

From: David Hutchison <[REDACTED]>
Sent: Monday, February 27, 2023 8:00 AM
To: Sean Mullin <SMullin@losgatosca.gov>
Subject: Letter in support of Bouknight's hearing on Wed Mar 8

[EXTERNAL SENDER]

Sean,

Please add this email to the public comment for the Bouknights' hearing on Mar 8.

I have become interested in the case of the Bouknights and others (e.g. the Wades, and others in SCC/Saratoga) because I am a concerned homeowner worried about what this over-regulation means to property values and to our Towns' resident's freedom to build and improve on their lots. This is, plain and simple, an example of poorly-written poorly-interpreted law that benefits no one. Both homeowners and the Planning Commission should recognize it as such and we should make every effort to resist such things -- poorly-written poorly-interpreted fire law that ultimately causes LESS fire safety than we'd have if homeowners were allowed to build top-notch fire-safe homes where vacant combustible wooded lots or where old homes exist now, causes big problems and ultimately is an embarrassing waste of everyone's time and money -- the homeowners, and the Town's.

The Bouknights should never be in this situation. (1) Having passed Planning approval including Fire Dept review, (2) Los Gatos is an outlier in the state at requiring strict 4290 compliance, (3) 4290 was never intended to apply to existing roads, and it is unenforceable to apply it in that way -- in general remedying existing road slope/length/... is either physically impossible or practically impossible for a homeowner, and opens up the town to significant litigation risk in cases such as this.

Los Gatos should adopt the same approach SCC is now taking, wherein they consider but ultimately now routinely pass cases that would have a year ago gotten stuck on 4290 compliance; they recognize that SCCFD is an outlier and very few if any other counties are requiring compliance for existing roads, they recognize the huge cost and impossibility of compliance, and therefore they generally consider compliance to be a Taking under the US Constitution -- and allow the project to move forward.

The Planning Commission should simply consider the Fire Department's stance, consider whether there are reasonable alternatives, and if not, they should allow the project to move forward, recognizing that the end result is a more fire-safe situation and more safe from litigation risk, compared to continuing to block a project.

Best regards,
David

February 27, 2023

Planning Commission
Los Gatos Planning
110 East Main Street
Los Gatos, CA 95030

Re: Proposed Single Family Residence
144 Wood Road, Los Gatos, CA 95030

Dear Planning Commission Members:

I'm writing in support of the Bouknights' appeal request to be discussed at the upcoming Planning Commission meeting on March 8.

The Bouknights have lived down the street from my family here in Los Gatos for the last few years. It has been nice getting to know them as we have a lot in common. We both have young families with our children attending the local public schools. The Bouknights are also frequent hosts to grandparents and I know that their goal is to have the future home serve as place where grandparents can live.

As it turns out, the Bouknights started pursuing their single-family home project at nearly the same time that we did. We both purchased our properties around the same time, used the same renowned local architect and submitted our site and architectural plans within days of each other.

One of the important aspects of the residential building process is the issuance of final conditions of approval. These conditions of approval guide the entire process of assembling the construction documents that are used for the permitting process. In fact, these conditions are included point for point with the permit submission to ensure that the applicant is living up to those conditions.

I understand in the Bouknights' case that they were given final conditions of approval after their planning commission approval back in August 2021 and that they submitted for permitting in October 2021 in accordance with those conditions. The fact that those final conditions were altered some months after their issuance is upsetting.

With this type of precedent of changing the rules after the game has been played, how can any typical property owner have assurance that she could hit the mark without later having the target moved? It is extraordinarily expensive to change construction documents and building plans not to mention frustrating and time consuming to do so after final conditions of approval have been rendered. The entire purpose of final conditions of approval is to provide the property owner with explicit and individualized guidance on requirements to receive permits. I can only imagine how upset I would be if this was done to my family as part of our project.

I really enjoy the town of Los Gatos as do the Bouknights and I completely understand that the process of obtaining approvals and building a home is a privilege that comes with its own set of challenges. That noted, what has been asked of the Bouknights is obscure and unnecessary. They have outlined a single-family residence with site improvements that clearly make the area more fire safe. What is the rational argument to block it?

I'm in full support of the Bouknights' appeal.

Best regards,

Jasleen Dhillon

Jiajun Lin
[REDACTED]
Los Gatos, CA [REDACTED]

February 26, 2023

Planning Commission
Town of Los Gatos Planning Department
110 East Main Street
Los Gatos, CA 95030

Re: Proposed Single Family Residence
144 Wood Road, Los Gatos, CA 95030

Subject: Support Appealing Application of State Minimum Fire Safe Regulations (PRC 4290)

Dear Planning Commission Members:

I'm writing in support of appealing the application of State Minimum Fire Safe Regulations (PRC 4290) to the Bouknight's grading and building permit requests for 144 Wood Road.

I am a long-time resident of Los Gatos and will be a future neighbor to the Bouknights, living along Wood Road. I first came in contact with the Bouknights back in June 2020 soon after they purchased the vacant property. I was excited when they purchased the property and learned of their plans to develop it, because it would help make our area safe, neat, and attractive. The current vacant property has attracted a number of trespassers, creating a dangerous environment.

I called in and supported this project as part of the public hearing in August of 2021 and was happy when the planning commission gave it their approval. I can't understand how the Town can change the Bouknight's conditions of approval after that review. That seems wrong.

Having lived at the end of Wood Road, beyond where the Bouknight's propose to build their home for a number of years, I can assure the commission that it allows for easy access for all vehicle types. There have not been and will not be issues relative to fire apparatus access. The Bouknight's application meets the spirit of the regulations and will make the area more fire safe.

I would highly recommend that the commission support the Bouknight's appeal.

Sincerely,



Jianjun Lin

From: Lee Ann Wade [REDACTED]
Sent: Thursday, March 2, 2023 10:24 AM
To: Sean Mullin <SMullin@losgatosca.gov>
Subject: Support for Bouknight Appeal

[EXTERNAL SENDER]

We are writing in support for the Bouknight's appeal to remove PRC 4290 regulations from their property. Both Santa Clara County Planning and the Los Gatos Planning Departments have deemed these regulations unlawful. From a practical view, this development creates a MORE fire-safe area for the entire neighborhood. We urge you to remove these unconstitutional regulations without delay.

Thank you, Lee Ann and Eric Wade
Los Gatos Residents

From: Monica Nilsson <[REDACTED]>
Sent: Thursday, March 2, 2023 9:02 PM
To: Sean Mullin <SMullin@losgatosca.gov>
Subject: Bouknights' appeal request

[EXTERNAL SENDER]

Dear Planning Commission:

We are the Nilsson family. We are residents and homeowners in Los Gatos. I am writing in full support of the Bouknights' appeal request to be heard by the commission on March 8 for 144 Wood Road.

My family has gotten to know the Bouknight family over the past few years and I would note that they have been a wonderful addition to the Los Gatos community. We have the unique commonality that we both have sets of twin boys who are the same age and attend the local public schools together. It's been fantastic to see the four of them interact and become great friends.

The Bouknights are very caring people. Their boys' grandfather has lived with them for many years and they serve as his primary caregiver now that he has advanced medical needs. I can very much relate to wanting to be able to provide housing for parents as they advance in age.

I have taken great interest in the Bouknights' proposed single-family home project, in part because I have great interest in making improvements to my own property. I was very surprised when I heard that they have been blocked from receiving their building permits due this regulation PRC 4290. This is surprising for a number of reasons, one of which is that these guidelines had never been mentioned during their approval process or mentioned in their final conditions of approval.

It is also surprising, because as someone who lives in an area that could be affected by this regulation (most of Los Gatos could be affected), I have never heard of this regulation. It is shocking to think that a regulation that could impact so many homeowners in Los Gatos has never been discussed here in a public forum. It is shocking to know that this regulation was implemented without any notice given to tax-paying homeowners. And it is shocking to learn how differently we are doing things here in Los Gatos regarding this regulation relative to other areas.

As it turns out, the road in question (Wood Road) actually aligns very well with the intent of the regulations. There is no question that what has been proposed improves fire safety.

I would urge the planning commission to approve the Bouknights' appeal request.

Thank you,

Monica Nilsson

February 25, 2023

Planning Commission
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

Re: The Bouknight Residence, 144 Wood Road

To Whom it May Concern:

My name is Alan Ernst, a private consultant for Circle Arrow E Consulting Inc. My background includes over 30 years of professional firefighting experience in California of which, I have served as a Fire Chief in a large fire agency that includes urban, suburban, and rural communities. I am extremely familiar with the California Board of Forestry and Fire Protection SRA Fire Safe Regulations (PRC 4290) and the intent behind them. As someone who is responsible for administering the fire codes and ordinances, I understand the challenges of enforcing them, protecting our communities, and allowing exemptions or provisions when warranted. When making such decisions, it is imperative that not only the intent of the regulations, codes, and ordinances are maintained, but they provide for the same practical effects. After reviewing the Bouknight Residence project and supporting documents, it is my professional opinion that the justifications not only meet the intent of the Board of Forestry regulations, they exceed them.

The Fire Safe Regulations are found in the California Code of Regulations, Title 14, Division 1.5, Chapter 7, Subchapter 2. The purpose of the regulations is defined in the code as: *These regulations have been prepared and adopted for the purpose of establishing minimum wildfire protection standards in conjunction with building, construction and development in SRA. A local jurisdiction may petition the Board for certification pursuant to section 1270.03. Where Board certification has not been granted, these regulations shall become effective September 1, 1991. The future design and construction of structures, subdivisions and developments in State Responsibility Area (SRA) shall provide for basic emergency access and perimeter wildfire protection measures as specified in the following articles. These measures shall provide for emergency access; signing and building numbering; private water supply reserves for emergency fire use; and vegetation modification.*

For each code section and requirement, the Board of Forestry provides the intent of the specific code and once again, based on the documentation provided and my professional experience, the Bouknight Residence meets and/or exceeds such intent. Unfortunately, throughout the State, the Fire Safe Regulations are being applied and administered inconsistently, which has provided confusion for both residents and officials. For example, in Napa County, there is a clear difference in code between State Board of Forestry Minimum Fire Safe Regulations (MFSR) as presently proposed and Napa County's Road and Street standards (NCRSS) as proposed. Though the State regulations and County standards are for the most part identical, the NCRSS definitively exempt existing roads from having to comply with other provisions of the standards.

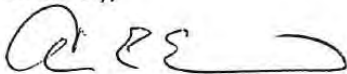
As stated earlier, when considering exemptions and/or provisions to approve a project like the Bouknight Residence, it's imperative to consider the intent of the regulations, site improvements, practical effects, and common sense. Today, the property in question at 144 Wood Road, where the Bouknight Residence is proposed to be built is a vacant lot. As a vacant lot, there are no site

improvements that provide for additional defensible space for the surrounding community, additional turnout space for safe ingress/egress of fire personnel or community members, or other safety features that this project will provide. Below is a list of on-site improvements that were included in the final conditions of approval for the Bouknight Residence.

- Use of Class A roof assemblies.
- Use of materials and construction methods for exterior wildfire exposure in compliance with Section R337 of the 2019 California Residential Code, Public Resources Code 4291 and California Government Code Section 51182.
- Provision of defensible space / fire break landscaping plan. This is prepared by a California-licensed Landscape Architect in conformance with California Public Resources Code 4291 and California Government Code Section 51182.
- Provision of a letter from a California-licensed Landscape Architect certifying the Landscaping and vegetation clearance requirements have been completed per the California Public Resources Code 4291 and Government Code Section 51182.
- Automatic residential fire sprinkler system shall be installed.
- Creation of an approved fire department engine driveway turnaround with a minimum radius of 36 feet outside and 23 feet inside.
- Implementation of a private fire protection system with wharf hydrant accessible at all times.
- Installation of water tanks with a capacity for a minimum of 20,000 gallons of water.
- Construction of a fire apparatus access driveway with a paved all-weather surface.

Given the existing road conditions of Wood Road, the proposed additional protections and improvements described above, provide significant increases in fire protection measures. These improvements and protections provide the same practical effect of what is described as the purpose of the Fire Safe Regulations. These measures provide for emergency access, signing and building numbering, water supply for emergency fire use, and vegetation modifications. It is my professional opinion that the Bouknight Residence project as proposed provides a level of safety and fire protection that meets and/or exceeds what is prescribed in the code. Based on my analysis of the project, the intent and purpose of the Fire Safe Regulations, and professional experience, I would recommend that the appeal be granted and the Bouknight Residence project be approved as proposed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alan Ernst', with a long horizontal flourish extending to the right.

Alan Ernst
Fire Consultant
Circle Arrow E Consulting Inc.