



MEETING DATE: 1/16/2007

ITEM NO:

19

## COUNCIL AGENDA REPORT

DATE: January 11, 2007

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER

SUBJECT: CONSIDER AN APPEAL OF A PLANNING COMMISSIONER DECISION DENYING A REQUEST TO CONSTRUCT AN ADDITION THAT EXCEEDS THE ALLOWABLE FLOOR AREA RATIO ON PROPERTY ZONED R-1:8. APN 523-12-039. ARCHITECTURE AND SITE APPLICATION S-02-33  
PROPERTY LOCATION: **980 CHERYSTONE DRIVE** PROPERTY OWNER/APPELLANT: JOAN HINKIN


### RECOMMENDATION:

1. Open and hold the public hearing and receive public testimony.
2. Close the public hearing.
3. Uphold the Planning Commission's decision to deny Architecture & Site application S-02-33 **(motion required)**.
4. Refer to the Town Attorney for the preparation of the appropriate resolution **(no motion required)**.


If the Town Council determines that the Planning Commission's decision should be reversed or modified

1. The Council needs to find one or more of the following:
  - (1) There was error or abuse of discretion on the part of the Planning Commission; or
  - (2) The new information that was submitted to the Council during the appeal process that was not readily and reasonably available for submission to the Commission; or
  - (3) An issue or policy over which the Commission did not have discretion to modify or address, but which is vested in the Council for modification or decision.

(Continued on Page 2)

PREPARED BY: BUD N. LORTZ   
DIRECTOR OF COMMUNITY DEVELOPMENT

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Reviewed by: \_\_\_\_\_ Assistant Town Manager  Town Attorney  
\_\_\_\_\_ Clerk Administrator \_\_\_\_\_ Finance ☒ Community Development

2. If the predominant reason for modifying or reversing the decision of the Planning Commission is new information as defined in Subsection (2) above, it is the Town's policy that the application be returned to the Commission for review in light of the new information unless the new information has a minimal effect on the application.
3. Refer to the Town Attorney for preparation of the appropriate resolution.

If the Town Council determines that the Planning Commission's decision should be upheld, Council should:

1. Uphold the decision of the Planning Commission and deny Architecture and Site Application S-02-33.
2. Refer to the Town Attorney for preparation of the appropriate resolution.

#### BACKGROUND:

##### Project Chronology

- April 15, 2002 - The applicant filed an application for a second story addition which exceeded the Floor Area Ratio (FAR) by 789 square feet (s.f.).
- May 1, 2002 - Project reviewed by staff.
- February 24, 2003 - Applicant was sent an inactivity letter.
- March 16, 2003 - Applicant contacted staff to inform them that she had to get a new designer.
- March 16, 2005 - Project reviewed by staff.
- July 6, 2005 - Project reviewed by staff.
- October 12, 2005 - Project reviewed by staff.
- October 4, 2006 - Project reviewed by staff which exceeded the Floor Area Ratio (FAR) by 685 s.f.

Staff has advised the applicant on numerous occasions that the plans are in need of major revisions given that they were proposing to exceed the FAR by 685 s.f. The Consulting Architect raised many concerns with the original proposal and stated the proposal's blocky, two story massing and design formality were not compatible with the surrounding neighborhood. Staff has tried to work with the applicant to evolve the project to the point where it can be approved or approved with conditions. While the applicant has reduced the overall house size from that of the initial submittal, the project still significantly exceeds the FAR. The applicant believes that the project has merit, that it is compatible with other homes in the neighborhood, and initially did not wish to reduce the house size further.

Staff forwarded the plans and supporting information to the Planning Commission so that direction could be provided to the applicant for a significant redesign of the project or the application could be denied. Peer reviews (arborist, architect) were done for the original design (Exhibits B and C of Attachment 3), but not for the current or revised proposals. In the interest

of saving the applicant additional time and expense to completely analyze plans that may not be appropriate, staff agendaized this application for Commission consideration.

On November 8, 2006 the Commission considered the application and denied the applicant's proposal.

PROJECT SUMMARY:

The applicant submitted revised plans on January 9, 2007. These plans have not been considered by the Commission. The revised plans propose approval of a 3,426 square foot two story home with a 417 s.f. garage and a 2,411 s.f. cellar. The revised proposal exceeds the allowable FAR by 453 s.f. It should be noted that approximately 300 s.f. of the proposed cellar should be eliminated because it extends beyond the first floor footprint and is inconsistent with the Town's Cellar Policy. The maximum allowed floor area is 2,973 s.f. for the house and 836 s.f. for the garage.

The following outlines the major differences between the plans reviewed by the Commission versus the revised plans (Attachment 8):

- The total square footage was reduced by 232 s.f.;
- Square footage in excess of FAR reduced by 232 s.f.;
- First floor square footage reduced by 112 s.f.;
- Second floor square footage reduced by 120 s.f.;
- Cellar square footage increased by 622 s.f. (approximately 322 s.f. after the portion outside first floor footprint is removed);
- Height has been reduced by 4 feet and is proposed to be the same height as the existing home.

The immediate neighborhood is comprised of a mixture of one-story and two-story homes. Please refer to pictures of the neighborhood (Attachment 6). The following table compares the proposed square footage and FAR of the proposed residence with other homes in the neighborhood. The two homes have FARs that equivalent to or greater than the proposed home. These two homes do not comply with the Town's current FAR requirement.

| Address    |                       | Number of Stories | House        | Garage     | FAR        |
|------------|-----------------------|-------------------|--------------|------------|------------|
| 101        | Cherrystone Ct        | 1                 | 2,938        | 480        | .37        |
| 108        | Cherrystone Ct        | 1                 | 2,018        | 480        | .24        |
| 110        | Cherrystone Ct        | 1                 | 2,018        | 480        | .29        |
| 112        | Cherrystone Ct        | 2                 | 2,447        | 450        | .33        |
| 972        | Cherrystone Dr        | 2                 | 2,180        | 462        | .27        |
| 976        | Cherrystone Dr        | 2                 | 2,350        | 480        | .29        |
| 982        | Cherrystone Dr        | 1                 | 2,055        | 482        | .24        |
| 977        | Cherrystone Dr        | 2                 | 3,447        | 660        | .25        |
| 975        | Cherrystone Dr        | 2                 | 3,708        | 440        | .44        |
| 973        | Cherrystone Dr        | 2                 | 2,180        | 462        | .27        |
| 971        | Cherrystone Dr        | 1                 | 2,018        | 480        | .25        |
| 969        | Cherrystone Dr        | 2                 | 2,350        | 480        | .29        |
| 967        | Cherrystone Dr        | 1                 | 2,018        | 480        | .25        |
| <b>980</b> | <b>Cherrystone Dr</b> | <b>2</b>          | <b>3,426</b> | <b>417</b> | <b>.37</b> |

PLANNING COMMISSION:

The Planning Commission denied the application on November 8, 2006. The Commission denied the appellant's previous proposal after determining the project was out of compliance with the FAR to a point where extensive redesign would be necessary. The Commission also stated that exceeding the FAR in addition to proposing a 1,789 square foot cellar was inconsistent with the intent of the General Plan and Cellar Policy. The General Plan states cellars should provide square footage in lieu of visible mass to reduce mass and square footage above grade. It should also be noted that the appellant stated that they were not willing to reduce the proposed square footage.

APPEAL:

An appeal of the Planning Commission's decision was received on November 17, 2006 (Attachment 1). The basis for the appeal is that there is new information that was not reasonably available at the time of the Planning Commission decision. The applicant stated that the plans

that were submitted by her architect were not accurate and she would submit revised plans. The appellant submitted revised development plans on January 9, 2007.

CONCLUSION:

The Council recently considered an appeal of two single family homes on Placer Oaks. The Council granted the appeal and approved the projects. In that case, the proposals were less than the allowable FAR by approximately 200 to 300 s.f. In the subject application the proposed home exceeds the allowable FAR by 453 s.f.

The Council should review the revised proposal and consider the issue of neighborhood compatibility given the request to exceed the FAR by 453 s.f. (685 s.f. in the proposal the Commission considered). If the Council finds the proposed home (Attachment 8) compatible with the other homes in the neighborhood and believes it can make the findings required to exceed the FAR, the Council should remand the project to the Commission to complete the review of the proposed project. It is the Town's policy that the application be returned to the Commission for review in light of new information unless the new information has a minimal effect on the application. Further, staff has not undertaken technical review of the revised proposal.

The required findings to exceed the FAR (Section 29.40.075 (c)) are:

- (1) The design theme, sense of scale, exterior materials and details of the proposed project are consistent with the provisions of:
  - a. Any applicable landmark and historic preservation overlay zone; and
  - b. Any applicable specific plan; and
  - c. The adopted residential development standards; and
- (2) The lot coverage, setbacks and FAR of the proposed project is compatible with the development on surrounding lots.

If the Council determines that the revised proposal is not appropriate then the appeal should be denied.

ENVIRONMENTAL ASSESSMENT:

The project is Categorically Exempt pursuant to Section 15303 of the State Environmental Guidelines as adopted by the Town.

FISCAL IMPACT: None.

PAGE 6  
MAYOR AND TOWN COUNCIL  
SUBJECT: 980 CHERRYSTONE DRIVE  
*January 11, 2007*

Attachments:

1. Appeal filed on October 20, 2006.
2. Verbatim minute excerpts from the Planning Commission meeting of November 8, 2006 (Submitted under separate cover).
3. Report to the Planning Commission dated November 2, 2006 for the meeting of November 8, 2006 (Exhibits D and E deleted and included as Attachments 7 and 6)
4. Desk item report to the Planning Commission dated November 8, 2006 for the meeting of November 8, 2006.
5. Letter from Stephen N Reinhold submitted at the Planning Commission meeting, dated November 8, 2006.
6. Photographs of homes in the area.
7. Development Plans (Submitted under separate cover).
8. Revised Development Plans, received January 9, 2007

Distribution:

Joan Hinkin, 980 Cherrystone Drive, Los Gatos, CA 95032  
BNL:RT:JP:mdc

**FILING FEES**  
**\$277.00 Residential**  
**\$1,111.00 per Commercial, Multi-**  
**family or Tentative Map Appeal**

SLB  
TOWN OF LOS GATOS  
Office of the Town Clerk Jose  
110 E. Main St., Los Gatos CA 95030  
NOV 17 2006  
CC.CDD  
**APPEAL OF PLANNING COMMISSION DECISION**  
CLERK DEPARTMENT

I, the undersigned, do hereby appeal a decision of the Planning Commission as follows: (PLEASE TYPE OR PRINT NEATLY)

DATE OF PLANNING COMMISSION DECISION: November 08, 2006

PROJECT / APPLICATION NO:

ADDRESS LOCATION: 980 CHERRYSTONE DR L.G.

Pursuant to the Town Code, the Town Council may only grant an appeal of a Planning Commission decision in most matters if the Council finds that one of three (3) reasons exist for granting the appeal by a vote of at least three (3) Council members. Therefore, please specify how one of those reasons exist in the appeal:

1. The Planning Commission erred or abused its discretion because \_\_\_\_\_

CR# 11  
#2870  
B5000  
de

; OR

2. There is new information that was not reasonably available at the time of the Planning Commission decision, which is

The plans were not accurate; therefore the "story poles" were not accurate. The neighbors were grossly misinformed. We are in the process of correcting all of above.

(please attach the new information if possible); OR

3. The Planning Commission did not have discretion to modify or address the following policy or issue that is vested in the Town Council: \_\_\_\_\_

IF MORE SPACE IS NEEDED, PLEASE ATTACH ADDITIONAL SHEETS.

**IMPORTANT:**

1. Appellant is responsible for fees for transcription of minutes. A \$500.00 deposit is required at the time of filing.
2. Appeal must be filed within ten (10) calendar days of Planning Commission Decision accompanied by the required filing fee. Deadline is 5:00 p.m. on the 10<sup>th</sup> day following the decision. If the 10<sup>th</sup> day is a Saturday, Sunday, or Town holiday, then it may be filed on the workday immediately following the 10<sup>th</sup> day, usually a Monday.
3. The Town Clerk will set the hearing withing 56 days of the date of the Planning Commission Decision (Town Ordinance No. 1967)
4. An appeal regarding a Change of Zone application or a subdivision map only must be filed within the time limit specified in the Zoning or Subdivision Code, as applicable, which is different from other appeals.
5. Once filed, the appeal will be heard by the Town Council.
6. If the reason for granting an appeal is the receipt of new information, the application will usually be returned to the Planning Commission for reconsideration.

PRINT NAME: JOAN M. HINKIN

SIGNATURE: \_\_\_\_\_

DATE: 11-17-06

ADDRESS: 980 CHERRYSTONE DR

PHONE: 408-356-8850

LOS GATOS 95032

**\*\*\* OFFICIAL USE ONLY \*\*\***

DATE OF PUBLIC HEARING: 1-22-07 1-16-07

CONFIRMATION LETTER SENT: Date: \_\_\_\_\_

Pending Planning Department Confirmation

TO APPLICANT & APPELLANT BY:

DATE TO SEND PUBLICATION: 1-3-06

DATE OF PUBLICATION: 1-10-06

**ITEM #19**

**980 CHERRYSTONE DRIVE**

**ATTACHMENT #2 IS AVAILABLE FOR  
REVIEW IN THE CLERK DEPARTMENT**



Date: November 2, 2006  
For Agenda Of: November 8, 2006  
Agenda Item: 3

REPORT TO: The Planning Commission  
FROM: The Director of Community Development  
LOCATION: 980 Cherrystone Drive  
Architecture and Site Application S-02-33

Requesting approval to construct an addition which exceeds the allowable Floor Area Ratio on property zoned R-1:8. APN 523-12-039.  
PROPERTY OWNER/APPLICANT: Joan Hinkin

ACTION: Refer the application back to staff with direction or deny the application.

EXHIBITS: A. Applicant's Letter of Justification (1 page), dated August 30, 2005  
B. Consulting Architect peer review, received November 16, 2005  
C. Consulting Arborist peer review, dated December 14, 2005  
D. Development Plans (16 pages), received September 1, 2006  
E. Photos of homes in the area (4 Pages)

A. BACKGROUND:

Project Chronology

- April 15, 2002 - The applicant filed an application for a second story addition which exceeded the Floor Area Ratio (FAR) by 789 square feet.
- May 1, 2002 - Project reviewed by staff.
- February 24, 2003 - Applicant was sent an inactivity letter.
- March 16, 2003 - Applicant contacted staff to inform them that she had to get a new designer.
- March 16, 2005 - Project reviewed by staff.
- July 6, 2005 - Project reviewed by staff.
- October 12, 2005 - Project reviewed by staff.
- October 4, 2006 - Project reviewed by staff.

Staff has advised the applicant on numerous occasions that the plans are in need of major revisions given that they are proposing to exceed the FAR by 685 square feet. Staff has tried to work with the applicant to evolve the project to the point where it can be approved or approved with conditions. While the applicant has reduced the overall house size from that of the initial submittal, the project still significantly exceeds the FAR. The applicant believes that the project has merit, that it is compatible with other homes in the neighborhood, and does not wish to reduce the house size further.

Staff has forwarded the plans and supporting information to the Planning Commission so that direction can be provided to the applicant for a significant redesign of the project or the application can be denied. The peer reviews (arborist, architect) were done for the original design (Exhibits B and C). In the interest of saving the applicant additional time and expense to completely analyze plans that may not be appropriate, we recommended that the Commission review the applicant's current proposal. Recommended conditions of approval have not been prepared for the same reason. If the Commission decides to remand the project for significant redesign additional review and conditions of approval will be completed before the application is returned to the Commission for final action.

B. DISCUSSION:

House Size / Neighborhood Compatibility

The applicant is requesting approval for a technical demolition of a 2,794 s.f. two story home and to construct a new single family home. The proposed two story home is 3,658 s.f. with a 417 s.f. garage and a 1,789 square foot cellar. The maximum allowed floor area is 2,973 square feet for the house and 836 square feet for the garage. The applicant's letter of justification (Exhibit A) and development plans (Exhibit D) are attached.

The immediate neighborhood is comprised of a mixture of one-story and two-story homes. Please refer to pictures of the neighborhood (Pages 1 and 2 of Exhibit B). The following table compares the proposed square footage of the proposed residence with other homes in the neighborhood.


| Address |                | Number of Stories | House | Garage | FAR |
|---------|----------------|-------------------|-------|--------|-----|
| 101     | Cherrystone Ct | 1                 | 2,938 | 480    | .37 |
| 108     | Cherrystone Ct | 1                 | 2,018 | 480    | .24 |
| 110     | Cherrystone Ct | 1                 | 2,018 | 480    | .29 |
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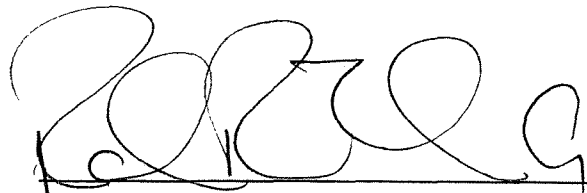
|     |                |   |       |     |     |
|-----|----------------|---|-------|-----|-----|
| 973 | Cherrystone Dr | 2 | 2,180 | 462 | .27 |
| 971 | Cherrystone Dr | 1 | 2,018 | 480 | .25 |
| 969 | Cherrystone Dr | 2 | 2,350 | 480 | .29 |
| 967 | Cherrystone Dr | 1 | 2,018 | 480 | .25 |
|     | Average        |   | 2,440 | 485 | .29 |
| 980 | Cherrystone Dr | 2 | 3,658 | 417 | .39 |

C. RECOMMENDATION:

1. If the Planning Commission finds the proposed home compatible with the other homes in the neighborhood in terms of the square footage and believes that there are grounds to allow the proposal to go forward as proposed, the Planning Commission should direct staff to complete the review of the proposed project and subsequently return the project back to the Commission for approval.
2. If the Commission determines that changes are required to the proposed application, it should do one of the following:
  - a. Refer the application back to staff with direction; or
  - b. Deny the application.

The Commission may identify additional issues that have not been raised by staff. If the Commission decides to deny the application the Commission's input on the key issues would be helpful to the Council in the event an appeal is filed.

  
Prepared by:  
Joel Paulson, Associate Planner

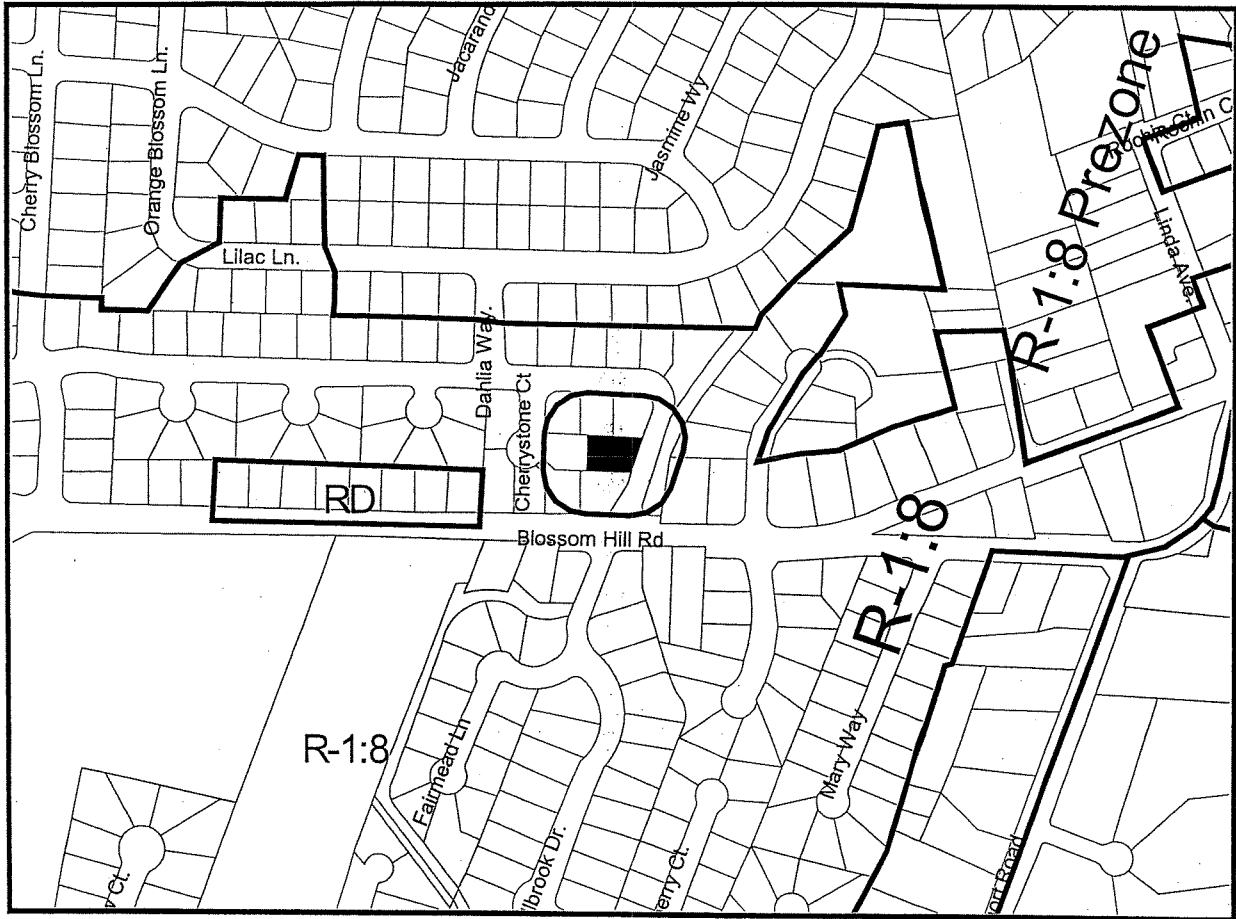
  
Approved by:  
Bud N. Lortz,  
Director of Community Development

RT:JP

cc: Joan Hinkin, 980 Cherrystone Drive, Los Gatos, CA 95032

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# 980 Cherrystone Drive



August 30, 2005

To Town Council Members of Los Gatos.

Our home is in desperate need of major repairs; secondary to flooding from lack of and/or improper drains. It is the lowest lot of the seven adjacent properties. We were assured that the drain systems were in place; both by the Builder and the Town of Los Gatos. The drought hit when we moved in, and it was a good ten years before we realized there was a problem. Consequently the whole sub-flooring needs to be replaced. It would be less costly, and more efficient to tear it all down, but then taxes would be prohibitive.

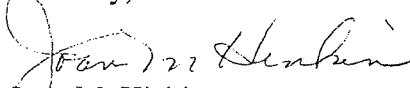
Our needs have also changed over the years. It is no longer feasible or acceptable to put multiple children in bunks, sharing a room. As young adults, they object to sharing with a sibling ( especially the married ones) . The home we have planned has been a dream since the early eighties. General economics and the expense of raising and educating our children have delayed the repairs til now; and, it appears the rules have changed.

In my plans, the footprint of the house will be smaller, as we plan to eliminate one deck. Otherwise, it is just the addition ( completion) of the second story. According to the Planning Commission, this addition puts us over the FAR. When we bought this property, and when the original plans were made, these restrictions were not in effect.

The home we have envisioned is classic in design, and will fit into Los Gatos very well. I take exception to the current planners whims and tastes regarding roof lines Etc. Currently it appears that ones roof need rival the Swiss Alps in the number of peaks and valleys ( at best, a waste of space; at least, a waste of energy). We want to install solar panels in the recessed roof (therefore not visible from the street, or to our neighbors). To make solar panels economical , we need as much flat roof as possible.

As there are several other homes in the area that appear just as large or larger; and as our immediate neighbors do not object, we respectfully request your approval of our Addition.

Sincerely,

  
Joan M. Hinkin





ARCHITECTURE PLANNING URBAN DESIGN

RECEIVED

NOV 16 2005

TOWN OF LOS GATOS  
PLANNING DIVISION

November 8, 2005

Mr. Joel Paulson  
Community Development Department  
Town of Los Gatos  
110 E. Main Street  
Los Gatos, CA 95031

RE: 980 Cherrystone Drive

Dear Joel:

I reviewed the drawings, and visited the site. My comments and recommendations are as follows:

### Neighborhood Context

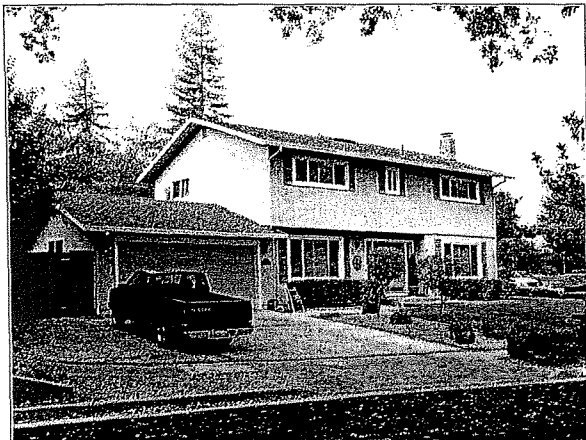
The neighborhood around the site is characterized by a mixture of one and two story homes. The two story homes in the immediate area all seem to have one story garages or roof segments at the first floor line that break up the mass of the structures. The overall character of the area is largely informal in terms of the architectural styles and massing of the homes. Photographs of the area are shown below.



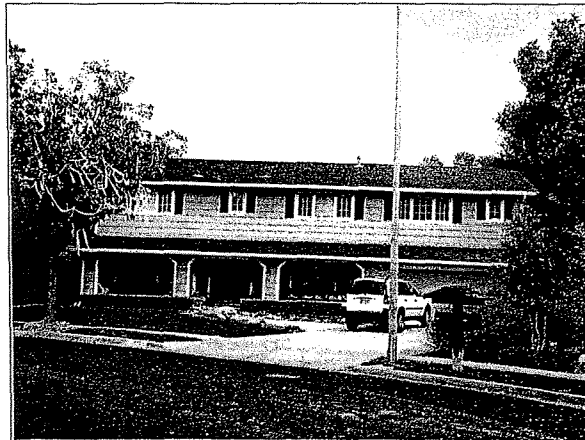
*Existing house on the site*



*Immediate neighbor to the right*



*Neighbor two parcels to the right  
Note one story garage and recessed entry*



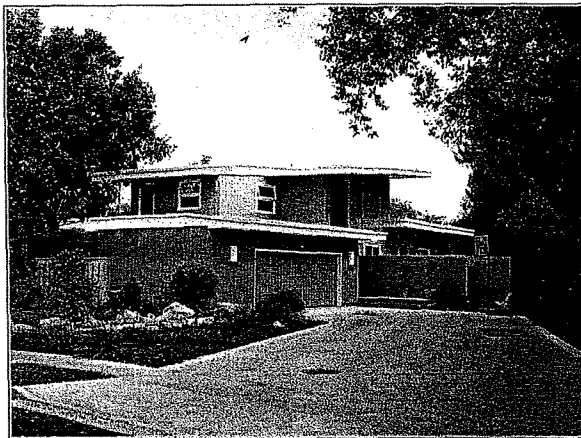
*Nearby neighborhood house  
Note roof projection breaking up height of front facade*



*Combination one and two story house in the immediate neighborhood*



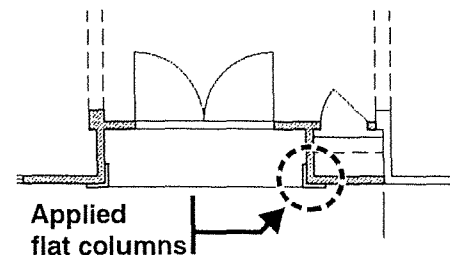
*One story house in the immediate neighborhood*



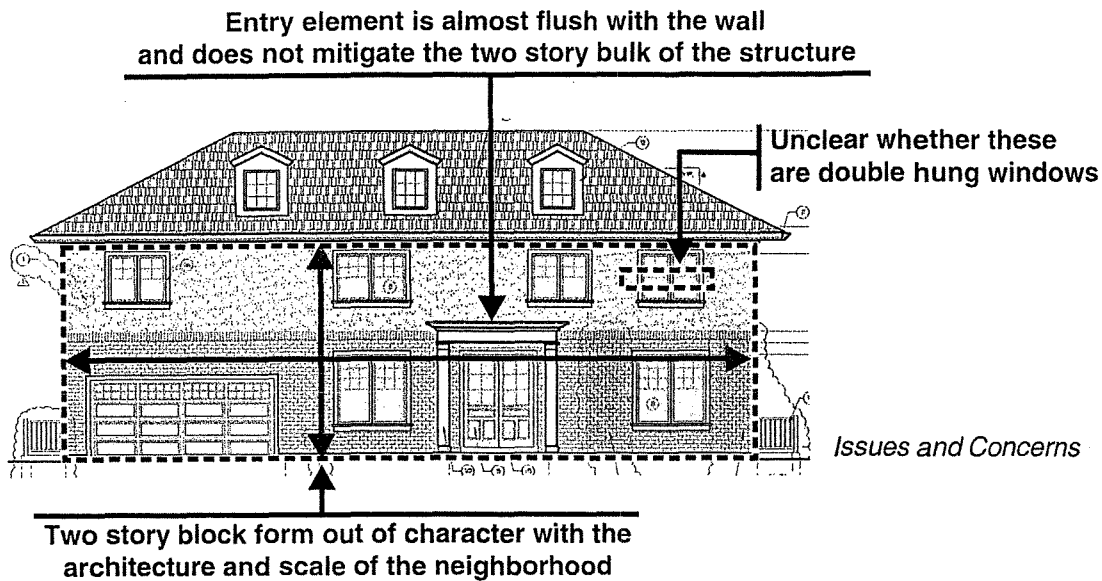
*Atypical house style across Cherrystone Drive*

### Issues and Concerns

1. The primary concern with this proposal is its blocky, two story massing and design formality which is out of keeping with the immediate neighborhood.
2. The entry with formal columns and entablature are actually very close to the surface of the front wall as shown on the entry plan to the right, and does not assist in mitigating the large two story mass of the structure as viewed from the street.
3. The drawings are a bit confusing regarding the exterior wall materials. The overall approach as to where to use brick for lower wall portions, brick for full height walls, and stucco is unclear to me.
4. It appears that the intent is to use double hung windows, but the drawings are not clear in this regard. This is probably just a function of the drawing symbol used for the windows which does not show solid rail where the upper and lower window sections meet.
5. I noted the intent to use a molding at the juncture of the wall and roof soffit. This is a good detail, and should be retained.

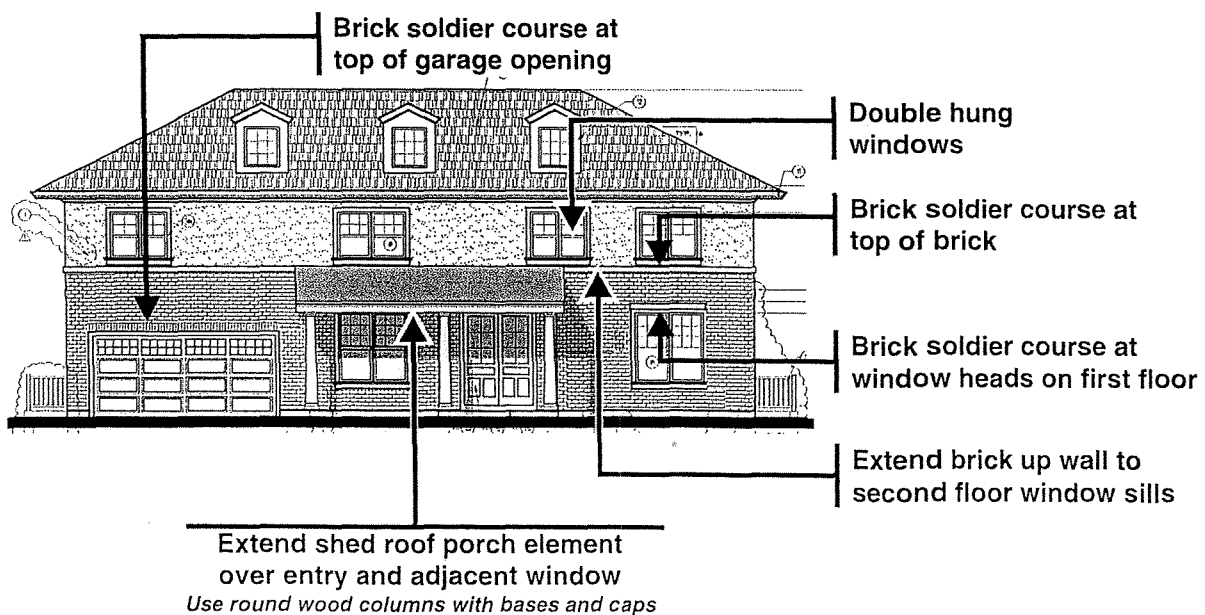




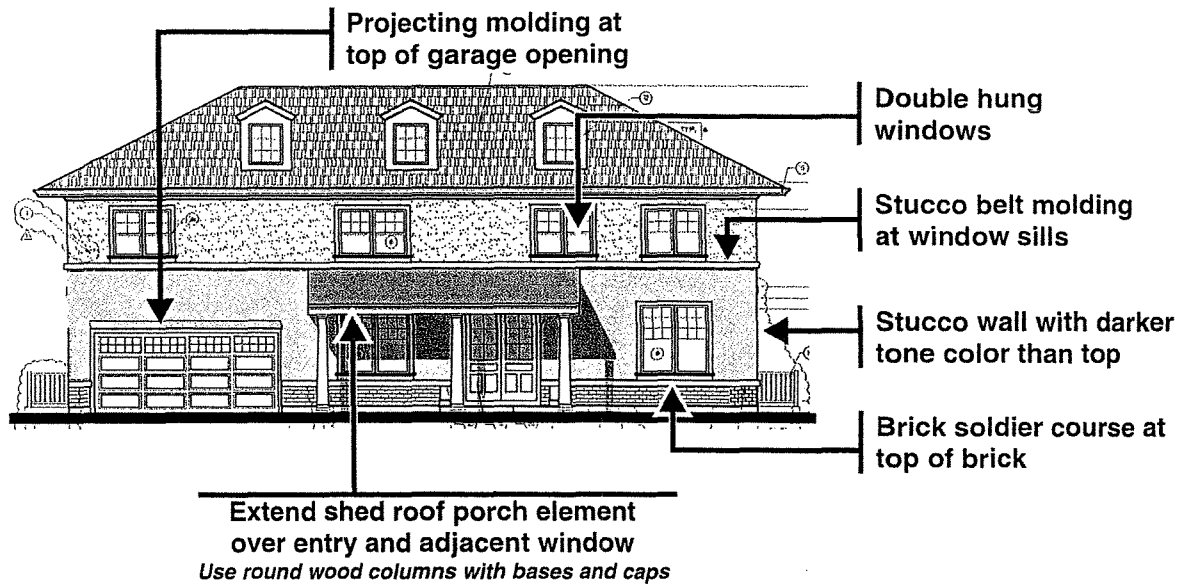


#### Recommendations

1. Add a projecting porch with wood columns across the entry and adjacent window. This would break up the two story wall, add some depth to the facade, and reflect the break up of two story walls in the immediate neighborhood.
2. Extend the brick on the lower wall surface up to the second floor window sills.
3. Carry the brick around all four sides of the house at this consistent level.
4. Use brick soldier courses at the top of first floor window heads and at the projecting belt course at the top of the brick.
5. Use double hung windows with interior dividers between the small window panes that have some visual depth (i.e., no snap in grids.)

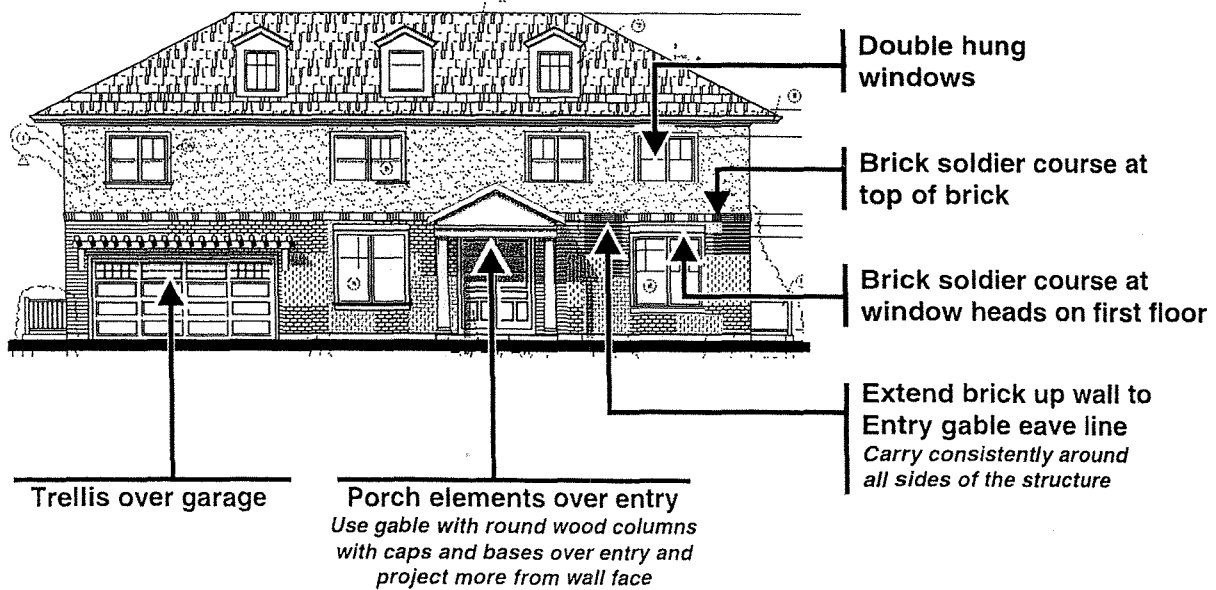


6. Should the applicant not wish to carry the brick at the second floor window sills around the entire house, the alternative below could be considered. A consistent height brick wainscot with a brick soldier course at its top would carry around the house at the first floor sill level, and stucco would be used up to a projecting stucco belt course below the second floor sill level. This intermediate wall plane would be painted a darker tone than the upper floor area.

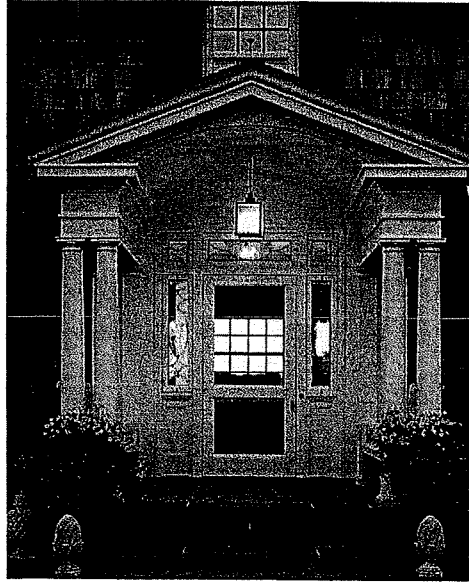


Alternative Approach - Front Elevation

7. There is one other possible solution to the issues which would retain a gable form entry, but one that is projected much further from the front wall plane as shown conceptually in the two photos on the following page. This would be supplemented with a painted trellis element over the garage.



Alternative Approach with gable entry - Front Elevation



*Projecting gable roof entry examples*

Joel, please let me know if you have any questions, or if there are specific issues of concern that I did not address.

Sincerely,  
CANNON DESIGN GROUP

Larry L. Cannon AIA AICP  
President





# ARBOR RESOURCES

*Professional Arboricultural Consulting & Tree Care*

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**A TREE INVENTORY AND REVIEW OF THE  
PROPOSED ADDITION AND REMODEL AT  
980 CHERRYSTONE DRIVE  
LOS GATOS, CALIFORNIA**

**PROPERTY OWNER/APPLICANT: Joan Hinkin**  
**APN: 523-12-039**  
**ARCHITECTURE & SITE APPLICATION S-02-033**

**Submitted to:**

Joel Paulson  
Community Development Department  
Town of Los Gatos  
110 East Main Street  
Los Gatos, CA 95031

**Prepared by:**

David L. Babby, RCA  
*ASCA Registered Consulting Arborist #399*  
*ISA Certified Arborist #WE-4001A*

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December 14, 2005

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P.O. Box 25295, San Mateo, California 94402 • Email: arborresources@comcast.net  
Phone: 650.654.3351 • Fax: 650.240.0777 • Licensed Contractor #796763

Exhibit C

## INTRODUCTION

I have been asked by the Town of Los Gatos Community Development Department to review the potential tree impacts associated with the proposed addition and remodel to the existing residence at 980 Cherrystone Drive, Los Gatos. This report presents my findings and recommendations.

The plans reviewed for this report include Sheets A-2 thru A-13 by Memarie Associates, Inc., dated 7/7/04. The trees' numbers, locations and approximate canopy dimensions<sup>1</sup> are presented on an attached copy of Sheet A-2 (Proposed Site Plan).

The trees selected for my review include those that are regulated by Town Ordinance and in close proximity to the proposed new residence. Of these, eleven are not presented on the site plan and include #2-6, 8-11, 14 and 17; please note their approximate locations have been plotted on the attached map but should not be construed as being surveyed.

## FINDINGS

Seventeen trees were inventoried for this report and include seven Junipers (#2-6, 9, 11); two Deodar Cedars (#12, 15); two California Sycamores (#13, 14); one Valley Oak (#1); one Coast Live Oak (#7); one Incense Cedar (#8); one Sweetgum (#10); one White Alder (#16); and one Willow (#17). Specific data compiled for each is presented on the attached table.

Though outside the proposed building footprint, **trees #5 thru 7** would, for all practical purposes, be subject to removal and/or become predisposed to instability and decline due to being located in such close proximity to the existing and proposed residence. Given their current location, their less than desirable structural condition, and the high amount of large trees growing on the property, I find their loss would be insignificant and conform to the Town's Ordinance.

By implementation of the proposed design, **tree #8** would be adversely impacted unless alternative measures for digging the cellar were carefully employed to minimize root loss. In doing so, I recommend soil nailing and shotcrete construction are used to avoid overbuild beyond two feet from the proposed basement and light well walls where within 20 feet of the tree's trunk.

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<sup>1</sup> The canopy dimensions shown for trees identified on Sheet A-2 do not reflect their actual canopy sizes; a more accurate depiction can be obtained by referring to the attached table and map.

## RECOMMENDATIONS

The recommendations presented below are based on my review of the proposed plans and serve as guidelines for promoting the longevity and stability of trees #1-4 and 8-16, as well as mitigating the loss of trees #5-7. Any or all recommendations are subject to revision if the plans become revised.

### *Design Guidelines*

1. To minimize root damage at acceptable levels, digging for the basement and lightwell must utilize soil nailing and shotcrete construction where within 20 feet of tree #8's trunk.
2. The surveyed trunk locations and accurate canopy dimensions of all trees inventoried for this report should be added to Sheet A-2.
3. Any new underground utilities and services should be situated outside from beneath the trees' canopies. Where this presents a conflict, I should be consulted regarding alternative installation methods.
4. The drainage design for the project, including downspouts, must not require water being discharged beneath the canopies or towards the trunks of retained trees.
5. I recommend the future landscape (planting and irrigation) and underground utility design are reviewed for tree impacts prior to implementation.
6. A copy of this report should be incorporated into the final set of project plans and titled Sheet T-1 (Tree Protection Instructions).
7. Any unused, existing underground utilities, lines or pipes beneath the trees' canopies should be abandoned and cut off at existing grade.
8. Section 29.10.0985 of the Tree Protection Ordinance shall be used for determining the mitigation of trees approved for removal (this is anticipated to be trees #4, 5 and 6). Tree replacements must be selected from the Town of Los Gatos list of recommended trees (available by contacting the Planning Division) and shown on the proposed plans. They must be planted prior to final inspection and, as necessary for support, be double-staked with rubber tree ties. All forms of irrigation must be of a drip or soaker hose system placed on the soil surface and not in a sleeve.
9. The following guidelines should be considered for incorporation into the landscape design:
  - a. Any plant material installed beneath the canopies of the Oak, Cedars and Sycamores should be drought-tolerant. I further recommend that plant material comprises no more than 15- to 20-percent of the area beneath the trees' canopies.
  - b. Any trenching for irrigation, lighting or drainage should be designed beyond the trees' canopies. If irrigation lines or electrical lines for lighting are designed inside

this distance, the trenches should be in a radial direction to the trunks and established no closer than five times the diameter of the nearest trunk; if this is not possible, the lines can be placed on top of existing soil grade and covered with wood chips or other mulch.

- c. Irrigation should not spray within five feet from the trees' trunks.
- d. Stones, mulch or other landscape features should be at least one-foot from the trunks of retained trees and not be in contact with the trunks of new trees.
- e. Tilling beneath the canopies should be avoided, including for weed control.
- f. Bender board or other edging material proposed beneath the trees' canopies should be established on top of existing soil grade.

***Protection Measures before and during Construction***

- 10. Tree protective fencing must be installed precisely as shown on the attached map and established prior to any demolition, grading, surface scraping or heavy equipment arriving on site. It shall be comprised of a five- to six-foot high chain link mounted on eight-foot tall, two-inch diameter steel posts that are driven 24 inches into the ground and spaced no more than 10 feet apart. Once established, the fencing must remain undisturbed and be maintained throughout construction until final inspection.
- 11. Unless otherwise approved, all construction activities must be conducted outside the fenced areas (even after fencing is removed) as well as outside from unpaved areas beneath the canopies of Ordinance-sized trees inventoried and not inventoried for this report. These activities include, but are not limited to, the following: demolition, grading, stripping of topsoil, trenching, equipment cleaning, stockpiling/dumping of materials, and equipment/vehicle operation and parking.
- 12. The following shall be displayed on 8.5- by 11-inch signs (minimum) and attached to the fencing every 50 feet on the side facing construction activities: "Warning – Tree Protection Zone - this fence shall not be removed. Violators are subject to a penalty according to Town Code 29.10.1025."
- 13. Prior to construction, a four-inch layer of coarse wood chips ( $\frac{1}{4}$ - to  $\frac{3}{4}$ -inch in size) should be manually spread over the leaf litter over the unpaved areas beneath the canopies of trees #1 and 16.
- 14. Prior to digging the cellar, a three-and-a-half-foot deep trench shall be manually dug using shovels just inside of where the cellar wall or light well will be built within 20 feet from tree #8's trunk and 15 feet from tree #16's trunk. All roots encountered during the process should be cleanly severed at the tree side of the trench. The freshly cut ends of roots with diameters of two inches and greater should be immediately wrapped in a clear sandwich bag and tightly sealed with a rubber band or tape.
- 15. The removal of any hardscape beneath the canopies of retained trees should be manually performed (such as through using a jackhammer) to avoid excavating soil and damaging roots during the process.



16. Any approved grading or trenching beneath the trees' canopies shall be manually performed using shovels. Roots encountered during the process shall be cleanly severed on the tree side of any cut and immediately covered with soil. The freshly cut ends of roots with diameters of two inches and greater should, prior to being covered, be wrapped with a plastic sandwich bag that is tightly secured using a rubber band. Any roots of two inches and greater in diameter found during trenching should remain intact and tunneled beneath.
17. Each recommendation presented in the 'Design Guidelines' that applies to the construction aspect of this project shall be followed.
18. The pruning and removal of trees must be performed under the supervision of an ISA Certified Arborist and according to ISA Standards. Information regarding Certified Arborists in the area can be obtained at <http://www.isa-arbor.com>. Stumps of removed trees or large shrubs should be ground below grade rather than pulled up using an excavator.
19. Throughout construction during the months of April thru November, supplemental water must be supplied every two to three weeks to trees #16 and 17. The application rate should be 10 gallons of water per inch of trunk diameter supplied using soaker hoses placed on the soil surface at the mid- to outer-canopies.
20. The disposal of harmful products (such as chemicals, oil and gasoline) is prohibited beneath canopies or anywhere on site that allows drainage beneath canopies. In addition, fuel should not be stored nor shall any refueling or maintenance of equipment occur within 100 feet of the trees' trunks (unless on the street).
21. Herbicides should not be used beneath the trees' canopies. Where used on site, they should be labeled for safe use near trees.

Attachments: Tree Inventory Table  
Site Map (copy of Sheet A-2)

# TREE INVENTORY TABLE

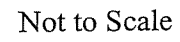
| TREE NO. | TREE NAME   | Trunk Diameter (in.) - per Guide for Plant Appraisal | Estimated Canopy Spread (ft.) | Health Condition (100%=Best, 0%=Worst) | Structural Integrity (100%=Best, 0%=Worst) | Overall Condition | Suitability for Preservation | Intensity of Impacts (1=Highest, 5=Lowest) | In Conflict w/ Proposed Design | Not Shown on Plans | Located on Adjacent Property |
|----------|---|--|-------------------------------|--|--|-------------------|------------------------------|--|--------------------------------|--------------------|------------------------------|
| 1        | Valley Oak<br>( <i>Quercus lobata</i> )                 | 53.5   | 110                           | 75%                                    | 50%  | Fair              | Moderate                     | 4  | -                              |                    |                              |
| 2        | Chinese Juniper<br>( <i>Juniperus chinensis</i> )       | ~5   | 10                            | 100%                                   | 75%  | Good              | High                         | 4  | -                              | X                  |                              |
| 3        | Chinese Juniper<br>( <i>Juniperus chinensis</i> )       | ~8   | 15                            | 100%                                   | 75%  | Good              | High                         | 4  | -                              | X                  |                              |
| 4        | Chinese Juniper<br>( <i>Juniperus chinensis</i> )       | ~5   | 10                            | 100%                                   | 75%  | Good              | Moderate                     | 3  | -                              | X                  |                              |
| 5        | Chinese Juniper<br>( <i>Juniperus chinensis</i> )       | 5.5  | 10                            | 100%                                   | 50%  | Good              | Moderate                     | -  | X                              | X                  | X                            |
| 6        | Chinese Juniper<br>( <i>Juniperus chinensis</i> )       | 5  | 10                            | 100%                                   | 50%  | Good              | Moderate                     | -  | X                              | X                  | X                            |
| 7        | Coast Live Oak<br>( <i>Quercus agrifolia</i> )          | 10   | 30                            | 100%                                   | 50%  | Good              | Moderate                     | -  | X                              |                    |                              |
| 8        | Incense Cedar<br>( <i>Calocedrus decurrens</i> )        | ~22  | 35                            | 100%                                   | 75%  | Good              | High                         | 2  | -                              | X                  | X                            |
| 9        | Chinese Juniper<br>( <i>Juniperus chinensis</i> )       | ~5   | 10                            | 100%                                   | 50%  | Good              | Moderate                     | 3  | -                              | X                  |                              |
| 10       | American Sweetgum<br>( <i>Liquidambar styraciflua</i> ) | 7  | 15                            | 100%                                   | 25%  | Fair              | Low                          | 4  | -                              | X                  |                              |
| 11       | Chinese Juniper<br>( <i>Juniperus chinensis</i> )       | 5  | 10                            | 100%                                   | 50%  | Good              | Moderate                     | 5  | -                              | X                  |                              |
| 12       | Deodar Cedar<br>( <i>Cedrus deodara</i> )               | 18.5   | 45                            | 100%                                   | 50%  | Good              | High                         | 4  | -                              |                    |                              |
| 13       | California Sycamore<br>( <i>Platanus racemosa</i> )     | 24.5   | 70                            | 100%                                   | 75%  | Good              | High                         | 4  | -                              |                    |                              |
| 14       | California Sycamore<br>( <i>Platanus racemosa</i> )     | 23   | 65                            | 100%                                   | 50%  | Good              | High                         | 4  | -                              | X                  |                              |
| 15       | Deodar Cedar<br>( <i>Cedrus deodara</i> )               | 14.5   | 25                            | 100%                                   | 50%  | Good              | High                         | 4  | -                              |                    |                              |
| 16       | White Alder<br>( <i>Alnus rhombifolia</i> )             | 14.5   | 20                            | 50%                                    | 75%  | Fair              | Low                          | 3  | -                              |                    |                              |
| 17       | Willow<br>( <i>Salix</i> sp.)                           | 5.5  | 25                            | 75%                                    | 50%  | Fair              | Low                          | 3  | -                              | X                  |                              |

Site: 980 Cherrystone Drive, Los Gatos

Prepared for: Town of Los Gatos Comm. Develop. Depart.

Prepared by: David L. Babby, RCA

December 14, 2005

[illegible]

Date: November 8, 2006  
For Agenda Of: November 8, 2006  
Agenda Item: 3  
**DESK ITEM**


REPORT TO: The Planning Commission  
FROM: The Director of Community Development  
LOCATION: 980 Cherrystone Drive  
Architecture and Site Application S-02-33

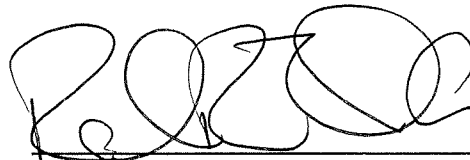
Requesting approval to construct an addition which exceeds the allowable  
Floor Area Ratio on property zoned R-1:8. APN 523-12-039.  
PROPERTY OWNER/APPLICANT: Joan Hinkin

EXHIBITS: A-E. Previously Submitted  
F. Letter from David Schwartz, received November 7, 2006

A. REMARKS:

The attached letter (Exhibit F) was received after the report on this matter was finalized.

  
Prepared by:  
Joel Paulson, Associate Planner

  
Approved by:  
Bud N. Lortz,  
Director of Community Development

RT:JP

N:\DEV\REPORTS\2006\980CherrystoneDesk.wpd

David L. Schwartz  
976 Cherrystone Drive  
Los Gatos, CA 95032

November 8, 2006

Planning Commission, Town of Los Gatos

**RECEIVED**

NOV - 7 2006

TOWN OF LOS GATOS  
BUILDING DIVISION

**Architectural and Site application S-02-33 (980 Cherrystone)**

The Architectural and Site application S-02-33 that has been submitted for your consideration should be denied. First and foremost it is not in compliance with the Los Gatos "Floor Area Ratio", FAR. The FAR was put into place to maintain the compatibility of all the homes in our neighborhood area.

The plans that have been submitted appear to be a three (3) story structure with a large basement. The height of the roof line and its large flat design does not blend in with the homes that are in this area. This design would lead me to believe that this attic area is intended to be finished into living space and thus should be considered in the FAR calculation. Reference the 3 dormer windows on the 3<sup>rd</sup> floor.

The plans originally shown to me by the applicant had ten (10) bedrooms and I believe five and half (5.5) bathrooms. It has been reduced somewhat according to the latest plan, but it is still has many rooms for the occupants. What could be the reasons why these applicants would want or need all this space? My house (976 Cherrystone Dr.) is right next door to the applicants. The street cleaner has not been able too clean the last portion of our street gutter because, of the vehicles that have been continuously parked in front of the applicants house. Cherrystone Drive narrows into a one-way, right hand turn only exit. There is **NO** parking allowed across the street (creek side) through too Blossom Hill Road. If this plan is approved what would be the impact on parking of vehicles in front of the structure?


What is the proposed plan, a remodel or a major demolition with a new home to be constructed? Tearing down the vast majority of the current structure and then digging a basement would be in my opinion a new home construction.

The proposed construction plans of this building will cast an eclipsing dark shadow onto our house and into the backyard area.

Thank you for your careful consideration of this letter and I request that the Planning Commission deny this application.

I regret that I was unable to attend the Planning Board Meeting, November 8, 2006, as I had business out of town.

Sincerely,

  
David L. Schwartz

Stephen N. Reinhold  
972 Cherrystone Drive  
Los Gatos, California 95032  
(408) 356-4177

November 8, 2006

Planning Commission, Town of Los Gatos

I respectfully request that approval for the architectural and site application S-02-33 (980 Cherrystone) be denied. Here are the reasons:

1. Our family moved into the neighborhood in 1996 specifically because of the character and relatively homogeneous size of the houses there. We had seen the detrimental impact of monster houses in our former neighborhood in Scotts Valley and did not want to repeat that experience. We learned from our realtor that unlike the "county" areas in Blossom Manor, the zoning within the town borders restricted the size of houses to reasonable limits. If these plans are approved, we fear that it may embolden others to attempt to build equally massive houses. As we learned in Scotts Valley, smaller homes in the shadow of monster homes are difficult to sell.
2. The colossal height of the house will severely restrict our views of the Santa Cruz Mountains, particularly in winter. It will also eliminate our ability to enjoy our back yard in relative privacy. It simply towers over all of the adjoining houses.
3. The flat roof and dormer windows make it appear to be a three story house totally out of character with the rest of the neighborhood. It seems obvious that the attic is intended to be additional living space that should be included in the FAR. The full basement is another exacerbating factor when considering the request to have the middle two floors of the house exceed the FAR.
4. The combination of the enormous square footage of four floors of living space with the intent to include as many separate bedrooms as possible give rise to questions about the real purpose of this building. Even if it is only used to house friends and relatives, our street will not support the parking requirements this level of occupancy implies.
5. The FAR limits exist for a reason. Many homes in our neighborhood have been tastefully remodeled in recent years, and none to my knowledge has grossly exceeded the FAR. I applaud the discipline the planning commission has demonstrated in maintaining the quality of our neighborhood by approving rational plans and denying unreasonable ones. I fully support our neighbors' right to remodel their home within the FAR limits and neighborhood norms.

Sincerely,

Stephen N. Reinhold

**ITEM # 19**

**980 CHERRYSTONE DRIVE**

**Attachment #7 and #8 are  
available for review in the  
Clerk Department.**