



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 03/03/2020

ITEM NO: 6

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**DATE:** February 27, 2020  
**TO:** Town Council  
**FROM:** Joel Paulson, Community Development Director  
**SUBJECT:** Consider an appeal of a Planning Commission decision approving a request for construction of a new single-family residence and removal of large protected trees on a vacant property zoned HR-2 1/2:PD. APN 527-09-036. Architecture and Site Application S-18-052. Project Location: 15365 Santella Court. Property Owner: Christian and Hellen Olgaard. Applicant: Hari Sripadanna. Appellant: David Weissman.

**RECOMMENDATION:**

Adopt a resolution denying an appeal of a Planning Commission decision approving Architecture and Site Application S-18-052.

**BACKGROUND:**

The subject two-acre vacant property is lot 9 in the Highlands of Los Gatos, a 19-lot Planned Development (PD), originally approved by the Town Council in 2005. The property is at the north end of Santella Court (see Exhibit 1 of Attachment 1).

The proposed Architecture and Site application was forwarded to the Planning Commission to allow additional consideration of the hillside home, which is the largest in terms of square footage in the Highlands PD and approaches the threshold for a visible home per the Hillside Development Standards and Guidelines (HDS&G).

On January 8, 2020, the Planning Commission unanimously approved the Architecture and Site application. On January 17, 2020, the decision by the Planning Commission was appealed to the Town Council by an interested person, David Weissman (Attachment 4).

**PREPARED BY:** Erin Walters  
Associate Planner

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Director

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BACKGROUND (continued):

Pursuant to the Town Code, any interested person as defined by Section 29.10.020 may appeal to the Council any decision of the Planning Commission. For residential projects an interested person is defined as “a person or entity who owns property or resides within 1,000 feet of a property for which a decision has been rendered and can demonstrate that their property will be injured by the decision.” The appellant meets the requirements.

Pursuant to Town Code Section 29.20.280, the appeal must be heard within 56 days of the Planning Commission hearing and in this case, by March 4, 2020. The Council must at least open the public hearing for the item and may continue the matter to a date certain if the Council does not complete its deliberations on the item.

On December 17, 2019, the Town Council adopted an ordinance amending Chapter 29 (Zoning Regulations) of the Town Code regarding the land use appeal process.

Pursuant to Town Code Section 29.20.295, in the appeal, and based on the record, the appellant bears the burden to prove that there was an error or abuse of discretion by the Planning Commission as required by Section 29.20.275. If neither is proved, the appeal should be denied. If the appellant meets the burden, the Town Council shall grant the appeal and may modify, in whole or in part, the determination from which the appeal was taken or, at its discretion, return the matter to Planning Commission. If the basis for granting the appeal is, in whole or in part, information not presented to or considered by the Planning Commission, the matter shall be returned to the Planning Commission for review.

The appellant submitted a revised appeal form on January 29, 2020 (Attachment 5), which reflects the adopted Town Code land use appeal process language.

DISCUSSION:

A. Project Summary

The applicant proposes to construct a new 5,840-square foot single-family home, with 5,529 square feet of living area, 756 square feet of below grade area, and a 711-square foot attached garage. The maximum height of the project is 22 feet. The project proposes a contemporary architectural style to blend with the natural surroundings. Proposed materials include a green roof with single ply membrane roofing, steel fascia, iron and gray colored stone cladding panels, and oxidized metal aluminum doors and windows. Proposed site improvements include a driveway, fire truck turn around, swimming pool, patios, and fire pit.

As proposed, the project would create the largest home in terms of countable square footage in the Highlands PD at 5,840-square feet. However, the proposed project would

DISCUSSION (continued):

not be the largest home in terms of square footage in the immediate area, as the adjacent downhill residence is larger. Due to the property configuration and downward sloping topography of the subject site, the proposed residence would be located below the street level of Santella Court.

The project is consistent with the Zoning, General Plan, applicable HDS&G, Hillside Specific Plan, and Highlands PD Ordinance 2237. The proposed project does not require any exceptions.

B. Planning Commission

On January 8, 2020, the Planning Commission received the Staff Report (Attachment 1), opened the public hearing, and considered testimony from the applicant and the public. One resident spoke in support of the project and one spoke in opposition. After asking questions of the applicant, the Planning Commission closed the public hearing and discussed the project. The Commission approved the application with a 7-0 vote. Attachment 2 contains the verbatim minutes.

C. Appeal to Town Council

The decision of the Planning Commission was appealed on January 17, 2020, by an interested person, David Weissman (Attachments 4 and 5). The appellant provided his reasons for the appeal, which are listed below followed by staff analysis in *italic* font.

1. There was error or abuse of discretion by the Planning Commission: The Town has no written guidelines as to what can be included in a building elevation.

*The HDS&G do not include written guidelines regarding what can be included in an elevation. Staff is tentatively scheduled to bring this matter to the Town Council Policy Committee in March.*

*The HDS&G were adopted by the Town Council in 2004 and in 2017 Town Council amended Chapter II of the HDS&G regarding the visibility analysis.*

*Chapter II, Section B, of the HDS&G outlines steps that shall be taken in completing a visibility analysis and defines a visible home as a single-family residence where 24.5 percent or more of an elevation can be seen from any of the Town's established viewing areas, and/or as determined by the Community Development Director. Percentages shall be rounded to the nearest whole number.*

DISCUSSION (continued):

*The applicant, Srusti Architects, prepared a visibility analysis for the subject property following the methodology required in the HDS&G (Attachment 8). The visibility analysis illustrates that the northwest elevation of the proposed home would not be visible from the Blossom Hill Road and Los Gatos Boulevard viewing areas; and the northeast elevation would be 24 percent visible from the Selinda Way and Los Gatos-Almaden Road viewing area (Attachment 12). The applicant included all vertical planar elements in the 3,825 square-foot northeast elevation, including 890 square feet of connected vertical site elements, as described in Attachment 6.*

*The applicant provided a photograph from a 50 MM lens representing the visibility of the proposed residence from the naked eye and a photograph from a 300 MM lens representing an up-close perspective and help identify any visible story poles, netting, trees, and/or shrubbery as required by the HDS&G from the Selinda Way and Los Gatos-Almaden Road viewing area (Attachment 12, pages 13 and 28).*

*Visible homes are limited to a maximum height of 18 feet. The majority of the project is 18 feet or less in height, with the exception of the thermal chimney. Should the Town Council determine that the home is visible, a height exception for the thermal chimney could be granted or the Town Council could require the height to be reduced to 18 feet.*

2. The Planning Commission's decision is not supported by substantial evidence in the record:

- a. Confusion in the visibility analysis.

*At the January 8, 2020 Planning Commission public hearing, the appellant pointed out labeling inconsistencies in the visibility analysis (Attached 1, Exhibit 10, pages 20, 22, and 23) and in the development plans landscape table (Attachment 1, Exhibit 12, Sheet L-3.0). The tree tables had inadvertently listed six trees to remain that were to be removed, and one tree to be removed that was to remain. The inconsistencies did not affect the results of the visibility analysis. The Planning Commission was made aware of the inconsistencies and voted unanimously to approve the application. The applicant has revised the visibility analysis and development plans (Attachments 12 and 13) to correct the inconsistencies.*

- b. A third-party consultant should redo this analysis.

*Per Chapter II, Section B of the HDS&G, the Community Development Director shall determine if the use of a third-party consultant is required to peer review an applicant's visibility analysis.*

DISCUSSION (continued):

*The visibility analysis was conducted in compliance with procedures established to fully understand the impacts of the proposed project, and the Community Development Director did not require a peer-review of the visibility analysis.*

PUBLIC COMMENTS:

Written notice of the Town Council hearing was sent to property owners and tenants within 500 feet of the subject property. The appellant submitted a supplemental letter, received on February 26, 2020 (Attachment 14). At the time of this report's preparation, the Town has not received any public comment.

CONCLUSION:

A. Recommendation

For the reasons stated in this report, it is recommended that the Town Council uphold the decision of the Planning Commission and adopt a resolution denying the appeal and approving the application with the required findings and considerations (Attachment 9, Exhibit A), conditions of approval (Attachment 9, Exhibit B), and development plans (Attachment 13).

B. Alternatives

Alternatively, the Town Council could:

1. Adopt a resolution (Attachment 10) to grant the appeal and remand the application back to the Planning Commission with specific direction;
2. Adopt a resolution granting the appeal and denying the application (Attachment 11); or
3. Continue the application to a date certain with specific direction.

Attachments:

1. January 8, 2020 Planning Commission Staff Report, with Exhibits 1-12
2. January 8, 2020 Planning Commission Verbatim Minutes
3. Applicant's Handout provided at January 8, 2020 Planning Commission Meeting
4. Appeal of Planning Commission decision, received January 17, 2020
5. Appeal of Planning Commission decision, received January 29, 2020, revised form
6. Applicant's Response to Appeal, received February 6, 2020
7. Lot 10 Visibility Analysis, referenced in applicant's response to appeal

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8. Hillside Development Standards and Guidelines, Chapter II, Section B. Visibility Analysis
9. Draft Resolution to Deny Appeal and Approve Project, with Exhibits A and B
10. Draft Resolution to Grant Appeal and Remand Project to Planning Commission
11. Draft Resolution to Grant Appeal and Deny Project
12. Visibility Analysis approved at 01-08-20 Planning Commission meeting with revised notes
13. Development Plans approved at 01-08-20 Planning Commission meeting with revised notes
14. Letter from appellant, received February 26, 2020

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