

**DATE:** December 5, 2023

**TO:** Honorable Mayor and City Council

**FROM:** Lindsay Hagan, Assistant Community Development Director  
Aarti Shrivastava, Assistant City Manager/  
Community Development Director

**VIA:** Kimbra McCarthy, City Manager

**TITLE:** **Gatekeeper Process Updates**

---



## **STUDY SESSION MEMO**

### **PURPOSE**

The purpose of this Study Session is to obtain Council direction on updates to requirements for legislative Gatekeeper projects, including review procedures, streamlined projects, criteria, and community design principles.

### **BACKGROUND**

A “Gatekeeper” refers to a private development project proposed in combination with a requested legislative action by the City Council, such as a rezoning, a General Plan amendment, Precise Plan amendment, or Zoning amendment. Unlike development applications that comply with existing City regulations, the City has discretion to determine whether to consider projects that require legislative changes and, effectively, has more discretion in approving or denying such projects due to the legislative change. Consequently, the City’s Zoning Ordinance grants the Council control over the processing of Gatekeeper applications, taking into consideration the project’s alignment with City objectives and the availability of staff resources.

### **Purpose of the Gatekeeper Process**

The purpose of the Gatekeeper process is to allow consideration of development proposals that advance community priorities that cannot otherwise be achieved under the City’s current General Plan and Zoning. The current process was designed for all Gatekeeper applications to advance to Council for consideration to either proceed to a formal development application or not to proceed.

Gatekeeper projects have contributed in:

- Supporting the creation of new Precise Plans as projects can move forward in the review process earlier than they would otherwise have been allowed (if required to wait for

completion of the Precise Plan) and used as a tool in evaluating new development standards;

- Providing substantial community benefits, such as delivering 100% affordable housing, participating in the Los Altos School District Transfer of Development Rights program, or creating the Mountain View Transportation Management Association, a key partner in reducing vehicle trips in high-employment areas; and
- Updating policy planning efforts, such as establish a new zoning district (e.g., R4 High-Density Residential Zoning District) and create new Precise Plans that convert industrial areas into residential/mixed-use areas (e.g., South Whisman and Mayfield).

### **Balancing Resources**

Historically, Mountain View has attracted significant developer interest in projects that comply with the City's General Plan and zoning standards, which are subject to strict State review timelines under the Permit Streamlining Act. In addition, the City is required to meet other State-mandated requirements, such as the Housing Element and its implementation. These State-mandated projects have the highest priority for staff resources. Additionally, on a biannual basis, the Council develops a work plan to align staff resources and work with Council priorities.

Acknowledging the importance of maintaining all of these priorities while balancing the need to consider innovative development ideas, the Gatekeeper process was created in 2001. This process considers the importance of meeting State mandates, Council priorities, and delivery of quality customer service to the community while remaining open to innovative development ideas from private developers. Customer service and staffing resources are inextricably linked and play a crucial role in staff's capacity to deliver quality customer service and meet project deadlines.

Today, approximately 80 staff in seven City departments are involved in the review of development projects and long-range policy planning projects, which typically include:

- Between 250 and 350 planning applications per year, which have strict State-mandated timelines and have grown increasingly complicated due to recent State laws;
- Between 5,300 and 7,000 Building and Fire permits per year, which will also be subject to a strict State-mandated timeline starting January 1, 2024 (per [Senate Bill 2234](#));
- Implementation of new State laws that require annual changes in processes, code amendments, and staff training (56 housing-related bills were signed by the Governor in 2023);

- Implementation of State-mandated plans, such as 32 Housing Element Programs to be implemented over the next eight years; and
- Forty-one (41) Council work plan projects for Fiscal Years 2023-25 (56% of which the Community Development Department is either direct lead or a key support).

Typically, when the City experiences a decline in permit activity during an economic downturn, the City focuses on long-range planning efforts like the development of new Precise Plans. Yet, even during downturns, the City has continued to receive Gatekeeper applications. A summary of Gatekeeper application and hearing volumes since 2002 is provided in Table 1, which shows how the Gatekeeper process has helped manage the flow of applications.

**Table 1: Gatekeeper Volumes (2002–2022)**

<b>Year</b>	<b>No. of Authorization Hearings</b>	<b>No. of Applications</b>	<b>No. Authorized to Proceed <i>Total No.</i></b>	<b><i>Percent</i></b>
2002	1	1	1	100%
2003	3	3	3	100%
2004	5	6	6	100%
2005	2	4	3	75%
2006	4	10	6	60%
2007	3	9	8	88%
2008	3	5	4	80%
2009	1	3	3	100%
2010	1	2	2	100%
2011	7	21	16	76%
2012	3	8	6	75%
2013	2	5	5	100%
2014	3	15	11	73%
2015	2	13	5	38%
2016	1	13	2	15%
2017	None due to staff vacancies			
2018	2	8	8	100%
2019	1	1	1	100%
2020	1	1	1	100%
2021	None due to COVID-19 response and staff vacancies			
2022	None due to COVID-19 response and staff vacancies			
<b>TOTAL</b>	<b>45</b>	<b>128</b>	<b>91</b>	<b>71%</b>

### **Challenges with Gatekeepers**

Key challenges with the current Gatekeeper process raised by developers include the:

- Lack of staff resources in meeting the high level of interest from the development community;
- Competitive nature of the Council authorization hearings due to the volume of Gatekeeper applications and staff resources; and
- Length of time needed to process a Gatekeeper application since other State-mandated and Council work plan projects take priority.

While there is no perfect, one-size-fits-all solution to these challenges, the discussion topics in this Study Session memo seek Council direction to help clarify and improve the process.

### **UPDATING THE GATEKEEPER PROCESS**

In February 2023, Council discussed considering revisions to the Gatekeeper procedures as part of the 2023-2025 Council Work Plan. Based on initial interest at the February 2023 Study Session, staff prepared an informational memo for the April 2023 Study Session with potential topics that could be updated in the Gatekeeper process.

#### **April 2023 Council Study Session**

At the Study Session on [April 25, 2023](#), a majority of Council provided the following direction to City staff:

- Retain the current Gatekeeper application requirements;
- Hold a Study Session in Q3 2023 to discuss modifications to Gatekeeper projects exempt from Council authorization hearings and updates to the Amendment Authorization Criteria;
- Return to Council in Q1 2024 with draft Zoning Code amendments to address Council direction, incorporating input from the Environmental Planning Commission; and
- Accept Gatekeeper applications by June 30, 2024, in line with the Housing Element program and after adoption of the code amendments, with a Council authorization hearing in Q3 2024.

**September 2023 Council Study Session**

On [September 12, 2023](#), staff presented updates to the Gatekeeper procedures in line with the April 2023 Council direction, including: confirmation on the frequency of Council authorization hearings, updates to the Authorization Criteria, and consideration of additional types of Gatekeeper projects that do not require a Council authorization hearing to submit an application (referred to as “Gatekeeper exempt” projects). While Council provided feedback on some of the updates presented by staff, the majority of the Council desired greater modifications to the Gatekeeper process than were previously discussed.

Specifically, Council directed staff to conduct a holistic evaluation of the Gatekeeper process, along with a comparison of other City’s procedures. Table 2 summarizes the feedback received at the September Study Session where clear consensus was heard from Council, in addition to feedback where clear consensus was not heard. ***Staff is requesting Council direction on items where clear consensus was not provided at the previous Study Session in order to prepare the necessary revisions to procedures.***

**Table 2: Council Feedback Summary—September 12, 2023 Study Session**

Clear Consensus Heard	No Clear Consensus Heard <i>(Staff seeking Council direction)</i>
<ol style="list-style-type: none"> <li>1. <b><i>Frequency of Authorization Hearings</i></b>—Hold a Council Gatekeeper authorization hearing at least once per year, but can hold more hearings;</li> <li>2. <b><i>Qualifying Criteria</i></b>—Develop qualifying criteria required for all Gatekeeper projects that are clear, objective, and consistent with Council’s Strategic Priorities (in lieu of the authorization criteria);</li> <li>3. <b><i>Authorization Hearings</i></b>—All Gatekeepers require a Council authorization hearing, unless meet requirements to be exempt from a hearing;</li> <li>4. <b><i>Affordable Housing Exemption</i></b>—Allow 100% affordable housing projects to be exempt from a Council authorization hearing, allowing applicants to submit directly to staff to begin review;</li> </ol>	<ol style="list-style-type: none"> <li>1. <b><i>Split-zoned Exemption</i></b>—Whether to allow split-zoned projects, which propose to match the zoning/General Plan Land Use Designation of one of the existing project parcels to be exempt from a Council authorization hearing, allowing applicants to submit directly to staff to begin review;</li> <li>2. <b><i>Project Site Size Exemption</i></b>—Whether a project site size minimum is desired for applications that are exempt from Council authorization hearings. Currently the site size maximum for such projects is less than two acres; and</li> <li>3. <b><i>Process Revisions</i></b>—A desire to evaluate changes to the Gatekeeper review process, but no clear consensus on specific process revisions (<i>which is the focus of this Study Session</i>).</li> </ol>

Clear Consensus Heard	No Clear Consensus Heard <i>(Staff seeking Council direction)</i>
<p>5. <b>Community Benefits</b>—All Gatekeeper projects require a community benefit, except for 100% affordable housing projects (which itself is a community benefit);</p> <p>6. <b>Study Session</b>—All Gatekeeper projects require a City Council Study Session (including Gatekeeper exempt projects);</p> <p>7. <b>Council Policy</b>—Create a Council Policy with Gatekeeper procedures, criteria, and other provisions to add clarity and transparency to the process; and</p> <p>8. <b>Benchmarking</b>—Survey other cities to get an idea of how they process amendments to General Plan/zoning.</p>	

**Feedback on the Gatekeeper Process**

As summarized in Table 3, Staff heard feedback on the Gatekeeper process from Councilmembers and members of the public at the prior September Study Session and directly from representatives of the development community following the Study Session, including the Chamber of Commerce.

**Table 3: Feedback on Gatekeeper Process**

Development Community	Public	Councilmembers
<ul style="list-style-type: none"> <li>• <b>Hearing Frequency</b>—Have more frequent authorization hearings (two to four times per year).</li> <li>• <b>Application Requirements</b>—Simplify Gatekeeper application requirements; no plans should be required.</li> <li>• <b>Competitiveness</b>—The Gatekeeper process is too</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Rebrand Process</b>—Rebrand the Gatekeeper process and address a perception that the process is difficult.</li> <li>• <b>Council Initiation</b>—Councilmembers should weigh-in on all significant zoning changes before projects are processed.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Fewer Applications</b>—Desire fewer Gatekeeper applications. The City should only consider exceptional projects.</li> <li>• <b>Creativity</b>—Gatekeepers allow for creativity and innovation. The Gatekeeper process does not stifle development.</li> </ul>

Development Community	Public	Councilmembers
<p>competitive; it is challenging for smaller projects to be authorized.</p> <ul style="list-style-type: none"> <li>• <b>Resources</b>—Staff resources should not be a consideration for allowing Gatekeepers.</li> <li>• <b>More Staff Authority</b>—Accept all Gatekeeper projects and provide Staff authority to elevate issues as needed to Council.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Less Staff Authority</b>—Do not grant more authority to developer or City staff.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Staff Time</b>—Staff time should primarily be focused on implementation of City plans.</li> <li>• <b>Process</b>—Set clear criteria to allow staff to be the Gatekeeper and empower staff to reject applications inconsistent with objective criteria.</li> <li>• <b>Study Sessions</b>—Define when a Council Study Session is necessary on a Gatekeeper.</li> </ul>

**DISCUSSION**

This Study Session focuses on obtaining Council direction on:

- A preferred option for the Gatekeeper authorization and review process;
- Identifying Gatekeeper projects that could be “streamlined” and would not require a Council authorization hearing (replacing the term “Gatekeeper-exempt” projects).
- Qualifying criteria for accepting Gatekeeper applications (previously referred to as “Authorization Criteria”); and
- New Community Design Principles for applicants to respond to in their Gatekeeper applications and used to evaluate applications.

**Benchmark Comparison of Cities’ Legislative Procedures**

City staff reviewed the procedures for privately initiated General Plan and Zoning amendments at all cities within Santa Clara County (12 cities) and the cities of Fremont and Redwood City, since both have development projects of similar scale to Mountain View. In conducting research, staff reviewed the relevant city codes and policies for each city and communicated directly with City staff. Attachment 1 includes a comparison of General Plan amendment procedures in the 14 cities reviewed, and Attachment 2 includes a comparison of Zoning amendment procedures in the same cities.

In reviewing the legislative procedures, City staff specifically looked at the following components of each city's process:

- Is authorization from the city council at a public hearing required to begin substantial processing on the application?
- Are there criteria in considering and evaluating an initial application?
- Is a development project also required to be submitted with the application for a General Plan/Zoning amendment?
- Is a city council study session typically held during the review of an application?
- Is a community benefit required?
- What is the typical number of applications received per year?

### **Model Approaches to Legislative Update Procedures**

#### *General Plan Amendment Models in Other Cities*

Five of the 14 cities require a Council authorization hearing to review a privately initiated General Plan amendment early in the application process. This includes the cities of Saratoga, Sunnyvale, Cupertino, Campbell, and Redwood City. Additionally, two cities (Los Gatos and Morgan Hill) have preliminary hearings on General Plan amendment applications to provide early input, which can be similar to an authorization hearing as the discussion indicates whether there is support for the amendment to proceed or not (though the decision is left to the applicant). The other seven cities do not have an authorization process. Table 4 on page 10 provides a comparison of the General Plan amendment procedure models, described below. In discussions with city staff, the processing time to review a development project with a General Plan amendment is equivalent to Mountain View's processing timelines (18 to 36 months).

- The **most common model** for reviewing General Plan amendments represent processes in the cities of Saratoga, Cupertino, Redwood City, and Campbell. These models are generally similar to Mountain View in that Council authorization hearings are required; however, they do not have criteria and do not specifically require community benefits. Most of these cities typically have zero to one application per year, or, in the cases of Redwood City and Cupertino, are not accepting applications.
- **City of Sunnyvale** requires all General Plan amendment applications to be initially reviewed by the Planning Commission and authorized by the City Council, prior to staff beginning review. Sunnyvale typically has one to two applications per year and, otherwise, frequently



discourages applications that do not further the goals and policies of the General Plan. Sunnyvale does not hold more than four authorization hearings a year. Of the applications that are authorized, the Council often alters the initial proposal by expanding the scope or expanding the study boundaries. In some cases, the projects include expanding an existing Specific Plan area, in which community benefits are applied to the project consistent with the existing program or negotiated through a Development Agreement; otherwise, community benefits are not required. Most unique to Sunnyvale is that city staff evaluate and study the General Plan amendment first for Council consideration and adoption before allowing a formal development application to be submitted. This allows the city to analyze and adopt the new development regulations first, then allows the applicant to submit a formal development application which must comply with those newly adopted standards.

- At the **City of San Jose**, all General Plan amendment applications are accepted and reviewed by staff as they are submitted. The city does not require community benefits nor hold council study sessions to review these projects. Council holds one hearing per year to consider adoption of all privately initiated applications at the same time, which typically is 10 applications a year. Unique to San Jose is an optional Council hearing process referred to as “early consideration” (discussed below). In 2022, the city revised their procedures for General Plan amendments to: (1) formally require a development application to be submitted in tandem with a General Plan amendment; and (2) redefine when an “early consideration” hearing can occur. Previously, San Jose reviewed General Plan amendments similar to Sunnyvale—focusing on the land use change only with no development project; however, this process was problematic as applicants often changed their development proposals after the city adopted the General Plan amendment. This is the first year the city is implementing this revised process.

*Early consideration* is a council hearing held early in an application process to determine whether a General Plan amendment should proceed through the review process or be denied. The process allows the applicants to request an early consideration hearing at the time of their General Plan amendment application to get early council feedback. Otherwise, city staff can initiate an early consideration hearing only if: (a) the project proposes to convert an employment use (commercial) to a nonemployment use (residential); or (b) if the project is fundamentally inconsistent with the General Plan goals and policies. Based on discussions with city staff, early consideration hearings are not held for any other reason.

- The **City of Santa Clara** accepts all General Plan amendment applications with development proposals for review as they are submitted. No authorization hearing is required; no community benefit is required (unless negotiated in a development agreement); nor are council study sessions held during the review of the application. This process is similar to San Jose’s process, except Santa Clara typically has approximately five applications a year. The Planning Commission and City Council review the project at the final public hearings for

consideration of adoption (which staff noted receive approval about 50% of the time). From 2017 to 2021, the Council had a policy requiring Council authorization hearings for General Plan amendment applications, which were often placed on the consent agenda. Ultimately, Council rescinded the policy in 2021 to return to their previous practice.

**Table 4: Comparison of General Plan Amendment (GPA) Procedure Models**

	Mountain View (Current)	Most Common	Sunnyvale	San Jose	Santa Clara
Require Council Authorization Hearing	YES	YES	YES		
Have Authorization Criteria	YES				
Review with Development Project	YES	YES		YES	YES
Early Consideration <sup>1</sup>				YES	
Council Study Session(s)	YES	YES	YES		
Req. Community Benefit	YES		Only in Specific Plan areas or with Development Agreement		For larger developments with Development Agreement
Typical Number of Applications per Year	3 to 7	0 to 1	0 to 2	10	5
Evaluation Factors					
Clear Requirements for City Evaluation	●	○	○	○	○
Allows Early Council Input	●	●	●	◐	○
Clear Community Benefit	●	○	◐	○	◐
Impacts Staff Workload	●	◐	◐	○	●
Legend: ● Strongly Achieve ◐ Partially Achieve ○ Does Not Achieve					

<sup>1</sup> A Council hearing held early to determine whether a project can proceed in the review process; is optional for applicant to request at time of application or City staff to initiate under certain situations (convert employment use to nonemployment use or inconsistent with General Plan).

*Zoning Amendment Models in Other Cities*

In reviewing the 14 cities, there is only one other city that requires an authorization hearing for privately initiated zoning amendments, including rezonings. The **City of Palo Alto** accepts all applications for zoning amendments and brings them to the Planning Commission for review and

consideration within 90 days. The Commission provides feedback on the zoning request and associated development proposal and determines if the application should proceed. If the application is supported to proceed, then it continues in the review process. Alternatively, if the application is not supported by the Commission, then the City Council will review the request at a hearing and make a final determination on whether the application can proceed or not. No community benefits are required unless required in the Area Plan or Master Plan.

This means the majority of cities accept applications for zoning amendments without a Council authorization hearing. However, numerous city staff commented that their city: (1) has a history of not beginning staff review or taking action on such applications since they are not a priority; or (2) taking the applications through the review process anticipating the application will get denied.

The **most common model**, in this case, represents all 13 cities. See Table 5 for a comparison of the zoning amendment procedure models. Interestingly, though, the cities of **Cupertino and Fremont** do not allow a zoning text amendment to be privately initiated; only staff, the Planning Commission, or Council can initiate a zoning text amendment.

**Table 5: Comparison of Zoning Amendment Procedure Models**

	Mountain View (Current) <sup>1</sup>	Most Common	Palo Alto
Require Council Authorization	YES		Only if Planning Commission does not support
Have Criteria	YES		
Review with Development Project	YES	YES	YES
Council Study Session(s)	YES	Varies	YES
Requires Community Benefit	YES		Depends on Area Plan
Typical Number of Applications Per Year	3 to 7	0 to 3	1 to 4
Evaluation Factors			
Clear Requirements for City Evaluation	●	○	○
Allows Early City Input	●	◐	●
Clear Community Benefit	●	○	◐
Impacts Staff Workload	●	○	◐
Legend: ● Strongly Achieve ◐ Partially Achieve ○ Does Not Achieve			

<sup>1</sup> Includes amendments to Precise Plans.

### *Key Conclusions of Procedural Comparisons*

The following are key conclusions after comparing procedures for both General Plan and zoning amendments in the 14 cities:

- Staff frequently discourages applicants to pursue amendments at many of the cities. Staff referenced they are empowered to discourage applications as their respective city councils are not interested in changes to their General Plans or Specific Plans, and zoning, especially, if such projects could be built in other locations within their city or if they do not advance goals of their General Plan. Some staff also mentioned they have let applications sit without processing them for a number of years due to other priorities and general lack of interest by the city;
- Most zoning amendment applications at other cities are rezonings to create a new planned development (similar to Mountain View's Planned Community (P) Zoning District). Many city staff mentioned these rezonings were necessary to allow higher density residential uses or introduce new land uses within their existing city regulations;
- For many of the cities that accept all zoning amendment applications for processing, staff mentioned they would: (a) initiate the text amendments themselves if there is merit to the amendment in alignment with other city goals, plans, and policies; (b) bring the text amendments through the review process recommending denial; or (c) do not process the zoning amendment application;
- Aside from Mountain View, the only other city with a clearly defined process and criteria is the City of Cupertino. The other cities that have adopted procedures for General Plan Amendments (such as Morgan Hill and Campbell) have outlined their hearing and application procedures but do not include information on what is being considered by the city in evaluating the proposed amendment; and
- Mountain View has a high volume of Gatekeeper applications compared to other cities, excluding the cities of San Jose and Santa Clara. Mountain View has typically received three to seven applications per Council authorization hearing, where most cities receive zero to two applications a year (inclusive of both General Plan and Zoning Amendments).

### **Why is Mountain View Different?**

Historically, Mountain View has allowed privately initiated Gatekeeper projects when they advance Council objectives, such as more affordable housing, more park land, install transportation improvements, and provide other community benefits. Compared to other surveyed cities, the City of Mountain View is known for its willingness to work with developers

on unique or different approaches to achieving the City's vision, while retaining its review authority on ensuring a project aligns with the City's goals.

After discussions with other cities, it is apparent that Mountain View has accepted and approved more Gatekeeper projects than most other cities surveyed. Only the cities of San Jose and Santa Clara have more Gatekeeper applications, and these cities are 11 times or 1-1/2 times larger in population than Mountain View, respectively. In fact, three cities mentioned using Mountain View's Gatekeeper process as a reference for their own process, including Cupertino, Redwood City (for 2021 projects in their Downtown Precise Plan) and Fremont (2017 to 2022 policy).

At the previous Study Session, Council raised the question of why Mountain View has Gatekeeper exemptions, which allow certain Gatekeeper projects on less than two acres to proceed to staff review without a Council authorization hearing, when other cities do not. The intent in adopting these exemptions in 2018-19 was to streamline smaller projects to allow them to directly submit an application for processing as these projects are generally consistent with City priorities. Fremont's 2017-2022 policy for General Plan amendments also included exemptions, which allowed residential developments that created 10 or fewer new market-rate housing units (e.g., minimal density increase), and residential developments that exceeded the City's affordable housing requirements to proceed directly to an application. In comparison, other cities that require Council authorization hearings either have significant Council interest in reviewing and authorizing applications or have few applications every year making exemptions unnecessary.

Based on the benchmark surveys, Mountain View's process is clearly different because of high developer interests and Gatekeeper application volumes, Council's interest in innovative projects that deliver community amenities, and interest in maintaining the City's high customer service expectations (i.e., staff resources).

### **DISCUSSION TOPIC 1: OPTIONS FOR GATEKEEPER REVIEW PROCESS**

Staff has identified three options for how the Gatekeeper review process could be updated (see Figure 1 on Page 16). Staff is using the following terms in this discussion:

- *"Qualifying criteria"* to qualify an application to be able to be submitted to the City;
- *"Streamlined Gatekeeper"* refers to those project types that Council believes meet City objectives and, thus, do not need to be heard at a Council authorization hearing (previously referred to as "Gatekeeper exempt projects"); and
- *"Standard Gatekeeper"* refers to all other Gatekeeper applications that are required to be heard at a Council authorization hearing.

**Current Gatekeeper Process.** For reference, the City's current Gatekeeper process is also shown in Figure 1. This process allows all Gatekeeper applications received to proceed to a Council authorization hearing (referred to as a Standard Gatekeeper), where staff presents each application's consistency with the adopted Authorization Criteria, unless the project meets one of three exemptions (referred to as a Streamlined Gatekeeper), then no Council authorization hearing is required. For Standard Gatekeepers, Council either authorizes the proposal to proceed to a formal development application or does not allow the proposal to proceed.

**Option A: Accept Applications that Meet Qualifying Criteria with Council Authorization.** This process is similar to the current Gatekeeper process, but utilizes qualifying criteria as an objective tool for staff to accept Gatekeeper applications. If a project meets the criteria, then a Gatekeeper application will be accepted by City staff; alternatively, if a project does not meet the criteria, then the application will be rejected. Streamlined Gatekeeper applications will be processed when received without a Council authorization hearing.

If the application is a Standard Gatekeeper project, then City staff will bring the application to a Council authorization hearing. Gatekeeper projects authorized by Council will have a timeline to submit a formal development application and begin the review process. Gatekeeper applications that are not authorized cannot submit a formal development application. All Gatekeepers (Streamlined and Standard) would have an EPC and Council Study Session during the review process to receive input.

Evaluation: This process would only allow those projects that comply with the adopted qualifying criteria to proceed with a Gatekeeper application, which may impact the number of applications received. The qualifying criteria provide an objective standard by which staff can accept or reject an application. Using the criteria at the beginning provides greater clarity to developers and the community on expectations. Additionally, Council would continue to review the majority of Gatekeeper applications (Standard Gatekeepers) received at an authorization hearing to consider the proposals alignment with the City's vision and timing of workload priorities and staffing resources. This option would have the least impact on staff resources of the options discussed, but the impact would ultimately depend on the number of applications authorized.

**Option B: Accept Applications that Meet Criteria with No Council Authorization (with or without an Alternative Consideration Process).** This process is a hybrid of a process that does not require Council authorization hearings and use of qualifying criteria to accept applications. This option would allow all Gatekeeper projects that meet the qualifying criteria to be able to submit a formal application directly to City staff to begin processing. No Council authorization hearing would be held on any Gatekeeper application, and there would no longer be Standard or Streamlined Gatekeeper categories. All Gatekeepers would have an EPC and Council Study Session during the review process to receive input.

**Option B Alternative Consideration**—If Council is interested, Option B could include a suboption for an Alternative Consideration Process, where developers could request a Council Authorization hearing even if they do not meet the qualifying criteria. Under this option, the Council could authorize applications even if they did not meet the qualifying criteria.

Evaluation Option B: This option would have a higher impact on staff resources depending on the number of applications received that meet the qualifying criteria. Additionally, under this process, any type of development could be proposed and proceed through the process without a Council authorization hearing, so long as the criteria is met.

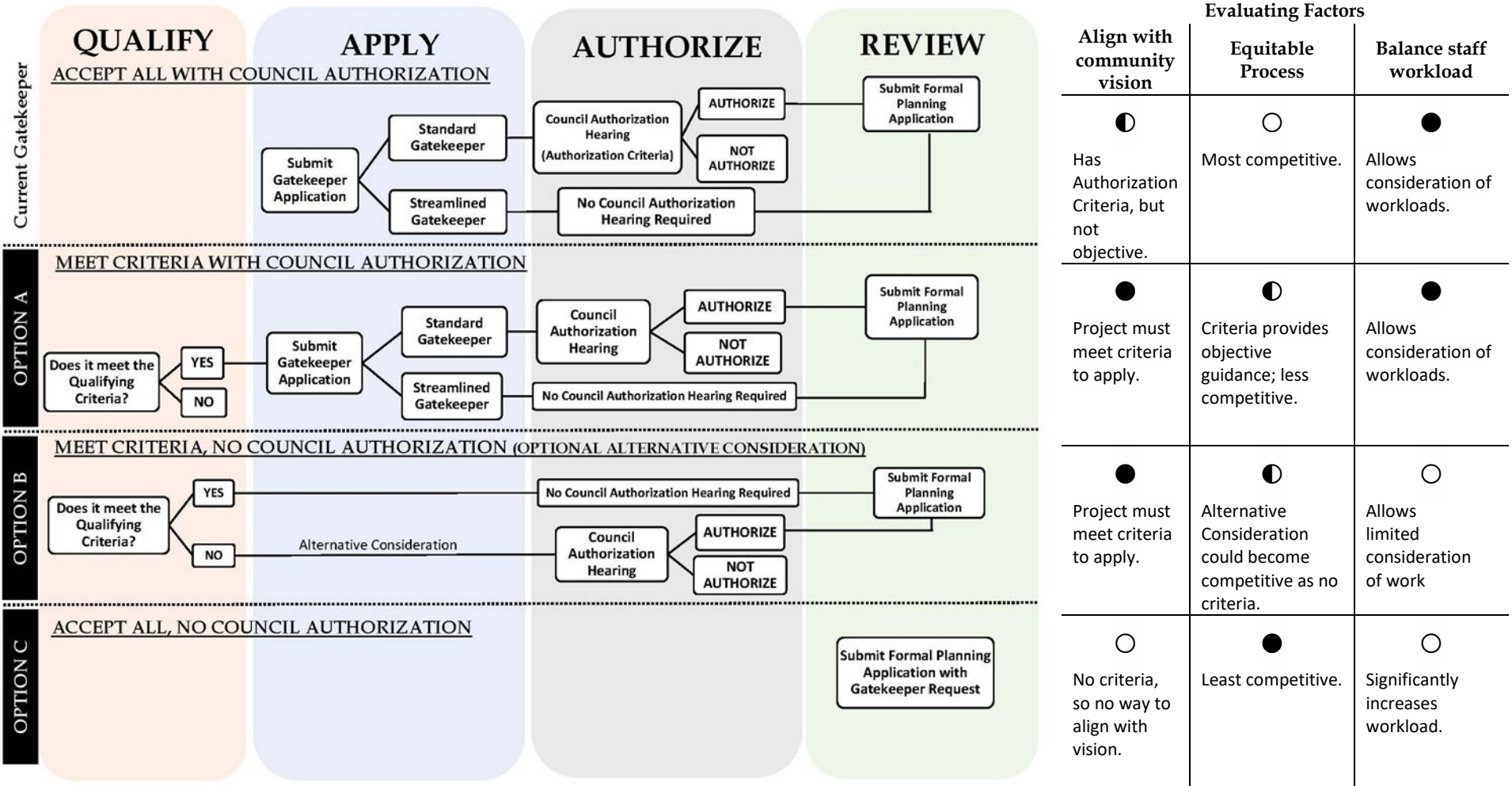
Evaluation Option B Alternative Consideration: This alternative consideration process would add to staff workload beyond Option B, but provide Council with an opportunity to review and consider authorizing applications that don't meet the criteria. This option could result in a high number of authorization requests a year.

**Option C: Accept Applications with No Council Authorization.** This process is the same as the other seven cities surveyed that do not require Council authorization hearings, including the cities of San Jose and Santa Clara. This option allows an applicant to directly submit a formal development application with a Gatekeeper project to staff to begin review with no Council authorization hearing. There would be no qualifying criteria nor Standard or Streamlined Gatekeeper categories.

Evaluation: This option would have the greatest impact on staff workload, as applications would be processed as received. Additionally, there is a high likelihood that the City would invest time in a Gatekeeper proposal that may not ultimately align with the City's vision or key Council priorities, as no qualifying criteria would be used.

**Staff recommends Option A** as it provides clear, objective qualifying criteria to accept a Gatekeeper application that benefits developers in preparing their proposals and City staff and the community to have clear direction on expectations, while still providing Council an opportunity to consider the merits of the application and workload priorities at the time. Additionally, it will have the benefit of early Council and community input before a formal application is submitted.

<b>Question No. 1: Which of the three Gatekeeper Review Process options does Council prefer?</b>
--



Legend: ● Strongly Achieve ◐ Partially Achieve ○ Does Not Achieve

Figure 1: Gatekeeper Process Options



## **DISCUSSION TOPIC 2: STREAMLINED GATEKEEPER PROJECTS**

Staff is seeking Council direction on the types of Streamlined Gatekeeper projects that would not require a Council authorization hearing to initiate staff review. Based on the September 2023 Study Session, Council discussed the following options for Streamlined Gatekeeper projects, which staff is seeking greater clarity on at this Study Session:

Project Type A. 100% affordable housing projects on less than two acres (*majority of Council agreed*);

Project Type B. Any split-zoned project site less than two acres in size, where the project is proposing to match one of the existing zoning districts and/or General Plan Land Use Designations existing on-site. *Note:* There are currently 40 split-zoned parcels in the City, 26 are privately owned and 14 are owned by the City or the Federal government (*there was no clear Council consensus*); and

Project Type C. Projects proposing zoning text amendments only (*there was no clear Council consensus*).

***Staff recommends Project Types A and/or B as Streamlined Gatekeeper projects*** because they have general alignment with City policies and will have limited impact on staff resources.

Staff is *not recommending* streamlining Project Type C for the following reasons:

- On an annual or biannual basis, City staff brings forward Zoning and/or Precise Plan text amendments to clean up grammatical errors, outdated terminology, align with new State laws, add clarification to reflect current standards and practices, and update procedures as necessary. These amendments are often identified through conversations with applicants or implementation of projects that go through the permitting process. Since City staff initiates these amendments as part of regular business practices, then applicants do not need to apply for a Gatekeeper application.
- Applicants are likely to propose zoning text amendments that involve changes to development standards or the addition of new land uses. These changes are not minor and impact all properties within the same subarea of a Precise Plan or zoning district. Evaluating the implications of such requests on properties can consume significant staff time, which warrants consideration of a Council authorization hearing for allocating staff resources.
- Due to the diverse range of applicant-initiated amendments that could potentially be proposed and the multitude of Precise Plans and zoning districts in the City, it would be challenging to establish a clear, objective boundary defining what qualifies as a Streamlined zoning text amendment.

- Considering applicant-initiated zoning amendments as Streamlined Gatekeepers could potentially result in projects proposing an extensive series of amendments to an existing zoning district or Precise Plan to address their project, avoiding being classified as a Standard Gatekeeper in an effort to potentially circumvent the Gatekeeper process.
- City staff understands the larger implications of applying these amendments on a Citywide basis and for a variety of project types and can do a more holistic review that can potentially address issues raised by more than one project. Therefore, such amendments are best initiated by the City staff as part of the annual amendment process and not by individual developers.

**Question No. 2: Which of the three Project Type(s) does Council prefer as Streamlined Gatekeepers?**

### **DISCUSSION TOPIC 3: DETERMINING QUALIFYING CRITERIA**

The purpose of the qualifying criteria is to provide clear direction on the City’s expectations for considering a Gatekeeper project. In reviewing the existing Authorization Criteria and the [Fiscal Year 2023-25 Council Strategic Priorities](#), staff has assembled a list of objective criteria—see Table 6. The criteria are intended to be straightforward and used by staff to accept a Gatekeeper proposal that aligns with Council priorities, while not requiring interpretation. Additionally, the objective criteria are intended to reduce the competitive environment that the Gatekeeper process has unintentionally created, by providing options for an application to meet the expectations regardless of the project size or type.

The qualifying criteria includes a project’s compliance in two parts:

1. A mandatory requirement that the Gatekeeper project does not introduce spot-zoning (or an isolated land use that is different from surrounding land uses); and
2. At least one Community Benefit in any of the following categories that demonstrates the project’s alignment with Council priorities:
  - a. Greater *affordable housing* than required by the City Code at 20% or more for low-income households or 40% or more for moderate households;
  - b. Large *Open Space* for dedicated public park land, trails, or other public recreational area at a minimum of 0.75 acre;

- c. New *Community Facilities*, such as a new public facility building (e.g., library branch) as determined by the City or purchase of Los Altos School District’s Transfer of Development Rights Program (NOTE: The square footage minimum is based on a reasonably sized commercial development, such as the TDRs approved at 189 North Bernardo Avenue, and equates to approximately \$3 million in value);
- d. Furthering *Sustainability* with net-zero building and site design; and
- e. A *Proportional Community Benefit Contribution for Smaller Gatekeeper Projects* who cannot otherwise meet the list of criteria due to their less than two-acre size or their request to do text amendments to existing regulations, such as a Precise Plan, Zoning Code, or General Plan.

**Table 6: Qualifying Criteria**

<b>Mandatory Requirement</b>	<ul style="list-style-type: none"> <li>• Project does not create spot-zoning or an isolated land use;</li> </ul>
<b>AND</b> includes a Community Benefit from one of the following categories:	
<b>CATEGORY</b>	<b>COMMUNITY BENEFIT</b>
<b>Affordable Housing</b>	<p>Inclusive of complying with the City’s Below-Market-Rate (BMR) Requirements, the project must also provide:</p> <ul style="list-style-type: none"> <li>• 20% or more affordable housing units for low average median income (AMI) households; or</li> <li>• 40% or more affordable housing units for moderate AMI households.</li> </ul>
<b>Public Open Space</b>	<ul style="list-style-type: none"> <li>• Dedicate a 0.75-acre or greater public park, public recreational area, or trail to the City.</li> </ul>
<b>Community Facilities</b>	<ul style="list-style-type: none"> <li>• Provide a facility for community use that has been identified as a City need—e.g., branch library.</li> <li>• Participate in LASD TDR Program with a minimum 30,000 square feet or more.</li> </ul>
<b>Sustainability</b>	<ul style="list-style-type: none"> <li>• Include a net-zero building/site design.</li> </ul>
<b>For projects:</b> <b>1. Less than two acres in size, or</b> <b>2. Include a text amendment(s)</b> <b>only</b>	<ul style="list-style-type: none"> <li>• A Community Benefit contribution equivalent to a specified dollar amount per square foot of the maximum development on-site. Council discretion on use of the contribution.</li> </ul>

**Question No. 3: Does Council have any feedback or additional direction on the Qualifying Criteria?**

#### **DISCUSSION TOPIC 4: ESTABLISH COMMUNITY DESIGN PRINCIPLES**

In addition to the qualifying criteria above, staff is proposing a set of community design principles that would be used to evaluate Gatekeeper projects. The intent of the principles is to provide guidance to an applicant, even prior to submitting a Gatekeeper application, on basic principles that are important to the community and should be incorporated into a Gatekeeper proposal, where applicable. Staff is referring to these as design principles as each one fundamentally impacts the potential site and/or building design. Each Gatekeeper application would be required to provide a written explanation of how each of these principles are proposed to be met in their application. These principles would be used by staff to evaluate the application.

##### Community Design Principles

1. **Trees and Biodiversity:** Prioritize the preservation of large, healthy trees on-site; and incorporate biodiversity measures, such as a minimum 75% native trees and landscaping and dark sky measures for lighting;
2. **Historic Preservation:** Showcase and repurpose historic structures to make them available for public enjoyment;
3. **Active Transportation:** Incorporate wide public sidewalks, complete street principles, and active transportation improvements that support the City's adopted transportation plans, including on-site through-connections for the public; and
4. **Existing Businesses:** If a site contains existing businesses that are interested in relocation, provide space(s) for these displaced tenant(s) within the proposed new development; or provide relocation assistance and work with the businesses to create a plan for relocation within Mountain View.

**Question No. 4: Does Council have feedback or additional direction on the Community Design Principles?**

#### **Additional Elements for the Gatekeeper Procedures**

In addition to the discussion questions, the following is a list of additional elements that staff proposes to incorporate into the updated Gatekeeper procedures. Staff is seeking Council direction on these elements at this Study Session.

- ***Frequency of Authorization hearings:*** At least two annual Gatekeeper Authorization hearings will be held with Council, approximately six months apart (times to be determined). While this is not a maximum number, it is realistic given that staff will be working on Gatekeepers every three months, between accepting applications, three months prior to a hearing, and holding Council authorization hearings. More frequent authorization hearings will likely affect the length and frequency of Council meetings.
- ***Community Benefits:*** A community benefit is required for all Gatekeepers, including Streamlined Gatekeepers, with the exception of 100% affordable housing projects, which will not require an additional community benefit.
- ***Application Requirements:*** Staff will review the application requirements for a Gatekeeper application and determine what changes may be appropriate based on Council's response to Question 1.
- ***Reauthorization:*** Clarify reauthorization requirements if a Gatekeeper project significantly alters proposed community benefits or intensity of project (by greater than 10%).
- ***Council Study Sessions:*** An EPC and Council Study Session will be held for all Gatekeepers, including for Streamlined Gatekeeper projects. However, additional Study Sessions may be held if Council direction is required.
- ***Presented at Council Authorization Hearing:*** If Council chooses to retain a Council authorization hearing process, staff will typically provide the following information and analysis for Council's review:
  - Description of the Gatekeeper project;
  - Required legislative updates to accommodate the proposed project;
  - Whether the project aligns with existing City-adopted plans, strategies, priorities, and/or initiatives;
  - How the project aligns with the Qualifying Criteria and Community Design Principles (based on the written response provided by the applicant);
  - Suggestions on recommended changes to the scope of the Gatekeeper application to create greater neighborhood compatibility or suggest City-led policy planning efforts that may better serve the community in response to Gatekeeper applications; and
  - Available staffing resources and current workloads. If resources are not available to process the applications, Council will be asked for direction to deprioritize or delay

discretionary City projects, including Council Work Plan items, long range planning project, and/or other procedural or technology improvements, in order to accommodate the Gatekeeper project(s).

- **Council Policy:** Staff will prepare a Council Policy to clarify process requirements, Qualifying Criteria, Community Design Principles, Streamlined Gatekeeper project types, or other pertinent details, which will provide greater transparency on adopted requirements and practices. In tandem, staff will prepare amendments to Chapter 36 as necessary to reflect Council direction. The Council Policy will clearly state that Council can change the process at any time and that staff can raise concerns or suggestions regarding the process to Council at any time.

### **RECOMMENDATION**

Staff seeks Council direction on the following components regarding updates to the Gatekeeper provisions, including:

**Question No. 1: Which of the three Gatekeeper Review Process options does Council prefer?**

**Question No. 2: Which Project Type(s) does Council prefer to be a Streamlined Gatekeeper?**

**Question No. 3: Does Council have any feedback or additional direction on the Qualifying Criteria?**

**Question No. 4: Does Council have feedback or additional direction on the Community Design Principles?**

### **NEXT STEPS**

With Council's direction at this Study Session, staff will: (1) prepare draft amendments to the Zoning Ordinance for review and recommendation by the Environmental Planning Commission to the City Council; and (2) prepare a draft Council Policy with the pertinent information regarding the Gatekeeper process, criteria, expectations, and requirements. Staff aims to return to Council at the end of Q1 2024 or early Q2 2024, after receiving input and a recommendation from the EPC on the draft Ordinance and key components of the Council policy. Staff will provide applicants time to submit Gatekeeper applications (estimated to be no later than end of June 2024 to be consistent with the Housing Element Program). Staff anticipates to hold a Council authorization hearing in Q3 2024.

**PUBLIC NOTICING**

This meeting was noticed with an agenda posting, email to interested Gatekeeper applicants and developers, and posted on the City's website. City staff also met with representatives of the LASD TDR Program, the development community, and the Chamber of Commerce.

LH-AS/4/CAM  
823-12-05-23SS  
203457

- Attachments:
1. Comparison of General Plan Amendment Procedures
  2. Comparison of Zoning Amendment Procedures