



MEETING DATE: 3/20/06

ITEM NO. 9

COUNCIL AGENDA REPORT

DATE: March 9, 2006
TO: MAYOR AND TOWN COUNCIL
FROM: DEBRA J. FIGONE, TOWN MANAGER

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SUBJECT: CONSIDER AN APPEAL OF A PLANNING COMMISSION DECISION APPROVING A MINOR PLANNED DEVELOPMENT AMENDMENT TO ADD ONE ADDITIONAL LOT AS PERMITTED BY THE APPROVED PLANNED DEVELOPMENT, APPROVAL OF THE SUBDIVISION FOR THE ADDITIONAL LOT, APPROVAL TO CONSTRUCT A SINGLE FAMILY RESIDENCE ON THE NEW LOT AND APPROVAL TO INSTALL A TEMPORARY SALES TRAILER/MODEL HOME OFFICE FOR PROPERTY ZONED RM:5-12:PD. APNS 424-29-024 THROUGH 026 PLANNED DEVELOPMENT APPLICATION PD-06-2, SUBDIVISION APPLICATION M-06-2, ARCHITECTURE AND SITE APPLICATIONS S-06-12 PROPERTY LOCATION: 15350 WINCHESTER BOULEVARD PROPERTY OWNER/APPLICANT: SANTA CLARA DEVELOPMENT CO. APPELLANT: STEPHANIE CARROLL

RECOMMENDATION:

- 1. Open and hold the public hearing.
2. Close the public hearing.
3. Uphold the Planning Commission's decision to approve Planned Development Application PD-06-2, Subdivision Application M-06-2 and Architecture and Site Application S-06-12 and deny the appeal.
4. Refer to the Town Attorney for the preparation of the appropriate resolution.

(Continued to Page 2)

PREPARED BY: BUD N. LORTZ [Signature]
DIRECTOR OF COMMUNITY DEVELOPMENT

Reviewed by: [Signature] Assistant Town Manager [Signature] Town Attorney Clerk Finance
Community Development Revised: 3/9/06 3:25 pm

If the Town Council determines that the Planning Commission's decision should be reversed or modified:

1. The Council needs to find one or more of the following:
 - (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.
2. 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.
3. Refer to the Town Attorney for preparation of the appropriate resolution.

BACKGROUND

On April 4, 2005, Town Council adopted Ordinance No. 2141 (Exhibit A of Attachment 7) for a Planned Development (PD) at the subject site (Villa Felice). This PD allows the following uses:

- Demolition of the existing one story duplex, detached garage and shed.
- Demolition of the Villa Felice restaurant including administrative offices and support services and the motel.
- Construction of 28 market rate single family residences and five Below Market Price (BMP) units. One additional unit may be permitted if the applicant and the adjacent Villa Felice Townhouse development agree to eliminate the existing parking easement. The addition of this unit will require a minor amendment to the Planned Development and Architecture and Site approval, both of which may be approved by the Development Review Committee (DRC).

On July 19, 2005, the DRC approved the tentative map for the subdivision and the architecture and site applications for the 28 market units and five BMP units. The existing buildings have been demolished and subdivision improvements are under construction. Building permits have been filed for the units.

The applicant and the adjacent Villa Felice Townhouses have reached an agreement to eliminate the existing parking easement (Exhibit C of Attachment 7). Therefore, the applicant filed applications for the additional unit as permitted by the approved PD. The applicant had met with the neighbors prior to submittal and had thought that all issues of concern had been met. The DRC considered this matter on December 6, 2005 where several neighbors raised concerns regarding the visual impacts of the proposed house (Exhibit D of Attachment 7). These concerns were raised based on the installation of the story poles which made the scope of the project more clear to the neighbors. The

applicant met with the neighbors in an attempt to mitigate their concerns. The following changes have been made to the plans subsequent to the DRC review (Exhibit B of Attachment 7):

- **Grade Change** - The grade of the proposed lot has been lowered 1.3'. This will result in a grade differential of approximately three feet between the adjacent Villa Felice town houses and Villa Felice as opposed to the existing four feet.
- **Single Story Elements** - Two single story elements have been lowered by utilizing a gable roof.
- **Deck Removal** - The second story deck has been eliminated
- **Windows** - All of the second story windows along the Villa Felice town house western property line are clerestory with the exception of two windows in a secondary bedroom which are 55 feet from the property line. Clerestory windows were required for several of the approved units to mitigate privacy concerns.

Since one of the neighbors was opposed to a new residence and some of the neighbors expressed an interest in a one story structure, it appeared that the neighbors' concerns could not be completely mitigated; therefore, the matter was referred to the Planning Commission for consideration.

PROJECT SUMMARY:

1. Application Request

Planned Development - The applicant is requesting approval to amend the approved PD to add one additional lot and residential unit for a total of 29 market rate single family residences and five BMP units on 5.91 acres. The additional unit will not trigger an increase in the number of required BMP units. The approved density of the development for the subject site is 4.7 units per acre (excluding the BMP units). The proposed density is 4.9 (excluding the BMP units). The site is bounded by condominiums to the south, condominiums and single family residences to the west and north and Vasona Lake County Park to the east. As stated above, the approved PD allowed one additional unit if the adjacent Villa Felice Townhouse development agreed to eliminate the existing parking easement. The applications are consistent with the approved PD. Pursuant to the approved PD, this request is a minor amendment and was not required to be forwarded to Town Council.

Subdivision - The proposed lot will contain 7,000 square feet. The approved lots range in size from 2,152 square feet to 6,915 square feet. The minimum lot size required for the underlying zone is 8,000 square feet.

Architecture and Site - The applicant is requesting approval of plans to construct a 2,248 square foot two story single family residence with a 445 square foot attached garage. The approved market rate units range in size from 2,165 to 2,943 square feet. The maximum height of the proposed residence is 22 feet two inches. The heights for the approved two story units range from 23.5 to 25 feet. The subject house has been designed with a lower height in an attempt to mitigate neighbor concerns. Exterior materials will consist of plaster and stone siding, wood and copper trim and a clay tile roof.

The floor plan, architectural style, colors and materials of the proposed house are similar to an approved house plan, but have been modified slightly in an attempt to mitigate neighbor concerns as discussed above. During the PD process, staff and the Town's Consulting Architect concluded that the proposed house designs were good, the houses relate well to each other and the proposed siting and landscaping produce a good environment. The proposed setbacks are consistent with the approved setbacks for the other parcels.

Sales Trailer and Model Homes - The applicant is also requesting approval of a sales trailer with guest parking in the existing parking easement area, adjacent to the proposed lot and to allow two of the approved units to be used as model homes (Lots 30 and 31) through the proposed PD and Architecture and Site applications. The trailer is proposed to be removed once the model homes are completed. Since a pad for the trailer is existing, is near the entrance of the development and is outside the area of construction, it is the most logical and safe location for the trailer.

PLANNING COMMISSION:

The Planning Commission considered this matter on January 25, 2006. The Commission unanimously approved the request for the sales trailer and model homes with an added condition that the sales trailer be set back as far as possible from the west property line to mitigate neighbor concerns. The Commission approved the other requests on a five to two vote. The Commission understood that they were not bound by the agreement made between the applicant and the neighbors to sell the easement to allow an additional house. The Commission also agreed that it is difficult to visualize a project without the story poles. However, since the neighbors were following the project, accepted money to sell the easement to construct a new house, and understood that the house would be two stories, a majority of the Commission felt that this was compelling evidence to approve the applications.

APPEAL

An appeal of the Planning Commission's decision was received on February 6, 2006 (Attachment 1). The basis for the appeal is summarized as follows:

- There was a difference between the story poles for lot 33 and the story poles for lot 34 (subject application) and when the poles were erected in relationship to the decisions and agreements made.
- The specific information the neighbors had regarding the size of the 34th home prior to agreeing to the sale of the easement.
- The wording within the agreement to sell the easement and the neighbor's interpretation, including what was verbally committed by the applicant in the "spirit of cooperation" and the desire to arrive at a "win/win" situation.
- The ambiguity still surrounding the setbacks, height, grading, drainage, landscaping etc., as it pertains to the proposed 34th home.
- The impact of the proposed 34th home on the neighbors and what they see as a reasonable solution.

STAFF NOTE

Subsequent to the Planning Commission's action on this matter, the applicant has considered additional changes to their plans in an attempt to further mitigate neighbor concerns. The applicant is now proposing to move the house two feet further from the neighbors property line (Attachment 10). This modification will require the property line between Lot 33 and 34 to be shifted two feet to the east which will result in a reduction of the side yard setback for Lot 33. Staff has reviewed conceptual plans of this modification and has no issue with these changes. The story poles reflect this proposal. The Planning Commission has approved the applications and the changes proposed were not required and are offered by the applicant to try to further mitigate neighbor concerns.

If Council concurs with this modification, the following should be done.

1. Add a statement to Section II of the Ordinance Amendment as Item 7 (Attachment 3):

Modification to the approved Horizontal Control Plan of Ordinance 2141, to allow a reduction of the side setback for Lot 33 to accommodate a property line shift between Lots 33 and 34.

2. Add the following condition to the Subdivision Application (Attachment 4):

PROPERTY LINE MODIFICATION. The property line may be shifted between Lots 33 and 34 to accommodate the relocation of the proposed house on Lot 34.

3. Add the following condition to the Architecture and Site Application (Attachment 5):

SETBACK. The side setback from the west property line shall be a minimum of 12 feet.

ENVIRONMENTAL ASSESSMENT:

A Mitigated Negative Declaration has been previously made for the approved Planned Development for this site. It has been determined that this project will not have additional environmental impacts and an addendum to the Mitigation Declaration was prepared.

FISCAL IMPACT: None

Attachments:

1. Appeal filed on February 6, 2006.
2. Required findings and considerations.
3. Ordinance 2141 Amendment.
4. Conditions of approval for the Subdivision Application
5. Conditions of approval for the Architecture and Site Application.
6. Action minutes from the Planning Commission meeting of January 25, 2006.

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MAYOR AND TOWN COUNCIL

SUBJECT: APPEAL 15350 WINCHESTER BLVD

March 20, 2006

7. Report to the Planning Commission from the Development Review Committee dated January 19, 2006 for the meeting of January 25, 2006 (Exhibits I, J, K and M deleted and incorporated as Attachments 2, 3, 4 and 5 of this report).
8. Desk item report to the Planning Commission dated January 25, 2006 for the meeting of January 35, 2006.
9. Photographs submitted at the Planning Commission hearing (six pages).
10. Packet from Santa Clara Development (seven sheets), received March 14, 2006.

Distribution:

Santa Clara Development Co, 2185 The Alameda, San Jose, CA 95126
Stephanie Carroll, 15300 Winchester Blvd, #3, Los Gatos, CA 95030

BNL:SLB:mdc

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FILING FEES
 \$272.00 Residential
 \$1089.00 per Commercial, Multi-family or Tentative Map Appeal

Town of Los Gatos
 Office of the Town Clerk
 110 E. Main St., Los Gatos CA 95030

Mrg & Plng.

APR 11 2006
 FEB - 6 2006
 CLERK DEPARTMENT

APPEAL OF PLANNING COMMISSION DECISION

I, the undersigned, do hereby appeal a decision of the Planning Commission as follows: (PLEASE TYPE OR PRINT NEATLY)

DATE OF PLANNING COMMISSION DECISION: January 25, 2006

PROJECT / APPLICATION NO: Villa Delos

ADDRESS LOCATION: ~~15400~~ Winchester Blvd
15350

Pursuant to the Town Code, the Town Council may only grant an appeal of a Planning Commission decision in most matters if the Council finds that one of three (3) reasons exist for granting the appeal by a vote of at least three (3) Council members. Therefore, please specify how one of those reasons exist in the appeal:

1. The Planning Commission erred or abused its discretion because See attached

2. There is new information that was not reasonably available at the time of the Planning Commission decision, which is _____; OR

 _____ (please attach the new information if possible): OR

3. The Planning Commission did not have discretion to modify or address the following policy or issue that is vested in the Town Council: _____

IF MORE SPACE IS NEEDED, PLEASE ATTACH ADDITIONAL SHEETS.

IMPORTANT:

- Appellant is responsible for fees for transcription of minutes. A \$500.00 deposit is required at the time of filing.
- Appeal must be filed within ten (10) calendar days of Planning Commission Decision accompanied by the required filing fee. Deadline is 5:00 p.m. on the 10th day following the decision. If the 10th day is a Saturday, Sunday, or Town holiday, then it may be filed on the workday immediately following the 10th day, usually a Monday.
- The Town Clerk will set the hearing withing 56 days of the date of the Planning Commission Decision (Town Ordinance No. 1967)
- An appeal regarding a Change of Zone application or a subdivision map only must be filed within the time limit specified in the Zoning or Subdivision Code, as applicable, which is different from other appeals.
- Once filed, the appeal will be heard by the Town Council.
- If the reason for granting an appeal is the receipt of new information, the application will usually be returned to the Planning Commission for reconsideration.

PRINT NAME: Stephanie Carroll
 DATE: February 3, 2006
 PHONE: 399-0035

SIGNATURE: Stephanie Carroll *in behalf of VSD*
 ADDRESS: 15300 Winchester Blvd
Los Gatos, CA 95030

*** OFFICIAL USE ONLY ***

DATE OF PUBLIC HEARING: 3/6/06 3/20/06

CONFIRMATION LETTER SENT: Date: _____

Pending Planning Department Confirmation

TO APPLICANT & APPELLANT BY: _____

DATE TO SEND PUBLICATION: 2/16/06

DATE OF PUBLICATION: 2/23/06

We feel the Planning Commission erred in their decision based on several issues we would like to have the opportunity to clarify and correct with the Town Council. During the Planning Commission Hearing there was a great deal of focus on the agreement between the Villa Felice Homeowners Association and Santa Clara Development Company to sell our rights to an easement, the intent of that agreement and what information we (the VFHOA) had prior to signing that agreement regarding the specifics of the proposed home on lot 34.

It was apparent that after several residents had addressed the commission and the time came to vote that there was confusion as well as misinformation about what we had agreed to and how much information we had about the final plans prior to signing the agreement. This discussion about what we thought *might* be built seemed to outweigh the actual plan of the 34th home.

It was also not clear that all of the commissioners had visited the site to understand the impact to our homes and community. As we have learned it is very different to look at schematics and architectural renderings than to experience the impact of the story poles.

Some specific reasons for our appeal we would like the opportunity to discuss at a Town Council Meeting are:

The difference between the story poles for lot 33 and the story poles for lot 34 and when they were erected in relation to decisions and agreements made.

What specific information we had regarding the size of the 34th home prior to agreeing to sell the easement.

The wording within the agreement to sell the easement and our interpretation including what was verbally committed by Santa Clara Development in the "spirit of cooperation" and the desire to arrive at a "win/win" situation.

The ambiguity still surrounding setbacks, height, grading, drainage, landscaping etc. as it pertains to the proposed 34th home.

The impact of the proposed 34th home on our homeowners, and what we see as a reasonable resolution.

REQUIRED FINDINGS AND CONSIDERATIONS FOR:

15350 Winchester Boulevard

Planned Development Application PD-06-2

Subdivision Application M-06-2

Architecture and Site Applications S-06-12

Requesting approval of a minor Planned Development amendment to add one additional lot as permitted by the approved Planned Development, approval of the subdivision for the additional lot, approval to construct a single family residence on the new lot and approval to install a temporary sales trailer/model home office for property zoned RM:5-12:PD. APNS 424-29-024 through 026

PROPERTY OWNER/APPLICANT: Santa Clara Development Co.

FINDINGS

- A Mitigated Negative Declaration has been previously made for the approved Planned Development for this site. It has been determined that this project will not have additional environmental impacts and an addendum to the Mitigation Declaration was prepared.
- To deny the Subdivision Application
 1. That the proposed map is not consistent with applicable general and specific plans as specified by Section 65451; or
 2. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans; or
 3. That the site is not physically suitable for the type of development; or
 4. That the site is not physically suitable for the proposed density of development; or
 5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat; or
 6. That the design of the subdivision or type of improvements is likely to cause serious public health problems; or
 7. That the design of the subdivision or type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property with the proposed subdivision.

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.