

DRAFT



**TOWN OF LOS GATOS
PLANNING COMMISSION MEETING
ACTION MINUTES
TOWN COUNCIL CHAMBERS
110 E. MAIN STREET
WEDNESDAY, AUGUST 8, 2012**

Chair Marcia Jensen called the meeting to order at 7:00 p.m.

ROLL CALL

Present: Chair Marcia Jensen, Vice Chair Charles Erekson, Commissioner John Bourgeois, Commissioner Thomas O'Donnell, Commissioner Marico Sayoc, and Commissioner Joanne Talesfore.

Absent: Commissioner Margaret Smith

Others: Town Attorney Judith Propp, Planning Manager Sandy Baily, Senior Planner Suzanne Avila, Associate Planner Jennifer Savage, Associate Planner Marni Moseley, Associate Civil Engineer Maziar Bozorginia, and Recording Secretary Linda Rowlett.

PLEDGE OF ALLEGIANCE

Led by **Chair Marcia Jensen**.

APPROVAL OF MINUTES OF JULY 11, 2012

Motion by **Commissioner John Bourgeois** and seconded by **Commissioner Joanne Talesfore** to approve meeting minutes of July 11, 2012.

Motion carried 6-0 with **Commissioner Margaret Smith** absent.

WRITTEN COMMUNICATIONS

Chair Marcia Jensen noted that there was a desk item for Item #2 and Item #3.

REQUESTED CONTINUANCES - NONE

SUBCOMMITTEE REPORTS

Historic Preservation Committee -- Vice Chair **Charles Erikson** reported that the committee met on July 25 and reviewed three applications for exterior modifications to historic homes at **87-89 Fairview Plaza**, **44 Broadway** and **216 Loma Alta Avenue**.

General Plan Committee -- Commissioner **John Bourgeois** reported that the committee met earlier this evening to discuss wording changes in the guidelines of the BMP (Below Market Price) Housing Ordinance and put the finishing touches on the Affordable Housing Overlay Zones Design Guidelines.

North 40 Specific Plan Advisory Committee -- Chair **Marcia Jensen** noted that the committee will be meeting on August 15 at 6:00 p.m. in the Council Chambers.

VERBAL COMMUNICATIONS (AUDIENCE) - NONE

CONSENT CALENDAR - NONE

CONTINUED PUBLIC HEARINGS - NONE

NEW PUBLIC HEARINGS

1. **381 Pennsylvania Avenue** - Subdivision Application M-10-007, Environmental Impact Report EIR-12-002. To allow the Public to provide verbal comments on the Draft Environmental Impact Report (DEIR) for 381 Pennsylvania Avenue. No action will be taken at this meeting. The applicant is proposing a two lot subdivision on property zoned R-1:8. This matter may have a significant impact on the environment and a Draft EIR has been prepared as required by the California Environmental Quality Act (CEQA). APN 510-41-057. PROPERTY OWNER: 381 Pennsylvania Avenue, LLC. APPLICANT: Greg Howell. PROJECT PLANNER: Marni Moseley.

Chair Marcia Jensen opened the public hearing.

Larry Arzie

- Commented that he disagrees that the subdivision is not historical and that he believes the proposed change will upset the historical nature on the block.

Chair Marcia Jensen closed the public input portion of the hearing.

Associate Planner Marni Moseley reported that the comment period for the Environmental Impact Report closes tomorrow at 5:00 p.m. Comments can be e-mailed to Planning staff at www.losgatosca.gov.

2. **40 N. Santa Cruz Avenue, Suite A** - Conditional Use Permit U-12-007. Requesting approval to operate a restaurant with outdoor seating and full alcohol service on property zoned C-2. APN 529-03-050. PROPERTY OWNER: Los Gatos Investments, LLC. APPLICANT: Stephen Shelton and James Marino. PROJECT PLANNER: Marni Moseley.

Chair Marcia Jensen opened the public hearing.

Associate Planner Marni Moseley reported that she did not have anything to add to the staff report.

Stephen Shelton, Applicant, gave a presentation on the proposed project.

Jim Showalter

- Commented in favor of the applicant and the application.
- Commented that the community should support anything that brings people downtown.
- Commented that the increase in Internet sales is changing the need for retail business in the downtown.

Tom Lausten

- Commented that he believes the restaurant will contribute positively to a vibrant retail environment downtown and urged approval of the application.

Sandy Decker

- Commented that she has lived in Los Gatos for 44 years and believes that the Town is becoming inaccessible and fears it is becoming unsustainable.
- Commented that she believes that the consideration should be what this business will do to the Town. Food service business is one of the most intensive uses in the Town requiring long term parking.
- Referenced General Plan Policy LU-9.2 regarding retail space being displaced.

Paul Matulich

- Commented that he operates Steamers and that his customers complain about the lack of parking.
- Commented that business is down for a lot of the restaurants.
- Asked that the established businesses be protected and noted that his business is worth less each time a new liquor license is approved.
- Asked the Commission to follow the Town's guidelines.

Larry Arzie

- Commented that he sold out because the Central Business District is so intensified. Close to 50 percent of the businesses are CUP (Conditional Use Permit) businesses. He is bothered by the granting of another CUP because it creates more concern for safety, health and welfare of that block.
- Recommended putting a hold on issuing CUPs downtown until the Town comes up with a solution for setting percentages of allowable CUPs.

Jason Farwell

- Commented that he is the managing partner of Los Gatos Investments, LLC and the property owner of **40 N. Santa Cruz Avenue**. They have dedicated themselves to finding non-formula use tenants. He noted the former uses of this property and stated that change is inevitable.
- Commented that this is a quality applicant with a great concept. He understands the intensification in the downtown area, but the east side of the street does not have a lot of foot traffic.
- Commented that he believes that CUPs are a legitimate control unit for the Town.

John Shephardson

- Commented that he has a law practice across the street from this property and noted that parking is a problem. He has a concern about the safety of pedestrians at that corner.

Stephen Shelton

- Commented that he appreciates the community's concerns but he cares about what he does and what he plans to bring to the downtown. His talent is serving the public through food and great service. He hopes to provide an option for mature adults to enjoy conversation, great drinks and great food.

Commissioner John Bourgeois

- Commented that the proposal is a great concept but this is about the land use for that property after this business is gone. Ordinance 2021 discourages the displacement of retail.
- Asked what it is about this business that makes it okay to approve it in light of the Ordinance.

Stephen Shelton

- Commented that the Town is gaining four retail spots along with the restaurant. These retail spots will benefit other retailers in the area. He believes that parking will be an issue whether it is a restaurant or retail.

Chair Marcia Jensen closed the public input portion of the hearing and returned to the Commission for deliberations.

Commissioner Joanne Talesfore

- Asked if there is a percentage mix for retail and restaurants.
- Suggested that research be done to establish an appropriate mix of retail and restaurants.

Planning Manager Sandy Baily

- Commented that there is nothing in writing about the percentage mix for retail and restaurants.

Town Attorney Judith Propp

- Commented that the Council has established a percentage for national chain stores versus non-national but nothing has been established for restaurants versus retail.

Commissioner Thomas O'Donnell

- Asked about the relevance of statistics when there is Town policy that deals with changing retail use to restaurant use.
- Asked if the Commission should be reviewing statistics when its role is to implement policies.

Planning Manager Sandy Baily

- Commented that policy still stands. If Town Council directs that a study be done, then it would be determined if there needs to be a General Plan Amendment.

Motion by **Commissioner Thomas O'Donnell** and seconded by **Commissioner John Bourgeois** to recommend denial of Conditional Use Permit U-12-007 to Town Council because it conflicts with Ordinance 2021 noting that he is looking at the proposed use rather than the applicant.

Vice Chair Charles Erikson

- Commented that Ordinance 2021 is intended to discourage displacement of retail uses for restaurant uses. Noted that it is not clear if the decision is to be made relative to square footage or the number of uses.
- Complimented the property owners for creating the opportunity for several retail uses in the space.

Commissioner Thomas O'Donnell

- Commented that the property owner previously had a single use in that space and the applicant chose to split that space into five spaces.
- Commented that he does not think that this is a long term successful policy.

Motion carried 6-0 with **Commissioner Margaret Smith** absent.

3. **16005 Los Gatos Boulevard** - Architecture and Site Applications S-12-042 through S-12-059. Requesting Architecture and Site approval for a Planned Development for 25 residential units and commercial buildings totaling 30,775 square feet on property zoned CH:PD. APNs 529-16-025 and 053. PROPERTY OWNER: CHL Ventures, LP. APPLICANT: Kenneth Rodrigues & Partners. PROJECT PLANNER: Suzanne Avila.

Chair Marcia Jensen opened the public hearing and asked for staff to give clear direction on what the Commission is allowed to do on this item.

Senior Planner Suzanne Avila

- Commented that the PD (Planned Development) Ordinance has been approved with a density of up to 30,790 square feet of commercial space and 25 residences inclusive of three BMP units. Architecture, landscaping, lighting, fencing, sign details, doors for trash areas, and demolition are to be reviewed by the Commission as part of the Architecture and Site Application process. The lots have been approved by the approval of the Tentative Map and the circulation cannot be changed significantly. The open space design can be changed, but the space cannot be distributed differently.

Commissioner Thomas O'Donnell

- Asked about the location of building 2 and if that approval has been made.
- Commented that he did not see comments to the issues raised in Exhibit 7.

Senior Planner Suzanne Avila

- Commented that the issues regarding building 2 have been worked out.
- Commented that **Mr. Cannon's** issues in Exhibit 7 have been resolved with staff and the project architect.

Commissioner Thomas O'Donnell

- Asked how staff responded to **Mr. Cannon's** concern regarding access.

Senior Planner Suzanne Avila

- Commented that engineering staff did not feel that access or circulation were issues.

Associate Civil Engineer Maziar Bozorginia

- Commented that this project did go through a traffic study with different configurations for the site. Access was reviewed at that time. There was a potential for backup for ingress/egress on Placer Oaks Drive and one of the offsite improvements is to construct a median curb on Placer Oaks Drive to restrict the left turn movement. There were no issues on Blossom Hill Road at the time of the review.

Commissioner Joanne Talesfore

- Asked if **Mr. Cannon's** concerns expressed in his letter (Exhibit 7) have been addressed.

Associate Civil Engineer Maziar Bozorginia

- Commented that he did not see **Mr. Cannon's** letter prior to receiving the packet so he has not had a chance to study the comments.

Chair Marcia Jensen

- Asked if it is appropriate to continue the item to enable staff to study the issues raised in Exhibit 7.

Town Attorney Judith Propp

- Commented that the Town Architect's purview is to comment on the architecture. The fact that he has raised issues about traffic is not something that is in his assignment. The Town has its own Traffic Engineer.
- Commented that part of the PD process would have been the traffic studies and circulation proposals. It was reviewed by staff at that time. The Commission can still ask questions about circulation which staff can address tonight.
- Recommended that the Commission proceed with the review of the application tonight and if its concerns are not addressed, it could continue the item.

Commissioner John Bourgeois

- Commented that he is not clear on whether or not the Commission should be talking about the issues in Exhibit 7.

Vice Chair Charles Erikson

- Asked for clarification on the language in the PD Ordinance about location of structures.

Senior Planner Suzanne Avila

- Commented that the PD Ordinance does specify minimum setbacks, house size and footprints. There is not a lot of flexibility for the Commission to change the residences.

Chair Marcia Jensen

- Asked if circulation is up for discussion.

Planning Manager Sandy Baily

- Commented that minor tweaks to the footprints can be made, interior setbacks can be modified as long as they work within the approved property lines, and minor tweaks to circulation are possible as long as they are concurrent with the traffic study that was done for the project.

Chair Marcia Jensen

- Asked what is considered a minor tweak.

Planning Manager Sandy Baily

- Commented that a minor tweak could include window placement, building materials and the interior footprint locations. The exterior footprints can be moved further from the property line but they cannot be made to go closer to the property line. The subdivision has determined the location of the driveways. They can be moved over a little bit but they cannot be moved over a property line.

Associate Civil Engineer Maziar Bozorginia

- Commented that the lot lines need to stay established. The footprint can be moved slightly, but it cannot affect the lot lines.
- Commented that the Subdivision Map is being reviewed and finalized. The Tentative Map has been established and approved.

Chair Marcia Jensen

- Confirmed that the Tentative Map has been approved by the Development Review Committee and the Commission has nothing to say about that.

Commissioner Thomas O'Donnell

- Asked if the garages behind the townhouses are part of the Commission's purview as part of Architecture and Site review.

Planning Manager Sandy Baily

- Commented that the garages have been redesigned to meet **Mr. Cannon's** requirements but that the redesign is not shown in the staff report.

Commissioner Joanne Talesfore

- Commented that she is not comfortable moving forward tonight. Suggested that in the future staff give the Commission a list of what is to be reviewed during Architecture and Site approval.

Commissioner Marico Sayoc

- Commented that she has a question on Development Standards #5 and #7 and asked what happens if demolition does not occur within 30 days.
- Asked if there is a requirement for groundbreaking.
- Expressed a concern that residential will be built before commercial.
- Commented that she is confused about the process tonight but she would like to hear the applicant's comments.

Senior Planner Suzanne Avila

- Commented that the applicant is prepared to start demolition within 30 days. If not, they would be in violation of the PD Ordinance.
- Commented that groundbreaking would have to occur within two years of Architecture and Site approval.
- Commented that #7 refers to residential rather than commercial. The intent was to prevent the BMPs from being the last units constructed. The applicant does intend to move forward with the commercial buildings and are establishing the tenant mix. There is no condition requiring the applicant to construct the commercial before the residential. The PD Ordinance cannot be amended without going back through Town Council. A condition can be added to the Architecture and Site approval.

Commissioner John Bourgeois

- Commented that he is prepared for this meeting assuming the Commission's limited purview. He is prepared to move forward on those assumptions. If the purview is larger, then he would need answers to the questions that have been raised.

Commissioner Thomas O'Donnell

- Commented that the purview is limited and he does not have a problem with that. His problem is with the lack of information in the staff report. He would like to see an amended staff report that backs up what has been discussed tonight.

Vice Chair Charles Erekson

- Commented that he is prepared to discuss this item with the typical limited purview. The important thing is to get it right.

Chair Marcia Jensen

- Asked if the Commission could hear testimony and then bring it back for a decision at a later time.

Town Attorney Judith Propp

- Commented that the public hearing has been opened and the applicant can be heard. If adequate information is obtained, the Commission can decide to close the public hearing the deliberate and make a decision. If not, the Commission could continue the matter to a future date.

Kevin Dare, Applicant, gave a presentation on the proposed project. He reviewed each of **Mr. Cannon's** comments that have been identified and addressed noting that some of the items have been discussed with Town Council.

Dan Hale, Residential Architect, reviewed the revised elevation of the townhomes that provide variety and opportunity based on **Mr. Cannon's** comments.

Commissioner Joanne Talesfore

- Asked about the open space integration with the development.

Kevin Dare

- Commented that the open space creates synergy in the middle of the project. Shade trees and benches create a central open space for the visitors to the shopping area along with the residents. The BBQ concept is for residents but it can be removed if preferred.

Commissioner John Bourgeois

- Confirmed that the discussions with Town Council regarding ingress/egress concerns were met during the PD process.
- Commented that he understands the open space concept but is confused about the BBQ pits.

Commissioner Marico Sayoc

- Asked about the Construction Management Plan and who will receive notifications. She noted concern for children going to and from school during construction.
- Asked about the status of construction for the Gateway Drive project.

Kevin Dare

- Commented that he believes adjacent neighbors to the project will be notified. The neighborhood can be further defined. Confirmed they will communicate with neighbors for children getting to and from school.
- Commented that they are ready for construction with respect to the project at 16005 Los Gatos Boulevard. They are working with the tenant on the Gateway Drive project. That project is for a full single tenant and that construction readiness is subject to the tenant being ready.

Commissioner Joanne Talesfore

- Asked who developed the master sign packet.

Ken Rodrigues, Project Architect

- Commented that his office prepared the master sign packet. It is consistent with the Town's Design Guidelines and Sign Guidelines.

John Shepardson

- Commented that an issue came up at Town Council regarding the view corridors where he lives on Oak Rim Way. A redwood screen was contemplated to be planted in the view corridor and he wants the view corridor to be clear so the view will not be obstructed. Large canopy trees will also create an obstruction.

Ken Rodrigues

- Addressed **Mr. Shepardson's** view corridor concerns. There are trees designated for that area but they can change the trees and/or remove existing trees.

Chair Marcia Jensen confirmed that the Commissioners were comfortable moving forward with the information received tonight. She closed the public input portion of the hearing and returned to the Commission for deliberations.

Motion by **Commissioner Marico Sayoc** and seconded by **Commissioner John Bourgeois** to approve Architecture and Site Applications S-12-042 through S-12-059 subject to the performance standards as noted in Exhibit 3 and the conditions as noted in Exhibit 4 of staff report dated August 8, 2012, with the added conditions of working with staff and neighbors to ensure adequate landscaping for the view corridors and the coordination of construction with the Laurel Mews project for the safety of the school children. The required findings were made as noted in Exhibit 2 of staff report dated August 8, 2012.

Commissioner John Bourgeois

- Seconded the motion and clarified that the condition regarding the screening vegetation along the view corridors would be coordinated with the staff and the neighbors.
- Confirmed with **Commissioner Sayoc** the addition of a condition to reconsider the amenities in the open space to the satisfaction of staff.

Commissioner Joanne Talesfore

- Commented that she is concerned about the signage in the front and asked that signage come back to the Commission before it is approved.

Planning Manager Sandy Baily

- Commented that a condition can be added to have the sign program referred back to the Commission in a memo format to get input.

Commissioners Sayoc and **Bourgeois** agreed to the addition of **Commissioner Talesfore's** condition. **Commissioner Sayoc** added that the Commission's review can take place with a memo rather than another public hearing.

Motion carried 5-1 with **Chair Marcia Jensen** dissenting and **Commissioner Margaret Smith** absent.

Chair Marcia Jensen

- Commented that while she understands the extremely limited purview of the Commission in this project, she is sufficiently uncomfortable with the information that has been provided and she does not feel comfortable giving it her seal of approval. Although she understands why her fellow Commissioners are approving the project, she does not think that the Commission got a thorough and complete set of information tonight.

Planning Manager Sandy Baily recited appeal rights.

Chair Marcia Jensen called for a break at 9:27 p.m. and reconvened the meeting at 9:38 p.m.

CONTINUED OTHER BUSINESS - NONE

NEW OTHER BUSINESS

4. **Sustainability Plan** - Consider adoption of a Sustainability Plan to serve as the Town's GHG Emissions Reduction Plan and satisfy the 2020 General Plan Action ENV-13.1. No significant environmental impacts have been identified as a result of this project and an Addendum to the 2020 General Plan EIR is recommended. APPLICANT: Town of Los Gatos. PROJECT PLANNER: Jennifer Savage.

Chair Marcia Jensen opened the public hearing.

Joanna Jensen, The Planning Center DC&E, gave a presentation on the Sustainability Plan.

Commissioner John Bourgeois

- Asked why this is coming to the Commission if it has already been approved by Town Council.
- Asked if the Commission must make a decision on the Plan tonight or if it can be delayed.

Associate Planner Jennifer Savage

- Commented that the Town Council reviewed initial measures prior to the community workshop and that the document has a Town Council adoption requirement.
- Commented that the Commission's purview is to make a recommendation to Town Council since it is a policy. The direction from the General Plan is to adopt the Plan within 24 months of the adoption of the General Plan and it must be in place prior to the adoption of a Specific Plan. It would be beneficial to make a decision tonight but it could be continued to August 22.

Commissioner Marico Sayoc

- Commented that she wants to have time to review the Plan to ensure that it does not conflict with the General Plan and to give other interested parties time to review it.

Commissioner Thomas O'Donnell

- Asked if the timing is being framed by the September 4 Council hearing. He noted that he is leaving for vacation tomorrow and does not return until the evening of August 22.

Associate Planner Jennifer Savage

- Commented that September 4 is ideal for the Council hearing based on the deadline established in the General Plan which is September 2012.

Terry Martin

- Commented that he found out about the Plan on Thursday of last week and would like a continuance to have time to review the documents.

Joanna Jensen

- Commented that this document was compiled with the knowledge of the Town's General Plan other regulatory documents.

Vice Chair Charles Erekson

- Commented that it would have been helpful to have information in the staff report noting how this Plan was integrated with the other Plans.

Commissioner Thomas O'Donnell

- Commented that this is a significant document and the Commission has not been given a reasonable time to review it.

Chair Marcia Jensen closed the public input portion of the hearing and returned to the Commission for deliberations.

Commissioner Marico Sayoc

- Asked what level of detail the Town Council reviewed the report.

Joanna Jensen

- Commented that Council had a relatively comprehensive review of the measures and additional draft measures along with the emissions reductions that would be achieved by those measures.

Chair Marcia Jensen

- Commented that she attended one of the community meetings and it was rather broad and general.
- Asked if the Council's review was a page-by-page review.

Associate Planner Jennifer Savage

- Commented that Council went through a page-by-page summary of the measures and reviewed cost effectiveness and implementation schedules. The measures are not concrete measures that have to be met but rather goals for the Town to help reach the overarching goal of a greenhouse gas reduction target.

Chair Marcia Jensen

- Commented that if the Commission is supposed to give the document a comprehensive review and make a recommendation to Town Council, she would like to continue the item.

Planning Manager Sandy Baily

- Commented that the Commissioners should give the Plan a thorough review.

Motion by **Commissioner John Bourgeois** and seconded by **Commissioner Marico Sayoc** to continue the Sustainability Plan to August 22, 2012, to give the Commission time to give the Plan a thorough review.

Commissioner Thomas O'Donnell

- Commented that he will abstain from voting because he will be out of town and will not be able to review the documents.

Motion carried 5-0 with **Commissioner Margaret Smith** absent and **Commissioner Thomas O'Donnell** abstaining.

Planning Manager Sandy Baily

- Commented that staff will verify if Town Council's meeting date on the Plan can be moved later than September 4 and, if so, staff will request at the August 22 Commission meeting that the item be continued to the Commission meeting of September 12 to allow more opportunity for the entire Commission to review the document. She will e-mail the Commissioners as soon as she has verified the date.

5. Report from Director of Community Development

- a. **Planning Manager Sandy Baily** reported that Town Council approved the application for a wine bar at 424 North Santa Cruz Avenue and approved the application to modify the Conditional Use Permit (CUP) for 160 West Main Street with the Commission's exact recommendation of not permitting live entertainment.
- b. **Planning Manager Sandy Baily** informed the Commission that on August 20, Town Council will be discussing the reuse of the old library space. The uses that are being contemplated under that concept plan include space for the Friends of the Library Bookstore, Museums of Los Gatos for exhibits, workshops and storage area, and the remainder of the space for Town staff and related uses. A CUP will be required for this use and the Museum's goal is to be relocated by January. The CUP will be coming to the Commission in the next few months.

6. Commission Matters - None

ADJOURNMENT

Meeting was adjourned at 10:18 p.m.

TOWN OF LOS GATOS PLANNING COMMISSION
Wednesday, August 8, 2012

Marcia Jensen, Chair

APPROVED AS TO FORM AND ATTEST:

Sandy L. Baily
Planning Manager