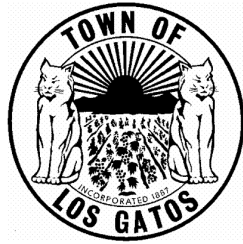


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TOWN OF LOS GATOS PLANNING COMMISSION MEETING ACTION MINUTES TOWN COUNCIL CHAMBERS 110 E. MAIN STREET WEDNESDAY, AUGUST 22, 2012

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

ROLL CALL

Present: Chair Marcia Jensen, Vice Chair Charles Erikson, Commissioner John Bourgeois, Commissioner Marico Sayoc, Commissioner Margaret Smith, and Commissioner Joanne Talesfore.

Absent: Commissioner Thomas O'Donnell

Others: Town Attorney Judith Propp, Acting Director of Community Development Todd Capurso, Acting Assistant Community Development Director Sandy Baily, Associate Planner Jennifer Savage, Associate Planner Marni Moseley, and Recording Secretary Linda Rowlett.

PLEDGE OF ALLEGIANCE

Led by **Commissioner John Bourgeois**.

APPROVAL OF MINUTES OF AUGUST 8, 2012

Motion by **Commissioner John Bourgeois** and seconded by **Commissioner Marico Sayoc** to approve meeting minutes of August 8, 2012.

Motion carried 6-0 with **Commissioner Thomas O'Donnell** absent.

WRITTEN COMMUNICATIONS

Chair Marcia Jensen noted that there was a desk item for Item #3 and Item #6.

REQUESTED CONTINUANCES - ITEM #6

Motion by **Vice Chair Charles Erikson** and seconded by **Commissioner Joanne Talesfore** to grant continuance of Item #6 (Sustainability Plan) to September 26, 2012.

Commissioner John Bourgeois suggested that Commissioners prioritize the items when reviewing the Sustainability Plan.

Motion carried 6-0 with **Commissioner Thomas O'Donnell** absent.

SUBCOMMITTEE REPORTS

Historic Preservation Committee -- **Commissioner Charles Erikson** reported that the committee met this afternoon and approved an Architecture and Site Application for a modification to the front entry of **229 Wilder** and reviewed a proposal to demolish a pre-1941 residence at **17045 Pine Ave.**

North 40 Specific Plan Advisory Committee -- **Commissioner John Bourgeois** reported that the committee met on August 15 and August 21 and made several recommendations to the consultants and staff on the residential and commercial uses in the Plan. The next step is that staff will prepare the Specific Plan for review by the committee, the Planning Commission and Town Council.

VERBAL COMMUNICATIONS (AUDIENCE) - NONE

CONSENT CALENDAR

Chair Marcia Jensen reported that she will be separating the two Consent Items since there may be discussion on one of the items.

1. ***15951 Los Gatos Boulevard** Conditional Use Permit U-12-009
Requesting approval to modify an existing wireless telecommunication facility and replace three existing antennae on property zoned O. APN 527-57-001 through -018.
PROPERTY OWNER: Stephen Chen Trust
APPLICANT: Kim Peterson for Sprint
PROJECT PLANNER: Marni Moseley

Motion by **Commissioner Marico Sayoc** and seconded by **Commissioner John Bourgeois** to approve Consent Item #1.

Motion carried 6-0 with **Commissioner Thomas O'Donnell** absent.

2. ***218 Kensington Way** Conditional Use Permit U-12-005
Requesting approval to modify an existing wireless telecommunication facility and replace three existing antennae on property zoned R-1:8. APN 527-48-029
PROPERTY OWNER: PG&E
APPLICANT: Sprint
PROJECT PLANNER: Marni Moseley

Commissioner Joanne Talesfore commented that she was encouraged to see that the antennae will be painted to match the towers. She noted that the exhibit did not show how imposing the

tower will be and asked that the cell phone companies be required to provide more adequate exhibits.

Motion by Vice Chair Charles Erikson and seconded by **Commissioner Marico Sayoc** to approve Consent Item #2.

Motion carried 6-0 with **Commissioner Thomas O'Donnell** absent.

CONTINUED PUBLIC HEARINGS

3. **357 Pennsylvania Avenue** Architecture and Site Application S-12-028
Requesting approval to demolish a single family residence and construct a new single family residence on property zoned R-1:8. APNs 510-41-069 and 070.
PROPERTY OWNER/ APPLICANT: David and Cynthia Lazares
PROJECT PLANNER: Marni Moseley
(Continued from 7/11/12 Planning Commission meeting)

Chair Marcia Jensen opened the public hearing.

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

Dave Lazares, Applicant, commented that his consultants will be giving presentations on the landscaping and architecture issues raised at the last meeting and noted that they have completed a conceptual landscaping plan for the front and back yards.

Chris Spaulding, Architect, gave a presentation on the revised design.

Commissioner Joanne Talesfore

- Asked for clarification on the shadow study.
- Asked about the neighbor's request to move the house six feet up the hill.
- Asked if any other avenues were considered to shift the house.
- Asked if the neighbor's comment regarding the height of his house (Exhibit 17) has been verified.

Chris Spaulding

- Reviewed the shadow study as it relates to the neighbors. The main shadows that are cast on the neighbor's house are created by the one-story portion of the house along with the trees.
- Commented that the house cannot be moved six feet uphill because the garage would no longer accommodate two cars. The house could possibly be moved two feet.
- Commented that shifting the house would not solve any issues and would only increase the shadows cast by the house.
- Commented that there is a photo of the house to the left in the July 31 report. He believes that the neighbor is correct about the height of his house being 22 feet. The proposed house is 29 feet 6 inches at the highest point. The first level is estimated at 11-13 feet.

Commissioner John Bourgeois

- Asked about the reason for the location of the garage.

Chris Spaulding

- Commented that this is the only feasible location for the garage.

Commissioner Margaret Smith

- Asked if the tree in the back is an existing tree.

Chris Spaulding

- Commented that the tree in the back is an existing tree.

Neil Macnaughton

- Commented that his house is a bellringer and has just been surveyed at 21 feet tall.
- Commented that the proposed house is not equitable due to shading, privacy and view issues.
- Commented that he is requesting that the house be moved six feet to the west.
- Commented that the ground floor windows in the front get evening sun with a view of the hills. The tree shades his roof; not the windows. He is also concerned about shading on his garden.
- Commented that all driveways are on the same side going down the street.

Lee Quintana

- Commented that there are three issues: impact on the neighbors, impact on public views, and compatibility with the neighborhood. The applicant did come and meet with her and her husband and they agreed that the hip roof is an improvement for preserving the views. She presented **Mr. Spaulding** with three options. Her preferred option is to go back to the original (option #3) with the divided dormers.
- Commented that the applicant accepted the condition that the front landscaping be permanent. She noted that the trees are being saved because the construction plan was changed to avoid impacting the trees.

Michael Rosenberg, Landscape Architect, commented that he was available to answer questions on the landscaping changes.

Commissioner Joanne Talesfore

- Asked about the permeable material.
- Asked about the distance from the porch to the raised bed.

Michael Rosenberg

- Commented that there are a number of materials that would be considered permeable such as gravel. The driveway is labeled as permeable. The walkway has not been labeled as permeable. The exact materials have not yet been determined. This is a conceptual plan and the backyard is conceptual.
- Commented that it is about 10 feet from the porch to the raised bed.

Commissioner John Bourgeois

- Asked about the materials for the driveway and if they considered the Town Architect's recommendation for modular material.

Michael Rosenberg

- Commented that they are considering modular material and they are also working with the Town Engineer on other driveway materials.

Commissioner Marico Sayoc

- Asked about the location of the proposed house to the downhill neighbor and why the driveway cannot be moved to accommodate the neighbor.
- Confirmed that there is a three-car tandem garage with a two-foot height difference from the house to the garage.

Chris Spaulding

- Commented that he cannot move the house six feet over because it would block the driveway. If the entire property was flip-flopped there would be a 10-foot setback on the west side and the garage would be a full story down from the house.
- Commented that there would be a five-foot difference between the house floor and the garage floor if they changed the garage to a two-car garage, but his client would not like that configuration.

Commissioner Margaret Smith

- Asked what **Mr. Macnaughton** will be looking at when looking out his front window.

Chris Spaulding

- Commented that **Mr. Macnaughton** would see the existing trees from his front window. The proposed landscaping puts new trees and low shrubs in the front yard that will not impact the view.

Commissioner Joanne Talesfore

- Asked if they plan to put an additional fence on the property.
- Asked about stepping the house up to relieve more of the setback issue.

Dave Lazares

- Commented that he plans to build a new six-foot fence to replace the existing four-foot fence. He will work with **Mr. Macnaughton**, but he will go ahead and build the fence. He has not considered a wire fence. He will try to be a good neighbor and help preserve the neighbor's view.

Chris Spaulding

- Commented that he did not consider stepping the house up because his client wanted the main floor on one level. To lessen the height they cut the house in by two feet on the uphill side so the proposed floor level is equal to the existing grade at the uphill side.

Commissioner John Bourgeois

- Asked how much effort would be involved in moving the house over two feet.

Chris Spaulding

- Commented that he could move the house by two feet without affecting the access into the garage or house, but that **Mr. Lazares** is reluctant to do this.

Dave Lazares

- Commented that the Town Code setback for the side yard is eight feet and he has moved the house 10 feet. The problem is that **Mr. Macnaughton's** house is on the smallest lot in the neighborhood at less than 5,000 square feet.
- Commented that he would prefer to have two more feet of landscaping and open space in the house, but if moving the house by two feet would alleviate the issues he would probably agree to do that.
- Commented that they studied this design and there would be a lot more interference on the uphill side if he flipped the house.

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

Commissioner Charles Erikson

- Asked if the side setback for **347 Pennsylvania Avenue** is less than eight feet.

Associate Planner Marni Moseley

- Commented that **347 Pennsylvania Avenue** has a side setback of less than eight feet and the proposed house has a 10-foot setback which is in compliance. There is no Town Code requirement for the applicant to make up the setback difference of a neighbor's nonconforming setback.

Commissioner John Bourgeois

- Commented that he really appreciates the effort that went into the redesign and that the Commission's concerns have substantially been addressed.

Motion by Commissioner John Bourgeois and seconded by **Commissioner Margaret Smith** to approve Architecture and Site Application S-12-028 with the third design as shown in the development plans as noted in Exhibit 20 of Desk Item #3 dated August 22, 2012, and subject to the conditions as noted in Exhibit 3 of staff report dated July 11, 2012, with the added conditions that the house be moved over an additional two feet and that there be a requirement, per the Town Architect, that the permeable material be either a modular material or one with a high quality appearance that is acceptable to staff. The findings were made as noted in Exhibit 2 of staff report dated July 11, 2012.

Commissioner Joanne Talesfore

- Asked if the motion can include that the final landscape plan and the permeable material come back for the Commission to see.

Assistant Community Development Director Sandy Baily

- Commented that the final landscape plan and permeable material selection would come to staff and staff would send a memo to the Commissioners asking if they had any comments prior to staff's approval.

Commissioners Bourgeois and Smith agreed to the addition to the motion.

Commissioner Charles Erektion

- Asked if moving the house over two feet is a request or a requirement.

Commissioner John Bourgeois

- Commented that moving the house is a requirement.

Motion carried 6-0 with **Commissioner Thomas O'Donnell** absent.

Acting Assistant Community Development Director Sandy Baily recited appeal rights.

NEW PUBLIC HEARINGS

4. **381 Pennsylvania Ave** Subdivision Application M-10-007
Environmental Impact Report EIR-12-002
Requesting approval of a two lot subdivision on property zoned R-1:8. The project could have a significant impact on the environment and an Environmental Impact Report 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.

Associate Planner Marni Moseley presented the staff report.

Commissioner John Bourgeois

- Asked about the orientation of the two lots.

Associate Planner Marni Moseley

- Commented that the original lot line ran parallel.

Gregory Howell, Applicant, gave a presentation on the proposed project.

Commissioner John Bourgeois

- Asked about the historical nature of a neighborhood pattern.

Franklin Maggi

- Commented that the layout of the lots is a legal issue and not an environment issue. When they look at the historic character of a neighborhood, they look at pattern and development but not the subdivision itself.

Lee Quintana

- Commented that whether or not this project is being considered as a whole under CEQA (California Environmental Quality Act) was not addressed in the EIR (Environmental Impact Report) and that needs to be addressed.
- Commented that the termination of nonsignificance as a historical resource was based on the consultant's report in consultation with the Town that it did not meet the Town's regulations. The Town never established criteria, but they did establish intent and that needs to be looked at.
- Commented that the pattern of development looked at in the EIR is different than what she displayed on the overhead. Clearly the pattern is rectangular.
- Commented that the Town is not doing a very good job of saving its local resources.

Gregory Howell

- Commented that **Ms. Quintana's** map does not reflect what is currently out there. The proposed house does follow the pattern of the existing neighborhood.

Chair Marcia Jensen

- Asked why they decided to split the lot that way.

Gregory Howell

- Commented that one issue is that the house where it currently sits would be very close to the line down the middle. Secondly, this was the neighbor's preference.

Commissioner Marico Sayoc

- Asked for clarification on the layout of the house across the street on Pennsylvania Avenue.

Gregory Howell

- Showed the referenced houses on the map noting that it does reflect the pattern of Wissahickon Avenue.

Commissioner Joanne Talesfore

- Asked for clarification on the location of the proposed second lot.

Gregory Howell

- Referenced the second lot on the map noting that it has 120 feet of frontage on Wissahickon Avenue and the balance on Pennsylvania Avenue is around 140 feet.

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

Chair Marcia Jensen

- Asked if the Commission has discretion on how a lot is subdivided.

Associate Planner Marni Moseley

- Commented that the subdivision would be considered under current Town Code requirements and the split in the original position would meet the requirements.

Acting Assistant Community Development Director Sandy Baily

- Commented that the Commission can request a reconfiguration but it would need to meet Town Code requirements in terms of lot frontage and depth. Setbacks of the existing house would have to be met.

Motion by Chair Marcia Jensen and seconded by **Commissioner Margaret Smith** to approve Subdivision Application M-10-007 and Environmental Impact Report EIR-12-002 subject to the conditions as noted in Exhibit 5 of staff report dated August 22, 2012. The required findings were made as noted in Exhibit 4 of staff report dated August 22, 2012. The FEIR (Final Environmental Impact Report) is certified (Exhibit 3) and required findings to deny a subdivision pursuant to the State Subdivision Map Act cannot be made in reviewing this application.

Commissioner John Bourgeois

- Commented that the only finding that gives him hesitation is the second one. A case can be made both ways, but there is not enough evidence to make the finding so he will support the motion.

Commissioner Joanne Talesfore

- Commented that she will not support the motion because the historic nature of that area is very strong. She does not see this as improving the historic nature of the house and lot.

Motion carried 5-1 with **Commissioner Joanne Talesfore** dissenting and **Commissioner Thomas O'Donnell** absent.

Assistant Community Development Director Sandy Baily recited appeal rights.

5. **236 & 238 Bachman Avenue** Architecture and Site Application S-12-038
Requesting approval to demolish a two-family dwelling, and construct a single family dwelling with a detached garage with reduced rear setbacks on property zoned R-1D:LHP. APN 510-14-054.
PROPERTY OWNER/APPLICANT: Omid Shakeri
PROJECT PLANNER: Jennifer Savage

Chair Marcia Jensen opened the public hearing.

Associate Planner Jennifer Savage noted that she did not have anything to add to the staff report.

Commissioner John Bourgeois

- Asked about the removal of housing stock.

Associate Planner Jennifer Savage

- Commented that this was originally a single family home and it was remodeled to be a two family home.

Chair Marcia Jensen

- Asked if the house would qualify as a BMP (Below Market Price) unit.

Assistant Community Development Director Sandy Baily

- Commented that this is not a BMP unit.

Commissioner Marico Sayoc

- Asked if the type of unit is considered when removing a unit from the Town's housing stock.

Acting Assistant Community Development Director Sandy Baily

- Commented that the type of house can be considered when removing it from the Town's housing stock. The General Plan may have a breakdown of the different types of units, but staff does not have that information available tonight.

Omid Shakeri, Applicant, gave a presentation on the proposed project.

Commissioner Margaret Smith

- Asked about the depth of the porch.

Omid Shakeri

- Commented that they expanded the porch to seven feet as recommended by the Town Architect.

Commissioner Joanne Talesfore

- Asked about the materials for the outside of the house and if applicant would consider revising the materials to better fit in with what is already there.

Omid Shakeri

- Commented they are looking at a semi-smooth stucco finish. They looked at what is appropriate for Craftsman homes. There is a combination of stucco and wood with river rocks as an accent. Sheet A-3 shows the wood siding.
- Commented that stucco requires less maintenance than wood.

Associate Planner Jennifer Savage

- Commented that the Historic Preservation Committee (HPC) looked at the materials and she recalled the committee requiring real wood and real stone.

Commissioner Charles Erekson

- Commented that he did not recall any discussion at the HPC about the proportion of materials other than using real wood and real stone.

Commissioner Joanne Talesfore

- Commented that no one reviewed the style of stucco.

Omid Shakeri

- Commented that the HPC discussed the materials, but they did not ask what texture of stucco. They asked for real wood and real stone.

Acting Assistant Community Development Director Sandy Baily

- Commented that the HPC is very particular in reviewing materials and they do get into coloring and details of stucco.
- Suggested that if the Commission specifies a type of stucco in the Conditions of Approval, it should go back to the HPC for final determination.

Commissioner John Bourgeois

- Asked if anyone has expressed concern about the mass of the house, particularly the neighbor at **228 Bachman Avenue**.
- Asked if applicant plans to landscape where the Santa Clara Valley Water District easement is at the back of the property. The existing vegetation is a very invasive plant and he may suggest a Condition of Approval that the material be handled and disposed of properly.

Omid Shakeri

- Commented that he has spoken with his neighbors and has sent a letter to his one neighbor at **228 Bachman Avenue**. He has not received any response since he e-mailed him all the plans. The story poles have been up since the beginning of August.
- Commented that they plan to remove the existing vegetation and landscape behind the property.

Commissioner Marico Sayoc

- Asked if applicant has had any conversations about the findings regarding the demolition of the second unit.

Omid Shakeri

- Commented that they are expanding the house and will not be using the second unit.

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

Commissioner Marico Sayoc

- Asked if a second unit must be rented out.

Associate Planner Jennifer Savage

- Commented that a second unit does not have to be rented.

Acting Assistant Community Development Director Sandy Baily

- Commented that during the Building Permit process the Town would make sure that the second living unit is maintained as a separate living quarters when an applicant wants to expand an existing unit.

Commissioner Joanne Talesfore

- Asked if this property is a duplex.

Acting Assistant Community Development Director Sandy Baily

- Commented that it is two units which is the same as a duplex.

Commissioner John Bourgeois

- Asked if the property was originally constructed as a single family home.

Associate Planner Jennifer Savage

- Confirmed that the property was originally a single family home.

Motion by Commissioner Joanne Talesfore and seconded by **Commissioner Margaret Smith** to approve Architecture and Site Application S-12-038 subject to the conditions as noted in Exhibit 3 of staff report dated August 22, 2012, with the added condition that the materials, finishes and colors for the house be sent back to the HPC for review. The required findings were made as noted in Exhibit 2 of staff report dated August 22, 2012.

Commissioner Joanne Talesfore

- Commented that she has a concern if the Residential Design Guidelines were followed.

Commissioner John Bourgeois

- Asked to add a Condition of Approval that the giant reed be bundled, covered and transported to a landfill for disposal.

Commissioners Talesfore and Smith agreed to the addition to the motion.

Commissioner John Bourgeois

- Commented that he believes it is a well designed house that is compatible with the neighborhood. He is concerned about the bulkiness to the neighbor on the right and also about losing a unit. Per the General Plan, the Town is trying to preserve a variety of housing types and sizes and support the preservation and conservation of existing housing units. He wonders if they are meeting the intent of the General Plan when they lose a housing unit in a highly desirable neighborhood.

Commissioner Marico Sayoc

- Complimented the applicant on the design and commented that the house is very well designed, but she has reservations about converting two units to one unit. She will not be supporting the motion.

Chair Marcia Jensen

- Commented that she is supporting the motion because the Town policies are working at cross purposes. If the unit is not being rented, there is no second unit anyway. If there are these units and if the Town requires the property owners to keep these units, then there should be a requirement that the second unit be used to make the first requirement meaningful.

Commissioner Margaret Smith

- Commented that she is very familiar with the house and good attention was not paid to how it was designed when it was converted to two units. This house is deteriorating at a rapid rate and she is glad to see something new going up. In terms of future conversions, more attention needs to be paid to the design of the conversion. This is a difficult floor plan.

Commissioner Joanne Talesfore

- Commented that this house was not originally planned to be a duplex. The intent of this house and the neighborhood was for a single family house.

Motion carried 5-1 with **Commissioner Marico Sayoc** dissenting and **Commissioner Thomas O'Donnell** absent.

Acting Assistant Community Development Director Sandy Baily recited appeal rights.

CONTINUED OTHER BUSINESS - NONE**NEW OTHER BUSINESS**

6. **Sustainability Plan** Consider adoption of a Sustainability Plan to serve as the Town's Greenhouse Gas (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.
PROJECT PLANNER: Jennifer Savage

Continuance granted to September 26, 2012. See Requested Continuances above.

7. Report from Director of Community Development (**Heard Out of Order**)
 - a. **Acting Assistant Community Development Director Sandy Baily** introduced **Acting Community Development Director Todd Capurso**.

Parks and Public Works Director Todd Capurso reported that, with the upcoming retirement of **Wendie Rooney**, he has assumed the role of Acting Community Development Director. He noted that he will continue to be the Parks and Public

Works Director and that the two departments are not being combined but will remain two separate departments. **Wendie Rooney** has assumed the role of Strategic Projects Director and **Sandy Baily** has been promoted to Acting Assistant Community Development Director.

8. Commission Matters -- None

ADJOURNMENT

Meeting was adjourned at 9:13 p.m.

TOWN OF LOS GATOS PLANNING COMMISSION
Wednesday, August 22, 2012

Marcia Jensen, Chair

APPROVED AS TO FORM AND ATTEST:

Sandy L. Baily
Acting Assistant Community Development Director