

# Appeal of Lot Line Adjustment Application M-20-012 for 17200 Los Robles Way

Alison & David Steer



# Town of Los Gatos Lot Merger Procedures

## Sec. 29.20.745. - Development Review Committee.



The Development Review Committee shall:

- (11) Under the provisions of [section 29.10.070](#) of this chapter and section 66424.2 of the Subdivision Map Act, determine whether lots have merged.



## TOWN OF LOS GATOS LOT MERGER PROCEDURES

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Lot mergers are reviewed according to Section **66451.11** of the Government Code of the State of California.

# SMA 66451.11

**DIVISION 2. SUBDIVISIONS [66410 - 66499.38]** ( *Division 2 added by Stats. 1974, Ch. 1536.* )

**CHAPTER 3. Procedure [66451 - 66472.1]** ( *Chapter 3 added by Stats. 1974, Ch. 1536.* )

**ARTICLE 1.5. Merger of Parcels [66451.10 - 66451.24]** ( *Article 1.5 added by Stats. 1983, Ch. 845, Sec. 2.* )

**66451.11.**

A local agency **may**, by ordinance which conforms to and implements the procedures prescribed by this article, provide for the merger of a parcel or unit with a contiguous parcel or unit held by the same owner if any one of the contiguous parcels or units held by the same owner does not conform to standards for minimum parcel size, under the zoning ordinance of the local agency applicable to the parcels or units of land and if all of the following requirements are satisfied:

(b) With respect to any affected parcel, one or more of the following conditions exists:

- (1) Comprises less than 5,000 square feet in area at the time of the determination of merger.
- (2) Was not created in compliance with applicable laws and ordinances in effect at the time of its creation.
- (3) Does not meet current standards for sewage disposal and domestic water supply.
- (4) Does not meet slope stability standards.**
- (5) Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.**
- (6) Its development would create health or safety hazards.
- (7) Is inconsistent with the applicable general plan and any applicable specific plan, other than minimum lot size or density standards.

The ordinance may establish the standards specified in paragraphs (3) to (7), inclusive, which shall be applicable to **parcels to be merged.**

# SMA 66451.11 continued

(c) The owner of the affected parcels has been notified of the merger proposal pursuant to Section 66451.13, and is afforded the opportunity for a hearing pursuant to Section 66451.14.

For purposes of this section, when determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that notice of intention to determine status is recorded.

*(Amended by Stats. 1995, Ch. 162, Sec. 1. Effective January 1, 1996.)*

# Town of Los Gatos Code of Ordinances

## Zoning Regulations

### Sec. 29.10.070. - Lot merger.

- (a) A parcel of land does lawfully exist separately from other land and is a lot when the parcel meets each of the following criteria:
  - (1) Comprises at least five thousand (5,000) square feet in area.
  - (2) Was created in compliance with applicable laws and ordinances in effect at the time of its creation.
  - (3) Meets current standards for sewage disposal and domestic water supply.
  - (4) Meets slope stability standards.
  - (5) Has legal access which is adequate for vehicular and safety equipment access and maneuverability.
  - (6) Development of the parcel would create no health or safety hazards.
  - (7) The parcel would be consistent with the applicable general plan and any applicable specific plan, other than minimum lot size or density standards.
  - (8) No structures are built over a common property line which is shared with another parcel under the same or substantially the same ownership.
- (b) Any parcels under the same or substantially the same ownership that do not meet the criteria listed above **shall** be considered **merged**. In addition, no parcel **shall** be modified through a lot line adjustment procedure in order to meet the criteria listed above.
- (Ord. No. 1316, § 3.10.010, 6-7-76; Ord. No. 1337, 11-1-76; Ord. No. 1432, 6-4-79; Ord. No. 1438, 8-6-79; Ord. No. 1756, § 1, 8-1-88)

# Required Findings from DRC and Planning Commission

**PLANNING COMMISSION - September 8, 2021**

**REQUIRED FINDINGS FOR:**

**17200 Los Robles Way**

**Subdivision Application M-20-012**

**Consider an Appeal of a Development Review Committee Decision Approving a Lot Line Adjustment Between Three Adjacent Lots on Properties Zoned R-1:20. APNs 532-36-075, -076, and -077. PROPERTY OWNERS: Daren Goodsell, Trustee and Mark Von Kaenel. APPLICANT: Tony Jean. APPELLANTS: Alison and David Steer, Terry and Bob Rinehart, Nancy and Jim Neipp, Gary and Michelle Gysin, and Gianfranco and Eileen De Feo. PROJECT PLANNER: Ryan Safty.**

**Required findings for CEQA:**

- The project is not subject to the California Environmental Quality Act pursuant to the adopted Guidelines for the Implementation of CEQA, Section 15061(b)(3): A project is exempt from CEQA when the activity is covered by the common sense exemption that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Where it can be seen **with certainty** that there is **no possibility** that the activity in question will have a significant effect on the environment, the activity is not subject to CEQA. The project proposes to modify lot lines between three legal, adjacent parcels. **No development is proposed at this time.**



# Required Findings by DRC and Planning Commission

## Required findings to deny a Subdivision application:

- As required by Section 66474 of the State Subdivision Map Act the map shall be denied if any of the following findings are made: **None of the findings could be made to deny the application.**

Instead, the Planning Commission makes the following affirmative findings:

- a. That the proposed map is consistent with all elements of the General Plan.
- b. That the design and improvement of the proposed subdivision is consistent with all elements of the General Plan.
- c. That the site is physically suitable for the type of development.
- d. That the site is physically suitable for the proposed density of development.
- e. That the design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat.
- f. That the design of the subdivision and type of improvements is not likely to cause serious public health problems.

Town of  
Woodside  
specifies that  
LLA's for  
average slopes  
>20% are not  
exempt from  
CEQA

*California Environmental Quality Act (CEQA)*

CEQA Guidelines provide three main exemptions for Lot Mergers, Lot Line Adjustments, and divisions of land. Below is a summary of the three exemptions:

1. CEQA Guidelines Section 15300.1 – Ministerial Action: All ministerial permits that do not require any discretionary action are exempt from CEQA. For example, a Lot Merger application reviewed by Town staff shall be approved if it meets all Municipal Code development standards. Since Town staff must approve a Lot Merger that meets minimum standards, it would be considered a ministerial action and therefore be exempt from CEQA under Section 15300.1.
2. CEQA Guidelines Section 15305(a) – Minor Alterations to Land Use Limitation for an Lot Line Adjustment: A Lot Line Adjustment may be exempt from CEQA under Section 15305 if the gross average slope of all properties combined is less than 20%. A Lot Line Adjustment including steeper average slopes cannot be exempt from CEQA.
3. CEQA Guidelines Section 15315 – Minor Land Divisions: This Section exempts Land Divisions of properties into four or fewer parcels, in urbanized areas (defined by CEQA guidelines), zoned for residential or commercial use, consistent with the General Plan and zoning, with no exceptions required, having all services and access to the proposed parcel, having not been involved in a division of land in the previous two years, and not having an average slope greater than 20%, and not creating significant adverse environmental impacts.

It should be noted that CEQA Guidelines Section 15300.2 indicates that even if a CEQA exemption exists for a project, there could be certain circumstances in which a project could result in significant impacts, which would not allow the listed exemption to be used by the Town.



Santa Clara  
County Online  
Property  
Profile  
APN  
532-36-076

## Planning and Development Information

**APN:53236076 is incorporated (LOS GATOS).**

General Plan: USA

USA: Los Gatos (100%)

SOI: Los Gatos

Zoning: INCORPORATED

Supervisor District: 1

Approved Building Site: **Research needed to evaluate parcel as a Building Site**

## Special Area Policies and Information

- Los Gatos Hillside Specific Plan Area: IN
- Fire Responsibility Area: LRA (100%)
- Fire Protection District: Santa Clara County Central Fire Protection District
- Geohazard: County fault rupture hazard zone
- Geohazard: **County landslide hazard zone**
- Geohazard: **State seismic hazard zone (earthquake induced landslides)**
- Historic Parcel: NO
- FEMA Flood Zone: D (96.6%), X (3.4%)
- Sanitary District: West Valley Sanitation District
- Watershed: San Francisco Bay
- Rain isohyet: 27 inches
- Nearest named creek: ROSS CREEK (1111 feet)
- Nearest named lake: Vasona Reservoir (5551 feet)

# State CEQA Guidelines Section 15604(d)

## Determining the Significance of the Environmental Effects Caused by a Project

- In evaluating the significance of the environmental effect of a project, the lead agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.
- (1) A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project. Examples of direct physical changes in the environment are the dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment plant and possible odors from operation of the plant.
- (2) An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area due to the increase in sewage treatment capacity and may lead to an increase in air pollution.
- (3) An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable.

# Summary

- We are a General Law City that operates under the General Law of the State of California
- We **DO NOT** have a Lot Line Adjustment Ordinance, only a procedure handout referencing the Subdivision maps act 66412(d).
- We **DO** have a Lot Merger Ordinance and procedure which references Subdivision maps act 66451.11
- No evidence has been provided by the Town Attorney that supports his claim that Involuntary Lot Merger per 66451.11 is not enforceable, evidence to the counter says it **IS** enforceable!
- Evidence supporting that a non-buildable parcel can not be made buildable through lot line adjustment has also been submitted to the Town (see Burke Lot Line Adjustment)
- **The Town is blatantly breaking our Town's Laws if it approves this LLA application**
- The DRC and Town of Los Gatos **SHALL** follow merger procedures in accordance with our Town Ordinance and SMA 66451.11
- The Project is not exempt from CEQA due to average slopes >20% and reasonably foreseeable impact that would be caused by the project