



MEETING DATE: 4/17/06
ITEM NO.

15

COUNCIL AGENDA REPORT

DATE: April 13, 2006
TO: MAYOR AND TOWN COUNCIL
FROM: TOWN MANAGER
SUBJECT: CONSIDER AMENDING THE FOLLOWING SECTIONS OF THE TOWN CODE:

- REFERENCES TO PLANNING DIRECTOR
- REQUIREMENTS FOR CERTIFICATES OF USE AND OCCUPANCY/SECOND DWELLING UNITS/APPEALS FROM DECISIONS OF THE PLANNING DIRECTOR
- PARKING EXEMPTION CLARIFICATION FOR HISTORIC DISTRICTS AND PARKING LOT AND DIMENSION MODIFICATIONS TO MEET NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM REQUIREMENTS
- MINOR RESIDENTIAL DEVELOPMENT APPLICATION PROCEDURES AND APPROVALS REQUIRED FOR ARCHITECTURE AND SITE APPLICATION
- PROJECTIONS ALLOWED INTO YARDS, CONVERT TOWN POLICIES INTO TOWN CODE, REQUIREMENTS RELATING TO DETACHED ACCESSORY STRUCTURE EXEMPTIONS, AND DETACHED GARAGE EXEMPTION
- TITLE CLARIFICATION AND HEIGHT EXCEPTION FOR WIRELESS TELECOMMUNICATION FACILITIES
- SALVAGING/RECYCLING REQUIREMENTS FOR DEMOLITIONS
- APPEAL WITHDRAWALS, NOTICING PROCEDURES FOR MINOR RESIDENTIAL PROJECTS, AND CLARIFICATION OF APPEAL FEES
- CONDITIONAL USE PERMIT REQUIREMENT FOR NEW OFFICE BUILDINGS AND FINDINGS FOR DENIAL
- CONVERT TOWN POLICIES INTO TOWN CODE REQUIREMENTS RELATING TO DEFINITIONS OF ATTIC/CELLAR/BASEMENT

(Continued on Page 2)

PREPARED BY: BUD N. LORTZ
DIRECTOR OF COMMUNITY DEVELOPMENT

Reviewed by: PS Assistant Town Manager OK Attorney _____ Clerk Department
_____ Finance _____ Community Development Revised: 4/13/06 2:55 pm

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MAYOR AND TOWN COUNCIL

RE: TOWN CODE AMENDMENT A-06-1 through 11

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- SPELLING AND GRAMMAR CORRECTIONS.

IT HAS BEEN DETERMINED THAT THIS PROJECT COULD NOT HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT; THEREFORE, THE PROJECT IS NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (SECTION 15061 (b)(3)). APPLICATION: A-06-1 THROUGH 11. APPLICANT: TOWN OF LOS GATOS.

RECOMMENDATION:

1. Open and hold the public hearing.
2. Close the public hearing.
3. Accept report in the form of meeting minutes from the Planning Commission regarding the Town Code amendments. (Attachment 3) **(MOTION REQUIRED)**
4. Direct the Clerk Administrator to read the title of the ordinance. **(NO MOTION REQUIRED)**
5. Move to waive the reading of the ordinance. **(MOTION REQUIRED)**
6. Make the required finding that the proposed Town Code amendments are consistent with the General Plan and its Elements. (Attachment 1) **(MOTION REQUIRED)**
7. Introduce the ordinance to effectuate the Town Code amendments. **(MOTION REQUIRED)**
8. Direct the Clerk Administrator to publish the ordinance within 15 days after adoption. **(NO MOTION REQUIRED)**

BACKGROUND:

Staff has been maintaining a list of potential Town Code amendments for items that require clarification and sections of the Code which are ambiguous and need further clarification. Staff has divided the list into two broad categories: amendments that are administrative in nature (i.e. administrative, policy conversion, and spelling and grammar); and more complicated amendments that may need extensive explanation and discussion. These more complicated amendments will be forwarded to the General Plan Committee (GPC) later this year. Staff prepared proposed amendments for the first group of amendments for the GPC to discuss.

It should be noted that A-06-9 is not administrative in nature, but rather a more substantive change to require a Conditional Use Permit for new office buildings in the C-1, C-2, and CH zoning districts. This amendment was grouped with the other more administrative amendments because the Council, at their January 2005 retreat, requested that staff expedite this amendment. Information regarding this amendment is located on Page 22 of this report.

The proposed Town Code amendments are consistent with the General Plan. The GPC discussed these proposed amendments at their meetings on June 22, 2005 and September 28, 2005. After extensive discussion, the GPC forwarded these proposed amendments to the Planning Commission with a recommendation for approval.

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PLANNING COMMISSION RECOMMENDATION:

The Planning Commission considered this matter on January 11, 2006 and continued the matter at staff's request to allow the Town Attorney time to complete his legal review of the subject and several other proposed amendments. This review has been completed with no comments. The Commission had also requested additional information concerning noticing requirements. On February 8, 2006, the Commission considered this matter and recommended approval of A-06-1 through A-06-7 and A-06-9 through A-06-11 to the Town Council and continued A-06-8 at staff's request to allow staff time to further refine the amendment and to provide a comparison between the existing and proposed noticing requirements for Minor Residential Development Applications, as requested by the Commission. On February 22, 2006, the Commission considered A-06-8 and recommended approval of this amendment. A copy of the excerpts of the Planning Commission minutes for the above referenced meetings are included as Attachment 3. It should be noted that the above referenced meetings were not transcribed because there was minimal input on these items from the Commission and the public.

The Commission's decisions to recommend approval of the Town Code amendments were based on the conclusion by the Commission that the proposed amendments are consistent with the General Plan and its Elements.

GENERAL PLAN

The proposed Town Code amendment are consistent with the General Plan and its Elements.

ENVIRONMENTAL ASSESSMENT:

It has been determined that this project could not have a significant impact on the environment, therefore, the project is not subject to the California Environmental Quality Act (Section 15061 (b)(3)), no further action is required.

FISCAL IMPACT:

None.

DISCUSSION:

Each proposed amendment to the Code is on a separate page of this report for easier reading. Please note that the new wording is in bold italics and words to be deleted have been struck out.

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MAYOR AND TOWN COUNCIL
RE: TOWN CODE AMENDMENT A-06-1 through 11
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Zoning Ordinance Amendment A-06-1
References to Planning Director

References to Planning Director - When the Town Code was adopted, the Town had a Planning Director which is referenced throughout the entire code. Subsequently, the title changed to Director of Community Development. To avoid major changes to the entire Town Code, the following amendment is recommended to clarify that the Planning Director and the Director of Community Development are the same Director.

Sec. 20.10.020. References to Planning Director in the Code.

All references in this Code to "Planning Director" are intended to refer to the Director of Community Development.

Zoning Ordinance Amendment A-06-2
Requirements for Certificates
of Use and Occupancy/Second Dwelling Units/Appeals
From Decisions of the Planning Director

Certificates of Use and Occupancy - Currently the Town Code requires Certificates of Use and Occupancy for any activity that requires Architecture and Site approval and a Second Dwelling Unit application. Since the Building Division requires a Final Occupancy Clearance for residential developments, which all departments must sign off, and due to the large number of applications the Town receives for residential developments, it is recommended that Certificates of Use and Occupancy not be required for single family, two family and secondary dwelling units. This would streamline the process and save the Town and applicants considerable time and money.

Sec. 29.20.060. Certificate of use and occupancy.

A certificate of use and occupancy is required:

- (1) Before occupancy of any new building or commencement of any activity when architecture and site approval or a conditional use permit is required for either (*excluding single family, two family or second dwelling units*).
- (2) Before any change of occupancy of land or buildings other than a change in residents of a dwelling or proprietors of a continuing business enterprise.
- (3) ~~To signify compliance with the terms of a secondary dwelling unit permit.~~

Second Dwelling Units - Most of the proposed Code amendments for second dwelling units will clarify and revise code sections that are affected by State Law. The amendments will provide consistency within the Town Code and will better integrate the requirements between new second dwelling units and the legalization of existing units. References to the specific deciding body (ie, Planning Commission) has been modified to read "deciding body", since the duties section of the Town Code clearly defines who is the deciding body for all development applications. Additionally, final inspection was added to reflect the term used by the Building Division.

Sec. 29.10.320. New second dwelling units.

....

(b) *Design and development standards.*

....

- (8) *Parking.* In addition to parking otherwise required for second units as set forth in section 29.10.150 of the Town Code, the number of off-street parking spaces required by this chapter for the primary unit shall be provided prior to the issuance of ~~a certificate of use and occupancy and/or building permit~~ *or final inspection*, for the new second dwelling

unit. In addition to the number of spaces as set forth in this section, additional spaces may be required if the following findings are made:

- a. Additional parking is directly related to the use of the second unit.
- b. Additional parking is consistent with existing neighborhood standards applicable to existing dwellings.

....

~~(12) *Expansion of unit.* Requests for expansion of a second dwelling unit shall be subject to the same requirements as a new second dwelling unit. Expansion of a second dwelling unit is defined as increasing the number of bedrooms or adding floor area in excess of thirty (30) square feet.~~

~~(13) *Denial.* An application may be denied if it does not meet the design and development standards. An application may also be denied if the following findings are made:~~

- a. Acknowledgment of limiting the housing opportunities in the region.
- b. Adverse impacts on health, safety and/or welfare of the public.

Sec. 29.10.330. Elimination *and/or* demolition of existing second units.

In order to eliminate *and/or demolish, without replacement*, an approved second unit, the ~~Planning Commission deciding body~~ shall make the finding that the proposed ~~removal~~ *elimination and/or demolition, without replacement*, is consistent with the Town's Housing Element of the General Plan. In order to *eliminate and/or demolish* an existing second unit (*whether or not it will be replaced*), the ~~Planning Commission deciding body~~ must make the demolition findings pursuant to section 29.10.09030.

Sec. 29.10.335 *Expansion of existing or nonconforming second dwelling units.*

For the purposes of this section only, expansion of a second dwelling unit is defined as increasing the number of bedrooms or adding floor area in excess of thirty (30) square feet. Requests for expansion of any nonconforming second dwelling unit shall be subject to the same requirements as a new second dwelling unit. If the secondary dwelling unit(s) is located on a nonconforming lot, no expansion, as defined by this section, is permitted.

Appeals From Decisions of the Planning Director - Two amendments are proposed for the appeal section. Pursuant to State Law, if all the requirements are met for a second dwelling unit, the application must be approved and this approval cannot be appealed. Therefore, the Town Code must be amended to correctly reflect State requirements. The approval of a building permit cannot be appealed since it is a ministerial action and is not approved by the Planning Director. Therefore, the Code must be amended to eliminate allowing appeals for an action taken for a building permit.

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Sec. 29.20.255. Appeals from the decision by the Planning Director.

Any interested person may appeal to the Planning Commission from a decision of the Planning Director:

- (1) Determining an application ~~for a building permit,~~ for a horse permit, for an amateur horse event or animal permit, for a home occupation permit, for a tree removal permit, for a sign permit, ~~for a secondary dwelling unit permit,~~ or denying a certificate of use and occupancy on the ground that the use is not allowed in the zone.
- (2) Granting or denying an extension of time related to one (1) of the foregoing transactions.
- (3) Revoking or modifying one (1) of the foregoing approval of permits.
- (4) Determination of an unlawful demolition and/or the penalty and the cost assessment for the unlawful demolition.

Zoning Ordinance Amendment A-06-3
Parking Exemption Clarification for Historic Districts
and Parking Lot and Dimension Modifications to Meet
National Pollution Discharge Elimination System
Requirements (NPDES)

Exemptions to Parking Requirements - An amendment is proposed to clarify when a parking exemption may be granted. The current wording implies that the exemption is only permitted for historic properties. This is not correct since nonhistoric properties are eligible to meet this exemption. Therefore, the word "and" is proposed to be changed to "or" after the first exemption finding. New wording is also proposed to be added to the historic finding to clarify what is historic. In addition, it is recommended that Section 2 be eliminated regarding suitable environment. This section has been difficult to interpret since there is no definition of "adequate floor area for suitable living environment."

Section 29.10.150. Number of off-street spaces required.

....

(h) *Exemptions.* Compliance with subsection (c)(1) is not required if the deciding body makes the following findings:

- (1) *If the site and/or structures on the site are subject to historic preservation pursuant to Division 3 of Article VIII of this Code and t*The Historic Preservation Committee determines that the enforcement of subsection (g) will impact the historic character of the site and/or structures on the site;~~and or~~
- (2) ~~The addition is determined necessary to provide adequate floor area for a suitable living environment; and~~
- (~~3~~) ~~The lot does not have adequate area to provide parking as required by subsection (c)(1). This finding is not required if subsection (h)(1) is made.~~

If the deciding body makes the findings set forth in subsections (h)(1), (2) and (~~3~~) above, parking shall be provided to the maximum extent possible.

NPDES Requirements- Several amendments are proposed to this section to meet new NPDES requirements. These new requirements are intended to reduce the amount of impervious surface and to minimize potential water quality impacts of land development. The amendments will meet Land Use Implementation Strategy L.I.8.4 of the General Plan, which states that revisions be made to the Town Code to limit impervious surfaces and to provide alternative materials and designs for driveways and parking areas. The reductions in driveway widths are currently being implemented for two family residential developments and second dwelling units, but it is not clearly defined in

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the Town Code how these types of units should be treated. An amendment is proposed regarding the widths of driveways for residential properties that contain more than one unit, which is not classified as a multi-family development. This amendment is to clarify what is currently permitted and allows consistency for driveway widths in residential neighborhoods.

The proposed reductions in driveway lengths are currently being approved through the Planned Development process for residential developments and is recommended to be allowed for all residential developments. The amendment relating to backup requirements for garages facing an alley, is currently allowed by Code. The proposed amendments will clarify what is permitted along alleyways.

An amendment is also proposed to reduce the height of the continuous curb required for landscape strips/wheel stops. The spoiler of a low clearance vehicle, such as a Porsche, will scrape on a 6" curb which will damage the spoiler and the curb. Therefore, it is recommended that the height of this curb be reduced to 4".

Sec 29.10.155. Development Standards

....

(c) *Driveways.* Off-street parking lots and parking garages must be connected to streets or alleys by driveways which comply with the following requirements:

- (1) Driveways which serve not more than two (2) parking spaces shall be at least ten (10) feet wide if they provide either ingress or egress only, and not less than eighteen (18) feet wide if they provide both ingress and egress. The Planning Director may authorize a reduction in width of two-way driveways if the Planning Director finds that conditions make the eighteen-foot requirement impractical.
- (2) Driveways which serve more than two (2) and not more than ten (10) parking spaces shall be at least ten (10) feet wide if they provide either ingress or egress only, and not less than eighteen (18) feet wide if they provide both ingress and egress. *The Planning Director may authorize a reduction in width of two-way driveways for single family residential parcels with a secondary dwelling unit(s) and two family residential parcels if the Planning Director finds that conditions make the eighteen-foot requirement impractical.*

....

(7) When a garage, *with a sliding or overhead roll-up door, unenclosed parking space, or carport opens onto a street (excluding alleys) the length of the driveway shall not be less than ~~twenty-five (25)~~ eighteen (18) feet. The length of all other driveways shall not be less than 25 feet. For a driveway that opens onto an alley, the width of the alley can be used for calculating the length of a driveway.*

....

(e) *Surfacing.*

- (1) All outdoor off-street parking spaces, driveways and maneuvering areas shall be paved with a compacted base not less than four (4) inches thick, surfaced with asphaltic concrete or Portland cement concrete pavement or other surfacing (*e.g.: permeable paving materials, interlocking pavers and ribbon strip driveways*) approved by the Town Engineer. The paved area shall be provided with drainage facilities subject to the approval of the Town Engineer, adequate to dispose of all accumulated surface water. Special surfaces may be allowed by the Development Review Committee if the following conditions apply:
 - a. Special surfaces for nurseries or botanical gardens consisting of decomposed granite, crushed aggregate (gravel) or similar granular material may be allowed to continue under the following circumstances:
 - b. The nursery or botanical garden must have lawfully been in existence since 1977.
 - c. The intent of the special surface is to moderate the reflective heat from the sun in order to protect the surrounding nursery stock and minimize the storm water runoff.
 1. The condition of the surface is maintained such that neither dust becomes a nuisance, mud is not tracked onto any public street nor sidewalk; or gravel is not deposited on any public street or sidewalk.
 2. The surface will not be detrimental to the public health, safety, convenience and general welfare.
 3. The surface is approved for use by the Town Engineer.
 4. The parking area shall not be used for storage or display and shall be available for use as a parking lot at all times.
 5. That the area designated for parking shall be of sufficient size and dimensions so as to satisfy the required number of parking spaces, back-up area and maneuvering area for the current and proposed use as set forth in this chapter.
- (2) Special paving may be required within the dripline of existing trees subject to the recommendation of the *Planning* Director of ~~Parks, Forestry and Maintenance Services~~.

....
(g) *Screening and landscaping.* Parking lots and spaces shall be screened and landscaped as follows:

....
(3) All landscaped areas shall be completely enclosed by a ~~six~~ **four**-inch continuous concrete curb. At any point where a curb around a landscaped area serves as a wheel stop, a vehicle overhang allowance of two (2) feet including the width of the curb shall be added to the landscaped area.

....
(h) *Curbs, wheel stops and markings.* Curbs, wheel stops and markings for parking lots and spaces shall be provided as follows:

(1) Except for spaces which serve single- or two-family dwellings, all off-street parking spaces shall have wheel stops. Wheel stops must be continuous curbing and shall not be separate blocks. ***A continuous concrete curb may be permitted with breaks in the curb to allow for drainage to meet Best Management Practices methods for National Pollutant Discharge Elimination System (NPDES) requirements.***

(2) Opposing ranks of parking stalls shall be separated by a raised curbed island. ***Breaks in the curb may be permitted to allow for drainage to meet Best Management Practices methods for NPDES requirements.***

(3) All off-street parking areas shall be provided with entrance, exit and traffic flow markings so arranged and marked as to provide for orderly and safe parking of automobiles, subject to the approval of the Town Engineer.

....
(l) *Determination.* Applications for permits for parking lot improvements shall be determined by the ~~Director of Building and Engineering Services~~ subject to approval of the Planning Director. When compliance with State disabled-accessibility statutes and regulations will result in a reduction in the number of spaces remaining in the parking lot below the number required by this chapter, the application shall be determined by the Development Review Committee ***through the building permit process.***

Zoning Ordinance Amendment A-06-4
Minor Residential Development Application Procedures
and Approvals Required for Architecture and Site Application

Minor Residential Development Applications - The following amendments are proposed to reflect the current procedures staff is using for Minor Residential Development applications which require additional neighborhood notification for projects. For section (g), the words "in residential zones" are proposed to be deleted, since the application is for residential projects, and therefore the reference to residential zones is redundant.

Sec. 29.20.480. Administrative procedure for minor residential projects.

....

(2) In addition to the projects identified in subsections 29.20.745(12) and (15), the following projects will be considered under this administrative procedure.

- (a) New second-story additions to single and two-family dwellings.
- (b) Additions to an existing second story where the additional area will exceed 100 square feet.
- (c) Reconstruction to a portion of a single or two-family dwelling *or an accessory structure* with a nonconforming setback.
- (d) Accessory structures exceeding *a combined square footage of* 450 square feet.
- (e) Additions to accessory structures resulting in the structures containing *a combined square footage* more than 450 square feet.
- (f) Request to reduce side and rear yard setback requirements for accessory ~~buildings~~ *structures*.
- (g) Sport court lighting and/or fencing over six (6) feet high enclosing court game areas ~~in residential zones~~.

Architecture and Site Applications - Amendments are proposed to incorporate the requirements identified in the adopted Hillside Development Standards and Guidelines and the upcoming Residential Design Guidelines. Currently minor exterior alterations are not required to have Architecture and Site approval. To clarify this, it is recommended that an exception for minor exterior changes be included in the Town Code. The definition of "minor exterior changes" will be addressed in the Residential Design Guidelines.

Sec. 29.20.145. Approval required.

Architecture and site approval is required in all zones for the following:

- (1) New construction of any principal building;
- (2) *An exterior alteration that changes the architectural style of a single family and two family residence.*
- (23) ~~Any~~ Exterior alteration or addition to a building ~~(other than single-family and two-family dwellings and minor exterior alterations)~~ *excluding:*
 - (a) *Alterations or additions to a single and two family dwelling that do not require approval by the Planning Commission or Development Review Committee pursuant to the Residential Design Guidelines or the Hillside Development Standards and Guidelines,*
 - (b) *Minor exterior alterations to commercial and multifamily buildings.*
- (34) Intensification of land use. *For the purposes of this section only, intensification of land use means all changes in use which require more parking and/or results in an increase in peak hour trips for mixed use, multi tenant commercial, industrial or multifamily development projects if the trips exceed the traffic generation factor assigned to the project at the time of approval and/or an increase of five (5) or more peak hour trips;*
- (45) Residence conversions;
- (56) Any development in a floodplain as required by article IX of this chapter;

and as otherwise specified in this article. ~~For the purposes of this section only, intensification of land use means all changes in use which require more parking and/or results in an increase in peak hour trips for mixed use, multi tenant commercial or industrial or multifamily development projects if the trips exceed the traffic generation factor assigned to the project at the time of approval and/or an increase of five (5) or more peak hour trips.~~

Zoning Ordinance Amendment A-06-5
Projections Allowed Into Yards, Convert Town Policies
into Town Code Requirements Relating to
Detached Accessory Structure Exemptions,
and Detached Garage Exemption

Projections Allowed Into Yards - The following amendments are intended to modify the porte cochere requirements to be consistent with Uniform Building Code requirements by changing the minimum setback requirement from 2 feet to 3 feet from the side property line and to allow decks that are 12 inches or less to extend to the property line in the side and rear yards. These modifications will have minimal impact on the intent of the sections proposed to be amended and will not create an unreasonable privacy impact for adjoining properties.

Sec. 29.40.070. Projections allowed into yards.

(a) A porte cochere may be permitted over a driveway in a side yard, provided that it is not more than one (1) story high and twenty-four (24) feet long, **and with supporting columns not closer than two a minimum of three (23) feet from the side lot line with a maximum eave length of twelve (12) inches**, and is entirely open on at least three (3) sides, except for the necessary supporting columns and customary architectural features.

(b) Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys or other similar architectural features may extend or project into a required side yard not more than twenty-four (24) inches and may extend or project into a required front or rear yard not more than thirty (30) inches.

(c) Open, unenclosed stairways, or landing places, not covered by a roof or canopy, may extend or project into a required rear yard not more than four (4) feet.

(d) **Open, unenclosed porches or decks, not covered by a roof or canopy, less than one (1) foot above grade, may project into side or rear yards.**

(~~e~~ e) Open, unenclosed porches, not covered by a roof or canopy, less than four (4) feet above grade may project into front, side or rear yards or into any court up to six (6) feet; but in no case shall the projection into a side yard be closer than six (6) feet to the property line or into a court exceed a distance of more than twenty (20) percent of the width of such court.

(~~f~~ f) Open, unenclosed balconies, not covered by a roof or canopy may project into a front or rear yard up to six (6) feet.

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Sec. 29.50.055. Projections allowed into yards.

(a) A porte cochere may be permitted over a driveway in a side yard, provided that it is not more than one (1) story high and twenty-four (24) feet long, ~~and with supporting columns not closer than two~~ **a minimum of three (23) feet** from the side lot line ~~with a maximum eave length of twelve (12) inches~~, and is entirely open on at least three (3) sides, except for the necessary supporting columns and customary architectural features.

(b) Cornices, eaves, belt courses, sills, canopies, bay windows, chimneys or other similar architectural features may extend or project into a required side yard not more than twenty-four (24) inches and may extend or project into a required front or rear yard not more than thirty (30) inches.

(c) Open, unenclosed stairways, or landing places, not covered by a roof or canopy, may extend or project into a required rear yard not more than four (4) feet.

Convert Town Policies into Town Code Requirements Relating to Detached Accessory Structure Exemptions, and Detached Garage Exemption -

The proposed amendments include:

- the term "buildings" was changed to "structures" to be consistent with other sections of the Town Code;
- deleting the term accessory living quarters since this use was deleted by a previous amendment in 2002 and there is no definition for this use;
- allowing one detached accessory structure less than 120 square feet in area in the required side or rear yard without any zoning approvals since a building permit is not required for this size of a structure; and
- allow side yard setbacks to be reduced to five feet for detached garages without obtaining approval of a Minor Residential Project.

This last amendment will significantly streamline applications for detached garages which will save time and money for the Town and the applicant. Due to the required dimensions for garages, detached garages typically extend outside of the required rear yard setback. Consequently, this requires the side setback of the detached garage to range from eight to 20 feet for most residential properties (See Attachment 4), occupying a substantial portion of the useable back yard area, unless the applicant wishes to file for a Minor Residential Development Application. Currently, this is a hardship for the applicant no matter which alternative is chosen.

Sec. 29.40.015. Accessory ~~buildings~~ structures.

In residential zones (defined by Ssection 29.40.010), accessory ~~buildings~~ **structures** (excluding horse barns and shelters), located on the same site with a permitted use, including private garages and carports, studios for private use, garden structures, greenhouses, hobby

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shops, recreation rooms and free-standing patio covers are allowed if such accessory ~~buildings~~ **structures:**

- A. (1) Are not over fifteen (15) feet high and are no more than one (1) story. Lofts which do not have sufficient headroom for occupancy are permitted for storage use only.
- (2) Are not in a required front or side yard.
- (3) Are at least five (5) feet from any other structure located on the same lot.
- (4) Are at least five (5) feet from any property line, except in the R-M zone where no setback is required by this subsection (4).
- (5) Do not occupy more than fifteen (15) percent of the lot, to be calculated exclusive of the required building setbacks. Any accessory structure in excess of four hundred fifty (450) square feet requires the approval of the Planning Director.
- (6) When located on a reversed corner lot, do not project beyond the front yard line required on the lot in the rear of such lot.
- (7) Breezeways may be used to provide shelter between buildings.

Accessory structures may have plumbing installed providing the fixtures may be served by a two-inch diameter building drain. Building drains in excess of two (2) inches may be approved by the Planning Director upon good cause shown.

B. Exceptions.

- (1) In the R-1 zones, ~~required side and rear yards for accessory structures other than accessory living quarters and secondary dwelling units, may be reduced to no less than three (3) feet from a property line, if an application is approved through the Administrative Procedure for Minor Residential Projects. A reduction in setbacks will not be allowed in the side yard abutting a street and conversion of accessory structures with reduced setbacks to an accessory living quarter or a secondary dwelling unit is prohibited.~~

Criteria to be considered when reviewing accessory structures within reduced setbacks shall include the number and size of structures already within a reduced setback area, visibility, compatibility with other structures in the neighborhood, historic preservation considerations, privacy and compatibility of historic nature of neighborhoods.

- (2) *One accessory structure less than 120 square feet, is allowed in the required side or rear setbacks without any zoning approvals. Any accessory structure in excess of one*

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will be subject to the requirements set forth by Section 29.40.015.

- (3) In the R-1 zones, required side yard setbacks may be reduced to five (5) feet for detached garages less than 450 square feet without obtaining approval through the Administrative Procedure for Minor Residential Projects (Section 29.20.480). A reduction in setbacks in the side yard abutting a street shall be subject to the Administrative Procedure for Minor Residential Projects (Section 29.20.480).*

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Zoning Ordinance Amendment A-06-6
Title Clarification and Height Exception
for Wireless Telecommunication Facilities

Title Clarification and Height Exception for Wireless Telecommunication Facilities - The following amendments are intended to add a heading for the Wireless Telecommunications Facilities section in the Code so that the section is called out and add wireless telecommunication antennas to the list of exceptions to the maximum height in the Code.

DIVISION 3A. WIRELESS TELECOMMUNICATIONS FACILITIES

Sec. 29.20.205. Purpose and intent.

.....

Sec. 29.10.090. Height restriction, exception.

Towers, spires, elevator and mechanical penthouses, cupolas, *wireless telecommunication antennas*, similar structures and necessary mechanical appurtenances which are not used for human activity or storage may be higher than the maximum height permitted by the zone. The use of tower elements or similar structures to provide higher ceiling heights for habitable space shall be deemed as a use intended for human activity and is therefore not exempt from the maximum height restrictions of a zone.

Zoning Ordinance Amendment A-06-7
Salvaging/Recycling Requirements for Demolitions

Salvaging/Recycling Requirements - The following amendment is intended to modify the procedures and requirements for the recycling of building materials for single-family dwellings that are permitted to be demolished by the Town. These modifications will have no impact on the intent of the sections proposed to be amended.

Sec. 29.10.09030. Demolitions.

.....

(j) *Salvage Recycling of Building Materials.* When demolition of a structure is allowed, the Town shall provide the developer of the structure to be demolished with information about the *recycling* salvaging of building materials. ~~At least ten (10) days Prior to the date when the demolition is scheduled to commence~~ *issuance of the demolition permit*, the developer shall provide the Planning Director with written notice, ~~and an advertisement published in a newspaper of general circulation, of the availability of materials for salvage, including the name and telephone number of a contact person~~ *of the company that will be recycling the building materials. All wood, metal, glass, and aluminum materials generated from the demolished structure shall be deposited to a company which will recycle the materials. Receipts from the company(s) accepting these materials, noting the type and weight of materials, shall be submitted to the Town prior to the Town's demolition inspection.* Upon request, the Planning Director may make this information available to persons who may be interested in contacting the owner(s) ~~to arrange for possible salvage of building materials.~~ No *recycling* salvaging of materials shall occur until a demolition permit has been approved by the Building Department.

Zoning Ordinance A-06-8
Appeal Withdrawals, Noticing Procedures for
Minor Residential Projects, and Clarification of Appeal Fees

Appeal Withdrawals, Noticing Procedures for Minor Residential Projects, and Clarification of Appeal Fees - The following amendments are intended to:

- require that appeals from decisions of these committees be filed within ten days after the decision is rendered, not ten days after the Town has mailed the written action;
- add requirement that the notice of appeal must clearly state why the appeal ought to be granted;
- add language to allow appellants to withdraw appeals prior to the public notice being mailed;
- replace “Notice of Intent to Approve” with “Notice of Pending Approval” for clarification of the intended action;
- require all related appeal fees, including transcription fees, to be paid at the time an appeal is filed; and
- additional grammar modifications to the administrative procedure section of the Town Code for minor residential projects and the Planning Director was added as the deciding body.

Pursuant to Town Code, the Development Review Committee now holds public hearings to take actions on certain applications. The Historic Preservation Committee is also permitted to approve minor projects. Appeal rights are cited after actions are taken at these meetings. Therefore, the appeal process needs to be further modified to require that appeals from decisions of these committees be filed within ten days after the decision is rendered, not ten days after the Town has mailed the written action. This process is consistent with the Planning Commission appeal process.

These modifications will have no impact on the intent of the sections proposed to be amended.

.....

Sec. 29.20.260. Notice of appeal

The appellant must file a written notice of appeal with the Planning Director not more than ten (10) days after the date of mailing of written notification of the Planning Director's; *decision and not more than ten (10) days after the decision is rendered by the* Development Review Committee's or *the* Historic Preservation Committee's decision. *The notice shall state clearly the reasons why the appeal ought to be granted. Once a written notice of appeal has been filed, it may be withdrawn by the appellant at anytime prior to the distribution of public hearing notices, but not thereafter.*

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Sec. 29.20.275. Appeals from decisions by the Planning Commission.

Any interested person may appeal to the Council from any decision of the Planning Commission. The appellant must file a written notice of appeal in duplicate with the Clerk not more than ten (10) days after the decision is rendered. The notice shall state clearly the reasons why the appeal ought to be granted. The Council shall ~~not only~~ hear the appeal if the notice is ~~not filed in time~~ **and all required fees are paid within the ten (10) day appeal period.** Once a notice of appeal has been filed, it may ~~not be withdrawn without the consent of the Council by~~ **the appellant prior to the distribution of public hearing notices, but not thereafter.**

.....

Sec. 29.20.480. Administrative procedure for minor residential projects.

.....

- (c) If the **Planning Director intends to approve the application** application can be approved, a "Notice of ~~Intent to Approve~~ **Pending Approval**" will be mailed to neighboring residents and property owners including any applicable conditions, exactions or dedications as required. The notice will advise the residents and property owners of the applicant's plans, and that the application will be approved unless there is an objection. The residents and property owners have ten days **from the date of the "Notice of Pending Approval"** in which to review the application and to notify the Planning Director in writing of any concerns or problems.

.....

- (e) If an objection to the project is filed in a timely manner and the differences cannot be resolved at the staff level, the application is scheduled before the Planning Commission on the next available agenda for consideration **at the applicant's cost.** All property owners and residents notified originally shall be notified of the Planning Commission meeting.

.....

Zoning Ordinance Amendment A-06-9
Conditional Use Permit Requirement for
New Office Buildings and Findings for Denial

Conditional Use Permit Requirement for New Office Buildings - The following amendments will require a Conditional Use Permit for new office buildings. The Town Council directed staff to make these changes at their retreat in January 2005. As part of these amendments additional findings are also proposed to be added to the Conditional Use Permit findings.

The intent of the amendments are not to prohibit new office buildings. Rather, the CUP process allows the Town to evaluate the consistency of the proposed development with Town policies and thoroughly review all potential impacts that may be created as a result of this type of use. The proposed findings state that the Town may deny a new office building if it: is found to be inconsistent with the General Plan; or will result in a significant loss of current or potential revenue to the Town; or will detract from the diversity of businesses in the zoning district; or would create an over-concentration of similar types of businesses; or will detract from the existing land use mix and high urban design standards including uses that promote continuous pedestrian circulation and economic vitality.

Additionally, if Council is inclined to approve these amendments staff will follow up this approval with criteria for evaluating and making findings related to future proposed office building projects.

Section 29.20.185. Table of conditional uses.

.....

(1) Commercial

.....

q. New office building approved or constructed after effective date of the ordinance.

.....

Put an X under C-1, C-2, and CH in the Conditional Use Permit Table for item q listed above.

Sec. 29.20.190. Findings and decision.

(a) The deciding body, on the basis of the evidence submitted at the hearing, may grant a conditional use permit when specifically authorized by the provisions of this chapter if it finds that:

- (1) The proposed uses of the property are essential or desirable to the public convenience or welfare;
- (2) The proposed uses will not impair the integrity and character of the zone;

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- (3) The proposed uses would not be detrimental to public health, safety or general welfare; and
- (4) The proposed uses of the property are in harmony with the various elements or objectives of the general plan and the purposes of this chapter.
- (5) A hazardous waste facility proposal is subject to the California Health and Safety Code, Article 8.7, Section 25199--25199.14 and shall be consistent with the Santa Clara County Hazardous Waste Management Plan.

(b) The deciding body, on the basis of the evidence submitted at the hearing, may deny a conditional use permit for a formula retail business or a personal service business if any of the following findings are made:

- (1) The proposed use of the property is not in harmony with specific provisions or objectives of the general plan and the purposes of this chapter;
- (2) The proposed use will detract from the existing balance and diversity of businesses in the commercial district in which the use is proposed to be located;
- (3) The proposed use would create an over-concentration of similar types of businesses, or;
- (4) The proposed use will detract from the existing land use mix and high urban design standards including uses that promote continuous pedestrian circulation and economic vitality.

(c) The deciding body, on the basis of the evidence submitted at the hearing, may deny a conditional use permit for a new office building if any of the following findings are made:

- (1) The proposed use will result in a significant loss of current or potential revenue to the Town;*
- (2) The proposed use of the property is not in harmony with specific provisions or objectives of the general plan and the purposes of this chapter;*
- (3) The proposed use will detract from the existing balance and diversity of businesses in the commercial district in which the use is proposed to be located;*
- (4) The proposed use would create an over-concentration of similar types of businesses, or;*
- (5) The proposed use will detract from the existing land use mix and high urban design standards including uses that promote continuous pedestrian circulation and economic vitality.*

Zoning Ordinance Amendment A-06-10
Convert Town Policies into Town Code Requirements
Relating to Definitions of Attic/Cellar/Basement

Definitions of Attic/Cellar/Basement - The following amendments are intended to add and/or modify definitions for attics, cellars, and basements to be consistent with current written Town policies adopted by the Town Council. Additionally, the definition of cellar is further modified to allow the floor area ratio (FAR) exception for residential developments only. Commercial developments within the Parking Assessment District (PAD) have FAR requirements and the PAD data includes cellar square footages to determine parking requirements.

Sec. 29.10.020. Definitions.

.....

Attic is a non-habitable space (that may or may not be used for storage) with a maximum height of seven feet six inches as measured from the upper surface of the attic floor to the underside of the roof above. For the purposes of this definition, unfinished attic spaces are considered to have floor surfaces. Once an attic space exceeds seven feet six inches in height, all areas down to five feet will be counted toward the floor area ratio.

Cellar means that portion of a building between floor and ceiling which is wholly or partly below grade, and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling is an enclosed area that does not extend more than four feet above the existing or finished grade in any location. Cellars, as defined here, shall not be included in the floor area ratio calculation for residential developments. That area of a cellar where the building height exceeds four feet above existing or finished grade shall not be included in this definition and shall be included in the floor area ratio calculation. For purposes of this definition whichever grade (existing or proposed) results in the lowest building profile of a building shall be used.

Basement means that portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is less than the vertical distance from grade to ceiling is an enclosed area that extends more than four feet above the existing or finished grade in any location. Basements, as defined here, shall be included in the floor area ratio calculation. For purposes of this definition, whichever grade (existing or proposed) results in the lowest building profile of a building shall be used.

Zoning Ordinance Amendment A-06-11
Spelling and Grammar Corrections

Spelling and Grammar - The following amendments are intended to clean up spelling and grammatical errors in the existing Zoning Code.

Sec. 29.10.145. Requirements generally.

.....

(h) *Permit required for parking lot improvements.* No person shall erect, construct, relocate, enlarge, alter, repair, move, improve, remove, or convert any parking lot without a permit therefor except:

.....

Sec. 29.10.215. Modification of a nonconforming use.

After March 22, 1986, for hotels and motels located in residential zones that were converted to multiple-family dwelling units, and after May 6, 1981, for all others, a use which is nonconforming shall not be modified without obtaining a conditional use permit therefor. For purposes of this section, a modification ~~that~~ *shall* be defined as follows:

.....

Sec. 29.10.245. Expansion of nonconforming building.

.....

(3) Industrial buildings in an office or ~~commerical~~ *commercial* zone as defined in section 29.60.010.

Sec. 29.20.140. Architecture and site approval, purpose and intent.

.....

(b) ~~In the main,~~ *The* Town contains small businesses, professional offices and residences. Municipal revenues derive principally from property tax and taxes derived from retail trade. Local employment depends to an unusual extent on the success of small business ventures, which in turn depend on trade in specialty items sold to visitors. Much of the business and residential area of the Town is composed of a mixture of old and new buildings, and the condition and style of each reflects on the other. For example, a new building loses value and its occupant's trade is diminished if an old building nearby is permitted to decay, and old buildings are permitted to decay when the designs of new buildings nearby do not compliment them. The juxtaposition of old and new buildings in the Town is extensive.

.....

Sec. 29.20.185. Table of conditional uses.

.....

TABLE OF CONDITIONAL USES

.....

- (3) Community services
- a. Public building; police, fire, community center, library, art gallery, museum
 - b. Club, lodge, hall, fraternal organization
 - c. Church, monastery, convent, and other institutions for religious observance
 - d. Mortuary, columbarium, ~~mausolium~~ *mausoleum*
 - e. ~~Pubic~~ **Public** transportation and parking facilities

.....

- (6) Transmission Facilities/Utilities
- a. Public utility service yard, station, transmission lines, storage tank, drainage or communication facilities
 - b. Antenna facilities operated by a public or ~~private~~ *private* utility for transmitting and receiving cellular telephone and other wireless communications
 - c. Radio and/or broadcast studios

.....

Sec. 29.20.197. Review of application for a conditional use permit or modification to a conditional use permit to sell beer and wine at a service station.

.....

- (1) The number of locations of retail on-sale and off-sale ~~licenses~~ *licenses* to sell alcohol located within a reasonable distance, generally one mile, of the proposed location;

.....

Sec. 29.40.615. Conditional uses.

In addition to the activities authorized by section 29.10.610, the activities listed in the table in section ~~29.10.185~~ **29.20.185** are allowed if a conditional use permit is issued.

Sec. 29.50.032. Promotional events for auto dealers.

.....

- a. *For small promotions:*

.....

4. The permit may allow a waiver of the provisions of section 29.10.115(1) regarding flags, pennants or balloons provided no helium is used, no metallic -

~~ballons~~ **balloons** are used, and that the applicant can demonstrate that adequate precautions will be taken to protect the public health and safety.

.....

b. *For large promotions:*

.....

4. The permit may allow a waiver of the provisions of section 29.10.115(1) regarding flags, pennants or balloons provided that no helium is used, no metallic ~~ballons~~ **balloons** are used, and the applicant can demonstrate that adequate precautions will be taken to protect the public health and safety.

.....

Sec. 29.90.040. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated July, 1978 and accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), dated January 17, 1979, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ~~artice~~ **article**.

.....

Sec. 29.90.055. Interpretation.

In the interpretation and application of this article, all provisions shall be

.....

- (3) ~~Demed~~ **Deemed** neither to limit nor repeal any other powers granted under state statutes.

Attachments:

1. Required Finding
2. Draft Ordinance (25 Pages).
3. Excerpt from the Planning Commission Minutes from their meetings on January 11, 2006, February 8, 2006, and February 22, 2006 (5 Pages).
4. Exhibit for A-06-5.
5. Report to the Planning Commission, dated February 2, 2006 for the meeting of February 8, 2006 (Submitted under separate cover).
6. Report to the Planning Commission, dated February 17, 2006 for the meeting of February 22, 2006 (Submitted under separate cover).

REQUIRED FINDING FOR:

Town Code Amendments A-06-01 through A-06-11

Consider amending the following sections of the Town Code:

- **References to Planning Director**
- **Requirements for Certificates of Use and Occupancy/Second Dwelling Units/Appeals From Decisions of the Planning Director**
- **Parking Exemption Clarification for Historic Districts and Parking Lot and Dimension Modifications to Meet National Pollution Discharge Elimination System Requirements**
- **Minor Residential Development Application Procedures and Approvals Required for Architecture and Site Application**
- **Projections Allowed Into Yards, Convert Town Policies into Town Code Requirements Relating to Detached Accessory Structure Exemptions**
- **Title Clarification and Height Exception for Wireless Telecommunication Facilities**
- **Salvaging/Recycling Requirements for Demolitions**
- **Appeal Withdrawals, Noticing Procedures for Minor Residential Projects and Clarification of Appeal Fees**
- **Conditional Use Permit Requirement for New Office Buildings and Findings for Denial**
- **Convert Town Policies into Town Code Requirements Relating to Definitions of Attic/Cellar/Basement**
- **Spelling and Grammar Corrections**

It has been determined that this project could not have a significant impact on the environment, therefore, the project is not subject to the California Environmental Quality Act (Section 15061 (b)(3)).

APPLICANT: Town of Los Gatos

FINDING

Required consistency with the Town's General Plan:

- **That the proposed Town Code amendments are consistent with the General Plan and its Elements.**

N:\DEV\FINDINGS\A-06-1throughA-06-11.wpd

ORDINANCE

**AN ORDINANCE OF THE TOWN OF LOS GATOS
AMENDING THE TOWN CODE REGARDING:**

1) REFERENCES TO PLANNING DIRECTOR; 2) REQUIREMENTS FOR CERTIFICATES OF USE AND OCCUPANCY/SECOND DWELLING UNITS/APPEALS FROM DECISIONS OF THE PLANNING DIRECTOR; 3) PARKING EXEMPTION CLARIFICATION FOR HISTORIC DISTRICTS AND PARKING LOT AND DIMENSION MODIFICATIONS TO MEET NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM REQUIREMENTS; 4) MINOR RESIDENTIAL DEVELOPMENT APPLICATION PROCEDURES AND APPROVALS REQUIRED FOR ARCHITECTURE AND SITE APPLICATION; 5) PROJECTIONS ALLOWED INTO YARDS, CONVERT TOWN POLICIES INTO TOWN CODE, REQUIREMENTS RELATING TO DETACHED ACCESSORY STRUCTURE EXEMPTIONS, AND DETACHED GARAGE EXEMPTION; 6) TITLE CLARIFICATION AND HEIGHT EXCEPTION FOR WIRELESS TELECOMMUNICATION FACILITIES; 7) SALVAGING/RECYCLING REQUIREMENTS FOR DEMOLITIONS; 8) APPEAL WITHDRAWALS, NOTICING PROCEDURES FOR MINOR RESIDENTIAL PROJECTS, AND CLARIFICATION OF APPEAL FEES; 9) CONDITIONAL USE PERMIT REQUIREMENT FOR NEW OFFICE BUILDINGS AND FINDINGS FOR DENIAL; 10) CONVERT TOWN POLICIES INTO TOWN CODE REQUIREMENTS RELATING TO DEFINITIONS OF ATTIC/CELLAR/BASEMENT; 11) SPELLING AND GRAMMAR CORRECTIONS.

**THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS
FOLLOWS:**

SECTION I

Town Code Chapter 20 is amended to read as follows:

Sec. 20.10.020. References to Planning Director in the Code.

All references in this Code to "Planning Director" are intended to refer to the Director of Community Development.

Town Code Chapter 29 is amended to read as follows:

Sec. 29.20.060. Certificate of use and occupancy.

A certificate of use and occupancy is required:

- (1) Before occupancy of any new building or commencement of any activity when architecture and site approval or a conditional use permit is required for either *(excluding single family, two family or second dwelling units)*.
- (2) Before any change of occupancy of land or buildings other than a change in residents of a dwelling or proprietors of a continuing business enterprise.
- ~~(3) To signify compliance with the terms of a secondary dwelling unit permit.~~

Sec. 29.10.320. New second dwelling units.

.....

- (8) *Parking*. In addition to parking otherwise required for second units as set forth in section 29.10.150 of the Town Code, the number of off-street parking spaces required by this chapter for the primary unit shall be provided prior to the issuance of a certificate of use and occupancy and/or building permit *or final inspection*,

for the new second dwelling unit. In addition to the number of spaces as set forth in this section, additional spaces may be required if the following findings are made:

- a. Additional parking is directly related to the use of the second unit.
- b. Additional parking is consistent with existing neighborhood standards applicable to existing dwellings.

.....

~~(12) *Expansion of unit.* Requests for expansion of a second dwelling unit shall be subject to the same requirements as a new second dwelling unit. Expansion of a second dwelling unit is defined as increasing the number of bedrooms or adding floor area in excess of thirty (30) square feet.~~

~~(13) *Denial.* An application may be denied if it does not meet the design and development standards. An application may also be denied if the following findings are made:~~

- a. Acknowledgment of limiting the housing opportunities in the region.
- b. Adverse impacts on health, safety and/or welfare of the public.

Sec. 29.10.330. Elimination *and/or* demolition of existing second units.

In order to eliminate *and/or demolish, without replacement*, an approved second unit, the ~~Planning Commission~~ *deciding body* shall make the finding that the proposed removal *elimination and/or demolition, (without replacement)*, is consistent with the Town's Housing Element of the General Plan. In order to *eliminate and/or* demolish an existing second unit (*whether or not it will be replaced*), the ~~Planning Commission~~ *deciding body* must make the demolition findings pursuant to section 29.10.09030.

Sec. 29.10.335 Expansion of existing or nonconforming second dwelling units.

For the purposes of this section only, expansion of a second dwelling unit is defined as increasing the number of bedrooms or adding floor area in excess of thirty (30) square feet. Requests for expansion of any nonconforming second dwelling unit shall be subject to the same requirements as a new second dwelling unit. If the secondary dwelling unit(s) is located on a nonconforming lot, no expansion, as defined by this section, is permitted.

Sec. 29.20.255. Appeals from the decision by the Planning Director.

Any interested person may appeal to the Planning Commission from a decision of the Planning Director:

- (1) Determining an application for a ~~building permit~~, for a horse permit, for an amateur horse event or animal permit, for a home occupation permit, for a tree removal permit, for a sign permit, for a ~~secondary dwelling unit permit~~, or denying a certificate of use and occupancy on the ground that the use is not allowed in the zone.

.....

Section 29.10.150. Number of off-street spaces required.

.....

(h) *Exemptions.* Compliance with subsection (c)(1) is not required if the deciding body makes the following findings:

- (1) *If the site and/or structures on the site are subject to historic preservation pursuant to Division 3 of Article VIII of this Code and t*The Historic Preservation Committee determines that the enforcement of subsection (g) will impact the historic character of the site and/or structures on the site;~~and~~ *or*
- (2) ~~The addition is determined necessary to provide adequate floor area for a suitable living environment; and~~
- (3) ~~The lot does not have adequate area to provide parking as required by subsection (c)(1). This finding is not required if subsection (h)(1) is made.~~

If the deciding body makes the findings set forth in subsections (1)(1), (2) and (3) above, parking shall be provided to the maximum extent possible.

Sec 29.10.155. Development Standards

.....

(c) *Driveways.* Off-street parking lots and parking garages must be connected to streets or alleys by driveways which comply with the following requirements:

.....

(2) Driveways which serve more than two (2) and not more than ten (10) parking spaces shall be at least ten (10) feet wide if they provide either ingress or egress only, and not less than eighteen (18) feet wide if they provide both ingress and egress. *The Planning Director may authorize a reduction in width of two-way driveways for single family residential parcels with a secondary dwelling unit(s) and two family residential parcels if the Planning Director finds that conditions make the eighteen-foot requirement impractical.*

.....

(7) When a garage, *with a sliding or overhead roll-up door, unenclosed parking space*, or carport opens onto a street (excluding alleys) the length of the driveway shall not be less than ~~twenty-five (25)~~ *eighteen (18)* feet. *The length of all other driveways shall not be less than 25 feet. For a driveway that opens onto an alley, the width of the alley can be used for calculating the length of a driveway.*

.....

(e) *Surfacing.*

- (1) All outdoor off-street parking spaces, driveways and maneuvering areas shall be paved with a compacted base not less than four (4) inches thick, surfaced with asphaltic concrete or Portland cement concrete pavement or other surfacing (*e.g.: permeable paving materials, interlocking pavers and ribbon strip driveways*) approved by the Town Engineer. The paved area shall be provided with drainage facilities subject to the approval of the Town Engineer, adequate to dispose of all accumulated surface water. Special surfaces may be allowed by the Development Review Committee if the following conditions apply:

.....

- (2) Special paving may be required within the dripline of existing trees subject to the recommendation of the *Planning* Director of ~~Parks, Forestry and Maintenance Services~~.

.....

- (g) *Screening and landscaping.* Parking lots and spaces shall be screened and landscaped as follows:

.....

- (3) All landscaped areas shall be completely enclosed by a ~~six~~ *four*-inch continuous concrete curb. At any point where a curb around a landscaped area serves as a

wheel stop, a vehicle overhang allowance of two (2) feet including the width of the curb shall be added to the landscaped area.

.....

(h) *Curbs, wheel stops and markings.* Curbs, wheel stops and markings for parking lots and spaces shall be provided as follows:

(1) Except for spaces which serve single- or two-family dwellings, all off-street parking spaces shall have wheel stops. Wheel stops must be continuous curbing and shall not be separate blocks. *A continuous concrete curb may be permitted with breaks in the curb to allow for drainage to meet Best Management Practices methods for National Pollutant Discharge Elimination System (NPDES) requirements.*

(2) Opposing ranks of parking stalls shall be separated by a raised curbed island. *Breaks in the curb may be permitted to allow for drainage to meet Best Management Practices methods for NPDES requirements.*

.....

(l) *Determination.* Applications for permits for parking lot improvements shall be determined by the ~~Director of Building and Engineering Services~~ subject to approval of ~~the~~ Planning Director. When compliance with State disabled-accessibility statutes and regulations will result in a reduction in the number of spaces remaining in the parking lot

below the number required by this chapter, the application shall be determined by the Development Review Committee *through the building permit process*.

Sec. 29.20.480. Administrative procedure for minor residential projects.

.....

(2) In addition to the projects identified in subsections 29.20.745(12) and (15), the following projects will be considered under this administrative procedure.

.....

- (c) Reconstruction to a portion of a single or two-family dwelling *or an accessory structure* with a nonconforming setback.
- (d) Accessory structures exceeding *a combined square footage of* 450 square feet.
- (e) Additions to accessory structures resulting in the structures containing *a combined square footage* more than 450 square feet.
- (f) Request to reduce side and rear yard setback requirements for accessory ~~buildings~~ *structures*.
- (g) Sport court lighting and/or fencing over six (6) feet high enclosing court game areas ~~in residential zones~~.

Sec. 29.20.145. Approval required.

Architecture and site approval is required in all zones for the following:

.....

(2) *An exterior alteration that changes the architectural style of a single family and two family residence.*

(23) ~~Any Exterior alteration or addition to a building (other than single-family and two-family dwellings and minor exterior alterations)~~ *excluding:*

(a) *Alterations or additions to a single and two family dwelling that do not require approval by the Planning Commission or Development Review Committee pursuant to the Residential Design Guidelines or the Hillside Development Standards and Guidelines,*

(b) *Minor exterior alterations to commercial and multifamily buildings.*

(34) ~~Intensification of land use.~~ *For the purposes of this section only, intensification of land use means all changes in use which require more parking and/or results in an increase in peak hour trips for mixed use, multi tenant commercial, industrial or multifamily development projects if the trips exceed the traffic generation factor assigned to the project at the time of approval and/or an increase of five (5) or more peak hour trips;*

(45) Residence conversions;

(56) Any development in a floodplain as required by article IX of this chapter;

and as otherwise specified in this article. ~~For the purposes of this section only, intensification of land use means all changes in use which require more parking and/or results in an increase in peak hour trips for mixed use, multitenant commercial or industrial or multifamily development projects if the trips exceed the traffic generation factor assigned to the project at the time of approval and/or an increase of five (5) or more peak hour trips.~~

Sec. 29.40.070. Projections allowed into yards.

(a) A porte cochere may be permitted over a driveway in a side yard, provided that it is not more than one (1) story high and twenty-four (24) feet long, *and with supporting columns* not closer than *two a minimum of three (23) feet* from the side lot line *with a maximum eave length of twelve (12) inches*, and is entirely open on at least three (3) sides, except for the necessary supporting columns and customary architectural features.

.....

(d) *Open, unenclosed porches or decks, not covered by a roof or canopy, less than one (1) foot above grade, may project into side or rear yards.*

(de) Open, unenclosed porches, not covered by a roof or canopy, less than four (4) feet above grade may project into front, side or rear yards or into any court up to six (6) feet; but in no case shall the projection into a side yard be closer than six (6) feet to the property line or into a court exceed a distance of more than twenty (20) percent of the width of such court.

(ef) Open, unenclosed balconies, not covered by a roof or canopy may project into a front or rear yard up to six (6) feet.

Sec. 29.50.055. Projections allowed into yards.

(a) A porte cochere may be permitted over a driveway in a side yard, provided that it is not more than one (1) story high and twenty-four (24) feet long, and *with supporting columns not closer than two a minimum of three (23) feet from the side lot line with a maximum eave length of twelve (12) inches*, and is entirely open on at least three (3) sides, except for the necessary supporting columns and customary architectural features.

.....

Sec. 29.40.015. Accessory buildings structures.

In residential zones (defined by Ssection 29.40.010), accessory buildings structures (excluding horse barns and shelters), located on the same site with a permitted use, including private garages and carports, studios for private use, garden structures,

greenhouses, hobby shops, recreation rooms and free-standing patio covers are allowed if such accessory ~~buildings~~ **structures**:

.....

B. Exceptions.

(1) In the R-1 zones, required side and rear yards for accessory structures other than ~~accessory living quarters and secondary dwelling units~~, may be reduced to no less than three (3) feet from a property line, if an application is approved through the Administrative Procedure for Minor Residential Projects. A reduction in setbacks will not be allowed in the side yard abutting a street and conversion of accessory structures with reduced setbacks to ~~an accessory living quarter or a secondary dwelling unit~~ is prohibited.

Criteria to be considered when reviewing accessory structures within reduced setbacks shall include the number and size of structures already within a reduced setback area, visibility, compatibility with other structures in the neighborhood, historic preservation considerations, privacy and compatibility of historic nature of neighborhoods.

(2) One accessory structure less than 120 square feet, is allowed in the required side or rear setbacks without any zoning approvals. Any accessory structure in excess of one will be subject to the requirements set forth by Section

29.40.015.

(3) In the R-1 zones, required side yard setbacks may be reduced to five (5) feet for detached garages less than 450 square feet without obtaining approval through the Administrative Procedure for Minor Residential Projects (Section 29.20.480). A reduction in setbacks in the side yard abutting a street shall be subject to the Administrative Procedure for Minor Residential Projects (Section 29.20.480).

.....

Sec. 29.20.200 Conditional Use Modification

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DIVISION 3A. WIRELESS TELECOMMUNICATIONS FACILITIES

Sec. 29.20.205. Purpose and intent.

.....

Sec. 29.10.090. Height restriction, exception.

Towers, spires, elevator and mechanical penthouses, cupolas, *wireless telecommunication antennas*, similar structures and necessary mechanical appurtenances which are not used for human activity or storage may be higher than the maximum height

permitted by the zone. The use of tower elements or similar structures to provide higher ceiling heights for habitable space shall be deemed as a use intended for human activity and is therefore not exempt from the maximum height restrictions of a zone.

Sec. 29.10.09030. Demolitions.

.....

(j) *Salvage Recycling of Building Materials.* When demolition of a structure is allowed, the ~~the~~ Town shall provide the developer of the structure to be demolished with information about the *recycling* salvaging of building materials. ~~At least ten (10) days Prior to the date when the demolition is scheduled to commence~~ *issuance of the demolition permit*, the developer shall provide the Planning Director with written notice, ~~and an advertisement published in a newspaper of general circulation, of the availability of materials for salvage, including the name and telephone number of a contact person~~ *of the company that will be recycling the building materials. All wood, metal, glass, and aluminum materials generated from the demolished structure shall be deposited to a company which will recycle the materials. Receipts from the company(s) accepting these materials, noting the type and weight of materials, shall be submitted to the Town prior to the Town's demolition inspection.* Upon request, the Planning Director may make this information available to persons who may be interested in contacting the owner(s) to arrange for possible salvage of building materials. No *recycling* salvaging of materials shall occur until a demolition permit has been approved by the Building Department.

.....

Sec. 29.20.260. Notice of appeal.

The appellant must file a written notice of appeal with the Planning Director not more than ten (10) days after the date of mailing of written notification of the Planning Director's; *decision and not more than ten (10) days after the decision is rendered by the* Development Review Committee's or *the* Historic Preservation Committee's decision. *The notice shall state clearly the reasons why the appeal ought to be granted. Once a written notice of appeal has been filed, it may be withdrawn by the appellant at anytime prior to the distribution of public hearing notices, but not thereafter.*

Sec. 29.20.275. Appeals from decisions by the Planning Commission.

Any interested person may appeal to the Council from any decision of the Planning Commission. The appellant must file a written notice of appeal in duplicate with the Clerk not more than ten (10) days after the decision is rendered. The notice shall state clearly the reasons why the appeal ought to be granted. The Council shall **not** *only* hear the appeal if the notice is ~~not filed in time~~ *and all required fees are paid within the ten (10) day appeal period*. Once a notice of appeal has been filed, it may ~~not be withdrawn without the consent of the Council~~ *by the appellant prior to the distribution of public hearing notices, but not thereafter.*

Sec. 29.20.480. Administrative procedure for minor residential projects.

.....

- (c) If the *Planning Director intends to approve the application*, ~~application can be approved,~~ a "Notice of Intent to Approve *Pending Approval*" will be mailed to neighboring residents and property owners including any applicable conditions, exactions or dedications as required. The notice will advise the residents and property owners of the applicant's plans, and that the application will be approved unless there is an objection. The residents and property owners have ten days *from the date of the "Notice of Pending Approval"* in which to review the application and to notify the Planning Director in writing of any concerns or problems.

.....

- (e) If an objection to the project is filed in a timely manner and the differences cannot be resolved at the staff level, the application is scheduled before the Planning Commission on the next available agenda for consideration *at the applicant's cost*. All property owners and residents notified originally shall be notified of the Planning Commission meeting.

.....

Section 29.20.185. Table of conditional uses.

.....

- (1) Commercial

.....

q. *New office building approved or constructed after effective date of the ordinance.*

.....

Put an X under C-1, C-2, and CH in the Conditional Use Permit Table for item q listed above.

Sec. 29.20.190. Findings and decision.

.....

(c) The deciding body, on the basis of the evidence submitted at the hearing, may deny a conditional use permit for a new office building if any of the following findings are made:

- (1) The proposed use will result in a significant loss of current or potential revenue to the Town;*
- (2) The proposed use of the property is not in harmony with specific provisions or objectives of the general plan and the purposes of this chapter;*
- (3) The proposed use will detract from the existing balance and diversity of businesses in the commercial district in which the use is proposed to be located;*
- (4) The proposed use would create an over-concentration of similar types of businesses, or;*

- (5) *The proposed use will detract from the existing land use mix and high urban design standards including uses that promote continuous pedestrian circulation and economic vitality.*

Sec. 29.10.020. Definitions.

.....

Attic is a non-habitable space (that may or may not be used for storage) with a maximum height of seven feet six inches as measured from the upper surface of the attic floor to the underside of the roof above. For the purposes of this definition, unfinished attic spaces are considered to have floor surfaces. Once an attic space exceeds seven feet six inches in height, all areas down to five feet will be counted toward the floor area ratio.

.....

~~Basement means that portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is less than the vertical distance from grade to ceiling~~ *is an enclosed area that extends more than four feet above the existing or finished grade in any location. Basements, as defined here, shall be included in the floor area ratio calculation. For purposes of this definition, whichever grade (existing or proposed) results in the lowest building profile of a building shall be used.*

.....

~~Cellar means that portion of a building between floor and ceiling which is wholly or partly below grade, and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling~~ *is an enclosed area that does not extend more than four feet above the existing or finished grade in any location. Cellars, as defined here, shall not be included in the floor area ratio calculation for residential developments. That area of a cellar where the building height exceeds four feet above existing or finished grade shall not be included in this definition and shall be included in the floor area ratio calculation. For purposes of this definition whichever grade (existing or proposed) results in the lowest building profile of a building shall be used.*

.....

Sec. 29.10.145. Requirements generally.

.....

(h) *Permit required for parking lot improvements.* No person shall erect, construct, relocate, enlarge, alter, repair, move, improve, remove, or convert any parking lot without a permit therefor except:

.....

Sec. 29.10.215. Modification of a nonconforming use.

After March 22, 1986, for hotels and motels located in residential zones that were converted to multiple-family dwelling units, and after May 6, 1981, for all others, a use which

is nonconforming shall not be modified without obtaining a conditional use permit therefor.

For purposes of this section, a modification ~~that~~ *shall* be defined as follows:

.....

Sec. 29.10.245. Expansion of nonconforming building.

.....

- (3) Industrial buildings in an office or ~~commercial~~ *commercial* zone as defined in section 29.60.010.

.....

Sec. 29.20.140. Architecture and site approval, purpose and intent.

.....

(b) ~~In the main,~~ *T*he Town contains small businesses, professional offices and residences. Municipal revenues derive principally from property tax and taxes derived from retail trade. Local employment depends to an unusual extent on the success of small business ventures, which in turn depend on trade in specialty items sold to visitors. Much of the business and residential area of the Town is composed of a mixture of old and new buildings, and the condition and style of each reflects on the other. For example, a new building loses value and its occupant's trade is diminished if an old building nearby is permitted to decay, and old buildings are permitted to decay when the designs of new buildings nearby do not compliment them. The juxtaposition of old and new buildings in the Town is extensive.

.....

Sec. 29.20.185. Table of conditional uses.

.....

TABLE OF CONDITIONAL USES

.....

- (3) Community services
- a. Public building; police, fire, community center,

library, art gallery, museum
 - b. Club, lodge, hall, fraternal organization
 - c. Church, monastery, convent, and other institutions

for religious observance
 - d. Mortuary, columbarium, ~~mausolium~~ *mausoleum*
 - e. ~~Public~~ **Public** transportation and parking facilities
-
- (6) Transmission Facilities/Utilities
- a. Public utility service yard, station, transmission lines,

storage tank, drainage or communication facilities
 - b. Antenna facilities operated by a public or ~~private~~

private utility for transmitting and receiving cellular

telephone and other wireless communications
 - c. Radio and/or broadcast studios

.....

**Sec. 29.20.197. Review of application for a conditional use permit or modification to a
conditional use permit to sell beer and wine at a service station.**

.....

- (1) The number of locations of retail on-sale and off-sale ~~licenses~~ *licenses* to sell alcohol located within a reasonable distance, generally one mile, of the proposed location;

.....

Sec. 29.40.615. Conditional uses.

In addition to the activities authorized by section 29.10.610, the activities listed in the table in section ~~29.10.185~~ **29.20.185** are allowed if a conditional use permit is issued.

Sec. 29.50.032. Promotional events for auto dealers.

.....

- a. *For small promotions:*

.....

4. The permit may allow a waiver of the provisions of section 29.10.115(1) regarding flags, pennants or balloons provided no helium is used, no metallic ~~ballons~~ *balloons* are used, and that the applicant can demonstrate that adequate precautions will be taken to protect the public health and safety.

.....

- b. *For large promotions:*

.....

4. The permit may allow a waiver of the provisions of section 29.10.115(1) regarding flags, pennants or balloons provided that no helium is used, no metallic ~~ballons~~ *balloons* are used, and the applicant can demonstrate that adequate precautions will be taken to protect the public health and safety.

.....

Sec. 29.90.040. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated July, 1978 and accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), dated January 17, 1979, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ~~artilee~~ *article*.

.....

Sec. 29.90.055. Interpretation.

In the interpretation and application of this article, all provisions shall be

.....

- (3) ~~Demed~~ *Deemed* neither to limit nor repeal any other powers granted under state statutes.

SECTION II

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on , 2006, and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on , 2006. This ordinance becomes effective 30 days after it is adopted.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR
TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

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ITEM 3 **Zoning Code Amendments A-06-01 through A-06-11**

Public hearing to consider amending the following sections of the Town Code:

- References to Planning Director
- Requirements for Certificates of Use and Occupancy/Second Dwelling Units/Appeals From Decisions of the Planning Director

- Parking Exemption Clarification for Historic Districts and Parking Lot and Dimension Modifications to Meet National Pollution Discharge Elimination System Requirements
- Minor Residential Development Application Procedures and Approvals Required for Architecture and Site Application
- Projections Allowed Into Yards, Convert Town Policies into Town Code Requirements Relating to Detached Accessory Structure Exemptions, and Detached Garage Exemption
- Title Clarification and Height Exception for Wireless Telecommunication Facilities
- Salvaging/Recycling Requirements for Demolitions
- Appeal Withdrawals, Noticing Procedures for Minor Residential Projects and Clarification of Appeal Fees
- Conditional Use Permit Requirement for New Office Buildings and Findings for Denial
- Convert Town Policies into Town Code Requirements Relating to Definitions of Attic/Cellar/Basement
- Spelling and Grammar Corrections

It has been determined that this project could not have a significant impact on the environment, therefore, the project is not subject to the California Environmental Quality Act (Section 15061 (b)(3)).

APPLICANT: Town of Los Gatos

PUBLIC TESTIMONY: None

MOTION: Motion by Commissioner Kane and seconded by Commissioner Rice to continue public hearing to February 8, 2006.

Motion carried 6-0-1 with Commissioner O'Donnell absent. Mr. Tsuda requested the Commissioners with questions on Zoning Code Amendments A-06-01 thru A-06-11 contact staff before the continued public hearing date.

CONTINUED OTHER BUSINESS - None

ITEM 4 **54 Chester Street**
Architecture and Site Application S-05-031

Requesting approval to demolish a pre-1941 residence, construct a new single family residence and accessory structure with reduced setbacks and request for an interpretation of the cellar policy on property zoned R-1D. APN: 529-08-008
PROPERTY OWNER: Anna Huynh and Kevin Crane

PUBLIC TESTIMONY by Kevin Crane and Brian Kulman

MOTION: Motion by Commissioner Talesfore and seconded by Commissioner Quintana to refer Architecture and Site Application S-05-031 back to staff for redesign and a date uncertain for public hearing.

Motion carried 5-1-1 with Commissioner Micciche dissenting and Commissioner Kane recused.

Appeal rights cited by Mr. Tsuda.

After hearing Item 2, which was moved to the end of the agenda, Chair Micciche re-opened the public hearing on this item to allow the applicant to comment on his willingness to redesign the house. The applicant commented he would rather have the project denied than return to the Planning Commission.

MOTION: Motion by Commissioner O'Donnell and seconded by Chair Micciche to rescind previous motion. Motion carried 5-1-1 with Commissioner Quintana dissenting and Commissioner Kane recused.

MOTION: Motion by Commissioner Talesfore and seconded by Chair Micciche to deny Architecture and Site Application S-05-031 since findings and conditions could not be made as noted in Exhibits A and B of report dated February 2, 2006. Motion carried 6-0-1 with Commissioner Kane recused

Appeal rights cited by Mr. Tsuda.

CONTINUED PUBLIC HEARING



ITEM 2

Zoning Code Amendments A-06-01 through A-06-11

Public hearing to consider amending the following sections of the Town Code:

- References to Planning Director
- Requirements for Certificates of Use and Occupancy/Second Dwelling Units/Appeals From Decisions of the Planning Director
- Parking Exemption Clarification for Historic Districts and Parking Lot and Dimension Modifications to Meet National Pollution Discharge Elimination System Requirements

- Minor Residential Development Application Procedures and Approvals Required for Architecture and Site Application
- Projections Allowed Into Yards, Convert Town Policies into Town Code Requirements Relating to Detached Accessory Structure Exemptions, and Detached Garage Exemption
- Title Clarification and Height Exception for Wireless Telecommunication Facilities
- Salvaging/Recycling Requirements for Demolitions
- Appeal Withdrawals, Noticing Procedures for Minor Residential Projects and Clarification of Appeal Fees

- Conditional Use Permit Requirement for New Office Buildings and Findings for Denial
- Convert Town Policies into Town Code Requirements Relating to Definitions of Attic/Cellar/Basement
- Spelling and Grammar Corrections

It has been determined that this project could not have a significant impact on the environment, therefore, the project is not subject to the California Environmental Quality Act (Section 15061 (b)(3)).

APPLICANT: Town of Los Gatos
(Continued from January 11, 2006)

PUBLIC TESTIMONY: None

MOTION: Motion by Commissioner O'Donnell and seconded by Commissioner Talesfore to recommend approval of Zoning Code Amendments A-06-01 through A-06-11 and forward to Town Council for final action. Motion by Commissioner Quintana and seconded by Commissioner O'Donnell to continue Zoning Code Amendment A-06-08 to the public hearing on February 22, 2006.

Motions carried 6-0-1 for both actions on the above with Commissioner Kane recused.

CONTINUED OTHER BUSINESS

NEW OTHER BUSINESS

Sub-Committee Reports

Conceptual Development Advisory Committee - Commissioner Talesfore commented on the two items on the agenda, i.e., 115 N. Santa Cruz Avenue (Chart's Restaurant) and 16245 Burton Road (new child care facility).

Report from Director of Community Development - Mr. Tsuda provided information on the Planners Institute. Commissioners Talesfore, Kane, Quintana, O'Donnell and Bourgeois will be attending the conference on March 22-24, 2006. Planning Commission meeting on March 22, 2006 will be cancelled.

Commission Matters - Chair Micciche commented on the Policies and Procedures information provided by staff for Planning Commissioners information.



TOWN OF LOS GATOS
PLANNING COMMISSION MEETING
ACTION MINUTES
TOWN COUNCIL CHAMBERS
110 E. MAIN STREET
WEDNESDAY, FEBRUARY 22, 2006 -- 7:00 P.M.

Please refer to compact disk #02-22-06 to hear the entire proceedings of this meeting.

ROLL CALL:

Present: Phil Micciche, Chair; John Bourgeois, D. Michael Kane, Thomas O'Donnell and Lee Quintana

Absent: Joanne Talesfore, Vice Chair; Stephen M. Rice

Others: Assistant Community Development Director Randy Tsuda and Judie Soo Gilli, Assistant Planner

VERBAL COMMUNICATION

Ray Davis Commented on the performance of several Planning Commissioners.

APPROVAL OF MINUTES

February 8, 2006 - Commissioner Quintana provided a correction to Item 3/14777 Los Gatos Blvd - Page 3 regarding motions made. Commissioner Kane provided a correction to Item 3 (noted above) to include his comments as to why he voted against this project. Commissioner O'Donnell moved and Commissioner Kane seconded to approve minutes with corrections as duly noted. Motion carried 5-0-2 with Commissioners Talesfore and Rice excused.

CONSENT CALENDAR - None

CONTINUED PUBLIC HEARING

NEW PUBLIC HEARINGS



ITEM 1 Zoning Code Amendment A-06-08

Public hearing to consider amending the following sections of the Town Code:
Appeal Withdrawals, Noticing Procedures for Minor Residential Projects and
Clarification of Appeal Fees

It has been determined that this project could not have a significant impact on the environment, therefore, the project is not subject to the California Environmental Quality Act (Section 15061 (b)(3)).

APPLICANT: Town of Los Gatos
(Continued from February 8, 2006)

PUBLIC TESTIMONY by Ray Davis.

MOTION: Motion by Commissioner O'Donnell and seconded by Commissioner Bourgeois to recommend approval of Zoning Code Amendment A-06-08 and forward to Town Council for final action. This amendment will be combined with the previously recommended action from February 8, 2006.

Motion carried 4-1-2 with Commissioner Quintana dissenting and Commissioners Talesfore and Rice excused. Commissioner Quintana voted against the motion since she felt the motion should require Town Attorney review of the legality of requiring an appellant to state the reasons for an appeal on the appeal form.

ITEM 2 **16463 Ferris Avenue**
Architecture and Site Application S-06-031

Requesting approval to demolish a single family residence, demolish a second dwelling unit and construct a new single family residence on property zoned R-1:8. APN 532-07-041

PROPERTY OWNER: Dennis and Deborah Politi
APPLICANT: Hometec Architecture

PUBLIC TESTIMONY by Rick Hartman, Ray Davis and Dennis Politi

MOTION: Motion by Commissioner Kane and seconded by Commissioner Bourgeois to approve Architecture and Site Application S-06-031. The required findings were made as noted in Exhibit A of report dated February 15, 2006 and the application incorporated the conditions as noted in Exhibit B of report dated February 15, 2006 with added conditions as follows:

7. **ARBORIST RECOMMENDATIONS: The Consulting Arborist recommendations minus the tree replacement recommendation dated January 12, 2006 must be strictly adhered to, prior to and throughout construction.**
8. **REPLACEMENT TREES: Replacement trees or alternative mitigation shall be determined by the Town arborist according to Section 29.10.0985 of the Zoning Ordinance.**

Motion carried 4-1-2 with Commissioner Quintana dissenting and Commissioners Talesfore and Rice excused. Commissioner Quintana provided the following reasons for not supporting the motion: a) lack of existing site plan, b) the garage should be located at the back of the lot, c) loss

