



**TOWN OF LOS GATOS
POLICY COMMITTEE REPORT**

MEETING DATE: 9/24/2019

ITEM NO: 3

DATE: September 20, 2019

TO: Council Policy Committee

FROM: Laurel Prevetti, Town Manager

SUBJECT: Provide Direction on Potential Amendments to the Town Code Regarding Right of Way Dedication, Installation of Curbs, Gutters, and Sidewalks, and Undergrounding of Utilities

RECOMMENDATION:

Provide direction on potential amendments to the Town Code regarding right of way dedication, installation of curbs, gutters, and sidewalks, and undergrounding of utilities.

BACKGROUND:

On June 18, 2019, the Town Council approved modifications to the demolition policy to allow for streamlining of the building permit process. The modifications will allow buildings that maintain more than 50 percent of their exterior walls, without being contiguous, to go through a standard building permit application process as opposed to the Architectural and Site application process. Due to this change, these projects will not be reviewed by the Town's Parks and Public Works Department for right of way dedication, inclusion of curbs, gutters, and sidewalks, and undergrounding of utilities. The Town Code specifies these elements for subdivisions, but remains silent on other types of development projects.

Historically, Parks and Public Works has reviewed development plans for conditioning of right of way dedication, curbs, gutters, and sidewalks, and undergrounding of utilities under the following permits:

- New subdivisions;
- New commercial and single-family home developments;
- Remodels of commercial and single-family home developments when the applications go through the discretionary Architectural and Site application process.

PREPARED BY: Lisa Petersen
Assistant Director of Parks and Public Works/Town Engineer

Reviewed by: Town Manager, Town Attorney, and PPW Director

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BACKGROUND (continued):

On July 23, 2019, the Policy Committee reviewed and provided direction on potential regulations for these items. After the discussion, the Committee asked staff to return to the Policy Committee with proposed amendments to the Town Code applicable to building permits. The Committee also requested that staff review the current practice regarding when and how “in lieu” sidewalk fee money is used.

DISCUSSION:

Proposed Code Amendments

As provided to the Policy Committee in the July 23, 2019 report, both the City of Cupertino and the City of Campbell have broad code requirements for dedication of right of way and/or the installation of improvements such as curbs, gutters, and sidewalk, and undergrounding of utilities when a building permit is required. Both cities further define when the building permits will be routed to their Public Works Departments for conditioning of right of way or improvements based on Building Department procedural documents. Staff is recommending Code changes in alignment with these cities.

Potential changes to Town Code Chapter 23 Streets and Sidewalks would address the dedication of right of way and/or the installation of improvements when a building permit is required:

Sec. 23.10.005 – Requirements – General

Any person who proposes a substantial upgrade to erect, construct, add to, alter or repair any building or structure for which a building permit is required by the Town adjacent to an unimproved street, or who seeks a use permit, planned development permit, or architectural and site approval from the Town for land adjacent to an unimproved street must agree to improve, or agree to improve by installation agreement, said street by the installation of improvements, under the provisions of this chapter. This may include dedication or an irrevocable offer of dedication of land that is needed for streets, alleys including access rights and abutters’ rights, drainage, public utility easements and open space land or easement, park lands, trail rights of way or easements, and other public easements. In addition, the owner/developer shall improve or agree to improve all streets, alleys, including access right and abutters’ rights, drainage, public utility easements, and other public easements as determined by the Town Engineer. These improvements may include, but are not limited to, installation of curbs, gutters, and sidewalk, pavement, bicycle improvements, and undergrounding of utilities.

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DISCUSSION (continued):

Staff is recommending that building permit plans be routed to Public Works for conditioning of necessary right of way and/or public improvements should the permit be deemed a “substantial remodel.” In general alignment with neighboring cities, a substantial remodel would meet three or more of the following criteria:

- The valuation of the work exceeds \$180,000;
- Seventy-five percent (75%) or more of the existing roof framing (square footage area) will be removed;
- Fifty percent (50%) or more of the existing exterior wall [Square Foot (SF)] will be removed; or
- Fifty percent (50%) or more of the existing interior wall [Lineal Foot (LF)] will be removed.

To determine if a building permit meets these conditions, a form requesting this information would be required from the licensed professional preparing the architectural plans. Should this form show the work meeting the “substantial remodel” definition, the Building Department would then route the plans to Parks and Public Work for review and possible conditioning of dedication or public improvements, as determined by the Town Engineer.

Sidewalk In-Lieu Fee

Currently, sidewalk installation is required for new developments that do not have sidewalk and are adjacent to a property that has installed sidewalk. In cases (outside of the hillside area) where no adjacent sidewalk exists, developments are required to pay a sidewalk in-lieu fee.

The Town has collected \$182,633 in sidewalk in-lieu fees since FY 2016/17. In the past, the Town has not increased the Annual Curb, Gutter, and Sidewalk Maintenance project budget by the actual receipts. In FY 2018/19, the ongoing budget for the annual project was increased by \$50,000 to a \$300,000 per year allocation and in FY 2019/20, the budget was increased by \$600,000 (one-time) to address a backlog in needed concrete repairs and ramp installations. In the future, staff would recommend to the Town Council a Mid-Year budget adjustment for the Annual Curb, Gutter, and Sidewalk Maintenance project based on the prior year receipts of sidewalk in-lieu fees to ensure that these fees are used as intended. The yearly budget allocation would remain \$300,000 per year, with receipts reducing the general fund allocation by an equivalent amount.

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COORDINATION:

This report has been coordinated with the Town Attorney's Office and the Community Development Department.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA and no further action is required.

Attachments:

Previously received with the July 23, 2019 Staff Report:

1. Subdivision Ordinance
2. Sample Ordinance language from Campbell and Cupertino