



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 10/28/2020

ITEM NO: 2

DATE: October 23, 2020  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Consider an Appeal of a Development Review Committee Decision Approving a Request for Demolition of an Existing Single-family Residence and Construction of a New Single-family Residence Located in the Broadway Historic District on Property Zoned R-1D:LHP Located at 101 Broadway. APN 510-45-041. Architecture and Site Application S-20-003. Property Owner: ZKJ LLC. Applicant: Jay Plett, Architect. Project Planner: Sean Mullin

**RECOMMENDATION:**

Deny the appeal of a Development Review Committee decision approving a request for demolition of an existing single-family residence and construction of a new single-family residence located in the Broadway Historic District on property zoned R-1D:LHP.

**PROJECT DATA:**

General Plan Designation: Medium Density Residential  
Zoning Designation: R-1D:LHP  
Applicable Plans & Standards: General Plan and Residential Design Guidelines  
Parcel Size: 0.28 acres (12,132 square feet)  
Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Medium Density Residential	R-1D:LHP
South	Residential	Medium Density Residential	R-1D:LHP
East	Residential	Medium Density Residential	R-1D:LHP
East	Residential	Medium Density Residential	R-1D:LHP

**PREPARED BY:** SEAN MULLIN, AICP  
Associate Planner

Reviewed by: Planning Manager and Community Development Director

CEQA:

The project is Categorical Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

FINDINGS:

- The project is Categorical Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.
- As required by Section 29.10.09030(e) of the Town Code for the demolition of existing structures:
  1. The Town's housing stock will be maintained as the single-family residence will be replaced.
  2. The existing structures have no architectural or historical significance, and are in poor condition.
  3. The property owner does not desire to maintain the structures as they exist; and
  4. The economic utility of the structures was considered.
- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations).
- The project is in compliance with the Residential Design Guidelines for single-family residences located in Historic Districts and not in hillside areas.
- The project is in compliance with the applicable sections of the Hillside Development Standards and Guidelines for properties outside of the hillside area with an average slope exceeding 10 percent.

CONSIDERATIONS:

- As required by Section 29.20.150 of the Town Code, the considerations in review of an Architecture and Site application were all made in reviewing this project.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The subject property is located on the south side of Broadway, just west of Main Street in the Broadway Historic District (Exhibit 1). The lot is approximately 12,132 square feet and is developed with a two-story fire-damaged residence with an attached garage. The immediate neighborhood contains one-story and two-story single-family and multi-family residential buildings.

On February 28, 2020, the applicant submitted an Architecture and Site application for the demolition of the existing fire-damaged structure and construction of a new 2,449.5-square foot two-story residence with a 367-square foot attached garage. The project includes areas of below-grade square footage on the lower level that would not count toward the size of the residence.

The proposed project meets all technical requirements of the Town Code including parking, height, floor area, and setbacks.

On May 27, 2020, the Historic Preservation Committee (HPC) reviewed the proposed project for replacement of the non-contributing fire-damaged structure and found it to be compatible with the Broadway Historic District in terms of style, massing, and scale. The HPC forwarded a recommendation of approval of the proposed design with the condition that the new residence utilize wood channel lap siding (Exhibit 4).

During review of the Architecture and Site application, the applicant revised the design of the residence in response to the concerns of the adjacent neighbor by removing one second-story window, reducing the size of another second-story window on the west elevation, and lowering the roof by six inches above the master bedroom and bathroom.

On September 1, 2020, the Development Review Committee (DRC) considered approval of the application and continued the hearing to allow the applicant to work with the neighbors to address their concerns (Exhibit 5). Prior to this DRC hearing, staff forwarded public comments received to the DRC members (Exhibit 6).

On September 15, 2020, the DRC considered the application noting that the applicant had revised the project to address the neighbors' concerns, as follows:

- Removing one second-story window on the west elevation;
- Reducing the size of a second-story window on the west elevation;
- Lowering the roof by six inches above the master bedroom and master bathroom;
- Reducing the extent of the upper terrace patio by five feet to be farther away from the property to the east; and
- Introducing a fence along the east property line, adjacent to the neighbor's patio, with a height 1.33 feet above the neighbor's eave line for a length of not less than 40 feet.

BACKGROUND (continued):

Prior to this hearing, staff forwarded additional public comments received after the previous DRC hearing to the DRC members (Exhibit 7). The DRC made the required findings and considerations and approved the Architecture and Site application for the revised project with conditions of approval (Exhibit 8).

On September 18, 2020, the decision of the DRC was appealed to the Planning Commission by the adjacent neighbor (appellant), due to concerns regarding privacy; compatibility; height, mass, and views; story poles; spot elevations; and windows (Exhibit 9). The appellant submitted additional letters detailing their concerns in support of the appeal included with Exhibit 9.

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located on the south side of Broadway in the Broadway Historic District (Exhibit 1). The lot is 12,132 square feet and is developed with an approximately 1,296-square foot two-story fire-damaged residence with a 542-square foot attached garage. The property slopes up approximately 70 feet from the front to the rear property line and has an average slope of 23.2 percent. Properties located outside of the Hillside Area with an average slope in excess of 10 percent are subject to the standards and guidelines of the following sections of the Hillside Development Standards and Guidelines:

- Constraints Analysis and Site Selection (excluding visibility);
- Site Planning for Grading, Drainage, Driveways and Parking, and Geologic Safety; and
- Site Elements for Retaining Walls.

The immediate neighborhood contains one-story and two-story single-family and multi-family residential buildings. Generally, this section of Broadway ascends from east to west, with properties to the west sitting at a higher elevation than those to the east. Due to lot configuration and topography, many residences in the immediate neighborhood are sited at the front of the property toward Broadway.

B. Project Summary

The applicant proposes demolition of the existing fire-damaged residence and construction of a two-story residence with an attached two-car garage. The project includes areas of below-grade square footage on the lower level that would not count toward the size of the residence.

PROJECT DESCRIPTION (continued):

C. Zoning Compliance

A single-family residence is permitted in the R-1D:LHP zone. The proposed residence is in compliance with the allowable floor area, height, setbacks, and on-site parking requirements for the property. There is no maximum allowed building coverage, and HPC design review is required for construction in the zone.

DISCUSSION:

A. Architecture and Site Analysis

The applicant proposes demolition of the existing fire-damaged residence and construction of a new 2,449.5-square foot two-story residence with a 367-square foot attached garage. The project includes 410 square feet of living area and 428 square feet of garage area on the lower level that would meet the definition of below-grade square footage and does not count toward the size of the residence or garage. The proposed residence would be sited towards the front of the 50-foot wide and 258-foot deep property, utilizing the area of existing development and meeting the limitations of the Least Restrictive Development Area (LRDA). The front setback of the proposed residence would increase from that of the existing residence, with the proposed garage being approximately five feet deeper into the site and the front entry being approximately 19 feet deeper into the site than the existing residence. The rear of the proposed residence would extend approximately 20 feet beyond the existing residence over the area of existing patios. The width of the proposed residence is consistent with the existing residence at 38 feet, four inches. The maximum height of the proposed residence is 28 feet, six inches, where a maximum of 30 feet is allowed.

The proposed project materials include channeled horizontal wood lap siding, smooth plaster siding, aluminum clad wood divided lite windows and doors, a wood garage door, wood columns and brackets, and a composition asphalt shingle roof. A color and materials board are included with this staff report (Exhibit 10). The applicant has provided a Written Description/Letter of Justification detailing the project (Exhibit 11).

B. Building Design

On May 27, 2020, the HPC reviewed the proposed project for replacement of a noncontributing fire-damaged structure and found it to be compatible with the Broadway Historic District in terms of style, massing, and scale. The HPC forwarded a recommendation of approval with the condition that the new residence utilize channeled wood lap siding (Exhibit 4). The HPC's recommendation is reflected in the attached approved project plans (Exhibit 19).

DISCUSSION (continued):

Following the May 27, 2020 HPC hearing, the applicant revised the design to respond to the privacy and view concerns of the uphill neighbor by removing one second-story window, reducing the size of another second-story window on the west elevation, and lowering the roof ridge by six inches above the master bedroom and bathroom. Additional revisions were made by the applicant following the first DRC hearing to respond to the privacy concerns of the downhill neighbor by reducing the extent of the upper terrace patio by five feet to be farther away from the property to the east. Additionally, the applicant introduced a fence along the east property line, adjacent to the downhill neighbor's patio, with a height 1.33 feet above the neighbor's eave line for a length of not less than 40 feet.

C. Neighborhood Compatibility

The immediate neighborhood is made up of one-story and two-story single-family and multi-family residential buildings. Generally, the properties in the immediate neighborhood are narrow and sloped. Properties with average slopes in excess of 10 percent are required to reduce their net lot size as slope increases to determine allowable FAR. Because the average slopes of the properties in the immediate neighborhood are not known at this time, the analysis of the immediate neighborhood has been accomplished using gross lot area without reducing the lot size according to average slope. Additionally, in comparing the proposed residence to those in the immediate neighborhood, staff limited this comparison to other single-family residences. Based on Town and County records, the single-family residences in the immediate neighborhood range in size from 1,296-square feet to 3,494-square feet. The floor area ratios range from 0.107 to 0.458. The proposed residence would be 2,450-square feet with a floor area ratio of 0.202. The table below reflects the current conditions of the immediate neighborhood and the proposed residence:

Address	Zoning	Lot Size	Use	Residence	Garage	Total SF	Bldg FAR	Garage FAR	No. of Stories
86 Broadway	R-1D:LHP	5,440	SFR	2,493	324	2,817	0.458	0.060	1
98 Broadway	R-1D:LHP	5,701	MF/APT	2,336	0	2,336	0.410	0.000	2
100 Broadway	R-1D:LHP	13,080	MF/APT	3,608	0	3,608	0.276	0.000	2
352 W Main St	R-1D:LHP	24,990	MF/APT	5,502	0	5,502	0.220	0.000	2
107 Broadway	R-1D:LHP	11,300	SFR	1,496	360	1,856	0.132	0.032	2
93 Broadway	R-1D:LHP	5,662	SFR	1,817	322	2,139	0.321	0.057	1
89 Broadway	R-1D:LHP	6,419	SFR	1,270	200	1,470	0.198	0.031	1
115 Broadway	R-1D:LHP	21,502	SFR	2,614	192	2,806	0.122	0.009	2
130 Broadway	R-1D:LHP	12,672	SFR	3,494	432	3,926	0.276	0.034	2
<b>101 Broadway</b>	<b>R-1D:LHP</b>	<b>12,132</b>	<b>MF</b>	<b>1,296</b>	<b>0</b>	<b>1,296</b>	<b>0.107</b>	<b>0.000</b>	<b>1</b>
<b>101 Broadway</b>	<b>R-1D:LHP</b>	<b>12,132</b>	<b>SFR</b>	<b>2,450</b>	<b>690</b>	<b>3,140</b>	<b>0.202</b>	<b>0.057</b>	<b>2</b>

SFR – Single-family residence  
MF/APT – Multi-family residence/residential building

DISCUSSION (continued):

The proposed residence would be the fourth largest home in the immediate neighborhood in terms of square footage and FAR based on gross lot size.

D. Tree Impacts

There are no trees located on the subject or neighboring properties with driplines within 30 feet of the project area. As there are no impacts to existing trees anticipated, an Arborist Report was not prepared for this project and tree protection measures will not be required.

E. Development Review Committee

The DRC held a public hearing for the Architecture and Site application on September 1, 2020. Written public hearing notices were sent to surrounding property owners and occupants within 300 feet of the subject property. Several neighbors submitted email correspondence and/or spoke on the item during the meeting. Written comments were provided to the DRC members prior to the hearing (Exhibit 5). The DRC continued the item to September 15, 2020 to allow the applicant to address neighbor concerns (Exhibit 6).

During the continuance, the applicant coordinated with the downhill neighbor to clarify the elevation of the neighboring patio and devise a remedy to this neighbor's concerns over privacy. The applicant and neighbor agreed to reducing the size of the proposed upper terrace to increase the distance between the terrace and the downhill property line by five feet. Additionally, the parties agreed to the construction of a fence along the east property line, no less than 40 feet long, with a top elevation 1.33 feet above the eave of the downhill neighbor (Exhibit 12). These changes have been incorporated into the approved development plans attached to this report (Exhibit 19).

The applicant also approached the uphill neighbor (appellant) to explore a remedy to their concerns. The applicant offered to lower the roof an additional two feet. The applicant reports that this offer was rejected by the uphill neighbor and continued with the previously agreed-upon offer to lower the ridge height by six inches (Exhibit 13).

At the September 15, 2020 hearing, the DRC accepted the HPC's recommendation of approval and found that the application was complete and in compliance with the Town Code and Residential Design Guidelines. Several neighbors submitted email correspondence and/or spoke on the item during the meeting. Written comments were provided to the DRC members prior to the hearing (Exhibit 7). Based on the findings and considerations, the DRC approved the revised project, subject to the recommended conditions of approval (Exhibit 8).

DISCUSSION (continued):

On September 18, 2020, the decision of the DRC was appealed to the Planning Commission (Exhibit 9).

F. Appeal

On September 18, 2020, the decision of the DRC was appealed to the Planning Commission by the uphill neighbor at 107 Broadway (Exhibit 9). In their October 12, 2020 letter, the appellant cites concerns with the project regarding privacy; compatibility; height, mass, and views; story poles; spot elevations; and windows. In addition to the appeal form, the appellant provided the following in support of the appeal included with Exhibit 9:

- Citations from the Residential Design Guidelines;
- Pictures;
- Previously submitted emails from the appellant and other neighbors expressing concerns with the project; and
- Letters written by the neighbor at 89 Broadway, received October 22, 2020.

The letter includes an introduction and a numbered list separating out reasons for the appeal individually. The appellant's letter includes citations from the Residential Design Guidelines, pictures, and other correspondence to support their appeal. For the sake of brevity, this report provides analysis on the reasons for their appeal, while omitting the references to the Residential Design Guidelines, pictures, and other correspondence, which may be referenced in Exhibit 9.

Introduction

"To explain further the reasons for our appeal of the decision of the DRC regarding 101 Broadway proposed plans and in order to attempt to reach a compromise for a new home, I am listing some of the many items laid out in the Towns Design Guidelines that we would like to be seriously considered in order to protect our special Broadway Historical neighborhood's character with better privacy, compatibility, harmony, enhancement, increased value and respect of the surrounding neighborhood and the nearby neighbors. While these house plans could fit nicely on a different type of lot, for this lot they are too high, massive and generally out of proportion for the topography and the surrounding neighborhood. This project must be reduced in scale and mass with better utilization of the lower level and first floor and eliminate the second story in back. As it is now, all I will see is a large wall blocking the sunlight, views, mother nature's many pleasures along with no privacy in my outdoor living area, plus so much more that has been available at 107 Broadway for over 100 years. It is part of the history and beauty of this property. I expected a new home to be built that would enhance and keep within the scope and respect of the



DISCUSSION (continued):

other surrounding homes and neighbors. Reducing the back to one story similar to what others have done would help to create more privacy and reduce noise for the neighbors on all sides including the future residents of the proposed home. This house rises above all. 93 Broadway is a good example of a house plan that is well fitted for the type of topography, scale and respect for this neighborhood.

“Note: shadow study that was completed while it may be correct, does not provide for the reality of the whole lot or neighboring lots. Our backyards do not get sun or very little year around because of the mountain and trees to the South East and South. 107 Broadway does not get sun from the West because of the home that sits above and the trees generally year around. The East sun exposure is the only source of sun for 107 Broadway. I would like to continue to have a garden. I have citrus trees that need sun and light to stay alive and to produce fruit, along with many other reasons for sun exposure, like my mental and physical health.

“While we are not considered part of the Hillside District, our lots are on a steep slope at the base of the Los Gatos mountains. There are additional Hillside guidelines that should be considered regarding, privacy, views, shadow effects, size, respect of neighbors and much more.”

The specific reasons for the appeal are provided below, followed by analysis in *italic* font.

Privacy

1. “The balcony on this proposed home is regrettably not in the spirit of community or respect. This 200 square foot balcony, situated on the left side of the house, is an abject invasion of privacy of the neighbors. After cutting it down by 5 feet, it is still towering over neighboring homes and remains 10 x 20 feet huge (!) on the second level. Moreover, the noise that people on the side balcony will create, will carry down the street! As it is, we are packed in so tightly, that I can hear conversations on both sides of my neighboring homes – music and other daily commotions carry down the entire block! This balcony is completely inappropriate and does not honor or CONSIDER in ANY way the neighbors. Modifying the massing of the upper floor could easily be achieved by altering the floor plan and eliminating the balcony. This would solve several of the issues at hand. It would eliminate the noise impact, the privacy impact in general, and preserve the feeling and character of surrounding homes.”

*The terrace in question is located on the upper level adjacent to the master bedroom. The terrace faces the east and south with views to the west and north obstructed by the proposed residence. Privacy impacts were first expressed in August by Larry Brandhorst, the owner of the adjacent downhill property to the east, prior to the DRC hearings of*

DISCUSSION (continued):

*September 1 and September 15, 2020. Between these DRC hearings, the applicant and their Civil Engineer worked with Mr. Brandhorst to develop a remedy to Mr. Brandhorst's concerns over privacy. The proposed remedy was to reduce the size of the terrace by five feet and construct a fence along the east property line no less than 40 feet long with a top height elevation 1.33 feet above Mr. Brandhorst's eave line. Mr. Brandhorst agreed to these measures in his letter to the Town of September 10, 2020 (Exhibit 12) and they were added to the conditions of approval for the project. Following the DRC's September 15, 2020 approval of the application, Mr. Brandhorst has not contacted the Town. The approved development plans reflect the measures agreed upon by the applicant and Mr. Brandhorst (Exhibit 19).*

*Noise is regulated through the Town's Noise Ordinance, which is enforced on a complaint basis through the Town's Code Compliance Division and the Police Department.*

Compatibility

2. "The nature of the design of the 101 Broadway project does not honor the historic design guidelines. It destroys the feel and original tone of this historic neighborhood. Its towering nature and tall mass seem to diminish other Victorian homes – like mine, which I have kept a one-story and 1200 square feet – with all original details – even though I did a complete rebuild, including foundation. Moreover, it forces me (and probably other neighboring homes) to seek opportunities to expand upward to block the intrusion. In order to protect myself from encroaching neighbors, I will have to build my own structure, wall, or wall of enormous trees, or second story, and whatever else I can find to block noise and eyes from leering into my yard. This project is the beginning of the end of our historic neighborhood – and it sets a precedent for continued disregard."

*On May 27, 2020, the HPC reviewed the proposed project and found it to be compatible with the Broadway Historic District in terms of style, massing, and scale. The HPC forwarded a recommendation of approval with the condition that the new residence utilize channeled horizontal wood lap siding (Exhibit 4).*

*The proposed residence would not be the largest home in the immediate neighborhood in terms of floor area or FAR. The proposed residence would be the fourth largest residence in the immediate neighborhood in terms of floor area and FAR. In terms of number of stories, the proposed residence would be the fourth two-story residence in the immediate neighborhood.*

DISCUSSION (continued):

*Noise is regulated through the Town's Noise Ordinance, which is enforced on a complaint basis through the Town's Code Compliance Division and the Police Department.*

*While the subject property is a sloping lot, it is not located in the Hillside Area. The property slopes up approximately 70 feet from the front to the rear and has an average slope of 23.2 percent. Properties located outside of the Hillside Area with an average slope in excess of 10 percent are subject to the standards and guidelines of the following sections of the Hillside Development Standards and Guidelines:*

- *Constraints Analysis and Site Selection (excluding visibility);*
- *Site Planning for Grading, Drainage, Driveways and Parking, and Geologic Safety; and*
- *Site Elements for Retaining Walls.*

*The applicant indicates that the residence was designed by stepping the development up with the slope and setting each level back from the level below (Exhibit 11). The residence is located within the LRDA, which is located on the front half of the property. The project complies with the applicable sections of the Hillside Development Standards and Guidelines.*

Height, mass, and views

3. "There are several issues with the HEIGHT / MASS of this project, and this is especially disrespectful given that the proposed house can easily be built lower. As it is now, the design completely disregards the character and size of the neighboring homes, which themselves have had to put bedrooms and windows in basements – below ground -- and were not allowed to build even one room on the second floor due to their historic classification. (Mine, as well as Larry and DiAnne Brandhorst). Why is it necessary to build the driveway 8 FEET above the street level as the Applicant has proposed?

"While it is true that the disputed house sits on a higher slope than the homes downhill from it, it is not true that the negative impact needs to be this invasive. Rather than be especially sensitive and respectful of this fact, the house has been intentionally built up as high as possible, maximizing rather than minimizing its impact on the privacy and well-being of neighbors. The recently added story poles, which were originally omitted, create an even more intrusive and unaesthetic look that can be seen from all street views, front and back alike.

"I seriously question the integrity of this project. The upper massing is way too much for this location and very little has been done to minimize the impact on neighbors, or to

DISCUSSION (continued):

ensure that the mass and height fit in with the general look of the surrounding properties.”

*The maximum height allowed for a residence in the R-1D zone is 30 feet. The proposed residence has a maximum height of 28 feet, six inches. On May 27, 2020, the HPC reviewed the proposed project and found it to be compatible with the Broadway Historic District in terms of style, massing, and scale. The HPC forwarded a recommendation of approval with the condition that the new residence utilize channeled horizontal wood lap siding (Exhibit 4).*

*The applicant has made several revisions to the project to address the privacy concerns of the neighbors, including:*

- *Removing one second-story window from the west elevation;*
- *Reducing the size of a second-story window on the west elevation;*
- *Lowering the roof by six inches above the master bedroom and master bathroom;*
- *Reducing the extent of the upper terrace patio by five feet to be farther away from the property to the east; and*
- *Introducing a fence along a portion of the east property line, adjacent to the neighbor’s patio, with a height 1.33 feet above the neighbor’s eave line for a length of not less than 40 feet.*

*A shadow-study was submitted for the proposed project showing that shadows cast by the proposed residence would impact portions of the appellant’s property; the greatest extent of which would occur during the morning of the winter solstice (December 21). Section 3.11.1 of the Residential Design Guidelines recommends minimizing shadows cast on living spaces and actively used outdoor areas on adjacent homes. During the extreme of the winter solstice, the proposed residence would cast shadows on portions of the neighboring residence and outdoor patio area. These shadows would be present for the morning portion of the day and would progressively dissipate through noon.*

*Regarding views, the Residential Design Guidelines state that homes should be designed with respect for the views of their neighbors and acknowledges that views are not protected by right. The 2020 General Plan states that new structures shall be designed to respect views from surrounding properties while allowing all affected properties reasonable access to views. The appellant has provided photos showing the view impacts that the proposed house would have from their patio area at the base of their two-story residence. The proposed residence is within the height limitations allowed by the zone. Sheet A-1.1 shows the relationship of the proposed residence to those on the uphill and downhill properties (Exhibit 19). The height of the proposed residence is consistent with the neighboring properties.*

DISCUSSION (continued):

*The proposed driveway would slope up approximately seven feet from Broadway following the natural slope of the property. The driveway length would increase approximately five feet from the existing length. As shown on Sheet C3 (Exhibit 19), the proposed driveway slope would be consistent with the existing driveway.*

Story poles

4. “Finally, the story poles on the front of the house were entirely omitted, and the drawings submitted to the city relating to the story pole certificates were completely wrong on the front portion of the house. BASED ON THIS FACT ALONE, THIS PROJECT SHOULD BE REJECTED. At best this was a careless mistake, and at worst, it is intentionally misleading. At this point, we really need an INDEPENDENT REVIEW OF THESE PLANS. After such “mistakes” how can we know what is really being proposed and what will go up? This project is, once again, not being carried out in good faith.”

*In accordance with Town policy, the applicant was required to erect story poles and netting to adequately demonstrate the height, mass, and bulk of the project. The existing residence presented some challenges to installing story poles and netting as it was significantly damaged by a fire in 2017. The story pole plan allowed adequate representation of the proposed residence while minimizing the risks associated with working around a fire-damaged structure (Exhibit 14). The story pole plan included a schematic outline of the existing residence and showed that the story poles for the front portion of the proposed residence would be located within the volume of the existing residence. Staff approved the story pole plan and the poles and netting were installed and certified prior to noticing for the September 1, 2020 DRC hearing (Exhibit 15).*

*Prior to filing the appeal, the appellant voiced concerns over the accuracy of the installed story poles. Staff revisited the pictures of the installed poles and found them to be accurate according to the approved plan, as certified by the surveyor.*

*The DRC approved the project on September 15, 2020, and an appeal was filed on September 18, 2020. While reviewing the appeal documents, the appellant contacted staff to discuss continued concerns over the accuracy of the installed story poles. In consultation with the appellant and through a site visit, staff was able to identify the issue raised by the appellant. The applicant’s representation of the existing residence was schematic and not accurate as to the height of the existing fire-damaged residence. Staff coordinated with the applicant to address the issue, which involved installation of additional poles, wiring, and a section of netting to represent the height of the roof ridge at the front of the proposed residence (Exhibit 16). The additional poles were installed and certified by a surveyor prior to public notice of the October 28, 2020 Planning Commission meeting (Exhibit 17).*

DISCUSSION (continued):

Spot Elevations

5. "I would also like a review of the elevation numbers related to a cross section drawing that was incorrect. Please see letters and illustrations submitted by Larry Brandhorst. Does this mean that the house will stand even taller than the remaining story poles indicate?"

*The elevation numbers provided in the Development Plans were prepared by a licensed Civil Engineer. Concerns over these elevation numbers were first expressed in August by Larry Brandhorst, the owner of the adjacent downhill property. Between the DRC hearings, the applicant and their Civil Engineer worked with Mr. Brandhorst to develop a remedy to Mr. Brandhorst's concerns over privacy. The parties came to an agreement (Exhibit 12) and the agreed-upon changes were added to the conditions of approval for the project. Since the DRC's approval of the revised project, Mr. Brandhorst has not contacted the Town. The approved development plans attached to this report reflect the measures agreed upon by the applicant and Mr. Brandhorst (Exhibit 19).*

*The story poles have been certified by a licensed surveyor who indicated that they accurately reflect the height and location of the proposed residence (Exhibits 14 through 17).*

Windows

6. "Windows. I request that the many windows on the southeast side of the proposed structure be addressed."

*The windows on the southeast side of the residence face the downhill neighbor's property. As indicated above, Mr. Brandhorst agreed to measures proposed by the applicant to address concerns related to privacy (Exhibit 12). The approved development plans attached to this report reflect the measures agreed upon by the applicant and Mr. Brandhorst (Exhibit 19). Since the DRC's approval of the revised project, Mr. Brandhorst has not contacted the Town.*

G. Environmental Review

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

PUBLIC COMMENTS:

Prior to the September 1, 2020 DRC hearing, certified story poles and a project sign including the date of the DRC hearing, contact information, and project description, were installed on the site (Exhibits 14 and 15), and written notice of the DRC hearing was sent to neighboring property owners and occupants within 300 feet of the subject property. Staff forwarded public comments to the DRC members prior to the September 1, and September 15, 2020 hearings. These comments are included as Exhibits 5 and 7.

Following the appeal, revised certified story poles and a project sign including the date of the Planning Commission hearing, contact information, and project description, were installed on the site (Exhibits 16 and 17), and written notice of this Planning Commission hearing was sent to neighboring property owners and occupants within 300 feet of the subject property. Additional public comment received after the September 15, 2020 DRC hearing is included as (Exhibit 18).

CONCLUSION:

A. Summary

The proposed project was reviewed by the HPC who found the project compatible with the Broadway Historic District in terms of style, mass, and scale and forwarded a recommendation for approval. The project is in compliance with the Residential Design Guidelines, applicable sections of the Hillside Development Standards and Guidelines, and Town Code.

B. Recommendation

Staff recommends that the Planning Commission take the following actions to deny the appeal, uphold the decision of the DRC, and approve the Architecture and Site application:

1. Find that the proposed project is categorically exempt pursuant to the adopted Guidelines for the implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures (Exhibit 2);
2. Make the required findings as required by Section 29.10.09030(e) of the Town Code for the demolition of a single-family residence (Exhibit 2);
3. Make the finding that the project complies with the objective standards of Chapter 29 of the Town Code (Zoning Regulations) (Exhibit 2);
4. Make the finding required by the Town's Residential Design Guidelines that the project complies with the Residential Design Guidelines (Exhibit 2);
5. Make the finding the project complies with the applicable standards and guidelines of the Hillside Development Standards and Guidelines for lots with an average slope over 10 percent outside of the hillside area (Exhibit 2);

CONCLUSION (continued):

6. Make the required considerations as required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application (Exhibit 2); and
7. Approve Architecture and Site application S-20-003 with the conditions contained in Exhibit 3 and development plans attached as Exhibit 19.

C. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction;
2. Deny the appeal and approve the application with additional and/or modified conditions;
3. Grant the appeal and remand the application to the DRC with direction for revisions; or
4. Grant the appeal and deny the Architecture and Site application.

EXHIBITS:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval
4. May 27, 2020 Historic Preservation Committee Action Letter
5. September 1, 2020 Development Review Committee public comments
6. September 1, 2020 Development Review Committee meeting minutes
7. September 15, 2020 Development Review Committee public comments
8. September 15, 2020 Development Review Committee meeting minutes
9. Appeal of Development Review Committee received September 18, 2020
10. Color and materials board
11. Project Description and Letter of Justification
12. Email correspondence between Larry Brandhorst and Jay Plett, September 10, 2020
13. Email correspondence between Karen Kurtz and Jay Plett, September 10, 2020
14. Story pole plan approved June 22, 2020
15. Story pole certification letter dated July 7, 2020
16. Story pole plan (revised) approved October 6, 2020
17. Story pole certification letter dated October 16, 2020
18. Public comments received between 5:01 p.m., Monday, September 14 and 11:00 a.m., Friday, October 23, 2020
19. Development Plans