

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

Los Gatos Planning Commissioners:
Steve Raspe, Chair
Jeffrey Barnett
Susan Burnett
Melanie Hanssen
Kathryn Janoff
Adam Mayer

Town Manager: Laurel Prevetti

Community Development Director: Joel Paulson

Town Attorney: Gabrielle Whelan

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S :

CHAIR RASPE: Let's move to our public hearings. Item 3 on tonight's agenda is Request for Approval for Modification of Planned Development Ordinance 1412, Subdivision of One Lot into Two Lots, Construction of a Single-Family Residence, and Site Work Requiring a Grading Permit on Property Zoned O-PD. Located at 120 Oak Meadow Drive, APN 529-10-131, Subdivision Application M-20-011, Planned Development Application PD-20-002, Architecture and Site Application S-22-021. The project is categorically exempt pursuant to CEQA Guidelines 15315, 15303, and 15304. The property owners are Marty and Penny McFarland. Apps are Terence J. Szewczyk and Jay Plett.

May I have a show of hands from Commissioners who have visited the site? Any disclosures? Seeing none, Mr. Mullin, can I have the staff report, please?

SEAN MULLIN: Thank you, Chair, and good evening. The request before you this evening for a modification to existing Planned Development Overlay Zone would allow a subdivision of one lot into two lots and construction of a new single-family residence.

1 The subject property is located on Oak Meadow
2 Drive between Roberts Road and Blossom Hill Road within a
3 planned development comprised of two-story townhomes, an
4 office building, and a single-family residence on the
5 subject property.

6 The Applicant is requesting approval to modify PD
7 Ordinance 1412 to allow subdivision of the property into
8 two lots and construct a new two-story single-family
9 residence. Parcel A would include the existing residence
10 and Parcel B would be developed with the new residence.

11 The requested modifications to the PD Ordinance
12 include performance standards affecting both parcels to
13 allow for deviations from the underlying Office zone
14 requirements in applicable sections of the Hillside Design
15 Standards and Guidelines. These include for Parcel A lot
16 coverage exceeding 40% and the existing residence exceeding
17 FAR standards; and for Parcel B a lot size below what is
18 required for this zone, a proposed residence exceeding FAR
19 standards, lot coverage exceeding 40%, reduced setbacks, a
20 portion of the residence located outside of the LRDA, and
21 driveway slope exceeding 15%.

22 The Applicants discussed the requested
23 performance standards in their Letter of Justification and
24 project description, and full discussion of each of the
25

1 requested standards is included in your Staff Report. All
2 other performance standards included in the existing PD
3 Ordinance would remain in effect and would be carried
4 forward into a modified PD, which would replace the
5 existing.

6 The proposed residence on Parcel B was reviewed
7 by the Town's consulting architect who provided two
8 recommendations and the Applicant provided a response to
9 each recommendation, which is included in the Discussions
10 section in your Staff Report.

11 When considering the immediate neighborhood the
12 proposed residence would not result in the largest
13 residential structure in terms of floor area or floor area
14 ratio, would be the largest in terms of the two single-
15 family residences in terms of FAR, and would not be the
16 first two-story residence.

17 The Applicant seeks a recommendation from the
18 Planning Commission to the Town Council who will render the
19 final decision.

20 If the Commission finds merit with the proposed
21 project Staff recommends taking the actions provided on
22 page 13 of your Staff Report to forward the PD Subdivision
23 and Architecture and Site applications to the Town Council
24 with a recommendation for approval.

1 A Desk Item was distributed today that includes
2 additional public comment received after publishing the
3 Staff Report and Staff's response to Planning Commissioner
4 questions.

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

7 CHAIR RASPE: Thank you very much, Mr. Mullin.
8 Commissioners, any questions for Staff? Yes, Commissioner
9 Burnett.

10 COMMISSIONER BURNETT: Thank you. For Staff. We
11 did get a letter from a neighbor concerned about the
12 driveway, and the driveway has been rearranged from the
13 initial design. Was there any comment from the neighbor?
14

15 SEAN MULLIN: Thank you for that question. After
16 the driveway was shifted from the west side to the east
17 side of the property no additional comments were received.

18 COMMISSIONER BURNETT: Thank you for that. Then a
19 second question. When it comes to the Valley Water I
20 noticed there were four issues brought up. Have those all
21 been resolved? Are there any problems from Valley Water
22 regarding the project?
23

24 SEAN MULLIN: Thank you for that question. Those
25 comments were received today as Valley Water owns a
neighboring parcel that was included in the noticing

1 radius, so Staff has not provided any input on those, but
2 the Applicant may be able to speak to each of those
3 tonight.

4 CHAIR RASPE: Thank you so much. Just one
5 clarification. We do, I believe, have comments from the
6 driveway neighbor who will be speaking later on.

7 Commissioner Barnett.

8 COMMISSIONER BARNETT: Mr. Mullin, my question is
9 since the matter before us involves a PD adjustment, do the
10 standards for variances apply or not?
11

12 SEAN MULLIN: Thank you for that question. The
13 findings for the variance would not apply. What would apply
14 are the findings required to approve a PD.

15 CHAIR RASPE: Commissioners, any questions for
16 Staff? Seeing none, I'll then open up the public portion of
17 this hearing to public comment and ask the Applicant to
18 step forward. I notice I have three cards here from the
19 Applicant: from Mr. Jay Plett, Terry Szewczyk, and Marty
20 McFarland. You have a total of five minutes collectively,
21 so I encourage you to allot time in whatever manner you
22 wish.

23 TERENCE SZEWCZYK: Thank you. This project
24 represents the ideal creation of generational housing on
25 one parcel, and that's really the intent of SB 9. We would

1 have changed this to an SB 9 application, however, the
2 underlying zoning is Office, so we are unable to use SB 9,
3 so we're here to ask you to recommend to the Council to
4 modify the PD zoning to allow for this additional house.

5 The McFarlands, Penny and Marty, want to build a
6 house for their two daughters, and the land cost is ideal
7 in this situation, because it is zero. Additionally, the
8 parcel is surrounded by infrastructure for sewer, water,
9 and PG&E, so it is a reasonable project that would take an
10 oversized 18,000 square foot lot and put the McFarland's
11 3,600 square foot house onto what would become a reduced
12 12,000 square foot lot, and then the new house would be
13 approximately 2,448 square feet on a nearly 6,000 square
14 foot lot, and the new house is three bedrooms.

16 In regard to the architecture or any issues with
17 the adjoining neighbor, Marty can speak to that.

18 We have carefully sited this house for tree
19 protection, as well as the safest and least impact from the
20 driveway by coming from below and going up, and we do have
21 a situation where we have to increase the slope to 17.5%,
22 the reason being is we need to get up a little higher to
23 avoid damaging the base of some spectacular oak trees.

24 In regard to letter from the Santa Clara Valley
25 Water District, we've been processing this application for

1 two years. I'm a little shocked that they just responded
2 today. In one of their comments the fact that this is
3 within the Lenihan Dam failure zone, there's really nothing
4 we can do about that. They wanted that potentially stated
5 in our environmental review document, but we're
6 categorically exempt, so it's kind of a moot point. But the
7 Lenihan Dam thing is the situation where the post office is
8 going to end up down at Netflix, and that affects more than
9 just us, so there's really nothing we can do about that in
10 terms of the environmental document.
11

12 They had another comment about the setbacks from
13 streams that are normally required by the Town. The
14 construction for this site and the house itself is 100'
15 away from the top-of-bank, so that comment really isn't of
16 any pertinence.

17 There was a comment about potential road
18 maintenance participation. Since Oak Meadow Drive is a
19 private road—it runs from Blossom Hill Road out to Roberts
20 Road—I don't think it would be unreasonable for us to agree
21 to some kind of a condition to participate in road
22 maintenance.
23

24 In fact, the McFarlands already do participate in
25 road maintenance costs. They were removed from the
Homeowners Association many years ago as far as

1 participating in typical activities of the Homeowners
2 Association, because their house is a bit different. It's a
3 historic residence that was sort of built around the
4 townhouses that are on narrow lots that also have adjoining
5 walls, and some of the lots are Z-lots, so at some point it
6 was agreed that they didn't belong in the Homeowners
7 Association for maintenance and other reasons.

8 That's all I have. Happy to answer some
9 questions.

10 CHAIR RASPE: Thank you so much, and actually
11 before you sit down I noticed that pretty much all the five
12 minutes was taken during your presentation. We only have
13 one agenda item tonight, so it's my predisposition to allow
14 a little bit of extra time if the homeowner or architect
15 wishes to speak. Do you have anything additional to add? Is
16 one minute satisfactory? If you would approach the podium
17 and state your name for the record, please.

18 MARTY McFARLAND: Marty McFarland; that's my wife
19 Penny. We've lived on the property for over 32 years and
20 when we moved in our daughters were two and four years old.
21 Today our youngest daughter is 34; she's a local special
22 education teacher. We're super proud of her for what she's
23 doing for a living, but at the same time teachers don't
24 make a lot of money, but at the same time teachers don't
25 make a lot of money, so we're super excited about this

1 project and the opportunity to provide them a lot so that
2 they can build a house. Many of their friends are having to
3 move out of the area because of the high cost of housing,
4 so we're excited about this. They're currently in an
5 apartment. My daughter and her husband both went to Los
6 Gatos High School. We look forward to your support. Thank
7 you.

8
9 CHAIR RASPE: Thank you so much. Before you sit
10 down, Commissioners, do we have any questions for either
11 the homeowner or the designer for this project? Seeing
12 none, again, thank you for your time.

13 I will now open the public portion of Item 3 to
14 receive comments from those other than the Applicant. I
15 have two cards. Let's begin with Paul Vieth. Sir, if you'll
16 please approach, and you'll have three minutes in which to
17 speak. Thank you so much.

18 PAUL VIETH: Paul Vieth. I live across from the
19 McFarlands and my wife and I have lived there since 1997. I
20 am one of the three board members of Regency Court HOA. Our
21 board has met on this subject and I represent the ten
22 homeowners of the Regency Court HOA.

23 This is the CC&Rs for the Regency Court HOA, and
24 included in your package that you received from Mr. Plett,
25 the architect, is in 1985 the lot was removed from the HOA

1 except for the purposes of contributing to the Regency
2 Court HOA for road maintenance, which is 12%, and pursuant
3 to that agreement, which Mr. McFarland is a signature to,
4 the Regency Court HOA retains a right of architectural
5 control over that lot.

6 As the Town lawyer knows, per the Davis-Stirling
7 Act the CC&Rs are an equitable servitude and go along with
8 the deed, and there are clear guidelines in the CC&Rs on
9 architectural approval for anything affected by the CC&Rs
10 and the bylaws, and that process has not occurred. Although
11 Marty did an excellent job of sending out an email to
12 everybody there was never an attempt to review this with
13 the Architectural Committee or the HOA, and there is a very
14 defined process in the CC&Rs, which Marty knows about, and
15 those were not followed.

17 Back in October of 2021 when Marty asked if we
18 would give up two of our seven community parking spots so
19 that he could put a driveway on the other side we
20 communicated to him no, it had to be on the other side and
21 he objected to that, but we told him that the HOA would not
22 approve that.

23 We also at that brought up removal of no oak
24 trees, which he has addressed, but we also expressed that
25 we didn't want a change to the view we currently see, we

1 don't want to see a house in the immediate view, or having
2 windows facing our home, and that was made clear in an
3 email back to Marty as early as 2021.

4 Can I request more time since I'm speaking for
5 ten homeowners?

6 CHAIR RASPE: I think it's equitable. Since I've
7 given the Applicant an additional one minute, I'll present
8 that same one minute to you, sir.

9 PAUL VIETH: There are a number of issues, and I
10 can't do it in a minute, but I'll try. One is on the third
11 floor there is an office and a bedroom, and we would prefer
12 that the lot was bigger, and that instead of three floors
13 it was two floors with the master bedroom on the main floor
14 so that it wasn't looking out into our bedrooms.

15 At a minimum, those windows should absolutely be
16 reviewed. Our Architectural Committee did the same thing
17 for one of our neighbors—subject to the same CC&Rs—who
18 wanted to put windows in their office and we told them no,
19 he could put a skylight in, but for privacy reasons we
20 wouldn't allow windows. Now they have privacy windows, but
21 those can be easily changed when a house is sold, and we
22 don't want somebody sitting in an office looking at our
23 property.
24
25

1 I'm sorry, but there are four or five other key
2 things that the other ten homeowners would like to express
3 here.

4 CHAIR RASPE: I appreciate that, but our time is
5 limited, so thank you so much for those comments. I
6 encourage you that if there is anything further you can put
7 them in writing to the Town. Thank you so much.

8 I do have another member of the public here who
9 is ready to speak. Desiree Hedberg. If you would approach
10 the podium, please. Thank you so much.

11
12 PAUL VIETH: Can I make just one other comment,
13 please?

14 CHAIR RASPE: Ten seconds.

15 PAUL VIETH: The other major one is the setback
16 on the property line is 6.5' and we would like that to be
17 further back from the property line.

18 CHAIR RASPE: Thank you very much. Before you sit
19 down, Commissioners may have questions for you.
20 Commissioner Barnett.

21 COMMISSIONER BARNETT: Would you allow me to see
22 the CC&Rs? I've represented many homeowners associations
23 and I'm trying to figure out whether I need to recuse
24 myself. (Mr. Vieth hands a document to Commissioner
25 Barnett.) (Inaudible background conversation.)

1 ATTORNEY WHELAN: The meeting is being recorded;
2 so all the comments need to be made at the podium so they
3 can be captured.

4 COMMISSIONER BARNETT: Thank you for that
5 clarification. I did not (inaudible).

6 CHAIR RASPE: And I'm sorry, if you could repeat
7 that comment just so it's in our record, please? Your
8 exchange with Commissioner Barnett, if you could just
9 repeat it for the record.
10

11 PAUL VIETH: That in the recitals for the CC&Rs
12 in your package is a page from the recitals that was
13 included by the architect that mentions that the Homeowners
14 Association retains the right for architectural control.

15 CHAIR RASPE: Very good. Thank you so much. Did
16 that answer your question?

17 COMMISSIONER BARNETT: Yes.

18 CHAIR RASPE: Any other questions for the
19 speaker? Seeing none, thank you, sir, you may sit down.
20 Now, I'm sorry, Ms. Hedberg, if you would approach and
21 state your name for the record, please.

22 DESIREE HEDBERG: Hi, my name is Desiree Hedberg.
23 I'm a small business owner of affirming relationship
24 therapy. I'm directly adjacent to the property that's being
25 considered for dual parcelship and construction.

1 My business is focused on creating a community of
2 therapists that work with people on mental health issues,
3 and my concern, which I'm sure you jumped to right away, is
4 that the noise factor with the construction could be
5 considerably significant and impact my business in a very
6 negative way.

7 I'm not saying I'm not open to hearing more and
8 understanding more about the auditory impacts of this
9 project, however, of course I value the silence and the
10 quiet of our area, and the beauty of our area, and the fact
11 that one of the buildings looks like it's going to be
12 looking directly down on me, that's also HIPAA violations
13 to consider on my part, which I could shade the glass to
14 keep my peoples' identities confidential, however, I don't
15 know how much this is going to be an auditory and visual
16 impact on my business.

17 Of course I have the option of moving my
18 business, but that is not my goal. I love this space, I
19 love this area; it's very quiet, it's beautiful, majestic,
20 and not one person that I see doesn't comment on how
21 relaxing and quiet it is.

22 I'm just expressing a fear and maybe asking a
23 question of what do you perceive the auditory impact might
24 be? Are there piers going in or are they I-beams where it's
25

1 a significantly loud noise? I know that will impact other
2 therapists, chiropractors, and dentists in the area.

3 CHAIR RASPE: Thank you for those comments.
4 Commissioners, any questions? Commissioner Janoff.

5 COMMISSIONER JANOFF: Have you expressed your
6 concerns to the Applicant or the Applicant's architect?

7 DESIREE HEDBERG: No, I haven't. I just received
8 notice last month with the placard that was out in front of
9 the wall; thank you for that. And I also got a mailer, so I
10 decided to come and express those concerns here.

11 COMMISSIONER JANOFF: Thank you.

12 CHAIR RASPE: Thank you. Any other questions?
13 Thank you, you may sit down. I'll invite the Applicant now.
14 Again, you'll have a total of three minutes to speak, so
15 you can assign any representative or combination of
16 representatives that you wish. I would encourage you, at
17 least from my own mind, to address the CC&R and privacy
18 issues. Thank you.

19 TERENCE SZEWCZYK: It's great to know that we
20 have a CC&R expert on the Planning Commission. But
21 obviously if we've overlooked the formal HOA Architectural
22 Committee review of the plans we'll have to complete that,
23 so that's our comment relative to that issue. Jay can speak
24
25

1 to the window placement and the privacy issues across the
2 street with the neighbors.

3 JAY PLETT: The window that faces the townhomes
4 is a bedroom window; it's not a living room, it's not a
5 place where people will be up there partying and looking
6 down on everybody, not to mention the fact that the
7 townhouses look back at the house anyway, and they both
8 have windows.

9
10 It was mentioned the house has a 6.5' setback. It
11 is 6.5', but then there is 20' of parking, and then there
12 is a road for the townhomes, so our home and those windows
13 are probably 30' away from anybody. The existing
14 McFarland's home is just as close, if not closer, to the
15 street, and there are townhomes that are almost bordering
16 right on the road, and that was taken off the GSI maps, and
17 that's documented on our sheet; I believe it's A1.1. You
18 can see the site plan, how our house sits, how the
19 McFarlands at 120 sit, and how the townhomes are laid out,
20 and some of the townhomes are right there on the edge of
21 the road.

22 As far as any windows, let's talk about noise.
23 Yes, there is noise when anything is built, but no, we
24 don't anticipate any driving of piles or anything like that
25 that are going to make excessive noise, just typical

1 construction like goes on around town all day long, road
2 repair, things like that.

3 CHAIR RASPE: Thank you so much. Commissioners,
4 any further questions? Commissioner Hanssen.

5 COMMISSIONER HANSSEN: The consulting architect
6 had some comments on the design of the house and you had
7 contested his points. I haven't seen this very often, but
8 did our consulting architect get it wrong? You countered
9 all of his points.

10 JAY PLETT: You mean as far as some of the
11 recommendations?
12

13 COMMISSIONER HANSSEN: Yes.

14 JAY PLETT: I just didn't agree with it. The
15 driveway floats. It floats over the tree roots in order to
16 preserve the tree, and stone doesn't float, it's not
17 something that it works that way, so it's not an
18 appropriate use of materials in my opinion.

19 I think we did comply with some of what Larry
20 recommended, but not all of it. Did you get my little
21 handout that explains the elevation? The red line at the
22 base is street level of the townhomes, and you can see from
23 the street level the house is only 22' tall, the eaves are
24 at 15'; it's a very modest house. The McFarland's house,
25 the existing house at 120, towers over this house. The

1 townhomes have more of a presence than what this elevation
2 is going to have to the people who live in that
3 development.

4 COMMISSIONER JANOFF: Thank you for the
5 clarification and the sheet before us. To the concern with
6 the Homeowners Association that they'd be looking at a
7 three-story structure, would it be your contention that
8 they're essentially looking at a one-story structure from
9 the elevation that faces the townhomes?
10

11 JAY PLETT: This is first that's come up about
12 the HOA. I have no knowledge about it; Terry would know
13 more than me, but I can tell you this. At the inception of
14 this house Marty told me, "Jay, I don't want to lose any
15 trees." Of our trees, they have a very expensive arborist
16 who takes care of their trees, so the first thing I did is
17 I got an arborist out there and I said, "How close can we
18 get to these trees?" That's what created the setbacks for
19 the building, not an arbitrary distance from a property
20 line.

21 COMMISSIONER JANOFF: Let me just interrupt you.
22 I'm not concerned so much with the setbacks, my concern was
23 with the statement that they prefer it to be a two-story
24 rather than a three-story structure, which implies that the
25 Homeowners Association would be looking at a three-story

1 elevation, and what I'm looking at here looks like the
2 three-story steps down behind the elevation.

3 JAY PLETT: Yes, that is what you would see from
4 the HOA.

5 COMMISSIONER JANOFF: So this elevation, which is
6 the west elevation, is what they would be seeing. They
7 would not be seeing the three stories?

8 JAY PLETT: No, no.

9 CHAIR RASPE: Thank you. Any other questions,
10 Commissioners? Seeing none. I'm sorry, Mr. Paulson, I
11 skipped over do we have any public comments on Zoom?
12

13 JOEL PAULSON: Thank you, Chair. For the
14 individual on Zoom, if you wish to speak on this item as a
15 member of the public, please raise your hand. I don't see a
16 hand raised.

17 CHAIR RASPE: All right, thank you. Then I will
18 close the public portion of Agenda Item 3 and then open the
19 matter to Commission discussion. Commissioners, I request
20 your comments, thoughts, or if appropriate, a motion.

21 Commissioner Hanssen.

22 COMMISSIONER HANSSEN: While it certainly isn't
23 not according to procedure, I found it pretty troubling to
24 be this far in the process and then have the CC&R issue
25 come up. While there was some small amount of time put into

1 a couple of issues that were brought up by the head of the
2 Homeowners Association, I'm not sure that this can be
3 approved at this point without that process being
4 completed. I just wondered if other Commissioners or our
5 Town Attorney had some comments, because it seemed like
6 they do have jurisdiction over this project.

7 ATTORNEY WHELAN: Yes, I do have thoughts. As you
8 know, CC&Rs are private agreements between private parties.
9 They're not typically enforced by public entities, but that
10 said, it would be concerning for the Town to approve an
11 entitlement that was in conflict with a private agreement,
12 so the most conservative course of action would be for me
13 to review the CC&Rs to confirm that they read as they were
14 described, and then to get back to the Planning Commission
15 with a recommendation.

17 CHAIR RASPE: And out of curiosity, Counsel, how
18 long would it take for you to review the CC&Rs to make that
19 determination?

20 ATTORNEY WHELAN: I expect that I could have that
21 completed in time for the next Planning Commission meeting.

22 CHAIR RASPE: Very good. Commissioner Barnett.

23 COMMISSIONER BARNETT: The Homeowners Association
24 representative indicated that the CC&Rs require approval,
25 so if the board hasn't presented an agenda item within the

1 Homeowners Association requirements and has not made a
2 decision for architecture approval or...I'm sorry, if the
3 CC&Rs also relate to the road, that certainly needs to be
4 explored, so I'm in agreement with Commissioner Hanssen
5 that from my perspective the best option for us is to
6 continue the hearing.

7 CHAIR RASPE: Thank you. Other Commissioners?
8 Commissioner Janoff.

9 COMMISSIONER JANOFF: Question for the Town
10 Attorney on a different issue. We heard from our small
11 business owner that there is a concern about privacy with
12 respect to their patients or clients and visual access to
13 identify; the assertion was made that that would violate
14 HIPAA. I'd like the Town's opinion on that issue.

15 ATTORNEY WHELAN: In my opinion that would not
16 violate HIPAA because HIPAA relates to the disclosure of
17 private medical information and documentation, and this
18 would not be that situation.

19 COMMISSIONER JANOFF: Thank you. One other
20 question, if I may?

21 CHAIR RASPE: Yes, please.

22 COMMISSIONER JANOFF: Also for the Town Attorney.
23 The HOA indicated that they were concerned with the loss of
24 views. It's the Planning Commission's understanding that
25

1 views are not protected in Los Gatos, as unfortunate as
2 that might be, and I'd like the Town Attorney to weigh in
3 on that.

4 ATTORNEY WHELAN: Yes, I can confirm that the
5 Town does not currently have a view ordinance. One way that
6 views can be protected is for property owners to purchase
7 private view easements.

8 COMMISSIONER JANOFF: Thank you for that. I just
9 wanted to make a comment. Should the matter be continued
10 tonight in order for the Homeowners Association and the
11 Applicant to have a conversation regarding the obligations
12 of the Homeowners Association agreement, please understand
13 what is and is not within the purview of the Homeowners
14 Association to control.

15 CHAIR RASPE: Thank you for those comments,
16 Commissioners. So if I'm reading the room correctly it
17 seems like we're all in agreement that we're missing some
18 major pieces to this puzzle, and perhaps a continuance to
19 allow those pieces to be put into place would be beneficial
20 to all. My question is, and it's perhaps a question to the
21 Applicant, how long do you think you would need to review
22 these open issues and come back to us with the answers that
23 we think we need?
24
25

1 TERENCE SZEWCZYK: I think it's a function of how
2 quickly the Architectural Review Committee can be
3 assembled.

4 CHAIR RASPE: Very good, then I'll open the
5 public portion again, and if I can ask you a question, Mr.
6 Vieth. How long do you think it would take for the
7 architectural review process to go forward, assuming that
8 was required after Town Council requires that?

9 PAUL VIETH: It would not take long, but I would
10 prefer first before that happens to meet with the Town
11 Attorney and discuss whether the Davis-Stirling Act impacts
12 this and those statutes are relevant here, so then I know
13 to address Commissioner Janoff's comment about the view,
14 because the CC&Rs are under Davis-Stirling and they clearly
15 give us control over the views if they're covered under the
16 Davis-Stirling action, so I would like to review that with
17 the attorney first, then once that's done to (inaudible).
18 My wife Laura is the chairman of the Architectural
19 Committee.
20

21 CHAIR RASPE: That answers my question. Thank you
22 so much. I'll close the public portion of the hearing
23 again, and then I will ask the Town Attorney: I'm not
24 committing you to meet with anybody or discuss anything
25 with anybody, but I want to set enough time before we

1 reschedule this for a hearing. Is a month's time adequate,
2 do you think, to make a determination in the first instance
3 whether the CC&Rs are in play here, and then to allow
4 perhaps a CC&R review?

5 Ms. Armer, I think you wish to speak as well.

6 JENNIFER ARMER: If I may jump in, because there
7 was also discussion of review by the HOA of the
8 architectural design, and if that is truly a portion of
9 their required process that Planning Commission would like
10 to see completed, we would probably recommend it be
11 continued to a date uncertain so that they have time to do
12 that, and then we would renotice so that there is time,
13 because we don't know whether that would result in changes
14 to the architectural style of design.

16 CHAIR RASPE: Thank you, that sounds like sound
17 advice to me. Commissioners, any further comments?
18 Commissioner Hanssen.

19 COMMISSIONER HANSEN: I wanted to bring up one
20 other thing with the Town Attorney, and it was brought up
21 by our business owner commenter and was about noise from
22 construction. Although the architect did address it to a
23 certain extent, it is my understanding, having been on the
24 Commission for a while, that we don't normally factor that
25 into approvals of projects. Construction is part of the

1 process and there are usually hours set for construction,
2 but I don't think that's a reason not to do a project.

3 ATTORNEY WHELAN: That's correct. The Town's
4 purview is whether the proposed project conforms to the
5 Town standards. The Town does have requirements for when
6 construction can occur, and so if this project were
7 approved the Town would confirm that the Applicant was
8 conforming to those requirements.

9 CHAIR RASPE: Thank you. One final question for
10 Staff. In the event we wish to make a motion to continue to
11 an uncertain date do we have to state the grounds for the
12 motion? That is that we want certain findings made, or just
13 ask for continuance?

14 ATTORNEY WHELAN: There is no requirement to
15 state it, but I do think it will be helpful for the
16 minutes. Looking back it will help explain why it was
17 continued.

18 CHAIR RASPE: Thank you so much. Commissioner,
19 any further questions or comments?

20 With that being said, I will make then the motion
21 to continue the matter to a date uncertain for Agenda Item
22 3, that is the request for approval for modification of
23 Planned Development Ordinance 1412, Subdivision of One Lot
24 into Two Lots, Construction of a Single-Family Residence,
25

1 and Site Work Requiring a Grading Permit on Property Zoned
2 O-PD, located at 120 Oak Meadow Drive with a special
3 emphasis on resolving any open issues presented by the
4 CC&Rs and privacy concerns of the neighbors.

5 Commissioners, any further additions to the
6 motion? Seeing none, do I have a second? Commissioner
7 Janoff.

8 COMMISSIONER JANOFF: I'll second the motion.

9 CHAIR RASPE: Thank you. Discussion? Then by a
10 show of hands can I see all those in favor of the motion?
11 The motion carries unanimously. Thank you all.

12 (END)
13
14
15
16
17
18
19
20
21
22
23
24
25

***This Page
Intentionally
Left Blank***