



MEETING DATE: 01/05/04
ITEM NO. //
DESK ITEM

COUNCIL AGENDA REPORT

DATE: January 5, 2004
TO: MAYOR AND TOWN COUNCIL
FROM: DEBRA J. FIGONE, TOWN MANAGER

SUBJECT: CONSIDER A REQUEST FOR APPROVAL OF A PLANNED DEVELOPMENT TO CHANGE THE ZONE FROM RM: 12-20 TO RM: 12-20:PD TO CONSTRUCT THREE DWELLING UNITS. NO SIGNIFICANT ENVIRONMENTAL IMPACTS HAVE BEEN IDENTIFIED AS A RESULT OF THIS PROJECT AND A NEGATIVE DECLARATION IS RECOMMENDED. PLANNED DEVELOPMENT APPLICATION PD-01-2 NEGATIVE DECLARATION ND-01-14 PROPERTY LOCATION: 10 MONROE COURT PROPERTY OWNER: DAVID H. PITZEN APPLICANT: DHP MONROE INVESTORS LLC

REMARKS:

Attached are comments from an arborist hired by an adjacent neighbor concerning an Italian Stone Pine tree located on the neighbor's property (Attachment 11). This neighbor has been aware of this project since 1999 and did not raise any major concerns about this tree until December 2003. In November 2003, the neighbor's only issue with the tree was that heavy equipment stay out of the tree's dripline. This concern was mitigated by performance standard #62 of the draft Planned Development Ordinance.

The neighbor recently hired an arborist who recommends that certain performance standards for the subject project be revised to include the protection of this tree and that the tree protection standards used by the City of Palo Alto be enforced and exceeded in certain circumstances. The Town has its own tree protection standards and the Palo Alto standards were reviewed as part of the process of developing the Town's standards. Staff is of the opinion that the Town's tree protection standards provide sufficient measure to protect the Italian Stone Pine. Following is a response to recommendations by the neighbor's arborist.

(Continued on page 2)

PREPARED BY:

BUD N. LORTZ,
DIRECTOR OF COMMUNITY DEVELOPMENT

Reviewed by: Assistant Town Manager Attorney Clerk Finance
 Community Development

Revised: 1/5/04 5:24 pm

- Performance Standard #60, requires that all trees on site must remain. The neighbor's arborist has recommended that the Italian Stone Pine also be required to be saved. The applicant has no authority to remove off-site trees. Therefore, no change to this condition is required.
- The neighbor's arborist has recommended that the Italian Stone Pine be specifically addressed in Performance Standards #61 through 64, 66 and 67. These standards deal with tree and root protection measures. The Town's consulting arborist will be retained to ensure that the tree protection fencing and other required measures are implemented prior to construction. All trees on and off site, will be protected as required by the Town's new Tree Ordinance. The neighbor's arborist is correct that the Italian Stone Pine is not shown on the plans. However, a final landscaping plan is required during the Architecture and Site approval process, and this tree will be required to be shown at that time. If additional mitigation measures are required to protect the tree, they will be included as conditions of approval for the Architecture and Site application. If Town Council determines that an additional performance standard be required to protect this tree, the following language is recommended to be incorporated in Performance Standard #58 of the Planned Development Ordinance (Attachment 3). The new language is in italics.

FINAL LANDSCAPE PLAN. A final riparian planting plan shall be submitted during the Subdivision Application process. A final landscape plan shall be submitted during the Architecture and Site approval process for each lot. *The plan shall include the Italian Stone Pine Tree on the adjacent parcel at 7 Monroe Court. Additional protection measures may be required to reduce impacts to this tree.*

The neighbor has also submitted a separate letter (Attachment 12) which requests Council to review her tree concern as discussed above. In addition, her letter mentions that a Heritage Oak tree is proposed for removal. It is unclear which Oak tree is being referenced. The largest Oak tree on the site will remain, and specific measures have been required to reduce impacts to this tree.

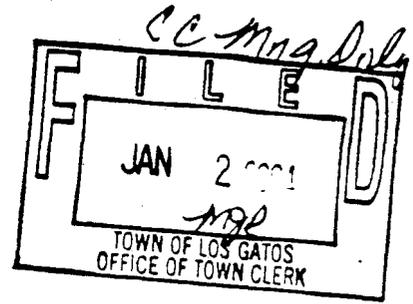
The neighbor has again questioned the status of her access easement which has been addressed in numerous reports to the Planning Commission and Town Council.

Attachments:

- 1-10: Previously Submitted
11. Two faxes from Gil Mitchel (nine pages), received January 2, 2004.
12. Letter from Ann Lamborn (one page), received January 5, 2004. Arborist report not attached since it is included in Attachment 11.



Tree Health Professionals, Inc.



FAX COVER SHEET

To: Town Clerk
Town of Los Gatos

Date: 12/31/03

Total Number of Pages: 7
(Including Cover Sheet)

From: Gil Mitchell
Fax #: 408 871-0284
Phone#: 408-929-3040

MESSAGE:

Ms. Anne Lamborn, who resides at 7 Monroe Court, asked that I provide you with the following report.

Best regards,

Gil Mitchell





Tree Health Professionals, Inc.

EVALUATION & PRESERVATION OF ONE ITALIAN STONE PINE TREE @ 7 MONROE COURT LOS GATOS, CALIFORNIA

Prepared at the request of:

Ms. Anne Lamborn
7 Monroe Court
Los Gatos, California 95032

Site visit by:

Gil Mitchell
Registered Consulting Arborist
ISA Certified Arborist
December 29, 2003

December 30, 2003



EVALUATION & PRESERVATION OF ONE ITALIAN STONE PINE**@ 7 MONROE COURT, LOS GATOS, CALIFORNIA**

December 30, 2003

Page 2 of 3

Assignment

To evaluate the health and structure of one Italian stone pine (*Pinus pinea*) tree, that is located on Ms. Lamborn's property and 16 feet away from the pavement that is a common street, and to suggest preservation specifications to be followed by the developer of the adjacent property. The tree was not climbed and the evaluation was done from the ground.

Summary

The tree appears to be in very good health and has a structure that is consistent with its natural growth pattern.

No written suggestions or recommendations have been found that allow for protecting this tree during the development of the adjacent property, which is known as 10 Monroe Court or Monroe Cottages.

The Italian stone pine tree (pine tree) will need to be protected during the development of the adjacent property.

General Comments

I have reviewed the VESTING TENTATIVE MAP, the SITE PLAN, the GRADING AND DRAINAGE PLAN, the TOPOGRAPHIC SURVEY, and the AREA MAP, all of which were drawn by Giuliani & Kull, Inc. (various dates). None of these drawings shows the location or drip line of Ms. Lamborn's pine tree.

I have reviewed various documents provided by Ms. Lamborn, including the Town of Los Gatos Environmental Impact Review Recommended Negative Declaration, and none of the documents addresses the pine tree.

City of Palo Alto Tree Protection

The City of Palo Alto has defined criteria for protecting trees located on contiguous properties (see enclosure).

I suggest that the pine tree receive the same considerations for preservation as are found in the Recommended Negative Declaration (endorsed July 10, 2002) for 10 Monroe Court.

Specific Observations

The pine tree has a trunk diameter of 52.75 inches measured at 12 inches above ground and just below the primary crotch of the tree. The health of the tree is very good and the structure of the tree is average for its natural growth characteristics.

The pine tree has been well maintained with regular pruning. Various trees located around the pine tree act to buffer the tree from high winds.

The pavement for the street is located 16 feet from the edge of the trunk of the pine tree.

The lowest branch of the pine tree that grows over the pavement is approximately 18 feet above the pavement.

Tree Protection Recommendations

Specifications for preservation are suggested in order to maintain the long term health of the pine tree:

- A. Have the tree plotted and the drip line of the tree drawn on all plans that are provided to the developer of 10 Monroe Court.
- B. Provide mitigation measures that are consistent to the zone ordinance of RM:12-20:PD with particular attention to Section V, items 60, 61, 62, 63, 64, 66, and 67.
 1. Regarding item 62e: The distance would be 30.75 feet from the trunk.

EVALUATION & PRESERVATION OF ONE ITALIAN STONE PINE

@ 7 MONROE COURT, LOS GATOS, CALIFORNIA

December 30, 2003

Page 3 of 3

- C. Install the protection fence at the edge of the pavement before any equipment or materials arrives on-site. Fences shall be five feet tall, portable chain link fencing panels with 2-inch galvanized posts driven at least 18 inches into the ground to retain the panels in place.
- D. Do not remove the existing pavement until the end of the project when the new street is to be built.
- E. Build the new street on the existing soil grade, which is below the existing pavement. Do not excavate below the existing soil grade within a radius of 30.75 feet from the trunk of the pine tree.

Conclusion

The health of Ms. Lamborn's pine tree could be remarkably diminished over the long term by the development of 10 Monroe Court.

Following the mitigation measures that have been approved for 10 Monroe Court, along with items A-E in this report will reduce the impact of developing the property.

Respectfully submitted by,



Gil Mitchell, RCA
ISA Certified Arborist

enclosures: City of Palo Alto Tree Technical Manual (two pages)
Statement of Limiting Conditions

Tree Technical Manual

CITY OF PALO ALTO

Standards & Specifications

Palo Alto Municipal Code, Chapter 8, 10.030



Illustration by Allen Drexler

June, 2001 First Edition

Department of Planning and Community Environment

notes:

PAMC 8.10.020

23. Recommended Practice means an action, treatment, technique or procedure that may be implemented for superior care or preservation of trees. Recommended practices may be required under specific conditions of approval for *discretionary development* projects or *injury* mitigation.
24. Regulated Tree means any *Protected Tree*, *Street Tree* or *Designated Tree*.
25. Removal means any of the following:
- ▶ Complete tree *removal* such as cutting to the ground or extraction of the tree.
 - ▶ Taking any action *foreseeably* leading to the death of a tree or permanent damage to its health or structural integrity, including but not limited to *excessive pruning*, cutting, girdling, poisoning, over watering, unauthorized relocation or transportation of a tree, or *trenching*, excavation, altering the grade, or paving within the *dripline* of the tree.
26. Required Practice means a mandatory action, treatment, technique or standard of care required to be implemented by the property owner, developer, contractor or designee for the preservation of trees
27. Root Buffer means a temporary layer of material to protect the soil texture and roots. The buffer shall consist of a base course of tree chips spread over the root area to a minimum of 6-inch depth, capped by a base course of 3/4-inch quarry gravel to stabilize 3/4-inch plywood on top. (see *Buffers*, Section 2.15.5 B).
28. Site Plan means a set of drawings (e.g. preliminary drawings, *site plan*, grading, demolition, building, utilities, landscape, irrigation, tree survey, etc.) that show existing site conditions and proposed landscape improvements, including trees to be removed, relocated or to be retained. *Site plans* shall include the following minimum information that may impact trees:
- ▶ Surveyed tree location, species, size, *dripline area* (including trees located on neighboring property that overhang the project site) and *street trees* within 30-feet of the project site.
 - ▶ Paving, concrete, *trenching* or grade change located within the *tree protection zone*.
 - ▶ Existing and proposed utility pathways.
 - ▶ Surface and subsurface drainage and aeration systems to be used.
 - ▶ Walls, tree wells, retaining walls and grade change barriers, both temporary and permanent.
 - ▶ Landscaping, irrigation and lighting within dripline of trees, including all lines, valves, etc.
 - ▶ Location of other landscaping and significant features.
 - ▶ All of the final approved *site plan* sheets shall reference tree protection instructions (see also *Site Plan*, Section 6.35).



Tree Health Professionals, Inc.

Statement of Limiting Conditions

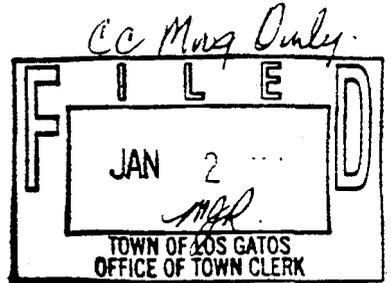
Please note: Recommendations given by Gil Mitchell of Tree Health Professionals, Inc. are based upon research and recommendations from the agriculture and horticulture departments of major universities in the United States, primarily the University of California, and also from the International Society of Arboriculture. Due to the variability and unpredictability of plant materials, hidden defects, soils, climate, workmanship and various other factors, Gil Mitchell of Tree Health Professionals, Inc. can make no warranty, expressed or implied, regarding any recommendations given. The owner or person(s) responsible for implementing any recommendations given by Gil Mitchell of Tree Health Professionals, Inc. assume(s) all risks involved, and agree(s) to indemnify Gil Mitchell of Tree Health Professionals, Inc. and hold Gil Mitchell of Tree Health Professionals, Inc. harmless from any loss, cost of damage, including but not limited to attorney fees and defense, costs of claims by the undersigned, or by third parties.

Regarding trees: The measures noted within this report are designed to assist in the protection and preservation of the trees mentioned in this report and to help in their short and long term health and longevity. This is not however, a guarantee that any of these trees may not suddenly or eventually decline, fail, or die, for whatever reason. Because a significant portion of the roots are far beyond the dripline of the tree, even trees that are well protected during construction often decline, fail or die. Because there may be hidden defects within the root system, trunk or branches of trees, it is possible that trees with no obvious defects can be subject to failure without warning.





Tree Health Professionals, Inc.



FAX COVER SHEET

To: Town Clerk
Town of Los Gatos

Date: 1/2/04

Total Number of Pages: 2
(Including Cover Sheet)

From: Gil Mitchell
Fax #: 408 871-0284
Phone#: 408-929-3040

MESSAGE:

Ms. Anne Lamborn, who resides at 7 Monroe Court, asked that I provide you with the following letter.

Best regards,

Gil Mitchell





Tree Health Professionals, Inc.

January 2, 2004

Ms. Anne Lamborn
7 Monroe Ct.
Los Gatos, CA 95032

Re: Addendum to the evaluation and preservation of one Italian stone pine

Dear Ms. Lamborn,

On December 30, 2003 I provided you with an arborist report that evaluated and gave tree protection recommendations for your Italian stone pine (*Pinus pinea*) tree.

It has come to my attention that I did not address any circumstances that would require the pruning of your pine tree.

The lowest branch of the pine tree is approximately 18 feet above the pavement. I would not expect that the tree would be pruned given that this branch is so high off of the pavement and shouldn't get in the way of any equipment.

However, I do recommend that the developer of 10 Monroe Court consult with a qualified arborist that is hired by you if pruning is to be done to your pine tree.

Respectfully submitted by,

Gil Mitchell, RCA
ISA Certified Arborist

cc by fax: Clerk, Town of Los Gatos



ANNE LAMBORN
7 MONROE COURT
LOS GATOS, CA 95032
annelamborn@comcast.net
408-354-8493

December 31, 2003

RECEIVED

JAN - 5 2004

TOWN OF LOS GATOS
PLANNING DEPARTMENT

Town Council Members
Town of Los Gatos
Los Gatos, CA 95032

RE: Ten Monroe Court Hearing (January 5, 2004) and Anne Lamborn's Stone Pine and Parcel Three

Dear Town Council Members:

Enclosed is a report from Certified Arborist Gil Mitchell. The report was prepared on my behalf to address my Italian stone pine in relation to Pacific Diversified's proposed development. I have mailed the original report to Bud Lortz, Director of Planning.

The developer has never once addressed the issue of my heritage stone pine. It is not noted anywhere on the plans.

I would like you to address the issue of the well-being of my tree in your approval of the developer's planned development proposal.

Furthermore, neither the developer nor the Town have ever addressed my access parcel number three, which was recorded in 1923 on my deed.

If you visit the property, you will notice my enormous stone pine, my access parcel, and the developer's heritage oak (which is scheduled for removal).

I have mentioned these issues many times in writing and they have always been ignored.

I will not be attending the meeting because I will be in New Zealand from Jan. 1 until Mar. 30, 2004. Kathy Kelley will be reading arborist report at the January 5, 2003 hearing regarding Ten Monroe Court.

Sincerely,

Anne Lamborn

cc: Bud Lortz, Director of Planning

COPY

