



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 01/21/2025

ITEM NO: 13

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DATE: January 15, 2025  
TO: Mayor and Town Council  
FROM: Gabrielle Whelan, Town Attorney  
SUBJECT: Conduct a Public Hearing for Appeal of Administrative Citation VL-19-362 (16660 Cypress Way) for Violations of the Los Gatos Town Code Related to Grading and Building and Adopt a Resolution Upholding the Administrative Citation and Imposing Costs According to Proof

**RECOMMENDATION:**

Conduct a public hearing to hear an appeal of Administrative Citation VL-19-362 (16660 Cypress Way) for violations of the Los Gatos Town Code related to grading and building, and adopt a resolution upholding the administrative citation and imposing costs according to proof.

**BACKGROUND:**

At the appellant's request, this appeal hearing was rescheduled to the January 21, 2025, Town Council meeting from the December 17, 2024, Town Council meeting.

On September 16, 2024, the Town Code Compliance Officer issued an Administrative Citation against Theodore and Lauri Deffenbaugh, the owners of the property located at 16660 Cypress Way ("subject property") (Attachment 19). The citation alleged violations of the Los Gatos Town Code ("LGTC") for unpermitted construction and unpermitted grading. The citation asserted that there were violations of LGTC section 6.150.010, incorporating California Residential Code section R105.1, regarding four buildings and one retaining wall. The citation also asserted that there was a violation of LGTC section 12.20.010 regarding failing to have the required grading permit. The citation imposed an administrative penalty of \$9,250.00 for the violations of section 6.150.010 and \$1,850.00 for the violation of section 12.20.010. The locations that are the subject of the citation are shown on the aerial photograph in Attachment 4.

**PREPARED BY:** Lance Bayer  
Special Counsel

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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SUBJECT: Public Hearing for Appeal of Administrative Citation VL-19-362 (16660 Cypress Way) for Violations of the Los Gatos Town Code Related to Grading and Building

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LGMC section 1.10.040(d) states that every day of violation constitutes a separate offense. The administrative penalties in the citation were calculated from the compliance date on the Administrative Warning dated 7/8/2024.

Mr. and Ms. Deffenbaugh have appealed the citation and are entitled to an appeal hearing. In hearing this appeal, the Town Council is acting both as the Hearing Officer under LGTC section 1.30.040 and as the Board of Appeals under California Residential Code section R112.1.<sup>1</sup> The Council shall determine whether to uphold or cancel the citation. The Council also may assess administrative costs against the violator when the Hearing Officer determines that a violation has occurred and that compliance was not achieved. Administrative costs may include any and all costs incurred by the Town (both direct and indirect costs) in investigating and commencing administrative proceedings for the violation as well as any and all costs incurred by the Town in connection with the hearing before the Hearing Officer, including but not limited to costs the Enforcement Officer incurred in preparation for the hearing and for participating in the hearing itself, and costs of the Town to conduct the hearing.

#### DISCUSSION:

On September 27, 2016, Theodore and Lauri Deffenbaugh (“the Deffenbaughs”) purchased the property located at 16660 Cypress Way (Attachment 22). Aerial photographs show grading and paving activity taking place without the required permits in May and August of 2018 (Attachments 1,2, and 3).

In the summer of 2019, Town staff became aware of the violations of the LGTC at the subject property. The Town Code Compliance Officer sent an Administrative Warning to the Deffenbaughs on July 17, 2019, describing observed violations consisting of new buildings, retaining walls, grading, interior remodeling, electrical, plumbing, and HVAC (Attachment 8). The Administrative Warning requested the Deffenbaughs contact Town staff to schedule a meeting to discuss the scope of work. After the Deffenbaughs failed to respond, a second notice was sent on August 22, 2019 (Attachment 9).

The subject property contains a large residential accessory unit that was built with permits. In 2019, several marketing internet sites showed unpermitted construction inside the unit. This construction was done without obtaining the necessary permits (Attachments 5, 6, and 7).

The Deffenbaughs submitted an application for a grading permit and an architectural and site approval at the subject property on July 9, 2021 (Attachment 10). The accompanying letter of justification cited previously unpermitted “emergency” construction and proposed to mitigate the non-conforming installations. The letter of justification did not address the unpermitted construction involving accessory structures.

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<sup>1</sup> California Health and Safety Code section 17920.5

SUBJECT: Public Hearing for Appeal of Administrative Citation VL-19-362 (16660 Cypress Way) for Violations of the Los Gatos Town Code Related to Grading and Building

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Town staff conducted a site inspection on August 24, 2021, and took photographs (Attachment 11). Some photographs show unpermitted retaining walls. The Town provided the Deffenbaughs with a Staff Technical Review addressing numerous deficiencies in the Deffenbaughs' application, including the failure to provide a full scope of work, failure to address hillside development standards, and failure to describe the proposed design that will mitigate the unpermitted work (Attachment 12).

The Deffenbaughs did not respond to the Staff Technical Review. A pending civil lawsuit between the Deffenbaughs and their neighbors, *Deffenbaugh v. Watson, et. al.*, addressed issues regarding grading and the retaining walls as well as a structure of the Deffenbaughs that purportedly straddled the property line between the two neighbors. The Town's code enforcement action is independent of the litigation between the Deffenbaughs and their neighbors.

On October 30, 2023, the Town notified the Deffenbaughs and their attorney that the Town would renew its code enforcement efforts at the subject property, beginning with a site inspection (Attachment 13). On December 13, 2023, the Deffenbaughs submitted an updated letter of justification for their July 9, 2021 application (Attachment 14). On January 31, 2024, the Town provided the Deffenbaughs with a Staff Technical Review addressing numerous deficiencies in the Deffenbaughs revised application, including the failure to provide a full scope of work, failure to address hillside development standards, and failure to describe the proposed design that will mitigate the unpermitted work (Attachment 15). The Deffenbaughs have not responded to the Staff Technical Review.

After efforts by Town staff to obtain consent to inspect the subject property were unsuccessful, the Town applied to the superior court and obtained an inspection warrant for the subject property on May 20, 2024 (Attachment 16).

The inspection took place on May 30, 2024. It was conducted by the Town Chief Building Official and included other members of Town staff. During the inspection, staff took photographs and observed: (1) The interior of an ADU above the garage (Attachment 4, #1). There was an interior remodel of the kitchen and bathroom areas without obtaining the required permits. The sleeping room lacked sufficient emergency egress and the bathroom window was not tempered as required in a wet hazard area. The front entrance deck, stairs, and railings were unstable and appeared unsafe. The railings were far below the minimum requirement and had openings exceeding a 4" diameter sphere; (2) A detached "office structure" beside the ADU (Attachment 4, #2). The structure was constructed without obtaining the required permits. It did not appear to be used for sleeping. It did not appear to have a foundation or seismic restraint. The power was provided via an extension cord (possibly a 12-gauge cord with ground). The structure was approximately 124 square feet with electrical. Although the building would require a building permit, the Zoning Code does not allow a

SUBJECT: Public Hearing for Appeal of Administrative Citation VL-19-362 (16660 Cypress Way) for Violations of the Los Gatos Town Code Related to Grading and Building

DATE: January 15, 2025

structure at that location; (3) A storage structure behind the ADU (Attachment 4, #3). The structure was constructed without obtaining the required permits. The primary use appears to be storage but is wired for electrical and plumbed for what may be a future restroom. When asked about the electricity to the structure, the property owner stated it was provided via a battery system and is not connected to permanent power. The source or termination of the plumbing was not determined. The structure was approximately 197 sq. ft. with electrical and plumbing. Although the structure would require a building permit, the Zoning Code does not allow a structure at that location; and (4) The garage structure near the second living unit and pool (Attachment 4, #4). The structure was constructed without obtaining the required permits. This structure appeared to be a garage/storage with electrical provided from the second living unit. The structure was approximately 294 sq. ft. with electrical. The structure would require a building permit; however, the structure crosses a property line boundary and must be demolished (Attachment 17).

The Town Code Compliance Officer sent an Administrative Warning to the Deffenbaughs on July 8, 2024, describing observed code violations (Attachment 18). The warning provided a compliance date of September 8, 2024. The warning advised the Deffenbaughs that failure to comply “may result in daily fines and/or any other available legal remedies.” The Deffenbaughs did not meet the compliance requirements.

On September 16, 2024, the Town Code Compliance Officer issued an Administrative Citation against the Deffenbaughs (Attachment 19). On October 14, 2024, the Deffenbaughs submitted an Administrative Citation Hearing Request Form (Attachment 21). On the same date, attorney Richard M. Harris, representing the Deffenbaughs, submitted a letter to the Town Community Development Department regarding the appeal (Attachment 22). Notice of the Administrative Appeal hearing was sent to the Deffenbaughs and their legal counsel on November 7, 2024 (Attachment 23).

Town staff have calculated their costs related to the enforcement of this action as follows:

Employee	Amount of Hours	Hourly Rate (including benefits)	Total
Town Code Compliance Officer	23.5	\$ 140.27	\$3296.34
Town Chief Building Official	6	\$ 208.88	\$1253.28
Senior Planner	8	\$ 159.33	\$1274.64
			TOTAL \$5824.26

CONCLUSION:

Town staff respectfully requests the Town Council adopt a resolution (Attachment 24) upholding the administrative citation and imposing costs according to proof.



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ALTERNATIVES:

The Town Council has the following alternatives:

1. Uphold the administrative citation.
2. Cancel the administrative citation.
3. Impose costs.
4. Not impose costs.

FISCAL IMPACT:

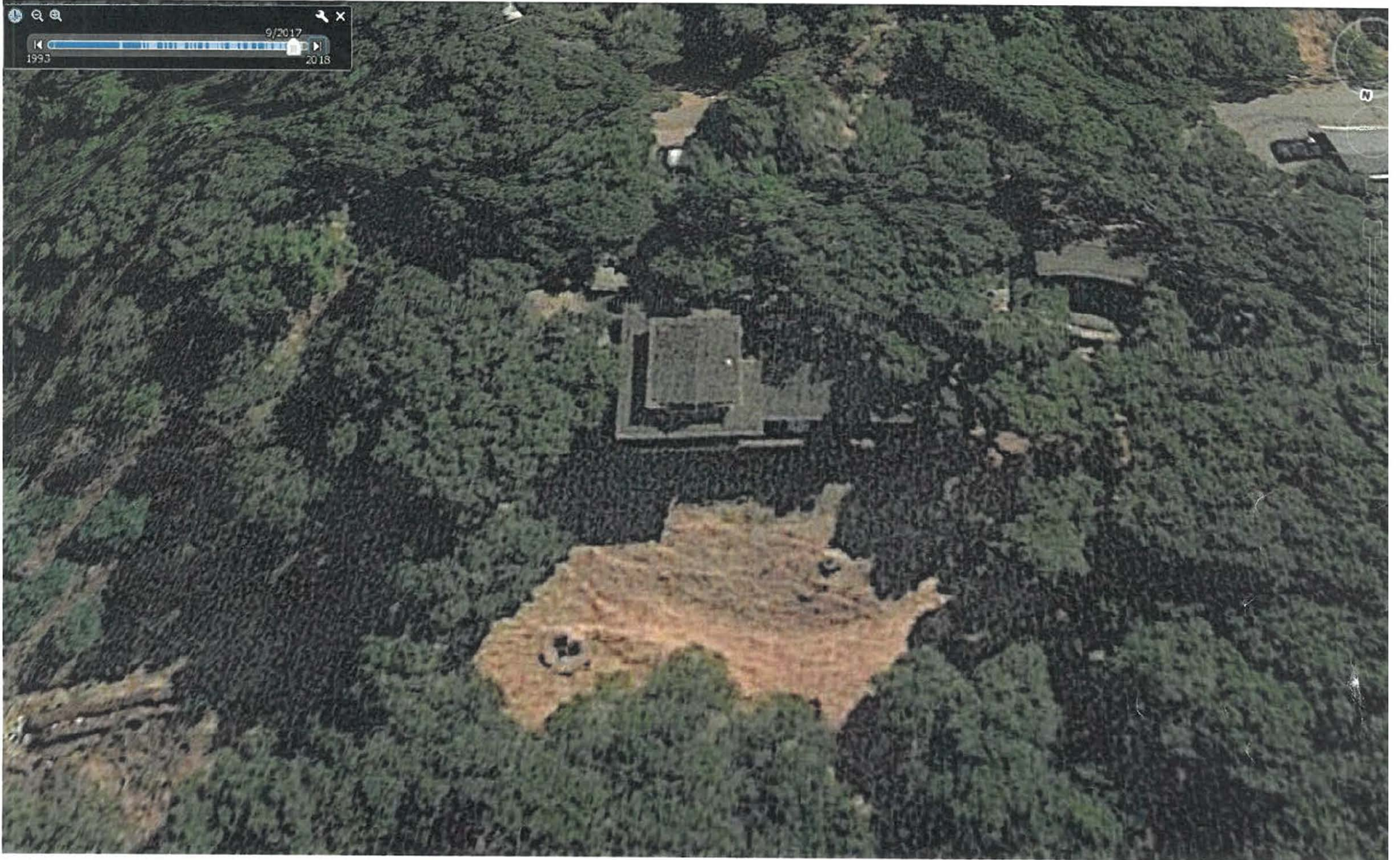
None.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Aerial View of Subject Property 9/2017
2. Aerial View of Subject Property 5/2018 Showing Grading in Progress
3. Aerial View of Subject Property 8/2018 Showing Completed Paving
4. Aerial View of Subject Property Showing Locations of Structures in Violation
5. Hotpads Internet Posting, Showing Violations
6. Trulia Internet Posting, Showing Violations
7. Realtor.com Internet Posting, Showing Violations
8. Administrative Warning Dated 7/17/2019
9. Administrative Warning (2<sup>nd</sup> notice) Dated 8/22/2019
10. Application for Grading Permit and Architecture and Site Approval dated 7/9/2021 and Letter of Justification and Project Description Dated 7/8/2021
11. Photos of Town Inspection on 8/24/2021
12. Staff Technical Review Dated 8/24/2021 and 8/25/2021
13. Email from Town Attorney Dated 10/30/2023
14. Updated Letter of Justification Regarding Application Dated 12/13/2023
15. Staff Technical Review Dated 1/31/2024
16. Letter dated 5/22/2024 and Inspection Warrant Dated 5/20/2024
17. Description and Photos of Site Inspection of Subject Property on May 30, 2024
18. Administrative Warning Dated 7/8/2024
19. Administrative Citation Dated 9/16/2024
20. Property Detail Report
21. Administrative Citation Hearing Request Dated 10/14/2024
22. Letter to Town Community Development Department from Attorney Rogers Joseph Dated 10/14/2024
23. Notice of Appeal Hearing
24. Proposed Resolution



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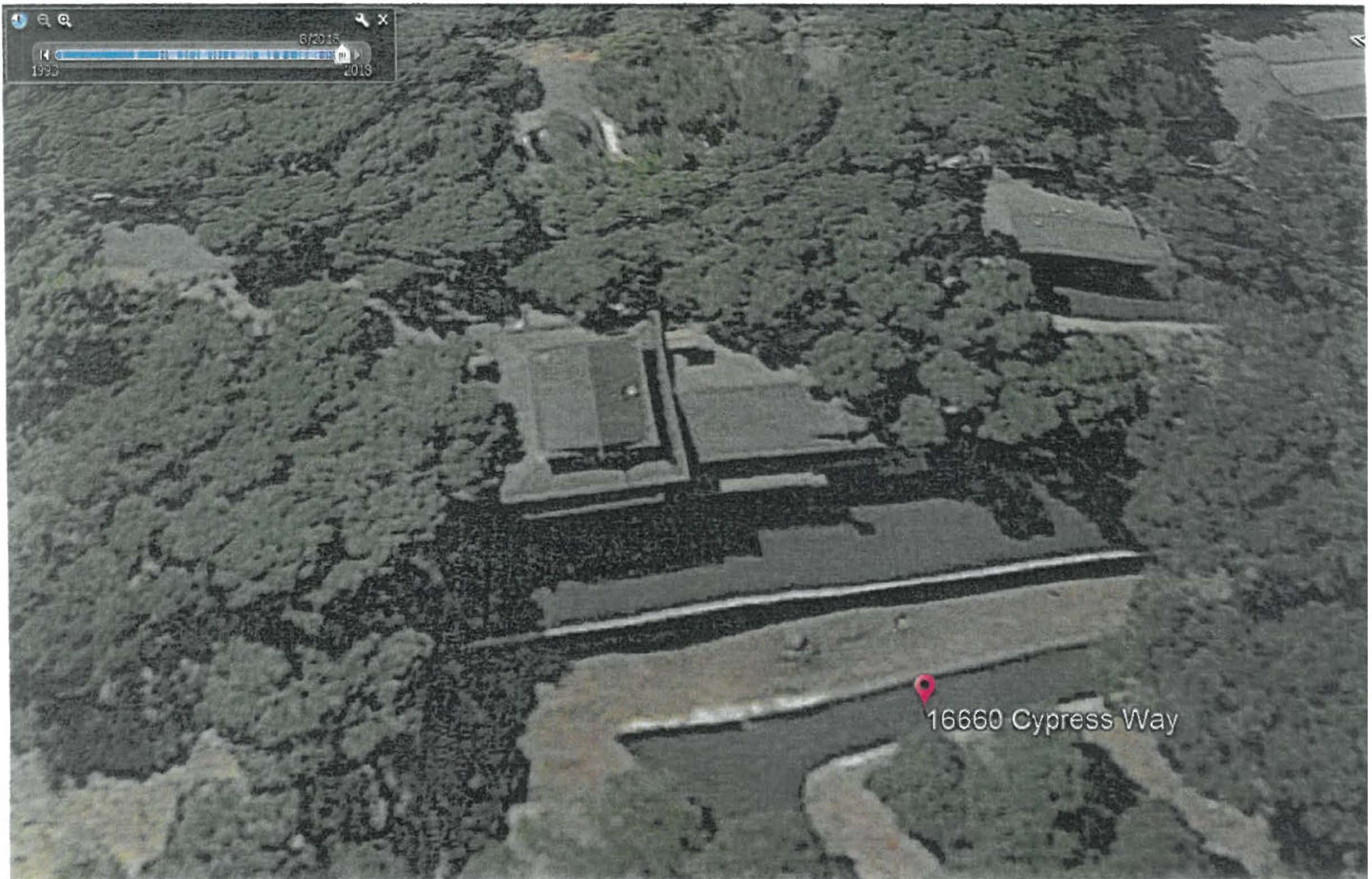


May 2018

© 2018 Google

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August 2018

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Not to scale



Large Retaining Wall



Building #1-ADU

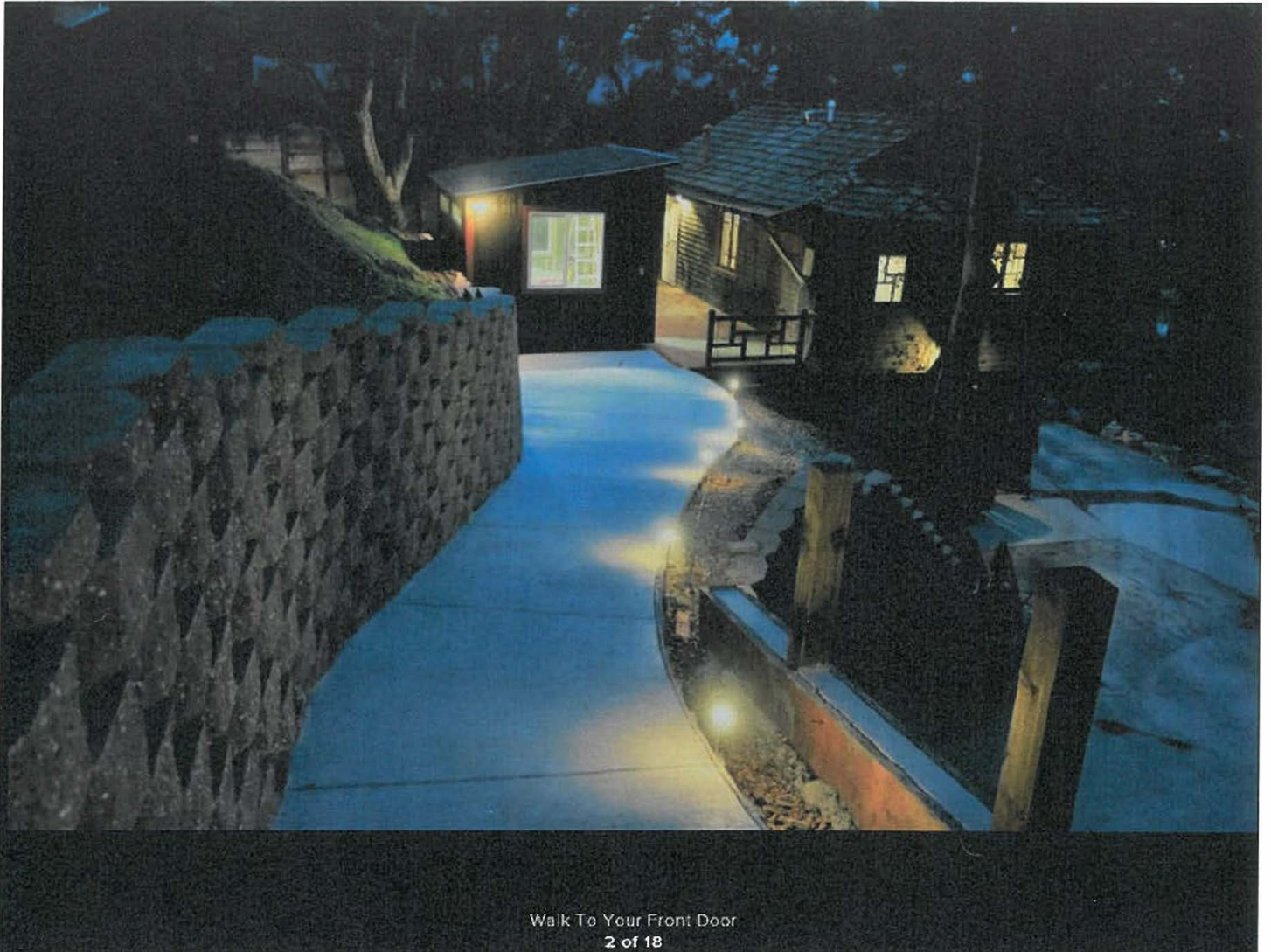
Building #2-Office Shed 124 sf

Building #3-Storage Building 197 sf

Building #4-Garage 294 sf



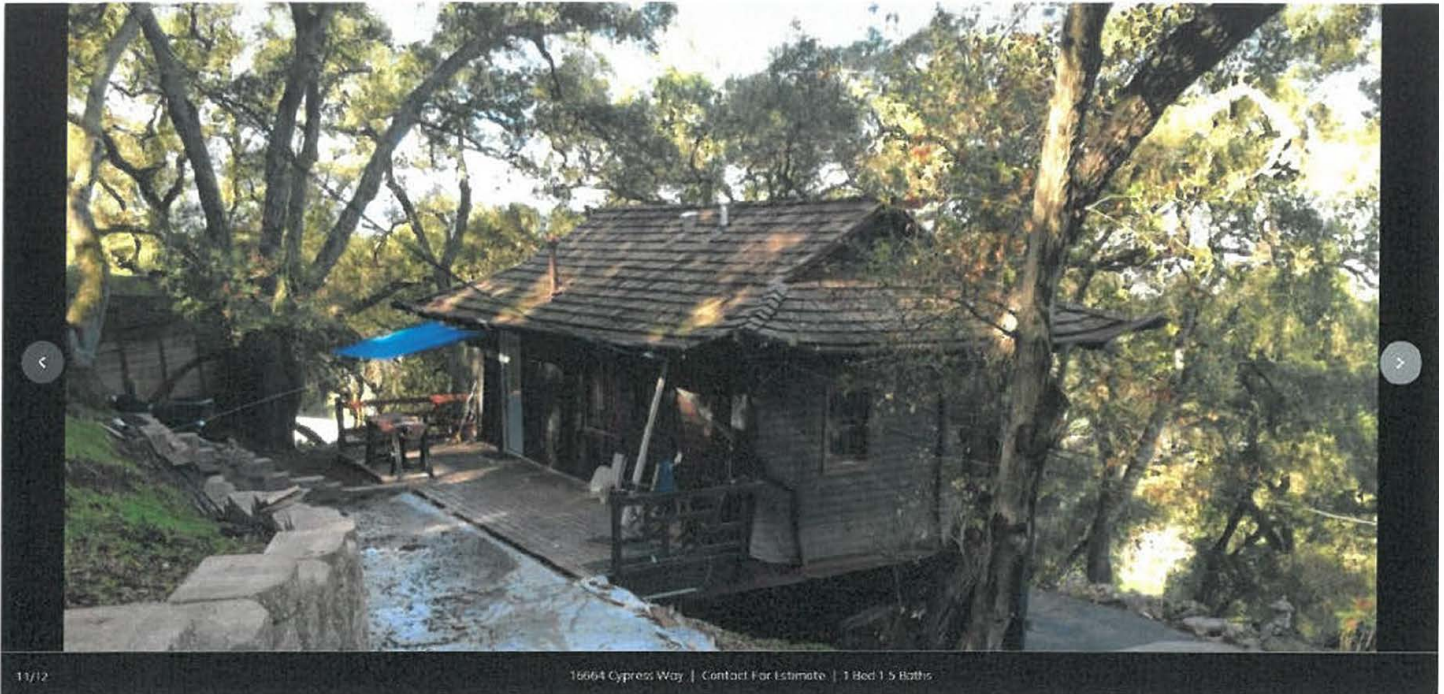
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Walk To Your Front Door  
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LANDSCAPE

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Outside parking for your horse or horseless carriage. Up to 120 square foot out-building will be built depending on your desire. While a one year lease is offered, preference will be given to individuals that will sign a 2 year lease, with second year locked in at 5% higher rental rate than first year.

We are in final stages of the refresh, and are targeting a March 1st move in date. If you act now, you will be able to help us finalize the window coverings, laundry room sink, washer and dryer combo, and specify what you would like in the outbuilding, which can be a workshop storage or possibly even extra space for a separate office.

LISTING

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16664 Cypress Way- [https://www.realtor.com/realestateandhomes-detail/16664-Cypress-Way\\_Los-Gatos\\_CA\\_95030\\_M19889-26473](https://www.realtor.com/realestateandhomes-detail/16664-Cypress-Way_Los-Gatos_CA_95030_M19889-26473)



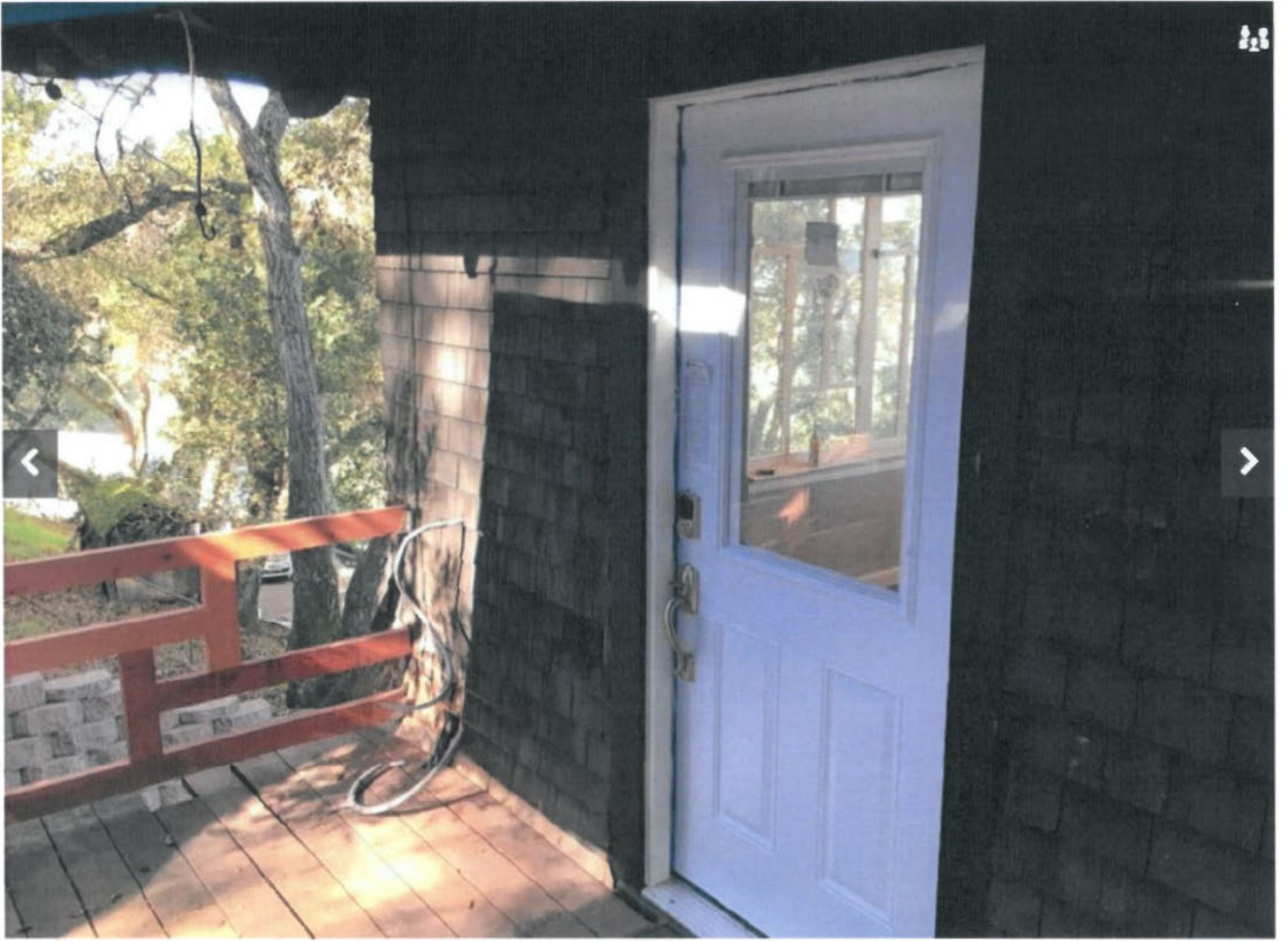
16664

















120 Square Foot Outdoor Office, Yoga Studio, or Weight Room  
13 of 18



# TOWN OF LOS GATOS

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

July 17, 2019

Theodore and Lauri Deffenbaugh  
16660 Cypress Way  
Los Gatos, CA 95030

## Administrative Warning

Re: Code violation at 16660 Cypress Way, Los Gatos

The Town of Los Gatos Community Development Department has been made aware of/observed multiple code violations on the above referenced property. The violations consist of new buildings, retaining walls, grading, interior remodeling, electrical, plumbing, and Hvac on the referenced property without the benefit of a permit.

Please be advised that pursuant to Town Code Section 6.150.010 (R 105.1) Permit Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

Pursuant to Town Code Section 12.20.010 Required. Except for the exemptions listed hereinafter, no person may grade or do grading work or perform any other land-disturbing or landfilling activity without first obtaining a grading permit.

Accordingly, we are asking you to schedule a meeting with Town Staff to discuss the scope of work and next steps. Please bring any construction documents that you may have. I can be reached at [ameyer@losgatosca.gov](mailto:ameyer@losgatosca.gov) or at 408-399-5746.

Respectfully yours,

A handwritten signature in cursive script that reads "Allen Meyer".

Allen Meyer  
Code Compliance Officer  
Town of Los Gatos



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## TOWN OF LOS GATOS

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

August 22, 2019

Theodore and Lauri Deffenbaugh  
16660 Cypress Way  
Los Gatos, CA 95030

### Administrative Warning (2<sup>nd</sup> notice)

Re: Code violation at 16660 Cypress Way, Los Gatos

The Town of Los Gatos Community Development Department has been made aware of/observed multiple code violations on the above referenced property. The violations consist of new buildings, retaining walls, grading, interior remodeling, electrical, plumbing, and Hvac on the referenced property without the benefit of a permit.

Please be advised that pursuant to Town Code Section 6.150.010 (R 105.1) Permit Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

Pursuant to Town Code Section 12.20.010 Required. Except for the exemptions listed hereinafter, no person may grade or do grading work or perform any other land-disturbing or landfilling activity without first obtaining a grading permit.

Accordingly, we are asking you to schedule a meeting with Town Staff to discuss the scope of work and next steps by **September 6, 2019**. Please bring any construction documents that you may have. I can be reached at [ameyer@losgatosca.gov](mailto:ameyer@losgatosca.gov) or at 408-399-5746.

Respectfully yours,

A handwritten signature in cursive script that reads "Allen Meyer".

Allen Meyer  
Code Compliance Officer  
Town of Los Gatos



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# TOWN OF LOS GATOS COMMUNITY DEVELOPMENT DEPARTMENT

Terence J Szewczyk	1776 Technology Dr San Jose, CA 95110	(408)316-2696
NAME OF APPLICANT	ADDRESS	TELEPHONE
<i>Terence J Szewczyk</i>	4.08 acres	terry@tscivil.com
APPLICANT'S SIGNATURE	SITE AREA	EMAIL
16660 Cypress Way, Los Gatos	532-23-106	HR 2.5
ADDRESS OR LOCATION OF PROJECT SITE	PARCEL NUMBER	ZONING

## APPLICANT SUBMITTAL CHECKLIST

### NOTE TO APPLICANTS

A Development Application must include certain minimum information before a project will be accepted and processed for review as the submittal begins a legal time limit. The applicant is responsible for submitting the general information listed below as well as the specific application requirements indicated on the attached sheets. All information, including plans, must be clear, legible, and easily readable. Incomplete, inaccurate, or illegible information will not be accepted and will delay processing of the application.

1.  COMPLETED APPLICATION FORM - Form must include the signature of the property owner(s).
2.  COMMUNITY DEVELOPMENT APPLICATION PROCESS AGREEMENT
3.  APPLICATION FILING FEE - Fee for proposed application based on Planning fee schedule.
4.  WRITTEN DESCRIPTION OF PROPOSED PROJECT - A complete written description of the proposal.
5.  LETTER OF JUSTIFICATION - For all applications except a single-family residence with no demolition.
6.  VERIFICATION OF PROPERTY OWNERSHIP AND EASEMENTS – One (1) copy of a grant deed for the subject property. Two (2) copies of a preliminary title report for the subject property if new development (i.e. new construction, additions, grading, subdivisions, etc.) is proposed.
7.  STRUCTURE CONDITION REPORT - For demolition of any residential structure.
8.  ENVIRONMENTAL CHECKLIST FORM - When applicable, form must be completely filled out. Available online at [www.losgatosca.gov/planning](http://www.losgatosca.gov/planning).
9.  HAZARDOUS MATERIALS/AIR QUALITY CHECKLIST – Form must be completely filled out.
10.  BUILD IT GREEN GREENPOINT RATED CHECKLIST – For residential projects. There is a list for remodels, new single – family residential, and new multi-family residential. Available at [www.builditgreen.org](http://www.builditgreen.org).
11.  HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES COMPLIANCE CHECKLIST - For hillside projects.
12.  HOW TO READ YOUR NEIGHBORHOOD WORKBOOK – For non-hillside residential projects.
13.  C.3 DATA FORM or SMALL PROJECTS WORKSHEET – Available online at [www.losgatosca.gov](http://www.losgatosca.gov) (Parks and Public Works Dept, Engineering Services - Stormwater Regulations).
14.  PHOTOS OF PROPERTY - Photos of the subject property from each side and photos of adjacent properties.
15.  MINIMUM SIX (6) SETS OF COMPLETE DEVELOPMENT PLANS AND AN ELECTRONIC COPY - If the application is for a Planned Development of five (5) or more lots or if the application is for a subdivision of five (5) or more lots that is not a PD – sixteen (16) sets of the map is also required.

### AUTHORIZATION AND CERTIFICATION OF PROPERTY OWNER

I/We certify that, as the property owner(s), I/we authorize the filing of this application. I/We understand that pursuant to the Code of the Town of Los Gatos, conditions of approval are binding upon both the applicant and property owner(s). I/We agree to implement the conditions of approval to the best of my/our ability.

Lauri Deffenbaugh	16660 Cypress Way, Los Gatos, CA 95030	
Name (please print)	Address (with zip code)	Telephone
<i>Lauri A. Deffenbaugh</i>		07 / 09 / 2021
Signature		Date



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July 8, 2021

Job No: 21-213

Erin Walters - Associate Planner  
Town of Los Gatos  
Community Development Department  
110 E. Main Street,  
Los Gatos CA 95030

**Subject:** Letter of Justification & Project Description  
Grading Permit & Architecture & Site Approval  
Previously Unpermitted Emergency Construction  
16660 Cypress Way, Los Gatos

Dear Erin.

The Deffenbaughs purchased this historic residence as a labor of love, intending to restore and preserve the legacy of the building and grounds. They had recently moved from Orange County, California where they witnessed devastating wildfires with destruction of existing residences and envisioned that the same could occur with this property.

#### Emergency Construction

Consequently, when they were presented with an opportunity to create defensible space on the downslope side of the house, they jumped at it with a local landscape contractor. This unpermitted construction involved a significant fill for the turnaround and north of the house with numerous walls in excess of the 5' maximum guideline per the Town HDG&S. This application seeks to mitigate the non-conforming installations.

#### Further Improvements Proposed

The turnaround is not the only improvement that will make this property more fire-safe. There is a need to add a firetruck turnout at the south side of the house with access to new water tanks. We propose two 5000-gallon tanks with a 4 inch wharf hydrant as shown on the plan. Although the site has a San Jose Water Company service and the current ADU is fire sprinklered, there simply are no public hydrants within the Cypress Way frontage.

Additionally, there is a need for an emergency escape road (only 7' to 8' wide) downhill to the intersection of Cypress with Phillips Ave. This roadway can informally connect to the cluster of driveways serving 16600 & 16700 Cypress Way at a location within the

Erin Walters  
Job No. 21-213  
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July 8, 2021

public street right of way. Note that the slope of the escape road is 25% maximum and it is intended only for resident passenger vehicles traveling northerly and downhill.

In summary, with the creative input from Planning, Fire, and PPW we can collaborate to make this project fire-safe(r) and remedy the violations.

Should you require additional information please contact me by email: [terry@tscivil.com](mailto:terry@tscivil.com).



TS/CIVIL ENGINEERING, INC.  
Terence J. Szewczyk, P.E. C35527  
Principal Engineer

# TOWN OF LOS GATOS - COMMUNITY DEVELOPMENT DEPARTMENT

## CIVIC CENTER:

110 E. MAIN STREET  
LOS GATOS, CA 95030

PHONE (408) 354-6874

FAX (408) 354-7593

### APPLICATION FOR DEVELOPMENT PERMITS

(PLEASE TYPE OR PRINT CLEARLY)

<b>1. APPLICANT REQUEST: (Check appropriate boxes)</b> <input checked="" type="checkbox"/> Architecture & Site <input type="checkbox"/> Variance <input type="checkbox"/> Conditional Use Permit <input type="checkbox"/> Subdivision <input type="checkbox"/> Environmental Impact Assessment <input type="checkbox"/> Other _____ <input type="checkbox"/> Zone Change (Rezone from _____ to _____)	<b>2. PROPERTY DETAIL:</b> Lot Size <u>4.08 acres</u> Average Slope _____ Existing or Last Previous Use: <u>Residential</u>
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**3. PROPERTY LOCATION:**  
 Address of subject property: 16660 Cypress Way, Los Gatos, CA, 95030  
 Zoning HR110 Assessor's Parcel Number(s) 532-23-106

**4. REQUESTED ACTION: (Attach separate sheet if necessary)**  
 Description of requested action see letter of justification

**5. APPLICANT:**  
 NAME Terence J. Szewczyk PHONE (408)316-2696  
 EMAIL terry@tscivil.com ADDRESS 1776 Technology Drive  
 CITY San Jose STATE CA ZIP 95110

*I certify under penalty of perjury that all application materials and plans are true and correct.*

SIGNATURE OF APPLICANT Terence J. Szewczyk DATE 7/7/2021

**6. PROPERTY OWNER: (If same as above check here)**   
 NAME Theodore & Lauri Deffenbaugh PHONE [REDACTED]  
 EMAIL [REDACTED] ADDRESS 16660 Cypress Way  
 CITY Los Gatos STATE CA ZIP 95110

*I hereby certify that I am the owner of record of the property described in Item #3 above, and that I approve of the action requested herein.*

SIGNATURE OF OWNER Lauri A. Deffenbaugh DATE 07 / 09 / 2021

**7. OTHERS INVOLVED: (WILL NOT GET COPY OF AGENDA OR CORRESPONDENCE)**  
 (Architect, engineer, planner, landscape architect, etc.; attached addition sheet if necessary)

CAPACITY	NAME (Please print)	FIRM & ADDRESS (include ZIP Code)	PHONE/EMAIL

### DO NOT WRITE BELOW THIS LINE

**8. RECEIVED BY** \_\_\_\_\_ **STAFF MEETING** \_\_\_\_\_ **HPC AGENDA** \_\_\_\_\_  
**APPLICATION NO.** \_\_\_\_\_

Please Note: The information contained in this application is considered part of the public record. Therefore, it will appear in both the public record file for the site address, which is available upon request, and on the permitting system on the official Town of Los Gatos website at [www.losgatosca.gov](http://www.losgatosca.gov).

PLPERMIT	\$ _____
PLTRACK	\$ _____
PLANAP	\$ _____
ENGDEV	\$ _____
TOTAL	\$ _____

# TOWN OF LOS GATOS

## DEVELOPMENT APPLICATION SUPPLEMENT HAZARDOUS WASTES AND SUBSTANCES STATEMENT

California Government Code Section 65962.5 requires that "before a lead agency accepts as complete an application for any development project . . . the applicant shall consult the lists" contained in this section which identify sites determined to contain hazardous wastes or contamination, as reported by the Secretary for Environmental Protection. These lists are available in the Community Development Department. The form, properly completed and signed, must accompany the development application submitted to the Town Community Development Department.

Please complete the following information:

Site Address: 16660 Cypress Way, Los Gatos, CA Zip Code 95030

Assessor's Parcel Number (APN): 532-23-106

APPLICANT	PROPERTY OWNER
Name/Company TS Civil Engineering	Name/Company Theodore & Lauri Deffenbaugh
Mailing Address 1776 Technology Drive, San Jose, CA, 95110	Mailing Address 16660 Cypress Way, Los Gatos, CA, 95030
Telephone (408)316-2696	Telephone (949)231-2077

I hereby acknowledge that I have reviewed these lists and declare that the project site:

Is not included on any Hazardous Wastes and Substances Sites List.

Is included on the following list pursuant to Section 65962.5 of the Government Code:

\_\_\_\_\_

Regulator identification number: \_\_\_\_\_

Date of List: \_\_\_\_\_

Terence J Szewczyk  
Applicant Signature

Date 7/7/2021

Note: State of California/Hazardous Waste & Substances Sites List for Los Gatos is attached.

# Community Development Application Process Agreement

*This document explains the decision-making process used by the Town of Los Gatos for all land-use related applications and permits being considered by the Planning Commission and/or the Town Council. All applicants and their representatives are required to read, understand, acknowledge, and sign this disclosure prior to their application being deemed complete and ready for consideration.*

**All applications and permits presented to the Planning Commission and/or Town Council are solely at the discretion of those bodies, including General Plan Amendments, Zoning changes, Planned Developments, Architecture and Site Applications, Conditional Use Permits, or Conditions of Approval. Staff and consultant recommendations, including those of the consulting architect, are in no way limiting on or indicative of any subsequent decision or direction from the Planning Commission and/or Town Council.**

Staff and consultant recommendations are based solely on the application of the Town's General Plan, Zoning and other ordinances, Specific Plans, Guidelines, and adopted policies. Staff's role is not to advocate for or support the interests of the applicant, but to ensure compliance with the aforementioned policy direction and to consider the proposed development's impacts on both the immediate neighborhood and the broader community.

Town Council policy prohibits the Planning Commission from discussing pending applications or permits with either the proponents or opponents of the application. **Applicants and their representatives are prohibited from directly or indirectly contacting or communicating with Planning Commissioners regarding the application except through publicly disclosed written communications.**

For Planning Commission matters appealed to the Town Council, the Town Council must make one of the following findings to reverse or modify a Planning Commission decision:

1. There was an error or abuse of discretion on the part of the Planning Commission;
2. New information was presented to Council that was "not readily or reasonably available" for submission to the Planning Commission\*; or
3. There was an issue or policy which the Council must decide, not the Planning Commission.

\*Unless the new information has a minimal effect, the application is returned to the Planning Commission with the new information.

***The undersigned Town staff representative has provided and discussed this document with the applicant and the applicant's representatives:***

**Staff:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**Applicant:** Terence J. Szewczyk

**DATE:** July 8th, 2021

**Property Owner:** Lauri A. Deffenbaugh

**DATE:** 07 / 09 / 2021

**Architect:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**Business Owner:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**Other:** \_\_\_\_\_




**DATE:** \_\_\_\_\_

**Legal Counsel:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

<b>TITLE</b>	A&S Application
<b>FILE NAME</b>	210708_21-213 Application.pdf
<b>DOCUMENT ID</b>	36ebf506c10d601b7a7710f3e7aa9e2c8ffeac34
<b>AUDIT TRAIL DATE FORMAT</b>	MM / DD / YYYY
<b>STATUS</b>	● Completed

Document History

 SENT	<b>07 / 08 / 2021</b> 19:19:29 UTC	Sent for signature to Lauri Deffenbaugh [REDACTED] from terry@tscivil.com IP: 162.236.129.121
 VIEWED	<b>07 / 09 / 2021</b> 14:44:30 UTC	Viewed by Lauri Deffenbaugh [REDACTED] IP: 76.103.216.142
 SIGNED	<b>07 / 09 / 2021</b> 14:49:02 UTC	Signed by Lauri Deffenbaugh [REDACTED] IP: 76.103.216.142
 COMPLETED	<b>07 / 09 / 2021</b> 14:49:02 UTC	The document has been completed.















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**TOWN OF LOS GATOS**  
**BUILDING DIVISION CONDITIONS OF APPROVAL**

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**STAFF TECHNICAL REVIEW**

**Building Division**

**August 24, 2021**

**ITEM: 16660 Cypress Way**  
**Architecture and Site Application S-21-024**  
First Review

Request for approval for site improvements requiring a grading permit on property zoned HR-2-1/2. APN: 532-23-106.

PROPERTY OWNER: Theodore and Laurie Deffenbaugh  
APPLICANT: Terence J. Szewczyk  
PROJECT PLANNER: Erin Walters

**GENERAL COMMENTS:**

1. A comprehensive plan review has not been completed for this project under consideration by the Development Review Committee or Town Council. Advisory Comments may be provided by the Building Division as part of a cursory review. Comprehensive Plan review will be part of the separate building permit application process. Once the Development Review Committee and/or Planning Commission approvals have been obtained and the requisite appeal period has passed, submit complete sets of construction drawings and documents to the Building Counter. No construction work can be commenced without an appropriate building permit.
2. Please include on the drawings, any unpermitted work that has been completed, or is in progress on the subject property that would require a Building or Planning permit.
3. Please label all unpermitted retaining walls and provide a chart that defines the length, max height, and top and bottom elevations.
4. Please provide construction details of all unpermitted retaining walls including foundation, backfill, and drainage.
5. Please provide a signed and stamped letter from a structural engineer stating that each unpermitted retaining wall is adequately constructed to minimum code or accepted industry standard.

**DRAFT CONDITIONS:**

**TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:**

(Building Division)

1. **PERMITS REQUIRED:** A Building Permit will be required for all structures exceeding 120 sq. ft. and all retaining walls that support a surcharge.
2. **APPLICABLE CODES:** The current codes, as amended and adopted by the Town of Los Gatos as of January 1, 2020, are the 2019 California Building Standards Code, California Code of Regulations Title 24, Parts 1-12, including locally adopted Energy Reach Codes.
3. **CONDITIONS OF APPROVAL:** The Conditions of Approval must be blue lined in full on the cover sheet of the construction plans. A Compliance Memorandum shall be prepared and submitted with the building permit application detailing how the Conditions of Approval will be addressed.



4. **SIZE OF PLANS:** Minimum size 24" x 36", maximum size 30" x 42".
5. **SOILS REPORT:** A Soils Report, prepared to the satisfaction of the Building Official, containing foundation and retaining wall design recommendations, shall be submitted with the Building Permit Application. This report shall be prepared by a licensed Civil Engineer specializing in soils mechanics.
6. **SHORING:** Shoring plans and calculations will be required for all excavations which exceed five (5) feet in depth or which remove lateral support from any existing building, adjacent property, or the public right-of-way. Shoring plans and calculations shall be prepared by a California licensed engineer and shall conform to the Cal/OSHA regulations.
7. **FOUNDATION INSPECTIONS:** A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project Building Inspector at foundation inspection. This certificate shall certify compliance with the recommendations as specified in the Soils Report, and that the building pad elevations and on-site retaining wall locations and elevations have been prepared according to the approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered Civil Engineer for the following items:
  - a. Building pad elevation
  - b. Finish floor elevation
  - c. Foundation corner locations
  - d. Retaining wall(s) locations and elevations
8. **TITLE 24 ENERGY COMPLIANCE:** All required California Title 24 Energy Compliance Forms must be blue-lined (sticky-backed), i.e. directly printed, onto a plan sheet.
9. **TOWN RESIDENTIAL ACCESSIBILITY STANDARDS:** New residential units shall be designed with adaptability features for single-family residences per Town Resolution 1994-61:
  - a. Wood backing (2" x 8" minimum) shall be provided in all bathroom walls, at water closets, showers, and bathtubs, located 34 inches from the floor to the center of the backing, suitable for the installation of grab bars if needed in the future.
  - b. All passage doors shall be at least 32-inch wide doors on the accessible floor level.
  - c. The primary entrance door shall be a 36-inch-wide door including a 5' x 5' level landing, no more than 1 inch out of plane with the immediate interior floor level and with an 18-inch clearance at interior strike edge.
  - d. A door buzzer, bell or chime shall be hard wired at primary entrance.
10. **BACKWATER VALVE:** The scope of this project may require the installation of a sanitary sewer backwater valve per Town Ordinance 6.50.025. Please provide information on the plans if a backwater valve is required and the location of the installation. The Town of Los Gatos Ordinance and West Valley Sanitation District (WVSD) requires backwater valves on drainage piping serving fixtures that have flood level rims less than 12 inches above the elevation of the next upstream manhole.
11. **HAZARDOUS FIRE ZONE:** All projects in the Town of Los Gatos require Class A roof assemblies.
12. **WILDLAND-URBAN INTERFACE:** This project is located in a Wildland-Urban Interface High Fire Area and must comply with Section R337 of the 2019 California Residential Code, Public Resources Code 4291 and California Government Code Section 51182.
13. **PROVIDE DEFENSIBLE SPACE/FIRE BREAK LANDSCAPING PLAN:** Prepared by a California licensed Landscape Architect in conformance with California Public Resources Code 4291 and California Government Code Section 51182.
14. **PRIOR TO FINAL INSPECTION:** Provide a letter from a California licensed Landscape Architect certifying the landscaping and vegetation clearance requirements have been completed per the California Public Resources Code 4291 and Government Code Section 51182.

15. **SPECIAL INSPECTIONS:** When a special inspection is required by CBC Section 1704, the Architect or Engineer of Record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the Building Permit. The Town Special Inspection form must be completely filled-out and signed by all requested parties prior to permit issuance. Special Inspection forms are available from the Building Division Service Counter or online at [www.losgatosca.gov/building](http://www.losgatosca.gov/building).
16. **BLUEPRINT FOR A CLEAN BAY SHEET:** The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program Sheet (page size same as submitted drawings) shall be part of the plan submittal as the second page. The specification sheet is available at the Building Division Service Counter for a fee of \$2 or at ARC Blueprint for a fee or online at [www.losgatosca.gov/building](http://www.losgatosca.gov/building).
17. **APPROVALS REQUIRED:** The project requires the following departments and agencies approval before issuing a building permit:
  - a. Community Development – Planning Division: (408) 354-6874
  - b. Engineering/Parks & Public Works Department: (408) 399-5771
  - c. Santa Clara County Fire Department: (408) 378-4010
  - d. West Valley Sanitation District: (408) 378-2407
  - e. Local School District: The Town will forward the paperwork to the appropriate school district(s) for processing. A copy of the paid receipt is required prior to permit issuance.

Robert Gray, CBO  
Chief Building Official  
[rgray@losgatosca.gov](mailto:rgray@losgatosca.gov)

N:\DEV\Robert Gray\Conditions of Approval\2021\CypressWay16660\_v1.docx





# SANTA CLARA COUNTY FIRE DEPARTMENT

14700 Winchester Blvd., Los Gatos, CA 95032 | (408) 378-4010 | www.sccfd.org

PLAN REVIEW No. **21 3367**

BLDG PERMIT No.

## DEVELOPMENTAL REVIEW COMMENTS

### Plans and Scope of Review:

#### This project shall comply with the following:

The California Fire (CFC) & Building (CBC) Code, 2019 edition, as adopted by the Town of Los Gatos Town Code (LGTC), California Code of Regulations (CCR) and Health & Safety Code.

#### The scope of this project includes the following:

No scope provided. In letter of justification there is mention of legalization of grading done without permit and addition of a private fire protection water system.

#### Plan Status:

Plans are **NOT APPROVED**. Revise and resubmit drawings and provide a response letter addressing comments on this plan review.

#### Plan Review Comments:

1. Review of this Developmental proposal is limited to acceptability of site access, water supply and may include specific additional requirements as they pertain to fire department operations, and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.

2. Provide project scope on the plans.

3. **Fire Department (Engine) Driveway Turnaround Required:** Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus. Provide an approved fire department engine driveway turnaround with a minimum radius of 36 feet outside and 23 feet inside. Maximum grade in any direction shall be 5%. Installations shall conform with Fire Department Standard Details and Specifications D-1. [CFC Section 503.2.5]. **Show on the plans a conforming driveway turnaround.**

4. **Fire Apparatus (Engine) Access Driveway Required:** Provide an access driveway with a paved all-weather surface, a minimum unobstructed width of 14 feet, vertical clearance of 13 feet 6 inches, minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%. Installations shall conform to Fire Department Standard Details and Specifications sheet D-1. **Indicate on the plans the width and slope of the driveway.**

City	PLANS	SPECS	NEW	RMDL	AS	OCCUPANCY	CONST. TYPE	ApplicantName	DATE	PAGE
LGA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			Ts Civil Engineering	08/10/2021	1 OF 3
SEC/FLOOR	AREA	LOAD	PROJECT DESCRIPTION				PROJECT TYPE OR SYSTEM			
			Residential Development				Site Work			
NAME OF PROJECT						LOCATION				
SFR						16660 Cypress Way Los Gatos				
TABULAR FIRE FLOW						REDUCTION FOR FIRE SPRINKLERS	REQUIRED FIRE FLOW @ 20 PSI		BY	
									Flanagan, Caleb	





# SANTA CLARA COUNTY FIRE DEPARTMENT

14700 Winchester Blvd., Los Gatos, CA 95032 | (408) 378-4010 | www.sccfd.org

PLAN REVIEW No. **21 3367**

BLDG PERMIT No.

## DEVELOPMENTAL REVIEW COMMENTS

**5. Private Fire Protection System:** Residential fire protection systems shall comply with Fire Department Standards W-1 and manufacturer's requirements. Fire protection water systems shall be permitted, installed and approved by the Fire Prevention Office. The wharf hydrant shall be accessible at all times. Tank systems providing both the domestic supply and supply to the sprinkler system and/or hydrant may require cross contamination protection. Check with the local Building Department for specific requirements related to protection of the domestic supply. Hydrants and tank outlets shall be installed such that the center of the hose connection is not less than eighteen (18") inches nor more than thirty (30") inches above the final grade. *Two new 5000 gallon water tanks to be installed. Indicate on plans. Indicate on the plans that the private fire protection system will conform with the W-1 standard.*

**6. Water Supply Requirements:** Potable water supplies shall be protected from contamination caused by fire protection water supplies. It is the responsibility of the applicant and any contractors and subcontractors to contact the water purveyor supplying the site of such project, and to comply with the requirements of that purveyor. Such requirements shall be incorporated into the design of any water-based fire protection systems, and/or fire suppression water supply systems or storage containers that may be physically connected in any manner to an appliance capable of causing contamination of the potable water supply of the purveyor of record. Final approval of the system(s) under consideration will not be granted by this office until compliance with the requirements of the water purveyor of record are documented by that purveyor as having been met by the applicant(s). 2019 CFC Sec. 903.3.5 and Health and Safety Code 13114.7.

**7. Address identification:** New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained. CFC Sec. 505.1.

City	PLANS	SPECS	NEW	RMDL	AS	OCCUPANCY	CONST. TYPE	ApplicantName	DATE	PAGE
LGA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			Ts Civil Engineering	08/10/2021	2 OF 3
SEC/FLOOR	AREA	LOAD	PROJECT DESCRIPTION				PROJECT TYPE OR SYSTEM			
			Residential Development				Site Work			
NAME OF PROJECT						LOCATION				
SFR						16660 Cypress Way Los Gatos				
TABULAR FIRE FLOW						REDUCTION FOR FIRE SPRINKLERS	REQUIRED FIRE FLOW @ 20 PSI	BY		
						<input type="text"/>		Flanagan, Caleb		





# SANTA CLARA COUNTY FIRE DEPARTMENT

14700 Winchester Blvd., Los Gatos, CA 95032 | (408) 378-4010 | www.sccfd.org

PLAN REVIEW No. 21 3367

BLDG PERMIT No. \_\_\_\_\_

## DEVELOPMENTAL REVIEW COMMENTS

**8. Construction Site Fire Safety:** All construction sites must comply with applicable provisions of the CFC Chapter 33 and our Standard Detail and Specification S1-7. Provide appropriate notations on subsequent plan submittals, as appropriate to the project. CFC Chp. 33.

This review shall not be construed to be an approval of a violation of the provisions of the California Fire Code or of other laws or regulations of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of the fire code or other such laws or regulations shall not be valid. Any addition to or alteration of approved construction documents shall be approved in advance. [CFC, Ch.1, 105.3.6]

City	PLANS	SPECS NEW	RMDL	AS	OCCUPANCY	CONST. TYPE	ApplicantName	DATE	PAGE	
LGA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Ts Civil Engineering	08/10/2021	3 OF 3	
SEC/FLOOR	AREA	LOAD	PROJECT DESCRIPTION				PROJECT TYPE OR SYSTEM			
			Residential Development				Site Work			
NAME OF PROJECT						LOCATION				
SFR						16660 Cypress Way Los Gatos				
TABULAR FIRE FLOW			REDUCTION FOR FIRE SPRINKLERS		REQUIRED FIRE FLOW @ 20 PSI			BY		
			<input type="text"/>					Flanagan, Caleb		



**TOWN OF LOS GATOS  
COMMENTS**

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**STAFF TECHNICAL REVIEW  
PLANNING DIVISION  
August 25, 2021**

**16660 Cypress Way  
Architecture and Site Application S-21-024**

Request for approval for site improvements requiring a grading permit on property zoned HR-2-1/2. APN: 532-23-106.

PROPERTY OWNERS: Theodore and Laurie Deffenbaugh

APPLICANT: Terence J. Szewczyk

**PROJECT PLANNER:** Erin Walters, Associate Planner

**LAST REVIEWED BY STAFF:** First Review

**Urgency Ordinance 2305 Suspending Deadlines re: Land Use Entitlements**

Please note that all provisions of laws, ordinances, regulations, resolutions, rules and statutes, including but not limited to, provisions contained in the California Permit Streamlining Act (PSA), the California Environmental Quality Act (CEQA), the California Subdivision Map Act (SMA), the Housing Accountability Act (HAA), SB 35, Town Subdivision Regulations, Town Zoning Regulations, and Town application policies and procedures, establishing review deadlines and authorizing automatic approvals are suspended for the duration of urgency Ordinance 2305, adopted March 24, 2020, in response to the COVID-19 pandemic outbreak, and in effect 45 days from and after the date of its adoption, unless the same is extended.

**NOTE:** This Architecture and Site Application submittal is NOT COMPLETE. This item will be heard at a Planning Commission public hearing once the item is deemed complete and noticed.

This project is subject to the Hillside Development Standards and Guidelines (HDS&G) <https://www.losgatosca.gov/1117/Hillside-Development-Standards-Guideline> and the Town Code.

1. The Town's Consulting Arborist report is pending. Once provided provide a separate letter describing how each recommendation have been addressed.
2. Provide the average slope.
3. Provide the net lot size.
4. Update Letter of Justification/Project Description to include:
  - a. What is the full scope of work?
  - b. Does the project meet the (HDS&G)?
  - c. Describe the proposed design that will mitigate the unpermitted work completed and will bring the project into conformance with the HDS&G.
  - d. What exceptions from the HDS&G are being requested?
  - e. Max linear cut/fill?



TOWN OF LOS GATOS  
COMMENTS

- f. Max retaining wall height.? (5 feet max), etc.
  - g. How does the project meet the defensible space requirements? HDS&G and <https://www.losgatosca.gov/2581/Be-Wildfire-Ready>
  - h. How does the project mitigate the tree damage/ removal due to the unpermitted work? See arborist report.
5. Has there been any modification to the historic residence without the benefit of permits?
6. Is there any unpermitted work that has been completed or is in progress on the subject property that would require a building or planning permit? If so, please denote on plans, and provide a separate letter providing a description, justification, and photos.
7. Provide additional photos of the work completed without permits- each retaining wall and area.
8. Complete the HDS&G compliance checklist.  
<https://www.losgatosca.gov/DocumentCenter/View/1103/Hillside-Development-Compliance-Checklist?bidId=>
9. Provide complete development plans per the Community Development requirements for preparation of development plans-  
<https://www.losgatosca.gov/DocumentCenter/View/361/Development-Review-Application-Package?bidId=>  
Page 1-6. See the following sections.
  - a. General Requirements
  - b. Site Plan
  - c. Landscape/Tree Plan
  - d. WELO
  - e. Exterior Lighting
  - f. Other Information
10. Label all buildings on property, label addresses and type of building and if permitted or not permitted.
11. Provide (3) site plans (topo):
  - a. Pre-construction without permits;
  - b. Current conditions (work without permits); and
  - c. Proposed mitigation design of project to meet the HDS&G.
12. Dimension all roads or paths and label material.
13. Provide details of retaining walls (proposed and built without permits). Provide a keyed chart referring to each retaining wall- provide max height, max cut or max fill and call out finish and material.
  - a. See HDS&G for retaining wall standards and guidelines.
14. Provide sections for each retaining wall - dimensioning the max linear cut and max fill.
15. Provide a landscape plan and tree plan per the HDS&G, Town Code and the arborist report.
16. We encourage you to speak with your neighbors (property owners, tenants, residents, and customers) about your proposal. Please submit a separate letter with the following information as part of your resubmittal materials.
  - a. What neighbors you have spoken to (name and address).
  - b. What neighbors you did not speak to and why.
  - c. When you met with neighbors.





**TOWN OF LOS GATOS  
COMMENTS**

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**GENERAL COMMENTS:**

This application will be heard at a Planning Commission public hearing.

1. This application will be heard at a Planning Commission public hearing. There will be public noticing, and
2. Pursuant to the adopted fee schedule, in the event additional processing services by the Town are required due to changes, modifications, additions, errors, omissions, or discrepancies caused by the applicant or his/her agents or representatives, the applicant shall pay an additional fee as determined by the Director of Community Development to cover the actual cost.
3. Pursuant to the adopted fee schedule, if the requested information from any of the Tech Review Staff is not submitted within 180 days of this meeting, the applicant will be required to pay a fee of 10% of the current application fee at the time the requested information is submitted. Any resubmittal after one year will be processed as a new application, subject to new fees.
4. Pursuant to the adopted fee schedule, if after three meetings, any additional review is required by the Technical Review Committee and/or DRC, there will be an additional fee based on time and material cost.

**PLEASE NOTE THAT COMMENTS/DEFICIENCIES LISTED ABOVE MAY NOT BE AN EXHAUSTIVE LIST OF ALL STAFF TECHNICAL REVIEW COMMENTS.**

Erin Walters  
Associate Planner  
[EWalters@losgatosca.gov](mailto:EWalters@losgatosca.gov)





**TOWN OF LOS GATOS**  
**PARKS AND PUBLIC WORKS COMMENTS**

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**STAFF TECHNICAL REVIEW**  
**Engineering Division**  
**August 25, 2021**

**ITEM:** 16660 Cypress Way; APN: 532-23-106  
Architecture and Site Application S-21-024  
Request for approval for site improvements requiring a grading permit on property zoned HR-2-½.  
PROPERTY OWNER: Theodore and Laurie Deffenbaugh  
APPLICANT: Terence J. Szewczyk

**PROJECT PLANNER:** Erin Walters  
**LAST REVIEWED:** First Submittal

**DEFICIENCIES: (GENERAL)**

- 1) Please update the plan set to include a vicinity map, legend, list of abbreviations, index sheet, and adjacent properties labeled as to use or owner.
- 2) For clarification, please include sheet(s) that shows individual site plans for the original conditions, existing conditions and proposed improvements.
- 3) Please update the plan set:
  - a) Update the scale to show the completed improvements at a larger size and with more detail.
  - b) Display all existing public and private easements as referenced in the submitted Title Report.
  - c) Show the locations of all existing public and private utilities and services, including but not limited to PG&E, telephone, cable television, sewage, water, fire hydrants, etc.
  - d) Illustrate and label all existing and planned development including but not limiting to building, driveway, walkway, decks, patios, trees, accessory structures, etc.
  - e) Provide a table of pre-existing and now current impervious areas, also identifying the square footage of impervious area that was created and/or replaced with the improvements.
  - f) Provide a table of earthwork quantities (in cubic yards) with identification of individual areas of cut and fill (driveway, landscape, etc.). Include the maximum completed cut and fill depths for each area per the Maximum Graded Cuts and Fills as found in Table 1 in Section III of the Town's Hillside Development Standards and Guidelines.
  - g) Provide additional topographic information, including now current contours in addition to the pre-existing contours, drainage features of the area, etc.
  - h) List the total disturbed area in square feet or acre.



**TOWN OF LOS GATOS**  
**PARKS AND PUBLIC WORKS COMMENTS**

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- i) Delineate the limit of grading/disturbed area.
- j) Provide rim and invert elevations for all existing gravity structures.
- k) Label the pipe diameter, material and slope for all proposed and existing storm drain and sanitary sewer pipe.
- l) Show the Least Restrictive Development Area (LRDA) per Section II of the Town's Hillside Development Standards and Guidelines. The LRDA shall be shown as a dashed line on all site and grading plans for the entire site.
- m) Please provide the property's average slope.
- n) Please enlarge text as needed to ensure that all information provided is legible.
- 4) Additional plan check comments are likely to be provided upon submittal of more complete plan set with the data and information requested in comments 2 and 3 inclusive above.
- 5) If this project created and/or replaced more than 2,500 square feet of impervious area, completion of the NPDES Stormwater Compliance Small Projects Worksheet and implementation of at least one of the six low impact development site design measures it specifies will be required. Please confirm.
- 6) Please provide a cut/fill site plan map with the various depths of cut/fill represented by differing colors. This should be a color-coded grid map with cut and fill depths that displays the earthwork quantities that were part of the previously completed grading activities and retaining wall construction.
- 7) Please provide cost estimates for all previously completed work associated with grading, drainage, and erosion/sediment control.
- 8) A Soils Report for Geologic and Geotechnical Review is required. The report must discuss the geologic and seismic hazards, and conclude that there is a geotechnically feasible building envelope on each proposed lot, in addition to providing geotechnical design recommendations. A deposit in the amount of **\$5,750.00** for report review along with a copy of the Report and Plan will be required for this step.

**Please provide a compliance memorandum showing how all the deficiencies and comments have been addressed. PLEASE NOTE THAT COMMENTS/DEFICIENCIES LISTED ABOVE MAY NOT BE AN EXHAUSTIVE LIST OF ALL PLAN CHECK COMMENTS OR CONDITIONS.**

**GENERAL COMMENTS:**

- 1) Retaining walls shall include provisions for drainage.
- 2) Final grading plans shall include a complete erosion control plan. Interim erosion control measures, to be carried out during construction and before installation of the final landscaping, shall be included. Interim erosion control method shall include, but are not limited to: silt fences, fiber rolls (with locations and details), erosion control blankets, Town standard seeding specification, etc.





**TOWN OF LOS GATOS**  
**PARKS AND PUBLIC WORKS COMMENTS**

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**DRAFT CONDITIONS:**

**TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS:**  
(Engineering Division)

- 1) **GENERAL:** All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job-related mud, silt, concrete, dirt and other construction debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the street will not be allowed unless an encroachment permit is issued by the Engineering Division of the Parks and Public Works Department. The Owner and/or Applicant's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the issuance of correction notices, citations, or stop work orders and the Town performing the required maintenance at the Owner and/or Applicant's expense.
- 2) **APPROVAL:** This application shall be completed in accordance with all the conditions of approval listed below and in substantial compliance with the latest reviewed and approved development plans. Any changes or modifications to the approved plans or conditions of approvals shall be approved by the Town Engineer.
- 3) **CONSTRUCTION PLAN REQUIREMENTS:** Construction drawings shall comply with Section 1 (Construction Plan Requirements) of the Town's Engineering Design Standards, which are [available for download from the Town's website](#).
- 4) **GENERAL LIABILITY INSURANCE:** The property owner shall provide proof of insurance to the Town on a yearly basis. In addition to general coverage, the policy must cover all elements encroaching into the Town's right-of-way.
- 5) **SITE SUPERVISION:** The General Contractor shall provide qualified supervision on the job site at all times during construction.
- 6) **GRADING PERMIT FEES:** Plan check fees associated with the Grading Permit shall be deposited with the Engineering Division of the Parks and Public Works Department prior to the commencement of plan check review. All remaining fees shall be deposited prior to the issuance of a grading permit.
- 7) **GRADING PERMIT:** A grading permit is required for all site grading and drainage work except for exemptions listed in Section 12.20.015 of The Code of the Town of Los Gatos (Grading Ordinance). After the preceding Architecture and Site Application has been approved by the respective deciding body, the grading permit application (with grading plans and associated required materials and plan check fees) shall be made to the Engineering Division of the Parks and Public Works Department located at 41 Miles Avenue. The grading plans shall include final grading, drainage, retaining wall location(s), driveway, utilities and interim erosion control. Grading plans shall list earthwork quantities and a table of existing and proposed impervious areas. Unless specifically allowed by the Director of Parks and Public Works, the grading permit will be issued concurrently with the building permit. The grading permit is for work outside the building footprint(s). Prior to Engineering signing off



**TOWN OF LOS GATOS**  
**PARKS AND PUBLIC WORKS COMMENTS**

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- and closing out on the issued grading permit, the Owner/Applicant's soils engineer shall verify, with a stamped and signed letter, that the grading activities were completed per plans and per the requirements as noted in the soils report. A separate building permit, issued by the Building Department, located at 110 E. Main Street, is needed for grading within the building footprint.
- 8) **ILLEGAL GRADING:** Per the Town's Comprehensive Fee Schedule, applications for work unlawfully completed shall be charged double the current fee. As a result, the required grading permit fees associated with an application for grading will be charged accordingly.
  - 9) **DESIGN CHANGES:** Any proposed changes to the approved plans shall be subject to the approval of the Town prior to the commencement of any and all altered work. The Owner and/or Applicant's project engineer shall notify, in writing, the Town Engineer at least seventy-two (72) hours in advance of all the proposed changes. Any approved changes shall be incorporated into the final "as-built" plans.
  - 10) **PLANS AND STUDIES:** All required plans and studies shall be prepared by a Registered Professional Engineer in the State of California and submitted to the Town Engineer for review and approval. Additionally, any studies imposed by the Planning Commission or Town Council shall be funded by the Owner and/or Applicant.
  - 11) **GRADING ACTIVITY RESTRICTIONS:** Upon receipt of a grading permit, any and all grading activities and operations shall not commence until after/occur during the rainy season, as defined by Town Code of the Town of Los Gatos, Sec. 12.10.020, (October 15-April 15), has ended.
  - 12) **COMPLIANCE WITH HILLSIDE DEVELOPMENT STANDARDS AND GUIDELINES:** All grading activities and operations shall be in compliance with Section III of the Town's Hillside Development Standards and Guidelines. All development shall be in compliance with Section II of the Town's Hillside Development Standards and Guidelines.
  - 13) **DRAINAGE IMPROVEMENT:** Prior to the issuance of any grading/improvement permits, whichever comes first, the Owner and/or Applicant shall: a) design provisions for surface drainage; and b) design all necessary storm drain facilities extending to a satisfactory point of disposal for the proper control and disposal of storm runoff; and c) provide a recorded copy of any required easements to the Town.
  - 14) **TREE REMOVAL:** Copies of all necessary tree removal permits shall be provided prior to the issuance of a grading permit/building permit.
  - 15) **SURVEYING CONTROLS:** Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer qualified to practice land surveying, for the following items:
    - a) Retaining wall: top of wall elevations and locations.
    - b) Toe and top of cut and fill slopes.
  - 16) **PRECONSTRUCTION MEETING:** Prior to issuance of any grading or building permits, the general contractor shall:





**TOWN OF LOS GATOS**  
**PARKS AND PUBLIC WORKS COMMENTS**

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- a) Along with the Owner and/or Applicant, attend a pre-construction meeting with the Town Engineer to discuss the project conditions of approval, working hours, site maintenance and other construction matters;
  - b) Acknowledge in writing that they have read and understand the project conditions of approval and will make certain that all project sub-contractors have read and understand them as well prior to commencing any work, and that a copy of the project conditions of approval will be posted on-site at all times during construction.
- 17) **RETAINING WALLS:** A building permit, issued by the Building Department, located at 110 E. Main Street, may be required for site retaining walls. Walls are not reviewed or approved by the Engineering Division of Parks and Public Works during the grading permit plan review process.
- 18) **SOILS REPORT:** One electronic copy (PDF) of the soils and geologic report shall be submitted with the application. The soils report shall include specific criteria and standards governing site grading, drainage, pavement design, retaining wall design, and erosion control. The reports shall be signed and "wet stamped" by the engineer or geologist, in conformance with Section 6735 of the California Business and Professions Code.
- 19) **SOILS REVIEW:** Prior to Town approval of a development application, the Owner and/or Applicant's engineers shall prepare and submit a design-level geotechnical and geological investigation for review by the Town's consultant, with costs borne by the Owner and/or Applicant, and subsequent approval by the Town. The Owner and/or Applicant's soils engineer shall review the final grading and drainage plans to ensure that designs for foundations, retaining walls, site grading, and site drainage are in accordance with their recommendations and the peer review comments. Approval of the Owner and/or Applicant's soils engineer shall then be conveyed to the Town either by submitting a Plan Review Letter prior to issuance of grading or building permit(s).
- 20) **SOILS ENGINEER CONSTRUCTION OBSERVATION:** During construction, all excavations and grading shall be inspected by the Owner and/or Applicant's soils engineer prior to placement of concrete and/or backfill so they can verify that the actual conditions are as anticipated in the design-level geotechnical report and recommend appropriate changes in the recommendations contained in the report, if necessary. The results of the construction observation and testing shall be documented in an "as-built" letter/report prepared by the Owner and/or Applicant's soils engineer and submitted to the Town prior to Engineering signing off and closing out on the issued grading permit.
- 21) **SOIL RECOMMENDATIONS:** The project shall incorporate the geotechnical/geological recommendations contained in the project's design-level geotechnical/geological investigation as prepared by the Owner and/or Applicant's engineer(s), and any subsequently required report or addendum. Subsequent reports or addendum are subject to peer review by the Town's consultant and costs shall be borne by the Owner and/or Applicant.



**TOWN OF LOS GATOS**  
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- 22) **CONSTRUCTION VEHICLE PARKING:** Construction vehicle parking within the public right-of-way will only be allowed if it does not cause access or safety problems as determined by the Town.
- 23) **HAULING OF SOIL:** Hauling of soil on- or off-site shall not occur during the morning or evening peak periods (between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m.), and at other times as specified by the Director of Parks and Public Works. Prior to the issuance of a grading or building permit, the Owner and/or Applicant or their representative shall work with the Town Building Department and Engineering Division Inspectors to devise a traffic control plan to ensure safe and efficient traffic flow under periods when soil is hauled on or off the project site. This may include, but is not limited to provisions for the Owner and/or Applicant to place construction notification signs noting the dates and time of construction and hauling activities, or providing additional traffic control. Coordination with other significant projects in the area may also be required. Cover all trucks hauling soil, sand and other loose debris.
- 24) **CONSTRUCTION HOURS:** All construction activities, including the delivery of construction materials, labors, heavy equipment, supplies, etc., shall be limited to the hours of 8:00 a.m. to 6:00 p.m., weekdays and 9:00 a.m. to 4:00 p.m. Saturdays, holidays excluded. The Town may authorize, on a case-by-case basis, alternate construction hours. The Owner and/or Applicant shall provide written notice twenty-four (24) hours in advance of modified construction hours. Approval of this request is at discretion of the Town.
- 25) **CONSTRUCTION NOISE:** Between the hours of 8:00 a.m. to 8:00 p.m., weekdays and 9:00 a.m. to 7:00 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet from the source. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.
- 26) **CONSTRUCTION MANAGEMENT PLAN SHEET:** Prior to the issuance of any grading or building permits, the Owner and/or Applicant's design consultant shall submit a construction management plan sheet (full-size) within the plan set that shall incorporate at a minimum the Earth Movement Plan, Project Schedule, employee parking, construction staging area, materials storage area(s), construction trailer(s), concrete washout(s) and proposed outhouse location(s). Please refer to the Town's [Construction Management Plan Guidelines](#) document for additional information.
- 27) **BEST MANAGEMENT PRACTICES (BMPs):** The Owner and/or Applicant is responsible for ensuring that all contractors are aware of all storm water quality measures and that such measures are implemented. Best Management Practices (BMPs) shall be maintained and be placed for all areas that have been graded or disturbed and for all material, equipment and/or operations that need protection. Removal of BMPs (temporary removal during construction activities) shall be replaced at the end of each working day. Failure to comply





**TOWN OF LOS GATOS**  
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- with the construction BMP will result in the issuance of correction notices, citations, or stop work orders.
- 28) **SITE DESIGN MEASURES:** All projects shall incorporate at least one of the following measures:
- a) Protect sensitive areas and minimize changes to the natural topography.
  - b) Minimize impervious surface areas.
  - c) Direct roof downspouts to vegetated areas.
  - d) Use porous or pervious pavement surfaces on the driveway, at a minimum.
  - e) Use landscaping to treat stormwater.
- 29) **EROSION CONTROL:** Interim and final erosion control plans shall be prepared and submitted to the Engineering Division of the Parks and Public Works Department. A maximum of two (2) weeks is allowed between clearing of an area and stabilizing/building on an area if grading is allowed during the rainy season. Interim erosion control measures, to be carried out during construction and before installation of the final landscaping, shall be included. Interim erosion control method shall include, but are not limited to: silt fences, fiber rolls (with locations and details), erosion control blankets, Town standard seeding specification, filter berms, check dams, retention basins, etc. Provide erosion control measures as needed to protect downstream water quality during winter months. The Town of Los Gatos Engineering Division of the Parks and Public Works Department and the Building Department will conduct periodic NPDES inspections of the site throughout the recognized storm season to verify compliance with the Construction General Permit and Stormwater ordinances and regulations.
- 30) **DUST CONTROL:** Blowing dust shall be reduced by timing construction activities so that paving and building construction begin as soon as possible after completion of grading, and by landscaping disturbed soils as soon as possible. Further, water trucks shall be present and in use at the construction site. All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the Town, or a minimum of three (3) times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites in order to insure proper control of blowing dust for the duration of the project. Watering on public streets shall not occur. Streets shall be cleaned by street sweepers or by hand as often as deemed necessary by the Town Engineer, or at least once a day. Watering associated with on-site construction activity shall take place between the hours of 8 a.m. and 5 p.m. and shall include at least one (1) late-afternoon watering to minimize the effects of blowing dust. All public streets soiled or littered due to this construction activity shall be cleaned and swept on a daily basis during the workweek to the satisfaction of the Town. Demolition or earthwork activities shall be halted when wind speeds (instantaneous gusts) exceed twenty (20) miles per hour (MPH). All trucks hauling soil, sand, or other loose debris shall be covered.
- 31) **AIR QUALITY:** To limit the project's construction-related dust and criteria pollutant emissions, the following the Bay Area Air Quality Management District (BAAQMD)-





**TOWN OF LOS GATOS**  
**PARKS AND PUBLIC WORKS COMMENTS**

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- recommended basic construction measures shall be included in the project's grading plan, building plans, and contract specifications:
- a) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day, or otherwise kept dust-free.
  - b) All haul trucks designated for removal of excavated soil and demolition debris from site shall be staged off-site until materials are ready for immediate loading and removal from site.
  - c) All haul trucks transporting soil, sand, debris, or other loose material off-site shall be covered.
  - d) As practicable, all haul trucks and other large construction equipment shall be staged in areas away from the adjacent residential homes.
  - e) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day, or as deemed appropriate by Town Engineer. The use of dry power sweeping is prohibited. An on-site track-out control device is also recommended to minimize mud and dirt-track-out onto adjacent public roads.
  - f) All vehicle speeds on unpaved surfaces shall be limited to fifteen (15) miles per hour.
  - g) All driveways and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - h) Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within forty-eight (48) hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. Please provide the BAAQMD's complaint number on the sign: 24-hour toll-free hotline at 1-800-334-ODOR (6367).
  - i) All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed twenty (20) miles per hour.
  - j) Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
- 32) **DETAILING OF STORMWATER MANAGEMENT FACILITIES:** Prior to the issuance of any grading or building permits, all pertinent details of any and all proposed stormwater management facilities, including, but not limited to, ditches, swales, pipes, bubble-ups, dry wells, outfalls, infiltration trenches, detention basins and energy dissipaters, shall be provided on submitted plans, reviewed by the Engineering Division of the Parks and Public Works Department, and approved for implementation.
- 33) **CONSTRUCTION ACTIVITIES:** All construction shall conform to the latest requirements of the CASQA Stormwater Best Management Practices Handbooks for Construction Activities and New Development and Redevelopment, the Town's grading and erosion control ordinance, and other generally accepted engineering practices for erosion control as required by the Town Engineer when undertaking construction activities.



**TOWN OF LOS GATOS**  
**PARKS AND PUBLIC WORKS COMMENTS**

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- 34) **SITE DRAINAGE:** No improvements shall obstruct or divert runoff to the detriment of an adjacent, downstream or down slope property.
- 35) **SILT AND MUD IN PUBLIC RIGHT-OF-WAY:** It is the responsibility of Contractor and homeowner to make sure that all dirt tracked into the public right-of-way is cleaned up on a daily basis. Mud, silt, concrete and other construction debris SHALL NOT be washed into the Town's storm drains.
- 36) **GOOD HOUSEKEEPING:** Good housekeeping practices shall be observed at all times during the course of construction. All construction shall be diligently supervised by a person or persons authorized to do so at all times during working hours. The Owner and/or Applicant's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in penalties and/or the Town performing the required maintenance at the Owner and/or Applicant's expense.
- 37) **PERMIT ISSUANCE:** Permits for each phase; reclamation, landscape, and grading, shall be issued simultaneously.
- 38) **COVERED TRUCKS:** All trucks transporting materials to and from the site shall be covered.

**Mike Weisz**  
Senior Civil Engineer  
[mweisz@losgatosca.gov](mailto:mweisz@losgatosca.gov)  
(408) 354-5236

## Gabrielle Whelan

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**From:** Gabrielle Whelan  
**Sent:** Monday, October 30, 2023 1:36 PM  
**To:** Lauri Deffenbaugh; Sean O'Neill  
**Cc:** Erin Walters; Lance Bayer; Robert Gray; Allen Meyer  
**Subject:** RE: 16660 Cypress Way, outstanding code violations

Hello, Ms. Deffenbaugh and Mr. O'Neill.

Since over three years have elapsed and conditions may have changed since 2020, the Town is starting its code enforcement procedures at the beginning with a site inspection.

Thank you.



### Gabrielle Whelan • Town Attorney

Town Attorney's Office • 110 E Main Street, Los Gatos, CA 95030  
Desk: 408.354.6818 • [gwhelan@losgatosca.gov](mailto:gwhelan@losgatosca.gov)  
[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

**From:** Lauri Deffenbaugh <[REDACTED]>  
**Sent:** Friday, October 27, 2023 1:56 PM  
**To:** Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)>  
**Cc:** Gabrielle Whelan <[GWhelan@losgatosca.gov](mailto:GWhelan@losgatosca.gov)>; Sean O'Neill <[sean@oneillplc.com](mailto:sean@oneillplc.com)>; Erin Walters <[EWalters@losgatosca.gov](mailto:EWalters@losgatosca.gov)>; Lance Bayer <[bayer.lance@gmail.com](mailto:bayer.lance@gmail.com)>; Robert Gray <[RGray@losgatosca.gov](mailto:RGray@losgatosca.gov)>  
**Subject:** Re: 16660 Cypress Way, outstanding code violations

[EXTERNAL SENDER]

Hi Allen,

In 2020, we agreed with Lynne Lampros that we would get the walls permitted, then we would discuss what other areas need to get permitted.

Your request is a change of what we agreed to.

I will ask that our lawyer give the background on this also

Thank you.

On Fri, Oct 27, 2023 at 12:49 PM Allen Meyer <[AMeyer@losgatosca.gov](mailto:AMeyer@losgatosca.gov)> wrote:

Good afternoon Mrs. Deffenbaugh,

The Town of Los Gatos Code Compliance Division is restarting its investigation into the many code violations observed on your property in 2019. As stated in the July 17, 2019 Administrative Warning, the violations consist of new buildings, retaining walls, grading, interior remodeling, electrical, plumbing, and HVAC on the property without the benefit of a



permit. At this time, we are asking for your permission to conduct an exterior and interior inspection of the property as Code Compliance has not been permitted on the property to inspect. The interior inspection will consist in inspecting the treehouse ADU, the two accessory structures adjacent to the treehouse ADU, and the garage. Additional staff from the Building, Planning, and Engineering Departments shall accompany me on this inspection so we can be as thorough as possible. The exterior inspection will consist of the exterior property area.

Additionally, it has been recently brought to our attention that a crack has formed in your driveway. Accordingly, we would like to have a Public Works Engineer inspect the crack to get an understanding of what might be causing it.

Please contact me no later than November 10, 2023, with a few possible dates/times for the Town to visit the property for inspection. I can be reached at [ameyer@losgatosca.gov](mailto:ameyer@losgatosca.gov) or 408-399-5746.

Respectfully yours,



**Allen Meyer • Code Compliance Officer**

Community Development Department • 110 E Main Street, Los Gatos CA 95030

Ph: 408.399.5746 • [ameyer@losgatosca.gov](mailto:ameyer@losgatosca.gov)

[www.losgatosca.gov](http://www.losgatosca.gov) • <https://www.facebook.com/losgatosca>

Regular Code Compliance hours:

7:00 AM – 3:30 PM, Monday – Friday

All permit submittals are to be done online via our Citizen's Portal platform. All other services can be completed at the counter. For more information on permit submittal, resubmittal, and issuance, please visit the Building and Planning webpages.

CONFIDENTIALITY DISCLAIMER



December 13, 2023  
Job No. 21-213

Erin Walters - Associate Planner  
Town of Los Gatos - Planning Division  
110 E. Main Street  
Los Gatos, CA 95030

**Subject: Updated Letter of Justification  
16660 Cypress Way  
Architecture and Site Application S-21-024  
Unpermitted Grading Remediation**

Dear Erin:

This historic residence is merely 24' wide but was built precariously across an existing slope of 42%. The upper driveway and residence width was approximately 66' and sat across 24' of vertical difference from elevation 820 to 796. The house does comply with HDS&G standards for terracing of three floor levels to match the existing terrain with orientation parallel to contours.

However, the owners witnessed horrific wildfires in Southern California and as a matter of self-preservation created a broad fire break of 24' width below and immediately north of the home. That flattened area is now paved with asphalt to double as parking and circulation for a length of 110'. An excessively high gravity retaining wall was installed at an average height of 8' for a run of 90'. This wall height and continuous length is not in compliance with the HDS&G which limits height to 5' and length to 50'. A new 4' planter wall will be installed to mask the lower half of the wall with a planter width of approximately 3' at a 3:1 slope to reduce the upper wall to a compliant 5' exposed height.

In addition to the remedial work for refinement of the unpermitted grading work and walls, there will be fire protection enhancements installed:

1) Emergency Evacuation Roadway

The primary site access road is a shared driveway named Yung See San Fong Court. It is typically 12' wide with a moderately steep uphill gradient from Cypress of 400' length at 12.5% grade to the main residence. All of this driveway is compliant with Town of Los Gatos Hillside Standards. It remains to be seen how Central Fire will respond given their continuing misinterpretation of PRC 4290.

The driveway is shared with the adjoining residences at 16664 & 16668 Cypress and is at



**TOWN OF LOS GATOS**  
**PARKS AND PUBLIC WORKS COMMENTS**

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**STAFF TECHNICAL REVIEW**  
**Engineering Division**  
**January 31, 2024**

**ITEM:**     **16660 Cypress Way; APN: 532-23-106**  
              **Architecture and Site Application S-21-024**  
              Request for approval for site improvements requiring a grading permit on property zoned  
              HR-2-½.  
              **PROPERTY OWNER:** Theodore and Laurie Deffenbaugh  
              **APPLICANT:** Terence J. Szewczyk

**PROJECT PLANNER:** Erin Walters  
**LAST REVIEWED:** 8/25/2021

**DEFICIENCIES: (GENERAL)**

- 1) Please update the plan set to include an index sheet and adjacent properties labeled as to use or owner.
- 2) Please include grading sheets for original, existing conditions and proposed conditions.
- 3) For clarification, please include sheet(s) that shows individual site plans for the original conditions, existing conditions, and proposed improvements.
- 4) Since this project will create and/or replace more than 2,500 square feet of impervious area, completion of the NPDES Stormwater Compliance Small Projects Worksheet and implementation of at least one of the six low impact development site design measures it specifies will be required.
- 5) Please include detailed section cuts of the site with elevations.
- 6) Please provide a cut/fill site plan map with the various depths of cut/fill represented by differing colors. This should be a color-coded grid map with cut and fill depths that displays the earthwork quantities that were part of the previously completed grading activities and retaining wall construction.
- 7) Please update the site plans:
  - a) Illustrate and label all existing and planned development including but not limiting to building, driveway, walkway, decks, patios, trees, accessory structures, etc.
  - b) Provide a table of pre-existing and now current impervious areas, also identifying the square footage of impervious area that was created and/or replaced with the improvements.
  - c) List the total disturbed area in square feet or acre.
  - d) Show all trees that were removed or are planned to be removed.
  - e) Show existing/proposed utilities.
- 8) Please include/update grading plans:





**TOWN OF LOS GATOS**  
**PARKS AND PUBLIC WORKS COMMENTS**

- a) Provide a table of grading quantities with identification of individual areas of cut and fill (basement/cellar, driveway, pool, landscape, etc.). Include the maximum proposed cut and fill depths for each area per the Maximum Graded Cuts and Fills as found in Table 1 in Section III of the Town’s Hillside Development Standards and Guidelines.

Average Slope: _____	Earthwork/Agg (CY)		Max Cut/Fill Depth (ft)		(CY)	
Site Element	Cut	Fill	Cut	Fill	Import	Export
Driveway/Parking						
House Footprint						
Porch/Patio						
Garage						
Landscape						
Misc. Hardscape						
Basement/Cellar						
Pool						
Total						

- b) Additional existing topography and sections at the perimeter showing that the proposed improvements do not divert runoff or negatively affect the adjacent properties.
- c) Please show pad and finished floor elevation.
- d) Provide top and bottom of wall elevations for existing and proposed retaining walls at all endpoints, angle points and critical points.
- e) Provide spot grades at the corners of the residence and hardscapes, top and bottom of stairways, retaining walls, drainage features of the area, pad and finish floor elevations.
- f) Delineate the limit of grading/disturbed area.
- 9) Please ensure all fences are relocated along property lines.
- 10) Additional plan check comments are likely to be provided upon submittal of more complete plan set with the data and information requested.
- 11) A Soils Report for Geologic and Geotechnical Review is required. The report must discuss the geologic and seismic hazards and conclude that there is a geotechnically feasible building envelope on each proposed lot, in addition to providing geotechnical design recommendations. A deposit in the amount of **\$5,750.00** for report review along with a copy of the Report and Plan will be required for this step.
- 12) The scope of the project would lead to its classification as a Regulated Project per Provision C.3.b.ii. Please implement LID source control, site design, and stormwater treatment on-site in accordance with Provisions C.3.c. and C.3.d.



**TOWN OF LOS GATOS  
PARKS AND PUBLIC WORKS COMMENTS**

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**Please provide a compliance memorandum showing how all the deficiencies and comments have been addressed. PLEASE NOTE THAT COMMENTS/DEFICIENCIES LISTED ABOVE MAY NOT BE AN EXHAUSTIVE LIST OF ALL PLAN CHECK COMMENTS OR CONDITIONS.**

**GENERAL COMMENTS:**

- 1) Retaining walls shall include provisions for drainage.
- 2) Final grading plans shall include a complete erosion control plan. Interim erosion control measures, to be carried out during construction and before installation of the final landscaping, shall be included. Interim erosion control method shall include, but are not limited to: silt fences, fiber rolls (with locations and details), erosion control blankets, Town standard seeding specification, etc.

**REQUIRED AFTER PUBLIC HEARING APPROVAL/PRIOR TO PERMIT ISSUANCE:**

- 3) **Geotechnical Recommendations: TBD**
- 4) **C.3. Recommendations: TBD**
- 5) **Grading Permit:** Grading permit plans required. Please see items 238-256 in Town of Los Gatos Fee Schedule for pricing. More information provided in conditions of approval below and after DRC/PC approval.
- 6) **Tree Removal Permit:** Please send application materials to [trobnett-illges@losgatosca.gov](mailto:trobnett-illges@losgatosca.gov) to apply.

Corvell Sparks  
PPW Engineer  
[CSparks@losgatosca.gov](mailto:CSparks@losgatosca.gov)  
408.395.5340

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**TOWN OF LOS GATOS**  
**BUILDING DIVISION CONDITIONS OF APPROVAL**

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**STAFF TECHNICAL REVIEW**

**Building Division**

**January 30, 2024**

**ITEM: 16660 Cypress Way**  
**Architecture and Site Application S-21-024**  
Last reviewed August 24, 2021

Request for approval for site improvements requiring a grading permit on property zoned HR-2-1/2. APN: 532-23-106.

PROPERTY OWNER: Theodore and Laurie Deffenbaugh  
APPLICANT: Terence J. Szewczyk  
PROJECT PLANNER: Erin Walters

**GENERAL COMMENTS:**

1. A comprehensive plan review has not been completed for this project under consideration by the Development Review Committee or Town Council. Advisory Comments may be provided by the Building Division as part of a cursory review. Comprehensive Plan review will be part of the separate building permit application process. Once the Development Review Committee and/or Planning Commission approvals have been obtained and the requisite appeal period has passed, submit complete sets of construction drawings and documents to the Building Counter. No construction work can be commenced without an appropriate building permit.

**DEFICIENCIES:**

1. Include on the drawings, any unpermitted structures that require a Building Permit. Staff can confirm multiple retaining walls and detached structures that do not appear on the Town's record of Building Permits.
2. Structures less than 120 sq. ft. may be exempt from permitting requirements however they must still meet the requirements of CRC Section R337 Materials and Construction Methods for Exterior Wildfire Exposure. Any sub-trades such as electrical, mechanical, or plumbing will require a Building Permit. Regardless of size, these structures must be dimensioned and shown on the drawings.
3. Number and label all unpermitted retaining walls and provide a chart that defines the length and max height.
4. Pursuant to CRC Section R105.2 #3, all retaining walls supporting a surcharge require a Building Permit. Provide construction details of all unpermitted retaining walls including foundation, backfill, and drainage.
5. Provide a signed and stamped letter from a structural engineer stating that each unpermitted retaining wall is adequately constructed to minimum building code and/or accepted industry standard. If a structural engineer is unable to provide this confirmation letter, a detailed plan to modify or remediate the unpermitted walls will be required at the Building Permit submittal.
6. The concrete stairs located to the east of the main structure must comply with CRC Section 311.7 and be accurately shown on the submitted drawings.

7. Walkway shown above the cellar to the south of the main structure appears to be located on the neighboring property. Provide easement, and details of construction including guards where fall is greater than 30" measured 36" horizontal from edge of the open side.

**DRAFT CONDITIONS:**

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:  
(Building Division)

1. PERMITS REQUIRED: A Building Permit will be required for all structures exceeding 120 sq. ft. and all retaining walls that support a surcharge.
2. APPLICABLE CODES: The current codes, as amended and adopted by the Town of Los Gatos as of January 1, 2023, are the 2022 California Building Standards Code, California Code of Regulations Title 24, Parts 1-12, including locally adopted Energy Reach Codes.
3. CONDITIONS OF APPROVAL: The Conditions of Approval must be blue lined in full on the cover sheet of the construction plans. A Compliance Memorandum shall be prepared and submitted with the building permit application detailing how the Conditions of Approval will be addressed.
4. SIZE OF PLANS: Minimum size 24" x 36", maximum size 30" x 42".
5. SOILS REPORT: A Soils Report, prepared to the satisfaction of the Building Official, containing foundation and retaining wall design recommendations, shall be submitted with the Building Permit Application. This report shall be prepared by a licensed Civil Engineer specializing in soils mechanics.
6. SHORING: Shoring plans and calculations will be required for all excavations which exceed five (5) feet in depth or which remove lateral support from any existing building, adjacent property, or the public right-of-way. Shoring plans and calculations shall be prepared by a California licensed engineer and shall confirm to the Cal/OSHA regulations.
7. FOUNDATION INSPECTIONS: A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project Building Inspector at foundation inspection. This certificate shall certify compliance with the recommendations as specified in the Soils Report, and that the building pad elevations and on-site retaining wall locations and elevations have been prepared according to the approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered Civil Engineer for the following items:
  - a. Building pad elevation
  - b. Finish floor elevation
  - c. Foundation corner locations
  - d. Retaining wall(s) locations and elevations
8. TITLE 24 ENERGY COMPLIANCE: All required California Title 24 Energy Compliance Forms must be blue-lined (sticky-backed), i.e. directly printed, onto a plan sheet.
9. TOWN RESIDENTIAL ACCESSIBILITY STANDARDS: New residential units shall be designed with adaptability features for single-family residences per Town Resolution 1994-61:
  - a. Wood backing (2" x 8" minimum) shall be provided in all bathroom walls, at water closets, showers, and bathtubs, located 34 inches from the floor to the center of the backing, suitable for the installation of grab bars if needed in the future.
  - b. All passage doors shall be at least 32-inch wide doors on the accessible floor level.
  - c. The primary entrance door shall be a 36-inch-wide door including a 5'x 5' level landing, no more than 1 inch out of plane with the immediate interior floor level and with an 18-inch clearance at interior strike edge.
  - d. A door buzzer, bell or chime shall be hard wired at primary entrance.



## BUILDING DIVISION CONDITIONS OF APPROVAL

10. **BACKWATER VALVE:** The scope of this project may require the installation of a sanitary sewer backwater valve per Town Ordinance 6.50.025. Please provide information on the plans if a backwater valve is required and the location of the installation. The Town of Los Gatos Ordinance and West Valley Sanitation District (WVSD) requires backwater valves on drainage piping serving fixtures that have flood level rims less than 12 inches above the elevation of the next upstream manhole.
11. **HAZARDOUS FIRE ZONE:** All projects in the Town of Los Gatos require Class A roof assemblies.
12. **WILDLAND-URBAN INTERFACE:** This project is located in a Wildland-Urban Interface High Fire Area and must comply with Section R337 of the 2019 California Residential Code, Public Resources Code 4291 and California Government Code Section 51182.
13. **PROVIDE DEFENSIBLE SPACE/FIRE BREAK LANDSCAPING PLAN:** Prepared by a California licensed Landscape Architect in conformance with California Public Resources Code 4291 and California Government Code Section 51182.
14. **PRIOR TO FINAL INSPECTION:** Provide a letter from a California licensed Landscape Architect certifying the landscaping and vegetation clearance requirements have been completed per the California Public Resources Code 4291 and Government Code Section 51182.
15. **SPECIAL INSPECTIONS:** When a special inspection is required by CBC Section 1704, the Architect or Engineer of Record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the Building Permit. The Town Special Inspection form must be completely filled-out and signed by all requested parties prior to permit issuance. Special Inspection forms are available from the Building Division Service Counter or online at [www.losgatosca.gov/building](http://www.losgatosca.gov/building).
16. **BLUEPRINT FOR A CLEAN BAY SHEET:** The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program Sheet (page size same as submitted drawings) shall be part of the plan submittal as the second page. The specification sheet is available at the Building Division Service Counter for a fee of \$2 or at ARC Blueprint for a fee or online at [www.losgatosca.gov/building](http://www.losgatosca.gov/building).
17. **APPROVALS REQUIRED:** The project requires the following departments and agencies approval before issuing a building permit:
  - a. Community Development – Planning Division: (408) 354-6874
  - b. Engineering/Parks & Public Works Department: (408) 399-5771
  - c. Santa Clara County Fire Department: (408) 378-4010
  - d. West Valley Sanitation District: (408) 378-2407
  - e. Local School District: The Town will forward the paperwork to the appropriate school district(s) for processing. A copy of the paid receipt is required prior to permit issuance.

Robert Gray, CBO, CASP  
Chief Building Official / ADA Coordinator  
[rgray@losgatosca.gov](mailto:rgray@losgatosca.gov)





# SANTA CLARA COUNTY FIRE DEPARTMENT

14700 Winchester Blvd., Los Gatos, CA 95032 | (408) 378-4010 | www.sccfd.org

PLAN REVIEW No. **24 0253**

BLDG PERMIT No.

## DEVELOPMENTAL REVIEW COMMENTS

### Plans and Scope of Review:

#### This project shall comply with the following:

The California Fire (CFC) & Building (CBC) Code, 2022 edition, as adopted by the Town of Los Gatos Town Code (LGTC), California Code of Regulations (CCR) and Health & Safety Code.

#### The scope of this project includes the following:

Proposed legalization of new retaining walls to an existing two-story single family dwelling. No work conducted on the existing house.

#### Plan Status:

No Fire Department Comments.

#### Plan Review Comments:

1. **Site to remain existing non-conforming**, future projects may require full water and access review, and be subject for PRC 4290 regulations.

**This review shall not be construed to be an approval of a violation of the provisions of the California Fire Code or of other laws or regulations of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of the fire code or other such laws or regulations shall not be valid. Any addition to or alteration of approved construction documents shall be approved in advance. [CFC, Ch.1, 105.3.6] S-21-024**

City	PLANS	SPECS	NEW	RMDL	AS	OCCUPANCY	CONST. TYPE	ApplicantName	DATE	PAGE
LGA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			Ts Civil Engineering	01/30/2024	1 OF 1
SEC/FLOOR	AREA	LOAD	PROJECT DESCRIPTION				PROJECT TYPE OR SYSTEM			
			Residential Development				Site Work			
NAME OF PROJECT						LOCATION				
SFR						16660 Cypress Way Los Gatos				
TABULAR FIRE FLOW						REDUCTION FOR FIRE SPRINKLERS	REQUIRED FIRE FLOW @ 20 PSI		BY	
									Ip, Kenny	

Erin Walters  
Job No. 21-213  
Page 2 of 2  
December 13, 2023

high risk failure for evacuation due to the single lane operation. Consequently, the Defenbaughs desire to create a second means of evacuation from their residence to Cypress Way at 660' northeast to exit onto Cypress Way just 250' east of the intersection with Phillips Avenue. That intersection provides further escape to the east or west depending on fire conditions.

2) Fire Protection System Upgrades

We will construct a new fire truck turnout near the southeast corner of the house. The Fire Department requires a 55' setback for their equipment but needs to reach all combustible construction within 150' of the turnout. Two new water tanks of 10,000 gallon fire and 5,000 gallon domestic will be installed above the upper driveway retaining wall. This will assure positive flow to the new wharf hydrant. Having a new fire truck staging area, wharf hydrant, and 15,000 gallons of water will greatly enhance fire safety for this delicate historic residence. Note that the water system will be continuously recharged by a 1" fire service at some 200' higher than the site itself.

While it is ultimately unfortunate that no grading and retaining wall permits were sought for this work, we are doing our best to recover and retrofit the good work that was installed. Should you have any questions or concerns please contact me at (408) 316-2696 or [terry@tscivil.com](mailto:terry@tscivil.com).

Sincerely,



TS/CIVIL ENGINEERING, INC.  
Terence J. Szewczyk, P.E. C35527  
Principal Engineer



**TOWN OF LOS GATOS  
CODE COMPLIANCE DIVISION**

---

May 22, 2024

Theodore and Lauri Deffenbaugh  
16660 Cypress Way  
Los Gatos, CA 95030

Dear Mr. and Mrs. Deffenbaugh,

On May 20, 2024, Judge Evette D. Pennypacker of the Superior Court of Santa Clara County issued a warrant and order for the inspection of the exterior portions of the premises known as 16660 Cypress Way, Los Gatos (APN #532-23-106), including any yards, and the interior portions of an accessory structure within the premises and commonly known as 16664 Cypress Way, Los Gatos, and all sheds pursuant to California Code of Civil Procedure section 1822.50. A copy of the warrant is attached.

Notice is further given that an inspection of the premises known as 16660 Cypress Way and 16664 Cypress Way, Los Gatos, may be made by employees of the Town of Los Gatos and other public agencies whose duties and responsibilities include the investigation, enforcement and abatement provisions of the Town of Los Gatos Code relating to building, housing, and fire safety within the limits described in the warrant.

Unless otherwise agreed upon by the Town of Los Gatos, the inspection shall occur on Friday **May 24, 2024, at 2:00 pm** or as soon thereafter as is reasonably practical.

Any person who willfully refuses to permit the inspection lawfully authorized by this warrant may be found guilty of a misdemeanor under the provisions of the Code of Civil Procedure section 1822.57.

If you have any questions, or if you have a request to reschedule, please contact me by calling 408-399-5746 or by emailing me at [ameyer@losgatosca.gov](mailto:ameyer@losgatosca.gov). The inspection cannot be rescheduled unless you have my prior approval. Further, we must return to court on June 4, 2024, so any rescheduling must occur prior to that date.

Respectfully yours,

A handwritten signature in cursive script that reads "Allen Meyer".

Allen Meyer  
Code Compliance Officer  
Town of Los Gatos

Cc: Gabrielle Whalen  
Sean O'Neill



Filed  
May 21, 2024  
Clerk of the Court  
Superior Court of CA  
County of Santa Clara  
24CV439135  
By: rburciaga

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SANTA CLARA

3  
4 In the matter of the Application of THE )  
5 TOWN OF LOS GATOS for )  
6 Inspection Warrant Re Premises at 16660 )  
7 Cypress Way, Los Gatos )  
8 )  
9 )  
10 )

NO. 24CV439135  
INSPECTION WARRANT  
(C.C.P. SECTION 1822.50)

11  
12 THE PEOPLE OF THE STATE OF CALIFORNIA, TO THE TOWN ATTORNEY FOR THE  
13 TOWN OF LOS GATOS and duly authorized representatives:

14 Upon good cause shown to the Court:

15 YOU ARE COMMANDED TO CONDUCT an inspection of the exterior portions of the  
16 premises known as 16660 Cypress Way, Los Gatos (APN #532-23-106), including any yards,  
17 and the interior portions of an accessory structure within the premises and commonly known as  
18 16664 Cypress Way, Los Gatos, and all sheds, pursuant to Code of Civil Procedure sections  
19 1822.50 et. seq. for the purpose of conducting an inspection pursuant to the Los Gatos Town  
20 Code provisions relating to health and safety.

21 Proof, by declaration having been made this day before me by Allen Meyer, that there is  
22 reason to believe that a condition of nonconformity exists on the premises located at 16660  
23 Cypress Way, Los Gatos (APN #532-23-106), with respect to substandard and dangerous  
24 building conditions in violation of the Los Gatos Municipal Code and the technical codes as  
25 adopted.

26 Proof, by declaration having been made this day before me by Allen Meyer that Sean  
27 O'Neill, the attorney representing the owner of the premises located at 16660 Cypress Way, Los  
28 Gatos, has been requested to consent to inspection and has refused and has failed to give

1 permission to allow code enforcement officers to conduct the inspection of said premises under  
2 circumstances that reasonably justifying the failure to seek such consent.

3 The inspection pursuant to this warrant may be made during the hours of 8:00 a.m. and  
4 6:00 p.m. and during the period from the date of issuance of this warrant to and including the  
5 date fourteen (14) days thereafter.

6 The inspection shall be conducted by means of observation of physical conditions or  
7 processes and may be recorded through photographs, videotape, or other means. The inspection  
8 shall be conducted for the duration necessary to ascertain compliance with Los Gatos Municipal  
9 Code provisions relating to health and safety. Inspection of the entirety of the premises is hereby  
10 authorized, including any motor vehicles or yards.

11 Inspection of the premises shall be made by employees of the Town of Los Gatos whose  
12 duties and responsibilities include the investigation, enforcement and abatement provisions of the  
13 Los Gatos Municipal Code relating to health and safety violations, including the code  
14 compliance officer and any outside contractors or support personnel necessary to carry out the  
15 provisions of this warrant and order. The personnel authorized to inspect the premises may be  
16 accompanied by sworn members of the Los Gatos/Monte Sereno Police Department to ensure  
17 the security of the personnel conducting the inspection. The sworn members shall not conduct  
18 any inspection of the premises other than observations made in the course of providing for the  
19 security of the personnel conducting the inspection.

20 This warrant maynot be executed by means of forcible entry by authority of Code of  
21 Civil Procedure section 1822.56.

22 A return to this warrant shall be made within fourteen (14) days from its issuance. Any  
23 person who willfully refuses to permit the inspection authorized by this warrant may be found to  
24 be guilty of a misdemeanor under Code of Civil Procedure section 1822.57.

25 Given under my hand, and dated this . May 20, 2024

26  
27 

28  
JUDGE  
Hon. Evette D. Pennypacker

1 GABRIELLE WHELAN, Town Attorney (SBN #173608)  
2 LANCE BAYER, Special Counsel (SBN #81549)  
3 110 East Main Street  
4 Los Gatos, California 95030  
Attorneys for Applicant  
TOWN OF LOS GATOS

**Electronically Filed  
by Superior Court of CA,  
County of Santa Clara,  
on 6/3/2024 5:02 PM  
Reviewed By: A. Rodriguez  
Case #24CV439135  
Envelope: 15524558**

5 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
6 IN AND FOR THE COUNTY OF SANTA CLARA

7 In the matter of the Application of THE ) NO. 24CV439135  
8 TOWN OF LOS GATOS for )  
9 Inspection Warrant Re Premises at 16660 ) RETURN OF INSPECTION  
10 Cypress Way, Los Gatos ) WARRANT AND ORDER  
11 )

12 I, ROBERT GRAY, declare:

13 1. I am the Chief Building Official of the Town of Los Gatos (“Town”).

14 2. I arrived at 16660 Cypress Way on May 30, 2024 at approximately 8:55 a.m.  
15 pursuant to the Inspection Warrant issued by this Court. I was accompanied by Town Associate  
16 Planner Erin Walters and Town Senior Inspector Roy Alba.

17 3. We were provided access to the site by the owners, who were accompanied by  
18 legal counsel. We first inspected the interior of the ADU above the garage. I determined that the  
19 sleeping room lacked sufficient emergency egress and the bathroom window was not tempered as  
20 required in a wet hazard area. The front entrance deck, stairs, and railings are unstable and appear  
21 unsafe. The railings are far below minimum requirement and have openings exceeding a 4”  
22 diameter sphere.

23 4. We inspected the detached “office structure” beside the ADU. It did not appear to  
24 be used for sleeping. It did not appear to have a foundation or seismic restraint. The power is  
25 provided via an extension cord (possibly 12-gauge cord with ground). The structure is  
26 approximately 124 square feet with electrical therefore would require a building permit, however  
27 Planning will not allow the accessory structure in this zone.



1           5.       We inspected the interior and exterior of the storage structure behind the ADU. The  
2 primary use appears to be storage but is wired for electrical and plumbed for what may be a future  
3 restroom. When asked about the electricity to the structure, the property owner stated it was  
4 provided via a battery system and is not connected to permanent power. I was unable to determine  
5 the source or termination of the plumbing. The structure is approximately 197 sq. ft. with  
6 electrical and plumbing therefore would require a building permit, however Planning will not  
7 allow the accessory structure in this zone.

8           6.       We inspected the interior and exterior of the garage structure near the second living  
9 unit and pool. This structure is the source of current litigation and appeal between the property  
10 owner and adjacent neighbor. The structure appears to be a garage/storage with electrical provided  
11 from the second living unit. The structure is approximately 294 sq. ft. with electrical therefore  
12 would require a building permit, however it was confirmed today by the property owner's attorney  
13 that the structure crosses a property line boundary. The structure cannot remain in its current  
14 location therefore must be demolished..

15  
16           I declare under penalty of perjury under the laws of the State of California that the  
17 foregoing is true and correct.

18  
19 DATED: 6-3-2024

  
ROBERT GRAY

20  
21 Read and Reviewed:  
22  
23 DATED: \_\_\_\_\_

\_\_\_\_\_  
JUDGE

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25  
26  
27  
28

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## **SUMMARY OF SITE OBSERVATIONS**

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Date: May 30, 2024

Time: 9:00 am to 9:45 am

Address: 16660 Cypress Way, Los Gatos, CA

Zoned: HR-2-1/2 – Historic Site

Property Placed on the National Registry of Historic Places on 09/08/83

### **In Attendance:**

- Robert Gray, Town of Los Gatos, Chief Building Official
- Roy Alba, Town of Los Gatos, Senior Building Inspector
- Erin Walters, Town of Los Gatos, Associate Planner
- Ted Deffenbaugh, property owner
- Lauri Deffenbaugh, property owner
- Applicant's Attorney



**Detached Accessory Structure- Unpermitted Interior Improvements to a Permitted ADU on 2<sup>nd</sup> Floor/Over Garage**

- ADU permitted on 08-27-87 (D-85-7)
- Unpermitted interior improvements
- Action: Obtain building permits for unpermitted improvements.



**Detached Accessory Structure – Office behind Unpermitted ADU**

- Unpermitted with power
  - o Power is provided via extension cord from ADU
- Does not meet setbacks for an accessory structure in the HR-2-1/2 zone
- Building Size: Approx: 124 s.f.
- Building Height: Approx: 10 ft – 2 in.
- Action: Obtain demolition permit from Building Department and demolish structure



**Detached Accessory Structure – Storage to Adjacent to the Unpermitted ADU**

- Unpermitted
- Less than 5 feet between accessory structures
- Does not meet setbacks for an accessory structure in the HR-2-1/2 zone
- Building Size: Approx: 197 s.f.
- Building Height: Approx: 14 ft – 1 in.
- Action: Obtain demolition permit from Building Department and demolish structure







### Detached Accessory Structure – Garage next to Pool

- Unpermitted with power
- Crosses property line
- Does not meet setbacks for an accessory structure in the HR-2-1/2 zone
- Building Size: Approx: - 294 s.f.
- Building Height: 14ft
- Action: Obtain demolition permit from Building Department and demolish structure





Other Sheds Observed on Site





**Architecture and Site Application S-21-024 for Unpermitted Site Improvements Requiring a Grading Permit (Including Retaining Walls, Site Drainage, Grading and Tree Removal)**

- Erin Walters, Associate Planner, asked for the status of the resubmittal of materials addressing the Staff Technical Review comments provided on January 31, 2024.
- Ted Defenbaugh, Property Owner, said he would check with the project Civil Engineer, Terry Szewczyk, on the status of resubmittal.
- Action: Code Enforcement to send a Compliance Order to resubmit required documents within 60 days or impose fines.





**TOWN OF LOS GATOS  
CODE COMPLIANCE DIVISION**

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July 8, 2024

Theodore and Lauri Deffenbaugh  
16660 Cypress Way  
Los Gatos, CA 95030

**Administrative Warning**

Re: Code violations at 16660 Cypress Way, Los Gatos

Due to the amount of time that has passed since the last Administrative Warning, the Town of Los Gatos Community Development Department is restarting its investigation into the code violations on the above referenced property. Regarding the Administrative Appeal requested on October 30, 2019, the Town of Los Gatos will be returning your advance deposit of \$200.00 and drop the associated citation due to the amount of time that has transpired.

On May 20, 2024, the Town of Los Gatos obtained an Inspection Warrant from the Santa Clara County Superior Court. On May 30, 2024, Community Development Department staff executed the Inspection Warrant and conducted an inspection of the ADU above a garage, an office structure beside the ADU, a storage structure behind the ADU, and a garage structure near a pool.

The following violations were observed during the inspection and need to be remedied:

1. During the inspection it was discovered that the sleeping room in the ADU lacked sufficient emergency egress, the bathroom window was not tempered as required in a wet hazard area, the front entrance deck, stairs, and railings are unstable and appear unsafe, the railings are far below minimum requirement and have openings exceeding a 4" diameter sphere. All of these items will need to be addressed in the permit. **Obtain a building permit including electrical, plumbing, and HVAC for the interior remodel of 16664 Cypress Way.**

2. The approximate 124 square foot office structure beside the ADU must be removed due to its inability to meet zoning setbacks. The unpermitted structure also has unpermitted and potentially hazardous electrical. **Obtain a demolition permit from the Building Department and demolish the structure.**
3. The approximate 197 square foot storage structure behind the ADU must be removed due to its inability to meet zoning setbacks. The unpermitted structure also contains unpermitted plumbing. **Obtain a demolition permit from the Building Department and demolish the structure.**
4. The approximately 294 square foot garage structure near the pool must be removed due to its inability to meet zoning setbacks and the structure crosses property lines. The unpermitted structure also contains unpermitted electrical. **Obtain a demolition permit from the Building Department and demolish the structure.**
5. **Resubmit Architecture and Site Application S-21-024 addressing the Staff Technical Review comments provided on January 31, 2024, by July 31, 2024, in order to avoid a penalty for late submittal (see below).** This Architecture and Site application is for all unpermitted site improvements including all retaining walls, site drainage, grading, and tree removals on the site.

\*Fees for Lack of Progress - If additional information is required by the Town for an application and the requested information is not submitted within 180 days, the applicant will be required to pay a fee of 10 percent of the current application fee at the time the requested information is submitted. Any re-submittal after one year will be processed as a new application, subject to new fees.

Pursuant to Town Code Section 6.150.010 (R 105.1) Permit Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

Pursuant to the Town of Los Gatos Hillside Development Standards and Guidelines:

#### VI. Site Elements

##### E. Accessory buildings, accessory dwelling units, pools, and sport courts.

###### Standards:

1. Accessory buildings and accessory dwelling units (ADUs) are permitted in compliance with the Town of Los Gatos Zoning Ordinance. Accessory buildings and ADUs shall have the same setback requirements as the main building in the hillside area.



Pursuant to Town Code Section 29.40.270. - Yards. The minimum yards in HR zones shall be as follows:

- (1) Front .....30 feet
- (2) Side .....20 feet
- (3) Rear .....25 feet
- (4) Side abutting street .....20 feet

Accordingly, we are asking that all the above bolded items be resolved by **September 8, 2024 (except for the Architecture and Site Application)**. Failure to comply may result in daily fines and/or any other available legal remedies. I can be reached at ameyer@losgatosca.gov or at 408-399-5746.

Respectfully yours,



Allen Meyer  
Code Compliance Officer  
Town of Los Gatos

cc: Lance Bayer, Special Council  
Gabrielle Whelan, Town Attorney  
Sean O'Neill, Esq.

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# Town of Los Gatos

## Administrative Warning/Citation

Code Compliance  
110 E. Main Street  
Los Gatos, CA 95030  
(408) 399-5746  
PLADMCIT

Date Issued: 9/16/24 Time: \_\_\_\_\_

Code Compliance Violation NO. VL- 19-362 Zone: \_\_\_\_\_

Violation Address: 16660 Cypress Way Town: Los Gatos State: CA Zip: 95030

Name (Responsible person/business): Theodore and Lauri Deffenbaugh

Mailing Address: \_\_\_\_\_

Town/City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  Same as Violation Address

Document Issued:  WARNING  CORRECTION NOTICE  ADMINISTRATIVE CITE

Issuing Department: CDD Compliance Date: 9/8/24 Inspection Date: 9/13/24

**The total penalty is now due. Instructions for payment are listed on reverse page.**

### In order to comply with the Los Gatos Town Code, you will need to:

Obtain building permit for ADU remodel at 16664 Cypress Way. Obtain demolition permit and demolish approximately 124 sf office structure beside ADU, 197 sf storage structure behind ADU, and 294 sf garage structure adjacent to pool. Obtain retaining wall permit for unpermitted retaining walls. Obtain grading permit for unpermitted grading. Violations are accrued on a daily basis after the compliance date. \$100.00 for first violation, \$250.00 for second violation, \$500.00 for every violation thereafter. This citation is for September 9-13, 2024. \*See attached for breakdown

Code Section	Description	Penalty Amount
6.150.010 (R105.1)	Permit required (4 buildings, 1 retaining wall)	\$9250.00
12.20.010	Grading permit required (grading associated with retaining walls and roadways)	\$1850.00

Photos Taken: (Circle one)  YES / NO Quantity: 3 photos Total: **\$11,100.00**

Appeal of this Administrative Citation may be made by filling out a Hearing Request. Contact the Town of Los Gatos Community Development Department, 110 E. Main Street, Los Gatos, CA 95030 or by e-mail at [CodeCompliance@LosGatosCA.gov](mailto:CodeCompliance@LosGatosCA.gov) for an application. Additional citations may be issued each day the violation exists.

NOTE: PERMIT(S) FROM THE PLANNING, BUILDING AND/OR PARKS AND PARKS AND PUBLIC WORKS DEPARTMENTS MAY ALSO BE REQUIRED FOR VIOLATIONS INVOLVING STRUCTURES, GRADING, ENCROACHMENTS AND TREE REMOVALS. WORK PERFORMED WITHOUT THE REQUIRED PERMIT(S) AND TOWN INSPECTION IS A VIOLATION OF THE TOWN OF LOS GATOS TOWN CODE AND WILL NOT QUALIFY AS COMPLIANCE.

Issuing Official: Allen Meyer Badge/Title NO.: Code Compliance Officer

Signature:  Date: 9/16/24 Phone: 408-399-5746

Signature: \_\_\_\_\_ Print Name: \_\_\_\_\_

Proof of Service: Via US Mail and email on September 16, 2024



Order: You are ordered to immediately cease the commission of the Town Code violation(s) listed on the front of this Administrative Citation.

Administrative Citation: Pursuant to Chapter 1.30.010 through 1.30.070 of the Town of Los Gatos Town Code, if you continue to repeat the commission of the Town Code violation(s) listed on this Administrative Citation, the Town may issue you another Citation or pursue any other legal remedy available to the Town against you.

Payment of Penalty: The amounts of the penalties for code violation(s) of the Los Gatos Town Code are listed on the front of this Administrative Citation. The penalty shall be paid to the Town within thirty (30) days from the date of the Administrative Citation.

You may pay and deliver the Administrative fine(s) to the Town by mail or in person at the Town of Los Gatos Finance Department, 110 E. Main Street, Los Gatos, CA 95030. Payment should be in the form of a personal check payable to the Town of Los Gatos or cash. Unless you have requested a hearing to contest the Administrative Citation, you will be subject to the imposition of a 10% late payment penalty, plus interest, if you fail to pay the Administrative fine(s) by the due date. Payment of Administrative fines does not excuse or discharge any continuation or repeated occurrence of the Town Code violation(s) listed on this Administrative Citation.

Hearing Request: Any recipient of an Administrative Citation may appeal the Citation by completing a hearing request form and returning it to the Town within thirty (30) days from the date of the Administrative Citation together with an advance deposit of the total penalty amount or advance deposit hardship waiver (explained below) application form as described in Section 1.30.035. The Hearing Request form can be obtained by calling (408) 399-5746 or from the Town of Los Gatos Community Development Department, 110 E. Main Street, Los Gatos, CA 95030. You will be notified of the date and time set for your hearing at least ten (10) days prior to the date of the hearing. If you fail to appear at your hearing, this failure shall constitute a forfeiture of the penalty and no further administrative remedy is available.

Advance Deposit Hardship Waiver: Any person who intends to request a hearing to appeal an Administrative Citation, and who is financially unable to make the advance deposit of the penalty as required in Section 1.30.070, may file a request for an advance deposit hardship waiver which shall include a sworn affidavit. The waiver form can be obtained at the Town of Los Gatos Community Development Department, 110 Main Street, CA 95030. The decision to waive this requirement is made by the Town Manager. The request shall be filed, along with the request for hearing form, with the Town Attorney's Office on an advance deposit hardship waiver application form, available from the Town of Los Gatos Community Development Department, within thirty (30) days of the date of the Administrative Citation.

Late Payment Charges: Any person who fails to pay to the Town any penalty imposed pursuant to the provision of this Article on or before the date that penalty is due also shall be liable for the payment of any applicable late payment charges set forth in the schedule of penalties.

Right to Judicial Review: Any person aggrieved by an administrative decision of the Hearing Officer on an Administrative decision by filing a petition for review with the Supreme Court in Santa Clara County in accordance with the time and provision set forth in California Government Code Section 53069.4.



**TOWN OF LOS GATOS  
CODE COMPLIANCE DIVISION**

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September 16, 2024

Theodore and Lauri Deffenbaugh  
16660 Cypress Way  
Los Gatos, CA 95030

Re: Code violations at 16660 Cypress Way, Los Gatos

On July 8, 2024, an Administrative Warning was issued to you regarding the necessity of a building permit for a remodel of the ADU above the garage, a demolition permit for a 124 square foot office structure, a demolition permit for 197 square foot storage structure, and a demolition permit for 294 square foot garage structure.

On July 17, 2019, an Administrative Warning was issued regarding the necessity of a retaining wall permit and grading permit for the unpermitted retaining wall work. An Architectural and Site Application was applied for on July 9, 2021, for the unpermitted grading and retaining walls. The Town provided Technical Review comments on January 31, 2024, with a reply date of July 31, 2024. No re-submittals have been received to date.

Below is the dollar amount breakdown of the citation issued on September 16, 2024. Violations are accrued on a daily basis after the compliance date. \$100.00 for first violation, \$250.00 for second violation, \$500.00 for every violation thereafter.

Four demolition permits and one retaining wall permit (September 9-13, 2024):

September 9, 2024- five permits x \$100.00 = \$500.00  
September 10, 2024- five permits x \$250.00=\$1250.00  
September 11, 2024- five permits x \$500.00=\$2500.00  
September 12, 2024- five permits x \$500.00=\$2500.00  
September 13, 2024- five permits x \$500.00=\$2500.00  
=\$9250.00

One grading permit (September 9-13, 2024):

September 9, 2024 - one permit x \$100.00 = \$100.00  
September 10, 2024 - one permit x \$250.00=\$250.00  
September 11, 2024 - one permit x \$500.00=\$500.00  
September 12, 2024 - one permit x \$500.00=\$500.00  
September 13, 2024 - one permit x \$500.00=\$500.00  
=\$1850.00

I can be reached at [ameyer@losgatosca.gov](mailto:ameyer@losgatosca.gov) or at 408-399-5746 if you should have any questions.

Respectfully yours,

A handwritten signature in cursive script that reads "Allen Meyer".

Allen Meyer  
Code Compliance Officer  
Town of Los Gatos

cc: Lance Bayer, Special Council  
Gabrielle Whelan, Town Attorney  
Sean O'Neill, Esq.





09/13/2024 15:17





09/13/2024 15:16







**DECLARATION OF SERVICE BY MAIL**

State of California, County of Santa Clara

I am employed in the County of Santa Clara, State of California. I am over the age of eighteen (18) and not a party to the within cause or claim. My business address is 110 E. Main Street, Los Gatos, CA 95030.

**Alternative No. 1**

I served the foregoing document \_\_\_\_\_ (Name of Document) by depositing a true copy thereof in the United States mail in \_\_\_\_\_ (Location), State of California, on \_\_\_\_\_, enclosed in a sealed envelope, with fully prepaid postage thereon, addressed as follows: (Name and Address of Claimant)  
\_\_\_\_\_  
\_\_\_\_\_

**Alternative No. 2**

I am familiar with the practice of Town of Los Gatos's (Name of Entity) collection and processing of correspondence for mailing within the United States Postal Service. Under that practice, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing. I placed the foregoing document \_\_\_\_\_ (Name of Document) by placing a true copy thereof for collection and mailing, in the course of ordinary business practice, with other correspondence of Town of Los Gatos (Name of Entity), located at 16660 Cypress Way (citation) (Entity Address), on September 16, 2024, enclosed in a sealed envelope, with fully prepaid postage thereon, addressed as follows: (Name and Address of Claimant)  
Theodore and Lauri Deffenbaugh, 16660 Cypress Way, Los Gatos, CA 95030  
\_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Los Gatos (City), California, on September 16, 2024 (Date)

Allen Meyer  
(Type or Print Name)

  
(Signature)

# Property Detail Report

For Property Located At :  
16660 CYPRESS WAY, LOS GATOS, CA 95030-7531



## Owner Information

Owner Name: DEFFENBAUGH THEODORE E/DEFFENBAUGH LAURI A  
Mailing Address: 16660 CYPRESS WAY, LOS GATOS CA 95030-7531 C014  
Vesting Codes: //

Bldg Card: 000 of 002

## Location Information

Legal Description: LOT 2  
County: SANTA CLARA, CA APN: 532-23-106  
Census Tract / Block: 5070.02 / 2 Alternate APN:  
Township-Range-Sect: Subdivision: DAVIS & COWELL  
Legal Book/Page: Map Reference: 71-A6 /  
Legal Lot: 2 Tract #:  
Legal Block: School District: LOS GATOS UN  
Market Area: 16 School District Name: LOS GATOS UN  
Neighbor Code: Munic/Township: TOWN OF LOS GATOS

## Owner Transfer Information

Recording/Sale Date: / Deed Type:  
Sale Price: 1st Mtg Document #:  
Document #:

## Last Market Sale Information

Recording/Sale Date: 10/05/2016 / 09/27/2016 1st Mtg Amount/Type: \$2,400,000 / CONV  
Sale Price: \$3,200,000 1st Mtg Int. Rate/Type: /  
Sale Type: FULL 1st Mtg Document #: 23453987  
Document #: 23453986 2nd Mtg Amount/Type: /  
Deed Type: GRANT DEED 2nd Mtg Int. Rate/Type: /  
Transfer Document #: Price Per SqFt: \$620.52  
New Construction: Multi/Split Sale:  
Title Company: CORNERSTONE TITLE CO  
Lender: WELLS FARGO BK NA  
Seller Name: WATSON MARGARET M

## Prior Sale Information

Prior Rec/Sale Date: 01/21/1998 / 12/31/1997 Prior Lender:  
Prior Sale Price: Prior 1st Mtg Amt/Type: /  
Prior Doc Number: 14019394 Prior 1st Mtg Rate/Type: /  
Prior Deed Type: GRANT DEED

## Property Characteristics

Gross Area:	5,157	Parking Type:	GARAGE	Construction:	WOOD
Living Area:	5,157	Garage Area:	660	Heat Type:	HEATED
Tot Adj Area:		Garage Capacity:		Exterior wall:	
Above Grade:		Parking Spaces:		Porch Type:	NONE
Total Rooms:	19	Basement Area:		Patio Type:	NONE
Bedrooms:	7	Finish Bsmnt Area:		Pool:	
Bath(F/H):	6 / 1	Basement Type:		Air Cond:	
Year Built / Eff:	1908 / 1908	Roof Type:		Style:	H-SHAPE
Fireplace:	/	Foundation:		Quality:	EXCELLENT
# of Stories:	3	Roof Material:		Condition:	AVERAGE
Other Improvements:	LAUNDRY ROOM				

## Site Information

Zoning:	HR110	Acres:	4.28	County Use:	RESID SINGLE FAMILY (01)
Lot Area:	186,437	Lot Width/Depth:	x	State Use:	
Land Use:	SFR	Res/Comm Units:	/	Water Type:	
Site Influence:			.	Sewer Type:	

## Tax Information

Total Value:	\$3,569,657	Assessed Year:	2023	Property Tax:	\$42,482.98
Land Value:	\$2,231,037	Improved %:	37%	Tax Area:	03050
Improvement Value:	\$1,338,620	Tax Year:	2023	Tax Exemption:	HOMEOWNER
Total Taxable Value:	\$3,562,657				

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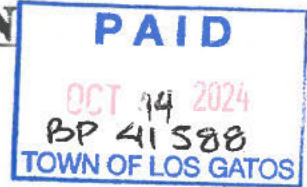




TOWN OF LOS GATOS

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

**ADMINISTRATIVE CITATION  
HEARING REQUEST FORM**



**PLEASE TYPE or PRINT NEATLY**

I, the undersigned, do hereby appeal the Administrative Citation and/or Correction Notice as follows:

CASE NUMBER: No Case # found on citation / see attached

DATE CITATION ISSUED: 9/16/24

TOTAL AMOUNT DUE: \$ 11,100.00

LIST REASON(S) FOR THE APPEAL (attach additional sheets if more space is needed):

See attached letter from lawyer

**IMPORTANT:**

1. HEARING REQUEST FORM **MUST** BE RETURNED TO THE TOWN WITHIN THIRTY (30) DAYS FROM THE DATE OF THE ADMINISTRATIVE CITATION AND/OR CORRECTION NOTICE, TOGETHER WITH AN ADVANCE DEPOSIT OF THE TOTAL PENALTY AMOUNT OR ADVANCE DEPOSIT HARDSHIP WAIVER APPLICATION.
2. YOU WILL BE NOTIFIED IN WRITING OF THE DATE, TIME & LOCATION OF YOUR HEARING AT LEAST TEN (10) DAYS PRIOR TO THE DATE OF YOUR HEARING
3. IF YOU FAIL TO APPEAR AT YOUR HEARING, THIS FAILURE SHALL CONSTITUTE A FORFEITURE OF THE PENALTY AND NO FURTHER ADMINISTRATIVE REMEDY IS AVAILABLE.

**RETURN HEARING REQUEST FORM TO COMMUNITY DEVELOPMENT**

PRINT NAME: Lauri Deffenbaugh SIGNATURE Lauri Deffenbaugh

DATE COMPLETED: 9/16/24 MAILING ADDRESS: 16660 Cypress Way, LG 95030

CITY: Los Gatos STATE: CA ZIP: 95030

PHONE NO.: [REDACTED]  
But please contact lawyer as per attached form

VIOLATION ADDRESS: 16660 Cypress Way  
Los Gatos, CA 95030



# Town of Los Gatos

## Administrative Warning/Citation

Code Compliance  
110 E. Main Street  
Los Gatos, CA 95030  
(408) 399-5746  
PLADMCIT

**PAID**  
OCT 14 2024  
BP 41588  
TOWN OF LOS GATOS

Date Issued: 9/16/24 Time: \_\_\_\_\_

Code Compliance Violation NO. VL- 19-362 Zone: \_\_\_\_\_

Violation Address: 16660 Cypress Way Town: Los Gatos State: CA Zip: 95030

Name (Responsible person/business): Theodore and Lauri Deffenbaugh

Mailing Address: \_\_\_\_\_

Town/City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  Same as Violation Address

Document Issued:  WARNING  CORRECTION NOTICE  ADMINISTRATIVE CITE

Issuing Department: CDD Compliance Date: 9/8/24 Inspection Date: 9/13/24

The total penalty is now due. Instructions for payment are listed on reverse page.

In order to comply with the Los Gatos Town Code, you will need to:

Obtain building permit for ADU remodel at 16664 Cypress Way. Obtain demolition permit and demolish approximately 124 sf office structure beside ADU, 197 sf storage structure behind ADU, and 294 sf garage structure adjacent to pool. Obtain retaining wall permit for unpermitted retaining walls. Obtain grading permit for unpermitted grading. Violations are accrued on a daily basis after the compliance date. \$100.00 for first violation, \$250.00 for second violation, \$500.00 for every violation thereafter. This citation is for September 9-13, 2024. See attached for breakdown

Code Section	Description	Penalty Amount
6.150.010 (R105.1)	Permit required (4 buildings, 1 retaining wall)	\$9250.00
12.20.010	Grading permit required (grading associated with retaining walls and roadways)	\$1850.00

Photos Taken: (Circle one)  YES / NO Quantity: 3 photos Total: **\$11,100.00**

Appeal of this Administrative Citation may be made by filing out a Hearing Request. Contact the Town of Los Gatos Community Development Department, 110 E. Main Street, Los Gatos, CA 95030 or by e-mail at [CodeCompliance@LosGatosCA.gov](mailto:CodeCompliance@LosGatosCA.gov) for an application. Additional citations may be issued each day the violation exists.

NOTE: PERMIT(S) FROM THE PLANNING, BUILDING AND/OR PARKS AND PUBLIC WORKS DEPARTMENTS MAY ALSO BE REQUIRED FOR VIOLATIONS INVOLVING STRUCTURES, GRADING, ENCROACHMENTS AND TREE REMOVALS. WORK PERFORMED WITHOUT THE REQUIRED PERMIT(S) AND TOWN INSPECTION IS A VIOLATION OF THE TOWN OF LOS GATOS TOWN CODE AND WILL NOT QUALIFY AS COMPLIANCE.

Issuing Official: Allen Meyer Badge/Title NO.: Code Compliance Officer

Signature: *Allen Meyer* Date: 9/16/24 Phone: 408-399-5746

Signature: \_\_\_\_\_ Print Name: \_\_\_\_\_

Proof of Service: Via US Mail and email on September 16, 2024



415.956.2828 (t) Robert Dollar Building  
415.956.6457 (f) 311 California Street, 10th  
Flr.  
San Francisco CA 94104  
202.777.8950 (t) 1500 K Street, NW, Suite  
800  
202.347.8429 (f) Washington DC 20005

## ROGERS JOSEPH

Richard M. Harris  
415.365.5306 (d)  
rharris@rjo.com

October 14, 2024

### **VIA E-MAIL AND HAND DELIVERY**

CodeCompliance@LosGatosCA.gov

Town of Los Gatos Community Development Department  
110 E Main Street  
Los Gatos, CA 95030

Re: Appeal of citation issued by Town of Los Gatos

The Deffenbaughs, through counsel, appeal the administrative citation received by email on September 16, 2024. The Deffenbaughs object to the citation's issuance. There is no factual basis to support any of the citations claimed violations. The Deffenbaughs further object to the issuance of the citation on the following grounds:

1. The administrative citation process violates the Deffenbaughs' due process rights.
2. The administrative citation process violates section 1.8.8.1 of the building code, as the Town of Los Gatos has not enacted and used an appropriate appellate procedure.
3. The procedure by which the hearing officer is chosen violates the Deffenbaugh's due process rights.
4. The "Administrative Warning" document sent by the Town of Los Gatos failed to adequately describe the alleged violations.
5. The citation fails to adequately describe the alleged violations.
6. The citation amount is excessive and in violation of the Deffenbaugh's due process rights and a violation of the 8<sup>th</sup> amendment of the US Constitution and Article I, section 17 of the California Constitution, as well as the Bane Act.
7. The evidence to be adduced at the hearing is inadmissible as it was gathered in violation of the Fourth Amendment of the US Constitution.



=Community Development Department  
10/10/2024  
Page 2

8. The citation claims that an inspection occurred on September 13, 2024. This inspection did not occur, and any such inspection was in violation of the Fourth Amendment of the US Constitution.
9. The Town is estopped from enforcing these alleged violations because it agreed to wait until the Deffenbaughs' civil litigation was complete.

This list is not intended to be exhaustive, and the Deffenbaughs reserve every defense. The Town must attempt to prove every element required to enforce its citation, as well as show that it is complying with the Federal, State, and local law. Please provide all supporting documentation you Town intends to rely on at the hearing with enough time for the Deffenbaughs to prepare for the hearing.

Please contact me at your earliest convenience to schedule the appropriate information exchange prior to any hearing.

Very truly yours,



Richard M. Harris

RMH:sci



**TOWN OF LOS GATOS  
CODE COMPLIANCE DIVISION**

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November 7, 2024

Theodore and Lauri Deffenbaugh  
16660 Cypress Way  
Los Gatos, California 95030

Theodore and Lauri Deffenbaugh  
c/o Richard M. Harris, Esq  
Rogers Joseph O'Donnell, a Professional Law Corporation  
311 California Street, 10th floor  
San Francisco, California 94104

**Notice of Administrative Appeal Hearing**

Dear Mr. and Ms. Deffenbaugh and Mr. Harris:

The Town has received your October 14<sup>th</sup> appeal of Administrative Citation VL-19-362 (16660 Cypress Way) issued by the Town on September 16, 2024.

An Administrative Appeal Hearing has been scheduled for Tuesday, December 3, 2024, at 7:00 p.m. or as soon thereafter as it may be heard in the Town Council Chambers located at 110 East Main Street, Los Gatos.

Pursuant to Town Code Section 1.30.040. - Hearing procedure.

(c) At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.

The Administrative Appeal Hearing will be heard by the Town Council acting in the combined capacity of hearing officer and in the capacity of a board of appeal.

Please feel free to contact me if you should have any questions at [ameyer@losgatosca.gov](mailto:ameyer@losgatosca.gov) or at 408-399-5746.

Respectfully yours,

A handwritten signature in cursive script that reads "Allen Meyer".

Allen Meyer  
Code Compliance Officer  
Town of Los Gatos



## DRAFT RESOLUTION

### RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS UPHOLDING AN ADMINISTRATIVE CITATION ISSUED TO THEODORE DEFFENBAUGH AND LAURI DEFFENBAUGH AND IMPOSING ADMINISTRATIVE COSTS

**WHEREAS**, Town staff conducted a site inspection of the property located at 16660 Cypress Way, Los Gatos, on May 30, 2024.

**WHEREAS**, During that inspection, Town staff observed four violations of Los Gatos Town Code section 6.150.010 (incorporating California Residential Code section R105.1), regarding unpermitted remodeling of a permitted accessory unit and regarding three unpermitted structures.

**WHEREAS**, During that inspection, Town staff observed a violation of Los Gatos Town Code section 12.20.010 regarding unpermitted grading associated with retaining walls and roadways.

**WHEREAS**, Town staff issued an administrative warning notice dated July 8, 2024, which notified Theodore and Lauri Deffenbaugh, the property owners, of the violations and provided them with an administrative warning and an opportunity to abate the violations.

**WHEREAS**, Town staff conducted a site inspection of the property located at 16660 Cypress Way, Los Gatos, on September 13, 2024 and determined that the violations of the Town Code had not been abated.

**WHEREAS**, Previous unsuccessful efforts by Town staff to abate violations of Town Code sections 6.150.010 (incorporating California Residential Code section R105.1) and 12.20.010 at 16660 Cypress Way, Los Gatos, included issuing two written administrative warnings to Theodore and Lauri Deffenbaugh dated July 17, 2019 and August 22, 2019.

**WHEREAS**, After Theodore and Lauri Deffenbaugh failed to abate the violations set forth in the abatement warning dated July 8, 2024, Town staff issued an administrative citation on September 16, 2024, imposing daily penalties, as authorized by the Town Code, in the amount of \$11,100.00.

**WHEREAS**, Town staff seek to recover costs of enforcement in the amount of \$5,824.26 according to proof as provided by the Town Code.

ATTACHMENT 24

**WHEREAS**, Theodore and Lauri Deffenbaugh requested and received a public hearing before the Town Council, on December 17, 2024, to appeal the administrative citation.

**NOW, THEREFORE, BE IT RESOLVED** that the Town Council of the Town of Los Gatos does hereby declare, determine, and order as follows:

1. The administrative citation issued to Theodore and Lauri Deffenbaugh on September 16, 2024 is UPHELD in the amount of \$11,100.00.
2. Administrative costs are imposed in the amount of \$5,824.26.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the    day of Month, Year, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

\_\_\_\_\_  
MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

\_\_\_\_\_  
TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA