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

Los Gatos Planning Commissioners:  
Steve Raspe, Chair  
Emily Thomas, Vice Chair  
Jeffrey Barnett  
Kendra Burch  
Susan Burnett  
Rob Stump

Town Manager: Chris Constantin

Community Development Director: Joel Paulson

Town Attorney: Gabrielle Whelan

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

CHAIR RASPE: Moving on now to Item 7, a request for approval for construction of a new single-family residence with reduced side and rear yard setbacks, site improvements requiring a Grading Permit, and removal of large, protected trees on a nonconforming vacant property zoned R-1:20, located at 45 Reservoir Road. APN 529-33-054. Architecture and Site Application S-22-048. The project is categorically exempt pursuant to CEQA Guideline 15303: New Construction. Property owner is Farnaz Agahian, and Applicant Gary Kohlsaat.

Members of the Planning Commission, those have visited the site, please indicate by raising your hand. Thank you, and any disclosures? Seeing none, Mr. Mullin, I believe you're preparing a Staff Report on this. Thank you.

SEAN MULLIN: Yes, thank you, and good evening again. Before you this evening is a proposal to construct a new two-story residence with reduced side and rear setbacks, site improvements requiring a Grading Permit, and removal of large, protected trees located at 45 Reservoir Road.

1           The project site is located east of Reservoir  
2 Road and accessed via a private roadway that bisects the  
3 property and serves several lots between Reservoir Road and  
4 Rogers Street.

5           The Applicant proposes a 1,640 square foot  
6 residence with an attached tandem garage in a traditional  
7 Mediterranean style. The residence includes 1,287 square  
8 feet of below-grade square footage and an attached ADU.  
9 Staff notes that consistent with State law the ADU is not  
10 the subject to this application.

11           The proposed residence would be the seventh  
12 largest in terms of floor area when compared to those in  
13 the immediate neighborhood, and the third largest in terms  
14 of FAR.

15           Due to the constraints of the site and the  
16 desired architectural program, the Applicant is requesting  
17 the following exceptions:  
18

19           From the Town Code an exception to the required  
20 15-foot side and 25-foot rear setbacks; an exception to  
21 driveway access road requiring a minimum width of 18 feet;  
22 a requirement for two off-street parking spaces relative to  
23 the configuration and the dimensions; and the driveway  
24 depth of at least 18 feet. Those were all relative to the  
25 Town Code.

1           Relative to the Hillside Development Standards  
2 and Guidelines, the exceptions requested are for grading  
3 depths exceeding 4' of cut and 3' of fill; retaining wall  
4 heights taller than 5'; and buildings located outside of  
5 the LRDA.

6           Lastly, from the Hillside Specific Plan, the  
7 requirement to provide four onsite or four guest parking  
8 spaces.

9           Discussion of each of these exceptions is  
10 provided in your Staff Report.

11           The consulting architect reviewed the project and  
12 provided a recommendation addressing the two-story side  
13 walls, which the Applicant implemented. Additionally, the  
14 consulting architect noted that the residence is sited  
15 quite close to the road, recognizing the constraints of the  
16 site. The Applicant provided a response noting that their  
17 residence is pushed as far away from the road as is  
18 feasible given the constraints of the site.

19           Should the Planning Commission find merit in  
20 their request, Staff is recommending that the Planning  
21 Commission approve the Architecture and Site Application  
22 subject to the conditions in Exhibit 3.  
23  
24  
25

1 Staff notes that a Desk Item was distributed  
2 today with additional public comments, and this concludes  
3 my presentation. We're available to answer any questions.

4 CHAIR RASPE: Thank you very much, Mr. Mullin.  
5 Commissioners, any questions for Staff? Seeing none, I'll  
6 open the public portion of this matter and invite the  
7 Applicant to come forward and speak for up to five minutes.  
8 I have two cards from the Applicant, Gary Kohlsaat and  
9 Farnaz Agahian, and just a reminder, together you'll have a  
10 combined five minutes to speak, so you can divide that any  
11 way you wish.  
12

13 FARNAZ AGAHIAN: Good evening, everyone. My name  
14 is Farnaz Agahian and I am the owner of the property at 45  
15 Reservoir. I am a color/imaging scientist and working for a  
16 tech company in the Bay Area. My mom and I purchased this  
17 property in April 2022 with the hope of building our dream  
18 home where we can live together and support each other.

19 We are a very close and small family; it's just  
20 the two of us. I realize that as she's getting older, she  
21 needs to be close by, and at the same also she needs to  
22 have her own space, independence, and comfort. Therefore,  
23 we plan to build a single-family house that includes  
24 separate living space for her, which is our ADU, attached  
25 to the main property, and we believe this arrangement would

1 allow her to have her independence and at the same time she  
2 can live with me and have my support and companionship.

3           This is about the plan, and finally we totally  
4 understand the importance of responsible development, so we  
5 are fully committed to working with the Town to make sure  
6 that our project meets the necessary guidelines and  
7 requirements, and also at the same time we understand  
8 construction is not fun for our neighbors, so we will do  
9 our best to minimize any disturbance to our neighbors and  
10 neighborhood.

11  
12           CHAIR RASPE: Thank you for your comments. I  
13 think your architect would like to jump in with the  
14 remainder of your time.

15           GARY KOHLSAAT: Thank you. Good evening,  
16 everybody. I wanted to shout out to Sean Mullin for doing  
17 such an excellent Staff Report, very detailed. It's a very  
18 difficult and complex project that we have here, as  
19 obviously it's a challenging site.

20           I wanted to just briefly touch on a couple of  
21 items. I think Sean described our design approach very  
22 well; I don't have much to add to that. But I do want to  
23 talk about a couple of the exceptions that we're asking  
24 for, in particular the setback exception.

25

1           This lot is 83' wide in a zone that requires a  
2 minimum of 100', so if you look at the setbacks for an R-  
3 1:20, it's 15', which is 15%. What we're asking for is 14%  
4 of the width as if it was an R-1:10; the size of this is  
5 actually more applicable of this property. That just gives  
6 us a few extra feet, 2.5'-3', of extra width on this house  
7 due to the narrowness of the lot.

8           I also wanted to talk about the process. We  
9 tried very hard to avoid the firetruck turnaround. We've  
10 had several submittals, we've been in here for two years  
11 now, working with the Fire Department; they just would not  
12 budge. We went through an AMMR process, and with that  
13 process we were able to get fire clearance with the caveat  
14 that we put in this fire truck turnaround, which is why you  
15 have 15.5' tall walls.

16           However, we see this as a community benefit in  
17 many ways. It makes the area safer. It will also save quite  
18 a bit of excavation off haul; we can use all of that, all  
19 the spoils from the excavation from the house that is  
20 benched into the hill and fill that thing, and that will  
21 happen right away, so now we have construction staging,  
22 which we never had before. Now we have parking for six to  
23 eight vehicles throughout the process, because it doesn't  
24  
25

1 need to be for the Fire Department until the very end, so  
2 that's a huge benefit that I think we need to do.

3 I want to ask for one more exception. It's the  
4 trees that we're proposing to plant between that wall and  
5 the property line; we're asking for the Green Giants or an  
6 Italian Cypress or something like that. These are 50'-55'  
7 away from the house, and so since we're in this Hillside  
8 Overlay, we have to abide by that. This is the only species  
9 of plant that we have that will reach 15'-20' in 4', so I'm  
10 asking for that.

11  
12 CHAIR RASPE: Thank you for that presentation  
13 from both of you, and before you sit down, Commissioners,  
14 do we have questions or comments for either speaker?  
15 Commissioner Burnett.

16 COMMISSIONER BARNETT: Yes, thank you. You  
17 mentioned that you would use the soil from the house side  
18 for the fire pad you want to build there, is that correct?

19 GARY KOHLSAAT: That's correct, yes.

20 COMMISSIONER BURNETT: Now, you have to add  
21 additional though. I mean, you can't really use that  
22 totally. Isn't there some additional fill that would have  
23 to be?

24 GARY KOHLSAAT: There would still be some off  
25 haul. Yes, there will be some export, but it's greatly



1 reduced. My design team is here, and for technical  
2 questions I can refer to my civil engineer who can give us  
3 exact data on that, if you want, but it is in the package.

4 COMMISSIONER BURNETT: Yes, it was my  
5 understanding that you can't totally use that kind of soil  
6 for what you propose for a fire pad, basically.

7 GARY KOHLSAAT: If it's engineered properly.  
8 We've talked to our soils engineer about that and it  
9 depends on what the quality of the material is, but we're  
10 counting on that at this point until we know different.

11 COMMISSIONER BURNETT: Okay, thank you.

12 CHAIR RASPE: Commissioner Burch.

13 COMMISSIONER BURCH: You were a little rushed at  
14 the end, and so I was a little confused about the tree  
15 statement. Could you go back to that and explain it again.

16 GARY KOHLSAAT: I'll refer to the Staff Report,  
17 and it's not under trees, it's in the section under the  
18 retaining wall heights exceptions, and it's towards the end  
19 and it is pointed out that these trees are outside of the  
20 30' zone for residents; you have to use natives outside of  
21 30', because this is in a Hillside Design Overlay. It's not  
22 really a hillside property; it's not hillside zoning.  
23 Anybody else has the freedom to do what they want, but  
24  
25

1 since we have an application right now, we have to abide by  
2 that.

3 I'm asking for that exception, because we're  
4 trying to screen the wall for the neighbor down below who  
5 has been very patient with us actually and granted us a  
6 water easement as well, but we also want to create  
7 something that's going to be a little bit taller than that.  
8 We're going to have a guardrail at the edge of this wall,  
9 vehicular guardrail, but we also realize that we're  
10 elevated and we might be looking down upon them. Not that  
11 anybody is going to be there, but there is that  
12 possibility, and so we'd like to get plants that grow 20'-  
13 24' tall, and the only thing that we have in our arsenal  
14 are non-natives.

16 If you look at the complete list of the Town's  
17 approved trees, none of them. We have 4', and even that  
18 we're just barely making this fire truck turnaround work,  
19 so that's why I'm asking for that exception.

20 COMMISSIONER BURCH: Thank you. I appreciate the  
21 explanation.

22 CHAIR RASPE: Thank you. Yes, Commissioner Stump.

23 COMMISSIONER STUMP: The question that I had back  
24 in May of 2023, you obviously met with one of the  
25 neighbors, the Paspas. His takeaway was that the project is

1 just oversized for this lot. I'm sure you had some  
2 conversation with him. Was there any sort of outcome of  
3 that conversation, or was it just kind of agree to  
4 disagree, that we need to do what we need to do, and the  
5 neighbor has his opinion about this being oversized for the  
6 lot?

7           GARY KOHLSAAT: I think I would summarize that as  
8 agree to disagree. The house is 1,608, under 1,800 square  
9 feet. It's not a large home by any means. We're only asking  
10 for slight exceptions into the side setbacks and one  
11 exception into the rear setback, and mostly that's because  
12 of the shape of the lot; it has a little kink to it, and  
13 that kink is where we need the rear setback exception. But  
14 it is our opinion that this is a fairly modest home and  
15 that it is compatible size-wise, as Mr. Mullin has pointed  
16 out in his chart. It's certainly not the largest home in  
17 the area, and it doesn't have the most FAR as well, and I  
18 believe that the neighbor has the exact same FAR and a much  
19 larger home, and it's also very visible; everybody sees his  
20 home on a daily basis if you ever go drive up and down Main  
21 Street. This house is really not going to be visible.

22           CHAIR RASPE: Thank you. Yes, Commissioner  
23 Barnett.  
24  
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1 COMMISSIONER BARNETT: As I understand, the  
2 exceptions you're asking for with respect to setbacks are  
3 the rear and the side, but when I saw the property, the  
4 house appeared to be right at the road. Can you comment on  
5 that?

6 GARY KOHLSAAT: Yeah, I'd love to. Actually, the  
7 property goes all the way down past that access road that  
8 cuts across our property and it goes all the way down to  
9 the lower fence, and that's where we're going to be  
10 building out the fire truck turnaround. That is a private  
11 drive, and so there are no setbacks from that private  
12 drive, so we're well out of the front setback.

13 COMMISSIONER BARNETT: I see. Well, it is a  
14 challenging lot, I'll agree with you on that.

15 CHAIR RASPE: Thank you. Other questions,  
16 Commissioners? I just have two quick questions.

17 First of all, I think it's implied in the packet  
18 and in your comments, but the Fire Department has signed  
19 off on this project as currently designed, is that correct?  
20

21 GARY KOHLSAAT: That's correct, or we wouldn't be  
22 here.

23 CHAIR RASPE: My second is I went through my  
24 notes and there are quite few moving parts on this one.  
25 You've got the setback requests, the request with respect

1 to driveway, with respect to parking, driveway distance,  
2 grading depth, retaining walls, LRDA, guest parking, etc.,  
3 and I think you've tried to address most of those issues,  
4 and we've previously talked about grading.

5           Could you briefly discuss the retaining wall  
6 height? I know we are on at least a portion of the property  
7 higher than we are customarily permitting, and this lot  
8 doesn't appear to permit the terracing of retainings. Can  
9 you address that for us?

10           GARY KOHLSAAT: There are two areas where we have  
11 retaining walls that are exceeding the allowable height,  
12 and one of them is in the rear. Since we're pushed up into  
13 the hillside quite a bit, we wanted to have some daylight  
14 in the back and have a very modest little yard in the back  
15 yard. In order to do that we have to have doors to come  
16 out, so we can't bring the hillside down to the home;  
17 otherwise, you'd have windows and that would be it, so when  
18 you start to move that wall, that cutback, it increases in  
19 height as the hillside continues to climb up behind the  
20 home so we're asking for minor exceptions. These walls will  
21 still be at the 5' or less height, so you're not going to  
22 see tall walls, but you wouldn't see them anyway because  
23 they're all very blocked behind the home.  
24  
25

1           There is one exception that we're up to about 8',  
2 which we're doing a double wall, we're doing a tiered wall  
3 design there, to minimize the effect of a taller wall, and  
4 it's really just to get the hillside off of the second  
5 story, the upper floor, which by the way, is a reverse  
6 floor plan, so that's where the kitchen and the dining room  
7 are, and so if you're entertaining or you just want to go  
8 outside, that's where you want to go on terra firma,  
9 because we do have a small roof deck that's built out over  
10 the home to the front, but that's still like apartment  
11 living. I mean, it's a roof deck, it's not on the ground,  
12 so if you want to have a garden, if you want to go out and  
13 be on the ground. So, that's that wall.

15           The other wall, the big wall, is for the fire  
16 truck turnaround.

17           CHAIR RASPE: Thank you for that answer. I  
18 appreciate it. Commissioners, any other questions for the  
19 Applicant? Commissioner Burch.

20           COMMISSIONER BURCH: Did you say you have your  
21 civil engineer here?

22           GARY KOHLSAAT: Yes, we do.

23           COMMISSIONER BURCH: Can I ask some questions  
24 about the proposed drainage on the lot? Since you are on  
25 quite hill to the road and then you've got neighbors below,

1 I would like to understand how you're going to mitigate  
2 draining just flowing down to the downhill neighbors.

3 CIVIL ENGINEER: Below the roadway we have an  
4 infiltration trench where the water will infiltrate into  
5 the ground to mitigate the pre- and post-flow rate and meet  
6 stormwater quality requirements.

7 COMMISSIONER BURCH: I keep trying to find your  
8 civil drawing and my computer keeps not liking this, so  
9 that's why I'm asking these questions. On the hillside  
10 itself though, how are you handling drainage from the  
11 property down to the road to mitigate excessive...  
12

13 CIVIL ENGINEER: With a storm drain system. The  
14 whole storm drain is going into like an infiltration  
15 trench.

16 COMMISSIONER BURCH: Oh, the whole thing goes  
17 into the same?

18 CIVIL ENGINEER: Yes.

19 CHAIR RASPE: Yes, Commissioner Burnett.

20 COMMISSIONER BURNETT: Yes, thank you. Of the 118  
21 conditions of approval, which are quite a few here, it's  
22 mentioned frequently that you would not be able to park any  
23 vehicles there during construction, because it is a very  
24 narrow, private road, which to me is going to be a real  
25 issue for the neighbors, and as the conditions of approval

1 say, you cannot park there at all; you cannot block that  
2 street. How in the world are you going to be taking up dump  
3 trucks and hauling dirt away? It seems like a real feat.

4 GARY KOHLSAAT: For sure, it's going to be a  
5 challenge. We have already spoken to two excellent  
6 contractors with extensive experience in hillside  
7 properties. We acknowledge that it would be a great idea,  
8 and I think we've even conceded to that maybe in the  
9 conditions—I'm not sure, I haven't read every one—that we  
10 would do a construction plan, and that we would use  
11 software that could update that construction plan on a  
12 daily or weekly basis throughout the duration of the  
13 project.  
14

15 There will be times when we temporarily will have  
16 to block that access road. Given that there is another  
17 exit, we don't think it's going to be that large of any  
18 issue. The neighbor to the west of us doesn't even traverse  
19 across our property as far as I know; they just go in and  
20 out from Reservoir Road. There is another neighbor who does  
21 use that, and that's on the other side, they're 26, I  
22 believe, below Irene and Tom, and they often will use that  
23 road, and so it's just a matter of communicating with them  
24 that we may have to block the road for a little while.  
25



1 PG&E just recently did that, and unfortunately,  
2 even though we requested several times for notification and  
3 signage to the neighbors, they just kind of did their PG&E  
4 thing and came out one day and just blocked the roads, so  
5 everyone got pissed off. Excuse my French.

6 As soon as we start excavating, we can start  
7 filling, and we will create this parking and construction  
8 pad that's just going to be amazing. It's expensive and  
9 it's extensive, but it is going to be very worthy.

10  
11 COMMISSIONER BURNETT: Thank you for that. Just a  
12 follow-up, if I may, Chair?

13 CHAIR RASPE: Please.

14 COMMISSIONER BURNETT: Thank you. Do you have  
15 comments regarding what our Town Architect's comments were  
16 about the project, that it's really not a viable project,  
17 it has major constraints, and that he's very concerned  
18 about its impact on the character of the neighborhood? The  
19 frontage of the home is going to be practically right on  
20 the street itself where all the other homes are quite a few  
21 feet back from the street itself, so he did have some  
22 concerns there about the viability actually of the project.

23 GARY KOHLSAAT: His biggest concern, if I can  
24 paraphrase him, was that the home was very, very close to  
25 this access road. It's not a public street; it's used by

1 two other neighbors. We've moved it as far away from that  
2 road as possible. It's not unlike many of the other homes  
3 in the area. If you drive up Rogers Street, there are homes  
4 right on the street all up and down that road. Even on  
5 Cleland Avenue there are several homes and garages that are  
6 right on the road, and that is a public road and that's a  
7 well-traveled road, and so there are situations all over in  
8 this little pocket, so it's not different in many ways.  
9 Even the neighbor, their garage is 6' or 7', and they don't  
10 have the backup space either.

11  
12 So, the exceptions that we're asking for for  
13 parking and all the kind of stuff, it's not like we're the  
14 only one that doesn't have it; nobody has parking up there.  
15 It's very old, established probably in the 1880s on this  
16 hill, so it is what it is. I think we've done a great job  
17 getting this house to be a viable project.

18 COMMISSIONER BURNETT: Thank you.

19 CHAIR RASPE: Thank you. Commissioner Stump.

20 COMMISSIONER STUMP: I realize this road is a  
21 private road having driven it myself and actually  
22 overshooting and then having to do a 40-point turn in the  
23 neighbor's driveway to make a U-turn. My question is do the  
24 residents on that roadway consider that to be a one-way  
25 road? In practice is that a one-way road?

1 GARY KOHLSAAT: No. To be honest, from my  
2 observation, it's not used as a one-way. It's used one way  
3 in and one way out, or it could be one way in and one way  
4 out, or you could just thoroughly... There are no rules on  
5 that road.

6 COMMISSIONER STUMP: So, the gates at the bottom  
7 of that roadway, the owners then have a clicker that they  
8 can open that gate?

9 GARY KOHLSAAT: Yes. Well, coming in, and  
10 entering from Reservoir proper, because this is called  
11 Reservoir Road, but on the way out there's an automatic  
12 gate opener.  
13

14 COMMISSIONER STUMP: But that gate can be opened  
15 by the residents themselves?

16 GARY KOHLSAAT: That's correct, yes.

17 COMMISSIONER STUMP: Thank you.

18 GARY KOHLSAAT: There's really nothing formally  
19 set up, but I believe that if there is maintenance to be  
20 done on the road it would be shared pro rata, and I'm sure  
21 that that would be interesting to be a fly on the wall in  
22 that one. I have to give credit to Mary who has repaved  
23 that part of that road from her house down; I believe that  
24 she's responsible for that. I don't know if she ever got  
25 reimbursed from the other people. Irene and Tom are the

1 ones at the very beginning where they have the gates and  
2 house that you see there, the old Victorian home, and they  
3 just come in and out there; they rarely drive through, but  
4 they have the ability and they can if they want.

5 CHAIR RASPE: Very good. Commissioners, any  
6 further questions for the Applicant? Commissioner Barnett.

7 COMMISSIONER BARNETT: Inferring from your last  
8 comment, you're not aware of a recorded road use agreement  
9 among those property owners?  
10

11 GARY KOHLSAAT: I think that came up. I don't  
12 recall if there is or not, so I'll just say that.

13 COMMISSIONER BARNETT: Okay, maybe this is for  
14 Staff.

15 GARY KOHLSAAT: Not that we're aware of.

16 COMMISSIONER BARNETT: Okay, then I guess the  
17 conditions might address any damage to the roadway and  
18 caused in connection with the project; I think that's one  
19 of the conditions.

20 GARY KOHLSAAT: Right. Yes, we'll videotape it  
21 and we'll repair anything to the satisfaction of the  
22 neighbors.

23 COMMISSIONER BARNETT: Okay, thank you.  
24  
25

1 CHAIR RASPE: Thank you. Commissioner, any other  
2 questions for the Applicant? Seeing none, thank you so  
3 much, and you may speak again at the end.

4 We have a number of speaker cards then from  
5 members of the public who wish to be heard. In no  
6 particular order, Kia Baratzadeh. If you'll approach the  
7 podium and you state your name for the record, and you'll  
8 have three minutes to speak.

9 KIA BARATZADEH: Good evening, my name is Kia  
10 Baratzadeh; I live at 60 Rogers Street, just the house  
11 above the proposed site of 45 Reservoir.

12 I am speaking as someone who approves of this  
13 project as a neighbor. I've gotten to know Farnaz, her  
14 family, and Gary over the last couple of years. They've  
15 been pretty straightforward with us, very transparent, and  
16 we see the story poles; they're giving all this information  
17 to you.

18 It is a challenging site, that's admitted, but we  
19 are living in the year 2025 and I think there are a lot of  
20 great solutions that can technically resolve these issues.  
21 I don't see anything here that is of concern to me as  
22 someone living above, and I would love to have Farnaz a  
23 neighbor someday, so I'd just like to say that I speak an  
24 approval of it.  
25

1 CHAIR RASPE: Thank you for those comments.  
2 Commissioners, any questions? No. Thank you, sir. Next is  
3 Paul Paspas. You'll approach, state your name for the  
4 record, and you'll have three minutes to speak, sir.

5 PAUL PASPAS: Paul Paspas. I'm at 49 Reservoir  
6 Road, and I guess we agree to disagree on at least the size  
7 of the home.

8 I think one thing that would be very helpful for  
9 me to really understand this project better, and maybe just  
10 for everyone here, is floor area versus how big the home  
11 is. The floor area is 1,640 square feet; that's because a  
12 number of the square footage is excluded based on the Los  
13 Gatos code that says you don't count something that's below  
14 grade, or you don't count garage space, and so a lot of the  
15 square footage of the house is not included in that 1,640  
16 number.

17 The code, I believe, for that is to calculate  
18 floor area for FAR. The actual home, I believe, is 3,400  
19 square feet living space, and so there's a big disparity  
20 between comparing 1,640 square feet floor area to what is  
21 probably listed. I mean, if I go to sell my home, I'm not  
22 going to worry about floor area, I'm going to tell them how  
23 many square feet it is. There is a big disconnect, I think,  
24 in this particular project between what is FAR, floor area,  
25

1 and what is the actual livable space, and so 3,400 square  
2 feet for this area is big. Without the ADU, it's 3,000;  
3 it's still on the larger side, and it is a small, very  
4 challenging lot, no doubt about that.

5           So, I'm curious if we can maybe have someone, Mr.  
6 Mullin or Mr. Kohlsaat, actually talk to how they're  
7 comparing floor area to the homes in the area in terms of  
8 their actual size, because I don't consider floor area, I  
9 consider livable space; it's a big difference.

10           CHAIR RASPE: Thank you for your comments. Before  
11 you sit, Commissioners, any questions? Commissioner  
12 Barnett.

13           COMMISSIONER BARNETT: Thanks for being here  
14 tonight. You acknowledge your understanding of the Town  
15 Code, that the subterranean space would not be counted for  
16 FAR.

17           PAUL PASPA: Right.

18           COMMISSIONER BARNETT: That's a law that you  
19 understand and agree with, right?

20           PAUL PASPA: Do I understand and agree with it?

21           COMMISSIONER BARNETT: Yes.

22           PAUL PASPA: If for the purposes of FAR, that's  
23 fine, but for the purposes of evaluating a home's  
24  
25

1 suitability for the neighborhood, I don't think that's the  
2 right number to be using.

3 COMMISSIONER BARNETT: The follow-up question was  
4 for the remaining portion of the house above the grade  
5 level. Do you still object to the size of the home; is that  
6 what I heard?

7 PAUL PASPA: My objection is that we have a home  
8 with a livable space of 3,400 square feet and we're  
9 comparing it to homes in the area that are between 1,500  
10 and 3,500 square feet and we're saying this is a small home  
11 and it's a challenging lot and we're kind of boxed in, but  
12 I think there is actually size to be had to scale this so  
13 that it does not encroach as much as it does today.

14 COMMISSIONER BARNETT: Okay, thanks.

15 CHAIR RASPE: Thank you. Any other questions for  
16 the speaker? Thank you, sir, for your comments. Next  
17 speaker, Andrew Watson. Mr. Watson, if you would approach,  
18 give us your name and address, and you'll have three  
19 minutes to speak.

20 ANDREW WATSON: My name is Andrew Watson, I'm  
21 here with my wife Kathleen, and we live at 56 Cleland  
22 Avenue, which is one of the homes just below the property  
23 in question.  
24  
25



1           We moved to our house in 1987, so we've been  
2 there for about 37 years in the same small house, about  
3 1,500 square feet. We expect to live there for the rest of  
4 our lives. We raised two daughters there; one of them lives  
5 in Los Gatos and she may well occupy that house after we're  
6 gone.

7           We stayed in that house and we stayed in Los  
8 Gatos primarily because of the particular neighborhood that  
9 we're in, and part of the reason we love that neighborhood  
10 is that even though it's only a few steps from downtown Los  
11 Gatos, it is this beautiful, leafy, rural enclave, and part  
12 of that is the result of the trees in that area and in that  
13 neighborhood.

14           We are sympathetic to the difficulties of  
15 building. We're sympathetic to the need for new housing.  
16 We're sympathetic to these particular applicants, but we  
17 are very concerned about the removal of trees from that  
18 neighborhood. Trees die of natural causes, they die through  
19 human activity, and you can plant more, but they take a  
20 long time to grow. If you don't resist this progress, there  
21 will be a general depletion of the leafy canopy that makes  
22 that neighborhood special, so that is what we are very  
23 concerned about.  
24  
25

1           For these reasons we urge the Commission to  
2 decline permission to remove the trees. We have many other  
3 concerns about this property: about its size, about the  
4 degree to which it is going to be visible from our  
5 property, the degree to which the turnaround on the other  
6 side of the road is going to impinge on our property.  
7 Again, we're sympathetic to the needs of the Applicant, but  
8 the trees we particularly are concerned about. Thank you  
9 for listening to me.

10  
11           CHAIR RASPE: Thank you for your comments.  
12 Commissioners, any questions? Vice Chair Thomas.

13           VICE CHAIR THOMAS: Hi, thank you, Mr. Watson,  
14 for coming tonight. My question for you is if you're  
15 concerned about the trees being removed, what changes would  
16 you want to see if you're in support of... You said you're  
17 still in support of developing the property in some way,  
18 shape, or form, but is there a specific quest?

19           ANDREW WATSON: I think the previous speaker  
20 suggested that if the property were scaled back in some way  
21 that maybe there wouldn't be such a need to remove those  
22 trees. Because the property is on a private road, I can't  
23 actually get access to where the trees are, so I'm not  
24 absolutely certain of which trees they are, but if they're  
25 the ones I think they are, they are impinging upon the

1 planned structure, so without removing them you'd have to  
2 scale the structure back a bit.

3 VICE CHAIR THOMAS: Okay, thank you.

4 CHAIR RASPE: Thank you. Any other Commissioners  
5 have questions? No. Thank you very much for your comments.  
6 Next speaker is Mary Jane Vidovich. If you'll approach and  
7 give us your name and address, and you'll have three mins  
8 to speak.

9 MARY JANE VIDOVICH: My name is Mary Jane  
10 Vidovich and I live next door at 47 Reservoir Road since  
11 1990, and my daughter Janie Marie since 2007.

12 I see the site being challenging in that it might  
13 pose a danger. It's kind of a dangerous construction site,  
14 because it's a 20,000 square foot zoning, and after you  
15 take the road through there it's like 5,000 square feet to  
16 build the house.

17 There are mature oaks that I'm not sure which  
18 ones are going to be removed, but I thought the trees were  
19 already removed. There was some clearcutting by the  
20 previous owner, and then they had tree reparations. They  
21 were supposed to plant the trees and they just went and did  
22 them themselves and I think they're dead, so they didn't  
23 take that seriously, and the trees are what make the area  
24  
25

1 so beautiful, provides shade, and it's just magnificent,  
2 the trees.

3 I don't think the easement can handle the heavy  
4 construction equipment the way it is. It's actually not a  
5 road, the easement is all part of our lots, and actually  
6 the neighbor, Ann Cali, her property created the easement.  
7 It was proved that her garage was an old stagecoach... This  
8 was the Macabee Gopher Trap family, where they lived, and  
9 so that was to access her home. She goes out both ways, but  
10 the way she does out in the back, it hasn't been maintained  
11 or paved since I've been there since 1990, and it's very  
12 steep and it's dangerous. I just don't see the large  
13 trucks, I don't know how they're going to go in and out of  
14 there. When I get a delivery, I ask for a small truck. I  
15 think the site is too small.

17 This is the view out my kitchen window. It is  
18 going to be a massive structure just blocking my view, and  
19 I actually witnessed a deer getting all tangled up in that  
20 plastic when it was just put up the first time; it was very  
21 alarming to see that. I don't see this as a viable site.  
22 The day she told me she bought the property I said, "Don't  
23 buy it. There are so many other things that are of better  
24 economic value."  
25

1 CHAIR RASPE: Thank you for your comments. Before  
2 you are seated, Commissioners, any questions for the  
3 speaker? No. Thank you, again, for your comments.  
4 Appreciate that. Final card from in-chamber speakers is Lee  
5 Quintana. Ms. Quintana, if you'll approach, state your name  
6 for the record, and you'll have three minutes.

7 LEE QUINTANA: I'm Lee Quintana. I'm a member of  
8 the Historic Preservation Committee, but I am speaking as  
9 an individual.  
10

11 There are several things in my email which I had  
12 sent to Sean Mullin to ask some questions; I figured out  
13 some of those questions.

14 First of all, 82% of the site will be graded, and  
15 the grading goes pretty close to all the property lines.  
16 It's going to require 1,407 cubic yards of cut and 329  
17 cubic yards of fill. The grading goes beyond the LRDA and  
18 almost to the property line. How much of the LRDA is  
19 graded? I don't know. How much of the home is beyond the  
20 LRDA? Again, I couldn't find those figures.

21 The application states that they're requesting  
22 seven exceptions; I counted between seven and twelve,  
23 depending on how you're counting them, and I came up with  
24 another one, which is regarding the underground area of the  
25

1 garage that goes beyond the footprint of the house itself.  
2 So those are things I'm concerned about.

3           The Town Architect said that the house was  
4 consistent with other houses, but not consistent with the  
5 rural setting, and that the only way that that could be  
6 addressed is for the house to be redesigned based on the  
7 analysis of the site constraints. Everybody admits this is  
8 a very constrained site, but that's why we have the  
9 Hillside Guidelines.  
10

11           Staff has said that they're concerned about  
12 whether this site has been overdeveloped; that's my concern  
13 as well.

14           In addition, the Applicant has admitted that the  
15 architectural program and the constraints of the site will  
16 require exceptions. One of the first things the Hillside  
17 Development Standards and Guidelines says is that before  
18 developing a program analyze the site's constraints and  
19 build to those constraints. My question is given the extent  
20 of the disruption from grading and the size of the house,  
21 whether all these exceptions are reasonable.

22           But in addition, if I could mention that if the  
23 ADU were considered a master bedroom suite, which it  
24 actually looks like, it would be counted as square footage  
25

1 and it would be visible so that this would not qualify as a  
2 24-foot house.

3 CHAIR RASPE: Thank you for your comments. Your  
4 time has expired, but before you sit down, Commissioners,  
5 any questions? Yes, Commissioner Burnett.

6 COMMISSIONER BURNETT: Yes, Ms. Quintana, you  
7 mentioned the ADU in your letter that you gave to the  
8 Commissioners. Could you clarify what you were talking  
9 about in that?

10 LEE QUINTANA: It just looks to me that what's  
11 called the ADU was planned as a master bedroom and was  
12 discovered that if it were considered a master bedroom it  
13 would exceed the FAR, because clearly the master bedroom  
14 that is on the plans on the bottom floor is much, much  
15 smaller and has a much smaller bathroom, has a much smaller  
16 closet, and the ADU as it is designed here has a huge  
17 closet with no windows or access to the outside. The only  
18 real access to this ADU, were the next owners to close off  
19 the door between the ADU and the home, would be through the  
20 bathroom; that doesn't make much sense to me. So, while  
21 it's not technically part of this application, it affects  
22 the intensity of the development on the site.

23  
24 COMMISSIONER BURNETT: Thank you.  
25

1 CHAIR RASPE: Thank you. Any other questions for  
2 this speaker? None. Thank you very much, Ms. Quintana. Mr.  
3 Paulson, are there any speakers on Zoom who wish to be  
4 heard on this matter?

5 DIRECTOR PAULSON: Thank you, Chair. I don't see  
6 any hands raised on Zoom.

7 CHAIR RASPE: Very good. Having received public  
8 comment, I will invite the Applicant to then come to the  
9 podium, and you'll have three minutes to address any issues  
10 which you haven't addressed previously or you wish to now  
11 speak to, having heard from the public.  
12

13 GARY KOHLSAAT: Thank you very much, and we  
14 appreciate all the comments. This is a very tight-knit  
15 community. We've been working with them for quite a bit.  
16 I've gotten to know most of the neighbors through my work  
17 with just dealing with the utilities. We're removing the  
18 electric pole that's in the middle of the property; we're  
19 relocating that at our cost. We are reconnecting everybody  
20 else's electrical service. We've had to do water and sewer  
21 and the Fire Department and the shared road and everything  
22 like that, so we understand the very, very unique area and  
23 it's a very unique site.  
24  
25



1           We are confident that this home will be able to  
2 be built in a safe and effective manner with oversight by  
3 the Town.

4           If you look at the home, it's a two-bedroom plus  
5 an office plus an ADU. I don't have to tell you guys that  
6 we can't really talk about the ADU. Talking about FAR is  
7 how we all compare our homes, no matter what. Who knows if  
8 the homes that Sean Mullin put together in his table have  
9 basements or subterranean stuff that is not counted. So,  
10 we've done apples-to-apples; I just want to put that on the  
11 record.  
12

13           I also empathize with Mary Vidovich, because she  
14 has enjoyed this open space forever, and we've done our  
15 best to minimize the impact that she would have. We're  
16 proposing landscape screening along that side; we have  
17 quite a bit of room to do that. We've put our walkway on  
18 the other side of the house, the less sensitive side, for  
19 the neighbors. So, we've really done our best to work with  
20 what we have.

21           Someone mentioned that we're taking out quite a  
22 bit of trees. Even if we did a smaller home, you'd still  
23 take out the same number of trees. All the trees we're  
24 taking out are in our building footprint, which yes,  
25 there's no LRDA to work with, so even if you did a smaller

1 home, you're still talking about the same LRDA exceptions.  
2 The only thing you're not talking about is maybe a setback  
3 exception.

4 I think you ought to consider all that in your  
5 decision, and again, we're here to answer any other  
6 questions that may have arisen.

7 CHAIR RASPE: Thank you for those comments.  
8 Commissioners, any final questions for the Applicant?  
9 Seeing none, thank you, again.

10 I will now close the public portion of Item 7 and  
11 invite my fellow commissioners to ask questions, provide  
12 comments, and if appropriate, to make a motion.  
13 Commissioner Burnett.

14 COMMISSIONER BURNETT: Thank you. I have a  
15 question for Staff. Sean, when a project comes before the  
16 Town like this, how many variances is the average? It seems  
17 like there are so many requests on this one, I'm just  
18 wondering, is this highly unusual or is this more than  
19 usual for a hillside single-family home?  
20

21 SEAN MULLIN: Thank you for that question. I'll  
22 just clarify that no variances are requested, which is a  
23 technical process that's different than what we're facing  
24 here, which is exceptions that are allowed through the fact  
25 that it's a nonconforming lot—we saw a similar project

1 tonight on that—and the exceptions to the Hillside  
2 Guidelines, just to put that out there.

3 I couldn't wager a guess at the average number. I  
4 think they're probably proportional to the constraints on  
5 the site. I think it would be extremely rare to see a  
6 vacant lot in the hillside that doesn't request some sort  
7 of variances. Staff works with our applicants from the very  
8 beginning to ensure that the exceptions are minimized and  
9 that they're responsive to the site from the Town's side,  
10 so that by the time we're providing an application for  
11 consideration to the Planning Commission we've really  
12 worked hard with the Applicant to look at these carefully  
13 to see if there are opportunities to minimize them or  
14 eliminate them.

16 CHAIR RASPE: Thank you. Commissioners, any other  
17 questions or comments? Commissioner Barnett.

18 COMMISSIONER BARNETT: For Staff. We all  
19 understand that the ADU is not part of the application, but  
20 can you comment regarding Ms. Quintana's issue that there  
21 may be a question as to the validity of ADU?

22 SEAN MULLIN: Thank you for that question. Staff  
23 will not comment on the ADU as it is not part of this  
24 application.

25 COMMISSIONER BARNETT: Thank you.

1 CHAIR RASPE: Very good. Commissioner Stump.

2 COMMISSIONER STUMP: I guess full disclosure, I  
3 am a hillside resident, so to a degree I am sympathetic  
4 with what it takes to do development and realize this is  
5 not just zoned Hillside, but it's falling under the  
6 hillside... It's obvious in this particular case that this is  
7 too much house for this size of lot.

8 My major concerns, because I'm a safety guy,  
9 wildfire guy, is I take a look at where this house is going  
10 to sit, and like I say, I'm very sympathetic to somebody  
11 who is trying to develop, but when you take a look, the  
12 distance for the driveway from the edge of the private road  
13 is somewhere between 3'-6" and about 7'; that's my  
14 measurement, I didn't have the right scale. So, I look at  
15 that and go oh my gosh, and this is a private road.  
16 Granted, not a lot of traffic going down there, but what if  
17 somebody has a bad day driving? They have no room for error  
18 before they do what? Before they hit that house.

19 Then also, the distance to the covered entryway,  
20 which happens to be right on the roadway, is anywhere from  
21 18" to 3'-6" off the roadway. Incredibly tight, and again,  
22 I realize that we probably aren't here to evaluate things  
23 on a safety basis, but to me that's a major safety issue  
24 for the resident if they are in a house that is struck by a  
25

1 vehicle, and I'm sure some size trucks come down there at  
2 some point in time, so that would be my concern.

3           The other thing is, again, too much house and too  
4 little buildable property to address all the potential  
5 safety issues for the owner and the public in general.

6 Again, I realize there's not a lot of public traveling down  
7 that roadway; first of all, it's nearly impossible to find.  
8

9           But there are exceptions being sought to the Los  
10 Gatos Zoning ordinance, the Hillside Development Standards  
11 and Guidelines, and the Los Gatos Hillside Specific Plan,  
12 so it seems like a reduction in the scale of the residence  
13 would help to address some of the exceptions that are being  
14 requested.

15           I also think in light of what we're witnessing  
16 right now in Los Angeles, California we should all be  
17 sobered about development in the hillside. In fact, I want  
18 to recommend to our Commissioners that we go back and  
19 review our Hillside Development Standards and Guidelines.  
20 Why? They were developed in 2004. Were we really concerned  
21 about wildfire in 2004? I don't think so. Life has changed.  
22 It doesn't affect what we're talking about here tonight,  
23 but in the broader sense we need to go back and review our  
24 Hillside Development Standards and Guidelines. Thank you.  
25

1 CHAIR RASPE: Thank you for those comments,  
2 Commissioner. Commissioners, other comments? Vice Chair  
3 Thomas, please.

4 VICE CHAIR THOMAS: I have a kind of random  
5 question for Staff, and I don't know if you'll be able to  
6 answer this, Mr. Mullin, but does the County allow for  
7 something other than asphalt for a fire truck turnaround?  
8 You guys might know this.

9 SEAN MULLIN: Thank you for that question. So,  
10 clarifying County Fire Department?

11 VICE CHAIR THOMAS: Yes.

12 SEAN MULLIN: I think they can consider that  
13 under an Alternative Means and Methods Request, which is  
14 part of what was used to grant the approval fire for the  
15 current configuration. That's not what's proposed, and I  
16 think what I've typically seen is concrete or asphalt. The  
17 surface does need to support, I believe, 75,000 pounds.

18 VICE CHAIR THOMAS: I don't know if it's like  
19 even engineering possible, but I was just wondering because  
20 the runoff and the non-permeability of the surface has come  
21 up multiple times, so it was something that I was kind of  
22 curious about, because it obviously could reduce some of  
23 that, and I know that gravel is not allowed on a driveway,  
24  
25

1 but this is off of a private road, so it would be a  
2 different situation with regard to Town Code.

3 I do have some other comments too. First, I want  
4 to say thank you to Mr. Mullin and the Applicant. I feel  
5 like we were presented with and given a lot of very  
6 thorough information, and I do really appreciate all of  
7 that tonight, and I do know from past experiences that one  
8 of the major challenges of building in an area like this is  
9 dealing with the requirements from County Fire about  
10 getting a fire truck up there and turning around, and this  
11 is an issue that has come up before.

12 I think with that being said, it does seem that  
13 it is difficult to build on this lot, and in a way, it  
14 seems like this really is the only solution of the space to  
15 build.

16 I understand that the property seems very close  
17 to the road and when I first visited it, I was like wait,  
18 what? But then I remembered it was a private road and the  
19 neighborhood is a funky neighborhood, and not just in the  
20 immediate neighborhood. There are structures right on a lot  
21 of those roads up in that area, and so I don't necessarily  
22 have a problem with how close it is to the private road,  
23 but I am curious to hear what my fellow commissioners think  
24 about the rest of the project.  
25

1 CHAIR RASPE: Thank you for those comments.  
2 Commissioners? Yes, Commissioner Burnett.

3 COMMISSIONER BURNETT: Yes, thank you. For me the  
4 scope of the project and the requirements to make it  
5 feasible seem to just not compute. There are so many  
6 findings that we have to go along with, and most of the  
7 findings, I don't feel that I can make them, and there are  
8 about ten of them.

9  
10 I think it's too large for the property. I think  
11 there are so many constraints that I think we should  
12 recommend a redesign. It's way out of the LRDA. It's really  
13 falling flat on our Hillside Design Guidelines in so many  
14 areas. So those are my feelings.

15 CHAIR RASPE: Thank you for those thoughts. Vice  
16 Chair Thomas.

17 VICE CHAIR THOMAS: Thank you. I do have an  
18 additional question I guess for Town Staff. I don't even  
19 know if this is applicable, but at what point are...

20 Before I actually ask Town Staff, I do want to  
21 say that now that I've been on the Planning Commission for  
22 a couple of years, we haven't had a project in the  
23 hillsides for a while. As per my experience there is always  
24 a list of all these requests, and I know that the first  
25 time that I saw that list in a much larger development in a



1 much different part of town, I, too, was taken aback,  
2 because it's just not what we're used to seeing on a normal  
3 application, and I think that now that I've seen so many  
4 different projects, I do want to say that this is similar  
5 to what I've seen with the requests that they are making. I  
6 know that, Mr. Mullin, we don't have the figures or numbers  
7 on any of this and we can't compare it to previous projects  
8 as to what decision we make, but I did just want to say  
9 that from my own personal experience.  
10

11 My other question is at what point—and this is  
12 for Staff—are we putting too many restrictions and not  
13 being allowed to develop the property? Are we at risk of  
14 any...if we feel like we're denying this? Thank you.

15 ATTORNEY WHELAN: The standard is: are the  
16 restrictions denying any economically viable use of the  
17 property? Typically, a takings argument would not come into  
18 play if a requested exception to a setback requirement or  
19 any exceptions were being requested.

20 VICE CHAIR THOMAS: So, if an exception is being  
21 requested, then there is no...

22 ATTORNEY WHELAN: The bottom-line question is  
23 does the denial make it impossible to make any economically  
24 viable use of the property? And that's a high bar.  
25

1           Then, while I have the mic, there was some  
2 discussion about restoration of the private road based on  
3 damage, and the applicable Condition of Approval is #48,  
4 and the right heading reads, "Restoration of Public  
5 Improvements," Since it's a private road, my recommendation  
6 would be that the Commission ask that the condition heading  
7 be revised to say, "Restoration of Public Improvements and  
8 Private Road."

9           VICE CHAIR THOMAS: Okay, thank you.

10           SEAN MULLIN: Through the Chair, if I may also  
11 add, a little bit farther down Conditions #82 and #83  
12 require a pre- and post-pavement study, so the evaluation  
13 of the conditions before construction, and then evaluation  
14 after, and restoration of the pavement all the way up to  
15 the property site and down to Reservoir Road, those two  
16 conditions with the change suggested by the Town Attorney  
17 would cover damage to the road, as I read them.

18           VICE CHAIR THOMAS: Thank you. I'm not sure if  
19 this would be the case, but for any reason would the  
20 construction vehicles need to come in from the other  
21 direction and not the Reservoir Road side?  
22

23           SEAN MULLIN: Thank you for that question. At the  
24 Architecture and Site level we don't typically look that  
25 closely. We know that this is a constrained site. I have

1 experience working on the sister property from the lot  
2 merger from 2015; that's at the top of Rogers Street.

3           Construction management, traffic management, and  
4 staging is going to be a critical component on any Building  
5 Permit review. This isn't the Town's first time through a  
6 very constrained site to provide access and traffic  
7 control, so I'm confident that through the Parks and Public  
8 Works and Planning divisions that that can be handled  
9 through the Building Permit process.

10           VICE CHAIR THOMAS: Okay, thank you. I was just  
11 wondering if that condition of approval should be changed  
12 to the whole entirety of the road just to cover all the  
13 bases. Thank you.

14           SEAN MULLIN: That certainly could be included in  
15 any motion.

16           VICE CHAIR THOMAS: Perfect. Thanks.

17           CHAIR RASPE: Thank you. Yes, Commissioner  
18 Barnett.

19           COMMISSIONER BARNETT: A further question for  
20 Staff. What is the practical basis for the side setbacks,  
21 and if, for example, fire safety or privacy, and a  
22 connection... I didn't hear objections from the neighbors  
23 regarding the side setbacks, but the question comes to mind  
24  
25

1 about whether we should take into consideration the  
2 underlying factors of a side setback.

3 SEAN MULLIN: Thank you for that question. I  
4 think the foundational point of setbacks is for light, air,  
5 and space in between residences when you get down to just  
6 zoning law.

7 In this case, we have a property that is  
8 substandard in size by 50%, but the setbacks are still  
9 being applied from the rule of the zone, so 15' on the  
10 sides, and they're requesting a 2-3' intrusion into that  
11 setback. It's the Planning Commission's consideration of  
12 whether that's appropriate for the project given the  
13 constraints and the pattern in the neighborhood.

14 CHAIR RASPE: Thank you. Commissioner Stump.

15 COMMISSIONER STUMP: I need to make one last  
16 comment about this roadway. Why would you ever think of  
17 having a house on top of a road, whether it's private or  
18 whether it's public? You would just say that's nuts to have  
19 it literally 18" from the roadway. I'm sorry, it just is  
20 beyond imagination, and particularly, people don't think  
21 about it, but at some point, that road could be an  
22 emergency evacuation route. Why? Because something happens  
23 on Rogers Street. Look at what happened on Sunset Boulevard  
24 in Los Angeles. They had to move cars out with a bulldozer  
25

1 because people were told to flee on foot. A tree goes down,  
2 people will say gotta go a different location. That road is  
3 not intended to be that, but desperate times call for  
4 desperate measures, and so, again, I look at a house that  
5 close to the roadway and it just does not make safety  
6 sense. Thanks.

7 CHAIR RASPE: Thank you for those comments.  
8 Commissioners? Is there a motion pending perhaps from one  
9 of our previous speakers, or do I have consensus yet? I  
10 don't think we have consensus. Here, let me give you some  
11 not necessarily novel thoughts.  
12

13 It seems to me that, as the Town Counsel  
14 indicated, we can't deny the ability to build anything.  
15 There has to be an economically viable use of that  
16 property, so we can't say no to everything. What we can do  
17 is say let's build the most reasonable house there, but  
18 that also works for the residents. Otherwise, the Town  
19 faces legal action if we don't allow any kind of use, but  
20 more than that, it just simply isn't right. We have to let  
21 people build their homes where it is safe.

22 Is that this home? That's what I'm torn on. This  
23 lot should be developed, and this lot should be developed  
24 into somebody's dream home where they can care for  
25 themselves, care for their aging parents, their children,

1 whatever the situation is. I'm not 100% certain that that's  
2 what we're presented with this evening.

3 My understanding is that there was a previous  
4 attempt to develop this lot and that that also didn't  
5 proceed because there are so many challenges to this lot,  
6 so I don't know what the structure on this residence  
7 ultimately will look like, and it may be this structure;  
8 I'm not saying this one shouldn't be developed, I'm just  
9 saying we have to let something develop here. Can we do  
10 better? I'm not sure.

11  
12 My question to my Commissioners is how would we  
13 improve this structure? I think Commissioner Stump would  
14 say move it back off the street and perhaps make it  
15 smaller. Commissioners, I look forward to your thoughts.  
16 Are there any suggestions on this? Either we allow it  
17 tonight as it has been presented, or we have to give some  
18 constructive criticism as to what is it that will work on  
19 this lot? Vice Chair Thomas.

20 VICE CHAIR THOMAS: I agree with the Chair, and I  
21 want to echo what you just said. I hope that we can come to  
22 some sort of consensus as a commission about this. It is a  
23 difficult property to develop on, however, I do not think  
24 that we can deny it because it's close to the private road.  
25 There are other houses on this private road that are on the

1 road also, so I don't think that that is a safety concern  
2 that we are being asked to look at in the zoning  
3 regulations and the Residential Design Guidelines, because  
4 it's a private road.

5 I don't think that's what we should be  
6 considering right now, and I am concerned that with any  
7 development on this property there are going to be issues.  
8 There are going to have to be some trees that are possibly  
9 removed. There are going to have to be obviously a lot of  
10 grading that's done. There is obviously going to have to be  
11 the fire truck turnaround put in.

12 So, considering those things, are there any  
13 suggestions? Which I know you kind of just asked that, but  
14 I do agree. I think that if there are any suggestions from  
15 fellow commissioners about any changes that could address  
16 any of the issues that were here spoken, I would love to  
17 hear that.

18  
19 CHAIR RASPE: Commissioner Burch.

20 COMMISSIONER BURCH: To me, the best way to  
21 attack it is to maybe go down the list. We've got the  
22 driveway access road width, off-street parking, and grading  
23 depth. If I, myself, say let's take that structure, I think  
24 maybe that's the easiest for us rather than we jump all  
25 over the place.

1           The access road width is what it is, and it  
2 sounds like it's going to be somewhat widened, which I  
3 think is good at that point for a fire truck. My one  
4 question I had written down even before getting here was  
5 double check about fire.

6           Off-street parking: I don't really see where  
7 there is off-street parking anywhere else on this road.

8           The driveway backup distance: I don't see that  
9 what they have is any different necessarily with the  
10 neighbor house, because I also had like a 75-point turn in  
11 front of their house; I was so worried I was going to go  
12 off the hill.

13           The grading depths: I don't know that there is  
14 going to be anything built on this property that is not  
15 going to have extensive grading.

16           The retaining wall height: I actually think the  
17 fact that you're putting in the 15' retaining wall to allow  
18 for the fire truck, I don't know how you get around that.  
19 Anything else on this that is going to be built is going to  
20 have to have retaining walls; that's just based on the  
21 slope.

22           The buildings outside the LRDA: the LRDA doesn't  
23 look buildable.



1           Guest parking: I have never made a decision based  
2 on guest parking, so I'm not going to today.

3           Tree impacts: I walked the perimeter and the site  
4 and all around and I feel like anything that is going to be  
5 built there has got the trees being removed. I think  
6 probably what's important really is to talk about what is  
7 going to be planted back for privacy for the neighbors, for  
8 soil erosion, for all those things.

9           I have a hard time saying the setbacks on the  
10 sides; this is a nonconforming tiny lot. I also have a hard  
11 time seeing how you build in something... I've got a couple  
12 of kids; I'm not going to tell anyone else you can't build  
13 a house that at some point couldn't house kids.

14           So, I'm uncomfortable saying I'm going to either  
15 deny or continue something based on it just doesn't feel  
16 right. We have to be here to be constructive, and so I  
17 think we should each go down this ourselves and say here's  
18 where I have issues, and then provide something  
19 constructive, because my recommendation will be if we're  
20 not going to improve it, we continue this, but we continue  
21 it with clear direction.

22           CHAIR RASPE: Thank you. I thought that was a  
23 very useful discussion. Commissioners, you've heard the  
24 checklist items of what Commissioner Burch has, and we all  
25

1 have it in our packet. If there are any specific items off  
2 that list that you would like to see changed in this  
3 project, starting on page 7 of our Staff Report, you could  
4 list those now during open session; that would be great.  
5 Or, if you have none and are willing to approve the project  
6 as it is, you can say that as well. I'll just go down the  
7 line.

8 I'll start with the Vice Chair. I'll do it this  
9 way: I'll raise the topic and each Commissioner can state  
10 whether they have a suggestion on that. Setbacks: the rear  
11 and side setbacks. Commissioners, challenges? Everybody is  
12 fine with setbacks as is? Okay.

14 VICE CHAIR THOMAS: I just want to second that I  
15 feel like I can make the findings, because it is a  
16 nonconforming lot.

17 CHAIR RASPE: Very good. The driveway width: I  
18 think as Vice Chair Burch said, it is what it is. They're  
19 doing the best they can on their lot.

20 The parking: the side-by-side versus the tandem.  
21 No, no issues there.

22 Driveway distance: Commissioner Stump, is this  
23 the issue you have, the 18' versus 3'-6"?

24 COMMISSIONER STUMP: Still, being so close to the  
25 roadway, and again, you would say how can that be

1 addressed? Well, can they offer something less than about a  
2 3,500 square foot home? Can this home be drawn back a  
3 little bit? Maybe they need to skuttle the patio; it's on  
4 the back side. I don't know what kind of excavation that's  
5 going to be under. Probably not a lot, so that probably is  
6 not... I don't know, is that included in the setback, the  
7 patio? No. But anyway, I'm just saying that perhaps we  
8 could be offered a project that has a smaller footprint,  
9 and they can keep everything on the sides and in the back.  
10 That would be my recommendation of at least an immediate  
11 solution for this evening.  
12

13 CHAIR RASPE: Very good. Commissioner Barnett.

14 COMMISSIONER BARNETT: Just to follow-up on that  
15 comment, I haven't heard from Staff that we have  
16 jurisdiction to address the proximity of the house to the  
17 road, because it's a private road, and I was shocked to  
18 look at it and see it right on the verge of the read there.  
19 I guess I need clarification as to whether we're allowed to  
20 consider that or not.  
21

22 SEAN MULLIN: I can start, and if the Director  
23 wants to jump in to assist. The Town Code does not require  
24 setbacks from private easements for ingress and egress like  
25 this. Does it meet the Zoning Code perspective? It does  
meet the Zoning Code perspective. The Planning Commission

1 can consider some of the things that you're talking about  
2 regarding whether it's appropriate and fitting for the  
3 site.

4           DIRECTOR PAULSON: I'll just add, through the  
5 Chair, I think the purview here is not a setback issue in  
6 the technical realm of setbacks, but it is the driveway  
7 depth, which is what is being called out, so that's what  
8 the purview is in this instance for the Planning  
9 Commission.

10           CHAIR RASPE: Any other comments on driveway  
11 distance or (inaudible)? Seeing none, then the grading  
12 depth. Looks like there is a request to take more than  
13 usually permissible amount of grade. Concerns? Seeing none.

14           The retaining wall heights: We've had a pretty  
15 vigorous discussion on retaining wall heights. Any further  
16 problems? Yes, Vice Chair Thomas.

17           VICE CHAIR THOMAS: I just wanted to say that  
18 when I visited the site and looked at it, this was one of  
19 the things that I really considered and thought about in  
20 addition to the visibility on all the other roads in the  
21 neighborhood and from downtown and everything; because  
22 again, 15' seems high, like tall, but it seemed like  
23 because of the location of the lot away from the public  
24 roads, and obviously this is necessary, so that's why I  
25

1 feel like I don't personally have an issue with the  
2 retaining wall height.

3 CHAIR RASPE: Thank you for those comments. Next  
4 issue, the LRDA: Apparently, I think we've addressed that  
5 there is not a reasonable workaround on the LRDA issue.  
6 Yes, Commissioner Burnett.

7 COMMISSIONER BURNETT: I think that's one of my  
8 major concerns, because our Design Guidelines are very  
9 clear about the LRDA, Least Restrictive Development Area,  
10 and this home extends way outside of it. I think it's there  
11 for a reason. When the Design Guidelines for hillsides was  
12 made up it was based on facts about hillside quality and  
13 the structure in a hillside. That's probably the one I have  
14 the most problem with.

15 As well as length of the driveway, backing out,  
16 and you're going to have a tandem parking which is also  
17 unusual. Usually, you're supposed to have two spaces, but  
18 it's going to be tandem, so you're going to have two cars  
19 in there and you have a 3' driveway.  
20

21 And then you have a private road, and they can  
22 probably use the fire pad to pull out, but you can't park  
23 there ever; it can't be used as a parking space.

24 Then you have neighbors coming up the hill.  
25

1 I think it's just fraught with issues, so I'm for  
2 a redesign; that's my feelings. There are so many questions  
3 and so many issues.

4 CHAIR RASPE: I appreciate your comments.  
5 Commissioner Barnett, on the LRDA?

6 COMMISSIONER BARNETT: On the LRDA, what we heard  
7 from the architect is there's no way to build a house up  
8 there without violating the LRDA, and in light of our Town  
9 Attorney's comment, I think we have to go along with what  
10 is proposed.

11 CHAIR RASPE: Thank you for those comments.  
12 Anything else on our LRDA?

13 Next will be guest parking: As we discussed,  
14 there is less than the usual number of guest parking spots.  
15 Yes, Commissioner Stump.

16 COMMISSIONER STUMP: Okay, I like guests. There  
17 are going to be two parking spaces that are going to be  
18 tandem, and then they're offering one guest. I realize  
19 we're not talking about an ADU tonight, but this attached  
20 ADU has no parking requirement, so if at some point it were  
21 used as a non-family ADU, someone may have a car and that  
22 may take up the one guest parking space.

23 Across from 47 Reservoir Road there is a parking  
24 strip that probably allows probably up to four cars. How do  
25

1 I know? Because it says, "No Parking," and I parked in it  
2 while I was visiting, because there was no other place to  
3 park, so I figured if they kick me out, they kick me out.

4 But there is parking obviously for 47 Reservoir  
5 Road, and I think we shouldn't be too hasty to say two  
6 parking spaces plus a guest if that is a totally impossible  
7 place to have guests because of the location and, say, you  
8 need to walk up from downtown to get to our home, or I'm  
9 going to bring you in via bus, etc. I realize it's a very  
10 personal thing for the owner. Does the owner really do any  
11 entertaining? Is that a challenge? That's certainly a  
12 factor to think about from her perspective, not necessarily  
13 ours, but wouldn't be giving up all of that parking at this  
14 point in time. I realize there may be no option, because  
15 obviously the Fire Truck turnaround cannot be used for  
16 parking.  
17

18 CHAIR RASPE: Thank you very much. And the last  
19 issue, trees: We've heard about the removal of ten  
20 protected trees, 32 new trees be planted in, and I think  
21 we've had some discussion about sizing and location of  
22 those trees. Any further comments, Commissioners?  
23

24 COMMISSIONER STUMP: By the way, even though my  
25 last name is Stump, I do like trees, but keep in mind,  
we're in a very high fire hazard severity zone. I do not

1 know where 32 trees are going to go up there or what their  
2 size are. I heard mention of Italian Cypress, and I'm like  
3 Roman candle, because that's exactly what they are as far  
4 as their ability to burn; they're like a juniper. So, I  
5 don't get to whacked out about tree removal and tree  
6 replacement, because I think they will do a fine job. I  
7 would just question is 32 the right number, and are we  
8 requiring that? That seems like an extensive amount of  
9 trees.

10  
11 CHAIR RASPE: Very good. Vice Chair Thomas.

12 VICE CHAIR THOMAS: But actually, Staff, could  
13 you address when the tree replacement occurs, and then also  
14 in lieu possibilities for certain sites in the Town Code?  
15 Thanks.

16 SEAN MULLIN: Thank you for that question. Based  
17 on the canopy size and the requirements in the Town Code,  
18 it looks like 25 trees at the 24" box size are required to  
19 offset the proposed removal. The Applicant, I believe, is  
20 pursuing that at a minimum.

21 Regarding in lieu, the Applicant always has the  
22 option with a Tree Removal Permit to request in lieu fees  
23 rather than planting onsite, depending on the shape of any  
24 approval of the project.

25 VICE CHAIR THOMAS: Thank you.



1 CHAIR RASPE: Very good. Yes, Commissioner  
2 Burnett.

3 COMMISSIONER BURNETT: I just wanted to clarify  
4 about the LRDA; I think there may have been some confusion.  
5 It is in the Staff Report that much of the proposed  
6 residence would extend outside of the LRDA limits due to  
7 the limited area of the LRDA; I just wanted to clarify  
8 that.

9 CHAIR RASPE: I think the point is, and Counsel  
10 can correct me if I'm wrong, there's no way to build on  
11 that site without violating the LRDA, and we can't  
12 completely prohibit construction on that site.

13 DIRECTOR PAULSON: I'll start, through the Chair.  
14 I think Sheet 3-A shows where the LRDA is, which consists  
15 of the existing roadway, and then the upper third of the  
16 lot, which is at the top of the lot, which would be  
17 predominantly in the setback. Everything else is not in the  
18 LRDA, so the statement the Chair has made is correct, and  
19 we can go over that with you offline as well.

20 COMMISSIONER BURNETT: Thank you.

21 CHAIR RASPE: Per my notes, that takes care of  
22 the list of exceptions being sought. The ones that the  
23 Planning Commission finds troublesome would be the driveway  
24 distance; guest parking, which I will throw in there the  
25

1 overall parking situation; and I think trees were  
2 mentioned, but I think trees is resolved.

3           It seems to me that the open issues, as far as we  
4 are concerned, are the parking and driveway issues, taking  
5 aside from perhaps just the overall size of the project,  
6 which again, my understanding, if Staff is correct, they're  
7 within legal limit on size; they're not asking for a  
8 variance on size.

9           SEAN MULLIN: Thank you for that question. That's  
10 correct.

11           CHAIR RASPE: So those are the only issues for  
12 us: driveway size and guest parking; those are the only  
13 trouble spots we see. I guess we could ask, Commissioners,  
14 are you ready to approve the project with the current  
15 allocation on those two issues, or are we doing to ask for  
16 a redesign on those two issues? Commissioners, I welcome  
17 your thoughts. Yes, Commissioner Burch.

18           COMMISSIONER BURCH: Based on the discussion I  
19 heard, I would be approving the application as it stands  
20 tonight.

21           CHAIR RASPE: Thank you. Vice Chair Thomas.

22           VICE CHAIR THOMAS: I agree, and I think that if  
23 we were asking for a redesign with regard to parking, it  
24 would require additional fill and basically making the  
25

1 turnaround larger so that it could add parking spots, which  
2 I think would cause other issues for not just drainage, but  
3 extra grading, and other issues that neighbors brought up,  
4 so I'm not sure if there's really a good solution to that  
5 problem.

6 CHAIR RASPE: Thank you. Any other Commission  
7 thoughts? Commissioner Barnett.

8 COMMISSIONER BARNETT: I think that the request  
9 for the exceptions is valid and warranted.  
10

11 CHAIR RASPE: Very good. It also strikes me that  
12 we are in a position with an even number of Commissioners;  
13 hopefully that's not an issue.

14 I'm going to just echo my previous comments, and  
15 I think going through Commissioner Burch's exercise has  
16 actually proved helpful. I think it's right to say that  
17 there are certain things here that are troublesome, but  
18 once you go through the list, it seems to me, again, it's  
19 an imperfect project, but it's probably among the best  
20 we're going to see for this location, so I would vote to  
21 approve the project as presented.

22 Commissioners, with that, Commissioner Burch, can  
23 I ask you to make the motion on your first night?

24 COMMISSIONER BURCH: I'm so rusty at this. Yes,  
25 thank you. I move to approve the single-family residence

1 located at 45 Reservoir Road, APN 529-33-054, Architecture  
2 and Site Application S-22-048. I can make the findings... Do  
3 I need to read all these, or can I say make the findings as  
4 listed?

5           ATTORNEY WHELAN: You could make the findings as  
6 listed in the Staff Report.

7           COMMISSIONER BURCH: As listed in the Staff  
8 Report.

9           ATTORNEY WHELAN: Did you want to include the  
10 amendment to the conditions of approval?  
11

12           COMMISSIONER BURCH: Oh, yes, thank you. Can we  
13 make an amendment to #48 in the Condition of Approval that  
14 the restoration of the roads is not just public but private  
15 road?

16           DIRECTOR PAULSON: Thank you, and through the  
17 Chair, then just the last piece is with the conditions in  
18 Exhibit 3 and the development plans in Exhibit 12.

19           CHAIR RASPE: Motion so amended?

20           COMMISSIONER BURCH: Yes.

21           CHAIR RASPE: Thank you. Do I have a second?  
22 Commissioner Barnett.

23           COMMISSIONER BARNETT: Second the motion.

24           CHAIR RASPE: Thank you. I have a first and a  
25 second. Discussion? Then by a show of hands, all those in

1 favor. Those opposed? The motion carries 4-2. Mr. Paulson,  
2 do we have appeal rights?

3           DIRECTOR PAULSON: Yes, thank you. Anyone not  
4 satisfied with the decision of the Planning Commission can  
5 appeal to the Town Council. There is a fee for filing the  
6 appeal. The appeal must be filed within ten days, and the  
7 forms are available here at Town Hall and online.

8           CHAIR RASPE: Thank you so much.

9           (END)  
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