

FILING FEES
\$523.00 (PLAPPEAL) Residential
\$2,102.00 (PLAPPEAL), per
Commercial, Multi-family, or
Tentative Map Appeal
TRANSCRIPTION \$500 (PLTRANS)

Town of Los Gatos
Office of the Town Clerk
110 E. Main St., Los Gatos CA 95030

APPEAL OF PLANNING COMMISSION DECISION

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

RECEIVED
TOWN OF LOS GATOS

DATE OF PLANNING COMMISSION DECISION

JUNE 11, 2025

JUN 23 2025

PROJECT / APPLICATION NO:

5-22-048

ADDRESS LOCATION:

45 RESERVOIR RD

CLERK DEPARTMENT

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

Interested person means:

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

Section 29.20.275 The notice of appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by substantial evidence in the record.

1. There was an error or abuse of discretion by the Planning Commission:

; OR

(2) The Planning Commission's decision is not supported by substantial evidence in the record:

3.4.25 TOWN COUNCIL TOLD PLANNING TO REDUCE VOLUME & MASSING AND TO REDUCE BUILDING FOOT-
PRINT (IN CONSIDERATION) IN CONSIDERATION OF THE LRDA - SO DIDN'T FOLLOW DIRECTION TOO BIG FOR LOT!

IF MORE SPACE IS NEEDED, PLEASE ATTACH ADDITIONAL SHEETS.

#3302

IMPORTANT:

* SEE ATTACHED PAGE

1. Appellant is responsible for fees for transcription of minutes. A \$500.00 deposit is required at the time of filing.
2. Appeal must be filed within ten (10) calendar days of Planning Commission Decision accompanied by the required filing fee. Deadline is 4:00 p.m. on the 10th day following the decision. If the 10th day is a Friday, the appeal must be filed by 1:00 P.M. If the 10th day a Saturday, Sunday, or Town holiday, then it may be filed on the workday immediately following the 10th day, usually a Monday.
3. The Town Clerk will set the hearing within 56 days of the date of the Planning Commission Decision (Town Ordinance No. 1967).
4. Once filed, the appeal will be heard by the Town Council.
5. If the basis for granting the appeal is, in whole or in part, information not presented to or considered by the Planning Commission, the matter shall be returned to the Planning Commission for review.

PRINT NAME:

MARY VIDOVICH

SIGNATURE:

DATE:

JUNE 21, 2025

ADDRESS:

PHONE:

EMAIL:

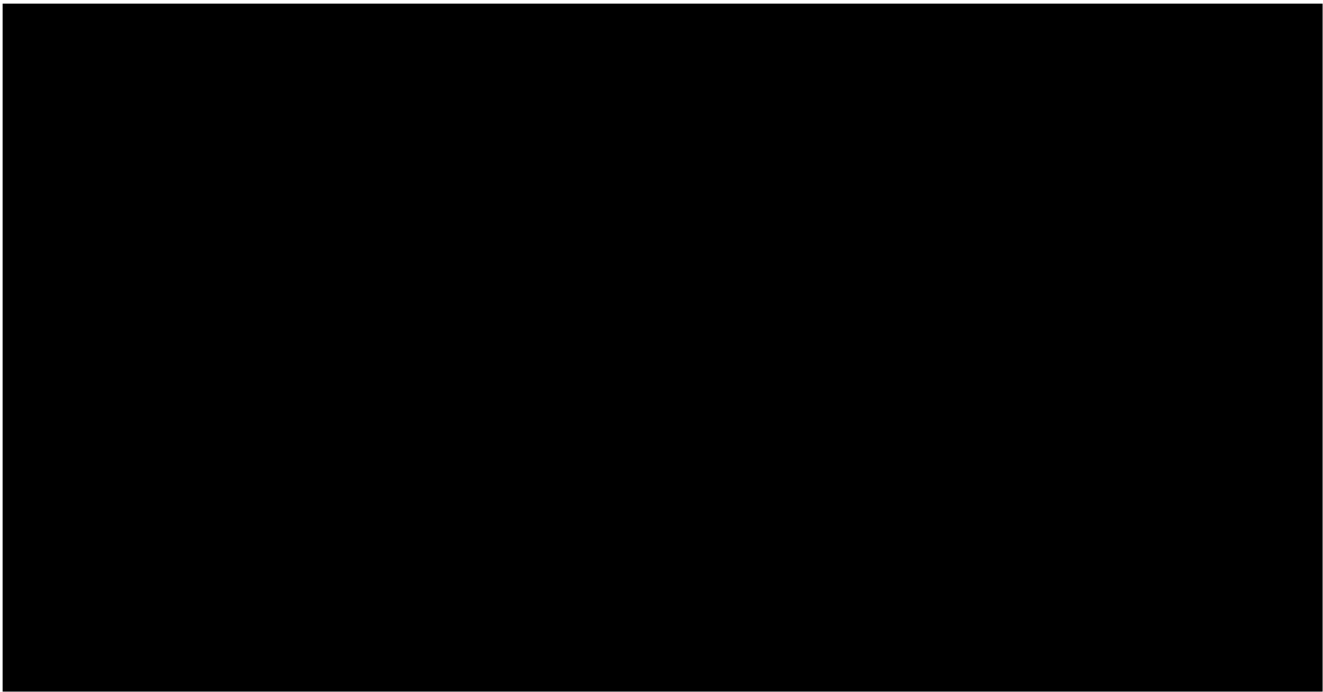
*** OFFICIAL USE ONLY ***

DATE OF PUBLIC HEARING:

Pending Planning Department Confirmation

DATE TO SEND PUBLICATION:

DATE OF PUBLICATION:



ADDENDUM

RE: APPLICATION #S-22-048

ADDRESS: 45 RESERVOIR RD, LOS GATOS, CA

ON THE DATE OF THE FIRST HEARING,
NEIGHBOR BARATZADEH SPOKE IN FAVOR
OF THE BUILDING PERMIT BEING APPROVED.

UNDISCLOSED WAS THE BARATZADEH'S
HAVE A VESTED INTEREST IN APPROVAL
DUE TO THE FACT THEY NEED ELECTRICAL
THROUGH & UNDERNEATH (UNDERGROUND)
OF THE CONTIGUOUS PROPERTY OF 45 RESERVOIR
RD'S APPROVAL, FOR BARATZADEH'S POOL.

THE BARATZADEH'S CONTIGUOUS PROPERTY
ADDRESS IS 60 ROGERS RD, WE BELIEVE?

EMILY BARATZADEH IS A LICENSED REAL
ESTATE SALESPERSON WITH COLDWELL BANKER.

THANK YOU,

MARY VIDOVITCH

LOS GATOS



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 06/11/2025

ITEM NO: 2

DESK ITEM

DATE: June 11, 2025
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider a Request for Approval to Construct a New Single-Family Residence with a Reduced Rear Yard Setback, Site Improvements Requiring a Grading Permit, and Removal of Large Protected Trees on a Nonconforming Vacant Property Zoned R-1:20. Located at 45 Reservoir Road. APN 529-33-054. Architecture and Site Application S-22-048. Categorically Exempt Pursuant to CEQA Guidelines Section 15303: New Construction. Property Owner: Farnaz Agahian. Applicant: Gary Kohlsaatt, Architect. Project Planner: Sean Mullin.

REMARKS:

In response to questions received from Commissioners prior to the meeting, staff offers the following remarks and additional information:

The Planning Commission's review of the application is not limited to the direction provided by the Town Council to the applicant. The Town Council granted the appeal of the decision of the Planning Commission, remanding the application back to the Planning Commission to be considered de novo. The Planning Commission should consider the merits of the entire project and whether the applicant responded adequately to the Council's direction.

The Floor Area Comparison table on the following page includes additional columns providing a summary of the change between the original and revised proposals expressed in square footage and percentage.

PREPARED BY: Sean Mullin, AICP
Planning Manager

Reviewed by: Community Development Director

Floor Area Comparison								
	Original Proposal			Revised Proposal				
	Non-Exempt Floor Area*	Exempt Floor Area	Total	Non-Exempt Floor Area*	Exempt Floor Area	Total	SF Change	% Change
Lower Floor	313	1,287	1,600	321	1,135	1,456	-144	-9.0%
Main Floor	1,327	0	1,327	1,272	0	1,272	-100	-7.5%
Garage Floor	163+63	338	564	147+75	352	574	+10	+1.8%
Total	1,866	1,625	3,491	1,815	1,487	3,302	-189	-5.4%
ADU	516	0	516	461	0	461	-55	-10.7%
* Non-Exempt Floor Area includes above grade square footage and portions of below grade square footage projecting beyond the enclosed building footprint above.								

The following Lot Coverage Comparison table provides an evaluation of the change in the projects lot coverage from the original proposal to the revised proposal.

Lot Coverage Comparison				
	Original Proposal	Revised Proposal	Change (SF)	Change (%)
Residence + Garage + ADU	2,195	2,057	-138	-6.2%
Patios + Balconies (Outside residence footprint)	148	118	-30	-20.2%
TOTAL	2,343	2,175	-168	-7.2%



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 06/11/2025

ITEM NO: 2

DATE: June 6, 2025
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider a Request for Approval to Construct a New Single-Family Residence with a Reduced Rear Yard Setback, Site Improvements Requiring a Grading Permit, and Removal of Large Protected Trees on a Nonconforming Vacant Property Zoned R-1:20. Located at 45 Reservoir Road. APN 529-33-054. Architecture and Site Application S-22-048. Categorically Exempt Pursuant to CEQA Guidelines Section 15303: New Construction. Property Owner: Farnaz Agahian. Applicant: Gary Kohlsaas, Architect. Project Planner: Sean Mullin.

BACKGROUND:

On January 8, 2025, the Planning Commission considered the application, including written and verbal public comments, and approved the request (Exhibit 4, Attachments 1 through 4).

On January 17, 2025, the decision of the Planning Commission was appealed to the Town Council by an interested person, Mary J. Vidovich, property owner of 47 Reservoir Road (Exhibit 4, Attachment 5). On the appeal form, the appellant indicated that there was an error or abuse of discretion by the Planning Commission.

On March 4, 2025, the Town Council discussed the item and received public testimony (Exhibits 4 through 7). The Town Council directed staff to prepare a resolution granting the appeal of a decision of the Planning Commission, and remanding the application back to the Planning Commission with specific direction including the following:

1. Reduce the building footprint in consideration of the least restrictive development area (LRDA); and
2. Reduce the volume/massing of the residence.

Additionally, the Mayor asked that the Planning Commission be provided with more detailed information regarding the circumstances under which the denial of a requested exception from Town standards will constitute a regulatory taking.

PREPARED BY: Sean Mullin, AICP
Planning Manager

Reviewed by: Community Development Director

On March 18, 2025, the Town Council passed and adopted Resolution 2025-009 granting the appeal of the decision of the Planning Commission approving a request to construct a new single-family residence with reduced side and rear yard setbacks, site improvements requiring a grading permit, and removal of large protected trees on a nonconforming vacant property zoned R-1:20, and remanding the application back to Planning Commission with specific direction as described above (Exhibit 8).

DISCUSSION:

In response to the Town Council's direction, the applicant submitted a Letter of Justification detailing the revisions to the project (Exhibit 9) and revised development plans (Exhibit 10). A summary of the applicant's response to the Town Council's direction follows.

1. Reduce the building footprint in consideration of the (LRDA):

The LRDA on the subject property is concentrated in the southern (rear) portion of the property and the area of the existing private road (Exhibit 10, Sheet A-3). The LRDA at the rear of the lot is further constrained with the majority of it being located with the required rear setback of 25 feet and side setbacks of 15 feet. This leaves a very limited area of LRDA outside of the required setbacks.

Due to these constraints, the applicant continues to pursue an exception to the rear yard setbacks, proposing a minimum rear setback of 19 feet, seven and one-half inches, where 25 feet is required. Staff notes that this minimum setback occurs at one location at the center of the rear of the residence and the proposed setback increases moving away from this point in either direction.

In their letter responding to the Council's direction included in Exhibit 9, the applicant notes the following:

- The portion of the proposed residence projecting into the setback would not be visible from the road;
- The minimum setback is exacerbated by the acute angle of the lot shape;
- There will still be plenty of distance to the rear fence;
- The proposed siting of the residence moves it away from the road and allows more of the residence to be located within the LRDA; and
- Moving the residence back further would further increase the amount of grading and trigger another retaining wall height exception.

2. Reduce the volume/massing of the residence:

The subject property is zoned R-1:20, which requires a minimum lot size of 20,000 square feet; a lot width of 100 feet; and minimum setbacks of 30 feet in the front, 25 feet in the rear, and 15 feet on the sides. The subject property was the product of a 2015 merger of six lots into three lots. What resulted was a lot that is nonconforming with an area of 10,000 square feet and a width of 83 feet. In addition to these nonconforming characteristics, the lot is further burdened with a private access road that bisects the property near the middle. As a result, the building envelope is limited to the southern portion of the property, south of the private road, with a very limited area of LRDA outside of the required setbacks.

In response to the Council's direction to reduce the volume/massing of the residence, the applicant reduced its width by two and one-half feet on the west side and one to three feet on the east side. The revised residence now meets the required side setbacks eliminating the need for an exception to the side setback requirements. As a result, the gross size of the narrowed residence is reduced by 244 square feet (including the ADU). The applicant also pulled back the front porch wall by two and one-half feet, reducing its footprint by 30 square feet and increasing the distance between the porch and the private road from 18 inches to three and one-half feet. The following table summarizes the revisions to the gross floor area from the original proposal to the revised proposal.

Floor Area						
	Original Proposal			Revised Proposal		
	Non-Exempt Floor Area*	Exempt Floor Area	Total	Non-Exempt Floor Area*	Exempt Floor Area	Total
Lower Floor	313	1,287	1,600	321	1,135	1,456
Main Floor	1,327	0	1,327	1,272	0	1,272
Garage Floor	163+63	338	564	147+75	352	574
Total	1,866	1,625	3,491	1,815	1,487	3,302
ADU	516	0	516	461	0	461
* Non-Exempt Floor Area includes above grade square footage and portions of below grade square footage projecting beyond the enclosed building footprint above.						

3. Information regarding regulatory taking:

Included in the adopted Resolution from the Council, the Mayor requested that the Planning Commission be provided with more detailed information regarding the circumstances under which the denial of a requested exception from Town standards will constitute a regulatory taking. In response to this request, the Town Attorney provides the following information and will be available at the Planning Commission meeting on June 11, 2025, to answer any questions.

A land use regulation that goes too far is a regulatory taking. *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922). A regulation goes too far and constitutes a per se taking when the regulation deprives the property owner of all economically viable use of the property, *Lucas v. South Carolina Coastal Council*, 505 U.S. 1002, 1013 (1992). A regulation that leaves the property owner with some economically viable use of the property may still be a taking. The determination of whether such a regulation is a taking is on a case-by-case basis and depends on three factors: (1) the economic impact of the regulation on the property owner; (2) the extent to which the regulation has interfered with the property owner's investment-backed expectations; and (3) the character of the government action, *Penn Cent. Transp. Co v. City of New York*, 438 U.S. 104, 124 (1978).

4. Exceptions:

In addition to the response to the direction from the Town Council, the applicant also provided an additional discussion of and justification for the requested exceptions. As listed below, the revised project requires approval of the following exceptions to the Town Code, HDS&G, and HSP. The previously requested exceptions to the side setback exception and dimensions for required parking spaces have been eliminated with the revised project. The exceptions in *italics* would likely be required for any single-family residence developed on the existing lot.

- Required 25-foot rear setback (Town Code);
- Tandem configuration of the two off-street parking spaces (Town Code);
- Driveway depth of at least 18 feet in length (Town Code);
- Four guest parking spaces shall be provided (HSP);
- *Driveway/access road with a minimum width of 18 feet (Town Code);*
- Grading depths shall not exceed four feet of cut (HDS&G);
- *Grading depths shall not exceed three feet of fill (HDS&G);*
- *Retaining wall heights should not be higher than five feet (HDS&G); and*
- *Buildings shall be located within the LRDA (HDS&G).*

PUBLIC COMMENTS:

The installed story poles were not updated to reflect the revised plans. The reduce massing of the residence is summarized above and in the applicant's letter. The project sign was updated to provide the June 11, 2025, hearing date with the Planning Commission. Written notice was sent to property owners and tenants located within 500 feet of the subject property. At the time of drafting the report no public comments have been received.

CONCLUSION:

A. Summary

The applicant submitted a response letter summarizing the revisions to the project (Exhibit 9) and revised development plans (Exhibit 10) in response to the Town Council's direction provided at the March 4, 2025, Town Council meeting.

B. Recommendation

Should the Planning Commission determine that the revised project meets the direction provided by the Town Council and find merit with the proposed project, the Commission can take the actions below to approve the Architecture and Site application:

1. Make the finding that the proposed project is Categorically Exempt, pursuant to the adopted Guidelines for the implementation of the California Environmental Quality Act, Section 15303: New Construction (Exhibit 2);
2. Make the finding as required by Section 29.10.265 of the Town Code to allow exceptions to rear setback, driveway/access road width, and driveway depth on a nonconforming property (Exhibit 2);
3. Make the finding as required by Section 29.10.150 (h)(2) of the Town Code to allow an exception to parking requirements when a lot does not have adequate area to provide parking as required;
4. Make the finding that the project complies with the objective standards of Chapter 29 of the Town Code (Zoning Regulations) except for the rear setback, driveway/access road width, parking configuration, and driveway depth (Exhibit 2);
5. Make the finding that the project is in compliance with the Residential Design Guidelines for single-family residences (Exhibit 2);
6. Make the finding that due to the constraints of the site, exceptions to grading depths, retaining wall heights, and buildings located outside of the Least Restrictive Development Area (LRDA) are appropriate, and the project is otherwise in compliance with the applicable sections of the Hillside Development Standards and Guidelines (Exhibit 2);
7. Make the finding that other than an exception to the guest parking requirement, the project complies with the Hillside Specific Plan (Exhibit 2);
8. Make the considerations as required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application (Exhibit 2); and
9. Approve Architecture and Site Application S-22-048 with the conditions contained in Exhibit 3 and the revised development plans in Exhibit 10.

PAGE 6 OF 6

SUBJECT: 45 Reservoir Road/S-22-048

DATE: June 6, 2025

C. Alternatives

Alternatively, the Planning Commission can:

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

EXHIBITS:

- 1. Location Map**
- 2. Required Findings and Considerations**
- 3. Recommended Conditions of Approval**
- 4. March 4, 2025, Town Council Staff Report with Attachments 1 through 7**
- 5. March 4, 2025, Town Council Addendum Report with Attachment 8**
- 6. March 4, 2025, Town Council Desk Item Report with Attachment 9**
- 7. March 4, 2025, Town Council Meeting Minutes**
- 8. March 18, 2025, Town Council Resolution 2025-009**
- 9. Applicant's Letter of Justification**
- 10. Revised Development Plans**

***This Page
Intentionally
Left Blank***