH 45241-2564  
 1-800-886-5828



Mike Albert Leasing, Inc.  
 10340 Evendale Drive  
 Cincinnati, OH 45241-2564  
 1-800-886-5828

**Vehicle Quotation "VQ"**  
 Factory Order

**Formal Lease Extension**

**Start Date: 07/01/2021**

**Beginning Mileage: 31,421**

**VIN # JA3215H11CU033147**

Quotation Reference # 555594/1/1  
 March 22, 2021  
 CSS: Hahn

Lessee: 00028466 Town of Los Gatos

Town of Los Gatos  
 110 E. Main St.  
 Los Gatos, CA 95030

Driver Grade Group: U Unassigned

This Vehicle Quotation or "VQ" refers to the following agreements as amended, modified, or supplemented from time to time and incorporates their terms and conditions herein:

Closed-End Commercial Motor Vehicle Master Lease Agreement 105638

Programs applicable to this VQ and the related leased Vehicles include the following:

**Vehicle Details:** 2012 Mitsubishi i-MiEV ES 4dr Hatchback (EV44-B) (0 P) Diamond White Pearl (W13-01)  
**Expected Order to Delivery:** 2 - 4 Weeks (does not include vehicle prep time, typically 1-2 weeks)  
**Lease Term:** 12  
**Permitted Mileage:** 5,000  
**Security Deposit:** \$0.00  
**Capital Contribution:** \$0.00

**Standard Equipment:**

Monotone Paint Application (PAINT-01)  
 Front Bucket Seats (STDST-01)  
 Cloth Seat Trim (STDTM-01)  
 Engine: AC Synchronous Electric (STDEN-01)  
 Transmission: Single Fixed Reduction Gear (STDTN-01)  
 Wheels: 15" (STDWL-01)  
 Tires: P145/65R15 Fr & P175/60R15 Rr (STDTR-01)  
 Radio: 100-Watt AM/FM/CD Audio System (STDRD-01)

**Optional Factory Equipment:**

Cold Zone Package (P1-01)  
 Battery Warming System (BWS-01)  
 Heated Sideview Mirrors (MIRR-01)

**After Market Equipment:**

Quick Charge Pkg

**One-Time Charge Equipment:**

**Total Monthly Costs:**

Monthly Lease Rate (Option B described below applies)	\$125.00
Additional Services	\$0.00
<b>Total Monthly Payment</b>	<b>\$125.00</b>

The following Specified Services/Items are included in this quotation (plus any applicable taxes):

The per occurrence fees are not included in the lease rate, but will be billed as they occur:

**Excess Mileage Rates:**

0 - 99,999	\$0.08
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**Calculation Method for Lease Rate:**

**Interim Financing Cost for Vehicles delivered to Lessor before Lessee takes delivery:**

(B) This lease rate is indexed to the Applicable SWAP Rate and will be adjusted for changes in the interest rate, "Liquidity Adjustment" and manufacturer's costs at the time of delivery. The "Liquidity Adjustment" is an amount determined by the Lessor which is based on an increase in the cost of funds in the relevant credit markets.

## Vehicle Quotation "VQ"

If the terms and conditions of this VQ are acceptable, please have an authorized officer execute this VQ in the space provided below. By executing this VQ, the undersigned shall be deemed to have agreed to order Vehicles from time to time in accordance with the specifications and terms listed above by submitting a Vehicle Lease Order with respect to a Vehicle that references this VQ.

The undersigned hereby agrees that Mike Albert, Ltd shall have no obligations under the Services Agreement or Telematics Agreement at any time, and that the obligations set forth in any Services Agreement or Telematics Agreement are solely the obligations of Mike Albert Leasing, Inc. (MAL). This VQ expires in 360 days, and after such time no Vehicles may be ordered for the lease pursuant to the terms of this VQ. IN WITNESS WHEREOF, the undersigned has hereto caused this VQ to be executed.

Mike Albert, Ltd & Mike Albert Leasing, Inc.  
10340 Evendale Drive  
Cincinnati, OH 45241

\_\_\_\_\_  
By: Lessor under the Master Lease Agreement & Servicer under the Services Agreement

\_\_\_\_\_  
Signature of Permitted Signer of Lessee or its Authorized Affiliate

Date: \_\_\_\_\_

Name (print): \_\_\_\_\_

Please review the terms and specifications set forth in the VQ for accuracy. Please fax any necessary modifications to this VQ to (513) 956-2962 or email [customerrelations@mikealbert.com](mailto:customerrelations@mikealbert.com)





**MIKE ALBERT**

Mike Albert, Ltd  
10340 Evendale Drive  
Cincinnati, OH 45241-2564  
1-800-886-5828



**MIKE ALBERT**

Mike Albert Leasing, Inc.  
10340 Evendale Drive  
Cincinnati, OH 45241-2564  
1-800-886-5828

Quotation Reference # 555595/1/1  
March 22, 2021  
CSS: Hahn

**Vehicle Quotation "VQ"**  
Factory Order  
**Formal Lease Extension**

**Start Date: 07/01/2021**  
**Starting Mileage: 32,167**  
**VIN# : JA3215H19CU033140**

Lessee: 00028466 Town of Los Gatos

Town of Los Gatos  
110 E. Main St.  
Los Gatos, CA 95030  
Driver Grade Group: U Unassigned

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Transmission: Single Fixed Reduction Gear (STDTN-01)  
Wheels: 15" (STDWL-01)  
Tires: P145/65R15 Fr & P175/60R15 Rr (STDTR-01)  
Radio: 100-Watt AM/FM/CD Audio System (STDRD-01)

**Optional Factory Equipment:**

Cold Zone Package (P1-01)  
Battery Warming System (BWS-01)  
Heated Sideview Mirrors (MIRR-01)

**After Market Equipment:**

Quick Charge Pkg

**One-Time Charge Equipment:**

**Total Monthly Costs:**

Monthly Lease Rate (Option B described below applies)	\$125.00
Additional Services	\$0.00
<b>Total Monthly Payment</b>	<b>\$125.00</b>

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Mike Albert, Ltd & Mike Albert Leasing, Inc.  
10340 Evendale Drive  
Cincinnati, OH 45241

---

By: Lessor under the Master Lease Agreement & Servicer under the Services Agreement

---

Signature of Permitted Signer of Lessee or its Authorized Affiliate

Date: \_\_\_\_\_

Name (print): \_\_\_\_\_

Please review the terms and specifications set forth in the VQ for accuracy. Please fax any necessary modifications to this VQ to (513) 956-2962 or email [customerrelations@mikealbert.com](mailto:customerrelations@mikealbert.com)



**COUNCIL POLICY MANUAL**  
*Small Town Service    Community Stewardship    Future Focus*

<b>TITLE:</b> Town Vehicle and Equipment Acquisition and Replacement Policy		<b>POLICY NUMBER:</b> 4-05
<b>EFFECTIVE DATE:</b> 4/6/1994		<b>PAGES:</b> 3
<b>ENABLING ACTIONS:</b>	<b>REVISED DATES:</b> 5/26/1998	
<b>APPROVED:</b> Mayor Linda Lubeck		

**PURPOSE**

To set forth specific procedures for the acquisition and disposal of vehicle and motorized equipment used by the Town of Los Gatos.

**SCOPE**

This policy will apply to the acquisition and disposal of vehicles and equipment used by all Town Departments.

**POLICY**

When purchasing vehicles or motorized equipment or disposing of surplus vehicles and equipment, the following will apply:

- A. Replacement of vehicles and motorized equipment is based on an equipment replacement schedule that allows for replacement on a programmed cycle. The recommended basis is as follows:

<u>Vehicle/Equipment Type</u>	<u>Replacement Cycle</u>
Police Patrol	3 years and/or 85,000 miles
Police Undercover (used, 1 to 2 years old)	4 years and/or 75,000 miles
Police Sedans (used, 1 to 2 years old)	4 years and/or 75,000 miles
Motor Cycles	4 years and/or 42,000 miles
Parking Vehicles	6 years and/or 75,000 miles
All-Terrain Vehicle	8 years and/or 50,000 miles
Police Vans	6 years and/or 85,000 miles
Sedans (new)	8 years and/or 85,000 miles

<b>TITLE:</b> Town Vehicle and Equipment Acquisition and Replacement Policy	<b>PAGE:</b> 2 of 3	<b>POLICY NUMBER:</b> 4-05
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<u>Vehicle/Equipment Type</u>	<u>Replacement Cycle</u>
Sedans (used 1 to 2 years old)	6 years and/or 85,000 miles
Pickups (gas)	8 years and/or 72,000 miles
Pickups (diesel)	12 years and/or 100,000 miles
Medium Trucks (gas)	8 years and/or 80,000 miles
Medium Trucks (diesel)	12 years and/or 100,000 miles
Heavy Trucks (gas)	8 years and/or 80,000 miles
Heavy Trucks (diesel)	15 years and/or 100,000 miles
Lawn Mowers	6 years
Roadable Mowers	8 years
Vans	8 years and/or 100,000 miles
Sweepers	6 years and/or 65,000 miles
Backhoes	10 years and/or 7,000 hours
Loaders	12 years and/or 7,200 hours
Graders	20 years and/or 9,000 hours
Aerial Units	12 years and/or 80,000 miles
Chippers	10 years and/or 5,000 hours
Compressors	12 years and/or 5,000 hours
Forklifts	17 years and/or 9,000 hours
Rollers	15 years
Trailers	10 years
Sprayers	8 years
Sewer Cleaners	6 years
Rodders	10 years

The equipment/replacement list will be used as a guideline in the replacement of vehicles and equipment. Other factors that will be used in the evaluation process include:

1. Overall conditions of vehicles and equipment
2. Repair records.
3. Vehicle efficiency and safety.
4. Service life related to extended use in other departments.

**B. COOPERATIVE PURCHASING PROGRAM:**

When purchasing vehicles and equipment, the town of Los Gatos will invite vendors (local and non-local) to submit bids. Where applicable, the Town will use the State of California Cooperative Purchasing Program.

<b>TITLE:</b> Town Vehicle and Equipment Acquisition and Replacement Policy	<b>PAGE:</b> 3 of 3	<b>POLICY NUMBER:</b> 4-05
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C. SPECIFICATIONS:

The Department of Parks and Public Works will review all specifications for vehicles and motorized equipment to be purchased by the Town of Los Gatos. Specifications will be prepared based on user needs, operating costs, safety factors, life expectancy, new technology, availability, and cost. When applicable, performance standards will be included in the specification writing process.

D. VEHICLE AND EQUIPMENT DISPOSAL:

Disposal may take place via trade-in when vehicles or equipment are purchased. If the trade-in offer is deemed insufficient, the Town will advertise and surplus items at a minimum pre-determined price. When possible, staff will try to offer specialized vehicles, such as Police patrol cars, to agencies that need such equipment but may not be able to purchase new equipment. Prior to the disposal of vehicle or equipment, the Parks and Public Works Department will determine if reassignment to another department is warranted.

E. RESPONSIBILITY:

All applicable departments within the Town of Los Gatos who are assigned vehicles or motorized equipment may be involved in the procurement/disposal process.

1. Finance personnel and the Town Manager shall review the equipment replacement list annually to ensure that replacement costs for vehicles and equipment are current and in-line with long-term replacement needs.
2. Each Department is responsible for requesting vehicle or equipment replacement during the annual budget process.
3. The Parks and Public Works Department will prepare vehicle specifications for all Town Departments except the Police Department.
4. The Parks and Public Works Department will review all Town specifications for vehicles and motorized equipment.
5. Disposal or reassignment of surplus vehicles and equipment will be coordinated by the Parks and Public Works Department.

APPROVED AS TO FORM:

\_\_\_\_\_  
/s/ Orry Korb, Town Attorney



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 4/20/2021

ITEM NO: 8

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DATE: April 15, 2021  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Authorize a General Fund Appropriated Reserve Budget Transfer of \$50,000 from the Guardrail Replacement Project (CIP No. 812-0120) to the Shannon Road Class 1 Multi-Use Path Project (CIP No. 813-0218) and Approve Corresponding Revenue and Expenditure Budget Adjustments

**RECOMMENDATION:**

Staff recommends that the Town Council authorize a General Fund Appropriated Reserve (GFAR) budget transfer of \$50,000 from the Guardrail Replacement Project (CIP No. 812-0120) to the Shannon Road Class 1 Multi-Use Path Project (CIP No. 813-0218) and approve corresponding revenue and expenditure budget adjustments.

**BACKGROUND:**

The Metropolitan Transportation Commission (MTC)'s One Bay Area Grant program (OBAG) directs MTC's federal funds towards transportation solutions that align with regional priorities. Available grant money is distributed to cities and counties through the Santa Clara Valley Transportation Authority (VTA). The Vehicle Emissions Reductions Based at Schools (VERBS) Program, one of the competitive programs, is focused on reducing greenhouse gases by promoting walking, biking, transit, and carpooling to schools.

In 2018, the Town was awarded \$940,100 of federal funds in the VTA's Fiscal Year (FY) 2018-2022 VERBS Grant Program for the Shannon Road Complete Streets project. The original scope of the project contemplated a ten-foot-wide Class 1 multi-use path on the north side of Shannon Road between Los Gatos Boulevard and Cherry Blossom Lane. A Class 1 bike path is a dedicated facility exclusively for bicycles and pedestrians, separate from vehicular travel lanes. Shannon Road, a hillside collector street, is one of the *Safe Routes to School* to Blossom Hill Elementary, RJ Fisher Middle School, Los Gatos High, and Hillbrook School. The length of the

**PREPARED BY:** WooJae Kim  
Town Engineer

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

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PAGE 2 OF 6

SUBJECT: Authorize a GFAR Budget Transfer of \$50,000 from the Guardrail Replacement Project (CIP No. 812-0120) to the Shannon Road Class 1 Multi-Use Path Project (CIP No. 813-0218) and Approve Corresponding Revenue and Expenditure Budget Adjustments

DATE: April 15, 2021

BACKGROUND (continued):

project segment is approximately 1,600 feet, and there are over 2,200 feet of sidewalk gaps along either side of this stretch on Shannon Road.

The total project cost for the design and construction of the Class 1 path was estimated at \$1,189,304. The Town committed \$249,204 as a local match (21% of the total project cost) from GFAR and the Utility Undergrounding Fund, which satisfied the grant minimum local match requirement of 11.47%.

To streamline the federal-aid process, local match funds would be used to advance the design phase, while federal funds and associated federal requirements would be applied to the construction phase only. On November 5, 2019, Council authorized the Town Manager to issue a Request for Proposals (RFP) and negotiate and execute a consultant services agreement in an amount not to exceed \$200,000 for the project design.

DISCUSSION:

Since November 2019, staff worked to validate and refine the design scope for the Class 1 multi-use path before soliciting proposals from civil engineering consultants. Upon further assessment of the public right-of-way on Shannon Road and discussions with Pacific Gas and Electric (PG&E) regarding utility conflicts, it was determined that undergrounding and relocation of overhead utilities in conflict with the proposed Class 1 multi-use path would vastly impact the project schedule and feasibility due to rigid federal grant requirements to resolve land rights issues related to utility work.

In addition, a dedicated ten-foot-wide two-way Class 1 bike and pedestrian path immediately abutting private properties on the north side of Shannon Road would require addressing potential conflicts between vehicles and bikes/pedestrians at driveways. Significant modifications and even removals of private fences and landscaping might be required at property lines for a clear and safe line of sight at driveways.

A community meeting was held with the Shannon Road neighborhood on November 18, 2020 as part of a separate neighborhood traffic calming project currently underway. The Shannon Road Class 1 Multi-Use Path project was briefly discussed at the meeting, and residents expressed more interest in seeing continuous sidewalks and bike paths on both sides of Shannon Road as opposed to the Class 1 bike and pedestrian path on one side of the street.

SUBJECT: Authorize a GFAR Budget Transfer of \$50,000 from the Guardrail Replacement Project (CIP No. 812-0120) to the Shannon Road Class 1 Multi-Use Path Project (CIP No. 813-0218) and Approve Corresponding Revenue and Expenditure Budget Adjustments

DATE: April 15, 2021

DISCUSSION (continued):

Staff acknowledges that standard sidewalks with curb and gutter and Class 2 bike lanes would be a better fit for a hillside collector street like Shannon Road. Staff did consider standard sidewalks, but the project budget may only be sufficient to install sidewalks on one side of

Shannon Road. One significant benefit of a sidewalk infill project would be that the aforementioned utility undergrounding scope could be limited or avoided. With the standard sidewalk installation option, utility conflicts may largely be relocated by PG&E and other utility companies in coordination with the Town under existing franchise agreements.

***Project Scope Updates and Additional Funding Needs***

With pedestrian and bikeway improvements on Shannon Road, work is anticipated on private properties to conform grades and landscaping to the new path or sidewalk, along with other modifications needed for clear vehicular lines of sight at driveways. For work on private properties, the Parks and Public Works Department (PPW) would normally secure a short-term right-of-entry agreement with each of the property owners. For federal-aid projects where land rights issues are involved, the right-of-way clearance and certification process can be complex and entail prolonged legal reviews through the California Department of Transportation (Caltrans). The work within private properties on Shannon Road would require much more complicated title reports, legal plat documents, fair market valuations, and right-of-entry and maintenance agreements for each property, if federal processes are followed.

Staff recommends bifurcating the work on private properties to be funded through local funds, separate from public right-of-way improvements to be funded with federal money. This approach would simplify the project and require additional local funds for the project. Costs associated with the work within private properties cannot be realized until a topographic survey and preliminary designs are completed by a consultant. A rough order of magnitude estimate for the work on private properties is approximately \$110,000 to cover construction activities and part-time staff costs to administer engineering, right-of-entry agreements, and construction.

To meet the additional local funding needs for the Shannon Road project, staff is recommending that Council authorize a GFAR budget transfer of \$50,000 from the Guardrail Replacement Project (CIP No. 812-0120), which will be completed by summer 2021 with GFAR funds available for the transfer.

In addition, up to \$60,000 of GFAR budgeted for the Sidewalk Improvements - Multiple Locations Project (CIP No. 813-0221), as approved in the Town's adopted Fiscal Year (FY)



PAGE 4 OF 6

SUBJECT: Authorize a GFAR Budget Transfer of \$50,000 from the Guardrail Replacement Project (CIP No. 812-0120) to the Shannon Road Class 1 Multi-Use Path Project (CIP No. 813-0218) and Approve Corresponding Revenue and Expenditure Budget Adjustments

DATE: April 15, 2021

DISCUSSION (continued):

2020/21-2024/25 Capital Improvement Program Budget, would need to be applied to the work within private properties along Shannon Road. The FY 2020/21 funding designated for the Sidewalk Improvements - Multiple Locations Project was intended to be used on Kennedy Road from Ferris Avenue to Los Gatos Boulevard; Mitchell Avenue from George Street to Fisher Avenue; or Shannon Road at Los Gatos Boulevard and aligns with the goals of this project.

***Design Consultant Selection***

From recent staff evaluations and findings, staff has developed a design scope of services for a consultant to consider a phased approach to sidewalk and bike lane improvements on both sides of Shannon, while also recommending two other alternate active transportation design options for consideration. Town staff and the consultant would vet the design options through a public process involving Shannon Road neighbors to select one concept to develop into a final design. The designer would also evaluate storm water drainage, traffic calming measures, and accessibility compliance.

On February 26, 2021, staff issued an RFP to nine firms on PPW's On-Call Civil Engineering Consultant List established through a formal Request for Qualifications process in 2019. By the due date of March 19, staff received proposals from the following six on-call firms:

- ActiveWayz Engineering
- Bellecci and Associates
- Civil Engineering Associates
- CSG Consultants
- MNS Engineers
- Ruggeri-Jensen-Azar

Through the proposal evaluation process outlined in the RFP, staff selected ActiveWayz Engineering as the best qualified firm for the project to address active transportation design challenges on Shannon Road. ActiveWayz Engineering proposed investigating creative solutions and approaches for the Shannon Road Pedestrian and Bikeway Improvements. Their scope and fees were comprehensive and responsive to all the requirements specified in the RFP. With prior authorization from Council, the Town Manger will negotiate and execute a consultant services agreement with ActiveWayz in a contract amount not to exceed \$130,000. Attachment 1 is the proposed scope of services from ActiveWayz, and the draft consultant services agreement is included as Attachment 2.

PAGE 5 OF 6

SUBJECT: Authorize a GFAR Budget Transfer of \$50,000 from the Guardrail Replacement Project (CIP No. 812-0120) to the Shannon Road Class 1 Multi-Use Path Project (CIP No. 813-0218) and Approve Corresponding Revenue and Expenditure Budget Adjustments

DATE: April 15, 2021

CONCLUSION:

The Town Council's approval of the budget transfer and adjustments would allow for a simplified project approach, the part-time staff to assist in the project during the design and construction phase, and to supplement the federal grant funds in the construction of the Shannon Road Pedestrian and Bikeway Improvements.

COORDINATION:

This item has been coordinated with the Town Attorney and the Finance Department.

FISCAL IMPACT:

Staff is recommending that Council authorize a GFAR budget transfer of \$50,000 from the Guardrail Replacement Projects (CIP No. 812-0120). Additionally, \$60,000 of GFAR budgeted in the Sidewalk Improvements - Multiple Locations Project (CIP No. 813-0221) would need to be applied to the Shannon Road project.

Staff costs are tracked for all projects. Tracking of staff costs allows for accountability in the costs of the project, recovery of costs for grant funded projects, and identification of future staffing needs. This project will utilize both full-time budgeted and part-time staff. The costs for full-time staff are accounted for in the Department's Operating Budget. Only part-time staff costs incurred will be charged to the project.

SUBJECT: Authorize a GFAR Budget Transfer of \$50,000 from the Guardrail Replacement Project (CIP No. 812-0120) to the Shannon Road Class 1 Multi-Use Path Project (CIP No. 813-0218) and Approve Corresponding Revenue and Expenditure Budget Adjustments

DATE: April 15, 2021

FISCAL IMPACT (continued):

<b>Shannon Road Class 1 Multi-Use Path Project 813-0218</b>		
	<b>Budget</b>	<b>Costs</b>
OBAG/VERBS Grant	\$ 940,100	
GFAR (Grant Match)	\$ 130,000	
Utility Undergrounding Fund	\$ 119,204	
GFAR Budget Transfer from CIP No. 812-0120	\$ 50,000	
GFAR Budget in CIP No. 813-0221	\$ 60,000	
<b>Total Budget</b>	<b>\$1,299,304</b>	
Design Contract		\$ 130,000
Part-Time Staff Cost to be Incurred		\$ 30,000
Construction in the ROW		\$ 940,100
Conform Work within Private Properties		\$ 80,000
Utility Undergrounding		\$ 119,204
<b>Total Expenditures</b>		<b>\$1,299,304</b>
<b>Remaining Balance</b>		<b>\$ 0</b>

ENVIRONMENTAL ASSESSMENT:

Alterations to existing roadway facilities are defined under CEQA Section 15301(c) as Categorically Exempt. A Notice of Exemption is to be filed. As required for federal-aid projects, staff will work with MTC, the project sponsor, to determine the project exemption under the National Environmental Policy Act.

Attachments:

1. Proposed Scope of Services from ActiveWayz Engineering
2. Draft Consultant Services Agreement with ActiveWayz Engineering

# PROJECT TEAM

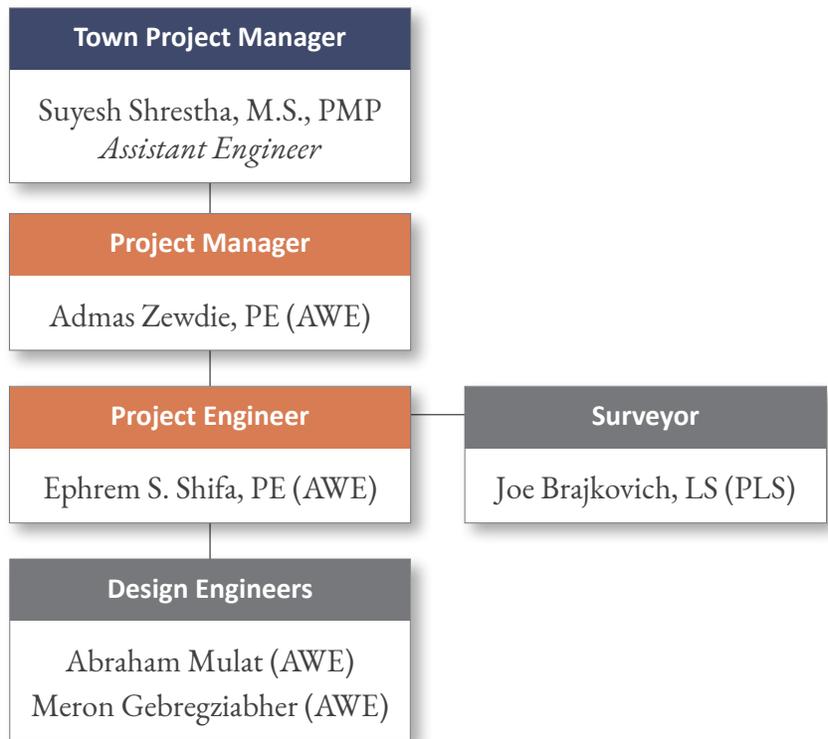
ATTACHMENT 1

# PROJECT TEAM

AWE ActiveWayz Engineering  
 PLS PLS Surveys



Key



Candidate / Role	Years Exp.	Current Commitment	Availability to Project
Admas Zewdie, PE, MBA, QSD/QSP <i>Principal / Project Manager</i>	24	El Monte Avenue Sidewalk Gap Closure Project Plymouth Street/Huff Avenue Intersection Pedestrian Improvements Suisun City RRFB and Curb Ramp Improvement	50%
Ephrem S. Shifa <i>Project Engineer</i>	8	West Orange Avenue and Hillside Boulevard Pedestrian Crossing Enhancement Project, South San Francisco South Airport Boulevard and Belle Aire Road Pedestrian Access Improvements, South San Francisco	50%

Name and Role	Professional Qualifications & Experience
<p>Admas Zewdie, PE <i>Project Manager</i></p> <p>B.Sc., Civil Engineering, Addis Ababa University, 1996</p> <p>MBA, Haas School of Business, Berkeley, 2009</p> <p>California Professional Civil Engineer #C63469</p> <p>QSD/QSP: #25911</p>	<p>Admas offers outstanding planning, engineering and project management services focused on the delivery of active transportation projects. Admas served as a Bicycle and Pedestrian Advisory Commission (BPAC) member in his home city for more than 5 years. Admas has developed an integrated design and drafting methodology for sidewalks and curb ramps using Civil 3D tools that ensure accuracy of project plans and allow for quick completion of design updates. Admas’s recent projects include:</p> <ul style="list-style-type: none"> <li>• McClellan Road Sidewalk and Protected Bikeway Project, Cupertino, CA</li> <li>• SR 9 / Massol Avenue Pedestrian Improvements, Los Gatos, CA</li> <li>• SR 185 / Joaquin Avenue Intersection Pedestrian Improvement Project, San Leandro, CA</li> <li>• 7th Street mid-block crossing at Lake Merritt, Oakland, CA</li> <li>• San Bruno Avenue / Cherry Avenue Intersection Pedestrian Improvements Project, San Bruno, CA</li> <li>• Bancroft Avenue / Haas Avenue Traffic Signal Improvements Project, San Leandro, CA</li> <li>• Los Gatos Annual Curb, Gutter, and Sidewalk Maintenance Project</li> </ul>
<p>Ephrem Shifa, PE, LSIT, LEED GA <i>Project Engineer</i></p> <p>B.Sc., Civil and Environmental Engineering, University of California, Berkeley, 2010</p> <p>M.Sc., Civil/Structural Engineering, University of California, Berkeley, 2012</p> <p>California Professional Civil Engineer #C86412</p> <p>Land Surveyor-in-Training, LSIT #25911 (CA)</p> <p>LEED Green Associate #10976218</p>	<p>Ephrem’s project experience includes site investigations, civil designs, field surveying, structural design calculations, Civil 3D CAD drafting, producing drawing sets and specifications. Project responsibilities regularly include civil design, field reconnaissance, researching historic information using the Agency’s Archive &amp; Records, condition assessments, reviewing detailed designs, providing engineering support during construction services, cost estimating, and coordinating with operations and maintenance regarding ongoing project activities. Ephrem’s recent projects include:</p> <ul style="list-style-type: none"> <li>• Better Bikeways San Jose   San Fernando Corridor Project, San Jose, CA</li> <li>• South Airport Boulevard - San Francisco Bay Trail Access Project, City of South San Francisco</li> <li>• San Francisco Curb Ramp Design, Construction, and Pavement Preservation at Various Locations, City &amp; County of San Francisco</li> </ul>

Name and Role	Professional Qualifications & Experience
<p>Abraham Mulat <i>Design Engineer</i> B.Sc. Civil Engineering, Addis Ababa University, 2015</p>	<p>Abraham’s experience includes preparation of design plans and quantities for transportation design projects. His responsibilities include collecting and accurately drafting utility as-builts, verifying existing conditions in the field, preparing plan sheets under the guidance of the project engineer, and performing quantity calculations. Abraham has performed similar tasks of the following recent projects:</p> <ul style="list-style-type: none"> <li>• Hillside Boulevard / Franklin Road Intersection Project   South San Francisco, CA</li> <li>• 7th Street at-Grade Crossing at Lake Merritt   Oakland, CA</li> </ul>
<p>Joe Brajkovich, LS <i>Surveyor</i> California Professional Land Surveyor #5254 (1983)</p>	<p>Mr. Brajkovich serves as both the supervisor for field surveying operations, and when needed as a Project Manager. His experience includes hydrographic surveys, topographic surveys, boundary surveys, deed interpretation, construction staking, GIS/LIS data capture, GPS control and processing and Expert Witness duties at court. As a Licensed Land Surveyor, he regularly works with right-of-way (ROW), right-of-way acquisition, and with Real Estate boundary determinations. Joe’s recent projects include:</p> <ul style="list-style-type: none"> <li>• Embarcadero Bridge Replacement Project   City of Oakland</li> <li>• Oakland Pedestrian Bridge   City of Oakland</li> <li>• Diablo Valley Transit Center   Concord, CA</li> <li>• Coliseum BART Transit Center   Oakland, CA</li> </ul>

ActiveWayz recently completed a pedestrian and bicycle project in Cupertino, with similar features, including sidewalk, pavement, right of way dedication, modification of private property improvements. City coordinated with private property owners, and included a list of private improvements.

# SCOPE OF SERVICE



## SCOPE OF SERVICES

### 1 PROJECT MANAGEMENT

- **Project Management and Coordination** – Communicate regularly with Town of Los Gatos project manager regarding project progress, challenges, and next action items; Coordinate activities of internal and subconsultant team members; Prepare monthly invoices and progress reports; Prepare and maintain project schedule.
- **Project Schedule** – Prepare a base line project schedule, and update project schedule as the project progresses.
- **Kick-Off Meeting** – Organize, attend, and lead project kick-off meeting; Prepare agenda and meeting minutes for each meeting.
- **Project Coordination Meeting** – Organize, attend, and lead bi-weekly coordination meetings; Prepare agenda and meeting minutes for the meetings.
- **Outreach Meetings** – Attend up to two (2) community outreach meetings and up to two (2) Town’s Complete Streets and Transportation Commission meetings.

<p>Deliverables:</p> <ul style="list-style-type: none"> <li>• Meeting agenda and minutes</li> <li>• Project schedule</li> <li>• Monthly invoice and progress report</li> </ul>	<p>Assumptions:</p> <ul style="list-style-type: none"> <li>• The project will be completed within the duration shown in the attached project schedule.</li> <li>• Outreach meetings will be noticed, organized and led by Town staff.</li> </ul>
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### 2 TOPOGRAPHIC SURVEY

- **Field Topographic Survey** – Provide a design-level topographic survey extending 10 to 20-feet beyond the right of way to allow for conform design and at minimum 50-feet beyond work limits shown in the exhibit attached to the RFP. The survey shall include existing right-of-way, roadway, surface utilities, sewer and storm drain manholes and their inverts, trees, fence, driveway, sidewalk, etc. Site coordinates will be established with RTK GPS at each intersection. Site control will be established and noted in the CAD file for future use by the contractor.
- **Right of Way Mapping** – Based upon a combination of record data and any monuments collected during topographic surveying, calculate the record data location of the existing right of way for the mapping corridor. Additionally, calculate and show the location of each adjoining parcel lot line from record data (assessor’s parcel data, record mapping and apparent lines of occupation). Easements will be shown on the mapping product only to the extent shown on existing recorded maps.
- **Plat and Legal Description (OPTIONAL)** – Prepare Legal descriptions and Exhibit Plats for right of way acquisition. One summary sheet and calculations sheet, including the total area of the property, areas of acquisition, areas the acquisition overlaps any easements of record and the remainder area of the parcel will be prepared for each separate property owner where acquisition is proposed. One acquisition document may describe various takes including: CLIENT Right of Way, Utility Easements, Slope Easements, and Drainage Facility Easements. Since the number of acquisitions cannot be accurately determined at this time, we propose to include this work item as an optional task. The fee for preparing plat and legal description is \$1,000 per parcel.

<p>Deliverables:</p> <ul style="list-style-type: none"> <li>• AutoCAD Civil 3D file with survey points and Digital Terrain Model</li> <li>• AutoCAD file with existing right of way information</li> <li>• Plats and Legal descriptions for acquisitions (OPTIONAL)</li> </ul>	<p>Assumptions:</p> <ul style="list-style-type: none"> <li>• Topographic survey for the optional segment (Cherry Blossom Lane to Short Road) is not included. It is possible that the Town’s currently available topographic mapping may be sufficient for the traffic calming work. If supplemental surveys are needed, the survey scope can be amended once the limits of additional surveys are determined.</li> </ul>
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### 3 DATA COLLECTION AND ALTERNATIVE ANALYSIS

- **Site Assessment** – Conduct a field visit to confirm existing conditions, obtain additional information, and take site pictures.
- **Project Background Information** – Obtain from Town and review background project information, such as prior studies, traffic analysis, traffic counts, collision data, community meeting minutes, etc. Request as-built maps from utility companies.
- **Base Map Preparation** – Using topographic survey, prepare a base map that depicts the existing information collected during the site visit and from utility companies. The base map will show approximate locations of existing utilities, signs, and pavement delineation.
- **Alternatives Analysis** – Prepare up to three feasible project alternatives for the proposed improvements. The alternatives shall be developed with careful evaluation of the needs of pedestrians, bicyclists, drivers, and adjacent residents. The concept plans shall clearly show the scope of improvements and the associated geometric parameters for the project. The plans shall show the proposed improvements and sufficient notes and references to communicate the design intent. The alternatives will take the following factors into consideration:
  - > cost
  - > implementation timeline
  - > on-street parking
  - > utility relocations
  - > tree impacts
  - > drainage (public and private)
  - > impacts to private property improvements
  - > pedestrian street crossings
  - > variations in right of way width
  - > enhancing safety and convenience for pedestrians and bicyclists
  - > street cross section (sidewalk type, bicycle accommodation, planting, parking, travel lanes, etc.)
  - > public acceptance

The alternatives will be presented on exhibits using aerial map background. Typical cross-sections at key locations will be included. At the conclusion of the alternative analysis, a written memo summarizing the alternatives and associated costs together with a recommendation will be provided in addition to the conceptual drawings to document the work effort.

<p>Deliverables:</p> <ul style="list-style-type: none"> <li>• Site photos</li> <li>• Base map in AutoCAD containing topographic mapping, and existing utilities and right-of-way</li> <li>• Exhibits of proposed alternatives (3)</li> <li>• Exhibit of preferred alternative (1)</li> <li>• Alternatives Analysis Memo</li> </ul>	<p>Assumptions:</p> <ul style="list-style-type: none"> <li>• Town will provide as-builts for Town-owned utilities.</li> <li>• Town will be responsible for coordination with adjacent property owners.</li> </ul>
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## 4 COMMUNITY OUTREACH

- Exhibits for the proposed alternatives will be prepared under Task 3 above. Under this task, consultant will minor adjustments to format the exhibits for public presentations.
- The consultant project manager will attend up to three (3) additional meetings with private property owners or other project stakeholders at the request of the Town’s project manager.

<p>Deliverables:</p> <ul style="list-style-type: none"> <li>• Exhibits using material prepared under other tasks</li> <li>• Attendance at coordination meetings (3)</li> </ul>	<p>Assumptions:</p> <ul style="list-style-type: none"> <li>• Preparation of graphic renderings are not included.</li> </ul>
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## 5 UTILITY COORDINATION

- Identify potential utility conflicts, and if possible, identify design modifications to avoid utility conflicts.
- Where conflicts are unavoidable, identify utility relocation needs and coordinate with utility companies to complete relocations.
- For each utility conflict, prepare conflict maps identifying the location of the conflicts, and coordinate with utility purveyors to prepare conflict resolution plans.
- Review the conflict maps and confirm that they will resolve the conflict.
- Prepare Notice to Owner (NTO) to utility companies to begin physical relocation of utilities. Town staff will perform field inspection to ensure that the relocation work is performed in conformance with the approved conflict resolution plans.
- Assist the Town in preparation of a pothole exhibit. The Town will hire a pothole contractor to identify utility locations and depths along the proposed storm drain alignment. Survey pothole locations and add information to design drawings.

<p>Deliverables:</p> <ul style="list-style-type: none"> <li>• Exhibits using material prepared under other tasks</li> <li>• Attendance at coordination meetings (3)</li> </ul>	<p>Assumptions:</p> <ul style="list-style-type: none"> <li>• Preparation of graphic renderings are not included.</li> </ul>
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## 6 FINAL DESIGN

Prepare Plans, Specifications and Estimate in conformance with the 2010 Caltrans Standard Plans and Specifications, supplemented by Town specific flatwork, signing, striping, and tree planting details.

### 6.1 65% PS&E

- **Plans** – Plans will be prepared on 24”x36” size pages on the Town’s title block. All major design issues and solutions will be represented in the plans. The plans will show the existing conditions, the proposed improvements, and associated details, standards, and notes. The following types of plans are expected to be included in the plan set:

- > Title Sheet (1 sheet)
- > Notes, Legend, and Abbreviations (1 sheet)
- > Existing Conditions Plan (1"=20' scale, 3 sheets)
- > Demolition Plan (1"=20' scale, 3 sheets)
- > Improvement Plans (1"=20' scale, 3 sheets)
- > Signing and Striping Plans (1"=20' scale, 3 sheets)
- > Construction Details (6 sheets)
- > Standard Details (2 sheets)
- > Best Management Practices (1 sheet)
- > Total (23 sheets)

- **Technical Specifications** – Prepare draft technical specifications using the Town of Los Gatos specification format and content. Supplement technical specifications as needed with Caltrans standards for project work not already covered by the Town’s standard specifications. Prepare bid tabulation and detailed measurement and payment section. The bid tabulation and the units of measurement shall be consistent with the cost estimate.
- **Estimate** – Prepare estimate of probable cost based on items and quantities of work shown on the plans. Unit prices will be based on the magnitude of the quantities and recently awarded local projects and engineer’s judgment.

<p>Deliverables:</p> <ul style="list-style-type: none"> <li>• 65% Plans (PDF)</li> <li>• 65% Technical Specifications (MS Word, PDF)</li> <li>• 65% Cost Estimate (MS Excel, PDF)</li> </ul>	<p>Assumptions:</p> <ul style="list-style-type: none"> <li>• Town will prepare front-end specifications.</li> <li>• Town will provide sheet border, and CAD drafting standards if available.</li> <li>• Town will be responsible for environmental clearance, right of way certification, and E-76 authorization coordination.</li> <li>• Landscaping and irrigation design is not included in the scope of work.</li> <li>• The optional segment (Cherry Blossom Lane to Short Road) is not included.</li> </ul>
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**6.2 100% PS&E**

- **Comment Review** – Review Town’s comments on the 65% submittal and provide responses in a matrix format. Identify comments that consultant disagrees with, need further clarification on, or may result in change in scope for discussion with the Town’s project manager.
- **Update Plans, Specifications, and Estimate of Probable Cost** – Prepare 100% construction documents by refining the 65% design documents based on comments received after the Town’s review of the 65% construction documents. The 100% plans, technical specifications, and estimate of probable cost shall be submitted together.

<p>Deliverables:</p> <ul style="list-style-type: none"> <li>• Comment Response Matrix</li> <li>• 100% Plans (PDF)</li> <li>• 100% Technical Specifications (MS Word, PDF)</li> <li>• 100% Cost Estimate (MS Excel, PDF)</li> </ul>	<p>Assumptions:</p> <ul style="list-style-type: none"> <li>• Town will provide a compiled set of comments after resolving inconsistencies between various reviewers.</li> </ul>
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6.3 Final PS&E

- **Bid Set** – Address miscellaneous Town comments on the 100% submittal and prepare a bid-ready set of plans, technical specifications, and cost estimate.

<p>Deliverables:</p> <ul style="list-style-type: none"> <li>• Comment Response Matrix</li> <li>• Final Plans (PDF)</li> <li>• Final Technical Specifications (MS Word, PDF)</li> <li>• Final Cost Estimate (MS Excel, PDF)</li> </ul>	<p>Assumptions:</p> <ul style="list-style-type: none"> <li>• Town will provide a compiled set of comments after resolving inconsistencies between various reviewers.</li> <li>• It is assumed that if Town decides to split the project in two, the same plan set will be used and non-applicable work items will be crossed out from the plans. This scope does not include preparing stand-alone plan sets for two separate bid packages.</li> </ul>
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7 BID SUPPORT

- Support the Town through the bid process and construction contract award.
- Respond to questions or requests for clarifications during the bid phase.
- Attend a pre-bid meeting.
- Assist the Town establish the lowest responsible bidder.
- Provide value engineering services as needed if bids are above the construction budget.

<p>Deliverables:</p> <ul style="list-style-type: none"> <li>• Responses to RFIs</li> </ul>	<p>Assumptions:</p> <ul style="list-style-type: none"> <li>• The project will be constructed in a single construction package.</li> </ul>
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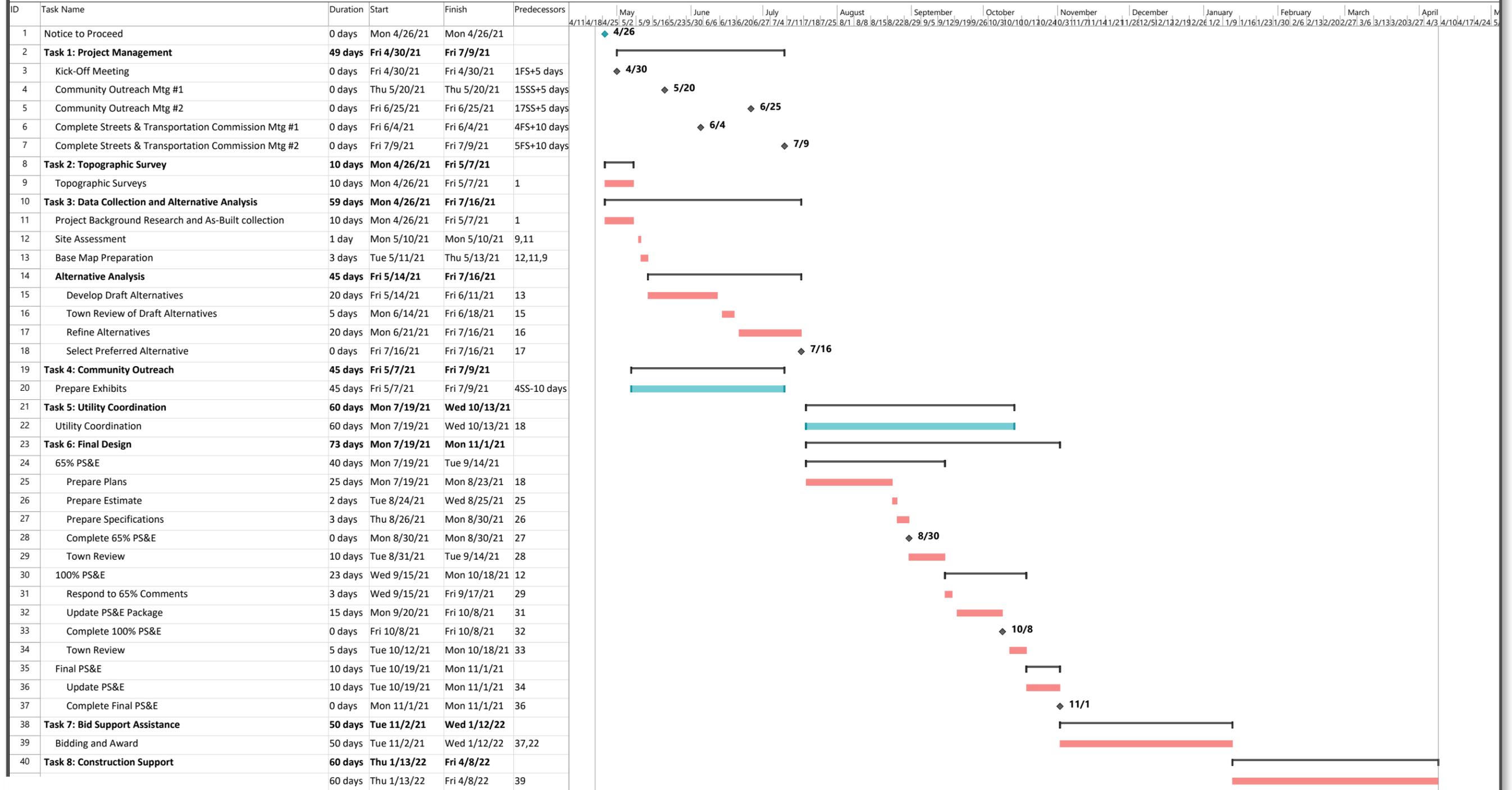
8 CONSTRUCTION ADMINISTRATION

- Provide construction support services. Tasks may include attending pre-construction and other field meetings, reviewing submittals, responding to requests for information, providing field check services, preparing design modifications if necessary due to unforeseen conditions, prepare as-built documents, and project closeout.
- Consultant shall conduct site visits during construction at appropriate stages. Consultant shall provide submittal list, respond to requests for information (RFI), review shop drawings, and prepare change orders, and provide written recommendations to the Town. Consultant shall participate in the final walk-through and assist with preparing the punch list of deficiencies.

<p>Deliverables:</p> <ul style="list-style-type: none"> <li>• Responses to RFIs</li> <li>• Reviewed shop drawings</li> <li>• Change order plans</li> <li>• As-built plans</li> </ul>	<p>Assumptions:</p> <ul style="list-style-type: none"> <li>• This task will be performed on a time-and-material basis.</li> </ul>
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# SCHEDULE

**Town of Los Gatos  
Project Schedule for  
SHANNON ROAD PEDESTRIAN AND BIKEWAY IMPROVEMENTS PROJECT**



Project: P2020-040 Schedule  
Date: Tue 3/16/21

Task		Summary		Inactive Milestone		Summary		Start-only		External Milestone		Critical Split	
Split		Project Summary		Inactive Summary		Manual Summary Rollup		Finish-only		Deadline		Progress	
Milestone		Inactive Task		Manual Task		Manual Summary		External Tasks		Critical		Manual Progress	

**TOWN OF LOS GATOS  
SHANNON ROAD PEDESTRIAN AND BIKEWAY IMPROVEMENTS (CIP No. 813-0218)**

Tasks	ActiveWayz Engineering								PLS Surveys	Grand Total
	Project Manager	Project Engineer	Design Engineer	Engineering Technician	Total	Subtotal Fee	Direct Expenses	Total Fee	Total Fee	
	Hours									
	\$198	\$168	\$124	\$60						
<b>1. Project Management</b>	<b>54</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>54</b>	<b>\$10,692</b>	<b>—</b>	<b>\$10,692</b>	<b>—</b>	<b>\$10,692</b>
<i>Project Management &amp; Coordination</i>	16	—	—	—	16	\$3,168	—	\$3,168	—	\$3,168
<i>Project Schedule</i>	4	—	—	—	4	\$792	—	\$792	—	\$792
<i>Kick-Off Meeting</i>	2	—	—	—	2	\$396	—	\$396	—	\$396
<i>Project Coordination Meeting</i>	16	—	—	—	16	\$3,168	—	\$3,168	—	\$3,168
<i>Ourteach Meetings (4)</i>	16	—	—	—	16	\$3,168	—	\$3,168	—	\$3,168
<b>2. Topographic Survey</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>\$18,500</b>	<b>\$18,500</b>
<i>Field Topographic Survey &amp; R/W Mapping</i>	—	—	—	—	—	—	—	—	\$18,500	\$18,500
<b>3. Data Collection and Alternative Analysis</b>	<b>32</b>	<b>—</b>	<b>52</b>	<b>66</b>	<b>150</b>	<b>\$16,744</b>	<b>—</b>	<b>\$16,744</b>	<b>—</b>	<b>\$16,744</b>
<i>Site Assessment</i>	4	—	4	—	8	\$1,288	—	\$1,288	—	\$1,288
<i>Project Background Information</i>	—	—	8	8	16	\$1,472	—	\$1,472	—	\$1,472
<i>Base Map Preparation</i>	2	—	8	8	18	\$1,868	—	\$1,868	—	\$1,868
<i>Alternatives Analysis</i>	26	—	32	50	108	\$12,116	—	\$12,116	—	\$12,116
<b>4. Community Outreach</b>	<b>16</b>	<b>—</b>	<b>16</b>	<b>40</b>	<b>72</b>	<b>\$7,552</b>	<b>—</b>	<b>\$7,552</b>	<b>—</b>	<b>\$7,552</b>
<i>Prepare Exhibits</i>	8	—	16	40	64	\$5,968	—	\$5,968	—	\$5,968
<i>Attend Meetings (up to 4 additional)</i>	8	—	—	—	8	\$1,584	—	\$1,584	—	\$1,584
<b>5. Utility Coordination</b>	<b>16</b>	<b>—</b>	<b>24</b>	<b>—</b>	<b>40</b>	<b>\$6,144</b>	<b>—</b>	<b>\$6,144</b>	<b>—</b>	<b>\$6,144</b>
<i>Utility Coordination</i>	16	—	24	—	40	\$6,144	—	\$6,144	—	\$6,144
<b>6. Final Design</b>	<b>81</b>	<b>111</b>	<b>86</b>	<b>189</b>	<b>467</b>	<b>\$56,689</b>	<b>—</b>	<b>\$56,689</b>	<b>—</b>	<b>\$56,689</b>
<i>65% PS&amp;E</i>	60	82	64	140	346	\$41,992	—	\$41,992	—	\$41,992
<i>100% PS&amp;E</i>	15	21	16	35	87	\$10,498	—	\$10,498	—	\$10,498
<i>Final PS&amp;E</i>	6	8	6	14	35	\$4,199	—	\$4,199	—	\$4,199
<b>7. Bid Support</b>	<b>4</b>	<b>4</b>	<b>—</b>	<b>—</b>	<b>8</b>	<b>\$1,464</b>	<b>—</b>	<b>\$1,464</b>	<b>—</b>	<b>\$1,464</b>
<i>Pre-bid meeting</i>	2	—	—	—	2	\$396	—	\$396	—	\$396
<i>Bid Support</i>	2	4	—	—	—	\$1,068	—	\$1,068	—	\$1,068
<i></i>	—	—	—	—	—	—	—	—	—	—
<b>8. Construction Administration</b>	<b>9</b>	<b>8</b>	<b>—</b>	<b>12</b>	<b>29</b>	<b>\$3,846</b>	<b>—</b>	<b>\$3,846</b>	<b>—</b>	<b>\$3,846</b>
<i>Meetings</i>	3	—	—	—	3	\$594	—	\$594	—	\$594
<i>Shop Drawing Reviews</i>	2	4	—	—	6	\$1,068	—	\$1,068	—	\$1,068
<i>RFIs</i>	2	4	—	—	6	\$1,068	—	\$1,068	—	\$1,068
<i>As-builts</i>	2	—	—	12	—	\$1,116	—	\$1,116	—	\$1,116
<b>9. Supplementary Services</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>\$5,000</b>	<b>\$5,000</b>	<b>—</b>	<b>\$5,000</b>
<i>Supplementary Services</i>	—	—	—	—	—	—	\$5,000	\$5,000	—	\$5,000
<b>Total</b>	<b>212</b>	<b>123</b>	<b>178</b>	<b>307</b>	<b>820</b>	<b>\$103,131</b>	<b>\$5,000</b>	<b>\$108,131</b>	<b>\$18,500</b>	<b>\$126,631</b>



## AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on \_\_\_\_\_ by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and ACTIVEWAYZ ENGINEERING, ("Consultant"), whose address is 2170 The Alameda, Suite 200, San Jose, CA 95126. This Agreement is made with reference to the following facts.

### I. RECITALS

- 1.1 The Town desire to engage Consultant to provide Consultant Services for Shannon Road Pedestrian and Bikeway Improvements Project.
- 1.2 The Consultant represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Consultant warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Consultant acknowledges Town has relied upon these warranties to retain Consultant.

### II. AGREEMENTS

- 2.1 Scope of Services. Consultant shall provide services as described in that certain Proposal sent to the Town on March 19, 2021, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. This contract will remain in effect from April 12, 2021 to June 30, 2023.
- 2.3 Compliance with Laws. The Consultant shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Consultant represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 2.4 Sole Responsibility. Consultant shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.5 Information/Report Handling. All documents furnished to Consultant by the Town and all reports and supportive data prepared by the Consultant under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Consultant's services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Consultant in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and

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

2.6 Compensation. Compensation for Consultant's professional services **shall not exceed \$126,631.00**, inclusive of all costs. Payment shall be based upon Town approval of each task.

2.7 Billing. Billing shall be monthly by invoice within thirty (30) days of the rendering of the service and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

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

Invoices:

Town of Los Gatos

Attn: Accounts Payable

P.O. Box 655

Los Gatos, CA 95031-0655

2.8 Availability of Records. Consultant shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Consultant shall make these records available to authorized personnel of the Town at the Consultant's offices during business hours upon written request of the Town.

2.9 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Consultant. No portion of these services shall be assigned or subcontracted without the written consent of the Town.

2.10 Independent Contractor. It is understood that the Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the Town. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Consultant may perform some obligations under this Agreement by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement. Consultant agrees to

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

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

### III. INSURANCE AND INDEMNIFICATION

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

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

General Liability:

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

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

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

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

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

#### IV. GENERAL TERMS

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

Town of Los Gatos  
Attn: Town Clerk

110 E. Main Street  
Los Gatos, CA 95030

ACTIVEWAYZ ENGINEERING  
Attn: ADMAS ZEWDIE

2170 THE ALAMEDA, SUITE 200, SAN JOSE,  
CA 95126

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

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

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

Town of Los Gatos by:

Consultant, by:

\_\_\_\_\_  
Laurel Prevetti, Town Manager

Recommended by:

\_\_\_\_\_  
Matt Morley  
Director of Parks and Public Works

\_\_\_\_\_  
Printed Name and Title

Approved as to Form:

\_\_\_\_\_  
Robert Schultz, Town Attorney

Attest:

\_\_\_\_\_  
Shelley Neis, MMC, CPMC, Town Clerk



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 9

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DATE: April 15, 2021

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Authorize the Town Manager to Execute a First Amendment to Agreement for Services with Pacific Display Inc. for Additional Downtown Tree Lighting Repairs in an Amount of \$9,480 for a Total Agreement Not to Exceed \$242,085 and Authorize a Budget Transfer of \$9,480 from the Tree Replacement Fund to the General Fund to Fund the Increase

**RECOMMENDATION:**

Authorize the Town Manager to execute a first amendment to Agreement for Services with Pacific Display Inc. (Attachment 1) for additional downtown tree lighting repairs in an amount of \$9,480 for a total agreement not to exceed \$242,085 and authorize a budget transfer of \$9,480 from the Tree Replacement Fund to the General Fund to fund the increase.

**BACKGROUND:**

On July 1, 2019, the Town entered into an Agreement for Services with Pacific Display Inc. to provide maintenance for downtown tree and bridge lighting for the Town. During FY 2020/21, unforeseen downtown tree lighting repair costs were incurred in an amount of \$9,480.

**DISCUSSION:**

The tree lights in the downtown holiday tree at Plaza Park required additional work this year to restring lights that had been damaged by wind over several years. The repairs made during FY 2020/21 will keep the downtown tree lighting in good working order for several years. Pacific Display Inc. has provided excellent service to the Town as the contractor for repair services for downtown tree and bridge lighting.

**PREPARED BY:** Daniel Keller  
Facilities & Environmental Services Manager

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

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PAGE 2 OF 2

SUBJECT: Authorize the Town Manager to Execute a First Amendment to Agreement for Services with Pacific Display Inc. for Additional Downtown Tree Lighting Repairs in an Amount of \$9,480 for a Total Agreement Not to Exceed \$242,085 and Authorize a Budget Transfer of \$9,480 from the Tree Replacement Fund to the General Fund to Fund the Increase

DATE: April 15, 2021

CONCLUSION:

Authorize the Town Manager to execute a first amendment to Agreement for Services with Pacific Display Inc. for additional downtown tree lighting repairs in an amount of \$9,480 for a total agreement not to exceed \$242,085 and authorize a budget transfer of \$9,480 from the Tree Replacement Fund to the General Fund to fund the increase.

FISCAL IMPACT:

Staff recommends utilizing the Tree Replacement Fund for this work. The eligible uses of this fund include tree replacement and maintenance associated with trees. There are sufficient funds available in the Town's Tree Replacement Fund to fund the increase.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. First Amendment to Agreement for Services
2. Original Agreement

## FIRST AMENDMENT TO AGREEMENT FOR SERVICES

THIS AGREEMENT is dated for identification this 20<sup>th</sup> of April 2021, and is made by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and Pacific Display, Inc. ("Service Provider"), whose address is 18270 Enderson Court, Morgan Hill, CA 95037. This Agreement is made with reference to the following facts.

- A. Town and Service Provider entered into an Agreement for Services on July 1, 2019, ("Agreement"), a copy of which is attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town desires to amend the Agreement for Services to increase compensation for the Scope of Services.

### AMENDMENT

Section 2.6 Compensation is amended to add the following:

Additional compensation for unforeseen services in Fiscal Year 20/21 shall be \$9,480 for a **Total Agreement Amount Not to Exceed \$242,085.**

All other terms and conditions of the Agreement remain in full force and effect.

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

Town of Los Gatos by:

Service Provider, by:

\_\_\_\_\_  
Laurel Prevetti, Town Manager

\_\_\_\_\_

Recommended by:

\_\_\_\_\_  
Matt Morley, Director of Parks and Public Works

\_\_\_\_\_  
Title

Approved as to Form:

\_\_\_\_\_  
Robert Schultz, Town Attorney

Attest:

\_\_\_\_\_  
Shelley Neis, MMC, CPMC, Town Clerk

## AGREEMENT FOR SERVICES

THIS AGREEMENT is dated for identification this 4<sup>th</sup> day of June 2019 and is made by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and PACIFIC DISPLAY INCORPORATED, ("Service Provider"), whose address is 18270 Enderson Court, Morgan Hill, CA 95037. This Agreement is made with reference to the following facts.

## I. RECITALS

- 1.1 The Town desires to engage Service Provider to provide Maintenance of Tree and Bridge Lighting for the Town.
- 1.2 Service Provider represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Service Provider warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Service Provider acknowledges Town has relied upon these warranties to retain Service Provider.

## II. AGREEMENTS

- 2.1 Scope of Services. Service Provider shall provide services as described in that certain Proposal sent to the Town on April 22, 2019, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. The effective date of this Agreement shall begin on July 1, 2019 and will continue through June 30, 2024, subject to appropriation of funds, notwithstanding any other provision in this agreement.
- 2.3 Compliance with Laws. The Service Provider shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Service Provider represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Service Provider to practice its profession. Service Provider shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 2.4 Sole Responsibility. Service Provider shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.5 Information/Report Handling. All documents furnished to Service Provider by the Town and all reports and supportive data prepared by the Service Provider under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Service Provider's services or at the Town's written request. All reports,

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

- 2.6 Compensation. Compensation for the supplies and materials delivered and for supplier's professional services **shall not exceed \$46,520.20 annually**, inclusive of all costs. For a **total amount of \$232,601 over the term of the agreement**. Payment shall be based upon Town approval of each task.
- 2.7 Billing. Billing shall be by invoice within thirty (30) days of the rendering of the services and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

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

Invoices:  
Town of Los Gatos  
Attn: Accounts Payable  
P.O. Box 655  
Los Gatos, CA 95031-0655

- 2.8 Availability of Records. Service Provider shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Service Provider shall make these records available to authorized personnel of the Town at the Service Provider's offices during business hours upon written request of the Town.
- 2.9 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Service Provider. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
- 2.10 Independent Contractor. It is understood that the Service Provider, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the Town. As an independent contractor

he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Service Provider may perform some obligations under this Agreement by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement. Service Provider agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Service Provider shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Service Provider or is based on allegations of Service Provider's negligent performance or wrongdoing.

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

### III. INSURANCE AND INDEMNIFICATION

#### 3.1 Minimum Scope of Insurance:

- i. Service Provider agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: one million dollars (\$1,000,000)

combined single limit per occurrence for bodily injury, personal injury and property damage.

- ii. Service Provider agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- iii. Service Provider shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Service Provider agrees that all certificates and endorsements are to be received and approved by the Town before work commences.

General Liability:

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

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

3.3 Workers' Compensation. In addition to these policies, Service Provider shall have and maintain Workers' Compensation insurance as required by California law and shall

provide evidence of such policy to the Town before beginning services under this Agreement. Further, Service Provider shall ensure that all subcontractors employed by Service Provider provide the required Workers' Compensation insurance for their respective employees.

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

#### IV. GENERAL TERMS

- 4.1 Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.
- 4.2 Severability. If any term of this Agreement is held invalid by a court of competent jurisdiction, the remainder of this Agreement shall remain in effect.
- 4.3 Warranty. Service Provider shall remedy any defects due to faulty materials and/or workmanship and pay for any damages to other work and/or existing facilities resulting therefrom which shall appear within a period of one year from the date of recording of final acceptance.
- 4.4 Governing Law. This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.
- 4.5 Termination of Agreement. The Town and the Service Provider shall have the right to terminate this agreement with or without cause by giving not less than fifteen days (15) written notice of termination. In the event of termination, the Service Provider shall deliver to the Town all plans, files, documents, reports, performed to date by the Service Provider. In the event of such termination, Town shall pay Service Provider an amount that bears the same ratio to the maximum contract price as the work delivered to the Town bears to completed services contemplated under this Agreement, unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in light of the particular facts and circumstances involved in such termination.



- 4.6 Amendment. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Service Provider.
- 4.7 Disputes. In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.
- 4.8 Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

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

Pacific Display, Inc.  
18270 Enderson Court  
Morgan Hill, CA 95037

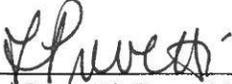
OR personally delivered to Service Provider to such address or such other address as Service Provider designates in writing to Town.

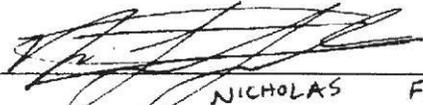
- 4.9 Order of Precedence. In the event of any conflict, contradiction, or ambiguity between the terms and conditions of this Agreement in respect of the Products or Services and any attachments to this Agreement, then the terms and conditions of this Agreement shall prevail over attachments or other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

IN WITNESS WHEREOF, the Town and Service Provider have executed this Agreement

Town of Los Gatos by:

Service Provider by:

  
\_\_\_\_\_  
Laurel Prevetti, Town Manager

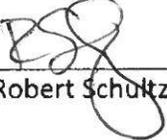
  
\_\_\_\_\_  
NICHOLAS FERCHAU  
PRESIDENT / RMO  
Title

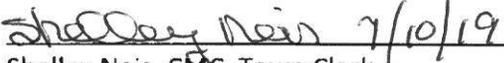
Recommended by:

  
\_\_\_\_\_  
Matt Morley, Director of Parks and Public Works

Approved as to Form:

Attest:

  
\_\_\_\_\_  
Robert Schultz, Town Attorney

  
\_\_\_\_\_  
Shelley Neis, CMC, Town Clerk

PACIFIC DISPLAY, INC.  
 18270 Enderson Court  
 Morgan Hill, CA 95037



PACIFIC DISPLAY  
 INCORPORATED

Town of Los Gatos  
 Parks and Public Works Dept.  
 c/o Jim Harbin  
 41 Miles Avenue  
 Los Gatos, Ca. 95030

## CONTRACT

Date	Contract #
4/22/2019	00451

Description	Qty	Rate	Total
Total Annual Cost For Maintenance of Tree and Bridge Lighting Based on Scheduled Maintenance on a Weekly Basis. There Are 169 Trees Averaging 5 Light Strings Each.			
Labor For Inspecting All Trees For Girdling, Light String Damage or Outage, GFI Tripping and Performing Necessary Rewrapping and Replacement of Light Strings Each Visit. Inspect Light Strings on Main Street Bridge Each visit.	52	480.00	24,960.00
LED 70LT Polka Dot, 4" spacing, 23.7', green cord, UL, warm white bulbs	920	21.50	19,780.00
<b>Subtotal</b>			\$44,740.00
<b>Sales Tax (9.0%)</b>			\$1,780.20
<b>Total</b>			\$46,520.20 ✓

\_\_\_\_\_  
**AUTHORIZED SIGNATURE                      DATE**



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 10

---

DATE: April 5, 2021

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Authorize the Town Manager to Execute a Construction Agreement for the Waterproofing Town-Wide Project (20-821-2010) with California Roofing Company for a Roof Replacement on the Engineering Building in an Amount of \$51,020 Plus an Additional \$5,102 for Unforeseen Repairs in an Amount Not to Exceed \$56,122

**RECOMMENDATION:**

Authorize the Town Manager to execute a Construction Agreement for the Waterproofing Town-wide project (20-821-2010) with California Roofing Company (Attachment 1) for a roof replacement on the Engineering Building in an amount of \$51,020 plus an additional \$5,102 for unforeseen repairs in an amount not to exceed \$56,122.

**BACKGROUND:**

As part of the Waterproofing Town-wide CIP Project and assigned funding, staff recommends a roof removal and replacement on the Engineering Building at 41 Miles Avenue. The roof has reached the end of its serviceable life and shows signs of leaks and potential failures.

**DISCUSSION:**

Replacing the existing roof with a Thermoplastic Polyolefin or “Cool Roof” will make the building more energy efficient with the thermoplastic and insulation layer and will protect the building and assets from weather. The new roof will have a lifespan of 30 years. Quotes were requested from multiple roofing contractors (Attachment 2). Two quotes were received and the third contractor who looked at the project was non-responsive.

**PREPARED BY:** Daniel Keller  
Facilities & Environmental Services Manager

---

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

---

SUBJECT: Authorize the Town Manager to Execute a Construction Agreement with California Roofing Company for a Roof Replacement on the Engineering Building in an Amount of \$51,020 Plus an Additional \$5,102 for Unforeseen Repairs in an Amount Not to Exceed \$56,122

DATE: April 5, 2021

CONCLUSION:

Authorize the Town Manager to execute a Construction Agreement with California Roofing Company for a roof replacement on the Engineering Building in an amount of \$51,020 plus an additional \$5,102 for unforeseen repairs in an amount not to exceed \$56,122.

FISCAL IMPACT:

There are sufficient funds available in the CIP Budget for Waterproofing - Town-wide Project as displayed in the fiscal table.

<b>Waterproofing - Town-wide Project 821-2010</b>		
	<b>Budget</b>	<b>Costs</b>
GFAR	\$75,000	
<b>Total Budget</b>	<b>\$75,000</b>	
Construction		\$56,112
<b>Total Expenditures</b>		<b>\$56,112</b>
<b>Remaining Balance</b>		<b>\$18,888</b>

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Construction Agreement with Exhibit A
2. Bid Summary

## CONSTRUCTION AGREEMENT

This Agreement is dated for identification this \_\_\_\_ day of \_\_\_\_\_, 2021, and is made by and between the TOWN OF LOS GATOS, a California municipal corporation, whose address is 110 East Main Street, Los Gatos, California 95030 (hereinafter "TOWN"), and CALIFORNIA ROOFING COMPANY INC., whose address is 1595 10<sup>TH</sup> STREET, SAN JOSE, CA 95112 (hereinafter "CONTRACTOR").

NOW, THEREFORE, the parties agree:

### ARTICLE I: WORK TO BE DONE AND DOCUMENTS FORMING THE CONTRACT.

That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the said TOWN, and under the conditions expressed hereunto, the said CONTRACTOR agrees with the said TOWN, at his own proper cost and expense, to do all the work and furnish all the materials and equipment necessary to construct and complete, in accordance with the Scope of Work and Price attached hereto as Exhibit "A" for **Project #411-821-2010 82405** in a good, workmanlike and substantial manner, under the supervision of the TOWN, with a schedule of completion by September 30, 2021.

### ARTICLE II: CONTRACTOR'S ACCEPTANCE

CONTRACTOR agrees to receive and accept the prices in the amount of \$51,020 as shown on Exhibit "A," which is attached hereto and incorporated by reference herewith, plus \$5,102 for unforeseen repairs, for a total Not to Exceed \$56,122 as full compensation for furnishing all materials and equipment and for doing all the work described in the contract documents; also for all loss or damage as provided in the contract documents in the prosecution of the work until its acceptance by the Town Council of the TOWN OF LOS GATOS, and for well and faithfully completing the work, and the whole thereof, in the manner and according to the contract documents, plans and specifications, and the requirements of the TOWN.

### ARTICLE III: ACCEPTANCE BY TOWN

The said TOWN hereby promises and agrees with the said CONTRACTOR to employ, and does hereby employ the said CONTRACTOR to provide the materials and to do the work according to the terms and conditions herein contained and referred to, for the prices aforesaid, and hereby contracts to pay the same at the time, in the manner and upon the conditions above set forth; and the said parties for themselves their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

#### **ARTICLE IV: COMPLETION OF AGREEMENT**

Inasmuch as the work called for under this contract concerns a needed public improvement, the time of performance and completion of this work is of the essence of this contract. It is expressly understood and agreed by the parties hereto that all the work called for under this contract, in all its parts and requirements, shall be completed before September 30, 2021.

#### **ARTICLE V: HOURS OF LABOR**

The CONTRACTOR shall forfeit, as a penalty, to the TOWN, Twenty-Five Dollars (\$25) for each workman employed in the execution of the contract by him or by any subcontractor for each calendar day during which any workman is required or permitted to labor more than eight (8) hours in violation of the provisions of Sections 1810-1815 inclusive of the Labor Code and all amendments thereto.

#### **ARTICLE VI: APPRENTICES**

Attention is directed to the provisions in Sections 1777.5, 1777.6 and 1777.7 of the Labor Code governing the employment of apprentices by the CONTRACTOR or any subcontractor under him. CONTRACTOR and any of his subcontractors shall comply with the requirements of said sections of the Labor Code; CONTRACTOR shall have full responsibility for compliance with the said sections regardless of any other contractual or employment relationships alleged to exist.

Information relative to apprenticeship standards and other requirements may be obtained from the Director of Industrial Relations ex officio the Administrator of Apprenticeship, San Francisco, California or from the Division of Apprenticeship Standards at its branch offices.

#### **ARTICLE VII: NONDISCRIMINATION**

The CONTRACTOR sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. CONTRACTOR shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts.

Failure by CONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as recipient deems appropriate.

## ARTICLE VIII: INDEPENDENT CONTRACTOR

It is agreed that CONTRACTOR is an independent contractor, and all persons working for or under the direction of CONTRACTOR are CONTRACTOR's agents, servants and employees, and said persons shall not be deemed agents, servants or employees of TOWN.

## ARTICLE IX: OWNERSHIP OF DATA AND DOCUMENTS

CONTRACTOR agrees that all records, specifications, data, maps, designs, graphics, writings, recordings and other tangible materials regardless of form or format, including, without limitation, electronically transmitted documents and ACAD files, and other collateral materials collected, compiled, drafted, prepared, produced and/or generated in the performance of this Agreement shall be the property of TOWN. CONTRACTOR shall regularly provide such documents to TOWN upon TOWN's request. In the event that this Agreement is terminated prior to completion of the scope of work, CONTRACTOR shall provide all such data and documents to TOWN forthwith.

## ARTICLE X: INSURANCE

a. Commercial General Liability/Automobile Liability Insurance:

CONTRACTOR shall obtain and maintain Commercial General Liability insurance and Automobile Liability insurance in the amount of One Million Dollars (\$1,000,000) per occurrence. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this contract or the general aggregate limit shall be twice the required occurrence limit. CONTRACTOR's insurance coverage shall be written on an occurrence basis.

b. Workers' Compensation Insurance:

CONTRACTOR shall obtain and maintain statutory Workers' Compensation insurance and Employer's Liability insurance in the amount of One Million Dollars (\$1,000,000) per accident.

CONTRACTOR is familiar with the Workers' Compensation laws of California (generally contained in Section 3700 of the Labor Code), including those provisions which provide for specific exemptions from the requirement that all employers must carry Workers' Compensation insurance, and CONTRACTOR maintains they are exempted under the law from the requirement to maintain Workers' Compensation insurance coverage.

In addition, during the term of any work for TOWN under said agreement: (1) CONTRACTOR will not employ any person in any manner so as to become subject to the Workers' Compensation laws of California, or (2) should CONTRACTOR become subject to the



Workers' Compensation provisions of Section 3700 of the Labor Code for any reason, CONTRACTOR shall forthwith comply with those provisions and send evidence of financial compliance to TOWN.

c. Acceptability of Insurers: Insurance is to be placed with insurers with a current *Best Rating* of A:VII unless otherwise acceptable to TOWN.

d. Verification of Coverage: Insurance, deductibles or self-insurance retentions shall be subject to TOWN's approval. Original Certificates of Insurance with endorsements shall be received and approved by TOWN before work commences, and insurance must be in effect for the duration of the contract. The absence of insurance or a reduction of stated limits shall cause all work on the project to cease. Any delays shall not increase costs to TOWN or increase the duration of the project.

e. Other Insurance Provisions:

(1) The TOWN OF LOS GATOS, its officers, officials, employees and volunteers are to be covered as additional insured by Endorsement CG 20 10 11 85 or other endorsement approved by Town Attorney for Commercial General and Automobile Liability coverage.

(2) For any claims related to this project, CONTRACTOR's insurance coverage shall be primary, and any insurance or self-insurance maintained by TOWN, its officers, officials, employees and volunteers shall not contribute to it.

(3) Each insurance policy required shall be endorsed that a thirty (30) day notice be given to TOWN in the event of cancellation or modification to the stipulated insurance coverage.

(4) In the event CONTRACTOR employs subcontractors as part of the work covered by this Agreement, it shall be the responsibility of CONTRACTOR to ensure that all subcontractors comply with the same insurance requirements that are stated in this Agreement.

(5) Approval of the insurance by TOWN or acceptance of the Certificate of Insurance by TOWN shall not relieve or decrease the extent to which CONTRACTOR may be held responsible for payment of damages resulting from CONTRACTOR's services or operation pursuant to this Agreement, nor shall it be deemed a waiver of TOWN's rights to insurance coverage hereunder.

(6) If, for any reason, CONTRACTOR fails to maintain insurance coverage that is required pursuant to this contract, the same shall be deemed a material breach of contract. TOWN, at its sole option, may terminate this contract and obtain damages from CONTRACTOR

resulting from said breach. Alternately, TOWN may purchase such required insurance coverage, and without further notice to CONTRACTOR, TOWN may deduct from sums due to CONTRACTOR any premium costs advanced by TOWN for such insurance.

#### **ARTICLE XI: HOLD HARMLESS**

CONTRACTOR hereby agrees to and shall hold TOWN, its elective and appointive boards, commissions, officers, agents, registered volunteers, and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage and any other claims of any sort whatsoever, including, but not limited to, any liabilities, claims, losses, or expenses in any manner caused by, arising out of, or in connection with, either directly or indirectly, the construction or installation of the work, the guarding of the work, the use of improper materials in construction of the work, or the negligent, willful, or intentional acts or omissions by CONTRACTOR or CONTRACTOR's subcontractors, agents, or employee operations under this Agreement, whether such operations by CONTRACTOR or by any of CONTRACTOR's subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for CONTRACTOR or any of CONTRACTOR's subcontractors during the progress of the work or at any time before its completion and final acceptance, excepting suits and actions brought by the CONTRACTOR for default of this Agreement or arising from the sole active negligence or willful misconduct of the TOWN. The Town Council may retain so much of the money due to the CONTRACTOR as shall be reasonably necessary to protect the TOWN, until disposition has been made of such suits or claims for damages as aforesaid.

CONTRACTOR agrees to and shall pay TOWN's cost of defense (or, at the sole option of the TOWN, CONTRACTOR shall defend with counsel approved by the TOWN Attorney) and indemnify TOWN and its elective and appointive boards, commissions, officers, agents, and employees from any suits or actions at law or in equity arising out of the execution, adoption or implementation of this Agreement (exclusive of any such actions brought by CONTRACTOR), such indemnification to include all costs of defense, judgments, and any awards of attorneys' fees.

Should any accident or incident causing death, personal injury or property damage occur between the date CONTRACTOR is notified that its General Liability and/or Workers Compensation Insurance is canceled and the effective date of such cancellation, CONTRACTOR's obligation to indemnify, defend and save harmless the TOWN, as provided for hereinabove, shall in no manner be affected by the fact that the TOWN had not received the notice of cancellation prior to the date of such accident or incident.

#### **ARTICLE XII: BONDING REQUIREMENT**

CONTRACTOR agrees to post a Faithful Performance Bond and a payment bond for Labor and Materials, or other guarantees, in the required amounts upon bond forms provided

by the TOWN, guarantying the performance of the terms of this Agreement. Surety issuing bonds for CONTRACTOR shall be approved by the U.S. Department of Treasury's Financial Management Service and shall be listed on the most current Treasury Circular 570 as contained in the Federal Register.

Contractor agrees to allow five percent of the faithful performance bond to remain in effect for a period of two years following Town Council project acceptance as guarantee for any needed repair or replacement caused by defective materials and workmanship.

#### **ARTICLE XIII: MAINTENANCE AND GUARANTY**

CONTRACTOR shall promptly repair, replace, restore, or rebuild, as the TOWN may determine, any finished product in which defects of materials or workmanship may appear or to which damage may occur because of such defects, during a two (2) year period subsequent to the date of final acceptance.

This article does not in any way limit the guaranty on any items for which a longer guaranty is specified or on any items which a manufacturer gives a guaranty for a longer period, nor does it limit the other remedies of the TOWN in respect to a latent defect, fraud or implied warranties. CONTRACTOR shall furnish the TOWN all appropriate guaranties or warranty certificates upon completion of the project.

#### **ARTICLE XIV: SHORING FOR TRENCHES**

If the contract specifies an expenditure of Twenty-Five Thousand Dollars (\$25,000) or greater for trenching, and if the depth of the trench is five feet (5') or more, then Section 6705 of the Labor Code shall also be applicable.

#### **ARTICLE XV: APPLICABLE LAWS AND ATTORNEY'S FEES**

This Agreement shall be construed and enforced pursuant to the laws of the State of California. Should any legal action be brought by a party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court. Reasonable attorneys' fees of the TOWN Attorney's Office, if private counsel is not used, shall be based on comparable fees of private attorneys practicing in Santa Clara County.

#### **ARTICLE XVI: INTERPRETATION OF CONTRACT**

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal of said CONTRACTOR, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

## **ARTICLE XVII: AMENDMENTS AND CHANGE ORDERS**

This Agreement may be amended from time to time as necessary by formal and written amendment or authorized change order executed by the Town Manager or designee and principal acting on behalf of the CONTRACTOR.

## **ARTICLE XVIII: DBE RESPONSIBILITIES**

For projects that are State or Federal funding; With respect to Disadvantaged Business Enterprises, CONTRACTOR shall do the following:

(1) Pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the prime contractor receives from TOWN. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of TOWN. This clause applies to both DBE and non-DBE subcontractors.

(2) Release all retainage owed to a subcontractor for satisfactory completion of the accepted work within thirty (30) days after TOWN's payment to CONTRACTOR. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of TOWN. This clause applies to both DBE and non-DBE subcontractors.

## **ARTICLE XIX: PREVAILING WAGES**

Prevailing Wage. This project is subject to the requirements of Section 1720 et seq. of the California Labor Code requiring the payment of prevailing wages, the training of apprentices and compliance with other applicable requirements. Contractors and all subcontractors who perform work on the project are required to comply with these requirements. Prevailing wages apply to all projects over \$1,000 which are defined as a "public work" by the State of California. This includes: construction, demolition, repair, alteration, maintenance and the installation of photovoltaic systems under a Power Purchase Agreement when certain conditions are met under Labor Code Section 1720.6. This include service and warranty work on public buildings and structures.

1. The applicable California prevailing wage rate can be found at [www.dir.ca.gov](http://www.dir.ca.gov) and are on file with the Town of Los Gatos Parks and Public Works Department, which shall be available to any interested party upon request. The contractor is also required to have a copy of the applicable wage determination posted and/or available at each jobsite.
2. Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in

the employment of apprentices on public works projects. Further, overtime, weekend and holiday pay, and shift pay must be paid pursuant to applicable Labor Code section.

3. The public entity for which work is being performed or the California Department of Industrial Relations may impose penalties upon contractors and subcontractors for failure to comply with prevailing wage requirements. These penalties are up to \$200 per day per worker for each wage violations identified; \$100 per day per worker for failure to provide the required paperwork and documentation requested within a 10-day window; and \$25 per day per worker for any overtime violation.
4. As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, the contractor agrees to present to the TOWN, along with its request for payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term "certified payroll" shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional documentation requested by the Agency or its designee including, but not limited to: certified payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.
5. In addition to submitting the certified payrolls and related documentation to the TOWN, the contractor and all subcontractors shall be required to submit certified payroll and related documents electronically to the California Department of Industrial Relations. Failure to submit payrolls to the DIR when mandated by the project parameters shall also result in the withholding of progress, retention and final payment.
6. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
7. No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors MUST be a registered "public works contractor" with the DIR AT THE TIME OF BID. Where the prime contract is less than \$15,000 for maintenance work or less than \$25,000 for construction alternation, demolition or repair work, registration is not required.

8. Should any contractor or subcontractors not be a registered public works contractor and perform work on the project, Contractor agrees to fully indemnify the TOWN for any fines assessed by the California Department of Industrial Relations against the TOWN for such violation, including all staff costs and attorney's fee relating to such fine.
9. The TOWN shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted, reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., the TOWN may continue to hold sufficient funds to cover estimated wages and penalties under the contract.

#### **ARTICLE XX: ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements or understandings (whether oral or written) between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein.

#### **ARTICLE XXI: PUBLIC RECORDS**

The parties recognize and acknowledge that TOWN is subject to the California Public Records Act, California Government Code Section 6250 and following. Public records are subject to disclosure.

#### **ARTICLE XXII: NOTICES**

Any notice required to be given to CONTRACTOR shall be deemed to be duly and properly given if mailed to CONTRACTOR, postage prepaid, addressed to:

CALIFORNIA ROOFING COMPANY, INC.,  
1595 10<sup>TH</sup> STREET  
SAN JOSE, CA 95112

or personally delivered to CONTRACTOR at such address or at such other addresses as CONTRACTOR may designate in writing to TOWN.

Any notice required to be given TOWN shall be deemed to be duly and properly given if mailed to TOWN, postage prepaid, addressed to:

WooJae Kim  
Town Engineer  
TOWN OF LOS GATOS

Page 9 of 11

41 Miles Avenue  
Los Gatos, California 95030

or personally delivered to TOWN at such address or at such other addresses as TOWN may designate in writing to CONTRACTOR.

**ARTICLE XXIII: SECTION 7106 FORM**

Attached to the Agreement is a fully executed and sworn non-collusion affidavit as required by Section 7106 of the California Public Contracts Code. Said affidavit is incorporated herein by this reference.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands the year and date first written above.

APPROVED AS TO CONTENT:

"TOWN":  
TOWN OF LOS GATOS

\_\_\_\_\_  
Matt Morley  
Director of Parks and Public Works

By: \_\_\_\_\_  
Laurel Prevetti  
Town Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert Schultz  
Town Attorney

Attest: \_\_\_\_\_  
Shelley Neis MMC, CPMC, Town Clerk

CONTRACTOR:

Name: \_\_\_\_\_

By: \_\_\_\_\_

Address: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Tax ID No. or SSAN: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_



**CONTRACTOR'S BOND FOR LABOR AND MATERIAL**

KNOW ALL MEN BY THESE PRESENTS:

That \_\_\_\_\_, as Principal, and

\_\_\_\_\_ incorporated under the laws of the State of \_\_\_\_\_ and authorized to execute bonds and undertakings as Surety, are held and firmly bound unto any and all materialmen, persons, companies or corporations furnishing materials, provisions, provender or other supplies used in, upon, for or about the performance of the work contracted to be executed or performed under the contract hereinafter mentioned, and all persons, companies or corporations renting implements or machinery, or hiring crews, for or contributing to said work to be done, and all persons who perform work or labor upon the same, and all persons who supply both work and materials, and whose claim has not been paid by the contractor, company, or corporations in the just and full sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), for the payment whereof, well and truly to be made, said Principal and Surety bind themselves, their administrators, successors and assigns, jointly and severally firmly by these presents.

The condition of the foregoing obligation is such that; WHEREAS, the above-bounden Principal has entered into a certain contract attached hereto and incorporated herein by reference as though fully set forth, with the TOWN OF LOS GATOS, to do and perform the following work; to wit:

**ENGINEERING BUILDING ROOF REPLACEMENT**

as required by the plans and specifications, pursuant to the award made to said contractor by the Council of the TOWN OF LOS GATOS, on April 20, 2021, as will more fully appear by reference to the minutes of said Council of said TOWN of said date.

NOW, THEREFORE, if the above-bounden Principal, contractor, person, company, or corporation, or his agent, or the subcontractors, fails to pay for any materials, provisions, provender, or other supplies, or crews used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, or for any amount required to be deducted, withheld, and paid over to Franchise Tax Board, from the wages of employees of the contractor or subcontractor, pursuant to Section 18806 of the Revenue and Tax Code, then the Surety of this bond will also pay the same in an amount not exceeding the sum specified in the bond; and also, in case suit is brought upon this bond, a reasonable attorney's fee, which shall be awarded by the court to the prevailing party in said suit, said attorney's fee to be taxed as costs in said suit and to be included in the judgment therein rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or to the specifications accompanying the same shall in any way affect its obligation on this bond and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

This bond is executed and filed to comply with the provisions of Sections 3247, *et seq.*, of the Civil Code.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

BY: \_\_\_\_\_

BY: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CONTRACTOR

SURETY (Address and Phone No.)

(CORPORATE SEAL)

(SURETY SEAL)

The amount of the within obligation is hereby fixed by the TOWN Council in the sum of FIFTY SIX THOUSAND ONE HUNDRED AND TWENTY TWO Dollars (\$56,122), that sum being one hundred percent (100%) of the contract price, is by said TOWN Council deemed adequate, and is the sum fixed by it for that purpose and the TOWN Manager is hereby authorized to approve said bond.

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert Schultz, Town Attorney

\_\_\_\_\_  
Laurel Prevetti, Town Manager

ATTEST:

\_\_\_\_\_  
Shelley Neis, MMC, CPMC, Town Clerk



**CONTRACTOR'S BOND FOR FAITHFUL PERFORMANCE**

KNOW ALL MEN BY THESE PRESENTS:

That \_\_\_\_\_, as Principal, and \_\_\_\_\_, incorporated under the laws of the State of \_\_\_\_\_, and authorized to execute bonds and undertakings as Surety, are held firmly bound unto the TOWN OF LOS GATOS, a municipal corporation of the State of California, in the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), for payment whereof, well and truly to be made, said Principal and Surety bind themselves, their administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that: WHEREAS, the above-bounden Principal has entered into a certain contract attached hereto and incorporated herein by reference as though fully set forth, with the TOWN OF LOS GATOS, to do and perform the following work; to wit:

**ENGINEERING BUILDING ROOF REPLACEMENT**

as required by the plans and specifications, pursuant to the award made to said contractor by the Council of the TOWN OF LOS GATOS, on April 20, 2021, as will more fully appear by reference to the minutes of said Council of said date.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or to the specifications accompanying the same shall in any way affect its obligation on this bond and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

NOW, THEREFORE, if the above-bounden Principal shall well and truly perform the work contracted to be performed under said contract, then this obligation shall be void; otherwise, to remain in full force and effect.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

BY: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CONTRACTOR

(CORPORATE SEAL)

BY: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SURETY (Address and Phone No.)

(SURETY SEAL)

The amount of the within obligation is hereby fixed by the TOWN Council in the sum of FIFTY SIX THOUSAND ONE HUNDRED AND TWENTY TWO Dollars \$56,122, that sum being one hundred percent (100%) of the contract price, is by said TOWN Council deemed sufficient and adequate, and is the sum fixed by it for that purpose.

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert Schultz, Town Attorney

\_\_\_\_\_  
Laurel Prevetti, Town Manager

ATTEST:

\_\_\_\_\_  
Shelley Neis, MMC, CPMC, Town Clerk



Date: 1/27/2021

Same family ownership  
and management since 1931

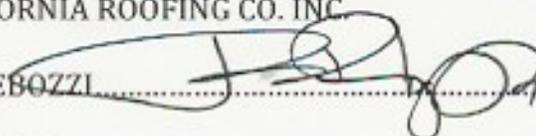
Town of Los Gatos  
Parks and Public Works  
14 Miles Ave. Los Gatos, Ca.  
95030  
Attention: Dan Keller

Project: Public Works Yard Re-roof Engineering Low Main Roof and Mechanics High Roof.

Scope of work:

- 1) Demo existing Roofing down to Wood sheeting and remove from site.
- 2) Remove existing Coping and save for Re-installation at the end of the project or optional New Standing Seam Metal Coping system to be installed.
- 3) On Main lower Roof, remove 2 existing Spinner vents and Patch openings.
- 4) Inspect all Roof sheeting for any Dry Rot and repair any as needed at T/M in addition to Contract price.
- 5) Install 1 layer of Johns Manville Securock Mechanically attached over the entire Roof surface.
- 6) Install 1 layer of Johns Manville (Gray) 80 Mill TPO Single Ply over the entire Roof. Mechanically attach and Robotically Heat Weld all Seams and Laps.
- 7) Install new Pipe and Vent Penetration Flashings.
- 8) Prep all drains to accept the new TPO Single Ply System.
- 9) All Curb Base Flashings and Walls will get Johns Manville Low VOC Bonding Adhesive and new TPO Single Ply Membrane. Walls will get completely covered with TPO. I have included JM Walk Tread to be installed at an access point for each Roof.
- 10) At lower Roof to upper Roof Wall Tie in, Install JM TPO Base Flashing detail and finish with 24Ga. Counter Flashing system.
- 11) Now Re-install existing Coping back in place using Fasteners with Sealing Washers. Use Sika Flex 1a Caulk for all joints. NOTE THAT I HAVE INCLUDED AN OPTIONAL PRICE TO REPLACE THE EXISTING COPING WITH A NEW 24GA STANDING SEAM METAL COPING SYSTEM. (PAINT NOT INCLUDED).
- 12) CALIFORNIA ROOFING CO. 10 YEAR WARRANTY WILL APPLY TO THIS PROJECT. THIS ROOF SPEC. IS BASED ON 25+ YEAR LIFE EXPECTANCY.

TOTAL BID AMOUNT FOR TIS PROJECT.....\$44,640.00  
 OPTIONAL STANDING SEAM METAL COPING SYSTEM.....\$4,540.00  
 CALIFORNIA ROOFING CO. INC

JOE REBOZZI  ..... DATE 1/27/2021  
 ACCEPTED..... DATE.....



**Town of Los Gatos - Engineering Building Roof Replacement - Bid Summary 2021**

Bid Item	Project Proposals Location Description		Intent to Award	Reliable Roofing Bid	Blues Roofing Bid
			Cal Roofing Company Inc. Bid		
1	Engineering Building 41 Miles Ave, Los Gatos	Remove and replace roof with Thermoplastic Polyolefin (TPO)	\$ 51,020.00	\$ 56,820.00	Non-responsive
Total (w/ bond)			\$ 51,020.00	\$ 56,820.00	



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 11

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DATE: April 13, 2021  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Review and Discuss the Activities of the Parks Commission

**RECOMMENDATION:**

Review and discuss the activities of the Parks Commission.

**BACKGROUND:**

The Parks Commission plays an important advisory role for both staff and the Town Council. Meetings occur at 6:00 p.m. on the first Monday of alternating months beginning in February of each year. Spring and summer meetings are held at rotating parks to encourage resident participation and stimulate conversation.

The Commission plays several key roles. The Town's Tree City USA accreditation requires a Parks Commission and the Commission acts as the deciding body for street tree removal appeals per the Town's Tree Ordinance.

Staff relies on the Commission to be the eyes and ears in the community, providing feedback on the use and functionality of Town parks, trails, and open space. Over several recent years, the Parks Commission has reviewed and provided input on a number of important topics, including the character of Worcester Park, the potential for capital improvements to the bandstand at Oak Meadow Park, and most recently discussions on a potential community garden in a PG&E easement on Union Avenue.

The Parks and Public Works Department serves as the liaison with the Commission.

**PREPARED BY:** Matt Morley  
Parks and Public Works Director

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Reviewed by: Town Manager and Assistant Town Manager

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DISCUSSION:

The Commission sets annual goals, one of which has been the establishment of a Park Stewardship program. This goal has been ongoing for a number of years and the workload for Commissioners to establish program guidelines has been a challenge.

Staff is currently working on a vegetation management plan for Town open space and undeveloped parks. This will be a future work item for which the Commission will review and provide input. Staff anticipates this as a topic for the Commission's June meeting.

The Commission will also review the design for improvements at the Oak Meadow Bandstand as those are developed. This project will be a part of the proposed FY 2021-22 Capital Improvement Program (CIP) Budget, funded largely by State Proposition 68.

Most recently, the Commission has heard from several community groups on specific projects. The first is a community garden concept that a group of residents is proposing for an underutilized PG&E easement adjacent to Union Avenue. The Commission has provided feedback to the project proponents and the proposal continues to evolve. Currently the project is not included in next year's proposed CIP due to a lack of funds. Staff and the Commission will look for other funding opportunities and continue to explore the project for future year's budgets.

The other project is a summer long Picnic in the Park program put forth by the Chamber of Commerce. The Parks Commission provided input on the proposal at their last meeting and were supportive of the effort.

The Commission is anxious to engage with the Council on priorities and to understand how it can best support the Council. Several topics rise to the top as areas for conversation:

- Are there specific areas of focus the Commission should explore with relation to parks, trails, and open space?
- Is there value to advancing a park stewardship program?
- Given the energy behind the community garden concept and the lack of funding, how can the Commission support the project concept?
- What role can the Commissioners play with the Picnic in the Park program?
- How can the Commission best support Town-wide efforts to advance diversity, equity, and inclusion (DEI)?

The Commission also reviewed the enabling resolution (Attachment 1) and the recruitment questionnaire (Attachment 2). Both meet the needs of the Commission.

PAGE 3 OF 3

SUBJECT: Review the Activities of the Parks Commission

DATE: April 13, 2021

CONCLUSION:

The Commissioners look forward to the dialogue with the Town Council.

FISCAL IMPACT:

There is no fiscal impact associated with this discussion.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Enabling Resolution
2. Commission Recruitment Questionnaire

**RESOLUTION 2016-057**  
**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS**  
**AMENDING THE PARKS COMMISSION ENABLING RESOLUTION**  
**AND RESCINDING RESOLUTION 2009-102**

**RESOLVED**, by the Town Council of the Town of Los Gatos, that the Town Council does hereby establish the terms and conditions for appointment to and conduct of the Parks Commission. The Commission is advisory to the Town Council and operates in the manner hereinafter prescribed.

1. Membership/Organization.

- a. The Parks Commission shall consist of seven (7) members: six (6) adult voting members appointed by Council, whose terms of office shall be three (3) years and until their successors are appointed by Council and one (1) Youth Commissioner as a voting member, appointed by the Youth Commission, whose term of office shall be for one (1) year with no limitations on reappointment.
- b. All adult members of the Commission shall reside within the incorporated municipal limits of the Town of Los Gatos, California.
- c. Commission members shall serve without compensation, provided that, with advance budgetary approval of the Town Council, the actual and necessary expenses (if any) incurred by the members in the conduct of Town business shall be reimbursable pursuant to the provisions of the current Administrative Policy.
- d. The Commission shall establish a regular time and location for its meetings and shall otherwise call and conduct its meetings in compliance with the provisions of the Ralph M. Brown Act (Government Code Sections 54950 and following)
- e. A majority of members of the Parks Commission shall constitute a quorum for the purpose of transacting the business of the Commission.
- f. The Parks Commission shall elect a Chair and a Vice-Chair, both of whom shall serve at the pleasure of the Commission. Terms of office shall be for one (1) year and shall begin on the first meeting in March and end the following March.
- g. Staff services as required shall be provided to the Parks Commission by the Parks and Public Works Director, or his/her designee.
- h. Meeting attendance requirements will conform with all current Town Resolutions and Policies.
- i. A record of all minutes and resolutions of the Commission shall be kept and shall be a public record.

2. Powers and Duties.

- a. The function of the Commission shall be to serve in an advisory capacity to the Town Council regarding Town policies within its scope of expertise; specifically, on matters pertaining to public parks, off-street trails, open space, grounds, and street trees.
- b. With the prior approval of, and/or at the direction of, the Town Council or its delegate, the Commission shall receive public input, evaluate options, and make recommendations on policy issues including, but not limited to, the following:
  1. Policies and procedures on park, trail, open space, and street tree programs.
  2. Inventories of park, trail, open space, and street tree services that exist or may be needed, and of the needs of the public regarding these services.
  3. Coordination of park, trail, open space, and street tree services with the programs of other governmental agencies and voluntary organizations.

**BE IT FURTHER RESOLVED** that Resolution 2009-102 is hereby rescinded.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 18<sup>th</sup> day of October, 2016, by the following vote:

COUNCIL MEMBERS:

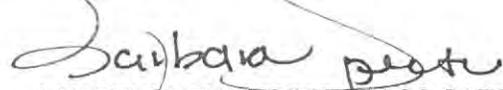
AYES: Marcia Jensen, Steve Leonardis, Marico Sayoc, Mayor Barbara Spector

NAYS: Rob Rennie

ABSENT: None.

ABSTAIN: None

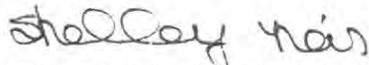
SIGNED:



MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: 10/20/16

ATTEST:



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

DATE: 10/20/16

# TOWN OF LOS GATOS

## BOARD, COMMISSION, COMMITTEE APPLICATION

Contact: Clerk Department  
110 East Main Street, Los Gatos, CA 95030  
(408) 354-6888 or Clerk@LosGatosCA.gov

General eligibility requirements: A resident of the incorporated limits of the Town of Los Gatos. Other requirements may apply to specific Boards, Commissions, or Committees.

If you would like to apply for more than one Board, Commission, or Committee, place a number next to the Board, Commission, or Committee, in order of your preference, for which you would like to apply. **A separate application is required to be submitted for each Board, Commission, or Committee you are applying for.** Only applications for current openings will be considered at this time. Applications for future openings will be kept on file for one year. Qualified applicants will be notified for an interview with Town Council.

- Arts and Culture Commission
- Building Board of Appeals
- Community Health and Senior Services Commission
- Complete Streets and Transportation Commission
- Council Finance Committee – Resident
- General Plan Committee
- Historic Preservation Committee
- Library Board
- Parks Commission
- Personnel Board
- Planning Commission
- Sales Tax Oversight Committee

### IMPORTANT NOTICES

Please note that all information provided on the application becomes a public record after it is officially filed. All appointed applicants are required to file the Fair Political Practices Commission (FPPC) Statements of Economic Interest (Form 700), which are also a public record. Applicants appointed to the Planning Commission are also required to complete Ethics Training AB 1234 every two years.

CONTINUE TO PAGE 2

# PARKS COMMISSION APPLICATION

Contact: Clerk Department  
110 East Main Street, Los Gatos, CA 95030  
(408) 354-6888 or Clerk@LosGatosCA.gov

**Note: Only the text that shows in the boxes is visible.  
Please do not go beyond the borders of the boxes.**

FIRST NAME:	_____	LAST NAME:	_____
ADDRESS:	_____	CITY:	_____ ZIP CODE: _____
CELL PHONE:	_____	WORK PHONE:	_____
EMAIL ADDRESS:	_____	HOME PHONE:	_____
EMPLOYER:	_____	JOB TITLE:	_____

HOW LONG HAVE YOU LIVED IN LOS GATOS?  
\_\_\_\_\_

\*If appointed your name, phone number, and email address will be made available to the public.

Please list all previously held elected or appointed governmental positions. Include the Position/Office held and the associated dates.  
*(e.g. Mayor, City of San Jose, 1990-1994)*

Please list any civic charitable organizations you have belonged to. Include the Position/Office held and the associated dates.  
*(e.g. Coach, Little League, 1982-1989)*

Please list any schools that you have attended or are currently attending. Include your major subject area and/or grade level.  
*(e.g. San Jose State University, BA in History)*



Why are you interested in serving the Parks Commission?

A large, empty rectangular box with a black border, intended for the respondent to write their answer to the question about their interest in serving the Parks Commission.

Have you ever attended a Parks Commission meeting? If yes, please provide a summary of your observation. If not, why not?

A large, empty rectangular box with a black border, intended for the respondent to write their answer to the question about attending a Parks Commission meeting.

What do you see as the role of this Commission?

A large, empty rectangular box with a black border, intended for the respondent to write their answer to the question about the role of the Commission.

How will you balance your personal interests with the broader role of the Commission?

A large, empty rectangular box with a black border, intended for the respondent to provide an answer to the question above.

What, from your perspective are the major priorities in the areas of parks with respect to policies, capital investment, and/or maintenance?

A large, empty rectangular box with a black border, intended for the respondent to provide an answer to the question above.

Have you visited any of the Town parks? If yes, which ones? What did you like most and least about them?

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***All applicants are required to be interviewed to be considered for appointment as a Commissioner.***

Applicants will be notified by email of the interview date and time.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THE INTERVIEW PROCESS, 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 [28 CFR §35.102-35.104]*

**Submit Via Email**



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 11

ADDENDUM

---

DATE: April 19, 2021

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Review and Discuss the Activities of the Parks Commission

REMARKS:

This addendum reflects public comment received from 11:01 a.m., Thursday, April 15, 2021 through 11:00 a.m., Monday, April 19, 2021.

Attachments Previously Received with Staff Report:

1. Enabling Resolution
2. Commission Recruitment Questionnaire

Attachment Received with this Addendum:

3. Public Comment Received from 11:01 a.m., Thursday, April 15, 2021 through 11:00 a.m., Monday, April 19, 2021.

PREPARED BY: Matt Morley  
Parks and Public Works Director

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Reviewed by: Town Manager and Assistant Town Manager

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On Apr 19, 2021, at 5:52 AM, Bruce Zurbuchen wrote:

Marico,

I am in support of the proposed Pinehurst Community Garden. My wife and I enjoy a whole-grain, plant-based diet and would love access to a garden area. Additionally, the foot traffic in the area is substantial with several schools and a healthy lifestyle community utilizing the neighborhood for biking and walking. The street traffic is continually increasing, especially on Union Avenue.

I am hoping for your support and positive vote on this project !!

Sincerely,  
Bruce Zurbuchen  
Los Gatos

.....

On Apr 18, 2021, at 5:50 PM, Debbie Sy < wrote:

Hello Los Gatos Council Members,

I am unable to attend the meeting this coming Tuesday, but I wanted to let you know that I think that the plan to build a community garden near Union Middle School is a wonderful idea. It will definitely improve the aesthetics of the area as well as give people more opportunities to interact as a community. I also like the idea of recognizing Native land with art or a sign about the Ohlone. It will be great to be reminded of our California history and to show respect for the people who came before us.

Thank you for listening to my two cents.

Sincerely,

Debbie Sy  
Los Gatos resident



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 11

DESK ITEM

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DATE: April 20, 2021  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Review and Discuss the Activities of the Parks Commission

**REMARKS:**

This desk item reflects public comment received from 11:01 a.m., Monday, April 19, 2021 through 11:00 a.m., Tuesday, April 20, 2021.

**Attachments Previously Received with Staff Report:**

1. Enabling Resolution
2. Commission Recruitment Questionnaire

**Attachment Previously Received with Addendum:**

3. Public Comment Received from 11:01 a.m., Thursday, April 15, 2021 through 11:00 a.m., Monday, April 19, 2021.

**Attachment Received with this Desk Item**

4. Public Comment Received from 11:01 a.m., Monday, April 19, 2021 through 11:00 a.m., Tuesday, April 20, 2021.

**PREPARED BY:** Matt Morley  
Parks and Public Works Director

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Reviewed by: Town Manager and Assistant Town Manager

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**From:** Jim Barth  
**Sent:** Tuesday, April 20, 2021 9:43 AM  
**To:** Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>; Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>; Mary Badame <[MBadame@losgatosca.gov](mailto:MBadame@losgatosca.gov)>; Matthew Hudes <[MHudes@losgatosca.gov](mailto:MHudes@losgatosca.gov)>; Maria Ristow <[MRistow@losgatosca.gov](mailto:MRistow@losgatosca.gov)>  
**Cc:** Matt Morley <[MMorley@losgatosca.gov](mailto:MMorley@losgatosca.gov)>; Perry Gardner; Tracy Atkinson; communitygardenlg; Denise Ramon-Herrera  
**Subject:** Support for Pinehurst Community Garden

Dear Mayor Sayoc and members of the Los Gatos Town Council:

On behalf of the Los Gatos Lions Club, I would like to advise you of our support for the Pinehurst Community Garden Project being discussed at this evening's council meeting under agenda item #11.

We first became aware of this project approximately four months ago as we considered our own Eco-Garden project for the benefit of the local community. We discovered that the Pinehurst proposal was very well thought out, researched and presented, and met substantially the same goals we had for a Lions project. As a result, we have offered our support through our Service Projects committee and plan to help in the development and maintenance of the community garden as the need and opportunity arises.

It's such a great idea for our community.

Jim Barth  
Third Vice President  
Los Gatos Lions Club

**From:** Jessica Goodman  
**Sent:** Monday, April 19, 2021 2:53 PM  
**To:** PublicComment <[PublicComment@losgatosca.gov](mailto:PublicComment@losgatosca.gov)>; Marico Sayoc <[MSayoc@losgatosca.gov](mailto:MSayoc@losgatosca.gov)>; Rob Rennie <[RRennie@losgatosca.gov](mailto:RRennie@losgatosca.gov)>; Mary Badame <[MBadame@losgatosca.gov](mailto:MBadame@losgatosca.gov)>; Matthew Hudes <[MHudes@losgatosca.gov](mailto:MHudes@losgatosca.gov)>; Maria Ristow <[MRistow@losgatosca.gov](mailto:MRistow@losgatosca.gov)>  
**Subject:** Public Comment Item #11 Support for Pinehurst Community Garden project

Dear Los Gatos Town Council members,

I am writing to express my support for the Pinehurst Community Garden project, one of the possibilities for the Parks Commission discussion on agenda item #11 during the Tuesday 4/20 Council meeting.

I am a Los Gatos resident who lives directly adjacent to the proposed space. The community garden will bring neighbors together, provide educational opportunities for all ages, activate an unused space, and encourage more plant-based eating for environmental and health benefits.

I hope you will support this project.

Sincerely,  
Jessica Goodman  
Lynn Ave., Los Gatos



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 12

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DATE: April 14, 2021  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Consider a Request for Approval for a Zone Change from O:LHP (Office with a Landmark and Historic Preservation Overlay) to R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) for Property Located at **246 Almendra Avenue**. APN: 510-14-019. Zone Change Application Z-20-001. Property Owner: Gary Filizetti. Applicant: Brett Brenkwitz.

**RECOMMENDATION:**

Consider a request for approval for a zone change from O:LHP (Office with a Landmark and Historic Preservation Overlay) to R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) for property located at 246 Almendra Avenue.

**BACKGROUND:**

The subject parcel is located on the northern side of Almendra Avenue, one property east of the Almendra Avenue and Tait Avenue intersection (Attachment 1, Exhibit 1). The parcel is located within the Almond Grove Historic District, but is not listed as a contributor to the Almond Grove Historic District as there are no buildings on the parcel. The parcel is currently developed as a parking lot serving as overflow parking for the restaurant at 235 Los Gatos-Saratoga Road to the north.

The applicant is requesting approval of a zone change from O:LHP to R-1D:LHP to allow for the future construction of a new single-family residence (Attachment 1, Exhibit 4). The Landmark and Historic Preservation Overlay Zone (LHP) would remain if the application is approved. No construction is proposed at this time.

**PREPARED BY:** Ryan Safty  
Associate Planner

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

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DISCUSSION:

A. Planning Commission

At its March 10, 2021 meeting, the Planning Commission reviewed the application and recommended approval of the zone change to the Town Council (Attachments 1-2).

B. Zone Change

The applicant is proposing a zone change from O:LHP to R-1D:LHP. The proposed zoning would be consistent with the existing General Plan Land Use designation (as discussed below). Any future development proposed on the parcel would require approval of an Architecture and Site Application with review by the Historic Preservation Committee. The 7,000-square foot parcel complies with the minimum lot size for a single-family dwelling in the R-1D Zone of 5,000 square feet, and a residential use is a principally permitted use within the R-1D Zone.

The subject parcel is currently developed as an overflow parking lot for the adjacent restaurant to the north, with 18 parking spaces. Approval of the restaurant use on the adjacent parcel was not predicated on these 18 parking spaces. A total of 11 parking spaces will be maintained on the adjacent parcel (Attachment 1, Exhibit 5), which exceeds the current parking requirement of nine spaces for the 2,660-square foot restaurant.

The subject parcel is bounded by parcels with a C-2 zoning designation to the north, O:LHP to the south, R-1D:LHP to the east, and both O:LHP and R-1D:LHP to the west (Attachment 1, Exhibit 1).

C. General Plan

The proposed R-1D:LHP zoning would conform with the existing General Plan Land Use designation of Medium Density Residential. Pursuant to the General Plan, "The Medium Density Residential designation provides for multiple-family residential, duplex, and/or small single-family homes."

The subject parcel is surrounded by parcels with a Medium Density Residential General Plan Land Use designation to the south, west, and east (Attachment 1, Exhibit 1). The restaurant to the north has a Central Business District Land Use designation.

PUBLIC COMMENTS:

Written notice of the Town Council hearing was sent to property owners and tenants within 300 feet of the subject property. At the time of this report's preparation, the Town has not received any public comment.

CONCLUSION:

A. Summary

The proposed zone change would be consistent with the existing General Plan Land Use designation and the existing pattern of land uses and zones surrounding the parcel (Attachment 1, Exhibit 1).

B. Recommendation

Based on the analysis above and the recommendation of the Planning Commission, staff recommends that the Town Council consider the existing General Plan Land Use designations and existing zoning designations surrounding the subject parcel and approve the zone change. If the Town Council finds merit with the proposed amendment, it should:

1. Make the required finding 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) (Attachment 3);
2. Make the required finding that the proposed zone change is consistent with the General Plan and its Elements in that the proposed zoning is consistent with the existing General Plan Land Use designation (Attachment 3); and
3. Introduce an Ordinance of the Town of Los Gatos effecting a zone change from O:LHP (Office with a Landmark and Historic Preservation Overlay) to R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) for the property located at 246 Alameda Avenue (Attachment 4), by title only, with any specific changes identified and agreed upon by the majority of the Town Council.

C. Alternatives

Alternatively, the Town Council could:

1. Continue the matter to a date certain with specific direction;
2. Remand the application to the Planning Commission with specific direction; or
3. Deny the application.

COORDINATION:

The Community Development Department coordinated with the Parks and Public Works Department, the Santa Clara County Fire Department, and the Town Attorney's Office in the review of the proposed project.

PAGE 4 OF 4

SUBJECT: 246 Almendra Avenue/Z-20-001

DATE: April 14, 2021

ENVIRONMENTAL ASSESSMENT:

The project is Categorically 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 the proposed amendment to the Town Code will have a significant effect on the environment.

Attachments:

1. March 10, 2021 Planning Commission Staff Report with Exhibits 1-5
2. March 10, 2021 Planning Commission Verbatim Minutes
3. Draft Findings
4. Draft Ordinance for the Zone Change, with Exhibit A



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 03/10/2021

ITEM NO: 2

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DATE: March 5, 2021  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Consider a Request for Approval for a Zone Change from O:LHP (Office with a Landmark and Historic Preservation Overlay) to R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) for Property Located at **246 Almendra Avenue**. APN: 510-14-019. Zone Change Application Z-20-001. Property Owner: Gary Filizetti. Applicant: Brett Brenkwitz.

**RECOMMENDATION:**

Consider a request for approval for a zone change from O:LHP (Office with a Landmark and Historic Preservation Overlay) to R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) for property located at 246 Almendra Avenue.

**CEQA:**

The project is Categorically 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 the proposed amendment to the Town Code will have a significant effect on the environment.

**FINDINGS:**

- 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), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code will have a significant effect on the environment.
- That the proposed zone change is consistent with the General Plan and its Elements in that the proposed zoning is consistent with the existing General Plan Land Use designation.

**PREPARED BY:** RYAN SAFTY  
Associate Planner

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Reviewed by: Planning Manager and Community Development Director

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BACKGROUND:

The subject parcel is located on the northern side of Almendra Avenue, one property east of the Almendra Avenue and Tait Avenue intersection (Exhibit 1). The parcel is located within the Almond Grove Historic District, but is not listed as a contributor to the Almond Grove Historic District as there are no buildings on the parcel. The parcel is currently developed as a parking lot serving as overflow parking for the restaurant at 235 Los Gatos-Saratoga Road to the north.

The applicant is requesting approval of a zone change from O:LHP to R-1D:LHP to allow for the future construction of a new single-family residence (Exhibit 4). The Landmark and Historic Preservation Overlay Zone (LHP) would remain if the application is approved. No construction is proposed at this time.

DISCUSSION:

A. Zone Change

The applicant is requesting approval of a zone change from O:LHP to R-1D:LHP. The proposed zoning would be consistent with the existing General Plan Land Use designation (as discussed below). Any future single-family development proposed on the parcel would require approval of an Architecture and Site Application with review by the Historic Preservation Committee. The 7,000-square foot parcel complies with the minimum lot size for a single-family dwelling in the R-1D Zone of 5,000 square feet, and a residential use is a principally permitted use within the R-1D Zone.

The subject parcel is currently developed as an overflow parking lot for the adjacent restaurant to the north, with 18 parking spaces. Approval of the restaurant use on the adjacent parcel was not predicated on these 18 parking spaces. A total of 11 parking spaces will be maintained on the adjacent parcel (Exhibit 5), which exceeds the current parking requirement of nine spaces for the 2,660-square foot restaurant.

The subject parcel is bound by parcels with a C-2 zoning designation to the north, O:LHP to the south, R-1D:LHP to the east, and both O:LHP and R-1D:LHP to the west (Exhibit 1).

B. General Plan

The proposed R-1D:LHP zoning would conform with the existing General Plan Land Use designation of Medium Density Residential. Pursuant to the General Plan, "The Medium Density Residential designation provides for multiple-family residential, duplex, and/or small single-family homes."

DISCUSSION (continued):

The subject parcel is surrounded by parcels with a Medium Density Residential General Plan Land Use designation to the south, west, and east (Exhibit 1). The restaurant to the north has a Central Business District Land Use designation.

PUBLIC COMMENTS:

At the time of this report's preparation, the Town has not received any public comment.

CONCLUSION:

A. Summary

The proposed zone change would be consistent with the existing General Plan Land Use designation and the existing pattern of land uses and zones surrounding the parcel (Exhibit 1).

B. Recommendation

Based on the analysis above, staff recommends that the Planning Commission consider the existing General Plan Land Use designation and the existing zoning designations surrounding the subject parcel and forward a recommendation for approval to the Town Council. If the Planning Commission finds merit with the proposed amendment, it should:

1. Make the required finding 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), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code will have a significant effect on the environment (Exhibit 2);
2. Make the required finding that the proposed zone change is consistent with the General Plan and its Elements in that the proposed zoning is consistent with the existing General Plan Land Use designation (Exhibit 2); and
3. Forward a recommendation of approval of Zone Change Application Z-20-001 to the Town Council.

C. Alternatives

Alternatively, the Planning Commission can:

1. Continue the matter to a date certain with specific direction;
2. Provide a recommendation for approval with modifications to the Town Council; or
3. Provide a recommendation for denial to the Town Council providing findings for denial.

PAGE 4 OF 4

SUBJECT: 246 Almendra Avenue/Z-20-001

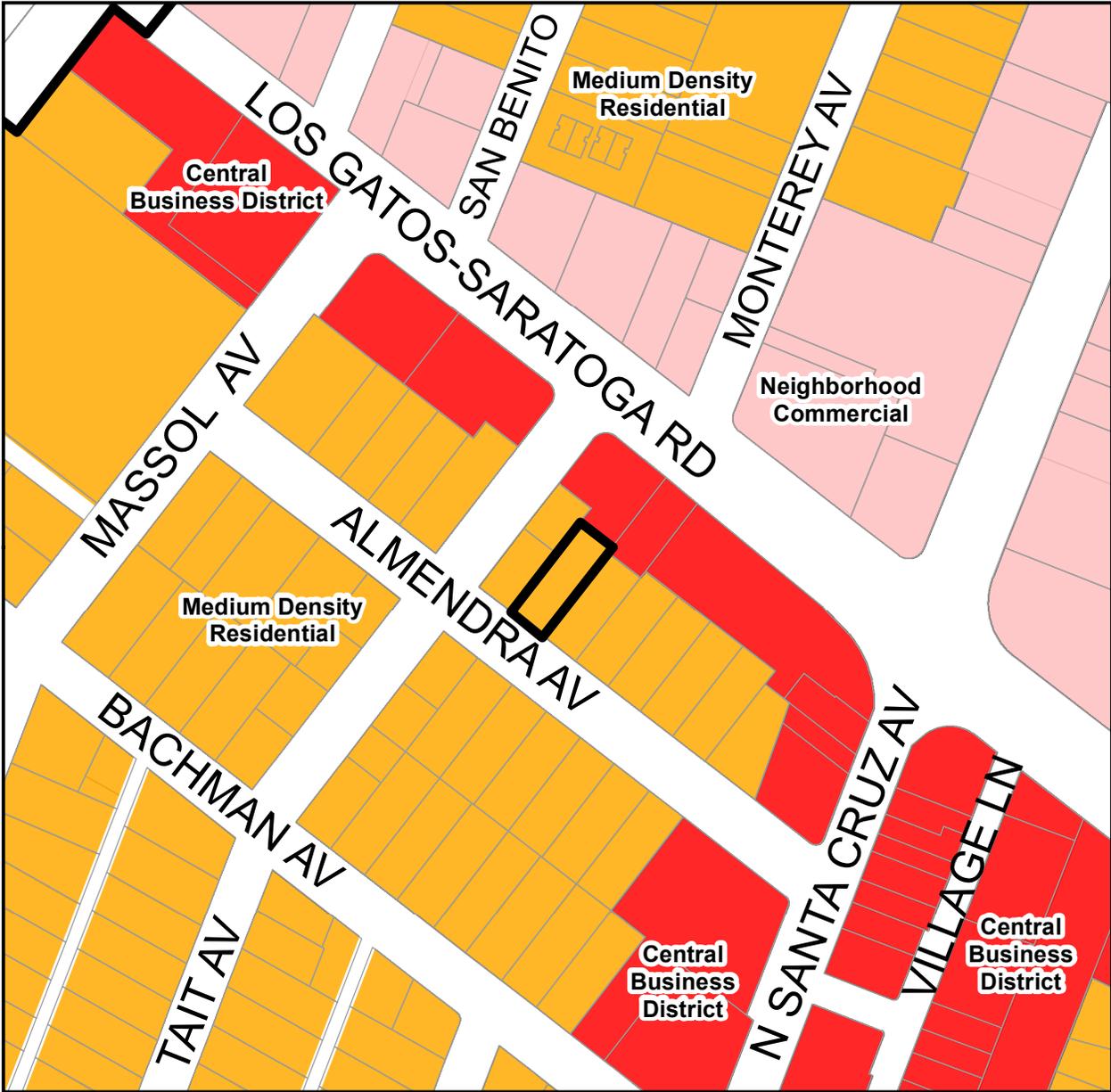
DATE: March 5, 2021

EXHIBITS:

1. Location Maps (showing General Plan Land Use Designations and Existing Zoning)
2. Draft Findings
3. Draft Ordinance for Zone Change, with Exhibit A
4. Letter from Applicant
5. Property Plans

# 246 Almendra Avenue

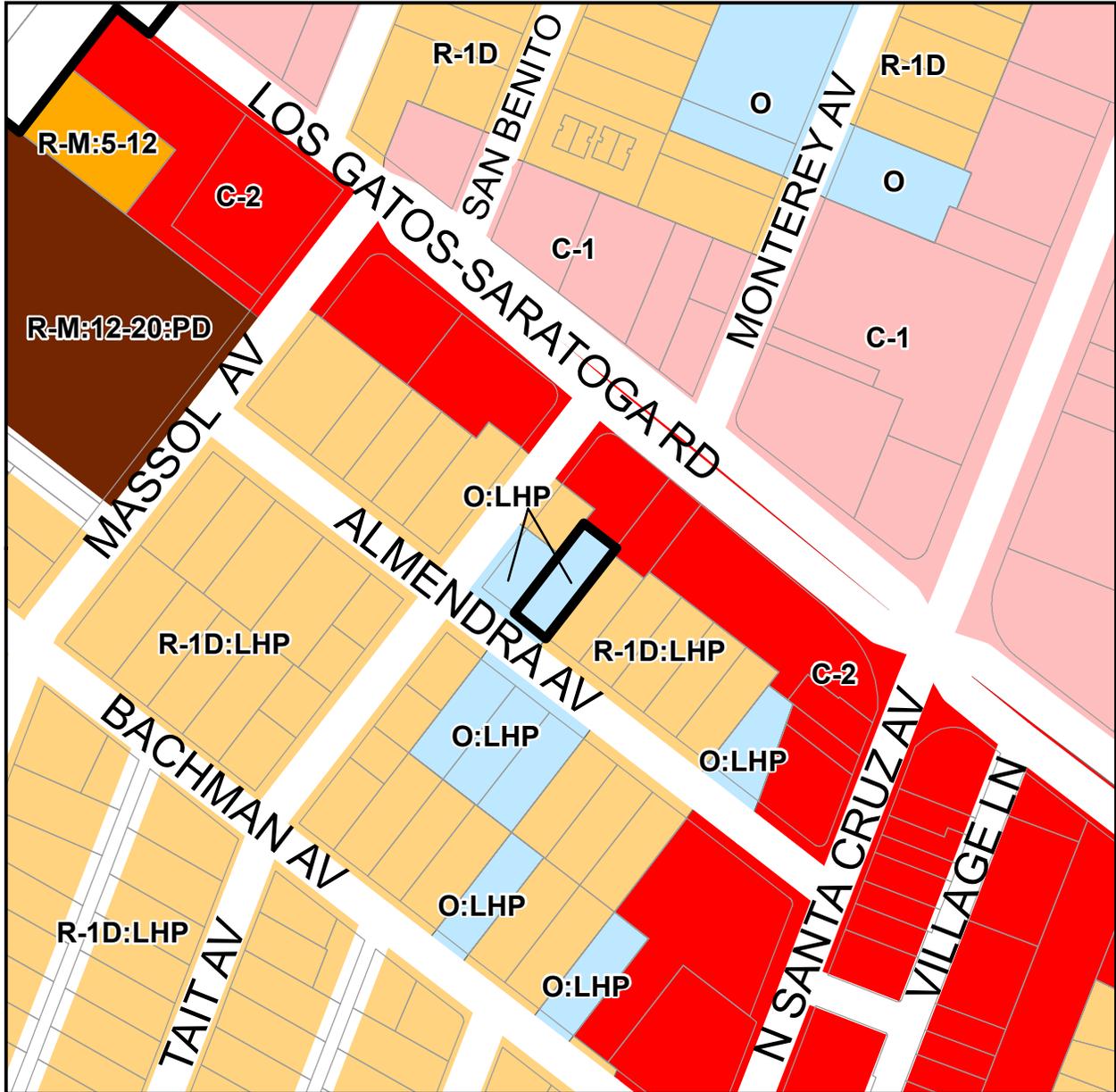
## Existing Land Use Designation





# 246 Almendra Avenue

## Existing Zoning



**PLANNING COMMISSION – March 10, 2021**  
**REQUIRED FINDINGS**

**246 Alameda Avenue**  
**Zone Change Application Z-20-001**

**Consider a Request for Approval for a Zone Change from O:LHP (Office with a Landmark and Historic Preservation Overlay) to R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay), for Property Located at 246 Alameda Avenue. APN: 510-14-019. Zone Change Application Z-20-002.**

**Property Owner: Gary Filizetti.**

**Applicant: Brett Brenkwitz**

**FINDINGS**

**Required finding for CEQA:**

- 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), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code will have a significant effect on the environment.

**Required consistency with the Town’s General Plan:**

- That the proposed Zone Change is consistent with the General Plan and its Elements in that the proposed zoning is consistent with the existing General Plan Land Use designation.

EXHIBIT 2

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**DRAFT ORDINANCE**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
AMENDING THE ZONING CODE  
FROM O:LHP (OFFICE WITH A LANDMARK AND HISTORIC PROPERTY OVERLAY)  
TO R-1D:LHP (SINGLE-FAMILY RESIDENTIAL DOWNTOWN WITH A LANDMARK AND  
HISTORIC PROPERTY OVERLAY)  
FOR PROPERTY LOCATED AT 246 ALMENDRA AVENUE**

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

**SECTION I**

The Town Code of the Town of Los Gatos is hereby amended to change the zoning of the property at 246 Alameda Avenue (Santa Clara County Assessor Parcel Number 510-14-019) as shown on the map attached hereto as Exhibit A, and is part of this Ordinance, from O:LHP (office with a Landmark and Historic Property Overlay) to R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Property Overlay).

**SECTION II**

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the \_\_\_ day of \_\_\_\_\_ 2021 , 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 \_\_\_ day of \_\_\_\_\_ 2021. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

EXHIBIT 3

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

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

DATE: \_\_\_\_\_



**246 Almendra Avenue**

# TOWN OF LOS GATOS

Application No. Z-20-001

A.P.N. # 510-14-019

Change of zoning map amending the Town Zoning Ordinance.

Zone Change

From: O:LHP To: R-1D:LHP

Prezoning



Forwarded by Planning Commission

Date:

Approved by Town Council

Date:

Ord:

Clerk Administrator

Mayor

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**FRANKS & BRENKWITZ, LLP**  
**ARCHITECTURE + PLANNING + HISTORICAL**  
**PO Box 597, Aptos, CA 95001-0597**  
**Phone (831) 662-8800**

**LETTER OF TRANSMITTAL**

**Date:** 1-7-21

**To:** Town of Los Gatos, Community Development Dept.

**Attention:** Ryan M. Safty, Associate Planner

**Job:** 246 Almendra Ave. (510-14-019), Zoning Change Request Z-20-001

**We transmit:** Project Description / Letter of Justification

**Project Description**

The request for entitlements surrounding the proposed zoning change for this parcel stem from the desire to build a new Single Family Dwelling and possible detached ADU over garage on this particular parcel.

Currently, the parcel supports an asphaltic concrete paved parking lot. The lot's parking spaces are not required by any of the adjacent parcels/ businesses, and thus could be removed without any potential impact or issue. Eliminating the lot would also reduce the non-pervious area contributing to storm water runoff into the street.

The same owner of the project parcel also owns the adjacent property "The Diner of Los Gatos". The existing parking on the diner parcel is sufficient for that business without relying on the overflow parking spaces on the project parcel. Thus, no parking "hardship" will be created with this project.



**The neighborhood supports a healthy mix of commercial and residential uses and thus the addition of a new SFD/ ADU would be compatible with the existing neighborhood character.**

**In summation, the proposed zoning change would be compatible and appropriate for the Town by eliminating an existing (non-aesthetic) parking lot and replacing it with much needed and more aesthetically pleasing housing.**

**Sincerely,**



**Brett Brenkwitz, Architect C 25,131**



4 NTS VICINITY MAP

ADDRESS: 246 ALMENDRA AVE. LOS GATOS, CA. 95032  
 A.P.N.: 510-14-019  
 ZONING: O-LHP (ALMOND GROVE)  
 -GENERAL PLAN LAND USE: MEDIUM DENSITY RESIDENTIAL  
 -PARCEL AREA: 7,000 SF  
 PARKING: THERE IS NO PARKING CONTRACT ON FILES THAT TIES THE EXISTING APRKING SPACES TO THE ADJACENT DINER.  
 -PROJECT DESCRIPTION: CHANGE ZONING FROM O-LHP TO R-1D: LHP IN ORDER TO ALLOW A FUTURE RES. W/ ADU TO BE CONSIDERED.  
 -THE FOLLOWING CODES ARE APPLICABLE:  
 A. 2019 CALIF. BUILDING CODE (CBC)  
 B. 2019 CALIF. MECHANICAL CODE (CMC)  
 C. 2019 CALIF. PLUMBING CODE (CPC)  
 D. 2019 CALIF. ELECTRICAL CODE (CEC)  
 E. 2019 CALIF. ENERGY CODE  
 F. 2019 CALIF. GREEN BUILDING STANDARDS CODE.  
 G. 2019 CALIF. FIRE CODE.

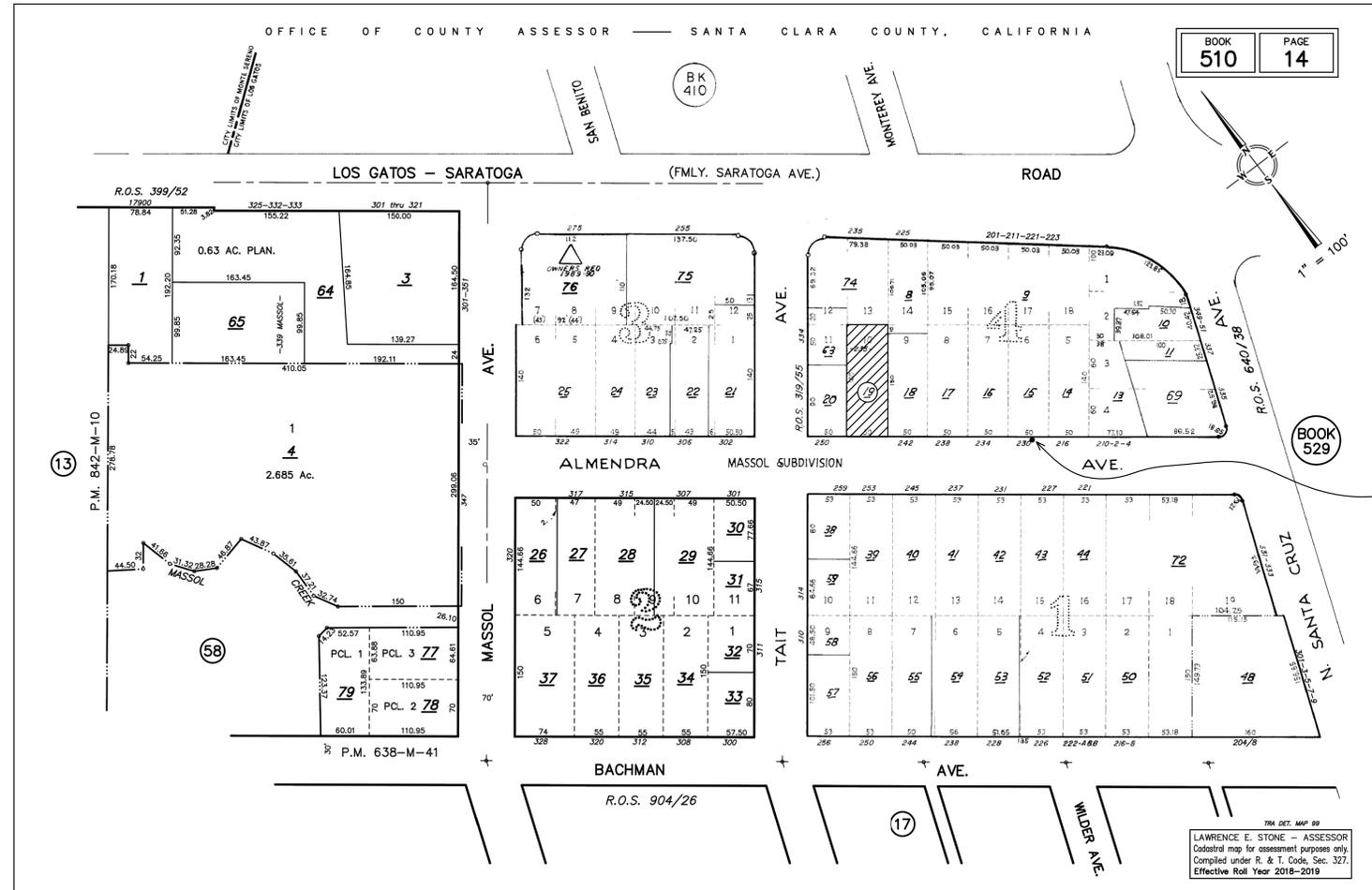
3 NTS PROJECT DATA

OWNER:  
 GARY FILIZETTI  
 690 GIBRALTAR DRIVE  
 MILPITAS, CA. 95035  
 ARCHITECT:  
 FRANKS & BRENKWITZ, LLP  
 P.O. BOX 597  
 APTOS, CA. 95001  
 (831)662-8800  
 SURVEYOR:  
 SANDIS  
 1700 WINCHESTER BLVD.  
 CAMPBELL, CA. 95008  
 (408) 636-0900

2 NTS PROJECT NOTES

SHEET NO.	DESCRIPTION
A-1	TITLE SHEET W/ TAX MAP
C-1	ALTA SURVEY
A-2	SITE PLAN
A-2.1	EXPANDED SITE PLAN
A-3	NEIGHBORHOOD PICTURES
A-4	SITE PICTURES

1 NTS SHEET INDEX



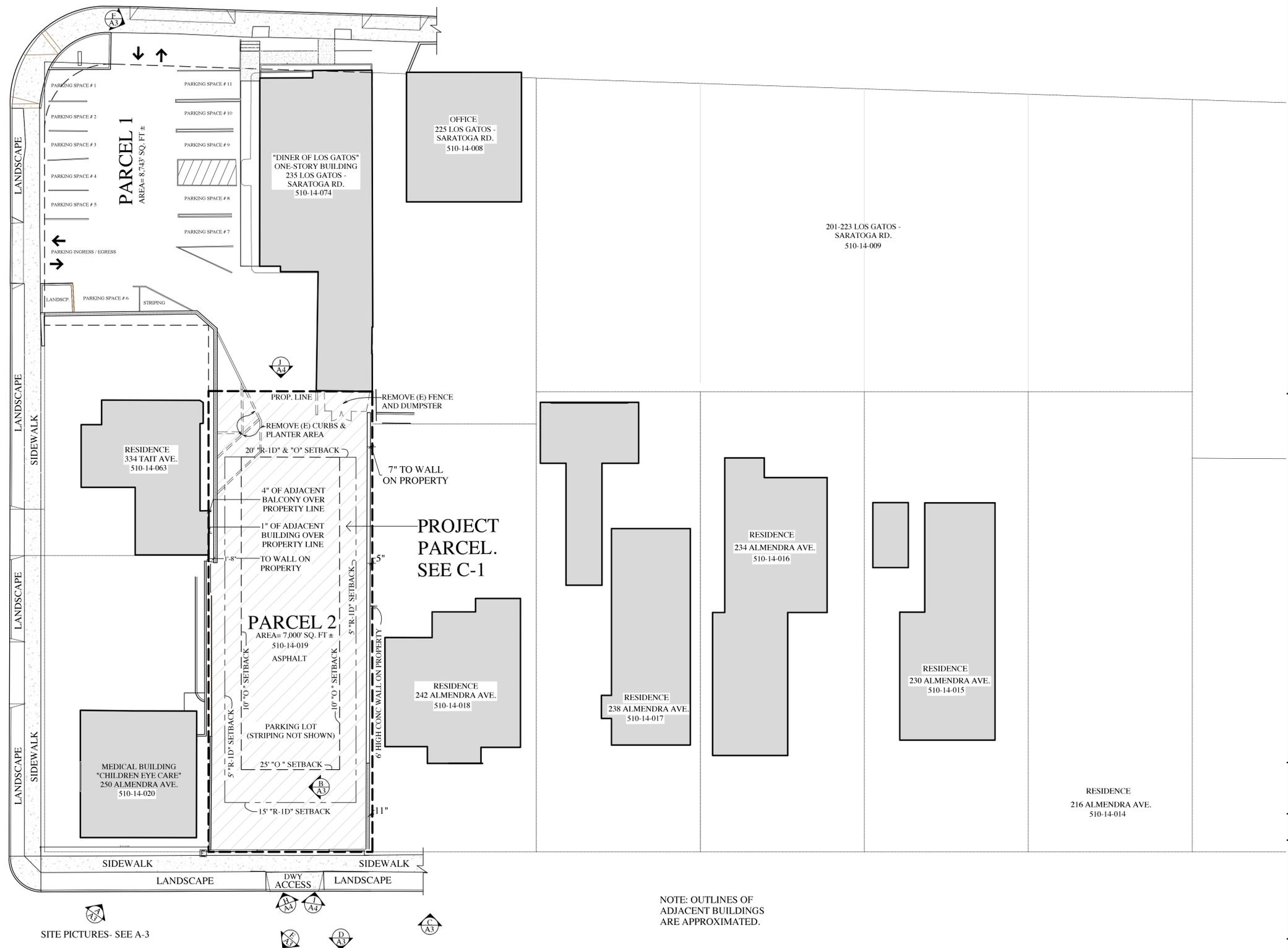




LOS GATOS - SARATOGA RD

TAIT AVE

ALMENDRA AVE



246 ALMENDRA AVE. ZONING CHANGE  
 LOS GATOS, CA. 95032  
 APN 510-14-019

EXISTING SITE PLAN

REVISION:  
 1-6-21

DATE: 10-29-20



SCALE: 1/16"=1'-0"

SHEET NO.

A-2

OF 6 SHEETS

NOTE: OUTLINES OF ADJACENT BUILDINGS ARE APPROXIMATED.

SITE PICTURES- SEE A-3



P.O. Box 597, Aptos, CA 95001  
(831) 662-8800

246 ALMENDRA AVE. ZONING CHANGE  
LOS GATOS, CA. 95032  
APN 510-14-019

EXISTING EXPANDED SITE PLAN

REVISION:

DATE: 1-6-21

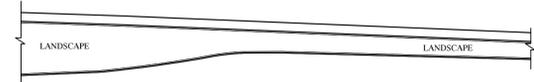


SCALE: 1"=30'

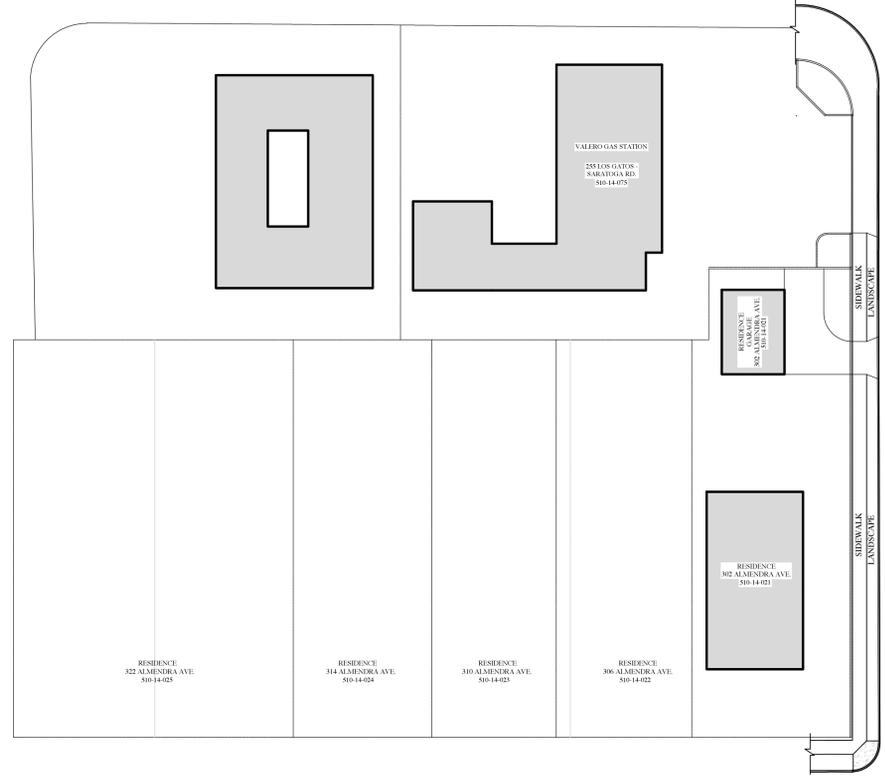
SHEET NO.

A-2.1

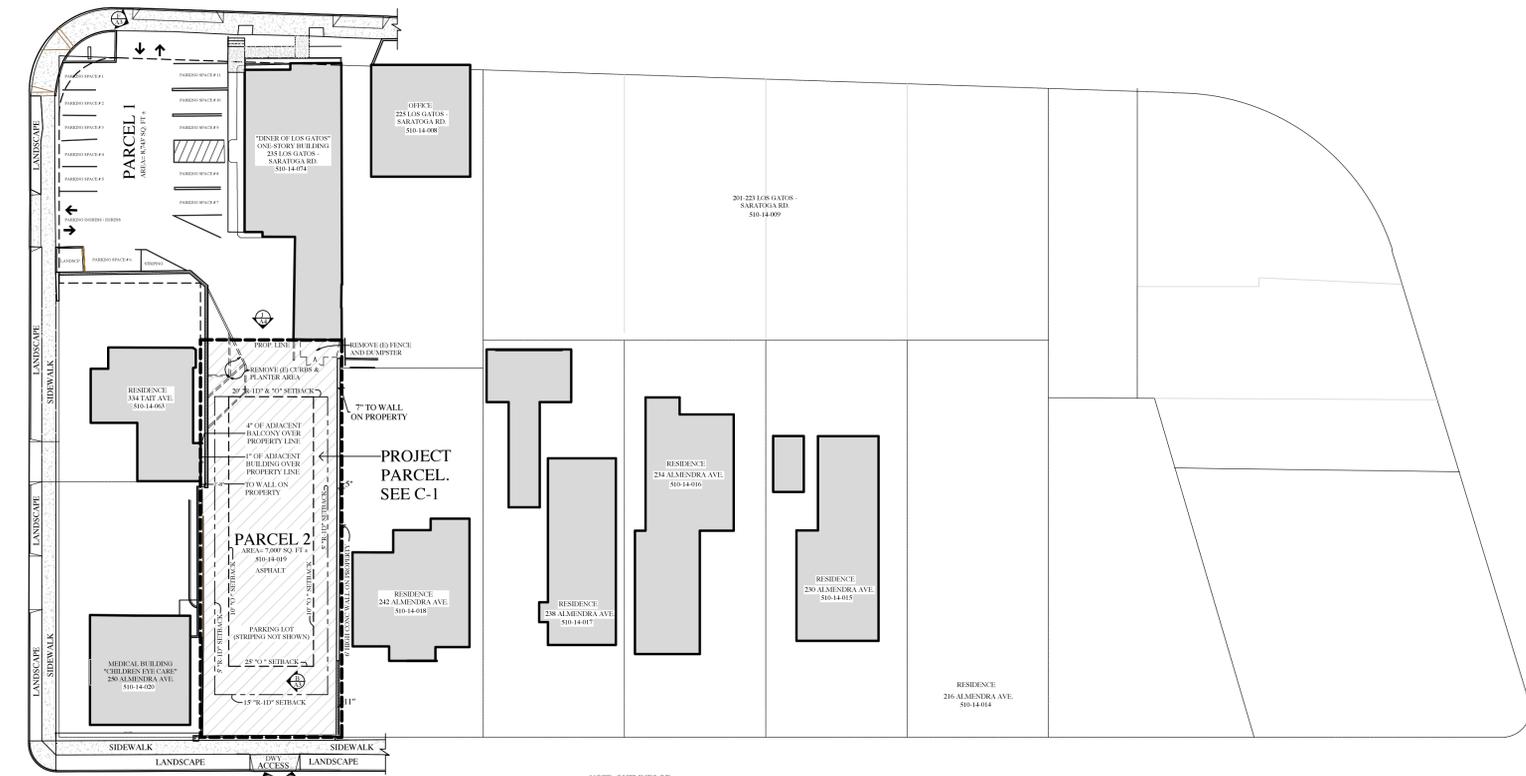
OF 6 SHEETS



LOS GATOS - SARATOGA RD



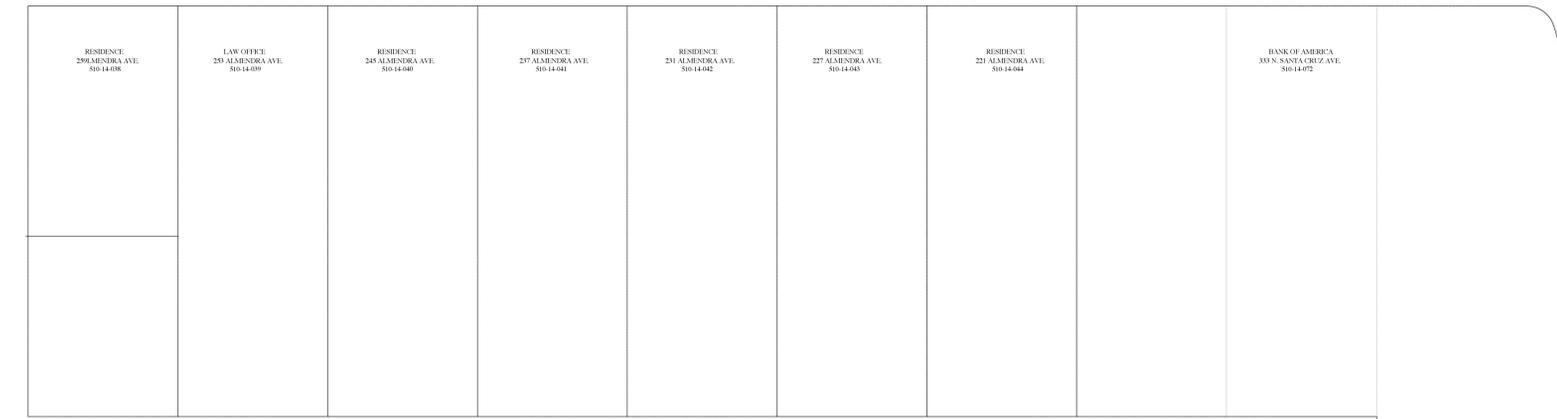
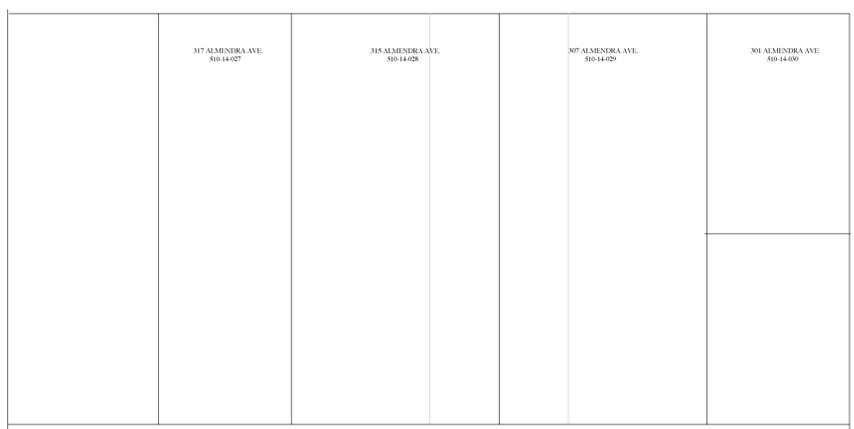
TAIT AVE



ALMENDRA AVE

NOTE: OUTLINES OF ADJACENT BUILDINGS ARE APPROXIMATED.

SITE PICTURES- SEE A-3





A NTS EXISTING ADJACENT MED. OFFICE - 250 ALMENRDA AVE.



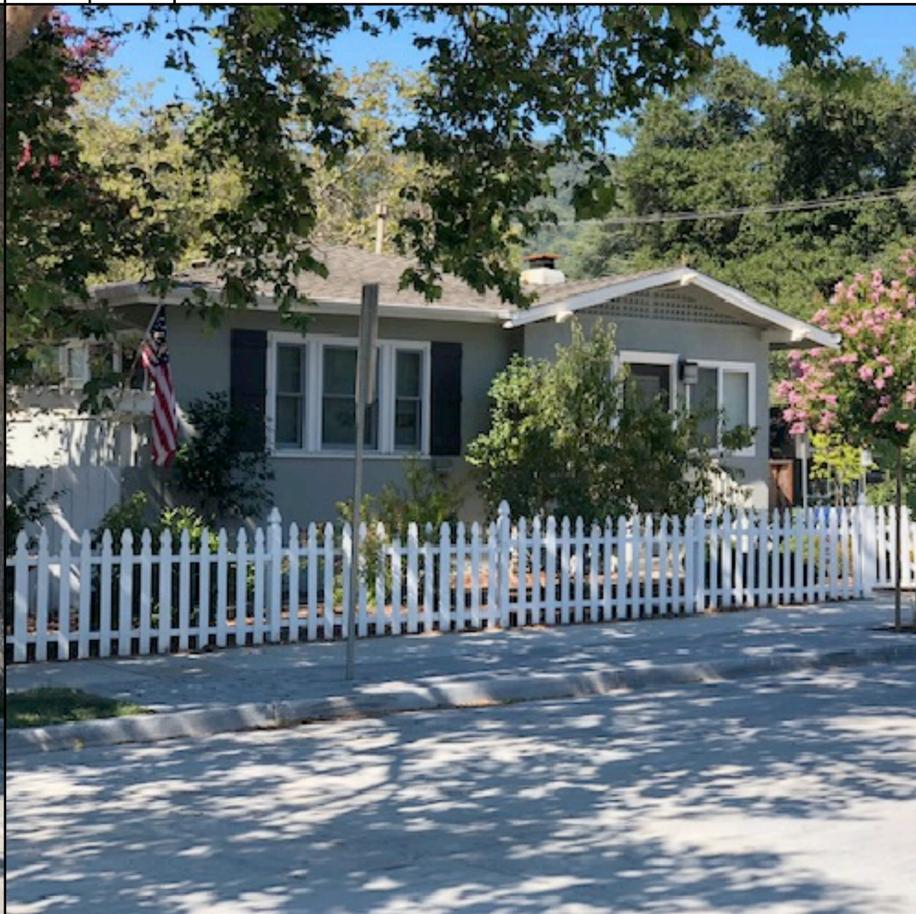
B NTS EXISTING ADJACENT MED. OFFICE - 250 ALMENRDA AVE.



C NTS EXISTING ADJACENT RESIDENCE - 242 ALMENRDA AVE.



D NTS EXISTING HOUSE ACROSS STREET - 253 ALMENDRA AVE.



E NTS EXISTING HOUSE ACROSS STREET - 259 ALMENDRA AVE.



F NTS EXISTING DINER- 235 LOS GATOS - SARATOGA ROAD

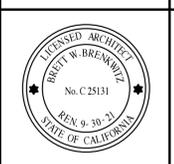
FRANKS & BRENKWITZ, L.L.P.  
 ARCHITECTURE • PLANNING • HISTORICAL  
 P.O. Box 597, Aptos, CA 95001  
 (831) 662-8800

246 ALMENDRA AVE. ZONING CHANGE  
 LOS GATOS, CA. 95032  
 APN 510-14-019

NEIGHBORHOOD SITE PICTURES

REVISION:  
 1-6-21

DATE: 10-29-20



SCALE: NTS

SHEET NO.

A-3

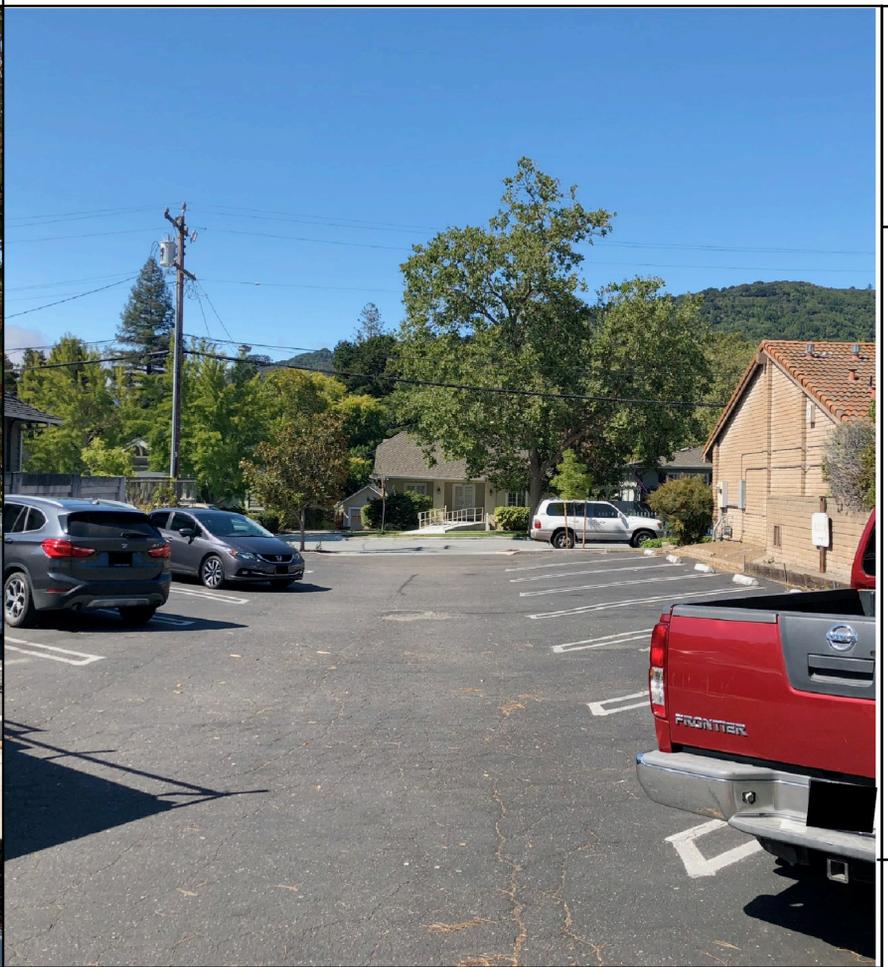
OF 6 SHEETS



H NTS AT DRIVEWAY APPROACH LOOKING NORTH



I NTS AT DRIVEWAY APPROACH LOOKING NORTHEAST



J NTS AT NORTH PROPERTY LINE LOOKING SOUTH



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A P P E A R A N C E S:

Los Gatos Planning Commissioners:  
Kathryn Janoff, Chair  
Kendra Burch, Vice Chair  
Jeffrey Barnett  
Melanie Hanssen  
Jeffrey Suzuki  
Reza Tavana  
Emily Thomas

Town Manager: Laurel Prevetti

Community Development Director: Joel Paulson

Town Attorney: Robert Schultz

Transcribed by: Vicki L. Blandin  
(619) 541-3405



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P R O C E E D I N G S:

CHAIR JANOFF: We now move on to Public Hearing Item 2. This item is to consider a request for approval for a zone change from Office with a Landmark and Historic Presentation Overlay to Single-Family Residential Downtown with a Landmark and Historic Presentation Overlay. The property is located at 246 Almendra Avenue. APN 510-14-019, Zone Change Application Z-20-001. Property owner is Gary Filizetti. Applicant is Brett Brenkwitz.

May I see a show of hands from Commissioners who have visited the site? Thank you. Are there any disclosures? I don't see any hands raised.

I understand Mr. Safty will be giving us the Staff Report for this item.

RYAN SAFTY: Yes, thank you. Good evening, Commissioners.

Before you tonight is a request for a zone change from Office to Single-Family Residential Downtown at 246 Almendra Avenue. The Landmark and Historic Presentation Overlay would remain.

The proposed zone change is consistent with the existing Medium-Density Residential General Plan land use

1 designation and is compatible with the pattern of land use  
2 and zoning on this block of Almendra Avenue.

3           The site is currently vacant from structures and  
4 is developed as an overflow parking lot for the restaurant  
5 to the north. Approval of the restaurant use was not  
6 predicated on these overflow parking spaces and the  
7 restaurant would continue to meet current parking  
8 requirements onsite once the parking lot is removed. No  
9 construction is proposed at this time.

10  
11           The Applicant has provided a justification for  
12 the zone change, included as Exhibit 4 in the Staff Report.  
13 Based on the discussion provided in the Staff Report Staff  
14 recommends that the Planning Commission make the required  
15 findings in Exhibit 2 and forward a recommendation of  
16 approval to the Town Council of the draft ordinance in  
17 Exhibit 3.

18           This concludes Staff's presentation and we are  
19 happy to answer any questions.

20           CHAIR JANOFF: Thank you for that, Mr. Safty.  
21 Commissioners, do you have any questions for Mr. Safty or  
22 Staff? Commissioner Hanssen.

23           COMMISSIONER HANSSSEN: I just had one question  
24 and it was about the parking, I mean since it is a parking  
25 lot. It said that they have more than enough parking

1 spaces, but since it's downtown I wanted to check. They  
2 have more than enough parking spaces based on actual  
3 parking spaces that are there at the diner, or does it rely  
4 on the Parking Assessment District spaces?

5 RYAN SAFTY: It would have enough parking spaces  
6 onsite to meet the current parking demand for the  
7 restaurant.

8 COMMISSIONER HANSSEN: Thank you.

9 CHAIR JANOFF: Any other questions? I have one  
10 for Staff as a matter of clarification. Would you please  
11 clarify for the benefit of the record why this matter is  
12 coming to the Planning Commission without first being heard  
13 by the General Plan Committee?  
14

15 RYAN SAFTY: There's no amendment to the General  
16 Plan as proposed; it's just a zone change amendment.

17 CHAIR JANOFF: Okay, thank you for that. Now we  
18 will open up the public hearing to the Applicant who will  
19 be given five minutes to address the Commission. Director  
20 Paulson, who will be speaking for the Applicant?

21 DIRECTOR PAULSON: Mr. Brenkwitz will be  
22 speaking. I'm going to allow him to speak.

23 BRETT BRENKWITZ: Good evening, Commissioners.  
24 Can you hear me okay?  
25

CHAIR JANOFF: We can, thank you. Go ahead.

1           BRETT BRENKWITZ: This is Brett Brenkwitz; I'm  
2 the architect/applicant for the project. I think this is a  
3 pretty straightforward proposal. We ultimately would like  
4 to pursue building a single-family dwelling, possibly a  
5 detached garage in the back of the lot with a possibility  
6 of any ADU over that.

7           As Staff has said, the parking that is there now  
8 is not being counted or needed for the adjacent structures,  
9 including the diner, so we think this is a good fit to  
10 change the zoning and introduce a new single-family  
11 dwelling in this neighborhood. It's fairly eclectic; there  
12 is a lot of—as you know—commercial and residential in the  
13 area and I think it would be a good fit. It would provide  
14 some housing for the Town, and it would get rid of what  
15 some may see as somewhat of a not aesthetic parking lot.

16           That basically concludes my brief presentation.  
17 I'm available for any questions that you may have of me.  
18 Thank you very much.

19           CHAIR JANOFF: Thank you for that, Mr. Brenkwitz.  
20 Do any Commissioners have questions for the Applicant? I  
21 see two hands raised. Commissioner Barnett and then  
22 Commissioner Hanssen.

23           COMMISSIONER BARNETT: Yes, is Mr. Filizetti the  
24 owner of the diner property?  
25

1           BRETT BRENKWITZ: Yes, Mr. Barnett, he is.

2           COMMISSIONER BARNETT: Thank you.

3           CHAIR JANOFF: Commissioner Hanssen.

4           COMMISSIONER HANSSEN: I just had a question  
5 about your intent. I understand the request. Is it the  
6 intent of the diner to sell the property for someone else  
7 to make a residence or will you be hiring a developer to  
8 make the residence?

9           BRETT BRENKWITZ: I'm not exactly sure what the  
10 owner's intent is ultimately in that regard; I have not  
11 really discussed that with him and we have not really  
12 developed any designs yet for the lot. We obviously wanted  
13 to get through this particular process before we started  
14 going there.

15           COMMISSIONER HANSSEN: Sure, that's fine. Thank  
16 you.

17           CHAIR JANOFF: Any other questions for the  
18 Applicant? I don't see any hands raised. At this time we  
19 will move to public comments. Members of the public may  
20 choose to state your name and/or address or speak  
21 anonymously, but please understand that this meeting is  
22 being recorded for the public record.

23           Do we have any members of the public who would  
24 like to speak on this item, Director Paulson?  
25

1           DIRECTOR PAULSON: I don't see any hands raised  
2 but let's give it a second. We do now have one. Mr. Pratt.

3           JEFF PRATT: Can you hear me? I just unmuted.

4           CHAIR JANOFF: We can. Go ahead, thank you.

5           BRETT BRENKWITZ: My name is Jeff Pratt; I live  
6 at 242 Almendra. I am the next-door neighbor to this  
7 parking lot. I have lived at this location for about three  
8 years and I just wanted to call in support of the project.  
9 I think it would be very good for the neighborhood and I  
10 think it would look much better than the parking lot that  
11 is there. That's all that I have to say.  
12

13           CHAIR JANOFF: Thank you very much for your  
14 comments, Mr. Pratt. Do any Commissioners have questions  
15 for the speaker? I don't see any hands raised.

16           BRETT BRENKWITZ: Thank you.

17           CHAIR JANOFF: Thank you. At this time the  
18 Applicant has up to three minutes to add any further  
19 comment. Does the Applicant wish to speak, Director  
20 Paulson?

21           DIRECTOR PAULSON: If the Applicant wishes to  
22 speak, or there's one more attendee on the call, they would  
23 like to speak, use the raised hand feature. Otherwise we  
24 will go back to the Applicant. So, I will allow Mr.  
25

1 Brenkwitz to speak again and see if he has any additional  
2 comments.

3           BRETT BRENKWITZ: No, I really don't have any  
4 additional comments, but as Mr. Pratt mentioned I think a  
5 house would be preferable aesthetically compared to the  
6 parking lot. In terms of the streetscape I think it's an  
7 improvement, so we seek your approval in that regard. Thank  
8 you very much.

9           CHAIR JANOFF: Thank you very much. Any further  
10 questions for the Applicant from Commissioners? I don't see  
11 any hands raised, so we will close the public portion of  
12 the hearing and ask if the Commissioners have any questions  
13 of Staff, wish to comment on the application, or introduce  
14 a motion for consideration? Commissioner Hanssen.

15           COMMISSIONER HANSEN: I was going to comment,  
16 and if you would like I can make a motion, but I want to  
17 comment that the application is perfectly reasonable,  
18 especially in light of our need for additional housing in  
19 town, and it also brings the zoning in line with the  
20 General Plan designation, which is already Residential, so  
21 I see no problems with this application and I would support  
22 forwarding a recommendation to Town Council.

23           CHAIR JANOFF: I see heads nodding from fellow  
24 commissioners.  
25

1           VICE CHAIR BURCH: I was thinking it sounds a lot  
2 like the start of a motion?

3           COMMISSIONER HANSSEN: Would you like me to make  
4 a motion?

5           CHAIR JANOFF: I would, thank you.

6           COMMISSIONER HANSSEN: Okay. I would like to make  
7 a motion to forward a recommendation for approval of Zone  
8 Change Application Z-20-001 for APN 510-14-019 at 246  
9 Almendra, and I can make the finding that the project has  
10 no impact on the environment under CEQA, and I can also  
11 make the required finding that the proposed zone change is  
12 consistent with the General Plan and all of its elements  
13 and it brings it into consistency between the General Plan  
14 and the zoning. That's my motion.  
15

16           CHAIR JANOFF: Thank you for that. Do I have a  
17 second? Vice Chair Burch.

18           VICE CHAIR BURCH: I'll second.

19           CHAIR JANOFF: Thank you. Any comments from  
20 Commissioners? Commissioner Barnett.

21           COMMISSIONER BARNETT: It seems appropriate to  
22 include in the motion that we're forwarding a  
23 recommendation for the zone change application to the Town  
24 Council.  
25



1 COMMISSIONER HANSSEN: I thought I said it at the  
2 beginning but if I didn't, you are correct, this is not an  
3 approval, it is forwarding a recommendation for approval.

4 COMMISSIONER BARNETT: Thank you.

5 CHAIR JANOFF: Thank you for that. And if it is  
6 not part of the motion then the Maker of the Motion has  
7 agreed to include it if it was not part of the original  
8 motion.

9 So, without any other comments, I'll call the  
10 roll. Commissioner Hanssen.

11 COMMISSIONER HANSSEN: Yes.

12 CHAIR JANOFF: Commissioner Tavana.

13 COMMISSIONER TAVANA: Yes.

14 CHAIR JANOFF: Commissioner Barnett.

15 COMMISSIONER BARNETT: Yes.

16 CHAIR JANOFF: Commissioner Thomas.

17 COMMISSIONER THOMAS: Yes.

18 CHAIR JANOFF: Commissioner Suzuki.

19 COMMISSIONER SUZUKI: Yes.

20 CHAIR JANOFF: Vice Chair Burch.

21 VICE CHAIR BURCH: Yes.

22 CHAIR JANOFF: And I vote yes as well, so motion  
23 passes 7-0. Director Paulson, are there appeal rights on  
24 this action?  
25

1                   DIRECTOR PAULSON: There are not appeal rights  
2 because this is a recommendation. You're forwarding a  
3 recommendation to the Town Council, so there are no appeal  
4 rights for this application.

5                   CHAIR JANOFF: All right, thank you for that.  
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**TOWN COUNCIL – April 20, 2021**  
**REQUIRED FINDINGS**

**246 Almendra Avenue**  
**Zone Change Application Z-20-001**

**Consider a Request for Approval for a Zone Change from O:LHP (Office with a Landmark and Historic Preservation Overlay) to R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) for Property Located at 246 Almendra Avenue. APN: 510-14-019. Zone Change Application Z-20-001.**

**Property Owner: Gary Filizetti.**

**Applicant: Brett Brenkwitz**

**FINDINGS:**

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- 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), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code will have a significant effect on the environment.

**Required consistency with the Town’s General Plan:**

- That the proposed Zone Change is consistent with the General Plan and its Elements in that the proposed zoning is consistent with the existing General Plan Land Use designation.

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**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DO  
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The Town Code of the Town of Los Gatos is hereby amended to change the zoning of the property at 246 Alameda Avenue (Santa Clara County Assessor Parcel Number 510-14-019) as shown on the map attached hereto as Exhibit A, and is part of this Ordinance, from O:LHP (Office with a Landmark and Historic Preservation Overlay) to R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Property Overlay).

**SECTION II**

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 20th day of April 2021, 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 May 2021. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

ATTACHMENT 4

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

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

DATE: \_\_\_\_\_



**246 Almendra Avenue**

# TOWN OF LOS GATOS

Application No. Z-20-001

A.P.N. # 510-14-019

Change of zoning map amending the Town Zoning Ordinance.

Zone Change

From: O:LHP To: R-1D:LHP

Prezoning



Forwarded by Planning Commission

Date:

Approved by Town Council

Date:

Ord:

Clerk Administrator

Mayor



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**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 12

**ADDENDUM**

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DATE: April 19, 2021  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Consider a Request for Approval for a Zone Change from O:LHP (Office with a Landmark and Historic Preservation Overlay) to R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) for Property Located at **246 Almendra Avenue**. APN: 510-14-019. Zone Change Application Z-20-001. Property Owner: Gary Filizetti. Applicant: Brett Brenkwitz.

REMARKS:

Attachment 5 contains public comment received between 11:01 a.m. Thursday, April 15, and 11:00 a.m. Monday, April 19, 2021.

ATTACHMENTS:

Previously received with the April 20, 2021 Staff Report:

1. March 10, 2021 Planning Commission Staff Report with Exhibits 1-5
2. March 10, 2021 Planning Commission Verbatim Minutes
3. Draft Findings
4. Draft Ordinance for the Zone Change, with Exhibit A

Attachment received with this Addendum Report:

5. Public Comment received between 11:01 a.m., Thursday, April 15, and 11:00 a.m. Monday April 19, 2021

PREPARED BY: Ryan Safty  
Associate Planner

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

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Date April 19, 2021

To: Mayor Soyoc and Council Members  
From: Lee Quintana  
Re: 245 Almendra Avenue.  
Agenda Item #12 245 Almendra Ave. 4/20/2021 Council Meeting  
Request for a Zone change from O:LHP to R-1D:LHP

Within the area shown on Exhibit 1 between Massol and Santa Cruz as shown (Existing General Plan Designations and Existing Zoning) there are additional parcels that share the same inconsistencies as 245 Almendra and there may be more if the area considered is expanded.

- three parcels on the north side of Almendra,
- four parcels on the south side of Almendra, and
- one on the side of Bachman that share the same inconsistency between their General Plan Designation and Zoning District as 245 Alhambra.

The zoning designation on the majority of these parcels is also inconsistent with their current use. This has been the case over a period of time.

State Law requires that the Town's Land Use Diagram be consistent with the Town's Zoning Map.

I ask the Town to take advantage of this application, to broaden the focus of their analysis to include other nearby parcels with the same inconsistency between the zoning Map and the General Plan Land Use Map, provided the existing use on the parcel is consistent with their General Plan Designation.

Thank you for your consideration.

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**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 13

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DATE: April 15, 2021  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Consider a Request for Approval for a Zone Change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay) and a General Plan Amendment to Change the Land Use Designation from Medium Density Residential to Central Business District, for Property Located at **4 Tait Avenue**. APN: 510-44-054. Zone Change Application Z-20-002 and General Plan Amendment Application GP-20-001. Property Owner: Town of Los Gatos. Applicant: Jim Foley.

**RECOMMENDATION:**

Consider a request for approval for a zone change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay) and a General Plan amendment to change the Land Use designation from Medium Density Residential to Central Business District, for property located at 4 Tait Avenue.

**BACKGROUND:**

The subject parcel is owned by the Town and located at the northeast corner of Tait Avenue and West Main Street in the Broadway Historic District. The building on the property was constructed in 1927. The property was originally built as the Town's Fire House with an associated dwelling unit for the driver of the new fire truck, and previously served as the home of the Los Gatos Museum.

In March 2019, the Town Council authorized an Exclusive Negotiating Agreement with Imwalle Properties to help guide the negotiations of a Lease Agreement. The decision was predicated on the fact that the proposal would allow the properties to remain in Town control, maintain the

**PREPARED BY:** Jennifer Armer, AICP  
Senior Planner

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

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BACKGROUND (continued):

historic value of the properties, require no monetary resources from the Town, and ultimately provide an annual revenue stream to the Town. Since that time, the Lease Agreements were negotiated between Town staff and Imwalle and were presented in open session for consideration by Council on August 4, 2020. At that meeting, the Town Council authorized the Town Manager to execute long term lease agreements with Tait Firehouse LLC and Forbes Mill LLC for the property located at 4 Tait Avenue and 75 Church Avenue. It should be noted that among other key elements of the lease agreements, the Master Tenant (Imwalle) is required to get Landlord (the Town) approval for permitted uses and subtenants.

The applicant is requesting approval of a zone change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay) and a General Plan amendment to change the Land Use designation from Medium Density Residential to Central Business District to allow the applicant to lease the existing building for commercial uses (Attachment 1, Exhibit 5). The Landmark and Historic Preservation Overlay Zone (LHP) would remain if the applications were approved. At this time, no modifications to the building are proposed.

DISCUSSION:

A. General Plan Committee

At its January 13, 2021 meeting, the General Plan Committee (GPC) reviewed the application and recommended approval of the General Plan amendment to the Planning Commission and Town Council. The motion by the GPC included consideration of comments by members discouraging restaurant and personal service uses in this location.

B. Planning Commission

At its February 24, 2021 meeting, the Planning Commission reviewed the applications and recommended approval of the General Plan amendment and zone change to the Town Council (Attachments 1-3), with a discussion of potential future uses of the site.

C. General Plan Land Use Designations

The applicant is proposing a General Plan amendment to change the Land Use designation from Medium Density Residential to Central Business District. The Central Business District Land Use designation applies exclusively to the downtown and accomplishes the following:

DISCUSSION (continued):

- Encourages a mixture of community-oriented commercial goods, services, and lodging unique in its accommodation of small-town style merchants and maintenance of small-town character;
- Maintains and expands landscaped open spaces and mature tree growth without increasing setbacks; and
- Integrates new construction with existing structures of historical or architectural significance and emphasizes the importance of the pedestrian.

The Medium Density Residential Land Use designation (5 -12 dwelling units per acre) provides for multiple-family residential, duplex, and/or small single-family homes.

The subject parcel is bound by parcels with a Medium Density Residential General Plan Land Use designation to the north, south, and west (Attachment 1, Exhibit 1). The parcel to the east has a Central Business District General Plan Land Use designation.

D. General Plan Goals and Policies

Applicable General Plan goals and policies that should be used to evaluate the proposed General Plan amendment and zone change applications for this site include, but are not limited to:

**Land Use Goals**

- LU-1 To preserve, promote, and protect the existing small-town character and quality of life within Los Gatos.
- LU-6 To preserve and enhance the existing character and sense of place in residential neighborhoods.

**Land Use Policies**

- LU-1.4 Infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.
- LU-1.8 Commercial development of any type (office, retail, research and development, etc.) shall be designed in keeping with the small-town character of Los Gatos.
- LU-6.1 Protect existing residential areas from the impacts of nonresidential development.

DISCUSSION (continued):

- LU-6.2 Allow nonresidential activity in residential areas only when the character and quality of the neighborhood can be maintained.
- LU-6.3 Protect existing residential areas from adjacent nonresidential uses by assuring that buffers are developed and maintained.
- LU-6.4 Prohibit uses that may lead to the deterioration of residential neighborhoods, or adversely impact the public safety or the residential character of a residential neighborhood.
- LU-6.5 The type, density, and intensity of new land use shall be consistent with that of the immediate neighborhood.

**Community Design Goals**

- CD-6 To promote and protect the physical and other distinctive qualities of residential neighborhoods.
- CD-10 To maintain the historic character of the Downtown.
- CD-12 To preserve significant historic and architectural features within the Town.
- CD-13 To support and encourage thoughtful rehabilitation or reuse of historic structures.

**Community Design Policies**

- CD-6.1 Reduce the visual impact of new construction and/or remodels on the Town and its neighborhoods.
- CD-10.1 Encourage the preservation, restoration, rehabilitation, reuse, and maintenance of existing buildings Downtown.
- CD-12.1 Avoid demolishing historic buildings, unless the Planning Commission finds, based on substantial evidence, that there is no feasible means to ensure the preservation of the structure.
- CD-12.2 Encourage the preservation, maintenance, and adaptive reuse of existing residential, commercial, or public buildings.

E. Zoning

The applicant is proposing a zone change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay). The proposed zoning would be consistent with the General Plan Land Use designation if the proposed General Plan amendment is approved. Permitted uses in the C-2 zone are those involving the conduct of commerce and general business and the sale of commodities necessary for the needs of residents and visitors of the Town, including retail, office, limited manufacturing, and



DISCUSSION (continued):

wholesaling without warehousing. Single-family and two-family residential is a permitted use in the C-2 in conjunction with other permitted uses in the C-2 (part of a mixed-use project). Multi-family is currently allowed with approval of a Conditional Use Permit. The commercial uses proposed by the applicant (Attachment 1, Exhibit 5) would not be allowed in the current residential zone.

The subject parcel is bound by parcels with a R-1D:LHP zoning designation to the north, south, and west (Attachment 1, Exhibit 1). The parcel to the east has a C-2 zoning designation.

PUBLIC COMMENTS:

The applicant reached out to surrounding neighbors during the review process and provided a copy of their letter as well as a summary of the comments received (Attachment 1, Exhibit 6). An additional letter from the applicant was received on April 14, 2021, and is included as Attachment 7.

Written notice of the Town Council hearing was sent to property owners and tenants within 300 feet of the subject property. Public comments received between 11:01 a.m., Wednesday, February 24, 2021, and 11:00 a.m., Thursday, April 15, 2021, are included in Attachment 8.

CONCLUSION:

A. Summary

The proposed General Plan amendment and zone change would be consistent with the existing pattern of land uses and zones adjacent to downtown (Attachment 1, Exhibit 1). Additionally, reuse of the existing historic structure is supported by the General Plan goals and policies.

B. Recommendation

Based on the analysis above, and the recommendations of the Planning Commission and General Plan Committee, staff recommends that the Town Council consider the existing and proposed General Plan Land Use and zoning designations and approve the proposed amendments. If the Town Council finds merit with the proposed amendments, it should:

1. Make the required finding 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) (Attachment 4);

CONCLUSION (continued):

2. Make the required finding that the General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its Elements (Attachment 1, Attachment 4);
3. Adopt a Resolution approving General Plan Amendment Application GP-20-001 amending the General Plan Land Use designation from Medium Density Residential to Central Business District (Attachment 5);
4. Make the required finding that the proposed zone change is consistent with the General Plan and its Elements in that the proposed zoning is consistent with the proposed General Plan Land Use designation (Attachment 4); and
5. Introduce an Ordinance of the Town of Los Gatos effecting a zone change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay) for the property located at 4 Tait Avenue (Attachment 6), by title only, with any specific changes identified and agreed upon by the majority of the Town Council.

C. Alternatives

Alternatively, the Town Council could:

1. Continue the matter to a date certain with specific direction;
2. Remand the applications to the Planning Commission with specific direction; or
3. Deny the applications.

COORDINATION:

The Community Development Department coordinated with the Parks and Public Works Department, the Santa Clara County Fire Department, and the Town Attorney's Office in the review of the proposed project.

ENVIRONMENTAL ASSESSMENT:

The project is Categorically 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 the proposed amendments to the General Plan and Town Code will have a significant effect on the environment, because the project does not include any modification that would affect the historical significance of the building.

PAGE 7 OF 7

SUBJECT: 4 Tait Avenue/Z-20-002/GP-20-001

DATE: April 15, 2021

Attachments:

1. February 24, 2021 Planning Commission Staff Report with Exhibits 1-7
2. February 24, 2021 Planning Commission Desk Item with Exhibit 8
3. February 24, 2021 Planning Commission Verbatim Minutes
4. Draft Findings
5. Draft Resolution for the General Plan Amendment, with Exhibit A
6. Draft Ordinance for the Zone Change, with Exhibit A
7. Letter from the Applicant
8. Public comments received by 11:00 a.m., Thursday, April 15, 2021



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 02/24/2021

ITEM NO: 4

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DATE: February 19, 2021  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Consider a Request for Approval for a Zone Change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay) and a General Plan Amendment to Change the Land Use Designation from Medium Density Residential to Central Business District, for Property Located at **4 Tait Avenue**. APN: 510-44-054. Zone Change Application Z-20-002 and General Plan Amendment Application GP-20-001. Property Owner: Town of Los Gatos. Applicant: Jim Foley

**RECOMMENDATION:**

Consider a request for approval for a zone change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay) and a General Plan amendment to change the Land Use designation from Medium Density Residential to Central Business District, for property located at 4 Tait Avenue.

**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 the proposed amendments to the General Plan and Town Code will have a significant effect on the environment, because the project does not include any modification that would affect the historical significance of the building.

**PREPARED BY:** JENNIFER ARMER, AICP  
Senior Planner

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Reviewed by: Planning Manager and Community Development Director

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FINDINGS:

- 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).
- That the General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its corresponding Elements.
- That the proposed zone change is consistent with the General Plan and its Elements in that the proposed zoning is consistent with the proposed General Plan Land Use designation.

BACKGROUND:

The subject parcel is located at the northeast corner of Tait Avenue and West Main Street in the Broadway Historic District. The building on the property was constructed in 1927. The property was originally built to be the Town's Fire House with an associated dwelling unit for the driver of the new fire truck, and previously served as the home of the Los Gatos Museum.

The subject parcel is surrounded by parcels with a Medium Density Residential General Plan Land Use designation and R-1D:LHP zoning designation to the north, south, and west (Exhibit 1). The parcel to the east has a Central Business District Land Use designation and C-2 zoning designation.

The applicant is requesting approval of a zone change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay) and a General Plan amendment to change the Land Use designation from Medium Density Residential to Central Business District to allow the applicant to lease the existing building for commercial uses (Exhibit 5). The Landmark and Historic Preservation Overlay Zone (LHP) would remain if the applications were approved. At this time, no modifications to the building are proposed.

DISCUSSION:

A. General Plan Committee

At its January 13, 2021 meeting, the General Plan Committee (GPC) reviewed the application and recommended approval of the General Plan amendment to the Planning Commission and Town Council. The motion by the GPC included consideration of comments by members discouraging restaurant and personal service uses in this location.

B. General Plan Land Use Designations

The applicant is proposing a General Plan amendment to change the Land Use designation from Medium Density Residential to Central Business District.

DISCUSSION (continued):

The Central Business District Land Use designation applies exclusively to the downtown and accomplishes the following:

- Encourages a mixture of community-oriented commercial goods, services, and lodging unique in its accommodation of small-town style merchants and maintenance of small-town character;
- Maintains and expands landscaped open spaces and mature tree growth without increasing setbacks; and
- Integrates new construction with existing structures of historical or architectural significance and emphasizes the importance of the pedestrian.

The Medium Density Residential Land Use designation (5 -12 dwelling units per acre) provides for multiple-family residential, duplex, and/or single-family homes.

The subject parcel is bound by parcels with a Medium Density Residential General Plan Land Use designation to the north, south, and west. The parcel to the east has a Central Business District General Plan Land Use designation.

C. General Plan Goals/Policies/Strategies

Applicable General Plan goals and policies that should be used to evaluate the proposed General Plan amendment and zone change applications for this site include, but are not limited to:

**Land Use Goals**

- LU-1 To preserve, promote, and protect the existing small-town character and quality of life within Los Gatos.
- LU-6 To preserve and enhance the existing character and sense of place in residential neighborhoods.

**Land Use Policies**

- LU-1.4 Infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.
- LU-1.8 Commercial development of any type (office, retail, research and development, etc.) shall be designed in keeping with the small-town character of Los Gatos.

DISCUSSION (continued):

- LU-6.1 Protect existing residential areas from the impacts of nonresidential development.
- LU-6.2 Allow non-residential activity in residential areas only when the character and quality of the neighborhood can be maintained.
- LU-6.3 Protect existing residential areas from adjacent nonresidential uses by assuring that buffers are developed and maintained.
- LU-6.4 Prohibit uses that may lead to the deterioration of residential neighborhoods, or adversely impact the public safety or the residential character of a residential neighborhood.
- LU-6.5 The type, density, and intensity of new land use shall be consistent with that of the immediate neighborhood.

**Community Design Goals**

- CD-6 To promote and protect the physical and other distinctive qualities of residential neighborhoods.
- CD-10 To maintain the historic character of the Downtown.
- CD-12 To preserve significant historic and architectural features within the Town.
- CD-13 To support and encourage thoughtful rehabilitation or reuse of historic structures.

**Community Design Policies**

- CD-6.1 Reduce the visual impact of new construction and/or remodels on the Town and its neighborhoods.
- CD-10.1 Encourage the preservation, restoration, rehabilitation, reuse, and maintenance of existing buildings Downtown.
- CD-12.1 Avoid demolishing historic buildings, unless the Planning Commission finds, based on substantial evidence, that there is no feasible means to ensure the preservation of the structure.
- CD-12.2 Encourage the preservation, maintenance, and adaptive reuse of existing residential, commercial, or public buildings.

D. Zoning

The applicant is proposing a zone change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay). The proposed zoning would be consistent with the General Plan Land Use designation if the proposed General Plan amendment is approved. Permitted uses in the C-2 zone are those involving the conduct of commerce and general business and the sale of commodities necessary for the needs of

DISCUSSION (continued):

residents and visitors of the Town including, retailing, office, limited manufacturing, and wholesaling without warehousing. The commercial uses proposed by the applicant (Exhibit 5) would not be allowed in the current residential zone.

The subject parcel is bound by parcels with a R-1D:LHP zoning designation to the north, south, and west (Exhibit 1). The parcel to the east has a C-2 zoning designation.

PUBLIC COMMENTS:

The applicant reached out to surrounding neighbors during the review process and provided a copy of their letter as well as a summary of the comments received (Exhibit 6).

At the time of this report's preparation, the Town has not received any public comment.

CONCLUSION:

A. Summary

The proposed General Plan amendment and zone change would be consistent with the existing pattern of land uses and zones adjacent to downtown (Exhibit 1). Additionally, reuse of the existing historic structure is supported by the General Plan goals and policies.

B. Recommendation

Based on the analysis above, staff recommends that the Planning Commission consider the existing and proposed General Plan Land Use designations and zoning and forward a recommendation for approval of the amendments to the Town Council. If the Planning Commission finds merit with the proposed amendments, it should:

1. Make the required finding 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) (Exhibit 2);
2. Make the required finding that the General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its Elements (Exhibit 2);
3. Make the required finding that the proposed zone change is consistent with the General Plan and its Elements in that the proposed zoning is consistent with the proposed General Plan Land Use designation (Exhibit 2); and
4. Forward a recommendation of approval of General Plan Amendment Application GP-20-001 and Zone Change Application Z-20-002 to the Town Council.



CONCLUSION (continued):

C. Alternatives

Alternatively, the Planning Commission can:

1. Continue the matter to a date certain with specific direction;
2. Provide a recommendation for approval with modifications to the Town Council; or
3. Provide a recommendation for denial to the Town Council providing findings for denial.

EXHIBITS:

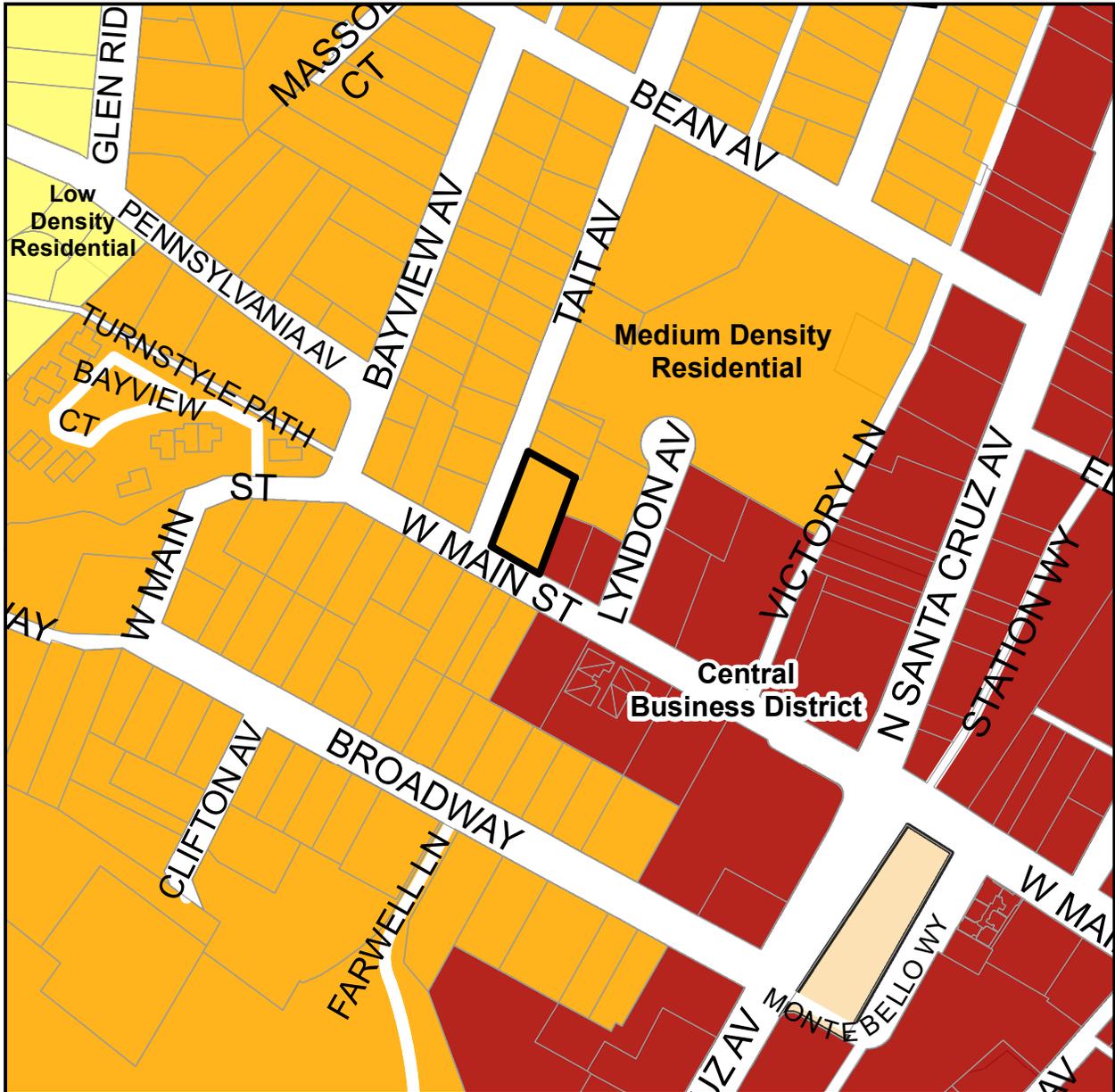
1. Location Maps (showing existing General Plan Land Use Designations and Zoning)
2. Draft Findings
3. Draft Resolution for the General Plan Amendment, with Exhibit A
4. Draft Ordinance for the Zone Change, with Exhibit A
5. Letter from the Applicant
6. Summary of Outreach
7. Property Plans

Distribution:

Jim Foley, via email

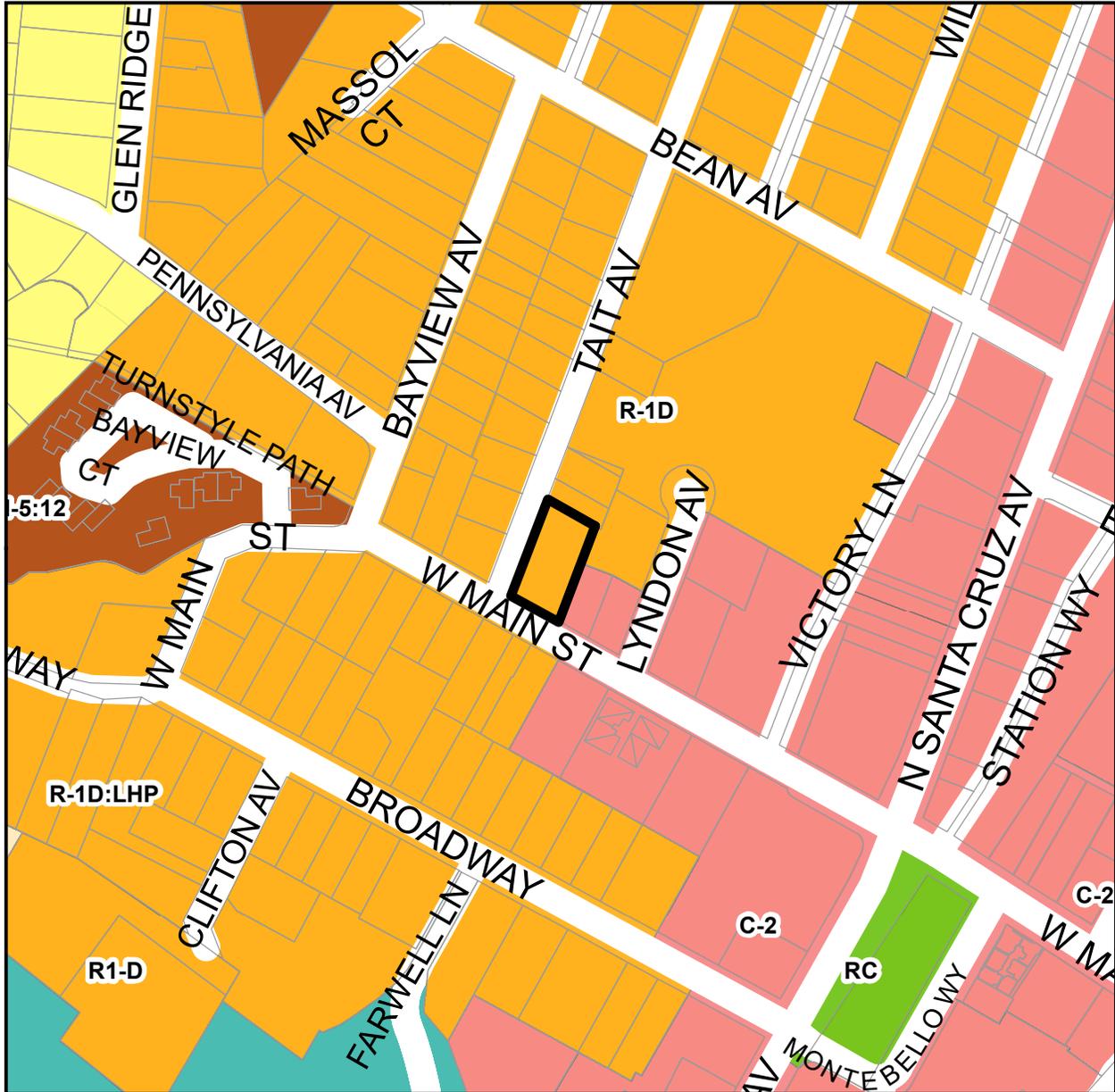
# 4 Tait Avenue

## Existing General Plan Land Use Designation



# 4 Tait Avenue

## Existing Zoning



**PLANNING COMMISSION – February 24, 2021**  
**REQUIRED FINDINGS**

**4 Tait Avenue**

**General Plan Amendment Application GP-20-001**

**Zone Change Application Z-20-002**

**Consider a Request for Approval for a Zone Change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay) and a General Plan Amendment to Change the Land Use Designation from Medium Density Residential to Central Business District, for Property Located at 4 Tait Avenue. APN: 510-44-054. Zone Change Application Z-20-002 and General Plan Amendment Application GP-20-001.**

**Property Owner: Town of Los Gatos.**

**Applicant: Jim Foley**

**FINDINGS:**

**Required finding for CEQA:**

- 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 consistency with the Town’s General Plan:**

- That the General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its corresponding Elements.
- That the proposed Zone Change is consistent with the General Plan and its Elements in that the proposed zoning is consistent with the proposed General Plan Land Use designation.

**EXHIBIT 2**

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**RESOLUTION 2021-**

**RESOLUTION OF THE TOWN COUNCIL  
OF THE TOWN OF LOS GATOS  
AMENDING THE GENERAL PLAN LAND USE DESIGNATION  
FROM MEDIUM DENSITY RESIDENTIAL TO CENTRAL BUSINESS  
DISTRICT FOR A PROPERTY AT 4 TAIT AVENUE**

Draft Resolution to be modified by Town Council deliberations and direction.

**WHEREAS**, the applicant requests approval to change the General Plan Land Use designation from Medium Density Residential to Central Business District on property located at 4 Tait Avenue (Santa Clara County Assessor Parcel Number 510-44-054); and

**WHEREAS**, the General Plan Committee at its meeting of January 13, 2021, recommended that the General Plan Land Use designation be changed from Medium Density Residential to Central Business District as that designation is consistent with the Land Use designations of neighboring properties and consistent with the proposed use of the property; and

**WHEREAS**, the Planning Commission recommended approval of the General Plan amendment at its regularly noticed public hearing on \_\_\_\_\_, 2021; and

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on \_\_\_\_\_, 2021; and

**WHEREAS**, the Town Council accepted the report of the Planning Commission’s recommendation of approval for the proposed General Plan amendment; and

**WHEREAS**, the Town Council finds as follows:

- A. The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of California Environmental Quality Act, Section 15061(b)(3); and
- B. The General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its corresponding elements; and
- C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65350 et seq.; and

EXHIBIT 3

**WHEREAS**, the Town Council considered all facts and information related to a request to change the General Plan Land Use designation for the property at 4 Tait Avenue from Medium Density Residential to Central Business District as shown on Exhibit A

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council hereby changes the General Plan Land Use designation for property at 4 Tait Avenue as shown on Exhibit A, from Medium Density Residential to Central Business District.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the \_\_\_<sup>th</sup> day of \_\_\_\_\_, 2021, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

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

DATE: \_\_\_\_\_



# TOWN OF LOS GATOS

Application No. GP-20-001

A.P.N. # 510-44-054

Change of the general plan map amending the Town General Plan

From: Medium Density Residential

To: Central Business District



Forwarded by Planning Commission

Date:

Approved by Town Council

Date:

Resolution:

Clerk Administrator

Mayor



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**DRAFT ORDINANCE**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
AMENDING THE ZONING CODE  
FROM R-1D:LHP (SINGLE-FAMILY RESIDENTIAL DOWNTOWN WITH A LANDMARK  
AND HISTORIC PROPERTY OVERLAY)  
TO C-2:LHP (CENTRAL BUSINESS DISTRICT WITH A LANDMARK AND HISTORIC  
PROPERTY OVERLAY)  
FOR A PROPERTY LOCATED AT 4 TAIT AVENUE**

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

**SECTION I**

The Town Code of the Town of Los Gatos is hereby amended to change the zoning of the property at 4 Tait Avenue (Santa Clara County Assessor Parcel Number 510-44-054) as shown on the map attached hereto as Exhibit A, and is part of this Ordinance, from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Property Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Property Overlay).

**SECTION II**

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the \_\_\_ day of \_\_\_\_\_ 2021 , 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 \_\_\_ day of \_\_\_\_\_ 2021. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

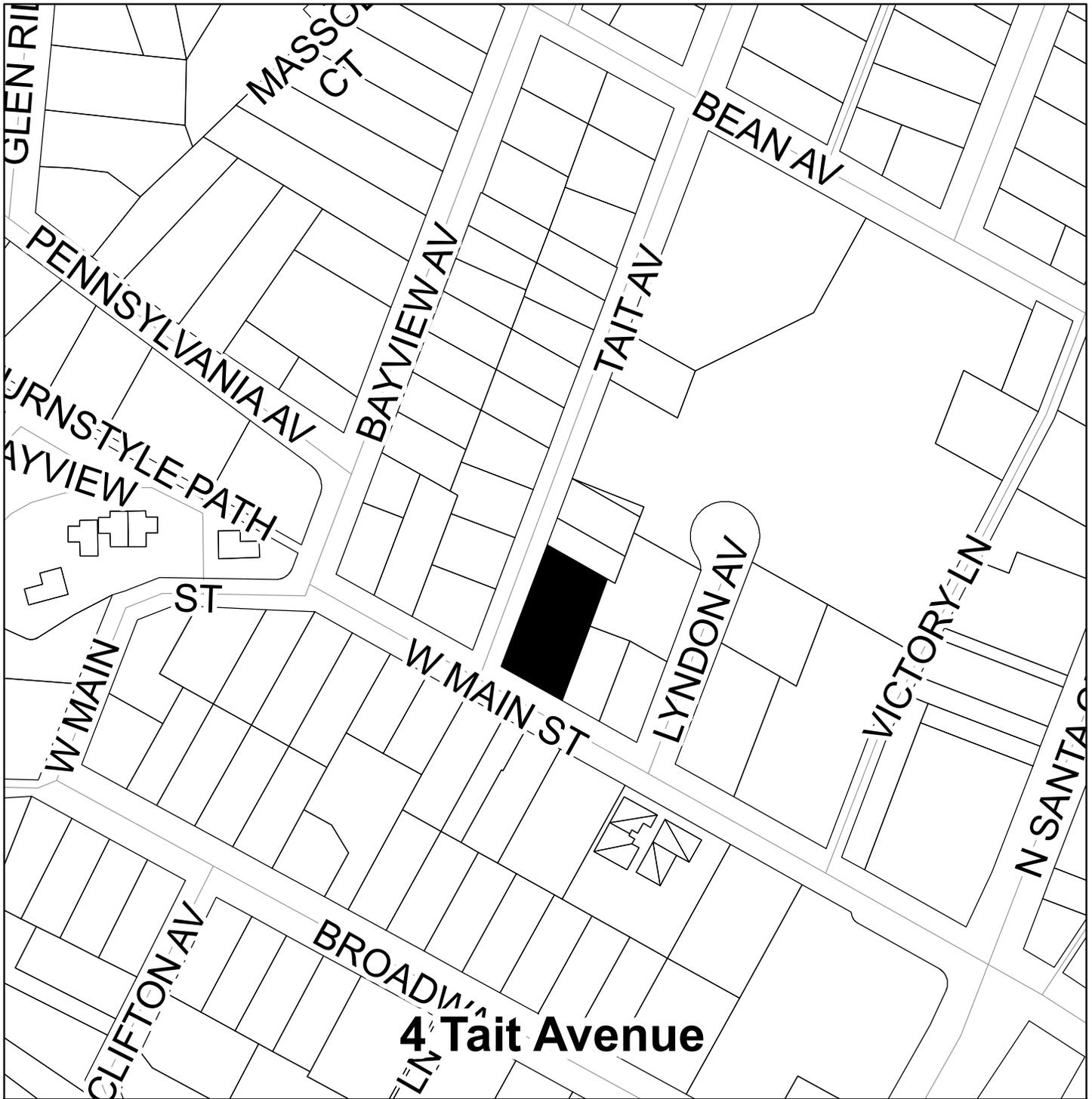
MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

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

DATE: \_\_\_\_\_



# TOWN OF LOS GATOS

Application No. Z-20-002

A.P.N. # 510-44-054

Change of zoning map amending the Town Zoning Ordinance.

Zone Change

From: R-1D:LHP To: C-2:LHP

Prezoning



Forwarded by Planning Commission

Date:

Approved by Town Council

Date:

Ord:

Clerk Administrator

Mayor

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Town of Los Gatos  
Attn: Jennifer Armer  
Planning Dept  
110 E Main St  
Los Gatos, CA  
95030

Dear Jennifer,

This letter serves as the project description and letter of justification for our application for a zone change and general plan amendment for the property located at 4 Tait Ave, APN # 510-44-054. Pursuant to the request for proposals the Town of Los Gatos released for the repositioning of the Town owned museum properties, Tait Firehouse LLC is requesting the re-zoning of the aforementioned property to C-2:LHP to achieve the goal of attracting a commercial use to locate at the property. Concurrently we are requesting a General Plan Amendment to Central Business District designation to be consistent with the requested zoning. Given the nature of the building and its proximity to the commercial core, it is not feasible to occupy the property with a residential use as currently zoned. This project is the administrative re-zoning to achieve the agreed upon goal, with the associated necessary general plan amendment.

The rezoning to C-2: LHP is consistent with the General Plan, referencing the following sections:

- LU-14, Paragraph 2, Bullet 3 “Encourages a mixture of community-oriented commercial goods, services and lodging unique in its accommodation of small-town style merchants and maintenance of small-town character.”
  - The proposed zone change is not intended for a redevelopment project. The project maintains the character of the existing structure in order to attract a small-town oriented commercial use.
- LU-14, Paragraph 2, Bullet 5 “Integrates new construction with existing structures of historical or architectural significance and emphasizes the importance of the pedestrian.”
  - The proposed zone change is not intended for a redevelopment project. The project maintains the character of the existing structure in order to maintain the historic nature of the structure. Due to the location of the property and its proximity to the Central Business District as well as the residential neighborhood, this is a key link to the walkability of residents to the local businesses.
- LU-21, G, Goal LU-1 “To preserve, promote, and protect the existing small-town character and quality of life within Los Gatos.”
  - The project complies with this goal as it is restoring a historic building from a blighted vacant use, to a cared for active commercial use, and preserves the historic nature of the Town.
- LU-21, G, Policy LU-1.4 “Infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.”

- This project does not intend to damage the character of the old firehouse, but restore it and activate it. The nature of the structure is the perfect link between the residential neighborhood as it is a residential style building from a design and massing standpoint, however we will improve it to accommodate commercial uses as the street transitions into the commercial district.
- LU-25, Policy LU 6.2 “Allow non-residential activity in residential areas only when the character and quality of the neighborhood can be maintained.”
  - As previously mentioned, the style and character of the structure will not change. The uses in C-2:LHP are compatible as the zoning of the adjacent property is C-2:LHP and is already in place, making this the perfect transition from residential to the central business district.
- LU-27, Policy LU 7.3 “Infill projects shall contribute to the further development of the surrounding neighborhood (e.g. improve circulation, contribute to or provide neighborhood unity, eliminate a blighted area) and shall not detract from the existing quality of life.”
  - The project will make a new use available for the neighborhood, including but not limited to an office, a business, or another service that will be a walkable amenity to both the nearby residents and businesses. The existing structure has been unoccupied for several years and is borderline considered a blight to attract unwanted activity. Breathing new life into the property will benefit the area.
- LU-27, Policy LU 7.4 “Infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.”
  - The style and historic character of the existing building will be maintained and is currently compatible with the surrounding structures.
- LU-28, Policy LU 9.6 “Encourage development that maintains and expands resident-oriented services and/or creates employment opportunities for local residents consistent with overall land use policies of the Town.”
  - Brining a commercial use in close walkable proximity to the residential neighborhood provides a new opportunity for employment and the resulting business will serve the neighborhood.
- CD-3, Policy CD 1.1 “Building elements shall be in proportion with those traditionally in the neighborhood.”
  - The style and historic character of the existing building will be maintained and is currently compatible with the surrounding structures.
- CD-3, Policy CD 1.2 “New structures, remodels, landscapes, and hardscapes shall be designed to harmonize and blend with the scale and rhythm of the neighborhood and natural features in the area.”
  - The style and historic character of the existing building will be renovated to enhance the character of the building, eliminate blight, and harmonize with the balance of the neighborhood in a greatly improved manner.

- CD-11, Policy CD-10.1 “Encourage the preservation, restoration, rehabilitation, reuse, and maintenance of existing buildings Downtown.”
  - This policy exactly describes the project. Restoration, Rehabilitation, Reuse, and ongoing maintenance of a historic building, achieved through change of use.
- CD-18, Policy CD 12.1 “Avoid demolishing historic buildings, unless the Planning Commission finds, based on substantial evidence, that there is no feasible means to ensure the preservation of the structure.”
  - This project would preserve an existing historic structure.
- CD-18, Policy CD 12.2 “ Encourage the preservation, maintenance, and adaptive reuse of existing residential, commercial, or public buildings.”
  - This project would accomplish this policy by preserving and reusing an existing historic structure.
- CD-19, Policy CD 12.3 “Preserve and protect historic structures, including those that have been designated or are contributors to existing historic districts. Use special care in reviewing new buildings or remodels in the vicinity of historic structures to address compatibility issues and potential impacts.”
  - This project would protect a historic building in the downtown/almond grove historic districts.
- CD-20, Goal CD-13 (and every policy thereunder) “To support and encourage thoughtful rehabilitation or reuse of historic structures.”
  - This project will maintain the historic architecture of the structure, renovate a damaged structure, and comply with all the necessary historic guidance set forth by the Town.

There are many other applicable goals, policies, and actions in the general Plan that apply to this project. In Summary, we are re-zoning the property to attract a viable use to the building, and in connection with that effort, restoring and renovating the historic Tait Firehouse. The project meets the goals of the Town and will provide a major benefit to both the neighborhood and the central business district by adding a compatible use where otherwise we are left with a vacant blighted structure.

A subsequent tenant improvement project application will follow after the appropriate zoning and general plan designation is in place. Please reference the minutes from the Town Council Meeting on August 4, 2020 and that certain Lease Agreement by and between the Town of Los Gatos and Tait Firehouse, LLC for previous Town Council direction and additional details on this effort.

Thank you,

Jim Foley



Tait Firehouse, LLC  
(408) 813-7490



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**Dear Neighbors!** We are reaching out to you to announce an exciting new project nearby at 4 Tait Ave on the corner of Tait Ave and Main St., the location of the historic Firehouse building.

The Town of Los Gatos released a Request for Proposals to restore and reposition two historic properties in Los Gatos, the Firehouse building on Tait Ave and the remaining Forbes Mill Annex on Church St.

Imwalle Properties was awarded the project after meeting the Town's qualifications based on extensive regional real estate and property management experience. Imwalle Properties further enlisted Pennant Properties to assist with the project due to their extensive experience with Town of Los Gatos processes, as well as long standing experience in real estate, property management, and projects in Town. The result is a first-class public private partnership between Imwalle Properties and the Town of Los Gatos with an amazing team assembled to restore the two properties that have been vacant for years and breathe new life back into the buildings. This effort has the full support of the Town Council, and the Town Staff will be assisting in moving the project through its processes.

The team has embarked on the first step of the process, which includes a General Plan amendment and re-zoning of the Firehouse property from residential to commercial. The property has never been zoned properly, as the only residential use that ever existed at the property was ancillary to the Firehouse operation. Due to the proximity of the property to the downtown and based on the Town's vision in the Request for Proposals to reposition the property for commercial use, this is a necessary step to complete before any project can move forward.

You will shortly begin to receive notices from the Town of Los Gatos about the project (the little green postcards you may be familiar with that you receive from time to time). This will occur several times throughout the process and the initial two postcards will announce both the Planning Commission hearing and then the Town Council meeting required to take this project through the initial process.

To date, there are no project level details. After the process described above has been completed, our team, as assisted by the highly reputable Avison Young commercial brokerage team, will be looking for a suitable tenant to locate at the property. Through that process we will identify the required improvements to be made to the building for the prospective Tenant's use. This will be the actual proposed project, and you will again receive notices at that time so

you may provide your feedback. Of course, we are available at any time now and going forward during the course of the process to answer your questions.

The actual improvement project is envisioned to be a typical tenant improvement project at this time. The renovations will be largely to the interior with some restoration efforts to the exterior possible as well, but this is a preservation effort. Our team, including the Town of Los Gatos, wants to preserve the look and feel of the historic Firehouse on that corner, and simply bring the building up to modern standards and provide an opportunity for a business to locate there and make it their home as opposed to continuing the blighted state of the property and any associated ongoing problems such as structural deterioration, pests, vagrants, or otherwise.

When the tenant is identified and a project comes forward for processing, it will be reviewed by Town Staff, Town Council and potentially the Historical Preservation Committee, and Planning Commission depending on the extent of the improvements and use of the property. We want to bring forward the best project possible and are committed to putting forth our best efforts to ensure a smooth approval process through those deciding bodies, along with support from you, our neighbors!

If you have any questions at any time through this process, please contact me, I'm available at any time to discuss the project and also offer to meet at the building and provide a tour and discuss our vision.

**As a part of the process, the Town of Los Gatos would like us to collect feedback from you, so if you would not mind please giving me a quick call or sending a short email acknowledging the project and any comments you may have it would be greatly appreciated.**

Thank you for taking the time to read about our project and thank you in advance for your support!

Jim Foley



Principal  
Pennant Properties  
(408) 813-7490  
jimfoley@pennantproperties.com

**Our Team:**



**Don Imwalle Jr., President, Imwalle Properties**

A fourth-generation San Jose native, was born and raised in the Bay Area with a lifetime exposure to retail development through his father's 30 year history. Don is President of Imwalle Properties and its subsidiaries. Over the last dozen years at the helm, he navigated the Great Recession from one opportunity to the next, participated in DTSJ's resurgence and looks forward to opportunities the impact of Covid will present as the landscape shifts.



**Jim Foley, Principal, Pennant Properties**

Jim is a 4th generation Los Gatan and has been involved in real estate development, brokerage, and property management in Town for over 15 years. Jim has extensive experience with Town of Los Gatos project processing, having managed many projects and opened several businesses in Town, including the ongoing leasing and management of the historic La Cañada building as well as Rootstock Wine Bar. Jim is on the Chamber of Commerce Board of Directors and has volunteered on multiple Town Committees and Commissions.



**Jason Farwell, Partner, Farwell-Rashkis, LLP**

Jason is a 5<sup>th</sup> generation Los Gatan and is a founding partner of local law firm Farwell-Rashkis. Jason has deep roots in Los Gatos and has conducted business in Town for over 25 years in a variety of capacities including real estate, restaurants, and as a prominent local attorney. He and his family have tremendous experience processing projects and improvements in Los Gatos in connection with several historic properties located in the downtown.



**Bob Shepard, Senior Vice President, Avison Young**

Bob brings more than 30 years of commercial real estate industry experience to Avison Young. Bob has extensive experience in all facets of real estate and specializes in the leasing and sales of office and R&D buildings in the West Valley, both tenant and landlord representation. the thirty-two years Bob was with Colliers International, he was in the prestigious President's Club every year and he is a member of the Association of Silicon Valley Brokers (ASVB).



**Derek Cuschieri, Associate, Avison Young**

Derek brings 14 years of multifaceted industry experience to Avison Young, with an expertise in a broad range of commercial real estate services. Derek represents and advises clients on both a local and national basis with their office/R&D space requirements. His goal is to develop a comprehensive real estate strategy which includes space planning and programming, market evaluation, financial analysis, lease negotiation and ongoing post transaction support.



**Ben Damon, Associate, Avison Young**

Ben Damon joined Avison Young's Silicon Valley office in May 2019. Ben brings more than four years of Sales and Management experience to the team and is focus on helping Avison Young grow its tenant rep and office leasing presence in the Silicon Valley. Prior to joining Avison Young, Ben worked as a Market Manager for Gallo Sales Company. Ben was recognized as a top sales representative in the district.

On behalf of the Town of Los Gatos, the Town staff including the Town Manager's office and Town Attorney are available for questions about the project and can be reached at the Town Hall main phone number: (408) 354-6834.

## 4 Tait Ave Outreach Matrix

Address	City	State	Zip	Owner Name	Tenant Name	Response
30 Lyndon Ave	Los Gatos	CA	95030	St. Mary's School attn Monic Hernandez		No questions at this time, generally supportive
219 Bean Ave	Los Gatos	CA	95030	St. Mary's of the Immaculate Conception Parish attn Fr. Rick Rodoni		No questions at this time, generally supportive
15 Lyndon Ave	Los Gatos	CA	95030	Los Gatos Parent Nursery School attn Jessica O'Connor		Supportive. Happy that no additional SF or parking lo tdevelopment. Happy that occupancy will eliminate vagrant and vandalism they have experienced
10 Tait	Los Gatos	CA	95030	Leo H and Donna M Boger (TTE)		
18 Tait	Los Gatos	CA	95030	Jenniver Hayes		
30 Tait	Los Gatos	CA	95030	Alan and Jennifer Liebthal		
5 Tait	Los Gatos	CA	95030	James and Renee Papas		
11 Tait	Los Gatos	CA	95030	Anand and Yuliya Vasudev		
17 Tait	Los Gatos	CA	95030	Gary Filizetti	Joe Crummett	Supportive of the project and any commerical use
21 Tait	Los Gatos	CA	95030	Sylvia Chou		
25 Tait	Los Gatos	CA	95030	Terry and Noelle Schmid		
29 Tait	Los Gatos	CA	95030	Cheryl Carnathan		
33 Tait	Los Gatos	CA	95030	Chris Potter and Lisa Mammel		
35 Tiat	Los Gatos	CA	95030	Steve and Katherine Erickson		
45 Tait	Los Gatos	CA	95030	Leo and Donna Boger		
49 Tait	Los Gatos	CA	95030	Greg and Anna Stowe		
55 Tait	Los Gatos	CA	95030	Alice Miano		
223 W Main A	Los Gatos	CA	95030	Los Gatos Investments, LLC		
223 W Main B	Los Gatos	CA	95030	Los Gatos Investments, LLC		
223 W Main D	Los Gatos	CA	95030	Los Gatos Investments, LLC		
223 W Main E	Los Gatos	CA	95030	Los Gatos Investments, LLC	Casey Connoly	Supportive.
249 W Main	Los Gatos	CA	95030			
251 W Main	Los Gatos	CA	95030	Donald and Mary Gaab		
253 W Main	Los Gatos	CA	95030	Mike and Kim Wasserman		
305 W Main	Los Gatos	CA	95030	Steven and Linda McGrath		Supportive. They are supportive of the project, curious about any potential parking impact.
307 W Main	Los Gatos	CA	95030	Dane and Lori Howard		
309 W Main	Los Gatos	CA	95030			
311 W Mian	Los Gatos	CA	95030	Nora Comee		Supportive. She is excited to see something happen there and especially preserve the building.
315 W Main	Los Gatos	CA	95030	Louis and Leona Del Prete		
321 W Main	Los Gatos	CA	95030	Ed and Nicole Reginelli		
325 W Main	Los Gatos	CA	95030	Elisa Morgan		
300 W Main	Los Gatos	CA	95030	Robert White and Kathleen Battaglia		
310 W Main	Los Gatos	CA	95030	Louis and Marlene Ferrigno		
312 W Main	Los Gatos	CA	95030	Noah and Chelsea Bedard		
12 Bayview	Los Gatos	CA	95030	Reed and Marshall Hornberger		
16 Bayview	Los Gatos	CA	95030	Scott and Catherine Monson		
20 Bayview	Los Gatos	CA	95030	Nick and Paige Goddard		Supports re-zoning and project.
26 Bayview	Los Gatos	CA	95030	Michael Kennedy		
28 Bayview	Los Gatos	CA	95030	Rosalie Gummow		
32 Bayview	Los Gatos	CA	95030	James Dolen		
34 Bayview	Los Gatos	CA	95030	Michael Kaufman		
40 Bayview	Los Gatos	CA	95030	Sally Lucas		
44 Bayview	Los Gatos	CA	95030	David and Ladan Ralston		
52 Bayview	Los Gatos	CA	95030	Frank and Constance Franceschi		
56 Bayview	Los Gatos	CA	95030	DeNapoli	Steve Fisher	
1 Bayview Ct	Los Gatos	CA	95030	Harold and Linda Arnon		
2 Bayview Ct	Los Gatos	CA	95030	Richard Bush		
3 Bayview Ct	Los Gatos	CA	95030	Guilherme and Ferreira Menezes		
4 Bayview Ct	Los Gatos	CA	95030	Stephen Almassy		
5 Bayview Ct	Los Gatos	CA	95030	Bruce and Catherine Farly		
6 Bayview Ct	Los Gatos	CA	95030	Michael and Sherry Andrade		
7 Bayview Ct	Los Gatos	CA	95030	Ashok and Shirani Dhawan		
8 Bayview Ct	Los Gatos	CA	95030	Thomas Grant		
9 Bayview Ct	Los Gatos	CA	95030	Barry and Sylvia Bakner		
10 Bayview Ct	Los Gatos	CA	95030	Brad Raffanti		
11 Bayview Ct	Los Gatos	CA	95030	Doug Dal Cielo		
12 Bayview Ct	Los Gatos	CA	95030	Richard Billig		

## 4 Tait Ave Outreach Matrix

13 Bayview Ct	Los Gatos	CA	95030 Zena Levine
14 Bayview Ct	Los Gatos	CA	95030 Kumiko Vadas
15 Bayview Ct	Los Gatos	CA	95030 Keith Meehan
30 Broadway	Los Gatos	CA	95030 Larry Lenhart and Kim Karloff
42 Broadway	Los Gatos	CA	95030 Gail Randolf
44 Broadway	Los Gatos	CA	95030 New owner
46 Broadway	Los Gatos	CA	95030 Michael and Gillian Verga
48 Broadway	Los Gatos	CA	95030
50 Broadway	Los Gatos	CA	95030 Claire LeClaire
56 Broadway	Los Gatos	CA	95030 Peter Hoffman
62 Broadway	Los Gatos	CA	95030 John and Megan Robson
64 Broadway	Los Gatos	CA	95030 Mark Krag
68 Broadway	Los Gatos	CA	95030 Mike and Kim Wasserman
72 Broadway	Los Gatos	CA	95030 Mike and Kim Wasserman
74 Broadway	Los Gatos	CA	95030 Emela McLaren
78 Broadway	Los Gatos	CA	95030
80 Broadway	Los Gatos	CA	95030 Tufano Los Gatos LLC
84 Broadway	Los Gatos	CA	95030 Paul Biber and Carol Ferro
86 Broadway	Los Gatos	CA	95030 Eric Rollins and Gloria Chen



Cuschieri Horton  
Architects

20 South Santa Cruz Ave.  
Los Gatos, California 95030  
408.371.8200 Fx 408.371.8201

### PROJECT DATA

4 TAIT AVE.  
LOT AREA: 11,763 SQ. FT.  
MAIN BUILDING: 2532 SQ. FT. (GROSS)  
ACCESSORY STRUCTURE: 558 S.F. (GROSS)  
ZONING: R1D  
APN: 510 44 054

### LEGEND

- EXISTING BUILDING OUTLINE
- EXISTING SITE FEATURES
- EXISTING PROPERTY/PLOT LINES
- PROJECT AREA

SITE PLAN  
PENNANT PROPERTIES  
4 TAIT AVENUE,  
LOS GATOS, CA 95030

#### REVISIONS

NO.	ITEM	DATE

PERMIT #:

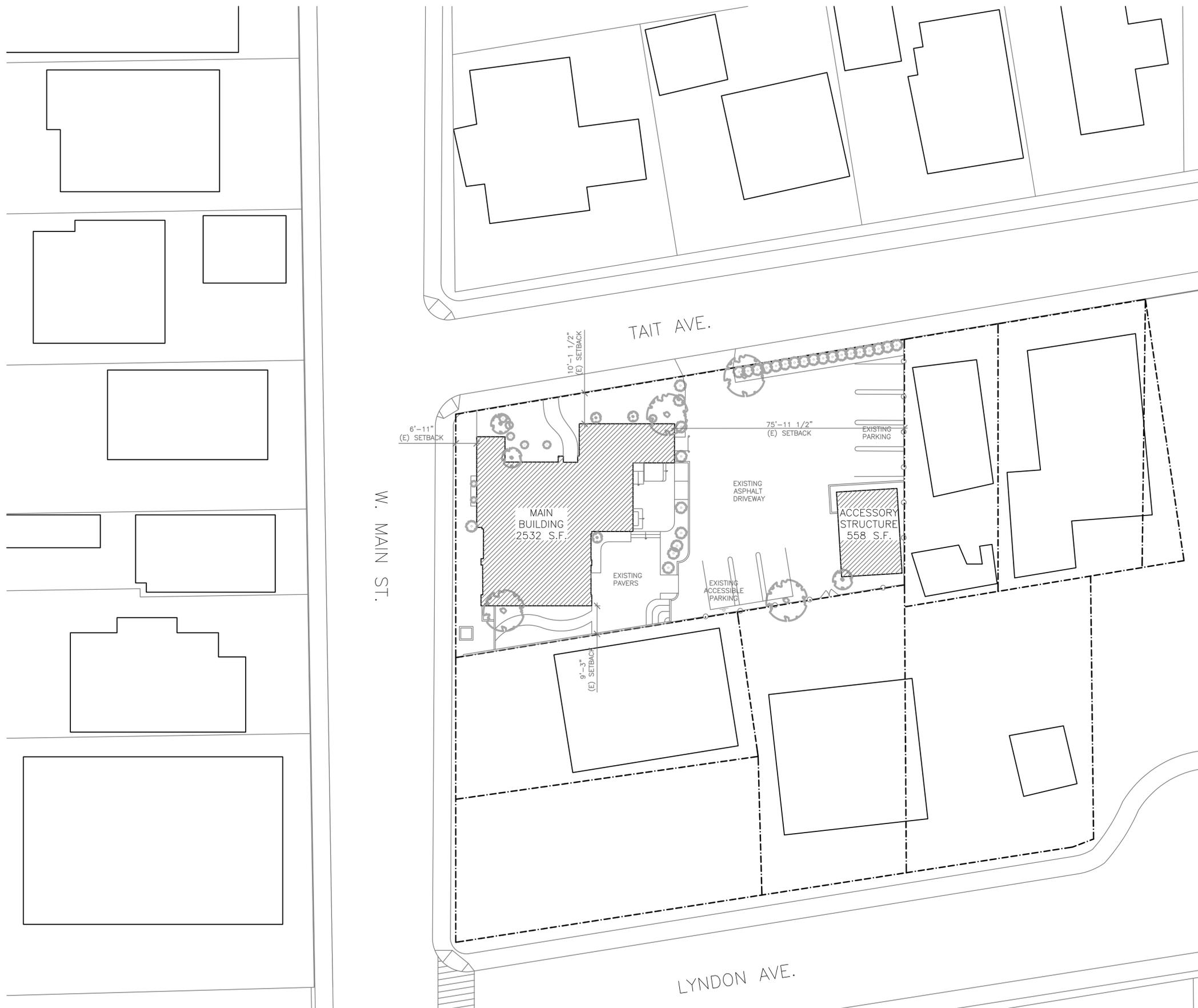
SUBMITTAL:

DRAWN BY:	XX
CHECKED BY:	XX
CHA JOB NO:	DATE:
2007	09/28/20

SHEET NO.

A0.1

EXHIBIT 7



1 SITE PLAN AND NEIGHBOURHOOD PLAN

1/16"=1'-0" 0 1' 2' 4' 8'

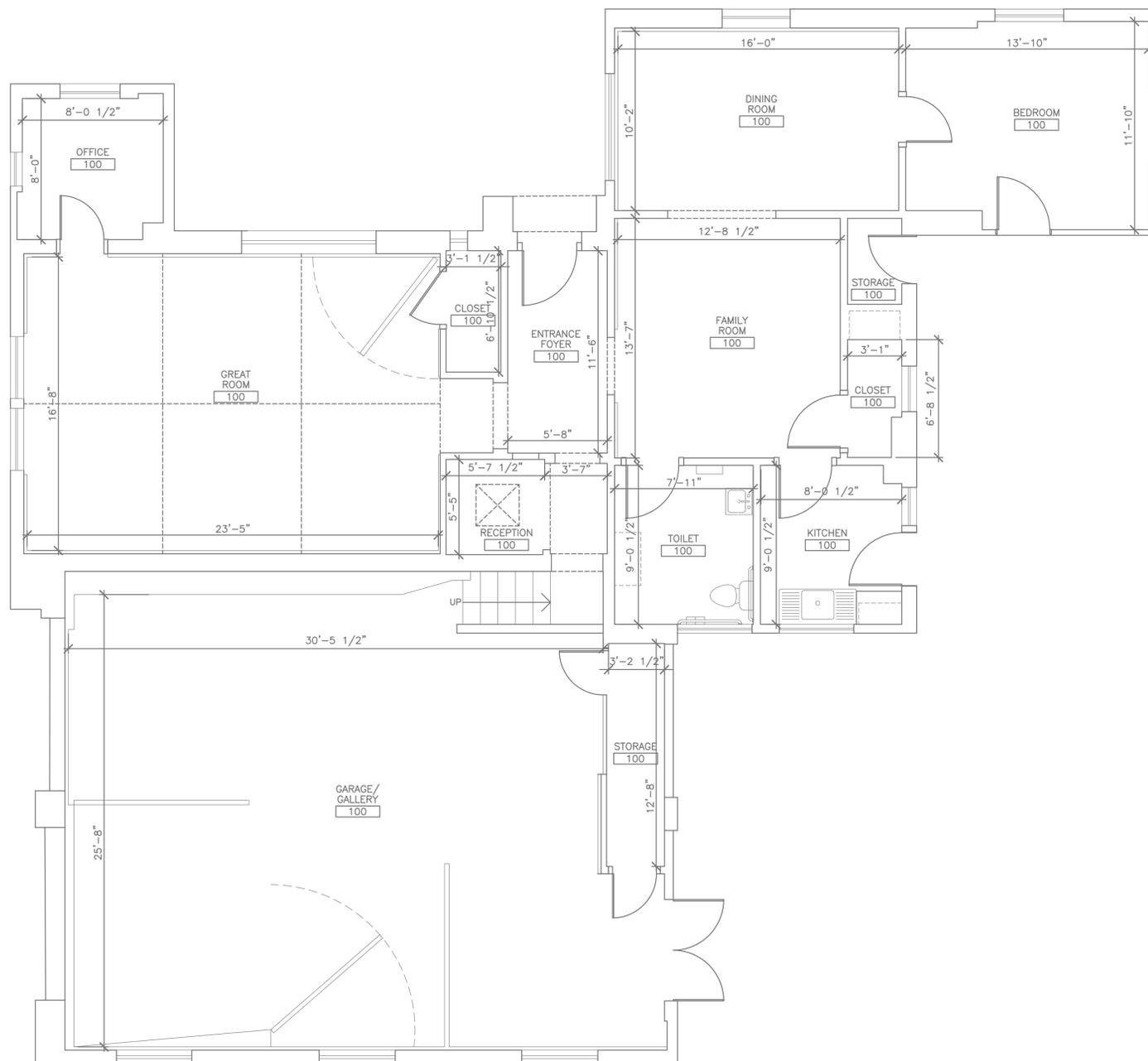






Cuschieri Horton  
Architects

20 South Santa Cruz Ave.  
Los Gatos, California 95030  
408.371.8200 Fx 408.371.8201



LEGEND

- EXISTING WALL TO REMAIN
- EXISTING FURRED WALL
- - - - - EXISTING CEILING/ARCH ABOVE

1 EXISTING FLOOR PLAN

1/4" = 1'-0"



EXISTING FLOOR PLAN

PENNANT PROPERTIES  
4 TAIT AVENUE,  
LOS GATOS, CA 95030

REVISIONS

NO.	ITEM	DATE

PERMIT #:

SUBMITTAL:

DRAWN BY: XX

CHECKED BY: XX

CHA JOB NO: DATE:

2007 09/28/20

SHEET NO.

A1.0



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 02/24/2021

ITEM NO: 4

**DESK ITEM**

DATE: February 24, 2021  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Consider a Request for Approval for a Zone Change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay) and a General Plan Amendment to Change the Land Use Designation from Medium Density Residential to Central Business District, for Property Located at **4 Tait Avenue**. APN: 510-44-054. Zone Change Application Z-20-002 and General Plan Amendment Application GP-20-001. Property Owner: Town of Los Gatos. Applicant: Jim Foley

REMARKS:

Exhibit 8 includes public comments received between 11:01 a.m., Friday, February 19, 2021 and 11:00 a.m., Wednesday, February 24, 2021.

EXHIBITS:

Previously received with February 24, 2021 Staff Report:

1. Location Maps (showing existing General Plan Land Use Designations and Zoning)
2. Draft Findings
3. Draft Resolution for the General Plan Amendment, with Exhibit A
4. Draft Ordinance for the Zone Change, with Exhibit A
5. Letter from the Applicant
6. Summary of Outreach
7. Property Plans

Received with this Desk Item:

8. Public comments received between 11:01 a.m., Friday, February 19, 2021 and 11:00 a.m., Wednesday, February 24, 2021

PREPARED BY: JENNIFER ARMER, AICP  
Senior Planner

Reviewed by: Planning Manager and Community Development Director

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**From:** Jim Pappas  
**Sent:** Tuesday, February 23, 2021 5:03 PM  
**To:** Planning <[Planning@losgatosca.gov](mailto:Planning@losgatosca.gov)>  
**Subject:** Proposed 4 Tait Ave Development/February 24th Meeting

Los Gatos Planning Department,

We are in receipt of the green card dated February 12, 2021 concerning the above captioned, proposed development. We are the owner of 5 Tait Avenue, immediately across from 4 Tait Avenue. The link referenced in said card does not have any project information. A subsequent letter from Imwalle Properties/Pennant Properties, however, had more information and contact references for said development.

Jim Foley of Pennant Properties received my call today and was extremely helpful in discussing the project.

Below are the development comments I shared with Jim and I believe should be considered in the February 24<sup>th</sup> meeting (At least two neighbors have similar comments to mine):

1. Residential is the most preferred development for the property (Max. two single family residences).
2. Retail is not desired at all: traffic increases, ever changing tenants with other downtown vacancies, beach traffic prohibits activity, etc.
3. If it must be commercial, *low traffic office usage is preferred*: attorney, architect/engineer, tech, financial, general office, etc.

Note: The current parking lot sees various inflows of people/vehicles: daily parking (gets patrolled), homeless visits, homeless cars park for various activities, occasional high school hangout, etc. Developing something to improve the appearance and limit mischievous behavior will be appreciated and is needed.

My phone number is [REDACTED] should you have any questions or wish to discuss anything further.

Thank You,

Jim and Renee Pappas

Comments to Planning Commission with regard to 4 Tait Avenue :

Dear Planning Commissioners:

I have reviewed the limited information that was available for public review with regard to the 4 Tait Avenue historic firehouse building via the link provided in the green notice card at <https://www.losgatosca.gov/2390/T>.

I understand that the applicants are seeking to rezone such property from a Single-Family Residential Downtown LHP to a Central Business District LHP, and further to make an Amendment to the General Plan to allow for a change in land use designation from a Medium Density Residential to a Central Business District.

Whereas I am hopeful that the property might be carefully and thoughtfully restored and maintained as a true, valued historic property of the town, I am concerned as to issues that are not addressed in the current proposal for creating a business property in the middle of a historic neighborhood.

#### Parking and Traffic

In the Related Documents found at such link (including the Project Description and Justification Letter, Plans and Site Photos) there is no mention of the impact of parking in changing the property from residential to business zoning. A residential property's parking needs generally connotes two vehicles associated with the property. A business property generally connotes much more than two.

I urge the Planning Commission to stipulate conditions in any potential approval for a Zone Change and/or General Planning amendment that the property must, at a minimum, retain the seven parking places currently on the property. This might be enacted through conditions, or perhaps with a legal covenant that would run with the property.

The 0 to 100 block on Tait Avenue is a much narrower stretch of road than the rest of Tait, and indeed narrower than the roads in the rest of Almond Grove. Two cars can barely pass each other while a car is parked on one side of the street. With St. Mary's Church and School situated on Tait Avenue, traffic is incessant and parking is hard to find. The infamous "beach traffic" that plows through town May through September (and funnels down Tait) further exacerbates the bottleneck, and has cause several accidents over the past few years.

It is imperative that no additional parking issues and traffic be added to the mix with the potential rezoning of the 4 Tait Avenue property. In addition to the condition of retaining a minimum of seven parking places at the property, I urge the Planning Commission to require the applicants to provide a plan for traffic abatement with their proposal. For example, is it possible for the property to have an ingress and egress only off of the much wider Main Street rather than Tait Avenue?

#### BUSINESS HOURS ZONING

At this juncture, it is not clear as to what tenant might be located in the 4 Tait Avenue property (if it is rezoned as business). It is clear that the property faces residences on three sides. A business that operates earlier than 8 am and past the hour of 8 pm is not in keeping with the hours of quiet enjoyment long held by those in such historic residences. The noises and traffic stemming from a bar, a club, or a late-night restaurant would not be a welcome addition to the neighborhood.

I urge the Planning Commission to stipulate conditions in any potential approval for a Zone Change and/or General Planning amendment that the property must not allow for business operations earlier than 8 am and later than 8 pm.

#### ADDITIONAL STRUCTURES

It was not ascertainable as to whether additional structures would be permitted on the property at 4 Tait. Whereas the renovation of the existing property would be welcome, any additional structures would not. The character of Almond Grove is derived by historic homes with low-lying profiles. Any additional structures to the historic adobe fire station would be out of sorts with the history and character of the town. It would not be a "good neighbor". I urge the Planning Commission to stipulate conditions against any additional structures added to the current property.

Whereas I welcome creative solutions to retaining and restoring the town's historic property, the town must be mindful of not tearing at the fabric of the historic neighborhood in which the property resides.

Sincerely,

Lisa A. Mammel  
33 Tait Avenue

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A P P E A R A N C E S:

Los Gatos Planning Commissioners:  
Kathryn Janoff, Chair  
Kendra Burch, Vice Chair  
Jeffrey Barnett  
Melanie Hanssen  
Jeffrey Suzuki  
Reza Tavana  
Emily Thomas

Town Manager: Laurel Prevetti

Community Development Director: Joel Paulson

Town Attorney: Robert Schultz

Transcribed by: Vicki L. Blandin  
(619) 541-3405



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P R O C E E D I N G S:

CHAIR JANOFF: This item is a request to consider for approval a zone change from Residential 1D:LHP, Single-family Residential Downtown with a Landmark and Historic Preservation Overlay, to C-2:LHP, Central Business District with a Landmark and Historic Presentation Overlay, and a General Plan Amendment to change the land use designation from Medium Density Residential to Central Business District for property located at 4 Tait Avenue, APN 510-44-054. Zone Change Application is Z-20-002 and General Plan Amendment Application is GP-20-001. Property owner is the Town of Los Gatos and the Applicant is Mr. Jim Foley.

First, may I see a show of hands from Commissioners who have visited this property? Thank you. Are there any disclosures? I see none. Ms. Armer, I understand you'll be giving the Staff Report tonight.

JENNIFER ARMER: Yes, good evening. Good evening, Chair, Vice Chair, Commissioners.

Before you tonight is a request for a General Plan Amendment from Medium Density Residential to Central Business District and the associated zone change from

1 Single Family Residential Downtown to Central Business  
2 District. The Landmark and Historic Presentation Overlay  
3 would be retained, and this is on 4 Tait Avenue.

4 In contrast to many projects reviewed by the  
5 Planning Commission, this proposal is just about changing  
6 the rules that apply to the property. There is no  
7 particular business that is proposed on the site at this  
8 time and no improvements are proposed to the site or the  
9 building. Also unusual, this is a property that is owned by  
10 the Town, so the Town has additional involvement when a  
11 specific subtenant is chosen.

12  
13 The requested General Plan Amendment was reviewed  
14 by the General Plan Committee in January of this year. This  
15 committee forwards a recommendation of approval to the  
16 Planning Commission and to Town Council. The proposed  
17 General Plan Amendment and zone change would be consistent  
18 with the pattern of land use and zoning in the adjacent  
19 downtown commercial area. Additionally, the Applicant's  
20 letter explains how the best use of the existing historic  
21 building is a commercial use. For these reasons and the  
22 analysis provided in the Staff Report Staff does recommend  
23 that they make the required findings in Exhibit 2 and  
24 forward a recommendation of approval to Town Council of the  
25

1 draft resolution in Exhibit 3 and draft ordinance in  
2 Exhibit 4.

3           There was a Desk Item distributed today with some  
4 comments and concerns from nearby neighbors.

5           This concludes Staff's presentation. I'd be happy  
6 to answer any questions.

7           CHAIR JANOFF: Thank you, Ms. Armer. Do  
8 Commissioners have questions for Staff? I don't see any  
9 hands raised so at this time we will open the public  
10 hearing and give the Applicant up to five minutes to  
11 address the Commission.  
12

13           DIRECTOR PAULSON: Thank you, Chair. I'm going to  
14 allow the Applicant to speak. Mr. Foley, you can unmute  
15 yourself and you have up to five minutes.

16           JIM FOLEY: Thank you, Mr. Paulson. Can you all  
17 hear me?

18           CHAIR JANOFF: Yes, we can. Go ahead, Mr. Foley.

19           JIM FOLEY: Good evening, distinguished Planning  
20 Commission. My name is Jim Foley representing Imwalle  
21 Properties, Pennant Properties, and Tait Fire House LLC,  
22 the Applicant. I'd just like to provide a bit of background  
23 for you on the project.  
24

25           The project is the result of an RFP process put  
out by the Town of Los Gatos several years ago to create a

1 public/private partnership with a qualified local real  
2 estate company to restore, renovate, reposition and  
3 ultimately lease and manage the two Town-owned museum  
4 properties located at 75 Church Street, which is Forbes  
5 Mill, and 4 Tait Avenue, which is the Tait Fire House on  
6 the corner there.

7           The RFP proposed a master lease structure whereby  
8 the private partner would enter into a long-term lease for  
9 the property from the Town and essentially take  
10 responsibility for the aforementioned activities, including  
11 the expenditure of significant dollars associated with  
12 improvements in return for an economic participation in the  
13 project. The details of this can be found in the two master  
14 leases entered into with the Town of Los Gatos last year.

15           Imwalle Properties was awarded the RFP and for  
16 two years went through an extensive process to craft and  
17 ultimately execute the two master leases for the properties  
18 with a tremendous amount of participation from Town Staff  
19 and significant oversight by the then Town Council who  
20 ultimately approved the leases and authorized the Town  
21 Manager and Town Attorney to execute lease documents last  
22 fall.  
23

24           The Forbes Mill property is already zoned for  
25 commercial uses contemplated by the master lease for that

1 particular property, however the Tait Fire House property  
2 is zoned for residential use and needs to undergo the  
3 proposed zone change and General Plan Amendment in order to  
4 accomplish the goals of the master lease.

5           Please note that the only residential use that  
6 has ever existed at the property is an ancillary use as a  
7 component of the old fire house and outside of that has  
8 always operated as a museum which was open to the public  
9 and attracted outside visitors to the site.

10           The property is adjacent to the Central Business  
11 District and the neighbor to the east is currently zoned  
12 for commercial use. We want to be really clear that this  
13 project has restoration at its heart and it does not  
14 contemplate expansion or redevelopment. We understand the  
15 property is bordering the residential neighborhood and the  
16 nearby schools and church, and we've been in touch with  
17 both of the schools and the church and they were supportive  
18 of the rezoning effort as it is of utmost importance to get  
19 the property back into regular service and occupied in  
20 order to discourage vagrants and vandals that have entered  
21 the property from time to time over the past several years.

22           We've also heard from many residential owners in  
23 the residential neighborhood, most of whom are supportive,  
24 with a few having concerns that will hopefully be  
25

1 alleviated as they watch the process unfold and a future  
2 project is ultimately brought forward.

3           You'll note that the General Plan Committee, whom  
4 some of you sit on, has recommended approval of the  
5 application and Town Staff also recommends the Planning  
6 Commission make a motion to recommend approval of the zone  
7 change and General Plan Amendment to the Town Council. As  
8 illustrated in our biography section, our team is highly  
9 qualified, ultra-local, and has a vested interest in the  
10 betterment of Los Gatos for several generations.

11  
12           We'll be careful stewards of the property and are  
13 really excited to move this project forward through the  
14 process and we're here to answer any questions you may  
15 have. Thank you.

16           CHAIR JANOFF: Thank you, Mr. Foley. Do  
17 Commissioners have questions for the Applicant?  
18 Commissioner Hanssen.

19           COMMISSIONER HANSSSEN: I obviously was on the  
20 General Plan Committee when we heard this before, but I do  
21 remember the discussion and I wanted to ask and make sure I  
22 have it right, is that any potential applicant to take over  
23 the lease in the facility would have to be approved by Town  
24 Council, is that correct?  
25

1           JIM FOLEY: That's my understanding. I don't know  
2 if Director Paulson...or it doesn't appear that the Town  
3 Attorney is on this Zoom, but that is my understanding as  
4 to how the lease is written. That could be verified, I  
5 think, internally if you want to check.

6           COMMISSIONER HANSSEN: It was probably a better  
7 question for Staff, so thank you.

8           JIM FOLEY: Okay.

9           CHAIR JANOFF: Any other questions for the  
10 Applicant? Vice Chair Burch.

11           VICE CHAIR BURCH: I noted on the General Plan  
12 Committee notes that the committee members discouraged  
13 restaurant and personal service uses in this location. I  
14 was curious, with the proposed changes do you agree with  
15 that discouraging recommendation or do you find that the  
16 interest in this space may fall more in line with a  
17 restaurant or services?  
18

19           JIM FOLEY: It's a really interesting question.  
20 Since we started this process a number of years ago a lot  
21 of things in the market have changed, not that that is a  
22 direct correlation to what is or is not appropriate here. I  
23 think that this particular property is very compatible with  
24 the C-2 and the Downtown Central Business District just  
25 because of its location and the neighboring properties. But

1 we are on the border. I mean, we realize we're right there;  
2 it is literally the edge of the residential neighborhood  
3 and the edge of the Central Business District, so we've  
4 seen some of the concerns and had some conversations with  
5 the neighbors about what the uses are.

6 I don't know, I think it just depends on the  
7 particular project. That's a very broad use. A food or  
8 personal service use is allowed in C-2, but within those  
9 designations there is a broad variety of how those things  
10 could be executed, so I think it's just a matter of finding  
11 something that's compatible. It's very likely that it's an  
12 office project, but we don't want to preclude something  
13 that could be really valuable to the community and to the  
14 immediate neighbors that might fall under one of those use  
15 categories.

17 The only other thing that I'll point out is I  
18 think it was maybe only one, and possible two, but one of  
19 the people that raised that issue at the General Plan  
20 Committee meeting—there were not more than that—that had  
21 that concern.

22 VICE CHAIR BURCH: All right, thank you.

23 CHAIR JANOFF: Commissioner Suzuki.

24  
25



1                   COMMISSIONER SUZUKI: You mentioned earlier that  
2 there was a preservation element in terms of history to  
3 changing the zoning laws. Could you elaborate?

4                   JIM FOLEY: This is something that I wanted to  
5 clarify to you all that have a better understanding of it  
6 than most, but also to the neighbors. We're not talking  
7 about tearing these buildings down or redeveloping them or  
8 adding things to them. These are historical buildings in  
9 the Town; they're of significance. I think the  
10 architectural style of them is fine. Maybe there could be  
11 some refreshing done but it's not a project to try to  
12 increase any density or add any square footage; it's really  
13 to preserve these. The museums were doing that to a certain  
14 extent and the Town was the steward of that for many years,  
15 and they were keeping the buildings up and keeping them  
16 maintained, so I think we just want to take it to the next  
17 level. We want to touch up some of the exterior stuff,  
18 maybe provide some changes, maybe restore.

19                   The fire house has some opportunities to restore  
20 it to maybe what it looked like I don't know how many  
21 decades ago, four or five or six decades ago.

22                   Forbes Mill probably on the other hand has  
23 remained much how it looks now, and a lot of the  
24 improvements are going to be focused on tenant improvements  
25

1 on the interior of the buildings rather than trying to  
2 modify anything.

3 I think our hope is having been here a long time,  
4 and we have interests in a lot of other historical  
5 properties and commercial properties in town, I think that  
6 we understand maintaining character in town and that's sort  
7 of the goal here, as opposed to whatever somebody else's  
8 objective might be, to use these postage stamps of land and  
9 create something new or different. Our agenda is no, let's  
10 preserve them but figure out what we can do to make them  
11 revitalized on the interior and bring some life back into  
12 them and keep that going for the long term. I hope that  
13 answers your question.  
14

15 CHAIR JANOFF: Thank you for that. Commissioner  
16 Thomas.

17 COMMISSIONER THOMAS: Thank you. Adding onto  
18 that, Mr. Foley, you mentioned that you felt like the space  
19 and location would be attractive to maybe some small office  
20 space. Is there anything in any of the plans that would  
21 maybe make the space more attractive to some public use as  
22 long as that is something that the neighbors are happy with  
23 or comfortable with? Because like you said, it was a  
24 location that attracted public visitors and people could go  
25 and enjoy it, and as we know, living in California we don't

1 have a lot of historic buildings in town and it is sad to  
2 see it sitting there not being used and enjoyed by the  
3 people of the Town, so is there anything with these changes  
4 and any updates and renovations that could be done that  
5 could make it more accessible and enjoyed by the public?

6 JIM FOLEY: That's a really good point. I think  
7 it's too early to tell for this particular site, I mean  
8 honestly. There's some property there and there is a  
9 storage building kind of structure in the back that we  
10 don't really know what the future of that is. It's going to  
11 be particular to the project that we bring forward when we  
12 bring an actual tenant improvement project forward where  
13 we'll see, and if it's such that maybe not all of the space  
14 is needed—it has a parking lot and is self-parked for the  
15 size of the building, so short of reducing the size of the  
16 building and trying to creating something might be  
17 difficult—but maybe there is a way if the tenant doesn't  
18 require it that we could repurpose some of the area to do  
19 something, and I don't know what, but it would be  
20 interesting to collaborate.  
21

22 The cool thing with this project is we're a  
23 public/private partnership with the Town, so everybody gets  
24 to be involved and gets to talk about it, and if there's an  
25

1 idea that comes forward I'm sure we all want to entertain  
2 that.

3           Just editorially, Forbes Mill has a much larger  
4 opportunity for that to occur because the property there  
5 actually, you may not know if you've been down to the  
6 trail, but it extends significantly farther back than just  
7 the Forbes Mill annex building. I know we're probably not  
8 going to revisit that in this venue, but it's something  
9 that we've definitely had on our mind and would appreciate  
10 any feedback we can get on both of them as to what's  
11 creative that we can do to make it an asset to the Town for  
12 sure, so thank you for asking that and hopefully that  
13 answers.  
14

15           COMMISSIONER THOMAS: And thank you for following  
16 up about Forbes Mill. I definitely can see how that site,  
17 it's a little easier to envision that just because of its  
18 location and accessibility in town and how it's slightly  
19 more isolated from a neighborhood.

20           I did have a follow up question with regard to  
21 the accessory structure, like the little storage area that  
22 you mentioned. Is that part of the historic structure of  
23 the property, or not? If you don't know, I can ask Staff  
24 later.  
25

1           JIM FOLEY: Yeah, I don't know. I think Director  
2 Paulson might know better than I how that would be treated.

3           CHAIR JANOFF: Thank you. Any other questions  
4 from Commissioners? All right, seeing none, I will now move  
5 to the public comments. Members of the public may choose to  
6 state your name and/or address or to speak anonymously.  
7 Please understand that the meeting is being recorded for  
8 the public record. Do we have any members of the public who  
9 wish to speak on this item?  
10

11           DIRECTOR PAULSON: We do have a hand raised, so  
12 the first person will be Kat.

13           KAT BATTAGLIA: Hi, my name is Kat Battaglia, my  
14 husband is Robert White, and we submitted a letter today--  
15 we're a little bit late to the party, I think.

16                   Last year we purchased 300 West Main Street,  
17 which is on the corner of West Main and Tait, so we are  
18 directly across from 4 Tait. The whole side of our house  
19 looks out at and is across from that building, so it's kind  
20 of important to us what happens to it, particularly because  
21 when we bought this house our research told us and the Town  
22 told us that they were considering an old fire house  
23 museum, not this sort of a new... It was kind of a surprise  
24 to see this for lease sign go up, so we're concerned what  
25 happens there.

1           We agree that it needs some upgrades, but the  
2 view that we have over that building that's kind of cute  
3 and has potential was a consideration for purchasing this  
4 property and I'm very concerned about what happens there  
5 for traffic impact, for our views, for the foot traffic,  
6 for the amount of parking.

7           As it stands now, the parking lot has been used  
8 by young people for—at least during COVID times—kind of a  
9 gathering spot for impromptu parties, which are always  
10 broken up very quickly, but we've had some homeless street  
11 people, wanderers around there. It obviously needs  
12 upgrades.

13           We had actually offered to purchase the property  
14 out of concern for what it was or what might transpire  
15 there with the intention of upgrading it but preserving the  
16 aesthetic style, the roof lines, and I'm worried about roof  
17 heights and that sort of thing and a big change there would  
18 mean more congestion.

19           The other thing that was a big surprise to us is  
20 the traffic problem and I'm concerned about that dependent  
21 upon what type of business goes in there, so it's parking  
22 and more traffic coming in. It's actually kind of dangerous  
23 because there's such a gridlock pattern that we can't get  
24 out and emergency vehicles can't get in. I've actually had  
25

1 people during those times get out of their car and take  
2 refuge under our birch trees for shade because they were  
3 stuck, not moving on Tait for so long that she thought her  
4 baby was going to perish; I've given water to people. So  
5 I'm a little bit concerned about what goes in there.

6           And again, we welcome the property being upgraded  
7 and updated. I'm concerned at this point, not knowing too  
8 much and only speaking to Jim through one email reply  
9 today, about what this will open up for the future.

10           DIRECTOR PAULSON: Time, Chair.

11           KAT GATTAGLIA: Oh, sorry. Is my time up?

12           CHAIR JANOFF: Yes, thank you for your comments.  
13 Do any of the Commissioners have questions for the speaker?  
14 I don't see any hands raised. Thank you very much. Do we  
15 have any other speakers?  
16

17           DIRECTOR PAULSON: Not currently, but let's give  
18 it a couple seconds. Here we go. Ms. Quintana. Again I will  
19 have to more her to panelist to allow her to speak. So, Ms.  
20 Quintana, you go and unmute yourself and then you can  
21 speak.

22           LEE QUINTANA: Just a couple of comments. This  
23 was the first fire house in Los Gatos and a while back the  
24 first fire bell was moved from its spot on the Town plaza  
25 and moved back to what was then the Tait Museum with the

1 understanding when that move was approved that there was be  
2 a structure built to house the fire bell on that site.

3 My concern now is what will happen to the fire  
4 bell as part of any plans for the site and whether the fire  
5 bell somehow could be integrated into something that would  
6 be available for public use, like a tiny pocket park maybe,  
7 or something. That's one concern.

8 The other thing I would like to say is this. I  
9 was one of the General Plan Committee members who had  
10 concerns about the possible uses on the site since it is my  
11 understanding that all of those uses that could be allowed  
12 in the C-2 would be by-right uses and therefore it's not  
13 clear to me what control exactly that the Town Council  
14 would have over the use rather than just the architecture.  
15 Those are my comments.

16 CHAIR JANOFF: Thank you for those. Do any  
17 Commissioners have questions of Ms. Quintana? I don't see  
18 any hand raised. Do we have any other speakers?

19 DIRECTOR PAULSON: One second. I have to get back  
20 to the other room and see if anyone else's hand is raised.  
21 The next is Jim Pappas.

22 JIM PAPPAS: Good evening, Commissioners. My name  
23 is Jim Pappas. I live at 5 Tait Avenue here in Los Gatos.  
24 Much like Kat I somewhat echo many of her comments. We've  
25



1 actually had a chance to talk about it. It was not quite on  
2 the level of awareness of this level of the programming.

3 I guess my biggest concern would be much like Kat  
4 said, yes, would love to see something developed there  
5 because there is a lot of activity that occurs that's  
6 rather nefarious in nature. In fact, even this afternoon  
7 some high schoolers were parked there just exchanging  
8 whatever at the time.

9  
10 My concern really would be from the ability for  
11 the Town to control what commercial is. Many towns or  
12 cities have the ability to have commercial versus retail  
13 versus office, and so the concern we would have as  
14 neighbors is if it turns into retail, if you look at  
15 downtown Los Gatos the likelihood of that retail changing  
16 hands on a rotating basis would be of great concern. The  
17 same thing with the restaurant. You're looking at in-and-  
18 out traffic. That would be of great concern for that  
19 location.

20 The other problem with a retail environment would  
21 be beach traffic. That retailer would have no chance  
22 whatsoever to survive because on Saturdays and Sundays they  
23 can't commit any business during those times. That's why  
24 our preference as neighbors, first would be residential; if  
25

1 that's not possible it would be for more of an office  
2 nature.

3           A couple of us put that in writing to you today  
4 and yesterday to enumerate those concerns and really lay it  
5 out for you where we believe a professional type office—it  
6 could be an architect, it could be an engineer, it could be  
7 a financial advisor—something with low traffic but it  
8 maintains the architectural view that you have there  
9 without adding traffic to the area, because the reality is  
10 if you talk about four sides of that building, three of the  
11 four sides are residential, and I think that needs to come  
12 in because when people talk about it they say it's a  
13 commercial location. It's commercial on one side where you  
14 have kind of a hair shop and massage place. Everybody else  
15 on all other sides are all residential, so I'd like for you  
16 to keep that in mind when considering what control you have  
17 if you do make it commercial. I appreciate your time. Thank  
18 you.  
19

20           CHAIR JANOFF: Thank you very much. Are there any  
21 other questions for this speaker? Don't see any hands. Any  
22 other speakers?

23           DIRECTOR PAULSON: I don't currently see any  
24 other hands, Chair. Again, we'll give it a second here.  
25

1 CHAIR JANOFF: All right, so at this time we  
2 would like to hear from the Applicant again, who has up to  
3 three minutes to add anything further. Does the Applicant  
4 wish to speak again?

5 DIRECTOR PAULSON: Yes, Mr. Foley does. One  
6 second.

7 JIM FOLEY: I won't take too long, but I  
8 appreciate the comments by the neighbors and I was able to  
9 see some of their letters, and to both of them or anyone  
10 else listening, you received our letter reaching out and  
11 I'm happy that you're engaged in the project. We just want  
12 to make sure that everyone that's around there is on board.

13 We're excited that this is a project that we feel  
14 keeps everybody aligned together: the Town, us as managing  
15 the project, and the neighborhood. We're open to further  
16 comment. This particular part of the process is very  
17 technical; it's the rezoning and a General Plan Amendment.

18 As marketing proceeds and an actual project-level  
19 project comes into focus where we know what the use is  
20 going to be, we're going to have a lot more conversation  
21 with everybody and we're really going to be open to making  
22 sure that the immediate neighborhood isn't impacted and has  
23 a chance to provide their input. So, everyone feel free to  
24 contact us at any time with questions, concerns or updates  
25

1 about what's going on and we want to make it really  
2 beneficial to everybody else. Any other questions we're  
3 here to field. Thank you.

4 CHAIR JANOFF: Thank you, Mr. Foley. Do  
5 Commissioners have any additional questions for the  
6 Applicant? Commissioner Barnett.

7 COMMISSIONER BARNETT: Yes, did you say that the  
8 master lease with the Town is already executed? If so, I  
9 have a follow up question.  
10

11 JIM FOLEY: Yeah, it is. It's kind of a tricky  
12 process that we're going through because the master lease  
13 is kind of presupposed and had been supported by the  
14 previous council that this is where we're headed, but we  
15 still have to take this through the process, and there was  
16 a lot of debate about whether the Town could take it  
17 through the process itself or whether we as the master  
18 tenant take it through the process, so we're here now,  
19 doing it this way, and just hopeful that we still maintain  
20 everyone's support. Whatever your next question is, I'm  
21 happy to answer if I can.

22 COMMISSIONER BARNETT: The follow up question is  
23 whether you're aware in the lease itself whether there's  
24 any control over the use of the property, the subtenants?  
25

1           JIM FOLEY: Yeah, my understanding is that the  
2 Town of Los Gatos through the Town Council and supported by  
3 your recommendations, and that the recommendations of Staff  
4 and the Town Attorney has the final approval of any  
5 subtenant that we have.

6           COMMISSIONER BARNETT: Okay, that's good to hear.  
7 Thank you.

8           CHAIR JANOFF: Commissioner Thomas.

9           COMMISSIONER THOMAS: I had a question for Mr.  
10 Foley about the timeline. If this zoning is changed do you  
11 have any perspective timeline of when renovations might  
12 begin to occur?  
13

14           JIM FOLEY: I think it's a typical project  
15 timeline but it's going to be triggered by tenant activity,  
16 and as one of the neighbors had mentioned we've had a  
17 marketing sign up there for a little while. We've had some  
18 interest and it's been really exciting to field all that  
19 interest through the middle of the pandemic where everyone..  
20 Generally speaking, I think that there's been more activity  
21 in Los Gatos than a lot of other places, but for this  
22 particular property, it's in a quieter part of the Business  
23 District so it may not be immediately the first property to  
24 go look at, so we have had some inquires but not a lot of  
25 activity.

1           As we go through the process and we emerge from  
2 the pandemic I'm hopeful that activity ramps up and we're  
3 able to field a lot of inquiry about what types of uses and  
4 who is ready to come collaborate and bring a project  
5 forward, so as that occurs let's call it the beginning of  
6 summer, the next three months or so we'll hopefully have  
7 more traction, but it could be a lot longer than that. Once  
8 we have the tenant or a suitable tenant in line, then we're  
9 in the middle of a tenant improvement project, so we'll be  
10 going through if there's a necessary permit process that  
11 takes several months. There is going to be a plan check  
12 process for a Building Permit and it's going to take  
13 several months, and there are going to be several months of  
14 construction, so even if everything went lightning fast I  
15 couldn't imagine anything getting in there faster than nine  
16 months from now. It would be more like the end of the year  
17 or the beginning of next year, unless there was something  
18 that just needed very minor improvements, that was very  
19 quick to be able to occupy, something could be in there  
20 more like Q3, but my crystal ball says no, it's still a  
21 ways out.

23           CHAIR JANOFF: All right, thank you for that. Do  
24 we have any other questions for the Applicant? I don't see  
25 any hand raised, so we will now close the public portion of

1 this hearing and ask if the Commissioners have any  
2 questions of Staff, wish to comment, or introduce a motion  
3 for consideration? Commissioner Suzuki.

4           COMMISSIONER SUZUKI: I do have a question to  
5 Staff. What was mentioned earlier was the property hasn't  
6 actually been used for housing. Is there any potential in  
7 the future that it could be used for housing?

8           DIRECTOR PAULSON: I can go ahead and answer,  
9 unless Ms. Armer wants to start, but I'm happy to jump in  
10 there.  
11

12           There's always that opportunity. As was stated,  
13 the former Town Council has entered into a master lease  
14 agreement with this tenant, so it would take an action to  
15 modify that. The challenge gets to be utilizing the  
16 existing building, which is historic, it is in an historic  
17 district, whether or not that could be rehabbed or whether  
18 it would need to be significantly altered to make housing,  
19 whether that's market rate or affordable housing, to work  
20 on that site.

21           Those are always options. We are going down the  
22 path currently, as the Applicant mentioned. This is a  
23 necessary action that will ultimately need to be taken by  
24 the Town Council whether or not the General Plan and zoning  
25 designations get changed.

1           But could it ever be used for housing? There is a  
2 possibility that it could be used for housing. If these two  
3 applications move forward and it is changed, then it could  
4 either be changed back or we do actually allow residential  
5 in a number of our commercial zones with Conditional Use  
6 Permits. This doesn't negate the options for future  
7 residential use, and hopefully that answers your question.  
8

9           CHAIR JANOFF: Thank you for that. Any other  
10 questions for Staff, or discussion?

11           I did have one further question for Staff. It's  
12 been commented a couple of times, the control that Staff or  
13 the Town Council has over who will potentially occupy this  
14 site. There's been a lot of concern that was raised at the  
15 General Plan meeting regarding what don't we want in this  
16 space. So, if you could spend a minute just to help us  
17 understand what type of controls would typically be in  
18 place to make sure that the right fit for the neighbors and  
19 the Town were decided upon.

20           DIRECTOR PAULSON: Generally, and I believe the  
21 Town Attorney mentioned some of this at the General Plan  
22 Committee, and so I can start and if Ms. Armer has  
23 additional comments she would like to make.  
24

25           The Town is the landlord for this master lease  
agreement. There is language in there that we basically



1 have the ability to refuse a subtenant who might lease it  
2 from the Applicant. I don't have the specific language in  
3 front of me to know whether or not that's the Town Council  
4 and/or the Town Manager, but typically if we do come to a  
5 situation in moving forward is that becomes a situation and  
6 this obviously following the recommendation of the Planning  
7 Commission to the Council, further clarification will be  
8 provided.

9  
10 I apologize for not mentioning earlier that the  
11 Town Attorney unfortunately wasn't able to join us this  
12 evening, but it's my understanding from his comments at the  
13 GPC that the Town does have basically a first right of  
14 refusal for subtenants that would lease from the Applicant  
15 and their group.

16 CHAIR JANOFF: Thank you for that clarification.  
17 I just wanted to point out that for those of us who were  
18 thinking about the parcel's proximity to the neighborhood,  
19 how tight Tait is, and the parking lot and its size  
20 relative to ingress and egress and opportunities, we were  
21 thinking hard about how to control that, and the fact as  
22 stated by Town Attorney and confirmed tonight by Director  
23 Paulson that the Town has quite a bit of control over  
24 deciding who comes into that space gave us a lot of comfort  
25

1 to know that a good decision would be made if we were to  
2 change the zone code.

3 Any other comments? Commissioner Hanssen.

4 COMMISSIONER HANSSEN: I was just going to add on  
5 a little bit to what Chair Janoff said, because we all as  
6 well as Commissioner Burch at the time were members of the  
7 General Plan Committee when we heard this, and I think that  
8 there was quite a long discussion actually by the General  
9 Plan Committee and this is for a recommendation that was to  
10 come to us. I think the way that we got comfortable with it  
11 was exactly what Chair Janoff said, which is that the  
12 Applicant is the Town of Los Gatos and because the  
13 Applicant is the Town of Los Gatos there's going to be a  
14 lot of oversight as to what kind of tenant might be in that  
15 place.  
16

17 That combined with the fact that the use has  
18 never really been residential since its inception, and I  
19 don't know to what extent the Applicant mentioned this but  
20 it's quite a bit more difficult for them not having the  
21 zoning aligned with the actual use in terms of making the  
22 lease happen, so putting all that stuff together.

23 Having said that, the General Plan Committee was  
24 concerned enough about the possibility to personal service  
25 or restaurants being in that location, being so close to

1 residential, that that was included in the recommendation  
2 that that shouldn't be considered. But again, it is just a  
3 recommendation.

4 CHAIR JANOFF: Thank you for that, Commissioner  
5 Hanssen. It's important to note that tonight we are making  
6 a recommendation, or this motion will be a recommendation  
7 to Town Council, and so if there are concepts that we would  
8 like to see considered or not considered, now is the time  
9 to put those ideas in place for their consideration.  
10

11 I would just like to echo the comments of  
12 Commissioner Thomas and perhaps elaborate a little bit. The  
13 idea that this is a place of history is something that  
14 really resonates for me, as it does I'm sure for those  
15 members who are or were on Historic Preservation Committee—  
16 thank you for the question, Commissioner Suzuki.

17 So, there's a real opportunity to do something  
18 special here in terms of the kind of placemaking I think  
19 that Commissioner Thomas is thinking of, and the notion  
20 that there is a bell that is the possible focus for that  
21 kind of opportunity for public enjoyment of this and its  
22 history is a very compelling one, so I hope that those  
23 comments go forward to the Town Council in terms of what  
24 Planning Commission would like to see for this particular  
25 location.

1 Any other comments? And yes, Commissioner Suzuki.

2 COMMISSIONER SUZUKI: Since this is essentially a  
3 recommendation in spirit to the Town Council I do want to  
4 bring up a concern that I can't help but have. I understand  
5 that there's been a lot of thought and deliberation placed  
6 into executing this private/public partnership, but I can't  
7 help but see that there is a pretty large opportunity cost  
8 to designating this land specifically for commercial use. I  
9 do understand that there could be a potential for  
10 Conditional Use Permits and that maybe people could live  
11 there, but in spirit, specifically in the use of commercial  
12 use, I don't know if I could endorse that.

14 The Town needs to meet state housing quotas and  
15 the Town is still struggling to meet those quotas by  
16 literally hundreds of houses, even with the North 40 in  
17 play, and if we don't the State of California, when they  
18 have the resources they probably will sue us again.

19 In our Housing Element, HOU-1, "Expand the choice  
20 of housing opportunities for all economic segments of the  
21 community by supporting the development of affordable  
22 housing in a variety of types and sizes, including a  
23 mixture of ownership and rental housing." HOU-3,  
24 "Preserving existing residential opportunities," which I  
25

1 believe is actually in line here, "including the existing  
2 affordable housing stock."

3           After visiting the property personally I can't  
4 help but to think that the property was quite large with a  
5 lot of potential for housing development and specifically  
6 for commercial zoning. I don't really see what the clear  
7 benefits are here, and perhaps that's because a very clear  
8 picture of what exactly the property will be used for  
9 hasn't been made clear to me. Those are my thoughts.

10  
11           CHAIR JANOFF: Thank you for that. Commissioner  
12 Thomas.

13           COMMISSIONER THOMAS: I can't help but have some  
14 of the same concerns as Commissioner Suzuki because I too  
15 know, I mean we all know, that we're facing a housing  
16 crisis in the State of California and Los Gatos is not  
17 immune from that, and so I do think that it is our job to  
18 be thorough and play devil's advocate and make sure that we  
19 are looking at all the potential best uses of different  
20 land space.

21           We were provided with the existing floor plan of  
22 the property. Looking at it I thought could this be divided  
23 into multiple smaller units? One of the reasons I asked,  
24 which I did want to ask Staff about if they could follow up  
25

1 on that, but is the accessory structure part of the  
2 historical designation or could that be removed?

3           Both Commissioner Suzuki and I are jumping into  
4 this a little bit later than some of you because so many of  
5 us are on that General Plan Committee, so I did have the  
6 same questions initially looking at this. Has it really  
7 been thoroughly looked at if this could be used for people  
8 to live? Especially because it's so walkable to downtown  
9 and this is a space where people could not need a car to  
10 live, which is great. Providing housing in places like this  
11 is just something that we're not only required to do by the  
12 state but we want to do in the rewriting of the General  
13 Plan.  
14

15           Like I said, I love the idea of having it be a  
16 placemaking situation. I do think you can provide that in  
17 addition to allowing people to live there, right?  
18 Especially if there is like a small courtyard with a bell  
19 and some signage, incorporating some park or space where  
20 people can sit. So anyway, that is one of my concerns. I  
21 did have the question about the accessory structure and if  
22 there's any historical significance to that.  
23

24           My other question is if a General Plan update  
25 would affect this at all, or the lease, or if it would be  
grandfathered in because of that situation that's more of

1 just like a technical question, I guess, for Commissioner  
2 Hanssen maybe, or Chair Janoff; I don't know if you'd be  
3 able to answer that.

4 CHAIR JANOFF: Let's start with the first  
5 question regarding the accessory structure. Does Staff have  
6 any idea whether that's... I have an opinion. Based on the  
7 cinderblock structure I have an opinion about whether it's  
8 historic, but I'll defer to Staff.

9 JENNIFER ARMER: I don't actually have any  
10 specific information about the detached structure. Often on  
11 historic sights it is the primary structure that we are  
12 focused on, and as you said, the cinderblock nature does  
13 indicate it might be more recent.

14 CHAIR JANOFF: Yeah, it's a tell. And  
15 Commissioner Thomas or Suzuki, or for anybody else  
16 interested in whether or not structures on a property are  
17 considered historic, I would encourage you to visit the  
18 library and take a look at the Sanborn Maps—and if you  
19 don't know what they are, ask one of the librarians and  
20 they'll show you—but you can look at these specific parcels  
21 and see the structures that existed from 1895 through 1949,  
22 I believe, or 1950, so there's a lot of information there  
23 and I'm sure a quick look at this parcel would indicate  
24 whether it existed in an historic timeframe.  
25

1           Regarding whether the change in zone would impact  
2 the General Plan Advisory Committee work, I'll defer to  
3 Chair Hanssen.

4           COMMISSIONER HANSSEN: Yes, we do have a very  
5 large housing target, but this one property isn't going to  
6 make a difference one way or the other. When we had this  
7 discussion at the General Plan Committee, because we're all  
8 well aware of the huge housing target that we do have,  
9 again, this is a property that's owned by the Town of Los  
10 Gatos, who is also very aware of the housing target that we  
11 have and the growth that's expected, and they are  
12 proceeding forward with wanting to change this to the  
13 General Plan zoning as well as the underlying zoning to  
14 commercial use because that property has never been done as  
15 such.  
16

17           So that was how the General Plan Committee got  
18 comfortable with it. I don't think it's going to have any  
19 impact on the work of the Committee. We'll be starting the  
20 Housing Element later this year, and I sat on the Housing  
21 Element last time, and yes, as Commissioner Suzuki pointed  
22 out, we have had a tough time getting there, primarily  
23 because we can only plan for housing but we can't force  
24 developers to build it, so we do have ongoing issues but it  
25



1 don't think this one property is going to swing things one  
2 way or the other.

3           DIRECTOR PAULSON: I would just add a couple  
4 things, Chair.

5           We're not anticipating the General Plan update  
6 process changing a whole bunch of General Plan  
7 designations, so the General Plan update wouldn't affect  
8 that portion.

9           The other is that the Town Council, we will be  
10 doing verbatim minutes, so they'll get verbatim minutes of  
11 everything that's been said on this item as it moves  
12 forward to them.

13           The housing is interesting. The Town has not to  
14 my knowledge been a landlord for residential, and so what I  
15 image would happen if folks wanted it to go down a  
16 residential path is the Town would look at selling. We  
17 don't develop property. Even our below market price  
18 properties are owned by individuals and/or property  
19 management for the rental size, so we're not in that  
20 business. There are some jurisdictions who do do that. The  
21 Town just hasn't been one of those jurisdictions yet, but I  
22 just wanted to make sure that everyone knows that all of  
23 these thoughts and ideas will be forwarded to the Town  
24 Council following this evening's meeting.

1 CHAIR JANOFF: Thank you for that, and I did want  
2 to comment.

3 I've been in this structure many, many times as a  
4 former volunteer and associate of the museum that was  
5 there. It could be subdivided potentially into three units,  
6 very, very small, a couple of them, but one of the concerns  
7 that I would have if the Town decided to sell it is that we  
8 really have no control over what develops as a residential  
9 structure, and from what we're hearing the appetite for  
10 developing low-income housing in the downtown area in an  
11 historic neighborhood, I'm going to say it's probably  
12 pretty low, and so we might desire that outcome, and I  
13 think it's an excellent point if there was a way to  
14 incentivize someone to do it.

15  
16 The Town could break the lease and then they  
17 could sell the property and a lot of ifs fell into place,  
18 but I agree with Commissioner Hanssen that the General Plan  
19 in its update is attempting to identify a far larger and  
20 probably more buildable set of affordable housing within  
21 Los Gatos. So, I see better targets for development than  
22 this, but I think it's an interesting point to forward to  
23 the Town Council. Commissioner Thomas and then Suzuki.

24 COMMISSIONER THOMAS: Thank you for pointing that  
25 out because I do think that it is important, but based on

1 the comments just for this project and what could  
2 potentially go in there neighbors have opinions and strong  
3 feelings about that, and we would not want to make  
4 assumptions but I do think that it is difficult to get low-  
5 income housing passed in certain neighborhoods and I  
6 appreciate that you pointed that out, so thank you.

7  
8 I do think that if verbatim minutes are going to  
9 the Town Council I would be interested to see if as part of  
10 solving our housing crisis here we could become a  
11 jurisdiction that does manage property and propose and  
12 build and rent it. I don't know what the ramifications are  
13 of that, but that might be a creative way that we can move  
14 forward with dealing with our housing issues.

15 CHAIR JANOFF: Thank you for that comment.  
16 Commissioner Suzuki and then Vice Chair Burch.

17 COMMISSIONER SUZUKI: Thank you for explaining  
18 the political barriers to constructing additional housing  
19 units; I very much appreciate that.

20 Along with Commissioner Thomas on including  
21 certain statements for things in the verbatim minutes, I  
22 want to address the idea that specific parcels of land are  
23 not going to impact things one way or another or they're  
24 not going to meet our quota unilaterally. I can't help but  
25 to feel that we can say that about pretty much literally

1 any piece of land. Like, no individual parcel of land is  
2 going to meet those state requirements. That requires a  
3 pretty holistic change in our philosophy as a planning  
4 commission, as a town, pretty much across the board.

5           In this specific case that's the reason why I  
6 said in my first comment after the Applicant finished that  
7 in terms of spirit I am opposed to the property being used  
8 commercially. Does that mean that I think that it would be  
9 bad for the property to be used commercially? No, but I  
10 think that the Town should very much prioritize the  
11 construction of housing above not practically everything  
12 else, but it should be really up there, probably above  
13 commercial development specifically.

14           CHAIR JANOFF: Thank you for those comments. Vice  
15 Chair Birch.

16           VICE CHAIR BURCH: I want to commend everybody. I  
17 think that this is a great conversation, but I want to  
18 bring us back to the application in front of us, and I was  
19 prepared to attempt a motion if that's all right with the  
20 Chair.

21           CHAIR JANOFF: Yes, please go ahead.

22           VICE CHAIR BURCH: Great. All right. I am going  
23 to move that we approve the request for a zone change from  
24 R-1D:LHP to C-2:LHP, and a General Plan Amendment to change  
25

1 the land use designation from Medium Density Residential to  
2 Central Business District for property located at 4 Tait  
3 Avenue. I can find the required findings for CEQA; this is  
4 non-exempt. I can find the requirements that the proposal  
5 is consistent with the Town's General Plan, that it is  
6 internally consistent with the existing goals and policies  
7 of the General Plan and its corresponding elements, and  
8 that the proposed zone change is consistent with the  
9 General Plan and its elements in that the proposed zoning  
10 is consistent with the proposed General Plan land use  
11 designation. I believe that was all the findings.  
12

13 CHAIR JANOFF: Thank you for that. Do we have a  
14 second? Commissioner Hanssen.

15 COMMISSIONER HANSSEN: I second the motion.

16 CHAIR JANOFF: Thank you. Any comments on the  
17 motion? Questions for Staff. Do we need to incorporate  
18 Exhibit 3 and/or Exhibit A as part of the motion?

19 DIRECTOR PAULSON: As I understand it, the motion  
20 includes the resolution for the General Plan Amendment and  
21 the ordinance for the zone change with any attachments is  
22 how I understood the motion.

23 CHAIR JANOFF: Thank you.

24 VICE CHAIR BURCH: That's correct.  
25

1 CHAIR JANOFF: All right, seeing no other hands  
2 then, I'll call the question. Commissioner Hanssen.

3 COMMISSIONER HANSSEN: Yes.

4 CHAIR JANOFF: Commissioner Tavana.

5 COMMISSIONER TAVANA: Yes.

6 CHAIR JANOFF: Commissioner Barnett.

7 COMMISSIONER BARNETT: Yes.

8 CHAIR JANOFF: Commissioner Thomas.

9 COMMISSIONER THOMAS: Yes.  
10

11 CHAIR JANOFF: Commissioner Suzuki.

12 COMMISSIONER SUZUKI: No.

13 CHAIR JANOFF: Vice Chair Burch.

14 VICE CHAIR BURCH: Yes.

15 CHAIR JANOFF: And I vote yes, so the motion  
16 carries 6-1, and since this is a recommendation to Town  
17 Council I'm assuming there's no appeal or other  
18 considerations.

19 DIRECTOR PAULSON: That's correct. It's a  
20 recommendation to the Town Council so there are no appeal  
21 rights.

22 CHAIR JANOFF: All right, thank you.  
23  
24  
25

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**TOWN COUNCIL – April 20, 2021**  
**REQUIRED FINDINGS**

**4 Tait Avenue**

**General Plan Amendment Application GP-20-001**

**Zone Change Application Z-20-002**

**Consider a Request for Approval for a Zone Change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay) and a General Plan Amendment to Change the Land Use Designation from Medium Density Residential to Central Business District, for Property Located at 4 Tait Avenue. APN: 510-44-054. Zone Change Application Z-20-002 and General Plan Amendment Application GP-20-001.**

**Property Owner: Town of Los Gatos.**

**Applicant: Jim Foley**

**FINDINGS:**

**Required finding for CEQA:**

- 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), in that it can be seen with certainty that there is no possibility that the proposed amendments to the General Plan and Town Code will have a significant effect on the environment, because the project does not include any modification that would affect the historical significance of the building.

**Required consistency with the Town’s General Plan:**

- That the General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its corresponding Elements.
- That the proposed Zone Change is consistent with the General Plan and its Elements in that the proposed zoning is consistent with the proposed General Plan Land Use designation.

ATTACHMENT 4



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**RESOLUTION 2021-  
RESOLUTION OF THE TOWN COUNCIL  
OF THE TOWN OF LOS GATOS  
AMENDING THE GENERAL PLAN LAND USE DESIGNATION  
FROM MEDIUM DENSITY RESIDENTIAL TO CENTRAL BUSINESS DISTRICT  
FOR A PROPERTY AT 4 TAIT AVENUE**

**WHEREAS**, the applicant requests approval to change the General Plan Land Use designation from Medium Density Residential to Central Business District on property located at 4 Tait Avenue (Santa Clara County Assessor Parcel Number 510-44-054); and

**WHEREAS**, the General Plan Committee at its meeting of January 13, 2021, recommended that the General Plan Land Use designation be changed from Medium Density Residential to Central Business District as that designation is consistent with the Land Use designations of neighboring properties and consistent with the proposed use of the property; and

**WHEREAS**, the Planning Commission recommended approval of the General Plan amendment at its regularly noticed public hearing on February 24, 2021; and

**WHEREAS**, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on April 20, 2021; and

**WHEREAS**, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed General Plan amendment; and

**WHEREAS**, the Town Council finds as follows:

A. The project is Categorically 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 the proposed amendments to the General Plan and Town Code will have a significant effect on the environment, because the project does not include any modification that would affect the historical significance of the building; and

B. The General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its corresponding Elements; and

ATTACHMENT 5

C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65350 et seq.; and

**WHEREAS**, the Town Council considered all facts and information related to a request to change the General Plan Land Use designation for the property at 4 Tait Avenue from Medium Density Residential to Central Business District as shown on Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council hereby changes the General Plan Land Use designation for property at 4 Tait Avenue as shown on Exhibit A, from Medium Density Residential to Central Business District.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the \_\_\_<sup>th</sup> day of \_\_\_\_\_, 2021, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

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

DATE: \_\_\_\_\_



# TOWN OF LOS GATOS

Application No. GP-20-001

A.P.N. # 510-44-054

Change of the General Plan map amending the Town General Plan

From: Medium Density Residential

To: Central Business District



Forwarded by Planning Commission

Date:

Approved by Town Council

Date:

Resolution:

Clerk Administrator

Mayor

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Draft Ordinance: subject to  
modification by Town Council  
based on deliberations and  
direction

**DRAFT ORDINANCE**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
AMENDING THE ZONING CODE  
FROM R-1D:LHP (SINGLE-FAMILY RESIDENTIAL DOWNTOWN WITH A LANDMARK  
AND HISTORIC PROPERTY OVERLAY)  
TO C-2:LHP (CENTRAL BUSINESS DISTRICT WITH A LANDMARK AND HISTORIC  
PROPERTY OVERLAY)  
FOR A PROPERTY LOCATED AT 4 TAIT AVENUE**

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

**SECTION I**

The Town Code of the Town of Los Gatos is hereby amended to change the zoning of the property at 4 Tait Avenue (Santa Clara County Assessor Parcel Number 510-44-054) as shown on the map attached hereto as Exhibit A, and is part of this Ordinance, from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Property Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Property Overlay).

**SECTION II**

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 20th day of April 2021, 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 May 2021. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

ATTACHMENT 6

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

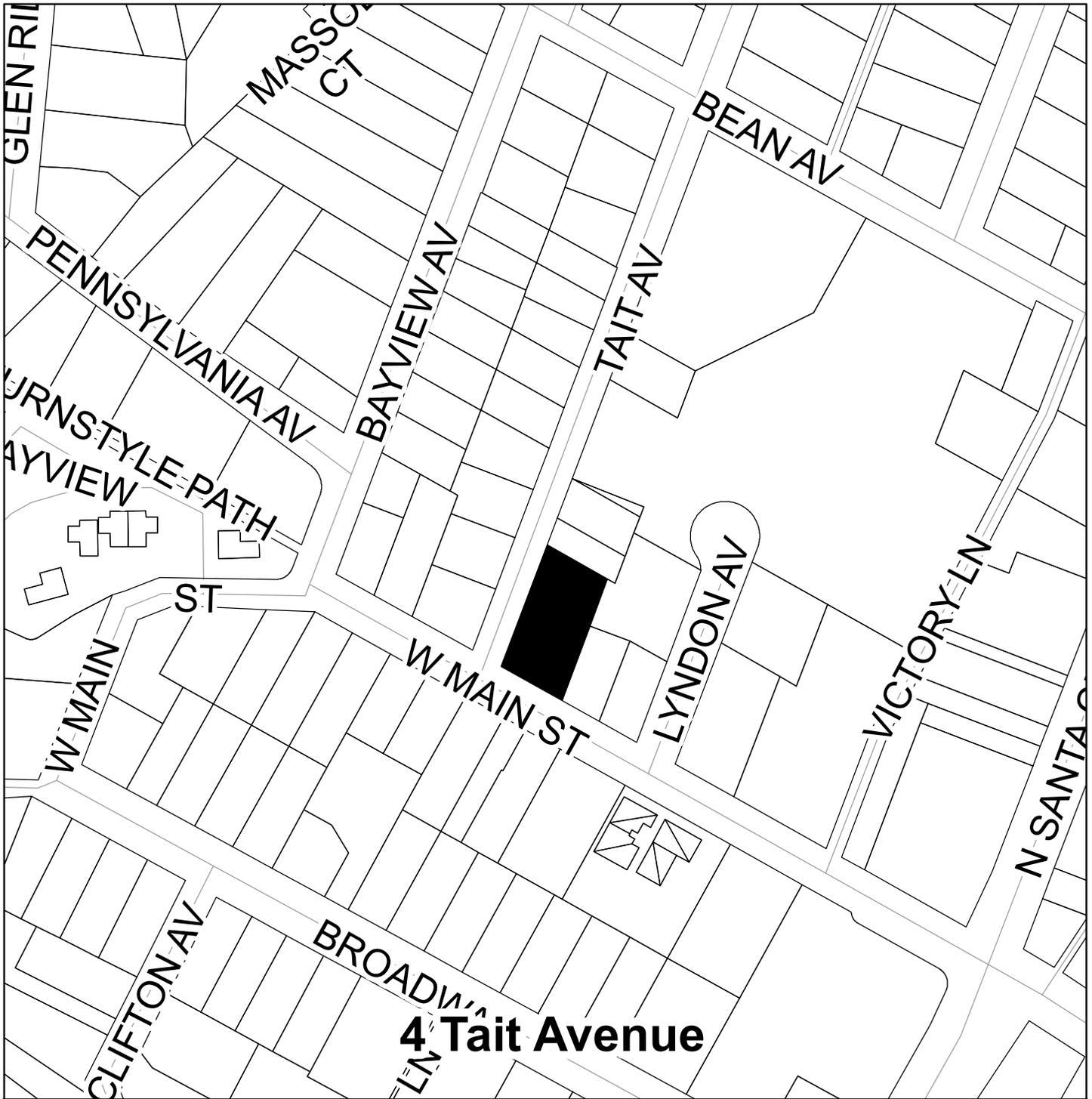
MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

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

DATE: \_\_\_\_\_



# TOWN OF LOS GATOS

Application No. Z-20-002

A.P.N. # 510-44-054

Change of the zoning map amending the Town Zoning Ordinance.

Zone Change

From: R-1D:LHP To: C-2:LHP

Prezoning



Forwarded by Planning Commission

Date:

Approved by Town Council

Date:

Ord:

Clerk Administrator

Mayor



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**From:** Jim Foley  
**Sent:** Wednesday, April 14, 2021 4:12 PM  
**To:** Council  
**Cc:** Clerk ; James (Jason) Farwell ; Don Imwalle Jr.  
**Subject:** 4 Tait Ave Rezone and General Plan Amendment - Tuesday's Agenda

Dear Madam Mayor and Honorable Town Council,

I just wanted to drop you a friendly reminder that the Zone Change and General Plan Amendment for 4 Tait Ave is on the upcoming Town Council Agenda on April 20th. This is related to the ground leases that were approved by the prior Town Council for the restoration, re-tenanting, and management of the two museum properties: 4 Tait Ave (the original Town Firehouse) and 75 Church St. (The Forbes Mill Annex building). The rezoning and associated general plan amendment have been supported by Town Staff, DRC, and Planning Commission as you can note by the recommendations for approval. This is a critical part of the project in order to achieve the vision of the project and comply with the intent of the master lease agreement in place for the property. We have conducted neighborhood outreach and have not heard any concerns related to the rezoning of the property to C-2:LHP. There was some dialogue at the Planning Commission hearing about using the site for residential uses, and specifically affordable housing. This is not something that has been contemplated in the master lease and would be a significant departure from a project that has taken over 4 years and a tremendous amount of effort by us and the Town. This would not be compatible with the neighborhood, as an affordable housing project would need to be very dense and have multiple units in order to be viable. The vision of the Town Council was to restore and preserve the building as a piece of Los Gatos history. As such, the appropriate zoning is C-2:LHP to be able to improve and restore the building in its current form, primarily the interior, to accommodate a commercial use. Tait Firehouse, LLC is the private entity led by Imwalle Properties in partnership with Pennant Properties, as the private arm of this public-private partnership with the Town of Los Gatos. If you have any questions about this prior to the Town Council meeting please feel free to contact me, I am available any time. We look forward to taking the next steps with the project and restore the building to attract a first class tenant!

Thank you,

*Jim Foley*

*Principal*

*(408) 813-7490*

**Pennant  
Properties**

*DRE # 01841825*



ATTACHMENT 7

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**From:** Jennifer E Liebthal

**Sent:** Monday, March 15, 2021 2:11 PM

**To:** Jennifer Armer

**Subject:** Re: Zone Change Application z-20-002 and General Plan Amendment Application GP-20-001

Hi Jennifer,

Thank you for reaching out! I am not sure how these are submitted but here are my comments/concerns:

I am concerned about this property becoming a commercial building and one in which we do not know exactly what will go into the location. Also this would set a precedent of a commercial building on Tait which is a slippery slope. Traffic and parking is already a big concern on the street and we would now have traffic going in and out of Tait street to access the parking lot for this property and the area is already congested. I see that in the project description they continually say that they will maintain the historic character of the building, etc. however if this does get changed to commercial use, what stops someone from a few years down the road trying to build up or add to the structure?

Thanks,  
Jennifer

ATTACHMENT 8

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**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 13

**ADDENDUM**

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**DATE:** April 19, 2021  
**TO:** Mayor and Town Council  
**FROM:** Laurel Prevetti, Town Manager  
**SUBJECT:** Consider a Request for Approval for a Zone Change from R-1D:LHP (Single-Family Residential Downtown with a Landmark and Historic Preservation Overlay) to C-2:LHP (Central Business District with a Landmark and Historic Preservation Overlay) and a General Plan Amendment to Change the Land Use Designation from Medium Density Residential to Central Business District, for Property Located at **4 Tait Avenue**. APN: 510-44-054. Zone Change Application Z-20-002 and General Plan Amendment Application GP-20-001. Property Owner: Town of Los Gatos. Applicant: Jim Foley.

**REMARKS:**

Attachment 9 contains public comment received between 11:01 a.m. Thursday, April 15, and 11:00 a.m. Monday, April 19, 2021.

**ATTACHMENTS:**

**Attachments:**

1. February 24, 2021 Planning Commission Staff Report with Exhibits 1-7
2. February 24, 2021 Planning Commission Desk Item with Exhibit 8
3. February 24, 2021 Planning Commission Verbatim Minutes
4. Draft Findings
5. Draft Resolution for the General Plan Amendment, with Exhibit A
6. Draft Ordinance for the Zone Change, with Exhibit A
7. Letter from the Applicant
8. Public Comment received by 11:00 a.m., Thursday, April 15, 2021

**PREPARED BY:** Jennifer Armer, AICP  
Senior Planner

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

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PAGE 2 OF 2

SUBJECT: 4 Tait Avenue/Z-20-002/GP-20-001

DATE: April 19, 2021

ATTACHMENTS (continued):

Attachment received with this Addendum Report:

9. Public Comment received between 11:01 a.m., Thursday, April 15, and 11:00 a.m. Monday April 19, 2021

From: Wasserman, Mike  
Sent: Monday, April 19, 2021 9:26 AM  
To: Planning  
Subject: 4 Tait Avenue comments

Dear Mayor Sayoc, Vice Mayor Rennie and Honorable Los Gatos Council members,

I hope you've all remained healthy during these challenging times and have been or will soon get vaccinated. Kim, my Mom and I got vaccinated two weeks ago, and a weight I didn't realize I had on my shoulders was lifted. As of yesterday the County has given at least one dose to 922,061 County residents, so things are looking good!

Because 4 Tait Avenue (the old firehouse and Tait Museum) has single family homes on 3 of its 4 sides, I write to express my concern about 4 Tait Avenue being converted to commercial.

If that is the ultimate decision of a majority of the Council, I ask that its approval be conditioned for office, retail or personal services use only, so as not to be a new cause of late night and weekend noise, alcohol use, traffic, etc. in this historic residential neighborhood, specifically disturbing the quiet enjoyment of the residents.

Thank you for taking the time to read this short email and consider my comments.

Mike and Kim Wasserman  
68 and 72 Broadway  
253 W. Main St.

ATTACHMENT 9



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**TOWN OF LOS GATOS  
TOWN COUNCIL REPORT**

MEETING DATE: 4/20/2020

ITEM NO: 14

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DATE: April 12, 2021

TO: Mayor and Town Council

FROM: Robert Schultz, Town Attorney

SUBJECT: Introduction and First Reading of an Ordinance of the Town of Los Gatos Amending Chapter 25, by Renaming it to "Revenue and Taxation" and Adding Article VII, Sections 25.70.010- 25.70.140 of the Los Gatos Town Code Entitled Public Art Funding

**RECOMMENDATION:**

Accept public comment and then move for the introduction and first reading of an Ordinance, by title only, amending Chapter 25, by renaming it to "Revenue and Taxation" and adding Article VII, Sections 25.70.010-25.70.140 of the Los Gatos Town Code entitled Public Art Funding.

**BACKGROUND:**

In January of 2016, Town Council approved the Arts and Culture Commission's strategic plan, which identified public art, funding, and community engagement as its three major goals.

At the April 18, 2017 Town Council meeting, the Commission presented the possibility of investigating a development contribution requirement for arts funding, also called "public art funding" or "percent for art," in alignment with the strategic plan.

On June 19, 2018, the Commission returned to Council with a report and recommendation to pursue an ordinance designating some percent of building valuation for all private development projects to fund public arts programs. Council directed staff to obtain further information and so, through a request for proposal process, Keyser Marston Associates produced an analysis in

**PREPARED BY:** Robert Schultz  
Town Attorney

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

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PAGE 2 OF 4

SUBJECT: Introduction and First Reading of an Ordinance of the Town of Los Gatos Amending Chapter 25, by Renaming it to "Revenue and Taxation" and Adding Article VII, Sections 25.70.010- 25.70.140 of the Los Gatos Town Code Entitled Public Art Funding

DATE: April 14, 2021

BACKGROUND (continued):

a Private Sector Arts Contribution Program report (Attachment 1).

At the September 3, 2019 Town Council meeting, Council directed the preparation of an Ordinance for Public Art Funding.

DISCUSSION:

A robust public art program fosters economic development, creates vital public spaces, and promotes general health and welfare by contributing to a more desirable community in which to live, work, and recreate. Well-conceived and executed works of art that are integrated into their sites and accessible to the public enhance the value of development projects, create greater interest in leased space, promote cultural tourism, create a sense of place, and make a lasting visible contribution to the intellectual, emotional, and creative life of the community at large, thereby helping to mitigate the impacts of development. The experience of public art makes public areas of buildings and grounds more inviting and engaging.

There is a growing national trend of including private developments in a public art funding requirement by ordinance. In California, more than 48 cities have such an ordinance or policy. Several surrounding jurisdictions in the Bay Area have implemented a percent for art funding structure attached to development within their borders. Some cities have threshold building valuation or size minimums before such a requirement would be imposed, and some have caps after valuation reaches a certain amount. Some cities exempt certain projects. Some cities, such as Walnut Creek and Pasadena, offer no valuation minimums or project exemptions at all. Please see Attachment 1 for the table of art requirements in various municipalities prepared by consultant Keyser Marston. Almost all the cities with private development art programs offer an option for the developer to pay fees to a Public Art Fund in lieu of providing on site art. Fees are used for other Public Art acquisitions and programming.

To analyze what projects would be appropriate for a percent for art requirement, the Keyser Marston report notes that, due to its built-out status, the Town processes comparatively few new non-residential building permits. Accordingly, it was the opinion in the Keyser Marston report that, for viability of the program, it is not practical to impose square footage minimums or building valuation minimums. Given the developmental realities in Los Gatos and with input from the Arts Commission, the draft Ordinance recommends that a 1% percent for art funding requirement attach to all commercial and mixed-use development, both new construction and reconstruction/remodel that adds more than 50% square footage, and all residential development of three or more units, not including Accessory Dwelling Units (ADUs) or Junior Accessory Dwelling Units (JADUs), both new construction and reconstruction/remodels that

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SUBJECT: Introduction and First Reading of an Ordinance of the Town of Los Gatos Amending Chapter 25, by Renaming it to "Revenue and Taxation" and Adding Article VII, Sections 25.70.010- 25.70.140 of the Los Gatos Town Code Entitled Public Art Funding

DATE: April 14, 2021

DISCUSSION (continued):

adds more than 50% square footage. Further, there are numerous exceptions in the draft Ordinance, such as:

- (a) This Chapter shall apply to all new commercial developments (including mixed use projects), including new construction, additions and reconstruction that add more than 50% square footage; and
- (b) All new residential projects of three or more units, including new construction, additions and reconstruction that add more than 50% square footage.
- (c) Notwithstanding subsection (a) and (b) above, this Chapter shall not apply to:
  - i. Affordable housing developments, or, if affordable housing is a part of the development, the affordable housing units shall be subtracted from the valuation of the project as in subsection (d) below;
  - ii. Historic renovations;
  - iii. Repair or reconstruction of structures damaged by flood, fire, wind, earthquake, or other disaster;
  - iv. Seismic retrofit projects;
  - v. Single family and two-family residential units;
  - vi. Accessory dwelling units or junior accessory dwelling units;
  - vii. Any project exempted by federal or state law;
  - viii. Municipal facilities;
  - ix. Buildings or structures primarily used for religious worship.

The Draft ordinance also addresses the implementation of the fee during the development review process and the maintenance requirements for the Art. The effective date for the Ordinance would be July 1, 2021 and shall immediately apply to all development projects that have not yet received final land use entitlements.

CONCLUSION:

After accepting public comment, staff recommends that Council move for the introduction and first reading of an Ordinance, by title only, amending Chapter 25, by renaming it to "Revenue and Taxation" and adding Article VII, Sections 25.70.010-25.70.140 of the Los Gatos Town Code entitled Public Art Funding.

PAGE 4 OF 4

SUBJECT: Introduction and First Reading of an Ordinance of the Town of Los Gatos Amending Chapter 25, by Renaming it to "Revenue and Taxation" and Adding Article VII, Sections 25.70.010- 25.70.140 of the Los Gatos Town Code Entitled Public Art Funding

DATE: April 14, 2021

ENVIRONMENTAL ASSESSMENT:

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)).

COORDINATION:

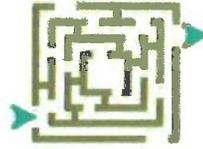
This report was coordinated through the Town Attorney's Office, the Community Development Department, and the Arts and Culture Commission.

FISCAL IMPACT:

There are no significant fiscal impacts associated with the approval of this ordinance as it will be a revenue generating ordinance.

ATTACHMENTS:

1. Keyser Marston Associates' August 23, 2019 Private Sector Arts Contribution Program Report
2. Draft Ordinance Amending Chapter 25, By Renaming it to "Revenue and Taxation" and Adding Article VII, Sections 25.70.010- 25.70.140 of the Los Gatos Town Code Entitled Public Art Funding



# KEYSER MARSTON ASSOCIATES

## PRIVATE SECTOR ARTS CONTRIBUTION PROGRAM

*Prepared for*  
**Town of Los Gatos**

*Prepared by:*  
**Keyser Marston Associates, Inc.**

**August 23, 2019**

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## A. Introduction

Many municipalities in California and elsewhere have adopted programs requiring private sector development projects to contribute to local art installations and programs. The requirement is most common on commercial projects; but some cities also require residential and/or industrial projects to contribute as well. The standard approach is to require a percent of building permit valuation, most commonly one percent (1%), to either be spent on constructing on-site art or contributed as an in-lieu payment to be deposited into a trust fund. This approach has been accepted by the California Courts and is widely used.

The Town of Los Gatos is considering adopting a policy to require private sector commercial and multi-family<sup>1</sup> residential projects to contribute to local art installments and programs. Such a policy would be consistent with the Town's General Plan and the Art Commission's "Strategic Plan," which was accepted by the Town Council on April 10, 2017. The adopted relevant policies include the following:

### *General Plan*

- Policy HS-14.1 Encourage public art in all new commercial development
- Policy HS 14.2 Encourage art-related uses in new and remodeled retail development
- Policy HS-14.5 Encourage private/public funding, development, and operation of cultural amenities, activities, and centers consistent with the small town character of Los Gatos

### *Art Commission's Strategic Plan*

- Investigate developing a Commercial or Residential Development Percent for Art Funding Policy

The Town has retained Keyser Marston Associates, Inc. (KMA) to assist the Town in establishing the parameters of an arts program and to evaluate the magnitude of revenues that could potentially be generated by the program. This report provides the necessary information to serve as the legal foundation for the Town's arts program, should the Town elect to proceed with adopting an ordinance.

## B. Legal Context

In the case of *Ehrlich v. the City of Culver City*, the California Supreme Court found in 1993 that a requirement for art, and an accompanying in-lieu "fee" payment, was a legitimate use of a government's land use powers. In this context, a requirement for art or a monetary contribution in-lieu of providing on-site art is not an impact fee and therefore is not in need of nexus analysis support. A municipality may simply adopt an ordinance establishing the requirement.

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<sup>1</sup> Projects consisting of two or more units



The *Ehrlich* case has been widely regarded in California as settled law and is commonly quoted by city attorneys in ordinance adoption packets. It was recently challenged, however, in a lawsuit brought by the Building Industry Association, Bay Area, against the City of Oakland (Case No. 15-cv-03392-VC). The lawsuit was ultimately dismissed in 2018 by the United States District Court, Northern District of California, which further reinforces the legal standing of arts requirements.

### **C. Building Permit Trends in Los Gatos**

Incorporated in 1887, Los Gatos is largely a built-out community with very little vacant land for new development. This condition is evidenced by the history of building permit valuations. Over the last three (3) years, the Town processed a total of seven (7) new non-residential building permits and zero multifamily residential permits. The average building permit valuation was \$317,200 and the average project size was 1,870 square feet. The largest project was 5,100 square feet with a building permit valuation of \$1.0 million. This 3-year record translates into 2.3 permits per year, 4,365 square feet of new non-residential development per year, and \$740,200 of building permit valuations per year. The Town's building permit history is provided in Table 1.

As this indicates, there is very little new commercial building activity in Los Gatos. Based on the level of activity over the last three years, if the Town were to adopt an arts contribution requirement, it would not support any on-site art construction and would generate very little in-lieu revenue. If the in-lieu contribution requirement was one percent (1%) and all seven projects made an in-lieu contribution, the projects would have generated \$22,205 of revenue for arts. This translates into \$7,400 per year. And given that many municipalities have a reduced rate for small projects, the annual revenue yielded by a Los Gatos program could be less than \$3,500 per year, which might be less than the annual cost to administer the fund.

If the Town desires to go forward with adopting a program, it will likely generate a negligible amount of revenue on an annual basis. However, if a significant development does occur at any point, having a program in place would enable the Town to either benefit from a new arts installation or collect a meaningful arts contribution.

### **D. Adoption Materials**

For good practice, it is advisable that the Town of Los Gatos set out criteria and establish procedures when instituting an arts requirement. KMA offers the following outline of the basic elements of a private sector arts requirement and recommendations for Los Gatos.

It is noted that most municipalities that adopt a private contribution to art program already have in place, or adopt simultaneously, a public projects art program. These programs typically commit the municipality to spending one percent (1%) of the construction budget of select public

works capital projects on public art. We recommend that Los Gatos enact a public program along with a private requirement.

One aspect of an on-site arts requirement on private development that differs from most other kinds of fees and requirements is that the artwork is owned by the project and is privately maintained. Good art, done well can add value to a project, which enables the cost to be recouped upon the sale of the project. This distinction may also influence how the program is structured with respect to providing for the option to make a payment in-lieu of providing on-site art (which pays for public art somewhere else).

The following are six topics that are, in our view, the advisable basic elements for a Private Sector Development Arts Requirement Program (Program). We offer some recommendations as a starting point and we offer models from other cities for the Town's consideration. A summary of the arts programs of other jurisdictions in Santa Clara County and other select communities is provided in Table 2.

The following topics are addressed below:

1. The requirement and how it is applied
2. Suggested thresholds for in-lieu contribution versus the on-site requirement
3. Process aspects
4. Criteria and definitions: acceptable on-site art, art placement, budget rules
5. Longer term issues
6. Expenditure of art trust fund monies

### **1. *The Requirement and How Is It Applied***

- a. If the Town elects to proceed with an arts contribution requirement on non-residential development and multi-family residential development, we recommend that the requirement be equal to one percent (1%) of Building Permit Valuation, which is the most commonly used requirement throughout the State. A reduced percentage is sometimes used below certain threshold levels; which could also be incorporated in Los Gatos' program. Some jurisdictions also place an overall cap on the arts contribution, regardless of the size of the project. For example, Los Altos' program has a cap of \$200,000 and San Luis Obispo has a cap of \$50,000.
- b. Apply the requirement to all new non-residential projects, which in Los Gatos means principally office, retail, restaurant, and hotel developments.
- c. Apply the requirement to multi-family residential projects with two or more residential units.
- d. Provide applicants with the discretion of either providing on-site art or making an in-lieu contribution, but incentivize fee payment for smaller projects or projects where public exposure is minimal or where art may be viewed as inappropriate for some reason.

- e. Include additions and alterations to non-residential buildings in the program.
- f. Exempt affordable housing, churches, seismic retrofit projects, and the reconstruction of structures due to natural disasters.

## **2. Suggested Thresholds – On-site Art or In-Lieu Contribution**

- a. Exemption threshold – Many municipalities exempt small projects, such as projects with less than 2,000 square feet. For example, Palo Alto has a two-component threshold of 10,000 square feet of GBA and a valuation of \$200,000. Los Altos has a minimum valuation threshold of \$1 million. As noted above, over the past three years, Los Gatos has only processed seven (7) new non-residential building permits and, of those, only one permit was valued over \$1 million and none were over 6,000 square feet. Given this history, we recommend that an arts contribution equal to one percent (1%) of valuation be established.
- b. For the next tier, it is common for these programs to set a threshold below which the City prefers an in-lieu fee contribution. Palo Alto's program requires an art selection process if the art contribution exceeds \$60,000. At one percent (1%) of building permit valuation, a \$60,000 art contribution translates back to a \$6 million building permit valuation threshold for requiring or strongly encouraging on-site art. (For illustrative purposes, this would be a commercial building in the size range of 25,000 to 35,000 square feet.). Sunnyvale is considering raising the value of the art to one and a half percent (1.5%) of construction costs for on-site art and retaining a one and one tenth percent (1.1%) requirement for in-lieu contributions.

A justification for preferring in-lieu contributions for smaller valuation projects may be based on the administrative costs associated with the process leading to approval of on-site art. Some jurisdictions further justify the threshold in light of the size and quality of the art that the program is aiming to achieve. Given the low level of building activity, we do not believe that this is an issue for a private arts requirement program in Los Gatos.

## **3. Process Aspects**

- a. For on-site art, the Town needs to establish a process for approving the art that the developer/applicant wishes to install in the project. Typically, the initial proposal is part of the early entitlement process.
- b. Town staff with the oversight of the Town Council and advice from a commission reviews the art proposal through the major steps of entitlement through construction and final placement. Usually the art must be in place prior to issuance of the first certificate of occupancy unless there is a written agreement for later installation.

- c. The process includes approval of the budget and ultimate expenditures (see below).
- d. The process includes application of the criteria for acceptable art and also criteria for placement of art (see sections below).
- e. There is significant variation in the process aspects from one jurisdiction to another. Some are time consuming and contentious, encouraging in-lieu contributions whenever possible; others make the selection and placement of on-site art easy and fast. Depending on one's perspective, the quality of art produced is heavily influenced by the process, commission, and staff.

#### **4. Criteria for Art, Placement, and Qualifying Costs**

- a. The Town will need to articulate what art is and is not to be considered as Public Art. It is our understanding that Los Gatos would like to permit the in-lieu revenue to be used to support a broad range of art forms including visual arts and performing arts programs.
- b. The Program should include criteria regarding the acceptable placement of art for public enjoyment. These criteria often refer to visibility from sidewalks, etc. Inside lobby spaces are generally acceptable assuming public access to the lobby during normal business hours.
- c. Extra architectural and landscaping features may qualify, but are subject to evaluation.
- d. The Program needs to articulate what costs qualify as expenditure toward the one percent (1%) building permit valuation "fee." Typically costs of consultants, installation, transportation, and other costs do qualify, but some limitations are set.
- e. Similarly, the Program will need to define "construction" costs or "building valuation," which is the basis for the art requirement. For ease of administration, it is preferable that the contribution be applied to the same definition of costs or valuation on which other building fees are applied.

#### **5. Long Term Issues**

- a. In order to insure the long term placement of art, typically the project and the city enter into a written agreement addressing longer term issues – what happens upon sale, destruction by natural disaster, conditions under which the art may be removed or replaced.
- b. Key longer term issues concern responsibility for maintenance. Typically, on-site art is maintained by the private property owner. Some municipalities, such as Sunnyvale, dedicate a portion of the in-lieu contribution toward a maintenance fund for public art.
- c. Maintenance of insurance and liability issues are also long term concerns.

## 6. *Arts Trust Fund*

- a. With the collection of in-lieu contributions, the municipality must establish a dedicated trust fund for art installations and programs. An Arts Master Plan for expenditures and priorities is advisable, but probably need not be fully prepared at initial adoption.
- b. A few California cities broadly define art to also include cultural and performing arts. To be consistent, on-site art may be other than visual art and trust fund monies may be utilized for other art forms<sup>2</sup>. The Culver City program that was referenced in the *Ehrlich* Court ruling did include use of funds for other art forms and the Court did not comment on this aspect). Also, many cities expend arts money integrating art into landscaping and streetscape type projects.
- c. As with the Program overall, the Town needs to establish a process with Council oversight to expend the collected in-lieu revenues. Procedures for grants of various kinds are often outlined in the adoption materials.
- d. Regular reporting, typically annual, to the Town Council on the trust fund is usually established in the adoption materials. Revenues collected, art projects achieved through the program, and trust fund expenditures are minimal reporting requirements.
- e. There is not a legal time limit for the expenditure of collected in-lieu fee revenues.

In summary, the above six topic areas should be addressed before the Town proceeds to adopt an Arts Requirement on Private Sector Development Program. For the most part, the Town needs to decide the basic components of the Program and establish the processes involved.

## E. **Other Local Area Programs**

KMA researched the arts programs of jurisdictions within Santa Clara County. Five municipalities have an arts requirement on private sector development, including: Los Altos, Cupertino, Sunnyvale, Palo Alto, and Milpitas. Four of these municipalities apply the art requirement to both commercial and residential development. Sunnyvale is the only community in which the program is restricted to non-residential development. Four of the communities require a one percent (1%) contribution, with Milpitas being the exception with a requirement of one half of a percent (0.5%) of building development costs. Two other communities (San Jose and Mountain View) have arts requirements on public projects, but not on private development.

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<sup>2</sup> Culver City's program was expanded to include performing arts programs in 1994, after the Supreme Court ruling on the Ehrlich case 1993. We are not aware of any court challenges to the appropriateness of using arts in-lieu fee revenues to fund performing arts.

## **F. Models from Other Cities**

A number of Bay Area cities have recently adopted or are currently in the process of adopting one percent (1%) type arts programs. These adoptions offer the advantage of accessible staff reports and draft ordinances available on line. Some examples and references are:

- City of Los Altos, adopted July 10, 2018. Ordinance No. 2018-446.
- City of Cupertino. Municipal code chapter 19.148.
- City of Palo Alto, established in 2013. Ordinance No. 5226.
- City of Sunnyvale. Municipal code chapter 19.52.
- City of Milpitas, adopted May 19, 2015. Ordinance No. 38.821. Municipal code Section 14.
- City of Berkeley – Staff report for June 3, 2015 meeting of the Planning Commission provides extensive attachments including materials from Pasadena and Palo Alto. Also a recent opinion from legal counsel (4/2015) at the back.

## **G. Recommendations Summary**

If the Town of Los Gatos wishes to adopt a Private Development Arts Requirement, we recommend the following basic parameters for the Program. These recommendations are based on our understanding of the Town's objectives, the market strength of Los Gatos, the limited amount of new development in Los Gatos, and programs in neighboring jurisdictions.

- Given the strength of the real estate in Los Gatos, we suggest a one percent (1%) requirement.
- New construction projects and additions of new space should be similarly subject to the program.
- Provide owners a choice as to whether to build on-site art or make an in-lieu contribution.
- A process for approving on-site art installations should be established. The processes of other jurisdictions, such as Palo Alto, Sunnyvale, and Cupertino could be used as models.
- The Town should establish priorities and guidelines for the expenditure of the arts revenues.
- The Town should simultaneously adopt a similar requirement on Town funded building projects, excluding street overlays.

**Table 1**

**Los Gatos New Non-Residential Building Permit Activity over the past three years**

Building Permit #	Address	Sq. Ft.	Valuation	Assumed Arts Contribution @ 1% of Valuation*
B18-0279	300 Marchmont Dr	2,980	\$501,921	\$5,019
B17-0803	14595 Clearview Dr	1,260	\$250,513	\$2,505
B16-0824	233 Blossom Hill Rd	240	\$15,696	\$157
B16-0316	15445 Los Gatos Blvd	2,151	\$157,690	\$1,577
B18-0280	300 Marchmont Dr	812	\$136,765	\$1,368
B16-0837	354 N. Santa Cruz Ave.	5,100	\$1,013,982	\$10,140
B16-0656	17445 Zena	<u>546</u>	<u>\$143,964</u>	<u>\$1,440</u>
Totals, over 3 years		13,089	\$2,220,531	\$22,205
Average annual		4,363	\$740,177	\$7,402

\* Assumed 1% contribution is for illustrative purposes. Town has not adopted an arts requirement.

Santa Clara County Municipalities and Select Other Communities with Private Development Art Requirements 1

	Los Altos 31,000	Cupertino 60,000	Sunnyvale 154,000	Palo Alto 69,000	San Luis Obispo 47,000	Milpitas 75,000
<b>Population</b>						
<b>Projects Subject to Requirement</b>	Private residential and non-residential developments and Public Projects.	Public and private development.	Public and private non-residential development. Non-residential must either be at major intersection or on 2+ acre lot.	Public and private development.	Public and private non-residential development.	Private residential and non-residential development.
<b>Project Size Thresholds</b>	Residential within R-3-4-5, R3-5, R3-3, R3-1.8, R3-1 - 4 or more units; Non-residential - minimum construction cost of \$1 million.	10,000 square feet of new or expansion space.	At major street intersection - additions must be at least 10,000 sf; 2+ acre lots - additions must be at least 30,000 sf New public projects over \$1 million or public renovation projects over \$100,000.	Commercial - GBA of 10,000 square feet and valuation of \$200,000; Residential - 5 or more units Municipal - cost of \$200,000.	Private non-residential - Minimum construction costs of \$100,000; Public - All eligible CIP projects.	Private non-residential - 2,000 square feet; Private residential - 20 or more dwelling units.
<b>Exemptions</b>	Single family developments within the R1-10, R1-H, R1-20 and R1-40 districts; Affordable housing units; Projects not subject to design review.		Residential development. Public projects excluding utility projects, streets, sidewalks, landscaping or traffic improvements.	Affordable housing, churches, historic renovations, seismic retrofit projects, repair of structures damaged by natural disasters.	Public - utility and underground projects. Private commercial - seismic improvements, fire lateral replacements.	Affordable housing developments with a minimum of 20 percent affordable units.
<b>On-site or In-lieu contribution</b>	Projects in residentially zoned districts make in-lieu contribution. Projects in non-residential zones have option of either on-site construction or in-lieu contribution.	On-site strongly encouraged. Developer may apply to Fine Arts Commission for approval of in-lieu contribution.	Discretion of applicant.	Discretion of applicant.	Discretion of applicant.	Discretion of applicant.
<b>Value of Requirement</b>	1% of construction costs as calculated based on the City's building valuation fee schedule. Art contribution is capped at \$200,000. Costs associated with affordable housing is excluded. For public projects, contribution is 2%.	1% of first \$100 million of construction valuation. 0.9% of valuation in excess of \$100 million. In-lieu payment is 1.25% of construction valuation.	1% of construction cost for public projects; 1% of valuation for on-site private projects. In-lieu contribution is 1.1%.	1% of construction valuation.	Public - 1% of construction costs, excluding land, design Private - .5% of construction cost in excess of \$100,000. Contribution not to exceed \$50,000.	.5 of 1% of building development costs declared on building permit applications.
<b>Schedule for In-Lieu Contribution</b>	Prior to issuance of building permit.		Prior to issuance of building permit.	Prior to issuance of building permit.	Prior to issuance of building permit.	Contribution must be paid at the time of filing the building permit application.
<b>Notes</b>			On-site installations are subject to approval by Arts Commission and City Council. Draft 2019 Master Plan for Public Art recommends increasing on-site requirement to 1.5% and a reduced in-lieu contribution of 1.1% to encourage in-lieu contributions.	Developments with valuation of less than \$ 6 million are encouraged to provide in-lieu contribution. On-site installations are subject to approval by the Public Art Commission.	Approvals by Cultural Heritage Committee, Planning Commission, and/or Park and Recreation Commission or Mass Transportation Committee; Architectural Review Commission and City Council.	On-site required to be installed prior to issuance of certificate of occupancy.

1 San Jose, Mountain View, and Santa Cruz have art requirements that apply only to public projects.





**DRAFT ORDINANCE**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS, CALIFORNIA, AMENDING CHAPTER 25 OF THE LOS GATOS TOWN CODE BY RENAMING IT TO “REVENUE AND TAXATION” AND ADDING ARTICLE VII PUBLIC ART FUNDING**

**WHEREAS**, a robust public art program fosters economic development, creates vital public spaces, and promotes general health and welfare by contributing to a more desirable community in which to live, work and recreate; and

**WHEREAS**, to ensure that public art is present and sustained throughout the community, it is necessary to require that private development projects in the Town of Los Gatos provide public art on site or, alternatively, contribute to a public art fund so that public art can be established elsewhere in the community; and

**WHEREAS**, the purpose of this Chapter is to establish a public art requirement for private developments and to authorize the Town Manager to establish regulations and guidelines to effectuate the intent of this Chapter, and now therefore;

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

**SECTION I**

**INCORPORATION OF RECITALS.** The Town Council of the Town of Los Gatos finds that all Recitals are true and correct and incorporate them herein by this reference.

**SECTION II**

**LOS GATOS TOWN CODE AMENDMENTS.** Chapter 25 is hereby amended to be renamed to “Revenue and Taxation” and Article VII of Chapter 25 of the Los Gatos Town Code is hereby added as follows:

**25.70.010. – Definitions.**

For the purposes of this Chapter, the following definitions shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Affordable Housing Developments* means a project with Below Market Price (BMP) dwellings, as those terms are defined by Los Gatos Town Code section Sec. 29.10.3020.
- (2) *Art or Work of Art* means original artist-designed and produced unique works in any of a variety of styles and forms.

- (3) *Artist* means a practitioner of the creative arts, generally recognized as such by critics and peers, with a body of work including commissions, exhibitions, sales, publications, and collections. For the purposes of this Chapter, "artist" shall not include:
- (i) Persons primarily working in the professional fields of architecture, engineering, design, or landscaping;
  - (ii) An employee or relative of the development project architect, landscape architect, engineer, or project manager;
  - (iii) Any person with a business interest in a development project or with respect to individuals or entities serving as project architects, landscape architects, engineers, or project managers; or
  - (iv) A relative of or anyone with a financial interest with respect to an individual or entity serving on an art selection panel for the development project.
- (4) *Arts and Culture Commission* ("Commission" or "ACC") means the Commission established by Town of Los Gatos Resolution 2016-051.
- (5) *Developer* means a person or entity that is financially and legally responsible for the planning, development and construction of any development project covered by this Chapter. The developer may or may not also be the project owner.
- (6) *Development Project* means any commercial or residential development or combination thereof.
- (7) *Historic* means a property which has been evaluated and found to have historical importance, as described by Los Gatos Town Code section 29.80.215.
- (8) *Public Art or Publicly Accessible Art* means a work of art that is visible or accessible to the public for a minimum of 40 hours per week. Public art may include sculpture, painting, installations, photography, video, works of light or sound, or any other work or project determined by the Arts and Culture Commission to satisfy the intent of this Chapter, provided, however, that none of the following shall be considered public art for the purposes of satisfying the requirements of this Chapter:
- (i) Objects that are mass produced of standard design, such as banners, signs, playground equipment, benches, statuary, street or sidewalk barriers, or fountains;

(ii) Reproduction, by mechanical or other means, of original works of art, except as incorporated into film, video, photography, printmaking, or other derivative works as approved by the Arts and Culture Commission;

(iii) Landscape architecture or gardening, except where these elements are designed by an artist and are an integral part of a work of art.

**25.70.020. - Los Gatos Public Art Fund.**

There is hereby created a Los Gatos Public Art Fund, which funds shall be restricted to implementation for the Los Gatos Public Art Program. Such funds may be used for the following purposes, including: acquisition, placement, maintenance, and promotion of temporary and permanent art and art programs, including visual or performing arts, as approved by the Arts and Culture Commission, on or in Town owned, public property throughout the Town. This fund will account for in-lieu contributions made under Section 25.70.100. This fund and the interest thereon shall be maintained by the Chief Financial Officer according to standard governmental accounting requirements. Art works acquired through the Public Art Fund shall be owned by the Town of Los Gatos and generally made accessible to the public.

**25.70.030. -- Application.**

- (a) This Chapter shall apply to all new commercial developments (including mixed use projects), including new construction, and additions and remodels that add more than 50% square footage; and
- (b) All new residential projects of three or more units, including new construction, and additions and remodels that add more than 50% square footage.
- (c) Notwithstanding subsections (a) and (b) above, this Chapter shall not apply to:
  - (i) Affordable housing developments, or, if affordable housing is a part of the development, the affordable housing units shall be subtracted from the valuation of the project as in subsection (d) below;
  - (ii) Historic renovations;
  - (iii) Repair or reconstruction of structures damaged by flood, fire, wind, earthquake, or other disaster;
  - (iv) Seismic retrofit projects;
  - (v) Single family and two-family residential units;

- (vi) Accessory dwelling units or junior accessory dwelling units;
- (vii) Any project exempted by federal or state law;
- (viii) Municipal facilities;
- (ix) Buildings or structures primarily used for religious worship.

Those portions of projects excluded from application of this Chapter under subsection (c) shall be subtracted from the project for purposes of determination of applicability under subsection (a) and (b), above, and from construction valuation under Section 25.70.050 and 25.70.100.

#### **25.70.040. - Public Art Requirement for Private Developments**

Before a certificate of occupancy is issued for any development project subject to this Chapter, the developer shall participate in the construction or installation of on-site public art under Section 25.70.050, or, at the developer's option, shall contribute to the Public Art Fund in lieu of providing on-site art, as provided in Section 25.70.100.

#### **25.70.050. - On-Site Public Art**

- (a) A developer may satisfy the requirements of this Chapter by constructing or installing on-site public art valued at one percent (1%) of construction valuation. For purposes of budgeting and planning for on-site art, an initial estimate of the art contribution shall be calculated based on estimated construction valuation at the time of application for entitlements. The arts contribution shall be finally determined based on the construction valuation determined at the time the building permit is issued.
- (b) If the market value of the on-site public art is greater than the art contribution provided in Subsection 25.70.050 (a), the Town shall have no obligation to refund the excess amount. If expenditures do not utilize the entire amount provided in 25.70.050 (a), the remainder shall be deposited into the Public Art Fund.

#### **25.70.060. - Eligible Expenditures for On-Site Public Art Projects**

The public art contribution for on-site installation may be expended only on costs associated with the selection, acquisition, purchase, commissioning, design, fabrication, placement, and installation of the public art, and project management and administrative costs not to exceed 20% of the total budget. Eligible expenditures include:

- (a) Artist fees;

- (b) Labor of assistants, materials, and contracted services required for design, fabrication, engineering, and installation of the public art;
- (c) Any required permit or certificate fees and reasonable business and legal costs directly related to the public art;
- (d) Reasonable art consultant fees;
- (e) Communication, utilities, insurance, and other indirect costs associated with the creation but not the operation of the public art;
- (f) Transportation of the public art to the site;
- (g) Preparation of the site specifically required for the public art, such as fabrication of platforms or pedestals;
- (h) Installation of the public art;
- (i) Mountings, anchorages, containments, or other materials necessary for installation of the public art;
- (j) Public art project management and administration, in an amount not to exceed 20% of the total art contribution; and
- (k) A plaque or plaques identifying the public art.

**25.70.070. - Ineligible Expenditures for On-Site Public Art Projects**

Expenditures that are ineligible to be counted toward the on-site public art contribution include:

- (a) Labor of assistants, materials, and contracted services not required for design, fabrication, engineering, and installation of the public art;
- (b) Promotional materials or activities for the artist, the public art, the development project, the developer, or other parties involved in the development project;
- (c) Opening, dedication or other costs of events for the public art, artist, developer, or development;
- (d) Services, materials, utilities or other expenses association with the ongoing operation or maintenance of the public art; and

- (e) Land costs or any other costs associated with the development that are not part of and solely attributable to the public art.

**25.70.080. - Process for Planning and Approval of On-Site Public Art**

- (a) Application and Planning. Developer shall be informed at the time of Development Review Application about the Public Art requirement and given details of what is required for either public art installation or payment of in-lieu fee, including 1% fee calculated on construction valuation of the project.
- (b) Arts and Culture Commission Review and Approval. If the developer elects to comply with this Chapter by providing on-site art, the developer's public art plan must be presented to the Arts and Culture Commission. The plan should include:
  - 1. The identity of the artist or description of the process by which the artist will be selected. The developer is encouraged to give preference to artists living or working in the San Francisco Bay area and to avoid using artists whose work is already displayed as public art within the Town of Los Gatos boundaries;
  - 2. Preliminary sketches, photographs, or other documentation of sufficient descriptive clarity to indicate the nature of the proposed public art;
  - 3. An appraisal or other evidence of the value of the proposed public artwork, including acquisition and installation costs;
  - 4. Preliminary plans containing such detailed information as may be required to adequately evaluate the location of the artwork in relation to the proposed development and its compatibility to the proposed development, including compatibility with the character of adjacent conforming developed parcels and existing neighborhoods; and
  - 5. A detailed plan that demonstrates how the property owner or developer will maintain the artwork, including schedule, cost, and manner of maintenance; and
  - 6. A narrative statement or plan that demonstrates the public art will be displayed in a publicly accessible manner.
- (c) The ACC shall, within 60 days, render a decision whether the proposed public art plan conforms to the requirements of this Chapter. The ACC approvals required under this section must be obtained prior to the issuance of any building permit for the development project.

- (d) Before a Certificate of Occupancy is issued, the Town must inspect and confirm that public art has been installed as required by the ACC approvals and to the satisfaction of the Director of Community Development, in consultation with the ACC. If actual expenditures do not utilize the entire amount provided by the 1% valuation of the development, the excess funds are to be deposited into the Public Art Fund. If the market value of the on-site public art is greater than the 1% art contribution required, the Town shall have no obligation to refund the excess amount.
- (e) If Developer chooses to pay In-Lieu Fee:
  - (i) Within 60 days of Development Permit application or other discretionary approval, the developer shall deposit 1% of estimated construction valuation into the Public Art Fund.
  - (ii) A developer who elects to satisfy the requirements of this chapter through a contribution to the Fund must complete the payment in-lieu prior to the issuance of any building permit for the development project. If the building valuation has increased from the time of the initial deposit into the Public Art Fund, additional funds are to be deposited into the fund to meet the 1% requirement.

**25.70.090. - Additional Requirements for On-Site Public Art**

- (a) Plaque. The public art shall be identified by a plaque that meets the standards in use by the Town at the time of installation of the public art. The plaque should contain information such as date of installation, title, and artist and medium.
- (b) Ownership and Maintenance. All on-site public art shall remain the property of the property owner or the property owner's successor in interest. The installation or placement of public art on private property shall not constitute a donation to the Town. The Town shall bear no obligation nor assume any responsibility or liability with respect to the installation, operation or maintenance of any art installed on private property. The property owner shall retain the obligation to provide all necessary maintenance to preserve the public art in good condition. Immediately upon installation and continuously thereafter, the developer and the property owner shall maintain the public art and shall promptly perform all necessary repairs and maintenance to the satisfaction of the Town. The obligation to maintain and preserve the public art includes the obligation to take reasonable steps to protect the public art against destruction, damage, or modification.
- (c) Location and Relocation of Public Art. Except as provided herein, the public art



must remain at the development in the location approved by the Arts and Culture Commission. A property owner may petition the Arts and Culture Commission to relocate the public art within the development project.

- (d) When and if the development project is sold, the public art must remain at the development and may not be claimed as the property of the seller or removed from the site. If the development is to be demolished, the owner must relocate the public art to another publicly accessible permanent location approved in advance by the Arts and Culture Commission.
- (e) Removal and Replacement of Public Art. If the owner desires to deaccession, sell or remove the art from the site, the owner shall give prior notice to the Town by providing written notice to the Arts and Culture Commission no less than 90 days before the intended action. The owner must receive prior approval from the Arts and Culture Commission. The developer will be required to replace the sold or de-accessioned artwork with an alternative work of equivalent or greater value, as determined by the Arts and Culture Commission, in current dollars. The replacement artwork selection should follow the initial selection process. In the alternative, the developer may elect to pay fees in lieu of replacing on-site art, at a reasonable rate equivalent to the cost of replacing the art in current dollars, as determined by the Arts and Culture Commission.
- (f) Statutory and Contractual Rights of Artists. The owner is solely responsible for complying with all statutory and contractual rights of the artist, including rights under the California Preservation of Works of Art Act, the federal Visual Artists' Rights Act, and any other applicable law.
- (g) Covenant; Recordation. The property owner shall record against the property a declaration of covenants, conditions, and restrictions, in favor of the Town, and in a form approved by the Town Attorney. The declaration shall include (i) the owner's obligation to provide all necessary maintenance of the public art, including preservation and restoration of the public art, in good condition, to the reasonable satisfaction of the Town, and to protect the public art against destruction or damage; (ii) the owner's obligation to ensure that the public art is accessible to the public as required by this Chapter; and (iii) any other terms reasonably necessary to implement this Chapter .

**25.70.100. - Developer's Option to Pay Fees to Public Art Fund In-Lieu of Providing On-Site Art**

In lieu of installation of on-site public art, the developer may elect to make a monetary contribution to the Los Gatos Public Arts Fund. The amount of the contribution shall be the cost of the public art required by Section 25.70.050. A developer who elects to satisfy the requirements of this Chapter through a contribution to the Fund must complete the payment

in-lieu prior to the issuance of any building permit for the development project.

**25.70.110. - Inspection and Final Approval.**

Before a Certificate of Occupancy is issued for the development project, the Town shall inspect and confirm that either: (i) public art has been installed as required by the Arts and Culture Commission approvals and to the satisfaction of the Director of Community Development, in consultation with the Public Art program staff; or (ii) in-lieu contributions have been paid in full. In addition, before a Certificate of Occupancy is issued, the Town shall confirm that the developer has executed and recorded a covenant as required by Section 25.70.090(f).

**25.70.115. – Enforcement**

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

**25.70.120. -Regulations**

The Town Manager, or his or her designee, is authorized to adopt administrative regulations, procedures or guidelines that are consistent with and that further the terms and requirements of this Chapter.

**25.70.130. – Severability**

If any provision, clause, sentence or paragraph of this ordinance, or the application to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable .

**25.70.140. - Implementation**

This ordinance shall be effective on July 1, 2021 and shall immediately apply to all development projects that have not yet received final land use entitlements.

**SECTION III**

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the \_\_\_\_ day of \_\_\_\_\_ 2021, 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 \_\_\_\_ day of \_\_\_\_\_ 2021. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

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

DATE: \_\_\_\_\_



**TOWN OF LOS GATOS**  
**Staff Report**

MEETING DATE: 04/20/2021

ITEM NO: 15

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DATE: April 5, 2021  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Direct the Advancement of the Downtown Employee Parking Pilot and the Issuance of a Request for Proposals for Consultant Services for Wayfinding Signage

**RECOMMENDATION:**

Direct the advancement of the Downtown Employee Parking Pilot and the issuance of a Request for Proposals for consultant services for wayfinding signage.

**BACKGROUND:**

On December 17, 2019 the Town Council received the Comprehensive Downtown Parking Study from Dixon Resources Unlimited (DIXON). The Parking Study identified multiple strategies for the Town to more efficiently manage parking, effectively increase the existing parking supply and improve the visitor experience.

The Town Council discussed the Parking Study strategies and prioritized wayfinding and employee parking as the key first steps to improving the downtown parking experience. In June of 2020, a part-time Parking Program Manager was hired to begin the process of implementing the Parking Roadmap priorities of wayfinding and the Employee Parking Program. Included in the Employee Parking priority was the request to explore limited employee parking in underutilized residential parking areas.

On January 26, 2021, the Town Council reaffirmed the commitment to the Parking Roadmap with the adoption of the Strategic Priorities FY 2021-2023. This was to include short, medium and long-term actions.

This staff report provides an outline of short-term actions, including a pilot Employee Parking Program.

**PREPARED BY:** Greg Borromeo and Jim Renelle  
Traffic Sergeant and Parking Program Manager

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SUBJECT: Direct the Advancement of the Downtown Employee Parking Pilot and Issuance of a RFP for Wayfinding Signage

DATE: April 5, 2021

DISCUSSION:

There is a general perception that downtown Los Gatos does not have enough parking. The DIXON Parking Study, conducted prior to the COVID-19 pandemic, concluded that there are sufficient parking spaces to meet the current demand, especially by leveraging underutilized parking spaces throughout downtown.

The DIXON Parking Study collected data that identified ways to manage the parking supply but did not provide specifics needed to establish an Employee Parking Program. Staff proposes a survey of the primary stakeholders (business owners and employees) to determine the number of employee spaces needed and the preferred locations to appropriately balance employee and visitor needs. The most convenient spaces would be prioritized for visitors. Survey data will be collected and analyzed over a 30-day period. Surveys would be distributed online and will also be available in printed format (see Attachment 1).

Wayfinding is a means of quickly guiding visitors to convenient vacant parking spaces. It is the single most effective way to improve the visitor parking experience and enhance vehicle traffic flow. Wayfinding will be improved in a multi-phased process. Initially, existing static signage will be evaluated and updated to eventually include more parking information. All lot signage will be standardized and additional directional signs will be added to help guide visitors into the lots. Options include adding kiosk-style parking maps and pedestrian travel information signage. Later wayfinding phases may add vehicle occupancy counting and dynamic electronic arterial roadway signs providing guidance to vacant spaces in real-time. Once real-time lot occupancy data is available, it can be exported to a mobile phone application that can also provide similar real-time parking information. The introduction of a mobile phone application is not anticipated until a later phase of the wayfinding project.

An additional wayfinding technique is branding downtown Los Gatos parking. Branding will mainly consist of creating a unique Town of Los Gatos parking logo and linking that logo to the parking website where visitors can find information on parking availability and regulations. The initial phase of branding would include a detailed parking web page that is updated on a continual basis.

The use of outside consultants is recommended for branding development and wayfinding signage evaluation. It is expected to take three to four months for the consultants to develop their recommendations. A vendor will also need to be identified to design, manufacture, and install the new signage. Concurrently, temporary signage will be developed by Parks and Public Works staff and placed for the implementation of the Employee Parking Pilot.

To improve visitor parking, employee parking will need to be controlled. Managing employee parking behaviors through an Employee Parking Pilot would allow the Town to adjust where employees park and provide convenient parking for visitors. An Employee Parking Pilot is the first step to managing the overall demand for downtown parking. An effective Employee

PAGE 3 OF 5

SUBJECT: Direct the Advancement of the Downtown Employee Parking Pilot and Issuance of a RFP for Wayfinding Signage

DATE: April 5, 2021

DISCUSSION (continued):

Parking program would require dedicated permitted employee spaces distributed across the municipal lots and potentially underutilized residential streets.

During the Employee Parking Pilot, many of the current unlimited time spaces would need to be converted into dedicated employee spaces. The remaining unlimited time spaces would be converted into three-hour time limited spaces. All central parking lots (Lots 1 through 6) would need to have all unlimited time space eliminated, otherwise employees will continue to use them instead of participating in the Employee Parking Pilot.

The Employee Parking Pilot would be in effect for a six to 12-month period. Employees would register online for a free parking permit through the Town's existing parking vendor. During the pilot process, lot occupancy counts, and stakeholder feedback would be used to further develop the parking program to best meet the needs of the community. This may include employee parking zones and potential employee parking permit fees.

Employee Parking Permits would be virtual and based on license plate information. This allows for the use of the existing Town parking enforcement vehicle equipped with an Automated License Plate Reader (ALPR). Virtual permits are a Pay-by-Plate model that ultimately provides the most customer convenience and the most efficient enforcement method. It also has the lowest implementation and recurring operational costs. It reduces the staff hours needed to administer the permit program and eliminates permit printing and fulfillment costs. The use of an ALPR equipped vehicle allows parking enforcement staff to verify the parking status of each vehicle at a significantly higher frequency than other methods of enforcement. This consistency in enforcement creates a higher level of compliance and ultimately a lower issuance of citations.

Enforcement of Employee Permit Parking would start with outreach and education. The education process is intended to continue with a period of warnings being issued and the distribution of information on the proper protocols for employee parking. Citations would only be issued after the prior receipt of a documented warning. Patterns of non-compliance would be evaluated to determine if employees are receiving and understanding parking information. Additional outreach will occur if deficiencies are apparent.

During the pilot phase, staff intends to begin to research a mobile phone parking payment application where visitors can purchase additional time to stay beyond the three-hour free period. Pay stations and a mobile application will be ultimately necessary options for visitors who need to stay beyond the three-hour period. During the pilot phase, employees would use an online link to the Town's existing parking vendor for the Olive Area employee and residential area permits. This facilitates a "park-once" philosophy which increases convenience for visitors and employees alike and lessens unnecessary vehicle trips.

SUBJECT: Direct the Advancement of the Downtown Employee Parking Pilot and Issuance of a RFP for Wayfinding Signage

DATE: April 5, 2021

DISCUSSION (continued):

Park-once refers to parking your vehicle and not having to move to another location because of time limit restrictions. Employees with permits would be allowed to park all day in the designated employee parking areas. Visitors could use any of the time limited spaces and pay-to-stay beyond the time limit without moving their vehicle. A re-parking prohibition may likely be required in the next phase to discourage employee use of the time limited spaces intended for visitors.

The Employee Permit Pilot would be used to determine the number and locations of employee spaces needed. If additional spaces are needed in certain areas, a limited number of employee parking permits can be issued to park in underutilized residential parking areas.

In March, the Complete Streets and Transportation Commission was provided an update on the Downtown Parking Plan to obtain feedback and received positive support.

CONCLUSION:

The DIXON Study provided a Roadmap that includes multiple phases to achieving a more satisfying parking experience for the downtown community. The initial Town Council priorities of Wayfinding and an Employee Parking Program are driving this effort. The pilot allows staff to set in motion the initial phase of relocating employee vehicles to the underutilized areas and free more spaces for visitors. This will be achieved by enhanced wayfinding signage and new parking program branding to assist the visitors in finding a convenient parking space.

Due to the pandemic, convenient parking has been abundant for the limited employees and visitors patronizing Downtown businesses and restaurants. This provides an opportunity to slowly implement the Employee Parking Pilot and observe its impact. It allows staff to gather information, train enforcement staff, and set infrastructure in place ultimately shaping the program. This timing opportunity reduces the potential for a detrimental impact on visitors.

During and at the conclusion of the pilot period, feedback and lessons learned will be used to develop and enhance the overall Downtown Parking Program.

ALTERNATIVES:

Two alternatives present themselves:

- Postpone the Employee Permit Pilot implementation until business activity returns to normal, or
- Accelerate the implementation of the Employee Permit Pilot by adding the pay-to-stay option, re-parking prohibition, and/or a merchant validation program. This alternative would allow these strategies to begin under less demanding conditions. It could be

PAGE 5 OF 5

SUBJECT: Direct the Advancement of the Downtown Employee Parking Pilot and Issuance of a RFP for Wayfinding Signage

DATE: April 5, 2021

ALTERNATIVES (continued):

easier to accurately configure each strategy impacting fewer visitors during the setup and adjustment period.

Staff does not recommend either alternative as staff and resources are not currently available to assess and implement the more technological features. The current timing opportunity will allow employees to assimilate into the Employee Parking Pilot slowly and comfortably. It will also allow for a longer period for educating and encouraging compliance.

COORDINATION:

This staff report was prepared in coordination with Parks and Public Works, Economic Vitality and the Police Department.

FISCAL IMPACT:

The overall fiscal impact of the Employee Parking Pilot has not been determined. Conducting the stakeholder surveys will require staff time and no other expenses. The Pilot will use staff time to develop permit registration, place temporary signs, and test the reallocation of parking resources.

Wayfinding and parking branding costs will be estimated in the consultant's proposal. It is anticipated that the consultant contract will be within the Manager's authority.

The adopted Capital Improvement Program contains funding for the initial implementation of the Parking Study recommendations.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. - Surveys





**Town of Los Gatos**  
Downtown Business Zone  
**Business Owner Parking Survey**

As identified in the recent comprehensive parking study, the Town is working to create an Employee Parking Permit Program in downtown. This will allow employees to park once and remain in the space for their entire shift improving employee morale, productivity and retention. The requested data will be used to help develop the program including **Employee Parking Zones** that are within a safe and reasonable walking distance from the business establishment.

This survey is also available on-line at [www.losgatosca.gov/parkingsurvey2020](http://www.losgatosca.gov/parkingsurvey2020)

Please complete the survey using your normal full operating schedule and **not** the reduced Covid-19 schedule:

**Business Name:** \_\_\_\_\_

**Street Address:** \_\_\_\_\_

**Contact Name:** \_\_\_\_\_

**Email:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Type of business:** (circle one) Restaurant/Food Service, Retail, Salon/Barber, Service, Other (specify) \_\_\_\_\_

(Use your normal full operating schedule and not the current Covid-19 schedule for all survey questions)

**1) Time business is open:** (Enter time & circle am or pm. Check box if closed)

Monday \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm  (closed, no one on-site)  
 Tuesday \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm  (closed, no one on-site)  
 Wednesday \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm  (closed, no one on-site)  
 Thursday \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm  (closed, no one on-site)  
 Friday \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm  (closed, no one on-site)  
 Saturday \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm  (closed, no one on-site)  
 Sunday \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm  (closed, no one on-site)

**Time employees are on-site:**

Mon \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm  
 Tue \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm  
 Wed \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm  
 Thu \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm  
 Fri \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm  
 Sat \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm  
 Sun \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm

**2) How many full-time employees do you employ (35+ hrs./week)?** \_\_\_\_\_

**3) How many part-time employees do you employ?** \_\_\_\_\_

**4) How many employees are on-site on the following days/times:**

(Enter # of employees working during any portion of the time period)

Monday	7am-11am: _____	11am-3pm: _____	3pm-7pm: _____	7pm-close: _____
Tuesday	7am-11am: _____	11am-3pm: _____	3pm-7pm: _____	7pm-close: _____
Wednesday	7am-11am: _____	11am-3pm: _____	3pm-7pm: _____	7pm-close: _____
Thursday	7am-11am: _____	11am-3pm: _____	3pm-7pm: _____	7pm-close: _____
Friday	7am-11am: _____	11am-3pm: _____	3pm-7pm: _____	7pm-close: _____
Saturday	7am-11am: _____	11am-3pm: _____	3pm-7pm: _____	7pm-close: _____
Sunday	7am-11am: _____	11am-3pm: _____	3pm-7pm: _____	7pm-close: _____

**5) Do you have private on-site *employee parking*?** Yes or No (circle one) If yes, how many spaces? \_\_\_\_\_

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**6) Where do you prefer your employees park?**

(Choose 3 lots and prioritize the locations by placing a 1, 2 or 3 with 1 being the most preferred location.)

- Our private on-site parking area
- Northside Lot (North of Hwy 9 between N. Santa Cruz Ave. and University Ave.)
- Lot 1 (Between Hwy 9 and Bachman Ave.)
- Lot 2 (Between Bachman Ave. and Royce St.)
- Lot 3 (Between Royce St. and Grays Ln.)
- Lot 4-Street Level (Between Grays Ln. and Elm St.)
- Lot 4-Lower Level (Between Grays Ln. and Elm St.)
- Lot 5 (Between Elm St. and W. Main St.)
- Lot 6 (North of W. Main St., between N. Santa Cruz Ave. and Lyndon Ave.)
- Southside Lot (South of the Post Office on S. Santa Cruz Ave.)
- Montebello Lot (East of the Post Office, by Montebello Way and Broadway)
- Park Ave. Lot (End of Park Ave. south of W. Main St.)

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**7) How much time will your typical customer need to comfortably patronize your business?**

\_\_\_\_\_ hour(s) \_\_\_\_\_ minutes

---

**8) Do you have private on-site customer parking?** Yes or No (circle one) If yes, how many spaces? \_\_\_\_\_

---

**9) Where do you prefer your customers park?**

(Choose 2 lots and prioritize the locations by placing a 1 or 2 with 1 being the most preferred location.)

- Our private on-site parking area
- Northside Lot (North of Hwy 9 between N. Santa Cruz Ave. and University Ave.)
- Lot 1 (Between Hwy 9 and Bachman Ave.)
- Lot 2 (Between Bachman Ave. and Royce St.)
- Lot 3 (Between Royce St. and Grays Ln.)
- Lot 4-Street Level (Between Grays Ln. and Elm St.)
- Lot 4-Lower Level (Between Grays Ln. and Elm St.)
- Lot 5 (Between Elm St. and W. Main St.)
- Lot 6 (North of W. Main St., between N. Santa Cruz Ave. and Lyndon Ave.)
- Southside Lot (South of the Post Office on S. Santa Cruz Ave.)
- Montebello Lot (East of the Post Office, by Montebello Way and Broadway)
- Park Ave. Lot (End of Park Ave. south of W. Main St.)

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**10) How can we improve parking in the downtown business zone?** \_\_\_\_\_

**Any additional Comments?** \_\_\_\_\_

Thank you for your time and input!

Survey to: Mail: LGMSPD - 110 E. Main St. - Los Gatos, CA 95030 - Attn: Parking Survey

Fax: (408) 354-0578 - Attn: Parking Survey

Email: jrenelle@losgatosca.gov



# Town of Los Gatos

## Downtown Business Zone

### Employee Parking Survey

A downtown employee parking permit program is being proposed that will allow employees to park once and remain in the space for their entire shift. This survey data will be used to help develop the program including **Employee Parking Zones** that are within a safe and reasonable walking distance. When completing this survey, please keep in mind that downtown customers expect easy-to-find and convenient parking otherwise they may choose to shop or dine elsewhere.

Please complete the survey using your normal work schedule and **not** a reduced Covid-19 schedule.

This survey is also available on-line at [www.losgatosca.gov/epermitsurvey2020](http://www.losgatosca.gov/epermitsurvey2020)

**Name of business where you work:** \_\_\_\_\_

**Business address:** \_\_\_\_\_

**Type of business:** (circle one) Restaurant/Food Service, Retail, Salon/barber, Service, Other (specify) \_\_\_\_\_

**1) Do you have private on-site employee parking?** (circle one) **Yes** or **No** *If yes, skip questions 2 through 5*

**2) What days/hours do you typically work?** (Enter hour and circle am or pm) (Use normal schedule and not Covid-19 schedule)

Monday	_____ am/pm to _____ am/pm	Tuesday	_____ am/pm to _____ am/pm
Wednesday	_____ am/pm to _____ am/pm	Thursday	_____ am/pm to _____ am/pm
Friday	_____ am/pm to _____ am/pm	Saturday	_____ am/pm to _____ am/pm
Sunday	_____ am/pm to _____ am/pm		

**3) Where do you prefer to park?** (Choose 3 lots prioritizing the location by using a 1, 2 & 3 with 1 being the most preferred location)

- \_\_\_\_\_ Northside Lot (North of Hwy 9 between N. Santa Cruz Ave. and University Ave.)
- \_\_\_\_\_ Lot 1 (Between Hwy 9 and Bachman Ave.)
- \_\_\_\_\_ Lot 2 (Between Bachman Ave. and Royce St.)
- \_\_\_\_\_ Lot 3 (Between Royce St. and Grays Ln.)
- \_\_\_\_\_ Lot 4-Street Level (Between Grays Ln. and Elm St.)
- \_\_\_\_\_ Lot 4-Lower Level (Between Grays Ln. and Elm St.)
- \_\_\_\_\_ Lot 5 (Between Elm St. and W. Main St.)
- \_\_\_\_\_ Lot 6 (North of W. Main St., between N. Santa Cruz Ave. and Lyndon Ave.)
- \_\_\_\_\_ Southside Lot (South of the Post Office on S. Santa Cruz Ave.)
- \_\_\_\_\_ Montebello Lot (East of the Post Office, by Montebello Way and Broadway)
- \_\_\_\_\_ Park Ave. Lot (South end of Park Ave., south of W. Main St.)

**4) What is the maximum distance you would walk for reserved employee parking?**(circle one)

Up to 1 block                      Up to 2 blocks                      Up to 3 blocks                      Up to ¼ mile

**5) What is the maximum you can afford to pay monthly for reserved employee parking?** (circle one)

Up to \$20      \$21 to \$40      \$41 to \$60      \$61 to \$80      \$100 or more      I will not pay for parking

**6) What are your concerns about parking several blocks from your place of employment?**

(Mark corresponding box for each statement)

	Not Concerned	Somewhat Concerned	Concerned	Very Concerned	Extremely Concerned
Difficulty walking distances	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Time it takes to walk to/from work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Personal safety getting to/from my car	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Weather – Heat, Cold, Rain, Etc.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Need to carry supplies/equipment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any other concerns? _____					

**7) What can we do to improve parking for downtown employees or other additional comments?**

\_\_\_\_\_

\_\_\_\_\_

**Thank you for your time and input!**

Survey to: Mail: LGMSPD - 110 E. Main St. - Los Gatos, CA 95030 - Attn: Parking Survey

Fax: (408) 354-0578 - Attn: Parking Survey

Email: [jrenelle@losgatosca.gov](mailto:jrenelle@losgatosca.gov)



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 16

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DATE: April 14, 2021

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Discuss and Provide Direction on the Following Actions to Continue the Town's Support of Economic Recovery and Community Vitality in Response to the Ongoing COVID-19 Pandemic, Including:

- a. Temporary Krail Parklets:
  - 1. Confirm Sunset Date of September 19, 2021;
  - 2. Provide Direction on the Temporary Tents and Other Weather Protection Structures;
- b. Semi-Permanent Parklets:
  - 1. Provide Direction on Timeline for Grant Distribution and Parklet Construction;
  - 2. Provide Direction on Awnings and Other Weather Structures;
  - 3. Provide Direction on Maximum Number of Spaces for Parklets; and,
- c. Approve the extension of Personal Services Businesses in Office Commercial Zones (Zone O) with an Economic Recovery Agreement

**RECOMMENDATION:**

Discuss and provide direction on the following actions to continue the Town's support of economic recovery and community vitality in response to the ongoing COVID-19 pandemic, including:

- a. Temporary Krail Parklets:
  - 1. Confirm sunset date of September 19, 2021;
  - 2. Provide direction on temporary tents and other weather protection structures;

**PREPARED BY:** Monica Renn  
Economic Vitality Manager

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

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SUBJECT: Discuss and Approve Actions Related to the Continued Support of Economic Recovery and Community Vitality including the Town's Parklet Programs and Economic Recovery Resolution.

DATE: April 14, 2021

RECOMMENDATION (continued):

- b. Semi-Permanent Parklets:
  - 1. Provide direction on timeline for grant distribution and parklet construction;
  - 2. Provide direction on awnings and other weather protection structures;
  - 3. Provide direction on maximum number of spaces for parklets; and,
- c. Approve the extension of Personal Services Businesses in Office Commercial Zones (Zone O) with an Economic Recovery Agreement.

BACKGROUND:

The COVID-19 pandemic has created a truly unprecedented set of circumstances for the Los Gatos community and beyond. Since March 2020, the Town Council has been working to remain supportive and adaptive to the community's stakeholders, delicately balancing competing interests and continuing to consider how to provide available assistance. Without a doubt, the health and safety of the community remain a top priority. The Town Council has met on several occasions to discuss and direct actions that support the Town's economic and community vitality efforts. A high-level summary of these includes: rent forgiveness for Town-owned properties; expanded support to non-profits serving the needs of residents; and community and economic vitality efforts.

Specifically related to economic vitality, the Town Council has adopted an Economic Recovery Resolution, with the most recent updates adopted on February 16, 2021, based on direction provided by the Town Council at its January 19, 2021 meeting. The Resolution memorializes the Town's effort to streamline and update business processes to provide modernized provisions with greater flexibility as businesses look to adapt and recover from the pandemic. A large part of the Resolution also included the ability for businesses to flex outdoor space, both public and private, to offer outdoor dining and services as indoor business activity was drastically reduced (or closed) as a part of County and State COVID-19 response Public Health Orders. The Temporary Krail Parklet Program, adopted in May of 2020, has been a staple for many businesses as they were given the opportunity to use public on-street parking spaces for their private business operations at no cost to the business. Attachment 1 provides an overview of the timeline and actions taken by the Council related to economic and community vitality throughout the pandemic.

At its January 19, 2021 meeting, the Town Council discussed the Town's two distinctly different parklet programs. Those being: the Temporary Krail Parklet Program in which the intent is to provide outdoor space for business activity when indoor space is restricted as a result of

SUBJECT: Discuss and Approve Actions Related to the Continued Support of Economic Recovery and Community Vitality including the Town's Parklet Programs and Economic Recovery Resolution.

DATE: April 14, 2021

BACKGROUND (continued):

COVID-19 Public Health Orders; and the Semi-Permanent Parklet Program in which the intent is to provide an al-fresco style outdoor dining experience that enhances downtown and compliments the dining provided indoors. For the semi-permanent parklets, businesses must enter into a public-private partnership with the Town to construct, manage, and maintain parklets in downtown on existing on-street parking spaces. The parklet area must be accessible and open to the public during non-business operating hours.

The Town Council also approved an incentive program for the semi-permanent parklets in January that included a \$10,000 construction grant and a subsidized option for the architecture and engineering costs. The grant allocation was increased to \$20,000 per business on April 6, 2021, as a part of the Town Council's discussion on the American Rescue Plan Act (ARPA) funds.

Staff was asked to return to the Town Council to provide an update and discuss further the timeline for the temporary krail parklets and the components of the semi-permanent parklets. Based on feedback from stakeholders at recent business outreach meetings, and the discussion at the April 6, 2021 meeting, staff is providing this update and requesting direction from the Council on several items outlined in the recommendation.

DISCUSSION:

**Temporary Krail Parklets**

*Sunset Timeline* - On March 15, 2021, staff held two stakeholder remote meetings with businesses and commercial property owners to provide updates on economic recovery efforts including the two parklet programs. Based on input received via emails and at the meeting, one of the biggest concerns was the sunset timeline for the temporary krail parklets. Two requests that seemed to have the most business support were:

1. Businesses requested that the sunset timeline be fluid and allow them at least 60 to 90 days after they reach 100% capacity indoors to continue to use the temporary krail parklets, and thus did not expect September could meet that request. The ask was to set a sliding sunset date that allows such a buffer so that businesses had the opportunity to utilize the outdoor seating along with full indoor capacity in an effort to recoup some of their lost revenue and accommodate guests that are not yet comfortable dining indoors. As the pandemic settles and business returns, many businesses have back rent and other debt to repay that were necessary expenses to keep them afloat during shelter in place. Having the additional seating space available provides them

SUBJECT: Discuss and Approve Actions Related to the Continued Support of Economic Recovery and Community Vitality including the Town's Parklet Programs and Economic Recovery Resolution.

DATE: April 14, 2021

DISCUSSION (continued):

with more opportunity to serve more guests. That noted, the State of California recently reported that all businesses could utilize full indoor capacity on June 15, 2021 if the infection, hospitalization, and vaccination trends meet the Governor's criteria. If this is the case, mid-September would deliver the request of 90 days past 100% indoor capacity.

2. Other businesses asked that the krail stay in place through at least December 31, 2021, with this end dated being reconsidered once again as December approaches. This ask still provides a specific date for planning purposes, but is further out than September, allowing additional time for recovery and transition out of the temporary krail parklets.

*Temporary Tents and Other Weather Protection Structures* - As the temporary krail parklets sunset, the expectation is that all accompanying furnishings, banners, tents, walls, awnings, covers, etc. will also be removed. The Town has granted approval for some of the temporary tent structures over the temporary krail parklets that have been built through the pandemic; however, many remain unpermitted. Several businesses have gone beyond erecting a temporary tent and built a structured cover that includes wood and metal elements reflecting a permanent roof like cover. To date, none of these have been permitted.

At the business stakeholder meetings on March 15, 2021, staff received quite a bit of feedback on the desire for businesses to be able to continue to build and utilize such structures for the long term on the semi-permanent parklets. In regards to the semi-permanent parklets, this will be discussed in greater detail later in this report; however, staff is asking for the Town Council's direction on the tents, awnings, covers, banners, and other furnishings built or added as a part of the economic recovery efforts. Would the Town Council like to direct that these items be removed when the krail is removed, or is there a preference to have them removed sooner as the chance of rain dwindles?

**Semi-Permanent Parklets**

*Grant Application Timeline* - At its January 19, 2021 meeting, the Town Council approved a preliminary deadline for the subsidized semi-permanent parklet grant applications of June 30, 2021. Based on the amount of interest businesses have shown thus far, and the expedited ability for full indoor dining to possibly return on June 15, 2021, staff continues to recommend this deadline for applications, and that construction must be completed by December 31, 2022. The grant would be distributed in progressive payments, with the final payment taking place once the parklet gains final inspection by the Town.

SUBJECT: Discuss and Approve Actions Related to the Continued Support of Economic Recovery and Community Vitality including the Town's Parklet Programs and Economic Recovery Resolution.

DATE: April 14, 2021

DISCUSSION (continued):

Following the June 30, 2021 deadline, at the Town Council's direction, staff may return to the Town Council with another update on the semi-permanent parklets to understand if the process should then be reopened for additional interested businesses.

*Awnings, Roofs, Covers, and Weather Protection for Semi-Permanent Parklets* - To date, the semi-permanent parklets have only allowed covers that are open-air, moveable, and non-permanent such as umbrellas and sail-type shade structures. At its January 19, 2021 meeting, the Town Council provided feedback that covers on the semi-permanent parklets shall remain in this fashion of open-air, moveable, and non-permanent to allow for a full view of the buildings and businesses located behind the parklets and to support the intent of the program which is to provide an al-fresco dining experience and not replace or replicate indoor dining.

At the February 26, 2021 joint study session with the Town Council and Planning Commission, the Town Council and Planning Commission heard an urban design presentation that noted the importance of parklets blending in with the design of the streetscape and not creating additional square footage of building space. The renderings and photos provided in Attachment 3 demonstrate the current direction of the semi-permanent parklets and illustrate the umbrellas and sail-type coverings noted. Additionally, this attachment provides examples of the more structured and permanent covers that are being requested by some business stakeholders. Such structures would create new elevations along the streets of Downtown, essentially allowing the parklets to become extensions of the buildings, rather than outdoor, open-air patio dining experience as the program originally intended.

It is important to note that such structures require additional support and engineering when accompanying a parklet, thus the current agreement with the Town's consultant for the architecture and engineering of the semi-permanent parklets would not support such covers. If the Town Council changes their direction on the semi-permanent parklet covers, staff recommends that the cost of design, engineering, building permits, and other associated processes and fees of the covers be the responsibility of the parklet applicant. If there is a desire by the Town Council to subsidize the roof structures, the Town costs for the parklet architecture and engineering would increase significantly and an adjustment to the investment by the Town would be necessary.

Staff is seeking the Town Council's input and direction on continuing the requirement that all coverings for the semi-permanent parklets be open-air, moveable, and non-permanent as originally approved, unless the Town Council decides to change this direction.



SUBJECT: Discuss and Approve Actions Related to the Continued Support of Economic Recovery and Community Vitality including the Town's Parklet Programs and Economic Recovery Resolution.

DATE: April 14, 2021

DISCUSSION (continued):

*Number of Public Parking Spaces per Parklet* - Understanding that the parklets are being constructed on public property and that the interest in the parklets has increased recently, staff is seeking the Council's direction if there should be a limit to the number of spaces any one business or parklet may utilize. Prior to COVID-19, the standard was two spaces per parklet/business; however, if more spaces existed in front of the business' building, and the building owner approved, additional spaces were granted. Staff took this question to the Town Council in 2019 and at that time, there was no desire to set a maximum limit of spaces per parklet. There are a few instances in downtown where a single building has a large amount of linear street frontage and thus under the current guidelines could build a parklet that is in excess of three spaces.

Would the Town Council like to keep the current direction that a standard parklet is two parking spaces, or allow requests for larger parklets to be considered on a case-by-case basis with the following considerations: (1) Are the additional spaces within the linear street frontage of the parklet applicant's commercial building or parcel, and (2) Does the property owner support this parklet?

In some cases, especially with businesses located on a corner lot, a business could fit within the guidelines above and utilize four to six parking spaces. Is the Town Council comfortable with this amount of public space being used for a parklet if the spaces are contained within the linear street frontage of the applicant's commercial building or parcel?

Would the Town Council like to consider allowing such parklets, and create a rent or fee structure for the use of public parking spaces beyond a certain threshold? For example, a parklet occupying more than three spaces (or the equivalent of more than three parallel parking spaces) could require an annual rental fee for the use of public property. This could take effect with the first year's payment due in 2024.

Alternatively, the guidelines in place could remain and parklets could continue to expand the full length of the applicant's building frontage under the current public-private partnership agreement. One argument for this is that some property owners are interested in building a parklet that expands the full length of their building to create an open-air and roomy experience for their tenants, customers, and the general public as such gathering spaces create synergy and extra space for a more comfortable guest experience. These spaces are all open to the public during non-operating hours and do offer additional space for the general public to spread out.

SUBJECT: Discuss and Approve Actions Related to the Continued Support of Economic Recovery and Community Vitality including the Town's Parklet Programs and Economic Recovery Resolution.

DATE: April 14, 2021

DISCUSSION (continued):

**Personal Service in Commercial Office Zones**

As staff continues to work with businesses on relocation and reorganizing efforts, it has been noted that many small office spaces are now available for lease given that many office business models have shifted their work structures. Additionally, personal service continues to be an industry where businesses are seeking opportunity to downsize or reorganize their business model so that they may serve customers in an environment that is comfortable and supportive of social distancing, staggered appointments, and rotating employee schedules. For many personal service businesses, large retail spaces or the environment of downtown doesn't fit their needs; however, the vacant offices spaces do as many provide onsite parking and the ability to meet the needs of the customer requests.

Staff is recommending that the Town Council expand the Economic Recovery Resolution to allow for personal service businesses to be able to locate within the Town's Office Zones (O) with an Economic Recovery agreement. This allowance would run with the duration of the Economic Recovery Resolution which is currently in place through December 31, 2021. Businesses would need to have an executed agreement in place prior to the expiration of the resolution. Attachment 4 reflects this modified draft language for the Town Council's consideration.

CONCLUSION AND ALTERNATIVES:

Staff is seeking the direction of the Town Council on the items discussed in this report to continue to support the Town's Economic Recovery and Community Vitality efforts. Below, the numbered actions provide a recommendation for the Town Council to consider with alternatives to each item listed by letter for the Town Council's consideration and direction.

**Temporary Krail Parklets:**

1. Confirm sunset date of September 19, 2021, at which time all krail will be removed by the Town.
  - a. Direct a sunset date of 90 days after dining returns to 100% capacity in Santa Clara County as this provides additional flexibility if 100% capacity does not return on June 15, 2021; or
  - b. Set a new sunset date of December 31, 2021 and direct staff to return in the fall with an update on the economic recovery efforts.

SUBJECT: Discuss and Approve Actions Related to the Continued Support of Economic Recovery and Community Vitality including the Town's Parklet Programs and Economic Recovery Resolution.

DATE: April 14, 2021

CONCLUSION AND ALTERNATIVES (continued):

2. Provide direction that all tents, awnings, roof structures, curtains, banners, and other furnishings implemented during the Temporary Krail Parklet Program be removed with the sunset of the krail parklets.
  - a. Direct the removal of specific items at an earlier date.

**Semi-Permanent Parklets:**

1. Provide direction on timeline for grant distribution and parklet construction that includes an application deadline of June 30, 2021 and a final construction deadline of December 31, 2022, with progressive grant payments, and direct staff to return to the Town Council after the close of the application period with an update on the program to consider an extension of the timeline.
2. Provide direction on awnings, roof structures, and other weather structures by confirming that only open-air, moveable, and non-permanent coverings such as umbrellas and sail-type shade structures are permitted on the semi-permanent parklets.
  - a. Modify the semi-permanent parklet program guidelines to allow parklet applicants to construct awnings, roof structures, or other weather coverings that are permanent; or
  - b. Provide direction on if the Town Council would like to make further investment to subsidize such structures through the grant program or require that the applicant assume the full cost to design and build them.
3. Provide direction on the maximum number of spaces for parklets by confirming that a standard parklet remains at two spaces and larger parklets will be reviewed on a case-by-case basis given that the parklet does not extend beyond the applicant's linear street or building frontage and has approval of the property owner.
  - a. Set a maximum number of parking spaces allowed for use by a single business' semi-permanent parklet; or
  - b. Adopt a rental fee for parklets that extend beyond three parking spaces with the first payment due in 2024. Fees and payment structure would be drafted by staff and returned to the Town Council at a future meeting for discussion and adoption.
4. Approve the extension of Personal Services Businesses in Office Zones (O) with an Economic Recovery Agreement by adopting the modified Economic Recovery Resolution in Attachment 4.

PAGE 9 OF 9

SUBJECT: Discuss and Approve Actions Related to the Continued Support of Economic Recovery and Community Vitality including the Town's Parklet Programs and Economic Recovery Resolution.

DATE: April 14, 2021

COORDINATION:

This report was drafted in collaboration with the Town Manager and Town Attorney's Offices, and the Finance, Police, Community Development, and Parks and Public Works Departments.

FISCAL IMPACT:

The recommendations do not have a fiscal impact; however, some of the alternatives do, as follows:

- If the temporary krail parklets are extended beyond September 19, 2021, a rental fee of \$10,000 per month would be required to be paid by the Town until their removal.
- If the Town Council directs subsidy of awnings, roofs, or other permanent structures, staff would need to work with the Town's consultant on a cost estimate and renegotiate the agreement for services. It is estimated that the investment of the Town would increase by a minimum of \$10,000 per parklet to include the design and engineering costs of a solid cover.
- Setting up a rental fee structure would provide revenue for the Town on use of public land at a rate yet to be determined.

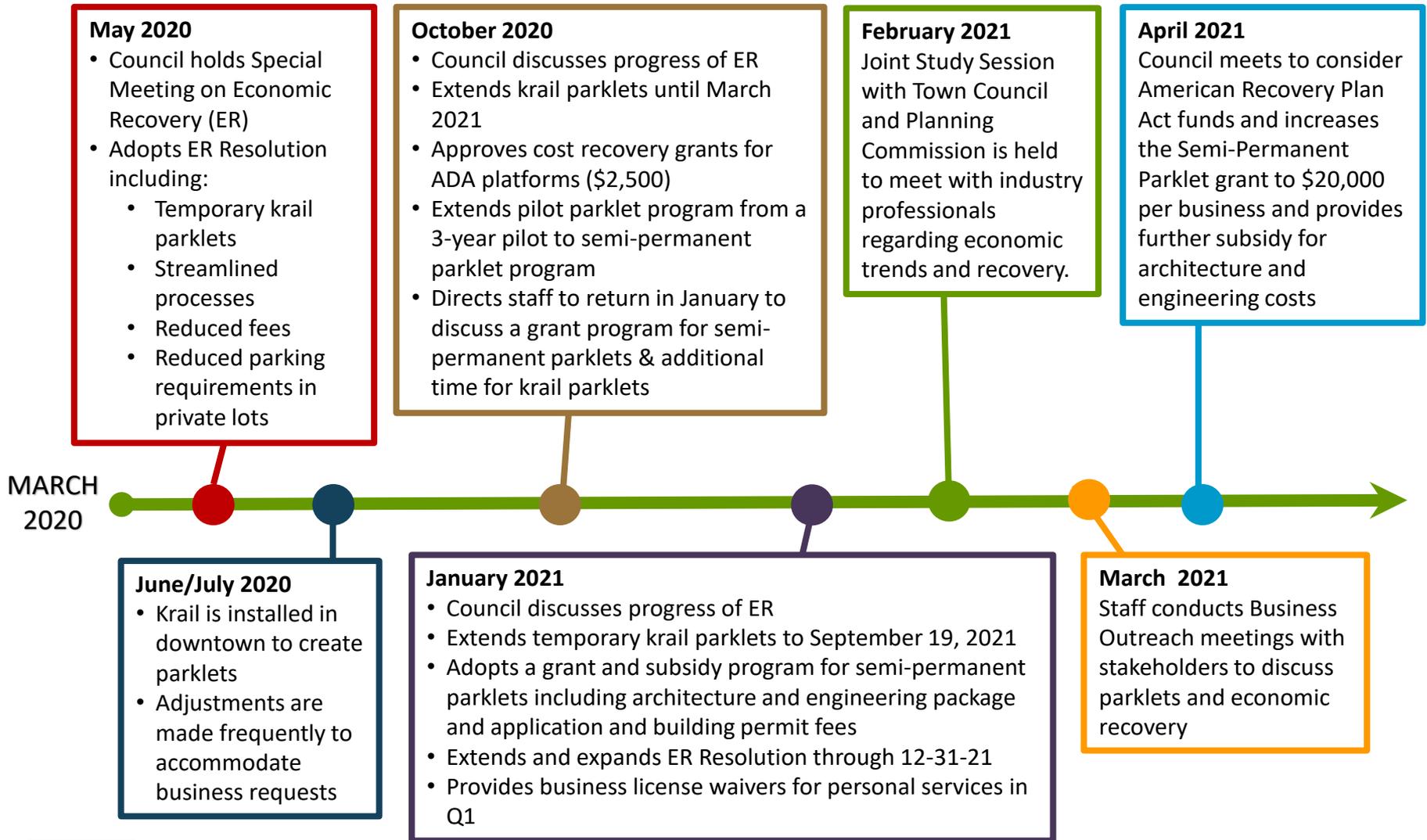
ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Timeline of Council Discussions and Actions to Date on Economic Recovery
2. Map of existing Temporary Krail and Semi-Permanent Parklets
3. Renderings and photos of Semi-Permanent Parklets and Weather Covering Options
4. Proposed Revised Economic Recovery Resolution
5. Public Comment received before 11:00 a.m. on Thursday, April 15, 2021

# Timeline of Council Discussions and Actions on Economic Recovery



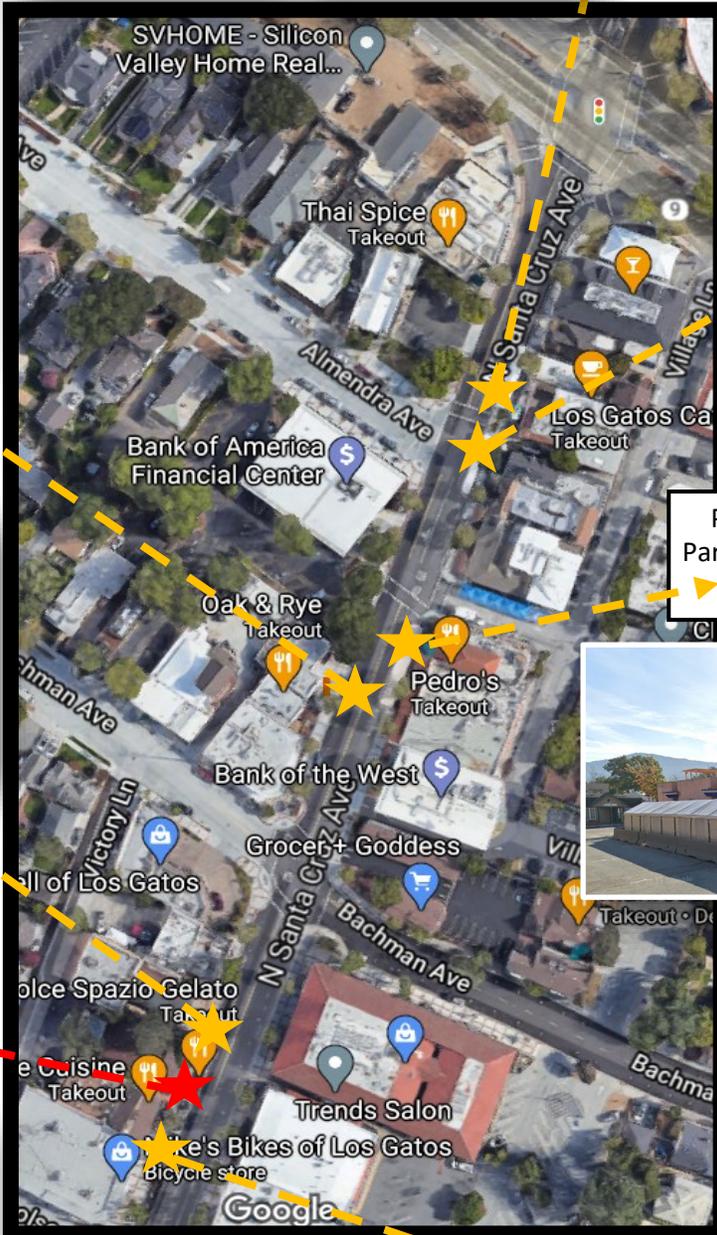
# PARKLETS ON N. SANTA CRUZ AVENUE, PETTICOAT LANE & GRAYS LANE BETWEEN LOS GATOS-SARATOGA ROAD & NICHOLSON AVENUE



Left Bend & Los Gatos Café shared Temporary Krail Parklet



Oak & Rye Temporary Krail Parklet



Italian Brothers Temporary Krail Parklet

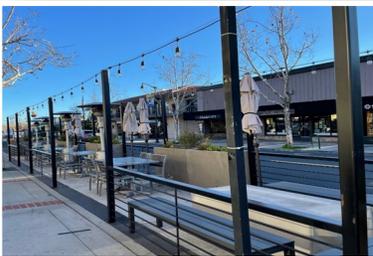


Dolce Spazio & Royal Shaving Parlor shared Temporary Krail Parklet

Pedro's Temporary Krail Parklets on N. Santa Cruz Ave & Petticoat Lane



Rootstock Semi-Permanent Parklet

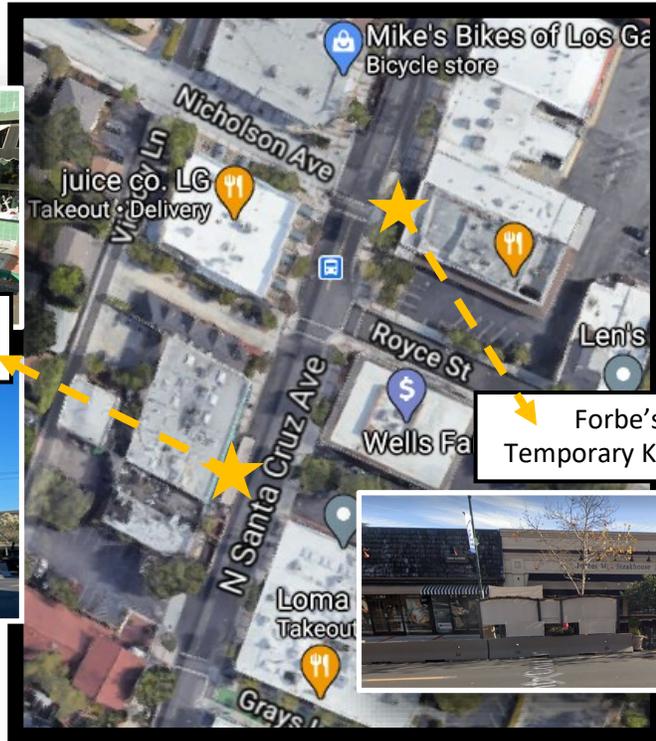


Golden Triangle Temporary Krail Parklet

# PARKLETS ON N. SANTA CRUZ AVENUE SOUTH OF GRAYS LANE & NORTH OF ELM STREET



North, Kamakura, Coup de Thai & Black Watch shared Temporary Krail Parklet



Forbe's Mill Temporary Krail Parklet



The Palms Temporary Krail Parklet



Loma Brewing Company Temporary Parklet



Black Cat Hats & Round Table shared Temporary Krail Parklet



Natural Creations, Time Out & Automobuild shared Temporary Krail Parklet



Gardino's Temporary Krail Parklet



# PARKLETS ON N. SANTA CRUZ AVENUE SOUTH OF ELM STREET, & ON MAIN STREET, WEST OF N. SANTA CRUZ AVENUE



Pastaria & Apple shared Temporary Krail Parklet



Fleur de Cocoa, Petroglyph & Pasteria shared Temporary Krail Parklet



Andale Semi-Permanent Parklet

The Lexington House Temporary Krail Parklet



The Maid's Quarters & J. Croll shared Temporary Krail Parklet

The Great Bear Temporary Krail Parklet



Andale & Carry Nations Shared Temporary Krail Parklet



Pizza My Heart Semi-Permanent Parklet

Oren's Hummus Temporary Krail Parklet





# PARKLETS ON MAIN STREET, EAST OF N. SANTA CRUZ AVENUE



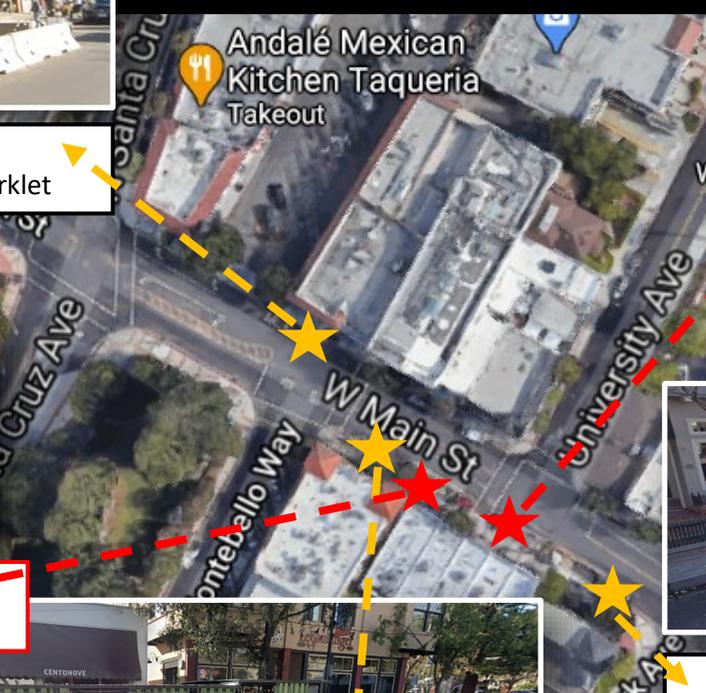
Blue Line Pizza  
Temporary Krait Parklet



Zona Rosa  
Semi-Permanent Parklet



Centonove  
Semi-Permanent Parklet



Athletic Performance & Nimbus Salon  
Temporary Krait Parklet



Posh Bagel  
Temporary Krait Parklet



Sidecar Tavern  
Temporary Krait Parklet

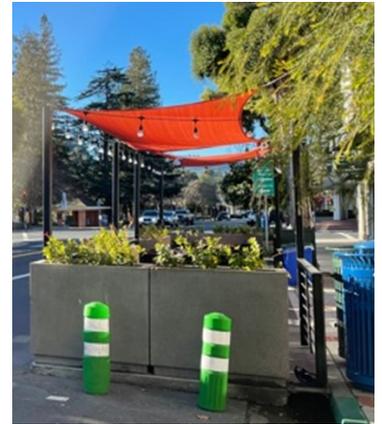


Southern Kitchen, Billy Boston's Chowder House,  
Namaste Temporary Krait Parklet

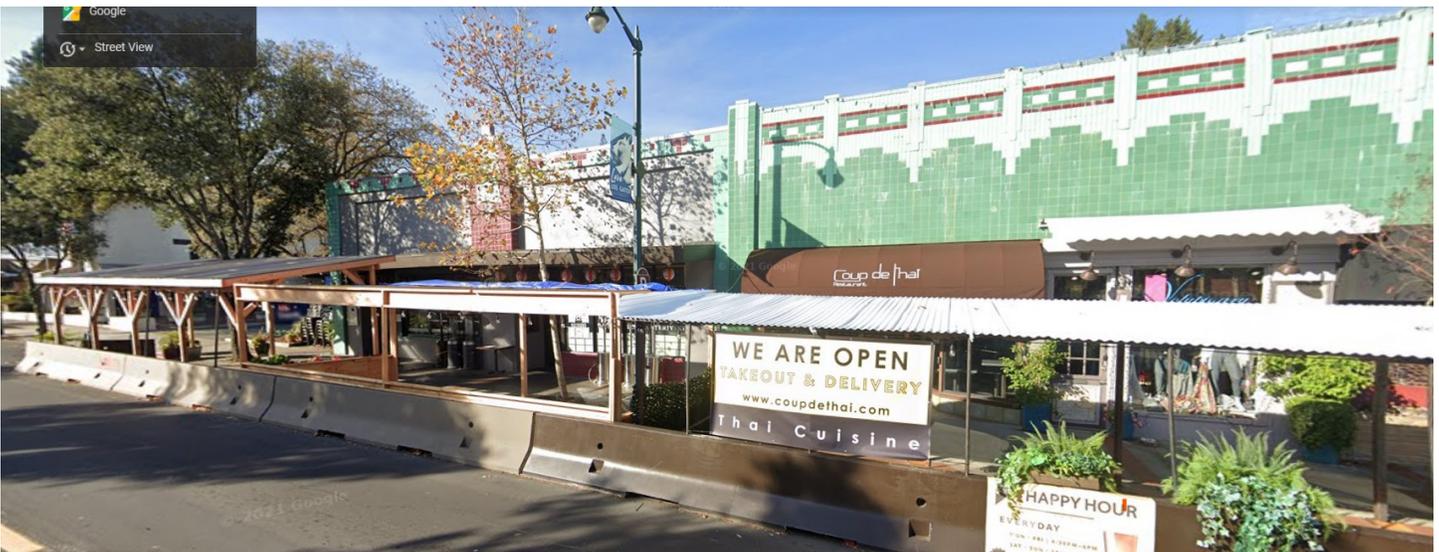


Southern Kitchen  
Los Gatos  
Takeout · Delivery

**EXAMPLES OF SEMI-PERMANENT PARKLETS CONSISTENT WITH  
CURRENT OPEN-AIR, MOVEABLE & NON-PERMANENT COVERING GUIDELINES**



**EXAMPLES OF PERMANENT ROOF LIKE STRUCTURES BEING REQUESTED  
BY BUSINESS STAKEHOLDERS FOR SEMI-PERMANENT PARKLETS**



**RESOLUTION 2021-**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
APPROVING TEMPORARY OUTDOOR PUBLIC SPACE EXPANSION AND TEMPORARY  
MODIFICATIONS TO SPECIFIC PROVISIONS RELATED TO BUSINESS PERMITS,  
PROCESSES, PROVISIONS, AND ACTIVITIES DURING THE COVID-19 PANDEMIC TO  
OFFER ECONOMIC RELIEF, RECOVERY, AND OPPORTUNITIES FOR COMMUNITY AND  
ECONOMIC VITALITY**

**WHEREAS**, pursuant to the Town’s police power, as granted broadly under Article XI, Section 7 of the California Constitution, the Town Council has the authority to enact and enforce ordinances and regulations for the public peace, morals, and welfare of the Town and its residents; and

**WHEREAS**, pursuant to California Government Code Section 8680.9, a local emergency is a condition of extreme peril to persons or property proclaimed as such by the governing body of the local agency affected by a natural or manmade disaster; and

**WHEREAS**, California Government Code Section 8634 states that “During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property...”; and

**WHEREAS**, the purpose of a local emergency proclamation is to provide extraordinary powers to issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency, obtain vital supplies, and require emergency services of employees; and

**WHEREAS**, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"); and

**WHEREAS**, on January 30, 2020, the World Health Organization declared the Covid-19 outbreak a Public Health Emergency of International Concern; and

**WHEREAS**, on January 30, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

**WHEREAS**, on January 31, 2020, the first case of COVID-19 was confirmed in Santa Clara County (“County”); and

ATTACHMENT 4

**WHEREAS**, on February 10, 2020, the Santa Clara County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19; and

**WHEREAS**, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared COVID-19 an International Pandemic; and **WHEREAS**, on March 12, 2020, the Town Manager of Los Gatos acting in the capacity of Town of Director of Emergency Services, issued a Proclamation of Local Emergency; and

**WHEREAS**, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

**WHEREAS**, on March 16, 2020, the Santa Clara County Department of Public Health directed all individuals in the County to Shelter in Place and mandated requirements, including but not limited to, social distancing, staying home if sick, canceling or postponing group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

**WHEREAS**, on March 17, 2020, the Town Council of the Town of Los Gatos ratified the Proclamation of Local Emergency; and

**WHEREAS**, the pandemic and necessary federal, state and local public health orders requiring social distancing to prevent spread of COVID- 19 have had and will continue to have devastating economic impacts on the local community, including residents, businesses, employees and Town operations; and

**WHEREAS**, the longer the emergency order is in place, the more difficult it will be for small retail and restaurant operators to return and reopen their businesses; and

**WHEREAS**, although the Town continues to be in an emergency response phase, an emergency management principle has been established that recovery planning must begin as early as possible to strengthen community resilience while shortening the economic recovery timeline; and

**WHEREAS**, some of the actions that the Town has taken during this state of emergency to support local business are: eviction protections; suspension of rent for Town owned Facilities; a website with COVID 19 and business resources; and assistance for restaurants and food retailers by allowing sales of alcohol via delivery and takeout, providing flexibility for restaurants to sell groceries, and allowing curbside pickup; and

**WHEREAS**, due to the severe economic impacts of COVID- 19 and its economic impacts on the community and the Town organization, the Council deems it necessary to take additional action to suspend enforcement of certain provisions of the Town of Los Gatos Town Code and provide temporary process streamlining measures to facilitate the retention and attraction of Los Gatos businesses during the COVID-19 pandemic, reduce economic impacts, foster recovery, encourage economic vitality, and reduce commercial vacancies; and specified below to support social distancing requirements, effective public communication related to rapidly transitioning business re-opening status, and economic viability of businesses in adhering to permitted opening and social distancing requirements; and

**WHEREAS**, the below measures are intended to provide economic relief to businesses that are experiencing economic uncertainty while complying with State and County Orders. Accordingly, the Town will facilitate a temporary “ pilot” program, which will include the development and implementation of a plan to use the right- of-way, sidewalks and streets to help maintain social distancing during the first few phases ( stages) of reopening consistent with the State’s Resilience Roadmap and continued economic support of businesses for uses such as walking space, outdoor dining, and pick- up/delivery areas. The program would provide for residents to receive the health and wellness benefits of being outdoors and support businesses with enough space to safely physically distance; and

**WHEREAS**, the program is established for the purpose of supporting and facilitating the recovery of business and economic activity in the Town by expanding the spaces available for the safe conduct of such activities for Town businesses and their customers and patrons to create more physical distance for pedestrians and business patrons to maintain physical distancing; and nothing herein is intended to nor shall be deemed to create open gathering places or public fora unrelated to the intended business support and recovery purpose; and

**WHEREAS**, Over the years, the Town’s conservative budgeting practices have resulted in healthy reserves and frequent annual budgetary surplus with a balanced Operating Budget for Fiscal Year 2020-2021 with no reductions to service, despite significant revenue and other economic impacts from sheltering-in-place. Those reserves and surpluses are now paying the Town huge dividends during the COVID 19 crisis; and

**WHEREAS**, on May 26, 2020, the Town Council reallocated \$1,900,000 in prior surpluses reserved for downtown streetscape revitalization toward COVID-19 economic stimulus recovery efforts. This is one of the single largest economic recovery packages ever proposed in the Town’s history; and

**WHEREAS**, time is of the essence to quickly implement a program to allow for safe physical distancing consistent with the State’s Resilience Roadmap and County Guidelines in order to address both public health and economic impacts of COVID- 19, as residents have been primarily indoors since the initiation of the State and County Orders, this will be a dynamic temporary program, receiving input from the Town Council, and shall be subject to administrative modification by the Town, as authorized herein, as necessary in response to emerging issues or concerns of public, health, safety or convenience; and

**NOW, THEREFORE, BE IT PROCLAIMED AND RESOLVED** by the Town Council of the Town of Los Gatos that:

SECTION 1. All recitals set forth above, and all recitals included in support of Federal, State and County actions referenced herein, are adopted as though fully set forth herein as findings in support of this Resolution and, after considering all such findings and current local circumstances the Council hereby declares the continuing existence of a local emergency related to the continued threat of COVID- 19 as it relates to public health and economic impacts; and

SECTION 2. In order to support the re-opening of restaurants and other businesses in accordance with the State Executive Order N-60-20, the Town Council hereby directs and authorizes the Town Manager to implement the following strategies that may be used independently or in combination. as outlined below:

1. As identified by the Town generally along N. Santa Cruz Avenue (south of Highway 9/Los Gatos-Saratoga Road) and Main Street, private businesses in the C-2 Zone are permitted to utilize public street parking spaces in proximity to their business for expanded dining and alcohol service, retail, or business use space to facilitate safely distanced pedestrian circulation, expanded outdoor dining and alcohol service, and customer queuing, pickup and waiting areas associated with permitted business activities and pursuant to the terms agreed upon in an Economic Recovery Agreement between the business and the Town;
2. Suspend parking requirements in private commercial lots to allow some parking spaces to be utilized for restaurant seating or business activities given sufficient parking remains available for customer use, and to allow for such to facilitate safely distanced pedestrian circulation, expanded outdoor dining and alcohol service, customer queuing, and pickup and waiting areas associated with permitted business activities and pursuant to the terms of agreed upon in an Economic Recovery agreement between the business and the Town;
3. Allow pop-up patios, parklets, and other areas to encourage and support additional ideas for outdoor space such as use of parts of the sidewalk for signage, merchandise

and queueing, where adequate sidewalk width exists consistent with disabled access requirements and public safety; and

4. Current Los Gatos businesses may relocate, expand, or open an additional business location without obtaining a new Conditional Use Permit provided the business enters into an Economic Recovery agreement with the Town, documenting that any change of ownership is subject to a new Conditional Use Permit or Conditional Use Permit modification consistent with the existing Town Code;
5. The requirement for personal service businesses to obtain a Conditional Use Permit in the C-2 zone is suspended, [and personal service businesses may locate within Office Zones \(O\)](#), provided the business enters into an Economic Recovery agreement with the Town, documenting that any change of ownership is subject to a new Conditional Use Permit, [or must comply with current provisions](#) consistent with the existing Town Code;
6. The requirement for up to a total of five (5) markets, bars and/or other miscellaneous commercial businesses to obtain a Conditional Use Permit in the C-2 zone is suspended provided the business enters into an Economic Recovery agreement with the Town, documenting that any change of ownership is subject to a new Conditional Use Permit consistent with the existing Town Code;
7. The cost for a new Conditional Use Permit is reduced by 50% with the Town paying the balance of the fees;
8. Alcohol consumption is permitted with meals in Town parks, temporary pop-up parks, temporary patio dining, and parklets; and
9. The expiration date for all building permits and planning entitlements shall be extended by two years.

SECTION 4. Environmental Review. As a result of the COVID- 19 public health emergency, the Town of Los Gatos proposes a temporary program to use the right- of-way, sidewalks and streets to help maintain social distancing during the first few phases ( stages) of reopening consistent with the State’ s Resilience Roadmap and provide for residents to receive the health and wellness benefits of being outdoors and support businesses with enough space to safely physically distance. The proposed project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) as followed:



- A. The project is statutorily exempt under State CEQA Guidelines Section 15269 (Emergency Projects), because the temporary program includes specific actions that would allow for safe physical distancing consistent with the State's Resilience Roadmap and County and State Guidelines in order to mitigate the COVID- 19 public health emergency.
- B. The project is categorically exempt under State CEQA Guidelines Section 15301 (Existing Facilities) because the actions identified in the program are limited to the permitting, leasing, and minor alteration of existing public facilities, including existing streets, sidewalks, bicycle and pedestrian trails, which would not result in the creation of additional automobile lanes. The program would result in a negligible expansion of existing commercial uses and a negligible expansion of the public's use of Town right of- way, as the uses included in the temporary program would not vary from the current uses of commercial businesses, residential areas, or public access within the Town's right- of-way.

SECTION 5. Notwithstanding any other Town policy or procedure, the Town Engineer shall be authorized to review and approve on behalf of the Town any and all design and construction necessary as part of the temporary program herein and the Town Manager shall be authorized to enter into agreements on behalf of the Town to implement the strategies herein without further action of the Town Council.

SECTION 6. Any provision of the Los Gatos Town Code or any appendix thereto inconsistent with the provisions of this Resolution, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Resolution.

SECTION 7. All current and prior emergency and public health orders as currently enacted and in effect, or as subsequently amended or modified, issued by the Governor, the State or County Public Health Official or the Town or County Emergency Services Director are expressly adopted

SECTION 8. This resolution remains in place until December 31, 2021.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 19<sup>th</sup> day of January 2021 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

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

DATE: \_\_\_\_\_

**From:** Debbie Kroh  
**Sent:** Saturday, April 3, 2021 9:24 AM  
**To:** Joel Paulson <jpaulson@losgatosca.gov>  
**Cc:** Monica Renn <mrenn@losgatosca.gov>  
**Subject:** Re: Personal Service Uses in Office Zones

Hi Joel and Monica,

Thank you so much for taking your time to listen, and help me. I have been an Esthetician for 18+ years, and had/have a thriving business in Los Gatos for almost 4 years, then Covid hit, and after a few shutdowns, my last owners decided to use our work space for something different. I LOVE what I do and have been actively looking for a new space in Los Gatos for months. 430 Monterey comes close to a perfect new beginning for myself and my clients. My local clients love Kroh Beauty being in Los Gatos, and I have many clients that travel from all over the Bay to see me. They love to come to Los Gatos and make a fun day trip here (shopping, eating) after seeing me.

I totally support the Economic Recovery Agreement which would allow me to occupy the space at 430 Monterey Avenue. It has been so challenging to find a great space that I can afford and one with enough room for my clients. 430 Monterey Avenue is such a great space for my business, and I am VERY excited about it! It has been such a challenging time for small businesses. I think it is great that the town of Los Gatos recognizes this, and is ready to help us. Thank you so much !!!

Please consider my business for 430 Monterey Ave. My business means the world to me and I feel like I would be a great fit at 430 Monterey Ave. I am SO excited to get back to work. Below are my business reviews and my website.

My Business Reviews and Website:

[www.krohbeauty.com](http://www.krohbeauty.com)  
<https://www.yelp.com/biz/kroh-beauty-los-gatos>

Thank you so much. Please let me know if there is anything else I can do to have this space be available to me.

With Gratitude,

Debbie Kroh  
[www.debbiekrohbeauty.com](http://www.debbiekrohbeauty.com)

**From:** Leona Baisley  
**Sent:** Monday, April 12, 2021 3:11 PM  
**To:** BusinessLicense <[BusinessLicense@losgatosca.gov](mailto:BusinessLicense@losgatosca.gov)>  
**Subject:** EMAIL FOR JOEL

Good Afternoon Joel,

Per our conversation this morning, this email is to address my change of address request that is not, at this time, approved.

I am currently working inside VEDIYA, which is a wellness center located at 15066 Los Gatos Almaden Rd #120, Los Gatos, CA 95120. I have been working at this location since 2018. During that time, I have worked very hard to grow my clientele and am so thankful I did not have to close my doors permanently during the pandemic. Since we have been officially able to reopen, I have worked really hard to bring back and grow my clientele and recently won Best in Silicon Valley for 2021. I'm in a good spot now and need more space. I have negotiated a lease inside my same building, but was surprised that my request to change of address was not approved. My request to change address is simply just a change from suite 120 to suite 106. I'm hoping that in the upcoming council meeting, this can be rectified and that I could move into the larger space and continue to grow my business there. I think it's unfair to deem one suite eligible to do personal services and not allow a business that is already in the building, to move suites. To add to that, medical offices, such as dermatologist or plastic surgeons, often hire estheticians like myself to perform personal services in their offices and typically don't have any issues getting business licenses for their spaces.

After everything last year brought and with other businesses similar to mine trying to come back from pandemic, I hope that the council will understand that a skin care and waxing business can ultimately occupy office spaces and not interfere with the surrounding businesses.

Your help in this matter is greatly appreciated,

Leona Stephenson  
Owner & Licensed Esthetician  
[Vivid Brows & Skin](#)



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 16

**ADDENDUM**

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DATE: April 19, 2021  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Discuss and Provide Direction on the Following Actions to Continue the Town's Support of Economic Recovery and Community Vitality in Response to the Ongoing COVID-19 Pandemic, Including:

- a. Temporary Krail Parklets:
  1. Confirm Sunset Date of September 19, 2021;
  2. Provide Direction on the Temporary Tents and Other Weather Protection Structures;
- b. Semi-Permanent Parklets:
  1. Provide Direction on Timeline for Grant Distribution and Parklet Construction;
  2. Provide Direction on Awnings and Other Weather Structures;
  3. Provide Direction on Maximum Number of Spaces for Parklets;and,

Approve the extension of Personal Services Businesses in Office Commercial Zones (Zone O) with an Economic Recovery Agreement

**REMARKS:**

Attachment 1 contains public comment received between 11:01 a.m. Thursday, April 15, and 11:00 a.m. Monday, April 19, 2021.

**ATTACHMENTS:**

**Attachments received with the Staff Report:**

1. Timeline of Council Discussions and Actions to Date on Economic Recovery
2. Map of existing Temporary Krail and Semi-Permanent Parklets
3. Renderings and photos of Semi-Permanent Parklets and Weather Covering Options
4. Proposed Revised Economic Recovery Resolution

**PREPARED BY:** Monica Renn  
Economic Vitality Manager

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

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PAGE 2 OF 2

SUBJECT: 4 Tait Avenue/Z-20-002/GP-20-001

DATE: April 19, 2021

5. Public Comment received before 11:00 a.m. on Thursday, April 15, 2021

Attachment received with this Addendum Report:

6. Public Comment received between 11:01 a.m., Thursday, April 15, and 11:00 a.m. Monday April 19, 2021.

**From:** Jim Foley

**Sent:** Friday, April 16, 2021 11:50 AM

**To:** Council <[Council@losgatosca.gov](mailto:Council@losgatosca.gov)>

**Cc:** Clerk <[Clerk@losgatosca.gov](mailto:Clerk@losgatosca.gov)>; Catherine Somers; Andrea Romano; Sue Farwell; Joe Pirzynski; Brian Bernasconi; Kevin Youkilis

**Subject:** Funding for Parklet Program and ARPA funds

Dear Honorable Mayor and Esteemed Council Members,

We would like to request you reconsider the proposal made by the Chamber of Commerce at the April 6<sup>th</sup> Town Council Meeting. We have made a few adjustments and clarifications to the request. Needless to say, there was a lot happening that night, so the Chamber would like to propose that at the Town Council Meeting next Tuesday night, April 20, when discussing the Parklet Program, you reconsider our requests that may not have gotten enough attention or discussion that evening.

As we understand the funding parameters, we fully support that you decided to use a portion of the ARPA funds to balance the 2020-21 budget in the estimated amount of \$3.2 million and to waive the rent for NUMU and the Los Gatos Saratoga Recreation Center and to mitigate some of the financial challenges facing a few of your non-profit partners. But even after you have fulfilled those identified needs, there are still additional funds to invest more into the recovery efforts we have outlined.

We want to modify our request to fund the parklet program from the remaining balance of the Town of Los Gatos Recovery fund that was allocated last year from the streetscape fund. In recent conversations it has become clear that a streetscape masterplan is 7-10 years away. The downtown could not handle a project such as that at this time anyway since the businesses need to recover over the next 12-24 months before any further major disruption. There is still in the neighborhood of \$1.5MM in the fund that we suggest using for the grant structure for parklets described below. The money from the fund that was previously spent on temporary parklets and emergency recovery efforts was the one of the best uses of money ever seen in this Town. In fact, that investment saved our Town as we navigated our way through this global pandemic. Since this money was originally intended for downtown improvements and streetscape, reallocating it to be used for parklets that will enhance the downtown is logical.

All of the businesses in the downtown agree that the parklets have revitalized downtown and draw visitors that spend money at all of the businesses, not just the restaurants that are operating them. We cannot afford to make a mistake here or waste any valuable time, this is the fastest way to get a vibrant new streetscape downtown that will benefit Los Gatos as a whole.

**Our revised proposal:**

1. **Invest** in the construction of parklets on No. Santa Cruz Ave. and Main Street in the downtown core of Los Gatos. Subsidize 75% of construction costs for each participating restaurant, up to a maximum of \$40K.
2. **Provide** the \$2500 allowances to each business with a temporary parklet that complied early on with the Town's ADA requirements during Covid and made the Town safe and accessible for all.

3. **Confirm** the grants for the semi-permanent parklets will be retroactive, to include the pioneers of the program that spent private money on the original five parklets. This laid the groundwork for the program and paved the way for everyone else to embrace the opportunity.
4. **Set aside** funding for additional outdoor dining improvements for restaurants that are unable to participate in the semi-permanent parklet program for various reasons (physical constraint, landlord cooperation, etc).

This proposal is fairly simple and will scale better than any other investment you can make at this time. The success, and frankly the broad introduction of outdoor dining in Los Gatos was the silver lining of the COVID- 19 crisis.

**By investing the 75% per parklet, the Town gets:**

1. **Buy in** and enthusiasm from the restaurants and the community. Without this investment, the restaurants will not be able to pull this off due to the fact that they are still just getting back on their feet financially.
2. **“Skin in the Game.”** The Restaurant owners will still have to come up with a portion of the investment, indicating their commitment to making it a success. They also have the burden of furnishing and maintaining the parklet above and beyond the hard costs being discussed.
3. With the assistance of the Chamber of Commerce, **we get these projects done efficiently and by the end of this year.** We may be able to get a lot of it done in the next few months since the restaurants will work with private contractors, and potentially the contractors that have already built parklets.
4. **The Town already has streamlined the architectural, engineering, and permitting process so this program is on the shelf and ready to go.** This maintains consistency for a first class look downtown as opposed to the existing cornucopia of designs. Alternatively, the businesses will implore you to keep the controversial and not attractive k-rails and tents in place for another 18-24 months as they recover.

When the time comes in five to seven years, the Town will be ready to fully “reimagine” the streetscape and do it the way it was meant to be done. We cannot afford to do that now for the reasons stated above. At some point though, we will have to embark on that major project. With the Town investment in the parklets between now and then, there is a greater partnership that is advantageous when it comes to repairs, utility issues beneath the parklets, and ultimately how the streetscape master plan unfolds.

**Other proposed uses for the ARPA funds:**

1. **Events.** We have to organize a few top tier events this summer and next fall. Please help us in this endeavor. The Chamber is offering up staff to help with facilitation. The Chamber will also solicit sponsorships to help offset Town’s investment. The Chamber has weathered the pandemic storm, but does not have the money to invest what is necessary into the events that need to happen. See special event permits for Thursday Promenades – with a No. Santa Cruz Ave street closure, music and security, etc. Also, see proposal for Picnic in the Parks “Celebrate Home”. Please consider some of our DEI projects and an investment into cultural celebrations and street art of all kinds to make for a more welcoming and inclusive community. And last, but not at all least, our Los Gatos in Lights was a huge success last year



despite the shelter in place order. Let's celebrate those lights in 2021. The Chamber has rough budgets to share for all of these efforts.

2. **Needs outside of downtown.** While downtown is a major draw for Los Gatos and its identity as a whole, and all areas of the Town benefit from the commerce driven by the visitors attracted by downtown, there are other needs for other areas of Town. We are working to identify what those may be and agree that some funds should be set aside for consistent messaging, improvements, beautification, signage, etc. that unifies the entire Town. We support any other specific requests coming from areas outside of downtown that support the overall unified recovery efforts.

We appreciate you taking the time to reconsider our requests.

Jim Foley  
Director/Chair  
Los Gatos Chamber of Commerce Board/Subcommittee on Legislative Affairs & Economic Vitality

CC:  
Catherine Somers  
Andrea Romano  
Sue Farwell  
Joe Pirzynski  
Brian Bernasconi  
Kevin Youkilis

*Jim Foley*

*Principal*

**Pennant  
Properties**

DRE # 01841825



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**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 16

DESK ITEM

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DATE: April 19, 2021

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Discuss and Provide Direction on the Following Actions to Continue the Town's Support of Economic Recovery and Community Vitality in Response to the Ongoing COVID-19 Pandemic, Including:

- a. Temporary Krail Parklets:
  1. Confirm Sunset Date of September 19, 2021;
  2. Provide Direction on the Temporary Tents and Other Weather Protection Structures;
- b. Semi-Permanent Parklets:
  1. Provide Direction on Timeline for Grant Distribution and Parklet Construction;
  2. Provide Direction on Awnings and Other Weather Structures;
  3. Provide Direction on Maximum Number of Spaces for Parklets; and, Approve the extension of Personal Services Businesses in Office Commercial Zones (Zone O) with an Economic Recovery Agreement

**REMARKS:**

After the distribution of the staff report, staff received the following questions from a Council Member. The questions are in italics and the staff responses follow each of the questions below.

*I have a few of questions about the temporary and semipermanent parklets.*

- *Are there any other restaurants besides Pedro's and Palms that have a parklet exceeding two parallel parking spaces in length? I realize there are businesses that have combined to create larger parklets, but I'm interested in space per business.*
  - The semi-permanent parklet located in front of Rootstock is equivalent to three parallel parking spaces.

**PREPARED BY:** Monica Renn  
Economic Vitality Manager

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

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- Potential locations for parklets greater than two parking spaces include:
- Pedro's kral is currently on Petticoat Lane and N. Santa Cruz Ave., and occupies the equivalent of more than two spaces on each street.
  - The Palms has a large enough frontage to accommodate a parklet over two spaces.
  - Coup de Thai has an application in the process for a space that spans from their store frontage north to the door of the Black Watch which is approximately three parking spaces.
  - The building that houses Lexington House has a large enough frontage for a parklet greater than two parking spaces. While Lexington House is currently the only restaurant located in this building, staff anticipates a second restaurant may join the building in which case the parklet would be shared.
  - Loma Brewing has shown interest in a parklet on Gray's Lane. Initial conversations with the business indicate that their parklet would be the equivalent of more than two, but less than three parallel parking spaces.
  - The new restaurant that will be occupying the former William Sonoma building has indicated interest in a parklet on Gray's Lane that would span the length of their building, approximately the length of three to four parking spaces, and has shown additional interest in a two stall parklet in front of their location on N. Santa Cruz Ave.
  - The current Gardino's kral is larger than two parking spaces, although may be limited to a smaller parklet based on building property line and the current guidelines for the semi-permanent parklets.
  - The current Oren's Hummus kral parklet is larger than two parallel parking spaces and given the building frontage on Main Street, could potentially have a parklet that spans a distance of three or more spaces.
- 
- *What is the Town's legal liability in the semipermanent parklets?*
    - Businesses will be required to sign an agreement requiring indemnity, insurance, and maintenance before building permits are issued.
  
  - *Does the construction by a landlord or business include responsibility for the space?*
    - Yes, the agreement requires that the applicant fully maintain the parklet.
  
  - *The parklets belong to the public outside the specific businesses' hours, correct?*
    - Yes, this is the intent of the program; however, we need clear Town Council direction on this. It has been difficult to enforce as many businesses believe there is a need to lock and secure furniture during non-operating hours and is difficult to do so while creating a space open for full public use.

- *If the Town pays for 50% or even 100% of the cost of building a parklet, does anything change in terms of liability?*
  - It does not, we are still able to execute an agreement for the maintenance of the parklet with the business and/or adjacent property owner.
- *If the Town paid completely for the parklets, would this be materially different than if we revamped all of downtown with wider sidewalks (in the future) and allowed restaurants to have dining right against their buildings, but on that public sidewalk?*
  - The restaurants take a “pride of ownership” and this may be easier to maintain if they have some investment. We would also need to be clear on capital maintenance responsibilities – who fixes the rail when a customer stands on it and breaks it? If the Town were to pay completely for the construction of the parklets, it would be recommended that the furnishing, maintenance, and some level of repairs be the responsibility of the businesses.
- *Could we build the parklets and rent them to businesses? Maybe not much/anything this year, but more as the economy for the businesses recover?*
  - We could. The Town would need to produce a full Public Works project, including plans, specifications, engineering and a bid package. Contractors would be required to pay prevailing wage. The cost estimate is approximately 60% more than having it contracted for privately.
- *If we pay for the parklets, how do we know landlords won't just raise the rent, and the business will have no advantage from the Town? Can we require a rent freeze for businesses that receive parklets? For some period of time?*
  - The Town does not currently involve itself in the private commercial agreements between a landlord and tenant. Properties with parklets are likely to provide more value to a space, thus landlords are likely to capture that value when possible. Property owners can recoup any expenses if they pay for parklet construction or maintenance; however, cannot charge directly for an area they do not own.
  - Commercial rent control is prohibited in California. The laws around commercial rent control vary greatly from those of residential rent control.
- *Can we reclaim Grays Lane as a Town Park? Another parklet in the street will wipe this out. The big chess, games, and piano should be in a public place.*
  - We can reclaim Grays Lane simply by limiting the parklets on that space. Because of the proximity of Loma, Grays Lane will likely continue to be a hangout for those customers. After discussions with both Loma and the future restaurant that will occupy the adjacent building, staff is anticipating two parklets on Grays that run along side each curb line respectively, with space for a ten-foot-wide walkway up the center of the street that connects pedestrians with N. Santa Cruz Ave. Loma

anticipates stopping their parklet prior to the business next door to them, thus some public open space will remain, albeit smaller than the current space. The addition of this second business' parklet and the walkway may activate the space in a different way, and balance the use by Loma.

- The chess game and the Piano can go into a number of places, including Plaza Park, Civic Center, or in temporary parklets.
  
- *Do we have thoughts on any public parklets?*
  - Based on experience during the one-way pilot closure, these tend to be gathering places that are difficult to maintain regularly. There is quite an investment required in staff time and materials, not currently included in the budget or workplans, to provide the upkeep that is required for incidents such as spilled ice cream on Saturday afternoons and trash left behind by guests using the spaces.

Attachment 7 contains public comment received between 11:01 a.m., Monday, April 19, and 11:00 a.m. Tuesday April 20, 2021.

ATTACHMENTS:

Attachments received with the Staff Report:

1. Timeline of Council Discussions and Actions to Date on Economic Recovery
2. Map of existing Temporary Krail and Semi-Permanent Parklets
3. Renderings and photos of Semi-Permanent Parklets and Weather Covering Options
4. Proposed Revised Economic Recovery Resolution
5. Public Comment received before 11:00 a.m. on Thursday, April 15, 2021

Attachment received with previous Addendum Report:

6. Public Comment received between 11:01 a.m., Thursday, April 15, and 11:00 a.m. Monday April 19, 2021.

Attachment received with this Desk Item Report:

7. Public Comment received between 11:01 a.m., Monday, April 19, and 11:00 a.m. Tuesday April 20, 2021.

**From:** Andrea Romano <[REDACTED]>  
**Sent:** Monday, April 19, 2021 1:52 PM  
**To:** Monica Renn <mrenn@losgatosca.gov>  
**Subject:** Re: Parklets & Econ Recovery at Town Council Tomorrow!

Hi Monica. I would like to share some comments regarding the semi permanent parklets. The addition of those parklets has been a wonderful improvement for the town. I can not tell you how many guests we've had who have commented on their appearance and how wonderful it is to be able to sit outside. We really appreciate the opportunity to install one and with Covid the timing could not have been more perfect. It saved our business. We thank the Town for the quick and seamless process of permit review and approval.

One of the challenges we are all dealing with is 'weather' proofing them during extreme heat and wind and cold and rain. I understand the town had originally required that only umbrellas or shades be used for overhead cover. Now that we've had some experience with actual application of umbrellas we are discovering a couple of issues. First, it's difficult to provide full coverage during the rainy season. They are dangerous in high wind, which frankly I didn't realize how bad it truly got until we started using umbrellas. They take off in the wind and it's a little scary. They block the front of our stores and block visibility. We also have had guests squabble over sharing the coverage. The thought of sitting outside in the sun is wonderful until you are sweating, stuck to your chair and your chilled wine becomes lukewarm very quickly. Everyone ultimately requests to be under cover. I have had a corrugated flat roof installed on my parklet. It is all metal and has been structurally welded to withstand wind and extreme conditions. I had the fire department review it and they liked the solution and in fact have been recommending it to others who are using tents with heaters. Our solution is not flammable which of course they support. Finally I'd like to assert that it's ultimately more curb appealing than the various other tents, shades and covers I've seen others using. It provides a much cleaner, streamlined look to the outdoor space. We'd like to continue to use that space during all seasons. Having guests sit outside has added a nice buzz to the downtown. As long as we can keep them comfortable they will continue to sit outside all year round.

Thank you again for all of your support.

Andrea

***Andrea Romano***  
**Owner**