

**MINUTES OF THE TOWN COUNCIL/PARKING
AUTHORITY/REDEVELOPMENT AGENCY
MARCH 3, 2008**

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Monday, March 3, 2008 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 Diane McNutt, and Council Member Joe Pirzynski.

Absent: None.

PLEDGE OF ALLEGIANCE - LED BY FUTURE LEADER

Mia Sweedler, Ema Montross, Tonya Takahashi, Nadine Swenber, Emily Kessler members of the Robo Chicks, an all-girl Lego Robotics Team, led the Pledge of Allegiance. The Audience was invited to participate.

CLOSED SESSION REPORT

Mr. Korb stated that there was no Closed Session.

BOARDS/COMMISSION/COMMITTEES APPOINTMENT

- Transportation and Parking Commission (1vacancy) (1 applicant)
 - **Eric Wilhelmsen** was appointed to the Transportation and Parking Commission by a vote of 4/1 with **Council Member Glickman** voting no.
 - **Mayor Barbara Spector** directed **Jackie Rose**, Clerk Administrator to re-advertise the vacancies on the Arts Selection Panel, Rent Advisory Committee, and the Personnel Board.

TOWN COUNCIL

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

1. **Adopt resolution approving the Memorandum of Understanding (MOU) between the Town of Los Gatos and the Los Gatos Police Officers' Association for the period January 1, 2008 through June 30, 2011 and authorizing the Town Manager to execute the MOU. RESOLUTION 2008-017**

TOWN COUNCIL/REDEVELOPMENT AGENCY

2. **Accept the 2006/07 Comprehensive Annual Financial Report (CAFR) and Management Letter.**
3. **Adopt a joint resolution pursuant to Public Contract Code section 20101 adopting a uniform system of rating bidders and an appeal process for the pre-qualification of prospective bidders for public works projects. RESOLUTION 2008-018**
4. **Approve Council/Agency Minutes of February 19, 2008.**

Mr. Davis pulled Consent Items #2 and #4.

Mayor Barbara Spector stated that the pulled Consent Items will be heard after Other Business.

MOTION: Motion by **Council Member Joe Pirzynski** to approve Consent Items #1 and #3.
Seconded by Council Member Steve Glickman.

VOTE: Motion passed unanimously.

VERBAL COMMUNICATIONS

Mr. Davis

- Presented a copy of a Metro news article about the skate park measure.
- Commented that a crime was committed by the Clerk Department when Measure D petitions were copied.
- Commented on the data he received from a public records request regarding skateboarding incidents in Los Gatos.
- Commented that the youth in Los Gatos need a safe place to skate.

Closed Verbal Communication

PUBLIC HEARINGS

5. Consider an appeal of a Planning Commission decision approving the demolition of an existing single family residence and construction of a new residence on property zoned R-1:20. APN 532-05-025. Architecture and Site Application S-07-182 Property location: 16330 Englewood Avenue. Property owner/applicant: C. Patrick Munnerlyn. Appellants: Gil Perez, Ned Finkle, Kelly Coffey and Yvette Bonnet.

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

Open Public Hearing

Mr. Perez, Appellant

- Commented about the lack of notification and process related to the scope and impact of new building construction.
- Read a letter from **Ms. Bonnet** that projects in her neighborhood do not consistently reflect Town guidelines.
- Commented on the signed petition against the proposed project.
- Would like the applicant to reduce the mass and scale of the proposed project to address privacy concerns.

Mr. Finkle, Appellant

- Commented that the scale and mass are not compatible with the character of the neighborhood.
- Commented that the home is directly in the view shed of the street and his home.

Mr. Coffey, Appellant

- Commented that the mass and scale of the proposed project infringes on his privacy.
- Commented that the neighbors did not have any opportunity to discuss the impacts of the project.
- Commented that the data that was generated out of the Development Review Committee meeting was flawed because it was narrow and focused.
- Commented that the Planning Commission erred in approving the proposed project.

Council Comments

- Clarified appellant's views about scale and mass requirements.
- Questioned why his concerns about privacy and screening changed to mass and scale.

Public Hearing Item #5 – Continued

Mr. Finkle

- Clarified neighbor concerns about privacy, screening, and mass and scale.
- Commented that some lots are 1/2 to 3/4 acre and can absorb the mass and scale of a larger home.

Council Comments

- Questioned if the landscape at full growth would solve the privacy issues with the neighbors.
- Questioned the appellants' concerns about the landscape component recommended by the Planning Commission.

Mr. Perez

- Clarified the challenge of landscaping screens.
- Commented that landscape screening would be a significant compromise.

Council Comments

- Clarified **Mr. Westerberg's** (appellant's attorney) comments at the Development Review and Planning Commission meetings.
- Questioned if **Mr. Perez'** attorney informed him of his rights to petition the re-design of the structure.

Mr. Perez

- Commented that they were not noticed of any meetings prior to the placement of story poles on the property.

Council Comments

- Questioned if the appellant was opposed to the project because of mass and scale or the initial reason of privacy and screening.

Mr. Perez

- Clarified the reasons for the different views and concerns relating to the appeal.
- Commented that they felt that a re-design was the only option.

Council Comments

- Questioned Planning Commission's recommendation regarding Residential Design guidelines.

Public Hearing Item #5 – Continued

Mr. Munnerlyn, Applicant

- Commented that he believes that he has done everything possible to appease the appellants and neighbors.
- Commented that the Planning Commission approved the project and he has complied with all of the requests.
- Commented about the amount of time that the story poles remained on the site.
- Commented that the appellants did not make any of the findings required for an appeal.
- Commented on the landscape design plan agreed to by neighbors.
- Commented that the petition was very vague and that residents from Hollywood Avenue were signers on the petition, but do not live near the property.
- Commented that he has worked closely with the Town and neighbors on the project.

Council Comments

- Questioned if moving a bedroom downstairs would be considered.

Mr. Munnerlyn

- Expressed concerns about redesigning the project.

Mr. Wiles

- Expressed concerns about privacy issues for those who live on both sides of the proposed project.
- Commented that large homes change the harmony of the neighborhood.

Council Comment

- Clarified the square footage of the proposed project.

Mr. Lortz

- Indicated that the proposed square footage of the home is 33 square feet larger than the largest in the neighborhood.

Mr. Davis

- Commented that the project is not compatible with the neighborhood.
- Commented that the neighborhood is overwhelmingly single story.
- Commented that 280 homes have been approved and the land use process is corrupt.

Public Hearing Item #5 – Continued

Mr. Lortz

- Clarified that staff uses the floor area ratio (FAR), site design, architectural design, and neighborhood input to determine the appropriateness of the project.
- Commented that the FAR is within the range of other homes in the neighborhood.
- Commented that the mass and scale of the site design was significantly reduced by redesigning the garage.
- Commented that a variety of approaches were used to achieve compatible architecture.
- Commented that the neighbors' inputs were considered during the development review process.

Mr. Munnerlyn

- Commented that he has worked closely with the Town and the neighbors.
- Commented that the appellants did not make any of the required findings to grant an appeal.

Mr. Finkle

- Commented that the notification process is flawed.
- Commented that the mass and scale does not meet requirements.
- Commented on the burden of losing his view, privacy and property value.

Mr. Coffey

- Commented that he attended the Development Review Committee meetings and was not told that they could request that the home be redesigned.

Mr. Perez

- Commented that the FAR does not meet established guidelines.

Closed Public Hearing

Council Discussion

- Inquired as to why some of the homes were not on the list provided by staff.
- Questioned what opportunities the public has to question a development once story poles have been put up on a site.
- Questioned how neighborhood compatibility is determined.

Public Hearing Item #5 – Continued

Mr. Larson

- Clarified the project process including discussion with neighbors.
- Commented on the size of the homes.
- Questioned the square footage of the proposed project and if the home is compatible with the neighborhood.

Mr. Lortz

- Clarified that some homes not listed may be located in a County pocket.
- Commented that the FAR and mass and scale are tools used to determine if a home is compatible with a neighborhood.
- Commented that the proposed project is not the largest home in the neighborhood when using the FAR to determine compatibility.
- Commented that the applicant worked with the neighbors during the development review process to reduce mass and scale.
- Provided an update about process changes that occurred at the development review meeting.

MOTON:

Motion by **Council Member Diane McNutt** to uphold the Planning Commission's decision to deny the appeal of a Planning Commission decision approving the demolition of an existing single family residence and construction of a new residence on property zoned R-1:20. APN 532-05-025. Architecture and Site Application S-07-182 Property location: 16330 Englewood Avenue. Property owner/applicant: C. Patrick Munnerlyn. Appellants: Gil Perez, Ned Finkle, Kelly Coffey and Yvette Bonnet.
Seconded by **Council Member Steve Glickman**.

Public Hearing Item #5 – Continued

Council Discussion

- Commented on the specific criteria needed to overturn a Planning Commission decision and feels that there was no error and no new information brought forward.
- Commented that the discussion shows that the Town's process works.
- Commented that there are 7 two-story homes and 9 one-story homes on Englewood Avenue.
- Commented that there are 5 homes that are over 4,000 square feet and that the proposed project is compatible with the neighborhood.
- Commented that the case was not made by the appellants.
- Expressed concerns that the proposed project would be the largest home on the block and feels that it is not compatible with the neighborhood although the FAR meets Town guidelines.
- Commented that mass and scale is subjective.
- Commented that the design of the proposed home is excellent.
- Commented about the purpose of the Town's General Plan.
- Commented that the proposed project is well designed and within the boundaries.
- Commented that mass and scale is not subjective in determining compatibility of a neighborhood.
- Commented that determining mass and scale requires examining the neighborhood and homes adjacent to a proposed project.

VOTE: **Motion passed 3/2. Mayor Barbara Spector and Vice Mayor Mike Wasserman voted no.**

PUBLIC HEARINGS ITEM #6

- 6. 506 University Avenue (APN 529-08-017) Property Owner: Arnerich Revocable Trust Applicant: Dennis Lowery, Capital Ventures.**
 - a. Consider introduction of ordinance to rezone a parcel to R-1D from R-M:12-20 (Zone Change Z-07-001)**
 - b. Consider adoption of resolution to amend the General Plan to Medium Density Residential (5-12 units per acre) from High Density Residential (12-20 units per acre) (General Plan Amendment GP-07-002) RESOLUTION 2008-020**

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

Orry Korb, Town Attorney

- Clarified that the purpose of the desk item was to modify and explain the alternative recommended by staff.
- Commented that the alternative was to retain the multi-family designation for the back lot rather than having a three lot sub-division.
- Commented that since the alternative was already considered by the Planning Commission it would not need to be sent back to the Commission.

Council Comments

- Requested clarification about the multi-family lots located in the back of the property and if they could be rental properties.
- Questioned if the multi-family lots would be located on the Towne Terrace side.
- Questioned the ratio of owner-occupied homes to rental properties in Town.
- Questioned Planning Commission dialogue about the loss of multi-family sites in Town.
- Questioned if the Town is close to meeting State housing requirements.
- Asked about the number of multi-family units that could be built on the remaining property, excluding the historic home.

Mr. Lortz

- Clarified the Town's ratio of homes to rental properties
- Clarified how the Town can fulfill state housing requirements.
- Clarified that up to 4 multi-family units could be built as part of the proposed project, if the historic home was to remain as part of the proposed project.
- Clarified that the preference was to rotate the historic home toward Town Terrace so that the access to the home would be off of University Avenue.

Public Hearing Item #6 – Continued

Open Public Hearing

Mr. Lowery, Applicant

- Commented about the history of the proposed project.
- Commented that the historic home was a residence that should remain at the site.
- Commented about the urban pattern along University Avenue.
- Commented about single structure projects and high density projects surrounding the location.

Council Comments

- Questioned the differences between the proposed Plan 1 and Plan 2.
- Questioned if the applicant compiled a list of neighbors that he had spoken to when he went door to door.
- Requested clarification about the rotation of the historical home at the site.
- Questioned if there was a design problem with the duplex.
- Commented about the criteria for parking.

Mr. Lowery

- Clarified that the option of a “podium” project would consist of building a concrete parking structure underneath the proposed back lots to accommodate parking requirements.
- Clarified the process to rotate the historic home to face Town Terrace.
- Questioned multi-family units on the remaining land if the home was not rotated to face Towne Terrace.
- Clarified that more trees would remain at the site if the home was rotated.

Mr. Iversen

- Commented that he lives next door and supports the proposed project.
- Expressed that he favors the single family home over the multi-family units.
- Prefers the character of the single family homes along University Avenue.

Ms. Morrison-Keffer

- Commented that she supports the single family flow in the neighborhood.
- Commented on the current amount of "for rent" signs in the Towne Terrace area.
- Commented that her privacy would be impacted if a duplex or multi-family unit was approved.
- Commented that the historic home should remain at the location.

Public Hearing Item #6 – Continued

Council Comments

- Questioned if the project borders **Ms. Keffer's** property.

Ms. Grigsby

- Commented about keeping the feel of single family neighborhood.
- Commented on the evolution of the neighborhood along University Avenue.

Council Comments

- Clarified that the single family homes for the proposed project would be located on the University Avenue side of the site.

Mr. Lowery, Applicant

- Commented about the Town's interest in pursuing the multi-family homes to fulfill the state required guidelines, but expressed concern about the sizes of the proposed lots.
- Commented that the historic home hinders multi- family homes at the site.
- Requested Council uphold the project as recommended by the Planning Commission.

Closed Public Hearing

Council Discussion

- Questioned if there is an economic reason why 3-4 units could not be built on the back lot.
- Requested clarification about approving of variance.
- Requested clarification about State requirements for the number of multi-family units in Los Gatos.
- Inquired if adoption of the resolution approving the General Plan amendment would imply endorsement of the Planning Commission's decision on the variance.

Mr. Lortz

- Clarified that the 3-4 units would not be profitable due to the size restriction.

Mr. Korb

- Clarified that there is no variance proposed for Council consideration.
- Commented that the variance was approved by the Planning Commission and they have final authority to approve the variance, unless appealed to Council.
- Commented that the variance is conditioned on approval of the General Plan amendment zone change that would facilitate the three lot sub-division.

Public Hearing Item #6 – Continued

Council Discussion

- Questioned what the net effects is if the General Plan amendment for the proposed project was approved.

Mr. Korb

- Clarified that the variance was required in order to allow a three lot sub-division. The property is not large enough to ensure that three 5,000 square foot lots would occur if the three lot sub-division were planned. The variance would be required if the lots are less than 5,000 square feet.
- Commented if Council's preference were to go with the alternative suggested by staff for a two lot situation, then the variance would be null and void.

MOTION:

Motion by Council Member Steve Glickman to adopt resolution approving the General Plan Amendment (Attachment 4) as recommended by staff and to introduce the ordinance to effectuate the zone change (Attachment 5) with the maps as referred to in the Desk Item.
Seconded by Vice Mayor Mike Wasserman.

Note: Motion has been tabled as requested by the Town Attorney.

Council Discussion

- Questioned if the zoning would allow 2-4 units as part of the decision and if the construction of the units would be based on Town guidelines and regulations.
- Expressed concerns about maintaining a variety of housing stock.
- Commented that the project has received support from the neighbors and has been approved by the Planning Commission.
- Expressed that the project should not be held back for a potential gain of 1-2 extra units.
- Commented that the Planning Commission was correct in its decision.
- Commented that the quality of the project in an important part of the decision.
- Questioned the reality of adding a triplex at the back of the site.
- Commented on keeping the units affordable.
- Supports the idea of single family homes along University Avenue.
- Commented about options to include high density in the neighborhood.

Public Hearing Item #6 – Continued

Mr. Korb

- Suggested setting the motion aside and taking two preliminary options.
- Suggested that the Mayor direct the Clerk Administrator to read the title of the ordinance and ask for a motion to waive the reading.

Council Discussion

- Clarified that the intention of the motion is to return the project to staff and Planning Commission after a new proposal for a duplex or triplex is developed.
- Commented that there is a recommendation that the historic home be rotated towards Towne Terrace.
- Questioned available alternatives if Council were to proceed with the recommendations from the Planning Commission.

Mr. Korb

- Clarified that if Council approved the motion the result is two lots without the Architecture and Site applications.
- Commented that the proposal this evening includes a sub-division with three lots, but does not include any Architecture and Site applications regarding the two separate lots.

Mayor Barbara Spector directed **Jackie D. Rose, Clerk Administrator** to read the title of the ordinance.

Mr. Korb

- Clarified that the next action would be to request a motion to waive the reading.

MOTION: **Motion by Council Member Steve Glickman** to wave the reading of the ordinance.

Seconded by Vice Mayor Mike Wasserman.

Council Discussion

- Requested clarification whether an affirmative vote on the motion would mean that Council is approving the existing single family residence and rotating the historic home, and designating multi-family homes on the remaining lots.

Public Hearing Item #6 – Continued

Mr. Korb

- Reminded Council that the motion regarding the General Plan change and introduction of the ordinance has been tabled.
- Commented that the motion to waive the reading of the ordinance is a preliminary action and that the text of the ordinance does not change on any action Council takes tonight. Only the maps as referred in the Desk Item would be added.
- Recommended that the first action would be to act on the motion to waive the reading of the ordinance and then discuss the tabled motion about the General Plan change and introduction of the ordinance.

VOTE: Motion passed unanimously.

Mr. Korb

- Indicated that Council could approve the resolution making the General Plan change as recommended by staff attaching the maps as stated in the Desk Item and to introduce the ordinance again attaching the maps as stated in the Desk Item.
- Commented that the action would facilitate the alternative recommended by staff which creates a two lot scenario and preserves the multi-family housing designation on the rear lot and designates the zone change on the front lot.

Council Discussion

- Asked whether the motion to approve the resolution would result in a two lot sub-division instead of a three lot sub-division.
- Commented that the two smaller homes located on the back lots will be removed to gain one extra unit.
- Commented on the need for the type of housing stock which includes smaller, more affordable homes.
- Commented about the Town's stated goal for a balanced housing mix.

**TABLED MOTION: Motion by Council Member Steve Glickman to adopt resolution approving the General Plan Amendment (Attachment 4) as recommended by staff and to introduce the ordinance to effectuate the zone change (Attachment 5) with the maps as referred to in the Desk Item.
Seconded by Vice Mayor Mike Wasserman.**

VOTE: Motion passed 3/2. Council Member Diane McNutt and Council Member Joe Pirzynski voted no.

OTHER BUSINESS

7. Adopt resolution establishing the General Plan Update Advisory Committee.

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

Council Comments

- Questioned the outreach process for the General Plan sub-committee.
- Expressed that the sub-committee should represent segments of the community.

Mr. Lortz

- Clarified the General Plan sub-committee outreach process.

Open public Comment

Mr. Davis

- Commented that youth recreation needs must be discussed as part of the General Plan update process.
- Commented that he wants a skate park for the kids.

Closed Public Comments

Council Discussion

- Commented that the purpose of the General Plan sub-committee is to provide feedback and assistance in the implementation of the General Plan update.

MOTION: **Motion** by **Council Member Diane McNutt** to adopt resolution establishing the General Plan Update Advisory Committee.
Seconded by **Council Member Steve Glickman**.

VOTE: **Motion passed unanimously.**

PULLED CONSENT ITEMS

2. Accept the 2006/07 Comprehensive Annual Financial Report (CAFR) and Management Letter.

Mr. Davis

- Commented on the CAFR and that the \$37.9 million of unrestricted net assets shown on page 12 of the CAFR is accurate but misleading.
- Commented that **Mr. Conway** stated that there was \$14 million in discretionary funds.

Mr. Larson, Town Manager

- Clarified the \$14 million fund balance that was referenced by **Mr. Conway** was General Fund dollars.
- Indicated that the CAFR discusses all Town funds, including the General Fund.
- Commented that the CAFR lists all undesignated funds and the uses for those assets.

Council Discussion

- Requested clarification on how to improve the issues raised by the auditors.
- Commented that the purchasing policy has been enhanced through the implementation of the new financial system.
- Requested that **Mr. Conway** give a brief overview of the new system.

Mr. Conway

- Clarified the abilities of the new Pentamation financial program.

MOTION: **Motion by Council Member Joe Pirzynski to accept the 2006/07 Comprehensive Annual Financial Report (CAFR) and Management Letter. **Seconded** by Vice Mayor Mike Wasserman.**

VOTE: **Motion passed unanimously.**

Pulled Consent Items - Continued

4. Approve Council/Agency Minutes of February 19, 2008.

Mr. Davis

- Commented that the February 19, 2008 minutes did not correctly reflect his statements about the Town Treasury.
- Commented that his statement about the neighboring cement factory was not correctly reflected in the February 19, 2008 minutes.
- Stated that he was denied the opportunity to appeal a land use matter because he refused to pay the deposit for transcription of Planning Commission meeting minutes.

Council Discussion

- Clarified that if **Mr. Davis** makes an error in his statements at a previous meeting and attempts to correct it afterwards, the minutes should reflect the error he made.

MOTION: **Motion by Council Member Joe Pirzynski** to approve Council/Agency Minutes of February 19, 2008.
Seconded by Council Member Diane McNutt.

VOTE: **Motion passed unanimously.**

COUNCIL/TOWN MANAGER REPORTS

8. Council Matters

Council Member Steve Glickman

- Expressed concerns that the Town is moving ahead with the Library project without a public vote.

Vice Mayor Mike Wasserman

- Requested to respond to **Council Member Steve Glickman's** comment.

Mayor Barbara Spector and **Orry Korb** clarified the process relating to the discussion of items under Council Matters.

9. Manager Matters

Mr. Larson, Town Manager

- Commented about the use of Segways by the Police Department and that the Town is testing the Segways for patrol purposes.
- Commented that staff will bring forward any policy discussion on the use of the Segways for law enforcement along the Los Gatos trails.
- Commented that if the Town were to pursue use of Segways for law enforcement purposes the cost to purchase, operate and maintain the Segways would not be a Town expense.
- Commented that all staff reports, investigations and analysis will come to Council with recommendations unless directed otherwise from Council.

ADJOURNMENT

Attest:

Jackie D. Rose, Clerk Administrator