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Los Altos, California 94022-3087

## MEMORANDUM

**DATE:** 11/30/21  
**TO:** Councilmembers  
**FROM:** City Manager  
**SUBJECT: COUNCIL Q&A FOR THE NOV 30, 2021 CITY COUNCIL REGULAR MEETING**

### Agenda Item 5: Suicide Policy:

- Is there a reason why retirees are included in the suicide policy?

Mental health issues in the workplace have been an area of concern for some time, but with the COVID-19 crisis, the emotional challenges of employees have spiked. Employees who may have already been at risk of suicide are more vulnerable than ever. Therefore, the reason for including retirees in our policy is for inclusivity and awareness. The City has access to retiree contact information and can reach them directly to inform them of the available resources. It will also provide extra security if they live in a jurisdiction without this policy.

### Agenda Item 6: Park in-Lieu Fee

Staff is recommending we continue this public hearing to a later date.

### Agenda Item 7 (Packard Foundation)

- On Page 3-4, I'm unclear on what the following means, please clarify: "... and the municipal code considers the approval authority for tree removal requests in conjunction with another development review application shall be the same approval authority as established by this code for the *accompanying development review application*." What is the "accompanying development review application"?

Section 11.08.070 Approval authority states:

A. For heritage trees: the approval authority shall be the historical commission.

B. For all other protected trees:

1. The approval authority for tree removal requests filed independent of any other development review application shall be the planning director.
2. The approval authority for tree removal requests filed in conjunction with another development review application shall be the same approval authority as established by this code for the accompanying development review application.

Per Subsection B.2, when a tree removal is considered as part of a development application (e.g. design review), the authority to determine removal of the tree is the same authority for the design review application. This might be the Design Review Commission for a new two-story single family residence, the Planning Commission for an addition to a commercial building <500sf, or the Council for a new commercial building. This eliminates the need to file a separate tree removal permit application per subsection B.1. and is the preferred method for tree removal approval when the request is part of a development project.

Agenda Item 8 (Objective Standards for Single Family Residences):

- Why is the ordinance not an urgency ordinance? Doesn't this need to be completed by December 31st?

The Los Altos Municipal Code allows the City Council to adopt these type of standards by resolution. A resolution takes effect upon adoption and does not require the thirty day time frame that an ordinance does; thus, an urgency ordinance is not needed in this instance.

- Please confirm if these guidelines with the new appendices will or will not apply to ALL single-family residential lots, not just those utilizing SB9.

The new standards will not apply to all single-family residential lots. It will apply only to single-family residential parcels where "new" residential dwelling units will be proposed as defined in Attachment 3, Appendix 3. For projects that SB9 do not apply, the project shall be subject to the current Single-Family Residential Design Guidelines (SFRDG) and Municipal Code Chapter 14.02.

- Appendix 1, page 6 says "When two primary single-family residential units are proposed on one parcel, the two units shall be attached and designed subject to Section 2 of this policy." Why would we want to require this?

Per SB9, the City must allow two single-family residential units constructed on one lot. Initially, the question to staff was what the appropriate separation between the two units would be. However, in order to keep the integrity of the single-family residential neighborhood, staff believes that attaching the two units as a whole building such as a duplex in design will provide more consistent single-family residential appearance. Additionally, staff also considered the minimum separation, if allowed, will need to add the same caveat that this standard shall not apply if it precludes the construction of two, 800 s.f. units. In that situation, it may result in a very minimal separation such as 5 feet or less, which staff don't believe such separation would make the units fit in the single-family neighborhood.

- Many of the items in Appendix 1, 3. SB 9 – Objective Design Standards are extremely specific and really restrict options. I'd like to see it highlighted which of these proposed standards ONLY apply to SB9 projects and not to other single-family projects. If some of these standards are specific only to SB9 projects, aren't these discriminatory standards?

This recommended standards only apply to SB9 projects. Non-SB9 projects are still subject to the current regulations (SFRDG and Municipal Code Chapter 14.02).

- Appendix 2, page 1 says that “No units created under SB 9 shall be used for short-term rental”, shouldn’t this say the same thing that we say for all units in Los Altos, that we define short term as <30 days (or however we define it)?

Thanks for the comment. We will modify the language to make it consistent with the short-term definition in the Municipal Code.

- Appendix 3 is confusing and seems to conflict in some ways with SB9, which requires that “The project does not involve demolition of more than 25 percent of the existing exterior walls of an existing dwelling unless a) the local agency chooses to allow otherwise ...”. Please explain.

That language does not apply if no tenant has lived on site in three years. But it does suggest that a project under SB 9 can include the rehabilitation of an existing home. We are attempting to provide clarity as to what would constitute a rehabilitation.

To make it clear that the four foot setback is not an absolute requirement: replace “with four-foot rear and side setbacks” with “not less than four-foot rear and side setbacks” in the following:

- Appendix 1:  
Opening section “Objective Standards for Single-Family Residential Zone”  
2.D Coverage (first sentence)  
2.E. Floor Area Ratio (first sentence)  
2.F. (table) Side First Story and Rear – change “4 feet” to “Not less than 4 feet” and include the great material that follows. On “Rear” change end of sentence to be “...to voluntarily increase the rear setback to be at least ten (10) feet from the ...”  
and in Appendix 2:  
4) Setbacks

Language will be modified.

#### Appendix 1

“Objective Standards...” Regarding the last sentence [“Nothing herein is intended to prevent an applicant from constructing ADUs per the City’s ADU Ordinance and state law.”] I don’t think this is actually correct, as we say in Appendix 3 that one cannot create more than 4 units total, and SB9 specifically gives jurisdictions that ability to limit the number of units (including ADU/JADU) to 4 total if both provisions are used. Might need clarification here.

The intent of Appendix 1 language regarding the ADU is to differentiate the ADU development standards from the recommended SB9 Objective Standards. In order to make it clear, we can add language as “Nothing herein ... unless otherwise specified in this resolution” or “Nothing in this Appendix...”.

1. Definition: please explain how a “Secondary front lot line” works (also in table at 2.F.). I don’t understand what this means or how it works.

- The secondary front line refers to exterior side property line. Introducing the secondary front lot line is to avoid mandated 4-foot side (including exterior side) setback and replace with 10-foot setback for safety concerns at a street intersection.

“Earth tone” change “...means is...” to “is” (delete “means”)

- Language will be modified.

“High-quality transit corridor” should have wording that matches the wording in “Major transit stop”... that is, pick one or the other way of describing the 15 minute service intervals during peak (or “morning and afternoon peak”) commute hours, but please make them match.

- Staff just quoted the statutory language, but language shall be fine to be modified consistently.

2.A. “Lot Split...” Should this also include the prohibition against repeated lot splits under SB 9?

- Erik (CAO): The Council could add the language of the statute, but there are a number of statutory requirements for a lot split, and we’re not necessarily incorporating them all into the design standards. See GC 66411.7(a)(2)(F): To qualify for ministerial approval of a two-lot split, “[t]he parcel [being split shall not have] been established through prior exercise of an urban lot split as provided for in [Government Code Section 66411.7].”

2.C. Should there be some minimum requirement for frontage width in split lots (not flag), separate from the minimum 60/40 area? For example, if you can’t get a width of at least x, then you have to do a 50/50. How does width in splits relate to the requirement for placement of front doors? Should we specifically require that front doors on a split lot with one lot being a corner lot must have the front door on the portion of the house facing the front lot line (this is a general rule, but we sometimes allow exceptions; we should have a fixed rule here).

- Per Erik, we cannot modify the statute’s 60/40 area standard.

Staff does not believe we require the front door to face the front lot line on a corner lot. We just require the house address should use the street that the front door faces.

If a lot split creates a flag lot, do we care where the front door is?

- Again, we don’t mandate the front door to face the front property line on a corner lot.

2.D. b. Why is “...and landscape” not included here as it is in our current code? Shouldn’t we require 50 percent to be “...a combination of pervious landscape material and landscape”? Perhaps “and landscape” was inadvertently omitted.

- Language will be modified.

2.E.b. and c. use both “net site area” and “net lot area” – but it isn’t clear if these are the same or different measures. I don’t find definitions of either in our muni code. Should the same phrase be used throughout? Where is the definition?

- Will change to net site area throughout. The net site area is defined in Section 14.02.070 under “Site” definition as copied below:

"Net site area" means that portion of gross site area remaining after deducting therefrom the following:

- a. Any portion of a site within the right-of-way of an existing public or private street, road, or access easement, except an emergency access street;
- b. Any portion of a site within the proposed right-of-way of a future street (except an emergency access street), as shown on an approved tentative subdivision map or a recorded subdivision map;

- c. The portion of a flag lot constituting the access corridor lying between the front lot line and the frontage line of the corridor at the street.

2.F. – Please explain “Secondary Front” and the ‘\*’ note.

- Secondary front lot line is equivalent to exterior side lot line.

For \* note, we are simply noting the general rule that setbacks (not including the 4-foot rear/side yard setback) cannot be applied if it would prevent someone from taking advantage of SB 9

2.F.d.- Legal conforming or legal nonconforming or either? If rebuilding within the old footprint but the old height or daylight plane was nonconforming, can the old profile (with nonconforming daylight plane, for example) be built?

- Either.

People are allowed to build within existing dimensions without restriction.

2.G. What if there’s an existing structure that is more than 20’ in height and the additional structure, as proposed, puts you over the limit, or the existing one-story is over 20’? What happens?

- The structure shall be restricted to one story if the overall height is over 20’. Second-story is not allowed per this standard.

2.H. This should all be one section, not a. and b. as b. is a single explication of a. Also, the penultimate sentence might better read, “However, the daylight plane shall not be enforced if it prohibits two single-family units with 4-foot rear and side-yard setbacks and 800 square feet of floor area for each of two units.”

- The formatting is to match the existing codified Municipal Code sections. We can certainly modify to delete subsection a.

Agree with the caveat that “However, the daylight plane shall not be enforced if it prohibits two single-family units with 4-foot rear and side-yard setbacks and 800 square feet of floor area for each of two units” and will add to this section.

Also, if one unit can meet the daylight plane and the other cannot, do both get to violate the daylight plane, or can we compel one to comply?

- We can compel in this circumstance.

2.I.a. Should “accessory structure” be “accessory dwelling unit” in this specific instance?

- Not necessarily. It can be an attached accessory structure that counted toward to floor area such as a sunroom.

2.K.a. The use of “at least” seems inappropriate here. Perhaps should read “Uncovered parking shall be allowed only to the extent necessary to facilitate the construction of two units that are 800 square feet in size.” Otherwise, any project with any units of 801 feet or more would be eligible for uncovered parking as well, making the whole thing meaningless.

- Staff will revisit the language.

2.O??? – do we need a section on ADUs? The limitation regarding number of units and relationship to ADU/JADUs is only discussed in Appendix 3, and, as mentioned in the first section of Appendix 1, may be a bit confusing.

- Erik (CAO): We do not need a separate section re ADUs. Appendix 1 is limited to design standards, and the design standards set forth in the City’s ADU ordinance will apply to ADUs.

3.A. Should maximum plate height of entry porch be different depending if a single or two-story house (e.g. shorter if a single story)?

- In general, we don’t want to encourage tall entry porch. But we can consider separate plate height for one-story building v.s. two story if it is the direction from the Council.

3.B.b. and c. Should these be limited to the number/placement as required by CBC and any additional have a minimum sill height of X (I think 5 feet is our current norm)?

- Staff thinks that it may be covered by 3.B.c, but we can add to this section as Councilmember specified.

3.C.a Spelling error “Balconies”

- Thanks for the catch. It will be modified
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3.C. – Do we really want to allow roof decks? Currently these are only allowed in some multi-family or mixed-use buildings, not at all in any R1. {While we’re at it, we should verify that we prohibit roof decks on ADUs too.]

- I think we allowed roof decks in a modern style home, treated as balconies.

3.D.b. “mature age” is probably insufficient, as that can mean 40 years.

- The mature age is to reference the height and spread of a screening vegetation. As specified in 3.D.c, at least 24-in box vegetation is required that is usually substantive.

3.E. Can we be more specific than 2.D. and trees? Specifying only trees and (elsewhere) screening vegetation seems inadequate. Allowing 50% permeable with 2 trees may lead to nothing else green on the lot.

- Staff found the difficulty to regulate a residential objective landscaping regulation in a limited time. We can revisit this section in Phase II.

3.F. Don’t we also want to prohibit vinyl or plain aluminum windows? Same with brick (unless used on most adjacent homes), vinyl siding, and similar ‘cheap’ materials. How do we specify high quality materials? Seamed metal roofs? Can we also require true divided light windows, which I think we already require? Much of this is related to neighborhood compatibility.

- If the prohibition of “cheap” (i.e. vinyl and brick) materials is the direction from the Council, staff would modify the language.

For the high-quality materials, staff added 30-year durability under 3.F.

For the windows, staff believes the window style is not always divided light windows, it is allowed per the architectural style.

3.G.a.1. “Each property...” should that be “each lot”? Why do we allow more curb cuts on Collectors, etc. ? It seems we would not want that.

- Per staff’s discussion, if a lot is front a main high-speed road, backing up from the driveway may be not safe. Then a circular driveway may be allowed.

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3.G.e.2. Can we indicate (i) is preferred and show on the illustration of “Most impact” that one door is recessed as required by (iii)? Why do we require the garage to be behind the plane of the house? Lots of Los Altos houses have garages that are more forward than the house.

- The illustration is directly copied from the adopted Residential Design Guidelines. Staff was not very clear about the first question.

Requiring the recess of the garage door is to make the garage less dominate in a single-family unit. Staff will defer it to the Council’s direction.

3.G. there are two “g” – the one that begins First floor finished... should be h. and the following h through k re-lettered.

- Thanks for the catch, will be revised.

3.G.i. I don’t think “placement” in the second sentence is the right word, as it may actually contradict the prior sentence. I think maybe “operation”?? Maybe we need to specify elsewhere that any mechanical equipment cannot be in 4-10’ setbacks.

- In most scenarios, the mechanical equipment, particularly the AC condensing units, shall be subject to the setbacks according to the City’s Setback Guidelines. As long as the sound rating of the unit is no louder than the required sound rating, outside of the required 4-foot side and rear setbacks has been allowed.

We can add “placement and operation” to the sentence.

Miscellaneous:

Should we prohibit clerestory except street-facing?

- Staff needs more clarifications about clerestory. Also, if that is the Council’s direction, we will add to the standards.

Where and how do we deal with the long-established design principles of consistent character neighborhoods? There is no definition nor discussion of neighborhood compatibility. How do we establish the latitude to develop something in this regard in the future (some sort of enabling placeholder for now)?

- “Neighborhood character” is not an objective standard. As we continue to refine objective standards, we can look at developing different standards for different neighborhoods, but there is not time to accomplish that prior to Jan. 1.

Appendix 2

5. Should we specify at what point in the process such affidavit must be provided?

- It’s submitted with the application. We can later come up with a submittal checklist for SB9 projects.

7. This is wholly inadequate, as it does not provide for assessment of properties at least 50 years old (per CEQA) or for identification of properties that may be historic but are not on the City's HRI. Needs modification – or at least enabling of a process TBD (and pretty quickly).

- Erik (CAO): Number 7 is from the language of the statute. We have addressed the concern here under No. 8 as best we are able to do per the statute. Staff should ensure that for properties 50 years plus, a DPR should be submitted with the application, and if the property is deemed historic, that should be addressed as an unavoidable environmental impact, as stated under No. 8.
- Please confirm if these guidelines with the new appendices will or will not apply to ALL single-family residential lots, not just those utilizing SB9.

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exterior walls of an existing dwelling unless a) the local agency chooses to allow otherwise ... ". Please explain.

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#### Agenda Item 9 - Parklet Program:

- How much of the public are we currently allowing for restaurant use?

The current parklet program uses 68 total parking spaces.

- Is there a way to make the size of each parklet equitable for all restaurant?

The program could be implemented to limit the size, either by square footage or to store frontage. However, the new program recommends allowing restaurants to built patios greater than their store frontage only after they receive approval from the adjoining businesses.

- How much of the public are we currently allowing for retailers?

During Open Streets Los Altos when retailers were able to utilize the public space in the street, we had one retailer who utilized the space, but ultimately did not use the space beyond the first week due to concerns about theft of their products outside of their store. There has not been a significant interest in this from the retailers downtown. If retail spaces were to show an interest in a similar program, Staff would be happy to research it and make a recommendation to the City Council.

- Who retains liability if any accidents/incidents occurs on a parklet?

All restaurants will be required to sign an addendum that indemnifies the City and provide proof of insurance that makes them liable for all activities in the parklet.

- Who is responsible for the cleaning and maintenance of the parklet area?

The restaurants themselves will be required to maintain and clean the parklet, per the program guidelines.

- On the graph identifying the components of parklets on page 6. Staff does not recommend a limit on the quantity per block. How will we be able to meet the spacing criteria if the other recommendations are accepted?

The current program proposal does not need any limit on quantity to meet the spacing criteria for vehicles within the public right-of-way. One of the benefits of loosening the requirements from the original approved parklet program to what is in place today, was learning some of the regulations were unnecessary, including limiting a total number of parklets per block.

- What does the fire department say regarding lack of spacing between parklets or street width on both Main Street and State Street?

The Fire Department has reviewed the parklet program guidelines and did not express any concerns.

- Have you looked into the fee structure of Mountain View and Palo Alto?

As far as I can find online, Mountain View and Palo Alto do not have a fee structure for their parklets as they have not yet proposed parklet guidelines beyond their street closures.

#### Agenda Item 10 - Memorandum of Understanding between the City of Los Altos and the Los Altos Stage Company

- The MOU does not provide information of any long term expectation, shouldn't we have additional information regarding the new location?

The MOU was drafted based on the direction of the City Council.

- Is the city parking lots considered to be city assets?

Yes. The parking lots are considered assets.

- Should the city look to obtain a bond for the new Police Department, would the city parking lots be used for consideration when seeking a bond rating? How would such an MOU affect the bond rating?

The City would not use the parking lots in connection with a bond or bond rating for a new Police Department.

#### Agenda Item 11 - American Rescue Plan Act

- Aside from restricted funds does all the revenues the city receives go into the General fund?

Most non-restricted revenues will go to the General Fund, which can contribute to internal services funds and the CIP. Funds which have been transferred from the General Fund to the CIP could also be allocated differently, or returned to the General Fund by Council action.

- When will we be receiving the update on the CIP budget and Operating budget?

Finance staff has been working on closing the audit. After making substantial changes to the financial records, the Finance Director believes the auditors will close their work in the first half of December. Staff can provide an update on the 20/21 FY shortly thereafter.

An update on the current year CIP and operating budget will take place in the first quarter of 2022.

- It is stated in the report that our expenditures are far exceeding our revenues, what would the consequence be if we lack funds to meet those commitments?

The City would not lack funds to meet these commitments, but would have to utilize operating or other reserve funds. Additionally, staff could recommend delaying or cancelling CIP projects. If the ARPA funds remain unspent in 2022, it is unlikely these steps would have to be taken.

Additionally, it is important to note that, at this time, staff believes actual revenues will exceed budgeted revenues. Staff will have a better indicator of how much actual revenues exceed budgeted revenues in the first quarter of 2022.

- Can the remaining fund balance of \$291,499 be used to fund CIP projects, adding additional staff, or paying for Workman's comp?

Yes. The funds can be used for any expenditure that is allowable in the General Fund, including those listed in the question.

- Where will we get the funds for our list of unfunded or un-budgeted items?

City staff is currently working to apply funds to the unbudgeted items. At this time, we anticipate it will be a mix of reduction in expenditures, application of ARPA Funds, and revenues received that are higher than budgeted projections.