

**DRAFT RESOLUTION 2025-\_\_**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
DENYING AN APPEAL OF THE DECISION OF THE PLANNING COMMISSION DENYING  
A REQUEST TO DEMOLISH AN EXISTING ACCESSORY STRUCTURE AND CONSTRUCT A  
NEW ACCESSORY STRUCTURE EXCEEDING 1,000 SQUARE FEET IN GROSS FLOOR  
AREA AND SITE IMPROVEMENTS REQUIRING A GRADING PERMIT ON PROPERTY  
ZONED HR-2½.**

**APN: 532-24-004  
ARCHITECTURE AND SITE APPLICATION: S-24-045  
PROPERTY LOCATION: 16511 CYPRESS WAY  
APPELLANT: SCOTT KOLANDER  
PROPERTY OWNERS: SCOTT AND JACKIE KOLANDER  
APPLICANT: MICHAEL HARRIS**

**WHEREAS**, on April 23, 2025, the Planning Commission held a public hearing and considered a request to demolish an existing accessory structure and construct a new accessory structure exceeding 1,000 square feet in gross floor area and site improvements requiring a grading permit on property zoned HR-2½;

**WHEREAS**, the Town Code Section 12.20.015 (b) requires applying for a grading permit for any land disturbance of fifty (50) cubic yards or greater of graded material (combined total of cut and fill);

**WHEREAS**, the Planning Commission was unable to make the required finding that the project was in compliance with the Hillside Development Standards and Guidelines due to the excessive depth of cut needed to construct the proposed accessory structure and denied the Architecture and Site application;

**WHEREAS**, Planning Commission decisions are appealable in accordance with Town Code Section 29.20.275, which requires that the appellant demonstrate error or abuse of discretion;

**WHEREAS**, abuse of discretion can be demonstrated if the decision was not based upon substantial evidence;

**WHEREAS**, on April 30, 2025, the appellant/property owner filed a timely appeal of the decision of the Planning Commission denying the request to demolish an existing accessory structure and construct a new accessory structure exceeding 1,000 square feet in gross floor area and site improvements requiring a grading permit on property zoned HR-2½, indicating that there was an error or abuse by the Planning Commission and that the Planning Commission's decision is not supported by substantial evidence in the record;

**WHEREAS**, this matter came before the Town Council for a public hearing on June 17, 2025, and was regularly noticed in conformance with state and Town law;

**WHEREAS**, the Town Council received testimony and documentary evidence from the appellant and all interested persons who wished to testify or submit documents. The Town Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of materials contained in the Council Agenda Report for their meeting on June 17, 2025, along with any and all subsequent reports and materials prepared concerning this application; and

**WHEREAS**, the Town Council was unable to make the findings required to grant an appeal of a decision of the Planning Commission.

**NOW, THEREFORE, BE IT RESOLVED:**

In accordance with Town Code section 29.20.275, the Town Council finds and determines that:

1. There was not an error or abuse of discretion by the Planning Commission in denying the Architecture and Site application, because the application did not comply with the Hillside Development Standards and Guidelines.
2. The Planning Commission decision is supported by substantial evidence in the record, including, but not limited to, cut and fill depths that exceed the standards, which are considered contrary to the objectives outlined in the HDS&G, and includes site improvements outside of the building footprint with grading quantities of 293 cubic yards.
3. The appeal of the decision of the Planning Commission denying a request to demolish an existing accessory structure and construct a new accessory structure exceeding 1,000 square feet in gross floor area and site improvements requiring a grading permit on property zoned HR-2½ is denied, and the application denial is upheld.
4. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure section 1094.6, or such shorter time as required by state and federal Law.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 17<sup>th</sup> day of June 2025, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

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MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

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

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