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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 HANSSSEN: We have one item on the agenda for Public Hearings, and that is agenda item #2, which is considering an appeal of a Development Review Committee decision approving a request to demolish a single-family residence and construct a new single-family residence on property zoned R-1:10; located at 146 Robin Way; APN 532-12-015; Architecture and Site Application S-19-043; the property owners are—excuse me if I mispronounce your name—Mehrdad and Leila Dehkordi; the Applicant is Gary Kohlsaat; and the project planner is Diego Mora.

May I have a show of hands from Commissioners who have visited the site? Are there any disclosures? I don't see anyone with their hand up, so then we can go on. Mr. Mora, do you have a Staff Report for us?

DIEGO MORA: I do. Good evening, Commissioners. On May 19<sup>th</sup> the Development Review Committee held a public hearing for the application where the neighbors raised concerns about the project.

The Development Review Committee continued the application to allow the Applicant time to address the

1 concerns raised. The Applicant met with the neighbors and  
2 revised the design.

3           At the June 9<sup>th</sup> public hearing, based on  
4 compliance with Town Code and the Residential Design  
5 Guidelines, the Development Review Committee approved the  
6 application with an added condition of approval for an 8'  
7 fence and landscaped screening addressing privacy concerns  
8 that are contained in Condition 11 of Exhibit 3.

9           On June 19<sup>th</sup> an appeal to the decision was filed  
10 by the adjacent property owner to secure commitment by the  
11 Applicant to address the privacy concerns in Condition 11.  
12 Based on the analysis that is provided in the Staff Report  
13 Staff recommends denial of the appeal, upholding the  
14 decision of the Development Review Committee subject to the  
15 Conditions of Approval.

16           I would also like to include a public comment  
17 that was inadvertently omitted from Exhibit 10 from Mr.  
18 Robert Buxton on May 18<sup>th</sup> leading up to the May 19<sup>th</sup> DRC  
19 public hearing. He cited concerns with the architecture,  
20 mass, and scale of the home. Additionally, he cited  
21 concerns of blocked hillside view.

22           This concludes Staff's presentation and we are  
23 available for questions. Thank you.  
24  
25

1 CHAIR HANSSEN: Do any Commissioners have  
2 questions of Staff at this point? Commissioner Burch.

3 COMMISSIONER BURCH: During the DRC meeting when  
4 it was added to the Conditions of Approval to have the  
5 higher fence and the landscape screening, was the Applicant  
6 along with the neighbors aware of that Condition of  
7 Approval? Was there any indication given that that would  
8 meet the privacy concerns that the neighbor had brought up?  
9

10 DIEGO MORA: The Applicant was aware of the  
11 Condition of Approval. The specifics to that approval and  
12 how that would be met was left up to the Applicant and the  
13 owner adjacent to the property, that question.

14 CHAIR HANSSEN: Go ahead, Commissioner Burch.

15 COMMISSIONER BURCH: So, the 8' fence and the  
16 landscaping was an agreement between the homeowner and the  
17 neighbor, but there were still then, from what I'm  
18 understanding, from what I'm reading, some concerns about  
19 that agreement and the privacy?

20 DIEGO MORA: That is correct.

21 JOEL PAULSON: Commissioner Burch, let me jump in  
22 as well. That condition was placed on the application at  
23 the DRC hearing. The Applicant and the adjacent owner, who  
24 is currently the Appellant, were amenable to it. I think  
25 the Appellant's concerns were there were no details

1 associated with that because it was something that was  
2 added at that meeting. The Applicant I believe has met with  
3 the neighbor and their landscape architect, and so I think  
4 they've had conversations, but ultimately we're moving  
5 forward with the appeal because the appeal was not  
6 withdrawn.

7 COMMISSIONER BURCH: Thank you.

8 CHAIR HANSSEN: I had a related question to that.  
9 If I read the language of the appeal, and I guess we can  
10 ask the Appellant, it specifically says they were looking  
11 for a written commitment from the Applicant on how this is  
12 going to work and it's my understanding, and I'm asking for  
13 Staff's confirmation, that when we put something in the  
14 Conditions of Approval we don't normally expect the  
15 Applicant to on top of that write something up, because  
16 it's in the Conditions of Approval and they otherwise can  
17 proceed with their development and building permits and so  
18 on and so forth. Is that correct?

19  
20 JOEL PAULSON: If Mr. Mora doesn't have any input  
21 on that, again, I think that we put the condition in but  
22 the details behind that hadn't been fleshed out yet because  
23 it was something that was addressed at the meeting, but  
24 obviously the project couldn't move forward to building  
25 permit level without that condition being addressed and so

1 that would require cooperation between both the Applicant  
2 and the Appellant saying yes this satisfies that condition  
3 to the satisfaction of the Community Development Director.

4 CHAIR HANSSEN: Okay, and then one other  
5 procedural question, and I'm doing this really for the  
6 benefit of anyone viewing. Since this appeal was based  
7 solely on the screening from the south side of the property  
8 is it okay for members of the public to bring up other  
9 issues and to create basically a brand new hearing that  
10 could bring in any issues on top of what was in the appeal,  
11 or are we only considering the language of the appeal?  
12

13 JOEL PAULSON: As with typical appeals, and if  
14 either the Town Attorney or Deputy Town Attorney have any  
15 additional, this is a de novo hearing, so you are free to  
16 ask questions about any aspects of the project. Obviously  
17 the appeal is very specific, but ultimately as with all  
18 appeals, it becomes an opportunity for you to bring up any  
19 questions that you might have.

20 CHAIR HANSSEN: All right, thank you. Now, do any  
21 other Commissioners have questions of Staff? Commissioner  
22 Hudes.

23 COMMISSIONER HUDES: My question is about the  
24 architect's report. There were some elements of the  
25 architect's report that were very specific, but there were

1 also some things... And so my question of Staff is when the  
2 architect says "simplify" something, is it clear what that  
3 means? They drew a box several times on several of the  
4 drawings with a box around them so that says simplify.

5           DIEGO MORA: Thank you, Mr. Hudes. When the  
6 architect indicates simplify it's giving some flexibility  
7 to the Applicant to come up with some sort of solution and  
8 justify how that component of the comment was indeed  
9 simplified. It may be a reduction in height, it may be a  
10 reduction in mass, etc.

11           COMMISSIONER HUDES: Okay, thank you.

12           CHAIR HANSEN: All right, do any other  
13 Commissioners have questions of Staff? Seeing none, we will  
14 now open the public portion of the public hearing and give  
15 the Appellant and then the Applicant an opportunity to  
16 address the Commission for up to five minutes. Mr. Paulson,  
17 who will be speaking as the Appellant?

18           JOEL PAULSON: That I do not know. I don't see  
19 the Appellants in the attendee list. I do see a hand  
20 raised, so I'm going to allow what may be Ms. Buxton to  
21 speak, and so let me allow her to talk and then see if they  
22 have any other input. I do not see the Appellant listed.  
23  
24  
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1           JIM ZAKE: I'm having technical difficulties, so  
2 I apologize. This is Jim Zake; I'm using Susan Buxton's  
3 notebook, so I apologize.

4           JOEL PAULSON: Great. That's great.

5           JIM ZAKE: Okay. I'm so sorry, you guys. So, just  
6 a couple of comments.

7           The reason I filed the appeal is just to ensure  
8 that the screening and the fence are executed. I was  
9 invited by the Dehkordis to meet with their landscape  
10 architect as well as Gary Kohlsaas, their architect, to  
11 have a discussion about the screening and about the fence,  
12 so I invited the Dehkordis, Gary, and their landscape  
13 architect, Tina, over to our home so they could get a  
14 first-hand view of what we're concerned about.

15           I built a story pole that is 12' tall marked from  
16 8' to 12'. I walked along the property line in our back  
17 yard. Starting from the back yard I addressed the areas of  
18 concern where they were going to remove an apple tree that  
19 provided complete screening, and 20' in length of 12' high  
20 rhododendrons that were going to be removed, which would  
21 provide a clear line of site from our back yard to their  
22 back yard and their complete rear elevation of their new  
23 home, which is almost entirely glass, so severe concerns of  
24 privacy on my side.  
25

1           On the windows of the north elevation of our home  
2 their structure is going to be...I believe it's 18' tall.  
3 We're 3' higher from an elevation grade perspective and our  
4 views are completely obstructed, so my desire was to have  
5 that screened with plants as well.

6           In the meeting with... Well, what I will say is  
7 that for some reason the Dehkordis declined to come over to  
8 our back yard to see, but I did meet again with the  
9 landscape architect and Gary and we agreed in concept on  
10 the height of the plants that would need to be installed to  
11 provide proper screening. My desire was to have that  
12 completed before the construction was started, and again,  
13 the complete intent is to have privacy and to screen what  
14 will be the new structure.

15           Because of our property being 3' higher from an  
16 elevation grade perspective the size of the plants that  
17 Gary estimated would have to be 36" box plants, and we  
18 agreed with that in concept at the meeting that we had. I  
19 received a proposal from the Dehkordis with respect to the  
20 planting. They proposed ten each 15-gallon plants to  
21 provide coverage relative to the story poles I put up. At  
22 our elevation grade the plants would have to be 10' tall.  
23 Fifteen-gallon plants are 6' tall. When I received the  
24 proposal I hired a plant expert to come over and review the  
25

1 situation. He let me know—and I can provide you his name  
2 and everything about him, if you would like—but he told me  
3 that it would take ten years for a 15-gallon plant to get  
4 to that size, so I was very concerned that we had agreed in  
5 concept over what was going to be provided and then what  
6 was proposed.

7           Additionally, for the back yard there is an apple  
8 tree that Gary Kohlsaas said would not survive. My plant  
9 expert said it would not survive. The foundation of the new  
10 proposed home is encroaching under the canopy of that tree  
11 substantially, there are surface roots, and again I'm not  
12 an arborist or anything, but both Gary and the plant expert  
13 that I hired said that that tree would not survive. So  
14 again, the Dehkordi's proposal to keep the apple tree that  
15 they were previously going to remove because it wouldn't  
16 survive, and ten 15-gallon podocarpus that are 6' tall, are  
17 just really not in alignment with what we agreed to.

18           That's my concern, and again, I can provide you  
19 with all the information I received from my plant expert.

20           My proposal is to have 20 each 36" box podocarpus  
21 along the fence line to provide screening and the privacy  
22 that we're enjoying today.  
23  
24  
25

1           And that's it, and I apologize for being a bit  
2 disjointed because of my technical difficulties and having  
3 to use somebody else's PC, so sincere apologies.

4           CHAIR HANSSEN: Thank you very much. We're glad  
5 that you were able to come and make comments. I want to ask  
6 my fellow commissioners if they have any questions for the  
7 Appellant? Vice Chair Janoff has her hand up.

8           VICE CHAIR JANOFF: Thank you. Thank you, Mr.  
9 Zake, for your comments. My question is your proposal  
10 mentions 20 each 36" box plants but you don't mention the  
11 fence itself. Do you have any other conditions or requests  
12 regarding the 8' fence that's required by Condition of  
13 Approval Condition #11? Is it just the box plants?

14           JIM ZAKE: Yes, Ma'am, and I apologize; I did  
15 have that on my notes and I'm so disjointed and disheveled  
16 that I've missed it, but yes. On the proposed plan the  
17 fence is not noted and we agreed in concept to an 8' fence;  
18 6' fence, 2' lattice.

19           VICE CHAIR JANOFF: Okay, thank you.

20           JIM ZAKE: And thank you for asking.

21           CHAIR HANSSEN: Okay. Now, do any other  
22 Commissioners have questions for the Appellant?  
23 Commissioner Hudes and then Commissioner Barnett.  
24  
25

1                   COMMISSIONER HUDES: Thank you. I understand that  
2 the appeal is being made about the privacy issues, and I  
3 understand the review is a de novo review. Nevertheless,  
4 neighbors in their letters raised other issues about the  
5 architecture and height. As the Appellant do you share any  
6 of those concerns?

7                   JIM ZAKE: Yes, Mr. Hudes. Thanks for asking.  
8 I've never been through this process but I definitely was  
9 one of the concerned neighbors relative to architecture,  
10 relative to the height of building, the architectural  
11 style, the scale and scope of the project, and I had  
12 documented all that information previously.  
13

14                   My appeal was relative to the screening and the  
15 fencing. I don't believe anybody filed an appeal relative  
16 to the DRC's ruling for the approval of the building  
17 itself, but I definitely have concerns about that.

18                   COMMISSIONER HUDES: Thank you.

19                   CHAIR HANSSEN: And Commissioner Barnett, you had  
20 your hand up.

21                   COMMISSIONER BARNETT: Yes, I noted in Mr. Zake's  
22 email of May 18<sup>th</sup> there was a reference to a declaration of  
23 restrictions relating to the subdivision and I was  
24 wondering if you felt that there were any provisions of  
25 that declaration that may affect the privacy issue?

1           JIM ZAKE: Mr. Barnett, can you repeat that  
2 question; I'm sorry.

3           COMMISSIONER BARNETT: Yes. As I read your email  
4 of May 18<sup>th</sup> you mentioned that there's a declaration of  
5 restrictions relating to the subdivision and I was  
6 wondering if that bears on your appeal?

7           JIM ZAKE: I don't believe it does. I think those  
8 were the original documents when the subdivision was first  
9 developed in the mid-fifties.

10          COMMISSIONER BARNETT: That satisfies my  
11 question.

12          CHAIR HANSSEN: And do any other Commissioners  
13 have questions for the Appellant? Okay, it looks like there  
14 are none, so then we will move on and we will ask to have  
15 the Applicant speak for up to five minutes on their behalf.

16          JOEL PAULSON: Thank you. We see Gary Kohlsaat is  
17 raising his hand, so he is ready to speak for up to five  
18 minutes.

19          CHAIR HANSSEN: Okay, Mr. Kohlsaat, go ahead, and  
20 I had neglected before, but if you could please state your  
21 name and address for the record.

22          GARY KOHLSAAT: Good evening, everybody. This is  
23 Gary Kohlsaat. I am at 51 University Avenue, Suite O, Los  
24  
25

1 Gatos CA 95030. Nice to see everybody tonight. Can  
2 everybody hear my okay? Am I too loud, too soft?

3 CHAIR HANSSEN: It's good.

4 GARY KOHLSAAT: Okay. Normally when we get  
5 Conditions of Approval like this we work with Staff and the  
6 neighbor or concerned person to make sure that the  
7 screening is appropriate, and that was our plan all along,  
8 but the appeal kind of kickstarted it a little bit more. We  
9 were attempting to satisfy the Zake's concerns when we met  
10 with them on July 9<sup>th</sup> and we met with... We had our landscape  
11 architect and I joined as well.  
12

13 First of all, we're okay with the 8' fence. It's  
14 6' of solid plus 2' of lattice, and that will go on the  
15 architectural site plan, which will be part of our next set  
16 of documents that Planning Staff will review, but it  
17 doesn't surprise me that the Zakes were concerned about  
18 this, just given the nature of their needs, that they  
19 didn't want to leave it to chance, and so I'm generally  
20 okay with that. I still think that we could have worked  
21 this all out to everybody's satisfaction, but here we are.  
22

23 So, that being said, the things we talked about  
24 at the site on July 9<sup>th</sup> were the appropriate screening  
25 materials and the appropriate sizes and locations, and  
several things were discussed. The apple tree was kind of a

1 contention point. The Zakes loved the apple tree and the  
2 Dehkordis also loved the apple tree; they felt that it  
3 wasn't going to survive. We have actually relooked at the  
4 grading plan where you can see... If you look at these  
5 landscape plans. I don't know, Diego, if you could share  
6 that plan for me. Is that possible, the plan that we gave  
7 you? It's that landscape plan.

8           Well, anyway, the canopy of the tree does come  
9 into our patio but not necessarily too much into the roof  
10 covering, because we have an open section over the outdoor  
11 kitchen that has no roofing on it at all, so we're talking  
12 about 10% of the canopy—I'm estimating 10% of the canopy—of  
13 the tree conflicting with our roof, so we think that it can  
14 survive and maybe it needs a little bit of soil put around  
15 it. We are raising the house up by 6" from where it is now,  
16 so we have the ability to actually add some topsoil and  
17 cover some of those roots. We felt that that was kind of a  
18 good solution overall for that aspect of it.

19           And then we talked about the side screening  
20 between the two homes right there in that area. The  
21 difficulty with installing larger podocarpus in 36" size  
22 boxes is they're quite expensive and the 24" box would  
23 probably after a few years catch up to the 36" and be  
24 better established, so it's preferred to plant smaller  
25

1 sizes in the long term. But I completely understand their  
2 desire to provide more immediate screening, so what we  
3 talked about doing was raising a planter box, extending the  
4 planter box and replacing it and extending it into our side  
5 yard at the level of their property, which is 3' higher  
6 than our property, and to actually get 3' of height for our  
7 plants. So, we are starting the plants at the elevation of  
8 their house, which you've got an 8' fence and we felt that  
9 we need to put 10' or 11'—I'm sure Jim Zake could refresh  
10 my memory on that—but like 10' or 11' would be the goal.  
11

12           What we didn't want to do was plant something  
13 that was going to grow to 12', or 15', or 20' because  
14 that's going to block too much from both, so we wanted to  
15 find that intermediate perfect plant and the podocarpus is  
16 an evergreen that grows very well.

17           The problem with planting a large size box is the  
18 planter box itself needs to be wider to accommodate the  
19 root ball and drainage and everything like that, and so we  
20 are starting to encroach into our side yard quite a bit  
21 with a larger planter in order to handle the larger box.  
22

23           JOEL PAULSON: Excuse me.

24           GARY KOHLSAAT: Are we out of time, Joel?

25           JOEL PAULSON: That's the five minutes there.

            GARY KOHLSAAT: That was fast. Can I close?

1 CHAIR HANSSEN: Is there one last thing you  
2 wanted to say?

3 GARY KOHLSAAT: I do. I just want to point out  
4 that not only does their house sit 3' above ours, but part  
5 of their back yard is raised up actually at the next door  
6 neighbor's property level, which is about 2.5' up there, so  
7 when they're talking about some of the privacy screening  
8 they're talking about in their back yard, in the very far  
9 part of their back yard, which is another 2.5', and they're  
10 looking down from about 5.5' down on the Dehkordi's  
11 property. The Dehkordis are not necessarily going to be  
12 looking up because of the 8' fence. I'm happy to take  
13 questions.  
14

15 CHAIR HANSSEN: All right, so let me see if any  
16 of the Commissioners have questions for you. All right, I'm  
17 not seeing anyone that has raised... Oh, Vice Chair Janoff.

18 VICE CHAIR JANOFF: Thank you, and thank you, Mr.  
19 Kohlsaas. Did you propose or did you have a discussion  
20 regarding the 24" boxes versus 36" with the Appellant?

21 GARY KOHLSAAT: We talked about three different  
22 sizes. We talked about the 15-gallon, the 24" box, and a  
23 36" box. If you do the 36" box you're going to space them  
24 farther apart. The landscape architect was highly  
25 recommending going with the 15-gallon because of better

1 overall health of the plant in the long term. I normally  
2 use either between 15-gallon and 24" box.

3           There was some discussion about using something  
4 that would get them more immediate screening, and indeed we  
5 did talk about as long as we could have a reliable water  
6 source during construction to get these things established  
7 now, and I think that's a wonderful plan.

8           VICE CHAIR JANOFF: Let me just interrupt you for  
9 a second. My question was have you proposed the 24" box  
10 sizes to the Appellant? I understand your discussion about  
11 the benefits of the 24" or the 15-gallon versus the 36",  
12 but have you discussed the 24" option with the Appellant?

13           GARY KOHLSAAT: We did discuss several, and then  
14 between the Dehkordis and the landscape architect they  
15 decided that the 15-gallon was what they wanted to present,  
16 and so that's what they chose to put on this plan at this  
17 time.

18           VICE CHAIR JANOFF: Okay, just so I'm clear, the  
19 Appellant is proposing 36" and the owner is proposing 15-  
20 gallon, and you're suggesting 24" is a better compromise.  
21 Is that correct?

22           GARY KOHLSAAT: I think that's a fair statement,  
23 yes. Yes.

24           VICE CHAIR JANOFF: All right, thank you.

1 GARY KOHLSAAT: Yes, mmm-hmm.

2 CHAIR HANSSEN: Do any other Commissioners have  
3 questions for the Applicant? Okay, so seeing none we will  
4 move on and this would be the time that we would take  
5 public comments, so I want to find out from Mr. Paulson if  
6 anyone has raised their hand to make comments from the  
7 public.

8 JOEL PAULSON: Yes, Robert Buxton would like to  
9 speak.

10 CHAIR HANSSEN: Okay. Go ahead, Mr. Buxton.

11 ROBERT BUXTON: I hope you started the three  
12 minutes over, please.

13 JOEL PAULSON: I haven't even started it yet.

14 ROBERT BUXTON: Okay, I'll tell you when you can  
15 start it, Mr. Paulson. So, can you all hear me?

16 CHAIR HANSSEN: Yes.

17 ROBERT BUXTON: Okay, thank you. So thank you,  
18 Madam Chair. Thank you for allowing me to speak this  
19 evening. My name is Bob Buxton. My wife and I have lived at  
20 118 Robin Way for 38 years, two sons in Los Gatos schools,  
21 Cal Poly, UCLA, and we're strongly involved in volunteer  
22 work as someone you know.

23 This is a very tight knit neighborhood, and when  
24 I say neighborhood I'm speaking of Robin Way, Cardinal  
25

1 Lane, and Stonybrook Road; it's comprised of wonderful and  
2 respectful families. Our current position on the  
3 application is as follows:

4           Number one, support the Appellants, Mr. and Mrs.  
5 Zake, and their right to privacy and quality of life.  
6 Thirty-six inch is going to handle it; they have hired a  
7 landscaper, etc. With the \$2 million budget for this home a  
8 few more dollars for the right thing to do for the Zakes is  
9 more than appropriate.  
10

11           Item number two, because of poor communications  
12 from the beginning of the process we recommend that the  
13 Planning Commission act on Alternative #1, "Continue the  
14 matter to a date certain with special direction."

15           We look forward to the Planning Commission taking  
16 a leadership role in getting this matter resolved. We're  
17 not that far away. It has been a stressful time for many  
18 residents. There is no need for an appeal to the Town  
19 Council.

20           A couple of additional comments. I had a memo to  
21 the DRC of May 18<sup>th</sup> that I don't know if you got it in your  
22 package or not—it wasn't originally there—but I wanted to  
23 point out one part of my May 18<sup>th</sup> email and that is Exhibit  
24 15. We never approved the project in December and we don't  
25 approve it now. We are supporting the Zake's appeal.

1 Exhibit 15 is incorrect in many ways as to the neighbor's  
2 positions. This is when everything started. I wouldn't be  
3 here today if it was done correctly.

4           Lastly, something that really bothers me is the  
5 portrayal of the existing home to be demolished, and I'm  
6 not saying it shouldn't be demolished, but the original  
7 owner and seller approximately five years ago sold the  
8 property to the current homeowners. The home was in  
9 pristine condition; pristine condition. Lester H. Strickler  
10 and his wife spared no expense on 146 Robin Way. Mr.  
11 Strickler, a well-known and respected land owner,  
12 developer, and financier here in the valley; his business  
13 is Los Gatos Investment Company. The condition stated is an  
14 insult to Mr. Strickler and lacks total respect and it  
15 really bothers me that the house is being portrayed as  
16 falling down, the walls caving in, etc., etc.

18           Anyway, that's all I have to say and I would be  
19 happy to answer any questions. Thank you very much.

20           CHAIR HANSSEN: Do any Commissioners have any  
21 questions? Commissioner Hudes.

22           COMMISSIONER HUDES: This is same question that I  
23 had for the Appellant. There were other issues that were  
24 raised in letters from neighbors about the architecture and  
25 neighborhood compatibility. In your mind are those still

1 issues that should be considered or were those issues that  
2 were resolved satisfactorily from your opinion?

3 ROBERT BUXTON: My opinion is those are still  
4 issues. I'm looking out my office window now at the story  
5 poles and the obstruction of our hillside views. The size  
6 and mass of the building itself does not fit the  
7 neighborhood, but the issue tonight from our perspective is  
8 to totally and completely support the Zakes in what their  
9 desire is for privacy and for sure all the (inaudible), but  
10 Commissioner Hudes, yes, still an issue. And when I say  
11 neighborhood I've told you the three streets, somewhere  
12 around 50% of the neighborhood are not in favor of this  
13 project, but we're here to support the Zakes.

15 COMMISSIONER HUDES: Thank you.

16 ROBERT BUXTON: Yes, sir.

17 CHAIR HANSSEN: Commissioner Badame has a  
18 question for Mr. Buxton.

19 COMMISSIONER BADAME: Mr. Buxton, thank you. I  
20 just want to clarify your testimony in that although you  
21 had concerns with the architecture and the neighborhood  
22 compatibility, your issue, in order for this to go forward,  
23 is that you want to support your neighbor in that we have  
24 the 36" box plants, and that would be satisfactory despite  
25 the architecture and neighborhood compatibility, since that

1 seems to be the issue tonight and that was what you started  
2 your conversation with?

3           ROBERT BUXTON: Absolutely, again, supporting the  
4 Zakes, 36". Life is too short and we're going to have  
5 obstructed views, the house doesn't fit the neighborhood,  
6 and many well-known realtors in the area agree with that  
7 statement, but we are supporting the Zakes; the rest of it  
8 is what it is. Life is too short, so let's get on with this  
9 and please, I appreciate all your support. Let's just get  
10 it done for the Zakes.

11           COMMISSIONER BADAME: Thank you, Mr. Buxton.

12           ROBERT BUXTON: Yes, ma'am.

13           CHAIR HANSSEN: And do any other Commissioners  
14 have questions for Mr. Buxton. Seeing none, I don't think  
15 there is anyone else from the public in the attendees but I  
16 just want to confirm with Mr. Paulson.

17           JOEL PAULSON: That's correct.

18           CHAIR HANSSEN: Okay, so then the next item when  
19 we're doing an appeal would be to go back to the Applicant  
20 first and then the Appellant and give them each three  
21 minutes to respond to questions from the public or give any  
22 final comments to the Commission before we begin our  
23 deliberations. So, I'll ask the Applicant to speak. You  
24  
25

1 have up to three minutes to respond or add any additional  
2 comments.

3           GARY KOHLSAAT: Thank you. I do want to say that  
4 we haven't given up working with the Zakes. This is by far  
5 not our best and final offer; this was just something that  
6 was a result of our meeting not only with the Zakes but  
7 with the owner and landscape architect. We respect the  
8 process, we respect the Town Staff. We'll make sure that  
9 everybody is done right by this.  
10

11           I didn't have a chance earlier to comment about  
12 the architecture. We did change it fairly dramatically in  
13 terms of simplifying it after our first DRC hearing. We  
14 changed it once after we got Mr. Cannon's review. We worked  
15 with Staff; they felt it was appropriate. We then changed  
16 it more to simplify it even more to help try to fit it in  
17 with the neighbor's concerns and we lowered the house and  
18 we created more exhibits to really showcase what we've  
19 done.

20           So, if you are looking at your package and you're  
21 looking at our Sheet A-3 we did a full-color streetscape  
22 with all the neighbors' homes and our home and landscaping  
23 with and without, and you can see how this house we feel is  
24 as respectful as it's going to get in this neighborhood.  
25 I'm proud of this house; I think it's going to be a very

1 eye catching house. My hope in the end is that there is  
2 harmony renewed in this neighborhood, especially on Robin  
3 Way. Everybody is very considerate and community minded and  
4 the Dehkordis are there as well. Thank you.

5 CHAIR HANSSEN: All right, thank you, Mr.  
6 Kohlsaas. It looks like Commissioner Hudes has a question  
7 for you.

8 COMMISSIONER HUDES: Thank you. Mr. Kohlsaas, the  
9 Staff Report lists seven items that were recommendations  
10 from the consulting architect to address consistency with  
11 the Residential Design Guidelines. In the final plans, the  
12 ones that are being considered now, have these seven items  
13 been addressed?  
14

15 GARY KOHLSAAS: In my mind we would not have been  
16 at the DRC if they hadn't been addressed. Ms. Zarnowitz and  
17 Mr. Mora were working with us directly quite a bit. When we  
18 made the second round of changes we commented that these  
19 are even more what Mr. Cannon was going for and they said  
20 yes, even though they liked the other one; they were fine  
21 with the other one. Although they're not the arbiters of  
22 architecture they are the professionals and we rely on  
23 them, and you guys rely on them, to get us to this point.  
24 In my mind I think we have. That's a subjective question I  
25 think though, if you agree with that or not.

1 CHAIR HANSSEN: Commissioner Hudes, do you have a  
2 follow up question?

3 COMMISSIONER HUDES: Yeah. I'm just picking one  
4 of them out, #4, "Select a roof material more similar to  
5 the other homes in the immediate neighborhood." Was that  
6 addressed?

7 GARY KOHLSAAT: That's the one item that seems to  
8 come up quite a bit, but the Design Guidelines are probably  
9 ready for a little update as you see that there are quite a  
10 few of these standing seam metal roofs in Los Gatos. I  
11 think we had another challenge of that roof on another  
12 project and a client of ours went around and found 25  
13 examples without even breaking a sweat.

14 We changed the color of the roof from the gray to  
15 the brown, and these are not reflective roofs, and these  
16 are very high-quality roofs—they're probably the most  
17 expensive roof you can get besides a slate roof—and I would  
18 say that this has a spirit of ranch houses. You see them  
19 all over the country, this type of roof being used in  
20 modern ranch and modern farmhouse, projects.

21 CHAIR HANSSEN: Commissioner Hudes still has more  
22 questions.

23 COMMISSIONER HUDES: This is a follow up. The  
24 homes that you mentioned with the standing seam roofs, are  
25

1 they in the immediate neighborhood or the adjacent  
2 neighborhood?

3 GARY KOHLSAAT: They're in the adjacent  
4 neighborhoods but not in the immediate 2-5-2.

5 COMMISSIONER HUDES: Okay, thank you.

6 CHAIR HANSSEN: Do any other Commissioners have  
7 questions or comments for the Applicant? It doesn't seem  
8 like we do so then we will go on and ask the Appellant if  
9 they would wish to comment for three minutes?  
10

11 JIM ZAKE: Thank you, Ms. Hanssen; greatly  
12 appreciate it. I'm just going to read through a few  
13 observations, concerns, and proposed solutions. Hopefully  
14 I'll be a little more concise now that I've had a chance to  
15 take a breath. Again, I apologize for being a little bit  
16 disjointed initially.

17 With respect to the plants and the screening, the  
18 privacy, without question the new structure is going to be-  
19 and it's surprising because we're 3' higher-blocking our  
20 views out of that side of our house, so just with respect  
21 to the issue at hand, with respect to the screening, the  
22 observations are as follows:

23 The proposal was for ten each 15-gallon  
24 podocarpus. They're no more than 6' tall.  
25

1           The existing apple tree has a surface root  
2 system. Per the plans the new proposed foundation is going  
3 to encroach well under the canopy and over the exposed root  
4 structure.

5           The 20 lineal feet of the 12' tall rhododendrons  
6 to be removed was not addressed in the revised plan and  
7 leaves substantial exposure.

8           The required no less than 8-foot fence was not  
9 reflected in the revised plans.

10           My concerns:

11           Bob mentioned this as well—thank you Robert—that  
12 a properly cared for 15-gallon podocarpus takes ten years  
13 to reach the height and girth for the required screening;  
14 that's per the expert consultant that I hired. Thirty-six  
15 inch boxes are what would be required to achieve that.

16           Gary did repeatedly comment that due to the age  
17 and the surface root structure the apple tree would not  
18 survive. Our consultant also commented that and was in  
19 alignment with that thought process as well. The Dehkordi's  
20 proposal is not in any fashion in alignment with our in-  
21 person discussion and conceptual agreement, so I am very  
22 glad that I went through the Town process. I've never been  
23 through this before but I'm greatly appreciative of this  
24  
25

1 process and being able to ensure that everything is  
2 documented and well vetted, so thanks very much for that.

3           So, the proposed solution again: include in the  
4 revised plans no less than an 8' fence with 6' of solid and  
5 2' of lattice, which we agreed to; provide 20 each, two per  
6 8' section, 36" box podocarpus along the fence line; as  
7 previously planned remove the apple tree; erect the fence  
8 and install the plants prior to the initiation of  
9 construction; and then finally I just want to ensure and  
10 guarantee the proper watering and care of the noted plants  
11 and that we put some sort of requirement to replace any  
12 failed plants within a certain period of time.

14           And again, I just want to thank the Town very  
15 much for their consideration and for having this process  
16 for us to go through and I look forward to moving it  
17 forward. So, thank you very, very much for the opportunity  
18 to speak.

19           CHAIR HANSSEN: Okay, thank you very much, and so  
20 any of the Commissioners have questions for the Appellant?  
21 It looks like Commissioner Tavana. No, no. Okay. All right,  
22 do any other Commissioners have questions for the  
23 Appellant? Seeing none, we will close the public portion of  
24 the hearing and ask if any Commissioners have questions of  
25 Staff, wish to comment on the application, or introduce a

1 motion for consideration by the Commission? Commissioner  
2 Barnett.

3           COMMISSIONER BARNETT: Well, if I heard Mr.  
4 Kohlsaas direction he's saying that their position that's  
5 been communicated is not their best offer. It seems to me  
6 it would be appropriate to allow some time for further  
7 conversation.

8           CHAIR HANSEN: I think what you're suggesting is  
9 a continuance?  
10

11           COMMISSIONER BARNETT: That is what I have in  
12 mind, yes.

13           CHAIR HANSEN: Okay. I'd like to hear from other  
14 Commissioners on their thoughts on the application.  
15 Commissioner Burch, then Vice Chair Janoff, then  
16 Commissioner Badame.

17           COMMISSIONER BURCH: (Inaudible) to ask a  
18 question maybe of my fellow commissioners. I am usually one  
19 of the first ones to say that if all they're appealing is  
20 one thing we should only look at the one thing, however in  
21 this particular appeal and in going back through what the  
22 Town Architect had recommended and through some of the  
23 neighbors' letters, aside from the issue about the privacy,  
24 which to me feels like there's probably an easier solution  
25 there that can be met, I am actually struggling with some

1 of the elements of the house architecturally as far as how  
2 it fits in with the neighborhood. Now again, I can drop  
3 that there if we all feel that DRC approves that particular  
4 aspect and we don't want to discuss that any further, but I  
5 would like to know if there's anyone else that feels a  
6 concern about that, if we do even want to entertain a  
7 conversation about that?

8 CHAIR HANSEN: All right, so let's see. We also  
9 had Vice Chair Janoff and then Commissioner Badame had  
10 their hands up.

11 VICE CHAIR JANOFF: Thank you. I think it's  
12 respectful to limit the scope of our discussion tonight to  
13 what the Appellant is asking for, and with regard to that,  
14 since we don't have an alternative proposal from the  
15 Applicant, then I find that what the Appellant is  
16 requesting to be reasonable. There seems to be relatively  
17 little conversation that leads to a mutual understanding  
18 and commitment, and so having these four items enumerated:  
19 the quantity 20 36" box; 6' fence with a 2' lattice; the  
20 removal of the apple tree, and installation of the  
21 screening prior to the beginning of construction seem  
22 reasonable to me.

23 I did want to comment about the apple tree. While  
24 it might be noble to try to save it, if there's any concern  
25

1 that it might not be salvageable it's probably wise to  
2 remove it before you wind up in a situation where the item  
3 you're counting on for screening actually doesn't wind up  
4 screening and then you're left in a future state where you  
5 don't have the privacy that you're looking for tonight. So,  
6 I would be in favor of the Appellant's proposal as stated.

7           With regard to the architecture, I too would like  
8 to make some comments about it. I didn't have a problem  
9 with the standing seam roof; I think those are interesting  
10 and I think they're going to be a part of construction,  
11 particularly in this time period. We've even seen the  
12 standing seam roof on Victorian homes, so it's not  
13 completely inappropriate.

14           The one item I found odd was the front wood  
15 square box that's still there, the one box that the  
16 architect commented on was tucked under the eave—as you're  
17 looking at the elevation the eave on the left side of the  
18 house—and that front detail looks a little bit odd to me,  
19 but I don't have a huge problem with it if my other  
20 Commissioners don't. I'd be willing to limit tonight to a  
21 decision about the privacy that the Appellant is asking  
22 for.  
23

24           CHAIR HANSSEN: Thank you, Vice Chair Janoff.  
25 Commissioner Badame.

1                   COMMISSIONER BADAME: I typically would like to  
2 have a conversation about the architecture, the bulk and  
3 the mass, and the privacy issues, but it looks like we're  
4 not there right now. We're kind of limiting the scope to  
5 what the Appellant is looking for, and I don't see or feel  
6 that the proposal of the Appellant is unreasonable as well.  
7 So, if that can't be resolved tonight or agreed upon  
8 tonight, then I'm also going to be looking for a  
9 continuance.  
10

11                   CHAIR HANSSEN: Okay, thank you, Commissioner  
12 Badame. Do any other Commissioners want to comment at this  
13 point?

14                   I would just like to add my comments. I too noted  
15 that there were extensive comments during the DRC review  
16 process about the bulk and mass of the application and some  
17 comments about maybe some of the square footage might have  
18 been relocated underneath the house in a cellar, and so on  
19 and so forth, but I also agree that it was very consistent  
20 from the comments from the public tonight as well as the  
21 comments from the Appellant that even though those issues  
22 might have been on the table they are willing to limit their  
23 concerns to what was in the appeal, and that's about the  
24 screening between the two homes.  
25

1 I also thought that the Appellant was very  
2 specific, went to the trouble of hiring their own expert,  
3 and has made a very specific proposal that I agree with  
4 Vice Chair Janoff doesn't seem unreasonable.

5 I would prefer if we can get resolution on this  
6 tonight, that if the Applicant is able to agree to those  
7 conditions that we could avoid having to have another  
8 hearing on this subject, but I don't know the best way to  
9 do that so I'm going to ask...

10  
11 Oh, and we have a comment from Commissioner Hudes  
12 as well.

13 COMMISSIONER HUDES: Thank you. I'm responding to  
14 Commissioner Burch's comment earlier. With respect to the  
15 privacy issue I'm definitely persuaded that the Appellant  
16 has proposed a reasonable solution to this; maybe it needs  
17 to be tweaked but I basically think that that issue is  
18 resolved.

19 I personally am still struggling with being able  
20 to make the findings about neighborhood compatibility, but  
21 I'm still thinking about it.

22 CHAIR HANSSEN: All right, does anyone else wish  
23 to comment on the application? So then I think this would  
24 be a good time, if any of the Commissioners were willing to  
25 make a motion and let's see where we can go with it.

1           So, we have an option of denying the appeal and  
2 approving with additional conditions as proposed by the  
3 Applicant. There was one suggestion of continuance. So, I'd  
4 like to see where we're at on that if anyone is willing to  
5 make a motion. All right, I'm not seeing anyone willing to  
6 make a motion. Vice Chair Janoff.

7           VICE CHAIR JANOFF: My apologies. I would like to  
8 make a motion but I don't have the documents in front of  
9 me; I'm limited to a few pieces of paper, so I don't have  
10 the formal motion language before me, and so I hesitate to  
11 make the motion in case there are formalities that need to  
12 be included but would be willing to do so otherwise.

13           CHAIR HANSSEN: Okay. Before we do that I did  
14 want to ask Staff a question. If it was the desire of the  
15 Commission to make a motion and there was a vote in favor  
16 of it, wouldn't we need to ask the Applicant if they are  
17 willing to agree to that condition, or would be just make  
18 the motion and say this is the condition and then they have  
19 to decide whether to live with it.

20           JOEL PAULSON: You would make the motion with the  
21 condition and they would have the opportunity to appeal it  
22 to Council if they weren't comfort with that condition.

23           CHAIR HANSSEN: I see. Okay. All right, so Vice  
24 Chair Janoff, I think we could probably make it work with  
25

1 referring to the findings that are listed in the Staff  
2 Report; it was around the Residential Design Guidelines and  
3 so on and so forth. So, if you wanted to make a motion I  
4 think we could do it and just refer to the findings that  
5 are mentioned in the Staff Report.

6           And Staff, if you're not okay with that please  
7 say something, but I think you've delineated what all the  
8 findings were in the Staff Report.

9           JOEL PAULSON: That's been done in the past, so  
10 you can just reference the findings and considerations as  
11 illustrated in the Staff Report.

12           CHAIR HANSSSEN: Okay, so take it away, Vice Chair  
13 Janoff.

14           VICE CHAIR JANOFF: Okay, thank you. I, in  
15 reference to the Appellant's subject property and in  
16 reference to the findings and the conclusions in the Staff  
17 Report, move to amend the Staff recommendations to include  
18 the four points of proposal that the Appellant has  
19 provided, which we've already enumerated and is part of the  
20 record as part of the Conditions of Approval.

21           CHAIR HANSSSEN: So, your motion is to deny the  
22 appeal with the condition of amending the Conditions of  
23 Approval?  
24

25           VICE CHAIR JANOFF: Yes, thank you.

1 CHAIR HANSSEN: Okay, all right. I just want to  
2 make sure I got it right. So then do we have a second?  
3 Commissioner Badame has her hand up.

4 COMMISSIONER BURCH: I move it. So seconded.

5 CHAIR HANSSEN: All right, Commissioner Badame  
6 seconds the motion. Do any Commissioners want to make any  
7 additional comments before we take a vote? Seeing none,  
8 then we will do a roll call vote and please answer yes, no,  
9 or abstain. Commissioner Badame.  
10

11 COMMISSIONER BADAME: Yes.

12 CHAIR HANSSEN: Commissioner Tavana.

13 COMMISSIONER TAVANA: Yes.

14 CHAIR HANSSEN: Commissioner Burch.

15 COMMISSIONER BURCH: I'm actually going to say  
16 no, knowing that I believe this is going to pass, but only  
17 because I'm really struggling with the architecture,  
18 particularly the roof, so I'll say no.

19 CHAIR HANSSEN: Okay, that's fine. And then  
20 Commissioner Hudes.

21 COMMISSIONER HUDES: No.

22 CHAIR HANSSEN: Commissioner Barnett.

23 COMMISSIONER BARNETT: Yes.

24 CHAIR HANSSEN: Vice Chair Janoff.

25 VICE CHAIR JANOFF: Yes.

1 CHAIR HANSSEN: And then I vote yes as well, so  
2 it passes 5-2, and are there any appeal rights on this  
3 decision?

4 JOEL PAULSON: There are, thank you, Chair.  
5 Anyone who is not satisfied with the decision of the  
6 Planning Commission can appeal that decision to the Town  
7 Council. The appeal forms can be found online and they must  
8 be submitted. There is a fee for filing the appeal and the  
9 appeal must be filed within ten days.  
10

11 CHAIR HANSSEN: Okay, thank you very much. So  
12 that concludes Item 2 on the agenda.  
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