



# City of Santa Clara

## Meeting Agenda

### Planning Commission

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**Wednesday, September 20, 2023**

**6:00 PM**

**Hybrid Meeting  
City Hall Council  
Chambers/Virtual  
1500 Warburton Avenue  
Santa Clara, CA 95050**

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The City of Santa Clara is conducting Planning Commission meetings in a hybrid manner (in-person and continues to have methods for the public to participate remotely).

- Via Zoom:

- o <https://santaclaraca.zoom.us/j/91729202898> Webinar ID: 917 2920 2898 or

- o Phone: 1(669) 900-6833

- Via the City's eComment (available during the meeting)

The public may view the meetings on SantaClaraCA.gov, Santa Clara City Television (Comcast cable channel 15 or AT&T U-verse channel 99), or the livestream on the City's YouTube channel or Facebook page.

Public Comments prior to meeting may be submitted via email to [PlanningPublicComment@SantaClaraCA.gov](mailto:PlanningPublicComment@SantaClaraCA.gov) no later than noon on the day of the meeting; (Comments received after 12:00 PM on the day of the meeting will be made part of the public record but will not be read out loud during the meeting) and also before and during the meeting via eComment. Clearly indicate the project address, meeting body, and meeting date in the email.

Agendas, Staff Reports and associated documents for Planning Commission items may be viewed on the City's website at <https://santaclara.legistar.com/Calendar.aspx>

#### **6:00 PM REGULAR MEETING**

##### **Call to Order**

##### **Pledge of Allegiance and Statement of Values**

##### **Roll Call**

#### **DECLARATION OF COMMISSION PROCEDURES**

#### **CONTINUANCES/EXCEPTIONS**

**CONSENT CALENDAR**

*Consent Calendar items may be enacted, approved or adopted, based upon the findings prepared and provided in the written staff report, by one motion unless requested to be removed by anyone for discussion or explanation. If any member of the Planning Commission, staff, the applicant or a member of the public wishes to comment on a Consent Calendar item, or would like the item to be heard on the regular agenda, please notify Planning staff, or request this action at the Planning Commission meeting when the Chair calls for these requests during the Consent Calendar review. Items listed on the Consent Calendar with associated file numbers constitute Public Hearing items.*

There are no items on the Consent Calendar.

**PUBLIC PRESENTATIONS**

*Members of the public may briefly address the Commission on any item not on the agenda.*

**PUBLIC HEARING**

*Items listed above under Items for Council Action will be scheduled for Council review following the conclusion of hearings and recommendations by the Planning Commission. Due to timing of notices for Council hearings and the preparation of Council agenda reports, these items will not necessarily be heard on the date the minutes from this meeting are forwarded to the Council. Please contact the Planning Division office for information on the schedule of hearings for these items.*

**23-584**    [Study Session on the Zoning Code Update](#)

**REPORTS OF COMMISSION/BOARD LIAISON AND COMMITTEE:**

1. Announcements/Other Items
2. Commissioner Travel and Training Reports, Requests to attend Trainings

**DIRECTOR OF COMMUNITY DEVELOPMENT REPORTS:**

1. Planning Commission Budget Update
2. Upcoming Agenda Items
3. City Council Actions

**ADJOURNMENT:**

*The next regular scheduled meeting is on Wednesday, October 10, 2023 at 6:00 PM in the City Hall Council Chambers and via Zoom.*



The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitation period is specified by any other provision. Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred. If a person wishes to challenge the nature of the above section in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City of Santa Clara, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the interested party has not sought and exhausted all available administrative remedies.

**STREAMING SERVICES:** As always, the public may view the meetings on SantaClaraCA.gov, Santa Clara City Television (Comcast cable channel 15 or AT&T U-verse channel 99), or the livestream on the City's YouTube channel or Facebook page.

**Note:** The public cannot participate in the meeting through these livestreaming methods; livestreaming capabilities may be disrupted at times, viewers may always view and participate in meetings in-person and via Zoom as noted on the agenda.

If a member of the public submits a speaker card for any agenda items, their name will appear in the Minutes. If no speaker card is submitted, the Minutes will reflect "Public Speaker."

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the City of Santa Clara will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities, and will ensure that all existing facilities will be made accessible to the maximum extent feasible. The City of Santa Clara will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities including those with speech, hearing, or vision impairments so they can participate equally in the City's programs, services, and activities. The City of Santa Clara will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities.

Agendas and other written materials distributed during a public meeting that are public record will be made available by the City in an appropriate alternative format. Contact the City Clerk's Office at 1 408-615-2220 with your request for an alternative format copy of the agenda or other written materials.

Individuals who require an auxiliary aid or service for effective communication, or

any other disability-related modification of policies or procedures, or other accommodation, in order to participate in a program, service, or activity of the City of Santa Clara, should contact the City's ADA Coordinator at 408-615-3000 as soon as possible but no later than 48 hours before the scheduled event.



## Agenda Report

23-584

Agenda Date: 9/20/2023

### REPORT TO PLANNING COMMISSION

#### SUBJECT

Study Session on the Zoning Code Update

#### BACKGROUND

The Community Development Department has been working since late 2017 with Mintier-Harnish, the City's Zoning Code Update consultant, to prepare a comprehensive update to the City of Santa Clara Zoning Code. This is the first comprehensive update of the current Zoning Code since it first came into effect in 1969. The goal of the Zoning Code Update process is to develop a more up-to-date, readable and relevant Zoning Code that better aligns with the City's General Plan and fully aligns with recent changes in State law.

Overarching goals of the Zoning Code Update include:

- Simplification and modernization
- Implementation of and consistency with the City's General Plan
- Creation of new mixed-use zoning districts for commercial corridors
- Creation of new Office/R+D districts that support employment uses
- Implementing specific actions called out in the City's Housing Element
- Integrating changes as required by State law

#### DISCUSSION

The following discussion summarizes the key changes and concepts being brought forward through the Zoning Code Update.

##### **Organization of the Code**

The draft updated Zoning Code has been organized and formatted for clarity and ease of use. One significant change in organizational structure is to move from a nested or cumulative approach to zoning districts to an organization where the contents of each zoning district is self-contained. In the 1969 Zoning Code, uses were listed out within each zoning district, and the zoning code was cumulative in nature, meaning that uses in less intense zoning districts were included by reference in the more intense districts of the same type. For example, all of the uses allowed in the CN Neighborhood Commercial district are also allowed in the CC Community Commercial zoning district, and the uses of both zoning districts are allowed in the CT Commercial Thoroughfare zoning district with each district referring back to the other districts for the complete list of allowed uses. Functionally, this means that to understand the uses applicable to a property, a resident might need to follow a chain of references through three chapters of the Code.

The updated Zoning Code further improves readability by presenting all similar districts together in a single chapter, with uses presented in tabular format, making it easier to compare regulations between uses and zoning districts. Similarly, development standards, including building heights,

setbacks and area limitations such as lot coverage maximums are presented in tables, allowing information to be readily accessed in a concise format.

The updated Zoning Code also adds explanatory graphics, helping to clarify code sections such as non-standard setback regulations and sign types. (See Attachment 1 for an example of the use tables, development standards and explanatory graphics.)

### **New Mixed-Use Zoning Districts to Implement Existing General Plan Land Use Designations**

One significant advantage to the Zoning Code Update is that it will eliminate any remaining inconsistencies between the City's General Plan and the Zoning Code. When the City completed the most recent comprehensive update of the General Plan in 2010, staff began a corresponding update to the Zoning Code to more fully align with the new General Plan, but this effort was not completed. This lack of alignment limits the effectiveness of the Zoning Code as an implementation tool for the General Plan. Recent changes in State law also remove an exception for charter cities, such as Santa Clara, that allowed for inconsistency between zoning and General Plan. Other recent changes in State law also require that local land use regulations for residential and mixed-use developments be generally limited to objective standards, which are found in the Zoning Code. The Zoning Code Update will address these concerns.

Since 2010, the City's General Plan designates areas for mixed-use development along the City's commercial thoroughfares, but the current applicable zoning districts are limited to commercial uses. As a result of the current lack of mixed-use zoning districts, mixed-use projects must be implemented using the more cumbersome, expensive and time-consuming Planned Development Zoning process. The Zoning Code Update will add mixed-use zoning districts that directly align with the City's General Plan land use designations, including new mixed-use districts for commercial corridors, such as El Camino Real, Homestead Road, and Saratoga Avenue.

The creation of mixed-use districts conforming to the General Plan will provide developers with a more streamlined approval process through a development review hearing using objective standards in the analysis of projects. The proposed designations for El Camino Real implement the existing General Plan land use designations including the MU-CC Mixed Use-Community Commercial zone, which corresponds to the CMU Community Mixed-Use land use designation, and the MU-RC Mixed Use-Regional Commercial zone, which corresponds to the RMU Regional Mixed-Use land use designation. Any future zoning changes that result from the El Camino Specific Plan, which is under development, would be adopted separately as part of the El Camino Real Specific Plan process.

### **New Industrial Zoning Districts to Better Reflect the Mix of Businesses that are Located in Santa Clara's Job Centers**

Similarly, most of the employment lands in North Santa Clara are zoned ML Light Industrial, a catch-all designation in the 1969 code, even though the General Plan designates these areas as a mix of Light Industrial, Low Intensity Office/Research & Development or High Intensity Office/Research & Development. Lands designated for Light and Heavy Industrial use are generally found within areas most impacted by the flight path of San José Mineta International Airport (SJC). The update maintains the Light and Heavy Industrial zoning districts in areas with those General Plan designations, especially near SJC, and creates new zoning designations for Low-Intensity Office/R+D (LO-RD) and High-Intensity Office/R+D (HI-RD) uses, recognizing that additional height and development intensity is now a part of the development program for contemporary office uses.

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**Additional Height Allowances for Industrial Uses with Fewer Employees**

The 1969 Zoning Code assumed that light industrial uses would be limited to low-rise development. Increasingly, developers of modern industrial uses, such as data centers, seek to better utilize industrially zoned land. The City has granted modifications, variances, and PD zonings regarding height through the City's permit process for these uses. This code change recognizes the contemporary needs for additional height of this development type which are compatible with surrounding forms of industrial development and therefore provides a more logical and streamlined development process.

**Streamlined Permitting Processes for Placemaking Uses**

In response to resident demand, the updated Zoning Code includes multiple changes to streamline the permitting of placemaking uses. The streamlined processes include an increased allowance for restaurants to provide up to 24 outdoor seats without a permit, as opposed to twelve as currently allowed, making it easier for restaurants to activate their adjacent outdoor spaces.

The code changes also include a streamlined administrative permit process for temporary outdoor events on private property, such as pumpkin patches and carnivals, as well as live entertainment, provided the entertainment use meets residential separation requirements, striking a balance between placemaking and neighborhood protection. These types of activities would be permitted with less time and cost through a streamlined staff review process rather than through City Council action as required by the current Zoning Code.

**Simplified Parking Regulations**

The parking section of the Zoning Code has been revised to base parking requirements on the floor area of a building, as opposed to requirements based on other criteria, such as number of seats. The parking requirements in the current Zoning Code can prevent an existing commercial space from being re-tenanted for a different commercial use. For example, the current Zoning Code requirements for restaurants based on the number of seats can effectively prevent a restaurant from entering a vacant commercial space. Implementing a consistent standard based on square footage makes for an apples-to-apples comparison of required parking between different uses such as restaurants and retail and makes it easier to re-tenant buildings. The updated Zoning Code also increases the thresholds for triggering additional parking requirements so that a wider range of tenants can use existing buildings, reducing the barriers to tenanting vacant commercial space and leading to livelier streets.

Additional changes are included to align with recent changes to State law, especially Assembly Bill (AB) 2097 (2022), which prohibits cities from requiring parking within one-half mile of a major transit stop. Attachment 2 shows the areas of the City where AB 2097 applies.

**Construction Parking for Larger Projects**

In response to an ongoing community concern, the updated Zoning Code adds requirements for off-street parking for the duration of construction of residential projects of over 100 units in size, or non-residential projects of over 100,000 square feet in area. Parking spaces will be required to be available from the time of issuance of building permits until the issuance of a certificate of occupancy. The proposed code provisions include performance standards to maintain the temporary parking lot and to sweep surrounding streets.

**Occupancy Limits for Residences**



Staff has invested a significant amount of time exploring with the community potential regulations for the occupancy of single-family residences. In particular, this effort includes several years of community outreach through the Neighborhood University Relations Committee (NURC) and with residents of the Old Quad neighborhood. Because of the complexity of this issue and its importance to the community, staff will bring forward an ordinance addressing this topic separately, after the Zoning Code update has been completed. Staff will continue working with the community to make sure that the City's approach is effective while remaining fully compliant with legal requirements.

As a first step to address this concern, the Zoning Code Update will require that in new or expanded residences, each residential unit maintain a minimum common area (the area dedicated to living rooms, family rooms and kitchens) of 25% of the floor area of the building, to provide adequate common space for congregating in the residences and to prevent dining rooms and living rooms from being converted to bedrooms.

### **Short-Term Rentals**

A second area of significant community concern is the City's current lack of regulations for short-term rental uses (the rental of a residence or a portion of a residence for 30 or fewer days). The proposed Zoning Code Update establishes regulations for short-term rentals, requiring the unit to be owner-occupied or significantly limiting the amount of time that the unit may be rented, and requiring the owner to register with the City, pay the Transient Occupancy Tax (TOT), and meet performance standards. The proposed regulations will establish a maximum number of days (90 aggregate days in a calendar year) that properties can be rented without the owner present, set occupancy limits and require a local contact person. As this is an evolving model, a Minor Use Permit, which enables the City to add conditions of approval and, if necessary, revoke approval, is proposed to be required for any proposal that deviates from the new Zoning Code short-term rental standards.

### **Increased Allowances for Houses with One-Car Garages**

A number of subdivisions were built in Santa Clara in the 1950s with one-car garages and do not conform to the City's current standard of two parking spaces per single-family residence. Prior to the 2010 General Plan update, the City had a General Plan policy that allowed expansions of these houses by up to 500 square feet before they were required to provide an additional garage space. The Zoning Code Update will codify the ability to make up to a cumulative 1,000 square foot addition to such houses over the life of the building without the need to add a parking space. Any additions made previously will count towards the 1,000 square foot total.

### **By-Right Setback Exceptions**

The proposed Zoning Code Update will add by-right exceptions for additions to houses with legal non-conforming side setbacks, provided the addition is to the rear. It has become a frequent practice for the City to grant Variances for such additions in consideration of a lack of any clear negative impact upon the community and the benefit to the homeowner. This change will thus reduce the number of variance cases in the City, especially in relation to pre-war houses in the Old Quad with narrower lots, reducing unnecessary time and cost burdens for homeowners.

### **Unenclosed Porch Allowances**

The Zoning Code Update would also increase the amount that unenclosed porches can encroach into the front setback to up to six feet. This change aligns with current community preferences, reflecting the transition from a visual preference for large, uninterrupted front lawns to homes that are more inviting and pedestrian-oriented. Homeowners will be more able to add on an open front porch

that could activate their front yard.

### **Prohibited Activities**

The proposed Zoning Code Update adds language to clarify that residential front and side setbacks need to be free of inoperable vehicles, construction equipment and debris, and other potential attractive nuisances, such as unattended ping-pong tables and inflatable pools. This clarified code language will make it easier for the City to conduct Code Enforcement for non-compliant property owners.

### **One-and-a-Half Story Accessory Dwelling Units**

Recent changes to State law require cities to allow 800 square foot Accessory Dwelling Units (ADUs) with four-foot side and rear yard setbacks. Cities are allowed to have more permissive development standards for ADU's that go beyond these minimum requirements. In response to community input, particularly from the Old Quad neighborhood, the proposed update will include zoning standards that allow one-and-a-half story ADUs by right. This increased height is considered by the community to be consistent with the historical character of the Old Quad, and an appropriate means of allowing compatible development, as the volume of a half-story is largely underneath the pitch of the roof and use of the half-story reduces the mass of a structure with two habitable floor areas.

Proposed ADU maximum size standards would allow ADUs up to 1,200 square feet on lots which are 5,500 square feet or larger and a maximum of 1,000 square feet on lots less than 5,500 square feet in size. The proposed stratification of allowable ADU sizes based on lot size is a response to community concerns that 1,200 square foot ADUs appear to be crowding smaller lots with little room left for rear yard vegetation or separation between buildings.

### **Minor Use Permits**

The Zoning Code Update will create a Minor Use Permit process to allow more streamlined review of non-controversial uses, such as licenses for beer and wine sales at a restaurant. In all instances, neighbors would be notified of the proposed minor use permit, but a public hearing would only be held if requested by a neighbor. Non-controversial permits would be approved by the Director of Community Development without a public hearing.

### **Zoning Code Changes Required by Recent State Legislation**

Over the past year, the State has made a number of changes to the Government Code that are intended to promote housing inventory including several actions cities are required to implement through their Zoning Codes. As a result, the City has made the following changes to the proposed Zoning Code Update since the release of the February 2022 draft:

- Allowing residential development on land with commercial land use designations (SB 6 and AB 2011), provided that the development meets specific conditions including a minimum density of 30 dwelling units per acre and paying prevailing wages during construction;
- The relaxation of local ADU development standards to allow greater ADU heights near transit (SB 897), and waiving otherwise required front setbacks if a detached ADU of 800 square feet cannot be built (AB 2221);
- Increasing the range of projects that can take advantage of incentives in the Density Bonus Law, including shared housing (AB 682) and commercial projects that include an affordable housing component (AB 1551);
- A prohibition on parking requirements for residential and commercial developments within a half-mile of transit (AB 2097) and for 55-and-older senior housing projects (AB 2334);

- Requirements to provide more possible zoning districts for emergency shelters, and to approve emergency shelters using objective standards (AB 2339); and
- Prohibition on cities from requiring a public hearing for residential renovation projects that only involve interior reconfigurations (AB 916).

Summaries of these pieces of State legislation are presented in Attachment 3.

### **Changes Made as a Result of the Housing Element Update**

Several changes are proposed for the Zoning Code Update to implement actions proposed in the Housing Element and/or directed by the State Department of Housing and Community Development (HCD) through the City's Housing Element update process. Specific to the Zoning Code, the State has asked the City to support a wider variety of residential housing choices by allowing a wider variety of housing types in the City's various residential zoning districts. This includes generally allowing Single Room Occupancies (SROs) and supportive housing (housing that includes supportive services) in multi-family and mixed-use zoning districts. HCD also asked that the City include low-barrier navigation centers as an enumerated use. Low-barrier navigation centers are functionally emergency shelters with additional supportive services.

### **General Plan Text Amendments**

The Zoning Code Update includes an accompanying General Plan Amendment in response to a recent change to State law that requires charter cities to have consistent General Plans and Zoning Codes. This Amendment would update the mix of industrial areas supported by the General Plan to align with the Zoning Code update and the evolving nature of industrial activity within Santa Clara.

First, the General Plan changes would remove limitations on the maximum amount of building area devoted to manufacturing in the Low and High Intensity Office/R+D designations. This would allow both existing industrial businesses to continue in place and would allow for new businesses with a manufacturing component to locate in the new zoning designations that have not yet been applied to the City's zoning map.

Second, the proposed changes would remove the prohibition on Medical Facilities in the areas designated High Intensity Office/R+D. This proposal reflects current practices within the medical industry, to include uses that both manufacture medical supplies or equipment and perform outpatient procedures, to locate both parts of their business within the same building.

Third, the proposed change would modify the definition of Floor Area Ratio (FAR), which is used to regulate building mass. The definition is being changed to clarify that FAR calculation is based on all of the building mass above grade, but excludes basements and below-grade parking.

### **Zoning Code Sections to be in Effect Prior to Map Approval**

Adoption of the Zoning Code is scheduled for City Council consideration in advance of the proposed adoption of a Zoning Map that would change the zoning at specific locations throughout the City where the current zoning does not align with the General Plan. This change would address the State requirement now applicable to charter cities for the Zoning and General Plan to align.

The majority of the proposed changes in the Zoning Code Update, which are zoning district-based, would not become effective until the time of the Zoning Map adoption. However, some elements that apply Citywide would take effect upon adoption of the Zoning Code. Changes that will be in effect in advance of the Zoning Map include: changes associated with single family districts, reduced parking requirements for many uses to simplify re-tenanting of vacant commercial; the Minor Use Permit process which simplifies permitting for many routine uses like the sale of beer and wine at restaurants; Zoning Clearances, which are a non-discretionary, over-the-counter permitting process; and the simplified Outdoor Seating and Entertainment Permit process.

### **Next Steps**

The Zoning Code Update is being scheduled for the next Planning Commission meeting for the Commission to make a recommendation to the City Council. City Council consideration of the Zoning Code Update is scheduled to take place in November.

Following an adoption of the Zoning Code update by the City Council, staff will hold outreach meetings on the adoption of the Zoning Map. The purpose of these meetings is to provide affected community members with information on the process for Zoning Map adoption, including the adoption of General Plan Amendments to align the General Plan and Zoning with existing uses. As a part of outreach, the City will post the proposed General Plan land use diagram and Zoning Map for review and comment.

Following outreach, the City will bring the Zoning Map and associated General Plan Amendments forward for hearing in early 2024.

### **ENVIRONMENTAL REVIEW**

Given that the Zoning Code Update is an implementation action of the 2010 General Plan Update, the City is preparing an Addendum to the 2010-2035 General Plan Environmental Impact Report (EIR) to cover adoption of the Code. The Addendum will indicate that the adoption of the Zoning Code Update will not result in environmental impacts beyond those described in the General Plan Update EIR.

### **FISCAL IMPACT**

There is no fiscal impact associated with this action.

### **COORDINATION**

This item was coordinated with the City Attorney's Office.

### **PUBLIC CONTACT**

Community participation is a key part of the Zoning Code Update. In addition to a number of meetings with the Old Quad Neighborhood held on June 19, 2018, August 20, 2018, September 17, 2018, October 15, 2018, and December 3, 2018, staff organized community meetings with the general public on February 13 and 28, 2019 to discuss topics for change within the Zoning Code. The topics discussed with community members included the codification of elements of the City's single-family design guidelines; the creation of new zoning districts to implement existing General Plan designations; possible changes to the number of parking spaces required for residential and non-residential uses; and regulation of short-term rentals, such as Airbnb. Community meetings to gain input on the topic of potential occupancy criteria in single family residences were held on April 29,

May 16, and May 29, 2019. The May 16 and May 29 meetings were also live-streamed.

The City received over 500 responses to a community survey on the Zoning Code Update, which was released on June 20, 2019 and made available through July 12, 2019. The survey was announced on the City's social media accounts, sent to interested parties through e-notify lists and posted on the City's website.

The City posted the draft Zoning Code Update on the City website for public comment in May and June of 2022. The City received approximately 90 separate comments on the draft Zoning Code Update. Responses to the individual comments have been posted on the City's website. The draft Zoning Code, with comments and City responses is included as Attachment 4. City staff have indicated in the response whether a comment has resulted in a change to the draft code.

The City Council held three joint study sessions with the Planning Commission in the summer and fall of 2019. Topics for the three study sessions included New Districts, Simplified Processes, Single-Family District Standards, and Placemaking; Safe Parking and Assisted Living; and Uses in Single-Family Districts and Short-Term Rental Regulations.

In addition to joint study sessions with City Council, the Planning Commission held study sessions on the Zoning Code Update on August 22, 2018, September 5, 2018 and October 27, 2021. The Planning Commission also held a study session specifically on parking and outdoor dining regulations on June 16, 2021.

The City has also held informational meetings with the various commissions and non-governmental organizations including the Old Quad Residents' Association on February 10, 2021; The Historical Landmarks Commission on January 6, 2022; the Neighborhood-University Relations Committee on May 23, 2022; the Bicycle and Pedestrian Advisory Committee on August 22, 2022; and a meeting with the head of the Silicon Valley Central Chamber of Commerce on August 18, 2022.

The City Council held a study session on the Zoning Code Update on August 22, 2023. The City Council and the public asked a number of questions on the Zoning Code Update at that study session.

AMAROK security fencing submitted a letter regarding the Zoning Code Update's prohibition on electric fencing. Their letter is included as Attachment 6. On June 14, 2023, the Planning Commission heard and denied a Variance request from AMAROK for a 10-foot tall electric fence within the required front and side setbacks on an industrial property located at 1800 Duane Avenue.

Public contact was also made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) or at the public information desk at any City of Santa Clara public library.

### **RECOMMENDATION**

Accept the information presented in the Study Session.

Prepared by: John Davidson Principal Planner, Community Development

Reviewed by: Alexander Abbe, Assistant City Attorney

Approved by: Andrew Crabtree, Director of Community Development

### **ATTACHMENTS**

1. Zoning Code example use tables and development standards
2. Map showing Major Transit Stops, with ½ mile buffers, per AB2097
3. Summary of recent changes to State law
4. Draft Zoning Code with comments and responses
5. Draft Zoning Code (June 2023) weblink
6. Letter from AMAROK security fencing

**Table 2-8**  
**Mixed Use Zones Allowed Uses and Permit Requirements**

Mixed Use Zones Permit Requirements					
Land Use (see Article 8 for land use definitions).	<b>MU-NC</b>	<b>MU-CC</b>	<b>MU-RC</b>	<b>MU-VHD</b>	<b>Additional Regulations</b>
Offices	P	P	P	P	
Outdoor Dining and Seating	MUP	MUP	MUP	MUP	Section 18.60.140
Outdoor Displays and Sales	CUP	CUP	CUP	CUP	Section 18.60.150
Personal Services	P	P	P	P	
Personal Services, Restricted	MUP	MUP	MUP	MUP	Section 18.60.170
Restaurants	P	P	P	P	
Retail Establishments:					
General, Small Format	P	P	P	P	
General, Medium Format	P	MUP	P	MUP	
General, Large Format	CUP	-	CUP	CUP	
Veterinary Facilities	P	P	P	MUP	Section 18.14.040
<b>Vehicle Oriented Uses</b>					
Vehicle Service Stations	-	CUP	CUP	-	
Vehicle Rental Facilities, Limited	MUP	-	-	-	
Vehicle Rental Facilities, Office Only	P	-	-	-	
Vehicle Repair Facilities, Minor	MUP	-	-	-	Section 18.14.040 Section 18.60.200
<b>Industrial, Manufacturing, and Processing Uses</b>					
Printing and Publishing Facilities	P	P	P	P	
Wineries, Distilleries, Breweries, and Micro-Breweries	MUP	MUP	MUP	MUP	

### 18.14.030 – Mixed Use Development Standards

- A. Table 2-9 Mixed-Use Zone Development Standards.** The intent of the mixed-use zone development standards table is to clearly and precisely establish the basic site and structure regulations that apply to all developments in each of the mixed-use zones. The table also indicates where additional site and structure requirements, including, but not limited to, off-street parking, landscaping, signage, fences and obstructions, and performance standards, apply to mixed-use zones.
- B. Density.** Maximum density standards shall be consistent with the General Plan or applicable Master Plan, Specific Plan, or Area Plan.
- C. Zoning Map.** The boundaries, designations, and locations of the zones established by this Zoning Code shall be shown upon the map(s) entitled "Zoning Map for City of Santa Clara " and referred

to in this Zoning Code as the Zoning Map. Any additional maps adopted shall also be a part of this Zoning Code by reference. This Zoning Code, together with the Zoning Map, is hereby adopted in compliance with current State planning, zoning, and development laws. Changes in the boundaries of any identified zones shall be made by ordinance in compliance with Chapter 18.142 (Amendments).

**Table 2-9**  
**Mixed-Use Zone Development Standards**



Development Feature (minimum unless otherwise indicated)	MU-NC	MU-CC	MU-RC	MU_VHD	Additional Regulations
<b>Parcel Area - area required for each NEWLY CREATED parcel.</b>					
<b>Parcel Area (min)</b>	None	None	None	None	
<b>A Street Frontage (feet)</b>	None	None	100	None	
<b>Density (where residential is proposed)</b>					
<b>Minimum Density (units/acre)</b>	19	20	37	50	
<b>Maximum Density (units/acre)</b>	36	36	50	120	
<b>Setbacks -Setback lines are measured in feet, from the back of walk.</b>					
<b>B Front setback (min/max)</b>	0	0* or 5 10	0* or 5 10	None	Section 18.14.040(A) Section 18.30.050 *Can be reduced to 0 feet if the total area is less than 20 feet
<b>B Front setback for other ground floor uses (min/max)</b>	0	10/15	10/15	None	
<b>Side, Corner</b>	0	0	0	None	Section 18.14.040(J) Section 18.30.050
<b>C Side, Interior (adjacent to R1 and R2 zones)</b>	10	10	10	None	Section 18.14.040(J) Section 18.30.050
<b>C Side, Interior (adjacent to all other zones)</b>	None	None	None	None	Section 18.14.040(J) Section 18.30.050



**Table 2-9**  
**Mixed-Use Zone Development Standards**



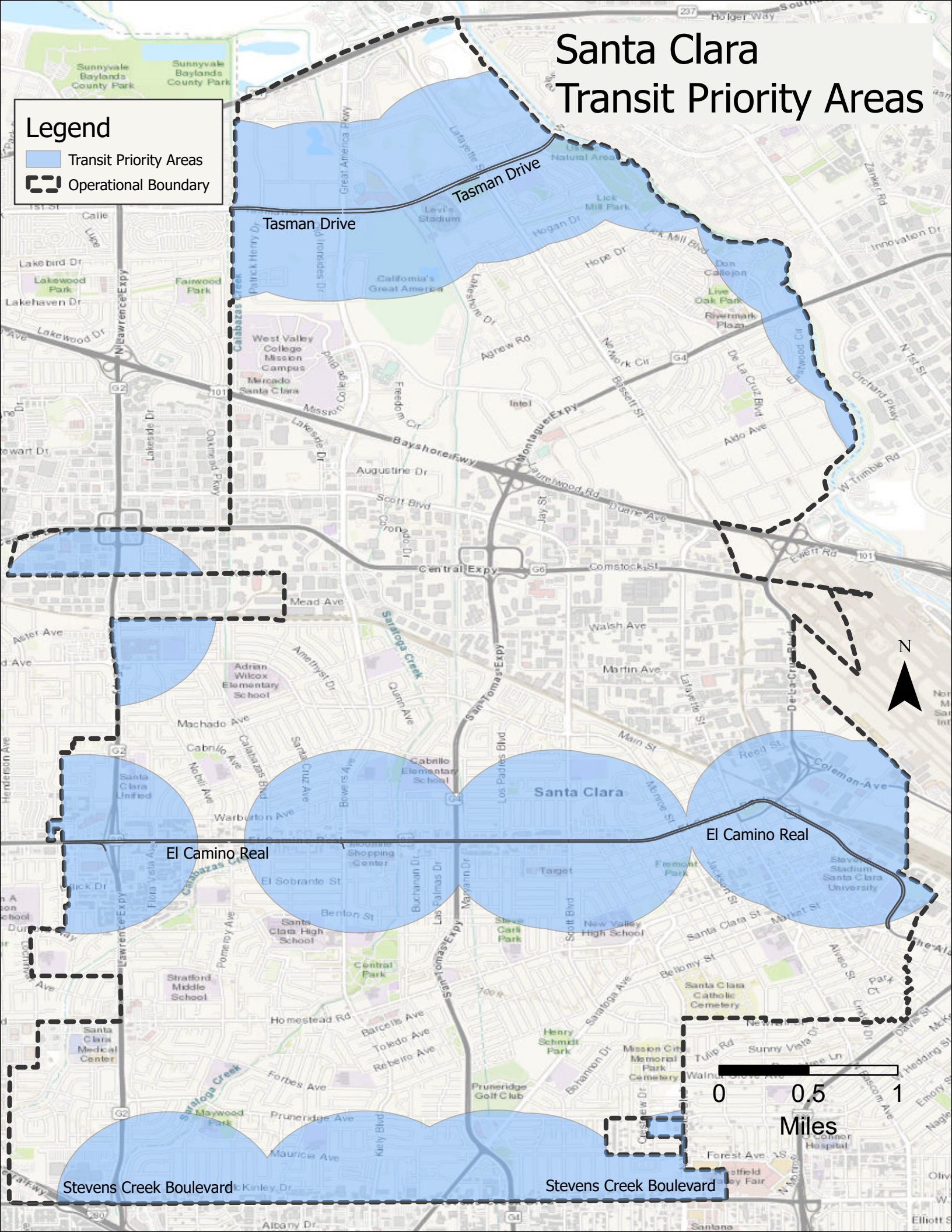
Development Feature (minimum unless otherwise indicated)	MU-NC	MU-CC	MU-RC	MU_VHD	Additional Regulations
<b>D</b> Rear, Single-Story (adjacent to R1 and R2 zones)	10	10	10	None	Section 18.30.050
<b>D</b> Rear (adjacent to all other zones)	10	10	10	None	
<b>D</b> Rear, Multi-Story (adjacent to R1 and R2 zones)	15	15	15	None	
<b>Height (maximum) measured in feet</b>					
<b>E</b> Height (within 20 feet of the R1 and R2 zones)	32	32	32	None, limited by FAA restrictions	Section 18.30.040
<b>E</b> Height (all other zones)	32	40	60	None, limited by FAA restrictions	Section 18.30.040
Maximum Number of Stories	3	4	6	None, limited by FAA restrictions	
<b>Commercial Floor Area Ratio (FAR)</b>					
Minimum Floor Area Ratio (FAR)	None	None	0.2	None	Section 18.14.040
<b>Additional Regulations</b>					
Residential Accessory Structures	Chapter 18.32				
Basements	Section 18.30.070				
Density Bonus and Affordable Housing	Chapter 18.64				
Fences, Walls, Hedges, and Screens	Chapter 18.34				



# Santa Clara Transit Priority Areas

## Legend

- Transit Priority Areas
- Operational Boundary



### **Attachment 3. State Legislation Enacted in 2022 That Prompted Revisions to the Zoning Code Update**

Since the release of the draft zoning code update in February 2022, the State Legislature has enacted a series of laws related to residential development. The following is a list of those bills, and how the Zoning Code Update has been modified to respond to the bills.

#### *AB 916 – Interior Reconfigurations*

Under AB 916, local jurisdictions cannot require a public hearing for interior reconfigurations of bedrooms within an existing residential structure, provided that the resulting reconfiguration results in no more than two additional bedrooms and that the reconfiguration does not expand the building envelope. This change has been added to the Architectural Review Section of the code as a permit approval not requiring a public hearing (Code Section 18.120.030, Minor changes by Director).

#### *AB 2011 – Housing and High Road Jobs Act* *SB 6 – Middle Class Housing Act*

AB 2011 and SB 6 are intended to permit residential development at a minimum density of 30 du/ac on sites currently zoned and designated for commercial or retail uses. Both bills were signed into law by Governor Gavin Newsom on September 29, 2022 and went into effect on July 1, 2023.

AB 2011 creates a CEQA-exempt, ministerial approval process for multifamily housing developments on sites within a zone where office, retail or parking are the principally permitted use. The law provides for slightly different qualifying criteria depending upon whether the project is (1) for 100-percent affordable projects or (2) for mixed-income projects located in "commercial corridors." AB 2011 projects must pay prevailing wages to construction workers, among other labor standards.

Under SB 6, project approvals remain discretionary and subject to the California Environmental Quality Act. Projects would be subject to the objective standards of the Architectural Review process with development permits issued at a Development Review Hearing. SB 6 projects would be subject to prevailing wage requirements and require a skilled and trained workforce.

Notably, SB 6 does not require that any of the units in the proposed housing project be affordable, except to satisfy the City's inclusionary housing requirement.

Residential uses have been added to Table 2-5, the commercial districts use table, and additional regulatory language mirroring AB 2011 and SB 6 has been added to Section 18.12.040 of the Zoning Code.

#### *SB 897 – Maximum ADU heights*

Previously under state law, local jurisdictions were required to allow ADUs to be at least one story and 16 feet in height.

This change to state law requires that the lowest height limitation that may be imposed by a local agency on an accessory dwelling unit is 18 feet if the accessory dwelling unit is within <sup>1</sup>/<sub>2</sub> mile walking distance of a major transit stop or a high-quality transit corridor, or if the

accessory dwelling unit is detached and on a lot that has an existing multifamily, multistory dwelling. The change also increases the lowest maximum height limit that may be imposed by the City on an accessory dwelling unit to 25 feet if the accessory dwelling unit is attached to a primary dwelling. The City is proposing a 1 ½ -story, 25' height limit for detached ADUs and a 2-story, 25' height limit for attached ADUs. Those changes are reflected in Section 18.60.030, ADUs, of the Zoning Code Update.

#### *AB 2221 – ADU Procedures*

This change to state law specifies that an accessory dwelling unit that is detached from the proposed or existing primary dwelling may include a detached garage.

The change also requires cities to waive the requirement for a front setback if the required setback would prevent a property owner from building an ADU of at least 800 square feet in size.

If the City denies an application for an accessory dwelling unit or junior accessory dwelling unit, the City is required to return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant within 30 days of the denial.

#### *AB 2334 – Density Bonus standards*

This change to state law gives new direction where the density allowed in the zoning ordinance is inconsistent with that allowed in the land use element of the general plan or specific plan. Under the adopted change to state law, the greater density prevails. Relevant language has been added to Chapter 18.02 of Article 1 of the Zoning Code, Purpose and Applicability of the Zoning Code.

This bill would also prohibit the imposition of any vehicular parking standards if a development is for a project for seniors 55-and-up. (Previously, this only applied to 62-and-up developments.) The provisions for parking relief have been added to Section 18.64, Density Bonus of the proposed Zoning Code update.

#### *AB 1551 – Density Bonuses for Mixed Use*

This change to state law requires cities to grant a commercial developer a development bonus, when an applicant for approval of a commercial development had entered into an agreement for partnered housing with an affordable housing developer to contribute affordable housing through a joint project or two separate projects encompassing affordable housing. Development bonuses available to commercial developers include a 20% increase in the overall height of a project, a 20% increase in the maximum allowed FAR, a 20% increase in the maximum height of a project or a 20% reduction in the required parking for a commercial project. These provisions have been added as a new code section (18.64.130) as a part of the Density Bonus provisions.

#### *AB 682 – Density Bonuses for Shared Housing*

This change to state law allows shared housing projects to be eligible for density bonuses. Under this new law, a “shared housing unit” is one or more habitable rooms, not within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave. A “shared housing building” is a structure with five or more shared housing units and one or more common kitchens and dining areas. The term “shared housing” is now defined in Article 8 of the Zoning



Code, and shared housing is now included as an eligible type of development in the Density Bonus Chapter of the Code (Chapter 18.64).

The change to state law also prohibits cities from requiring any minimum unit size requirements or minimum bedroom requirements in conflict with the bill's provisions with respect to a shared housing building eligible for a density bonus.

#### *AB 2097 – No Parking near Transit*

This change to state law prohibits public agencies from imposing any minimum automobile parking requirement on any residential, commercial, or other development project that is located within  $\frac{1}{2}$  mile of public transit, unless the City makes written findings that not imposing parking requirements would have a substantially negative impact on the city's ability to meet its share of specified housing needs.

#### *AB 2339 – Emergency Shelters*

Existing law requires local governments to plan for emergency shelters in their housing elements. AB 2339 provides that the sites identified for emergency shelters must be in residential areas or otherwise suitable zones, thus prohibiting local governments from situating shelters in industrial zones or other areas disconnected from services. The law also seeks to ease constraints on the development of emergency shelters by requiring that any development standards applied to emergency shelters be objective.

Under the current zoning code, emergency shelters are a permitted use in the ML Light Industrial zoning district, provided that the city has fewer beds than homeless residents during the most recent homeless count of people residing within the city. Additional emergency shelters beyond the number needed as indicated by the most recent homeless census can be allowed subject to a Conditional Use Permit.

Under the proposed zoning code update, emergency shelters are a permitted use in the R3, R4, and R5 residential zoning districts, along with the C-C Community Commercial and C-R Regional Commercial districts and the MU-VHD mixed use district. Emergency shelters are also allowed in the LI Light Industrial zoning district subject to the approval of a Conditional Use Permit approved by the Planning Commission.

The standards applicable to Emergency Shelters have been reworked to include only objective standards, per the changes required by AB 2339.

## Justification for Electrified Security Fencing City of Santa Clara

AMAROK, LLC respectfully requests reconsideration and removal of “electrified fences” as a prohibited material in the proposed Zoning Code Update section 18.34.060 – Materials and Maintenance (inserted below). To summarily ban this effective perimeter security solution citywide would be a disservice for certain local businesses that have been targeted with ongoing criminal trespass, property crime, and/or threats to employees.

### 18.34.060 – Materials and Maintenance

- A. **Graffiti Resistance.** Graffiti-resistant aesthetic surface treatment shall be required for all fences and walls adjacent to a public right-of-way, or as determined through the Site Plan and Design Review (Chapter 18.120) process.
- B. **Fences and wall in Industrial and Office Zones.**
  - 1. **Storage Area allowable fence and wall material.** Within the Industrial-Heavy category, storage area screening may include masonry or concrete, metal, or chain-link fencing with wood or vinyl slats.
  - 2. **Security fences and walls.** Within all industrial and office zones except Industrial-Heavy, all fencing, or walls shall be wrought iron, concrete, masonry, or other similar materials not to exceed a height of eight feet from the highest finished grade. Chain-link fencing may be used in areas not visible from public rights-of-way.
- C. **Maintenance.** Fences, walls, and screens shall be continuously maintained in an orderly and good condition and shall always be kept free of graffiti.
- D. **Prohibited Fence, Wall, and Screen Materials.** The following materials and fence types are prohibited:
  - 1. Barbed Wire
  - 2. Razor Wire
  - 3. Electrified fences
  - 4. Use of grease
  - 5. Broken glass or other sharp materials

AMAROK is a perimeter security provider serving over 6000 small businesses to Fortune 50 companies nationwide. There are more than 600 electrified security fence installations across California, including dozens of businesses throughout the Greater Bay Area (San Jose, Gilroy, Oakland, San Francisco, etc.) being secured by this technology. Our system is designed to secure businesses' property and assets in Industrial, Commercial and Manufacturing zones by providing monitored intrusion protection around the perimeter of the property.

This perimeter security technology consists of a short-pulsed, monitored perimeter alarm system fence which conforms with international (IEC 60335-2-76), national (ANSI/ASTM), and State of CA (Civil Code Section 835) installation and safety standards. The technology has been safety tested and certified by Nationally Recognized Testing Laboratories (NRTL) SGS and TUV. The integral component of this alarm system is a low voltage, battery-powered security fence placed approximately 4"-8" inside of a property's existing perimeter fence/barrier. The system is comprised of thin, widely spaced wires (6-8 inches apart) which run horizontally to the height of 10'. The security system is entirely within the property and behind an existing perimeter fence – it does not serve as a perimeter boundary or barrier.

As with most monitored alarm systems, an audible alarm sounds when the fence line is breached by a trespasser. In the event of an alarm, a signal will be sent to our monitoring station, who in turn, contacts the business to let them know they had an alarm event. After verifying, the alarm can be silenced by the business or set to automatically shut off after a determined amount of time. Our system does not directly connect to emergency services, but a response may be requested if an alarm event is verified.

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#### **HISTORY:**

There is an existing permitted security fence located at 530 Aldo Avenue. The security fence was approved to be installed at 10' inside of the existing chain link fence with slats. The site is zoned Light Industrial. The permit was issued January 17<sup>th</sup>, 2023.

#### **SAFETY BENEFITS:**

The security system is not detrimental to the health, safety, morals or welfare of persons residing or working in the area. It is installed completely inside the existing perimeter fence and therefore not exposed to the public. To come in contact with the AMAROK security system, a criminal would have to be intentionally trespassing by, first, disregarding the warning signs and then breaking through or scaling the existing perimeter barrier.

The proposed security system enhances the health, safety, and welfare of persons by improving workplace safety and discouraging criminals from targeting the subject property and committing other crimes of opportunity in the neighborhood.

The utilization of the proposed security system will not be detrimental to the public welfare, nor injurious to property or improvements in the neighborhood. Instead, the safety and general welfare of the neighborhood is enhanced through crime prevention. The result is that the City can redirect law enforcement time and resources toward crimes other than trespass and property crime.

The security system is the most reliable, economical, and effective perimeter security application available. The installation of the system will secure the property, increase the security of the surrounding properties and the immediate area by deterring the criminal element from targeting the area.

#### **SUSTAINABLE SECURITY TECHNOLOGY:**

This security technology supports environmental sustainability. It is not powered by mains/grid power and is not compromised by power failures.

The system is solely powered by a 12-volt DC battery that is perpetually recharged by solar energy/panels.

#### **VISUAL AESTHETICS:**

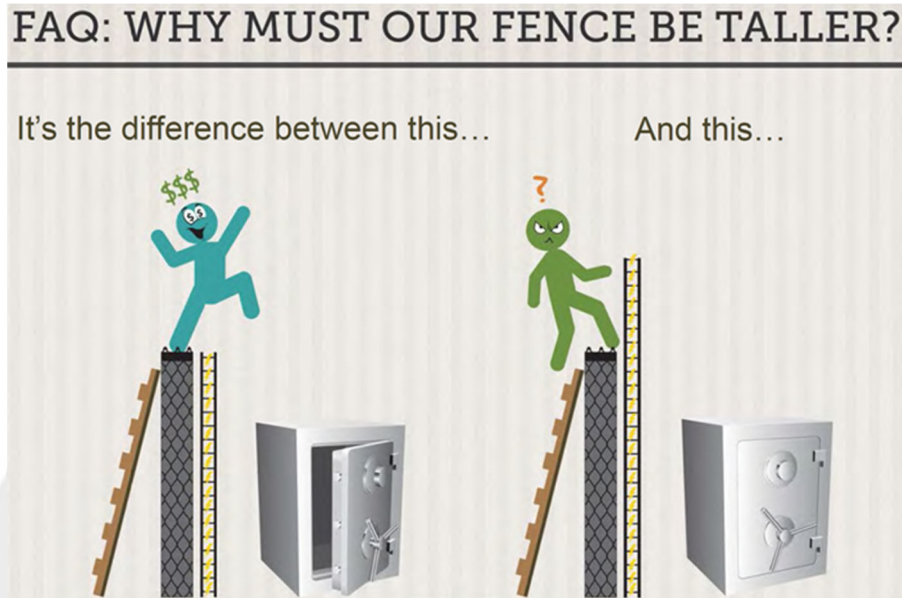
The security system is visually transparent, allowing the site to maintain viewshed into the property while also securing the property from would-be criminals.



Currently, City regulations do not permit a fence of 10' height within designated setbacks. This height is required for the efficacy of the proposed electrified security fence, which is located inside of the existing perimeter barrier by 4"-8" (not affixed to the perimeter fence / wall). The additional height above the perimeter barrier prevents the perpetrators from simply scaling both the perimeter fence (or wall) and



electrified security fence. This design configuration is essential and a significant deterrent for the criminal trespasser.



#### **PUBLIC SAFETY:**

Safety and security are essential to quality of life in a community.

As stated in the General Plan section 5.9.3, crime and disorder in neighborhoods, parks, and business districts cause citizen frustration, uneasiness, and fear.

The electrified, perimeter security fence provides an affordable and effective means to secure businesses' assets and their workplaces/employees. In turn, this allows them to invest financial resources in further growth, resulting in continued employment and an increased tax base for the community. With the growing threat of extensive theft and loss history, businesses have been urgently requesting this security technology to prevent ongoing property crime and remain a viable business for the community.

The security system does not adversely affect the health, safety, peace, morals, comfort or general welfare of persons residing or working in the vicinity of the property and will not be materially detrimental to the public welfare of injurious to property or improvements in the City. Instead, the system contributes to public safety and helps deter crime at a secured property and the surrounding neighborhood.

#### **ALARM REGULATIONS:**

As with most monitored alarm systems, a sound is emitted if the security fence is tampered with or breached by a criminal trespasser. A signal is sent to our 24-hour monitoring station, who then communicates with the business contact to advise them they had an alarm event. Once the business contact has verified a trespassing attempt or breach has taken place, our monitoring staff will then contact local PD to be dispatched to the site. The audible alarm can be silenced remotely by business contact, or it can be set to shut off automatically after a predetermined amount of time. The system itself does not directly connect to emergency services, thereby preventing false alarms sent to local first responders.

For these reasons, many jurisdictions permit us an alarm system via an alarm permit through the police department, which complies with Chapter 8.05 SCCC Alarm Systems.

#### COLLABORATION TO CODIFY AND PERMIT ELECTRIFIED SECURITY FENCING

In summary, we respectfully request that the City of Santa Clara work with AMAROK to codify the allowance of electrified security fencing for commercial businesses residing in appropriate zones. Included with this request are a model ordinance and a copy of the City of Gilroy's municipal code for electrified security fences.

Local businesses in Santa Clara have been requesting this security solution and, as such, we look forward to the City's openness to helping local businesses address their property crime issues.

Thank you for your time and reconsideration. We look forward to your response and an opportunity to have further discussion on this matter. Much appreciated!



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