



PLANNING COMMISSION MEETING AGENDA

7:00 PM - Thursday, February 16, 2023

via Teleconference

Per California Executive Order N-29-20, the Commission will meet via teleconference only. Members of the Public may call (253) 215-8782 to participate in the conference call (Meeting ID: 821 2462 7496 and Passcode: 648654 or via the web at <https://tinyurl.com/2p8e65af>) Public testimony will be taken at the direction of the Commission Chair and members of the public may only comment during times allotted for public comments. Members of the public are also encouraged to submit written testimony prior to the meeting at PCPublicComment@losaltosca.gov. Emails received prior to the meeting will be included in the public record.

ESTABLISH QUORUM

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Members of the audience may bring to the Commission's attention any item that is not on the agenda. Please complete a "Request to Speak" form and submit it to the Staff Liaison. Speakers are generally given two or three minutes, at the discretion of the Chair. Please be advised that, by law, the Commission is unable to discuss or take action on issues presented during the Public Comment Period. According to State Law (also known as "the Brown Act") items must first be noticed on the agenda before any discussion or action.

ITEMS FOR CONSIDERATION/ACTION

CONSENT CALENDAR

These items will be considered by one motion unless any member of the Commission or audience wishes to remove an item for discussion. Any item removed from the Consent Calendar for discussion will be handled at the discretion of the Chair.

1. Planning Commission Minutes

Approve the minutes of the regular meeting of January 5, 2023.

PUBLIC HEARING

2. Housing Element implementing ordinance for certain provisions of Housing Program 3.H of the Adopted 6th Cycle Housing Element

Approve the Draft Planning Commission Resolution Recommending approval of City Council Ordinance. *Project Manager: Zornes*

COMMISSIONERS' REPORTS AND COMMENTS

POTENTIAL FUTURE AGENDA ITEMS

ADJOURNMENT

SPECIAL NOTICES TO PUBLIC: In compliance with the Americans with Disabilities Act, the City of Los Altos will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk 72 hours prior to the meeting at (650) 947-2720. Agendas, Staff Reports and some associated documents for Commission items may be viewed on the Internet at www.losaltosca.gov/meetings. In compliance with the Americans with Disabilities Act, the City of Los Altos will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk at least 48 hours prior to the meeting at (650) 947-2720. If you wish to provide written materials, please provide the Commission Staff Liaison with 10 copies of any document that you would like to submit to the Commissioners in order for it to become part of the public record. If you challenge any planning or land use decision made at this meeting in court, you may be limited to raising only those issues you or someone else raised at the public hearing held at this meeting, or in written correspondence delivered to the City Council at, or prior to, the public hearing. Please take notice that the time within which to seek judicial review of any final administrative determination reached at this meeting is governed by Section 1094.6 of the California Code of Civil Procedure. For other questions regarding the meeting proceedings, please contact the City Clerk at (650) 947-2720.



**PLANNING COMMISSION
MEETING MINUTES
7:00 PM - Thursday, January 05, 2023
*Telephone/Video Conference Only***

CALL MEETING TO ORDER

At 7:00 p.m. Chair Mensinger called the meeting to order.

ESTABLISH QUORUM

PRESENT: Chair Mensinger, Vice-Chair Ahi, Commissioners Doran, Beninato, Disney, Roche and Steinle

STAFF: Development Services Director Zornes, Planning Services Manager Williams, and City Attorney Houston

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

ITEMS FOR CONSIDERATION/ACTION

CONSENT CALENDAR

1. Planning Commission Minutes

Approve the minutes of the regular meeting of November 17, 2022.

Action: Upon motion by Commissioner Steinle, seconded by Commissioner Doran, the Commission recommended approval of the minutes from the November 17, 2022 Regular Meeting as written.

The motion was approved (7-0) by the following vote:

AYES: Mensinger, Ahi, Beninato, Disney, Doran, Roche and Steinle

NOES: None

PUBLIC HEARING

2. Sixth Cycle Housing Element 2023-2021:

A Resolution of the City Council of the City of Los Altos, California, adopting the Mitigated Negative Declaration (MND), based on its independent analysis that MND was completed in compliance with the California Environmental Quality Act (CEQA); find that there is no substantial evidence that the project will have a significant effect on the environment; and that the MND reflects the City's independent judgment and analysis; approving the 2023-2031 Housing Element of the City's General Plan; and Authorizing the Development Services Director to submit the Housing Element to the California Department of Housing and Community Development (HCD) for its consideration and certification. *Project Manager: Zornes*

Development Services Director Zornes and Dave Bergman and Stefano Richichi from Lisa Wise Consulting gave a presentation.

Development Services Director Zornes, consultants Stefano Richichi and Dave Bergman, and City Attorney Houston answered questions from Commissioners.

Chair Mensinger opened the public comment period.

Resident Anne Paulson, Susan Russell from the League of Women Voters, and resident Jon Baer provided comments.

Chair Mensinger closed the public comment period and Commission discussion proceeded.

Action: Upon a motion by Commissioner Steinle, seconded by Commissioner Doran, the Commission recommended approval to Adopt Planning Commission Resolution No. PC-2023-01 recommending adoption of City Council Resolution No. CC-2023-XX of the 6th Cycle Housing Element 2023-2031 and Mitigated Negative Declaration (MND) in compliance with State law, with the following changes:

- Amend the language in Program 3H to modify the 10-day appeal period to 14 calendar days.

The motion was approved (7-0) by the following vote:

AYES: Mensinger, Ahi, Beninato, Disney, Doran, Roche and Steinle

NOES: None

COMMISSIONERS' REPORTS AND COMMENTS

None.

POTENTIAL FUTURE AGENDA ITEMS

Planning Services Manager Williams stated that the January 19, 2023 Planning Commission meeting will be cancelled.

ADJOURNMENT

Chair Mensinger adjourned the meeting at 9:09 PM.

Stephanie Williams
Planning Services Manager



AGENDA REPORT SUMMARY

- Meeting Date:** February 16, 2023
- Subject:** Housing Element implementing ordinance for certain provisions of Housing Program 3.H of the Adopted 6th Cycle Housing Element.
- Prepared by:** Nick Zornes, Development Services Director
- Attachment(s):** 1. Draft City Council Ordinance with Appendix A, B, C, and D
2. Petition for Writ of Mandate – California Housing Defense Fund, Yes In My Back Yard v. City of Cupertino
- Initiated by:** Adopted 6th Cycle Housing Element 2023-2031

Fiscal Impact

No fiscal impacts to the City of Los Altos are associated with the draft ordinance. However, it is important to note that should the adoption of this ordinance not take place the City of Los Altos runs the risk of losing State funding (grants, etc.), and potential legal fees and penalties associated with housing element noncompliance.

Environmental Review

The proposed ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

Staff Recommendation

1. Approve Draft Planning Commission Resolution Recommending approval of City Council Ordinance.

Summary and Key Considerations

The draft resolutions before the City Council are implementing adopted programs from the City's 6th Cycle Housing Element 2023-2031. Both actions are explicitly called out in the adopted housing element and were designed to remove any barriers or impediments to the creation of new housing within Los Altos.

Background

Prepared By:

Development Services Director

NZ



Subject: Housing Element implementing ordinance for certain provisions of Housing Program 3.H of the Adopted 6th Cycle Housing Element.

On January 24, 2023, the Los Altos City Council adopted the City's 6th Cycle Housing Element 2023-2031. As required by law the adopted housing element has several housing programs contained within. The City of Los Altos identified specific programs in its housing element that will allow it to implement the stated policies and achieve the stated goals and objectives.

Programs must include specific action steps the City will take to implement its policies and achieve its goals and objectives. Programs must also include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, describe the city's specific role in implementation, and (whenever possible) identify specific, measurable outcomes.

Analysis

The City's adopted 6th Cycle Housing Element 2023-2031, included Program 3.H. The housing program contains several deliverables of those the following necessitate the proposed ordinance amendments: 1. Consolidation of the Design Review Commission and Planning Commission, 2. Designate the Development Services Director as the review authority for projects of five or fewer residential units, 3. Limit the Number of Public Hearing to no more than three (3) for Design Review projects only, 4. Designate the City Council only as the Appeal Authority for Land Use decisions, 5. Clarify that appeal of decisions on housing developments shall be only on objective standards and must be filed within 14 calendar days (this has been highlighted in yellow below). The draft resolution included in this agenda packet effectively completes these deliverables as explicitly called out within the housing program.

Program 3.H: Amend design review process and requirements.

The City's Design Review Commission and Planning Commission had previously been one commission with a Design Review Committee comprised of two assigned Planning Commissioners. In recent years the purview of land use and design review was split into two separate commissions, currently the Planning Commission and Design Review Commission. The current structure of the Design Review Commission is a five-person body appointed by the City Council, while the Planning Commission is a seven-person body. Recent changes in State law drastically reduced the Design Review Commission's purview, and the City's well-developed objective design standards for a variety of development types (adopted in 2021) effectively created an Administrative Design Review that has been well



Subject: Housing Element implementing ordinance for certain provisions of Housing Program 3.H of the Adopted 6th Cycle Housing Element.

implemented by City staff. In order to remove constraints arising from design review, the City will:

- *Consolidate the Design Review Commission and Planning Commission into one body comprised of a maximum of seven appointed residents which will review mixed-use, multi-family and commercial developments, consistent with the majority of jurisdictions throughout the County of Santa Clara;*
- *Eliminate 3rd party independent architect review (which applies to projects in the downtown);*
- *Amend its Zoning Code to allow any design review and discretionary approvals for a project of five or fewer units to be approved by the Development Services Director;*
- *When hearings are required, limit the number of hearings for solely design review approval (i.e., not including subdivision maps or other applications that may be involved) to no more than three hearings;*
- *Develop standard conditions of approval to provide consistency and certainty to applicants and approving bodies;*
- *Modify its design review process and applicability thresholds so that City Council serves only as the decision-making authority for appeal of design review and land use decisions, consistent with the majority of jurisdictions throughout the County of Santa Clara;*
- *Clarify that decisions on appeals of housing developments must be based on objective standards consistent with State law and any appeal filed with the City shall be done within 14 calendar days post project approval; and*
- *Amend its Zoning Code to ensure that housing developments and emergency shelters are only subject to objective design standards consistent with State law.*

Responsible Body: *Development Services Department, Planning Commission, City Council*

Funding Source: *General Fund*

Time Frame: *Any code amendments required to be completed by December 2023; Design Review Commission to be dismissed and duties reassigned to Development Services Director upon local adoption of the 6th Cycle Los Altos Housing Element or sooner. Evaluate progress and take additional action if improvements in the design review process have not resulted by January 2027.*

Objective: *The time for City review of and action on residential, mixed-use and multi-family developments will be shortened compared to typical processing times (see Appendix C, Table C-8) with the reduction of discretionary reviews and commissions.*



Subject: Housing Element implementing ordinance for certain provisions of Housing Program 3.H of the Adopted 6th Cycle Housing Element.

Discussion

The actions included within the attached draft ordinance are requirements pursuant to the City's adopted 6th Cycle Housing Element. Once a jurisdiction takes final action by adopting its housing element this requires immediate action in order to remain compliant with State housing law. The City of Los Altos Housing Element contains **26** major action items or milestones that must be completed within the first 12-months post adoption. The draft ordinance will effectively accomplish the majority of 1 of the 26 items or milestones to be achieved in the first 12-months.

Should the Los Altos Planning Commission not recommend approval of the draft ordinance the City will be vulnerable to penalties and consequences of housing element noncompliance. HCD is authorized to review any action or failure to act by a local government that it determines is inconsistent with an adopted housing element or housing element law. This includes failure to implement program actions included in the housing element. HCD may revoke housing element compliance if the local governments actions do not comply with state law. Examples of penalties and consequence of housing element noncompliance:

- **General Plan Inadequacy:** the housing element is a mandatory element of the General Plan. When a jurisdiction's housing element is found to be out of compliance, its General Plan could be found inadequate, and therefore invalid. Local governments with an invalid General Plan can no longer make permitting decisions.
- **Legal Suites and Attorney Fees:** local governments with noncompliant housing elements are vulnerable to litigation from housing rights' organization, developers, and HCD. If a jurisdiction faces a court action stemming from its lack of compliance and either loses or settles the case, it often must pay substantial attorney fees to the plaintiff's attorneys in addition to the fees paid by its own attorneys. Potential consequences of lawsuits include: mandatory compliance within 120 days, suspension of local control on building matters, and court approval of housing developments.
- **Loss of Permitting Authority:** courts have authority to take local government residential and nonresidential permit authority to bring the jurisdiction's General Plan and housing element into substantial compliance with State law. The court may suspend the locality's authority to issue building permits or grant zoning changes, variances, or subdivision map approvals – giving local governments a strong incentive to bring its housing element into compliance.
- **Financial Penalties:** court-issued judgement directing the jurisdictions to bring its housing element into substantial compliance with state housing element law. If a jurisdiction's



Subject: Housing Element implementing ordinance for certain provisions of Housing Program 3.H of the Adopted 6th Cycle Housing Element.

housing element continues to be found out of compliance, courts can multiply financial penalties by a factor of six.

- Court Receivership: courts may appoint an agent with all powers necessary to remedy identified housing element deficiencies and bring the jurisdiction's housing element into substantial compliance with housing element law.

Petition for Writ of Mandate – California Housing Defense Fund, Yes In My Back Yard v. City of Cupertino.

So that the Planning Commission and public are well-informed the City of Los Altos has included this information with this agenda item so that all circumstances are understood as housing law is rapidly evolving.

As of Friday, February 3, 2023, Californians for Homeownership, California Housing Defense Fund, and YIMBY Law had filed 12 lawsuits in Contra Costa, Santa Clara, Marin, and San Mateo County Superior Courts with the intention to file more in the coming weeks. The cities and counties sued include: Belvedere, Burlingame, Cupertino, Daly City, Fairfax, Martinez, Novato, Palo Alto, Pinole, Pleasant Hill, Richmond, and Santa Clara County. Each municipality has been sued by one or two of the non-profits.

With the Bay Area's 109 cities and counties at widely varied stages in the process of Housing Element adoption and compliance, these twelve lawsuits mark the first round of what will likely be many rounds of judicial review for noncompliance with state housing law in the Bay Area. The initial lawsuits focus on cities with a long history of exclusionary housing practices, cities that adopted housing elements unlawfully, and localities that have made little progress in developing their draft housing elements. The organizations will continue to file suits in the coming weeks, prioritizing cities with the most egregious violations in each organization's judgment.

A Petition for Writ of Mandate in the State of California is used by superior courts, courts of appeal and the Supreme Court to command lower bodies (such as lower level of government agencies, in this case a city) to do or not do specific actions. In this case, a Writ of Mandate can result in the city being directed to adopt a compliant housing element or other associated actions in order to comply with State law. A Writ of Mandate could also be petitioned for and direct a city to specifically implement programs that were included in their adopted housing element.

Given the current legal climate around housing element law it is vital for the City of Los Altos to expeditiously implement the adopted 6th Cycle Housing Element 2023-2031. As noted above the



Subject: Housing Element implementing ordinance for certain provisions of Housing Program 3.H of the Adopted 6th Cycle Housing Element.

potential legal risks associated with housing element noncompliance could be further enforced by similar legal actions.

Planning Commission Purview

The Planning Commission Purview is limited to amendments that are contained within Title 14-Zoning of the Los Altos Municipal Code. Contained within the agenda packet this evening are four (4) appendices; Appendix B, and C are contained within Title 14 and under the purview of the commission, while Appendix A, and D are not contained within Title 14, therefore they are not under consideration tonight. The Planning Commission only has recommendation authority for Appendix B, and C.

Next Steps

The Planning Commission recommendation will be taken to the City Council for first reading on February 28, 2023, and second reading on March 14, 2023.

ORDINANCE NO. 2023-__

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AMENDING CHAPTERS 2.08, 12.44, 13.04, 14.76, AND 14.78 OF THE LOS ALTOS
MUNICIPAL CODE TO IMPLEMENT CERTAIN PROVISIONS OF PROGRAM 3.H
OF THE SIXTH CYCLE HOUSING ELEMENT UPDATE**

WHEREAS, the City Council is empowered pursuant to Article XI, Section 7 of the California Constitution to make and enforce within the City all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, on January __, 2023, the City Council approved the City’s Sixth Cycle Housing Element Update; and

WHEREAS, the Housing Element Update includes programs to eliminate unnecessary governmental constraints to housing development within the City of Los Altos; and

WHEREAS, Program 3.H of the Housing Element Update calls for the dissolution of the Design Review Commission, and indicates that housing development projects of five or fewer units should be subject to staff-level review and approval; and

WHEREAS, Program 3.H of the Housing Element Update calls for the modification of the design review process and applicability so that City Council serves only as the decision-making authority for appeal of design review and land use decisions; and

WHEREAS, Program 3.H of the Housing Element Update sets a maximum of 14 calendar days post project approval to file an appeal on decisions of housing developments, and sets forth that any appeal filed shall be on the basis of objective standards consistent with State law; and

WHEREAS, Program 3.K of the Housing Element Update calls for the standardization of multimodal transportation review to be incorporated into the Los Altos Zoning Code allowing for transparent and consistent application of the code; and

WHEREAS, Public Hearing Notice shall be consistent with Government Code Section 65091 to effectively further implement the Housing Element Update by eliminating impediments in the creation of housing; and

WHEREAS, having committed itself to implement Housing Element Update in its entirety, the City Council now desires to adopt this Ordinance; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended;

NOW, THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CHAPTER 2.08 OF THE MUNICIPAL CODE. Certain provisions of Chapter 2.08 of the Los Altos Municipal Code is hereby amended as set forth in Appendix D to this Ordinance, ~~strikeout~~ indicating deletion and underline indicating addition.

SECTION 2. AMENDMENT OF CHAPTER 12.44 OF THE MUNICIPAL CODE. Certain provisions of Chapter 12.44 of the Los Altos Municipal Code are hereby amended as set forth in Appendix A to this Ordinance, ~~strikeout~~ indicating deletion and underline indicating addition. Except as otherwise shown in Appendix A, no other provision of Chapter 12.44 is amended hereby.

SECTION 3. AMENDMENT OF CHAPTER 13.04 OF THE MUNICIPAL CODE. Section 13.04.030 is hereby added to the Los Altos Municipal Code to read as follows: “Notwithstanding any other provision of this title, the approval authority for any tentative or parcel map for a housing development project of five or fewer units shall be the zoning administrator, as further set forth in section 14.78.020.D of this code.”

SECTION 4. AMENDMENT OF CHAPTER 14.76 OF THE MUNICIPAL CODE. Chapter 14.76 of the Los Altos Municipal Code is hereby amended as set forth in Appendix B to this Ordinance, ~~strikeout~~ indicating deletion and underline indicating addition.

SECTION 5. AMENDMENT OF CHAPTER 14.78 OF THE MUNICIPAL CODE. Chapter 14.78 of the Los Altos Municipal Code is hereby amended as set forth in Appendix C to this Ordinance, ~~strikeout~~ indicating deletion and underline indicating addition.

SECTION 6. CONSTITUTIONALITY; AMBIGUITIES. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions hereof. Any ambiguities in the Los Altos Municipal Code created by this Ordinance shall be resolved by the Director of Development Services, in their reasonable discretion, after consulting the City Attorney.

SECTION 7. PUBLICATION. This Ordinance shall be published as provided in Government Code Section 36933.

SECTION 8. EFFECTIVE DATE. This Ordinance shall be effective upon the commencement of the thirty-first day following the adoption hereof.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on __, 2023, and was thereafter, at a regular meeting held on __, 2023, passed and adopted by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Sally Meadows, MAYOR

Attest:

Angel Rodriguez, INTERIM City Clerk

**APPENDIX A
AMENDMENTS TO CHAPTER 12.44**

APPENDIX B
AMENDMENTS TO CHAPTER 14.76

**APPENDIX C
AMENDMENTS TO CHAPTER 14.78**

**APPENDIX D
AMENDMENTS TO CHAPTER 2.08**

Chapter 12.44 HISTORIC PRESERVATION¹

Sections:

Article 1. General Provisions

12.44.010 Purpose.

It is hereby declared as a matter of public policy that the recognition, preservation, enhancement and use of historic resources within the City of Los Altos is required in the interest of health, economic prosperity, cultural enrichment and general welfare of the people. The purpose of this chapter is to:

- A. Safeguard the heritage of the city by providing for the protection of irreplaceable historic resources representing significant elements of its history;
- B. Enhance the visual character of the city by encouraging the compatibility of architectural styles which reflect established architectural traditions;
- C. Encourage public knowledge, understanding and appreciation of the city's past, and foster civic and neighborhood pride and sense of identity based upon the recognition and use of the city's historic resources;
- D. Stabilize and improve property values within the city and increase the economic and financial benefits to the city and its inhabitants derived from the preservation, rehabilitation, and use of historic resources;
- E. Integrate the conservation of historic resources into the public and private development process and identify as early as possible and resolve conflicts between the preservation of such resources and alternative land uses; and
- F. Fulfill the city's responsibilities for Federal Section 106 reviews and for the California Environmental Quality Act.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.020 Area of application.

This chapter shall apply to all historic resources listed in the historic resources inventory, historic landmarks and properties, and structures.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

¹Editor's note(s)—Ord. No. 2011-363, § 1, adopted March 8, 2011, amended Ch. 12.44 in its entirety to read as herein set out. The former Ch. 12.44, §§ 12.44.010—12.44.220, pertained to similar subject matter and derived from Ord. No. 04-257, § 1(part) and Ord. No. 08-324, § 2(part). Previously, said chapter derived from §§ 2-8.101, 2-8.102 and 2-8.301—2-8.504 of the prior code.

12.44.030 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context or the provision clearly requires otherwise:

"Alteration" means any act or process that changes any portion of the exterior architectural appearance of a structure or object, including, but not limited to, the erection, construction, reconstruction, removal of exterior architectural features or details, or the addition of new structures, but does not include painting, ordinary maintenance and landscaping.

"California Historical Building Code" is Part 8 of Title 24 (State Building Standards Code) and applies to all qualified historic structures and sites, designated under federal, state and local authority. It provides alternative building regulations for the rehabilitation, preservation, restoration or relocation of structures designated as qualified historic buildings.

"California Office of Historic Preservation" means the governmental agency primarily responsible for the statewide administration of the historic preservation program in California.

"California Register of Historical Resources" is a comprehensive listing of California's historical resources, including those of local, state and national significance.

"Character defining features" means the defining elements, such as prominent architectural features, materials, craftsmanship or other elements, that, individually or in combination, identify a historic property, building or landscape.

"Commission staff" means the staff liaison assigned to the historical commission.

"DPR 523" means the California Department of Parks and Recreation Historic Resource Inventory Forms used for historic evaluations. The DPR 523A form provides descriptive information about a resource. The DPR 523B form provides an evaluation of the resources and includes a determination as to whether the resource is eligible for the National or State Register of Historic Places or listing on the Los Altos Historic Resources Inventory.

"Exterior architectural feature" means the architectural elements embodying style, design, general arrangement and components of all the outer surfaces of an improvement, including but not limited to, the kind, size, shape and texture of building materials, and the type and style of windows, doors, lights, signs and other fixtures appurtenant to such improvement.

"Historic landmark" means a building, improvement, structure, natural feature, site or area of land, under single or common ownership that has significant historical, architectural, cultural, and/or aesthetic interest or value, and is designated as a historic landmark by the city council.

"Historic resource" is a property or structure that has been determined to be over fifty (50) years old, retains its physical integrity, has historical, architectural, cultural, and/or aesthetic value, and is listed on the historic resources inventory.

"Historic resources inventory" means the city's official inventory of the historic resources, as adopted and amended from time to time by resolution of the historical commission and/or the city council. A property or structure must be designated as a historic landmark or a historic resource in order to be listed.

"Historical commission" is a seven-member advisory commission appointed by the city council that is tasked with maintaining the historic resources inventory, making recommendations on historic landmarks, working with property owners on preservation, maintenance and other development activities related to historic resources, and other activities as identified in the municipal code.

"Improvement" means any building, structure, parking facility, wall, work of art or other appurtenance or addition thereto constituting a physical betterment of real property or any part of such betterment.

"Integrity" is the authenticity of the characteristics, also referred to as character defining features, from which resources derive their significance. Integrity is the composite of seven qualities: location, design, setting, materials, workmanship, feeling and association.

"Mills Act" is an economic incentive program in California for the restoration and preservation of qualified historic structures. Enacted in 1972, the Mills Act grants participating local governments the authority to enter into contracts with owners of qualified historic properties to reduce the property tax assessment in exchange for the restoration and maintenance of the historic resource.

"National Register of Historic Places" is the official inventory of districts, sites, buildings, structures and objects significant in American history, architectural, archeology and culture, maintained by the Secretary of Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966.

"Preservation" means the act of identification, study, protection, reconstruction, restoration, rehabilitation or enhancement of historic and/or cultural resources.

"Reconstruction" means the act or process of reproducing by new construction, the exact form and detail of a vanished building, structure or any part thereof, as it appeared at a specific period of time.

"Rehabilitation" means the act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural value.

"Restoration" means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

"Secretary of Interior's Standards" are the Federal Standards for the Treatment of Historic Properties that are utilized in the identification, evaluation, registration and treatment of historic properties. The list of ten (10) Rehabilitation Standards, published as the Secretary of the Interior's Standards, is aimed at retaining and preserving those features and materials that are important in defining the historic character of a resource.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437 , § 1, 3-13-2018)

Article 2. Designation of Historic Resources

12.44.040 Criteria for designation.

A structure, property or object may be eligible for designation as a historic resource or historic landmark, if it/they satisfy each of the three criteria listed below:

- A. Age. A structure or property should be more than fifty (50) years in age. (Exceptions can be made to this rule if the building(s) or site(s) is/are truly remarkable for some reason - such as being associated with an outstanding architect, personage, usage or event).
- B. Determination of Integrity. A structure or property should retain sufficient historic integrity in most of the following areas:
 1. Design: The combination of elements that create the form, plan, space, structure and style of a property.
 2. Setting: The physical environment of a historic property.
 3. Materials: The physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.

4. Workmanship: The physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
 5. Feeling: A property's expression of the aesthetic or historic sense of a particular period of time.
- C. Historic Significance. A structure or property should be clearly associated with one or more of the following areas of significance:
1. Event: Associated with a single significant event or a pattern of events that have made a significant contribution to broad patterns of local or regional history, or cultural heritage of California or the United States;
 2. Person/People: Associated with the lives of persons important to the local, California or national history;
 3. Architecture/Design: Embodies the distinctive characteristics of a design-type, period, region or method of construction, or represents the work of a master or possesses high artistic value; or
 4. Archaeology: Yields important information about prehistory or history of the local area, California or the nation.

The city's historic resource evaluation methodology, which provides more details about the above listed criteria, is available from the planning division.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

12.44.050 Applications for designation.

- A. Applications for designation as a historic landmark, or listing a historic resource on the historic resources inventory may be initiated by the owner or owners of a building, improvement, structure, natural feature, site or area of land, requesting designation of their property as a historic resource or historic landmark.
- B. The city council or the planning commission may, by resolution or motion, refer a proposed designation to the historical commission. The historical commission may also consider a proposed designation upon its own initiative or by referral by the ~~community~~ development services director.
- C. Applications for designation as a historic landmark, or listing a historic resource on the historic resources inventory shall be made to the historical commission. Applications must be accompanied by such historical and architectural information as is required by the historical commission in order to make an informed recommendation concerning the request.

Applications for designation shall be acted on as set forth in sections 12.44.050, 12.44.060 and 12.44.070 of this chapter.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

12.44.060 Historic resource listing.

- A. Once the application for designating a property as a historic resource and listing it on the historic resources inventory has been received, the historical commission shall consider the request at its next available scheduled meeting.
- B. The commission shall conduct a public hearing to consider the proposed listing. Notice of the hearing shall be given at least ten (10) days prior to the date of the hearing by mail to the applicant, to the owner or owners of the property and to the owners of abutting properties, and by posting a notice on the property near the front property line in accordance with the standards set by commission staff.

- C. The commission shall consider the proposed historic resource and determine whether or not the property satisfies the three criteria outlined in Section 12.44.040. The commission shall by motion either approve or disapprove the designation of the property as a historic resource and listing it in the historic resources inventory.
- D. If the commission approves the historic resource for listing on the historic resources inventory, the listing shall become effective immediately and the designated property shall be subject to the regulations set forth in this chapter.
- E. Until final action has been taken by the commission on the request to list a property, no building, alteration, grading, demolition or tree removal permit(s) shall be issued for any work to be performed upon or within the subject property, unless approved by the historical commission or the community development services director. This restriction shall become effective as of the time the application is submitted, and shall extend until the commission has taken action.
- F. Within fifteen (15) days of the action taken by the historical commission, the decision may be appealed to the city council. The appeal may be filed by the applicant or any interested party.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.070 Historic landmark designation.

- A. Once the application for the proposed designation has been received, the historical commission shall consider the request at its next available scheduled meeting.
- B. The commission shall conduct a public hearing to consider the proposed designation. Notice of the hearing shall be given at least ten (10) days prior to the date of the hearing by publication in at least one newspaper of general circulation within the city, by mail to the applicant, to the owner or owners of the property, and to the owners of abutting properties, and by posting a notice on the property near the front property line in accordance with the standards set by commission staff.
- C. The commission shall make a recommendation to the city council on the proposed designation. In order to make a positive recommendation, the commission shall make the following findings:
 - 1. That the proposed historic landmark satisfies the three criteria outlined in Section 12.44.040; and
 - 2. That the proposed landmark has special historical, cultural, archeological, scientific, architectural or aesthetic interest or value as part of the heritage or history of the city, the county, the state or the nation.
- D. The city council shall consider the proposed designation at its next available regular meeting and determine whether or not to accept the historical commission's recommendation. The city council shall by resolution either approve the proposed designation, in whole or in part or as modified, or shall, by motion, disapprove the proposal in its entirety.
- E. If the city council approves the landmark designation, the resolution shall become effective immediately and the designated property shall be subject to the regulations set forth in this chapter and to such further restrictions or controls as may be specified in the designating resolution.
- F. Adoption of a designating resolution by the city council shall be based upon the findings outlined in subsection (C) of this section.
- G. Until final action has been taken by the city council on the proposed landmark, no building, alteration, grading, demolition or tree removal permit(s) shall be issued for any work to be performed upon or within the subject property, unless approved by the historical commission or the city council. This restriction shall

become effective as of the time the application is submitted, and shall extend until the designating resolution becomes effective.

(Ord. No. 2011-363, § 1, 3-8-2011)

12.44.080 Notice of designation.

- A. Following adoption by the city council of a resolution designating a historic landmark, the commission staff shall send notice of the designation, together with a copy of the resolution or ordinance, to the owner or owners of the designated historic landmark. The city council also shall send notice of the designation to:
1. The Santa Clara County Historical Heritage Commission; and
 2. The California State Historic Preservation Officer.
- B. The designating resolution or ordinance shall be recorded with the county clerk-recorder.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Ord. No. 2017-437, § 1, adopted March 13, 2018, repealed § 12.44.080, which pertained to historic district designation, and derived from Ord. No. 2011-363, § 1, adopted March 8, 2011, and subsequently renumbered the remaining sections 12.44.090—12.44.220 as 12.44.080—12.44.210. Historical notations for former sections have been retained for reference.

12.44.090 Termination of designation.

The only legitimate reason for terminating the designation of a historic resource or historic landmark is when clear evidence is presented that shows the resource no longer meets the criteria of Section 12.44.040 due to loss of integrity and/or historic significance.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.100, see editor's note § 12.44.080.

Article 3. Permits

12.44.100 Applicability.

- A. For historic landmark properties, a historical alteration permit (Section 12.44.150) is required in order to alter, demolish, remove, relocate or change any exterior architectural features of the designated landmark structure(s), or remove or relocate any improvements, structures or natural features that contribute to the integrity or the historic significance of the historic landmark.
- B. For historic resources listed on the historic resources inventory, an advisory review (Section 12.44.140) is required in order to alter, demolish, remove, relocate or otherwise change in any manner any exterior architectural feature or natural feature that contributes to the integrity or the historic significance of a historic resource.
- C. For subsection (B) of this section, the historical commission's review will take into account whether or not the proposed work adversely affects the physical integrity or the historic significance of the resource. The historical commission's recommendation to the ~~community~~ development services director, ~~design review commission~~, planning commission, or city council, shall be advisory only.

- D. For non-residential properties that are historic landmarks or historic resources, non-permanent improvements such as signage, awnings and landscaping that do not adversely affect the physical integrity or the historic significance of the resource may be exempted from historical commission review by the community development services director.
- E. For residential properties that are historic landmarks or historic resources, improvements such as swimming pools, fences, minor accessory structures such as trellises or barbecues, and landscaping that do not adversely affect the physical integrity or the historic significance of the resource may be exempted from historical commission review by the community development services director.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.110, see editor's note § 12.44.080.

12.44.110 Applications.

Applications for historical alteration permits or advisory review shall be submitted to the community development services director. Applications shall include the following information:

- A. A clear statement of the proposed work;
- B. A site plan showing all existing buildings, structures, trees over six inches in diameter, property lines, easements and the proposed work;
- C. Detailed plans showing both the existing and proposed exterior elevations, including a street elevation, photographs of windows and/or special features, materials and grading;
- D. Specifications describing all materials to be used and all processes that would affect the appearance or nature of the materials;
- E. Notes indicating any deviation from the Secretary of the Interior's Standards for Historic Rehabilitation; and
- F. Such other information or documents as may be requested by the community development services director or the historical commission.

Applications shall be noticed as set forth in section 12.44.120 and shall be acted on as set forth in section 12.44.130 and 12.44.140 of this chapter.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.120, see editor's note § 12.44.080.

12.44.120 Notice of public meetings.

- A. Notification shall be provided when an application for a historical alteration permit is required for a historic landmark. Applicants shall be responsible for providing notification via first class mail to the adjoining property owners, in the manner set forth by the commission staff, at least ten (10) days prior to the meeting at which the application is to be reviewed. The property owners who shall be mailed notice include, but are not limited to, the following:
1. The two adjoining property owners on each side;
 2. The three adjoining rear property owners; and
 3. The five adjoining front property owners across the street.

4. As deemed appropriate or necessary, the commission staff may require that notification be mailed to a greater or lesser number of property owner(s) than are identified above based on the configuration of the properties adjoining the site of the application.
 5. Notice shall also be posted on the project site near the front property line in accordance with the standards set by the commission staff.
- B. Notice shall be provided when an application for an advisory review is required for a historic resource. Applicants shall be responsible for posting a notice on the project site near the front property line in accordance with the standards set by the commission staff.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.130, see editor's note § 12.44.080.

12.44.130 Advisory review.

- A. For projects that require an advisory review, the historical commission shall complete its review and issue a recommendation at its next available scheduled meeting. In order to recommend approval, the commission shall find that:
1. The project complies with all provisions of this chapter; and
 2. The project does not adversely affect the physical integrity or the historic significance of the subject property.
- B. The historical commission recommendation shall be forwarded to the ~~community~~ development services director, ~~the design review commission~~, the planning commission, or the city council to be considered as part of their decision.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.140, see editor's note § 12.44.080.

12.44.140 Historical alteration permit.

- A. For projects that require a historical alteration permit, the historical commission shall complete its review and issue a decision at its next available scheduled meeting. In order to approve a permit, the commission shall find that:
1. The project complies with all provisions of this chapter; and
 2. The project does not adversely affect the physical integrity or the historic significance of the subject property.
 3. The project is in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- B. If the historical commission approves the historical alteration permit, or approves such permit subject to conditions, the ~~community~~ development services director shall issue the permit in accordance with the recommendation, provided that no other approval is required under this code. In the event the historical commission recommends denial of the permit, the ~~community~~ development services director shall notify the applicant that the requested permit will not be granted.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.1500, see editor's note § 12.44.080.

12.44.150 Appeal.

Within ~~fifteen~~fourteen (154) days of any approval or denial by the historical commission, the decision may be appealed to the city council. The appeal may be filed by the applicant or any interested party and shall be accompanied by a fee to cover the administrative cost of handling the appeal as set by city council resolution.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.160, see editor's note § 12.44.080.

Article 4. Miscellaneous Provisions

12.44.160 Incentives for preserving historic resources.

- A. California Historical Building Code. It is the purpose of the state historical building code to provide regulations and standards for the rehabilitation, preservation, restoration (including related reconstruction) or relocation as applicable to all historical buildings, structures and properties deemed of importance to the history, architecture, or culture of an area by an appropriate local or state governmental jurisdiction. Such standards and regulations are intended to facilitate the restoration or change of occupancy so as to preserve their original or restored elements and features, to encourage energy conservation and a cost effective approach to preservation, and to provide for reasonable safety from fire, seismic forces or other hazards for occupants and users of such "buildings, structures and properties" and to provide reasonable availability and usability by the physically disabled. The state historical building code is defined in sections 18950 to 18961 of Division 13, Part 2.7 of Health and Safety Code (H&SC) Health and Safety Code, a part of California Law.
- B. Economic incentives. In order to carry out more effectively and equitably the purposes of this chapter, the city council may, by resolution, adopt a program of economic (i.e., Mills Act contracts) and other incentives to support the preservation, maintenance and appropriate rehabilitation of the city's historic resources.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.170, see editor's note § 12.44.080.

12.44.170 Hardship.

Notwithstanding the criteria of this chapter, the ~~community~~ development ~~services~~ director, on the recommendation of the historical commission ~~or design review commission~~, or the planning commission or city council on appeal, may approve an application for a permit to conduct any proposed work upon or within a historic resource or historic landmark if the applicant presents clear and convincing evidence demonstrating that a disapproval of the application will cause immediate and substantial hardship on the applicant because of conditions peculiar to the person seeking to carry out the proposed work or because of conditions peculiar to the particular improvement, building, structure, topography or other feature involved. If a hardship is found to exist under this section, the historical commission ~~or the design review commission~~ or the planning commission or city council shall make a written finding to that effect, and shall specify the facts and reasons relied upon in making such finding.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437, § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.180, see editor's note § 12.44.080.

12.44.180 Fees.

- A. No fee shall be charged for the filing, processing or public noticing of any application for designation.
- B. The city council shall by resolution adopt a schedule of fees to be charged for any application for termination of a designation, for the filing and processing of applications for any permit required under this chapter, and for appeals pursuant to this chapter.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437 , § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.190, see editor's note § 12.44.080.

12.44.190 Ordinary maintenance and repair.

Nothing in this chapter shall be construed to prevent the ordinary maintenance, painting, landscaping or repair of any exterior feature in or upon any historic resource or historic landmark that does not involve a change in design, material or the external appearance thereof, nor does this chapter prevent the construction, reconstruction, alteration, restoration, demolition or removal of any historic resource or historic landmark which has been certified by the city building inspector, or fire chief, or other code enforcement officer as being in unsafe or dangerous condition which cannot be rectified through the use of the California State Historic Building Code.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437 , § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.200, see editor's note § 12.44.080.

12.44.200 Duty to keep in good repair.

- A. The owner, occupant or the person in actual charge of a historic resource or a historic landmark shall keep and maintain in good condition and repair all exterior portions of the improvement or structure, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature or natural feature.
- B. It shall be the duty of the ~~development services director or their designee building official~~ to enforce this section.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437 , § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.210, see editor's note § 12.44.080.

12.44.210 Enforcement.

The violation of any provision contained in this chapter is hereby declared to be unlawful and shall constitute a misdemeanor, subject to the penalties as prescribed in Title 1, Chapter 1.20 of this code.

(Ord. No. 2011-363, § 1, 3-8-2011; Ord. No. 2017-437 , § 1, 3-13-2018)

Editor's note(s)—Former § 12.44.220, see editor's note § 12.44.080.

Chapter 14.76 DESIGN REVIEW—SINGLE-FAMILY DISTRICTS¹

14.76.010 Purpose.

~~It is the policy of the city to review the proposed construction or exterior alterations of single-family dwellings and accessory structures under circumstances which include, but are not limited to, where such structures might constitute an unreasonable invasion of privacy, unreasonable interference with views, light and air, or create adverse impacts upon the aesthetic character of neighboring residential structures.~~ The purpose of this section is to establish a set of criteria, objectives and procedures to be followed with respect to the design review of any proposed single-family main or accessory structure, or addition or alteration thereto, and to insure that the new development occurs in a manner which is consistent with the objectives of this chapter, the objective design criteria of single-family residential objective design guidelines, and the goals and policies of the general plan.

(Ord. No. 2012-381, § 1, 5-22-2012)

14.76.020 Single-family residential objective design guidelines.

Any new main or accessory structure, or addition or alteration thereto, shall be consistent with the policies and implementation techniques described in the single-family residential objective design guidelines as adopted by the city council.

(Ord. No. 2012-381, § 1, 5-22-2012)

14.76.030 Requirement for administrative design review.

No building permit shall be issued for any new main or accessory structure, or addition or alteration thereto within a single-family district, until such construction has received administrative design review approval by the community development services director or their designee. Window replacements, reroofing and rooftop venting and exhausting equipment, ~~and~~ mechanical equipment, attached or detached accessory dwelling unit and junior accessory dwelling units are exempt from this requirement.

(Ord. No. 2012-381, § 1, 5-22-2012; Ord. No. 2016-423, §§ 1, 2, 9-27-2016)

14.76.040 Requirement for zoning administrator design review ~~commission design review~~.

In each of the following cases, no building permit shall be issued for the construction, addition or alteration of any main or accessory structure within a single-family district until the zoning administrator has approved such structure following a noticed public hearing, ~~has received design review approval by the design review commission~~ pursuant to this chapter:

¹Editor's note(s)—Ord. No. 2012-381, § 1, adopted May 22, 2012, amended Ch. 14.76 in its entirety, in effect repealing and reenacting said chapter to read as herein set out. Former Ch. 14.76, §§ 14.76.010—14.76.100, pertained to similar subject matter and derived from Ord. No. 04-261, § 1; Ord. No. 08-323, § 2; and Ord. No. 2011-368, § 1, adopted July 26, 2011.

- A. Any new two-story structure;
- B. Any conversion of a one-story structure to a two-story structure;
- ~~C. Any addition of habitable area to the second floor of an existing two-story structure;~~
- ~~D.C.~~ Any new one-story structure over twenty (20) feet in height;
- ~~E.D.~~ Whenever design review is specifically required under the terms or conditions of any tentative subdivision map, use permit, variance or conditional rezoning; and
- ~~F.E.~~ Whenever, as determined by the **community** development **services** director or their designee, the construction or expansion of a main or accessory structure may be in conflict with the design review findings contained in Section 14.76.050 of this chapter.

(Ord. No. 2012-381, § 1, 5-22-2012; Ord. No. 2016-423 , §§ 1, 2, 9-27-2016)

14.76.050 Initial application review.

All applications filed with the **community** development **services** department in compliance with this zoning code shall be accompanied by the payment of a processing fee in such amount as established by resolution of the city council and initially processed as follows:

- ~~A. **Review for completeness.** The community development director or their designee shall review all applications for completeness and accuracy before accepting them as complete. The determination of completeness shall be based on the city's list of required application contents as proscribed in the "submittal requirements" documents provided by the community development department.~~
- ~~B. **Notification of applicant.** The community development director or their designee shall notify the applicant in writing within thirty (30) days of the filing of the application with the community development department that either the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, as specified in the letter, shall be provided. If subsequent written comments from the community development director or their designee identify deficiencies not initially raised within thirty (30) days of the filing of the application, then this subsequent letter will be considered the notification of incompleteness for the purposes of determining the application expiration date. The application shall be reviewed for completeness and processed in accordance with the Permit Streamlining Act, Government Code Section 65920, et seq.~~
- C. Appeals of administrative decisions. Determinations of incompleteness or denials of an extension request may be appealed to the city council pursuant to Chapter 1.12 (Appeals).
- D. Expiration of application. If the applicant does not provide the information and materials necessary for a complete application within one hundred eighty (180) days after notification of incompleteness, the application shall be deemed expired. After expiration of the application or extension, if granted, a new application, including fees, plans, exhibits, and other materials will be required to commence processing of any project on the same property.
- E. Extensions. The applicant may request, in writing, within the one hundred eighty (180) day time period, an extension of up to one hundred eighty (180) days to the **community** development **services** director or their designee. Approval of the extension is contingent on the applicant demonstrating that there are extenuating circumstances that have caused a delay in the submittal of the required information.
- F. Environmental information. After an application has been accepted as complete, the **community** development **services** director or their designee may require additional information as necessary for the project's environmental review.

(Ord. No. 2016-423 , § 3, 9-27-2016)

14.76.060 Design review findings.

In approving an application for design review, the approving authority shall make the following findings:

- A. The proposed structure or alteration complies with all provisions of this chapter;
- B. The height, elevations and placement on the site of the proposed main or accessory structure or addition, when considered with reference to the nature and location of residential structures on adjacent lots, ~~will avoid unreasonable interference with views and privacy~~, and will consider the topographic and geologic constraints imposed by particular building site conditions;
- C. The natural landscape will be preserved insofar as practicable by minimizing tree and soil removal; grade changes shall be ~~minimized and will be in keeping with the general appearance of neighboring developed areas~~;
- D. The orientation of the proposed main or accessory structure or addition in relation to the immediate neighborhood will minimize ~~the perception of~~ excessive bulk;
- E. General architectural considerations, including the ~~character~~, size, scale and ~~quality of the design~~, the architectural relationship with the site and other buildings, building materials and similar elements have been incorporated in order to insure the compatibility of the development with its design concept and the character of adjacent buildings on the same project site; and
- F. The proposed structures have been designed to follow the natural contours of the site with minimal grading, minimal impervious cover and maximum erosion protection. A stepped foundation shall ~~generally~~ be required where the average slope beneath the proposed structure is ten (10) percent or greater.

(Ord. No. 2012-381, § 1, 5-22-2012; Ord. No. 2016-423 , § 3, 9-27-2016)

Editor's note(s)—Ord. No. 2016-423, § 3, adopted September 27, 2016, enacted a new § 14.76.050 and renumbered §§ 14.76.050 and 14.76.060 as §§ 14.76.060 and 14.76.070. The historical notation has been retained with the amended provisions for reference purposes.

14.76.070 Variance findings.

- A. In order to avoid such practical difficulties, unnecessary physical hardships and results inconsistent with the objectives of the zoning plans stated in Article 1 of Chapter 14.02, as would result from a strict or literal application of the provisions of this chapter, the ~~design review planning~~ commission may grant variances to the regulations controlling site area, width, depth and coverage, yards and other open spaces, parking spaces, loading spaces, height of structures, allowable building floor area and fences for those properties located in single-family zoning districts.
- B. The ~~design review planning~~ commission may grant a variance as applied for if, on the basis of the application and the evidence submitted, the commission makes the following positive findings:
 1. That the granting of the variance will be consistent with the objectives of the zoning plan set forth in Article 1 of Chapter 14.02;
 2. That the granting of the variance will not be detrimental to the health, safety, or welfare of persons living or working in the vicinity or injurious to property or improvements in the vicinity; and

3. That variances from the provisions of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.
- C. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and district in which such property is situated.

(Ord. No. 2012-381, § 1, 5-22-2012; Ord. No. 2016-423 , § 3, 9-27-2016)

Editor's note(s)—See editor's note, § 14.76.060.

14.76.080 Notification.

Notification shall be provided whenever an application for ~~design review commission zoning administrator~~ design review or variance is required pursuant to this chapter via first-class mail to the adjoining property owners, in the manner set forth by the ~~community~~ development services director or their designee, at least ten (10) days prior to the meeting at which the application is to be reviewed. The property owners who shall be mailed notice include, but are not limited to, the following:

- A. The two adjoining property owners on each side;
- B. The three adjoining rear property owners; and
- C. The five adjoining front property owners across the street.
- D. As deemed appropriate or necessary, the ~~community~~ development services director ~~or their designee~~ may require that notification be mailed to a greater or lesser number of property owner(s) than are identified above based on the configuration of the properties adjoining the site of the application.
- E. Notice shall also be posted on the project site near the front property line in accordance with the standards set by the ~~community~~ development services director ~~or their designee~~.

(Ord. No. 2012-381, § 1, 5-22-2012; Ord. No. 2016-423 , § 1, 9-27-2016)

14.76.090 Expiration of design review and/or variance approval—Extensions.

- A. Design review and/or variance approvals granted pursuant to this chapter shall expire twenty-four (24) months from the date on which the approval became effective, unless prior to such expiration date a building permit is issued for the improvements constituting the subject of the design review and/or variance approval and construction thereof is commenced and prosecuted diligently toward completion.
- B. Design review and/or variance approvals may be granted a one-time extension~~ed~~ for a period of time not exceeding twelve (12) months. The application for extension shall be filed prior to the expiration date and shall be accompanied by the payment of a fee in such amount as established from time to time by resolution of the city council. Extensions of design review and/or variance approval are contingent on the ~~community~~ development services director ~~or their designee~~ finding that the project complies with all current zoning ordinance regulations.

(Ord. No. 2012-381, § 1, 5-22-2012; Ord. No. 2016-423 , § 1, 9-27-2016)

14.76.100 Appeals.

The basis for any appeal of a housing development shall only be allowed and based on objective standards consistent with State law.

- A. Within ~~fifteen~~fourteen (15~~4~~) days of any denial of an administrative design review request, or of the approval or denial of a zoning administrator design review request, the decision may be appealed to the ~~design review planning~~ commission. Within fourteen (14) calendar days of the announcement of the planning commission's decision on the record, the decision may be appealed to the city council.
- B. Within ~~fifteen~~fourteen (15~~4~~) days of any approval or denial of a ~~design review commission design review and/or~~ variance request, the decision may be appealed to the city council.

14.76.110 Number of Hearings Allowed.

- A. When public hearings are required, the number of hearings for solely design review approval shall be no more than three (3) public hearings.

(Ord. No. 2012-381, § 1, 5-22-2012)

Chapter 14.78 DESIGN AND TRANSPORTATION REVIEW—MULTIPLE-FAMILY, PUBLIC AND COMMUNITY FACILITIES, OFFICE AND ADMINISTRATIVE, AND COMMERCIAL DISTRICTS¹

14.78.010 Purpose.

The purpose of this chapter is to preserve and protect ~~the character and~~ public safety of the city and to enhance the aesthetic qualities and bicycle and pedestrian safety and functionality of its multiple-family, public and community facilities, office and administrative and commercial districts by requiring design and transportation review of new structures and certain expansions of existing structures.

(Ord. No. 2012-382, § 1, 5-22-2012)

14.78.020 Requirement for design review.

Any work that requires a building permit, including new building construction, existing building alterations and expansions, and site improvements, but excluding properties in an R1 or R3-4.5 district, shall be subject to design review pursuant to this chapter as follows:

A. Administrative design review.

1. Site improvements, exterior alterations or modification, or additions to existing buildings of up to five hundred (500) square feet require approval by the ~~community~~ development services director or their designee.

B. Planning commission design review.

1. ~~Additions to existing buildings that exceed five hundred (500) square feet but are equal to or less than 50 percent of the total floor area on the subject site and do not increase the existing height of the building(s) require approval by the planning commission at a public meeting.~~

~~C. City Council Design Review.~~

- ~~1. All new buildings, and additions to existing buildings that exceed fifty (50) percent of the total floor area on the subject site and/or increase the height of the existing building(s), require approval by the city council planning commission at a public meeting.~~
- ~~2. Prior to consideration by the city council, the planning commission shall review the application at a public meeting and provide a recommendation to the city council.~~

C. Zoning Administrator design review.

¹Editor's note(s)—Ord. No. 2012-382, § 1, adopted May 22, 2012, amended Ch. 14.78 in its entirety, in effect repealing and reenacting said chapter to read as herein set out. Former Ch. 14.79, §§ 14.78.010—14.78.050, pertained to similar subject matter and derived from Ord. No. 04-260, § 1; and Ord. No. 07-306, § 9.

Notwithstanding the foregoing, the development of a housing development project of five or fewer units that is not otherwise subject to design review pursuant to chapter 14.76 and 14.78 of this code or subsection (A) of this section shall be subject to design review by the zoning administrator following a noticed public hearing. Notwithstanding any other provision of this code, and unless otherwise required by state law, any additional planning applications for such a project including, without limitation, tentative or parcel maps, variance requests, or conditional use permits, shall be heard and decided by the zoning administrator concurrently with the design permit application. As used in this subsection, a "housing development project" includes a project to construct one or more dwelling units, including a mixed-use development project for which not more than one-third of total floor area is dedicated for commercial use.

D. Exempt from the requirements of Design Review.

1. Site improvements, exterior alterations or modification, or additions to existing buildings of up to one thousand (1,000) square feet in the Public/Community Facilities (PCF) District shall be exempt from the requirement of Design Review.

E. Authority of the Development Services Director.

1. The Development Services Director shall have the authority to require administrative design review to any improvement to a property or parcel of land that is determined to have special circumstances or potentially negative impacts on the community.

(Ord. No. 2012-382, § 1, 5-22-2012; Ord. No. 2016-423 , § 1, 5, 9-27-2016; Ord. No. 2019-457 , § 1, 1-28-2020)

14.78.030 Public meeting requirements.

Notice of public meetings before the zoning administrator shall be provided pursuant to Government Code Section 65091. Notice of public meetings before the planning commission and/or city council shall be given at least ten (10) days prior to the date of the meeting by all of the following methods:

- A. Mailing of notices via first-class mail to all property owners within one thousand three hundred (1,0300) feet of the project site at the mailing address on record with the county assessor; and
- B. Mailing of notices via first-class mail to all commercial business tenants within one thousand three hundred (1,0300) feet of the project site at the addresses shown on the latest city business license records; and
- C. Posting of a notice on the project site in accordance with the standards set by the city council and community development services director or their designee; and
- D. All meetings before the planning commission and/or city council conducted under this section, excluding study sessions, shall be noticed separately and conducted as public hearings and shall satisfy all notification requirements applicable to public hearings, including a notice published in a newspaper of general circulation within the city.

(Ord. No. 2012-382, § 1, 5-22-2012; Ord. No. 2016-423 , § 5, 9-27-2016; Ord. No. 2019-457 , § 1, 1-28-2020)

14.78.040 Recommendation for pre-application study session design review.

Projects subject to design review pursuant to Section 14.78.030 of this chapter are eligible for pre-application design review before the planning and transportation commission. This review is in a study session format and is best served early in the design preparation process. This review is encouraged to receive early design

input from the commission. Study session review is also available at any point in the application process, and may be requested by an applicant or, subject to applicable state law, may be required by the ~~community~~ development ~~services~~ director ~~or their designee~~.

(Ord. No. 2012-382, § 1, 5-22-2012; Ord. No. 2016-423 , § 1, 9-27-2016)

14.78.050 Initial application review.

All applications filed with the ~~community~~ development ~~services~~ department in compliance with this zoning code shall be accompanied by the payment of a processing fee in such amount as established by resolution of the city council and initially processed as follows:

- A. ~~The application shall be reviewed for completeness and processed in accordance with the Permit Streamlining Act, Government Code Section 95920, et seq. Review for completeness. The community development director or their designee shall review all applications for completeness and accuracy before accepting them as complete. The determination of completeness shall be based on the city's list of required application contents as proscribed in the "submittal requirements" documents provided by the community development department.~~
- ~~B. — Notification of applicant. The community development director or their designee shall notify the applicant in writing within thirty (30) days of the filing of the application with the community development department that either the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, as specified in the letter, shall be provided. If subsequent written comments from the community development director or their designee identify deficiencies not initially raised within thirty (30) days of the filing of the application, then this subsequent letter will be considered the notification of incompleteness for the purposes of determining the application expiration date.~~
- ~~B.~~ Appeals of administrative decisions. Determinations of incompleteness or denials of an extension request may be appealed to the city council pursuant to Chapter 1.12 (Appeals).
- ~~C.~~ Expiration of application. If the applicant does not provide the information and materials necessary for a complete application within one hundred eighty (180) days after notification of incompleteness, the application shall be deemed expired. After expiration of the application or extension, if granted, a new application, including fees, plans, exhibits, and other materials will be required to commence processing of any project on the same property.
- ~~D.~~ Extensions. The applicant may request, in writing, within the one hundred eighty (180) day time period, an extension of up to one hundred eighty (180) days to the community development director or their designee. Approval of the extension is contingent on the applicant demonstrating that there are extenuating circumstances that have caused a delay in the submittal of the required information.
- ~~E.~~ Environmental information. After an application has been accepted as complete, the community development director or their designee may require additional information as necessary for the project's environmental review.

(Ord. No. 2016-423 , § 6, 9-27-2016)

14.78.060 Design review findings.

In approving applications for design review approval under this chapter, the ~~community development director or their designee, planning commission and the city council approval authority~~ shall make the following findings:

- A. The proposal meets the goals, policies and objectives of the general plan and any specific plan, objective design guidelines and ordinance design criteria adopted for the specific district or area.
- B. The proposal has architectural integrity and has an appropriate relationship with other structures in the immediate area in terms of height, bulk and design.
- C. Building mass is articulated to relate to the human scale, both horizontally and vertically. Building elevations have variation and depth and avoid large blank wall surfaces. Residential or mixed-use residential projects incorporate elements that signal habitation, such as identifiable entrances, stairs, porches, bays and balconies.
- D. Exterior materials and finishes convey high quality, integrity, permanence and durability, and materials are used effectively to define building elements such as base, body, parapets, bays, arcades and structural elements. Materials, finishes, and colors have been used in a manner that serves to reduce the perceived appearance of height, bulk and mass, and are harmonious with other structures in the immediate area.
- E. Landscaping is generous and inviting, and landscape and hardscape features are designed to complement the building and parking areas, and to be integrated with the building architecture and the surrounding streetscape. Landscaping includes substantial street tree canopy, either in the public right-of-way or within the project frontage.
- F. Signage is designed to complement the building architecture in terms of style, materials, colors and proportions.
- G. Mechanical equipment is screened from public view and the screening is designed to be consistent with the building architecture in form, material and detailing.
- H. Service, trash and utility areas are screened from public view, or are enclosed in structures that are consistent with the building architecture in materials and detailing.

(Ord. No. 2012-382, § 1, 5-22-2012; Ord. No. 2016-423, § 6, 9-27-2016; Ord. No. 2016-427, § 3, 11-8-2016; Ord. No. 2019-457, § 2, 1-28-2020)

Editor's note(s)—Ord. No. 2016-423, § 6, adopted September 27, 2016, enacted a new § 14.78.050 and renumbered the remaining §§ 14.78.050—14.78.080 as §§ 14.76.060—14.76.090. The historical notation has been retained with the amended provisions for reference purposes.

14.78.070 Variances.

- A. Purpose. In order to avoid such practical difficulties, unnecessary physical hardships and results inconsistent with the objectives of the zoning plans stated in article 1 of Chapter 14.02, as would result from a strict or literal application of the provisions of this chapter, the planning commission may approve or recommend variances to the regulations controlling site area, width, depth and coverage, yards, and other open spaces, parking spaces, loading spaces, height of structures, allowable building floor area and fences for a property located in any district, except for those located in an R1 or R3-4.5 district.
- B. Procedure. The approving authority for variance applications shall be as follows:
 1. The planning commission shall be the approving authority for all variance applications ~~that are not subject to city council design review~~ pursuant to Section 14.78.020.C.
 2. A public hearing shall be required. Notice of the meeting shall be given not less than ten (10) days prior to the date of the meeting by the methods required in Section 14.78.030

~~23. The city council shall be the approving authority for all variance applications that are subject to city council design review pursuant to Section 14.78.020.C. of the application and A variance request shall be granted if, based upon~~ the evidence submitted, the following positive findings can be made:

- a. That the granting of the variance will be consistent with the objectives of the zoning plan set forth in Article 1 of Chapter 14.02;
 - b. That the granting of the variance will not be detrimental to the health, safety, or welfare of persons living or working in the vicinity or injurious to property or improvements in the vicinity; and
 - c. That variances from the provisions of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.
- D. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and district in which such property is situated.

(Ord. No. 2012-382, § 1, 5-22-2012; Ord. No. 2016-423 , §§ 6, 7, 9-27-2016; Ord. No. 2019-457 , § 2, 1-28-2020)

Editor's note(s)—See editor's note, § 14.78.060.

14.78.080 Expiration of design review and/or variance approval—Extensions.

- A. Design review and/or variance approvals granted pursuant to this chapter shall expire twenty-four (24) months from the date on which the approval became effective, unless prior to such expiration date a building permit is issued for the improvements constituting the subject of the approval and construction thereof is commenced and prosecuted diligently toward completion.
- B. Design review and/or variance approvals may be extended for a period of time not exceeding twelve (12) months. The application for extension shall be filed prior to the expiration date and shall be accompanied by the payment of a fee in such amount as established from time to time by resolution of the city council. Extensions of the approval are contingent on the community development director or their designee finding that the project complies with all current zoning ordinance regulations.

(Ord. No. 2012-382, § 1, 5-22-2012; Ord. No. 2016-423 , §§ 6, 8, 9-27-2016)

Editor's note(s)—See editor's note, § 14.78.060.

14.78.090 Multimodal transportation review.

- A. An application for ~~city council-planning commission~~ design review pursuant to Section 14.78.020.C shall be subject to a multimodal transportation review as part of the approval process in order to assess potential project impacts to various modes of transportation such as but not limited to bicycle, pedestrian, parking, traffic impacts on public streets, and/or public transportation.
 - 1. When a multimodal transportation review is required by this code the complete streets commission shall only recommend improvements that are immediately adjacent to the subject site under consideration. Immediately adjacent to the subject site shall mean improvements along any property line of the subject site.
- B. Projects subject to a multimodal transportation review pursuant to this section shall be reviewed by the complete streets commission at a public meeting with the commission providing a recommendation to the

planning commission ~~and the city council~~ on the multimodal transportation impact analysis and on the elements of the project that pertain to bicycle, pedestrian, parking, traffic and public transportation issues.

1. When a multimodal transportation review is required by this code the complete streets commission shall provide their recommendations to the planning commission at a joint meeting.

- C. Notice of an agenda item before the complete streets commission at which multimodal transportation review is conducted shall be per the public notice meeting requirements of Subsection 14.78.030.

D. EXCEPTIONS. All residential and/or mixed-use developments shall be exempt from review of the complete streets commission. No multimodal transportation review before the complete streets commission shall be required of any residential and/or mixed-use development.

(Ord. No. 2012-382, § 1, 5-22-2012; Ord. No. 2016-423 , § 6, 9-27-2016; Ord. No. 2019-457 , § 3, 1-28-2020)

Editor's note(s)—See editor's note, § 14.78.060.

14.78.100 Appeals.

The basis for any appeal of a housing development shall only be allowed and based on objective standards consistent with State law.

- A. Within ~~fifteen~~fourteen (154) days of an action (approval or denial) on an administrative ~~or zoning administrator~~ design review application, the decision may be appealed to the planning commission by any interested party.
- B. Within ~~fifteen~~fourteen (154) days of an action (approval or denial) on a design review and/or variance application by the planning commission, the decision may be appealed to the city council by any interested party.
- C. Within ~~fifteen~~fourteen (154) days of an action (approval or denial) on a design review and/or variance application by the planning commission may be called up for review by the city council if two members of the city council submit requests to the city clerk pursuant to Section 1.12.040.

14.78.110 Number of Hearings Allowed.

A. When public hearings are required, the number of hearings for solely design review approval shall be no more than three (3) public hearings.

(Ord. No. 2016-423 , § 9, 9-27-2016; Ord. No. 2019-457 , § 3, 1-28-2020)

Chapter 2.08 CITY COMMISSIONS GENERALLY

Sections:

2.08.010 Creation of commissions.

There are hereby established the following commissions in the city, with the following regular voting members:

- A. Environmental commission: Seven members;
- B. Financial commission: Seven members;
- C. Historical commission: Seven members;
- D. Library commission: Seven members;
- E. Parks and recreation commission: Seven members;
- F. Planning ~~and transportation~~ commission: Seven members;
- G. ~~Design review commission: Five members;~~ Complete streets commission: Seven members;
- H. Youth commission: Eleven (11) members; from school grades seven through twelve (12);
- I. Senior Commission: Seven members, age fifty-five (55) or older. Exceptions may be made for individuals with special skills which may benefit seniors; and,
- J. Public arts commission: Seven members; ~~and~~,
- K. ~~Bicycle and pedestrian advisory commission: Seven members.~~

(Ord. 08-326 § 1)

(Ord. No. 2011-369, § 1, 8-23-2011; Ord. No. 2011-374, §§ 1, 2, 11-22-2011; Ord. No. 2012-379, §§ 1, 2, 5-22-2012; Ord. No. 2013-391, § 1, 3-26-2013; Ord. No. 2016-420, § 1, 6-28-2016)

2.08.020 Membership.

- A. All voting members shall be appointed by the council, with the following exceptions:
 - 1. Five members of the library commission shall be appointed by the council and two members of the library commission shall be appointed by the Town of Los Altos Hills city council; and
 - 2. Five members of the senior commission shall be appointed by the council and two members of the senior commission shall be appointed by the Town of Los Altos Hills City Council.
- B. All voting commissioners shall be residents of the city, except that:
 - 1. Three voting members of the library commission need not be residents;
 - 2. Two voting members of the historical commission need not be residents provided the criteria of Section 2.12.010 are met; and
 - 3. Two voting members of the senior commission need not be residents.

(Prior code § 2-5.02)

(Ord. No. 2011-369, § 2, 8-23-2011; Ord. No. 2013-391, §§ 2, 3, 3-26-2013)

2.08.030 Terms, appointments, and vacancies.

- A. Commissioners, with the exception of senior and youth commissioners, shall serve for a term of four years and may be reappointed to one additional four-year term. Terms shall be staggered and expire on the last day of March or September. A commissioner shall be appointed by a majority vote of the Council and may be removed prior to the expiration of his or her term by a majority vote of the Council, and such removal may be with or without cause.
- B. Senior commissioners shall serve two-year terms with incumbents eligible to serve a total of four, two-year terms, in addition to an unexpired term. Terms shall be staggered and expire on the last day of March.
- C. Youth commissioners shall be appointed from school grades seven through twelve (12) and shall serve two-year terms with incumbents eligible to reapply for appointment for terms through and including their senior year. Terms shall be staggered and expire on June 30th.
- D. A commissioner appointed to fill an unexpired term may be eligible for reappointment to an additional two terms.
- E. The two term limit shall apply to consecutive terms only. After a lapse of two years, a former commissioner may reapply for an appointment to any commission desired as a new applicant. The two-year lapse between appointments shall apply only to service on one commission. Upon leaving one commission, an individual may apply for an appointment to any other commission at any time.
- F. Appointments to each commission shall be made as terms expire or when unanticipated vacancies occur.
- G. Vacancies on any commission shall be filled by a majority vote of the council, except that the Town of Los Altos Hills City Council may fill two vacancies on the library commission and two vacancies on the senior commission. An individual appointed to fill a vacancy prior to the expiration of the term for which his or her predecessor was appointed shall serve for such unexpired term.

(Prior code § 2-5.03)

(Ord. No. 2011-369, § 3, 8-23-2011; Ord. No. 2013-391, § 4, 3-26-2013; Ord. No. 2016-420, § 2, 6-28-2016)

2.08.040 Compensation.

Commissioners shall serve without compensation. The council may approve payment to commissioners of expenses incurred by them in their official capacity.

(Prior code § 2-5.04)

2.08.050 Organization.

Annually, each commission shall elect one of its members as chair and one as vice-chair, each to serve a one-year term. Each commission shall provide the time, place, and manner for holding regular and special meetings. A majority of the authorized membership of a commission shall constitute a quorum of that commission. All meetings of the commission as a whole, or any standing subcommittees, shall be open to the public and noticed in accordance with the California "Ralph M. Brown Act."

(Prior code § 2-5.05)

(Ord. No. 2011-369, § 4, 8-23-2011)

2.08.060 Powers and duties of the planning commission.

The planning commission shall have those powers and duties given it by the State Planning Act (Title 7 of Chapter 3 of the Government Code of the state, commencing with Section 65100), as amended from time to time, and such other powers as granted it by the other provisions of this Municipal Code, or as may be entrusted to it by the council from time to time, and shall submit an annual report to the council.

(Prior code § 2-5.06)

(Ord. No. 2012-379, § 3, 5-22-2012; Ord. No. 2017-434 , § 1, 9-26-2017)

2.08.070 Powers and duties of the library commission.

The library commission shall act in an advisory capacity to the council in all matters pertaining to the city library, shall cooperate with other governmental agencies and civic groups in the promotion of adequate and efficient library service to the citizens of the community, shall make budget recommendations to the council with regard to the library, and shall submit an annual report to the council.

(Prior code § 2-5.07)

2.08.080 Powers and duties of the parks and recreation commission.

The parks and recreation commission shall act in an advisory capacity to the council in all matters pertaining to parks and public recreation and shall cooperate with all other governmental agencies and civic groups in the advancement of sound parks and recreational planning and programming, shall make budget recommendations to the council with regard to parks and recreation, and shall submit an annual report to the council.

(Ord. 00-388 § 2: prior code § 2-5.08)

(Ord. No. 2011-374, § 3, 11-22-2011)

2.08.090 Powers and duties of the historical commission.

The historical commission shall have those powers and duties granted it by Section 2.12.030 of the Los Altos Municipal Code and/or as may be entrusted to it by the council from time to time and shall submit an annual report to the council.

(Prior code § 2-5.09)

2.08.100 Powers and duties of the youth commission.

The youth commission shall act in an advisory capacity to the city council on matters relating to youth interests, youth concerns, and the need for outreach services. The city council's youth commission interview committee shall interview commission applicants and recommend appointments.

(Prior code § 2-5.10)

(Ord. No. 2016-420 , § 3, 6-28-2016)

~~2.08.110 Powers and duties of the design review commission.~~

~~The design review commission shall have those powers and duties granted it by other provisions of this Municipal Code, or as may be entrusted to it by the council from time to time, and shall submit an annual report to the council.~~

(Ord. 03-255 § 2)

(Ord. No. 2012-379, § 4, 5-22-2012)

~~2.08.120~~ 2.08.110 Powers and duties of the environmental commission.

The commission shall have those powers and duties entrusted to it by the council from time to time, and shall submit an annual report to the council. The environmental commission studies and makes recommendations to council on issues that affect the natural and built environment in the city and the region. Additional duties include special projects as directed by the council.

(Ord. 08-326 § 2)

~~2.08.130~~ 2.08.120 Powers and duties of the financial commission.

The commission shall have those powers and duties entrusted to it by the council including:

- A. Annual review of the investment policy;
- B. Annual review of independent financial audit;
- C. Review of auditor selection process;
- D. Review of financial projections and assumptions. This especially relates to review of revenue projections provided in the annual mid-year report which are used biennially as the basis for the service and financial plan;
- E. Special projects as directed by the council, city manager or finance director; and
- F. Submission of an annual report to the council.

The financial commission provides resident input to the council and staff regarding financial policy issues, and promotes resident participation and understanding regarding the financial condition of the city.

(Ord. 08-326 § 3)

~~2.08.140~~ 2.08.130 Powers and duties of the senior commission.

The joint Los Altos/Los Altos Hills senior commission shall act in an advisory capacity to the council in all matters relating to senior interests and concerns, shall make recommendations aimed at improving the life of seniors, and shall submit an annual report to the council.

(Ord. No. 2011-369, § 5, 8-23-2011; Ord. No. 2016-420, § 4, 6-28-2016)

2.08.150 2.08.140 Powers and duties of the public arts commission.

- A. The public arts commission shall act in an advisory capacity to the council in all matters pertaining to public arts programs sponsored by the city. It shall take an active role in bringing about public awareness of the visual arts as well as in the definition, execution and promotion of those programs which include, but are not limited to, exhibition of sculpture, paintings, photography, video and other visual arts. The commission shall submit an annual report to the council.
- B. The primary focus of the commission is the public outdoor sculpture loan program. The commission will conduct sculpture searches, evaluate and recommend sculptures, identify sculpture locations and work with city staff on placement and maintenance of sculptures. The commission will also assist the city with ensuring that all conditions and agreements are being met. In addition, the commission will promote artists' works through media exposure of the sculpture program.

(Ord. No. 2011-374, § 4, 11-22-2011)

2.08.160 2.08.150 Powers and duties of the complete streets commission.

- A. Help to create multi-modal transportation solutions and policies that enable safe, attractive, comfortable and independent access and travel for pedestrians, bicyclists, transit users, and motorists of all ages and abilities, including connectivity across jurisdictional boundaries.
- B. Shall advise the council on existing and proposed city policies related to traffic calming and traffic enforcement.
- C. Shall advise the council on projects and budget priorities for transportation-related capital improvements.
- D. Provide for community engagement and serve as a conduit for community input.

(Ord. No. 2012-379, § 5, 5-22-2012; Ord. No. 2017-434 , § 1, 9-26-2017)

2.08.170 2.08.160 Role of staff liaison.

The city manager, or his/her designee, shall appoint an individual to serve as liaison to each commission. The role of the staff liaison is to assist the commission in carrying out its responsibilities. Duties of the staff liaison shall include attending all meetings of the commission, preparing agendas in collaboration with the chair, ensuring agendas and reports are posted in compliance with state law and city protocols, researching and preparing reports for the commission, as is consistent with the work plan and/or council direction, preparing action minutes for approval by the commission, preparing reports from the commission to the council, serving as the liaison between the commission and other city staff, communicating directions from the city council to the commission, and staying apprised of new laws and city protocols related to their assigned commission or commissions generally.

(Ord. No. 2016-420 , § 5, 6-28-2016)

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

15 CALIFORNIA HOUSING DEFENSE FUND, a
16 California nonprofit public benefit corporation;
17 and YES IN MY BACK YARD, a California
18 nonprofit public benefit corporation;

18 Petitioners,

19 v.

20 CITY OF CUPERTINO,

21 Respondent.

Case No.: 23CV410817

**VERIFIED PETITION FOR WRIT OF
MANDATE**

(Code Civ. Proc. § 1085; Gov. Code §§ 65587,
65751)

22 Petitioners CALIFORNIA HOUSING DEFENSE FUND and YES IN MY BACK YARD allege as
23 follows:

24 1. “California has a housing supply and affordability crisis of historic proportions.” (Gov. Code
25 § 65589.5, subd. (a)(2).)¹

26 2. To address this crisis, the State’s Housing Element Law (Gov. Code §§ 65580 *et seq.*) required
27 Bay Area cities and counties to adopt the sixth revisions of their housing elements by January 31, 2023.
28

¹ Subsequent references are to the Government Code unless otherwise specified.

1 3. The City of Cupertino did not meet this deadline.

2 4. On behalf of the public interest in alleviating the housing crisis, the California Housing Defense
3 Fund and Yes In My Back Yard petition the Court for a writ of mandate compelling the City to adopt a
4 revised housing element.

5 **PARTIES**

6 5. Petitioner California Housing Defense Fund (“CalHDF”) is a California nonprofit public benefit
7 corporation.

8 6. CalHDF’s mission is to promote housing growth and affordability in California through
9 education and legal advocacy. As part of this mission CalHDF monitors local government policies
10 related to the availability and growth of housing.

11 7. Petitioner Yes In My Back Yard is a California nonprofit public benefit corporation.

12 8. Yes In My Back Yard litigates for housing through its project YIMBY Law, whose mission is to
13 end the housing shortage and achieve affordable, sustainable, and equitable housing for all.

14 9. Respondent City of Cupertino (“the City”) is an incorporated city in Santa Clara County.

15 **JURISDICTION AND VENUE**

16 10. The Court has subject matter jurisdiction under Sections 65587 and 65751 of the Government
17 Code and Section 1085 of the Code of Civil Procedure.

18 11. The Court has personal jurisdiction over the City consistent with Section 410.10 of the Code of
19 Civil Procedure.

20 12. Venue is proper under Sections 394–395 of the Code of Civil Procedure.

21 **STATUTORY BACKGROUND**

22 13. California’s Housing Element Law (Gov. Code §§ 65580 *et seq.*) is the State’s main policy for
23 addressing the housing crisis.

24 14. A “housing element” is a mandatory element of a county’s or city’s general plan. (§ 65302, subd.
25 (c).)

26 15. “Notwithstanding subdivision (a)” of Section 65700, *all* the provisions of the Housing Element
27 Law apply to general-law and charter cities alike. (§ 65700, subd. (b).)

28 //

1 16. The Department of Housing and Community Development (“HCD”) is the State agency that
2 administers the Housing Element Law. (See Health & Saf. Code §§ 50400, 50459.)

3 17. The driving mechanism of the Housing Element Law is known as the “regional housing need
4 allocation” or “RHNA.” (Gov. Code §§ 65584.03, subd. (d); 65584.04, subd. (g)(2); 65584.05, subd.
5 (e)(1); 65584.06, subd. (f); 65584.07, subd. (b)(1); 65584.08, subd. (a)(4)–(5); 65584.09, subd. (a).)

6 18. Housing elements are updated on a cyclical basis. (See § 65588.)

7 19. Bay Area governments are now entering their sixth cycle of housing-element revisions.

8 20. Each cycle, HCD “determine[s] the existing and projected need for housing for each region” in
9 the State. (§§ 65584, subd. (a)(1); 65584.01.)

10 21. HCD allocates this RHNA to the regional council of governments, as applicable. (See §§ 65584–
11 65584.02.)

12 22. The regional council of governments then distributes its RHNA among its local governments.
13 (See §§ 65584.04–.05.)

14 23. HCD distributes the RHNA among local governments where no council exists. (§ 65584.06.)

15 24. With its share of the RHNA assigned, a locality must revise its housing element with a plan to
16 “make adequate provision for the [housing] needs of all economic segments of the community.”
17 (§ 65583.)

18 25. A housing element must provide “[a]n inventory of land” with zoned capacity “to meet the
19 locality’s housing need for [each] designated income level” by the end of the cycle. (§§ 65583, subd.
20 (a)(3).)

21 26. The site inventory must meet detailed and justiciable statutory requirements. (See § 65583.2.)

22 27. Where existing zoned capacity is insufficient to meet the RHNA, the locality must rezone for
23 sufficient capacity within three years (if timely and adequately revised) or one year (if not). (§ 65583,
24 subd. (c)(1)(A).)

25 28. A housing element must, in its site inventory and otherwise, “affirmatively further fair housing.”
26 (§§ 65583, subs. (a)(3), (b), (c)(1), (c)(5), (c)(10)(A); 65583.2, subd. (c); see § 8899.50 [definition].)

27 //

28 //

1 29. A housing element must also “remove governmental . . . constraints to the maintenance,
2 improvement, and development of housing . . . for all income levels” where “appropriate and legally
3 possible.” (§ 65583, subd. (c)(3).)

4 30. A revision to a housing element must be prepared long before its adoption.

5 31. Housing Element Law spells out detailed requirements for public and administrative review.

6 32. “[T]he first draft revision of a housing element” must be made “available for public comment for
7 at least 30 days.” (§ 65585, subd. (b)(1).)

8 33. “[I]f any comments are received, the local government shall take at least 10 business days after
9 the . . . public comment period to consider and incorporate public comments into the draft.” (*Ibid.*)

10 34. “At least 90 days prior to adoption of a revision of its housing element,” the locality must submit
11 the draft to HCD for administrative review. (*Ibid.*)

12 35. HCD then makes “written findings” as to whether the draft “substantially complies” with the
13 Housing Element Law. (*Id.*, subd. (d).)

14 36. Only after HCD has had time to review a draft may the locality adopt it.

15 37. If HCD finds that a draft “does not substantially comply,” the locality can either “[c]hange” its
16 draft to comply or “[a]dopt” with “written findings” rebutting HCD’s findings. (*Id.*, subd. (f).)

17 38. Housing Element Law specifies consequences for failure to substantially comply.

18 39. A locality without a “revised housing element . . . in substantial compliance” is prohibited from
19 using its general plan and zoning standards to “disapprove” or “render[] . . . infeasible” any housing
20 development project meeting certain affordability requirements. (§ 65589.5, subsd. (d)(5), (h)(3).)

21 40. As described above, a locality that fails to obtain HCD’s finding of substantial compliance
22 within 120 days of the statutory deadline must complete all required rezoning within one rather than
23 three years. (§ 65583, subd. (c)(1)(A); see above ¶ 27.)

24 41. “[A]ny interested party” may petition for a writ of mandate compelling “compliance with the
25 provisions” of the Housing Element Law. (§ 65587, subd. (b); see also § 65751.)

26 42. “[I]f the court” in such a proceeding enters “final judgment in favor of the . . . petitioner,” then
27 the locality must “bring its . . . [housing] element . . . into compliance . . . within 120 days.” (§ 65754.)

28 //

1 43. “The court shall include” in such a judgment “one or more” additional specified provisions,
2 including suspension of nonresidential building permits and mandatory approval of residential building
3 permits, “until the [locality] has substantially complied.” (§ 65755, subs. (a)(1), (a)(4).)

4 44. “[T]he court may, upon a showing of probable success on the merits, grant the relief provided in
5 Section 65755 as temporary relief.” (§ 65757.)

6 45. “Notwithstanding . . . Section 65585,” a locality subject to a writ of mandate must submit a draft
7 revision of its housing element to HCD “at least 45 days prior to . . . adoption.” (*Id.*, subd. (a).)

8 46. The locality must then conform its zoning ordinance within 120 days of adoption. (*Id.*, subd. (b).)

9 47. “[A]ny action necessary” to comply with the writ is statutorily exempt from the California
10 Environmental Quality Act. (§ 65759, subd. (a); see also Pub. Res. Code §§ 21000 *et seq.*)

11 **STATEMENT OF FACTS**

12 48. Bay Area governments, including the City, were due to adopt the sixth revision of their housing
13 elements on January 31, 2023. (See HCD, *Housing Element Update Schedule*, [https://www.hcd.ca.gov/
14 community-development/housing-element/docs/6th-web-he-duedate.pdf](https://www.hcd.ca.gov/community-development/housing-element/docs/6th-web-he-duedate.pdf), p.5.)

15 49. “At least 90 days prior” to this statutory deadline (Gov. Code § 65585, subd. (b); see above
16 ¶¶ 31–36), the City had not submitted a draft revision of its housing element to HCD.

17 50. The City has not adopted a sixth revision of its housing element.

18 51. Together with another housing organization, Petitioners contacted the City about its failure and
19 inability to comply with Housing Element Law.

20 52. In their letter to the City, Petitioners offered to “forgo immediate litigation” against the City if
21 the City would acknowledge in writing that it would:

- 22 a. “not be in substantial compliance” by the statutory deadline;
- 23 b. “be prohibited from rejecting any [affordable] housing development project based on
24 subdivision (d)(1) or (d)(5) of the Housing Accountability Act (HAA), Government Code
25 Section 65589.5,” from February 1, 2023, until such time as the City adopts a
26 substantially compliant housing element; and

27 //

28 //

1 c. “be estopped” from invoking those subdivisions in any litigation arising from “any such
2 project that is the subject of an application or preliminary application submitted” during
3 that same period of time.

4 53. This letter was sent by email on December 16, 2022, to the City’s manager, community
5 development director, attorney, and council.

6 54. The City’s attorney responded and engaged Petitioners’ counsel in settlement discussions, but
7 the parties did not reach an agreement.

8 **BENEFICIAL INTEREST**

9 55. “The availability of housing is of vital statewide importance” (§ 65580, subd. (a).)

10 56. The Legislature has declared that the City has a “responsibility” to “make adequate provision for
11 the housing needs of all economic segments of the community.” (*Id.*, subd. (d).)

12 57. Legalizing “the development of housing” is “essential” to achieving this goal. (*Id.*, subd. (f).)

13 58. The Legislature intends that housing elements “move toward” this goal. (§ 65581, subd. (b).)

14 59. The writ of mandate is sought in this action to enforce the City’s public duty.

15 **FIRST CAUSE OF ACTION**

16 **Writ of Mandate to Compel Compliance with Housing Element Law**

17 **(Gov. Code §§ 65587, 65751; Code Civ. Proc. § 1085)**

18 60. Petitioners incorporate and reallege all of the foregoing paragraphs.

19 61. Section 65587 of the Government Code, subdivision (b), provides that “any interested party”
20 may bring an action “to review the [City’s] conformity with the [Housing Element Law].”

21 62. Petitioners are “interested part[ies]” under the Housing Element Law. (*Ibid.*)

22 63. Section 65587, together with Section 65751, provides that such an action “shall be brought
23 pursuant to Section 1085 of the Code of Civil Procedure.” (*Ibid.*)

24 64. Because the City has not adopted a sixth revision of its housing element, and its statutory
25 deadline has passed, the City is out of compliance with the Housing Element Law.

26 65. Petitioners have no available administrative remedies.

27 66. Petitioners have no plain, speedy, or adequate remedy in the ordinary course of law, other than
28 those sought herein.

67. Petitioners are thus entitled to a writ of mandate.

DEMAND FOR JUDGMENT

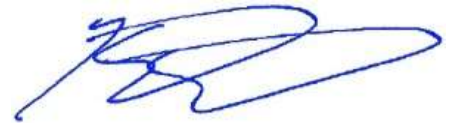
WHEREFORE, Petitioners demand judgment against Respondent as follows:

1. A writ of mandate directing the City to adopt a sixth revised housing element according to the schedule in Section 65754.
2. An injunction or order providing relief under Section 65755.
3. A declaration that:
 - a. the City is out of compliance with the Housing Element Law from February 1, 2023, until the City lawfully adopts a sixth revision of its housing element that substantially complies with the Housing Element Law;
 - b. the City must rezone as necessary to execute such sixth revision of its housing element by the deadlines set forth in Articles 10.6 and 14 of Chapter 3 of Division 1 of Title 7 of the Government Code;
 - c. the City may not rely on paragraphs (1) or (5) of subdivision (d) of Section 65589.5 of the Government Code, also known as the Housing Accountability Act or “HAA,” to disapprove a housing development project—or condition approval in a manner that renders such project infeasible—so long as such project meets the affordability requirements described in paragraph (3) of subdivision (h) of the HAA;
4. Costs of suit;
5. Attorneys’ fees under Code Civ. Proc. § 1021.5 and as otherwise allowed by law; and
6. Such further relief as the Court deems just and proper.

Dated: February 2, 2023.

CALIFORNIA HOUSING
DEFENSE FUND

YIMBY LAW



By: Dylan Casey
*Attorney for Petitioner California
Housing Defense Fund*

By: Keith E. Diggs
*Attorney for Petitioner Yes In My
Back Yard*

VERIFICATION

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I, Dylan S. Casey, declare:

- 1. I am an employee of and hold the position of Executive Director at Petitioner California Housing Defense Fund, and am familiar with the matters discussed in the foregoing Petition.
- 2. I have read the Petition and know the contents thereof. The statements of fact therein are true and correct of my own knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 2, 2023 at Alameda, California.



Dylan S. Casey

VERIFICATION

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I, Sonja K. Trauss, declare:

- 1. I am the Executive Director of Yes In My Back Yard, the Petitioner in this action.
- 2. I have read the foregoing Petition, and know the stated facts to be true of my own knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 2, 2023 at Oakland, California.



By: Sonja K. Trauss
Executive Director, Yes In My Back Yard

From: [Jim Wing](#)
To: [Public Comment - PC](#)
Subject: PC 02/16/2023zzzz, Meeting Agenda 02 Housing Element
Date: Saturday, February 11, 2023 8:44:22 AM

PC Chair Mensinger and Distinguished Commission Members,

Subject: PC 02-16-2023 Meeting Agenda Item 02, Housing Element Implementing Ordinance

Would you please consider following “Findings” changes to ensure compliance with both California and Federal law? California Vehicle Code is the “objective guideline” for Automobile, Bicycle, Pedestrian, Trucks and Public Transportation. Recent changes to Federal 2007 Clean Water Act Regulations concerning Los Altos ephemeral creeks, now impacts residential streets that do not have curb and gutter.

1. Chapter 14.76.060 Page 31 - Finding “C” to include Los Altos Shoulder Improvement Policy SU-20? This will ensure that Federal Environmental Requirements for Los Altos ephemeral creeks are being met for streets that do not have curb and gutter.
2. Chapter 14.78.090 Page 38 - Change Title to include definition of “Multimodal [Auto, Bicycle, Pedestrian, Trucks, and Public Transportation]”. Most residents do not know what “Multimodal” means.
3. Chapter 14.78.090 Page 38 - Finding “A” to include review for compliance with California Vehicle Code. This will ensure that automobile, bicycle, pedestrian, trucks, and public transportation are in conformance with California Law. California Vehicle Code is a great objective code and covers all aspects of transportation. One example is all [except for school zones] of Los Altos speed limits may not be in valid because calculation of “85 percentile” speed was not done per California Vehicle Code.

Thank you for your consideration!

Jim Wing, Milverton Road, Los Altos, CA

PS. Please note error in Staff Report concerning prior design review of single-family residential homes. Three Planning Commissioners did annual rotation to Architectural and Site Committee for review / approval of new single-family residential homes.



February 13, 2023

Dear Chair Mensinger and Planning Commissioners,

The Los Altos Affordable Housing Alliance urges the Planning Commission to recommend passage of the ordinance that implements certain provisions of the Housing Element adopted last month by the City Council, to

- Dissolve the Design Review Commission (Program 3.H);
- Allow staff-level review of housing projects of five or fewer units (Program 3.H);
- Reform the appeal process for decisions on housing developments (Program 3.H);
- Reform the process for multimodal transportation design review for development processes (Program 3.K)

We are pleased to see programs from the Housing Element being brought forward so promptly, and look forward to more Housing Element programs being implemented in the near future.

Respectfully,
LAAHA Steering Committee

Los Altos Affordable Housing Alliance
Committed to educating and inspiring the Los Altos community to build housing that is affordable for those who live and work in Los Altos
<https://losaltosaffordablehousing.org/>



1 North San Antonio Road
Los Altos, California 94022-3087

M E M O R A N D U M

DATE: 2/16/2023
TO: Los Altos Planning Commission
FROM: Nick Zornes, Development Services Director
SUBJECT: STAFF REQUESTED AMENDMENTS TO DRAFT ORDINANCE

This memorandum shall serve as staffs formal request to the Planning Commission to consider and accept amendments to the Draft Ordinance being considered tonight and included in tonight's agenda as Item #2.

Should the Planning Commission accept the four (4) amendments to the draft ordinance a motion may be made which includes the amendments as outlined below by the motion referencing this memorandum.

REQUESTED AMENDMENTS TO DRAFT ORDINANCE ARE IDENTIFIED IN YELLOW.

AMENDMENT #1

14.76.030 Requirement for administrative design review.

No building permit shall be issued for any new main or accessory structure, or addition or alteration thereto within a single-family district, until such construction has received administrative design review approval by the ~~community~~ development ~~services~~ director or their designee. Window replacements, reroofing and rooftop venting and exhausting equipment, ~~and~~ mechanical equipment, ~~attached or detached accessory dwelling unit(S) and junior accessory dwelling unit(s)~~ are exempt from this requirement.

AMENDMENT #2

14.76.060 Design review findings.

- C. The natural landscape will be preserved insofar as practicable by minimizing tree and soil removal; grade changes shall be ~~minimized and will be in keeping with the general appearance of neighboring developed areas;~~

AMENDMENT #3

14.76.060 Design review findings.

- E. General architectural considerations, including the ~~character,~~ size, and scale and ~~quality of the design,~~ the architectural relationship with the site and other buildings, building materials and similar elements have been incorporated in order to insure the compatibility of the development with its design concept and the character of adjacent buildings on the same project site; and

AMENDMENT #4

14.78.020 Requirement for design review.

- B. Planning commission design review.

1. ~~Additions to existing buildings that exceed five hundred (500) square feet but are equal to or less than 50 percent of the total floor area on the subject site and do not increase the existing height of the building(s) require approval by the planning commission at a public meeting.~~

~~C.—City Council Design Review.~~

1. ~~All new buildings, and additions to existing buildings that exceed~~ five hundred (500) square feet or fifty (50) percent of the total floor area on the subject site and/or increase the height of the existing building(s), require approval by the ~~city council~~ planning commission at a public meeting.