



MEETING DATE: 12/19/05

ITEM NO. 17

COUNCIL AGENDA REPORT

DATE: December 7, 2005

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER

SUBJECT: CONSIDER AN APPEAL OF THE DECISION OF THE PLANNING COMMISSION APPROVING A SECOND STORY ADDITION ON PROPERTY ZONED R-1:8. ARCHITECTURE AND SITE APPLICATION S-05-063 PROPERTY LOCATION: 16750 FARLEY ROAD. PROPERTY OWNER: MELISSA AND GLEN WAGNER APPLICANT: E. DAVID BRITT APPELLANT: WILLIAM R. SHELLOOE

RECOMMENDATION:

- 1. Open and hold the public hearing and receive public testimony.
2. Close the public hearing.
3. Uphold the Planning Commission's decision and approve Architecture and Site Application S-05-063.
4. Refer to the Town Attorney for the preparation of the appropriate resolution.

If the Town Council determines that the Planning Commission's decision should be reversed or modified:

- 1. The Council needs to find one or more of the following:
(1) where there was error or abuse of discretion on the part of the Planning Commission; or
(2) new information that was submitted to the Council during the appeal process that was not readily and reasonably available for submission to the Commission; or
(3) an issue or policy over which the Commission did not have discretion to modify or address, but which is vested in the Council for modification or decision.

(Continued to Page 2)

PREPARED BY: Bud Lortz
BUD LORTZ
DIRECTOR OF COMMUNITY DEVELOPMENT

Reviewed by: [initials] Assistant Town Manager [initials] Attorney [] Clerk [] Finance
[] Community Development Revised: 12/8/05 10:59 am

1000

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SUBJECT: APPEAL OF 16750 FARLEY ROAD

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2. If the predominant reason for modifying or reversing the decision of the Planning Commission is new information as defined in Subsection (2) above, it is the Town's policy that the application be returned to the Commission for review in light of the new information unless the new information has a minimal effect on the application.
3. Refer to the Town Attorney for preparation of the appropriate resolution.

PROJECT SUMMARY:

The applicant is requesting approval to add 511 square feet to the existing first floor of a single family home and a 1,071 square foot second story addition. The total living area of the proposed residence is 2,548 square feet. The proposed maximum height is 25 feet. Due to the non-conforming width of the lot, the applicant is requesting a reduced setback of 4 feet on the western side of the property. Due to the non-conforming size of the lot and a dispute over access rights to the existing two car garage at the rear of the property, the project does not meet the off-street parking requirement for a single family home. The Planning Commission made the required findings in Section 29.10.150(h) to exempt this project from the off street parking space requirements.

BACKGROUND:

Property Dispute

The Town abandoned a portion of Augustine Way in 2003. As part of this process, the Town gave Quit Claim deeds to the adjacent property owners, one of which was the subject site. This type of deed would relinquish any remaining property interest held by the Town, if any such interest existed. After this process was completed, it was discovered that this portion of Augustine Way was not owned by the Town. Currently, legal rights to this piece of the abandoned portion of Augustine Way are under dispute between the applicant and the appellant. The portion of Augustine Way is shown on the development plans and noted as lot area under dispute (Attachment 9, Sheet A-1). Without settling ownership to the portion of Augustine Way that is under dispute, the owners of the subject property do not have access to the existing garage at the rear of their property and the existing parking pad at the front of their property.

Evolution of Project

The applicant originally submitted this project as a Minor Residential application. A Notice of Intent to Approve the application was sent to adjacent neighbors on March 9, 2005. The Town received a letter of concern from the property owners at 16472 Farley Road, the adjoining property to the east.

Staff held a meeting with the project applicant and neighbor to discuss the proposed project in detail and possible solutions to mitigate the massing and privacy concerns. During the meeting, several adjustments to the proposed structure were discussed: architectural modifications to the proposed second story, alteration of the placement and size of new windows, reorientation of the proposed structure on the lot, lowering the height of the proposed building, and installation of landscaping to

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mitigate the massing of the proposed structure. Both parties could not come to a resolution and the applicant requested that the item be heard before the Planning Commission.

On June 8, the Planning Commission granted a continuance of this project to allow the applicant additional time to work on a redesign of the proposed second story addition to mitigate neighbor privacy and massing concerns. The Planning Commission directed the applicant to consider a one and a half story design to reduce the overall mass and scale of the proposed structure and reduce the daylight and view impacts to the abutting neighbor to the east. The lot is nonconforming due to its size and width; therefore, the Commission directed the applicant to consider proposing a reduced setback on the western portion of the property in order to move the second floor mass away from the easterly neighbor.

Significant revisions were made to the eastern, western, and southern elevations. The front elevation did not substantially change. The maximum ridge height of the structure has been lowered from 26' to 25'.

As directed by the Planning Commission, the applicant proposed a 4 foot reduced side setback to shift the mass away from the easterly property line. The second floor mass along the eastern elevation was significantly stepped back from the first floor. With the first proposal, a 16 foot long area near the middle of the second story addition was recessed back by four feet. The revised plans show a 44 foot long portion of the second floor that is setback seven feet. With the revised design most of the eastern elevation is a one and a half story design with small windows facing east (Attachment 9, Sheet A-3).

The applicant and the appellant did not meet prior to the second public hearing on October 26, 2005. Staff met separately with the appellant to discuss the revised plans and answer questions.

Neighborhood Compatibility

The revised structure is consistent with size of homes in the immediate neighborhood which range in size from 966 square feet (FAR .04) to 2,861 square feet (FAR .31). The homes in the immediate neighborhood are a mix of one and two story homes.

PLANNING COMMISSION:

On October 26, the Planning Commission approved the revised project on a 4-3 vote. The Planning Commission discussed the overall mass and scale of the revised second story addition. No additional conditions were added to the approval. In approving this application, the Planning Commission determined that the architecture, mass and scale, lot coverage, setbacks, FAR of the proposed project, and parking exemption was compatible with the neighborhood and consistent with the Residential Development Standards.

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MAYOR AND TOWN COUNCIL
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APPEAL:

On November 7, 2005, Bill Shellooe, the neighbor to the east, appealed the Planning Commission's approval of the proposed project. The appellant states that the Planning Commission erred or abused its discretion because it failed to duly consider the massing impacts of the project and compliance with the Town's residential design guidelines. Please refer to the notice of appeal (Attachment 1) and the verbatim transcripts of the Planning Commission hearings (Attachment 4).

Town's General Plan

One of the goals of the General Plan is to preserve and enhance the Town's character through exceptional community design. Staff believes that the following sections from the General Plan are the most pertinent to this application.

- Policy L.P.3.5** This community design element policy "assures that the type and intensity of land use shall be consistent with that of the immediate neighborhood."
- Policy L.P.4.3** "Maintain the character and identity of existing neighborhoods. New construction, remodels, and additions shall be compatible and blend with the existing neighborhood."
- Policy L.I.4.3.** To maintain neighborhood character "The deciding body shall use F. A. R. and adopted residential design guidelines to maintain existing neighborhood character."

CONCLUSION:

Planning Commission determined that the addition to the second story was compatible with the scale and architecture of the surrounding neighborhood. Should the Town Council be inclined to deny this appeal, Council may address any remaining concerns through additional conditions of approval.

ENVIRONMENTAL ASSESSMENT:

Is a project as defined under CEQA but is Categorically Exempt 15301 of the State Environmental Guidelines as adopted by the Town.

FISCAL IMPACT: None.

Attachments:

1. Notice of Appeal (1 page) and letter from appellant (7 pages) , received on November 7, 2005
2. Follow-up letter from owner (3 pages), received on December 8, 2005
3. Letter from applicant (3 pages), received on December 8, 2005
4. Verbatim meeting minutes from the June 8, 2005 and October 26, 2005 Planning Commission Hearings (38 pages)

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5. Required Findings and Considerations (4 pages)
6. Recommended Conditions of Approval (4 pages)
7. Report to the Planning Commission from the Development Review Committee dated October 26, 2005 (55 pages, including complete report from June 8, 2005 with original development plans)
8. Desk Item 1 dated June 8, 2005 (7pages), Report to the Planning Commission from the Development Review Committee dated July 13, 2005 (2 pages), Report to the Planning Commission from the Development Review Committee dated August 24, 2005 (2 pages)
9. Final Development Plans dated October 5, 2005 (8 pages, marked Exhibit T from October 26, 2005 Report to Planning Commission)

Distribution:

Bill Shellooe, 16742 Farley Road, Los Gatos, CA, 95032

Glen & Melissa Wagner, 16750 Farley Road, Los Gatos, CA, 95032

David Britt, 108 N. Santa Cruz Avenue, Los Gatos, CA, 95030

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NOV - 7 2005

TOWN OF LOS GATOS
CLERK DEPARTMENT
NOV 07 2005
TOWN OF LOS GATOS
CLERK DEPARTMENT

FILING FEES
\$272.00 Residential
\$1089.00 per Commercial, Multi-family or Tentative Map Appeal

TOWN OF LOS GATOS
CLERK DEPARTMENT

Town of Los Gatos
Office of the Town Clerk
110 E. Main St., Los Gatos CA 95030

APPEAL OF PLANNING COMMISSION DECISION

I, the undersigned, do hereby appeal a decision of the Planning Commission as follows: (PLEASE TYPE OR PRINT NEATLY)

DATE OF PLANNING COMMISSION DECISION: October 26, 2005
PROJECT / APPLICATION NO: S-05-063
ADDRESS LOCATION: 16750 Farley Rd. Los Gatos CA 95032

Pursuant to the Town Code, the Town Council may only grant an appeal of a Planning Commission decision in most matters if the Council finds that one of three (3) reasons exist for granting the appeal by a vote of at least three (3) Council members. Therefore, please specify how one of those reasons exist in the appeal:

- The Planning Commission erred or abused its discretion because see attached
- There is new information that was not reasonably available at the time of the Planning Commission decision, which is see attached
(please attach the new information if possible): OR
- The Planning Commission did not have discretion to modify or address the following policy or issue that is vested in the Town Council: _____

IF MORE SPACE IS NEEDED, PLEASE ATTACH ADDITIONAL SHEETS.

IMPORTANT:

- Appellant is responsible for fees for transcription of minutes. A \$500.00 deposit is required at the time of filing.
- Appeal must be filed within ten (10) calendar days of Planning Commission Decision accompanied by the required filing fee. Deadline is 5:00 p.m. on the 10th day following the decision. If the 10th day is a Saturday, Sunday, or Town holiday, then it may be filed on the workday immediately following the 10th day, usually a Monday.
- The Town Clerk will set the hearing within 56 days of the date of the Planning Commission Decision (Town Ordinance No. 1967)
- An appeal regarding a Change of Zone application or a subdivision map only must be filed within the time limit specified in the Zoning or Subdivision Code, as applicable, which is different from other appeals.
- Once filed, the appeal will be heard by the Town Council.
- If the reason for granting an appeal is the receipt of new information, the application will usually be returned to the Planning Commission for reconsideration.

PRINT NAME: William R Shellroe SIGNATURE: WR Shellroe
DATE: 11/7/05 ADDRESS: 16742 Farley Rd.
PHONE: 408 356 4612 Los Gatos CA 95032

*** OFFICIAL USE ONLY ***

DATE OF PUBLIC HEARING: 12/19/05 CONFIRMATION LETTER SENT: Date: _____
Pending Planning Department Confirmation TO APPLICANT & APPELLANT BY:
DATE TO SEND PUBLICATION: 11/23/05 DATE OF PUBLICATION: 11/30/05

Background

At the June 8th Planning Commission Meeting,

We voiced our objection that the proposed 25 feet high, 59 feet wide two-story structure that adjoins the entire length of our house and is less than 16 feet away completely blocks the view of the sky and gives a dark, oppressive feeling to all three of the bedrooms in our home. (See Appendix 2, photos taken from bedroom windows for the June 8th meeting.)

We also pointed out how the project violates several of the Violations of the Town of Los Gatos Residential Development Standards For All Single Family Dwellings. (See Appendix 1).

The result of that meeting was that the Planning Commission voted for a continuance and directed the applicants to alter the design of their construction to reduce the view and daylight impacts to us, the next-door neighbor to the east.

At the October 26th Planning Commission Meeting,

We voiced the fact as indicated by the new story poles in place at 16750 Farley Rd. , the modified design produced no effect on the view from these bedroom windows and the dark, oppressive feeling in every bedroom and still violates several Town of Los Gatos Building Standards. (See Appendix 3, photos taken of new story poles from bedroom windows for the October 26th meeting.)

The result of that meeting was that the Planning Commission narrowly voted (4-3) in favor of granting the building permit.

Appeal to the Town Council

1. The Planning Commission erred or abused its discretion because

1.a. The Community Development Staff Report indicated that the changes made to the plans were consistent with the instructions given by the Planning Commission on June 8th. This conclusion of the Staff Report is based largely on "Mass Study" of the redesigned structure submitted by the applicants indicating that sky is revealed above the structure to a standing viewer looking out of our bedroom windows. This "Mass Study" either is significantly in error or is an attempt to mislead the Planning Commission and the Community Development Department for 2 reasons. (See Diagram 1 "Mass Study" prepared by the applicant.)

- As you can plainly see from the photos in Appendix 2, no sky is revealed to a standing viewer of average height even right up against the windows, in direct contrast to the situation depicted in the "Mass Study".
- Given the north-westerly orientation of the house, the sun never appears even near the location and height depicted in the "Mass Study" diagram at any time of year.

Error #1: The Planning Commission's understanding of the problem via the Staff Report's is based on a "Mass Study" that significantly misrepresents the applicant's compliance with the directions given by the Planning Commission on June 8th.

1.b It is not possible to fully appreciate the impact of darkness and oppressiveness that the proposed structure has on the experience of each of our bedrooms without coming to our home and looking out of these windows for oneself. Although the Planning Commissioners and the Community Development Staff were invited to view the situation first-hand, only two Commissioners and one member of Staff (an Assistant Planner) actually did so. Both Commissioners who actually viewed the story poles from our bedroom windows voted against the permit. Moreover, during the time between June 8th and October 26th, neither the applicants nor their architect took 5 minutes to view the project from our windows.

Error #2: The Planning Commission and the Community Development Department did not perform adequate "due diligence" to accurately determine the applicant's compliance with the directive of the Planning Commission on June 8th.

1.c The Staff Report indicated that the revised plan is consistent with the Residential Design Guidelines. However, during the October 26th meeting, the Assistant Director of Community Development said that the applicant does not need to comply since these are only guidelines.

Error #3: The Planning Commission and the Community Development Department seem to have ignored the Town's Guidelines for Residential Design when approving this construction.

2. There is new information that was not reasonably available at the time of the Planning Commission decision, which is

On page 1 of the Staff Report, there are short sections describing the Findings and Considerations for the project. The next section is a table of contents for the Exhibits in which items A - M are labeled "Previously Submitted." Sections N is labeled "Required Findings" and most of the remaining sections are labeled to indicate that they are new information.

Based on the labeling of the table of contents of the Exhibits in the document, I looked for the Staff's findings on this issue under N, Required Findings. I also read exhibits O and Q through T. Since in those sections there are not really any explicit statements on whether or not the applicant complied, my presentation did not directly address the Staff's findings. Indeed, during the October 26th meeting, the Vice-Chair asked me directly to point out what is erroneous in the Staff Report, and I could not answer that directly because I never saw the Staff's findings on this issue because the table of contents of Exhibits was mislabeled.

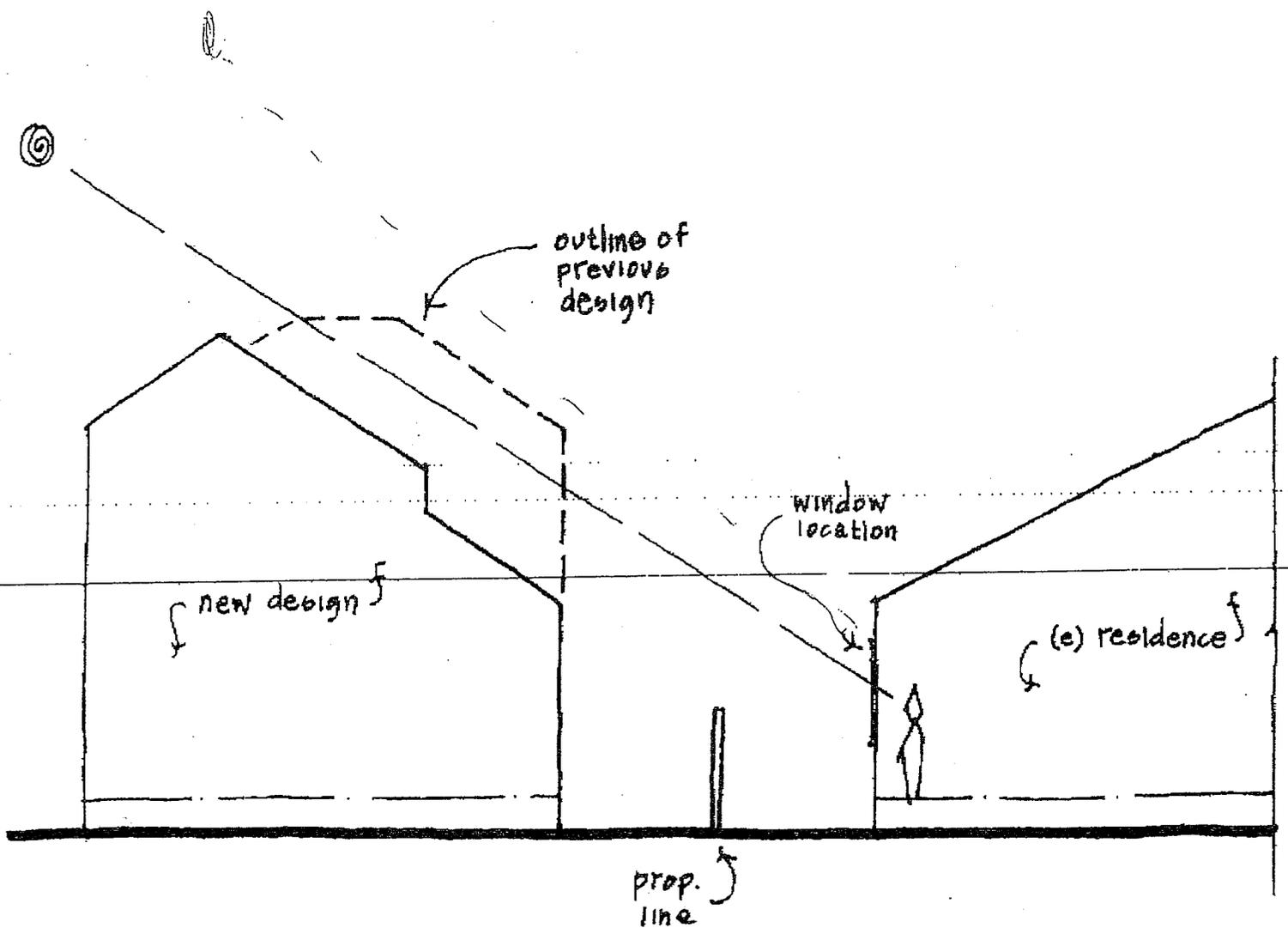
The error which misled me away from the Staff's explicit statements on this key issue is due to the fact that, as I learned after the meeting, these findings are found in Exhibits A - B, which are labeled "Previously Submitted" in the table of contents of Exhibits. Given the size of the package, I did not see that it was necessary to read what I thought I had already read in preparation for the June 8th meeting. Had I read those Exhibits A and B before the meeting and discovered that the Staff erroneously concluded that the applicant had complied, my presentation would have been built on directly refuting that finding and I would have been

able to answer the Vice-Chair directly as to which parts of the Report are in error. This approach would likely have changed the close 4 to 3 vote approving the building permit even though the applicant's redesign did not change the impact on view and darkness at all..

Appendix 1

Violations of the Town of Los Gatos Residential Development Standards For All Single Family Dwellings

The size and closeness of the elevation impairs the use, enjoyment and value of our neighboring private property (I.A.1, I.A.4 and II.A.5.1). The differing scale and mass of the two houses and their close proximity creates an unharmonious and incompatible structural relationship and is inconsistent with any two-story homes adjacent to single story homes in the neighborhood (II.A.5.3 and II.B). In general, this project also compromises the unique sense of openness that the Town's Development Standards strives to preserve (I.A.2), especially in the Farley Road neighborhood. (See Appendix 1: Detailed Opposition for further explanation of violations.)



Mass study @ E of two houses (viewed from rear)

Wagner Residence 16750 Farley Rd.

1/8" = 1'-0"

Appendix 3
Diagram 3



Figure 1 - View from west-facing window, south bedroom.

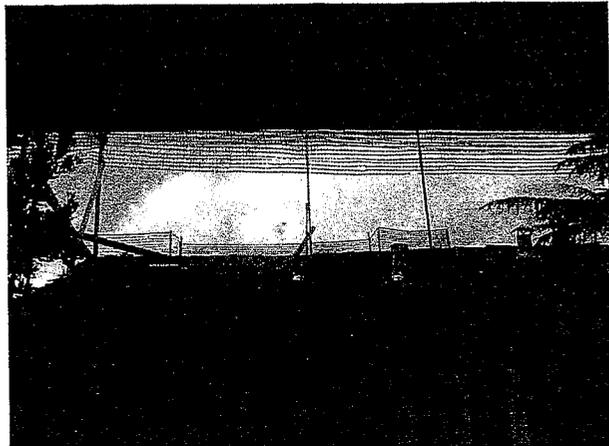


Figure 2 - View from west-facing window, middle bedroom.

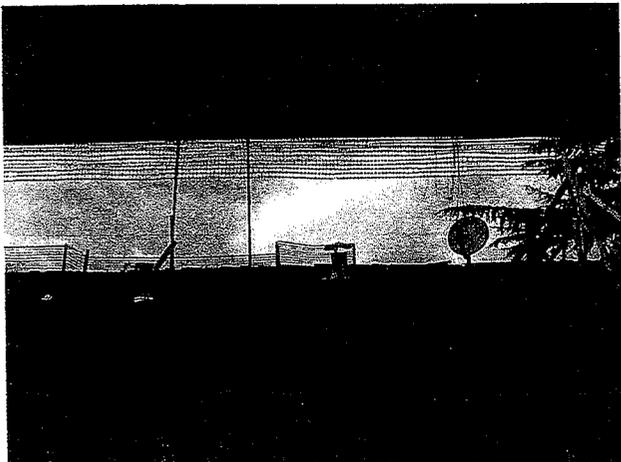


Figure 3 - View from west-facing window, master bathroom.

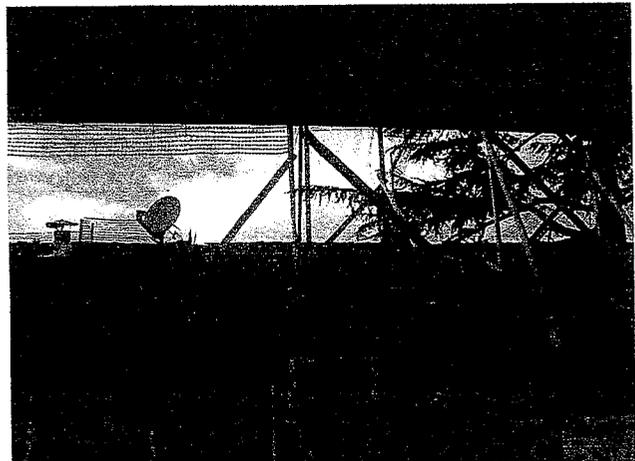


Figure 4 - View from west-facing window, master (north) bedroom.

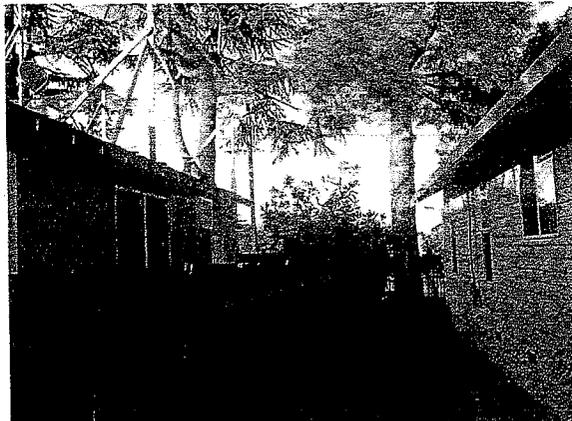


Figure 5 - Closeness of back-to-back walls spanning nearly length of entire house (93%)

Appendix 3
Diagram 3

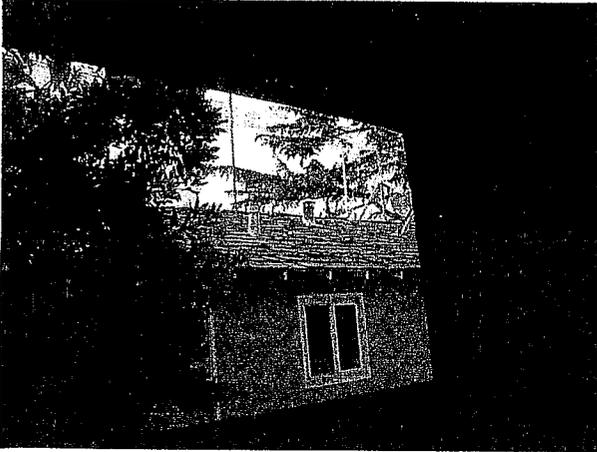


Figure 1 - View from west-facing window, south bedroom.

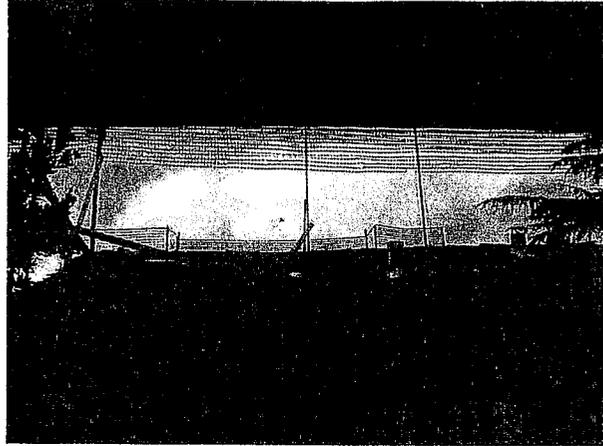


Figure 2 - View from west-facing window, middle bedroom.

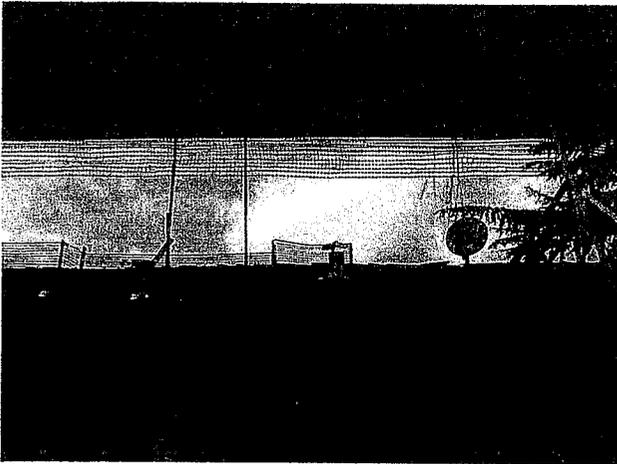


Figure 3 - View from west-facing window, master bathroom.

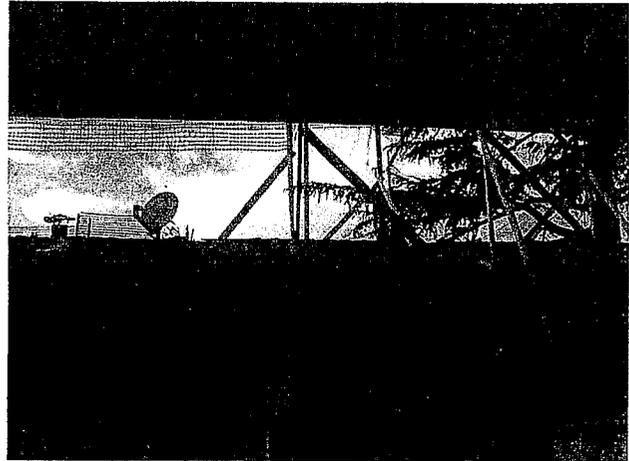


Figure 4 - View from west-facing window, master (north) bedroom.

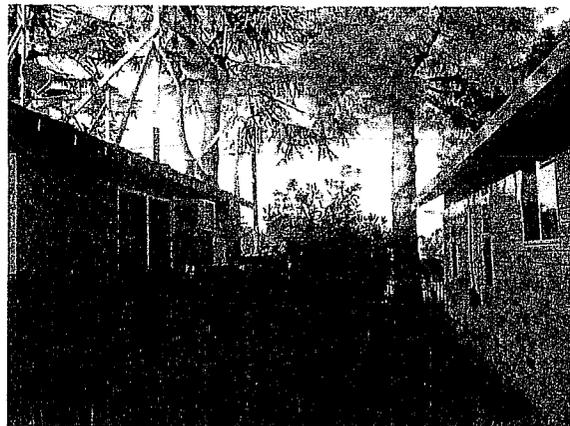


Figure 5 - Closeness of back-to-back walls spanning nearly length of entire house (93%)

Town Council
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95031

RECEIVED
DEC 8 2005
TOWN OF LOS GATOS
BUILDING DEPARTMENT
December 8, 2005

This letter is in response to Mr. Bill Shellooe's written Appeal of Planning Commission Decision to approve our 2nd story addition on October 26, 2005. I have followed the same format as Mr. Shellooe to make it easy to read and compare.

1. The Appellant believes the Planning Commission erred or abused its discretion because:

The Appellant makes the wrongful assumption that the staff report was based on the "mass study". When in fact, the staff based it on all the materials provided and site visits.

The mass study was simply a diagram of the amount of mass removed from the east side of the home. The staff report and recommendations were not based on the mass study, but on all the materials provided and site visits. Staff visited the home of the Appellant, Mr. Shellooe, and was fully aware of the view from his windows prior to filing their report and recommendations. Mr. Shellooe's concern about the accuracy of the mass study was addressed by us in the Oct. 26, meeting. In the meeting I clearly say, "The mass study was purely just to show the difference from the old design and the new design." I go on to say that "The sun is shown on the shadow study and this is not supposed to be representative of where the sun sets."

Staff and Planning Commission were fully aware that the mass study was only to depict the change in the mass of the structure. At no time did anyone ever use the mass study to dispute Mr. Shellooe's argument regarding his sky view or to the correct orientation of the sun.

The Appellant misinterprets the Planning Commissions directives on June 8th and misunderstands what is needed for the Planning Commission and the Community Development Department to perform adequate "due diligence" in their determination of compliance.

Staff visited the home of the Appellant, Mr. Shellooe, on Oct. 12, 2005, to review the story poles after meeting with him Oct. 7, 2005, to address his concerns with the revised plans. Their determination was that "the changes made to the plans are consistent with the direction that was given by the Planning Commission on June 8, 2005." And that they believed "the revisions will reduce the mass and scale of the overall project and provide less of a view impact to the concerned neighbor to the east of the subject site."

The directives from the Planning Commission, given in their motion on June 8th, were “to allow redesign based upon the input the Commission has given here, and that would be for Staff to work with the architect and the applicant to come up with what I’m going to call a 0’ lot line design, and you can interpret that the way it should be interpreted.... in order to reduce the mass and scale, to reduce the loss of daylight and views of the neighbor to the east, and hopefully come in with a story-and-a-half design... , but have the benefits of a story-and-a-half design as far as the mass and scale and views.” It was clear to see on the plans that the mass and scale, or “oppressiveness”, had been greatly reduced by moving 3/4 of the second story wall and all of the first story wall addition 23 ft from the Shellooe home, hiding the second story portion in the roof as a story-and-a-half design, per the Commissions request. From the shadow study it can also be seen that the redesign reduces the loss of daylight and does not “darken” the Shellooe home at any time of the year. Stepping the mass back 23 ft from the Shellooe home and lowering and angling the roof so that the ridge line is pulled much further back, also reduces the loss of view and light in that the eye can see further then it could in the original design and lets more skylight in.

The Planning Commissions June 8th directives clearly state that we should “reduce” the mass and scale and “reduce” the loss of daylight and views in the redesign. It does not say that we have to “eliminate” the mass and scale and “eliminate” the loss of daylight and views, because then a second story would not be possible. Mr. Shellooe is correct in that his issues with our addition have not been eliminated by the redesign but, as per the Commissions directives, they have been “reduced”, and in our opinion, reduced greatly. This reduction can surely be seen on the plans and no one needs to view the story poles from Mr. Shellooe’s windows to realize that these design changes “reduce” the mass and scale and loss of light and view, but do not eliminate it.

The Appellant wrongfully assumes that the Planning Commission and the Community Development Department ignored the Town’s “Guidelines for Residential Design”.

The Appellant, Mr. Shellooe, states that, during the Oct. 26th meeting, Mr. Randy Tsuda, Assistant Director of Community Development, said of the “Guidelines for Residential Design”, “the applicant does not need to comply since these are only guidelines.” What Mr. Tsuda actually said in response to Mr. Shellooe’s statement that the Town’s Residential Guidelines had been violated was, “What he’s cited is standards that are contained in the Residential Development Standards. These are not hard and fast setbacks for example, but these are statements of principle, and our conclusion is that number one, the applicant has revised the project according to the Commission’s direction and that two, they do meet the requirements for the Town’s Development Standards.”

The town interprets these standards as a neutral party. Of course the Applicant and the Appellant are going to interpret the standards in the way that best defends their side.

That is why we have the Planning Staff and the Planning Commission to interpret the standards neutrally.

2. The Appellant provides no new information that was not reasonably available at the time of the Planning Commission decision

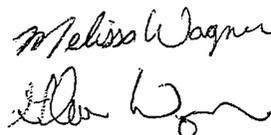
The Appellant, Mr. Shellooe, bases this part of his appeal on the grounds that he thinks the table of contents of Exhibits on the first page of the Staff Report was mislabeled. He says, "I looked for the Staff's findings on this issue under N, Required Findings." He goes on to say that after the Oct. 26th meeting, he learned that the "Staff findings" are found in Exhibits A-B of the report from the June 8th meeting. However, Exhibit A is clearly *Required Findings and Considerations* that the Planning Commission has to make in order to approve the project, not the "Staff's findings". And, Exhibit B are, boiler plate, *Recommended Conditions of Approval* for the Applicant to meet once approved.

Mr. Shellooe says that "during the October 26th meeting, the Vice-Chair asked (him) directly to point out what was erroneous in the Staff Report". He says that he was unable to answer the Vice-Chair directly because he hadn't read the "mislabeled" "Staff Findings" in Exhibits A-B. First off, the Vice-Chair never asked that question. What Commissioner Micciche actually asked of Mr. Shellooe was "Have you read the Staff Report that came out on this?" Mr. Shellooe then said that he had read most of it but that he would need his memory refreshed. Commissioner Micciche responds, "Under Recommendation it states that the Staff finds that the revised plans with the recommended conditions for approval are consistent with the Residential Design Guidelines. In your letter you've indicated that there's a violation here. Have you talked to Staff about the difference of opinion here?" When Mr. Shellooe responds that he had not talked to staff about those violations, Commissioner Micciche asks the Assistant Director of Community Development to comment on whether he views any violations. Never does the Vice-Chair ask Mr. Shellooe to "point out what is erroneous in the Staff Report". He only asks about Mr. Shellooe's perceived violations of the Residential Design Guidelines.

Whether Mr. Shellooe is meaning to refer to the *Recommendation* by Staff, which was read out loud by Commissioner Micciche and found on page 3 of the Staff Report, or the *Required Findings and Considerations* for the Planning Commission to make in Exhibit A, or the *Recommended Conditions of Approval* for the Applicant to comply too in Exhibit B, none of these are new information or hidden "Staff Findings" that were "mislabeled" in the table of contents of Exhibits.

The above are the reasons why we feel the Appeal is not valid. We hope that you will dismiss the appeal and uphold the Planning Commissions decision.

Sincerely,
Melissa & Glen Wagner



Britt/Rowe108 N. Santa Cruz Ave.
Los Gatos, CA 95030
USAPhone 408.354.6224
Fax 408.354.6514

December 8, 2005

Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030**RE: 16750 Farley Rd., Los Gatos**

Dear Council Members;

I am writing this letter on behalf of my clients, Glenn and Melissa Wagner. I am the designer of their proposed second story addition located at 16750 Farley Road. We have worked together for 18 months and have achieved what I know is the best design solution for an addition to their residence. The design, approved by the Planning Commission, was a collaborative effort between my client, Planning Staff, the Planning Commission and myself.

The first second story design incorporated many of the design techniques recommended in the Town Design Guidelines. It was also modified and improved further with the help of Planning Staff. When presented to the Planning Commission, additional recommendations by the Commissioners were heard and incorporated into the design.

The second story addition approved has the least impact of any solutions we have proposed. It is a very sensitive addition, especially as viewed from the eastern neighbor. We have achieved this by designing most of the second floor over the western side of the residence. This gives a "one and a half" story feel to the eastern side of the house. Other solutions that we have tried include portions of flat roofs at the top of the house, and an "A" frame design with the second floor incorporated into a steep pitched roof. Both solutions have more impact on the eastern neighbor than what we propose.

Larry Cannon, the Town's consulting architect, in his letter dated October 20, 2005, states that our efforts to reduce second story mass as directed by the Planning Commission is significant. In that letter, Mr. Cannon does mention an alternative design solution, but upon analyzing this solution we determined such a design would have more visual impact than what is proposed. Melissa Wagner has contacted Mr. Cannon, and he agrees that the alternative solution would add mass to the eastern side of the residence. Attached is a diagram of our analysis that shows both solutions and the impact of each to the eastern neighbor.

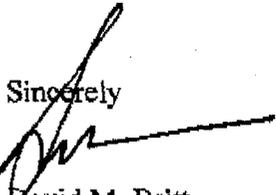
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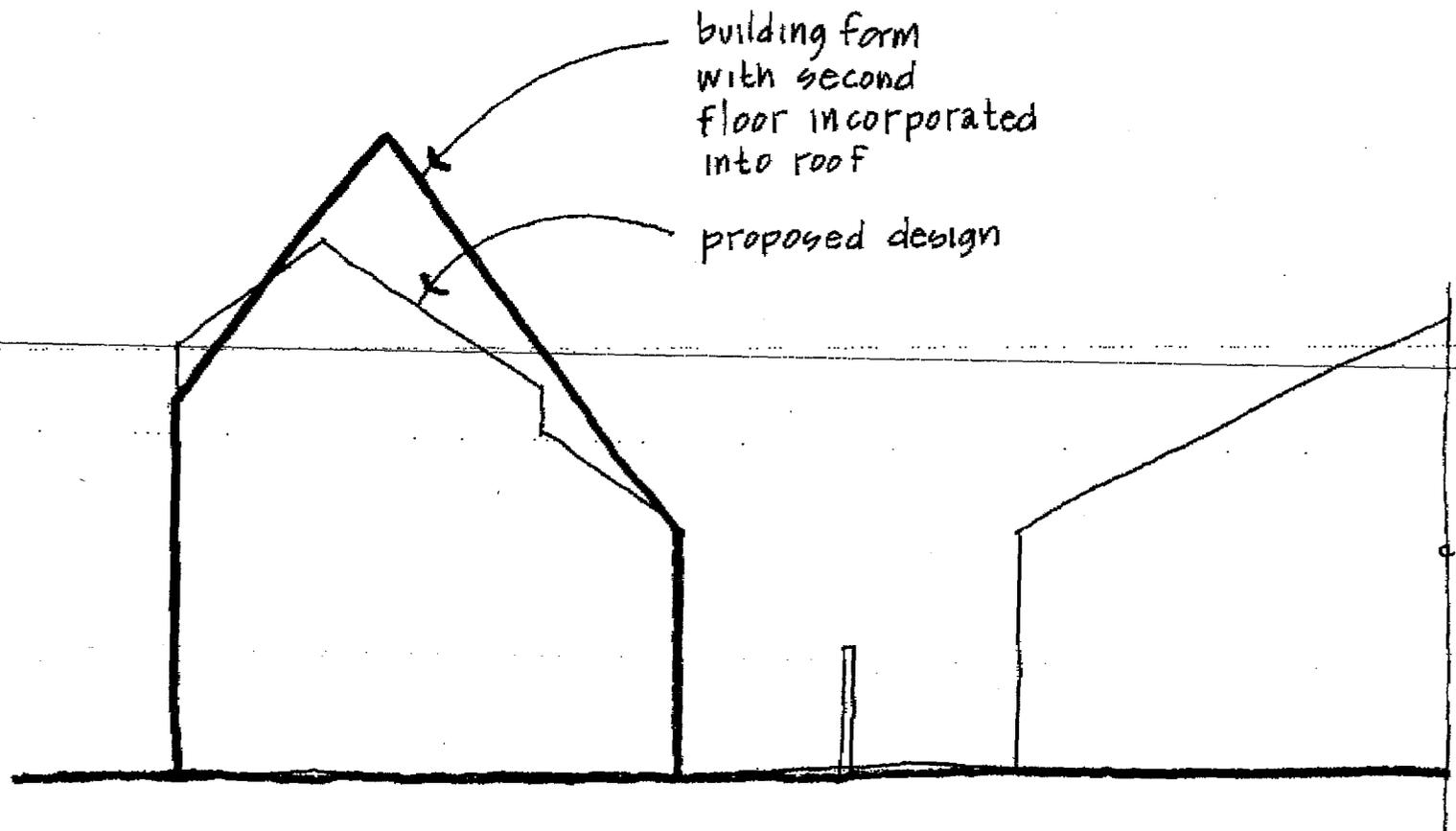
TOWN OF LOS GATOS
PLANNING DIVISION

In my 15 years of designing residences in the Town of Los Gatos, rarely I have had the opportunity to work with clients as cooperative as Glenn and Melissa Wagner. They have spent a significant amount of time and effort to get their project designed and approved. They have been receptive to all design solutions and recommendations from Town Staff, Planning Commission, Consulting Architect, neighbors, and myself. This has allowed for me to look at all design options, and I know it is by far the most superior solution for an addition, single or second story, to this very difficult property.

Sincerely



David M. Britt
Britt/Rowe



Mass Study e Alternate Roof Form (view from rear)

Wagner Residence

1/8"=1'-0"

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

Los Gatos Planning
Commissioners: Phil Micciche, Chair
Michael Burke
Michael Kane
Lee Quintana
Morris Trevithick

Assistant Director of
Community Development: Randy Tsuda

Town Attorney: Orry Korb

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

CHAIR MICCICHE: We have two desk items tonight;
there's one on each hearing. We'll take the time prior to
the hearing to spend some time reading them and move on. We
have no request for continuances and nothing on the consent
calendar.

So I'm going to open up the first public hearing,
16750 Farley Road, Architecture and Site Application S-05-
063, property owners Glen and Melissa Wagner, and the
applicant is David Britt. Is the applicant here?

CHAIR MICCICHE: Before we start though, I'd like
to get some comments from Randy.

RANDY TSUDA: This item before you tonight is an
architectural and site approval for a 1,560 square foot
single-family home addition, including a new second floor.
It's an addition to an existing 987 square foot home.

The project was originally filed as a minor
residential application, and the Town Code does allow the
director of community development to approve minor
residential applications if there is no objection filed from
the neighborhood. In this case the adjoining property owner
did file a letter of opposition; therefore this application

1 has been referred to the Planning Commission for
2 consideration.

3 The lot abuts a portion of the former Augustine
4 Way. This area is located along the property's westerly
5 boundary. The Town abandoned this portion of Augustine Way
6 in 2003, and currently the ownership of this portion of the
7 property is under dispute.

8 We're asking the Planning Commission tonight to
9 consider this application based on the property's original
10 boundaries without the disputed portion of Augustine Way.

11 The adjoining neighbor in his letter of opposition
12 cited impacts of the proposed addition to his views of the
13 sky, interfering with the light through his adjoining
14 windows, and was dissatisfied with the design of the second
15 story wall, which directly abuts his home.

16 Staff did convene a meeting of the applicant and
17 the adjoining neighbor, and during this meeting the
18 applicant offered up some changes, some compromises to the
19 project, including stepping back the second story, doing
20 some modifications to the roofline of the home to reduce the
21 height of the house, and also proposed some landscaping.
22 After consideration the adjoining property owner found that
23 these were not acceptable.

24 Given the limited width of the lot, and Staff
25 evaluated the project, there seems to be very little
flexibility in the location of the mass and location of the

1 addition when you evaluate the project based on the original
2 property boundaries. The lot is nonconforming due to lot
3 width and the size of the lot, so there is limited
4 flexibility here.

5 So one of the two key issues before the Planning
6 Commission tonight is a consistency of the proposed addition
7 with the Residential Development Standards given the issues
8 raised by the adjoining property owner.

9 And then the second issue is the issue of off-
10 street parking. At this point the applicant is not proposing
11 any off-street parking spaces due to the disputed property.
12 The Town Code does allow the Planning Commission to grant an
13 exception from these parking requirements based on a couple
14 of findings, one of which the addition is necessary to
15 provide adequate floor area, or living area; and then
16 secondly, the lot does not have adequate area to provide the
17 off-street parking.

18 As the Chair mentioned, there are two desk items
19 before you: two letters in support of the application as
20 well as an updated letter from the neighbor in opposition to
21 the project.

22 CHAIR MICCICHE: We have a question.

23 COMMISSIONER BURKE: What is the allowed FAR? Do
24 we know? Can you give me the approximate percentage that
25 would be allowed? I noticed if I look at the chart, the
addition seems to make it the highest FAR in the immediate

1 neighborhood. What's the max for that neighborhood, do you
2 know?

3 RANDY TSUDA: Well it all depends on the lot sizes
4 and you have varying lot sizes.

5 COMMISSIONER BURKE: But that lot would be allowed
6 what as far as the percentage?

7 RANDY TSUDA: This proposal is I think 1/100.

8 COMMISSIONER BURKE: We're right under the FAR
9 limit?

10 RANDY TSUDA: You're just under the FAR.

11 COMMISSIONER BURKE: Okay. Now this is the
12 opposite of a flag lot. I mean this is definitely not a flag
13 lot. But I know flag lots we treat a little differently in
14 that we don't count the panhandle portion towards the FAR.

15 RANDY TSUDA: Correct.

16 COMMISSIONER BURKE: That is correct, but we are
17 counting the entire area of this lot towards its FAR?

18 RANDY TSUDA: We're counting the entire area of
19 the lot, not including the Augustine Way portion, including
20 that strange appendage off the back, yeah.

21 COMMISSIONER BURKE: And the final question is
22 there's nothing in this application that is making the off-
23 street parking issue any worse? They're not losing off-
24 street parking places because of this, is that correct?

1 RANDY TSUDA: They currently have a pad in the
2 front and they have an existing garage at the back of the
3 parcel.

4 COMMISSIONER BURKE: Right, but can they get to
5 that now?

6 RANDY TSUDA: They're using it. It does cross the
7 disputed portion of the property.

8 COMMISSIONER BURKE: I could not tell by the story
9 poles, will the pad be covered up by the addition?

10 RANDY TSUDA: At this point they're proposing that
11 the pad not be there.

12 COMMISSIONER BURKE: But it wouldn't necessarily
13 be covered up?

14 RANDY TSUDA: No, if you were to grant a variance
15 to allow the pad to remain, there is room for one off-street
16 parking space. That would be in the front setback area, and
17 the code requires that any off-street parking be outside of
18 the front setback area. But it is conceivable the Commission
19 could grant a variance. The application has been noticed for
20 a variance and a variance has not been applied for, so that
21 would have to be re-noticed to reflect a variance.

22 COMMISSIONER BURKE: I'm not asking the question
23 right. They're not losing any off-street parking as a result
24 of this application?

25 RANDY TSUDA: Correct.

1 CHAIR MICCICHE: It's as is. Thank you. Any other
2 questions for Randy? Michael.

3 COMMISSIONER KANE: Specific to this case, can you
4 tell me what is meant by calling this property
5 nonconforming?

6 RANDY TSUDA: It doesn't meet the minimum lot size
7 and doesn't meet the minimum lot width. The minimum lot size
8 is 8,000 square feet and in this area and it is below that.

9 COMMISSIONER KANE: Okay, and this case was before
10 the DRC?

11 RANDY TSUDA: No, under a minor residential
12 application. The way the process works is that the director
13 has the ability to approve these, unless there is a letter
14 of opposition. If there is a letter of opposition, then it
15 goes to the Planning Commission.

16 COMMISSIONER KANE: So it was before the director,
17 not the DRC?

18 RANDY TSUDA: Correct.

19 COMMISSIONER KANE: What I'm looking at is if
20 anybody has taken any action that would imply that it's
21 appropriate to even decide this issue prior to the
22 settlement of the legal issue? I'm seeking your advise on
23 that. It seems like we have the cart before the house,
24 because one could affect the other.

25 ORRY KORB: The property without the disputed area
is sufficient to consider the application, so there's no

1 reason for the Commission not to decide the application
2 based on the facts presented to you today. This issue need
3 not be resolved in order for you to do so.

4 COMMISSIONER KANE: Okay, I understand that, and I
5 was thinking if the owner in this case did not fair well in
6 court, they would lose use of their garage. Wouldn't that
7 affect the parking?

8 RANDY TSUDA: Well that's the reason we are asking
9 you to consider this project based on the original property
10 boundaries, and that is the reason why the applicants are
11 requesting the exception from the parking standards. So in
12 other words, in case the courts decide, or somebody decides,
13 that they do not have rights to the Augustine Way portion,
14 then there is already been a waiver granted by this Planning
15 Commission to waive the two off-street parking space
16 requirement.

17 COMMISSIONER KANE: Thank you.

18 CHAIR MICCICHE: Any other questions of Staff?
19 Seeing none, I will call the applicant up.

20 GLEN WAGNER: Good evening. I am Glen Wagner, the
21 owner along with my wife Melissa, of the proposed project at
22 16750 Farley Road. We're also joined up here tonight with
23 our architect, David Britt.

24 I'd like to first start by thanking the Commission
25 members tonight for their attention and consideration to our
project. I've lived in Los Gatos for half my life, which

1 includes the past ten years of my married life. My wife and
2 I have always loved living in Los Gatos and this community.

3 We were very excited back in 1999 to go and
4 purchase our first home here, which is the property on
5 Farley Road. At the time of the purchase we recognized the
6 house was very small, under 1,000 square feet, and in need
7 of repair in multiple areas, but it's all that we could
8 afford at the time. It was our dream to upgrade the small
9 home and increase the square footage to provide adequate
10 space for raising a family. We visualized our dream from the
11 very start as we bought the house from a woman who had at
12 the time approved plans for a second story addition at this
13 property.

14 It is my feeling that most people moving into our
15 neighborhood both in the past and present have the desire to
16 improve their properties and expand the size of their
17 dwellings when such limiting living conditions exist as with
18 our small one bedroom home. I realize this because almost
19 every house in our area started as small as ours and have
20 grown into much larger homes today.

21 When preparing to move forward with our expansion
22 we were immediately confronted with the limiting options
23 regarding our structure's available footprint. Our lot is
24 narrow and has an irregular L shape, which is depicted by
25 the map right here and you can see the area. Quite simply,
after exhausting any and all possible options we realized

1 the only way to provide an adequately sized house for our
2 family on our lot is to do a second story addition.

3 The concept of a two-story home in our
4 neighborhood is not unrealistic. Three of my closest
5 neighbors currently have two-story homes, the previous owner
6 had approved plans for a two-story, and multiple other two-
7 story homes exist within our neighborhood that are built at
8 the minimum setback requirements. Our expectations are
9 clearly within the confines of our lot, local regulations,
10 and the character of our neighborhood.

11 We are not unreasonable people and from the very
12 start of our planning and design phase moved forward,
13 addressing possible sensitivities that surrounded us, even
14 if it meant deviating from our own preferred design ideas.
15 We learned through the previous gatherings that our next-
16 door neighbors facing southeast from us did not want a two-
17 story home next to them. Since the only possible way for us
18 to expand was by going up, we attempted to address as many
19 sensitivities as possible to our home's design.

20 We made many compromises from the very start for
21 the benefit of possible objections. We started by hiring a
22 very talented architect, David Britt, to design a home
23 within the challenging space of our lot. We followed a
24 design which implemented the following concessions: we
25 reduced structure height down 4' from the maximum allowable
to 26'; stepped down second story wall plates to create a

1 decreased exterior presence of the structure; by designing
2 in smaller elevated windows on the second story addition to
3 address privacy issues; designing the rear of the house not
4 to extend beyond the boundaries of the neighbor's existing
5 rear facing walls; by stepping back a portion of the second
6 story exterior, therefore breaking up the presence of a
7 solid wall running the entire length of the house; and we
8 also offered to install various plantings to provide a more
9 natural boundary around the side yard view of the house.

10 With this design we gained support of the vast
11 majority of our neighborhood peers and the Planning
12 Department by their intent to approve our project as we
13 created a wonderful, tasteful home plan that will truly be
14 an asset to our neighborhood.

15 Our next-door neighbors opposing our project are
16 not satisfied with our accommodating efforts, even after
17 meeting with them recently at the Planning Department, and
18 that's why we're here tonight. No realistic solutions have
19 been made by them to amicably satisfy our building
20 requirements, so we're here today to ask you for your
21 support in our approval of our project, which will allow us
22 to move on with our lives and our right to improve our
23 property.

24 Now one last thing before I hand the remaining
25 time over to our architect. It is in respect to the Desk
Item K, which I believe is with your packet tonight. We were

1 just notified of its submittal at 4:30 this afternoon. It is
2 in the opposition's continuing attempt to try to commingle a
3 pending land dispute and its undecided judicial settlement
4 with our construction application. The disputed piece of
5 property has no ultimate relevance to our project and its
6 content regarding such dispute should be unattached from our
7 application. Thank you.

8 MELISSA WAGNER: If I can just address the area
9 under dispute once more, I wanted to point out to you guys
10 that it is unbuildable; this whole piece here is
11 unbuildable. It's got easements on it, so whether we were to
12 wait after the dispute was settled or not, we would still
13 only have this footprint for building. If this was settled
14 in our favor and it was our land, we'd get eight more feet,
15 but that's not sufficient enough to change the design.

16 DAVID BRITT: My name is David Britt, 108 North
17 Santa Cruz Avenue, Los Gatos, and the designer of the
18 project. (Timer sounds.) I guess I'll wrap it up. I'm here
19 to answer any questions the Commission might have regarding
20 the project, the design, and (inaudible).

21 CHAIR MICCICHE: Are there any specific points
22 you'd like to highlight though?

23 DAVID BRITT: Well yeah, there are a couple of
24 things.

25 CHAIR MICCICHE: Would you do that, please?

1 DAVID BRITT: Sure. The meeting that we had with
2 the next-door neighbor was interesting in the sense that
3 there were a couple of things that we talked about that we
4 could do to mitigate their concern of the view and the
5 privacy: lowering the height of the building, moving second
6 story building walls further away from them, and we're
7 willing to do that.

8 Also there were a couple of things that he talked
9 about as far as design changes, such as pulling the house
10 forward. Can't do that; we're at front setback. Doing a one-
11 and-a-half story design with dormer windows on the side
12 property setback lines, which we can't do because the
13 property is too narrow. So those types of design changes
14 can't be made because of the shape of the lot.

15 Also it's interesting, we can't do a basement on
16 this property like a lot of one-story houses in Los Gatos
17 have basements. The Building Department says we can't do a
18 basement on this site because of access issues. We had
19 actually proposed a small basement and they said we had to
20 take it out.

21 CHAIR MICCICHE: The proposal that you made to the
22 neighbor, have they been incorporated into this design or
23 are you back to your original design.

24 DAVID BRITT: They have not been incorporated.

25 CHAIR MICCICHE: They have not been incorporated?

DAVID BRITT: No.

1 CHAIR MICCICHE: Okay, thank you. Any other
2 questions of the applicant? Commissioner Quintana, we'll
3 start with you.

4 COMMISSIONER QUINTANA: Thank you. Could you be a
5 little more specific about the things that your applicant
6 was willing to do based on the meeting that was held between
7 the applicant, the neighbor, and the staff?

8 DAVID BRITT: Sure, I can. One of the things that
9 we can do is move the entire master bedroom building wall--
10 that's the area at the rear of the house--four feet towards
11 the right-hand side of the property.

12 The other thing that we could do is we can
13 eliminate the fireplace chase, because the fireplace chase
14 was a concern. It projects up past the ridgeline of course,
15 as a fireplace has to do. We are willing to eliminate that.

16 The other thing was slightly lowering the roof
17 pitch.

18 COMMISSIONER QUINTANA: And how much would that
19 lower the roof?

20 DAVID BRITT: We would net probably about a foot-
21 and-a-half.

22 The design of the building, if I can talk a little
23 bit about the design of the building, is inherently
24 sensitive to the side setback lines. We've actually lowered
25 the wall plate on the second floor to 6', which a 6' wall
plate, the wall height inside the room is 2' lower than a

1 normal second story wall plate, and that helps to of course
2 reduce the mass of the building, and that happens to 50% of
3 the building in front.

4 COMMISSIONER QUINTANA: When you say move the
5 master bedroom wall 4' back, that whole section is an
6 addition. Could that whole section be moved further to the
7 west?

8 DAVID BRITT: What we proposed doing is that
9 second story portion of the building at the back of the
10 house be pushed 4' back, allowing that roof that you see,
11 that stepped roof, to come all the way across the back of
12 the house. And so basically wherever we've got a taller wall
13 plate, which is at the back of the house, we have a roof
14 below it, a roof element that breaks up that vertical mass.

15 COMMISSIONER QUINTANA: I was looking at it from a
16 better, more articulation than getting the whole addition
17 further from the neighbor.

18 DAVID BRITT: So you were asking about moving the
19 entire building?

20 COMMISSIONER QUINTANA: Yeah.

21 DAVID BRITT: Let me look at the plans.

22 COMMISSIONER QUINTANA: Not the entire building,
23 just the addition.

24 DAVID BRITT: The addition.

25 COMMISSIONER QUINTANA: Rear addition.

1 MELISSA WAGNER: This is the addition, and then
2 the master bedroom is positioned up here. What we propose is
3 taking this and moving it this way so that this roof element
4 is here rather than there.

5 CHAIR MICCICHE: Could you speak into the
6 microphone?

7 MELISSA WAGNER: Oh, I'm sorry.

8 DAVID BRITT: No, I'll go ahead. So what Melissa
9 was pointing out is you can see the master bedroom on the
10 second floor, pushing that 4' over so that lower roof
11 element continues all the way towards the back. I think what
12 you're asking me is whether that family room below can move
13 with it.

14 COMMISSIONER QUINTANA: Mmm-hmm (Yes).

15 DAVID BRITT: We did not propose doing that,
16 although...

17 MELISSA WAGNER: This is the property line, this
18 right here where that pole is.

19 COMMISSIONER QUINTANA: Speak into the microphone,
20 please.

21 DAVID BRITT: That's okay.

22 MELISSA WAGNER: Go ahead.

23 DAVID BRITT: Okay. So that entire addition,
24 you're talking about moving that over, the whole thing?

25 MELISSA WAGNER: What we're saying is that the
setback is right here where this pole is, only 3', so really

1 there is no room to move it that way. This line right here
2 is the property line. So to move it that direction, there's
3 no room for it, and the family room is already very small.
4 You know, it's not very small, it's like a standard family
5 room

6 COMMISSIONER QUINTANA: Okay, what you're saying
7 is that you can't move it without losing part of the porch?

8 MELISSA WAGNER: We would lose the whole...because
9 it's only 3' right here to that. We'd only be able to move
10 it 3'. From this wall to this post is 3'.

11 COMMISSIONER QUINTANA: Okay, I'm confused. How
12 can you move the second story 4' but the lower story only
13 3'?

14 MELISSA WAGNER: Oh, is it 4'?

15 DAVID BRITT: Yes.

16 MELISSA WAGNER: I'm sorry, I was wrong.

17 COMMISSIONER QUINTANA: Thank you.

18 DAVID BRITT: It's a possibility, just shifting
19 that.

20 MELISSA WAGNER: And then put the porch on the
21 other side, is that what you're suggesting?

22 DAVID BRITT: Something like that.

23 MELISSA WAGNER: Something like that?

24 COMMISSIONER QUINTANA: Something like that, on
25 the back or something.

MELISSA WAGNER: Yeah, I mean we would be open.

1 DAVID BRITT: We could probably do that. It's
2 actually not a bad suggestion and it's something we could
3 probably work, and if we work with Staff on it so it
4 satisfied them. Obviously we've been working very closely
5 with Staff on this project, mitigating their concerns with
6 the design. We kind of redesigned the front elevation so it
7 was more compatible with the neighborhood. They were very
8 happy with that and obviously that's why they noticed this
9 project to be approved. And so yeah, to go back to your
10 question, I think we could make that work.

11 CHAIR MICCICHE: Okay.

12 DAVID BRITT: I'm pretty confident.

13 CHAIR MICCICHE: Commissioner Kane, do you have
14 any questions? Morris?

15 COMMISSIONER TREVITHICK: I just have a question.
16 If you did a thing like that, for what reason would you be
17 doing it, other than to satisfy the neighbor?

18 MELISSA WAGNER: Just to satisfy the neighbor.

19 DAVID BRITT: Yeah.

20 COMMISSIONER TREVITHICK: Is that a sufficient
21 reason for keeping the building as an integral part itself?

22 MELISSA WAGNER: No, I don't believe it is, and
23 also I don't believe it would satisfy the neighbor. And plus
24 I'd like to point out that there are very large trees in
25 front of where that addition is going on the property. I
mean they're not as large as these to be noted on the

1 topographic map, but there are trees there that cover that
2 whole addition. So it's not anything that's going to make an
3 impact on that part.

4 CHAIR MICCICHE: Okay, thank you. Commissioner
5 Burke.

6 COMMISSIONER BURKE: I assume you read the letter
7 from our consulting architect?

8 MELISSA WAGNER: Yes.

9 DAVID BRITT: Yes.

10 COMMISSIONER BURKE: One concern that he had that
11 jumped out to me was the two-story height so close to the
12 adjacent home.

13 MELISSA WAGNER: Would you like me to address
14 that?

15 COMMISSIONER BURKE: This is a question to the
16 architect. If that was an issue in the Planning Commission's
17 mind, what could you do to address that, even if it meant
18 reducing some square footage? If we decided that was an
19 issue, how would you address that?

20 DAVID BRITT: Well, I think we've talked about one
21 way, and it think it's a considerable change, moving the
22 entire addition off the back of the house 4' away from the
23 setback line. Then you have a 12' setback as opposed to an
24 8'.

25 COMMISSIONER BURKE: Okay.

1 DAVID BRITT: I think the design itself inherently
2 already is considerate of its 8' setback where I've got a
3 good portion of that second story building wall stepped back
4 from that 8' setback. And then where it isn't set back, the
5 wallplate is lowered to something that's much lower than a
6 two-story building. With the 6' wall there, that's... If
7 this raftered in a plane up, you wouldn't have habitable
8 space on your second floor.

9 COMMISSIONER BURKE: But there is realistically no
10 way you could reduce the length of the two-story element
11 with this design?

12 DAVID BRITT: Yeah, it then becomes the shape of
13 the lot issue.

14 COMMISSIONER BURKE: Okay, second question. This
15 is hypothetical, but it's one of the things. Assuming the
16 issue over the disputed land was over yesterday, and while
17 you had easements in that land you didn't necessary have now
18 a setback to deal with, you could build right up to the edge
19 of the easement, how would your design change to accommodate
20 the neighbor if that was the case?

21 MELISSA WAGNER: This design would have been
22 different in that we'd have a much larger FAR, because our
23 area, we'd have a quarter acre versus 7,800 square feet, so
24 our home design would have been larger and in a different
25 design; it wouldn't be this house. So I can't really address

1 how that would change this design, because it would be a
2 different design.

3 COMMISSIONER BURKE: Let me re-ask the question.
4 Say you had a variance that gave you a 0' setback. You had
5 no additional area to work with. How would you change the
6 design to address the issue that the consulting architect
7 has about that vertical wall?

8 MELISSA WAGNER: If we had a 0' setback, I would
9 envision putting three of the bedrooms downstairs. We looked
10 at a design that did that if this land wasn't an issue, and
11 we'd only have two bedrooms upstairs doing the style that
12 the neighbor requested with the dormers, so it would be much
13 less of an impact on the second floor. There would only be
14 two bedrooms upstairs and one bathroom with a roof like
15 this. It would look like a one-story with a couple of
16 dormers.

16 COMMISSIONER BURKE: Okay.

17 DAVID BRITT: At minimum you would just move the
18 house over 8'.

19 MELISSA WAGNER: Well we can't do that.

20 DAVID BRITT: Right.

21 COMMISSIONER BURKE: Okay. And assuming you did
22 have access on that strip of land, you'd still be able to
23 access your rear garage?

24 MELISSA WAGNER: Absolutely.

25 COMMISSIONER BURKE: Okay, thank you very much.

1 MELISSA WAGNER: It's been used for 50 years to
2 access that area.

3 COMMISSIONER BURKE: We could recommend
4 (inaudible).

5 CHAIR MICCICHE: Well, that's an interesting
6 point, Michael. We ought to pursue that more. Do you have a
7 question of Staff on that?

8 COMMISSIONER BURKE: Yes, a question of Staff, or
9 a couple of questions of Staff. One is the basement issue.
10 What is the reason that they cannot have a basement in this
11 house?

12 RANDY TSUDA: Our understanding is it wasn't a
13 flat out prohibition, that there were some issues regarding
14 the access and accessibility out of the basement that had
15 not been resolved, so it was not that it could not be done,
16 under the design as proposed it did not meet UBC.

17 COMMISSIONER BURKE: But if I remember correctly
18 the light wells and the access are allowed to protrude into
19 setbacks and things like that?

19 RANDY TSUDA: Three feet.

20 COMMISSIONER BURKE: Three feet into setbacks?

21 RANDY TSUDA: Three feet, but it's the minimum
22 necessary to meet the building code, and that's what the
23 policy is.

24 COMMISSIONER BURKE: Okay. Being that this lot,
25 one of the requirements for a variance is the unique nature

1 of a piece of property, and if I look at this lot, it's one
2 of the most unique, challenging lots and if there was ever a
3 call for a variance this might be one.

4 Do you see any ramifications, especially if it
5 made a better project? Could you see any negative
6 ramifications of a variance here to allow them to build
7 closer to what used to be Augustine Way, regardless how
8 this--because apparently there are easements on it so it
9 can't be built no matter--what would be the downsides? I know
10 we'd have to renotice. Any thoughts on that?

11 RANDY TSUDA: You'd need to renotice. You wouldn't
12 be able to go all the way up to the former property line in
13 case it was decided that that property was not under the
14 control of the Wagners. Under fire code and building code we
15 would look at it from a worse case scenario that that became
16 the de facto property line, so we need to work around the
17 building codes to make sure it still complied, so that would
18 be the one area we'd need to take a look at.

19 COMMISSIONER BURKE: And could we grant a variance
20 without them actually applying for one if we felt it was
21 needed for this project to go forward in a direct manner?

22 RANDY TSUDA: That would be noticed as a variance.
23 You'd want to check with the applicant to make sure that
24 that would be acceptable to them, but you could indicate
25 that that's something that would be of interest to the

1 Planning Commission. Then we would renotice it and convene
2 the hearing in July.

3 MELISSA WAGNER: If I may add one thing. This
4 neighbor right here, who is actually sitting right here
5 tonight, she has a 0' setback only a couple houses down from
6 ours, on this side.

7 COMMISSIONER BURKE: I'm going to ask is that
8 something that--and I'll ask the other neighbors--is that
9 something you would be interested in if that settled this
10 issue?

11 MELISSA WAGNER: If that settled this issue. I
12 mean we have a new baby; we want to move on with our lives.
13 If that settled the issue, we would be for it.

14 COMMISSIONER BURKE: And I'll ask the architect,
15 could you make a better project with that?

16 DAVID BRITT: Yeah, you'd have a wider building
17 envelope, and obviously a wider building envelope is going
18 to get you a better design.

19 COMMISSIONER BURKE: Thank you.

20 CHAIR MICCICHE: Is it relevant to what Mike's
21 talking about or do you have a separate issue?

22 COMMISSIONER QUINTANA: I think it's relevant.

23 CHAIR MICCICHE: Okay, then you go right ahead.

24 COMMISSIONER QUINTANA: Thank you. When you say a
25 better building design, would allowing a 0' setback enable
you to address the issue of mass and scale and the two-story

1 walls on the other side of the property, or would it just
2 enable a bigger building, and how would you go about it just
3 in general?

4 DAVID BRITT: The FAR wouldn't change, so we
5 couldn't do a bigger building. Did I answer your question?

6 COMMISSIONER QUINTANA: No.

7 MELISSA WAGNER: Let me show you what I envision
8 here, because we've already looked at a design like this.
9 This would be the front of the house, the door. The upstairs
10 would consist of a window here.

11 CHAIR MICCICHE: I don't like this at all.

12 COMMISSIONER BURKE: Okay.

13 MELISSA WAGNER: The sides would still look like a
14 one-story next to our one-story neighbors. Our one-story
15 neighbors would still look like the one-story, but up here
16 would allow us to put a bedroom here and bedroom in the back
17 like that with maybe a small dormer like this for an
18 additional window.

19 CHAIR MICCICHE: Without extending it.

20 COMMISSIONER QUINTANA: This is just going to your
21 zero lot line on your existing 8' setback, in other words,
22 eight extra feet? You could do that and you would have a
23 much less massive looking house.

24 MELISSA WAGNER: Yes.

25 DAVID BRITT: What we'd probably propose is a one-
and-a-half story design basically where we would have some

1 sort of architectural projections off the side rake wall
2 with windows or something.

3 CHAIR MICCICHE: Excuse me. I don't really want
4 this to turn into an architectural design meeting. This is
5 not that at all.

6 COMMISSIONER QUINTANA: It was just a question of
7 the possibility.

8 CHAIR MICCICHE: The question is can you do this?
9 Do you think you can do it to the satisfaction of the
10 Planning Commission and satisfying the neighbor's concerns?
11 Is that fundamentally what you're telling me?

12 DAVID BRITT: Yes.

13 CHAIR MICCICHE: Okay, then I think this is
14 something we should discuss and understand how we can go
15 about getting this done.

16 RANDY TSUDA: If I might, we were just going
17 through my favorite section of the zoning code, the
18 nonconforming section, and there is a provision of the
19 nonconforming section of the code that allows the Commission
20 without a variance, allows you to modify any rule of the
21 zone, including front, side, and rear yard requirements. So
22 it would not need to be noticed as a variance, but you
23 simply could do it through this process, the A&S process.

24 CHAIR MICCICHE: So we can ask for a redesign?

25 RANDY TSUDA: Correct.

1 CHAIR MICCICHE: That could bring it to the limit
2 of the property and hopefully a design that will tend toward
3 a one-and-a-half story home.

4 RANDY TSUDA: Right. What I'd suggest, if after
5 the close of the public hearing, if that's of interest to
6 the Commission that you provide direction on how you would
7 like it redesigned, we would work with the applicant and
8 then bring it back.

9 CHAIR MICCICHE: All right, any other questions of
10 the applicant? I take it the applicant is willing to do this
11 and willing to come back with a redesign?

12 DAVID BRITT: Yeah. I think there will be some
13 challenges in the Building Department proposing a building
14 that has no site setback. We'll still need to be probably 3'
15 away from that property line, because if you're closer than
16 3' to the property line, then the Building Department would
17 want firewalls and all of these other crazy things. So
18 again, it would be a challenge, but we can do it, and I
19 think we would ultimately have a more sensitive design for
20 the next-door neighbors.

21 CHAIR MICCICHE: You understand there's no
22 guarantee we're going to agree to it?

23 DAVID BRITT: Right.

24 CHAIR MICCICHE: Although you're going to give it
25 an attempt here to solve the issues that are in hand, is
that correct?

1 DAVID BRITT: Yes.

2 MELISSA WAGNER: And I just want to also point out
3 that my neighbor right here that I pointed out that has a 0'
4 setback, she just finished her addition to her home, and she
5 would probably be a good one to ask questions to. They built
6 it right up to there and there were no building problems
7 with that.

8 CHAIR MICCICHE: Okay, fine. Thank you.

9 DAVID BRITT: Thanks.

10 CHAIR MICCICHE: We have some speakers on this. I
11 would note to the speakers since the tendency here, I
12 believe the Planning Commission is going to send this back
13 for redesign on the basis that we just heard, so if you're
14 going to make comments you might want to relay them in that
15 fashion. But you relay whatever you want; this is a public
16 hearing. The first card I have is Jim Grabot.

17 JIM GRABOT: I'm a neighbor on Frank Avenue, one
18 street over from Farley. Actually after listening to this
19 I've changed my whole thought process here and I applaud
20 what I've just heard you go through here. So if you are
21 willing to work with them and work on a redesign, you have
22 my full support on this project. And I think it's great that
23 you're willing to work with a young couple in Los Gatos.

24 CHAIR MICCICHE: We have a question for you.
25

1 COMMISSIONER BURKE: Just curious, what was your
2 position before? I mean were you pro? Did you think this was
3 a good application or bad?

4 JIM GRABOT: I was pro the project. I've lived in
5 Los Gatos approximately 25 years. I've seen a lot of
6 projects done here, and what I've noticed is some of the
7 older residents in this town that already have had their
8 remodels aren't helping the younger ones. So that's why I
9 think this is great.

10 CHAIR MICCICHE: Thank you. The next card I have
11 is from Mr. Michael Gordy.

12 MICHAEL GORDY: Thank you. I'm the neighbor on the
13 other side of the Wagners, adjacent to the old Augustine
14 Way, and my wife and I just prior to the discussions that
15 you guys just had were in favor of this project for a couple
16 of reasons.

17 I think that the current structure is
18 substantially out of character with the neighborhood.
19 There's been substantial renovation done throughout this
20 entire area, and understanding the unusual nature of the
21 property, I think that this property does stand out as a
22 piece that is frankly not in character with the
23 neighborhood. Our own house went from 1,200 square feet to
24 1,800 to just under 3,000 square feet, although we don't
25 have the property issues that these guys do.

1 I think the Wagners bought the property with the
2 reasonable expectation that they could do a second story
3 structure, given that there had already been an approved
4 second story building permit issued, I believe.

5 And then finally I think that they had really done
6 their best to accommodate the sensitivities of the
7 neighborhood and the like in looking at the nature of the
8 neighborhood, getting community support for the project, and
9 accommodating those on the basis of their growing family.

10 I guess sort of the last point I'd like to make at
11 the risk of sounding like other citizens who shall go
12 nameless at these kinds of meetings, I was a little
13 personally upset when I think the Town in effect reneged on
14 their quit claim relative to the piece of property that's in
15 question. I believe that the Town should have done the right
16 thing and supported the Wagners in this particular situation
17 and we wouldn't be here today if that was the case.

18 But all that being said, I applaud your efforts to
19 move this forward, and also to please be sensitive to the
20 Wagners and the cost that you're asking them to continue to
21 incur by doing a redesign after they've gone through this
22 process at substantial cost to themselves to try and
23 accommodate the neighborhood with a plan they already have
24 before you. Thank you.
25

1 CHAIR MICCICHE: Thank you. Any questions of the
2 speaker? Seeing none, thank you very much. The next card I
3 have is from a Mr. George Cornwell.

4 GEORGE CORNWELL: Good evening. I live at 15751
5 Augustine Avenue directly across the street from the
6 Wagner's house. I've lived there for 17 years, and I too
7 applaud your effort to let the Wagners change their design
8 to make it work. I support their effort to put their money
9 and their time and effort into improving their house.
10 Currently I think their house is too tiny. It's on a
11 convoluted lot. It has no character. I would like to see it
12 changed to be an asset to the neighborhood, so I support
13 their effort.

14 CHAIR MICCICHE: Thank you very much. I have one
15 more card here, a Mr. Bill Shellooe.

16 BILL SHELLOOE: I have some visual aids here. So
17 first of all thank you for taking the time to understand my
18 opposition to the project. My name is Bill Shellooe and my
19 wife's name is Patricia Patero and we are the next-door
20 neighbors who are adjacent to the project.

21 What I'd like to do in these three minutes is try
22 to show you how our experience of our home would be
23 compromised adversely by this particular project. And what
24 I'll do is after that I'll quickly summarize by pointing out
25 potentially some of the conflicts with your building code at
the end of the presentation.

1 We probably would not have a problem with this
2 project if the two homes were adjoined in the way that
3 rectangular homes typically are, which would be a one-story
4 next to a two-story would be typically something like that.
5 The complication with this is, and why we're impacted
6 differently than any of the other neighbors, is that we're
7 adjacent to it and this is the situation that we're facing.
8 So normally those setbacks would be side yard setbacks, 16',
9 no big deal because there's not a lot of visual impairment
10 here.

11 The problem is that although their house is 5'
12 shorter than our house, all of the windows on this side are
13 impacted, and as a matter of fact there is no view above, or
14 to the side, or anything else but structure in all three of
15 the bedrooms in our house, and that's the problem.

16 I really like the direction that you guys are
17 going on the 0' setbacks. If this structure could be moved
18 8' and single story with dormers, I'm pretty sure we'd have
19 a deal. So just want to get that on the table.

20 Anyway, as the project is right now, the
21 complication is that we have as you saw up there a 26' high,
22 58' wide, two-story structure that adjoins the entire length
23 of our house and is under 16' away. This has the effect
24 basically like I said of blocking all the windows on the
25 western wall and showing us nothing but structure. And the
fact that this large structure is so close really does give

1 an oppressive feeling to the three bedrooms that are along
2 that west wall, and that's where the problem is.

3 I see I have 30 seconds, so I'm going to put that
4 up there. These are some photographs that are a little bit
5 difficult to see, but these are photographs taken from the
6 three bedroom windows that are along the west wall, and then
7 this bottom photograph shows the distance between the two
8 houses. So although it was a great effort by David, the
9 architect, and the Wagners to officer to offset that master
10 bedroom, it does not have an impact on the view out of the
11 windows.

12 So as I wrap up, I'm not the person to interpret
13 your standards, but at the same time it seems to me in
14 reviewing them that there are some incompatibilities between
15 this project, as planned, with your existing development
16 standards.

17 In particularly, sites are not supposed to impair
18 the use and enjoyment and the value of the adjoining
19 neighbor's structure, and certainly the use of our windows
20 is impaired, the enjoyment of those rooms is impaired due,
21 to the overwhelming nature of the structure itself.

22 And the value is impaired. On paper you'd think
23 that the value of the adjoining homes when a nice home is
24 built is certainly brought up on paper, but when a potential
25 buyer steps inside that house and opens up the windows in
any of the bedrooms, they find this massive structure that's

1 probably two-and-a-half times the height of this wall this
2 far way staring right at them out of all three bedrooms, and
3 that has the effect of reducing the potential market for the
4 home.

5 CHAIR MICCICHE: Thank you. Any questions of the
6 speaker? Seeing none, thank you. I'll give you this one
7 shot, Lee.

8 COMMISSIONER QUINTANA: I just want to make sure I
9 understood what you said about the zero lot line. Are you
10 assuming that the whole house would be moved over?

11 BILL SHELLOOE: Yes.

12 COMMISSIONER QUINTANA: Okay, that's what I
13 thought. Thank you. Then a follow-up question, may I?

14 CHAIR MICCICHE: Yes, go ahead.

15 COMMISSIONER QUINTANA: Assuming that the existing
16 house was not moved further from your house, but only the
17 additions to the first floor and the additions to the second
18 floor were further from your house, would you still support
19 that?

20 BILL SHELLOOE: It depends on how far, because the
21 problem is, using this wall as an example, I mean imagine
22 that you were looking out of your 6'x4' window here out of
23 any one of your bedrooms, what do you see? It's nice that
24 the wall is differentiated and articulated, but it's still
25 wall and roof. It's not (inaudible), so that's what sort of

1 compromises my feeling of (inaudible)oppressed (inaudible)
2 scale and mass of this adjoining wall.

3 So I guess the answer to your question is it
4 depends how far and what's visible. So moving top stories
5 backward doesn't necessarily reveal any sky. That's one of
6 the problems.

7 COMMISSIONER QUINTANA: Thank you.

8 CHAIR MICCICHE: Thank you. Okay, the applicant
9 can come up and rebut anything? Do you have a card up here?

10 RAY DAVIS: Well I think this gentleman here laid
11 in my mind the key issue out very clearly. Second story
12 additions proposed, no matter how far it's offset, is still
13 going to be a tremendously negative mitigation of his view.
14 And that's your duty as a Planning Commission under the
15 General Plan.

16 The General Plan states that any second story
17 addition, the view in question will be equitably shared.
18 That's the spirit and the letter of the General Plan and
19 that is your Bible. That's what you as a planning commission
20 must go by. So there must be at least a 50/50 sharing of
21 that view as per the law in Los Gatos.

22 I want to hear you folks give this man his just
23 due under the law of Los Gatos. And most of these folks have
24 no idea what the law is of course, because they've never
25 come down here except once in a lifetime. But you're here

1 every other two weeks and this same issue was brought up to
2 you just two weeks ago. You remember that? Fifty/fifty.

3 So I think you need to respond in an equitable and
4 a just and a fair measure to the one man under our
5 democracy, the local version of it.

6 CHAIR MICCICHE: Thank you, Mr. Davis. The
7 applicant can come up and rebut anything that's been stated
8 if they'd like to. Do we have another speaker? Do you have a
9 card, please?

10 TINA CHAMBERS: I don't have a card.

11 CHAIR MICCICHE: Would you fill out a card after
12 you speak?

13 TINA CHAMBERS: Hi, I'm Tina Chambers. I live at
14 16718 Farley Road, and my husband and I just recently
15 remodeled our home, and we also have a 0' setback. We didn't
16 use it as 0', we used it as 4' for building the framers and
17 all. Zero was just impossible to get that close to.

18 We support Melissa and Glen. They have a young
19 family. We have a young family. We had to do our remodel
20 because it was falling apart. So we just wanted to let you
21 know that we support them.

22 CHAIR MICCICHE: Thank you. Are there any other
23 speakers on this issue? Seeing none, would you come up,
24 please?

25 MELISSA WAGNER: I didn't realize. I knew she had
a 0' setback. I didn't realize they didn't go up to that 0'

1 setback; I thought they had. Being that realistically like
2 she said you have to be 4', then now I realize that we can
3 only go possibly 4' and that's not going to give us the
4 little teensy bits of space that we need to make that plan
5 that I had in my head work.

6 The reason I am so marinated in the design is
7 because I myself take design as an interest and I worked
8 very closely with David designing the floor plan pretty much
9 80% myself, so I know this floor plan in my head and it
10 won't work if even a foot is taken away, let alone 4'. So
11 now addressing the 0' setback after hearing Tina's statement
12 that building won't let us go that far, up to a 0' setback,
13 I'm concerned that what I was proposing might not work, most
14 likely will not work, because it's only 4'.

15 The other thing that I just wanted to state is
16 that there is no view out their windows. It's our ugly one
17 story house with an ugly air conditioner sticking out the
18 side of it, and a decrepit roof, and there's a little bit of
19 sky. Garbage cans. There's really no view to protect, plus
20 their shades are always down, so there is no view to
21 protect. But also David states that that was a law that view
22 be protected, but from what I learned from the last Planning
23 Commission meeting, it's actually a guideline that view be
24 protected. I'm finished.

25 CHAIR MICCICHE: Okay, we have a question from
Commissioner Quintana.

1 COMMISSIONER QUINTANA: I'm going to ask this of
2 Staff first, and then the applicant.

3 CHAIR MICCICHE: Go ahead.

4 COMMISSIONER QUINTANA: The discussion of how much
5 footage you need adjacent to building a structure to
6 actually have it happen, is that because of access issues or
7 is it because if there's already a fence or a building there
8 that it's impossible to construct unless you have more room?
9 Because in this case there's no structure next to that lot
10 line.

11 RANDY TSUDA: It's not an access issue, it's a
12 building and fire code issue, and my understanding is that
13 in order to have openings on the side you need a minimum of
14 3' of set back. If you have no openings then you can go to a
15 true zero lot line configuration if you can work around the
16 access issues of building it, but under normal situations
17 the setback is 3' to have openings.

18 COMMISSIONER QUINTANA: Okay, so given that,
19 that's back, if I understand, to your original design?

20 MELISSA WAGNER: Yes, unfortunately that's really
21 all we can do. Unless the Shellooes were able to relinquish
22 their interest in that land that does not even adjoin their
23 property--their property being here, ours here--if they were
24 able to relinquish that, then we could accommodate them much
25 further.

1 COMMISSIONER QUINTANA: Are you willing to
2 relinquish or swap the area behind their yard?

3 MELISSA WAGNER: We paid a lot of money for this,
4 and to move this garage would cost a lot of money since it
5 holds our main electrical panel. We never wanted to give it
6 up.

7 DAVID BRITT: Actually the structure would not be
8 moveable. It's at least a \$65,000 garage as it is.

9 MELISSA WAGNER: We've looked at that option with
10 them and it's just not a fair trade since this is
11 nonbuildable property and from the county standards has no
12 value, and this is buildable property with value that we've
13 already built on.

14 COMMISSIONER QUINTANA: I'm going to go back to my
15 first question. When you originally indicated that you would
16 be interested in looking at the zero lot line, you stated
17 that you would probably not be able to go all the way up,
18 but you'd have to stay back 3'.

19 MELISSA WAGNER: I thought she went zero, but now
20 I'm learning that she didn't, and because of the reasons
21 Randy had talked about.

22 And the other thing is as he addressed openings on
23 that side of the structure, that whole side of the structure
24 would have to have openings in order to make it a good
25 functional living space.

DAVID BRITT: And attractive too.

1 MELISSA WAGNER: And attractive too.

2 COMMISSIONER QUINTANA: I guess my next question
3 is going to be of Staff.

4 CHAIR MICCICHE: Let's stay with the applicant
5 right now. Any other questions of the applicant?

6 COMMISSIONER BURKE: The property line in question
7 is angled relative to—and this is going to go back to Staff—
8 but I'm making the assumption that you don't have openings
9 across the entire length, and so there will be a lot of
10 places that even if the corner to be within 3', any areas
11 with openings would be beyond 3'.

12 MELISSA WAGNER: I don't understand the question.

13 COMMISSIONER BURKE: You're putting rectangular
14 boxes in a triangular shape, and so you're going to have
15 points that are going to be at 0' and you're going to have
16 lines that are going to start at 0' and then go to greater
17 distances.

18 DAVID BRITT: I think one of the things that the
19 first department would require is any area that projects
20 closer than 3' to that property line would be required as a
21 firewall. So I don't think you could have little projections
22 into that 3' section of a continuing wall without fire
23 rating the entire wall and that fire rated wall can't have
24 windows in it. So I think it would be very difficult. I
25 think if we were to redesign this building we would run a 3'

1 line from the property line and design within that building
2 envelope and not even try to get closer than 3'.

3 MELISSA WAGNER: And also you'd have to understand
4 that our whole living space would face 3' away a firewall.

5 COMMISSIONER BURKE: Not if it was 3' away from
6 the property line, it wouldn't have to be a firewall.

7 DAVID BRITT: Well no, when I say firewall, the
8 wall of the building itself would have to be fire rated.

9 MELISSA WAGNER: Oh, I'm sorry. But whatever it
10 was, it would face a fence 3'.

11 RANDY TSUDA: What I would suggest is that when
12 we're talking about encroachments into that 3' setback,
13 we're really getting into the depths of the building code,
14 and that if the Commission is interested in exploring this
15 concept of moving that mass or the addition towards the west
16 and provide that direction, we will work with the applicants
17 and the architect and with our senior building inspector to
18 determine exactly what the requirements are and what
19 flexibility you would have with those building codes.

20 DAVID BRITT: At minimum I think what would happen
21 if we were allowed to push the house 3' closer to that
22 property line, any distance away from the left-hand setback
23 is going to be an improvement and it's going to mitigate Mr.
24 Shellooe's concern.

25 MELISSA WAGNER: Also the other issue though is we
can't pick this structure up and move it three feet, because

1 if we do so it enacts the Parks and Public Works Department
2 to require us to dedicate the first 10' of our property,
3 then moving that front setback another 10', bringing us
4 further back into this weird triangle shape and not making
5 the building possible again. So it's not possible to pick it
6 up and move it.

7 DAVID BRITT: I think any design proposal that
8 would be presented to the Town would still include that
9 existing first story building wall that already exists. I
10 mean there's no way around that.

11 CHAIR MICCICHE: It's there already.

12 DAVID BRITT: Yeah, it's there already, so that's
13 not going to change.

14 CHAIR MICCICHE: That's not an issue.

15 DAVID BRITT: I just wanted to make that clear.

16 CHAIR MICCICHE: Okay, if we're going to ask
17 questions of Staff we'll do that when we close the public
18 hearing. Are there any more questions of the applicant?
19 Seeing none, thank you.

20 DAVID BRITT: Thank you.

21 CHAIR MICCICHE: I'm going to close the public
22 hearing and open it up to a motion, questions of Staff, or
23 comments. Commissioner Quintana, you have a question of
24 Staff.

25 COMMISSIONER QUINTANA: Yes I do. My question is
the buildability of the L-shaped part of the lot given its

1 width and given the FAR of the proposed buildings already.
2 Is there potential that that area could be build on if the
3 house already meets the maximum FAR?

4 RANDY TSUDA: The house is basically at the
5 maximum floor area, so there is no extra living area square
6 footage available, so there would be no reason to place
7 additional living area back on that L-shaped area.

8 COMMISSIONER QUINTANA: Thank you.

9 CHAIR MICCICHE: Yes, Mr. Burke.

10 COMMISSIONER BURKE: I'd like to make a motion.

11 CHAIR MICCICHE: Okay.

12 COMMISSIONER BURKE: I've got to see how to word
13 this motion, but I'd like to make a motion to continue
14 Architectural and Site Application S-05-03 to a date certain
15 to allow redesign based upon the input the Commission has
16 given here, and that would be for Staff to work with the
17 architect and the applicant to come up with what I'm going
18 to call a 0' lot line design, and you can interpret that the
19 way it should be interpreted.

20 And I'm saying that's to I believe the west lot
21 line, in order to reduce the mass and scale, to reduce the
22 loss of daylight and views of the neighbor to the east, and
23 hopefully come in a with a story-and-a-half design but
24 without designing it here, but have the benefits of a story-
25 and-a-half design as far as the mass and scale and views.

CHAIR MICCICHE: Do I have a second to the motion?

1 COMMISSIONER KANE: I'll second.

2 CHAIR MICCICHE: Okay, we have a second to the
3 motion. Motion, comments?

4 COMMISSIONER BURKE: And one thing I'd like to add
5 and get the seconder to go along with it, is for Staff to
6 work with the applicant on the possibility of a basement to
7 hide some of the mass as well. They had expressed an
8 interest in that. If that is doable, that would probably
9 also help.

10 CHAIR MICCICHE: Good input. Does the seconder
11 accept that?

12 COMMISSIONER KANE: Yes.

13 CHAIR MICCICHE: Okay. Yes, Commissioner Quintana.

14 COMMISSIONER QUINTANA: That eliminates one thing,
15 because that was what I was going to suggest too. The other
16 thing I was just going to mention is the question of fire
17 safety and openings in a wall that is closer than 3'.

18 Just came back from a trip to New York where I
19 stayed in a house where that situation was, and the people
20 had replaced windows and were required to meet the new fire
21 codes. In order to do that they couldn't use standard
22 windows, but they were able to use a ceramic glass that met
23 fire code. So just throwing that out as something to be
24 looked at.

25 CHAIR MICCICHE: Thank you. Commissioner Burke.

1 COMMISSIONER BURKE: And one final portion of the
2 motion if the seconder agrees is that if all parties are
3 agreed with the motion at best or worst it comes back as a
4 consent item and if there's any way to even bypass this if
5 all parties agree, I would think that would expedite it.

6 COMMISSIONER KANE: I second.

7 ORRY KORB: We're just going to continue it to a
8 date uncertain.

9 CHAIR MICCICHE: Okay.

10 COMMISSIONER KANE: It wouldn't be part of the
11 motion of the amendment for the motion, but I would
12 encourage the owners to work as best as possible with the
13 neighbor. I did visit the sites; I did meet with both
14 families. This question of view, we come down to semantics
15 on what is view. It's sky and it's light, and if that sky
16 and light goes away, there's a great deal of darkness. It's
17 not hillside view provisions where there's an equitable
18 sharing. So what I'm adding to the discussion is to motivate
19 the parties to work together. I think if it's possible for
20 the disagreeing neighbor to become agreeable, I think you'll
21 have a new house.

22 CHAIR MICCICHE: So noted, Mike. Yes, Commissioner
23 Quintana.

24 COMMISSIONER QUINTANA: Along the same lines, I
25 would encourage the applicant and the neighbors to further
explore the possibility of a land swap since neither of

1 those two sections by themselves appear to be buildable, and
2 by doing that both would benefit. The neighbor would have a
3 better backyard and the applicant would have clear access to
4 parking.

5 CHAIR MICCICHE: Thank you, Commissioner Quintana.
6 Okay, I'm going to call the motion. All those in favor?
7 Passes five-nothing. We need a date.

8 RANDY TSUDA: The next available date would be
9 July 13th. Mr. Korb is not available at that time. The second
10 meeting in July has been canceled, so it's either July 13th
11 or August 10th.

12 CHAIR MICCICHE: Can we get a nod of the head from
13 the applicant? Is the 13th possible?

14 MELISSA WAGNER: Yes, the 13th is possible.

15 CHAIR MICCICHE: Okay. Someone make a motion to
16 continue this.

17 COMMISSIONER BURKE: I make a motion that the date
18 certain for this be July 13th.

19 COMMISSIONER QUINTANA: Second.

20 CHAIR MICCICHE: All in favor? Let me comment.
21 Save your packets since this is a continuance for the next
22 meeting. Thank you.

23 ORRY KORB: Anyone following the application,
24 there will be no further notice. The hearing is continued to
25 the 13th of July.

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

Los Gatos Planning Commissioners:	Phil Micciche, Chair John Bourgeois Michael Burke Michael Kane Tom O'Donnell Lee Quintana Joanne Talesfore
Assistant Director of Community Development:	Randy Tsuda
Town Attorney:	Orry Korb
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P R O C E E D I N G S:

CHAIR BURKE: That takes us to continued public hearings and Item #1 is 16750 Farley Road, Architecture and Site Application S-05-063. Are the property owners, Mr. and Mrs. Wagner, or the applicant, David Britt, here to speak on this item? You have five minutes, and I do believe I will need speaker cards from whoever speaks. And I see one speaker card from the non-applicant, so if anybody else wishes to speak on this item, I will need speaker cards from them as well. You have five minutes, sir.

GLEN WAGNER: Good evening, Commissioners. My name is Glen Wagner and I'm also joined here tonight with my wife, Melissa, and our architect, David Britt. I'd like to thank you for allowing us to come back tonight with the redesign of our project. I'm going to turn the mike over to our architect shortly.

I first wanted to instead make a statement for the record regarding the Appendix #2 of Mr. Shellooe and Mrs. Patero's letter to the Planning Commission submitted on October 18th. We would like to state that the allegations

1 made against us in this document are untrue and will be
2 added to the upcoming counter-suit against them for slander
3 and defamation. These statements and ongoing litigation
4 between the party and ourselves does not affect our project
5 application and should not influence the Planning
6 Commission's decision in any way.

7 Now regarding the redesign, here's our architect,
8 David Britt.

9 DAVID BRITT: Good evening. My name is David
10 Britt and I just wanted to thank the Commission for
11 allowing us to come back. At the last public hearing on
12 June 8th we were given some direction to make design changes
13 to the building, and frankly we're pretty excited about
14 those changes because with moving the house over a little
15 bit we were able to significantly reduce the mass of the
16 second story from the easterly neighbor.

17 I'm here to answer any questions that you might
18 have. I also wanted to discuss a couple of the design
19 features. We've moved 65% of the second story over 7.5'
20 away from the easterly neighbor and was able to reconfigure
21 the plan so there is actually less second story now.

22 Also we did a lot of work on kind of determining
23 what would be the best way to arrange the mass for this
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25

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1 very difficult site, and it's interesting looking at Mr.
2 Cannon's letter, he had suggested possibly looking at doing
3 like a steep pitched roof, putting the second story mass
4 under a one-story type roof. We tried doing that early on
5 in the project, and I can show you here, clearly it seemed
6 like it might be a good solution, but in reality because of
7 the narrowness of the lot it didn't work.

8 We feel that our proposed design is far superior
9 to any other solution really. I think we've really tried
10 our best to move that second story massing away from the
11 easterly neighbor the best we could. So I think with that
12 said I'd be happy to answer any questions regarding the
13 redesign of this residence.

14 CHAIR BURKE: Commissioner Bourgeois.

15 COMMISSIONER BOURGEOIS: Can I ask a question of
16 Staff first?

17 CHAIR BURKE: Yes.

18 COMMISSIONER BOURGEOIS: I have a question for
19 the Town Attorney. Could you please clarify for me how we
20 are to treat the pending lawsuit? As a new commissioner it
21 seems to me that there would be opportunity for better
22 design, better planning, if we knew the fate of that
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1 parcel. So please just clarify for me how we're to treat
2 this case in light of that lawsuit.

3 ORRY KORB: As though it doesn't exist. You have
4 to consider the application on the merits as proposed. The
5 sliver of property that's in dispute is not part of the
6 application; it has no bearing on the application, so
7 consider the application on its own merits.

8 COMMISSIONER BOURGEOIS: Okay, thank you.

9 CHAIR BURKE: Any other questions of the applicant
10 at this time? I'll ask you one then. Back on June 8th I had
11 asked a question, Could you make a better design with those
12 changes? Can you give me your feeling of other than the
13 massing of the top story, with the exception of that, is the
14 design better as well? I mean is it a better, more livable
15 home at this point?

16 DAVID BRITT: Certainly the plan is equivalent to
17 the previous design. I think what we were able to do,
18 basically without having an 8' setback on the westerly side
19 we were able take a lot of that square footage and move it
20 over there, especially on the second floor.

21 I worked very closely with the Wagners, and quite
22 frankly, the Wagners have been very cooperative in making
23 the changes that have been asked of them and working with me
24 to make significant changes to the design of the house. So
25 with making those changes we were able to not only change

1 the massing of the house, but also create a plan that they
2 felt comfortable with.

3 CHAIR BURKE: Thank you. If there are no further
4 questions. Okay, so we'll call you back up for rebuttal.

5 DAVID BRITT: Okay, thank you.

6 CHAIR BURKE: How this works if people wish to
7 speak is you'll be given three minutes at this point and at
8 the end the applicant will come back up to rebut. So the
9 first speaker card I have, and I assume this is for Agenda
10 Item #1, is Bill Shellooe. You have three minutes, sir.

11 BILL SHELLOOE: Good evening. I want to thank you
12 for taking the time again to understand my opposition to the
13 way that the project is currently designed.

14 Just for the record as far as the Appendix Item #2
15 is concerned, that particular letter was reviewed by our
16 local attorney with Gallagher, Reedy & Jones, who is very
17 familiar with the proceedings of the Planning Commission.

18 I think everyone is familiar with the issue as I
19 presented it last time. The complication here is that we
20 have a single-story home that is adjoined by a two-story
21 home, not by the short edge of the rectangle if you will
22 where homes are normally adjoined or configured like this,
23 but along the long edge of the rectangle. The further
24 complexity of that is that all three of our bedroom windows
25 are along that long edge that is 16' away from that two-
story structure.

1 So on the 8th the original concern was the
2 oppressive, closed in. and dark feeling that this two-story
3 structure presents to the view out of the western windows of
4 those bedrooms, of all of the bedrooms.

5 So this is a view out of the bedroom windows of
6 the original design. So we came to you with the concern that
7 this effectively blocks out our view of the sky, not only
8 above but also to the right and to the left, effectively
9 sealing off these windows from experience.

10 Now we appreciate that there's been some design
11 changes, however those design changes were supposed to
12 reflect... I believe this is the mass study that the Wagners
13 and their architect presented to the Planning Commission,
14 and unfortunately this doesn't represent the reality of what
15 the experience is from those bedrooms.

16 First of all, the sun, given that there's a
17 northwest orientation, and I see that you have a diagram
18 back up there that indicates where north is. The sun is
19 actually never in that position in the sky at any time of
20 the year, and one could just as easily have taken this
21 diagram, drawn a circle, drawn a line above the old design
22 and convinced you of the same thing.

23 (Timer sounds.)

24 BILL SHELLOOE: Can I have a minute or two?

1 CHAIR BURKE: If you'd like to wrap up what you're
2 saying, that would be great.

3 BILL SHELLOOE: Okay. So this is the view out of
4 the windows of the new design, so you see that again you
5 have a similar amount of darkness. This was taken about 3:30
6 in the afternoon a couple of days ago, which will be I guess
7 2:30 in the afternoon after daylight savings time is in
8 effect.

9 So you see that in effect there is not any change
10 to the experience in those bedrooms. So I appreciate the
11 fact that the top story has been moved back some, but when
12 you look out of a window, the effect is 2-D; it's not 3-D.

13 So to wrap up then, we also have the concern that
14 with the new design with 4' here we have a situation that
15 once the property in dispute is resolved there will be a six
16 foot fence placed here, effectively sealing off this garage
17 and really closing in this large two-story structure.

18 CHAIR BURKE: I need you to wrap it up now,
19 because your time is up.

20 BILL SHELLOOE: So I will wrap up.

21 CHAIR BURKE: Are there any questions for the
22 gentleman? Mr. Micciche.

23 COMMISSIONER MICCICHE: Have you read the Staff
24 Report that came out on this?

1 BILL SHELLOOE: I did read most of it. You may
2 have to point me to the specific section there to refresh my
3 memory.

4 COMMISSIONER MICCICHE: Yeah, I'm going to as soon
5 as I find it. Since there isn't a page number on it I'm
6 going to call it page three.

7 BILL SHELLOOE: I don't have it in front of me.

8 COMMISSIONER MICCICHE: Under Recommendation it
9 states that the Staff finds that the revised plans with the
10 recommended conditions for approval are consistent with the
11 Residential Design Guidelines. In your letter you've
12 indicated that there's a violation here. Have you talked to
13 Staff about the difference of opinion here?

14 BILL SHELLOOE: I have not had the opportunity to
15 talk to Staff. I mean there's so many issues that have been
16 swirling around with this particular project, I kind of
17 don't know where to focus my attention, and I understand
18 that Staff has to be ruthlessly neutral on all of these
19 issues, so I've been kind of reluctant to bring up my side
20 of the story in any other venue except here.

21 COMMISSIONER MICCICHE: Could I ask Staff a
22 question then? Randy, could you comment on whether you view
23 these as violations of the Residential Guidelines as has
24 been stated here, what your thoughts be on that?

25 RANDY TSUDA: Yes, we did review Mr. Shellooe's
letter and the violations that he's cited. What he's cited

1 is standards that are contained in the Residential
2 Development Standards. These are not hard and fast setbacks
3 for example, but these are statements of principle, and our
4 conclusion is that number one, the applicant has revised the
5 project according to the Commission's direction and that
6 two, they do meet the requirements of the Town's Development
7 Standards.

8 COMMISSIONER MICCICHE: Thank you.

9 BILL SHELLOOE: So I guess I would rebut that. I
10 thought that the Commission was recommending last time to
11 remedy the situation of the closed in feeling of the
12 bedrooms, and I don't think that's been effectively
13 remedied. Part of that complication, nobody from the team,
14 whether the architect or the Wagners, called me up, made an
15 appointment, and said, "Can I look out your windows and I'll
16 get a guy on the roof with a tape measure, and we'll see
17 what kind of design would reveal sky above your house." That
18 never happened.

19 CHAIR BURKE: I'm the one that kind of spearheaded
20 the request for a redesign back in June. Which design do you
21 like better, the original one or this one, knowing that this
22 one doesn't solve the problem, but is it less of a problem
23 than the original design?

24 BILL SHELLOOE: Six of one and half a dozen of the
25 other.

1 CHAIR BURKE: Okay, thank you. Any other
2 questions? Commissioner Kane.

3 COMMISSIONER KANE: When the Commission last met
4 on the subject, we encouraged the parties to try to kind a
5 solution, and what we read tonight is perhaps more
6 contentious than it was back in June, and April and July.
7 What in your mind is a reasonable remedy to your concern
8 about the light and the view? I mean, you have your rights;
9 they have their rights. What is it that would make you feel
10 that your rights were protected?

11 BILL SHELLOOE: I suppose what I had just said a
12 second ago. I think what I had said on June 8th was I would
13 consider a minimum setback to the west since on paper I'm
14 the legal owner of that property, if in the big picture
15 there was sky revealed above the house and some room above
16 and below.

17 So as I said just a couple of minutes ago, let's
18 get the guys on the roof with a guy with whatever kind of
19 measuring instrument it takes inside our bedrooms and come
20 up with a height that leaves some light. I'm not trying to
21 prevent anybody from building a more beautiful home; I'm
22 just trying to prevent our use, enjoyment and value from
23 being impaired.

24 COMMISSIONER KANE: Did you read the letter from
25 the Town Architect?

BILL SHELLOOE: I did.

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1 COMMISSIONER KANE: Where I think he said
2 something to the effect of, "If they go any further than
3 this it's going to be a major redesign."

4 BILL SHELLOOE: Mmm-hmm, okay.

5 COMMISSIONER KANE: So you would be requesting a
6 major redesign?

7 BILL SHELLOOE: I'm not an architect, so I don't
8 know what major is, but I know what my experience is
9 according to the story poles that are on the roof now and
10 that were on the roof then. So major or not, I don't know,
11 but the same sensation of impaired use and enjoyment and
12 value is what I'm experiencing from the bedrooms. I guess
13 that's all I can say because it's the only area where I'm an
14 expert. I don't know what major is.

15 COMMISSIONER KANE: Okay, thank you.

16 BILL SHELLOOE: It doesn't seem too hard to get
17 somebody on the roof with a tape measure and say, "This
18 isn't a reasonable amount of light and sky."

19 CHAIR BURKE: Commissioner Quintana, it looks like
20 you had a question.

21 COMMISSIONER QUINTANA: Yes, I did. Is the problem
22 you're having with the height of the roof or the fact that
23 the ridgeline is a continuous line rather than a gable
24 facing the direction of your house, which would then
25 probably permit some skyline to be showing?

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1 BILL SHELLOOE: Let me just grab the most recent
2 pictures. I guess it's kind of a bit of both, because one of
3 the things that's not shown...well, I guess it is kind of
4 shown here.

5 So this is the view out of the master bedroom. So
6 there already is I think--and I don't know what a gable is--
7 but this is high and then this is somewhat lower. So I guess
8 what I'm saying is in the master bedroom there's only
9 partial relief. Well, there isn't any relief because you can
10 see the netting there, but if this was lower.

11 I'd accept one room being knocked out of view; I
12 guess if that's what your question was. So part of the
13 concern is all bedrooms have the view of the sky removed
14 from them. If two out of three were revealed, I'd probably
15 be all right with that. Does that answer the question? I
16 hope so. Sorry I don't speak architect.

17 COMMISSIONER QUINTANA: I don't very well either.

18 CHAIR BURKE: Commissioner Talesfore?

19 COMMISSIONER TALESFORE: And so for the rest of
20 the line along the fence between your two houses, to soften
21 the two-story element would trees have any effect on you as
22 far as softening anything along?

23 BILL SHELLOOE: Not really. As you can see from
24 the pictures it's the sense of spaciousness offered by the
25 sky, the sense of light offered by the sky, and the sense of
being able for your eyes to go to someplace distant, and

1 that's what we have now in three bedrooms and I'm willing to
2 knock that down to two, but I don't want either structure or
3 bushes to seal off the west facing windows in all three
4 bedrooms.

5 COMMISSIONER TALESFORE: How long have you lived
6 at the address?

7 BILL SHELLOOE: Since 1994.

8 COMMISSIONER TALESFORE: Thank you.

9 CHAIR BURKE: Any further questions? Seeing none,
10 thank you very much, sir. I have no further cards from any
11 member of the audience, so I'm going to ask the applicant
12 and/or their property owner to come up and rebut and answer
13 questions.

14 MELISSA WAGNER: Hi, my name is Melissa Wagner.
15 Thank you again for the opportunity tonight.

16 I want to first address the new Council member's
17 question about the extra property improving the project, and
18 I don't know if you've been made aware, but that extra 20'
19 has easements on it and it's not buildable, so it really
20 doesn't change the project, or could never.

21 Also I want to address Mr. Shellooe's concern
22 about the mass study. The mass study was purely just to show
23 the difference from the old design and the new design. The
24 sun is shown on the shadow study and this is not supposed to
25 be representative of the where the sun sets.

1 Also I want to point out again that this is the
2 most sensitive design possible for a second story. He talks
3 about somebody getting on the roof with a ruler. There's no
4 way to have a second story any lower, because we angled the
5 roof. This is an A-frame. What he requested is a one-and-a-
6 half story design, which would be an A-frame with dormers
7 coming out. Well, we even have gone more dramatic by
8 shifting that slant this way, bringing the ridgeline of the
9 roof further away from him than it would be even in an A-
10 frame design. So this new design has the least impact
11 possible of a second story.

12 We understood Mr. Shellooe's concerns, so we
13 redesigned the addition and took a huge chunk of the mass
14 away, and like the consulting architect said, 65% of the
15 mass from his side of the home. We have done just what Mr.
16 Shellooe asked by providing a one-and-a-half story design
17 and we are sorry that the effect did not come out like he
18 envisioned. Like he said, he's not an architect so he
19 doesn't know how it's going to look. But we went through all
20 the extra expense and he envisioned something more
21 happening, but we knew, it's a second story. There's no
22 other way to put it, and because of the shape of our lot, a
23 second story is necessary.

24 We are not wealthy Los Gatos residents; we are a
25 working class blue-collar family and we bought this tiny
little house by the skin of our teeth six and a half years

1 ago. The condition of the home was abysmal when we bought it
2 and we've made it livable with the hope of one day adding
3 on.

4 Today my husband, our son, and I all share the one
5 bedroom in our home. My son gets woken up at night from my
6 husband's snoring, and I want to have another baby, but
7 there's no room for the child we have, let alone the other
8 one. So this addition to our house is necessary and way
9 overdue, and there's no other way to do it than a second
10 story and this is the least impactful second story possible.

11 No family can live in this home the way it is. And
12 if you've noticed through research on this project, even the
13 previous owner who was a single woman had an approved plan
14 for a second story addition.

15 CHAIR BURKE: Thank you. Questions of the
16 applicant? I have a question of the architect if I may, and
17 this is a question you may know off the top of your head.

18 DAVID BRITT: Hopefully I will.

19 CHAIR BURKE: This is kind of one of these train
20 goes east and west at different speeds. Given the height of
21 the peak of your house and how far that is away from Mr.
22 Shellooe's house, any idea the angle of view to the peak of
23 the roof from his windows that he's concerned about? I mean
24 like I said, this was tough.

25 DAVID BRITT: Yeah.

1 CHAIR BURKE: I'm looking at that and I'm seeing
2 by the sun studies that you're not shadowing the house.

3 DAVID BRITT: Correct.

4 CHAIR BURKE: But that sun doesn't necessarily go
5 that direction; you're not taking the shadow there. But I'm
6 just curious if you can give us any idea, do you have to
7 look at a 45-degree angle when you're standing at the window
8 to see sky, 35-degree?

9 DAVID BRITT: That's a difficult question to
10 answer not being in the room, but I can say this, and this
11 is something that we really haven't brought up before.

12 Obviously there's an existing one-story house
13 there now. That existing one-story house is basically to
14 this point, so there's already roof planning up to some
15 point and then it drops back down. So if I was to sketch
16 that on there, and the house is already doing this; this is
17 what exists. So it's difficult to say how much lower we'd
18 have to drop it.

19 COMMISSIONER MICCICHE: What is that delta from
20 the first slope up to the second slope that's new now?

21 DAVID BRITT: This dotted line?

22 COMMISSIONER MICCICHE: No, the vertical.

23 DAVID BRITT: The vertical that's on the roof?

24 COMMISSIONER MICCICHE: On the roof, the first
25 vertical.

DAVID BRITT: Oh, this right here?

1 COMMISSIONER MICCICHE: Yeah.

2 DAVID BRITT: That's just a very small 2' wall.

3 COMMISSIONER MICCICHE: Two feet?

4 DAVID BRITT: Yes.

5 COMMISSIONER MICCICHE: So you've come up 2' from
6 the original slope?

7 DAVID BRITT: Exactly.

8 COMMISSIONER MICCICHE: Okay, thank you.

9 CHAIR BURKE: What's the slope of that roof?

10 DAVID BRITT: I think it's either seven or eight-
11 twelve.

12 CHAIR BURKE: Seven or eight-twelve, so it's
13 fairly steep.

14 DAVID BRITT: Yeah, it's not a ranch type roof.

15 But the existing roof is seven-twelve as well.

16 CHAIR BURKE: Commissioner Quintana.

17 COMMISSIONER QUINTANA: Actually you just
18 commented on something I was going to ask. I should say that
19 I went out and did visit the site and also looked at the
20 view from the house towards the proposed house. Looking at
21 the story poles, one of the things I noticed was that it
22 seemed like the existing roof slope was not as steep as the
23 proposed roof on the first story. So that's just a comment,
24 and that seems to be different than what you're saying.

25 DAVID BRITT: That's a good comment and you have a
very good eye. But it might have been the way the story

1 poles are erected. The roof slope is similar. The new roof
2 slope is not considerably steeper than the existing roof.

3 Actually, Glen brought up an interesting point
4 too. The new house is wider than the old house, so the ridge
5 is going to go up. So in other words, if I was to revise
6 this I would come in more like that. Sorry, I'm just kind of
7 doing this off the cuff.

8 COMMISSIONER QUINTANA: If the first story before
9 the setback to the second story, if that roofline were not
10 as steep, would that provide longer vertical surface on the
11 wall?

12 DAVID BRITT: It would expose more of that wall,
13 correct. That 2' section would go to something like 3'-4'.
14 Also keep in mind that this wall height stays the same. This
15 does not get any taller, because we're working off the
16 existing wall plate.

17 CHAIR BURKE: Any further questions? Commissioner
18 Talesfore.

19 COMMISSIONER TALESFORE: I was looking at your
20 lot, and I know it's long and narrow and difficult, and I
21 see you have a porch with it looks like a tiled deck or
22 something.

23 DAVID BRITT: This is on the site plan?

24 COMMISSIONER TALESFORE: It's on A-1, yes, site
25 plan. I don't know, I'm just looking at this and I want to
throw it out as something to look at. But is there any way-

1 it would cause you to lose more of your backyard, which I
2 know is precious—is there any way you could perhaps move
3 some rooms? I mean can you do any more building toward the
4 back? And I know that's not optimum, believe me.

5 DAVID BRITT: It becomes difficult for two
6 reasons. One, we're dealing with that 24" diameter cedar
7 tree, which those trees actually made it difficult to design
8 a basement; the root systems were of a concern. So I think
9 it would be difficult to try to get square footage back
10 there.

11 The other concern also is with the next-door
12 neighbor. We were concerned about the building going beyond
13 his one-story building to shade, because the...

14 COMMISSIONER TALESFORE: Did you ask him?

15 DAVID BRITT: Yeah, it was a concern. It was a
16 concern.

17 MELISSA WAGNER: If I can just interject, the
18 other thing too is my baby is only seven months old, and I
19 plan on having another baby, and I would rather have those
20 babies on the same floor I'm on. I mean if any of you are
21 mothers you can probably understand that. I don't want them
22 on a separate floor than me. So even to put bedrooms down
23 there would be impractical for us as a family.

24 CHAIR BURKE: Any further questions? Commissioner
25 Quintana.

1 COMMISSIONER QUINTANA: The current design, how
2 many parking spaces would there be available onsite?

3 DAVID BRITT: Legally I think three, correct?

4 COMMISSIONER QUINTANA: Without the disputed area.

5 MELISSA WAGNER: We requested the non-conforming
6 parking variance, but without the disputed area, if the
7 disputed area wasn't part, we'd still have one legal parking
8 space. But this disputed area has been part of our property
9 for 50 years; it's been used as our front yard and our
10 driveways, so we have no concern that a judge will at least
11 give us easements to continue using it the way it's been
12 used for 50 years. So we will continue to park where we
13 always have.

14 COMMISSIONER QUINTANA: And what is the distance
15 between the steps on the west side and the setback of the
16 house?

17 DAVID BRITT: That's a required 3' landing, so
18 that would be 5'.

19 COMMISSIONER QUINTANA: No, I don't mean to the
20 side yard, I mean to the front, where a car could park.

21 DAVID BRITT: Oh, I see what you're saying, the
22 distance between the steps and the new parking pad.

23 COMMISSIONER QUINTANA: The front of the house.

24 MELISSA WAGNER: You're looking at the old. You're
25 talking about on the new.

1 COMMISSIONER QUINTANA: My pencil measure says
2 it's about 25'.

3 MELISSA WAGNER: Okay, so she's talking about the
4 steps of the mudroom to the front, so that's 24' plus 25',
5 because we're at a 25' setback and then 24' where those
6 stairs start, so that's what?

7 COMMISSIONER QUINTANA: No, I'm just interested in
8 the 25' from the stairs to the setback. Thank you.

9 DAVID BRITT: Sorry about that.

10 CHAIR BURKE: Any further questions at this point?
11 Commissioner Talesfore.

12 COMMISSIONER TALESFORE: I'm going to try again. I
13 don't know, maybe you've thought about this. I'm looking at
14 A-3 on your plans. Is there any way you could flip this
15 design at all?

16 DAVID BRITT: Flip the design?

17 COMMISSIONER TALESFORE: Well, have the
18 staircase...

19 DAVID BRITT: The thing with the staircase would
20 actually make the building taller on that side, because
21 obviously the staircase needs a taller ceiling.

22 COMMISSIONER TALESFORE: And there's no other
23 place to put that staircase that wouldn't impact?

24 DAVID BRITT: The staircase location in my mind
25 creates the least impact.

1 COMMISSIONER TALESFORE: Okay, what creates the
2 most impact for you then?
3 DAVID BRITT: What creates the most impact?
4 COMMISSIONER TALESFORE: Mmm-hmm, on that second
5 floor.
6 MELISSA WAGNER: Probably the bedroom.
7 DAVID BRITT: Yeah, the front bedroom.
8 MELISSA WAGNER: The side that the staircase is
9 located on is the opposite side.
10 DAVID BRITT: Right.
11 MELISSA WAGNER: That would totally cut off the
12 side next to the Shellooes.
13 DAVID BRITT: One thing we also haven't brought up
14 is the fact that we've really paid attention to privacy on
15 that side of the house. We've got small windows that are
16 deep inset. The dormer windows that are now proposed are
17 deep inset, so even if you wanted to you couldn't stand and
18 look through those windows and down onto a neighbor's
19 property. Just thought I'd add that in.
20 CHAIR BURKE: If the Commission is finished with
21 questions of the applicant, I'm going to close the public
22 hearing at this point.
23 COMMISSIONER QUINTANA: I have one more question.
24 I'm trying to figure this out looking between the old plan
25 and the new plan. How far back from the front setback is
there an 8' setback from the side yard? Let me see if I can

1 phrase my question differently. When I look at the original
2 plans there seems to be more area for a car to park on that
3 side of the house. When I looked at the revised plans that
4 area seems to be reduced and I'm not quite sure of the
5 length of the reduction.
6 MELISSA WAGNER: And we didn't change the
7 (inaudible).
8 DAVID BRITT: Are you referring to A-1 or the
9 floor plan itself?
10 COMMISSIONER QUINTANA: I'm referring to A-1 on
11 the original plans and on the revised plans.
12 DAVID BRITT: Let me go to the site plans. Oh
13 yeah, the A-1 on the old plans, we had noted a...
14 MELISSA WAGNER: Parking on the property under
15 dispute.
16 DAVID BRITT: Yeah, so that was removed. Actually
17 that was removed quite some time ago.
18 MELISSA WAGNER: That's why it looks that way,
19 because that depicted parking on the property under dispute.
20 DAVID BRITT: Right.
21 MELISSA WAGNER: Now we're not even putting that
22 into the...
23 DAVID BRITT: We're not showing what... Does that
24 make sense.
25 COMMISSIONER QUINTANA: Yes, but you're saying
that there is space for one car onsite?

1 DAVID BRITT: Yeah, on A-1 on the new plans there
2 is space for one car.

3 CHAIR BURKE: I'm going close the public hearing
4 and we can have questions of Staff, comments, and a motion,
5 so thank you very much.

6 DAVID BRITT: Thank you.

7 CHAIR BURKE: Before I open it up to the
8 Commission I'd like Mr. Korb to comment on the statement
9 made by Ms. Wagner regarding them parking their cars where
10 they have always. I just want to clarify for the record what
11 we are supposed to take under consideration here.

12 ORRY KORB: As you know and just to clarify the
13 statement made by the applicant, the applicant is not
14 seeking a variance regarding parking requirements. They are
15 seeking an exemption from the required parking pursuant to
16 Section 29.10.150, Subsection H of the Town Code, and the
17 finding that you're required to make in that regard that's
18 applicable to this application, you can find it on Zipit,
19 and it's on the last page I believe that the lot does not
20 have adequate area to provide parking as required by
21 Subsection C-1.

22 Whether the disputed area has been used in the
23 past as parking is an argument that the parties will deal
24 with I assume in the litigation. How that issue is
25 ultimately resolved is something we don't know. It is not a
fact before you for you to consider, so what you should be

1 considering again is whether you can make the finding
2 required by the Town Code in order to approve an exemption
3 from the otherwise mandatory parking requirements.

4 CHAIR BURKE: Commissioner Quintana.

5 COMMISSIONER QUINTANA: In considering that
6 exemption can the Commission consider whether the site would
7 accommodate tandem parking versus just a one car?

8 ORRY KORB: The Commission can consider that.
9 Again the question as stated in the finding is whether
10 there's adequate area on the lot. So if there's adequate
11 area for a different parking configuration, then it may be
12 difficult to make the finding.

13 COMMISSIONER QUINTANA: Is that adequate area on
14 the lot given the proposed design or adequate area on the
15 lot given a modified design?

16 ORRY KORB: Well it's given the proposed design.
17 Yeah, you can suggest that they build a much smaller house
18 and then there will be more than adequate parking, and that
19 would make it difficult for you to make the finding, but if
20 you feel that the house if properly designed, then you
21 you're looking at the lot with that constriction.

22 RANDY TSUDA: And there's actually two parts to
23 that. One is that under the code you need to determine that
24 the addition is necessary to provide adequate floor area.
25 That's one part. If you conclude that, then the second part
is there is not adequate land area to provide the parking.

1 There's two parts to that finding. The addition is necessary
2 to provide adequate floor area and there is not enough land
3 area.

4 COMMISSIONER QUINTANA: I'm going to push this a
5 little bit. Adequate floor area for what?

6 RANDY TSUDA: The code reads, "For suitable living
7 environment."

8 CHAIR BURKE: Mr. Tsuda, one of the questions, if
9 the Commission decides to make the findings, it has to be
10 accessible land area I assume, because there is the area
11 that you can't get a vehicle to.

12 RANDY TSUDA: Yes.

13 CHAIR BURKE: Okay.

14 RANDY TSUDA: You may be able to stack cars there,
15 but that may not be practical.

16 CHAIR BURKE: Right, you mean you can't get them
17 back to that... And we don't have to consider that? Well we
18 can consider that that's inaccessible to motor vehicles?

19 RANDY TSUDA: Right. It's fair to say practical
20 parking space.

21 CHAIR BURKE: Okay, that's good. That's what I
22 wanted. Now that I think we've beaten this thing pretty
23 well, Commissioner Quintana.

24 COMMISSIONER QUINTANA: Actually I have to make a
25 statement and then I do have one more question regarding

1 that, but I'm going to check something in the Staff Report
2 first.

3 I need to say that I visited the site and did
4 visit the interior of the neighbors' house to see what the
5 visibility was from the windows on the west side, and I
6 found that if I walked immediately against the windows I
7 could see a sliver of sky given the story pole
8 configuration.

9 Without the story pole as the house exists today
10 there was quite a bit of sky that could be seen. If I walked
11 just a few feet from the window there was literally no sky
12 to be visible, and a taller person would probably see it
13 even less than I do because they'd have a different angle.

14 CHAIR BURKE: Thank you. Any other questions of
15 Staff, or statements, or can I get a motion?

16 ORRY KORB: Before you get a motion, does anybody
17 else have anything to add to the record concerning having
18 visited the site and made any other observations that are
19 relevant to your consideration of the application?

20 CHAIR BURKE: I visited the site, but kind of from
21 off-parcel, just to get an over an overall feel.

22 COMMISSIONER TALESFORE: So did I.

23 COMMISSIONER BOURGEOIS: Same here.

24 COMMISSIONER MICCICHE: I drove past.

25 ORRY KORB: That's sufficient, thank you.

CHAIR BURKE: Commissioner Quintana.

1 COMMISSIONER QUINTANA: One other observation when
2 I went onto the site is that most of the massing that has
3 been reduced is massing that's visible from the rear of the
4 lot, less so from the neighbor's side.

5 But I did have a question of Staff because I'm
6 having trouble finding what I was referring to. The revised
7 design did increase the size of the first floor, and I'm
8 assuming it was increased moving some of the area to the
9 west.

10 RANDY TSUDA: And under the previous submittal
11 reviewed the first floor was 1,381 square feet. The revised
12 design is 1,497. There is additional floor area towards the
13 west and it's nominally towards the west.

14 COMMISSIONER QUINTANA: Towards the west?

15 RANDY TSUDA: Away from the Shellooe house.

16 COMMISSIONER QUINTANA: And towards the front?

17 RANDY TSUDA: No the front setback remains the
18 same.

19 COMMISSIONER QUINTANA: I mean the side front, the
20 side towards the front.

21 RANDY TSUDA: Actually it looks like more was
22 added towards the back.

23 COMMISSIONER QUINTANA: Okay, thank you.

24 CHAIR BURKE: Thank you. Commissioner Micciche.

25

1 COMMISSIONER MICCICHE: I'm going to make a
2 motion. I'm going to make a motion to approve Architecture
3 and Site Application S-05-063.

4 I believe the applicant has followed the direction
5 given by the Planning Commission at the last meeting. I also
6 believe that Staff has reviewed this and agrees that it
7 meets the guidelines and has reduced the mass and scale of
8 the overall project for less of a view impact. And I also
9 believe that our architect concurs with that as well.

10 So I will make the finding that this project is
11 category exempt pursuant to Section 15.301 of the State
12 Environmental Guidelines as adopted by the Town and is
13 required by Section 29.21.50 of the Town Code for
14 Architecture and Site Applications and is referenced in
15 Exhibit N.

16 Do I have to make any specific statement about the
17 parking variation?

18 ORRY KORB: Do you find that the lot has
19 insufficient space to meet the general parking requirement?

20 COMMISSIONER MICCICHE: I have found such.

21 ORRY KORB: Then it's sufficient.

22 COMMISSIONER MICCICHE: Do I have a second?

23 COMMISSIONER O'DONNELL: Second.

24 CHAIR BURKE: We have a motion and a second. All
25 those in favor? Wait. Oh, excuse me. Commissioner Quintana,
you wish to ask something?

1 COMMISSIONER QUINTANA: No, I wish to make a
2 statement.

3 CHAIR BURKE: Oh, that's right, please make the
4 statement.

5 COMMISSIONER QUINTANA: I'm not going to be
6 supporting the motion for the following reasons:

7 I do not believe that the revised design does meet
8 the direction of the Commission. While the mass has been
9 reduced 65% from the east side of the house, the visual mass
10 still remains great on that side. It blocks out almost the
11 entire view of light from that side of the house.

12 In addition, looking at the neighborhood, I do not
13 feel that the house is compatible with the rest of the
14 neighborhood in that these are the only two houses on the
15 street that have that small a side yard setback. Most of the
16 other houses on the street have side yard setbacks of 15'-
17 20', giving considerably more room between the two houses.

18 In addition, there are some houses on the street
19 that are two-story, but all of those houses are on lots
20 where there is greater side yard setbacks, and those houses
21 also have gable sides facing the adjacent neighbors, which
22 again gives greater view between the two properties.

23 And I also think that this design creates a change
24 in the mass and scale between the existing houses that isn't
25 as apparent on the rest of the street. From reading Mr.
Cannon's letters, both letters seem to indicate that given

1 the design they had done as best they could, but both
2 letters also indicate that a major change would be necessary
3 to do better. He doesn't exclude the ability to make that
4 major change.

5 And lastly, the question of the area being
6 suitable for living. That's a very relative statement. I
7 would venture to guess that there are many people in this
8 room who have houses that are smaller than the house being
9 proposed by this application and don't feel that their
10 houses aren't suitable for living.

11 So those are the reasons I'm going to vote against
12 the motion.

13 CHAIR BURKE: Okay, we'll try this again. All
14 those favor of the motion? Those opposed.

15 CHAIR BURKE: It carries four-three.

16 ORRY KORB: Appeal rights. Anyone dissatisfied
17 with the decision of the Planning Commission may appeal the
18 decision to the Town Council. The appeal must be filed
19 within ten days; it must be filed upstairs in the Clerk's
20 Office on forms available in the Clerk's Office. There is a
21 fee for filing an appeal.

REQUIRED FINDINGS AND CONSIDERATIONS FOR:

16750 Farley Road

Architecture and Site Application S-05-063

Requesting approval of a second story addition on property zoned R-1:8. APN 529-15-097

PROPERTY OWNER: Glen and Melissa Wagner

APPLICANT: David Britt

FINDINGS

- It has been determined that this project is Categorically Exempt pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.

CONSIDERATIONS

- As required by Section 29.20.150 of the Town Code for Architecture and Site applications.

The deciding body shall consider all relevant matter including, but not limited to, the following:

- (1) *Considerations relating to traffic safety and traffic congestion.* The effect of the site development plan on traffic conditions on abutting streets; the layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, drives, and walkways; the adequacy of off-street parking facilities to prevent traffic congestion; the location, arrangement, and dimension of truck loading and unloading facilities; the circulation pattern within the boundaries of the development, and the surfacing, lighting and handicapped accessibility of off-street parking facilities.
 - A. Any project or development that will add traffic to roadways and critical intersections shall be analyzed, and a determination made on the following matters:
 1. The ability of critical roadways and major intersections to accommodate existing traffic;
 2. Increased traffic estimated for approved developments not yet occupied; and
 3. Regional traffic growth and traffic anticipated for the proposed project one (1) year after occupancy.
 - B. The deciding body shall review the application for traffic roadway/intersection capacity and make one (1) of the following determinations:
 1. The project will not impact any roadways and/or intersections causing the roadways and/or intersections to exceed their available capacities.

2. The project will impact a roadway(s) and/or intersection(s) causing the roadway(s) and/or intersection(s) to exceed their available capacities.

Any project receiving Town determination subsection (1)b.1. may proceed. Any project receiving Town determination subsection (1)b.2. must be modified or denied if the deciding body determines that the impact is unacceptable. In determining the acceptability of a traffic impact, the deciding body shall consider if the project's benefits to the community override the traffic impacts as determined by specific sections from the general plan and any applicable specific plan.

- (2) *Considerations relating to outdoor advertising.* The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards and the appearance and harmony with adjacent development. Specialized lighting and sign systems may be used to distinguish special areas or neighborhoods such as the downtown area and Los Gatos Boulevard.
- (3) *Considerations relating to landscaping.* The location, height, and materials of walls, fences, hedges and screen plantings to insure harmony with adjacent development or to conceal storage areas, utility installations, parking lots or unsightly development; the planting of ground cover or other surfacing to prevent dust and erosion; and the unnecessary destruction of existing healthy trees. Emphasize the use of planter boxes with seasonal flowers to add color and atmosphere to the central business district. Trees and plants shall be approved by the Director of Parks, Forestry and Maintenance Services for the purpose of meeting special criteria, including climatic conditions, maintenance, year-round versus seasonal color change (blossom, summer foliage, autumn color), special branching effects and other considerations.
- (4) *Considerations relating to site layout.* The orientation and location of buildings and open spaces in relation to the physical characteristics of the site and the character of the neighborhood; and the appearance and harmony of the buildings with adjacent development.

Buildings should strengthen the form and image of the neighborhood (e.g. downtown, Los Gatos Boulevard, etc.). Buildings should maximize preservation of solar access. In the downtown, mid-block pedestrian arcades linking Santa Cruz Avenue with existing and new parking facilities shall be encouraged, and shall include such crime prevention elements as good sight lines and lighting systems.

- (5) *Considerations relating to drainage.* The effect of the site development plan on the adequacy of storm and surface water drainage.
- (6) *Considerations relating to the exterior architectural design of buildings and structures.* The effect of the height, width, shape and exterior construction and design of buildings and structures as such factors relate to the existing and future character of the neighborhood

and purposes of the zone in which they are situated, and the purposes of architecture and site approval. Consistency and compatibility shall be encouraged in scale, massing, materials, color, texture, reflectivity, openings and other details.

- (7) *Considerations relating to lighting and street furniture.* Streets, walkways, and building lighting should be designed so as to strengthen and reinforce the image of the Town. Street furniture and equipment, such as lamp standards, traffic signals, fire hydrants, street signs, telephones, mail boxes, refuse receptacles, bus shelters, drinking fountains, planters, kiosks, flag poles and other elements of the street environment should be designated and selected so as to strengthen and reinforce the Town image.
- (8) *Considerations relating to access for physically disabled persons.* The adequacy of the site development plan for providing accessibility and adaptability for physically disabled persons. Any improvements to a nonresidential building where the total valuation of alterations, structural repairs or additions exceeds a threshold value established by resolution of the Town Council, shall require the building to be modified to meet the accessibility requirements of title 24 of the California Administrative Code adaptability and accessibility. In addition to retail, personal services and health care services are not allowable uses on nonaccessible floors in new nonresidential buildings. Any change of use to retail, health care, or personal service on a nonaccessible floor in a nonresidential building shall require that floor to be accessible to physically disabled persons pursuant to the accessibility requirements of title 24 of the California Administrative Code and shall not qualify the building for unreasonable hardship exemption from meeting any of those requirements. This provision does not effect lawful uses in existence prior to the enactment of this chapter. All new residential developments shall comply with the Town's adaptability and accessibility requirements for physically disabled persons established by resolution.
- (9) *Considerations relating to the location of a hazardous waste management facility.* A hazardous waste facility shall not be located closer than five hundred (500) feet to any residentially zoned or used property or any property then being used as a public or private school primarily educating persons under the age of eighteen (18). An application for such a facility will require an environmental impact report, which may be focused through the initial study process.
 - As required by Section 29.10.150(h) of the Town Code for exemptions on the number of off-street parking spaces required.
 - (h) *Exemptions.* Compliance with subsection (c)(1) is not required if the deciding body makes the following findings:
 - (1) The Historic Preservation Committee determines that the enforcement of subsection (g) will impact the historic character of the site and/or structures on the site; and

- (2) The addition is determined necessary to provide adequate floor area for a suitable living environment; and
- (3) The lot does not have adequate area to provide parking as required by subsection (c)(1). This finding is not required if subsection (h)(1) is made.

If the deciding body makes the findings set forth in subsections (h)(1), (2) and (3) above, parking shall be provided to the maximum extent possible.

CONDITIONS FOR:

16750 Farley Road

Architecture and Site Application S-05-063

Requesting approval of a second story addition on property zoned R-1:8. APN 529-15-097.

PROPERTY OWNER: Glen and Melissa Wagner

APPLICANT: David Britt

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

(Planning Division)

1. EXPIRATION OF APPROVAL: This approval application will expire two years from the date of approval unless it is used before expiration. Section 29.20.335 defines what constitutes the use of an approval granted under the Zoning Ordinance.
2. APPROVAL. This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans dated October 5, 2005. Any minor changes or modifications made to the approved plans shall be approved by the Director of Community Development.
3. SALVAGING OF MATERIALS. At least ten days prior to the date of demolition, the developer shall provide to the Town a written notice and an advertisement published in a newspaper of general circulation, regarding the availability of materials for salvage, including the name and telephone number of a contact person. No salvaging of materials shall occur until a demolition permit has been approved by the Community Development Department.
4. RECYCLING. All wood, metal, glass and aluminum materials generated from the demolished structure shall be deposited to a company which will recycle the materials. Receipts from the company(s) accepting these materials, noting type and weight of material, shall be submitted to the Town prior to the Town's demolition inspection.
5. COMPLIANCE MEMORANDUM. The applicant shall prepare and submit a memorandum with the building permit, detailing how each of these Conditions of Approval have or will be addressed.
6. STORY POLES. The story poles on the project site shall be removed within 30 days of approval of the Architecture & Site application.
7. TREES. 3 mid-height trees approved by the Director of Community Development shall be installed in the front/side yard prior to building permit final.

TO THE SATISFACTION OF THE BUILDING DEPARTMENT:

8. PERMITS REQUIRED: A building permit shall be required for the second story addition and remodel of the existing single family residence. Separate permits are required for electrical, mechanical, and plumbing work as necessary.
9. CONDITIONS OF APPROVAL: The Conditions of Approval must be blue-lined in full on the cover sheet of the construction plans.

10. SIZE OF PLANS: Four sets of construction plans, maximum size 24" x 36."
11. SOILS REPORT: A soils report, prepared to the satisfaction of the Building Official, containing foundation and retaining wall design recommendations, shall be submitted with the building permit application. This report shall be prepared by a licensed civil engineer specializing in soils mechanics. ALTERNATE: Design the foundation for an allowable soils 1,000 psf design pressure. (Uniform Building Code Volume 2 - Section 1805)
12. FOUNDATION INSPECTIONS: A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project building inspector at foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report; and, the building pad elevation, on-site retaining wall locations and elevations are prepared according to approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer for the following items:
 - a. Building pad elevation
 - b. Finish floor elevation
 - c. Foundation corner locations
13. TITLE 24 ENERGY COMPLIANCE: California Title 24 Energy Compliance forms CF-1R and MF-1R must be blue-lined on the plans.
14. TOWN FIREPLACE STANDARDS: New wood burning fireplaces shall be an EPA Phase II approved appliance as per Town Ordinance 1905. Tree limbs shall be cut within 10-feet of chimneys.
15. SPECIAL INSPECTIONS: When a special inspection is required by UBC Section 1701, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the building permit. The Town Special Inspection form must be completely filled-out, signed by all requested parties and be blue-lined on the construction plans. Special Inspection forms are available from the Building Division Service Counter or online at www.losgatosca.gov.
16. NONPOINT SOURCE POLLUTION STANDARDS: The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program shall be part of the plan submittal as the second page. The specification sheet is available at the Building Division Service Counter for a fee of \$2 or at San Jose Blue Print.
17. APPROVALS REQUIRED: The project requires the following agencies approval before issuing a building permit:
 - d. Community Development: Rachel Bacola at 354-6802
 - e. Engineering Department: Fletcher Parsons at 395-3460
 - f. Santa Clara County Fire Department: (408) 378-4010
 - g. West Valley Sanitation District: (408) 378-2407
 - h. Local School District: (Contact the Town Building Service Counter for the appropriate school district and to obtain the school form.)

TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS:
(Engineering Division)

18. GENERAL. All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm

drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.

19. ENCROACHMENT PERMIT. All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security.
20. PUBLIC WORKS INSPECTIONS. The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting any work pertaining to on-site drainage facilities, grading or paving, and all work in the Town's right-of-way. Failure to do so will result in rejection of work that went on without inspection.
21. CONSTRUCTION STREET PARKING. No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior approval from the Town Engineer (§ 15.40.070).
22. SITE DRAINAGE. Rainwater leaders shall be discharged to splash blocks. No through curb drains will be allowed.
23. SILT AND MUD IN PUBLIC RIGHT-OF-WAY. It is the responsibility of contractor and home owner to make sure that all dirt tracked into the public right-of-way is cleaned up on a daily basis. Mud, silt, concrete and other construction debris SHALL NOT be washed into the Town's storm drains.
24. RESTORATION OF PUBLIC IMPROVEMENTS. The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.
25. SANITARY SEWER LATERAL. Sanitary sewer laterals are televised by West Valley Sanitation District and approved by the Town of Los Gatos before they are used or reused. Install a sanitary sewer lateral clean-out at the property line.
26. SANITARY SEWER BACKWATER VALVE. Drainage piping serving fixtures which have flood level rims less than twelve (12) inches (304.8 mm) above the elevation of the next upstream manhole and/or flushing inlet cover at the public or private sewer system serving such drainage piping shall be protected from backflow of sewage by installing an approved type backwater valve. Fixtures above such elevation shall not discharge through the backwater valve, unless first approved by the Administrative (Sec. 6.50.025). The Town shall not incur any liability or responsibility for damage resulting from a sewer overflow where the property owner or other person has failed to install a backwater valve, as defined section 103(e) of the Uniform Plumbing Code adopted by section 6.50.010 of the Town Code and maintain such device in a functional operating condition. Evidence of West Valley Sanitation District's decision on whether a backwater device is needed shall be provided prior to issuance of a building permit.

27. CONSTRUCTION NOISE. Between the hours of 8:00 a.m. to 8:00 p.m., weekdays and 9:00 a.m. to 7:00 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.
28. HAULING OF SOIL. Hauling of soil on or off-site shall not occur during the morning or evening peak periods (between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m.). Prior to the issuance of a building permit, the developer shall work with the Town Building and Engineering Department Engineering Inspectors to devise a traffic control plan to ensure safe and efficient traffic flow under periods when soil is hauled on or ff the project site. This may include, but is not limited to provisions for the developer/owner to place construction notification signs noting the dates and time of construction and hauling activities, or providing additional traffic control. Cover all trucks hauling soil, sand, and other loose debris or require all trucks to maintain at least two feet of freeboard.

Date: October 19, 2005
For Agenda Of: October 26, 2005
Agenda Item: 1

REPORT TO: The Planning Commission
FROM: The Development Review Committee
LOCATION: 16750 Farley Road
Architecture and Site Application S-05-063

Requesting approval to construct a new second story on property zoned R-1:8. APN 529-15-097
PROPERTY OWNER: Melissa and Glen Wagner
APPLICANT: David Britt

DEEMED COMPLETE: May 17, 2005
FINAL DATE TO TAKE ACTION BY: November 17, 2005

FINDINGS: ■ It has been determined that the project is Categorically Exempt pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.

CONSIDERATIONS: ■ As required by Section 29.20.150 of the Town Code for Architecture and Site Applications
■ As required by Section 29.10.150(h) of the Town Code for exemptions on the number of off-street parking spaces required.

EXHIBITS: A.-M. Previously submitted.
N. Required findings
O. Conditions of Approval
P. Previously Submitted Staff Reports (5 Pages), dated June 3, 2005, June 30, 2005, August 17, 2005.
Q. Revised Project Description and Letter of Justification (1 Page), received October 18, 2005
R. Review Letter from Cannon Design Group (2 Page), received October 18, 2005
S. Follow-up letter from neighbor (7 Pages), received October 18, 2005
T. Development Plans (9 Pages), received October 5, 2005

A. DISCUSSION

1. Project Background

At the meeting of June 8, 2005, the Planning Commission granted a continuance of this application to allow the applicant additional time to work on a redesign of the proposed second story addition. The Planning Commission granted additional continuances on July 13 and August 24, 2005.

With the revised plans, the applicant is requesting approval to add 510.5 square feet to the existing first floor of a single family home and a 1,071 square foot second story addition. The total living area of the proposed residence is 2,548 square feet. The proposed maximum height is 25 feet. Due to the non-conforming size of the lot and legal access rights to the existing two car garage at the rear of the property the project does not meet the off-street parking requirement for a single family home. Additional off street parking are not proposed with this application. As required by Town Code, an exemption for the number of off street parking spaces can be made as long as the deciding body can make the findings in section 29.10.150(h) (Exhibit A). Due to the non-conforming width of the lot, the applicant is requesting a reduced setback of 4 feet on the western side of the property.

A revised project description and letter of justification from the applicant provides a summary of how the proposed revisions made to the plans meet the direction from Planning Commission on June 8, 2005 (Exhibit Q).

2. Project Revisions

The Planning Commission directed the applicant to reduce the overall mass and scale of the proposed structure and reduce the daylight and view impacts to the abutting neighbor to the east. The Commission directed the applicant to consider shifting a portion of the proposed second story addition into a story and half design rather than a full two story structure to reduce massing of the eastern portion of the second story. The lot is considered nonconforming due to its size and width; therefore, the Commission directed the applicant to consider proposing a reduced setback on the western portion of the property in order to move the second floor mass away from the easterly neighbor. The applicant is requesting a 4 foot reduced setback in order to meet fire and building code requirements.

Significant revisions were made to the eastern, western, and southern elevations. The front elevation did not substantially change. The maximum ridge height of the structure has been lowered from 26' to 25'.

The second floor mass along the eastern elevation is now significantly stepped back from the first floor. With the first proposal, a 16 foot long area near the middle of the second story addition was recessed back by 4'. The revised plans show a 44 foot long portion of the second floor that is setback seven feet. With the revised design most of the eastern elevation is a one and half story design with small windows facing east.

The applicant has provided a drawing to show how the mass of the revised project compares with the original proposal (Sheet A6 of Exhibit T). The revised shadow study shows that there is less of an impact to the neighbors on the east during the winter season (Exhibit T).

3. Property Dispute

Since the first hearing on June 8, 2005, legal rights to this piece of the abandoned portion of Augustine Way have not been settled between the applicant and the concerned neighbor. The portion of Augustine Way is shown on the development plans and noted as land under dispute (Exhibit T).

4. Neighborhood Compatibility

The revised structure is consistent with size of homes in the immediate neighborhood which range in size from 966 square feet (FAR .04) to 2,861 square feet (FAR .31). The homes in the immediate neighborhood are a mix of one and two story homes.

5. Neighbor Concern

Staff met with the concerned neighbor on October 7, 2005 to discuss the revised plans and answer questions about proposed changes to the second story. Staff met with the neighbor on site to review the story poles on October 12, 2005. The concerned neighbor has submitted a detailed letter expressing his concerns with the revised project (Exhibit S).

6. Design Review

The Town's Consulting Architect reviewed the revised proposed plan and agrees that the applicant has pulled back a significant amount of second floor mass (Exhibit R).

B. RECOMMENDATION:

Staff has determined that the changes made to the plans are consistent with the direction that was given by the Planning Commission on June 8, 2005. Staff believes that the revisions will reduce the mass and scale of the overall project and provide less of a view impact to the concerned neighbor to the east of the subject site.

Staff finds that the revised plans with the recommended conditions of approval are consistent with the Residential Design Guidelines. The Planning Commission should carefully consider any public input on this matter to determine if the neighbors that are directly affected by the proposed application raise compelling concerns or issues that should be addressed through additional conditions of approval.

If the Commission finds merit with the proposal, it should:

1. Make the required findings (Exhibit N),
2. Approve the Architecture and Site application subject to conditions (Exhibit O).

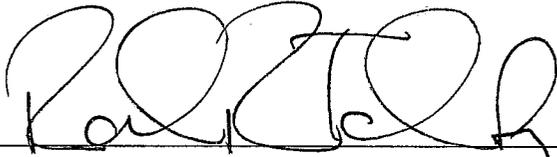
The Planning Commission - Page 4

16750 Farley Road/ S-05-064

October 26, 2005

If the Commission has concerns with the application, it can:

1. Request that the applicant waive final date to take action and continue the matter to a date certain with specific directions, or
2. Deny the application.

A handwritten signature in black ink, appearing to read 'Bud N. Lortz', written over a horizontal line.

Bud N. Lortz, Director of Community Development

Prepared by: Rachel B. Peled, Assistant Planner

BNL:RBP:mdc

cc: Melissa and Glen Wagner, 16750 Farley Road, Los Gatos, CA, 95031
Bill Shellooe and Patricia Bottero, 16742 Farley Road, Los Gatos, CA, 95031

N:\DEV\REPORTS\2005\FarleyRd4.wpd

REQUIRED FINDINGS AND CONSIDERATIONS FOR:

16750 Farley Road

Architecture and Site Application S-05-063

Requesting approval of a second story addition on property zoned R-1:8. APN 529-15-097

PROPERTY OWNER: Glen and Melissa Wagner

APPLICANT: David Britt

FINDINGS

- It has been determined that this project is Categorically Exempt pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.

CONSIDERATIONS

- As required by Section 29.20.150 of the Town Code for Architecture and Site applications.

The deciding body shall consider all relevant matter including, but not limited to, the following:

- (1) *Considerations relating to traffic safety and traffic congestion.* The effect of the site development plan on traffic conditions on abutting streets; the layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, drives, and walkways; the adequacy of off-street parking facilities to prevent traffic congestion; the location, arrangement, and dimension of truck loading and unloading facilities; the circulation pattern within the boundaries of the development, and the surfacing, lighting and handicapped accessibility of off-street parking facilities.
 - A. Any project or development that will add traffic to roadways and critical intersections shall be analyzed, and a determination made on the following matters:
 1. The ability of critical roadways and major intersections to accommodate existing traffic;
 2. Increased traffic estimated for approved developments not yet occupied; and
 3. Regional traffic growth and traffic anticipated for the proposed project one (1) year after occupancy.
 - B. The deciding body shall review the application for traffic roadway/intersection capacity and make one (1) of the following determinations:
 1. The project will not impact any roadways and/or intersections causing the roadways and/or intersections to exceed their available capacities.

2. The project will impact a roadway(s) and/or intersection(s) causing the roadway(s) and/or intersection(s) to exceed their available capacities.

Any project receiving Town determination subsection (1)b.1. may proceed. Any project receiving Town determination subsection (1)b.2. must be modified or denied if the deciding body determines that the impact is unacceptable. In determining the acceptability of a traffic impact, the deciding body shall consider if the project's benefits to the community override the traffic impacts as determined by specific sections from the general plan and any applicable specific plan.

- (2) *Considerations relating to outdoor advertising.* The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards and the appearance and harmony with adjacent development. Specialized lighting and sign systems may be used to distinguish special areas or neighborhoods such as the downtown area and Los Gatos Boulevard.
- (3) *Considerations relating to landscaping.* The location, height, and materials of walls, fences, hedges and screen plantings to insure harmony with adjacent development or to conceal storage areas, utility installations, parking lots or unsightly development; the planting of ground cover or other surfacing to prevent dust and erosion; and the unnecessary destruction of existing healthy trees. Emphasize the use of planter boxes with seasonal flowers to add color and atmosphere to the central business district. Trees and plants shall be approved by the Director of Parks, Forestry and Maintenance Services for the purpose of meeting special criteria, including climatic conditions, maintenance, year-round versus seasonal color change (blossom, summer foliage, autumn color), special branching effects and other considerations.
- (4) *Considerations relating to site layout.* The orientation and location of buildings and open spaces in relation to the physical characteristics of the site and the character of the neighborhood; and the appearance and harmony of the buildings with adjacent development.

Buildings should strengthen the form and image of the neighborhood (e.g. downtown, Los Gatos Boulevard, etc.). Buildings should maximize preservation of solar access. In the downtown, mid-block pedestrian arcades linking Santa Cruz Avenue with existing and new parking facilities shall be encouraged, and shall include such crime prevention elements as good sight lines and lighting systems.

- (5) *Considerations relating to drainage.* The effect of the site development plan on the adequacy of storm and surface water drainage.
- (6) *Considerations relating to the exterior architectural design of buildings and structures.* The effect of the height, width, shape and exterior construction and design of buildings and structures as such factors relate to the existing and future character of the neighborhood

and purposes of the zone in which they are situated, and the purposes of architecture and site approval. Consistency and compatibility shall be encouraged in scale, massing, materials, color, texture, reflectivity, openings and other details.

- (7) *Considerations relating to lighting and street furniture.* Streets, walkways, and building lighting should be designed so as to strengthen and reinforce the image of the Town. Street furniture and equipment, such as lamp standards, traffic signals, fire hydrants, street signs, telephones, mail boxes, refuse receptacles, bus shelters, drinking fountains, planters, kiosks, flag poles and other elements of the street environment should be designated and selected so as to strengthen and reinforce the Town image.
- (8) *Considerations relating to access for physically disabled persons.* The adequacy of the site development plan for providing accessibility and adaptability for physically disabled persons. Any improvements to a nonresidential building where the total valuation of alterations, structural repairs or additions exceeds a threshold value established by resolution of the Town Council, shall require the building to be modified to meet the accessibility requirements of title 24 of the California Administrative Code adaptability and accessibility. In addition to retail, personal services and health care services are not allowable uses on nonaccessible floors in new nonresidential buildings. Any change of use to retail, health care, or personal service on a nonaccessible floor in a nonresidential building shall require that floor to be accessible to physically disabled persons pursuant to the accessibility requirements of title 24 of the California Administrative Code and shall not qualify the building for unreasonable hardship exemption from meeting any of those requirements. This provision does not effect lawful uses in existence prior to the enactment of this chapter. All new residential developments shall comply with the Town's adaptability and accessibility requirements for physically disabled persons established by resolution.
- (9) *Considerations relating to the location of a hazardous waste management facility.* A hazardous waste facility shall not be located closer than five hundred (500) feet to any residentially zoned or used property or any property then being used as a public or private school primarily educating persons under the age of eighteen (18). An application for such a facility will require an environmental impact report, which may be focused through the initial study process.
 - As required by Section 29.10.150(h) of the Town Code for exemptions on the number of off-street parking spaces required.
 - (h) *Exemptions.* Compliance with subsection (c)(1) is not required if the deciding body makes the following findings:
 - (1) The Historic Preservation Committee determines that the enforcement of subsection (g) will impact the historic character of the site and/or structures on the site; and

- (2) The addition is determined necessary to provide adequate floor area for a suitable living environment; and
- (3) The lot does not have adequate area to provide parking as required by subsection (c)(1). This finding is not required if subsection (h)(1) is made.

If the deciding body makes the findings set forth in subsections (h)(1), (2) and (3) above, parking shall be provided to the maximum extent possible.

DRAFT CONDITIONS FOR:

16750 Farley Road

Architecture and Site Application S-05-063

Requesting approval of a second story addition on property zoned R-1:8. APN 529-15-097.

PROPERTY OWNER: Glen and Melissa Wagner

APPLICANT: David Britt

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

(Planning Division)

1. EXPIRATION OF APPROVAL: This approval application will expire two years from the date of approval unless it is used before expiration. Section 29.20.335 defines what constitutes the use of an approval granted under the Zoning Ordinance.
2. APPROVAL. This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans dated October 5, 2005. Any minor changes or modifications made to the approved plans shall be approved by the Director of Community Development.
3. SALVAGING OF MATERIALS. At least ten days prior to the date of demolition, the developer shall provide to the Town a written notice and an advertisement published in a newspaper of general circulation, regarding the availability of materials for salvage, including the name and telephone number of a contact person. No salvaging of materials shall occur until a demolition permit has been approved by the Community Development Department.
4. RECYCLING. All wood, metal, glass and aluminum materials generated from the demolished structure shall be deposited to a company which will recycle the materials. Receipts from the company(s) accepting these materials, noting type and weight of material, shall be submitted to the Town prior to the Town's demolition inspection.
5. COMPLIANCE MEMORANDUM. The applicant shall prepare and submit a memorandum with the building permit, detailing how each of these Conditions of Approval have or will be addressed.
6. STORY POLES. The story poles on the project site shall be removed within 30 days of approval of the Architecture & Site application.
7. TREES. 3 mid-height trees approved by the Director of Community Development shall be installed in the front/side yard prior to building permit final.

TO THE SATISFACTION OF THE BUILDING DEPARTMENT:

8. PERMITS REQUIRED: A building permit shall be required for the second story addition and remodel of the existing single family residence. Separate permits are required for electrical, mechanical, and plumbing work as necessary.

9. CONDITIONS OF APPROVAL: The Conditions of Approval must be blue-lined in full on the cover sheet of the construction plans.
10. SIZE OF PLANS: Four sets of construction plans, maximum size 24" x 36."
11. SOILS REPORT: A soils report, prepared to the satisfaction of the Building Official, containing foundation and retaining wall design recommendations, shall be submitted with the building permit application. This report shall be prepared by a licensed civil engineer specializing in soils mechanics. ALTERNATE: Design the foundation for an allowable soils 1,000 psf design pressure. (Uniform Building Code Volume 2 - Section 1805)
12. FOUNDATION INSPECTIONS: A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project building inspector at foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report; and, the building pad elevation, on-site retaining wall locations and elevations are prepared according to approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer for the following items:
 - a. Building pad elevation
 - b. Finish floor elevation
 - c. Foundation corner locations
13. TITLE 24 ENERGY COMPLIANCE: California Title 24 Energy Compliance forms CF-1R and MF-1R must be blue-lined on the plans.
14. TOWN FIREPLACE STANDARDS: New wood burning fireplaces shall be an EPA Phase II approved appliance as per Town Ordinance 1905. Tree limbs shall be cut within 10-feet of chimneys.
15. SPECIAL INSPECTIONS: When a special inspection is required by UBC Section 1701, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the building permit. The Town Special Inspection form must be completely filled-out, signed by all requested parties and be blue-lined on the construction plans. Special Inspection forms are available from the Building Division Service Counter or online at www.losgatosca.gov.
16. NONPOINT SOURCE POLLUTION STANDARDS: The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program shall be part of the plan submittal as the second page. The specification sheet is available at the Building Division Service Counter for a fee of \$2 or at San Jose Blue Print.
17. APPROVALS REQUIRED: The project requires the following agencies approval before issuing a building permit:
 - d. Community Development: Rachel Bacola at 354-6802
 - e. Engineering Department: Fletcher Parsons at 395-3460
 - f. Santa Clara County Fire Department: (408) 378-4010
 - g. West Valley Sanitation District: (408) 378-2407
 - h. Local School District: (Contact the Town Building Service Counter for the appropriate school district and to obtain the school form.)

TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS:
(Engineering Division)

18. GENERAL. All public improvements shall be made according to the latest adopted Town

Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.

19. ENCROACHMENT PERMIT. All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security.
20. PUBLIC WORKS INSPECTIONS. The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting any work pertaining to on-site drainage facilities, grading or paving, and all work in the Town's right-of-way. Failure to do so will result in rejection of work that went on without inspection.
21. CONSTRUCTION STREET PARKING. No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior approval from the Town Engineer (§ 15.40.070).
22. SITE DRAINAGE. Rainwater leaders shall be discharged to splash blocks. No through curb drains will be allowed.
23. SILT AND MUD IN PUBLIC RIGHT-OF-WAY. It is the responsibility of contractor and home owner to make sure that all dirt tracked into the public right-of-way is cleaned up on a daily basis. Mud, silt, concrete and other construction debris SHALL NOT be washed into the Town's storm drains.
24. RESTORATION OF PUBLIC IMPROVEMENTS. The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.
25. SANITARY SEWER LATERAL. Sanitary sewer laterals are televised by West Valley Sanitation District and approved by the Town of Los Gatos before they are used or reused. Install a sanitary sewer lateral clean-out at the property line.
26. SANITARY SEWER BACKWATER VALVE. Drainage piping serving fixtures which have flood level rims less than twelve (12) inches (304.8 mm) above the elevation of the next upstream manhole and/or flushing inlet cover at the public or private sewer system serving such drainage piping shall be protected from backflow of sewage by installing an approved type backwater valve. Fixtures above such elevation shall not discharge through the backwater valve, unless first approved by the Administrative (Sec. 6.50.025). The Town shall not incur any liability or responsibility for damage resulting from a sewer overflow where the property owner or other person has failed to install a backwater valve, as defined section 103(e) of the Uniform Plumbing Code adopted by section 6.50.010 of the Town Code and

maintain such device in a functional operating condition. Evidence of West Valley Sanitation District's decision on whether a backwater device is needed shall be provided prior to issuance of a building permit.

27. CONSTRUCTION NOISE. Between the hours of 8:00 a.m. to 8:00 p.m., weekdays and 9:00 a.m. to 7:00 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.
28. HAULING OF SOIL. Hauling of soil on or off-site shall not occur during the morning or evening peak periods (between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m.). Prior to the issuance of a building permit, the developer shall work with the Town Building and Engineering Department Engineering Inspectors to devise a traffic control plan to ensure safe and efficient traffic flow under periods when soil is hauled on or off the project site. This may include, but is not limited to provisions for the developer/owner to place construction notification signs noting the dates and time of construction and hauling activities, or providing additional traffic control. Cover all trucks hauling soil, sand, and other loose debris or require all trucks to maintain at least two feet of freeboard.

Date: June 3, 2005
For Agenda Of: June 8, 2005
Agenda Item: 1

REPORT TO: The Planning Commission
FROM: The Development Review Committee
LOCATION: 16750 Farley Road
Architecture and Site Application S-05-063

Requesting approval to construct a new second-story on property zoned R-1:8. APN 529-15-097
PROPERTY OWNER: Melissa and Glen Wagner
APPLICANT: David Britt

DEEMED COMPLETE: May 17, 2005
FINAL DATE TO TAKE ACTION BY: November 17, 2005

FINDINGS:

- As required by Section 29.20.150 of the Town Code for Architecture and Site Applications
- As required by Section 29.10.150(h) of the Town Code for exemptions on the number of off-street parking spaces required.

CONSIDERATIONS:

- It has been determined that the project is Categorically Exempt pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.

EXHIBITS:

- A. Required Findings and Considerations (4 pages).
- B. Recommended Conditions of Approval(4 pages).
- C. Parcel Map(1 page), generated by Staff.
- D. Letter of justification (3 pages),received April 26, 2005.
- E. Letter of opposition from neighbor (3 pages including pictures), received March 17, 2005.
- F. Follow-up letter from neighbor (2 pages including diagram), received June 2, 2005.
- G. Follow-up letter from applicant (2 pages including diagram), received June 3, 2005.
- H. Project Review letter from Town Architect (1 page), received December 27, 2004.
- I. Development Plans (9 pages), received May 20, 2005.

A. DISCUSSION

1. Project Background

The applicant is requesting approval to add 395 square feet to the existing first floor of a single family home and a 1,167 square foot second story addition. The total living area of the proposed residence is 2,548 square feet. The proposed residence meets all the technical requirements including floor area ratio (FAR), lot coverage, height and setbacks. Due to the non-conforming size of the lot and legal access rights to the existing two car garage at the rear of the property the project does not meet the off-street parking requirement for a single family home. Additional off street parking are not proposed with this application. As required by Town Code, an exemption for the number of off street parking spaces can be made as long as the deciding body can make the findings in section 29.10.150(h) (Exhibit A).

A project description and letter of justification from the applicant provides a summary of the proposed project and background information on the property (Exhibit D).

The Director of Community Development has the authority to approve a minor residential application if the project complies with all Town development standards and the neighbors are not in opposition. Since a neighbor has filed a letter in opposition to the proposed project and the issues could not be resolved, the application has been referred to the Planning Commission.

2. Property Dispute

The Town abandoned a portion of Augustine Way in 2003. As part of this process, the Town gave Quit Claim deeds to the adjacent property owners, one of which was the subject site (Exhibit C). This type of deed would relinquish any remaining property interest held by the Town, if any such interest existed. After this process was completed, it was discovered that this portion of Augustine Way was not owned by the Town. Currently, legal rights to this piece of the abandoned portion of Augustine Way are now under dispute between the applicant and the concerned neighbor. The portion of Augustine Way is shown on the development plans and noted as land under dispute (Exhibit H).

3. Neighborhood Compatibility

The homes in the immediate neighborhood of the subject property range in size from 966 square feet (FAR .04) to 2,861 square feet (FAR .31). The homes in the immediate neighborhood are a mix of one and two story homes. The table on the following page is a summary of home sizes for the immediate neighborhood.

Address	APN	Lot Size	Sq. Ft.	FAR	Stories
16750 Farley Road (Proposed)	529-15-097	7,765	2,548	0.32	2
16728 Farley Road	529-15-024	10,240	1,344	0.13	1
16766 Farley Road	529-15-095	14,490	2,850	0.19	1
16780 Farley Road	529-15-002	26,847	1,675	0.07	2
16761 Farley Road	424-21-061	9,072	2,861	0.31	2
16751 Farley Road	424-21-040	73,568	1,448	-	1
16741 Farley Road	424-21-039	22,748	966	0.04	1
16731 Farley Road	424-21-060	8,334	1,926	0.23	1
16719 Farley Road	424-21-036	9,342	2,104	0.22	2
16725 Farley Road	424-21-059	13,615	2,045	0.15	1

4. Neighbor Concern

A notice of intent to approve the application was sent to adjacent neighbors on March 9, 2005. At that time, staff was in support of the proposal and intended to approve the project. The Town received a letter of concern from the property owners at 16472 Farley Road, the adjoining property to the east (Exhibit E and F). In summary, the neighbor states that the proposed second story addition and the overall massing of the proposed structure would impact their privacy.

Staff held a meeting with the property owner, project applicant, and neighbor to discuss the proposed project in detail and possible solutions to mitigate the massing issues and privacy concerns. During the meeting, several adjustments to the proposed structure were discussed: architectural modifications to the proposed second story, alterations of the placement and sizes of new windows, reorientation of the proposed structure on the lot, lowering the height of the proposed building, and installation of landscaping to mitigate the massing of the proposed structure. Both parties could not come to a final resolution and the applicant requested that the item be heard before the Planning Commission.

5. Design Review

The Town's Consulting Architect reviewed the proposed plan and noted that the side yard space between the subject property and the neighboring one story house was closer than other homes in the immediate area. The Town's Consulting architect suggested that mid-height landscaping at the front/side yard of the two structures. By installing the trees it would provide a visual buffering and aid in the height transition between both structures (Exhibit F).

6. Staff Analysis

Staff was satisfied with the proposed project and the additional architectural modifications that were made to the front elevation during the design review process. Staff determined that a reasonable modification could be developed and applied to the proposed second story addition

to satisfy the raised privacy and massing concerns from the adjacent neighbor. However, both parties could not come to an agreeable solution. If the Commission finds that additional architectural modifications to reduce privacy and second story massing concerns are appropriate conditions may be added to this approval.

B. RECOMMENDATION:

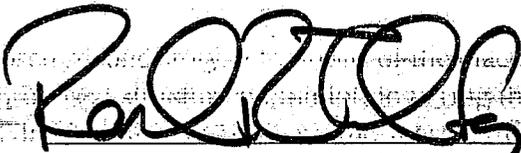
Staff finds that the revised plans with the recommended conditions of approval are consistent with the Residential Design Guidelines. The Planning Commission should carefully consider any public input on this matter to determine if the neighbors that are directly affected by the proposed application raise compelling concerns or issues that should be addressed through additional conditions of approval.

If the Commission finds merit with the proposal, it should:

1. Make the required findings (Exhibit A),
2. Approve the Architecture and Site application subject to conditions (Exhibit B).

If the Commission has concerns with the application, it can:

1. Continue the matter to a date certain with specific directions, or
2. Deny the application.



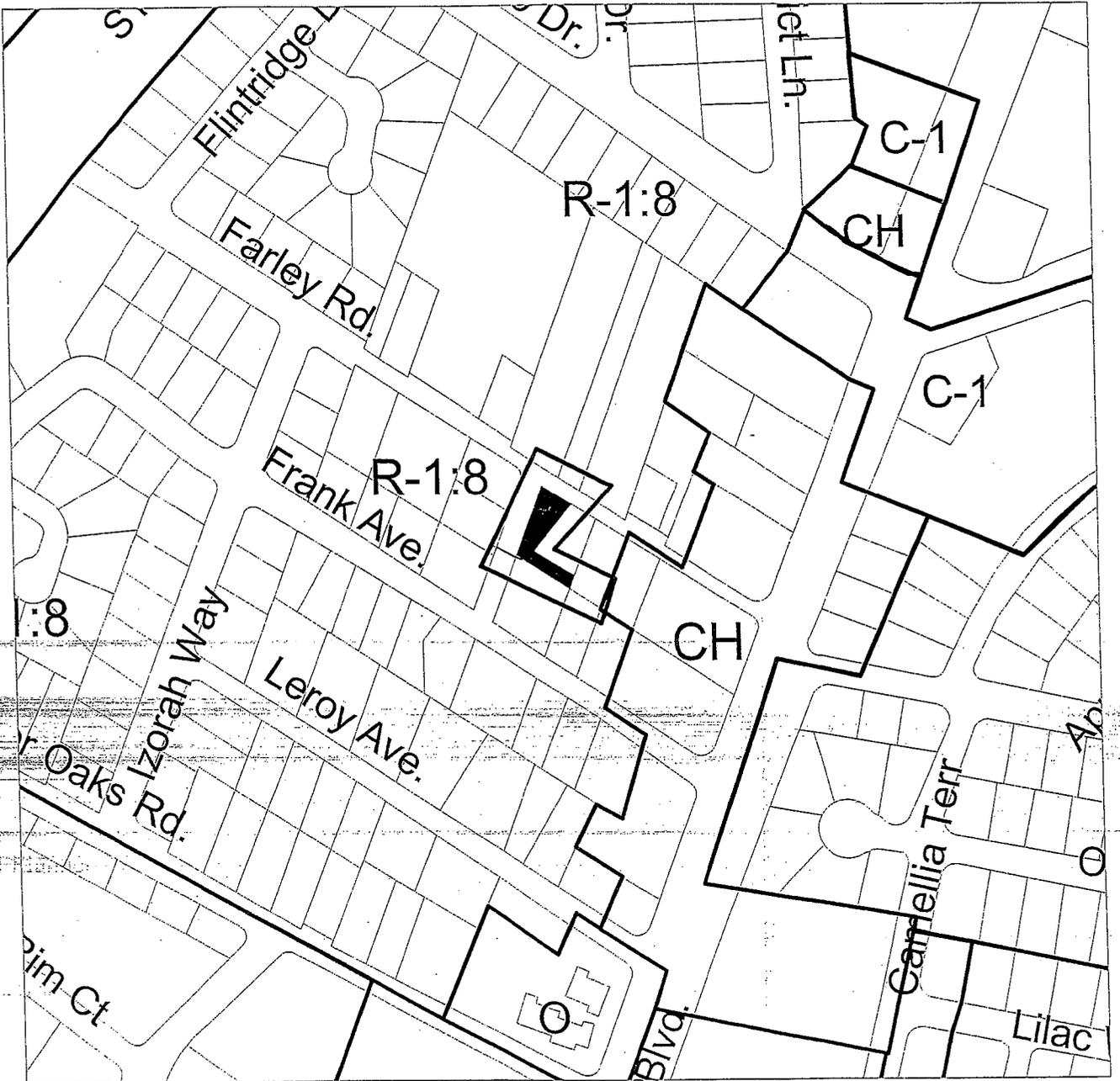
Bud N. Lortz, Director of Community Development

Prepared by: Rachel Bacola, Assistant Planner

BNL:RB

cc: Melissa and Glen Wagner, 16750 Farley Road, Los Gatos, CA, 95031
Bill Shellooe and Patricia Bottero, 16742 Farley Road, Los Gatos, CA, 95031

16750 Farley Road



REQUIRED FINDINGS AND CONSIDERATIONS FOR:

16750 Farley Road

Architecture and Site Application S-05-063

Requesting approval of a second story addition on property zoned R-1:8. APN 529-15-097

PROPERTY OWNER: Glen and Melissa Wagner

APPLICANT: David Britt

FINDINGS

- It has been determined that this project is Categorically Exempt pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.

CONSIDERATIONS

- As required by Section 29.20.150 of the Town Code for Architecture and Site applications.

The deciding body shall consider all relevant matter including, but not limited to, the following:

- (1) *Considerations relating to traffic safety and traffic congestion.* The effect of the site development plan on traffic conditions on abutting streets; the layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, drives, and walkways; the adequacy of off-street parking facilities to prevent traffic congestion; the location, arrangement, and dimension of truck loading and unloading facilities; the circulation pattern within the boundaries of the development, and the surfacing, lighting and handicapped accessibility of off-street parking facilities.
 - A. Any project or development that will add traffic to roadways and critical intersections shall be analyzed, and a determination made on the following matters:
 1. The ability of critical roadways and major intersections to accommodate existing traffic;
 2. Increased traffic estimated for approved developments not yet occupied; and
 3. Regional traffic growth and traffic anticipated for the proposed project one (1) year after occupancy.
 - B. The deciding body shall review the application for traffic roadway/intersection capacity and make one (1) of the following determinations:
 1. The project will not impact any roadways and/or intersections causing the roadways and/or intersections to exceed their available capacities.

EXHIBIT A

2. The project will impact a roadway(s) and/or intersection(s) causing the roadway(s) and/or intersection(s) to exceed their available capacities.

Any project receiving Town determination subsection (1)b.1. may proceed. Any project receiving Town determination subsection (1)b.2. must be modified or denied if the deciding body determines that the impact is unacceptable. In determining the acceptability of a traffic impact, the deciding body shall consider if the project's benefits to the community override the traffic impacts as determined by specific sections from the general plan and any applicable specific plan.

- (2) *Considerations relating to outdoor advertising.* The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards and the appearance and harmony with adjacent development. Specialized lighting and sign systems may be used to distinguish special areas or neighborhoods such as the downtown area and Los Gatos Boulevard.
- (3) *Considerations relating to landscaping.* The location, height, and materials of walls, fences, hedges and screen plantings to insure harmony with adjacent development or to conceal storage areas, utility installations, parking lots or unsightly development; the planting of ground cover or other surfacing to prevent dust and erosion; and the unnecessary destruction of existing healthy trees. Emphasize the use of planter boxes with seasonal flowers to add color and atmosphere to the central business district. Trees and plants shall be approved by the Director of Parks, Forestry and Maintenance Services for the purpose of meeting special criteria, including climatic conditions, maintenance, year-round versus seasonal color change (blossom, summer foliage, autumn color), special branching effects and other considerations.
- (4) *Considerations relating to site layout.* The orientation and location of buildings and open spaces in relation to the physical characteristics of the site and the character of the neighborhood; and the appearance and harmony of the buildings with adjacent development.

Buildings should strengthen the form and image of the neighborhood (e.g. downtown, Los Gatos Boulevard, etc.). Buildings should maximize preservation of solar access. In the downtown, mid-block pedestrian arcades linking Santa Cruz Avenue with existing and new parking facilities shall be encouraged, and shall include such crime prevention elements as good sight lines and lighting systems.

- (5) *Considerations relating to drainage.* The effect of the site development plan on the adequacy of storm and surface water drainage.
- (6) *Considerations relating to the exterior architectural design of buildings and structures.* The effect of the height, width, shape and exterior construction and design of buildings and structures as such factors relate to the existing and future character of the neighborhood

and purposes of the zone in which they are situated, and the purposes of architecture and site approval. Consistency and compatibility shall be encouraged in scale, massing, materials, color, texture, reflectivity, openings and other details.

- (7) *Considerations relating to lighting and street furniture.* Streets, walkways, and building lighting should be designed so as to strengthen and reinforce the image of the Town. Street furniture and equipment, such as lamp standards, traffic signals, fire hydrants, street signs, telephones, mail boxes, refuse receptacles, bus shelters, drinking fountains, planters, kiosks, flag poles and other elements of the street environment should be designated and selected so as to strengthen and reinforce the Town image.
 - (8) *Considerations relating to access for physically disabled persons.* The adequacy of the site development plan for providing accessibility and adaptability for physically disabled persons. Any improvements to a nonresidential building where the total valuation of alterations, structural repairs or additions exceeds a threshold value established by resolution of the Town Council, shall require the building to be modified to meet the accessibility requirements of title 24 of the California Administrative Code adaptability and accessibility. In addition to retail, personal services and health care services are not allowable uses on nonaccessible floors in new nonresidential buildings. Any change of use to retail, health care, or personal service on a nonaccessible floor in a nonresidential building shall require that floor to be accessible to physically disabled persons pursuant to the accessibility requirements of title 24 of the California Administrative Code and shall not qualify the building for unreasonable hardship exemption from meeting any of those requirements. This provision does not effect lawful uses in existence prior to the enactment of this chapter. All new residential developments shall comply with the Town's adaptability and accessibility requirements for physically disabled persons established by resolution.
 - (9) *Considerations relating to the location of a hazardous waste management facility.* A hazardous waste facility shall not be located closer than five hundred (500) feet to any residentially zoned or used property or any property then being used as a public or private school primarily educating persons under the age of eighteen (18). An application for such a facility will require an environmental impact report, which may be focused through the initial study process.
- As required by Section 29.10.150(h) of the Town Code for exemptions on the number of off-street parking spaces required.
- (h) *Exemptions.* Compliance with subsection (c)(1) is not required if the deciding body makes the following findings:
- (1) The Historic Preservation Committee determines that the enforcement of subsection (g) will impact the historic character of the site and/or structures on the site; and

- (2) The addition is determined necessary to provide adequate floor area for a suitable living environment; and
- (3) The lot does not have adequate area to provide parking as required by subsection (c)(1). This finding is not required if subsection (h)(1) is made.

If the deciding body makes the findings set forth in subsections (h)(1), (2) and (3) above, parking shall be provided to the maximum extent possible.

DRAFT CONDITIONS FOR:

16750 Farley Road
Architecture and Site Application S-05-063

Requesting approval of a second story addition on property zoned R-1:8. APN 529-15-097.

PROPERTY OWNER: Glen and Melissa Wagner

APPLICANT: David Britt

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

(Planning Division)

1. EXPIRATION OF APPROVAL: This approval application will expire two years from the date of approval unless it is used before expiration. Section 29.20.335 defines what constitutes the use of an approval granted under the Zoning Ordinance.
2. APPROVAL. This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans dated April 27, 2005. Any minor changes or modifications made to the approved plans shall be approved by the Director of Community Development.
3. SALVAGING OF MATERIALS. At least ten days prior to the date of demolition, the developer shall provide to the Town a written notice and an advertisement published in a newspaper of general circulation, regarding the availability of materials for salvage, including the name and telephone number of a contact person. No salvaging of materials shall occur until a demolition permit has been approved by the Community Development Department.
4. RECYCLING. All wood, metal, glass and aluminum materials generated from the demolished structure shall be deposited to a company which will recycle the materials. Receipts from the company(s) accepting these materials, noting type and weight of material, shall be submitted to the Town prior to the Town's demolition inspection.
5. TREES. 3 mid-height trees approved by the Director of Community Development shall be installed in the front/side yard prior to building permit final.

TO THE SATISFACTION OF THE BUILDING DEPARTMENT:

6. PERMITS REQUIRED: A building permit shall be required for the second story addition and remodel of the existing single family residence. Separate permits are required for electrical, mechanical, and plumbing work as necessary.
7. CONDITIONS OF APPROVAL: The Conditions of Approval must be blue-lined in full on the cover sheet of the construction plans.
8. SIZE OF PLANS: Four sets of construction plans, maximum size 24" x 36."
9. SOILS REPORT: A soils report, prepared to the satisfaction of the Building Official, containing foundation and retaining wall design recommendations, shall be submitted with

EXHIBIT B

the building permit application. This report shall be prepared by a licensed civil engineer specializing in soils mechanics. ALTERNATE: Design the foundation for an allowable soils 1,000 psf design pressure. (Uniform Building Code Volume 2 - Section 1805)

10. FOUNDATION INSPECTIONS: A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project building inspector at foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report; and, the building pad elevation, on-site retaining wall locations and elevations are prepared according to approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer for the following items:
 - a. Building pad elevation
 - b. Finish floor elevation
 - c. Foundation corner locations
11. TITLE 24 ENERGY COMPLIANCE: California Title 24 Energy Compliance forms CF-1R and MF-1R must be blue-lined on the plans.
12. TOWN FIREPLACE STANDARDS: New wood burning fireplaces shall be an EPA Phase II approved appliance as per Town Ordinance 1905. Tree limbs shall be cut within 10-feet of chimneys.
13. SPECIAL INSPECTIONS: When a special inspection is required by UBC Section 1701, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the building permit. The Town Special Inspection form must be completely filled-out, signed by all requested parties and be blue-lined on the construction plans. Special Inspection forms are available from the Building Division Service Counter or online at www.losgatosca.gov.
14. NONPOINT SOURCE POLLUTION STANDARDS: The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program shall be part of the plan submittal as the second page. The specification sheet is available at the Building Division Service Counter for a fee of \$2 or at San Jose Blue Print.
15. APPROVALS REQUIRED: The project requires the following agencies approval before ~~issuing a building permit:~~
 - d. Community Development: Rachel Bacola at 354-6802
 - e. Engineering Department: Fletcher Parsons at 395-3460
 - f. Santa Clara County Fire Department: (408) 378-4010
 - g. West Valley Sanitation District: (408) 378-2407
 - h. Local School District: (Contact the Town Building Service Counter for the appropriate school district and to obtain the school form.)

TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS:
(Engineering Division)

16. GENERAL. All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge

shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.

17. ENCROACHMENT PERMIT. All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security.
18. PUBLIC WORKS INSPECTIONS. The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting any work pertaining to on-site drainage facilities, grading or paving, and all work in the Town's right-of-way. Failure to do so will result in rejection of work that went on without inspection.
19. CONSTRUCTION STREET PARKING. No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior approval from the Town Engineer (§ 15.40.070).
20. SITE DRAINAGE. Rainwater leaders shall be discharged to splash blocks. No through curb drains will be allowed.
21. SILT AND MUD IN PUBLIC RIGHT-OF-WAY. It is the responsibility of contractor and home owner to make sure that all dirt tracked into the public right-of-way is cleaned up on a daily basis. Mud, silt, concrete and other construction debris SHALL NOT be washed into the Town's storm drains.
22. RESTORATION OF PUBLIC IMPROVEMENTS. The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.
23. SANITARY SEWER LATERAL. Sanitary sewer laterals are televised by West Valley Sanitation District and approved by the Town of Los Gatos before they are used or reused. Install a sanitary sewer lateral clean-out at the property line.
24. SANITARY SEWER BACKWATER VALVE. Drainage piping serving fixtures which have flood level rims less than twelve (12) inches (304.8 mm) above the elevation of the next upstream manhole and/or flushing inlet cover at the public or private sewer system serving such drainage piping shall be protected from backflow of sewage by installing an approved type backwater valve. Fixtures above such elevation shall not discharge through the backwater valve, unless first approved by the Administrative (Sec. 6.50.025). The Town shall not incur any liability or responsibility for damage resulting from a sewer overflow where the property owner or other person has failed to install a backwater valve, as defined section 103(e) of the Uniform Plumbing Code adopted by section 6.50.010 of the Town Code and maintain such device in a functional operating condition. Evidence of West Valley Sanitation District's decision on whether a backwater device is needed shall be provided prior to issuance of a building permit.
25. CONSTRUCTION NOISE. Between the hours of 8:00 a.m. to 8:00 p.m., weekdays and 9:00 a.m. to 7:00 p.m. weekends and holidays, construction, alteration or repair activities shall be

allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.

26. HAULING OF SOIL. Hauling of soil on or off-site shall not occur during the morning or evening peak periods (between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m.). Prior to the issuance of a building permit, the developer shall work with the Town Building and Engineering Department Engineering Inspectors to devise a traffic control plan to ensure safe and efficient traffic flow under periods when soil is hauled on or ff the project site. This may include, but is not limited to provisions for the developer/owner to place construction notification signs noting the dates and time of construction and hauling activities, or providing additional traffic control. Cover all trucks hauling soil, sand, and other loose debris or require all trucks to maintain at least two feet of freeboard.

N:\DEV\CONDITNS\2005\16750Farley Road.wpd

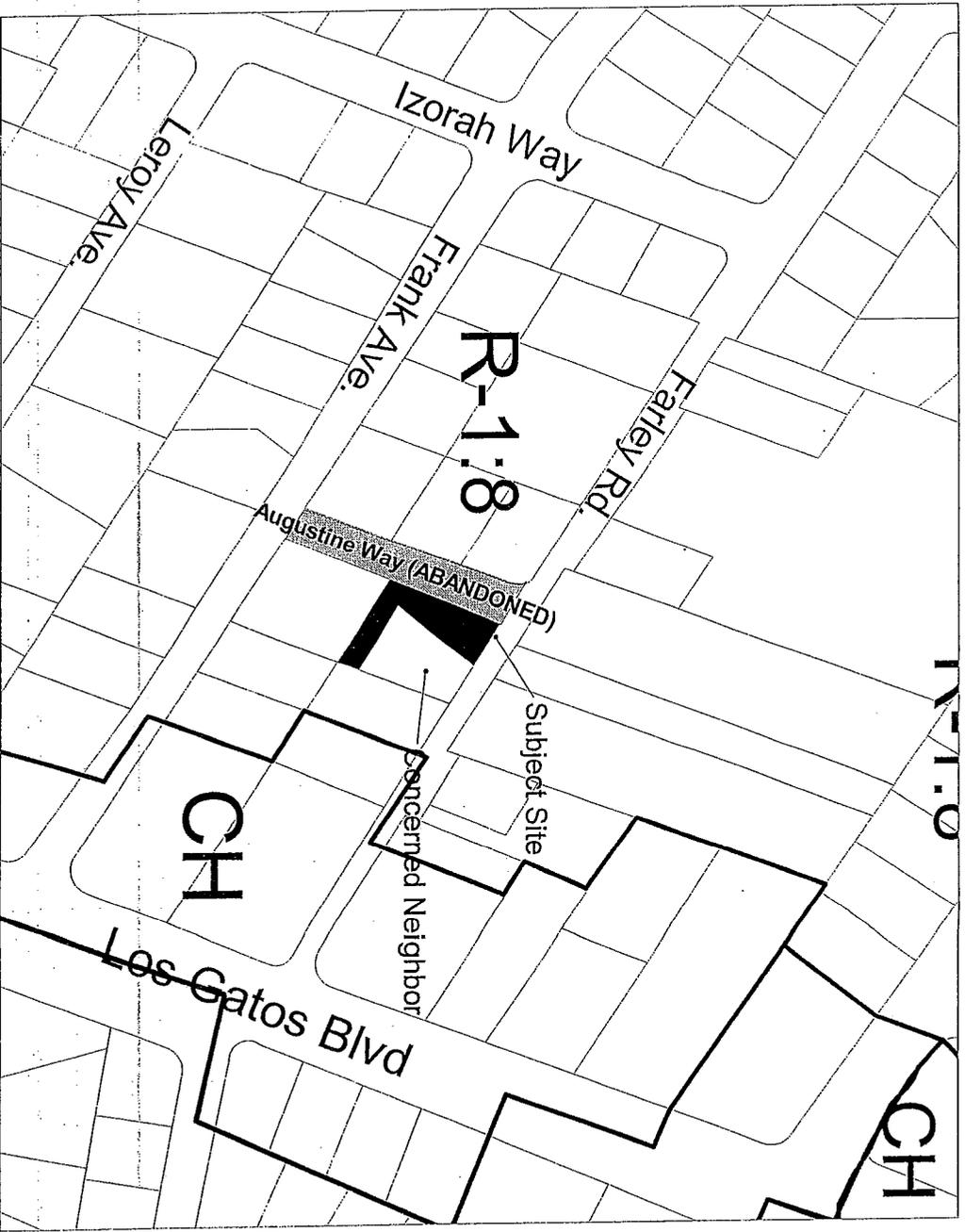


EXHIBIT C

Letter of Justification:

We bought our tiny little one bedroom house 6 years ago with the dream of one day being able to add on. When we bought the property the owner had town approved plans for a 2nd story addition. She was single and her 2nd story plans covered the whole first story creating a large master bedroom upstairs. Those plans would not work for us because we planned to start a family. We knew the property's building footprint was tight because the seller disclosed that the existing front yard and parking pad extended past the property line and took up half the adjoining dirt road of Augustine. So even though this portion looked and operated as ours, we were unable to build on it or use it as part of the set back. She told us that at one time the neighbors were trying to get the town to vacate Augustine and that the adjoining properties would be able to move their lot lines to the center of the road. So, a year after buying the house we were ready to add on and start a family but after talking with the neighbors we decided to put off our plans and help restart the road vacation initiative knowing this would give us better building options when it was resolved. After three years of hard work we were finally successful. The town vacated part of Augustine Road and deeded us the adjoining portion that our front yard and parking pad lie on.

We, and the neighbors who adjoined the vacated portion of the road, hired a surveyor to identify our new property boundaries. The surveyor thought it was odd that the town had to deed us a portion of the road while the other parcels adjoining Augustine already had meets and bound descriptions starting from the center of the road. So after looking into it further he found that the portion of the road that the Town deeded to us may not have belonged to them. It turns out that our property used to be part of a larger parcel that was subdivided into two lots in the 1950's. This original parcel had meets and bounds that went to the center of the road, like the other adjoining parcels, but when they subdivided it the new description was written from the side of the road. The surveyor found that our next door neighbors, Mr. & Mrs. Shellooe, who own the other portion of the original lot that does not adjoin Augustine, may, by default, own this piece of road because it was left out of our description. In light of this new information we were advised to avoid any future problems by asking the Shellooes to quit claim deed to us this negligent piece of road. The Shellooes were surprised by the situation, having no idea that our front yard was part of the road and no idea that this part of the road, which does not adjoin them, could possibly be owned by them. This was about two years ago and to this day they have not deeded us the property because they say that there is nothing in it for them, even though we have offered them 5 times the settlement amount the county advised plus other concessions.

So, last year when we found out we were expecting our first child we decided to approach the Shellooes one more time to try and resolve the land dispute. We explained that we could no longer wait to add on to our home and that unless we could secure definite ownership of our existing front yard, the only building option we had was a 2nd story addition. Even though the Shellooes did not want us to build a 2nd story next to them they were still unwilling to give us the quit claim deed we needed. So, we were right back to the very narrow building options we started with 6 years ago. With

EXHIBIT D

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APR 29 2005
TOWN OF LOS GATOS
PLANNING DIVISION

time to waste in our ever shrinking 1 bedroom home, we made an appointment with Sandy Bailey at the planning department to discuss our building options. Then we hired Britt Rowe Architecture to design a home accordingly. We explained to the Architect that the Shellooes did not want us to build a second story and would probably oppose our project unless we were very sensitive in its design. So together we designed a structure 4 feet under the max allowable height with 2nd story wall plates lowered to 6 feet. We made sure that the second story windows facing them would not pose any privacy issues by placing them high and making them only 2 ft. by 2 ft. in size. We also recessed the master bath back to give more articulation to that side of the structure. We made sure there were no shadow issues and hoped that these compromised design efforts would satisfy the neighbors. Unfortunately they did not and the Shellooes have opposed our project. Together with planning staff and our Architect we met with Mr. Shellooe to discuss further compromises to the structure. The suggestions were to lower the structure another foot in height, recess the second story wall plate of the master bedroom 4 feet, remove a first story window, and plant trees and vines. In this meeting we agreed to all these suggestions brought forth by our Architect and the planning staff. Unfortunately Mr. Shellooe did not come forth with any possible suggestions of his own and did not find these compromises sufficient enough for him. So we are now asking the planning commission to resolve this matter for us. We have done all we can to make this addition as neighbor friendly as possible with our very limiting set backs.

Our son was born in March and our dream of starting our family in our new home did not come to pass but we hope to be able to get this project started right away so that our family can expand past our one bedroom in the near future.

Written description of proposed project:

This project is a second story addition to an existing one bedroom single story home on a non-conforming lot. It is designed as a 2,548 sq.ft. cottage style with a 1 ½ story look and dormers in the front. Most of the second story wall plates are dropped to 6 feet. The overall height is 26 feet. The second story windows facing the neighbors to the sides of the home are 2x2 and placed higher up to avoid privacy issues. The home will consists of a living room, family room, dining room, kitchen, 4 bedrooms, 3 bathrooms, utility room, and mudroom. The structure posses no significant shadow threats.

Town of Los Gatos
Community Development/Planning Department
110 E. Main St.
Los Gatos, CA 95031

March 16, 2005

RECEIVED
MAR 17 2005
TOWN OF LOS GATOS
BUILDING DIVISION

Dear Mr. Lortz and Ms. Bacola,

Thank you for your consideration of this feedback regarding the proposed construction project at 16750 Farley Road in Los Gatos. My name is Bill Shellooe and my wife's name is Patricia Bottero and our address is 16742 Farley Road, next door to the proposed project.

This letter is to inform you that we oppose this project because the project's eastern 2-story wall would completely obstruct the view of the sky, and much of the light, that is available in from the west-facing windows in all three bedrooms and the master bathroom of our house (see Figures 1-5). Seeing nothing but a 2-story wall that runs the length of our house and is only 15 feet away from our windows gives an oppressive feeling to these bedrooms, as well as a sense of compromised privacy (see Figure 6). Although there are a couple of 2-story homes on our street, I believe that none of these have a 2-story wall that runs the length of the entire neighboring single story house.

Also, the Town should be aware that the project's off-street parking and garage access as proposed are located on a portion of land whose ownership is in dispute (since January of 2004). According to the legal description of the two lots, 16742 and 16750 Farley Road, we own the land on which the off-street parking and the garage access are located, not the neighbors. We have retained legal counsel and this property will be the subject of a quiet title action if we cannot resolve this matter with Mr. and Mrs. Wagner. The Town of Los Gatos erroneously quitclaimed this portion of our property to the Wagners in March of 2003.

Regarding our opposition of the 2-story addition, please examine the photos on pages 2 and 3. (The dark object at the top of the figures 1-5 is the eave of our roof).

Thank you for your attention to this matter. Please contact us if you have any questions.

Sincerely,

Bill Shellooe



408-358-9523

bill@bayarea.net

16742 Farley Road

Los Gatos, CA 9503

Patricia Bottero

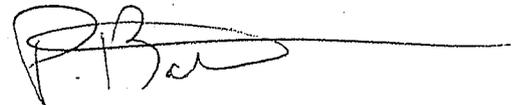


EXHIBIT E

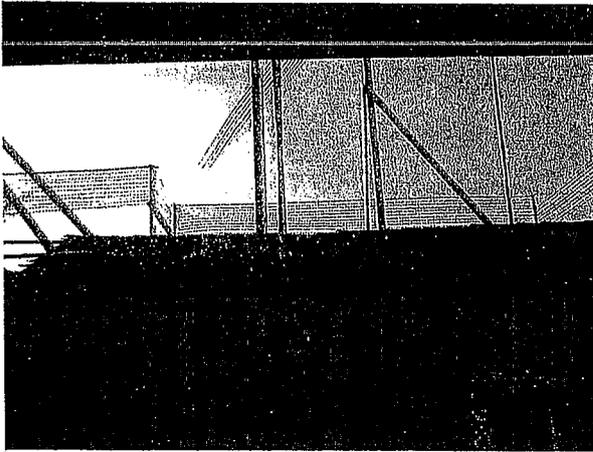


Figure 1 - View from west-facing window, south bedroom.

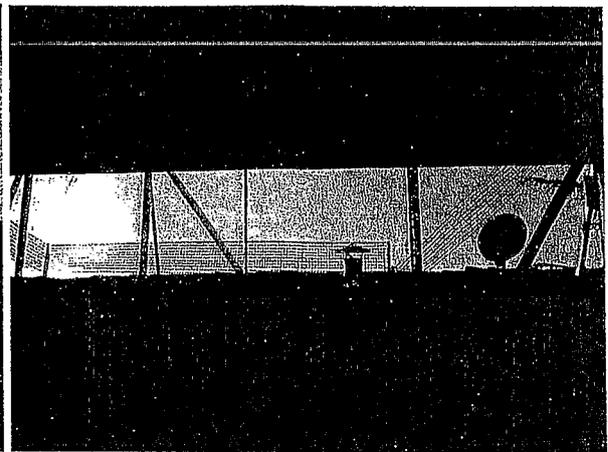


Figure 2 - View from west-facing window, middle bedroom.

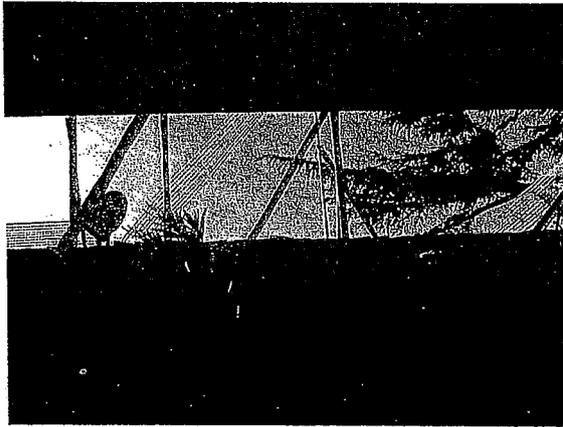


Figure 3 - View from west-facing window, master bathroom.

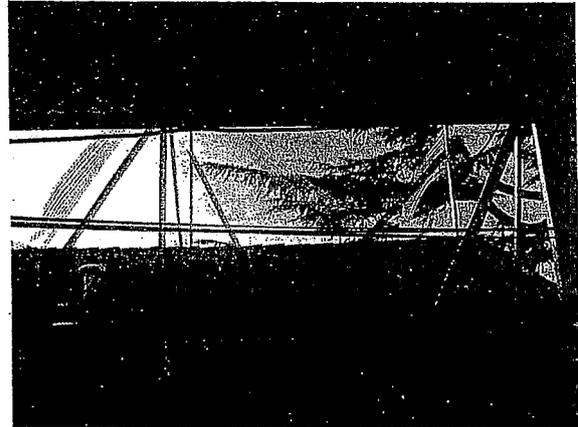


Figure 4 - View from west-facing window, master (north) bedroom.



Figure 5 - Sun position at 5:15pm, March 15th.

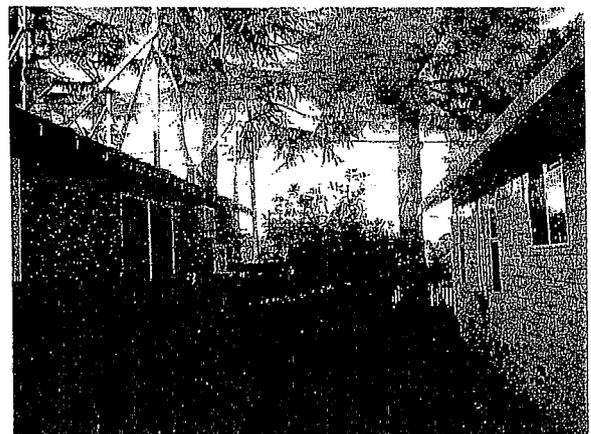


Figure 6 - Closeness of "back-to-back" walls running length of house (and shadows).

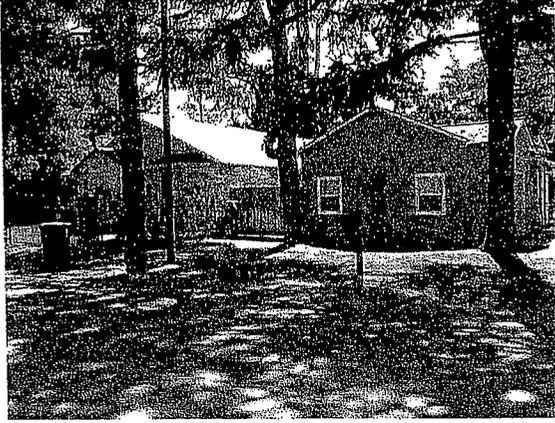


Figure 7 - Compatible styles existing today (16742 is on the left, 16750 is on the right).

Office of Community Development
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95031

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JUN - 2 2005

TOWN OF LOS GATOS
PLANNING DIVISION June 2, 2005

Thank you for your consideration of this additional feedback regarding the proposed construction project at 16750 Farley Road in Los Gatos. My name is Bill Shellooe and my wife's name is Patricia Bottero and our address is 16742 Farley Road, next door to the proposed project. This letter is an addendum to our original our letter opposing this project to the Town Community Development Department on March 16, 2005.

As that letter stated, our opposition to this project is based on 3 factors, outlined below. Please refer to the diagram attached to this letter and the photos attached to the March 16th letter.

1. The 24 feet high, 75 feet wide two-story wall that adjoins the entire length of our house that is under 16 feet away is not consistent with any other adjoining homes on our street, completely blocks the view of the sky and gives an oppressive feeling to all three of the bedrooms in our home. Also, due to the Wagner's L-shaped lot, the view from the other window in BR1 (see diagram) is a 16 feet high garage.
2. Access to the driveway and garage is located on a portion of land that is included in the legal description of our property (16742 Farley Rd.), not the Wagners (16750 Farley Rd.) We have retained legal counsel and this property will be the subject of a forthcoming quiet title action. The Town of Los Gatos erroneously quitclaimed this portion of our property to the Wagners in March of 2003.
3. The project does not have any off-street parking which will add 3 cars parked on Farley Road, compromising the neighborhood's appearance.

Additionally, we would like to make the Community Development Department aware of the following issues.

Although the portion of land that is included in our property description would allow the Wagners to build a house that is compatible with the area and would not compromise our experience of our home, they have been unwilling to offer an adequate price for or trade land for this large (2800 square feet) portion of Los Gatos property.

During a meeting in April with the Community Development staff, the Wagners, their architect and me, I suggested 2 remedies that would allow the project to proceed without the Wagners having to acquire the additional portion of land. My first suggestion was to build a single story home and use dormers in the attic for additional bedrooms. My second suggestion was to move the whole structure northwest toward Farley (and further away from our home, exposing the sky).

We ask the Community Development Department and the community to consider the negative precedent that this project as-proposed establishes for development in the Farley Road area: allowing future construction of oppressive two-story homes with minimum set-backs adjoining single-story homes not side-by-side, but spanning the entire length of the neighboring home.

Sincerely

Bill Shellooe
16742 Farley Rd.
Los Gatos, CA 95032

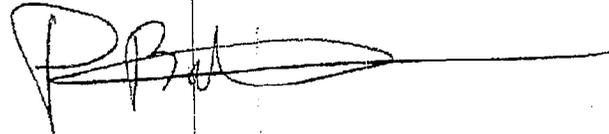
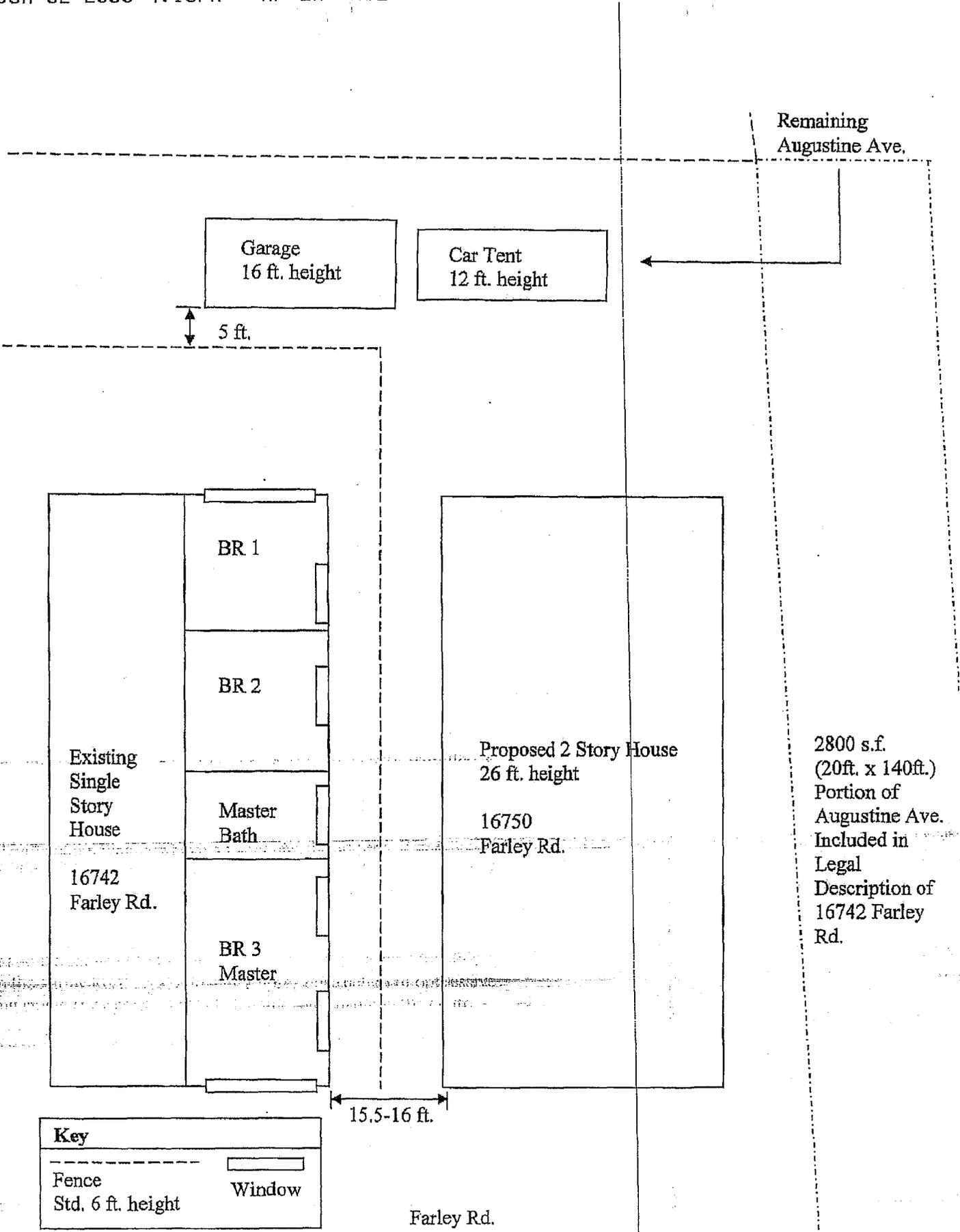
Patricia Bottero


EXHIBIT E



2800 s.f.
 (20ft. x 140ft.)
 Portion of
 Augustine Ave.
 Included in
 Legal
 Description of
 16742 Farley
 Rd.

Planning Commission
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95031

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JUN - 3 2005

TOWN OF LOS GATOS
PLANNING DIVISION

June 2, 2005

This letter is in regards to the letter from our neighbor Mr. Shellooe and his wife Ms. Bottero addressed to the Office of Community Development on June 2, 2005. In this letter they state their 3 factors for opposing our 2nd story addition. Below we have written our rebuttal to these factors.

In his 1st point, Mr. Shellooe has falsely stated that our addition will place a 24 ft high by 75 ft wide wall adjoining the entire length of their home. While their home may be 75 ft long, ours is currently only 45 ft. and our addition would make it only 58 ½ ft. These dimensions are clearly stated on our plans. Also, the height of the wall plate is not 24ft as suggested by Mr. Shellooe, for the most part, it is only 16ft with a portion reaching a maximum of 18ft, while yet another portion only reaches 9 ½ ft. As for the 16 feet that is already existing between our homes, we have evidence of other two story homes in our neighborhood that adjoin single story homes at the same setback as ours. This is not a new precedent, as suggested by Mr. Shellooe, because the side setbacks for our neighborhood are 8ft. As far as our existing 1 car garage that is viewed by their back bedroom, it is a detached structure that has nothing to do with our application for a 2nd story addition.

In his 2nd point, Mr. Shellooe points out that our driveway and garage are accessed by the property under dispute. Mr. Shellooe keeps claiming to own this property even though it has always been used by us and we pay taxes on it. Whomever a judge decides owns this property in a future quiet title action, we will still, by the very least, have ingress/egress rights on the property.

The 3rd point Mr. Shellooe makes regarding no place for off-street parking is the result of us having a non-conforming lot and them claiming ownership of the disputed property. However, like stated above, we will continue to use our existing spaces via a 50 year old established ingress/egress right on the disputed property. And furthermore, if the disputed piece of property actually did affect our parking status it would do so whether or not we added on to our home.

In their additional comments they suggest that we should buy a piece of property from them, which has not been established as theirs, in order to appease their concern over our 2nd story addition. Even if this property was clearly theirs, it is ridiculous to suggest that we should be required to buy additional property in order to add on to our home.

In further comments he suggests 2 remedies, the first of which is a single story with dormers, which would also be classified as a two story structure but won't work on our narrow lot configuration. The second suggestion is to move our structure past the 25ft front setback toward the street. This is clearly not possible for setback reasons and also not possible because of the two 60ft high established cedar trees in our front yard. Mr. Shellooe has been informed, more than once, by planning staff and our architect why these suggestions don't work, but he continues to bring them up as if they are possible compromises that we are unwilling to make.

We ask the Planning Commission to recognize that we have compromised enough already and to help us move forward with the approval of our 2nd story addition.

Sincerely,
Glen & Melissa Wagner

EXHIBIT G

June 2, 2005 -

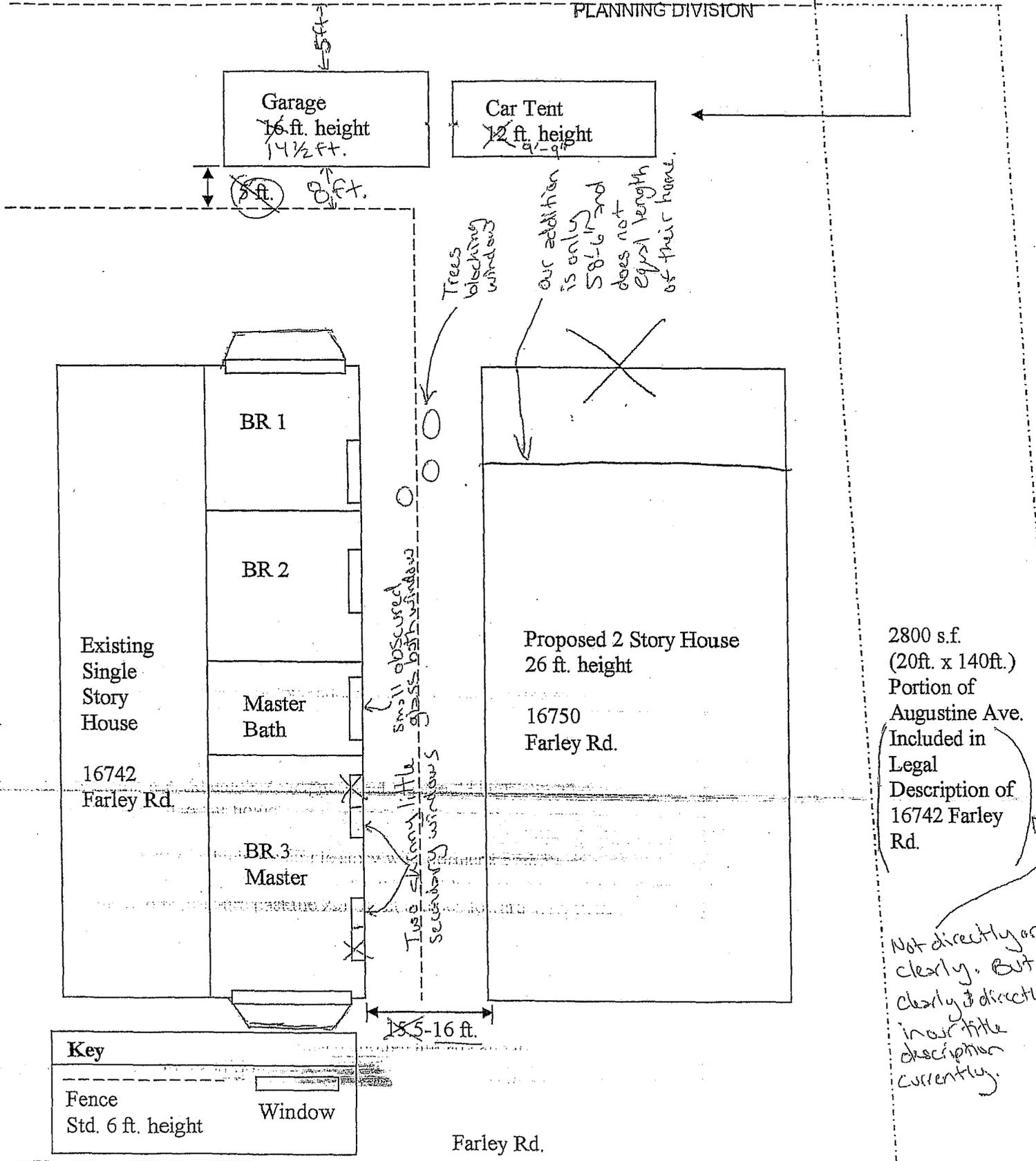
Shelboe map corrected by Wagner

RECEIVED

JUN - 3 2005

TOWN OF LOS GATOS
PLANNING DIVISION

Remaining
Augustine Ave.





December 23, 2004

Ms. Rachel Bacola
Community Development Department
Town of Los Gatos
110 E. Main Street
P.O. Box 949
Los Gatos, CA 95031

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DEC 27 2004

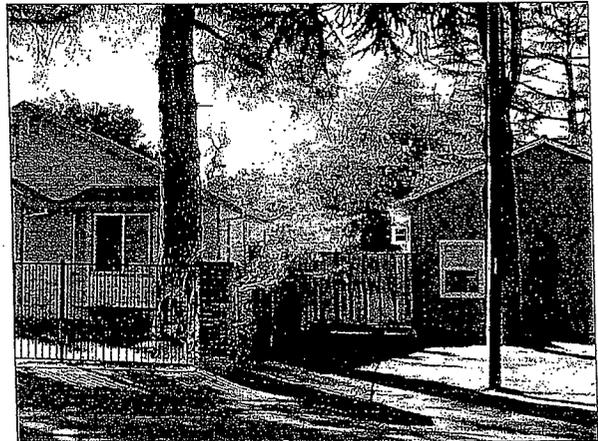
TOWN OF LOS GATOS
PLANNING DIVISION

RE: 16750 Farley Road

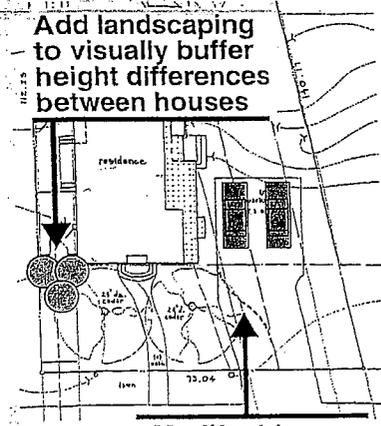
Dear Rachel:

I visited the site, and reviewed the design drawings that you forwarded. This house is well designed, and the neighborhood has enough architectural variety that I think the style, though more formal than many others in the area, would generally fit into the diversified mix.

I do have a concern about the two story height so close to the adjacent one story house. While there are other two story houses in the area adjacent to one story structures, most of them have a bit more distance between the two houses. As shown on the photo to the right, the space between the adjacent houses is small. I do not see an easy way to modify the proposed design to make this issue go away. At a minimum, I would suggest adding some additional mid-height landscaping at the front interface of the two structures to provide some visual buffering and aid in the height transition.



The only other issue that I see is the amount of paving within the front setback area. Most of the nearby homes have narrow driveways from Farley Road. Efforts should be made to reduce the driveway width as much as possible. This is shown diagrammatically on the drawing to the right. It would also be a good idea to pave the driveway and two parking places with a modular paving material.



Add landscaping to visually buffer height differences between houses

Modify driveway to minimize front yard paving

Rachel, please let me know if you have any questions, or if there are specific issues of concern that I did not address.

Sincerely,
CANNON DESIGN GROUP

Larry L. Cannon AIA AICP
President

EXHIBIT H

Sheet Index

- TITLE SHEET/ PROJECT INFO: A-0
- ARCHITECTURAL SITE PLAN: A-1
- EXISTING / DEMO: A-2
- FIRST & SECOND FLOOR PLANS: A-3
- EXTERIOR ELEVATIONS: A-4
- EXTERIOR ELEVATIONS & ROOF PLAN: A-5
- SHADOW STUDIES: A-6
- NEIGHBORHOOD SURVEY/ STREETSCAPES: A-7

INCLUDED IN SET BY OTHERS: SITE SURVEY

General Project Information

Scope of Work: Remodel/Second Story Addition to an existing one story single family residence.

Owner/Site Address: Glen and Melissa Wagner
16750 Farley Road
Los Gatos, CA 95032
408.358.9181

APN: 529-15-097
Zoning: R1-8
Lot Area: 7,762(original lot size) + 2,803(section of lot under dispute)
Avg. Lot Slope: Less than 2% (flat)

Existing Square Footage: 986.5 sq. ft.

Note: Calculations below are based on original lot size and not lot area under dispute.

Proposed Square Footage: First Floor: 1,381 sq. ft.
Second Floor: 1,167 sq. ft.
Total: 2,548 sq. ft. (328%)

Allowable Square Footage (FAR): 2,549 sq. ft. (328%)

Building Height: 26'-0" @ tallest ridge measured from existing finish grade.

Building Coverage: House: 1,470
Detached Garage: 288
Total: 1,758 sq. ft. (27%)
Allowable: 3,105 sq. ft. (40%)

Setbacks: Front: Existing 25'-0" Proposed 25'-0" Minimum 25'-0"
L Side: 8'-0" 8'-0" 8'-0"
R Side: 10'-0" 8'-0" 8'-0"
Rear: 48'-0" 53'-6" 20'-0"

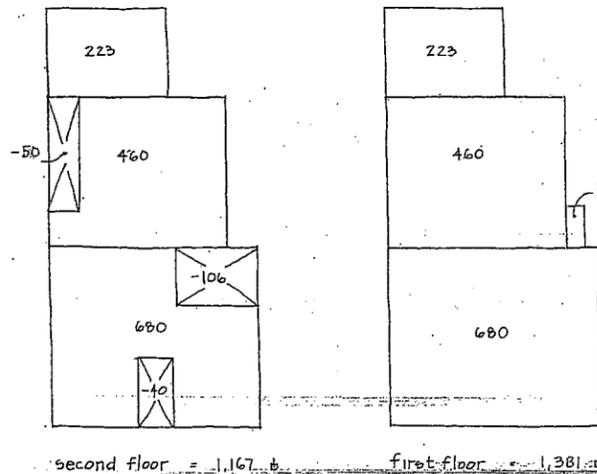
Front View of Residence Remodel



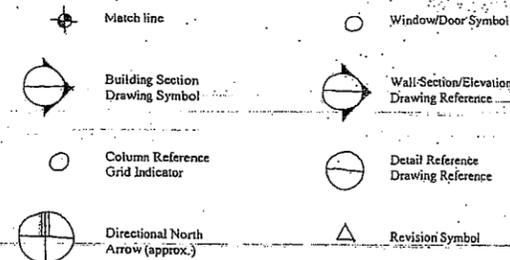
General Notes

1. Britt/Rowe is not responsible for the design, coordination or implementation of any work performed by consultants, including, but not limited to, structural engineering, soil engineering, civil engineering, landscape architecture, and/or Title 24 engineering.
2. All work done pursuant to these drawings and specifications shall comply with all ordinances and regulations which apply to the work and shall in any case conform to the latest edition of the "Uniform Building Code" (UBC) currently enforced, and all current city, county, and state codes as applicable.
3. Layout for new work is largely based upon relationships to existing conditions. Any questions regarding the intent related to the layout of the new work shall be brought to the attention of Britt/Rowe prior to the commencement of any work. The contractor shall notify Britt/Rowe of all discrepancies prior to the commencement of any work.
4. Preference shall be given to figured/written dimensions on the drawings over scaled measurements. The "Plans", "General Notes", and "Specifications" are intended to agree and supplement one another. Anything indicated in/on one and not the others, shall be executed as if in all. In cases of direct conflict, the most restrictive shall govern.
5. Civil, Soil, and Structural Engineer's specifications shall take precedence over the following architectural specifications.
6. Britt/Rowe retains all rights and ownership of the "Planning Documents" and "Specifications". These documents may not be used in whole or in part on any other project without expressed consent from Britt/Rowe.
7. The owner/developer/client reserves the right to make alterations of the design during the course the construction as applicable. Any changes shall be approved by the local planning department as applicable. All changes shall be documented by a written "Change Order" and shall be approved by the owner/developer/client.

Square Footage Calculations



Architectural Drawing Symbols



Project Consultants

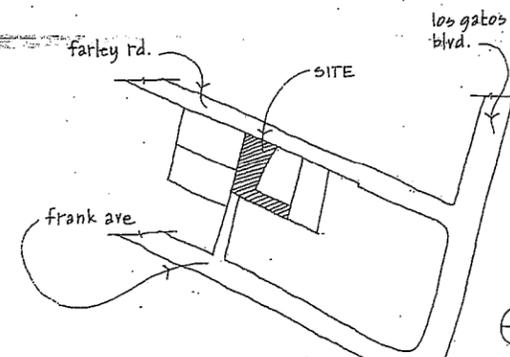
Building Designer:
Britt/Rowe
David Britt
108 N. Santa Cruz Ave.
Los Gatos, CA 95030
408.354.6224

Site Surveyor:
Westfall Engineers
14583 Big Basin Way
Saratoga, CA 95070
408.867.0244

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MAY 20 2005

TOWN OF LOS GATOS
PLANNING DIVISION
S-5-063

Location Map



Vicinity Map



REVISIONS	BY
4/11/05	db

BR
Britt • Rowe
108 N. Santa Cruz Ave.
Los Gatos, CA 95030
408.354.6224 (office)
408.354.6514 (fax)

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WAGNER RESIDENCE
16750 Farley Road
Los Gatos, California

SHEET: title sheet / prog. info.
SCALE: 1/4"
DATE: 11.5.04
DRAWN:

A0

EXHIBIT

REVISIONS	BY
5.12.05	db

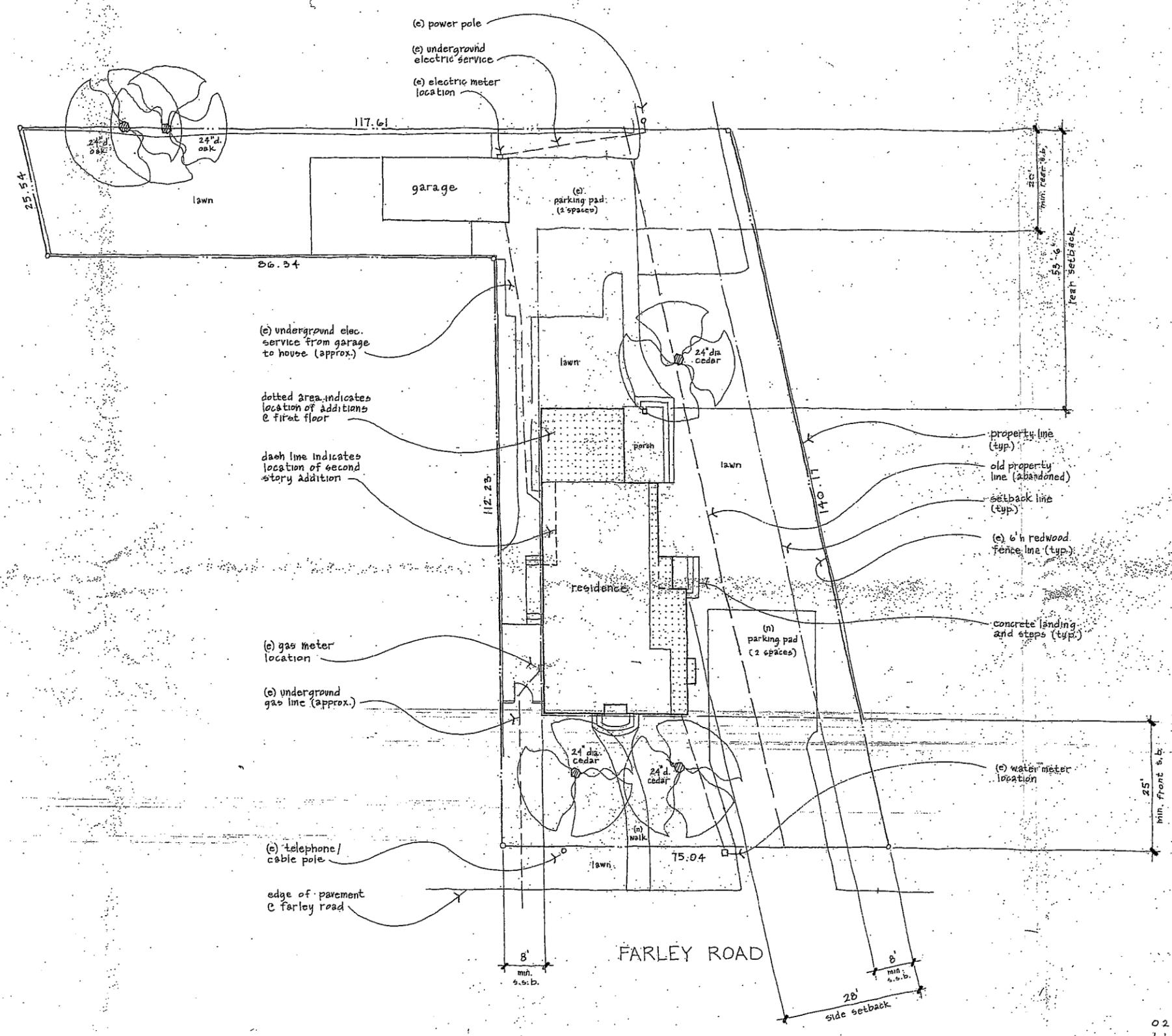
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 Los Gatos, CA 95030
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 408.354.6514 (fax)

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WAGNER RESIDENCE
 16750 Farley Road
 Los Gatos, California

SHEET: SITE PLAN
 SCALE: Noted
 DATE: 11.5.04
 DRAWN:

A1

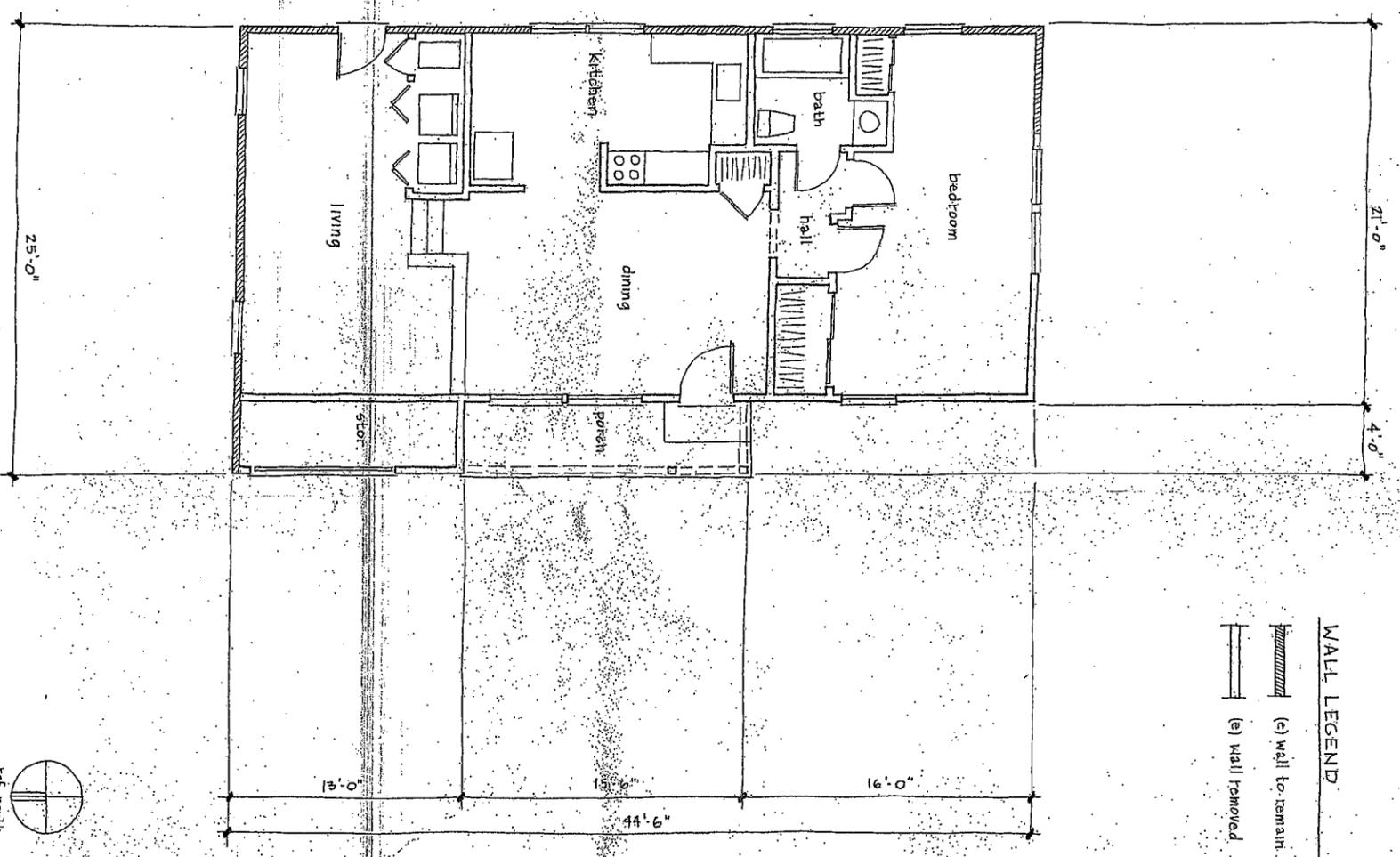


note: no trees are proposed to be removed at site.

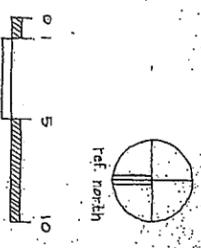
ARCHITECTURAL SITE PLAN

SITE AREA = 10,563 sq ft

EXISTING/DEMO PLAN



WALL LEGEND
 (c) wall to remain
 (e) wall removed



1/4" = 1'-0"

SHEET: existing plan - basement
 SCALE: noted
 DATE: 11.5.04
 DRAWN:

WAGNER RESIDENCE
 16750 Farley Road
 Los Gatos, California

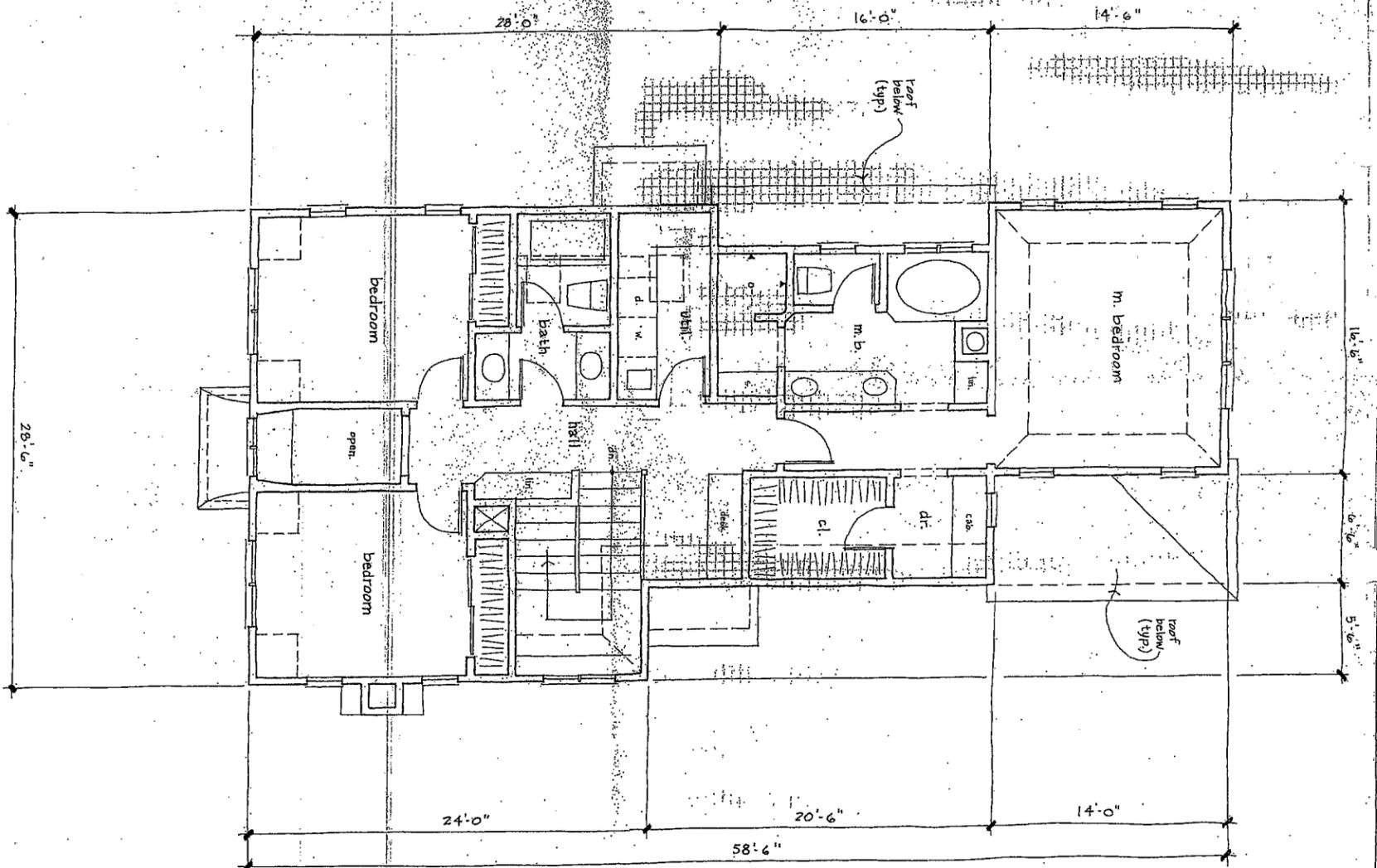
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 Britt • Rowe
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 Los Gatos, CA 95030
 408.354.6224 (office)
 408.354.6514 (fax)

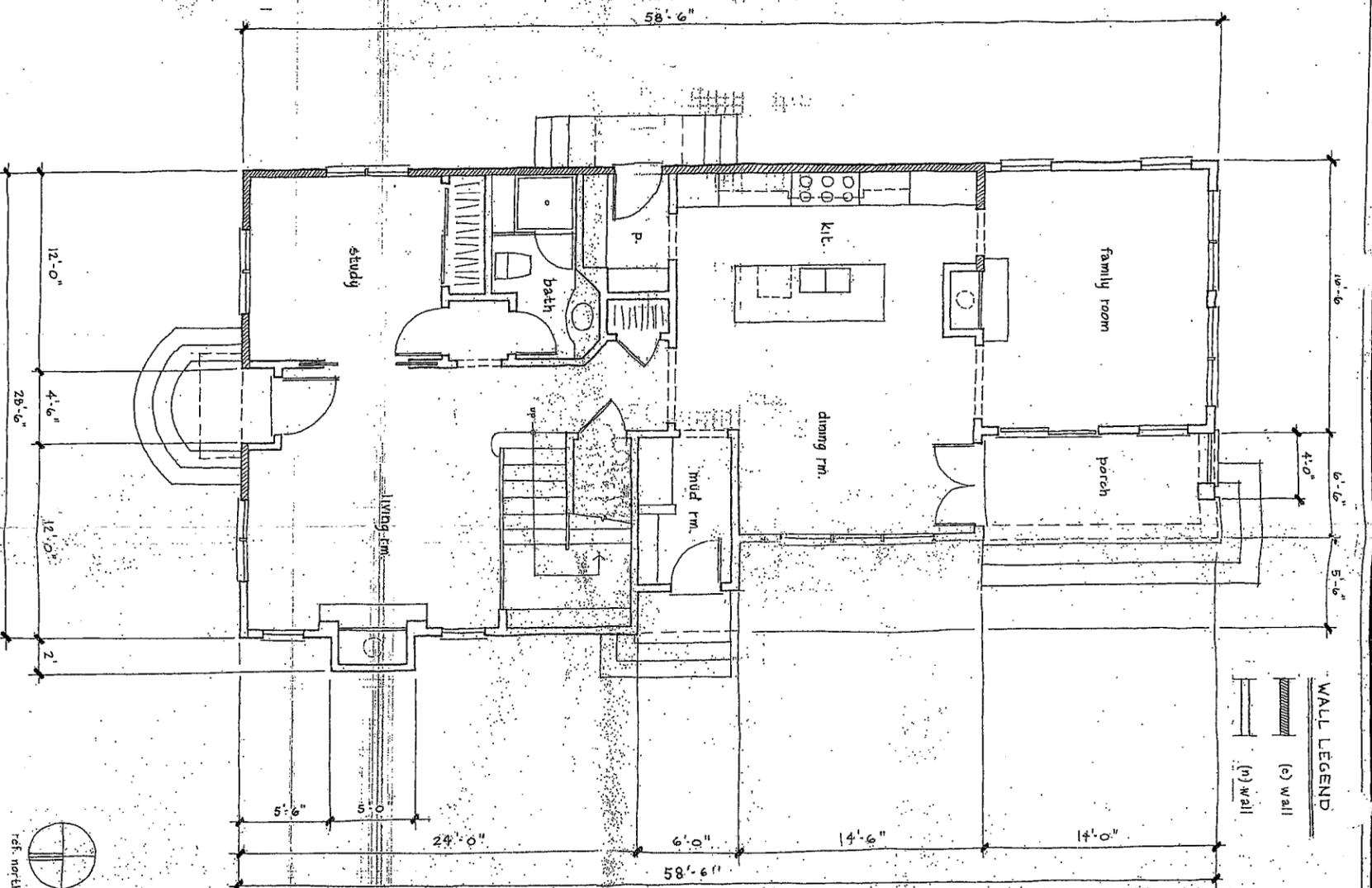
REVISIONS	BY
5-12-05	Jb

A2

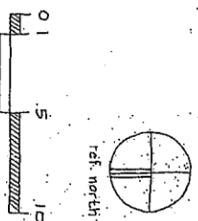
SECOND FLOOR PLAN



FIRST FLOOR PLAN



WALL LEGEND
 (c) wall
 (n) w/all



1/4" = 1'-0"

1/4" = 1'-0"

SHEET: floor plans
 SCALE: noted
 DATE: 11.5.04
 DRAWN:

A3

WAGNER RESIDENCE

16750 Farley Road
 Los Gatos, California

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408-554-8824 (office)
 408-554-8314 (fax)

108 N. Santa Cruz Ave.
 Los Gatos, CA 95020

BRITT•RÖWE

BR

REVISIONS: BY
 5.12.05 jw

REVISIONS	BY
5.12.05	JB

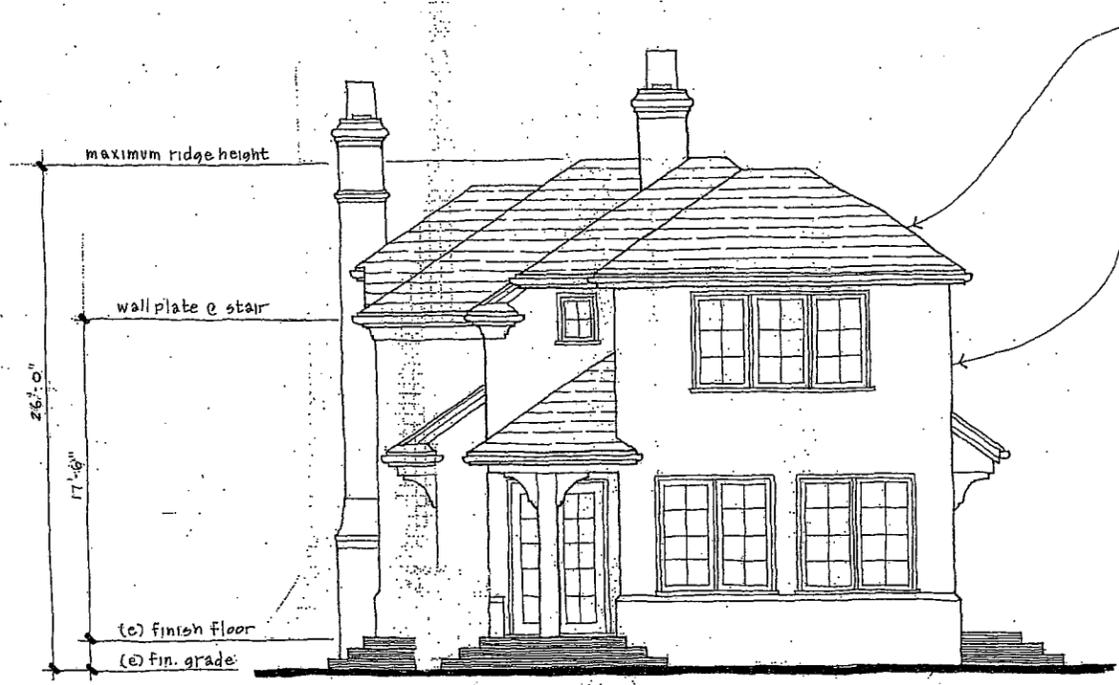
BR
 Britt Rowe
 108 N. Santa Cruz Ave.
 Los Gatos, CA 95030
 408.354.6224 (office)
 408.354.6514 (fax)

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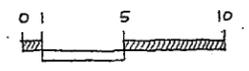
WAGNER RESIDENCE
 16750 Farley Road
 Los Gatos, California

SHEET: exterior elevations
 SCALE: noted
 DATE: 11.5.04
 DRAWN:

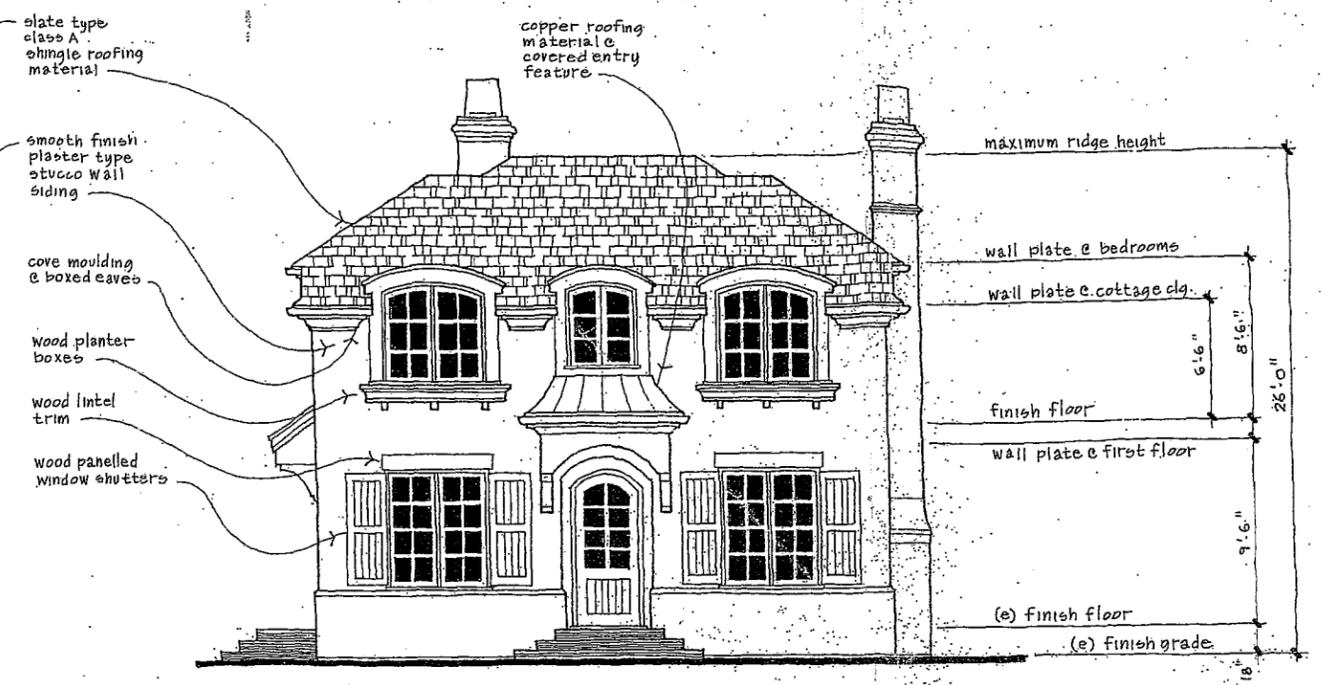
A4



REAR ELEVATION (SOUTH)



1/4"=1'-0"



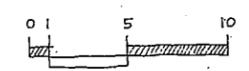
FRONT ELEVATION (NORTH)



1/4"=1'-0"



SIDE ELEVATION (WEST)



1/4"=1'-0"

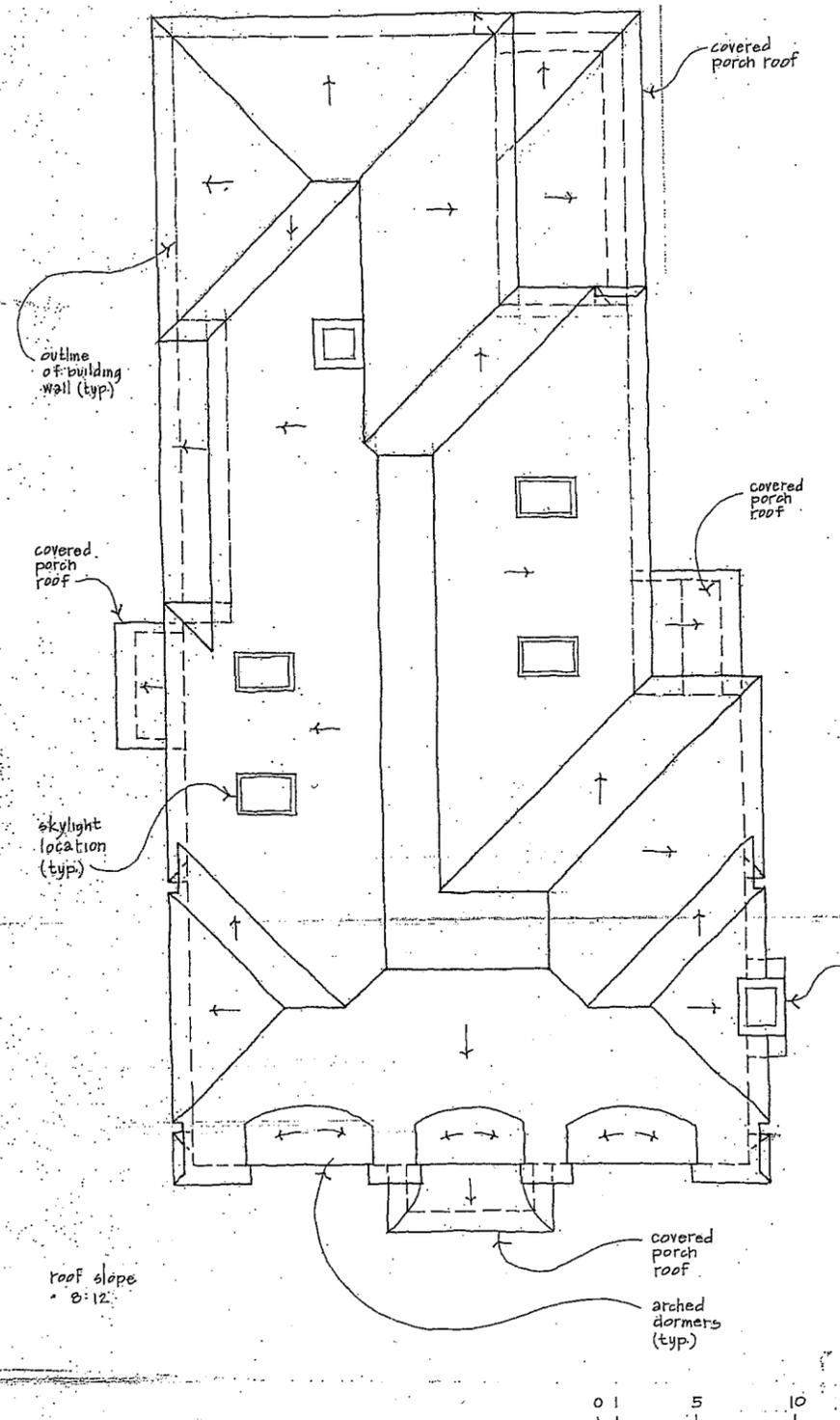
BR
 Britt • Rowe
 108 N. Santa Cruz Ave.
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 408.354.6224 (office)
 408.354.6514 (fax)

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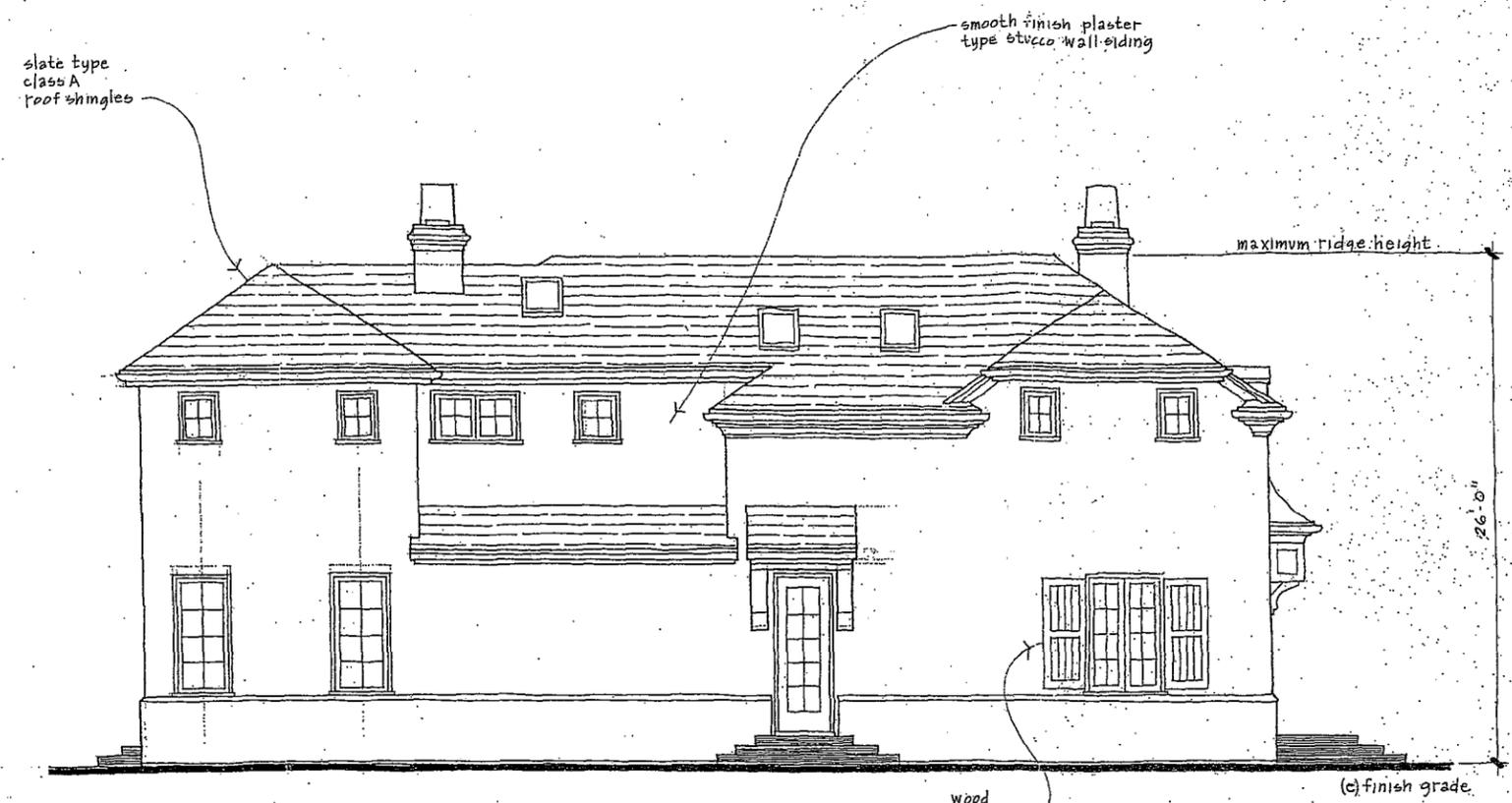
WAGNER RESIDENCE
 16750 Farley Road
 Los Gatos, California

SHEET: elevation / roof plan
 SCALE: noted
 DATE: 11.25.04
 DRAWN:

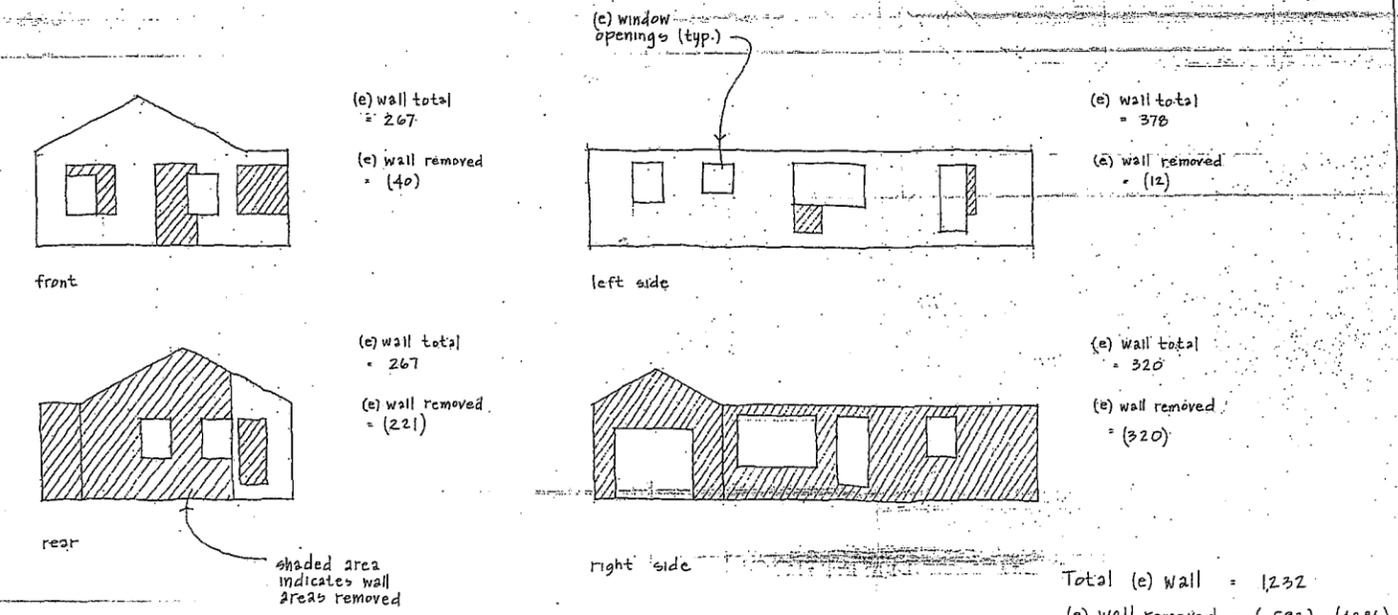
A5



ROOF PLAN



SIDE ELEVATION (EAST)



Wall Demo Calculations

1/8" = 1'-0"

REVISIONS	BY
4/11/05	Jb

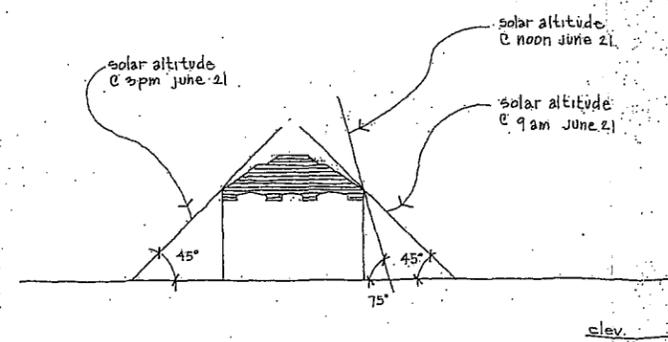
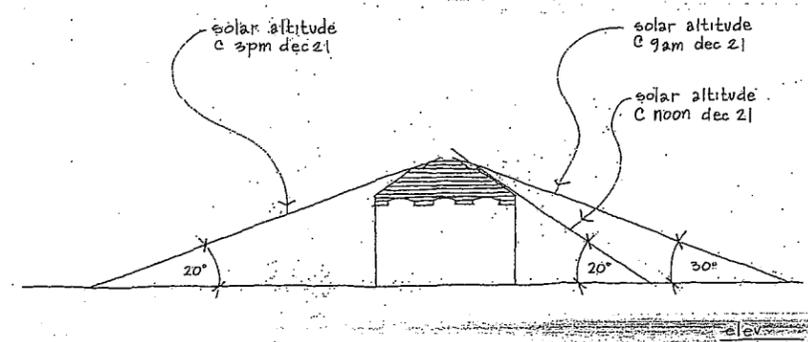
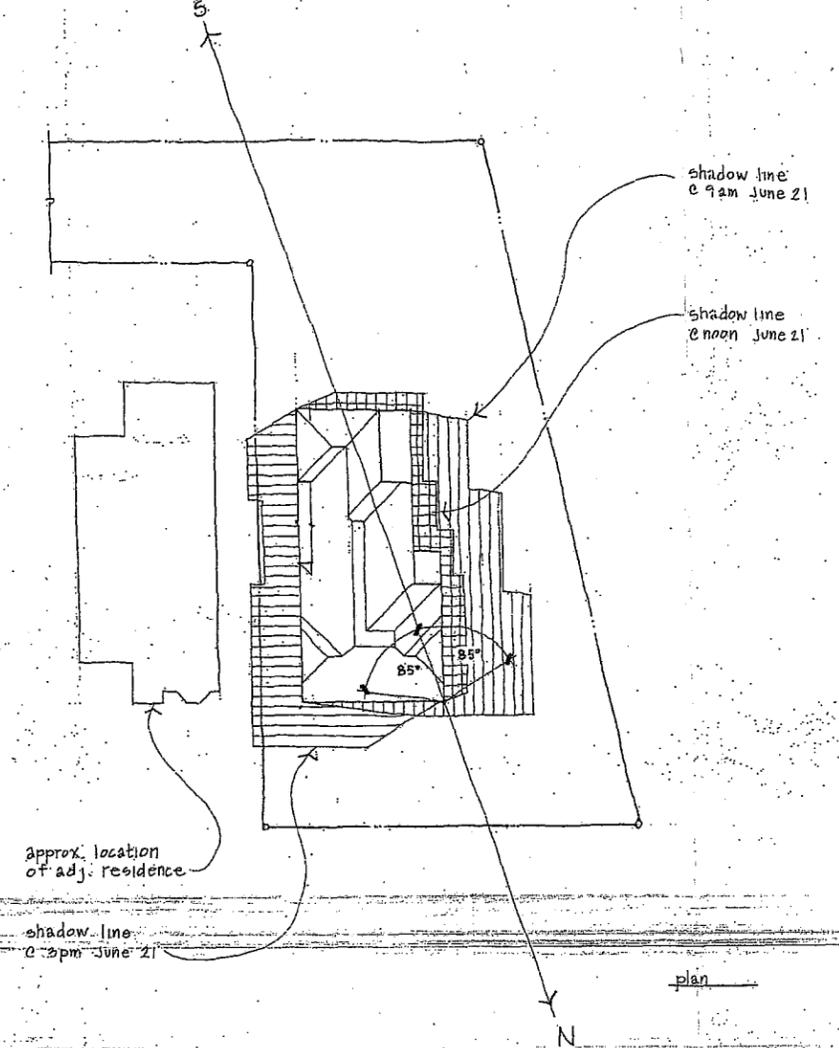
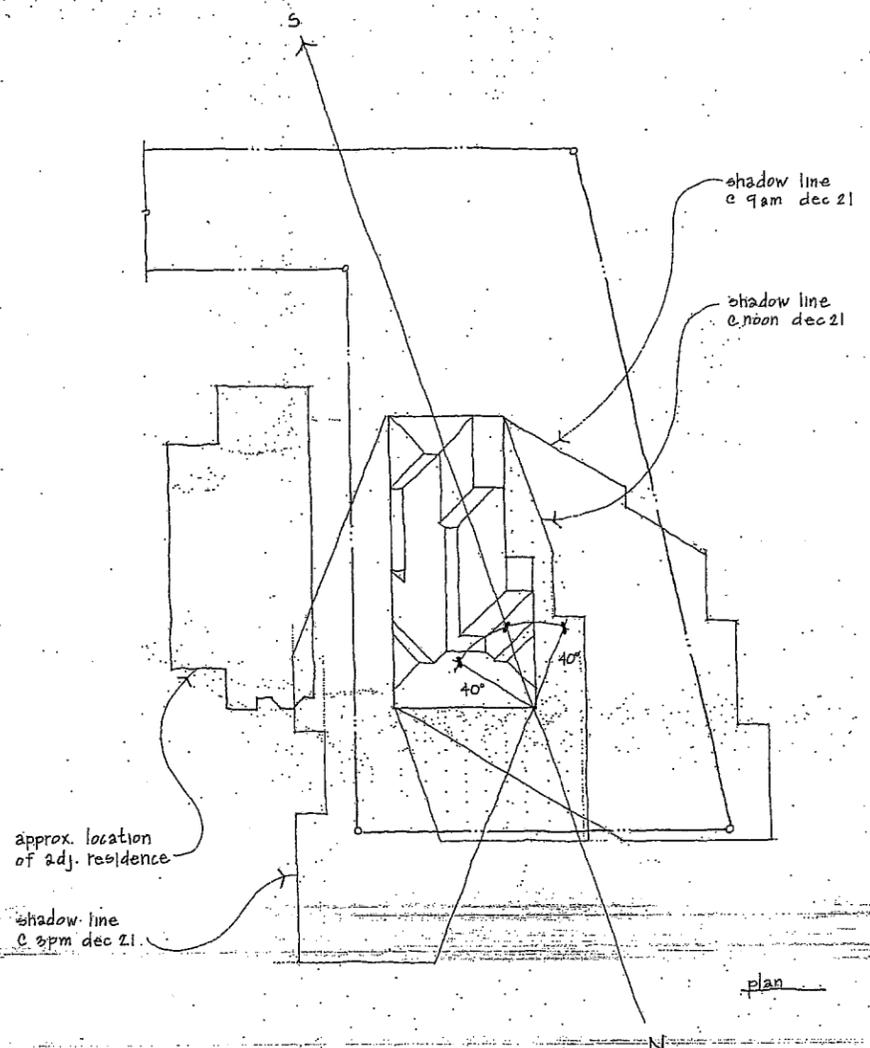
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 Los Gatos, CA 95030
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WAGNER RESIDENCE
 16750 Farley Road
 Los Gatos, California

SHEET: shadow studies
 SCALE: noted
 DATE: 11.20.04
 DRAWN:

A6



DEC. SHADOW STUDY

1/16"=1'-0"

JUNE SHADOW STUDY

1/16"=1'-0"

NEIGHBORHOOD SURVEY

Address	A.P.N.	square feet	F.A.R.	stories
16732 Farley Road				1
16728 " "				1
16724 " "				1
16750 " "	529-15-097	2,546	(.2413)	2
16766 " "				1
16780 " "				2
16761 " "				2
16751 " "				1
16741 " "				1
16731 " "				1
16719 " "				2

REVISIONS	BY

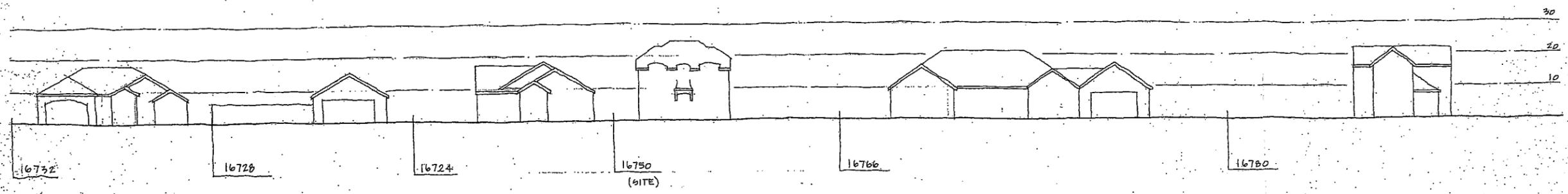
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 Britt • Rowe
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 408.354.6224 (office)
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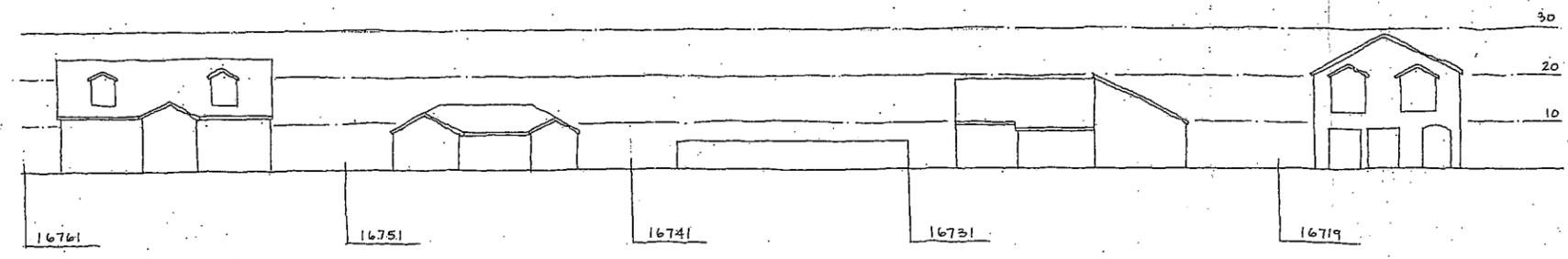
WAGNER RESIDENCE
 16750 Farley Road
 Los Gatos, California

SHEET: neighborhood
 SCALE: noted
 DATE: 11.15.04
 DRAWN:

A7



SITE SIDE



OPPOSITE SIDE

STREETSCAPES

1/16"=1'-0"

RECEIVED

OCT 18 2005

TOWN OF LOS GATOS
PLANNING DIVISIONPlanning Commission
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95030

October 17, 2005

At the June 8, 2005, planning commission meeting, the commissioners requested that we redesign the addition to our home so that the 2nd story is placed further away from our easterly neighbor's home. The commissioners allowed a reduced setback on the westerly side of the property to make this redesign possible. We feel our architect, David Britt, has done an amazing job alleviating the mass and scale on the east side of our addition by creatively moving $\frac{3}{4}$ of the second story wall plate 7 $\frac{1}{2}$ feet back from our existing first story wall plate. This has enabled him to meet the easterly neighbors request for a 1 $\frac{1}{2}$ story design with dormers. This was accomplished by adding square footage to our first story dining room so that the 2nd story master bath could be moved above it; also by moving our 1st story family room and 2nd story master bedroom to the westerly side of the home; and finally, by moving and shrinking the 2nd story master closet, laundry area, and hall bath.

We have had to sacrifice many assets of our first design such as a large enough master bedroom closet, walk-in shower, more attractive master bath design, spacious laundry area, hall bath with private lavatory, and a first story porch on the more utilized west side of our home. We feel these sacrifices, along with the variance on our westerly setback, have made it possible for us to meet the commissions request to provide our easterly neighbor with added light and sky view.

Sincerely,

Glen & Melissa Wagner
16750 Farley Rd.
Los Gatos, CA 95032

Exhibit Q



October 20, 2005

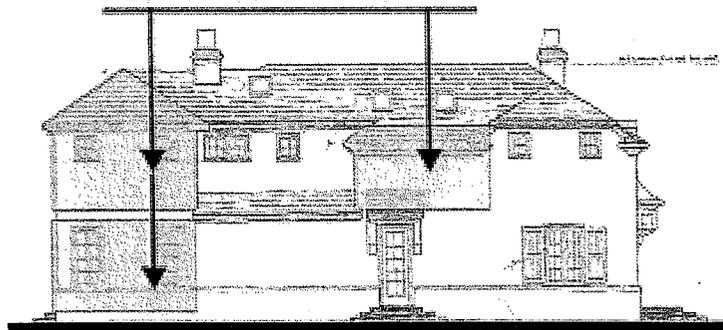
Ms. Rachel Peled
Community Development Department
Town of Los Gatos
110 E. Main Street
P.O. Box 949
Los Gatos, CA 95031

RE: 16750 Farley Road

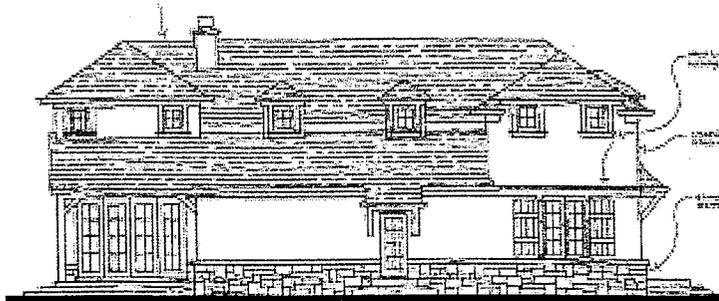
Dear Rachel:

I reviewed the revisions to the plans and elevations which have been changed to address the direction from the Planning Commission to pull back the mass of the second floor addition in order to limit the impact on the adjacent neighbor. The change has been significant with approximately 65% of the two story wall length along the east side of the house pulled back a distance of about seven and a half feet. The change should reduce the visual mass of the house as viewed from the east. The extent of the changes is shown on the diagrams below and on the following page.

These volumes have
been removed to a
depth of approximately 7'-6"

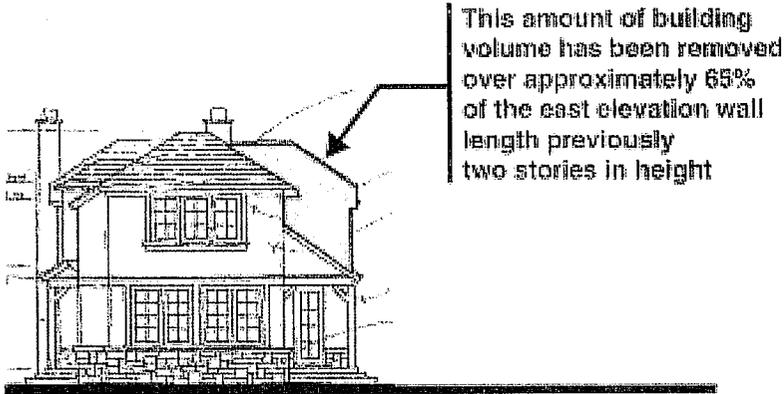


Original Elevation



Revised Elevation

East Elevation



Rear Elevation

I do not believe that further change to the plan will result in significantly different impacts. Probably only a major design change to incorporate the second floor more into the roof form would make a difference. That would require a change in the proposed architectural style of the house. An example of this approach is shown in the photo below.



Rachel, please let me know if you have any questions, or if there are specific issues of concern that I did not address.

Sincerely,
CANNON DESIGN GROUP

Larry L. Cannon AIA AICP
President

RECEIVED

OCT 18 2005

TOWN OF LOS GATOS
PLANNING DIVISION

Planning Commission
Office of Community Development
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95031

October 11, 2005

Thank you for your consideration of this further feedback regarding the proposed construction project at 16750 Farley Road in Los Gatos. My name is Bill Shellooe and my wife's name is Patricia Bottero and our address is 16742 Farley Road, directly next door to the proposed project.

Impact of the Modified Design

At the June 8th, 2005 Planning Commission meeting, the Planning Commission instructed the Wagners (owners of 16750 Farley Rd.) to modify the design to remedy the concerns we expressed regarding the view from the west windows in all three bedrooms of our house. **Unfortunately, the modified design does not remedy these concerns.** Based on the new story poles in place at 16750 Farley Rd. , the modified design produced no effect on the view from these bedroom windows and the dark, oppressive feeling in every bedroom and still violates several Town of Los Gatos Building Standards (see below).

The "Mass Study" of the redesigned structure submitted by the Wagners indicating that sky is revealed above the structure to a standing viewer looking out of our bedroom windows either is significantly in error or is an attempt to mislead the Planning Commission and the Community Development Department for 2 reasons. (See Diagram 1 "Mass Study" prepared by the Wagners.)

- No sky is revealed to a standing viewer of average height even right up against the windows. (See Diagram 3, the photos.)
- Given the north-westerly orientation of the house, the sun never appears even near the location and height depicted in the study's diagram at any time of year.

Opposition to the Project As-Proposed

Our opposition to this project as-proposed is based on 2 factors.

1. The 25 feet high, 59 feet wide two-story structure that adjoins the entire length of our house and is less than 16 feet away completely blocks the view of the sky and gives a dark, oppressive feeling to all three of the bedrooms in our home. (Please refer to diagram 2 and diagram 3, the photos.)

Violations of the Town of Los Gatos Residential Development Standards For All Single Family Dwellings

The size and closeness of the elevation impairs the use, enjoyment and value of our neighboring private property (I.A.1, I.A.4 and II.A.5.1). The differing scale and mass of the two houses and their close proximity creates an unharmonious and incompatible structural relationship and is inconsistent with any two-story homes adjacent to single story homes in the neighborhood (II.A.5.3 and II.B). In general, this project also compromises the unique sense of openness that the Town's Development Standards strives to preserve (I.A.2), especially in the Farley Road neighborhood. (See Appendix 1: Detailed Opposition for further explanation of violations.)

2. Access to the garage, driveway and off-street parking is located on a portion of land that is included in the legal description of our property (16742 Farley Rd.), not the Wagners (16750 Farley Rd.) and is the subject of a lawsuit. Once that suit is completed and a 6-foot fence is placed around it, the garage and off-street parking (except space for one car) will be completely inaccessible. Also, due to the below-standard 4-foot set-back to the northwest, the resulting structure will be an "eye-sore" in the Town: a "monster" 2-story home closely fenced-into a narrow corridor of a lot with an 8-foot set-back on one side and a set-back that tapers down to

4-feet on the other side. (See Diagram 2, upper right corner. See Appendix 2: Status of Quiet Title Legal Action below for more information regarding the suit.)

Use of this portion of land for parking, ingress/egress and construction is trespassing and is a violation of the Town's Site Planning Standards (I.B.4).

Our Request to the Planning Commission and the Community Development Department

Although the non-standard lot size of the project could permit variances, we ask the Planning Commission and Community Development Department to realize that *such variances damage the use, enjoyment and value of the adjoining home*. We ask you to consider the violations of Town Building Standards and the unsightliness of the closely fenced-in 2-story structure with an inaccessible detached garage. We also ask you to consider the detrimental precedent that this project as-proposed establishes for development in the Farley Road community: allowing future construction of oppressive two-story homes with very large elevations using minimum side setbacks adjoining single-story homes not side-by-side, but spanning nearly the entire length of the neighboring home. If such a trend continues, it will not only impair the use, enjoyment and value of the adjoining homes, but also compromise the unique openness that the Town of Los Gatos Development Standards are trying to preserve.

Any member of the Planning Commission or Community Development Department is welcome to call me to discuss these concerns or visit our house to see the adverse impact of this project as-proposed first-hand.

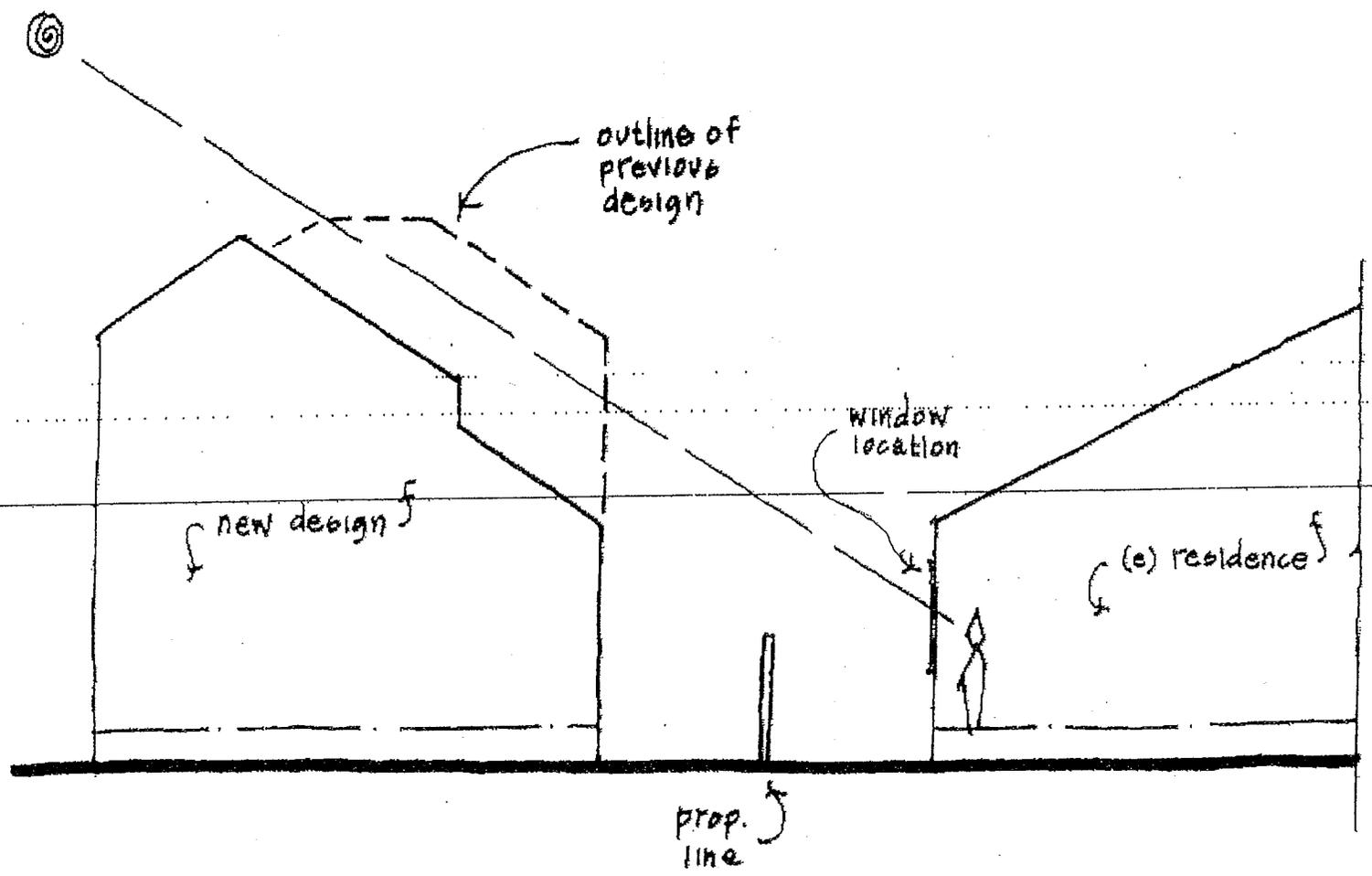
Sincerely,



Bill Shellooe
16742 Farley Rd.
Los Gatos, CA 95032
(408) 358-9523



Patricia Bottero

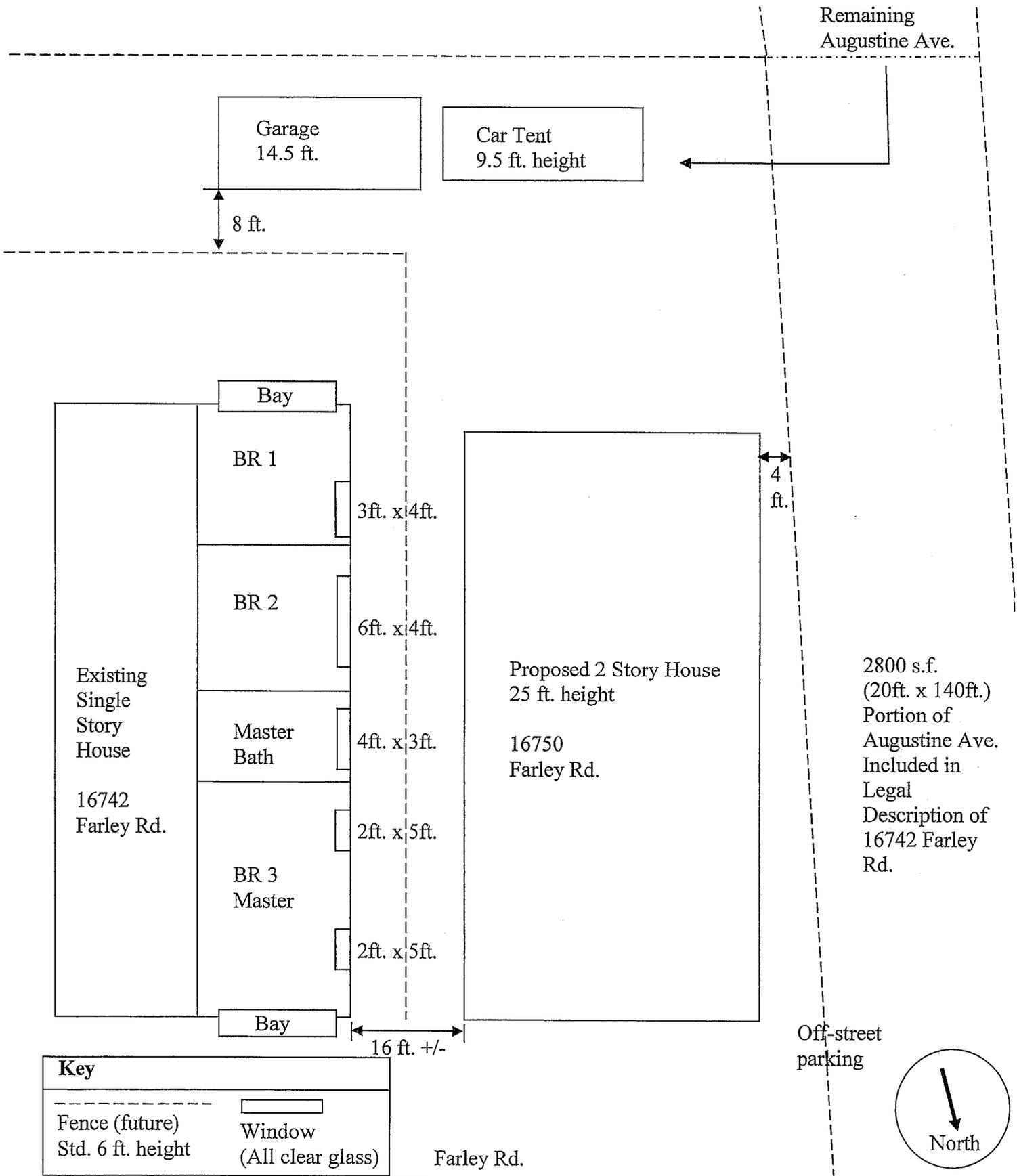


Mass study @ E of two houses (viewed from rear)
 Wagner Residence 16750 Farley Rd.

1/8" = 1'-0"

Diagram

Diagram 2



Key	
----- Fence (future) Std. 6 ft. height	 Window (All clear glass)

Appendix 1

Opposition Point 1 Detail

1. The 25 feet high, 59 feet wide two-story structure that adjoins the entire length of our house and is under 16 feet away is not consistent with any other adjoining homes on our street, completely blocks the view of the sky and gives a dark, oppressive feeling to all three of the bedrooms in our home. (Please refer to diagram 2 and diagram 3, the photos.)

i) Item 1 above significantly impairs the use, enjoyment and value of our neighboring private property and is therefore unsuitable for its location, violating the Town of Los Gatos General Site Development Standards for Single Family Homes (I.A.4 and I.A.2).

The fact that all of the windows running the entire length of our house are completely blocked by this structure impairs our use. The crowded and oppressed feeling that a structure of this size and proximity gives to each bedroom impairs our enjoyment of our home. Although the value of our house may increase on paper with this project, the number of potential buyers who would buy the home after seeing it becomes very small, i.e. there are few, if any, home buyers in this price range who would actually make an offer on, and want to live in a home where all of the windows on one side are blocked by the neighboring two-story house that is just 16 feet away.

ii) The massive design and elevation relative to the adjacent structure, our home, and its minimum side yard setback of 8 feet violates the Town of Los Gatos Building Design Development Standards for Single Family Homes specifying that "the design of the elevation facing an adjacent structure" be harmonious, compatible and "complement the adjacent structures and uses" (II.A.5.1).

iii) The fact that this two-story elevation with minimum set-backs adjoins our single-story home not side-by-side, but spanning nearly the entire length of our neighboring home is not consistent with any adjacent structures in the existing neighborhood (II.A.5.3).

(Normally the long sides of two rectangular houses would be adjoined to the rear of each other. As such, under the Town of Los Gatos R1:8 zoning, they would have a total of 40 feet of minimum rear separation, i.e. a 20-foot rear set-back on each lot.)

iv) The overall height and mass of this two-story dwelling only 16 feet away from our neighboring single-story home does not maintain a consistent scale with our neighboring structure, violating the Town of Los Gatos Building Design Scale and Mass Standards for Single Family Homes (II.B)

v) Additionally, the proximity of the two homes combined with the significant difference in scale and mass, compromises the Town's unique sense of openness (I.A.2), especially in the Farley Road area.

Appendix 2

Background and Status of Quiet Title Legal Action

Although the portion of land that is included in our property description and is the subject of the Quiet Title lawsuit would allow the Wagners to build a house that is compatible with the area and would not impair our experience of our home, they have refused to offer an adequate price for or trade land for this large (2800 square feet) portion of Los Gatos property.

This portion of property is now the subject of a Quiet Title lawsuit filed on June 3, 2005.

Unfortunately, on the advice of our attorneys, we reluctantly had to also name the Town of Los Gatos in addition to the Wagners in the lawsuit because of the Wagner's actions.

The Town of Los Gatos erroneously quit claimed this portion of property to the Wagners instead of its legal owners, us, in March of 2003. However, the Town's March 2004 letter to me it states that the "Town does not and has never claimed an interest in Augustine Avenue," i.e. the property was not the Town's to give.

Even though the Wagners were aware the Town's quit claim document did not grant them ownership, they have used it to misrepresent themselves as the owners of this property to various institutions including the County of Santa Clara Assessor's office in order to create an invalid new parcel description and APN that includes this portion of property.

At the Wagners' request, I agreed to an expensive mediation on August 30th, 2005. During the mediation, I proposed 3 different options that would allow the Wagners to acquire this portion of property, including a land-for-land trade as suggested by the Planning Commission at the July 8th meeting. The Wagners however made no offers of their own, and did not appear to mediate in good faith at all.

As such, this lawsuit is ongoing.

Diagram 3

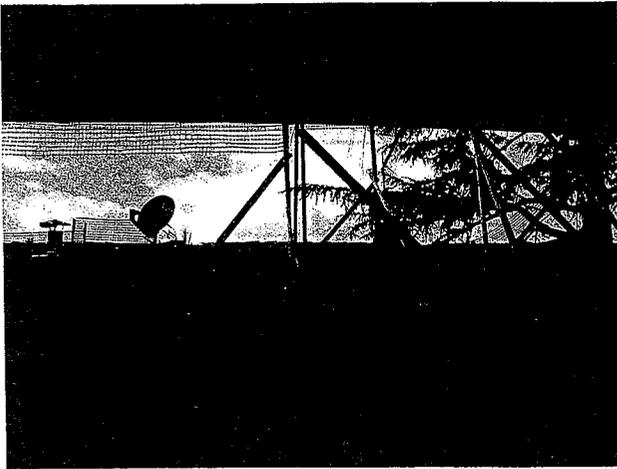


Figure 1 - View from northwest-facing window, master (north) bedroom.

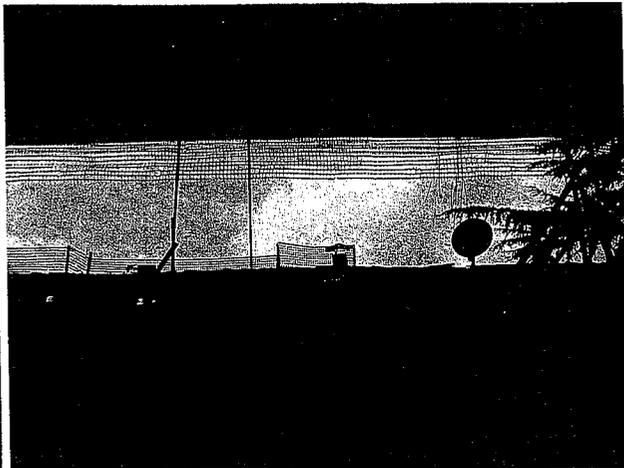


Figure 2 - View from northwest-facing window, master bathroom.

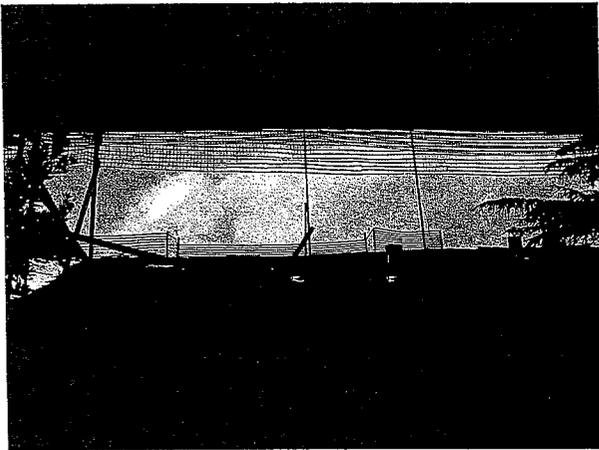


Figure 3 - View from northwest-facing window, middle bedroom.

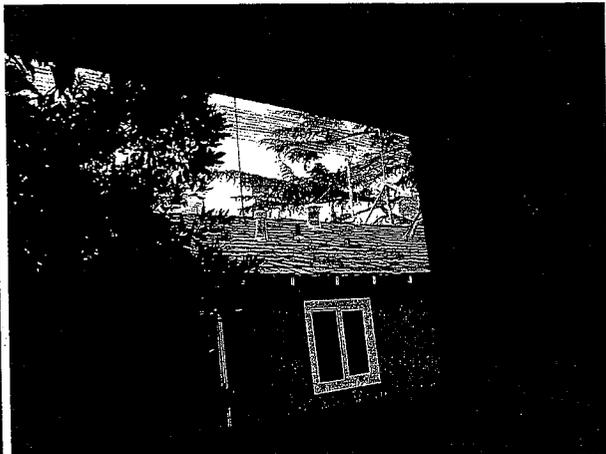


Figure 4 - View from nw-facing window, south bedroom.

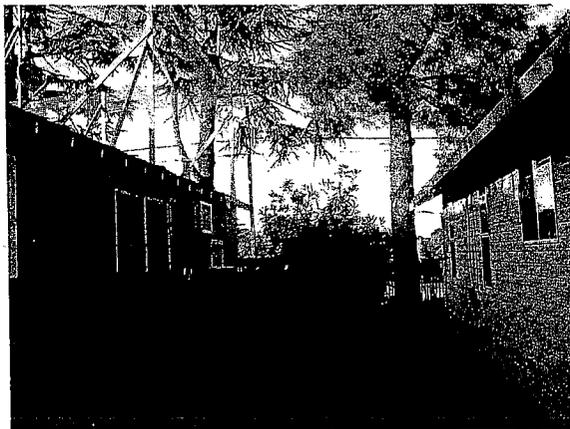


Figure 5 - Closeness of back-to-back walls spanning nearly length of entire house (93%)

RECEIVED
OCT 19 2005
TOWN OF LOS GATOS
PLANNING DIVISION

Date: June 8, 2005

For Agenda Of: June 8, 2005

Agenda Item: 1

DESK ITEM

REPORT TO: The Planning Commission
FROM: The Director of Community Development
LOCATION: 16750 Farley Road
Architecture and Site Application S-05-063

Requesting approval to construct a new second story on property zoned R-1:8. APN 529-15-097
PROPERTY OWNER: Melissa and Glen Wagner
APPLICANT: David Britt

DEEMED COMPLETE: May 17, 2005
FINAL DATE TO TAKE ACTION BY: November 17, 2005

EXHIBITS: A.-I. Previously Submitted.
J. Two letters from neighbors in support of the proposed project (2 Pages), received, June 7, 2005
K. Letter from neighbor in opposition of the proposed project (4 Pages including diagram) received June 8, 2005.

REMARKS:

Attached are two letters from neighbors on Farley Road in support of the proposed project (Exhibit J). The neighbors in opposition of the project have submitted a follow-up letter to their two letters that were included in the staff report (Exhibit J).



Bud N. Lortz, Director of Community Development

Prepared by: Rachel Bacola, Assistant Planner

BNL:RB

N:\DEV\REPORTS\2005\16750FarleyRD.desk.2.wpd

RECEIVED

JUN 07 2005

TOWN OF LOS GATOS
PLANNING DIVISION

June 7, 2005

Town of Los Gatos
Community Development/Planning Dept.
110 E. Main St.
Los Gatos, CA 95031

To Whom it May Concern:

We are writing in support of Melissa and Glen Wagner's second story addition at 16750 Farley Road in Los Gatos. The Wagners are superb neighbors, very caring and thoughtful. We would like nothing more than to see them remain in our neighborhood so that we can raise our families together.

In addition, we are pleased to see sensitive, non-ostentatious development in our Los Gatos neighborhood. Not only does an updated home benefit all neighbors by increasing property values, but also in the beautification of our street.

Please help the Wagners move forward with their reasonable, non-excessive remodel. They truly do deserve to fulfill their dream of raising their family on Farley Road.

Sincerely,

Jim & Kim Ratcliff

Jim and Kim Ratcliff
16793 Farley Road
Los Gatos, Ca 95032

EXHIBIT J

The Town of Los Gatos Planning Commission

6-3-2005

Re: Wagner Addition @ 16750 Farley Road

I am writing this letter to support the Wagner's plan to remodel and add on to their one bedroom home at 16750 Farley Road. The Wagner's goal is to expand their home to a modest size that would accommodate raising a family. Because of limitations of their lot size and layout, the only reasonable alternative for them to do this is to add a second story. This addition would be in keeping with the character of the neighborhood as there are several other two story homes near by. The Wagner's have taken special steps in their plans to minimize the impact of their proposed addition. I believe their new home would be an improvement to the neighborhood and allow them to comfortably raise a family. I strongly urge Commission approval of the Wagner's proposed plan.

RECEIVED

JUN 07 2005

TOWN OF LOS GATOS
PLANNING DIVISION

Sincerely,
Bill Hoett
16780 Farley Rd.

RECEIVED

JUN 08 2005

TOWN OF LOS GATOS
PLANNING DIVISION

June 7, 2005

Planning Commission
Office of Community Development
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95031

Thank you for your consideration of this further feedback regarding the proposed construction project at 16750 Farley Road in Los Gatos. My name is Bill Shellooe and my wife's name is Patricia Bottero and our address is 16742 Farley Road, next door to the proposed project.

Executive Summary

Our opposition to this project as-proposed is based on 2 factors.

1. The 26 feet high, 58 feet wide two-story structure that adjoins the entire length of our house and is under 16 feet away completely blocks the view of the sky and gives an oppressive feeling to all three of the bedrooms in our home. (Please refer to attached (updated) diagram and the photos attached to our March 16th letter if further clarification is needed.)

Possible Violations of the Town of Los Gatos Residential Development Standards For All Single Family Dwellings

The size and closeness of the adjoining elevation impairs the use, enjoyment and value of our neighboring private property (I.A.1, I.A.4 and II.A.5.1). The differing scale and mass of the two houses and their close proximity creates an unharmonious and incompatible structural relationship and is inconsistent with any two-story homes adjacent to single story homes in the neighborhood (II.A.5.3 and II.B). In general, this project also compromises the unique sense of openness that the Town's Development Standards strives to preserve (I.A.2), especially in the Farley Road neighborhood.

2. Access to the garage, driveway and off-street parking is located on a portion of land that is included in the legal description of our property (16742 Farley Rd.), not the Wagners (16750 Farley Rd.) (See attached diagram, upper right corner.)

This portion of property is now the subject of a Quiet Title lawsuit filed on June 3, 2005. Its use for parking, ingress/egress and construction is trespassing and may be a violation of the Town's Site Planning Standards (I.B.4).

The Wagners have used a Quit Claim document issued by the Town of Los Gatos that, as the Town has acknowledged in writing, does not grant ownership, to represent themselves as the owners of this property to the County of Santa Clara Assessor's office to create an invalid new APN that includes this portion of property. As a result of the Quiet Title action, a *lis pendens* has been recorded on this parcel. This invalid parcel number (529-15-097) is the parcel number for which this project is proposed.

We have proposed alternatives that would allow the Wagners to proceed with their home expansion including (significant) modifications to the design and possibly acquiring our 2800 square foot portion of property. None of these have been accepted by the Wagners.

We ask the Planning Commission and the Community Development Department to consider the detrimental precedent that this project as-proposed establishes for development in the Farley Road community: allowing future construction of oppressive two-story homes with very large adjacent elevations using minimum side set-backs adjoining single-story homes not side-by-side, but spanning nearly the entire length of the neighboring home. If such a trend continues, it will not only impair the use, enjoyment and value of the adjoining homes, but also compromise the unique openness that the Town of Los Gatos Development Standards are trying to preserve.

EXHIBIT K

Detailed Opposition

This letter contains the following new information:

- 1) A re-statement of 2 points of opposition to this project (in bold below).
- 2) Citations of specific possible violations of the Town of Los Gatos Residential Development Standards For All Single Family Dwellings (section numbers in parentheses below).
- 3) A brief background of the Quiet Title lawsuit affecting the APN for this project.
- 4) An updated diagram of the adjoining lots and homes.

Our opposition to this project is based on 2 factors, outlined below. Please refer to the updated diagram attached to this letter.

1. The 26 feet high, 58 feet wide two-story structure that adjoins the entire length of our house and is under 16 feet away is not consistent with any other adjoining homes on our street, completely blocks the view of the sky and gives an oppressive feeling to all three of the bedrooms in our home. (Please refer to the photos attached to our March 16th letter.)

i) Item 1 above significantly impairs the use, enjoyment and value of our neighboring private property and is therefore unsuitable for its location, violating the Town of Los Gatos General Site Development Standards for Single Family Homes (I.A.4 and I.A.2).

The fact that all of the windows running the entire length of our house are completely blocked by this structure impairs our use. The crowded and oppressed feeling that a structure of this size and proximity gives to each bedroom impairs our enjoyment of our home. Although the value of our house may increase on paper with this project, the number of potential buyers who would buy the home after seeing it becomes very small, i.e. there are few, if any, home buyers in this price range who would actually make an offer on, and want to live in a home where all of the windows on one side are blocked by the neighboring two-story house that is just 16 feet away.

ii) The massive design of the elevation facing the adjacent structure, our home, and its minimum side yard setback of 8 feet violates the Town of Los Gatos Building Design Development Standards for Single Family Homes specifying that "the design of the elevation facing an adjacent structure" be harmonious, compatible and "complement the adjacent structures and uses" (II.A.5.1).

iii) The fact that this two-story elevation with minimum set-backs adjoins our single-story home not side-by-side, but spanning nearly the entire length of our neighboring home is not consistent with any adjacent structures in the existing neighborhood (II.A.5.3).

(Normally the long sides of two rectangular houses would be adjoined to the rear of each other. As such, under the Town of Los Gatos R1:8 zoning, they would have a total of 40 feet of minimum rear separation.)

iv) The overall height and mass of this two-story dwelling only 16 feet away from our neighboring single-story home does not maintain a consistent scale with our neighboring structure, violating the Town of Los Gatos Building Design Scale and Mass Standards for Single Family Homes (II.B)

v) Additionally, the proximity of the two homes combined with the significant difference in scale and mass, compromises the Town's unique sense of openness (I.A.2), especially in the Farley Road area.

2. Access to the garage, driveway and off-street parking is located on a portion of land that is included in the legal description of our property (16742 Farley Rd.), not the Wagners (16750 Farley Rd.) (See attached diagram, upper right corner.)

The Wagners have not had legal ingress/egress rights over this portion of property since Augustine Avenue ceased to be a roadway when it was abandoned by the Town of Los Gatos in December of 2002. This portion of property is now the subject of a Quiet Title lawsuit filed on June 3, 2005. Its use for parking, ingress/egress and construction is trespassing and may be a violation of the Town's Site Planning Standards (I.B.4).

Unfortunately, on the advice of our attorneys, we reluctantly had to also name the Town of Los Gatos in addition to the Wagners in the lawsuit.

The Town of Los Gatos erroneously quit claimed this portion of property to the Wagners instead of its legal owners, us, in March of 2003. However, the Town's March 2004 letter to me states that the "Town does not and has never claimed an interest in Augustine Avenue," i.e. the property was not the Town's to give.

Even though the Wagners were aware the Town's quit claim document did not grant them ownership, they have used it to represent themselves as the owners of this property to the County of Santa Clara Assessor's office to create an invalid new parcel description and APN that includes this portion of property. As a result of the Quiet Title action, a *lis pendens* has been recorded on this parcel. This invalid parcel number is 529-15-097, the parcel number for which this project is proposed.

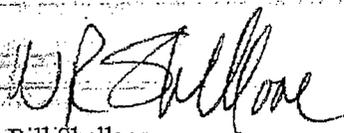
Additionally, we would like to reiterate and further explain the following issues.

Although the portion of land that is included in our property description would allow the Wagners to build a house that is compatible with the area and would not impair our experience of our home, they have been unwilling to offer an adequate price for or trade land for this large (2800 square feet) portion of Los Gatos property.

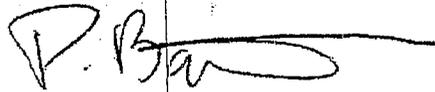
During a meeting in April with the Community Development staff, the Wagners, their architect and me, I suggested 2 remedies that would allow the project to proceed without the Wagners having to acquire the additional portion of land. My first suggestion was to build a single story home and use dormers in the attic for additional bedrooms. My second suggestion was to move the whole structure northwest toward Farley (and further away from our home, exposing the sky). While I understand that these suggestions are not acceptable to the Wagners, as we discussed at that meeting, I wanted to make you aware that I presented alternatives that are, at least, possibly acceptable to us.

We ask the Planning Commission and the Community Development Department to consider the detrimental precedent that this project as-proposed establishes for development in the Farley Road community; allowing future construction of oppressive two-story homes with very large adjacent elevations using minimum side set-backs adjoining single-story homes not side-by-side, but spanning nearly the entire length of the neighboring home. If such a trend continues, it will not only impair the use, enjoyment and value of the adjoining homes, but also compromise the unique openness that the Town of Los Gatos Development Standards are trying to preserve.

Sincerely,



Bill Shelloe
16742 Farley Rd.
Los Gatos, CA 95032



Patricia Bottero

Remaining
Augustine Ave.

Garage
14.5 ft.

Car Tent
9.5 ft. height

8 ft.

Bay

BR 1

3ft. x 4ft.

BR 2

6ft. x 4ft.

Existing
Single
Story
House

Master
Bath

4ft. x 3ft.

16742
Farley Rd.

BR 3
Master

2ft. x 5ft.

2ft. x 5ft.

Bay

5 ft.

Proposed 2 Story House
26 ft. height

8 ft.

16750
Farley Rd.

2800 s.f.
(20ft. x 140ft.)
Portion of
Augustine Ave.
Included in
Legal
Description of
16742 Farley
Rd.

16 ft. +/-

Off-street
parking

Key

Fence
Std. 6 ft. height

Window
(All clear glass)

Farley Rd.



Date: June 30, 2005
For Agenda Of: July 13, 2005
Agenda Item: 1

REPORT TO: The Planning Commission
FROM: The Director of Community Development
LOCATION: 16750 Farley Road
Architecture and Site Application S-05-063

Requesting approval to construct a new second story on property zoned R-1:8. APN 529-15-097
PROPERTY OWNER: Melissa and Glen Wagner
APPLICANT: David Britt

DEEMED COMPLETE: May 17, 2005
FINAL DATE TO TAKE ACTION BY: November 17, 2005

EXHIBITS: A.-I. Previously submitted.
J. Letter from owners requesting their item be continued to the meeting of August 24, 2005 (1 page), received June 20, 2005.

DISCUSSION

The owner requests that the Commission continue this item to the meeting of August 24, 2005. Additional time is needed in order for the owner and applicant to develop a redesign of the proposed second-story addition based on the Commission's direction from the meeting on June 8, 2005. Revised drawings depicting changes to the proposed second story addition and first floor have not been completed and submitted to the Planning Department for review.

If there is anyone at the Planning Commission meeting who would like to address the Commission on this matter, they should be afforded the opportunity to do so.



Bud N. Lortz, Director of Community Development

Prepared by: Rachel Bacola, Assistant Planner

BNL:RB

cc: Melissa and Glen Wagner, 16750 Farley Road, Los Gatos, CA, 95031
Bill Shellooe and Patricia Bottero, 16742 Farley Road, Los Gatos, CA, 95031

Planning Commission
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95030

RECEIVED
JUN 20 2005
TOWN OF LOS GATOS
PLANNING DIVISION

June 20, 2005

At the June 8, 2005, Planning Commission meeting our request for approval of a second story addition at 16750 Farley Rd. was continued to its meeting of July 13, 2005. We would like to request that the matter be continued to the August 24, 2005, meeting so that we may have more time to contemplate the design changes requested.

Sincerely,

Glen & Melissa Wagner
16750 Farley Rd.
Los Gatos, CA 95032

Exhibit J

Date: August 17, 2005
For Agenda Of: August 24, 2005
Agenda Item: 1

REPORT TO: The Planning Commission
FROM: The Director of Community Development
LOCATION: 16750 Farley Road
Architecture and Site Application S-05-063

Requesting approval to construct a new second story on property zoned R-1:8. APN 529-15-097
PROPERTY OWNER: Melissa and Glen Wagner
APPLICANT: David Britt

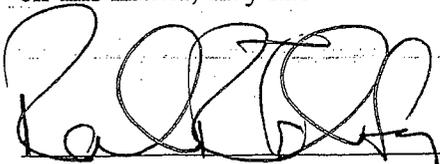
DEEMED COMPLETE: May 17, 2005
FINAL DATE TO TAKE ACTION BY: November 17, 2005

EXHIBITS: A.-J. Previously submitted.
K. Letter from owners requesting item be continued to the meeting of October 26, 2005 (1 page), received August 11, 2005.

DISCUSSION

The owner requests that the Commission continue this item to the meeting of October 26, 2005. The Commission granted a continuance for this item on July 13, 2005 to the agenda of August 24, 2005. Additional time is needed in order for the owner and applicant to develop a redesign of the proposed second-story addition based on the Commission's direction from the meeting on June 8, 2005. Revised drawings have not been completed and submitted to the Planning Department for review. The owner and applicant have been notified that the last Planning Commission agenda for final action to be taken on this item is November 9, 2005, unless the deadline is waived by the applicant.

If there is anyone at the Planning Commission meeting who would like to address the Commission on this matter, they should be afforded the opportunity to do so.



Bud N. Lortz, Director of Community Development

Prepared by: Rachel Bacola, Assistant Planner

BNL:RB:mdc

cc: Melissa and Glen Wagner, 16750 Farley Road, Los Gatos, CA, 95032
Bill Shellooe and Patricia Bottero, 16742 Farley Road, Los Gatos, CA, 95032
N:\DEV\REPORTS\2005\16750FarleyCont2wpd.wpd

Aug 11, 2005

Planning Commission
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95030

At the June 8, 2005, Planning Commission meeting our request for approval of a second story addition at 16750 Farley Rd. was continued and extended to its meeting of Aug. 24, 2005. We regret that we have been unable to come up with a new design that meets our needs and we request that the matter be continued to the Oct. 26, 2005, meeting.

Sincerely,

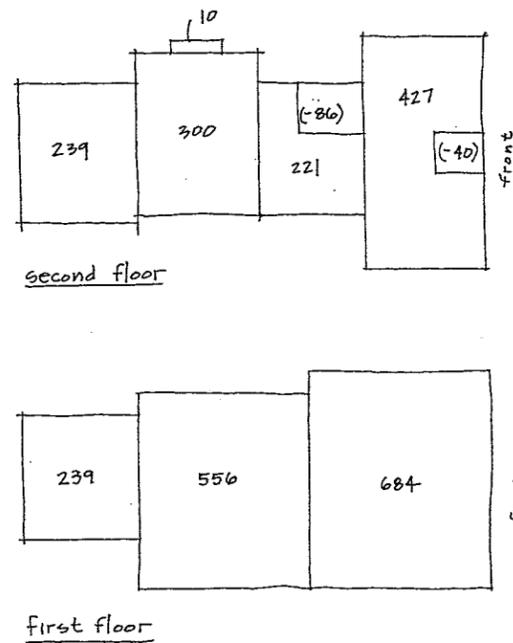
Glen & Melissa Wagner
16750 Farley Rd.
Los Gatos, CA 95032

RECEIVED
AUG 11 2005
TOWN OF LOS GATOS
PLANNING DIVISION

GENERAL NOTES:

1. Britt/Rowe is not responsible for the design, coordination or implementation of any work performed by consultants, including, but not limited to, structural engineering, soil engineering, civil engineering, landscape architecture, and/or Title 24 engineering.
2. All work done pursuant to these drawings and specifications shall comply with all ordinances and regulations which apply to the work and shall in any case conform to the latest edition of the "Uniform Building Code" (UBC) currently enforced, and all current city, county, and state codes as applicable.
3. Layout for new work is largely based upon relationships to existing conditions. Any questions regarding the intent related to the layout of the new work shall be brought to the attention of Britt/Rowe prior to the commencement of any work. The contractor shall notify Britt/Rowe of all discrepancies prior to the commencement of any work.
4. Preference shall be given to figured/written dimensions on the drawings over scaled measurements. The "Plans", "General Notes", and "Specifications" are intended to agree and supplement one another. Anything indicated in/on one and not the others, shall be executed as if in all. In cases of direct conflict, the most restrictive shall govern.
5. Civil, Soil, and Structural Engineer's specifications shall take precedence over the following architectural specifications.
6. Britt/Rowe retains all rights and ownership of the "Planning Documents" and "Specifications". These documents may not be used in whole or in part on any other project without expressed consent from Britt/Rowe.
7. The owner/developer/client reserves the right to make alterations of the design during the course of construction as applicable. Any changes shall be approved by the local planning department as applicable. All changes shall be documented by a written "Change Order" and shall be approved by the owner/developer/client.

Square Footage Calculations



Front View of Proposed Addition/Removal



REVISIONS	BY
10.3.05	db

BR

Britt • Rowe

108 N. Santa Cruz Ave.
Los Gatos, CA 95030

408.354.6224 (office)
408.354.6514 (fax)

BRITT • ROWE retains all rights and ownership in all drawings and specifications. The contents of the drawings and specifications may not be used on any other project without the expressed, written consent of BRITT • ROWE.

SHEET INDEX:

TITLE SHEET / PROJECT INFO:	A-0
ARCHITECTURAL SITE PLAN:	A-1
EXISTING / DEMO	A-2
FIRST & SECOND FLOOR PLANS:	A-3
EXTERIOR ELEVATIONS:	A-4
EXTERIOR ELEVATIONS & ROOF PLAN:	A-5
SHADOW STUDIES:	A-6
NEIGHBORHOOD SURVEY / STREETSCAPES:	A-7

INCLUDED IN SET BY OTHERS: SITE SURVEY

GENERAL PROJECT INFORMATION:

Scope of Work: Remodel and second story addition to an existing one story single family residence.

Owner/Site Address: Glen and Melissa Wagner
16750 Farley Rd.
Los Gatos, CA 95032
408.358.9181

APN: 529-15-097
Zoning: R1-8
Lot Area: 7,762 (original lot size) + 2,803 (section of lot under dispute)
Avg. Lot Slope: Less than 2% (flat)

Existing Square Footage (FAR): 986.5

Note: Calculations below are based on original lot size and not lot area under dispute.

Proposed Square Footage (FAR): First Floor: 1,497 sq. ft.
Second Floor: 1,071 sq. ft.
Total: 2,548 sq. ft. (.3283)

Allowable Square Footage (FAR): Structure(s): 2,549 sq. ft. (.3284)

Building Height: 25'-0" @ tallest ridge measured from existing finish grade.

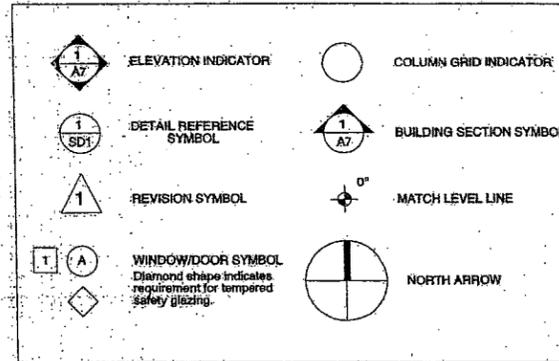
Building Coverage: House: 1,627 sq. ft.
Detached Garage: 288 sq. ft.
Total: 1,915 sq. ft. (25%)
Allowable: 3,105 sq. ft. (40%)

Setbacks:

	Existing	Proposed	Minimum
Front:	28'-0"	25'-0"	25'-0"
L Side:	8'-0"	8'-0"	8'-0"
R Side:	10'-0"	4'-0"	0'-0"
Rear:	38'-6"	53'-0"	20'-0"

* per planning commission recommendation

ARCHITECTURAL DRAWING SYMBOLS:



PROJECT CONSULTANTS:

Building Designer:

Britt/Rowe
David Britt
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Los Gatos, CA 95030
408.354.6224

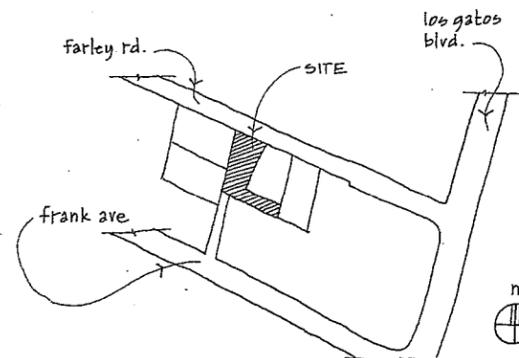
Site Surveyor:

Westfall Engineers
14583 Big Basin Way
Saratoga, CA 95070
408.867.0244

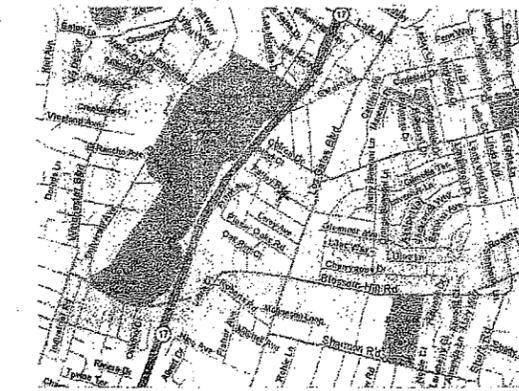
RECEIVED
OCT 05 2005
TOWN OF LOS GATOS
PLANNING DIVISION

S-05-064

VICINITY MAP:



LOCATION MAP:



WAGNER RESIDENCE
16750 Farley Road
Los Gatos, California

SHEET: TITLE SHEET
SCALE: N/A
DATE: SEE PLANS
DRAWN: BRITT/ROWE

A0

REVISIONS	BY
4/11/05	db
10/3/05	db

BR

Britt • Rowe

108 N. Santa Cruz Ave.
Los Gatos, CA 95030

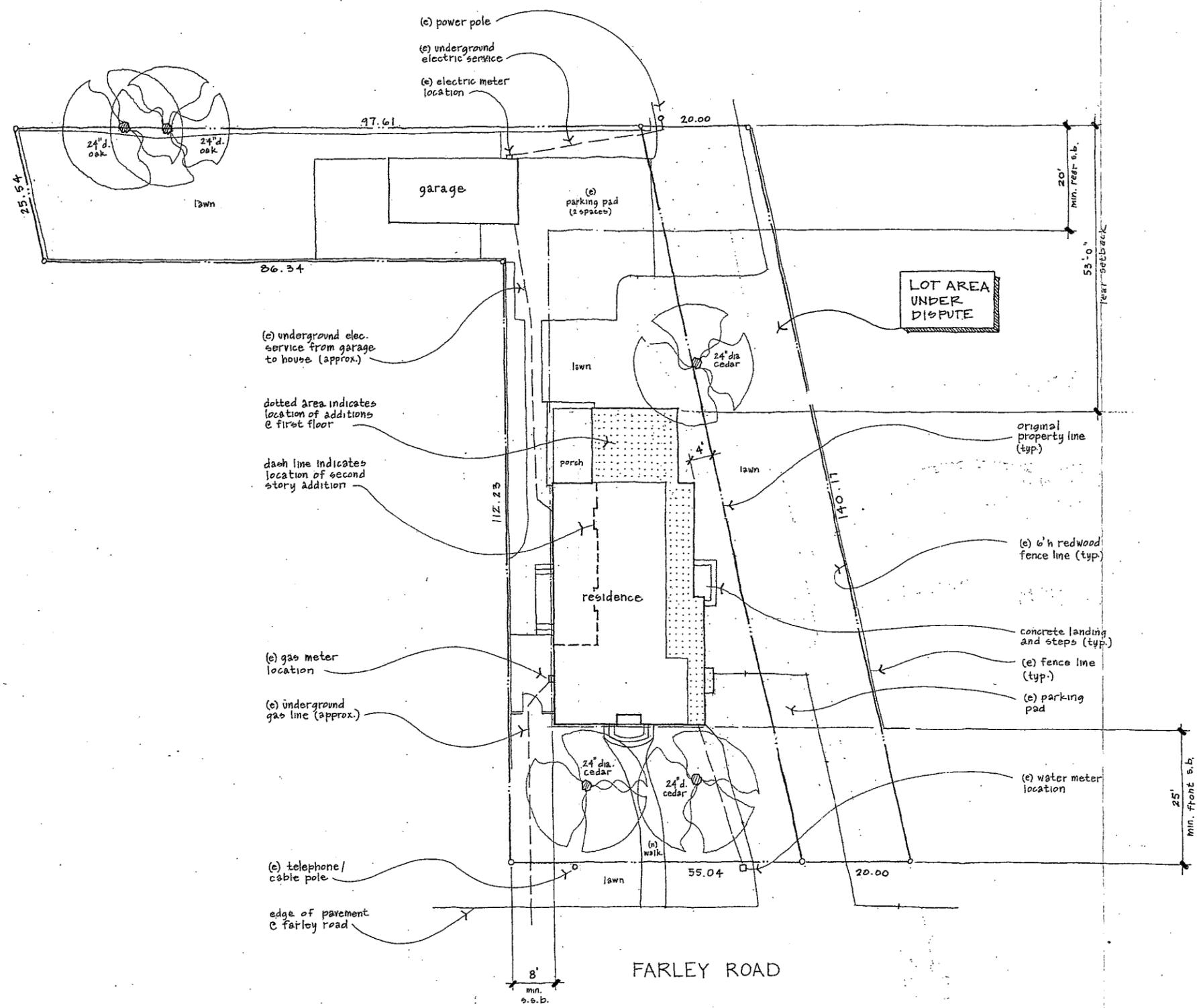
408.354.6224 (office)
408.354.6514 (fax)

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WAGNER RESIDENCE
16750 Farley Road
Los Gatos, California

SHEET: SITE PLAN
SCALE: Noted
DATE: 11.5.04
DRAWN:

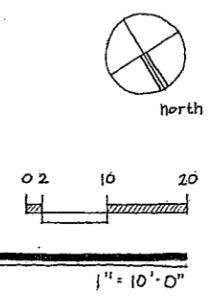
A1



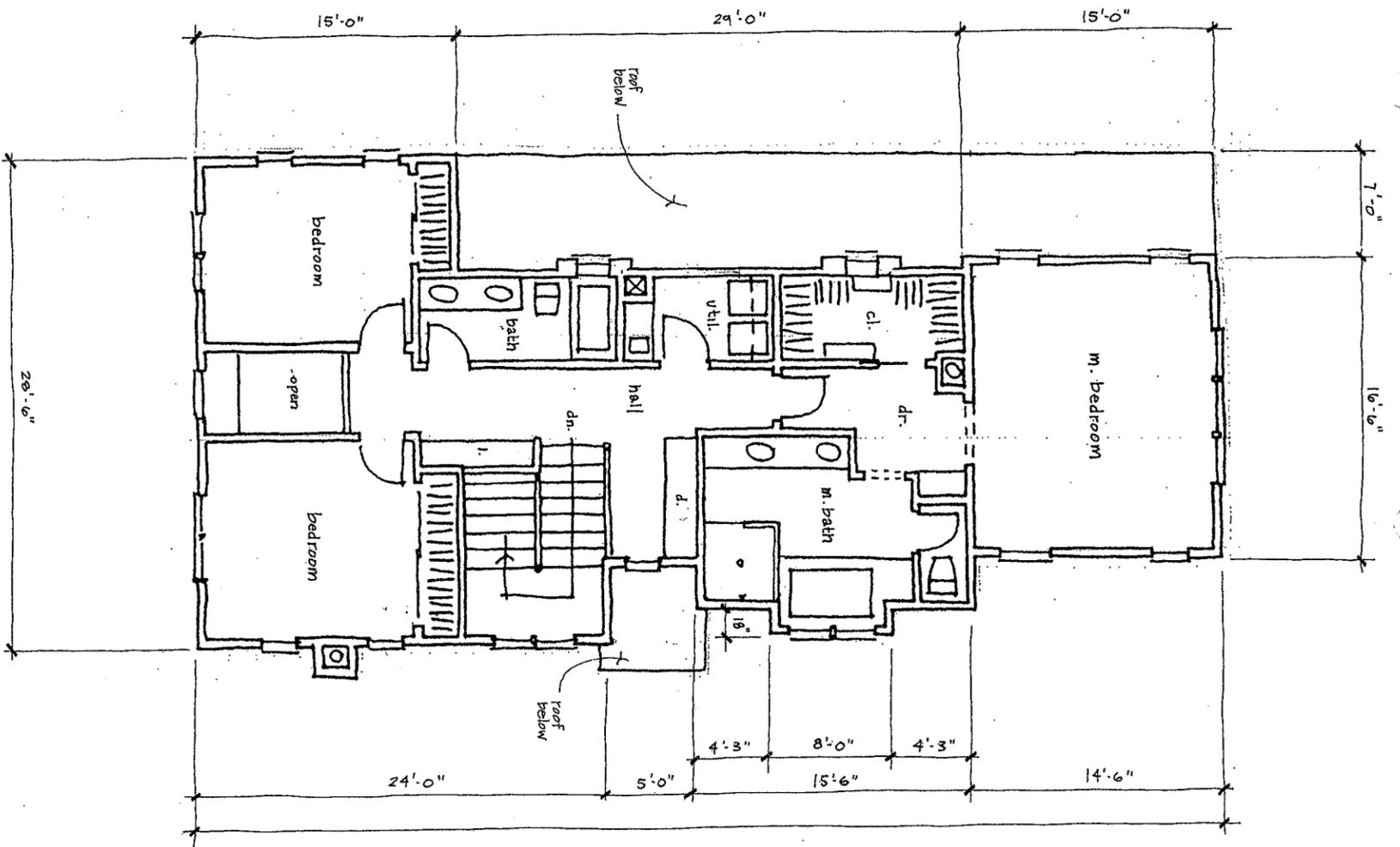
Note: no trees are proposed to be removed at site.

ARCHITECTURAL SITE PLAN

SITE AREA • 10,563 sq. ft.

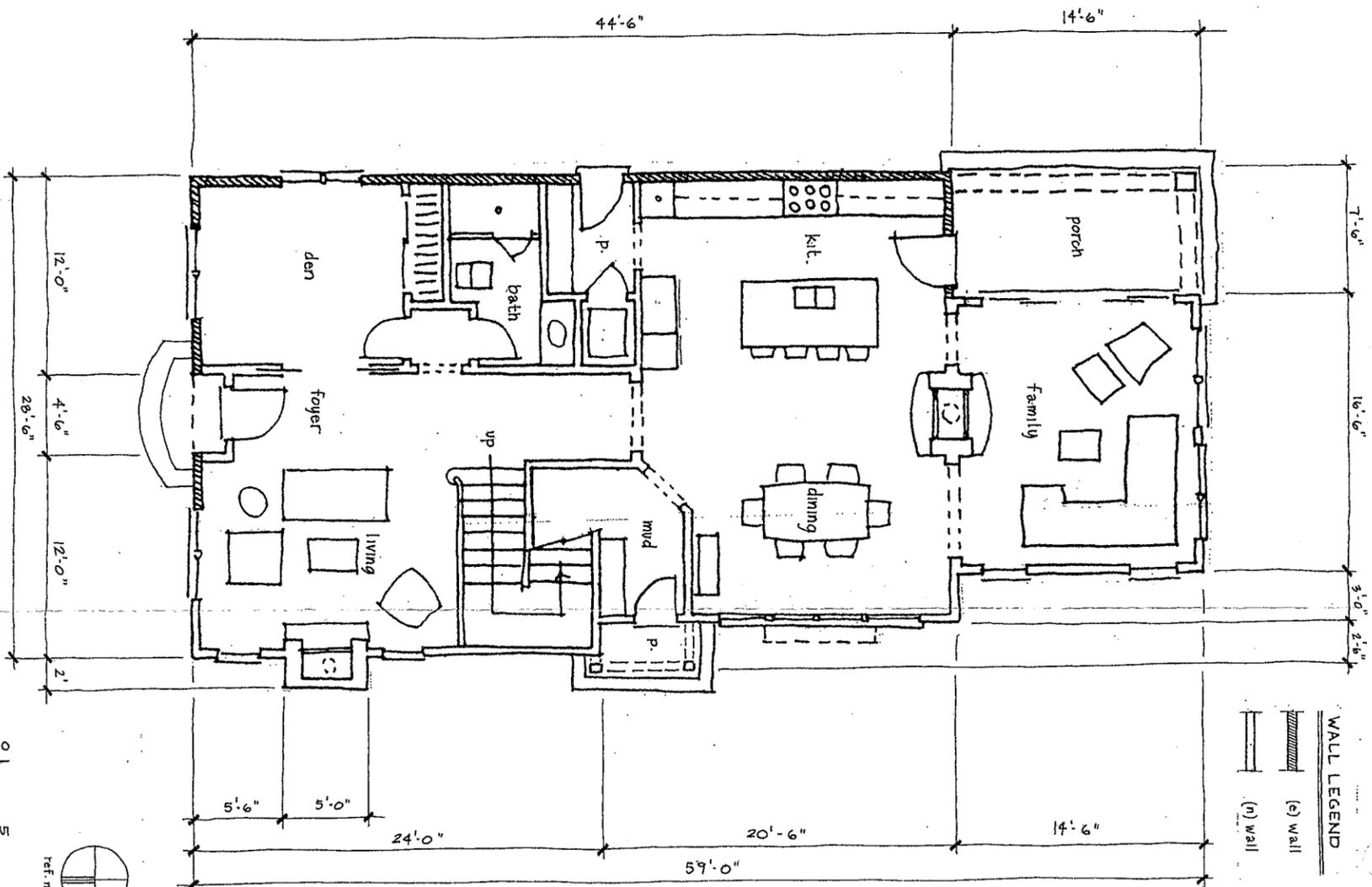


SECOND FLOOR PLAN



1/4"=1'-0"

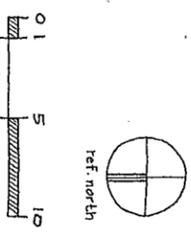
FIRST FLOOR PLAN



1/4"=1'-0"

WALL LEGEND

	(c) wall
	(n) wall



A3

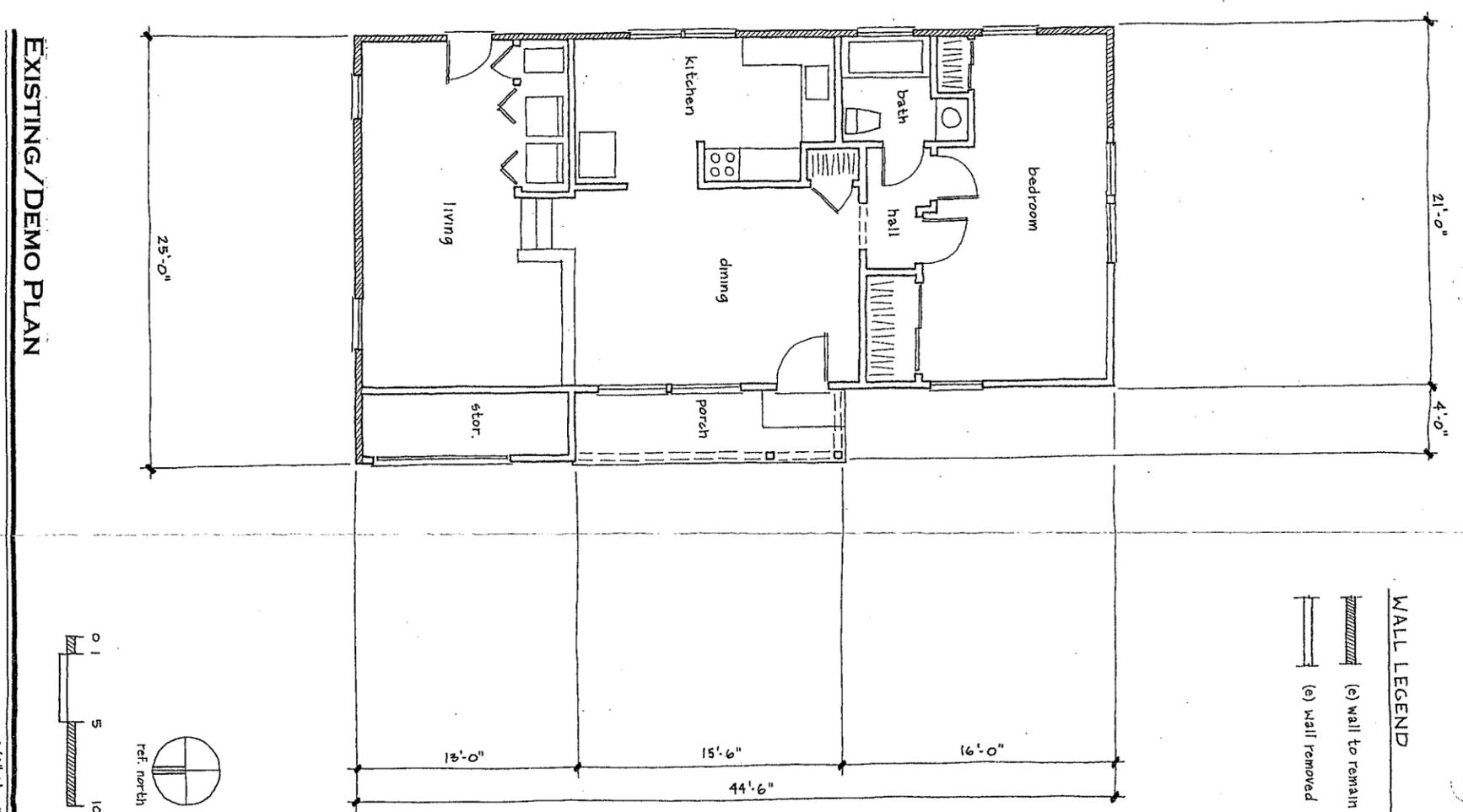
SHEET: floor plans
SCALE: noted
DATE: 9.30.05
DRAWN:

WAGNER RESIDENCE
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 Los Gatos, California

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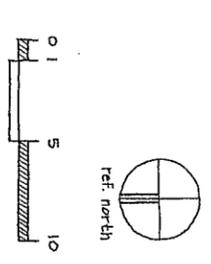
BR
 Britt•Rowe
 108 N. Santa Cruz Ave.
 Los Gatos, CA 95030
 408.354.6224 (office)
 408.354.8514 (fax)

REVISIONS	BY
9/30/05	JB



EXISTING/DEMO PLAN

WALL LEGEND
 (c) wall to remain
 (e) wall removed



REVISIONS	BY
5.12.05	db



Britt • Rowe
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 Los Gatos, CA 95033

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 408.354.5374 (fax)

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WAGNER RESIDENCE
 16750 Farley Road
 Los Gatos, California

SHEET: existing plan & basement
SCALE: noted
DATE: 11.5.04
DRAWN:

A2

REVISIONS	BY

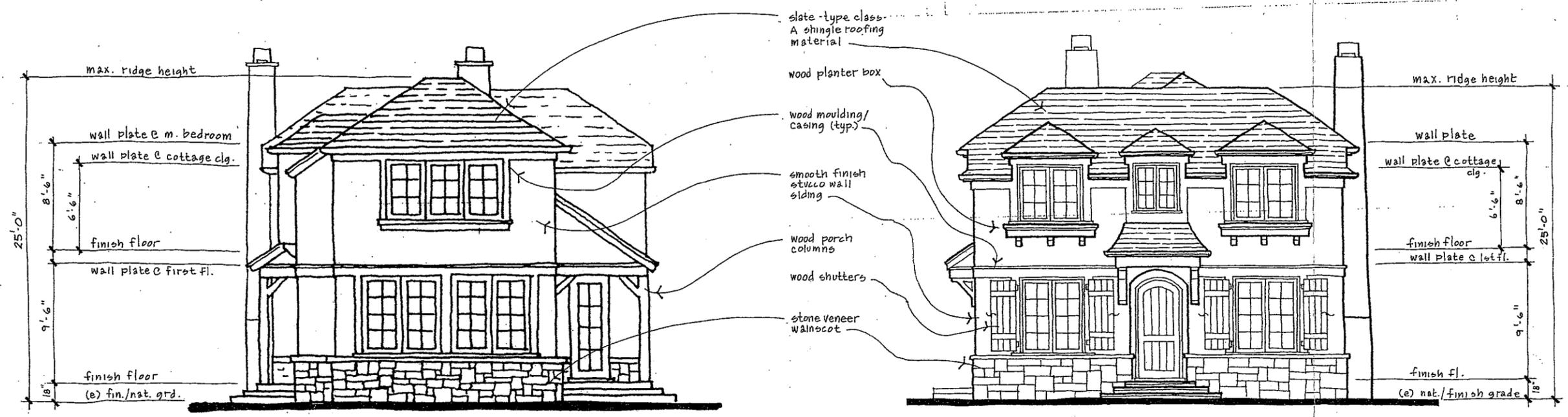
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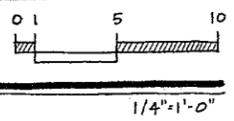
WAGNER RESIDENCE
 16750 Farley Road
 Los Gatos, California

SHEET: exterior elevations
 SCALE: noted
 DATE: 9.30.05
 DRAWN:

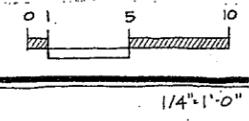
A4



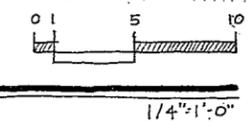
REAR ELEVATION (SOUTH)



FRONT ELEVATION (NORTH)



SIDE ELEVATION (WEST)



REVISIONS	BY

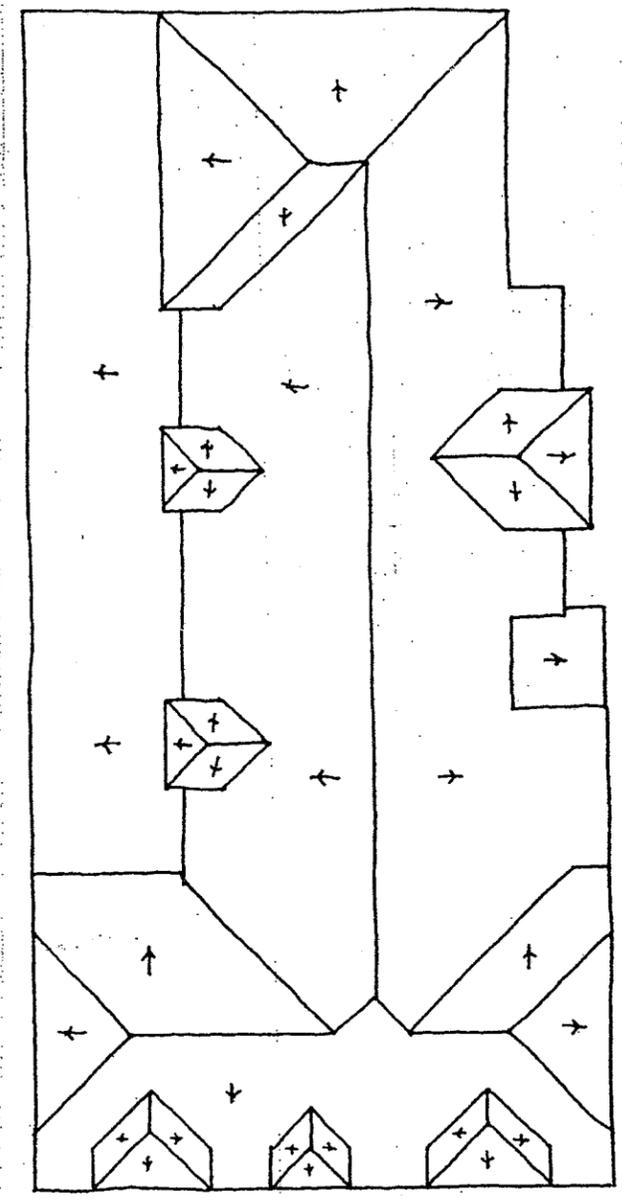
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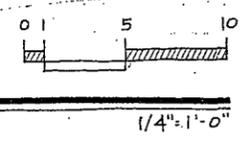
WAGNER RESIDENCE
 16750 Farley Road
 Los Gatos, California

SHEET: elev. / roof / demo calc.
 SCALE: noted
 DATE: 9.30.05
 DRAWN:

A5



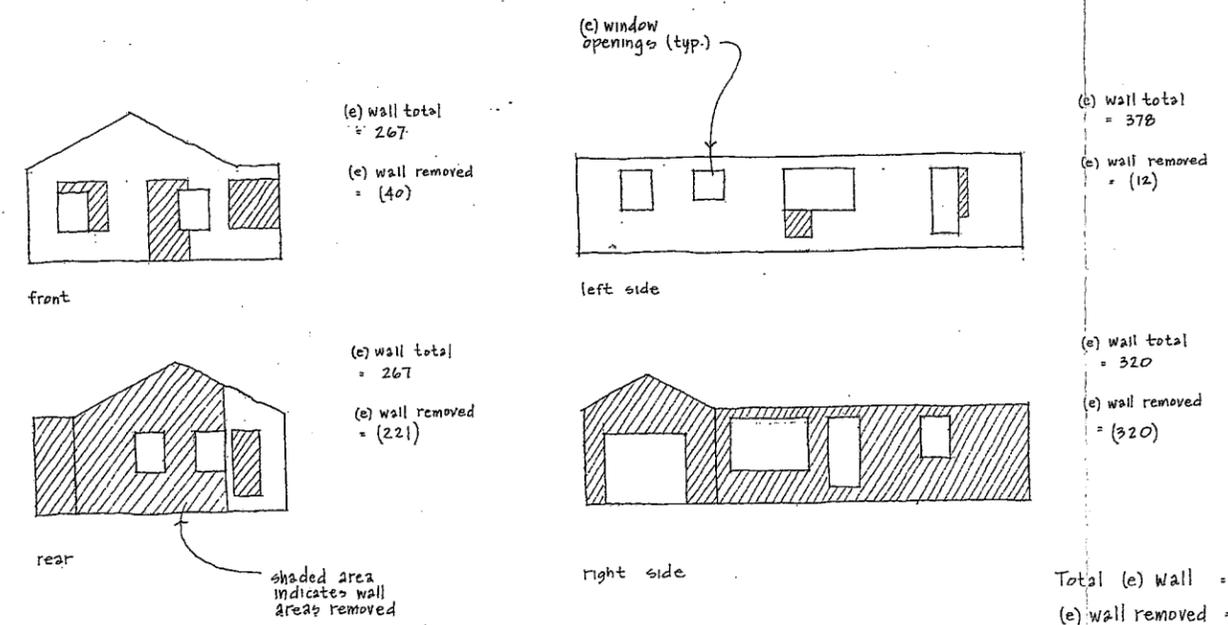
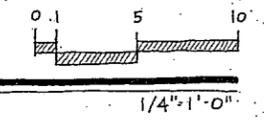
roof slope:
8:12



ROOF PLAN



SIDE ELEVATION (EAST)



Total (e) Wall = 1232
 (e) wall removed = (-593) (48%)
 (e) wall to remain = 639 (52%) (contiguous)

Wall Demo Calculations

1/8" = 1'-0"

REVISIONS	BY
10.10.05	db

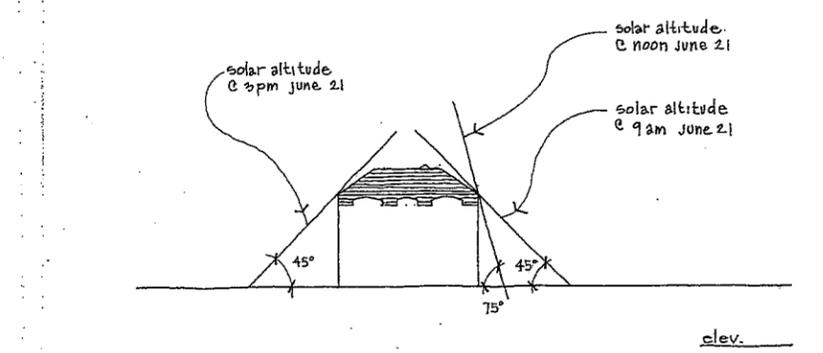
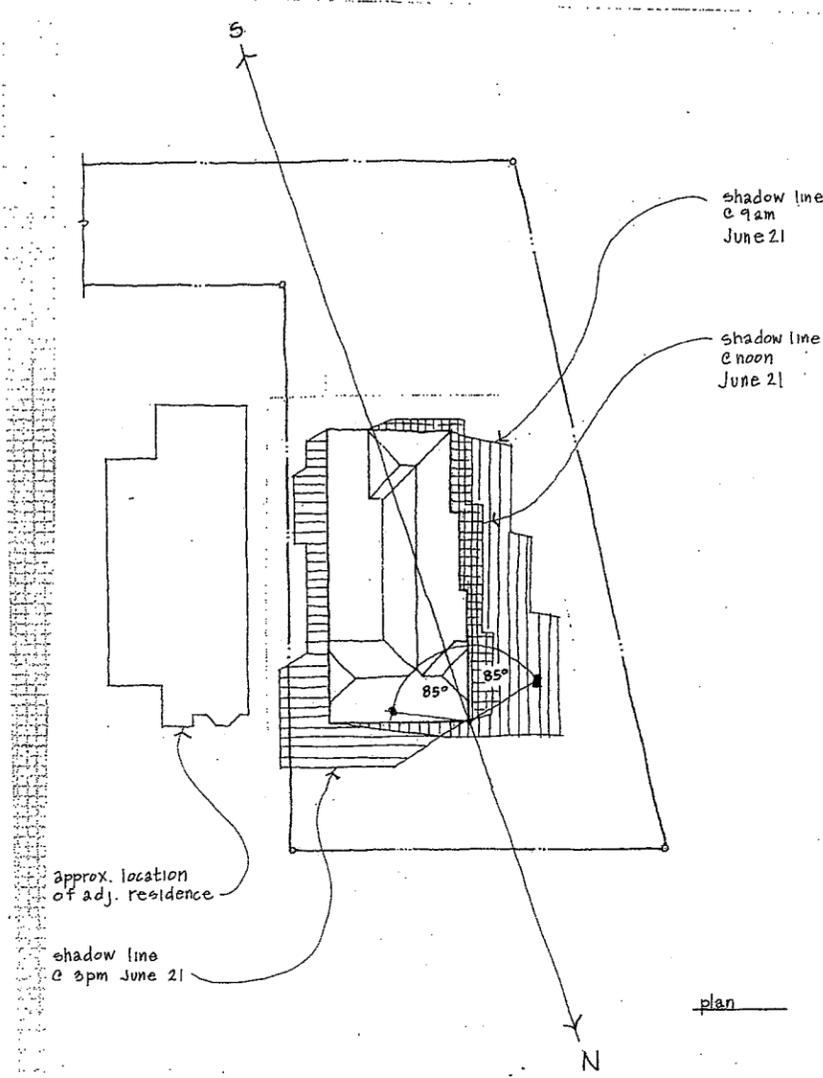
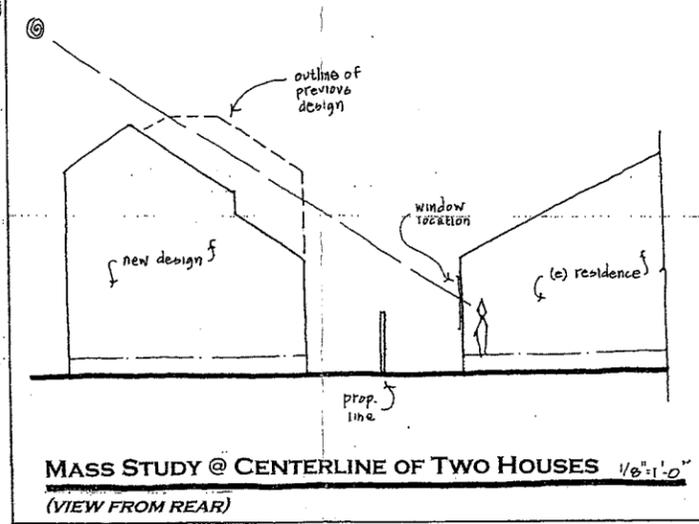
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WAGNER RESIDENCE
 16750 Farley Road
 Los Gatos, California

SHEET: shadow studies
 SCALE: noted
 DATE: 10.10.05
 DRAWN:

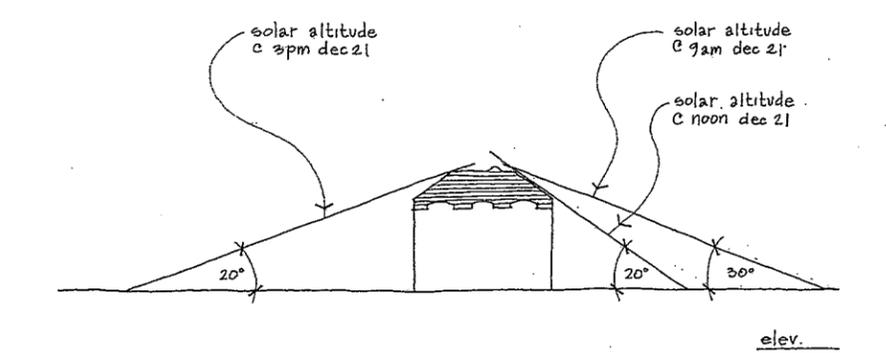
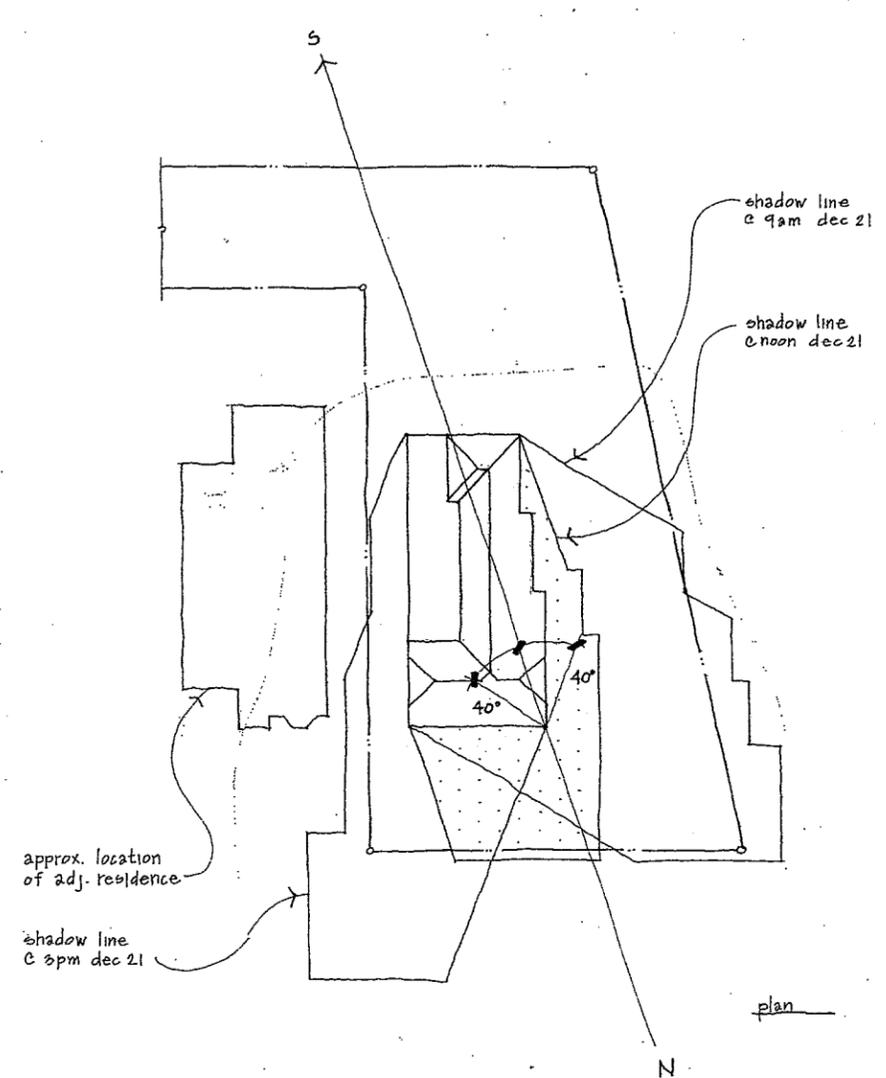
A6



JUNE SHADOW STUDY

1/16"=1'-0"

1/16"=1'-0"



DEC. SHADOW STUDY

1/16"=1'-0"

1/16"=1'-0"

NEIGHBORHOOD SURVEY

Address	A.P.N.	square feet	F.A.R.	stories
16732 Farley Road				1
16728 " "				1
16724 " "				1
16750 " "	529-15-097	2,548	(.2413)	2
16766 " "				1
16780 " "				2
16761 " "				2
16751 " "				1
16741 " "				1
16731 " "				1
16719 " "				2

REVISIONS	BY

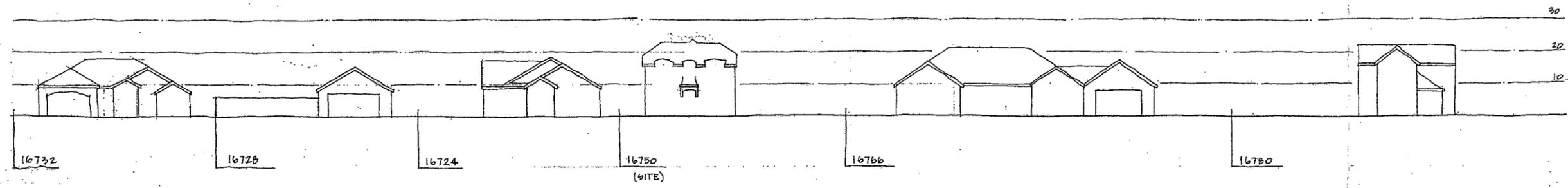
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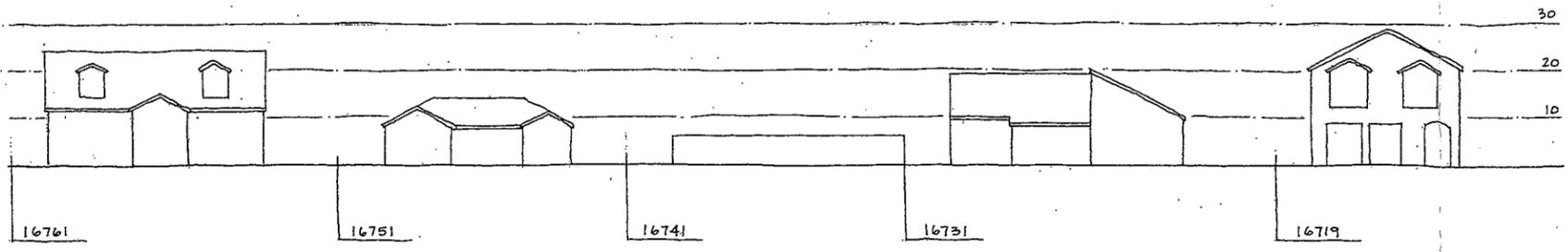
WAGNER RESIDENCE
 16750 Farley Road
 Los Gatos, California

SHEET: neighborhood
 SCALE: noted
 DATE: 11.15.04
 DRAWN:

A7



SITE SIDE

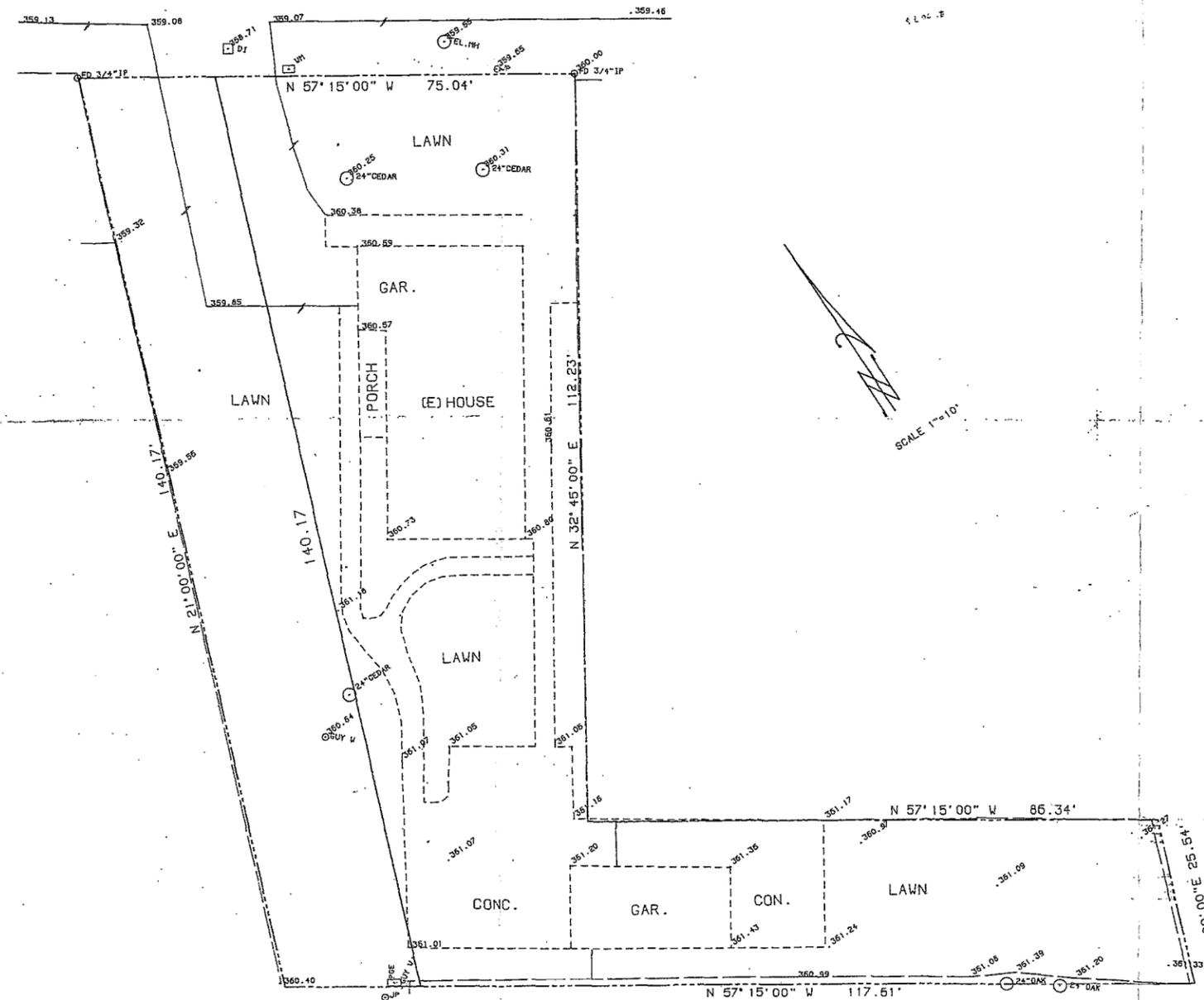


OPPOSITE SIDE

STREETSCAPES

1/16"=1'-0"

FARLEY ROAD



LEGEND:

- PROPERTY LINE _____
- EXISTING IMPROVEMENTS - - - - -
- EXISTING EDGE OF PAVEMENT - - - - -
- FENCE LINE - - - - -
- SPOT ELEVATION ○

NO.	BY	DATE	REVISION	BY	DATE

DATE: 11-11-04
 SCALE: HOR. 1"=10'
 VERT. 1"=10'
 DESIGNED:
 DRAWN: HB
 PROJ. ENGR:

BY: *Harry Babicka*
 HARRY BABICKA
 L.S. 4953

WESTFALL ENGINEERS, INC.
 14563 BIG BASIN WAY, SARATOGA, CA 95070 (408) 867-0244

TOPOGRAPHIC MAP
 16750 FARLEY ROAD, LOS GATOS, CA

JOB NO.
 2004-112
 SHEET /
 OF /