



**CITY OF LOS ALTOS
CITY COUNCIL MEETING
July 28, 2015**

PUBLIC HEARING

Agenda Item # 8

SUBJECT: Adopt Resolution No. 2015-26, abandoning a scenic easement on Lots 5 and 6 in the Madelaine Court subdivision, Tract No. 3107, subject to the listed findings and conditions

BACKGROUND

This is an application from the owners of 2050 and 2051 Madelaine Court requesting that the City abandon a scenic easement that encumbers their properties. The scenic easement across Lots 5 and 6 of the subdivision was dedicated to the City of Los Altos for the preservation of the natural setting and prohibited the construction of any structures or removal of any trees within the easement.

The Madelaine Court subdivision consists of nine properties and is located at the end of St. Joseph Avenue adjacent to Interstate Highway 280. A copy of the subdivision map is included as Attachment 3. The subdivision was approved in 1962 under the City's jurisdiction with a scenic easement and a flood control easement encumbering 2050 Madelaine Court (Lot 5) and 2051 Madelaine Court (Lot 6). For reasons that are not known, the flood control easement was never conveyed to the Santa Clara County Flood Control District (currently Santa Clara Valley Water District), therefore, the flood control easement is not in effect.

At its meeting on June 4, 2015, the Planning and Transportation Commission held a public hearing to consider the application. Following public comment and Commission discussion, the Commission voted 6-1, with Commissioner McTighe dissenting, to recommend approval of the scenic easement abandonment. The dissenting Commissioner opposed the abandonment due to concerns about negating the original purpose of the easement. The Planning and Transportation Commission report and meeting minutes are attached for reference.

EXISTING POLICY

None

PREVIOUS COUNCIL CONSIDERATION

None

DISCUSSION

Abandonment of the scenic easement would allow for consistent implementation of General Plan goals, policies and objectives, and uniform application of the zoning code and the City's Tree Protection Regulations (Municipal Code Chapter 11.08). The properties are also subject to the Santa Clara Valley Water District's *Guidelines and Standards for Land Uses Near Streams*, which provide standards for activities such as grading and drainage, placement of structures adjacent to a creek bank and maintaining riparian trees and vegetation within a creek channel. Staff reviewed other subdivisions in the vicinity and along Permanente Creek and was unable to locate any other existing scenic easements. With the existing mature trees and vegetation along the creek corridor, there is very limited visibility of the area within the scenic easement from nearby properties. It is also unclear

as to why this particular strip of land deserves a higher level of protection than any other area along the creek channel.

Correspondence from the Santa Clara Valley Water District was received prior to the Planning and Transportation Commission meeting (Attachment 4). The letter raises concerns about creek bank protection and the lack of a flood control easement on the subject properties. As noted above, the abandonment of the scenic easement would not change any City regulations or policies related to creekside preservation. With regard to the flood control easement that was never dedicated to the Water District, that is a separate matter and not related to the scenic easement. If desired, the Water District can approach the property owners directly to pursue dedication of this area as a flood control easement.

PUBLIC CONTACT

A public hearing notice was published in the *Town Crier* on May 20, 2015, posted on the properties and mailed to all property owners within the Madelaine Court subdivision and adjacent to the subject properties for the June 4, 2015 Planning and Transportation Commission hearing. The mailed notice included 15 property owners.

A public hearing notice was published in the *Town Crier* on July 15, 2015, posted on the properties and mailed to all property owners within the Madelaine Court subdivision and adjacent to the subject properties for the July 28, 2015 City Council hearing. The mailed notice included 15 property owners.

Posting of the meeting agenda serves as notice to the general public.

FISCAL/RESOURCE IMPACT

None

ENVIRONMENTAL REVIEW

Categorically exempt per CEQA Section 15305 (minor alteration to a land use limitation).

RECOMMENDATION

Adopt Resolution No. 2015-26, abandoning a scenic easement on Lots 5 and 6 in the Madelaine Court subdivision, Tract No. 3107, subject to the listed findings and conditions

ALTERNATIVES

1. Modify the resolution and/or the conditions and adopt Resolution 2015-26
2. Do not adopt Resolution No. 2015-26 and maintain the scenic easement

Prepared by: Zachary Dahl, Senior Planner

ATTACHMENTS:

1. Resolution No. 2015-26
2. Planning and Transportation Commission Agenda Report, June 4, 2015
3. Planning and Transportation Commission Meeting Minutes, June 4, 2015
4. Public Correspondence

Adopt Resolution No. 2015-26, abandoning a scenic easement on Lots 5 and 6 in the Madelaine Court subdivision, Tract No. 3107, subject to the listed findings and conditions

FINDINGS

15-SD-01 – 2050 and 2051 Madelaine Court

1. With regard to environmental review, the City Council finds that the project is categorically exempt from environmental review under Class 5 (Minor Alteration in a Land Use Limitation), Section 15305 of the California Environmental Quality Act (CEQA) Guidelines.
2. With regard to abandoning the scenic easement, the City Council finds the following pursuant to Streets and Highways Code section 8313 and Government Code section 65402:
 - a. It is in the best public interest because removing the easement provides for uniform application of the City's Zoning Code;
 - b. It is unnecessary for present or prospective public use, and the abandonment of the scenic easement is consistent with the City's General Plan; and
 - c. It is consistent with the General Plan because the goals and policies related to protecting creekside areas would remain in effect.

Adopt Resolution No. 2015-26, abandoning a scenic easement on Lots 5 and 6 in the Madelaine Court subdivision, Tract No. 3107, subject to the listed findings and conditions

CONDITIONS

15-SD-01 – 2050 and 2051 Madelaine Court

1. The applicant agrees to indemnify, defend, protect, and hold City harmless from all costs and expenses, including attorney's fees, incurred by the City or held to be the liability of City in connection with City's defense of its actions in any proceeding brought in any State or Federal Court, challenging any of the City's action with respect to the applicant's project.
2. The applicant shall work with the City to abandon the scenic easement on Tract No. 3107 in a form approved by the City Attorney. The applicant shall provide a sufficient fee retainer to cover the cost of reviewing and recording all necessary documentation to complete the abandonment.

Adopt Resolution No. 2015-26, abandoning a scenic easement on Lots 5 and 6 in the Madelaine Court subdivision, Tract No. 3107, subject to the listed findings and conditions

RESOLUTION NO. 2015-26

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
ABANDONING A CERTAIN SCENIC EASEMENT DEDICATED TO THE
CITY BY THE TRACT MAP NO. 3107, MADELAINE COURT, FILED MARCH
13, 1962, IN BOOK 144 OF MAPS, PAGE 10, SANTA CLARA COUNTY RECORDS**

WHEREAS, the owners of the properties at 2050 and 2051 Madelaine Court initiated an application (15-SD-01) to request that the City abandon a scenic easement that encumbers the subject properties; and

WHEREAS, a scenic easement (“Easement”) for the preservation of natural beauty of the area was dedicated to the City of Los Altos (“City”) in Tract No. 3107, Madelaine Court subdivision and said map was recorded on March 13, 1962, Book 144 of Maps, page 10, Santa Clara County Records, as described in Exhibit “A” attached hereto; and

WHEREAS, Streets and Highways Code section 8313 and Government Code section 65402 provide a process for abandoning a publically dedicated easement; and

WHEREAS, on June 4, 2015, the Planning and Transportation Commission resolved pursuant to Streets and Highways Code section 8313 and Government Code section 65402, that the Easement is not necessary for present or prospective public use, and that the vacation of the Easement would be consistent with the City’s General Plan; and

WHEREAS, public notice of the hearing was made pursuant to the Streets and Highway Code section 8322; and

WHEREAS, the posting of the notice of abandonment was made pursuant to Streets and Highway Code section 8323; and

WHEREAS, the City Council set and conducted a duly noticed public hearing pursuant to Streets and Highway Code section 8320 *et seq.* to consider the proposed abandonment; and

WHEREAS, the proposed Easement abandonment as set forth below has been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act of 1970, as amended (“CEQA”), and the guidelines promulgated thereunder and, further, said Council finds that it can be seen with certainty that there is no possibility that said abandonment may have a significant effect on the environment and said amendments are therefore exempt from the requirements of the CEQA pursuant to Section 15305 because it involves a minor alteration to a land use limitation; and

WHEREAS, the location and custodian of the documents or other material which constitute the record of proceedings upon which this project approval is based is the office of the City Clerk.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby finds, pursuant to Streets and Highways Code section 8313 and Government Code section 65402, that:

- a. Abandonment of the Easement is in the best public interest because removal will provide for uniform application of the City's Zoning Code;
- b. The Easement is unnecessary for present or prospective public use, and abandonment of the Easement is consistent with the City's General Plan; and
- c. Abandonment of the Easement is consistent with the General Plan because the goals and policies related protecting creekside areas would remain in effect.

NOW THEREFORE, BE IT FURTHER RESOLVED, the City Council of the City of Los Altos finds as follows:

- a. That the scenic easement dedicated to the City by Tract No. 3107 filed March 13, 1962, in Book 144 of Maps, page 10, Santa Clara County Records, is now no longer necessary because it has not been used for the purpose for which it was dedicated for five (5) consecutive years immediately preceding the requested abandonment, and there are no other public facilities located within the easement.
- b. That the City Council, pursuant to Streets and Highway Code, Chapter 4, Section 8330 et seq., hereby orders the abandonment of the scenic easement described in Exhibit "A" attached hereto; and
- c. This Resolution shall become effective on the 28th day of July, 2015 and shall be recorded by the City Clerk in the Santa Clara County Recorder's Office shortly thereafter; and
- d. From and after the date this Resolution is recorded in the Santa Clara County Recorder's Office, the scenic easement shall no longer constitute a scenic easement and the land subject to the scenic easement shall revert to the properties located at 2050 Madelaine Court, Los Altos, California, APN 342-10-059 and 2051 Madelaine Court, Los Altos, California, APN 342-10-058, pursuant to Streets and Highway Code Section 8351.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 28th day of July, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Janis C. Pepper, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK



DATE: June 4, 2015

AGENDA ITEM # 2

TO: Planning and Transportation Commission
FROM: Zachary Dahl, Senior Planner
SUBJECT: 15-SD-01 – 2050 and 2015 Madelaine Court

RECOMMENDATION:

Recommend to the City Council abandonment of a scenic easement on the Madelaine Court subdivision, Tract No. 3107, subject to the listed findings and conditions

PROJECT DESCRIPTION

This is an application to abandon a scenic easement on the Madelaine Court subdivision. The scenic easement across Lots 5 and 5 of the subdivision was dedicated to the City of Los Altos for the preservation of the natural beauty of the area and prohibited the construction of any structures or removal of any trees within the easement.

The Madelaine Court subdivision consists of nine properties and is located at the end of St. Joseph Avenue adjacent to Interstate Highway 280. A copy of the subdivision map is included as Attachment 3. The subdivision was approved in 1962 under the City's jurisdiction with a scenic easement and a flood control easement encumbering 2050 Madelaine Court (Lot 5) and 2051 Madelaine Court (Lot 6). For reasons that are not known, the flood control easement was never conveyed to the Santa Clara County Flood Control District (currently Santa Clara Valley Water District), therefore, this easement is not in effect.

DISCUSSION

The owners of Lots 5 and 6 have requested that the City abandon this scenic easement since it creates an undue hardship on their properties and that it is unclear what purpose is served by maintaining the easement. It also appears that both properties have existing patio and deck improvements that are located within the scenic easement. A letter from the applicants that provides additional information about their request is included in Attachment A.

As noted on the subdivision map, the scenic easement was dedicated to the City "for the preservation of the natural beauty of this area [and] the erection of structures of any kind and the destruction of any trees within this easement are prohibited without the express permission of the proper governing body." In reviewing the file for this subdivision, there was no discussion as to why this easement was required beyond its description on the map. Staff reviewed other subdivisions in the vicinity and along Permanente Creek and was unable to locate any other existing scenic easements. With the existing mature trees and vegetation along the creek corridor, there is very limited visibility of the area within the scenic easement from nearby properties. It is also unclear as

to why this particular strip of land deserves a higher level of protection than any other area along the creek channel.

Both of these properties are zoned as R1-10. The properties are also subject to the City's Tree Protection Regulations (Municipal Code Chapter 11.08) and the Santa Clara Valley Water District's Guidelines and Standards for Land Use Near Streams. Given the vague intent of this scenic easement, the City's current tree protection regulations and guidelines for creek side properties, and the fact that these are the only two properties encumbered by a scenic easement, staff recommends that the City abandon the easement.

The Streets and Highways Code (Section 8313) and Government Code (Section 65402) outline the protocol when a public agency seeks to abandon a street, highway, or public service easement. The scenic easement does not meet the definition of a public service easement, however it is an easement dedicated to the City as part of a recorded map, so staff recommends the same process for abandoning this easement.

Abandonment of the scenic easement would allow for consistent implementation of General Plan goals, policies and objectives, and uniform application of the zoning code on both properties. Abandonment of this easement would not diminish the General Plan goal of preserving natural areas such as Creekside areas. Overall, it does not appear that this scenic easement serves a public interest or furthers any City goals, policies or objectives already in place, and it does restrict the subject properties to a higher degree than other similar creekside properties in the vicinity.

ENVIRONMENTAL REVIEW

This project is categorically exempt from environmental review under Section 15305 of the Environmental Quality Act because it involves a minor alteration to a land use limitation. The project will be removing a scenic easement that encumbers two parcels, but it is not approving any work in this area. Any future work in this area may be subject to environmental review, depending on the scope.

PUBLIC CONTACT

A public hearing notice was published in the *Town Crier* on May 20, 2015, posted on the property and mailed to all property owners within the Madelaine Court subdivision and adjacent to the subject properties for the June 4, 2015 Planning and Transportation Commission hearing. The mailed notice included 15 property owners.

Cc: Brent Gorrell, Owner of 2051 Madelaine Court
Stanley Wedding, Owner of 2050 Madelaine Court

Attachments:

- A. Application and Applicant Cover Letter
- B. Area, Vicinity and Public Notification Maps
- C. Subdivision Map

Planning and Transportation Commission
15-SD-01 – 2050 and 2051 Madelaine Court
June 4, 2015

FINDINGS

15-SD-01 – 2050 and 2051 Madelaine Court

1. With regard to environmental review, the Planning and Transportation Commission find that the project is categorically exempt from environmental review under Class 5 (Minor Alteration in a Land Use Limitation), Section 15305 of the California Environmental Quality Act (CEQA) Guidelines.
2. With regards to abandoning the scenic easement, the Planning and Transportation Commission finds the following pursuant to Streets and Highways Code section 8313 and Government Code section 65402:
 - a. It is in the best public interest because removing the easement provides for uniform application of the City's Zoning Code;
 - b. It is unnecessary for present or prospective public use, and the abandonment of the scenic easement is consistent with the City's General Plan; and
 - c. It is consistent with the General Plan because the goals and policies related protecting creekside areas would remain in effect.

CONDITIONS

15-SD-01 – 2050 and 2051 Madelaine Court

1. The applicant agrees to indemnify, defend, protect, and hold City harmless from all costs and expenses, including attorney's fees, incurred by the City or held to be the liability of City in connection with City's defense of its actions in any proceeding brought in any State or Federal Court, challenging any of the City's action with respect to the applicant's project.

2. The applicant shall work with the City to abandon the scenic easement on Tract No. 3107 in a form approved by the City Attorney. The applicant shall provide a sufficient fee retainer to cover the cost of reviewing and recording all necessary documentation to complete the abandonment.



CITY OF LOS ALTOS GENERAL APPLICATION

Type of Review Requested: *(Check all boxes that apply)*

Permit # 1106 658

<input type="checkbox"/> One-Story Design Review	<input type="checkbox"/> Sign Review	<input type="checkbox"/> Multiple-Family Review
<input type="checkbox"/> Two-Story Design Review	<input type="checkbox"/> Sidewalk Display Permit	<input type="checkbox"/> Rezoning
<input type="checkbox"/> Variance(s)	<input type="checkbox"/> Use Permit	<input type="checkbox"/> R1-S Overlay
<input type="checkbox"/> Lot Line Adjustment	<input type="checkbox"/> Tenant Improvement	<input type="checkbox"/> General Plan/Code Amendment
<input type="checkbox"/> Tentative Map/Division of Land	<input type="checkbox"/> Preliminary Project Review	<input type="checkbox"/> Appeal
<input type="checkbox"/> Subdivision Map Review	<input checked="" type="checkbox"/> Commercial Design Review	<input type="checkbox"/> Other: <u>Subdivision Amendment</u>

Project Address/Location: 2051 / 2050 Madelaine Ct Los Altos
 Project Proposal/Use: Removal of scenic easement Patio extension
 Current Use of Property: Residential
 Assessor Parcel Number(s) 2050 - 342-10-059 Site Area: _____
2051 - 342-10-058
 New Sq. Ft.: _____ Remodeled Sq. Ft.: _____ Existing Sq. Ft. to Remain: _____
 Total Existing Sq. Ft.: _____ Total Proposed Sq. Ft. (including basement): _____

Applicant's Name: Brent Gorrell, Stanley Wedding
 Home Telephone #: 650 960 1440 Business Telephone #: 650 967 1441
 Mailing Address: 2051 Madelaine Court
 City/State/Zip Code: Los Altos, CA 94024

Property Owner's Name: Brent Gorrell Stanley Wedding
 Home Telephone #: 650 960 1440 Business Telephone #: 650 967 1441
 Mailing Address: 2051 Madelaine ct
 City/State/Zip Code: Los Altos, CA 94024

Architect/Designer's Name: Tom Ralston Concrete Telephone #: 831 426 0342
~~650 279~~

*** If your project includes complete or partial demolition of an existing residence or commercial building, a demolition permit must be issued and finalized prior to obtaining your building permit. Please contact the Building Division for a demolition package. ***

(continued on back)

J Brent Gorrell

2051 Madelaine Ct • Los Altos, CA 94024 • Phone: (650) 960-1440 •

E-Mail: bregor@sbcglobal.net

Date: 3/23/15

City of Los Altos Planning Committee

Dear Zach:

We would like to apply for subdivision amendment for the properties at 2051 Madelaine Court and 2050 Madelaine Court, Los Altos CA. Currently there is a scenic easement which extends the back yards of both properties which we would like to remove so that some improvements can be made to the back yard patio area. The scenic easement prevents any development of the area.

The easement was created over 50 years ago. Since then, land has been developed behind our properties. Highway 280 was also constructed. The only people that appreciate the scenery are people invited over to our homes, as the house block any public view. We don't understand the intent for the easement. Originally the Santa Clara County Water District was supposed to have an easement for flood control but this was never conveyed to the district. We don't know whether the scenic easement was tied to the water district in some way.

The owners of the property at 2051 Madelaine Court would like to improve a patio area, but are unable to get city permits because the improvements encroach on the scenic easement. In fact, the current patio encroaches a bit on the easement.

We don't understand the purpose of the easement as we are the people who can enjoy the scenery. We don't plan to remove the landscape. We feel the easement was placed at a time when the area was less developed and may have had a purpose which is nonexistent today

Sincerely,

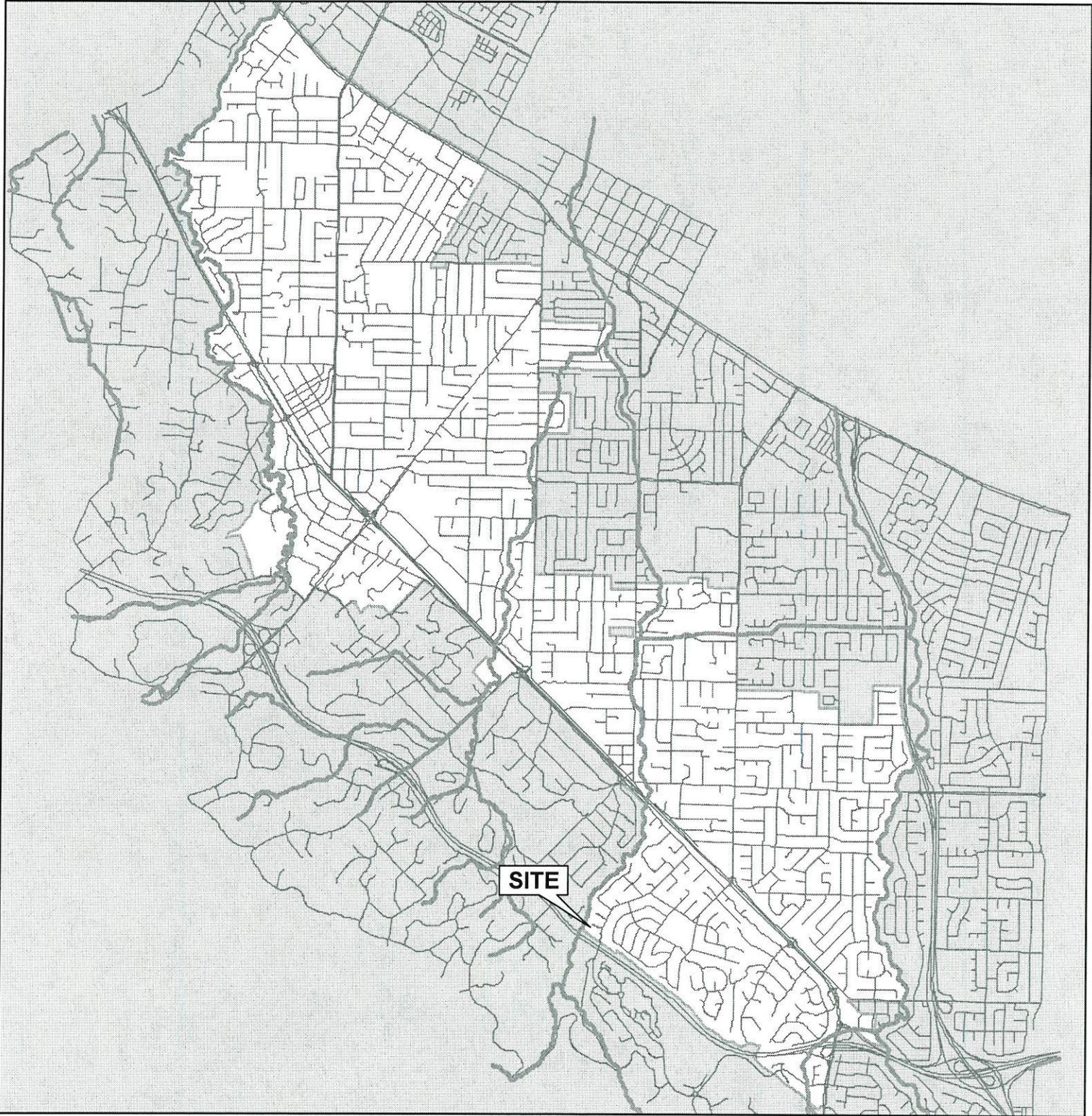


Pam and Brent Gorrell, 2051 Madelaine Court, Los Altos 94024



Stanley Wedding, 2050 Madelaine Court, Los Altos 94024

AREA MAP



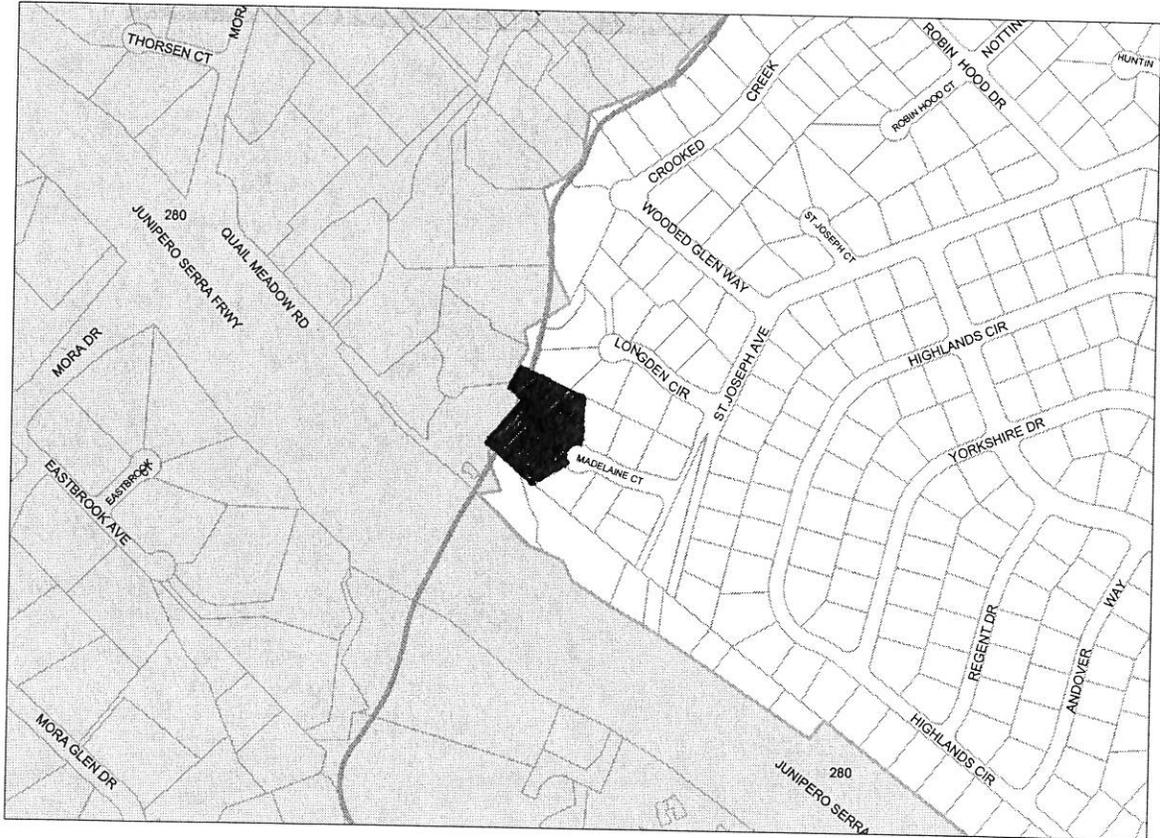
CITY OF LOS ALTOS

APPLICATION: 15-SD-01
APPLICANT: B. Gorrell and S. Wedding
SITE ADDRESS: 2050 and 2051 Madelaine Court

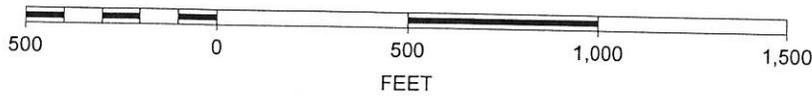


Not to Scale

VICINITY MAP



SCALE 1 : 6,000



CITY OF LOS ALTOS

APPLICATION: 15-SD-01
APPLICANT: B. Gorrell and S. Wedding
SITE ADDRESS: 2050 and 2051 Madelaine Court

TRACT NO. 1768 THE HIGHLANDS OF LOS ALTOS 24
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TRACT NO. 3107

CONSISTING OF ONE SHEET
BEING A PORTION OF LOT NO. 1 AND LOT NO. 2 OF THE
GRANGER SUBDIVISION OF THE BERGIN RANCH AND
LYING WITHIN THE CITY OF
LOS ALTOS, CALIFORNIA
SCALE 1" = 50'
DECEMBER 1961

MacKay & Somps
CIVIL ENGINEERS
1003 W. EL CAMINO REAL SUUNYVALE, CALIFORNIA

WOODED GLEN
TRACT NO. 1076
ROBIN HOOD
UNIT NO. 2
36 41 MAPS PG 16

OWNER'S CERTIFICATE

We hereby certify that we are the owners of or have some right title or interest in and to the real property included within the subdivision shown upon the hereon map; that we are the only persons whose consent is necessary to pass a clear title to said real property; that we hereby consent to the making of said map and subdivision as shown within the blue border line and that we hereby offer for dedication to public use all streets and portions of streets not heretofore existing as shown on the hereon map within said subdivision and also dedicate to public use easements for any and all public uses under, upon and over said streets and said portions thereof.

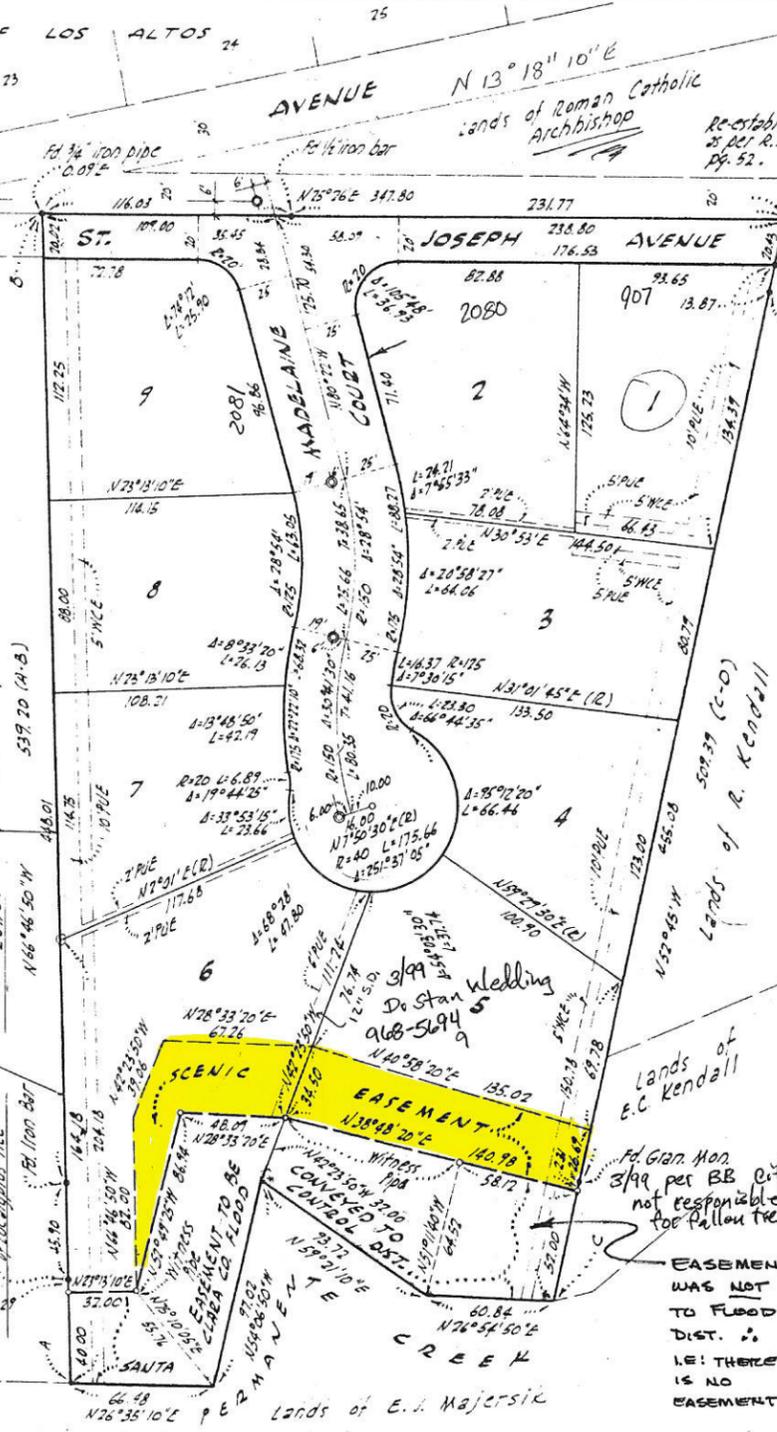
We also hereby dedicate to public use easements for any and all public utility facilities including poles, wires, conduits, storm sewers, sanitary sewers and gas, water and heat mains and all public utilities and all appurtenances to the above under, on or over those certain strips of land lying between the rear and/or side lines of lots and the dashed lines each designated as "P.U.E." (Public Utility Easement), easements under, on or over those certain strips of land designated and delineated as "A.E." (Anchor Easement) for pole anchor purposes only; and easements for wire clearance purposes only over those certain areas designated as "W.C.E." (Wire Clearance Easement). The above mentioned public utility easements to be kept open and free from buildings and structures of any kind except public utility structures, irrigation systems and appurtenances thereto and lawful fences. The wire clearance easements to be limited to buildings and structures and appurtenances thereto which have a maximum height of fifteen (15) feet above the grade at the ground line of poles.

We also hereby dedicate to the City of Los Altos, as an easement, that certain strip of land designated as "Scenic Easement" for the preservation of the natural beauty of this area. The erection of structures of any kind and the destruction of any trees within this easement are prohibited without the express permission of the proper governing body.

MARYKNOLL DEVELOPMENT COMPANY, A CORPORATION; OWNER:
By: _____ President
By: _____ Secretary

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA
On this 4th day of March, 1962,
before me, Mary Jo Milks, a Notary Public, in and for said County and State
persons appeared Mevin Cambium and Rose C. Cohn, known to me to be the
President and Secretary respectively of the corporation that executed the within instrument
and also known to me to be the persons who executed it on behalf of such corporation
and they acknowledged to me that such corporation executed the same as owner.
My Commission Expires October 1, 1965.
Mary Jo Milks Notary Public

- LEGEND**
- indicates monument found as noted.
 - indicates iron pipe set.
 - indicates Standard City Monument set.
 - indicates Standard City Monument found.
 - ▲ indicates iron pipe set at 2' lot corners.



ENGINEER'S CERTIFICATE

I, George E. Somps, hereby certify that I am a Registered Civil Engineer of the State of California; that this map, consisting of one sheet, correctly represents a survey made under my supervision in October, 1961; that this survey is true and complete as shown; that all monuments exist as shown or will be placed on or before September 1, 1963, and their positions are sufficient to enable the survey to be retraced.
GEORGE E. SOMPS, R.C.E. NO. 8718

CITY ENGINEER'S CERTIFICATE

I, Dexter D. Ahlgren, hereby certify that I have examined the within final map of Tract No. 3107, that the subdivision shown thereon is substantially the same as it appeared on the approved tentative map and any approved alterations thereof; that all provisions of the Subdivision Map Act, as amended and of any local ordinance applicable at the time of approval of the tentative map have been complied with and that I am satisfied that said map is technically correct.
DEXTER D. AHLGREN
CITY ENGINEER, LOS ALTOS, CALIF.
Dated: Feb. 20, 1962

CERTIFICATE OF THE CITY CLERK

I, John M.R. Hope, City Clerk of the City of Los Altos, hereby certify that the within final map of Tract No. 3107, was approved by the City Council of the City of Los Altos, State of California, at a duly authorized meeting held on the 6th day of March, 1962 and said Council did at said meeting accept, on behalf of the public, the dedication of all easements as shown on said map within said subdivision, but the dedication of all streets shown on said map within said subdivision, was not accepted.
JOHN M.R. HOPE, CITY CLERK & EX-OFFICIO CLERK OF THE CITY COUNCIL, CITY OF LOS ALTOS, CALIF.

RECORDER'S CERTIFICATE

File No. 2156929 Fee \$500 Paid
Accepted for record and recorded in book 144 of Maps at Page 10
Santa Clara County Records, this 13th day of March, 1962 at 3:02 P.M.
PAUL R. TEILH, RECORDER,
SANTA CLARA COUNTY
By: Donald E. Robinson Deputy

BASIS OF BEARINGS & NOTES

The bearing N 13° 18' 10" E along the center line of St. Joseph Avenue, (shown as Saint Joseph Road) as shown on the map of Tract No. 1076, Robin Hood Glen Unit No. 2, filed for record in Book 41 of Maps at Page 17, Santa Clara County Records, was taken as the basis of bearings shown hereon.
All distances and dimensions are given in feet and decimals thereof.
The blue border line indicates the boundary of land subdivided by this map.
P.U.E. = Public Utility Easement
W.C.E. = Wire Clearance Easement

EASEMENT WAS NOT CONVEYED TO FLOOD CONTROL DIST. IS THERE IS NO EASEMENT

**MINUTES OF A REGULAR MEETING OF THE PLANNING AND
TRANSPORTATION COMMISSION OF THE CITY OF LOS ALTOS, HELD ON
THURSDAY, JUNE 4, 2015, BEGINNING AT 7:00 P.M. AT LOS ALTOS CITY HALL,
ONE NORTH SAN ANTONIO ROAD, LOS ALTOS,
CALIFORNIA**

ESTABLISH QUORUM

PRESENT: Chair McTIGHE, Vice-Chair LORELL, Commissioners, BRESSACK, BAER,
MOISON, BODNER and JUNAID

STAFF: Community Development Director WALGREN, Planning Services Manager
KORNFIELD and Senior Planner DAHL

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

ITEMS FOR CONSIDERATION/ACTION

CONSENT CALENDAR

1. **Planning and Transportation Commission Minutes**
Approve the minutes of the May 21, 2015 regular meeting.

MOTION by Commissioner BAER, seconded by Commissioner BODNER, to approve the minutes of the May 21, 2015 regular meeting as written.

THE MOTION PASSED BY A 5/0/2 VOTE, WITH BRESSACK AND MOISON ABSTAINED.

PUBLIC HEARING

2. **15-SD-01 – B. Gorrell and S. Wedding – 2050 and 2051 Madelaine Court**
Subdivision map modification to abandon a scenic easement encumbering parcels 5 and 6 adjacent to Permanente Creek in the Madelaine Court Subdivision, Tract No. 3107. *Project Planner: Dahl*

Senior Planner DAHL presented the staff report recommending to the City Council abandonment of a scenic easement on the Madelaine Court subdivision, Tract No. 3107, subject to the listed findings and conditions.

The project applicant/owner Brent Gorrell stated that he wanted to make minor changes to the rear yard including decks/patios. Resident Libby Lucas spoke with concern that the Commission needed more information in order to make a decision on the application, asked about the inappropriate development in the County up on Quail Road, and said that there should have been a contour map. There was no other public comment.

The Commission discussed the project and expressed their general support. Commission discussion included the nature of the easement, location of the top of the creek bank, review of the City's creek protection regulations, and the tree ordinance.

MOTION by Commissioner BAER, seconded by Commissioner JUNAID, to recommend approval to the City Council of an abandonment of a scenic easement on the Madelaine Court subdivision, Tract No. 3107, per the staff report findings and conditions.

THE MOTION PASSED BY A 6/1 VOTE, with CHAIR MCTIGHE opposed with concerns about negating the purpose of the easement by removing it.

Commissioners BODNER recused herself for agenda item No. 3 due to her owning property within 500 feet of the following project site and Commissioner JUNAID recused herself because her architectural firm worked on the following project.

3. **14-D-04, 14-UP-05 and 14-SD-01 – A. Jessup – 999 Fremont Avenue**

Commercial Design Review, Use Permit, and Tentative Subdivision Map for a mixed-use project with four below-grade parking spaces, 1,792 square feet of commercial space and ten parking spaces on the ground floor, and four multi-family residential condominiums on the second story and third story. *Project Planner: Gallegos*

Planning Services Manager KORNFIELD presented the staff report recommending approval of Design Review, Use Permit and Subdivision applications 14-D-04, 14-UP-05 & 14-SD-01 to the City Council subject to the findings and conditions.

Project architect Chip Jessup spoke in support of the project contrasting the revised project with the prior plans, said the intention of the project was to revitalize, and there is a 40 percent increase in retail area.

Residents Donna Poulos, Gail Ostendorf, Jan Thomas, Greg Hoberg, Ron Meserve, John Fenwick, Darwin Poulos, Henry More, Richard Newton, Teresa Morris, Katherine Wurzburg, Tom Ferry, Kris Olson, Teresa Ullmann, Pat Marriot, Andrew Pejack, Benjamin Berman, Stephen More, Steve Wurzburg, Maria Gonzales, Barbara Loebner, Brett Beedle, Nancy Martin, Dr. Catherine Athans, and Chris Hoberg spoke in opposition to the project citing such concerns as inappropriate size and height, the need for story poles to determine the impacts, bicycle and traffic safety, lack of retail emphasis, lack of building setbacks, lack of on-street parking, potential soil contamination, noise impacts and water use impacts.

Project investor Ken Ravon, business owner of SNAP Fitness Allen Hall, residents Dick Kenarney, Judy Simes, Gary Tjader, and Michael Alcheck (owner of neighboring parcel at 1000 Fremont) spoke in support of the project and revitalization of the area. Resident Rita Chuang spoke in support of the building design, but not on this lot.

The Commission discussed such concerns as the viability of the proposed retail area, the need for redevelopment at Loyola Corners, the perceived insufficient parking ratio for all uses (1/300), the site constraints affected the parking potential and the ability to provide building setbacks, the overall character appearing bulky and massive in context, the need to refine the design on the sides of the building, the appropriateness of larger "family-size" units and the parking circulation.

Zach Dahl

From: Sue Tippets <stippets@valleywater.org>
Sent: Thursday, June 04, 2015 3:21 PM
To: Zach Dahl
Cc: David Kornfield
Subject: 2050 and 2015 Madelaine Ct

Zach,

The item to be presented to the City Council tonight re the abandonment of the scenic easements at the subject properties has been brought to our attention. Without topography and a site plan, opining on the merits of abandoning this particular scenic easement would only be based on conjecture and are general in nature.

Several of the reasons for abandonment discussed in the staff report warrant discussion.

The specific scenic easement may not be the most applicable means to protect the riparian corridor but having conservation easements, city ordinances or flood protection easements along the creek corridors are effective in preventing construction in or setbacks from the riparian corridor allowing for protection of the habitat. The City's tree ordinance and the Guidelines and Standards may not be sufficient to proactively protect the corridor. The Guidelines have some minimal practices for setbacks from the top of bank, mostly for stability and rely on the cities to develop and implement riparian corridor protection measures.

While it is not known on our end why the flood protection easement was not dedicated to the District, it is clear with the two easements that there was an intent to protect the corridor from development. Without any easement on the properties, the corridor protection would only be obtained through the city's tree ordinance and the Guidelines as cited in the staff report.

Two other comments made in the staff report relate to the discontinuity of easements along the corridor and the presence of existing improvements within the scenic easement. The District has easement rights and fee title in this area along the creek so an easement for flood protection purposes is located in the area. Many of the District's easements along creeks are discontinuous, irregular and spotty, suggesting that the discontinuity of an easement should not be of significance in the abandonment of a protective easement. Similarly the presence of improvements within an easement should not be a reason to abandon the easement.

I apologize for the last minute comment but hope it will be considered.



Sue Tippets, PE, CFM
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