

PLANNING COMMISSION – October 25, 2023
REQUIRED DETERMINATIONS

17200 Los Robles Way

Lot Line Adjustment Application M-23-001

Consider an Appeal of a Development Review Committee Decision to Approve a Lot Line Adjustment Application in Accordance with California Government Code Section 66412(d) for Three Adjoining Lots on Property Zoned R-1:20. Located at 17200 Los Robles Way. APNs 532-36-075, -076, and -077. Lot Line Adjustment Application M-23-001. Statutorily Exempt from CEQA as a Ministerial Approval in Accordance with Public Resources Code Section 21080(b)(1) (CEQA Statute) and CEQA Guidelines Section 15268. Application is Only for Ministerial Approval of a Lot Line Adjustment Pursuant to Section 66412(d) of the Subdivision Map Act. Property Owners: Daran Goodell, Trustee and Mark Von Kaenel. Applicant: Tony Jeans. Appellant: Alison Steer. Project Planner: Ryan Safty.

REQUIRED DETERMINATIONS PURSUANT TO GOVERNMENT CODE SECTION 66412(d):

Required determination for CEQA:

- **The application requires ministerial project approval pursuant to CEQA as the application is only for ministerial approval of a lot line adjustment pursuant to Section 66412(d) of the Subdivision Map Act (see below).**
 1. Application M-23-001 does not include any additional requests for other Town permits, approvals, or entitlements, whether discretionary or ministerial. Instead, the application involves only the proposed lot line adjustment of three existing and adjoining parcels identified as APN 532-36-075, -076, and -077, which, after adjustment, will result in three adjoining parcels with newly adjusted lot lines, which application will be reviewed and acted on by the Town pursuant to the California Subdivision Map Act, California Government Code section 66410 et seq. (“Map Act”).
 2. Pursuant to California Public Resources Code section 21080(b)(1) (and corresponding California Code of Regulations), CEQA does not apply to, “Ministerial projects proposed to be carried out or approved by public agencies.” Likewise, Title 14. California Code of Regulations, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (“CEQA Guidelines”) Section 15268 provides that, “Ministerial projects are exempt from the requirements of CEQA.” CEQA Guidelines section 15268 further provides that when there is an absence of any discretionary provisions in the law establishing the requirements of the approval - in this case, the Map Act’s Government Code section 66412(d) mandates governing lot line adjustments approvals – the law shall be presumed to be ministerial. Additionally, CEQA Guidelines section 15369 defines “ministerial” as a public agency’s decisions, “involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project.

The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out.”

In considering the application, Map Act section 66412(d) mandates that the Town – and its Development Review Committee – shall ensure that the proposed lot line adjustment is between four or fewer existing adjoining parcels, where the land taken from one such parcel is added to an adjoining such parcel, and where a greater number of parcels than originally existed is not thereby created. Map Act section 66412(d) further mandates that the Town – and its hearing bodies – limit its review and approval, “to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances.”

3. In so limiting the Town’s review, Government Code Section 66412(d) describes a prototypical ministerial approval process, where the fixed approval standards delineate objective approval criteria that simply require the hearing body to make certain factual determinations regarding the number of parcels involved, whether they are adjoining, whether they are four or fewer in number, whether a greater number of parcels are created than were existing (after adjustment), and whether the resulting parcels conform to local law – e.g., general plan, specific plan, any coastal plan, and building and zoning code provisions – given the facts presented in the application. As such, as set forth in the entirety of the administrative record, there are no other Town permits, approvals, or entitlements, whether discretionary or ministerial, being requested; Application M-23-001 involves only the proposed lot line adjustment of the three adjoining existing parcels into the new parcel configuration of the three adjoining adjusted parcels pursuant to the lot line provisions of the Map Act; the Development Review Committee's (and subsequent hearing bodies on appeal) review of the application is limited to determining whether Application M-23-001 conforms with the requirements of the Map Act regarding lot line adjustments and applicable Town plans, ordinances, and regulations, and therefore the hearing body has no ability to exercise discretion to mitigate environmental impacts; and as such, the Town hearing body’s consideration of, and action on, Application M-23-001 is a ministerial project proposed to be carried out or approved by the Town, and therefore is exempt from the requirements of CEQA.

Required determinations for compliance with the Subdivision Map Act's provisions regarding lot line adjustments as set forth in Government Code Section 66412(d):

- **That Lot Line Adjustment Application M-23-001 is between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created;**

Approval of Application M-23-001 is in compliance with Government Code Section 66412(d) because the approval of the application will result in the three adjoining parcels having land taken from and added to said parcels resulting in three adjoining parcels, thereby involving a situation where a greater number of parcels than originally existed is not thereby created by approval of the application, and where no more than four existing parcels are the subject of the application.

- **That the parcels resulting from Lot Line Adjustment Application M-23-001 will conform to the Town's General Plan;**

Approval of Application M-23-001 is in compliance with Government Code Section 66412(d) because the approval of the application will result in the three adjoining parcels being in conformance with the entirety of the Town of Los Gatos General Plan, including without limitation, the following General Plan provisions:

- a. The General Plan designates the parcels as "Low Density Residential," with an allowed density range of zero to five residential units per acre and provides for single-family residential properties. Adjusted Parcel 1 would be approximately 62,172 square feet in size, has an existing house developed on it, and therefore is consistent with the General Plan's density range of zero to five residential units per acre and its allowance for single-family residential use. Any development of adjusted Parcels 2 and 3 (they are currently vacant) would be required to comply with all provisions of the General Plan. As discussed below, adjusted Parcels 2 and 3 are of a size consistent with the General Plan, as well as the Zoning mandated by the General Plan. There are several Zoning classifications (Zoning consistency is discussed in greater detail in later parts of this Report) that are consistent with the General Plan applicable to the parcels – each are Single-Family Residential zones, and each permits a single-family dwelling unit on each legal parcel. These Zones reflect the General Plan density range of zero to five residential units per acre: R-1:8 (8,000-square foot minimum parcel size - allowing a maximum of approximately five residential units per acre); R-1:10 (10,000-square foot minimum – allowing a maximum of approximately four residential units per acre); R-1:12 (12,000-square foot minimum – allowing a maximum of approximately three residential units per acre); R-1:15 (15,000-square foot minimum – allowing a maximum of approximately two residential units per acre); R-1:20 (20,000-square foot minimum – allowing a maximum of approximately two residential units per acre); and R-1:30 (30,000-square foot minimum – allowing a maximum of approximately one residential unit per acre). The adjusted parcels in Application M-23-001 are zoned R-1:20 (20,000-square foot minimum – allowing a maximum of approximately two residential units

per acre), and each adjusted parcel is greater than 20,000 square feet, revealing consistency with the R-1:20 Zone, and in turn, therefore revealing the consistency of the adjusted parcels in the application with the density provisions of the General Plan. Again, one residential unit already exists on adjusted Parcel 1, and adjusted Parcels 2 and 3 are both greater than 20,000 square feet, allowing one future single-family residential dwelling unit on each parcel if pursued in the future (speculative at this point), equating to a potential future density consistent to that allowed by the General Plan.

- b. General Plan Community Design Goal CD-2 states the following: “To limit the intensity of new development to a level that is consistent with surrounding development and with the Town at large.” The surrounding neighborhood (200 feet from the subject parcels) consists of Single-Family Residential Zoned properties consisting of R-1:8, R-1:10, and R-1:20 zoning classifications and all have a Low Density Residential General Plan designation. The neighboring parcels range in size from approximately 6,944 square feet to 40,510 square feet. The adjusted parcel sizes would be approximately: 62,172 square feet for adjusted Parcel 1; 27,073 square feet for adjusted Parcel 2; and 44,925 square feet for adjusted Parcel 3. As discussed, Parcel 1 is already developed with a home. Adjusted Parcels 2 and 3 are vacant. If in the future each vacant Adjusted Parcel were developed with one single-family residence, each such parcel would be consistent with the intensity of surrounding development.

- **That the parcels resulting from Lot Line Adjustment Application M-23-001 will conform to any specific plans, including the Hillside Specific Plan;**

Approval of Application M-23-001 is in compliance with Government Code Section 66412(d) because the approval will result in the three adjoining parcels being in conformance with the entirety of the Town’s Hillside Specific Plan, including without limitation, the following Hillside Specific Plan provisions:

- a. The Town’s Hillside Specific Plan contains density provisions for certain “Sub-Areas”; however, the subject parcels in Application M-23-001 are not located within any of the Sub-Areas. Density for properties outside of the Sub-Areas are set in the General Plan (discussed above) and further regulated by the Zoning Ordinance (discussed below). All other goals, policies, and provisions of the Town’s Hillside Specific Plan relate to construction and subdivision applications, which are not present with the current application. No construction is proposed with this application. Any future construction would be required to comply with the Town’s Hillside Specific Plan.

- **That the parcels resulting from Lot Line Adjustment Application M-23-001 will conform to any applicable coastal plan; and**

Approval of Application M-23-001 is in compliance with Government Code Section 66412(d) because the Town has no applicable coastal plan for the application (and adjusted parcels) to be in conformance with.

- **That the parcels resulting from Lot Line Adjustment Application M-23-001 will conform to the Town's Zoning Code and Building Ordinance.**

Approval of Application M-23-001 is in compliance with Government Code Section 66412(d) because the approval of the application will result in the three adjoining parcels being in conformance with the entirety of the Town's Zoning and Building Ordinances, including without limitation, the following provisions:

- The Town's Zoning Ordinance Section 29.40.395 establishes a minimum lot size of 20,000 square feet for properties zoned R-1:20. The adjusted parcels in Application M-23-001 would comply with minimum lot size requirement as follows: Parcel 1 would have a lot size of approximately 62,172 square feet; Parcel 2 would have a lot size of approximately 27,073 square feet; and Parcel 3 would have a lot size of approximately 44,925 square feet. See tables below for more details on the existing parcel configuration and adjusted parcel configuration in relation to Zoning Code compliance for minimum lot size.

Existing Parcels Configuration				
	APN	Size	Minimum Required	Complies?
Parcel 1	532-36-076	74,832 s.f.	20,000 s.f.	Yes
Parcel 2	532-36-077	11,226 s.f.	20,000 s.f.	No
Parcel 3	532-36-075	48,112 s.f.	20,000 s.f.	Yes
	total:	134,170 s.f.		

Adjusted Parcels Configuration				
	APN	Size	Minimum Required	Complies?
Parcel 1	532-36-076	62,172 s.f.	20,000 s.f.	Yes
Parcel 2	532-36-077	27,073 s.f.	20,000 s.f.	Yes
Parcel 3	532-36-075	44,925 s.f.	20,000 s.f.	Yes
	total:	134,170 s.f.		

- b. The Town's Zoning Ordinance Section 29.40.400 establishes a minimum street frontage of 100 feet for properties zoned R-1:20, and 30 feet for R-1:20 properties fronting on a cul-de-sac bulb. Town Code Section 29.40.400 does not mandate that the cul-de-sac street frontage be along a paved roadway. Instead, Section 29.10.020 of the Town Code defines lot frontage as, "the property line of a lot abutting on a street, which affords access to a lot other than the side line of a corner lot. On a corner lot either property line on a street may be determined to be the frontage." Town Code Section 29.10.020 then defines a street as, "any thoroughfare for the motor vehicle travel which affords the principal means of access to abutting property, including public and private rights-of-way and easements." Therefore, street frontage would need, at a minimum, frontage on a right-of-way or easement to comply with Town Code. The applicant has suggested a future cul-de-sac at the terminus of Worcester Lane for Parcels 2 and 3. To accomplish this, the applicant is proposing a dedication of land as an easement for cul-de-sac right-of-way purposes, which is included as Condition of Approval #2 (Exhibit 3) and noted in Exhibits 6 and 7. Once this condition of approval is complied with and the Town accepts dedication of this area for the future cul-de-sac at the terminus of Worcester Lane, the adjusted parcels in the Application M-23-001 comply with minimum street frontage as follows: Parcel 1 would have approximately 242 feet of frontage on the Los Robles Way right-of-way where 100 feet is required; Parcel 2 would have approximately 40 feet of frontage on a cul-de-sac bulb easement at the terminus of Worcester Lane where 30 feet is required; and Parcel 3 would have approximately 60 feet of frontage on a cul-de-sac bulb easement at the terminus of Worcester Lane where 30 feet is required. See tables below for more details on existing parcel configuration and adjusted parcel configuration in relation to Zoning Code compliance for minimum street frontage.

Existing Parcels Configuration				
	APN	Frontage	Minimum Required	Complies?
Parcel 1	532-36-076	42 feet	100 feet (30 feet for cul-de-sac)	No
Parcel 2	532-36-077	0 feet	100 feet (30 feet for cul-de-sac)	No
Parcel 3	532-36-075	205 feet	100 feet (30 feet for cul-de-sac)	Yes

Adjusted Parcels Configuration				
	APN	Frontage	Minimum Required	Complies?
Parcel 1	532-36-076	242 feet	100 feet (30 feet for cul-de-sac)	Yes
Parcel 2	532-36-077	40 feet (cul de sac)	100 feet (30 feet for cul-de-sac)	Yes
Parcel 3	532-36-075	60 feet (cul de sac)	100 feet (30 feet for cul-de-sac)	Yes

- c. The Town's Zoning Ordinance Section 29.40.400 establishes a minimum lot depth of 140 feet for properties zoned R-1:20. The adjusted parcels in Application M-23-001 would comply with the minimum lot depth requirement as follows: Parcel 1 would have a lot depth of approximately 323 feet; Parcel 2 would have a lot depth of approximately 194 feet; and Parcel 3 would have a lot depth of approximately 258 feet. See tables below for more details on existing parcel configuration and adjusted parcel configuration in relation to Zoning Code compliance for minimum lot depth.

Existing Parcels Configuration				
	APN	Depth	Minimum Required	Complies?
Parcel 1	532-36-076	207 feet	140 feet	Yes
Parcel 2	532-36-077	50 feet	140 feet	No
Parcel 3	532-36-075	305 feet	140 feet	Yes

Adjusted Parcels Configuration				
	APN	Depth	Minimum Required	Complies?
Parcel 1	532-36-076	323 feet	140 feet	Yes
Parcel 2	532-36-077	194 feet	140 feet	Yes
Parcel 3	532-36-075	258 feet	140 feet	Yes

- d. The Town's Zoning Ordinance Section 29.40.400(1) establishes a minimum lot width of 60 feet for R-1:20 parcels fronting on a cul-de-sac bulb. Adjusted Parcels 2 and 3 in Application M-23-001 would have frontage on a cul-de-sac bulb and comply with the minimum lot width requirement as follows: Parcel 2 would have a lot width of approximately 155 feet; and Parcel 3 would have a lot width of approximately 217 feet. See tables below for more details on existing parcel configuration and adjusted parcel configuration in relation to Zoning Code compliance for minimum lot width for properties fronting on a cul-de-sac bulb.

Existing Parcels Configuration				
	APN	Lot Width (if on a cul-de-sac)	Minimum Required	Complies?
Parcel 1	532-36-076	n/a	60 feet	n/a
Parcel 2	532-36-077	n/a	60 feet	n/a
Parcel 3	532-36-075	n/a	60 feet	n/a

Adjusted Parcels Configuration				
	APN	Lot Width (if on a cul-de-sac)	Minimum Required	Complies?
Parcel 1	532-36-076	n/a	60 feet	n/a
Parcel 2	532-36-077	155 feet	60 feet	Yes
Parcel 3	532-36-075	217 feet	60 feet	Yes

- | Existing Parcels Configuration | | | | | | |
|---|------------|------------------|-----------------------|----------------------|-----------------|-----------|
| | APN | Front
Setback | Right Side
Setback | Left Side
Setback | Rear
Setback | Complies? |
| Parcel 1 | 532-36-076 | * 0' | 200' | 90' | 153' | Yes |
| Parcel 2 | 532-36-077 | n/a | n/a | n/a | n/a | n/a |
| Parcel 3 | 532-36-075 | n/a | n/a | n/a | n/a | n/a |
| Minimum Required | | 30' | 15' | 15' | 25' | |
| * denotes an existing, legal non-conformity | | | | | | |

Adjusted Parcels Configuration						
	APN	Front Setback	Right Side Setback	Left Side Setback	Rear Setback	Complies?
Parcel 1	532-36-076	* 0'	43'	90'	200'	Yes
Parcel 2	532-36-077	n/a	n/a	n/a	n/a	n/a
Parcel 3	532-36-075	n/a	n/a	n/a	n/a	n/a
Minimum Required		30'	15'	15'	25'	
<i>* denotes an existing, legal non-conformity</i>						

- f. The Town's Zoning Ordinance Section 29.40.075 and Chapter IV of the Town's Hillside Development Standards and Guidelines establish maximum allowed floor area for residential zones with average parcel slopes greater than 10 percent. Floor area requirements can only be analyzed for Parcel 1 in Application M-23-001, as Parcel 1 is the only parcel that would contain existing built floor area. The maximum allowed floor area for Parcel 1 in the adjusted parcel configuration would be 6,000 square feet. The existing 2,715-square foot residence on Parcel 1 would comply with the maximum allowed floor area of the adjusted parcel configuration because it is less than 6,000 square feet. While development is not proposed on Parcels 2 and 3, they would allow an average sized residence in relation to the surrounding neighborhood as shown in the table below. See tables below for more details on existing parcel configuration and adjusted parcel configuration in relation to Zoning Code compliance for maximum allowed floor area.

Existing Parcels Configuration						
	APN	Size	Average Slope	Existing House	Maximum Allowed Floor Area	Complies?
Parcel 1	532-36-076	74,832 s.f.	26%	2,715 s.f.	6,000 s.f.	Yes
Parcel 2	532-36-077	11,226 s.f.	26%	vacant site	1,985 s.f.	Yes
Parcel 3	532-36-075	48,112 s.f.	26%	vacant site	5,300 s.f.	Yes

Adjusted Parcels Configuration						
	APN	Size	Average Slope	Existing House	Maximum Allowed Floor Area	Complies?
Parcel 1	532-36-076	62,172 s.f.	25%	2,715 s.f.	6,000 s.f.	Yes
Parcel 2	532-36-077	27,073 s.f.	27%	vacant site	3,714 s.f.	Yes
Parcel 3	532-36-075	44,925 s.f.	26%	vacant site	5,100 s.f.	Yes

In summary, the adjusted parcels within Application M-23-001 are in conformance with applicable provisions of the Town's Zoning Ordinance because the Adjusted Parcels each comply with minimum lot size, minimum street frontage, minimum lot depth, minimum lot width for parcels fronting on a cul-de-sac bulb, minimum setback standards, and maximum allowed floor area ratio standards.

Approval of Application M-23-001 is in compliance with Government Code Section 66412(d) because the Town's Building Ordinance would be complied with as the application does not propose any construction or grading activities. The Town's Building Ordinance in Chapter 6 of the Town Code was adopted to administer the California Building Code, including local amendments. "The California Building Code (CBC) contains general building design and construction requirements relating to fire and life safety, structural safety, and access compliance. CBC provisions provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all building and structures and certain equipment." The existing residential structure on adjusted Parcel 1 meets the Town's Building Ordinance and Building Code provisions relating to existing structures that were built to then-applicable Building Code requirements. Any future proposed modifications to that existing structure would be required to meet the then-current Town's Building Ordinance and Building Code provisions. No construction currently exists on or is proposed for adjusted Parcel 2 or adjusted Parcel 3. Any future proposal for residential construction on any of the adjusted parcels would be required to meet the then-current Town's Building Ordinance and Building Code requirements. Therefore, Application M-23-001 is in conformance with the Town's Building Ordinance and Building Code requirements.