

TOWN OF WOODSIDE

TOWN COUNCIL MEETING AGENDA

October 13, 2009

Independence Hall, 2955 Woodside Road, Woodside

7:00 p.m.

CALL TO ORDER

ROLL CALL

7:00 CLOSED SESSION

Conference with Legal Counsel - Anticipated Litigation [Government Code Section 54956.9(b)]: One Potential Case

7:30 P.M. REGULAR SESSION

PLEDGE OF ALLEGIANCE

REPORT FROM CLOSED SESSIONCOMMUNICATIONS

Persons wishing to address the Council on any matter not on the posted agenda are invited to do so. Please note, however, that the Council is not able to undertake extended discussion or to act on non-agendized items. Such items can be referred to staff for appropriate action, which may include placement on a future agenda. This communication period is limited to five persons, three minutes each. Any additional persons wishing to be heard will be scheduled at the end of Regular Business.

CONSENT CALENDAR

All items on the Consent Calendar are considered to be routine and will be approved by one roll call motion unless a request is made at the beginning of the meeting that an item be withdrawn or transferred to the regular agenda.

1. Approval of Minutes: Regular Meetings of November 25, 2008; April 14, and September 8, 2009.
2. Update of the Woodside Landscape Committee Proposal to Commission an Equine Sculpture for Installation on Village Hill.

PUBLIC HEARING

The Mayor will declare the public hearing open. Town staff will present a staff report on the aspects of the application or issue, which will be followed by staff recommendations. The applicant or his/her representative may make a presentation. Thereafter, those in support of or in opposition to the proposal may speak. When all interested parties have had an opportunity to be heard, the hearing will be closed. After that time, no further discussion from the floor will be held. The Town Council will consider the evidence and either approve, disapprove, or continue the item to a subsequent meeting date.

3. Pursuant to Woodside Municipal Code, Section 10.44, Appeal of the Interpretation of Section 51.126 of the Municipal Code by the Town Engineer, Denying a Sewer Connection (Lori Taing and Kien-Meng Ngo - 4258 Jefferson Avenue).

NEW BUSINESS

4. Discussion of the Town's Tree Protection Regulations and Provision of Appropriate Direction to Staff for Potential Modifications to the Woodside Municipal Code Sections 153.170 -153.178.

REVISED

5. Resolution Reducing the Fine for Violation of Section 153.173 of the Woodside Municipal Code and Imposing Certain Other Conditions (Weiss - 3910 Sand Hill Road). Resolution No. 2009 - _____

REPORTS

6. Mayor and Councilmember Communications.

COMMUNICATIONS

ADJOURNMENT

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITY ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE TOWN CLERK AT (650) 851-6790. NOTIFICATION IN ADVANCE OF THE MEETING WILL ENABLE THE TOWN TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING.

PLEASE NOTE THAT PURSUANT TO THE STATE OF CALIFORNIA'S OPEN MEETING RULES, THIS MEETING IS BEING AUDIO TAPED.

ANY WRITINGS OR DOCUMENTS PROVIDED TO A MAJORITY OF THE TOWN COUNCIL REGARDING ANY ITEM ON THIS AGENDA WILL BE MADE AVAILABLE FOR PUBLIC INSPECTION AT THE ADMINISTRATION COUNTER AT TOWN HALL LOCATED AT 2955 WOODSIDE ROAD DURING NORMAL BUSINESS HOURS.

TOWN OF WOODSIDE

Report to Town Council

Agenda Item 1

From: Janet Koelsch, Town Clerk

October 13, 2009

SUBJECT: MINUTES FOR APPROVAL

The minutes of the Town Council Meetings of November 25, 2008, April 14, 2009, and September 8, 2009, are attached for review and approval.

Attachment

TOWN OF WOODSIDE

TOWN COUNCIL MEETING MINUTES

November 25, 2008

Independence Hall, 2955 Woodside Road, Woodside

CALL TO ORDER

Mayor Romines called the Meeting to order at 7:43 P.M.

ROLL CALL

Present: Councilmembers Boynton, Burow (left at 8:50 P.M.), Gordon, Hodges, Mason, Tanner, Mayor Romines
Absent: None

Staff Present:
Susan George, Town Manager
Kevin Bryant, Assistant Town Manager
Jean Savaree, Town Attorney
Paul Nagengast, Town Engineer
Janet Koelsch, Town Clerk

PLEDGE OF ALLEGIANCE

The Town Engineer, Paul Nagengast, led the Pledge of Allegiance.

COMMUNICATIONS

Ms. George announced her appointment of Jackie Young to the position of Director of Planning and Building, effective December 15th.

CONSENT CALENDAR A

1. Approval of Minutes: Regular Meetings of October 9, 2007, and October 28, 2008.
2. Town Manager's Report to Town Council.
3. Monthly Financial Report for October of 2008.
4. Resolution Accepting Completion of Certain Street Improvements to West Maple Way and Filing the Notice of Completion. Resolution No. 2008 - 6720
5. Resolution Accepting Completion of the 2007 Road Rehabilitation Project and Filing the Notice of Completion. Resolution No. 2008 - 6721
6. Resolution Consenting to the Annexation of Land to the Fair Oaks Sewer Maintenance District for 215 Lindenbrook Road (APN 073-071-200). Resolution No. 2008 - 6722
7. Resolutions Authorizing the Town Manager to Execute Administering Agency-State Agreements and Program Supplements with the State of California for Federal Aid and State Funds for Projects in the Town of Woodside. Resolution No. 2008 - 6723 and Resolution No. 2008 - 6724

CONSENT CALENDAR B

12. Approval of Waiver of Full Reading of Ordinances, per Government Code Section 36934.

Councilmember Gordon moved approval of Consent Calendar A and Consent Calendar B as presented.

Motion seconded by Councilmember Burow and carried by roll call vote:

AYES: Councilmember Boynton, Burow, Gordon, Hodges, Mason, Tanner, Mayor
Romines
NOES: None
ABSENT: None

PUBLIC HEARING

8. Pursuant to Woodside Municipal Code, Section 10.44, Appeal of a Notice of Intent to Record a Code Violation for Installation of an Unpermitted Solid Wood Fence (Bullock - 3573 Tripp Road).

Ms. George explained that the code violation involved installation without a permit of a solid wood fence on the top of an existing chain link fence. She continued that the Planning Director denied the project based on the recommendation of the Architectural and Site Review Board (ASRB) and that the action was not appealed by the property owner. Ms. George stated that subsequently the property owner was advised that a Notice of Code Violation would be filed and that there were ten days to either remove the illegal fence or appeal the recordation of the Notice of Code Violation. She pointed out that the appeal letter submitted actually appeals the ASRB decision rather than the recording of the Notice of Code Violation.

John Keating, attorney representing the appellant, Peter Bullock, explained the misunderstanding regarding Dr. Bullock's appeal letter. He detailed that the wooden fencing adds privacy and protects the horses on the property. Mr. Keating noted that the portion of fencing that adjoins Tripp Road had been removed and that the fencing at issue now was a portion along an easement road that goes through Dr. Bullock's property—servicing two additional properties. Mr. Keating displayed photographs showing the current fencing and pointed out letters of support from the neighbors. He suggested that, if the fencing could not be retained, the Council consider the fence violation in separate sections; or if a permit cannot be issued, give Dr. Bullock one to two months to work with staff to cure the violation. Mr. Keating urged the Council not to assess fees for the violation, pointing out that the letter explaining the ASRB decision which Dr. Bullock received from the Planning Director did not provide a time frame for filing an appeal.

Ms. George reiterated that the two options open to Dr. Bullock were to remove all of the solid wood fencing, eliminating the code violation, or to bring forward a new fence permit application. She continued that, since Mr. Keating has alluded to a different design scheme, Dr. Bullock could apply for a different fence permit and go back through the process. Ms. George pointed out that the agenda for the ASRB indicates that decisions are appealable within 10 days of the notice of the decision and explained that code violation fees cover the cost of staff time to regularize the violation, relieving the public of having to cover this cost.

The Public Hearing was closed.

The Council discussed providing time for the fence to be removed or providing the appellant additional time to either remove the fence or, in light of input received from the ASRB, file a new fence permit application that meets criteria or takes into consideration an altered design to solve privacy concerns in the "blue" section.

Councilmember Hodges moved to deny the appeal and to direct staff to record the Notice of Code Violation.

Motion seconded by Councilmember Tanner.

Noting that there was no evidence of malfeasance, the Council discussed, providing an opportunity for the appellant to work with staff to regularize the violation.

Councilmember Mason presented a substitute motion to deny the appeal, to allow the appellant until noon on Thursday, December 4, 2008, to remove everything

except the "blue" section of fencing; and by that date, apply for a fence permit for the "blue" section; if not done, Town staff is directed to record the Notice of Code Violation on Friday, December 5, 2008.

Motion seconded by Councilmember Gordon.

Councilmember Gordon clarified that a permit application for a new fence design would not necessarily be approved.

The substitute motion of Mason/Gordon was carried by roll call vote:

AYES: Councilmember Boynton, Burow, Gordon, Hodges, Mason, Tanner, Mayor Romines
NOES: None
ABSENT: None

Councilmember Hodges retracted her motion.

Councilmember Burow left the Meeting at 8:50 P.M.

NEW BUSINESS

9. Introduction of an Ordinance Modifying the Woodside Municipal Code, Chapter 31 - Officers and Employees.

There was no public comment.

Councilmember Gordon moved introduction of an Ordinance Modifying the Woodside Municipal Code, Chapter 31 - Officers and Employees.

Motion seconded by Councilmember Tanner and carried by roll call vote:

AYES: Councilmember Boynton, Gordon, Hodges, Mason, Tanner, Mayor Romines
NOES: None
ABSENT: Councilmember Burow

The Council congratulated Curtis Clark on his promotion to Building Official.

10. Report on the Status of the 2008-09 Work Plan.

Ms. George noted that some tasks within each major area, for example the Trakit Project, already contain their own project milestones.

General Plan Update

Ms. George noted that the process outline for the General Plan Update had been provided to the recently hired Planning Director for her input and that subsequently the draft process would be submitted to the Council for approval. She explained that the Update would be a year to year-and-a-half process due to requirements for technical studies and California Environmental Quality Act (CEQA) reviews. Ms. George stated that the Housing Element is mandated to be updated every five years, adding that a large part of the present Housing Element will remain in place. She continued that the Woodside History Committee has recommended that the draft Historical Preservation Element be reviewed by the Council and referred to the Planning Commission.

Process Improvements

Ms. George reported that the permit tracking system is on schedule, with systems testing scheduled for the end of February or early March and with the system totally live by the end of April or early May. She noted that preliminary plans to rearrange the current office space have been drafted and a cost analysis has been requested. Ms. George explained that the Town's geologic hazards map is out of date for two reasons: State law has trumped some regulations and recent trenching throughout the Town has not been reflected on the map. She noted that a proposal has been requested from the Town Geologist

to update the Geology Regulations and confirmed that, if the proposal was not forthcoming, staff would retain an outside geologic consultant. She explained that a consultant was engaged to revise On-site Waste Water Disposal Regulations, adding that coordination with San Mateo County will be required to assure standardized regulations. Additionally, Ms. George stated that Municipal Code amendments will be reviewed periodically, noting that the first to be considered will be the "new building" definition.

The Council discussed the process to update the Geologic Regulations.

Fire Management Plan

Ms. George explained that the Chapter 7A Map Extension had been dropped based on the Council's determination not to pursue extension of the Chapter 7A area.

The Council discussed expanding brush clearance efforts for public and private areas; collaborating with the rest of the valley for a better opportunity to obtain funding; and the need to protect both privacy and habitat as part of a fire management plan.

Ms. George confirmed that staff would incorporate the Council's request into the review of the Town-wide Building Code Regulations for Fire Safety.

Green Building Projects

Ms. George reported that plans and specifications to go out to bid on the Waste Water Recycling Project were in process; Green Building Guidelines were linked to the Design Guidelines project; lighting and other energy improvements will be reviewed in the context of the building expansion; and that the Carbon Footprint project is in process.

Emergency Preparedness

Ms. George explained that the current Emergency Plan requires an additional chapter for the Town to be eligible to apply for mitigation grants, confirming that this chapter has no impact on State or FEMA reimbursements. She stated that staff has contacted CERPP to obtain its training program to replicate a training session for the Town Council and that staff was focusing on a way to make more effective use of CERPP. She noted that a CERPP subcommittee had been organized to develop an animal evacuation plan.

The Council discussed efforts to publicize CERPP information to the community and to update CERPP's communications equipment.

Ms. George concluded that the majority of the Work Plan items are being worked on on a day-to-day basis.

There was no public comment.

REPORTS

11. Mayor and Councilmember Communications.

Councilmember Boynton relayed an invitation from the Woodside History Committee for the Council to visit the Woodside History Museum to be introduced to the archiving system.

Councilmember Hodges pointed out that the current museum exhibit by Harold Zwierlein featuring the Blacksmith is well done.

COMMUNICATIONS

ADJOURNMENT

The Meeting was adjourned at 9:35 P.M.

CALL TO ORDER

In the absence of Mayor Mason, Mayor Pro Tempore Burow called the Meeting to order at 6:35 P.M.

ROLL CALL

Present: Councilmember Boynton, Burow, Gordon, Hodges, Romines, Tanner
Absent: Mayor Mason

Mayor Pro Tempore Burow chaired the Meeting in the absence of Mayor Mason.

Staff Present:

Susan George, Town Manager
Jean Savaree, Town Attorney
Jackie Young, Director of Planning and Building
Matt Francois, Consulting Attorney
Anna Shimko, Consulting Attorney

CLOSED SESSION

Conference with Legal Counsel - Anticipated Litigation [Government Code Section 54956.9(b)]: One Potential Case

The Closed Session was adjourned at 7:30 P.M.

REGULAR SESSION

The Meeting was reconvened at 7:40 P.M.

Staff Present:

Susan George, Town Manager
Jean Savaree, Town Attorney
Kevin Bryant, Assistant Town Manager
Jackie Young, Director of Planning and Building
Janet Koelsch, Town Clerk

PLEDGE OF ALLEGIANCE

Kevin Bryant, Assistant Town Manager, led the Pledge of Allegiance.

REPORT FROM CLOSED SESSION

Mayor Pro Tempore Burow stated that there was nothing to report from Closed Session.

COMMUNICATIONS

Oliver Bock, Espinosa Road, urged the Council to adopt a green building ordinance, pointed out the involvement of Jackie Young, Director of Planning and Building, in a similar process in Campbell.

Ms. Young presented the Council with background on her previous policy recommendations for cities in Santa Clara County.

Ms. George commented on how green building issues would interrelate with the General Plan Task Update. She discussed staffing capacity and educational opportunities required for implementation.

Ms. Young provided the Council with an update on the kick off process for the General Plan Task Update held on March 25th. She pointed out that the next meeting would review Guiding Principles, noting that this was an important component which set the tone for the rest of the General Plan.

CONSENT CALENDAR

1. Resolution Changing the Regular Meeting Time of the Woodside Open Space Committee. Resolution No. 2009 - 6737
2. Approval of Minutes: Regular Meeting of February 10, 2009 and March 10, 2009
3. Town Manager's Report to Town Council.
4. Resolution Approving Annual Rate Adjustment for Solid Waste and Recycling Collection Services for GreenWaste Recovery, Inc. for 2009-10. Resolution 2009 - 6738
5. Resolution Waiving Appeal Fee for Building Code Cases Related to Administration of Ordinance No. 2009 - 544. Resolution No. 2009 - 6739
6. Resolution Authorizing the Town Manager to Submit a Financial Assistance Application to the State Water Resources Control Board and to Negotiate and Execute a Financial Assistance Agreement with the State Water Resources Control Board. Resolution 2009 - 6740

Councilmember Gordon moved approval of the Consent Calendar as presented.

Motion seconded by Councilmember Boynton and carried by roll call vote:

AYES: Councilmember Boynton, Gordon, Hodges, Romines, Tanner, Mayor Pro Tempore Burow
 NOES: None
 ABSENT: Mayor Mason

NEW BUSINESS

7. 2008-09 Third Quarterly Budget and Work Plan Review and Resolution Amending the 2008-09 Adopted Budget. Resolution No. 2009 - 6741

Ms. George stated that the Town is moving smoothly through the fiscal year and noted that the year-end General Fund balance would be approximately \$200,000 more than anticipated in the adopted budget. Ms. George detailed a request to increase General Fund appropriations by \$212,000 to provide support for Planning Director Transition costs, the General Plan Update and Review project, the Permit Tracking and Management System, and the Fee Schedule Update. She noted that the updated Five-year financial forecast continues to demonstrate the solidity of the General Fund baseline.

Ms. George review the status of items in the Work Plan including the General Plan Update, the Housing Element, Historical Preservation Element, Permit Tracking, Space Planning, and Design Guidelines. She noted that a study session would be scheduled to review Geology Regulations. She reviewed the "new building" definition issue, noting that staff was planning to research the success of Portola Valley's latest version of "new building."

There was no Public Comment.

Councilmember Gordon moved adoption of a Resolution Amending the Adopted Budget for Fiscal 2008-09 Pursuant to the Results of the Third Quarterly Budget Review.

Motion seconded by Councilmember Tanner and carried by roll call vote:

AYES: Councilmember Boynton, Gordon, Hodges, Romines, Tanner, Mayor Pro Tempore Burow
 NOES: None
 ABSENT: Mayor Mason

Councilmember Hodges commended Ms. George for keeping the Town on sound economic footing and insuring its success.

Ms. George noted that part of the success was the Council's adherence to its Financial Management Policies.

REPORTS

8. Mayor and Councilmember Communications.

Ms. George noted that the Town would be hosting the San Mateo County Council of Cities Dinner/Meeting on April 24th and that the guest speaker, Henry Gardner, Executive Director of the Association of Bay Area Governments (ABAG), would discuss regional planning issues and ABAG's latest economic forecast.

Mr. Bryant stated that the Sudden Oak Death Blitz would be held next weekend with the kick off session to be held on April 17th in Portola Valley.

Ms. George confirmed that the schedule for the 2009 Chipper Program had been announced and that discussions would be held regarding scheduling additional days for Woodside. She confirmed that the chips would be removed from the roadside and that the Fire Marshal was aware of the protocol to dispose of chips to preclude the spread of Sudden Oak Death.

COMMUNICATIONS

ADJOURNMENT

The Meeting was adjourned at 8:20 P.M.

TOWN OF WOODSIDE

TOWN COUNCIL MEETING MINUTES

September 8, 2009

Independence Hall, 2955 Woodside Road, Woodside

CALL TO ORDER

In the absence of Mayor Mason, Mayor Pro Tempore Burow called the Meeting to order at 7:30 P.M.

ROLL CALL

Present: Councilmember Boynton, Burow, Gordon, Hodges, Romines, Tanner
Absent: Mayor Mason

Staff Present:
Susan George, Town Manager
Kevin Bryant, Assistant Town Manager
Jean Savaree, Town Attorney
Jackie Young, Director of Planning and Building
Paul Nagengast, Town Engineer
Janet Koelsch, Town Clerk

Mayor Pro Tempore Burow chaired the Meeting in the absence of Mayor Mason.

PLEDGE OF ALLEGIANCE

Anne Kasten, Eleanor Drive, led the Pledge of Allegiance.

COMMUNICATIONS

There were no Communications.

CONSENT CALENDAR

1. **Approval of Minutes: Special Meeting of August 19, 2009.**
2. **Resolution Approving Sixteenth Amendment to Town Manager's Employment Agreement. Resolution No. 2009 - 6768**
4. **Monthly Financial Report for July and August of 2009.**

Councilmember Tanner requested that Item 3 be removed from the Consent Calendar.

Councilmember Hodges moved approval of Items 1, 2 and 4 of the Consent Calendar.

Motion seconded by Councilmember Gordon and carried by roll call vote:

AYES: Councilmember Boynton, Gordon (recused from Item 1), Hodges, Romines, Tanner (recused from Item 1), Mayor Pro Tempore Burow
NOES: None
ABSENT: Mayor Mason

3. Town Manager's Report to Town Council.

Councilmember Tanner suggested that, as part of the Town Hall Landscaping, all trees along the front of the Town Hall buildings be removed to avoid constant repair of the brick walkway.

Councilmember Gordon moved adoption of Item 3 of the Consent Calendar.

Motion seconded by Councilmember Boynton and carried by roll call vote:

AYES: Councilmember Boynton, Gordon, Hodges, Romines, Tanner, Mayor Pro

Tempore Burow
NOES: None
ABSENT: Mayor Mason

PUBLIC HEARING

Councilmember Gordon recused herself due to a possible conflict of interest associated with the fact that Stanford University owns the land at 3910 Sand Hill Road and also that both she and Dr. Weiss were affiliated with Stanford University. Councilmember Gordon left the room.

5. Pursuant to Woodside Municipal Code, Section 10.44, Appeal of a Notice of Intent to Record a Code Violation for Unpermitted Removal of Significant Trees and Pursuant to Woodside Municipal Code, Section 153.178, Appeal of the Scope of the Significant Tree Removal Violation and Request for Reduction of Penalty (Weiss - 3910 Sand Hill Road).

Ms. Young acquainted the Council with the background of the code enforcement issue. She stated that the property owners claimed they misunderstood the definition of significant tree; that they removed selective trees to enhance the growth potential of the remaining trees. Ms. Young pointed out that a certified arborist was retained to review the scope of the violation and the affect on the surrounding oak woodlands. She stated that the owner was seeking relief from the violation penalty of \$112,500.

Eric Weiss, Sand Hill Road, appellant, described that the intention was to return the area to a corral, noting that arborist, Kevin Kielty, had opined that the area was better off and that there was further work to be done for the benefit of the existing trees.

Jackie Weiss, Sand Hill Road, appellant, pointed out that the trees removed were less than three percent of the trees on the property and that they were removed to benefit the bigger trees in the area. She stated that their action was non-malicious and urged the Council to consider the penalty fee in that perspective.

Kevin Kielty, Kielty Arborist Services, confirmed that a new wave of trees had grown into the corral area while horses were no longer kept there. He described the practice used to assess the size of the trees, noting that he used the Trunk Formula Method to determine an appraised value of the trees. He opined that thinning of the woodland will improve the form of the larger trees.

Maurice Werdegar, Corto Lane, requested that the Council take into account Dr. Weiss' integrity and his many contributions to the community when considering the appeal.

Rollie Steele, Olive Hill Lane, reiterated the caliber of Eric and Jackie Weiss' integrity. He supported the Weiss' efforts to return the corral to equestrian use.

Malcolm MacNaughton, Miramontes Road, spoke in support of the character of Dr. and Mrs. Weiss. He noted that the tree removal had improved the quality of the site, and suggested that the penalty, if any, should be donated to the Woodside Landscape Committee fund.

Carol Arvidsson, Patrol Road, noted that mistakes can be made when dealing with complicated rules.

Gary Pinkus, Josselyn Lane, stated that any penalty should recognize that the tree removal was an error of omission-not malfeasance.

Tad Taube, Cañada Road, observed that the tree removal was an improvement to the terribly overgrown property and stated that any penalty would be an error of justice.

Bill Gilbert, Olive Hill Lane, noted the Weiss's community minded spirit and

urged the Council not to levy a penalty.

The Public Hearing was closed.

The Council reviewed the development of the tree protection ordinance noting that the intent was to preserve Woodside as a wooded community and to preserve its significant trees. The Council discussed the need to assess a significant fine to give credibility to the tree protection ordinance, inadequacies of the tree protection ordinance, the fact that the ordinance covers thinning of trees, and the need to avoid setting precedent for residents to cut trees without a permit.

Councilmember Romines confirmed from arborist, Kevin Kielty, that the appraised value of the significant trees removed, using the Trunk Formula Method, was \$23,323.

The Council discussed various methods of calculating a fine.

Councilmember Romines moved to reduce the fine to \$10,000, and require the Weiss' to apply for the appropriate permit to complete the work on the property, conditioned on the recommendations stated by Kevin Kielty, Certified Arborist, on the second page of his report, dated July 12, 2009.

Motion seconded by Councilmember Hodges and carried by roll call vote:

AYES: Councilmember Boynton, Hodges, Romines, Tanner, Mayor Pro
Tempore Burow
NOES: None
RECUSED: Councilmember Gordon
ABSENT: Mayor Mason

Ms. George noted that a resolution will be prepared to be agendized at the next meeting certifying the Council's action.

NEW BUSINESS

6. Review, Discussion, and Approval of the 2009-10 Work Plan.

Ms. George reported on the five major project areas of the Work Plan:

General Plan Update

Ms. George stated that some environmental reviews required in support of requirements of the California Environmental Quality Act (CEQA) had been started and that drafting of revisions to the language of the various elements has begun.

The Council discussed having a clear mechanism to periodically circulate elements prior to the review of the complete General Plan.

Ms. Young explained that the concept for the Task Force has been revised to synthesize a consensus opinion and provide for a minority opinion.

The Council discussed the importance of having both a consensus opinion and a minority opinion.

Anne Kasten, Eleanor Drive, encouraged Councilmembers to attend Task Force Meetings to observe the process.

Process Improvements

Ms. George presented an update on the "Trakit" Project and noted that staff was in the process of launching the "on-line" module. She confirmed that a demonstration of the module would be scheduled for the Council.

Ms. George reported that the Space Planning and Expansion Project is on hold;

that redesign of the Design Guidelines is delayed until next year in conjunction with the completion of the General Plan Update. She noted that staff is working to present the Geology Regulations while Councilmember Hodges is still on the Council. Ms. George stated that handouts and checklists explaining development regulations are linked to the completion of other projects; the review of wastewater disposal regulations is scheduled for March 2010. She added that staff will bring Municipal Code sections which are problematic or subject to a variety of interpretations to the Council following the completion of the General Plan Update and that the revised Fee Schedule is almost completed.

The Council discussed proposed holding a special meeting to review the "Trakit" update and the Geology Regulations.

Fire Management Plan

Ms. George noted that most of the items are linked to the "new building" definition which is under review by the Town Engineer. She added that meetings are being scheduled for the Town Council Subcommittee on Fire Prevention.

The Council discussed devoting more Town resources to tree trimming and brush clearance adjacent to the roadways.

Green Building Projects

Ms. George reported that the Photo Voltaic System for the Town Hall Complex/Library and the project to Implement Wastewater Recycling at Town Hall are on hold for now. She stated that developing Green Building Guidelines and organizing Green Building Workshops will proceed along with the update of other handouts and checklists. Ms. George explained that research is being done to determine if HVAC/lighting projects at Town Hall and the Woodside Library will be eligible for federal energy stimulus funding; that information has been submitted on the Carbon Footprint Project and that staff is waiting for ICLEI's draft inventory. Ms. George mentioned that the next edition of *The Woodsider* will contain information on Green Building Projects.

Emergency Preparedness

Ms. George stated that staff was in the process of completing a Pandemic Influenza Continuity Plan and confirming compliance of existing emergency plans with the requirements of the National Incident Management System (NIMS). She continued that staff will participate in the October 15th Great California Shakeout—a test of the Town's communications equipment; that training will be provided to the staff on the operation of the Town's Emergency Operations Center (EOC); and that staff from Woodside, Portola Valley and the Woodside Fire Protection District are working to revitalize the Citizens' Emergency Response Preparedness Program (CERPP).

The Council requested that staff schedule a simulated emergency exercise for its participation.

Mayor Pro Tempore Burow asked the Council to continue review of the Work Plan and provide input to Ms. George.

APPOINTMENTS

7. Report and Recommendation from the Town Council Committees Appointments Subcommittee: Conservation and Environmental Health Committee.

Councilmember Romines reported that the Town Council Committees Appointments Subcommittee recommended appointment of Ann Von Essen to the Conservation and Environmental Health Committee for a two-year term expiring February 2011.

Councilmember Hodges moved adoption of the Subcommittee recommendation.

Motion seconded by Mayor Pro Tempore Burow and carried by voice vote.

The Council directed staff to readvertise other committee openings.

REPORTS

8. Mayor and Councilmember Communications.

Ms. Savaree advised the Council that the matter of Uphold our Heritage vs. Woodside was taken under submission and that the judge will return an opinion in 90 days.

Ms. George added that the Town had executed the three-way Agreement with Respect to Demolition of Historic Residence with Gordon Smythe and Steve Jobs.

Ms. George noted that, for the upcoming Town Council election, there was one nominee for each district, and added that currently no write-in candidates had submitted nomination papers.

Councilmember Boynton reported from the Woodside Fire Protection District (WFPD) Board Meeting that the District has started a foundation to help with its economic challenge and that it is interested in receiving advice from people with experience running a foundation.

Councilmember Boynton noted that meetings were being set up for the Town Council Subcommittee on Fire Prevention.

Mayor Pro Tempore Burow pointed out that an Emergency Services Preparedness Fair was scheduled for Saturday, adding that CERPP would be participating. He advised that he would attend the California Fire Safe Council Meeting in San Jose on Thursday.

COMMUNICATIONS

ADJOURNMENT

The Meeting was adjourned at 10:00 P.M. in memory of William Arthur Patrick, longtime Woodside resident, architect who studied with Frank Lloyd Wright, and member of the Woodside Town Council from 1970 to 1974.

TOWN OF WOODSIDE

Report to Town Council

Agenda Item 2

Prepared by: Kevin Bryant, Assistant Town Manager

October 13, 2009

Reviewed by: Susan George, Town Manager

SUBJECT: UPDATE ON THE WOODSIDE LANDSCAPE COMMITTEE PROPOSAL TO COMMISSION AN EQUINE SCULPTURE FOR INSTALLATION ON VILLAGE HILL

BACKGROUND AND DISCUSSION

On September 23, 2008, the Town Council approved the Woodside Landscape Committee's proposal to commission and install a horse sculpture on Village Hill. The Council referred the proposed statue to the Architectural and Site Review Board (ASRB) for input on the siting of the sculpture on Village Hill.

The ASRB discussed the proposed sculpture at its meeting on October 5, 2009 and voted to continue the discussion to a date uncertain. In its deliberations, the ASRB raised a number of issues that members would like addressed. Following are the issues raised, along with staff's observations about each:

1. The sculpture could represent an attractive nuisance and expose the Town to additional liability risk. The sculpture would be in a location that has limited accessibility.

The sculpture will represent a new feature on Village Hill and has the potential to attract people who want to interact with the sculpture. However, as the ASRB pointed out, Village Hill is relatively isolated, accessible only by the trail that crosses the property from Our Hill Lane to the Chevron station. For this reason, staff believes that the sculpture would mostly be enjoyed as a visual feature. As part of the installation process, staff will consult with ABAG PLAN, the risk management pool to which the Town belongs, to minimize the potential liability risks associated with the sculpture.

2. The sculpture, located next to Woodside Road, would encourage parking to view the sculpture and could cause a visual distraction for drivers.

The north side of Woodside Road (westbound) is posted "No Parking Any Time" from the Chevron station to the intersection with Canada Road. This would discourage people from parking on that side of the road. Staff does not believe that the sculpture would represent an extraordinary visual distraction for drivers.

3. The Trails Committee should review the proposal for possible conflict with the trail on Village Hill.

At its October 9, 2008 meeting, the Trails Committee indicated its support of the equine sculpture and indicated it would be happy to provide input on its location. The Trails Committee will be asked for additional input on the relationship between the sculpture and the trail.

4. The sculpture could result in a conflict with a future plan for Village Hill.

Ordinance 1988-371, adopted in August 1988, limits the use of Village Hill to open space. The ordinance prohibits buildings, facilities for intensive recreational uses, or roads or parking areas on Village Hill. The ordinance specifies that the ordinance may be repealed or changed only by voters. Therefore, there are no development plans for Village Hill.

5. The proposed location changed on the day of the meeting.

The artist and members of the Landscape Committee met on Village Hill on the afternoon of the ASRB meeting and requested that the ASRB consider a location approximately 75 feet west of where the horse sculpture sign had been located. The sign has been moved to the new proposed location.

CONCLUSION

The ASRB has requested that the issues that have been raised be addressed and returned to the Board for further consideration. Staff will work to get the item back to the ASRB as soon as possible. However, as the Woodside Landscape Committee nears its fundraising goal, staff is concerned that any perceived lack of support may hinder those efforts.

Attachment

1. October 6, 2009 letter from Roger Brooks to Barbara Hoskinson, Chair, ASRB

October 6, 2009

Ms. Barbara Hoskinson, Chair
Architectural and Site Review Board
Woodside, California

Dear Ms. Hoskinson:

My wife and I thank the ASRB Board for their consideration regarding the equine sculpture planned for Village Hill. The purpose of our attending the meeting was to respond to questions from the Board.

We feel the Board's discussion regarding the sculpture site was thorough, with several valid concerns raised as contained in the Board's motion. Having placed a large number of sculptures in public settings, we are accustomed to such concerns being raised, as due diligence requires. It was unfortunate that many important issues were raised after the public comment period ended. Therefore, please allow me to respond to the questions contained in the ASRB motion via this letter.

Any piece of public art will attract attention and interest. That is the purpose. However, our experience is that sculpture is well respected by the public, especially in a community such as Woodside. Veryl has placed a large number of sculptures throughout the United States and Europe and we have never heard of an instance where a person acted inappropriately resulting in injury or that a sculpture of Veryl's was damaged by the public. Signage and possibly other precautions recommended by the town attorney should protect the town from liability for any injury to the public.

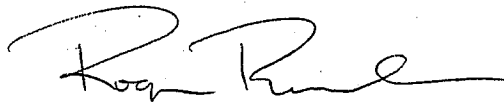
While acknowledging our unfamiliarity with Woodside, in our review of alternative sites to Village Hill, we did not find a better location. Although the sculpture will be quite visible, people who want to get close to the sculpture will need to make a specific effort to do so. Walking along the horse trail adjacent to the sculpture is the only reasonable way to access the site and that trail is very pedestrian safe. My understanding is that walking along this trail is allowed and since the trail effectively ends at the gas station, it is used by few riders. Those wishing to photograph the sculptures from a distance will do so from the south side of the road where they can safely park their cars. Stopping a car along the westbound lane is

impractical due to traffic, lack of shoulder and that the steep bank will block their view.

Veryl and I have owned horses for more than 40 years, so we are quite familiar with equine behavior. When the occasional horse passes by the sculptures, they will first notice something new and at the same time recognize the shape of a horse. Once they have been introduced to the sculptures, they will then ignore them as they do the many other obstacles, distractions and activities they experience on a regular basis.

Veryl and I thank you for your kind words regarding her sculptures and we thank the Board as a whole for their time and for their attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger Brooks". The signature is fluid and cursive, with a large initial "R" and "B".

Roger Brooks

TOWN OF WOODSIDE

Report to Town Council

Agenda Item 3

From: Susan George, Town Manager

September 22, 2009

SUBJECT: PURSUANT TO WOODSIDE MUNICIPAL CODE, SECTION 10.44, APPEAL OF THE INTERPRETATION OF SECTION 51.126 OF THE MUNICIPAL CODE BY THE TOWN ENGINEER, DENYING A SEWER CONNECTION (LORI TAING AND KIEN-MENG NGO - 4258 JEFFERSON AVENUE

RECOMMENDATION

It is recommended that the Town Council conduct the public hearing on the subject appeal and, after accepting all public testimony, deny the appeal and uphold the staff interpretation of the Woodside Municipal Code.

BACKGROUND

In July of this year, a representative of the property owners at 4258 Jefferson Avenue inquired about the number of sewer connections that were available for the property. After researching the matter, Town staff informed the representative that only one connection can be allocated to the property. The representative is appealing staff's decision on behalf of the property owners (**Attachment A**).

Property Description

The property is located within the Emerald Lake Hills area of Town. It consists of two parcels that were created in 1927. It is in the R-1 zoning district, which requires a minimum lot area of 20,000 square feet. Lot 1 is roughly 14,098 square feet. A single car garage, about 360 square feet in size, is on this parcel. Staff has been informed that this garage serves as a workshop. Lot 1 also has a well on it that serves the entire property. Lot 2 is roughly 15,991 square feet in size and there is a single story wood-framed single family dwelling on it, about 1,292 square feet in size. There is also a single car garage on Lot 2, of about 410 square feet. The two lots together function as one property. Neither lot is of conforming size for the zoning district.

Cañada Corridor Sewer Expansion Project

The property is within the service area of the Town's Cañada Corridor Sewer Expansion Project, which was constructed in 2004 (**Attachment B**). The service area includes about forty properties and historically has been characterized as an area that suffered from failed or failing on-site septic systems. This area was discussed in the Emerald Lake Hills Specific Plan, adopted by the Town Council in October of 1995. The Plan endorsed the provision of public sewer service to this area through Policy P3 and Action 3 under the discussion of Wastewater Disposal (**Attachment C**). The Specific Plan stressed: "Vacant lots shall only be served to the extent that they are conforming in size and consistent with the development restrictions of the Town's codes and this Specific Plan."

In 1998, the Town adopted Sewer Service Allocation Regulations, which were designed to provide direction on how the Town's limited sewer capacity would be allocated. The regulations identified three "Areas" that were covered by the allocation rules. Areas I and II

are within the existing Redwood Creek Trunk Sewer Assessment District (RCS) or the Town Center Sewer Assessment District (TCAD). Area III includes parcels not within either district and is the subject of Municipal Code Section 51.126 (**Attachment D**). Section 51.126 (C) was written specifically with the Cañada Corridor Sewer Expansion Project in mind. It defines "expansion areas" and outlines the conditions that must met in order for an expansion area to be created. Expansion Areas do not have to be contiguous with existing public sewer districts. The Town Council must find that the Expansion Area is "generally not suitable for septic systems due to small lot size, poor soil percolation, and/or high ground water table." The Municipal Code also indicates that the designation of an Expansion Area shall be consistent with the General Plan and any applicable Specific Plan. Further, it indicates in Section 51.126 (C) (6) that "development of Undeveloped Parcels within an Expansion Area shall only be allowed to parcels which fully conform to the minimum lot size requirements of the Town's Zoning Code." An Undeveloped Parcel is defined in the Code as "A parcel on which there is no structure, or there is a structure, the use of which structure does not require a residential sewer connection to the RCS or TCAD, or a private sanitary sewer (septic) permit from the Town and County Health." This is consistent with the Emerald Lake Hills Specific Plan restriction on new development lots being served by the public sewer that is cited in the previous paragraph.

The Town tried for several years to find a way to expand the public sewer system to the Cañada Corridor area. Finally, in 2003-04, a financing strategy was developed that was embraced by the Town Council and the property owners in the area. The expansion project was undertaken in 2004, with 29 properties signing up for connection. The property owners at 4258 Jefferson Avenue did not participate in the initial project and have not paid for any connection to date. Properties within the service area boundaries of the Cañada Corridor Sewer Expansion area that did not originally participate may, however, apply for subsequent connection.

DISCUSSION

Staff has reviewed the existing conditions on the two parcels that comprise 4258 Jefferson Avenue. Lot 2 is a Developed Parcel, as defined by the Municipal Code, and is eligible for connection to the public sewer system, subject to the Town's regulations. Lot 1, in staff's judgment, is an Undeveloped Parcel. This is in contrast with a vacant parcel. There is a structure on Lot 1 - the garage/workshop. A garage/workshop does not **require** connection to either a public sewer or to a private septic system, which is the distinction the code makes in its definition of Undeveloped Parcel. Because it is an Undeveloped Parcel, it must fully conform to the minimum lot size requirements of the Town's Zoning Code, which in this case is 20,000 square feet. Lot 1 is a legal non-conforming parcel as regards its lot area and does not qualify for a Sewer Service Allocation pursuant to the Town's regulations. This does not mean it cannot be developed with a dwelling unit if a functional on-site septic system can be constructed on the parcel. It means that the public sewer is not available to serve it.

The property owners' representative, in his attached letter of appeal (**Attachment A**), argues that 4258 Jefferson Avenue is made up of two developed lots, inasmuch as there is a shop on Lot 1 that is "connected to the existing facilities."

Staff disagrees with this position and feels that Lot 1 is an Undeveloped Parcel that is substandard in size and is, therefore, not eligible for a Sewer Service Allocation. The Town Council's discussions at the time the Sewer Service Allocations were developed were protracted and involved representatives of the Emerald Lake Hills Specific Plan Task Force. The intent of the ordinance was to provide public sewer system access to those developed

properties that were threatened by failed or failing septic systems. There was a strong disinclination to encourage additional development on substandard sized parcels in the Specific Plan Area, thus the conforming lot size requirement.

CONCLUSION

The Town Council should hear from the property owners' representative and the public on this appeal and should then deliberate in order to determine whether Lot 1 is a Developed or Undeveloped Parcel. Staff recommends that a determination be made that it is an Undeveloped Parcel pursuant to the Town's definition in Section 51.121 (**Attachment E**) and deny the appeal based upon that determination.

ATTACHMENTS

AUG 18 2009

August 18, 2009

WOODSIDE TOWN HALL

Paul T. Nagengast
Dir. Of Public Works/Town Engineer
2955 Woodside Rd.
Woodside, CA. 94062

Subject: 4258 Jefferson Ave.
Request Sewer Connections to Canada Road Sanitary Sewer

Dear Mr. Nagengast,

Per my conversation with Jackie Young I thought I had been but on calendar for September Town Council meeting to appeal the decision your office has made not allowing the sewer connection to the second developed lot that makes up the 4258 Jefferson Ave. property.

I had worked with the owners to verify that the 4258 Jefferson Ave. property was made up of two distinct developed lots.

The second lot does have a shop built there, which makes this a developed parcel and is connected to the existing facilities. Also, this second lot has a well that services the entire property that is located at the 4258 Jefferson Ave. property.

It is the contention of the owners of 4258 Jefferson Ave. that it is made up of two developed lots, which allows sewer connection in a Expansion Area in chapter 51 of the Woodside Ordinances.

In chapter 51 the ordinance allows for the expansion of the sewer due to the smaller lot sizes or poor soil percolation. It was for this purpose that the owners next to the Canada Road were asking to be connected to the existing sewer system.

Also, in chapter 51.126 (4) allows all existing lots the right to public sewer service within an Expansion Area. In (5) no owners with the RCS and TCAD of existing sewer service shall be deprived.

The owner is also aware the cost for the sewer connection would be at their expense.

Sincerely,


Marvin Bergloff

RECEIVED

AUG 18 2009

August 18, 2009

Paul T. Nagengast
Dir. Of Public Works/Town Engineer
2955 Woodside Rd.
Woodside, CA. 94062

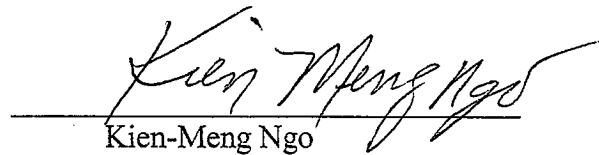
WOODSIDE TOWN HALL

Subject: 4258 Jefferson Ave.
Request Sewer Connections to Canada Road Sanitary Sewer

Dear Mr. Nagengast,

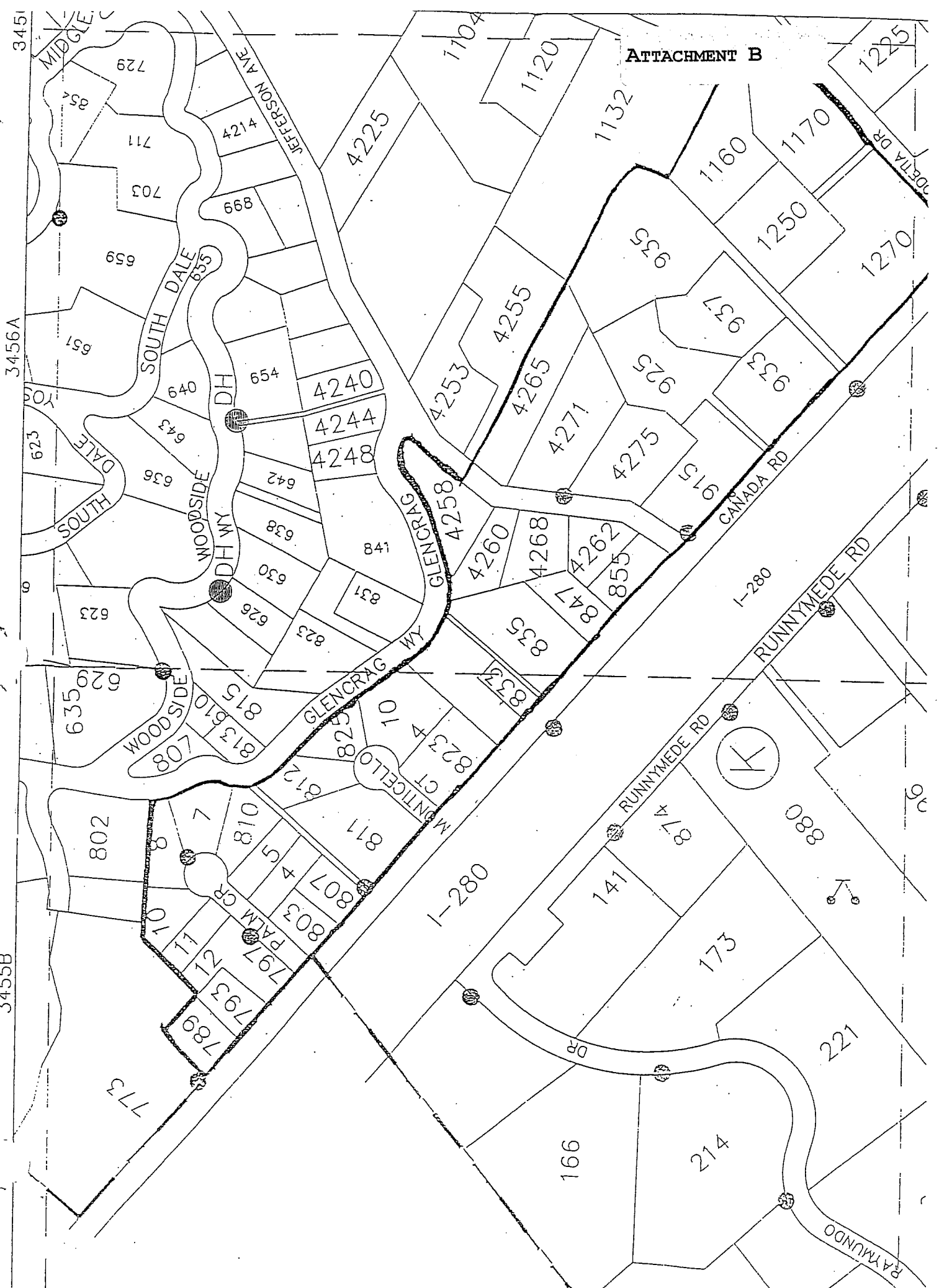
I Lori Taing and Kien-Meng Ngo have designated Marvin Bergloff to be their spokes person regarding the sewer Expansion Area that will connect the 4258 Jefferson Ave. property to the existing public sewer system.


Lori Taing


Kien-Meng Ngo

ATTACHMENT B

EXHIBIT B - EX TENSION AREA



3451

3456A

3455B

36

E. Wastewater DisposalCurrent Status:

All of the Emerald Lake Hills area properties are served by private wastewater disposal, i.e., septic systems. Approval of such systems is primarily regulated by the San Mateo County Health Services Agency. Percolation testing in recent years indicates that much of the area in the hills exhibits marginal percolation rates, which is especially critical on smaller, non-conforming lots and/or steep properties. Additionally, springs and ponds, creeks, landslides, and steep slopes can often impair the effectiveness of septic drainfields.

The Health Department's standards do not include special criteria for such difficult sites, other than requirements for geotechnical studies. Additionally, as the past decade has seen extensive drought, the accuracy of percolation testing during that time has been questioned. In 1994, the Town Council adopted revised on-site wastewater disposal regulations which require that percolation tests be conducted in the location of proposed drainfields, and prohibiting pumping effluent uphill except with Town Council approval under very limited circumstances, and for the expansion drainfield area only.

An area of particular concern is the portion of the study area located between the creek along Glencrag Way, Canada Road and those areas identified in Ordinance No. 1995-481, which extended a sewer moratorium for the Redwood Creek Trunk Sewer Assessment District. The Health Department has indicated that a number of properties in this area have experienced septic system operational problems, especially as the soil is marginally suited for such systems and there is a high groundwater level from the proximity to the creek.

A pending proposal before the Town would bring a sewer line up Canada Road from Godetia Drive to serve approximately 30-35 lots (some of which are vacant). The feasibility and desirability of serving some or all of those lots is currently under study by the Town Engineer. On August 16, 1995, the Town Council adopted an ordinance placing a moratorium on new connections to the Town's Redwood Creek Sewer Assessment District until capacity and transport issues were addressed and an allocation policy was established. However, the ordinance exempted properties with failing septic systems from the moratorium, if the Council determines that alternatives are not available and subject to the approval of the Fair Oaks Sewer Maintenance District (San Mateo County).

Policies:

- P1:** *Each building parcel to be developed shall be capable of accommodating a standard septic tank and drainfield system, demonstrating adequate percolation under wet weather conditions and with tests specific to the areas to be used for drainfields. Tests are to be current, i.e., taken on or after the effective date of the Specific Plan adoption.*
- P2:** *Only standard septic systems shall be permitted on substandard size lots, and deviations from standards shall only be permitted on conforming lots where offset by mitigating factors such as extensive separation of drainfields from other properties, roadways, and creeks, and shall be supported by in-depth geotechnical and drainage studies.*
- P3:** *Sewer service shall be extended to existing areas with failing or problematic septic systems only when no other alternatives are available, and when deemed necessary to correct health and safety concerns, if in close proximity to an existing Town-designated sewer service area, and without cost to the Town, subject to the Town's sewer capacity limitations and agreements with other sewer service providers.*

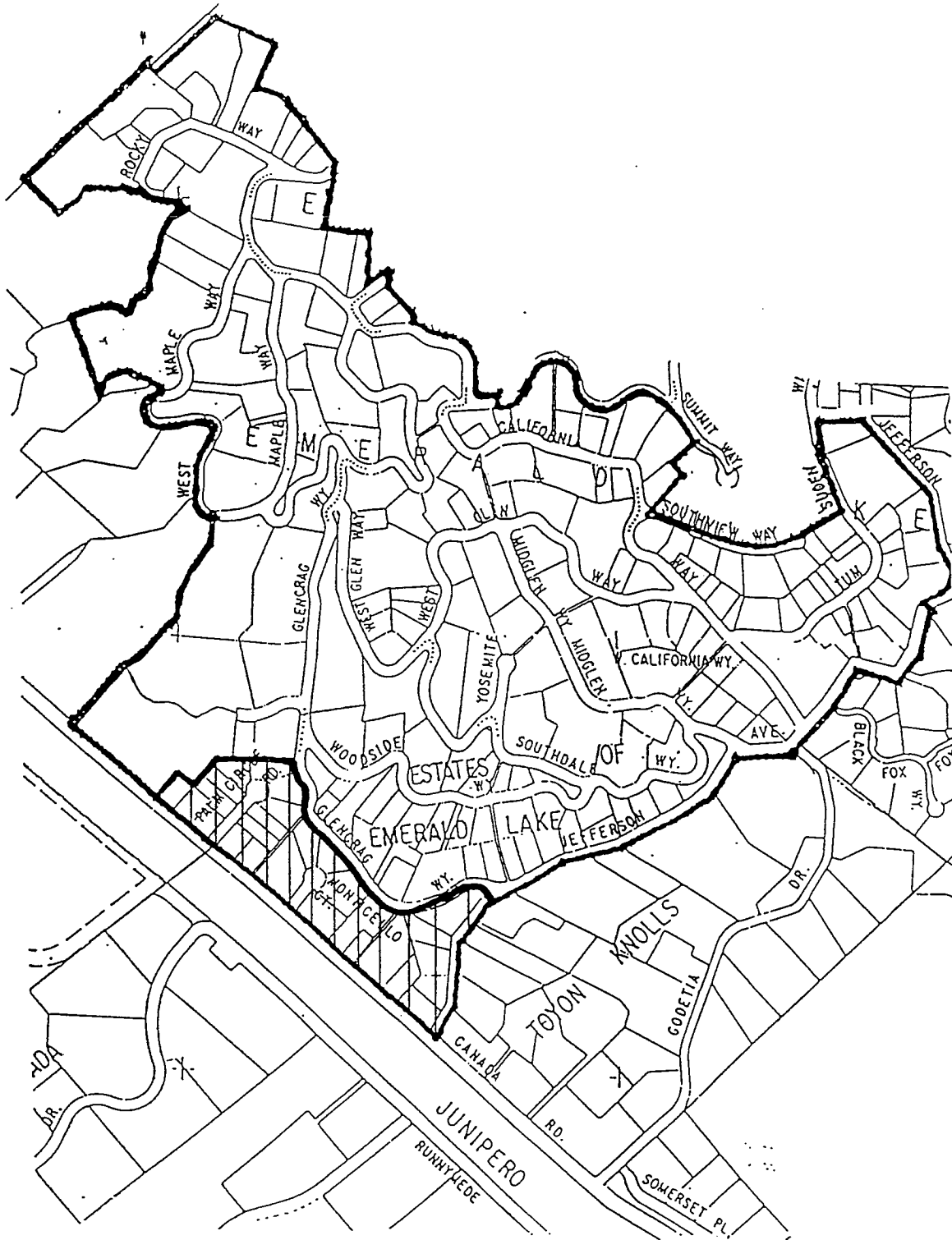
Actions:

1. The Town's septic system regulations shall be strictly enforced to require that any new development demonstrate adequate percolation areas in the locations to be used for drainfields, including percolation under wet weather conditions.
2. The Health Officer and Town officials shall not allow deviation from standard requirements on substandard size lots, and shall not allow deviation on conforming lots except where extensive separation of drainfields from other properties, roadways and creeks is available, and when in-depth geotechnical and drainage studies support the long-term viability of such systems.
3. The Town should assist with formulation of a plan to provide sewer service to existing developed lots with frontage on the east side of Canada Road from Godetia Drive to the northern Town boundary, on Palm Circle, on Monticello Court, and on the west side of Jefferson Ave. between Canada Road and Glencrag Way (Figure 7). Such plan shall be subject to the Town's sewer capacity limitations and Town agreements with other service

providers. Vacant lots shall only be served to the extent that they are conforming in size and consistent with the development restrictions of the Town's codes and this Specific Plan.

FIGURE 7

EMERALD LAKE HILLS POTENTIAL SEWER SERVICE AREA



Sewers

sewer service to their parcel except to successors in interest, and the assessment shall be deemed to run with the parcel.

(C) In the case of Developed Parcels with a paid Full Assessment and which are presently on septic systems, the owner(s) may continue to remain on the septic system until such time as it becomes a failed septic system, at which time the parcel shall connect to the public sewer system.

(D) Developed Parcels presently connected to the public sewer system in either the RCS or the TCAD shall be required to continue to use the said sewer system.

(E) New Development and Expanded Development shall be allowed to use a septic system provided the septic system meets all Town and County Health regulations, provided that Expanded Development for a parcel on a public sewer shall be required to use only the public sewer.

(F) Owners of Developed Parcels without a paid Full Assessment, and with a failed septic system may receive a sewer service allocation subject to Town Council approval, with any conditions imposed and the General Conditions required by this Chapter, based on findings that: (1) the allocation is consistent with the Town's General Plan and any applicable Specific Plan, and (2) the sewer service capacity is available, and (3) the Town Engineer has determined that the septic system has failed as provided in § 51.122. At present, unreserved sewer service capacity does not exist within the RCS. Limited temporary capacity is currently available from the TCAD. The Town may, where the findings of this subsection can otherwise be made, and a health and safety emergency exists, allocate temporary sewer service capacity for a Developed Parcel that has a failed septic system as defined in this Chapter.

(G) Expanded Development shall not be permitted on Developed Parcels which receive an allocation of temporary sewer service capacity

pursuant to this Chapter and a restrictive covenant shall be recorded with the County Recorder to so indicate as a condition of the allocation of sewer service capacity.

(Ord. 1998-491, effective 7-9-98; Am. Ord. 1999-500, effective 1-13-00; Am. Ord. 2007-537, effective 5-24-07)

§ 51.126 ALLOCATION OF SEWER SERVICE TO AREA III.

(A) Owners of Developed Parcels with a failed septic system may receive a sewer service allocation, subject to Town Council approval, with any conditions imposed, and the General Conditions required by this Chapter, based on finding that: (1) the Town Engineer has determined that the septic system has failed and that it is a Contiguous Parcel, as provided in § 51.122, (2) the allocation is consistent with the Town's General Plan and any applicable Specific Plan, and (3) sewer service capacity is available. At present, unreserved sewer service capacity does not exist within the RCS. Limited temporary capacity is currently available from the TCAD. The Town may, where the findings of this subsection are otherwise made and a health and safety emergency exists, allocate temporary sewer service capacity for a Developed Parcel that has a failed septic system as defined in this Chapter.

(B) With the limited amount of available sewer capacity, there shall be no allocation of sewer service for New Development or Expanded Development, and such development shall be made utilizing septic systems. Expanded Development shall not be permitted on Developed Parcels which receive an allocation of temporary sewer service capacity pursuant to this Chapter and a restrictive covenant shall be recorded with the County Recorder to so indicate as a condition of the allocation of sewer service capacity.

(C) Expansion Area.

(1) Subject to available sewer service capacity, including modification of existing

Woodside - Public Works

agreements with FOSD and RCS for additional sewer service capacity, the Town Council may designate an area outside and not contiguous to the RCS and the TCAD for expansion of existing public sewer service (Expansion Area).

(2) The Town Council shall find that the Expansion Area is generally not suitable for septic systems due to small lot size, poor soil percolation and/or high ground water table.

(3) The designation of an Expansion Area shall be consistent with the General Plan and any applicable Specific Plan.

(4) Adequate public sewer service shall be made available to all lots within the Expansion Area.

(5) Expansion shall not deprive owners with parcels in the RCS and TCAD of existing sewer service capacity allocated for their parcels.

(6) Development of Undeveloped Parcels within an Expansion Area shall only be allowed to parcels which fully conform to the minimum lot size requirement of the Town's Zoning Code.

(Ord. 1998-491, effective 7-9-98; Am. Ord. 1999-500, effective 1-13-00; Am. Ord. 2007-537, effective 5-24-07)

(D) Payment of costs for staff and consultant in processing the allocation request and connection to the sewer system, and for determining failure of a septic system.

(E) Payment of costs of extending the sewer main, and of connecting the development on the parcel to the sewer system, including the cost of any sewer lateral from the sewer's trunk system to the parcel.

(F) Payment of any costs required by County Health and/or the FOSD.

(Ord. 1998-491, effective 7-9-98; Am. Ord. 1999-500, effective 1-13-00; Am. Ord. 2007-537, effective 5-24-07)

§ 51.128 TESTING FOR SEWER SERVICE CAPACITY; REPORT TO TOWN COUNCIL.

The Town Engineer shall, on a biannual basis, review water usage records for parcels in the RCS and TCAD, and shall meter the sewer flow from the RCS and the TCAD and report to the Town Council on the status of sewer service capacity.

(Ord. 1999-500, effective 1-13-00)

§ 51.127 GENERAL CONDITIONS.

All connections to the public sewer system shall require:

(A) Payment of a sewer connection fee as required by ordinance or resolution.

(B) Payment of an equalization fee for parcels which have not had a Full Assessment paid in either the RCS or the TCAD.

(C) Annexation of the parcel, as appropriate, to either the FOSD (for the RCS and the FOSD) or the TCAD.

Woodside - Public Works

(1) General Policy P7 which states: "utility lines and other services shall not be extended in advance of need," and

(2) Public Utility Policy P14 which states: "Individual on-site sewage disposal systems meeting Town standards and requirements shall be used for sewage disposal except where:

(a) Such systems are precluded because of adverse conditions such as low soil permeability or high water table; and

(b) Parcels lie within the service area of an existing sanitary sewer system, as designated by the Town.

Where conditions (a) and (b) prevail, these properties, if developed, shall be served by a public sewer system, if capacity is available and connection is authorized by the Town. If a public system is not available, then it is possible that either:

(1) specially designed individual systems may be considered, or

(2) development may be limited or prohibited.", and

(3) Public Utilities Policy P22: "Connection to a sanitary sewer may be required of all lots or parcels located in an area where a local collector system is provided in an established public sewer service area, if a health or safety hazard exists or is likely to exist in the future," and

(4) Public Utilities Policy P23: "The Town shall attempt to assure that service remains available for any properties included in sewer assessment districts, to the extent of the assessment and within the sewer capacity limits of service providers. Authority to permit additional connections within a sewer service area or assessment district rests with the Town Council, prior to final approval by the service provider."

(K) The Town has reviewed its records pertaining to the May 23, 1968 formation of the RCS and has identified only one situation involving parcels with Partial Assessments that: (a) were in common ownership as of the formation of the RCS, (b) were undeveloped but separated by a developed parcel with a Full Assessment, all in the same ownership, and (c) were not contiguous and therefore not capable of being merged to create a Full Assessment in the RCS without a subdivision or lot line adjustment involving the center parcel.

(L) The Town has limited available contractual sewer capacity from Redwood City for the Town Center Sewer Assessment District that can be temporarily allocated to properties with failed or failing on-site septic systems pursuant to this chapter.

(M) There are parcels within the Town's jurisdictional boundaries which have failed or failing on-site septic systems that are potentially creating a public health concern and which are not within or contiguous to either the RCS or the TCAD, but which are contiguous to the Fair Oaks Sewer Maintenance District Service Area.

(Ord. 1998-491, effective 7-9-98; Am. Ord. 1999-500, effective 1-13-00; Am. Ord. 2000-501, effective 3-9-00; Am. Ord. 2007-537, effective 5-24-07)

§ 51.121 DEFINITIONS.



In addition to the definitions in § 51.002, the following definitions shall apply:

COMMON OWNERSHIP OF A PARCEL. Shall mean for purposes of this chapter, record title to two or more parcels held in the name of the same person(s) or entity(ies). For purposes of this chapter married persons shall be considered the same person.

CONTIGUOUS PARCEL. One that shares at any point at least one property line with another parcel that is fully annexed as of the effective date of this

Sewers

section, into either the RCS or the TCAD or the FOSD Service Area. A parcel shall also be deemed "contiguous" if it is located across a right of way from a parcel that is fully annexed as of the effective date of this section into either the RCS or the TCAD or the FOSD Service Area, where if the right of way did not exist, the parcels would share at least one common point.

DEVELOPED PARCEL. A parcel on which there is a structure, the use of which structure requires a residential sewer connection to either the RCS or the TCAD, or the FOSD, or a private sanitary sewer (septic) permit from the Town and the County Department of Environmental Health (hereinafter County Health).

EXPANDED DEVELOPMENT. The construction of an addition to a structure or a new structure, on a Developed Parcel that adds at least 100 square feet of living area.

FAIR OAKS SEWER DISTRICT (FOSD). For purposes of this chapter shall mean that special district organized under the jurisdiction of the County of San Mateo known as the Fair Oaks Sewer Maintenance District; the jurisdictional area of the FOSD, in the Town of Woodside shall comprise those parcels in the Town that have been annexed to the FOSD.

FULL ASSESSMENT. An assessment levied against a parcel, or one or more contiguous parcels, at the formation of the Redwood Creek Trunk Sewer Assessment District (RCS) in 1968, or the Town Center Sewer Assessment District (TCAD) in 1987.

NEW DEVELOPMENT. The construction of a structure on an Undeveloped Parcel, which requires a residential sewer connection to either the RCS or TCAD, or a private sanitary sewer (septic) permit from the Town and County Health.

PARTIAL ASSESSMENT. Less than a Full Assessment levied against a parcel, or one or more Contiguous Parcels, at the formation of the Redwood Creek Trunk Sewer Assessment District (RCS) on May 23, 1968, or the Town Center Sewer Assessment District (TCAD) in 1987.

THE GLENS. That area comprising approximately 80 acres within the Town located approximately one-half mile north of Woodside Road, and bounded by Canada Road on the west, I-280 on the east, Neuman Lane on the south, and Arbor Court and Jane Drive on the north, and as described in the Woodside Glens Specific Plan adopted June 1, 1993.

UNDEVELOPED PARCEL. A parcel on which there is no structure, or there is a structure, the use of which structure does not require a residential sewer connection to either the RCS or TCAD, or a private sanitary sewer (septic) permit from the Town and County Health.

(Ord. 1998-491, effective 7-9-98; Am. Ord. 1999-500, effective 1-13-00; Am. Ord. 2007-537, effective 5-24-07)

§ 51.122 FAILED SEPTIC SYSTEM.

A private wastewater disposal system, as provided for in §§ 51.030-51.032 (also hereinafter referred to as "septic systems") which will no longer function in a safe and sanitary manner according to regulations of the Town and County Health shall be considered a failed septic system. The Town Engineer shall find that the existing septic system cannot reasonably be repaired or replaced in a conforming location on the same parcel or a Contiguous Parcel in common ownership. The septic system's failure shall be determined by the Town Engineer in consultation with County Health, and with Town consultants.

(Ord. 1998-491, effective 7-9-98; Am. Ord. 1999-500, effective 1-13-00)

§ 51.123 SEWER SERVICE ALLOCATION AREAS.

For the purposes of this chapter, there shall be three sewer service allocation areas established.

(A) Area I - That area comprised of parcels located within the RCS and which are located in the Glens Area.

TOWN OF WOODSIDE

Report to Town Council

Agenda Item 4

From: Susan George, Town Manager

October 13, 2009

SUBJECT: DISCUSSION OF THE TOWN'S TREE PROTECTION REGULATIONS AND PROVISION OF APPROPRIATE DIRECTION TO STAFF FOR POTENTIAL MODIFICATIONS TO THE WOODSIDE MUNICIPAL CODE SECTION 153.178 (VIOLATIONS -PENALTY)

RECOMMENDATION

It is recommended that the Town Council:

1. Consider this report and accept public input on its contents.
2. Deliberate and decide upon which of three directions it wishes to take:
 - a. Direct staff to undertake additional research on the subject of Tree Protection Regulation fines and penalties and reagendaize the matter for future public hearing, deferring consideration of Item 5 on the October 13, 2009 agenda (Weiss - 3910 Sand Hill Road) to a future date.
 - b. Direct staff to undertake additional research on the subject of Tree Protection Regulation fines and penalties and reagendaize the matter for future public hearing.
 - c. Indicate that no further review or discussion of the matter is warranted, as the current regulations regarding fines and penalties are adequate.

BACKGROUND

The Town Council adopted an ordinance on December 12, 2006, establishing Tree Protection Regulations within the Town's Zoning Code. This adoption was the culmination of many public hearings and discussions, beginning in July of 2004, when the Conservation and Environmental Health Committee (CEHC) asked the Town Council to add the development of a Tree Protection Ordinance to the Town's Work Plan. The item was added by the Council, conditioned upon the Committee doing the research and providing a draft ordinance. On May 10, 2005, the CEHC presented its draft to the Council. After taking public comment and discussing potential additions and deletions to the draft, the Council referred it to the staff so that it could be put into formal ordinance format and made ready for the public hearing process. The draft ordinance included a section on fines to be imposed when the regulations were violated. The fines at that time were: \$1,000 for the first tree, \$2,000 for the second tree, and \$3,000 for each additional tree. The Town Council did not specifically discuss the proposed fines at the May 10, 2005 meeting.

The draft was formalized and scheduled for public hearing before the Planning Commission in February and May of 2006. The Commission spent portions of two meetings reviewing the ordinance, accepting public input, and providing comments for transmittal to the Town Council. The version of the ordinance that was reviewed by the Commission included the original fine structure (\$1,000/\$2,000/\$3,000). The Commission did question the dollar amount of the fines. Members of the CEHC stated that the fine amounts were designed to make an impact, letting the public know that the regulations were not to be taken lightly. The CEHC indicated that the fines, in the Committee's view, were not exorbitant and that other cities had much higher fines, although no examples were provided. The Commission did

not transmit any specific comments to the Town Council about the fines.

The ordinance, as recommended by the Planning Commission, was before the Town Council for introduction on June 13, 2006. The fines were included at the originally proposed levels. No specific discussion ensued about the fines. At the conclusion of the Council's discussion, a subcommittee comprised of two Councilmembers, the Planning Director, and a member of the CEHC was appointed to work out the unresolved sections of the ordinance, primarily dealing with the definition of Significant Tree.

On July 25, 2006, the Town Council's agenda again included the introduction of the Tree Protection Ordinance. The Planning Director presented proposed changes to the ordinance that had evolved from the discussions of the subcommittee. The revised draft ordinance included two versions of the proposed fines. One version included the original \$1,000/\$2,000/\$3,000 fine levels. The second version sharply increased the fines, changing them as follows:

- \$5,000 for the first tree removed, plus \$150 per inch of circumference
- \$7,500 for the second tree removed, plus \$250 per inch of circumference
- \$10,000 for each additional tree, plus \$350 per inch of circumference.

There was little discussion about the fine levels, other than a recommendation from staff that the "per inch of circumference" be dropped because of practical difficulties with implementation. Representatives of the CEHC indicated that the committee was taking no position on the fines, and deferred to the Town Council on the matter. One of the Councilmembers on the subcommittee stressed the importance of fines that were steep enough to act as a deterrent. No other public input about the fines was received and no further Council discussion ensued. Following the public hearing period and Council discussion, the matter was referred back to the subcommittee for additional work. No direction was provided to the subcommittee about the fines.

The ordinance came back to the Town Council for introduction on November 14, 2006. The subcommittee presented two versions of the ordinance, both of which included the new, higher fines, and the "per inch of circumference" penalty. The subcommittee was still divided on the definition of Significant Tree. The CEHC submitted a report to Council outlining its position on the draft ordinance and again it deferred to the Council on the subject of fines. Following the public hearing, the Town Council reached agreement on the outstanding/unresolved issues and introduced the ordinance as it currently appears in the Town's Municipal Code, which is attached to this report. The fines are set at the \$5,000/\$7,500/\$10,000 levels, with no additional fine based upon the circumference of the tree. The ordinance was adopted on December 12, 2006 and went into effect in mid-January of 2007.

Since that time, two violations of the ordinance have come before the Town Council through appeals. The first dealt with the physical removal of trees from Woodside and replanting in a neighboring jurisdiction. The Town Council waived the \$22,500 fine in that case, although it did condition its waiver on there being no subsequent violations by the involved property owner. The second case was heard on September 8, 2009. The Town Council directed staff to prepare a resolution reducing the fine for this violation from \$112,500 to \$10,000, with other conditions included, after much discussion and deliberation. That resolution appears later on this same agenda.

Since the September 8, 2009 meeting, staff has become aware of concerns that one or more

Councilmembers may have about the fine structure in the Tree Protection Regulations. This report has been prepared to provide the Town Council an opportunity to decide if it wants to revisit and modify the fine structure.

DISCUSSION

Staff has completed a quick review of the tree protection regulations of other jurisdictions in the area. The following is an abbreviated summary of the information derived from this review:

Redwood City: The fine is \$500 per illegally removed tree, plus provision of a replacement tree equaling the appraised value of the original tree. An ordinance violation can also be prosecuted as a misdemeanor, with a \$1,000 fine or six months in jail, as determined by the Court.

Palo Alto: Violations can be prosecuted as misdemeanors through the Courts. In addition, mitigation plans must be submitted, providing for the replacement of each tree removed on the property, with the "replacement ratio" to be in accordance with the standards set forth in the City's Tree Technical Manual.

Saratoga: Violations require replacement of the tree(s) removed on site or a cash payment to the City Tree Fund of twice the estimated value of the removed tree(s) or replacement of the tree(s) offsite, as determined by the City. Civil penalties can also be levied by the Courts if a misdemeanor is prosecuted.

Portola Valley: Violation requires the replacement of the tree(s) with new native trees of at least a fifteen-gallon size root ball. A misdemeanor may also be deemed to have occurred, punishable by a fine of not more than \$500, or imprisonment for not more than 180 days, or both for each violation.

Los Altos Hills: Violation (in anticipation of development) may require replacement of each tree removed by five 48-inch box trees at locations approved by the Town and payment of a multi-year bond to ensure these trees are properly maintained. Violation (during the development process) requires a plan of restitution that may include the replacement of each tree damaged or removed by up to five trees of reasonable size and the payment of a multi-year bond to ensure proper maintenance.

Los Altos: Violation constitutes a misdemeanor, subject to a \$1,000 fine and/or six months imprisonment for each violation, subject to the Court's assessment. In addition, each removed tree shall be replaced with one or more new trees which, in the opinion of the Planning Director, will provide equivalent aesthetic quality. If replacement trees are not judged to provide equivalent aesthetic quality, then a cash payment of twice the estimated value of the removed trees shall be provided by the violator.

Atherton: Atherton assesses a fee that is to be deposited into a fund for the planting and maintenance of "community" trees, such fee to be set by Council resolution. The fee resolution is currently being updated, and it appears that the tree fee will be \$500. In addition, the Town may bring a civil action and the Court may assess a civil penalty not to exceed \$5,000 per tree illegally removed or the replacement value of the tree, whichever is greater. The Town, independent of the civil action, may require replacement with trees of equivalent value onsite or replacement of trees at an offsite

location designated by the Town Arborist or cash payment, calculated at twice the estimated value of the removed trees, to the Town's Tree Fund.

Sausalito: Violation results in a fine of \$1,000 per tree, plus replacement. A civil action can also be brought to the Courts.

Staff did not talk to representatives of these other jurisdictions to gain any insights into the actual practices employed or to gather any anecdotal data about the effectiveness of each tree protection ordinance. Some of these jurisdictions have regulations that apply only when development is involved. Staff found model ordinances on several websites. The standard fine and penalties appear to involve either the replacement of the removed tree or the payment of a cash equivalent into a local tree fund, for use in planting and maintaining "Street" trees.

Staff did not find any jurisdictions that have adopted fines and penalties that approach the levels include in the Town's Tree Protection Regulations. It should be noted that violation of the Town's regulations are also subject to civil action, pursuant to Section 10.99 of the Municipal Code. This is a common section, found in most, if not all, local codes.

CONCLUSION

The Town Council has now had the opportunity to hear two code enforcement cases involving the Town's Tree Protection Regulations. Some concern about the structure of the fines and penalties included within those regulations has been expressed by some Councilmembers. It would be appropriate for the Town Council to decide whether it wishes to revisit the fine/penalty section of the regulations and to provide direction to staff for additional research and future public deliberation.

ATTACHMENT

TOWN OF WOODSIDE

Report to Town Council

Agenda Item 5

From: Susan George, Town Manager

September 22, 2009

SUBJECT: RESOLUTION REDUCING THE FINE FOR VIOLATION OF SECTION 153.173 OF THE WOODSIDE MUNICIPAL CODE AND IMPOSING CERTAIN OTHER CONDITIONS (WEISS - 3910 SAND HILL ROAD)

RECOMMENDATION

It is recommended that the Town Council adopt the attached resolution which reduces the fine for violation of Section 153.173 of the Woodside Municipal Code and imposes certain other conditions regarding the unpermitted removal of significant trees at 3910 Sand Hill Road (Weiss).

DISCUSSION

On September 8, 2009, the Town Council conducted a public hearing to consider an appeal of a Notice of Intent to Record a Code Violation for the unpermitted removal of significant trees from the property at 3910 Sand Hill Road (Weiss). The appellants, through the appeal, were seeking the Town Council's approval of a reduction in the scope of the code violation and a reduction in the penalty that was determined through application of the Municipal Code.

At the end of the Public Hearing and the Town Council's deliberations, the Town Council, via motion: (1) reduced the fine from \$112,500 to \$10,000; (2) directed the appellants to obtain a permit to complete the tree removal work on the property; and (3) directed that the work done pursuant to the permit be in accordance with the recommendations of the arborist's report that was commissioned for the property. The motion was approved on a unanimous vote of the Council, with Mayor Mason absent and Councilmember Gordon having recused herself because of a potential conflict of interests. The Town Council was informed that its action would need to be memorialized in a formal resolution. In accordance with the Council's September 8th action, the needed resolution has been prepared.

CONCLUSION

The attached resolution, once adopted, formalizes the Town Council's recent action on the appeal of the code enforcement proceedings at 3910 Sand Hill Road. Its adoption is recommended.

ATTACHMENT

RESOLUTION NO. 2009 -

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WOODSIDE
REDUCING THE FINE FOR VIOLATION OF SECTION 153.173 OF THE WOODSIDE
MUNICIPAL CODE AND IMPOSING CERTAIN OTHER CONDITIONS
(WEISS - 3910 SAND HILL ROAD)

WHEREAS, on September 8, 2009, the Town Council heard an appeal of a Notice of Intent to Record a Notice of Code Violation for the unpermitted removal of significant trees from the property at 3910 Sand Hill Road (Weiss); and

WHEREAS, the appellants, through their appeal, requested the Town Council to reduce the scope of the code violation and to reduce the penalty fine as calculated pursuant to Section 153.178 (A) (2) of the Woodside Municipal Code; and

WHEREAS, the Town Council conducted a duly noticed Public Hearing on the appeal during its September 8, 2009 meeting, accepted public testimony on the matter, and undertook deliberations on the appeal and subsidiary requests; and

WHEREAS, at the conclusion of its deliberations, the Town Council indicated its desired action via a motion on the appeal and that action requires the adoption of a formal resolution.

NOW, THEREFORE BE IT RESOLVED THAT, the Town Council of the Town of Woodside does hereby:

1. Reduce the penalty fine for the unpermitted tree removal activity from \$112,500 to \$10,000.
2. Direct the appellants to obtain the permit(s) necessary to complete the tree removal/thinning work on the property at 3910 Sand Hill Road; and
3. Direct the appellants to ensure that the additional work done on the property pursuant to the permit be done in accordance with the recommendations of the arborist's report prepared for the property by Kevin Kielty.

* * * * *

PASSED AND ADOPTED by the Town Council of the Town of Woodside, California, at a meeting thereof held on the 13th of October 2009 by the following vote of the members thereof:

AYES, and in favor thereof, Councilmembers:
NOES, Councilmembers:
ABSENT, Councilmembers:
ABSTAIN, Councilmembers:

Mayor of the Town of Woodside

ATTEST:

Clerk of the Town of Woodside