



**TOWN OF LOS GATOS
PLANNING COMMISSION AGENDA
OCTOBER 27, 2021
110 EAST MAIN STREET
LOS GATOS, CA**

*Kathryn Janoff, Chair
Kendra Burch, Vice Chair
Jeffrey Barnett, Commissioner
Melanie Hanssen, Commissioner
Jeffrey Suzuki, Commissioner
Reza Tavana, Commissioner
Emily Thomas, Commissioner*

PARTICIPATION IN THE PUBLIC PROCESS

How to participate: The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please follow the participation instructions on page 2 of this agenda. If you wish to speak to an item NOT on the agenda, you may do so during the “Verbal Communications” period, by following the participation instructions on page 2 of this agenda. The time allocated to speakers may change to better facilitate the Planning Commission meeting.

Effective Proceedings: The purpose of the Planning Commission meeting is to conduct the business of the community in an effective and efficient manner. For the benefit of the community, the Town of Los Gatos asks that you follow the Town’s meeting guidelines while attending Planning Commission meetings and treat everyone with respect and dignity. This is done by following meeting guidelines set forth in State law and in the Town Code. Disruptive conduct is not tolerated, including but not limited to: addressing the Commissioners without first being recognized; interrupting speakers, Commissioners or Town staff; continuing to speak after the allotted time has expired; failing to relinquish the podium when directed to do so; and repetitiously addressing the same subject.

Deadlines for Public Comment and Presentations are as follows:

- Persons wishing to make an audio/visual presentation on any agenda item must submit the presentation electronically, either in person or via email, to the Planning Department by 1 p.m. or the Clerk’s Office no later than 3:00 p.m. on the day of the Planning Commission meeting.
- Persons wishing to submit written comments to be included in the materials provided to the Planning Commission must provide the comments to the Planning Department as follows:
 - For inclusion in the regular packet: by 11:00 a.m. the Friday before the meeting
 - For inclusion in any Addendum: by 11:00 a.m. the day before the meeting
 - For inclusion in any Desk Item: by 11:00 a.m. on the day of the meeting

Planning Commission meetings are broadcast Live on KCAT, Channel 15 (on Comcast) on the 2nd and 4th Wednesdays at 7:00 p.m.
Live and Archived Planning Commission meetings can be viewed by going to:
<https://www.kcat.org/government-meetings>

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CLERK DEPARTMENT AT (408) 354-6834. NOTIFICATION 48 HOURS BEFORE THE MEETING WILL ENABLE THE TOWN TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28 CFR §35.102-35.104]

IMPORTANT NOTICE REGARDING PLANNING COMMISSION MEETING

This meeting is being conducted utilizing teleconferencing and electronic means consistent with Government Code Section 54953, as Amended by Assembly Bill 361, in response to the state of emergency relating to COVID-19 and enabling teleconferencing accommodations by suspending or waiving specified provisions in the Ralph M. Brown Act (Government Code § 54950 et seq.). Consistent with AB 361 and Town of Los Gatos Resolution 2021-044 this meeting will not be physically open to the public and the Council and/or Commissioners will be teleconferencing from remote locations. Members of the public can only participate in the meeting by joining the Zoom webinar (log in information provided below). The live stream of the meeting may be viewed on television and/or online at: <https://meetings.municode.com/PublishPage/index?cid=LOGATOS&ppid=4bc370fb-3064-458e-a11a-78e0c0e5d161&p=0>. **In accordance with Executive Order N-29-20, the public may only view the meeting on television and/or online and not in the Council Chambers.**

PARTICIPATION

If you are not interested in providing oral comments real-time during the meeting, you can view the live stream of the meeting on television (Comcast Channel 15) and/or online at <https://www.youtube.com/channel/UCFh35XRBWer1DPx-F7vvhcg>.

If you are interested in providing oral comments in real-time during the meeting, you must join the Zoom webinar at:

<https://logatosca-gov.zoom.us/j/83131632149?pwd=ZDJpVUJESENCdkZjUHpONkdqejc1QT09>.

Passcode: 059602.

Please be sure you have the most up-to-date version of the Zoom application should you choose to provide public comment during the meeting. Note that participants cannot turn their cameras on during the entire duration of the meeting.

During the meeting:

- When the Chair announces the item for which you wish to speak, click the “raise hand” feature in Zoom. If you are participating by phone on the Zoom app, press *9 on your telephone keypad to raise your hand. If you are participating by calling in, press #2 on your telephone keypad to raise your hand.
- When called to speak, please limit your comments to three (3) minutes, or such other time as the Chair may decide, consistent with the time limit for speakers at a Council meeting.

If you are unable to participate in real-time, you may send an email to PlanningComment@logatosca.gov with the subject line “Public Comment Item #” (insert the item number relevant to your comment) or “Verbal Communications – Non Agenda Item.” Comments will be reviewed and distributed before the meeting if received by 11:00 a.m. on the day of the meeting. All comments received will become part of the record. The Chair has the option to modify this action on items based on comments received.

REMOTE LOCATION PARTICIPANTS

The following Planning Commissioners are listed to permit them to appear electronically or telephonically at the Planning Commission meeting: CHAIR KATHRYN JANOFF, VICE CHAIR BURCH, COMMISSIONER BARNETT, COMMISSIONER HANSSEN, COMMISSIONER SUZUKI, COMMISSIONER TAVANA, AND COMMISSIONER THOMAS. All votes during the teleconferencing session will be conducted by roll call vote.

**TOWN OF LOS GATOS
PLANNING COMMISSION AGENDA
OCTOBER 27, 2021
7:00 PM**

MEETING CALLED TO ORDER

ROLL CALL

VERBAL COMMUNICATIONS *(Members of the public may address the Commission on any matter that is not listed on the agenda. Unless additional time is authorized by the Commission, remarks shall be limited to three minutes.)*

CONSENT ITEMS *(Items appearing on the Consent Items are considered routine Town business and may be approved by one motion. Any member of the Commission may request to have an item removed from the Consent Items for comment and action. Members of the public may provide input on any or multiple Consent Item(s) when the Chair asks for public comments on the Consent Items. If you wish to comment, please follow the Participation Instructions contained on Page 2 of this agenda. If an item is removed, the Chair has the sole discretion to determine when the item will be heard.)*

1. Draft Minutes of the October 13, 2021 Planning Commission Meeting

PUBLIC HEARINGS *(Applicants/Appellants and their representatives may be allotted up to a total of five minutes maximum for opening statements. Members of the public may be allotted up to three minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of three minutes maximum for closing statements. Items requested/recommended for continuance are subject to the Commission's consent at the meeting.)*

2. Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of a Six-Foot Fence and Driveway Gate Located Within the Required Front Yard Setback on Property Zoned HR-1. **Located at 100 Alerche Drive.** APN 567-18-069. Property Owner/Applicant/Appellant: Anirudh Chauhan. Project Planner: Ryan Safty.
3. Requesting Approval for a Variance from the Town Code for the Height of an Accessory Structure and Length of Driveway, and an Exception to the Hillside Development Standards and Guidelines for the Setbacks of an Accessory Structure on Property Zoned R-1:10. **Located at 56 Kimble Avenue.** APN 529-33-035. Variance Application V-20-002. Property Owner: Peter Lisherness and Kim Nguyen. Applicant: Jay Plett. Project Planner: Jocelyn Shoopman.

OTHER BUSINESS *(Up to three minutes may be allotted to each speaker on any of the following items.)*

4. Review and Discuss the Commercial Cannabis Presentation Provided by the Town Attorney.

REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT

SUBCOMMITTEE REPORTS / COMMISSION MATTERS

ADJOURNMENT *(Planning Commission policy is to adjourn no later than 11:30 p.m. unless a majority of the Planning Commission votes for an extension of time)*

Writings related to an item on the Planning Commission meeting agenda distributed to members of the Commission within 72 hours of the meeting are available for public inspection at the reference desk of the Los Gatos Town Library, located at 100 Villa Avenue; the Community Development Department and Clerk Department, both located at 110 E. Main Street; and are also available for review on the official Town of Los Gatos website. Copies of desk items distributed to members of the Commission at the meeting are available for review in the Town Council Chambers.

Note: The Town of Los Gatos has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a decision of the Town Council must be brought within 90 days after the decision is announced unless a shorter time is required by State or Federal law.



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 10/27/2021

ITEM NO: 1

**DRAFT
MINUTES OF THE PLANNING COMMISSION MEETING
OCTOBER 13, 2021**

The Planning Commission of the Town of Los Gatos conducted a Regular Meeting on Wednesday, October 13, 2021, at 7:00 p.m.

This meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID19 pandemic and was conducted via Zoom. All planning commissioners and staff participated from remote locations and all voting was conducted via roll call vote.

MEETING CALLED TO ORDER AT 7:00 P.M.

ROLL CALL

Present: Chair Kathryn Janoff, Vice Chair Kendra Burch, Commissioner Jeffrey Barnett, Commissioner Melanie Hanssen, Commissioner Jeffrey Suzuki, Commissioner Reza Tavana, and Commissioner Emily Thomas.

Absent: None.

VERBAL COMMUNICATIONS

None.

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)

- 1. Approval of Minutes – September 22, 2021**

MOTION: Motion by Commissioner Barnett to approve adoption of the Consent Calendar. **Seconded** by Vice Chair Burch.

VOTE: Motion passed unanimously.

PUBLIC HEARINGS

- 2. 16466 Bonnie Lane**
Subdivision Application M-21-003
APN 532-02-053
Applicant: Tony Jeans

Property Owner: Mish Chadwick
Project Planner: Ryan Safty

Requesting Approval for Subdivision of One Lot into Two Lots on Property Zoned R-1:20.

Commissioner Barnett announced that he would recuse himself from participating in the public hearing for 16466 Bonnie Lane because he lives within the prescribed radius for proximity to the subject site.

Ryan Safty, Associate Planner, presented the staff report.

Opened Public Comment.

Tony Jeans, Applicant:

- The parcel is irregularly shaped, but is almost 2 acres in size in the R-1:20 zoning district, so it is way bigger than anything else. They considered other alternatives for splitting the lot, but decided to go with the current plan to introduce a “jog” in the division between the parcels to give more room for a potential future house with more privacy for the neighbor to the left. The irregular shape of the existing parcel would not be made any worse by this lot split, rather it brings more conformity to the neighborhood, and the lot split of a 2-acre parcel to permit this is almost required by the Subdivision Map Act, the General Plan, and the zoning rules of the Town.

Tom Lippe, Attorney representing Patti and Erik Van Der Burg of 6417 Peacock Lane:

- The Town Code requires 100 feet of street frontage for this interior lot and the proposed new parcel has only about seven feet of street frontage on Bonnie Lane. The plans dated July 2021 show vehicle access provided by a new driveway from Bonnie Lane across an unpaved easement area to the new lot, but the unpaved easement is a street and is not a thoroughfare for vehicle travel affording the principle means of access, it is in fact someone’s yard. The actual thoroughfare that provides vehicle access to this parcel is Bonnie Lane and the new parcel does not have 100 feet of frontage on Bonnie Lane.

Les Kishler:

- He and his wife bought their property in the Ross Creek neighborhood in 1971. In the 1980s the neighborhood was an unincorporated country island and he and his neighbors were annexed to the Town of Los Gatos, and the Town agreed at that time to protect the neighborhood’s character, such as low density. The Planning Commission at that time spoke of the value of allowing neighborhoods in Los Gatos to keep their unique character and not push all of them towards greater density and he hopes the current Planning Commission will continue that history.

Amir Segev, next-door neighbor:

- He hopes this is not some type of rubber-stamp ceremony without an opportunity to act on the decision and that the neighbors will be heard. His objections and those of his neighbors are not automatic objections. He would like to support this project, but a couple of things prevent that: 1) This project would be detrimental to the quality of life for the neighbors and the nature and character of the street with the increased density; and 2) He is terrified that a monstrosity would be built on the site. The neighbors are not concerned about a subdivision, but what that may bring later on and they are being kept in the dark regarding the proposal.

Rebecca Guerra, 16500 Bonnie Lane:

- Her property includes the discussed driveway easement. She and her two immediate neighbors are the properties that have right of easement on that driveway. She is trying to understand the difference between a private driveway and easement versus street frontage and how that is interpreted in this particular proposal.

Pamela Kee, 16509 Bonnie Lane:

- She lives across the street. Nothing has been said about whether sub-parcel 1 would be built. If this is a shared driveway access sub-parcel 1 could be in violation of the Santa Clara County Fire Standard and cause 16500 and 16510 Bonnie Lane to be in violation of the standard also, because their driveways would be in excess of 250 feet from the nearest hydrant.

Unidentified Speaker, Peacock Lane:

- He lives across the street from the Ross Creek riparian corridor, which is in a flood zone. Because of this his insurance is triple. Because of this new construction and the other construction upstream the potential for flooding is increased. The riparian corridor should be increased to 100 feet or more to reduce the likelihood of flood damage. This has not been investigated as much as it should be.

Tony Jeans, Applicant:

- With respect to the 50-foot wide easement on the 16500 Bonnie Lane property, this is a 50-foot wide dedication made in 1953 explicitly for road purposes, and all of that area is singled out. The frontage is along the property line of that, not along the road itself, so the fact that there was a 20-foot roadway or thoroughfare supposedly put on it does not determine the frontage. The frontage is the edge of the 50-foot easement. He has done his best to give additional space so that there is flexibility in designing a home for parcel 2 as to location and the design of the house. Fire safety will be determined at the architecture and site application phase. This is in flood zone D, which is not in the 100-year flood zone district.

Closed Public Comment.

Commissioners discussed the matter.

MOTION: **Motion by Commissioner Hanssen** to approve a Subdivision Application for 16466 Bonnie Lane, including a condition of approval to include the open space easement near the riparian corridor. **Seconded by Vice Chair Burch.**

VOTE: **Motion passed unanimously with Commissioner Barnett recused.**

OTHER BUSINESS

REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT

Joel Paulson, Director of Community Development

- A General Plan community meeting was held October 6th and was well attended. The Town is working with our consultants to determine the next steps for completing the Final EIR and responding to public comments.
- Recruitment is being held for various commissions and committees with a deadline of December 3rd.

SUBCOMMITTEE REPORTS/COMMISSION MATTERS

Conceptual Development Advisory Committee

Commissioner Barnett

- The CDAC met 10/13/21; discussed the request for a proposal for a preliminary review of an amendment to the North Forty Specific Plan that concerns the construction of a two-story commercial building at 15171 Los Gatos Boulevard.

ADJOURNMENT

The meeting adjourned at 8:33 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the October 13, 2021 meeting as approved by the Planning Commission.

/s/ Vicki Blandin



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 10/27/2021

ITEM NO: 2

DATE: October 22, 2021
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of a Six-Foot Fence and Driveway Gate Located Within the Required Front Yard Setback on Property Zoned HR-1. Located at 100 Alerche Drive. APN 567-18-069. Property Owner/Applicant/Appellant: Anirudh Chauhan. Project Planner: Ryan Safty.

RECOMMENDATION:

Deny the appeal of a Community Development Director decision to deny a fence height exception on property zoned HR-1, located at 100 Alerche Drive.

PROJECT DATA:

General Plan Designation: Hillside Residential
Zoning Designation: HR-1
Applicable Plans & Standards: General Plan
Parcel Size: 62,328 square feet
Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Hillside Residential	HR-1
South	Residential	Hillside Residential	HR-1
East	Residential	Hillside Residential	HR-1
West	Residential	Low Density Residential	R-1:10

PREPARED BY: RYAN SAFTY
Associate Planner

Reviewed by: Planning Manager and Community Development Director

PAGE 2 OF 6

SUBJECT: 100 Alerche Drive/FHE-21-009

DATE: October 22, 2021

CEQA:

The project is Categorical Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures. The project proposes a new six-foot tall fence and vehicular gate.

FINDINGS:

- The project is Categorical Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The subject property is located on the south-east corner of Alerche Drive and Harwood Road (Exhibit 1).

On August 9, 2021, the Town received a complaint regarding an unpermitted fence being constructed in the front yard of 100 Alerche Drive. On August 12, 2021, the Town's Code Enforcement Officer contacted the property owner and informed them of the violation.

On August 16, 2021, the property owner applied for a Fence Height Exception application to install a six-foot tall wrought iron fence and automatic gate within the required front yard setback (Exhibit 7). Town Code requires that fences and gates within the required front yard setback be limited to three feet in height.

On September 1, 2021, the Town denied the exception request since none of the required conditions listed in Town Code 29.40.0320 (*Exceptions*) were found to exist on the subject property.

On September 7, 2021, the decision of the Community Development Director to deny the exception request was appealed to the Planning Commission.

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located on the south-east corner of Alerche Drive and Harwood Road (Exhibit 1). The surrounding properties are low-density residential and hillside residential.

B. Project Summary and Zoning Compliance

The property owner is appealing the Community Development Director decision to deny a Fence Height Exception application to install a six-foot tall fence and vehicular gate within the required front yard setback. The proposed project complies with all other Town Code requirements.

DISCUSSION:

A. Fence Height Exception

The property owner is requesting to construct a six-foot tall wrought iron fence and automatic driveway gate within the required front yard setback. Prior to being contacted by the Code Enforcement Officer, the owner had begun installation of the six-foot fence (Exhibit 6). The majority of the unpermitted fence is setback five feet from the front property line. A small portion in between the eastern edge of the property and the second driveway approach is setback ten feet from the front property line.

The owner is requesting to maintain the current location of the six-foot fence, and also install six-foot tall vehicular gates located 18 feet from the edge of the street. Parks and Public Works reviewed the proposal in terms of driveway view area, traffic view area, and corner sight triangle and found that the exception request could be supported.

Per Town Code Section 29.40.0315, fences and gates in the hillside area are limited to six-feet in height and further limited to three feet when located within the required front or side yard setback abutting a street, fences located within 20 feet of a property line must be "open view" where no more than 20 percent of the surface area of the fence obstructs a view through the fence, and vehicular gates must be setback from the edge of the adjacent street a minimum of 18 feet. The proposal complies with the "open view" definition as the iron posts are 0.625 inches and the spacing is four inches (15.6 percent). The vehicular gates also comply as they would open inward, towards the property, and would be setback 18 feet from the edge of pavement of the street. The proposed height of the fence and gates is the only exception request.

DISCUSSION (continued):

Town Code Section 29.40.0320, provided below, allows an exception to any of the fence regulations if a property owner can demonstrate that one of the following conditions exist.

Sec. 29.40.0320. - Exceptions.

An exception to any of these fence regulations may be granted by the Community Development Director. A fence exception application and fee shall be filed with the Community Development Department and shall provide written justification that demonstrates one (1) of the following conditions exist:

- (a) Adjacent to commercial property, perimeter fences or walls may be eight (8) feet if requested or agreed upon by a majority of the adjacent residential property owners.*
- (b) On interior lots, side yard and rear yard fences, walls, gates, gateways, entry arbors, or hedges, behind the front yard setback, may be a maximum of eight (8) feet high provided the property owner can provide written justification that either:
 - (1) A special privacy concern exists that cannot be practically addressed by additional landscaping or tree screening; or*
 - (2) A special wildlife/animal problem affects the property that cannot be practically addressed through alternatives. Documented instances of wildlife grazing on gardens or ornamental landscaping may be an example of such a problem.**
- (c) At public utility facilities, critical infrastructure, and emergency access locations, exceptions may be granted where strict enforcement of these regulations will result in a security or safety concern.*
- (d) A special security concern exists that cannot be practically addressed through alternatives.*
- (e) A special circumstance exists, including lot size or configuration, where strict enforcement of these regulations would result in undue hardship.*

The property owner requested an exception due to wildlife concerns associated with the existing vineyard and orchard, privacy and security concerns due to the property being situated at the corner of two busy streets, and compatibility with the surrounding neighborhood (Exhibit 4).

For the wildlife concerns, the property owner cited condition (b) (2) from Town Code Section 29.40.0320. The property has an existing vineyard in the front yard and orchard trees in the front corner of the property. The property owner states that deer are eating the front vineyard, and that a six-foot tall fence is required to protect the vineyard from being eaten (Exhibit 4). However, (b) (2) from Town Code Section 29.40.0320 only applies to side and rear yard fences on interior lots, behind the front setback. The proposal is within the front yard of a corner lot; therefore, staff could not support the requested exception.

DISCUSSION (continued):

For the privacy and security concern, the property owner cited condition (b) (1) from Town Code Section 29.40.0320. The property is a corner lot, and the property owner states that people trespass on to the property to visit and taste the fruits, which creates a privacy and safety concern (Exhibit 4). However, (b) (1) from Town Code Section 29.40.0320 only applies to side and rear yard fences on interior lots, behind the front setback. The proposal is within the front yard of a corner lot; therefore, staff could not support the requested exception.

For neighborhood compatibility, the property owner cited condition (e) from Town Code Section 29.40.0320. The property owner recently purchased the property, and the vineyard and orchard were existing. The property owner states that complying with Town Code by either reducing the height to three feet or pushing the fence and gates back to comply with the required 30-foot front setback requirement would be an undue hardship (Exhibit 4). The property owner references nine other properties in the neighborhood that do not comply with these rules, and they feel that a compliant fence would not be compatible with the neighborhood (Exhibit 5). However, none of the nine properties referenced received an approved fence exception; therefore, staff could not support the requested exception.

B. Appeal Analysis

The Decision of the Community Development Director to deny the Fence Height Exception application was appealed on September 7, 2021 (Exhibit 9). The property owner believes that the exception request is compatible with the neighborhood and if they complied with Town Code, their property would not blend with the neighborhood. Attached to the appeal form were twelve emails from neighbors in support of the proposed exception (Exhibit 10). The neighbor's emails reflect the reasoning provided by the property owner in the appeal form.

C. Environmental Review

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

PUBLIC COMMENTS:

Written notice was sent to property owners and tenants within 500 feet of the subject property. Several neighbors have submitted letters of support, which were provided when the appeal was received, and are included as Exhibit 10. At time of preparation of this report, no additional public comment has been received.

CONCLUSION:

A. Summary

The property owner is requesting that the Planning Commission reconsider the Community Development Director's decision to deny the Fence Height Exception application in order to maintain the existing six-foot tall fence and vehicular gates within the required front yard setback.

B. Recommendation

Staff recommends that the Planning Commission take the following actions to deny the appeal, uphold the decision of the Community Development Director, and deny the Fence Height Exception application:

1. Find that the proposed project is categorically exempt pursuant to the adopted Guidelines for the implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures (Exhibit 2); and
2. Deny the appeal of a Community Development Director decision to deny the Fence Height Exception application.

C. Alternatives

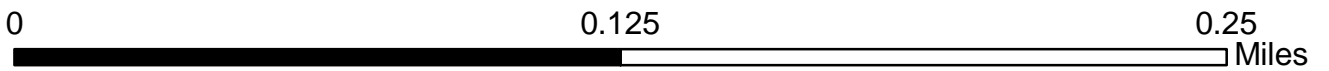
Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction;
2. Grant the appeal and approve the Fence Height Exception application with the draft conditions provided in Exhibit 3; or
3. Grant the appeal with additional and/or modified conditions.

EXHIBITS:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval if Appeal is Approved
4. Project Description and Letter of Justification, received August 29, 2021
5. Neighborhood Pictures, received August 29, 2021
6. Property Pictures, received August 29, 2021
7. Project Plans, received August 29, 2021
8. Fence Height Exception Denial Letter, dated September 1, 2021
9. Appeal of Community Development Director Decision, received September 9, 2021
10. Neighborhood Support of Appeal, received September 9, 2021

100 Alerche Drive



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PLANNING COMMISSION –October 27, 2021
REQUIRED FINDINGS FOR:

100 Alerche Drive
Fence Height Exception FHE-21-009

Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of a Six-Foot Fence and Driveway Gate Located Within the Required Front Yard Setback on Property Zoned HR-1. Located at 100 Alerche Drive. APN 567-18-069. Property Owner/Applicant/Appellant: Anirudh Chauhan. Project Planner: Ryan Safty.

Required finding for CEQA:

- The project is Categorical Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

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PLANNING COMMISSION – October 27, 2021
CONDITIONS OF APPROVAL

100 Alerche Drive
Fence Height Exception FHE-21-009

Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of a Six-Foot Fence and Driveway Gate Located Within the Required Front Yard Setback on Property Zoned HR-1. Located at 100 Alerche Drive. APN 567-18-069. Property Owner/Applicant/Appellant: Anirudh Chauhan. Project Planner: Ryan Safty.

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below.
2. EXPIRATION: The Fence Height Exception approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. BUILDING PERMIT: The proposed vehicular gates require a building permit.
4. VEHICULAR GATE: The vehicular gate must open inward, towards the residence.
5. TREE PROTECTION: At the discretion of the Town Arborist, tree protection fencing shall be installed prior to building permit issuance.
6. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval and may be secured to the satisfaction of the Town Attorney.

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I would like to put 6 feet wrought iron fence which is completely see through and matches with what my front neighbor at 101 Alerche Drive installed couple of months back and 7 other houses in the neighborhood have. The fence rods are 0.625 inch wide that confirms to the visibility rules. I have structured the document in following sections:

- Unique characteristics of the property
- Why I need a fence
- Exception Request
- Proposal for the fence
- Pictures of fences in the neighborhood
- Support from neighbors for the fence with straight line pattern parallel to street

Key/Unique features of the property

1. I have a vineyard with 24 rows of 20 grape trees in the back (around 500 grape vines), 12 rows of vines in front (around 120 grape vines) and fruit orchard all along the property. These are a big source of income to help me maintain the property. The fruit orchard in the front corner got largely destroyed by wildlife and so I must redo this area now which is unfortunate cost that to bear as I did not proactively take care of fencing.



2. It's a corner property along two very busy streets. At any point of day, you can find people walking along Alerche and Harwood.



3. There are two large and mature Birch trees in the front, around 8 feet from the property line and two mature Magnolia trees around 12 feet in front of the house structure with shallow roots (many cases even above surface). There is a curved driveway around 28 feet inside.

Why I need fence in the front

1. Security for Vineyards and Orchard: The vineyard in the front is totally exposed to wildlife, we have had to chase deer/s away from them several times.



So far, I was relying on security cameras to detect any movement and then go out and make sure that the vines are not being eaten at. With back to work starting in September I'm afraid this won't be possible and so requesting for a "Wildlife exception" to be able to install the fence.

2. Security of family and property: Even at 10:30 at night you will find people hanging around, some of them curious enough to check the vineyards and orchards and so walk into the property, which is very uncomfortable for the family, especially my teenage daughter. In the 3 months we have lived, in two different occasions we have had strangers walk into our property past the garage, all the way to the backyard.

Exception request

I'm requesting an exception for six feet see through and wildlife friendly fence under

Sec. 29.40.0320. - Exceptions

- *A special wildlife/animal problem affects the property that cannot be practically addressed through alternatives. Documented instances of wildlife grazing on gardens or ornamental landscaping may be an example of such a problem.*

The vineyard and fruit orchard in the front are being destroyed by deer grazing causing financial loss to my business under the name "The Chauhan LLC" registered with California State for Vineyard and Wine Making business. Hence the request for for 6 feet fence to keep deer/s away.

- *A special privacy concern exists that cannot be practically addressed by additional landscaping or tree screening*

We have had unwarranted and surprise trespassing from people who walk along Alerche and Harwood and are curious to check out the vineyard and orchard or to taste the fruits

without informing us. As a father of a teenage girl this makes me very uncomfortable, and family feel insecure. Hence the request to put gates and fence along the front of the property.

- *A special circumstance exists, including lot size or configuration, where strict enforcement of these regulations would result in undue hardship.*

The vineyard in the front is laid out at a 45-degree angle to the house structure to get maximum area for farming and get adequate sunlight. Just covering that section is not possible without the fence coming all the way up to the front porch which would make the property look extremely unpleasing to sight. There is a sewer line running on that side of house, 4 feet to the side of porch which would be in the path of the fence and so encircling just the vineyard becomes extremely problematic and tough.

In the middle part of the front section, pushing the fence out all the way along the curved driveway is something most of my neighbors are opposed to as it doesn't conform with the fencing pattern with other 11 houses in the neighborhood that have a straight fence running parallel to the street (they are either at the edge of the property line or less than 10 feet from street, while in my case I am requesting exception to install fence with 10 feet setback from street (5 feet setback from property line). In the last section I am presenting emails from 5 of my neighbors who very strongly support the configuration I'm proposing. Further if I must push it back along the driveway, given the way property is structured in certain areas the fence would be barely 12 feet away from house which is aesthetically extremely unpleasing and takes away any open space for kids and pets to play or for pet to do his job with nature's call (pee or poo). There won't be any grass area left.

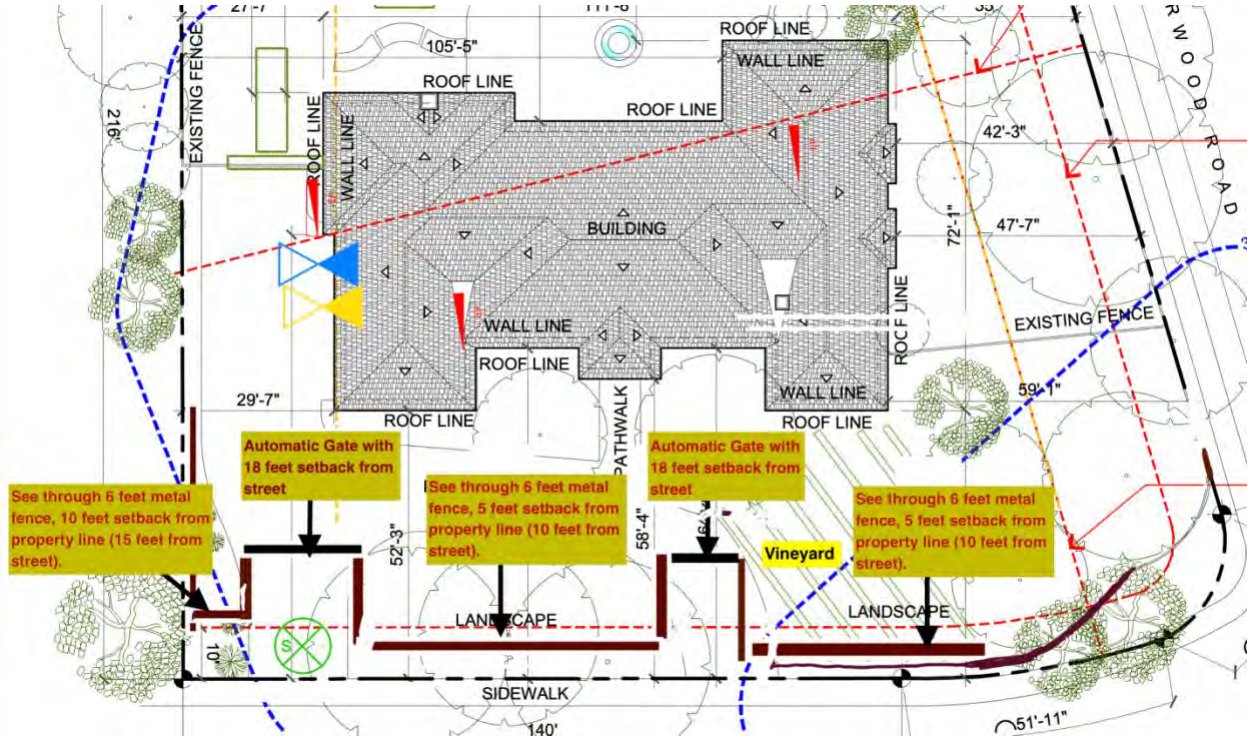
While I understand it's very important to follow the city guidelines (and I do want to), I sincerely hope that the Director of Planning puts under consideration the thoughts and desires of the residents of the neighborhood and decides in favor of an exception for something that blends well with the overall looks and aesthetics of the neighborhood. It's a very close knit and friendly neighborhood where all of us want to feel good about our surroundings and not have to look at something that is totally off from other houses.

Proposal for the fence

1. A 6-foot-high wrought iron fence which is completely see through. Anything under 6 feet doesn't give protection to my orchard and vineyards in the front. The fence rods are 0.625 inch wide that confirms to the visibility rules. The proposed fence matches with my front neighbor's fence at 101 Alerche and 7 other houses in the neighborhood.
2. The fence would be 10 feet inside from the street in the middle section, as far back as possible to the mature Birch trees and vines so I do not have to cut/remove/damage any trees running parallel to the street. In the vineyard section, the fence would run straight just beside the last column of vines and behind the existing bushes. This straight fencing pattern along the front of the property parallel to street matches with 11 other houses in the neighborhood. Most of them were installed within the last 3 years and have zero to less than 10 feet space from the street. In my case I'm proposing a 10 feet setback from

street (5 feet setback from property line) so that I can have some seasonal flowers and landscaping done between the fence and street to give a nice look.

- Two motorized gates on both sides of the curved driveway, with 18 feet setback from street that confirms to city guidelines.



The fence is far away from street to cause any kind of obstruction of view. Some pictures below to show there is no obstruction of sight

Street view from Stop sign



Front yard view



The fence has a 10 feet setback from the edge of the street. There are two trees right behind it and I did not want to damage them.

Corner View



Location of Gates with 18 feet setback



Pictures of fence in the neighborhood

Front house, 101 Alerche Drive



Diagonally opposite 105 Alerche Drive



105 Critter Drive



2nd house from there 103 Critter Drive



110 Alerche Drive (3rd house from me on the same side of street)



The house in front 109 Alerche Drive



The house next to it 117 Alerche Drive



House opposite to it 114 Alerche Drive.



The house next to it 16494 Harwood Drive



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Front house, 101 Alerche Drive



Diagonally opposite house 105 Alerche Drive: Nott even see through



2nd house from there 103 Critter Drive



The next house 105 Critter Drive



110 Alerche Drive (3rd house from me on the same side of street)



The house in front 109 Alerche Drive



The house next to it 117 Alerche Drive



House opposite to it 114 Alerche Drive



The house next to it 16494 Harwood Drive



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LIVE













LIVE



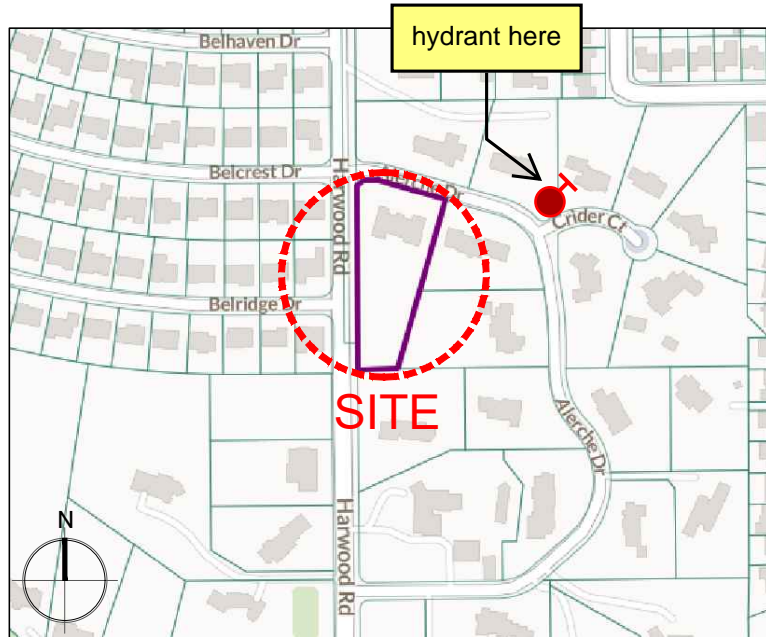




LIVE

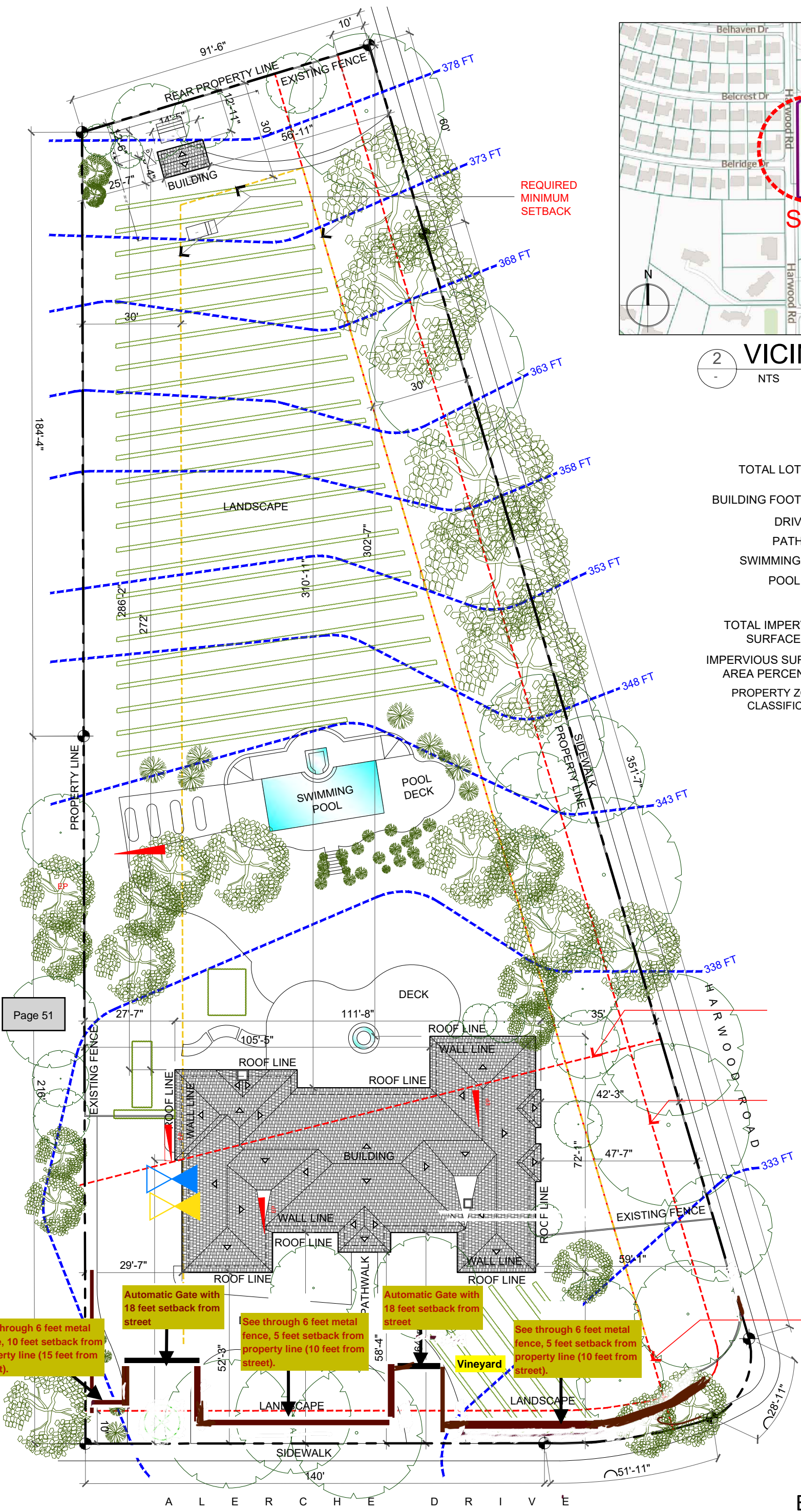


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2 VICINITY MAP
- NTS

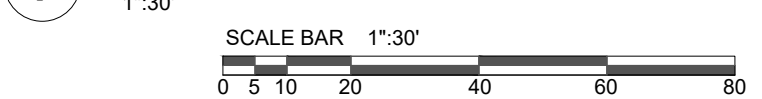
TOTAL LOT AREA	=	62,328.48	SQ. FT.
BUILDING FOOTPRINT	=	5,549.88	SQ. FT.
DRIVEWAY	=	4,077.79	SQ. FT.
PATHWALK	=	329.48	SQ. FT.
SWIMMING POOL	=	600.33	SQ. FT.
POOL DECK	=	1326.53	SQ. FT.
DECK	=	2,192.49	SQ. FT.
TOTAL IMPERVIOUS SURFACE AREA	=	14,076.50	SQ. FT.
IMPERVIOUS SURFACE AREA PERCENTAGE	=	22.58%	
PROPERTY ZONING CLASSIFICATION	=	"HR-1" (HILLSIDE RESIDENTIAL)	



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EXHIBIT 7

1 SITE PLAN WITH TOPOGRAPHY



Address: 100 ALERCHE DR LOS GATOS, SANTA CLARA CA 95032			
Parcel ID: 56718069	Owner: ANI CHAUHAN	Drawn by: JCR	Date: 04-17-2021

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TOWN OF LOS GATOS

COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
(408) 354-6872 Fax (408) 354-7593

CIVIC CENTER
110 E. MAIN STREET
LOS GATOS, CA 95030

September 1, 2021

Anirudh Chauhan
100 Alerche Drive
Los Gatos, CA 95032

RE: 100 Alerche Drive
Fence Height Exception (FHE-21-009)

Requesting approval for a constructed six (6) foot fence and driveway gates located within the required front yard setback on property zoned HR-1. APN 567-18-069.
PROPERTY OWNER/APPLICANT: Anirudh Chauhan

The Los Gatos Community Development Department has reviewed the referenced application for a fence height exception pursuant to Section 29.40.0320. On September 1, 2021, the Los Gatos Community Development Department has **denied** the request.

PLEASE NOTE: Pursuant to Section 29.20.255 of the Town Code, this decision may be appealed to the Planning Commission within 10 days of the denial date. Any interested person may appeal this decision to the Planning Commission. Appeals, with the completed Appeal Form and appeal fee payment, must be submitted within 10 days from the date of denial, or by 5:00 p.m., September 10, 2021.

If you have any questions concerning this decision, please contact Project Planner Ryan Safty at (408) 354-6802 or via email at RSafty@losgatosca.gov.

Sincerely,

Ryan Safty
Associate Planner

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**TOWN OF LOS GATOS
COMMUNITY DEVELOPMENT DEPARTMENT**
110 E. Main Street
Los Gatos, CA 95030

**APPEAL OF THE DECISION OF
DIRECTOR OF COMMUNITY DEVELOPMENT**

PLEASE TYPE or PRINT NEATLY

I, the undersigned, do hereby appeal a decision of the DIRECTOR OF COMMUNITY DEVELOPMENT as follows:

DATE OF DECISION: September 1, 2021

PROJECT/APPLICATION: Fence Height Exception (FHE-21-009)

LOCATION: 100 Alerche Drive, Los Gatos, CA-95032

Pursuant to the Town Code, any interested person as defined in Section 29.10.020 may appeal to the Planning Commission any decision of the Director.

Interested person means:

1. *Residential projects.* Any person or persons or entity or entities who own property or reside within 1,000 feet of a property for which a decision has been rendered, and can demonstrate that their property will be injured by the decision.
2. *Non-residential and mixed-use projects.* Any person or persons or entity or entities who can demonstrate that their property will be injured by the decision.

LIST REASONS WHY THE APPEAL SHOULD BE GRANTED:

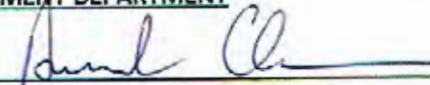
The proposed fence layout (for exception) matches with all the other houses in neighborhood that have fence (11 out of 15) and design with (8 out of 11). Attached to application is emails from 12 neighbors who strongly support the layout and fence design and have made a plea to the Director for same. Alternate layout proposed by Planning team will be an outlier and doesn't blend with any house around. We want to make neighborhood look coherent and pleasant while respecting guidelines from Town of Los Gatos. Sincerely hoping Planning Commission listens to and respects neighborhood voice.

IMPORTANT:

1. Appeal must be filed within ten (10) days after the date of mailing of written notification of the decision. If the tenth (10th) day is a Saturday, Sunday, or Town holiday, then the appeal may be filed on the workday immediately following the tenth (10th) day, usually a Monday.
2. The appeal shall be set for the first regular meeting of the Planning Commission which the business of the Planning Commission will permit, more than five (5) days after the date of the filing of the appeal. The Planning Commission may hear the matter anew and render a new decision in the matter.
3. You will be notified, in writing, of the appeal date.
4. Contact the project planner to determine what material is required to be submitted for the public hearing.

RETURN APPEAL FORM TO COMMUNITY DEVELOPMENT DEPARTMENT

PRINT NAME: Anirudh Chauhan

SIGNATURE: 

DATE: September 7th, 2021

ADDRESS: 100 Alerche Drive, Los Gatos, CA-95032

PHONE: 408-505-8096

EMAIL: chauhan.ani@gmail.com

OFFICE USE ONLY

DATE OF PLANNING COMMISSION HEARING: _____

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

PLAPPEAL \$ 221.00 Residential
 PLAPPEAL \$ 882.00 Commercial
 PLAPPEAL \$ 90.00 Tree Appeals

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Support from neighbors

Below are some of the emails I have received from neighbors, not just supporting the fence project but also calling out that running it straight and parallel to street is the most consistent way of laying it so it blends well with neighborhood.

Please find below email from my neighbors supporting that the current is in line with fencing for the house in Alerche neighborhood instead of the alternate option of going along the driveway. At least 11 houses have similar layout which would make the alternate option of going around the driveway will look very odd and not blend with neighborhood looks.

1. Fred - [REDACTED]

Fred Faltersack

Aug 26, 2021, 5:37 PM (2 days ago)



to Ron, Eugene, Andy, Stan, Louie, Louie, Nilima, Joseph, Joseph, Zag, Mandy, Christine, Gee, Rohini, me, Edwin

Dear Director of Planning, Town of Los Gatos,

I have been a resident of Los Gatos residing at [REDACTED] since 1986 and I support 100% the approval and completion of Ani Chauhan's front yard fencing and security gates in it's current location.

Anything else would not be consistent with existing front-yard fencing in our neighborhood. Not counting Ani's home, there is currently no less than 11 other homes in our neighborhood (Alerche, Crider, and the section of Harwood between the two intersections of Alerche and Harwood) which have front yard fences and security gates installed at a distance ranging from 5' to 10' behind the curb.

Thank you for your re-consideration on this.

Sincerely,

Fred Faltersack



Fred Faltersack



2. Andrew and Alberta - [REDACTED]

Andrew L. Davis

to me

Fri, Aug 27, 10:00 AM (1 day ago)



Hi Anirudh,

I'm Andrew Davis, your neighbor at [REDACTED] and I support your proposed fence project. I agree that your fence is consistent with other configurations in the neighbor. Good luck with the planning department.

Best regards,

Andrew and Alberta Davis



3. Eugene - [REDACTED]

From: Eugene Korsunsky <[REDACTED]>
Date: Thursday, August 26, 2021 at 5:20 PM

Subject: RE: Quick update on the fencing project and request for support

Hi Ani,

Please share with planning my statement below.

Dear Director of Planning or whom it may concern,

As a neighbor, I full heartedly believe and support that a fence that runs parallel and straight to the property is more consistent to the current aesthetics of Alerche Dr. Pushing the fence back 30' would counter existing designs of the entire neighborhood.

Thanks,

Eugene Korsunsky

President
Intempus

BRE#01795317

4. Edwin and Ramona - [REDACTED]



Hormozian, Edwin

Thu, Aug 26, 4:11 PM (2 days ago)



to [REDACTED]

Dear Director of Planning for City of Los Gatos – With respect to the fence installation on 100 Alerche Drive, we believe having the fence parallel to the property line/street is consistent with the rest of the neighborhood. Having the fence line curve in front of the driveway will create a design that is inconsistent with the rest of the homes.

Best Regards,

Edwin & Ramona Hormozian
[REDACTED]

5. Paola and Gabriele - [REDACTED]

Fence on 100 Alerche Dr 📧 Inbox x



Paola Di Matteo [REDACTED]

Wed, Sep 1, 3:33 PM (1 day ago)



to me, Gabri

Dear Director of Planning for City of Los Gatos,

We support the installation of a fence on 100 Alerche Drive with the fence parallel to the street. Having a fence that curves with the driveway would be inconsistent with the rest of the neighborhood.

Thanks,

Paola Di Matteo and Gabriele Di Piazza
[REDACTED]

6. Ron and Sarah - [REDACTED]

Ron Czerny

Thu, Aug 26, 2:15 PM (2 days ago) ☆ ↶ ⋮

to [REDACTED]

Dear Director of Planning, City of Los Gatos, we second and support Mr.Eugene Korsunsky statement below.

Sincerely, Sarah and Ron Czerny

[REDACTED]

...

From: Eugene Korsunsky <[REDACTED]>

Date: Thursday, August 26, 2021 at 5:20 PM

To: [REDACTED]

[REDACTED]

Cc: Rohini Kundu <[REDACTED]>

Subject: RE: Quick update on the fencing project and request for support

Hi Ani,

Please share with planning my statement below.

Dear Director of Planning or whom it may concern,

As a neighbor, I full heartedly believe and support that a fence that runs parallel and straight to the property is more consistent to the current aesthetics of Alerche Dr. Pushing the fence back 30' would counter existing designs of the entire neighborhood.

Thanks,

Eugene Korsunsky

President

Intempus

[REDACTED]

7. Tony and Haleh – [REDACTED]

Fence Approval ⓘ Inbox x

◇ 🖨️ 📧



[REDACTED]

12:00 AM (16 hours ago) ☆ ↶ ⋮

to me ▾

Dear Director of Planning for City of Los Gatos,


We are in agreement with the metal fence installation at 100 Alerche Drive. It appears the metal fence doesn't not hinder the appearance of the drive along side of Alerche drive.

Thanks,

Tony Farajifard & Haleh Karimian

[REDACTED]

8. Louie and Denise – [REDACTED]

 **Louie Sanguinetti**
to Denise, me ▾

Mon, Aug 30, 7:54 PM (3 days ago) ☆ ↶ ⋮

Dear Director of Planning for City of Los Gatos,

We support the installation of a fence on 100 Alerche Drive with the fence parallel to the street. Having a fence that curves with the driveway would be inconsistent with the rest of the neighborhood.

Thanks,
Louie and Denise Sanguinetti
[REDACTED]

...

9. **Neil – [REDACTED]**

Fence ▸ Inbox x

✕ 🖨️ ↗



[REDACTED]
to me ▾

9:36 AM (5 hours ago) ☆ ↶ ⋮

Dear Director of Planning for City of Los Gatos –

With respect to the fence installation on 100 Alerche Drive, we believe having the fence parallel to the property line/street is consistent with the rest of the neighborhood. Having the fence line curve in front of the driveway will create a design that is inconsistent with the rest of the homes.

Neil T Bostock
[REDACTED]

Sent from my iPad

10. **Gee and Simone – [REDACTED]**



GEE RITTENHOUSE

to Ron, Eugene, [REDACTED]

Sun, Sep 5, 12:35 PM (1 day ago) ☆ ↶ ⋮

Dear Director of Planning, City of Los Gatos,

We wholeheartedly support the request of Ani Chauhan to retain the placement of the new fence. This is consistent with the entire neighborhood and would very much look out of place if required to move the fence back 30' to the house.

Gee & Simone Rittenhouse
[REDACTED]
[REDACTED]

...

11. **Christine – [REDACTED]**



Christine Dowlatshahi

Sun, Sep 5, 6:53 PM (17 hours ago)



to Ron, Eugene, [REDACTED]

To Whom This May Concern:

I support Ani Chauhan's fence design and request to retain his fencing as currently built.

Best regards,

Christine Dowlatshahi

[REDACTED]

[Sent from AT&T Yahoo Mail for iPhone](#)



12. Ashvin and Nilima – [REDACTED]



ASHVIN -C

Sun, Sep 5, 8:08 PM (16 hours ago)



to me, Ron, Eugene, Andy, Stan, Edwin, Louie, Louie, Nilima, Joseph, Joseph, Zag, Mandy, Christine, Gee ▾

Dear Director of Planning, City of Los Gatos,

We fully support the request of Ani Chauhan and believe that a fence that runs parallel and straight to the property would be consistent with the entire neighborhood of Alerche Dr. As well pushing the fence back 30' would look out of place

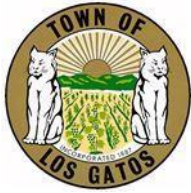
Kind Regards,

Nilima Parekhji

Ashvin Contractor

[REDACTED]

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**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 10/27/2021

ITEM NO: 2

ADDENDUM

DATE: October 26, 2021
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of a Six-Foot Fence and Driveway Gate Located Within the Required Front Yard Setback on Property Zoned HR-1. Located at 100 Alerche Drive. APN 567-18-069. Property Owner/Applicant/Appellant: Anirudh Chauhan. Project Planner: Ryan Safty.

REMARKS:

Exhibit 11 includes additional public comment received between 11:01 a.m., Friday, October 22, 2021, and 11:00 a.m., Tuesday, October 26, 2021.

EXHIBITS:

Previously received with the October 27, 2021 Staff Report:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval if Appeal is Approved
4. Project Description and Letter of Justification, received August 29, 2021
5. Neighborhood Pictures, received August 29, 2021
6. Property Pictures, received August 29, 2021
7. Project Plans, received August 29, 2021
8. Fence Height Exception Denial Letter, dated September 1, 2021
9. Appeal of Community Development Director Decision, received September 9, 2021
10. Neighborhood Support of Appeal, received September 9, 2021

PREPARED BY: RYAN SAFTY
Associate Planner

Reviewed by: Planning Manager and Community Development Director

PAGE 2 OF 3

SUBJECT: 100 Alerche Drive/FHE-21-009

DATE: October 26, 2021

Received with this Addendum Report:

11. Public comment received between 11:01 a.m., Friday, October 22, 2021 and 11:00 a.m., Tuesday, October 26, 2021

From: [Planning Comment](#)
To: [Ryan Safty](#)
Subject: FW: Fwd: Quick update on the fencing project and request for support
Date: Tuesday, October 26, 2021 11:51:52 AM

From: Mo Cheng [REDACTED]
Sent: Tuesday, October 26, 2021 8:44 AM
To: Planning Comment <PlanningComment@losgatosca.gov>
Subject: Re: Fwd: Quick update on the fencing project and request for support

EXTERNAL SENDER

To whom this may concern,

My name is Mo Cheng. I live at [REDACTED] in Los Gatos. Mr. Chauhan, addressed at 100 Alerche Drive, is my neighbor.

I'm writing to support Mr. Chauhan's application for a variant for his fence installation. We think having a straight line installation, parallel to the property line, is consistent with what's in the neighborhood. A curved fence behind the drive way would not be aesthetically pleasing to the neighborhood.

Thanks

Mo Cheng
[REDACTED]

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**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 10/27/2021

ITEM NO: 2

DESK ITEM

DATE: October 27, 2021
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider an Appeal of a Community Development Director Decision to Deny a Fence Height Exception Request for Construction of a Six-Foot Fence and Driveway Gate Located Within the Required Front Yard Setback on Property Zoned HR-1. Located at 100 Alerche Drive. APN 567-18-069. Property Owner/Applicant/Appellant: Anirudh Chauhan. Project Planner: Ryan Safty.

REMARKS:

Exhibit 12 includes additional public comment received between 11:01 a.m., Tuesday, October 26, 2021, and 11:00 a.m., Wednesday, October 27, 2021.

EXHIBITS:

Previously received with the October 27, 2021 Staff Report:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval if Appeal is Approved
4. Project Description and Letter of Justification, received August 29, 2021
5. Neighborhood Pictures, received August 29, 2021
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9. Appeal of Community Development Director Decision, received September 9, 2021
10. Neighborhood Support of Appeal, received September 9, 2021

PREPARED BY: RYAN SAFTY
Associate Planner

Reviewed by: Planning Manager and Community Development Director

110 E. Main Street Los Gatos, CA 95030 • (408) 354-6872
www.losgatosca.gov

PAGE 2 OF 3

SUBJECT: 100 Alerche Drive/FHE-21-009

DATE: October 27, 2021

Previously received with October 27, 2021 Addendum Report:

11. Public comment received between 11:01 a.m., Friday, October 22, 2021 and 11:00 a.m., Tuesday, October 26, 2021

Received with this Desk Item Report:

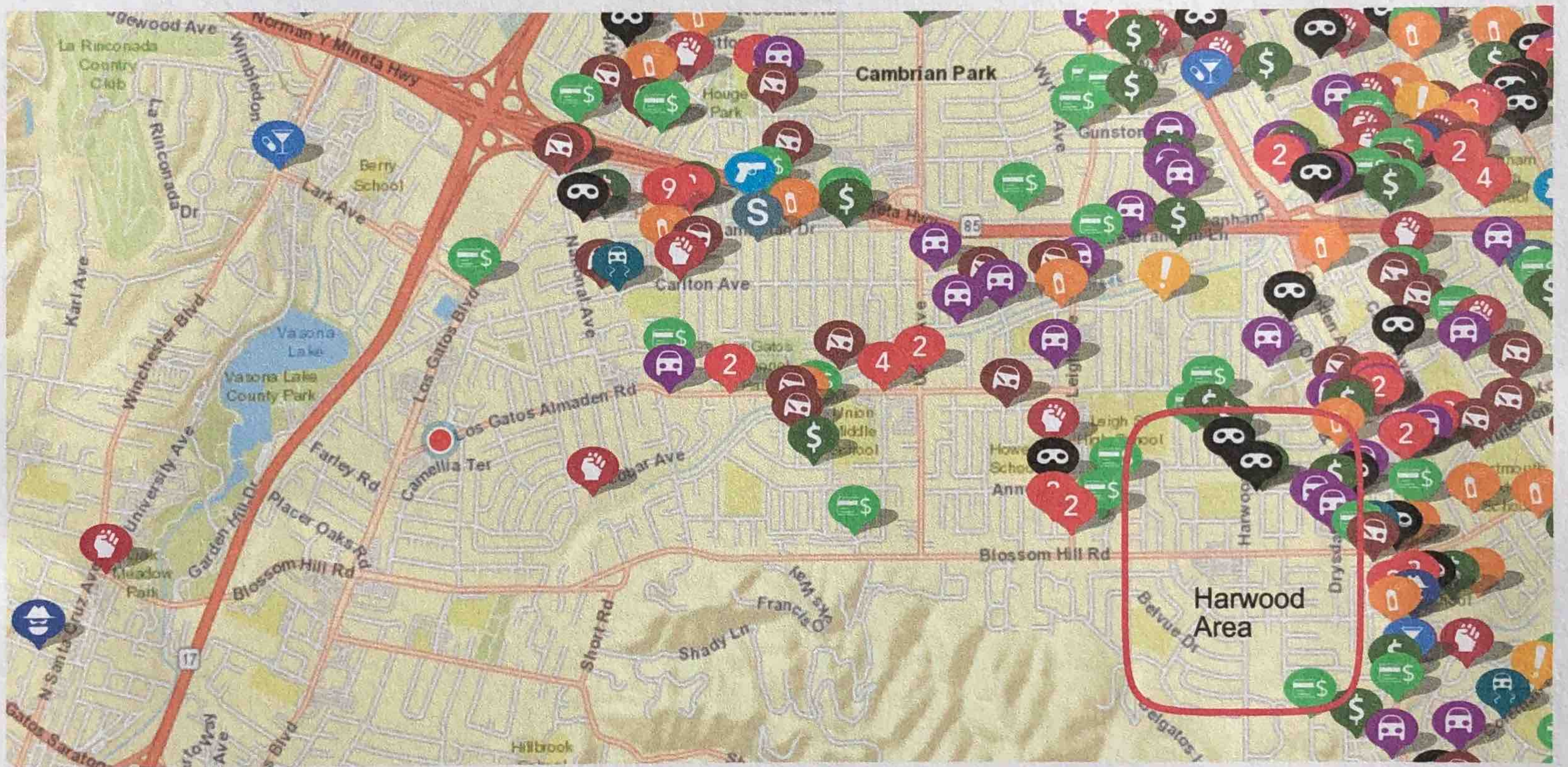
12. Public comment received between 11:01 a.m., Tuesday, October 26, 2021 and 11:00 a.m., Wednesday, October 27, 2021

I plan on speaking this evening so in order to not exceed my 3 minutes; I have detailed my security issues along Harwood Road. First, I find it difficult to accept that any person or government agency can dictate to an owner what he/she can or cannot do to protect ones family, pets, and property from bad people.

Harwood Road is a main artery accessing very nice neighborhoods including the Alerche and Belgatos developments. This East-most Los Gatos Neighborhood borders on San Jose and seems to be preferred areas for bad people to drive a short distance do bad things. Following are some examples. (SEE ATTACHED CRIME MAP)

- 1) 125 Alerche thieves parked on Harwood Road and jumped my 4-foot fence and proceeded to break into and steal the stereos out of all three vehicles parking in my driveway.
- 2) 125 Alerche, thieves accessed my property by jumping my 4-foot fence and attempted to break into my home. My return home caused them to flee and the Police performed a quick search prior to me entering my home.
- 3) On January 3rd, 2020 I called LGPD regarding a suspicious call parked in front of 16611 Harwood Road. A young man was arrested for outstanding warrants and the car was towed. Officer stated that since proposition 47 & 57 there has been an increase of burglaries.
- 4) On January 18th 2018 I received a call from an Alerche Neighbor. They found my mail strewn over their front yard (mail theft).
- 5) On February 6th, 2021 I called LGPD because a mail theft occurred in the general vicinity area and it was dumped in the Dog-poop station can at the corner of Alerche and Harwood. LGPD returned the mail to the rightful owners (mail theft).
- 6) A few months back a suspicious looking person was walking Harwood Road and taking pictures of the entries of homes using a camera with a decent sized lens. I went out with my iPhone to take photos of him. He proceeded to chase me yelling, "I can take photos of you to". Once back on my property, I called LGPD. They came out and took a description and then searched the neighborhood for the individual.
- 7) Cars constantly park on Harwood Road and parts of Alerche for both innocent and nefarious reasons. I am constantly picking up discarded alcohol containers, trash, and sometimes used condoms. 125 Alerche has only a 4-foot fence fronting Harwood and Alerche and as such, over 50% of the trash is thrown over the fence onto my property.

There are many more instances than what I described above which I have personally witnessed over the past 35 years living at 125 Alerche & Harwood.



Crime in Harwood Road Area past 6 months (May 01-October 27, 2021)

From: [REDACTED]
To: [Ryan Safty](#)
Cc: [REDACTED]
Subject: Comments on the 2021 Fence Height Exception Appeal (FHE-21-009)
Date: Wednesday, October 27, 2021 10:44:21 AM

EXTERNAL SENDER

Ryan, there are some comments on the 2021 Fence Height Exception Appeal (FHE-21-009). I am also sharing these comments with Ani Chauhan, so I don't need them to be held back.

[Foundational principal](#)

Laws are meant to be followed. I believe that building codes are a good thing, and *should be followed unless there is a clear and justified need for an exception to be made*. The code is a set of community standards made by our town. These standards create consistencies that give the community it's look and cohesion.

[Alerche view cohesion](#)

While it is true that several houses on Alerche Dr., and also Crider Ct., have fences in front of the houses, *only one of the first six houses has a fence*. So, regarding the "blend with any house around" and "make neighborhood look coherent" claims of the appeal, neither the currently in-process or proposed fence blends in with the other 5 homes immediately across from or above the 100 house.

That one house with a fence, at 105 Alerche, has a solid wood fence painted gray and which dramatically obscures the vista which is supposed to be one of the defining characteristics of HR1 housing zones. I think that this fence was erected in 2018/19, and completed the week before the current zoning rules came into effect. I was very disappointed that zoning allowed this.

Regarding the appeal claim that the proposed fence "matches with what my front neighbor at 101 Alerche Drive installed couple of months back": *The fence at the 101 house does not match the proposed fence* in that it does not go across the front of the house and is not close to the curb line (there is no sidewalk on that side of Alerche).


[REDACTED]

From: [REDACTED]
To: [Ryan Safty](#)
Cc: [REDACTED] [Alexa Nolder](#)
Subject: RE: 6 foot fence 100 Alerche Drive. 2021 Fence Height Exception Appeal (FHE-21-009)
Date: Wednesday, October 27, 2021 11:00:01 AM

EXTERNAL SENDER

Ryan, here is the part I am OK with for the public record and to forward. My husband and I are neighbors of the Chauhan's on Alerche Drive. We have lived at this address since 2001.

We too have a back yard vineyard. We grow grapes and make wine for our own consumption and have done so for years. It is true that deer enjoy ripe grapes and will eat them if available. I can see the value of enclosing the front vines for that reason.

I do not see any other reason to enclose the front of the house with a fence.

The houses at 100, 101, 104, 105 and 108 were a common sub-division and subject to the terms of the DECLARATION OF RESTRICTIONS made by Dividend Development Corporation on 14 March 1986, stamped as having been Recorded with Santa Clara County, Official Records on 26Nov1986. Upon purchase, we were all made aware of these and I assume the Chauhan's are no exception. Conformity in these 5 houses was breached in 2019 at 105 to all of our dismay with a wood fence close to the street, with no approval sought from neighbors and at the last minute before the HR1 fencing guidelines changed.

Neighbors with addresses farther up the street, with the exception of the 2 horse farms, were built later and under different restrictions. The same with Crider Court properties. Thus, in my opinion the "conformity" of the properties on the street is valid, but moot. Does this mean that every house on Alerche Drive would need to put a sidewalk fence up to conform?

Mr. Chauhan provides a picture of the property at 101 Alerche, directly across the street from him. He shows what is the "backyard fence" of the property along Harwood Road. At the corner of Alerche and Harwood, the fence makes a corner along Alerche. There is a fence and gate along the driveway which ends as they intersect with the house. Important to note is **the front of the house facing on Alerche is not fenced. This is not shown in the picture Mr. Chauhan provides.**

As far as security goes, my husband and I are both senior citizens with the front of our house open to the sidewalk. We too have interesting fruits and objects in our front yard and there is a lot of foot and bike traffic on our street due to the connection to the Bel Gatos open space. So far, after 20 years no issues with security. Security has both objective and subjective aspects, and from my perspective is not a problem, but others might differ.

I am sorry the family chose to start a project before checking in with the city to be sure it meets code. Whatever the outcome, we respect the city's decision.



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 10/27/2021

ITEM NO: 3

DATE: October 22, 2021
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Requesting Approval for a Variance from the Town Code for the Height of an Accessory Structure and Length of Driveway, and an Exception to the Hillside Development Standards and Guidelines for the Setbacks of an Accessory Structure on Property Zoned R-1:10. Located at 56 Kimble Avenue. APN 529-33-035. Variance Application V-20-002. Property Owner: Peter Lisherness and Kim Nguyen. Applicant: Jay Plett. Project Planner: Jocelyn Shoopman.

RECOMMENDATION:

Consider approval of a request for a variance from the Town Code for the height of an accessory structure and length of driveway, and an exception to the Hillside Development Standards and Guidelines for the setbacks of an accessory structure on property zoned R-1:10, located at 56 Kimble Avenue.

PROJECT DATA:

General Plan Designation: Low Density Residential
Zoning Designation: R-1:10
Applicable Plans & Standards: General Plan and Hillside Development Standards and Guidelines
Existing Parcel Size: 7,865 square feet

Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Low Density Residential	R-1:10
South	Residential	Low Density Residential	R-1:20
East	Residential	Low Density Residential	R-1:20
West	Residential	Low Density Residential	R-1:10, R-1:20

PREPARED BY: Jocelyn Shoopman
Associate Planner

Reviewed by: Planning Manager and Community Development Director

CEQA:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

FINDINGS:

- The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.
- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) with the exception of the reduced front setback and the variances requested in this application.
- As required by Section 29.10.265 (3) of the Town Code for modification of zoning rules on nonconforming lots, including setback requirements.
- As required by Section 29.20.170 of the Town Code for granting a Variance application.
- As required by the Hillside Development Standards and Guidelines that the project complies with the Hillside Development Standards and Guidelines with the exception of the setback exceptions requested in this application.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The subject property is located on the west side of Kimble Avenue (Exhibit 1), accessed off Rogers Road. The 7,865-square foot lot contains a 1,212-square foot single-family residence. The applicant is proposing a 498-square foot detached garage in order to accommodate covered parking on the site with an 800-square foot Accessory Dwelling Unit (ADU) below.

The project is being considered by the Planning Commission because the applicant is requesting a reduced front setback pursuant to Section 29.10.265 (3) for a nonconforming lot. In addition, the applicant is requesting approval of a variance application for a driveway length between seven feet and 15 feet, three inches, where a driveway length of 18 feet is required, and a 20-foot-tall accessory structure with an ADU below, where the maximum height of an ADU is 16 feet. Lastly, the applicant is requesting an exception to the Hillside Development Standards and Guidelines (HDS&G) for a front setback of seven feet, whereas a minimum of 12 feet, six inches is required, a rear setback of 16 feet six inches, whereas a minimum of 20 feet is required, and a side setback of five feet, whereas a minimum of 10 feet is required. The HDS&G requires that accessory structures and ADUs shall have the same setback requirements as the main building.

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located on the west side of Kimble Avenue (Exhibit 1), accessed off of Rogers Road. The surrounding properties are low density single-family residences located within the Hillside area of the HDS&G.

B. Project Summary

The applicant is proposing to construct a new detached garage with an ADU below, which would result in a reduced front setback, a variance from the Town Code for the height of an accessory structure and the length of driveway, and an exception to the HDS&G for setbacks of an accessory structure as the project is located within the Hillside area and is subject to the HDS&G.

C. Zoning Compliance

The proposed project complies with the coverage limitations and parking requirements. The zoning permits a single-family dwelling and detached accessory structure. The property is considered to be a nonconforming lot due to the fact that it is less than the minimum lot area of 10,000 square feet and has a lot depth less than the minimum of 100 feet. The applicant is requesting a reduced front yard setback as allowed by Town Code Section 29.10.265 (3) for nonconforming properties when it is found to be compatible with the neighborhood. In addition, pursuant to Section 29.40.060 of the Town Code, one-quarter of the depth of the lot exceeds a slope of 20 percent, therefore, the minimum required front yard setback of 25 feet is reduced by 50 percent to 12 feet, six inches.

DISCUSSION:

A. Front Setback Reduction

In evaluating the request for reduced setbacks, the setbacks of structures in the immediate and extended neighborhood are reviewed to determine if the request is compatible with the neighborhood. The applicant is proposing a front setback of seven feet as outlined below. There are residences and detached structures in the immediate neighborhood with reduced front setbacks, as demonstrated by the applicant on Sheet A-1.1 of Exhibit 7, which displays images of structures with similar building setbacks in both the immediate neighborhood along Rogers Street and extended neighborhood along Cleland Avenue. If the Planning Commission determines that the front reduced setback is compatible with the neighborhood, the request can be approved as allowed by Section 29.10.265 (3) of the Town Code.

DISCUSSION (continued):

B. Hillside Development Standards and Guidelines

The subject property is 7,865 square feet and contains a 1,212-square foot single-family residence. The applicant is requesting an exception to the HDS&G for the setbacks of an accessory structure. Pursuant to Section E. of Chapter 7 (Landscape Design), accessory structures and ADUs shall have the same setback requirements as the main building in the Hillside area. The applicant has provided written justification for the exception to the HDS&G (Exhibit 4), which includes siting the structure in its proposed location for the least disturbance to the natural vegetation and existing trees, siting of the detached garage within the Least Restrictive Development Area (LRDA), and a compatible siting with the primary residence, which has a nonconforming front setback of approximately 11 feet, six inches, whereas the required front setback is 12 feet, six inches.

Required Setbacks		Proposed Setbacks	
Front	12 feet, six inches	Front	7 feet
Side	10 feet	Side	5 feet
Rear	20 feet	Rear	16 feet, six inches

C. Variance - Height

The applicant is requesting a variance for the height of an accessory structure to accommodate the proposed detached garage and ADU below. Pursuant to Town Code, an ADU is limited to a maximum height of 16 feet. The applicant has provided written justification for the variance (Exhibit 4), which includes that the proposed structure will follow the form of the natural grade and is compatible with the primary structure in terms of building form and architectural style. The letter states that the proposed height of the detached structure from Rogers Street would be 14 feet and approximately 20 feet from Kimble Avenue as the grade steps down to the rear of the property. The Town Code defines height as the height of all structures from the natural or finished grade, whichever is lower and creates a lower profile, to the uppermost point of the roof edge, wall, parapet, mansard, or other point directly above that grade.

Due to the width of Kimble Avenue, no street parking is permitted. The applicant has provided written justification that the new detached garage and existing open parking deck will allow for additional cars to be parked on-site (Exhibit 4). Based on this analysis, staff recommends that the Planning Commission make the required findings as detailed below in Section E for granting a variance. The Planning Commission must make both of the findings provided below, in addition to reviewing the design for compatibility with the immediate neighborhood (Exhibit 7) to approve the variance for the height as proposed.

DISCUSSION (continued):

D. Variance – Driveway Length

The applicant is requesting a variance for the driveway length to accommodate the proposed detached garage and an ADU below. The applicant is proposing a 498-square foot detached garage in order to accommodate covered parking on the site. Currently, the property contains a single-family residence and an open parking deck. The Town Code requires that when a garage, with a sliding or overhead roll-up door, unenclosed parking space, or carport opens onto a street (excluding alleys) the length of the driveway shall not be less than 18 feet. The applicant is proposing a driveway length that is between seven feet and 15 feet, three inches from the property line adjacent to Rogers Street.

The applicant has provided written justification for the variance (Exhibit 4), which states that the proposed structure location is the most optimal based on the sloping topography of the site and the detached garage is in compliance with the LRDA. In addition, the applicant states that the proposed driveway length is in conformity or better than existing conditions with neighboring properties (Exhibit 4). The applicant has provided images (Sheet A-1.1 of Exhibit 7) showing properties in the area with similar driveway lengths. The images provided by the applicant illustrates that there are several structures in the adjacent area with nonconforming driveway lengths. Based on this analysis, staff recommends that the Planning Commission make the required findings as detailed below in Section E. for granting a variance. The Planning Commission must make both of the findings provided below, in addition to reviewing the design for compatibility with the immediate neighborhood (Exhibit 7) to approve the variance for the driveway length as proposed.

E. Findings to Grant a Variance

As required by Section 29.20.170 of the Town Code, the deciding body, on the basis of the evidence submitted at the hearing, may grant a variance if it finds that (Exhibit 2):

- (1) Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this ordinance deprives such property of privileges enjoyed by other properties in the vicinity and under identical zone; and
- (2) The granting of a variance would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone which such property is situated.

DISCUSSION (continued):

F. Tree Impacts

The applicant's arborist prepared a report for the site and made recommendations for the project (Exhibit 5). The applicant's arborist report was peer reviewed by the Town's consulting arborist (Exhibit 6). The project site contains five protected trees. The applicant is not proposing to remove any existing on-site trees and all trees are proposed to remain. Tree #63 is the closest tree to the area of development and is a 30-inch Coast Live Oak tree that is considered to be a large, protected tree pursuant to the Tree Protection Ordinance. Both the applicant's arborist and the Town's consulting arborist have made recommendations that excavation within the canopy of tree #63 be done by hand in order to preserve the large, protected tree. If the project is approved, all required tree protection measures would be implemented prior to construction and maintained for the duration of construction activity. Arborist recommendations for tree protection have been included in the Conditions of Approval to mitigate impacts to protected trees (Exhibit 3).

G. Environmental Review

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

PUBLIC COMMENTS:

Written notice of the Planning Commission hearing was sent to neighboring property owners and occupants. Public comments are provided in Exhibit 8.

CONCLUSION:

A. Summary

The proposed project would allow the applicant to construct a 498-square foot detached garage and an ADU below. As discussed in this report, the project is requesting a reduced front setback, as well as a variance to grant a driveway length of between seven feet and 15 feet, three inches, and a 20-foot-tall detached accessory structure. In addition, the project is requesting an exception to the HDS&G for setbacks of an accessory structure as the project is located within the Hillside area.

The proposed front setback of seven feet is compatible with the immediate neighborhood and the existing single-family residence has a nonconforming front setback of 11 feet, six inches, whereas the required front setback is 12 feet, six inches. The proposed driveway

CONCLUSION (continued):

length of between seven feet and 15 feet, three inches from the property line adjacent to Rogers Street is compatible with the immediate neighborhood and adjacent structures with nonconforming driveway lengths. Lastly, the height of the detached garage and ADU below at 14 feet from Rogers Avenue and stepping down to approximately 20 feet from Kimble Avenue due to the sloping topography of the site is compatible with the primary residence.

B. Recommendation

Based on the analysis above, staff recommends approval of the Variance application subject to the recommended conditions of approval (Exhibit 3). If the Planning Commission finds merit with the proposed project, it should:

1. Make the finding that the proposed project is categorically exempt, pursuant to Section 15303: New Construction or Conversion of Small Structures of the California Environmental Quality Act as adopted by the Town (Exhibit 2);
2. Make the finding that the project complies with the objective standards of Chapter 29 of the Town Code other than the requested reduced front setback and variances (Zoning Regulations) (Exhibit 2);
3. Make the finding as required by Section 29.10.265 (3) of the Town Code that the reduced front setback on the nonconforming lot is compatible with the neighborhood (Exhibit 2);
4. Make the required findings as required by Section 29.20.170 of the Town Code for granting a Variance (Exhibit 2);
5. Make the finding that the project is in compliance with the Hillside Development Standards and Guidelines other than the requested exceptions (Exhibit 2); and
6. Approve Variance Application V-20-002 with the conditions contained in Exhibit 3 and development plans in Exhibit 7.

C. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction;
2. Approve the application with additional and/or modified conditions; or
3. Deny the application.

EXHIBITS:

1. Location Map
2. Required Findings

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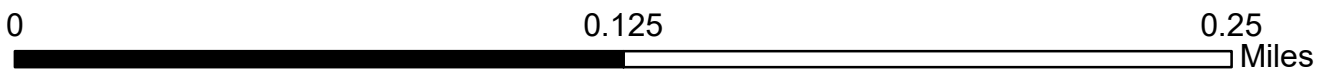
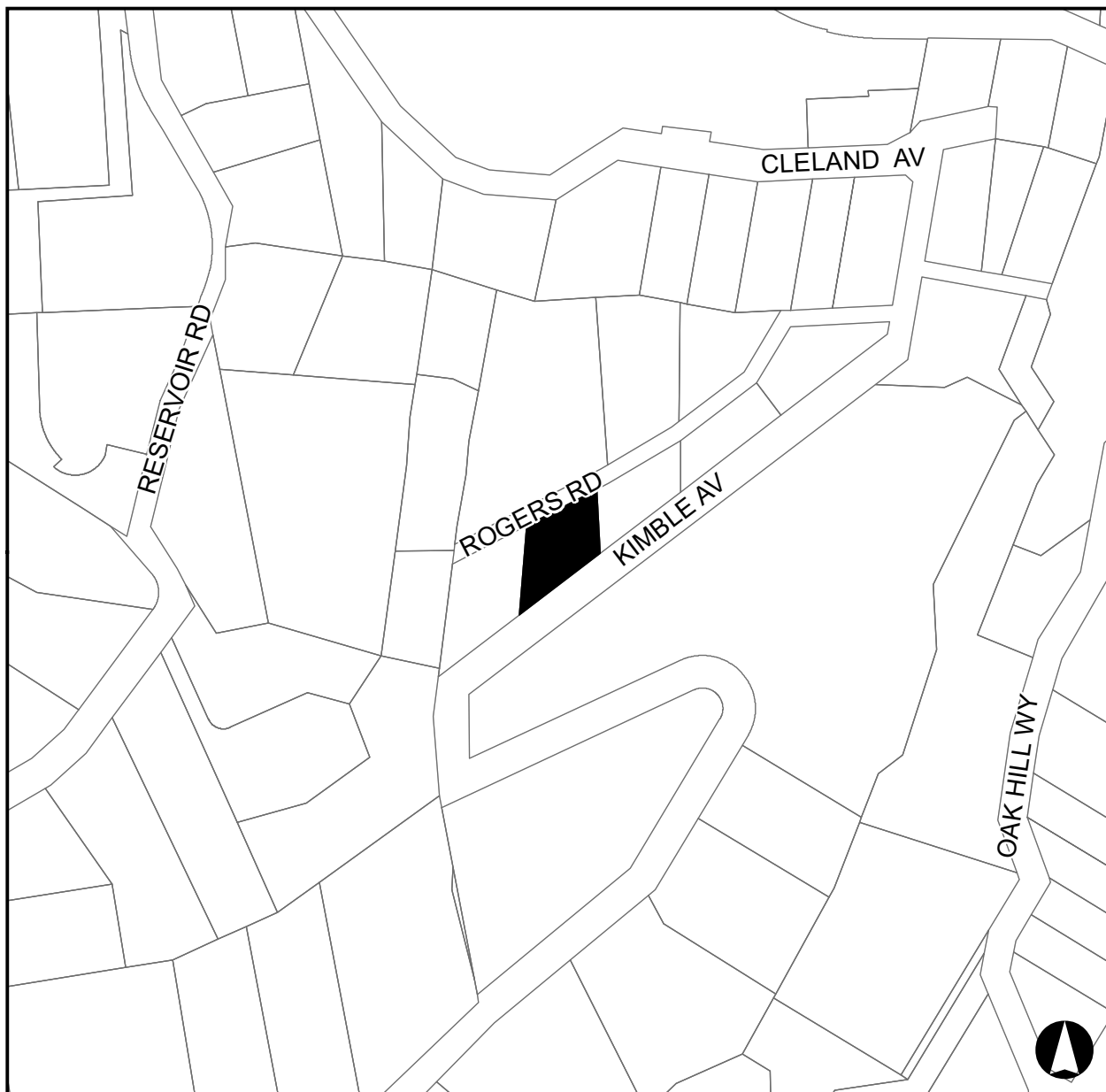
SUBJECT: 56 Kimble Avenue/V-20-002

DATE: October 22, 2021

EXHIBITS (continued):

3. Recommended Conditions of Approval
4. Project Description and Letter of Justification, received July 12, 2021
5. Letter from the Property Owner, received October 17, 2021
6. Applicant's Arborist Report, received November 6, 2020
7. Consulting Arborist's Peer Review Report, received August 18, 2021
8. Development plans, received August 30, 2021

56 Kimble Avenue



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PLANNING COMMISSION – October 27, 2021
REQUIRED FINDINGS AND CONSIDERATIONS FOR:

56 Kimble Avenue
Variance Application V-20-002

Requesting Approval for a Variance from the Town Code for the Height of an Accessory Structure and Length of Driveway, and an Exception to the Hillside Development Standards and Guidelines for the Setbacks of an Accessory Structure on Property Zoned R-1:10. Located at 56 Kimble Avenue. APN 529-33-035.

PROPERTY OWNER: Peter Lisherness and Kim Nguyen.
APPLICANT: Jay Plett.
PROJECT PLANNER: Jocelyn Shoopman.

FINDINGS:

Required finding for CEQA:

- The project is Categorical Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

Required compliance with the Zoning Regulations:

- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) with the exception of the reduced front setback and the variances requested for accessory structure height and length of the driveway.

Required finding for the reduced setbacks on nonconforming property:

- As required by Section 29.10.265 (3) of the Town Code for modification of zoning rules on nonconforming lots, including setback requirements:
 1. The subject property is nonconforming having a lot area of 7,868 square feet where 10,000 square feet is required by the Town Code;
 2. The subject property is nonconforming having a lot depth of 67 feet where 100 feet is required by the Town Code; and
 3. The reduced front setback is compatible with the neighborhood.

EXHIBIT 2

Required findings for granting a Variance application:

- As required by Section 29.20.170 of the Town Code for granting a Variance application:

- (1) Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this ordinance deprives such property of privileges enjoyed by other properties in the vicinity and under identical zone; and
- (2) The granting of a variance would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone which such property is situated.

Required compliance with the Hillside Development Standards and Guidelines:

- As required, the project complies with the Hillside Development Standards and Guidelines (HDS&G), with the exception of the proposed front, side, and rear setbacks. The applicant has provided compelling reasons and evidence to support the granting of the setback exceptions to the HDS&G.

PLANNING COMMISSION – October 27, 2021
CONDITIONS OF APPROVAL

56 Kimble Avenue
Variance Application V-20-002

Requesting Approval for a Variance from the Town Code for Height of an Accessory Structure, Length of Driveway, and Front Setback, and an Exception to the Hillside Development Standards and Guidelines for Setbacks of an Accessory Structure on Property Zoned R-1:10. Located at 56 Kimble Avenue. APN 529-33-035.

PROPERTY OWNER: Peter Lisherness and Kim Nguyen.
APPLICANT: Jay Plett.
PROJECT PLANNER: Jocelyn Shoopman.

TO THE SATISFACTION OF THE COMMUNITY DEVELOPMENT DIRECTOR:

Planning Division

1. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval and in substantial compliance with the approved plans. Any changes or modifications to the approved plans and/or business operation shall be approved by the Community Development Director, DRC or the Planning Commission depending on the scope of the changes.
2. **EXPIRATION:** The approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. **OUTDOOR LIGHTING:** Prior to final occupancy all exterior lighting shall be kept to a minimum and shall be down directed fixtures that will not reflect or encroach onto adjacent properties. All exterior lighting shall utilize shields so that no bulb is visible and to ensure that the light is directed to the ground surface and does not spill light onto neighboring parcels or produce glare when seen from nearby homes. No flood lights shall be used unless it can be demonstrated that they are needed for safety or security.
4. **FRONT YARD LANDSCAPE:** Prior to issuance of a Certificate of Occupancy the front yard must be landscaped.
5. **TREE REMOVAL PERMIT:** A Tree Removal Permit shall be obtained for any protected trees to be removed, prior to the issuance of a building or grading permit.
6. **EXISTING TREES:** All existing trees shown on the plan and trees required to remain or to be planted are specific subjects of approval of this plan and must remain on the site.
7. **TREE FENCING:** Protective tree fencing, and other protection measures shall be placed at the drip line of existing trees prior to issuance of demolition and building permits and shall remain through all phases of construction. Include a tree protection plan with the construction plans.

EXHIBIT 3

8. **ARBORIST REQUIREMENTS:** The developer shall implement, at their cost, all recommendations identified in the Arborist's report. These recommendations must be incorporated in the building permit plans, and completed prior to issuance of a building permit where applicable. A Compliance Memorandum shall be prepared by the applicant and submitted with the building permit application detailing how the recommendations have or will be addressed.
9. **WATER EFFICIENCY LANDSCAPE ORDINANCE:** The final landscape plan shall meet the requirements of the Town of Los Gatos Water Conservation Ordinance or the State Water Efficient Landscape Ordinance, whichever is more restrictive. Submittal of a Landscape Documentation Package pursuant to WELO is required prior to issuance of a building permit. A review fee based on the current fee schedule adopted by the Town Council is required when working landscape and irrigation plans are submitted for review. A completed WELO Certificate of Completion is required prior to final inspection/certificate of occupancy.
10. **TOWN INDEMNITY:** Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval and may be secured to the satisfaction of the Town Attorney.
11. **COMPLIANCE MEMORANDUM:** A memorandum shall be prepared and submitted with the building plans detailing how the Conditions of Approval will be addressed.

Building Division

12. **PERMITS REQUIRED:** A Building Permit is required for the construction of a detached garage.
13. **APPLICABLE CODES:** The current codes, as amended and adopted by the Town of Los Gatos as of January 1, 2020, are the 2019 California Building Standards Code, California Code of Regulations Title 24, Parts 1-12, including locally adopted Energy Reach Codes.
14. **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.
15. **BUILDING & SUITE NUMBERS:** Submit requests for new building addresses to the Building Division prior to submitting for the building permit application process.
16. **SIZE OF PLANS:** Minimum size 24" x 36", maximum size 30" x 42".
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.
18. **SHORING:** Shoring plans and calculations will be required for all excavations which exceed five (5) feet in depth or which remove lateral support from any existing building, adjacent property, or the public right-of-way. Shoring plans and calculations shall be prepared by a California licensed engineer and shall confirm to the Cal/OSHA regulations.

19. 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 that the building pad elevations and on-site retaining wall locations and elevations have been prepared according to the 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
 - d. Retaining wall(s) locations and elevations
20. HAZARDOUS FIRE ZONE: All projects in the Town of Los Gatos require Class A roof assemblies.
21. WILDLAND-URBAN INTERFACE: This project is located in a Wildland-Urban Interface High Fire Area and must comply with Section R337 of the 2019 California Residential Code, Public Resources Code 4291 and California Government Code Section 51182.
22. PROVIDE DEFENSIBLE SPACE/FIRE BREAK LANDSCAPING PLAN: Prepared by a California licensed Landscape Architect in conformance with California Public Resources Code 4291 and California Government Code Section 51182.
23. PRIOR TO FINAL INSPECTION: Provide a letter from a California licensed Landscape Architect certifying the landscaping and vegetation clearance requirements have been completed per the California Public Resources Code 4291 and Government Code Section 51182.
24. SPECIAL INSPECTIONS: When a special inspection is required by CBC Section 1704, 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 and signed by all requested parties prior to permit issuance. Special Inspection forms are available from the Building Division Service Counter or online at www.losgatosca.gov/building.
25. BLUEPRINT FOR A CLEAN BAY SHEET: The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program Sheet (page size same as submitted drawings) 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 ARC Blueprint for a fee or online at www.losgatosca.gov/building.
26. APPROVALS REQUIRED: The project requires the following departments and agencies approval before issuing a building permit:
 - a. Community Development – Planning Division: (408) 354-6874
 - b. Engineering/Parks & Public Works Department: (408) 399-5771
 - c. Santa Clara County Fire Department: (408) 378-4010
 - d. West Valley Sanitation District: (408) 378-2407
 - e. Local School District: The Town will forward the paperwork to the appropriate school district(s) for processing. A copy of the paid receipt is required prior to permit issuance.

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

Engineering Division

27. GENERAL: All public improvements shall be made according to the latest adopted Town Standard Plans, Standard Specifications and Engineering Design Standards. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job-related mud, silt, concrete, dirt and other construction 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 an encroachment permit is issued by the Engineering Division of the Parks and Public Works Department. The Owner and/or Applicant'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 issuance of correction notices, citations, or stop work orders and the Town performing the required maintenance at the Owner and/or Applicant's expense.
28. APPROVAL: This application shall be completed in accordance with all the conditions of approval listed below and in substantial compliance with the latest reviewed and approved development plans. Any changes or modifications to the approved plans or conditions of approvals shall be approved by the Town Engineer.
29. CONSTRUCTION PLAN REQUIREMENTS: Construction drawings shall comply with Section 1 (Construction Plan Requirements) of the Town's Engineering Design Standards, which are [available for download from the Town's website](#).
30. ENCROACHMENT PERMIT: All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security. It is the responsibility of the Owner/Applicant to obtain any necessary encroachment permits from affected agencies and private parties, including but not limited to, Pacific Gas and Electric (PG&E), AT&T, Comcast, Santa Clara Valley Water District, California Department of Transportation (Caltrans). Copies of any approvals or permits must be submitted to the Town Engineering Division of the Parks and Public Works Department prior to releasing any permit.
31. PUBLIC WORKS INSPECTIONS: The Owner and/or Applicant or their 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 penalties and rejection of any work that occurred without inspection.
32. RESTORATION OF PUBLIC IMPROVEMENTS: The Owner and/or Applicant or their representative shall repair or replace all existing improvements not designated for removal that are damaged or removed because of the Owner and/or Applicant or their representative'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. Any new concrete shall be free of stamps, logos, names, graffiti, etc. Any concrete identified that is displaying a stamp or equal shall be removed and replaced at the Contractor's sole expense and no additional compensation shall be

- allowed therefore. 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. The restoration of all improvements identified by the Engineering Construction Inspector shall be completed before the issuance of a certificate of occupancy. The Owner and/or Applicant or their representative shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.
33. **SITE SUPERVISION:** The General Contractor shall provide qualified supervision on the job site at all times during construction.
 34. **STREET CLOSURE:** Any proposed blockage or partial closure of the street requires an encroachment permit. Special provisions such as limitations on works hours, protective enclosures, or other means to facilitate public access in a safe manner may be required.
 35. **DESIGN CHANGES:** Any proposed changes to the approved plans shall be subject to the approval of the Town prior to the commencement of any and all altered work. The Owner and/or Applicant's project engineer shall notify, in writing, the Town Engineer at least seventy-two (72) hours in advance of all the proposed changes. Any approved changes shall be incorporated into the final "as-built" plans.
 36. **COMPLIANCE WITH HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES:** All grading activities and operations shall be in compliance with Section III of the Town's Hillside Development Standards and Guidelines. All development shall be in compliance with Section II of the Town's Hillside Development Standards and Guidelines.
 37. **DRIVEWAY:** The driveway conform to existing pavement on Rogers Street shall be constructed in a manner such that the existing drainage patterns will not be obstructed.
 38. **DRAINAGE IMPROVEMENT:** Prior to the issuance of any building permits, the Owner and/or Applicant shall: a) design provisions for surface drainage; and b) design all necessary storm drain facilities extending to a satisfactory point of disposal for the proper control and disposal of storm runoff; and c) provide a recorded copy of any required easements to the Town.
 39. **SURVEYING CONTROLS:** Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer qualified to practice land surveying, for the following items:
 - a. Retaining wall: top of wall elevations and locations.
 - b. Toe and top of cut and fill slopes.
 40. **PRECONSTRUCTION MEETING:** Prior to the commencement of any site work, the general contractor shall:
 - a. Along with the Owner and/or Applicant, attend a pre-construction meeting with the Town Engineer to discuss the project conditions of approval, working hours, site maintenance and other construction matters;
 - b. Acknowledge in writing that they have read and understand the project conditions of approval and will make certain that all project sub-contractors have read and understand them as well prior to commencing any work, and that a copy of the project conditions of approval will be posted on-site at all times during construction.

41. **RETAINING WALLS:** A building permit, issued by the Building Department, located at 110 E. Main Street, may be required for site retaining walls.
42. **SOILS REPORT:** One electronic copy (PDF) of the soils and geologic report shall be submitted with the 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.
43. **SOILS ENGINEER CONSTRUCTION OBSERVATION:** During construction, all excavations and grading shall be inspected by the Owner and/or 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 shall be documented in an "as-built" letter/report prepared by the Owner and/or Applicant's soils engineer and submitted to the Town before a certificate of occupancy is granted.
44. **SOIL RECOMMENDATIONS:** The project shall incorporate the geotechnical/geological recommendations contained in the project's design-level geotechnical/geological investigation as prepared by the Owner and/or Applicant's engineer(s), and any subsequently required report or addendum. Subsequent reports or addendum are subject to peer review by the Town's consultant and costs shall be borne by the Owner and/or Applicant.
45. **UTILITIES:** The Owner and/or Applicant shall install all new, relocated, or temporarily removed utility services, including telephone, electric power and all other communications lines underground, as required by Town Code Section 27.50.015(b). All new utility services shall be placed underground. Underground conduit shall be provided for cable television service. The Owner and/or Applicant is required to obtain approval of all proposed utility alignments from any and all utility service providers before a Certificate of Occupancy for any new building can be issued. The Town of Los Gatos does not approve or imply approval for final alignment or design of these facilities.
46. **CONSTRUCTION VEHICLE PARKING:** Construction vehicle parking within the public right-of-way will only be allowed if it does not cause access or safety problems as determined by the Town.
47. **HAULING OF SOIL:** Hauling of soil on- or off-site shall not occur during the morning or evening peak periods (between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m.), and at other times as specified by the Director of Parks and Public Works. Cover all trucks hauling soil, sand and other loose debris.
48. **CONSTRUCTION HOURS:** All construction activities, including the delivery of construction materials, labors, heavy equipment, supplies, etc., shall be limited to the hours of 8:00 a.m. to 6:00 p.m., weekdays and 9:00 a.m. to 4:00 p.m. Saturdays, holidays excluded. The Town may authorize, on a case-by-case basis, alternate construction hours. The Owner and/or Applicant shall provide written notice twenty-four (24) hours in advance of modified construction hours. Approval of this request is at discretion of the Town.

49. 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 from the source. 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.
50. CONSTRUCTION MANAGEMENT PLAN SHEET: Prior to the issuance of any building permits, the Owner and/or Applicant's design consultant shall submit a construction management plan sheet (full-size) within the plan set that shall incorporate at a minimum the Project Schedule, employee parking, construction staging area, materials storage area(s), concrete washout(s) and proposed outhouse location(s). Please refer to the Town's [Construction Management Plan Guidelines](#) document for additional information.
51. EROSION CONTROL: Interim and final erosion control plans shall be prepared and submitted to the Engineering Division of the Parks and Public Works Department. A maximum of two (2) 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 Town of Los Gatos Engineering Division of the Parks and Public Works Department and the Building Department will conduct periodic NPDES inspections of the site throughout the recognized storm season to verify compliance with the Construction General Permit and Stormwater ordinances and regulations.
52. 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 (3) 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 shall 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 (1) 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 twenty (20) miles per hour (MPH). All trucks hauling soil, sand, or other loose debris shall be covered.
53. AIR QUALITY: To limit the project's construction-related dust and criteria pollutant emissions, the following the Bay Area Air Quality Management District (BAAQMD)-

recommended basic construction measures shall be included in the project's grading plan, building plans, and contract specifications:

- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day, or otherwise kept dust-free.
 - b. All haul trucks designated for removal of excavated soil and demolition debris from site shall be staged off-site until materials are ready for immediate loading and removal from site.
 - c. All haul trucks transporting soil, sand, debris, or other loose material off-site shall be covered.
 - d. As practicable, all haul trucks and other large construction equipment shall be staged in areas away from the adjacent residential homes.
 - e. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day, or as deemed appropriate by Town Engineer. The use of dry power sweeping is prohibited. An on-site track-out control device is also recommended to minimize mud and dirt-track-out onto adjacent public roads.
 - f. All vehicle speeds on unpaved surfaces shall be limited to fifteen (15) miles per hour.
 - g. All driveways and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - h. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within forty-eight (48) hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. Please provide the BAAQMD's complaint number on the sign: 24-hour toll-free hotline at 1-800-334-ODOR (6367).
 - i. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed twenty (20) miles per hour.
 - j. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
54. **DETAILING OF STORMWATER MANAGEMENT FACILITIES:** Prior to the issuance of any building permits, all pertinent details of any and all proposed stormwater management facilities, including, but not limited to, ditches, swales, pipes, bubble-ups, dry wells, outfalls, infiltration trenches, detention basins and energy dissipaters, shall be provided on submitted plans, reviewed by the Engineering Division of the Parks and Public Works Department, and approved for implementation.
55. **CONSTRUCTION ACTIVITIES:** All construction shall conform to the latest requirements of the CASQA Stormwater Best Management Practices Handbooks for Construction Activities and New Development and Redevelopment, the Town's grading and erosion control ordinance, and other generally accepted engineering practices for erosion control as required by the Town Engineer when undertaking construction activities.
56. **SITE DRAINAGE:** Rainwater leaders shall be discharged to splash blocks. No through curb drains will be allowed. On-site drainage systems for all projects shall include one of the alternatives included in section C.3.i of the Municipal Regional NPDES Permit. These include storm water reuse via cisterns or rain barrels, directing runoff from impervious

surfaces to vegetated areas and use of permeable surfaces. If stormwater treatment facilities are to be used they shall be placed a minimum of ten (10) feet from the adjacent property line and/or right-of-way. Alternatively, the facility(ies) may be located with an offset between 5 and 10 feet from the adjacent property and/or right-of-way line(s) if the responsible engineer in charge provides a stamped and signed letter that addresses infiltration and states how facilities, improvements and infrastructure within the Town's right-of-way (driveway approach, curb and gutter, etc.) and/or the adjacent property will not be adversely affected. No improvements shall obstruct or divert runoff to the detriment of an adjacent, downstream or down slope property.

57. SILT AND MUD IN PUBLIC RIGHT-OF-WAY: It is the responsibility of Contractor and homeowner 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.
58. GOOD HOUSEKEEPING: Good housekeeping practices shall be observed at all times during the course of construction. All construction shall be diligently supervised by a person or persons authorized to do so at all times during working hours. The Owner and/or Applicant'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 penalties and/or the Town performing the required maintenance at the Owner and/or Applicant's expense.
59. COVERED TRUCKS: All trucks transporting materials to and from the site shall be covered.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

60. GENERAL: Review of this Developmental proposal is limited to acceptability of site access, water supply and may include specific additional requirements as they pertain to fire department operations, and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.
61. FIRE SPRINKLERS REQUIRED: An automatic residential fire sprinkler system shall be installed in one- and two-family dwellings and Detached Accessory Dwelling Units. Exceptions: Detached Accessory Dwelling Units, provided that all of the following are met:
 - a) The unit meets the definition of an Accessory Dwelling Unit as defined in the Government Code Section 65852.2.
 - b) The existing primary residence does not have automatic fire sprinklers.
 - c) The detached Accessory Dwelling Unit does not exceed 1,200s square feet in size.
 - d) The unit is on the same lot as the primary residence.
 - e) The unit meets all access and water supply requirements of Chapter 5 and Appendix B and C of the 2019 California Fire Code. Plans appear to show that the eave line between the garage and existing residence is now greater than five feet. Please note that is the eave line of the proposed garage/Accessory Dwelling Unit and existing residence is less than five feet, a sprinkler system will be required for both the existing residence and garage/Accessory Dwelling Unit. The structure exceeds the 400-square foot maximum distance from the hydrant to the farthest exterior corner of the structure.

62. WATER SUPPLY REQUIREMENTS: Potable water supplies shall be protected from contamination caused by fire protection water supplies. It is the responsibility of the applicant and any contractors and subcontractors to contact the water purveyor supplying the site of such project, and to comply with the requirements of that purveyor. Such requirements shall be incorporated into the design of any water-based fire protection systems, and/or fire suppression water supply systems or storage containers that may be physically connected in any manner to an appliance capable of causing contamination of the potable water supply of the purveyor of record. Final approval of the system(s) under consideration will not be granted by this office until compliance with the requirements of the water purveyor of record are documented by that purveyor as having been met by the applicant(s). 2019 CFC Sec. 903.3.5 and Health and Safety Code 13114.7
63. ADDRESS IDENTIFICATION (as noted on Sheet A-1): New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. CFC Sec. 505.1.
64. CONSTRUCTION SITE FIRE SAFETY: All construction sites must comply with applicable provisions of the CFC Chapter 33 and our Standard Detail and Specification SI-7. Provide appropriate notations on subsequent plan submittals, as appropriate to the project. CFC Chp. 33.
65. GENERAL: This review shall not be construed to be an approval of a violation of the provisions of the California Fire Code or of other laws or regulations of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of the fire code or other such laws or regulations shall not be valid. Any addition to or alteration of approved construction documents shall be approved in advance. [CFC, Ch.1, 105.3.6]

56 Kimble Av

VARIANCE JUSTIFICATION

07.12.2021

The structure has been designed with sensitivity to its Site, Neighborhood Character and Town Design Guidelines.

The Garage structure is placed for least disturbance to natural vegetation and trees and within the sites LRDA. The driveway will 'float' over the nearest Oak tree's root zone utilizing a cantilever design. The Owners care for and maintain their Oak trees with regularity and direction from certified Arborists.

Ian Geddes, Arborist, has reviewed the driveway cantilever design and building placement - his report is in agreement with the design and his recommendations will be adhered to.

Driveway variance request

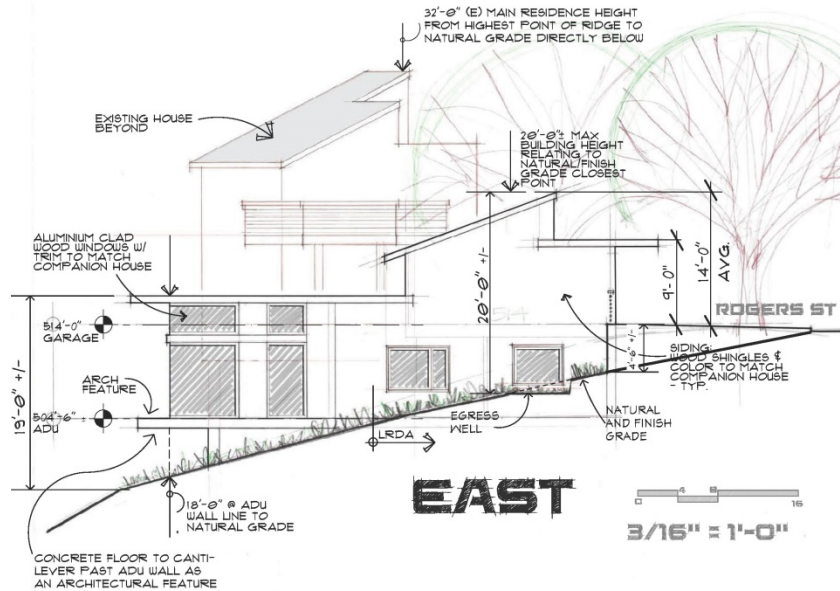
The reduced driveway length allows optimal placement of the Garage on the site, situates it within the Site's LRDA, eliminates the need for excessive grading, and keeps the garage height to a minimum.

The proposed Garage setbacks are in conformity with other neighboring properties.

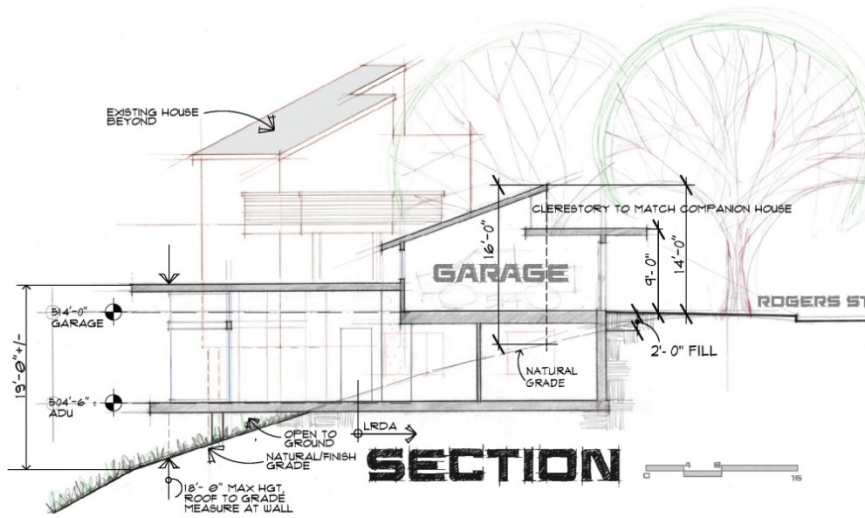
The proposed back up space is in conformity or better than numerous neighboring conditions and will not result in undue favor. See photos Sheet A-1.1 of the plan set.

Height variance request

The above conditions have resulted in an Accessory Garage with a maximum height of 20'-0"± relative to the natural grade below the ridge line.



The building form follows the natural grade and its companion house harmoniously. From the street - Rogers St - the structure's average height measures 14'-0".



The ADU is integral with the garage, is being considered as part of this application, it's height of 19'-0"± should be considered with the maximum height of the garage.



Similar structure at 38 Kimble. Well in excess of the 15' required height. (Photo view is from Kimble Av., the structure fronts on Rogers St.) - see sheet A-1, Photos C.

SUMMARY

The neighborhood would be benefited by the project as it will provide much needed parking relief to the already congested and narrow Rogers St.

The Proposal is a well thought out design that respects its environment - the structure has been optimally designed and placed on the site so that it respects Town Design Guidelines, blends amicably with its neighborhood

and companion house, resulting in substantial compatibility worthy of a variance.

The approval of this variance will not grant special favor or privilege as many such conditions currently exist in the neighborhood.

From: Peter Lisherness [REDACTED]
Sent: Sunday, October 17, 2021 10:51 AM
To: Jocelyn Shoopman <jshoopman@losgatosca.gov>
Cc: Jay Plett [REDACTED]; Kim Nguyen [REDACTED]
Subject: 56 Kimble

Hi Jocelyn,

My wife Kim (cc'd) and I are the residents of 56 Kimble, having lived here since 2016.

The home was originally built with inadequate parking that has proven to be problematic over time. Street parking is less than nonexistent (the street being only one car wide along the length of our property) - delivery vehicles can't even stop without blocking the street entirely. We've generally managed not to encroach on our neighbors for parking, at the expense of some minor cosmetic damage to our cars as we try to fit them onto our narrow parking pad. Having guests over is also pretty challenging.

While addressing the parking problem, we would also like an ADU to provide additional housing for the Town and our future needs as we grow older. Due to the site's building constraints, the ADU has been located at its only possible location, then an enclosed garage built on top of it provides a driveway with a slope within the Town guidelines.

We've been discussing the garage with our neighbors since we moved in (and the ADU since the ordinance passed).

None of the neighbors have voiced any objections to our plans - and in some cases they seem quite supportive. I've asked some of them to send emails to you so you can hear it from them as well, hopefully they have the chance to do so.

Please let me know if there is anything we can do, or any more information we can provide, to help in this process.

Best Regards,
Peter

EXHIBIT 5

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IAN GEDDES
AND ASSOCIATES
ARBORICULTURAL CONSULTING

P.O. Box 2962, Saratoga, California 95070
(408) 379-8011 • (888) DR TREES
Fax (408) 374-8262
www.drtrees.com

November 6th, 2020

Prepared for Clients of: Jay Plett, Architect

Peter Lisherness and Kim Nguyen

56 Kimble Avenue, Los Gatos, CA 95030

Arborist Report for New Garage/ADU

Our Project Code: 20-20030

Dear Mr. Lisherness and Ms. Nguyen,

Thank you for the opportunity to become involved in your tree related project. Following our on-site review of your Grading and Site Plan (A-1 dated 8/10/20), it was my understanding that a garage with ADU (accessory dwelling unit) below was planned for the property, east of the existing house.

This report was prepared by Bo Firestone (the Project Arborist) and was meant to address the effects of your project upon the existing tree stock and make recommendations for removal, or retention and protection of trees throughout the construction period. Observations and recommendations made in this report relate to the tree protection and preservation mandates outlined in the Town of Los Gatos *Tree Protection Requirements for Planning Applications* (published 7/1/17 by the Community Development Department). As required, we have included appraised values for all protected trees potentially affected by development activities. Subsequent to site inspections and review of the aforementioned plan, I report as follows:



BUSARA FIRESTONE
ISA CERTIFIED ARBORIST
WE-8525A



USES OF THIS REPORT

This plan contains the protective measures to be implemented before, during, and after any construction or demolition activity that may affect one or more protected trees. It includes provisions for maintenance to preserve and protect all trees being retained on this project site that are within the construction envelope. The property owner, architects, and contractors alike involved with applying the practical aspects of this project should be required to know the information contained in this tree preservation plan, and subsequently adhere to its conditions and requirements. Per the Town's Tree Regulations, the inventory, pruning specifications and tree protection zone details outlined in this report are to be copied onto a plan sheet to become part of the final plan set, then to serve as the project's Tree Preservation Plan, and titled as such.

DEPOSIT, REPLACEMENT REQUIREMENTS

ARBORIST DEPOSIT

An arborist deposit account must be set up with the Planning Department to fund the peer review of this report. Following completion of the project, any funds remaining in the account will be refunded.

REPLACEMENT REQUIREMENTS

No trees were requested for removal as part of this project. Any tree on site protected by Town Code would require replacement according to its appraised value if it is damaged beyond repair as a result of grading, excavation or construction activities.

Appraised values for all trees were calculated using the "*Trunk Formula Method*" as outlined in the *Council of Tree and Landscape Appraisers-Guide for Plant Appraisal, 9th Edition* and supplemented with the *Western Chapter ISA- Species Classification and Group Assignment Regional Supplement*.



TREE IMPACT ASSESSMENT

Potential Impacts to Protected Trees

A protected tree in Los Gatos for zoning approvals included most species measuring 4 inches or greater in diameter at breast height (DBH) as defined by Town Code, Division 2. At my visit to the site on October 28th, I determined that the canopies of four protected trees were within 30 feet of the proposed demolition and construction. These included three mature coast live oak (*Quercus agrifolia*) along Rogers Street, and one eucalyptus (*Eucalyptus camaldulensis*) on a neighboring parcel. Trees on the far (west) side of the house from the proposed site of the ADU would not be impacted by the project. All trees were labeled on this report's map and tree inventory table. Tree on the property were tagged in the field with their number.

It was my understanding that a garage with ADU below was planned to the east of the existing house. The driveway would be off Rogers Street. A pathway following the existing grade would lead from the bottom of the house stairs to the ADU.

Tree #N1 – This large red gum eucalyptus was approximately 20 feet from the eastern property fence-line. I anticipated minor impact from the proposed project from the proposed excavation, grading, and drainage work.

Tree #63 – This coast live oak along Rogers Street would be closest to the work. A total of 39 cubic yards of fill soil would be needed to build the driveway and adjacent wall area. A retaining wall approximately six feet from the trunk of Tree #63 would be needed. I anticipated "moderate" impact to the tree from the proposed excavation, grading, and drainage work.

Trees #64 and #65 – These two coast live oak stood between Rogers Street and the pathway to the existing house. I anticipated minor impact from the proposed project from the proposed excavation, grading, and drainage work.

Protected Tree Information

See attached “Tree Inventory” for basic tree characteristics and appraisals. All trees on the property were tagged with their numbers, which correspond to the table and map in this report.

TREE PROTECTION RECOMMENDATIONS

PRE-CONSTRUCTION

Pruning Specifications

I recommend that each tree that is designated to remain shall be pruned as necessary to provide clearance for development, while maintaining a natural appearance. All tree pruning (or removal) activities shall be performed prior to the beginning of any demolition or development.

Pruning should be specified in writing adhering to ANSI A300 Pruning Standards and performed according to Best Management Practices endorsed by the International Society of Arboriculture. Pruning must be performed by a licensed and insured tree contractor and supervised by an ISA-certified arborist or an ASCA-Registered Consulting Arborist. *The use of spikes or gaffs when pruning is strictly prohibited.*

Tree Protection Fencing

TPZ Locations:

Tree protection zones (TPZ) are areas of a temporary fenced tree enclosures that restrict activity during construction. They are established and inspected prior to the start of work. **No soil disturbance is permitted unless approved and supervised by the Project Arborist.** The recommended tree protection zones (TPZ) were shown on the attached map. See attachment titled “TPZ I” for a diagram of generic, best-practice TPZ fencing specifications. TPZ II trunk



wrap was recommended where restricted space made standard fencing impractical. Specific recommendations for individual trees is as follows:

Tree #N1 – The existing 6-foot wood fencing at the property line would be sufficient protection for this tree given the location of the work.

Tree #63 – Establish TPZ fencing radius at 20 feet or the greatest extent possible as limited by the proposed driveway retaining wall, Rogers Street, and path from the bottom of the existing house stairs to the proposed ADU. (See attached TPZ map for recommended fencing location.)

Trees #64 and #65 – Due to the limited space around these trees, located between Rogers Street and the existing pathway to the house, installation of fencing would not be practical. Alternatively, I recommend TPZ Trunk Wrap for these two oaks. (See attached specification.)

*Los Gatos Tree Protection Fencing Requirements:
Sec. 29.10.1005 - Protection of trees during construction.*

1. **Size and materials:** Six (6) foot high chain link fencing, mounted on two-inch diameter galvanized iron posts, shall be driven into the ground to a depth of at least two (2) feet at no more than ten-foot spacing. For paving area that will not be demolished and when stipulated in a tree preservation plan, posts may be supported by a concrete base.
2. **Area type to be fenced:** Type I: Enclosure with chain link fencing of either the entire dripline area or at the tree protection zone (TPZ), when specified by a certified or consulting arborist. Type II: Enclosure for street trees located in a planter strip: chain link fence around the entire planter strip to the outer branches. Type III: Protection for a tree located in a small planter cutout only (such as downtown): orange plastic fencing shall be wrapped around the trunk from the ground to the first branch with two-inch wooden boards bound securely on the outside. Caution shall be used to avoid damaging any bark or branches.
3. **Duration of Type I, II, III fencing:** Fencing shall be erected before demolition, grading or construction permits are issued and remain in place until the work is completed. Contractor shall first obtain the approval of the project arborist on record prior to removing a tree protection fence.

4. **Warning sign:** Each tree fence shall have prominently displayed an eight and one-half-inch by eleven-inch sign stating: "Warning—Tree Protection Zone—This fence shall not be removed and is subject to penalty according to Town Code 29.10.1025." Text on the signs should be in both English and Spanish.

All persons, shall comply with the following precautions:

1. Prior to the commencement of construction, install the fence at the dripline, or tree protection zone (TPZ) when specified in an approved arborist report, around any tree and/or vegetation to be retained which could be affected by the construction and prohibit any storage of construction materials or other materials, equipment cleaning, or parking of vehicles within the TPZ. The dripline shall not be altered in any way so as to increase the encroachment of the construction.
2. Prohibit all construction activities within the TPZ, including but not limited to: excavation, grading, drainage and leveling within the dripline of the tree unless approved by the Director.
3. Prohibit disposal or depositing of oil, gasoline, chemicals or other harmful materials within the dripline of or in drainage channels, swales or areas that may lead to the dripline of a protected tree.
4. Prohibit the attachment of wires, signs or ropes to any protected tree.
5. Design utility services and irrigation lines to be located outside of the dripline when feasible.
6. Retain the services of a certified or consulting arborist who shall serve as the project arborist for periodic monitoring of the project site and the health of those trees to be preserved. The project arborist shall be present whenever activities occur which may pose a potential threat to the health of the trees to be preserved and shall document all site visits.
7. The Director and project arborist shall be notified of any damage that occurs to a protected tree during construction so that proper treatment may be administered.

Root Protection

Mulch to a depth of 4-6” shall be placed within the TPZ to further protect the trees critical rhizosphere and soil. The base of the tree should not be covered. Storage of construction materials, paints, chemicals etc. is strictly prohibited, and physical entry is limited only to designated personnel. I recommend a 4”-6” layer of woodchips anywhere vehicles travel throughout site to reduce soil compaction, detrimental to the health of all valuable landscape plants.

DURING CONSTRUCTION

Project Arborist On-Site Monitoring

According to Town Code 29.10.1025, “the Director and project arborist shall be notified of any damage that occurs to a protected tree during construction so that proper treatment may be administered.” The project arborist will also be needed for “periodic monitoring of the project site and the health of those trees to be preserved. The project arborist shall be present whenever activities occur which may pose a potential threat to the health of the trees to be preserved and shall document all site visits.” We recommend the following schedule:

- Pre-installation Meeting with fencing contractor to identify and locate Tree Protection Zone (TPZ) locations.

- Demolition or deconstruction, grading and excavation, and/or trenching activities where grade changes exceed 4” within the drip line of a protected tree. Boring for pier installation.

- Monthly TPZ compliance inspections.

- Any pruning or root pruning activities.

- Final compliance report

Root Pruning

- **The project arborist should conduct or supervise the pruning of roots larger than 1 inch in diameter.**
- Pruning roots 2” in diameter or greater requires the use of a commercial grade, 15-amp, reciprocating saw with new, unused woodcutting blades, or new, unused arborist type handsaws may also be used.
- Roots shall be cleanly severed without ripping or tearing root tissue. It is preferable to cut back to a lateral root where possible.

Irrigation

Water moderately and highly impacted trees during the construction phase (Tree #63). As a rule of thumb, provide 1- 2 inches per month during the cool season when rain has been scarce. Water slowly so that it penetrates 18 inches into the soil, to the depth of the tree roots. Do not water native oaks during the warm, dry season (June – September) as this activates oak root fungus. Instead, make sure that the soil is sufficiently insulated with mulch.

Special Tree Protection Measures

Excavation for wall adjacent to Tree #63:

When excavating or boring underneath the canopies of this tree, or within 20' of its trunk, excavate with hand tools within the top 36” of the soil. Leave roots encountered undisturbed if possible. No trenching underneath canopy (within 20' of trunk). If roots must be cut, please see section titled “Root Pruning.”



POST-CONSTRUCTION

Ensure any other mitigation measures to ensure long-term survival including but not limited to:

Post-Construction Monitoring

Monitor trees for changes in condition. Check trees at least once per month for the first year post-construction. Expert monitoring should be done at least every 6 months or if trees show signs of stress. Signs stress include unseasonably sparse canopy, leaf drop, early fall color, browning of needles, and shoot die-back. Stressed trees are also more vulnerable to certain disease and pest infestations. Call the Project Arborist, or a consulting arborist if these, or other concerning changes occur in tree health.

Continued Tree Care

Provide adequate and appropriate irrigation. As a rule of thumb, provide 1- 2 inches of water per month. Water slowly so that it penetrates 18 inches into the soil, to the depth of the tree roots. Native oaks usually should not be provided supplemental water during the warm, dry season (June – September) as this activates oak root fungus. Therefore, native oaks should only be watered October – May when rain has been scarce.

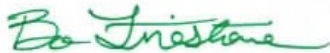
Mulch insulates the soil, reduces weeds, reduces compaction, and promotes myriad benefits to soil life and tree health. Apply four inches of wood chips (or other mulch) to the surface of the soil around trees, extending at least to the dripline when possible. Take care not to pile mulch against the trunk.

Do **not** fertilize unless a specific nutrient deficiency has been identified and a specific plan prescribed by the project arborist (or a consulting arborist).

CONCLUSION

It is my professional opinion that the project as proposed was viable and would be a considerable upgrade to the property, as well as a housing resource. Should the tree protection and preservation recommendations discussed in this report be clearly explained to and understood by all personnel responsible for applying the practical aspects of your project, there is every reason to believe that all protected trees will survive and thrive well beyond the construction phase. If you have any questions, or if this office can assist in any practical on-site execution of any of the above works, please do not hesitate to contact us.

Yours sincerely,



Bo Firestone

ISA-Certified Arborist WE-#8525A

ISA Tree Risk Assessor Qualified

Member, American Society of Consulting Arborists

C: (408) 621-1040 E: bo@geddestree.com

Attachments:

Tree Inventory with Appraisal (p. 11)

TPZ Map/Site Plan (p.12)

TPZ I (Fencing) Specifications (p.13)

TPZ II (Wrap) Specifications (p.14)

TREE INVENTORY 56 Kimble Ave. Los Gatos, CA											
TREE #	COMMON NAME	GENUS/SPECIES	DBH (inches)	CANOPY (feet)	TREE STATUS	AGE	CONDITION	RECOMMEND	NOTES	ACTION	APPRAISED VALUE
N1	Red Gum	<i>Eucalyptus camaldulensis</i>	est. 36	40	Protected	Mature	FAIR	RETAIN	neighbors'	(property fence)	\$9,500
63	Coast Live Oak	<i>Quercus agrifolia</i>	22	40	Protected	Mature	GOOD	RETAIN		Type I TPZ	\$14,000
64	Coast Live Oak	<i>Quercus agrifolia</i>	20	30	Protected	Mature	FAIR	RETAIN		Type II TPZ	\$9,950
65	Coast Live Oak	<i>Quercus agrifolia</i>	21	40	Protected	Mature	GOOD	RETAIN		Type II TPZ	\$12,800

DBH-Diameter at breast height measured at 54" above grade unless otherwise indicated.

CANOPY-Diameter of the canopy spread, from tip to tip of the longest stems.

TREE STATUS: "Protected "- when related to zoning approvals, most species, when the DBH is four inches or more (includes dead trees and fallen trees). "Large protected trees" – any Oak, California Buckeye, or Pacific Madrone, when the trunk DBH is 24 inches or more. Any other species when the DBH is 48 inches or more.

AGE: Relative to the lifespan of the tree; "Young" <1/3; "Mature" 1/3 - 2/3; "Overmature" >2/3

CONDITION-Ground based visual assessment of structural and physiological well-being

"Good" 66 - 80% = Normal vigor, full canopy, no observable significant structural defects, many years of service life remaining

"Fair" 50 - 65 % = Reduced vigor, significant structural defect(s), and/or other significant signs of stress

"Poor" 5 - 49 % = In potentially irreversible decline, structure an aesthetics severely compromised

"Dead" 0 - 5% = No live canopy/buds

TPZ MAP LEGEND:

NP Not Protected

Protected Tree to Remain

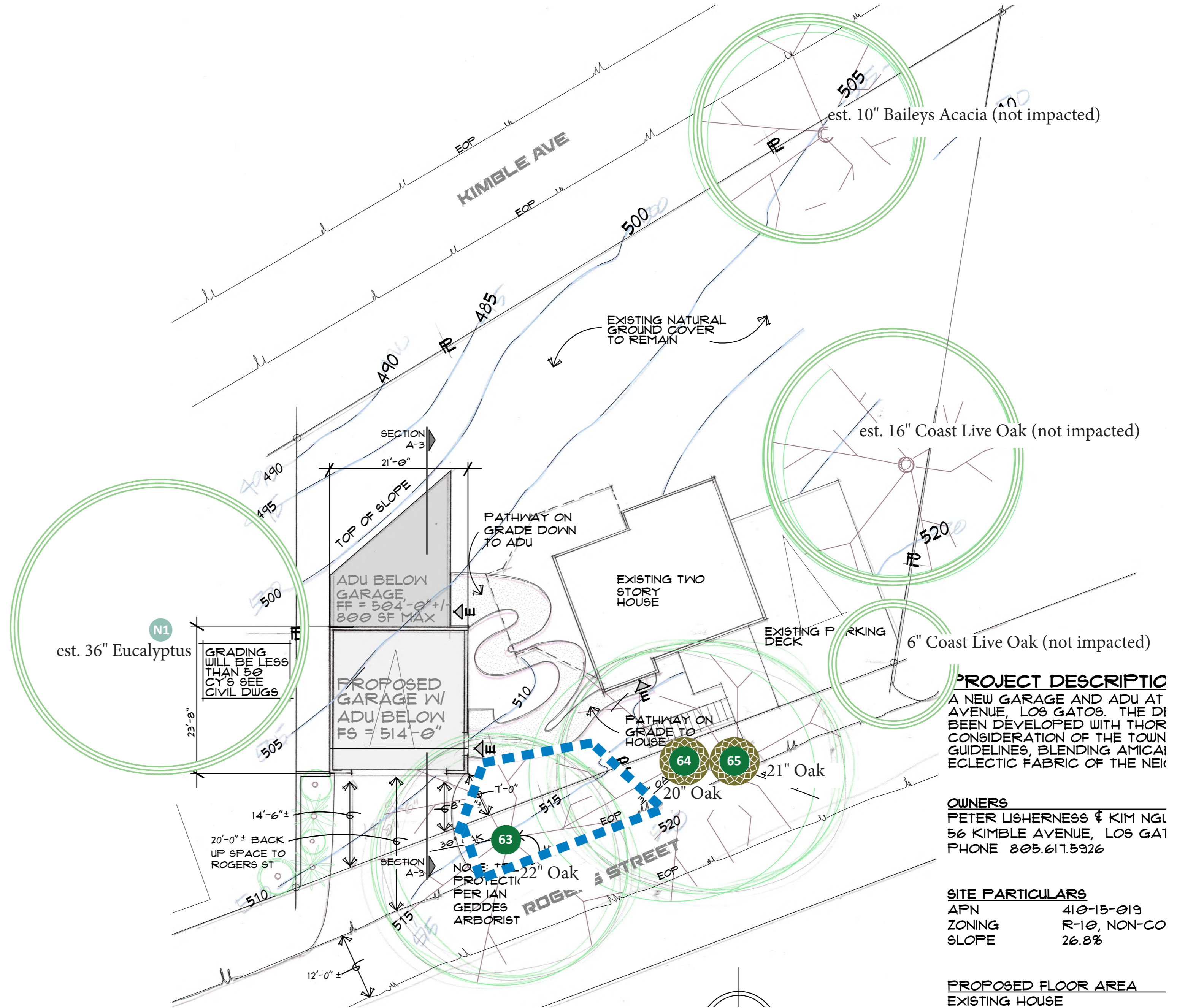
N# Impacted Protected Neighboring Tree (1)

Requested Tree Removal (0)

■ ■ ■ ■ ■ Type I Tree Protection Zone Fencing

○ Type II Tree Protection Wrap

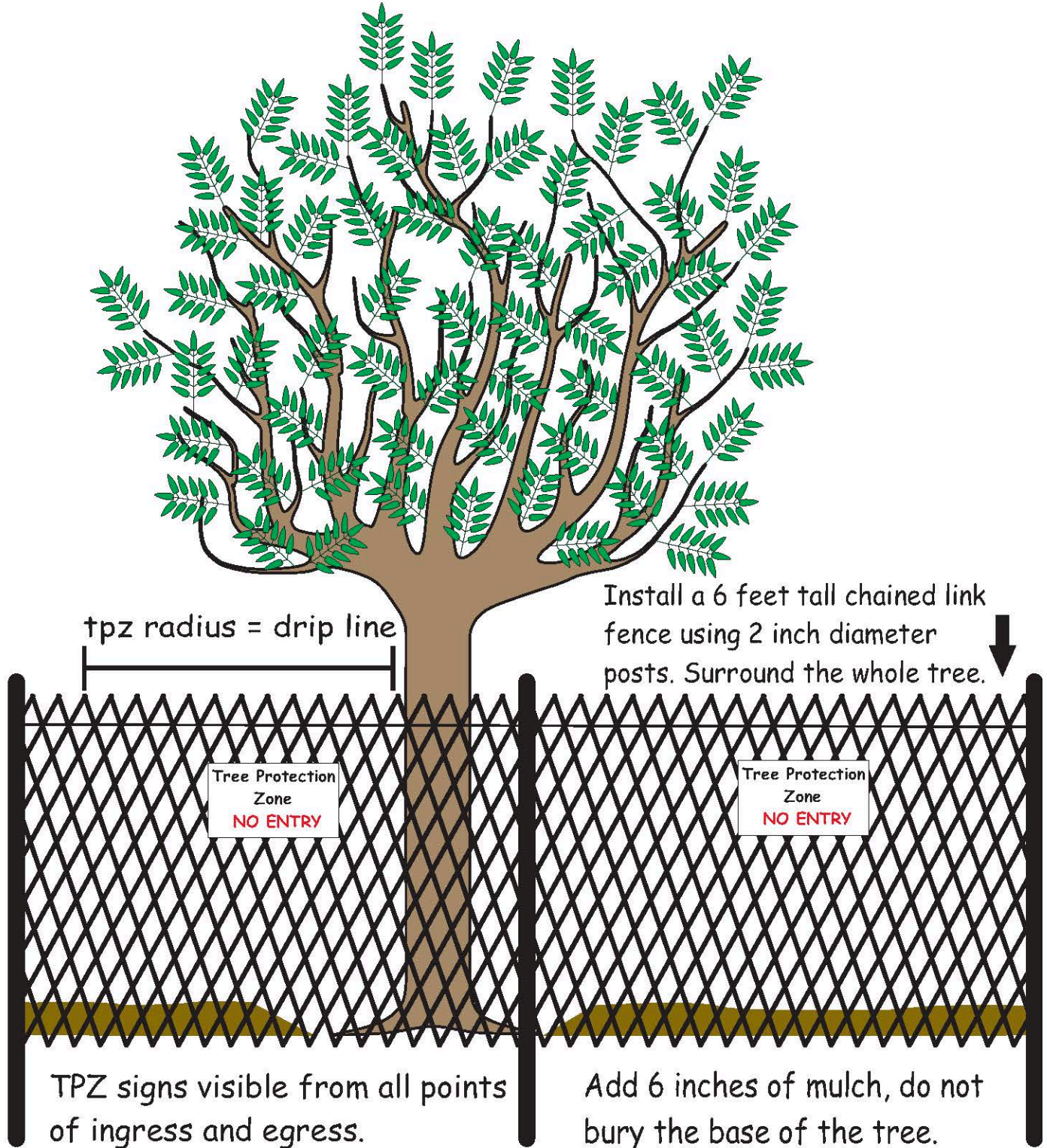
See tree inventory for detailed species information.
Location of Neighboring trees are approximate.





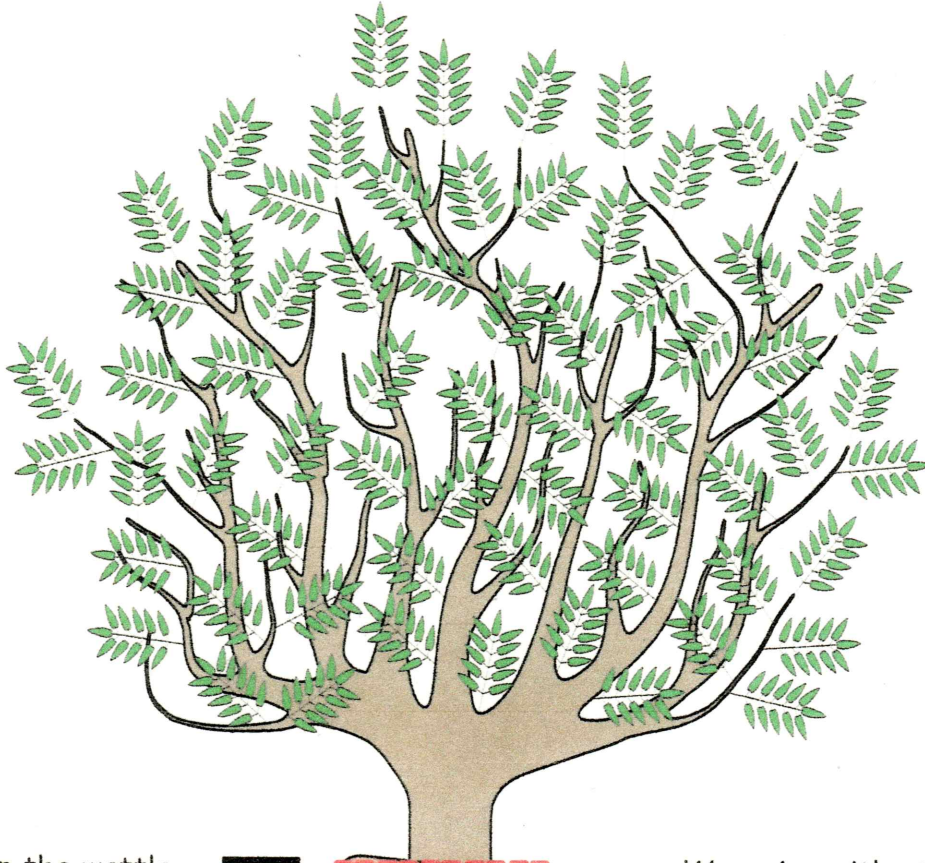
Type I Tree Protection Zone

TPZ's are erected to protect a tree above and below ground from development activities. They are erected prior to beginning construction activities then left in place until the final landscaped phase.

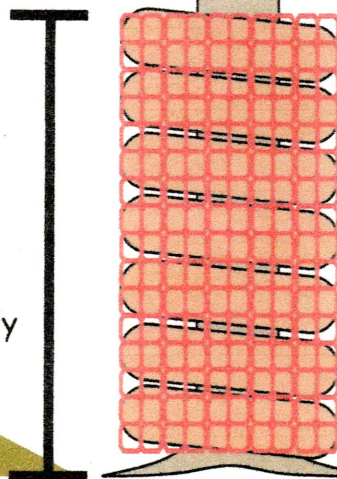


Type II Tree Protection Zone

TPZ's are erected to protect a tree above and below ground from development activities. They are erected prior to beginning construction activities then left in place until the final landscaped phase.



Wrap the wattle to a height of no less than 6 feet when possible. Secure the wattle with plastic orange construction fence. Do not affix directly to the tree with nails, bolts, etc.



Wrapping with straw wattle is an alternative method to protect a tree when space is limited. This will protect the tree from direct impacts but leaves the critical root zone exposed. When possible, spread chips to protect against soil compaction.

August 18, 2021

Diego Mora
Community Development Department
110 E. Main Street
Los Gatos CA 95030



Monarch Consulting Arborists

Richard Gessner
P.O. Box 1010 - Felton, CA 95018
1 831 331 8982
www.monarcharborists.com

Summary

This is the second letter of review for Variance Application V-20-002 56 Kimble Avenue. The arborist's report contains the information required by the ordinance. There was one difference in professional judgement regarding the proximity of construction and a proposed retaining wall adjacent to coast live oak (*Quercus agrifolia*) #63. The applicant and arborist provided an addendum to address this issue and the revision is satisfactory while providing adequate space and protection of the tree. The plan set still does not contain a T-1 sheet indicating tree protection measures and fence locations and the data table.

Introduction

Background

I was asked by the Town of Los Gatos to review the plan set and arborist's report for Variance Application V-20-002.

Assignment, Limits, Purpose and Use

1. Provide a peer review of the Arborist Report prepared by Ian Geddes and Associates authored by arborist Bo Firestone.
2. Assess the tree and site conditions for consistency in the report and plan set regarding numbers, species, size, location, condition, and suitability for preservation. Site visit performed on July 16, 2021.
3. The following plan set was reviewed for this assignment: A-1, A-1.1, A-2, A-3, A-4 provided by Jay Plett dated 5/24/2021 and C-1 and C-2 provided by TS Civil Engineering.

This report is to help provide information regarding the provided arborist's report and plans with reference to the trees. The report is to be used by Town of Los Gatos, the Town's agents, and the property owners and owner's agents to help determine deficiencies within the documents regarding the trees.



Observations

Arborist's Report

The arborist's report provided contains the information typical for a pre development assignment and the judgments regarding condition are believed to be true and accurate.

The report is complete and contains the required components as indicated in ordinance section 29.10.1000 - New property development.¹

Plan Set

There is no T-1 Sheet as required by the ordinance as in section 29.10.1000 - New property development section (c) (1) "...Tree Preservation Instructions (Sheet T-1). Sheet T-1 shall be referenced on all relevant sheets (civil, demolition, utility, landscape, irrigation) where tree impacts from improvements may be shown to occur;".

Discussion

Arborist's Report

The report is complete and contains the information required by the ordinance. The expected impacts are discussed and added to the table in the addendum.

Plan Set

The T-1 sheet should indicate the exact locations of the tree protection fence and any other relevant information regarding the recommendations from the report and ordinance requirements stated in Section 29.10.1005. - Protection of Trees During Construction.

¹ The appraisals in the report were performed using the 9th Edition of the *Guide for Plant Appraisal, 2000*. This publication is outdated and future appraisals should be performed using the 10th edition.



Conclusion

The report contains the typical information required for a predevelopment assessment and conforms with the Town ordinance section 29.10.1000 - New property development. The one conflict around coast live oak #63 has been satisfactorily addressed on the plans and in the report addendum. The plan set does not contain the required T-1 sheet.

Recommendations

1. Place tree numbers and tree protection fence locations, guidelines, and specifications on the plans including the grading, drainage, and utility plans. Create a separate plan sheet including all protection measures labeled "T-1 Tree Protection Plan."
2. Wrap the trunk of coast live oak #63 with straw wattle or provide a barrier to prevent mechanical damage. Have an ISA Certified Arborist® observe the trenching and provide guidance to selectively remove any significant roots (roots greater than one inch in diameter (1") if encountered. Selective root removal requires pre-excavation, typically by hand or with a pneumatic excavating equipment such as an Air Spade®, Air Knife®, or similar tools. Selective removal allows for the roots to be exposed prior to cutting at the appropriate locations. This is the type of root removal that will need to occur at the building foundation. Roots greater than one inch in diameter should be pruned rather than left torn or crushed so as to leave "a clean flat surface with intact surrounding bark" (Costello, L., Watson, G., Smiley, E. T.. 2017).
3. All tree maintenance and care shall be performed by a qualified arborist with a C-61/D-49 California Contractors License. Tree maintenance and care shall be specified in writing according to American National Standard for Tree Care Operations: *Tree, Shrub and Other Woody Plant Management: Standard Practices* parts 1 through 10 and adhere to ANSI Z133.1 safety standards and local regulations. All maintenance is to be performed according to ISA Best Management Practices.



Appendix A: Additional Photographs

Oak adjacent to proposed retaining wall



Qualifications, Assumptions, and Limiting Conditions

Any legal description provided to the consultant is assumed to be correct. Any titles or ownership of properties are assumed to be good and marketable. All property is appraised or evaluated as though free and clear, under responsible ownership and competent management.

All property is presumed to be in conformance with applicable codes, ordinances, statutes, or other regulations.

Care has been taken to obtain information from reliable sources. However, the consultant cannot be responsible for the accuracy of information provided by others.

The consultant shall not be required to give testimony or attend meetings, hearings, conferences, mediations, arbitration, or trials by reason of this report unless subsequent contractual arrangements are made, including payment of an additional fee for such services.

This report and any appraisal value expressed herein represent the opinion of the consultant, and the consultant's fee is not contingent upon the reporting of a specified appraisal value, a stipulated result, or the occurrence of a subsequent event.

Sketches, drawings, and photographs in this report are intended for use as visual aids, are not necessarily to scale, and should not be construed as engineering or architectural reports or surveys. The reproduction of information generated by architects, engineers, or other consultants on any sketches, drawings, or photographs is only for coordination and ease of reference. Inclusion of said information with any drawings or other documents does not constitute a representation as to the sufficiency or accuracy of said information.

Unless otherwise expressed: a) this report covers only examined items and their condition at the time of inspection; and b) the inspection is limited to visual examination of accessible items without dissection, excavation, probing, or coring. There is no warranty or guarantee, expressed or implied, that structural problems or deficiencies of plants or property may not arise in the future.



Certification of Performance

I Richard Gessner, Certify:

That I have personally inspected the tree(s) and/or the property referred to in this report, and have stated my findings accurately. The extent of the evaluation and/or appraisal is stated in the attached report and Terms of Assignment;

That I have no current or prospective interest in the vegetation or the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved;

That the analysis, opinions and conclusions stated herein are my own;

That my analysis, opinions, and conclusions were developed and this report has been prepared according to commonly accepted Arboricultural practices;

That no one provided significant professional assistance to the consultant, except as indicated within the report.

That my compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client or any other party, nor upon the results of the assessment, the attainment of stipulated results, or the occurrence of any other subsequent events;

I further certify that I am a Registered Consulting Arborist® with the American Society of Consulting Arborists, and that I acknowledge, accept and adhere to the ASCA Standards of Professional Practice. I am an International Society of Arboriculture Board Certified Master Arborist®. I have been involved with the practice of Arboriculture and the care and study of trees since 1998.

Richard J. Gessner



ASCA Registered Consulting Arborist® #496
ISA Board Certified Master Arborist® WE-4341B



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DEVELOPMENTAL REVIEW COMMENTS

- Address Identification:** New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained. (CFC Sec. 105.11. Emergency response access to the residence has changed to Rogers Street. Please note on Sheet A-1 that an application has been filed for an address change to 56 Rogers Street. Posting the address on Kimble is not acceptable in lieu of an address change.
- Water Supply Requirements:** Potable water supplies shall be protected from contamination caused by fire protection water supplies. It is the responsibility of the applicant and any contractors and subcontractors to contact the water purveyor supplying the site of such project, and to comply with the requirements of that purveyor. Such requirements shall be incorporated into the design of any water-based fire protection systems, and/or fire suppression water supply systems or storage containers that may be physically connected in any manner to the water supply system. Final approval of the potable water supply of the purveyor of record. Final approval of the system(s) under consideration will not be granted until the unit complies with the requirements of the water purveyor of record are documented by that purveyor as having been met by the applicant(s). (2019 CFC Sec. 903.3.5 and Health and Safety Code 13114.7.
- Construction Site Fire Safety:** All construction sites must comply with applicable provisions of the CFC Chapter 33 and our Standard Detail and Specification S1-7. Provide appropriate notations on subsequent plan submissions, as appropriate to the project. CFC Chp. 33.

This review shall not be construed to be an approval of a violation of the provisions of the California Fire Code or of other laws or regulations of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of the fire code or other such laws or regulations shall not be valid. Any addition to or alteration of approved construction documents shall be approved in advance. (CFC, Ch. 1, 105.9.6)

NO.	DATE	BY	REVISION
1	08/09/2021	Jay Plett, Architect	Initial Design
2	08/10/2021	Jay Plett, Architect	Design Review

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DEVELOPMENTAL REVIEW COMMENTS

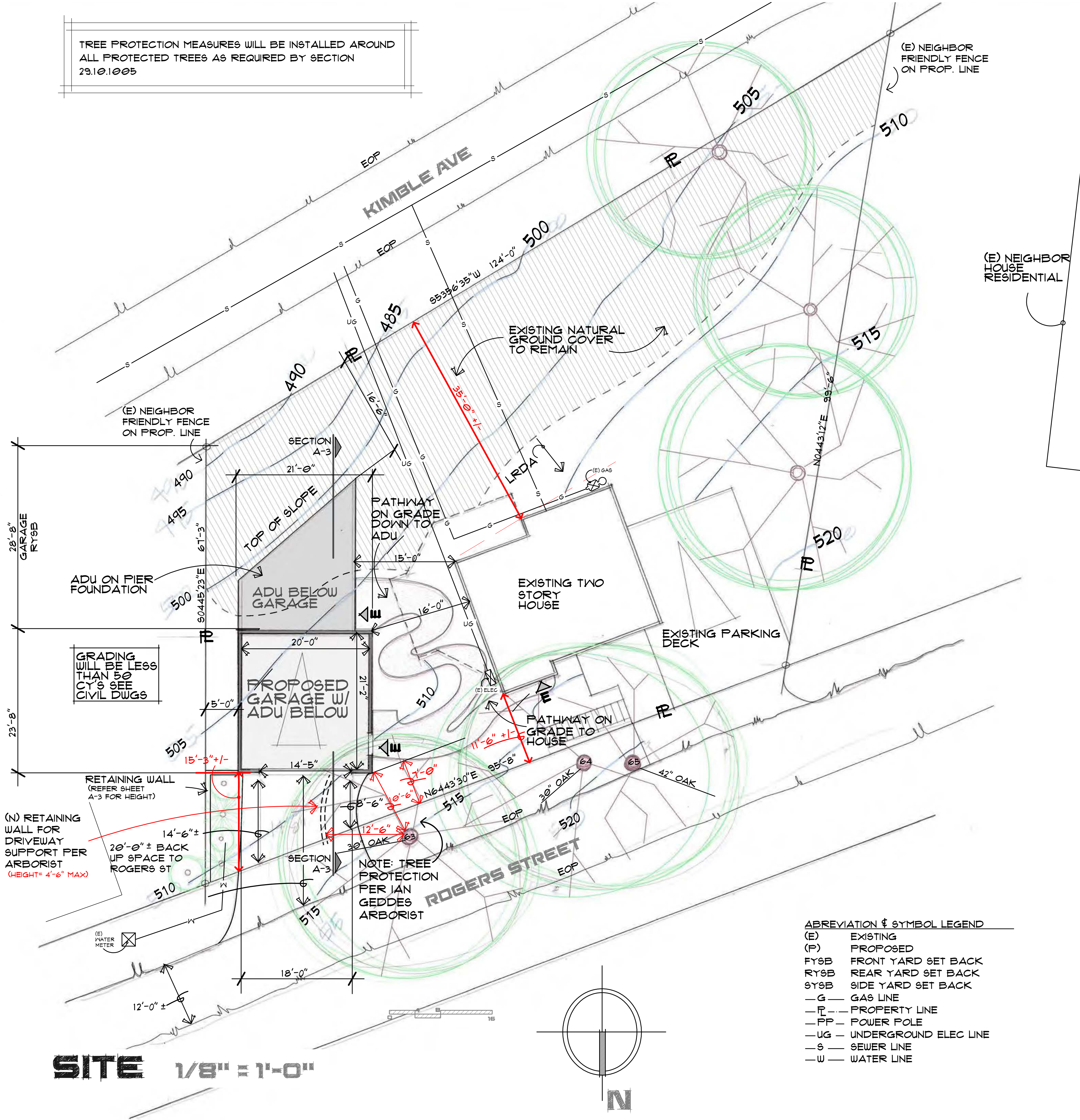
- Plans and Scope of Review:
This project shall comply with the following:
The California Fire Code (CFC) & Building Code (CBC), 2019 edition, as adopted by the Town of Los Gatos Town Code (LGC), California Code of Regulations (CCR) and Health & Safety Code.
The scope of this project includes the following:
Proposed new 1,268 SF Accessory Dwelling Unit (ADU) with attached garage on site of an existing 1,212 SF two-story single-family residence. ADU to be submitted under separate permit.

Plan Status:
Plans are NOT APPROVED. Revise and resubmit drawings and provide a response letter addressing comments on this plan review. (Specify comment #)

- Plan Review Comments:
- Review of this Developmental proposal is limited to acceptability of site access, water supply and may include specific additional requirements as they pertain to fire department operations, and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.
 - Fire Sprinklers Required:** An automatic residential fire sprinkler system shall be installed in all new one- and two-family dwellings and Detached Accessory Dwelling Units. Exceptions: Detached Accessory Dwelling Units, provided that all of the following are met: a) The unit meets the definition of an Accessory Dwelling Unit as defined in the Government Code Section 65852.2. b) The existing primary residence does not have automatic fire sprinklers. c) The detached ADU does not exceed 1,200 square feet in size. d) The unit is on the same lot as the primary residence. e) The unit meets all access and water supply requirements of Chapter 6 and Appendix B and C of the 2019 California Fire Code. Plans appear to show that the same line between the garage and existing residence is more than 5 feet. Please note that if the same line of the proposed garage/ADU and existing residence is less than 5 feet a sprinkler system will be required for both the existing residence and garage/ADU. The structure exceeds the 400' maximum distance from the hydrant to the farthest exterior corner of the structure.

NO.	DATE	BY	REVISION
1	08/09/2021	Jay Plett, Architect	Initial Design
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SITE 1/8" = 1'-0"

ABBREVIATION & SYMBOL LEGEND

- (E) EXISTING
- (P) PROPOSED
- FYSB FRONT YARD SET BACK
- RYSB REAR YARD SET BACK
- SYSB SIDE YARD SET BACK
- G- GAS LINE
- P- PROPERTY LINE
- PP- POWER POLE
- UG- UNDERGROUND ELEC LINE
- S- SEWER LINE
- W- WATER LINE

OWNERS
PETER LISHERNESS & KIM NGUYEN
56 KIMBLE AVENUE, LOS GATOS
PHONE 805.617.5926

SITE PARTICULARS
APN 410-15-019
ZONING R-10, NON-CONFORMING
AVG. SLOPE 26.8%

PROJECT DESCRIPTION
A NEW GARAGE AND ADU AT 56 KIMBLE AVENUE, LOS GATOS. THE DESIGN HAS BEEN DEVELOPED WITH THOROUGH CONSIDERATION OF THE TOWN'S DESIGN GUIDELINES, BLENDING AMICABLY WITH THE ECLECTIC FABRIC OF THE NEIGHBORHOOD. THE SITE IS NON-CONFORMING FOR IT'S ZONE - IT HAS SUBSTANDARD AREA & DEPTH - AVERAGE DEPTH IS 81'-0"

PROPOSED FLOOR AREA

GROSS SITE AREA	7,865 SF
NET SITE AREA	3,901 SF
FAR _{HOUSE}	.368
ALLOWED FLOOR AREA	1,431 SF
EXISTING HOUSE	1,212 SF
PORTION OF PROPOSED GARAGE OVER 400 SF	98 SF
TOTAL FLOOR AREA	1,310 SF

PROPOSED GARAGE 498 SF
PROPOSED ADU 800 SF (Max)

LOT COVERAGE

(E) HOUSE	606 SF
(P) GARAGE/ADU	800 SF
TOTAL COVERAGE	1,406 SF /18%

ADU TO MEET TOWN ACCESSIBILITY STANDARDS

ADU AND GARAGE TO BE EQUIPPED WITH FIRE SPRINKLERS

AN APPLICATION HAS BEEN FILED FOR AN ADDRESS CHANGE TO 56 ROGERS STREET

SEE FLOOR PLAN SHEET A2 FOR ADDITIONAL TREE CLEARANCE NOTES

CONTENTS

A-1	SITE PLAN / GRADING
A-1.1	NEIGHBORHOOD CHARACTERISTICS
A-2	GARAGE FLOOR PLAN
A-3	N / E ELEVATIONS AND SECTION
A-4	S / W ELEVATIONS
TP-1/2	TREE PROTECTION MEASURES
C-1/2	CIVIL GRADING & DRAINAGE PLANS

Print date:
08.30.21
07.28.21
06.30.21
05.24.21
08.10.20

JAY PLETT ARCHITECT
LICENSED ARCHITECT
Jay Dean Plett
C23455
06-30 RENEWAL DATE
STATE OF CALIFORNIA

408.354.4551
jay@plett-arc.com
www.plett-arc.com
213 Bean Avenue
Los Gatos, CA 95030

GARAGE | ADU
LISHERNESS/NGUYEN
56 KIMBLE AVE LOS GATOS

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Revisions:

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Date:
Sheet

A-1



60 KIMBLE AVENUE (VIEW FROM ROGERS ST.) (A)



50 KIMBLE AVENUE (VIEW FROM ROGERS ST.) (B)



38 KIMBLE AVENUE (VIEW FROM ROGERS ST.) (C)



38 KIMBLE AVENUE (VIEW FROM ROGERS ST.) (C)



34 KIMBLE AVENUE (VIEW FROM ROGERS ST.) (D)



80 CLELAND AVENUE (E)



90 CLELAND AVENUE (F)



114 CLELAND AVENUE (G)



120 CLELAND AVENUE (H)



126 CLELAND AVENUE (I)



PROPOSED STRUCTURE LOCATION (VIEW FROM ROGERS ST.) (J)



EXISTING HOUSE (VIEW FROM ROGERS ST. LOOKING EAST) (J)

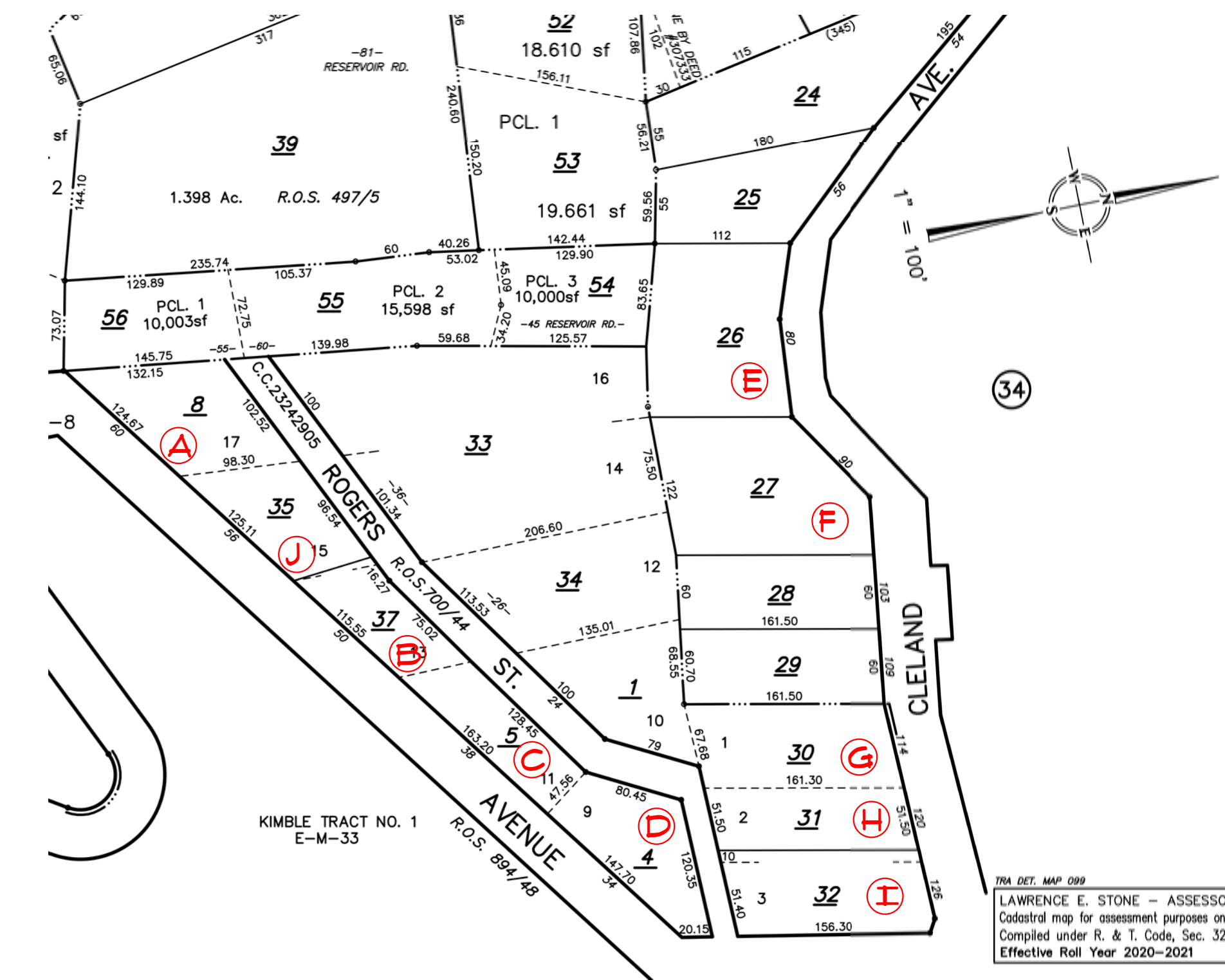


LOOKING UP ROGERS FROM PROJECT SITE (J)

PROJECT SITE

NEIGHBORHOOD CHARACTERISTICS

NOT TO SCALE



LOCATION KEY

Print date :

- 08.30.21
- 07.28.21
- 06.30.21
- 05.24.21
- 08.10.20

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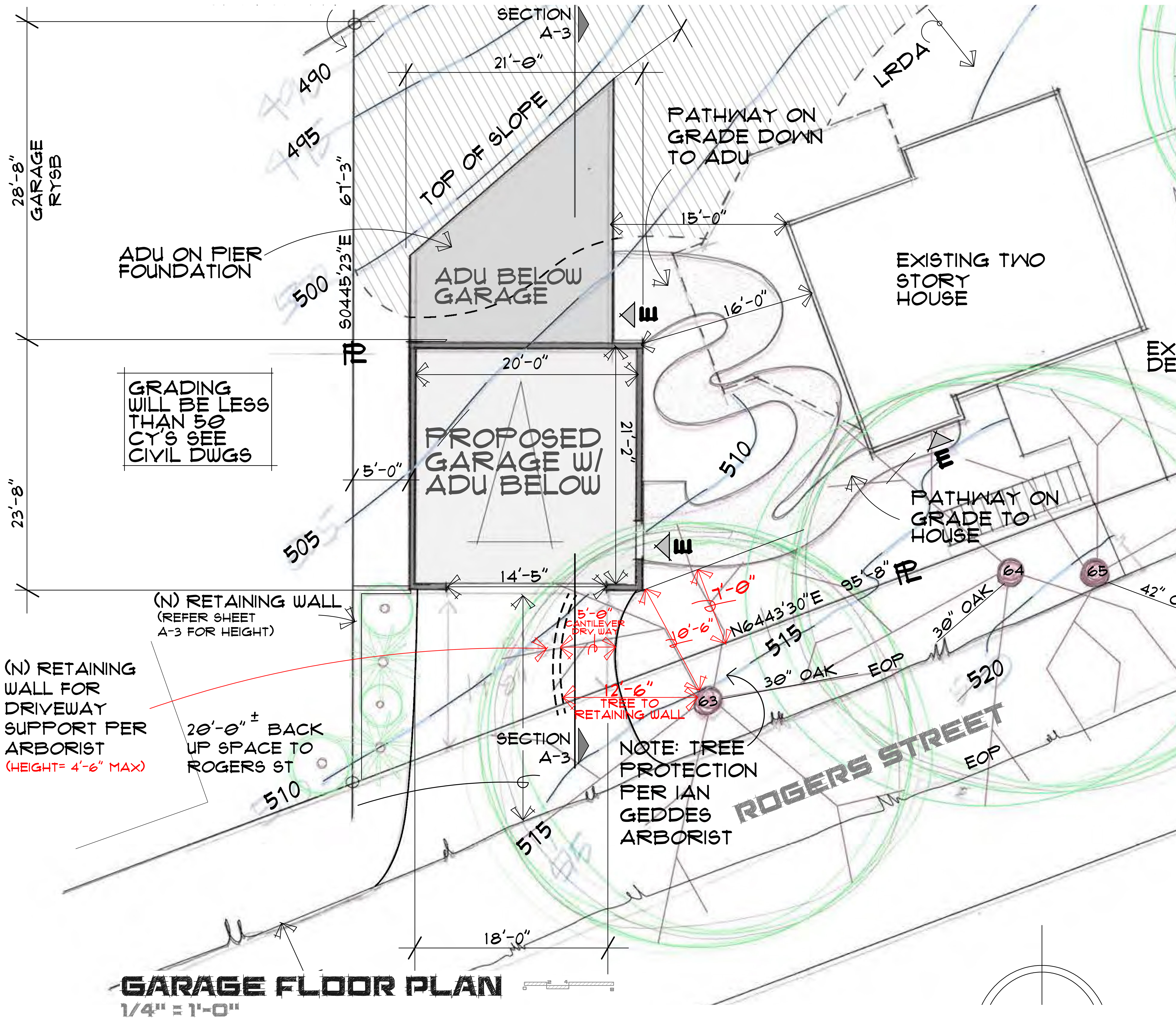
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 05.24.21
 08.10.20

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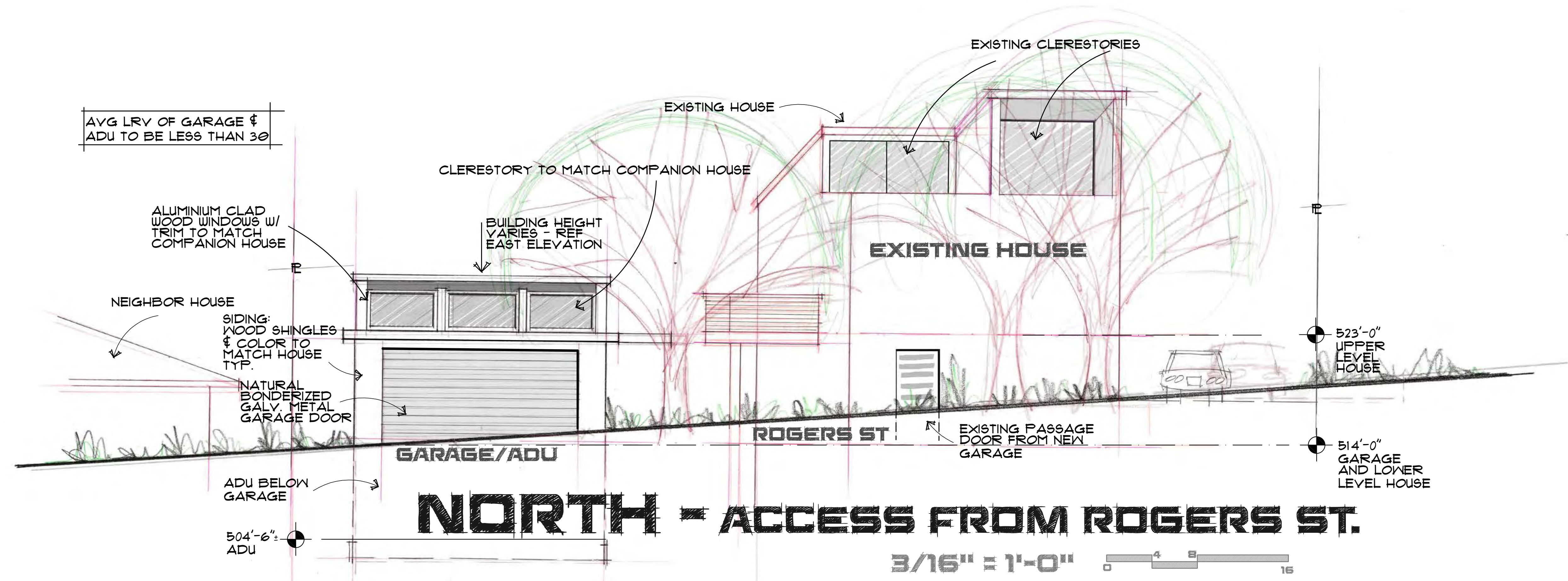
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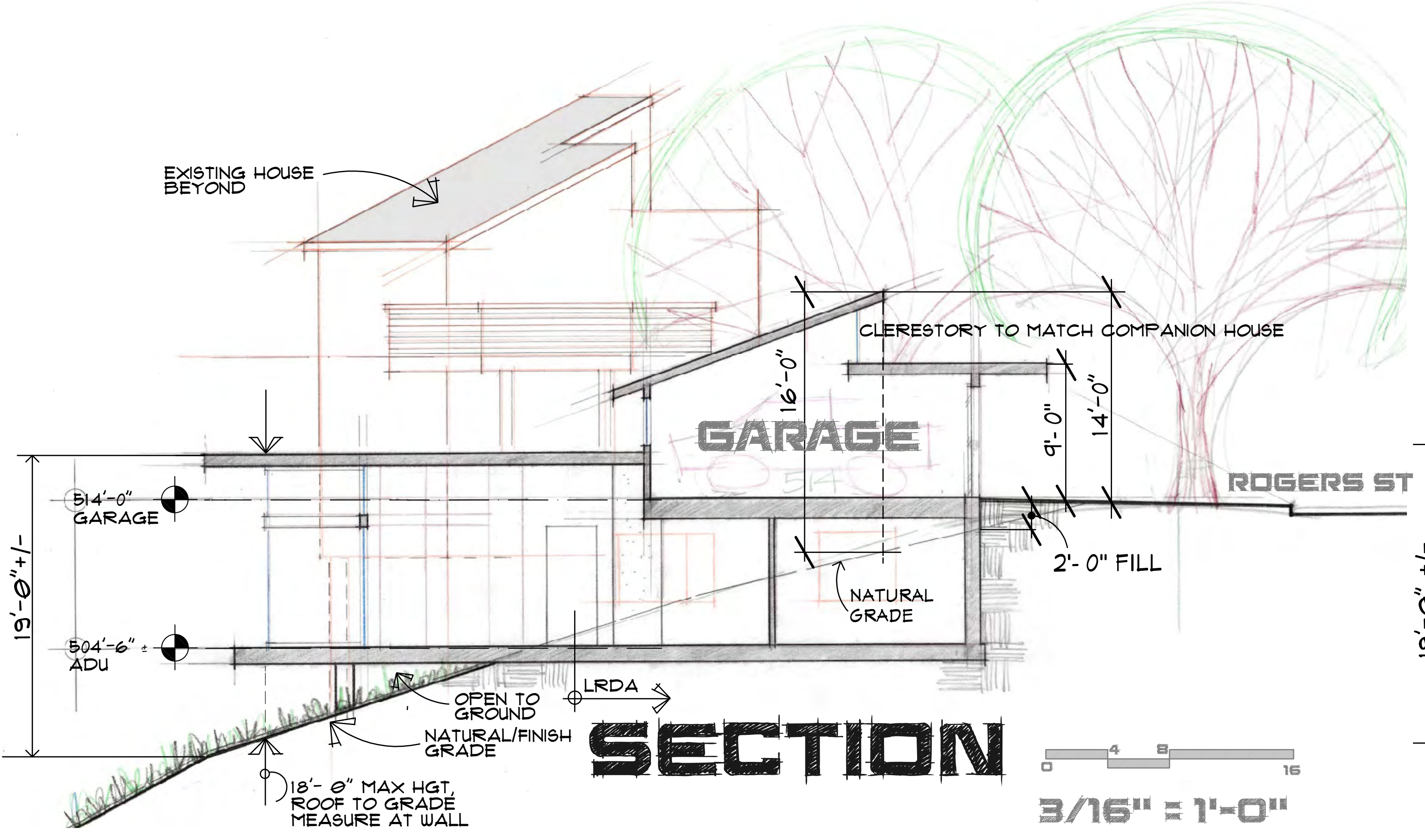
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A-2



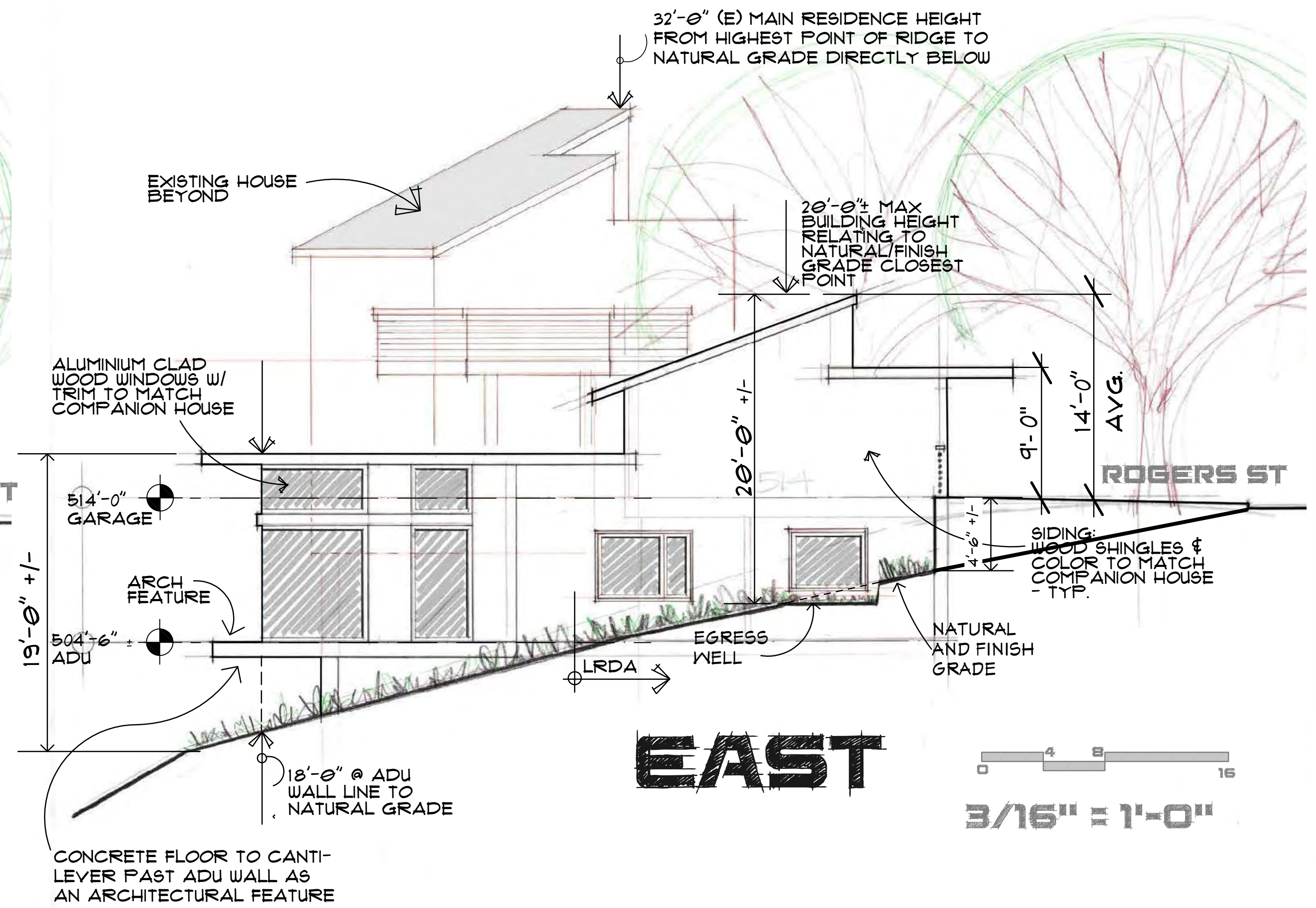
NORTH - ACCESS FROM ROGERS ST.

3/16" = 1'-0"



SECTION

3/16" = 1'-0"



EAST

3/16" = 1'-0"

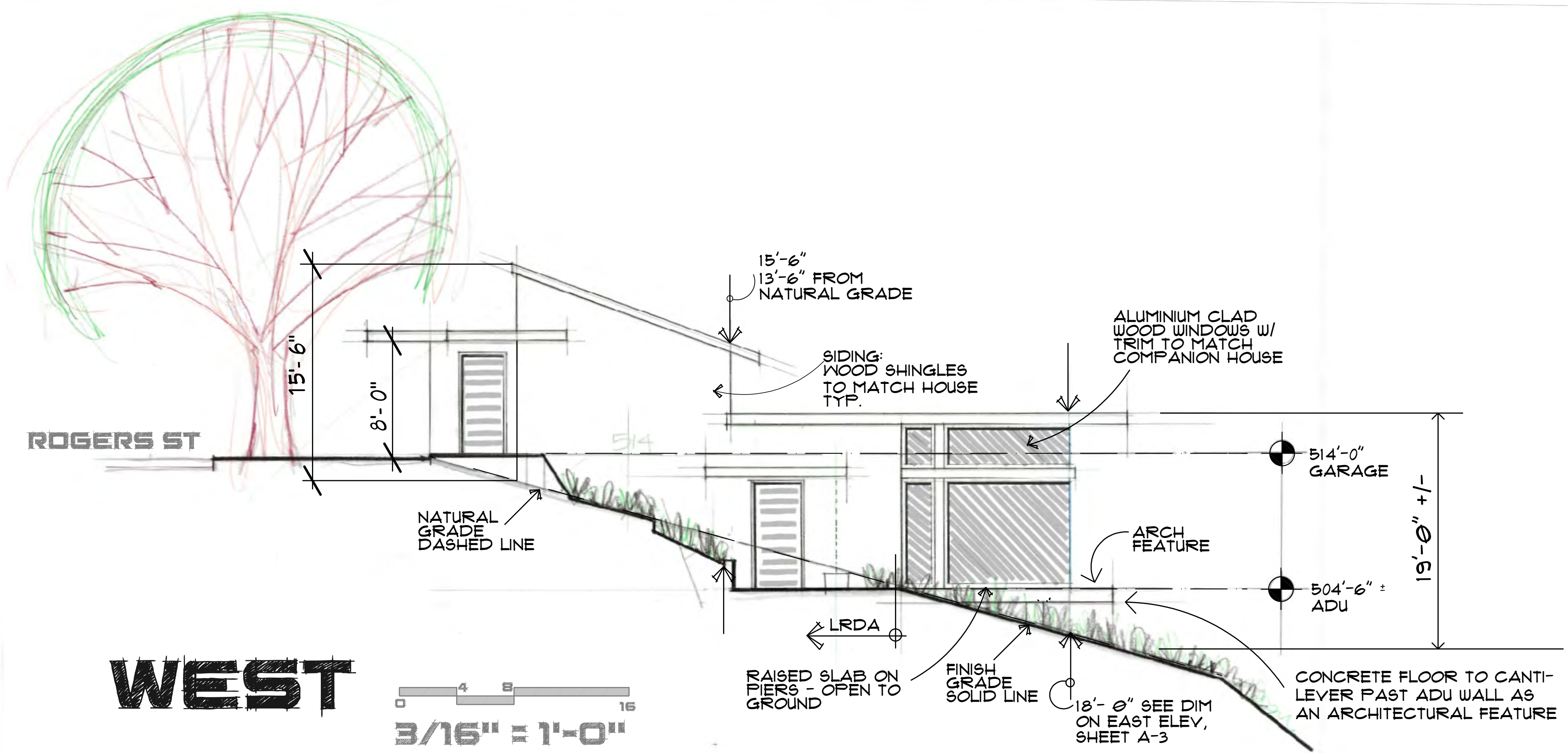
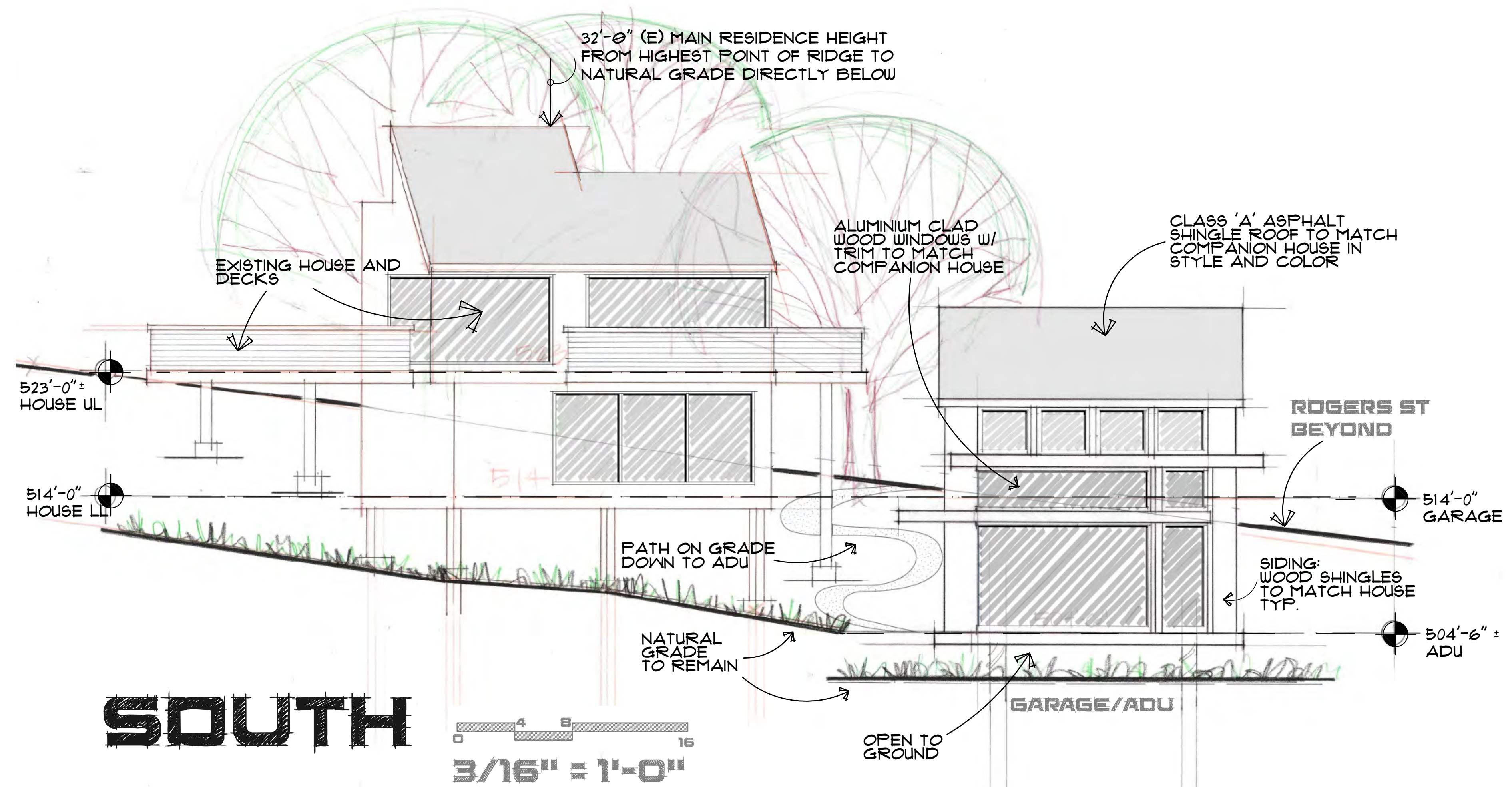
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Date:	

Sheet
A-3



GARAGE | ADU
LISHERNESS/NGUYEN
56 KIMBLE AVE LOS GATOS

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Revisions :

PRELIM
 PLAN CK
 PRICING SET
 CONST. SET

Scale :
 Date :
 Sheet

A-4

TPZ MAP LEGEND:

NP Not Protected

Protected Tree to Remain

N# Impacted Protected Neighboring Tree (1)

Requested Tree Removal (0)

■■■■ Type I Tree Protection Zone Fencing

○ Type II Tree Protection Wrap

See tree inventory for detailed species information.
Location of Neighboring trees are approximate.

TREE INVENTORY											
56 Kimble Ave. Los Gatos, CA											
TREE #	COMMON NAME	GENUS/SPECIES	DBH (inches)	CANOPY (feet)	TREE STATUS	AGE	CONDITION	RECOMMEND	NOTES	ACTION	APPRAISED VALUE
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64	Coast Live Oak	<i>Quercus agrifolia</i>	20	30	Protected	Mature	FAIR	RETAIN		Type II TPZ	\$9,950
65	Coast Live Oak	<i>Quercus agrifolia</i>	21	40	Protected	Mature	GOOD	RETAIN		Type II TPZ	\$12,800

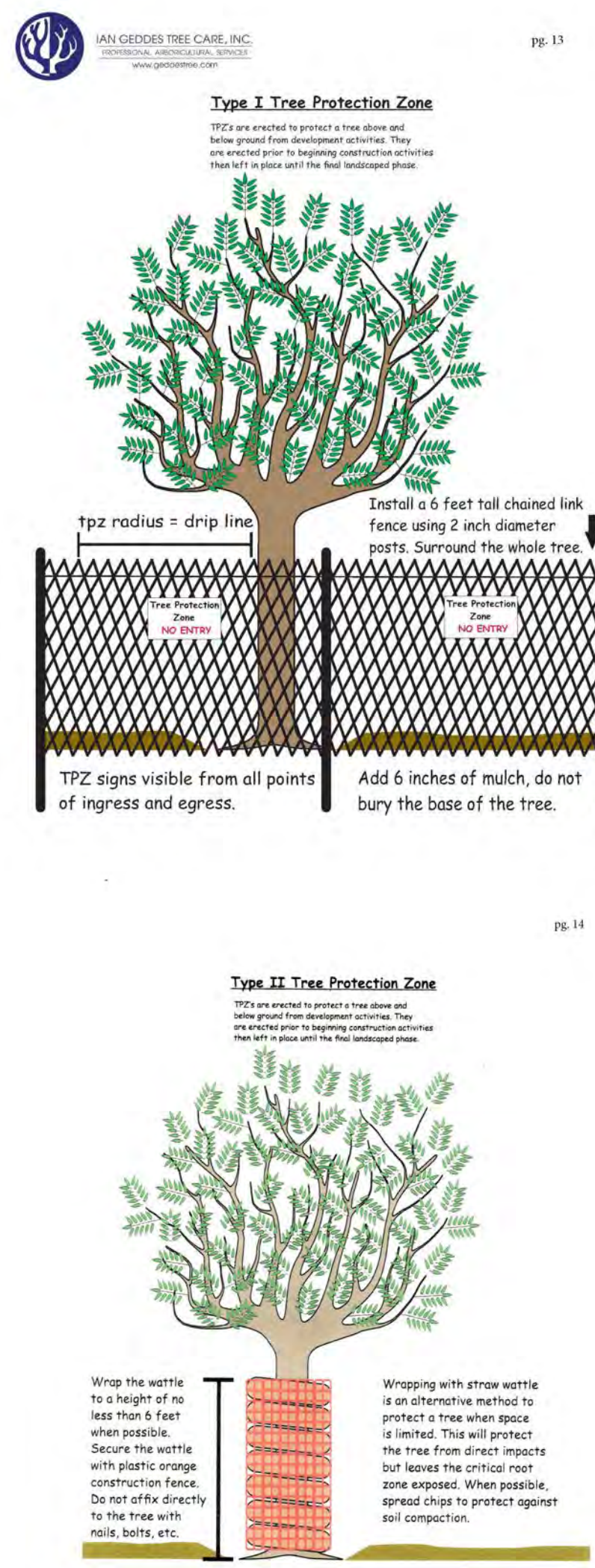
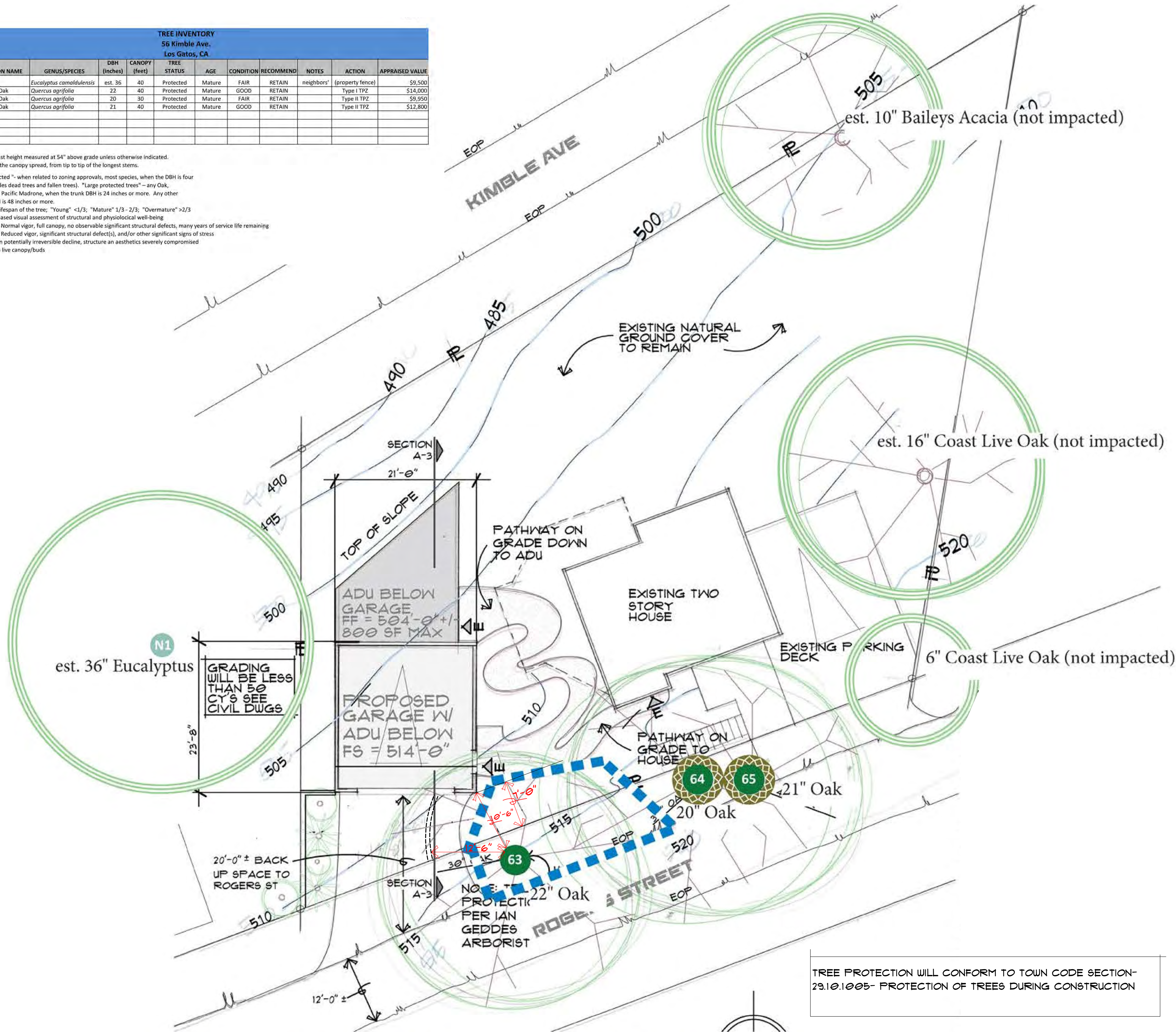
DBH-Diameter at breast height measured at 4" above grade unless otherwise indicated.
CANOPY-Diameter of the canopy spread, from tip to tip of the longest stems.

TREE STATUS: "Protected" - when related to zoning approvals, most species, when the DBH is four inches or more (includes dead trees and fallen trees). "Large protected trees" - any Oak, California Buckeye, or Pacific Madrone, when the trunk DBH is 24 inches or more. Any other species when the DBH is 48 inches or more.

AGE: Relative to the lifespan of the tree: "Young" <1/3; "Mature" 1/3 - 2/3; "Overmature" >2/3

CONDITION-Ground based visual assessment of structural and physiological well-being

"Good" 66 - 80% = Normal vigor, full canopy, no observable significant structural defects, many years of service life remaining
"Fair" 50 - 65% = Reduced vigor, significant structural defect(s), and/or other significant signs of stress
"Poor" 5 - 49% = In potentially irreversible decline, structure an aesthetics severely compromised
"Dead" 0 - 5% = No live canopy/buds



Tree Protection Zone Map

Drawn by Busara Firestone, ISA-Certified Arborist #WE-8525A
Base map: sheet A-1 by Jay Plett

56 Kimble Ave., Los Gatos
Lisherness/Nguyen Property

11/06/20

report pg. 12

Print date :
08.30.21
07.28.21
06.30.21
05.24.21
08.10.20

JAY PLETT ARCHITECT

LICENSED ARCHITECT
Jay Dean Plett
C23455
06-30
RENEWAL DATE
STATE OF CALIFORNIA

408.354.4551
jay@plett-arc.com
www.plett-arc.com
213 Bean Avenue
Los Gatos, CA 95030

GARAGE 1 ADU
LISHERNESS/NGUYEN
56 KIMBLE AVE LOS GATOS

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Revisions :

PRELIM PLAN CK	<input checked="" type="checkbox"/>
PRICING SET	<input type="checkbox"/>
CONST. SET	<input type="checkbox"/>
Scale :	
Date :	
Sheet	

TP-1

August 18, 2021

Diego Mora
Community Development Department
110 E. Main Street
Los Gatos CA 95030



Monarch Consulting Arborists

Richard Gessner
P.O. Box 1010 - Felton, CA 95018
1 831 331 8982
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Summary

This is the second letter of review for Variance Application V-20-002 56 Kimble Avenue. The arborist's report contains the information required by the ordinance. There was one difference in professional judgement regarding the proximity of construction and a proposed retaining wall adjacent to coast live oak (*Quercus agrifolia*) #63. The applicant and arborist provided an addendum to address this issue and the revision is satisfactory while providing adequate space and protection of the tree. The plan set still does not contain a T-1 sheet indicating tree protection measures and fence locations and the data table.

Introduction

Background

I was asked by the Town of Los Gatos to review the plan set and arborist's report for Variance Application V-20-002.

Assignment, Limits, Purpose and Use

1. Provide a peer review of the Arborist Report prepared by Ian Geddes and Associates authored by arborist Bo Firestone.
2. Assess the tree and site conditions for consistency in the report and plan set regarding numbers, species, size, location, condition, and suitability for preservation. Site visit performed on July 16, 2021.
3. The following plan set was reviewed for this assignment: A-1, A-1.1, A-2, A-3, A-4 provided by Jay Plett dated 5/24/2021 and C-1 and C-2 provided by TS Civil Engineering.

This report is to help provide information regarding the provided arborist's report and plans with reference to the trees. The report is to be used by Town of Los Gatos, the Town's agents, and the property owners and owner's agents to help determine deficiencies within the documents regarding the trees.



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Observations

Arborist's Report

The arborist's report provided contains the information typical for a pre development assignment and the judgments regarding condition are believed to be true and accurate.

The report is complete and contains the required components as indicated in ordinance section 29.10.1000 - New property development.¹

Plan Set

There is no T-1 Sheet as required by the ordinance as in section 29.10.1000 - New property development section (c) (1) "...Tree Preservation Instructions (Sheet T-1). Sheet T-1 shall be referenced on all relevant sheets (civil, demolition, utility, landscape, irrigation) where tree impacts from improvements may be shown to occur."

Discussion

Arborist's Report

The report is complete and contains the information required by the ordinance. The expected impacts are discussed and added to the table in the addendum.

Plan Set

The T-1 sheet should indicate the exact locations of the tree protection fence and any other relevant information regarding the recommendations form the report and ordinance requirements stated in Section 29.10.1005. - Protection of Trees During Construction.

¹ The appraisals in the report were performed using the 9th Edition of the *Guide for Plant Appraisal, 2000*. This publication is outdated and future appraisals should be performed using the 10th edition.



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Conclusion

The report contains the typical information required for a predevelopment assessment and conforms with the Town ordinance section 29.10.1000 - New property development. The one conflict around coast live oak #63 has been satisfactorily addressed on the plans and in the report addendum. The plan set does not contain the required T-1 sheet.

Recommendations

1. Place tree numbers and tree protection fence locations, guidelines, and specifications on the plans including the grading, drainage, and utility plans. Create a separate plan sheet including all protection measures labeled "T-1 Tree Protection Plan."
2. Wrap the trunk of coast live oak #63 with straw wattle or provide a barrier to prevent mechanical damage. Have an ISA Certified Arborist® observe the trenching and provide guidance to selectively remove any significant roots (roots greater than one inch in diameter (1") if encountered. Selective root removal requires pre-excavation, typically by hand or with a pneumatic excavating equipment such as an Air Spade®, Air Knife®, or similar tools. Selective removal allows for the roots to be exposed prior to cutting at the appropriate locations. This is the type of root removal that will need to occur at the building foundation. Roots greater than one inch in diameter should be pruned rather than left torn or crushed so as to leave "a clean flat surface with intact surrounding bark" (Costello, L., Watson, G., Smiley, E. T., 2017).
3. All tree maintenance and care shall be performed by a qualified arborist with a C-61/D-49 California Contractors License. Tree maintenance and care shall be specified in writing according to American National Standard for Tree Care Operations: *Tree, Shrub and Other Woody Plant Management: Standard Practices* parts 1 through 10 and adhere to ANSI Z133.1 safety standards and local regulations. All maintenance is to be performed according to ISA Best Management Practices.



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Appendix A: Additional Photographs

Oak adjacent to proposed retaining wall



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Page 4 of 6

Qualifications, Assumptions, and Limiting Conditions

Any legal description provided to the consultant is assumed to be correct. Any titles or ownership of properties are assumed to be good and marketable. All property is appraised or evaluated as though free and clear, under responsible ownership and competent management.

All property is presumed to be in conformance with applicable codes, ordinances, statutes, or other regulations.

Care has been taken to obtain information from reliable sources. However, the consultant cannot be responsible for the accuracy of information provided by others.

The consultant shall not be required to give testimony or attend meetings, hearings, conferences, mediations, arbitration, or trials by reason of this report unless subsequent contractual arrangements are made, including payment of an additional fee for such services.

This report and any appraisal value expressed herein represent the opinion of the consultant, and the consultant's fee is not contingent upon the reporting of a specified appraisal value, a stipulated result, or the occurrence of a subsequent event.

Sketches, drawings, and photographs in this report are intended for use as visual aids, are not necessarily to scale, and should not be construed as engineering or architectural reports or surveys. The reproduction of information generated by architects, engineers, or other consultants on any sketches, drawings, or photographs is only for coordination and ease of reference. Inclusion of said information with any drawings or other documents does not constitute a representation as to the sufficiency or accuracy of said information.

Unless otherwise expressed: a) this report covers only examined items and their condition at the time of inspection; and b) the inspection is limited to visual examination of accessible items without dissection, excavation, probing, or coring. There is no warranty or guarantee, expressed or implied, that structural problems or deficiencies of plants or property may not arise in the future.



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Page 5 of 6

Certification of Performance

I Richard Gessner, Certify:

That I have personally inspected the tree(s) and/or the property referred to in this report, and have stated my findings accurately. The extent of the evaluation and/or appraisal is stated in the attached report and Terms of Assignment;

That I have no current or prospective interest in the vegetation or the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved;

That the analysis, opinions and conclusions stated herein are my own;

That my analysis, opinions, and conclusions were developed and this report has been prepared according to commonly accepted Arboricultural practices;

That no one provided significant professional assistance to the consultant, except as indicated within the report.

That my compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client or any other party, nor upon the results of the assessment, the attainment of stipulated results, or the occurrence of any other subsequent events;

I further certify that I am a Registered Consulting Arborist® with the American Society of Consulting Arborists, and that I acknowledge, accept and adhere to the ASCA Standards of Professional Practice. I am an International Society of Arboriculture Board Certified Master Arborist®. I have been involved with the practice of Arboriculture and the care and study of trees since 1998.

Richard J. Gessner



ASCA Registered Consulting Arborist® #496
ISA Board Certified Master Arborist® WE-4341B

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Page 6 of 6

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Revisions :

PRELIM
PLAN CK
PRICING SET
CONST. SET

Scale :

Date :

Sheet

TP-2

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**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 10/27/2021

ITEM NO: 4

DATE: October 22, 2021
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Review and Discuss the Commercial Cannabis Presentation Provided by the Town Attorney.

REMARKS:

The Town Attorney has prepared a presentation about Commercial Cannabis within the Town of Los Gatos. Cannabis Presentation (Exhibit 1). The Town Attorney and staff look forward to the discussion with the Planning Commission regarding the topics covered in this presentation.

EXHIBIT:

1. Cannabis Presentation

PREPARED BY: Joel Paulson
Community Development Director

Reviewed by: Community Development Director

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Cannabis Dialogue Community Workshop 2021



Meeting Purpose

The Town Council seeks public input regarding the potential development and implementation of regulations that could allow commercial retail, cultivation production, processing, manufacturing, delivery and/or testing of cannabis (marijuana) products in Los Gatos.

*Commercial cannabis includes both medical and recreational cannabis.



How will today's input be used?

- Several workshops will be held until the end of the year.
- Each will cover the same topics and seek the same input.
- An online survey is available on the Town website.
- Following the workshops, a summary report will be prepared and presented to the Town Council.
- The Town Council will consider the public input as they decide how to proceed (or not) with the development of local cannabis regulations.



Meeting Overview

- Before we ask for your input, we are going to begin today's meeting with:
- A Summary of applicable laws and regulations.
- An Overview of commercial cannabis industry.
- And Provide an opportunity to ask any questions that you may have.



What is Cannabis?

- Cannabis is a plant containing more than eighty biologically active chemical compounds that each have a different effect on the body.
- The Industry has shifted from term “marijuana” to “cannabis” (they are interchangeable).
- The most commonly known compounds are THC and CBD.
 - THC is the psychoactive compound that produces the high in recreational cannabis.
 - CBD does not produce any psychoactive effects and may have health benefits.



Dynamic History of Cannabis in US

- Medical & Industrial use of Cannabis was allowed and unregulated until 1937...
- Marihuana Tax Act of 1937
(Imposed a tax fines and penalties that effectively banned it, AMA opposed the act)
- Boggs Act of 1952 and Narcotics Control Act of 1956 (Provided for mandatory sentencing and increased punishment and fines).
- Controlled Substances Act of 1970- Schedule 1 classification with heroin, LSD, MDMA (ecstasy), mushrooms.



Recent History of Cannabis in California

- **1996:** Prop. 215 – Provided protection against prosecution for medical marijuana in California for qualified patients, with a doctor’s recommendation.
- **2015** -The Medical Marijuana Regulation and Safety Act. Statewide regulatory system for medical cannabis businesses
- **2016:** Prop. 64 (Adult Use of Marijuana Act) – Voters Legalized recreational marijuana in California.



PROPOSITION 64 ELECTION RESULTS

Statewide

57.1% of voters supported;
42.9% opposed

Santa Clara County

58.3% of voters supported;
41.7% opposed

Town of Los Gatos

62% of voters supported;
38% opposed



WHAT DOES PROP 64 ALLOW?

- Residents can grow up to 6 plants per household. For the Town the must be inside.
- Over 18 can legally buy and possess up to 1 oz. of cannabis with a Dr.'s recommendation.
- Over 21 can legally buy and possess up to 1 oz. of cannabis from a legal retail location.
- Cannabis cannot be consumed in public and cannot be carried across state lines.
- Cities and counties may completely prohibit commercial cannabis activity.
- No public consumption.
- Employers may prohibit marijuana use by employees.



WHAT DOES PROP 64 ALLOW?

Requires State Licensing of Commercial Operations:

- All commercial cannabis businesses must have a state license to engage in any commercial cannabis activities.
- State licenses cannot be issued to an applicant whose operations would violate the provisions of any local ordinance or regulation.
- State licenses will be valid for one year.
- Separate state licenses are required for each business location.



Today's Legal Reality in- Los Gatos

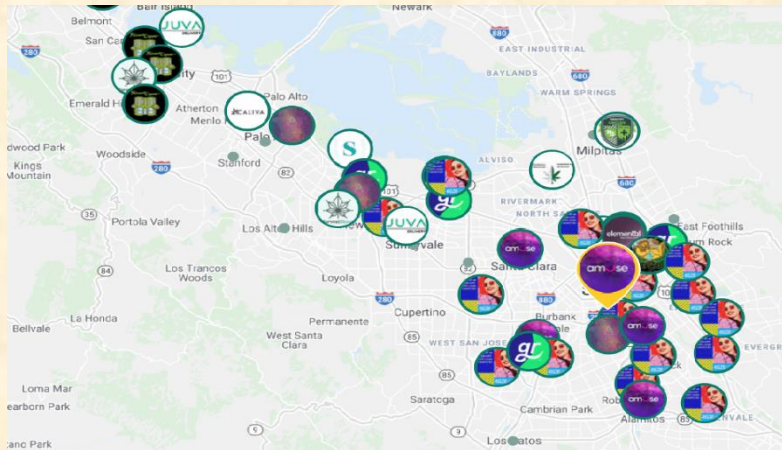
The Town's existing cannabis ordinance currently prohibits the establishment or operation of a business engaged in recreational or medical marijuana activity and the cultivation, production, and processing of cannabis within the incorporated areas of the Town, except for the personal cultivation of no more than six plants, indoors. The personal cultivation allowance is State mandated.



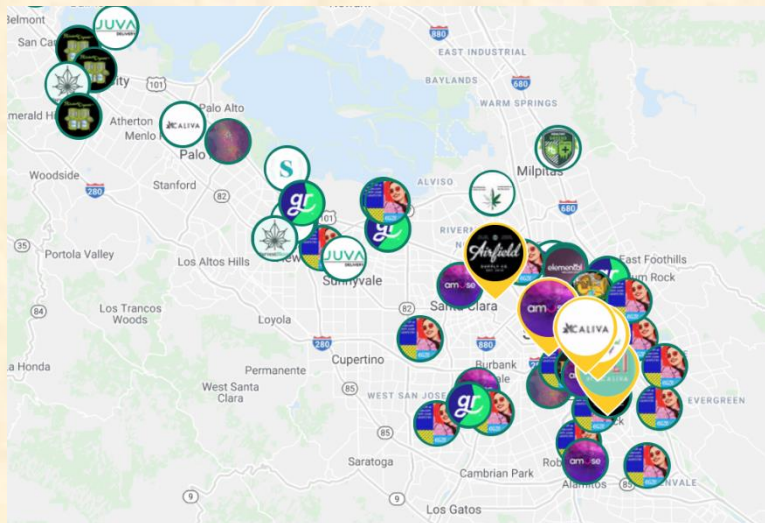
CANNABIS
WORKSHOP

Where is the Cannabis Industry in the Region

28 Delivery locations



41 Dispensary locations



CANNABIS WORKSHOP



Commercial Industry Overview

- Cultivation
- Processing and Manufacturing
- Testing
- Distribution
- **Retail sales**



Cultivation

Indoor Cultivation:

- Grow room or greenhouse
- Soil and fertilizer
- Water
- Overhead lighting
- Exhaust fan(s)
- Monitoring equipment

Outdoor Cultivation:

- Land
- Soil and Fertilizers
- Water
- Pesticides



Manufacturing and Processing

- Requires drying after harvest.
- Requires heat and pressure.
- Essential Oil (for vaporizing or edibles) either butane, carbon dioxide, or oxygen).
- Other products similar to cooking/baking.



Testing

- Laboratory work.
- Tests for the presence or absence of various analytes, including cannabinoids, residual solvents, micro-organisms, pesticides, heavy metals, and mycotoxins; water activity and moisture content; and filth and foreign material.
- Labs must be accredited by the International Organization for Standardization.



State Taxation

- A State excise cannabis tax of 15% of the gross receipts of any retail sale.
- A State cultivation tax is set at \$9.25 per ounce for marijuana flowers and \$2.75 per ounce for marijuana leaves.
- Sales and use tax (exemption applies to the retail sales of medicinal cannabis under certain circumstances).



LOCAL FISCAL IMPACT

Four potential revenue/fee sources:

- Local tax (Gross Receipts Business Tax/Square footage tax).
- Sales & Use Tax.
- Business License Fee.
- Development (Community Benefit) Agreement.



LOCAL TAX REVENUE PROJECTIONS

- Estimating future tax revenues for commercial cannabis business activities is difficult but not impossible.
- The Town's determination on the type, size, location and number of cannabis businesses will impact tax revenue.
- Initial research-Receipts per potentially generate between approximately \$250,000 to \$1,500,000 in revenue for the Town.



POSSIBLE COMMUNITY CONCERNS

- Public Safety Impacts
- Impacts on Youth
- Noise, Lighting and Odor Impacts.
- Environmental Impacts
- Traffic Impacts



POSSIBLE COMMUNITY CONCERNS

Public Safety Impacts

- Limit hours of operation.
- Locations away from residential neighborhoods.
- Require surveillance systems.
- Require security guards.
- Require compliance inspections.



POSSIBLE COMMUNITY CONCERNS

Impact on Youth

- Limit hours of operation.
- Require 1,000-foot buffer from sensitive uses.(Schools, Youth centers, Daycare facilities).
- Regulate signage and appearance.
- State prohibits employment, access or advertising to anyone under 21.



POSSIBLE COMMUNITY CONCERNS

Noise, Lighting and Odor Impacts

- Limit noise levels after certain hours.
- Limit to industrial areas where noise and odor may be acceptable.
- Require odor control systems.
- Limit cultivation to indoors.
- Require exterior lighting standards.



POSSIBLE COMMUNITY CONCERNS

Environmental Impacts

- Limit to industrial areas where similar activities are permitted and mitigated.
- Require energy conservation measures.
- Require water conservation measures.
- Require energy from renewable sources.



POSSIBLE COMMUNITY CONCERNS

Traffic Impacts

- Limit to locations with appropriate access and parking infrastructure
- Require adequate onsite parking standards



Group Discussion

- What should the Town's objectives and goals be with respect to cannabis?
- What should the Town's vision be for Los Gatos business districts and adjacent neighborhoods if commercial/retail cannabis businesses were allowed?
- What are the top issues of concern related to cannabis use and sales that the Town may be able to address through its regulations?
- If allowed, how many commercial/retail cannabis businesses should be allowed in the Town?



Group Discussion (cont.)

- If allowed, in which zoning districts should commercial/retail cannabis businesses be allowed in the Town?
- If allowed, what type of restrictions should be placed on each of the operations?
- If allowed, what concerns, if any, with commercial cannabis cultivation, manufacturing, testing, and distribution in the Town of Los Gatos.
- Do you have different concerns for indoor vs. outdoor cultivation?
- Do you have different concerns for manufacturing/processing vs. cultivation?



Next Steps

- Following the public workshops, community meetings and town advisory board meetings, a summary report will be presented to The Town Council.
- The Town Council will determine whether to proceed with drafting cannabis regulations.
- If the Town Council elects to proceed, the process will be open to the public, with ample opportunity to provide input on the details and specifics.



Wrap Up

- Take the online survey!

www.losgatosca.gov/2689/Cannabis

- Stay informed
- Periodically check the Town website for updates on this effort
- Thank you for being involved!



