



COUNCIL AGENDA REPORT

DATE: JANUARY 12, 2007
TO: MAYOR AND TOWN COUNCIL
FROM: ORRY P. KORB, TOWN ATTORNEY *OK*
SUBJECT: 16961 PLACER OAKS ROAD

- A. ADOPT RESOLUTION GRANTING AN APPEAL OF A PLANNING COMMISSION DECISION TO GRANT AN APPEAL DENYING A TWO LOT SUBDIVISION (LOT LINE ADJUSTMENT) ON PROPERTY ZONED R-1:8. SUBDIVISION APPLICATION —06-01
- B. ADOPT RESOLUTION GRANTING AN APPEAL OF A PLANNING COMMISSION DECISION TO GRANT AN APPEAL DENYING DEMOLITION OF A SINGLE FAMILY RESIDENCE AND CONSTRUCTION OF TWO NEW RESIDENCES ON PROPERTY ZONED R-1:8; ARCHITECTURE AND SITE APPLICATION: S-06-016 (LOT #1); ARCHITECTURE AND SITE APPLICATION: S-06-017 (LOT #2).

RECOMMENDATION:

Adopt two resolutions, one of which reflects Council's decision to grant the appellant's appeal of the Planning Commission's decision effectively denying a two lot subdivision (lot line adjustment) on property zoned R-1:8, while the other reflects Council's decision to grant the appellant's appeal of the Planning Commission's decision effectively denying the demolition of a single family residence and construction of two new residences on property zoned R-1:8.

DISCUSSION:

On December 18, 2006, Council voted to grant the appeal of the Planning Commission's decision effectively denying both a two lot subdivision (lot line adjustment) and the demolition of a single family residence and construction of two new residences on property zoned R-1:8. Council took two separate actions in granting the appeal, one approving the subdivision

PREPARED BY: **ORRY P. KORB**
Town Attorney

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Reviewed by: *[Signature]* Town Manager *PSJ* Assistant Town Manager _____ Clerk
Finance Community Development

Rev: 1/12/07 2:53 pm

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application, and the other approving the architecture and site applications. The attached resolutions, if approved, would finalize each of these actions.

Two letters concerning this matter were received on January 10, 2007. The first (Attachment C) was from David and Rosemary Greene. They request reconsideration based on six separate points, discussed below. Council's policy is to allow reconsideration if at least two members express a desire to do so either at the meeting when an action occurs or the next meeting thereafter. Reconsideration would then occur at a future meeting.

The request for reconsideration makes the following points, followed, where appropriate, with responses by staff:

1. The impact of height, bulk and mass on adjacent properties. After the meeting on December 14, 2006, members of Council for the first time viewed the impact of the house proposed for lot one from the Greenes' backyard.

Staff Response: Grading of the pad of the house is permitted, raising the rear portion of the house 1.5 feet to compensate for a descending slope from the front to the rear of Lot 1. It would be possible to see over the current seven foot fence from the finished floor level of the house. However, the fence height can be increased (see condition #5). Also, condition #12 was added at Council's direction requiring installation of tree screening between the two properties at the applicant's expense.

2. Non-adherence with the In-Fill Policy (Resolution 1993-62).

Staff Response: The Town Policy for In-Fill Projects has not been applied in situations such as this where the project involves the redevelopment of a previously developed site. The attached resolution includes a finding to this effect.

3. The approved drawings are incorrect and story poles were insufficient.

Staff Response: There is a discrepancy in the heights for Lot 1 between the elevations and the sections. The elevation illustrates the correct height of 21 feet six inches while the section notes a height of 22 feet six inches. The report that went to Council on these applications noted that there were some erroneous height and material information and a table was provided to document the correct information. Regarding story poles, staff met with the Greenes at the subject site to verify the location of the story poles on Lot 1. It appeared that the poles were placed approximately one foot closer to the Greenes property line than what was proposed. The Greenes informed staff that the location of the poles did not need to be corrected.

4. The tree protection policy (Town Code section 29.10.0985), which, based on canopy size, requires replacement of each 60 foot tree with two 24 inch box and two 36 inch box and two 48 inch box sizes. The plans call for the removal of 10 mature trees to be replaced with 15 gallon trees.

Staff Response: *Condition #9 states that the number and size of new trees shall be determined using the canopy replacement table in the Town's Tree Protection Ordinance.*

5. Council members were unduly influenced by developers.
6. Denial of due process to objecting neighbors, based on the scheduling of a DRC meeting on September 28, 2006, when the Greenes were out of the country.

Staff Response: *The appeal hearings conducted by both the Planning Commission and Town Council were de novo. Consequently, on two separate occasions the Greenes were afforded a full and fair opportunity to raise all their concerns before hearing boards fully empowered to act thereon.*

The letter from Patricia A. North (Attachment D) states support for trimming and root cutting of redwood trees on the project site that are damaging Ms. North's yard.

Attachments:

1. Resolution Granting an Appeal of a Planning Commission Decision to Grant an Appeal Denying a Two Lot Subdivision (Lot Line Adjustment)
2. Resolution Granting an Appeal of a Planning Commission Decision to Grant an Appeal Denying Demolition of a Single Family Residence and Construction of Two New Residences
3. Letter from David and Rosemary Green dated December 10, 2007
4. Letter from Patricia A. North, received January 10, 2007

RESOLUTION

RESOLUTION GRANTING AN APPEAL OF A PLANNING COMMISSION DECISION TO GRANT AN APPEAL DENYING A TWO LOT SUBDIVISION (LOT LINE ADJUSTMENT) ON PROPERTY ZONED R-1:8

APN: 529-14-059

SUBDIVISION APPLICATION: M-06-01

PROPERTY LOCATION: 16961 PLACER OAKS ROAD

PROPERTY OWNER/APPELLANT: HOWELL & MCNEIL DEVELOPMENT LLC

WHEREAS:

A. This matter came before the Town Council for public hearing on December 18, 2006, and was regularly noticed in conformance with State and Town law.

B. Council received testimony and documentary evidence from the appellant/applicant and all interested persons who wished to testify or submit documents. Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Report dated December 14, 2006, along with subsequent reports and materials prepared concerning this application.

C. The applicant is requesting approval of a lot line adjustment between two parcels, demolition of a single family residence and the construction of two single family residences. The applicant proposes to construct a 3,185 square foot, one-story home on Lot 1 and a 3,165 square foot, two-story home on Lot 2. Council's decision on the appeal of the Planning Commission decision effectively denying Architecture and Site approval for the demolition of the existing house and construction of two new houses is addressed in a separate resolution adopted concurrently herewith (Resolution 2007-__).

D. The applications were considered by the Planning Commission on May 10, 2006, which continued the matter with the following directions:

- i. House sizes should be in the 2,400 sq. ft. range.
- ii. Look at using building materials that will allow the interior sound levels of the houses to meet the noise standards of a multiple family dwelling unit to reduce noise impacts.
- iii. Consider 22'-0" overall height.

E. The applications were again considered by the Planning Commission on June 28, 2006, which remanded the applications to the Development Review Committee for final action with the following directions:

- i. The house on Lot 1 shall be one story.
- ii. The height of the house on Lot 2 shall be reduced by 1.5 feet.
- iii. The roof color on Lot 2 shall be darkened to ensure it is not a red clay tile roof.

F. The applications were considered by the Development Review Committee on September 26, 2006, which acted to approve the proposed plans based on the finding that the applicant's revisions met the direction of the Planning Commission. This decision was appealed by a neighboring resident.

G. An appeal of the Development Review Committee's decision was considered by the Planning Commission on October 25, 2006, which acted to grant the appeal to deny the applications. The Planning Commission based its decision on the finding that its intention from the June 28, 2006 hearing was to reduce the square footage of both houses to the 2,200-2,400 sq ft. range as well as reduce the height of the house on Lot 1 to one story. The requirement to reduce the size of the homes was not in their motion.

E. The applicant/appellant claims that the Planning Commission erred or abused its discretion in that the houses are compatible with the neighborhood in terms of the proposed square footages, number of stories, and the subject lots being among the larger lot sizes in the neighborhood, which allows a larger floor area ratio (FAR).

F. The decision of the Planning Commission was incorrect and is hereby reversed.

G. Council finds as follows:

i. The project, including the lot line adjustment, is consistent with the Los Gatos General Plan, as evidenced by staff reports demonstrating that the proposed residential use is allowed under the existing zoning and does not violate any provisions of the General Plan.

ii. Pursuant to Town Code section 29.20.300, the Planning Commission erred in denying the application for the lot line adjustment without making the necessary findings.

RESOLVED:

1. The appeal of the decision to deny subdivision application M-06-01 is granted and the application is approved subject to the conditions attached as Exhibit "A" hereto.

2. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure section 1094.6, or such shorter time as required by State and Federal Law.

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PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los

Gatos, California on the _____ day of January 2007, by the following vote.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR
TOWN OF LOS GATOS, CALIFORNIA

CONDITIONS OF APPROVAL FOR:

16961 Placer Oaks Rd

Subdivision Application M-06-01

Architecture and Site Application S-06-016 (lot #1)

Architecture and Site Application S-06-017 (lot #2)

Requesting approval of a two lot subdivision (lot line adjustment) on property zoned R-1:8 and approval to demolish a single family residence and to construct a new residence on each of the newly created lots. APN 529-14-059.

PROPERTY OWNER/APPLICANT: Howell & McNeil Development LLC

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:
(Planning Division)

1. **APPROVAL EXPIRATION:** Zoning approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the application is vested.
2. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the approved plans received September 11, 2006. Any minor changes or modifications made to the approved plans shall be approved by the Director of Community Development other changes will be approved by the Planning Commission, depending on the scope of the change(s).
3. **CERTIFICATE OF COMPLIANCE:** The applicant shall apply for a Certificate of Compliance prior to the issuance of building permits.
4. **LOT LINE ADJUSTMENT:** The applicant shall attain a Lot Line Adjustment prior to the issuance of building permits.
5. **FENCE:** Work with the neighbors to determine the most appropriate type and height of border fencing along the western property line to the satisfaction of the Community Development Director.
6. **TREE REMOVAL PERMIT:** A Tree Removal Permit shall be obtained for any trees proposed for removal prior to the issuance of a Building or Encroachment Permit.
7. **RECYCLING.** All wood, metal, glass and aluminum materials generated from the demolished structure shall be deposited to a company which will recycle the materials. Receipts from the company(s) accepting these materials, noting type and weight of material, shall be submitted to the Town prior to the Town's demolition inspection.
8. **ARBORIST RECOMMENDATIONS:** The Consulting Arborist recommendations dated April 13, 2006 must be strictly adhered to, prior to and throughout construction.
9. **NEW REPLACEMENT TREES.** Replacement trees shall be planted for each tree that is removed. The number and size of new trees shall be determined using the canopy replacement table in the Town's Tree Protection Ordinance. The new trees to be planted shall be double-staked, using rubber tree ties and shall be planted prior to final inspection. Work with the neighbors and the Town Arborist Consultant to determine the most appropriate type, size and location of replacement trees along the Western property line of Lot 1 to the satisfaction of the Community Development Director.
10. **PERMITS REQUIRED:** A building permit shall be required for the demolition and the existing and the construction of the new single family residence. Separate permits are required for accessory structures and swimming pools; separate permits are required for electrical, mechanical, and plumbing work as necessary.

11. LOT 1 HOUSE HEIGHT: The height for the house on Lot 1 shall reflect the height of 21'6" as shown on the approved elevation (Sheet 3) not the height shown on the section (Sheet 7).
12. ADDITIONAL LANDSCAPING. Prior to the issuance of a building permit, the applicant shall submit a landscape plan for approval which provides tree screening between the subject parcel and APN 529-14-034. The approved landscape plan shall be included with the building permit plans. These trees shall be planted prior to final occupancy and shall be double staked using rubber tree ties.

(Building Division)

13. CONDITIONS OF APPROVAL: The Conditions of Approval must be blue-lined in full on the cover sheet of the construction plans. A compliance memorandum shall be prepared and submitted with the building permit application detailing how the Conditions of Approval will be addressed.
14. SIZE OF PLANS: Four sets of construction plans, maximum size 24" x 36."
15. DEMOLITION REQUIREMENTS: Obtain a Building Department Demolition Application and a Bay Area Air Quality Management Application from the Building Department Service Counter. Once the demolition form has been completed, all signatures obtained, and written verification from PG&E that all utilities have been disconnected, return the completed form to the Building Department Service Counter with the J# Certificate, PG&E verification, and three (3) sets of site plans to include all existing structures, existing utility service lines such as water, sewer, and PG&E. No demolition work shall be done without first obtaining a permit from the Town.
16. STREET NAMES & HOUSE NUMBERS: Submit requests for new street names and/or house numbers/suite numbers to the Office of the Town Clerk prior to submitting for the building permit application process.
17. SOILS REPORT: A soils report, prepared to the satisfaction of the Building Official, containing foundation and retaining wall design recommendations, shall be submitted with the building permit application. This report shall be prepared by a licensed civil engineer specializing in soils mechanics. ALTERNATE: Design the foundation for an allowable soils 1,000 psf design pressure. (Uniform Building Code Volume 2 - Section 1805)
18. FOUNDATION INSPECTIONS: A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project building inspector at foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report; and, the building pad elevation, on-site retaining wall locations and elevations are prepared according to approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer for the following items:
 - a. Building pad elevation
 - b. Finish floor elevation
 - c. Foundation corner locations
19. RESIDENTIAL TOWN ACCESSIBILITY STANDARDS: The residence shall be designed with adaptability features for single family residences per Town Resolution 1994-61:

- a. Wooden backing (2" x 8" minimum) shall be provided in all bathroom walls, at water closets, showers and bathtubs located 34 inches from the floor to the center of the backing, suitable for the installation of grab bars.
 - b. All passage doors shall be at least 32 inches wide on the accessible floor.
 - c. Primary entrance shall have a 36-inch wide door including a 5' x 5' level landing, no more than 1 inch out of plane with the immediate interior floor level with an 18-inch clearance.
 - d. Door buzzer, bell or chime shall be hard wired at primary entrance.
20. TITLE 24 ENERGY COMPLIANCE: California Title 24 Energy Compliance forms CF-1R and MF-1R must be blue-lined on the plans.
21. TOWN FIREPLACE STANDARDS: New wood burning fireplaces shall be an EPA Phase II approved appliance as per Town Ordinance 1905. Tree limbs shall be cut within 10-feet of chimneys.
22. SPECIAL INSPECTIONS: When a special inspection is required by UBC Section 1701, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the building permit. The Town Special Inspection form must be completely filled-out, signed by all requested parties and be blue-lined on the construction plans. Special Inspection forms are available from the Building Division Service Counter or online at www.losgatosca.gov.
23. NONPOINT SOURCE POLLUTION STANDARDS: The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program shall be part of the plan submittal as the second page. The specification sheet is available at the Building Division Service Counter for a fee of \$2 or at San Jose Blue Print.
24. APPROVALS REQUIRED: The project requires the following agencies approval before issuing a building permit:
 - a. Community Development: Vu Nguyen at 354-6807
 - b. Engineering/Parks & Public Works Department: Fletcher Parsons at 395-3460
 - c. Santa Clara County Fire Department: (408) 378-4010
 - d. West Valley Sanitation District: (408) 378-2407
 - e. Local School District: (Contact the Town Building Service Counter for the appropriate school district and to obtain the school form.)
 - f. Bay Area Air Quality Management District: (415) 771-6000
 - g. Environmental Health Department: (408) 885-4200
 - h. Santa Clara Valley Water District: (408) 265-2600
 - i. Department of Fish and Game: (831) 475-9065

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

(Engineering Division)

25. GRADING PERMIT. A grading permit is required for site grading and drainage. The grading permit application (with grading plans) shall be made to the Engineering Division of the Parks & Public Works Department located at 41 Miles Avenue. The grading plans shall include final grading, drainage, retaining wall location, driveway, utilities and interim erosion control.

Grading plans shall list earthwork quantities and a table of existing and proposed impervious areas. Unless specifically allowed by the Director of Parks and Public Works, the grading permit will be issued concurrently with the building permit. The grading permit is for work outside the building footprint(s). A separate building permit, issued by the Building Department on E. Main Street is needed for grading within the building footprint.

26. **SOILS REPORT.** One copy of the soils and geologic report shall be submitted with the public improvement application. The soils report shall include specific criteria and standards governing site grading, drainage, pavement design, retaining wall design and erosion control. The reports shall be signed and "wet stamped" by the engineer or geologist, in conformance with Section 6735 of the California Business and Professions Code.
27. **SOILS REVIEW.** Prior to issuance of any permit, the applicant's soils engineer shall review the final grading and drainage plans to ensure that designs for foundations, retaining walls, site grading, and site drainage are in accordance with their recommendations and the peer review comments. The applicant's soils engineer's approval shall then be conveyed to the Town either by letter or by signing the plans.
28. **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.
29. **DEMOLITION.** The existing building shall be demolished prior to recordation of the Parcel Map. Interim erosion control improvements shall be provided. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on an area if grading is allowed during the rainy season. Interim erosion control measures, to be carried out during construction and before installation of the final landscaping shall be included. Interim erosion control method shall include, but are not limited to: silt fences, fiber rolls (with locations and details), erosion control blankets, Town standard seeding specification, filter berms, check dams, retention basins, etc. Provide erosion control measures as needed to protect downstream water quality during winter months. The grading, drainage, erosion control plans and SWPPP shall be in compliance with applicable measures contained in the amended provisions C.3 and C.14 of Order 01-024 of the amended Santa Clara County NPDES Permit.
30. **CERTIFICATE OF LOT LINE ADJUSTMENT.** A Certificate of Lot Line Adjustment shall be recorded. Two copies of the legal description for each new lot configuration, a plat map (8-½ in. X 11 in.) and two copies of the legal description of the land to be exchanged shall be submitted to the Engineering Division of the Parks & Public Works Department for review and approval. The submittal shall include closure calculations, title reports less than 90 days old and the appropriate fee. The certificate shall be recorded before any permits may be issued.
31. **DEDICATIONS.** The following shall be dedicated by separate instrument. The dedication shall be recorded before any permits are issued.
 - a. Placer Oaks Road. A 30-foot half-street right-of-way.
 - b. Sidewalk Easement. A sidewalk easement may be required on Lot 1 in the vicinity of the 30 in. oak tree. Exact dimension of sidewalk easement will be determined during the parcel map and public improvement plan review process.

32. **PUBLIC IMPROVEMENTS.** The following improvements shall be installed by the developer. Plans for those improvements shall be prepared by a California registered civil engineer, and reviewed and approved by the Town before the issuance of a building permit. The improvements must be completed and accepted by the Town before a Certificate of Occupancy for any new building can be issued.
- a. Placer Oaks Road. Sidewalk along the full property frontage. An alternative to Town standard sidewalk will be required to be installed around the 30 in. oak tree on Lot 1. The alternatives will be approved by the Town Arborist and Town Engineer. Alternatives could include, but are not limited to: meandering sidewalk, sidewalk cutout & narrowing, sidewalk ramping and flexible paving materials.
33. **BUILDING UTILITY SERVICES.** Building utility services, including water, sanitary sewer, telephone, electric, gas, and cable, shall be stubbed out to each lot and guaranteed by contract, Faithful Performance Security and Labor & Materials Security before the issuance of a building permit or the recordation of a map.
34. **TRENCHING WITHIN DRIPLINE OF TREES.** Trenching within the dripline of existing trees shall be avoided. The utilities shall be relocated to be at least eight (8) ft. from the trunk of the existing trees (# 2, 3 & 4) and from the trees to be planted. Trenches within the dripline may have to be hand dug.
35. **TRENCHING MORATORIUM.** Trenching within a newly paved street (Placer Oaks Road) will be allowed subject to the following requirements:
- a) The Town standard "T" trench detail shall be used.
- b) A Town approved colored controlled density backfill shall be used.
- c) The total asphalt thickness shall be a minimum of 3-inches or shall match the existing thickness, whichever is greater. The final lift shall be 1.5-inches of half inch medium asphalt. The initial lift(s) shall be of three quarter inch medium asphalt.
- d) The Contractor shall schedule a pre-paving meeting with the Town Engineering Construction Inspector the day the paving is to take place.
- e) A slurry seal topping may be required by the construction inspector depending his assessment of the quality of the trench paving. If required, the slurry seal shall extend the full width of the street and shall extend 5-feet beyond the longitudinal limits of trenching. Slurry seal materials shall be approved by the Town Engineering Construction Inspector prior to placement. Black sand may be required in the slurry mix. All existing striping and pavement markings shall be replaced upon completion of slurry seal operations.
- f) A separate bond for trench saw cutting and paving may be provided at the time of building permit issuance. In the event such a bond is posted, the slurry seal provision above would be waived.
36. **INSURANCE.** One million dollars (\$1,000,000) of liability insurance holding the Town harmless shall be provided in a format acceptable to the Town Attorney before recordation of the map.
37. **TRAFFIC IMPACT MITIGATION FEE.** The developer shall pay a proportional the project's share of transportation improvements needed to serve cumulative development within the Town of Los Gatos. The fee amount will be based upon the Town Council resolution in effect at the time the request of Certificate of Occupancy is made. The fee shall be paid before issuance of the Certificate of Occupancy. The traffic impact mitigation fee for this project

using the current fee schedule is \$2,871 per lot. The final fee shall be calculated from the final plans using the rate schedule in effect at the time of the request for a Certificate of Occupancy.

38. **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.
39. **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.
40. **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.
41. **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.
42. **CONSTRUCTION STREET PARKING.** No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior approval from the Town Engineer (§ 15.40.070).
43. **SITE DRAINAGE.** Rainwater leaders shall be discharged to splash blocks. No through curb drains will be allowed.
44. **NONPOINT SOURCE POLLUTION PREVENTION.** On-site drainage systems shall include a filtration device such as a bio-swale or permeable pavement.
45. **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.

46. **UTILITIES.** The developer shall install all utility services, including telephone, electric power and all other communications lines underground, as required by Town Code §27.50.015(b). All new utility services shall be placed underground. Underground conduit shall be provided for cable television service.
47. **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.
48. **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.
49. **SANITARY SEWER BACKWATER VALVE.** Drainage piping serving fixtures which have flood level rims less than twelve (12) inches (304.8 mm) above the elevation of the next upstream manhole and/or flushing inlet cover at the public or private sewer system serving such drainage piping shall be protected from backflow of sewage by installing an approved type backwater valve. Fixtures above such elevation shall not discharge through the backwater valve, unless first approved by the Administrative (Sec. 6.50.025). The Town shall not incur any liability or responsibility for damage resulting from a sewer overflow where the property owner or other person has failed to install a backwater valve, as defined section 103(e) of the Uniform Plumbing Code adopted by section 6.50.010 of the Town Code and maintain such device in a functional operating condition. Evidence of West Valley Sanitation District's decision on whether a backwater device is needed shall be provided prior to issuance of a building permit.
50. **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.
51. **HAULING OF DEBRIS.** Hauling of debris off-site shall not occur during the morning or evening peak periods (between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m.). Prior to the issuance of a building permit, the developer shall work with the Town Building and Engineering Department Engineering Inspectors to devise a traffic control plan to ensure safe and efficient traffic flow under periods when soil is hauled on or off the project site. This may include, but is not limited to provisions for the developer/owner to place construction notification signs noting the dates and time of construction and hauling activities, or providing

additional traffic control. Cover all trucks hauling soil, sand, and other loose debris or require all trucks to maintain at least two feet of freeboard.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

52. FIRE APPARATUS (ENGINE) ACCESS DRIVEWAY REQUIRED: Provide an access driveway with a paved all weather surface, a minimum unobstructed width of 12 feet, vertical clearance of 13 feet 6 inches, minimum circulating turning radius of 36 feet outside and 23 feet inside. Installations shall conform to Fire Department Standard Details and Specifications sheet D-1.
53. PREMISES IDENTIFICATION: Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background.

RESOLUTION

RESOLUTION GRANTING AN APPEAL OF A PLANNING COMMISSION DECISION TO GRANT AN APPEAL DENYING DEMOLITION OF A SINGLE FAMILY RESIDENCE AND CONSTRUCTION OF TWO NEW RESIDENCES ON PROPERTY ZONED R-1:8

APN: 529-14-059

ARCHITECTURE AND SITE APPLICATION: S-06-016 (LOT #1)

ARCHITECTURE AND SITE APPLICATION: S-06-017 (LOT #2)

PROPERTY LOCATION: 16961 PLACER OAKS ROAD

PROPERTY OWNER/APPELLANT: HOWELL & MCNEIL DEVELOPMENT LLC

WHEREAS:

A. This matter came before the Town Council for public hearing on December 18, 2006, and was regularly noticed in conformance with State and Town law.

B. Council received testimony and documentary evidence from the appellant/applicant and all interested persons who wished to testify or submit documents. Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Report dated December 14, 2006, along with subsequent reports and materials prepared concerning this application.

C. The applicant is requesting approval of a lot line adjustment between two parcels, demolition of a single family residence and the construction of two single family residences. The applicant proposes to construct a 3,185 square foot, one-story home on Lot 1 and a 3,165 square foot, two-story home on Lot 2. Council's decision on the appeal of the Planning Commission decision effectively denying the lot line adjustment is addressed in a separate resolution adopted concurrently herewith (Resolution 2007-___).

D. The applications were considered by the Planning Commission on May 10, 2006, which continued the matter with the following directions:

- i. House sizes should be in the 2,400 sq. ft. range.
- ii. Look at using building materials that will allow the interior sound levels of

the houses to meet the noise standards of a multiple family dwelling unit to reduce noise impacts.

iii. Consider 22'-0" overall height.

E. The applications were again considered by the Planning Commission on June 28, 2006, which remanded the applications to the Development Review Committee for final action with the following directions:

- i. The house on Lot 1 shall be one story.
- ii. The height of the house on Lot 2 shall be reduced by 1.5 feet.
- iii. The roof color on Lot 2 shall be darkened to ensure it is not a red clay tile roof.

F. The applications were considered by the Development Review Committee on September 26, 2006, which acted to approve the proposed plans based on the finding that the applicant's revisions met the direction of the Planning Commission. This decision was appealed by a neighboring resident.

G. An appeal of the Development Review Committee's decision was considered by the Planning Commission on October 25, 2006, which acted to grant the appeal to deny the applications. The Planning Commission based its decision on the finding that its intention from the June 28, 2006 hearing was to reduce the square footage of both houses to the 2,200-2,400 sq ft. range as well as reduce the height of the house on Lot 1 to one-story. The requirement to reduce the size of the homes was not in their motion.

E. The applicant/appellant claims that the Planning Commission erred or abused its discretion in that the houses are compatible with the neighborhood in terms of the proposed square footages, number of stories and that the subject lots are among the larger lot sizes in the neighborhood, which allows a larger floor area ratio (FAR).

F. The decision of the Planning Commission was incorrect and is hereby reversed.

G. Council finds as follows:

i. The project is consistent with the Los Gatos General Plan, as evidenced by staff reports demonstrating that the proposed residential use is allowed under the existing zoning and does not violate any provisions of the General Plan.

ii. Pursuant to Town Code section 29.10.09030 regarding demolition applications:

a. The existing structure is not critical to the maintenance of the Town's housing stock, particularly because it will be replaced by two new houses;

b. The existing structure is not historically or architecturally significant, as determined by the Development Review Committee ("DRC") in approving the project on September 26, 2006, evidenced in the staff report to the Planning Commission dated October 20, 2006.

c. The owner of the property is the applicant/appellant evidencing their lack of desire to maintain the existing structure; and

d. The economic utility of the existing structure is not a significant issue in light of the applicant/appellant's intent to replace it with two homes.

iii. The project is categorically exempt pursuant to sections 15303 and 15315 of the State Environmental Guidelines as adopted by the Town, as evidenced by the staff report to the Town Council dated December 14, 2006.

iv. The applications are not subject to the Town Policy for In-Fill Projects (Resolution 1993-62) because the project involves the redevelopment of a previously developed site.

v. Pursuant to Town Code section 29.20.300, the Planning Commission erred

in denying the applications. Neighborhood compatibility is determined: first, by identifying the appropriate neighborhood; and second, by analyzing compatibility of the proposed structure(s) within the applicable neighborhood. The Commission's error, and consequently this decision, is limited to the analysis of compatibility. The question of how to identify the appropriate neighborhood should be addressed through the development and adoption of a Residential Development Guideline policy.

The Commission determined here that the houses proposed at 3,185 and 3,165 square feet of living space would not be compatible with existing houses in the surrounding area, and, therefore, should be reduced in size to a range of 2,200 to 2,400 square feet. A member of the Commission proposed that the appropriate square footage of the proposed houses should be derived from the median square footage of houses in the area of the project. The Commission did not address evidence demonstrating that the surrounding area includes houses with greater square footage than is proposed here. The Commission did not address the opinion of the Town's Consulting Architect that the houses as proposed would be consistent in terms of mass and bulk with existing houses in the surrounding area. Finally, the Commission did not compare the proposed houses to existing houses in the surrounding area in terms of FAR.

Averaging the square footage of living space in existing homes to determine the appropriate size for a proposed structure is neither a method recommended by Town staff nor is it approved by the Town Council for determining compatibility. Moreover, compatibility should not be determined solely on the basis of square footage of living space. Town staff and the Town Council have consistently determined compatibility using a combination of elements, including square footage, FAR, and the architectural mass and bulk of a proposed structure. Consideration of square footage of living space should be limited to determining whether a proposed structure will be the largest in the neighborhood from a square footage or visual mass and scale perspective,

and if not, whether the largest existing structure is an anomaly.

RESOLVED:

1. The appeal of the decision of the Planning Commission denying Architecture and Site Applications S-06-016 and S-06-017 is granted and the applications are approved subject to the the conditions attached as Exhibit "A" hereto.

2. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure section 1094.6, or such shorter time as required by State and Federal Law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California on the _____ day of January 2007, by the following vote.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR
TOWN OF LOS GATOS, CALIFORNIA

CONDITIONS OF APPROVAL FOR:

16961 Placer Oaks Rd

Subdivision Application M-06-01

Architecture and Site Application S-06-016 (lot #1)

Architecture and Site Application S-06-017 (lot #2)

Requesting approval of a two lot subdivision (lot line adjustment) on property zoned R-1:8 and approval to demolish a single family residence and to construct a new residence on each of the newly created lots. APN 529-14-059.

PROPERTY OWNER/APPLICANT: Howell & McNeil Development LLC

**TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:
(Planning Division)**

1. **APPROVAL EXPIRATION:** Zoning approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the application is vested.
2. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the approved plans received September 11, 2006. Any minor changes or modifications made to the approved plans shall be approved by the Director of Community Development other changes will be approved by the Planning Commission, depending on the scope of the change(s).
3. **CERTIFICATE OF COMPLIANCE:** The applicant shall apply for a Certificate of Compliance prior to the issuance of building permits.
4. **LOT LINE ADJUSTMENT:** The applicant shall attain a Lot Line Adjustment prior to the issuance of building permits.
5. **FENCE:** Work with the neighbors to determine the most appropriate type and height of border fencing along the western property line to the satisfaction of the Community Development Director.
6. **TREE REMOVAL PERMIT:** A Tree Removal Permit shall be obtained for any trees proposed for removal prior to the issuance of a Building or Encroachment Permit.
7. **RECYCLING.** All wood, metal, glass and aluminum materials generated from the demolished structure shall be deposited to a company which will recycle the materials. Receipts from the company(s) accepting these materials, noting type and weight of material, shall be submitted to the Town prior to the Town's demolition inspection.
8. **ARBORIST RECOMMENDATIONS:** The Consulting Arborist recommendations dated April 13, 2006 must be strictly adhered to, prior to and throughout construction.
9. **NEW REPLACEMENT TREES.** Replacement trees shall be planted for each tree that is removed. The number and size of new trees shall be determined using the canopy replacement table in the Town's Tree Protection Ordinance. The new trees to be planted shall be double-staked, using rubber tree ties and shall be planted prior to final inspection. Work with the neighbors and the Town Arborist Consultant to determine the most appropriate type, size and location of replacement trees along the Western property line of Lot 1 to the satisfaction of the Community Development Director.
10. **PERMITS REQUIRED:** A building permit shall be required for the demolition and the existing and the construction of the new single family residence. Separate permits are required for accessory structures and swimming pools; separate permits are required for electrical, mechanical, and plumbing work as necessary.

11. LOT 1 HOUSE HEIGHT: The height for the house on Lot 1 shall reflect the height of 21'6" as shown on the approved elevation (Sheet 3) not the height shown on the section (Sheet 7).
12. ADDITIONAL LANDSCAPING. Prior to the issuance of a building permit, the applicant shall submit a landscape plan for approval which provides tree screening between the subject parcel and APN 529-14-034. The approved landscape plan shall be included with the building permit plans. These trees shall be planted prior to final occupancy and shall be double staked using rubber tree ties.

(Building Division)

13. CONDITIONS OF APPROVAL: The Conditions of Approval must be blue-lined in full on the cover sheet of the construction plans. A compliance memorandum shall be prepared and submitted with the building permit application detailing how the Conditions of Approval will be addressed.
14. SIZE OF PLANS: Four sets of construction plans, maximum size 24" x 36."
15. DEMOLITION REQUIREMENTS: Obtain a Building Department Demolition Application and a Bay Area Air Quality Management Application from the Building Department Service Counter. Once the demolition form has been completed, all signatures obtained, and written verification from PG&E that all utilities have been disconnected, return the completed form to the Building Department Service Counter with the J# Certificate, PG&E verification, and three (3) sets of site plans to include all existing structures, existing utility service lines such as water, sewer, and PG&E. No demolition work shall be done without first obtaining a permit from the Town.
16. STREET NAMES & HOUSE NUMBERS: Submit requests for new street names and/or house numbers/suite numbers to the Office of the Town Clerk prior to submitting for the building permit application process.
17. SOILS REPORT: A soils report, prepared to the satisfaction of the Building Official, containing foundation and retaining wall design recommendations, shall be submitted with the building permit application. This report shall be prepared by a licensed civil engineer specializing in soils mechanics. ALTERNATE: Design the foundation for an allowable soils 1,000 psf design pressure. (Uniform Building Code Volume 2 - Section 1805)
18. FOUNDATION INSPECTIONS: A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project building inspector at foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report; and, the building pad elevation, on-site retaining wall locations and elevations are prepared according to approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer for the following items:
 - a. Building pad elevation
 - b. Finish floor elevation
 - c. Foundation corner locations
19. RESIDENTIAL TOWN ACCESSIBILITY STANDARDS: The residence shall be designed with adaptability features for single family residences per Town Resolution 1994-61:

- a. Wooden backing (2" x 8" minimum) shall be provided in all bathroom walls, at water closets, showers and bathtubs located 34 inches from the floor to the center of the backing, suitable for the installation of grab bars.
 - b. All passage doors shall be at least 32 inches wide on the accessible floor.
 - c. Primary entrance shall have a 36-inch wide door including a 5' x 5' level landing, no more than 1 inch out of plane with the immediate interior floor level with an 18-inch clearance.
 - d. Door buzzer, bell or chime shall be hard wired at primary entrance.
20. TITLE 24 ENERGY COMPLIANCE: California Title 24 Energy Compliance forms CF-1R and MF-1R must be blue-lined on the plans.
21. TOWN FIREPLACE STANDARDS: New wood burning fireplaces shall be an EPA Phase II approved appliance as per Town Ordinance 1905. Tree limbs shall be cut within 10-feet of chimneys.
22. SPECIAL INSPECTIONS: When a special inspection is required by UBC Section 1701, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the building permit. The Town Special Inspection form must be completely filled-out, signed by all requested parties and be blue-lined on the construction plans. Special Inspection forms are available from the Building Division Service Counter or online at www.losgatosca.gov.
23. NONPOINT SOURCE POLLUTION STANDARDS: The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program shall be part of the plan submittal as the second page. The specification sheet is available at the Building Division Service Counter for a fee of \$2 or at San Jose Blue Print.
24. APPROVALS REQUIRED: The project requires the following agencies approval before issuing a building permit:
 - a. Community Development: Vu Nguyen at 354-6807
 - b. Engineering/Parks & Public Works Department: Fletcher Parsons at 395-3460
 - c. Santa Clara County Fire Department: (408) 378-4010
 - d. West Valley Sanitation District: (408) 378-2407
 - e. Local School District: (Contact the Town Building Service Counter for the appropriate school district and to obtain the school form.)
 - f. Bay Area Air Quality Management District: (415) 771-6000
 - g. Environmental Health Department: (408) 885-4200
 - h. Santa Clara Valley Water District: (408) 265-2600
 - i. Department of Fish and Game: (831) 475-9065

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

(Engineering Division)

25. GRADING PERMIT. A grading permit is required for site grading and drainage. The grading permit application (with grading plans) shall be made to the Engineering Division of the Parks & Public Works Department located at 41 Miles Avenue. The grading plans shall include final grading, drainage, retaining wall location, driveway, utilities and interim erosion control.

Grading plans shall list earthwork quantities and a table of existing and proposed impervious areas. Unless specifically allowed by the Director of Parks and Public Works, the grading permit will be issued concurrently with the building permit. The grading permit is for work outside the building footprint(s). A separate building permit, issued by the Building Department on E. Main Street is needed for grading within the building footprint.

26. **SOILS REPORT.** One copy of the soils and geologic report shall be submitted with the public improvement application. The soils report shall include specific criteria and standards governing site grading, drainage, pavement design, retaining wall design and erosion control. The reports shall be signed and "wet stamped" by the engineer or geologist, in conformance with Section 6735 of the California Business and Professions Code.
27. **SOILS REVIEW.** Prior to issuance of any permit, the applicant's soils engineer shall review the final grading and drainage plans to ensure that designs for foundations, retaining walls, site grading, and site drainage are in accordance with their recommendations and the peer review comments. The applicant's soils engineer's approval shall then be conveyed to the Town either by letter or by signing the plans.
28. **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.
29. **DEMOLITION.** The existing building shall be demolished prior to recordation of the Parcel Map. Interim erosion control improvements shall be provided. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on an area if grading is allowed during the rainy season. Interim erosion control measures, to be carried out during construction and before installation of the final landscaping shall be included. Interim erosion control method shall include, but are not limited to: silt fences, fiber rolls (with locations and details), erosion control blankets, Town standard seeding specification, filter berms, check dams, retention basins, etc. Provide erosion control measures as needed to protect downstream water quality during winter months. The grading, drainage, erosion control plans and SWPPP shall be in compliance with applicable measures contained in the amended provisions C.3 and C.14 of Order 01-024 of the amended Santa Clara County NPDES Permit.
30. **CERTIFICATE OF LOT LINE ADJUSTMENT.** A Certificate of Lot Line Adjustment shall be recorded. Two copies of the legal description for each new lot configuration, a plat map (8-½ in. X 11 in.) and two copies of the legal description of the land to be exchanged shall be submitted to the Engineering Division of the Parks & Public Works Department for review and approval. The submittal shall include closure calculations, title reports less than 90 days old and the appropriate fee. The certificate shall be recorded before any permits may be issued.
31. **DEDICATIONS.** The following shall be dedicated by separate instrument. The dedication shall be recorded before any permits are issued.
 - a. Placer Oaks Road. A 30-foot half-street right-of-way.
 - b. Sidewalk Easement. A sidewalk easement may be required on Lot 1 in the vicinity of the 30 in. oak tree. Exact dimension of sidewalk easement will be determined during the parcel map and public improvement plan review process.

32. **PUBLIC IMPROVEMENTS.** The following improvements shall be installed by the developer. Plans for those improvements shall be prepared by a California registered civil engineer, and reviewed and approved by the Town before the issuance of a building permit. The improvements must be completed and accepted by the Town before a Certificate of Occupancy for any new building can be issued.
- a. Placer Oaks Road. Sidewalk along the full property frontage. An alternative to Town standard sidewalk will be required to be installed around the 30 in. oak tree on Lot 1. The alternatives will be approved by the Town Arborist and Town Engineer. Alternatives could include, but are not limited to: meandering sidewalk, sidewalk cutout & narrowing, sidewalk ramping and flexible paving materials.
33. **BUILDING UTILITY SERVICES.** Building utility services, including water, sanitary sewer, telephone, electric, gas, and cable, shall be stubbed out to each lot and guaranteed by contract, Faithful Performance Security and Labor & Materials Security before the issuance of a building permit or the recordation of a map.
34. **TRENCHING WITHIN DRIPLINE OF TREES.** Trenching within the dripline of existing trees shall be avoided. The utilities shall be relocated to be at least eight (8) ft. from the trunk of the existing trees (# 2, 3 & 4) and from the trees to be planted. Trenches within the dripline may have to be hand dug.
35. **TRENCHING MORATORIUM.** Trenching within a newly paved street (Placer Oaks Road) will be allowed subject to the following requirements:
- a) The Town standard "T" trench detail shall be used.
- b) A Town approved colored controlled density backfill shall be used.
- c) The total asphalt thickness shall be a minimum of 3-inches or shall match the existing thickness, whichever is greater. The final lift shall be 1.5-inches of half inch medium asphalt. The initial lift(s) shall be of three quarter inch medium asphalt.
- d) The Contractor shall schedule a pre-paving meeting with the Town Engineering Construction Inspector the day the paving is to take place.
- e) A slurry seal topping may be required by the construction inspector depending his assessment of the quality of the trench paving. If required, the slurry seal shall extend the full width of the street and shall extend 5-feet beyond the longitudinal limits of trenching. Slurry seal materials shall be approved by the Town Engineering Construction Inspector prior to placement. Black sand may be required in the slurry mix. All existing striping and pavement markings shall be replaced upon completion of slurry seal operations.
- f) A separate bond for trench saw cutting and paving may be provided at the time of building permit issuance. In the event such a bond is posted, the slurry seal provision above would be waived.
36. **INSURANCE.** One million dollars (\$1,000,000) of liability insurance holding the Town harmless shall be provided in a format acceptable to the Town Attorney before recordation of the map.
37. **TRAFFIC IMPACT MITIGATION FEE.** The developer shall pay a proportional the project's share of transportation improvements needed to serve cumulative development within the Town of Los Gatos. The fee amount will be based upon the Town Council resolution in effect at the time the request of Certificate of Occupancy is made. The fee shall be paid before issuance of the Certificate of Occupancy. The traffic impact mitigation fee for this project

using the current fee schedule is \$2,871 per lot. The final fee shall be calculated from the final plans using the rate schedule in effect at the time of the request for a Certificate of Occupancy.

38. **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.
39. **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.
40. **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.
41. **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.
42. **CONSTRUCTION STREET PARKING.** No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior approval from the Town Engineer (§ 15.40.070).
43. **SITE DRAINAGE.** Rainwater leaders shall be discharged to splash blocks. No through curb drains will be allowed.
44. **NONPOINT SOURCE POLLUTION PREVENTION.** On-site drainage systems shall include a filtration device such as a bio-swale or permeable pavement.
45. **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.

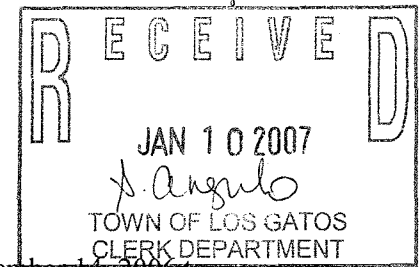
46. **UTILITIES.** The developer shall install all utility services, including telephone, electric power and all other communications lines underground, as required by Town Code §27.50.015(b). All new utility services shall be placed underground. Underground conduit shall be provided for cable television service.
47. **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.
48. **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.
49. **SANITARY SEWER BACKWATER VALVE.** Drainage piping serving fixtures which have flood level rims less than twelve (12) inches (304.8 mm) above the elevation of the next upstream manhole and/or flushing inlet cover at the public or private sewer system serving such drainage piping shall be protected from backflow of sewage by installing an approved type backwater valve. Fixtures above such elevation shall not discharge through the backwater valve, unless first approved by the Administrative (Sec. 6.50.025). The Town shall not incur any liability or responsibility for damage resulting from a sewer overflow where the property owner or other person has failed to install a backwater valve, as defined section 103(e) of the Uniform Plumbing Code adopted by section 6.50.010 of the Town Code and maintain such device in a functional operating condition. Evidence of West Valley Sanitation District's decision on whether a backwater device is needed shall be provided prior to issuance of a building permit.
50. **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.
51. **HAULING OF DEBRIS.** Hauling of debris off-site shall not occur during the morning or evening peak periods (between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m.). Prior to the issuance of a building permit, the developer shall work with the Town Building and Engineering Department Engineering Inspectors to devise a traffic control plan to ensure safe and efficient traffic flow under periods when soil is hauled on or off the project site. This may include, but is not limited to provisions for the developer/owner to place construction notification signs noting the dates and time of construction and hauling activities, or providing

additional traffic control. Cover all trucks hauling soil, sand, and other loose debris or require all trucks to maintain at least two feet of freeboard.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

52. FIRE APPARATUS (ENGINE) ACCESS DRIVEWAY REQUIRED: Provide an access driveway with a paved all weather surface, a minimum unobstructed width of 12 feet, vertical clearance of 13 feet 6 inches, minimum circulating turning radius of 36 feet outside and 23 feet inside. Installations shall conform to Fire Department Standard Details and Specifications sheet D-1.
53. PREMISES IDENTIFICATION: Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background.

Los Gatos Town Council
Los Gatos, California 95030
10 December 2007



Reference: Motion for reconsideration of the Council member's decision of December 14, 2006 to approve the appeal by Howard McNeil Developers to build two houses at 16916 Placer Oaks Road, Los Gatos, CA.

We respectfully request that the Los Gatos Town Council members reconsider their decision of December 14, 2006 and deny the proposal submitted by Howard McNeil Developers to build two oversized houses at 16916 Placer Oaks Road in light of the following:

1. IMPACT OF HEIGHT, BULK AND MASS ON ADJACENT PROPERTIES

Following the Town Council meeting of Dec. 14, 2006, all Council members were invited to come to our home at 16991 Frank Avenue to see the impact of the proposed house on Lot 1 on our privacy, views and potential property value. (All accepted except Steve Glickman who declined to come.) This is the first time any of the council members have viewed the house on Lot 1 from our backyard and have seen how, at 8 ft from the property line and 21 ½ ft in height, the house will loom over most of our backyard. The property is also to be graded up by 2 ft, which means that anyone inside the house will look directly over the top of our 7 ft fence into our yard and home, stripping us of all privacy. Unfortunately the developers ordered the story poles removed the day before the first council member's visit, despite not having a building permit at the time. The attached photos were given to each Council member who visited our property in lieu of seeing the actual story poles.

2. NON-ADHERENCE OF IN-FILL POLICY [taken from Resolution 1993-62]

"An in-fill project should be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures,In-fill development should blend rather than compete with the established character of the area." and "Approval of an in-fill project shall demonstrate a strong community benefit and findings of benefit shall be part of the record."

There are 9 homes that surround (by definition; closely encircle) the planned development; 6 houses with common property lines, and 3 houses directly across the street. The average size of these 9 homes is 2140 sq ft with an average FAR of 22.5. The two proposed houses have an average size of 3175 sq ft and a FAR of 27. It is definitely clear from the In-fill Policy that the two proposed houses are not "within the existing scale and character of surrounding structures", nor will they "blend" but will clearly "compete with the established character of the area". We maintain that the unanimous decision of the town Planning Commissioners was not in error when they directed the developers on May 10, 2006 to build the houses in the 2400 sq ft range [among other directives that were also not followed by the developers].

3. APPROVED DRAWINGS ARE INCORRECT AND STORY POLES WERE INSUFFICIENT

Story poles for the one-story house on Lot 1 were never placed accurately and critical poles were not put up so the true impact of the size of the houses is misleading. A (staff) Town planner came to the site at our request and could not match the location of the poles with the drawing dimensions. He agreed that only a portion of the story poles were in place, and he directed the developers in an email (4-17-06) to correct the location of the poles. The developers did not correct the story poles which led to an insufficient depiction of the true mass and size of the houses. Further, the drawings approved by the Council contain errors which make it impossible to assess the location of critical elements, such as the roof height and span. For example, no cross-section of the house on Lot 1 was provided. It is engineering practice to provide cross-sectional drawing showing all major profile changes. The cross-section provided in the drawing provided to the Town Council cannot be made to match the plan drawing for Lot 1.

4. TREE PROTECTION POLICY Sec 29.10.0985

The developers current plans call for 10 mature trees to be removed, to be replaced with 15 gallon trees. Based on the canopy size of the trees to be removed, Table 3-1 requires replacement of each 60 ft tree with *"two 24 inch box and two 36 in box plus two 48 inch box size"*. We have mentioned these requirements to the developers and Planning staff on several occasions during the last 6 - 9 months but the developers have not made any attempt to change the specs on the plans nor given us any reasonable assurances that they will comply with these requirements.

5. COUNCIL MEMBERS UNDULY INFLUENCED BY DEVELOPERS

The developers met with and spoke at some length with Council members prior to the public meeting (12-18-06), even taking members to view the site of the proposed houses. But at no time did any of the Council members speak with us and did not report that they spoke with any of the other neighbors who are opposed to this development before the meeting on 12-14-06. They also had not seen the proposed development from our property to see the impact of the proposed houses on our privacy and views. Therefore the decision to allow development of these oversized houses was made without giving equal time to us to discuss our concerns and objections to the proposed houses. We believe the Council members decisions gave undue consideration to only the developers profit-motivated point of view.

6. DENIAL OF DUE PROCESS TO OBJECTING NEIGHBORS

The meeting of DRC to discuss the proposed development (as directed by the Planning Commissioners) was scheduled on Sept 28 2006 when it was known that we would be out of country. We asked a nearby neighbor to represent us at the meeting (which he made clear at beginning of the meeting) but he was not allowed to speak at all during that meeting. This is the only reason that there was not an objection to the development of the two houses recorded during that meeting.

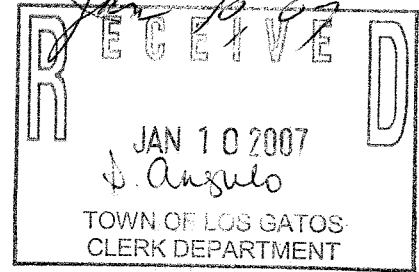
In light of the Developers continued refusal to follow Guidelines from Town Planners relative to the Town General Plan, Town and Municipal Codes and the clear objections of the overwhelming majority of the neighbors regarding the unacceptable mass and bulk of the houses and removal of so many mature old-growth trees, we respectfully request that the Town Council members reconsider their decision of December 14, 2006 and deny Howard McNeil Developers permission to build the proposed houses at 16916 Placer Oaks Road. We stand ready, as we have from the beginning of this process, to work with the developers to resolve these issues to a mutually acceptable solution. Please feel free to contact us if you have any questions regarding anything in this letter.

Sincerely Yours



David and Rosemary Greene
16990 Frank Avenue
Los Gatos, Ca 95032
(408) 356-7775

cc: Mgr



Ladies, & Gentlemen

This is a notice to inform you in writing that I have a right to have the people at 1696 Shaver Oaks do the trimming and root cutting of the redwood trees that have damaged my yard - and continue to do so.

There are town rulings on what can be done, and I look forward to the completion of this phase of the project



Patricia A. North
16964 Frank Ct.
Los Gatos, CA 95032-3452

Thank you
Patricia A. North