

# Item 5.1



## MEMORANDUM

Community Development Department

**DATE:** March 5, 2025

**TO:** Council Policies and Procedures Committee

**FROM:** Christian Murdock, Community Development Director

**VIA:** Kimbra McCarthy, City Manager

**SUBJECT:** **New Council Policy—Gatekeeper Authorization Process**

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### **BACKGROUND**

The “Gatekeeper Process” refers to the City’s process for accepting an application for a private development project that proposes a legislative amendment to the City’s land use regulations, such as a General Plan amendment, Precise Plan amendment, rezoning amendment, or Zoning Code amendment. The Gatekeeper Process includes an authorization hearing to determine whether the City Council wants to accept an application and allocate staff resources for application processing. Unlike development applications that comply with existing City regulations and are subject to the Permit Streamlining Act (PSA), obligating the City to process such applications, the City has discretion to determine whether to consider projects that necessitate legislative amendments to the City’s regulations and are not bound by the processing requirements and timelines of the PSA.

The City has had a Gatekeeper Process since 2001, when the City Council adopted a Gatekeeper Ordinance in direct response to the heavy workload being experienced by the Community Development Department combined with limited staffing, which at the time was resulting in postponement of Council-directed policy work. Since adoption of the Gatekeeper Ordinance, the City Council has made updates: (1) in 2012, to require the Environmental Planning Commission (EPC) to provide recommendations to the City Council on Gatekeeper projects and their associated legislative amendments; and (2) in 2018, to add clarity to the Gatekeeper Process by introducing application requirements, establishing Gatekeeper application authorization criteria, and adding exemptions for certain legislative amendments that would not require a Council Authorization Hearing prior to submitting an application involving legislative amendments.

## 2023-2031 Housing Element Obligation Related to Gatekeeper Process

On April 11, 2023, Council adopted the [2023-2031 Housing Element](#), which includes specific programs and milestones to be completed by the City related to updating the Gatekeeper Process, including:

- Program 1.3.f: Identify additional Gatekeeper exemptions for residential projects based on location, size, affordability, and other policy goals;
- Program 1.3.g: Hold at least one Gatekeeper meeting per year, which may be limited to residential or residential mixed-use projects only, creating greater opportunities for project-specific rezonings; and
- Program 1.3 Milestones and Timeframe: Hold an annual Gatekeeper meeting, which may be limited or focused on residential or residential mixed-use projects at Council discretion and begin accepting Gatekeeper applications before June 30, 2024.

## 2023 Council Meetings

Following adoption of the Housing Element, on [April 25, 2023](#), the City Council discussed the desire for potential updates to the Gatekeeper Process at a Study Session on the development of the Fiscal Years 2023-2024 and 2024-2025 (Fiscal Years 2023-25) Council Work Plan. Ultimately, Council prioritized reviewing and updating the Gatekeeper Process, ranking it as a Category A project (Project A.1), the highest priority category in the [Fiscal Years 2023-25 Council Work Plan](#) adopted on June 27, 2023.

When implementing the Fiscal Years 2023-25 Council Work Plan, staff reviewed and discussed updates to the Gatekeeper Process at a Council Study Session on [September 19, 2023](#). Council provided direction to staff on the frequency of Gatekeeper Council Authorization hearings, desirable modifications to the types of proposed legislative amendments that are exempt from a Council Authorization hearing, and updates to the Gatekeeper Amendment Authorization Criteria.

Staff returned to a Council Study Session on [December 5, 2023](#) to share additional background on procedures in other cities in our region with processes similar to the Gatekeeper Process (requested from the prior Study Session) and receive direction on further refinements to Gatekeeper Process procedures, proposed criteria, and community design principles.

## Council Direction

Because the Gatekeeper Process is City-defined with no industry standard, it can be challenging to design a process that meets the expectations and resources of the City and development

community. Throughout the 2023 Council meetings, City staff received varied and diverse feedback from Councilmembers regarding changes to the Gatekeeper Process. Below is a summary of direction received from a majority of Council at these prior Study Session:

1. **Gatekeeper Review Process**—Encourage submission of fewer Gatekeeper applications that better align with City objectives; only interested in “exemplary” projects that exceed minimum City regulations that incorporate the established Gatekeeper criteria and design principles in the application process. *(Straw Vote: 4-3 in support)*
2. **Council Authorization Hearing**—Require an Authorization Hearing for all Gatekeeper applications, excluding those that qualify to be exempt from a hearing; conduct two Council Authorization hearings a year with one focused on larger projects and one focused on smaller projects. *(Straw Vote: 6-1)*
3. **Application Criteria**—Focus the Gatekeeper application criteria on alignment with City objectives and expectations for a Gatekeeper application regardless of project size or type. Relate the objective criteria to existing adopted City plans, policies, programs, and strategies, and clearly identify that a public benefit is required for all Gatekeeper applications. All Councilmembers were supportive of adding or modifying the following criteria: *(Straw Vote: 7-0)*
  - a. **Affordable Housing**—Provide 20% or more affordable housing for lower-income (up to 80% of Area Median Income, or AMI) households or 40% or more affordable housing for moderate income (80% to 120% AMI) households; and expand to include ownership housing;
  - b. **Public Open Space**—Dedicate a 0.75-acre or greater public park, public recreational area, or trail to the City;
  - c. **Community Facilities**—Provide a facility for community use that has been identified as a City need (e.g., branch library) or participate in a transfer of development rights (TDR) program with a minimum of 30,000 square feet; expand to include all TDR programs serving all Mountain View-serving school districts;
  - d. **Business Retention**—Support business retention through rent stabilization;
  - e. **Transportation**—Advance active transportation in accordance with City-adopted plans; and
  - f. **Historic Preservation**—Reuse historic structures or fund the long-term preservation of historic resources.

4. **Council Policy**—Create a Council Policy on the Gatekeeper Process to document procedures that are not otherwise codified, including the application criteria and community design principles; schedule a review of the updates to the Gatekeeper process two years after implementation. (*Straw Vote: 6-1*)
5. **Gatekeepers Exempt from Council Authorization Hearing**—Of the three existing legislative amendments exempt from a Council Authorization Hearing (discussed later in this report), Council supported retaining, but revising, the exemption regarding affordable housing projects only and removing the two other exemptions regarding split-zoned parcels and industrial-to-residential rezonings. (*Straw Vote: 7-0*)
6. **Community Design Principles**—Community design principles provide guidance to applicants on design principles that are important to Mountain View and should be including in the project design and described in the project letters provided by applicants in their Gatekeeper applications. The design principles, outlined in Attachment 1, relate to trees and biodiversity, historic preservation, active transportation, and sustainable design. (*Straw Vote: 7-0*)
7. **Council Study Session**—Require that all Gatekeeper applications, including projects exempt from a Council Authorization hearing, be the subject of a Council Study Session. (*Straw Vote: 7-0*)
8. **Direction on 2024 Gatekeeper Applications**—Did not support utilizing the existing Gatekeeper process for 2024 Gatekeeper applications; staff to require 2024 applications to be under new revised process. (*Straw Vote: 4-3*)

## 2024 Council Meetings

On [January 23, 2024](#), based on Council direction at the December 12, 2023 meeting, staff returned to Council for further direction on accepting 2024 Gatekeeper applications. Council directed staff to proceed with 2024 applications and a Council Authorization hearing utilizing the existing Gatekeeper Process, in lieu of the revised process directed by Council on December 5, 2023. Additionally, staff was directed to pause any additional work on updates to the Gatekeeper Process until 2025. **This item before the Council Policy and Procedures Committee (CPPC) is to obtain a recommendation for City Council consideration to conclude the Gatekeeper Process update with revisions based on December 2023 direction and any further CPPC feedback.**

## 2024 Gatekeeper Applications

In accordance with the Housing Element timeline for Program 1.3 and direction from the Council, City staff began accepting all residential and nonresidential Gatekeeper applications from March 1 through June 28, 2024. The City received two applications. A Council Authorization

Hearing was held on [September 10, 2024](#), whereby Council authorized two projects in the following manner:

- For **62 West El Camino Real**, a commercial-only project, to proceed with an application to be submitted no sooner than July 1, 2025 to amend the P(38) El Camino Real Precise Plan to allow a proposed five-story, 107,040 square foot personal storage facility on 1.56 acres; and
- For **2400-2470 East Charleston Road** to proceed with an application no sooner than January 31, 2025, to amend the General Plan and Zoning Map to allow a proposed mixed-use residential and commercial development of approximately 450 multi-family units (350 rental units and 100 ownership condominium units), approximately 450,000 square feet of commercial office/research and development (R&D), approximately 30,000 square feet of retail, approximately 305,000 square feet of structured aboveground parking, and associated landscaping, on-site improvements, and off-site improvements to Charleston Road on 10.32 acres.

These projects have up to one year to submit their application, following any deferral date. As of the date of this report, no applications have been received.

### **NEW COUNCIL POLICY**

To implement updates to the Gatekeeper Process, a new City Council policy for the Gatekeeper Process must be adopted by Council, as well as Zoning Ordinance amendments to codify the changes. A draft policy for CPPC consideration is included as Attachment 1. The draft policy includes a number of administrative provisions to provide clarity to applicants related to filing and timing of Gatekeeper applications, including, but not limited to, the following:

- Defining terms. The draft policy clarifies various key terms applicable to the Gatekeeper Process, including the term “Streamlined Gatekeeper Application” which is the term used to describe those applications subject to an applicable exemption from the City Council Authorization Hearing process. Previously, these have been referred to as “Gatekeeper exempt” projects, which staff believes is misleading given these projects are still subject to all other requirements of the Gatekeeper Process.
- Timing of Accepting Applications. The draft policy would establish a requirement to submit a Gatekeeper application at least 90 days prior to a scheduled City Council Authorization Hearing in order to be considered at that hearing. This is necessary to provide sufficient time for staff to analyze the applications in accordance with applicable City Council policy related to Gatekeeper applications and to prepare the necessary report for the Council Authorization Hearing.

- Application Criteria and Community Design Principles. The draft policy outlines application criteria and community design principles that are **suggested but not required** for filing of a Gatekeeper application based on prior City Council direction. The policy indicates that Council retains full discretion to approve any legislative amendment it finds in the public interest, while articulating criteria and principles that will in general result in a Gatekeeper application being reviewed more favorably.
- Frequency and Scheduling of Hearings. The draft policy provides for at least one Gatekeeper authorization hearing per calendar year and further provides that the City Manager or designee may determine that scheduling more than one authorization hearing is appropriate such as to consider large and small projects, or residential and commercial projects, separately.
- Content of Staff Reports. The draft policy would establish a uniform set of information contained in staff reports prepared for Gatekeeper authorization hearings.
- Council Actions. The draft policy describes the range of actions Council may take on an application at a Gatekeeper authorization hearing. It also establishes a two-year waiting period for submission of a substantially similar application following action by Council not to authorize processing of a Gatekeeper application.
- Study Sessions. The draft policy would require Gatekeeper applications authorized for processing to undergo at least one Study Session at the EPC and City Council.

A key component of required zoning ordinance amendments to update the Gatekeeper Process relates to exemptions from the Gatekeeper authorization requirement. Table 1, below, reflects revisions to the existing exemptions from a Gatekeeper authorization hearing, Council's 2023 direction on each exemption, and staff's proposed revisions to the exemptions based on Council's prior direction and Housing Element obligations.

**Table 1: Potential Revisions to Gatekeeper Exemptions**

Existing Exemptions	2023 Council Direction	Staff's Proposed Revisions
<p><b><u>Split-Zoned Parcels:</u></b></p> <p>Project sites within more than one (1) zoning district, under two (2) acres in total size, and owned by a single entity if the change is consistent with one (1) of the site's existing zoning designations or land use types.</p>	REMOVE	<p>REMOVE IN PART AND REVISE IN PART.</p> <p>Council directed removal of the split-zone exemption from a Gatekeeper authorization hearing. Staff recommends removing the split-zone exemption for projects that do not include residential development and when none of the applicable zoning classifications are residential zoning classifications.</p> <p>Staff recommends retaining a split-zone exemption for situations when any of the applicable zoning classifications are residential zoning classifications, subject to the other criteria currently in the exemption (ownership by a single entity and under two acres in total size), and subject to the following new criteria:</p> <ul style="list-style-type: none"> <li>— Clarifying that the exemption would apply to a split designation under either the General Plan land use designation or zoning classification.</li> <li>— Requiring that one of the General Plan or zoning designations on the site currently allows residential development.</li> </ul>

Existing Exemptions	2023 Council Direction	Staff's Proposed Revisions
		<ul style="list-style-type: none"><li>— Requiring that the application proposes to rezone the site to allow residential use at density of 30 units per acre or greater (the default density assumed appropriate for affordable housing development under state law).</li><li>— Requiring that all General Plan or zoning designations currently applicable to the parcel allow residential use at more than 12 units per acre (to avoid intensive residential development on sites not previously identified for higher-density residential use).</li></ul> <p>Staff's assessment is that retaining the split-zone exemption for projects involving a residential General Plan land use designation or zoning classification and requiring at least 30 units per acre would be consistent with the City's obligations under Housing Element Program 1.3.f and would aid in resolving uncertainty about residential development potential on sites with split-zoning including a residential zoning classification.</p>



Existing Exemptions	2023 Council Direction	Staff's Proposed Revisions
<p><b><u>Industrial to Residential Conversion:</u></b></p> <p>Project sites under two (2) acres in total size, abutting an existing residential zoned property, and proposed for conversion from an industrial to a residential zoning designation.</p>	REMOVE	<p>REVISE</p> <p>Council directed removal of the industrial to residential conversion exemption from a Gatekeeper authorization hearing. Staff recommends revising the exemption rather than removing it.</p>
		<p>Staff recommends retaining the industrial to residential conversion exemption with the existing criteria, except that staff recommends adding the following criteria:</p> <ul style="list-style-type: none"> <li>— Requiring that the application proposes to rezone the site to a density of 30 units per acre or greater (the default density assumed appropriate for affordable housing development under state law).</li> <li>— Requiring that all abutting residential General Plan or zoning designations used to qualify for this exemption allow residential use at more than 12 units per acre (to avoid intensifying next to lower-density residential areas).</li> </ul>
		<p>Staff's assessment is that revising the exemption as indicated to require a 30 units per acre zoning classification would be consistent with the City's obligations under Housing Element Program 1.3. because 30 units per acre is the default density assumed appropriate for affordable housing development under state law.</p>

Existing Exemptions	2023 Council Direction	Staff's Proposed Revisions
<p><b><u>Affordable Housing:</u></b></p> <p>Projects require authorization by the Notice of Funding Availability (NOFA) Committee.</p>	KEEP, BUT REVISE	A housing development project where all units, excluding any manager unit(s), will be affordable to households earning less than the median income by household size for Santa Clara County (i.e., 100% affordable projects).

The above exemptions would be included in the zoning amendments later adopted by the City Council. Zoning amendments would be necessary in the following areas of the City Code: Sections 36.52.15 and 36.52.20 applicable to General Plan amendments; Sections 36.52.50, 36.52.55, and 36.52.60 pertaining to zoning amendments; and, Sections 36.50.80, 36.50.90, and 36.50.92 applicable to Precise Plans. Staff will draft the ordinance language for Council consideration following direction from the full Council on the revised Gatekeeper policy after CPPC's recommendation. The Ordinance will require a public hearing at the Environmental Planning Commission prior to City Council adoption.

## **CONCLUSION**

Completing an update to the Gatekeeper Process has been a priority for City Council for several years. The Gatekeeper Process currently provides an important mechanism to manage staff resources associated with processing developer-initiated legislative amendments while shaping the kinds of applications the City desires to receive. Updating the Gatekeeper Process requires a balancing of many factors which makes an update to the process challenging.

Staff has prepared a draft policy for CPPC consideration that attempts to balance prior Council direction with the City's Housing Element obligations. Staff has also strived to provide clearer criteria about how applicants can design high-quality developments that meet the community's needs as part of the Gatekeeper Process. Feedback from CPPC is essential to refine the draft policy prepared by staff in order to carry it forward for consideration and approval by the full Council. Staff will conduct additional community outreach on the Gatekeeper Process update once the CPPC has made its recommendation and prior to City Council consideration of policy adoption.

Completion of an update to the Gatekeeper Process before the Council's summer recess is necessary **in order to hold a Gatekeeper application process in Calendar Year 2025 under the new policy**. Otherwise, the 2025 application process will be conducted under the existing Gatekeeper Process that the City utilized in Calendar Year 2024.

## **RECOMMENDATION**

Approve a recommendation to the City Council on a new Council Policy for the review and authorization of private development applications with legislative amendments to City regulations, referred to as the Gatekeeper Process (Attachment 1). The recommendation made by the CPPC will be taken to Council for consideration at the next meeting practicable.

## **ALTERNATIVES**

1. The CPPC may recommend to the City Council modifications to the draft policy prepared by staff.
2. The CPPC may recommend to the City Council that modifications to the Gatekeeper Process should not be made at this time.

CM/4/CDD

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Attachment: 1. Draft Council Policy