TOWN OF LOS ALTOS HILLS

MEMORANDUM

DATE: March 14, 2012

TO: Honorable Mayor and Members of Council

FROM: Deborah Padovan, City Clerk

RE: Notification of Planning Commission Approval

At the March 1, 2012 Planning Commission Meeting, the following application was approved:

LANDS OF HOMA NATOMA, 27270 Palomino Place; File #148-11-ZP-SD-GD; A request for a Site Development Permit and a Grading Policy Exception for a 2,330 square foot swimming pool, pool decking, tennis court, and landscape screening plan for the 25,273 square foot new residence approved by the Planning Commission on August 5, 2010. A portion of the proposed swimming pool is subject to a Grading Policy Exception for filling up to five (5) feet where three (3) feet is the maximum allowed pursuant to the Town’s Grading Policy. CONTINUED FROM THE FEBRUARY 2, 2012 PLANNING COMMISSION MEETING. CEQA Review: Categorical Exemption per Section 15303 (a) (staff-Brian Froelich).

- Planning Commission Vote:
  1) 5-0 to approve the grading policy exception for a 2,330 swimming pool, pool decking, and landscape screening plans.
  2) 3-2 (Commissioner Harpootlian and Partridge-No) to approve the tennis court in the original location as presented at the February 1, 2012 Planning Commission meeting.
- Appeal deadline: March 23, 2012

Copies of the staff report to the Planning Commission and Conditions of Approval for the project are attached. Please contact Planning Director Debbie Pedro if you have any questions regarding the application. If you wish to appeal this application you may indicate your intention to appeal a written request to the City Clerk by 5:00 p.m. on March 23, 2012.
A. PLANNING DEPARTMENT:

1. Any further changes or modifications to the approved plan or the required landscaping shall be first reviewed and approved by the Planning Director or Planning Commission, depending on the scope of changes, prior to planting or commencement of work.

2. All required plantings and lighting shown on the plans shall be installed prior to final inspection of the new residence. All exposed slopes must be replanted for erosion control to the satisfaction of the Engineering Department prior to final inspection of the new residence.

3. A landscape maintenance and water use deposit of $10,000.00 shall be posted prior to final inspection of the new residence. An inspection of the screening plantings to ensure adequate establishment and maintenance shall be made two years after installation. Prior to deposit release, the property owner shall also furnish to the Town the second year (months 13-24 following receipt of the Certificate of Completion) of water use and billing data from the subject property’s water purveyor. If the site water usage exceeds the calculated PWB, the deposit will be held for an additional 12 months. At the end of the additional 12 month period, the property owner shall provide the Town with the previous 12 months (months 25-36) of water use and billing data from the subject property’s water purveyor. If the water usage still exceeds the estimated PWB, the deposit shall be forfeited to the Town, in full. All Town staff time and materials expended to ensure compliance with this condition will be deducted from the deposit.

4. Exterior and outdoor lighting locations are approved as shown on the plans. Please note that any additional lighting shall be first submitted for Planning Department review and approval prior to installation. Generally, lighting shall be the minimum needed for safety, shall be down shielded, low wattage, shall not encroach or reflect on adjacent properties, the source of the lighting shall not be visible from off the site.

5. The property owner shall contact the Building Department and acquire any and all required building permits prior to commencement of work on landscape or hardscape.

6. No fences, gates, or columns are approved with this permit. The owner may apply for a separate Fence Permit.

7. The applicant shall test all fixed noise sources installations and provide a letter from a qualified acoustical consultant documenting that all fixed noise sources comply with the Town’s Noise Ordinance, prior to final inspection of the new residence. The letter
shall note the methods of testing, the results, and any attenuation measures that were needed to attain compliance.

8. The tennis court shall be installed in the location as presented at the February 2, 2012 Planning Commission hearing. The approved location is oriented north and south along the 30 foot setback line adjacent to the property at 27220 Carrington Circle. The applicant shall provide three (3) final sets of landscape and grading plans with the tennis court in the approved location.

B. ENGINEERING DEPARTMENT:

9. The site drainage associated with the proposed development must be designed as surface flow wherever possible to avoid concentration of the runoff. The proposed drainage shall be designed to maintain the existing flow patterns. Final drainage and grading shall be inspected by the Engineering Department and any deficiencies corrected to the satisfaction of the Engineering Department prior to final inspection. A final letter shall be submitted from the project engineer stating that the site drainage was constructed in conformance with the approved plans and recommendations prior to final inspection.

10. Any, and all, areas on the project site that have the native material disturbed shall be protected for erosion control during the rainy season and shall be replanted prior to final inspection.

11. Any, and all, changes to the approved Site Development Plan shall first be approved by the Town Engineering Department. No grading shall take place during the grading moratorium (October 15 to April 15) except with prior approval from the City Engineer. No grading shall take place within ten feet of any property line.

12. The property owner shall inform the Town of any damage and shall repair any damage caused by the construction of the project to pathways, private driveways, and public and private roadways, prior to final inspection and release of occupancy permits and shall provide the Town with photographs of the existing conditions of the roadways and pathways prior to acceptance of plans for building plan check.

13. Two copies of a grading and construction operation plan shall be submitted by the property owner for review and approval by the City Engineer and Planning Director prior to acceptance of plans for building plan check. The grading/construction operation plan shall address truck traffic issues regarding dust, noise, and vehicular and pedestrian traffic safety on Palomino Place and surrounding roadways; storage of construction materials; placement of sanitary facilities; parking for construction vehicles; and parking for construction personnel. A debris box (trash dumpster) shall be placed on site for collection of construction debris. Arrangements must be made with the GreenWaste Recovery, Inc. for the debris box, since they have a franchise with the Town and no other hauler is allowed within the Town limits.
CONDITION NUMBERS 12 AND 13 SHALL BE COMPLETED AND SIGNED OFF BY THE PLANNING DEPARTMENT OR THE ENGINEERING DEPARTMENT PRIOR TO ACCEPTANCE OF CONSTRUCTION PLANS FOR PLAN CHECK BY THE BUILDING DEPARTMENT.

Project approval may be appealed if done so in writing within 22 days of the action. Building Permits cannot be accepted until the appeal period has lapsed.

NOTE: The Site Development permit is valid for one year from the approval date (until March 1, 2013). All required building permits must be obtained within that year and work on items not requiring a building permit shall be commenced within one year and completed within two years.
TOWN OF LOS ALTOS HILLS
Staff Report to the Planning Commission

March 1, 2012

SUBJECT: SITE DEVELOPMENT PERMIT AND GRADING POLICY EXCEPTION FOR A 2,330 SQUARE FOOT SWIMMING POOL, TENNIS COURT, AND LANDSCAPE SCREENING PLAN; LANDS OF HOMA NATOMA LLC; 27270 PALOMINO PLACE; FILE #148-11-ZP-SD-GD. CONTINUED FROM THE FEBRUARY 2, 2012 PLANNING COMMISSION MEETING

FROM: Brian Froelich, AICP, Associate Planner

APPROVED: Debbie Pedro, AICP, Planning Director

RECOMMENDATION: That the Planning Commission:

1. Approve the requested Site Development Permit for the tennis court and Landscape Screening Plan subject to the conditions of approval in Attachment #1.

And;

2A. Deny the Grading Policy Exception for the swimming pool citing the findings for denial in Attachment #2.

Or;

2B. Approve the Grading Policy Exception for the swimming pool citing the applicant’s findings for approval in Attachment #3.

BACKGROUND

The Planning Commission reviewed the application on February 2, 2012 and continued the application while providing direction to the applicant (draft minutes – Attachment #4). The Commission’s direction included the following items:

- Provide mitigation for fixed noise sources (A/C units, pool equipment, generator)
- Landscape plant list should not include species that would typically grow taller than the residence roof ridge at maturity
- Rotate the tennis court 90 degrees and minimize fill

Additional background information can be found in the Planning Commission staff report dated February 2, 2012 (Attachment #5)
DISCUSSION

Site Data:
- Gross Lot Area: 4.902 acres
- Net Lot Area: 4.902 acres
- Average Slope: 9.5%

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Landscape Screening Plan

The revised plan list on plan sheet L3.0 shows that the tallest plants will grow to a maximum of 20 feet tall. The topography of the site was taken into account in the plant placement and no plants are anticipated to grow above the ridgeline of the residence. The Landscape Architect has provided water use calculations demonstrating compliance with Ordinance 520 on plan sheet L4.0 (Water Efficient Landscape).

Pool, Decking, and Spa

The swimming pool and spa are shown adjacent to the west wing of the residence. The pool and spa cover 2,330 square feet. The pool decking is at the same elevation as the finished floor of the residence with no steps or ramps. The swimming pool includes a slide that wraps around a pool bathroom. The slide and bathroom structure is 12’6” tall.

Grading Policy Exception

An area of 1,921 square feet covering the swimming pool and spa exceeds the Grading Policy maximum permitted fill amount (3’). The contractor has installed story poles at the coping level. The pool design incorporates a vanishing edge which allows pool water to spill over into a trough below. The top of the pool’s vanishing edge is a maximum of five (5) feet above the existing grade. The project Civil Engineer has prepared a diagram and section view of the fill area on plan sheet C-2.

The plan reviewed at the February 2, 2012 Planning Commission included a Grading Policy Exception for portions of the pool decking. The applicant has incorporated a floor level below the decking to house the pool equipment. This area is now included in the site’s Floor Area total (575 square feet). The portion of pool decking is now a roof deck and not the “lowest finished floor”. The deck area is not subject to a Grading Policy Exception.

Planning staff is recommending denial of the Grading Policy Exception. Design alternatives exist to lower the pool coping and decking several feet with the inclusion of
steps or ramps incorporated into the design to comply with the Grading Policy. Findings for denial are in Attachment #2.

The applicant has prepared findings for approval (Attachment #3). In brief, the applicant has identified the following justifications:

- Safety
- Accessibility
- Neighbor Support
- Proportionality (less than 1% of site area and over 200’ from property lines)
- Options limited due to resiting of the house
- Alternatives would increase off haul

The Planning Commission should cite the applicant’s findings if the Commission chooses to approve the Grading Policy Exception.

Tennis Court

The tennis court has been rotated 90 degrees and moved east. The court location is now 72 feet from the property line to the west (Lands of Chang). The proposed court grading plan has virtually no fill and complies with the Grading Policy. Tennis court lighting is specifically prohibited by Ordinance (10-2.1002).

Two heritage oak trees (16”, 14”) are proposed for removal with the modified court plan. No replacement trees are recommended because the applicant is proposing a fully developed landscape plan. The tree removal is a result of redesigning the court layout in response to a neighbor issue. Further, the applicant has made efforts to minimize view loss by selecting only plantings that are likely to grow to a maximum of 20 feet. Replacement oak trees would range from 30-60 feet tall at maturity.

Outdoor Lighting Plan

The applicant has provided a lighting plan that complies with Town standards, only two entry lights are proposed in the setback. The driveway lights alternate on each side of the driveway to avoid a “runway” appearance and are spaced at approximately 20 feet apart. Recessed down shielded lights are proposed mounted to the retaining wall along the driveway. Six (6) tree mounted downlights are proposed near the porte cochere and front entry.

Noise

At the February 2, 2012 Planning Commission meeting concerns were heard regarding the proposed fixed noise sources on the property. Noise from fixed source installations
(A/C units, pool equipment, and generators) are subject to dBA limits of 50 during the daytime and 40 at nighttime. The applicant has addressed concerns as follows:

- **A/C units** - The plans show 10 A/C units in two locations inside walled enclosures. The plans show that the interior of the enclosures will be treated with a sound attenuation treatment. The equipment pad at the west wing of the residence has also been lowered by three (3) feet.

- **Generator** - The proposed generator well will also receive the attenuation treatment as the A/C enclosures. The housing will include a roof.

- **Pool Equipment** – The pool equipment has been relocated into an enclosed vault below the pool decking. This area is included in the floor area total for the site.

All of these installations comply with setback standards and will be subject to the Noise Ordinance during operation at any time in the future. To ensure compliance at installation, recommended condition #7 requires that an acoustical consultant test all fixed source installations and documentation compliance with Town standards, prior to final sign off of the new residence.

**Committee Review**

The Environmental Design and protection Committee reviewed the revised plan and had no comments or recommendations.

**ENVIRONMENTAL CLEARANCE (CEQA)**

The proposed landscape screening, tennis court, and swimming pool are categorically exempt from the provisions of the California Environmental Quality Act by provision of Section 15303(e).

**ATTACHMENTS**

1. Recommended conditions of approval
2. Grading Policy Exception Findings for Denial
3. Applicant’s Letter and Findings for Approval
4. Draft Planning Commission meeting minutes February 2, 2012
6. Proposed development plans
ATTACHMENT 1

RECOMMENDED CONDITIONS FOR SITE DEVELOPMENT PERMIT FOR A SWIMMING POOL, TENNIS COURT, AND LANDSCAPE SCREENING PLAN

LANDS OF HOMA NATOMA LLC, 27270 PALOMINO PLACE
File # 148-11-ZP-SD-GD

A. PLANNING DEPARTMENT:

1. Any further changes or modifications to the approved plan or the required landscaping shall be first reviewed and approved by the Planning Director or Planning Commission, depending on the scope of changes, prior to planting or commencement of work.

2. All required plantings and lighting shown on the plans shall be installed prior to final inspection of the new residence. All exposed slopes must be replanted for erosion control to the satisfaction of the Engineering Department prior to final inspection of the new residence.

3. A landscape maintenance and water use deposit of $10,000.00 shall be posted prior to final inspection of the new residence. An inspection of the screening plantings to ensure adequate establishment and maintenance shall be made two years after installation. Prior to deposit release, the property owner shall also furnish to the Town the second year (months 13-24 following receipt of the Certificate of Completion) of water use and billing data from the subject property’s water purveyor. If the site water usage exceeds the calculated PWB, the deposit will be held for an additional 12 months. At the end of the additional 12 month period, the property owner shall provide the Town with the previous 12 months (months 25-36) of water use and billing data from the subject property’s water purveyor. If the water usage still exceeds the estimated PWB, the deposit shall be forfeited to the Town, in full. All Town staff time and materials expended to ensure compliance with this condition will be deducted from the deposit.

4. Exterior and outdoor lighting locations are approved as shown on the plans. Please note that any additional lighting shall be first submitted for Planning Department review and approval prior to installation. Generally, lighting shall be the minimum needed for safety, shall be down shielded, low wattage, shall not encroach or reflect on adjacent properties, the source of the lighting shall not be visible from off the site.

5. The property owner shall contact the Building Department and acquire any and all required building permits prior to commencement of work on landscape or hardscape.
6. No fences, gates, or columns are approved with this permit. The owner may apply for a separate Fence Permit.

7. The applicant shall test all fixed noise sources installations and provide a letter from a qualified acoustical consultant documenting that all fixed noise sources comply with the Town's Noise Ordinance, prior to final inspection of the new residence. The letter shall note the methods of testing, the results, and any attenuation measures that were needed to attain compliance.

B. ENGINEERING DEPARTMENT:

8. The site drainage associated with the proposed development must be designed as surface flow wherever possible to avoid concentration of the runoff. The proposed drainage shall be designed to maintain the existing flow patterns. Final drainage and grading shall be inspected by the Engineering Department and any deficiencies corrected to the satisfaction of the Engineering Department prior to final inspection. A final letter shall be submitted from the project engineer stating that the site drainage was constructed in conformance with the approved plans and recommendations prior to final inspection.

9. Any, and all, areas on the project site that have the native material disturbed shall be protected for erosion control during the rainy season and shall be replanted prior to final inspection.

10. Any, and all, changes to the approved Site Development Plan shall first be approved by the Town Engineering Department. No grading shall take place during the grading moratorium (October 15 to April 15) except with prior approval from the City Engineer. No grading shall take place within ten feet of any property line.

11. The property owner shall inform the Town of any damage and shall repair any damage caused by the construction of the project to pathways, private driveways, and public and private roadways, prior to final inspection and release of occupancy permits and shall provide the Town with photographs of the existing conditions of the roadways and pathways prior to acceptance of plans for building plan check.

12. Two copies of a grading and construction operation plan shall be submitted by the property owner for review and approval by the City Engineer and Planning Director prior to acceptance of plans for building plan check. The grading/construction operation plan shall address truck traffic issues regarding dust, noise, and vehicular and pedestrian traffic safety on Palomino Place and surrounding roadways; storage of construction materials; placement of sanitary facilities; parking for construction vehicles; and parking for construction personnel. A debris box (trash dumpster) shall be placed on site for collection.
of construction debris. Arrangements must be made with the GreenWaste Recovery, Inc. for the debris box, since they have a franchise with the Town and no other hauler is allowed within the Town limits.

**CONDITION NUMBERS 11 AND 12 SHALL BE COMPLETED AND SIGNED OFF BY THE PLANNING DEPARTMENT OR THE ENGINEERING DEPARTMENT PRIOR TO ACCEPTANCE OF CONSTRUCTION PLANS FOR PLAN CHECK BY THE BUILDING DEPARTMENT.**

Project approval may be appealed if done so in writing within 22 days of the action. Building Permits cannot be accepted until the appeal period has lapsed.

**NOTE:** The Site Development permit is valid for one year from the approval date (until March 1, 2013). All required building permits must be obtained within that year and work on items not requiring a building permit shall be commenced within one year and completed within two years.
ATTACHMENT 2

RECOMMENDED FINDINGS FOR DENIAL OF A GRADING POLICY EXCEPTION

LANDS OF HOMA NATOMA LLC, 27270 PALOMINO PLACE
File # 148-11-ZP-SD-GD

1. The proposed Grading Policy Exception facilitates a site amenity and does not serve to lower the profile or visibility of any structure.

2. Design alternatives exist that would allow the property owner the construct a swimming pool and decking that would comply with the Grading Policy. Specifically, lowering the swimming pool coping elevation and pool deck several feet and installing stairs or ramps to step down with the natural grade would accommodate a similar sized pool and decking in compliance with the Grading Policy.
February 16, 2012

Mr. Brian Froelich, AICP
Associate Planner
Town of Los Altos Hills
26379 Fremont Rd
Los Altos Hills, CA 94022

RE: 27270 Palomino Place, File #148-11-ZP-SD-GD

Dear Mr. Froelich,

Please find enclosed the resubmission in response to the continuance of our project at the Town’s Planning Commission meeting on February 2, 2012. We have included here three complete sets of revised plans. Please allow me to review our findings and highlight the changes you will find in the revised plans.

A. Pool

We are requesting an exception to the Grading Policy’s 3-foot limit on fill to allow an additional 2 feet of fill for the proposed swimming pool. As you know, the Grading Policy states that it is intended to be used as guidance, and provides that individual sites may dictate a need to deviate from the criteria, to the extent permitted by the Planning Commission or City Council. Therefore, we respectfully request approval of the grading exception based on the following findings:

1. An exception to the Grading Policy would promote safety and handicapped accessibility.
   - The level pool and terrace elevation was designed to increase the safety of children by allowing views from the house and terrace to observe swimmers.
   - Additionally, the level pool and terrace elevation, consistent with the remainder of the house, was designed to be handicapped accessible. We have elderly parents with significant mobility issues including multiple sclerosis, Parkinson’s, and multiple hip replacements.
   - The proposed design allows safety fencing between the house and pool.

2. The requested 2-foot exception is relatively minor in relation to the size of the 5-acre lot.
   - The average grading exception that would be required for the 1,921 square-foot area is only 1 foot.
   - The area of the requested grading exception comprises less than 1% of the total site.
   - The Shreve residence, the only neighbor with a view of the pool, has submitted a letter in support of our request.
The requested "fill" exception will not require foreign soil to be transplanted onto the property. Rather the "fill" will be in the form of the pool structure and water.

3. A deviation for the standard limits set forth in the Grading Policy is warranted because the Grading Policy is "one size fits all" and does not scale to address large parcels of land or large estate homes such as ours. For example, other policies/ordinances scale based on the size of the house, such as the increased setbacks required by the Estate Homes Ordinance.

4. Current location of the house was not at the request of the homeowners. Our original house design was pushed 30 feet toward the north to satisfy the neighbors and Planning Commission. The unanticipated impact of this move is that the pool now requires an exception to the grading policy.

5. There are multiple benefits to allowing the proposed specific site location of the swimming pool with a grading policy exception.
   - Exceeds all setback requirements (180' from west property line; 195' from north property line; 225' from east property line; 180' from south property line). This is 5-6 times the setbacks required by the Town.
   - Avoids conflict with septic system, leach field and earthquake fault.
   - Places pool as far as possible from all neighbors on all sides.
   - The swimming pool would be minimally visible from off site.
   - Keeps most activities close to the building envelope increasing neighbor privacy and reducing potential noise.
   - Existing overhangs on north side of residence shade pool and terrace protecting children from sun exposure.

6. If the Grading Policy exception is not granted and, instead, the swimming pool is required to be lowered, we will be facing safety, construction, and design problems including the following:
   - Safety would be tremendously diminished.
   - Off-haul of excess soil would be increased by 200-300 cubic yards, which would be contrary to the Grading Policy purpose of assuring that construction retains the existing contours and basic landform of the site.
   - Our only alternative to retain handicapped accessibility would require pushing the pool significantly away from the house (toward the north) in order to get adequate deck, ramps, etc. The new proposed terraces will expand hardscape coverage, therefore increasing the impervious surface, and add more retaining walls and fencing on all sides of the pool. Furthermore, the pool bath/slide will block neighbors' views.
   - Additional shading structure/canopy would need to be added to protect children in shallow areas and the additional pool deck from sun exposure, which would again compromise neighbors' views.

B. Tennis Court
Our neighbor on the west property line has expressed concerns about noise generated at the tennis court, as well as safety concerns from erroneously hit tennis balls. To abate their concerns, we have made the following changes:
C. Equipment
Our neighbors on the south and west property lines have expressed concerns about noise emitted from our equipment. To abate their concerns, and using the recommendations of an acoustical engineer, we have made the following changes:
- The pool equipment, which was previously located adjacent to the west side of the house, is now housed in a fully enclosed bunker beneath the pool deck.
- The AC equipment pad adjacent to the west side of the house has been lowered by 3.5' and now sits at elevation 700.5'. Additionally we have added a 1" thick Pyrok Acoustament 40 to the interior of the enclosure.
- The AC equipment pad on the south side of the property has been lowered by 2.5' and now sits at elevation 696.5'. Additionally we have added a 1" thick Pyrok Acoustament 40 to the interior of the enclosure.
- We have added a 6" thick concrete roof to the emergency generator bunker located on the south side of the property. Additionally we have added a 1" thick Pyrok Acoustament 40 to the interior of the enclosure.
- The electrical transformer utility vault was moved to approximately 40 feet from the north property line between the tennis court and the driveway entrance to the property. Additionally, we have added a roof to this equipment enclosure. Furthermore, we have added a 1" thick Pyrok Acoustament 40 to the interior of the enclosure.

D. Plantings
Our neighbors on the south and west property lines have expressed concerns about the height and location of plantings primarily as it relates to protecting existing views. To abate their concerns, we have made the following changes:
- We have made planting substitutions, as outlined in the handout at the Planning Commission meeting, in a number of areas and replaced approximately 79 trees and shrubs.
- In general, the substituted plants were chosen because they would not exceed the respective roof ridge line or fence height even when the plant is at full maturity.
- We met with the neighbors on February 14 to review the revised planting plan. It is our understanding that the neighbors are pleased with the proposed planting plan and no further change is required.
All of these changes are consistent with our presentation to the Planning Commission on February 2, 2012. Please contact me should you have any questions or require additional information to complete your review.

Kind regards,

(Jenna Ellis)
Minutes of a Regular Meeting
Town of Los Altos Hills
PLANNING COMMISSION

THURSDAY, February 2, 2012, 7:00 p.m.
Council Chambers, 26379 Fremont Road

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the Council Chambers at Town Hall.

Present: Chairman Collins and Commissioners Abraham, Clow, Harpootlian and Partridge.

Absent: None

Staff: Debbie Pedro, Planning Director; Brian Froelich, Associate Planner; and Sarah Corso, Community Development Specialist.

2. PRESENTATIONS FROM THE FLOOR – none

3. PUBLIC HEARINGS-

Planning Commission Ex Parte Contacts Policy Disclosure: Commissioner Abraham visited the site for item 3.1. Commissioner Clow spoke to the applicant, and previously when the application came before the Planning Commission he spoke with most of the neighbors for item 3.2. Commissioner Partridge spoke with Jenna Ellis, Tim Kelly (project manager), and neighbors Gary Chang and Beverly Barkhau for item 3.2. Commissioner Abraham spoke with Jenna Ellis and the project manager for item 3.2. Commissioner Harpootlian meet with Jenna Ellis and Tim Kelly (project manager), and neighbor Beverly Barkhau for item 3.2. Chairman Collins had contact with Lisa Warren for item 3.2.

3.1 LANDS OF GLASSMAN, 2000 Old Page Mill Road; File #310-11-ZP-SD;
A request for a Site Development Permit to replace an approximate 1,900 linear foot gravel driveway with a permeable concrete driveway. The proposal is subject to Planning Commission and City Council review pursuant to a Conservation Easement that covers the entire 10.9 acre property. CEQA Review: Categorical Exemption per Section 15302 (staff-Brian Froelich).

Brian Froelich, Associate Planner, presented the staff report. The property is a flag lot that sits on 10.82 acres. The entire property lies within a conservation easement. The easement agreement requires any proposed changes to the driveway be heard by the Planning Commission and City Council. The application is a request to replace a 1900 feet long gravel driveway. The driveway is proposed to be in the same location and will be replaced with permeable concrete. The proposal
was routed to the Open Space Committee who has expressed support for the project. There has been no input from neighbors.

Commissioner Harpootlian asked staff how they could be sure the new concrete is permeable and if permeable concrete is counted towards MDA similar to gravel.

Associate Planner Froelich explained that staff would do a final inspection and the applicant will be required to provide details describing the surface. He explained that per the development area policy, permeable concrete is given a credit of 70 percent. In this case the driveway is actually further from the residence than 100 feet so there is no net increase or decrease. The zoning ordinance only counts the first 100 feet of the driveway towards MDA and the rest is exempt.

CHAIRMAN COLLINS OPENED THE PUBLIC HEARING

Ms. Glassman, applicant, explained to the Commission that she has a large property with a difficult driveway. Within a year and a half she has gone through a remarkable number of tires and is looking for a way to improve the driveway within the parameters of the conservation easement. She stated that she has worked with the Open Space Committee and believes she has found a solution.

CHAIRMAN COLLINS CLOSED THE PUBLIC HEARING

Commissioner Clow stated that he supports the application and recommends to the City Council that they approve the request.

Commissioner Partridge said that he has driven on the driveway a few years ago and can see why the applicant would want to change the driveway.

Commissioner Abraham stated that he supports the project.

Commissioner Harpootlian complimented the applicant on being a good steward for the property and supports the project.

Chairman Collins stated that she supports her fellow commissioners and supports the application.

MOTION MADE, AMENDED, SECONDED, AND PASSED BY ROLL CALL VOTE:

Commissioner Clow moved that the Planning Commission recommend to City Council that they approve the application. Seconded by Commissioner Abraham.

AYES: Commissioners: Abraham, Clow, Harpootlian, Partridge, and Chairman Collins
NOES: None
ABSENT: None
ABSTAIN: None
3.2 LANDS OF HOMA NATOMA, 27270 Palomino Place; File #148-11-ZP-SD-GD; A request for a Site Development Permit and a Grading Policy Exception for a 2,330 square foot swimming pool, pool decking, tennis court, and landscape screening plan for the 25,273 square foot new residence approved by the Planning Commission on August 5, 2010. A portion of the proposed swimming pool and pool decking are subject to a Grading Policy Exception for filling up to five (5) feet where three (3) feet is the maximum allowed pursuant to the Town’s Grading Policy. CEQA Review: Categorical Exemption per Section 15303 (a) (staff-Brian Froelich).

Brian Froelich, Associate Planner, presented the staff report. The application is for a landscape screening plan, tennis court, swimming pool, and a grading policy exception. The item is before the Commission per the conditions of approval as well as the Estate Homes Ordinance which requires all landscape screening plans for estate homes to be heard by the Planning Commission. The site is 4.9 acres with an average slope of 9.5%. The approved floor area is just over 25,000 square feet and the development area, including the current proposal, is just over 38,000 square feet. Access to the property is from Palomino Place.

The current proposal includes a 6,800 square foot tennis court, a 340 square foot pergola, a 290 square foot transformer pad, two air conditioning and pool equipment pads at 700 square feet and 110 square feet, a 650 square feet bocce court, and a 5,400 square foot pool and decking. There is also a complete planting plan with irrigation plans that comply with the Water Efficient Landscape Ordinance. The grading policy exception is limited to the pool and a portion of the decking. With the previously approved plans there was two feet of fill proposed for the pool area. The current plans show the coping edge and the top of the decking at a maximum of five feet over existing grade, and a total of seven feet over natural grade. Staff recommends denial of the grading policy exception, noting that there are possible design alternatives. Staff received multiple letters from neighbors expressing concern for the project and requesting additional time to consider the possible mitigations and plan changes. There was one letter of support for the project.

Associate Planner Froelich noted that neighbors have expressed concerns about noise from the ten proposed AC units. The plans for the estate home reviewed by the Planning Commission on August 5, 2010 showed the AC units located in basement mechanical rooms. The applicant requested the change in location because there are difficulties with placing the AC units underground. To mitigate neighbor’s concerns regarding noise, staff recommends the addition of condition number seven (7) to the project, which requires the applicant have a qualified consultant test all equipment and provide verification of compliance with the Town’s Noise Ordinance.

 Commissioner Partridge asked Associate Planner Froelich how the testing for noise level would be conducted.

Associate Planner Froelich responded that all fixed noise sources would need to be running at once.

Commissioner Harpootlian asked staff if the noise would be measured at 40 dB from the property line.
Associate Planner Froelich answered in the affirmative and explained that the neighbor closest to the AC units is about 168 feet away.

Planning Director Debbie Pedro clarified that the decibel level limits for a fixed noise source is 40 dB for night time and 50 dB for day time.

Commissioner Claw asked staff about the grading exception. His understanding is that 80 percent of the fill is water. He does not agree that water is fill and believes that fill pertains to more solid material such as dirt or rocks.

Associate Planner Froelich explained that the Town’s engineering staff considers the edge of the pool coping to be fill.

Commissioner Claw asked staff if the edge of the pool be considered a structure. As a possible alternative he stated that the decking could be developed in a way that it becomes an underground structure, with the terrace acting as the roof. This would eliminate the need for a grading exception.

Commissioner Harpootlian asked staff if an updated landscape plan had been submitted. When he met with the applicant she indicated that an updated landscape plan was going to be submitted.

Associate Planner Froelich stated that a revised landscaping plan had not been submitted or discussed with staff.

**CHAIRMAN COLLINS OPENED THE PUBLIC HEARING**

Jenna Ellis, applicant, stated that she has attempted to meet with her neighbors to discuss the current submission and make changes based on their suggestions. She is requesting a grading exception because the design of the pool needs to be handicap accessible and viewable from the house. The proposed location of the pool is placed as far from all the neighbors as possible. The pool is more than 200 feet from the property line and is minimally visible from off site. She explained that alternative pool designs were explored but all reduced the handicap accessibility and safety for her small children, posed greater potential for noise nuisance to neighbors, worsened the views for some neighbors, and increased off haul by two to three hundred cubic yards. From both the house and terrace, the line of sight to swimmers decreased as the pool elevation dropped. The applicant stated that with handicapped parents and small children it is important to have pool visibility. The applicant stated that while staff has interpreted the grading policy to mean that the pool is fill; she interprets the Estate Homes Ordinance as identifying a pool to be a structure, not fill. She hopes that the Commission will consider her interpretation and approve the pool as presented.

Next, the applicant discussed the tennis court which is located in the northwest corner of the property. The current location of the tennis court allows the applicant to preserve two large Heritage Oak trees. The applicant has redesigned the driveway as previously requested by the Changs, to reduce the impact of headlights. The applicant stated that she understands the primary concern of her neighbors is noise, and she has come up with an alternative location for the tennis
court which would rotate the court by 90 degrees and pushes it 30 feet to the east. This would mean that the two Heritage oak trees and one Walnut tree would need to be removed. The applicant is willing to replace the Heritage Oak trees with four new Box Oak trees. The applicant suggested that moving the tennis court location would allow the electrical transformers to be relocated, which was a concern of the neighbors.

Next, the applicant addressed the air conditioning equipment. She stated that the equipment was removed from the roof and sunk into the ground to reduce noise. The applicant confirmed that with all of the AC units running at full load the noise level would be 34 to 35 dB at the property line. She explained that the pool equipment is adjacent to the house and is more than 100 feet from the west property line, emergency generators are 55 feet from the property line, and the electrical transformers are 30 feet from the property line. As proposed by the acoustical engineers, all elements will be enclosed. The applicant stated that she is willing to make changes on behalf of the neighbors. As proposed by the acoustical engineers, the applicant is proposing to fully enclose the pool equipment and emergency generator vaults, will include an acoustical treatment to the inside of the equipment enclosure, and has proposed to drop the elevation of the equipment pads.

The applicant explained that in regards to plantings, most of the property will remain a meadow, un-irrigated, and preserved with Heritage Oaks trees. The proposed plantings are mostly native Mediterranean plants that require low water and maintenance. The location and type of plantings is intended to provide screening without blocking existing views. The applicant stated that the intention of the original planting submittal was to keep the plants appropriately pruned beneath the roof ridgeline. In response to neighbor concerns, the applicant put together a list of proposed planting substitutions. The applicant presented the Commission with the list. The applicant asked the Commission to approve the landscape submittal as it was originally presented, or with all or some of the proposed changes.

Commissioner Clow asked the applicant to explain the dB of the AC units and asked how much noise would actually be heard.

The applicant’s acoustical engineer explained that during the day time, ambient noise from other variables such as birds is around 35 dB. He explained that in the acoustical study conducted for the project, solutions were identified to bring to noise level as close to the ambient level as possible.

Commissioner Abraham asked the landscape architect about his analysis of the height of the trees and if the plantings, as submitted, would disrupt views for any of the neighbors.

The applicant’s landscape architect explained that a number of the larger trees may block the view for some neighbors, specifically the Chinese Elms located at the front of the house. He explained that the proposed changes to the current landscape plans suggest alternative dwarf versions of many of the originally proposed plantings and that the plantings in the new proposal should not disrupt the view corridors of the neighbors.

Shohreh Malek, neighbor on Altamont Road, requested a continuation of the project, stating that there has not been adequate time to review the most recent changes to the plans. She requested that the newly proposed plants not exceed the height of the roof line, and plants adjacent to the fences should not exceed the height of the fence. She also requested the removal of an existing Walnut
tree which currently blocks views from her property, and that the applicant thin out all overgrown trees, especially those lining the north and west boundaries. Mrs. Malek expressed concern for the noise pollution that she believes would be generated by the ten AC units, generator, pool equipment, and transformers. She suggested that the applicant use the previously approved equipment layout. She expressed concern for the noise generated from the tennis court and impacts of the proposed lighting.

Chairman Collins asked the neighbor if she had a chance to review the most recent landscape proposals.

Mrs. Malek stated that she has viewed the new plantings, appreciated the suggestions, and believes they are workable solutions. She stated that her greatest concern is that there was not enough time to look over the new proposals and she would like to see a formal plan with the proposed changes.

Commissioner Partridge asked the applicant to elaborate on the Walnut tree she requested the applicant remove.

Mrs. Malek explained that near the proposed tennis court there are two Walnut trees. The tree to the left is already proposed to be removed, but the tree to the right, which blocks her view, is not proposed to be removed. Mrs. Malek stated that she was under the impression that if neighbors requested the clearing of Oak trees, they could achieve it by working together.

Commissioner Partridge asked Mrs. Malek to clarify that the fence she has requested plantings not grow above, is an existing fence on her property.

Mrs. Malek stated that the fence is existing. She believes it is a five foot fence and explained that when the weeds grow above the fence line she cannot see anything.

Sandy Katz, neighbor on Altamont Road, stated that she agrees with everything the previous neighbor said. She explained that her biggest concern is to maintain views. The rooftop of the applicant's new home blocks views of the bay from her cottage which is located behind her mother's home. To the east she still has views of the hills and would like to protect her views. The original landscape screening plans would take away any view she has of the hills. She stated that there was not enough time to adequately review the newly proposed landscape plans and requested the Commission postpone making a decision on the project.

Commissioner Harpootlian asked Ms. Katz if she had attended the Tuesday meeting with the applicant where the landscaping plans were discussed with neighbors.

Ms. Katz explained that at the meeting the applicant presented the old landscape plans with a supplemental sheet identifying some changes. She reiterated that adequate time was not given to fully consider the new plantings.

Paul Stachower, neighbor on Almaden Court, stated that he is not satisfied with the meeting on Tuesday where the applicant presented an old set of plans and explained what the possible changes would be. He explained that issues aside from the plantings were not discussed. He is concerned that his house, which is parallel to the applicant's house and faces multiple AC units on the
applicant's property, will be impacted by noises generated by the equipment which will cause an
echo effect between the two homes. He requested that if the applicant has to install the AC units in
the open, that they be installed north of the home.

Gary Chang, neighbor on Carrington Circle, stated that his main concern is the placement of the
tennis court. He does not like the location of the tennis court as shown in the submitted set of
plans, but does like the proposed change of rotating the tennis court by 90 degrees. As originally
proposed, the court follows the length of his property line and was proposed to be 30 feet from his
property line. He is greatly concerned about the noise impact of the court and the possibility of
balls flying over his fence and harming someone or damaging his property. He appreciates the
applicant meeting with him and taking his concerns into consideration such as rotate the tennis
court by 90 degrees. He also stated concern for his view being blocked by overgrown trees and the
proposed fence around the tennis court.

Commissioner Abraham asked Mr. Chang how he would feel about the tennis court remaining in
its currently proposed location but being sunk into the ground. He suggested that sinking the court
would lower the visibility and noise of the tennis court.

Mr. Chang stated that he does not believe it is a good idea because the tennis court sits almost
along the entire line of his property.

Lisa Warren, daughter of a neighbor on Altamont Road, stated that she agrees with everything the
other neighbors have said. She hopes that the Town is proactive in protecting the views of
neighbors. She asked that no plantings and trees that will grow above the ridgeline or in open
spaces be allowed where there is currently nothing blocking the views of neighbors. She stated that
what the applicant showed the neighbors on Tuesday is heading in the right direction; however she
was not satisfied with the responses given on other topics presented in the Tuesday meeting. Mrs.
Warren requested that the hearing be continued to a future Planning Commission meeting. Mrs.
Warren expressed concern that what the applicant says she is going to do may not be what is
actually done because the plans have not been formally submitted to staff and the Commission.

Commissioner Harpootlian explained that with regard to landscaping, what is approved by the
Commission for this project is what the applicant will be planting now. However, after two years
the applicant may choose to plant an 80 foot tall tree and they would not be required to come back
to the Commission. He stated that the Town's View Ordinance is what will protect them over the
long term.

Pat Ley, member of the Environmental Design and Protection Committee stated that the landscape
architect has used the Sunset Garden book to identify the heights of proposed trees and shrubs. She
stated that the figures presented are not practical because they consider the perfect specimen with
the perfect conditions. She explained that a landscape architect usually considers a tree that grows
three quarters of the maximum height to have been achieved in perfect conditions.

Israel Niv, neighbor on Natoma Road, explained that his views will not be impacted by the
applicant's landscape screening plans. He stated that he feels this may be an attempt to stop the
Ellis' from building their dream home. He explained that the applicant has paid good money for
the home, has tried to follow all of the ordinances, and has been cooperative with neighbors. He
believes he will be most impacted by rotating the tennis court 90 degrees, and hopes he is not greatly impacted by the noise. He stated that he is not concerned with the AC units because he predicts that the noise produced by the units will be less than what he hears from other places in town.

Jenna Ellis, applicant, readdressed the Planning Commission. Regarding the comment of continuance due to a lack of formal documentation, she stated that she is not sure of the normal Town procedures. She explained that her expectation is that the Commission can give a very specific and qualified approval that identifies conditions or recommendations for the plantings.

Regarding the argument for moving the AC units indoors, the applicant stated that the noise generated is well within the Noise Ordinance. Mrs. Ellis explained that she intends on maintaining her equipment and keeping the noise level in compliance with the Town ordinance.

With regards to the request for a continuance and the neighbors not being given adequate time to review the plans, the applicant stated that one week prior to the staff report coming out she personally went to each of the fence line neighbors and put in their mailbox a letter introducing the project which included her contact information and a request to contact her with any questions or concerns about the project. She stated that she did not receive any calls. One neighbor met with her on the Thursday prior to the hearing, at which point the applicant came up with a list of plant alternatives that were presented to neighbors at a meeting the following Tuesday. The applicant proposed that if the hearing is postponed, she and her neighbors be required to attend a meeting in the following week to discuss all of the existing concerns. The applicant stated that she is more than willing to work with the neighbors but would like some specific parameters.

Commissioner Partridge asked the applicant about rotating the tennis court. He stated that normally to approve something like this, there would need to be plans showing the elevations, etc. He asked the applicant what the status was on the plans and how she felt about moving the tennis court.

The applicant stated that she does not have a formal set of plans pertaining to the alternative position of the tennis court. She stated that the elevation proposed is elevation 693 which meets the grading policy. She explained that she is happy to move the tennis court on behalf of the Changs.

Commissioner Abraham asked the applicant how she feels about sinking the tennis court two to three feet into the ground.

The applicant stated that she is open to the idea but there is an additional expense associated with sinking the tennis court.

Commissioner Abraham asked the applicant what the sound improvement would be if the tennis court was sunk into the ground.

The applicant’s acoustic engineer stated that depressing the court into the ground four or five feet, with the assumption that most strokes are ground strokes, would knock off about seven to ten decimal at that portion of the court.
Commissioner Clow stated that his understanding of the AC units is that they were going to be sunk into the ground and have a roof.

The applicant responded that she cannot put roofs over the AC units because they require air intake. She explained that there was a proposal to treat the inside of the enclosure with an acoustical treatment and to lower the pads into the ground. She stated that the improvements are not listed in the submitted plans but have been proposed in response to neighbor concerns.

The applicant suggested that the AC equipment be approved at their proposed location with a condition to add a one inch thick pyrok acoustament (noise attenuation), and to lower the equipment pad of the bank of six to three and a half feet, and the bank of four by two and a half feet.

Commissioner Partridge stated that according to the Town’s Grading Policy, pools are allowed four feet of cut and three feet of fill. He questioned the applicant’s findings which support the need for a grading exception.

The applicant stated that she has a different interpretation of fill than what the Town is considering. She does not believe the pool should be interpreted as fill. She stated that her request for a grading exception is for accessibility and safety. She explained that the house was designed to be handicap accessible for her husband’s parents and that it is important for her to be able to see her children from the house when they are in the pool.

Commissioner Partridge asked the applicant if there was another way she could achieve her goals of accessibility and safety while complying with the Town’s Grading Policy.

The applicant stated that she has explored other options and has not found an alternative that meets both the accessibility and safety component.

Mark Helton, civil engineer for the applicant, stated that with regards to the pool, he understands that everything down to the coping is considered fill. However, the pool has an infinity edge which is down an extra foot, and therefore the pool is technically only four feet at the downhill edge.

Commissioner Partridge asked Mr. Helton if the patio area is at the same level as the infinity edge.

Mr. Helton stated that the patio is at the same level as the coping. He explained that he can relocate the pool equipment under the patio which would change the use of the deck and turn it into a structure, avoiding the need for a grading exception. He stated that he hesitates to make the change but that it is a consideration.

Chairman Collins stated that this option is a design consideration and the Commission is not asking the applicant to make the change tonight.

Commissioner Harpootlian stated that if the Commission chooses to continue the hearing it is because the Commission is looking at a new set of landscape plans that they and staff have not had a chance to review. The Commission is also looking at an alternative location for the tennis court that they do not have concrete plans for. He explained that there are a number of things that are
good suggestions but are being presented late to the Commission. He stated that it is important for staff and the Commission to have a chance to better understand the plans.

The applicant stated that she is fine with the current plans as it has been submitted to the Commission. She is not personally asking to make any of the proposed changes, but she is willing to make the changes to accommodate her neighbors. The applicant stated that she would like the Commission to come to a decision tonight on the plans that have been submitted, including the suggested changes.

CHAIRMAN COLLINS CLOSED THE PUBLIC HEARING

Commissioner Harpootlian stated that there are multiple ways the Planning Commission can approach the project. In regards to landscaping, he stated that the Commission does not have enough information to fairly evaluate the plans. With regards to the tennis court, he stated that he is partial to the alternative position but would like to see story poles showing the location and height of the court. Regarding the AC units, he stated that he approves of the location with the changes proposed by the applicant. With regards to the grading exception, he stated that he feels the Commission has enough information to come to a decision. He stated that he believes the AC units and the pool are two things that can be discussed; however the Commission has not had a fair chance to look at the landscape plans and tennis court. Commissioner Harpootlian asked Director Pedro if the Commission could vote on a portion of the application and continue the rest.

Director Pedro does not recommend partial approval of the application but suggests that the Commission can provide specific recommended changes to the plans.

Commissioner Harpootlian stated that the Commission should provide input on the plans and continue the hearing to a future meeting of the Planning Commission.

Commissioner Abraham stated that the applicant has adequately addressed all issues brought up in the hearing. He supports rotating the tennis court due to the fact that the only neighbor to be impacted has expressed support for the change. Regarding the pool and grading policy exception, he stated that there are a number of valid considerations such as ADA compliance, safety concerns brought up by the applicant, the design of the pool’s infinity edge which softens the impacts of the pool, and he considers what the Town is calling fill to really be structure. He stated that the ordinance is written in a way that one size is supposed to fit all property types; however, what applied to a one acre lot may not be equivalently applied to a five acre lot due to lot size. He stated that a big consideration regarding the pool is that none of the neighbors have a problem with the grading issue. He does not believe that the AC units will be a nuisance because the noise generated will be low, as indicated by the project’s acoustic engineer. Regarding landscaping, he stated that the new proposals, as indicated by the landscape architect, will be sufficient to keep everything under the roof line. He would like to see the project approved this evening with relocating the tennis court, the planting substitutes as indicated by Mrs. Ellis, and with the grading policy exception approved.

Commissioner Partridge stated that he agrees with Commissioner Harpootlian that there have been too many changes made to the plans to vote on the project. He would like the Commission to continue the hearing to a future meeting and see recommendations provided to the applicant.
regarding landscaping, and rotating and sinking the tennis court. He commended the applicant for working to accommodate the concerns of neighbors. Regarding the tennis court, he would like to see revised plans and story poles. His guidance for the project, if the Commission chooses to continue it, would be to emphasize on cut for the tennis court, unless fill is required to comply with the grading policy. He stated that lowering the tennis court and removing the tree near the proposed tennis court will greatly improve the views from the Chang residence. Regarding the AC units and the pool equipment, he is satisfied that the units will be well protected and the noise will be minimal. Regarding the grading policy exception, he explained that he does not know if there is precedent for raising the pool, and if he were to set precedent by allowing an exception, there needs to be strong findings. He is not convinced that an effort has been made to find an alternative design for the pool.

Commissioner Clow stated that he agrees with Commissioner Partridge about the applicant having worked hard to accommodate the concerns of the neighbors. He read from the Town's Municipal Code, stating that in the Town's ordinance a pool is considered a structure. He explained that if the swimming pool is surrounded by dirt then there is a concern, however if the pool is standing above the ground, it should not require a grading exception. He argued that fill is not water and if a swimming pool is a structure above the dirt then it is not fill, but rather a structure standing on the dirt. He explained that at the very least it is ambiguous to whether the pool is a grading exception or not. He stated that with the compromise of putting the pool equipment in a closure under the patio, the patio would not be considered fill as well, which would eliminate the need for a grading exception. He supports the landscape changes but he has not heard of requiring applicants to remove existing trees to create views for neighbors.

Chairman Collins stated that she supports the comments of Commissioner Harpootlian and Commissioner Partridge. She would like to see the hearing continued for the same reasons stated by the other two Commissioners. She suggested that the Planning Commission provide guidance on the changes that were suggested during the hearing by the applicant. She stated that the newly proposed plantings are positive changes that the neighbors need more time to review.

MOTION MADE, SECONDED, AND PASSED BY ROLL CALL VOTE:

Commissioner Harpooltian moved to continue the hearing to a future meeting of the Planning Commission and provided the following suggestions: 1) the tennis court should be rotated to an alternative position. 2) the applicant should use the proposed planting alternatives presented to the Commission during the hearing, as a guide for landscape, which the Commission would like to see reflected on revised plans. 3) the AC units be lowered with additional sound proofing as proposed by the applicant. 4) Commissioner Harpooltian noted that the Commissioners are going to have a difference of opinion regarding the pool and stated that he agrees with Commissioner Clow that no dirt, or other elements that he would consider to be fill, are being added to the space.

Commissioner Harpooltian clarified that his motion is to continue the project to a future meeting of the Planning Commission. The motion was seconded by Commissioner Clow

Director Pedro stated that procedurally the applicant should state on the record whether she would agree to a continuance.
The applicant stated that she would agree to a continuance.

Commissioner Partridge suggested that the applicant attempt to keep the plantings below the roofline, and below the fence near the Maleks, and that they use the handout submitted by the applicant as a guide when developing a new landscape screening plan.

Chairman Collins stated that the planting suggestions will not be a part of the motion, however the applicant and the landscape architect have verbally committed to the changes.

Commissioner Harpootlian amended his motion to include that the plantings provided in the handout from the applicant should be used as guidelines for the landscape screening plans.

AYES: Commissioners: Abraham, Clow, Harpootlian, Partridge, and Chairman Collins
NOES: None
ABSENT: None
ABSTAIN: None

The item will be continued to a future Planning Commission meeting.

4. **OLD BUSINESS** – none

5. **NEW BUSINESS** – none

6. **REPORTS FROM CITY COUNCIL MEETINGS**

   6.1 Planning Commission Representative for January 19 – Chairman Collins
   6.2 Planning Commission Representative for February 16 – Commissioner Clow
   6.3 Planning Commission Representative for March 15 – Commissioner Partridge
   6.4 Planning Commission Representative for April 19 – Commissioner Abraham

7. **APPROVAL OF MINUTES**

   7.1 Approval of January 5, 2012 minutes.

MOTION MADE, SECONDED, AND PASSED BY CONSENSUS: Motioned by Commissioner Partridge and seconded by Commissioner Clow to approve the January 5, 2012 minutes, as corrected.

8. **REPORTS FROM FAST TRACK MEETINGS – JANUARY 10 AND JANUARY 17, 2012**

   8.1 LANDS OF NG; 26480 Weston Drive; File #229-11-ZP-SD-GD; A request for a Site Development Permit for a new 6,197 square foot single story residence, driveway relocation, and a 860 square feet swimming pool (maximum height 24').
   CEQA review: Categorical Exemption per Section 15303 (a) (staff-Brian Froelich).
8.2  LANDS OF MATHEWS; 12271 Hilltop Drive; File #254-11-ZP-SD; A request for a Site Development Permit for a new 4,423 square foot two story residence (maximum height 27') with a 680 square foot swimming pool. CEQA review: Categorical Exemption per Section 15303 (a) & (e) (staff-Nicole Horvitz).

9.  REPORTS FROM SITE DEVELOPMENT MEETINGS – JANUARY 10 AND JANUARY 17, 2012

9.1  LANDS OF WAINNER, 13680 Robleda Road; File #276-11-ZP-SD-VAR; A request for a fence permit and a minor variance to install a six (6) foot tall solid fence (90 linear feet) with a reduced setback of 25 feet from the Robleda Court right-of-way centerline. CEQA Review: Categorical Exemption per Section 15303 (e) (staff-Nicole Horvitz).

9.2  LANDS OF LI, 25685 Fernhill Drive; File #241-11-ZP-SD; A request for a Site Development Permit for an 805 square foot single story addition. (Maximum height: 22’6”); CEQA Review: Categorical Exemption per Section 15303 (a) (staff-Nicoie Horvitz).

10.  ADJOURNMENT

The meeting was adjourned by consensus at 10:38 p.m.

Respectfully submitted,

Sarah Corso  
Community Development Specialist
SUBJECT: SITE DEVELOPMENT PERMIT AND GRADING POLICY EXCEPTION FOR A 2,330 SQUARE FOOT SWIMMING POOL, POOL DECKING, TENNIS COURT, AND LANDSCAPE SCREENING PLAN; LANDS OF HOMA NATOMA LLC; 27270 PALOMINO PLACE; FILE #148-11-ZP-SD-GD.

FROM: Brian Froelich, AICP, Associate Planner

APPROVED: Debbie Pedro, AICP, Planning Director

RECOMMENDATION: That the Planning Commission:

1. Approve the requested Site Development Permit for the tennis court, and Landscape Screening Plan subject to the conditions of approval in Attachment #1.

And;

2. Deny the Grading Policy Exception for the swimming pool and associated decking citing the findings for denial in Attachment #2.

BACKGROUND

The Planning Commission approved an application for a new Estate Home and a Grading Policy Exception for the subject property on August 5, 2010 after continuing the project from the May 6, 2010 meeting. Landscape Screening plans for all Estate Homes require review by the Planning Commission. Concerns regarding loss of views, the location of air conditioning units, the size and bulk of the building, and the location of the tennis court were expressed by adjacent neighbors at the 2010 hearings. (Meeting minutes – Attachments 10 & 11)

The applicant was required to lower roof lines and offered to relocate the air conditioning units inside the residence with the final approved plan. The current proposal has the A/C units relocated outside at ground level.

DISCUSSION

Site Data:

- Gross Lot Area: 4.902 acres
- Net Lot Area: 4.902 acres
- Average Slope: 9.5%
Area Development Floor

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**Landscape Screening Plan**

Pursuant to Section 10-2.805(a) of the Los Altos Hills Municipal Code, in evaluating the adequacy of proposed landscaping, the applicant must demonstrate that the shape, outline, color, and form of all structures will be unobtrusive when viewed from any location off-site at the time landscaping has matured.

The proposed landscape plan includes fully developed plans with trees, shrubs, ground cover, and lawn. The Landscape Architect has provided water use calculations demonstrating compliance with Ordinance 520 (Water Efficient Landscape). A large variety of plantings are proposed at the perimeter of the new residence and driveway. The tennis court is screened with shrubs at the perimeter and three (3), 36” box oak trees. Other clusters of trees are proposed along the north and east property boundary to provide screening from downhill properties. See plan sheets L3.0 and L4.0 for full planting and water use.

**Pool, Decking, and Spa**

The swimming pool and spa are shown adjacent to the west wing of the residence. The pool and spa cover 2,330 square feet. The pool decking is at the same elevation as the finished floor of the residence with no steps or ramps. The swimming pool includes a slide that wraps around a pool bathroom. The slide and bathroom structure is 12’6” tall.

**Grading Policy Exception**

An area of 2,406 square feet covering the swimming pool, spa, and pool decking exceeds the Grading Policy maximum permitted fill amount (3’). The contractor has installed story poles at the coping level and the location is not highly visible from off site. The pool design incorporates a vanishing edge which allows pool water to spill over into a trough below. The top of the pool’s vanishing edge and adjacent decking is a maximum of five (5) feet above the existing grade and seven (7) feet above the natural grade because two (2) feet of fill was approved with the new residence grading plan. The project Civil Engineer has prepared a diagram and section view of the fill areas on plan sheet C-2.

Design alternatives exist to lower the pool coping and decking several feet with the inclusion of steps or ramps incorporated into the design to comply with the Grading Policy. The proposed design allows the finished floor of the residence and the pool decking to be on the same level without any stairs or ramps.
The Planning Commission has approved one Grading Policy Exception for a swimming pool and adjacent yard area in the last five years. In that case, additional cut was requested to lower the visibility of the swimming pool and decking from offsite.

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**Tennis Court**

A tennis court was originally proposed at the August 5, 2010 hearing with the new residence. The applicant withdrew the request for consideration with the Landscape Screening Plan. The proposed location and cut/fill design has not changed. The court is 6,898 square feet with an adjacent 275 square foot pergola. The screening plan shows shrubs at the perimeter of the court for screening and wind block, and three (3), 36" box sized oak trees to break-up views of the court from the adjacent property at 27220 Carrington Circle. Tennis court lighting is specifically prohibited by Ordinance (10-2.1002).

**Outdoor Lighting Plan**

The applicant has provided a lighting plan that complies with Town standards, only two entry lights are proposed in the setback. The driveway lights alternate on each side of the driveway to avoid a “runway” appearance and are spaced at approximately 20 feet apart. Recessed down shielded lights are proposed mounted to the retaining wall along the driveway. Six (6) tree mounted downlights are proposed near the porte cochere and front entry. (Lighting Policy - Attachment 4)

**Heritage Oak Trees**

The site contains three (3) heritage oak trees (12" and larger trunk diameter). One multi-trunk oak tree is in the area of the proposed tennis court. The applicant has provided an arborist report that describes the tree as vigorous and in very good health. The project arborist has recommended measures for tree protection and the installation of retaining walls and the tennis court. (Arborist Report - Attachment 7)

**Neighborhood Input**

Town staff has met with neighbors from 26861 Altamont Road (Lands of Barkhau), 26801 Altamont Road (Lands of Malek), and 26951 Almaden Court (Lands of Arnold). The neighbors' concerns included the A/C units being relocated outside, trees that may grow to block views at maturity, and the quantity of lights. See additional details in the neighbor letters Attachment 8.
View and Sunlight Protection Ordinance

Town staff informed concerned neighbors of the Town’s View and Sunlight Protection Ordinance. Neighbor’s views are protected by the Ordinance but the Ordinance is “privately enforced” and not facilitated by Town staff or through the Site Development process. The Ordinance can be summarized as guidelines and procedures for property owners to resolve disputes associated with preserving views and natural light access as a result of vegetation growth. (View and Sunlight Protection Ordinance - Attachment 5)

Future views and mature vegetation heights are commonly discussed with Landscape Screening plans but the View and Sunlight Protection Ordinance is not specifically applicable to the Site Development process.

Noise Ordinance

Neighbors have expressed concerns regarding the proposed fixed noise sources on the property. Noise from fixed source installations (A/C units, pool equipment, and generators) are subject to dBA limits of 50 during the daytime and 40 at nighttime. The plans show 10 A/C units in two locations, an 18’ x 17’ pool equipment enclosure, and an enclosure for a generator. All of these installations comply with setback standards and will be subject to the Noise Ordinance during operation at any time in the future. To ensure compliance at installation, recommended condition #7 requires that an acoustical consultant test all fixed source installations and documentation compliance with Town standards, prior to final sign off of the new residence. (Noise Ordinance – Attachment 6)

Town Committee’s Review

The Environmental Design and Protection Committee commented that the proposed swimming pool does not appear to be visible from offsite. (Attachment 9)

ENVIRONMENTAL CLEARANCE (CEQA)

The proposed landscape screening, tennis court, and swimming pool are categorically exempt from the provisions of the California Environmental Quality Act by provision of Section 15303(e).
ATTACHMENTS

1. Recommended conditions of approval
2. Grading Policy Exception Findings for Denial
3. Los Altos Hills Grading Policy
4. Los Altos Hills Lighting Policy
5. View and Sunlight Protection Ordinance
6. Noise Ordinance
8. Neighbor letters in order received
9. Environmental Design and Protection Committee Comments, August 11, 2011
10. Planning Commission meeting minutes May 6, 2010
11. Planning Commission meeting minutes August 5, 2010
12. Proposed development plans
ATTACHMENT 1

RECOMMENDED CONDITIONS FOR SITE DEVELOPMENT PERMIT FOR A SWIMMING POOL, TENNIS COURT, AND LANDSCAPE SCREENING PLAN

LANDS OF HOMA NATOMA LLC, 27270 PALOMINO PLACE
File # 148-11-ZP-SD-GD

A. PLANNING DEPARTMENT:

1. Any further changes or modifications to the approved plan or the required landscaping shall be first reviewed and approved by the Planning Director or Planning Commission, depending on the scope of changes, prior to planting or commencement of work.

2. All required plantings and lighting shown on the plans shall be installed prior to final inspection of the new residence. All exposed slopes must be replanted for erosion control to the satisfaction of the Engineering Department prior to final inspection of the new residence.

3. A landscape maintenance and water use deposit of $10,000.00 shall be posted prior to final inspection of the new residence. An inspection of the screening plantings to ensure adequate establishment and maintenance shall be made two years after installation. Prior to deposit release, the property owner shall also furnish to the Town the second year (months 13-24 following receipt of the Certificate of Completion) of water use and billing data from the subject property's water purveyor. If the site water usage exceeds the calculated PWB, the deposit will be held for an additional 12 months. At the end of the additional 12 month period, the property owner shall provide the Town with the previous 12 months (months 25-36) of water use and billing data from the subject property's water purveyor. If the water usage still exceeds the estimated PWB, the deposit shall be forfeited to the Town, in full. All Town staff time and materials expended to ensure compliance with this condition will be deducted from the deposit.

4. Exterior and outdoor lighting locations are approved as shown on the plans. Please note that any additional lighting shall be first submitted for Planning Department review and approval prior to installation. Generally, lighting shall be the minimum needed for safety, shall be down shielded, low wattage, shall not encroach or reflect on adjacent properties, the source of the lighting shall not be visible from off the site.

5. The property owner shall contact the Building Department and acquire any and all required building permits prior to commencement of work on landscape or hardscape.
6. No fences, gates, or columns are approved with this permit. The owner may apply for a separate Fence Permit.

7. The applicant shall test all fixed noise sources installations and provide a letter from a qualified acoustical consultant documenting that all fixed noise sources comply with the Town’s Noise Ordinance, prior to final inspection of the new residence. The letter shall note the methods of testing, the results, and any attenuation measures that were needed to attain compliance.

B. ENGINEERING DEPARTMENT:

8. The site drainage associated with the proposed development must be designed as surface flow wherever possible to avoid concentration of the runoff. The proposed drainage shall be designed to maintain the existing flow patterns. Final drainage and grading shall be inspected by the Engineering Department and any deficiencies corrected to the satisfaction of the Engineering Department prior to final inspection. A final letter shall be submitted from the project engineer stating that the site drainage was constructed in conformance with the approved plans and recommendations prior to final inspection.

9. Any, and all, areas on the project site that have the native material disturbed shall be protected for erosion control during the rainy season and shall be replanted prior to final inspection.

10. Any, and all, changes to the approved Site Development Plan shall first be approved by the Town Engineering Department. No grading shall take place during the grading moratorium (October 15 to April 15) except with prior approval from the City Engineer. No grading shall take place within ten feet of any property line.

11. The property owner shall inform the Town of any damage and shall repair any damage caused by the construction of the project to pathways, private driveways, and public and private roadways, prior to final inspection and release of occupancy permits and shall provide the Town with photographs of the existing conditions of the roadways and pathways prior to acceptance of plans for building plan check.

12. Two copies of a grading and construction operation plan shall be submitted by the property owner for review and approval by the City Engineer and Planning Director prior to acceptance of plans for building plan check. The grading/construction operation plan shall address truck traffic issues regarding dust, noise, and vehicular and pedestrian traffic safety on Palomino Place and surrounding roadways; storage of construction materials; placement of sanitary facilities; parking for construction vehicles; and parking for construction
personnel. A debris box (trash dumpster) shall be placed on site for collection of construction debris. Arrangements must be made with the GreenWaste Recovery, Inc. for the debris box, since they have a franchise with the Town and no other hauler is allowed within the Town limits.

CONDITION NUMBERS 11 AND 12 SHALL BE COMPLETED AND SIGNED OFF BY THE PLANNING DEPARTMENT OR THE ENGINEERING DEPARTMENT PRIOR TO ACCEPTANCE OF CONSTRUCTION PLANS FOR PLAN CHECK BY THE BUILDING DEPARTMENT.

Project approval may be appealed if done so in writing within 22 days of the action. Building Permits cannot be accepted until the appeal period has lapsed.

NOTE: The Site Development permit is valid for one year from the approval date (until February 2, 2013). All required building permits must be obtained within that year and work on items not requiring a building permit shall be commenced within one year and completed within two years.
ATTACHMENT 2

RECOMMENDED FINDINGS FOR DENIAL OF A GRADING POLICY EXCEPTION

LANDS OF HOMA NATOMA LLC, 27270 PALOMINO PLACE
File # 148-11-ZP-SD-GD

1. The proposed Grading Policy Exception facilitates a site amenity and does not serve to lower the profile or visibility of any structure.

2. Design alternatives exist that would allow the property owner the construct a swimming pool and decking that would comply with the Grading Policy. Specifically, lowering the swimming pool coping elevation and pool deck several feet and installing stairs or ramps to step down with the natural grade would accommodate a similar sized pool and decking in compliance with the Grading Policy.
Grading Policy

Approved by City Council 07/21/2011

**Code Sections:**

Section 10-2.702 (c) of the Site Development Ordinance states that: "The amount of grading, excavation, or fill shall be the minimum necessary to accommodate proposed structures, unless grading is proposed to lower the profile of buildings." Section 10-2.703 (a) requires: "Type II foundations — step-on-contour, daylight, pole foundations, or a combination thereof — shall be used on building sites with natural slopes in excess of fourteen percent (14%)."

**Intent:**

The purpose of this policy is to outline desired criteria for grading which assure that construction retains the existing contours and basic landform of the site to the greatest extent feasible. It is also intended that the policy provide guidance for "stepping" structures down sloped hillsides, encouraging terraced retaining walls where possible, and emphasizes cut to lower the profile of structures over fill or foundation walls, which tend to raise the profile of the structure. While balanced cut and fill is desirable to minimize import or export of soil, to or from a site, it is recognized that the Town's policies and the guidelines below may encourage export as cut is generally preferred over fill.

These policies are intended to be used by staff in evaluation and making recommendations to the Planning Commission and/or City Council regarding site development applications, and as guidance for applicants. Individual sites may dictate a need to deviate from the criteria, to the extent permitted by the Planning Commission and/or City Council.
Policy:

1. Cuts and fills in excess of the following levels generally will be considered excessive and contrary to Town ordinances and policies to grade only to the minimum extent necessary to accommodate structures and to site structures consistent with slope contours, i.e., “step down” the hill*:

<table>
<thead>
<tr>
<th>Structure</th>
<th>Cut</th>
<th>Fill</th>
</tr>
</thead>
<tbody>
<tr>
<td>House</td>
<td>8'**</td>
<td>3'</td>
</tr>
<tr>
<td>Accessory Bldg.</td>
<td>8'**</td>
<td>3'</td>
</tr>
<tr>
<td>Tennis Court</td>
<td>6'</td>
<td>3'</td>
</tr>
<tr>
<td>Pool</td>
<td>4'***</td>
<td>3'</td>
</tr>
<tr>
<td>Driveways</td>
<td>4'</td>
<td>3'</td>
</tr>
<tr>
<td>Other (decks, yards)</td>
<td>4'</td>
<td>3'</td>
</tr>
</tbody>
</table>

* Combined depths of cut plus fill for development other than the main residence should be limited to 6 feet, except that for tennis courts cut plus fill may be permitted up to a maximum of 8 feet.

** Excludes basements meeting Code definition.

*** Excludes excavation for pool.

2. The height of the lowest finished floor(s) of a structure should generally not be set in excess of four feet six inches (4'6") feet above the existing grade, to assure that structures step with the slope. Supported decks shall generally not exceed three (3') feet above adjoining grade except where located within six (6') feet of a building.

3. Driveway cut may be increased up to a maximum of ten (10') feet for the portion of the driveway or backup area which is adjacent to a garage that has been lowered with a similar amount of cut. Terracing shall be utilized for cuts exceeding six (6') feet.

4. Cut and/or fill for drainage shall be limited consistent with the guidelines set forth above for each type of structure, but shall be the minimum grading needed for drainage purposes, as determined by the City Engineer.

5. The Planning Director may approve exceptions for required driveways and Fire Truck turnarounds where cut does not exceed seven (7’) feet and fill does not exceed five (5’) feet at a noticed public hearing.
Outdoor Lighting Policy
Approved by City Council - 9/30/97

Code Sections and Design Guidelines:

Article 10-2.10 of the Site Development Ordinance outlines criteria for outdoor lighting. In particular, Section 10-2.1003 indicates that outdoor lighting should use “the minimum wattage lights which will safely illuminate the area” and that outdoor light sources “shall be shielded so as not to be directly visible from off-site.” Page 30 of the Design Guidelines suggests that exterior lights be carefully placed to prevent light from shining onto neighboring houses and that light sources must not be visible from off-site. The Zoning and Site Development Ordinances limit lighting within the setbacks to “driveway light fixtures, limited to one fixture on each side of 2 driveway, for a maximum of two (2) fixtures per lot,” but additional fixtures may be approved if necessary for safety.

Intent:

The purpose of Code and Design Guideline provisions regarding outdoor lighting is to assure that the open and peaceful character of the Town is maintained, that adequate lighting is provided for the enjoyment of outdoor use areas, and that lighting does not intrude on the privacy of neighbors. The intent of this policy is to clarify more specifically the types and numbers of lighting fixtures that the Town feels are generally consistent with the Code provisions, but to allow flexibility for additional lighting when it is necessary for safety purposes or where it is not visible from off the site.

Policy:

1. The number of lights on the exterior of a structure should be limited to providing for one light per doorway, with the exception of two lights at the main entrance, at double doors or garage doors, etc., and additional lights only where the Planning Director or Planning Commission determines they are needed for safety.

2. Pathway and driveway lighting should be restricted to low-height fixtures and should be spaced the maximum distance apart which will still provide for safe use. In order to avoid a “runway” appearance, it is recommended that lighting be placed on only one side of the driveway or walkway, or alternate from one side to the other. Recessed louvered lights are suggested for walkways and steps.
3. Generally, lighting fixtures should be shielded downlights for which the bulb is not visible from off site. Exceptions may be permitted in limited locations (entry, garage, etc.) or where the fixtures would not be visible from off site.

4. Downlighting from trees is acceptable if provided for safety or for outdoor use areas, where minimal in number, and where the bulb is not visible from off site.

5. Uplighting of trees is generally not allowed, unless it is clearly demonstrated that the number of such lights are minimal and the glow of the uplighting would not be visible from off site.

6. Spotlights should be limited in number, and directed away from clear view of neighbors. Shielding of spotlights with shrouds or louvers is suggested.

7. High intensity discharge lighting, such as mercury vapor, high and low pressure sodium, and metal halide lighting, is prohibited.

8. Lighting in setbacks is limited to two driveway light fixtures only, for the purpose of locating and identifying the site. No lights are allowed in side or rear yard setback areas, except where determined to be necessary for safety.

9. The Planning Commission and/or staff may allow lighting different than that outlined above when the proposed outdoor lighting is determined to be necessary to safely illuminate the area, or where the size of the property and/or extensive screening will assure that lighting glow and fixtures are not visible from off site.
Los Altos Hills Municipal Code
Article 10 – Outdoor Lighting

Sec. 10-2.1001- Purpose

The purposes of this article are: 1) to assure that outdoor lighting, both on the exterior of structures and along walkways, driveways, and landscape features, maintains the openness and quiet atmosphere of the Town and minimizes excessive use of energy; 2) to provide lighting for safety and adequate lighting for the enjoyment of outdoor use areas, such as around patios and pools; and 3) to prevent lighting which is intrusive and which imposes on the privacy and quiet enjoyment of neighboring properties.

Sec. 10-2.1002- Recreation courts

No artificial lighting shall be permitted for tennis and other recreation courts.

Sec. 10-2.1003- Swimming pools and spas

Artificial lighting of swimming pools and spas shall be permitted only under the following conditions:
   a. Lights are placed beneath the surface of the water in the pool or spa to illuminate the water.
   b. Other exterior lights used to illuminate the surrounding area use the minimum number and wattage of lighting which will safely illuminate the area.
   c. No direct light is cast beyond the immediate area of the pool or spa.

Sec. 10-2.1004- High intensity lighting prohibited

High intensity discharge lighting, such as mercury vapor, high and low pressure sodium, and metal halide lighting, is prohibited.

Sec. 10-2.1005- Outdoor lighting--General

Outdoor lighting should use the minimum number and wattage lights which will safely illuminate the area. Outdoor light sources shall be shielded so as not to be directly visible from off-site. No more than two (2) lights shall be allowed in setback areas (as defined in Chapter 2 (Zoning) of the Town of Los Altos Hills Municipal Code). Additional lighting may be permitted where it is determined to be necessary to safely illuminate the area.
ORDINANCE NO. 427

AN ORDINANCE OF THE TOWN OF LOS ALTOS HILLS
ADDING CHAPTER 9 TO TITLE 5 OF LOS ALTOS HILLS
MUNICIPAL CODE REGULATING VIEW AND SUNLIGHT
OBSTRUCTIONS

Whereas, the purposes of this Chapter are to:

1. Establish the right of persons to preserve views or sunlight, which existed at any time since they purchased the property or up to 15 years prior to adoption of this ordinance whichever is less, from unreasonable obstruction by the growth of trees.

2. Establish a process by which persons may seek restoration of such views or sunlight when unreasonably obstructed by the growth of trees or other vegetation.

NOW, THEREFORE, the City Council of the Town of Los Altos Hills does ORDAIN as follows:

I. Chapter 9 is hereby added to Title 5 of the Los Altos Hills Municipal Code to read as follows:

Chapter 9: VIEW AND SUNLIGHT OBSTRUCTION FROM TREES

Section 5-9.01. Purpose and Principles.

The rights and the restorative process are based upon the following general principles:

1. The Town recognizes that residents cherish their outward views from the hills, and that they also cherish the benefits of plentiful sunlight reaching their buildings and yards. The Town recognizes that both outward views and plentiful sunlight reaching property contribute greatly to the quality of life in Los Altos Hills, and promote the general welfare of the entire community.

2. The Town also recognizes the desire of many of its residents, property owners, and institutions for beautiful and plentiful landscaping, including trees. The Town realizes that this desire may sometimes conflict with the preservation of views and sunlight, and that disputes related to view or sunlight obstruction are inevitable.

3. Owners and residents should maintain trees on their property in a healthy condition for both safety reasons and for preservation of sunlight and outward views. Before planting trees, owners and residents should consider view and
sunlight blockage potential, both currently and at tree maturity. Persons have the right to seek civil remedies when threatened by dangerous tree growth.

4. The Town shall establish a process by which persons may seek to preserve and restore views or sunlight which existed at any time since they purchased the property or up to 15 years prior to adoption of this ordinance whichever is less, from unreasonable obstruction by the growth of trees. The Town shall also establish a list of factors to be considered in determining appropriate actions to restore views or sunlight.

5. When a view or sunlight obstruction dispute arises, the parties should act reasonably to resolve the dispute through friendly communication, thoughtful negotiation, compromise, and other traditional means, such as discussions with the appropriate neighborhood or homeowner association. Those disputes which are not resolved through such means shall follow the procedure established herein.

6. It is the intent of the Town that the provisions of this Chapter receive thoughtful and reasonable application. It is not the intent of the Town to encourage clear-cutting or substantial denuding of any property of its trees by overzealous application of provisions of this Chapter.

Section 5-9.02. Definitions.

For the purpose of this Chapter, the meaning and construction of words and phrases is as follows:

Arbitrator: A neutral person who will conduct a process similar to a trial, and who will hear testimony, consider evidence, and make a binding decision for the disputing parties.


Initiating Party: Any property owner (or legal occupant with written permission of the property owner) who alleges that trees located on the property of another person are causing unreasonable obstruction of his or her pre-existing views or sunlight.

Landscape Screening: A method by which trees and vegetation are planted in order to separate and partially obstruct the view of adjacent and nearby structures and properties from one another. Landscape screening shall generally not exceed the height of the ridgeline of the primary structure.

Mediator: A neutral, objective third person who assists people in finding mutually satisfactory solutions to their problem.
**Person:** Any individual, corporation, partnership, firm, or other legal entity, excluding the Town of Los Altos Hills.

**Primary Living Area:** The portion or portions of a residence from which a view is observed most often by the occupants relative to other portions of the residence. The determination of primary living area is to be made on a case-by-case basis.

**Protected Tree:** Any of the following:

HERITAGE TREE, shall mean any tree that, due to age, size, location, visibility, historic nature, or other unique attribute, has been deemed by the Town to be a heritage tree and accordingly deserves special consideration for preservation and protection.

HERITAGE OAK, shall mean any tree of the genus quercus, including, but not limited to, Valley Oak (quercus lobata), California Live Oak (quercus agrifolia), Black Oak (quercus kelloggii) and Blue Oak (quercus douglasii) that has a trunk or multiple trunk thirty-six (36) inches in circumference (approximately twelve (12) inches in diameter) at a point four (4') feet above the root crown.

**Removal:** The elimination of any tree from its present location.

**Restorative Action:** Any specific requirement to resolve a tree dispute.

**Stump Growth:** New growth from the remaining portion of the tree trunk, the main portion of which has been cut off.

**Sunlight:** The availability of direct or indirect sunlight to the primary living area of a residence.

**Thinning:** The selective removal of entire branches from a tree so as to improve visibility through the tree and/or improve the tree's structural condition.

**Topping:** Elimination of the upper portion of a tree's trunk or main leader.

**Tree:** Any woody plant with the potential to obstruct views or sunlight, including but not limited to trees, shrubs, hedges, and bushes. References to "tree" shall include the plural.

**Tree Claim:** The written basis for arbitration or court action under the provisions of this Chapter.
Tree Owner: Any person owning real property in Los Altos Hills upon whose land is located a tree or trees alleged by an Initiating Party to cause an unreasonable obstruction.

Trimming: The selective removal of portions of branches from a tree so as to modify the tree(s) shape or profile or alter the tree’s appearance.

View: A scene from the primary living area of a residence. The term "view" includes both upslope and downslope scenes, but is generally medium or long range in nature, as opposed to short range.

Views include but are not limited to skylines, bridges, landmarks, distant cities, distinctive geologic features, hillside terrains, wooded canyons, ridges, and bodies of water.

Some additional examples are: San Francisco Bay, neighboring Silicon Valley Communities, Lands of Stanford, Lands of MidPeninsula Open Space District, The City’s of San Francisco and San Jose, East Bay Hills, Bay Bridge, San Mateo Bridge, Dumbarton Bridge.

Windowing: A form of thinning by which openings or "windows" are created to restore views and or sunlight.

Section 5-9.03. Rights Established.

Persons shall have the right to preserve views or sunlight, which existed at any time since they purchased their property or not more than 15 years prior to adoption of this ordinance whichever option results in less time, when such views or sunlight are from the primary living area and have subsequently been unreasonably obstructed by the growth of trees.

In order to establish such rights pursuant to this Chapter, the person must follow the process established in this Chapter. In addition to the above rights, private parties have the right to seek remedial action for imminent danger caused by trees.

All persons are advised that the alteration, removal, and planting of certain trees requires a permit under Title 12, Article 3, Sections 12-2.202, 12-2.302, 12-2.403 of the Town of Los Altos Hills Municipal Code (Parks and Recreation). The applicability of Title 12 should be determined prior to any action on trees.

Section 5-9.04. Unreasonable Obstruction Prohibited.

(a) No person shall plant, maintain, or permit to grow any tree which unreasonably obstructs the view from, or sunlight reaching, the primary living area of any other parcel of property within the Town of Los Altos Hills.
Because the maintenance of views and sunlight benefits the general welfare of the entire Town, any unreasonable obstruction of views or sunlight from the primary living area shall also constitute a public nuisance.

Section 5-9.05. Criteria for Determining Unreasonable Obstruction.

The following criteria are to be considered (but are not exclusive) in determining whether unreasonable obstruction has occurred:

(a) The extent of obstruction of pre-existing views from, or sunlight reaching, the primary living area of the Initiating Party, both currently and at tree maturity.

(b) The quality of the pre-existing views being obstructed, including obstruction of landmarks, vistas, or other unique features.

(c) The extent to which the trees interfere with efficient operation of an Initiating Party's pre-existing solar energy systems.

(d) The extent to which the Initiating Party's view and/or sunlight has been diminished over time by factors other than tree growth.

Section 5-9.06. Criteria for Determining Appropriate Restorative Action.

When it has been determined that unreasonable obstruction has occurred, then the following unweighted factors shall be considered in determining appropriate restorative action:

(a) The hazard posed by a tree or trees to persons or structures on the property of the Initiating Party including, but not limited to, fire danger and the danger of falling limbs or trees.

(b) The variety of tree, its projected rate of growth and maintenance requirements.

(c) Aesthetic quality of the tree(s), including but not limited to species characteristics, size, growth, form and vigor.

(d) Location with respect to overall appearance, design, or use of the Tree Owner's property.

(e) Soil stability provided by the tree(s) considering soil structure, degree of slope and extent of the tree's root system.

(f) Privacy (visual and auditory), wind and landscape screening provided by the tree(s) to the Tree Owner and to neighbors.

(g) Energy conservation and or climate control provided by the tree(s).
(h) Wildlife habitat provided by the tree(s).

(i) Whether trees are "Protected Trees", as defined herein.

Section 5-9.07. Types of Restorative Action.

Restorative actions include but are not limited to the following:

-- trimming

-- thinning or windowing

-- topping

-- removal with replacement plantings

-- removal without replacement plantings

In all cases, the documentable extent of view or sunlight existing at any time since they purchased the property or up to 15 years prior to adoption of this ordinance whichever is less, is the maximum limit of Restorative Action which may be required.

In cases where trimming, windowing, or other Restorative Action may affect the health of a tree that is to be preserved, such actions should be carried out in accordance with standards established by the International Society of Arboriculture for use in the State of California.

Section 5-9.08. Town Guidelines Concerning Restorative Action.

The Town of Los Altos Hills provides the following general guidelines concerning restorative actions:

Undesirable Trees. By reason of their tall height at maturity, rapid growth, dense foliage, shallow root structure, flammability, breakability, or invasiveness, certain types of trees have been deemed "undesirable" by the Town, including Blue Gum Eucalyptus, Monterey Pine, Monterey Cypress trees,

When considering restorative action for "undesirable" trees, aggressive action is preferred.

Redwood Trees. Redwood trees are desirable for their scenic qualities and fire resistance. However, Redwood trees must be sited with care in order to avoid potential view obstructions.

Protected Trees. The Town of Los Altos Hills has designated certain trees to be "protected trees", defined in Section 10-2.8.1.02. Any alteration or
removal of protected trees shall require a permit from the Town pursuant to the Town Municipal Code.

Stump Growth. Stump growth generally results in the hazard of weak limbs, and its protection is not desirable. When considering restorative action for stump growth, aggressive action is preferred. Restorative action which will result in future stump growth should be avoided.

Trimming. Trimming is the most minor form of physical restorative action. This option is recommended when minor unreasonable obstruction has occurred, provided that ongoing maintenance is guaranteed.

Thinning or Windowing. When simple trimming will not resolve the unreasonable obstruction, thinning or windowing may be necessary. These should be supervised by a certified arborist.

Topping. Topping as a restorative action should be used with caution. Topping can have deleterious effects on a tree’s health, appearance, and cost of maintenance. Topping frequently results in stump growth. Tree removal, with replacement plantings, may be a preferable alternative.

Removal. Tree removal may be required where such removal is essential to preserve pre-existing views or sunlight. While normally considered a drastic measure, tree removal can be the preferred solution in many circumstances.

Disturbance to Nesting Birds Topping and Tree removal should take place between the end of August and the beginning of January to avoid disturbance of nesting birds protected under the Federal Migratory Bird Treaty Act (MBTA) and California Department of Fish and Game Code Section 3500 et seq unless a nesting bird survey is first conducted and there is a determination that there are no active nests within the tree.

Maintenance. Ongoing tree maintenance requirements are strongly recommended as part of Restorative Action in order to achieve lasting preservation of pre-existing views or sunlight.


The following process shall be used in the resolution of view and sunlight obstruction disputes between parties:

1. Initial Reconciliation: An initiating Party who believes that tree growth on the property of another has caused unreasonable obstruction of views or sunlight from the primary living area shall notify the Tree Owner in writing of such concerns.
The notification should, if possible, be accompanied by personal discussions to enable the Initiating Party and Tree Owner to attempt to reach a mutually agreeable solution. If personal discussions fail, neighborhood associations may be willing to assist with the resolution of the obstruction dispute. For trees located on Town-owned property, see Section 10-2.8.1.16.

2. Mediation: If the initial reconciliation attempt fails, the Initiating Party shall propose mediation as a timely means to settle the obstruction dispute.

Acceptance of mediation by the Tree Owner shall be voluntary, but the Tree Owner shall have no more than 30 days from service of notice to either accept or reject the offer of mediation. If mediation is accepted, the parties shall mutually agree upon a Mediator within 10 days.

It is recommended that the services of a professionally trained mediator be employed. The Los Altos Mediation Program (L.A.M.P) is an example of such a service.

The mediation meeting may be informal. The mediation process may include the hearing of viewpoints of lay or expert witnesses, and shall include a site visit to the properties of the Initiating Party and the Tree Owner. Parties are encouraged to contact immediate neighbors and solicit input.

The Mediator shall consider the purposes and policies set forth in this Chapter in attempting to help resolve the dispute. The Mediator shall not have the power to issue binding orders for Restorative Action, but shall strive to enable the parties to resolve their dispute by written agreement in order to eliminate the need for binding arbitration or litigation.

Section 5-9.10. Tree Claim Preparation.

In the event that the Initial Reconciliation process fails, and mediation either is declined by the Tree Owner or fails, the Initiating Party must prepare a Tree Claim, and provide a copy to the Tree Owner, in order to pursue either binding arbitration or litigation under the authority established by this Chapter.

A Tree Claim shall consist of all of the following:

(a) A description of the nature and extent of the alleged obstruction, including pertinent and corroborating physical evidence. Evidence may include, but is not limited to photographic prints, negatives or slides. Such evidence must show absence of the obstruction at any time since they purchased their property or not more than 15 years prior to adoption of this ordinance whichever option results in less time.

(b) The location of all trees alleged to cause the obstruction, the address of the property upon which the tree(s) are located, and the present tree owner's name and address.
(c) Evidence of the failure of initial reconciliation, as described in Section 10-2.8.1.09, to resolve the dispute. The Initiating Party must provide physical evidence that written attempts at reconciliation have been made and have failed. Evidence may include, but is not limited to, copies of and receipts for certified or registered mail correspondence.

(d) Evidence that mediation, as described in Section 10-2.8.1.09, has been attempted and has failed, or has been declined by the Tree Owner.

(e) Specific restorative actions proposed by the Initiating Party to resolve the unreasonable obstruction.

Section 5-9.11. Binding Arbitration.

In those cases where the initial reconciliation process fails and where mediation is declined by the Tree Owner or has failed, the Initiating Party must offer in writing to submit the dispute to binding arbitration, and the Tree Owner may elect binding arbitration.

The Tree Owner shall have 30 days from service of notice to accept or reject binding arbitration. If accepted, the parties shall agree on a specific Arbitrator within 21 days, and shall indicate such agreement in writing.

The Arbitrator shall use the provisions of this Chapter to reach a fair resolution of the Tree Claim and shall submit a complete written report to the Initiating Party and the Tree Owner. This report shall include the Arbitrator’s findings with respect to Sections 5-9.05 and Section 5-9.06 of this Chapter, a pertinent list of all mandated Restorative Actions with any appropriate conditions concerning such actions, and a schedule by which the mandates must be completed. A copy of the Arbitrator’s report shall be filed with the Town Attorney upon completion. Any decision of the Arbitrator shall be enforceable pursuant to the provisions of Code of Civil Procedure Section 1280 et seq.

Section 5-9.12. Litigation.

In those cases where binding arbitration is declined by the Tree Owner, then civil action may be pursued by the Initiating Party for resolution of the view or sunlight obstruction dispute under the rights and provisions of this Chapter.

The litigant must state in the lawsuit that arbitration was offered and not accepted, and that a copy of the lawsuit was filed with the Town Attorney. A copy of any order or settlement in the lawsuit shall also be filed with the Town Attorney.


Cost of Mediation and Arbitration: The Initiating Party and Tree Owner shall each pay 50% of Mediation or Arbitration fees, unless they agree otherwise or allow the Mediator or Arbitrator discretion for allocating costs.
Cost of Litigation: To be determined by the Court or through a settlement.

Cost of Restorative Action: To be determined by mutual agreement, or through mediation, arbitration, court judgment, or settlement.


The issuance of mediation findings, an arbitration report or a court decision shall not create any liability of the Town with regard to the Restorative Actions to be performed.

Failure of the Town to enforce provisions of this Chapter shall not give rise to any civil or criminal liabilities on the part of the Town.

Section 5-9.15. Limitations.

It is not the intent of the Town in adopting this Chapter to affect obligations imposed by an existing easement or a valid pre-existing covenant or agreement.

Section 5-9.16. Trees on Town-owned Property or within Conservation Easements.

Trees located on Town-owned property or naturally occurring native species within conservation easements are exempt from the provisions of this Chapter. Requests or complaints regarding trees located on Town-owned property should be made in writing to the Superintendent of Public Works for consideration in accordance with policies adopted by the Town.

II. Severability. If any part of this ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or the applicability of this ordinance to other situations.

III. Effective Date; Publication. This ordinance shall take effect thirty (30) after adoption. Within fifteen days after the passage of this ordinance the City Clerk shall cause this ordinance or a summary thereof to be published once, with the names of those City Councilmembers voting for or against it in a newspaper of general circulation in the Town of Los Altos Hills, as required by law.
INTRODUCED: May 15, 2003

PASSED: June 5, 2003

AYES: Mayor Fenwick, Mayor Pro Tem Cheng, Councilmember O'Malle
Councilmember Kerr and Councilmember Warshawsky

NOES: None

ABSTENTIONS: None

ABSENT: None

BY: Mayor

ATTEST: City Clerk

APPROVED AS TO FORM: City Attorney
ORDINANCE NO. ______

ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF LOS ALTOS HILLS
AMENDING CHAPTER 2 OF TITLE V OF THE MUNICIPAL CODE WITH REGARD
TO NOISE STANDARDS

WHEREAS, the City Council of the Town of Los Altos Hills ("Town") wishes to amend
the Municipal Code with regard to noise measurement from the "C" scale to the "A" scale,
definitions of "daytime" and "nighttime", standards for fixed noise sources, and minor text
amendments.

NOW, THEREFORE, the City Council of the Town of Los Altos Hills does ORDAIN
as follows:

Section 1. AMENDMENTS

The following sections of Title V, Chapter 2 ("Noise") of the Los Altos Hills Municipal
Code shall be amended as indicated:

Chapter 2 NOISE

5-2.01 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain
words and phrases used in this chapter are defined as follows:

Animal means any mammal, bird, reptile, fish or any other creature or any live
vertebrae creature other than a human being.

A-weighted sound level or sound level means the sound pressure level in decibels as
measured on a sound level meter using the A-weighted network. The A-weighting
filter de-emphasizes the very low and very high frequency components of the sound
in a manner similar to the response of the human ear and gives a good correlation
with subjective reactions to noise.

Decibel (dB) means the unit of measurement for sound pressure level.

dBA means the A-weighted unit of sound pressure level.

Emergency means any occurrence or set of circumstances involving actual or
imminent physical trauma or property damage which demands immediate actions.

Farm tractor means a tractor which may be used on a highway to draw a farm trailer
carrying product or carrying other implements of husbandry between farms or to a
processing or handling point and returning with or without the trailer, but which
otherwise is itself an implement of husbandry.
Farm Equipment means a device which is used exclusively in the conduct of agricultural operations, including devices such as power saws, lawn mowers, pump motors, air compressors, or similar power-driven devices used in connection with agricultural operations, but not including vehicles which are designed primarily for the transportation of persons or property on a highway.

Fixed noise source means a stationary device which creates sound while fixed or motionless, including, but not limited to pumps, fans, compressors, air-conditioners, pool equipment, generators, and refrigeration equipment.

Machine, tool, or appliance means every machine, motor, device, or equipment, powered or unpowered, including, without limitation, such normally employed to fabricate, clean, or modify other items, and including any device (other than farm equipment and on permitted construction sites), such as power saws, routers, drills, hoists, mixers, sanders, cleaners, grinders, jacks, pumps, generators, and the like.

Motor vehicle means a vehicle which is self-propelled (including motorcycles, motor-assisted bicycles, motor-driven cycles, and powered motor vehicles) as defined in the California Vehicle Code, including all on-highway type motor vehicles subject to registration under said Code and all off-highway type motor vehicle subject to identification under said Code.

Person means and includes every human being, whether adult, minor, or infant. When a group of persons acts in unison to create noise, each individual shall be deemed as responsible as though solely the principal producing the resultant noise.

Powered model vehicle means any self-propelled, airborne, waterborne, or landborne plane, vessel, or vehicle which is not designed to carry persons, including but not limited to any model airplane, boat, car or rocket.

Sound-producing or amplifying device means any device for the creation or amplification of the human voice, music, or any other sound. Examples include, without limitation, public address systems, music amplifiers, horns, sirens, whistles, bells, and drums.

5-2.02 Standards.

The following standards are established to be applicable to the classifications indicated when measured as follows:

(a) Use a standard noise level meter as prescribed by ANSI-S1.4. All measurements will be taken with the meter switched to the weighting network labeled “A” and “Slow” time averaging.

(b) When the source is on private property, measurements shall be made at any location on or beyond the property boundary.
(c) When the source is on public property, measurements shall be made fifty (50) feet from the source or at the private property line, whichever is closer.

(d) Vehilces on public streets and highways within the Town shall conform to the noise emission standards prescribed for them by the Vehicle Code of the State.

(e) Fixed noise source installations shall conform to applicable setback standards. Additional noise attenuation such as: enclosure, baffling, or housing may be required for roof mounted installations to meet the standards in subsection (g) below.

(f) Equipment defined in Title 5, Section 6 is not regulated by this Chapter.

(g) Noise sources shall be regulated by the following table:

<table>
<thead>
<tr>
<th>Noise Sources</th>
<th>Exterior Noise Level Standard (dBA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Animals</td>
<td>Daytime: 50</td>
</tr>
<tr>
<td>Farm tractor</td>
<td>Nighttime: 40</td>
</tr>
<tr>
<td>Farm Equipment</td>
<td>Daytime: 65</td>
</tr>
<tr>
<td>Fixed Noise Source</td>
<td>Nighttime: 40</td>
</tr>
<tr>
<td>Machines, tools or appliances</td>
<td>Daytime: 50</td>
</tr>
<tr>
<td>Motor vehicle repairing, rebuilding, modernizing and testing</td>
<td>Daytime: 82</td>
</tr>
<tr>
<td>Persons</td>
<td>Nighttime: 50</td>
</tr>
<tr>
<td>Powered model vehicle</td>
<td>Daytime: 60</td>
</tr>
<tr>
<td>Sound-producing or amplifying device</td>
<td>Nighttime: 50</td>
</tr>
</tbody>
</table>

For the purposes of enforcing the provisions of this chapter, “daytime” shall be the period from 8:00 a.m. on weekdays, and 9:00 a.m. on weekends and Town Holidays to 7:00 p.m. and “nighttime” shall be the period from 7:00 p.m. to the beginning of “daytime”, Pacific Standard Time or Daylight Saving Time. “Nighttime” shall begin at 10:00 p.m. for Persons and Sound-producing or amplifying devices.

5-2.03 Conflicts with other laws.

The provisions of this chapter shall not be deemed to supersede or repeal other existing laws which are designed to control public nuisances or disturbances, such as noise.
5-2.04 Public nuisances.

Each violation of the provisions of this chapter shall constitute a public nuisance and shall be subject to abatement as such.

5-2.05 Emergency exemption.

The provisions of this chapter shall not apply to:

(a) The emission of sound for the purpose of alerting persons to the existence of an emergency; or

(b) The emission of sound in the performance of emergency work.

(c) Noise from equipment used during emergencies.

Section 2. SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of the Ordinance is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part hereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause phrase of the Ordinance irrespective of the fact that one or more of them would be declared unconstitutional or invalid. To this end, the provisions of the Ordinance are declared to be severable.

Section 3. POSTING

Within 15 days after its passage, this ordinance shall be published once, with the names of those City Councilmembers voting for or against it, in the Los Altos Town Crier, a newspaper of general circulation in the Town of Los Altos Hills, as required by law.

Section 4. EFFECTIVE DATE

This ordinance shall become effective thirty (30) days from and after its adoption, or on May 17, 2011 whichever date is later.

INTRODUCED:

PASSED:

AYES:

NOES:
ABSTENTIONS:

ABSENT:

ATTEST:

__________________________
City Clerk

APPROVED AS TO FORM:

__________________________
City Attorney

BY: ________________________
Mayor
TREE DECISIONS

1428 Spruce Street
Berkeley, CA 94709
510-649-9291 Tel
510-649-9292 Fax

TREE REMOVAL AND TREE PRESERVATION
FOR CONSTRUCTION OF A TENNIS COURT AT
27270 NATOMA ROAD IN LOS ALTOS HILLS, CALIFORNIA

RE

PLANNING APPLICATION
IN LOS ALTOS HILLS, CALIFORNIA

FOR

DAVID DAPONTE, ARCHITECT
HKS HILL GLAZIER STUDIO
925 ALMA STREET
PALO ALTO, CA 94301

BY

DENNIS YNgUEZ, CONSULTING ARBORIST
TREE DECISIONS, BERKELEY, CALIFORNIA
treedec@aol.com

JULY 28, 2010

Tree Health & Risk Assessment ◆ Forensic Examination & Case Analysis ◆ Appraisal of Tree Value
Insurance Claim Evaluation ◆ Land Development Consultation ◆ Resolution of Tree-Related Disputes
Contents

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Background and Assignment 1
Observations and Discussion 1
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Appendices:

A. Excerpt from the Grading Exception Plan
B. Planting Mitigation Requirements of the Los Altos Hills Municipal Code
C. Special Considerations for Native Oaks
D. Leach Field Proximity to Coast Live Oak
EXECUTIVE SUMMARY

Development of a tennis court at 27270 Natoma Road in Los Altos Hills would necessitate the removal of three trees, and preservation of a healthy, attractive, and well-established coast live oak. The applicant proposes to replace trees in accordance with the planting mitigation guidelines of the Los Altos Hills Planning Department and the Los Altos Hills Municipal Code. If the tree preservation measures set forth in this report are followed, the coast live oak can be expected to thrive in excellent health.

BACKGROUND AND ASSIGNMENT

On July 19, 2010, I was retained by Mr. David Daponte of HKS Hill Glazier Studio to evaluate the potential effect of tennis court construction within the drip line of an established coast live oak at 27270 Natoma Road in Los Altos Hills, and to recommend measures to preserve the stability and health of the tree.

The applicant will replace trees as required by the mitigation guidelines of the Los Altos Hills Planning Department and Municipal Code (Chapter 12-2.502 Removal of trees during the development process; see Appendix C). Tree species and locations will be set forth in detailed landscaping plans elsewhere in the development process.

OBSERVATIONS AND DISCUSSION

I visited the site with an associate on July 20, 2010, and met with Mr. Daponte. We reviewed the site plan that is included in relevant part within this report as Appendix A.

The applicant proposes to construct a tennis court near the northwest corner of Parcel One, adjacent to the 30-foot setback line that parallels the western border of the parcel. To build the tennis court at the proposed location, three non-native trees would be removed: two European olives (*Olea europaea*) and a grafted English walnut (*Juglans regia*). A well-established and vigorous coast live oak (*Quercus agrifolia*) is growing adjacent to an aging wooden structure that has apparently been used as a storage shed or workshop for decades. The four trees are described in Table 1 and shown in captioned photographs included herein.

The coast live oak appears to be in excellent health, as indicated by the lushness and density of foliage. The tree has three main trunks and attractive branch architecture originating from each trunk. It shows evidence of at least two earlier pruning episodes, and cuts appear to be sealing over well.
The three trunks are growing adjacent to an aged shed, with a shallow concrete foundation pour at the perimeter of the structure. Over the decades, the radially expanding trunks have caused considerable displacement of the concrete. Fortunately for the tree, the superficial concrete sill was no match for the trunks' slow accumulation of hardwood. The buttress of each trunk has retained its flare, and large roots extend well beneath the shed. The tree appears to be well anchored in each direction. Radiating lateral roots have apparently not been significantly impaired by the trunks' proximity to the shed.

A strong buttress flare bodes well for the tree's continued stability. The tree's root structure can be ascertained with greater precision as the shed is carefully removed.

<table>
<thead>
<tr>
<th>TREE</th>
<th>NAME</th>
<th>DIAMETER 4' aboveground (INCHES)</th>
<th>TREE CONDITION (1-10, POOR TO EXCELLENT)</th>
<th>COMMENTS</th>
<th>REMOVAL (X)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>English walnut (Juglans regia)</td>
<td>20</td>
<td>7</td>
<td>Black walnut rootstock and lower trunk cylinder can be end-sealed with paraffin, set aside, and used in several years for quality woodturning</td>
<td>x</td>
</tr>
<tr>
<td>2</td>
<td>European olive (Olea europaea)</td>
<td>11.5; 8.5</td>
<td>6</td>
<td>Not a good candidate for transplanting: central decay columns in two main upright stems</td>
<td>x</td>
</tr>
<tr>
<td>3</td>
<td>European olive (Olea europaea)</td>
<td>6.5; 7.5; 8.0</td>
<td>7</td>
<td>Not a good candidate for transplanting: too asymmetric and rootball is out of proportion to single upright trunk that would remain if a side stem is removed.</td>
<td>x</td>
</tr>
<tr>
<td>4</td>
<td>Coast live oak (Quercus agrifolia)</td>
<td>18; 18;16</td>
<td>8</td>
<td>Will survive and thrive with use of appropriate tree preservation measures set forth in this report</td>
<td></td>
</tr>
</tbody>
</table>

Table 1
RECOMMENDATIONS FOR OAK PRESERVATION

Removal of the Shed

I strongly recommend that a Consulting Arborist, familiar with the vulnerabilities of native oaks, should be on site before and during the time when the shed is carefully dismantled adjacent to the tree. This will prevent inadvertent damage to the trunks and an opportunity to discern the structure of significant radiating roots. Protective fencing can be installed immediately thereafter across the space previously occupied by the shed, in the location indicated in Appendix A.

Protective Tree Fencing

A Tree Protection Zone (TPZ) would be delineated by a temporary fence consisting of 5-foot metal stakes and 4-foot high sturdy orange poly plastic mesh fencing. Most of the fence would be installed in a semicircular "open-C" pattern before the shed adjacent to the oak is dismantled (see Appendix A). The north-south linear section of the protective fence would be installed immediately after the shed is removed.

No parking or storing of vehicles, construction trailers, equipment, machinery, or construction materials would be permitted, nor would dumping of oils or chemicals be allowed within areas delineated by the protective fences.

Construction of Retaining Wall and Composition of Fill

After the shed adjacent to the oak is removed, soil would be hand-excavated at the retaining wall location to determine the exact location of any major surface roots. The arborist would work in consultation with the engineer and architect to construct a retaining wall that does not wound or sever major lateral roots. The design would incorporate short-stem, pier and grade beam, or void forms as necessary to protect any significant lateral roots.

Fill soil (averaging 18 inches in depth) and tennis court construction over this limited rooting area, as a percentage of the tree's total root area, would have no significant effect on tree health or stability.

Special Considerations for Native Oaks

Two of the greatest threats to well-established native oaks are heavily compacted soils and chronically saturated soils. It is imperative to prevent these conditions before, during, and after development of the site. Additional descriptions of soil pathogens and oak disease syndromes are found in Appendix C.
Bracing and Cabling of Trunks

After the shed is removed, the location of main lateral roots is determined, and the free-standing structure of the tree is more closely evaluated, the arborist may recommend moderate crown pruning as well as bracing and cabling of the three trunks. Bracing would be accomplished by application of one or more galvanized threaded metal rods through two trunks, and aerial cabling of the three trunks would prevent trunk separation as the tree continues to grow in weight and stature.

Appropriate Understory Landscaping

To avoid the above-mentioned damage and destruction of native oaks that can be caused by overwatering, the tree owner is advised to plant only drought-tolerant plant species within ten feet of the subject trees, and to minimally water plants as necessary to maintain their health. Appropriate understory plantings should only be lightly irrigated with drip irrigation until the drought-tolerant (xeric) plants are established. No plantings or drip emitters should be placed within 3 feet of the trunks.

An excellent booklet entitled *Compatible Plants Under and Around Oaks* is available without charge by download from the California Oak Foundation website (http://www.californiaoaks.org/ExtAssets/CompatiblePlantsUnder&AroundOaks.pdf).

**CONCLUSION**

Development of a tennis court as proposed at 27270 Natoma Road in Los Altos Hills would necessitate the removal of three non-native trees.

The Applicant proposes to replace more trees than are required by the planting mitigation guidelines of the Los Altos Hills Planning Department and the Los Altos Hills Municipal Code, using species selected from a city-approved list of native California trees.

A well-established triple-trunked coast live oak would be retained. A healthy native oak in this location would continue to provide a wonderful shady retreat adjacent to the tennis court. The applicant has every incentive to maintain strict tree protective measures before, during, and after construction.

Respectfully submitted,

Dennis Yniguez
Registered Consulting Arborist
1. Tree No. 1 - English walnut (*Juglans regia*); Tree No. 2 - European olive (*Olea europaea*); Tree No. 3 - European olive (*Olea europaea*); Tree No. 4 - Coast live oak (*Quercus agrifolia*). Trees numbered 1 to 3 would be removed; Tree No. 4 is an established native oak that would remain after construction of the tennis court.
2. Tree No. 1 is an English walnut (*Juglans regia*) that is grafted on black walnut (*Juglans hindsii*) rootstock. It would be removed to accommodate the tennis court.

3. These European olives (*Olea europaea*) would be removed to accommodate the tennis court. For reasons made clear in the following photographs, neither tree (Tree No. 2 or Tree No. 3) is recommended for transplanting.
4. This photo shows the asymmetry of an olive trunk as it emerges from the root crown. It is better to replace this tree (Tree No. 3) than attempt to transplant such a large rootball with a relatively small diameter remaining trunk.

5. This photo shows the importance of the main trunk to the architecture of this olive (Tree No. 2). Significant decay is visible in the central column of the main trunk.
6. This is a close-up of an advanced decay column in the central trunk of this olive (Tree No. 2).

7. The main secondary trunk of this olive (Tree No. 2) also has advanced decay.
8. This is the aged shed as viewed from the west. A yellow arrow indicates the broad crown of the triple-trunked coast live oak (Tree No. 4) that is to be preserved.

9. Photo indicates the triple-trunked coast live oak that is to be preserved, as viewed from east of the shed.
10. The upper crown of the triple-trunked oak shows evidence of at least two prior episodes of significant pruning. Old pruning wounds are vigorously closing over and the tree retains a full crown of healthy limbs.

11. The upper crown of the triple-trunked oak retains a graceful branch architecture in all directions. It is an attractive specimen oak that can provide beauty and shade adjacent to the tennis court.
12. The three trunks in this photo appear to originate from a common base. It is possible that the rightmost trunk is a separate tree. The subtleties in leaf, branch, and bark appear to be of similar genetic origin so I've considered this to be a single tree.

13. This photograph shows great similarity in bark appearance on all three trunks.
14. The expanding trunks have distorted the shallow concrete perimeter foundation of the adjacent shed.

15. Healthy root flares extend beneath the shed. The concrete perimeter foundation has not prevented roots of the oak from becoming firmly established on the west (shed) side of the trunks.
16. Dashed blue lines and orange cones indicate the location of a retaining wall that would not be closer than nine feet from the oak. The retaining wall would vary in height from grade to three feet, with an average soil fill depth of eighteen inches.
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 valid 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 to attend meetings, hearings, conferences, mediations, arbitrations, or trials by reason of this report unless subsequent contractual arrangements are made, including payment of an additional fee for such services.

This report represents the opinion of the consultant, and the consultant’s fee is not contingent upon making any particular recommendation.

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 by Dennis Yniguez or Tree Decisions as to the sufficiency or accuracy of said information.

Unless otherwise expressed: a) this report covers only the 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.
Appendix A

Green wavy line indicates the approximate dripline of the triple-trunked coast live oak.

Blue line indicates the location of a low retaining wall from 0 to 3 feet in height; average soil depth = 18 inches.

Orange line indicates protective fencing: installation to be completed immediately after the shed is dismantled.
Appendix B

Los Altos Hills Municipal Code

Title 12 PARKS AND RECREATION
Chapter 2 TREES, SHRUBS AND PLANTS
Article 5, Protection of Trees in Anticipation of and During the Development Process

12-2.502 Removal of trees during the development process.

(a) The Zoning Administrator, the Site Development Committee, the Subdivision Committee, the Planning Commission, and the City Council, in reviewing development proposals or subdivisions, shall seek to preserve and protect existing trees, especially Heritage Oaks and heritage trees, from unnecessary removal or damage by placing conditions on development approvals. Subdivision lot design and development plans shall accommodate existing trees whenever possible. The reviewing authority may require the developer to provide recommendations by an arborist as to the steps that should be taken to protect and preserve existing trees.

(b) If the City Council finds, after a noticed public hearing, that the conditions of development approval regarding removal or damage of trees has been violated, it may direct a stop work order to be issued. A stop work order may halt processing of an application as well as any on-site work. The stop work order may remain in effect: (1) a plan of restitution has been approved by the City Council; and (2) the plan has been implemented or a bond has been posted to ensure compliance with the requirements of the plan of restitution.

(c) The plan of restitution may include, but not be limited to, the replacement of each tree damaged or removed by up to five (5) trees of reasonable size and the payment of a multi-year bond to ensure the trees are maintained and cared for. (§ 5 (part), Ord. 332, eff. June 1, 1990)
Appendix C

Special Considerations for Native Oaks

Two of the greatest threats to well-established native oaks are heavily compacted soils and chronically saturated soils. It is imperative to prevent these conditions before, during, and after development of the site.

**Compacted soil**

Soil compaction is the reduction of the space between soil particles. It usually occurs when heavy construction equipment is driven repeatedly over soil. Compaction can restrict oxygen diffusion through soil, reducing the ability of roots to absorb sufficient water to keep a tree in vigorous health.

Restoring adequate space between soil particles by remedial soil treatment can be difficult. The best way to eliminate soil compaction adjacent to these oaks is to prevent it by keeping protective fencing in place before and during construction.

**Saturated soil**

Native oaks have adapted to climatic fluctuations in water availability. In this area of Northern California, oaks often survive entire summers with little or no rainfall. However, homeowners often don’t realize this and over-irrigate within the driplines of native oaks to the detriment of the trees.

When soil becomes chronically saturated, oxygen no longer diffuses efficiently through the soil and root functioning is impaired. The spaces between soil particles fill with water, beneficial soil microorganisms die, and anaerobic bacteria proliferate. Roots are then forced to shift from aerobic to anaerobic respiration, producing toxic chemical compounds that destroy fine roots.

If a native oak has become stressed from sustained drought, a moderate amount of water can help it to retain a leafy crown and to resist biotic and abiotic environmental pressures. However, irrigation must be minimal to moderate, soil must not remain saturated, and sprinklers must not be directed against the trunk.

**Crown Rot (Phytophthora cinnamomi)**

One byproduct of chronically saturated soil is a dramatic increase in the population of *Phytophthora cinnamomi*, a prevalent soil fungus that is found in minute concentrations under normal soil-moisture conditions. Chronically saturated soil encourages a massive, rapid, and sustained increase in the soil population of this fungus. Disease often infects the root crown (the interface of stem and roots) as well as delicate roots throughout the area of soil saturation.
Fine roots and root hairs are essential for the efficient uptake of water. The destruction of fine roots causes a paradoxically stressful condition: despite an overabundance of water, the tree cannot obtain enough moisture! The leafy crown continues to lose water through transpiration, but the lost water cannot be replaced through root absorption. The leaves increase their production of waxy cuticle (surface cells) to decrease transpiration, and also curl to avoid the drying effects of sunlight. The tree drops leaves prematurely, and newer leaves are smaller and less plentiful.

Fortunately, this condition can often be reversed. When the soil returns to a non-saturated condition, the population of pathogenic *Phytophthora* fungi “crashes” and newly formed absorption roots can survive. The tree can again sustain a lush crown of leaves by constantly replenishing the moisture that is lost through leaf transpiration.

**Oak Root Fungus (*Armillaria mellea*)**

Oaks that have been weakened by excess summer irrigation are also often most susceptible to oak root fungus, a soil microorganism that is found in low concentrations in normal soils. Sprinklers should not spray directly against the trunk of an oak, because saturated soil is an ideal environment for the proliferation of this fungus, especially during summer months. The fungus will grow into living tissues until significant amounts of wood are weakened and destroyed. The vascular system of the tree is increasingly disrupted, making it ever more difficult for the tree to continue functioning as a homeostatic system. Once the tree begins to exhibit symptoms of advanced infection, such as massive leaf loss throughout the crown, it may well be too late to save the tree.
Appendix D

Leach Field Proximity to the Coast Live Oak

On July 28, 2010, I was asked to review site plans for creation of a leach field at 27270 Natoma Road in Los Altos Hills and to evaluate whether installation of the leach field would significantly affect the health or stability of the triple-trunked coast live oak that is to be retained on site adjacent to a proposed tennis court.

During a previous site inspection on July 20, 2010, I measured the maximum crown spread of the oak in four cardinal directions. Based on these measurements, I recommend that four primary leach field trenches west of the entrance driveway be shortened as illustrated on the diagram included with this Appendix D.

The alteration would require that four trenches are shortened as follows:

One trench would be shortened by 6 feet on the westernmost end,
Two trenches would be shortened by 7 feet on the westernmost end, and
One trench would be shortened by 10 feet on the westernmost end.

With this reconfiguration, the total length of the primary leach field trenches west of the entrance driveway would remain at 403 feet. The westernmost end of the trenches would be at or slightly within the outermost reaches of the dripline of the retained oak.

As long as the trenches are excavated from an easterly direction, there is no danger of soil compaction within the tree’s dripline by heavy equipment used to perform the excavation. Protective fencing must be installed two feet within the dripline adjacent to the trenches before excavation equipment approaches the tree. No construction materials or soil may be deposited, even temporarily, within the dripline. If any roots one inch or greater in diameter are encountered, they would be cleanly and properly cut by the arborist to encourage maximum compartmentalization and decay prevention.

The subject oak has never had artificial irrigation and has had to develop roots deep enough to consistently obtain adequate water from the water table. The tree’s lush crown is a reflection of successful root development. The leach field is not expected to significantly alter the oak’s ability to obtain water from the water table.

If four leach field trenches are shortened in accordance with these recommendations, the leach field would have no significant negative effect on the health or stability of the retained oak. The oak may well benefit from a continuous new source of moisture and nutrients as fine roots develop outside the dripline.

I recommend that a qualified consulting arborist remain on site during trenching operations at the westernmost end of the primary leach field west of the entrance driveway to ensure that tree protective measures are implemented.
If four proposed primary leach field trenches west of the entrance driveway are shortened by a total of 30 feet, the total length of these trenches would be 403 feet. The westernmost end of the trenches would terminate at or just slightly within the outermost reach of the triple-trunked oak's dripline. Trenches would be excavated from an easterly direction to prevent soil compaction beneath the oak's dripline. The arborist should be on the site to install protective fencing prior to excavation and to ensure that the westernmost excavation of the leach field will have no significant affect on the tree's health or stability.
To: Planning Commission
From: Beverlee Barkley
For: Alice M. Hill

1/24/12

In response to the notice of the planning commission public hearing on Feb. 7, 2012, I would like to submit some comments on the landscaping proposal for Home Natoma. I live adjacent to their property on the SW side.

A great deal of time and effort has been spent to modify the exceptionally large house to respect the neighbors’ views. The proposed plan has located some trees in places that defeat this work.

It has also been noted that there are over 100 outdoor lights proposed. This does not seem compatible with the town’s rural character.

I have discussed my concerns with Brian Froelich, Jenna Ellis, Tim Keely and a representative from the landscaping company.
January 26, 2012

Brian,

There was a meeting at my mother’s home this morning. The purpose of the meeting was to discuss neighbor concerns related to the landscaping plan for Lands of Homa Natoma (the Ellis property). Jenna Ellis was accompanied by Tim Kelly and Paula Erickson. Neighbors included Beverly Barkhau, Sandy Katz, Alice Arnold, Shohreh Malek, and myself.

I believe that the direct input from this group of neighbors made it clear that the desire is to have nothing planted that will – either now, or in the future – obstruct any off site view that still remains as of this date (January 26, 2012).

The input was noted and questions were asked on both sides. A decision was made to meet again prior to the February 2 Planning Commission meeting. The idea is that Jenna Ellis will have a chance to discuss options with Suzman & Cole Design Associates and come back (possibly with Todd Cole) to get further input from the neighbors in order to make changes to the current plan. Hopefully, the result will be something that fully addresses the neighbor requests.

Thank you again for sending me the ordinance that I had requested (No. 427)
I have had time to read it closely.

In order to record my thoughts as they relate to this ordinance and our observations and requests, I have summarized them here for the use of the Planning Department as well as the Planning Commission.

As you know, the Town of LAH Ordinance No. 427 was adopted in June 2003 and added Chapter 9, to Title 5 of the town’s Municipal Code. It defines the regulation of VIEW and sunlight obstruction from trees, and further defines trees as "any woody plant with the potential to obstruct views or sunlight, including but not limited to trees, shrubs, hedges, and bushes.”

Section 5-9.01 lays out the Purpose and Principles of the ordinance. Among other things, it states that:

"BEFORE planting trees, owners and residents SHOULD CONSIDER VIEW and sunlight BLOCKAGE POTENTIAL, BOTH CURRENTLY AND AT TREE MATURITY."
This is common sense. In a case where there is a 'clean canvas' (at least as far as landscaping) the issue is not in restoring a view to a certain space in time .... but in fully protecting the existing view. Anything that extends, or will extend, in to the view of another property should NOT be allowable.

In the case of Lands of Homa Natoma (Ellis) proposed landscape design, there are some critical definitions to consider from Section 5-9.02.

*** Landscape Screening definition includes "Landscape screening shall generally not exceed the height of the ridgeline of the primary structure."

*** The term View is important and it has already been established in the Planning Commission meetings addressing the structures on the building site (27270 Natoma), that the primary living areas at Beverly Barkhau's residence (26861 Altamont Road) are the kitchen, living room and deck adjacent to the Ellis/Barkhau property line.

Section 5-9.04 is titled Unreasonable Obstruction Prohibited.

In this section, paragraph (a) states that.. "No person shall plant, maintain, or permit to grow any tree which unreasonably obstructs the view from, or sunlight reaching, the primary living area of any other parcel within the Town of Los Altos Hills."

Section 5-9.05 is titled Criteria for Determining Unreasonable Obstruction. I (we) believe that criteria (a), (b) and (d) of this Section (see below) carry more than enough explanation as to why certain parts of the applicant’s currently proposed landscaping plan should be eliminated. Specifically, any ‘trees’ that extend above the ridgeline that they are in closest proximity to. Also any foliage that obstructs an off site view that has not already been obstructed by any portion of the residential structure now under construction.

(a) The extent of obstruction of pre-existing views from, or sunlight reaching, the primary living area of the initiating party, both currently and at tree maturity.

(b) The quality of the pre-existing views being obstructed, including obstruction of landmarks, vistas, or other unique features.

(d) The extent to which the initiating party's view and/or sunlight has been diminished over time by factors other than tree growth. (§ 1, Ord. 427, eff. July 5, 2005)

Criteria (d) is key in that the building mass and height of the structure under construction has already diminished a great deal of neighboring views.
Affected neighbors do not want to be put in a situation where 'restoration' of views needs to be addressed. We are asking that landscaping is done responsibly from the onset. To us, that means following this ordinance and making planting choices, now, that create no potential of obstructing what is left of neighboring views. This seems like a reasonable request and it follows the town ordinance that is in place.

ALSO NOTE:

Items of mention that have either not been addressed, or may become a problem:

Lighting
- Height limit to 'down lights' in trees, and other landscaping. There is no defined limit and that is of concern.
- Quantity of lighting 'fixtures' and frequency and duration of their use.

Water conservation. While according to the town, the plans are defined as 'efficient'; there is a sensitivity to this concept.

Grounds/landscaping maintenance – frequency, duration, noise, parking.

Noise from immediate and future mechanical units.

Use of driveway spaces and their extensions as frequent parking areas. The location of such areas may be problematic from off site.
Environmental Design and Protection Committee

Reviewed by: [Handwritten Name] Date 8/11/11

Applicant

Name: [Handwritten Name]
Address: 27270 Palomino Place

Site impact/lighting/noise:

We visited this enormous construction site. There was no way we could identify the pool area, amidst the piled earth, etc. It would remain from the plans, to be okay with minimum neighbor annoyance.

Creeks, drainage, easements:


Existing Vegetation:

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Significant issues/comments:

There was a drilling machine by the oak trees on the creek/gully easement. The workers said they were filling in a dry well boring. Should this be obliterated?
1. ROLL CALL AND PLEDGE OF ALLEGIANCE

The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the Council Chambers at Town Hall.

Present: Chairman Clow and Commissioners: Collins, Harpootlian, Abraham, and Partridge.

Staff: Debbie Pedro, Planning Director; Brian Froelich, Associate Planner; and Victoria Ortland, Planning Secretary.

2. PRESENTATIONS FROM THE FLOOR — None

3. PUBLIC HEARINGS

Planning Commission Ex Parte Contacts Policy Disclosure: Regarding Item 3.1, Commissioner Collins had spoken with the applicant and three neighbors; Commissioner Harpootlian had spoken with the applicant, architect, and three neighbors; Commissioner Abraham had spoken with the applicant and architect; Commissioner Partridge had spoken with the applicant, architect, and four neighbors; and Chairman Clow had spoken with the applicant, architect, builder, and five neighbors.

3.1 LANDS OF HOMA NATOMA, LLC, 27270 Natoma Road; File #25-10-ZP-SD-GD; A request for a Site Development Permit for a new 27,254 square foot residence with a partial two story element (maximum height 29'). The applicant is also requesting a grading policy exception for cuts of up to eight (8) feet to accommodate a lowered driveway, fire truck turnaround, and front entry. CEQA Review: Categorical Exemption per Section 15303 (a) & (e) (Staff-Brian Froelich).

Brian Froelich, Associate Planner, presented the staff report for the proposed 27,254 square foot estate home and Grading Policy exception on the 4.92 acre parcel. A previously submitted application for a five-lot subdivision had been replaced with the approved two-lot subdivision plan after the applicant's purchase of the property. Newly created Palomino Place, required by the subdivision improvement plan, will serve as entrance to the lot. The request for the Grading Policy exception would allow vehicular traffic to access a lowered finished floor level of the structure. Los Altos Hills' geotechnical consultant had recommended a 25 foot setback from the Altamont fault trace that crosses the property. Neighbor and resident input both in support and opposition of the project had been received by staff. Concerns included views, landscape screening, and close proximity to the property line. Estate home requirements require a public
hearing for the residence and landscape screening, and increased setbacks (60 feet for the front and 45 feet for the sides and rear).

Commissioner Abraham asked about the distance of the proposed structure from the setbacks, and the height of the new home compared to the current house.

Staff explained about 50 percent of the new building is at the setback. The existing house was two stories at 28 feet in height. The proposed house is primarily single story when viewed from the uphill side and would be six to eight feet lower.

Commissioner Collins asked about the timeline of the project and neighbor notification.

Staff replied that initial meetings regarding the project were held in November, plans were submitted in February, and the neighbors contacted staff in March.

OPENED PUBLIC HEARING

Jenna and Jim Ellis, applicants, stated they had resided in Los Altos Hills for seven years and wanted to build their dream house on the Natoma Road site. The size, location, neighborhood, proximity to Westwind Barn, open space, and the views had contributed to selection of the property for their new home. The house had been designed to accommodate their family, including the children, parents, and future grandchildren. Effort was made to comply with Town ordinances and the Grading Policy exception requested only to lower the house for access. The Ellis' want to be part of the neighborhood and had tried to find compromises to neighbor's concerns to allow everyone to enjoy the view. They had met with neighbors in April after Town staff's plan review. As a result of neighbor input, significant changes to the plan had been made. One adjoining neighbor could not be contacted, despite repeated attempts.

Bob Glazier, architect, said that a survey was conducted of the finished floor elevations for the surrounding homes to help preserve views that may be affected by the new residence. The new house was designed to be lower than the existing house to keep it below the finished floor of most of the homes on the uphill side. The roof layout is broken up by flat areas and cedar shingles are planned to soften the look. After meeting with the neighbors, concerns about views were addressed with revision to the plans. The roof slope was lowered and plate heights were dropped for a reduction in height of the house. Two chimneys were completely removed. The two car garage was moved into a bunker, the 16 foot high roof was moved back 62 feet, the game room and showroom garage was moved back 12 feet. The driveway would be moved and a portion dropped down to meet the floor of the bunker garage. The story poles were readjusted to reflect the revision to the plans.

Commissioner Collins asked if any of the remaining house design changed with the rotation of the game room/showcase garage.

Bob Glazier replied that there was no change in the rest of the house.
Commissioner Partridge requested clarification on which set of plans the Planning Commission was being asked to consider; the plans submitted with the application or the modified plans presented by Bob Glazier.

Bob Glazier said the revised plans presented at the Planning Commission meeting were requested for consideration.

Debbie Pedro said staff would like to have the opportunity to complete a thorough plan review and check for required additional grading.

Commissioner Harpootlian asked if moving the house about 40 feet toward the center of the lot would create less of an impact to the view from Beverly Barkhau’s property.

Bob Glazier said that improvement had been made to the amount of view affected from Beverly Barkhau’s house with the plan changes that moved the large roof completely out of view. He wanted other options examined before considering moving the house down slope.

Jim Ellis felt that moving the house 40 feet would severely compromise their views from the new house. The conservation easement would become the primary view, a partial mountain view would be retained, but no bay view would remain.

Commissioner Collins appreciated the effort made to design the new house so the top of the roof would be at or below the finished floor of the neighboring homes. This would be the perfect solution if the view was straight across the bay to the mountains, but from the neighboring properties, the view to the bay is downward. She was not convinced that the roof to finished floor relationship was as effective in this case. Every room in the proposed house appears to have a view of the water in the bay.

Bob Glazier stated that determining the finished floor of the surrounding homes was a starting point in developing a strategy to maintain the neighbor’s view and create a view for the applicants. The view from the master bedroom area would be more of trees than the bay, as the house bends at that section.

Commissioner Partridge asked if an alternative plan for the roof wells containing the air conditioners was a possibility. Relocating the AC equipment would allow the height of the roof to be lowered and reduce obstruction of the neighbor’s view.

Bob Glazier said that the proposed roof design, to accommodate the air conditioning units, was lower than a roof line that would rise to a peak. The house had been designed with as much flat roof area as possible.

Alice Arnold, Almaden Court, said that the existing house is about one fifth, one sixth, or one seventh the size of the proposed house. The comparison was not fair between the existing house, which is not destroying anyone’s view, and the proposed house which will be destroying many people’s view.
Paul Staschower, Almaden Court, said that the new residence would effectively create a 24 to 29 foot high solid wall across the entire back width of his lot. No view space allowance would exist along the side of his house that currently has a view. From the pool deck of his home, the proposed house at the minimum setback would block not only the view but also air flow. A simple solution for compromise would be to move the house down the hill and preserve the openness of Los Altos Hills that he desired and has enjoyed for years.

Shohreh Malek, Altamont Road, stated that she would be adversely affected by the project as would all the surrounding neighbors. She was concerned that the close proximity and site orientation of the long, large house would block the view from the five neighbors. Greatly increased setbacks must be required because of the bulk and enormity of the structure. The highest part of the house, at 29 feet, is directly in the narrow view corridor and blocks the view. The views affected in her home would be from the bedroom, living room, family room, kitchen, breakfast nook, and outdoor sitting area. The unprecedented size of the house will affect the rural character and openness of the neighborhood. She suggested increasing the setback, moving the house down the slope another 30 feet, lowering the profile of the structure 15 feet with grading and excavation, and lowering the ceiling height (especially at the tallest section on the east side).

Yigal Brandman, Natoma Road, spoke in support of the project and thought the house would be a good addition to the neighborhood. He hoped the Planning Commission would approve the plan.

Courtenay Corrigan, Fremont Pines Lane, supported the application and said that Jim and Jenna Ellis had searched a long time for the ideal property for their new home. The proposed project had been designed to meet the Town’s guidelines and the applicants have been willing to make many compromises for the neighbors.

Randall Kruep, Sunrise Farm Road, enjoyed the view of the spectacular property and gave his support of the project.

Bill Shreve, Almaden Court, supported the project and appreciated the reduction in the final number of lots for the subdivision from five to two. He felt the impact on the view and neighborhood would have been worse with five houses. He hoped the Planning Commission would approve the application.

Lisa Warren, Cupertino, daughter of Beverly Barkhau, Altamont Road, said she appreciated the recent efforts made to mitigate the neighbors’ concerns. She felt the application was “one of a kind” and the size and amenities of the project classified it as more than an estate home. She commented on the process for project submittal, review, and approval quoting the wording from the Town’s Site Development Review Process handouts. She noted that special consideration must be given during the development process to keep protection of views and scenic corridors a priority. Conducting neighborhood outreach before filing the site development approval is recommended. Considering the handout suggestions and reference to the General Plan, she requested that the Planning Commission require stricter standards for height, setbacks, site location, and size of the project. Increasing the setbacks would lessen the obtrusiveness of the structure and create a buffer for noise and privacy as the setback minimums for estate homes
would not mitigate the project. Because the house is situated backward on the site, it would be appropriate to designate the front of the lot as the south and west borders.

Commissioner Harpootlian asked Ms. Warren where she had obtained her information.

Lisa Warren replied that the General Plan and Municipal Code of Los Altos Hills had provided the information.

Sandy Katz, daughter of Beverly Barkhau, Altamont Road, urged the Planning Commission to closely examine the location of the garage and the height of the recreation room roof. Their view would be taken away by these elements because they are directly in the line of sight. The garage and recreation room could be relocated further down toward the center of the property to alleviate the problem. Although commendable, the plan changes to rotate the garage do not remedy the loss of view from the kitchen, the majority of the deck, and elsewhere. The rotated garage will be longer across the view, and as the view is down and not straight across, the bay view and city lights will be lost.

Chairman Clow said that his understanding of the photographs, given to the Planning Commission, represented the views from the individual neighbor’s homes.

Sandy Katz replied that the photographs representing the view from Beverly Barkhau’s house were taken only from the deck. Beverly spends most of their time inside the house so the view from inside the house (kitchen, living room, etc.) was very important. The new house will significantly compromise the current view from her home.

Mitra Malek, Altamont Road, said that the majority of the photographs of her home were taken from the back yard and do not depict actual views from the living areas. When looking out from the inside of her house, much more of the view will be obstructed than the photos show. The story poles do not give a true depiction of the extent of the view blockage caused by the new house. She suggested moving the house down slope on the property. A possible compromise could be to reduce the number of rooms in the proposed house that have prime views, to help preserve the views from the existing homes in the neighborhood.

Tracy Liu, 26751 Almaden Court, thought the new residence would increase home values in the neighborhood. She requested an increased setback because the proposed residence was located too close to her property line. She also had privacy concerns over the height of the new house and asked for installation of 15 foot tall screening trees.

Mina Malek, Altamont Road, felt the new development would devalue all the properties up slope of the site. The existing house may be taller than the proposed building; but it is so much smaller that it blocks only a sliver of the view, compared to the amount that will be obscured by the new residence. The proposed structure will completely block the view over the entire expanse over their property line. The entire beautiful view of the city lights from her bedroom window will be gone. She asked the Planning Commission to consider her cherished view when making their decision.
Jim Ellis said the comparison with the existing house was used only as a reference point and not meant to misrepresent the scope of the project. In the presentation, they had tried to use photographs provided by neighbors to document the views that the neighbors had considered important.

Bob Glazier explained that the plans for the project had been shared with the neighbors after he was confident that they were in compliance with Town ordinances. He said he had convinced the Ellis' that it would make a good argument for approval if the new house was kept below the finished floor of the homes behind. Even though a two-story house have been a possibility and would improve their views, they felt it was more neighborly to build a one story structure. Beverly Barkhau’s view issue is difficult to address because her house is at nearly the same elevation and was non-conforming by its proximity to the property line. He felt that the changes in the revised plan, with the 16 foot high roof moved 62 feet and the entire structure moved 12 feet, was a major response to some of their concerns about compromised views.

CLOSED PUBLIC HEARING

Commissioner Abraham supported the project with the proposed revisions. The project complied with Town ordinances and the applicants had worked hard to accommodate the views of the neighbors while preserving some of their own views. The Grading Policy exception was justified and allowed for a lower garage.

Commissioner Partridge felt that it would be very hard to make a decision on the revised plans without a review by staff. Increased setbacks would be helpful so the façade would not appear as much like a solid wall. The driveway was too close to the neighboring properties and an increase in setback for both the house and driveway would be desirable.

Commissioner Collins said the applicants had been considerate of the neighbors and made a remarkable effort to design the house within the ordinances. However, because of the impact on the neighborhood from the size of the house, more consideration must be given before a decision on the project. The proposed revisions to the submitted plans need to be thoroughly reviewed by staff. Los Altos Hill’s Site Development Ordinance required structures to be unobtrusive when viewed from offsite, scenic views should be retained, and buildings are not to dominate the natural landscape. She suggested that to retain the views, the entire structure or portions of it, should be moved down slope.

Commissioner Harpootlian asked staff if the height of any portion of the new house was higher than a single story.

Brian Froelich replied that some of the floor area in the center part of the house had been counted twice (as floor area) because of the height.

Commissioner Harpootlian said that portions of the house were counted as two stories. He felt a significant improvement toward preserving the neighbors’ views could be made by moving the house down slope.
Chairman Clow said that a challenge for the house, even with the 45 foot setback, was its perception of massiveness. He felt the applicants had acted with integrity regarding the neighbors and the use of the photographs. He emphasized the importance of the neighbors sharing photographs with the applicants that documented the most important views from their properties. Thoughtfully placed landscape screening would help break up the façade of the new house. He thought continuing the project to a future Planning Commission meeting was an option.

Commissioner Harpootlian agreed that the project should be continued with the specific suggestion to move the house at least 20 feet down slope, and maybe with a goal of 30 to 40 feet.

Chairman Clow pointed out that just moving the house would significantly impact the Barkhau’s view and end up with a worse situation.

Commissioner Abraham agreed that simply moving the house downhill would negatively affect the Barkhau’s property.

Commissioner Collins stated that an increase in cut for the Grading Policy exception may be needed with the relocation of the house.

MOTION MADE, SECONDED, AND PASSED BY ROLL CALL VOTE: Motion made by Commissioner Harpootlian and seconded by Commissioner Collins to continue the application to a future Planning Commission meeting and for the applicant to consider the following suggestions: move the house or part of the house down slope at least 20 to 30 feet, lower the house elevation with more excavation, relocate the air conditioning units so the roof profile can be lowered, and work closely with the neighbors to address their concerns.

AYES: Commissioners: Abraham, Collins, Harpootlian, Partridge, and Chairman Clow
NOES: None

Jim and Jenna Ellis accepted the continuance of the project to a future Planning Commission meeting. Jenna wanted to know at what point before the meeting they should present the plans to the neighbors and when the story poles should be changed.

Debbie Pedro, Planning Director said that staff would meet with the applicants after the public hearing. The story poles need to be changed to reflect the new plans. The applicant should share the redesigned plans with the neighbors and incorporate their suggestions if possible.

Chairman Clow asked for a way to facilitate communication between the applicants and the neighbors.

Debbie Pedro replied that a neighborhood meeting could be held at Town Hall.

Commissioner Collins explained to the neighbors that the rooftop of the new residence cannot be completely screened.

This item will be continued to a future Planning Commission meeting.
of Item 4.2; Commissioner Clow had met with the applicants and the neighbors of Item 4.1; and
Chairman Abraham had spoken with the applicant of Item 4.1 and the applicant of Item 4.2.

4.1 LANDS OF HOMA NATOMA, LLC, 27270 Natoma Road; File #25-10-ZP-SD-GD; A request for a Site Development Permit for a 25,273 square foot new residence (maximum height 27') with a 2,940 square foot basement, and a 7,200 square foot tennis court. The applicant is requesting a grading policy exception for up to eleven (11) feet of cut for the driveway, fire truck turnaround, and front entry and up to eight (8) feet of fill for the house and yard. (CONTINUED FROM THE MAY 6, 2010 PLANNING COMMISSION MEETING) CEQA Review: Categorical Exemption per Section 15303 (a) & (e) (staff-Brian Froelich).

Brian Froelich, presented the staff report for the proposed estate home and Grading Policy exception continued by the Planning Commission from the May 6, 2010 meeting. A tennis court application had been added to the previous submittal. At the May meeting, the Planning Commission had given four directives to the applicants: relocate the home farther down the slope, lower the house elevation by excavation, relocate the roof air conditioning units and remove the roof parapets, and continue to work with the neighbors for view and visible bulk issues. In response, the floor area had been reduced by just under 2,000 square feet; the setbacks, except on the east side, have been increased; the building profile had generally been lowered three to six feet; roof pitch reduced; plate height lowered by two feet; the air conditioning units had been relocated underground; the roof parapets had been removed. A fault trace crosses the property; Murray Engineers recommended a 25-foot horizontal and a 14-foot vertical setback relative to the descent of the fault plane. Two neighborhood outreach meetings were held after the May Planning Commission meeting to address concerns raised about the project. Letters from neighbors, Barkhau and Malek, had been received prior to tonight’s meeting stating that the design had been improved but not to the degree expected. A letter delivered at tonight’s meeting raised questions regarding the location of the tennis court and mitigation for vehicle headlights on the driveway.

Commissioner Collins confirmed with staff that the information regarding the fault trace had been included in the previous staff report and had been reflected in the original design.

OPENED PUBLIC HEARING

Jenna Ellis, applicant, explained that input provided by the neighbors at the neighborhood outreach meeting, held after the May meeting, was used as the basis for developing the design changes. Many hours of effort from various professionals had been required to gather the needed information in order to present workable, revised plans. A second neighborhood meeting was held later to discuss the plan changes prior to submittal to the Town and placement of the story poles.

Jim Ellis, applicant, said that a great amount of time, energy, emotion, and financial resources had been put into the plan revisions. He and Jenna had tried to understand the concerns of each neighbor affected by the construction of the new residence. The direction of the Planning Commission was carefully considered during the plan revision process. A balance was sought to prevent impacting one neighbor while addressing resolution of concerns for another. Substantial
changes had been made to the plans to share the views with the neighbors. Their objective was to try to be good neighbors and members of the community.

Bob Glazier, summarized the design changes made to the plans, after the May 6, 2010 Planning Commission meeting, that addressed the neighbor’s concerns. The location of the house as shown on the revised plans was moved as much as 34 feet along the eastern property line; the MFA had been reduced by 2,000 square feet; portions of the roof were lowered by up to six feet; all roof wells removed; all roof mounted HVAC units removed; two chimneys removed; portions of the driveway had been relocated and lowered up to three feet; temporary landscape screening would be put in place; and removal and trimming of trees could be done to improve views from the Barkhau property. He also offered an additional one foot reduction, beyond the presented plans, in the roof height above the family room/game room due to recent discussions with the project’s structural engineer. The oak tree previously planned for removal will be preserved. Added to the revised plan was a tennis court proposed for the lower part of the site.

Andy Murray, Geotechnical Consultant, said Murray Engineers had performed a geotechnical and geologic evaluation for the property. The geotechnical perspective was conducted to provide foundation recommendations and the geologic assessment was conducted for evaluation of the Altamont fault trace. Drilled piers were recommended for the main residence while the basement would be on bedrock. The fault trace setbacks were determined to be 25 feet for the horizontal setback and 14 feet for the vertical setback.

Commissioner Clow asked the dimensions of the existing shed to be removed in the location of the tennis Court.

David DaPonte, architect, estimated that the size of the shed as 12 feet in height and 20 feet by 35 feet. He did not think that the tennis court fence would affect any views.

Commissioner Partridge asked if the tennis court fence would affect the neighbor’s view and if the change in the slope of the roof had actually decreased the roof height.

Bob Glazier said the change in the slope of the roof actually reduced the roof ridges and increased the flat area of the roof.

Commissioner Collins asked why there was no change in the kitchen or garage roof height and the interior peak height of the kitchen/family room.

Bob Glazier felt that because the roof ridge had been made smaller by changing the slope and by also making the actual roof smaller, the height was less long than the previous plan. A portion of the roof is at the same height; but the length of the ridge and overall roof mass has been reduced. The peak of the kitchen/family room is 16 feet and goes down to nine feet at the corner walls.

Commissioner Harpootlian said that up to two feet could be taken off the roofline by flattening it in the center.

Bob Glazier said that a flat roof on top of a sloping roof does not look “quite right” and was reminiscent of a McDonald’s restaurant.
Jenna Ellis explained that the driveway had been moved toward the middle of the lot and lowered in response to Mr. Chang's concern over headlights shining onto his property from vehicles utilizing the driveway. The tennis court fit in the area between the driveway and Mr. Chang's property. Standard sport fencing would be used to surround the tennis court.

Gary Chang, Carrington Circle, said the applicant had not contacted him. He felt the tennis court was too close to his property line. It would block his views to the bay; create noise problems, and the airborne tennis balls could potentially break the windows in his house. He wanted the tennis court relocated to the northeast corner of the property.

Lisa Warren, Cupertino, commented that if the new structure were made smaller, the fault issue would be avoidable. She said the original roof design had been in a McDonald’s restaurant style. It must be considered that the story poles provide only an outline of the structure and do not represent the mass of the building. A great portion of the view that her mother has treasured for over 40 years will be blocked and the true view will be gone forever. While the applicant has made changes in response to direction from the May meeting some things remain unaddressed. The finished floor elevation has not been reduced from 705 feet; this fact combined with the building design as it relates to the ceiling and roof height resulted in an average reduction in roof elevation of approximately two feet. The total elevation is actually higher in at least one area. That is particularly important to note in the expansive spaces at the west end and center of the project. The solution would be to create a lower building elevation by reducing ceiling and/or roof height in these areas.

William Shreve, Almaden Court, spoke in favor of the project and felt the Ellis' had communicated very well with him regarding the plans and the design changes. He strongly supported construction of one house on the site instead of subdividing the lot further and building additional homes. Moving the house any farther would negatively affect the applicant's view; all the neighbors, including the Ellis', should share the view.

Shohreh Malek, Altamont Road, said that the changes in the plan revision had made some areas better, some worse, and some areas had no change. Two areas were particularly important to the view from her house. The revision had shifted the living room and entry area eastward and more into her view corridor. The height of the top portion of the roof ridge in the living area is still the same as before. She wanted the highest portion of the ridge lowered by three feet by changing the pitch of the roof. In the family room/kitchen area, the highest triangular portion point of the roof ridge needs to go down or be clipped three feet. Lowering the highest roof ridgeline of the living room and family room/kitchen area will greatly improve her view and balance the movement of all the rooflines from her angle and make them less imposing.

Israel Liv, Natoma Road, said he was the neighbor who would be most significantly affected by the building process because the construction traffic would utilize the driveway he shares with the Ellis'. Given the Ellis' prior concern and accommodation for his family to reach their home in bad weather while the driveway construction was underway, he believed they would be supportive to all the neighbors. He said that he has had ongoing good communication with them since they purchased the property. He felt that one home on the site would be better than multiple
houses if the lot were subdivided. The new residence would improve the neighborhood and increase property values. He supported the proposed project and the tennis court.

Alice Arnold, Almaden Court, asked if the Planning Commission’s decision would include both the structure and the tennis court. She felt that since the tennis court was an addition to the project as presented in May, there had not been time for discussion on the tennis court and its location.

Debbie Pedro, Planning Director, stated that the second notice for the project had included both the proposed new residence and the tennis court for consideration at tonight’s meeting.

Mark Harrison, Page Mill Road, said that he believed that homeowners in Los Altos Hills should develop their property to their liking, as long it does not adversely affect their neighbors or the neighborhood. He wanted the Planning Commission to consider the feelings of all persons affected by the project.

Mina Malek, Altamont Road, supported her mother’s, Shohreh Malek, views. She felt that their suggestions for the changes would not be a big of a sacrifice for the Ellis’, but would completely affect her family’s view. The small reduction in the ceiling height would make a huge impact for the view from her property and she hoped the request would be accommodated.

Ken Arnold, Almaden Court, felt that just because the applicants were building did not give them the right to block the existing views of five families. The people in favor of the project did not have views that would be blocked. He believed the Town had guidelines that were being passed over.

David DaPonte explained that the proposed location for the tennis court is a fairly level area and was made available with the move of the driveway. The cut for the tennis court would be six feet on the southern edge and the fill would be three feet on the northern edge. The northeast corner of the property, where Mr. Chang had suggested locating the tennis court, is steep in areas and has a natural swale running across it. The location of the leach field restricts placement in the central portion of the lot. Two large heritage oak trees prevent moving the tennis court eastward toward the driveway.

Discussion ensued regarding the cut, fill, and fence height for the tennis court.

Commissioner Clow asked Bob Glazier if the Malek’s request to lower the roof ridge was possible.

Bob Glazier felt that, considering the size of the interior space in the family room/kitchen, a 16-foot ceiling was needed. He felt the revised design was the best possible solution. He sincerely believed that he had taken everyone’s concerns into account for the plan.

CLOSED PUBLIC HEARING

Commissioner Partridge said that Town ordinances allow a house of estate size. He commended the Ellis’ on the modifications made to the house. He was still concerned about the impact to the
Malek's view and could fully support the project if the roofline was lowered a one or two feet. The resulting view obstruction was not out of line for the impact of any house build on the site. He had no particular objections to the tennis court or the proposed location, but because of the size and scale of the new residence, he thought the tennis court should be heard at a later date.

Commissioner Clow was impressed with the time and number of changes the applicants made to the design to accommodate the specific concerns of the neighbors. He was also impressed with the effort put forth by the neighbors to make their most important concerns understood by the Ellis'. He felt the Barkhau's would actually have more of a view after the tree removal and trimming. Relocating the air conditioning units and roof wells improved the roof down view looking for the higher properties. The walls of the house have been staggered to break up the solid wall appearance and the structure moved back from the property line. He felt that subdividing the property into more lots to allow more houses would disrupt the neighbor's view more than the single large house. He felt he could go either way with the request by the Malek's for the additional lowering of the roof line. He felt that the tennis court could be approved with the residence.

Commissioner Harpootlian thanked the applicant for the sincere effort to make plan changes for the neighbors. He explained that the Planning Commission makes attempts to mitigate the impact of a project with specific direction from the Town ordinances; not restrict the ability for a home to be built. He suggested lowering the roof line over the game room and family room; he did not recommend lowering the roof over the living room area. He was not comfortable making a decision on the tennis court without visiting the Chang property and thought that portion of the application should be heard at the time of landscape screening.

Commissioner Collins had wanted the house moved down slope and cut more into the landscape but not out and north. She wanted to see a significant difference for the neighbors uphill and in the sight line and the view of the entire house for the neighbors downhill. The geotechnical report showed that the structure could not be moved more down slope, so it was moved out, in order to move it as far as possible from the neighbors uphill. She felt that the Town ordinances suggest that views should be protected. The members of the Planning Commission are to do their best to prevent complete obstruction of views, but not to make sure that 100 percent of the views are retained. The view from the Staschower property has been improved by moving the proposed residence to the north and the view impact for the Barkhau property has also been improved. The Malek’s view would be improved by the changes they suggested for the roofline. She supported lowering the roofline over the family room/kitchen by three feet. The application for tennis court should be brought to the Planning Commission at a future time.

Chairman Abraham was impressed by the Ellis' and their architects' efforts to improve the situation for the neighbors. He felt the original submittal had been well within ordinance requirements. Recent buyers of property in Los Altos Hills should enjoy the same rights and protection as other residents. He did not think the impact on the views would be better for the neighbors if several homes were built instead of the proposed house. The decision on the tennis court should be made with the new residence. He supported the project as submitted.

Commissioner Clow suggested lowering the roof line two feet and delaying decision on the tennis court.
Commissioner Harpootlian suggested lowering the roof line section above the family room/game room by one foot.

Commissioner Collins asked if lowering the roof line over the family room/kitchen three feet, lowering the roof line over the living room three feet, and lowering the roof line over the family room/game room by one foot was an option the Commission could consider.

MOTION MADE, AMENDED, SECONDED, AND PASSED BY ROLL CALL VOTE: Motion made by Commissioner Clow and seconded by Commissioner Collins to approve the requested Site Development Permit, for the new residence only, with the following changes: the roof section above the family room/kitchen shall be lowered by three feet, the roof section above the living room shall be lowered three feet, and the roof section above the family room/game room shall lowered by one foot.

Planning Director Pedro clarified that the one foot reduction over the family room/game room was to be in addition to the one foot the architect had already offered, for a total of a two foot reduction from the presented plans.

AYES: Commissioners: Clow, Collins, Harpootlian, Partridge, and Chairman Abraham
NOES: None

The new residence portion of this item will be forwarded to the City Council.

MOTION MADE AND FAILED DUE TO LACK OF SECOND: Motion made by Commissioner Clow to approve the requested Site Development Permit for the tennis court.

MOTION MADE, SECONDED, AND PASSED BY ROLL CALL VOTE: Motion made by Commissioner Clow, and seconded by Commissioner Collins to, with the applicant’s consent, continue the tennis court portion of the Site Development Permit application to the next Planning Commission meeting.

AYES: Commissioners: Clow, Collins, Harpootlian, Partridge, and Chairman Abraham
NOES: None

The tennis court portion of this item will be continued to a future Planning Commission meeting.

4.2 LANDS OF NICHOLSON, End of Eastbrook Avenue, (APN 336-42-021); File #96-04-08-TM-IS-ND-GD; A request for a three lot subdivision of an existing 12.56 acre parcel. The property is zoned R-A (Residential-Agricultural). CEQA Review: Mitigated Negative Declaration (staff-Cynthia Richardson).

Cynthia Richardson, Consultant Planner, presented the staff report for the three-lot subdivision of the 12.56 acre parcel. All resulting parcels met the requirements of the municipal code and subdivision ordinance. An Initial Study had been prepared and included mitigation measures for biologic considerations, noise reduction measures, and handling of archeological remains. Two specific studies were performed for the Initial Study including a traffic noise assessment and a