

12

**MINUTES OF THE TOWN COUNCIL/PARKING  
AUTHORITY/REDEVELOPMENT AGENCY  
DECEMBER 17, 2007**

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Monday, December 17, 2007 at 7:00 P.M.

**TOWN COUNCIL/PARKING AUTHORITY/REDEVELOPMENT AGENCY**

**MEETING CALLED TO ORDER**

**ROLL CALL**

**Present:** Mayor Barbara Spector, Vice Mayor Mike Wasserman, Council Member Steve Glickman, Council Member Joe Pirzynski, and Council Member Diane McNutt.

**Absent:** None.

**PLEDGE OF ALLEGIANCE - LED BY FUTURE LEADER**

**Mayor Barbara Spector** led the Pledge of Allegiance. The Audience was invited to participate.

**BOARDS/COMMISSION/COMMITTEES APPOINTMENTS**

- Architectural Standards Committee (1 vacancy; 1 applicant)
- Arts Commission (5 vacancies; 6 applicants)
- Arts Selection Panel (2 vacancies; 1 applicant)
- Building Board of Appeals (3 vacancies; 3 applicants)
- Community Services Commission (4 vacancies; 5 applicants)
- General Plan (1 vacancy; 1 applicant)
- Historic Preservation Committee (1 vacancy; 4 applicants)
- Library Board (1 vacancy; 3 applicants)
- Parks Commission (3 vacancies; 8 applicants)
- Personnel Board (1 applicant; 1 applicant)
- Planning Commission (2 vacancies; 5 applicants)
- Transportation and Parking (3 vacancies; 2 applicants)

## **PRESENTATION**

### **Commendation Police Canines**

**Mayor Barbara Spector** presented **Corporal Erin Lunsford and Eddie**, and **Sergeant Sam Wonnell and Quarz** with a commendation for their excellent performance as Canine Officers for the Los Gatos-Monte Sereno Police Department.

#### **Mayor Barbara Spector**

- Commented on the acceptance of an \$8,000 donation from Society Dog to support the purchase and training of a police dog for the Los Gatos-Monte Sereno Police Department.
- Thanked the Society Dog organization for the donation and support in the community.

## **TOWN COUNCIL**

### **CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)**

1. Ratify payroll for the month of November, 2007.
2. Ratify accounts payable for November, 2007.
3. Approve Council minutes of November 7, 2007 Town Council/Planning Commission Retreat.
4. PPW Job No. 07-04 - Fiscal Year 2007-08 Annual Street Repair and Resurfacing Project 400-0352 Adopt resolution approving plans and specifications for the annual street repair and resurfacing project and authorize staff to advertise the project for bid. RESOLUTION 2007-128
5. Adopt resolution authorizing the Interim Town Manager to execute a second amendment to the agreement between the Town of Los Gatos and the City of Campbell until June 30, 2009 to increase the fee for underground utility locating services from \$65.00 to \$75.00/per USA inspection. Resolution 2007-129
6. Adopt resolution authorizing the Interim Town Manager to execute a second amendment to the Professional Consultant Services Agreement with Harris & Associates to extend the agreement until June 30, 2008 for providing engineering support services. RESOLUTION 2007-130

Consent Items - Continued

**TOWN COUNCIL/REDEVELOPMENT AGENCY**

15. **Approve Council/Agency minutes of December 3, 2007.**
16. **Consider adopting resolution approving the 2006/07 Annual Report for the Los Gatos Redevelopment Agency. RESOLUTION 2007-136**

**Council Member McNutt** recused from Consent Item #4 due to the fact that she resides within 500 feet of the project.

**Mr. Davis** pulled Consent Item #3.

**Mayor Barbara Spector** stated that the pulled Consent Item #3 would be heard after the Public Hearing this evening.

**MOTION:**                    **Motion by Council Member Steve Glickman to approve Consent Items #1, #2 and #4-16.  
Seconded by Vice Mayor Mike Wasserman.**

**VOTE:**                    **Motion passed unanimously for Consent Items #1, #2 and #5-16.  
Consent Item #4 carried 4/0. Council Member Diane McNutt** recused due the fact that she resides within 500 feet of the project.

**CLOSED SESSION REPORT**

**Mr. Korb** stated that Council did not meet in Closed Session this evening.

**VERBAL COMMUNICATIONS**

**Mr. Knopf**

- Commented that a prior Town survey recommended converting the vacant land on Miles Avenue to a parking lot, which was later implemented.
- Commented that the community uses the Miles Avenue parking Lot.
- Commented that he is against converting the parking lot to a skate park.

## Verbal Communication – Continued

### **Mr. Decker**

- Commented against Measure D.
- Commented on the concept of a skate park that was previously proposed to the community.
- Commented on privately funded programs that benefit the community.
- Commented on the lack of parking in the downtown area.
- Commented that Measure D is a poor use of public funds.

### **Closed Verbal Communications**

### **Mayor Barbara Spector**

- Commented on the public hearing process for this evening.
- Called for a brief recess at 7:51 p.m.
- Meeting resumed at 8:00 p.m.

## **PUBLIC HEARINGS**

17. **Consider a request for approval to change the zone from R-1:8 to R-1:8:PD for a seven lot subdivision, for a lot line adjustment between two parcels zoned R-1:8 and approval to demolish a single family residence. No significant environmental impacts have been identified as a result of this project and a Mitigated Negative Declaration is recommended. APNS 523-25-020 and 036. Planned Development Application PD-05-02, Architecture and Site Application S-06-050 and Negative Declaration ND-07-07. Property location: 15881 Linda Avenue and 15950 Stephenie Lane. Owners: Jennifer Den Daas and Dan Blue. Applicant: Linda Court Partners**

Staff report made by **Bud Lortz**, Director of Community Development.

Public Hearing Item #17 – Continued

**Mr. Guzzetti, Applicant**

- Commented that the proposed Planned Development was passed by the Planning Commission on October 10, 2007.
- Commented about the Architectural and Site review process.
- Commented that the Planning Commission had five architectural issues relating to the proposed Planned Development.
- Commented that the applicants agreed to sufficient vegetation screening, a retaining wall, and a 6 foot fence between the house on lot 1 and the easterly property line.
- Commented that the applicants agreed to recess the garage doors on lots 1 and 2 and have re-designed those plans.
- Commented that the applicants agreed to relocate the bio-swale outside the drip line of the existing riparian trees and that their civil engineer will be completing the re-design.
- Commented that the applicant thinks the condition to limit the impervious surface in the rear yards of lots 1 through 4 is unfair.
- Commented that all agencies have had no concerns with the property lines as proposed.
- Commented about residential zoning guidelines.

**Mr. Davis**

- Commented about a statement by **Mr. Lortz** at the Planning Commission stating that the riparian corridor of Ross Creek was not addressed properly.
- Stated that the West Valley Water District turned over land use by creeks and streams to the Town and questioned if the Town has addressed the riparian corridor at Ross Creek.

**Mr. Orion spoke on behalf of Ms. Orion, Mr. Ownberg, Ms. Swanson, Mr. Dunlap, Mr. and Ms. Rossmassler, Mr. and Ms. Lambert, Mr. Yanez-pastor**

- Commented that there is no flood plain and riparian corridor buffer.
- Commented about the Guidelines and Standards for Land Use Near Streams.
- Commented that he feels that the stream would be hidden and would like to see designs that do not have homes backed up to the creek or stream.
- Commented that they do not support the proposed project.

## Public Hearing Item #17 – Continued

### **Mr. McElroy, Applicant**

- Commented that he would agree to change the boundary line if the project would be approved.
- Commented that the creek would be less traveled if only one family has access to the creek.
- Commented that he feels that the Homeowners Association should be responsible for maintaining the creek and the creek accesses.

### **Council Comments**

- Questioned the amount of travel along the creek if the homes were facing the creek instead of backing up to the creek.
- Questioned the open path proposed along the creek.
- Questioned the view of the garden wall from the neighbors across the street.
- Questioned moving the road down by the creek.

### **Mr. McElroy**

- Commented that the location of the street is limited due to technical reasons and is needed for public access.

### **Mayor Barbara Spector**

- Closed the public hearing
- Requested staff comment about the environmental and technical issues raised by the public.

### **Mayor Barbara Spector**

- Called for a recess at 9:17 p.m.
- Meeting resumed at 9:27 p.m.

### **Mr. Korb**

- Clarified the California Environmental Quality Act requirements and how it applies to the project.
- Commented about the fair argument review when a project is challenged under CEQA guidelines.
- Commented that substantial evidence is required to support a fair argument review.
- Clarified the type of reports that qualify for CEQA and a fair argument review request.

## Public Hearing Item #17 – Continued

### **Council Discussion**

- Questioned what amount of public use is appropriate along the riparian corridor.
- Commented about locations of fences on the proposed project.
- Questioned if the property line should go along the proposed garden wall.
- Clarification about public access along Ross Creek.
- Questioned if public access to the creek would harm the ecology.

### **Mr. Geier, Consultant**

- Commented about the reports on the riparian resources.
- Commented that they had identified a buffer zone to protect the riparian zone.
- Commented that the Fish and Game along with other agencies agreed that impacts could be mitigated.

### **Council Discussion**

- Questioned if the footprint of the homes encroaches on any of the riparian corridor.
- Questioned if the riparian zone would be wide enough for public walks and whether it would harm Ross Creek.

### **Mr. Geier**

- Commented that the reports discourage public access.

### **Mr. Wood, Consultant**

- Commented on the concept of placing roadways adjacent to waterways.
- Commented that public access would enhance natural resource awareness and encourage clean-up along Ross Creek.

### **Council Discussion**

- Questioned if **Mr. Wood** would share his opinions about flooding along Ross Creek.
- Questioned if there were concerns about the fair argument review process.

Public Hearing Item #17 – Continued

**Mr. Korb**

- Commented that Council should determine whether reports are based on opinions supported by facts or erroneous information, which in that case should be disregarded.
- Commented that Council has an obligation to act if they feel that the opinions are supported by fact.
- Commented that the Joman Report reached its conclusion about the location of the 100 year flood/high water mark using a methodology different from Town staff, the water district and FEMA.
- Commented that all of the agencies involved have computed a study on Ross Creek, indicating the 100 year flood issue, and have similar conclusions.
- Commented that the difference in the reports is where the top of the bank should be determined along Ross Creek.
- Commented that the Town has guidelines that would address where the top of the bank is located.

**Mayor Barbara Spector** asked for suggestions on the next steps regarding the motion process.

**Mr. Korb** suggested that Council may start with a motion about the CEQA question.

**MOTION:**                      **Motion by Council Member Steve Glickman** that further study is not required for the proposed project.  
   **Seconded by Council Member Joe Pirzynski.**

**Council Discussion**

- Questioned the flood scenario in the Joman Report and asked which lot setback is not sufficient.

**Mr. Lortz**

- Clarified that lot #3 would be the only lot impacted.



## Public Hearing Item #17 – Continued

### Council Discussion

- Commented that the Planning Commission had two elements in its motion that were not part of the proposed Planned Development.
- Commented that one element involved impervious surfaces and should be included in Council's motion.
- Requested that the motion indicate that the amount of impervious surface in the backyards of the houses facing the creek be limited to only what is required for pedestrian circulation.
- Commented that by adding the garden wall, there would be no need for restrictions on impervious surfaces.
- Requested that staff clarify the recommendation to restrict impervious surfaces.

### Mr. Lortz

- Clarified recommendations made by the Planning Commission relating to impervious surface restrictions.

### Council Discussion

- Questioned if the issue of impervious surfaces would include swimming pools.
- Suggested that the motion be modified to include the issue of impervious surface run off into the creek, which would be addressed by staff.
- Commented that the maker of the motion and the seconder of the motion agreed to the suggested wording.

### MOTION:

**Motion by Council Member Steve Glickman** to approve ordinance as stated in Attachment #23.

Motion was modified to include:

- Staff to determine mitigation measures to significantly reduce impervious surface run off from backyards of homes that face the creek.

**Seconded by Council Member Joe Pirzynski.**

**Mr. Korb** Suggested that Council table the motion to approve ordinance until all other motions are called.

Public Hearing Item #17 – Continued

**Mr. Korb** advised Council that they may vote on the tabled motion related to approval of the planned development ordinance.

**Council Discussion**

- Motion made by **Council Member Steve Glickman** to approve the planned development ordinance (Attachment #23) with amendments regarding impervious surfaces was reiterated at this time.
- Commented that the Planning Commission minutes indicate that the Architecture and Site application would return to the Planning Commission.

**VOTE:**                      **Motion carried 4/1. Mayor Barbara Spector voted no.**

**MOTION:**                      **Motion by Council Member Steve Glickman** to introduce ordinance to effectuate Planned Development Application PD-04-5 and the zone change as listed in Attachment #23 of the staff report.  
**Seconded by Council Member Joe Pirzynski.**

**VOTE:**                      **Motion passed unanimously.**

**MOTION:**                      **Motion by Council Member Steve Glickman** to approve the Architecture and Site application subject to conditions listed in Attachment #22 of the staff report.  
**Seconded by Council Member Joe Pirzynski.**

**VOTE:**                      **Motion carried 4/1. Mayor Barbara Spector voted no.**

**Mr. Korb**

- Clarified the process to introduce and adopt the ordinance for the Planned Development located at Linda Avenue.
- Commented that the ordinance will be brought back for adoption at a future Council meeting.

## 19. Manager Matters

### **Pamela Jacobs**, Interim Town Manager

- Announced that the Town has purchased a Ford Escape hybrid which joins the Town's large fleet of green vehicles.
- Commented that the Northern California Solar Energy Association recently presented the Town of Los Gatos with a second place award for the number of solar applications granted for a medium size city.
- Thanked Council and staff for their support during her term as Interim Town Manager.
- Thanked **Patsy Garcia** for her assistance and support during her term as the Interim Town Manager.

## ADJOURNMENT

Attest:

---

Jackie D. Rose, Clerk Administrator