



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 08/06/2024

ITEM NO: 13

DATE: July 15, 2024
TO: Mayor and Town Council
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Adopt a Resolution Establishing Development Agreement Procedures

RECOMMENDATION:

Adopt a resolution (Attachment 1) establishing development agreement procedures.

BACKGROUND:

Government Code Section 65954 provides that, upon request from an applicant for a planning entitlement that a local jurisdiction adopt development agreement procedures, the Town is required to do so. The Town has received such a request and staff has developed proposed development agreement procedures.

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

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

DISCUSSION (continued):

65865 requires that the Town adopt procedures for the consideration and processing of development agreements.

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; and
- Procedures for Periodic Review.

The Town Council discussed potential development agreements in a study session on April 16, 2024, and recommended that, in order to maintain maximum flexibility, development agreements not be limited to specific land uses, projects of a certain size, or projects in which applicants will spend a minimum dollar amount on public infrastructure.

The Planning Commission reviewed the proposed development agreement procedures on June 12, 2024 and recommended adoption to Town Council. Proposed development agreement procedures are included as Exhibit A to Attachment 1.

CONCLUSION:

Staff recommends that the Town Council review the proposed development agreement procedures and adopt a resolution establishing the procedures.

FISCAL IMPACT:

There is no fiscal impact.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Draft Resolution to Establish Development Agreement Procedures, including Exhibit A with the Procedures