



Rob Rennie, Vice Mayor  
Barbara Spector, Council Member

**TOWN OF LOS GATOS  
PARKING AND INFRASTRUCTURE  
AD HOC COMMITTEE  
AGENDA  
MONDAY, APRIL 3, 2017  
TOWN COUNCIL CHAMBERS  
110 E. MAIN STREET  
LOS GATOS, CA  
3:00 P.M. – 4:00 P.M.**

**MEETING CALLED TO ORDER**

**ROLL CALL**

**VERBAL COMMUNICATIONS** *(Members of the public may address the Ad Hoc Committee on any matter that is not listed on the agenda. Three minute time limit.)*

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

1. Approve Minutes of the Committee Meeting October 10, 2016.
2. Review Staff Report
3. Set Meeting Schedule (Verbal Report)

**ADJOURNMENT**

**IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE PARKS AND PUBLIC WORKS DEPARTMENT AT (408) 399-5770. NOTIFICATION 48 HOURS BEFORE THE MEETING WILL ENABLE THE TOWN TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28 CFR §35.102-35.104]**



**TOWN OF LOS GATOS  
COUNCIL PARKING AND INFRASTRUCTURE  
AD HOC COMMITTEE REPORT**

MEETING DATE: 04/03/2017

ITEM NO: 1

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**DRAFT**

**MINUTES OF THE COUNCIL AD HOC COMMITTEE MEETING  
OCTOBER 10, 2016**

The Council Parking and Infrastructure Ad Hoc Committee of the Town of Los Gatos conducted a Special Meeting on October 10, 2016, at 3:00 p.m.

**MEETING CALLED TO ORDER AT 3:00 p.m.**

**ATTENDANCE**

**Committee Members:** Barbara Spector Mayor  
Rob Rennie Council Member

**Staff:** Matt Morley PPW Director  
Laurel Prevetti Town Manager  
Kay Winer Interim Assistant Town Manager

**VERBAL COMMUNICATIONS**

Maria Ristow, Transportation and Parking Commission Chair, commented that if the next project the Ad Hoc Committee chooses aligns with the priorities the Commission has selected, the Commission can work together with the Committee to support it.

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

1. Approve Parks Commission Meeting Minutes of August 8, 2016.

**MOTION:** Motion to approve August 8, 2016 Committee Meeting Minutes.

**VOTE:** 2-0.

**COMMITTEE BUSINESS**

2. Review Staff Report – Establish Work Plan Items for the Committee

Mayor Spector suggested that when thinking about the next project, that the Committee should keep in mind not duplicating what the Commission are doing, but having a level of task that is more substantive, and once finished, it can go directly to the Council for consideration.

MARCH 30, 2017

Mayor Spector commented on the suggestions for the Council Ad Hoc Committee and recommended it may be helpful for staff to research a previous parking study for downtown which was conducted years ago, which considered one-way streets, permit parking, and possibly paid parking.

Council Member Rennie commented that Ed Stahl had provided him with a copy of the study and he will forward to Mr. Morley.

Council Member Rennie suggested that the Ad Hoc Committee consider moving forward on paid parking and parking time limits, as these issues continue to be an area of concern heard from the community.

The Committee and Staff discussed three ideas:

- Generic shuttle system
- One way streets
- Paid parking and parking time limits

It was agreed upon that prior to making a decision to move forward on any of the ideas, the previous parking study conducted and additional research done by staff will be reviewed and provided to the Committee to determine if any information in the study will be helpful and provide more insight to any of the ideas.

Staff will provide information on shuttles/Manhattan Beach model, Measure B (tax) results, and the previous study and recommendations listed.

Agenda items which will come back to the Committee are:

- Generic shuttles
- Streets

### 3. Set Meeting Schedule

## **ADJOURNMENT**

The meeting adjourned at 4:20 p.m.

Prepared by: Stefanie Hockemeyer, Recording Secretary

Approved as to Form:

/s/Matt Morley, Director of Parks and Public Works



**TOWN OF LOS GATOS**  
**COUNCIL PARKING AND INFRASTRUCTURE**  
**AD HOC COMMITTEE REPORT**

MEETING DATE: 04/03/2017

ITEM NO: 2

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DATE: MARCH 29, 2017

TO: COUNCIL PARKING AND INFRASTRUCTURE AD HOC COMMITTEE

FROM: LAUREL PREVETTI, TOWN MANAGER

SUBJECT: RECEIVE AND DISCUSS A STATUS UPDATE ON THE DOWNTOWN PARKING GARAGE

RECOMMENDATION:

Receive and discuss a status update on the downtown parking garage.

BACKGROUND:

The Town Council has authorized exclusive negotiations with Presidio Development Partners, LLC (Presidio) as well as the hiring of a consultant to assist the Town with the goal of constructing a mixed use parking garage, market rate, and below market housing project. The consultant that is working for the Town is Keyser Marston Associates (Keyser Marston).

DISCUSSION:

Staff has moved forward with an anticipated process that includes entering into an agreement called an Exclusive Negotiating Rights Agreement (ENRA) (Attachment 1). The ENRA sets forth several initial terms to help both the Town and Presidio identify expectations, risk, and milestones. This document provides an opportunity for both the Town and the Presidio to build confidence in and explore elements of the project prior to moving into a next stage, which would include a Disposition and Development Agreement (DDA). The ENRA will begin a portion of the project where both Presidio and the Town commit resources to the project.

On March 29, 2017 staff met with Presidio and Keyser Marston to discuss the components of the draft ENRA. Due to the short timeframe in publishing this report, staff will review the draft ENRA and discussion points with the Committee verbally at the meeting on April 3, 2017.

PREPARED BY: MATT MORLEY  
PARKS AND PUBLIC WORKS DIRECTOR

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SUBJECT: RECEIVE AND DISCUSS A STATUS UPDATE ON THE DOWNTOWN PARKING  
GARAGE

MARCH 29, 2017

CONCLUSION:

Staff recommends that the Committee receive and discuss a status update on the project.

Attachment:

1. Draft Exclusive Negotiating Rights Agreement.

EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT

This Exclusive Negotiating Rights Agreement ("Agreement") is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2017 (the "Effective Date"), by and between the Town of Los Gatos, a municipal corporation, ("Town"), and Presidio Development Partners, LLC, a California limited liability company ("Developer"), on the basis of the following facts:

RECITALS

A. The Town and/or the Successor Agency to the Los Gatos Redevelopment Agency ("Successor Agency") own of surface parking lots along West Main Street identified by APNs 510-44-069; 510-44-039; 510-44-037 ("Property").

B. APN 510-44-069 was purchased by the former Redevelopment Agency for the Town of Los Gatos for the purpose of below market residential uses and the Town intends that the combined properties meet this commitment

C. The Town has identified the need for additional public parking as a priority for the Town and identified the Property as a location for construction of a parking garage to meet that need.

D. The Town has determined that the Property will provide 300 total parking spaces and 20-24 residential units, of which 6-9 will be below market units.

E. The Town is interested in exploring the feasibility of the Project and has selected the Developer as a potential developer for the Project.

F. The purpose of this Agreement is to establish procedures and standards for the negotiation by the Town and the Developer of a disposition and development agreement ("DDA") pursuant to which the Developer will conduct specified development activities related to the Property. The parties acknowledge and agree that this Agreement in itself does not obligate any party to acquire or convey any property and does not grant the Developer the right to develop the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree as follows:

ARTICLE 1.  
EXCLUSIVE NEGOTIATIONS RIGHT

Section 1.1 Good Faith Negotiations. The Town and the Developer shall negotiate diligently and in good faith, during the Negotiating Period described in Section 1.2, the terms of a DDA for the development of the Project on the Property. During the Negotiating Period, the parties shall use good faith efforts to accomplish the respective tasks outlined in ARTICLE 2 to facilitate the negotiation of a mutually satisfactory DDA.

Among the issues to be addressed in the negotiations are: (i) the profit to the developer, (ii) the type of entitlements necessary for the Project, (iv) the design, height, and mass of the

Project; (v) the development schedule for the Project, (vi) financing of the Project, (vii) marketing process associated with, and management of the Project, (viii) housing affordability level for the BMPs, (ix) the provision of public improvements related to the Project; (x) the physical and land title conditions of the Project; (xi) Land Value; (xii) operational responsibilities.

Section 1.2 Negotiating Period. The negotiating period (the "Negotiating Period") under this Agreement shall be one hundred eighty (180) days, commencing on the Effective Date. The Negotiating Period may be extended on the Town's behalf for up to an additional ninety (90) days by the Director of Parks and Public Works ("Director"), if in the Director's judgment sufficient progress toward a mutually acceptable DDA has been made during the initial one hundred eighty (180) days negotiating period to merit such extension.

If a DDA has not been executed by the Town and the Developer by the expiration of the Negotiating Period, then this Agreement shall terminate and no party shall have any further rights or obligations under this Agreement except that the indemnity provisions of Section 3.7 shall survive such termination. If the DDA is executed by the Town and the Developer then, upon such execution, this Agreement shall terminate, and all rights and obligations of the parties shall be as set forth in the executed DDA.

Notwithstanding the preceding paragraph, if by the end of the Negotiating Period, a form of DDA is mutually agreed upon by the Developer and the Town, the Director may extend the termination date of this Agreement to the date on which the Town agrees to hold a public hearing to consider approving the DDA.

Section 1.3 Exclusive Negotiations. During the Negotiating Period, the Town and the Developer shall not negotiate with any entity, other than the parties hereto, regarding development of the Project, or solicit or entertain bids or proposals to do so.

Section 1.4 Reimbursement of Third Party Costs. Should the Town use the Project documents prepared or commissioned by the Developer, the Town shall reimburse the Developer of its Third Party Costs as identified in Section 2.15.

## ARTICLE 2. NEGOTIATION TASKS

Section 2.1 Overview. To facilitate negotiation of the Agreement, the parties shall use reasonable good faith efforts to accomplish the tasks set forth in this Article 2 in a timeframe that will support negotiation and execution of a mutually acceptable Agreement prior to the expiration of the Negotiating Period.

Section 2.2 Development Proposal. Forty-five (45) days after the Effective Date, the Developer shall submit to the Town a proposed site plan, concept drawings for the site plan, massing diagram, and renderings identifying the location, general configuration and proposed design characteristics of the buildings, parking spaces, landscaping, property subdivision and

other aspects of the Project (the "Project Proposal"). The Project Proposal shall be subject to review and approval by the Town and must be compatible with the existing development of surrounding land uses. Concurrently with its submission of the Project Proposal, Developer shall submit a detailed financial proforma for the Project containing, among other matters, a detailed development cost budget, which will be used to evaluate the financial feasibility of the Project. The Developer's financial analysis shall reflect the Developer's obligation to pay prevailing wages in connection with the construction of the Project.

Section 2.3 Financing Plan. The Developer shall propose financing, utilizing developer financing resources. As an alternative, the Developer may also propose a financing plan utilizing Town financing.

Section 2.4 Site and Architectural Plans. During the Negotiating Period, the Developer shall prepare appropriate refinements and modifications to the Project Proposal approved by the Town pursuant to Section 2.2. Such refinements and modifications shall be subject to the Town's review and approval.

Section 2.5 Community Outreach. During the Negotiating Period, the Developer shall affirmatively outreach to the local community to obtain and consider community input regarding the design and use of the Project. Within fifteen (15) days following the Effective Date, the Developer shall submit to the Town a proposed community outreach plan. The Developer shall hold community meetings consistent with the plan approved by the Town pursuant to this Section and the schedule approved by the Town pursuant to Section 2.8 during the Negotiating Period. Also during the Negotiating Period, the Developer shall prepare appropriate refinements and modifications to such community outreach plan and schedule as may be reasonably requested by the Town.

Section 2.6 Developer Cooperation and Coordination with Adjacent Parcels. Developer acknowledges the adjacent parcels and will plan the site to be sensitive to these neighbors.

Section 2.7 Planning Approvals. The Developer acknowledges that the Project requires approvals and entitlements from the Town Community Development Department ("Planning Approvals"). During the Negotiating Period, the Developer shall submit a formal application for the Planning Approvals and the Developer understands and agrees that applying for and obtaining the Planning Approvals will be a condition precedent to the execution of the Agreement by the Town. Costs associated with the application shall be considered Third Party Costs.

Section 2.8 Schedule of Performance. Within forty-five (45) days after the Effective Date, the Developer shall provide the Town with a proposed detailed schedule of performance for the Project which shall include, but not be limited to: the dates for the community outreach activities contemplated by Developer community outreach plan described in Section 2.5, date for executing DDA, the dates for obtaining Planning Approvals and financing commitments for the Project, the date for the submittal of construction plans to the Town, date for obtaining



guaranteed maximum price (GMP) construction contract, and the dates for the commencement and completion of construction of the Project.

Section 2.9 Due Diligence. During the Negotiating Period, the Developer shall determine whether the site is suitable for development of the Project, taking into account the geotechnical and soils conditions, the presence or absence of toxic or other hazardous materials, and other environmental and regulatory factors.

Section 2.10 Utilities. The Developer shall consult with the utility companies serving the site to determine if existing utility facilities require expansion, relocation or undergrounding in connection with the Project.

Section 2.11 Reports. Unless otherwise waived by the Town, the Developer shall provide the Town with copies of all reports, studies, analyses, correspondence and similar documents, but excluding confidential information, prepared or commissioned by the Developer with respect to this Agreement and the Project, promptly upon their completion.

While desiring to preserve its rights with respect to treatment of certain information on a confidential or proprietary basis, the Developer acknowledges that the Town will need sufficient, detailed information about the proposed Project (including, without limitation the financial information described in Section 2.2 and Section 2.3) to make informed decisions about the content and approval of the Agreement. The Town will work with the Developer to maintain the confidentiality of proprietary information subject to the requirements imposed on the Town by the Public Records Act (Government Code Section 6253 et seq.). The Developer acknowledges that the Town may share information provided by the Developer of a financial and potential proprietary nature with third party consultants and members of the Town Council as part of the negotiation and decision making process. If this Agreement is terminated without the execution of a DDA, the Town shall return to the Developer any proprietary information submitted by the Developer under this Agreement.

Section 2.12 Organizational Documents. The Developer shall provide the Town with copies of its organizational documents evidencing that the Developer exists and is in good standing to perform its obligations under the Agreement.

Section 2.13 Environmental Review. The Developer shall work with the Town, as lead agency, to prepare or cause to be prepared the appropriate environmental documentation required by the California Environmental Quality Act ("CEQA") in connection with the Planning Approvals. The Developer shall provide such information about the Project as may be required to prepare or cause preparation and consideration of any CEQA-required document, and shall otherwise generally cooperate to complete this task. Nothing in this Agreement shall be construed to compel the Town to approve or make any particular findings with respect to such CEQA documentation.

Section 2.14 Progress Reports. From time to time as deemed necessary by the Town, each party shall make oral or written progress reports advising the other party on studies being

made and matters being evaluated by the reporting party with respect to this Agreement and the Project.

Section 2.15 Third Party Costs. Third Party Costs may include expenses for architectural services, development fees, community outreach expenses, legal services, city fees, reports, plans and A&E services. Third Party costs will be reviewed and agreed upon monthly.

ARTICLE 3.  
GENERAL PROVISIONS

Section 3.1 Limitation on Effect of Agreement. This Agreement shall not obligate either the Town or the Developer to enter into a DDA or to enter into any particular DDA. By execution of this Agreement, the Town is not committing itself to or agreeing to undertake acquisition, disposition, or exercise of control over any property. Execution of this Agreement by the Town is merely an agreement to conduct a period of exclusive negotiations in accordance with the terms hereof, reserving for subsequent Town Council action the final discretion and approval regarding the execution of any Agreement and all proceedings and decisions in connection therewith. Any Agreement resulting from negotiations pursuant to this Agreement shall become effective only if and after such Agreement has been considered and approved by the Town Council, following conduct of all legally required procedures, including without limitation, all required environmental review processes and all other applicable governmental approvals, and executed by duly authorized representatives of the Town and Developer. Until and unless a DDA is signed by the Developer and approved by the Town Council, no agreement drafts, actions, deliverables or communications arising from the performance of this Agreement shall impose any legally binding obligation on any party to enter into or support entering into a DDA or be used as evidence of any oral or implied agreement by either party to enter into any other legally binding document. As such, the Town retains absolute discretion before action on a DDA to (i) subject to the agreement of the parties, make such modifications to the Agreement and Project as may be necessary to mitigate significant environmental impacts or as may otherwise be necessary or appropriate, (ii) select other feasible alternatives to avoid significant environmental impacts, (iii) balance the benefits against any significant environmental impacts prior to taking final action if such significant impacts cannot otherwise be avoided or (iv) determine not to proceed with the Project.

Section 3.2 Notices. Formal notices, demands and communications (other than day to day routine communications) between the Town and the Developer shall be sufficiently given if, and shall not be deemed given unless, dispatched by certified mail, postage prepaid, return receipt requested, or sent by express delivery or overnight courier service, to the office of the parties shown as follows, or such other address as the parties may designate in writing from time to time:

Town:

Town of Los Gatos  
110 East Main Street  
Los Gatos, CA 95030  
Attn: Parks and Public Works Director

Developer: Presidio Development Partners, LLC  
3609 Buchanan Street  
San Francisco, CA 94123

Such written notices, demands and communications shall be effective on the date shown on the delivery receipt as the date delivered or the date on which delivery was refused.

Section 3.3 Right of Entry. The Developer shall have the right to enter the project site to conduct investigations in accordance with this Agreement.

Section 3.4 Costs and Expenses. Except as otherwise set forth in this Section and in this Agreement, generally, each party shall be responsible for its own costs and expenses in connection with any activities and negotiations undertaken in connection with this Agreement, and the performance of each party's obligations under this Agreement.

Section 3.5 No Commissions. The Town shall not be liable for any real estate commissions or brokerage fees that may arise from this Agreement. The Town represents that it has engaged no broker, agent or finder in connection with this transaction, and the Developer shall defend and hold the Town harmless from any claims by any broker, agent or finder retained by the Developer.

Section 3.6 Conclusion of Negotiations with no DDA. Should the parties not reach agreement on terms of a DDA by the expiration of the Negotiating Period, then this Agreement shall terminate and no party shall have any further rights or obligations under this Agreement except that the provisions of Sections 1.4 and Section 3.1 shall survive such termination.

Section 3.7 Defaults and Remedies.

(a) Default. Failure by any Party to negotiate in good faith or failure to fulfill its obligations as provided in this Agreement shall constitute an event of default hereunder. The non-defaulting Party shall give written notice of a default to the defaulting Party, specifying the nature of the default and the required action to cure the default. If a default remains uncured fifteen (15) days after receipt by the defaulting Party of such notice, the non-defaulting Party may exercise the remedies set forth in subsection (b).

(b) Remedies. In the event of an uncured default by the Town, the Developer's sole remedy shall be to terminate this Agreement.

In the event of an uncured default by the Developer, the Town's sole remedy shall be to terminate this Agreement.

Except as expressly provided above, neither Party shall have any liability to the other Party for damages or otherwise for any default, nor shall any Party have any other claims with respect to performance under this Agreement. Each Party specifically waives and releases any such rights or claims it may otherwise have at law or in equity.

Section 3.8 Attorneys' Fees. The prevailing party in any action to enforce this Agreement shall be entitled to recover attorneys' fees and costs from the other party.

Section 3.9 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 3.10 Entire Agreement. This Agreement constitutes the entire agreement of the parties regarding the subject matters of this Agreement.

Section 3.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

Section 3.12 Assignment. The Developer may not transfer or assign any or all of its rights or obligations hereunder except with the prior written consent of the Town, which consent shall be granted or withheld in the Town's sole discretion, and any such attempted transfer or assignment without the prior written consent of Town shall be void.

Section 3.13 No Third Party Beneficiaries. This Agreement is made and entered into solely for the benefit of the Town and the Developer and no other person shall have any right of action under or by reason of this Agreement.

Section 3.14 Actions By The Town. Whenever this Agreement calls for or permits the approval, consent, authorization or waiver of the Town, the approval, consent, authorization, or waiver of the Parks and Public Works Director may constitute the approval, consent, authorization or waiver of the Town without further action of the Town Council, unless this Agreement requires otherwise.

[Signatures on following page]

IN WITNESS WHEREOF, this Agreement has been executed by the parties on the date first above written.

DEVELOPER:

Presidio Development Partners, LLC

By: \_\_\_\_\_

Town of Los Gatos

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney