



MEETING DATE: 09/02/08
ITEM NO. 6
DESK ITEM

COUNCIL AGENDA REPORT

DATE: September 2, 2008

TO: MAYOR AND TOWN COUNCIL

FROM: TOWN MANAGER *PSJ*

SUBJECT: CONSIDER AN APPEAL OF A PLANNING COMMISSION DECISION APPROVING THE CONSTRUCTION OF A NEW SINGLE FAMILY RESIDENCE AND CONVERSION OF A PRE-1941 RESIDENCE TO A GUEST HOUSE ON PROPERTY ZONED R-1:8. APN 510-42-052. ARCHITECTURE & SITE APPLICATION S-07-211: **18 PALM AVENUE**. APPLICANT: DAVID ZICOVICH. PROPERTY OWNER: RICK & NICKI ODERIO. APPELLANT: LEE QUINTANA.

DISCUSSION:

The attached letters were received today. The letter dated August 29, 2008 that is included with Attachment 15 was hand delivered to the Town this afternoon.

The letter from the appellant (Attachment 17) is in reference to condition 4 that was modified by the Planning Commission to require the front porch to be redesigned to provide more articulation (see Attachment 2). The applicant made changes to the plans to break up the roof and increase the articulation on the front elevation (Attachment 4). One drawback to the changes is the width of the front porch has been narrowed to three feet on both the left and right sides. These narrow areas will not be as usable as the original design that provided six feet of width.

Attachments:

- 1.-14. Previously received
- 15. Letter from Helen Cadiente (one page with two attachments), received September 2, 2008
- 16. Letter from Mark & Mimi Wainwright (one page), received September 2, 2008
- 17. Letter from Lee & Paul Quintana (four pages), received September 2, 2008

Bud N. Lortz
PREPARED BY: Bud N. Lortz, Director of Community Development

Reviewed by: *PSJ* Assistant Town Manager *OK* Town Attorney _____ Clerk _____ Finance
 ✓ Community Development

Revised: 9/2/08 4:05 PM

RECEIVED

SEP - 2 2008

TOWN OF LOS GATOS
PLANNING DIVISION

September 2, 2008

Mr. Joe Pirzynski
Town Council
110 E. Main Street
Los Gatos, CA


RE: 18 PALM AVE. PROJECT

Dear Mr. Pirzynski,

Thank you for stopping by yesterday at the above mentioned project and talking to me briefly. I was unable to tell you all my concerns regarding the project because of lack of time. Enclosed, please find a copy of our letter to Susan Davis, the town planner for the project and letter from the owner of the project. I am not an architect or a designer but have valid concerns that I hope you will be kind enough to look at.

My husband, Willie, and I, thank you very much for your help.

Sincerely,


Helen Cadiente
55 Hernandez Avenue
Los Gatos
354-0059

Crestwood

HELEN M. CADIENTE, R.N.
Owner / Administrator

Quality Refined Living for Seniors

State Lic. # 430708475
94 Hernandez Avenue
Los Gatos, CA 95030
408-354-3304

August 29, 2008

Ms. Susan Davis
Town Planner
110 E. Main Street
PO Box 949
Los Gatos, CA 95031

RE: 18 Palm Avenue
Los Gatos, Ca 95030


Dear Ms. Davis,

I called Ms. Sandy Bailey last week to try to voice a couple of concerns my wife and I have, but was referred to you. We are Willie and Helen Cadiente and we live next door to this project at 55 Hernandez Avenue, Los Gatos.

Our first concern is, regarding the pre 1941 structure. That structure used to be the garage of 55 Hernandez Ave. before the parcel was subdivided in the seventies. It should have been designated as a historical landmark when our house was designated by the Town as such in the nineties but was overlooked. This project should be referred to the Historical Commission for review. Let us not make the same mistake of overlooking a very significant structure that is part of the Malpas legacy. If you proceed with the defacing of the structure, we would like to copy the architectural integrity of the structure and build a likeness of it next to our Queen Anne Victorian.

Our second concern is, regarding the landscaping. I invite you to come and look at the proposed project from our side. WE DO NOT HAVE ANY MORE PRIVACY!!!!

Sincerely,


Willie and Helen Cadiente
348-4732
354-0059
PO Box 2322
Los Gatos, CA 95031

RECEIVED

SEP - 2 2008

TOWN OF LOS GATOS
PLANNING DIVISION

Dear neighbor,

My name is Rick Oderio. My wife Nikki and I own the property at 18 Palm Ave. We live there with our 3-year-old son Richy and newborn daughter Ava Jo. We have two German Shepherds Maggie and Magoo. Our dogs act ferocious but we promise, they are not. They are gentle and especially docile with our children and the many toddlers who visit. They only bark at passers by. I grew up in Los Gatos. My family has a long history here. My uncle was the owner of the corner drug store for over 30 years. We still have Post Office box 5!

We we're planning to build our dream home and raise our family in this wonderful neighborhood. It would be a modest home at 3000 square feet. You may have noticed the story poles. Some neighbors have objected to us building a home on our property. Some neighbors have objected to the architecture style and have demanded it be redesigned. To appease some of these objections, we redesigned some aspects including insulating our pets from the public. Although, we we're granted approval by the planning commission, * One neighbor has appealed the decision to the city council. She is not an architect nor a designer but is submitting her plans and ideas for our home. This would be laughable if it weren't for the tremendous expense and inconvenience to my family. In addition, the story poles have to be left up through this process. Besides being unsightly, they are dangerous. My son can't even play in his own yard.

The home we plan to build is a craftsman style inspired by the famous Lanterman home in La Canada, California designed by the world-renowned architect A.L. Haley and a smaller version of 40 Hernandez. We hired Los Gatos Architect David Britt and Los Gatos Home builder David Zicovich. Both are well known and quite reputable. We followed every rule, guideline and suggestion from planning. We hired the city's architect for any recommendations before being submitted for approval. It's been a year and a half. We are frustrated.

I wouldn't blame anybody for not wanting to get involved but if anyone could support our project it would be greatly appreciated.

Thank-you,
Rick and Nikki
408-204-6017

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SEP - 2 2008

TOWN OF LOS GATOS
PLANNING DIVISION

Planning Commission
Town of Los Gatos
Los Gatos, CA 95030

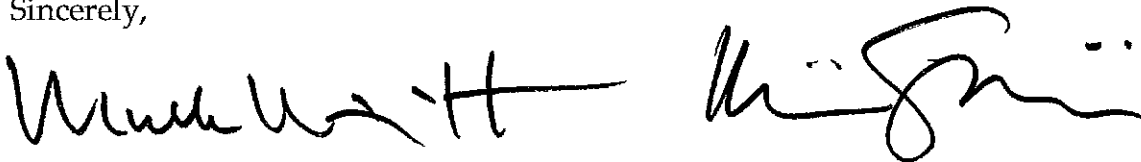
re: 18 Palm Avenue

To whom it may concern:

We are writing in support of Nikki and Rick Oderio's application to build a new house on 18 Palm Avenue.

We have carefully reviewed the plans and elevations, and we believe that the house as proposed would be an excellent addition to our neighborhood.

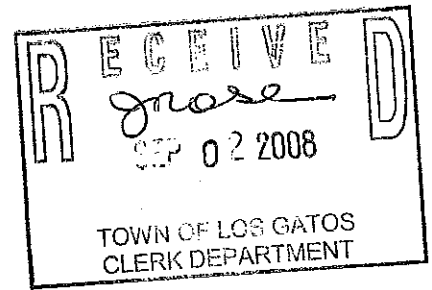
Sincerely,

Two handwritten signatures in black ink. The first signature is 'Mark Wainwright' and the second is 'Mimi Wainwright'.

Mark and Mimi Wainwright

Sept 2nd 2008

Lee & Paul Quintana
5 Palm Avenue
Los Gatos, CA 95030



September 2, 2008

Hon. Barbara Spector & Town Council
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

RE: Sept. 2 Council, Agenda No.6: Appeal of Architecture and Site
Application
S-07-211 Approval for 18 Palm Ave.

Dear Mayor Spector & Town Council Members,

As you know, we appealed the Architecture and Site approval that was approved for 18 Palm that was approved on June 25, 2008 by the Planning Commission. 18 Palm is directly across from our home.

I expressed concern at the Planning Commission about the design of the house after having raised these concerns with the applicant and staff to no avail many months prior to the hearing. In summary, our primary concerns were that:

- Palm Avenue has an architectural integrity dating back more than 100 years old, something few if any other blocks in Los Gatos can claim today;
- Mass and scale and the street presence of the proposed house design for 18 Palm is inconsistent with the immediate block, which is primarily Victorian. I would add that Palm Ave. is also unique in that it is only one block long, all but one of the 11 homes along this street face Palm Ave. and that the lot on which the proposed project sits was originally part of the parcel for 55 Hernandez, which has a Los Gatos Landmark designation.
- The design's unbroken roof-line and front building mass of approximately 70 feet, the massing of the home and its placement at the minimum front setback will result in the house appearing even more out of character with the development pattern for the rest of the block.

- The building coverage on the property far exceeds anything else on the block or in the neighborhood, even accounting for the larger parcel. And a house of equal size could easily be designed on a smaller footprint, protecting on site heritage trees. It is also interesting that it is not unusual for homes on this block and in the surrounding neighborhood to have large side yards (examples can be found on Palm Ave., Walnut Ave., Hernandez Ave., Peralta and Glenridge. (The FAR for the proposed house is .26 with accessory structures, the allowed FAR is .26).

Our concerns were articulated to Planning staff throughout the review process and we believe the design is in direct conflict with the spirit and intent of the town's design guidelines. It is telling that no immediate neighbor has expressed support for the project. However, at least two neighbors have expressed uneasiness about participating in the discussion because of the negative feedback they received from the applicant and staff. The Planning Commission shared many of these views and recommended the project be re-designed to provide for more articulation in the front elevation to the satisfaction of the Director of Community Development. (3-2).

As of a day before the end of the appeal period no decision had been made by the Planning Department and the suggested design modifications in the file from the applicant and the Town's Consulting Architect did not appear to adequately address the Commission's direction or concerns. In a conversation that day with staff stated that a decision would likely not be for several weeks. We filed the appeal primarily because we were not comfortable that the approval of any design modifications was to take place *after the close* of the appeal period.

As I believe you are aware, the applicant has redesigned the front elevation to provide more articulation and break up the ridge line. The Council Agenda Report for this item indicates that we were involved in this process. In fact, we were not directly involved by the applicant until after the revised drawings were submitted to the Planning Department. Although we were not directly any direct way redesign process from the beginning, indicated in the staff report, it is fair to say (without endorsing the current design) that the revisions are an improvement over the initial design reviewed by the Planning Commission. I also informally indicated to staff that I intended to withdraw my appeal based on those drawings if the concerns of neighbors regarding the front landscaping were also address.

The applicant has begun (albeit quite late in the process) to work with nearby neighbors on a host of landscape issues that are critical to us, and other neighbors, given the house's obvious inconsistency with the character of the immediate block. Many of us are especially concerned about how the house will be screened from the street and adjacent properties, as the current development is. For instance, it appears clear the applicant hopes to remove the large 60

inch pine, counter to his submitted plan and comments to the commission, which will make the house much more visible and dominant on the street.

We would like the opportunity to continue working with the applicant and Planning staff on these landscaping issues. Based on my discussions with the applicant, I presume he and his contractor would agree with this approach. Aside from any design concerns neighbors may have about the project, at least three of the applicant's other immediate neighbors, including The Morley's at 9 Palm, Carol Lange at 21 Palm, and the owners at 55 Hernandez also want to participate in this process. I hope you will agree this is a reasonable request in these circumstances and that you will include it in your action on this item.

Based on the activities regarding re-design that the applicant has made since the Planning Commission, as indicated in Attachment #4, I am comfortable having the council overlook my appeal provided that the new design identified in Attachment #4 is incorporated into the formal project approvals and that the Council direct the applicant and the staff to work cooperatively with the surrounding neighbors on the landscaping plan to ensure proper screening and that at a minimum the lighting, fencing and planting plans are consistent with the rest of the block and do not harm the oak trees.

In closing, I want to note a couple of procedural concerns about this project for the Council. First and foremost, the design before the Council tonight is in the applicant's own words and staff's recommendations a far better one than initially proposed for approval - this would likely not have occurred but for our objections and appeal. The delay in approval of this project and any inconvenience to the applicant is a direct result of their own and staff's actions. Had an effort been made to truly consult with neighbors as the initial plan was being developed, a much better design than is even now before the Council for consideration could have been achieved in a much quicker timeline. It is clear the Town Council would not have been put in the unfortunate position of having to hear the matter had Planning staff and the applicant done the work required of them in the front end of the process.

I also have serious concerns about historic and tree preservation issues arising in this project. In Planning staff's zeal to approve the project staff ignored legitimate input from surrounding neighbors provided many months ago, and a couple of major procedural shortcuts were taken that are disturbing and worth noting. For instance, historic preservation was an afterthought in this process. The existing home on the property is an historic structure in its own right with a significant relationship to the home on 55 Hernandez (a Los Gatos Landmark) which as a basic matter of town policy, if not state law, required an historic survey to be completed before design review began. Why staff allowed the applicant to avoid this step is unknown, but failing to do so is unacceptable as it sets a terrible precedent for future projects. The Planning Commission acknowledged this error, but in approving the project added a condition that the

project be sent the project to the Historic Preservation Committee to review the existing structure on the site. Given that the parcel in question was originally associated with the Landmark site, we believe an historic report was necessary to address the proposed new home and its affect on the adjacent Landmark property.

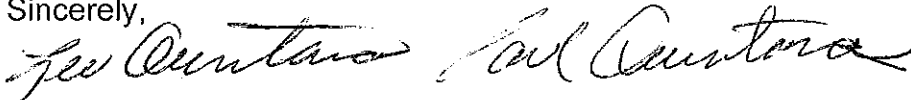
In addition, the property has a number of mature trees, including a large pine on the front property line. The arborist report and consulting arborist review indicates the construction would likely cause the pine's premature decline. No effort was made by staff to push the house away from the tree or shrink the footprint of the house to better preserve it, a stated objective of the town staff and the applicant (at least initially). Both of these approaches would have had the dual benefit of protecting the tree and reducing the scale and massing of the house at the street but never warranted any consideration by staff.

I am of course interested in this mater because it is across the street from us and I am sure the council would not deny anyone the right to be heard on a matter so close to home. We can and should do better as a town in designing homes, particularly on unique streets like Palm Avenue. Any applicant bears an obligation to make a responsible proposal after properly consulting with neighbors. Staff has an obligation to make a comprehensive professional review and recommendation after accounting for reasonable community input. When neither fairly occurs, an appeal is warranted as it was in this case for the reasons stated which everyone agrees got a better result.

We believe there has been sufficient evidence presented to find that there is both error and that there is new information.

We ask, however, only that Council modify the project to 1) incorporate the changes to the front elevation and footprint, as shown in Attachment 4. and 2) direct staff and the applicant to develop a landscape plan for the front and sides of the property that is agreeable to the affected neighbors.

Sincerely,

The image shows two handwritten signatures in black ink. The first signature, on the left, is 'Lee Quintana' and the second, on the right, is 'Paul Quintana'. Both are written in a cursive, flowing style.

Lee Quintana
Paul Quintana