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

Los Gatos Planning Commissioners:
Matthew Hudes, Chair
Melanie Hanssen, Vice Chair
Mary Badame
Kendra Burch
Tom O'Donnell

Town Manager: Laurel Prevetti

Community Development Director: Joel Paulson

Town Attorney: Robert Schultz

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

CHAIR HUDES: Now we get to the new public hearings and the first item is Item 2 on our agenda, which is 16212 Los Gatos Boulevard. Planned Development Application PD-17-002 and Negative Declaration ND-19-002. Requesting approval of a Planned Development to rezone two properties zoned CH to CH:PD to allow for construction of a new commercial building. APNs 523-06-010 and 523-06-011. Property Owner/Applicant 16212 Los Gatos Blvd., LLC, and the project planner is Ryan Safty.

May I have a show of hands from Commissioners who visited the property under consideration? Are there any disclosures? Okay. Mr. Safty, I understand you'll be giving the Staff Report this evening.

RYAN SAFTY: Good evening, Commissioners. Before you tonight is a proposal for a Planned Development application to rezone the subject property from Highway Commercial to Highway Commercial with a Planned Development Overlay, and this is to allow construction of a new commercial building with reduced front yard setbacks to provide right of way improvements in compliance with the Safe Routes to School program.

1 The Applicant originally submitted in 2011 and
2 the project has an extensive background, which is
3 summarized in the Staff Report.

4 The subject site is a corner lot fronting on both
5 Los Gatos Boulevard and Shannon Road and contains an
6 existing commercial building occupied by Artisan Wine
7 Depot, which is proposed to remain. The PD application
8 would provide specific guidance for the future commercial
9 development and an Architecture and Site Application would
10 be required to implement the proposed project.
11

12 The current proposal is for a two-story
13 commercial building with retail space on the first floor
14 and office space on the second floor.

15 A Negative Declaration was prepared for the
16 project.

17 The proposed PD Application is consistent with
18 the Mixed-Use Commercial General Plan designation, Los
19 Gatos Boulevard Plan, Commercial Design Guidelines, and
20 underlining Highway Commercial Zoning District minus the
21 front setback and landscaping requirement of 15' on Los
22 Gatos Boulevard.

23 Staff recommends that the Planning Commission
24 forward a recommendation of approval to the Town Council.
25

1 This concludes staff's presentation and we are
2 happy to answer any questions.

3 CHAIR HUDES: Very good, thank you. Are there
4 questions? Yes.

5 COMMISSIONER BURCH: As it is currently written
6 with it being partially Office, are there any limitations
7 to the use of that, such as is there anything limiting
8 medical offices or anything of the sort on this project?
9

10 SALLY ZARNOWITZ: That can be added as a
11 performance standard that medical office is prohibited,
12 given that that's a different parking and traffic ratio.

13 CHAIR HUDES: Other questions? I have a couple of
14 questions. I have actually many questions about traffic,
15 but I'm going to hold those until after the public hearing,
16 but I had a couple about the process.

17 I understand that the review of the PD is an
18 opportunity for the Planning Commission to review the
19 architectural compatibility, style, and details, is that
20 correct? Is it the purview of the Planning Commission to
21 review the architecture at this point?

22 SALLY ZARNOWITZ: Yeah, the Planning Commission
23 can provide input on, again, the performance standards. and
24 that can include guidance for the architecture. So, there
25 will be an Architecture and Site Application later, but

1 that will not come to the Planning Commission, is that
2 correct?

3 RYAN SAFTY: That's correct.

4 CHAIR HUDES: Okay. I had another question about
5 the setbacks. I think there were some questions. What is
6 the allowable setback there? Is it 25' or is it 15'? Maybe
7 you need to explain a little more to me than just that.

8 RYAN SAFTY: It is a 15' setback requirement
9 along Los Gatos Boulevard. There was an error or
10 discrepancy in the Staff Report, so that latest Desk Item
11 should have addressed that.
12

13 CHAIR HUDES: Okay. So, it seemed like that
14 attracted quite a bit of public comment, but just to be
15 clear, the required setback is 15', it's not 25'.

16 RYAN SAFTY: That's correct.

17 CHAIR HUDES: Okay. And what is the proposed
18 setback?

19 RYAN SAFTY: Five feet.

20 CHAIR HUDES: Five feet. So, there's a 10'
21 variance then, is that correct?

22 RYAN SAFTY: It's not a variance, but it would be
23 an allowance for a 10' exception, basically.

24 CHAIR HUDES: Exception, I'm sorry. Other
25 questions? Okay, so we'll now open the public portion of

1 the public hearing and give the Applicant an opportunity to
2 address the Commission for up to ten minutes, and that
3 includes the Applicant's team. I have Kevin Ebrahimi. I
4 don't know if there are others that have submitted cards as
5 part of the Applicant's team. Oh, I'm sorry. Okay, I'm
6 sorry. To be clear, we're on Item 2, which is 16212 Los
7 Gatos Boulevard. Do I have a card from the Applicant?

8 EUGENE SAKAI: No.

9 CHAIR HUDES: You can submit one later. If you'd
10 just please state your name and address for the record.
11

12 EUGENE SAKAI: Absolutely. Eugene Sakai, Studio S
13 Squared Architecture. We're at 1000 South Winchester
14 Boulevard in San Jose. Do you mind if I just test out the
15 technology here really quick?

16 Just for the record, I'd like to note that I
17 handed Ms. Zarnowitz 11 copies of ten letters of support
18 that Staff received as a Desk Item for the Chair.

19 So, good evening, Planning Commissioners. On
20 behalf of my client Scott Plautz of STEM Development I'd
21 like to thank you in advance for taking the time to review
22 and hear our application for 16212 Los Gatos Boulevard.

23 Projects in beautiful areas like Los Gatos
24 invariably take a very long time to work their way through
25 the entitlement process and our project is certainly no

1 exception to that. Experienced developers and architects
2 are aware of this; we accept it as part of the process of
3 crafting a thoughtful project that is one that works from
4 all sides, both public and private.

5 Our team has been working on this project since
6 2013, and during that time the proposal has taken on many
7 different forms. I'd like to take a few minutes to show you
8 some of what has been explored during that time and how our
9 project has improved through the community feedback
10 process.

11 From 2013 to 2016 we worked on a variety of
12 housing-only proposals of various density. Though we felt
13 as if our residential project fit well into its context,
14 ultimately the community and the Town Council did not agree
15 and at a Town Council meeting in March 2016 advised us to
16 explore a purely commercial option that was conforming with
17 all aspects of the Town's Zoning Ordinance. This was
18 actually the final design that we presented to Town Council
19 back in 2016.

20 Based on that recommendation we regrouped and
21 began to consider a fully commercial project and presented
22 a few different conforming alternatives at a well-attended
23 community meeting at Town Hall hosted by Planning in July
24 2016.

1 Among these options were a full underground
2 parking garage with additional surface parking, a two-story
3 retail and office building of 31,500 square feet, a mixed-
4 use project proposing seven one-bedroom apartments—they're
5 on the right—above 8,600 square feet of retail, an all new
6 retail building of approximately 11,000 square feet, and
7 finally a retail proposal that preserved and renovated the
8 existing one-story dealership building while adding a
9 retail building at the corner with a partial second floor
10 setback to reduce the scale of the building as seen from
11 the boulevard.
12

13 That concept proposal was then developed further
14 and formally submitted for review to the Town in February
15 2017 largely as depicted in these few slides here. During
16 the Town's initial review Staff advised us that the
17 recently adopted Safe Routes to School program would impact
18 our application. Here to talk about our team's response to
19 that requirement is Scott Schork of BKF Engineers.
20

21 SCOTT SCHORK: Scott Schork, BKF Engineers.

22 The Safe Routes to School program was implemented
23 in mid-stream of the development and what it requires us to
24 do is actually narrow Los Gatos Boulevard by a lane, and
25 the green markings is the new bike lane. The porkchop
island at the intersection of Shannon in Los Gatos, which

1 is a pretty unusual situation where it has a sign that
2 says, "No Right Turn on Red," but that typically
3 people...that's not normal. So, non-residents, there is
4 probably a percentage of people that blow through there.
5 So, this is very safe for the kids going to school, and it
6 moved the crosswalk up to Roberts, which makes it a more
7 efficient intersection that will probably be addressed
8 later.

9
10 Today just for purposes of clarity I went out and
11 made these measurements, and the new project is proposed to
12 be just under 25' setback from the face of building to face
13 of curb, and then you see the Yoga Source is around 27.5',
14 the Robson homes are 26.6', Compass is set back a little
15 bit farther, and these are all two-story buildings. And
16 then Edward Jones is 25'. I just went back out there. It's
17 really 23' to 25', so it's about an average of 24'-ish. And
18 there's a resident, Magnuson Loop, that's also two stories,
19 18.5', and then Taco Bell is the only one-story at 24.5'.

20 The other thing that's critical to point out is
21 the second floor of this proposed building is setback an
22 additional 11', so it's closer to I think about 36', of
23 which these two stories are not set back additional, the
24 point being that we're pretty consistent with the
25 neighborhood.

1 EUGENE SAKAI: We have a little graphic here to
2 illustrate how that 24'-8" and change is divided here. On
3 the far left we have the bike lane shown in the green
4 strip, and then from face to curb working our way to the
5 right a 4'-6" planter strip, 10' sidewalk, and then about
6 another 10'-plus to the building. So, that's just kind of
7 an idea of what that will look like.

8 In working with Town Planning Staff on the
9 initial application and the Town's Consulting Architect
10 we've made a number of revisions to the building which we
11 feel have improved the design and made it more compatible
12 with the look and feel of Los Gatos.

13 A little hard to see on these images, but among
14 these include reducing the mass of the second floor at the
15 corner as to provide a reduced scale with the intersection
16 and better views of the mountains.

17 On the parking lot side, we broke up the
18 rooflines to architecturally express the stair tower
19 between the two floors. We also refined the second floor
20 roof massing. Another slide of that.

21 Another suggestion that we implemented was to
22 simplify the rooflines along the boulevard; namely we
23 removed a gable form to basically create a continuous eaves
24 line.
25

1 This last slide most significantly I think shows
2 that we've chosen to break up the glass that we initially
3 proposed at the corner by adding a stone portal feature. We
4 feel that this adds a nice focal point for the
5 intersection, further enhances the pedestrian scale and
6 pedestrian oriented nature of the whole intersection
7 improvements that Scott Schork just talked about.

8 Here are a couple of photo-sims that we put
9 together from a distance showing how the building will sit
10 relative to its surroundings and relative to the views of
11 the ridgeline beyond.

12 And this is a view that we put together of the
13 existing condition on top showing only the dealership
14 building, and then our building overlaid on the same
15 perspective.

16 And just another image of a similar vantage
17 point.

18 In conclusion, our project proposes a fairly
19 modestly sized development on what is currently an
20 extremely under-utilized site. The existing dealership
21 building, as mentioned in the Staff Report, is only 2,300
22 square feet and change on a nearly one-acre lot on a
23 heavily trafficked site.
24
25

1 I'd like to emphasize that our project
2 intentionally does not max out the development potential of
3 the site. Under the height limit and setbacks and coverage
4 ratios we could have proposed a three-floor building of
5 nearly 60,000 square feet that would have required two
6 levels of underground parking but would still have been
7 compliant with current zoning, at least numerically. Based
8 on feedback from the Council, community, and Staff we've
9 obviously opted not to pursue such a large project.
10

11 I think also I wanted to reemphasize what Scott
12 Schork was touching on earlier in that our project also
13 offers a very large community benefit in that we will be
14 one of the first projects to build out a significant
15 portion of the adopted Safe Routes to School program at our
16 own expense. It should be noted that this program was
17 adopted into law in 2016, which is three years after our
18 initial development application had been filed.

19 Finally, in the last two seconds, I know there's
20 been a lot of concern about the installed story poles and
21 how close they sit to the existing sidewalk. Just to
22 further touch on what was discussed earlier by our civil
23 engineer, the face of curb now is not the future face of
24 curb. The future face of curb is actually 10' farther into
25 Los Gatos Boulevard, and our intent with the building

1 design is to match the setback that otherwise would have
2 been required by ordinance had the face of curb not
3 changed, and as we pointed out, that is consistent with
4 face of curb setbacks from other nearby properties, two-
5 story buildings at that.

6 That's all I have for now, and again, we're here
7 to answer any questions. Thank you.

8 CHAIR HUDES: Thank you. Are there questions?
9 Yes, Commissioner Badame.

10 COMMISSIONER BADAME: Thank you for reaching out
11 to the community, to the CDAC, to the Council, and coming
12 before the Planning Commission back in 2016 and listening
13 to input.

14 But you received quite a bit of significant
15 input, and you may hear it tonight from speakers, about the
16 blocking of the mountain views, which is important. What
17 did you do to address that, other than just taking out a
18 small portion of the mass at the corner on the second
19 floor?
20

21 EUGENE SAKAI: We did a number of gestures. The
22 allowable height limit at this parcel is 35'; we're more
23 than 5' below that. There's really no limit as to how big
24 the second floor could have been relative to the first
25 floor, but we chose to make it a significantly smaller

1 footprint and step it back nearly 12' from the street
2 frontages. I think as you're walking along the boulevard,
3 or even driving along, you really won't perceive that
4 second floor because of that setback. Like I said, I think
5 we didn't go quite nearly as big as we could have with the
6 project overall.

7 COMMISSIONER BADAME: If it would be okay with
8 Staff, if we could put something on the projector, and that
9 would be Exhibit 12-B, page A-0.6, and that would be the
10 views with the proposed building with the hillside views.
11

12 CHAIR HUDES: What's the callout on that document
13 again, Commissioner Badame?

14 COMMISSIONER BADAME: It's Exhibit 12-B, page A-
15 0.6, and it's titled Hillside Views.

16 CHAIR HUDES: Thank you.

17 COMMISSIONER BADAME: If it's too difficult I can
18 just ask the Applicant directly, because I'm sure he's
19 aware of the page.

20 EUGENE SAKAI: Yeah, we drew that.

21 COMMISSIONER BADAME: I'm just looking at this
22 picture and I'm trying to reconcile how that second story
23 does not significantly block the view of the mountains, if
24 you could just comment on that. And I'm looking at the
25

1 upper right picture and it's the view from Los Gatos
2 Boulevard.

3 EUGENE SAKAI: Right.

4 COMMISSIONER BADAME: And it looks like the
5 vantage point from where that photo was taken is at an
6 extreme angle and taken from the sidewalk.

7 EUGENE SAKAI: Sure. Well, our firm does a fair
8 amount of work in Los Gatos. We do projects up in the
9 Hillside Zoning District as well. In certain cases, there
10 are codified percentages of views that can't be blocked or
11 portions of an elevation of a house that have to be
12 obstructed by tree screening from vantage points on the
13 valley floor; those are hard and fast numbers that trigger
14 certain additional requirements or even prevent you from
15 doing projects of a certain scope or mass or whatever.

16
17 As I mentioned, we worked very closely with Town
18 Staff and the Town's Consulting Architect on the project
19 that sort of met all the different parameters of a good
20 retail project, among which is addressing kind of a more
21 pedestrian-friendlier environment by bringing the building
22 closer to the street. In working with the Consulting
23 Architect his only recommendation to improve the project
24 from the standpoint of hillside view projection was the
25 change that I mentioned in notching back that second floor,

1 which we gladly did. Upon doing that essentially he signed
2 off on that particular aspect of this design and ultimately
3 gave Planning Staff the ability to recommend your approval
4 of the project as well.

5 I'm not as expert as you folks on the Commission
6 nor Staff or the Consulting Architect on what makes a good
7 project in Los Gatos. I think that's partly why an approval
8 process takes years, because it's part of that discovery of
9 finding what is uniquely right for this site, and all I can
10 say is we worked with the appropriate people and got their
11 recommendation of approval.
12

13 COMMISSIONER BADAME: I appreciate your answer.
14 I'm just looking at the Town Architect's report and he did
15 say to eliminate the second floor development at the
16 corner.

17 EUGENE SAKAI: Yeah.

18 COMMISSIONER BADAME: And I've got a picture that
19 looks differently from what you did, but you answered my
20 question, so thanks.

21 EUGENE SAKAI: He gave us two options, actually.
22 We followed one of them to the letter, and so that was our
23 response.

24 COMMISSIONER BADAME: Thank you.
25

1 CHAIR HUDES: Anybody else? Okay, I had a couple
2 questions, if I may. I had the same reaction about the
3 corner treatment. It seems to me that further views are not
4 being revealed by making a notch into the building, because
5 you still have the same elevation whether you curve or
6 angle at that corner or whether you notch in, is that
7 correct?

8 EUGENE SAKAI: If I'm understanding you correctly
9 you're saying reducing the floor area there had no net
10 impacts on the benefit to the hillside view?
11

12 CHAIR HUDES: Because of the angle that is taken
13 toward the hillside that follows along roughly the angle of
14 that front, by turning that angle into a 90-degree notch
15 you don't reveal more views of the hillside, is that
16 correct?

17 EUGENE SAKAI: I can't speak for why the Town
18 Architect recommended what he did, but all I can say is
19 that we followed his recommendation to the letter and that
20 satisfied him with regard to this one issue.

21 CHAIR HUDES: Okay. I had another question, if I
22 may. If the project were compliant with the Town's setback
23 requirements, what would it look like? Did you attempt to
24 design to the Town's setback requirements?
25

1 EUGENE SAKAI: Fifteen foot setback from property
2 line?

3 CHAIR HUDES: I believe that's what Staff stated.

4 EUGENE SAKAI: Yeah, we actually have a full
5 blown application that did not make its way up to this
6 level that we submitted—it was actually the initial
7 submittal that I showed you halfway through my
8 presentation—that was our attempt to submit a fully code-
9 compliant, setback-compliant project prior to the
10 introduction of the Safe Routes to School requirement,
11 which imposed significant financial burden on the project.
12 It was in that process of discussing that burden with Town
13 Planning Staff that a concession was made whereby we could
14 potentially compensate for our financial hardship by
15 bringing the building closer to the street, picking up a
16 bit more parking, etc.

18 CHAIR HUDES: Okay. I will have another question
19 for Staff on this. Is it your understanding that the Safe
20 Routes to School is a requirement?

21 EUGENE SAKAI: Absolutely. It was adopted by
22 ordinance I believe in December or November of 2016 just
23 before we applied for the commercial project, and I don't
24 believe we were given an option to opt out. I think had we,
25 I don't know. We haven't had the discussion with my client,

1 but it certainly imposed a significant delay in our
2 application because we had to do a full redesign not only
3 offsite but onsite to accommodate it, and there's a
4 significant financial expense to implement the rebuilding
5 of that whole intersection.

6 CHAIR HUDES: Okay, because in your letter of May
7 31st you state that you've agreed to comply with that for
8 the safety of the community, and that you comply with the
9 request but you still maintain the required setback, and
10 you said, "I believe we've complied with the intent when
11 you take into consideration those requirements." So, I just
12 wanted to understand whether you consider the Safe Routes
13 to be a requirement for an application at this time?
14

15 EUGENE SAKAI: I haven't been led to believe
16 otherwise. Furthermore, I believe that the whole notion of
17 intent is an important one for the Commission to consider.
18 As we pointed out with our measurements that we took of
19 other two-story buildings from their face of respective
20 curb, we're right in line with that, and I believe that's
21 what gave Staff the comfort to recommend approval of this
22 reduced setback because our setback to curb, not property
23 line, is very much in line with other nearby properties.
24
25

1 CHAIR HUDES: Okay, thanks. I'm sure I'll have
2 some other questions after we hear from the public. Does
3 anyone have further questions? Yes, Commissioner O'Donnell.

4 COMMISSIONER O'DONNELL: I want to find out
5 whether you're reserving... The next question was what Staff
6 thinks whether it was required, or is that going to come up
7 later?

8 CHAIR HUDES: I plan to ask Staff that later when
9 we're in deliberation.

10 COMMISSIONER O'DONNELL: Yeah, that's fine.

11 CHAIR HUDES: So, we're now where the rest of the
12 public speaks, and since there are a number of people, I'm
13 going to read three names so that you can plan for your
14 turn. The first card I have is Kathryn Parker followed by
15 Jeffrey Barnett and then Barbara Dodson, so Ms. Parker,
16 could you come forward please? Thank you.

17 KATHRYN PARKER: Kathryn Parker. I live at 16475
18 Ferris Avenue very near the proposed building.

19 I'm very much against this building. It doesn't
20 conform with many of the basic design principles regarding
21 setbacks, views, and reflection of Los Gatos qualities of
22 small scale and pedestrian friendliness. A 30' wall looming
23 up again the sidewalk is neither small scale nor friendly.
24 This may be appropriate for the downtown part of Los Gatos,
25

1 but not Los Gatos Boulevard, especially as this is a corner
2 where the guidelines say that the buildings should be
3 limited to one story.

4 Many of the neighboring buildings are two-story,
5 but most of them are set well back from the sidewalk. This
6 is right up next to the sidewalk and if you're walking down
7 this sidewalk there's a wall right there, and most of the
8 other buildings, I believe, other than maybe the Yoga
9 Source building, have extensive landscaping between the
10 sidewalk and the building. This looks like it's just going
11 to have some sort of little planter things.
12

13 Also, the north end facing their driveway is a
14 big, blank wall. The architect recommended covering it with
15 a trellis, which I believe they did do, or a series of
16 trellises, but that's just going to make it a big, green
17 blank wall instead of a brown blank wall.

18 As for restricting the views, this afternoon I
19 drove south on Los Gatos Boulevard, checking out where the
20 story poles are. Once I got near that building I could see—
21 assuming the story poles are where they're going to be—the
22 total view of the mountains is totally blocked out until
23 you get pretty much up to the corner of Shannon and Los
24 Gatos Boulevard. Putting the second story back is not going
25 to open up the view at all, if that is a consideration.

1 Anyway, as I say, I'm very much against this. I
2 think it would be a great building for downtown, but not
3 Los Gatos Boulevard; this is not going to fit in at all
4 with any of the surroundings building. Thank you.

5 CHAIR HUDES: Thank you. Other questions? Okay.
6 Jeffrey Barnett followed by Barbara Dodson and then Paul
7 Grams.

8 JEFFREY BARNETT: Good evening, Chair Hudes and
9 members of the Commission. Jeffrey Barnett, 101 Mullen Way.

10 I'm here tonight speaking on my own behalf, but
11 also on behalf of a number of my neighbors, many of whom
12 are here: the Durham's at 100 Mullen Way, the Arendts at
13 108 Ann Arbor Court, the Lawrences of 16140 Shannon, the
14 Highstreets at 104 Ann Arbor Court, and the Moores at 107
15 Mullen Way.

16 The focus of our concern is the setback. We
17 assert that the PD Overlay Zone that would allow the
18 minimal setback, the deviation from the standard setback,
19 should be based on findings of harmony with the surrounding
20 neighborhood. The building under construction has only a
21 nominal 5' setback, which is not consistent with other
22 buildings on the boulevard, which has been pointed out.

23 By the way, I submitted a Desk Item and I'm
24 hoping that you have that. Good.
25

1 It's our further position that the project is not
2 in compliance with the Los Gatos Boulevard Plan. The Vision
3 Statement in the Boulevard Plan has a goal of preserving
4 the character of the Town. The limited setback modifies the
5 character of the boulevard. There are generous setbacks on
6 most of the other buildings on the boulevard that create a
7 relaxed appearance. The proposal is for a large structure
8 that makes for a cramped streetscape and we would state
9 that it's more appropriate on El Camino Real in Mountain
10 View or Sunnyvale.
11

12 The Commercial Guidelines should be followed.
13 They stress the importance of a strong landscape setback.
14 The guidelines generally require a 15' landscape setback
15 and the plan obviously does not do that.

16 It's our further position that the General Plan
17 must be complied with. The project is inconsistent with it
18 because it is not of the type and intensity of land use
19 that's required to be consistent with the immediate
20 neighborhood, and the other buildings on the corner and
21 throughout the boulevard have generous setbacks, as noted,
22 so the proposed building is incongruous.
23

24 Finally, we suggest that there be no Negative
25 Declaration. The aesthetic detriment to the project, or a
ground floor finding that there is adverse impacts on the

1 environment, and the community opposition to the proposal
2 based on aesthetic grounds is a basis for denial of the
3 Negative Declaration.

4 I have a summary but I can't do it in three
5 seconds, so I'll pass. Thank you very much.

6 CHAIR HUDES: There may be some questions. Are
7 there questions of Mr. Barnett? I had a question. We had
8 testimony earlier from the Applicant, and he cited several
9 buildings on the boulevard, all of which had around a 25'
10 or so setback, and then showed that the project had a 24'-
11 8" setback or something like that, approximately 25' as
12 well. Did you see that testimony and do you have any
13 reaction to that? Do you think that it's accurate that this
14 project, the setback will be the same as those other
15 buildings?
16 buildings?

17 JEFFREY BARNETT: My thought on that would be to
18 rely on the Staff Report that says the PD proposal is
19 necessary because of the reduction of at least 10' in the
20 setback, so I'm not clear how the Applicant can state that
21 it's equivalent to others. I assume maybe there's a
22 difference between the property line and the curb.

23 CHAIR HUDES: Thank you. We can follow up with
24 the Applicant later.

25 JEFFREY BARNETT: Thank you.

1 CHAIR HUDES: Other questions? Commissioner
2 O'Donnell.

3 COMMISSIONER O'DONNELL: When you thought you had
4 three seconds, you had 30 seconds, so was there something
5 that you wanted to get out in a short period of time? I
6 think you misunderstood how much time you had left.

7 JEFFREY BARNETT: Oh, I saw three seconds. Thirty
8 seconds?

9 COMMISSIONER O'DONNELL: Well, now you have 30.
10

11 JEFFREY BARNETT: Okay.

12 COMMISSIONER O'DONNELL: If you had something
13 important you wanted to say, I just wanted to invite you to
14 say it.

15 JEFFREY BARNETT: Well, I just wanted to
16 summarize that it's the developer's obligation to propose
17 construction that conforms with the General Plan and the
18 Commercial Guidelines and the Boulevard Plan. Cost
19 considerations were mentioned as a factor in the
20 developer's decision to move closer to Los Gatos Boulevard,
21 and it seems to me the priority should be for the Town to
22 enforce its own policies and ordinances rather than the
23 developer's pocketbook.

24 COMMISSIONER O'DONNELL: Thank you.
25

1 CHAIR HUDES: Okay, thank you. I have a card for
2 Barbara Dodson followed by Paul Grams, and those are the
3 only cards that I have on this topic, so if anyone else
4 would like to speak please just fill out a card and provide
5 it to our Staff. Thank you.

6 BARBARA DODSON: Good evening, my name is Barbara
7 Dodson and I live on Marchmont Drive in Los Gatos.

8 I ask you to reject the current plan for the
9 following reasons:

10 First, the setback from the sidewalk is
11 insufficient. The 5' setback being proposed along Los Gatos
12 Boulevard is too small to create an attractive green space
13 between the sidewalk and the building. Please require a
14 wider setback, at least 15'.

15 Second, the two-story building blocks residents'
16 view of the mountains. A one-story building would be much
17 more appropriate for this site. There is little reason for
18 the second story in the current Los Gatos market in any
19 case since we don't seem to have much need for new office
20 space.

21 On the other hand, we have the continuing need to
22 retain the beauty of our town. The beauty of our town is
23 largely created by being able to see the mountains from all
24 viewpoints.
25

1 I'm also concerned about the loss of a dedicated
2 right turn lane on Shannon and the loss of the third lane
3 on Los Gatos Boulevard. I believe this will create new
4 traffic congestion at the corner of Shannon and Los Gatos
5 Boulevard and is a bad idea. I understand this is a
6 proposal of Safe Routes to School, but I really believe it
7 is a bad idea. And I wonder if I can get clarification on
8 this requirement, the Safe Routes to School to requirement,
9 if that's just something we have to live with because it's
10 been adjudicated, it's been passed, what it means? So,
11 thank you.

13 CHAIR HUDES: We will have opportunity to ask
14 Staff questions later as the Commission deliberates, so
15 thank you. Paul Grams and then Roy Moses.

16 PAUL GRAMS: Planning Commission, thank you. Just
17 have a few comments here.

18 First of all, this huge 30' high building in a
19 residential area, which is occupied on two-and-a-half sides
20 by residents, is opposed by all the residents and it's just
21 only to generate more profit for the developer. I don't
22 know why this is being done. I looked at these very biased
23 reports. I presume these reports were paid for by the
24 developer, is that true, all these studies?
25

1 CHAIR HUDES: We don't have the ability to
2 respond to you at this point in the hearing. We can take
3 notes and we can ask Staff questions later.

4 PAUL GRAMS: There reports are very biased. I was
5 very surprised to see that they have four pictures of the
6 dumpster behind the quaint one-story wine shop and other
7 very disparaging photographs just to make things look bad.
8 Right now, that nice wine shop looks very nice, one-story,
9 it fits in very well, and just had these really awful
10 photos.
11

12 The setback of 5' is just outrageous and it seems
13 the only purpose is to increase rich developers' profits at
14 the expense of the residents. And I actually stepped that
15 off, went from the sidewalk in, and I couldn't see another
16 structure along Los Gatos Boulevard that had such a short
17 distance from the curb of the sidewalk, and this once
18 again, just to increase developer profits.

19 If he had a subterranean garage he could allow
20 parking underneath and maybe set back more and have the
21 same structure size. Subterranean garages are somewhat
22 expensive, but still, we're not here to generate rich
23 developer profits. Also, it would add value to the future.
24

25 I don't know who put that traffic study together.
Can I show something on this projector?

1 CHAIR HUDES: Yes, if you have a page. No, it's
2 not working. Unfortunately, it's not working. Is it
3 something that was in any submission that you made to us
4 earlier?

5 PAUL GRAMS: Well, no. Let me just show you
6 briefly. This is Los Gatos Boulevard and this is Roberts.
7 Under the proposed plan it shows the students now only have
8 to cross one way to reach Van Meter and Los Gatos High and
9 even Fisher. Under the proposal plan they're going to have
10 to cross... It's going to be moved over here at the crosswalk
11 so they had to cross Los Gatos Boulevard, and then to go
12 south they have to cross Roberts, and that's a major
13 congestion, so it exposes the students to one, two
14 significant traffic highways, so I don't see the benefit of
15 moving the crosswalk over here.
16

17 CHAIR HUDES: If you'd like to provide me the
18 document I can pass it down to the commissioners. Thank
19 you. Okay, Roy Moses, and that is the last card that I have
20 on this.

21 ROY MOSES: Good evening, Commission. Thank you
22 for allowing us to come and speak. I live at 16529 La Croix
23 Court, which is up Shannon Road a little ways. I've lived
24 in Los Gatos a long time. I've worked in Los Gatos, so I go
25 through that intersection many times during the day, and

1 especially during the time when the kids are going to
2 school and coming back from school. I try not to time that
3 because it's pretty congested.

4 I do respect the rights of developers to develop
5 their properties and to build something significant and to
6 make money at it; they have to be profitable. But at the
7 same time, we've got to take into consideration all the
8 people who live around that; it is right next to a
9 residential district.

10 The thing that I don't understand, to me common
11 sense is the most important thing, so to me it's like the
12 building is right out front, right on the sidewalk. That's
13 like the butt of the building and all the parking is going
14 to be on the interior. Now, maybe that's the way it has to
15 be built to be economical, I don't know, but at the same
16 time, all these considerations about the scenery here in
17 Los Gatos, the Town of Los Gatos has always tried to take
18 that into consideration, so why can't the building be put
19 back—it has underground parking or whatever—and make it
20 more aesthetic? You can see the mountains that way; you
21 won't have a problem.

22 The other big issue right now is taking out that
23 right lane. I don't know if you go by there, if the
24 developers have gone by there in the morning. Kids are
25

1 kids. I like to call them children, but we call them kids.
2 They're not very responsible or thinking about getting hit
3 or whatever. They walk right on the edge of the road, and a
4 lot of people drive through there. They don't have the
5 consideration maybe that the neighbors have because they're
6 coming out of the Shannon Road mountains, they're coming
7 from Almaden Valley, coming through Shannon Road, which is
8 the main corridor. They don't come down Kennedy Road, they
9 come down Shannon from Almaden, come through here. It's a
10 cut-through going to their work, wherever it may be, past
11 Los Gatos, I don't know, but you cannot jeopardize those
12 kids by taking out that lane.
13

14 And the point was just made about where they're
15 going to move the crosswalk; that is a double crossing for
16 those kids. Come there during the day when the kids are
17 there and take a look for yourself. It's not a very good
18 situation and it's going to get worse just by the proposals
19 that are being made here.

20 So, I'm for the developers, but I think you've
21 got to go back, put the building back in the back of the
22 lot, put your parking, figure it out. Architects are
23 magicians; they do wonderful things.

24 But there are going to be a lot of objections
25 here, and if it wasn't the end of the school year and if it

1 wasn't vacation time... I love the way the developers plan
2 all these meetings where we can't get everybody here.
3 Again, I saw the story poles go up; I'm here.

4 So anyway, go to work. Do your job for the Town,
5 for the citizens of the Town, do it for the developers. Put
6 their heads together. Maybe they ought to go talk to
7 neighbors, maybe we got some good suggestions for them, I
8 don't know. Thanks for the opportunity.

9 CHAIR HUDES: Thank you. Any questions? Okay,
10 that's the last card I have from the public, so we will now
11 move back to the applicant to address any questions that
12 have been raised or anything actually that the applicant
13 would like to speak about, and there are five minutes to
14 add further comments. So, Mr. Sakai or whoever would like
15 to speak for the applicant, you have an additional five
16 minutes.

17 SCOTT SCHORK: Okay, I'll start with the
18 setbacks. It's probably not clear to the community but when
19 you walk out there the curb has not been moved 10', so it
20 looks pretty extreme relative to the existing story poles
21 and the netting. The dimensions that I pulled from the
22 field were measured from face of curb to building. Just
23 forgetting the term "setback to property line," at the end
24 of the day the property line where it sits isn't super
25

1 critical, it's what distance you have from building to
2 curb.

3 I'll give you an example. This project has about,
4 I think, a 7' property line to face of curb currently, so
5 once it's done the glazing of the building is like another
6 17.5' behind that property line. I'm sorry, that's not
7 true. I'm sorry, the curb moves out 10' from there, so from
8 face of curb to property line, that's going to be your 17',
9 and so then the building is closer to property line and you
10 end up with your 25'-ish. If you go down north to Edwards,
11 that has only about an 8' from face of curb to property
12 line and there is setback. The code required 15' to get
13 them to the 23' minimum but they're still at 23' and we're
14 closer to 25', so the property line is what is confusing
15 matters here.

17 The other thing that I think is important to
18 note, unlike most of the other buildings that are two-story
19 this one is set back considerably. When we first looked at
20 this project and it was in conformance we were at a 15'
21 setback with a two-story building coming pretty much
22 vertical at 15', and that was deemed in conformance. What
23 we have now, we've moved the first floor 10' forward with
24 the curb, so we didn't change that situation, and actually
25 we only moved it 9.5', so we're 6" farther set back from

1 the future curb than we were in the prior proposed
2 development, and the second story actually moved back about
3 1.5", so with that offset the views are actually better
4 than had we build straight up and down at the 15' with the
5 existing streets. It's a little confusing but the point
6 being is it's extremely consistent with the neighborhood,
7 and I'm just going to stop on that for now.

8 The removal of the pork chop islands and the
9 narrowing of the lanes, that's all a Safe Routes to School
10 requirement, so it's not... It's actually a very good thing.
11 The traffic consultant can speak to it, but it improves the
12 traffic flow, it reduces the length that the kids are in
13 the crosswalk, it purposely moves the crosswalk to align
14 with Roberts where there is a larger vehicle flow, so it
15 makes the whole intersection more efficient. But it's also
16 very expensive. When I priced it, it was about \$750,000 and
17 construction has gone up like 20-percent; I'm not
18 exaggerating. So, now it's more like \$900,000, and that's a
19 very small building he's proposing. He could put a 60,000
20 square foot building there but he's putting a—I don't know
21 the number committed to memory—but it's like 11,000, so
22 it's pretty much the smallest project he could afford to
23 build with those new \$900,000 add-ons.
24
25

1 So, yes, all the Safe Routes to School items are
2 not in our control, they have to be done and they're
3 actually improvements, and we can't move the building to
4 the back and put the parking up front, it's just not
5 current kind of planning that staff would support; that's
6 kind of an old school approach. It's more about bringing
7 the building forward and enlivening the streets.

8 And I think geometrically, when we were talking
9 about the building corner and does it improve the views of
10 the mountains, well, it used to wrap around two-story
11 vertically, and to your point, pulling it back wouldn't
12 have done much to that angle but with the building stepped
13 back and pulled back it definitely improves that view of
14 the mountains there.

15 And the building on the north end was reduced
16 significantly at the second level as well, so it's not the
17 box it used to be. I mean, it's dramatically reduced in all
18 dimensions to improve the views and the aesthetics.

19 CHAIR HUDES: Okay. Anything else? I'm afraid
20 not. We've closed that portion of the hearing. We will ask
21 questions of the Applicant, and I think there may be some,
22 so Commissioner Badame.

1 COMMISSIONER BADAME: If you could come back. I
2 heard you say that you could not consider moving it back,
3 correct? Is that what I heard?

4 SCOTT SCHORK: Moving what back?

5 COMMISSIONER BADAME: The building back. It's got
6 to be in the front, placed in that property?

7 SCOTT SCHORK: Economically, if we move it back
8 any more than it is now we lose parking, which loses square
9 footage of the building, which kills the project because of
10 the \$900,000 add at kind of the eleventh hour.

11
12 Alternatively, you would have to go to the mega-building
13 and go underground parking. You can't afford to do
14 underground parking on an 11,000 square foot building, it's
15 just not feasible, so you'd have to go big or without the
16 underground.

17 COMMISSIONER BADAME: With that being said, could
18 you consider a one-story building?

19 SCOTT SCHORK: You could. I would have to say at
20 some point there's an economic involved, because I'm
21 obviously not the owner, but the land was purchased and
22 it's valued based on what they could put there, and this is
23 definitely the smallest building they can build without
24 getting into a lot of trouble with what they paid for the
25 land, and if they were asked to put a one-story building

1 there I'm sure they would have to come back and just go
2 big, and no PD; just be within the Town's requirements for
3 setbacks, floor area ratio, height; they would park it
4 underground and they'd have to max it out, and that's not
5 what they want to do. This is kind of the tradeoff, moving
6 it forward 10' with the curb moving 10', with the issue
7 that the property line didn't move. Had the Town moved the
8 property line with the curb face, which they could do, we
9 wouldn't have a problem, but that wasn't the case.

10
11 COMMISSIONER BADAME: Okay, thank you.

12 CHAIR HUDES: Commissioner Burch.

13 COMMISSIONER BURCH: I know you guys have run
14 through a lot of scenarios but I want to just ask some
15 questions to make sure I'm clear on where we're at today
16 and how we got here.

17 In some previous, I believe, CDAC meetings it was
18 discussed that underground parking would be approved, or
19 not approved but would be beneficially looked upon, and in
20 looking... Because I understand what you're saying. If you
21 lose parking spaces you lose square footage, but in taking
22 a look at the overall plan, if you did integrate even
23 partial...a smaller underground lot, you technically could
24 move the building back but probably have a larger
25 footprint, therefore square footage, and perhaps if it was

1 pushed to the back, a well-designed second story. So, I'm
2 wondering, when you ran the numbers how that offset in that
3 decision making?

4 SCOTT SCHORK: Yeah, I think the misconception is
5 that underground parking, it's...

6 COMMISSIONER BURCH: No, it's expensive. It's
7 about \$150 a square foot.

8 SCOTT SCHORK: Yeah, it's generally about... This
9 is the number I have from a year ago, so it's probably
10 more, but I usually say \$50,000 per stall, so it doesn't
11 pay for itself unless you go multiple stories above that
12 footprint, so it's really difficult.

13
14 And the other thing you'll never see is an
15 underground parking structure that's fully depressed—I know
16 there are some that are semi-depressed in the Town—with
17 ramp and underneath the building that's 15-20 stalls, it's
18 just so expensive. At that point it's \$120,000 a stall or
19 something, so it's just extremely cost prohibitive, and
20 then when you're doing the numbers you start to look at it
21 and say well, we have to go big.

22 It's either the building you see now that's more
23 efficient to construct with surface parking, and then you
24 jump over to let's underground park the whole thing and go
25 big. The in-between is very difficult to pencil.

1 COMMISSIONER BURCH: Okay. Can I ask a follow up
2 question?

3 CHAIR HUDES: Of course.

4 COMMISSIONER BURCH: And in that same vein,
5 you're keeping the existing building. Was there any look at
6 maybe modifying that building to include a second story or
7 add some size to that to then keep the building at the
8 street single story for the most part?

9
10 SCOTT SCHORK: I'm not an architect, but I'm just
11 going to guess that that building would be easier just to
12 tear down.

13 COMMISSIONER BURCH: That was probably going to
14 be my next question.

15 SCOTT SCHORK: It would be so expensive to go
16 second story and it's pretty small, and it's new code/old
17 code, no fire sprinklers, etc.

18 EUGENE SAKAI: I'd like to speak to that a little
19 bit. I think there are two things at play with regard to
20 how the building is sited. I think first of all is the
21 Boulevard Plan itself talks about trying to enhance a
22 pedestrian realm. The Safe Routes to School I think is part
23 of that whole general movement.

24 COMMISSIONER BURCH: I'm very specifically trying
25 to understand...

1 EUGENE SAKAI: And I'm speaking to that as well.

2 COMMISSIONER BURCH: ...the process that you went
3 through different steps to get here.

4 EUGENE SAKAI: I'm speaking to that.

5 COMMISSIONER BURCH: I know all those, I read
6 them all the time.

7 EUGENE SAKAI: Okay.

8 COMMISSIONER BURCH: I just want to understand
9 that.
10

11 EUGENE SAKAI: All right, I'm trying to address
12 that.

13 COMMISSIONER BURCH: Okay.

14 EUGENE SAKAI: So, with regard to the siting of
15 the building, which I believe was your question... Is that
16 your question, why is the building sited the way it is?

17 COMMISSIONER BURCH: More I want to understand
18 the different avenues of making this project work for you
19 and maybe different options you looked at. So, for example,
20 let's say you have a building on this corner but you're
21 keeping the existing building, so I wanted to understand if
22 you guys did an analysis on either rebuilding that building
23 and adding on it, making *it* the second story component and
24 keeping the building at the street single story, probably
25 not a win-win for everyone, but it gives you that, keeps

1 the views that people are worried about, like would there
2 be a tradeoff there, but did you run those numbers and do
3 that analysis?

4 EUGENE SAKAI: I mean, that building is 2,300
5 square feet; it's the size of an average single-family
6 home. It has a sloping roof; still it slopes in pretty
7 severely. I would imagine if we tried to develop a second
8 floor there that second floor might be somewhere in the
9 range of about 600-700 square feet. Is that what you're
10 referring to?

11 COMMISSIONER BURCH: Yeah, okay.

12 EUGENE SAKAI: So, that was one factor. I think
13 the other factor was, as was mentioned by some of the
14 community members, we were trying to lessen the impacts
15 along the interior property lines where we have a
16 residential single-family interface, and so by pulling the
17 building away from those houses, reducing the amount of
18 commercial activity, or limiting it to really what has been
19 historically there in just that 2,300 square foot building,
20 we felt that was the best way to be a good neighbor, as
21 well as tying into the Boulevard Plan, which I mentioned at
22 the outset.

23 COMMISSIONER BURCH: That makes sense. Thank you.
24
25

1 CHAIR HUDES: I had some questions about
2 architecture. Could you maybe describe the architecture of
3 the building, the style, and discuss how it is compatible
4 with other Los Gatos Boulevard development in the vicinity,
5 and maybe specifically what are some cohesive design
6 elements so that this fits with other buildings that are in
7 the proximity?

8 EUGENE SAKAI: Sure. Well, we look pretty closely
9 at the adjacent properties, the overall context. There are
10 a variety of projects that were built over a variety of
11 years in a variety of styles. There is just a lot of
12 diversity.
13

14 I think probably our strongest cue that we took
15 was the existing building onsite. It has a bit of a
16 Craftsman feel to it, it has stucco, it has some stone on
17 it, and so as part of the decision to keep that building as
18 part of this overall development, I would say that that
19 informed some of the design thinking. Our building has a
20 pitched roof on it kind of as a nod to that existing quasi-
21 residential/commercial building that's there, and then some
22 of the same materials, yet at the same token we didn't want
23 to fully mimic or ape that building's architecture, so
24 there is some consistency and yet some differences.
25

1 We looked at the overall heights of the buildings
2 in the area, and as was pointed out we've also looked at
3 the setbacks from curb. So, there are a lot of two-story
4 buildings around, some of them don't have a second floor
5 setback as ours does, so we didn't mimic any one building
6 in particular; it was more of a holistic look.

7 CHAIR HUDES: Where did you come down on the
8 awning suggestion from Mr. Cannon? Is that included or not?

9 EUGENE SAKAI: I'd say we met him half way. The
10 suggestion there was really to do a 360-degree awning
11 approach on all sides of the building pretty much,
12 including at the glass corner, which we opted out of that
13 because we felt as opposed to putting some easily
14 destructible, readily fade-able canvas material right there
15 on the corner, why not do something more substantial and
16 long lasting like a stone portal as an architectural
17 feature as opposed to some curving fabric, so we chose to
18 put awnings on I'd say maybe half of the locations that he
19 suggested.
20

21 CHAIR HUDES: Okay, thank you. Yes, Commissioner
22 O'Donnell.

23 COMMISSIONER O'DONNELL: In listening to the
24 conversation, when the Safe Routes to School came down it
25 took a big chunk of the front of the property. As I

1 understand it, it was your understanding that that was
2 mandatory, is that right?

3 EUGENE SAKAI: I believe so.

4 COMMISSIONER O'DONNELL: Quantify for me, how
5 much of what you would have otherwise been able to use was
6 taken from you?

7 SCOTT SCHORK: Actually, there was no property
8 taken, because the property line didn't move, so we have
9 the same property. What did move was just the curb, so now
10 the City has eliminated a lane and in place of it we've put
11 a landscape strip, a 10' sidewalk, and then another strip
12 up to the building.

14 So, what I was explaining earlier was the Safe
15 Routes to School requires replacement of traffic signals,
16 building the new curb and gutter, and doing some
17 significant improvements to the public right of way to the
18 tune of about \$900,000. So, the take there was for this
19 project to get to pencil we needed to add like three
20 parking stalls to get some more... Well, that's all we really
21 could. By moving the building, a little I was able to get
22 like three more parking stalls, which enabled the building
23 to grow a little bit, and it's clearly well below what it
24 could be. But that was how the owner/developer was able to
25

1 move forward with the project, because if we couldn't do
2 that, it was probably a dead project.

3 COMMISSIONER O'DONNELL: I'm being obtuse, I
4 suppose, but I would like to understand this and I still
5 don't. The Safe Routes to School obviously was a change of
6 pace for you; it came down sort of at the last minute, or
7 past last minute.

8 SCOTT SCHORK: Correct.

9 COMMISSIONER O'DONNELL: It had an effect on you
10 and you're telling us it cost essentially another \$900,000,
11 right? But that's for improvements, but I'm wondering what,
12 if any, of the property, your property, was impacted so
13 that you could not otherwise use it as you would have
14 planned. Are you saying none?

15 SCOTT SCHORK: The only impact to the property
16 would be the wider sidewalks onto the property on Shannon;
17 there was a 10' walk there. Originally we were an attached
18 10' walk on Shannon with tree wells, and in the end we
19 ended up with a 5' planter strip and a 10' walk pushing
20 into the project. Did it move the parking? Did it change
21 the building shape? No, it just kind of constricted it.

22 To answer your original question, the developable
23 property has not changed because of the Safe Routes to
24 School. It was an improvement on Los Gatos Boulevard and at
25

1 the pork chop islands, the front corner. I mean, it did a
2 lot of different things to the public view of the project
3 itself, but it didn't take any land per se.

4 COMMISSIONER O'DONNELL: I think I understand.
5 Just to summarize it then, you're saying that it's the
6 cost, and that certainly is a lot of money, \$900,000. The
7 project ended up costing \$900,000 more than it otherwise
8 would have...

9 SCOTT SCHORK: Correct.

10 COMMISSIONER O'DONNELL: ...but as far as the size
11 of the land is concerned, usable land, that was not
12 impacted?
13

14 SCOTT SCHORK: Correct.

15 COMMISSIONER O'DONNELL: Okay, thank you.

16 CHAIR HUDES: If I might follow up on that, is
17 that because the Town has allowed another 10' to be used of
18 the boulevard?

19 SCOTT SCHORK: I'm sorry, could you clarify that?

20 CHAIR HUDES: My understanding is that the curb
21 moves out 10' into the boulevard. Is that why you were able
22 to do that without changing the developable area, because
23 you're getting that 10'?

24 SCOTT SCHORK: Yeah. We wouldn't have been able
25 to move the building 10' forward and go through the PD

1 process if the curb hadn't moved also, so we haven't
2 changed the dimension from the glazing of the building to
3 the face of curb. It's actually like 6" farther than it
4 used to be, but the building has followed the new curb line
5 out as the lane dropped.

6 CHAIR HUDES: I see. Okay. That's very helpful to
7 me. You provided some slides at the beginning of the
8 presentation that I frankly couldn't read from here, and I
9 think the public may have had difficulty. Were those
10 included in the packet in your application?
11

12 SCOTT SCHORK: The previous versions that we
13 looked at?

14 CHAIR HUDES: No, the first several slides of
15 your presentation where you showed the setbacks.

16 EUGENE SAKAI: The first ones.

17 CHAIR HUDES: Keep going. Where you had
18 dimensions on a drawing.

19 SCOTT SCHORK: (Inaudible).

20 EUGENE SAKAI: Okay, yeah, that's actually quite
21 a way in, but I'll get that.

22 CHAIR HUDES: They are quite small. I could not
23 read the numbers.

24 EUGENE SAKAI: Yeah, I'm used to a bigger
25 projector.

1 CHAIR HUDES: Are those documents that you
2 provided us that you could point us to that we could see?

3 EUGENE SAKAI: Not that particular graphic, but
4 certainly our site plan has all this information. This is
5 not a new design, this is the design that is reflected on
6 the plans before you.

7 CHAIR HUDES: Okay, so we can find that
8 information on the site plan itself? That's the one I'm
9 talking about.
10

11 EUGENE SAKAI: Right. I did this because I felt
12 it would be more illustrative for the Commission as to what
13 that's going to really look like as opposed to just looking
14 at a black and white drawing.

15 CHAIR HUDES: Sure.

16 EUGENE SAKAI: But what you see is reflective of
17 the black and white site plans behind you and at your desk.

18 CHAIR HUDES: Okay, thank you.

19 SCOTT SCHORK: To clarify, the property line is
20 somewhere, let's see, back here. Yeah, it's somewhere back
21 here, so it didn't move, and the curb used to be here, and
22 when the curb moved 10' the property line remained back
23 here. That's why the setback of 5' is actually measured
24 from this furr out and it's really a couple more feet to
25

1 the real building, so that's kind of the history of the
2 property line.

3 CHAIR HUDES: Okay. That's helpful. I can get it
4 without seeing the numbers. Thank you. Are there other
5 questions? Okay, let me just check my list here.

6 So, on the corner issue, you feel that you
7 complied with Mr. Cannon's suggestion to increase the
8 visibility of the hillside by the way you've designed the
9 corner of that building? I think he stated that the corner
10 should be one story, and do you feel that you've complied
11 with that?
12

13 EUGENE SAKAI: I don't specifically remember him
14 saying the corner should be one story.

15 CHAIR HUDES: I believe that's in the Hillside
16 Design Guidelines.

17 EUGENE SAKAI: Sure. What Mr. Cannon provided us,
18 and I neglected to include it in my presentation, but he
19 provided a suggested floor plan for the second floor. He
20 went so far as to recommend an outline of the second floor
21 at the corner, and we followed that drawing that he
22 provided.

23 CHAIR HUDES: Okay, thank you. I will be having
24 some questions on the traffic and the traffic impact for
25 Staff, but there was one point that I wanted to ask. In the

1 TDM document, which is Appendix E, the consultants say
2 that, "A provision of a free local shuttle service similar
3 to the one being offered by the office development at 401
4 Alberto Way can also be considered as part of the TDM
5 plan." Did you consider providing or supporting an existing
6 shuttle service?

7 SCOTT SCHORK: I don't think so. I'm not familiar
8 with... I don't recall that being something that we agreed
9 to, but...

10 CHAIR HUDES: Okay. It was a suggestion in the
11 TDM.

12 SCOTT SCHORK: Yeah, we're compliant with
13 parking, so it wasn't like we were against it, but the
14 project is compliant; it self-parks.

15 CHAIR HUDES: I understand it's not a parking
16 issue, it's a traffic issue, which I will have some
17 questions about traffic (inaudible) TDM.

18 SCOTT SCHORK: But I think we also reduced
19 traffic with this development relative to what was
20 previously approved on the project, being the dealership,
21 the historical uses.

22 CHAIR HUDES: Okay. That's all the questions I
23 have. Anyone else? Okay. Thank you very much. We will now
24 close the public portion of the hearing and ask if
25

1 Commissioners have any questions of Staff or wish to
2 comment? Commissioner Badame.

3 COMMISSIONER BADAME: I'll comment, and I'm going
4 back to this Town Architect's report because there seems to
5 be some discrepancy or some misunderstanding about the
6 blocking of the views.

7 So, he provided Approach A, which meant
8 eliminating the second floor development at the corner.
9 Approach B stated, "Should Staff decide," blah-blah-blah-
10 blah, "that the blockage of views to the hills would be
11 minor, you could make these modifications," which is
12 holding the second floor back at the corner. I don't know
13 what Staff decided, but ultimately it comes to us and we
14 make our decisions, and I don't see that the blocking of
15 the hills, the views, is minor by any means.

17 To the Applicant's credit, he came back with a
18 commercial project as opposed to a residential project.
19 That's more befitting for this location, however, we can't
20 make our decisions based upon economic feasibility, so for
21 me I'm just having a real problem with the blocking of the
22 views. I mean, we look at the Vision Statement in the
23 General Plan and it says what makes Los Gatos special.
24 Well, it's a strong sense of place, and what makes a strong
25 sense of place? Well, a major component of that is the

1 backdrop of the mountains. We all hate being stuck in
2 traffic. When you're traveling southbound as a lot of us go
3 home the one palatable thing you have about being stuck in
4 traffic is you can look at the backdrop of the mountains
5 and you know that you're almost home, and there is some
6 comfort in viewing that, and that's what makes us a special
7 place. So, I'm having a difficult time with the blocking of
8 views; it's a major thing for me at this point.

9
10 CHAIR HUDES: Thank you. Commissioner O'Donnell.

11 COMMISSIONER O'DONNELL: I'm concerned with the
12 traffic, and it seems to me what's being done there,
13 removing the pork chop there and that kind of thing and
14 removing one lane of traffic, traffic is already awful
15 everywhere and how it gets better by removing a lane eludes
16 me; it gets worse.

17 So, I guess I go back to a fundamental issue.
18 There is some ambiguity now as to whether this is
19 mandatory, that this route affects not only this project
20 but I suppose other projects. Their understanding is they
21 had no discretion here, they had to comply with a mandatory
22 requirement, so I'd like to ask you, was this a mandatory
23 requirement? Or is it a requirement? In other words,
24 requirements are mandatory.
25

1 MIKE WEISS: Mike Weiss, Associate Engineer. In
2 reviewing the video from the October 18, 2016 Town Council
3 meeting there was specific discussion about this very
4 project and this very intersection. The question was asked
5 if these improvements would be required with a future
6 development project. The answer is, and was, yes. The
7 improvements it listed in this report improve the safety of
8 school children who bike and walk to school. The removal of
9 the pork chop island, the widening of the sidewalk, the
10 relocation of the crosswalk, those all helped to improve
11 the safety. It shortens the crossing distance for children,
12 as it was mentioned previously. It was noted in different
13 reports that there are clusters of students who walk along
14 both Shannon and Los Gatos Boulevard, so the widening of
15 the sidewalk for both those (inaudible) will help with
16 that. I believe there was discussion during that same
17 Council meeting that the current pork chop island
18 configuration doesn't allow for enough of a safe zone for
19 large portions of students who cross the street to reside
20 without being in the vehicular traffic areas.

22 COMMISSIONER O'DONNELL: To me it's a form of a
23 taking, because you're saying we don't care what it costs,
24 this is what you're doing to do. In this case, it's
25 \$900,000 at some point in time, and depending on how long

1 it takes it could go up. So, there is an ordinance and
2 someplace it says what you're saying, is that correct?

3 MIKE WEISS: The Council reviewed and approved
4 the report. I don't believe there's an ordinance, but there
5 was during their discussion direction to implement these
6 for future development projects.

7 COMMISSIONER O'DONNELL: Well, I guess I'll defer
8 to Counsel. I don't understand how you could make something
9 mandatory that there's no ordinance and the Council says it
10 will be a great idea, let's do it, so what is it that we
11 rely on to be able to enforce this?
12

13 LYNNE LAMPROS: I'm going to answer, and then I'm
14 also going to ask Mr. Paulson to weigh in, but it's my
15 understanding that the Safe Routes concept was accepted by
16 the Council and is contemplated as being part of the Bike
17 Pedestrian Master Plan. There is not an ordinance on it.

18 COMMISSIONER O'DONNELL: We all know we can have
19 all kinds of master plans but it doesn't make it an
20 ordinance, it doesn't make it enforceable, and yet we have
21 a certain ambiguity here. The Applicant believes it was
22 mandatory, and apparently you do too, but I'm asking a
23 lawyer what is it we rely on for that, and so far I have
24 not gotten an answer that I would go to court with, but
25 perhaps I will.

1 JOEL PAULSON: I would say I'm not a lawyer, and
2 you probably won't get an answer that you'll want to take
3 to court, but the Town Council did in fact, as Ms. Lampros
4 mentioned, adopt a Bicycle Pedestrian Master Plan which
5 does include a number of improvements from the Safe Routes
6 to School project. What I would say is if there is a
7 concern on the part of the Planning Commission that maybe
8 in this instance those improvements should be required,
9 then that can always be part of any recommendation that
10 moves forward.

12 Regarding the nexus and whether it's tied to an
13 ordinance, it is not tied to an ordinance and we can get
14 further clarification on that as well.

15 COMMISSIONER O'DONNELL: I think it's a great
16 idea and I'd like to see it everywhere. All I'm saying is
17 it's driving this project, and we've got a lot of people
18 who don't like this project, and yet we're hearing from the
19 Applicant part of the reason the project is the way it is
20 is because we are forced to spend \$900,000 on something
21 that we have decided is not in an ordinance; it was a good
22 idea that the Council thought was a good idea. I'm just
23 saying someday somebody may raise that question, is it
24 enforceable? In fact, it might be sooner than later, and so
25 no, I'm not against the Safe Routes, in fact I'm in favor

1 of it, but to the extent that it now sandwiches what we're
2 talking with this requirement, I get very nervous about it.
3 If we were to say we don't like your project because of
4 what the Safe Routes does to it and they said fine, we'll
5 save the \$900,000 and spend it on something else, we might
6 have an answer here that would help the citizen sitting
7 right here, but then people would become unglued because a
8 lot of effort has gone into Safe Routes. So, I ask what's
9 the law here, and I'm getting an answer of beats me.
10

11 LYNNE LAMPROS: It's a nexus requirement. The
12 answer is that there would be a nexus requirement analysis.

13 COMMISSIONER O'DONNELL: But there's no finding
14 here that the nexus of this is what is being required of
15 this Applicant. We know that. To me it's a great lawsuit.

16 CHAIR HUDES: Okay. So, it sounds like we may
17 need some more information from the Town Attorney before
18 you would be comfortable supporting something like this?

19 COMMISSIONER O'DONNELL: I mean, I'm representing
20 the Town, it's just that (inaudible) there's something we
21 don't like about this project, but on the other hand,
22 \$900,000 is something that the Applicant could say gosh,
23 we're doing all these things and you're laying all these
24 costs on us, so we get torn between trying to make
25 everybody happy, and so I just want to make sure if I shake

1 something it's going to withstand that, and very frankly,
2 what I've heard tonight, not shake-proof.

3 CHAIR HUDES: Commissioner Burch.

4 COMMISSIONER BURCH: I'm going to add onto that,
5 and then I have a couple comments.

6 I think on that same vein however, and
7 understanding that as much as it is impacting we would need to
8 understand how many parking spaces could go away and how
9 much square footage could go away to offset that and how
10 would that aesthetically look? We may be making this
11 statement, and I think just opened up a can of worms, for a
12 minimal difference in the overall project. It's possible,
13 we don't know. So, I'm saying that we have one value, we
14 don't have the offsetting value, and I think that that is...

15 COMMISSIONER O'DONNELL: We're not going to get
16 it either.

17 COMMISSIONER BURCH: I know.

18 COMMISSIONER O'DONNELL: That's the problem I
19 have.

20 COMMISSIONER BURCH: I'm just putting it out
21 there. And I have a couple more comments to make.

22 CHAIR HUDES: Please, go ahead.

23 COMMISSIONER BURCH: These corner lots on Los
24 Gatos Boulevard are incredibly difficult. What we wind up
25

1 with is... You know, I think we've gone back and forth on
2 other projects. Is it the back of the property? Is it the
3 front of the property? But what we do ultimately have here,
4 we do not measure from the curb, we measure from the
5 property line.

6 We have a request here for a PD that allows for a
7 lesser setback. I understand that aesthetically that
8 probably won't look like what we think it will, because we
9 do have this additional curb and bike lane, however, that
10 instance of creating this extra depth isn't going all the
11 way up and down the boulevard. This is a one-off, unique
12 situation and I think we need to be careful as we as a
13 planning commission look at this and say do we want to
14 start allowing these really reduced setbacks down the
15 boulevard? Because by having that we're basically going
16 against a list of design principles that have been spelled
17 out for us, somebody spent a lot of time with what the
18 setbacks should be, that buildings located on corners
19 should generally be limited to one story, the requirements
20 for landscaping to soften between the buildings.

22 So, that's my worry here. I'm not even going to
23 get into like architectural or anything, because I think
24 the overreaching thing we have to decide is are we
25 comfortable with starting down that path, and I'm not. I

1 mean, obviously I'm not going to speak about the views, I
2 think everyone else can speak about the views, but I just
3 think ultimately we've been given a list that we're
4 supposed to look at, and we're not hitting a number of
5 those.

6 CHAIR HUDES: I had a question, if I may, of
7 Staff, relating to traffic. The first area I wanted to
8 cover on traffic is the land change. My understanding, and
9 tell me if I'm correct, the curb will move 10' to the west
10 into an existing lane of Los Gatos Boulevard, is that
11 correct?
12

13 MIKE WEISS: Approximately, yes.

14 CHAIR HUDES: Okay. So, do we expect that to help
15 traffic on Los Gatos Boulevard to have this one property
16 with a curb that's 10' and eliminating a lane?

17 MIKE WEISS: Again, this is something that came
18 from the Safe Routes to School report that we all have
19 already mentioned, but with us here today is our traffic
20 peer review consultant, Chris Kinzel from TJKM, and he can
21 speak to that.

22 CHRIS KINZEL: Good evening, nice to be here.
23 Chris Kinzel at KJKM.

24 We did a peer review of the Applicant's traffic
25 study in conjunction with the Town Staff. That was our role

1 in the project. I wasn't involved with or knew about this
2 Safe Routes to School project before I worked on this
3 project, but in my opinion it's a very positive thing for
4 the Town, not only for pedestrians, but also for vehicular
5 traffic along the street. That lane that's being eliminated
6 is a lane that just started at that point. On the approach
7 to that intersection there are two lanes. On the far side
8 it's three lanes, now one of which is being taken away. I
9 think the reason that third lane was there is because
10 there's a free right turn lane coming from Shannon onto Los
11 Gatos Boulevard, and so that's a natural place for traffic
12 coming from Shannon to go.
13

14 On the other hand, that apparently has created
15 some problems, because the Town has installed a sign that
16 says, "No Right Turn on Red," so in effect there's no
17 function of that free right turn lane anymore. You can only
18 go when you have a green light, and when you have a green
19 light the other street has a red light, so you've got an
20 empty street of traffic going through there, so from a
21 traffic standpoint it's probably better, but from a
22 pedestrian standpoint it's dramatically better. The
23 pedestrians now—and there are about 100 school-age
24 pedestrians in the morning having to cross the street there
25 and the first 12-15' is unprotected—there's nothing there

1 to keep them from traffic other than one sign that says,
2 "No Turn on Red," and people's natural inclination to not
3 run into pedestrians.

4 But now in the after condition the crosswalk will
5 slide toward Roberts about 50' or 60' and be sort of
6 connected with that signal, that intersection, rather than
7 the Shannon signal. There's less going on there, so it's a
8 better situation. It doesn't require, as was reported
9 earlier, pedestrians to cross any more streets or anything;
10 they're just sliding down closer to where they want to be
11 anyway. So, that's an improvement by creating that, and
12 that lane that's been eliminated, the third lane that just
13 starts right there, only goes another couple of blocks and
14 then it stops, it becomes a mandatory right turn lane, so
15 there's no traffic capacity reduced as a result of that
16 lane being taken away; it reduces the confusion at the
17 intersection, in my opinion.

19 CHAIR HUDES: Okay, but there is a lane that is
20 continuous from Shannon until the next large intersection.

21 CHRIS KINZEL: That's right, it's about three
22 blocks.

23 CHAIR HUDES: So, for a portion of that, whatever
24 the frontage is of this property, that lane will be
25

1 eliminated and then it will come back again, is that
2 correct?

3 CHRIS KINZEL: That's correct, yes.

4 CHAIR HUDES: And is that a good practice for
5 traffic flow, to eliminate a lane and then bring it back
6 again?

7 CHRIS KINZEL: Well, in once sense it's not
8 eliminating a lane, it's just extending the two lane
9 section one more block.
10

11 CHAIR HUDES: But it's three lanes.

12 CHRIS KINZEL: No, I mean it's only two lanes
13 approaching the intersection and three lanes beyond, and
14 it's that third lane that's just been added that's being
15 taken away, so through traffic just is unaffected by that.
16 The only people that are affected by that are the people
17 coming from Shannon and they still have the same number of
18 lanes, one right and one left.

19 CHAIR HUDES: But there are several hundred feet
20 of capacity on the boulevard that's being eliminated,
21 correct?

22 CHRIS KINZEL: There's several hundred feet of
23 pavement, yes, and you can call it capacity.

24 CHAIR HUDES: And have you seen the traffic
25 there? Do you know whether that lane is actually used or

1 not, or are you saying that lane is not used, it doesn't
2 matter?

3 CHRIS KINZEL: It's not heavily used, because
4 there's nobody that would be using it other than the people
5 that are coming from Shannon, and so when you're coming
6 from Shannon and the lane is not there, there are still two
7 lanes to turn into.

8 CHAIR HUDES: Okay. And when did you make that
9 observation? Is that in the February 2018 part of the TIA,
10 or was that in the October? I believe there were two...

11 CHRIS KINZEL: Our role was a peer review of the
12 report itself.

13 CHAIR HUDES: Oh, okay, okay. So, again, my
14 question is when did you observe that lack of traffic in
15 that lane, that that lane was being...

16 CHRIS KINZEL: I personally... It was a staff
17 person, person on my Staff, that did the field observation
18 on it, so I did not observe it.

19 CHAIR HUDES: Okay. Yes, Commissioner O'Donnell.

20 COMMISSIONER O'DONNELL: I would just like the
21 record to reflect that I've lived in this town, I don't
22 know, 50 years. I drive that road all the time, and I use
23 that third lane all the time whether I'm going to go
24 straight ahead or whether I'm going to go right, so I will
25

1 not use that lane if it's not there, but if you remove part
2 of it people will be moving over very quickly, because then
3 they come to the right turn. So, what it's going to do is
4 it's going cause a real problem with the right turn, and if
5 you observe that and drive it every day, to say that taking
6 that stretch of the road out will not have any impact
7 except on the people turning right is not what is my
8 observation for years.

9
10 CHAIR HUDES: I had a number of questions related
11 to the TIA and the traffic study. Are you the right person
12 to answer some of those questions?

13 CHRIS KINZEL: I could. The author of that study
14 is here as well, Mr. Black.

15 CHAIR HUDES: Okay. Well, why don't I start with
16 a couple of questions, then...

17 CHRIS KINZEL: See how far I can get.

18 CHAIR HUDES: Okay. When you do a traffic study,
19 if there is a phenomenon that occurs on a periodic basis
20 that's somewhat predictable but you don't know exactly what
21 day, should you attempt to understand that traffic
22 condition when you do the study?

23 CHRIS KINZEL: Yes.

24 CHAIR HUDES: Are you aware of the gridlock
25 situation that occurs on some good weather days in the

1 summer and weekends that causes a backup that can extend
2 from the downtown to approximately two miles away?

3 CHRIS KINZEL: I'm aware of that, yes.

4 CHAIR HUDES: Okay. If you included events like
5 that in that traffic study could the LOS, which is I
6 believe rated a C, be actually more like a D or an F if an
7 event like that were included?

8 CHRIS KINZEL: It probably would. Most traffic
9 studies, including the Town's requirements for a traffic
10 study, are done during sort of standard, normal, everyday
11 weekday time periods in order to not judge the absolute
12 worst condition but to judge a more typical situation, so
13 yes, there are times when conditions are worse than the
14 typical weekday.

15 CHAIR HUDES: What's the right sample size for a
16 traffic study? Is it one? Is it two? Is it five? What's the
17 right sample size?

18 CHRIS KINZEL: Sample size in what sense?

19 CHAIR HUDES: Days that you evaluate the traffic
20 as part of the study.

21 CHRIS KINZEL: Most traffic studies, when we do
22 peak hour counts done during the cumulative periods a.m.
23 and p.m., they're done on a single day, and that's a single
24 weekday, and in fact usually a Tuesday, a Wednesday, or a
25

1 Thursday and not a Monday or a Friday or a weekend. The
2 reason why one is typically acceptable is because the
3 commute periods are somewhat repetitive, they're pretty
4 similar from day to day. When we do weeklong counts with
5 hoses and so on we can show that there's not much variation
6 from day to day typically.

7 CHAIR HUDES: But would that also be the case if
8 there are somewhat predictable events that are related to
9 the weather and traffic routing? If you took it on a day
10 that wasn't that particular day would you catch that fact
11 that there's a gridlock situation going on?

12
13 CHRIS KINZEL: If you did it on one of those
14 days, you certainly would. Again, the Town requirements say
15 don't count when it's raining, and the main reason for
16 that, I think, is because we only count during times when
17 schools are in session, and school operations are affected
18 by rainy weather. Traffic seems to be increased because
19 more parents are dropping their kids off than typically,
20 and they're moving more slowly because of the weather. So,
21 if we did measure on those days, the conditions would be
22 worse. If we used that as a guideline, that means we'd have
23 a lower level of service and to correct that you'd do
24 things that you might not want to do as a Town.
25

1 CHAIR HUDES: Right. My concern with this is that
2 we have a situation that is somewhat predictable but is
3 never captured in the traffic studies that we see, and my
4 concern is that this isn't just an academic exercise but in
5 fact a serious safety issue for the Town. If a gridlock
6 occurs and is coincident with a fire or a personal safety
7 emergency, we're going to have something that is much
8 different than simply an academic exercise or a convenience
9 factor. My understanding is that the methodology that was
10 used is probably standard and adequate, but the sampling
11 doesn't account for the kind of gridlock situations that we
12 regularly have in town, and so unless I'm incorrect I think
13 that the study misses that event that's occurring where the
14 LOS may in fact be worse than what is reported in the
15 report based on a sampling issue. Any reaction to that?

17 MIKE WEISS: The Traffic Impact Policy and the
18 traffic impact analysis requires analysis of the traffic as
19 generated by the project, and so what you're referring to
20 is a regional issue. The traffic generated on warm weekends
21 in the summer is not generated by the project, and the TIA
22 studies what effect on traffic the project will have. When
23 in compliance with the traffic impact policies it's been
24 determined that this project does not create a significant
25

1 impact as defined by the Traffic Impact Policy in the
2 General Plan.

3 CHAIR HUDES: But my understanding, and correct
4 me if I'm wrong, is that under current ordinances there
5 must be mitigation or a development cannot proceed if there
6 is already an unacceptable level of service.

7 MIKE WEISS: The level of service as tabled in
8 the traffic impact analysis shows that the project does not
9 lessen the level of service below more than one level or
10 below a D, and that's the measure by which we determine if
11 there's a significant impact, and so by that, and by the
12 General Plan, and by the Traffic Impact Policy, it's not a
13 significant impact for the traffic that's generated by this
14 specific project.

15 CHAIR HUDES: Okay. But we did hear testimony
16 that the type of events that occur may not be reflected in
17 the baseline that's being captured to start.

18 JOEL PAULSON: That's a hundred percent accurate,
19 and if you're interested in that data, then we need to have
20 the Town Council modify the Traffic Impact Policy.

21 CHAIR HUDES: Okay, thank you. I'm having trouble
22 accepting a report with a sampling error like that. So, are
23 there other comments or questions of Staff?
24
25

1 COMMISSIONER O'DONNELL: A comment. We're putting
2 ourselves in, I think, a very difficult position because we
3 have this matter before us and we're dealing with, as
4 perhaps we should, other problems too. But simply dealing
5 with their issues, which is what I came here tonight to do,
6 some of the things I don't like about the project I balance
7 against them telling me, gee whiz, we had to pay \$900,000
8 because of something that I find out is questionable.

9
10 So, if we focus merely on... Merely is the wrong
11 word. If we focus on their project tonight, which I think
12 unless enough of us feel you can't do that, I'd kind of
13 like to get back to just this project and to see if we
14 could either approve it, or disapprove it, or approve it
15 with some conditions, and I guess my concern is that I
16 don't like the changes that we're making, i.e. the Town, to
17 this project. For example, getting rid of that right turn
18 and getting rid of that lane and moving the kids so they're
19 going to... If you want to go to Fisher, you're going to go
20 across the street, then go across another street, and then
21 you're going to go to Fisher. That's what this is doing to
22 it. I don't know that that's a good idea.

23
24 So, I would just simply invite my fellow
25 Commissioners, if we can deal with this project how would
we do it? And let's do it, or to say we can't do it because

1 something, and that will then bounce it up to the Council
2 and they can figure out what they want to do.

3 CHAIR HUDES: Thank you. I believe the Town
4 Attorney would like to speak.

5 LYNNE LAMPROS: Commissioner O'Donnell, you
6 brought up some good questions and I wanted to try to
7 address them a little bit better. As you know, Town Council
8 doesn't sit in every meeting between an applicant and the
9 Planning Department, and Town Council is not an applicant's
10 attorney, it's the Town's attorney.

11
12 So, notwithstanding the characterization that
13 came across tonight, I look to the evidence that's
14 contained in Exhibit 6, which is the May 31, 2019 letter
15 from STEM. In the last paragraph of the first page, the
16 very last sentence, they note, "We have *agreed* to conform
17 to the proposed offsite improvements for Safe Routes to
18 School." It goes on to say they believe the cost will be
19 higher than the Town's proposal, "However, if the Town of
20 Los Gatos approves our project we will complete the work
21 identified for the offsite improvements pertaining to Safe
22 Routes. This is a major commitment and cost for a project
23 this small," however they are doing it basically for the
24 good of the community, safety of the children and families,
25 and are willing to support the effort. So, there's a

1 voluntariness in this document that maybe didn't come
2 across in the presentation.

3 COMMISSIONER O'DONNELL: I heard a quid pro quo.
4 If you approve our project, we will pay you this. I mean,
5 that could be called something else, but it isn't we'll do
6 this for the community good, it is if you approve our
7 project we will do it, if you don't approve our project we
8 won't do it. Now, let me tell you, if it's mandatory, under
9 what circumstances is it mandatory? I think we're hearing
10 that it's kind of mandatory if you have a project. If you
11 don't have a project, then it's not mandatory because
12 you're not doing anything. So that's a classic, but usually
13 that arises out of an ordinance where something is imposed.
14 We don't have that, at least from what you've said. I don't
15 disagree with what you've read and there it is, but it says
16 if you approve this project we will do that, and that's a
17 quid pro quo, and that's fine; that's the way I would read
18 it too. (Inaudible) we get back to the question.

20 CHAIR HUDES: Commissioner Badame.

21 COMMISSIONER BADAME: I'll make a comment. I
22 can't design this for the Applicant, and there appears to
23 be some major siting issues and some financial parameters
24 that what I'm hearing from the Applicant is they might not
25 agree to what we might ask of them because it wouldn't

1 pencil out. So, for us trying to do a continuance and say
2 do this, X, Y, and Z, which there might be a lot of X, Y,
3 and Zs, the whole alphabet, that we might be better off
4 denying it, but I'll look to my Commissioners for their
5 comments.

6 CHAIR HUDES: Commissioner O'Donnell. Maybe one
7 second.

8 SALLY ZARNOWITZ: Yes, I'd just like to remind
9 the Commission that this is a recommendation to Council, so
10 Council has the designation on this and the Planning
11 Commission would make a recommendation. Thank you.

12 CHAIR HUDES: Thanks.

13 COMMISSIONER O'DONNELL: All I was going to say
14 was it's conceivable to me to approve the project were it
15 changed, right? I think that's sort of a simple statement,
16 because obviously if something is changed it depends how
17 it's changed, and if we could focus on what we would want
18 changed then we could determine whether that's something
19 likely to occur or not to occur or whether it's reasonable
20 or not.

21
22 The project itself, under the zoning and
23 everything else, they have a certain right to develop that
24 property and they have a certain density that they can
25 have. I believe they're coming within both of those things.

1 On the other hand, we have a right to ameliorate
2 problems that would otherwise arise; that we're going to
3 do. But if we believe that they're not putting in any more
4 square footage that they would be allowed to put in, all
5 those things, then we probably have to.. Well, somebody will
6 have to approve it. We have an opportunity now to condition
7 it to make it better than it would otherwise be, or as you
8 say, we can just say we recommend to the Council they deny
9 it, but if I were the Council I'd say thank you very much
10 and then I would deal with the problem. I wonder if we're
11 avoiding the problem by saying oh goody, we can deny it and
12 let the Council worry about it. It's a really tough
13 problem. These people, I believe, have rights, but so does
14 everybody else in town have rights, and our job I think is
15 to see if we can balance those rights, and I kind of feel
16 at the moment we're not doing that.

18 CHAIR HUDES: Commissioner Burch.

19 COMMISSIONER BURCH: That is part of why I was
20 asking through different scenarios of what they researched
21 to understand perhaps what we could ask for or where we
22 could look at going. If you were going to ask me
23 specifically if I were going to recommend denial it would
24 be because of the setback issue very specifically, and the
25 views, but I think those two maybe go a bit hand in hand

1 also, but I'm not sure. I don't think I can recommend how
2 they fix it because I'm hearing also the conundrum they're
3 in of it's a confined spot, we're on a corner, we've got
4 parking spaces to square footage, so I don't know, having
5 asked through some different scenario questions and
6 understanding they had looked at them, and I don't know
7 what else to recommend beyond that unless you've got a
8 better way to word it.

9
10 CHAIR HUDES: Commissioner O'Donnell.

11 COMMISSIONER O'DONNELL: One thought I guess I
12 have is if the Safe Routes didn't exist, and I realize it
13 does, a lot of good work and it's a good thing, but let's
14 just assume for the moment it didn't exist and they came in
15 and said this is the project we want. I think we'd say we
16 want a 15' setback and if you do the 15' setback that's
17 moving towards approval, right? But, we're very concerned
18 about visual. And then we could talk about how it would
19 like to limit the visual. At the moment we're not getting
20 past anything, and I think because we're in a conundrum
21 because we don't know what to do with the Safe Routes. The
22 Safe Routes will only be accepted by these people if the
23 project is approved. That's going to cost them \$900,000 and
24 it will move the goalposts on the setback.
25

1 We're almost in an impossible situation. If we
2 were to say we'd approve the project but for this problem
3 with the setback, which is caused by what they've agreed to
4 do, I mean, it gets very, very confusing. So maybe if we're
5 unable to decide tonight, and it sure sounds like that,
6 maybe what we ought to say is—and I'll defer to Counsel—you
7 have to deny, or do you say we cannot reach a decision for
8 the reasons we've stated, we just can't reach a decision.
9 Some of those decisions are solely within the Council's
10 purview. For example, is this a requirement? Isn't this a
11 requirement? Why is it a requirement? I'm in no position to
12 second guess them on that.
13

14 CHAIR HUDES: I would just maybe add a comment to
15 that, that the elimination of a lane on the boulevard as a
16 result of this project is something that may be an
17 unintended consequence of the Safe Routes to School that
18 maybe hasn't been fully thought through, but I would be
19 very uncomfortable as a member of the Planning Commission
20 with saying that we need to start doing this to implement
21 this throughout the Town as well, and the reason for the
22 10', from what I can see, is to allow a reasonable setback
23 to the building by moving that curb forward.
24

25 The issue that I have with that is that it's
going to impact people way beyond the neighbors who have

1 been notified about this project, and I don't know whether
2 there has been notification of everyone in Town who is
3 going to be affected by the elimination of a lane there,
4 and I haven't heard compelling evidence that says that that
5 will improve traffic. I've heard some statement that it
6 won't make it worse, but I'm not sure that that meets with
7 my own personal experience, which is very frequent on that
8 boulevard and on that corner.

9
10 So, I would be very uncomfortable with approving
11 a project, and I don't know that there's a way to do that,
12 but the one thing that does strike me is that one of the
13 constraints on this is that the developer seems to be
14 unwilling to do anything with that building in the back as
15 part of the development, and perhaps there are
16 configurations of a two-story, one-story building on that
17 lot that might incorporate that space, because that stands
18 alone and it has space around it. If that were part of a
19 bigger building perhaps the parking wouldn't be as
20 challenging, because there is some sort of dead space there
21 that isn't being used for parking or anything else.

22
23 So, I'm not convinced that all of the scenarios
24 have been explored and that we have one before us that's an
25 alternative that we could even discuss. Commissioner
O'Donnell.

1 COMMISSIONER O'DONNELL: Well, that would argue
2 for sending it back, and I would not be in favor of sending
3 it back. I empathize that if I were sitting out there I
4 would have no clue what I'm being asked to do, and on the
5 other hand, sitting where I'm sitting we have serious
6 problems that we cannot solve, so I guess the question I
7 have, there are four of us I guess if I counted correctly,
8 so we need three votes that either says send it up and tell
9 the Council we cannot make a decision for the reasons
10 stated, turn it down, or send it back, which is somewhat
11 suggested by what you're saying. I don't favor sending it
12 back to them, because I don't think they've got enough
13 guidance to do anything, so I personally would like to see
14 us get a motion now, because I don't think we're getting
15 anywhere. I personally think the things we've said have
16 been very good and helpful, but I think we're now at a
17 point where we ought to either send it on or redo it, and I
18 am not in favor of asking them to redo anything.

19
20 So, is anybody inclined to make a motion? I mean,
21 I will if...

22 COMMISSIONER BURCH: I will.

23 COMMISSIONER O'DONNELL: Okay.

24 COMMISSIONER BURCH: Well, I think Matthew
25 (inaudible).

1 CHAIR HUDES: No, I would just say that I am not
2 inclined to send it back because although I think the issue
3 about the views and the boulevard are the big issues, I
4 don't know as any suggestions that I could make to the
5 Applicant would then result in something better.

6 COMMISSIONER O'DONNELL: Going to make a motion?

7 COMMISSIONER BURCH: Yeah. I'm going to make a
8 motion, but I'm going to ask my fellow commissioners to
9 weigh in with some of these, because I have not been able
10 to capture...there are some very good points.

11
12 First off, I'm going to say we're definitely not
13 going to ask you to come back, because I agree, I don't
14 know what we'd ask you to come back with and I think that
15 there are circumstances outside of your control that are
16 driving some of the decisions that you're making, so for
17 the sake of moving us on and potentially getting some
18 answers from Council, I'm going to recommend denial of
19 Planned Development Application PD-17-002 and Negative
20 Declaration ND-19-002 located at 16212 Los Gatos Boulevard.

21 I'm recommending denial based on concerns for the
22 setbacks, based on concerns for the hillside views, based
23 on concerns that seem to stem around whether there is a
24 requirement for the modifications that are being made based
25 on Safe Routes to School, and then attached to those

1 requirements serious concerns about how that's going to
2 impact traffic on Los Gatos Boulevard by losing a lane.
3 Have I mostly captured what we've said here? Anybody have
4 anything else?

5 CHAIR HUDES: Commissioner O'Donnell.

6 COMMISSIONER O'DONNELL: I suppose we should
7 first find out if there's a second, it just occurred to me.

8 COMMISSIONER BURCH: Oh, sorry.

9 COMMISSIONER O'DONNELL: Is there a second? I'm
10 not going to second.

11 CHAIR HUDES: Commissioner Badame.

12 COMMISSIONER BADAME: Second.

13 COMMISSIONER O'DONNELL: My feeling was that I
14 could support a motion to send it up to Council without a
15 decision being made, because I personally cannot make a
16 decision. I think the Safe Routes to School is a very big
17 issue here and we have no control over that. I don't even
18 really understand it as applied here.

19 On the other hand, I don't see anything
20 intrinsically wrong with the proposal to develop the
21 property; there's nothing wrong with developing their
22 property. They're troubled by the fact that they have to
23 spend all this money and whatever. A simple thing would be
24 to say build whatever you're going to build, have a 15'
25

1 setback, work it out. I mean, if you did that, you could do
2 that, but we can't ignore the Safe Routes to School.

3 So, we can't say 50' setback, forget the Safe
4 Routes to School, and come back. That doesn't fly.
5 Therefore, I don't have enough information... I would not
6 want to say to their project I want to deny your project, I
7 want to say to the project I don't know how I can either
8 intelligently deny it or approve it until we figure out
9 what we're doing. Is the die cast with the Safe Routes to
10 School so that we know there it is, you can't do anything
11 about it, now we can decide do you want an additional
12 setback in addition? It's a crazy setback, because
13 depending on where you run the setback from, the property
14 line or wherever it is, it gets very confusing. So, I
15 personally would sure like some guidance from the Council
16 as to what they want us to do with the Safe Routes to
17 School, and as the Chair says, this probably won't be the
18 last time we run into this problem.

20 I know a lot of work went into this, and a lot of
21 good work went into it, but until you apply it in a factual
22 situation like ours, you probably weren't able to deal with
23 that problem.

24 CHAIR HUDES: Maybe just ask a question of Staff
25 quickly. Is one of the options that's available the one

1 described by Commissioner O'Donnell, that is to send it
2 forward with being unable to reach a recommendation?

3 LYNNE LAMPROS: I think that the effect of saying
4 we're sending it forward with neither a yea or a nay is
5 tantamount to a nay, and I think that the clean option is
6 to simply recommend denial, the Council will review the
7 minutes and will understand your concerns and reasons
8 behind it, that it's not necessarily an outright no, it's
9 more we cannot proceed.

10 COMMISSIONER O'DONNELL: Would it be possible to
11 simply say, "I make a motion we deny the project," period,
12 without stating a...and to say the reasons stated in the
13 record? The problem I have with the motion before us is it
14 states a very limited concept that I don't totally agree
15 with because of my inability to deal with the Safe Routes
16 to School, because no matter what people do after your
17 motion, they can't rectify and satisfy, whereas if we get
18 the Council to say you must observe that, or we see what
19 the problem is, then something might be able to be done. In
20 any event, I could support a motion that says, "We move to
21 deny this matter on the basis stated in the record,"
22 period, and let them look at it.

23 LYNNE LAMPROS: I understand what you're saying,
24 and again, the language would be that you recommend a
25

1 denial of the application, and you could say, "for the
2 matters stated in the hearing". I think what you're
3 articulating is that to attach any explanation almost
4 limits the universe of the reason to that explanation; it
5 might have missed something.

6 COMMISSIONER O'DONNELL: Right.

7 LYNNE LAMPROS: And I don't think you need it.
8 It's not like you're attaching Conditions of Approval, but
9 I'll defer to Staff on that also, if they have anything
10 else to say.

11 CHAIR HUDES: Commissioner Badame.

12 COMMISSIONER BADAME: I have a question. So,
13 would an alternative be, if that doesn't get approved by
14 the Maker of the Motion to amend it, is just looking at
15 Exhibit 3 we have to make a certain number of findings
16 here, and just say we cannot make the findings for Exhibit
17 3, which is CEQA, consistency with the Town's General Plan,
18 required compliance with Commercial Design Guidelines,
19 compliance with the Los Gatos Boulevard Plan? I would also
20 add in that you cannot make the finding for a Planned
21 Development Overlay Zone, which wasn't included. That's
22 just a thought and a question.

23 JOEL PAULSON: So, through the Chair, yes,
24 obviously that is an option. Typically, we want to have,
25

1 and the Council will get verbatim minutes of the meeting
2 tonight, whether it's in the motion or whether you just
3 state because you can't make any of the findings without
4 any supporting facts.

5 Those are definitely options. Obviously it's
6 typically helpful to have some of those facts. I think
7 Commissioner Burch has laid out a number of items that she
8 has concerns. Commissioner O'Donnell doesn't feel that's
9 encompassing enough for what his thoughts are, and so yes,
10 there are many iterations of that, but the number three
11 that you just mentioned is also an option.

12 COMMISSIONER BURCH: Well, I guess I feel like
13 what I said did include that there is a domino effect based
14 on the Safe Routes. I just highlighted a couple of them
15 that have been brought up specifically in this meeting that
16 dealt with the setback and the height, so I feel like if I
17 was Council I would get that there may be a catalyst to the
18 other points, and that catalyst being is the Safe Routes
19 required or not? If they don't do it, what would the impact
20 to the project be? I think I'm going to leave it that way
21 because I have heard repeatedly from people two things as I
22 was writing it down, and those seem to be the major
23 components that got driven by this decision, maybe—and
24 again, we don't really know how much that impacted the
25

1 project, we're assuming it's a massive change, we don't
2 know—so that those two points are heard by the Council as
3 some of the main concerns of what happened with this. I
4 think I would leave it because I actually feel like I've
5 covered that.

6 SALLY ZARNOWITZ: So, a question would be would
7 the motion be including these things? Versus on the basis
8 only of these, is the motion including these?

9 COMMISSIONER BURCH: Including the comments that
10 we are unable to make a determination based on how the Safe
11 Routes...
12

13 SALLY ZARNOWITZ: Sorry, as I heard the motion it
14 was recommend denial on the basis of concerns for setbacks,
15 hillside views, that stem on the question of Safe Routes to
16 School, so is it on that basis or is it including?

17 COMMISSIONER BURCH: Yeah, including.

18 SALLY ZARNOWITZ: Okay.

19 COMMISSIONER BURCH: Yeah, I don't want it to be
20 limited to that basis. I understand.

21 SALLY ZARNOWITZ: Thank you.

22 LYNNE LAMPROS: Including but not limited to, as
23 we attorneys like to say.

24 CHAIR HUDES: And I want to be careful here that
25 we're not involved in a punt to Council situation that

1 actually came up, I think, two years ago where there
2 actually I thought were guidelines and standards that could
3 have been followed, but we decided it was best just to go
4 directly to Council. This one is different, and it's
5 different because of the Safe Routes to School, and the
6 implication of closing a lane of Los Gatos Boulevard for a
7 single development without thinking through the rest of
8 that concerns me that an issue that really needs to be
9 looked at is the interaction of Safe Routes to School and
10 the curb situation and the lane size of Los Gatos Boulevard
11 that I think is beyond the purview of the Planning
12 Commission. I'm differentiating in that situation, so I
13 would be in support of a motion that includes but not
14 limited to.

16 And the other reason I would state that is if
17 there were things that were mentioned as well, such as the
18 Applicant treating the rear building as a given and a
19 constraint where maybe they could have ameliorated some of
20 the other issues with the views and the setbacks if they
21 had reconfigured the property as well. So, there were a
22 number of other things in the record that I think can be
23 brought in if it's an include type of a thing.

24 We need the seconder, I think, to accept that
25 language.

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COMMISSIONER BADAME: Yes, I accept the language.

CHAIR HUDES: Okay. Further discussion? Okay,
I'll call the question. All in favor. Opposed? So, it
passes 4-0. Are there appeal rights regarding this item?

SALLY ZARNOWITZ: Thank you. No, there are not as
this is a recommendation to Council.

CHAIR HUDES: Okay, thank you very much.