

From: [Alison Steer](#)
To: [Ryan Safty](#); [Jennifer Armer](#)
Subject: Fwd: 17200 Los Robles Way LLA Application M-20-12 - Town Initiated Lot Mergers
Date: Monday, November 1, 2021 5:24:43 PM
Attachments: [image.png](#)
[image.png](#)
[image.png](#)
[image.png](#)
[image.png](#)
[Supporting Exhibits for Appeal of 17200 Los Robles Way LLA Application.pdf](#)
[17200 Los Robles Way - CEQA.pdf](#)

EXTERNAL SENDER

Hi Ryan,

Here is another submission for the public record.

----- Forwarded message -----

From: Alison Steer <[REDACTED]>
Date: Mon, Nov 1, 2021 at 4:49 PM
Subject: Fwd: 17200 Los Robles Way LLA Application M-20-12 - Town Initiated Lot Mergers
To: Marico Sayoc <[REDACTED]>, Matthew Hudes <[REDACTED]>, Rob Rennie <[REDACTED]>, Maria Ristow <[REDACTED]>, Mary Badame <[REDACTED]>

Dear Councilmembers,

I want to share below correspondence with you which has been submitted to public comment before the hearing tomorrow.

As we understand, this appears to be coming down to semantics with our Town Ordinance which the Town Attorney is unwilling to stand behind. It should not be up to residents of the Town of Los Gatos to ask or be made to sue the Town to enforce their ordinances, and as my land use consultant mentioned to me after the Sept 8th planning commission meeting " the town attorney is arguing against the Town's own ordinance? I've never seen that happen".

Note that we actually do not have a lot line adjustment ordinance, just a dinky flyer that references back to the subdivision maps act for more details. Nowhere on our site is the language of SMA 66412(d) written into an ordinance. Here it is:

<https://www.losgatosca.gov/DocumentCenter/View/348/Lot-Line-Adjustment-Handout?bidId=>

Why is that not the case for our lot merger ordinance? It seems very clear that we can follow the State's subdivision maps act directive section 66451.10 for involuntary mergers. Here again is the description of the Morehart vs Santa Barbara ruling and the concerns:

<https://law.justia.com/cases/california/supreme-court/4th/7/725.html>

"the act does impliedly preempt any local zoning ordinance provision that purports to require, as a condition to issuance of a development permit, a merger of parcels that the county **could not compel** under section 66451.11"

And here is an example of an involuntary lot merger ordinance, like other counties, cities and towns have implemented in California.

<https://www.codepublishing.com/CA/Palmdale/html/Palmdale16/Palmdale16130.html#16.130.020>

We feel that Town staff have failed the residents of the Town of Los Gatos by not protecting our property rights from developers who are using loopholes to get around formal subdivision of this land and CEQA review. Is our lot merger ordinance unenforceable because it's not written correctly? There has been ample opportunity by staff to address this, especially since neighbors of 11/15 Peralta Ave raised this to the Town Attorney and Community Development Director in 2019. Do the DRC staff know that one of their job responsibilities is to enforce lot mergers?

As a reminder, we are a general law city that operates under the general law of the state.

https://www.calcities.org/docs/default-source/new-mayors-and-council-members-academy---session-material/06.-your-legal-powers-and-obligations.pdf?sfvrsn=469dc9f9_3

Finally please see the Woodside Town Council meeting from Jan 2021 mentioned in my email to Mr Schultz below, and the requirements for complying with CEQA for minor lot line adjustments on land with >20% slope. This makes absolute sense given the landslide risk of the 17200 Los Robles Way property as submitted in the CEQA documentation, and using the common sense exemption to bypass CEQA is cheating the environment and wildlife out of their representation, especially given this land abuts Worcester Park, and is in a Wildland Urban Interface zone. Can it be said "with certainty" and "no probability" that there will be no impact by this Project which is not categorically exempt from CEQA? Is it reasonably foreseeable that there will be a development on this property? I hope you all had a chance to review the guidelines for complying with CEQA. Not all Lot Line adjustments are exempt.

Finally, let's take a look at the issues being raised by neighbors on the Bonnie Lane subdivision application that are being given ample consideration by CDAC. All arguments neighbors of 17200 Los Robles way are concerned with.

<https://www.losgatosca.gov/DocumentCenter/View/27478/03-10-21-Minutes---CDAC-Draft?bidId=>

Committee members discussed the matter and provided the following comments:

- Concerned about fire danger and safety as the property is within a Wildfire Urban Interface zone.
- Questioned whether the site is physically suitable for the development.
- Although there is enough room to meet the subdivision requirements, the proposal needs more work as evident by the neighborhood outcry and public comments. There are potential concerns related to fire safety and the riparian corridor. The applicant needs to meet with the neighbors. There may be another way to divide the property to retain one existing structure on each lot.
- The lot is a unique shape. Questioned whether this was the best way to divide the land. Ingress and egress were a concern until removed from the plan.
- This plan is at a very conceptual level with few details, so it is hard to give specific feedback. The plans need to address potential flood plains and identify the footprint and driveway locations. The lot appears to be quite large and the proposal appears to comply with zoning requirements. There is the potential for issues with neighbor privacy and neighborhood compatibility. Lot two is quite large, but the actual building site is small. The fact that there was nothing in this area before doesn't mean that the owner can't construct something in the future as is their right.

The Town of Los Gatos would be foolish to allow this lot line adjustment application to proceed based on the land not meeting the criteria listed in our lot merger ordinance and SMA 66451.11, which is intended to safeguard our Town from the creation of new buildable parcels from non-buildable lots. It will open up the Town to legal challenges, and result in illegal use of the LLA procedure to make non-conforming parcels into conforming parcels. Given we are all currently talking about General Plan 2040, this blatant disregard for the guidelines laid out in our Town Ordinance significantly reduces the credibility of the Town in the eyes of the residents.

Sincerely,
Alison and David Steer