



**TOWN OF LOS GATOS
PLANNING COMMISSION STAFF REPORT
Meeting Date: December 15, 2016**

**ITEM NO: 2
ADDENDUM**

- PREPARED BY:** Joel Paulson, Community Development Director
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- SUBJECT:** North 40 Specific Plan Amendments
- LOCATION:** The plan area comprises approximately 44 acres located at the northern extent of the Town of Los Gatos, bordered by State Route 17 to the west, State Route 85 freeways to the north, Los Gatos Boulevard to the east, and Lark Avenue to the south. APN 424-07-009, 010, 024 through 027, 031 through 037, 052 through 054, 060, 063 through 065, 070, 081 through 086, 090, 094 through 096, 099, 100, 102 through 112, 424-06-115, 116, and 129.
- PROJECT SUMMARY:** Consider potential amendments to the North 40 Specific Plan
- SPECIFIC PLAN:** The North 40 Specific Plan, adopted June 17, 2015, implements the Town of Los Gatos General Plan and comprehensively plans for future development in the Specific Plan Area. The Specific Plan Area has a maximum development capacity of up to 270 housing units and 501,000 square feet of non-residential uses. Of the non-residential uses, the maximum development capacities are up to 250,000 square feet of office/hotel, and up to 400,000 square feet of other commercial (such as retail, restaurants, specialty market, health clubs, personal service, and entertainment). At least 30% of the area (approximately 13.2 acres) will be open space.
- APPLICANT:** Town of Los Gatos
- PROPERTY OWNERS:** Yuki Farms, ETPH LP, Grosvenor USA Limited, Summerhill N40 LLC, Dodson, Hirschman, Mattes, Ventura Trustee, Moisenco, Los Gatos Medical Office Center LLC, Los Gatos Gateway LLC, MbK Enterprise, Connell, Gin, John & Allison Diep LLC, Bernal, Lg Boulevard Holdings LLC, Polaris Navigation, Ew Real Estate LLC, Lazaar Enterprises LLC, Kothary, and Swenson Trustee.
- EXHIBITS:** Previously received with December 15, 2016 Staff Report:
1. Location Map
 2. Findings
 3. October 27, 2016 General Plan Committee Memorandums and attachments
 4. October 27, 2016 General Plan Committee verbatim minutes

5. November 17, 2016 General Plan Committee Memorandums and attachments
6. November 17, 2016 General Plan Committee verbatim minutes
7. Potential amendments, based on General Plan Committee discussion
8. Public comments received between 11:01 a.m. November 17, 2016 and 11:00 a.m. December 8, 2016

Received with this Addendum Report:

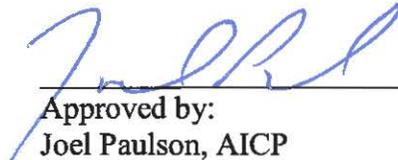
9. Potential amendments, based on General Plan Committee discussion (Including Exhibits A and B)

REMARKS:

A revised potential amendments exhibit is provided as Exhibit 9. The revised exhibit contains information regarding the General/Other category of suggestions.



Prepared by:
Sally Zarnowitz, AIA, LEED AP
Planning Manager



Approved by:
Joel Paulson, AICP
Community Development Director

General Plan Committee Discussion
Regarding Town Council Suggestions for
Potential Amendments to the Adopted North 40 Specific Plan

The Town Council suggestions for potential amendments to the adopted North 40 Specific Plan with staff responses follow in italicized font. Staff recommendations for potential amendments to Specific Plan sections follow in regular font, as a starting point for the Planning Commission's consideration.

Residential

1. *In the Lark perimeter overlay zone we should set a maximum density of eight units/acre.*

This suggestion could be added to Section 2.5.7 on page 2-15 as noted below. Staff is concerned about the implementation of this suggestion because this will reduce the number of units available to meet our Housing Element requirement of 13.5 acres at 20 dwelling units per acre. To address this concern either the Housing Element would have to be amended or additional changes would need to be made to the Specific Plan to allow an increase to the current maximum number of residential units (270) equal to the number of units that are approved at less than 20 dwelling units per acre.

2.5.7 Perimeter Overlay Zone

The following standards apply within the Perimeter Overlay Zone:

- a. Buildings or portions of buildings located within 50 feet of Lark Avenue shall be restricted to a maximum building height of 25 feet.
- b. Buildings or portions of buildings located within 50 feet of Los Gatos Boulevard shall be restricted to a maximum building height of 25 feet.
- c. Additional setback requirements are provided in Table 2-5 of this chapter.
- d. No building shall be located within 30 feet of a property line adjacent to the freeway.
- e. The maximum density for residential units in the Perimeter Overlay Zone along Lark Avenue is eight units per acre.

2. *Housing units should be spread across all three districts.*

A member of the GPC made a recommendation on percentages to address distribution of the residential units. This suggestion could be added to Section 2.5.1 on page 2-10 as noted below.

The Planning Commission should discuss whether this is the appropriate approach and whether these are the right percentages for each district. Another option is adding a new Land Use Policy to page 2-2 that contains this language.

2.5.1 Maximum Development Capacity

A maximum development capacity of 501,000 square feet (sf) has been provided to limit the overall build-out of the Specific Plan Area and provide an appropriate balance of land uses that meet the goals and objectives of the Specific Plan.

Table 2-2 defines maximums of 250,000 sf of new office/hotel, 400,000 sf of other new commercial (includes: restaurants, retail, specialty market, health club, personal services and entertainment), and 270 residential units.

More restrictive than the Town’s General Plan, the Specific Plan has a maximum capacity of 501,000 sf which includes 435,000 sf of new non-residential square footage and 66,000 sf of existing commercial uses.

The number of residential units shall not exceed: 40 percent in the Lark District; 30 percent in the Transition District; and 30 percent in the Northern District.

Additionally, the potential changes below to the Table 2-1 on page 2-7 should be discussed by the Planning Commission if there is a desire to allow all residential types in all three districts.

Table 2-1 Permitted Land Uses

		Lark	Transition	Northern
Residential				
a.	Cottage cluster	CUP	<u>P</u>	<u>P</u>
b.	Townhomes/ Garden cluster	P	P	<u>P</u>
c.	Rowhouses	P	P	<u>P</u>
d.	Multi-family	P	P	P2
e.	Condominiums	P	P	P2
f.	Live/work lofts	<u>P</u>	P	P2

Note:

1. Medical Office is only permitted on Assessor Parcel Numbers 424-07-102 through -112, 424-07-099, and 424-06-129.
2. Residential only allowed in Northern District when located above commercial.

3. ***Make sure that you somehow have a vision of how you’re spreading these units to make it fit with the other uses and fit in the neighborhood idea.***

The Town’s Residential Design Guidelines note that existing neighborhoods vary widely, reflecting the community’s growth over time. For that reason, the intent is to respect the scale and character of residential neighborhoods, with an emphasis on compatibility. The Land Use and Development Standards, found in Chapter 2 of the North 40 Specific Plan, set the parameters of new development to prescribe pedestrian-friendly residential architecture that is compatible with existing single-family neighborhoods. Language could be added to

Section 2.7.3 to reinforce the requirement for more traditional architectural design as noted below.

2.7.3 Residential Units

The Specific Plan Area should accommodate a mix of residential product types and sizes to create the character of an authentic neighborhood rather than a typical development project. The following standards set parameters to guide future residential development **that reflects the traditional character of existing residential architecture**. Also refer to the Residential Design Guidelines in Chapter 3 of this Specific Plan.

Additionally, Tables 2-7 through 2-9 provide images illustrating the massing and character of the residential product types. These images could be reviewed and modified to reinforce consistency with the look and feel of Los Gatos.

4. Require smaller, more affordable units.

Language currently exists in section 2.7.3 on page 2-26 that references the Conceptual Model of Residential Sizes table on page 6-14 in the Definitions section. Modifying this table as illustrated in Item 5 below would result in smaller units that would generally be more affordable than the larger units which are currently referenced in the table.

5. Only allow smaller units from 900 to 1,500 square feet.

The GPC recommended that this suggestion be modified to only allow units between 500 and 1,500 square feet. This suggestion could be addressed by changing the table in the Glossary on page 6-14 as noted below.

Conceptual Model of Residential Sizes Table

Types	Net Unit Area Range	Gross Unit Area Range	Approx. Unit Range	Percent Approx. of Total Range	Total Area
Cottage Cluster (Detached Product)		1,000 - 1,200 sf 500 - 1,200	40-50	20-25%	40,000 - 60,000 20,000 - 60,000
Garden Cluster		1,000 - 1,999 sf 500 - 1,500	40-50	20-25%	40,000 - 60,000 20,000 - 75,000
Townhomes, Rowhouses		1,000 - 1,999 sf 500 - 1,500	130 - 140	30 - 40%	130,000 - 280,000 65,000 - 210,000
Gross Unit Area Total					210,000 - 400,000 105,000 - 345,000
Condos/ Multi-Family	1,300 - 2,350 sf 500 - 1,500		90 - 110	25 - 30%	117,000 - 258,000 45,000 - 165,000
Apartments/ Affordable	500 - 750 sf		45 - 55	10 - 15%	22,000 - 42,000
Maximum Units Allowed			364		
Net Unit Area					

Total

~~139,000 – 300,000~~
77,000 – 207,000

Refer to definitions for Net Unit Area and Gross Unit Area.

Note: 100% is not intended to be achieved by adding the example Percent of Total Range numbers, as it is not required to use every residential product type listed in the table.

These changes would also necessitate changes to Section 2.7.3 d. on page 2-26 below.

d. New residential shall be a maximum of:

- ~~400,000~~ 345,000 gross square feet for Cottage Cluster, Garden Cluster, Townhome and Rowhouse products
- ~~300,000~~ 207,000 net square feet for Condominium, Multi-Family, Apartments and Affordable products
- These are maximums, not a goal

6. Reduce the maximum size of some of the units to 1,700 square feet maximum to encourage less expensive units.

The GPC's recommendation on item 5 above conflicts with this suggestion because they recommended a maximum of 1,500 square feet for residential units.

7. Apply the Town's BMP Ordinance requirements.

This is currently required in Section 2.7.3 c. on page 2-26. Staff does not have any additional suggestions for additional modifications.

8. Don't allow residential on Los Gatos Boulevard.

Language could be added to section 2.5.7 on page 2-15 as noted below.

2.5.7 Perimeter Overlay Zone

The following standards apply within the Perimeter Overlay Zone:

- a. Buildings or portions of buildings located within 50 feet of Lark Avenue shall be restricted to a maximum building height of 25 feet.
- b. Buildings or portions of buildings located within 50 feet of Los Gatos Boulevard shall be restricted to a maximum building height of 25 feet.
- c. Additional setback requirements are provided in Table 2-5 of this chapter.
- d. No building shall be located within 30 feet of a property line adjacent to the freeway.
- e. The maximum density for residential units along Lark Avenue is eight units per acre.
- f. Residential is only allowed when located above commercial along Los Gatos Boulevard.

Alternatively, the note in item 11 below could be the only place where this is addressed.

9. Provide senior housing at the ground level.

Language could be added to section 2.7.3 on page 2-26 to address this suggestion, below.

2.7.3 Residential Units

The Specific Plan Area should accommodate a mix of residential product types and sizes to create the character of an authentic neighborhood rather than a typical development project. The following standards set parameters to guide future residential development. Also refer to the Residential Design Guidelines in Chapter 3 of this Specific Plan.

- a. Residential units shall range in size. Refer to Residential Unit Size Mix in Glossary (Chapter 6).
- b. There shall be a maximum of 270 residential units. This is a maximum, not a goal, and includes the affordable housing units required and the existing units.
- c. Affordable housing (Below Market Price housing) requirements shall be met pursuant to Town Code.
- d. New residential shall be a maximum of: 400,000 gross square feet for Cottage Cluster, Garden Cluster, Townhome and Rowhouse products, 300,000 net square feet for Condominium, Multi-Family, Apartments and Affordable products. These are maximums, not a goal
- e. Single family detached units shall be a maximum of 1,200 square feet and be designed as a cottage cluster product type as defined in Glossary (Chapter 6).
- f. If age restricted housing is proposed, at grade accessible units and/or units that are accessed via elevator, ramps, and lifts are encouraged.

10. Consider the possibility of moving the houses away from Highway 17 and putting commercial in that area.

This suggestion related to the EIR for the Specific Plan regarding air quality concerns. The EIR noted that this concern would be addressed by new stricter air quality standards that have already gone into effect. Section 2.5.7 on page 2-15 could be modified to increase the buffer size highlighted below and/or prohibit residential uses in that area.

2.5.7 Perimeter Overlay Zone

The following standards apply within the Perimeter Overlay Zone:

- a. Buildings or portions of buildings located within 50 feet of Lark Avenue shall be restricted to a maximum building height of 25 feet.
- b. Buildings or portions of buildings located within 50 feet of Los Gatos Boulevard shall be restricted to a maximum building height of 25 feet.
- c. Additional setback requirements are provided in Table 2-5 of this chapter.

- d. No building shall be located within 30 feet of a property line adjacent to the freeway.
- e. The maximum density for residential units in the Perimeter Overlay Zone along Lark Avenue is eight units per acre.
- f. Residential is only allowed when located above commercial along Los Gatos Boulevard.

11. Remove the Conditional Use Permit (CUP) requirement for cottage clusters.

Table 2-1 on page 2-7 could be modified to address this suggestion as noted below.

Table 2-1 Permitted Land Uses

		Lark	Transition	Northern
Residential 2				
a.	Cottage cluster	<u>CUP</u>	<u>P</u>	<u>P</u>
b.	Townhome s/ Garden cluster	P	P	<u>P</u>
c.	Rowhouses	P	P	<u>P</u>
d.	Multi-family	P	P	P2
e.	Condominiums	P	P	P2
f.	Live/work lofts	<u>P</u>	P	P2

Note:

1. Medical Office is only permitted on Assessor Parcel Numbers 424-07-102 through -112, 424-07-099, and 424-06-129.

~~2. Residential only allowed in Northern District when located above commercial.~~

2. Residential is only allowed when located above commercial in the Perimeter Overlay Zone along Los Gatos Boulevard.

A change to Section 2.3.1 on page 2-3 would also need to be modified as noted below.

2.3.1 LARK DISTRICT

Cottage cluster housing is generally characterized by detached cottages oriented onto common greens and ~~will be considered with a Conditional Use Permit.~~

12. Increase the total number of residential units on the North 40.

If the suggestion in Item 1 above is implemented then the number of units available to meet our Housing Element requirement of 13.5 acres at 20 dwelling units per acre will be reduced. To address this concern either the Housing Element would have to be amended or this suggestion could be implemented to increase the current maximum number of residential units (270). The EIR for the Specific Plan considered 364 residential units so that is the

maximum number of units that could be considered for any potential increase since we are not doing further environmental review for these potential amendments. Table 2-2 and section 2.5.1 on page 2-10 could be modified to address this suggestion by providing a recommendation on an increase to the highlighted numbers below.

2.5.1 Maximum Development Capacity

A maximum development capacity of 501,000 square feet (sf) has been provided to limit the overall build-out of the Specific Plan Area and provide an appropriate balance of land uses that meet the goals and objectives of the Specific Plan.

Table 2-2 defines maximums of 250,000 sf of new office/hotel, 400,000 sf of other new commercial (includes: restaurants, retail, specialty market, health club, personal services and entertainment), and 270 residential units.

More restrictive than the Town's General Plan, the Specific Plan has a maximum capacity of 501,000 sf which includes 435,000 sf of new non-residential square footage and 66,000 sf of existing commercial uses.

The number of residential units shall not exceed: 40 percent in the Lark District; 30 percent in the Transition District; and 30 percent in the Northern District.

TABLE 2-2 MAXIMUM DEVELOPMENT CAPACITY

LAND USE	UNITS	Square Feet
RESIDENTIAL	270*	Refer to section 2.7.3
OFFICE/HOTEL		250,000
COMMERCIAL (EXCLUDING OFFICE/ HOTEL)		400,000
RESTAURANTS		
RETAIL		
SPECIALTY MARKET		
HEALTH CLUB		
PERSONAL SERVICE (BEAUTY SUPPLY, NAIL SALON, ETC.)		
ENTERTAINMENT		

Note: The new non-residential portion of the project shall include a mixture of commercial (shopping center), and/or hotel, and/or stand-alone general office that does not create a significant unavoidable impact as a result of the development. The total new square footage shall not exceed 435,000 square feet (sf). With the exception of Assessor Parcel Numbers 424-07-102 through -112, 424-07-099, and 424-06-129, no new Medical Office will be permitted. If destroyed, the existing buildings on the parcels referenced above are allowed to rebuild in substantially the same manner as they existed before their destruction. The existing 66,000 sf of recently constructed buildings on the parcels referenced above is in addition to the 435,000 sf of new non-residential square footage. Each project shall provide a current traffic analysis demonstrating compliance with this requirement.

Projects cannot exceed the maximum traffic capacity evaluated in the EIR

*Total number of units, includes existing units and Town required Below Market Price units. Action HOU-1.3 General Plan Density Bonus does not apply to the Specific Plan Area.

13. Is it possible for the Town to allow a developer to have a density bonus if the developer requests it, but not necessarily have those 13.5 acres in a certain location, i.e., spread throughout the property?

The distribution suggestions and recommendations outlined in Item 2 above address this suggestion.

Commercial

1. The CUP requirements should be the same as downtown.

The GPC discussed making modifications regarding the following uses in Table 2-1 on page 2-7 as noted below.

TABLE 2-1 PERMITTED LAND USES

	LARK	TRANSITION	NORTHERN
COMMERCIAL			
FORMULA RETAIL		P CUP	P CUP
MARKET HALL/ SPECIALTY RETAIL		P CUP	P CUP
ESTABLISHMENT SELLING ALCOHOLIC BEVERAGES FOR CONSUMPTION ON PREMISES			
IN CONJUNCTION WITH A RESTAURANT		P CUP	P CUP P CUP
RESTAURANT	P CUP	P CUP	P CUP
PERSONAL SERVICE	P CUP	P CUP	P CUP

2. Only allow commercial or mixed-use on Los Gatos Boulevard.

Language has been suggested to be added to section 2.5.7 b. on page 2-15 to address this suggestion (see Residential, Item 8, above)

3. Explore commercial uses in the Lark District.

Table 2-1 on page 2-7 could be modified to address this suggestion.

TABLE 2-1 PERMITTED LAND USES

	LARK	TRANSITION	NORTHERN
COMMERCIAL			
FORMULA RETAIL	<u>CUP</u>	<u>P CUP</u>	<u>P CUP</u>
MARKET HALL/ SPECIALTY RETAIL	<u>CUP</u>	<u>P CUP</u>	<u>P-CUP</u>
ESTABLISHMENT SELLING ALCOHOLIC BEVERAGES FOR CONSUMPTION ON PREMISES			
IN CONJUNCTION WITH A RESTAURANT	<u>P CUP</u>	<u>P CUP</u>	<u>P CUP</u>
RESTAURANT	<u>P CUP</u>	<u>P CUP</u>	<u>P CUP</u>
PERSONAL SERVICE	<u>P CUP</u>	<u>P CUP</u>	<u>P CUP</u>

4. Consider maximum square footages for commercial uses instead of CUPs.

This could be done in a number of ways. A GPC member offered a couple of way to address this which included, but wasn't limited to, including a distribution matrix with ranges, recommending a maximum number of tenant spaces, and a maximum number of square feet or number of tenants based on use type. Table 2-2 on page 2-10 (see Item 5 for existing Table 2-2) could be modified to address this suggestion. Additionally, staff will provide the Planning Commission a table, which was not included in the Specific Plan, as a starting point for discussion.

A member of the GPC also made a recommendation on percentages to address distribution of commercial square footage. This suggestion could be added to Section 2.5.1 on page 2-10 as noted below.

2.5.1 Maximum Development Capacity

A maximum development capacity of 501,000 square feet (sf) has been provided to limit the overall build-out of the Specific Plan Area and provide an appropriate balance of land uses that meet the goals and objectives of the Specific Plan.

Table 2-2 defines maximums of 250,000 sf of new office/hotel, 400,000 sf of other new commercial (includes: restaurants, retail, specialty market, health club, personal services and entertainment), and 270 residential units.

More restrictive than the Town's General Plan, the Specific Plan has a maximum capacity of 501,000 sf which includes 435,000 sf of new non-residential square footage and 66,000 sf of existing commercial uses.

The commercial square footage shall not exceed: 15 percent in the Lark District; 35 percent in the Transition District; and 50 percent in the Northern District.

The number of residential units shall not exceed: 40 percent in the Lark District; 30 percent in the Transition District; and 30 percent in the Northern District.

5. Consider a reduction in the amount of commercial square footage.

The GPC discussed separating Office and Hotel into individual categories, increasing the Office and Hotel maximum square footage, and lowering the maximum square footage for the general Commercial category. Table 2-2 and section 2.5.1 on page 2-10 could be modified to address this suggestion as noted below.

TABLE 2-2 MAXIMUM DEVELOPMENT CAPACITY

LAND USE	UNITS	Square Feet
RESIDENTIAL	270*	Refer to section 2.7.3
OFFICE/HOTEL		250 150,000
<u>HOTEL</u>		150,000
COMMERCIAL (EXCLUDING OFFICE/ HOTEL)		400 <u>350</u> ,000
RESTAURANTS		
RETAIL		
SPECIALTY MARKET		
HEALTH CLUB		
PERSONAL SERVICE (BEAUTY SUPPLY, NAIL SALON, ETC.)		
ENTERTAINMENT		

Note: The new non-residential portion of the project shall include a mixture of commercial (shopping center), and/or hotel, and/or stand-alone general office that does not create a significant unavoidable impact as a result of the development. The total new square footage shall not exceed 435~~385~~,000 square feet (sf). With the exception of Assessor Parcel Numbers 424-07-102 through -112, 424-07-099, and 424-06-129, no new Medical Office will be permitted. If destroyed, the existing buildings on the parcels referenced above are allowed to rebuild in substantially the same manner as they existed before their destruction. The existing 66,000 sf of recently constructed buildings on the parcels referenced above is in addition to the 435~~385~~,000 sf of new non-residential square footage. Each project shall provide a current traffic analysis demonstrating compliance with this requirement.

Projects cannot exceed the maximum traffic capacity evaluated in the EIR

*Total number of units, includes existing units and Town required Below Market Price units. Action HOU-1.3 General Plan Density Bonus does not apply to the Specific Plan Area.

2.5.1 Maximum Development Capacity

A maximum development capacity of 501,000 square feet (sf) has been provided to limit the overall build-out of the Specific Plan Area and provide an appropriate balance of land uses that meet the goals and objectives of the Specific Plan.

Table 2-2 defines maximums of ~~2150,000~~ sf of new office/hotel, 150,000 sf of new hotel, and 400~~350~~,000 sf of other new commercial (includes: restaurants, retail, specialty market, health club, personal services, and entertainment), and 270 residential units.

More restrictive than the Town's General Plan, the Specific Plan has a maximum capacity of 501,000 sf which includes 435,000 sf of new non-residential square footage and 66,000 sf of existing commercial uses.

The commercial square footage shall not exceed: 15 percent in the Lark District; 35 percent in the Transition District; and 50 percent in the Northern District.

- 6. Address the commercial needs that have been previously identified: general merchandise, building materials, and resident serving businesses defined as serving the north part of Los Gatos and the North 40.***

Existing commercial needs could be specifically identified in the Specific Plan, but these may change over time. Another option may be to provide more language regarding the types of uses that are envisioned for the Specific Plan area.

Policy LU4, LU6, and LU11 on page 2-2 and Section 2.6.6 on page 2-24 could be modified as noted below.

Policy LU4: Maximum Commercial Development

Commercial development within the Specific Plan Area shall be complementary to Downtown through the careful control of primarily neighborhood serving uses and permitted square footage as set forth in the Maximum Development Capacity Table (refer to Table 2-2.)

Policy LU6: Retail

Retail uses within the Specific Plan Area are intended to serve primarily North 40 residents, adjacent neighborhoods, nearby employment centers and the unmet needs of the Town of Los Gatos.

Policy LU11- Economic Balance

Proposed uses ~~should~~ shall be primarily neighborhood serving and shall complement the existing balance and diversity of businesses located along Los Gatos Boulevard and in Downtown Los Gatos.

2.6.6 RETAIL TENANT SPACE SIZE

The Specific Plan allows for a mix of retail sizes, including smaller primarily neighborhood serving stores that will support the new residential, as well as, larger space for commercial uses, such as sit-down restaurants, specialty market, entertainment, and formula retail.

- 7. Consider reducing the total amount of commercial square footage with the goal of addressing our unmet needs.***

See comments and suggested changes in Item 5 and 6 above.

- 8. The intent of the Specific Plan was to protect downtown while providing neighborhood-serving commercial and reducing retail sales tax leakage.***

See comments and suggested changes in Item 5 and 6 above.

- 9. How do we make the commercial that's near residential be truly neighborhood serving and not shoe stores and handbag stores that draw people away from downtown, and then how do we get the other portion of it to be general merchandizing, again, without creating a food court and a bunch of small stores with dress shops and so forth?***

See suggested changes in Item 5 and 6 above. Additionally, the suggested changes in Item 1 would require CUPs for many uses that are permitted uses in the Specific Plan which would provide the Town with additional tools to address this suggestion.

Open Space

1. *The perimeter overlay zone should be larger.*

There Section 2.5.7 on page 2-15 could be modified to increase the buffer sizes highlighted below.

2.5.7 Perimeter Overlay Zone

The following standards apply within the Perimeter Overlay Zone:

- a. Buildings or portions of buildings located within 50 feet of Lark Avenue shall be restricted to a maximum building height of 25 feet.
- b. Buildings or portions of buildings located within 50 feet of Los Gatos Boulevard shall be restricted to a maximum building height of 25 feet.
- c. Additional setback requirements are provided in Table 2-5 of this chapter.
- d. No building shall be located within 30 feet of a property line adjacent to the freeway.
- e. The maximum density for residential units in the Perimeter Overlay Zone along Lark Avenue is eight units per acre.
- f. Residential is only allowed when located above commercial along Los Gatos Boulevard.

2. *More open space should be required.*

Section 2.5.4 on page 2-12 and Table 2-3 on page 2-12 could be modified to increase the amount of open space required.

2.5.4 Open Space Standards

To ensure that adequate open space is integrated into future development in the Specific Plan Area, a minimum of 30% of open space is required (Table 2-3). This 30% requirement should be a variety of green-spaces and plaza spaces dispersed throughout the different districts. By specifying minimum open space requirements/ standards, the Specific Plan provides incentives for the consolidation of parking into podium parking and parking structures, minimizing at-grade parking, minimizing road widths, and increasing pedestrian spaces.

- a. Open space means a ground plane open and generally unobstructed from the ground plane to the sky. Balconies, shade structures, and roof eaves may extend over a portion of the open space. Open space includes both “green open space” and “hardscape” (plazas, courtyards, pathways, sidewalks, and pedestrian paseos). Plazas, courtyards, and planters over podium parking or on roof decks also qualify as open space.

- b. To ensure the open space is distributed throughout the Specific Plan Area, a minimum of 30% open space shall be provided across the entire Specific Plan Area. The 30% requirement shall be calculated for each application or group of applications.
- c. The 30% open space requirement shall include a variety of green and plaza spaces with a minimum of 20% being green space.
 - i. Green Space/Green Open Space: for purposes of this Specific Plan and calculating open space requirements green space and green open space is grass or landscaped areas. These can include but are not limited to parks, bioretention, common and private residential green space, planters larger than 50 square feet, landscaped planting strips, drivable turf-block, and parking lot landscaping. Trees planted in tree wells shall not be calculated as part of the green space requirement.
 - ii. Hardscape: for purposes of this Specific Plan and calculating open space requirements, hardscape refers to private or common paved areas for the use of pedestrians including plazas, courtyards, pathways, sidewalks, and pedestrian paseos. Roads and parking areas shall not be calculated as part of the open space or hardscape requirement.
- d. 20% of the 30% open space requirement shall be publicly accessible.
- e. Every application for Architecture and Site Review shall include an exhibit(s) that shows the open space and pedestrian network.
- f. Remodels of existing structures along Los Gatos Boulevard that do not change more than 50% of the existing footprint are exempt from the 30% open space requirement.

Table 2-3 Minimum Open Space Requirements	
Open Space Designation (Excluding Parking and Roadways)	Percent of Specific Plan Area
Green Open Space	20% Minimum
Hardscape (Plazas/ courtyards/pathways/ sidewalks and pedestrian paseos) and/or additional green open space	Remainder of Required Open Space
Total Open Space	30% Minimum

3. *Have real open space.*

Section 2.5.4 on page 2-12 above in Item number 2 could be modified to address this suggestion to require more green open space. Additionally, the definition of Green Space/Green Open Space below could also be modified to limit what qualifies as green open space.

GREEN SPACE/GREEN OPEN SPACE

For purposes of this Specific Plan and calculating open space requirements green space and green open space is grass or landscaped areas. These can include but are not limited to parks, bioretention, common and private residential green space, planters larger than 50 square feet, landscaped planting strips, drivable turf-block, and parking lot landscaping. Trees planted in tree wells shall not be calculated as part of the green space requirement.

A GPC member provided the following information from the EPA in New England:

Open space is any open piece of land that is undeveloped (has no buildings or other built structures) and is accessible to the public. Open space can include:

- Green space (land that is partly or completely covered with grass, trees, shrubs, or other vegetation). Green space includes parks, community gardens, and cemeteries.
- Schoolyards
- Playgrounds
- Public seating areas
- Public plazas
- Vacant lots

Open space provides recreational areas for residents and helps to enhance the beauty and environmental quality of neighborhoods. But with this broad range of recreational sites comes an equally broad range of environmental issues. Just as in any other land uses, the way parks are managed can have good or bad environmental impacts, from pesticide runoff, siltation from overused hiking and logging trails, and destruction of habitat.

4. Public access easements shall be required for the open space.

Section 2.5.4 d. could be modified to address this suggestion as noted below.

d. 20% of the 30% open space requirement shall be publicly accessible and easements for the publicly accessible open space shall be provided.

Parking

1. *Underground parking should be explored.*

Language encouraging underground parking could be added to section 2.5.8 on page 2-16 could be modified to address this suggestion as noted below. Additionally, the Planning Commission could consider recommending incentives for projects that provide underground parking.

Parking Structures:

- a. Maximum height of a parking structure shall not exceed maximum building height requirements and shall be measured from the adjacent street grade, without restrictions on the number of internal stories.
- b. Setbacks shall be heavily landscaped in accordance with the Landscape Palette provided in Chapter 3.
- c. Parking structures fronting the Neighborhood Street shall be wrapped with commercial space at the ground floor.
- d. Parking structure facades visible from Primary Streets over 150 feet in length shall incorporate at least one or more of the following:
 - Differentiation of the ground floor from upper floors.
 - Changes in architectural materials.
 - Projecting forward or recessing back portions or elements of the parking structure facade.
 - Horizontal openings broken up with vertical columns to create a rhythm of openings similar to a building with windows.
- e. Underground parking is encouraged.

Height

1. Increase the height to 45 feet, as long as there is more open space.

This was included in a previous version of the Specific Plan. The previous language that was included is provided in Section 2.5.2 on page 2-11 below for the Planning Commission's consideration.

2.5.2 Building Height

- a. The maximum height of any building, excluding affordable housing and hotel uses, is 35 feet with the following criteria:
 - i. Maximum building height shall be determined by the plumb vertical distance from the natural or finished grade, whichever is lower and creates a lower profile, to the uppermost point of the roof edge, wall, parapet, mansard, or other point directly above that grade. For portions of a structure located directly above a cellar, the height measurement for that portion of the structure shall be measured as the plumb vertical distance from the existing natural grade to the uppermost point of the structure directly over that point in the existing natural grade. No point of the roof or other structural element within the exterior perimeter of the structure shall extend beyond the plane established by the maximum height plane. Maximum building height includes all elements and height exceptions are not permitted within the Specific Plan Area.
 - ii. Lark District - 15% of the overall development provided (building footprint) within the Lark District shall be structures of a maximum of two-stories with a 25 foot maximum height. The majority of this requirement may be provided within the Perimeter Overlay Zone (refer to Section 2.5.7). Every application for Architecture and Site Review shall include a table that identifies the following:
 - Total building footprint square footage within the Lark District existing at the time of the application submittal.
 - Percent of total building footprint square footage located within the Lark District currently satisfying the 15% height requirement at the time of submittal.
 - iii. An increased height up to 45 feet is allowed in the Transition and Northern District if the project provides an additional 5% green open space.

2. Reduce the height of the residential to 25 feet.

Section 2.5.2 a. ii. on page 2-11 above could be modified to address this suggestion and require more than the existing 15% of the residential in the Lark District to be a maximum height of 25 feet.

General/Other

1. "Shalls" should replace "shoulds."

The Specific Plan contains both development regulations and design guidelines. Mandatory regulations are denoted by the use of the word "shall." A guideline, which is denoted by the use of the word "should," is not mandatory, but is encouraged with some discretion by staff, the Planning Commission, and the Town Council.

Staff has compiled the instances in the Specific Plan where "should" is used. That document is included as Exhibit A.

The GPC recommended that these items be reviewed so that where appropriate the "shoulds" should be replaced with "shalls" to create additional objective standards that reinforce the Vision and Guiding Principles of the Specific Plan.

2. Confirm that the Guiding Principles in the Specific Plan is mandatory language rather than permissive language.

In addition to the changing "shoulds" to "shalls" as discussed in Item 1 above additional standards or guidelines could be added to the plan or existing Specific Plan language could be modified regarding topics such as hillside view preservation. An existing policy and guideline are provided below.

Policy O1: View Preservation

Promote and protect views of hillsides and scenic resources.

3.2.1 Site Planning and Design

- d. Natural sunlight and views should be considered when siting buildings and landscaped open spaces.

3.2.6 Building Elements and Articulation

- e. Projects located on corner parcels at signalized intersections along Lark Avenue and Los Gatos Boulevard should incorporate major design features on the intersection corner.
 - i. Buildings located at these corner locations are strongly encouraged to frame and front onto intersections. Special care shall be taken to avoid obstructing views to the surrounding hills.

Additional Specific Plan language could also be added or the photo examples could be modified to address topics such as look and feel.

3. Require a plan for the entire Specific Plan area.

The GPC did not recommend considering this suggestion.

4. *Preserve existing live oak trees.*

The GPC requested that the existing Tree Protection Ordinance be provided to the Planning Commission. It is included as Exhibit B. The GPC also recommended that language to preserve native trees be considered. The following language could be added to the Specific Plan.

Existing native trees should be preserved, where feasible.

5. *Consider widening Los Gatos Boulevard.*

The GPC did not recommend considering this suggestion.

6. *Try to acquire some land for a park or community pool.*

The GPC did not recommend considering this suggestion.

7. *Consider making the Town Council the deciding body for applications.*

The GPC did not recommend considering this suggestion.

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Instances where “should” appears in the North 40 Specific Plan

2. Land Use and Development Standards

This chapter provides direction for future development within the Specific Plan Area through regulatory tools. These tools will help achieve the overall North 40 Specific Plan vision and, more specifically, provide refined direction for the types of uses that should occur and how these uses will be allowed to develop. The Specific Plan accommodates a range of pedestrian-oriented commercial, residential, and hospitality uses while establishing associated development standards to create an inviting, walkable neighborhood. The overarching goals are to ensure future development is compatible with surrounding areas, complements Downtown Los Gatos, and contributes to the small town charm of Los Gatos. The Specific Plan Area development is intended to result in a mixed-use neighborhood that supports the nearby residential neighborhoods, adjacent businesses, hospitals, and offices, as well as, on-site residents.

Policy LU8: Hotel/Conference Facilities

A hotel facility developed within the North 40 Specific Plan Area should include a conference/meeting space to accommodate 200 to 250 people.

Policy LU11- Economic Balance

Proposed uses should complement the existing balance and diversity of businesses located along Los Gatos Boulevard and in Downtown Los Gatos.

2.5.4 Open Space Standards

To ensure that adequate open space is integrated into future development in the Specific Plan Area, a minimum of 30% of open space is required (Table 2-3). This 30% requirement should be a variety of green-spaces and plaza spaces dispersed throughout the different districts. By specifying minimum open space requirements/ standards, the Specific Plan provides incentives for the consolidation of parking into podium parking and parking structures, minimizing at-grade parking, minimizing road widths, and increasing pedestrian spaces.

2.5.5 Types of Open Space

a. Plazas/Paseos/Pathways

Plazas, paseos, and pathways create vibrant pedestrian-oriented spaces linking the residential and commercial neighborhoods with adjacent uses, parks, and streets. Throughout the Specific Plan Area, plazas, paseos, and pathways will be incorporated to accommodate different types of activities. These neighborhood gathering spaces shall serve to establish a sense of place and identity.

In the Transition and Northern Districts, plazas, paseos, and pathways can provide space for private outdoor dining, events, and street side entertainment. They should be well-designed, providing ongoing opportunities for human activities that create an interactive environment, build a sense of community, and create opportunities for social interaction. Paseos shall be provided to link public parking and the street environment and residential projects with adjacent streets and plazas/parks. Amenities in plazas and paseos may include:

- Flexible spaces for outdoor dining and gathering
- Well-lit spaces, pedestrian oriented lighting, bollards, and wall-mounted lights
- Articulated edges that create interesting nodes and gathering spaces
- Sitting areas
- Water feature(s)
- Landscaping
- Safe and convenient connections to adjacent uses
- Public art
- Special paving: decorative pavers, decomposed granite, cobblestone
- Focal points such as architectural structures, sculptures, and fountains
- Multi-modal linkages

In the Lark District the pathways will provide connections between common areas and pocket parks and links to the streets and the neighborhood commercial areas in the Transition District. These pathways **should** provide safe and convenient access as well as an amenity to the neighborhood.

b. Perimeter Buffer/Perimeter Overlay Zone (refer to Section 2.5.6)

- i. The perimeter of the site is intended to emphasize the character and heritage of Los Gatos. Large trees and shrubs will surround the Specific Plan Area on the north and west sides (refer to Landscape Palette in Chapter 3), creating a natural buffer between future development and Highways 17 and 85. The buffer **should** also provide an opportunity to incorporate walking paths and sitting areas for passive recreation.

d. Orchard Planting

Orchards are an integral part of the Specific Plan Area and reflect the historic character of Los Gatos. Both Los Gatos Boulevard and Lark Avenue shall contain a landscape buffer planted with orchard trees identified within the Landscape Palette provided in Chapter 3. Streets, parking lots, pocket parks, plazas, and paseos **should** also be considered as an opportunity to integrate an orchard feel.

2.7.3 Residential Units

The Specific Plan Area **should** accommodate a mix of residential product types and sizes to create the character of an authentic neighborhood rather than a typical development project. The following standards set parameters to guide future residential development. Also refer to the Residential Design Guidelines in Chapter 3 of this Specific Plan.

Policy DG7: Historic Character

Design the architecture and landscape to reflect the historic and agricultural heritage of the site and the Town of Los Gatos. The HPC **should** work with applicants on their individual applications to determine how the agrarian feel of the Specific Plan Area is integrated into the development. The existing red barn **should** be retained as much as salvageable.

3.2.1 Site Planning and Design

- a. Buildings should be placed close to, and oriented toward, the street. Prominent architectural features should be located near corners and intersections.
- b. Plazas, fountains, public art, and vertical building features should be used to create focal points and identity, if feasible.
- c. Functional and aesthetic vehicular and pedestrian connections to adjacent sites should be considered during site plan development.
- d. Natural sunlight and views should be considered when siting buildings and landscaped open spaces.

3.2.2 Outdoor Spaces

- a. Outdoor space should be designed as a purposeful and recognizable area that reflects careful planning and should not be a result of “left over” areas between structures. Defined outdoor spaces should be incorporated into the overall building and project design.
- b. Pedestrian-oriented squares, courtyards, arcades, atriums, verandas, balconies, and roof terraces, should be strategically placed and designed to encourage day and/or night use in the most desirable locations.
- c. Site amenities, such as benches, drinking fountains, provisions for bicycles, water features, and public art, should be utilized and should complement the project’s architectural character.
- d. Pedestrian links should be provided between buildings, common open spaces, and parking areas and should be visually enhanced through the use of landscaping or trellis features, lighting, walls, and/or distinctive paving.
- e. Shade trees that provide relief from the sun should be incorporated within common outdoor spaces.
- g. Generally, public/common space should satisfy the following criteria:
 - Provide areas for informal meetings and social interaction or areas for passive and active uses as appropriate.
 - Be accessible to residents.
 - Provide a strong image and sense of place.
 - Be a part of the pedestrian linkage throughout the development and adjacent land uses to create an interconnected open space system.
 - Provide an overall theme and visual connection between spaces and uses within the development.
 - Include areas of various sizes and configurations throughout the development.

- Be designed or located to ensure that it is usable year-round by providing areas that have awnings, wind breaks, sun shade, and/or landscaping that can provide shelter from the elements.
- Create a pleasant pedestrian environment.
- Support commercial retail activity.

3.2.3 Parking Lot Design and Screening

- a. The physical and visual impact of parking should be minimized.
- c. Reciprocal access between adjacent parking areas should be provided where feasible so that vehicles are not required to enter the street in order to move from one area to another on the same or adjacent sites.
- e. Parking lot edges at property or setback lines should include landscape islands with large species trees and low plants to visually break up long lines of parked vehicles.
- f. Pass-through pedestrian walkways from rear parking lots may be required at the discretion of the deciding body. Pass-throughs should include landscaping, trellises, lighting, and other elements that enrich the pedestrian experience.

3.2.4 Architectural Style

- b. Proposals for new commercial structures should be developed within the context of Los Gatos' heritage, and the historic and agricultural heritage of the site.
- d. The use of corporate "chain" architecture detracts from the unique character of the community and is strongly discouraged. Corporate tenants should design their buildings to fit the scale and character of the community.

3.2.5 Building Form

- a. Exterior wall planes should be varied in depth and/or direction. Desirable massing includes:
 - Variation in the wall plane (projecting and recessing elements).
 - Variation in wall height.
 - Roofs containing different forms and located at different levels.
- e. Similar to the area designated as a C-2 Zone in the Zoning Ordinance, commercial areas should be designed with the following design principles in mind:
 - Maintain and enhance the pedestrian orientation
 - Maintain retail and visual continuity
 - Maintain and encourage diversity
 - Provide for visual interest and richness
 - Keep signs subdued in recognition of the strong pedestrian orientation of the street

3.2.6 Building Elements and Articulation

- b. Provide a unified design around all sides of buildings.

- ii. Where continuity of design is difficult to achieve, substantial landscaping should be provided to screen the area.
- e. Projects located on corner parcels at signalized intersections along Lark Avenue and Los Gatos Boulevard should incorporate major design features on the intersection corner.
 - iii. All corners should have special landscaping incorporating flowering plants.
- j. Emphasize display windows and storefront entries.
 - ii. Traditional storefronts with bulkheads below the windows and glass on both the street front and the sides of vestibules are desirable. However, larger and more contemporary display windows are also acceptable, but should have some solid base at least 12 inches high between the bottom of the window and the paving below.
- n. Display windows should be used as display windows only and not covered up from the inside.
- o. Operable windows and french doors are encouraged for restaurants and coffee cafes.
 - i. Window types and proportions should be complementary to the architecture and design of the facade.

3.2.7 Utility Elements

- a. Any outdoor equipment, whether on a roof, side of a structure, or the ground should be appropriately screened from view. The method of screening should be architecturally integrated with the adjacent structure in terms of materials, color, shape, and size.
- b. Utility service areas, such as electrical panels, should be placed within enclosures that are architecturally integrated into the building design.
- c. Access for fire apparatus should be part of the planning process and every attempt should be made to work with the fire department to locate and/or screen the apparatus so as not to disrupt the visual integrity of a project.
- d. Drainage should be directed to permeable areas such as yards, open channels, or vegetated areas, avoiding discharge to roads and minimizing discharge to the storm drain system.
- e. Lighting levels of outdoor lighting should not draw attention to the light source. The intensity level of light as measured in footcandles, and the type of bulb or source should be carefully addressed.
- f. Spotlighting or glare from any site lighting should be shielded from adjacent properties and directed at a specific object or target area.
- g. Exposed bulbs should not be used. Cut-off lighting is required.

- h. Parking lot light standards should not exceed a 20 foot maximum mounting height.
- j. Vehicle sight distances should be considered when selecting and placing landscaping, fencing, and signage.
- k. Integrate the screening for all trash and service areas into the design of the buildings.
 - i. During the Architecture and Site application process, the placement of trash and service areas should be shown on the plans. Locate trash and service areas away from residential uses to avoid odor and noise conflicts.
 - vi. Trash enclosures in commercial areas should be covered and connected to the Sanitary Sewer System to meet Town water quality requirements.
- l. Provide visual buffering of on-site utility elements.
 - i. Locate transformers, valves and similar elements where they will be least visible from public views and rights-of-way. If not possible, these elements should be placed underground or, at a minimum, screened from view with walls and landscaping that relate to the remainder of the project.

3.2.9 Project Landscape and Hardscape

- a. All projects shall be well landscaped.
 - i. Landscaping should relate to existing landscape treatments along the adjacent street fronts.
 - ii. Smaller landscaping (e.g., planter pots, window boxes) are used often within the Town to provide smaller scale elements close to the pedestrian, and should be included within commercial projects whenever possible.
 - iii. Landscaping should have form and substance to define edges and paths, to provide visual focal points, and to buffer less desirable views (e.g., less finished facades facing public ways or residences.)
- d. Integrate landscape elements that reflect the orchard heritage of the area. Where portions of the existing orchards are to be retained, the applicant should work with an arborist and the Historic Preservation Committee to determine if original trees could be retained or if they should be replanted.
- f. Landscape areas should be provided between the soundwall and the highway. Details of the soundwall and landscaping shall be provided during the Architecture and Site Review approval process. Gate(s) shall be provided in the soundwall to access the landscape area adjacent to the highway for maintenance purposes.

3.2.10 Sustainability Guidelines

- d. Non-structural Best Management Practices (BMP's) should be used unless they are infeasible in which case the infeasibility should be documented and structural BMP's implemented.

- f. Site development should comply with all applicable Regional Water Quality Control Board and Santa Clara County regulations for water quality and quantity.

3.3 RESIDENTIAL DESIGN GUIDELINES

Residential products should be designed to meet the unmet needs of the community and provide a mix of market rate and affordable housing in a multi-family setting. The following guidelines apply to the following residential product types:

- Cottage Cluster
- Townhomes/Garden Cluster
- Rowhouses
- Multi-family
- Condominium
- Live/Work Loft

3.3.2 Parking Design and Screening

- d. Below grade parking is encouraged with entries placed at the rear or sides of the structures whenever possible. They should be recessed as much as possible from the building façade, – especially where security gates are used at the garage entry.
- e. Podium garages should not extend more than six feet above grade along ‘A’ Street, Neighborhood Street, Noddin Avenue, Burton Road or common open spaces of pedestrian walkways unless fully screened by building walls with decorative treatment and detail.
- f. Projects constructed on top of parking podiums should take special care to provide design elements to minimize the hard edge of the parking podium. Decks extending beyond the podium edge and varied setbacks for the residential units are just two ways of approaching this issue.
- i. Guest parking should be distributed throughout the development.
- j. Entry driveways should have strong landscaped edges with terminus view focused on landscaped areas or building entries, not parked cars.
- k. The edges of any garage structure and vents into the garage visible above grade should be screened with evergreen plant materials. Earth berms and other techniques to tie the top of the garage structure into the surrounding grade level should be utilized.
- l. Garages and parking areas should be located to minimize the visual impact on the street.
- m. When viewed from the street, garages should be subordinate to the main living area. Where possible, the garage should be recessed behind the dwelling unit and not located between the main living area and the street.
- n. Garage doors should be recessed into, rather than flush with, the exterior wall.

- o. Detached garages and accessory structures should be designed as an integral part of the architecture of the project and should be similar in materials, color, and detail to the principal structures of a development.
- p. Garage doors should feature windows, recesses, and moldings to help blend the garages with the character of the unit.
- r. Detached garages and accessory structures should incorporate roof slopes and materials similar to the principal structures of a development. Flat roofs are discouraged.

3.3.3 Common Open Space

- a. Residents of housing developments should have safe, efficient, and convenient access to usable open space, whether public or private, for recreation and social activities.
- b. Convenient access to common open space and adjacent mixed-use development should be incorporated into the project by way of pedestrian pathways and bicycle access.
- c. Open space should focus on areas that are usable to the residents and not merely remainder parcels with marginal utility.

3.3.4 Private Open Space

- b. Private open space should be easily accessible – physically and visually – from individual units.

3.3.6 Building Form and Articulation

- d. Structures should be varied in height, size, proportions, orientation and roof lines.
- g. Elevations should be mixed within a development to avoid repetition of identical facades and roof lines.
- p. Structures should include building articulation, changes in materials or textures, or other architectural features such as:
 - Horizontal and vertical wall plane changes
 - Varied roof forms and orientations
 - Bay windows
 - Roof dormers
 - Material and color changes
 - Applied decorative features
 - Roof segments over windows
 - Metal or wood balcony railings
 - Planter boxes and plant rings
- q. Window articulation, such as sills, trim, kickers, shutters, or awnings, should be applied, where appropriate to the architectural style, to improve the facade of the building.

- r. Any faux shutters should be proportionate to the adjacent windows to create the appearance of real and functional shutters.
- s. Material changes should occur at a change in plane where the changes tend to appear substantial and integral to the structure, preferably at an inside corner. Material changes not occurring at a change in plane appear “tacked-on” and should be avoided.

3.3.7 Utility Elements

- a. Any outdoor equipment, whether on a roof, side of a structure, or the ground should be appropriately screened from view. The method of screening should be architecturally integrated with the adjacent structure in terms of materials, color, shape, and size.
- b. Utility service areas, such as electrical panels, should be placed within enclosures that are architecturally integrated into the building design.
- c. Utility equipment should be screened with solid masonry walls, berms, and/or landscaping.
- d. Transformers required to be installed adjacent to the street should be placed underground, where feasible.
- e. Satellite dishes should not be mounted on the roof or be visible from the street, where feasible.
- f. Access for fire apparatus should be part of the planning process so as not to disrupt the visual integrity of a project.
- g. Gutters and downspouts on the exterior of the building should be decorative or designed to integrate with the building facade.
- h. Drainage should be directed to permeable areas such as yards, open channels, or vegetated areas, avoiding discharge to roads and minimizing discharge to the storm drain system.
- i. Common mailbox enclosures should be designed to be similar in form, materials, and color to the surrounding buildings.
- k. At least half of the trash and recycling area should be dedicated to recycling containers.
- m. Trash and recycling enclosure should be consistent with the design of the project and the building architecture. Similar or the same materials should be used on the enclosure as those on the surrounding buildings. Architecturally designed roof structures should be used to create a finished looking structure.
- n. A pedestrian entrance to the trash and recycling enclosure should be provided to minimize opening of large access gates.

- o. Trash and recycling enclosures should be separated from adjacent parking stalls by a minimum three-foot wide planter with low-growing plant materials to ensure that adequate space is available for passengers to access a vehicle in an adjacent parking space.
- p. Drainage from adjoining roof and pavement should be diverted around the trash and recycling area.
- q. Lighting levels of outdoor lighting should not draw attention to the light source. The intensity level of light as measured in footcandles, and the type of bulb or source should be carefully addressed.
- r. Spotlighting or glare from any site lighting should be shielded from adjacent properties and directed at a specific object or target area.
- s. Exposed bulbs should not be used. Cut-off lighting is required.
- t. Pedestrian lights should not exceed a 15 foot maximum mounting height.

3.3.8 Sustainability Guidelines

- d. Non-structural Best Management Practices (BMP's) should be used unless they are infeasible in which case the infeasibility shall be documented and structural BMP's implemented.
- f. Site development should comply with all applicable Regional Water Quality Control Board and Santa Clara County regulations for water quality and quantity.

3.4 NEIGHBORHOOD IDENTITY

The Specific Plan Area is a unique site within the Town of Los Gatos, and within the region. By utilizing quality signage, architecture, and identity elements, the Specific Plan Area can:

1. Create a gateway statement for Northern Los Gatos.
2. Incorporate architectural, landscape, and signage elements to unify the Specific Plan Area as a new neighborhood with its own identity while complementing the existing Town character and charm.
3. Connect this part of Los Gatos to the rest of town.
4. Reflect the agricultural history of the site.

In addition to signs and wayfinding elements, the Specific Plan Area should be treated with a unique image, or "brand," appropriate to its history and relationship to the Los Gatos community. Together, signage, architectural, landscape and urban design elements can all contribute to branding the Specific Plan Area neighborhood. Branding elements include building materials and forms, trees and landscape treatments, street lights, benches, trash cans, planters, walls, and signage.

3.4.1 Specific Plan Area Inspiration

The Specific Plan Area brand and neighborhood identity elements should draw from authentic materials and patterns of Los Gatos and the agricultural history of the site. These include natural

stacked stone walls, vines and plantings on walls, orchards, wrought iron gates, wood ranch style gates, and barn material and forms. Combining elements that reflect the history and character of Los Gatos and the site is key to creating the Specific Plan Area identity.

Neighborhood identity should also be reinforced along Los Gatos Boulevard with sculptural, topiary, or other landscape treatments. The Los Gatos Boulevard frontage, orchestrated with attractive patterns and rhythms of materials and elements, creates a dual opportunity of identifying the Specific Plan Area neighborhood and creating a welcoming new gateway into the Town. Similar materials and elements should be strategically integrated within the site, along with interpretive signage that celebrates the history of the land to add additional rich layers of meaning for visitors and residents.

3.4.2 Street Furnishings

Street furnishings can be a strong unifying element for a neighborhood or area. Street furnishings should be provided along the streets and within plazas and paseos throughout the Specific Plan Area and along Los Gatos Boulevard and Lark Avenue frontages. Consistent lighting, benches, waste receptacles, bicycle racks, and tree grates should be installed throughout the Specific Plan Area to help give the neighborhood a unified feel and avoid the appearance of a piecemeal approach to the design.

3.4.3 Streetscape Landscaping

Planting strips and street trees add to a neighborhood's identity and make an important contribution to the appearance of an area. There are a number of trees that have been identified in the following table as appropriate in key locations within the Specific Plan area. Tree planting and placement shall maximize the health and viability of the tree while avoiding damage to the sidewalk, curb, and gutter.

Street tree spacing should be determined by the expected mature size of the tree. Generally, trees should be planted with the following spacing:

- a. Small trees (<20 feet crown width at maturity) should be planted approximately 15 feet on center.
- b. Medium sized trees (20 to 35 feet crown width at maturity) should be planted approximately 25 feet on center.
- c. Large trees (>35 feet crown width at maturity) should be planted approximately 35 feet on center.
- d. Generally, trees with narrow crowns (less than 20 feet at maturity) should be planted at closer spacing while trees which normally develop broad crowns (> 40 feet at maturity) should be afforded wider spacing (e.g., 40 to 50 feet on center).

3.5 SIGNAGE

Signage is a key component of forming the neighborhood identity. Implementing these Signage Guidelines for the Specific Plan Area neighborhood will help to realize the General Plan Land Use Element's vision of high-quality architecture and design that reflects the rural and agricultural history of the site. All signage within the Specific Plan Area shall conform to the following guidelines, as well as, the regulations provided within Chapter 2 of this document.

A sign program will be developed as an effective method to establish a unique identity to the Specific Plan Area and adjacent neighborhoods. The sign program should include, but not be limited to, gateways, directional signage, parking signs, street signs, directories (kiosks), and banners.

3.5.1 Specific Plan Area Entry Features and Identity Signage

The four primary entries into the Specific Plan Area are Lark Avenue at 'A' Street and Neighborhood Street, Noddin Avenue, and Burton Road at Los Gatos Boulevard.

These four entry locations should be designed with elements that unify the Specific Plan Area with the Town of Los Gatos, while at the same time are designed to reflect the desired identity and character of the Specific Plan Area. Entries should have a combination of accent features including landscaping, trees, architectural features, signage, and/or enhanced paving.

Since the Specific Plan Area is striving to be an extension of the adjacent neighborhoods and not a typical strip commercial center or residential project, the approach to the entry treatments and signage should be customized to reflect this unique new mixed-use neighborhood.

Entry signage at these locations should include authentic materials – stone, metal and/or wood in a creative and timeless style. Additional signage requirements are provided in Chapter 2 of this document. Applicants should also refer to Division 3 of the Zoning Ordinance. The guidelines in this chapter supplement the Sign Ordinance and are intended to provide more detail in regard to good signage design principles and community expectations.

3.5.5 Wall Signs

- e. Exterior illuminated signs should utilize shielded spot lights.
- h. Sign height and width should be appropriate to the building on which it is placed and the distance of the sign from fronting streets.

3.5.7 Window Signs

- b. Window signs should be limited to a maximum of 25% of any individual window.

3.5.9 Hanging Signs

- d. Orient hanging signs to pedestrian traffic.
 - ii. If multiple hanging signs are placed along a business frontage, they should all be mounted with their bottom edge the same distance above the sidewalk.

3.5.10 Plaque Signs

- b. Limit the location and size of plaque signs. Locate signs only on wall surfaces adjacent to tenant entries or entry passageways to off-street courtyards. Signs identifying a single business should be limited to an area of four square feet. Directory signs for the identification of multiple second floor or courtyard tenants may be larger, but no more than eight square feet in area.

- c. Use plaque signs for the display of restaurant menus. Menu signs or boxes should not exceed six square feet in area, and should have internal or indirect lighting (e.g., bulbs located in the frame to cast direct light over the menu surface) or direct lighting using decorative fixtures.

3.5.11 Ground Signs (Monument Signs)

- b. Limit the information on each sign. Ground sign information should generally be limited to the following information:
 - i. Project or primary business identification name and/or logos.
 - ii. Address number (strongly encouraged).
 - iii. Types of uses or names of businesses located interior to the Specific Plan Area.

4.5 STREETSCAPE DESIGN

Carefully designed and implemented streetscape improvements will enhance the pedestrian experience within the Specific Plan Area and encourage pedestrian activity and movement throughout. Sidewalks will be improved with amenities such as street trees, furnishings, pedestrian scale lighting, curb extensions at intersections and specialized crosswalk paving. Curb extensions, also known as “bulbouts”, at key locations will help minimize pedestrian crossing time and increase safety. Accent paving at crosswalks will emphasize pedestrian ways and add visual appeal as well as help slow automobiles. Special paving can also be employed to distinguish areas within the sidewalk or at building entries.

To create a pedestrian scaled street environment, storefronts in the commercial zones should be sited close to the street to better define the street edge. A continuous storefront experience and attractive walkways will maximize the quality of the pedestrian environment. Some variation in front setbacks is encouraged to allow for outdoor dining opportunities - bringing interest and activity to the street edge.

Streetscape amenities will help define and unify the neighborhood identity along Los Gatos Boulevard, Lark Avenue, and within the Specific Plan Area (refer to Neighborhood Identity section in Chapter 3).

4.6 INTERSECTION IMPROVEMENTS

The following intersection improvement recommendations are important to ensure an efficient flow of traffic on Lark Avenue, Los Gatos Boulevard, through the Specific Plan Area and for access to and from the Specific Plan Area.

The Los Gatos Boulevard/Samaritan Drive/Burton Road intersection should be improved by the first project developer within the Northern District of the Specific Plan Area. The improvements should include:

- Conversion of the existing eastbound lane on Burton Road to a through/left turn lane.
- Addition of one dedicated eastbound left turn lane and one eastbound right turn lane on Burton Road at Los Gatos Boulevard (including widening Burton Road for about 200 feet west from Los Gatos Boulevard).

The Noddin Avenue access point will provide right-in and right-out access to Los Gatos Boulevard and left-in access for turning left from Los Gatos Boulevard to Noddin Avenue and left to Terreno De Flores. A new signalized intersection should be located approximately mid-way between Noddin Avenue and Bennett Way at the intersection of Los Gatos Boulevard/ Neighborhood Street. The following off-site intersection improvements shall be completed at the Los Gatos Boulevard/Lark Avenue intersection by the first project developer:

- Addition of a third eastbound left turn lane on Lark Avenue.
- Addition of third northbound left turn lane on Los Gatos Boulevard.
- Addition of a third westbound lane on Lark Avenue, which will operate as a second right turn lane for the State Route 17 on-ramp.
- Modification and re-stripping of intersection and restriction of parking as needed.

4.7 TRAFFIC CALMING ELEMENTS

Traffic calming measures are aimed at reducing traffic speeds and increasing pedestrian connectivity. Some traffic calming elements proposed in the Specific Plan Area include bulbouts, narrow street sections, street trees and planting strips, accent paving at crosswalks and intersections, and pervious paving in on-street parking zones.

- Bulbouts should be used to help narrow roads and shorten the pedestrian crossing distances, while improving pedestrian visibility to motorists.
- Canopy trees and planting strips should be used to help frame the street, narrowing the perceived street width, and slowing traffic.
- Enhanced paving in crosswalks, at intersections, mid-block crossings, and on-street parking zones should be used to help signify a change of ground plane and reduce the speed of traffic.

4.8 PEDESTRIAN CIRCULATION

In an effort to implement the Specific Plan's vision of creating a pedestrian-oriented neighborhood environment, it is important to establish well connected pedestrian paths, paseos, and sidewalks throughout the Specific Plan Area. Paseos, paths, and sidewalks should interconnect throughout the site, leading to and through plazas and green spaces. This encourages a vibrant pedestrian environment that invites people to walk and ride their bicycles around the neighborhood. Integrating paseos and plazas into the Northern District will help create a sense of place for the district.

4.8.1 Pedestrian Paseos and Pathways

A network of paseos and pedestrian pathways should be interwoven throughout the North 40 Specific Plan Area to connect the districts and neighborhoods and also connect to the streets and surrounding Perimeter Overlay Zone.

Vegetated pathways within the Lark District should be designed to weave between the residential neighborhoods connecting common areas, pocket parks, and streets.

The paseos and pathways within the Transition District should connect courtyards, plazas, and streets to the neighborhood commercial areas and to the Lark District neighborhood.

Within the Northern District, a series of paseos should meander through the commercial core, creating a comfortable pedestrian experience. Paseos will provide many opportunities for outdoor dining and storefront shopping. A paseo works as a pedestrian street, furnished with benches, tables, street trees, planters, and may include focal features, fountains, and public art.

4.9 BICYCLE TRAVEL

Bicycle facilities will be integrated throughout the Specific Plan Area. Bicycle travel promotes a healthy alternative to vehicle transportation. Bicycle facilities include: Class II bicycle lanes, multimodal paths, sharrows, bicycle racks, and bicycle lockers. Class II bicycle lanes are striped lanes within the road right-of-way. Multimodal paths are separated from roadway and designated for two way pedestrians and bicycle travel. Sharrow refers to shared lane pavement markings placed within a travel lane to indicate that a bicyclist may use the full lane. The sharrow symbol consists of a bicycle symbol with two chevron markings above the bicycle (refer to right image).

- It is anticipated that 'A' Street within the Specific Plan Area will include sharrows.
- Require all bike lanes and sharrows to be painted green.
- A north-south multimodal path should be provided to facilitate connectivity within the Specific Plan Area.

4.12 PARKING STRATEGIES

The following parking design and location strategies should be implemented within the Specific Plan Area to reduce the dominance of automobiles and help create a safe and aesthetically pleasing pedestrian environment.

- Parking areas should be sufficiently buffered from view and tucked underneath residential structures and behind retail and mixed-use development.
- Diagonal parking, 90 degree parking, and/or parallel parking should be provided along the street edge fronting commercial uses on internal streets.
- Shared parking and reciprocal access to parking lots is strongly encouraged between adjacent developments and businesses.
- Parking structures should be considered to help minimize the land area dedicated to surface parking.

5.3.2 Proposed Stormwater Collection and Conveyance

In conjunction with the preparation of this Specific Plan both the Town of Los Gatos Public Works Department (Town) and the Santa Clara Valley Water District (SCVWD) were consulted to determine existing system operation, capacity and future infrastructure needs. The Town and SCVWD reported the following:

- The Town reported that the development of the Specific Plan Area is a regulated project under the Municipal Regional Permit (MRP) Provision C.3 including Provisions C.3.c (low impact development) and C.3.g (hydromodification).

- The Town reported that the drainage system in Los Gatos Boulevard is undersized and therefore drainage from the Los Gatos Boulevard frontage will need to be rerouted through the Specific Plan Area. The Specific Plan Area drainage system will need to be oversized to mitigate existing deficiencies not caused by the development of the Specific Plan Area.
- SCVWD reported that runoff from the Specific Plan Area should not increase the water surface elevation in Los Gatos Creek nor increase the lateral extent of flooding.

c. 10-year event storm collection:

Underground pipe systems within the Specific Plan Area shall be designed to contain the 10-year storm. A conceptual layout of the proposed drainage system is illustrated in Figure 5-2.

100-year event flood control protection:

Flows in excess of the 10-year event may be conveyed in the streets, provided that development is not subject to flooding. Excess stormwater may also be detained in open space areas and parking lots, provided that development is not subject to flooding.

Given that the Specific Plan proposes relatively narrow streets it is possible that portions of the street system may not have the ability to safely convey the 100-year storm event. At these select locations, the drainage system may be designed to contain the 100-year event underground, or other equivalent means will be provided. Inlets at these locations should be designed to allow the tributary 100-year flow rate to enter the storm drain system.

5.4.3 Water Distribution

Based on information provided to SJWC by the Santa Clara Fire Department, the Specific Plan Area water system should be designed to achieve a fire flow of 4,000 gallons per minute (gpm). SJWC prepared a preliminary hydraulic model for the Specific Plan Area, which indicates that a fire flow of approximately 4,200 gpm is available from the Montevina pressure zone.

Approximately 420 feet of 12 inch pipe will be extended from the Specific Plan Area at Lark Avenue to an existing 18 inch pipe located at the 7-Mile Station as illustrated on Figure 5-3. Domestic and fire pressure regulators will be required within the Specific Plan Area to maintain 70 pounds per square inch (psi) for domestic use and 60 psi for fire protection.

6.4.4 Interpretation of Provisions and Uses

The Director of Community Development shall have the responsibility to interpret the provisions of this Specific Plan. If an issue or situation arises that is not sufficiently provided for or is not clearly understandable, those regulations of the Zoning Ordinance that are most applicable shall be used by the Director as guidelines to resolve the issue or situation. This provision shall not be used to permit uses or procedures not specifically authorized by this Specific Plan or the Zoning Ordinance.

If ambiguity arises concerning the appropriate classification of a particular land use, the Director shall have the authority to make an interpretation as to whether the use should be allowed because it is similar to other allowed uses in a particular Specific Plan District, or whether the use should not be allowed in any Specific Plan District.

6.5 SPECIFIC PLAN AMENDMENTS

Amendments to the Specific Plan may be initiated by an individual North 40 property owner or their designee, or by the Town. Additionally any member of the public can make a request to the Town Council for the Town to consider an amendment to the North 40 Specific Plan. The Director of Community Development or his/her designee is responsible for making the determination of whether an amendment to the Specific Plan text or map is needed. Amendment procedures are described below:

- Proposals to amend the Specific Plan must be accompanied by detailed information to document the change required. This information should include revised Specific Plan text and a revised diagram, where relevant, depicting the amendment requested.
- The Town has conducted a comprehensive analysis and invested a significant amount of time and money in the preparation of the Specific Plan, therefore, any proposals to amend the Specific Plan must document the need for such changes. The Town and/or applicant should indicate the economic, social or technical issues that generate the need to amend the Specific Plan. Costs incurred for the amendments shall be the responsibility of the party requesting the amendment.

Images

The word “should” can also be found in the captions for images on page 3-12, 3-19, 3-22, 3-25, 3-27, 3-28, 3-29, and 3-42.

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revocation, and shall give the permittee written notice of this decision. Both notices shall be mailed to the address given by the permittee in his application for the large family day care home permit or such other address as the permittee has provided the Planning Director.

(Ord. No. 1842, § I(3.99), 4-1-91)

Editor's note—Ord. No. 1842, § I, adopted April 1, 1991, amended the zoning ordinance by the addition of Chapter 3.99, and at the discretion of the editor said provisions have been included herein as § 29.10.09050.

DIVISION 2. TREE PROTECTION*

Sec. 29.10.0950. Intent.

This division is adopted because the Town of Los Gatos is forested by many native and non-native trees, and contains individual trees of great beauty. The health and welfare of the citizens of the Town require that these trees be saved in order to preserve the scenic beauty of the Town, prevent erosion of topsoil, provide protection against flood hazards and risk of landslides, counteract pollutants in the air, maintain climatic balance and decrease wind velocities. Trees contribute significantly to the value of land in the Town. It is the intent of this division to regulate the removal of trees within the Town in order to retain as many trees as possible consistent with the purpose of this section and the reasonable use of private property. It is the intent of this division to preserve as many protected trees as possible throughout the Town through staff review and the development review process. Special provisions regarding hillsides are included in section 29.10.0987 of this division in recognition of the unique biological and environmental differences between the hillside and non-hillside areas of the Town. This section does not supersede the provisions of Chapter 26 of this Code.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.0955. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section.

Building envelope means the area of a parcel (1) upon which, under applicable zoning regulations, a structure may be built outside of required setbacks without a variance or; (2) that is necessary for the construction of primary access to structures located on the parcel, where there exists no feasible means of access which would avoid protected trees. On single-family residential parcels, the portion of the parcel deemed to be the building envelope access shall not exceed ten (10) feet in width.

Certified or consulting arborist means an individual in the profession of arboriculture who, through experience, education, and related training, possesses the competence to provide a

***Editor's note**—Ord. No. 2240, § I(Exh. B), adopted June 2, 2015, amended Div. 2 to read as herein set out. Former Div. 2, §§ 29.10.0950—29.10.1045, pertained to similar subject matter, and derived from Ord. No. 2114, §§ I, II, adopted Aug. 4, 2003.

tree report, tree survey or supervise the care and maintenance of trees; and who is certified by the International Society of Arboriculture, a member of the American Society of Consulting Arborists or approved by the director.

Development means any work upon any property in the Town which requires a subdivision, rezoning, planning permit, variance, use permit, building permit, demolition permit, grading permit or other Town approval or which involves excavation, landscaping, construction or clearing and grubbing within the dripline or any area that would affect a protected tree.

Diameter means measurement of the trunk diameter for the purpose of applying this section shall be made four and one-half (4.5) feet (fifty-four (54) inches) above natural grade. Measurement of multi-trunked trees shall be determined by the sum of all trunk diameters measured at four and one-half (4.5) feet (fifty-four (54) inches) above natural grade.

Director means the Director of Community Development or the Director's designated representative.

Dripline area means the area around the trunk of the tree extending out a distance ten (10) times the diameter of the trunk, or the perimeter of the tree canopy, whichever is greater.

Heritage tree means a tree or grouping of trees specifically designated by action of the Town Council, upon the recommendation of the Historic Preservation Commission, that possess exceptional aesthetic, biological, cultural, or historic value and is expected to have a continuing contribution to the community,

Hillside means all properties located within the area defined by the hillside area map as contained in the Town of Los Gatos Hillside Development Standards and Guidelines.

Large protected tree means any oak (*Quercus*), California buckeye (*Aesculus californica*), or Pacific madrone (*Arbutus menziesii*) which has a 24-inch or greater diameter (75-inch circumference); or any other species of tree with a 48-inch or greater diameter (150-inch circumference).

Multi-trunk tree means a tree that has more than one (1) major supporting stem or trunk growing from a single root mass located at ground level or just above the trunk flare.

Native means any tree that is found in the immediate natural habitat. For instance, redwood trees are native to the Santa Cruz Mountains but they are not native to the oak woodlands and chaparral areas of Los Gatos.

Pollarding means a pruning technique where the ends of the branches of a tree are terminated with a heading cut to a predetermined length, and then resultant epicormic shoots that emerge from just below the heading cut are cut back on an annual basis, forming an enlarging "knob" or knuckle" at the end of the remaining branches over time. Pollarding should be done on small branches no more than two (2) inches in diameter and is only allowed without a permit on fruitless mulberry trees (*Morus alba*) or other species approved by the Town Arborist.

Protected tree means a tree regulated by the Town of Los Gatos as set forth in Section 29.10.0960, Scope of protected trees.

Pruning means the selective removal of plant parts to meet specific goals and objectives, including but not limited to: safety and risk reduction; clearance; health maintenance; aesthetic improvement; growth control; and to enhance performance or function by developing and preserving tree structure and health. All pruning shall be in accordance with the current version of the International Society of Arboriculture Best Management Practices-Tree Pruning and ANSI A300-Part 1 Tree, Shrub and Other Woody Plant Management-Standard Practices, (Pruning).

Public nuisance, means any tree, shrub, plant or part thereof growing in, or overhanging, a public street or right-of-way, interfering with the use of any public street or public place in the Town, or tree which, in the opinion of the Director, endangers the life, health, safety, comfort or property of any persons using such public street, or in such public place, because of the tree's or shrub's location, condition of its limbs, roots or trunk, or because of its diseased condition, is hereby declared to be a public nuisance.

Public place means any road or street, or public school, or place of public assemblage, or real property, building, or other space or area which is open to public access, and which is under public control, or maintained at public expense, or which the Town or the County of Santa Clara, or the State of California, or the United States, as the case may be, owns some or all interest or which it leases.

Public street means all or any portion of territory within the Town set apart and designated for the use of the public as a thoroughfare for travel, including the sidewalks, curb and gutter.

Remove means any of the following: (1) Complete removal, such as cutting to the ground or extraction, of a protected tree; (2) Taking any action foreseeably leading to the death of a tree or permanent damage to its health; including but not limited to severe pruning, cutting, girdling, poisoning, overwatering, unauthorized relocation or transportation of a tree, or trenching, excavating, altering the grade, or paving within the dripline area of a tree.

Severe pruning means topping or removal of foliage or significant scaffold limbs or large diameter branches so as to cause permanent damage and/or disfigurement of a tree, and/or which does not meet specific pruning goals and objectives as set forth in the current version of the International Society of Arboriculture Best Management Practices-Tree Pruning and ANSI A300-Part 1 Tree, Shrub and Other Woody Plant Management-Standard Practices, (Pruning). Severe Pruning shall also include pruning as described in section 29.10.1010(3) of this chapter.

Shrub means a bushy, woody plant, usually with several permanent stems, and usually not over fifteen (15) feet high at maturity.

Significant impact on a property from a tree means an unreasonable interference with the normal and intended use of the property. In determining whether there is a significant impact, the typical longevity of the subject tree species, the size of the tree relative to the property, and whether the condition can be corrected shall be considered. Normal maintenance, including

but not limited to pruning not requiring a permit under this division, and leaf removal and minor damage to paving or fences shall not be considered when making a determination of significant impact.

Street tree means a tree in a public place, or along or within a public street or right-of-way.

Topping means the practice of cutting back large diameter branches of a tree, including but not limited to cutting of a central leader, to some predetermined lower height to reduce the overall height of the tree, where the remaining buds, stubs or lateral branches are not large enough to assume a terminal role.

Tree means a woody perennial plant characterized by having a main stem or trunk, or a multi stemmed trunk system with a more or less definitely formed crown, and is usually over ten (10) feet high at maturity.

Tree canopy replacement standard means a replacement tree formula to mitigate removal of a protected tree. The standard is based on measuring the widest distance across the canopy of a tree for the purpose of determining the mitigating size and number of replacement trees.

Tree protection zone (TPZ) means the area of a temporary fenced tree enclosure under the tree's dripline or as specified in a report prepared by a certified or consulting arborist. The TPZ is a restricted activity zone before and after construction where no soil disturbance is permitted unless approved and supervised by the certified or consulting arborist.

Tree Risk Rating means a categorization of risk based on an assessment of the likelihood of failure and impact and the consequences such failure and impact would have on life, property, utilities, or essential transportation systems. For purposes of this division, Tree Risk Rating shall be the rating of tree risk as provided for in the International Society of Arboriculture (ISA) Tree Risk Assessment Best Management Practices Tree Risk Rating Matrix, which categorizes risk as Extreme, High, Moderate or Low.

Tree value standard means the method of appraising a tree's value to a property using the Trunk Formula Method or Replacement Cost Method as described in the most recent edition of the Guide for Plant Appraisal published by the Council of Tree and Landscape Appraisers (CTLA) and the Species Classification and Group Assignment by the Western Chapter of the International Society of Arboriculture (ISA).

Trunk means the primary structural woody part of the tree beginning at and including the trunk flare and extending up into the crown from which scaffold branches grow.

Trunk flare means the area at the base of the plant's trunk where it broadens to form roots and is the transition area between the root system and the trunk.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.0960. Scope of protected trees.

This division shall apply to every property owner and to every person, corporation, partnership, sole proprietorship or other entity responsible for removing, maintaining or protecting a tree. The trees protected by this division are:

- (1) All trees which have a twelve-inch or greater diameter (thirty-seven and one-half-inch circumference) of any trunk or in the case of multi-trunk trees, a total of eighteen inches or greater diameter (fifty-six and one-half-inch circumference) of the sum of all trunks, where such trees are located on developed residential property.

- (2) All trees which have an eight-inch or greater diameter (twenty-five-inch circumference) of any trunk or in the case of multi-trunk trees, a total of eight inches or greater diameter (twenty-five-inch circumference) of the sum of all trunks, where such trees are located on developed Hillside residential property.
 - (3) All trees of the following species which have an eight-inch or greater diameter (twenty-five-inch circumference) located on developed residential property:
 - a. Blue Oak (*Quercus douglasii*);
 - b. Black Oak (*Quercus kelloggii*);
 - c. California Buckeye (*Aesculus californica*);
 - d. Pacific Madrone (*Arbutus menziesii*).
 - (4) All trees which have a four-inch or greater diameter (twelve and one half-inch circumference) of any trunk, when removal relates to any review for which zoning approval or subdivision approval is required.
 - (5) Any tree that existed at the time of a zoning approval or subdivision approval and was a specific subject of such approval or otherwise covered by subsection (6) of this section (e.g., landscape or site plans).
 - (6) Any tree that was required by the Town to be planted or retained by the terms and conditions of a development application, building permit or subdivision approval in all zoning districts, tree removal permit or code enforcement action.
 - (7) All trees, which have a four-inch or greater diameter (twelve and one half-inch circumference) of any trunk and are located on property other than developed residential property.
 - (8) All publicly owned trees growing on Town lands, public places or in a public right-of-way easement, which have a four-inch or greater diameter (twelve and one-half-inch circumference) of any trunk.
 - (9) A protected tree shall also include a stand of trees, the nature of which makes each dependent upon the other for the survival of the stand.
 - (10) The following trees shall also be considered protected trees and shall be subject to the pruning permit requirements set forth in section 29.10.0982 and the public noticing procedures set forth in section 20.10.0994:
 - a. Heritage trees;
 - b. Large protected trees.
- (Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.0965. Prohibitions.

Except as provided in section 29.10.0970, it shall be unlawful:

- (1) To remove or cause to be removed any protected tree in the Town without first obtaining a permit pursuant to this chapter.

- (2) To prune, trim, cut off, or perform any work, on a single occasion or cumulatively, over a three-year period, affecting twenty-five (25) percent or more of any protected tree without first obtaining a permit pursuant to this chapter.
- (3) To prune, trim, or cut any branch or root greater than four (4) inches in diameter (twelve and one-half (12.5) inches in circumference) of a Heritage tree or large protected tree without first obtaining a permit pursuant to this chapter.
- (4) To conduct severe pruning as defined in section 29.10.0955 without first obtaining a permit pursuant to this chapter.
- (5) For any person or business entity engaged in the business of removing trees or tree care to perform work requiring a permit under this division without first obtaining a permit under this division. The permit shall be posted on-site at all times during the removal or permitted pruning of a tree and must be made available upon request from the Chief of Police, Code Compliance Officer, Director of Parks and Public Works Department, or their designee.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.0970. Exceptions.

The following trees are excepted from the provisions of this division and may be removed or severely pruned without Town approval or issuance of a tree removal permit:

- (1) A fruit or nut tree that is less than eighteen (18) inches in diameter (fifty-seven-inch circumference).
- (2) Any of the following trees that are less than twenty-four (24) inches in diameter (seventy-five (75) inches in circumference):
 - Black Acacia (*Acacia melanoxylon*)
 - Tulip Tree (*Liriodendron tulipifera*)
 - Tree of Heaven (*Ailanthus altissima*)
 - Blue Gum Eucalyptus (*E. globulus*)
 - Red Gum Eucalyptus (*E. camaldulensis*)
 - Other Eucalyptus (*E. spp.*)-Hillsides only
 - Palm (except *Phoenix canariensis*)
 - Privet (*Ligustrum lucidum*)

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.0975. Emergency action.

A protected tree may be removed or severely pruned without a permit where it presents an imminent danger to life, property, utilities or essential transportation systems and a Tree Risk Rating of Extreme or High is present. In such event, the property owner or representative shall be responsible for the following:

- (1) Notify the Town Parks and Public Works Department during business hours or the Police Department after business hours and request authorization of the proposed emergency action, including removal or severe pruning.

- (2) Emergency action may be authorized by the Director, Town Manager, Parks and Public Works Director, Town Arborist or their designees, or a member of the police or fire department or other emergency personnel when the situation and conditions warrant immediate action to protect life or property and other Town officials are unavailable.
- (3) No later than seventy-two (72) hours after the emergency action has been taken the property owner shall submit photo documentation and written verification to the Town confirming the emergency condition and describing the action taken.

If the Director determines that the condition was not reasonably determined to have been an emergency requiring immediate action, the person responsible for removing or damaging the protected tree shall be subject to fines and penalties as set forth in section 29.10.1025. (Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.0980. Applications for a tree removal or severe pruning permit.

Applications for a protected tree removal or severe pruning permit for trees on private property shall be available from and filed with the Town as indicated on the application. Application submittals for the removal of trees on public property (street trees) are provided for in section 26.10.060 of the Town Code. Applications for tree removal or severe pruning on private property may be granted, denied or granted with conditions. Application submittals for removal or severe pruning of trees on private property shall include the following minimum information for staff review:

- (1) A completed tree removal application form, signed by the property owner.
 - (2) A written explanation of why each tree(s) should be removed or pruned and how it meets the Town's Standards of Review.
 - (3) Photograph(s) of the tree(s).
 - (4) If required by the Director, a certified or consulting arborist's written assessment of the tree's disposition shall be provided for review by the Town. The report shall be signed by the arborist and include tree size (diameter, height, crown spread); location on the site; numbered on a site plan or arborist's tree survey (if there is more than one (1) tree); condition of health; condition of structure; and if tree risk findings apply, a Tree Risk Assessment and Rating must be completed using the most recent version of the Tree Risk Assessment Best Management Practices or any successor document published by the International Society of Arboriculture. Other information, images, etc. may be included in the report.
 - (5) If structural damage to a building, major landscape feature, or appurtenance, including utilities is the basis for the request, a report from a licensed architect or engineer may also be required in addition to an arborist report. This additional report shall describe what modifications to buildings, structures, improvements or utilities would be required to mitigate the damage(s) directly caused by the tree.
 - (6) Payment of permit fee, as established by Town resolution.
- (Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.0982. Applications for heritage and large protected tree pruning permit.

A pruning permit is required where pruning of branches or roots greater than four (4) inches in diameter is proposed for any Heritage tree or large protected tree. Applications shall be available from and filed with the Town. Applications for pruning may be granted, denied or granted with conditions. Application submittals under this section shall include the following minimum information for staff review:

- (1) A completed pruning permit application, signed by the property owner.
- (2) A written description of the proposed pruning including the pruning objectives and pruning methods to be used consistent with International Society of Arboriculture Best Management Practices-Tree Pruning and ANSI A300-Part 1 Tree, Shrub and Other Woody Plant Management-Standard Practices, (Pruning).
- (3) Photographs of the tree indicating as best possible where pruning is to occur.
- (4) If required by the Director, a certified or consulting arborist's written report describing the proposed pruning.
- (5) If structural damage to a building, major landscape feature, or appurtenance, including utilities is the basis for the request, a report from a licensed architect or engineer may be required in addition to an arborist report. This additional report shall describe what modifications to buildings, structures, improvements or utilities would be required to mitigate the damages directly caused by the tree.
- (6) Payment of permit fee, as established by Town resolution.
(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.0985. Determination and conditions of permit.

The Director shall determine whether to grant a permit. The Director may consult with other Town departments or outside agencies at his/her discretion. When a development application for any zoning approval, or subdivision of land, including lot line adjustment, is under consideration by the Planning Commission, the determination on the tree removal permit shall be made concurrently by the Planning Commission with the related matter. The Director or the deciding body shall impose, except when removal is permitted if the tree is dead or a Tree Risk Rating of Extreme or High is present, as a condition on which a protected tree removal permit is granted that two (2) or more replacement trees of a species and a size designated by the Director or designee, shall be planted in the following order of preference:

- (1) Two (2) or more replacement trees, of a species and size designated by the Director, shall be planted on the subject private property. Table 3-1, Tree Canopy-Replacement Standard shall be used as a basis for this requirement. The person requesting the permit shall pay the cost of purchasing and planting the replacement trees.

- (2) If a tree or trees cannot be reasonably planted on the subject property, an in-lieu payment in an amount set forth by the Town Council by resolution shall be paid to the Town Tree Replacement Fund to:
- a. Add or replace trees on public property in the vicinity of the subject property; or
 - b. Add or replace trees or landscaping on other Town property; or
 - c. Support the Town's urban forestry management program.

Table 3-1 — Tree Canopy — Replacement Standard

Canopy Size of Removed Tree ¹	Replacement Requirement ^{2, 4}	Single Family Residential Replacement Option ^{3, 4}
10 feet or less	Two 24-inch box trees	Two 15-gallon trees
More than 10 feet to 25 feet	Three 24-inch box trees	Three 15-gallon trees
More than 25 feet to 40 feet	Four 24-inch box trees; or Two 36-inch box trees	Four 15-gallon trees
More than 40 feet to 55 feet	Six 24-inch box trees; or Three 36-inch box trees	Not Available
Greater than 55 feet	Ten 24-inch box trees; or Five 36-inch box trees	Not Available

Notes

- ¹ To measure an asymmetrical canopy of a tree, the widest measurement shall be used to determine canopy size.
- ² Often, it is not possible to replace a single large, older tree with an equivalent tree(s). In this case, the tree may be replaced with a combination of both the Tree Canopy Replacement Standard and in-lieu payment in an amount set forth by Town Council resolution paid to the Town Tree Replacement Fund.
- ³ Single Family Residential Replacement Option is available for developed single family residential lots under 10 thousand (10,000) square feet that are not subject to the Town's Hillside Development Standards and Guidelines. All fifteen-gallon trees must be planted on-site. Any in-lieu fees for single family residential shall be based on twenty-four-inch box tree rates as adopted by Town Council.
- ⁴ Replacement Trees shall be approved by the Town Arborist and shall be of a species suited to the available planting location, proximity to structures, overhead clearances, soil type, compatibility with surrounding canopy and other relevant factors. Replacement with native species shall be strongly encouraged. Replacement requirements in the Hillside Development Standards and Guidelines Appendix A and section 29.10.0987 Special Provisions—Hillsides.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.0987. Special provisions-hillsides

The Town of Los Gatos recognizes its hillsides as an important natural resource and sensitive habitat which is also a key component of the Town's identity, character and charm. In order to maintain and encourage restoration of the hillside environment to its natural state, the Town has established the following special provisions for tree removal and replacement in the hillsides:

- (1) All protected trees located thirty (30) or more feet from the primary residence that are removed shall be replaced with native trees listed in Appendix A Recommended Native Trees for Hillside Areas of the Town of Los Gatos Hillside Development Standards and Guidelines (HDS&G).
- (2) All protected trees located within thirty (30) feet of the primary residence that are removed shall be replaced as follows:
 - (a) If the removed tree is a native tree listed in Appendix A of the HDS&G, it shall only be replaced with a native tree listed in Appendix A of the HDS&G.
 - (b) If the removed tree is not listed in Appendix A, it may be replaced with a tree listed in Appendix A, or replaced with another species of tree as approved by the Director.
 - (c) Replacement trees listed in Appendix A may be planted anywhere on the property.
 - (d) Replacement trees not listed in Appendix A may only be planted within thirty (30) feet of the primary residence.
- (3) Replacement requirements shall comply with the requirements in Table 3-1, Tree Canopy—Replacement Standard of this Code.
- (4) Property owners should be encouraged to retain dead or declining trees where they do not pose a safety or fire hazard, in order to foster wildlife habitat and the natural renewal of the hillside environment.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.0990. Standards of review.

The Director or deciding body shall review each application for a tree removal permit required by this division using the following standards of review. The standards of review are intended to serve as criteria for evaluating tree removal requests and the basis upon which the Director or the deciding body will subsequently determine whether or not one (1) or more of the Required Findings listed in section 29.10.0992 can be made.

- (1) The condition of the tree or trees with respect to: (a) disease, (b) imminent danger of falling, (c) structural failure, (d) proximity to existing or proposed structures, (e) structural damage to a building, or (f) a public nuisance caused by a tree. The International Society of Arboriculture (ISA) Best Management Practices for Tree Risk Assessment shall be used where appropriate in determining a Tree Risk Rating.

- (2) The condition of the tree giving rise to the permit application cannot be reduced to a less than significant level by the reasonable application of preservation, preventative measures or routine maintenance.
- (3) The removal of the tree(s) will not result in a density of trees or tree cover that is inconsistent with the neighborhood.
- (4) The number of trees the particular parcel can adequately support according to good urban forestry practices, or whether a protected tree is a detriment to or crowding another protected tree.
- (5) In connection with a proposed subdivision of land into two (2) or more parcels, the removal of a protected tree is unavoidable due to restricted access to the property or deemed necessary to repair a geologic hazard (landslide, repairs, etc.).
- (6) Except for properties located within the hillsides, the retention of a protected tree would result in reduction of the otherwise-permissible building envelope by more than twenty-five (25) percent.
- (7) The Hillside Development Standards and Guidelines.
- (8) Removal of the protected tree(s) will not result in a substantial adverse change in the site's aesthetic and biological significance; the topography of the land and the effect of the removal of the tree on erosion, soil retention, or diversion or increased flow of surface waters.
- (9) Whether the Protected Tree has a significant impact on the property. Significant impact from a tree is defined in section 29.10.0955. Definitions.
- (10) The species, size (diameter, canopy, height), estimated age and location on the property of the protected tree.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.0992. Required findings.

The Director, Director's designee, or deciding body shall approve a protected tree removal permit, severe pruning permit, or pruning permit for Heritage trees or large protected trees only after making at least one (1) of the following findings:

- (1) The tree is dead, severely diseased, decayed or disfigured to such an extent that the tree is unable to recover or return to a healthy and structurally sound condition.
- (2) The tree has a tree risk rating of Extreme or High on the ISA Tree Risk Rating Matrix as set forth in the ISA Tree Risk Assessment Best Management Practices, or successor publication.
- (3) The tree is crowding other protected trees to the extent that removal or severe pruning is necessary to ensure the long-term viability of adjacent and more significant trees.
- (4) The retention of the tree restricts the economic enjoyment of the property or creates an unusual hardship for the property owner by severely limiting the use of the property

in a manner not typically experienced by owners of similarly situated properties, and the applicant has demonstrated to the satisfaction of the Director or deciding body that there are no reasonable alternatives to preserve the tree.

- (5) The tree has, or will imminently, interfere with utility services where such interference cannot be controlled or remedied through reasonable modification, relocation or repair of the utility service or the pruning of the root or branch structure of the tree; or where removal or pruning is required by a public utility to comply with California Public Utility Commission (CPUC) or Federal Energy Regulatory Commission (FERC) rules or regulations.
- (6) The tree has caused or may imminently cause significant damage to an existing structure that cannot be controlled or remedied through reasonable modification of the root or branch structure of the tree.
- (7) Except for properties within the hillsides, the retention of the protected tree would result in reduction of the otherwise-permissible building envelope by more than twenty-five (25) percent.
- (8) The removal of the tree is unavoidable due to restricted access to the property.
- (9) The removal of the tree is necessary to repair a geologic hazard.
- (10) The removal of the tree and replacement with a more appropriate tree species will enhance the Town's urban forest.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.0994. Additional procedures for heritage and large protected tree removal or pruning permits.

(1) These procedures are established for the review of Heritage tree and large protected tree removal or pruning permit applications where a permit is requested for a tree that is not dead, severely disfigured, profoundly diseased, or an Extreme or High Risk on the ISA Tree Risk Rating Matrix, and where findings (1) or (2) above cannot be made.

(2) In addition to the fee and application materials required by section 29.10.0980 or section 29.10.0982, the applicant will be required to submit one (1) set of stamped, addressed envelopes for neighboring residents and property owners. The Planning Department will assist the applicant in determining the properties to be notified (all properties abutting the applicant's parcel, properties directly across the street and the two (2) parcels on each side of it).

(3) The Director shall review the application using the Standards of Review set forth in section 29.10.0990 and the Required Findings set forth in section 29.10.0992.

(4) If the Director intends to approve the application, a "Notice of Pending Issuance of Tree Removal or Pruning Permit" will be mailed to neighboring residents and property owners including any applicable conditions, and required tree replacement requirements. The notice will describe the proposed tree removal or pruning, and that the permit will be issued unless

there is an objection. Any interested party shall have ten (10) days from the date of the "Notice of Pending Issuance of Tree Removal or Pruning Permit" to notify the Director in writing of any concerns or problems.

(5) If a written objection is not filed within the ten-day period, the permit will be issued. If a written objection is filed and a resolution is found that meets all parties' concerns then the permit will also be issued.

(6) If an objection is filed in a timely manner and a mutually acceptable resolution cannot be agreed upon with the Director within ten (10) days, the objecting party shall be so advised and shall be provided an additional five (5) days to file a formal appeal of the tree removal or pruning permit with the Town, which shall be scheduled for consideration by the Planning Commission. All property owners and residents notified under section 29.10.0994(4) shall be notified of the Planning Commission meeting.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.0995. Disclosure of information regarding existing trees.

(a) Any application for a discretionary development approval, or for a building, grading or demolition permit where no discretionary development approval is required, shall be accompanied by a signed tree disclosure statement by the property owner or authorized agent which discloses whether any protected trees exist on the property which is the subject of the application, and describing each such tree, its species, size (diameter, canopy dripline area, height) and location. This requirement shall be met by including the following information on plans submitted in connection with the development application.

(b) The location of all trees on the site and in the adjacent public right-of-way which are within thirty (30) feet of the area proposed for development, and trees located on adjacent property with canopies overhanging the project site, shall be shown on the plans, identified by species, size (diameter, canopy, dripline area, height), and location.

(c) Within the dripline area or area that would affect a protected tree, the location of shrubs and other vegetation subject to development shall be shown on the plans.

(d) The director may require submittal of such other information as is necessary to further the purposes of this division including but not limited to photographs.

(e) Disclosure of information pursuant to this section shall not be required when the development for which the approval or permit is sought does not involve any change in building footprint nor any grading, trenching or paving.

(f) Knowingly or negligently providing false or misleading information in response to this disclosure requirement shall constitute a violation of this division.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.1000. New property development.

(a) A tree survey shall be conducted prior to submittal of any development application proposing the removal of or impact to one (1) or more protected trees. The development application shall include a Tree Survey Plan and Tree Preservation Report based on this survey. The tree survey inventory numbers shall correspond to a numbered metal tag placed on each tree on site during the tree survey. The tree survey plan shall be prepared by a certified or consulting arborist, and shall include the following information:

- (1) Location of all existing trees on the property as described in section 29.10.0995;
- (2) Identify all trees that could potentially be affected by the project (directly or indirectly-immediately or in long term), such as upslope grading or compaction outside of the dripline;
- (3) Notation of all trees classified as protected trees;
- (4) In addition, for trees four (4) inches in diameter or larger, the plan shall specify the precise location of the trunk and crown spread, and the species, size (diameter, height, crown spread) and condition of the tree.

(b) The tree survey plan shall be reviewed by the Town's consulting arborist who shall, after making a field visit to the property, indicate in writing or as shown on approved plans, which trees are recommended for preservation (based on a retention rating of high/moderate/low) using, as a minimum, the Standards of Review set forth in section 29.10.0990. This plan shall be made part of the staff report to the Town reviewing body upon its consideration of the application for new property development;

(c) When development impacts are within the dripline of or will affect any protected tree, the applicant shall provide a tree preservation report prepared by a certified or consulting arborist. The report, based on the findings of the tree survey plan and other relevant information, shall be used to determine the health and structure of existing trees, the effects of the proposed development and vegetation removal upon the trees, recommendations for specific precautions necessary for their preservation during all phases of development (demolition, grading, during construction, landscaping); and shall also indicate which trees are proposed for removal. The tree preservation report shall stipulate a required tree protection zone (TPZ) for trees to be retained, including street trees, protected trees and trees whose canopies are hanging over the project site from adjacent properties. The TPZ shall be fenced as specified in section 29.10.1005:

- (1) The final approved tree preservation report shall be included in the building permit set of development plans and printed on a sheet titled: Tree Preservation Instructions (Sheet T-1). Sheet T-1 shall be referenced on all relevant sheets (civil, demolition, utility, landscape, irrigation) where tree impacts from improvements may be shown to occur;
- (2) The Town reviewing body through its site and design plan review shall endeavor to protect all trees recommended for preservation by the Town's consulting arborist. The

Town reviewing body may determine if any of the trees recommended for preservation should be removed, if based upon the evidence submitted the reviewing body determines that due to special site grading or other unusual characteristics associated with the property, the preservation of the tree(s) would significantly preclude feasible development of the property as described in section 29.10.0990;

(3) Approval of final site or landscape plans by the appropriate Town reviewing body shall comply with the following requirements and conditions of approval:

- a. The applicant shall, within ninety (90) days of final approval or prior to issuance of a grading or building permit, whichever occurs first, secure an appraisal of the condition and value of all trees included in the tree report affected by the development that are required to remain within the development using the Tree Value Standard methodology as set forth in this Chapter. The appraisal of each tree shall recognize the location of the tree in the proposed development. The appraisal shall be performed in accordance with the current edition of the Guide for Plant Appraisal published by the Council of Tree and Landscape Appraisers (CTLA) and the Species and Group Classification Guide published by the Western Chapter of the International Society of Arboriculture. The appraisal shall be performed at the applicant's expense, and the appraisal shall be subject to the Director's approval.
- b. The site or landscape plans shall indicate which trees are to be removed. However, the plans do not constitute approval to remove a tree until a separate permit is granted. The property owner or applicant shall obtain a protected tree removal permit, as outlined in section 29.10.0980, for each tree to be removed to satisfy the purpose of this division.

(d) Prior to acceptance of proposed development or subdivision improvements, the developer shall submit to the Director a final tree preservation report prepared by a certified or consulting arborist. This report shall consider all trees that were to remain within the development. The report shall note the trees' health in relation to the initially reported condition of the trees and shall note any changes in the trees' numbers or physical conditions. The applicant will then be responsible for the loss of any tree not previously approved for removal. For protected trees, which were removed, the developer shall pay a penalty in the amount of the appraised value of such tree in addition to replacement requirements contained in section 29.10.0985 of this Code. The applicant shall remain responsible for the health and survival of all trees within the development for a period of five (5) years following acceptance of the public improvements of the development or certificate of occupancy.

(e) Prior to issuance of any demolition, grading or building permit, the applicant or contractor shall submit to the Building Department a written statement and photographs verifying that the required tree protection fence is installed around street trees and protected trees in accordance with the tree preservation report.

(f) If required by the Director and conditioned as part of a discretionary approval, a security guarantee shall be provided to the Town. Prior to the issuance of any permit allowing construction to begin, the applicant shall post cash, bond or other security satisfactory to the Director, in the penal sum of five thousand dollars (\$5,000.00) for each tree required to be preserved, or twenty-five thousand dollars (\$25,000.00), whichever is less. The cash, bond or other security shall be retained for a period of one (1) year following acceptance of the public improvements for the development and shall be forfeited in an amount equal to five thousand dollars (\$5,000.00) per tree as a civil penalty in the event that a tree or trees required to be preserved are removed, destroyed or severely damaged.

(g) An applicant with a proposed development which requires underground utilities shall avoid the installation of said utilities within the dripline of existing trees whenever possible. In the event that this is unavoidable, all trenching shall be done using directional boring, air-spade excavation or by hand, taking extreme caution to avoid damage to the root structure. Work within the dripline of existing trees shall be supervised at all times by a certified or consulting arborist.

(h) It shall be a violation of this division for any property owner or agent of the owner to fail to comply with any development approval condition concerning preservation, protection, and maintenance of any protected tree.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.1005. Protection of trees during construction.

(a) Protective tree fencing shall specify the following:

- (1) Size and materials. Six (6) foot high chain link fencing, mounted on two-inch diameter galvanized iron posts, shall be driven into the ground to a depth of at least two (2) feet at no more than ten-foot spacing. For paving area that will not be demolished and when stipulated in a tree preservation plan, posts may be supported by a concrete base.
- (2) Area type to be fenced. Type I: Enclosure with chain link fencing of either the entire dripline area or at the tree protection zone (TPZ), when specified by a certified or consulting arborist. Type II: Enclosure for street trees located in a planter strip: chain link fence around the entire planter strip to the outer branches. Type III: Protection for a tree located in a small planter cutout only (such as downtown): orange plastic fencing shall be wrapped around the trunk from the ground to the first branch with two-inch wooden boards bound securely on the outside. Caution shall be used to avoid damaging any bark or branches.
- (3) Duration of Type I, II, III fencing. Fencing shall be erected before demolition, grading or construction permits are issued and remain in place until the work is completed. Contractor shall first obtain the approval of the project arborist on record prior to removing a tree protection fence.

- (4) **Warning sign.** Each tree fence shall have prominently displayed an eight and one-half-inch by eleven-inch sign stating: "Warning—Tree Protection Zone—This fence shall not be removed and is subject to penalty according to Town Code 29.10.1025."
- (b) **All persons, shall comply with the following precautions:**
 - (1) **Prior to the commencement of construction, install the fence at the dripline, or tree protection zone (TPZ) when specified in an approved arborist report, around any tree and/or vegetation to be retained which could be affected by the construction and prohibit any storage of construction materials or other materials, equipment cleaning, or parking of vehicles within the TPZ. The dripline shall not be altered in any way so as to increase the encroachment of the construction.**
 - (2) **Prohibit all construction activities within the TPZ, including but not limited to: excavation, grading, drainage and leveling within the dripline of the tree unless approved by the Director.**
 - (3) **Prohibit disposal or depositing of oil, gasoline, chemicals or other harmful materials within the dripline of or in drainage channels, swales or areas that may lead to the dripline of a protected tree.**
 - (4) **Prohibit the attachment of wires, signs or ropes to any protected tree.**
 - (5) **Design utility services and irrigation lines to be located outside of the dripline when feasible.**
 - (6) **Retain the services of a certified or consulting arborist who shall serve as the project arborist for periodic monitoring of the project site and the health of those trees to be preserved. The project arborist shall be present whenever activities occur which may pose a potential threat to the health of the trees to be preserved and shall document all site visits.**
 - (7) **The Director and project arborist shall be notified of any damage that occurs to a protected tree during construction so that proper treatment may be administered.**

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.1010. Pruning and maintenance.

All pruning shall be in accordance with the current version of the International Society of Arboriculture Best Management Practices-Tree Pruning and ANSI A300-Part 1 Tree, Shrub and Other Woody Plant Management-Standard Practices, (Pruning) and any special conditions as determined by the Director. For developments, which require a tree preservation report, a certified or consulting arborist shall be in reasonable charge of all activities involving protected trees, including pruning, cabling and any other work if specified.

- (1) **Any public utility installing or maintaining any overhead wires or underground pipes or conduits in the vicinity of a protected tree shall obtain permission from the Director before performing any work, including pruning, which may cause injury to a protected tree (e.g. cable TV/fiber optic trenching, gas, water, sewer trench, etc.).**

- (2) Pruning for clearance of utility lines and energized conductors shall be performed in compliance with the current version of the American National Standards Institute (ANSI) A300 (Part 1)-Pruning, Section 5.9 Utility Pruning. Using spikes or gaffs when pruning, except where no other alternative is available, is prohibited.
- (3) No person shall prune, trim, cut off, or perform any work, on a single occasion or cumulatively, over a three-year period, affecting twenty-five percent or more of the crown of any protected tree without first obtaining a permit pursuant to this division except for pollarding of fruitless mulberry trees (*Morus alba*) or other species approved by the Town Arborist. Applications for a pruning permit shall include photographs indicating where pruning is proposed.
- (4) No person shall remove any Heritage tree or large protected tree branch or root through pruning or other method greater than four (4) inches in diameter (twelve and one-half (12.5) inches in circumference) without first obtaining a permit pursuant to this division.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.1015. No limitation of authority.

Nothing in this division limits or modifies the existing authority of the Town under Division 29 of Title 29 (Zoning Regulations), Title 26 (Public Trees) or the Hillside Development Standards and Guidelines to require trees and other plants to be identified, retained, protected, and/or planted as conditions of the approval of development. In the event of conflict between provisions of this division and conditions of any permit or other approval granted pursuant to Chapter 29 or Chapter 26 of the Town Code or the Hillside Development Standards and Guidelines. The more protective requirements shall prevail.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.1020. Responsibility for enforcement.

All officers and employees of the Town shall report violations of this division to the Director of Community Development. Whenever an Enforcement Officer as defined in section 1.30.015 of the Town Code determines that a violation of this Code has occurred, the Enforcement Officer shall have the authority to issue an administrative citation pursuant to the provisions of section 1.30.020 of the Town Code.

Whenever an Enforcement Officer charged with the enforcement of this Code determines that a violation of that provision has occurred, the Enforcement Officer shall have the authority to issue an administrative citation to any person responsible for the violation.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.1025. Enforcement—Remedies for violation.

In addition to all other remedies set forth in this code or otherwise provided by law, the following remedies shall be available to the Town for violation of this division:

- (1) Tree removals in absence of or in anticipation of development. If a violation occurs in the absence of or prior to proposed development, then discretionary applications and/or

building permit applications will not be accepted or processed by the Town until the violation has been remedied to the reasonable satisfaction of the Director. Mitigation measures as determined by the Director may be imposed as a condition of any subsequent application approval or permit for development on the subject property. A mitigation plan shall include specific measures for the protection of any remaining trees on the property, and shall provide for the replacement of each hillside tree that was removed illegally with a new tree(s) in the same location(s) as those illegally removed tree(s). The replacement ratio shall be at a greater ratio than that required in accordance with the standards set forth in section 29.10.0985 of this division. If the court or the Director directs a replacement tree or trees to be planted as part of the remedy for the violation, the trees shall be permanently maintained in a good and healthy condition. The property owner shall execute a five-year written maintenance agreement with the Town. For those trees on public property, replacement is to be determined by the Director of Community Development or by the Director of Parks and Public Works.

- (2) Pending development applications. Incomplete applications will not be processed further until the violation has been remedied. If an application has been deemed complete, it may be denied by the Director or forwarded to the Planning Commission with a recommendation for denial at the Director's discretion. Mitigation measures as determined by the director may be imposed as a condition of approval. A mitigation plan shall include specific measures for the protection of any remaining trees on the property, and shall provide for the replacement of each hillside tree that was removed illegally with a new tree(s) in the same location(s) as those illegally removed tree(s). The replacement ratio shall be at a greater ratio than that required in accordance with the standards set forth in section 29.10.0985 of this division. If the court or the Director directs a replacement tree or trees to be planted as part of the remedy for the violation, the trees shall be permanently maintained in a good and healthy condition. The property owner shall execute a five-year written maintenance agreement with the Town. For those trees on public property, replacement is to be determined by the Director of Community Development or by the Director of Parks and Public Works.
- (3) Projects under construction.
 - a. If a violation occurs during construction, the Town may issue a stop work order suspending and prohibiting further activity on the property pursuant to the grading, demolition, and/or building permit(s) (including construction, inspection, and issuance of certificates of occupancy) until a mitigation plan has been filed with and approved by the Director, agreed to in writing by the property owner(s) or the applicant(s) or both, and either implemented or guaranteed by the posting of adequate security in the discretion of the Director. A mitigation plan shall include specific measures for the protection of any remaining trees on the property, and shall provide for the replacement of each hillside tree that was removed illegally with a new tree(s) in the same location(s) as those illegally removed tree(s). The replacement ratio shall be at a greater ratio than that

required in accordance with the standards set forth in section 29.10.0985 of this division. If the court or the Director directs a replacement tree or trees to be planted as part of the remedy for the violation, the trees shall be permanently maintained in a good and healthy condition. The property owner shall execute a five-year written maintenance agreement with the Town. For those trees on public property, replacement is to be determined by the Director of Community Development or by the Director of Parks and Public Works.

- b. The violation of any provisions in this division during the conduct by any person of a tree removal, landscaping, construction or other business in the Town shall constitute grounds for revocation of any business license issued to such person.
- (4) Civil penalties. Notwithstanding section 29.20.950 relating to criminal penalty, any person found to have violated section 29.10.0965 shall be liable to pay the Town a civil penalty as prescribed in subsections a. through d.
- a. As part of a civil action brought by the Town, a court may assess against any person who commits, allows, or maintains a violation of any provision of this division a civil penalty in an amount not to exceed five thousand dollars per violation.
 - b. Where the violation has resulted in removal of a protected tree, the civil penalty shall be in an amount not to exceed five thousand dollars (\$5,000.00) per tree unlawfully removed, or the replacement value of each such tree, whichever amount is higher. Such amount shall be payable to the Town and deposited into the Tree Replacement Fund. Replacement value for the purposes of this section shall be determined utilizing the most recent edition of the Guide for Plant Appraisal, as prepared by the Council of Tree and Landscape Appraisers and the Species and Group Classification Guide published by the Western Chapter of the International Society of Arboriculture.
 - c. If the court or the Director directs a replacement tree or trees to be planted as part of the remedy for the violation, the trees shall be permanently maintained in a good and healthy condition. The property owner shall execute a five-year written maintenance agreement with the Town.
 - d. The cost of enforcing this division, which shall include all costs, staff time, and attorneys' fees.
- (5) Injunctive relief. A civil action may be commenced to abate, enjoin, or otherwise compel the cessation of such violation.
- (6) Costs. In any civil action brought pursuant to this division in which the Town prevails, the court shall award to the Town all costs of investigation and preparation for trial, the costs of trial, reasonable expenses including overhead and administrative costs incurred in prosecuting the action, and reasonable attorney fees.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.1030. Fees.

The fee, as adopted by Town Resolution, prescribed therefore in the municipal fee schedule shall accompany the removal or pruning permit application submitted to the Town for review and evaluation pursuant to this division.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.1035. Severability.

If any provision of this division or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision of this division which can be given effect without the invalid provision or application, and to this end the provisions of this division are declared to be severable.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.1040. Notices.

All notices required under this division shall conform to noticing provisions of the applicable Town Code.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

Sec. 29.10.1045. Appeals.

Any interested person may appeal a decision of the director pursuant to this division in accordance with the procedures set forth in section 29.20.260 of the Town Code. All appeals shall comply with the public noticing provisions of section 29.20.450 of the Town Code.

(Ord. No. 2240, § I(Exh. B), 6-2-15)

DIVISION 3. SIGNS

Sec. 29.10.100. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned sign means a sign located on a parcel of land or on a structure either of which is vacant for a period of ninety (90) days, a sign pertaining to a past occupant or business different from the present occupant of or business on the premises, a sign pertaining to a past event or any sign abandoned as the term is used in state law.

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