



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 4/16/2024

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DATE: April 4, 2024  
TO: Mayor and Town Council  
FROM: Gabrielle Whelan, Town Attorney  
SUBJECT: Discuss Future Adoption Development Agreement Procedures and Provide Direction to Staff

**RECOMMENDATION:**

Discuss future adoption of development agreement procedures and provide direction to staff.

**BACKGROUND:**

Government Code Section 65954 provides that, upon request of an applicant for a planning entitlement that a local jurisdiction adopt development agreement procedures, a public agency shall adopt procedures for the processing of development agreements.

**DISCUSSION:**

A development agreement is a voluntary contract between a local jurisdiction and a person who owns or controls property within the jurisdiction, detailing the obligations of both parties and specifying the standards and conditions that will govern development of the property. Development agreements will often provide for payments or dedications of land in exchange for vesting to current development standards. Jurisdictions are never obligated to enter into development agreements; it is a voluntary agreement that must be of benefit to the jurisdiction.

Government Code Sections 65864 and following address development agreement requirements. Section 65865 requires that the Town develop and adopt development agreement procedures upon request of an applicant for a planning entitlement. The Town has received a verbal request that the Town adopt development agreement procedures from counsel for an applicant for a planning entitlement. As a result, Government Code Section 65865 requires that the Town adopt procedures for the consideration and processing of development agreements.

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Reviewed by: Town Manager, Assistant Town Manager, Community Development Director, and Finance Director

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SUBJECT: Discuss Potential Adoption of Development Agreement Procedures and Provide Direction to Staff

DATE: April 4, 2024

DISCUSSION (continued):

Development agreement procedures typically include the following:

- A statement of purpose/findings concerning the public benefits of development agreements
- Application requirements
- Notice and hearing procedures
- Planning Commission and Governing Body Review
- Recordation Requirements
- Procedures for Amendment or Termination
- Procedures for Periodic Review

A sample of development agreement procedures is included as Attachment 1. Such procedures may be adopted by ordinance or resolution. State law allows local agencies to recover the direct costs of developing development agreement procedures.

The Town Council's direction is sought on the following topics:

- 1) Should development agreements be considered for all types of land uses? Or just residential?
- 2) Should the consideration of development agreements be limited to projects of a certain size (e.g., minimum acreage, minimum square footage, minimum number of units)?
- 3) Should the consideration of development agreements be limited to projects in which the applicant will be expending a minimum dollar amount on public infrastructure?

CONCLUSION:

Staff recommends that the Town Council authorize staff to draft proposed development agreement procedures for the Town Council's consideration at a future meeting.

FISCAL IMPACT:

The potential adoption of development agreement procedures could result in payments to the Town in exchange for vesting of development standards applicable to development projects.

ENVIRONMENTAL ASSESSMENT:

Discussion of potential development agreement procedures is not a project subject to CEQA and no environmental assessment is required.

Attachment:

1. Sample Development Agreement Procedures