



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 03/27/2019

ITEM NO: 5

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DATE: MARCH 22, 2019

TO: PLANNING COMMISSION

FROM: JOEL PAULSON, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: TOWN CODE AMENDMENT APPLICATION A-19-002. PROJECT LOCATION: TOWN WIDE. APPLICANT: TOWN OF LOS GATOS.  
CONSIDER AMENDMENTS TO CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE REGARDING THE LAND USE APPEAL PROCESS.

RECOMMENDATION:

Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding the land use appeal process.

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 amendments to the Town Code will have a significant effect on the environment.

FINDINGS:

- As required, pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, this project is Exempt, Section 15061(b)(3); and
- That the amendments to Chapter 29 of the Town Code are consistent with the General Plan.

BACKGROUND:

The Town Council Policy Committee requested that amendments to the Town Code to streamline the land use appeal process be placed on a Policy Committee agenda for discussion.

PREPARED BY: SALLY ZARNOWITZ  
Planning Manager

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Reviewed by: Economic Vitality Manager, Planning Manager and Community Development Director

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BACKGROUND (continued):

On July 19, 2018, the Policy Committee considered the matter. Exhibit 2 contains the staff report and Exhibit 3 contains the minutes for the July 19, 2018 meeting. After discussion, the Policy Committee continued the matter and provided the following direction:

- Eliminate Town Code Section 29.20.300;
- Replace the language in Section 29.20.295 of the Town Code with the more general language in the first paragraph of Ordinance 1901;
- Return to the Committee with the draft “Whereas” statements for the proposed Town Code amendments;
- Return to the Committee with legal analysis and options that define who might be eligible to appeal certain projects (E.g., commercial new construction, commercial use change, single-family homes, or larger residential developments); and
- Consider an increase to the Town’s fees for an appeal to achieve cost recovery when the Council considers the results of the fee study.

On December 20, 2018, the matter returned to the Policy Committee. Exhibit 4 contains the staff report and Exhibit 5 contains the minutes for the December 20, 2018 meeting. After discussion, the Policy Committee directed staff to bring forward Town Code amendments to the Planning Commission and the Town Council to implement the following direction:

- Remove the requirement that the Town Council make one of three findings to modify or reverse the decision of the Planning Commission on any appeal;
- Bifurcate the residential and commercial appeal processes, leaving the commercial appeal process unchanged while limiting the distance from a residential project where an eligible appellant (interested person) must reside; and
- Provide an appeal process for Minor Residential Development application decisions.

Regarding removal of the requirement that the Town Council make one of three findings, it should be noted that this direction does not limit the Town Council’s ability to take the same actions currently addressed more explicitly in Town Code Section 29.20.295 or 29.29.300.

Regarding the distance from a residential project where an interested person must reside, the Policy Committee noted that defining an interested person as one who owns property within the same zone of a residential project may be too broad, while defining an interested person as one who owns property or resides within 300 feet of a residential project may be too narrow; and that under the Political Reform Act material financial effect on a public official is assumed for a decision affecting real property value within 500 feet of a property owned by the public official.

DISCUSSION:

A. Public Outreach

Public input has been requested through the following media and social media resources:

- An eighth-page public notice in the newspaper;
- A poster at the Planning counter at Town Hall;
- The Town's website home page, What's New;
- The Town's Facebook page;
- The Town's Twitter account;
- The Town's Instagram account; and
- The Town's NextDoor page.

In addition, the following organizations have been contacted regarding the amendments:

- American Institute of Architects (AIA) Silicon Valley;
- Santa Clara County Association of Realtors (SCCAR); and
- Silicon Valley Association of Realtors (SILVAR).

B. Existing Town Code

Existing Town Code states the following regarding the land use appeal process:

- Town Code Sec. 29.10.020 does not include a definition of the term interested person, and Sec. 29.20.255, Sec. 29.20.257, Sec. 29.20.258, and Sec. 29.20.275 state that any interested person may appeal decisions by the Planning Director, Development Review Committee, Historic Preservation Committee, or Planning Commission;
- Town Code Sec. 29.20.295 and Sec. 29.20.300 require that the Town Council make one of three findings to modify or reverse the decision of the Planning Commission on any appeal; and
- Town Code Sec. 29.20.480 states that a Minor Residential Development application is scheduled before the Planning Commission for consideration at the applicant's cost if an objection to the project is filed in a timely manner and the differences cannot be resolved at the staff level.

C. Proposed Town Code Amendments

The proposed amendments as shown in Exhibit 6 would:

- Include a definition of the term interested person in Town Code Sec. 29.10.020;

DISCUSSION (continued):

- Remove the requirement that the Town Council make one of three findings to modify or reverse the decision of the Planning Commission on any appeal in Town Code Sec. 29.20.295 and Sec. 29.20.300; and
- State that an interested person may appeal the decision by the Planning Director on a Minor Residential Development application to the Planning Commission in Town Code Sec. 29.20.480.

Regarding the definition of the term interested person, the proposed definition would be bifurcated for residential and non-residential or mixed-use projects. The distance from residential projects where an eligible appellant must own property or reside would be limited to 500 feet.

PUBLIC COMMENTS:

No public comments have been received as of the writing of this report.

CONCLUSION:

A. Recommendation

Based on the direction of the Town Council Policy Committee, staff recommends that the Planning Commission review the information included in the staff report and forward a recommendation to the Town Council for approval. The Commission should also include any comments or recommended changes to the draft Ordinance in taking the following actions:

1. Make the 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 1);
2. Make the required finding that the amendments to the Town Code (Zoning Regulations) are consistent with the General Plan (Exhibit 1); and
3. Forward a recommendation to the Town Council for approval of the proposed amendments to Chapter 29 of the Town Code (Exhibit 6).

CONCLUSION (continued):

B. Alternatives

Alternatively, the Commission can:

1. Forward a recommendation to the Town Council for approval of the amendments to Chapter 29 of the Town Code with modifications; or
2. Forward a recommendation to the Town Council for denial of the proposed amendments to Chapter 29 of the Town Code; or
3. Continue the matter to a date certain with specific direction.

EXHIBITS:

1. Required Findings (one page)
2. Town Council Policy Committee Minutes, December 20, 2018, (five pages)
3. Town Council Policy Committee Report, December 20, 2018 (seven pages)
4. Town Council Policy Committee Minutes, July 19, 2018, (three pages)
5. Town Council Policy Committee Report, July 19, 2018 (eight pages)
6. Draft Amendments to Chapter 29 of the Town Code (six pages)

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