

**MINUTES OF THE TOWN COUNCIL/PARKING
AUTHORITY/REDEVELOPMENT AGENCY
SEPTEMBER 15, 2008**

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Monday, September 15, 2008 at 7:00 P.M.

TOWN COUNCIL/PARKING AUTHORITY/REDEVELOPMENT AGENCY

MEETING CALLED TO ORDER

ROLL CALL

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

Absent: None.

PLEDGE OF ALLEGIANCE - LED BY FUTURE LEADER

The following 8th graders led the Pledge of Allegiance:

Melissa Heng from Fisher Middle School, **Kylie Palacio** from Hyde Middle School, **Paige Kettenberg** from Union Middle School, **Gabrielle Whetstone** from Bernal Middle School, **Emily San Juan** from Fisher Middle School, **Stephanie Probst** from St. Martin of Tours, **Tori Walker** from Fisher Middle School, **Kylie Von Richter** from The Kings Academy, **Kayla Knapp** from Fisher Middle School. The audience was invited to participate.

CLOSED SESSION REPORT

There was no Closed Session scheduled for this meeting.

PRESENTATIONS

Commendation – Arts Commission/Music in the Park Committee

Mayor Barbara Spector

- Presented commendations to members of the Arts Commission for their volunteer time to the community and the success of the 2008 Music in the Park Event. **Valerie Hopkins, Jonathan Knowles, Tricia Capri, Mary Curtis, Marianne Hamilton, David Stonesifer, Jade Bradbury, Penelope Oneill, and Mika Storz** were present to accept their commendations.
- **Valerie Hopkins** was acknowledged by the commission for her leadership on Music in the Park.

TOWN COUNCIL

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

1. **Ratify payroll for the month of August 2008.**
2. **Ratify accounts payable for the month of August 2008.**
3. **Accept Treasurer's Report of July 2008.**
4. **Approve Council Study Session minutes of August 25, 2008.**
5. **Accept Staff Recommendation on County Referrals.**
 - a. **Projects outside urban service area: None**
 - b. **Projects inside urban service area: 15841 Loma Vista Avenue**
 - c. **Status of previous applications: None**

Consent Items - Continued

6. **Adopt resolution denying an appeal of a Planning Commission decision approving a request to construct a new single family residence and to convert an existing pre-1941 residence to an accessory structure on property zoned R-1:8. Architecture and Site Application S-07-211 APN 510-42-052. Property location: 18 Palm Avenue. Property owner: Rick & Nicki Oderio. Applicant: David Zicovich. Appellants: Paul & Lee Quintana. RESOLUTION 2008- 101**
7. **Adopt resolution making determinations and approving the reorganization of territory designated Hilow Road No. 3 containing approximately 1.12 acres located at 16362 Hilow Road (APN: 532-04-082). File #AN08-02. RESOLUTION 2008- 102**
8. **PPW Job No. 06-08A Retaining Wall Construction along Los Gatos Creek Trail - Project 411-815-0301 Adopt resolution accepting work of Casey Construction and authorizing the Town Manager to execute Certificate of Acceptance and Notice of Completion for recording by the Clerk Administrator. RESOLUTION 2008- 103**
9. **PPW Job No. 07-17 - Fiscal Year 08-09 - Curb, Butter, and Sidewalk Replacement Project 411-813-9921.**
 - a. **Adopt resolution declaring Golden Bay Construction to be the lowest responsible bidder on the project and award a construction contract in the amount of \$165,585.00. RESOLUTION 2008- 104**
 - b. **Authorize staff to execute future change orders to the construction contract as necessary up to an amount of \$16,000.00.**

Consent Items – Continued

10. **PPW Job No. 07-10 - Fiscal Year 08-09 Retaining Wall Replacement at University Avenue and Wooded View Drive Project 411-815-9930.**
 - a. **Adopt resolution declaring Casey Construction to be the lowest responsible bidder on the project and award a construction contract in the amount of \$169,679.00. RESOLUTION 2008-105**
 - b. **Authorize staff to execute future change orders to the construction contract as necessary up to an amount of \$16,000.00.**
11. **PPW Job No. 07-21 - Surface and Base Repair, Manhole, and Valve Adjustment Grade Project 411-811-9901.**
 - a. **Adopt resolution declaring Joseph J. Albanese, Inc. to be the lowest responsible bidder on the project and award a construction contract in the amount of \$204,045.00. RESOLUTION 2008-106**
 - b. **Authorize staff to execute future change orders to the construction contract as necessary up to an amount of \$20,000.00.**

REDEVELOPMENT AGENCY

12. **Ratify accounts payable for the month of August 2008.**

TOWN COUNCIL/REDEVELOPMENT AGENCY

13. **Approve Council/Agency minutes of September 2, 2008.**
14. **Accept notice indicating that Town/Redevelopment Agency Conflict of Interest Code does not require biennial amendment.**

Consent Items – Continued

Mr. Davis pulled Consent Item #4.

Council Member Mike Wasserman recused himself from item #6 due to the location of his residence and his association with the developer.

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

MOTION: **Motion by Council Member Steve Glickman** to adopt Consent Items #1-3 and #5-14.

Seconded by Council Member Joe Pirzynski.

VOTE: **Motion passed unanimously.**
Consent Item #6 carried 4/0. Council Member Mike Wasserman recused himself.

VERBAL COMMUNICATIONS

Mr. Davis received 2 warnings for disrupting the meeting.

Mr. Davis

- Commented on preserving the values of Los Gatos.
- Commented about a lawsuit that Sara Cole filed against the Town.
- Commented that he thinks the area where Sara Cole parked at Blossom Hill Park is an "attractive nuisance."

Ms. Dallas

- Commented about the Residential Design Guidelines and that it would be a good idea to have an Architect on the Town Council.

Mr. Winter

- Commented about the Town's response time to address street and weed issues.
- Commented on the lack of communication about the blighted property on Calle Marguerita.

Verbal Communications – Continued

Mr. Larson, Town Manager

- Commented on the Safe Routes to School grant for sidewalks along Blossom Hill Road between Cherry Blossom and Short Road.

Mr. Korb

- Commented about the status of the property at Calle Marguerita and clarified the next steps.

Closed Verbal Communications

PUBLIC HEARINGS

15. **Update and merge the pre-1941 Design Guidelines and the Residential Development Standards for all single family and two family dwellings in all zones except the Resource Conservation and the Hillside Residential Zones; introduce ordinances amending zoning code consistent with design guidelines (continued from 8/4/08) (STAFF RECOMMENDS CONTINUANCE TO 10/6/08) Zoning Ordinance Amendment A-08-01 Applicant: Town of Los Gatos Historic District Designation Applications HD-08-01, HD-08-02, HD-08-03 and and D-08-04.**

Open/Closed Public Hearing

MOTION: **Motion by Vice Mayor Mike Wasserman** to continue the update and merge of the pre-1941 Design Guidelines and the Residential Development Standards for all single family and two family dwellings in all zones except the Resource Conservation and the Hillside Residential Zones; introduce ordinances amending zoning code consistent with design guidelines. Zoning Ordinance Amendment A-08-01 Applicant: Town of Los Gatos.Historic District Designation Applications HD-08-01, HD-08-02, HD-08-03 and and D-08-04 to October 6, 2008.
Seconded by Council Member Joe Pirzynski.

VOTE: **Motion passed unanimously.**

Public Hearings - Continued

- 16. Appeal of a Planning Commission decision denying Architecture and Site for a new residence, pool, tennis court and accessory structures within an approved Planned Development on property zoned HR-2 1/2:PD. Architecture and Site Application S-08-55 APNS 537-29-007 & 008 Property Location: Kennedy Road @ Forrester Road Applicant/Appellant: Rob DeSantis.**

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

Mr. Larson, Town Manager

- Clarified that the decision before Council is an appeal of the Planning Commission decision denying the Architecture and Site for the property on Kennedy at Forrester.

Mayor Barbara Spector called for a recess at 7:35 p.m. Meeting resumed at 7:40 p.m.

Mr. Larson, Town Manager and **Mr. Korb**, Town Attorney

- Clarified Council actions related to the Architecture and Site process.

Council Comments

- Requested clarification about the letter from **Mr. Hare** who represents Friends of the Hillside.
- Questioned the tree removal permit process.
- Questioned if there is any new information before Council that was not discussed at the last Planning Commission meeting.
- Requested clarification about the Mitigated Declaration as stated on Attachment #5.

Mr. Korb

- Commented that staff does not concur with the contents of the letter submitted by **Mr. Hare** and that the matter is under litigation and cannot not be discussed.
- Commented that the Planned Development previously approved is final as to the elements of the project it addressed. The issues concerning the security wall, landscaping, and outdoor lighting raised by the Planning Commission were not resolved by the Planned Development and can be addressed in the context of the Architecture and Site review.

Public Hearing Item #16 – Continued

Open Public Hearing

Mr. DeSantis, Applicant/Appellant

- Commented that the application is consistent with the Planned Development process.
- Commented that the Planned Development would not allow any further development on the property.
- Commented that he has worked with the Town, community, and neighbors to mitigate impacts to the hillside.
- Commented that the Architecture and Site elements are in compliance with the Planned Development as approved.
- Commented that the plan includes an organized traffic plan for the off haul of dirt.

Council Comments

- Questioned why the applicant feels that the denial was outside the scope of the Planned Development.
- Questioned the location of the security fencing.

Mr. DeSantis

- Commented that the Planned Development included a security fence and landscape plan.
- Clarified his ideas for the location of the security fence.
- Commented on creating a secure site for his children.

Mr. Sagari

- Commented on supporting the proposed project.

Mr. Little

- Commented on supporting the proposed project.

Mr. Pillari

- Commented on supporting the proposed project.

Ms. Dreger

- Commented against the proposed project and the disregard for the hillside.

Mr. Ardizzone

- Commented on supporting the proposed project.
- Questioned the decision of the Planning Commission.

Public Hearing Item #16 – Continued

Mr. McNeill

- Commented on the Planned Development process and that the security plans, landscape design, and outdoor lighting should be reviewed.

Mr. Davis

- Commented that the community can speak on any issue relating to the project.
- Commented about the Hillside Specific Plan.
- Commented about the procedures for Architecture and Site review.

Mr. Devine

- Questioned if a study was completed to assess pesticide run-off into Ross Creek.

Mr. Hare

- Commented against the proposed project.
- Commented that all conditions must be complied before grading permits are issued.
- Commented on policies relating to water run-off issues at the location.

Mr. Zubrycky

- Commented on supporting the proposed project and that copper roofs are allowed.

Mr. Grounds

- Commented that Planning Commissioner **Michael Kane** did not disclose that he attended the Friends of the Hillside meetings and accepted campaign contributions from the group.

Ms. Makdissy

- Commented on supporting the proposed project.

Mr. Del Fiugo

- Commented against the proposed project.
- Questioned if all appropriate studies have been completed.

Mr. Omanoff

- Commented on supporting the proposed project.

Mr. Culp

- Commented that Planning Commissioners should discuss potential conflict of interest issues.
- Commented on supporting the proposed project.

Public Hearing Item #16 - Continued

Mr. Sexton

- Commented against the proposed project.
- Read a written statement by Richard Donnelly which stated that he was against the proposed project.

Mr. Donnelly

- Commented against the proposed project and would like to see the hillsides protected.

Ms. Donnelly

- Commented against the proposed project.
- Commented that the applicant should follow the rules and guidelines in the General Plan and Hillside Standards and Guidelines.

Mr. Ferrito

- Commented against the proposed project.

Mr. Blakeney

- Commented about the Architecture and Site design process and that he supports the proposed project.
- Expressed concerns about **Michael Kane** attending the Friends of the Hillside meeting and that he accepted contributions from the group.

Mr. Faraone

- Commented on supporting the proposed project.
- Commented that a majority of the neighbors support the project.

Ms. Weber

- Commented that the neighborhood supports the project and that it will be a great asset to the town.
- Stated that the neighbors would much rather have one home verses a sub-division.

Mr. Cruz

- Commented on supporting the proposed project.

Ms. Chadwick

- Commented that she has never seen any story poles at the location.
- Suggested that the proposed plans should adhere to the Hillside Standards and Guidelines.

Public Hearing Item #16 - Continued

Mr. Spinner

- Commented on supporting the proposed project.
- Commented that coyotes are intense and that the applicant needs a security fence to keep coyotes out.

Ms. Rasekhi

- Commented on supporting the proposed project.
- Suggested adding sidewalks along Kennedy Road.

Mr. Quintana

- Commented against the proposed project.
- Questioned the location of the security fence.
- Questioned environmental reports relating to the wildlife issues.

Mr. Carroll

- Commented on supporting the proposed project.

Mr. Weissman

- Commented that future subdivisions would not be permitted on the property.
- Commented about Conditions of Approval for the 1978 subdivision that was approved at the site.
- Commented that the proposed security fence is located within 150 feet of the property line, which is prohibited.

Mr. Goguen

- Commented about a group called Concerned Citizens for Kennedy Road.
- Commented on supporting the proposed project and requested that sidewalks be constructed along Kennedy Road from Los Gatos Road to Stoneybrook.

Mr. Morley

- Commented on supporting the proposed project.

Mr. Konrad

- Commented against the proposed project and that the project should follow the Hillside Standards and Guidelines.
- Commented on the commitment to sustainability.

Public Hearing Item #16 - Continued

Ms. Quintana

- Commented that the proposed project should follow the Hillside Standards and Guidelines.
- Commented that the Architecture and Site Plan is incomplete.
- Commented that there was new information presented as part of the Architecture and Site plan.

Ms. Moreton

- Commented on the lack of environmental surveys pertaining to wildlife.
- Commented on the outdoor lights affecting the animals.
- Suggested a deed restriction to limit future lighting and fencing.

Ms. Middlebrook

- Commented on sustainable development and watershed management for the property.
- Commented that there is information on landscape options which could accommodate the requirements for the proposed project.
- Questioned if there is a watershed management plan.

Mr. DeSantis, Applicant/Appellant

- Commented that there are many options relating to hydrology, lighting, fences, and the 73 Conditions of Approval which will be addressed as the project evolves.
- Commented on irrigation for the proposed project.
- Suggested that he has the legal right to subdivide the property.
- Commented that many studies were conducted on the proposed project.

Closed Public Hearing

Mayor Barbara Spector called for a recess at 9:31 p.m. Meeting resumed at 9:40 p.m.

Mr. Larson, Town Manager

- Clarified the process for granting or denying an appeal.

Public Hearing Item #16 - Continued

Council Discussion

- Questioned the status of a Storm Water Pollution Prevention Plan.
- Questioned when the list of plants for the landscape plan would be presented to Community Development.
- Questioned if the landscape plan needs to be approved as part of the Architecture and Site Plan.
- Questioned if the request made by the Planning Commission about the landscape plan is inconsistent with the Planned Development.

Mr. Lortz

- Clarified the process for a storm water plan and commented that the plant species for exterior vegetation would be submitted prior to a building permit.
- Commented that there are two grading permit approvals under the Planned Development.
- Commented that a draft Storm Water Pollution Prevention Plan has been submitted to Community Development for review prior to Water Quality Control Board approval.
- Commented that the Storm Water Prevention Plan would need to be completed before any stripping of the earth is permitted.
- Clarified that the request by the Planning Commission for a landscape plan may have been pre-mature.
- Commented that it is rare to have a detailed landscape plan at Architecture and Site level.

Council Discussion

- Requested clarification on the process for upholding the appeal and related the next steps.

Mr. Larson

- Clarified the process for upholding an appeal.

Mr. Korb, Town Attorney

- Clarified the process for granting an appeal.

Council Discussion

- Commented that the applicant and the Planning Commission should work to address outstanding issues.
- Commented on the Planned Development process.

Public Hearing Item #16 - Continued

MOTION: **Motion by Vice Mayor Mike Wasserman** to deny the appeal of a Planning Commission decision denying Architecture and Site for a new residence, pool, tennis court and accessory structures within an approved Planned Development on property zoned HR-2 1/2:PD. Architecture and Site Application S-08-55 and that the remaining items which include the security fence and a more detailed landscape plan be remanded to the Planning Commission for review.

Seconded by Mayor Barbara Spector.

VOTE: **The motion failed 2/3. Mayor Barbara Spector and Vice Mayor Mike Wasserman voted yes.**

MOTION: **Motion by Council Member Steve Glickman** to grant an appeal of a Planning Commission decision denying Architecture and Site for a new residence, pool, tennis court and accessory structures within an approved Planned Development on property zoned HR-2 1/2:PD. Architecture and Site Application S-08-55 on the basis that there was error or abuse of discretion on the part of the Planning Commission.

Motion failed due to lack of second.

MOTION: **Motion by Council Member Diane McNutt** to grant an appeal of a Planning Commission decision denying Architecture and Site for a new residence, pool, tennis court and accessory structures within an approved Planned Development on property zoned HR-2 1/2:PD. Architecture and Site Application S-08-55 on the basis of an issue of policy which Planning Commission did not have discretion to modify or address, but is vested in the Council for modification or decision.

Seconded by Council Member Joe Pirzynski.

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

Public Hearing Item #16 - Continued

Mr. Larson

- Commented on the next steps for the Architecture and Site plan process.

MOTION:

Motion by Council Member Joe Pirzynski to make the required findings and considerations at stated in Attachment 1 of the staff report and move to approve the Architecture and Site application: S-08-55 subject to conditions in Exhibit 2 and as shown in the development plans (Attachment 3) and fencing, lighting and landscape design plans (Attachment 4 and 5).

Seconded by Council Member Diane McNutt.

Council Discussion

- Commented on the prior approval of the Planned Development and specifics noted for the Architecture and Site plan process.
- Commented that the project meets the Hillside Standards and Guidelines.
- Expressed concerns about ethics and for recusing oneself from an issue.

VOTE:

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

OTHER BUSINESS

There is no Other Business scheduled for this meeting.

PULLED CONSENT ITEMS

4. Approve Council Study Session minutes of August 25, 2008.

Mr. Davis

- Commented that there was not adequate or appropriate noticing for the August 25, 2008 Study Session on the North Forty.
- Commented that the public was not present to comment on the need for recreation/sports facilities.

MOTION:

Motion by Council Member Joe Pirzynski to approve Council Study Session minutes of August 25, 2008.

Seconded by Vice Mayor Mike Wasserman.

Pulled Consent Item #4 – Continued

Council Discussion

- Commented that 15 to 20 people from the community attended the study session and the issues and concerns regarding recreation/sports facilities were discussed.

VOTE: **Motion passed unanimously.**

COUNCIL/TOWN MANAGER REPORTS

17. Council Matters

There were no Council Matters for this meeting.

18. Manager Matters

Mr. Larson, Town Manager

- Commented that besides the regular noticing for the North Forty Study Session it was announced at two prior Town Council meetings and covered by the local media.
- Commented on the latest updates for the State Budget and the impact to the Town's redevelopment funds.

Council Comments

- Questioned the impacts on the Library project if redevelopment funds were taken by the State.

Mr. Larson

- Clarified that the State may approve a one-time take of up to \$600,000 from redevelopment funds from the Town.
- Gave an update on Kennedy Road traffic calming issues and commented that Todd Capurso, Director of Parks and Public Works would be participating in a neighborhood walk to school on September 16, 2008.

ADJOURNMENT

Attest:

Jackie D. Rose, Clerk Administrator