

**MINUTES OF THE TOWN COUNCIL/PARKING AUTHORITY/
SUCCESSOR AGENCY MEETING
SEPTEMBER 4, 2012**

The Town Council of the Town of Los Gatos conducted a Special Meeting on Tuesday, September 4, 2012 at 5:45 P.M.

STUDY SESSION CALLED TO ORDER AT 5:45 P.M.

Discussion Topics

1. Height Pole and Netting Policy Consideration of modifications to and implementation of the Height Pole and Netting Policy

Wendie Rooney, Director of Community Development, presented the staff report.

Council Questions

- Questioned whether staff contacted any consultant who does this work and who is familiar with unique features of Los Gatos.
- Questioned the function of the cranes.
- Questioned when signs regarding public hearings would be posted.
- Questioned whether Town staff posts notices about incoming applications prior to the time they are placed on an agenda.
- Questioned the time requirement to remove story poles.
- Questioned how the Town Manager's exception would work.
- Questioned whether there could be a menu of acceptable exceptions.
- Commented that cranes and balloons do not provide good representations for projects.
- Commented that this is an amendment to policy and not a new policy.

Ms. Rooney

- Commented that staff will contact companies that specialize in this work, and other communities have similar unique features.
- Commented that cranes would hold netting to show four corners of a building
- Commented that most jurisdictions would not require signs for single family remodeling projects but would for unique larger projects.
- Commented that currently there is no notice to residents before an item is placed on an agenda.

Study Session Item #1 – Continued

- Commented that there should be graphical representations, which would also help to develop an electronic database of projects; however, there are technological challenges to overcome.
- Commented that story poles should be removed 30 days after a hearing, and this is enforced through a condition of approval.

Greg Larson, Town Manager

- Commented that Town staff could contact consultants before implementing documents are brought back before Council.
- Clarified that the Town Manager would give notice to the Council, within the limits of the Brown Act, before finalizing an exception to the policy and that any exception granted would be posted.

2. Review of Code Enforcement Policies and Practices

Greg Larson, Town Manager, presented the staff report.

Council Discussion

- Commented that staff should develop an outreach communication tool.
- Requested clarification about a statement in the staff report regarding the staff's training and education regarding code enforcement.
- Commented that the Town staff is doing a good job of code enforcement and expressed support for staff's recommendations.
- Commented that, under certain conditions, the Planning Commission should hear code enforcement issues related to CUP violations.
- Commented that temporary suspension of enforcement for up to 90 days is a sensitive judgment call, based on the type of violation and how easy or difficult it would be to abate the violation.
- Commented that enforcement should be suspended for only up to 60 days.
- Requested clarification that compliance with a current CUP would be required before any CUP modification is granted.

Mr. Larson

- Commented that since 2008, there has been no dedicated code enforcement officer, and code enforcement tasks have been smaller parts of many people's job.
- Commented that staff has handled enforcement matters well.
- Commented that health and safety issues are in the hands of the Building Official, per state law.

Study Session Item #2 – Continued

- Commented that the enforcement suspension period is up to 90 days but can be decreased to 60 days, when someone in violation is making timely and tangible improvements to abate the violations.

Open the Public Hearing

Ms. Dodson

- Expressed concern about the operation of Hillbrook School during the summer.

Mr. Pacheco

- Commented that a foam model option should be included with the story pole policy.

Ms. Quintana

- Questioned whether the urgency ordinance regarding downtown shopping needs to be removed.
- Commented that simulations do not show mass, scale, and height.

Mr. Larson

- Commented that the ordinance to which Ms. Quintana referred was time specific and no further action is needed.

Closed the Public Hearing

Council Consensus on Study Session Items #1 and #2

- Council directed that staff proceed with the recommendations and incorporate Council's feedback.

Mayor Rice requested a recess at 6:46 p.m. The Town Council meeting resumed at 7:00 p.m.

BUSINESS MEETING CALLED TO ORDER AT 7:00 P.M.

ROLL CALL

Present: Mayor Steve Rice, Vice Mayor Barbara Spector, Council Member Steven Leonardis, Council Member Diane McNutt, and Council Member Joe Pirzynski.

Absent: None

PLEDGE OF ALLEGIANCE

XinNi Chai from Los Gatos High School led the Pledge of Allegiance. The audience was invited to participate.

CLOSED SESSION REPORT

Judith Propp, Town Attorney, commented that Council met in closed session following the special meeting on August 22, 2012 and took no reportable action.

COUNCIL/TOWN MANAGER REPORTS

Council Matters

Council Member Pirzynski

- Requested that the Council consider the issue of wrapping downtown trees with lights.

Mayor Rice

- Agreed Council should place the matter on a future agenda.

Town Manager

- Suggested staff bring back a bid for the installation of the lights for Council consideration.

Manager Matters

- Commented that the deadline to apply for Leadership Los Gatos and to sign up for community wide garage sale is Friday, September 7, 2012.
- Commented that Taste of Los Gatos will be on Sunday, September 9, 2012.
- Commented that "The Lorax" will be shown on Friday September 20, 2012 for Screen on the Green.

Did You Know??

Jackie Rose, Community Outreach Coordinator

- Commented on the activities in the five parks to celebrate the Town's 125th birthday on August 10, 2012.

Mayor Rice

- Recognized the many volunteers who made the Jubilee Year celebrations in the park a success, especially those organizations who hosted parties in the park: CASA, Los Gatos/Monte Sereno CERT, the Los Gatos Lions Club, the Belwood HOA, and Live Oak Adopt-a-Park.

PRESENTATIONS

Proclamation

- Mayor Rice presented a proclamation to the Gold Ribbon Club Members for their work regarding Childhood Cancer Awareness Day

Commendation

- Mayor Rice presented a commendation to Dale Bryant, Executive Editor, for her years of service on the Los Gatos Weekly Times and for the two special sections the newspaper produced for the new library and Jubilee Year.

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

1. Approve Council minutes of August 22, 2012
2. Approve Response to Grand Jury Report regarding Analysis of Pension and Other Post-Employment Benefits
3. Property Location: 90-160 Albright Way and 14600 Winchester Boulevard Adopt resolution to set aside and void approvals of a request to change the zone from CM:PD to CM:PD; a development agreement; Planned Development Application PD-010-05; Architecture and Site Application S-11-051; and Mitigated Negative Declaration ND-11-04. APN's: 424-31-053, 054, 063, 424-32-038, 045, 049, 054, 059, 060, and 063
 - Vice Mayor Spector pulled Item #3 from the consent agenda.

MOTION: **Motion by Vice Mayor Barbara Spector** to approve Consent Items #1-2.
 Seconded by Council Member Joe Pirzynski.

VOTE: **Motion passed unanimously. Vice Mayor Spector abstained from approval of Item #5 on the August 22, 2012 minutes.**

VERBAL COMMUNICATIONS

There were no verbal communications for this meeting.

PUBLIC HEARINGS

4. Conditional Use Permit Application U-12-007. Property Location: 40 N. Santa Cruz Avenue, Suite A. APN: 529-03-050. Property Owner: Los Gatos Investments, LLC. Applicant: Stephen Shelton and James Marino. Consider a request to operate a restaurant with outdoor seating and full alcohol service on property zoned C-2. APN 529-03-050

Marni Moseley, Associate Planner, presented the staff report.

Council Discussion

Mr. Marino and Mr. Shelton, Applicants

- Commented that this project will provide sustainable fine dining in a non-formula restaurant.
- Commented that the former site was broken into smaller suites, so the proposed project has the 4:1 retail to restaurant ratio.
- Commented that this project represents good use land use choices for the Town.

Mr. Farwell, Owner

- Commented that this project was vetted and is appropriate for this site.

Council Questions

- Questioned the total square footage of former the Domus site.
- Questioned how long the property has been in the Farwell family.
- Questioned the significance of the black line in the diagram labeled A.2.1.
- Commented that the applicants' three strongest arguments for approval are not memorialized in the CUP, so those promises are not guaranteed.

Mr. Farwell

- Commented that the former site was approximately 7,400 square foot, and this restaurant is 1,450 square feet.
- Commented that the black line represents a wall.
- Commented that this property has been in the family for generations and it is not for sale and nor does the family intend to allow a formula chain restaurant to lease the space.

Open the Public Hearing

Ms. Goodman

- Expressed support for the proposed project.

Item #4 – Continued

Mr. Goodman

- Expressed support for the proposed project.

Mr. Papadopoulos

- Expressed support for the proposed project.

Mr. Showalter

- Expressed support for the proposed project.

Mr. Riviello

- Expressed support for the proposed project.

Mr. Thune

- Expressed support for the proposed project.

Ms. Simon

- Expressed support for the proposed project.

Mr. Mulcahy

- Expressed support for the proposed project.

Mr. Mailhot

- Expressed support for the proposed project.

Mr. Cardona

- Expressed support for the proposed project.

Mr. Struthers

- Expressed support for the proposed project.

Mr. Yamashita

- Expressed support for the proposed project.

Mr. Kaschub

- Expressed concern about the proposed project.

Mr. Young

- Expressed support for the proposed project.

Item #4 – Continued

Ms. Lennan

- Expressed support for the proposed project.

Mr. Ng

- Expressed support for the proposed project.

Mr. Vinneras

- Expressed support for the proposed project.

Mr. Perkins

- Expressed support for the proposed project.

Ms. Croll

- Expressed support for the proposed project.

Ms. Jaquet

- Expressed support for the proposed project.

Mr. Brown

- Expressed support for the proposed project.

Ms. Mailhot

- Expressed support for the proposed project.

Mr. Lennan

- Expressed support for the proposed project.

Mr. Allen

- Expressed support for the proposed project.

Ms. Raynak

- Expressed support for the proposed project.

Ms. Zercher

- Expressed support for the proposed project.

Mr. McClelland

- Expressed support for the proposed project.

Closed the public hearing

Item #4 – Continued

Council Questions

- Questioned the parking requirements and the rationale for including the square footage of the office in determining the number of parking spots needed.
- Requested clarification about whether the number of seats is tied to the off-site square footage.

Ms. Moseley

- Commented that historically office space has been included when determining the number of parking spaces needed.
- Commented that one parking space is needed for every four seats.
- Commented that the office space is part of the CUP and lease, and it allows the tenants to have two additional restaurant seats.

Council Discussion

- Commented that this decision is difficult because it raises the issue of restaurants moving into retail space, which Council has denied in the past.
- Commented that Ordinance 2021 states that restaurants moving into retail space are discouraged, but not prohibited, and that it may be time to re-visit Ordinance 2021.
- Commented that internet commerce will not completely replace people visiting retail establishments for a shopping experience because often people visit retail stores and decide to purchase items while there.
- Commented that the Planning Commission erred when it unanimously denied this application.
- Commented that the Planning Commission did not err because they were following the guidelines of Ordinance 2021.
- Commented that the public comment portion of the hearing was convincing and showed why people should participate in public hearings.

Item #4 – Continued

- MOTION:** **Motion by Council Member Steven Leonardis** to approve the application (Attachments 1, 3, and 4) and to insert the following conditions:
- If the Town adopts an ordinance or a resolution in the future which regulates formula restaurants, this CUP shall be subject to that ordinance or resolution
 - The approved use is for quality sit down restaurant in Suite A (1,487 square feet).
- Seconded by Vice Mayor Barbara Spector.**

VOTE: **Motion passed unanimously.**

Mayor Rice requested a recess at 9:11 p.m. The meeting resumed at 9:22 p.m.

OTHER BUSINESS

5. Direction regarding Conceptual Re-use Plan for the Town-owned Former Library Facility

Pamela Jacobs, Assistant Town Manager, presented the staff report.

Council Questions

- Questioned why the Museums' proposed use would require a CUP but the Friends' proposed use would not.

Ms. Avila, Senior Planner

- Commented that per the Town Code and the Planned Development permit for the Civic Center, the Museums' proposed use is not listed as a permitted use, and therefore a CUP is required.

Mr. Agg, Executive Director of the Los Gatos Museums

- Presented the Museums' proposal.

Council Discussion

- Questioned the location of the outside sculpture garden and whether patrons could enter the space from two entrances.

Item #5 – Continued

Mr. Agg

- Commented that the inside exhibit area does not lend itself to three dimensional art.
- Commented that having only one entrance allows Museum staff to control flow of traffic and provide guidance to the patrons' viewing experience.

Ms. Archer, Executive Director of the Friends of the Library

- Presented the Friends of the Library's proposal.

Open the Public Hearing

Mr. Havelka

- Expressed concern about breaking the space into smaller areas.
- Expressed concern about the proposed retail bookstore and office space.

Ms. Comport

- Commented that this project presents the opportunity for a blend of history and art in a cultural center.

Ms. Lam

- Commented that this project presents the opportunity for a blend of history and art in a cultural center.

Mr. Spilsbury

- Expressed concern about breaking the space into smaller areas.
- Expressed concern about the proposed location of the retail bookstore.

Mr. Howard

- Encouraged thought about the larger narrative, which is how the public becomes friends of the arts.

Ms. McGrath

- Expressed support for the Museums of Los Gatos.

Mr. Parsons

- Expressed support for the Museums of Los Gatos.

Ms. Savage

- Commented that people come downtown for art and history.

Item #5 – Continued

Ms. Nishimura

- Commented that the Friends of the Library retail store will help fund the library.

Ms. Javy

- Commented that this process should not be rushed.

Ms. Leeds

- Expressed concern about the proposed retail bookstore.

Mr. Rivera

- Commented that this project presents the opportunity for two organizations to work together.

Ms. Flick

- Expressed support for the Museums of Los Gatos.

Ms. Stingel

- Expressed support for the Museums of Los Gatos.

Ms. Karloff

- Expressed support for the Museums of Los Gatos.
- Expressed concern about breaking the space into smaller areas and allowing offices.

Ms. Wolf

- Expressed support for the Museums of Los Gatos.

Mr. Davage

- Encouraged the Council to make a thoughtful decision.

Ms. Rodman

- Expressed concern about the tone of the discussion during the public hearing because the goal should be to reach a compromise, but the Museum speakers expressed their desire for the entire space.

Ms. Quintana

- Expressed support for both organizations and encouraged cooperation between the organizations.

Item #5 – Continued

Ms. Martin

- Expressed support for the proposed project.

Ms. Baum

- Commented that the Friends of the Library exists to support the Library.

Ms. Parsons

- Expressed support for both organizations and encourage cooperation between the organizations.

Closed the Public Hearing

Mr. Larson

- Commented that less than 4% of the space is requested by the Town and less than 15% of the space is requested by the Friends of the Library.

Council Discussion

- Commented that this process has continued for months and is not rushed.
- Commented that this is a Town-owned building and it is up to the Council, and not any group in particular, how the building should be used
- Commented that some speakers from the Museums seemed to believe that their organization was entitled to use the space.
- Commented that the groups should work together and compromise.
- Commented that the negotiations over the summer went well and that the materials this evening represented a meeting of the minds, except over the Town office proposal.
- Commented that this is a process of blending visions for this space, which can be mutually beneficial for the community and the organizations.

Mr. Larson

- Commented that all of the negotiators compromised during the discussions over the summer.
- Commented that only conceptual direction is requested tonight.

Council Consensus

- Directed staff to continue the process with the organizations to determine if the parties can reach an agreement.
- Commented that if either organization believes they need all of the space, then that request must be stated specifically to be considered.

ADJOURNMENT

The meeting adjourned at 10:35 p.m.

Attest:

/s/Mazarin A. Vakharia
Clerk Administrator