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

Los Gatos Planning Commissioners:	Emily Thomas, Chair Kendra Burch, Vice Chair Jeffrey Barnett Susan Burnett Rob Stump
Town Manager:	Chris Constantin
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
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P R O C E E D I N G S:

CHAIR THOMAS: We will now move on the public hearings, starting with Item 2 on our agenda, which is to consider a request for approval to construct a new single-family residence and site improvements requiring a Grading Permit on vacant property zoned HR-1, located at 16497 South Kennedy Road, APN 532-17-038, Architecture and Site Application S-24-037. Categorically exempt pursuant to CEQA Guidelines Section 15303 (New Construction). Property owner is Robert Nicol, Applicant is Chris Spaulding, and Project Planner is Ms. Shoopman.

Before the Staff Report, may I have a show of hands from Commissioners who have visited the property? I know we have one recusal.

COMMISSIONER RASPE: Thank you, Chair. Based on the proximity of this property to my home, I need to recuse myself from this discussion.

CHAIR THOMAS: Thank you. We will let you know when we are done. Are there any disclosures? Yes, Commissioner Stump.

COMMISSIONER STUMP: I did speak with the neighbor at 16565 Vivian Drive while I was onsite.

1 CHAIR THOMAS: Ms. Whelan, is there anything we
2 need to follow-up with?

3 ATTORNEY WHELAN: No, thank you.

4 CHAIR THOMAS: Okay, thank you. Commissioner
5 Burnett.

6 COMMISSIONER BURNETT: Yes, I did speak as well
7 to Ken Miller at the site.

8 CHAIR THOMAS: Thank you. Ms. Shoopman, will you
9 be providing the Staff Report tonight?

10 JOCELYN SHOOPMAN: Yes, thank you. Good evening.
11 Before you this evening is a proposal to construct a new
12 two-story residence with site improvements requiring a
13 Grading Permit on a vacant lot located at 16497 South
14 Kennedy Road.

15 The Applicant proposes to construct a 4,194
16 square foot, two-story residence with an attached garage.
17 The residence includes 865 square feet of below-grade
18 square footage that is not counted towards the FAR. The
19 proposed residence would be the sixth largest in terms of
20 floor area when compared to the immediate neighborhood, and
21 the 14th largest in terms of FAR.

22 Due to the constraints of the site, the Applicant
23 is requesting the following exceptions from the Hillside
24 Development Standards and Guidelines: grading depths in
25

1 excess of 4' of cut and 3' of fill; retaining wall heights
2 in excess of 5', and in excess of 50' without a break; and
3 siting of the building outside of the Least Restrictive
4 Development Area.

5 Discussion of each of these exceptions is
6 provided in your Staff Report, but the Applicant states
7 that due to the existing slope and limited areas of LRDA,
8 there is no way for the proposal to comply with the
9 referenced grading and retaining wall standards while also
10 meeting the Santa Clara County Fire Department
11 requirements.
12

13 The consulting architect reviewed the project and
14 provided two recommendations, which the Applicant
15 implemented.

16 Should the Planning Commission find merit in
17 their request, Staff recommends that the Planning
18 Commission approve the Architecture and Site Application
19 subject to the recommended conditions included in Exhibit
20 3.
21

22 There was a Desk Item that was distributed
23 earlier today with additional public comments.

24 This concludes Staff's presentation and we are
25 available for any questions.

CHAIR THOMAS: Vice Chair Burch.

1 VICE CHAIR BURCH: Ms. Shoopman, could you expand
2 a little bit on the requirements for Fire, the turnaround
3 and everything, and how that is actually impacting the
4 retaining walls, so there is a little more context?

5 JOCELYN SHOOPMAN: Under Santa Clara County there
6 are specific slope requirements for the driveway, so the
7 driveway slope cannot exceed five percent. Those
8 requirements, in addition to the turnaround requirements
9 themselves, are what is requiring the exceptions to
10 retaining wall heights and to grading depths.

11 CHAIR THOMAS: Commissioner Stump.

12 COMMISSIONER STUMP: Can I ask for confirmation
13 of the height of the structure?
14

15 JOCELYN SHOOPMAN: The maximum is 20' that is
16 proposed. Under the Hillside Guidelines there is also a
17 high to low maximum. The maximum is 30', where I believe
18 the Applicant is proposing 34', so they comply with the
19 Town's requirements for height.

20 COMMISSIONER STUMP: Chair, I've got two more
21 questions, if that's okay.

22 Speaking of the Least Restrictive Development
23 Area, this piece of property resulting from an SB 9 split
24 is obviously very challenging, with very little in the way
25 of Least Restrictive Development Areas. In this case, this

1 project is going to be 100% outside of the Least
2 Restrictive Development Area. Can I assume that this is a
3 fairly unique type of situation in our hillside? Only
4 having been here for a couple months, 100% outside the
5 Least Restrictive Development Area seems to be the extreme.

6 JOCELYN SHOOPMAN: I can't speak to all
7 applications that the Town has processed, but we certainly
8 have processed LRDA exceptions for hillside homes
9 previously. I can't speak to the 100% extent of the home,
10 but there have been applications where those exceptions
11 have been requested.
12

13 COMMISSIONER STUMP: The follow-up question here
14 is does an SB 9 lot split provide benefits or protections
15 for properties that have serious development challenges
16 like this? In other words, obviously the right to develop.

17 ATTORNEY WHELAN: I would say SB 9 doesn't
18 address that specifically, but I would say in general
19 takings laws does, and so if the Town has approved a lot,
20 the Town doesn't have the ability to deny any development
21 whatsoever on the lot. The Town doesn't have to approve any
22 proposal, but something should be built in order to avoid a
23 takings claim.
24

25 COMMISSIONER STUMP: Then one final question, if
I might, Chair. There's a 90-year-old rock retaining wall

1 that comes within 20' above the back of the building site
2 and provides roadway support for Vivian Drive. Obviously,
3 significant grading is being called for in this project.
4 Could you briefly describe what mitigations or protections
5 were built into the recommended Conditions of Approval as
6 it relates to this wall? I realize the wall is not on the
7 Applicant's property, but just beyond it.

8 JOCELYN SHOOPMAN: Thank you for that question.
9 There are quite a few engineering Conditions of Approval
10 that are going to look at the retaining wall and some
11 additional site.
12

13 Engineering Conditions of Approval #59 and #60
14 require the Applicant to provide a geological report prior
15 to building issuance, which will do a comprehensive
16 landslide investigation.

17 In addition, Engineering Condition of Approval
18 #66 requires that the Applicant conduct a walk-through with
19 a PPW inspector before the start of construction to verify
20 all existing conditions, and that the Applicant shall
21 repair or replace existing improvements that are damaged
22 during the construction.

23 COMMISSIONER STUMP: Thank you for that.

24 CHAIR THOMAS: Vice Chair Burch.
25

1 VICE CHAIR BURCH: As a follow-up to that, if we
2 wanted to add language in #66 that we would want to include
3 the roadway in that public, because usually it's streets
4 that are damaged by the trucks, can we just add that type
5 of language if that feels appropriate?

6 JOCELYN SHOOPMAN: Should the Planning Commission
7 wish so, they could.

8 CHAIR THOMAS: Commissioner Burnett.

9 COMMISSIONER BURNETT: I don't know if this would
10 be the appropriate time, but that rock roadway is Los Gatos
11 river rock, and if the owner of that property—because there
12 is a large easement—would want to put that in the Historic
13 Inventory as part of Los Gatos' inventory. Many of our Los
14 Gatos rock walls are in our inventory, and that would be a
15 request that could be made to the owner of the property.

16 DIRECTOR PAULSON: I think that was a question.
17 This property owner is not responsible for the neighboring
18 property. Staff can definitely reach out to the neighboring
19 property and let them know that there is a process if they
20 want to go through that, but that can't be a provision of
21 this decision.
22

23 COMMISSIONER BURNETT: Oh, I thought the owner of
24 this property owns that whole property there.
25

1 VICE CHAIR BURCH: No, the retaining wall is not
2 on this property.

3 COMMISSIONER BURNETT: Okay, thank you.

4 CHAIR THOMAS: Commissioner Barnett.

5 COMMISSIONER BARNETT: That was going to be my
6 question. There's a dispute between the Applicant and an
7 objecting neighbor about the ownership of that. How is the
8 Town confident that it's not on his property?

9
10 JOCELYN SHOOPMAN: The Applicant provided a
11 survey, that I believe was included in Exhibit 12, of this
12 item, and that survey showed that the rock retaining wall
13 is on an adjacent property.

14 COMMISSIONER BARNETT: Thank you for that.

15 CHAIR THOMAS: We're good with Staff questions?
16 Perfect. We will now open the public portion of the public
17 hearing on Item 2 and give the Applicant an opportunity to
18 address the Commission for up to five minutes, so whoever
19 will be speaking on behalf of the Applicant, can you please
20 come up to the podium and state your name for the record?
21 Thank you. You'll have five minutes.

22 ROBERT NICOL: My name is Robert Nicol; I'm the
23 owner of 16497 and I have filed the application to build a
24 home at 16497 South Kennedy Road. I believe my architect,
25 Chris Spaulding, is also on Zoom here as well.

1 I've never been to one of these, so I'm not quite
2 sure of the structure. Are you going to ask me questions
3 and I answer them, or how does this work?

4 CHAIR THOMAS: Basically, you have five minutes
5 to address the Commission; then we have time to ask you
6 questions; then we take public comment; you have another
7 three minutes; then we will be able to ask you more
8 questions; and then we close the public portion and we
9 discuss and make a decision.

10 ROBERT NICOL: Okay, no problem.

11 DIRECTOR PAULSON: And Mr. Spaulding is online
12 and able to speak, so if you'd like him to use some of that
13 time, then just let him know.

14 ROBERT NICOL: Working with Chris Spaulding, my
15 architect, we have proposed to build a residence here in
16 the hillside, and we have been met with several challenges.

17 Number one was Fire and the 75' turnaround that
18 is requiring these retaining walls without that 50' break,
19 and increasing the cut and the fill. We have designed it to
20 have a private fire hydrant to be installed. Also, to put
21 in that 75' turnaround for the firetruck to meet Santa
22 Clara's requirements, we also will improve Vivian Drive by
23 increasing the traction on the road on the uphill incline
24
25

1 for if there were ever any issues with Fire to get a
2 firetruck up the road.

3 There has also been proposed to increase the
4 entrance of the driveway from South Kennedy Road to Vivian
5 Drive, and also, we have met and designed the proposed home
6 to be within the heights as well as the LRV, which the
7 color of the home will be, the height.

8 We're also asking for not the maximum, which is
9 6,000 square feet, which is allowed in the hillside, and we
10 have worked around..
11

12 And I also have reached out to all of the
13 neighbors from whom I have had lots of feedback over the
14 last week or two or so over letters and such, which I'm
15 sure you've seen. I went to all of their doors, went and
16 tried to discuss with them the proposed project. Basically,
17 the plan that we're looking at, as well as certain
18 compromises to add additional plantings or trees, or to
19 address and understand their concerns with the stonewall.

20 Now, the stonewall, after looking at the survey,
21 is not on my property, but I definitely understand their
22 concerns, so we've discussed the stonewall, we've discussed
23 privacy, we're discussed the building footprint, and
24 obviously this is my day to come before the Planning
25 Commission and discuss all of this with you all, and

1 obviously the neighbors that are here as well, and I think
2 that's pretty much all I got.

3 CHAIR THOMAS: Thank you. Are there any questions
4 for the Applicant at this time? Commissioner Stump.

5 COMMISSIONER STUMP: Thank you, by the way. The
6 Town's Consulting Architect made two recommendations. It
7 appears the first recommendation related to roof overhang
8 and has been incorporated. The second recommendation
9 related to the two-story flat, downhill façade issue that
10 has been addressed by cantilevering the middle floor out
11 18" between the balconies to break up the two-story
12 section. Do you believe that this meets the spirit of the
13 recommended change?
14

15 ROBERT NICOL: Yes, I do, and Chris, can you
16 speak to that?

17 CHRIS SPAULDING: Yes. The two-story portion is
18 just a very small width of the bulk of this house, about
19 25' wide, so I think the overhang gives a nice shadow line
20 and breaks up that wall adequately.

21 COMMISSIONER STUMP: Thank you.

22 CHAIR THOMAS: Commissioner Barnett.

23 COMMISSIONER BARNETT: Yes, sir, thank you for
24 coming in and for submitting the materials that you did.
25 One of the comments from one of your neighbors, Mr. Bakshi,

1 suggested changes in the landscape plan to provide better
2 privacy. I was wondering if you read that and have any
3 comment about it?

4 ROBERT NICOL: Would Mr. Bakshi be the downhill
5 neighbor? Yes, so I believe on our landscape plan we have
6 Toyon trees being planted down at that basement level to
7 increase the amount of privacy, and that's what was
8 submitted on our landscape plan to take into note their
9 concerns of the privacy.

10 COMMISSIONER BARNETT: If I may, he was
11 specifically asking for fast-growing trees, like Italian
12 Cypress, Podocarpus, or similar species.

13 ROBERT NICOL: I'm willing to take all of that
14 into account. It's just when we did the landscape plan,
15 that's what was currently on there. But, yes, I'm
16 definitely willing to work with my neighbors to address
17 their concerns.

18 CHAIR THOMAS: Are there any other questions for
19 the Applicant at this time? I do have one question, and
20 that is that I understand this property is difficult to
21 work with because of an average of 45-degree slope, but
22 could you or your architect explain a little bit of how you
23 decided to put the footprint of the house where you did?
24
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1 CHRIS SPAULDING: I'll take that. If you look at
2 our Sheet A-3 of the packet, which is the LRDA drawing, you
3 can see that the entire parcel is too steep to be in the
4 LRDA, or forested, or has easements across it. There are
5 three tiny, little sections of the LRDA that are less than
6 30% slope, isn't in the dripline of a big tree, and is not
7 in an easement. The total square footage of each of those
8 little segments is only a couple of hundred square feet.
9 So, there is really no possible way to put a building on
10 this site and have it in the area that's less than 30%
11 slope.
12

13 The next problem for siting is the requirement by
14 the Fire Department to have a fire apparatus turnaround
15 within 150' of the house. We looked at the bottom of the
16 property down where Kennedy Road meets South Kennedy.
17 There's currently a driveway that goes up from that corner.
18 It's a very steep driveway and it has a hairpin turn
19 immediately, which is nowhere near the Fire Department
20 requirements of a 50' inside turning radius.
21

22 We looked at redoing that driveway, which is in
23 the easement of the neighbor that owns that easement, so
24 that would be one problem with redoing that driveway, but
25 also to put in a turn that meets the requirements, and then
also a fire apparatus turnaround, our retaining walls would

1 have been even larger than the site we ultimately ended up
2 with, and those retaining walls would be visible from
3 Kennedy Road and South Kennedy, whereas where we are sited
4 now, those retaining walls are all hidden pretty much from
5 anywhere; they would really only be visible from this site
6 and a little bit from the downhill neighbor.

7 Ultimately, there's really only one possible
8 location for the house, and that's exactly where it's
9 sited.

10 CHAIR THOMAS: Okay, thank you. Commissioner
11 Burnett.

12 COMMISSIONER BURNETT: Yes, and thank you for
13 coming. Privacy is a big issue for, especially, the
14 neighbors below your new home there. I know there have been
15 requests for reduction in height, preservation of the trees
16 for privacy, and enhancing new landscaping. Are there any
17 window changes, or have you addressed... This is a great
18 concern.

19 ROBERT NICOL: I provided a presentation to show
20 five different levels. One is from the basement level, one
21 is from the first floor, one is from the second floor, the
22 fourth one would be from the roof level, and the fifth one
23 would be from the street level above the home, and you'll
24 be able to see, at least from my standpoint, the trees from
25

1 my property as well as the downhill neighbor blocking all
2 the view from every single one of those five, so I'll be
3 able to provide that presentation after.

4 COMMISSIONER BURNETT: Thank you for that.

5 CHRIS SPAULDING: Can I add something to that,
6 please? This is Chris Spaulding, the architect. On the
7 downhill side of this property, on the adjacent neighbor's
8 property, there are mature oak trees, and they have been
9 trimmed up from the ground, so actually the most visible
10 portion of the new house from the downhill neighbor will
11 actually be the basement level, because that's down below
12 the canopy of the mature oak trees.
13

14 When you get up to the second and third levels
15 where most of our windows are, mostly on the second level,
16 those windows are pretty well blocked by the existing
17 canopy.

18 Most of new privacy planting is intended to fill
19 in that gap at the bottom of the existing mature oak trees
20 to block the view from the basement level down into the
21 neighbor's property, and I think Robert will have some
22 pictures of that later in his rebuttal. Thank you.
23

24 COMMISSIONER BURNETT: Thank you for that.

25 CHAIR THOMAS: Okay, thank you. Now I invite
comments from members of the public. If you have not

1 already turned in a speaker card to Staff, please do so at
2 this time, or use the Raised Hand feature on Zoom if you
3 wish to speak on Item #2. When you are called to speak,
4 please state your name and address for the record, and you
5 will have three minutes to make your comments. We will
6 start with speakers in person, and the only card I have is
7 actually for the Applicant. Is there anyone on Zoom?

8 DIRECTOR PAULSON: There is. The first speaker
9 will be Apoorva Bakshi. Apoorva, you can unmute yourself
10 and speak.

11 APOORVA BAKSHI: I'll let the people on the floor
12 go first. I'll go after them.

13 CHAIR THOMAS: Okay, thank you. The first speaker
14 I have is Rohit. Please come up, state your name, and you
15 will have three minutes.

16 ROHIT BAKSHI: Good evening, everyone. My name is
17 Rohit Bakshi; I am the neighbor on 16515 South Kennedy,
18 which is south of this property.

19 Again, my view is mostly like me standing on my
20 property and assessing the plans that were shown to me. I
21 don't have a drawing to imagine what things look like, so
22 the best that I can garner from this is this project has
23 significant privacy intrusions, which would have an
24
25

1 extremely negative impact on our daily lives and our
2 privacy. Here are a few of my points.

3 Elevated position and direct sight. The proposed
4 home is substantially uphill already, and this is a three-
5 story plan from where we stand. I know it's a basement, but
6 for practical purposes, it's a three-story for us.

7 It has many unobstructed views into our back
8 yard, our swimming pool, our master bedroom, and our
9 daughter's bedroom, so I cannot state enough how it
10 violates our privacy.

11 The second and third story windows and balconies.
12 The architectural plan indicates direct-facing second- and
13 third-story windows, as well as multiple balconies which
14 are facing downward, which again, compromise our privacy.

15 From what I could see in the landscaping plan, it
16 fails to provide effective privacy. The majority of the
17 trees are slow-growing or they are deciduous, which means
18 that we will not have immediate or year-round privacy on
19 our property. Shrubs are smaller plants, insufficient to
20 block elevated second- and third-story views.

21 The current design lacks a continuous dense tree
22 buffer, so there are a lot of areas where at least I can
23 see a lot of gaps between the property and our back yard.
24
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1 And again, no mature plantings were specified at
2 least in the plan, so again, I cannot wait for decades
3 before the screen grows fully and I start getting my
4 privacy. Again, I would recommend that they consider the
5 height of this plan, how the balconies are designed, how
6 the windows are designed, and can we increase the height of
7 these windows? Can we have frosted glass for these windows?
8 And definitely have a very enhanced landscape screening
9 plan, which I mentioned in my written record as well, which
10 has (inaudible) into the report.

12 CHAIR THOMAS: Okay, thank you. Are there any
13 questions? Commissioner Stump.

14 COMMISSIONER STUMP: Could I just ask for a
15 summary, because in the correspondence you sent to us you
16 identified three things you'd like to see done as a part of
17 project approval. Reduction in the proposed structure
18 height, preservation of all mature privacy trees, and
19 addition of new privacy enhancing landscaping one, two,
20 three.

21 I hear you also referring to obscured glass and
22 these sorts of things as well, so could you just kind of
23 add on to your list of the one, two, three here?

24 ROHIT BAKSHI: Yes. I would say definitely
25 reconsider the plan for the balconies. There is a pretty

1 significant portion of these balconies, or probably all of
2 (inaudible) which is facing our property. The second would
3 be considering the height of the windows, and the third
4 would considering the type of glass that is used for these
5 windows, which is frosted glass or any other type which
6 obscures the view.

7 COMMISSIONER STUMP: Thank you.

8 CHAIR THOMAS: Any other questions for the
9 speaker? Commissioner Barnett.

10 COMMISSIONER BARNETT: Thank you. From your
11 property do you have a view of the orange netting that was
12 put up post story poles?

13 ROHIT BAKSHI: Yes.

14 COMMISSIONER BARNETT: And can you describe the
15 extent of that view?

16 ROHIT BAKSHI: There are trees right now in the
17 way, but I can see most of the portions of that view; plus,
18 we have a play area, which is directly adjacent. If my
19 daughter is over there, we can see everything then. But the
20 portions of the orange netting are very clearly visible
21 from our back yard, even from our windows.

22 COMMISSIONER BARNETT: Thank you.

23 CHAIR THOMAS: Okay, thank you. The next speaker
24 card I have is for Kenneth.

1 KENNETH MILLER: I'm Ken Miller, a practicing
2 physician in Los Gatos for 50 years. I have lived next to
3 this property for 48, owning part of an old stone wall.
4 Fred, my neighbor and owner of the wall in question has
5 lived there for about 25 years. The developer does not own
6 any part of the wall in the vicinity of the project.

7
8 The property to be developed does not support the
9 development of such a large home. It is my understanding
10 that the developer now wants to put a garage under the
11 house. This leads to thousands of meters of dirt to be
12 removed, and that will threaten the old stone wall.

13 Prior assurances to not compromise the integrity
14 of the wall has already been broken when, without
15 permission, he imbedded a bolt, and that's the shiny
16 (inaudible) picture, and attached wires to the wall that he
17 does not own, and here is the relevant picture.

18 He had to do this to support the story poles. If
19 he didn't do this, he wouldn't have enough area to support
20 the story poles and we wouldn't be here. It is not possible
21 to walk around the perimeter of the project and not notice
22 the bolt that the workers placed in the wall and attached
23 wires. The developer had a duty of care to the neighbor's
24 property and should have noticed the bolt and the wires
25 attached. The developer met with the owner of the wall this

1 month and neglected to mention this insult, nor did he
2 suggest any remediation.

3 Now, Fred Ebrahimi, who is the neighbor, cannot
4 be here to represent himself, as he is traveling. To
5 protect my neighbor's interest, I've engaged a civil
6 engineer, recognizing the continued lodging of the bolt is
7 not in the wall's best interest. Studies still must be done
8 to document the (inaudible) and the best way to remedy the
9 situation.

10
11 The engineer is insisting that he work for the
12 owner of the wall. He also wants to analyze the dirt for
13 removal and what I call the gaggle of (inaudible) the civil
14 engineer needs.

15 Other issues include the developer needing to
16 recognize the up driveway is not his private road and never
17 had a lock. He needs to resurface the down concrete
18 driveway from the damage of his last project and the damage
19 that will happen with the current project by resurfacing
20 the concrete.

21 The oak trees and the (inaudible) that border his
22 property should not be damaged. The workmen are not to use
23 the up driveway in either direction. Heavy trucks are not
24 to travel on the asphalt driveway nor park on the asphalt
25

1 driveway. No cars or trucks are to travel on or turn around
2 on the pavement at 16565 Kennedy Road.

3 At the end of each work week the concrete
4 driveway is to be blown or swept of debris that could cause
5 flat tires. The developer needs to inform and work with the
6 owner of the wall holding the bolt. The owner of the wall
7 will need time to hire experts concerning the bolt, and a
8 geologist is hard to get for the bolt and LRDA problems.

9 The problem that the developer caused needs to
10 have a bonded payment, and he is forcing the neighbor to
11 expense. The bond comes first.

12 The developer's request now is for an LRDA that
13 should be denied. How much over 100% is it? Is it 500%?
14 Does he go to Town Hall?

15 CHAIR THOMAS: Are there any questions for the
16 speaker? Commissioner Burnett.

17 COMMISSIONER BURNETT: What is your solution for
18 the wall situation?

19 KENNETH MILLER: He should not be able to remove
20 such a large amount of dirt that threatens the wall or has
21 a negative impact to the neighbors above and below this
22 project. Also, it becomes easier to reduce the height of
23 the house by not placing (inaudible) under the house.
24
25

1 CHAIR THOMAS: I'm sorry, the question was what
2 specific action are you...

3 KENNETH MILLER: Oh. So, the civil engineer says
4 you have to study the issue, because I don't know how to
5 get the bolt out of the wall in terms of not harming the
6 old wall, so before you do it you have to study how much
7 pull and pressure is going this way from more than one
8 wire.

9
10 Then if you look at the picture, you'll see that
11 it's lodged, and that's the only stone that's ruptured in
12 that wall, and it's about 40", and it's about a 7-8' wall.

13 So, he's injured a wall not on his property. He's
14 used wires that don't belong attached. I don't know how
15 plainer it is, but he's just simply not allowed to do that.

16 CHAIR THOMAS: Thank you. We appreciate your
17 comments. Do you feel like your question was answered.

18 COMMISSIONER BURNETT: I believe so. Yes.

19 CHAIR THOMAS: Thank you. Commissioner Stump has
20 another question for you.

21 COMMISSIONER STUMP: Could you repeat who the
22 owner of that wall is?

23 KENNETH MILLER: Fred Ebrahimi is the owner of
24 the wall. He's presently traveling.
25

1 COMMISSIONER STUMP: So, you are representing him
2 tonight?

3 KENNETH MILLER: His sons allowed me to represent
4 him tonight. And in previous conversation with him he said,
5 "I'm not going to be there. Could you talk on my behalf?"

6 COMMISSIONER STUMP: Thank you.

7 CHAIR THOMAS: Any additional questions? Thank
8 you. The next speaker I have is Susan.

9 SUSAN MILLER: I'm Susan Miller; I've lived at
10 16565 Kennedy Road for 37 years. My husband, Ken, mentioned
11 that the Ebrahimis own the wall, but we actually own part
12 of it as well.

13
14 What I want to say is that this is a very fragile
15 piece of property. The rock walls go the distance of the
16 driveway, so it's not just this one rock wall, it's
17 several. The piece of land that Robert wants to build this
18 on is actually very narrow. It's a long, narrow, winding
19 piece of property and nowhere is there a wide space to put
20 a (inaudible). It is a habitat where we have animals. We
21 have foxes and special plants that don't grow anywhere
22 else, and mushrooms that don't grow anywhere else. I just
23 want to say how fragile this piece of property is.

24 CHAIR THOMAS: Are there any questions for the
25 current speaker? No. Okay, thank you.

1 SUSAN MILLER: I actually have pictures of what
2 I'm talking about, if you want.

3 CHAIR THOMAS: You can set one there and we can...
4 If you could put one on the table, that would be good too,
5 so it can be used for... Thank you. On the table in front for
6 the public to see. Thank you. The next speaker card I have
7 is for Lee Quintana.

8 LEE QUINTANA: Hi, good evening. My name is Lee
9 Quintana. I am not an immediate neighbor. I serve on the
10 Historic Preservation Committee, but I'm speaking as an
11 individual and from my concern for hillside development. I
12 have three points I'd like to make.

13 First, in reading all the letters from various
14 neighbors it seemed to me that the question of flippage of
15 land and the failing of retaining wall seem to be repeated
16 over and over again.

17 I'm concerned about the timing of the
18 geotechnical soils report and any hydrology report that
19 would be needed. The Condition of Approval do not include
20 them during this process of approving the Architecture and
21 Site Application, but rather as a result of being submitted
22 with the building permit application, which is way later
23 than the final designs for the building itself. So, that's
24 number one.

1 Number two, it's mentioned several times that
2 there are rock walls both on the property and off the
3 property. From a historic preservation point of view, we
4 would like to preserve as many of the rock walls as we can,
5 and there is no indication in this application that that is
6 going to occur, that the rocks would be reused to build
7 other walls.

8 Thirdly, the Residential Design Guidelines on
9 page 11 have a discussion about how to apply the 2-2-5
10 formula, and it specifically says that there are some
11 instances when that does not apply, and I've lost my page
12 number on that, but basically it includes the hillside
13 areas, because no two properties on the hillsides are
14 exactly the same, they're different sizes, they're
15 different shapes, they have different problems, and they
16 have different slopes. I would ask that you take that into
17 consideration. All those tables that are included really do
18 not help the analysis.

19 Lastly, I've forgotten, so I guess that's it,
20 unless you have a question.

21 CHAIR THOMAS: Are there any questions for Ms.
22 Quintana? Commissioner Stump.

23 COMMISSIONER STUMP: Lee, could you clarify your
24 third point again? I'm not sure that I fully understood it.

1 LEE QUINTANA: If you look at page 23 of your
2 Staff Report, which is page 5 of 9 of this particular
3 agenda item, there is a chart which lists 10-15 properties,
4 giving sizes and FARs and trying to use them as a
5 comparison. The problem here is that they are very
6 different in the sizes, you have no information about the
7 steepness of the other properties, and you have no
8 information about how much is underground and how much is
9 visible. It doesn't give you the tools that you need for
10 making decisions within the hillsides, because it is
11 inequal comparisons.
12

13 CHAIR THOMAS: Thank you. Any additional
14 questions? No. The next speaker card I have is Matthew
15 Ebrahimoon.

16 MATTHEW EBRAHIMOON: Hi, my name is Matthew
17 Ebrahimoon. I'm going to take the first 30 seconds to show
18 you a picture of what's really going on. I showed a picture
19 of this, because it's hard to understand what's going on.

20 This is an extremely down-sloping lot, and I
21 think it's important for you guys to see what we're really
22 talking about. It's a small piece of land. The person, he
23 put a big bolt inside the 90-year-old wall, which is a Los
24 Gatos river rock wall, without asking anybody. And then he
25 came to my parents' house at night when it was dark and

1 discussed this, will you let us do this, when you can't see
2 the bolt, you can't see the wires.

3 This was done maliciously; it was done behind all
4 the neighbors' backs. What are you going to do now with
5 this bolt? What are you going to do with the wiring? How
6 are you going to take it out? How are you going to make
7 sure that it hasn't jeopardized the wall and integrity of
8 the road that is connected to the wall, that's connected to
9 the said property?

10 What you have to understand is that there is a
11 piece of land that's extremely downsloped that butts up to
12 a historical wall, that's connected to a historical road,
13 that touches both Dr. Miller's property and my family's
14 property. Everything touches one after the next; everything
15 is connected.

16 I grew up there. My family has been there for 30
17 or so years. I don't know what's going to happen next.
18 Meetings, geological meetings, meetings with civil
19 engineers, what to do with this bolt? I mean, imagine
20 somebody, they do this, right? They put a bolt in... It's
21 like, that is not your wall, you cannot do that, and you
22 did, so now what? How are you going to remove it? How are
23 you going to guarantee that when you build this house that
24 that wall is not going to fall, that the road that's
25

1 connected to that wall is not going to fall down the
2 hillside. I mean, when you sell this house, how are you
3 even going to guarantee that?

4 CHAIR THOMAS: Thank you. Are there any questions
5 for the speaker? Commissioner Burnett.

6 COMMISSIONER BURNETT: So, what you're saying is
7 that you feel the hillside is not a stable hillside anymore
8 for the road above it and for the property now that they
9 are planning to build on it?

10 MATTHEW EBRAHIMOON: Look, I'm not a civil
11 engineer, I'm not...

12 COMMISSIONER BURNETT: But is that your concern,
13 that this has caused an instability with the wall causing...

14 MATTHEW EBRAHIMOON: It's my concern, and I think
15 that it would be unwise for anyone in my family's position
16 not to further seek professional opinion, meetings,
17 geological and civil reports in order to assess the damage
18 that this bolt has done, and the potential liability that
19 this developer can assume.

20 COMMISSIONER BURNETT: Thank you. I think you've
21 answered the question.

22 CHAIR THOMAS: Any other questions for the
23 speaker? I do have a question. I hear and understand the
24 concerns about the wall, however, that is out of our
25

1 purview as decisionmakers. We'll confirm that with Staff in
2 a moment. But with the bolt and everything, other than the
3 concern of making sure that any sort of development that's
4 discussed or approved moving forward is protecting the
5 integrity of the wall, are there any other specific
6 concerns that you're trying to communicate about the
7 project?

8 MATTHEW EBRAHIMOON: Yes, thank you for asking.
9 This seems like a nonconforming building being built on a
10 nonconforming piece of land for such a structure, and I
11 have, with my own eyes, seen the orange fencing to show you
12 what this looks like. I think as a part of a planning
13 commission it's important to make sure that the quality and
14 also experience of existing neighbors who have been there
15 for decades should remain the same or similar to the way
16 that it has been for years, and this structure is not going
17 to allow for this to happen.

18 Mr. Bakshi, I believe, had mentioned his house,
19 like if you're in the swimming pool it's going to be hard
20 to swim without your neighbors like looking at you.

21 CHAIR THOMAS: Okay, thank you. So, privacy of
22 some of your neighbors is a concern.

23 MATTHEW EBRAHIMOON: And views, and the
24 mountains, like being able to sit in... I've been in Dr.
25

1 Miller's kitchen. You're not going to be able to sit where
2 he spends like most of his time, him and his wife; I've
3 been there. It's going to be hard to sit there and not see
4 this house.

5 CHAIR THOMAS: Okay, thank you. Thank you very
6 much. The last speaker card I have is Nathaniel Ebrahimoon.

7 NATHANIEL EBRAHIMOON: Hi, everyone. Thank you
8 for having us here to represent the Ebrahimoon property.
9 Our father is traveling, otherwise he would be here as well
10 with my mother.

11
12 Here to kind of just share a little bit of the
13 story of our home. I am the youngest sibling, which means
14 out of our siblings, I've lived there the longest. The home
15 means a lot to us. I have been there since I was seven
16 years old. A lot of the memories that we have are in that
17 home, on that property, with our friends. It's why we're so
18 passionate and we care so much about our community and our
19 neighbors.

20 Looking at the proposed plans and just kind of
21 understanding some of the potential impact risks as it
22 relates to the wall, the Fire, the views, the privacy, it's
23 important to know that this home likely will or is going to
24 be passed down to my brothers and I, and it's a property
25 that will stay in our lives forever. As we think about us

1 creating families, bringing our families into the home, we
2 also are very cautious of any changes in the neighborhood
3 that can create discomfort, any safety issues, and having
4 been there for so long, there have been very few changes,
5 and this is a massive structural change to the space.

6 From a height perspective, we're not talking one
7 or two stories, it's three, including a basement, which
8 sure, but it's still height, right? So, we are just being
9 very cautious as we think about the proposed changes in the
10 neighborhood and making sure that everybody in the
11 neighborhood continues to have the experience that
12 historically has been there for us with any adjustments
13 that come.

14 So, just wanted to share that we're all thinking
15 about now and a few years from now, but this neighborhood,
16 and I'm sure Ken is the same, as he's been in his home
17 forever, and the neighbors that surround us down the hill,
18 we are thinking not only about the next three, or five, or
19 ten, or twenty years, we're also thinking about generations
20 to come and our love for Los Gatos, going to the public
21 schools and being able to create a family and experience
22 similar to the ones that we're so happy and proud to have a
23 part of our lives, so anything that impacts that, of
24 course, we're going to be super careful, sensitive,
25

1 thoughtful around, which is why you see the representation
2 from so many members in the neighborhood tonight.

3 CHAIR THOMAS: Are there any questions for the
4 speaker? I do have a question. Part of our job is to review
5 the application as is, and I hear your concerns. Are there
6 any specific things about the project, other than what you
7 mentioned, the height, is there anything specific that you
8 feel like you would like to see changed or implemented that
9 would help with it?

10
11 NATHANIEL EBRAHIMOON: I'll leave that to the
12 surrounding neighbors that are there every single day. I
13 think the privacy was brought up; I think the height was
14 brought up. The retaining wall, of course. Any bolts or
15 continued action or anything that...making sure those are
16 within the bounds of peoples' decisions, because they're
17 actually working within their easements in their property.
18 Those are kind of the main concerns around what we've seen,
19 and again, why we're all here kind of speaking up.

20 CHAIR THOMAS: Okay, thank you. I have another
21 speaker card, and this is for Jonathan Ebrahimoon.

22 JONATHAN EBRAHIMOON: Hello, my name is Jonathan;
23 I'm the oldest son of Fred and Ora.

24 We've been hearing about this height. It becomes
25 easier to reduce the height of the house by not placing the

1 garage under the house above, thus not needing to remove
2 the dirt, and thus not threatening the wall and the
3 properties of the neighbors.

4 Let me tell you a little bit about myself. Just
5 like my two brothers, we went to school here, public school
6 K-12. I went to Daves Avenue, then Fisher, and then I went
7 to Los Gatos High School, and now I have a daughter—I
8 bought a place in town—who is turning nine next month and
9 who goes to Daves Avenue School. We have a lot of memories
10 in this house, just like my brothers were talking about.

12 We just want to make sure that you guys do the
13 right thing for us. Does anyone have any questions for me?

14 CHAIR THOMAS: Does anyone have a question for
15 the speaker? Commissioner Barnett.

16 COMMISSIONER BARNETT: Would you kindly provide
17 more detail regarding your proposal regarding the location
18 of the garage on the proposed property?

19 JONATHAN EBRAHIMOON: The house is too tall, it's
20 too high. The height is just not all right. This is
21 something you guys have got to talk with engineers and
22 figure that out. This is not my area of expertise, but the
23 way they have it planned, it's going to be way too tall.

24 COMMISSIONER BARNETT: If I may follow-up, Chair?
25

 CHAIR THOMAS: Yes.

1 COMMISSIONER BARNETT: You made some specific
2 comments about relocating the garage, and I wonder if you
3 could expand on that? Or maybe I misheard you.

4 JONATHAN EBRAHIMOON: Again, this is just
5 something that maybe you can take up with the engineers. At
6 the end of the day, everyone's concern is the height of
7 this house. They've got to figure out that also privacy
8 seems to be a concern as well.

9 COMMISSIONER BARNETT: Thank you.

10 CHAIR THOMAS: Commissioner Stump.

11 COMMISSIONER STUMP: What is it specifically
12 about the height? I mean, we all visited the property. I
13 stood above that rock wall, and of course I'm standing a
14 little bit more than 6' tall, and so I'm looking down on
15 the roof. It's not blocking my vision directly across, but
16 obviously, if you have a house downslope wherever it is,
17 you look down, you're doing to see a house, and so what
18 part of this roof is... Why, from your perspective, do you
19 think the roof is too high? What is it blocking for you?

20 JONATHAN EBRAHIMOON: We heard the first speaker
21 was talking about he has a daughter. I have a daughter
22 myself. I would hate for someone to be on the balcony
23 looking down and seeing my daughter swimming in a pool, or
24
25

1 just looking into my master bedroom with my wife. That
2 would bother me. It's going to be an eyesore.

3 CHAIR THOMAS: Any additional questions? Thank
4 you. I have no more speaker cards, but I believe there are
5 some speakers on Zoom.

6 DIRECTOR PAULSON: That's correct. The first will
7 be Ms. Bakshi.

8 APOORVA BAKSHI: Hi, thank you. I am Apoorva
9 Bakshi and I reside in 16515, which is the downhill
10 property. My husband, Rohit Bakshi, mentioned our severe
11 concerns in terms of privacy. I do believe that the reason
12 why we bought this home last May, we are new residents of
13 Los Gatos, was because of the unhindered back yard on the
14 hill, which has our whole... We spend a lot of time in our
15 back yard, which has a swimming pool, it has a netting, it
16 has a proper play net, and multiple spots where you can
17 meditate as well as two play structures for our daughter,
18 and an upcoming one. I'm pregnant right now, I'll be
19 delivering in May, so we'll have two daughters in our
20 family.
21

22 The reason why we're concerned about this is the
23 net is very visible from our property. There is barely any
24 coverage from down below, and the major concerns are in
25 terms of how it disturbs the ecosystem as well as the

1 holding walls. I will also rely on experts, I think a lot
2 of people have spoken to that, and all the families up
3 above. But it is a severe concern that our privacy needs to
4 be absolutely taken care of. We want to be able to review
5 the structure in terms of its height. You have to be able
6 to redesign the balconies.

7 When I did see the plan which Robert shared, I
8 was quite pregnant, I could not really walk up and see how
9 narrow this piece of land is, so that's my concern, as well
10 as how imposing this structure would be on our property in
11 terms of views, as well as I did see a full ceiling-to-
12 floor glass usage in the balconies, so that is something
13 that we would like you to really consider mandating mature
14 screening, not only in terms of natural screening, but also
15 specifics in terms of reduced window heights or redesigning
16 balconies. That's something that has to be absolutely taken
17 care of.

18
19 This whole property that we bought was for the
20 reasons that we had this privacy, and we had the comfort of
21 a hillside home. The first day I came here we had a family
22 of four deer walk into our estate and it was really, really
23 refreshing to see that. I do believe that some of my
24 neighbors have that concern that there is habitat that this
25

1 neighborhood has preserved and enjoyed for a long time,
2 which will also get disturbed.

3 So, those are my concerns. If there are any
4 questions for me, I will answer.

5 CHAIR THOMAS: Thank you, that is the time. But I
6 will ask if there are any questions from Commissioners? No.
7 Thank you for your comments.

8 DIRECTOR PAULSON: The next speaker will be Ms.
9 Tinsley.

10 CAROL TINSLEY: I live at 16555 South Kennedy
11 Road and I would like to point out that Robert was lying
12 when he said that he spoke to all the neighbors, because he
13 didn't. At no time did he come up to me, and at no point in
14 any of his drawing does my house show up, and I'm within
15 500' of the building site.

16 Second of all, as already said, this is a very
17 steep hillside. There's basically a little plateau that
18 happens. It's an unstable hillside; trees fall all the
19 time, and they are deeply rooted.

20 I would also say that if anything from the
21 building site were to fall down the hill, it would most
22 certainly hit the house in front of them, because it will
23 just keep rolling if there's nothing to stop something from
24
25

1 hitting the neighbor's house, or their pool, or whatever.

2 So that's where I start.

3 I will also say this is the second home that
4 Robert has built on a hillside. The first one he was red
5 tagged for failing to follow Town processes, so you should
6 take that into consideration when you heard about the bolt
7 and other things.

8 When he built his first home he caused
9 substantial damage to the shared driveway, which has never
10 been replaced, and I would certainly expect that any
11 building that is going to take place, there would be a
12 guarantee that he would replace the main drive.

14 As for his repeated points about the Fire. His
15 other neighbors have had to comply with the turnaround, and
16 they've even had to have several water tanks built onto
17 their property to mitigate any Fire issues, so that should
18 also be considered. I don't understand why he is not being
19 required to have these tanks installed on his property in
20 addition to all the other structures.

21 Now, let's see. For reference, if you'd like to
22 look at the newly constructed building, it's 16461, it's
23 one driveway over, and they have these massive tanks of
24 water.
25

1 Robert has owned the property for more than ten
2 years and he's never maintained the property and he has
3 left it to other neighbors to maintain, including when the
4 fence has fallen down and other things. Now, luckily, we
5 have a very generous neighbor who does take it on as a pet
6 project, but I just want to put that out there.

7 Again, it's a very narrow building area. It
8 doesn't allow for any like lawn or...

9
10 CHAIR THOMAS: That's time, thank you. Are there
11 any questions from Commissioners for the speaker?
12 Commissioner Stump.

13 COMMISSIONER STUMP: This may not be directly to
14 the speaker, but what is our notification process? Because
15 we have responsibility for notification.

16 CHAIR THOMAS: You can ask Staff after. Any
17 question for the speaker? Are there any additional hands
18 raised on Zoom?

19 DIRECTOR PAULSON: No additional hands from the
20 public. The Applicant's architect's hand is raised, but
21 they'll have their time.

22 CHAIR THOMAS: So now I invite the Applicant to
23 come back up for your closing statement. You'll have three
24 additional minutes to speak, and you can share that with
25 your architect as you see fit.

1 CHRIS SPAULDING: I will start. Robert will
2 address the privacy. I just wanted to quickly address the
3 stability of the hillside and the Fire.

4 We did get a geotechnical report to make sure
5 that this site was buildable. It is. Once this house is
6 built and the new retaining walls are installed to the
7 latest standards this house and the drainage associated
8 with the retaining walls will buttress that hillside so
9 that that roadway and old wall will be supported much
10 better than it is now. In the long-term, this house will
11 provide the stability for the uphill neighbors, wall and
12 roadway, and Robert has agreed to repair any damage that
13 occurs during construction, but in the long-term this is
14 good for the stability of that wall and the hillside.

16 Secondly, the Fire. This house will be built as
17 fireproof as possible, which is very fireproof these days,
18 and the Fire Department is requiring the roadway, Vivian
19 Drive, be improved with better traction and widening the
20 opening onto South Kennedy Road, and are requiring a
21 private fire hydrant, which is like a standard fire hydrant
22 but it's on private land, to be brought all the way up to
23 the new fire apparatus turnaround, which is why they don't
24 need the tanks, because it would be a full fire hydrant.
25 Together, all those features are going to provide better

1 fire protection for everybody in that neighborhood at no
2 cost to them.

3 So, yes, it's a new house. It means the trouble
4 of construction and noise and dust and time, but in the
5 end, this will be a nice house and it will be beneficial to
6 the neighbors, and I'll let Robert talk about the privacy.

7 ROBERT NICOL: I've provided a presentation here.

8 This the basement level where we're to put in the
9 trees, which I'm also willing to put in a wooden fence if
10 that would increase the privacy for the neighbors.

11 Here is the second level of the basement where
12 there is more shrubbery and trees blocking.

13 This would be the main floor. This is what is
14 going to be seen from the main floor.

15 This shows more of their trees as well as my
16 trees showing and blocking, so there is no issue of
17 privacy.

18 This is from the second floor and all of the
19 additional trees.

20 There's another photo of what you will see.

21 CHAIR THOMAS: That is time.

22 ROBERT NICOL: Is it okay if we just go through
23 the last couple of pictures?
24
25

1 CHAIR THOMAS: I actually cannot allow that; I'm
2 so sorry. But thank you, and I think that we probably will
3 have additional questions for you. The first is from Vice
4 Chair Burch.

5 VICE CHAIR BURCH: This is going to be a question
6 for probably a combination of you and your architect.

7 I think when people talk about the height, we're
8 really talking a lot about the massing, because on a
9 hillside there is a step up of the levels. When you do take
10 a look at the three floors, the basement with the upper two
11 floors, and you do look at the number of rooms and
12 everything you have in there, I would like to know if there
13 would be a way to reduce the size of the upper floor,
14 shifting perhaps one of those rooms to one of the down-
15 level bedrooms to perhaps take the massing of the highest
16 level down a bit. That might help a bit with some of the
17 perception of massing to your neighbors.

18 ROBERT NICOL: I think with the symmetry of the
19 house, the way that the architect, Chris, who has been an
20 architect for many projects in Los Gatos, has put symmetry
21 between the basement and the first and second floor.

22 VICE CHAIR BURCH: I'm sure that Chris is a good
23 architect. If it was something you were willing to
24 compromise with.
25

1 CHRIS SPAULDING: Could I respond to that?

2 VICE CHAIR BURCH: Sure.

3 CHRIS SPAULDING: The architectural drawings, if
4 you look in your packet on Sheet A-8, that shows what looks
5 like a full, large three-story faced, the upper level, the
6 third floor, is set back completely back behind the main
7 level, so when you view that from below, that third floor
8 is not visible. You'd only see it as it's shown on Sheet A-
9 8 is if you were in a drone 50' above the ground. When
10 you're down on the neighbor's property looking up, the
11 upper level is set back so far that it won't be visible.
12 That perception of bulk that you see in that drawing is
13 not...
14

15 VICE CHAIR BURCH: No, Chris, I see it. I
16 understand.

17 CHRIS SPAULDING: Yes, it's not actually how you
18 would visualize...how it would be perceived in reality.

19 VICE CHAIR BURCH: Chair, can I ask one
20 additional question?

21 CHAIR THOMAS: Yes.

22 VICE CHAIR BURCH: Then in relation to some of
23 the privacy concerns that we heard from your downhill
24 neighbor, one of the things that they brought up were the
25 decks, and I would like to know if you would be willing... On

1 the family room, you have two decks off of that, one being
2 a deck on the southwest side, it's a little smaller
3 anyways. If that were to help you in your conversations and
4 work with your neighbors, would you be willing to move that
5 portion of the deck, leaving the larger other deck, but the
6 deck that is basically looking down at your neighbors?

7 ROBERT NICOL: I wouldn't prefer to have that
8 removed. I'm definitely willing to work with the Planning
9 Commission and the neighbors, but it's not my preference.

10 CHAIR THOMAS: Are there any other questions?
11 Commissioner Burnett.

12 COMMISSIONER BURNETT: Yes, thank you. You were
13 talking about the retaining walls, and I know we do have
14 the retaining walls for the Fire turnaround. Were you also
15 taking about a retaining wall behind the house where we
16 have such concern about the antique rock wall? What are you
17 doing to prevent erosion from coming behind the house?

18 ROBERT NICOL: Chris, can you answer that?

19 CHRIS SPAULDING: I'm not exactly sure what you
20 mean.

21 COMMISSIONER BURNETT: Behind the house, because
22 the antique wall is sort of like in jeopardy now and seems
23 like it has some issues going on, what kind of stability
24 are you going to have behind the new house?

1 CHRIS SPAULDING: On the uphill side of the new
2 house all the retaining walls are actually within the
3 footprint of the house, so above the house all there will
4 be is a surface drain to drain away any surface waters, but
5 otherwise that hillside is just the existing to remain, be
6 natural.

7 CHAIR THOMAS: Commissioner Stump.

8 COMMISSIONER STUMP: I guess I'll call them your
9 downhill neighbors, they're asking that all the mature
10 privacy trees be preserved. Are they speaking about trees
11 on your property, or are they trees on someone else's
12 property, or do you fully know what that request is?
13

14 ROBERT NICOL: They have massive oak trees that
15 are on their property that I consider the privacy screening
16 that they're referring to, but I'm not 100% certain.
17 Because I showed the pictures after in my rebuttal where
18 all you saw were trees from the basement level, the first
19 floor, and the second floor in my presentation.

20 COMMISSIONER STUMP: They've asked for addition
21 of new privacy enhancing landscaping, which from what I
22 understand, you're willing to consider and work with them.
23

24 ROBERT NICOL: Yes.
25

1 COMMISSIONER STUMP: There was even something
2 brought up about Toyon not being the preferred planting,
3 and so anyway, that's good to hear from you now.

4 Commissioner Burch has already discussed briefly
5 about balconies and the concern they may have there.
6 Obviously, they've talked about either the height of the
7 windows or obscuring some of those. Is that also something
8 you're willing to work with the neighbors on?

9
10 ROBERT NICOL: I'm willing to put in drapes. From
11 the pictures and the photos there was all... I could see from
12 those photos I presented were trees and I couldn't even see
13 their home, so I am still a little confused as to when I
14 provided the visual evidence of what they are claiming.

15 COMMISSIONER STUMP: Thank you.

16 CHAIR THOMAS: Commissioner Barnett.

17 COMMISSIONER BARNETT: You heard your downslope
18 neighbor saying that the orange netting was clearly visible
19 from their house, and you're saying it's not at all. Do you
20 have any way to reconcile this perspective?

21 ROBERT NICOL: Yes, I provided the pictures in
22 the presentation in my rebuttal.

23 CHRIS SPAULDING: Can I speak to that? The
24 pictures as he showed, there is a canopy of trees that is
25 on the neighbor's property that provides screening from the

1 upper levels of the proposed house and pretty much screens
2 their house from this new house. But those mature trees are
3 limbed up 10-20', and so when you're down on the lowest
4 level of the proposed house you can see below those trees
5 down to the neighbor's back yard, their play area, and
6 that's what really needs the screening.

7 The landscape architect provided the row of Toyon
8 trees. Toyons were selected because they're evergreen and
9 they're a native species, but I'm sure Robert would be
10 happy to provide any tree that would provide the screening
11 the neighbors would want.

12 To make that screening complete, those trees
13 don't have to be terribly tall, they only need to be about
14 15' high to fill in that open area from the ground to the
15 underside of that existing oak canopy that's on the
16 neighbor's property and that they control. Thank you.

17 COMMISSIONER BARNETT: If I may just follow-up on
18 that?

19 CHAIR THOMAS: Yes.

20 COMMISSIONER BARNETT: I wonder if Mr. Spaulding
21 could comment on the offer of the Applicant to install a
22 fence. Would that be superfluous, or something that
23 wouldn't be necessary if the plantings were put in as
24 suggested?

1 CHRIS SPAULDING: That would completely screen
2 the lower 6', but the screen planting would still be needed
3 for the 6-15' to complete the screen. Thank you.

4 COMMISSIONER BARNETT: Thank you for that.

5 CHAIR THOMAS: Are there any other questions for
6 the Applicant at this time? Okay, thank you very much.

7 ROBERT NICOL: Thank you.

8 CHAIR THOMAS: We will now close the public
9 portion of the public hearing on Item #2, and I invite
10 Commissioners to ask questions of Staff, provide comments,
11 or propose a motion. Vice Chair Burch.

12 VICE CHAIR BURCH: Ms. Shoopman, there has been
13 discussions about the height, that it's too tall, and I
14 know that when we're in the hillsides the way we measure
15 this can get a little difficult. Could you go back again
16 and explain how we measure from the low to the high point
17 that 34', just to make sure that up here when we're
18 discussing height and where we are with this, we're all
19 discussing the same thing?

20 JOCELYN SHOOPMAN: Yes, thank you for that. In
21 these hillside settings where you do have these exposed
22 grades with the below grade space, we're looking at the
23 high to low point of the exposed grade to the highest
24 point. This Applicant does comply with that 35'

1 requirement, but in terms of your discussion of massing,
2 the Planning Commission could certainly look at roof
3 slopes, ceiling plate heights, and other ways to address
4 height concerns.

5 VICE CHAIR BURCH: Thank you.

6 CHAIR THOMAS: Vice Chair Burch.

7 VICE CHAIR BURCH: We heard some things about the
8 wall and the poor choice to put a bolt in this wall. I know
9 Staff, Public Works, we have different people I know that
10 have looked at... In the past, we've had somebody go look at
11 some of these historic rock walls. Is there anybody with
12 the Town that would be able to go look at that and make a
13 recommendation on how this gets properly patched?
14

15 DIRECTOR PAULSON: The likelihood is probably no.
16 This is a civil issue; we're not going to want to take on
17 that liability from the Town's perspective. The Town
18 Attorney can hit me if I'm misspeaking. But ultimately, you
19 can potentially have an engineer go out and take a look at
20 it and see what damage they think it is, but it's going to
21 take a more thorough investigation that is going to need to
22 involve professionals above and beyond what our Staff would
23 be able to do.
24
25

1 VICE CHAIR BURCH: Wanting that to happen is
2 something like I could theoretically put into a motion or
3 something to make sure that it's captured or...

4 DIRECTOR PAULSON: We have engineers sitting here
5 right now listening to you, so I don't think that's going
6 to be an issue. We'll make sure that we circle back with
7 them following this hearing or the conclusion of this item
8 and see what options we have.

9 VICE CHAIR BURCH: Thank you.

10 CHAIR THOMAS: Commissioner Stump.

11 COMMISSIONER STUMP: A recommendation from one of
12 the speakers was that as a Condition of Approval, if we go
13 down that path, we should require geotechnical work as a
14 condition of our approval, not waiting for the Building
15 Permit to me issued. Is that something that can be done?

16 JOCELYN SHOOPMAN: Thank you. There is a
17 Condition of Approval for a geotechnical report. I'm
18 looking at the exact wording of when it's required, and I
19 believe it's required to be completed prior to Building
20 Permit issuance, but I'll defer to our engineers.

21 JAMES WATSON: James Watson, PPW Senior Engineer.
22 The Conditions of Approval do include some additional
23 geotechnical reviews that need to be done prior to the
24 construction documents being approved. The geotechnical
25

1 engineer for the Applicant themselves pointed that they
2 didn't have the expertise to do the geological study that
3 was needed for the landslide, and so they put into their
4 report that a subsequent study would be needed, our peer
5 reviewer picked up on that, and we have that in our
6 Conditions of Approval.

7 CHAIR THOMAS: Thank you. Commissioner Barnett.

8 COMMISSIONER BARNETT: Does the requirement for a
9 geotechnical report include hydrology that was mentioned?
10

11 JAMES WATSON: I don't recall any comments about
12 the hydrology. The geotech engineer doing a landslide study
13 would obviously be looking at hydrology to understand how
14 the soil saturation would affect the potential for
15 landslides. I just don't recall a specific reference to
16 hydrology, but the general idea of a geological study of a
17 landslide area would look at how hydrology is going to
18 effect.

19 COMMISSIONER BARNETT: Understood, thank you.

20 CHAIR THOMAS: Commissioner Barnett.

21 COMMISSIONER BARNETT: I do have more questions.
22 I didn't want to monopolize the microphone here.

23 Do the Conditions of Approval, as I expect,
24 provide for protection of the wall and hillside during
25 construction?

1 JOCELYN SHOOPMAN: Thank you for that question.
2 They do not specifically.

3 COMMISSIONER BARNETT: Is there a reason not to,
4 and wouldn't it be advisable to include those?

5 JOCELYN SHOOPMAN: The Planning Commission could
6 choose to include an additional condition.

7 COMMISSIONER BARNETT: Then I had a question
8 about the Fire Department, which County Fire presumably has
9 signed off on, if I recall correctly. Does that include the
10 improvement of the traction on the roadway on Vivian Drive?
11

12 JOCELYN SHOOPMAN: Santa Clara County Fire has
13 reviewed this application and they have approved it. Their
14 Conditions of Approval are included.

15 COMMISSIONER BARNETT: For the Town Attorney, Ms.
16 Whelan. Can you confirm again the California law regarding
17 an easement for light or view, and also whether we can
18 still consider privacy in light of that law as I expect it
19 to be?

20 ATTORNEY WHELAN: The law provides that local
21 jurisdictions can enact ordinances that protect light, air,
22 and view easements. The Town does not currently have any of
23 those ordinances in place.

24 Then, remind me of your second question.
25

1 COMMISSIONER BARNETT: Is privacy still a
2 legitimate consideration? I assume it is.

3 ATTORNEY WHELAN: Well, it's interesting, because
4 the Applicant is asking to build outside of the LRDA area,
5 and when an applicant is asking for an exception from a
6 standard, there are findings that the Planning Commission
7 needs to make, and it says, "Any deviation from the
8 standards contained in this document shall include the
9 rationale and evidence to support the deviation, and
10 exceptions can be granted." So, if there were something
11 related to the fact that the Applicant is building outside
12 of the LRDA, and there were a condition that were related
13 to that request of the Applicant, I believe that would be
14 defensible.
15

16 COMMISSIONER BARNETT: Chair, if I might, let me
17 check my notes. Again, I guess for Ms. Whelan. Could a
18 condition be imposed that required drapes on the windows,
19 and would that be enforceable?

20 ATTORNEY WHELAN: Drapes on the windows?

21 COMMISSIONER BARNETT: Yes, could that be made an
22 enforceable condition?

23 ATTORNEY WHELAN: Maybe run through the other
24 questions, and I can give that some thought. I think the
25 issue with that is they're only useful if they're closed.

1 COMMISSIONER BARNETT: Or alternative window
2 coverings, like shutters?

3 ATTORNEY WHELAN: Let me ponder that, and I'll
4 get back to you, if there are other questions in the
5 meantime.

6 COMMISSIONER BARNETT: Okay, thank you. I'm
7 sorry, there was one more question. The concern was raised
8 about damage to the lower home as a consequence of
9 construction. Are there any particular provisions in the
10 conditions to address the safety of the lives and property
11 on the lower adjacent property during construction?
12

13 ATTORNEY WHELAN: Yes, the Conditions of Approval
14 do require applicants to indemnify and defend the Town from
15 any claims that arise out of the Town's approval of a
16 planning application.

17 COMMISSIONER BARNETT: Thank you.

18 CHAIR THOMAS: I have two questions. One came up
19 about a fence. Could we review the Fence Ordinance
20 requirements for the hillsides? If you want a minute to do
21 that, that's totally fine, to bring them up.

22 JOCELYN SHOOPMAN: Are there some specific
23 questions you have about the fencing?
24
25

1 CHAIR THOMAS: From my understanding of our
2 Hillside Fence Ordinance, there's not really an appropriate
3 way to implement a fence for privacy purposes.

4 JOCELYN SHOOPMAN: The hillside fences are
5 limited to 6' in height, unlike other areas of the Town
6 where you may see 7-8', so that is one consideration.
7 Depending on the location of the fence, there are
8 requirements that it also be open view to still allow
9 habitat to be able to go through, so there are some of
10 those additional stipulations depending on where the fence
11 is on the property.
12

13 CHAIR THOMAS: Thank you. Then a clarification
14 about landscaping in the hillsides too. There were some
15 requests by neighbors to plant some trees that are not
16 natives, but my understanding is that there needs... Can you
17 explain what can and can't be planted?

18 JOCELYN SHOOPMAN: Appendix A of the Hillside
19 Development Standards and Guidelines does give recommended
20 tree plantings and shrubs; however, the Planning Commission
21 does have the purview to choose additional plantings.
22

23 DIRECTOR PAULSON: To the Chair's question, there
24 is one specific type of tree that Staff would not allow to
25 be planted as part of a mitigation in the hillside setting
in the form of Italian Cypress.

1 CHAIR THOMAS: Is that due to fire safety issues?

2 DIRECTOR PAULSON: Yes.

3 CHAIR THOMAS: Thank you. Are there any other
4 specific questions? I was going to ask Ms. Shoopman, can
5 you review again... I just want to make sure that we all
6 understand that this is why this is in front of the
7 Planning Commission and with regard to the grading depths,
8 the retaining wall height, the retaining wall length, and
9 the LRDA.

10
11 JOCELYN SHOOPMAN: Sure, thanks for that
12 question. Everything you just described, those exceptions
13 require the Planning Commission's review, which is why we
14 are before you tonight. The Applicant has explained why
15 those requests are being made due to the steep topography,
16 and so just as you explained, all of those items do require
17 the Planning Commission's review.

18 CHAIR THOMAS: Just to confirm, according to
19 Staff and the consulting architect, the design of the home
20 is compatible with the neighborhood and it is abiding by
21 all the Hillside Development Standards and Guidelines other
22 than these four issues?

23 JOCELYN SHOOPMAN: Yes, based on the consulting
24 architect's review, the home does comply with the Hillside
25

1 Development Standards and Guidelines specific to the
2 architectural sections.

3 CHAIR THOMAS: Okay, thank you. Vice Chair Burch.

4 VICE CHAIR BURCH: Mr. Mullin, would you be able
5 to pull up A-3 and go back over the LRDA on this? Only
6 because it is one of the items, and based on what the
7 attorney just said, are we able to pull that up and be very
8 clear on where the LRDA is on the property?

9 SEAN MULLIN: I can, but it will take a minute or
10 so.

11 VICE CHAIR BURCH: That's fine. I think we can go
12 ahead with our discussion.

13 SEAN MULLIN: Do you have the sheet number, the
14 page number in the packet, by chance?

15 VICE CHAIR BURCH: Oh, yes, 155.

16 CHAIR THOMAS: While Mr. Mullin is pulling that
17 up, are there any other questions for Staff at this time,
18 or does anyone want to kick off discussion? Vice Chair
19 Burch.

20 VICE CHAIR BURCH: I am kicking off the
21 discussion. I've had the opportunity to look at a lot of
22 hillside homes during my tenure, and they're always very
23 challenging. Obviously, just the slope of the land and
24
25

1 interesting lot lines and lot configurations make them
2 always a little bit challenging.

3 I do think there are some challenges on this
4 property. I want to point out, if you look on Sheet A-11,
5 one of the items in the Hillside Guidelines is that homes
6 built in the hillside kind of stair-step with the slope,
7 and I do want to point out that this property is doing that
8 rather than have a 35' vertical plane.

9
10 That said, I still think there is probably some
11 opportunity to reduce the deck, maybe to work with window
12 height, and to work a little bit with the privacy with the
13 neighbors. I think there is some more opportunity for the
14 Applicant to work with their neighbors on landscaping for
15 privacy purposes.

16 I'm going to pause where else I was going to go,
17 because Mr. Mullin, if you could do me a favor then and
18 point out on this exactly where the LRDA is on this
19 property.

20 SEAN MULLIN: I can start, and then Ms. Shoopman
21 can correct me if I'm wrong. Just to zoom in on the legend,
22 this light grey area is areas over 30% slopes. There's a
23 delineation of the Least Restrictive Development Area
24 showing the areas under 30%, so I don't know if you can see
25 my cursor. You can see a couple callouts of little pockets

1 along the roadway, and then a small pocket in this area
2 where the LRDA is located, and the house is located up in
3 this corner.

4 VICE CHAIR BURCH: Okay. I wanted to make sure we
5 were all aware of the extreme limitations on that. Thank
6 you.

7 Just to finish, and then I'll let Commissioner
8 Barnett go. We are dealing with a complicated site, but I
9 do think that there is probably a bit more work that the
10 Applicant could be doing with their neighbors to address
11 some of the privacy issues as far as the deck, windows, and
12 landscape.
13

14 CHAIR THOMAS: Commissioner Barnett.

15 COMMISSIONER BARNETT: I'm in general agreement
16 with that, but I suppose that puts us in the position of
17 making conditions that the Applicant work with Staff to
18 address those issues, or we continue this matter to see
19 what changes have actually been proposed.

20 VICE CHAIR BURCH: I made the comment, I'll
21 address it. I am always very inclined to have the
22 applicants work with Staff. They are professionals in this
23 and studied this. They are very well versed in our
24 guidelines requirements and some of the nuances that these
25 take. So, that would be my recommendation.

1 CHAIR THOMAS: I feel like that too. I don't
2 think that this project needs significant changes enough,
3 or I don't think that we can request significant changes
4 enough at this point for it to need to come back to us.

5 I understand the neighbors' concerns, and I want
6 to make sure that we attempt to mitigate some of those,
7 however, I do think that the issues regarding the grading
8 depth, the retaining wall, height, and length are all
9 specific and can't be avoided because of the site, and due
10 to fire safety it's absolutely required, and the same with
11 the LRDA.

12
13 So, the four reasons that it's really in front of
14 the Commission, I believe that we can make the findings for
15 those exceptions, so I would be in favor of the Commission
16 trying to make some specific recommendations to be included
17 in the Conditions of Approval so that Staff can move
18 forward with that.

19 However, I do feel pretty strongly about
20 maintaining some native landscaping in this area,
21 especially hearing from some of the neighbors and public
22 comment about how this area is very natural looking as it
23 is, and I think that it would be really doing a disservice
24 to the ecosystem and the neighbors if there were some
25 plants planted that were not naturally found here.

1 I also want to note that there were comments that
2 Toyon aren't evergreen, but they are, even though they are
3 slow growing, so I would head more in the direction with
4 regard to landscaping to asking for some larger, more
5 mature trees to be planted. I know that that can be
6 difficult with oaks, but perhaps there are some larger
7 Toyons that can be sourced, and those are evergreen, so I
8 think that that could mitigate some of the neighbor privacy
9 concerns.

10
11 I think what Vice Chair Burch suggested, reducing
12 the size of that deck or readjusting the deck so it's
13 really oriented still in the other direction, like ensuring
14 that it's more oriented away from the neighboring
15 properties, is something that I would also be in favor of.
16 I think that Commissioner Burnett has some comments too.

17 COMMISSIONER BURNETT: Thank you. Looking at the
18 design here, there are so windows. We didn't address the
19 amount of windows in the home, which would have an effect
20 on the privacy from the home below. I wonder if we maybe
21 talk about that a little bit, because I mean there are a
22 lot of windows.

23 CHAIR THOMAS: I think Ms. Whelan has a comment
24 about that.
25

1 ATTORNEY WHELAN: If it's a good time, I can
2 respond to Commissioner Barnett's question about the
3 Conditions of Approval.

4 The Applicant is seeking architectural and site
5 plan approval, and the Town Code provides that when that's
6 the case the decision-making body can include conditions
7 that are reasonable and necessary to carry out the intent
8 of the chapter. Such conditions can include site planning
9 conditions, architectural conditions, landscape conditions,
10 etc. Requiring a special treatment on the window would be
11 an architectural condition, and so the Planning Commission
12 would need to determine whether or not that was reasonable
13 and necessary in order to ensure harmony with the
14 neighborhood.

15
16 CHAIR THOMAS: Do you have any follow-up
17 questions?

18 COMMISSIONER BARNETT: No, that's fine.

19 CHAIR THOMAS: I think that with additional
20 landscape screening, I personally do not see a need to make
21 a lot of changes with regard to making additional
22 recommendations or Conditions of Approval surrounding the
23 windows at this point.

24 I always try to remind myself that the people
25 building the property also value privacy, and the windows

1 are two-way, so if they can see out, people can see in. I'm
2 not sure that I have any specific recommendations around
3 that, but I'm interested to hear if any other Commissioners
4 do. Commissioner Burnett.

5 COMMISSIONER BURNETT: If you're looking at the
6 design, there are 14 windows on the bottom, there are 14 in
7 the middle, and there are 10 on the top. I'm just saying,
8 I'm wondering if there would be some way we could reduce
9 the number, and I think that would help with privacy issues
10 for the neighbor below.

11 CHAIR THOMAS: Vice Chair Burch.

12 VICE CHAIR BURCH: Just to add to the dialogue
13 though. If you take a look at the way this is built, on the
14 north-northeast side of the home, if you look at Sheets A-
15 5, A-6, and A-7, there are really no windows on that side
16 because of the way it's built into the hillside, so the
17 natural light that they're getting is actually coming from
18 the southwest side of the building.

19 That said, I think we could say where
20 appropriate, restrooms or a pantry, we could ask for
21 frosted windows, but even like in bedrooms you have to have
22 an egress window. We have to be careful on Building Code
23 and allowing just natural light into a home versus reducing
24 too much. I'm kind of with the Chair; I would mostly prefer
25

1 perhaps they work through some of the privacy issues with
2 landscaping, if possible. Really, that's the only side of
3 the house that has windows.

4 CHAIR THOMAS: Commissioner Stump.

5 COMMISSIONER STUMP: A question for Staff. What
6 direction can we really give an applicant around one of the
7 ways to reduce your privacy is to reduce the number of
8 windows you have in your house? I mean, certainly that's an
9 option, but how does that really get included as a
10 condition? We're really trying to achieve, for the
11 neighbors as well as the Applicant, a good solution for
12 privacy, and we're talking about landscaping, we're talking
13 about we can require window coverings, but of course that
14 assumes they're being used. So, what other options do we
15 have as it relates to this whole question of privacy and so
16 much viewing area from this house.

18 JOCELYN SHOOPMAN: Thank you for that question.
19 What Staff would be looking for is specific direction about
20 where the landscaping should be located. (Inaudible) there
21 is specific direction that the landscaping should only be
22 native. There can be specific language about there has to
23 be an agreement from the neighbor on the landscaping; that
24 could be prior to final of the Building Permit, but that's
25

1 the kind of specific language Staff would need in the
2 condition.

3 CHAIR THOMAS: Just to follow-up on that,
4 typically in the past when we include something like this
5 in a Condition of Approval we will say remove this window
6 from this location, or make this window frosted, something
7 very specific, which at this point I don't know if we feel
8 like that's... So, that's typically what we've done in the
9 past. Commissioner Barnett.

10
11 COMMISSIONER BARNETT: I'm prepared to try to
12 make a motion based on our discussion so far, recognizing
13 that there may well be proposed additions or deletions, if
14 I may.

15 Concerning Item 2 on our agenda tonight regarding
16 the request for approval to construct a new single-family
17 residence and site improvements requiring a Grading Permit
18 on vacant property zoned HR-1, located at 16498 South
19 Kennedy Road, I can make the findings that the proposed
20 project is categorically exempt under CEQA.

21 I can make the finding that the project complies
22 with the objective standards of Chapter 29 of the Town
23 Code.

24 I can make the finding that due to the
25 constraints of the site, exceptions to grading depth,

1 retaining wall height, retaining wall length, and building
2 located outside the LRDA are appropriate, and the project
3 is otherwise in compliance with the Hillside Development
4 Standards and Guidelines.

5 I can make the finding that the project complies
6 with the Hillside Specific Plan.

7 I can make the considerations as required by
8 29.20.150 of the Town Code for granting approval of an
9 Architecture and Site Application, Exhibit 2, and approve
10 the Architecture and Site Application S-24-037 with the
11 conditions contained in Exhibit 3, and the development
12 plans in Exhibit 13.

14 The additions would be that the Applicant work
15 with Staff and the neighbors concerning the height and
16 species of privacy trees, with preference for native trees;
17 that the Applicant discuss with Staff and make possible
18 reduction of the window heights; and that the Applicant
19 further discuss in good faith with the Staff the removal or
20 reorientation of the small deck.

21 CHAIR THOMAS: I think we need a second. Do you
22 second, Vice Chair Burch, and then a friendly amendment?

23 VICE CHAIR BURCH: I'll second. I would like to
24 make on Condition of Approval #66, as we discussed earlier
25 on in our discussion, the restoration of public

1 improvements, I would like to ensure that the historic rock
2 wall is included in those repairs, and Ms. Shoopman, if it
3 could be worded in a way that it maintains the historic
4 integrity of the wall. Acceptable?

5 COMMISSIONER BARNETT: That's acceptable to me if
6 it's acceptable to Staff and the Town Attorney.

7 ATTORNEY WHELAN: Yes.

8 CHAIR THOMAS: Can I just get a clarification on
9 the landscaping recommendations for privacy that were
10 included? Did you make any recommendations about that to be
11 added?
12

13 COMMISSIONER BARNETT: Yes, I said the height and
14 species of the privacy trees, with preference for native
15 trees.

16 CHAIR THOMAS: Yes, as applicable to the appendix
17 in A from the Hillside Development Guidelines.

18 COMMISSIONER BARNETT: They're guidelines, so
19 I'll accept that. The seconder needs to approve.

20 CHAIR THOMAS: Do you?

21 VICE CHAIR BURCH: Yes.

22 CHAIR THOMAS: Perfect. Any discussion about this
23 motion, or questions?
24

25 ATTORNEY WHELAN: I have a question.

CHAIR THOMAS: Yes.

1 ATTORNEY WHELAN: There was a reorientation of
2 something and I didn't capture what it was. Is it the small
3 deck?

4 COMMISSIONER BARNETT: Removal or reorientation
5 to grant privacy on the small deck.

6 CHAIR THOMAS: I will now call the question and
7 ask for a show of hands in favor of the motion. The motion
8 passes 5-0. Are there any appeal rights?

9 DIRECTOR PAULSON: Yes, thank you, Chair. Anyone
10 who is not satisfied with the decision of the Planning
11 Commission can appeal that decision to the Town Council.
12 Forms are available online and in the Clerk's Office. There
13 is a fee for filing the appeal, and the appeal must be
14 filed within ten days.

15 CHAIR THOMAS: Okay, thank you.

16 (END)
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25