



MEETING DATE: 04/04/05
ITEM NO. 1
ADDENDUM

COUNCIL AGENDA REPORT

DATE: April 1, 2005
TO: MAYOR AND TOWN COUNCIL
FROM: DEBRA J. FIGONE, TOWN MANAGER
SUBJECT: SCHEDULE OF PUBLIC HEARINGS

RECOMMENDATION:

No action is necessary. This item is for your information.

DISCUSSION:

The appeal of 310 Santa Rosa Drive was not submitted until after the Public Hearing Schedule was prepared for Council. Therefore the schedule has been amended to reflect this appeal. The following hearings are currently scheduled for the Council meeting of:

May 2, 2005


107 DRYSDALE DRIVE/APPEAL OF PLANNING COMMISSION

Consider an appeal of a Planning Commission decision denying approval to construct a single family residence on property zoned HR-1. No significant environmental impacts have been identified and a Negative Declaration is recommended. Architecture and Site Application S-05-16 Negative Declaration ND-05-05
PROPERTY LOCATION: **107 Drysdale Drive** PROPERTY OWNER/APPLICANT/APPELLANT: Howell & McNeil Dev. LLC

May 2, 2005

310 SANTA ROSA DRIVE/APPEAL OF PLANNING COMMISSION

Consider an appeal of a Planning Commission decision denying a request to construct a second story addition to a single family residence that will result in a home that exceeds the Floor Area Ration on property zoned HR- 2 1/2 . APN 527-55-036. Architecture and Site Application S-05-017. PROPERTY LOCATION **310 Santa Rosa Drive.** PROPERTY OWNER/APPELLANT: John Versgrove.

PREPARED BY: 
MARLYN J. RASMUSSEN
Clerk Administrator

CLK:PH110104.TC

Reviewed by: Attorney Manager Asst. Town Manager Community Development
 Police Dept. Parks/Public Works Finance Community Services Library

FILING FEES
\$262.00 Residential
\$1047.00 per Commercial, Multi-family or Tentative Map Appeal

Town of Los Gatos
 Clerk Department
 110 E. Main St., Los Gatos CA 95030

CC: CDD # MIN # 244
 APR - 1 2005
 TOWN OF LOS GATOS
 CLERK DEPARTMENT

APPEAL OF PLANNING COMMISSION DECISION

I, the undersigned, do hereby appeal a decision of the Planning Commission as follows: (PLEASE TYPE OR PRINT)

DATE OF PLANNING COMMISSION DECISION: MARCH 23, 2005

PROJECT / APPLICATION NO: S-05-17

ADDRESS LOCATION: 310 SANTA ROSA DR.

244 PAID
 APR - 1 2005
 TOWN OF LOS GATOS
 CLERK DEPARTMENT

Pursuant to the Town Code, the Town Council may only grant an appeal of a Planning Commission decision in most matters if the Council finds that one of three (3) reasons exist for granting the appeal by a vote of at least three (3) Council members. Therefore, please specify how one of those reasons exist in the appeal:

1. The Planning Commission erred or abused its discretion because SEE ATTACHED SUMMARY

; OR

2. There is new information that was not reasonably available at the time of the Planning Commission decision, which is

(please attach the new information if possible): OR

3. The Planning Commission did not have discretion to modify or address the following policy or issue that is vested in the Town Council:

IF MORE SPACE IS NEEDED, PLEASE ATTACH ADDITIONAL SHEETS.

IMPORTANT:

- Appellant is responsible for fees for transcription of minutes.
- Appeal must be filed within ten (10) calendar days of Planning Commission Decision accompanied by the required filing fee. Deadline is 5:00 p.m. on the 10th day following the decision. If the 10th day is a Saturday, Sunday, or Town holiday, then it may be filed on the workday immediately following the 10th day, usually a Monday.
- The Town Clerk will set the hearing withing 56 days of the date of the Planning Commission Decision (Town Ordinance No. 1967)
- An appeal regarding a Change of Zone application or a subdivision map only must be filed within the time limit specified in the Zoning or Subdivision Code, as applicable, which is different from other appeals.
- Once filed, the appeal will be heard by the Town Council.
- If the reason for granting an appeal is the receipt of new information, the application will, usually be returned to the Planning Commission for reconsideration.

PRINT NAME: JOHN VERSGROVE
 DATE: 3/29/05
 PHONE: 408-358-5313

SIGNATURE: John Versgrove
 ADDRESS: 310 SANTA ROSA DR.
LOS GATOS CA 95032

***** OFFICIAL USE ONLY *****

DATE OF PUBLIC HEARING: May 2, 2005

Pending Planning Department Confirmation

DATE TO SEND PUBLICATION: April 13, 2005

CONFIRMATION LETTER SENT: Date: _____

TO APPLICANT & APPELLANT BY: _____

DATE OF PUBLICATION: April 13, 2005

John Versgrove
310 Santa Rosa Drive
Los Gatos, CA 95032

Appeal to Town Council
S-05-17

April 1st, 2005

The Planning Commission erred and abused its discretion in three ways:

1. One of the reasons given for rejecting the proposal was that it was not compatible with the existing architecture. We have been led to understand that it is not the responsibility of the Planning Commission to make this determination. Fees were paid by the applicant; and the Consulting Architect undertook a formal review of the plans for the proposed project and determined that it is both compatible and appropriate in terms of architecture. This should not have been a part of the decision process.
2. The Hillside Guidelines provides for an 'Exception to FAR' only if the applicant can demonstrate that a set of criteria is met with the project design. The majority of the criteria are objective, and Planning Dept. staff has determined that these criteria have either been met, or are not applicable. In the initial Planning Commission submission, the Planning Director determined that the criteria for granting an Exception had been satisfied.

The Hillside Guidelines states that meeting the Exception criteria does not guarantee approval; so we addressed the only subjective criterion that remained

(9): There will not be a significant visual impact to neighboring properties.

In the resubmission, the applicant rigorously reworked the proposal to ensure that the proposal not only had 'No Significant Impact', but demonstrated objectively that there would in fact be a 'Positive Impact' by the reduction of visible mass. This is a unique property ['U' shaped house] which permits this.

It is our contention in this appeal that the Planning Commission should be required to approve this project because it is more compliant with the Hillside Guidelines in terms of Visible Mass [the only subjective criterion] than the structure that is presently there. If this project is not granted an Exception, then there is No Discretion, and there is no Exception in the Hillside Guidelines, which was not the intention of the Town Council in approving an Exception rule.

3. The Planning Commission denied this project primarily so as not to "set a precedent and open the floodgates of applicants wishing to exceed the FAR". That is not a reasonable basis for denial. Each project should be considered on its individual merit, and the creation of 'precedent' is secondary.