



TOWN OF LOS GATOS
PLANNING COMMISSION STAFF REPORT
Meeting Date: May 25, 2016

ITEM NO: 3
DESK ITEM

PREPARED BY: Marni Moseley, AICP, Associate Planner
MMoseley@losgatosca.gov

APPLICATION NO: Architecture and Site Application S-12-103
Subdivision Application M-12-008
Negative Declaration ND-16-001

LOCATION: **341 Bella Vista Avenue** (west side of Bella Vista Avenue, north of Charles Street)

APPLICANT/
PROPERTY OWNER: Jake Peters and Dan Ross

CONTACT: Dan Ross

APPLICATION
SUMMARY: Requesting approval to merge two lots and to construct a new single family residence and remove large protected trees on property zoned R-1:8. No significant environmental impacts have been identified and a Mitigated Negative Declaration is recommended. APN 529-23-015 and 016.

EXHIBITS: Previously received under separate cover March 4, 2016:

1. Initial Study and Mitigated Negative Declaration

Previously received with April 13, 2016 Staff Report:

2. Location map
3. Mitigation Monitoring and Reporting Program (six pages)
4. Response to comments on Mitigated Negative Declaration (48 pages)
5. Required findings (two pages)
6. Recommended Conditions of Approval (13 pages)
7. Project data sheet (two pages)
8. Consulting Architect's report (four pages), received November 13, 2013
9. Consulting Arborist report (35 pages), dated October 28, 2013
10. Consulting Arborist report (11 pages), dated September 24, 2014
11. Applicant's letter (seven pages), received March 25, 2016
12. Town Council Resolution 2012-057 (three pages)
13. Public Comments received by 11:00 a.m. on April 7, 2016 (158 pages)
14. Development Plans (26 sheets), received March 24, 2016

Previously received with April 13, 2016 Desk Item:

15. Comments received from 11:01 a.m. on April 7, 2016 to 11:00 a.m. on April 13, 2016

Previously received with May 25, 2016 Staff Report:

16. Comments received from 11:01 a.m. on Thursday, April 13, 2016 to 11:00 a.m. on Wednesday, May 19, 2016
17. Applicant's response letter and materials, received May 19, 2016 (25 pages)

Previously received with May 25, 2016 Addendum Report:

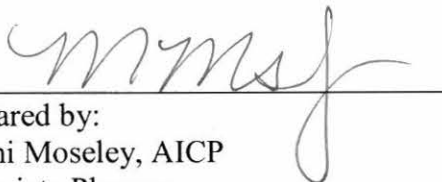
18. Comments received from 11:01 a.m. on Wednesday May 19, 2016 to 11:00 a.m. on Tuesday, May 24, 2016

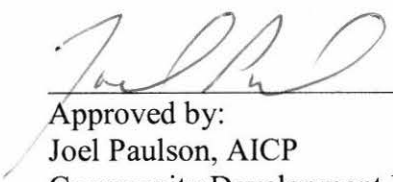
Received with this Desk Item Report:

19. Comments received from 11:01 a.m. on Wednesday May 19, 2016 to 11:00 a.m. on Wednesday, May 25, 2016

REMARKS:

The attached public comment (Exhibit 19) was received after completion of the addendum report.


Prepared by:
Marni Moseley, AICP
Associate Planner


Approved by:
Joel Paulson, AICP
Community Development Director

JP:MM:cg

RECEIVED

MAY 24 2016

TO: The Planning Commission
FROM: Lee Quintana

TOWN OF LOS GATOS
PLANNING DIVISION

RE: 341 BELLA VISTA A&S Application S-12-13, Subdivision Application M-12-103 and
Negative Declaration MD 16-001
Planning Commission May 25, 2026

To the Chair and Commissioners

I would like to add the following to my letter submitted for the April 13, 2016 Hearing.

The BACKGROUND section (page 3) of Staff's report for the April 13, 2016 Planning Commission Hearing states that the applicant's appeal of a previous application for this site was denied by the Town Council with the finding that the applications did not address the concerns of the Commission as it related to FAR, house size, and massing from the rear. The application heard by the Planning Commission on April 13, 2016 is a new application.

The application currently under your consideration is a new application. As a new application it must be decided on its own merits, not in comparison to the previous project found wanting, even if it raises many of the same issues.

The main issue of this project is not whether the proposed design is suitable for development from a geologic and geotechnical engineering prospective. Engineering solutions can usually be found for any project.

Please focus your initial discussion on land use issues raised by this A&S application before turning to a discussion of the geology and geotechnical issues.

Please focus on whether this is an appropriate development for this site with its significant physical constraints. This more than whether the project is consistent with the General Plan Designation and its zoning.

- Is the project consistency with the intent applicable section of all planning documents?
- Is it consistent with the overall goals of the General Plan and with the Plans many applicable policies?
- Is it consistent with the the intent and standards of the HDS&G?
- Is it consistent with the Residential Design Guidelines for determining mass and bulk?
- What is the appropriate size, mass and bulk for a house on this very constrained lot? How can this be achieved?
- What other changes can be made to the proposed project to achieve an appropriate sized house that reduces the apparent mass of the home and address neighbor concerns?
- Is there any way to reduce the impacts on trees?

EXHIBIT 19

- Is the privacy of neighbors adequately addressed, is there more that can be done to increase their privacy. ?

In my previous letter to the Planning Commission I included text from the following documents:

- The GP Policy on cellars
- The Cellar Policy adopted by the Council (Council Resolution 2002-167) which adds clarification to the definition in the Zoning Code.
- The Residential Design Guidelines directs that cellars be included in the analysis of a projects mass and bulk (even if they do not count towards the calculation of FAR). The Residential Design Guidelines repeats the intent of cellars to provide space without adding to the visual mass of a home, and
- The Hillside Development Standards and Guidelines, in particular the sections on grading standards, maximum allowed floor and several references stating that the maximum square footage allowed by the FAR calculation is not written in stone. Not all projects can achieve the maximum far but is just one factor to be considered. The HSD&G also contain nine items that must be met in-order to exceed a "maximum" FAR.

Below I have included several definitions from the HDS&G (Definitions Page) that I believe re-enforce the importance of determining whether this project has a cellar, whether the lower floor has adequately been analyzed in determining its effective mass and bulk, an whether or not maximum FAR is the appropriate measure of an house appropriate to this steep and difficult site. My comments are in "quotes" and italics following the definition.

CELLAR: Use definition in Cellar Policy adopted under Council Resolution 2002-167, or as may be amended. *"The cellar definition clarifies that for projects subject to the HDS&G the definition of cellar in the Zoning Code does not apply. For projects subject to the HDS&G the definition cellar is defined by Council Resolution 2002-167."*

EFFECTIVE BULK: The effective visual bulk of a building when seen from a distance either from above or below. *"The effective bulk definition provides some additional guidance in analyzing mass and bulk".*

FLOOR AREA RATIO (FAR) The gross floor area of a building or buildings on a lot divided by the area of the lot. The allowed floor area ratio is a numerical guide, not a goal, and may not be able to be achieved on every lot. *"This is a reminder FAR is not just a number but needs to be considered within the constraints of the site."*

Pat Tillmans letter dated April 10, 2016 included in the April 13 Staff Report provides a comprehensive list of General Plan Goals and Policies, and standards from the Hillside Development Standards and Guidelines that are not met by this project.

Back to the issue of whether the lower floor is a cellar and whether the maximum FAR applies to this project.

If one assumes that the lower level is a cellar and therefore the square footage does not apply towards the FAR, the PC still has the discretion to determine how much the "cellar" contributes to the mass and bulk for the proposed house and whether it is appropriate for this site and how to achieve an appropriate mass.

Alternately, based on the Council's Cellar Policy the Commissions could determine that the lower floor is not a cellar because there are substantial areas of the perimeter of the foundation in the rear that exceed 4' above grade. In that case the square footage would exceed the maximum FAR. This then gets back to the same question of how to modify the project to be consistent with an appropriate FAR with an appropriate mass.

Either way the question remains is the same: Is the size, mass and scale of the proposed house appropriate to the site. These are all discretionary issues within the purview of the Planning Commission.

Your decision on this project is likely to affect how other pending hillside projects are addressed and the outcome of pending appeals on hillside projects.

Thank you for your consideration.

Lee Quintana

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