TOWN OF LOS GATOS **ITEM NO: 6**
PLANNING COMMISSION STAFF REPORT
Meeting Date: March 14, 2012

PREPARED BY: Trang Tu-Nguyen, Assistant Engineer
ttunguyen@losgatosca.gov

Suzanne Avila, Senior Planner
savila@losgatosca.gov

APPLICATION NO: Architecture and Site Application S-12-002

LOCATION: **16380 Oleander Avenue** (southeast corner of Oleander and Orange Blossom)

APPLICANT: Mike Rowe, Britt Rowe

PROPERTY OWNER/ APPELLANT: Jim & Dana Elliot

APPLICATION SUMMARY: Appeal of Development Review Committee decision approving the demolition of a single family residence and construction of a new residence and including a condition requiring utilities to be placed underground on property zoned R-1:8. APN 523-14-049.

DEEMED COMPLETE: Action already taken
FINAL DATE TO TAKE ACTION: Not applicable

RECOMMENDATION: Uphold the decision of the development Review Committee and deny the appeal.

PROJECT DATA:

General Plan Designation:	Low Density Residential
Zoning Designation:	R-1:8
Applicable Plans & Standards:	Zoning Ordinance General Plan
Parcel Size:	11,069 square feet

Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Single-family residential	Low Density Res.	R-1:8 prezone
East	Single-family residential	Low Density Res.	R-1:8 prezone
South	Single-family residential	Low Density Res.	R-1:8 prezone
West	Single-family residential	Low Density Res.	R-1:8 prezone

CEQA: The project has been deemed categorically exempt from CEQA pursuant to Section 15303 of the State Environmental Guidelines as adopted by the Town

FINDINGS:

- The Planning Commission must make findings as required by Section 27.50.025 of the Town Code for a waiver of the requirement to underground utilities.
- As required by Section 15301 of the State Environmental Guidelines as adopted by the Town that this project is Categorically Exempt.
- As required by the Residential Design Guidelines that the project complies with the Residential Design Guidelines.

CONSIDERATIONS:

- As required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application.

ACTION: The Planning Commission is the final reviewing authority unless an appeal is filed.

EXHIBITS:

1. Location map
2. Required findings and considerations
3. Conditions of approval (six pages)
4. Revised conditions of approval (six pages)
5. Town Code Chapter 27 Utilities, Article V (three pages)
6. Appeal statement, filed February 3, 2012
7. Letter from Michael Rowe (five pages), received March 1, 2012
8. Letter from Jim and Dana Elliott, includes neighborhood petition (three pages total), received February 27, 2012
9. Demolition Affidavit (two pages), dated November 14, 2011

BACKGROUND:

The subject property was annexed into the Town on October 10, 2011. The majority of the Blossom Hill Manor is unincorporated and under the jurisdiction of Santa Clara County. With the exception of one house across the street on Oleander, all surrounding homes are in the County.

On November 28, 2011, a building permit was issued for an 836 square foot addition to the existing residence and remodeling of existing floor area. As part of the application process for the building permit with the Town, a Demolition Affidavit was completed and signed by the applicant (Exhibit 9). As stated in the Demolition Affidavit, an unlawful demolition will be

subject to additional development review process and new requirements may be imposed. The affidavit further states that new requirements may include undergrounding of electrical service, sidewalk improvements and right of way dedication. During the course of construction, the contractor removed all of the interior sheetrock and exterior siding resulting in a technical demolition based on the Town's definition of demolition (Town Code Section 29.10.020). On December 22, 2011, a stop work order was issued by the Town Building Division for the unlawful demolition.

Pursuant to Town Code, the property owners were required to file and receive approval of an Architecture and Site (A&S) application to allow the demolition of the existing residence and construction of a new residence. The A&S application was approved by the Development Review Committee (DRC) on January 24, 2012, and the conditions of approval for the project included the requirement to underground utilities per Town Code Section 27.50.010 and 27.50.015. The property owners objected to this condition and appealed the DRC decision on February 3, 2012. The original DRC conditions of approval also included a requirement for payment of a sidewalk in-lieu fee, which the applicant also appealed. However, subsequent to DRC action, the Parks and Public Works Department resolved the matter with the homeowner and it is no longer a subject of this appeal.

PROJECT DESCRIPTION:

Location and Surrounding Neighborhood

The property is located on the southeast corner of Oleander Avenue and Orange Blossom Drive in the Blossom Hill Manor neighborhood. The applicant's parcel is zoned R-1:8. Surrounding properties are pre-zoned R-1:8 and are developed with single-family homes. With the exception of the one house across the street on Oleander Avenue that was developed in the Town, all surrounding homes in the County and are served by overhead utility lines.

ANALYSIS:

A. Undergrounding of Utilities

In 1967, the California Public Utilities Commission (CPUC) required that all new service connections be placed underground. Also in that year, the CPUC began a program for undergrounding existing electric distribution lines. Town Council adopted the undergrounding requirements in 1968 as defined below.

Town Code Sections 27.50.010 and 27.50.015 require developments to underground utilities (Exhibit 5) to promote and preserve the health, safety and general welfare of the public and to assure the orderly development of the Town. Goal CD-3 of the General Plan requires utilities, landscaping and streetscapes to contribute to Los Gatos' high

quality character. In addition, Policy CD-3.1 of the General Plan encourages the undergrounding of utilities on substantial remodels, which strengthens the justification for carefully weighing waiver requests for new construction. The following are a few examples of enhancing public safety by undergrounding utilities:

- Reduces the frequency of outage, particularly those caused by storms,
- Reduces the costs of post storm restoration of the electric system,
- Reduces the costs of tree trimming and other vegetation management and damages to electric facilities, and
- Reduces the risk of the public coming in contact with live wires and provides aesthetic benefits by reducing visual clutter.

Since the adoption of the Ordinance all A&S applications that were required to, complied with undergrounding their utilities. Staff is aware of at least three waiver requests that were granted. The basis for permitting the waivers were as follows:

- Property owner was unable to obtain the required right of way from the adjacent property owner, plus there were significant trees on the adjacent property that would have been impacted by trenching.
- Applicant was unable to secure needed easements for a portion of the connection that would have been on adjacent property.
- To protect a recently resurfaced street. Town Code Chapter 23 Streets and Sidewalks-Section 23.30.050 does not permit excavation or pavement cut in a pavement less than three (3) years old. In this instance, the utilities were undergrounded from a new pole to the house.

B. DRC Action

On January 24, 2012, the DRC approved the A&S application with the condition that the utilities be undergrounded pursuant to Town Code requirements. Prior to the DRC action, engineering staff reviewed the applicant's request for a waiver and determined that there was not sufficient justification to approve a waiver. Section 27.50.020 of the Town Code provides for an exemption from this requirement and staff determined that the reasons identified by the applicant did not meet any of the nine listed exemptions permitted by Town Code.

C. Appeal

On February 3, 2012, the applicant filed an appeal regarding the condition to underground the utilities. The basis for the appeal is as follows (see Exhibits 6 and 7 for full justification):

- The nearest available power pole is 160 linear feet from the subject property. Staff Note: Approximately six other applicants have connected to a power pole that ranged from 116 feet to 550 feet from their property during the years 2008 to present.

- 99% of the neighborhood is serviced with overhead utility lines. Staff Note: The Town's goal is to underground utilities when we have the opportunity to promote and preserve the health, safety and general welfare of the public and to assure the orderly development of the Town.

PUBLIC COMMENTS:

In addition to the published legal ad, written notice was mailed to property owners and tenants within 300 feet of the applicant's property. A petition was submitted signed by 14 neighbors who are objecting to the requirement to underground utilities (see page 3 of Exhibit 8).

CONCLUSION AND RECOMMENDATION:

A. Conclusion

Section 27.50.025(3) of the Town Code states that the deciding body shall consider the waiver request and, if based upon the supporting data, finds that enforcement would be unreasonable, may waive or modify the requirements as deemed appropriate. As discussed, historically waivers have been granted due to lack of easement rights to access utilities, to avoid impacts to significant trees and to protect recently resurfaced streets.

The Planning Commission should determine if the appellant has presented adequate information and evidence to support the request for a waiver from the requirement to underground utilities. If the decision is to grant the appeal and requested waiver, the Commission should state reasons why this situation is unique or different from other projects, and why the exception is warranted as the justification provided to the Commission will be used when evaluating future projects with a similar request.

B. Recommendation

If the Planning Commission decides to deny the appeal, the project approval will stand and all existing conditions will be applicable (refer to Exhibit 3).

As an alternative, the Commission may grant the appeal either in part or in full, by taking the following actions:

1. Make findings to support a waiver of the utility undergrounding requirement (see Exhibit 2);
2. Make the remainder of the required findings and considerations (Exhibit 2);
3. Grant the appeal and approve Architecture and Site application S-12-002, subject to the revised conditions in Exhibit 4 (condition #16 was deleted to remove the requirement to underground utilities).

Suzanne Avila

Prepared by:
Suzanne Avila, AICP
Senior Planner

Prepared by:
Trang Tu-Nguyen
Assistant Engineer

Approved by:
Wendie R. Rooney
Director of Community Development

WRR:SD:ct

cc: Jim & Dana Elliott, 16380 Oleander Avenue, Los Gatos, CA 95032
Mike Rowe, Britt Rowe, 108 N. Santa Cruz Avenue, Los Gatos, CA 95030

16380 Oleander Avenue

EXHIBIT 1

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PLANNING COMMISSION – MARCH 14, 2012
REQUIRED FINDINGS FOR:

16380 Oleander Avenue
Architecture and Site application S-12-002

Appeal of Development Review Committee decision approving the demolition of a single-family residence and construction of a new residence and including conditions requiring utilities to be placed underground and payment of a sidewalk in-lieu fee on property zoned R-1:8. APN 523-14-049.
PROPERTY OWNER: Jim & Dana Elliott
APPLICANT: Mike Rowe, Britt-Rowe

FINDINGS:

As required by Section 27.50.025 of the Town Code for a waiver of the requirement to underground utilities:

- Enforcement of the requirement to underground utilities is unreasonable because the two closest utility poles cannot be used and the homeowner would need to trench 275 feet to reach the nearest pole with capacity to provide a connection; undergrounding utilities to the subject property would not result in any aesthetic change; with the exception of one property the surrounding properties in the neighborhood all have overhead utility lines; the majority of the Blossom Hill Manor neighborhood was developed in (and remains) under the jurisdiction of Santa Clara County; and surrounding property owners object to the street being trenched and repaired once the utility lines have been installed and do not wish to see the character of the neighborhood changed.

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DEVELOPMENT REVIEW COMMITTEE – JANUARY 24, 2012
CONDITIONS OF APPROVAL

16380 Oleander Avenue
Architecture and Site application S-12-002

Requesting approval to demolish a single family residence and to construct a new residence on property zoned R-1:8. APN 523-14-049
PROPERTY OWNER: Jim & Dana Elliott
APPLICANT: Mike Rowe, Britt-Rowe

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved by the Development Review Committee (DRC) on January 24, 2012, and noted as received by the Town on January 11, 2012. Any changes or modifications to the approved plans shall be approved by the Community Development Director or the DRC, depending on the scope of the changes.
2. EXPIRATION: The Architecture and Site approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval is used prior to expiration.
3. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval, and may be secured to the satisfaction of the Town Attorney.
4. OUTDOOR LIGHTING: House exterior and landscape lighting shall be kept to a minimum, and shall be down directed fixtures that will not reflect or encroach onto adjacent properties. The outdoor lighting plan will be reviewed during building plan check. Any changes to the lighting plan shall be approved prior to installation.

TO THE SATISFACTION OF THE DIRECTOR OF PARKS & PUBLIC WORKS:

Engineering Division

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

6. ENCROACHMENT PERMIT. All work in the public right-of-way will require a Construction Encroachment Permit. All work over $5,000 will require construction security. It is the responsibility of the applicant/developer to obtain any necessary encroachment permits from affected agencies and private parties, including but not limited to, Pacific Gas and Electric (PG&E), SBC, Comcast, Santa Clara Valley Water District, California Department of Transportation. Copies of any approvals or permits must be submitted to the Town Engineering Department prior to releasing of any permit.
7. PUBLIC WORKS INSPECTIONS. The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting any work pertaining to on-site drainage facilities, grading or paving, and all work in the Town's right-of-way. Failure to do so will result in rejection of work that went on without inspection.
8. RESTORATION OF PUBLIC IMPROVEMENTS: The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.
9. SITE SUPERVISION. The General Contractor shall provide qualified supervision on the job site at all times during construction
10. STREET/SIDEWALK CLOSURE. Any proposed blockage or partial closure of the sidewalk requires an encroachment permit. Special provisions such as limitations on works hours, protective enclosures, or other means to facilitate public access in a safe manner may be required.
11. DESIGN CHANGES. Any proposed changes to the approved plans shall be subject to the approval of the Town prior to altered work is started. The Applicant Project Engineer shall notify, in writing, the Town Engineer at least 72 hours in advance of all the proposed changes. Any approved changes shall be incorporated into the final "as-built" plans.
12. PARKING. Any proposed parking restrictions during construction must be approved by the Town.
13. PAD CERTIFICATION. A letter from a licensed land surveyor shall be provided stating that the building foundation was constructed in accordance with the approved plans shall be provided subsequent to foundation construction and prior to construction on the structure. The pad certification shall address both vertical and horizontal foundation placement.
14. RETAINING WALLS. A building permit, issued by the Building Department at 110 E. Main Street, may be required for site retaining walls. Walls are not reviewed or approved by the Engineering Division of Parks and Public Works during the grading permit plan review process.

15. SOILS ENGINEER CONSTRUCTION OBSERVATION. During construction, all excavations and grading shall be inspected by the applicant's soils engineer prior to placement of concrete and/or backfill so they can verify that the actual conditions are as anticipated in the design-level geotechnical report, and recommend appropriate changes in the recommendations contained in the report, if necessary. The results of the construction observation and testing should be documented in an "as-built" letter/report prepared by the applicants' soils engineer and submitted to the Town before final release of any occupancy permit is granted.
16. UTILITIES. The developer shall install all new, relocated, or temporarily removed utility services, including telephone, electric power and all other communications lines underground, as required by Town Code Section 27.50.015(b). All new utility services shall be placed underground. Underground conduit shall be provided for cable television service. Applicant is required to obtain approval of all proposed utility alignments from any and all utility service providers. The Town of Los Gatos does not approve or imply approval for final alignment or design of these facilities.
17. SIDEWALK CLOSURE. Any proposed blockage or partial closure of the sidewalk requires an encroachment permit. Special provisions such as limitations on works hours, protective enclosures, or other means to facilitate public access in a safe manner may be required.
18. SIDEWALK IN-LIEU FEE. A curb and sidewalk in-lieu fee shall be paid prior to final inspection and issuance of an occupancy permit. This fee is based on linear feet of curb at $57/LF and square feet of 4.5-foot wide sidewalk at $16/SF in accordance with Town policy.
19. 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 Details. The limits of curb and gutter repair will be determined by the Engineering Construction Inspector during the construction phase of the project.
20. DRIVEWAY APPROACH. The developer shall install one Town standard residential approach. The new driveway approach shall be constructed per Town Standard Details.
21. FENCING. Any fencing proposed within 200-feet of an intersection shall comply with Town Code Section §23.10.080.
22. SIGHT TRIANGLE AND TRAFFIC VIEW AREA: Any proposed improvements, including but not limiting to trees and hedges, will need to abide by Town Code Section 23.10.080, 26.10.065, 29.40.030.
23. HAULING OF SOIL. Hauling of soil on or off-site shall not occur during the morning or evening peak periods (between 7:00 a.m. and 9:00 a.m., and between 4:00 p.m. and 6:00 p.m.). Prior to the issuance of a building permit, the developer shall work with the Town Building and Engineering Department Engineering Inspectors to devise a traffic control plan to ensure safe and efficient traffic flow under periods when soil is hauled on or off the project site. This may include, but is not limited to provisions for the developer/owner to place construction notification signs noting the dates and time of construction and hauling activities, or providing additional traffic control. Coordination with other significant projects in the area may also be required. Cover all trucks hauling soil, sand, and other loose debris or require all trucks to maintain at least two feet of freeboard.

24. CONSTRUCTION STREET PARKING. No vehicle having a manufacture's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior to approval from the Town Engineer.

25. CONSTRUCTION NOISE. Between the hours of 8:00 a.m. to 8:00 p.m., weekdays and 9:00 a.m. to 7:00 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.

26. BEST MANAGEMENT PRACTICES (BMP's). Best Management Practices (BMPs) shall be maintained and be placed for all areas that have been graded or disturbed and for all material, equipment and/or operations that need protection. Removal of BMPs (temporary removal during construction activities) shall be placed at the end of each working day.

27. STORMWATER DEVELOPMENT RUNOFF. All new development and redevelopment projects subject to the Stormwater development runoff requirements. Every applicant shall submit a stormwater control plan and implement conditions of approval that reduce stormwater pollutant discharges through the construction, operation and maintenance of treatment measures and other appropriate source control and site design measures. Increases in runoff volume and flows shall be managed in accordance with the development runoff requirements

28. SITE DESIGN MEASURES. All projects must incorporate the following measures to the maximum extent practicable:
    a. Protect sensitive areas and minimize changes to the natural topography.
    b. Minimize impervious surface areas.
    c. Direct roof downspouts to vegetated areas where feasible.
    d. Use permeable pavement surfaces where feasible.
    e. Use landscaping to treat stormwater.

29. DUST CONTROL. Blowing dust shall be reduced by timing construction activities so that paving and building construction begin as soon as possible after completion of grading, and by landscaping disturbed soils as soon as possible. Further, water trucks shall be present and in use at the construction site. All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the Town, or a minimum of three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites in order to insure proper control of blowing dust for the duration of the project. Watering on public streets shall not occur. Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the Town Engineer, or at least once a day. Watering associated with on-site construction activity shall take place between the hours of 8 a.m. and 5 p.m. and shall include at least one late-afternoon watering to minimize the effects of blowing dust. All public streets soiled or littered due to this construction activity shall be cleaned and swept on a daily basis during the workweek to the satisfaction of the Town. Demolition or earthwork activities shall be halted when wind speeds (instantaneous gusts) exceed 25 MPH. All trucks hauling soil, sand, or other loose debris shall be covered.

30. CONSTRUCTION ACTIVITIES. All construction shall conform to the latest requirements of the CASQA Stormwater Best Management Practices Handbooks for Construction Activities and New Development and Redevelopment, the ABAG Manual of Standards for Erosion & Sediment Control Measures, the Town's grading and erosion control ordinance and other generally accepted engineering practices for erosion control as required by the Town Engineer when undertaking construction activities.
31. SITE DRAINAGE. Rainwater leaders shall be discharged to splash blocks. No through curb drains will be allowed. Any storm drain inlets (public or private) directly connected to public storm system shall be stenciled/signed with appropriate "NO DUMPING - Flows to Bay" NPDES required language. On-site drainage systems for all projects shall include one of the alternatives included in section C.3.i of the Municipal Regional NPDES Permit. These include storm water reuse via cisterns or rain barrels, directing runoff from impervious surfaces to vegetated areas and use of permeable surfaces. If dry wells are to be used they shall be placed a minimum of 10 feet from adjacent property line and/or right of way.
32. SILT AND MUD IN PUBLIC RIGHT-OF-WAY. It is the responsibility of contractor and home owner to make sure that all dirt tracked into the public right-of-way is cleaned up on a daily basis. Mud, silt, concrete and other construction debris SHALL NOT be washed into the Town's storm drains.
33. GOOD HOUSEKEEPING. Good housekeeping practices shall be observed at all times during the course of construction. Superintendence of construction shall be diligently performed by a person or persons authorized to do so at all times during working hours. The storing of goods and/or materials on the sidewalk and/or the street will not be allowed unless a special permit is issued by the Engineering Division. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.
34. UTILITY SETBACKS. Utility lines shall be set back from a sufficient distance from the house foundation to allow excavation of the utility without undermining the house foundation. The Town Engineer shall determine the appropriate setback based on the depth of the utility, input from the project soils engineer, and the type of foundation.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

35. AUTOMATIC FIRE SPRINKLER SYSTEM REQUIRED. An approved automatic fire sprinkler system is required for the new residence, hydraulically designed per National Fire Protection Association (NFPA) Standard #13D. A State of California (C-16) Fire Protection contractor shall submit plans, calculations, a completed permit application and appropriate fees to the Fire Department for approval, prior to beginning their work.
36. CONSTRUCTION FIRE SAFETY. All construction sites shall comply with applicable provisions of the CFC Chapter 14 Standard Detail and Specification SI-7.

37. POTABLE WATER SUPPLIES. Potable water supplies shall be protected from contamination caused by fire protection water supplies. The applicant shall contact the providing water purveyor and shall comply with all requirements of that purveyor. The fire sprinkler system shall be designed in compliance with water purveyor requirements; final approval of the system will not be granted by the Fire Department until written confirmation is received from the water purveyor.

38. PREMISE IDENTIFICATION. Approved addresses shall be placed on all new buildings so they are clearly visible and legible from Oleander Avenue. Numbers shall be a minimum of four inches high and shall contrast with their background

PLANNING COMMISSION – MARCH 14, 2012
CONDITIONS OF APPROVAL

16380 Oleander Avenue
Architecture and Site application S-12-002

Requesting approval to demolish a single family residence and to construct a new residence on property zoned R-1:8. APN 523-14-049
PROPERTY OWNER: Jim & Dana Elliott
APPLICANT: Mike Rowe, Britt-Rowe

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved by the Planning Commission on March 14, 2012, and noted as received by the Town on January 11, 2012. Any changes or modifications to the approved plans shall be approved by the Community Development Director or the DRC, depending on the scope of the changes.
2. EXPIRATION: The Architecture and Site approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval is used prior to expiration.
3. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval, and may be secured to the satisfaction of the Town Attorney.
4. OUTDOOR LIGHTING: House exterior and landscape lighting shall be kept to a minimum, and shall be down directed fixtures that will not reflect or encroach onto adjacent properties. The outdoor lighting plan will be reviewed during building plan check. Any changes to the lighting plan shall be approved prior to installation.

TO THE SATISFACTION OF THE DIRECTOR OF PARKS & PUBLIC WORKS:

Engineering Division

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

6. ENCROACHMENT PERMIT. All work in the public right-of-way will require a Construction Encroachment Permit. All work over $5,000 will require construction security. It is the responsibility of the applicant/developer to obtain any necessary encroachment permits from affected agencies and private parties, including but not limited to, Pacific Gas and Electric (PG&E), SBC, Comcast, Santa Clara Valley Water District, California Department of Transportation. Copies of any approvals or permits must be submitted to the Town Engineering Department prior to releasing of any permit.
7. PUBLIC WORKS INSPECTIONS. The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting any work pertaining to on-site drainage facilities, grading or paving, and all work in the Town's right-of-way. Failure to do so will result in rejection of work that went on without inspection.
8. RESTORATION OF PUBLIC IMPROVEMENTS: The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.
9. SITE SUPERVISION. The General Contractor shall provide qualified supervision on the job site at all times during construction
10. STREET/SIDEWALK CLOSURE. Any proposed blockage or partial closure of the sidewalk requires an encroachment permit. Special provisions such as limitations on works hours, protective enclosures, or other means to facilitate public access in a safe manner may be required.
11. DESIGN CHANGES. Any proposed changes to the approved plans shall be subject to the approval of the Town prior to altered work is started. The Applicant Project Engineer shall notify, in writing, the Town Engineer at least 72 hours in advance of all the proposed changes. Any approved changes shall be incorporated into the final "as-built" plans.
12. PARKING. Any proposed parking restrictions during construction must be approved by the Town.
13. PAD CERTIFICATION. A letter from a licensed land surveyor shall be provided stating that the building foundation was constructed in accordance with the approved plans shall be provided subsequent to foundation construction and prior to construction on the structure. The pad certification shall address both vertical and horizontal foundation placement.
14. RETAINING WALLS. A building permit, issued by the Building Department at 110 E. Main Street, may be required for site retaining walls. Walls are not reviewed or approved by the Engineering Division of Parks and Public Works during the grading permit plan review process.

15. SOILS ENGINEER CONSTRUCTION OBSERVATION. During construction, all excavations and grading shall be inspected by the applicant's soils engineer prior to placement of concrete and/or backfill so they can verify that the actual conditions are as anticipated in the design-level geotechnical report, and recommend appropriate changes in the recommendations contained in the report, if necessary. The results of the construction observation and testing should be documented in an "as-built" letter/report prepared by the applicants' soils engineer and submitted to the Town before final release of any occupancy permit is granted.

~~16. UTILITIES. The developer shall install all new, relocated, or temporarily removed utility services, including telephone, electric power and all other communications lines underground, as required by Town Code Section 27.50.015(b). All new utility services shall be placed underground. Underground conduit shall be provided for cable television service. Applicant is required to obtain approval of all proposed utility alignments from any and all utility service providers. The Town of Los Gatos does not approve or imply approval for final alignment or design of these facilities.~~

17. SIDEWALK CLOSURE. Any proposed blockage or partial closure of the sidewalk requires an encroachment permit. Special provisions such as limitations on works hours, protective enclosures, or other means to facilitate public access in a safe manner may be required.

~~18. SIDEWALK IN-LIEU FEE. A curb and sidewalk in-lieu fee shall be paid prior to final inspection and issuance of an occupancy permit. This fee is based on linear feet of curb at $57/LF and square feet of 4.5-foot wide sidewalk at $16/SF in accordance with Town policy.~~

19. 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 Details. The limits of curb and gutter repair will be determined by the Engineering Construction Inspector during the construction phase of the project.

20. DRIVEWAY APPROACH. The developer shall install one Town standard residential approach. The new driveway approach shall be constructed per Town Standard Details.

21. FENCING. Any fencing proposed within 200-feet of an intersection shall comply with Town Code Section §23.10.080.

22. SIGHT TRIANGLE AND TRAFFIC VIEW AREA: Any proposed improvements, including but not limiting to trees and hedges, will need to abide by Town Code Section 23.10.080, 26.10.065, 29.40.030.

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

24. CONSTRUCTION STREET PARKING. No vehicle having a manufacture's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior to approval from the Town Engineer.

25. CONSTRUCTION NOISE. Between the hours of 8:00 a.m. to 8:00 p.m., weekdays; and 9:00 a.m. to 7:00 p.m., weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.

26. BEST MANAGEMENT PRACTICES (BMP's). Best Management Practices (BMPs) shall be maintained and be placed for all areas that have been graded or disturbed and for all material, equipment and/or operations that need protection. Removal of BMPs (temporary removal during construction activities) shall be placed at the end of each working day.

27. STORMWATER DEVELOPMENT RUNOFF. All new development and redevelopment projects subject to the Stormwater development runoff requirements. Every applicant shall submit a stormwater control plan and implement conditions of approval that reduce stormwater pollutant discharges through the construction, operation and maintenance of treatment measures and other appropriate source control and site design measures. Increases in runoff volume and flows shall be managed in accordance with the development runoff requirements

28. SITE DESIGN MEASURES. All projects must incorporate the following measures to the maximum extent practicable:
    a. Protect sensitive areas and minimize changes to the natural topography.
    b. Minimize impervious surface areas.
    c. Direct roof downspouts to vegetated areas where feasible.
    d. Use permeable pavement surfaces where feasible.
    e. Use landscaping to treat stormwater.

29. DUST CONTROL. Blowing dust shall be reduced by timing construction activities so that paving and building construction begin as soon as possible after completion of grading, and by landscaping disturbed soils as soon as possible. Further, water trucks shall be present and in use at the construction site. All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the Town, or a minimum of three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites in order to insure proper control of blowing dust for the duration of the project. Watering on public streets shall not occur. Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the Town Engineer, or at least once a day. Watering associated with on-site construction activity shall take place between the hours of 8 a.m. and 5 p.m., and shall include at least one late-afternoon watering to minimize the effects of blowing dust. All public streets soiled or littered due to this construction activity shall be cleaned and swept on a daily basis during the workweek to the satisfaction of the Town. Demolition or earthwork activities shall be halted when wind speeds (instantaneous gusts) exceed 25 MPH. All trucks hauling soil, sand, or other loose debris shall be covered.

30. CONSTRUCTION ACTIVITIES. All construction shall conform to the latest requirements of the CASQA Stormwater Best Management Practices Handbooks for Construction Activities and New Development and Redevelopment, the ABAG Manual of Standards for Erosion & Sediment Control Measures, the Town's grading and erosion control ordinance and other generally accepted engineering practices for erosion control as required by the Town Engineer when undertaking construction activities.
31. SITE DRAINAGE. Rainwater leaders shall be discharged to splash blocks. No through curb drains will be allowed. Any storm drain inlets (public or private) directly connected to public storm system shall be stenciled/signed with appropriate "NO DUMPING - Flows to Bay" NPDES required language. On-site drainage systems for all projects shall include one of the alternatives included in section C.3.i of the Municipal Regional NPDES Permit. These include storm water reuse via cisterns or rain barrels, directing runoff from impervious surfaces to vegetated areas and use of permeable surfaces. If dry wells are to be used they shall be placed a minimum of 10 feet from adjacent property line and/or right of way.
32. SILT AND MUD IN PUBLIC RIGHT-OF-WAY. It is the responsibility of contractor and home owner to make sure that all dirt tracked into the public right-of-way is cleaned up on a daily basis. Mud, silt, concrete and other construction debris SHALL NOT be washed into the Town's storm drains.
33. GOOD HOUSEKEEPING. Good housekeeping practices shall be observed at all times during the course of construction. Superintendence of construction shall be diligently performed by a person or persons authorized to do so at all times during working hours. The storing of goods and/or materials on the sidewalk and/or the street will not be allowed unless a special permit is issued by the Engineering Division. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.
34. UTILITY SETBACKS. Utility lines shall be set back from a sufficient distance from the house foundation to allow excavation of the utility without undermining the house foundation. The Town Engineer shall determine the appropriate setback based on the depth of the utility, input from the project soils engineer, and the type of foundation.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

35. AUTOMATIC FIRE SPRINKLER SYSTEM REQUIRED. An approved automatic fire sprinkler system is required for the new residence, hydraulically designed per National Fire Protection Association (NFPA) Standard #13D. A State of California (C-16) Fire Protection contractor shall submit plans, calculations, a completed permit application and appropriate fees to the Fire Department for approval, prior to beginning their work.
36. CONSTRUCTION FIRE SAFETY. All construction sites shall comply with applicable provisions of the CFC Chapter 14 Standard Detail and Specification SI-7.

37. POTABLE WATER SUPPLIES. Potable water supplies shall be protected from contamination caused by fire protection water supplies. The applicant shall contact the providing water purveyor and shall comply with all requirements of that purveyor. The fire sprinkler system shall be designed in compliance with water purveyor requirements; final approval of the system will not be granted by the Fire Department until written confirmation is received from the water purveyor.

38. PREMISE IDENTIFICATION. Approved addresses shall be placed on all new buildings so they are clearly visible and legible from Oleander Avenue. Numbers shall be a minimum of four inches high and shall contrast with their background

(4) Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one (1) location on the building to another location on the same building or to an adjacent building without crossing any public streets;

(5) Radio antennae, their associated equipment and supporting structures, used by a utility for furnishing communication services;

(6) Service terminals in pedestals above the ground, used to distribute electric or communication service in underground systems.

(Code 1968, § 32-23)

ARTICLE V.

UNDERGROUND INSTALLATION*

* **Cross References:** Special requirements in locations where underground electrical cable is laid, § 23.30.040.

Sec. 27.50.010. Required.

The Town Council does hereby find and determine that the public interest requires that facilities and wires for the extension of existing facilities for the supply and distribution of electrical energy and service, including communication service, shall be placed underground in order to promote and preserve the health, safety and general welfare of the public, and to assure the orderly development of the Town.
(Code 1968, § 32-24)

Sec. 27.50.015. New extensions of utility facilities.

(a) All new extensions of existing utility distribution facilities, including but not limited to electric, communication and cable television lines, hereafter constructed or installed shall be underground.

(b) When any building or structure is built, all electric and communication service lines to it shall be underground. When in the course of remodeling any existing building or structure new electric or communication service lines are installed, they shall be underground.

(c) When underground installation is required, the owner, builder, remodeler or lessee of the premises involved shall make all necessary arrangements with the utility companies in compliance with their rules as approved by the State's Public Utilities Commission.
(Code 1968, § 32-25)

Sec. 27.50.020. Exemptions from section 27.50.015.

The provisions of section 27.50.015 do not apply to:

(1) Any municipal equipment or facilities installed under the supervision and to the satisfaction of the Town Engineer;

(2) Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of thirty-four thousand five hundred (34,500) volts;

(3) Antennae, associated equipment and supporting structures used by a utility for furnishing communication services;

(4) Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts;

(5) Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects;

(6) Existing poles, overhead wires and associated overhead structures required to be moved to accommodate street improvements;

(7) Emergency services installed and maintained for not more than ten (10) days;

(8) With reference to section 27.50.015(b) only, service lines to remodeled one-family and two-family dwellings;

(9) Poles, overhead wires and associated overhead structures used or to be used in conjunction with agriculture and which by their nature are not suitable for future use in nonagricultural activities.

(Code 1968, § 32-26)

Sec. 27.50.025. Waiver.

Where the enforcement of the provisions of section 27.50.015 can be shown to be unreasonable, application for waiver of the provisions thereof may be made in the following manner:

(1) Written application shall be filed in the same manner and subject to the same fee and notice requirements as applications for architecture and site approval, as provided for in chapter 29 of this Code.

(2) Such application shall include all information necessary to properly apprise the deciding body (as the term is used in chapter 29 of this Code) of the circumstances existing which require such waiver.

(3) The deciding body shall consider the application and, if based upon the supporting data, finds that enforcement would be unreasonable, may waive or modify these requirements as deemed appropriate.

(Code 1968, § 32-27)

Sec. 27.50.030. Existing facilities.

The provisions of section 27.50.015 shall not prohibit the maintenance and operation of existing

overhead facilities, nor prohibit the connection of underground service lines to existing overhead utility distribution equipment. A utility may interset additional poles or other supporting structures or increase the height of existing poles or other supporting structures, or relocate poles generally along the existing line, if such work takes place within the existing easements and locational confines of existing overhead utility facilities; and may continue to maintain, repair, replace and reinforce any facility or structure in order to maintain the integrity of any facility or structure existing on or before the effective date of the ordinance from which this article is derived.
(Code 1968, § 32-28)

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TOWN OF LOS GATOS
COMMUNITY DEVELOPMENT DEPARTMENT

110 E. Main Street
Los Gatos, CA 95030

APPEAL OF THE DECISION OF DIRECTOR OF COMMUNITY DEVELOPMENT OR DEVELOPMENT REVIEW COMMITTEE

PLEASE TYPE or PRINT NEATLY

I, the undersigned, do hereby appeal a decision of the COMMUNITY DEVELOPMENT DEPARTMENT/DIRECTOR OF COMMUNITY DEVELOPMENT OR DEVELOPMENT REVIEW COMMITTEE as follows:

DATE OF DECISION: JANUARY 24, 2012

PROJECT/APPLICATION: 16380 OLEANDER AVE S-12-002

LOCATION: 16380 OLEANDER AVE
LOS GATOS, CA 95032

PAID 26992
FEB 03 2012
TOWN OF LOS GATOS

LIST REASONS WHY THE APPEAL SHOULD BE GRANTED:

I AM APPEALING THE CONDITIONS OF APPROVAL FOR UNDERGROUND POWER AND THE SIDEWALK IN-LIEU FEE. OUR CONTRACTOR ACCIDENTALLY DEMO'D THE SHEETROCK AND STUCCO, TRIGGERING THE RE-MODEL TO RE-BUILD CLASSIFICATION. THESE ASSOCIATED FEES REPRESENT A FINANCIAL HARDSHIP THAT JEOPARDIZES OUR PROJECT. FUTHERMORE, WE WOULD HAVE TO →

(over)

(If more space is needed, attach additional sheets.)

IMPORTANT:

1. APPEAL MUST BE FILED WITHIN TEN (10) DAYS AFTER THE DATE OF MAILING OF WRITTEN NOTIFICATION OF THE DECISION.
2. THE APPEAL SHALL BE SET FOR THE FIRST REGULAR MEETING OF THE PLANNING COMMISSION WHICH THE BUSINESS OF THE PLANNING COMMISSION WILL PERMIT, MORE THAN FIVE (5) DAYS AFTER THE DATE OF THE FILING OF THE APPEAL. THE PLANNING COMMISSION MAY HEAR THE MATTER ANEW AND RENDER A NEW DECISION IN THE MATTER.
3. YOU WILL BE NOTIFIED, IN WRITING, OF THE APPEAL DATE.
4. CONTACT THE PROJECT PLANNER TO DETERMINE WHAT MATERIAL IS REQUIRED TO BE SUBMITTED FOR THE PUBLIC HEARING.

RETURN APPEAL FORM TO COMMUNITY DEVELOPMENT DEPARTMENT

PRINT NAME JIM ELLIOTT SIGNATURE [signature]

DATE 2/3/12 ADDRESS 16380 OLEANDER AVE,

PHONE 408-836-0004 LOS GATOS, CA 95032

****

OFFICE USE ONLY

DATE OF PLANNING COMMISSION HEARING: _____

COMMISSION ACTION: 1. _____ DATE: _____
2. _____ DATE: _____
3. _____ DATE: _____

PLAPPEAL	$ 163.00	Residential
PLAPPEAL	$ 653.00	Commercial
PLAPPEAL	$ 66.00	Tree Appeals

EXHIBIT 6

TRENCH ALMOST 100 FEET (2 POLES DOWN) TO BURY A SINGLE POWER LINE. THE MEANS SIMPLY DO NOT JUSTIFY. THE END RESULT OF BURYING A SINGLE POWER LINE. IN ADDITION, THERE ARE NO SIDEWALKS IN THE MANOR, SO AN IN-LIEU OF FEE SEEMS PUNITIVE AND ARBITRARY.

RECEIVED
MAR 1 - 2012
TOWN OF LOS GATOS
PLANNING DIVISION

BR

BRITT • ROWE

TOWN OF LOS GATOS
Member of the Planning Commission
110 East Main Street
Los Gatos, CA 95030

Sunday, February 12, 2012

RE: 16380 Oleander Avenue, The Elliott Residence

Members of the Planning Commission,

I find myself in unfamiliar territory in writing this letter in support of our clients, Jim & Dana Elliott. The irony of this letter is that its purpose is intended to support their appeal of their project's APPROVAL at the Development Review Committee. Yes, they are appealing their approval which in itself sounds conflicting and contradictory to an applicant's goal. In order to better explain, I think it is important to provide you with the background on this application and how it came to be reviewed by the Los Gatos Planning Commission.

Over a year ago, I met with the Elliott's and discussed their ideas for their very modest 836 SF addition to their single level, single family residence in the Blossom Hill Manor neighborhood of Los Gatos. As you are aware, this neighborhood is almost exclusively under the jurisdiction of the County of Santa Clara Planning & Building Departments. In recent months the County has rewritten their definition of "Remodel vs. Rebuild" to help encourage and motivate property owners in County property pockets to annex into the overlaying city, or in our case the town, jurisdictions. In the Blossom Hill Manor neighborhood, this has proved difficult in the past as property owners have been reluctant to voluntarily annex into the Town of Los Gatos for fear of the Town trying to change the character of their well established neighborhood and to impose much more restrictive planning guidelines upon them. I have been designing homes in the west valley area since 1990 and I disagree with at least part of that thinking. The Town of Los Gatos Planning Department is one of the easiest and community friendly jurisdictions I continue to work with on a regular basis. The Town's planning staff has always been professional and helped guide our clients through the appropriate processes in an expeditious fashion with the least amount of economic burden as applicable to the application's scope of work.

With respect to the application before you, we honestly did not think this application would be submitted to the Town of Los Gatos but rather to the County of Santa Clara. The project is only a small, single level addition to the rear of the home but because of

108 N. Santa Cruz Ave. Los Gatos, CA 95032 • **P**: 408-656-4732 **E**: peloncito@mac.com

EXHIBIT 7

some specific project parameters when applied to the County's new "Remodel/Rebuild" definition, this simple project was be referred to the Town of Los Gatos for potential annexation and would be only accepted if the subject property was found to be within 300 linear feet contiguous to an already annexed Town property. In this part of Los Gatos, we were not aware of any other properties already under the jurisdiction of the Town of Los Gatos that would trigger this annexation. To our client's amazement, along with many, many other Blossom Hill Manor residents and myself, the Town had somewhat quietly annexed the public right of way on Oleander, thereby nominating 16380 Oleander as subject to annexation. I assured my client's that this was not as bad as they thought for the reasons already stated above regarding the Town's Planning processes and staff professionalism. However, my clients would have to bear the expense for this annexation alone ($8000±) and be also subject to an approximate four month time delay while the paperwork was submitted, reviewed and approved. During this time, we were not permitted to submit any plans because legally, the property was not yet under the jurisdiction of the Town of Los Gatos. The Town's staff expedited the annexation as quickly as possible and we submitted our proposed plans immediately following the finalized annexation. The plans were considered a "Remodel" under Town Planning definitions, as they should be in any jurisdiction based on the scope of work. In turn, the plans were approved in less than two weeks by Planning without a single complaint or concern from the surrounding neighborhood. The plans were consequentially approved for a building permit another three weeks later. Construction quickly commenced.

During construction, an all too common and unfortunate circumstance took place. The owner's general contractor of choice removed too many panels of sheetrock (eleven to be exact), and the Town of Los Gatos Building Inspector red tagged the project and halted all construction. It was determined by Planning & Building that by removing these eleven sheets from the interior wall surface of the house, the plans would have to be resubmitted to Planning under a new classification; that of a "Technical Demolition". Realizing and acknowledging his mistake, the general contractor paid for the additional Planning Fees ($5500±) and we resubmitted the plans and the process once again was initiated. For the second time, Planning approved the project at the Development Review Committee as all parties anticipated due to the fact that there was absolutely no difference between the first submittal and the second. The floor plan was exactly the same, the exterior elevations were exactly the same, the building height and setbacks were unchanged. The Building Department also had no additional conditions since they had already approved the project "as is" for a building permit a couple of months prior. Public Works & Engineering on the other hand had a couple of conditions that were "Contentious". So much so, that we were told at the public Development Review Committee by their representative, that their "Conditions of Approval" would not be available for us at that meeting, but they would be provided at a later date. Once received, the added requirements included from Public Works & Engineering were to relocate all utilities underground and to pay an "In Lieu of" fee for public sidewalks due to the reclassification of this application as a "Technical Demolition" even though the project's scope of work is identical to what had already been processed and approved once before. The sidewalk fee has been mitigated but the underground electrical

requirement is the reason the owner's are appealing their approval. Below, I have added a few comments as to why I feel this added condition is excessive for a project of this scope and why it should not be imposed simply for removing several sheets of gypsum board.

Technical Demolition vs. Partial Demolition: I have questioned the intent of The Town of Los Gatos' Demolition Ordinance from the first time I tried to read and understand it. The ordinance itself makes a lot of sense when applied to an old, wood framed, historic home that has some sort of community value. But when applied to a 1960's or 70's ranch home, the spirit of the ordinance is completely lost. **ALL** demolitions, whether partial or full, require the approval and acquisition of a "J" number from the Bay Area Air Quality Management District (BAAQMD). In order to receive such approval, all applicants must conduct an "Asbestos Survey" to determine whether or not any asbestos is present in any of the building's components prior to demolition and to mitigate the removal of said contaminants if present. Known common sources of possible asbestos contaminated materials listed by the BAAQMD for survey are stucco, plaster, gypsum, linoleum, other resilient flooring as well as HVAC ductwork and flues. What our client's general contractor did by removing the additional sheets of potentially contaminated gypsum, containing the well known carcinogen (asbestos), was actually beneficial to the future of the homeowner's and their family's health. This type of material removal should be encouraged by current building practices and the jurisdictions that govern them. In contrast, the Town of Los Gatos' Demolition Ordinance literally **REQUIRES** homeowners to retain at least 50% of either the exterior wall finish (usually stucco) or 50% of the interior wall finishes (usually plaster or gypsum). Is it the Town's policy and requirement to intentionally force homeowners to retain a superficial building material potentially containing the well documented contaminant as part of their finished project? Of course not! This is why the current Demolition Ordinance only makes sense when applied to structures constructed of all wood built well before the asbestos era. When the Town's Demolition Ordinance is applied to houses and/or structures built in the late 1950's, 1960's and 1970's, the retention of older, potentially contaminated exterior and interior finishes is detrimental and contrary to everything current building code material testing agencies are trying to achieve. In addition, when full demolitions are applied for, the Town of Los Gatos requires a Structural Condition Report to justify the demolition of an existing building. The key word here is "Structural". As far as non historic homes are concerned, the current Demolition Ordinance should be rewritten to focus more on how much of the "structure" is removed to determine the classification of a "Rebuild and Remodel" and to allow and encourage the removal of potentially hazardous materials which have no value whatsoever as to what constitutes the retention of a structure.

Underground Electrical Requirement: In a neighborhood that is 99.9% serviced with overhead electrical lines, there is no rational or logic to attempt to convert the neighborhood to 100% underground utilities. Currently all gas lines are underground and we are really only referring to electrical, phone & cable television lines. When the first discussions were coming out of the Planning Department indicating that underground electrical lines would be required, we immediately contacted PG&E to

come out and check the adaptability of this requirement. Upon their cursory neighborhood survey, it was determined that three out of four of the nearby power poles were not available for use, including the utility pole where the current overhead drop is located. The first and closest pole was already consumed with conduit for other uses. The next two utility poles do not contain transformers atop them and therefore cannot provide the required service wiring. The only remaining option is a utility pole, 275 linear feet down and across the street. PG&E, of course cannot position themselves between a property owner and the Town, but their initial reaction was that having to utilize this distant utility pole would be extremely disruptive to the neighborhood due to the demolition of a large portion of Orange Blossom Avenue for the sole purpose of providing underground service to one house in a neighborhood whose service is and always has been overhead. In fact, PG&E stated that if every home in the Blossom Hill Manner decided to go underground, there are not enough utility poles existing to provide underground service in any configuration unless **ALL** of the streets were trenched and the main service lines were installed underground. Upon learning this information from PG&E, we contacted Public Works & Engineering and requested and applied for a waiver from this specific condition of approval in an attempt to avoid neighborhood opposition. We never received any formal acknowledgment of our waiver application nor were we ever provided a decision made, written or otherwise. Instead, we were informed that based on the "Contentious" Conditions of Approval we could assume that the waiver was denied. Remember these are "Conditions of Approval" that they failed to provide at our scheduled Development Review Committee. We were also informed that we could propose an alternative solution to installing the underground electrical lines. The example provided us was, "You can install a new utility pole directly in front of the subject property and then run the underground from that location." Seriously? Is adding an additional utility pole in the best interest of the neighborhood or the goal of having an underground electrical requirement to begin with? Even if the neighbors were not in objection of tearing up 275 linear feet of their street, and we are forced to provide underground electrical service, this unnecessary construction would only eliminate one wire along the street and only the one wire that currently drops from the pole to the existing electrical box on the house. All of the remaining electrical lines (and poles) servicing all of the neighboring houses would still be in their present state and no noticeable improvement would be realized. Especially, when compared to the inconvenience imposed on all of the neighbors in the area.

In summary, the goal should be to entice and encourage Blossom Hill Manor property owners to annex voluntarily into the Town of Los Gatos. The Town Planning & Building Departments have done their part and proved to these applicants that The Town of Los Gatos is a user friendly government that has an expeditious permitting process with community service as its priority. However, attempts to forcibly change the character of this well established neighborhood and incur additional fees based on a somewhat questionable demolition definition will only generate fear of the local government and increase the reluctance of any future annexation by neighbors in the Blossom Hill Manner.

Sincerely,

108 N. Santa Cruz Ave. Los Gatos, CA 95032 · **P**: 408-656-4732 **E**: peloncito@mac.com

Michael Rowe

Britt-Rowe

108 N. Santa Cruz Ave. Los Gatos, CA 95032 • **P**: 408-656-4732 **E**: peloncito@mac.com

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FEB 27 2012
TOWN OF LOS GATOS
PLANNING DIVISION

Elliott Residence: 16380 Oleander Ave, Los Gatos, CA 95032

Appeal for Underground Power Requirement

February 27, 2012

We agreed in good faith to be annexed to the town and our plans were approved as a remodel. Unfortunately during the demolition process, all of the exterior sheet rock and stucco was removed, with the original studs left in place. The contractor and the demolition team thought they were complying within the guidelines of a remodel by not demolishing the studs. It should be noted that we worked meticulously with our architect to avoid being classified as a re-build during the planning phase of this project.

Now we have re-submitted the identical plans and been approved and classified as a rebuild, which has triggered some additional costs, notably a requirement for underground power.

We've been informed that we will have to trench ~160 feet through asphalt (2 power poles and 4 houses down) in order to bury a single power line. All but one surrounding house is County, and County inconsistently enforces underground power.

None of the overhead lines in the area of our house will be removed, and no poles will be removed if we are required to go underground. Therefore, there will be no aesthetic improvement or change.

Many of our neighbors have deep objections and concerns by having to trench and replace 160' of asphalt in front of their houses in order to bury a single power line. In support of this, we circulated a petition and gathered the signature of EVERY neighbor whom will be impacted by this inconvenience.

One of our neighbors (Mary Roach) attended the Re-build approval meeting and complained loudly about not wanting underground power, as the power lines are part of the character of the neighborhood. During the process of gathering signatures for our petition, we learned other residents feel the same.

Associated costs for this are estimated to be in the $10,000 ~ $20,000 range- a ridiculous burden for no visible improvement. In summary, the cost and effort put forth here is not justified.

For reference, our project is rather modest in scope in that we are staying single story (ranch style) and adding about 850 square feet- no monster house...

We are vehemently against the Spirit of how this demolition ordinance is being carried out. The residents of the Blossom Manor neighborhood have voted against annexation, and if word of such heavy-handed, inflexible and unilateral treatment gets broadcast at a town council meeting, it is certain that Manor residents will do everything in their power to avoid annexation to the town.

My family and I would very much appreciate your immediate action and support to remedy this situation. I am formally requesting a quick decision, as we are anxious to continue with our project without this unknown variable at play.

Best Regards,

Jim and Dana Elliott

Cell: 408-836-0004

I am opposed to the proposed placement of an underground power line and a sidewalk related to the construction project at 16380 Oleander Avenue. The overall scope of work- including trenching about 150' of asphalt- is not worth the attempted aesthetic improvement of burying a single power line. This trenching would cause inconvenience and add blight to our street. An isolated sidewalk with nothing to connect to is not practical and does not blend with the neighborhood aesthetics. Power lines and absence of sidewalks are part of the rural and rustic characteristics of the Blossom Manor.

Feb. 12, 2012

Signature	Address
[signature]	16361 Oleander Ave, Los Gatos 95032
Lisa M Br 2/12/12	16361 Oleander Ave, Los Gatos 95032
Dee Jones	16362 Oleander Ave, Los Gatos Ca 95032
Richard Jones 2/10/12	16362 Oleander Ave Los Gatos Ca 95032
Krysten Harris	16371 Oleander Los Gatos CA 95032
Holly Anton Morley	16322 Lilac Ln CA 95032
[signature]	15965 ORANGE BLOSSOM LANE
W Broad	15949 ORANGE BLOSSOM LOS GATOS 95032
Mary Brace 2/10/12	15904 Cherry Blossom Ln, Los Gatos CA 95032
[signature] 2/12/2012	15930 Orange Blossom Ln. Los Gatos, CA 95032
Tim Eckert 2/12/12	15930 Orange Blossom Ln Los Gatos 95032
Kate Eckert	15930 Orange Blossom Ln. Los Gatos CA 9503
[signature] 2/12/12	15933 Orange Blossom Ln Los Gatos CA 95032
Rhodie Firth 2/12/12	15905 Orange Blossom Ln, Los Gatos CA 95032

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DEMOLITION AFFIDAVIT

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NOV 14 2011
TOWN OF LOS GATOS
BUILDING DIVISION

Non-Historic Structures (Not in an historic district or on a historic site and/or constructed after 1941)
Demolition: The definition of demolition as set forth in Section 29.10.020 is attached.

Demolition of a structure means:

- Demolition of more than fifty (50) percent of all exterior wall areas
- Failure to maintain a contiguous (connecting without a break) portion of existing exterior wall area that is 50% or more of the total exterior wall area.
- The remaining exterior wall area must maintain either the existing interior or existing exterior wall covering.

RECEIVED
NOV 14 2011
O'BRIEN CODE CONSULTING, INC.

Historic Structures (Located in an historic district or on a historic site and/or constructed before 1941)
Demolition: The definition of demolition as set forth in Section 29.10.020 is attached.

Demolition of a historic structure means:

- Removal of more than twenty-five (25) percent of the wall area facing a public street(s) and/or fifty (50) percent of all exterior wall area; or
- Enclosure or alteration of more than twenty-five (25) percent of the wall area facing a public street and/or fifty (50) percent of the exterior wall area so that they no longer function as exterior walls.

All remaining exterior wall area must be contiguous. No new exterior wall covering shall be permitted over the existing exterior wall covering. There are exceptions for replacement, repair or removal. Please see

Additional Information:

- When a section of an exterior wall has both the interior and exterior wall covering removed, this section of wall is considered demolished, even if the structural components (i.e. studs or sheathing) of the wall remain, except for historical structures.
- Dry rot or any other damage does not exempt the project from any provision set forth by Section 29.10.09030. If you find dry rot and need to repair it, **STOP WORK** and contact the Planning Department at (408) 354-6872 to discuss the changes **BEFORE YOU PROCEED**.
- If you encounter an unanticipated situation that changes the scope of work, **STOP WORK** and contact the Planning Department at (408) 354-6872 to discuss the changes **BEFORE YOU PROCEED**.
- Exterior wall covering means the finished surface of an exterior wall (i.e. stucco, siding or shingles)
- Interior wall covering means the finished surface of an interior wall (i.e. sheetrock or plaster)
- Exterior wall means the side of a building connecting foundation and roof. A wall encompasses the total height and width of the side of the building, the exterior or interior wall covering and studs/structural elements used in framing the wall.
- Existing wall area does not include existing door and window openings.
- If the connection from the roof all the way to the foundation is broken, contiguity is broken. A one foot minimum connection is typically required to qualify as contiguous.

I have read and understand all the information on this page:

Property Owner _____ **Architect of Record** _____

Engineer of Record _____ **Contractor of Record** _____

DEMOLITION AFFIDAVIT (continued)

Read this entire page, initial by your title and sign at the bottom.

JT **Property Owner:** I certify that I have reviewed the proposed plans and understand all the implications of the proposed scope of work as it pertains to the demolition affidavit. I understand that an unlawful demolition will result in a stop work order, fee penalties and additional review (as a new structure) as prescribed by the Town. Furthermore, I am ultimately responsible for all persons working on this project.

MR **Architect of Record:** I certify that I have reviewed the project demolition plan/colorized elevations and verify that it is accurate, and does not propose a demolition as defined by the Town and that the structural plans do not conflict with the demolition plans. I understand that an unlawful demolition will result in a stop work order, fee penalties and additional review (as a new structure) as prescribed by the Town. This certification does not apply to work of any other consultant or contractor that is inconsistent with the plan that I have prepared or otherwise approved for this project.

CW **Engineer of Record:** I certify that I have reviewed the project demolition plan/~~colorized elevations~~ and the structural plans do not conflict with the demolition plans. I understand that an unlawful demolition will result in a stop work order, fee penalties and additional review (as a new structure) as prescribed by the Town. This certification does not apply to work of any other consultant or contractor that is inconsistent with the plan that I have prepared or otherwise approved for this project.

JW **Contractor of Record**: I certify that I have reviewed the proposed plans and understand all the implications of the proposed scope of work as it pertains to the demolition affidavit. I certify that I have reviewed the project demolition plan/colorized elevations and the structural plans do not conflict with the demolition plans. I understand that an unlawful demolition will result in a stop work order, fee penalties and additional review (as a new structure) as prescribed by the Town.

I, Engineer of Record, Architect of Record, Property Owner and Contractor of Record, hereby certify that I have read and fully understand Section 29.10.020 of the Town Code (attached) concerning the definition of a historic structure and the definition of a demolition and that I have read and fully understand Section 29.10.09030 (f) through (I) of the Town Code (attached) concerning penalties associated with unlawful demolition. I understand that if an unlawful demolition occurs this application and permit will be subject to an additional development review process including a Public Hearing for which new requirements may be imposed and any existing nonconforming conditions will need to be addressed. New requirements may include undergrounding of electrical service, sidewalk improvements and right-of-way dedication.

16380 OLEANDER
PROJECT ADDRESS

B11-0700
Building Permit Number

CW
Engineer of Record (sign and print)

JIM ELLIOTT
Property Owner (sign and print)

MIKE RAWE
Architect of Record (sign and print)

JIM WOODLE
Contractor of record (sign and print)