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

Los Gatos Planning Commissioners:
Emily Thomas, Vice Chair
Jeffrey Barnett
Susan Burnett
Melanie Hanssen

Town Manager: Chris Constantin

Community Development Director: Joel Paulson

Town Attorney: Gabrielle Whelan

Transcribed by: Vicki L. Blandin
(619) 541-3405

1 The request before you this evening is for
2 modification to an existing Planned Development Overlay
3 Zone that would allow subdivision of one lot into two lots
4 and construction of a new single-family residence.

5 On January 24th of this year the Planning
6 Commission received the Staff Report, Applicant's
7 presentation, and public comments. Included in the public
8 comments was testimony from a neighbor and a board member
9 of the Regency Court HOA who indicated that the HOA
10 maintained architectural control over the subject property
11 and that this architectural review had not taken place.
12 After discussing the matter, the Commission voted to
13 continue consideration of this item to a date uncertain to
14 allow the Applicant sufficient time to complete
15 coordination with the HOA.
16

17 Following the July meeting the Applicant and the
18 HOA met and reached agreement on the project as provided in
19 the letters attached to your Staff Report. The HOA's
20 approval of the project included several conditions
21 enforceable by the HOA, including requiring the second-
22 story windows on the west elevation to utilize obscured
23 glass; restricting the current and future owners from
24 removing or modifying the existing brick wall along the
25 west property line, and that this wall is to be extended to

1 the north using the same vertical siding as is included on
2 the proposed second story of the residence; and several
3 conditions related to construction activities, garbage
4 collection, access, road maintenance, and costs related to
5 updating the CC&Rs are also included.

6 The Applicant has agreed to these conditions and
7 provided revised plans responding to the conditions. Noted
8 in the revised plans are some of the physical changes to
9 the residence, obscured glass on the second story, and
10 notes regarding access and extending the wall.

11 To refresh the Commission on the proposal for
12 your consideration, the Applicant is requesting approval to
13 modify PD Ordinance 1412 to allow subdivision of the
14 subject property into two lots, and the construction of a
15 new two-story single-family residence. Parcel A would
16 include the existing residence, and Parcel B would be
17 developed with a new residence.

18 The requested modifications to the PD include
19 performance standards affecting both parcels to allow
20 deviations from the underlying Office zone requirements,
21 and applicable sections of the Hillside Development
22 Standards and Guidelines as detailed in the July 24th Staff
23 Report.
24
25

1 If the Commission finds merit with the proposed
2 project, Staff recommends taking the actions included on
3 page 4 and 5 of tonight's Staff Report, and to forward the
4 PD, Subdivision, and Architecture and Site Applications to
5 the Town Council with a recommendation of approval.

6 This concludes Staff's presentation and we are
7 available to answer any questions.

8 VICE CHAIR THOMAS: Thank you. Do any
9 Commissioners have questions for Staff at this point? Yes,
10 Commissioner Hanssen.

11 COMMISSIONER HANSSSEN: It was mentioned in the
12 Staff Report that the conditions that came from the HOA
13 were included as Conditions of Approval that would be
14 monitored by the Town, and if I recall correctly from our
15 last meeting I think our Town Attorney had said that the
16 Town has no authority over a matter that relates to HOAs,
17 although I guess you can consider this like a neighborhood
18 compatibility issue. My question is, is it legally
19 appropriate to have those as Conditions of Approval?
20

21 ATTORNEY WHELAN: Good question. The only
22 elements that have been incorporated into the planning
23 approval are the physical changes. There is information in
24 the packet that talks about the property owner promising to
25 pay the HOA for the cost of amending the CC&R agreement,

1 and that agreement has not been included in the approval
2 that is before the Planning Commission, so only the
3 physical changes to the structure are reflected in what the
4 Planning Commission is being asked to approve.

5 COMMISSIONER HANSSEN: Are the conditions clearly
6 objective in that if our Town Staff said that it was
7 completed and the HOA did not.

8 ATTORNEY WHELAN: I think there are physical
9 things that can easily be verified, but I'll defer to Mr.
10 Mullin.
11

12 SEAN MULLIN: Thank you. If we walk through the
13 conditions—which I will do, because trying to keep things
14 moving this evening—you'd notice that the building has been
15 updated to note that there is obscured glass. There are
16 some notes on here about extending the wall. These are the
17 physical changes to the property. There are also noted on
18 here about construction access and future access, access
19 restrictions on one of the property lines, and garbage
20 collection. Those types of things are noted on the plans
21 and any approval of the project tonight would carry those,
22 because the Applicant has included those with their plans.
23

24 The conditions of the HOA that Staff could
25 recommend not including have to do with the private party
agreement, such as cost sharing or cost responsibility for

1 updating the CC&Rs; that's not something that the Town
2 would historically get involved in.

3 COMMISSIONER HANSSEN: Okay, thank you.

4 VICE CHAIR THOMAS: Are there any additional
5 questions for Staff? Seeing none, I will now open the floor
6 to public comment. First, would the Applicant like to
7 provide an opening statement to be five minutes?

8 JAY PLETT: Good evening, Commission Members. Jay
9 Plett Architecture, 16 Linden Avenue.

10 We believe that the project has been very well
11 designed through much time with the Planning Department and
12 Fire Department. It respects the native trees and mature
13 oaks that are there. As a matter of fact, the house was
14 intentionally designed around the trees and their
15 preservation.

16 Marty McFarland and I met with the HOA members in
17 my office and came to the agreement of the debris fence and
18 the obscured window, and they were fine. We resubmitted our
19 plans to them and they consented that they agreed with
20 these changes, and they submitted an email to Mr. Mullin to
21 that effect.

22 VICE CHAIR THOMAS: Thank you. Would anyone else
23 from your team like to speak tonight?
24
25

1 DIRECTOR PAULSON: Mr. Szewczyk has his hand
2 raised, Jay, so I don't know if he wants to speak as well,
3 but I'm going to allow him to speak. Mr. Szewczyk, if you
4 have anything additional, go ahead and speak.

5 TERENCE SZEWCZYK: No, I don't. Thank you.

6 VICE CHAIR THOMAS: Thank you. Before you leave,
7 are there any questions for the Applicant? Okay, thank you.

8 Is there anyone from the public wishing to speak
9 on this item, or anyone on Zoom? I don't have any cards.

10 DIRECTOR PAULSON: No one with their hand raised
11 on Zoom.

12 VICE CHAIR THOMAS: So, are we still sure that
13 there are no questions for the Applicant? You have another
14 three minutes if you need to say anything else. You're
15 good? Okay. Are there any questions for the Applicant at
16 this point before I close the public portion? Okay.

17 I will now close the public comment portion and
18 look for discussion or a motion from the Commission.
19 Commissioner Burnett.

20 COMMISSIONER BURNETT: Yes, after reviewing the
21 information given to us from Staff and the response from
22 the architect, homeowners, and developers, it seems that
23 the request that the suggestions we had at the last
24 Planning Commission meeting were met, and that with the
25

1 architect's letter description of what will be followed up
2 on and carried through on the project, it seems that all
3 the questions we had regarding the project were answered.
4 From my perspective, I think that you met all the requests
5 that we had and so I feel that I would vote for moving
6 forward and approving your application.

7 VICE CHAIR THOMAS: Commissioner Barnett.

8 COMMISSIONER BARNETT: I just wanted to point out
9 that although the physical requirements by the HOA had
10 (inaudible) amended plans that there is the intention to
11 have a CC&R amendment so that the CC&Rs apply to the newly
12 created lot, and that that issue is apparently not going to
13 be decided tonight as part of the approval. I think that's
14 okay, but it troubles me a little bit, for example, if the
15 CC&R amendment were not approved, what would happen then?
16 Unlikely, perhaps, but possible.

17 ATTORNEY WHELAN: Alternatively, the Commission
18 could continue this item until the CC&Rs have been amended.

19 DIRECTOR PAULSON: I'll just offer from a
20 historical perspective, the Planning Commission never sees
21 CC&Rs, which are handled after the approval is done, so
22 those modifications would also be handled by Staff; they
23 wouldn't come back before a deciding body.

24 COMMISSIONER BARNETT: Thank you for that.

1 VICE CHAIR THOMAS: Commissioner Hanssen.

2 COMMISSIONER HANSSEN: If I recall from the last
3 meeting, we had reviewed the elements in the requested
4 variances that would be required from our code to make this
5 Planned Development Ordinance a reality, and that the only
6 issue was the HOA coming up at the last minute and saying
7 we have... And even though we aren't accountable to the HOA
8 as a body, being the Town, they seem to have met the
9 requirement. They met with them and they have an agreement,
10 so I think we could move forward. And as Staff pointed out,
11 we would have no jurisdiction over those private agreements
12 anyway, so that, like I was saying earlier, I think the
13 obscured window and the fence are planning issues, so I'm
14 comfortable with this application.

16 VICE CHAIR THOMAS: Thank you. Commissioner
17 Barnett.

18 COMMISSIONER BARNETT: I have a proposed motion,
19 if the Vice Chair agrees. I'll do my best to present that.

20 I move to recommend approval by the Town Council
21 of the application requesting approval for modification of
22 Planned Development Ordinance 1412, subdivision of one lot
23 into two lots, construction of a new two-story single-
24 family residences, and site work requiring a Grading Permit
25 on property zoned O:PD located at 120 Oak Meadow Drive, APN

1 529-10-131, Subdivision Application M-20-11, Planned
2 Development Application PD-20-002, and Architecture and
3 Site Application S-22-021. Categorically exempt pursuant to
4 CEQA Guidelines 15315, Minor Land Divisions, and New
5 Construction in 15304 as well.

6 I can make each of the findings as set forth in
7 pages 3 and 4 of the Staff Report, which are pages 97-98 of
8 the package, including the revised development plans
9 included in Exhibit 21 and the approvals included in
10 Exhibit 4. I think that's it, unless Staff has proposed
11 additions.
12

13 VICE CHAIR THOMAS: Do I have a second?
14 Commissioner Hanssen.

15 COMMISSIONER HANSSSEN: I second the motion.

16 VICE CHAIR THOMAS: Any discussion? Seeing none,
17 by a show of hands, all those in favor of the motion,
18 please raise your hands. It passes unanimously, 4-0. Thank
19 you.

20 Staff, are there any appeal rights, or no,
21 because this is just a recommendation to Council?

22 SEAN MULLIN: Since this is a recommendation,
23 there are no appeal rights.
24

25 VICE CHAIR THOMAS: Thank you.

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