and at the same time a good basis for maybe arguing against excessive...

CHAIR MICCICHE: Excuse me, the answer might come from better (inaudible)... Is there going to be a homeowner's...

TIM STANLEY: Yes, there will be, but basically what happens is a couple of things. One is if an individual homeowner wanted to come in and amend this, they have to amend the PD, so the homeowners association would have to amend the PD. So you'd have to get everybody to agree to amend the PD first off, and it's a $20,000 application, so it's not a cakewalk.

CHAIR MICCICHE: It's kind of discouraging, yeah.

TIM STANLEY: But we could include, if the Commission is inclined to even be receptive to this, is to record a map as part of the PD that basically states the limit of work and that no retaining walls or grading will occur beyond this point, so essentially it sets it.

CHAIR MICCICHE: You can confine it.

TIM STANLEY: Not to say that the homeowners association couldn't come in at some point in time and ask for it, but it starts to get it more definitive.

COMMISSIONER QUINTANA: So an individual homeowner couldn't come in and ask? It would have to be the homeowners association?

TIM STANLEY: Yes, when you have a PD it's a zoning overlay. You can't just do it for one lot; you have to amend the whole PD, and you've got to get everybody to agree. Getting everybody to agree in a neighborhood like this, good luck.

COMMISSIONER QUINTANA: I just have one more question right now. I went out to the site and walked around and viewed the houses. From an aesthetic point of view, these retaining walls compared to the landscaping walls that have already been put up in the model houses, they are not nearly as nice a product as what you have in the model houses, the stonewalls around the front, et cetera. They don't seem to match up.

BRAD DURGA: Hi, I'm Brad Durga with Greenbriar Homes. As far as the aesthetics of the walls, I think the pictures that Tim brought tonight were just to illustrate, just to give an idea this is what a wall could look like.

As far as the material finish, and I think Tim mentioned that we would go with a smooth finish, we'd work with the Staff to go with a darker color that matched. We

These are multi-million properties, and the idea of putting up a cinderblock retaining wall and then painting it, I can't believe anybody in their right mind would seriously consider that. That's outrageous; so I urge you, if you approve it, condition it with a stucco finish. It's beautiful, gives it a nice, soft earthen style finish to it. It's eye candy for a person who understand what this is all about.

I had a couple of serious points for the public record. There's drainage I saw today out on the road coming from this project. There's water in Hicks road, very dangerous, and they have missed the drainage on that, and I want it in the public record, because that could result in a spinout.

CHAIR MICCICHE: We've heard that. Go ahead. What's your second item?

RAY DAVIS: The second item, the engineering detail up here shows the retaining walls without any rock backfill, and no collector pipe at the bottom. Don't dare put any kind of a serious retaining wall in without a collector pipe for the hydro problems that build up in a hillside.

CHAIR MICCICHE: We will ask the applicant to address that question.

RAY DAVIS: It's not shown. He's promised it. It's not shown up there. You need to condition it.

CHAIR MICCICHE: Thank you. We have your point. Thank you, Mr. Davis. Would the applicant like to come up and rebut what he's just heard?

TIM STANLEY: Just as a clarification, I believe what has been asked is whether or not there will be a sub-drain behind the retaining wall, which is outlined in the soils report, which has been I believe attached in our application to the Town, so we will have the adequate back drain system.

RAY DAVIS: It has to be on the blueprint.

TIM STANLEY: We have no problem being conditioned for that, because that's what we plan on doing, as we always do with our retaining walls.

CHAIR MICCICHE: Thank you. Anything else you'd like to add at this point?

TIM STANLEY: Like I said, we have no issue with the stucco finish on the wall, provided it is consistent with the stucco finish of the houses that we have.

CHAIR MICCICHE: Okay. Would you stay there, please? There may be questions from the commissioners? Would you like to start, Commissioner Talesfore?

COMMISSIONER TALESFORE: I have one question. It's not about grading, so I'll get it out of the way now right now. On the landscape plan, I noticed that there are

the more challenging ones, and then the other part of it is the materials and the colors, and I think the materials are critical and the colors have to be dark, something that really blends in and makes those walls go away.

COMMISSIONER BOURGEOIS: But even more fundamental than that, there's some pretty bold statements in the Hillside Standards such as, "Retaining walls shall not be used to create large, flat yard areas."

DIRECTOR LORTZ: Large is the operative word there. You're absolutely correct. So what the applicant is asserting is they think that these are modest rear yard areas. Large is now the operative word. So then the question for the Commission is what kind of recommendation would you want to offer to the Council, because of course you're not deciding this, you're offering a recommendation. If the Commission is inclined to offer their comments, the best thing we could do is forward of course a transcript of this meeting to the Council. All of these things are important I'm sure to the Council.

CHAIR MICCICHE: Does that answer your question in a large fashion? Commissioner Kane. Commissioner Quintana.

COMMISSIONER QUINTANA: We're asking questions or making comments?

CHAIR MICCICHE: At this point we're asking questions.

COMMISSIONER QUINTANA: I don't have any. No more questions.

CHAIR MICCICHE: You have another question for Staff?

COMMISSIONER TALESFORE: Yes, for Mr. Lortz.

CHAIR MICCICHE: I'm going to restrict this to questions of the applicant. At the close of that we'll talk to the Staff. Seeing none, thank you. I'm going to close the public hearing and open it up to questions of Staff, a motion, or comments.

COMMISSIONER TALESFORE: Thank you. Bud, I don't know if it's a hypothetical question, but I remember in the strenuous discussions and studies we had of this project that grading was of course the biggest issue, and these were already relatively flat lots. So there should be no surprise. I think we tried to make no surprises, right? They should have known I think, in my estimation, experienced builders.

Perhaps there would have been a different design going on here. In other words, if we had known then what we know now, maybe then they would have had more grading with less lots, and instead they had less grading. Do you know what I mean?

CHAIR MICCICHE: Is there a question here?

COMMISSIONER TALESFORE: Well, I was just saying would this have altered the original PD and approval? Right

COMMISSIONER O'DONNELL: I am not persuaded by what should have been; I'm more focused on what is. We have the lots out there. A number of the lots are going to look better, very frankly, with some definition to the lot.

Secondly, I happen to, perhaps one of those rare times, think Citizen Ray is correct.

CHAIR MICCICHE: That is rare.

COMMISSIONER O'DONNELL: I think putting in a good retaining wall with the good piers and that kind of thing, particularly when you look at today's earth movements, is probably a very good idea. The quality of what they're talking about putting in I think can tend to save the homeowners a lot of money in the future, and I think that's a very good thing.

I'm troubled by Lot #6, and I'm also troubled by a certain lack of specificity, particularly on that double, but that can probably be clarified, particularly by the time it gets to Council perhaps. What we're trying to do now here is share some thoughts and what our recommendation would be. I find that I think I'm going to be very much in the minority.

My problem is I look at this, I see the way it is. Somebody can say it's a second bite of the apple, somebody can say why didn't you do it? The fact of the matter is they didn't, it's here. Is it going to be better for the people who buy the house? Is it going to be better for the Town of

Los Gatos? Not should they have done it better, because if our attitude always is if you could have done it better and you didn't do it better, to heck with you, the standard is too high.

I think from what I've seen that these retaining walls, at least for all but #6, and #6 is a question in my mind, would be a good improvement for the homes, would be a safety factor, and actually would look better than the way it's cut now with some of this hillside just sitting there. That's not going to stay there. It may not last this winter, I don't know. So I think this is an improvement, and very frankly my view to the Town Council would be maybe they need more specificity.

I don't agree that they ought to come in with complete landscaping plans because I think it's unrealistic, because various people are going to buy this property, they're going to have various views on how they should landscape it. I don't think we should have the builder pre-landscape a house for somebody else, particularly when they're paying this much money, hopefully they can afford landscaping. So that's way I feel.

CHAIR MICCICHE: Let me interrupt along the way. I've got a question. Fletcher, could I ask you something? Have you been able to calculate the amount of cut and fill that's going to go on to accommodate this? Is there a rough number for that at this point?

DIRECTOR LORTZ: Correct.

COMMISSIONER BOURGEOIS: Okay. And I believe the landscaping; the themes have already been set. Isn't there like a very minimal manicured area, and then kind of a more natural area? If you look at the model homes, you can kind of see what is going to happen there.

What I just keep coming back to is our Hillside Standards, and do this, don't do this. Retaining walls and the flat pad behind the houses are explicitly called out as don't do this in the hillsides. I can understand the end users wanting swimming pools in these expensive homes, but this is a hillside development. When I stood at the back of each one of those homes I had a beautiful view of the hillside, and so maybe there are some people that don't want to live in a hillside development, because that's what this is, and our standards are very clear about what we should and shouldn't put in a hillside development.

So I'm very much on the fence, to be quite honest, and those are just some of my thoughts.

CHAIR MICCICHE: We'll hear those comments. Thank you. Go ahead, Commissioner Kane.

COMMISSIONER KANE: The task in front of us is to recommend to Town Council that the zone change is consistent with the General Plan if the recommendation is for us to approve. What that says to me, and I'm not being sarcastic, but our bright minds and our critical thinking skills

notwithstanding, this is a narrow corridor for me, and a precious one, and I am passionate about those hills. It's not what we like or what we reason, but what is consistent with and supported by the General plan, what is in writing, for the sake of the Commission, but also for the Council, because they're going to get this recommendation one way or the other.

Just to point out a couple of items. I've spent a lot of time on this, so if the Chair will indulge me.

CHAIR MICCICHE: Go ahead. You don't have to explain why.

COMMISSIONER KANE: In the General Plan, LP 8.4 says in part, "Grading should be limited only to the area needed to place the main house on the property." I'll come back to that point a number of times, that this is an elective cut of the hillside; it's not required.

In CDP .2.3 on Mass Grading and New Construction, "Follow natural contour." "Grading large, flat yard areas shall be avoided." "Sitting of the house must consider natural topography." Natural topography is the slopes that are there. I've walked the property, I've spent hours going over the staff's preparation and the documents, and I keep seeing again and again and again natural topography.

I don't mean to sound derisive, but as John said, these are hillside homes. They're not suburban homes. If you want a suburban home you should buy a suburban home. These

aspirations and drilling down on them to a set of standards that can be applied to each of the projects.

But even within that there are exceptions that can be granted to the standards; the Commission has the authority to do that. The reason that we write that kind of language in there is to give the flexibility to the Commission to look at projects on a case-by-case basis rather than going back to the General Plan and saying the General Plan says minimize grading. Well yes, it certainly does, but then the standards also translate that into 4' retaining walls can be used.

Now I understand that this Commissioner, Mr. Kane, is not swayed by that. That is fine, that is your purview. You can recommend to the Council denial of this request based on all the things that you've just mentioned, and that's certainly okay, but another commissioner could come to a completely different conclusion. And so ultimately the reason that a PD of this nature goes to Council is to get the benefit of all of your wisdom.

CHAIR MICCICHE: Or at least opinions.

DIRECTOR LORTZ: And they're going to get a verbatim transcript that includes all of your comments, and I think all of it is valuable, because this is a challenging application, there's no question about it.

COMMISSIONER KANE: When we read about permission on cuts and retaining walls, it is to support the footprint

of the house, not to create backyards in the hillside. Boom. It's not suburbia. It's hillside and it's precious.

CHAIR MICCICHE: Right. What you're saying is you don't want to take exception to that standard. That's just what he said.

COMMISSIONER KANE: I'm just saying it's black and white.

CHAIR MICCICHE: Mike, that's fine.

COMMISSIONER KANE: It says don't do this.

CHAIR MICCICHE: No, Michael, that's fine. I may be willing to have them make an exception to that standard because I might think it looks better the other way, but what he's saying to you is that's my prerogative.

COMMISSIONER KANE: If we shave and shave the ice we're standing on, it's going to crack.

CHAIR MICCICHE: No, Mike, what we're saying is we have the right to modify a standard if we believe it's a better way to do that specific project. If you choose not to, that's also fine. That's all we're saying. I'm not saying I'm going to, I'm saying I have that right though as a Commissioner. All right?

Commissioner Quintana.

COMMISSIONER QUINTANA: I agree with everything that Commissioner Kane said. I would probably not have said it so forcefully. I think that's perfectly fine that you made it clear where you stand.

whether or not we were doing the right thing. There was no way in hell I could view what this thing was going to look like at the time I was coming up with those hillside specifications.

So many times when I look at something I can elect to say that even though it doesn't meet the standard I'm willing to accept this because it looks better, it feels better, it is better for the area, that I would have been willing to do that, and we stated that many times when we were coming up with this.

We don't have the Ten Commandments in the General Plan. They're not very specific. They do conflict with each other. They are open to interpretation, and they're open to us saying you don't have to meet it; we're going to allow it to not change.

So telling me it's not meeting it is not doing me any more than what you have already done. What I suggest we do now is that many of you feel that the standards that are written should be upheld, that's what it sounds like. I would so state that, that the development director review the standards and list for the Council all those that are not met. On the other hand, if we choose to say this looks like a better project, those that want to say that are going to be allowed to say that.

So at this point I'm going to ask, as I come down the line, whether or not you would recommend to the Council

approval of this, or denial based on the fact that they're not making the standards. And I'll start with you, Commissioner Quintana.

COMMISSIONER QUINTANA: I would not recommend approval because it's not just a question of one standard; it's a question of many, many standards.

CHAIR MICCICHE: Of many standards. Thank you. Commissioner Kane.

COMMISSIONER KANE: Our task was to see if this was consistent with the General Plan. It is no way consistent with the General Plan or the Hillside Guidelines.

CHAIR MICCICHE: Agreed. Are you willing to accept the changes though based on improving the area, yes or no? So you will not recommend it?

COMMISSIONER KANE: It's the not consistent with the plans.

CHAIR MICCICHE: Okay, fine. Commissioner Bourgeois.

COMMISSIONER BOURGEOIS: I would not recommend it.

CHAIR MICCICHE: Commissioner O'Donnell.

COMMISSIONER O'DONNELL: I would recommend it, but one thing hasn't been said, and that is if you look at the site the way it is, you could put in retaining walls in a number of these lots without changing almost anything. So to say no retaining walls, and to say that because the geotech says you're not going to have a slide, if you simply look at

think we can address that at some retreat at some other point. I'm sure you don't understand, or you wouldn't be making these motions you're making right now.

Go ahead, Commissioner Rice. I'm sorry, I thought they might be distracting you.

COMMISSIONER RICE: No, they weren't, but thank you for the concern.

No, because I just can't support this in its current form. It does not mean I'm not open to the idea or the concept of what they're trying to accomplish.

CHAIR MICCICHE: Commissioner Talesfore.

COMMISSIONER TALESFORE: Wow, we're all over the place. Well first of all, what's before us was a re-application from Greenbriar that really was speaking just for landscaping and said nothing about geotechnical. Now I have a question about that. Even though one person is saying there is not problem with it, there could be, as you can see in the pictures.

I'm having a problem that even if these were installed, you could see these visible retaining walls, and I can't imagine there wouldn't be another way to address it other than a cement... Well, it wouldn't be cement. Or straight. They're not even curved.

But anyway, I haven't heard any compelling reasons to grand this in this form now, and aside from the fact that

Standards and Guidelines and everything else are being tugged at.

I don't know who the people are that gave you this information that they want bigger backyards, but I could live comfortably there. I look at the whole hillside as the backyard. I think you've done a magnificent job of focusing on that and highlighting it, and I would like to have you do a little more creative thought about what a retaining wall could look like if you have to put one in.

As it is now, these were relatively flat lots, and had you come back and said, We're going to end up with a little smaller backyard than I thought; we need to move these, come to us then to reposition the homes, that would have...

I mean I don't know. I'm just really not happy I guess. I look at this differently than anybody else does. I think that they're fine, and I think that those retaining walls that you're proposing will be seen from the street as I walk the property.

CHAIR MICCICHE: What what's your recommendation?

COMMISSIONER TALESFORE: I recommend that we don't accept it.

CHAIR MICCICHE: Don't do it, okay. It appears like at this point we have five against and one for. I'll add mine, and then we'll bring it to a formal closing.

TOWN COUNCIL - JUNE 5, 2006
REQUIRED FINDINGS FOR:

17101 Hicks Road
Planned Development Application PD-06-04

Requesting approval to modify an approved Planned Development to modify the grading for lots 6 through 11 (287, 289, 291, 293, 297 & 299 Mountain Laurel Lane) on property zoned HR-5:PD. APNS 537-18-001, 567-23-042 and 567-24-008.
PROPERTY OWNER/APPLICANT: GHC Shannon Valley Ranch, LLC

FINDINGS

Required consistency with the Town's General Plan:

- That the proposed Zone Change is internally consistent with the General Plan and its Elements.

N:\DEV\FINDINGS\Hicks17101-PDA.wpd

ATTACHMENT 3

ORDINANCE OF THE TOWN OF LOS GATOS AMENDING PLANNED DEVELOPMENT PD-99-02 RELATIVE TO GRADING AND REPEALING ORDINANCE 2097 FOR THE SHANNON VALLEY RANCH PROJECT AT SHANNON & HICKS ROADS (PREVIOUSLY ADDRESSED AS 17101 HICKS ROAD AND 14045 SHANNON ROAD)

THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS FOLLOWS:

SECTION I

The Town Code of the Town of Los Gatos is hereby amended to change the zoning on property at Shannon and Hicks Roads (Santa Clara County Assessor Parcel Numbers 567-24-010 through 025) as shown on the map attached hereto as Exhibit A, and is part of this Ordinance, from HR-5:PD (Hillside Residential, 5 Acres per Dwelling Unit, Planned Development) to HR-5:PD (Hillside Residential, 5 Acres per Dwelling Unit, Planned Development).

SECTION II

The PD (Planned Development Overlay) zone established by Ordinance 2097 is hereby amended **to** authorizes the following construction and use of improvements:

1. Demolition of two existing pre-1941 and two post-1941 single family residences and one pre-1941 barn.
2. Construction of 13 new single-family dwelling units and reconstruction of one single-family dwelling that was destroyed by fire.
3. Landscaping, streets, trails, and other improvements shown and required on the Official Development Plan.
4. Dedication of 45.4 acres of hillside and riparian open space as shown on the Official Development Plans.
5. Dedication of trail easements to the Town of Los Gatos as shown on the Official Development Plans.
6. Revised grading shown on the plan attached as Exhibit D.
7. Ordinance 2087 is hereby repealed.

ATTACHMENT 4

3. OFFICIAL DEVELOPMENT PLANS. The Official Development Plans provided are conceptual in nature. Final footprints and building designs shall be determined during the architecture and site approval process.

4. HOUSE SITING. The siting of the homes shall be determined during the Architecture & Site approval process.

5. RECYCLING. All wood, metal, glass and aluminum materials generated from the demolished structures 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 and the issuance of any building permits.

6. TREE REMOVAL PERMIT. A Tree Removal Permit shall be obtained for the removal of any ordinance sized tree prior to the issuance of a Building, Grading or Encroachment Permit.

7. FENCING. Fence locations shall be reviewed and approved during the Architecture & Site review(s), including privacy and yard fencing. Developer will include in the CC&R's for the project a restriction limiting the home owners from replacing the fence type as installed by the Developer and as shown on the Official Development Plans, or as otherwise approved during the Architecture & Site review(s). Any replacement or addition of other fence types shall be restricted to open fence types including wood with wire mesh and wood or concrete split-rail fencing. Solid fencing will be permitted only where installed by the Developer and as shown on the approved development plans. CC&R's shall require fences to be set back a minimum of 10 feet for from property lines.

8. BUILDING SQUARE FOOTAGE. All project homes will be limited to a maximum size of 4,850 square feet with an average of 4,650 square feet, and at least 2/3 of the homes shall be limited to a one story design. Final building design and size will be determined during Architecture and Site review. No further expansion of the homes will be allowed unless this Ordinance is amended by the Town Council. Lot 14 shall be developed under guidelines of a replacement structure and shall be similar is size, mass and scale to the original home that was destroyed by fire.

13. **BIOLOGICAL RESOURCES MITIGATION MEASURE 6-3b. During the pre-construction phase, the property owner/developer shall take the following measures:

a. A fence shall be constructed around all trees to be retained and it shall completely enclose the Tree Protection Zone prior to demolition, grubbing, or grading. Fencing shall be 6-foot chain link or equivalent. Fencing shall be placed at the dripline or as otherwise directed by the Consulting Arborist. Fences are to remain until all grading and construction is completed.

b. All trees to be retained shall be pruned within and adjacent to development areas shall be reviewed by a certified arborist to determine which trees should be pruned to clean the crown, reduce end weight and/or provide clearance. Tree #201 will require pruning to reduce weight throughout the crown. Clearance shall be provided by selectively thinning low-hanging lateral branches.

c. All pruning shall be performed by a Certified Arborist or Tree Worker in accordance with the Tree Pruning Guidelines of the International Society of Arboriculture.

d. Prior to the start of any demolition and clearing, the Consulting Arborist will meet with the demolition, grading and other relevant contractors to review limits of construction activity, identify areas requiring fencing, identify trees to be removed and review work procedures.

14. **BIOLOGICAL RESOURCES MITIGATION MEASURE 6-3C. Prior to the construction phase of the project, the applicant shall take the following measures:

a. Any grading, construction demolition, or other work within the Tree Protection Zone shall be monitored by the Consulting Arborist.

b. Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the Consulting Arborist.

c. If any injury to a tree should occur during construction, it should be evaluated as soon as possible by the Consulting Arborist so that appropriate treatments can be made.

d. Root-injured trees have a limited capacity to absorb water. Therefore, it is important to ensure adequate soil moisture in the area of active roots. One to several irrigations may be needed for trees that are at risk of impacts. Irrigations shall be specified by the Consulting Arborist.

18. **BIOLOGICAL RESOURCES MITIGATION MEASURE 6-5b. The property owner/developer shall implement the following measures to minimize potential impacts on any roosting bats:

a. Surveys shall be conducted up to one year in advance of building demolition and tree removal, if possible, to determine if active roosts are present. These surveys shall not substitute for pre-construction/pre-disturbance surveys for nesting raptors, as bats could move on or adjacent to the site between survey periods. If roosting bats are found during these surveys, either avoidance of the maternity roost season, establishment of buffer zones or exclusion of bats shall be implemented as appropriate.

b. Avoidance: Construction activities involving potential roost sites shall be conducted outside the maternity roost season if the project commences after young are volant by July 31 and finished before the formation of maternity roosts begins (as early as March 1).

c. Pre-demolition Surveys and Buffer Zones: If the project schedule does not allow for early detection surveys to occur, a pre-demolition survey for roosting bats shall be conducted by a qualified bat biologist 14 days prior to construction as determined by a Memorandum of Understanding with the California Department of Fish & Game (CDFG) prior to any removal of buildings, particularly those with closed areas such as an attic space, or trees 12 inches in diameter. No activities that would result in disturbance to active roosts shall proceed prior to the completed surveys. If no active roosts are found, then no further action is warranted. If a maternity roost were present, a qualified bat biologist shall determine the extent of construction-free zones around active nurseries located during surveys. CDFG shall also be notified of any active nurseries within the construction zone.

d. Surveys: Initial surveys can be conducted any time prior to the pre-demolition surveys to establish if a particular location has supported, or supports, roosting bats. A survey for indications of nursery roosts shall be conducted prior to March 1. If indications of a maternity roost are present, the structure can be removed or modified before a maternity roost becomes reestablished.

designed to expand existing riparian vegetation and re-create high quality riparian habitat along the Shannon Creek drainage and northern drainage. The mitigation goal is to create and enhance riparian habitat with habitat functions and values equal to, or greater than those existing along the Shannon Creek drainage and northern drainage. The final species selection and configuration shall be determined during final mitigation design. The trees and shrubs to be installed should be of local origin, preferably contract grown from seed or cuttings from within five miles of the site.

e. A detailed monitoring plan including specific success criteria shall be developed and submitted to The Town of Los Gatos for approval. The mitigation area will be monitored in accordance with the plan approved by the Town. The basic components of the monitoring plan are final success criteria, performance criteria, monitoring methods, data analysis, as-built plans, monitoring schedule, contingency/remedial measures and reporting requirements.

f. Specific success criteria and characteristics shall be developed during preparation of the mitigation and monitoring plan. At a minimum, the final success criteria shall include absolute percent cover by native trees and shrubs of 60% and 40%, respectively. The performance criteria should include tree and shrub survival at three years of 80% of the original planting. If the final encroachment estimates exceed 1.0 acre, monitoring of the mitigation site shall be conducted for 10 years. Annual monitoring reports shall be sent to the appropriate agencies. If the required mitigation planting is less than 1.0 acres, monitoring shall be conducted annually for five years.

g. During the development of the riparian restoration plan, an appropriate area (or areas) shall be identified to replace encroachment impacts at a 1:1 basis.

h. Maintain Water Quality of the Watershed. The project shall be designed, constructed and built in such a way as to maintain the water quality in the adjacent drainage channels and ponds. Appropriate best management practices (BMPs) shall be developed for the project.

29. SOILS REPORT. Two copies of 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.

30. FOUNDATION INSPECTIONS. A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project building inspector upon foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report and the building pad elevation and 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. Pad elevation

    b. Finish floor elevation

    c. Foundation corner locations

31. RESIDENTIAL TOWN ACCESSIBILITY STANDARDS. The residences shall be designed with adaptability features for single-family residences per Town Resolution 1994-61.

    a. Wooden backing (no smaller than 2-inches by eight-inches) shall be provided in all bathroom walls at water closets, showers and bathtub, located at 34-inches from the floor to the center of the backing, suitable for installation of grab bars.

    b. All passage doors shall have a 36-inch wide door including a five foot by five foot level landing no more than one-inch out of plane with the immediate interior floor level, with an 18-inch clearance at interior strike edge.

    c. Door buzzer, bell or chime shall be hard wired.

32. SOLAR HOT WATER HEATING. The residences shall be pre-plumbed for solar hot water heating. The plans shall show the location of a stub and valve located in the attics for solar heating use.

33. TITLE 24 ENERGY COMPLIANCE. California Title 24 Energy Compliance forms CR-IR and MF-IR shall be printed on the construction plans.

34. HAZARDOUS FIRE ZONE. This project requires Class A roofing assembly.

35. TOWN FIREPLACE STANDARDS. New fireplaces shall be EPA Phase II approved appliances per Town Ordinance 1905. Tree limbs within 10 feet of chimneys shall be cut.

41. SOILS REPORT. One copy of the soils and geologic report shall be submitted with the grading permit application. The soils report shall include specific criteria and standards governing site grading, drainage, pavement design, retaining wall design, and erosion control. The report shall be signed and "wet stamped" by the engineer or geologist, in conformance with Section 6735 of the California Business and Professions Code.

42. FINAL MAP. A final map shall be recorded. Two copies of the final map shall be submitted to the Engineering Division of the Parks & Public Works Department for review and approval. The submittal shall include closure calculations, title report and appropriate fees. The map shall be recorded prior to issuance of any building permits for the project.

43. DEDICATIONS. The following shall be dedicated prior to issuance of any permits:

a. Hicks Road. A 40-foot half street right-of-way with the chord of a 20-foot radius at the intersection with the new street.

b. Shannon Road. A 20-foot half street right-of-way.

c. New interior streets. A 40-foot street right-of-way with the chord of a 20-foot radius at all intersections and a standard 42-foot radius cul-de-sac.

d. Public Service Easement (PSE). Ten (10) feet wide, next to the new street right-of-ways.

e. Ingress-egress, storm drainage and sanitary sewer easements, as required.

f. Trail Easement. Ten (10) to twenty (20) feet wide, as shown on the Official Development Plan.

g. Emergency Access Easement. Twenty (20) feet wide, from the new public road to Shannon Road, as shown on the Official Development Plans.

44. PUBLIC IMPROVEMENTS. The following improvements shall be installed by the developer. Plans for those improvements shall be prepared by a California registered civil engineer, reviewed and approved by the Town, and guaranteed by contract, Faithful Performance Security and Labor & Materials Security before the issuance of a building permit or the recordation of a map. The improvements must be completed and accepted by the Town before a Certificate of Occupancy for any new building can be issued.

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 ow work that went on without inspection.

50. GRADING MORATORIUM. No grading or earth-disturbing activities shall be initiated in hillside areas between October 1 and April 15 of each year. For grading operations commenced before October 1, all grading or earth-disturbing activities shall cease October 15 and will not be allowed to restart until April 15. Grading permits will not be issued between September 15 and April 15. These limitations include, but are not limited to these items: driveways, building pads, foundation trenches and drilled piers, retaining walls, swimming pools, tennis courts, outbuildings and utility trenches. Install interim erosion control measures, shown on the approved interim erosion control plan, by October 1, if final landscaping is not in place. Maintain the interim erosion control measures throughout the October 1 to April 15 period.

51. GRADING INSPECTIONS. The soils engineer or her/his qualified representative shall continuously inspect all grading operations. The soils engineer shall submit a final grading report before occupancy/Certificate of Completion.

52. SURVEYING CONTROLS. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer qualified to practice land surveying, for the following items:

a. Retaining wall--top of wall elevations and locations.

b. Toe and top of cut and fill slopes.

c. Top of future curb along one side of the new street.

53. EROSION CONTROL. Interim and final erosion control plans shall be prepared and submitted to the Engineering Development Division of the Parks & Public Works Department. A Notice of Intent (NOI) shall be submitted to the San Francisco Bay Regional Water Quality Control Board. A Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the Town Engineering Division concurrently with the grading permit application. Grading activities shall be limited to the period of least rainfall (April 15 to October 1). A maximum of two weeks is allowed between clearing of an area/building on an area if grading is allowed during the rainy season. In addition, straw bales and plastic sheeting shall be stored on-site for emergency control, if needed. Install fiber berms, check

60. LOT 14 DRIVEWAY. The driveway to Lot 14 shall be the minimum width required to provide fire access. The intent is to minimize the visibility of the driveway.

61. AS-BUILT PLANS. After completion of the construction of all work in the public right-of-way or public easements, the original plans shall have all changes (change orders and field changes) clearly marked. The "as-built" plans shall again be signed and "wet-stamped" by the civil engineer who prepared the plans, attesting to the changes. The original "as-built" plans shall be review and approved the Engineering Construction Inspector. A Mylar of the approved "as-built" plans shall be provided to the Town before the Faithful Performance Security is released.

62. 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 of each new lot.

63. SIDEWALK REPAIR. The developer shall repair and replace to existing Town standards any sidewalk damaged now or during construction of this project. Sidewalk repair shall match existing color, texture and design, and shall be constructed per Town Standard Detail. The limits of sidewalk repair will be determined by the Engineering Construction Inspector during the construction phase of the project.

64. CURB AND GUTTER. The developer shall repair and replace to existing Town standards any curb and gutter damaged now or during construction of this project. New curb and gutter shall be constructed per Town Standard Detail. The limits of curb and gutter repair will be determined by the Engineering Construction Inspector during the construction phase of the project.

65. CURB RAMPS. The developer shall construct curb ramp according to State Standard Drawings at all intersections. The actual "Case" as shown on the standard to be used will be decided by the Engineering Construction Inspector during the construction phase of the project.

66. **HYDROLOGY AND WATER QUALITY MITIGATION MEASURE 7-3. Energy dissipaters should be provided at the outfalls of proposed storm drains to minimize the increased potential for erosion hazards due to project development.

71. **TRANSPORTATION AND TRAFFIC MITIGATION MEASURE 8-4. Use of trails by bicyclists, particularly the trail parallel to Hicks Road, shall be considered during Architecture and Site review. In addition, design issues such as the appropriateness of trail widths, pavement versus compacted earth, and trailhead facilities shall be considered during Architecture and Site Review.

72. GEOTECHNICAL REVIEW OF SUBDIVISION IMPROVEMENT PLANS. The project geotechnical consultant shall review and approve all geotechnical aspects of the subdivision improvement plans to ensure that their recommendations have been properly incorporated. The results of the plan review shall be summarized by the geotechnical consultant in a letter and submitted to the Town Engineer for review, prior to issuance of permits for construction of subdivision level improvements.

73. GEOTECHNICAL PLAN REVIEW (LOTS 1 THROUGH 13). The project geotechnical consultant shall review and approve all geotechnical aspects of the project building and grading plans for individual residences on Lots 1 through 13. To ensure that their recommendations have been properly incorporated. The consultant shall verify that recommended measures to address potential debris flows on Lot 6, and potential co-seismic ground deformation on Lots 1 and 13 have been incorporated.

74. GEOTECHNICAL INVESTIGATION (LOT 14). The project geotechnical consultant shall complete a site specific soil and foundation investigation as a basis for preparing recommended geotechnical design parameters for Lot 14 residential improvements. The results of this investigation shall be submitted to the Town for review by the Town Engineer and Town Geotechnical Consultant prior to approval of a site specific development plan.

75. GEOTECHNICAL FIELD INVESTIGATION. The project geotechnical consultant shall inspect, test (as needed), and approve all geotechnical aspects of the project construction. The results of these inspections and the as-built conditions of the project shall be described by the project geotechnical consultant in a letter and submitted to the Town Engineer for review prior to final inspection.

For further detail on conditions 71 through 74, see the letter from Cotton, Shires & Associates dated February 12, 2002.

85. ORNAMENTAL LANDSCAPING. All formal landscaping shall be within 30 feet of the perimeter of the houses. Any planting beyond the 30-foot perimeter shall be native vegetation that is drought and fire resistant, and planted in natural clusters.

86. LANDSCAPE GUIDELINES. The adopted landscape guidelines and native plant lists shall include the recommendations of the Town consulting arborist, except that lawn areas shall not exceed 5,000 square feet. The landscape guidelines are attached as Exhibit C.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

87. WATER SUPPLY. Two water tanks with a capacity of 10,000 Gallons and one wharf style hydrant shall be provided unless the proposed public water system can be extended to provide appropriate lot protection, or other acceptable means of fire protection can provided as authorized by the Fire Department. Installations shall conform with Fire Department Standard Details and Specifications W-1.

88. FIRE APPARATUS(ENGINE) ACCESS. Provide access roadways with a paved all weather surface and a minimum unobstructed width of 20 feet, vertical clearance of 13 feet 6 inches, minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%. Installations shall conform with Fire Department Standard Details and Specifications A-1.

89. FIRE APPARATUS (ENGINE) TURN-AROUND REQUIRED. Provide an approved fire department engine roadway turnaround with a minimum radius of 36 feet outside and 23 feet inside. Installations shall conform with Fire Department Standard Details and Specifications A-1. Cul-De-Sac Diameters shall be no less than 64 feet.

90. FIRE APPARATUS (HYDRANT). Where buildings exceed 150 feet travel distance from the street either an on-site (private) hydrant or an approved residential fire sprinkler system shall be provided.

91. PUBLIC FIRE HYDRANT(S) REQUIRED. Provide public fire hydrant(s) at location(s) to be determined jointly by the Fire Department and the San Jose Water Company. Maximum hydrant spacing shall be 500 feet, with a minimum single hydrant flow of 1,750 GPM at 20 psi, residual. Consult with San Jose Water Company relative to main sizing requirements

SECTION VI

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on June 5, 2006, and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on effect 30 days after it is adopted.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

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Greenbriar Homes Communities[SM]

The Premier Living Experience

May 23, 2006

RECEIVED
MAY 23 2006
TOWN OF LOS GATOS
PLANNING DIVISION

Attn: Ms. Suzanne Davis
Town of Los Gatos Council Members
TOWN OF LOS GATOS
110 East Main Street
Los Gatos, CA 95031

RE: RETAINING WALL MODIFICATION FOR PD PERMIT NUMBERS:

LOT 6	**B04-0752**	**LOT 9**	**B04-0526**
LOT 7	**B04-0528**	**LOT 10**	**B04-0753**
LOT 8	**B04-0527**	**LOT 11**	**B04-9754**

Dear Council Members:

The purpose of this letter is to provide background information and justification for Greenbriar's PD Amendment proposal of February 2, 2006. In that proposal, Greenbriar wishes to add retaining walls in the rear yards of Lots 6, 7, 8, 9, 10 and 11.

Greenbriar's history with the Hicks property dates back to 1998, when it started processing approvals to build what ultimately will be 13 homes on an 80 acre parcel. During the approval process, there were numerous public meetings to discuss all aspects of construction, including fine grading.

As the project has evolved, and grading operations were completed, it became apparent that the spaces created in the rear yard of some of the homes appeared to be inadequate for the type and scale of house being constructed. Under further consideration and after review of the completed graded product, Greenbriar feels the request for additional retaining walls is a natural consequence following the completion of mass grading. Given the final topography of these lots, Greenbriar has received considerable feedback from prospective homeowners that there is a need to "capture" additional space in the rear yards. We believe that this proposal should be considered for the following reasons:

1) The retaining walls as proposed would only extend into slopes that were previously disturbed. No natural terrain would be touched.

ATTACHMENT 5

43160 Osgood Road, Fremont, California 94539 • Phone: (510) 497-8200 •
www.greenbriarhomes.com

3. **Concern over the aesthetics of the double wall on Lot No. 6:** A double retaining wall shown on Lot 6 has already been approved. It was approved due to the fact that it was recommended by the Geotechnical Engineer to control any potential sloughing from the hillside. The new proposal was to change to a single height wall in lieu of a double wall. We apologize for any confusion this may have caused at the Planning Commission meeting.

4. **We will be compromising the Hillside and that buyers for this project should have to choose to live in a hillside area:** Greenbriar's proposed walls would be placed in a sloped area that has already been graded. Additionally, the walls will not be visible from the street and will be painted an appropriate color to blend them into the slope behind. It is also important to note that the 4 foot walls we are proposing will dwarf in comparison to the large amount of "hillside" that will remain behind them. Thus, the walls we are proposing will not at all compromise the hillside setting of our subdivision.

We appreciate your consideration of our proposed amendment and would welcome an opportunity to answer any questions you may have. Should you require further clarification, please do not hesitate to phone me at (925) 586-0772.

Sincerely,

GREENBRIAR HOMES COMMUNITIES, INC.

Brad Dunga
Vice President of Development

BD:mh

enclosure

VISIT CLERK DEPARTMENT FOR VIEWING OF ALL ATTACHMENTS AND EXHIBITS.