

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A P P E A R A N C E S:

Los Gatos Planning Commissioners:  
Steve Raspe, Chair  
Emily Thomas, Vice Chair  
Susan Burnett  
Melanie Hanssen  
Kathryn Janoff  
Adam Mayer

Town Manager: Laurel Prevetti

Community Development Director: Joel Paulson

Town Attorney: Gabrielle Whelan

Transcribed by: Vicki L. Blandin  
(619) 541-3405

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

P R O C E E D I N G S :

CHAIR RASPE: Let us move to Item #3 in the public portion of our hearing tonight regarding a recommendation to the Town Council on amendments to Chapter 29 of the Town Code regarding the powers and duties of the Historic Preservation Committee. Proposed amendments also include revisions to Chapter 9 regarding the assignment of duties of the Planning Director and appeals of decisions of the Historic Preservation Committee. Ms. Armer, do we have a report?

JENNIFER ARMER: Thank you. Good evening, again. The item in front of you is consideration of the changes of the powers and duties of the Historic Preservation Committee, also known as the HPC, to ensure that they are an advisory body consistent with Town Code Section 29.80.225.

These modifications are important because Government Code Section 1099 codifies the common law incompatible offices doctrine, which prohibits individuals from serving on both an initial decision-making legislative body and a legislative body with the ability to review those decisions.

1           Town Council requested your recommendation on  
2 these amendments on January 16<sup>th</sup>. Town Council did not  
3 support removing Planning Commissioners from HPC, but  
4 directed Staff to prepare amendments to ensure that HPC was  
5 just a recommending body either to the Director or to the  
6 Planning Commission.

7           This concludes Staff's presentation, but we would  
8 be happy to answer any questions.

9           CHAIR RASPE: Thank you for that report.  
10 Commissioners, any questions for Staff on this matter?  
11 Commissioner Hanssen.

12           COMMISSIONER HANSSEN: The judicial duties that  
13 the HPC had formally done will now be going to Staff?

14           JENNIFER ARMER: Correct. The recommendation then  
15 would be forwarded to Staff and the Director would most  
16 likely be making a decision the following day if it were  
17 one of those that were made by HPC. Many of the items  
18 considered by HPC are already recommendations either to the  
19 Director as part of, say, a Building Permit, or to the  
20 Planning Commission.  
21

22           COMMISSIONER HANSSEN: So if it came to the HPC  
23 in the new version they would be discussing it and holding  
24 a hearing, but only making a recommendation?  
25

1           JENNIFER ARMER: Correct. They would still make a  
2 motion and vote, but it would be a recommendation. As with  
3 the two items before the Planning Commission tonight, they  
4 are a recommendation to a future deciding body.

5           COMMISSIONER HANSSEN: That makes sense.

6           CHAIR RASPE: Commissioner Burnett.

7           COMMISSIONER BURNETT: Thank you. Question for  
8 Staff. Since now clearly the Historic Preservation  
9 Committee will be advisory only, if you sit on the Historic  
10 Preservation Committee and you also are a member of the  
11 Planning Commission, and an appeal comes to the Planning  
12 Commission that originated from a decision by the Planning  
13 Director after a vote of the Historic Preservation  
14 Committee members, would you be able to vote as a Planning  
15 Commissioner in that scenario?

16           ATTORNEY WHELAN: Yes. Another option that Staff  
17 presented to the Town Council was that Planning  
18 Commissioners recuse themselves, to keep the Historic  
19 Preservation Committee as a decision-making body and then  
20 to ask those members to recuse themselves when sitting as  
21 Planning Commissioners, and the Town Council preferred the  
22 option that is before you tonight where Planning  
23 Commissioners will not need to recuse themselves if they  
24  
25

1 serve on the Historic Preservation Committee, because  
2 they'll be an advisory body.

3 COMMISSIONER BURNETT: Thank you for that  
4 clarity.

5 CHAIR RASPE: Thank you Commissioner Janoff.

6 COMMISSIONER JANOFF: Thank you. I noted in the  
7 ordinance it states that the HPC will be providing a report  
8 to the Planning Commission should it be an item that goes  
9 to the Planning Commission. In the past we've had the HPC's  
10 decision as well as the minutes. Will we be privy to the  
11 minutes of the discussion from the Historic Preservation  
12 Committee as we have in the past?

14 JENNIFER ARMER: As previously, Staff would  
15 provide information about the recommendation of the HPC as  
16 part of any Staff Report prepared for the Planning  
17 Commission.

18 COMMISSIONER JANOFF: It strikes me that this is  
19 really a technicality more than anything, because we have  
20 essentially a recommendation, which by the old rules would  
21 probably be a vote in favor of, so it strikes me that not  
22 much has changed except that it is just a recommendation.  
23 Is that fair to say?

24  
25

1           ATTORNEY WHELAN: I think that's accurate, and I  
2 think the goal of it is to insulate Planning Commission  
3 decisions from potential challenges.

4           CHAIR RASPE: Thank you. Commissioners, any  
5 further questions? Seeing none, again, seeing no members of  
6 the public in person, Mr. Paulson, are there any members of  
7 the public on Zoom who wish to be heard on Item #3?

8           JOEL PAULSON: Thank you, Chair. Let's give it a  
9 couple of seconds. I don't see any hands raised currently.  
10 No hands are raised.

11           CHAIR RASPE: Thank you. With that being said,  
12 I'll close the public portion of the hearing on Item #3 and  
13 invite my fellow commissioners to make comments, ask  
14 questions, and if appropriate make a motion on the matter  
15 before the Commission. Vice Chair Thomas.

16           VICE CHAIR THOMAS: I just want to say that I  
17 really appreciate the work that the HPC does. As a Planning  
18 Commissioner that area is not one of my strengths, so the  
19 work that my fellow commissioners do on that committee is  
20 really helpful; however, I do think that this just clears  
21 things up and clarifies things, and the recusal line seems  
22 like it would have been viable, however, if this is what  
23 Town Council is recommending and that's the direction they  
24  
25

1 want to go, I'm in support of this recommendation to the  
2 Town Council. Thank you.

3 CHAIR RASPE: Thank you. Commissioner Hanssen.

4 COMMISSIONER HANSSEN: I agree with the Vice  
5 Chair in terms of the importance of having the feedback  
6 from the Historic Preservation Committee should it come to  
7 the Planning Commission, however, I have seen in my time on  
8 the Planning Commission where it can appear as a conflict  
9 of interest when there is the Planning Commissioner sitting  
10 on the HPC voting one way, and then even if they had  
11 recused themselves at the Planning Commission it seems to  
12 me like a conflict of interest that should be corrected,  
13 and it's a fine line difference. We still get the same  
14 information coming out, but at least there isn't that  
15 perhaps legal conflict of interest.

17 CHAIR RASPE: Thank you so much. I'll just go on  
18 record and say and I've served on HPC for I believe almost  
19 four years, and as the Vice Chair indicated I think it's a  
20 valuable committee for this town. Clearly the preservation  
21 of historic structures is one of the things that makes Los  
22 Gatos what it is, and so to the extent that that committee  
23 has served as a viable service for that function, I support  
24 it.

25

1 I also support the inclusion of a Planning  
2 Commissioner on the HPC. I think it's nice to be able to  
3 serve in both those dual capacities. I thought recusal was  
4 a potential remedy to this, but as noted, Town Council  
5 favors this remedy and I think this one serves the purpose  
6 it is intended to, which is getting rid of a conflict that  
7 may have existed before, and so I would support forwarding  
8 this recommendation to Town Council.

9  
10 Do I have a Commissioner who wishes to make such  
11 a motion? If not, I'd be more than happy to. Commissioner  
12 Hanssen.

13 COMMISSIONER HANSSEN: I move that we forward a  
14 recommendation to the Town Council on amendments to Chapter  
15 29, Zoning Regulations, regarding the powers and duties of  
16 the Historic Preservation Committee. This has no impact on  
17 CEQA, it is Town Code Amendment A-24-001, and there are no  
18 exhibits, so that's my motion.

19 CHAIR RASPE: Actually, there is a draft  
20 ordinance.

21 COMMISSIONER HANSSEN: Including the draft  
22 ordinance in Attachments 1 and 2.

23 JENNIFER ARMER: Just for clarification, Exhibit  
24 2 is the Draft Enabling Resolution.

25 COMMISSIONER HANSSEN: Yes, that.



1 CHAIR RASPE: Thank you. Do I have a second on  
2 that motion? Commissioner Janoff.

3 COMMISSIONER JANOFF: I'll second the motion.

4 CHAIR RASPE: Thank you. I have a motion and  
5 second. Do I have any questions or comments from my  
6 Commissioners? Seeing none, I'll put it to a vote by show  
7 of hands. All those in favor of the motion before the  
8 Commission? The motion carries unanimously.

9 Ms. Armer, I believe since this is a  
10 recommendation, there are no appeal rights, correct?

11 JENNIFER ARMER: Correct.

12 CHAIR RASPE: Thank you so much.

13 (END)  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

*This Page  
Intentionally  
Left Blank*