



## SPECIAL MEETING AGENDA – AMENDED

**Date:** 6/16/2020

**Time:** 4:00 p.m.

**Closed Session:** Teleconference

**Special Meeting Location:** Joinwebinar.com – ID# 987-314-579

This amended agenda includes item J0.

### NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

On March 19, 2020, the Governor ordered a statewide stay-at-home order calling on all individuals living in the State of California to stay at home or at their place of residence to slow the spread of the COVID-19 virus. Additionally, the Governor has temporarily suspended certain requirements of the Brown Act. For the duration of the shelter in place order, the following public meeting protocols will apply.

Teleconference meeting: All members of the City Council, city staff, applicants, and members of the public will be participating by teleconference. To promote social distancing while allowing essential governmental functions to continue, the Governor has temporarily waived portions of the open meetings act and rules pertaining to teleconference meetings. This meeting is conducted in compliance with the Governor Executive Order N-25-20 issued March 12, 2020, and supplemental Executive Order N-29-20 issued March 17, 2020.

- How to participate in the meeting
  - Submit a written comment online: [menlopark.org/publiccommentJune16](https://menlopark.org/publiccommentJune16)\*
  - Record a comment or request a call-back when an agenda topic is under consideration: Dial 650-474-5071\*
  - Access the special meeting real-time online at: [joinwebinar.com](https://joinwebinar.com) – Special Meeting ID 987-314-579  
\*Written and recorded public comments and call-back requests are accepted up to 1 hour before the meeting start time. Written and recorded messages are provided to the City Council at the appropriate time in their meeting. Recorded messages may be transcribed using a voice-to-text tool.
- Watch special meeting:
  - Cable television subscriber in Menlo Park, East Palo Alto, Atherton, and Palo Alto: Channel 26
  - Online: [menlopark.org/streaming](https://menlopark.org/streaming)

Note: City Council closed sessions are not broadcast online or on television and public participation is limited to the beginning of closed session.

Subject to Change: Given the current public health emergency and the rapidly evolving federal, state, county and local orders, the format of this meeting may be altered or the meeting may be canceled. You may check on the status of the meeting by visiting the City's website [www.menlopark.org](https://www.menlopark.org). The instructions for logging on to the webinar and/or the access code is subject to change. If you have difficulty accessing

the webinar, please check the latest online edition of the posted agenda for updated information ([menlopark.org/agenda](http://menlopark.org/agenda)).

According to City Council policy, all regular meetings of the City Council are to end by midnight unless there is a super majority vote taken by 11:00 p.m. to extend the meeting and identify the items to be considered after 11:00 p.m.

### **Closed Session (Teleconference)**

#### **A. Call To Order**

#### **B. Roll Call**

#### **C. Closed Session**

Public Comment on these items will be taken before adjourning to Closed Session.

- C1. Conference with Legal Counsel – Anticipated Litigation: Significant exposure to litigation pursuant to § 54956.9(b)  
Number of cases – 1

### **Special Session ([Joinwebinar.com](http://Joinwebinar.com) – ID# 987-314-579)**

#### **D. Call To Order**

#### **E. Roll Call**

#### **F. Report from Closed Session**

#### **G. Presentations and Proclamations**

- G1. Proclamation: Juneteenth Day ([Attachment](#))
- G2. Proclamation: Proclamation: Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) Month June 2020 ([Attachment](#))
- G3. Presentation: Climate change impacts to Menlo Park

#### **H. Study Session**

- H1. Exploration of the establishment of a business reactivation task force as a result of COVID-19 ([Staff Report #20-125-CC](#))

#### **I. Consent Calendar**

- I1. Adopt Resolution No. 6563 supporting black lives matter movement ([Attachment](#)) ([Updated Black lives matter resolution proposed by Mayor Taylor and City Councilmember Nash Attachment](#))  
[Web form public comment on item I1.](#)

- I2. Authorize city manager to grant an extension of time to Junior League of Palo Alto – Mid Peninsula, Inc. to exercise a 5-year lease extension to allow time to negotiate a new lease for the Gatehouse ([Staff Report #20-126-CC](#))

**J. Regular Business**

- J0. Report from police chief on recent demonstrations
- J1. Introduction and first reading of Ordinance No. 1065 to regulate the placement and appearance of newsracks within Menlo Park ([Staff Report #20-127-CC](#))
- J2. Consider and provide direction on a Downtown street closure pilot program ([Staff Report #20-128-CC](#))

[Web form public comment on item J2.](#)

- J3. Review proposed changes to the Transportation Impact Analysis Guidelines and provide feedback on the vehicle miles travel methodology and thresholds ([Staff Report #20-120-CC](#))
- J4. Authorize the city manager to execute master agreements with consulting firms for on-call architectural, landscape architectural, civil engineering, construction inspection, municipal engineering, and materials testing services ([Staff Report #20-116-CC](#))

**K. City Manager's Report**

**L. City Councilmember Reports**

**M. Adjournment**

At every regular meeting of the City Council, in addition to the public comment period where the public shall have the right to address the City Council on any matters of public interest not listed on the agenda, members of the public have the right to directly address the Council on any item listed on the agenda at a time designated by the chair, either before or during the City Council's consideration of the item.

At every special meeting of the City Council, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the chair, either before or during consideration of the item. For appeal hearings, appellant and applicant shall each have 10 minutes for presentations.

If you challenge any of the items listed on this agenda in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Menlo Park at, or prior to, the public hearing.

Any writing that is distributed to a majority of the City Council by any person in connection with an agenda item is a public record (subject to any exemption under the Public Records Act) and is available by request by emailing the city clerk at [jaherren@menlopark.org](mailto:jaherren@menlopark.org). Persons with disabilities, who require auxiliary aids or services in attending or participating in City Council meetings, may call the City Clerk's Office at 650-330-6620.

Agendas are posted in accordance with Government Code Section 54954.2(a) or Section 54956. Members of the public can view electronic agendas and staff reports by accessing the City website at [menlopark.org/agenda](http://menlopark.org/agenda) and can receive email notification of agenda and staff report postings by subscribing to the "Notify Me" service at [menlopark.org/notifyme](http://menlopark.org/notifyme). Agendas and staff reports may also be obtained by contacting City Clerk at 650-330-6620. (Posted: 6/15/2020)

## Juneteenth Day June 19, 2020

**WHEREAS**, Juneteenth is the oldest known celebration commemorating the ending of slavery in the United States; and

**WHEREAS**, President Abraham Lincoln signed the Emancipation proclamation on January 1, 1863, declaring the slaves in confederate territory free, paving the way for the passing of the thirteenth amendment which formally abolished slavery in the United States of America; and

**WHEREAS**, word about the signing of the Emancipation proclamation was delayed some two and one half years to June 19, 1865, in reaching authorities and Black-Americans in the South and Southwestern United States; and

**WHEREAS**, Emancipation Day observations are held on different days in different states in the South and Southwest, and in other parts of the nation; and

**WHEREAS**, June 19 has a special meaning in American history, and is called Juneteenth combining the words June and nineteenth, and has been celebrated by the Black Community for over 150 years.

**NOW THEREFORE, BE IT PROCLAIMED** that I, Cecilia Taylor, Mayor of the City of Menlo Park, do hereby proclaim June 16, 2020 as the Week of the Juneteenth Day in Menlo Park, California, and urge all citizens to become more aware of the significance of this celebration in Black History and in the heritage of our nation designate the raising of the Juneteenth flag during this time.

DocuSigned by:

*Cecilia Taylor*

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Cecilia Taylor, Mayor  
June 16, 2020

# LESBIAN, GAY, BISEXUAL, TRANSGENDER AND QUEER (LGBTQ) MONTH JUNE 2020

**WHEREAS**, Menlo Park joins the County of San Mateo to observe Pride Month with a Pride flag raising ceremony to honor the history of the LGBTQ liberation movement and to support the rights of all citizens to experience equality and freedom from discrimination; and

**WHEREAS**, The rainbow flag is widely recognized as a symbol of pride, inclusion, and support for social movements that advocate for LGBTQ people in society; and

**WHEREAS**, All human beings are born free and equal in dignity and rights. LGBTQ individuals have had immeasurable impact to the cultural, civic and economic successes of our country; and

**WHEREAS**, Menlo Park is committed to supporting visibility, dignity and equality for LGBTQ people in our diverse community; and

**WHEREAS**, While society at large increasingly supports LGBTQ equality, it is essential to acknowledge that the need for education and awareness remains vital to end discrimination and prejudice; and

**WHEREAS**, This nation was founded on the principle that every individual has infinite dignity and worth, and the Menlo Park City Council calls upon the people of this municipality to embrace this principle and work to eliminate prejudice everywhere it exists; and

**WHEREAS**, Celebrating Pride Month influences awareness and provides support and advocacy for San Mateo County's LGBTQ community, and is an opportunity to take action and engage in dialogue to strengthen alliances, build acceptance and advance equal rights.

**NOW, THEREFORE, BE IT PROCLAIMED** that I, Cecilia Taylor, Mayor of the City of Menlo Park, do hereby recognize the month of June 2020 as Pride Month in support of the LGBTQ community and recognize all LGBTQ residents whose influential and lasting contributions to our neighborhoods make the City of Menlo Park a vibrant community in which to live, work and visit.

DocuSigned by:  
  
4A373F6C54BE48A...  
Cecilia Taylor, Mayor  
May 2020



**STAFF REPORT**

**City Council**

**Meeting Date:**

**6/16/2020**

**Staff Report Number:**

**20-125-CC**

**Study Session:**

**Exploration of the establishment of a business reactivation task force as a result of COVID-19**

**Recommendation**

Staff recommends that the City Council conduct a study session with the Menlo Park Chamber of Commerce Board to explore establishing a business reactivation task force with the goal of aiding and guiding local business recovery efforts.

**Policy Issues**

COVID-19 has had a dire impact on the global and local economy. While local, County, State and Federal governments continue to address the health crisis, the same entities are also evaluating how to safely reopen and revitalize business activity. Staff anticipates that as businesses begin to reopen, the focus on business assistance would pivot from stabilization to stimulus. Businesses will no longer be seeking immediate financial assistance that will keep them open for a couple of months. Instead, their focus will be on policy actions that will allow them to become economically viable in the post-COVID-19 business environment which may last for an indefinite amount of time.

**Background**

The City along with Federal, State, and County officials have taken numerous steps to stabilize the financial situation of businesses in Menlo Park. Financial distress has resulted from a steep drop in demand for many goods and services as well as the inability to operate under the successive stay-at-home orders that have been in place in San Mateo County since March 16.

This stabilizing assistance has typically taken the form of immediate financial assistance. The federal government dedicated over \$650 billion in the form of forgivable loans to small businesses through the Paycheck Protection Program. San Mateo County established the San Mateo County Strong fund with \$1 million in seed money that offered grants to small businesses throughout the county. The City Council supplemented that fund with \$70,000 for small businesses in the City. Private entities in the Bay Area such as Facebook and Salesforce have also established their own small business grant programs that have helped achieve the goal of short-term economic stability.

Furthermore, the City along with nearby jurisdictions have taken temporary actions outside of financial assistance to stabilize businesses. The City Council adopted a temporary moratorium on small business evictions for nonpayment of rent April 14 and extended it May 28, with an expiration June 30. Staff and the Chamber of Commerce have also undertaken outreach efforts to local businesses in order to educate on assistance resources and the dynamic protocols for essential business operations.

## **Analysis**

On May 29, the City received a letter (Attachment A) from the Menlo Park Chamber of Commerce Rethinking Committee requesting a joint study session be conducted with the City Council on the creation of a business reactivation task force and the closure of Santa Cruz Avenue. The potential closure of Santa Cruz Avenue will be discussed in a separate item on the City Council's June 16 agenda.

The Chamber proposal includes discussion and suggestions for crucial factors of the task force including mission, membership and timeline. Staff generally concurs with the Chamber's recommendations to focus on economic revitalization, and the City Council and Chamber of Commerce should discuss as part of their study session the purpose and goal of creating such a task force. If the City Council and Chamber of Commerce support establishing a task force, they should discuss and provide guidance to staff on the following topics.

### Mission

Clearly outlined and narrowly-defined goals will help focus the task force while allowing governing bodies to assess when the task force has achieved its purpose and may be disbanded. Short-term goals such as the closure of Santa Cruz Avenue for outdoor dining may be more readily apparent, but the City Council and Chamber of Commerce may also want to consider long-term goals in the event that economic and business recovery stretches out over the next few years. The City's economic development plan (Attachment B) may help inform future discussions.

### Membership composition

The membership of the task force will be crucial to its ability to successfully understand and navigate some of the competing dynamics in business reactivation strategies. Staff recommends that the task force obtain broad representation in three categories: geography, business sector and size. The City Council has previously formed task forces and subcommittees on specialized topics to provide the community with focused opportunities to offer input on a policy question of significance. This task force is not intended to be Brown Act body and would include city councilmembers as ex officio members.

### Timeline

Clear timelines for formation and convening of the task force are very important if the task force is to be able to weigh in on upcoming business reactivation strategies.

## **Impact on City Resources**

The impact on City resources will depend on what level of involvement the City Council directs staff to take in the formation and operation of the task force.

## **Environmental Review**

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

### **Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

### **Attachments**

- A. Menlo Park Chamber of Commerce letter
- B. Hyperlink – Menlo Park economic development plan: [menlopark.org/DocumentCenter/View/11977/Final-Menlo-Park-Economic-Development-Plan](https://menlopark.org/DocumentCenter/View/11977/Final-Menlo-Park-Economic-Development-Plan)

Report prepared by:  
John Passmann, Management Analyst II

Report reviewed by:  
Deanna Chow, Interim Community Development Director



**To: City Manager, Starla Jerome Robinson**  
**From: Chamber of Commerce Rethinking Committee**  
**Subject: Council/Chamber Study Session**  
**Date: May 29, 2020**

The impacts of the COVID-19 pandemic have been devastating to our communities with loss of life, loss of mobility and loss of economic commerce. Our local business community (retail, service, entertainment, hotel, etc.) has been devastated by the prolonged closures and limited ability to conduct their business. The City is experiencing significant loss of revenues due to these closures requiring major adjustments to the budget and service levels.

The quick reaction of the state, county and city to implement shelter in place along with closing of non-essential businesses has produced positive results. Recently the State and County have begun to allow businesses to reopen in a controlled manner that limits the ability for these businesses to be fully operational. To counter this impact, the city has considered closing the main street of downtown (Santa Cruz) to provide expanded space for businesses to operate outdoors. There are pros and cons to this closure concept that need to be carefully evaluated before action taking place. With that said the Chamber of Commerce is proposing that a local Task Force be formed to assist and support the reopening of businesses in downtown and other locations within the city limits.

Mayor Cecilia Taylor has suggested that a joint study session be conducted in order to address these critical issues to ensure that a reopening plan is in place to assist with the transition. The Chamber of Commerce *Rethinking Committee* in preparation of a joint study session provides the following information in advance as a foundation for discussion and action.

There are two specific issues for the study session agenda that include:

1. Closure of Santa Cruz and other side streets in downtown area.
2. Establishment of a Task Force to support the reopening of the business sector city-wide.

#### **Closure of Santa Cruz Avenue and other side streets**

- The Chamber of Commerce would assist with the evaluation of a closure to ensure the voices of businesses are heard in coordination of a task force if established
- Options for closure would be evaluated by a Task Force (if established) to include but not limited to:
  - No closure
  - Phasing of closure (i.e. weekends or evenings only)
  - Closure of side streets
  - Full v. partial closure
  - Sunset timeline for a closure
  - Approval process
- To ensure that closures if implemented are planned in a manner that makes every attempt to provide maximum medical safety for the public while minimizing exposure to the virus for each business
- Assist the City in determining the best street closure pattern that provides public safety access

- Most importantly that communication is clear and open between businesses and the city.

### **Establishment of a Task Force to support the reopening of the business sector**

*Tag Line:* Reimagine, Reopen, Reignite

*Mission:*

Ensure that clear guidelines for reopening businesses are developed with maximum safety measures, metrics for success along with a rebuilding model for business success going forward. To lead the City's effort to rethink the City's Economic Development plan, to reopen the City for business, and reignite local private and public sources of revenue.

To accomplish this Mission, the following is offered:

- The make-up of the task force would take into consideration a cross section of the business sector, public safety/health and city representation.
- The establishment of clear guidelines for reopening would ensure State and County Health orders are carefully considered.
- The task force would work closely with the City Council downtown sub-committee (Mueller/Nash) and City Manager's office.
- Open communication with businesses, public and city is imperative for success.
- Clear metrics for success would need to be established and communicated to all concerned. Metrics could include, but not limited to:
  - The documentation of a clear reopening guidelines.
  - A clear line of communication is established between the city and business community
  - Businesses within the Santa Cruz Avenue downtown area where streets are being closed that are interested in utilizing the added space are documented
  - Businesses outside the downtown area (Sharon Heights/Belle Haven, etc.) are heard and receive a written (hard copy or digital) copy of the reopening guidelines
- Police, Fire and Public Works sign off on street closures and enforcement guidelines and ensure they are documented and approved
- To ensure long-term sustainable success for the reopening of the business community the establishment of a rebuilding model going forward would be completed.

### **What Success Looks Like**

- Street closures are implemented in a manner that maximizes public safety while minimizing business exposure to the virus.
  - These steps become the catalyst to bring customers to the downtown area reigniting retail services
  - Restaurants generate a minimum of 50% of pre COVID-19 dining-in revenues.
- Guidelines for reopening are provided to all businesses via hard copy or digital means
- A rebuilding model going forward (long term) is adopted

### **Task Force Make-Up (Proposed for consideration)**

- City in coordination with the Chamber of Commerce would take the lead.

- City would assign a specific staff member(s) familiar with economic development to the task force
- The Chamber of Commerce would provide its CEO as the key contact with the city
- The Chamber *Rethinking Committee* would provide direct support

The following business sectors and public interests should be considered for the make- up of the task force:

- Hotel/motel industry
- Office
- Housing
- Retail/Restaurants
- Services (banks, financial, etc.)
- Fire District/Police, Public Health
- Chamber of Commerce (small and large businesses)
- Businesses on both sides of the 101 freeway
- Non-profits

Suggested Ex Officio Task Force Members

Council Downtown Sub-committee:

Council Member Betsy Nash

Council Member Ray Mueller

At-Large - TBD

#### Timeline

Implementation of a timeline is imperative to success. The suggested timeline is proposed:

- Short-term - 1-3 months
- Intermediate-term - 6 months
- Long-term - 12-18 months

The Chamber of Commerce stands ready to move forward with a joint study session with the City Council with the goal to Reimagine, Reopen and Reignite our business community.

**RESOLUTION NO. 6563**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
PROCLAIMING BLACK LIVES MATTER**

Black Lives Matter. The City Council of the City of Menlo Park condemns the death of George Floyd, and the countless others who have come before him. We acknowledge your pain and we acknowledge the role we have played in creating the systemic injustices that have led to tragedies like this. The City Council is committed to listening and learning and will work collaboratively with our community to seek the change that we so desperately need.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the sixteenth day of June, 2020, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this sixteenth day of June, 2020.

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Judi A. Herren, City Clerk

Agenda item I1  
Clark Kepler, resident

applaud the adoption of the Juneteenth Day on today's agenda.

I ask that the council also adopt a resolution in support of Black Lives Matter, as has the Palo Alto council.

Additionally, I and a growing number of Menlo Park residents want to do our part in addressing the inequalities in our society: to support and give voice to those individuals, people of color, who experience systemic racism daily and all of their life. We propose a community mural and public rally. We ask for:

This Council's support to allow and enable us to provide local artists and muralists a place to create a large BLM mural (logistical details are available) to be displayed in both public and private locations.

This Council's support to provide a public space to hold a peaceful and public rally. We welcome council members' personal and official participation.

As we are gaining the interest of several state representatives, I ask that the city manager work with their offices to help make this project a success for Menlo Park and its residents.

Of course, all while practicing prescribed social distancing protocols.

Thank you.

**RESOLUTION NO. 6563****RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
PROCLAIMING BLACK LIVES MATTER**

Black Lives Matter.

The City Council of the City of Menlo Park condemns the death of George Floyd and the countless others that have died before him. We acknowledge the pain, and the racism and systemic injustices that have led to historic tragedies.

Whereas, it is the responsibility of government to serve and protect residents and uphold civil rights; City officials must work to ensure that the rights of all people are upheld and respected.

Whereas, statements are important, but actions are critical. How we move forward will prove the sincerity of our respect and love for others. Recent events present this opportunity for growth, by appreciating and embracing those in the Black community and all our communities of color.

Whereas, the City Council is committed to listening, learning, and collaborating with our community to seek the change that we desperately need; we must identify clear actions going forward.

NOW THEREFORE BE IT RESOLVED, that the City of Menlo Park, acting by and through its City Council, having considered and been fully advised in the matter and good cause appearing therefore do resolve to:

1. Reform policing in Menlo Park so everyone can live their lives without fear.
2. Reform our land use policies to reflect one united city.
3. Prioritize climate action and empower the City's environmental leadership, recognizing that our most vulnerable residents are the most affected by this global issue.
4. Ensure that City services support all our residents, and everyone feels welcome.
5. Revise City policies and practices to promote inclusion and equity.

AND FURTHER RESOLVE that as elected officials, we ran for office to make a difference in our community. Now our community looks to us for leadership. We must have honest community discussions, even when they are difficult, and make concrete and timely progress to advance justice and inclusiveness in our City.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the sixteenth day of June, 2020, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this sixteenth day of June, 2020.

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Judi A. Herren, City Clerk



## STAFF REPORT

**City Council**  
**Meeting Date:** 6/16/2020  
**Staff Report Number:** 20-126-CC

**Consent Calendar:** **Authorize city manager to grant an extension of time to Junior League of Palo Alto – Mid Peninsula, Inc. to exercise a 5-year lease extension to allow time to negotiate a new lease for the Gatehouse**

### Recommendation

City staff recommends the City Council authorize the city manager to grant an extension to September 30 to the Junior League of Palo Alto-Mind Peninsula, Inc. (Lessee) to exercise a five-year lease extension of the Gatehouse Lease entered into February 1, 1996 between the City of Menlo Park and Lessee to allow time to negotiate a new lease.

### Policy Issues

The City has a longstanding policy of leasing under-utilized facilities to nonprofits and other agencies that serve the community. Rental amounts and lease terms are policy decisions for the City Council.

### Background

On February 1, 1996, the City of Menlo Park and the Junior League of Palo Alto – Mid Peninsula, Inc. entered into a lease for the use of the premises commonly known as the Latham-Hopkins Gatehouse, located at 555 Ravenswood Avenue, Menlo Park, California. The initial term was for a period of 20 years (1996-2016.) The Lease provided Lessee two options to renew for additional five-year terms upon the same terms and provisions. The option to renew is exercised by Lessee giving written notice of exercise to the Lessor not less than six and not more than 12 months before the expiration of the term. On October 7, 2016, the Lessee exercised the first option to extend for five years (2016-2021.) Lessee must exercise the second five-year lease extension on or before June 30.

Pursuant to the Lease, Lessee agreed to pay the City five hundred fifty dollars (\$550.00) per month for the rental of the premises. Commencing February 2002, and every two years thereafter, the rent increased by the consumer price index. The current monthly rental amount is \$900.70. The Lessee uses the premises for office and meeting uses in connection with its nonprofit charitable activities and for no other use without the City's prior written approval. Lessee is responsible for repair, maintenance and janitorial service for the premises. The Gatehouse is an historic resource and Lessee has been responsible for ensuring the resource remains in good repair. A copy of the Lease is attached hereto as Attachment A.

### Analysis

Before exercising the final five-year lease option, Lessee approached the City about entering into a longer-term lease arrangement in exchange for Lessee's commitment to install a new roof, upgrade the electric panel and repair the exterior fence in accordance with any applicable historic resource guidelines. As these



improvements were valued at approximately \$200,000, Lessee requested a longer-term lease extension. In addition, Lessee and the Chamber of Commerce have been discussing an arrangement that would allow the Chamber to relocate to the Gatehouse, with the additional rental payments flowing to the City. Lessee, the City and City staff would like additional time to talk through this proposal, including any applicable permitting issues. Accordingly, Lessee is requesting up to a 90-day extension to exercise the option to pursue a more comprehensive longer term lease agreement. This would provide longer term stability for both Lessee and the Chamber and could result in additional revenue and decreased capital expense for the City.

Following these staff-level negotiations, staff would come back to the City Council for final approval of any new lease terms.

### **Impact on City Resources**

Pursuant to the Lease, the City receives \$900.70 per month for rental of the premises. If Lessee does not extend the term of the Lease, the City will lose the rental income until such time as it finds a replacement lessee. However, if the City is successful in negotiating with the Lessee to have Lessee pay for the cost of a new roof in exchange for a longer-term rental agreement, there could be a positive impact on city resources both in terms of saving the City the capital outlay for the new roof and extending the period during which the City would receive rental income for Lessee's use of the premises. However, until negotiations are complete, it is impossible to say with certainty the impact on City resources.

### **Environmental Review**

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

### **Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

### **Attachments**

A. Gatehouse lease dated February 1, 1996

Report prepared by:  
Cara Silver, Interim City Attorney

LEASE

THIS LEASE is executed effective as of February 1, 1996, by and between the CITY OF MENLO PARK (hereinafter referred to as "Lessor"), and JUNIOR LEAGUE OF PALO ALTO - MID PENINSULA, INC., a California non-profit corporation (hereinafter referred to as "Lessee"), who agree as follows:

1. PREMISES. Lessor leases to Lessee the premises commonly known as the Latham-Hopkins Gatehouse, 555 Ravenswood Avenue, Menlo Park, California (the "Premises").

2. TERM. The term of this Lease shall be for a period of twenty (20) years, commencing February 1, 1996, and terminating January 31, 2016. Lessee shall have two (2) options to renew the term of this Lease for five (5) years each upon all of the same terms and provisions of this Lease including Rental. Such options to renew shall be exercised by giving written notice of exercise to Lessor not less than six (6) nor more than twelve (12) months prior to the expiration of the original Lease Term or extended Lease Term if the first option is exercised.

3. RENTAL.

a. Lessee agrees to pay to Lessor as rental for the Premises the sum of Five Hundred Fifty Dollars (\$550.00) per month in lawful money of the United States on or before the first day of each and every calendar month during the term hereof, free from all claims and demands against Lessor of any kind, nature, or description whatsoever; at such place or places as may be designated from time to time by Lessor. Notwithstanding the foregoing, Lessee shall not be obligated to commence payment of rent until the earlier of the completion of Lessee's renovation work as described in Subparagraph 6d or November 1, 1996.

b. Commencing February 1, 2002, and every two (2) years thereafter, the rent shall increase by the same percentage as the annual increase in the Consumer Price Index ("CPI") published by the U.S. Department of Labor for the San Francisco-Oakland Metropolitan Area All-Urban Consumers for the two (2) years immediately preceding the adjustment date. In no event shall the CPI utilized to calculate such rent increase exceed the greater of five percent (5%) per annum or ten percent (10%) for each such two (2) year period.

4. USE. Lessee shall use the Premises for office and meeting uses in connection with its non-profit charitable activities and for no other use without Lessor's prior written consent. Lessee shall obtain all necessary licenses and shall comply with all Local, State, and Federal regulations pertaining to the use of the Premises. In the event the Lessee should fail to use said Premises for the purposes herein provided, then said Lease shall terminate, without notice or other action, at the option of the Lessor herein.

5. ALTERATIONS. Lessee shall not make any additions, alterations, or changes to the Premises without the prior written consent of the Lessor first had and obtained. Lessor agrees not to unreasonably withhold its consent. Any additions or alterations to the Premises shall become a part of the realty and shall revert to Lessor.

Lessee shall not change any of the locks on the Premises without providing Lessor with a duplicate key.

6. MAINTENANCE, REPAIR, AND UTILITIES.

a. Except as otherwise provided in Sub-Paragraphs 6c and 6d and Paragraph 10, Lessee shall be responsible for all interior and exterior maintenance, repair, and janitorial services for the Premises. Lessee shall be responsible for all costs associated with the maintenance, repair, and janitorial services, including but not limited to supplies, contract services, alterations, repairs and other maintenance costs.

b. Lessee shall be responsible for all utility costs, including gas, electricity, sewer, water and telephone, and all maintenance, repair, installation and deposits for these services and special district charges except that Lessor shall be responsible for water service for landscape irrigation.

c. Lessor shall be responsible for maintenance and repair of the paving, landscaping, and parking areas.

d. Lessor hereby approves of Lessee's plans to repair and renovate the Premises as more particularly set forth in those certain plans prepared by Nancy Wyatt dated January 8, 1996, consisting of sheets A1-A12 & S1-S3. All such work shall be subject to obtaining a Use Permit from the Menlo Park Planning Commission for the exterior modifications and obtaining a building permit from the Menlo Park Building Official. Lessor shall contribute a total of One Hundred Thirty-Four Thousand Four Hundred Thirty-Eight Dollars (\$134,438.00) toward such renovation payable 25% upon issuance of a building permit, 25% when the work is fifty percent (50%) complete and the balance upon completion of the work and sign-off by the Menlo Park Building official.

e. Lessee shall use the Premises in a careful, safe, and proper manner. Lessee agrees to pay Lessor on demand for any damages to the Premises by misuse or abuse of the facility.

7. ASSIGNMENT AND SUBLETTING. Lessee may not assign this Lease nor sublet the Premises without Lessor's prior written consent, which consent shall not be unreasonably withheld provided any such Lessee is a non-profit, non-sectarian, charitable organization financially capable of assuming Lessee's obligation hereunder.

8. ABANDONMENT. Should Lessee abandon, be dispossessed, surrender or otherwise vacate the Premises, the Lessor, at Lessor's option, may immediately terminate this Lease and enter the Premises and remove all persons and property. Lessee shall not allow the Premises to be vacant for more than a thirty day period except during any major alteration of the Premises as may be approved by Lessor.

9. DEFAULT. In the event of a non-monetary default, Lessor shall give written notice thereof to Lessee. In the event that Lessee shall not have cured the default within ten (10) days of the notice, or if the default is of a monetary nature or of a nature which cannot reasonably be cured within ten (10) days and Lessee shall not have commenced to cure the default and be diligently pursuing such cure to completion, then Lessor, besides any other right or remedies that Lessor may have, shall have the right either to terminate this Lease, or from time to time, without terminating this Lease, relet the Premises for the account and in the name of Lessee or otherwise, for any such term or terms and conditions as Lessor in its sole discretion may deem

advisable. Lessee shall pay to Lessor, as soon as ascertained, the costs and expenses incurred by Lessor in such reletting. Rentals received by Lessor from such reletting shall be applied: First, to the payment of any indebtedness, other than rent, due hereunder from Lessee to Lessor; Second, to the payment of the cost of reletting the Premises, including but not limited to real estate commissions and the cost of any repairs to the Premises necessary to return the Premises to their original condition, normal wear and tear excepted; Third, to the payment of rent due and unpaid hereunder; and the residue, if any, shall be held by Lessor and applied in payment of future rent or damages in the event of termination as the same may become due and payable hereunder and the balance, if any, at the end of the term of this Lease shall be paid to Lessee. Should such rentals, received from time to time from such reletting during any month be less than that agreed to be paid during that month by Lessee hereunder, Lessee shall pay immediately such deficiency to Lessor. Such deficiency shall be calculated and paid monthly. No such reletting of the Premises by Lessor shall be construed as an election on its part to terminate this Lease unless a notice of such intention be given to Lessee or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Lessor may at any time thereafter elect to terminate this Lease for such previous breach provided it has not been cured.

Should Lessor at any time terminate this Lease for any breach, in addition to any other remedy it may have, it may recover from Lessee all damages it may incur by reason of such breach, including the cost of recovering the Premises, and including (a) all rent due and unpaid as of the date of such termination, plus interest on said sum at the rate of ten percent (10%) per annum; (b) amounts that would have fallen due as rent between the time of termination of this Lease and the time of the judgment, or other award, less the avails of all relettings and attachments, plus interest on the balance at ten percent (10%) per year; and (c) the worth at the time of the judgment or other award, of the amount by which the unpaid rent for the balance of the term exceeds the amount of such rental loss that Lessee proves could be reasonably avoided; and (d) any other amount necessary to compensate Lessor for all the detriment proximately caused by Lessee's failure to perform Lessee's obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.

10. DESTRUCTION: In the event the Premises are partially destroyed from any cause, Lessor shall repair the property--provided the cost of such repairs are fully covered by insurance and such repairs can be made within ninety (90) days. Such partial destruction shall not void this Lease.

If the repairs cannot be made within ninety (90) days, this Lease may be terminated at the option of either party. In the event the Premises suffer the destruction of more than 25 percent of the replacement cost or in the event insurance proceeds are not sufficient to cover the cost of repairs, Lessor may elect to terminate this Lease.

Lessor shall not be obligated to replace any of the Lessee's personal property which may be damaged or destroyed.

11. **INSURANCE AND INDEMNIFICATION.** Lessee, at its own expense, shall provide and keep in force public liability insurance for the benefit of Lessor and Lessee jointly against liability for bodily injury and property damage in an amount of not less than One Million Dollars (\$1,000,000.00) for injury to, or death of one person in any one accident or occurrence, and in an amount of not less than One Million Dollars (\$1,000,000.00) for injury to, or death of more than one person in any one accident or occurrence, and in the amount of not less than One Million Dollars (\$1,000,000.00) per occurrence in respect to damage to property, such limits to be for any greater amounts as may be reasonably indicated by circumstances from time to time existing. Lessor shall be named as an additional insured on Lessee's insurance policy.

Lessee, during the continuance of this Lease, covenants and agrees to indemnify and save harmless the Lessor, its agents and employees from each and every loss, cost, damage and expense arising out of any accident or other occurrence on the Premises causing injury to or death of persons or damage to property by reason of the condition of the Premises, or due to the use or neglect thereof by Lessee or any subtenant of Lessee if permitted. Lessee further agrees during the continuance of this Lease also to indemnify and hold harmless the Lessor from all damages and penalties arising out of any claims of Lessee's negligence or failure of the Lessee to comply with any of Lessee's obligations hereunder.

Lessee shall indemnify and hold Lessor harmless from and against any and all costs, attorneys' fees, expenses and liabilities incurred in or about any of the foregoing claims or any action or proceeding brought thereon. In case any action or proceeding be brought against the Lessor by reason of any such claim, Lessee upon notice from Lessor shall defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor. Lessee, as a material part of the consideration to Lessor, hereby assumes all risk of damages to property or injury to persons in or about the Premises from any cause whatsoever except that which is caused by the failure of the Lessor to observe any of the terms and conditions of this Lease. The obligations of Lessee under this section arising by reason of any occurrence taking place during the term of this Lease shall survive any termination of this Lease. Lessor shall indemnify, defend and hold Lessee harmless from and against any and all costs arising out of Lessor's negligence, willful misconduct or breach of this Lease.

Lessor, at its cost and expense, shall provide and keep in force fire and other casualty insurance in the same manner and under the same terms and conditions as other public buildings owned by Lessor are insured.

12. **QUIET POSSESSION.** Except as provided in Paragraph 13, Lessor shall not disturb Lessee's quiet enjoyment and possession of the Premises during the term of this Lease.

13. **LESSOR/PUBLIC USE.** Lessor and the public shall be entitled, at no cost, to the reasonable use and enjoyment of the grounds surrounding the Premises, which may include continuation and/or expanding its summer concert series on the grounds of the Latham-Hopkins Gatehouse property. Lessor, at no cost, shall be entitled to utilize

the public meeting areas of the Premises on a reservation basis for meetings, conferences, and/or receptions conducted by or for Lessor and its employees, when the use of such facilities have not been previously reserved for Lessee's Board meetings or other previously scheduled meetings, conferences, or receptions of Lessee. The public meeting areas of the Premises shall be made available by Lessee to the public upon request during non-League business hours on a reservation basis for a nominal fee. All fees and hours of availability shall be subject to the approval of the Menlo Park City Manager. The "public meeting areas" referred to herein shall include the historical living room, the living room and sun porch areas and the dining room (provided the dining room shall only be available during non-League working hours).

14. PARKING. Lessee shall have the use of 15 parking spaces as designated as "reserved for JLPA" on Exhibit "A" attached hereto and incorporated herein by this reference. So long as the Menlo Park Police Department is occupying the Police Services Building, Lessee shall not utilize the spaces designated as "reserved for Police" on Exhibit "A." Upon the relocation of the Police Department to the City Administration Building, Lessor may allow Lessee to use the spaces reserved for the Police Department or Lessor may reserve the use of such spaces for future tenants or occupants of the Police Services Building.

15. INSPECTION. Lessor may enter the Premises at all reasonable times to inspect, maintain and repair the property. Lessor shall attempt to provide twenty-four (24) hours notice to Lessee prior to such entry.

16. LIENS. Lessee shall keep the Premises free from any and all liens arising out of any work performed, materials furnished, or obligations incurred by or for Lessee; and Lessee agrees to defend Lessor at his sole cost and expense against any and all law suits arising from such lien upon receipt of notice of opportunity to defend from Lessor.

17. NOTICES. All notices between the parties shall be in writing and sent by U.S. Certified Mail - Return Receipt to: Lessor: CITY OF MENLO PARK, 701 Laurel Street, Menlo Park, California 94025, Attn: David Wheaton; Lessee: JUNIOR LEAGUE OF PALO ALTO - MID PENINSULA, INC., 555 Ravenswood Avenue, Menlo Park, California 94025, Attn: President.

18. WAIVER. The waiver by Lessor of a breach by Lessee of any agreement herein, shall not be deemed to be a waiver on a part of Lessor of any covenant of this Lease. Such waiver by Lessor shall not constitute a waiver of any future breach by Lessee of the same or other covenants of this Lease.

19. MISCELLANEOUS. This Lease shall be binding on the administrators, assigns, executors, heirs and successors of Lessor and Lessee.

Should either party bring an action for breach under any of the conditions and terms of this Lease, the losing party agrees to pay to the prevailing party all reasonable attorneys' fees and cost, as fixed by the court.

Section headings are for reference only and shall have no effect upon the interpretations of this Lease.

Time is of the essence of each provision of this Lease.

This Lease contains the entire agreement between the parties. No promise, representation, warranty, or covenant not included in this Lease has been or is relied on by either party. Each party has relied on its own examination of this Lease, the counsel of its own advisors, and the warranties, representations, and covenants in the Lease itself. The failure or refusal of either party to inspect the Premises or improvements, to read the Lease or other documents, or to obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on such reading, inspection, or advice.

The unenforceability, invalidity or illegality of any provision shall not render the other provisions unenforceable, invalid or illegal.

LESSOR

LESSEE

CITY OF MENLO PARK

JUNIOR LEAGUE OF PALO ALTO -  
MID PENINSULA, INC.

By:

*Juan S. C.*  
CITY MANAGER  
*J. M. Solan.*

By:

*Tracey Prim*  
VICE PRESIDENT, FINANCE  
*Tracey Prim*

GATEHOUSE EXISTING TOPOGRAPHY

CITY OF MESA, ARIZONA - ENGINEERING DEPARTMENT  
 CITY OF MESA ENGINEER  
 MESA, ARIZONA  
 DATE: 11/1/11  
 SHEET: 1

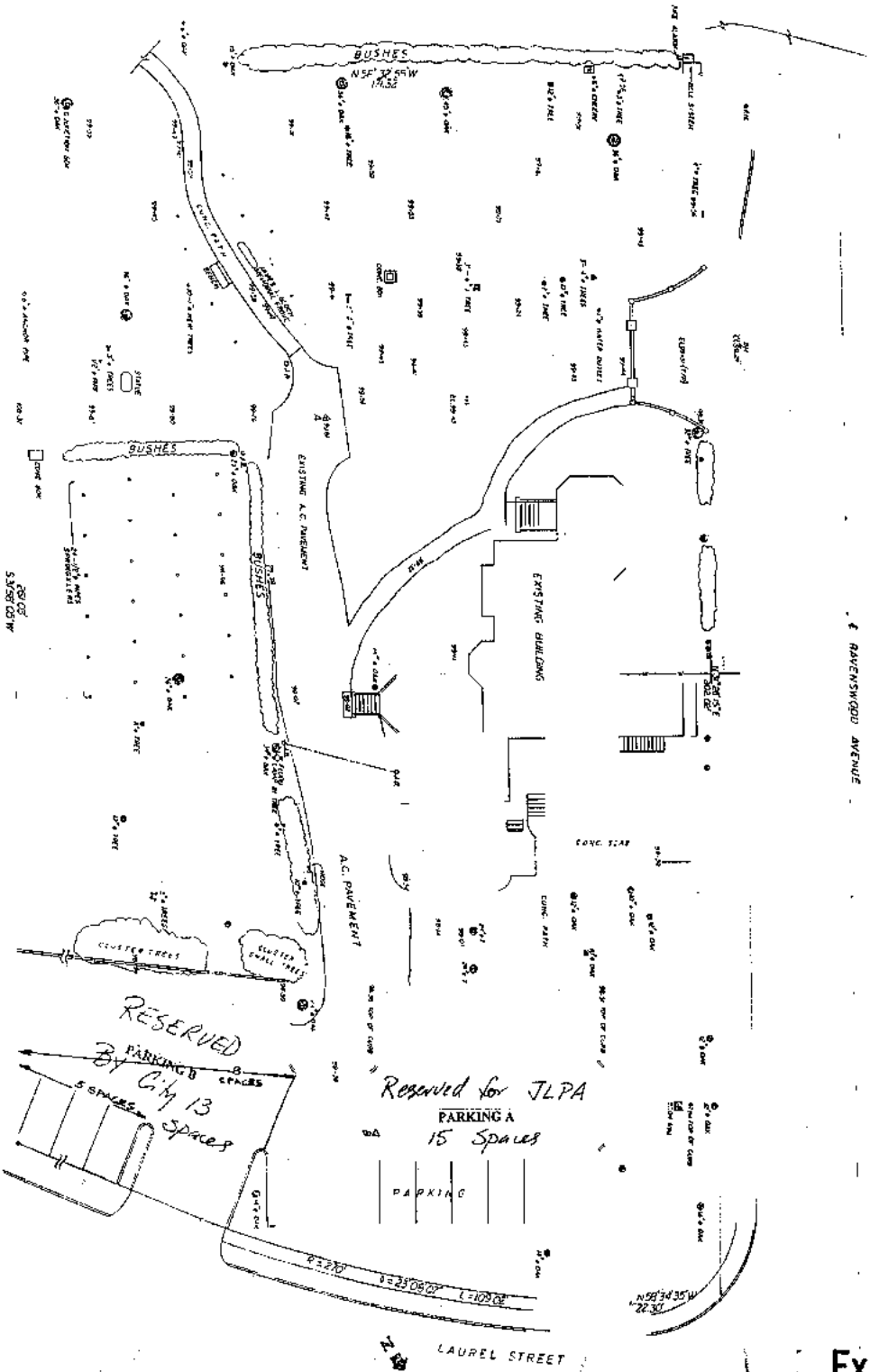


Exhibit "A"





OFFICE OF THE CITY ATTORNEY

1100 ALMA STREET / MENLO PARK, CA 94025 / 650.324.9300 / FAX 650.324.0227

October 7, 2015

Jan Hickman  
Junior League of Palo Alto - Mid Peninsula, Inc.  
555 Ravenswood Avenue  
Menlo Park, CA 94025-3422

Re: Latham-Hopkins Gatehouse, 555 Ravenswood Avenue, Menlo Park

Dear Ms. Hickman:

In accordance with our previous conversation, this will confirm that the City is in receipt of your letter dated March 25, 2015, exercising the League's first option to extend the term of the Lease for five (5) years. As the League's exercise of its first option was properly and timely submitted, the Lease is hereby extended and shall terminate on January 31, 2021.

Should you have any questions, please feel free to contact me.

Sincerely,

William L. McClure,  
City Attorney

WLM:cse

cc: John McGirr  
Clay Curtin  
Alex McIntyre



## STAFF REPORT

**City Council**

**Meeting Date:**

**6/16/2020**

**Staff Report Number:**

**20-127-CC**

**Regular Business:**

**Introduction and first reading of Ordinance No. 1065 to regulate the placement and appearance of newsracks within Menlo Park**

### Recommendation

Staff recommends that the City Council review and introduce Ordinance No. 1065 which will regulate newsracks by establishing a permit process, standards for maintenance and display, size and design standards, standards for placement and location and an enforcement mechanism for abandoned or unmaintained newsracks throughout Menlo Park. Staff also recommends that this ordinance be adopted with an effective date of January 1, 2021.

### Policy Issues

The proposed newsrack ordinance is consistent with the City Council's direction at the October 29, 2019 City Council meeting to re-introduce the previously drafted newsrack ordinance for City Council review after making changes to prevent the displacement of active newsracks. This ordinance helps address the concerns raised about unmaintained, abandoned or poorly located racks within Menlo Park with minor impact to publishers. This action is also consistent with the goal of downtown beautification which is reflected among the El Camino Real/Downtown specific plan and the 2015 Menlo Park economic development plan.

### Background

Over the past five years, the City has received complaints regarding the proliferation and deterioration of newspaper racks throughout the City, especially in the downtown area. There are two types of newsracks used within the City: double stacked, green pedestal racks and private, branded modular racks. To address a similar issue in the 1980s, publishers along with the Chamber of Commerce collaborated, purchased and installed the green racks, but had no agreement on who would maintain the racks.

On October 25, 2017, staff held a community meeting to solicit general feedback and recommendations on a newsrack ordinance. General feedback strongly favored allowing newsracks in the public right of way where they are accessible to all residents, but emphasized the need for cleaning them up. A range of specific suggestions included ensuring that permit fees are reasonable, not restricting the locations of racks, not mandating the size of the racks, not adopting an ordinance, giving publishers six months to clean up the racks, and creating a stakeholder committee to advise staff on ordinance recommendations.

At the December 5, 2017 City Council meeting, staff presented the community meeting feedback and requested direction on next steps for addressing the newsracks within the City. City Council gave direction for staff to draft an ordinance and bring it for City Council consideration after it had been vetted through a stakeholders' advisory group.

On February 8, 2018, staff held a community meeting in the Arrillaga Recreation Center. In advance of the meeting, the draft ordinance and draft permit application were available for the public to preview. Extensive outreach was conducted to ensure the community, publishers and distributors were notified. At the meeting, staff received positive feedback from the proposed draft ordinance. Distributors and publishers appreciated that the ordinance was not too restrictive, allowed them to brand the newsracks while allowing them to distribute at locations they know best serve their customers.

At the March 3, 2018, City Council meeting, staff presented an ordinance regulating newsracks for its first reading. The ordinance was introduced on a 3-1 vote with direction to amend section 13.28.030 by adding a section specifying that newsracks on private property do not require a newsrack permit but do require design review and approval by the City. Staff confirmed that such a provision was already included in the drafted ordinance. City Council also directed staff to take a mid to low cost recovery approach for permitting fees but a full cost recovery approach with enforcement. The ordinance was never brought back to City Council for a second reading due to a number of sudden vacancies.

Due to continued complaints and staff availability in key areas, staff sought direction on the newsrack issue again at a City Council study session October 29, 2019. At this meeting, staff was directed to clarify the effect the draft ordinance would have on currently active newsracks and bring back a modified ordinance that would not displace a newsrack without good reason.

## **Analysis**

The City of Menlo Park currently has no ordinance regulating newsracks and therefore limited ability to address the concerns raised about unmaintained, abandoned or modular racks blocking sidewalks, crosswalks or bike racks. Adopting an ordinance, which requires publishers to obtain permits, will give the City current contact information for all racks placed in the public right of way and allow the City to legally remove any racks that do not meet the standards enumerated in the ordinance.

Ordinance No. 1065 (Attachment A) is similar to the draft version presented to City Council October 29, 2019, with several modifications noted below. The ordinance establishes a newsrack permit process, standards for maintenance and display of newsracks, size and design standards, standards for placement and location of newsracks and an enforcement mechanism for abandoned or unmaintained newsracks throughout Menlo Park.

### Permitting process

Once the ordinance becomes effective January 1, 2021, there will be a 120-day grace period for newsracks that have a permit application on file and comply with the maintenance standards in the ordinance. Permit applications will be reviewed to verify compliance with the size and design standards (13.28.060) and the standards for placement (13.28.070.) Attachment B is a graphical illustration of these standards. Staff has verified that all newsracks within Menlo Park comply with the design standards except for the large four-module green racks. Additionally, all newsracks have the ability to comply with the placement standards with the addition of a provision giving the public works director or its designee discretion to approve non-conforming or historical locations that do not threaten public safety.

### Ordinance changes

Staff has made a few key changes in order to prevent the creation of undue burden on publishers. Those changes are listed below:

- Maximum height was increased from 50 inches to 54 inches to make the ordinance inclusive of all newsracks currently in the City.

- Maximum width and depth were increased from 24 inches to 26 inches to make the ordinance inclusive of all newsracks currently in the City except for the undesired green racks.
- Under provision 13.28.070 (a)(1), staff added clause (C) which allows for the placement of a newsrack in any location in the public right of way, if determined to be safe and appropriate by Public Works Director or its designee. This provision along with 13.28.070 (b) gives the City flexibility to permit newsracks that may not meet the placement standards but do not threaten public safety.

Staff is seeking a delayed implementation to this ordinance for reasons associated with COVID-19 and the stay-at-home order, and would allow staff adequate time to prepare the permitting process. A number of publishers have temporarily ceased distribution of physical publications which will make identification of truly abandoned newsracks more difficult. Additionally, the creation and training of a new permitting system for newsracks is competing with other limited resources. Staff expects that the City will be in a position to implement this ordinance by January 1, 2021.

#### Permit fee

The City Council may also choose to define the newsrack permit fee as a low (0-30 percent), mid (30-70 percent) or high (70-100 percent) recovery fee. Staff recommends a low recovery fee for permitting as there is an intrinsic value in the service provided by publishers. Therefore, it is appropriate for the fee recovery to fall into a lower category and publishers requested that the new fee be reasonable. Staff recommends a high cost recovery fee for non-compliance fees such as abandonment. A proposed newsrack permit fee, renewal fee and violation fee are anticipated to be included in the next master fee schedule update.

#### **Impact on City Resources**

Staff resources from community development (planning), public works (engineering and maintenance) and police (code enforcement) will need to be allocated to establish a permitting process, review permits, enforce maintenance standards, and remove and store newsracks which are abandoned or no longer in compliance. Staff is not requesting additional resources to implement the ordinance at this time, assuming that current resource levels are maintained in each division through fiscal year 2020-21 as currently reflected in the draft city manager's budget presented at the June 9 City Council meeting.

#### Permitting resources

Staff resources from the planning and engineering division will be required to implement a permitting process and review permit applications. Tasks include:

- Revise the City's encroachment permit form and Accela permit systems.
- Establish a process for review of permit applications.
- Perform a site inspection to determine if the proposed newsrack is in compliance with City standards, if deemed necessary.
- Issue permits and review appeals of permit denial. Conduct an informal hearing, if required.

Staff time spent on the permit review would be recovered partially through fees.

#### Removal of abandoned racks

Staff resources from the maintenance division will be required to remove newsracks which are abandoned or no longer in compliance with City standards. Newsracks will be impounded at the corporation yard for at least ninety (90) days. During this period, the newsrack may be recovered by the permittee. If the newsrack is not recovered, resources will be needed to dispose of the impounded newsrack. The recommended implementation timeline of the ordinance allows for current staff resources to support these tasks, by

avoiding the fall and winter storm seasons, which represent a higher workload in the crews in the maintenance division that would oversee these tasks.

Enforcement of ordinance requirements

Staff resources from police (code enforcement) are required to respond to reports of violations of the newsrack ordinance as well as to contact the publisher responsible for the noncompliant newsrack to correct the violation. Code enforcement already experiences report backlogs and while newsracks are not expected to produce a relatively large increase in reports following the initial removal of noncompliant and abandoned racks, the ordinance will represent an additional workload on the division.

Private property review process

For newsracks on private property that do not meet the size, design and maintenance standards, review and approval by the community development department is required. Staff time spent on the review would be recovered partially through fees.

**Environmental Review**

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

**Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. Staff also notified publishers directly with an email about the introduction of this ordinance.

**Attachments**

- A. Ordinance No. 1065
- B. Newsrack standards diagram

Report prepared by:  
John Passmann, Management Analyst II

Report Reviewed by:  
Deanna Chow, Interim Community Development Director

**ORDINANCE NUMBER 1065****ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
ADDING CHAPTER 13.28 [NEWSRACKS] OF TITLE 13 [STREETS,  
SIDEWALKS, AND UTILITIES] OF THE MENLO PARK MUNICIPAL CODE**

The City Council of the City Menlo Park does hereby ordain as follows:

**SECTION 1. FINDINGS AND DETERMINATIONS.**

A. It is in the public interest to establish regulations that balance the right to distribute information through newsracks with the right of persons to reasonably access and use Public property.

B. The City of Menlo Park currently has limited control on the design, placement, and installation of newsracks within the public rights of way; which newsracks can cause interference and obstruction with the use of public rights of way; can cause interference with the safe and reasonable use of private property adjoining or in the vicinity of such public rights of way; and further can adversely impact the aesthetics of the City of Menlo Park creating structural and visual clutter. The goal of this Ordinance is to reduce such negative impacts.

C. The City Council of the City of Menlo Park finds and declares the addition of Chapter 13.28 [Newsracks] is necessary for the above reasons.

**SECTION 2. ADDITION TO CODE.** Section 13.28 [Newsracks] is hereby added in its entirety as follows:

## Sections:

13.28.010	Purpose.
13.28.020	Definitions.
13.28.030	Permit Required.
13.28.040	Obtaining a Permit.
13.28.050	Standards for Maintenance and Display of Newsrack.
13.28.060	Size and Design Standards.
13.28.070	Standards for Placement and Location of Newsrack.
13.28.080	Blinder Racks Required.
13.28.090	Violation - Enforcement.
13.28.100	Nuisance.
13.28.110	Removal and Hearing.
13.28.120	Abandoned Newsracks.

## 13.28.010 Purpose.

The purpose and scope of the regulations in this chapter are as follows:

(a) The provisions of this Chapter shall apply to all newsracks located within the City of Menlo Park; provided, that certain provisions, as specified, shall apply only to newsracks located on Public property.

(b) It is in the public interest to establish regulations that balance the right to distribute information through newsracks with the right of persons to reasonably access and use public property.

(c) The public health, safety, welfare and convenience require that interference with vehicular, bicycle, wheelchair or pedestrian traffic be avoided; obstruction of sight distance and views of traffic signs and street-crossing pedestrians be eliminated; damage done to sidewalks or streets

be minimized and repaired; the good appearance of Public property be maintained; trees and other landscaping be allowed to grow without disturbance; access to emergency and other public facilities be maintained; and ingress and egress from, and the enjoyment of store window displays on properties adjoining public property be protected.

(d) Newsracks placed and maintained on public and private property, absent some reasonable regulation, may unreasonably interfere with the use of such property, and may present hazards to persons or property.

(e) The regulations on the time, place and manner of the placement, location and maintenance of newsracks set forth in this Chapter are carefully tailored to ensure that the purposes stated in this section are implemented while still providing ample opportunities for the distribution of news and other information to the public.

#### 13.28.020 Definitions.

For the purposes of this Chapter, the following words and phrases are defined and shall be given the meaning set out in this section unless it is apparent from the context that a different meaning is intended.

(a) "Abandoned newsrack" means any newsrack which remains empty or contains only outdated issues for fourteen (14) consecutive days; provided, that a newsrack remaining empty due to labor strike or any temporary and extraordinary interruption of distribution or publication by the newspaper or other publication sold or distributed from that newsrack shall not be deemed abandoned.

(b) "Harmful matter" means and is defined as in California Penal Code Section 313, as such section may from time to time be amended.

(c) "Newsrack" means any self-service or coin-operated box, container, storage unit, or other dispenser installed, used or maintained for the display and sale or distribution of newspapers, periodicals or other publications.

(d) "Person" means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity.

(e) "Public place(s)" means and includes any Public property owned or controlled by the City of Menlo Park or any other public agency, or any outdoor private property which is open to the public.

(f) "Public property" means any public right-of-way or any property owned or controlled by the City of Menlo Park, including, without limitation, streets, sidewalks, alleys, plazas, and rights-of-way.

#### 13.28.030 Permit Required.

It is unlawful to install, place, maintain or cause to be placed, installed or maintained a newsrack on, or projecting on or over, any Public property without first receiving a permit from the City of Menlo Park Public Works Director or its designee, and unless such newsrack is in compliance with the provisions of this Chapter; provided that a newsrack located on Public property as of the effective date of this chapter, may continue to remain in such location for one hundred twenty (120) days following such effective date, under the following conditions:

(1) The newsrack is in compliance with the requirements for the installation and maintenance of newsracks contained in this Chapter; and

(2) A permit application for such newsrack has been filed as of that date with the City of Menlo Park Public Works Director or its designee by the duly authorized representative of both the publisher and, if applicable, any independent distributor authorized to service the publisher's newsrack; and

(3) A permit pursuant to such application has not been denied with respect to any such newsrack.

If no permit application has been filed by that date by the duly authorized representative of both the publisher and, if applicable, any independent distributor authorized to service the publisher's newsrack, or such permit is denied, such newsrack shall be deemed to be in violation of the provisions of this chapter. Initial permits shall be valid until June 30, 2022. Thereafter, permits shall be valid for up to two years, expiring on June 30 of each odd numbered year.

Newsracks on private property do not require a newsrack permit, but do require design review approval by the City of Menlo Park Community Development Department if they do not conform to the size, design, and maintenance standards in this Chapter. Existing newsracks on private property shall constitute a non-conforming use to the extent they do not conform to the design standards set forth in this Chapter.

#### 13.28.040 Obtaining a Permit.

(a) Exclusive Requirements. The provisions of this Chapter shall be the exclusive requirements for newsracks located on or encroaching onto Public property in the City of Menlo Park.

(b) Application. Application for a newsrack permit for each location sought shall be submitted to the City of Menlo Park Public Works Director or its designee on a form prescribed by the City of Menlo Park, which shall include, without limitation:

(1) The name, street and mailing address, and telephone number of the applicant, which shall be the duly authorized representative of both the publisher and, if applicable, any independent distributor authorized to service the publisher's newsrack for which the permit is sought;

(2) The name, street and mailing address and telephone number of the distributor or other responsible person whom the City of Menlo Park may notify or contact at any time concerning the applicant's newsrack(s);

(3) A description of the exact proposed location (including a map or site plan, drawn to scale, with adequate locational information to verify conformance with this chapter) and the proposed means of affixing the proposed newsrack;

(4) A description of the proposed newsrack, including its dimensions, the number of publication spaces it will contain, and whether it contains a coin-operated mechanism;

(5) The name and frequency of publication of each publication proposed to be contained in the newsrack;

(6) A statement signed by the applicant that the applicant agrees to indemnify, defend and hold harmless the City of Menlo Park and its representatives from all claims, demands, loss, fines or liability to the extent arising out of or in connection with the installation, use or maintenance of any newsrack on Public property by or on behalf of any such person, except such injury or harm as may be caused solely and exclusively by the negligence of the City of Menlo Park or its authorized agents or representatives;

(7) A statement signed by the applicant that the applicant agrees, upon removal of a newsrack, to repair any damage to the Public property caused by the newsrack or its removal; and

(8) Each applicant shall submit along with the permit application a fee as set forth in the City of Menlo Park's Master Fee Schedule. Additionally each applicant shall submit an insurance certificate naming the City of Menlo Park as an additional insured under the same terms as required for a Public Works Encroachment Permit.

(c) Issuance of Permit. A permit shall be issued within thirty (30) days from the date of filing the application with the City of Menlo Park Public Works Director or its designee if the application is properly completed and the type of newsrack and location proposed for each newsrack meet the standards set forth in this Chapter. A single permit shall be issued for each newsrack location applied for by an applicant which meets the standards of this Chapter. Each permit holder shall



maintain an active City of Menlo Park Business License throughout the term of the permit. An applicant may submit more than one application, in order to apply for additional locations. Each application shall be accompanied by the applicable fee. A permit shall not be transferable without written authorization of the City of Menlo Park Public Works Director or its designee.

(d) Period of Permit Validity. Permits shall remain valid if re-registered with the City of Menlo Park prior to expiration, on a form provided by the City of Menlo Park. Failing to re-register or explicit cancellation by a permit holder will void the permit and it will be ineffective thereafter. Unregistered newsracks may be treated as abandoned under Section 13.28.120 or other applicable enforcement mechanism.

(e) Issuance of Permit Sticker. Each permittee shall be issued a pre-printed sticker for each permitted newsrack, which shall be affixed to the lower right corner of the front of each permitted newsrack. Failure to have a permit sticker affixed to a newsrack will be treated as abandoned under Section 13.28.120.

(f) Denial of Permit. If a newsrack permit is disapproved, in whole or in part, the City of Menlo Park Public Works Director or its designee shall notify the applicant within thirty (30) days from the date of filing a complete application with the City of Menlo Park, explaining the reason(s) for the denial of the permit. The applicant shall have ten (10) days within which to appeal the decision to the City Manager in accordance with the appeal provisions set forth in subsection (g) of this section.

(g) Appeal of Permit Denial. Any appeal shall be timely submitted to the City Clerk, with the appeal made in writing and delivered to the City Clerk by hand delivery or by certified mail, return receipt requested, or other reputable courier service, and shall be deemed given (1) when received if by hand delivery or (2) three business days after being postmarked and addressed to the City Clerk. After receiving the notice of appeal, the City Manager or the designee of the City Manager shall conduct a hearing within sixty (60) days of the receipt of the applicant's appeal, unless otherwise agreed to by the applicant. Written notice of the time and place of the hearing shall be given to the applicant, and shall be posted in the official posting locations of the City of Menlo Park. The hearing shall be informal, but oral and written evidence may be given by both sides. The City Manager or designee shall render a written decision within twenty (20) days after the date of the hearing. The decision of the City Manager shall be final.

(h) Amendment to Permit. In the event of a change in any of the information contained in the application, the permittee shall submit such change in writing to the City of Menlo Park Public Works Director or its designee. A permittee may install and maintain additional newsracks at the same location by an amendment to the permit. The rules and procedures of this section shall also apply to the review and approval of any such amendment.

#### 13.28.050 Standards for Maintenance and Display of Newsracks.

(a) Every person placing or maintaining a newsrack on Public property shall comply with the following requirements:

(1) Every newsrack shall be maintained in a neat and clean condition, and in good repair at all times. For example, without limitation, every newsrack shall be reasonably free of dirt and grease, be reasonably free of chipped, faded, peeling or cracked paint, be reasonably free of rust and corrosion, have no broken or cracked plastic or glass parts, and have no broken structural parts. No signs, advertising, stickers or adhesive labels, other than City of Menlo Park issued identification/approval labels, unrelated to publications in the newsracks shall be displayed on newsracks.

(2) Every newsrack shall be constructed, installed and maintained in a safe and secure condition.

(3) Every newsrack shall be made of solid material on all sides, so as to contain the material inside the newsrack in a manner as to prevent it from blowing away or otherwise becoming litter. No wire or other open form of newsrack shall be permitted.

- (4) Every newsrack shall be kept free of graffiti.
- (5) Every newsrack that sits on legs shall be kept free of dirt and litter under the newsrack.
- (6) Every newsrack shall be painted or covered with a protective coating, so as to keep it free from rust, and shall be cleaned and repainted on a regular basis.
- (7) Every coin-operated newsrack shall be equipped with a coin-return device that is maintained in good repair and working order.
- (8) Every coin-operated newsrack shall display information on how to secure a refund in the event of coin return malfunction. Such information shall be placed in a visible location on the front or top of the newsrack, and shall be legible.
- (9) Other than the display of the publication contained therein, no newsrack shall display or be affixed with any words or pictures except for the identifying information, and the coin return information, if applicable.
- (10) Old or out-of-date material removed from any newsrack by any person who owns, maintains, or stocks the newsrack shall be recycled or disposed of in a lawful manner and not in any City of Menlo Park owned trash receptacle. Such material shall not be disposed of in any trash receptacle owned or rented by others, without the express written consent of the owner or renter of such receptacle. Such material shall be disposed of in a manner that does not cause the material to become litter.
- (11) Upon the removal of a newsrack, the public right-of-way shall be returned to its original condition, with any damage to Public property to be repaired to City specifications by the permit holder.

(b) Every newsrack located in a Public place and/or on Public Property shall be affixed with identifying information, which shall contain the name, address and telephone number of the newsrack owner and of the distributor of the publication(s) contained therein. Such information shall be placed in a visible location on the front or top of the newsrack, and shall be legible. The size of the identifying information shall be no larger than three (3) inches by five (5) inches.

#### 13.28.060 Size and Design Standards.

No newsrack shall be placed, installed or maintained on any Public property except in compliance with the following standards:

- (a) No newsrack shall be more than fifty-four (54) inches high (including the pedestal in the case of modular newsracks) measured from the ground to the top surface of the newsrack, nor more than twenty-six (26) inches deep, nor more than twenty-six (26) inches wide.
- (b) The highest operable part of the coin slot, if provided, and all controls, dispensers and other operable components of a newsrack shall be no higher than forty-eight (48) inches above the ground, and no lower than fifteen (15) inches above the ground.
- (c) The design of a newsrack shall not create a danger to the persons using the newsrack in a reasonably foreseeable manner. All newsracks shall comply with all applicable federal, state and local laws and regulations including, without limitation, the Americans with Disabilities Act and other laws and regulations relating to barrier-free design.

#### 13.28.070 Standards for Placement and Location of Newsracks.

(a) No newsrack shall be placed, installed or maintained on any Public property when such installation, use or maintenance endangers the safety of persons or property. No newsrack shall be placed, installed or maintained on any Public property except in compliance with the following standards:

- (1) Newsracks shall be placed in one of the following locations:
  - (A) Near a curb, in which case, the back of the newsrack shall be placed no less than eighteen (18) inches nor more than twenty-four (24) inches from the face of the curb; or

(B) Adjacent to a wall, such as a wall of a building or similar, in which case, the back of the newsrack shall be placed parallel to such wall and not more than six (6) inches from the wall or as close to the wall as the Public Works Director or its designee determines is appropriate and safe for the specific location; or

(C) In any location historically in which a newsrack has existed and/or otherwise as the Public Works Director or its designee determines is appropriate and safe for the specific location.

(2) Every newsrack shall be placed so as to open toward the sidewalk.

(3) Every newsrack shall be placed, installed and maintained in a manner approved by the permit. No newsrack shall be chained to another newsrack. Newsracks shall not be chained or otherwise attached to any bus shelter, bench, street light, utility pole or device or sign pole, or to any tree, shrub or other plant, nor situated upon any landscaped area.

(4) No newsrack shall be placed, installed or maintained in the following manner:

(A) Within five (5) feet of any marked or unmarked crosswalk as measured from the curb return;

(B) Within five (5) feet of any fire hydrant, call box, or other emergency facility; or bus bench;

(C) At any location where the clear space for the passage of pedestrians is reduced to less than six (6) feet except that in areas where physical obstructions provide for less than a six (6) foot clearance, a clear space for passage of not less than four (4) feet may be permitted for a distance of not more than ten (10) feet with the written approval of the City of Menlo Park Public Works Director or its designee;

(D) Within five (5) feet of any driveway;

(E) Within five (5) feet of any red curb of a bus stop zone;

(F) Within five (5) feet of the curb return of any wheelchair curb ramp not in a marked crosswalk;

(G) In such a manner as to impede or interfere with the reasonable use of any commercial window display or access to or from any building;

(H) In such a manner as to impede or interfere with the reasonable use of any bicycle rack;

(I) In such a manner as to block or cover any portion of an underground utility vault, manhole, or other sidewalk underground access location.

(5) Any newsrack placed within Caltrans jurisdiction (such as along El Camino Real or portions of Willow Road) must comply with the applicable Caltrans Maintenance Agreement held by the City of Menlo Park.

(b) The City of Menlo Park Public Works Director or its designee may allow a permittee to place a newsrack in a location that does not meet the standards otherwise required by this section if it is found that such modifications will not be detrimental to the public safety and that, due to the existing physical constraints at that location, imposition of the standards would make placement impossible and would cause a hardship to the permittee and its patrons. An applicant seeking a modification from the standards shall submit as part of the application the proposed request, the reason for the request, the alternatives that were considered, and how the proposed request would meet the purpose of this ordinance. The written findings in such a situation shall describe the grounds for approval and be made part of the permit. Prior to considering whether or not to grant the permit, the City of Menlo Park Director of Public Works or its designee shall provide written notice of the requested permit approval to the owner(s) of the real property adjacent to or abutting the proposed newsrack location.

(c) If sufficient space does not exist to accommodate all newsracks sought to be placed at one location without violating the standards set forth in this Chapter, the City of Menlo Park Public Works Director or its designee shall give priority as to that location to publications on a historical "first come first served" basis to permit applicants as follows:

(1) First priority shall be publications that are published two (2) or more times a week;

(2) Second priority shall be given to publications that are published once per week;

(3) Third priority shall be given to publications that are published less than once per week but more than once per month;

(4) Fourth priority shall be given to publications that are published monthly or less frequently than monthly.

In the event the City of Menlo Park is required to utilize the priority system described in subsections (c)(1) through (4), the City of Menlo Park shall permit only one rack per publication or distributor in a single location.

#### 13.28.080 Blinder Racks Required.

Section 313.1 of the California Penal Code shall govern the display, offer for sale or selling of harmful matter as defined in California Penal Code Section 313(a), to minors in vending machines, selling such matter, unattended by an adult at the time of such sale, located in and upon Public places. No material which is harmful to minors, as defined in Section 313 of the California Penal Code, shall be displayed in a Public place, other than a Public place from which minors are excluded, unless blinder racks are placed in front of the material so that the lower two-thirds of the material is not exposed to view.

#### 13.28.090 Violation- Enforcement.

(a) It shall be illegal to place, install, or maintain any newsrack or any material in a newsrack in a manner contrary to any provision of this Chapter.

(b) Any person who violates any provision of this Chapter shall be guilty of an infraction and upon conviction thereof shall be punished as provided in Section 1.12.010 [Penalty for violations] of this code.

(c) The provisions contained in this Chapter shall be subject to the code enforcement authority of the City of Menlo Park as provided in Title 1 of the City of Menlo Park Municipal Code.

#### 13.28.100 Nuisance.

Any newsrack or any material in a newsrack placed, installed or maintained in violation of this Chapter shall constitute a public nuisance and may be abated in accordance with applicable provisions of law.

#### 13.28.110 Removal and Hearing.

In addition to the enforcement remedies available to the City of Menlo Park, which are set forth in Title 1 of the City of Menlo Park Municipal Code and in Sections 13.28.090 and 13.28.100 of this Chapter, any newsrack placed, installed or maintained in violation of this Chapter may be removed by the City of Menlo Park, subject to the notice and hearing procedures set forth in this section.

(a) Notice of Violation. Before removal of any newsrack, the City of Menlo Park shall notify the owner and/or distributor of the violation. Written notification by first class mail to the address or addresses shown on the offending newsrack shall constitute adequate notice; and in addition the City will provide notice by sending an email to the email address listed on the owner and/or distributor's permit application. The City of Menlo Park may, but need not, affix an additional notice tag onto the offending newsrack. If no identification is shown on the newsrack, posting of the notice on the newsrack alone shall be sufficient. The notice shall state the nature of the violation, shall specify actions necessary to correct the violation, and shall give the owner and/or distributor ten (10) days from the date appearing on the notice to either remedy the violation or to request a meeting before the City of Menlo Park Public Works Director or its designee. The date on the notice shall be no earlier than the date on which the notice is mailed or affixed to the newsrack, as the case may be.

(b) Meeting and Decision. Any owner or distributor notified under subsection (a) may request a meeting with the City of Menlo Park Public Works Director or its designee by delivering a written request therefor within ten (10) days from the date appearing on the notice. The meeting may be in person, by telephone or by any agreed to format, and shall be informal, but oral and written evidence may be given by both sides. The City of Menlo Park Public Works Director or its designee shall give its decision within ten (10) days after the date of the meeting. Any action by the City of Menlo Park to remove the newsrack shall be stayed pending the written decision of the City of Menlo Park Public Works Director or its designee following the meeting.

(c) Removal and Impoundment. The City of Menlo Park may remove and impound a newsrack or newsracks in accordance with this section following the written decision of the City of Menlo Park Public Works Director or its designee upholding the determination of a violation, or if the owner or distributor has neither requested a meeting nor remedied the violation within ten (10) days from the date on the notice. An impounded newsrack shall be retained by the City of Menlo Park for a period of at least ninety (90) days following the removal, and may be recovered by the permittee upon payment of a fee as set forth in the municipal fee schedule. An impounded newsrack and its contents may be disposed of by the City of Menlo Park after ninety (90) days.

(d) Summary Abatement. Notwithstanding the provisions of subsections (a) and (b), prior notice and an opportunity to be heard shall not be required prior to removal of any newsrack that is installed or maintained in such a place or manner as to pose an immediate or clear and present danger to persons, vehicles or property or any newsrack that is placed in any location without a permit. In such case, the City of Menlo Park shall proceed in the following manner:

(1) Within the next working day following removal, the City of Menlo Park shall notify by telephone the permittee or, in the case of an unpermitted newsrack, the owner of the newsrack or a person whose name is shown on the required identification, if available. Within five (5) business days, the City of Menlo Park shall send written confirmation to the owner of the newsrack of the telephoned notice. The written confirmation shall contain the reasons for the removal and information supporting the removal, and shall inform the recipient of the right to request, in writing or in person, a post-removal meeting within five(5) days of the date of such written notice and the person to whom such request shall be made.

(2) Upon timely request, the City of Menlo Park shall provide a meeting within thirty (30) days of the request, unless the requesting party agrees to a later date. The proceeding shall be informal, but oral and written evidence may be given by both sides. The City of Menlo Park designee hearing the matter shall give his or her decision in writing to the requesting party within two (2) weeks after such meeting. If the City of Menlo Park hearing officer finds that the removal was proper, he or she shall notify the requesting party to pay any applicable penalties and costs and recover the newsrack. If the City of Menlo Park hearing officer finds that the removal was improper and that placement of the newsrack was lawful, he or she shall order that the newsrack be released and reinstalled without charge.

(3) If the owner and distributor of an unpermitted rack cannot be determined and the rack does not contain the required identification, no notice of the removal shall be required.

### 13.28.120 Abandoned Newsracks.

An abandoned newsrack may be removed by the City of Menlo Park and impounded, pursuant to the notice and hearing procedures set forth in Section 13.28.110. The City of Menlo Park may dispose of the newsrack if the permittee does not claim the newsrack and pay any required fees within ninety (90) days of its removal.

**SECTION 3. SEVERABILITY.** If any section of this ordinance, or part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or unenforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION. The City Council hereby finds that this ordinance is not subject to the provisions of the California Environmental Quality Act ("CEQA") because the activity is not a project as defined by Section 15378 of the CEQA Guidelines. The ordinance has no potential for resulting in physical change to the environment either directly or indirectly.

SECTION 5. EFFECTIVE DATE AND PUBLISHING. This ordinance shall take effect on January 1, 2021. The City Clerk shall cause publication of the ordinance within 15 days after passage in a newspaper of general circulation published and circulated in the city or, if none, the posting in at least three public places in the city. Within 15 days after the adoption of the ordinance amendment, a summary of the amendment shall be published with the names of the council members voting for and against the amendment.

INTRODUCED on the sixteenth day of June, 2020.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said City Council on the \_\_\_\_ day of \_\_\_\_, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

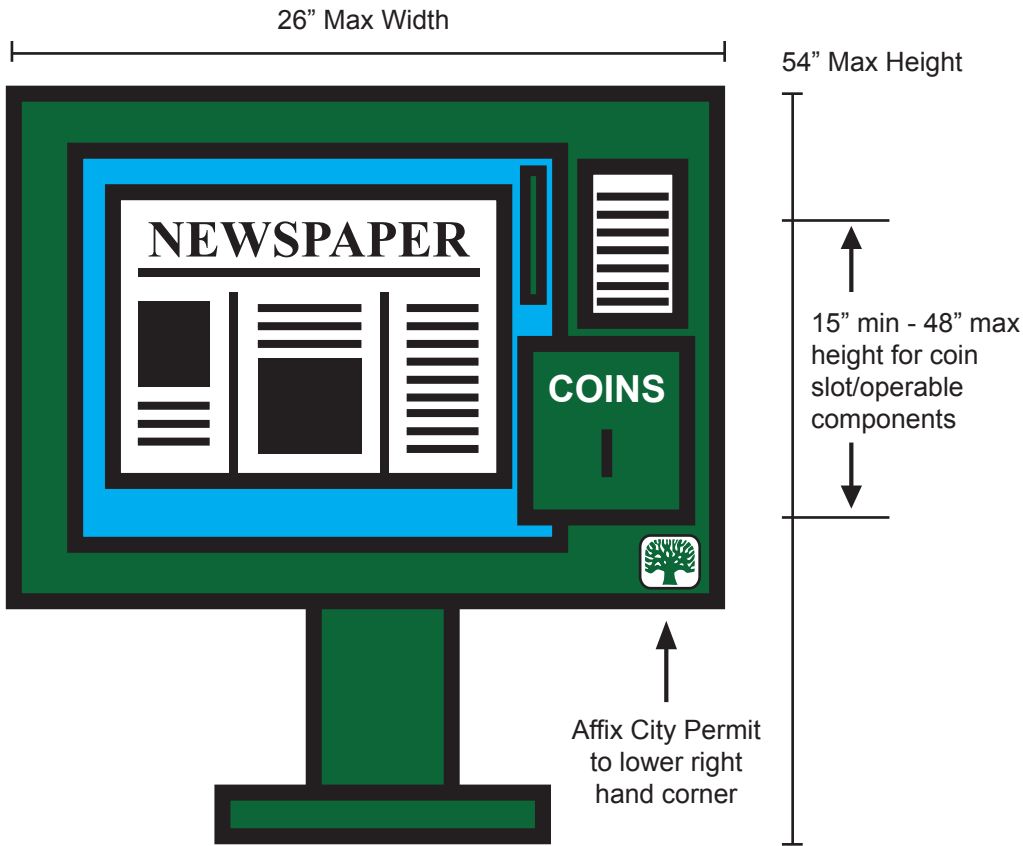
APPROVED:

\_\_\_\_\_  
Cecilia Taylor, Mayor

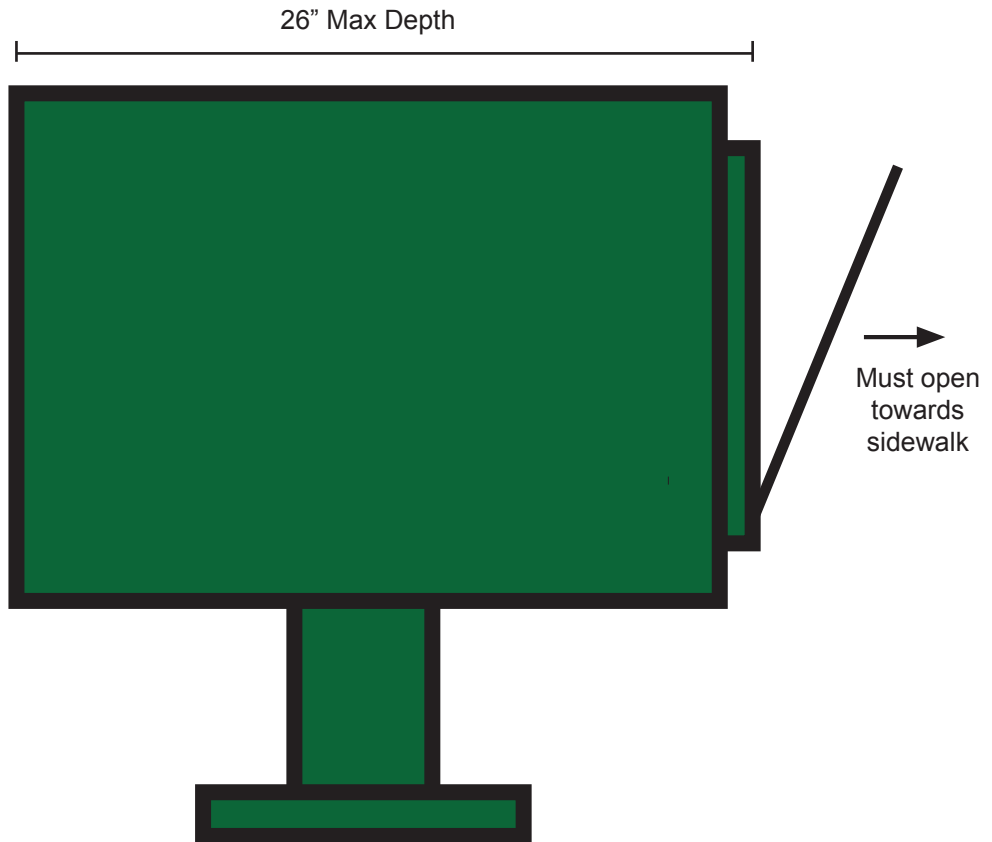
ATTEST:

\_\_\_\_\_  
Judi A. Herren, City Clerk

# Design Standards

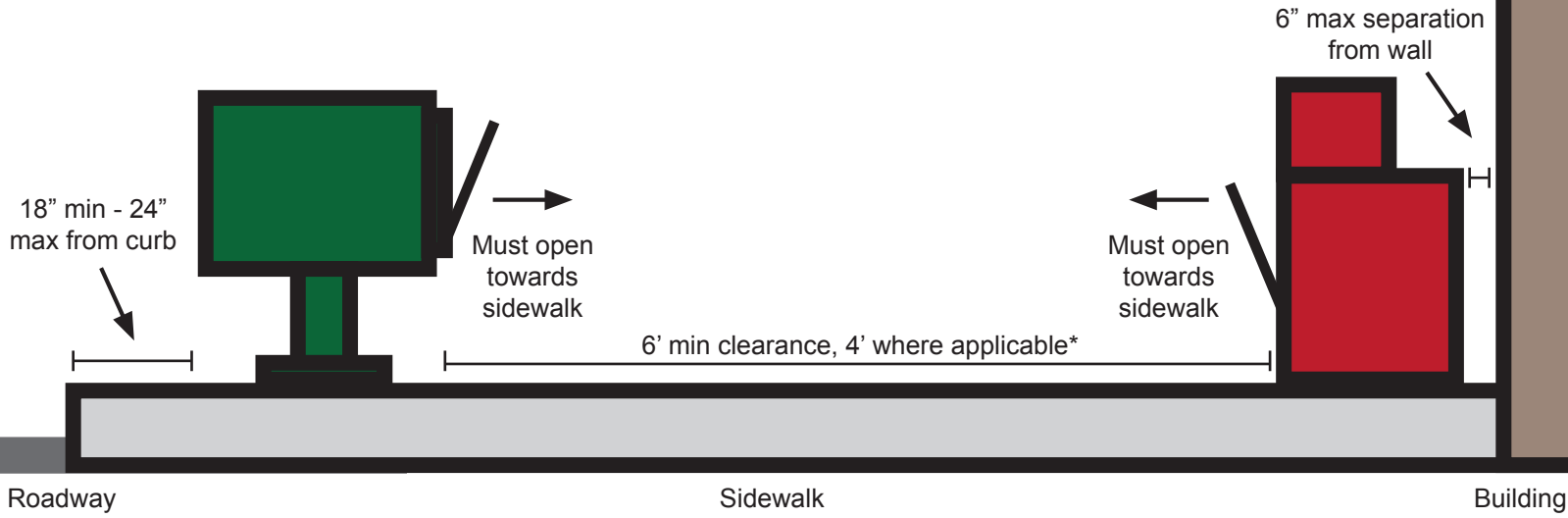


Front Elevation

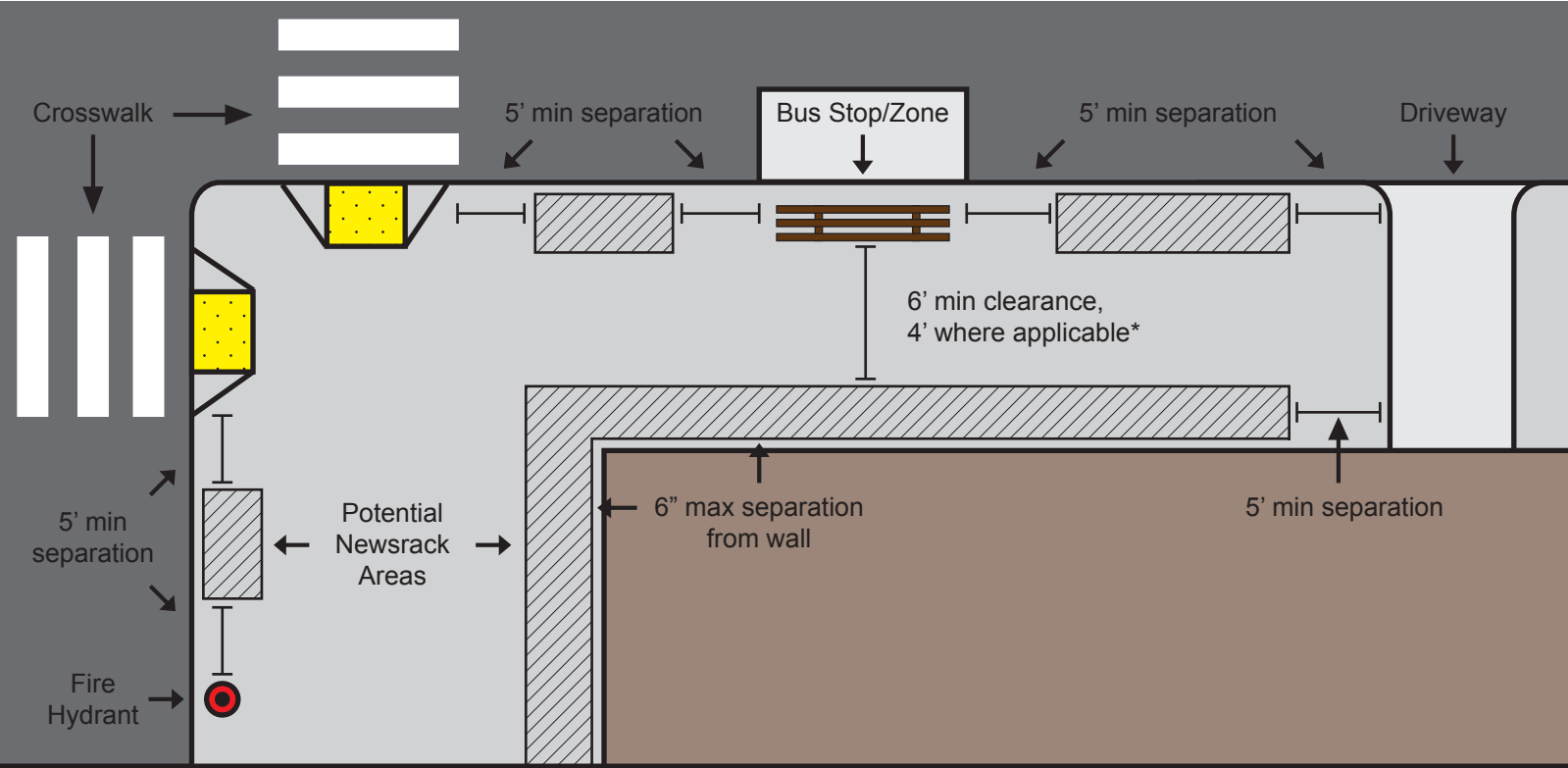


Side Elevation

# Placement Standards



*\*In areas where obstructions provide for less than 6 feet of clearance, then 4 feet may be permitted for no more than 10 feet with approval from the Public Works Director.*



5 feet of separation from crosswalks, driveways, bus stop zones, fire hydrant or other emergency facility, and bus benches.





**STAFF REPORT**

**City Council**  
**Meeting Date:** 6/16/2020  
**Staff Report Number:** 20-128-CC

**Regular Business:** Consider and provide direction on a Downtown street closure pilot program

**Recommendation**

Staff recommends that the City Council consider and provide direction on a Downtown street closure pilot program in support of outdoor restaurant and café dining in light of COVID-19.

**Policy Issues**

The COVID-19 pandemic has forced many local businesses to temporarily close and/or modify their businesses to accommodate County and local health orders. Restaurants and other small businesses have experienced substantial financial losses since the shelter-in-place (SIP) order was enacted March 16. As the SIP order continues and restrictions are eased, many local jurisdictions are considering how to support more businesses in reopening and how to help expand operations. Such is the case with restaurants where current County health order requirements for social distancing and restrictions limiting dining to outdoor areas further constrains capacity and affects economic sustainability. The City Council, Chamber of Commerce, and many business owners and residents have expressed a desire to reactivate the Downtown. One way to reenergize Downtown is to support the local restaurants. In considering a pilot program to close Downtown streets to allow outdoor dining, the City Council should provide feedback on a number of topics noted below.

**Background**

On June 4, the San Mateo County health officer revised the SIP order to allow outdoor dining with safety measures and other restrictions to ensure social distancing. This order went into effect June 6. Currently, restaurants and other food facilities that were previously licensed to provide sit-down food service may now provide outdoor, sit-down meals by working with local agencies to ensure compliance with local laws, regulations and permitting requirements. Restaurants must also comply with County and State safety measures, such as sanitation protocols and the spacing of tables to provide proper social distancing. Furthermore, facilities that open for outdoor dining must offer curbside pickup, take out and/or delivery service alternatives. In response to these recent changes in the health order, many nearby cities are reimagining how to use their public spaces to support outdoor dining while providing a safe and comfortable environment to enjoy.

As part of earlier conversations about Downtown's economic recovery, City Councilmembers Mueller and Nash created a concept for Santa Cruz Avenue street closure (Attachment A) in the interest of providing a safe space for outdoor dining, the sale of goods, and potential venue for social gathering and community

building. With a similar interest in mind, the Chamber of Commerce has dedicated many days to connecting with Downtown businesses as a way of determining how to best support a successful reopening within San Mateo County health and local orders.

## **Analysis**

On June 8, the Chamber of Commerce submitted to the City a plan that recommends a partial closing of Santa Cruz Avenue, which is included as Attachment A. The Chamber believes that a key premise to the reopening of the Downtown is the consideration of closing a portion or all of Santa Cruz Avenue to expand opportunity and generate interest in coming to the area. The proposal for a partial street closure is based on input from directly affected businesses, and considers a balance of needs, including vehicle, bike and pedestrian circulation, as well as emergency access. City Councilmembers Mueller and Nash, City staff, and key members of the Menlo Park Fire Protection District and Chamber of Commerce have met to discuss the concept. In general, there is a strong interest in collaborating to make the pilot program a success. The full City Council should review the proposal and provide feedback on the following key topic areas.

### Proposed street closure

Santa Cruz Avenue is the main street through Downtown and a north/south connector from El Camino Real to Sharon Heights. The City Council should consider whether Santa Cruz Avenue (between El Camino Real and University Drive or alternate streets) should be fully closed, partially closed, and/or modified in another manner. Should the closure extend to any of the side streets or should the side street remain open to through traffic?

### Use of public right of ways, Downtown parking plazas and private property

The proposal would allow the temporary removal of on-street parking in certain blocks along Santa Cruz Avenue. This would provide restaurants the flexibility to temporarily expand their business operations into the on-street parking areas. The use of on-street parking for outdoor dining, however, could occur with or without the closure of Santa Cruz Avenue roadway. Several businesses in the Downtown such as Left Bank and Galata Bistro were previously approved for street cafes, which removed on-street parking in front of their business, as part of the City's Santa Cruz Avenue Street Café Program. Other local businesses have offered outdoor dining experiences adjacent to their building (e.g., Camper) or within the public right way adjacent to the sidewalk (e.g., Coffee Bar) while others have also been able to utilize their private property (e.g., Mademoiselle Colette's enclosed rear patio.) Since outdoor dining can take different forms and be placed in different locations, the City Council should provide feedback on its preferences for outdoor dining locations (sidewalk, public or private parking area, roadway, etc.) and identify potential concerns, such as the loss of parking, to help staff establish performance standards for this pilot program.

### Permitting process

Outdoor dining typically requires approval of an administrative permit from the community development department, which could be a 90-day process due to public noticing requirements and opportunities for appeals. Depending on the location and proposed improvements, a building permit, encroachment permit or cost sharing/use/license agreement have been required. Understanding the current health order and its restrictions and the urgency to reactivate, the director of emergency services/city manager could enact a local order that temporarily suspends the administrative permit requirement, which would provide local

businesses with the tools to more expeditiously respond to creating outdoor dining opportunities. Staff believes that some level of permitting or agreement is needed between the City and the merchants to identify the locations for outdoor dining and to establish the expectations about operational standards, cost for construction and/or furnishings, and liability associated with the temporary use of the public right-of-way/property. The City Council may wish to provide feedback on fee waivers, roles and responsibilities, maintenance, design standards, and allowed uses for the outdoor areas.

### Timeline

The City Council should provide feedback on the desired timeline recognizing that depending on the direction, this may affect the timing of implementation. At a minimum, a 72-hour street closure notification is required before the street can be closed. For example, depending on the type of barricade system in place, additional time may be needed to locate, transport and install the system.

As a temporary program, the City Council should also provide feedback on the length of the program. At that end date, the program could be reassessed. A check-in after 45 days of launching is also suggested.

### Business and community outreach

The Chamber of Commerce has already done extensive outreach with the Downtown merchants, and ongoing communication with the merchants, property owners and the broader community about the street closure and outdoor dining will be important for the promotion and success of the program.

### Next steps

Following the City Council's direction, staff would establish and refine the framework for the street closure and outdoor dining pilot program and partner with the Chamber of Commerce to liaise with Downtown merchants who are interested in pursuing the pilot program. If desired by the City Council, the emergency services director/city manager would issue a new local emergency order to temporarily suspend permitting requirements for outdoor dining, parking requirements, fees, etc.

### **Impact on City Resources**

There will be cost for staff time to create and assist with the implementation of the program. The impact on City resources will also depend on the scope of the street closures and outdoor dining options, the duration, and fee waivers or financial assistance provided to the businesses. A partial or full closure would require staff resources across a broad range of divisions including planning, economic development, engineering, maintenance and police. Staff also anticipates significant interagency coordination with the Menlo Park Fire Protection District and Sam Trans will be necessary.

### **Environmental Review**

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

### **Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72

hours prior to the meeting.

**Attachments**

- A. Hyperlink – City Councilmembers Mueller and Nash proposed Santa Cruz Avenue closure plan (May 12): [menlopark.org/DocumentCenter/View/25012/E2-20200512-CC-COVID-update](https://menlopark.org/DocumentCenter/View/25012/E2-20200512-CC-COVID-update)
- B. Menlo Park Chamber of Commerce proposal

Report prepared by:

John Passmann, Management Analyst II

Deanna Chow, Interim Community Development Director

**From:** [Fran Dehn](#)  
**To:** [Jerome-Robinson, Starla L](#); [Casados, Nicole](#)  
**Cc:** [Murphy, Justin I C](#); [Chow, Deanna M](#); [Nagaya, Nicole H](#); [Passmann, Johnathon J](#); [Bertini, David C](#); [Johnston, Jon](#); [Zollicoffer, Ryan](#); [Glen Rojas](#); [David R Johnson](#); [Spence Leslie - nVent Thermal LLC](#); [Schapelhouman, Harold](#)  
**Subject:** RE: Teleconference on Proposed Street Closures  
**Date:** Thursday, June 11, 2020 10:59:10 AM  
**Attachments:** [2020 MenloPark StreetClosure Draft4.pdf](#)

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CAUTION: This email originated from outside of the organization. Unless you recognize the sender's email address and know the content is safe, DO NOT click links, open attachments or reply.

Starla,

Thank you for the opportunity to bring everyone together for discussion on a downtown pilot street closure program. Although we had expected to introduce this recommendation at the last Council Meeting, the teleconference today will accelerate internal discussions in preparation for proposed Council review & approval.

After extensive meetings with business owners, the Chamber recommends a "hybrid" plan for closure of Santa Cruz Avenue. We focused on maintaining good vehicle, bike and pedestrian circulation, closing only three downtown blocks where the majority of the restaurants are located. It allows that key restaurant sector to expand services into the street or adjacent parking spaces in a safe, responsible manner.

The attached map, drawn to scale, identifies restaurants with existing café dining and augments their outdoor dining capacity with additional contiguous space. For those restaurants that previously relied exclusively on in-restaurant dining but now require outdoor space, café dining street space has been allocated. We have also suggested select cross-street pathways for limited traffic flow, deliveries and to relieve potential congestion on Oak Grove and Menlo Avenue.

What we would like to accomplish this afternoon is to review 1) our proposed plan, 2) all associated implementation requirements, such as permitting, and 3) timing for approval.

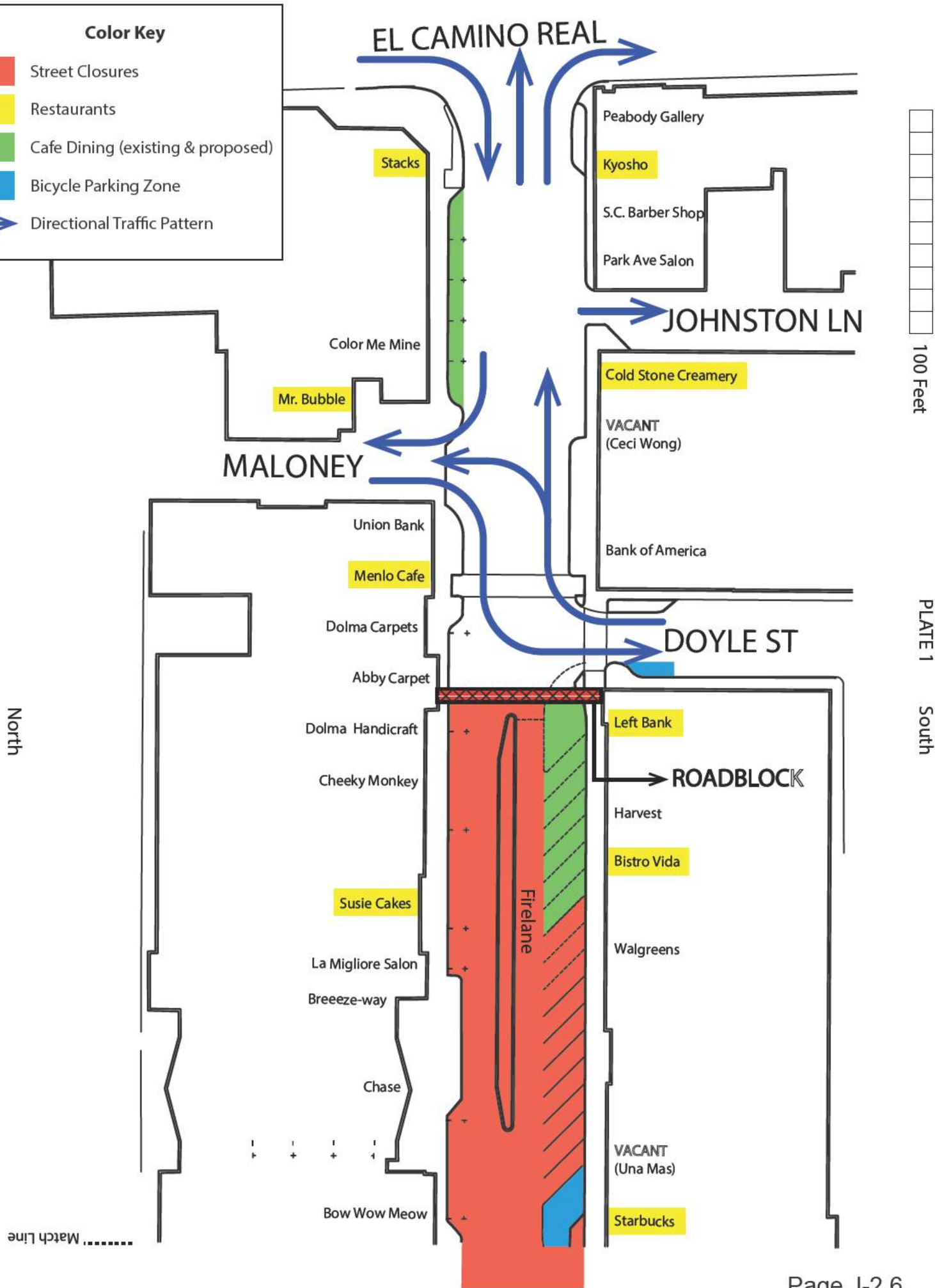
This is a COVID-19 business recovery measure!

Thanks in advance to all for your participation, review and comments.

Fran

**Color Key**

- Street Closures
- Restaurants
- Cafe Dining (existing & proposed)
- Bicycle Parking Zone
- Directional Traffic Pattern



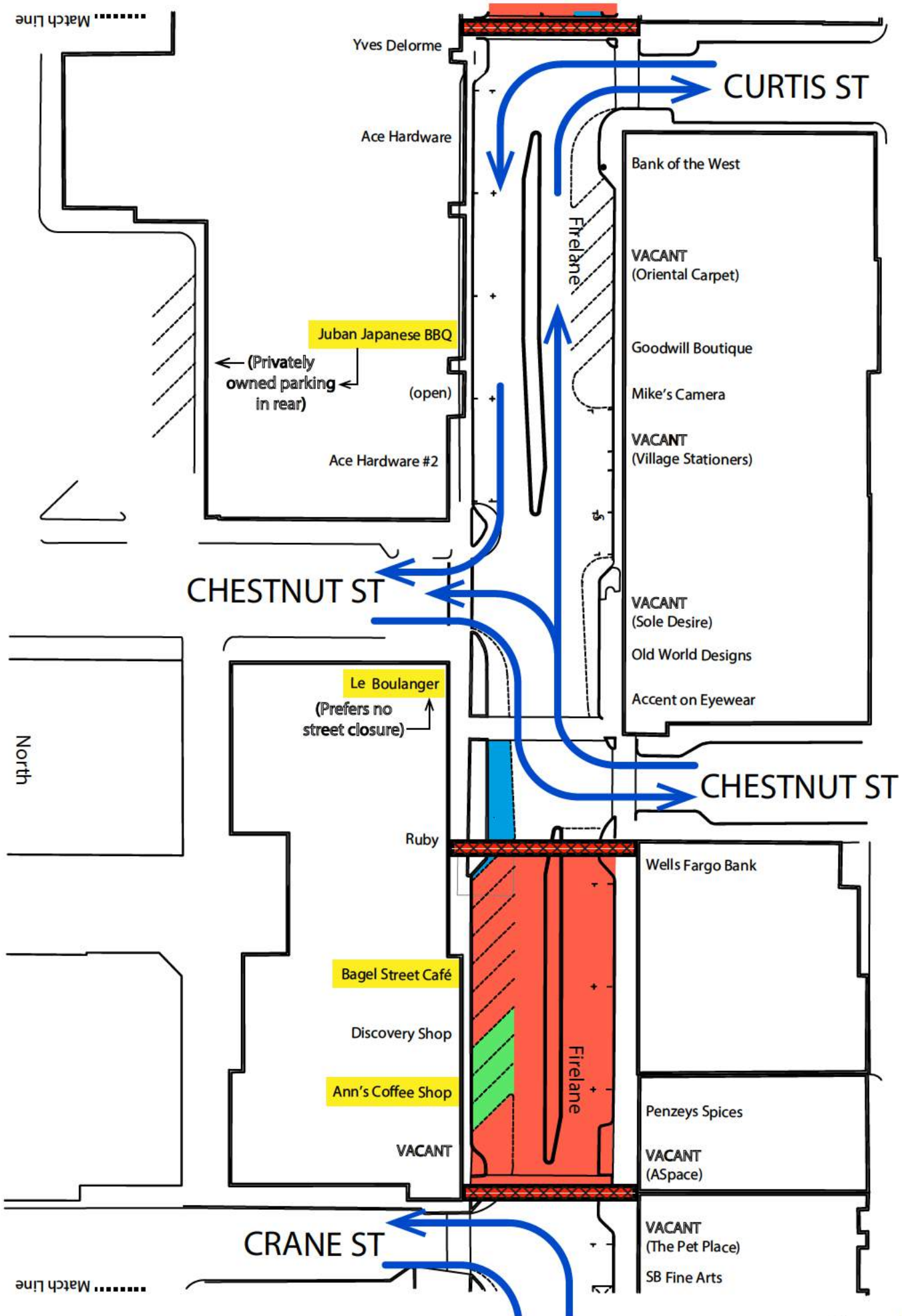
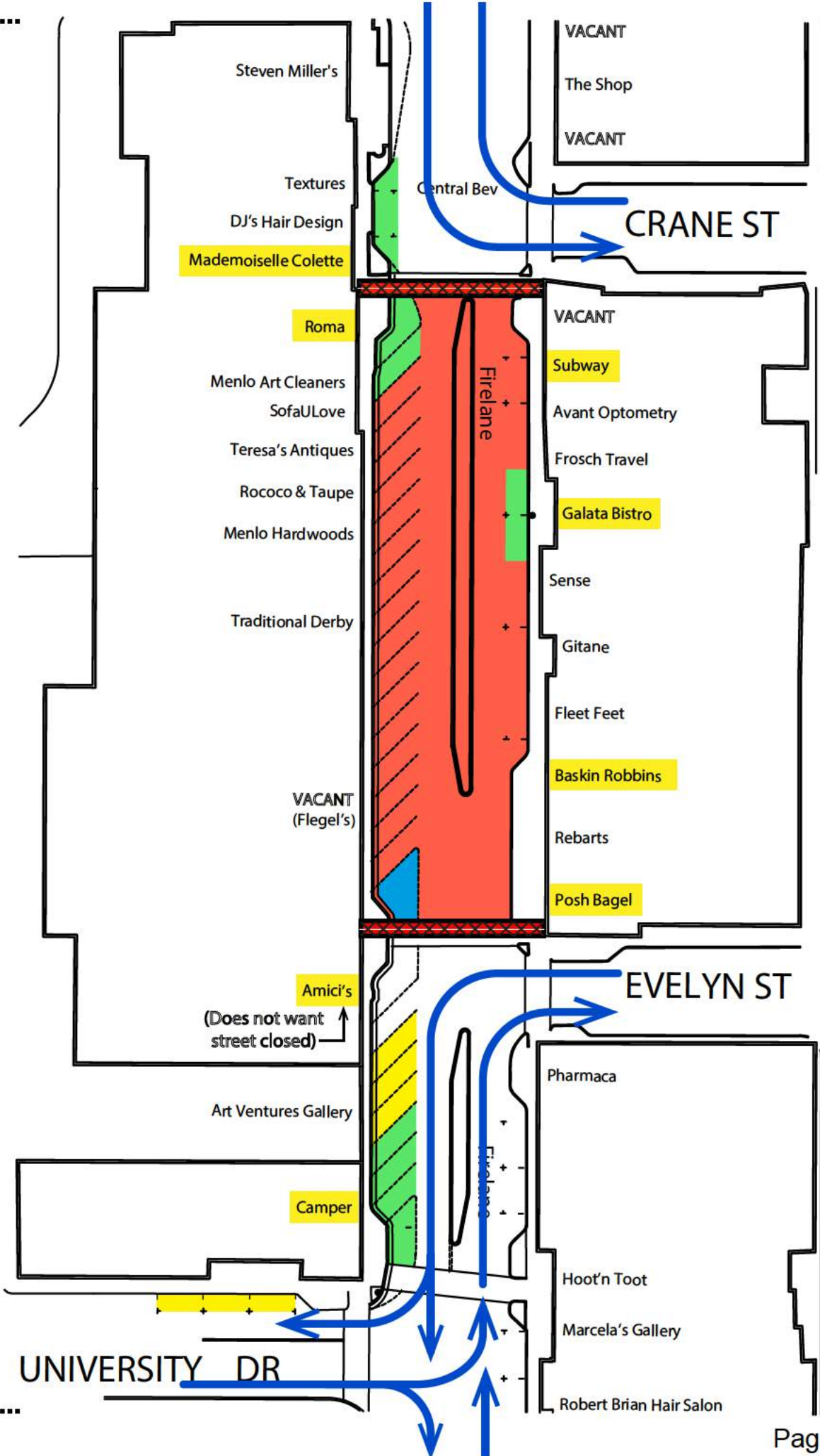


PLATE 2 South

..... Match Line

North

..... Match Line



VACANT  
The Shop  
VACANT

CRANE ST

VACANT  
Subway  
Avant Optometry  
Frosch Travel  
Galata Bistro  
Sense  
Gitane  
Fleet Feet  
Baskin Robbins  
Rebarts  
Posh Bagel

EVELYN ST

Pharmaca  
Hoot'n Toot  
Marcela's Gallery  
Robert Brian Hair Salon

Steven Miller's  
Textures  
DJ's Hair Design  
Mademoiselle Colette  
Roma  
Menlo Art Cleaners  
SofaULove  
Teresa's Antiques  
Rococo & Taupe  
Menlo Hardwoods  
Traditional Derby  
VACANT (Flegel's)

Amici's  
(Does not want street closed)  
Art Ventures Gallery  
Camper

UNIVERSITY DR

12  
Restaurants  
in closed  
area;  
3 not

PLATE 3 South



Agenda item J2  
Triona Gogarty, resident

I am in favor of closing portions of Downtown Santa Cruz to vehicular traffic.  
I would like to see more bike parking in the plan.  
I would like to see more car parking in the form of a public garage.

Thank you  
Triona Gogarty

Agenda item J2

Eileen Skidmore, resident

I fully support the idea to close Santa Cruz Avenue to car traffic and open it up to pedestrian traffic. Our little downtown seems to be dying and I believe this will help revitalize the area and bring back businesses. Have you noticed how many storefronts currently sit empty? Whatever street parking is lost, can be absorbed in the lots behind the businesses. In the future, the city can look into adding a parking structure like what was done for Burlingame Avenue and University Avenue. It's a shame to see that our community isn't thriving in the same way that those communities are. Thank you for your consideration.

Agenda item J2  
Pam Songer, resident

Will the sections of Santa Cruz proposed to shut down be revamped? If our intention is to create a downtown that will attract more foot traffic we have to make this transition a success. Our downtown is in dire need of a make over and I believe it can only help not hurt all the local businesses. It's the only downtown in the area that has been left behind... even Redwood City has put in the \$ and effort to revitalize and look what it's done for the local businesses there!

If for some reason this doesn't pass, have you considered closing Santa Cruz in the evenings and on weekends like Santa Row does? It works extremely well and the foot traffic is unbelievable. There are beautiful barriers with flowers that are rolled into place on all the access points when the street is to be closed. During the day the street is open to traffic so it addresses those that think it needs to be open for traffic flow.

Agenda item J2  
Cynthia Herr, resident

My husband and I (27 yr residents of Menlo Park) support the downtown street closure in order to make Menlo Park more inviting to restaurants, allow more space for outdoor dining, and in general make downtown a pedestrian area that is a more attractive area for neighbors to walk and socialize.

We would prefer the entire downtown be closed to vehicle traffic, and not just a few streets. In choosing which town to go to for a meal, most would rather go to a pleasant place without the noise and view of cars around, where they can eat and then stroll around and shop or just chat with others who are about. More businesses will be attracted to downtown also if it is a charming pedestrian zone filled with patrons. If Menlo Park doesn't act, I fear most residents will just go to Cal. Ave Palo Alto, Mtn View, Los Altos or Broadway in Redwood City, where there will be pedestrian zones.



**STAFF REPORT**

**City Council**

**Meeting Date:**

**6/16/2020 – continued from 6/9/2020**

**Staff Report Number:**

**20-120-CC**

**Regular Business:**

**Review and provide feedback on proposed vehicle miles travel thresholds for environmental review of development and capital projects**

**Recommendation**

Staff recommends that the City Council review and provide feedback on the proposed vehicle miles travel (VMT) thresholds and methods for evaluating the transportation impacts of development and capital projects pursuant to the California Environmental Quality Act (CEQA). After July 1, VMT must be used as the City's new transportation study metric. According to prior City Council direction, level of service (LOS) analysis for local roadway congestion, would remain as an existing local transportation study metric per the City's general plan circulation element.

**Policy Issues**

Senate Bill (SB) 743 required the Governor's Office of Planning and Research (OPR) to establish a new metric for identifying and mitigating transportation impacts within CEQA in an effort to meet the State's goals to reduce greenhouse gas (GHG) emissions, encourage infill development, and improve public health through more active transportation. OPR identified VMT as the required transportation metric and beginning July 1, VMT (not LOS) is the legally required threshold for transportation impacts pursuant to CEQA. OPR has identified recommendations regarding assessment of VMT and thresholds of significance, but the City may adopt local metrics and thresholds. Adoption of a local VMT threshold requires City Council adoption before July 1. If the City does not adopt thresholds before July 1, the default guidelines suggested by OPR would be applied for consideration of project impacts. Staff intends to return to the City Council with updated transportation impact analysis (TIA) guidelines incorporating the VMT thresholds and methods before July 1.

Updating the TIA guidelines is not only consistent with SB 743, it is consistent with policies CIRC-2.5, 2.14, 3.1, 3.4, and 5.7 in the circulation element of the general plan and was added to the 2019 City Council work plan in October 2019.

**Background**

Development and capital projects wishing to obtain approval need to satisfy a wide array of state and local requirements, including but not limited to full disclosure of the potential environmental impacts of the project. Possible environmental impacts include but are not limited to noise, air quality, greenhouse gas emissions and transportation. For purposes of disclosing potential transportation impacts, projects in the City of Menlo Park use the City's current TIA guidelines to ensure compliance with both state and local requirements. The City's current TIA guidelines use roadway congestion or LOS as the primary study metric. The TIA guidelines also require an analysis related to traffic on local streets, pedestrian, bicycle and transit circulation. This ensures that a thorough transportation analysis occurs for all projects that might result in CEQA impacts. However, beginning July 1, pursuant to SB 743, the City can no longer use LOS as a CEQA

threshold of significance and must use VMT. As a result, the City's current TIA guidelines need to be updated to ensure continuing compliance with state law.

On January 14, the City's transportation consultant CHS Consulting Group (CHS) presented a study session to the City Council to provide background information on VMT and LOS as transportation study metrics and a scope of work outlining the steps to update the TIA guidelines. The study session staff report is included as Attachment A and included an overview of:

- State and local policy context
- VMT and LOS definitions, benefits and other considerations
- Recommended approach to incorporate VMT into current TIA guidelines

The City Council provided direction at the study session, and staff subsequently modified the scope of work to reflect the direction before proceeding with the TIA guidelines update:

- Retain LOS as a local-level roadway congestion transportation study metric by removing contradicting text (Task 2.2 and 2.3;)
- Proceed with incorporating VMT as a new transportation study metric as outlined (Task 4;) and
- Ensure preservation of citywide transportation equity by removing callout of specific areas (Task 5.)

On May 4, City staff and CHS presented the recommended TIA guideline updates to the Planning Commission. The Planning Commission voted unanimously to recommend to City Council to adopt the recommendations in the staff report. Additional Commission feedback on several related questions was solicited and will be discussed in the Analysis section below.

While City staff initially anticipated that the Complete Streets Commission would also review the modifications to the TIA guidelines in May, the Commissions meetings have been canceled since March due to the COVID-19 pandemic. Since State law requires changes to the TIA guidelines to be made on or before July 1, the Complete Streets Commissioners were requested to provide any individual feedback at the May 4 Planning Commission meeting. One Commissioner spoke in favor of adopting VMT in response to SB 743 and encouraged adding the evaluation of multimodal (e.g., walking, biking and transit) impacts to the scope.

## **Analysis**

### TIA guidelines update

As stated above, the purpose of the TIA guidelines is to define whether a project is required to conduct a transportation analysis and outline the procedure. A well-documented transportation analysis should meet both the CEQA (state) and Menlo Park (local) requirements for disclosing project compliance with state and local policies. With that objective, the proposed updates to the current TIA guidelines include:

- VMT – as a state-required metric with locally-adopted thresholds; and
- LOS – as a local metric.

### VMT as a state-required metric with locally-adopted thresholds

There are four key topics of VMT analysis that should be established in the City's TIA guidelines:

- Screening criteria – what projects are exempt from VMT analysis
- Analysis procedures and methodologies – how to evaluate project VMT
- Impact threshold criteria – how to determine and assess VMT impact
- Mitigations measures – how to mitigate VMT impact

Recommendations for each topic are presented below. All of the recommendations would result in the same or stricter requirements as compared to state guidelines. Staff is seeking City Council feedback on the recommendations in each of these four areas before returning with final TIA guidelines for adoption June 23, before the July 1 deadline.

*Screening criteria for project exemptions*

Similar to the current TIA guidelines, some projects are anticipated to result in “less-than-significant” transportation impacts without the need to prepare a detailed analysis due to their smaller project size, location or project type. Table 1 summarizes the exemption criteria and explanations for modifying the new CEQA guidelines, if applicable.

Table 1: Proposed project exemptions			
Category	OPR guidance	Staff recommendation	Explanation
Small projects	< 110 vehicle trips / day	<b>&lt; 100 vehicle trips / day<sup>1</sup></b>	Consistent with County Congestion Management Agency requirements
Local serving retail	≤ 50,000 s.f.	<b>Adopt OPR guidance</b>	Shorten existing trips to other retail sites
Residential/office	In low VMT area <sup>2</sup> and within 1/2 mile of existing major transit stop <sup>3</sup>	<b>Adopt OPR guidance</b>	Consistent with City policy CIRC-2.14 to minimize VMT
Affordable housing	Deferred to lead agency	<b>100% affordable units, in low VMT area or within 1/2 mile of existing major transit stop</b>	Consistent with City land use element program LU-2.C <sup>4</sup> to address residential displacement
Other project types	Deferred to lead agency	<b>Local serving public facilities<sup>5</sup> (e.g., Police, Fire, parks without sporting fields, etc.)</b>	Shorten existing service and visitor trips
<p>Note: s.f. = square foot, e.g., = for example</p> <p>1. The equivalent of approximately: 10,200 s.f. general office space, 10 single family units, 13 multifamily units.</p> <p>2. Low VMT area: Area in which the existing VMT per capita or per employee is less than or equal to the adopted threshold.</p> <p>3. Major transit stop: a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. (Pub. Resources Code, § 21064.3)</p> <p>4. Current general plan land use element (Attachment B)</p> <p>5. For facilities with ≤ 10,000 s.f. of new space or net new space compared to existing facilities. Facility type and size outside the description shall provide evidence of local serving status to City satisfaction.</p>			

*Analysis procedures and methodologies*

If a project does not meet the exemption criteria identified in Table 1, a project VMT analysis would be required. The new CEQA guidelines provide guidance on methods with varying degrees of complexity. Based on experience with applicants, staff has found that providing guidelines and methods with greater specificity results in better expectations of the required steps in a TIA. As such, staff is recommending methods best applied based on project size, as summarized in Table 2.

**Table 2: Proposed VMT evaluation methods**

Project Size <sup>1</sup>	OPR guidance	Staff recommendation	Explanation
Medium project <sup>2</sup>	Travel demand models, sketch/spreadsheet model tools, research data, as appropriate	<b>Sketch/spreadsheet model</b>	A simplified tool with built-in localized trip lengths and other relevant VMT information. Ideal for medium size projects with substantial localized trips
Large project <sup>3</sup>		<b>City travel demand model</b>	A complex tool to assess land use-transportation interactions that captures project with substantial regional county trips
<p>Note:</p> <ol style="list-style-type: none"> <li>1. Small projects that generate &lt; 100 daily vehicle trips and other qualifying projects are exempt from VMT analysis. See Table 1: Proposed project exemptions, for more details.</li> <li>2. Medium projects: nonexempt, non-retail projects that generate ≤ 800 daily vehicle trips.</li> <li>3. Large projects: nonexempt, non-retail projects that generate &gt; 800 daily vehicle trips, and retail projects greater than 50,000 square feet. 800 daily trips is the equivalent of approximately: 82,100 s.f. general office, 84 single family units, 109 multifamily units.</li> </ol>			

Additionally, large projects that require a general plan or area plan/specific plan amendment will be required to conduct a cumulative analysis using the City’s travel demand model. A cumulative analysis will assess the project’s cumulative impact against a future “horizon” year that includes existing, approved and planned projects. The “horizon” year for the current general plan is 2040.

**Impact threshold criteria**

As mentioned above, the goals of using VMT as a study metric are to balance the needs of congestion management with statewide goals related to infill development, promotion of public health through active transportation, and reduction of GHG emissions. To achieve these goals, SB 743 requires that a VMT threshold must be established to identify development projects that are not adequately contributing to meeting these goals. The new CEQA guidelines provide guidance on how to establish these thresholds based on land use types.

Locally, vehicle trips typically span more than one city. Considering that the total distance each vehicle travels is a key variable to calculating VMT, the new CEQA guidelines recommended the following when developing agency thresholds:

- Use of either a citywide or a regional VMT standard is permitted. A citywide standard captures average VMT generated within the city and a regional standard captures average VMT generated within the nine Bay Area counties.
- For regional retail developments, a net new increase in total VMT generated by the area affected by the project is considered an impact. The assessment should cover the full area in which driving patterns are expected to change due to the project.
- For residential and commercial developments, efficiency metrics such as “VMT per capita” and “VMT per employee” are more appropriate in assessing impacts, respectively.
- A 15 percent reduction below these VMT standards by future residential and commercial developments is both achievable and necessary to meet the State’s emission goals.



Using the City’s latest (year 2020) travel demand model, CHS calculated both citywide and regional “average VMT per capita” and “average VMT per employee” values for the selection of the City’s VMT impact thresholds. Based on the calculated values, the City generates shorter vehicle trips and lower VMT per capita and employee than the region (e.g., nine Bay Area counties.)

Generally, using a lower value as the threshold standard means future developments would likely need to expend more resources to achieve a 15 percent VMT reduction. This would result in fewer vehicle miles traveled and greater GHG reduction, but could discourage development if thresholds are set too low, especially in comparison to neighboring jurisdictions.

After careful consideration of the current City policies, the recommendations for VMT thresholds are summarized in Table 3. For residential developments, the regional average VMT per capita value is recommended to encourage and promote more housing to alleviate the regional job-housing imbalance. For office developments, the citywide average VMT per job value is recommended to encourage and promote more multimodal growth to reduce office related roadway congestion and GHG emissions.

Project type	OPR guidance	Staff recommendation	Explanation
Residential	< 15% below regional or citywide VMT per capita	<b>&lt; 15% regional VMT per capita<sup>1</sup></b>	Consistent with City policy CIRC-2.14 to minimize VMT
Office	< 15% below regional VMT per employee	<b>&lt; 15% <u>citywide</u> VMT per employee<sup>2</sup></b>	Consistent with City policies CIRC-2.5 and CIRC-2.14 to minimize local congestion and VMT
Retail / hotel / school	A net increase in total VMT	<b>Adopt OPR guidance</b>	Consistent with City policy CIRC-5.7 to provide improvements proportion with development demand
Mixed use	Evaluate components independently or the most dominant use	<b>Evaluate components independently</b>	Consistent with City policy CIRC-5.7 to provide improvements proportion with development demand
Note: 1. Higher value selected (regional) to encourage and promote more housing to alleviate the regional job-housing imbalance 2. Lower value selected (citywide) to encourage and promote more multimodal growth to reduce office related roadway congestion and GHG emissions			

Both citywide and regional VMT averages and proposed thresholds are presented in Table 4 for reference. The bold type numbers are proposed for the City’s VMT thresholds of significance.

Area of influence	Residential uses: average VMT per capita (threshold) <sup>1</sup>	Office uses: average VMT per employee <sup>2</sup> (threshold)
City of Menlo Park	14.5 (12.3)	<b>14.9 (12.7)</b>
Regional (9 Bay Area counties)	<b>16.1 (13.7)</b>	15.8 (13.4)
Note: 1. Capita: resident that lives in the area of influence. VMT per capita value is 14.5 (citywide) or 16.1 (regional), thus the impact threshold is calculated at 15 percent below the value or 12.3 (citywide) or 13.7 (regional). 2. Employee: worker that works in the area of influence. VMT per employee value is 14.9 (citywide) or 15.8 (regional), thus the impact threshold is calculated at 15 percent below the value or 12.7 (citywide) or 13.4 (regional).		

If a cumulative analysis is required, City staff will determine if new cumulative threshold values or existing thresholds shown in Table 3 should be utilized.

### *Mitigation measures*

If a project is found to have a significant VMT impact, it will also need to identify feasible mitigations to reduce or eliminate the impact.

Unlike LOS mitigations that focus on increasing roadway capacity, VMT mitigation measures are meant to reduce project VMT and GHG emission by promoting multimodal and alternative travel modes. A list of potential VMT mitigation measures includes, but is not limited to:

- Develop a transportation demand management (TDM) program;
- Participate in a local/regional Transportation Management Association (TMA;)
- Orient projects toward transit, bicycle and pedestrian facilities;
- Provide traffic calming measures;
- Improve or increase access to transit; and
- Participate in an in-lieu fee program.

CHS reviewed the list and while many measures are expected to reduce project VMT, combining multiple measures could potentially diminished their individual effectiveness. As a result, CHS recommends that each project should prepare a plan to reduce VMT as part of their application materials, to be reviewed and approved at the City's discretion. The plan should demonstrate the reliability of proposed mitigation measures, through well-researched and documented case studies and/or industry accepted research results.

### LOS as a local metric only

As stated above, while roadway congestion or LOS is no longer a CEQA threshold, the City Council has directed staff to retain LOS as a local requirement in compliance with the City's current general plan circulation element, which identifies LOS D as the threshold standard for signalized intersections during commute peak hours, except at the intersection of Ravenswood Avenue and Middlefield Road and at intersections along Willow Road from Middlefield Road to US 101.

By retaining LOS, future developments would need to continue to demonstrate that they do not further exacerbate congestion on the existing roadway networks beyond the levels stated in the City's current general plan circulation element. The Planning Commission and/or City Council would continue to have discretion to make findings to approve or deny projects based on compliance with general plan LOS requirements. Actions to address LOS impacts would be conditions of approval, but would not be CEQA-required mitigation measures.

To ensure continued compliance with the general plan LOS requirements and SB 743, CHS examined the current LOS practice and summarized a series of recommendations in Table 5 to formalize current practices that are not currently documented in the TIA guidelines. These recommendations do not change the impact criteria, thresholds, analysis methods or study scenarios.

Table 5: LOS analysis practice recommendations			
Topic	Current Menlo Park guidelines	Staff recommended revision	Explanation
Exempted projects	<ul style="list-style-type: none"> <li>&lt; 5 residential units,</li> <li>≤ 10,000 s.f. net new commercial project</li> <li>Land use change in Bayfront area with TDM</li> <li>Other projects exempted by CEQA</li> </ul>	<ul style="list-style-type: none"> <li><b>Modify the exemption criteria to match the new CEQA exemption list<sup>1</sup></b></li> <li><b>≤ 10,000 s.f. net new retail and other commercial project</b></li> </ul>	Provide consistency between the two metrics without substantial burden to existing transportation network
Study area (intersections / roadway segments)	Undefined	<ul style="list-style-type: none"> <li><b>Intersection: ≥ 10 peak hour<sup>2</sup> vehicle trip per one travel lane (e.g., left, straight or right turns)</b></li> <li><b>Roadway segment: likelihood to generate impact based on existing demand</b></li> </ul>	Formalize current practice
<p>Note: s.f. = square foot, e.g., = for example</p> <p>1. The equivalent of: 10,200 s.f. general office space, 10 single family units, 13 multifamily units.</p> <p>2. One hour with the highest vehicle trip count chosen from 7 a.m. to 9 a.m., and one hour with the highest vehicle trip count chosen from 4 p.m. to 6 p.m.</p>			

Planning Commission feedback

In addition to presenting the addition of VMT and update to the LOS metrics in the TIA guidelines, staff also presented the following related questions to the Planning Commission for feedback at the May 4 meeting:

- Explore a new in lieu fee program, separate from the current TIF program, as a potential mitigation measure for VMT impacts;
- Formalize the local LOS guidelines into the zoning code to ensure full compliance; and
- Conduct a biennial review on the adequacy of the TIA guidelines, as part of the biennial general plan review process.

The feedback received from Commissioners Barnes, DeCardy, Riggs are summarized below:

- Not in favor of exploring the development of a new in lieu fee program, separate from the current TIF program, as a potential mitigation measure for VMT impacts.
- Not in favor of adding LOS requirements into the zoning code to make LOS an objective requirement as opposed to a subjective consideration for a condition of approval.
- In favor of reviewing VMT thresholds for their adequacy only when necessary as opposed to as part of the biennial general plan review process.

City Council action and other considerations

City staff is requesting City Council feedback on:

- The recommended Menlo Park specific VMT methodology and thresholds (e.g., Tables 1 to 4), which will be adopted as a City’s new local transportation study metric and the threshold for CEQA purposes; and
- The recommended LOS revisions (e.g., Table 5), which will remain as an existing local transportation study metric.

VMT thresholds biennial review

As stated above, VMT thresholds are calculated based on existing land uses and the existing transportation network. Therefore, City staff is recommending a review of the adequacy of the latest adopted VMT

thresholds as part of the biennial general plan review process. This would allow the City to better ensure that the VMT thresholds reflect the most current existing land uses and transportation network. When necessary, staff will outline recommended VMT threshold updates, which would be subject to City Council consideration and approval.

### Multimodal level of service

As mentioned by the public speaker at the May 4 Planning Commission meeting, in support of the City's Complete Streets Policy and direction from the City Council, staff began exploring the possibility of incorporating multimodal level of service (MMLOS) through this TIA guidelines update effort. MMLOS methodology is the calculation of LOS for each independent travel modes, including vehicle, pedestrian, bicycle and transit.

Through staff's initial research, no local agencies have adopted MMLOS and incorporating this methodology into the current effort will require additional effort and resources. Due to the subject's complexity and schedule constraints, staff is recommending continuing this effort and report back to the City Council as part of the recommended biennial general plan review process. Staff will also continue to monitor if and how MMLOS will be applied locally and regionally, such as the City of Palo Alto and City/County Association of Governments of San Mateo County.

### Next Steps

Staff will work with CHS to incorporate City Council feedback and finalize the updated TIA guidelines for the scheduled adoption June 23 as a consent calendar item before the required July 1 deadline to transition to VMT for CEQA threshold purposes. If the City does not adopt updated TIA guidelines before July 1, the OPR defaults will apply for consideration of project impacts. After adoption of the TIA guidelines, development and capital projects must complete VMT and LOS assessments according to the guidelines. VMT impacts would be addressed in the CEQA process (e.g., in an environmental impact report) and required mitigation measures applied. LOS would be addressed in the TIA and considered by decision makers in the entitlement process for conditions of approval.

### **Impact on City Resources**

Consultant cost and City resources required to complete this update were included in the 2019-20 capital improvement program in the transportation projects (minor) project budget and City's annual operation budget. No additional resources are being requested at this time.

### **Environmental Review**

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

### **Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

### **Attachments**

A. Hyperlink – January 14 City Council staff report: [menlopark.org/DocumentCenter/View/23915/SS2-](http://menlopark.org/DocumentCenter/View/23915/SS2-)

[20200114-CC-TIA-Study-Session?bidId=](#)

- B. Hyperlink – Current general plan land use element: [menlopark.org/DocumentCenter/View/15014/Land-Use-Element\\_adopted-112916\\_final\\_figures?bidId=](https://menlopark.org/DocumentCenter/View/15014/Land-Use-Element_adopted-112916_final_figures?bidId=)
- C. Hyperlink – June 9 presentation: <https://menlopark.org/DocumentCenter/View/25428/Att-C---presentation>  
<https://menlopark.org/DocumentCenter/View/25428/Att-C---presentation>

Report prepared by:

Kevin Chen, Senior Transportation Engineer

Report reviewed by:

Kristiann Choy, Acting Transportation Manager

Leigh F. Prince, Assistant City Attorney



## STAFF REPORT

### City Council

Meeting Date:

6/16/2020 – continued from 6/9/2020

Staff Report Number:

20-116-CC

### Regular Business:

**Authorize the city manager to execute master agreements with consulting firms for on-call architectural, landscape architectural, civil engineering, construction inspection, municipal engineering and materials testing services**

### Recommendation

Staff recommends that the City Council authorize the city manager to execute three-year master agreements with multiple consulting firms for on-call architectural, landscape architectural, civil engineering, construction inspection, municipal engineering, and materials testing services with options to extend the agreements on a yearly basis for up to two additional years.

### Policy Issues

The proposed action is consistent with the City's purchasing policies. Use of multiyear master agreements assists the timely delivery of capital improvement projects and programs/services to maintain the City's infrastructure. It also serves as a risk management tool to quickly address emergencies, shifting priorities and staff vacancies. The authorization of these master agreements does not award projects to any of the selected firms; it establishes a pool of resources from which to draw as project needs are identified in the future.

### Background

The public works department is responsible for planning, building and maintaining the City's infrastructure. The department is comprised of engineering, maintenance, and transportation divisions managing projects per the City's capital improvement program and development service needs. Such projects may include master planning, development permit review, utility upgrades, building and park maintenance, and street and sidewalk repairs. Currently, public works projects are overseen staff engineers and inspectors, and supplemented with contract consulting services. The role of City surveyor is also currently provided through a master agreement.

Over the years, the City Council has authorized the city manager to execute master agreements with consulting firms to augment staffing resources experiencing higher demand. Master agreements have been established by the City for short-term specialized services such as engineering, surveying, transportation, inspection and materials testing. The City's current master agreements for engineering and surveying services were last authorized by the City Council in 2012, and expire at the end of fiscal year 2019-20. The last set of transportation master agreements was authorized by the City Council November 13, 2018, and may be extended through fiscal year 2024-25, so is not included in this authorization. On August 20, 2019, the City Council authorized the city manager to execute three-year master agreements for on-call architectural design, cost estimating and mechanical, electrical and plumbing (MEP) design services. While

cost estimating and MEP on-calls are not included in this authorization, staff recognized the need to expand the City’s architectural on-call support after further evaluation of current and projected workloads.

**Analysis**

Master agreements are an efficient tool for providing technical staff support and shorten the time needed to identify qualified firms while adhering to City purchasing policies. This enables the City to more quickly respond to needs by utilizing these consulting firms’ services on an as-needed basis for a specific activity. These services are temporary, and obtained only for the length of time needed to complete the tasks.

Master agreements that involve on-call professional services only provide a list of qualified and vetted consulting firms. Once a master agreement is in place with the listed firms, staff interacts with these firms on an as-needed basis to find the most appropriate level of expertise and knowledge to carry out a specific task. Once a specific firm from the list is identified for the temporary work, the City solicits cost information about the task(s) requested and establishes a purchase order for a not-to-exceed amount from a funding source as included in the annual budget.

The master agreement includes the same language as the City’s standard services contract and requires the consultant to provide proof of insurance and to hold the City harmless for the work performed. The agreements will be for three years with an option to extend yearly for up to two additional years.

On April 13, the City issued a request for qualifications (RFQ) for on-call architectural, landscape architectural, civil engineering, construction inspection, municipal engineering, and materials testing services to develop a list of firms to replace those with expiring master agreements. On May 14, the City received 74 submittals in response to the RFQ as summarized below:

Table 1: Response to the RFQ		
On-call service	Proposals received	Hourly rate <sup>1</sup>
Architectural	14	\$60-305
Landscape architectural	20	\$85-310
Civil engineering	17	\$80-400
Construction inspection	9	\$70-225
Municipal engineering	8	\$92-352
Materials testing	6	\$75-500

1. Rates range from administrative to principal staff

A selection committee of staff members divided into groups of three to rank proposals by type of on-call service. Upon review, staff identified firms that would best provide the range of specialties for each on-call service. Finalists were chosen based on a number of selection criteria including fee schedule, work methodology, overall proposal quality, availability to work, familiarity with the City of Menlo Park, and previous staff experience, amongst others. Each panelist provided their top choices per this criteria. A follow up meeting was established for group consensus before finalizing the on-call list in the event of discrepancies. Staff recommends entering into agreements with the 21 firms identified on the next page. The remaining firms did not advance based on this ranking system.

Entering master agreements with these firms will help advance funded capital improvement projects. In addition, master agreements will help relieve added workload from staff vacancies and assist project delivery in a timely manner. While these on-call services are meant to be comprehensive for work that is projected through the life of the agreement, it does not preclude the City from issuing project specific requests for future proposals, if desired.

Table 2			
Service	Firm	Hourly rates	Type of services (illustrative)
Architectural	<ul style="list-style-type: none"> <li>• Noll &amp; Tam</li> <li>• Group 4</li> <li>• Ten Over Studio</li> <li>• KPA Group</li> </ul>	<ul style="list-style-type: none"> <li>• \$110-240</li> <li>• \$105-320</li> <li>• \$75 - 200</li> <li>• \$95 - 280</li> </ul>	<ul style="list-style-type: none"> <li>• Preparation of conceptual design drawings                             <ul style="list-style-type: none"> <li>• Master planning and feasibility studies</li> </ul> </li> <li>• Compliance report with state or federal guidelines                             <ul style="list-style-type: none"> <li>• Historic building preservation and restoration                                     <ul style="list-style-type: none"> <li>• Building program development</li> <li>• Space needs studies / interior design</li> </ul> </li> </ul> </li> <li>• Architectural design drawings and specifications                             <ul style="list-style-type: none"> <li>• Public meeting presentations</li> <li>• Building permitting assistance</li> <li>• Construction administration services</li> </ul> </li> </ul>
Landscape architectural	<ul style="list-style-type: none"> <li>• Callander Assoc.</li> <li>• Gates + Assoc.</li> <li>• PGAdesign</li> <li>• BFS</li> </ul>	<ul style="list-style-type: none"> <li>• \$108-210</li> <li>• \$90 - 220</li> <li>• \$128-235</li> <li>• \$80 - 215</li> </ul>	<ul style="list-style-type: none"> <li>• Preparation of conceptual design drawings                             <ul style="list-style-type: none"> <li>• Master planning and feasibility studies</li> </ul> </li> <li>• Compliance report with state or federal guidelines                             <ul style="list-style-type: none"> <li>• Historic landscape preservation and restoration</li> <li>• Landscape design drawings and specifications                                     <ul style="list-style-type: none"> <li>• Public meeting presentations</li> </ul> </li> <li>• Construction administration services</li> </ul> </li></ul>
Civil engineering	<ul style="list-style-type: none"> <li>• BKF</li> <li>• Freyer &amp; Laureta</li> <li>• IEC</li> <li>• Schaaf &amp; Wheeler</li> </ul>	<ul style="list-style-type: none"> <li>• \$70 - 251</li> <li>• \$85 - 230</li> <li>• \$80 - 260</li> <li>• \$130-250</li> </ul>	<ul style="list-style-type: none"> <li>• Master planning</li> <li>• Compliance report with state or federal guidelines                             <ul style="list-style-type: none"> <li>• Land surveying services</li> <li>• Prepare mapping documents                                     <ul style="list-style-type: none"> <li>• Civil design</li> </ul> </li> </ul> </li> <li>• Civil construction drawings and specifications                             <ul style="list-style-type: none"> <li>• Construction administration services</li> </ul> </li> </ul>
Construction inspection	<ul style="list-style-type: none"> <li>• 4Leaf</li> <li>• Starbuilder</li> <li>• Swinerton</li> </ul>	<ul style="list-style-type: none"> <li>• \$92 - 220</li> <li>• \$90 - 120</li> <li>• \$86 - 220</li> </ul>	<ul style="list-style-type: none"> <li>• Assist in review of construction documents                             <ul style="list-style-type: none"> <li>• Construction administration</li> </ul> </li> <li>• Inspection services for construction projects</li> </ul>
Municipal engineering	<ul style="list-style-type: none"> <li>• Bureau Veritas</li> <li>• CSG</li> <li>• Rey</li> </ul>	<ul style="list-style-type: none"> <li>• \$125-190</li> <li>• \$130-330</li> <li>• \$102-600</li> </ul>	<ul style="list-style-type: none"> <li>• City surveyor services</li> <li>• Plan check for construction documents</li> <li>• Building/encroachment permit assistance</li> <li>• Construction and project management duties                             <ul style="list-style-type: none"> <li>• Staff augmentation support</li> </ul> </li> </ul>
Materials testing	<ul style="list-style-type: none"> <li>• Construction Testing</li> <li>• BAGG</li> <li>• Ninyo &amp; Moore</li> </ul>	<ul style="list-style-type: none"> <li>• \$90-500</li> <li>• \$75-250</li> <li>• \$80-185</li> </ul>	<ul style="list-style-type: none"> <li>• Soils, subbase and geotechnical testing                             <ul style="list-style-type: none"> <li>• Asphalt / concrete testing</li> <li>• Exploratory drilling and testing</li> </ul> </li> <li>• Others as required per Caltrans standards or per project contract</li> </ul>

**Impact on City Resources**

The authorization of these master agreements would not result in a direct expenditure of City resources. Tasks would be assigned through the master agreements to meet the needs and demands identified for each future fiscal year through the adoption of the annual budget and capital improvement program.



The contract amount for services would be identified for each project, depending on the scope of work/services, the number and type of professionals/technicians used, and the level of community engagement needed. The hourly rates for services typically range from \$60 to \$500 per hour, depending on the area of expertise and experience required to deliver the best products. The costs of these services are budgeted in the program or capital project for which the services are needed. No additional appropriations are being requested at this time.

### **Environmental Review**

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

### **Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

### **Attachments**

None.

Report prepared by:  
Michael Fu, Senior Civil Engineer

Report reviewed by:  
Chris Lamm, Assistant Public Works Director