



**TOWN OF LOS GATOS  
COMMUNITY DEVELOPMENT DEPARTMENT**  
110 E. Main Street  
Los Gatos, CA 95030

**APPEAL OF THE DECISION OF  
DEVELOPMENT REVIEW COMMITTEE**

25444  
**PAID**  
AUG 22 2019  
TOWN OF LOS GATOS

**PLEASE TYPE or PRINT NEATLY**

I, the undersigned, do hereby appeal a decision of the DEVELOPMENT REVIEW COMMITTEE as follows:

DATE OF DECISION: August 13, 2019

PROJECT/APPLICATION: Application No. S-18-060 (16336 Shady View Lane, Los Gatos, CA.)

LOCATION: 16336 Shady View Lane, Los Gatos, CA

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**LIST REASONS WHY THE APPEAL SHOULD BE GRANTED:**

Please see attached letter

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\_\_\_\_\_

\_\_\_\_\_

(If more space is needed, attach additional sheets.)

**IMPORTANT:**

1. Appeal must be filed not more than ten (10) days after the decision is rendered by the Development Review Committee. If the tenth (10<sup>th</sup>) day is a Saturday, Sunday, or Town holiday, then the appeal may be filed on the workday immediately following the tenth (10<sup>th</sup>) day, usually a Monday.
2. The appeal shall be set for the first regular meeting of the Planning Commission which the business of the planning commission will permit, more than five (5) after the date of the filing of the appeal. The Planning Commission may hear the matter a new and render a new decision in the matter.
3. You will be notified, in writing, of the appeal date.
4. Contact the project planner to determine what material is required to be submitted for the public hearing.

**RETURN APPEAL FORM TO COMMUNITY DEVELOPMENT DEPARTMENT**

PRINT NAME: Matt Currie SIGNATURE: *Matt Currie*

DATE: August 21, 2019 ADDRESS: 16330 Shannon Rd., Los Gatos, CA

PHONE: (408) 476-2520 EMAIL: mattcurrie@me.com

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**OFFICE USE ONLY**

DATE OF PLANNING COMMISSION HEARING: \_\_\_\_\_

COMMISSION ACTION: 1. \_\_\_\_\_ DATE: \_\_\_\_\_

2. \_\_\_\_\_ DATE: \_\_\_\_\_

3. \_\_\_\_\_ DATE: \_\_\_\_\_

PLAPPEAL \$ 221.00 Residential  
PLAPPEAL \$ 882.00 Commercial  
PLAPPEAL \$ 90.00 Tree Appeals



**MILLER STARR  
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August 22, 2019

Planning Division  
Town of Los Gatos  
Civic Center  
110 E. Main Street  
Los Gatos, CA 95030

Re: Notice of Appeal of August 13, 2019 Development Review Committee  
Decision Regarding Application No. S-18-060 (16336 Shady View Lane, Los  
Gatos, CA.)

Dear Town of Los Gatos Planning Department:

This office represents Matthew and Carrie Currie (the "Curries") in their appeal of the Town Development Review Committee's ("DRC") August 13, 2019 approval of Architecture and Site Application S-18-060 (the "Application").<sup>1</sup> The Application sought approval to demolish an existing house and construct a new residence at 16336 Shady View Lane ("Shady View Project"), which lies immediately to the west of the Curries' home. As set forth below, the Shady View Project violates several of the Town's Residential Design Guidelines and the core principles of land use consistency and compatibility underlying the Town's General Plan and zoning code, and specifically its Community Development Guidelines. This will result in significant unlawful impacts to the Currie residence and surrounding neighborhood. Accordingly, the Commission should withdraw the DRC's approval of the Application and require the Application to be resubmitted in a manner that complies with the Town's Residential Design Guidelines and that is sensitive to the Curries' and other neighbors' concerns.

In submitting this appeal, the Curries wish to emphasize that they *do not* oppose re-development at 16336 Shady View Lane. The Curries only ask that such development be done in conformance Town code and guidelines, and with the same respect for surrounding residences that the Curries and other neighbors have shown when developing their own properties. With this in mind, the Curries fully intend to exhaust all of their legal rights to enforce applicable laws and guidelines enacted to protect their right to use and enjoy their property.

<sup>1</sup> Pursuant to Town Code section 29.20.260, this letter and the attached form constitute the Curries' Notice of Appeal of the DRC's approval of the Application. The Curries reside at 16330 Shannon Road, within 1,000 feet of Project property, meaning that the Curries are interested parties for the purposes of Municipal Code section 29.10.020.

## **I. The Shady View Project**

As currently designed, the Shady View Project would cause significant detrimental view, aesthetic, visual and privacy impacts to the Curries' residence. As currently designed, the Shady View Project would result in the construction of an approximately 2,700 square foot structure, including a sheer, two-story building wall, 8 feet from the shared property line that runs the entire length of the Curries' home and approximately 10 feet beyond the back of their residence. Approved plans call for several second-story windows to be constructed that directly overlook the Curries' home and yard. The Shady View Project also calls for construction of a large second floor balcony that would peer directly down into and intrude upon the Curries' back yard. These design elements would unacceptably interfere with the Curries' sense of privacy and their ability to use and enjoy their home.

The Curries outline the bases for their appeal below.

## **II. Bases for Appeal**

This appeal incorporates and re-asserts the concerns raised in the Curries' May 7, June 13, and July 30, 2019 letters to the Town, which are attached and incorporated hereto as **Exhibit A**. These concerns include:

1. The Application violates Section 1.4 (Community Expectations) of the Town's Residential Design Guidelines. Among other things, this section requires that "[h]omes will be designed with respect for the views, privacy and solar access of their neighbors."
2. The Application violates Section 2.5.2 (Design with Sensitivity to Adjacent Neighbors) of the Town's Residential Design Guidelines. Among other things, this section provides that "new homes should be planned with awareness of the impacts which they will have on the views, sky exposure, sun access and privacy of neighbors."
3. The Application violates Section 3.3.2. (Height and Bulk at Front and Side setbacks). Among other things, this section directs applicants to "[g]ive special attention to adopting to the height and massing of adjacent homes."
4. The Application violates Section 3.11.1 (Minimize shadow impacts on adjacent properties) of the Town's Residential Design Guidelines. Among other things, this section directs applicants to "[l]ocate structures to minimize blocking sun access to living spaces and actively used outdoor areas on adjacent homes."
5. The Application violates Section 3.11.2 of the Residential Design Guidelines. Among other things, this section provides that "Second-floor balconies and

decks should be used only when they do not intrude on the privacy of adjacent neighbors"; and "when windows are needed and desired in side building walls, they should be modest in size."

The Shady View Project also violates several core provisions of the Town's Community Design Guidelines within the Town's General Plan, for example:

1. The Application violates General Plan goal CD-1, which among other things, includes the following policies: (a) "[b]uilding elements to be in proportion with those traditionally in the neighborhood."; (b) "new structures, remodels, landscapes... shall be designed to harmonize and blend with the scale and rhythm of the neighborhood and natural features in the area."; and (c) "[t]own staff shall evaluate projects to assess how built characteristics, including scale, materials...and landscape, blend into the surrounding neighborhood."
2. The Application violates the General Plan's goal CD-2, which is intended to "limit the intensity of new development to a level that is consistent with surrounding development and with the Town at large."
3. The application violates General Plan Goal CD-6, which includes the following relevant policies: (a) "[r]educe the visual impact of new construction and/or remodels on the Town and its neighborhoods"; (b) "[b]alance the size and number of units to achieve appropriate intensity"; (c) "[e]ncourage basements and cellars to provide "hidden" square footage in lieu of visible mass; and (d); "[n]ew homes shall be sited to maximize privacy, livability....and adequate solar access and wind conditions."

More generally, the Town's approval of the Shady View Project would significantly impact the Town's land use consistency and compatibility policies that are bedrock principles in the Town's General Plan and Zoning Code.

As an additional basis for appeal, the Shady View Project failed to comply with the Town's Height Pole and Netting Policy for New Construction. Specifically, Section III (E) of that policy requires project identification signs to be posted that identify the square footage of new construction, as well as provide color perspective and three dimensional or photographic simulations of the new construction. The project identification sign posted for the Shady View Project did not comply with these requirements.

Finally, the Curries are concerned because it appears that the Town applied a different standard when approving the Shady View Project than was applied to the Curries' and other neighbors when they undertook prior construction and remodeling projects. For example, the Curries undertook extensive efforts when remodeling their residence to protect neighbors' privacy, including enhanced second-floor setbacks, heightened and obscured second-level windows, and minimization of size and massing of the Curries' second-floor. These design elements were

incorporated to conform with the Town's residential and community design guidelines, and to preserve neighbors' privacy while minimizing other detrimental impacts. We ask that the Town apply the same standards to the Shady View Project that were applied to the Curries' and other previous projects.

### III. CONCLUSION

For the foregoing reasons, the Curries request that the Planning Commission rescind the Development Review Committee's August 13, 2019 approval of the Application. The Shady View Project applicants should be required to re-submit an application that complies with the Town's clear development standards, design guidelines and land use policies and that reasonably takes into account the concerns of the Curries and other impacted neighbors.

Very truly yours,

MILLER STARR REGALIA



Nadia L. Costa

NLC  
Attachments

cc: Travis A. Brooks, Miller Starr Regalia  
Matthew Currie  
Carrie Currie

# Exhibit A

May 7, 2019

**VIA US MAIL and EMAIL**

Town of Los Gatos  
Planning Division  
Civic Center  
110 E. Main Street  
Los Gatos, California 95030  
Email: [planning@LosGatosCa.gov](mailto:planning@LosGatosCa.gov)

Re: 16336 Shady View Lane, Los Gatos, CA

Dear Town of Los Gatos Planning Department:

My wife Carrie and I live at 16330 Shannon Road, next door to 16336 Shady View Lane, Los Gatos, CA (the "Shady View Property"). Recently, we were surprised to learn that the Shady View Property was being offered for sale since the property had been just been sold by its long time owners in September 2018. Our surprise quickly grew into concern as we took a closer look at the MLS listing for the Shady View Property and learned that it is being marketed as having "[p]ermits will be ready in June for 2700+ sq ft home with option to add a 1300 sq ft basement. Potential for over 4000 sq ft home!" Earlier this year the current owner of the Shady View Property introduced himself and indicated that he was looking to tear down the existing home on the property and would soon be providing us with draft plans to review. Needless to say, we have never been consulted with on proposed development plans for the Shady View Property. We are extremely concerned that a new home may be constructed next door to our family home that has not considered the impacts that their project will have on immediate neighbors. This includes protecting the privacy on neighboring properties, shade/shadow impacts, adverse impacts to protected trees, street safety, neighborhood fit or the same rigorous town planning process that my wife and I, along with countless other neighbors worked through in order to obtain the permits necessary to construct our current homes.

As you know, Section 1 (Introduction) of the Town's Residential Design Guidelines includes the following general planning advice - "[m]eetings with your neighbors to discuss their concerns and your designs are strongly encouraged."

Section 1.4 (Community Expectations) of the Town's Residential Design Guidelines requires that "[h]omes will be designed with respect for the views, privacy and solar access of their neighbors."

Section 2.5.2 (Design with Sensitivity to Adjacent Neighbors) of the Town's Residential Design Guidelines provides that "new homes should be planned with awareness of the impacts which they will have on the views, sky exposure, sun access and privacy of neighbors."

Section 3.11.1 (Minimize shadow impacts on adjacent properties) of the Town's Residential Design Guidelines instructs to "[l]ocate structures to minimize blocking sun access to living spaces and actively used outdoor areas on adjacent homes."

Our expectation is that any planning process for the Shady View Property will follow the Town's Residential Design Guidelines as well as the Town's height and structure coverage limitations, setbacks and all applicable codes.

Beyond this, it is critically important to us that the owner of the Shady View Property meet with my wife and I to discuss their design ideas and to listen to our concerns and priorities. This is the same courtesy that my wife and I extended to our neighbors before we embarked on our own planning process. In fact, before settling on a design approach for our home, my wife and I obtained letters of support from each of our immediate neighbors confirming that we considered their privacy and that our home would comfortably fit with and enhance our neighborhood.

We would like to remind the Town that our entire second level has been designed to protect the privacy of our neighbors. Our home has a 20' setback on the left side. This, along with designing high windows on the left side elevation gives the neighbor to the east the same privacy he has historically enjoyed. For the right side elevation adjacent to the Shady View Property, we designed a one-story element at the 8' side setback. The balance of the second level was setback an additional 15' to 21' creating a setback of over 20' from the property line. The two small windows that face west have obscured glass to maintain privacy and create articulation in the design. In fact, our entire second level was designed towards the middle of the width of our lot allowing most of the second level to maintain a minimum of a 20' setback from the property lines. The proportions of our second level were minimized where possible. As mentioned above, our neighbors fully supported our home plan and indicated so in writing.

We urge the Town to require the owner of the Shady View Property to engage in a design, entitlement and development process that considers our concerns and priorities, minimizes impacts to neighbors, protects privacy wherever possible and requires adherence to Town codes, regulations and guidelines.

Respectfully,



Matt Currie



June 13, 2019

**VIA E-MAIL AND HAND DELIVERY**

Town of Los Gatos  
Planning Division  
Civic Center  
110 E. Main Street  
Los Gatos, California 95030  
Email: [planning@LosGatosCa.gov](mailto:planning@LosGatosCa.gov)

Re: 16336 Shady View Lane, Los Gatos, CA (the "Shady View Property")

Dear Town of Los Gatos Planning Department:

Following our May 7, 2019 letter to the Town about the Shady View Property, we met with the Allan and Katty Coulson (the owners of the Shady View Property) on May 31, 2019. During this meeting were only given a cursory look at the Coulson's plans, but learned that they plan to load the tallest portions of their proposed home 8 feet from our property line. The left side of the home proposed for the Shady View Property rises at least 26 feet from the minimum permitted side setback with very little to no articulation to relieve us from the massing towering over our side yard. Beyond this, the Coulson's have designed a second story balcony that opens to views of our yard and home from the left hand side and rear of the home. It was incredibly frustrating to learn that neither the Coulson's nor the town seem to be following the principals laid out in the Town of Los Gatos' Residential Design Guidelines.

These include:

- 1) Section 2.5.2 Design with sensitivity to adjacent neighbors [which provides in part]: "new homes should be planned with an awareness of the impacts which they will have on the views, sky exposure, sun access and privacy of neighbors."
- 2) Section 3.3.2 Height and bulk at front and side setbacks [which provides in part]: "Give special attention to adopting to the height and massing of adjacent homes."
- 3) Section 3.11.2 Minimize privacy intrusions on adjacent residences [which provides in part]: "second floor balconies and decks should be used only when they do not intrude on the privacy of adjacent neighbors."

To comply with these principals, at the right side elevation of our home adjacent to the Shady View Property, we designed a one-story element that tops out at 21 feet at the top of a gabled roof. The balance of our second level on the right side of our home is setback an additional 15 to 21 feet creating a setback of over 20 feet from the property line for the tallest elements of this side of our home. We also set back our home 20 feet from the

property line on the left side. This, along with designing high windows on the left side elevation gives our neighbor to the east the same privacy that he has historically enjoyed. The same awareness to minimizing the impact of their home and protecting neighbor privacy has not been contemplated in the current design plans for the Shady View Property.

Making this situation even more frustrating is that as of the date of this letter, the Shady View Property is up for sale. It is easy to understand that someone who does not appear to be vested in establishing roots in our neighborhood would not understand the care and attention that long term residents have taken to minimize the impact of their homes on their neighbors, and to properly fit into the neighborhood. As you likely know, in the current market, a teardown with ready to build plans is significantly more valuable than one without entitlements. We are exceedingly concerned that Shady View Property will ultimately be sold to a developer who will care even less about the impacts that this project will have on neighboring properties. We strongly object to the current design of the home proposed for the Shady View Property.

At this point, our primary concerns are:

- 1) Reducing the height and massing of side of the proposed home adjacent to our shared property line;
- 2) Stepping down the rear of the proposed home (that extends beyond the rear of our home) to a one story element similar to the way we have stepped down our home;
- 3) Removing the second floor balcony;
- 4) Removing windows that look directly onto our home and backyard; and
- 5) Considering other modifications that will minimize the impact of the home proposed for the Shady View Property on us.

We would also like the City to explain the planning status of the Shady View Property and the timing for a public hearing on this project.

Again, we urge the Town to require the owner of the Shady View Property to engage in a design, entitlement and development process that considers our concerns, minimizes impact of this house on us, protects our privacy wherever possible, and requires adherence to the Town's residential design guidelines in addition to all applicable codes and regulations.

Respectfully,

A handwritten signature in black ink, appearing to read "Matt & Carrie Currie". The signature is written in a cursive, flowing style.

Matt & Carrie Currie

July 30, 2019

**VIA E-MAIL AND US MAIL**

Town of Los Gatos  
Planning Division  
Civic Center  
110 E. Main Street  
Los Gatos, CA 95030  
Attn: Ryan Safty  
Email: [planning@LosGatosCa.gov](mailto:planning@LosGatosCa.gov)

Re: 16336 Shady View Lane, Los Gatos, CA (the "Shady View Property")

Dear Ryan and Planning Division:

This letter is written in response to the July 18, 2019 letter from Jim Whitney of De Mattei Construction concerning the Shady View Property. While we appreciate this initial attempt to mitigate the impacts of the proposed home, the changes proposed in the July 18 letter fall short.

First, the second story rear balcony remains a significant privacy concern. Even with the relatively minor adjustments proposed in the July 18 letter, the proposed second-floor balcony still opens to views of our private living spaces from the rear of the proposed home. Since the balcony is perched at the far rear corner of the proposed home, it can be seen from nearly every area in our back yard. Please keep in mind that we designed our home to maximize year-round indoor/outdoor living, so the thought of our neighbors peering down onto our outdoor spaces is very problematic. This combined with the location of the balcony that hugs the side set back makes this element of the proposed home appear to be located in our backyard. I have included various pictures of this privacy-invading element. Again, we would like to remind the applicant, the developer and the Town of the following principals laid out in Section 3.11.2 of Town of Los Gatos' Residential Design Guidelines titled - *Minimize privacy intrusions on adjacent residences*. This section provides in part:

"Second-floor balconies and decks should be used only when they do not intrude on the privacy of adjacent neighbors"; and

"When windows are needed and desired in side building walls, they should be modest in size..."

We believe that we have been clear and consistent with the applicant and the Town on multiple occasions stating that this element intrudes on our privacy. We strongly oppose any development plan for the Shady View Property with a second-floor rear balcony.

Next, the proposed plan indicates that there will be no less than 8 windows in second-story living spaces facing our home and yard. We request a reduction in the size and quantity of the windows

on this side of the proposed home. Keep in mind that the reason this side of the proposed home is so impactful is that there has been no attempt to reduce the massing on this side of the home. In contrast, to mitigate the impact on our neighbor, the Town required us to minimize the massing of our second story and reduce the height and number of windows on this side of our home. We expect the same courtesy to be extended to us. The July 18 letter also indicates that the height of some windows have been raised above eye level, but the proposed plans do not indicate their specific height above the floor plate.

Since the massing on this side of the home is so impactful, we request that the applicant extend the 24-inch box privacy screening trees along our shared property line all the way to the edge of the redwood canopy. The applicant's enclosed plans incorrectly indicate that there will be 15-gallon screening trees. We also request that the Town require the applicant (at their cost) to install a 2-foot extension of the existing fence to bring the fence up to 10 feet. Another concern raised by the applicant's latest plan is a future swimming pool that edges precariously close to the canopy of the redwood tree. As you likely know, a redwood tree's root system is quite sensitive. We expect the Town and applicant to assume all liability for any damage to or from the redwood tree from and after pool installation.

One more point that we feel compelled to mention are references in applicant's plans to a non-conforming element on our property. Not only are these references incorrect, but they are unnecessary. The matter at hand is resolving the privacy issues presented by home proposed for the Shady View Property. If the goal is developing an acceptable solution to resolve concerns, this reference is not helpful and should be removed from all future plans.

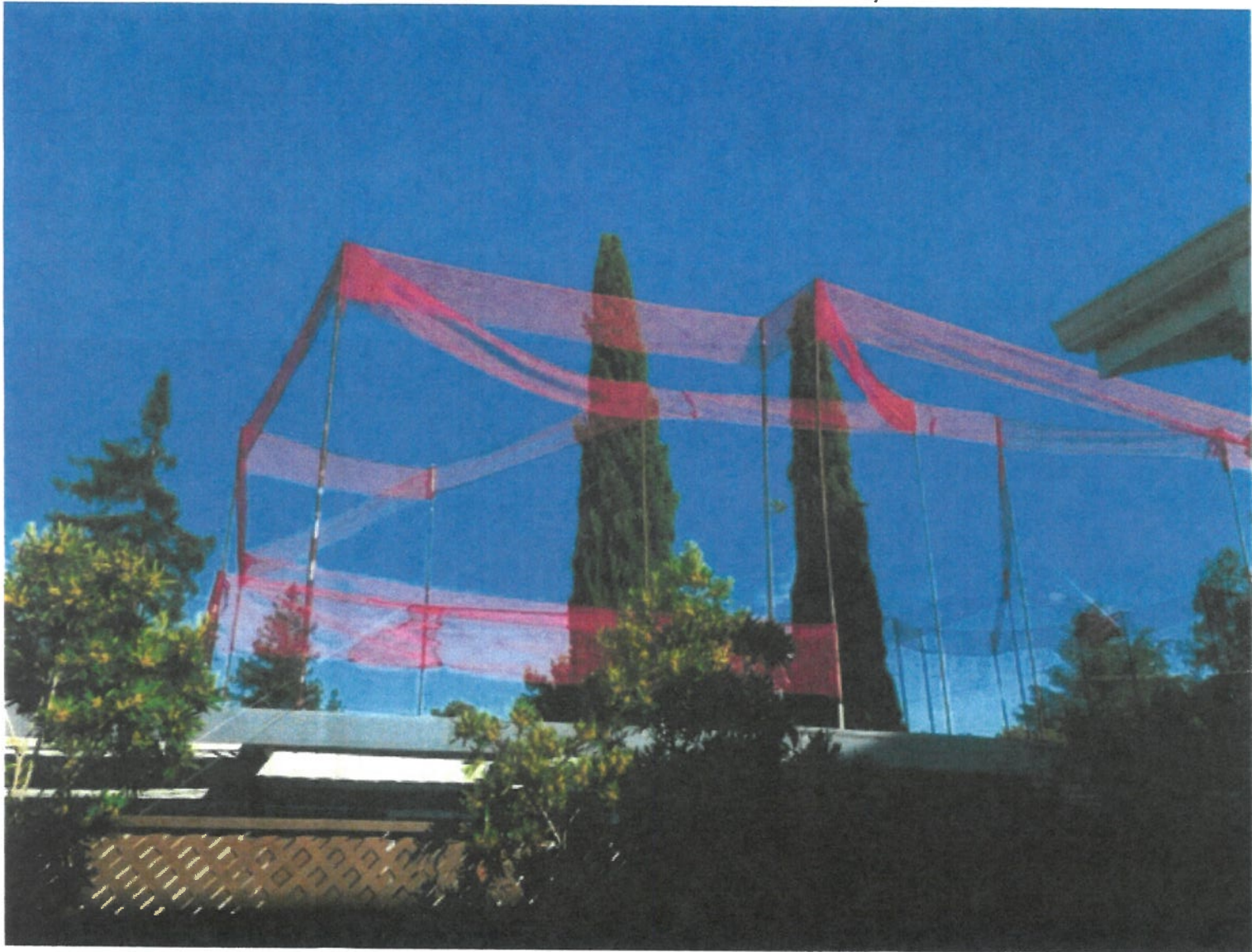
Finally, as you know, this is the third formal letter that we have submitted to the Town on this project. We have also conveyed our concerns to the Town an in-person meeting in mid-June and via email at the beginning of July. Since our concerns are still not being satisfactorily addressed, we think an all-hands meeting with the Town, applicant, developer and us at the Town's offices would be an appropriate next step.

Respectfully,

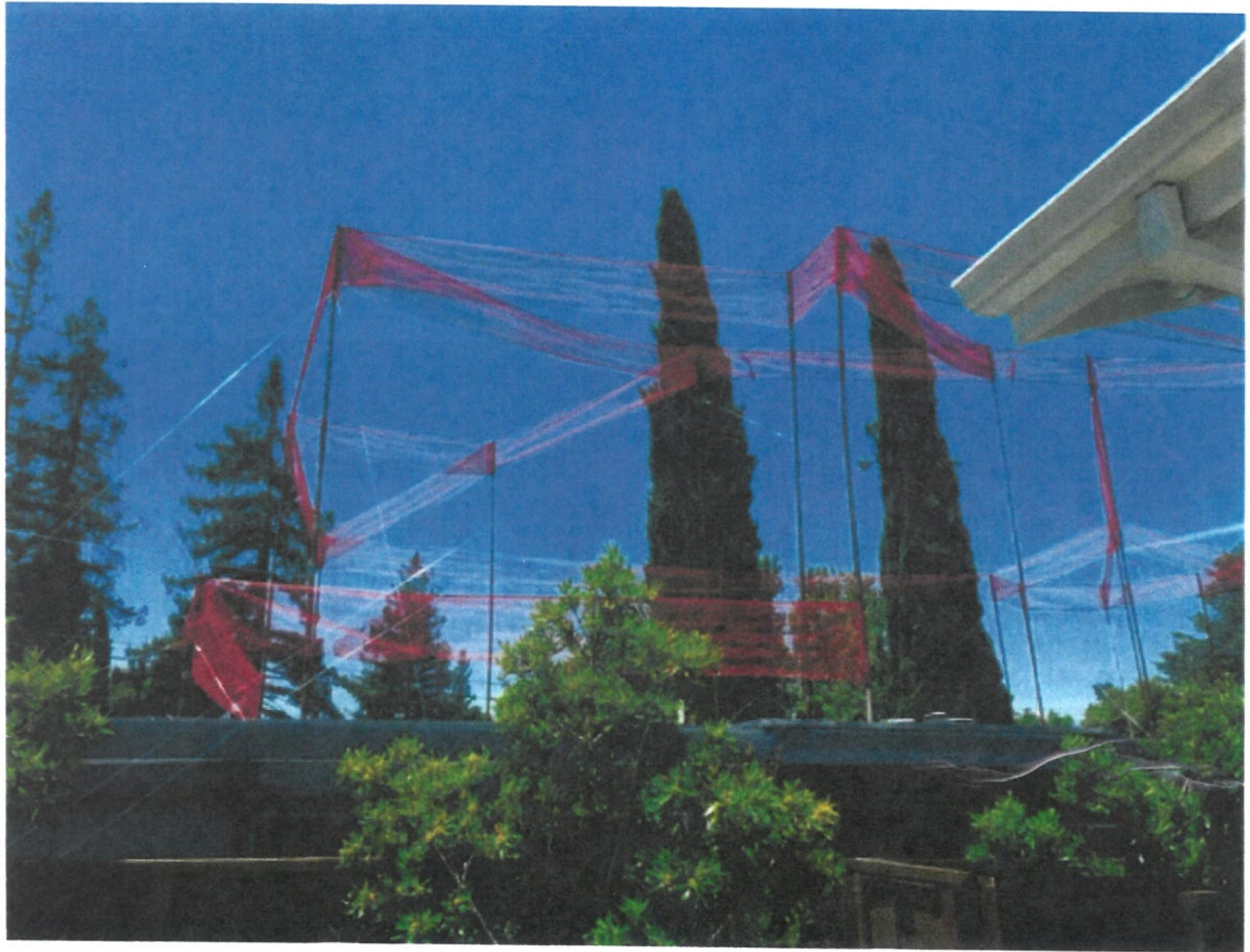


Matt & Carrie Currie  
16330 Shannon Road  
Los Gatos, CA 95032

Enclosures









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