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

Los Gatos Planning
Commissioners:

Melanie Hanssen, Chair
Jeffrey Barnett, Vice Chair
Kylie Clark
Kathryn Janoff
Steve Raspe

Town Manager:

Laurel Prevetti

Community Development
Director:

Joel Paulson

Town Attorney:

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

CHAIR HANSSEN: We can move on to the public hearing portion of the meeting and we will be going to Agenda Item #2, which is requesting approval for the demolition of an existing single-family residence and construction of a new single-family residence to exceed the floor area ratio standards with reduced front and side yard setbacks on a nonconforming property zoned R-1D. This is located at 118 Olive Street. APN 410-15-022. Architecture and Site Application S-21-013. Property owners Thomas and Meredith Reichert. Applicant: Jay Plett, Architect. Our project planner is Sean Mullin.

This agenda item is a continuation from our January 12, 2022 Planning Commission meeting, however, I will still ask if there are any disclosures that any Commissioners need to make from the time that we had our last meeting? And are there any Commissioners that visited the site since the last meeting? All right, we have no disclosures, so we can move on to the Staff Report. Mr. Mullin, will you be giving a Staff Report?

JENNIFER ARMER: I will be making the presentation on behalf of Mr. Mullin this evening. Good evening, Chair, Vice Chair, Commissioners.

1 The item before you, as was just stated, is a
2 continuation of your discussion on January 12th. At that
3 meeting the Planning Commission considered the application
4 and directed the Applicant to continue neighbor outreach
5 efforts and contact neighbors that expressed concerns, and
6 provide a three-dimensional rendering of the proposed
7 residence.

8 In addition to the information that was provided,
9 in response to these two items as Exhibits 14 and 15 for
10 your Staff Report, a Desk Item was also provided today with
11 revised three-dimensional rendering with dimensions,
12 additional public comments, and the Applicant's response to
13 public comments.
14

15 This concludes Staff's presentation, but we would
16 be happy to answer any questions.

17 CHAIR HANSSEN: Do any Commissioners have
18 questions for Staff at this time? Commissioner Raspe.

19 COMMISSIONER RASPE: Thank you, Chair, and just
20 one quick clarification. Nothing substantively has changed
21 in the plans since we last discussed it, is that correct?

22 JENNIFER ARMER: That's correct. It really was
23 just doing the additional outreach and providing the
24 additional information rendering that was requested.
25

 COMMISSIONER RASPE: Thank you so much.

1 CHAIR HANSSEN: Do any other Commissioners have
2 questions for Staff? I had one quick question about the
3 Desk Item, and that was we had a couple comments that came
4 in and I was curious as to whether or not those commenters
5 were part of the group that we asked the Applicant to
6 address that hadn't spoken previously on the item?

7 JENNIFER ARMER: I've not gone back and compared
8 the names, but I think we can ask that of the Applicant to
9 let us know whether that those are people that they had
10 previously reached out to.

11 CHAIR HANSSEN: Very good, thank you. If no other
12 Commissioners have questions, then I will move on to the
13 Applicant, and the Applicant is able to address the
14 Commission for up to five minutes.

15 JOEL PAULSON: Mr. Plett, you can unmute yourself
16 and begin your presentation.

17 JAY PLETT: Good evening, Commission Members. Per
18 the instruction that we received we submitted a three-
19 dimensional diagram of the structure, and we submitted a
20 Desk Item that depicts the various dimensions from property
21 line that shows that this is not a flat façade of any kind
22 that might have been conveyed through just a flat
23 elevation. There is a lot of depth and back and forth on
24 the façade of this house.
25

1 The change though that you spoke of, the balcony
2 over the garage, that is shown removed in the three-
3 dimensional depiction that you have as a Desk Item, so that
4 shows a sloping shed roof over the garage in lieu of the
5 balcony that was there.

6 We also did conduct further outreach to the
7 neighbors and they were able to walk around the property,
8 invited onto the property, could view the story poles close
9 up, and have the discussion with the owners of the
10 property.
11

12 I'll turn it over to Thomas Reichert now to talk
13 about the one specific neighbor.

14 THOMAS REICHERT: I think the question was
15 specific around the people who signed the current letter. I
16 believe that there is only one person that signed it that
17 did not show up, and that was 108 Olive. I had not talked
18 about it here previously or to this point at all. Everyone
19 else who signed it I believe participated in the previous
20 one as well as showed up to the second open house to
21 discuss the project.

22 CHAIR HANSSEN: Are you finished with your
23 comments?
24

25 JAY PLETT: Yes. we're open for questions.

1 CHAIR HANSSEN: Of course, and I will ask if the
2 Commission has any questions for the Applicant?
3 Commissioner Janoff.

4 COMMISSIONER JANOFF: Thank you. That was a very
5 brief presentation, but I'm curious to know from the
6 property owner what you included in your item; we have a
7 summary of the outreach. Can you summarize the summary and
8 let us know whether in your opinion you were able to
9 assuage neighbors' concerns? You made a change to the plans
10 by moving the balcony. Can you just give us a quick update
11 on whether you found this to be an action that moves your
12 project along in the direction you had hoped?
13

14 THOMAS REICHERT: That's a great question, and I
15 would say the overall takeaway was it was nice to meet the
16 new neighbors, or as the new neighbors to meet everyone, so
17 I think that was really a positive point in the
18 participation. Everyone who came in that second session was
19 someone who I had not met since moving in. Because it was
20 during COVID we hadn't met any of those neighbors and they
21 had also not reached out to us as the new neighbors, so it
22 was nice to have this happening to discuss that.

23 Another point outside of that, more to your
24 question was I think there was some clarity brought,
25 because not everyone is familiar with reading plans, so

1 when you see it just on 2-D paper. One of the specifics was
2 people thought we were going for more build, higher build,
3 more side build, more front build, and when they came and
4 they looked and could see it and we could discuss it in
5 person, the fact that we weren't going for the maximum
6 height, the fact that we weren't going for full length,
7 two-story, all the way across, those were points that we
8 came to a little bit of clarity on.

9
10 I think some of the issues with parking and the
11 fact that we were asking for exemptions were points that no
12 one changed their opinions on, but that became very clear
13 on the sticking points that we didn't necessarily agree
14 with.

15 CHAIR HANSSEN: So that answers your question,
16 Commissioner Janoff. Do any other Commissioners have
17 questions for the Applicant? Vice Chair Barnett.

18 VICE CHAIR BARNETT: Continuing on that vein, I
19 tried to summarize your summary, and is it correct that you
20 had four neighbors who were unconditionally in favor of the
21 application and one neutral?

22 THOMAS REICHERT: That's correct. There are only
23 two addresses within the 5+2+2 that are opposed. It's the
24 two neighbors I believe to the west, 120 and 122, which is
25

1 the vacant lot. All of the other neighbors were either
2 neutral or supporting, that's correct.

3 VICE CHAIR BARNETT: And as to those who did not
4 support, their concerns were primarily the variances and
5 blocking views?

6 THOMAS REICHERT: That's correct. I didn't touch
7 on the point that there was positive feedback on the fact
8 that we were switching from the balcony to the roof. Again,
9 didn't dissuade the sticking points, but that was the whole
10 point of common ground.

11 VICE CHAIR BARNETT: Thank you, that answers my
12 questions.

13 CHAIR HANSSEN: I had just a clarifying question.
14 In the Desk Item today there was a couple of letters, and
15 in the first one a person basically said, "I wanted to make
16 sure that you knew that I was not in support of the
17 project." I didn't have time to go and check to where it
18 was relative to the last hearing. Had that person
19 previously voiced their disapproval of the project?

20 THOMAS REICHERT: Correct. I think you're talking
21 about Jim, the neighbor at 110 Olive?

22 CHAIR HANSSEN: Well, they blocked out the
23 address; that was part of the problem.
24
25

1 THOMAS REICHERT: Jim signed both letters, and
2 each time after he signed the letter I asked him what his
3 concern was, and both times he said that it was a
4 combination of parking and the contractor selection. I
5 don't pretend know what he signed with the letter, but to
6 me, both times he said he's fine with it as long as we are
7 good with this parking situation and not using that
8 contractor that worked on the project next door to him.

9 CHAIR HANSSEN: Good. I think that cleared it up.
10 I felt like you did a very thorough job of documenting all
11 the interactions you had and reaching out to the people. I
12 wanted to make sure there weren't people coming out of the
13 woodwork that we didn't know about before.

14 THOMAS REICHERT: There was one person who did
15 not continue signing the letter; the person who owns 116
16 Olive refrained from resigning the newsletter.

17 CHAIR HANSSEN: All right, very good. I think
18 that answers my question. Do any of the Commissioners have
19 questions for the Applicant? We will have another chance
20 after public comments, if we have any.

21 We will move on to public comments, and this
22 would be a time for any member of the public to speak about
23 this item on the agenda. Do we have anyone that would like
24 to speak on this item?
25

1 JOEL PAULSON: Thank you, Chair. Anyone from the
2 public that wishes to speak on this item, please raise your
3 hand. We will have the telephone number ending in 1501
4 speak first.

5 SHELLI BAKER: Good evening, Planning Commission,
6 this is Shelli Baker, owner of 120 Olive Street here again.
7 As a reminder, our property is directly next-door on the
8 west side of the proposed home to the left, and
9 understandably the most effected.
10

11 As noted at the last meeting, our expansive
12 mountain view will be completely blocked and we will be
13 looking out of our living room, kitchen, dining, and master
14 bedroom windows at tall walls. These same areas will lose
15 their incredible natural lighting, as will our entire back
16 yard, as confirmed in the shadow study provided.
17 Unfortunately, there's nothing we can do about this.

18 But, it gets even worse. The proposed exception
19 of reducing the side setback from 5 feet to 3 feet is
20 preposterous, especially when considering the stitch
21 piercing process taking place just that much closer to our
22 80 year old constructed home on a sloped lot with sump
23 pumps underneath. Given the research we've done, the stitch
24 piercing process is going to shake the heck out of our home
25

1 no matter what, but even more so if this reduced side
2 setback exception is granted.

3 Additionally, the elevation of the rear, exterior
4 walk-out decking requires clarity, as it appears that the
5 submitted architectural renderings don't clearly depict the
6 height. If I am guessing accurately, not only will our
7 kitchen, dining, and back yard lack natural lighting, they
8 will lack cherished privacy as well.

9 We were not able to walk the property the evening
10 that we visited. It was 5:30 Friday night, it was very
11 cold, it became dark, and we had some interruptions as well
12 that did prevent us from even going down the side yard into
13 the back yard at all. Didn't even come across the radar.

14 If this proposed plan is approved as is it will
15 be the beginning of the end for Olive Street as we know it.
16 The narrowest street with the tiniest lots in Los Gatos,
17 every cottage sale hereafter will be viewed as a tear-down,
18 land value, and as they turn over, more overbuilt homes
19 with exceptions galore, will prevail. That's beginning the
20 domino effect. I believe in hindsight the Town and Planning
21 Commissioner will regret their hastiness in needlessly
22 granting these types of exceptions to the rules that were
23 set in place for valid reasons, but it will be too late and
24
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1 those who have lived here and loved their homes will be the
2 ones who have suffered.

3 As with most, our homes are our livelihood.
4 Planning Commissioners, we ask that you put yourselves in
5 our shoes, in our homes, and try to feel the situation as
6 it really is. Imagine if this were happening in your world
7 on your street, or even next door to your home. The
8 important decisions you make here regarding 118 Olive
9 Street will set a new precedent and expectations for the
10 future owners and/or builders on Olive Street.
11

12 That's what I have to say this evening. I could
13 say more, but thank you.

14 CHAIR HANSSEN: Thank you for your comments. I'd
15 like to ask if any Commissioners have questions for Ms.
16 Baker? I don't see any hands raised. Is there anyone else
17 that would like to speak on this item?

18 JOEL PAULSON: Yes, the next speaker will be
19 Bonnie Hurwitz. Bonnie, you can unmute yourself and then
20 you can speak.

21 BONNIE HURWITZ: Thank you for allowing me to
22 speak this evening. I agree with a good deal of what Shellie
23 said. A couple of areas of clarification.

24 The gentleman that owns the property at 108 Olive
25 is a surgeon and he's often on call, so he's unfortunately

1 unable to attend these calls, but he did sign both letters,
2 and I just want to make sure you know that it's not for
3 lack of interest in the topic that he's not on the call.

4 As for what Shelli said, I did attend the
5 outreach meeting. We were not invited to walk the property,
6 as she said. Initially it was very nice to meet the two
7 owners of the property, Meredith and Thomas, but shortly
8 after we convened there, yes, it was 5:30; yes, it started
9 to get dark; yes, it become cold, but we also were
10 interrupted by a neighbor that intervened and interrupted
11 the conversation and didn't allow a productive conversation
12 to proceed, unfortunately, so that neighbor didn't do any
13 good service to the ensuing possibly productive
14 communication that could have happened that evening. As a
15 result, I have to admit it really was a bit of a waste of
16 time, but on the other hand, neither was that neighbor told
17 to please be quiet and take his viewpoint someplace else. I
18 left there feeling that it was a decent attempt, but I got
19 nothing really out of the meeting. Again, we weren't asked
20 to walk the property.

22 When I looked at the meeting, the renderings that
23 I saw originally, in my view and I'm not an architect, it
24 looks like a tear-down to me. It does not look like any
25 kind of addition being addressed there. They're going to

1 just dismantle the entire property, and basically when I
2 was asking questions about the garage and the property
3 itself, the feeling I got when I walked away that evening
4 was that they pretty much said we know what we want, and I
5 get that, they know what they want, and they asked for what
6 they wanted and nobody told them they couldn't do it. There
7 was no pushback. They asked for what they wanted and it was
8 a bunch of checkmarks on a bunch of boxes, and check,
9 check, check and off they went. So, that's why they
10 proceeded with the renderings that you guys are all seeing
11 today. They asked for everything and nobody said no, so I
12 agree with what Shelli has said.
13

14 And by the way, on the prior call, my
15 recollection was that one of the Commissioners, I don't
16 recall who, said this area was in transition. This area, if
17 you ask some of the local owners, it's not in transition
18 and many of us have owned our properties for a long time
19 and we intend to stay. I, for one, have owned my property
20 for 18 years, and I bought it as a single person, and I
21 intend to stay. Thank you very much.

22 CHAIR HANSSEN: Thank you so much for your
23 comments. I'd like to ask if any Commissioners have
24 questions for Ms. Hurwitz. Vice Chair Barnett does.
25

1 VICE CHAIR BARNETT: As I understand, there were
2 two opportunities to meet with the owners, and I was
3 wondering if you attended both of those or just the one
4 where it got dark and cold and you weren't asked to view
5 the property?

6 BONNIE HURWITZ: It was the second meeting and I
7 had some personal medical thing to attend to on the prior
8 call, so I wasn't able to attend the first meeting, but I
9 attended the second one when I felt better. If you need to
10 know that, that's the case and that's the truth.

11 VICE CHAIR BARNETT: I understand that. Thank
12 you.

13 BONNIE HURWITZ: You know, the fact that it's
14 convenient for the neighbor, it's not necessarily
15 convenient for everybody else.

16 CHAIR HANSSEN: We thank you for your comments,
17 and I think you answered Vice Chair Barnett's question.
18 Staff, is there anyone else that would like to speak on
19 this item. I saw a couple hands.

20 JOEL PAULSON: Yes. The next speaker will be
21 Keith White.

22 KEITH WHITE: Thank you for the opportunity to
23 speak. When my wife and I owned 120 Olive Street about
24 which Shelli Baker spoke earlier, when we were looking at
25

1 buying 120 Olive Street we spent a lot of time researching
2 the neighborhood, looking into the neighborhood to see what
3 was going on, and trying to imagine what changes we could
4 expect going forward in the future.

5 It was mostly made up of a lot of smaller homes,
6 some remodels. Our house had been remodeled prior to us
7 purchasing it. It's a very narrow street, very quaint, and
8 we thought this would be great for us for now, and the
9 change we could see would be some amount of turnover, some
10 amount of remodels.

11 We went so far looking into it as to review the
12 building codes and go down the Building Department and ask
13 them what could be expected, what rules would be followed,
14 and we were fairly much assured that the Town was a
15 stickler for the rules and making sure that everybody
16 follows them. And yet, here we are 20 years later, and it's
17 not just the neighborhood changing, it's actually the house
18 right next door, which we expected; but we didn't expect
19 that it wouldn't follow all of the rules, and specifically
20 the front and side setbacks are the ones that concern us
21 most as those have the greatest impact on our property
22 specifically, but also the floor area ratio being exceeded,
23 because we expected it to be smaller homes would remain the
24 norm.
25

1 So, the rules as they were and the rules as they
2 still are, just not being followed, doesn't seem to be
3 reasonable to me and I ask you why that's not the case? Why
4 not follow the rules? I don't fault the new owners, who
5 seem to be very nice and their architect has done a great
6 job presenting a nice home, but it isn't that much
7 different to just follow the rules and this problem would
8 go away.

9 That's my concern. Thank you very much for the
10 time.

11 CHAIR HANSSEN: Thank you for your comments. Do
12 any Commissioners have questions for Mr. White? I don't see
13 any hands raised, so thank you for your comments. Is there
14 anyone else that would like to speak on this item?

15 JOEL PAULSON: Yes, there is. The next speaker
16 will be Darren Carroll.

17 DARREN CARROLL: First thing, just quick
18 clarification, both meetings I think were at the same time,
19 at 5:30, so the getting dark and cold was the same thing.

20 The other thing is we weren't invited to walk
21 around the house or anything of the sort.

22 And thirdly, we were not privy to any additional
23 information as we had assumed was part of the direction
24 from the Planning Commission to provide additional
25

1 renderings. Nothing was offered. No full size plans, no
2 renderings, no sketches, no nothing.

3 Then I'll read as quickly as I can here. Olive
4 Street is a charming neighborhood with older, smaller homes
5 on a very narrow street. Unfortunately, several of the
6 characteristics that made this a nice neighborhood are also
7 the character (inaudible).

8 Parking is abysmal. Garages are often not used as
9 intended and driveways are rarely used for more than one
10 car, so ultimately the overflow turns into a game of
11 musical chairs for the permitted parking on Olive Street.
12 The losers end up on San Benito Avenue, and the residents
13 of San Benito that are not allowed to park on Olive Street
14 have no place to park. This is especially difficult for
15 those of us that have family members that are aged,
16 handicapped, or have health issues. Therefore, every effort
17 should be made to lessen the impact of the situation by
18 enforcing a full-length driveway that is not including the
19 public right-of-way, and installing the car lift that is on
20 the plans.
21

22 The homes are very close together and the
23 Applicant had a choice to remodel a cute home that allows
24 setbacks consistent with that home and therefore the
25 neighborhood, or to demolish the home and build in an

1 entirely different direction. The Applicant has chosen the
2 latter, yet proposes building a house that does not follow
3 either of those criteria, and even requests several
4 unnecessary variances. There are no inherent, compelling,
5 or logical reasons why this needs to be. Incidentally,
6 there has not been another home on Olive Street that was
7 demolished and then built.

8 Very slight modifications to the plan bring the
9 home back in line with the rules and lessen the concerns
10 many neighbors have without significantly changing the
11 design or integrity. Simply moving the house 5 feet back
12 from the property line and 2 feet to the east for the
13 garage will alleviate neighborhood concerns as well as
14 solve the problematic, sub-standard length driveway.

15 As for the size of the house, a nonconforming lot
16 is given the benefit of a higher floor area ratio than a
17 conforming lot to compensate for its size. This home not
18 only takes advantage of that, but it exceeds it by 308
19 square feet, or 23%. The building of a basement that did
20 not count allowable coverage was originally implemented
21 specifically to help nonconforming lots lessen the
22 neighborhood impacts, not as an absolute or an addition to
23 substantially passing allowable coverage, as this house
24 proposes.

1 There have been a few comments about the
2 participants being nice people, having kids that play
3 together, or about helping families as reasons why this
4 house should be approved or given special treatment. These
5 are all nice sentiments that truly have no bearing on the
6 situation. Any form of favoritism should not weigh in or be
7 a consideration any differently than if a decision was
8 based on age, sex, race, or marital status, none of which
9 are allowed. No one is telling these people that they can't
10 build a house. The point is they should build a house that
11 follows the rules just like thousands of others in this
12 town have adhered to, and hopefully with a little respect
13 and consideration to the neighborhood and its concerned
14 residents, we will all benefit. Thank you.

16 CHAIR HANSSEN: Is that all of your comments?

17 DARREN CARROLL: I hope so.

18 CHAIR HANSSEN: Thank you. It was very thorough.
19 I just wanted to make sure you were done.

20 DARREN CARROLL: The point being, if you'd allow
21 me just one second here, that that meeting served no
22 purpose. We had no suggestions for compromise or solution.
23 It was interrupted. We were not allowed to discuss
24 anything, and we were provided no additional information to
25 help process the thoughts or make any determinations or

1 suggestions, or perhaps even consider the fact that some of
2 us may have been wrong about something. There were no
3 renderings, which is something that I believe was
4 instructed by the Commission, and no mention of that. No
5 full size plans, no survey, no color drawings, no walking
6 around saying see, this is where it actually is.

7 CHAIR HANSSEN: I think we've gotten to your
8 three minutes.

9 DARREN CARROLL: I've made my point. Thank you.

10 CHAIR HANSSEN: Yes, and thank you for that. I'm
11 going to ask if any Commissioners have questions for you,
12 and it looks like Commissioner Janoff has a question.

13 COMMISSIONER JANOFF: Thank you. Darren, can you
14 please restate your address?

15 DARREN CARROLL: I own the house at 546 San
16 Benito Avenue, which technically shouldn't be involved with
17 this, because I'm not in that parking district, and 122
18 Olive Street.

19 CHAIR HANSSEN: Thank you for that. Do any other
20 Commissioners have questions for the speaker? Vice Chair
21 Barnett.

22 VICE CHAIR BARNETT: Is it your position that the
23 setbacks for this proposed house must be in strict
24
25

1 accordance with the code? I thought you might have said
2 something to the contrary.

3 DARREN CARROLL: I don't understand why they
4 can't be, because it's not going to change the integrity or
5 the design of the house by meeting the code. It would
6 follow the rules. If they want to remodel it, follow those
7 rules. If they want to build new, follow those. I'm not
8 opposed to either one; I just think there has to be
9 consistency here, because I think that's what the rules are
10 for, first off. Second of all, the exact reasons that
11 Shelli Baker and Bonnie Hurwitz mentioned, that once these
12 people get five exceptions to the rules or variances the
13 next guy comes down the road and says, "Well, I just need
14 one more," so pretty soon we're going to...

16 VICE CHAIR BARNETT: You've responded to my
17 question. I appreciate that answer.

18 DARREN CARROLL: Okay, thank you.

19 CHAIR HANSSEN: Thank you. Staff, is there anyone
20 else that wants to speak on this item?

21 JOEL PAULSON: Thank you, Chair. Anyone else from
22 the public that wishes to speak on this item, please raise
23 your hand. I don't see any other hands raised, Chair.
24
25

1 CHAIR HANSSEN: Very good. Then we will go back
2 to the Applicant, and the Applicant has up to three minutes
3 to respond to any of the comments that were just made.

4 JOEL PAULSON: Mr. Plett, you can unmute
5 yourself, and you have up to three minutes.

6 THOMAS REICHERT: I just wanted to say thanks for
7 everyone who commented from the public. I also wanted to
8 point out that yes; we invited people to our home. Those
9 were not the only two opportunities everyone had. We gave
10 everyone our phone number, our email, and invited them to
11 two times that worked for us. We didn't receive any other
12 form of communication other than the one time they all came
13 together at once at the second meeting, so there was no
14 other outreach. If they had felt that the information they
15 needed wasn't properly provided, they could have reached
16 out to consume or gather than information.

18 I also want to point out we didn't necessarily
19 have all the doors and gates open at the house, but also no
20 one asked to walk to the back yard. They did walk to the
21 side yard from the neighbor's spot, some of them did. They
22 were on our property looking at the flags. No one asked for
23 the plans. We had them all in the house. We talked for more
24 than an hour, and at not one point did someone ask to see
25 them; I had them right inside the door.

1 I heard some of the public comments talking about
2 variances. We're not asking for any variances, we're asking
3 for two exceptions per the code that specifically allow us
4 these types of exceptions for nonconforming lots.

5 And we're consistent with the neighborhood. I
6 just wanted to point out one specific thing with Shelli and
7 Keith's home, which they talk about our setbacks and our
8 two-story, and I just want to point out that they're
9 potentially the most impacted home, which I agree with, but
10 their home has a 3 foot setback, it's two-story, it's front
11 yard setback is less than 15 feet, and it doesn't have a 20
12 foot driveway.

13 We literally are proposing the same house as
14 theirs, and with a compliant driveway. It's basically the
15 same. I know our previous documentation has been clear that
16 there's context to the neighborhood, and why the Planning
17 Department recommended for approval, and why in the last
18 meeting the Planning Commission mentioned it fits with the
19 context, but we wanted more time to have the neighborly
20 talks. I know we outlined all that, but I wanted to point
21 out the house that they say is the most affected has all of
22 the same exceptions that we're requesting, every single
23 one.
24
25

1 Jay, I don't know if you want to point out
2 anything else in the last minute?

3 JAY PLETT: I would say that yes, Staff found the
4 project worthy of approval, and that we are consistent with
5 the patterns of the neighborhood. We're even more compliant
6 than most of the houses in the neighborhood when it comes
7 to setbacks, and we are not the largest and we do not have
8 the largest floor area. I would point you to look at sheet
9 A-1.1 of the plans, and if you go to the second drawing
10 down from the top, it's Olive Street looking at the
11 project, it's the street elevation and you can see the
12 house from San Benito, how tall it is and how things are
13 falling down, and the house at 120 Olive and its height.

15 CHAIR HANSSEN: Are you completed with your
16 comments?

17 JAY PLETT: Yes.

18 CHAIR HANSSEN: Do any Commissioners have
19 questions for the Applicant? This would be the last
20 opportunity. Commissioner Janoff.

21 COMMISSIONER JANOFF: Thank you. I actually have
22 several questions.

23 CHAIR HANSSEN: Go ahead.

24 COMMISSIONER JANOFF: I just wanted to step
25 through some of the concerns that were raised from the

1 speakers tonight. There was one regarding the destruction
2 that construction would cause to the underlying soils
3 perhaps. It would be my understanding that the architect
4 and geotechnical planning for this would ensure that that
5 destruction would not occur. Mr. Plett, can you respond to
6 that?

7 JAY PLETT: The basement will be constructed with
8 stitch piers, which is a way of shoring straight down with
9 the cut for the basement, so there will not be any slope
10 instabilities that will be created with the method that
11 will be used to construct the basement. And there has also
12 been a soils report that we have produced ahead of time by
13 a very reputable soils engineer, and the soil is very good,
14 it's very stable, it's not loose, and it's very conducive
15 to the construction of a basement on a small site like
16 that.

18 COMMISSIONER JANOFF: All right, thank you. The
19 next question has to do with the rear balcony, and I think
20 we heard that the neighbors appreciated the removal of the
21 front balcony. I don't see a rear balcony on the elevation
22 that you provided that would impact 120 Olive. If I read
23 your plans it would appear that any second story visibility
24 would be on the opposite side and rear of that house, is
25 that correct?

1 THOMAS REICHERT: The rear deck, it's just coming
2 out of the sliding door on the ground floor. I think it's
3 just a nomenclature that's it's called a deck. It's just
4 where you walk off the back door.

5 COMMISSIONER JANOFF: So, it isn't a second story
6 balcony?

7 THOMAS REICHERT: No, and that was also clarified
8 in the first Planning meeting.

9 COMMISSIONER JANOFF: I thought so, but because
10 since it came up again today I just wanted to further
11 clarify. This is for either of you. Do I understand from
12 reading the letter that you provided in the Desk Item that
13 the house currently has the same setbacks as the proposed
14 structure would have, did I read that correctly?

15 THOMAS REICHERT: No, the current house, the two
16 things that would change, it's currently sited in the exact
17 place as the new plan, except for two: the garage being a
18 little wider to comply, and the front being extended for
19 the streetscape.
20

21 COMMISSIONER JANOFF: Let me be clearer. Is the
22 setback that borders 120 Olive currently 3 feet, or are you
23 changing it from 5 feet to 3 feet with the garage?
24

25

1 THOMAS REICHERT: Five feet, and we're changing
2 it from 5 feet to 3 feet only for the first level of the
3 home and garage.

4 COMMISSIONER JANOFF: Just on the property side
5 that borders 120 Olive.

6 THOMAS REICHERT: On the first story next to the
7 garage it gets 2 feet closer, but not on the second story.

8 COMMISSIONER JANOFF: I'm going to keep going.
9 There was a recommendation that you move the house back and
10 over. Can you do that and stay within all of the setbacks,
11 or does that create an issue for the opposite side or the
12 rear?
13

14 THOMAS REICHERT: It does create one directly for
15 the opposite side if there were no changes, and for the
16 rear. I'm unclear what the rear setback is, but we are
17 siting it to be at the exact same position out of respect
18 for the back neighbor who talked to us at the beginning of
19 the process and asked us not to have a house that overlooks
20 their back yard, so that's kind of the reasoning from early
21 conversations off the planning process.

22 COMMISSIONER JANOFF: All right, thank you so
23 much. I appreciate your answers.

24 CHAIR HANSSEN: Do any other Commissioners have
25 questions for the Applicant? Commissioner Clark.

1 COMMISSIONER CLARK: Thank you. This is kind of
2 along the lines of Commissioner Janoff's question, but it
3 seemed to me that clearly there's a lot of public concern
4 about this, and a theme that came up was that they're upset
5 about exceeding the FAR and reducing the setbacks, and
6 since it's a demolition that would theoretically have been
7 possible to do at the beginning, and I understand that you
8 could leave the front setback and just have a smaller back
9 yard, I wanted to ask why specifically you chose to change
10 those and what kind of problems it would cause for you to
11 conform?
12

13 THOMAS REICHERT: Was your question why did we
14 choose to go from a renovation to a new build?

15 COMMISSIONER CLARK: The question is given that
16 you're doing a new build, why was it necessary to exceed
17 the FAR and to reduce the setbacks?

18 THOMAS REICHERT: It's hard to answer that
19 question specifically, and that's why I gave the context in
20 the Desk Item of the history of the development of the
21 project. The entire project was developed as a remodel. As
22 we went through the process we didn't necessarily want to
23 pay the prices and do the work to underground utilities,
24 put in fire sprinklers, lift the house, and do all this
25 stuff, so it became a discussion point with the Planning

1 Department of like what if we were able to do a new
2 project, what would be the things we'd have to do that we
3 wouldn't be required to do as a renovation? So, the design
4 of the house as a renovation was completed and essentially
5 approvable to come to the Planning Commission, but there
6 were not changes from the design after we'd made those
7 decisions. I hope that answers the question.

8
9 MEREDITH REICHERT: I can add, I think the FAR
10 has more to do with the lot size, and that's consistent
11 with other houses on Olive Street. So again, we just tried
12 to make that consistent with the neighborhood so it wasn't
13 a big, mammoth house sitting in the middle, but a house
14 that would work for our family but still fit with the
15 neighborhood.

16 And again, yes, the 3 foot setback on the side
17 was because we started as a remodel, and now that we're a
18 new build I get that theoretically you could think like
19 let's change that, but to change that means either a
20 noncompliant garage or shifting our house in a way that
21 affects the setback on the other side, which doesn't work,
22 or we build a narrow house, but that doesn't work for an
23 actual livable kitchen, so it's hard to come up with a
24 successful solution on that one.
25

1 JAY PLETT: I'd also say on sheet A-1.1, if you
2 look at the neighborhood plan, the lots are small so no
3 matter what we do... If you look, there's a 4-foot setback at
4 112 Olive, and 114 Olive is 10 feet. Across the street 133
5 Olive has a 7-foot front setback. We have a smaller setback
6 at 131 Olive. 125 Olive has a 5-foot front setback, no
7 driveway.

8 What we have done is we've designed a house that
9 is very much in the pattern of the neighborhood, and we are
10 not asking for the greatest floor area, the greatest FAR,
11 nor the smallest, shortest setback on a side, nor the
12 smallest, shortest setback on the front. The house that we
13 have designed falls right in the middle pattern of what the
14 neighborhood is like. That's why Staff found the project
15 worthy of approval, because it fits in the neighborhood.

16 COMMISSIONER CLARK: Thank you, and may I ask one
17 follow up on that?

18 CHAIR HANSSEN: Go ahead.

19 COMMISSIONER CLARK: I remember from our previous
20 meeting that the reason you reduced the front setback even
21 though you had a large enough setback was you wanted to
22 have a back yard area, and so would you consider
23 maintaining the front setback and having a smaller back
24 yard in order to appease some of the neighbors concerns?
25

1 MEREDITH REICHERT: I think that shifts the
2 problem then to our back neighbor. That was a little bit of
3 the comment from Thomas to the previous question, that they
4 had requested that we don't come closer, as well as
5 maintaining the space. If it meant we could build our house
6 or not, we would go back and revisit that conversation with
7 the back neighbor, absolutely, but we believe this still
8 fits the neighborhood as it is.

9
10 THOMAS REICHERT: And I think the back neighbor
11 is similar to us. They have kids and they play back there,
12 and we hear each other's kids bouncing on the trampoline
13 and singing back there. Potentially our windows would look
14 over into their back yard, and I think that's a valid
15 concern similar to how we're making concessions with 120
16 Olive to not have our patio in the front. It's really hard
17 to appease everyone that we've heard, there are a handful
18 of neighbors, so I think Meredith's point is of course if
19 it only meant we can do it, I think there would be reason,
20 but I don't think pushing one person's problem onto another
21 was the approach that we were taking when we designed the
22 house.

23 COMMISSIONER CLARK: I actually hadn't realized
24 you had talked to the back neighbor, so that's good
25 clarification. Thank you.

1 CHAIR HANSSEN: Did you get your questions
2 answered, Commissioner Clark?

3 COMMISSIONER CLARK: Yes, thank you.

4 CHAIR HANSSEN: Commissioner Janoff.

5 COMMISSIONER JANOFF: I just wanted to loop back
6 regarding the setback on the garage side. As I recall, one
7 of the drivers for that was to create a conforming garage
8 to enable the cars to be parked in the garage or in the
9 driveway--well, that doesn't affect the setback--instead of
10 being parked on the street. Could the Applicant please
11 confirm that that was the motivation for widening the
12 garage, so that you can alleviate some of the parking
13 issues?
14

15 THOMAS REICHERT: I would say I don't know if it
16 was the chicken or the egg, but as part of the Planning
17 Department review before we even were up for Planning
18 Commission, it all happened together, yes. And the 3-foot
19 is only on the first floor.

20 COMMISSIONER JANOFF: Thank you.

21 CHAIR HANSSEN: Do any other Commissioners have
22 questions for the Applicant? Vice Chair Barnett.

23 VICE CHAIR BARNETT: I made a note that there are
24 four homes in the immediate neighborhood that have larger
25 FARs. Can you confirm that?

1 THOMAS REICHERT: That's correct.

2 CHAIR HANSSEN: I just wanted to confirm along
3 the lines of Vice Chair Barnett's questioning. If I recall
4 from the last hearing, you had documented that there were
5 multiple other neighbors within the immediate neighborhood
6 that had exceeded the floor area ratio, and also I thought
7 that you had a chart with people that had similar side and
8 front setbacks, is that correct?

9 THOMAS REICHERT: That's also correct.

10 CHAIR HANSSEN: My recollection was that you had
11 established that there was consistency with the
12 neighborhood for the exceptions that you were asking for.

13 THOMAS REICHERT: That's also my understanding of
14 the takeaway of the last meeting, yes.

15 CHAIR HANSSEN: Do any other Commissioners have
16 questions for the Applicant before I close the public
17 hearing? I don't see any hands raised, so I'm going to
18 close the public hearing and ask if any Commissioners have
19 questions for Staff, wish to comment on the application, or
20 wish to make a motion? Commissioner Janoff.

21 COMMISSIONER JANOFF: Thank you. I think that the
22 Applicant did what we requested them to do, which would be
23 to provide opportunities for more neighborhood outreach.
24 They did make a couple of changes to the plans that
25

1 enhanced the privacy for neighbors. That's why I feel
2 satisfied that the Applicant conducted their work to the
3 satisfaction of the Planning Commission.

4 Regarding the concerns of setback, this is an
5 overly-constrained problem and any direction of improving
6 the setbacks to meet Town Code will create a problem for
7 another neighbor on one side or other or the back. Given
8 that the setback of 3 feet is on the side, one story only,
9 and it's the garage side and it creates a conforming
10 garage, I'm comfortable with approving that reduced
11 setback.
12

13 I also don't have an issue with the floor area
14 ratio.

15 CHAIR HANSSEN: Thank you for that. Do any other
16 Commissioners have questions for Staff or wish to comment
17 on the application? Commissioner Clark.

18 COMMISSIONER CLARK: Thank you. I agree with
19 Commissioner Janoff that they did what we asked of them and
20 definitely to our satisfaction. They gave extensive reports
21 of the outreach that they did.

22 But I did find some of the comments from
23 neighbors concerning, and I think that it's worth
24 discussing some of the concerns that were brought up.
25 Something that I was particularly struck by was the comment

1 about the concern that if it becomes a precedent for
2 cottage purchases to become tear-downs to build larger
3 homes, that could start being a pattern that we see. And
4 they did, they bought this property very recently, probably
5 knowing that this was the plan, and it's important to have
6 this variety of homes and to have these cottages that stay
7 cottages, so that people will be able to afford them. While
8 I think that in this case they did their due diligence and
9 I think they do have reasonable reasons to expand their
10 property, I think it is something to keep in mind going
11 forward.
12

13 CHAIR HANSSEN: Thank you for your comments. I
14 think that was very helpful. Commissioner Janoff.

15 COMMISSIONER JANOFF: Thank you for bringing up
16 the issue, Commissioner Clark, of whether or not this sets
17 a precedent. I wanted to look back to our prior meeting
18 when there was also discussion around does this set a
19 precedent, and we hear a lot of complaints about oversized
20 houses, reduced setbacks, and so forth.

21 One thing that we didn't mention at the last
22 meeting regarding these questions, and yours tonight, is
23 the responsibility of the Planning Commission to hear each
24 application as a brand new, stand on its own merits,
25 application. We specifically don't apply the decisions that

1 we've made on houses in the same neighborhood. We look at
2 each application on its own terms and it's own merits.
3 Every application is unique, and so the guidance that we've
4 always been given and provided to each other is that we are
5 looking at these de novo, that there isn't a precedent to
6 be set, and so I think that's helpful going forward and
7 that's the way I see this particular application tonight,
8 but it's a good question and we should keep talking about
9 it.

10
11 CHAIR HANSSEN: I will also comment, because I
12 was the one that made the motion to continue the item at
13 our last meeting, if I recall. The Commission's general
14 feeling was that the plans were appropriate for the project
15 and the neighborhood, and that the only issue was making
16 sure that the neighbors had an opportunity to be heard.

17 From my point of view I felt that the Applicant
18 did a good job of reaching out to the neighbors. It's
19 really impossible for anyone to be in a situation where
20 they could possibly know to address every concern of every
21 single neighbor, but they did open up their property to
22 talk to people, and I felt like they did an excellent job
23 of documenting all the conversations that they had.

24 I don't know that anything has changed from where
25 we were before, which was that this is relatively modest,

1 given the size of the house growth for the family, and that
2 it isn't going to exceed any of the existing boundaries in
3 the neighborhood, which is the floor area ratios of other
4 properties that have exceeded, as well as the setbacks.
5 From my perspective, I think the Applicant has done what we
6 asked.

7 As far as the renderings are concerned, one of
8 the speakers did bring it up, maybe we could have but we
9 did not ask the Applicant to produce renderings
10 specifically for the neighborhood outreach. It was to help
11 the Commission understand, and those are a matter of public
12 record as well, so it's not that no one could have seen
13 them, but it wasn't part of our direction that I recall
14 that they had to produce those specifically for the
15 neighborhood outreach.

17 Do any other Commissioners have any comments that
18 they'd like to make, or would any Commissioner like to make
19 a motion? Vice Chair Barnett.

20 VICE CHAIR BARNETT: I have a comment and I'm
21 prepared to make a motion.

22 The comment is that I'm very sympathetic to the
23 concerns regarding loss of view, but we've been told
24 repeatedly by the Town Attorney that that's not an imbedded
25 legal right, and I don't know if the attorney is online

1 here today so we could confirm that, but that's been his
2 legal advice on a number of matters to date.

3 JOEL PAULSON: Through the Chair, Mr. Schultz is
4 not able to join us, but I can confirm that Vice Chair
5 Barnett's statement is accurate. He has stated that
6 repeatedly.

7 CHAIR HANSSEN: Does that answer your question,
8 Vice Chair Barnett?

9 VICE CHAIR BARNETT: Yes.

10 CHAIR HANSSEN: Would anyone else want to comment
11 on the application or make a motion? Vice Chair Barnett,
12 you said you would be prepared to make a motion. Do you
13 have other questions that you'd like answered?

14 VICE CHAIR BARNETT: No, I'm prepared to proceed.
15 Concerning 118 Olive Street, I move approval of the
16 demolition of the existing single-family residence and
17 construction of a new single-family residence to exceed the
18 floor area ratio standards with reduced front and side yard
19 setbacks on nonconforming property zoned R-1D. APN 410-15-
20 022. Architecture and Site Application 5-21-013. Property
21 owners Thomas and Meredith Reichert.

22 In terms of the findings:

23 One, I can make the finding that the proposed
24 project is categorically exempt pursuant to the adopted
25

1 guidelines for the implementation of the California
2 Environmental Quality Act, Section 15303, New Construction.

3 Two, I can make the findings as required by
4 Section 29.10-0903(e) of the Town Code for the demolition
5 of the existing structure.

6 Three, I can make the finding that the project
7 complies with the objective standards of Chapter 29 of the
8 Town Code with the exception of the request to exceed the
9 FAR standards for reduction of the front and side setbacks,
10 and for an exemption from the parking requirement.

11 Four, I can make the finding as required by
12 Section 29.40-075(c) of the Town Code for granting approval
13 of an exception to the FAR standards.

14 Five, I can make the findings as required by
15 Section 29.10-265, subparagraph 3, of the Town Code for
16 modification of zoning rules on nonconforming lots,
17 including setback requirements.

18 Six, I can make the finding as required by
19 Section 29.10.150(h) (2) of the Town Code for reducing
20 parking where it can be shown that the lot does not have
21 adequate area to provide parking as required.

22 Seven, I can make the finding as required by the
23 Town's Residential Design Guidelines that the project
24 complies with the Residential Design Guidelines.
25

1 Eight, I can make the consideration as required
2 by Section 29.20.150 of the Town Code for granting approval
3 of an Architecture and Site Application.

4 Nine, I approve Architecture and Site Application
5 S-21-003 with the condition contained in Exhibit 3 and
6 development plans in Exhibit 11.

7 CHAIR HANSSEN: Thank you for that very thorough
8 motion. Do we have a second for Vice Chair Barnett's
9 motion? Commissioner Raspe.

10 COMMISSIONER RASPE: I second the motion as
11 presented.

12 CHAIR HANSSEN: Very good. Are there any
13 Commissioners that wish to make any additional comments
14 before I call the question? I don't see any hands raised,
15 so I will call the question. By roll call please vote yes,
16 no, or abstain. Commissioner Clark.

17 COMMISSIONER CLARK: Yes.

18 CHAIR HANSSEN: Commissioner Janoff.

19 COMMISSIONER JANOFF: Yes.

20 CHAIR HANSSEN: Commissioner Raspe.

21 COMMISSIONER RASPE: Yes.

22 CHAIR HANSSEN: Vice Chair Barnett.

23 VICE CHAIR BARNETT: Yes.

1 And I vote yes as well, so the motion passes 5-0.
2 Director Paulson, are there appeal rights for this action
3 by the Commission?

4 JOEL PAULSON: Yes, thank you, Chair Hanssen.
5 Anyone who is not satisfied with the decision of the
6 Planning Commission could appeal that decision to the Town
7 Council. Forms are available online and in the Clerk's
8 Office. There is a fee for filing the appeal. The appeal
9 must be filed in ten days, and the deadline on the tenth
10 day is 4:00p.m. for submittal.

11 CHAIR HANSSEN: Thank you for that, Director
12 Paulson.
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