



MEETING DATE: 4/7/08

ITEM NO: 9

COUNCIL AGENDA REPORT

DATE: April 3, 2008

TO: MAYOR AND TOWN COUNCIL

FROM: GREG LARSON, TOWN MANAGER

A handwritten signature in cursive script, likely belonging to Greg Larson.

SUBJECT: **115 N. SANTA CRUZ AVENUE AND 112 WILDER AVENUE
COGGESHALL MANSION**
PROPERTY OWNER: SANTA CRUZ WILDER, LLC
APPLICANT: JOHN LIEN
APPELLANTS: SANTA CRUZ WILDER, LLC AND LEE QUINTANA

RECOMMENDATION:

1. Hold the public hearing and receive public testimony;
2. Close the public hearing;
3. Make the following motions:
 - a. **Environmental**
 - Uphold the decision of the Planning Commission to make the Mitigated Negative Declaration and adopt the Mitigation Monitoring Plan (Exhibits 8 and 9 of Attachment 7).
 - b. **Approve the residential land use on Wilder Avenue**
 - Make the required findings for the General Plan Amendment and Zone Change (Attachment 9);
 - Move to adopt a Resolution approving the General Plan Amendment (Attachment 11);
 - Move to waive the reading of the Zone Change Ordinance (Attachment 12);
 - Direct the Clerk to read the title of the Zone Change Ordinance (Attachment 12) (**no motion required**);
 - Move to introduce the Ordinance to effectuate the zone change (Attachment 13).
 - c. **Uphold the decision of the Planning Commission to approve the lot line adjustment subject to conditions (Attachment 14).**

PREPARED BY:

A handwritten signature in cursive script, likely belonging to Bud N. Lortz.
BUD N. LORTZ
DIRECTOR OF COMMUNITY DEVELOPMENT

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Reviewed by: _____ Assistant Town Manager OK Town Attorney
_____ Clerk Administrator _____ Finance _____ Community Development

d. **Approve the modifications to the restaurant**

- Make the required findings for a Conditional Use Permit (Attachment 10);
- Uphold the decision of the Planning Commission to approve the modification for the conversion of an existing fine dining restaurant into a smaller fine dining restaurant on the first floor and basement (office space would be on the second floor which is a permitted use), subject to conditions (Attachment 14).

e. **Deny the two new commercial buildings and approve the modifications to the Coggeshall mansion**

- Make the required findings for the Architecture and Site Application (Attachment 10);
- Uphold the decision of the Planning Commission and approve the Architecture and Site application as modified by the Commission to modify the exterior of the existing commercial building and to add parking along the west side of the alley subject to conditions (Attachment 15) and deny the request to construct two new detached commercial buildings and additional parking on the east side of the alley.

4. Deny the appeals (Attachments 2 and 3).

5. Refer to the Town Attorney for preparation of the appropriate resolution (**no motion required**).

If the Town Council believes that the Planning Commission's decision should be reversed or modified the Council needs to find one or more of the following (**motion required**):

- (1) where there was error or abuse of discretion on the part of the Planning Commission; or
- (2) the new information that was submitted to the Council during the appeal process that was not readily and reasonably available for submission to the Commission; or
- (3) an issue or policy over which the Commission did not have discretion to modify or address, but which is vested in the Council for modification or decision.

If the predominant reason for modifying or reversing the decision of the Planning Commission is new information as defined in Subsection (2) above, it is the Town's policy that the application be returned to the Commission for review in light of the new information unless the new information has a minimal effect on the application.

DISCUSSION:

A. Project Summary

The applicant's proposal includes the following components:

1. Conversion of Parking Lot to Residence:

The project encompasses two parcels—115 North Santa Cruz Avenue and 112 Wilder Avenue. The project involves a General Plan Amendment, Zone Change, and a lot line adjustment to permit the development of a future residence on a majority of the Wilder Avenue parcel which is currently used as a parking lot. The remainder of the parcel will be retained as a parking lot and combined with the 115 North Santa Cruz parcel. Since the parking lot spaces were used in the Parking Assessment District calculations, a variance is required to eliminate the spaces.

2. Modifications to Restaurant:

The project involves a modification of a Conditional Use Permit to reduce the allowed seating for a fine dining restaurant and limit the restaurant to the first floor and basement. No approval is needed for the proposed office space on the second floor.

3. New Retail Buildings:

The applicant is requesting Architecture and Site approval to construct two new detached commercial buildings located along North Santa Cruz Avenue, to modify the exterior of the existing Coggleshall Mansion and to add new parking spaces along the alley.

Following is discussion on each of the applications.

B. General Plan Amendment and Rezoning

In order to approve the proposed lot line adjustment, a General Plan amendment and zone change must first be approved for the portion of the Wilder parcel that will be retained as a parking area (retained parking area) and merged with the N. Santa Cruz parcel (Exhibits 3 and 4 of Attachment 7).

1. General Plan Amendment

A General Plan Amendment from Medium Density Residential to Central Business District is required for the retained parking area to match the designation of the N. Santa Cruz parcel.

2. Zone Change

A Zone Change from R-1D:LHP to C-2:LHP is required for the retained parking area to match the designation of the N. Santa Cruz parcel.

C. Lot Line Adjustment

The applicant is proposing to modify the lot lines of the N. Santa Cruz Avenue parcel to include a portion of the Wilder Avenue parcel so that parking spaces serving the existing and proposed commercial uses on the N. Santa Cruz Avenue parcel would be located on the same parcel. The lot line adjustment will not increase the number of lots and both parcels will remain conforming as to lot size. Following is a comparison between the existing and proposed parcels.

	Existing Land Area	Proposed Land Area	Existing Use	Proposed Use
115 N. Santa Cruz Avenue	14,230 sq ft	18,101 sq ft	Commercial	Commercial
112 Wilder Avenue	11,246 sq ft	7,375 sq ft	Commercial parking lot	Single Family Residence

D. Architecture and Site

The applicant is requesting approval to construct two new detached, one-story retail buildings along the N. Santa Cruz Avenue frontage and to modify the exterior of the existing structure. The applicant is also requesting approval to eliminate the parking lot on Wilder Avenue to accommodate a future residence at this site.

1. New Structures

Two new detached one story retail buildings are proposed to bookend the N. Santa Cruz Avenue frontage. A plaza area is proposed between the two buildings. The southern building will be 1,176 square feet and will have a maximum height of 15.5 feet. The northern building will be 424 square feet with a maximum height of 14 feet. The existing square footage of the Coggeshall Mansion is 7,943 square feet. The total square footage of buildings on the commercial site will be 9,543. The allowed FAR for the site (as modified with the lot line adjustment) is .60 and the proposed FAR is .527. The maximum height of the mansion measured from the turret, is approximately 40 feet. Exterior colors and materials of the new buildings will consist of wood shingles to match the existing structure, wood trim, and a dark grey metal standing seam roof.

The front setbacks of the new buildings will be two feet six inches. Town Code requires a front setback of ten feet unless findings can be that adequate pedestrian circulation is available, that the setbacks are compatible with the adjacent buildings and that clear sight vision is adequate for vehicular traffic. The applicant is proposing a front setback that matches the building lines of the retail buildings south of the subject parcel. The reduced setback enhances the retail continuity of the street.

Pedestrian circulation and the sight vision for vehicular traffic will not be impacted by the setback reduction. The proposed setbacks are consistent with the Commercial Design Guidelines which state that facades in the C-2 zone should be setback from the street property line no more than five feet.

2. Existing Structure

To provide secondary access for the proposed office use, an exterior stair is proposed on the northern side of the Coggeshall Mansion. An existing window will be replaced with a door to accommodate the stair access. At the nonhistoric portion of the structure, the existing portico, deck and stairs for the outside dining will be removed and replaced with a new exterior dining area directly behind the proposed new building on the south side of the parcel. A new awning is also proposed above the doors to the outside patio area. None of the changes proposed will impact the integrity of the mansion.

3. Fencing

The existing wrought iron fencing along the N. Santa Cruz Avenue frontage is protected under the Landmark Historic Preservation Overlay zone. The fencing will remain except for two openings to access the proposed retail buildings.

4. Parking Lot

The Wilder Avenue parcel contains a parking lot for the existing commercial use and a trash enclosure. Access to the parking lot is from Wilder Avenue and the alley. The parcel has a General Plan designation of Medium Residential and a R-1D:LHP zone which allows a residential use. Therefore, the existing parking lot use is nonconforming. The conversion of the parking lot to a residential use would make the use of the parcel conforming. In addition, the construction of a residence would complete the residential character of the street by eliminating a commercial use in a residential neighborhood and would increase the Town's housing stock. The trash enclosure is proposed to be relocated at the rear of the N. Santa Cruz Avenue parcel along the southern property line.

E. Architectural Review

The Town's Consulting Architect, Cannon Design Group, reviewed and commented on several versions of the plans for this project (Exhibits 12 and 13 of Attachment 7). In terms of architectural design of the buildings as proposed, the applicant has incorporated all of Cannon's comments. Based on the Town's Commercial Design Guidelines and comments from staff and the Historic Preservation Committee, Cannon summarized the three following primary issues for considering the project.

- To what degree will the infill of a significant portion of the garden in front of the mansion compromise the historic setting and quality of the existing structure?
- Will the added structures improve or detract from the urban design quality of Downtown Los Gatos?
- Is the amount of proposed new construction in the front garden area appropriate for the site?

Cannon concluded that these important issues are value judgments that the Town would need to make. To assist staff and the deciding body, Cannon provided the following range of options which are arranged from the least to the most impact on the current site conditions. The applicant designed the plans based on the third option of decreasing the original size of the proposed northern structure.

- No project.
- Limit the addition to one structure.
- Decrease the size of the structure to the north.
- Modify the design of the north building.

F. Conditional Use Permit

The applicant is requesting approval to modify the Conditional Use Permit to reduce the number of restaurant seats and to limit the restaurant use to the basement and first floor of the existing building. The second floor will be converted to office space which is an allowed use. Office space above a first floor is permitted in the C-2 zone and does not require a Conditional Use Permit. The number of seats will decrease from 198 (inside and out) to 135 (inside and out). No other changes are proposed to the use of the restaurant.

G. Parking

There are 22 parking spaces on the project site (16 spaces in the Wilder Avenue parking lot and six spaces along the alleyway) and 44 parking spaces in the Parking Assessment District (PAD) for a total of 66 spaces. The project would reconfigure the two project parcels so that the six existing on-site parking spaces along the western side of the alley would be located on the N. Santa Cruz Avenue parcel and seven on-site spaces would be added on the eastern side of the alley for a total of 13 on-site parking spaces. The project would result in a reduction of nine on-site parking spaces. With the 44 spaces in the PAD, the project would have a total of 57 parking spaces. Based on the proposed change of use discussed earlier in this report, the parking requirement for the proposed commercial site would decrease and the proposed parking requirement would be met. The proposed residential lot on Wilder Avenue will require two parking spaces. A conceptual location of a two car garage for this property has been shown on the development plans which will have access from the alley. The following table outlines the required parking for the commercial use:

<u>USE</u>	<u>AREA/ # OF SEATS</u>	<u>RATIO</u>	<u>PARKING REQUIRED</u>
Retail	1,600 sq ft	1/300 sq ft	6
Office	1,262 sq ft	1/250 sq ft	6
Restaurant	135 seats	1/3 seats	45
Proposed Parking			
In District	44		
On Site	13		
Total Parking	57		
Required Parking	57		

H. Variance

As stated earlier in this report, the applicant is proposing to convert the commercial parking lot on Wilder Avenue to a residential use. This project proposes a net removal of nine commercial parking spaces. Section 29.10.150 (5) of the Town Code states that parking spaces credited in the PAD cannot be eliminated. If parking spaces are eliminated, a variance is required.

Under the provisions of Section 65906 of the State Government Code, a variance is appropriate if there are any unusual or special circumstances that encumber or place any undue hardships on a property. This parcel is located in the PAD, a unique area established by the Town in order to relieve the parking issues surrounding the downtown area. When the PAD was established, the concept that a property owner may want to reduce their land use intensity was never considered, therefore the Town Code did not include any provisions to reduce the parking requirements. Since the applicant is proposing to remove the parking lot to accommodate a residential use, and still meet the required parking for the commercial use, an undue hardship would be imposed on the property owner by denying the project based solely upon the removal of these parking spaces. The Commission approved a similar variance request in 2007 on Almendra Avenue, to convert a parcel which had an office use to a residential use. By approving this project the Town would not be granting a special privilege not enjoyed by other property owners. Therefore, Town staff believes that the findings can be made to grant a variance.

I. Planning Commission

The Commission considered these applications on January 23 and February 13, 2008 and took the following actions:

Environmental Review:

1. Made the Mitigated Negative Declaration and adopted the Mitigation Monitoring Plan.

Recommended approval of:

1. A General Plan Amendment from Medium Density Residential to Central Business District for a portion of the parking lot parcel.
2. A Zone Change from R-1D:LHP to C-2:LHP for a portion of the parking lot parcel.

Approved:

1. Subdivision application for a lot line adjustment (approval is contingent upon Councils adoption of the General Plan amendment and Zone Change).
2. A modification to a Conditional Use Permit for the conversion of an existing fine dining restaurant into a smaller fine dining restaurant on the first floor and basement (office space would be on the second floor which is a permitted use).
3. A portion of an Architecture and Site application to modify the exterior of the existing commercial building and to add parking along the west side of the alley.
4. A Variance to convert the existing parking lot which fronts on Wilder Avenue to a residential use. The Commission stated that they did not rely on the Almendra variance as a precedent.

Denied:

1. A portion of the Architecture and Site application for two new detached commercial buildings and additional parking on the east side of the alley.

J. Town Committee Meetings

1. Historic Preservation Committee

The Historic Preservation Committee (HPC) considered preliminary plans on April 5, 2006. The Committee first considered the applications on February 27, 2007. At this meeting, for the proposed buildings the Committee recommended to increase the opening to the site from N. Santa Cruz Avenue by adjusting the southern building and that the southern building maintain its rounded corner (Attachment 16). The Committee commented that the new buildings did not have to be symmetrical. The Committee also stated that they endorsed the concept that the paved parking lot on Wilder Avenue be eliminated and replaced with a residence which will be more in keeping with the historic neighborhood.

The Committee considered revised plans on March 21, 2007 (Attachment 17). At this meeting some of the Committee members raised additional concerns about the proposed buildings. The Committee took the following actions:

1. Determined that the applications should proceed to the next step,
2. Recommended approval of the proposed changes to the existing structure,
3. Determined that the two proposed detached structures would be acceptable for the site and had the following three comments regarding the proposed structures:
 - The southern structure should be redesigned to be more subservient (regarding style, scale and mass), to the mansion.
 - Consider a more transparent building.
 - The context of the mansion shall be protected.

Subsequent to this meeting, the applicant revised their plans to incorporate some recommendations from the Town's Consulting Architect. The revised plans were considered by the HPC on September 19, 2007. The Committee determined that their action from the previous meeting were still applicable (Attachment 18).

2. General Plan Committee

On February 28, 2007, the General Plan Committee considered the applicant's request to amend the General Plan Designation and change the zone for a portion of the parking lot parcel. The other applications were not part of the Committee's review. The Committee recommended approval of the General Plan amendment and Zone Change subject to the approval of the other applications associated with the entire project.

3. Conceptual Development Advisory Committee

On February 8, 2006, the CDAC considered a preliminary application for a similar request. However, these plans proposed residential condominiums on the second floor, not an office use. The Committee expressed numerous comments about the proposal (Exhibit 16 of Attachment 7).

APPEALS:

The applicant and a concerned citizen, Lee Quintana, each filed an appeal of the Planning Commission's decision on the basis that the Commission erred or abused its discretion in their decision (Attachments 2 and 3). The basis for the appeals is summarized as follows. A response from staff follows each comment made by the appellants.

A. Applicant's Appeal

1. *The applicant has questioned if Architecture and Site was required for the work proposed since the buildings proposed were not the principal building, did not meet the Town Code definition of an intensification of land use, and the alterations proposed were minor.*

Staff Comment: The Planning Commission based their decision on the design and site impacts of the proposed buildings. Section 29.20.145 of the Town Code states that Architecture and Site approval is required for new construction of any principal building as well as any exterior alterations or additions to an existing building (which excludes minor exterior alterations to a commercial building). The two buildings proposed do not meet the definition of an accessory structure and are therefore considered principal buildings. The changes proposed to the historic mansion could have been determined to be minor. If the changes were determined to be minor, pursuant to Section 29.20.485(3) of the Town Code, the work proposed to the historic structure would have required a Minor Historic Architecture and Site Application for which the HPC could take action on. Since the work proposed to the mansion was part of other development applications for the site and since the Town does not bifurcate applications, the alterations proposed to the mansion were incorporated in the Architecture and Site Application.

2. *The Commission did not discuss the design issues required by Town Code for Architecture and Site applications and based their decision on the land use.*

Staff Comment: Section 29.20.150(4) of the Town Code allows the deciding body to consider the location and orientation of buildings and open spaces in relationship to the physical characteristics of the site and the appearance and harmony of the buildings with adjacent development. In evaluating applications on LHP sites, Section 29.80.290 of the Town Code states that the deciding body shall include considering architectural style, design, arrangement and other pertinent factors. This section further states that on LHP sites, the proposed work will neither adversely affect features of the landmark nor adversely affect the character of historical, architectural, or aesthetic interest or value of the landmark site and its site.

3. *The Commission did not consider how the project was consistent with the General Plan.*

Staff Comment: The report to the Commission included the applicant's letter of justification which cited sections of the General Plan with which the application was consistent.

4. *The Environmental documents stated that the new buildings would have a less-than-significant impact and the HPC recommended that the development of the detached structures would be acceptable with revisions to the design.*

Staff Comment: No comment.

5. *The Commission had a narrow focus on considering the impact on the visibility of the historic mansion.*

Staff Comment: See staff comment above regarding review of LHP sites.

6. *The Commission did not consider the balance between preserving and enhancing the Town's livability while supporting the economic vitality that provides resources for community services.*

Staff Comment: No comment.

7. *A reduction in the number of seats was requested as part of the request for a modification of the Conditional Use Permit to reallocate the parking to support the two proposed retail buildings. In denying the request for the two buildings, the required parking for the uses at the site was decreased, which resulted in excess parking for the site. The Commission did not increase the number of seats for the restaurant based on the excess spaces that were made available by the Commission's action.*

Staff Comment: As approved by the Commission, the intensity of the site was reduced and as a result, there is an excess of two parking spaces that are not allocated to any use. Therefore, the restaurant seating could be increased by six seats for a total of 141 seats.

B. Citizen Appeal

The Initial Study and Mitigated Negative Declaration are not adequate in assessing the impact to the historic structure and setting and that there is a fair argument to require an EIR.

Staff Comment: The Planning Commission denied the Architecture and Site application for the two new buildings; therefore, there is no environmental impact. During the public hearing on this matter, there was a misunderstanding that the new buildings could not be approved as proposed since the environmental documents noted that the HPC recommended that changes be made to the proposed buildings. This misunderstanding was not a basis for the Planning Commission's action on this matter since they were opposed to any new building. Subsequent to the meeting, the Town's Environmental Consultants clarified in writing that the proposed two new retail buildings would be considered to have

a less-than-significant impact on the aesthetic character of the property and prepared an Errata Sheet for the Initial Study and Mitigated Negative Declaration (Attachment 1). The Aesthetics section of the Initial Study did not include mitigation measures since no significant aesthetic impacts were found to result from the currently proposed design of the new buildings. In addition, the Initial Study had no mitigation measures that the buildings be redesigned to meet the directions of the HPC. Therefore, a Mitigated Negative Declaration could be made to approve the two buildings as proposed by the applicant and an EIR would not be required. The Consultant further states that if Council determines that the southern building should be redesigned as recommended by the HPC, an addendum to the environmental documents would be appropriate for clarification of the minor changes to the proposed project. An Addendum would not require a public review period or a public hearing.

In addition, Section 21084.1 of the Public Resources Code, states that a project that may have a significant impact on the environment is a project that may cause a substantial adverse change in the significant of an historical resource. Section 15064.5(b)(1) of the California Code of Regulations states that a substantial adverse change in the significance of a historical resource means physical demolition, destruction, relocation, or alterations of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired. Subsection (3) of this Code further states that a project that follows the Secretary of Interior 's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitation shall be considered as mitigated to a level of less than significant impact on the historic resource.

In reviewing the Secretary of Interior's Standards, the document recommends to identify, retain and preserve buildings and their features as well as features of the site that are important in defining its overall historic character. Ordinance HD-75-6 (Exhibit 11 of Attachment 7), identifies the features of the mansion which justifies the historic designation. The Ordinance notes that the only other feature that should be preserved is the fencing. The Ordinance does not note that the site area and landscape features should be preserved, which is clearly identified as a possible feature to preserve.

The Standards list what is recommended and not recommended for site development. Both Town Staff and the Historic Preservation Committee stated that two new buildings would be acceptable for the site, and a redesign was recommended for the southern structure to be more sympathetic to the historic mansion and site which is consistent with the following Standards recommendations. The Standards recommend that new construction be designed which is compatible with the historic character of the site and which preserves the historical relationships between the buildings and the landscape. The Standards do not recommend the introduction of a new building or site feature that is out of scale or an otherwise inappropriate design. The Standards also do not recommend the introduction of new construction onto a building site which is visually incompatible in terms of size, scale, design, materials, color and texture which destroys historic relationships on the site, or which damages or destroys important landscape features.

CONCLUSION:

If Council determines that the southern and/or northern building(s) as proposed or modified are acceptable, staff recommends that the outdoor dining area be redesigned to be more visible and that the plaza be designed to incorporate seating areas and potentially two to three historically-designed push carts could be allowed to create vitality to the plaza that would encourage pedestrians to enter the site. Providing visible activities and passive areas will activate the site, strengthen the retail streetscape in downtown, and promote pedestrian circulation. To approve the southern and /or northern building(s) staff recommends that one or both buildings and the plaza be redesigned and that Council take the following action:

1. Remand the Architecture and Site application and the Conditional Use Permit to the Planning Commission.
2. Direct the applicant to make the desired changes to one or both buildings.
3. Direct the applicant to create a plaza that has visible outside dining.
4. Direct the applicant to incorporate seating areas and other pedestrian friendly activities in the plaza.
5. Direct staff to recalculate the required parking for the site and allowed seats permitted for the restaurant use based on the redesigned project.

ENVIRONMENTAL ASSESSMENT:

It has been determined that this project will not have a significant impact on the environment and a Mitigated Negative Declaration has been prepared for this proposal.

FISCAL IMPACT: None.

Attachments:

Previously Submitted to Town Council:

1. Letter from Town's Environmental Consultant, Geier & Geier, which includes an errata sheet for the Initial Study, dated January 31, 2008.
2. Appeal from Santa Cruz Wilder, LLC, received February 1, 2008.
3. Appeal from Lee Quintana, received February 4, 2008.
4. Excerpt of the Planning Commission meeting minutes of February 13, 2008.
5. Report to the Planning Commission for the meeting of February 13, 2008.
6. Excerpt of the Planning Commission meeting minutes of January 23, 2008.
7. Report to the Planning Commission for the meeting of January 23, 2008.
8. Desk Item Report for the Planning Commission meeting of January 23, 2008.
9. Information Report from John Lien dated April 7, 2008.

New Submittals:

10. Required Findings and Considerations.

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MAYOR AND TOWN COUNCIL
SUBJECT: 115 N. SANTA CRUZ AVENUE
April 7, 2008

11. Resolution for General Plan Amendment.
12. Ordinance for Zone Change.
13. Conditions of Approval for the Lot Line Adjustment.
14. Conditions of Approval for the Conditional Use Permit.
15. Conditions of Approval for the Architecture and Site Application.
16. Excerpt from the HPC minutes for the meeting of February 27, 2007.
17. Excerpt from the HPC minutes for the meeting of March 21, 2007.
18. Excerpt from the HPC minutes for the meeting of September 19, 2007.
19. Letter from Kathy Anderson (one page), received March 3, 2008.
20. Letter from Lee Quintana (five pages), received March 26, 2008.

Distribution:

John Lien, 196 College Avenue, Los Gatos, CA 95030
Santa Cruz Wilder, LLC, 50 W. San Fernando Street #320, San Jose, CA 95113
Lee Quintana, 5 Palm Avenue, Los Gatos, CA 95030

BNL:RT:SLB:mdc

Date: April 7, 2008

Subject: 115 N. Santa Cruz Avenue and 112 Wilder Avenue

ATTACHMENTS 1-9

(Previously Submitted to Town Council)

**ARE AVAILABLE FOR REVIEW IN THE CLERK
DEPARTMENT**

REQUIRED FINDINGS AND CONSIDERATIONS FOR

115 N. Santa Cruz Avenue and 112 Wilder Avenue

Negative Declaration ND-07-10

Subdivision Application M-07-005

General Plan Amendment GP-07-01

Zone Change Z-07-001

Architecture and Site Application S-07-019

Conditional Use Permit U-07-020

Variance Application V-07-01

Requesting approval of 1) a lot line adjustment, 2) a General Plan amendment from Medium Density Residential to Central Business for a portion of the parking lot parcel, 3) a zone change from R-1D:LHP to C-2:LHP for a portion of the parking lot parcel, 4) conversion of an existing fine dining restaurant into a smaller fine dining restaurant on the first floor and office space on the second floor, 5) two new detached commercial buildings, 6) modification to the exterior of the existing commercial building, and 7) conversion of the existing parking lot which fronts on Wilder Avenue to a residential lot, on properties zoned C-2:LHP and R-1D:LHP. No significant environmental impacts have been identified as a result of this project, and a Mitigated Negative Declaration is recommended. APN 510-17-065 and 071

PROPERTY OWNER: Santa Cruz Wilder, LLC

APPLICANT: John Lien

FINDINGS

- All General Plan Amendments must be found to be internally consistent with the General Plan.
- That the zone change is consistent with the General Plan.
- As required by Section 29.20.170 of the Town Code for granting a variance the deciding body, on the basis of the evidence submitted at the hearing, may grant a variance if it finds that:
 - (1) Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zone; and
 - (2) The granting of a variance would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit.

The deciding body, on the basis of the evidence submitted at the hearing, may grant a

conditional use permit when specifically authorized by the provisions of the Town Code if it finds that:

- (1) The proposed uses of the property are essential or desirable to the public convenience or welfare;
- (2) The proposed uses will not impair the integrity and character of the zone;
- (3) The proposed uses would not be detrimental to public health, safety or general welfare; and
- (4) The proposed uses of the property are in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code.

- That the work proposed is consistent with the Redevelopment Plan for the Los Gatos Redevelopment Project Area (Section IV.B).

CONSIDERATIONS

- As required by Section 29.20.150 of the Town Code for Architecture and Site applications.

Sec. 29.20.150. Considerations in review of applications.

The deciding body shall consider all relevant matter including, but not limited to, the following:

- (1) *Considerations relating to traffic safety and traffic congestion.* The effect of the site development plan on traffic conditions on abutting streets; the layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, drives, and walkways; the adequacy of off-street parking facilities to prevent traffic congestion; the location, arrangement, and dimension of truck loading and unloading facilities; the circulation pattern within the boundaries of the development, and the surfacing, lighting and handicapped accessibility of off-street parking facilities.
 - a. Any project or development that will add traffic to roadways and critical intersections shall be analyzed, and a determination made on the following matters:
 1. The ability of critical roadways and major intersections to accommodate existing traffic;
 2. Increased traffic estimated for approved developments not yet

occupied; and

3. Regional traffic growth and traffic anticipated for the proposed project one (1) year after occupancy.
- b. The deciding body shall review the application for traffic roadway/intersection capacity and make one (1) of the following determinations:
1. The project will not impact any roadways and/or intersections causing the roadways and/or intersections to exceed their available capacities.
 2. The project will impact a roadway(s) and/or intersection(s) causing the roadway(s) and/or intersection(s) to exceed their available capacities.

Any project receiving Town determination subsection (1)b.1. may proceed. Any project receiving Town determination subsection (1)b.2. must be modified or denied if the deciding body determines that the impact is unacceptable. In determining the acceptability of a traffic impact, the deciding body shall consider if the project's benefits to the community override the traffic impacts as determined by specific sections from the general plan and any applicable specific plan.

- (2) *Considerations relating to outdoor advertising.* The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards and the appearance and harmony with adjacent development. Specialized lighting and sign systems may be used to distinguish special areas or neighborhoods such as the downtown area and Los Gatos Boulevard.
- (3) *Considerations relating to landscaping.* The location, height, and materials of walls, fences, hedges and screen plantings to insure harmony with adjacent development or to conceal storage areas, utility installations, parking lots or unsightly development; the planting of ground cover or other surfacing to prevent dust and erosion; and the unnecessary destruction of existing healthy trees. Emphasize the use of planter boxes with seasonal flowers to add color and atmosphere to the central business district. Trees and plants shall be approved by the Director of Parks, Forestry and Maintenance Services for the purpose of meeting special criteria, including climatic conditions, maintenance, year-round versus seasonal color change (blossom, summer foliage, autumn color), special branching effects and other considerations.
- (4) *Considerations relating to site layout.* The orientation and location of buildings

and open spaces in relation to the physical characteristics of the site and the character of the neighborhood; and the appearance and harmony of the buildings with adjacent development.

Buildings should strengthen the form and image of the neighborhood (e.g. downtown, Los Gatos Boulevard, etc.). Buildings should maximize preservation of solar access. In the downtown, mid-block pedestrian arcades linking Santa Cruz Avenue with existing and new parking facilities shall be encouraged, and shall include such crime prevention elements as good sight lines and lighting systems.

- (5) *Considerations relating to drainage.* The effect of the site development plan on the adequacy of storm and surface water drainage.
- (6) *Considerations relating to the exterior architectural design of buildings and structures.* The effect of the height, width, shape and exterior construction and design of buildings and structures as such factors relate to the existing and future character of the neighborhood and purposes of the zone in which they are situated, and the purposes of architecture and site approval. Consistency and compatibility shall be encouraged in scale, massing, materials, color, texture, reflectivity, openings and other details.
- (7) *Considerations relating to lighting and street furniture.* Streets, walkways, and building lighting should be designed so as to strengthen and reinforce the image of the Town. Street furniture and equipment, such as lamp standards, traffic signals, fire hydrants, street signs, telephones, mail boxes, refuse receptacles, bus shelters, drinking fountains, planters, kiosks, flag poles and other elements of the street environment should be designated and selected so as to strengthen and reinforce the Town image.
- (8) *Considerations relating to access for physically disabled persons.* The adequacy of the site development plan for providing accessibility and adaptability for physically disabled persons. Any improvements to a nonresidential building where the total valuation of alterations, structural repairs or additions exceeds a threshold value established by resolution of the Town Council, shall require the building to be modified to meet the accessibility requirements of title 24 of the California Administrative Code adaptability and accessibility. In addition to retail, personal services and health care services are not allowable uses on nonaccessible floors in new nonresidential buildings. Any change of use to retail, health care, or personal service on a nonaccessible floor in a nonresidential building shall require that floor to be accessible to physically disabled persons pursuant to the accessibility requirements of title 24 of the California Administrative Code and shall not qualify the building for unreasonable hardship exemption from meeting any of those requirements. This provision does not effect lawful uses in existence prior to the enactment of this chapter. All new residential developments shall comply with the Town's adaptability and accessibility requirements for physically disabled persons established by resolution.

- (9) *Considerations relating to the location of a hazardous waste management facility.* A hazardous waste facility shall not be located closer than five hundred (500) feet to any residentially zoned or used property or any property then being used as a public or private school primarily educating persons under the age of eighteen (18). An application for such a facility will require an environmental impact report, which may be focused through the initial study process.

- As required by Section 29.80.290 of the Town Code for landmark sites.

Sec. 29.80.290. Standards for review.

In evaluating applications, the deciding body shall consider the architectural style, design, arrangement, texture, materials and color, and any other pertinent factors. Applications shall not be granted unless:

On landmark sites, the proposed work will neither adversely affect the exterior architectural characteristics or other features of the landmark (and, where specified in the designating ordinance for a publicly owned landmark, its major interior architectural features) nor adversely affect the character of historical, architectural or aesthetic interest or value of the landmark and its site.

THE FOLLOWING FINDING WOULD ONLY BE APPLICABLE FOR THE TWO PROPOSED COMMERCIAL BUILDINGS WHICH WAS DENIED BY THE PLANNING COMMISSION

- As required by Section 29.60.337 of the Town Code for reducing the front setback.

Sec. 29.60.337. Improvements within yards abutting a street.

(a) Improvements may be permitted in any required front yard and any required side yard abutting a street in a C-2 or central business district commercial zone if the deciding body makes all of the following findings:

- (1) Pedestrian safety will not be impaired;
- (2) The streetscape would be enhanced as a result of the proposed improvements;
- (3) The improvements are in character with the adjacent buildings; and
- (4) The improvements will not obstruct the clear sight vision of vehicular traffic.

RESOLUTION NO. _____

**RESOLUTION OF THE TOWN OF LOS GATOS
AMENDING THE GENERAL PLAN TO CHANGE THE
DESIGNATION FROM MEDIUM DENSITY RESIDENTIAL TO
CENTRAL BUSINESS DISTRICT FOR
A PORTION OF A PROPERTY AT 112 WILDER AVENUE
TO BE COMBINED WITH 115 N. SANTA CRUZ AVENUE**

WHEREAS, pursuant to Government Code Section 65353, the Town Council conducted a public hearing for consideration of amendments to the General Plan on , 2008.

WHEREAS, during this hearing, the Town Council considered the General Plan Amendment to change the land use designation from Medium Density Residential to Central Business District for a portion of the property.

RESOLVED, the Town Council finds that (a) the proposed General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its corresponding elements and (b) that all proceedings have been conducted in compliance with the provisions of Government Code Section 65350 et seq.

RESOLVED, the Town Council hereby changes the land use designation of the General Plan as shown on Exhibit A from Medium Density Residential to Central Business District.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town
of Los Gatos, California, held on the _____ day of _____, 2008 by the
following vote:

COUNCIL MEMBERS

AYES:

NAYES:

ABSTAIN:

ABSENT:

SIGNED:

MAYOR OF THE TOWN OF LOS

GATOS

LOS GATOS, CALIFORNIA

ATTEST:

**CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

nsc115.GPamend



115 N. Santa Cruz
112 Wilder Avenue

TOWN OF LOS GATOS

Application No. GP-07-001

A.P.N. # 510-17-071

Change of the general plan map amending the Town General Plan.

From: Medium Density Residential (5-12 units per acre)

To: Central Business District

Recommended by Planning Commission

Approved by Town Council

Town Clerk

Date:

Mayor

Date: 2/13/08

Reso:

ORDINANCE

AN ORDINANCE OF THE TOWN OF LOS GATOS
AMENDING THE ZONING MAP FROM R-1D:LHP TO C-2:LHP
FOR PROPERTY LOCATED AT 112 WILDER AVENUE
TO BE COMBINED WITH 115 N. SANTA CRUZ AVENUE

THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ORDAINS:

SECTION I

The Zoning Map of the Town is hereby amended as shown on Exhibit A.

SECTION II

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on , 2008, and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on , 2008. This ordinance takes effect 30 days after it is adopted.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

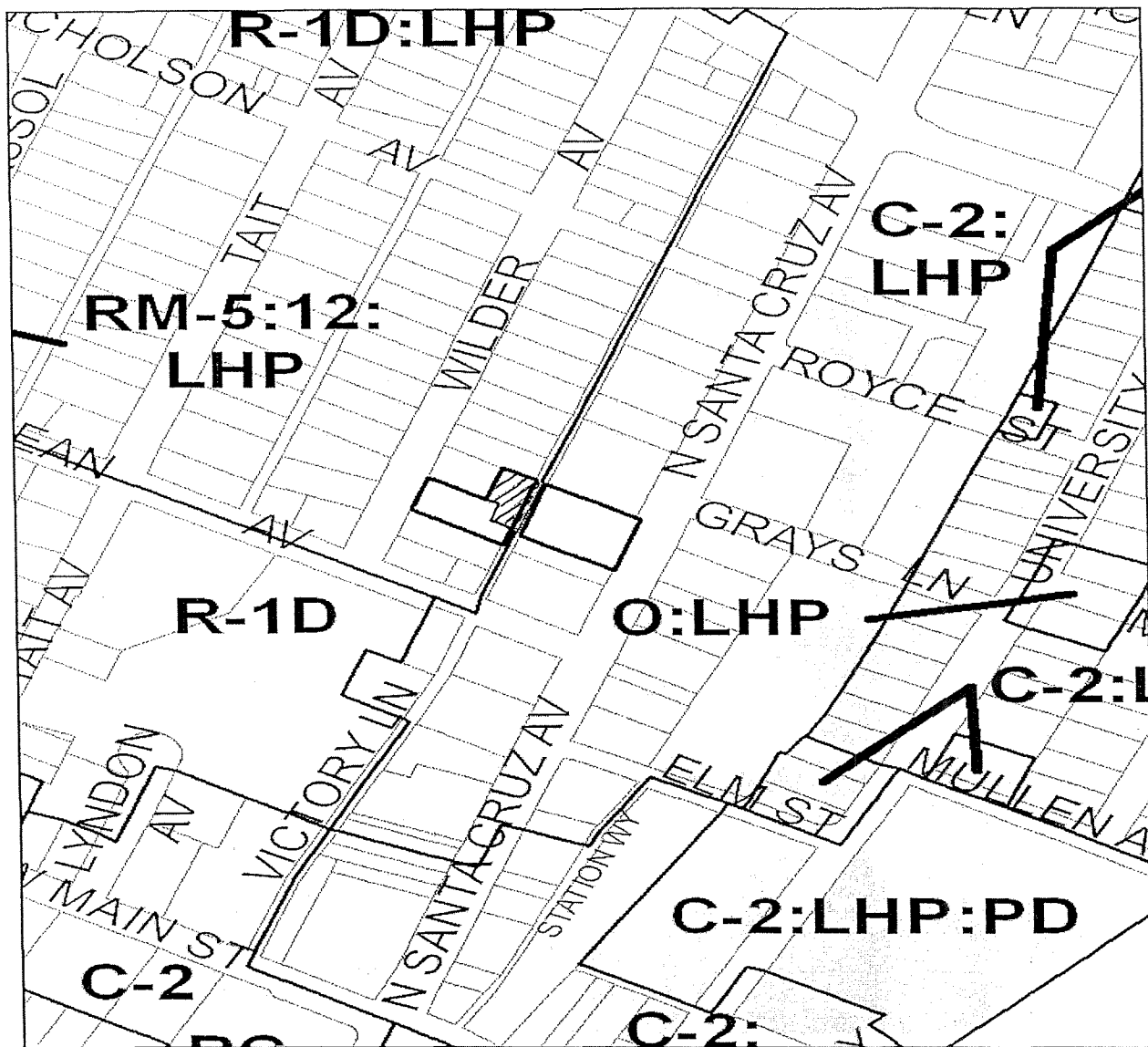
ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR
TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA
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115 N Santa Cruz
112 Wilder Avenue

TOWN OF LOS GATOS

Application No. Z-07-001

A.P.N. # 510-17-071

Change of the zoning map amending the Town Zoning Ordinance.

☒ Zone Change

☐ Prezoning

From: R-1D:LHP

To: C-2:LHP

Recommended by Planning Commission

Approved by Town Council

Town Clerk

Date:

Mayor

Date: 2/13/08

Ord:

CONDITIONS OF APPROVAL LOT LINE ADJUSTMENT

115 N. Santa Cruz Avenue and 112 Wilder Avenue

Negative Declaration ND-07-10

Subdivision Application M-07-005

General Plan Amendment GP-07-01

Zone Change Z-07-001

Architecture and Site Application S-07-019

Conditional Use Permit U-07-020

Variance Application V-07-01

**Requesting approval of 1) a lot line adjustment, 2) a General Plan amendment from Medium Density Residential to Central Business for a portion of the parking lot parcel, 3) a zone change from R-1D:LHP to C-2:LHP for a portion of the parking lot parcel, 4) conversion of an existing fine dining restaurant into a smaller fine dining restaurant on the first floor and office space on the second floor, 5) two new detached commercial buildings, 6) modification to the exterior of the existing commercial building, and 7) conversion of the existing parking lot which fronts on Wilder Avenue to a residential lot, on properties zoned C-2:LHP and R-1D:LHP. No significant environmental impacts have been identified as a result of this project, and a Mitigated Negative Declaration is recommended. APN 510-17-065 and 071
PROPERTY OWNER: Santa Cruz Wilder, LLC
APPLICANT: John Lien**

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

1. **APPROVAL.** The approval of this application is contingent upon the adoption of the General Plan amendment and the Zone Change for the lot area being adjusted.

**TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS
(Public Works Division)**

2. **CERTIFICATE OF LOT LINE ADJUSTMENT.** A Certificate of Lot Line Adjustment shall be recorded. Two copies of the legal description for each new lot configuration, a plat map (8-½ in. X 11 in.) and two copies of the legal description of the land to be exchanged shall be submitted to the Engineering Division of the Parks & Public Works Department for review and approval. The submittal shall include closure calculations, title reports less than 90 days old and the appropriate fee. The certificate shall be recorded before any permits may be issued.

CONDITIONS OF APPROVAL CONDITIONAL USE PERMIT

115 N. Santa Cruz Avenue and 112 Wilder Avenue

Negative Declaration ND-07-10

Subdivision Application M-07-005

General Plan Amendment GP-07-01

Zone Change Z-07-001

Architecture and Site Application S-07-019

Conditional Use Permit U-07-020

Variance Application V-07-01

Requesting approval of 1) a lot line adjustment, 2) a General Plan amendment from Medium Density Residential to Central Business for a portion of the parking lot parcel, 3) a zone change from R-1D:LHP to C-2:LHP for a portion of the parking lot parcel, 4) conversion of an existing fine dining restaurant into a smaller fine dining restaurant on the first floor and office space on the second floor, 5) two new detached commercial buildings, 6) modification to the exterior of the existing commercial building, and 7) conversion of the existing parking lot which fronts on Wilder Avenue to a residential lot, on properties zoned C-2:LHP and R-1D:LHP. No significant environmental impacts have been identified as a result of this project, and a Mitigated Negative Declaration is recommended. APN 510-17-065 and 071

PROPERTY OWNER: Santa Cruz Wilder, LLC

APPLICANT: John Lien

**TO THE SATISFACTION OF THE PLANNING DIRECTOR:
(Planning Division)**

1. **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.
2. **RESTAURANT USE:** A high quality restaurant and full service bar is permitted on the first floor and the basement.
3. **HOURS:** Maximum hours of operation for the inside restaurant and bar shall be 11 AM to 1 AM weekdays and 9 AM to 1 AM Saturday and Sunday. Maximum hours of operation for the outside seating area shall be the same except that alcohol service shall not go past 11 PM Sunday through Thursday, except for holidays and evenings before holidays.
4. **SEATS.** The maximum number of seats (inside and outside combined) shall not exceed 135.
5. **ALCOHOL SERVICE:** The service of alcohol for the restaurant dining area (inside and outside) is permitted only with meals. A meal is defined as a combination of food items selected from a menu (breakfast, brunch, lunch, or

dinner). Appetizers such as popcorn, nachos, pretzels, potato skins, relish trays, etc. (hot or cold) are not meals.

6. DELIVERIES: Deliveries shall be no earlier than 7:00 a.m.

7. PORCH AREA: No chairs shall be in the porch area.

TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS
(Public Works Section)

8. GREASE TRAPS: Meet all requirements of the County Health Department and West Valley Sanitation District for the interception, separation, or pretreatment of effluent.

TO THE SATISFACTION OF THE CHIEF OF POLICE:

9. GENERAL: The restaurant is subject to the following:

- a. Uniformed privately provided security guards may be required in or around the premises by the Chief of Police if alcohol related problems recur that are not resolved by the licensed owner.
- b. At the discretion of the Chief of Police, periodic meetings will be conducted with representatives from the Police Department for on-going employee training on alcoholic beverage service to the general public.
- c. All establishments shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association.
- d. All licensed operators shall have and shall actively promote a designated driver program such as complimentary non-alcoholic beverages for designated drivers.
- e. Taxicab telephone numbers shall be posted in a visible location.
- f. A restaurant employee shall seat patrons in the outside dining area.

CONDITIONS OF APPROVAL

Architecture and Site Application

115 N. Santa Cruz Avenue and 112 Wilder Avenue

Negative Declaration ND-07-10

Subdivision Application M-07-005

General Plan Amendment GP-07-01

Zone Change Z-07-001

Architecture and Site Application S-07-019

Conditional Use Permit U-07-020

Variance Application V-07-01

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PROPERTY OWNER: Santa Cruz Wilder, LLC

APPLICANT: John Lien

TO THE SATISFACTION OF THE PLANNING DIRECTOR:

(Planning Division)

1. **APPROVAL:** The approval was modified to only include the exterior changes to the existing building, relocation of the trash enclosure and the new parking spaces on the west side of Victory Lane. The new proposed buildings and the parking on the east side of Victory Lane were not approved. This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the approved plans. Any changes or modifications made to the approved plans shall be approved by the Planning Commission, Development Review Committee, Director of Community Development or the Historic Preservation Committee, 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. **GENERAL:** All existing trees shown to remain on the plan and newly planted trees are specific subjects of approval of this plan and must remain on site.
4. **PROTECTIVE FENCING:** Prior to any construction or building permits being issued, the applicant shall meet with the Parks Superintendent concerning the need for protective fencing around the existing trees. Such fencing is to be

installed prior to, and be maintained during, construction. The fencing shall be a four foot high chain link attached to steel poles driven two feet into the ground when at the dripline of the tree. If the fence has to be within eight feet of the trunk of the tree, a fence base may be used, as in a typical chain link fence that is rented.

5. *ARBOR RESOURCES: All recommendations made by Arbor Resources (September 21, 2007) (relating to the project as modified) shall be implemented to eliminate or minimize the construction-related impacts on the trees to be retained. Recommendations are listed under Section 4.0, recommendations of the arborist's report. These include recommendations under the Design Guidelines section (addressing tree location mapping, protective fencing, building setback, trenching, drainage facilities, and installation of new trees) and the Protection Measures Before and During Construction section (addressing fencing, removal of hardscape, demolition, work within tree canopies, etc). The report's recommendations are included as Attachment 2 of the Initial Study.
6. ARBORIST REQUIREMENTS: The developer shall implement, at their cost, all recommendations noted above (relating to the project as modified). A Compliance Memorandum shall be prepared and submitted with the building permit application detailing how the recommendations have or will be addressed. These recommendations must be incorporated in the building permit plans, and completed prior to issuance of a building permit where applicable.

(Building Division)

7. PERMITS REQUIRED: A building permit shall be required for the alteration of the existing structure, and the parking lot improvements. Separate permits are required for electrical, mechanical, and plumbing work as necessary.
8. CONDITIONS OF APPROVAL: The Conditions of Approval must be blue-lined in full on the cover sheet of the construction plans. A Compliance Memorandum shall be prepared and submitted with the building permit application detailing how the Conditions of Approval will be addressed.
9. SIZE OF PLANS: For sets of construction plans, maximum size 24" x 36."
10. CODES: Projects will be required to conform to the 2007 California Building, Fire, Mechanical, Electrical, and Plumbing Codes. The California Codes are based on model codes; 2006 International Building Code and Fire Code and 2006 Uniform Plumbing and Mechanical Codes and the 2005 National Electrical Code.
11. TITLE 24 – COMMERCIAL: The proposed tenant improvements, will require upgrades to comply with the latest California Title 24 Accessibility Standards. Necessary work shall be first investigated by the design architect, then confirmed by Town staff.
12. 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/building

13. NONPOINT SOURCE POLLUTION STANDARDS SHEET: The Town standard Santa Clara County Valley Nonpoint Source Pollution Control Program Sheet (or Clean Bay Sheet 24x36) 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 for a fee.
14. PLANS: The construction plans shall be prepared under the direct supervision of a licensed architect or engineer. (Business and Professionals Code Section 5538)
15. APPROVALS REQUIRED: The project requires the following departments and agencies approval before issuing a building permit:
 - A. Community Development – Planning Division: Sandy Baily at 354-6873
 - B. Engineering/Parks & Public Works Department: Fletcher Parsons at 395-3460
 - C. Santa Clara County Fire Department: (408) 378-4010
 - D. Environmental Health Department: (408) 885-4200
16. *ARCHAEOLOGICAL: In the event archaeological traces are encountered, all construction within a 50 meter radius of the find shall be halted, the Director of Community Development shall be notified and an archaeologist shall be retained to examine the find and make appropriate recommendations.
17. *NATIVE AMERICAN REMAINS: If human remains are discovered, the Santa Clara County Coroner shall immediately be notified. The Coroner will determine whether or not the remains were Native American. If the Coroner determines that the remains are not subject to his or her authority, the Coroner shall notify the Native American Heritage Commission, who would attempt to identify descendants of the deceased Native American.
18. *ARCHAEOLOGICAL FIND: If the Director of Community Development finds that the archaeological find is not a significant resource, work will resume only after the submittal of a preliminary archaeological report and after provision for reburial and ongoing monitoring are accepted. Provisions for identifying descendants of a deceased Native American and for reburial will follow the protocol set forth in Section 15064.5 of the CEQA Guidelines. If the site is found to be a significant archaeological site, a mitigation program must be prepared and submitted to the Director of Community Development for consideration and approval, in conformance with the protocol set forth in Public Resources Code Section 21083.2.
19. *FINAL ARCHAEOLOGICAL REPORT: A final report shall be prepared at the applicant's cost when a find is determined to be a significant archaeological site and/or when Native American remains are found on the site. The final report shall include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions.
20. *LEAD-BASED PAINT: A state certified lead-based paint professional shall be retained to perform a lead-based paint survey of the existing structures and the recommendations of the professional shall be followed for abatement of any identified lead-based paint prior to renovation of the structure.

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

21. 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.
22. 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.
23. 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.
24. CONSTRUCTION STREET PARKING: Any reservation of street parking shall be coordinated with the Police Department. Contractors shall not use public parking unless previously arranged through the Police and Engineering Departments.
25. SITE DRAINAGE: Rainwater leaders shall be discharged to splash blocks. No through curb drains will be allowed.
26. NPDES: On-site drainage systems shall include a filtration device such as a bio-swale or permeable pavement.
27. 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.
28. 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.

29. **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.
30. **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.
31. **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.
32. **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.
33. **OUTDOOR TRASH ENCLOSURES:** Outdoor trash enclosures shall be covered and area drains connected to the sanitary sewer system shall be provided. Temporary trash enclosures are exempt from this condition.
34. **GREASE TRAPS:** Meet all requirement of the Santa Clara County Health Department and West Valley Sanitation District for the interception, separation or pretreatment of effluent.
35. **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.
36. **GOOD HOUSEKEEPING:** Good housekeeping practices shall be observed at all times during the course of construction. Superintendence of construction shall be diligently performed by a person or persons authorized to do so at all times during working hours. The storing of goods and/or materials on the sidewalk and/or the

street will not be allowed unless a special permit is issued by the Engineering Division.

37. TRUCKING and UNLOADING: Trucking and unloading shall be coordinated with the Engineering inspector. Haul routes, temporary blocking of parking or streets, and delivery times shall be coordinated with the Engineering inspector.
38. *GEOTECHNICAL INVESTIGATION: A geotechnical investigation shall be conducted for this project to determine the potential for surface fault rupture on the site. The geotechnical study shall provide recommendations for site grading as well as the design of foundations, retaining walls, concrete slab-on-grade construction, excavation, drainage, on-site utility trenching and pavement sections. The project shall incorporate all recommendations of the investigation into project plans (not applicable since new buildings were not approved).

TO THE SATISFACTION OF SANTA CLARA COUNTY FIRE

39. FIRE FLOW: Buildings requiring a fire flow in excess of 2,000 GPM shall be protected throughout by an automatic fire sprinkler system, hydraulically designed per National Fire Protection Association (NFPA) Standard #13.
40. PLAN SUBMITTAL: A State of California licensed fire protection contractor shall submit plans, calculations, a completed permit application and appropriate fees to this department for review and approval prior to beginning their work.
41. PREMISE IDENTIFICATION: Approved numbers or addresses shall be placed on existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background.

*Required as a Mitigation Measure

ITEM 3: **122 N. SANTA CRUZ AVENUE**

The Committee considered plans to install an awning on a pre-1941 commercial building. Cowan moved to recommend approval of the application to the Development Review Committee.

Pacheco seconded, motion passed unanimously.

ITEM 4: **33 WALNUT AVENUE**

Pacheco stated for the record that he lives within 500 feet of this parcel and therefore recused himself from the meeting.

The Committee considered a request to interpret whether or not the work proposed to a pre-1941 single family residence classifies as a demolition. Micciche moved to find that the rear portion of the house was an addition which is unsympathetic to the architectural style of the original house. Therefore, the removal of this addition would not be classified as a demolition pursuant to Town Code. Burch seconded, motion passed unanimously.

Pacheco returned to the meeting.

ITEM 5: **222 NICHOLSON AVENUE**

Cowan stated for the record that he lives within 500 feet of this parcel and therefore recused himself from the meeting.

The Committee considered plans to add onto a single family residence with reduced setbacks on a nonconforming lot in the Almond Grove Historic District. Pacheco moved to recommend approval of the application to the Development Review Committee with the following conditions:

1. The arch over the garage door shall be redesigned to a flat design.
2. The garage door shall be a simple design with no windows.
3. The skylights shall be pushed back to the rear of the garage roof and shall be a flat rectangular design.

Micciche seconded, motion passed unanimously.

Cowan returned to the meeting.

ITEM 6: **115 N. SANTA CRUZ AVENUE**

The Committee considered plans to construct two new detached commercial buildings and to modify the exterior of the existing commercial building on properties zoned C-2:LHP and R-1D:LHP. Pacheco moved to continue the matter with the following directions:



1. Increase the opening to the site from N. Santa Cruz Avenue by adjusting the southern building.
2. Provide a color and material board.
3. Adjust the front fencing so that it curves into the plaza area to make it more inviting.
4. Look at alternatives to screen the stairs to the upper floor of the historic structure which can include a trellis or landscaping.
5. The southern building shall maintain its rounded corner which softens the building.
6. The new buildings do not have to be symmetrical.

Micciche seconded, motion passed unanimously. The Committee stated that they endorsed the concept that the paved parking lot on Wilder Avenue be eliminated and replaced with a residence which will be more in keeping with the historic neighborhood.

ITEM 7: **OTHER BUSINESS**

- a. Pre-1941 Design Guidelines Update - Baily informed the Committee on the status of the Draft Guidelines.
- b. Workshop overview – Burch, Pacheco and Baily discussed the workshop.
- c. Appointment of new Chair and Vice-Chair – Micciche moved to maintain the existing Chair and Vice-Chair. Sayoc seconded, motion passed unanimously.

ITEM 8: **APPROVAL OF MINUTES**

The minutes from the meeting of January 17, 2007 were approved.

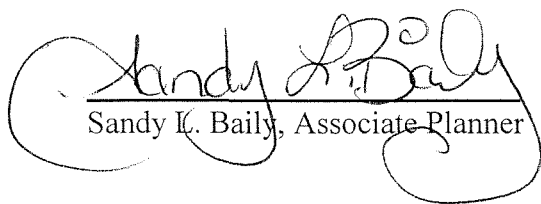
ITEM 9: **STATUS OF PREVIOUS APPLICATIONS**

Baily informed the Committee on the status of previous applications.

ITEM 10: **ADJOURNMENT**

The meeting was adjourned at 8:00 P.M. to the next regularly scheduled meeting of March 21, 2007.

Prepared by:


Sandy L. Baily, Associate Planner

Approved by:


Kendra Burch, Chair

March 21, 2007 HPC meeting minutes


ITEM 3: **17020 WILD WAY**

The Committee considered plans to determine whether or not the work proposed to a pre-1941 single family residence meets the Pre-1941 Design Guidelines. Pacheco moved to find that the work proposed met the guidelines. Cowan seconded, motion passed unanimously.

ITEM 4: **57 FAIRVIEW PLAZA**

The Committee considered a request of an addition that will exceed the allowable FAR on property in the Fairview Plaza Historic District. Burch moved to find that the addition was consistent with the guidelines of the historic district and recommended approval of the application in terms of architecture only. Pacheco seconded, motion passed unanimously.

ITEM 5: **115 N. SANTA CRUZ AVENUE**

 The Committee reconsidered plans to construct two new detached commercial buildings and to modify the exterior of the existing commercial building on properties zoned C-2:LHP and R-1D:LHP. Pacheco moved that the application should proceed to the next step with the following comments:

1. Two detached structures are acceptable.
2. The southern structure should be redesigned to be more subservient (regarding style, scale and mass), to the mansion.
3. Consider a more transparent building.
4. The context of the mansion shall be protected.
5. The proposed exterior staircase on the mansion is recommended for approval.

Burch seconded, motion passed unanimously.

ITEM 6: **OTHER BUSINESS**

- a. 139 Tait Avenue – Cowan stated for the record that he lives within 500 feet of the subject parcel and recused himself from the meeting. The Committee considered preliminary plans to connect two existing accessory structures along the alley. The Committee expressed no concerns with the connection. Cowan returned to the meeting.
- b. Pre-1941 Design Guidelines Update – Baily informed the Committee on the status of the guidelines.
- c. HPC application coversheets – The Committee discussed what they would like to see in the coversheets.

September 19, 2007 HPC meeting minutes

2. An architectural element, lattice garden structure similar to the design that currently exists, or other feature should be added at the front elevation at the largest expanse of the wall to break up the wall.

This action is an interpretation and is not appealable.

ITEM 3: **115 N. SANTA CRUZ AVENUE**

The Committee considered revised plans to construct two new detached commercial buildings and to modify the exterior of the existing commercial building on property located in the Commercial Historic District. Burch moved that their previous direction to proceed to the next step with the following comments were still applicable:

1. Two detached structures are acceptable.
2. The southern structure should be redesigned to be more subservient (regarding style, scale and mass), to the mansion.
3. Consider a more transparent building.
4. The context of the mansion shall be protected.
5. The proposed exterior staircase on the mansion is recommended for approval

Pacheco seconded, motion passed unanimously.

ITEM 4: **OTHER BUSINESS**

- a. 114 Whitney Avenue - Representative was not present. No discussion.
- b. 46/48 Broadway – The Committee considered preliminary plans to restore a single family residence. The Committee was very favorable with the proposed changes. The Committee commented that the elongated character of the windows should be maintained. Architectural detailing and building materials will also be important to include on the plans.

Cowan recused himself from the next item since he lives within 500 feet of the property.

- c. 146 Tait Avenue – The Committee considered preliminary plans to add onto and remodel a single family residence. The Committee expressed concern with the bulk and mass.

Cowan returned to the meeting.

- d. 130 Massol Avenue – The Committee discussed ideas for an addition to a single family residence. The Committee stated that the house was well preserved and was the most original folk Victorian style house on the street.
- e. Possible meeting date change for the October meeting – Item dropped.

February 24, 2008

Dear Town Council,

Please uphold the Planning Commission's denial of the Coggshehl Mansion project which would add two structures in front of the mansion.

The Planning Commission followed through on their responsibility to protect our town treasure. I hope the Town Council will follow their lead. It is the responsibility of our elected officials to ensure that future, as well as present, citizens can enjoy the full beauty of the Coggshehl Mansion.

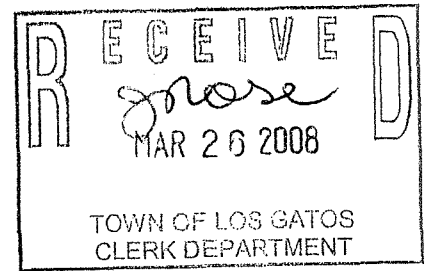
Sincerely,

Kathy Anderson
Kathy Anderson
17670 Foster Rd.
Los Gatos

RECEIVED

MAR 03 2008

MAYOR & TOWN COUNCIL



March 25, 2008

The Honorable Barbara Spector, Mayor
Town of Los Gatos
110 East Main Stret

Subject: Peer Review of Initial Study ND-07-10
Historic Coggeshall Mansion
115 N. Santa Cruz Avenue

Dear Mayor Spector and Members of the Town Council:

Attached is the peer review I requested Archives and Architecture prepare for the Coggeshall Mansion. Please accept this as a formal request to enter this report into the official public record on this project.

If you have any questions please feel free to contact me.

Sincerely,

Lee Quintana
5 Palm Avenue
Los Gatos, California 95030
(408) 354-7808

cc: Bud Lortz, Director of Community Development
Greg Larsen, Town Manager
Sandy Baily, Planner

PO Box 1332
San Jose CA 95109-1332
408.369.5683 VOX
408.228.0762 FAX

March 7, 2008

Ms. Lee Quintana
5 Palm Avenue
Los Gatos, CA 95030

RE: Third party review / Initial Study - Cultural Resources
 Historic Coggeshall Mansion (115 N. Santa Cruz Avenue, Los Gatos, CA)

Dear Ms. Quintana:

This letter constitutes an independent third party review of the cultural resources information provided in the Initial Study related to the currently proposed project at the Historic Coggeshall Mansion site, located at 115 North Santa Cruz Avenue in downtown Los Gatos. We were asked to review the documents that constitute the Initial Study, prepared by the Town of Los Gatos, for consistency with California Environmental Quality Act (CEQA) *Guidelines for Implementation...Preliminary Review of Projects and Conduct of Initial Study*, as they pertain to the evaluation and consideration of historic resources within the development review process.

We understand that the project proposed for the property includes construction of two new buildings, modifications to the landscaping of the property, and alterations to the main building (Coggeshall Mansion). The documents we reviewed include the following:

- Landmark Designation Form, dated October 22, 1975.
- Initial Study, prepared by Geier & Geier Consulting, Inc, dated December 2007
- Mitigation Monitoring Plan, dated January 16, 2008.
- Planning Commission Staff Report, dated January 23, 2008
- A Recommendation for Tree Removal at the Trevese Restaurant Los Gatos, prepared by Barrie D. Coate, July 24, 2007

This review was performed by Franklin Maggi and Leslie A.G. Dill, both Architectural Historians and Partners of the firm of Archives & Architecture: Heritage Resource Partners, LLC. Both of us meet the Secretary of the Interior's qualification standards to perform identification, evaluation, registration, and treatment activities in our field, in compliance with state and federal environmental laws as outlined in 36CFR Part 61. We were contacted in early February regarding the preparation of this independent review, and were authorized to proceed on February 6, 2008.

Leslie Dill conducted a reconnaissance of the site and setting in February 2008, but did not physically access the site to conduct a detailed review of the existing building on the property. This review is based primarily on the information provided in the above-referenced reports. No intensive-level supplemental research on the property was conducted.

Historic Significance

Coggeshall Mansion is recognized as a historic resource by the Town, is a Historic Landmark (HD-75-6) in an LHP Overlay Zone and is identified as such in the Initial Study and related documents. This is in keeping with CEQA guidelines that state:

“...resources which are listed in a local historic register or deemed significant in a historical resource survey as provided under Section 5024.1(g) are to be presumed historically or culturally significant unless ‘the preponderance of evidence’ demonstrates they are not.” http://www.ceres.ca.gov/topic/env_law/ceqa/more/tas/page3.html.

The recordation of this property completed in 1975 is not consistent with current standards as commonly prepared by cultural resource professionals in California. The 1970s designation form description is limited, and provides little information for use in the developmental review process. Although that form was considered adequate at the time for landmark nomination, California Department of Parks and Recreation 523 forms (DPR523 forms) are used today as the standard recording format throughout the state. DPR523 forms are based on *Instructions for Recording Historical Resources*, developed by the State Office of Historic Preservation, and their use maintains a standard recording procedure intended to provide a consistent system for documenting the full range of historical values present in a given location. The DPR523 forms are designed to meet a wide range of needs for information about historical resources to allow for informed decisions on projects that might affect historic resources. Reasonable discretion is allowed in determining what level of information is necessary, based on a particular user’s needs and the relative value of the resources that are being documented. The *Instructions for Recording Historical Resources* recommends:

“The minimum level of documentation [DPRa, Primary Record form] is designed to provide an initial record for all types of resources... However, it is important to emphasize that the Primary Record (and a Location Map when required) is **strictly non-evaluative** and constitutes the **minimum** documentation needed to include a record in OHP’s filing system. Professional surveys conducted in connection with planned development projects should generally record all but the very simplest resources with a Primary Record, Location Map, **and** an appropriate detailed recording form or forms (e.g., BSO Record, Archaeological Site Record, and District Record).” (Emphasis original to the document. California Office of Historic Preservation, March 1995 / www.ohp.parks.ca.gov/pages/1054/files/manual95.pdf).

Most jurisdictions utilize this higher level of recording information as a part of the process of understanding the significance of a historic property when considering projects that might affect the integrity of historic resources. Within the context of environmental review, the information provided in DPR forms and other intensive reports is relied upon by the agency, to provide

appropriate design review, to prepare an Initial Study or other type of environmental documentation, and to make determinations as to potential environmental effects that might result from a proposed project.

Without this level of documentation, the character-defining features, associations, and integrity of the historic resource, along with its historic context, may not be fully understood by the decision makers during their discretionary review of a proposed project.

Project Review

Under CEQA, a project involving a historic resource must meet the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (Standards) for there to be no impacts. The design review of the project involving the Coggeshall Mansion site does not specifically utilize the Standards or work within a local framework consistent with the Standards. The Standards are understood to be a common set of guidelines for the review of historic properties and are used in California as a part of the environmental review process to determine the potential impact of a project on an identified resource. The Initial Study by Geier & Geier Consulting, Inc., includes a design review that utilizes aesthetic standards (e.g., "[adding] liveliness to the street" and "maintain good visual exposure for the original historic portion of the house"). This design review does not address historic design review embodied in the Standards, including such review criteria as:

"The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided." (Standard 2)

"Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved." (Standard 5)

and

"New additions, exterior alterations or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment." (Standard 9) (*Secretary of the Interior's Standards for the Treatment of Historic Properties*, <http://www.nps.gov/history/hps/tps/standguide/>)

We have not conducted a formal Standards Review of the proposed project; however, with only a cursory review of the project in relation to the Initial Study documents, we find that inadequate consideration has been given in the Initial Study analysis to the retention of historic materials and of the potential impact that the project may have on the historic setting. Furthermore, design review needs to address all aspects of any proposed project as a whole—the decisions should not be undertaken piecemeal, as the cumulative impact(s) of the various alterations need to be evaluated together. For the Town of Los Gatos to issue a Negative Declaration for the project,

they should rely upon a clear Standards analysis of the project to ensure that the historic resource is not impacted by the proposed project.

Tree Removal

CEQA and the Secretary's Standards include the setting of a historic resource as part of that resource. The Initial Study evaluates the removal of a number of trees within the "Biological Resources" section of the report, but does not address the loss of these trees on the setting of the Coggeshall Mansion. The setting of the mansion is identified as a representation of the early residential character of North Santa Cruz Avenue, and the landscaping of the parcel must be considered as part of the Standards review.

The removal of the trees could possibly pose an impact under the Cultural Resources section of the Initial Study, and analysis must be included in that section of the study. Leslie Dill recalls that the two redwood trees were planted within the last twenty years, as mitigation for the loss of a pair of historically significant monkey-puzzle trees (*araucaria araucana*) that died in a severe winter. The removal of one of the trees would, therefore, appear to impact negatively the historic setting unless the trees are replaced with another pair of large-scale evergreens that provide the same symmetrical, large-scale landscape setting as the historic monkey-puzzle trees. The other trees have not been identified specifically within the documentation forms or through other documentation efforts (therefore underlining the inadequacy of the original nomination), and their removal can not be adequately addressed in the Initial Study as necessary until their historic character is established.

Please do not hesitate to contact us with any comments or questions.

Sincerely:

A handwritten signature in black ink, appearing to read 'Franklin Maggi', with a stylized, cursive script.

Franklin Maggi
Architectural Historian