



MEETING DATE: 04-17-2006

AGENDA ITEM:

6

## COUNCIL AGENDA REPORT

DATE: April 11, 2006

TO: MAYOR AND TOWN COUNCIL

FROM: ORRY P. KORB, TOWN ATTORNEY *OK*

SUBJECT: ADOPT A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS GRANTING IN PART AND DENYING IN PART AN APPEAL OF A DECISION OF THE PLANNING COMMISSION DENYING DEMOLITION OF A PRE-1941 RESIDENCE, CONSTRUCTION OF A NEW SINGLE FAMILY RESIDENCE AND ACCESSORY STRUCTURE THE REDUCED SETBACKS AND DENY THE EXTENDED CELLAR ON PROPERTY ZONED R-1D. APN: 519-08-008. ARCHITECTURE AND SITE APPLICATION S-05-031. PROPERTY LOCATION: 54 CHESTER STREET. PROPERTY OWNER/APPELLANT: ANNA HUYNH AND KEVIN CRANE

### RECOMMENDATION:

Adopt resolution confirming Council's decision on April 3, 2006.

### DISCUSSION:

On April 3, 2006, Council granted in part and denied in part an appeal of a Planning Commission decision denying demolition of a pre-1941 residence, construction of a new single family residence and accessory structure with reduced setbacks and denied an extended cellar. The attached resolution finalizes that decision.

Attachment: Proposed Resolution

Distribution: Anna Huynh and Kevin Crane, 54 Chester Street, Los Gatos, CA 95030

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

OPK:LMB/wp [N:\ATY\Report 54 Chester.wpd]

Reviewed by: *[Signature]* Town Manager *PSJ* Assistant Town Manager \_\_\_\_\_ Clerk  
Finance \_\_\_\_\_ Community Development

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File# 301-05

**RESOLUTION 2006**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
GRANTING IN PART AND DENYING IN PART AN APPEAL OF A DECISION OF THE  
PLANNING COMMISSION DENYING DEMOLITION OF A PRE-1941 RESIDENCE,  
CONSTRUCTION OF A NEW SINGLE FAMILY RESIDENCE AND ACCESSORY  
STRUCTURE THE REDUCED SETBACKS AND DENY THE EXTENDED CELLAR ON  
PROPERTY ZONED R-1D**

**APN: 519-08-008**

**ARCHITECTURE AND SITE APPLICATION S-05-031**

**PROPERTY LOCATION: 54 CHESTER STREET**

**PROPERTY OWNER/APPELLANT: ANNA HUYNH AND KEVIN CRANE**

**WHEREAS:**

- A. This matter came before the Town Council for public hearing on April 3, 2006, and was regularly noticed in conformance with State and Town law.
- B. Council received testimony and documentary evidence from the appellant/applicant and all interested persons who wished to testify or submit documents. Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Report dated March 27, 2006, along with subsequent reports and materials prepared concerning this application.
- C. The applicant/appellant seeks approval to demolish a pre-1941 residence, construct a new single family residence and accessory structure and is requesting an interpretation of the Town's Cellar Policy to allow a cellar that extends to the area under a proposed deck and thus exceeds the footprint of the proposed enclosed structure. Town staff had determined that the proposal was inconsistent with Town policy concerning cellars.

D. The Planning Commission considered this matter on February 8, 2006, and denied the application based on the determination that the proposed above surface structure was incompatible with the neighborhood in terms of mass, scale and visibility. The Commission also agreed with Town staff that the proposed cellar was inconsistent with Town policy.

E. The applicant/appellant claims that the Planning Commission erred or abused its discretion because they did not fully understand how the mass, scale and compatibility of the plan fits into the neighborhood.

F. Council approves the application with an additional condition requiring that the cellar be modified to conform to Town policy so that it does not exceed the footprint of the proposed overlying structural walls to the satisfaction of the Director of Community Development.

G. Pursuant to Town Code section 29.20.300, Council finds that there was error on the part of the Planning Commission with regard to the neighborhood compatibility of the proposed above surface structure. Council agrees with the Planning Commission's decision with regard to the proposed cellar. Council further finds that the project is categorically exempt pursuant to section 15303 of the State Environmental Guidelines as adopted by the Town.

**RESOLVED:**

1. The appeal of the decision of the Planning Commission to deny demolition of a pre-19341 residence and the construction of a new single family residence and accessory structure with reduced setbacks is granted in part to allow the above ground structure as proposed, and denied in part to restrict the cellar consistent with the conditions of approval attached as Exhibit A to this resolution.

2. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure section 1094.6, or such shorter time as required by State and Federal Law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California on the 17<sup>th</sup> day of April 2006, by the following vote.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR  
TOWN OF LOS GATOS, CALIFORNIA

## CONDITIONS OF APPROVAL

### 54 Chester Street

#### Architecture and Site Application S-05-031

**Requesting approval to demolish a pre-1941 residence, construct a new single family residence and accessory structure with reduced setbacks and request for and interpretation of the cellar policy on property zoned R-1D. APN: 529-08-008**

**PROPERTY OWNER: Anna Huynh and Kevin Crane**

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:  
(Planning Division)

1. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the development plans dated December 1, 2005. Any changes or modifications made to the approved plans shall be approved by the Director of Community Development, Development Review Committee or the Planning Commission, depending on the scope of the change(s).
2. **EXPIRATION:** Zoning approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. **COMPLIANCE MEMORANDUM.** The applicant shall prepare and submit a memorandum with the building permit, detailing how each of these Conditions of Approval have or will be addressed.
4. **TREE REMOVAL PERMIT.** A Tree Removal Permit shall be obtained prior to the issuance of a Building, Grading or Encroachment Permit.
5. **NEW TREES.** The new trees to be planted shall be double-staked, using rubber tree ties and shall be planted prior to occupancy.
6. **PROTECTIVE FENCING.** Prior to any construction or building permits being issued, the applicant shall install the required protective fencing.
7. **ARBORIST RECOMMENDATIONS:** The Consulting Arborist recommendations dated November 26, 2005 must be strictly adhered to, prior to and throughout construction.
8. **SALVAGING OF MATERIALS.** At least ten days prior to the date of demolition, the developer shall provide to the Town a written notice and an advertisement published in a newspaper of general circulation, regarding the availability of materials for salvage, including the name and telephone number of a contact person. No salvaging of material shall occur until a demolition permit has been approved by the Community Development Department.
9. **RECYCLING.** All wood, metal, glass and aluminum materials generated from the demolished structure shall be deposited to a company which will recycle the materials. Receipts from the company(s) accepting these materials, noting type and weight of material, shall be submitted to the Town prior to the Town's demolition inspection.
10. **CELLAR:** Prior to submittal of building permits, the applicant shall redesign the cellar to eliminate that portion of the cellar located underneath the deck, to the satisfaction of the Community Development Director. The cellar shall conform to the Town's Cellar Policy, which limits cellars to the area under the enclosed structure, including any attached garage (i.e., building footprint).

(Building Section)

11. PERMITS REQUIRED: A building permit shall be required for the addition and remodel of the existing single family residence. Separate permits are required for site electrical, mechanical, and plumbing work.
12. CONDITIONS OF APPROVAL: The Conditions of Approval must be blue-lined in full on the cover sheet of the construction plans.
13. SIZE OF PLANS: Four sets of construction plans, maximum size 24" x 36."
14. SOILS REPORT: A soils report, prepared to the satisfaction of the Building Official, containing foundation and retaining wall design recommendations, shall be submitted with the building permit application. This report shall be prepared by a licensed civil engineer specializing in soils mechanics. ALTERNATE: Design the foundation for an allowable soils 1,000 psf design pressure. (Uniform Building Code Volume 2 - Section 1805)
15. FOUNDATION INSPECTIONS: A pad certificate prepared by a licensed civil engineer or land surveyor may be required to be submitted to the project building inspector at foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report; and, the building pad elevation, on-site retaining wall locations and elevations are prepared according to approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer for the following items:
  1. Building pad elevation
  2. Finish floor elevation
  3. Foundation corner locations
16. TITLE 24 ENERGY COMPLIANCE: California Title 24 Energy Compliance forms CF-1R and MF-1R must be blue-lined on the plans.
17. TOWN FIREPLACE STANDARDS: New wood burning fireplaces shall be an EPA Phase II approved appliance as per Town Ordinance 1905. Tree limbs shall be cut within 10-feet of chimneys.
18. SPECIAL INSPECTIONS: When a special inspection is required by UBC Section 1701, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the building permit. The Town Special Inspection form must be completely filled-out, signed by all requested parties and be blue-lined on the construction plans. Special Inspection forms are available from the Building Division Service Counter or online at [www.losgatosca.gov](http://www.losgatosca.gov).
19. NONPOINT SOURCE POLLUTION STANDARDS: The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program shall be part of the plan submittal as the second page. The specification sheet is available at the Building Division Service Counter for a fee of \$2 or at San Jose Blue Print.
20. APPROVALS REQUIRED: The project requires the following agencies approval before issuing a building permit:
  1. Community Development: Judie Gilli at 399-5702
  2. Engineering Department: Fletcher Parsons at 395-3460
  3. Parks & Public Works Department: (408) 399-5777
  4. Santa Clara County Fire Department: (408) 378-4010

5. West Valley Sanitation District: (408) 378-2407
6. Local School District: (Contact the Town Building Service Counter for the appropriate school district and to obtain the school form.)

TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS:  
(Engineering Division)

21. CARPORT. Engineering shall confirm carport driveability prior to issuance of a building permit.
22. GENERAL. All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.
23. ENCROACHMENT PERMIT. All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security.
24. PUBLIC WORKS INSPECTIONS. The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting any work pertaining to on-site drainage facilities, grading or paving, and all work in the Town's right-of-way. Failure to do so will result in rejection of work that went on without inspection.
25. CONSTRUCTION STREET PARKING. No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior approval from the Town Engineer (§ 15.40.070).
26. SITE DRAINAGE. Rainwater leaders shall be discharged to splash blocks. No through curb drains will be allowed. Any sump outfall shall be directed to a 5' x 5' x 5' dry well located a minimum of 10-feet from property line.
27. NPDES. All pavement outside of the structure footprint shall be pervious.
28. SILT AND MUD IN PUBLIC RIGHT-OF-WAY. It is the responsibility of contractor and home owner to make sure that all dirt tracked into the public right-of-way is cleaned up on a daily basis. Mud, silt, concrete and other construction debris SHALL NOT be washed into the Town's storm drains.
29. UTILITIES. The developer shall install all utility services, including telephone, electric power and all other communications lines underground, as required by Town Code §27.50.015(b). All new utility services shall be placed underground. Underground conduit shall be provided for cable television service.
30. RESTORATION OF PUBLIC IMPROVEMENTS. The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks,

driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.

31. **SIDEWALK REPAIR.** The developer shall repair and replace to existing Town standards any sidewalk damaged now or during construction of this project. Sidewalk repair shall match existing color, texture and design, and shall be constructed per Town Standard Details. The limits of sidewalk repair will be determined by the Engineering Construction Inspector during the construction phase of the project.
32. **CURB AND GUTTER.** The developer shall repair and replace to existing Town standards any curb and gutter damaged now or during construction of this project. New curb and gutter shall be constructed per Town Standard Details. The limits of curb and gutter repair will be determined by the Engineering Construction Inspector during the construction phase of the project.
33. **DRIVEWAY APPROACH.** The developer shall install one (1) Town standard residential approach. The new driveway approach shall be constructed per Town Standard Details.
34. **AS-BUILT PLANS.** After completion of the construction of all work, the original plans shall have all changes (change orders and field changes) clearly marked. The "as-built" plans shall again be signed and "wet-stamped" by the civil engineer who prepared the plans, attesting to the changes. The original "as-built" plans shall be review and approved the Engineering Inspector. A Mylar and AutoCAD disk of the approved "as-built" plans shall be provided to the Town before the Faithful Performance Security or Occupancy Permit is released. The AutoCAD file shall include only the following information and shall conform to the layer naming convention: a) Building Outline, Layer: BLDG-OUTLINE; b) Driveway, Layer: DRIVEWAY; c) Retaining Wall, Layer: RETAINING WALL; d) Swimming Pool, Layer: SWIMMING-POOL; e) Tennis Court, Layer: TENNIS-COURT; f) Property Line, Layer: PROPERTY-LINE; g) Contours, Layer: NEWCONTOUR. All as-built digital files must be on the same coordinate basis as the Town's survey control network and shall be submitted in AutoCAD version 2000 or higher.
35. **SANITARY SEWER LATERAL.** Sanitary sewer laterals are televised by West Valley Sanitation District and approved by the Town of Los Gatos before they are used or reused. Install a sanitary sewer lateral clean-out at the property line.
36. **SANITARY SEWER BACKWATER VALVE.** Drainage piping serving fixtures which have flood level rims less than twelve (12) inches (304.8 mm) above the elevation of the next upstream manhole and/or flushing inlet cover at the public or private sewer system serving such drainage piping shall be protected from backflow of sewage by installing an approved type backwater valve. Fixtures above such elevation shall not discharge through the backwater valve, unless first approved by the Administrative (Sec. 6.50.025). The Town shall not incur any liability or responsibility for damage resulting from a sewer overflow where the property owner or other person has failed to install a backwater valve, as defined section 103(e) of the Uniform Plumbing Code adopted by section 6.50.010 of the Town Code and



maintain such device in a functional operating condition. Evidence of West Valley Sanitation District's decision on whether a backwater device is needed shall be provided prior to issuance of a building permit.

37. CONSTRUCTION NOISE. Between the hours of 8:00 a.m. to 8:00 p.m., weekdays and 9:00 a.m. to 7:00 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.
38. HAULING OF SOIL. Hauling of soil on or off-site shall not occur during the morning or evening peak periods (between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m.). Prior to the issuance of a building permit, the developer shall work with the Town Building and Engineering Department Engineering Inspectors to devise a traffic control plan to ensure safe and efficient traffic flow under periods when soil is hauled on or off the project site. This may include, but is not limited to provisions for the developer/owner to place construction notification signs noting the dates and time of construction and hauling activities, or providing additional traffic control. Cover all trucks hauling soil, sand, and other loose debris or require all trucks to maintain at least two feet of freeboard.