



REGULAR CITY COUNCIL MEETING
TUESDAY, SEPTEMBER 25, 2018 – 7:00 P.M.

Community Meeting Chambers
Los Altos City Hall
1 North San Antonio Road, Los Altos, California

Note: Councilmember Pepper may participate via telephone conference call from the following location: Hyatt Regency Orange County, 11999 Harbor Boulevard, Garden Grove, CA 92840

ESTABLISH QUORUM

PLEDGE OF ALLEGIANCE

Presented by Brownie Girl Scouts, Troop 60393

SPECIAL PRESENTATION

Los Altos v. Los Altos Hills Softball Trophy Presentation

CHANGES TO THE ORDER OF THE AGENDA

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Members of the audience may bring to the Council's attention any item that is not on the agenda. Please complete a "Request to Speak" form and submit it to the City Clerk. Speakers are generally given two or three minutes, at the discretion of the Mayor. Please be advised that, by law, the City Council 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.

CONSENT CALENDAR

These items will be considered by one motion unless any member of the Council 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 Mayor.

1. Council Minutes: Approve the minutes of the September 11, 2018 regular meeting (J. Maginot)
2. Resolution No. 2018-37: Police Department Building Roof Replacement, Project CF-01003: Adopt Resolution No. 2018-37 accepting completion of Police Department Building Roof Replacement, Project CF-01003 and authorize the Public Works Director to record a Notice of Completion as required by law (V. Chen)
3. Contract Award: Sewer System Repair Program, Project WW-01001 and Structural Reach Replacement, Project WW-01002: Authorize the City Manager to execute an agreement on behalf of the City with Bellecci & Associates, Inc. in the amount of \$187,844 to provide design and consulting services for the Sewer Repair Program, Project WW-01001 & Structural Reach Replacement, Project WW-01002 (A. Fairman)

Jeannie Bruins
Councilmember

Lynette Lee Eng
Vice Mayor

Jean Mordo
Mayor

Jan Pepper
Councilmember

Mary Prochnow
Councilmember

4. Contract Award: Windimer Drive Storm Drain Ditch, Project CD-01012: Appropriate an additional \$100,000 from the General Fund to Project CD-0101219; award the Base Bid for construction of the Windimer Drive Storm Drain Ditch, Project CD-01012 to C2R Engineering, Inc.; and authorize the City Manager to execute a contract in the amount of \$297,480 and up to 15% contingency on behalf of the City for construction costs (A. Fairman)
5. Parcel Map: 160 West Portola Avenue: Approve the Parcel Map for 160 West Portola Avenue (Z. Trabzada)
6. Professional Services Agreement: Police Station EOC and restrooms, and HVAC upgrades: Authorize the City Manager to execute a professional services agreement between the City of Los Altos and Jeff Katz Architecture in an amount not to exceed \$290,000 for design services for the Police Station Emergency Operations Center (EOC) and restrooms, and the Heating, Ventilation, and Air Conditioning (HVAC) upgrades (T. Yee)
7. Ordinance No. 2018-449: Affordable Housing Ordinance Amendment: Adopt Ordinance No. 2018-449 to amend Chapter 14.28 of the Los Altos Municipal Code pertaining to the City's affordable housing requirements (Z. Dahl)

PUBLIC HEARING

8. Resolution No. 2018-38 and Ordinance No. 2018-450: General Plan and Zoning Code Amendments regarding the disposition of City-owned property: Adopt Resolution No. 2018-38 and introduce and waive further reading of Ordinance 2018-450 regarding the disposition of City-owned property with an "Other Open Space" and "Parks" land use designation (J. Biggs)
9. Ordinance No. 2018-451: Cannabis Prohibition: Introduce and waive further reading of Ordinance 2018-451 clarifying the prohibition on all medical and adult-use commercial cannabis activities and limit cultivation for personal use in Los Altos (J. Biggs)

DISCUSSION ITEMS

10. Ordinance No. 2018-452 Stormwater Pollution Prevention: Introduce and waive further reading of Ordinance No. 2018-452 amending Los Altos Municipal Code Chapter 10.16 Stormwater Pollution Prevention Measures to reflect current stormwater pollution prevention requirements for land development projects mandated by the Regional Water Quality Control Board (A. Fairman)

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEM

ADJOURNMENT

SPECIAL NOTICES TO THE 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 City Council items may be viewed on the Internet at <http://www.losaltosca.gov/citycouncil/meetings>. Council Meetings are televised live and rebroadcast on Cable Channel 26. On occasion the City Council may consider agenda items out of order. If you wish to provide written materials, please provide the City Clerk with **10 copies** of any document that you would like to submit to the City Council for the public record.

Written comments may be submitted to the City Council at council@losaltosca.gov. To ensure that all members of the Council have a chance to consider all viewpoints, you are encouraged to submit written comments no later than 24 hours prior to the meeting.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, and that are distributed to a majority of the legislative body, will be available for public inspection at the Office of the City Clerk's Office, City of Los Altos, located at One North San Antonio Road, Los Altos, California at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the City Clerk at (650) 947-2720 for the final document.

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.

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF
THE CITY OF LOS ALTOS, HELD ON TUESDAY, SEPTEMBER 11,
2018, BEGINNING AT 7:00 P.M. AT LOS ALTOS CITY HALL, 1 NORTH
SAN ANTONIO ROAD, LOS ALTOS, CALIFORNIA**

ESTABLISH QUORUM

PRESENT: Mayor Mordo, Vice Mayor Lee Eng, Councilmembers Bruins, Pepper and Prochnow

ABSENT: None

PLEDGE OF ALLEGIANCE

Mayor Mordo led the Pledge of Allegiance to the flag and requested that all in attendance observe a moment of silence in honor of the victims and families of 9/11.

SPECIAL ANNOUNCEMENT

Mayor Mordo announced that the League of Women Voters will be hosting a Voter Registration Day on Tuesday, September 25, 2018, 10:00 a.m. to 8:30 p.m. at the Los Altos Library.

Councilmember Pepper announced that Assemblyman Marc Berman will be hosting a Community Coffee event on Tuesday, September 18, 2018, 3:00 p.m. to 4:30 p.m. at Enchanté Boutique Hotel.

CHANGES TO THE ORDER OF THE AGENDA

No changes

SPECIAL ITEM

A. Commission appointments: Appoint individuals to fill vacancies on the Planning, Design Review, Historical, Environmental and Public Arts Commissions

Action: By written ballot, the Council unanimously appointed Frank Bishop and Jude Kirik to terms on the Design Review Commission expiring in September 2022.

Action: By written ballot, the Council appointed Chad Martin to an unexpired term on the Environmental Commission expiring in March 2022, with the following submitting ballots in favor: Bruins, Lee Eng, Mordo and Prochnow.

Action: By written ballot, the Council appointed Hillary King to an unexpired term on the Public Arts Commission expiring in September 2021, with the following submitting ballots in favor: Bruins, Mordo and Pepper.

Action: By written ballot, the Council appointed Mehruss Jon Ahi to a term on the Planning Commission expiring in September 2022, with the following submitting ballots in favor: Bruins, Mordo, Pepper and Prochnow.

Action: By written ballot, the Council unanimously appointed Ronit Bodner to a term on the Planning Commission expiring in September 2022.

Action: By written ballot, the Council appointed Kimberly Mosley to a term on the Planning Commission expiring in September 2022, with the following submitting ballots in favor: Bruins, Mordo, Pepper and Prochnow.

Action: By written ballot, the Council unanimously appointed Margo Horn, Nomi Trapnell and Sepideh Zoufonoun to a term on the Historical Commission expiring in September 2022.

Action: By written ballot, the Council appointed David More to a term on the Historical Commission expiring in September 2022, with the following submitting ballots in favor: Bruins, Lee Eng, Mordo and Pepper.

SPECIAL PRESENTATION

Ruth Patrick of WomenSV provided a presentation on the organization's work.

Mayor Mordo presented a proclamation to Sherie Dodsworth recognizing September as Emergency Preparedness month.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

The following individual provided comments on items not on the agenda: Los Altos resident Don Jamzad.

CONSENT CALENDAR

Action: Upon a motion by Councilmember Pepper, seconded by Councilmember Bruins, the Council unanimously approved the Consent Calendar, as follows:

1. Council Minutes: Approved the minutes of the August 7, 2018 special meeting, August 21, 2018 special meeting and August 28, 2018 study session and regular meeting.
2. Resolution No. 2018-35: On-call Sanitary Sewer Spot Repairs and CCTV Inspection Services: Adopted Resolution No. 2018-35 accepting completion of the On-call Sanitary Sewer Spot Repairs and CCTV Inspection Services and authorized the Public Works Director to record a Notice of Completion as required by law.
3. Contract Amendment: Joint Sewer System: Approved and authorized the City Manager to execute Addendum No. 9 to the Basic Agreement between the City of Palo Alto, City of Mountain View and City of Los Altos for the Acquisition, Construction and Maintenance of a Joint Sewer System.

4. Construction Contract Award: 2018 Street Treatment and City Alley Resurfacing, Projects TS-01003, TS-01004 and TS-01009: Awarded the Base Bid, Add Alternate No. 1 and Add Alternate No. 2 for the Annual Street Treatment Projects TS-01003 and TS 01004 and City Alley Resurfacing Project TS-01009 to Pavement Coatings Co.; authorized the City Manager to execute a contract in the amount of \$386,105 on behalf of the City; and reallocated approved project budget from the Annual Resurfacing Project TS-01001 in the amount of \$205,021 to fund the remaining amount needed to complete Annual Street Treatment Projects TS-01003 and TS-01004.
5. Construction Contract Award: First Street Resurfacing, Project TS-01002: Awarded the Base Bid for the First Street Resurfacing, Project TS-01002 to G. Bortolotto & Co., Inc. and authorized the City Manager to execute a contract in the amount of \$129,129.29 on behalf of the City.

PUBLIC HEARING

6. Ordinance No. 2018-449: Affordable Housing Ordinance Amendment: Introduce and waive further reading of Ordinance No. 2018-449 to amend Chapter 14.28 of the Los Altos Municipal Code pertaining to the City's affordable housing requirements.

Planning Services Manager Dahl presented the report.

Mayor Mordo opened the public hearing.

Public Comment: Huascar Castro of SV@Home and Los Altos resident Sue Russel provided public comment.

Mayor Mordo closed the public hearing.

Councilmember Bruins expressed concerns about the lack of clarity and distinction between inclusionary, linkage and in-Lieu fees; and about home ownership at the very low-income level.

Action: Upon a motion by Councilmember Pepper, seconded by Councilmember Lee Eng, the Council introduced and waived further reading of Ordinance No. 2018-449 to amend Chapter 14.28 of the Los Altos Municipal Code pertaining to the City's affordable housing requirements, pending the modifications provided below, by the following vote: AYES: Lee Eng, Mordo, Pepper, Prochnow; NOES: Bruins; ABSTAIN: None; ABSENT: None.

Direction: The Council provided the following modifications to the proposed ordinance:

- For projects with 5 to 9 units, provide 15% affordable units and allow for the payment of a fee in-Lieu of building the units;
- Change the term "impact fee" to "in-Lieu fee".

The Council further directed staff to require units to be affordable in perpetuity or for at least 55 years as a policy if not as part of the Municipal Code.

Mayor Mordo recessed the meeting at 8:37 p.m. The meeting resumed at 8:41 p.m.

DISCUSSION ITEMS

7. Resolution No. 2018-36: Design Review for the new Los Altos Community Center: Adopt Resolution No. 2018-36, which adopts the Initial Study, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approves Design Review application 18-D-03 for the new Los Altos Community Center

Planning Services Manager Dahl introduced the report. Principal Janet Tam, Associate Principal Trina Goodwin, and Architect James Gwise of Noll and Tam, and Landscape Architect Jan Eiesland of MIG, gave the presentation.

Action: Upon a motion by Councilmember Prochnow, seconded by Councilmember Pepper, the City Council unanimously adopted Resolution No. 2018-36, which adopts the Initial Study, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approves Design Review application 18-D-03 for the new Los Altos Community Center, pending the inclusion of an option for a standing seam metal roof as an add alternate to the bid documents to be evaluated for cost and feasibility when the bids are received, with accompanying language to be included in the Resolution.

8. Regional Housing Needs Allocation (RHNA) Subregion: Participate and support efforts to form a RHNA Subregion in Santa Clara County

Community Development Director Biggs introduced the item.

Action: Upon a motion by Councilmember Lee Eng, seconded by Councilmember Bruins, the Council unanimously agreed to continue to participate and support efforts to form a RHNA Subregion in Santa Clara County.

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

Councilmember Prochnow reported that she attended the Senior, Youth and Public Art Commissions meetings.

Councilmember Pepper reported that she will not be at next meeting, September 25, 2018.

Vice Mayor Lee Eng reported that she attended the North County VTA meeting and the Planning and Complete Streets Commission meetings.

Future Agenda Items

City Manager Chris Jordan updated the Council on the movement of items on the tentative agenda calendar.

Council requested dates be scheduled to consider the Miramonte Path project and the Urban Forestry Plan.

ADJOURNMENT

Mayor Mordo adjourned the meeting at 10:38 p.m.

Jean Mordo, MAYOR

Jon Maginot, CMC, CITY CLERK



CONSENT CALENDAR

Agenda Item # 2

AGENDA REPORT SUMMARY

Meeting Date: September 25, 2018

Subject: Resolution No. 2018-37: Police Department Building Roof Replacement, Project CF-01003

Prepared by: Victor Chen, Senior Civil Engineer

Reviewed by: Susanna Chan, Public Works Director

Approved by: Chris Jordan, City Manager

Attachment:

1. Resolution No. 2018-37

Initiated by:

City Council, CIP CF-01003

Previous Council Consideration:

April 10, 2018

Fiscal Impact:

The following table summarizes the final costs of this project:

	Project Budget for CF-01003	Final Cost for CF-01003
Construction	\$191,900	\$194,144
Printing/Misc	\$6,000	\$740
5% Inspection	\$9,550	\$0
Construction Contingency	\$29,000	\$0
Total Cost	\$236,450	\$194,884
Project Budget	\$250,000	

The total project savings of **\$55,116** will be returned to the CIP Fund.

Environmental Review:

Categorically Exempt pursuant to CEQA Section 15301 (c).

Policy Question(s) for Council Consideration:

Not applicable

Summary:

- Construction contract was awarded to Stronger Building Services on April 10, 2018
- City Council to accept the completion of the Police Department Building Roof Replacement, Project CF-01003



Subject: Resolution No. 2018-37: Police Department Building Roof Replacement, Project CF-01003

Staff Recommendation:

Adopt Resolution No. 2018-37 accepting completion of Police Department Building Roof Replacement, Project CF-01003 and authorize the Public Works Director to record a Notice of Completion as required by law



Subject: Resolution No. 2018-37: Police Department Building Roof Replacement, Project CF-01003

Purpose

Accept the completion of the Police Department Building Roof Replacement, Project CF-01003.

Background

The Capital Improvement Program (CIP) includes a budget to replace the damaged Police Department Building roof to fix the severe water leakage. On April 10, 2018, City Council awarded the Police Department Building Roof Replacement, Project CF-01003, to Stronger Building Services for a contract amount of \$191,900 with a contingency amount of \$29,000. Project CF-01003 removed existing wood shakes and installed new Presidential asphalt shingles.

Discussion/Analysis

Project CF-01003 was completed in accordance with the contract plan and specifications. The final cost of the construction contract with Stronger Building Services is \$194,144 with one change order to repair existing redwood siding on three (3) dormers. All work is complete and acceptable.

Recording of the Notice of Completion begins the 35-day lien-filing period for subcontractors and suppliers. At the end of the 35-days period, the City releases the 5% retention amount to the contractor if no liens are filed.

Options

- 1) Adopt Resolution No. 2018-37

Advantages: City can close Project CF-01003 as required by law

Disadvantages: None

- 2) Do not adopt Resolution No. 2018-37

Advantages: None

Disadvantages: City will not be able to release the 5% retention back to the contractor as required by law

Recommendation

The staff recommends Option 1.

RESOLUTION NO. 2018-37

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
ACCEPTING COMPLETION AND DIRECTING THE PUBLIC WORKS
DIRECTOR TO FILE A NOTICE OF COMPLETION OF THE POLICE
DEPARTMENT BUILDING ROOF REPLACEMENT PROJECT CF-01003**

WHEREAS, the Los Altos Public Works Director has filed with the City Clerk of Los Altos an Engineer's Certificate as to the completion of all work provided to be done under and pursuant to the contract between City and Stronger Building Services, dated May 8, 2018; and

WHEREAS, it appears to the satisfaction of this City Council that work under said contract has been fully complete and done as provided in said contract and the plans and specifications therein referred to.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby authorizes the following:

1. That acceptance of completion of said work be, and it is hereby, made and ordered.
2. That the Public Works Director is directed to execute and file for record with the County Recorder of the County of Santa Clara, notice of acceptance of completion thereof, as required by law.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 25th day of September 2018 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jean Mordo, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK



CONSENT CALENDAR

Agenda Item # 3

AGENDA REPORT SUMMARY

Meeting Date: September 25, 2018

Subject: Contract Award: Sewer System Repair Program, Project WW-01001 and Structural Reach Replacement, Project WW-01002

Prepared by: Aida Fairman, Senior Civil Engineer

Reviewed by: Susanna Chan, Public Works Director

Approved by: Chris Jordan, City Manager

Attachment(s):

None

Initiated by:

City Council, CIP Project WW-01001 and WW-01002

Previous Council Consideration:

None

Fiscal Impact:

\$187,844 (There are sufficient funds in the Project Budget for FY 2018/19 in the Sanitary Sewer Fund)

Environmental Review:

Categorically Exempt pursuant to CEQA Section 15301 (b).

Policy Question(s) for Council Consideration:

Not Applicable

Summary:

- The Sewer System Repair Program, Project WW-01001, & Structural Reach Replacement, Project WW-01002, will consist of replacement of up to 20 sewer segments at various locations in the City
- Authorize the City Manager to execute an amendment on behalf of the City with Bellecci & Associates in the amount of \$187,844

Staff Recommendation:

Authorize the City Manager to execute an agreement on behalf of the City with Bellecci & Associates, Inc. in the amount of \$187,844 to provide design and consulting services for the Sewer System Repair Program, Project WW-01001 and Structural Reach Replacement, Project WW-01002



Subject: Contract Award: Sewer System Repair Program, Project WW-01001 and Structural Reach Replacement, Project WW-01002

Purpose

Execute an agreement for design and consulting services for the Sewer System Repair Program Project, WW-01001 and Structural Reach Replacement, Project WW-01002.

Background

The 2013 Sanitary Sewer Master Plan Update recommended replacement of segments of pipes in the City that have sags, which can cause accumulation of debris and grease (requiring frequent cleaning), or other structural or maintenance issues. This project consists of replacement of up to 20 sewer segments at various locations in the City, which range in size from 6 to 15 inches in diameter. The lines will be replaced with HDPE pipe and, where feasible, use trenchless methods.

Discussion/Analysis

It is recommended that the award of the design contract be made to Bellecci & Associates, Inc. in the amount of \$187,844. Through the RFP process, the City previously created a short-list of firms for design and construction services for sanitary sewer projects. Bellecci & Associates, Inc. was selected from the City's short list of firms to submit a proposal for this project. Bellecci & Associates, Inc. has been in business for more than 30 years and has satisfactorily completed similar projects for the City of Los Altos and other municipalities in the Bay Area. In 2016 and 2017, Bellecci & Associates, Inc. provided design and construction support services for the City of Los Altos Structural Reach Replacement project, which included replacement of 12 lines throughout the City.

Options

- 1) Authorize the City Manager to execute the agreement with Bellecci & Associates, Inc. for design services for the Sewer System Repair Program, Project WW-01001 and Structural Reach Replacement, Project WW-01002

Advantages: Completion of the Sewer System Repair Program and Structural Reach Replacement projects provides necessary maintenance of the City's sanitary sewer system to ensure proper functioning

Disadvantages: None

- 2) Do not authorize the City Manager to execute the agreement with Bellecci & Associates, Inc.

Advantages: None

Disadvantages: Repair of the sanitary sewer segments would be delayed



Subject: Contract Award: Sewer System Repair Program, Project WW-01001 and Structural Reach Replacement, Project WW-01002

Recommendation

The staff recommends Option 1.



CONSENT CALENDAR

Agenda Item # 4

AGENDA REPORT SUMMARY

Meeting Date: September 25, 2018

Subject: Contract Award: Windimer Drive Storm Drain Ditch, Project CD-01012

Prepared by: Aida Fairman, Senior Civil Engineer

Reviewed by: Susanna Chan, Public Works Director

Approved by: Chris Jordan, City Manager

Attachment:

1. Bid Summary for Windimer Drive Storm Drain Ditch, Project CD-01012

Initiated by:

City Council, CIP Project

Previous Council Consideration:

April 24, 2018

Fiscal Impact:

Based on the low responsive and responsible bid, the estimated project costs are:

Project Item	Project Budget
Design	\$101,690
Construction	\$297,480
Inspection and testing services	\$50,000
Printing/Environmental Doc/Misc.	\$3,208
Construction contingency (15%)	\$44,622
Estimated Total Cost	\$497,000

Environmental Review:

Categorically Exempt pursuant to CEQA Section 15301 (b).

Policy Question(s) for Council Consideration:

None

Summary:

- The project improvements include repairing/patching of the existing storm drain ditch, replacing leaning segments of retaining walls along the ditch, replacing a portion of the ditch with parapet wall, and installing five (5) locked access gates



Subject: Contract Award: Windimer Drive Storm Drain Ditch, Project CD-01012

Staff Recommendation:

Appropriate an additional \$100,000 from the General Fund to Project CD-0101219; award the Base Bid for the construction of the Windimer Drive Storm Drain Ditch, Project CD-01012 to C2R Engineering, Inc.; and authorize the City Manager to execute a contract in the amount of \$297,480 and up to 15% contingency on behalf of the City for construction costs



Subject: Contract Award: Windimer Drive Storm Drain Ditch, Project CD-01012

Purpose

Appropriate an additional \$100,000 from the General Fund to Project CD0101219. Award the Base Bid for construction of the Windimer Drive Storm Drain Ditch, Project CD-01012 to C2R Engineering, Inc. Authorize the City Manager to execute a contract on behalf of the City with C2R Engineering, Inc. to provide construction services for the Windimer Drive Storm Drain Ditch, Project CD-01012 in the amount of \$297,480 and up to 15% contingency for construction costs.

Background

The 2016 Stormwater Master Plan identified and prioritized areas for storm drainage infrastructure improvements. The Windimer drainage ditch improvement project was designated as a high priority in the plan due to historic risk of flooding for nearby properties.

On August 5, 2016 the City Manager executed an agreement with Cal Engineering & Geology (CE&G) for the design of the Windimer Drive Storm Drain Ditch, Project CD-01012 in the amount of \$74,278. On April 24, 2018, the Council approved Amendment No. 1 to the agreement with CE&G in the amount of \$27,412 for a total contract of \$101,690.

Discussion/Analysis

On September 6, 2018, one bid was opened for the Windimer Drive Storm Drain Ditch, Project CD-01012. The bid results are included as Attachment 1.

The project consists of clearing and repairing/patching of the existing storm drain ditch, removal and replacing leaning segments of retaining walls along the ditch, removing sandbags, replacing a portion of the ditch with a new concrete ditch with parapet wall, installing five (5) locked access gates for long-term maintenance, constructing a new drop inlet and cleaning an existing storm drain pipe that is located between Stonehaven Drive and the downstream end of the ditch.

It is recommended that the award of the Base Bid be made to C2R Engineering, Inc., which was determined to be the lowest responsive bid in the amount of \$297,480.

City staff communicated with residents regarding the upcoming work within the easement on their properties and have incorporated the comments and concerns raised to the extent feasible.

C2R Engineering, Inc. has no deficiencies against its General Contractor's license. There are no violations for C2R Engineering, Inc. listed in the Federal Government's Occupational Safety and Health Administration (OSHA) database. The company has been in business for four (4) years and has satisfactorily completed projects for the City of Los Altos, the City of Pacifica, the Oro Loma Sanitary District, and the Town of Los Altos Hills.



Subject: Contract Award: Windimer Drive Storm Drain Ditch, Project CD-01012

Options

- 1) Award the Base Bid for the Windimer Drive Storm Drain Ditch, Project CD-01012 in the amount of \$297,480 to C2R Engineering, Inc. and authorize the City Manager to execute a contract on behalf of the City

Advantages: C2R Engineering, Inc. is the low responsive bid and can complete the work for the storm drain ditch improvements within the approved project budget

Disadvantages: None

- 2) Reject all bids and re-advertise

Advantages: None

Disadvantages: Re-bidding the project is not likely to result in lower bids

Recommendation

The staff recommends Option 1.

Bid Summary
September 6, 2018
Windimer Drive Storm Drain Ditch
Project CD-01012

Engineer's Estimate
Base Bid: \$ 237,280

Contractor	Base Bid
C2R Engineering, Inc.	\$ 297,480



CONSENT CALENDAR

Agenda Item # 5

AGENDA REPORT SUMMARY

Meeting Date: September 25, 2018

Subject: Parcel Map: 160 West Portola Avenue

Prepared by: Zubair Trabzada, Junior Engineer

Reviewed by: Susanna Chan, Public Works Director

Approved by: Chris Jordan, City Manager

Attachment(s):

None

Initiated by:

160 West Portola Avenue Development

Previous Council Consideration:

September 26, 2017

Fiscal Impact:

None

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

None

Summary:

- Tentative map was approved on September 26, 2017
- Council to approve Parcel Map of 160 West Portola Avenue

Staff Recommendation:

Approve the Parcel Map for 160 West Portola Avenue



Subject: Parcel Map: 160 West Portola Avenue

Purpose

Approve Parcel Map of 160 West Portola Avenue

Background

On September 26, 2017, the City Council approved a design review application and the associated Tentative Map for a new development at 160 West Portola Avenue. The recommended action will finalize the tentative parcel map for the project.

Discussion/Analysis

Parcel Map for the development at 160 West Portola Avenue conforms to the Tentative Map approved on September 26, 2017. The map and survey have been checked and found to be technically correct and in conformance with all regulations and laws. All conditions of approval associated with this Parcel Map have been complied with. All required fees and deposits have been received. The Parcel Map is available in the Engineering Division office for inspection.

Options

- 1) Approve Parcel Map of 160 West Portola Avenue

Advantages: Developer complies with the condition of approval and can complete the building permit application

Disadvantages: None

- 2) Do not approve Parcel Map of 160 West Portola Avenue

Advantages: None

Disadvantages: Developer will not be able to continue construction. Council must provide reasons for rejection

Recommendation

The staff recommends Option 1.



CONSENT CALENDAR

Agenda Item # 6

AGENDA REPORT SUMMARY

Meeting Date: September 25, 2018

Subject: Professional Services Agreement: Police Station EOC and restrooms, and HVAC upgrades

Prepared by: Theresa Yee, Project Manager

Reviewed by: Susanna Chan, Public Works Director

Approved by: Chris Jordan, City Manager

Attachment(s):

None

Initiated by:

City Council CIP Project CF-01003

Previous Council Consideration:

February 27, 2018 – Five-year Facilities Maintenance/Improvement Plan

Fiscal Impact:

\$290,000 (there are sufficient funds in the project budget to fund this Agreement)

Environmental Review:

Not applicable – Environmental review will be conducted during the design development phase of the project.

Policy Question(s) for Council Consideration:

None

Summary:

- On June 21, 2018, City released two Request for Proposals (RFP) for professional design services for:
 1. Police Station Emergency Operations Center (EOC) and restrooms; and
 2. Heating, Ventilation, and Air Conditioning (HVAC) upgrades
- On July 31, 2018, seven (7) proposals were received for the EOC and restrooms, and nine (9) proposals were received for the HVAC upgrades
- An RFP Evaluation Committee scored each proposal and Jeff Katz Architecture scored the highest in both the EOC and Restrooms RFP, and the HVAC upgrades RFP



Subject: Professional Services Agreement: Police Station EOC and restrooms, and HVAC upgrades

Staff Recommendation:

Authorize the City Manager to execute a professional services agreement between the City of Los Altos and Jeff Katz Architecture in an amount not to exceed \$290,000 for design services for the Police Station Emergency Operations Center (EOC) and restrooms, and the Heating, Ventilation, and Air Conditioning (HVAC) upgrades.



Subject: Professional Services Agreement: Police Station EOC and restrooms, and HVAC upgrades

Purpose

Authorize the City Manager to execute a professional services agreement between the City of Los Altos and Jeff Katz Architecture in an amount not to exceed \$290,000 for design services for the Police Station Emergency Operations Center (EOC) and restrooms, and the Heating, Ventilation, and Air Conditioning (HVAC) upgrades.

Background

Emergency Operations Center (EOC)

The current EOC is located at the Municipal Services Center approximately 2.5 miles from City Hall and the Civic Center Campus in a building that is not rated as an Essential Facility. An Essential Facility is defined as a critical facility designed to be protected against natural hazards to a level greater than average. A critical facility is one that the community considers essential for the delivery of vital services for the protection of the community and includes emergency response facilities, such as an EOC.

Council recently adopted Resolution 2018-01 accepting all of Volume 1 and the City of Los Altos portion of Volume 2 of the Santa Clara County Operational Area Hazard Mitigation Plan. This Plan recognizes that the City's EOC needs replacement.

There have been a few upgrades and additions to the original police station to increase it to the existing size; however, the existing building does not contain an Essential Facility EOC. The location of a new EOC and restroom at the station will benefit from its proximity to emergency personnel who will typically lead and staff it in the event of an emergency.

The new EOC can be used as flexible space for briefing/training and as a conference room. A new restroom located near the EOC and Information Technology (IT) trailer will provide a more convenient location, as staff currently must walk to another facility to reach the nearest restroom.

Due to the limited space, removal of the traffic division trailer is necessary to create space to accommodate the new EOC. The current briefing room in the police station will be remodeled for the traffic division offices, while the briefing room function can be moved to the new EOC to create much-needed additional space to meet staffing needs.

Heating, Ventilation, and Air Conditioning (HVAC) upgrades

The existing Police Department building was built in 1967. Many components in the HVAC system are near the end of their useful life.



Subject: Professional Services Agreement: Police Station EOC and restrooms, and HVAC upgrades

The building has been through several minor remodels; the heating, ventilating, and cooling system has an assortment of components. The HVAC is experiencing more frequent intermittent system failures and air flow issues.

An assessment and re-design of the existing HVAC system is needed to provide an efficient and balanced system for current needs. This project was identified in the 2016 Facilities Condition Assessment as a maintenance need.

Discussion/Analysis

On June 21, 2018, the City released two Request for Proposals (RFP) for professional design services for: 1) Police Station Emergency Operations Center (EOC) and restrooms; and 2) Heating, Ventilation, and Air Conditioning (HVAC) upgrades.

On July 31, 2018, seven (7) proposals were received for the EOC and restrooms, and nine (9) proposals were received for the HVAC upgrades. Following receipt of proposals, the RFP Evaluation Committee scored all. Those firms that scored 20 points or less than the next firm did not proceed to the second phase of interviewing.

Following the interviews and reference checks, Jeff Katz Architecture scored the highest in both the EOC and restrooms RFP and the HVAC upgrades RFP. Based on the responsive and responsible proposal, staff recommends consolidating the scopes of work into one agreement with Jeff Katz Architecture in an amount not to exceed \$290,000 for the combined projects of the EOC and restrooms, and HVAC upgrades.

Options

- 1) Authorize the City Manager to execute a professional services agreement between the City of Los Altos and Jeff Katz Architecture in an amount not to exceed \$290,000 for design services for the Police Station Emergency Operations Center (EOC) and restrooms, and Heating, Ventilation, and Air Conditioning (HVAC) upgrades

Advantages: Project design will proceed for Police Station Emergency Operations Center (EOC) and restrooms, and Heating, Ventilation, and Air Conditioning (HVAC) upgrades

Disadvantages: None



Subject: Professional Services Agreement: Police Station EOC and restrooms, and HVAC upgrades

- 2) Do not authorize the execution of a professional services agreement for design services for the Police Station Emergency Operations Center (EOC) and restrooms, and Heating, Ventilation, and Air Conditioning (HVAC) upgrades

Advantages: None

Disadvantages: Staff does not have the expertise to provide professional design services for this project. The construction of an EOC and restrooms, and the HVAC upgrades cannot be carried out

Recommendation

The staff recommends Option 1.



CONSENT CALENDAR

Agenda Item # 7

AGENDA REPORT SUMMARY

Meeting Date: September 25, 2018

Subject: Ordinance No. 2018-449: Affordable Housing Ordinance Amendment

Prepared by: Zachary Dahl, Planning Services Manager

Reviewed by: Jon Biggs, Community Development Director

Approved by: Chris Jordan, City Manager

Attachments:

1. Ordinance No. 2018-449

Initiated by:

City Council

Previous Council Consideration:

September 11, 2018

Fiscal Impact:

None

Environmental Review:

This ordinance is exempt from review under the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*) because the ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §§15378 and 15061(b)(3). The ordinance also is exempt because it is not intended to apply to specifically identified housing projects and, as such, it is speculative to evaluate any such future project now and, moreover, such projects will be subject to appropriate environmental review at such time as approvals for such projects are considered and/or the ordinance is not intended to, nor does it, provide CEQA clearance for any future development-related projects. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

Policy Questions for Council Consideration:

- Does this amendment support the goals, policies and programs contained in the City's Housing Element?
- Does this amendment support the City Council's 2018 priority to expand affordable housing in the City?
- Does this amendment adequately address the Santa Clara County Civil Grand Jury Report's recommendation that the City's inclusionary BMR percentage requirements be increased to at least 15 percent?



Subject: Ordinance No. 2018-449: Affordable Housing Ordinance Amendment

Summary:

- The ordinance will amend the Zoning Code to increase the minimum affordable housing requirement from 10% to 15% for all multiple-family residential projects that include five (5) or more new dwelling units
- The Planning Commission voted to recommend adoption of the ordinance on July 19, 2018
- The City Council voted to introduce and waive further reading of the ordinance on September 11, 2018

Staff Recommendation:

Adopt Ordinance No. 2018-449 to amend Chapter 14.28 of the Los Altos Municipal Code pertaining to the City's affordable housing requirements



Subject: Ordinance No. 2018-449: Affordable Housing Ordinance Amendment

Purpose

Adopt an ordinance that amends the City's Affordable Housing Ordinance and increases the affordable housing requirement from 10% to 15% for multiple-family projects that contain five or more new dwelling units.

Background

On September 11, 2018 the City Council held a public hearing and voted to introduce and waive further reading of Ordinance No. 2018-449, which will increase the affordable housing requirement from 10% to 15% for multiple-family projects that contain five or more new dwelling units. As part of the action, the following direction was provided:

- a. Update Section 14.28.020 to require projects with 5-9 units to provide 15% affordable, but not specify an income category and allow for payment of fee in-Lieu of building units;
- b. Update City policy to require affordable units to be affordable for at least 55 years;
- c. Change the term "impact fee" to "in-Lieu fee;" and
- d. Explore feasibility of whether the City can acquire a first option to purchase when an affordable unit is sold or transferred.

Discussion/Analysis

In response to the Council direction, the Ordinance has been updated (changes highlighted in yellow). Regarding the 55-year requirement, staff has already implemented this policy for all pending and future projects with affordable units. However, to allow staff to work with the City Attorney to explore options for requiring affordable for terms longer than 55 years, this requirement is being implemented as a policy and is not included in the Zoning Code. Staff will also work with the City Attorney to evaluate first purchase options for affordable housing units.

This Ordinance will go into effect 31 days after adoption.

Options

- 1) Adopt Ordinance No. 2018-449

Advantages: The City will achieve more below market rate units and improve its ability to achieve its Regional Housing Need Allocation by 2023

Disadvantages: None

- 2) Do not adopt Ordinance No. 2018-449

Advantages: None



Subject: Ordinance No. 2018-449: Affordable Housing Ordinance Amendment

Disadvantages: The City will achieve fewer below market rate units over time and may not be able to achieve its Regional Housing Need Allocation by 2023

Recommendation

The staff recommends Option 1.

ORDINANCE NO. 2018-449

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING ZONING CODE CHAPTER 14.28 PERTAINING TO THE CITY'S AFFORDABLE HOUSING REQUIREMENTS AND MAKING FINDINGS OF CEQA EXEMPTION

WHEREAS, the City of Los Altos initiated an application (18-CA-04) to amend Title 14 of the Los Altos Municipal Code pertaining to the City's affordable housing requirements, referred herein as the "CA"; and

WHEREAS, it is a top priority of the Los Altos City Council to further the housing goals identified in the Housing Element of the Los Altos General Plan and expand affordable housing opportunities in the City; and

WHEREAS, the CA is in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, or welfare and is in conformance with the Los Altos General Plan; and

WHEREAS, the CA was processed in accordance with the applicable provisions of the California Government Code and Chapter 14.86 of the Los Altos Municipal Code; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the CA on July 19, 2018 and the City Council held a duly noticed public hearing on the CA on September 11, 2018; and

WHEREAS, the location and custodian of the documents or other materials, which constitute the record of proceedings upon which the City Council's decision are based, are in the Office of the City Clerk.

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

SECTION 1. AMENDMENT OF CODE: The title of Chapter 14.28, and sections 14.28.010, 14.28.020 and 14.28.030 in Title 14 of the Los Altos Municipal Code are hereby replaced as follows:

Chapter 14.28 – MULTIPLE FAMILY AFFORDABLE HOUSING

14.28.010 - Purpose.

This chapter provides the requirements and provisions for the production of affordable housing. The definitions contained in Section 14.28.040.B., unless otherwise apparent from the context, shall be applicable to this Chapter.

14.28.020 - Applicability

All multiple-family residential projects that create five or more new dwelling units shall provide affordable housing as follows:

- A. For projects with five (5) to nine (9) units, affordable housing units shall be provided as follows:
 - 1. Fifteen (15) percent of the total units shall be designated as affordable, rental or ownership, at the moderate-, low- or very-low income level.
 - 2. As an alternative to providing the required affordable housing units, payment of an in-lieu fee is permitted.
- B. For projects with ten (10) or more units, affordable housing units shall be provided as follows:
 - 1. Rental units. Twenty (20) percent designated as affordable at the low-income level or fifteen (15) percent designated as affordable at the very-low income level.
 - 2. Ownership units. Fifteen (15) percent total, with a majority of the units designated as affordable at the moderate-income level and the remaining units designated as affordable at the low- or very-low income level.

14.28.030 – Standards

Applicable housing development projects shall be subject to the following standards:

- A. Calculations for the required affordable housing resulting in fractional units shall be rounded up to the next whole number.
- B. The action that approves the project shall contain sufficient conditions to ensure compliance with the provisions of this chapter.
- C. Unless otherwise approved by the city council, all affordable units in a project shall be constructed concurrently with market rate units, shall be dispersed throughout the project, and shall not be significantly distinguishable by size, design, construction or materials.
- D. As an alternative to providing the affordable housing units required by this Chapter, payment of an in-lieu fee may be approved by the city council.
- E. The requirement to provide affordable housing may be waived, adjusted or reduced by the city council if the developer can demonstrate, based on substantial evidence, that providing onsite affordable housing units will be financially infeasible.

SECTION 2. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 3. CEQA. This ordinance is not subject to review under the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*) because the ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §15378. The ordinance amends Los Altos Municipal Code provisions pertaining to the City’s affordable housing requirements, but it does not commit the City of Los Altos or any other party to any direct course of action, other than to review applications for compliance with the amended requirements as described herein and will not result in any physical changes in and of itself. Moreover, to the extent the ordinance was determined to be subject to CEQA, it would be exempt from further review

pursuant to the ‘common sense’ exemption (14 CCR §15061(b)(3)), as it can be seen with certainty that there is no possibility that the adoption of the ordinance may have a significant effect on the environment. The ordinance also is exempt from CEQA review because it is not intended to apply to specifically identified projects and, as such, it is speculative to evaluate any such future project now and, moreover, such projects will be subject to appropriate environmental review at such time as approval for such projects are considered and/or it is not intended to, nor does it, provide CEQA clearance for future development-related projects by mere establishment of the requirements herein. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

SECTION 4. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 5. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on September 11, 2018 and was thereafter, at a regular meeting held on September 25, 2018 passed and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jean Mordo, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK



PUBLIC HEARING

Agenda Item # 8

AGENDA REPORT SUMMARY

Meeting Date: September 25, 2018

Subject: Resolution No. 2018-38 and Ordinance No. 2018-450: General Plan and Zoning Code Amendments regarding the disposition of City-owned property

Prepared by: Jon Biggs, Community Development Director

Approved by: Chris Jordan, City Manager

Attachment(s):

1. Draft Resolution No. 2018-38
2. Draft Ordinance No. 2018-450
3. Figure LU-1, Land Use Policy Map from the Los Altos General Plan Land Use Element
4. List of City-owned land
5. Public correspondence

Initiated by:

City Council

Previous Council Consideration:

May 22, 2018; June 12, 2018; June 26, 2018; July 10, 2018 and August 7, 2018

Fiscal Impact:

None anticipated

Environmental Review:

The proposed amendments to the General Plan and Zoning Ordinance relate to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, sections 15378(b)(5). Alternately, these amendments are exempt from CEQA pursuant to State CEQA Guidelines, section 15061(b)(3), "the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment" as the measure has no potential to result in a direct, or reasonably foreseeable indirect impact on the environment.

Policy Question(s) for Council Consideration:

- Does the City Council wish to amend the Los Altos General Plan and Title 14, Zoning, of the Los Altos Municipal Code to prohibit the sale or transfer of City owned land with an "Other Open Space" or "Parks" land use designation and prohibit the re-designation of these lands to a different land use designation without voter approval?



Subject: Resolution No. 2018-38 and Ordinance No. 2018-450: General Plan and Zoning Code Amendments regarding the disposition of City-owned property

Summary:

- The City Council is considering a draft ordinance and resolution that, if approved/adopted, will require voter approval for the sale, transfer title, or re-designation of City-owned lands with an “Other Open Space” or “Parks” designation on the Land Use Policy Map of the Land Use Element of the Los Altos General Plan

Staff Recommendation:

Adopt Resolution No. 2018-38 and introduce and waive further reading of Ordinance 2018-450 regarding the disposition of City-owned property with an “Other Open Space” and “Parks” land use designation



Subject: Resolution No. 2018-38 and Ordinance No. 2018-450: General Plan and Zoning Code Amendments regarding the disposition of City-owned property

Purpose

The City Council has expressed an interest in enacting general plan goals and policies and zoning regulations that would limit the City's ability to sell, transfer ownership, or re-designate certain City-owned property. This report includes a draft resolution and ordinance that would put in place land use policies and zoning code requirements for voter approval before disposing of any City-owned properties or re-designating them with a different land use designation.

Background

The City Council met several times in the spring and summer and discussed various options for placing a ballot measure before the voters in November that would limit or prohibit the City's ability to dispose of its property.

Rather than placing an item on the ballot, at a special meeting on August 7, 2018, the City Council directed staff to begin the process of amending the General Plan, and any necessary ordinances, to require voter approval for the sale, transfer of title, or re-designation of City owned land with an "Other Open Space" or "Parks" land use designation.

The City Council is now considering a draft resolution and draft ordinance that:

- Prohibits the sale or transfer of City-owned land with a "Parks" or "Other Open Space" General Plan Land Use Designation without voter approval; and
- Prohibits the re-designation of City-owned land with a "Parks" or "Other Open Space" General Plan Land Use Designation to another General Plan Land Use Designation without voter approval.

The proposed amendments also provide that the voter approval requirement may be waived by Council to comply with Federal or State law governing the provision of housing.

Attached with this report is the General Plan Land Use Policy Map and a list of City owned land.

Discussion/Analysis

The Planning Commission considered the draft resolution and ordinance at its September 6, 2018 meeting. The Commission voted unanimously to recommend each of these to the City Council. The Commission did want to provide a cautionary note, however. Commissioners pointed out that while the proposed General Plan and Zoning Code amendments provide for protections on the sale, transfer or re-designation of City-owned lands, the opportunity to lease lands still exists and long-term leases may at some point thwart intentions to protect and preserve these lands.



Subject: Resolution No. 2018-38 and Ordinance No. 2018-450: General Plan and Zoning Code Amendments regarding the disposition of City-owned property

Given that there is a clear desire expressed in the Los Altos General Plan and Zoning regulations to provide for the protection of City lands with “Other Open Space” and “Parks” land use designations, it is appropriate to place important ownership decisions and land use designations of these properties in the hands of the voters.

Options

- 1) Adopt Resolution No. 2018-38 and Introduce Ordinance No. 2018-450

Advantages: Helps protect and preserve City-owned lands with the “Other Open Space” and “Parks” land use designations by making certain land use actions for these lands subject to voter approval

Disadvantages: May limit the City’s ability to efficiently address future unknown circumstances regarding City-owned properties with these land use designations

- 2) Decline to Adopt Resolution No. 2018-38 and Introduce Ordinance No. 2018-450

Advantages: May provide the City with flexibility to address future unknown circumstances in an efficient manner

Disadvantages: Does not provide for the additional protective and preservation measures for City-owned lands with the “Other Open Space” and “Parks” land use designations

Recommendation

Staff recommends Option 1.

RESOLUTION NO. 2018-38

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AMENDING THE GENERAL PLAN TO REQUIRE VOTER APPROVAL FOR: (1)
THE SALE OR TRANSFER OF TITLE OF CITY-OWNED LAND; AND (2) THE RE-
DESIGNATION OF CITY-OWNED LAND DESIGNATED AS “PARKS” OR “OTHER
OPEN SPACE”**

WHEREAS, the City of Los Altos has a unique arrangement of land uses that require regulations and standards that preserve the character of the community and provide for compatibility of adjacent uses; and

WHEREAS, under the City’s police power, the City may enact comprehensive land-use and zoning regulations to promote community values, beauty, health, safety, and welfare; and

WHEREAS, the Open Space, Conservation, and Community Facilities Element of the Los Altos General Plan provides for public facilities and services and ensures a high quality of living for residents of and visitors to Los Altos; and

WHEREAS, the “Other Open Space” and “Parks” General Plan Land Use designations provide for appropriate land uses and certain site development standards that help protect and maintain public parks, open space, facilities and services; and

WHEREAS, the City Council desires to amend the City of Los Altos General Plan to prohibit the sale, transfer of title, or re-designation of City-owned lands with a “Other Open Space” and “Parks” General Plan Land Use Designation without voter approval; and

WHEREAS, the amendments to the General Plan would require voter approval of: (i) the sale or transfer of title of any City-owned land; and (ii) the re-designation of any City-owned land with a General Plan land use designation of “Other Open Space” and “Parks” to any other use; and

WHEREAS, at its September 6, 2018 meeting, the Planning Commission of the City of Los Altos reviewed the amendments to the Los Altos General Plan and voted to recommend its approval to the City Council.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby adopts the following:

SECTION 1. the Los Altos General Plan is hereby amended by adding or amending the following Goals and Policies, to read as follows:

- A. Additions to General Plan.** The following Goal 1A and Policies 1A.1, 1A.2, and 1A.3 are hereby added to the General Plan immediately following Goal 1 on page 10 of the Open Space, Conservation and Community Facilities Element of the General Plan:

Goal 1A: Require voter approval for the sale or transfer of title of City-owned land or re-designation of City-owned land designated as “Parks” or “Other Open Space” in the General Plan.

Policy 1A.1: Voter approval shall be required for any of the following:

- a. The sale or transfer of title of any City-owned land to another party, whether public or private, with a land use designation of “Parks” or “Other Open Space”; and
- b. The re-designation of City-owned land with a land use designation of “Parks” or “Other Open Space” to a different land use designation, except that the re-designation of any City-owned land from “Parks” to “Other Open Space”, and vice versa, shall not require voter approval.

Policy 1A.2: Procedure and Exemptions. For purposes of this Policy, approval by a vote of the People is accomplished when an action is placed on the ballot at a general or special election through any procedure authorized in the California Elections Code, and a majority of the voters voting on the measure vote in favor of it.

Policy 1A.3 The voter approval requirement contained in Policy 1.A.1 may be waived by the City Council where necessary to comply with State or Federal law governing the provision of housing, including but not limited to affordable housing requirements.

B. Conforming Amendments to General Plan. To promote internal consistency among the various sections of the General Plan amended by Section 1(A) above, the following Policies of the General Plan are hereby amended:

1. Policy 3.6 on page 12 of the General Plan Community Design & Historic Resources Element is amended as follows:

“Evaluate the public benefit of City-owned parking plazas and the best use thereof, while preserving or increasing public parking Downtown, *consistent with the requirements of Goal 1A of the Open Space, Conservation and Community Facilities Element of the General Plan and its respective Policies.*”

2. The Open Space and Conservation Plan on page 3 of the General Plan Open Space, Conservation and Community Facilities Element is amended as follows:

“In order to preserve and enhance community open space resources, *and consistent with the requirements of Goal 1A of the Open Space, Conservation and Community Facilities Element of the General Plan and its respective Policies,* the City will implement a program that supports the joint-venture use of open space areas to reduce City maintenance costs and increase City revenues for maintaining open space resources. Joint ventures could involve other local government agencies, non-profits, and private development of commercial recreation facilities. The City

will also coordinate with public and private organizations to provide revenue generating open space uses to protect important open space resources, *consistent with the requirements of Goal 1A of the Open Space, Conservation and Community Facilities Element of the General Plan and its respective Policies.*

3. Goal 11 on page 14 of the Open Space, Conservation and Community Facilities Element is amended as follows:

“Maximize opportunities for joint public and private utilization of City, private sector, private school land and facilities, and public school district land, facilities, programs and resources to provide the most cost efficient and effective services for present and future Los Altos residents, *consistent with the requirements of Goal 1A of the Open Space, Conservation and Community Facilities Element of the General Plan and its respective Policies.*”

4. Policy 11.4 on page 14 of the Open Space, Conservation and Community Facilities Element is amended as follows:

“Encourage private sector provision of facilities and/or services, *consistent with the requirements of Goal 1A of the Open Space, Conservation and Community Facilities Element of the General Plan and its respective Policies.*”

SECTION 2. SEVERABILITY. If any portion of the Resolution is declared invalid by a court of law or other legal body with applicable authority, the invalidity shall not affect or prohibit the force and effect of any other provision or application of the Resolution that is not deemed invalid. The City Council hereby declares that they would have voted for the adoption of this Resolution, and each portion thereof, regardless of the fact that any portion of the Resolution may be subsequently deemed invalid.

SECTION 3. CEQA. The City Council hereby finds and determines that the amendments relate to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines, sections 15378(b)(5). Alternately, these amendments are exempt from CEQA pursuant to State CEQA Guidelines, section 15061(b)(3), “the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment” as the amendments have no potential to result in a direct, or reasonably foreseeable, indirect impact on the environment.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 25th day of September 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Attest:

Jean Mordo, MAYOR

Jon Maginot, CMC, CITY CLERK

ORDINANCE NO. 2018-450

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING CHAPTER 14.66, GENERAL PROVISIONS, BY ADDING SECTION 14.66.271, TO TITLE 14, ZONING, OF THE LOS ALTOS MUNICIPAL CODE THAT PROHIBITS: (1) THE SALE OR TRANSFER OF TITLE OF CITY-OWNED LAND; AND (2) THE RE-DESIGNATION OF CITY-OWNED LAND DESIGNATED AS “PARKS” OR “OTHER OPEN SPACE” WITHOUT VOTER APPROVAL

WHEREAS, the City of Los Altos has a unique arrangement of land uses that require regulations and standards that preserve the character of the community and provide for compatibility of adjacent uses; and

WHEREAS, under the City’s police power, the City may enact comprehensive land-use and zoning regulations to promote community values, beauty, health, safety and welfare; and

WHEREAS, the Open Space, Conservation, and Community Facilities Element of the Los Altos General Plan provide for public facilities and services and ensure a high quality of living for residents of and visitors to Los Altos; and

WHEREAS, the “Other Open Space” and “Parks” General Plan Land Use designations provide for appropriate land uses and certain site development standards that help protect and maintain public parks, open space, facilities and services; and

WHEREAS, the City Council desires to amend the City of Los Altos General Plan to prohibit the sale, transfer of title, or re-designation of City owned lands with a “Other Open Space” and “Parks” General Plan Land Use Designation without voter approval; and

WHEREAS, the amendments to the General Plan would require voter approval of: (i) the sale or transfer of title of any City-owned land and (ii) the re-designation of any City-owned land with a General Plan land use designation of “Other Open Space” and “Parks” to any other use; and

WHEREAS, at its September 6, 2018 meeting the Planning Commission of the City of Los Altos reviewed the amendments to Chapter 14.66, General Provisions and voted to recommend their approval to the City Council.

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

SECTION 1. FINDINGS. After considering the record before it, including but not limited to the agenda report, presentation of staff, public comment, and discussion, the City Council hereby finds that adoption of this Ordinance will help protect and promote public health, safety, comfort, convenience, prosperity and welfare by clarifying the City’s existing regulations.

SECTION 2. AMENDMENT OF CODE. The following Section, is hereby added to Chapter 14.66, General Provision, of Title 14, Zoning, of the Los Altos Municipal Code.

14.66.271 Voter Approval Required for Sale, Transfer, or Re-designation of City Owned “Parks” and “Other Open Space” Lands

A. Voter approval shall be required for any of the following:

1. The sale or transfer of title of any City-owned land to another party, whether public or private, with a General Plan land use designation of “Parks” or “Other Open Space”; and

2. The re-designation of City-owned land with a General Plan land use designation of “Parks” or “Other Open Space” to a different land use designation, except that the re-designation of any City-owned land from “Parks” to “Other Open Space”, and vice versa, shall not require voter approval.

B. For purposes of this Policy, approval by a vote of the People is accomplished when an action is placed on the ballot at a general or special election through any procedure authorized in the California Elections Code, and a majority of the voters voting on the measure vote in favor of it.

C. The voter approval requirement may be waived by the City Council where necessary to comply with State or Federal law governing the provision of housing, including but not limited to affordable housing requirements.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. Based on all the evidence presented in the administrative record, including but not limited to the staff report for the proposed Ordinance, the City Council hereby finds and determines that the proposed Ordinance relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines, sections 15378(b)(5). Alternately, this Measure is exempt from CEQA pursuant to State CEQA Guidelines, section 15061(b)(3), “the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment” as the Ordinance has no potential to result in a direct, or reasonably foreseeable, indirect impact on the environment.

SECTION 5. CUSTODIAN OF RECORDS. The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council’s findings and determinations are based are located at Los Altos City Hall, One North San Antonio Road, Los Altos, California. The City Clerk is the custodian of the record of proceedings.

SECTION 6. NOTICE OF EXEMPTION. The City Council hereby directs City staff to prepare and file a Notice of Exemption with the County, County Clerk within five working days of the adoption of this Ordinance.

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 date.

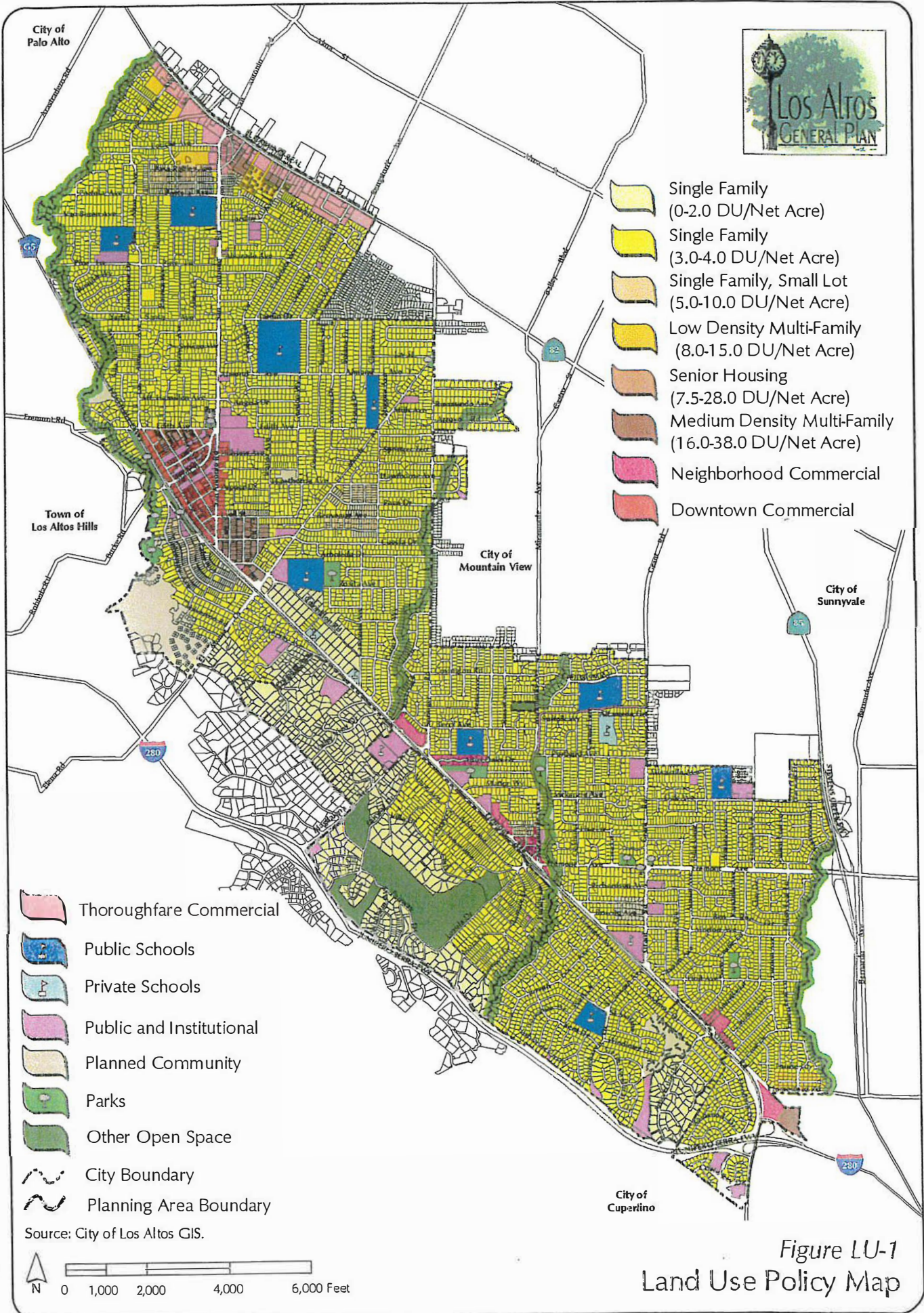
The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on _____ and was thereafter, at a regular meeting held on _____ passed and adopted by the following vote:









AYES:
NOES:
ABSENT:
ABSTAIN:

Jean Mordo, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK



-  Single Family (0-2.0 DU/Net Acre)
-  Single Family (3.0-4.0 DU/Net Acre)
-  Single Family, Small Lot (5.0-10.0 DU/Net Acre)
-  Low Density Multi-Family (8.0-15.0 DU/Net Acre)
-  Senior Housing (7.5-28.0 DU/Net Acre)
-  Medium Density Multi-Family (16.0-38.0 DU/Net Acre)
-  Neighborhood Commercial
-  Downtown Commercial

-  Thoroughfare Commercial
-  Public Schools
-  Private Schools
-  Public and Institutional
-  Planned Community
-  Parks
-  Other Open Space
-  City Boundary
-  Planning Area Boundary

Source: City of Los Altos GIS.

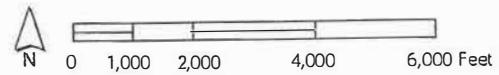


Figure LU-1
Land Use Policy Map

Approximate Address	Land Use (GP)	Lot Size (ft2)
1 N San Antonio Rd (Civic Center Campus- City Hall, PD, LAYC, Orchard)	Public and Institutional	206598
1 N San Antonio Rd (Civic Center Campus- Library, Bus Barn, Soccer/Baseball fields, Hillview Community Center)	Public and Institutional	562987
1575 Holt Ave (Grant Park)	Park	172996
1575 Holt Ave (Grant Park)	Single Family, Small Lot (4 du/net acre)	11556
1575 Holt Ave (Grant Park)	Single Family, Small Lot (4 du/net acre)	12966
1575 Holt Ave (Grant Park)	Single Family, Small Lot (4 du/net acre)	13032
Portland Ave/ Miramonte Ave (Heritage Oaks Park)	Open Space; Park	203924
Lincoln Park	Park	193406
Lincoln Park parking along University Ave	Park	30536
1285 Fremont Ave (Marymeade Park)	Park	97556
707 Fremont Ave (McKenzie Park)	Park; Public and Institutional	352411
482 Univeristy Ave (Redwood Grove)	Open Space; Park	59192
482 University Ave (Redwood Grove)	Park; Open Space	170381
482 University Ave (Redwood Grove)	Park; Open Space	5341
401 Rosita (Rosita Park)	Park	249163
400 Univeristy Ave (Shoup Park)	Open Space; Single Family, Small Lot (4 du/net acre); Park	156176
400 University Ave (Shoup Park)	Open Space; Park	10018
2 N San Antonio Rd (Village Park)	Park	30926
1975 Grant Road (Woodland Library)	Public and Institutional	63828
10 Almond Ave (Fire Station)	Public and Institutional	39287
201 Covington Rd (Los Altos School District- Los Altos Parent Preschool, Stepping Stones Preschool, Covington School, <i>Rosita Park</i>)	Public School / Park	664662
647 N San Antonio Rd (Tiny tots)	Public and Institutional	15675
647 N San Antonio Rd (Tiny Tots)	Public and Institutional	6120
1st St (Parking Plaza 1)	Downtown Commercial	46258
2nd St (Parking Plaza 2)	Downtown Commercial	46695
3rd St (Parking Plaza 3)	Downtown Commercial; Public and Institutional	88401
1st St (Parking Plaza 4)	Public and Institutional	24833
2nd St (Parking Plaza 5)	Public and Institutional	25994
State St (Parking Plaza 6)	Public and Institutional; Downtown Commercial	25296
1st St (Parking Plaza 7)	Public and Institutional	45454
2nd St (Parking Plaza 8)	Outside of City Limits; Public and Institutional	51213
4th St (Parking Plaza 9)	Public and Institutional	7874
4th St (Parking Plaza 10)	Public and Institutional	25234
Parking behind State of Mind	Downtown Commercial	4500
Along Permanente Creek at Portland Ave and Miramonte Ave	Public and Institutional	5800
N Springer Rd and El Monte Ave (corner parcel/public art)	Park	17868
NE corner of Fremone Ave and Grant Road	Park	94080
S corner of Grant Road and Fremont Ave	Park	10685
Paco Drive and Springer	Open Space; Single Family, Small Lot (4 du/net acre)	2105
Along Grant Road between Richardson Ave and Green Oak Lane	Planned Community	5155
Corner of Bendigo Dr and Green Oak Lane	Planned Community	11228
Green Oak Lane & Grant Road	Planned Community	1169
Along Los Altos Ave across from Santa Rita Ave	Single Family, Small Lot (4 du/net acre)	3920
Corner of N San Antonio Road and Arbuelo Way	Single Family, Small Lot (4 du/net acre)	9472
N Corner of Woodstock Ln and S. El Monte Ave	Single Family, Small Lot (4 du/net acre)	9636
Ranchita Court	Single Family, Small Lot (4 du/net acre)	3104
S Corner of Woodstock Ln and S. El Monte Ave	Single Family, Small Lot (4 du/net acre)	10099
S corner of El Camino Real and San Antonio Raod	Thoroughfare Commercial	13908

Jon Biggs

From: Pat Marriott <patmarriott@sbcglobal.net>
Sent: Friday, August 31, 2018 6:52 PM
To: Los Altos Planning Commission
Subject: September 6, 2018 meeting - bamendment re city-owned property
Attachments: 9-16-18 land use table from staff report.pdf; parks list to planning commission.pdf

Dear Commissioners:

Before approving the Staff Report and recommendations, I ask you to review the data you see in the report regarding land use. If you are going to make a recommendation to Council about a new City Ordinance, you should ensure it is based on accurate information.

I call your attention to:

1. the attached land use table from that report with my annotations.
2. the parks list, which shows how the list of parks and acreage varies across 3 different official Los Altos documents. I asked Director Manny Hernandez why there were discrepancies. He replied, "Sorry I am not able to clearly answer why these things are different."
3. Some callouts (below) from the 2012 Master Parks Plan at https://www.losaltosca.gov/sites/default/files/fileattachments/parks_and_recreation_commission/page/30331/final_los_altos_parks_plan.pdf

Page 5

Park	Acres
Community Plaza	0.16
Grant Park	4.50
Heritage Oaks Park	5.33
Hetch Hetchy Trail ¹	0.17
Hillview Park	6.63
Lincoln Park ²	4.44
Marymeade Park	2.47
McKenzie Park	4.30
Montclair Park ³	1.10
Redwood Grove	6.12
Rosita Park	5.00
Shoup Park	3.95
Village Park	0.78
647 N. San Antonio Road	0.50
Total	45.45

¹ Owned by City and County of San Francisco

² Leased from Santa Clara County

³ Leased from Cupertino Union School District

2012 Parks Plan, page 21

The City owns a property located at 647 North San Antonio Road in north Los Altos. The property is a 0.5 acre parcel and is home to the San Antonio Club, a local historical landmark. The site also includes play areas and off-street parking. The San Antonio Club was renovated in 2011 and houses the **Tiny Tots** pre-school program of

the City of Los Altos Recreation Department. The site, including the building, is available for public use during non-school hours.

Opportunities

- Repurpose the site into a neighborhood park by opening the play areas for public use when not in use by users of San Antonio Club
- Rent the San Antonio Club for functions similar to what is in practice at the Garden House in Shoup Park

Thank you,

Pat Marriott

Approximate Address	Land Use (GP)	lot Size (ft2)
1 N San Antonio Rd (Civic Center Campus- City Hall, PO, LAYC, Orchard)	Public and Institutional	206
1 N San Antonio Rd (Civic Center Campus- Library, Bus Barn, Soccer/Baseball fields, Hillview Community Center)	Public and Institutional	598
		S62
		987
1575 Holt Ave (Grant Park) HOW CAN THE SAME	Park	172996
1575 Holt Ave (Grant Park) ADDRESS BE	Single Family, Small Lot (4 du/net acre)	11556
1575 Holt Ave (Grant Park) A PARK AND	Single Family, Small Lot (4 du/net acre)	12966
1575 Holt Ave (Grant Park) SINGLE FAMILY LOTS?	Single Family, Small Lot (4 du/net acre)	13032
Portland Ave/ Miramonte Ave (Heritage Oaks Park)	Open Space; Park	203924
Lincoln Park	Park	193406
Lincoln Park parking along University Ave	Park	30536
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707 Fremont Ave (McKenzie Park)	Park; Public and Institutional	352411
482 University Ave (Redwood Grove)	Open Space; Park	59192
482 University Ave (Redwood Grove)	Park; Open Space	170381
482 University Ave (Redwood Grove)	Park; Open Space	5341
4(1) Rosita (Rosita Park)	Park	249163
400 University Ave (Shoup Park) du/netacre); SAME QUESTION AS ABOVE.	Park; Open Space; Single Family, Small Lot (4	156176
400 University Ave (Shoup Park)	Open Space; Park	10018
2 N San Antonio Rd (Village Park)	Park	30926
1975 Grant Road (Woodland Library)	Public and Institutional	63828
10 Almond Ave (Fire Station)	Public and Institutional	39287
201 Covington Rd (Los Altos School District- Los Altos Parent Preschool, Stepping Stones Preschool, Covington School, Rosita Park)	Public School/ Park	664662
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1st St (Parking Plaza 7)	Public and Institutional	45454
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Parking behind State of Mind	Downtown Commercial	4500
Along Permanente Creek at Portland Ave and Miramonte Ave	Public and Institutional	5800
N Springer Rd and El Monte Ave (corner parcel/ public art) THESE PARCELS ARE NOT	Park	17868
NE corner of Fremone Ave and Grant Road LISTED AS PARKS	Park	94080
S corner of Grant Road and Fremont Ave ON ANY OTHER PARK LIST	Park	10685
Bike trail on Fallen Leaf Lane THIS LAND BELONGS TO THE SF PUC	Open Space; Single Family, Small Lot (4 du/net acre)	2000
Paco Drive and Springer HOW CAN THIS BE OPEN SPACE AND SINGLE FAMILY LOTS?	Open Space; Single Family, Small Lot (4 du/net acre)	2105
Along Grant Road between Richardson Ave and Green Oak Lane	Planned Community	5155
Corner of Bendigo Dr and Green Oak Lane	Planned Community	11228
Green Oak Lane & Grant Road	Planned Community	1169
Along Los Altos Ave across from Santa Rita Ave	Single Family, Small Lot (4 du/net acre)	3920
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S Corner of Woodstock Ln and S. El Monte Ave	Single Family, Small Lot (4 du/net acre)	10099
Corner of El Camino Real and San Antonio Road	Thoroughfare Commercial	13908

List of Los Altos Parks from 3 Sources + my assessment					
2016 Los Altos population =		30,561			
Park	General Plan: Nov. 2002 Table OCC-1 Acres	2012 Parks Plan Acres	City website Acres	Parks on City Property Acres	Notes
Covington	2				School property.
Grant	3.5	4.5	4.5	4.5	
Heritage Oaks	5	5.33	5.33	5.33	
Hillview	6	6.63	*	6.63	
Lincoln	2.5	4.44	4.44	4.44	
Marymeade	2.5	2.47	2.47	2.47	
McKenzie	1.3	4.3	4.3	4.3	
Montclair	0.75	1.10	1.1		Property of Cupertino Union School District
Redwood Grove	6	6.12	6.12	6.12	
Rosita	5	5.00	5	5	
Shoup	2.84	3.95	*	3.95	I used larger acreage
Village (Previously Conner)	0.75	0.78	0.78	0.78	
Vet Comm Plaza	-	0.16	*		Website calls this "a reservable space."
Tiny Tots	-	0.50			Los Alto property, but not a park. Parks Plan calls this "an opportunity."
Hetch Hetchy Trail	-	0.17			Property of San Francisco City & County.
TOTAL	38.14	45.45		43.52	
			* Acreage not shown on city website.		
	1.25	1.49		1.42	
	acres/1,000	acres/1,000		acres/1,000	



LEAGUE OF WOMEN VOTERS
of the Los Altos-Mountain View Area

September 3, 2018

Chair Phoebe Bressack and Members of the Planning Commission
City of Los Altos
1 N San Antonio Road
Los Altos, CA 94022

Re: Agenda Item #3, Planning Commission Meeting September 6th – General Plan and Zoning Code Amendment Prohibiting Sale of City-Owned land with a “Parks” or “Other Open Space” designation without Voter Approval

Dear Chair Bressack and Members of the Planning Commission:

The Board of the Los Altos/Mountain View Area League of Women Voters voted to oppose Measure C, which would require voter approval of a vast number of City decisions. It could also lead to costly elections, relating to renegotiation of leases with the library, fire stations, LASD and other essential services. Thus, Measure C would undermine the principle of representative democracy, a basic principle of the LWV.

As a result, we believe that the proposed General Plan and Zoning Code Amendment is a reasonable answer to expressed citizen concerns about the sale of parkland. The City has never sold land designated as “Parks” or “Open Space” and we do not expect that it will ever want to do so. Therefore, we believe that this General Plan and Zoning Code Amendment is an appropriate response to Measure C which will be on the November 6th ballot.

Cathy Lazarus
LWV of the Los Altos-Mountain View Area

Cc: Chris Jordan Jon Biggs



PUBLIC HEARING

Agenda Item # 9

AGENDA REPORT SUMMARY

Meeting Date: September 25, 2018

Subject: Ordinance No. 2018-451: Cannabis Prohibition

Prepared by: Jon Biggs, Community Development Director

Approved by: Chris Jordan, City Manager

Attachment(s):

1. Draft Ordinance

Initiated by:

City Council

Previous Council Consideration:

November 28, 2017; January 9, 2018; and May 8, 2018

Fiscal Impact:

None anticipated

Environmental Review:

This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under CEQA Guidelines, Section 15061(b)(3), that this Ordinance is exempt from environmental review under the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. This ordinance maintains the status quo by prohibiting all medical and adult-use commercial cannabis uses from establishing within the City of Los Altos. In addition, to the extent delivery services originating from outside city limits would be allowed, such delivery services would be subject to the discretionary review of the local jurisdiction where the retailer is physically established and to state licensing requirements, thus, this ordinance is also exempt from further CEQA review pursuant to Business and Professions Code, Section 26055(h).

Policy Question(s) for Council Consideration:

- Does the City Council wish to prohibit all medical and adult-use commercial cannabis activities and limit cultivation of cannabis for personal use in Los Altos?

Summary:

The City Council is considering a draft ordinance that, if introduced and later adopted, will provide for the regulation of medical and adult-use commercial cannabis activities and cultivation of cannabis for personal use



Subject: Ordinance No. 2018-451: Cannabis Prohibition

Staff Recommendation:

Introduce and waive further reading of Ordinance 2018-451 clarifying the prohibition on all medical and adult-use commercial cannabis activities and limit cultivation for personal use in Los Altos



Subject: Ordinance No. 2018-451: Cannabis Prohibition

Purpose

This is a zoning ordinance amendment to establish regulations on the establishment, creation, or expansion of all medical and adult-use commercial cannabis uses, with exceptions for personal cannabis cultivation.

Background

On January 26, 2016, the City Council adopted Ordinance No. 2016-418, which prohibits marijuana cultivation, marijuana processing, marijuana delivery, and marijuana dispensaries in the City as provided in Los Altos Code, Chapter 14.82. This Ordinance was created under, and in reference to, the state statutory framework of the (now repealed) Medical Marijuana Regulation and Safety Act (MMRSA).

On November 8, 2016, voters approved Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”), which legalized the non-medical use of marijuana by adults over 21 years of age and provides for state licensing of the adult-use marijuana businesses. Senate Bill 94 (“SB 94”) quickly followed on June 27, 2017, repealing the MMRSA, and amending AUMA to consolidate the state licensing scheme applicable to both medical and adult-use commercial marijuana/cannabis activity under a new law entitled the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). MAUCRSA adopted new state licensing categories and definitions related to commercial cannabis activities than previously existed under the MMRSA.

MAUCRSA preserves local control over commercial cannabis uses. It allows local governments to ban all cannabis-related businesses outright, including dispensaries/retailers, delivery services and any other commercial cannabis use. Further, MAUCRSA prohibits the State licensing authorities from approving an application for a state cannabis license if it would violate the provisions of any local ordinance or regulation. However, the prevailing view is that cities and counties must have ordinances in place, either affirmatively allowing or prohibiting commercial cannabis activities, for this restriction to apply.

On November 28, 2017 the City Council adopted an urgency interim ordinance establishing a moratorium in all zoning districts on the establishment, creation or expansion of any and all medical and adult use commercial cannabis activities, with exceptions for personal cannabis cultivation. This urgency interim ordinance was extended on January 9, 2018 and remains in effect until November 27, 2018.

Discussion/Analysis

MAUCRSA adopted different state licensing categories and definitions related to commercial cannabis activities, than those that existed under MMRSA and were utilized by the City’s Ordinance No. 2016-418.



Subject: Ordinance No. 2018-451: Cannabis Prohibition

This Ordinance would clarify and affirm that all adult-use commercial cannabis businesses are prohibited and expands the City’s prohibition so that it reflects the full range of commercial activities recognized by MAUCRSA. For example, Los Altos Code defines “marijuana processing” to include drying, cleaning, curing, packaging and extraction, but does not expressly cover chemical synthesis allowed under the cannabis manufacturer license type. In addition, the urgency ordinance adds to the list of prohibited activities:

- Cannabis distribution, which refers to the procurement, sale and transport of cannabis and cannabis products as well as cannabis storage, quality control, collection of state cannabis taxes; and
- Cannabis testing laboratories, which test cannabis and cannabis products.

Personal Cultivation.

Regarding personal cultivation, MAUCRSA allows local governments to:

- Ban outdoor cultivation of cannabis for personal use, unless the California Attorney General determines cannabis is no longer illegal under federal law. (If cannabis is federally legalized, outdoor cultivation could be regulated, but not prohibited.)
- Reasonably regulate indoor cultivation in private residences and accessory structures for personal use but not ban it outright. Individuals have the right to grow up to six (6) cannabis plants in their home and to possess all the cannabis those plants provide.

The draft Ordinance provides for the regulation of personal cannabis cultivation. Outdoor cultivation is prohibited in all zone districts and indoor cultivation is prohibited except in compliance with certain requirements listed in the ordinance. The requirements are:

1. Cannabis cultivation shall only occur indoors at a private residence, or inside an accessory structure located upon the grounds of a private residence.
2. Cannabis cultivation shall be limited to six (6) plants total per residence, whether immature or mature, regardless of how many residents reside at the private residence.
3. Persons engaging in indoor cultivation must comply with all state and local laws regarding fire safety, water use, electrical wiring, buildings, and indoor cultivation, including without limitation, Health and Safety Code Sections 11362.1 and 11362.2.
4. The use of gas products (CO₂, butane, propane, natural gas, etc.) or generators for cultivation of cannabis is prohibited. Use of gas products shall be limited to those allowed by the California Building, Electrical, and Fire Codes as adopted and amended by the City of Los Altos.



Subject: Ordinance No. 2018-451: Cannabis Prohibition

5. The residence shall maintain fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident(s), and the premises shall not be used primarily or exclusively for cannabis cultivation.
6. All areas used for cannabis cultivation shall be located within a fully enclosed and secure structure. “Fully enclosed and secure structure” means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors.

Planning Commission Review

The Planning Commission considered the draft ordinance at its meeting of September 6, 2018. Following a discussion, the Commission voted 6 – 1, to recommend that the City Council introduce and adopt the draft ordinance without modification. In voting no, the dissenting Commissioner noted that there should be no prohibition on the outdoor cultivation of a limited number of cannabis plants for personal use.

Options

- 1) Introduce and waive further reading of Ordinance 2018-451

Advantages: Provides for the regulation (prohibition) of commercial cannabis activities and allows for the indoor cultivation of cannabis for personal use

Disadvantages: None identified

- 2) Decline introduction of ordinance

Advantages: None identified

Disadvantages: Would not provide for the regulation (prohibition) of commercial cannabis activities and would not provide rules concerning the cultivation of cannabis for personal use

Recommendation

Staff recommends option 1.

ORDINANCE NO. 2018- 451

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS,
AMENDING LOS ALTOS MUNICIPAL CODE, CHAPTER 14.02 AND CHAPTER 14.82
RELATED TO MEDICAL AND ADULT-USE COMMERCIAL CANNABIS
ACTIVITIES**

WHEREAS, the City of Los Altos, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, in 2015, the California Legislature enacted the Medical Cannabis Regulation and Safety Act (“MCRSA”), which for the first time in the State’s history adopted comprehensive regulations and licensing for the medical cannabis industry; and

WHEREAS, on January 26, 2016, the City Council of the City of Los Altos adopted Ordinance No. 2016-418, prohibiting marijuana cultivation, processing, delivery and dispensary uses in the City of Los Altos; and

WHEREAS, on November 8, 2016, voters approved Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”), which legalized the non-medical use of marijuana by adults over 21 years of age and provides for state licensing of adult-use marijuana businesses; and

WHEREAS, Senate Bill 94 (“SB 94”), a budget trailer bill made effective on June 27, 2017, repealed the MCRSA, and amended AUMA to consolidate the state licensing scheme applicable to both medical and adult-use commercial cannabis activity under a new law entitled the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, the MAUCRSA adopted different state licensing categories and definitions related to commercial cannabis activities than those that existed under MCRSA and were utilized by the City’s Ordinance No. 2016-418; and

WHEREAS, MAUCRSA recognizes, preserves and does not supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that regulate licensed cannabis businesses, including, but not limited to, completely prohibiting the establishment or operation of one or more types of businesses licensed under MAUCRSA within the local jurisdiction (Business and Professions Code, § 26200); and

WHEREAS, on November 28, 2017, the City Council adopted Ordinance No. 2017-438 establishing, and extending for one full year via Ordinance No. 2018-439 on January 9, 2018, a moratorium in all Zoning Districts on the establishment, creation or expansion of any and all commercial cannabis uses pending study and adoption of permanent commercial cannabis regulations; and

WHEREAS, after having completed study of the issue, the purpose of this Ordinance is to prohibit the physical establishment and operation of all medical and adult-use commercial cannabis businesses within Los Altos, including all commercial cultivators, manufacturers, testing lab oratories, retailers/dispensaries, distributors and microbusinesses with the exception that cannabis retailers, microbusinesses, licensed nonprofits or other entities legally established and located outside of the City of Los Altos may provide delivery services to customers in Los Altos, subject to the reasonable regulations stated herein; and

WHEREAS, AUMA, as amended by SB 94, legalizes cultivation of not more than six living cannabis plants by persons 21 years of age or older for personal use; and

WHEREAS, AUMA, as amended by SB 94, provides that a city shall not completely prohibit personal cultivation of cannabis inside a private residence or inside an accessory structure to a private residence that is fully enclosed and secure, but that a city may completely prohibit personal cultivation of cannabis outdoors (Health and Safety Code, § 11362.2); and

WHEREAS, this Ordinance is also intended to regulate indoor cannabis cultivation, and to prohibit all outdoor cultivation, for personal use, including by qualified patients and primary caregivers; and

WHEREAS, the Los Altos City Council has reviewed all written evidence and oral testimony presented to date on this matter.

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

SECTION 1. The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. AMENDMENT OF CODE, CHAPTER 14.02, SECTION 14.02.070. Los Altos Municipal Code, Section 14.02.070, entitled “Definitions” is hereby amended to revise the definitions of marijuana, marijuana cultivation, marijuana dispensary, marijuana processing as shown in underline/strike-out, and to add the following definitions for cannabis delivery, cannabis distribution, cannabis manufacture, cannabis product, cannabis retailer, cannabis testing laboratory and commercial cannabis use, as set forth below.

~~“Marijuana”~~ “Cannabis” means any or all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin or separated resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, ~~including cannabis/marijuana infused in foodstuff or any other ingestible or consumable product containing cannabis/marijuana.~~ The term ~~“marijuana”~~ “cannabis” shall also include “medical marijuana” as such phrase is used in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the State of California or subject to the provisions of the California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act). “Cannabis” includes marijuana as defined by Section 11018 of the Health and Safety Code, and includes “cannabis” as defined in Business and Professions Code, Section 26001. For purposes of this code, the terms “marijuana” and “cannabis” may be used interchangeably.

~~“Marijuana”~~ “Cannabis cultivation” means growing, planting, harvesting, drying, curing, grading, trimming, or processing of ~~marijuana~~ cannabis, regardless of whether there is an intent to produce, distribute, or sell the resulting product commercially. ~~Marijuana cultivation shall not include cultivation by an individual qualified patient.~~

“Cannabis delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a cannabis retailer of any technology platform that

enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products.

“Cannabis distribution” means the procurement, sale, and transport of cannabis and cannabis products and any other activity allowed under the state distributor license(s), including, but not limited to, cannabis storage, packaging, quality control and collection of state cannabis taxes.

~~"Marijuana dispensary" or "Marijuana dispensaries" means any business, office, store, facility, location, retail or wholesale component of any establishment, cooperative or collective that delivers (as defined in Business & Professions Code section 19300.5(m) or any successor statute thereto) whether mobile or otherwise, dispenses, distributes, exchanges, transmits, transports, sells or provides marijuana to any person for any reason, including members of any medical marijuana cooperative or collective consistent with the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the State of California or subject to the provisions of the California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).~~

“Cannabis manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product. Cannabis manufacture includes the production, preparation, propagation, or compounding of manufactured cannabis, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or cannabis products or labels or relabels its container.

~~"Marijuana processing" means any method used to prepare marijuana or its byproducts for commercial retail and/or wholesale, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.~~

“Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. Cannabis products include “cannabis products” as defined in Business and Professions Code, Section 26001.

“Cannabis retailer” means a facility where cannabis or cannabis products are offered, either individually or in any combination, for retail sale to customers, including an establishment that delivers cannabis and cannabis products as part of a retail sale or conducts sales exclusively by delivery. For purposes of this code, the term “cannabis retailer” includes microbusinesses, nonprofits licensed under Business and Professions Code, Section 26070.5, and any other state license designation that authorizes distribution, whether for free or in exchange for any consideration, of cannabis and/or cannabis products to individual customers. For purposes of this code, “cannabis retailer” also includes medical cannabis dispensaries, patient collectives and cooperatives operating, or proposing to operate, pursuant to the Compassionate Use Act (Health and Safety Code, § 11362.5) and/or the Medical Marijuana Program (Health and Safety Code, § 11362.7 et seq.), as may be amended.

“Cannabis testing laboratory” means a facility, entity, or site in the state that offers or performs tests of cannabis or cannabis products and that is both accredited by an accrediting body that is

independent from all other persons involved in the medical cannabis industry in the state and licensed by the Bureau of Cannabis Control.

“Commercial cannabis use” includes all cannabis cultivation, cannabis manufacture, cannabis distribution, cannabis testing laboratories, cannabis retailers, cannabis delivery, and sale of cannabis and/or cannabis products, whether intended for medical or adult-use, and whether or not such activities are carried out for profit. “Commercial cannabis use” includes “commercial cannabis activity” as defined in Business and Professions Code, Section 26001, and includes any activity that requires a license from a state licensing authority pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act, Business and Professions Code, Division 10, as may be amended. “Commercial cannabis use” does not include possession or indoor cultivation of cannabis for personal use that is not sold and in strict accordance with Health and Safety Code, Section 11362.1 et seq.

SECTION 3. AMENDMENT OF CODE, CHAPTER 14.82. Los Altos Municipal Code, Chapter 14.82, entitled “Prohibition of Marijuana Cultivation, Processing, Delivery, and Dispensary Uses” is hereby amended and restated as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 4. CEQA. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under CEQA Guidelines, Section 15061(b)(3), that this Ordinance is exempt from environmental review under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This ordinance maintains the status quo by prohibiting all medical and adult-use commercial cannabis uses from establishing within the City of Los Altos. In addition, to the extent delivery services originating from outside city limits would be allowed, such delivery services would be subject to the discretionary review of the local jurisdiction where the retailer is physically established and TO state licensing requirements, thus, this ordinance is also exempt from further CEQA review pursuant to Business and Professions Code, Section 26055(h). The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Santa Clara in accordance with CEQA Guidelines.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

SECTION 6. CUSTODIAN OF RECORDS. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk’s office located at Los Altos City Hall, 1 North San Antonio Road, Los Altos, CA 94022. The custodian of these records is the City Clerk.

SECTION 7. RESTATEMENT OF EXISTING LAW. Neither the adoption of this ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof. The provisions of this ordinance, insofar as they are substantially the same as ordinance

provisions previously adopted by the City relating to the same subject matter or relating to the enumeration of permitted uses under the City's zoning code, shall be construed as restatements and continuations, and not as new enactments.

SECTION 8. PUBLICATION. This ordinance shall be published as provided in California Government Code Section 36933.

SECTION 9. FILING WITH STATE BUREAU OF CANNABIS CONTROL. The City Clerk shall submit a copy of this ordinance to the Bureau of Cannabis Control as provided by Business and Professions Code, Section 26055.

SECTION 10. EFFECTIVE DATE. This ordinance shall be effective upon the thirty-first day following the adoption date.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

Jean Mordo, Mayor

Attest:

Jon Maginot, City Clerk

EXHIBIT A

Chapter 14.82 - MEDICAL AND ADULT-USE CANNABIS REGULATIONS

Sections:

14.82.010 - Legislative findings and statement of purpose.

- A. The City Council finds that the prohibitions on medical and adult-use commercial cannabis uses are necessary for the preservation and protection of the public peace, health, safety, and welfare for the City and its community. It is also the intent of this Chapter to regulate indoor cannabis cultivation, and to prohibit all outdoor cultivation, for personal use, including by qualified patients and primary caregivers. The City Council's prohibition of such activities is within the authority conferred upon the City Council by the California Constitution and other state law.
- B. The City Council finds that this chapter: (1) exercises its local authority to enact and enforce local regulations and ordinances, including those regarding the zoning, permitting, licensing, or other entitlement of the activities prohibited by this chapter; and (2) exercises its police power to enact and enforce regulations for the public benefit, safety and welfare of the City and its community.

14.82.020 - Medical and Adult-Use Commercial Cannabis Uses.

- A. Commercial Cannabis Uses Prohibited. All medical and adult use commercial cannabis uses as defined in Section 14.02.070 are prohibited from establishing or operating within the City of Los Altos. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of a commercial cannabis use in any zoning district, and no person shall otherwise establish such businesses or operations in any zoning district.
- B. Exception for Cannabis Deliveries. Cannabis retailers and other cannabis delivery services are prohibited from physically locating or establishing in the City. However, state-licensed cannabis retailers, as defined in Section 14.02.070 that are legally established and located outside City limits may provide cannabis deliveries to medical or adult-use customers within Los Altos, under the following conditions:
 1. The cannabis retailer must be licensed under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business and Professions Code, Division 10) to provide cannabis deliveries.
 2. The cannabis delivery service must operate in compliance with the applicable laws and regulations of the local jurisdiction in which the delivery service is physically located and state law.
- C. This section shall not be construed to prohibit use of the public roads pursuant to Business and Professions Code, Section 26090 or those activities allowed by Section 26054, subdivisions (c) or (d).

14.82.30 - Cultivation of Cannabis for Personal Use.

- A. Indoor Cultivation. The indoor cultivation of cannabis for personal use, including cannabis cultivation for personal medical use by a qualified patient or primary caregiver, is prohibited except in compliance with the following:
 1. Cannabis cultivation shall only occur indoors at a private residence, or inside an accessory structure located upon the grounds of a private residence.
 2. Cannabis cultivation shall be limited to six (6) plants total per residence, whether immature or mature, regardless of how many residents reside at the private residence.

3. Persons engaging in indoor cultivation must comply with all state and local laws regarding fire safety, water use, electrical wiring, buildings and indoor cultivation, including without limitation, Health and Safety Code Sections 11362.1 and 11362.2.
 4. The use of gas products (CO2, butane, propane, natural gas, etc.) or generators for cultivation of cannabis is prohibited. Use of gas products shall be limited to those allowed by the California Building, Electrical, and Fire Codes as adopted and amended by the City of Los Altos.
 5. The residence shall maintain fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident(s), and the premises shall not be used primarily or exclusively for cannabis cultivation.
 6. All areas used for cannabis cultivation shall be located within a fully enclosed and secure structure. "Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors.
- B. Outdoor Cultivation Prohibited. Outdoor cultivation of cannabis, including cannabis cultivation for personal medical use by a qualified patient or primary caregiver, personal adult-use, or commercial purposes, is prohibited in all zoning districts in the City of Los Altos.

14.82.040 - Public nuisance.

Any violation of this chapter is hereby declared to be a public nuisance.

14.82.050 - Violations.

Any violation of this chapter may be enforced through civil or administrative remedies or any other remedy as provided for by the law. In the event of any conflict between the penalties enumerated under this code, and any penalties set forth in state law, the maximum penalties allowable under state law shall govern.



DISCUSSION CALENDAR

Agenda Item # 10

AGENDA REPORT SUMMARY

Meeting Date: September 25, 2018

Subject: Ordinance No. 2018-452: Stormwater Pollution Prevention

Prepared by: Aida Fairman, Senior Engineer

Reviewed by: Susanna Chan, Public Works Director

Approved by: Chris Jordan, City Manager

Attachment:

1. Ordinance No. 2018-452 with tracked changes

Initiated by:

Staff; NPDES Stormwater Permit requirements

Previous Council Consideration:

None

Fiscal Impact:

None

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

None

Summary:

- Update references to NPDES Permit Order Number. (Replace R2-2009-0074 with R2-2015-0049)
- Revise section 10.16.030.C.2.f.i and remove sections 10.16.030.C.2.f.ii and 10.16.030.C.2.f.iii to reflect acceptable LID stormwater treatment measures per current NPDES permit requirements
- Update references to dates that have already passed in sections 10.16.030 and 10.16.036

Staff Recommendation:

Introduce and waive further reading of Ordinance No. 2018-452 amending Los Altos Municipal Code Chapter 10.16 Stormwater Pollution Prevention Measures to reflect current stormwater pollution prevention requirements for land development projects mandated by the Regional Water Quality Control Board



Subject: Ordinance No. 2018-452: Stormwater Pollution Prevention

Purpose

Update references to the National Pollutant Discharge Elimination System (NPDES) Permit Order Number (replace R2-2009-0074 with R2-2015-0049) and revise text in section C.2.f to reflect acceptable methods of Low Impact Development (LID) treatment per current NPDES permit requirements.

Background

Beginning in 2001, the San Francisco Bay Regional Water Quality Control Board (Water Board) identified land development activity as a significant potential pollutant source in the region, threatening the water quality in local creeks and the San Francisco Bay. Accordingly, National Pollutant Discharge Elimination System (NPDES) stormwater permits issued since that time have included a set of pollution prevention requirements imposed upon land development and redevelopment projects.

In November 2015, the Water Board issued a new regional NPDES permit to the City of Los Altos and 76 other Bay Area entities for discharge of municipal stormwater to local creeks and the San Francisco Bay. This Municipal Regional Permit (MRP) specifies programs and measures to be conducted by local agencies to minimize stormwater pollution over the next five (5) years.

Discussion/Analysis

Ordinance No. 2018-452 modifies the City's existing stormwater pollution prevention regulations (LAMC Chapter 10.16) to comply with the current provisions of the MRP. The primary regulatory change in the MRP is the removal of the requirement that a "biotreatment system may be considered only if it is infeasible to implement harvesting and re-use, infiltration, or evapotranspiration at a project site." Biotreatment systems that are properly engineered and maintained are now considered to be an acceptable Permanent Stormwater Pollution Prevention Measure (PSPPM). This change is reflected in section 10.16.030.C.2.f.i and in the removal of sections 10.16.030.C.2.f.ii and 10.16.030.C.2.f.iii. Other requirements modified in the permit do not necessitate revisions to the municipal code, but are reflected in the City's annual permit submission to the RWQCB.

Options

- 1) Move to introduce and waive further reading of Ordinance No. 2018-452 amending Los Altos Municipal Code Chapter 10.16 Stormwater Pollution Prevention Measures to reflect current stormwater pollution prevention requirements for land development projects mandated by the Regional Water Quality Control Board

Advantages: Updates the City Municipal Code to reference the updated MRP

Disadvantages: None



Subject: Ordinance No. 2018-452: Stormwater Pollution Prevention

- 2) Do not move to introduce and waive further reading of Ordinance No. 2018-452 amending Los Altos Municipal Code Chapter 10.16 Stormwater Pollution Prevention Measures

Advantages: None

Disadvantages: Chapter 10.16 does not reference the updated MRP

Recommendation

The staff recommends Option 1.

ORDINANCE NO. 2018-452

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LOS ALTOS AMENDING SECTIONS 10.16.020, 10.16.030, AND
10.16.031 OF CHAPTER 10.16 STORMWATER POLLUTION
PREVENTION MEASURES OF THE LOS ALTOS MUNICIPAL
CODE TO REFLECT CURRENT REGIONAL WATER QUALITY
CONTROL BOARD PERMIT REQUIREMENTS**

WHEREAS, the City of Los Altos is a member of the Santa Clara Valley Urban Runoff Pollution Prevention Program (Program), which consists of fifteen public agencies in Santa Clara County; and

WHEREAS, the California Regional Water Quality Control Board, San Francisco Bay Region (Board), administers the National Pollutant Discharge Elimination System (NPDES) permit program under the Federal Water Pollution Control Act; and

WHEREAS, on November 19, 2015, the Board adopted Order No. R2-2015-0049 under NPDES Permit No. CAS029718 (collectively, the Permit), which replaced and amended the 2009 NPDES Permit requirements; and

WHEREAS, it is necessary to partially amend certain sections of the Los Altos Municipal Code Chapter 10.16 to reflect the current Permit requirements; 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 CODE. A portion of Section 10.16.020, Definitions of Chapter 10.16 Stormwater Pollution Prevention Measures, Title 10 Public Services of the Los Altos Municipal Code is hereby partially amended as follows:

"Low impact development (LID) measures" means an approved combination of source control measures, site design measures, and/or stormwater treatment measures that reduce runoff and mimic a site's predevelopment hydrology by minimizing disturbed areas and impervious cover and then infiltrating, storing, detaining, evapotranspiring, and/or biotreating stormwater runoff close to its source. LID measures embody principles such as preservation and recreation of natural landscape features and minimization of imperviousness to create functional and appealing site drainage that treats stormwater as a resource, rather than a waste product. LID measures include rain barrels and cisterns, green roofs, permeable pavement, preservation of undeveloped open space, and biotreatment through rain gardens, bioretention units, bioswales and planter/tree boxes. The design and implementation of the LID measures must be in accordance with the guidelines and technical specifications provided by the city or

other city-approved authority and the requirements of Order No. R2-2015-0049 ~~R2-2009-0074~~ and any subsequent orders.

"Permanent stormwater pollution prevention measures" or "PSPPM" means an approved combination of source control measures, site design measures, and/or stormwater treatment measures that reduce stormwater pollution to the maximum extent practicable as required by Order No. R2-2015-0049 ~~R2-2009-0074~~ under NPDES Permit No. CAS612008 issued by the water board, as it may be amended from time to time. The design and implementation of the PSPPM must be in accordance with the guidelines and technical specifications provided by the city or other city-approved authority and the requirements of Order No. R2-2015-0049 ~~R2-2009-0074~~ and any subsequent orders.

SECTION 2. AMENDMENT OF CODE. Subdivisions A, C, and C.2.f of Section 10.16.030, Permanent Stormwater Pollution Prevention Measures Required of Chapter 10.16 Stormwater Pollution Prevention Measures, Title 10 Public Services of the Los Altos Municipal Code are hereby partially amended as follows:

- A. Permanent stormwater pollution prevention measures shall be incorporated into the following projects (collectively referred to sometimes in this chapter as "regulated projects"):
 - 1. All development projects;
 - 2. All significant redevelopment projects;
 - 3. All road projects;
 - 4. ~~Effective December 1, 2011, a~~All high impact projects;
 - 5. ~~Effective December 1, 2011, a~~All trail projects; and
 - 6. ~~Effective December 1, 2011, a~~All street widening projects.

- C. ~~Effective December 1, 2011, u~~Unless the project is exempt as a special project pursuant to administrative guidelines adopted by the city engineer and approved by the water board, all permanent stormwater pollution prevention measures shall include the following low impact development (LID) measures or other alternative measures to be approved by the city engineer:
 - f. Treatment of one hundred (100) percent of the amount of runoff identified in subsection d. below for the regulated project's drainage area with LID treatment measures onsite or with LID treatment measures at a joint stormwater treatment facility.
 - i. LID treatment measures are harvesting and re-use, infiltration, evapotranspiration, and ~~or~~ biotreatment.
 - ii. ~~A properly engineered and maintained biotreatment system may be considered only if it is infeasible to implement harvesting and re-use, infiltration, or evapotranspiration at a project site.~~
 - iii. ~~Infeasibility to implement harvesting and re-use, infiltration, or evapotranspiration at a project site shall be determined in accordance with criteria approved by the water board and the city engineer.~~

~~ii. iv.~~ Biotreatment systems shall be designed to have a surface area no smaller than what is required to accommodate a five (5) inches/hour stormwater runoff surface loading rate. The planting and soil media for biotreatment systems shall be designed to sustain plant growth and maximize stormwater runoff retention and pollutant removal, and shall conform to material specifications approved by the water board and the city engineer.

~~iii. v.~~ Green roofs may be considered biotreatment systems for treatment of roof runoff only if they conform to specifications approved by the water board and the city engineer.

SECTION 3. AMENDMENT OF CODE. Subsections A.2 and B of Section 10.16.031, Hydromodification management measures required of Chapter 10.16 Stormwater Pollution Prevention Measures, Title 10 Public Services of the Los Altos Municipal Code are hereby partially amended as follows:

- A.
 - 2. Projects located in areas designated as exempt from hydromodification management requirements on the hydromodification management plan applicability map contained in Attachment ~~FC~~ of Order No. ~~R2-2015-0049~~ ~~R2-2009-0074~~ under NPDES Permit No. CAS612008 issued by the water board, as it may be amended from time to time.
- B. Hydromodification management measures shall be designed and implemented in accordance with guidelines and technical specifications provided by the city or other city-approved authority, the requirements of Order No. ~~R2-2015-0049~~ ~~R2-2009-0074~~ under NPDES Permit No. CAS612008 issued by the Water Board, as it may be amended from time to time, and the provisions of the hydromodification management plan for the Santa Clara Valley Urban Runoff Pollution Prevention Program as approved by the water board.

SECTION 4. AMENDMENT OF CODE. Section 10.16.036, Required site design measures for small projects and detached single-family home projects, is hereby partially amended as follows:

- A. ~~Effective December 1, 2012, a~~Any private or public project under the planning and building authority of the city which creates and/or replaces between two thousand five hundred (2,500) square feet and ten thousand (10,000) square feet of impervious surface, and detached single-family home projects which are not part of a larger plan of development which create and/or replace two thousand five hundred (2,500) square feet or more of impervious surface, shall install one or more of the following site design measures:

SECTION 5. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 6. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 7. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

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

AYES:
NOES:
ABSENT:
ABSTAIN:

Jean Mordo, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK