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

Los Gatos Planning Commissioners:  
Melanie Hanssen, Chair  
Kathryn Janoff, Vice Chair  
Mary Badame  
Jeffrey Barnett  
Kendra Burch  
Matthew Hudes  
Reza Tavana

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 HANSSEN: Having finished Item 2 we are now ready to move on to Item 3, which is discuss and provide direction on potential modifications to the Hillside Design Standards and Guidelines regarding visibility. In this case the Town is the Applicant, so the Staff Report will be the Applicant's statement as well.

It is my understanding that we are to make a recommendation on the proposed language for elevation and then provide direction on trees to be included as well as the deciding body as both of these items had a split vote by the Policy Committee, and I'm hoping staff will explain in a little bit more detail. It was in our Staff Report as well.

So, Ms. Shoopman, I understand you are also giving the report for this item?

JOCELYN SHOOPMAN: Good evening, I am. In front of you is a consideration of modification to Chapters 2, 3, and 9 of the Hillside Design Standards and Guidelines regarding the visibility analysis as recommended by the Council Policy Committee and forwarded to you for your recommendation to the Council.

1 Recommendation from the Committee proposes to  
2 make the two following changes: 1) define an "elevation"  
3 for the purposes of a visibility analysis in Chapter 2; and  
4 2) update an image in Chapter 3 to comply with the amended  
5 defensible space zones.

6 The Committee had a split vote regarding the  
7 following three potential modifications: 1) Whether  
8 existing trees or branches subject to clearing in what's  
9 known as zones 2 and 3 should be included in a visibility  
10 analysis; 2) whether existing trees that meet the exception  
11 as part of Chapter 29 of the Town Code for removal without  
12 a permit but are proposed to remain as part of an  
13 application should be included in the visibility analysis;  
14 and lastly, 3) whether the deciding body for a visible home  
15 that meets the allowable floor area ratio and maximum  
16 allowable height of 18' should be allowed to be approved by  
17 the Development Review Committee as opposed to the current  
18 requirement for Planning Commission approval.

19  
20 This concludes Staff's presentation and we are  
21 available for any questions.

22 CHAIR HANSSEN: Thank you very much, Ms.  
23 Shoopman. Do any Commissioners have questions for Staff?  
24 Commissioner Hudes.  
25

1           COMMISSIONER HUDES: I think I know the answer,  
2 but these for consideration by the Planning Commission, are  
3 these one monolithic unit or is the Planning Commission  
4 able to separate the several changes that are being  
5 requested?

6           CHAIR HANSSEN: Commissioner Hudes, it was my  
7 intent, and I discussed it with the Vice Chair, to consider  
8 these as three separate motions, because it's entirely  
9 possible that people would have differing opinions just  
10 like Council did on any one of them, so it was my intent to  
11 separate it into three different motions.  
12

13           COMMISSIONER HUDES: Okay, thank you.

14           CHAIR HANSSEN: Any other Commissioners have  
15 questions for Staff before we move to public comments? All  
16 right, seeing none, so we will now move to the Public  
17 Comments portion of the hearing. Do we have any members of  
18 the public that would like to speak on this item? For  
19 anyone that does, we ask you to limit your comments to  
20 three minutes and you may choose to state your name and/or  
21 your address, or you can speak anonymously knowing that we  
22 will be recording this meeting for the public record. So,  
23 do we have anyone that wants to speak in Public Comments?  
24

25           JOEL PAULSON: We do. Dr. Weissman has his hand  
up. I'm going to allow him to speak.

1 CHAIR HANSSEN: Okay.

2 DR. DAVID WEISSMAN: Can you hear me now?

3 CHAIR HANSSEN: We can hear you.

4 DR. DAVID WEISSMAN: Thank you. If you find  
5 Agenda Item 3 confusing, I completely understand and hope  
6 my comments will be helpful. Item 1 on elevation is  
7 straightforward and was supported by the Policy Committee.  
8 Items 2 through 4 concern what vegetation can count as  
9 screening in visibility studies.  
10

11 Now, hillside homeowners generally want to see  
12 valley lights. How do I know? Just look at how realtors  
13 advertise hillside homes for sale. In contrast, flatlanders  
14 prefer to look at tree-covered hillsides and not see lots  
15 of nighttime light pollution and daytime reflective window  
16 glare.

17 Our Hillside Guidelines have "taken the side" of  
18 flatlanders. Native hillside trees are protected trees  
19 providing screening and now have deed restrictions against  
20 their removal, and if removed those trees must be replaced.  
21 Yard lights must shine down, window reflectivity is  
22 considered, etc. But in the situation of fire not all trees  
23 are equal, hence the basis for my proposed compromise.

24 Both Councilmembers Spector and Jensen agreed  
25 that all trees and branches required to be removed by our

1 new 2020 Defensive Space Ordinance shall not count in  
2 visibility calculations. Their disagreement related to  
3 those trees removed for defensive space.

4 I believe that non-native hillside trees, which  
5 in many cases are extremely flammable—think eucalyptus—  
6 should be removed in the interest of defensible space and  
7 ecological health. These trees should not be counted as  
8 providing screening even if the developer says that they  
9 will be retained, because when a house is sold, whether it  
10 be in one week or ten years, the new owner can then remove  
11 the entire tree without permits or replacement.

13 In contrast, native trees such as oaks, which are  
14 fire resistant, would be still protected under our Tree  
15 Ordinance and should be counted as providing screening.

16 I believe adoption of this dichotomy would  
17 address the concerns expressed by both Councilmembers  
18 Jensen and Spector, and should you agree to support these  
19 changes related to native versus non-native trees, then for  
20 consistency the deed restriction clause in the Hillside  
21 Standards on page 14, category H, should be amended to only  
22 apply to native trees that are protected under Section 29-  
23 10-0970, subcategory 3 of the Tree Protection Ordinance.

24 Thank you.  
25

1 CHAIR HANSSEN: Thank you for your comments. Do  
2 any Commissioners have questions for Dr. Weissman?  
3 Commissioner Hudes.

4 COMMISSIONER HUDES: Thank you, Dr. Weissman, for  
5 your comments and also for all the work that you've done on  
6 this.

7 Is there any grey area on the trees? Is it very  
8 clear as to in your proposal what would be permitted and  
9 what wouldn't be permitted to be removed?  
10

11 DR. DAVID WEISSMAN: If one separates native  
12 trees like oaks, which are pretty straightforward, from  
13 non-native trees, which are in that list, or just non-  
14 native trees in general, I think it's pretty clear. I think  
15 getting rid of non-native trees, which we have been  
16 encouraging in the Tree Protection Ordinance for years  
17 because they improve the ecological health, and now in the  
18 context of fire preventions it's just frosting on the cake,  
19 I think there's a very clear dichotomy there.

20 COMMISSIONER HUDES: Thank you.

21 CHAIR HANSSEN: Any other Commissioners have  
22 questions for Dr. Weissman? Okay. Director Paulson, are  
23 there any other members of the public that would like to  
24 speak on this item?  
25

1 JOEL PAULSON: Thank you, Chair. Let me take a  
2 look. Would anyone else in the attendees like to speak on  
3 this item? I don't see anyone else raising their hand,  
4 Chair.

5 CHAIR HANSSEN: Okay. All right, with that in  
6 mind we will... I'm going to ask a question of Staff. I don't  
7 need to ask the Town Staff to come back up and respond,  
8 even though you're the applicant, right?

9 JOEL PAULSON: That's correct. We're just here to  
10 answer questions at this point.

11 CHAIR HANSSEN: Okay, so I will close the public  
12 portion of the hearing and then we will move to our  
13 Commissioner deliberations. This is a time for you to ask  
14 any further questions of Staff or make comments or make a  
15 motion. The way I'd like to do this is to consider each of  
16 the three topics separately, so maybe we could start with  
17 the definition of "elevation."  
18

19 If I am recapping this correctly the Policy  
20 Committee made a proposed definition of elevation. The  
21 proposed language—I had it on page 14 of my packet—is  
22 already defined, they did agree on it, so I want to put  
23 that out to Commissioners and see if there are any comments  
24 or suggestions to modify the language, or if you think that  
25



1 that captures what is important for the definition of  
2 elevation. Any comments? Vice Chair Janoff.

3           VICE CHAIR JANOFF: Thank you. You know, I agree  
4 that what they have needed to be included, but my question  
5 has to do with retaining walls maybe at the front or the  
6 visible elevation. We looked at some applications recently  
7 for hillside development that have pretty massive retaining  
8 walls, and now the Town consulting architect is  
9 recommending plantings that would screen those retaining  
10 walls, but if the applicant doesn't plant anything we still  
11 are looking at something that would read from an observer  
12 as part of the front elevation or part of the visible  
13 elevation. So, my question is whether or not we should  
14 include visible retaining walls as part of the definition  
15 of elevation?  
16

17           CHAIR HANSSEN: Could I ask Staff, since I assume  
18 you were present at the Policy Committee meetings, was this  
19 discussed by the Councilmembers that formulated this  
20 definition and debate aside to not include retaining walls,  
21 or was it not discussed?  
22

23           JOCELYN SHOOPMAN: This was discussed by the  
24 Policy Committee at their multiple meetings and the  
25 ultimate conclusion was not to include them. In one  
specific case they were looking at it might give an

1 advantage to an applicant to include retaining walls as  
2 opposed to just looking at the building elevation itself  
3 and based on that input they chose not to include exterior  
4 features, specifically calling out retaining walls.

5 CHAIR HANSSEN: Interesting. Okay. I would have  
6 thought it would have been in the opposite. Any other  
7 comments on the language by Commissioners? What does the  
8 Commission feel about should retaining walls be considered  
9 as part of the elevation or should we go with the Policy  
10 Committee's direction? Commissioner Burch.

11 COMMISSIONER BURCH: I think we should go with  
12 the Policy Committee's recommendation. Perhaps the only  
13 comment to that would be that obviously it would maybe  
14 matter on what the retaining wall was made of. If it is a  
15 natural stone façade or something that would actually blend  
16 in with the natural landscape, I think it makes clear sense  
17 that it wouldn't be included. If by any chance they were  
18 proposing something that didn't (inaudible) landscape  
19 perhaps we would look at that differently, however I would  
20 assume that Staff would catch that before anything came to  
21 us but I would defer to other Commissioners if they felt  
22 like we should add a language in there around the  
23 materials.  
24  
25

1                   JOEL PAULSON: Through the Chair, I would just  
2 add that as Ms. Shoopman said, they had a lot of  
3 conversations about this. A member of the public brought it  
4 up and said it shouldn't be used over and over and so they  
5 ultimately decided not to include it. Again, as Ms.  
6 Shoopman said, you have some instances where it potentially  
7 helps an applicant from a calculation perspective and then  
8 you could have other items, as you're talking about, that  
9 actually would hurt the applicant, so they chose to only  
10 include the building and so that's what we brought forward  
11 as a recommendation. Through a motion if you want them to  
12 consider that or consider portions of that, I think that  
13 could be added into your motion as direction as this  
14 specific item goes forward.

16                   CHAIR HANSSEN: Thank you, Director Paulson. Do  
17 other Commissioners have comments on the idea about the  
18 retaining walls? Commissioner Barnett.

19                   COMMISSIONER BARNETT: I may be missing something  
20 here, but it seems to me that the definition is intended to  
21 tie into the visibility analysis, and from that perspective  
22 I would think that walls, decks, and exterior detached  
23 structures should all be considered as part of the  
24 elevation.  
25

1 CHAIR HANSSEN: So, including the retaining  
2 walls?

3 COMMISSIONER BARNETT: Correct.

4 CHAIR HANSSEN: Okay.

5 JOEL PAULSON: I guess I would just offer a  
6 little more background. The whole reason this came forward  
7 was an application on I want to say Santella that came  
8 before us and Staff had actually looked at walls and things  
9 like that because they can be visible, but in this case I  
10 think it turned out that it may have helped the applicant  
11 on the visibility analysis and so then that's when the  
12 Council sent this item back to Policy Committee for  
13 consideration just so that Staff could get clear direction  
14 on what we should be counting in the visibility analysis,  
15 and this is where we landed.

17 CHAIR HANSSEN: Thank you, Director Paulson. Vice  
18 Chair Janoff.

19 VICE CHAIR JANOFF: Just a question of  
20 clarification for Staff. I'm trying to figure out how the  
21 inclusion would help and I guess what I would say is  
22 there's a greater square footage.. If you could walk through  
23 (inaudible) example I maybe could better understand why the  
24 recommendation is going this direction.  
25

1 JOCELYN SHOOPMAN: I wasn't the project manager  
2 on this until the application but I can do my best to kind  
3 of give a background.

4 I believe in this case it was multiple retaining  
5 walls downhill that were included in this visibility  
6 analysis so it created a larger square footage amount that  
7 the Applicant was working for computing his calculation,  
8 and by including that additional square footage of  
9 retaining walls that were visible it resulted in the  
10 project being under that threshold of 25-percent.

11 CHAIR HANSSEN: Commissioner Hudes.

12 COMMISSIONER HUDES: Thank you. Coming back to  
13 Commissioner Burch's question for Staff, how likely is it  
14 that we're going to get a retaining wall that isn't a  
15 natural compatible material on the hillside applications?  
16 And also would there be any existing retaining wall that  
17 wouldn't be of that type that would be part of the  
18 consideration here?

19 JOCELYN SHOOPMAN: We have seen some more  
20 contemporary and modern homes in our hillsides; I believe  
21 one was approved on Santella Court actually by the  
22 Commission in either 2018 or 2019. It was more of a  
23 contemporary style. It did have some concrete walls,  
24 although they also had landscaping to soften that material,  
25

1 but that was reviewed by the Town's consulting architect  
2 with the Hillside Design Guidelines and found to be  
3 compliant. As far as you're saying, if there is existing  
4 retaining walls whether they can be including in a  
5 visibility analysis?

6 COMMISSIONER HUDES: Yes, my comments were  
7 strictly about the retaining walls. I remember the recent  
8 approval but I'm really talking about the materials that  
9 are used on the retaining walls, new and existing.

10  
11 JOCELYN SHOOPMAN: If Staff is completing a  
12 visibility analysis today we would be looking at what's  
13 visible, so is that the building elevation? Are those  
14 existing retaining walls regardless of their material? This  
15 is part of the questions of a Commission's consideration is  
16 should we still be looking at those visible walls  
17 regardless of the material?

18 COMMISSIONER HUDES: If I could just follow up.  
19 How likely is it that they will be of a non-natural  
20 material?

21 JOCELYN SHOOPMAN: It's a possibility. There are  
22 quite a few old structures and retaining walls out there,  
23 so I would say that yes, there's a possibility that we  
24 could see them.  
25

1 JOEL PAULSON: I would just add to that,  
2 Commissioner Hudes, I mean natural stucco is technically  
3 sand, so we see a lot of stucco walls, concrete walls; we  
4 see those quite often. Generally how they're treated in the  
5 hillside environment is either by screening as mentioned by  
6 Vice Chair Janoff, or by color to help them blend in.

7 COMMISSIONER HUDES: Okay, thank you.

8 CHAIR HANSSEN: Vice Chair Janoff.

9 VICE CHAIR JANOFF: I would like to support the  
10 addition of language as Commissioner Burch alluded to that  
11 if the material of the retaining wall is obvious and  
12 visible or non-natural or however you might want to phrase  
13 it, then it could be included in the elevation calculation.  
14 I'm having a little trouble understanding how it could  
15 work. I'm having a little trouble with the numbers on this  
16 one but I think there could be instances where you'd have a  
17 rather obvious retaining wall, and I'm thinking about that  
18 house. I can't remember the street but it's...the lands of  
19 pam is all I can remember, but it was that massive house up  
20 on a hillside and there were retaining walls and all kind  
21 of balustrades and stuff and you're just looking at it,  
22 going wow. I can't imagine why we would not want to include  
23 in that instance the retaining wall as part of that  
24 calculation.  
25

1 JOEL PAULSON: I think that was Jerrod Lane..

2 VICE CHAIR JANOFF: Yes.

3 JOEL PAULSON: ...and actually (inaudible) wasn't  
4 visible at all so that wasn't even an issue, because it was  
5 low enough in the hillside.

6 But that's the challenge and that's why Staff has  
7 historically looked at them. In the instance, just for this  
8 example, there was another planner as Ms. Shoopman  
9 mentioned, and so we counted all the retaining wall and a  
10 lot of the retaining wall was screened by existing  
11 vegetation, so that added to their total wall square  
12 footage for the calculation, which means technically the  
13 house could be more visible or other components could be  
14 more visible because they were getting credit for the wall  
15 that was screened by vegetation.  
16

17 So, that's where the challenge comes in. It kind  
18 of cuts both ways, so that was the challenge. There are  
19 always going to be items like that but that's why we were  
20 happy that the Council sent it to Policy Committee so you  
21 get clear direction. I think it gets to be challenging if  
22 we try to take it if it's a wall that's visible then we're  
23 going to count it, if it's not visible then we're not going  
24 to count it; that gets to be problematic from our  
25 perspective looking at that, but whatever the Commission



1 wants to put forward as a recommendation to Council, we'll  
2 carry that forward for their discussion.

3 VICE CHAIR JANOFF: Just a follow up. Thank you  
4 for that clarification; I now understand it's a difference  
5 between what's visible and not visible. Given that, I would  
6 think the language as proposed is probably fine. I would  
7 also expect that the consulting architect would provide the  
8 guidance for screening for color modification.

9 CHAIR HANSSEN: Commissioner Hudes.

10 COMMISSIONER HUDES: Yeah, I would agree with  
11 Vice Chair Janoff. I think that as it's written it would be  
12 a perceptible improvement in the way that we're evaluating  
13 elevation.

14 CHAIR HANSSEN: Okay. So, the way that this works  
15 is if there are no further comments we could entertain a  
16 motion from a member of the Commission and the motion would  
17 be to forward a recommendation to Council to approve the  
18 language as is, or approve with modifications, or go back  
19 to the drawing board; those I think are the three options.  
20 I don't think the third option is one we would recommend,  
21 so would someone be able to make a motion to either do A or  
22 B? Vice Chair Janoff.

23 VICE CHAIR JANOFF: Yes, I'll make a motion to  
24 approve the language as is.

1 CHAIR HANSSEN: And then Commissioner Hudes had  
2 his hand up before Commissioner Badame.

3 COMMISSIONER HUDES: I second the motion.

4 CHAIR HANSSEN: Okay, great. Is there any further  
5 discussion by the Commission on this matter? Seeing none,  
6 we will do a roll call vote and I will start with  
7 Commissioner Badame.

8 COMMISSIONER BADAME: Yes.

9 CHAIR HANSSEN: And then Commissioner Tavana.  
10

11 COMMISSIONER TAVANA: Yes.

12 CHAIR HANSSEN: Commissioner Burch.

13 COMMISSIONER BURCH: Yes.

14 CHAIR HANSSEN: Commissioner Hudes.

15 COMMISSIONER HUDES: Yes.

16 CHAIR HANSSEN: Commissioner Barnett.

17 COMMISSIONER BARNETT: No.

18 CHAIR HANSSEN: Okay. And Vice Chair Janoff.

19 VICE CHAIR JANOFF: Yes.

20 CHAIR HANSSEN: And then I vote yes as well, so  
21 it passes 6-1 with Commissioner Barnett voting against. Are  
22 there any appeal rights for this action by the Commission,  
23 Director Paulson?  
24

25

1 JOEL PAULSON: There are not any appeal rights  
2 because this is a recommendation, as will be the remainder  
3 of these motions.

4 CHAIR HANSSEN: Okay, thank you. All right, so  
5 then the second item was about trees and it is whether or  
6 not trees that are subject to required clearing by the Fire  
7 Department and also trees that don't require a permit to be  
8 removed should be included, and there was a split vote by  
9 the Policy Committee.

10 Vice Mayor Spector felt that we should be more  
11 conservative and remove any of these trees that could be  
12 removed without a permit or required by the Fire Department  
13 from screening, and I'm interpreting, but the Mayor felt  
14 that anybody could ultimately remove any trees so then no  
15 one would be able to include them in their analysis. I  
16 think I characterized the way that Staff said it, but if I  
17 didn't get that right, let us know.

18 We also heard testimony from Dr. Weissman  
19 recommending that we should exclude the trees that the Fire  
20 Department would require to be removed as well as the non-  
21 native trees that aren't protected by the ordinance, and I  
22 think that was his recommendation.

23 So, where does the Commission come out on this  
24 item? Commissioner Burch and then Commissioner Hudes.  
25

1           COMMISSIONER BURCH: We had a few discussions on  
2 this (inaudible) previously on hillside applications based  
3 on our own walking the site, recognizing which trees had  
4 been highlighted to be removed as part of the application,  
5 and then trying to determine how that actually lines up  
6 with the visibility analysis. Ultimately in most of those  
7 conversations what we circled back to was that we needed to  
8 make sure that in understanding which trees were going to  
9 be removed we were doing more of a visibility analysis  
10 based on that. What will be the reality? I kind of feel  
11 like yes, we need to be including the fact that they won't  
12 be there in the visibility analysis as much as we can to  
13 our abilities. I know in some instances that's very  
14 difficult but in others we've gone back on an application  
15 and actually seen that the removal of one or two in the  
16 application had a huge impact on how the development would  
17 be seen from different viewing points. So yes, I do feel  
18 like we should be taking the removal of those trees into  
19 consideration.  
20

21           JOEL PAULSON: Through the Chair, I would just  
22 like to say that the trees are one in the same but there's  
23 really two different components.

24           So, the exceptions. Those are trees that can be  
25 removed without any permit. The first one is the zone one,

1 two, and three. Zone one, they have to remove; zones two  
2 and three, they're not removing all of that vegetation,  
3 it's not a clearcutting the forest. It's kind of, I can't  
4 remember what the term is, I want to say lean and green or  
5 clean and green. They're limbing up trees, they're clearing  
6 vegetation that can be a fire ladder, things like that.  
7 It's not just cutting down the trees.

8           So, there are two components of this when you're  
9 looking at that, and so ultimately I think they split on  
10 both of those issues, but we have a code that mirrors state  
11 code, which is similar to the fire code, which mirrors  
12 state code. I've talked to County Fire. They're not going  
13 out to properties and saying we have to do this. You know,  
14 we're getting more and more inquiries obviously, given the  
15 continuing news every week that's going on, so those  
16 provisions are available to property owners, but it's not  
17 just to remove all of those trees, it's really to limb up  
18 the ones in zones two and three and do some other clearing  
19 of vegetation. Then with the ones that are on the exception  
20 list, those are trees that people can just remove without a  
21 permit regardless. So, just so everyone understands there  
22 are kind of two separate but (inaudible) components.  
23  
24  
25

1                   COMMISSIONER BURCH: Thank you for that, because  
2 I was a little confused when reading it about how those  
3 different things meshed into each other, so thank you.

4                   CHAIR HANSSEN: All right, so we really kind of  
5 have two tree issues to discuss. I think Vice Chair Janoff  
6 and then Commissioner Hudes.

7                   VICE CHAIR JANOFF: I just wanted to clarify that  
8 what Director Paulson is talking about... I have a list of  
9 five items. It's a A, B, C, and D that I was expecting to  
10 walk through, not the list of three which were the  
11 decisions that I think Chair Hanssen is going through. I  
12 think the topic that Chair Hanssen was discussing is Item  
13 C, which is the visibility regarding tree removal, and then  
14 what Director Paulson is discussing is Item B, the tree  
15 clearing that's recommended by the Fire Department, so  
16 yeah, we do have two separate items for consideration.

17  
18                   CHAIR HANSSEN: I think you have a good point, so  
19 maybe we should do a separate motion on each one?

20                   VICE CHAIR JANOFF: Yes.

21                   CHAIR HANSSEN: To make it clearer, yeah, yeah.  
22 Okay, thank you for that clarification, Staff and also Vice  
23 Chair Janoff. Commissioner Hudes.

24                   COMMISSIONER HUDES: I'm not sure which one it  
25 fits into or whatever, but the comments from Dr. Weissman,

1 I would be interested in Staff's reaction to that as to  
2 whether it makes sense and whether it's feasible to have  
3 different conditions for non-native versus native trees,  
4 whether they think it's a good idea.

5           JOEL PAULSON: I think as he also mentioned most  
6 of these trees in this exception list, which is Item C in  
7 the Staff Report, those are all non-native with the  
8 exception potentially of three, which is for fire  
9 prevention, but I'm not sure if Ms. Shoopman has any  
10 additional comments. I think that's a fairly simple  
11 distinction as none of the trees in one or two are probably  
12 going to be native.

14           JOCELYN SHOOPMAN: I would agree. We can easily  
15 separate native from non-native.

16           CHAIR HANSSEN: Commissioner Hudes.

17           COMMISSIONER HUDES: Do you think it's a good  
18 idea?

19           JOEL PAULSON: Well, neither of us are arborists  
20 and we didn't bring the arborist with us, but I think that  
21 might be some good direction should a motion go forward on  
22 Item C regarding a distinction between native and non-  
23 native, and potentially similarly in... It gets captured in B  
24 by C in and of itself, but that might be helpful direction  
25 to have them weigh in on, and we can also get some input

1 from either one of our consulting arborists or a Town  
2 arborist.

3 CHAIR HANSSEN: Vice Chair Janoff.

4 VICE CHAIR JANOFF: I guess I take a little bit  
5 different view from Dr. Weissman, and while I completely  
6 appreciate where he's going with his thinking with regard  
7 to preserving the native trees, and I agree that the native  
8 trees need to be discussed for our visibility analysis, the  
9 non-natives should absolutely not be required, and here's  
10 the reason. It's precisely what Dr. Weissman led with, and  
11 that is that people who buy hillside property really want  
12 the view and there's no way to get the view unless you cut  
13 your trees down, and I'm not aware that there's a follow up  
14 that would make anyone accountable to hey, you said you  
15 weren't going to cut that tree down even if it's a native.  
16 I mean you would like to believe that people would want to  
17 preserve the native trees but you can also understand where  
18 people say, "You know what? That oak tree is right in the  
19 middle of my beautiful view."  
20

21 I just want to show you something quickly. This  
22 is my view. I'm looking directly across the valley at  
23 Levi's Stadium, and it's a bigger view than that. When we  
24 purchased the property there were no trees in our view so  
25 we haven't had to made the decision about cutting down



1 trees, but there's got to be a lot of properties out there  
2 that say great, we got the permit, we got the house built,  
3 cut them down. So, I'm thinking that on a conservative side  
4 we shouldn't put any trees that are on the property that  
5 are larger than a certain diameter in the visibility  
6 analysis.

7 CHAIR HANSSEN: All right, so thank you for your  
8 direction on that. Are there other comments? Just to be  
9 clear, Vice Chair Janoff did bring up that there are  
10 actually three... So, B, C, and D are all on trees, right?  
11 Let me just make sure. Yeah, so B was about regarding trees  
12 subject to clearing, and then the exceptions for tree  
13 removal, and then site planning regarding image update.

14 So, if it's the will of the Commission maybe the  
15 best thing to do would be to take each one of these  
16 separately, even though we've been discussing all three of  
17 them, and see if we can get a motion on this. And again,  
18 we're making our recommendation to Council. But let's see  
19 if any of the Commissioners have any more comments on the  
20 tree analysis.  
21

22 While you guys are still thinking about it I will  
23 weigh in. I completely agree with Vice Chair Janoff. I also  
24 live in the hillsides and I haven't seen a lot of people  
25 cutting down trees because we haven't had a whole lot of

1 building; we don't have available lots in our neighborhood.  
2 And after we've heard so many of these hearings in the  
3 hillsides I think people are highly incented to improve  
4 their view, and so we should take the most conservative  
5 view on what could possibly be included in the visibility  
6 analysis, because it probably won't be there.

7           So, is there anyone that could make a motion?  
8 Vice Chair Janoff, do you feel comfortable making a motion?

9           VICE CHAIR JANOFF: I do, I'm just not entirely  
10 sure what my motion would be. I guess the more conservative  
11 view is... I can't tell whether it's Vice Mayor Spector's or  
12 Mayor Jensen's view, but I would recommend that the  
13 language be conservative in that we could expect all non-  
14 native trees that are not proposed to be removed could and  
15 probably will be removed and they should not be included in  
16 the visibility study.

17           With regard to the native trees, I think any tree  
18 that is under I think it's the 9" diameter shouldn't be  
19 included either because if they can be removed then they  
20 probably will be removed. I hope that's clear.

21           CHAIR HANSEN: I think that's pretty darned  
22 clear. Commissioner Burch had her hand up and then  
23 Commissioner Tavana.

1 COMMISSIONER BURCH: I was going to second the  
2 motion.

3 COMMISSIONER TAVANA: Same here. I'll second it.

4 CHAIR HANSSEN: Okay. All right, so we'll say  
5 Commissioner Tavana seconded it. So, we'll take Vice Chair  
6 Janoff's motion on the matter, which was to exclude the  
7 trees that were non-native that do not require a permit as  
8 well as any of the native that are under the diameter where  
9 they wouldn't require a permit for removal as well. Yes?  
10 Yes. Is there any further discussion on that? Okay, so then  
11 I will go ahead and take the roll call vote and I will  
12 start with Commissioner Badame.  
13

14 COMMISSIONER BADAME: Yes.

15 CHAIR HANSSEN: Commissioner Tavana.

16 COMMISSIONER TAVANA: Yes.

17 CHAIR HANSSEN: Commissioner Burch.

18 COMMISSIONER BURCH: Yes.

19 CHAIR HANSSEN: Commissioner Hudes.

20 COMMISSIONER HUDES: Yes.

21 CHAIR HANSSEN: Commissioner Barnett.

22 COMMISSIONER BARNETT: Yes.

23 CHAIR HANSSEN: Vice Chair Janoff.

24 VICE CHAIR JANOFF: Yes.  
25

1 CHAIR HANSSEN: And I vote yes as well, so that  
2 passes unanimously. So that's basically one motion that  
3 covered... Just to make sure I've got this right though, it  
4 covers B, C, and D?

5 VICE CHAIR JANOFF: No, just C.

6 CHAIR HANSSEN: Just C. Okay, right. Okay, so we  
7 still need to worry about B and D, right?

8 VICE CHAIR JANOFF: Yeah, and I'm prepared to  
9 make a motion on those as well.  
10

11 JOEL PAULSON: Through the Chair I would say your  
12 motion on C kind of covers B, because we wouldn't include  
13 any of those anyway because they're non-native and it's an  
14 additional requirement to not include any natives that are  
15 less than a certain diameter, and the zone language is  
16 really, again, where they're going to be trimming up  
17 vegetation and separating vegetation canopies, so they're  
18 going to have to do that anyway, but if you want to make a  
19 specific motion on B, that's fine as well.

20 CHAIR HANSSEN: I don't know what you think, Vice  
21 Chair Janoff, but I think we're covered on B given what  
22 Staff said.

23 VICE CHAIR JANOFF: That's fine. I'm okay with  
24 that.  
25

1 CHAIR HANSSEN: All right. Then with D I'm trying  
2 to remember...

3 VICE CHAIR JANOFF: D is the update on the  
4 graphic in the...

5 CHAIR HANSSEN: The graphics, yeah, yeah, okay.  
6 So, are there thoughts on that one? What's the Commission's  
7 thoughts on the recommendation? Commissioner Barnett.

8 COMMISSIONER BARNETT: I don't see any reason not  
9 to update the graphic.  
10

11 CHAIR HANSSEN: I think I agree with that. Other  
12 Commissioners have any thoughts on that one? It seems  
13 pretty straightforward. Okay, so can we get a motion on  
14 that one? Maybe Commissioner Barnett, or Commissioner Burch  
15 has her hand up.

16 COMMISSIONER BURCH: I'm just going to make the  
17 motion to approve the update of the image.

18 CHAIR HANSSEN: Right. Commissioner Hudes.

19 COMMISSIONER HUDES: I would second the motion  
20 and just make a comment that we're balancing the interests  
21 of the Town and visibility with safety and wildfire safety,  
22 and I think it's always important to err on the side of  
23 safety, especially in the environment that we're in, and so  
24 I believe all of these are useful changes for that reason  
25

1 and I think we need to continue to look at wildfire safety  
2 improvements that we can make whenever we can.

3 CHAIR HANSSEN: Well said, Commissioner Hudes.  
4 Okay, so we have a motion and we have a second. Any other  
5 comments by Commissioners? I'll go ahead with the roll call  
6 vote. Commissioner Badame.

7 COMMISSIONER BADAME: Yes.

8 CHAIR HANSSEN: Commissioner Tavana.

9 COMMISSIONER TAVANA: Yes.  
10

11 CHAIR HANSSEN: Commissioner Burch.

12 COMMISSIONER BURCH: Yes.

13 CHAIR HANSSEN: Commissioner Hudes.

14 COMMISSIONER HUDES: Yes.

15 CHAIR HANSSEN: Commissioner Barnett.

16 COMMISSIONER BARNETT: Yes.

17 CHAIR HANSSEN: Vice Chair Janoff.

18 VICE CHAIR JANOFF: Yes.

19 CHAIR HANSSEN: And I vote yes as well. All  
20 right, so we've got A, B, C, D, and so we still have E.

21 So, E is about the project review and if the  
22 application is over the visibility requirement of 24.5-  
23 percent and they are required in our Hillside Design  
24 Guidelines to reduce the height to 18', and so the question  
25

1 is whether or not the Development Review Committee could be  
2 the deciding body instead of the Planning Commission.

3           If I interpreted the comments from the Policy  
4 Committee accurately Vice Mayor Spector said that there  
5 could be other issues besides just the visibility that  
6 might affect whether it is approvable or not, so she was  
7 recommending to keep it with the Planning Commission, and  
8 the Mayor felt the other way that we should move it down to  
9 the Development Review Committee so that applicants  
10 wouldn't have to spend as much money and could get their  
11 approvals streamlined. Are there thoughts on that from the  
12 Commission? Commissioner Badame.

14           COMMISSIONER BADAME: I would be in favor of  
15 keeping the review process within the purview of the  
16 Planning Commission rather than the DRC due to other  
17 extenuating circumstances that might revolve around the  
18 approval or denial.

19           CHAIR HANSSEN: Other comments? Commissioner  
20 Hudes.

21           COMMISSIONER HUDES: Yeah, I would agree. I  
22 generally believe in streamlining, particularly when it  
23 comes to things that relate to the economic vitality of the  
24 Town. When it comes to the hillsides I don't think that  
25 streamlining in general yields good results and I think

1 there were reasons why we enacted the Hillside Design  
2 Standards and Guidelines and the decision-making bodies for  
3 them, and I think the Planning Commission is more familiar  
4 with some of the details of the analysis as well, and so I  
5 would be in support of keeping it with the Planning  
6 Commission.

7 CHAIR HANSSEN: Thank you. Commissioner Burch.

8 COMMISSIONER BURCH: I want to ask a couple of  
9 questions of Staff about it. I would assume if this is  
10 being reviewed internally that the application would be  
11 needing, as it said, FAR, visibility, height, privacy  
12 concerns, the reflectivity of the materials, including any  
13 of these updates that we're proposing as far as the  
14 visibility around what trees would remain or not. Is that a  
15 correct assumption?  
16

17 JOEL PAULSON: I can jump in. Yes, all of those  
18 things get analyzed. I think the other is understanding  
19 that the Policy Committee, potentially the Planning  
20 Commission and the Council, were going to make the  
21 modifications we already talked about. That means there are  
22 going to be far more homes that are visible, so you're  
23 going to have homes that may or may not be visible from a  
24 reality when they're built five years, ten years, or they  
25 can be visible right away, and so you're going to have a



1 lot more homes of that nature that will be paying an  
2 additional \$4,000 approximately and adding an additional  
3 six weeks approximately to their application timing to go  
4 to the Planning Commission, but either way. Staff is  
5 comfortable either way bringing it forward to the  
6 Commission, it's just really something to help, as  
7 mentioned, for streamlining for applicants.

8 COMMISSIONER BURCH: May I ask a quick follow up?

9 CHAIR HANSEN: Go ahead.

10 COMMISSIONER BURCH: Should the application come  
11 to DRC and they've checked all the boxes would it  
12 potentially be something that you would still though bring  
13 to the Commission should there be perhaps a lot of  
14 opposition by neighbors or somebody else who felt impacted  
15 by the property?

16  
17 JOEL PAULSON: We don't generally have a vote to  
18 see how many people like or dislike a project. We're  
19 looking at it objectively based on our standards. Obviously  
20 DRC is appealable. You're going to be seeing a lot more  
21 appeals, and you have seen a lot more appeals, and so we're  
22 going to be processing it from that standpoint. If they are  
23 a major exception or (inaudible) that after trying to work  
24 with applicants and neighbors, because generally what  
25 happens is we have the applicant work with the neighbor if

1 it's a privacy issue to try to come up with a solution.  
2 Seventy-five percent of the time they come up with a  
3 solution, 25-percent they don't, and then the process is  
4 that someone has to appeal whatever decision that is. So,  
5 generally that's the course of action.

6           COMMISSIONER BURCH: That was the answer that I  
7 was hoping that you would say, and so based on that I feel  
8 like with the conversations that we're having right now and  
9 the (inaudible) work that so many people have done in the  
10 last few years around really defining what requirements  
11 need to be met in the hillsides as far as visibility and  
12 materials and so forth(inaudible) setting those type of  
13 parameters in place so that Staff...

14           We are streamlining these things and we aren't  
15 holding up a potential homeowner additional months and  
16 additional fees, a home that theoretically meets all the  
17 requirements, and again, based on what Mr. Paulson just  
18 stated, if there are issues with potential neighbors they  
19 will appeal it and it would come to us, so I feel like all  
20 the work that's been happening is to help streamline these  
21 processes and make some things in the Town a bit easier for  
22 our residents. There are still things in place to make sure  
23 that somebody doesn't build a four-story glaringly white  
24 home in the hills that's visible from everywhere, so I  
25

1 think to me I feel a very safe thing to say is let's  
2 continue down that streamlining process.

3 CHAIR HANSSEN: Thank you. Do other Commissioners  
4 have comments? Commissioner Barnett.

5 COMMISSIONER BARNETT: Mr. Paulson, how often do  
6 you get neighbors appearing at the DRC?

7 JOEL PAULSON: We have neighbors at almost every  
8 DRC right now. Obviously we're in a different time so  
9 people have a lot more opportunity, because they're already  
10 on Zoom all day long so what's one more Zoom meeting? So we  
11 have had a lot more participation at DRC meetings.  
12

13 Like said, it gets to be challenging because  
14 we're looking at it from a technical perspective and  
15 people's views or privacy, those are important issues. We  
16 just don't have any objective standards, and if they meet  
17 those technical requirements then we try to look for  
18 solutions and try to get the applicants to work with  
19 adjacent neighbors, but sometimes they just can't come to a  
20 compromise, and then again, that's where a project gets  
21 appealed.

22 I don't have any objective numbers for you as far  
23 as what that looks like, but I'll definitely have Staff  
24 look into that over the last six months, how many agenda  
25

1 items have we had and how many folks have participated on  
2 any one of those agenda items.

3 COMMISSIONER BARNETT: That's helpful to know.  
4 Thank you.

5 CHAIR HANSSEN: Commissioner Hudes.

6 COMMISSIONER HUDES: I'm definitely respectful of  
7 the other Commissioners' points, however I don't think that  
8 streamlining in the hillsides is a valuable thing for the  
9 Town as whole and we have to balance the needs and  
10 requirements of the hillside homeowner with the needs and  
11 requirements of the Town, and we're not always going to be  
12 in a situation where residents can attend DRC meetings, and  
13 we've had glitches with notification and other things at  
14 times, and our hillsides are finite in terms of what they  
15 are and what is built on them.

16 I think that we're really not talking about  
17 lengthening the time, we're talking about staying with the  
18 existing timeframe, so I don't really think that it's  
19 necessarily making it more difficult, I think we're just  
20 saying let's stand by what people have put together to  
21 protect our hillsides and that includes a hearing process  
22 with the Planning Commission, which is I think well  
23 equipped to balance the interests of the community and the  
24 homeowner. It's hard work and I know the DRC does a very  
25

1 good job as well but I also think that we need additional  
2 prudent checks and balances on our hillsides and what gets  
3 put on them, and particularly when they are visible we need  
4 to really pay attention to that.

5 CHAIR HANSSEN: Commissioner Badame.

6 COMMISSIONER BADAME: I would like to add that  
7 hillside homes, they're a greater distance apart so they  
8 have a greater propensity to be seen, but for residents not  
9 to receive notice, so they wouldn't receive notice to even  
10 go to a DRC hearing to possibly object, so I'm still going  
11 to stick with Planning Commission purview on this one.

12 CHAIR HANSSEN: Thank you for your comments. I'm  
13 going to weigh in and say that with all due respect we have  
14 a lot of good things that have happened with the Hillside  
15 Design Guidelines but I can think of any number of times  
16 where we've had residences that were way more massive than  
17 they could be and by changing the flow of their  
18 architecture or something like that they could change the  
19 dynamics of the visibility as well, and so I think it's not  
20 as simple as always just making it 18' and having them  
21 comply with the other things. There are often ways that  
22 they could redo the design of the house or the situation of  
23 the house, and so I feel like in the case where a house is  
24 going to be visible we should really be diligent about that  
25

1 and so I side with Commissioner Hudes and others on that  
2 point. Vice Chair Janoff.

3 VICE CHAIR JANOFF: I just wanted to say that I  
4 agree with that. I think the notion that Staff is really  
5 limiting their decisions to objective criteria does mean  
6 that the more subjective or discretionary realm that a  
7 planning commission does have the opportunity to operate  
8 with them doesn't get addressed, and so I would be in favor  
9 of keeping the process the way it is with these  
10 applications coming to the Planning Commission.  
11

12 CHAIR HANSSEN: Thank you. Any other Commissioner  
13 want to make a comment on this? If not, I would entertain a  
14 motion. Commissioner Badame.

15 COMMISSIONER BADAME: I'll make a motion. I move  
16 to forward to Town Council a recommendation to retain  
17 project review and approval process with the Planning  
18 Commission.

19 CHAIR HANSSEN: For the homes that are visible,  
20 right?

21 COMMISSIONER BADAME: Yes, for the homes that are  
22 visible.

23 CHAIR HANSSEN: Okay, thank you. Is there a  
24 second? Commissioner Hudes had his hand up.  
25

COMMISSIONER HUDES: Second.

1 CHAIR HANSSEN: And any further discussion?  
2 Seeing none, I will go with the roll call vote.  
3 Commissioner Badame.  
4 COMMISSIONER BADAME: Yes.  
5 CHAIR HANSSEN: Commissioner Tavana.  
6 COMMISSIONER TAVANA: Yes.  
7 CHAIR HANSSEN: Commissioner Burch.  
8 COMMISSIONER BURCH: No.  
9 CHAIR HANSSEN: No? Okay. Commissioner Hudes.  
10 COMMISSIONER HUDES: Yes.  
11 CHAIR HANSSEN: Commissioner Barnett.  
12 COMMISSIONER BARNETT: Yes.  
13 CHAIR HANSSEN: Vice Chair Janoff.  
14 VICE CHAIR JANOFF: Yes.  
15 CHAIR HANSSEN: And then I vote yes as well, so  
16 it passes 6-1. Are there any appeal rights on this action?  
17 It's probably the same as the others, so I'm asking Staff.  
18  
19 JOEL PAULSON: I'm talking, I just don't have my  
20 mike on. There are no appeal rights for this as it is a  
21 recommendation to the Town Council.  
22  
23 CHAIR HANSSEN: Okay, thank you very much.  
24  
25

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