



**TOWN OF LOS GATOS**  
**PLANNING COMMISSION STAFF REPORT**  
**Meeting Date: February 8, 2012**

**ITEM NO: 1**

PREPARED BY: Suzanne Davis, Senior Planner  
[sdavis@losgatosca.gov](mailto:sdavis@losgatosca.gov)

APPLICATION NO: Architecture and Site Applications S-06-46 and S-06-64  
Lot Line Adjustment Application M-06-09  
Variance Application V-11-001  
Negative Declarations ND-08-02 and ND-08-03

LOCATION: **339 and 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 of a lot line adjustment, a variance for reduced driveway length, and to construct two new single-family residences with reduced setbacks that exceed the allowable floor area ratio. APNs 529-23-015 and 016.

DEEMED COMPLETE: September 15, 2011

FINAL DATE TO TAKE ACTION: Final action on the subject applications is required by CEQA Section 15107, within six months of the application being deemed complete (March 15, 2012).

RECOMMENDATION: Continue for redesign.

PROJECT DATA: General Plan Designation: Low Density Residential  
Zoning Designation: R-1:8  
Applicable Plans & Standards: Zoning Ordinance  
General Plan  
Parcel Sizes: 6,049 square feet - 341  
4,106 square feet - 339

Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Medium Density Residential	R-1:8 & RM:5-12
East	Single-Family Res.	Medium Density Res.	R-1:8
South	Residential	Medium Density Res.	RM:5-12
West	Residential	Medium Density Res.	RM:5-12:PD

February 8, 2012

CEQA: It has been determined that this project will not have a significant impact on the environment and a Mitigated Negative Declaration is recommended.

FINDINGS:

- That the project will not have a significant impact on the environment and a Mitigated Negative Declaration was prepared.
- That the project is consistent with the Hillside Development Standards and Guidelines.
- As required by Section 29.20.170 of the Zoning Ordinance for the granting of a variance.

CONSIDERATIONS:

- As required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application.
- As required by Section 29.40.015.B(1) of the Town Code for granting reduced setbacks.

ACTION: The Planning Commission is the final review body for these applications unless an appeal is filed.

EXHIBITS: Received under separate cover:

1. Mitigated Negative Declaration – 339 Bella Vista
2. Mitigated Negative Declaration – 341 Bella Vista
3. Location map
4. Mitigation Monitoring Program (three pages)
5. Required findings (two pages)
6. Recommended conditions of approval (10 pages)
7. Project data sheets (two pages)
8. Consulting Architect's report (three pages), received May 18, 2011
9. Consulting Arborist report (five pages), dated February 24, 2011
10. Applicant's letter (two pages), received September 12, 2007
11. Neighborhood correspondence (69 pages)
12. Development Plans for 339 Bella Vista (19 sheets), received September 15, 2011
13. Development Plans for 341 Bella Vista (19 sheets), received September 15, 2011
14. Letter and information from Mary J. Badame (27 pages), received October 11, 2011

Received with this report:

15. Planning Commission Minutes of October 12, 2011 (pages 1-17)
16. Applicant's letter (three pages), received December 20, 2011
17. Driveway and front setback exhibit, received December 20, 2011
18. Letter from Patrick Tillman (25 pages) with attachments, received January 17, 2012
19. Revised development plans for 339 Bella Vista (19 sheets), received February 2, 2012
20. Revised development plans for 341 Bella Vista (19 sheets), received February 2, 2012

#### BACKGROUND:

On October 12, 2011, the Planning Commission considered the subject applications. Following public testimony and discussion, the Commission continued the matter to January 11, 2012. The Commission stated concerns about house size, reduced setbacks, the requested driveway variance, and pedestrian and cyclist safety. Summary minutes of the meeting are attached as Exhibit 15. An issue raised at the public hearing was the date the applicants purchased the properties at 339 and 341 Bella Vista. The lots were purchased on December 23, 2004, following adoption of the Hillside Development Standards and Guidelines (HDS&G) which occurred in January 2004.

The applicants submitted revised plans and materials in December 2011. Due to the need for additional time to complete the Commission report, staff requested that the applications be continued to February 8, 2012.

#### ANALYSIS:

The following concerns and directives were discussed by the Planning Commission at the October 12, 2011 meeting (staff comments follow each item):

*1. Driveway variance is a concern.*

The applicant submitted an exhibit showing the driveway lengths for homes on the west side of Bella Vista Avenue (see Exhibit 17). Seven of 10 properties have driveways shorter than 18 feet. Even if the lots were not developed with a garage, two parking spaces are required by Town Code, and a driveway would be needed to reach a paved parking pad. If the garages or parking spaces were pushed further down the slope to increase the driveway lengths, it would result in increased grading, higher retaining walls and steeper driveways. The new driveways would tie into the existing edge of pavement and are long enough to allow vehicles to park without encroaching into the street (see site

February 8, 2012

plans in Exhibits 19 and 20). The driveway length front edge of pavement to the face of the garages meets the Town standards for driveway length; the variance is required because the minimum 18-foot depth is not entirely on the property. Due to topographical constraints, based on the existing development pattern along the west side of Bella Vista Avenue where the majority of existing homes have reduced driveway lengths, and the impacts that would occur if the driveway lengths are increased, staff supports the variance request. Approval of the variance would not be granting a special privilege to the applicants and is consistent with what has been approved for the majority of the existing residences along the west side of Bella Vista Avenue.

2. *Driveway locations are a concern relative to pedestrian and bicycle safety.*

Staff requested that the applicant's engineer evaluate the proposed locations for the driveways to determine if they are in the most appropriate locations for sight distance. If this information is available before the meeting, staff will prepare an addendum to the staff report. If the information is not submitted before the meeting date, the applicant will present the engineer's findings at the public hearing.

3. *The sizes of the homes are too large given the site constraints. While some exception to FAR may be considered, the home sizes should be reduced significantly.*

The applicant has reduced the home proposed at 339 Bella Vista by 126 square feet. The applicant has indicated that a similar change can be made to the house proposed for 341 Bella Vista if the Commission supports the approach on 339 Bella Vista. Staff does not believe the elimination of 126 square feet complies with the Commission's direction to significantly reduce the home sizes or the massing of the rear elevations.

4. *Justify the need for exceptions.*

The applicant is requesting the following exceptions:

- a. Reduced side (left), front and rear setbacks for 341 Bella Vista
- b. Reduced front and rear setbacks for 339 Bella Vista
- c. Increase in FAR for both properties
- d. HDS&G standard III.A.1. - cut and fill depths
- e. HDS&G least restrictive development area (LRDA)

Reduced setbacks are commonly approved for nonconforming lots and have been allowed within the Bella Vista neighborhood in the past. The new residences will be compatible with the neighborhood with the proposed setbacks.

The applicant has not made a substantial reduction in the size of the homes as requested by the Commission. A minor reduction in size will not make a perceptible difference in the height or massing of the homes at the rear.

The requested HDS&G exception to exceed maximum grading cut and fill depths is supported by the need to provide functional driveways and access to garages (or parking pads), and lowering the homes into the site. Many of the homes on the west side of Bella Vista are one-story at the street level and two stories at the rear. There is technically no LRDA, as both lots are comprised of slopes in excess of 30% and there are some significant oak trees that should be preserved.

5. *Would like to see a neighborhood meeting.*

The applicant indicated that neighbors have been unwilling to meet (see pages 2 and 3 of Exhibit 16).

CONCLUSION AND RECOMMENDATION:

A. Conclusion

While staff supports the requested variance for driveway length, the setbacks exceptions, and the HDS&G exceptions to cut and fill depths, the proposed FAR for both houses significantly exceeds that allowed by Code. The Planning Commission requested that the size of the houses be significantly reduced and that the bulk and mass at the rear of the homes be reduced. The applicant has not complied with these directives. Staff recommends that the Commission continue the applications and direct the applicant to revise the plans to address these concerns, as well as any other aspects of the project that the Commission determines needs further modification. Due to permit streamlining requirements the applications need to be acted on by March 15, 2012, unless the applicant agrees to waive the timeline. An alternative action would be to deny the applications.

B. Recommendation

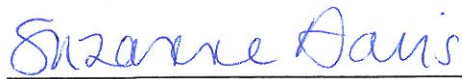
The Commission should take one of the following actions:

1. Continue the applications to a date certain and direct the applicant to make further reductions to the size of the homes, and any other desired plan changes; or
2. Deny the subject applications, citing findings in support of the action.

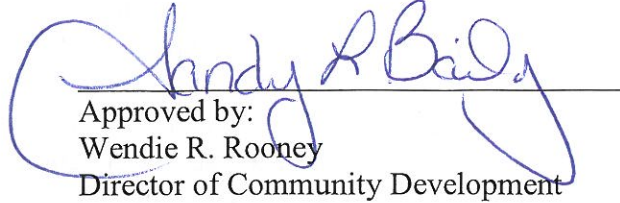
Planning Commission Staff Report - Page 6

339 & 341 Bella Vista Avenue/S-06-046, S-06-64, ND-08-02, ND-10-002

February 8, 2012



Prepared by:  
Suzanne Davis, AICP  
Senior Planner



Approved by:  
Wendie R. Rooney  
Director of Community Development

WRR:SD:ct

cc: Dan Ross, 188 Villa Avenue, Los Gatos, CA 95030  
Jake Peters, P.O. Box 3486, Ketchum, ID 83340  
David Britt, Britt-Rowe, 108 N. Santa Cruz Avenue, Los Gatos, CA 95030

N:\DEV\PC REPORTS\2012\BellaVista339-341-020812.doc



**TOWN OF LOS GATOS**  
**PLANNING COMMISSION MEETING**  
**ACTION MINUTES**  
**TOWN COUNCIL CHAMBERS**  
**110 E. MAIN STREET**  
**WEDNESDAY, OCTOBER 12, 2011**

**Chair Marico Sayoc** called the meeting to order at 7:00 p.m.

**ROLL CALL**

**Present:** Chair Marico Sayoc, Commissioner Charles Erikson, Commissioner Thomas O'Donnell, Commissioner Margaret Smith, and Commissioner Joanne Talesfore.

**Absent:** Vice Chair Marcia Jensen, and Commissioner John Bourgeois.

**Others:** Town Attorney Judith Propp, Planning Manager Sandy Baily, Associate Planner Suzanne Davis, Associate Planner Marni Moseley, Assistant Civil Engineer Trang Tu-Nguyen, Associate Civil Engineer Maziar Bozorginia, and Recording Secretary Linda Rowlett.

Planning Manager Sandy Baily noted that Vice Chair Jensen and Commissioner Bourgeois will be arriving after Item #1 because they both live within 500 feet of the subject property and would therefore need to recuse themselves for Item #1.

**PLEDGE OF ALLEGIANCE**

Led by **Commissioner Margaret Smith**.

**APPROVAL OF MINUTES OF SEPTEMBER 14 and 28, 2011**

Minutes of September 14, 2011

Minutes of September 28, 2011

**Motion by Commissioner Charles Erikson** and seconded by **Commissioner Joanne Talesfore** to approve meeting minutes of September 14 and 28, 2011.

Motion carried 5-0 with **Vice Chair Marcia Jensen** and **Commissioner John Bourgeois** excused.

**WRITTEN COMMUNICATIONS**

**Chair Marico Sayoc** noted that there was a desk item for Item #1, Item #3 and Item #4.

REQUESTED CONTINUANCES -- NONE

SUBCOMMITTEE REPORTS -- NONE

VERBAL COMMUNICATIONS (AUDIENCE) -- NONE

CONSENT CALENDAR -- NONE

**Planning Manager Sandy Baily** introduced **Associate Civil Engineer Maziar Bozorginia**.

CONTINUED PUBLIC HEARINGS

1. **339 & 341 Bella Vista Avenue**. Architecture and Site Applications S-06-46 and S-06-64, Subdivision Application M-06-09, Variance Application V-11-001, Mitigated Negative Declarations ND-08-02 and ND-08-03. Requesting approval of a lot line adjustment, a variance to allow reduced driveway length and to construct two new single family residences with reduced setbacks that exceed the allowable Floor Area Ratio on property zoned R-1:8. No significant environmental impacts have been identified as a result of this project and Mitigated Negative Declarations are recommended. APN 529-23-015 & 016. PROPERTY OWNER/APPLICANT: Jake Peters; Dan Ross respectively. PROJECT PLANNER: Suzanne Davis.

Staff Report

Exhibit 1 (Part 1)

Exhibit 1 (Part 2)

Exhibit 2 (Part 1)

Exhibit 2 (Part 2)

Exhibits 3-7

Exhibit 8

Exhibits 9-11

Exhibit 12 (Plans for 339 Bella Vista Avenue)

Exhibit 13 (Plans for 341 Bella Vista Avenue)

Desk Item and Exhibit 14

**Chair Marico Sayoc** opened the public hearing.

**Senior Planner Suzanne Davis** presented the staff report.

**Commissioner Joanne Talesfore**

--Asked if these lots will still be nonconforming if the lot lines are adjusted.

**Senior Planner Suzanne Davis**

--Confirmed that the lots will still be nonconforming with the lot line adjustment.

**Commissioner Charles Ereksen**

--Asked why it is possible to consider a lot line adjustment when a merger of the two lots is not possible.

**Town Attorney Judith Propp**

--Commented that under the Subdivision Map Act, the parcels need to be owned by a single owner before a merger can be considered. However, the parties can agree and jointly apply to the Town for a lot line adjustment.

**Commissioner Thomas O'Donnell**

--Asked when the application was denied for the previous owner of the two lots.

**Senior Planner Suzanne Davis**

--Commented that the previous application was denied in 2003. The new owners purchased the property in 2006.

**Dan Ross, Applicant,** gave a presentation on the proposed project and handed out copies of his presentation along with the landscape plan.

**Commissioner Thomas O'Donnell**

--Asked about the proposed allowable floor area and if the applicant was aware of the FARs (Floor Area Ratios) when he purchased the property.

**Dan Ross**

--Commented that he was aware of the FARs but he was told that they would be able to build something that is livable by today's standards. Staff agreed that an 800 square foot house is not livable and that a compromise would have to be found because it is a challenging site.

**Chair Thomas O'Donnell**

--Asked staff what the applicant was advised regarding the FARs.

**Senior Planner Suzanne Davis**

--Commented that she did not personally meet with these applicants in the beginning. When she picked up the project, the houses were already designed and in environmental review. She worked with the applicants to make the houses smaller and to work around the significant trees on the property. FAR is discretionary, but staff would not indicate how much floor area is appropriate to exceed the FAR.

**Commissioner Joanne Talesfore**

--Asked why the houses were not put on grade.

--Commented that the house at 145 Bella Vista Avenue is on grade.

**Dan Ross**

--Commented that the first level is down and no matter where you stand on the lot, you will be looking into the townhomes.

--Commented that the first floor is over the roof and the second floor is more over the townhomes.

--Commented that the house at 145 Bella Vista Avenue is similar to their plan and it is on grade. If they were to build up the grade, it would not follow the slope of the hill. The flags (on display in chambers) are the width and depth of the footprint of the living area of the home.

**Assistant Civil Engineer Trang Tu-Nguyen**

--Commented that in order to build the grade up they would need a lot of fill. Staff would not recommend that.

**Commissioner Margaret Smith**

--Asked if the plans have significantly changed since **Mr. Cannon** (Consulting Architect) reviewed them in 2007.

**Senior Planner Suzanne Davis**

--Commented that no significant changes in the plans have been made. The houses got a little smaller and **Mr. Cannon's** comments were incorporated in the design.

**Dan Ross**

--Asked for his neighbors to stand to show support even though they may not all speak.

**Chair Marico Sayoc**

--Asked staff to do a head count of the supporters.

**Curtis Leigh**

--Commented that he has lived on Maggi Court since 2004 and that he is a developer in the bay area.

--Asked why the Town is going to such great lengths to give all the requested variances, particularly the square footage variance. The house should be shrunk and moved back.

**Eleanor Leishman**

--Commented that she lives at Bella Vista Avenue and asked why this proposal would be considered when one was rejected in the past.

--Commented that the size and scale on the plans show disrespect to the Hillside Development Standards and Guidelines (HDS&G) and asked if the Town will enforce them.

--Commented that the project has significant environmental impacts and may cause a danger to the people living below.

--Commented that sewage will be pumped up to street level on Bella Vista Avenue.

--Commented that there will be unavoidable noise, light pollution, traffic congestion, and a danger to pedestrians and bicyclists.

--Asked if the property were to be sold today if it would be legally buildable and how it would be zoned.

--Asked that the Town's safety standards be upheld.

**Jak Van Nada**

- Commented he lives on Euclid Avenue and that zoning laws seem to be changing at an unprecedented rate. The old zoning laws and General Plan made Los Gatos the town that residents know and love.
- Commented that the current mood of the Council is to over-develop and over-densify the space that is remaining in the name of progress.
- Commented that the average FAR of the existing homes in the staff report is 23-1/2 percent and the proposed homes have an average FAR of 37 percent.
- Asked why staff is recommending variances on the driveway length.
- Commented that current development is changing to the detriment to the Town.

**David Leishman**

- Commented he lives on Bella Vista Avenue and that his wife's family moved into this house in 1958.
- Commented the proposed development is good for the developer and landowner, but not for most of the neighbors.
- Asked how many supporters of this project actually live in this community.

**Tim Boyd**

- Commented that he lives at 101 Bella Vista Court and he is concerned that the notice to the neighbors was not properly conducted. He never received notice of the neighborhood meeting or the notice for a traffic calming meeting.
- Commented that no sign has been posted on the property in accordance with Town guidelines.
- Commented that the impact on traffic is a nightmare. The location is on a blind curve and the traffic moves too fast. Adding two homes will make it worse.
- Commented that the driveway variance will impinge upon the public right-of-way and affect the students walking to school as well as the bicyclists.
- Commented that all of the houses except one that are listed in the staff report are on the east side of the street on flat lots that can build to higher FARs.

**Commissioner Margaret Smith**

- Asked what side **Mr. Boyd** lives on.

**Tim Boyd**

- Responded that he lives on the east side.

**Senior Planner Suzanne Davis**

- Clarified that **Mr. Boyd** lives on Bella Vista Court as opposed to Bella Vista Avenue.
- Commented that staff notices property owners and occupants within 300 feet and every unit within a complex. A notice was sent to 101 Bella Vista Court addressed to occupant.

**Dave Schoenwald**

- Commented that he lives at 143 Bella Vista Avenue next door to the referenced property at 145 Bella Vista Avenue which is on grade. The difference is that there is much less of a grade at 143 and 145 than the subject properties.
- Commented that 145 Bella Vista Avenue used to be the garage for 143 Bella Vista Avenue. He believes that a variance was granted for 143 and 145 to put in a garage and he has to park on the street because the garage and driveway are unusable. There is an on grade garage

and driveway at 145 Bella Vista Avenue and it is nearly impossible to back out in the mornings due to a very short driveway.

--Commented that in February 1997, the Commission denied a project because it impacted views and character of the neighborhood and he does not know what has changed since then.

**Commissioner Joanne Talesfore**

--Asked **Mr. Schoenwald** what the square footage is of his house.

**David Schoenwald**

--Commented that his house is 1,700 square feet and the slope is significantly less than the proposed properties.

**Commissioner Charles Erekson**

--Asked **Mr. Schoenwald** why his garage and driveway are unusable.

**David Schoenwald**

--Commented that his garage is not on grade and both the garage and driveway are unusable due to slope and depth. It is nearly impossible to get a car down and backing out onto the street is horrendous. The driveway at 145 has a short approach to the garage and it is difficult to back out into traffic safely.

**Mary Ann Lown**

--Commented she lives on Maggi Court and gave a PowerPoint presentation showing how privacy on Maggi Court will be impacted.

--Commented that she is concerned about the removal of trees.

**Commissioner Joanne Talesfore**

--Asked **Ms. Lown** if she has the same impacts as those shown.

**Mary Ann Lown**

--Commented that she has similar impacts.

**Commissioner Margaret Smith**

--Asked **Ms. Lown** what year she bought her home.

**Mary Ann Lown**

--Commented that she bought her home four years ago.

**Rob DiNapoli**

--Commented that he has lived on Bella Vista Avenue across the street from the subject property for 14 years. These parcels have remained vacant since 1938 because the property is on a 52 percent slope on a cliff that is covered by Oaks.

--Commented that Bella Vista Avenue is a very narrow street with no sidewalks and it has become an important pedestrian and bicycle right-of-way because it connects downtown to other parts of East Los Gatos without having to get onto Los Gatos Boulevard. It has also become a thoroughfare for children going to school.

--Commented that the proposed homes are positioned on a blind corner traveling southbound.

--Commented that Bella Vista Avenue provides sustainable traffic for pedestrians and bicycles

and urged the Commission to preserve Bella Vista Avenue as a safe corridor and to deny the request for variances.

#### **Art Adams**

--Commented he lives on Bella Vista Avenue, it is very narrow and the proposed house is 100 feet away from a blind curve.

--Commented that many people attended a traffic calming meeting on Tuesday night and he asked why the Town is considering adding homes when it is already trying to reduce traffic on the street.

#### **Tim Coughlin**

--Commented he lives on Bella Vista Avenue across from the development and he takes exception to 145 Bella Vista Avenue being used as a precedent. It is a poor example of design and does not represent the neighborhood. It has a driveway where you cannot park a car without hanging out onto the street and that is what is being proposed here tonight.

--Commented that the neighbors have chosen not to have curbs, gutters and sidewalks.

--Commented that they would like to see undergrounding of the utilities if the project is approved because the trees currently camouflage the wires.

--Commented that bicycle safety is an issue. The Town obtained federal funds to have a bike route on Bella Vista Avenue and residents were assessed part of the cost. Adding more density with this type of driveway will impact the safety of pedestrians and bicycles.

#### **Ken Lown**

--Commented he lives on Maggi Court and he opposes the project. The requested variances are not minor. They are beyond the scale and mass of the neighborhood and the homes will tower over Maggi Court.

--Commented that the project benefits only the applicants with no positive value to the surrounding neighborhood or the Town.

--Asked how staff can suggest that the project is consistent with the HDS&G.

--Commented that his backyard will no longer have privacy and that the noise and light from these homes will have a negative impact.

#### **Anne Curry**

--Commented that she lives on Bella Vista Avenue and she welcomes development, but it needs to be fair and apply to everyone.

--Commented that she lives in a 1920's Craftsman bungalow. They would love to increase the size of their home, but her house came with plans that were denied by the Town to increase square footage. They bought the house anyway because it is a beautiful house.

#### **Commissioner Margaret Smith**

--Asked **Ms. Curry** what the square footage is of her house.

#### **Anne Curry**

--Commented that her home is on the east side and has three bedrooms with 2,400 square feet.

#### **Leo Cunningham**

--Commented that he lives on Bella Vista Avenue and noted that he is married to **Vice Chair**

**Marcia Jensen.**

- Commented that he opposes the project because the hill is too steep and the lots are too small for homes of this size.
- Commented that these are major variances.
- Asked that the Commission be careful not to overdevelop the Bella Vista neighborhood. The street is intended for and very well utilized by pedestrians and cyclists.
- Commented that the hillside around the street is an important view area for the residents on Bella Vista Avenue as well as serving as a gateway coming eastbound on Highway 9.
- Commented that the street is very narrow and is over utilized by traffic.
- Commented that, in terms of fairness, the applicant knew of the restrictions when they purchased the property and the price was discounted in accordance with the risk.

#### **Kathy Murtfeldt**

- Commented that she has lived on Bella Vista Avenue since 2005 and the very large trees and the larger lot was a major attraction. They paid a premium price for their home and believed their investment would be secure.
- Commented that they remodeled their home in 2009 and had to follow the Town's requirements; her experience was very different from this one.
- Asked how a 1,900 square foot home can be considered if the proposed lot is zoned for a 795 square foot home.
- Asked how eight variances can be given to one project.
- Asked how it is possible to get approval to remove mature trees.
- Commented that the traffic and pedestrian flow on Bella Vista Avenue needs to be considered.

#### **Robert Murtfeldt**

- Commented that he lives on Bella Vista Avenue and that they did not receive a notice for **Mr. Ross's** meeting, but did receive a notice for tonight's meeting.
- Commented that traffic is a major concern and that this project is on a blind corner.
- Commented that the reduced setbacks and increased FARs are major concerns.
- Commented that this project will create more of a safety hazard to the neighborhood.
- Commented that he is opposed to the project because it violates the Town's codes and guidelines. He is most concerned about the reduced setbacks and increased FARs.
- Commented that this is a flawed attempt to overbuild on two small hillside lots.
- Commented that approval will set a terrible precedent for the Town.

#### **Christy Ross**

- Commented that she lives on Johnson Avenue and is in favor of the proposal.
- Commented that **Mr. Ross** is civic minded and environmentally conscious. His current home is beautifully landscaped and they preserved the trees that were there when they built their home.
- Commented that the goal is to preserve the large Oak tree on the lot and that any removed trees will be replaced by new ones.
- Commented that when you live close to Town, it is a close community. You are close to your neighbors and have less privacy.

#### **Vitaliy Stulski**

- Commented that he lives on Maggi Court and is concerned about privacy, violation of guidelines, significantly exceeded FARs, safety, convenience, traffic, construction problems, and lack of communication on the project.

--Commented that they have 25 feet separating their patio from the proposed property and the privacy issues are unacceptable. Noise and light are also concerns. They will have to keep their curtains closed at all times.

--Commented that they are concerned about safety and the risk of that house going into their house in the event of an earthquake.

--Urged the Commission to deny the project.

**Patrick Tillman**

--Commented that he lives on Maggi Court and the back wall of the proposed home will be very close to his bedroom window. The cellar looks down into his bedroom from both levels. There will be a significant loss of property values and privacy to the neighborhood due to this development.

--Commented that **Dan Ross** was a member of the General Plan Update Advisory Committee and is now a member of the North Forty Specific Plan Advisory Committee. **Mr. Ross** told him that he is getting help from a Planning Commissioner and that is why he is not even submitting plans that comply with the FAR.

**Commissioner Margaret Smith**

--Asked **Mr. Tillman** if he received a notice of the neighborhood meeting.

**Patrick Tillman**

--Commented that he did receive notice of the neighborhood meeting, but when **Mary (Badame)** showed up, she was advised by **Ms. Davis** that there was no meeting.

**Erin Johnson**

--Commented that she lives on Maggi Court.

--Commented that she is speaking about abuse to the cellar policy and the blatant disregard of rules. This project is defiant of the General Plan and drastically exceeds the FAR.

--Commented that the square footage should be reduced to reduce the visible mass.

--Commented that a wine cellar is a luxury and the rules should not be broken to make it desirable.

--Commented that getting story poles installed was difficult and they are still waiting for the posted sign for tonight's meeting.

--Asked why the Town is accommodating **Mr. Ross** and his cousin. This project is not representative of this Town.

--Commented that she is very opposed to this project.

**Renee Stratulate**

--Commented that she lives on Maggi Court at the bottom of the hill and she shares the comments already made. Stressed that this is not about **Mr. Ross**.

--Commented that when the property was purchased it was discounted for risk, so if it complies with the FAR and it is economically unviable, that is just the way it is.

**William Schweickert**

--Commented that he lives on Maggi Court and that he is opposed to the project and shares the points already made.

--Commented that he did want to summarize that the mass and scale is way out of compliance with the community.

- Commented that he had an opportunity to buy the home at the end of Maggi Court but he chose not to buy it because he was afraid it would fall. That slope is nowhere near this proposed slope. He is concerned about earthquakes and a 60 foot wall.
- Commented that he is concerned about flooding during rainfall.
- Commented that he will be looking at a 60-foot wall with nothing to look at except some windows at the top. The variances are way out of scale with the hillside, the slope, and the community of homes in the neighborhood.

**Edgar Corral**

- Commented that he lives on Maggi Court and he is opposed to the project.
- Commented that focusing on speculative investments by developers may help the Town meet revenue expectations but at a cost to long term stakeholders and the reputation to the community.
- Commented that **Mr. Ross** was aware of the history of the project.
- Commented that Maggi Court residents will lose value due to this development.
- Commented that the proposed project is irresponsible, it ignores the HDS&G and the large economic impact on the Bella Vista community.

**Forrest Straight**

- Commented that he lives on Maggi Court and is a builder by profession. He has never seen such a disregard to rules and regulations.
- Commented that the Coastal Oak trees will live for many years and are very desirable.
- Commented on the existing two arborists' reports.
- Commented that he hired two tree experts who concluded that two of three Oak trees are in good health and that all three can live another 100 years. Spoke of a treatment that can save the trees.

**Commissioner Margaret Smith**

- Asked **Mr. Straight** what year he bought his home.

**Forrest Straight**

- Commented that he bought his home around 2003 and considered that a home might be built, but the project was denied.

**Commissioner Joanne Talesfore**

- Asked **Mr. Straight** where his townhouse is located.

**Forrest Straight**

- Commented that he is at the bottom of the hill to the right of the stairs.

**Mary Badame**

- Commented that she lives on Maggi Court.
- Commented that she wanted to clarify that 145 Bella Vista Avenue has a 26 degree slope, it followed the FAR and was not subject to the HDS&G.
- Commented that **Mr. Ross** bought his property in December 2004, after the HDS&G were established so he knew what he was buying.
- Commented that the staff report is inaccurate and misleading. It incorrectly states the parcel sizes. The arborist's report has a date different than noted in the staff report.
- Commented that there is an eight year history of prior site development at this location

that should have been included in the Background section of the staff report.

--Commented that the consulting architect's comments that are pertinent to the neighbors' privacy concerns that cannot be mitigated were omitted from the staff report.

--Commented that the comparison of the proposed project to 52 Oak Hill Way is an unacceptable comparison.

--Commented that the reference to the August 4 neighborhood meeting in the staff report is inaccurate. She did attend and had a conversation with **Ms. Davis**.

### **Brad McCurdy**

--Commented he is an architect retained by the Maggi Court residents.

--Commented that variances are intended to address unique hardships created by zoning regulations that are misapplied to specific conditions on a lot. The issues requiring variances in this proposal have been created by the applicant's design.

--Commented that this proposal does not meet Town guidelines for FARs and setbacks.

--Commented that merging the lots would have been a more appropriate proposal.

--Referenced the Zoning Code regulation requiring a legal lot in the Town to be at least 5,000 square feet in area and any parcels under the same or substantially same ownership that do not meet this 5,000 square foot requirement shall be considered merged. Those lots should have been merged under Town policy.

--Commented that even the smaller of the two houses would require all of these variances even if the lots were merged because it would be 218 square feet more than the allowable square footage for the entire combined parcel.

--Urged the Commission to reconsider what a variance is, what it means and why it should be denied in this case.

### **Lee Quintana**

--Commented that she lives on Palm Avenue.

--Commented that the Zoning Code for nonconforming lots states that if a lot is in a residential zone and is recognized by the Town as a lawful, separate, nonmerged lot pursuant to Zoning Code 29.10.070, a single family dwelling may be erected if architecture and site approval is obtained.

--Commented that the FAR should be lowered due to the extreme slope of the lot.

--Commented that garages are not required by Code; only parking spaces.

--Commented that there are findings that need to be made in order to exceed the FAR and the fact that the homes are visible from the homes below is an issue.

### **Andreas Kuehle**

--Commented that he lives on Boyer Lane because he wanted an urban environment. Even though he paid a lot of money for his property, he looks right into his neighbor. Part of living in an urban environment is a lack of privacy.

### **Noelle Masters**

--Commented that she lives on Johnson Avenue and she walks her children to school down Bella Vista and deals with the traffic issues.

--Commented that they developed a property on Los Gatos Boulevard responsibly and believes that **Mr. Ross** will do the same.

--Commented that more energy should go toward privacy issues and working out ways of benefiting all parties.

--Commented that she hopes some middle ground can be met so **Mr. Ross** can pursue this property.

**Debra Chin**

--Commented that she owns a business in Los Gatos and lives on Maggi Court.  
 --Commented that she is outraged by the lack of objectivity shown in the staff report and cannot see how the project is consistent with the HDS&G. This project would have a significant negative impact on the quality of life and privacy for the neighbors in the surrounding community.  
 --Commented that each of the homes exceeds FAR by over 1,000 square feet.  
 --Asked why staff is recommending a soft approval.  
 --Commented that **Mr. Ross** has not complied with conditions relating to privacy and that guidelines should be adhered to on a fair and consistent basis.  
 --Asked the Commission to direct the applicant to revise the plans to be in compliance.

**Commissioner Joanne Talesfore**

--Asked where her home is located.

**Debra Chin**

--Commented that her home is in that line below.

**Andrew Wu**

--Commented that most of his issues have already been addressed.  
 --Commented that he does not live in this neighborhood, but he was before the --Commission on a similar project.  
 --Commented that he disagrees with **Mr. Ross** about the houses being livable by today's standards.  
 --Commented that the invasion of privacy issue cannot be mitigated.

**Ian Macrae**

--Commented that he lives on Bella Vista Avenue and is concerned by the impact of construction on this site. There is no space for cement trucks or lumber delivery on this site.  
 --Asked how traffic calming is going to be accomplished during construction of these two homes.  
 --Commented that the elimination of the trees is unconscionable.  
 --Commented that he empathizes with **Mr. Ross** but this property is just too steep.

**Gary Schloh**

--Commented that he wanted to share his experience with the home that he owns on Charles. The site is approximately 3,200 square feet and it is flat. They added a second story to make the house 1,900 square feet and they were under FAR by 200 square feet. To maximize the square footage would have taken away too much open space.

**Dan Ross**

--Commented they have spent six years on this process.  
 --Commented that the townhomes on Maggi Court are 1,600 square feet townhomes on 1,300 square foot lots. They received variances for two balconies attached to one another, attached walls, no open green space, very few heritage trees left, many have no driveways, narrow roads,

and you can see into their homes from Bella Vista Avenue and the trail. They do not have absolute privacy right now.

--Commented that the proposed driveway will not go into the road.

--Commented that the slope averages about 30 feet. A big contribution to their slope is their lot line goes into the trail that was cut into their lot to create emergency access.

--Commented that the house that was denied before was one 6,000 square foot house across both lots on both floors.

--Commented that his participation on a public committee is because he wants to be involved in the Town.

**Commissioner Joanne Talesfore**

--Asked about the removal of trees.

--Asked about the shadow study.

**Dan Ross**

--Commented that everything within the footprint will be removed. They plan to keep everything outside of the footprint in order to keep some mature landscaping.

--Commented that new mature trees would be planted if the trees did not survive during construction.

**Commissioner Margaret Smith**

--Asked **Mr. Ross** about the comparable homes on Bella Vista Avenue and if he would consider smaller homes.

**Dan Ross**

--Commented that they have spent a lot of time considering smaller homes. The box is 907 square feet. They could consider a smaller garage footprint. The garage is 21 feet x 21 feet.

**Chair Marico Sayoc**

--Asked about removing garages and using the space for living space.

--Asked about construction management.

--Asked about the process and what they thought could be built on this site.

**Dan Ross**

--Commented that they have to provide parking so a pad would have to stay in the same place.

--Commented that he met with Engineering staff this week regarding a construction plan. They would build the driveway and garage first to create a working pad for the next phase of work.

--Commented that they closed escrow in December 2003, and the HDS&G were approved in January 2004. They would not have purchased the property if they did not believe something livable could be built there. Six years of working on this does not indicate any favoritism on this project. They took some risk but they did speak with staff regarding codes, variances and guidelines, and they reviewed the slope. They were also advised that the lot line adjustment would make sense to help preserve the biggest tree on the lot. They worked a lot on mass and scale.

**Chair Marico Sayoc** closed the public input portion of the hearing and returned to the Commission for deliberations.

**Commissioner Thomas O'Donnell**

--Asked about the findings to support a lot line adjustment.

**Town Attorney Judith Propp**

--Commented that there are no specified findings because lot line adjustments are not subject to the Subdivision Map Act. Under the Permit Streamlining Act there are no specific findings as long as it conforms to the Town Code rules in regard to the General Plan.

--Commented that it has to comply with the Subdivision Ordinance and the Town did not adopt any specific findings for lot line adjustments in its Ordinance.

**Chair Marico Sayoc**

--Asked about a Class 3 bike lane.

--Asked about exceeding FAR and visible mass to neighbors.

**Assistant Civil Engineer Trang Tu-Nguyen**

--Commented that there is no striping or special consideration for Class 3 bike routes.

**Senior Planner Suzanne Davis**

--Commented that FAR was not applied from HDS&G; it was applied from the R-1 Town Code section because it is more restrictive. There are no specific findings for the FAR in Town Code. There are findings listed for reduced setbacks but they are not considered a variance. There is a section that allows reduced setbacks and they are commonly granted on nonconforming lots and it is usually dependent upon whether it is appropriate for the lots and if it is compatible with the neighborhood.

**Commissioner Thomas O'Donnell**

--Commented that the applicant's worthiness is not what is being considered, but rather the application of laws.

--Commented that since it is a nonconforming lot it does cause some difficulty, but the applicant has a right to build on his property but not beyond what the law allows.

--Commented that this is a very difficult lot.

--Commented that garage access is very difficult and a driveway not well considered could be a problem.

--Commented that he would start with what the law allows at 785 square feet for one house and 835 square feet for the other. Perhaps they should be bigger, but he believes that the proposed sizes are too big.

--Commented that he has trouble with the cut and fill variance, the amount of excess in the FAR, the driveway setback, and the basis for the variances.

--Commented that a basement has not been effected here to reduce mass and scale.

--Commented that the staging problem is valid and will cause real problems for the neighbors.

--Asked why the lot line adjustment is being considered at this time.

**Senior Planner Suzanne Davis**

--Corrected that the Town Code does have provisions for exceeding the FAR. The deciding body may allow a FAR in excess based on the design theme, sense of scale, exterior materials and details of the proposed project. The applicable provisions in this case are that it is consistent with the HDS&G and that the lot coverage, setbacks and FAR of the proposed project are compatible with the development of surrounding lots.

**Planning Manager Sandy Baily**

--Clarified that only one variance is being requested tonight and that is for the driveway length. Specific findings are required for a variance. The other ones are deviations or exceptions to the HDS&G rather than variances and do not require specific findings.

**Commissioner Joanne Talesfore**

--Asked if the HDS&G states that all standards and guidelines must be met to grant an exception to the FAR and if this project would be considered an exception.

**Senior Planner Suzanne Davis**

--Commented the FAR is considered an exception. The HDS&G is not being applied because that would have allowed more floor area. The R-1 FAR formula was applied to the properties because it was more restrictive.

**Commissioner Margaret Smith**

--Commented she has visited the site at various times of the day because of her **concern for pedestrian safety, so she cannot support a driveway variance.**

--Commented the impact on the hillside and the homes below is a concern.

However, homeowners have to accept some responsibility when buying homes where homes can be built above them.

--Commented that the design is very attractive but these homes are too massive. The lot line adjustment is reasonable but the **homes are larger than they need to be.**

**Commissioner Charles Erikson**

--Commented he is not concerned about the lot line adjustment, but **smaller homes are more reasonable.** The style is appropriate for the neighborhood, but the size is not.

--Commented that he would not support such a FAR increase due to topographical constraints and the proximity to the residents below.

--Commented that he would not support the reduced rear setback for 339 Bella Vista Avenue because it would increase the impact on the residents below the site.

--Commented that the length of driveway meets the requirement, but it cannot be developed entirely on the site.

**Commissioner Joanne Talesfore**

--Commented that the Commission has worked with applicants to make projects work, but this one is more challenging with extreme privacy concerns from neighbors. She looked at the site from one of the condominium patios and the loss of trees is startling.

--Commented that the **bulk and mass is a concern.** The **homes would have to be reduced in size** and be sited with the least impact on the neighbors' privacy.

--Commented that she is bothered by a variance creating two nonconforming lots.

--Commented that the **driveway is an issue because it is on a blind corner.**

**Commissioner Thomas O'Donnell**

--Commented that while it is the right for a property owner to build on what their property is zoned for, it is not the Commission's job to aid them to do it in a way that is more commercially satisfactory to them. It is fair to say that the Commission attempts to be fair, and it is not suggesting that any increase in the FAR would be denied, but **the requested FAR is too much.**

--Commented that careful consideration should be given to what the neighborhood is. The west side is so different from the east, so he would discount the east side in defining the neighborhood.

--Commented that these are two very bad lots.

**Town Attorney Judith Propp**

--Commented that there are no specific findings for lot line adjustments, but the government code does caution local agencies to limit its review and approval to a determination if the parcels, with the adjustment, will conform to the local General Plan or building ordinances.

**Commissioner Thomas O'Donnell**

--Asked if you start with and end up with two nonconforming lots, if that is consistent with the government codes.

**Town Attorney Judith Propp**

--Commented that the Subdivision Map Act will not allow you to create nonconforming lots when you do a subdivision. Lot line adjustments are for four or less parcels and are not subject to the rules of the Subdivision Map Act. There is nothing in the Town's Subdivision Ordinance that prohibits that. It is up to the Commission to decide if it is a reasonable action and consistent and conforming with the General Plan.

**Senior Planner Suzanne Davis**

--Commented that if there were structures there, staff would not want to create a nonconforming setback that was currently not there.

**Chair Marico Sayoc**

--Commented that while the Commission sympathizes that these are terrible lots, the standards and guidelines need to be followed. The burden is on the applicant to justify the need for exceptions.

--Commented that while the applicant wants an increased FAR for a livable home, it also has to be livable for the neighbors.

**Commissioner Charles Erekson**

--Asked what period of time the applicant would need if the item were continued.

**Chair Marico Sayoc** reopened the public hearing.

**Dan Ross**

--Commented he would like a date as soon as possible.

**Planning Manager Sandy Baily**

--Commented that the earliest would be January 11.

**Chair Marico Sayoc** closed the public hearing.

**Commissioner Thomas O'Donnell**

--Commented that the Commission has not given any guidance to the applicant and it may be helpful to tell him what it is looking for. He would want a dramatic reduction in size.

**Commissioner Margaret Smith**

--Commented she does not have a problem with the lot line adjustment. The homes must be appreciably smaller in scale and mass and the driveway must be addressed.

**Commissioner Thomas O'Donnell**

--Commented that he is troubled by size, bulk and mass, setback, cut and fill, and, for safety purposes, the driveway.

**Commissioner Joanne Talesfore**

--Commented that she has issues with the setbacks especially between the two homes, the driveways, tree removals, lot line exception, and she would want an architecture reduction while keeping the Maggi Court residents in mind.

--Commented that she would like to see a neighborhood meeting on this project.

**Commissioner Charles Erikson**

--Commented he would judge the lot line adjustment by the benefit derived by the parcels after an adjustment.

--Commented that his concerns are the driveway issue due to the blind curve and that the sizes of the homes need to be significantly reduced with consideration for the homes on the west side of Bella Vista Avenue.

**Chair Marico Sayoc**

--Commented that she would find it difficult to agree with the driveway variance due to bicycle traffic.

--Commented that the slope and the architectural style blend well.

**Motion by Commissioner Charles Erikson and seconded by Commissioner Joanne Talesfore** to continue Architecture and Site Applications S-06-46 and S-06-64, Subdivision Application M-06-09, Variance Application V-11-001, Mitigated Negative Declarations ND-08-02 and ND-08-03 to January 11, 2012, with the direction reflected in the Planning Commission's comments.

Motion carried 5-0 with **Vice Chair Marcia Jensen** and **Commissioner John Bourgeois** excused.

**Planning Manager Sandy Baily**

--Commented that the item is continued to a date certain, therefore there will be no additional public notices.

**Chair Marico Sayoc** called for a break at 10:03 p.m. and reconvened the meeting at 10:14 p.m.

**Vice Chair Marcia Jensen** joined the meeting. **Commissioner John Bourgeois** joined the meeting.

**NEW PUBLIC HEARINGS**

2. **800 Blossom Hill Road**. Planned Development Application PD-11-001. Mitigated

*This Page  
Intentionally  
Left Blank*

**Letter of Justification. Revised plans for 339/341 Bella Vista Avenue, Los Gatos.**

Dear Town of Los Gatos Planning Department, Planning Commission:

**BACKGROUND:**

From beginning, during escrow process, we spent significant time with Planning Staff to understand guidelines as they related to these lots. At that time it was encouraged that we model our plan after the recently approved and constructed home at 145 Bella Vista, with similar western down slope. We researched the previous submittal for 339/341, which was 1 large home proposed over both lots. The application was incomplete, denied. Town Staff commented 1 larger home over 2 lots wasn't congruent with neighborhood. What was done at 145 Bella Vista would be more appropriate. It was pointed out that most homes on west side of Bella Vista have reduced driveway and front setbacks. The FAR numbers were explained, and that homes on non-conforming sub 8000 square foot lots were eligible for exceptions in order to create a "live-able home by today's standards". I purchased my lot on December 23, 2004. Mr. Peters purchased his lot on December 23, 2004

We hired a Design team, Civil Engineer, Geotechnical/Soils Engineer and Arborist with experience working in Los Gatos, and a history of providing high quality work. We followed Town Guidelines to prepare appropriate reports. These reports were Peer Reviewed by Town Consulting Architect and Engineers, and found satisfactory. Along the way, Town Staff/Engineers and Consultants have made recommendations. We have agreed to suggestions and changes that have been recommended by Town Planning Staff and Town Public Works/Engineering.

**MAIN ISSUES:**

- 1) **Driveway Variance.** Garages are sited where they are to address driveway slope, goal of saving Oak at middle of lots, overall height. If we shift garage farther back, it will move garage closer to townhomes, increase height, and increase slope of driveway from street to garage. Town Engineer can give detail on allowable slope. Our driveways are 18'6" to 22' from edge of pavement to garage doors. This is typical, 7 out of 10 homes on west side of Bella Vista have driveways shorter than this. (See chart). Our driveways, as well as neighboring home driveways, cross into public right of way to edge of pavement. The Public right of way is the down-sloped area not likely to ever be built on by Public Works.
- 2) **Setback Exceptions:** Our homes are 24'-25' from edge of pavement. 7 out of 10 homes on west side of Bella Vista are closer to street than our proposal. Shortest distance being 13'. (See Chart). We are requesting a front set back exception to property line for both homes. For 441, we are requesting a side setback exception, next to land bordering Highway 9. **After reducing rear right corner of 339, the rear right and left corners are 23' to property line, now meeting guideline.** We have bump-outs at middle of home, requiring setback exception. **Considering width of trail at bottom of lot, we are very close to 20' to neighbor's fence.** These type of front setback exceptions exist around town, on down slope of Glenridge, Oak Hill, Edelen, etc. A house on my street on Villa has a garage that abuts sidewalk, with 0' setback to sidewalk.
- 3) **FAR/Mass and scale.** Our basic footprint above grade on main level of home is 907 square feet. The garage footprint is 21' x 21' or 441 square feet. The primary change to our plan from October meeting is to 339 Bella Vista. We have removed a 21' wide by 6'

deep area behind the garage. This will increase distance of 339 Bella from townhomes, removes patio/balcony and pushes interior stairwell underneath garage, reducing useable square footage in this area. This smaller area under garage is changed from Bedroom/Bathroom to Study/Media Room. The area under 907 square foot main level remains as 2 bedrooms. It's important to note the finished floor area of the area under garage to garage ceiling is 20', and is farther away from townhomes. The finished floor of the lower level main house to main level ceiling wall plate is 21', 6". The roof slopes away from the back of house. This is NOT 35' of structure bearing down on townhomes below. Maggi Court neighbors below will see 20' tall garage and 21', 6" tall home. Shielded by existing trees, new landscaping/trees and fencing.

It's important to note Maggi Court townhomes are 1650 square feet plus 550 square foot garage on 1350 square foot lots. They are 35' tall, in many instances with NO driveway, reduced front, side and rear setbacks. They are attached homes, with attached front and back balconies. They have lot coverage of 150%+/-, and we are 50%+/- ? It's hard for me to accept Maggi Court argument that we should not receive any variance or exception when you look at the variances/exceptions that have benefitted them, as well as other neighbors on the west/down slope side of Bella Vista.

This is our 3<sup>rd</sup> reduction/change to our original plan mirroring 145 Bella Vista. 145 Bella Vista is 8' wider, and is closer to street by 2-3' and garage is 12' from edge of pavement.

339 and 341 are 31' feet apart. The only remaining material architectural change would be to eliminate the lower levels. However, removing the lower levels would have virtually no effect on Maggi Court neighbors as the lower level would be replaced by an engineered structure, to support the upper level.

### **Other points of Interest:**

**Slope:** Our slope is similar to other homes on west side of Bella Vista. Our numbers are skewed by drop off at top of lot and man-made cut by HOA below us to create trail at bottom of our lot. Portion of trail impedes on our property. Our slope, particularly in the middle portion of lot is in the 30's similar to 145 Bella Vista and other homes.

**Grading:** We are exporting approximately 335 cubic yards of dirt, total, for both houses. I'm told this is reasonable, and that a hillside home development can be known to export as much as 2000 cubic yards.

**Traffic:** Public Works has stated that traffic calming measures are being worked on now. Visibility/Safety could be improved if the land to the north of us, owned by HOA below us, was trimmed to improve eye level views along the curve in the road.

**Neighbor Meetings:** I met with Maggi Court neighbors in 2008 (when they accused me of rushing project through), and 2010. In 2011, I notified them of my willingness to meet prior to October PC meeting. None responded to my request. I was scheduled for August 10<sup>th</sup>, 2011 Planning Commission meeting. They asked for postponement to prepare, I agreed. The neighborhood has had my email address and phone number since 2008. Not a single neighbor has reached out to me to meet individually. At our 2008 and 2010 meetings, Pat Tillman was their appointed spokesperson. He fired questions as if it were a deposition, there was very little 2 way dialogue. He's called me names, and has been generally threatening in nature. At the

2008 meeting, two suggestions were made: Change the area under garage from open storage to enclosed living space, and move deck on 339 from rear of house to side of house to distance deck from townhomes. We did both. In 2011, I did ask for meetings with 7 Bella Vista neighbors across the street from us. None responded. I had brief conversations with 2 Bella neighbors in prior years. It is disappointing neighbors aren't willing to sit down face to face and work through concerns and compromise to try and achieve a solution.

**Privacy:** Maggi Court neighbors do not have absolute privacy now. You can see into the townhomes from Bella Vista Avenue, and from trail at back of lot. On our own we have reduced rear facing window count, removed 2 rear facing balconies, and reduced size of decks. We've raised the height of balcony rails to 6' feet to block any direct eye contact. We've prepared landscape plan to create separation and further block/soften views. When neighbors stated they didn't want trees removed, I stated we would have replacement trees, they complained there would be too much shade. These homes are under the existing canopy. There are existing trees between the garage and townhomes that already create shade.

**Summary:** The disappointing part of this process is neighbors are left to fight over issues, when neither side can claim they fully understand rules, guidelines and nuances 100%.

Deb and I had 30 supporters at the October meeting, 27 Los Gatos neighbors, and more watching from home. The comments I received was this should be less a "mob-ocracy" or "anger-fest", and more about what is fair to the applicant based on what has been granted to nearby neighbors.

When the meeting is dominated by anger and generalizations, it diminishes the work of the applicant, Town Planning Staff, Town Public Works/Engineering and Town Consultants. Particularly when opponents don't study the technical work, then generalize incorrectly.

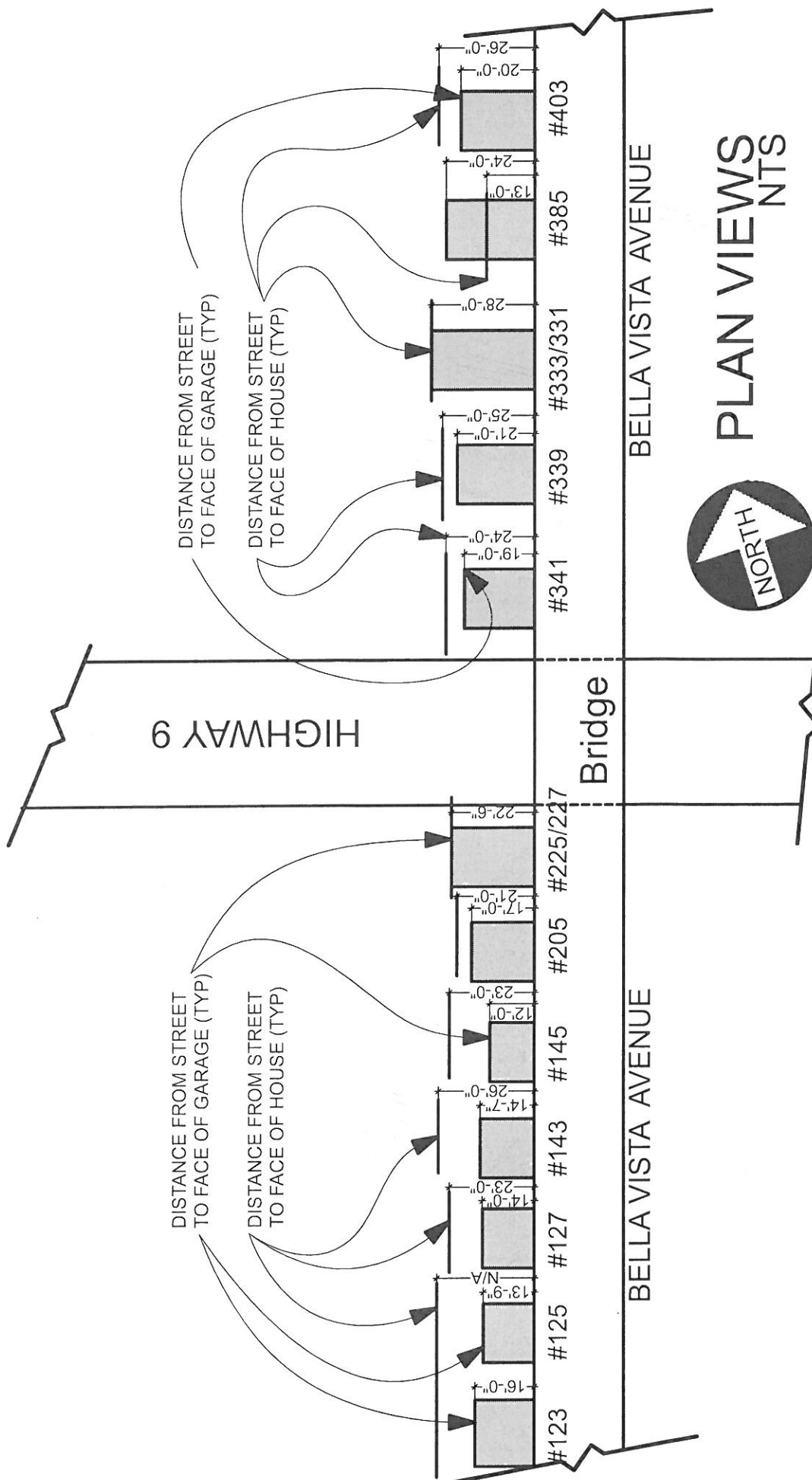
I've had neighbors in the Bella Vista/Maggi Court area tell me they are in disbelief over what I've been subjected to, and they won't speak publicly for fear of retribution.

We appreciate the consideration of the Planning Commission, and respectfully ask for a final (hopefully approving) vote on this proposal.

Best regards,

Dan Ross

***This Page  
Intentionally  
Left Blank***



RECEIVED

DEC 20 2011

TOWN OF LOS GATOS  
PLANNING DIVISION

*This Page  
Intentionally  
Left Blank*