



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 12/11/2019

ITEM NO: 3

DATE: December 6, 2019
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Architecture and Site Application S-17-047. Project Location: **16 Chestnut Avenue**. Property Owner: Kim Roper. Applicant/Appellant: Bess Wiersema, Studio 3 Design. Project Planner: Erin Walters.
Consider an appeal of a Development Review Committee decision approving a request for demolition of an existing pre-1941 single-family residence and construction of a new single-family residence on property zoned R-1:12. APN 510-40-012.

BACKGROUND:

The Planning Commission considered this appeal on July 10, 2019 and continued the matter to October 9, 2019 with direction to the applicant to provide a study showing substantial evidence of the reasonableness of maintaining the existing driveway location and design.

On October 9, 2019, the Planning Commission continued the application to December 11, 2019 as the appellant and staff requested additional time for the preparation and review of additional materials.

DISCUSSION:

In response to the direction received from the Planning Commission at the July 10, 2019 meeting, the Town's traffic consultant, TJKM, prepared a driveway analysis to investigate allowing the existing driveway to remain (Exhibit 22).

Driveway Analysis - Parks and Public Works Engineering

In order to analyze the driveway entrance and the intersection of Chestnut and Hernandez Avenues, TJKM conducted traffic counts, and also reviewed accident history, the intersection configuration, and general design guidelines for the placement of driveway locations. In their

PREPARED BY: Erin Walters
Associate Planner

Reviewed by: Planning Manager, Community Development Director, Town Engineer and Town Attorney

DISCUSSION (continued):

report, TJKM ultimately concluded that either following the Town's Engineering Design Standards, with locating the driveway both a minimum of 50 feet from the intersection corner and at a 90-degree angle, or allowing the existing driveway to remain, with vehicles entering and exiting diagonally at the intersection, will not create an unsafe condition. TJKM provides an option for allowing the driveway to remain at its existing location based on the safety record of the intersection, the current low traffic volumes in the area, the low pedestrian and bicycle traffic, and the existing all-way stop sign control at the intersection.

Although the TJKM study concluded that it is safe to allow the existing driveway to remain at its present location, the study did not adequately address the potential impact that placing a driveway within an intersection may cause, such as increasing the points of conflict for pedestrians and crossing vehicles as well as occupying an intersection corner where pedestrians would typically wait before crossing an intersection. Because the study was not able to address these issues of primary intersection functions, and also did not suggest that the Engineering Design Standard is not appropriate for this location, Parks and Public Works (PPW) staff recommends that the Engineering Design Standards be applied and required, as is typically required for new construction, and, as a result, the driveway be placed both a minimum of 50 feet from the intersection and aligned in a perpendicular orientation to the adjacent road. This recommendation follows Town policy to improve existing conditions to meet current standards when new construction is proposed, and PPW staff believes meeting the Engineering Design Standard would allow for better visibility and sight distance when exiting the driveway than if the driveway entrance were to remain part of the existing intersection. The function of an intersection is to serve as a crossing point for vehicles, bicycles, and pedestrians. PPW staff believes following the Town's Engineering Design Standards would provide a safer design than allowing vehicles to enter and exit the driveway diagonally at the existing roadway intersection.

Construction of a new driveway with these conditions, a minimum of 50 feet from the intersection corner and at a 90-degree angle, follows best practices and is consistent with the general traffic safety design guideline of placing driveways outside of functioning intersections. PPW staff believes following the Town's Engineering Design Standards would provide a safer design than allowing vehicles to enter and exit the driveway diagonally at the existing roadway intersection.

Additional information is located in the PPW Project Information Sheet that was previously provided as part of the July 10, 2019 Staff Report (Exhibit 19).

Legal Analysis - Town Attorney

On July 10, 2019, the Planning Commission continued this matter with direction to the appellant to provide a study showing substantial evidence of the reasonableness of maintaining the existing driveway location and design. In response, the appellant hired and paid for the

DISCUSSION (continued):

Town's traffic consultant, TJKM, to prepare a study to determine whether it would be safe to allow the existing driveway to remain at its current location. The primary purpose for the study was to ensure that the Town could invoke a statutory immunity known as "design immunity," and therefore, not be liable for injuries caused by a dangerous condition of public property.

The TJKM study concludes the following;

"Given the good traffic safety record of the intersection, the relative low traffic volumes in the area, the very low pedestrian and bicycle traffic and, most importantly, the current all way stop sign installation at the intersection, TJKM is of the opinion that the current driveway layout is acceptable.... TJKM recommends that the Town allow the proposed driveway design, essentially continuing the current situation."

The TJKM study provides substantial evidence of the reasonableness of the current driveway design. Therefore, the Planning Commission can now make the required findings to approve the appellant's current driveway design and provides the Town with protection to invoke "design immunity" if an accident occurs.

PUBLIC COMMENTS:

At the time of this report's preparation, the Town has not received any additional public comment.

CONCLUSION:

A. Summary

The applicant responded to the Planning Commission's direction by providing substantial evidence of the reasonableness of the proposed driveway location and design in the TJKM study. PPW Engineering staff recommends that the Engineering Design Standards be followed, and the driveway be placed both a minimum of 50 feet from the intersection and perpendicular to the adjacent road. Alternatively, the Planning Commission may consider making the findings to grant the appeal and allow the existing driveway approach to remain. If this alternative is implemented, findings with substantial evidence shall be entered into the record.

CONCLUSION (continued):

B. Recommendation

Staff recommends that the Planning Commission take the following actions to deny the appeal, uphold the decision of the DRC, and approve the Architecture and Site application:

1. Find that the proposed project is categorically exempt pursuant to the adopted Guidelines for the implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures (Exhibit 2);
2. Make the required findings as required by Section 29.10.09030(e) of the Town Code for the demolition of a single-family residence (Exhibit 2);
3. Make the finding required by the Town's Residential Design Guidelines that the project complies with the Residential Design Guidelines (Exhibit 2);
4. Make the required considerations as required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application (Exhibit 2); and
5. Approve Architecture and Site Application S-17-047 with the conditions contained in Exhibit 3 and development plans attached as Exhibit 20.

C. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction;
2. Deny the appeal and approve the application with additional and/or modified conditions;
3. Grant the appeal and allow the existing driveway approach to remain. If this alternative is implemented, findings with substantial evidence can be made by relying on the TJKM report and shall be entered into the record; or
4. Deny the Architecture and Site application.

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SUBJECT: 16 Chestnut/S-17-047

DATE: December 6, 2019

EXHIBITS:

Previously received with the July 10, 2019 Staff Report:

1. Location Map
2. Required Findings and Considerations (one page)
3. Recommended Conditions of Approval (13 pages)
4. Applicant's Scope of Work and Letter of Justification, received December 19, 2019 (14 pages)
5. Project Data Sheet, received April 10, 2019 (two pages)
6. June 27, 2018 Historic Preservation Committee Meeting Minutes (five pages)
7. Consulting Architect Report, received March 12, 2018 (four pages)
8. Applicant's Arborist Report regarding Live Oak (Tree #6), received February 12, 2019 (13 pages)
9. Applicant's Arborist Report, received February 12, 2019 (25 pages)
10. Town's Consulting Arborist Peer Review, received March 7, 2019 (five pages)
11. Applicant's Arborist Response Letter, received April 10, 2019 (three pages)
12. Town's Consulting Arborist Peer Review Letter, received May 1, 2019 (one page)
13. Town Prepared Site Diagram Overlay (one page)
14. May 21, 2019 Development Review Committee meeting minutes (two pages)
15. Letters of Support from Neighbors, received December 19, 2018 and June 28, 2019 (seven pages)
16. Appellant's Letter, received May 31, 2019 (two pages)
17. Applicant's Supplemental Letter and Exhibits, received June 28, 2019 (22 pages)
18. Neighborhood Petition of Support, received June 28, 2019 (seven pages)
19. Project Information Sheet provided by the Parks and Public Works Department, received July 1, 2019 (three pages)
20. Development Plans received April 10, 2019 (27 pages)

Received with the October 9, 2019 Staff Report:

21. Appellant's request to continue, received September 10, 2019 (one page)

Received with this Staff Report:

22. TJKM study, received November 4, 2019 (21 pages)