

Town of Los Gatos
110 E Main St,
Los Gatos CA 95030
Attn: Planning Commission

Revised: August 25th, 2021

17200 Los Robles Way, Los Gatos
Appeal Rebuttal re: LLA M 21-001

Commission Members:

I have updated this rebuttal based on receipt of the neighbors' letter August 22nd, 2021.

I have visited with all the neighbors who are adjacent to the property, except the Steers at 304 Harding Ave, who did not want to meet with me or discuss the project, and the common thread would appear to be one of privacy and not wanting to lose the park-like setting they have enjoyed for many decades. It is disappointing that we have to be here.

That said, I will address the various technical aspects of the Appeal [slideshow] point by point in this Rebuttal, as I cannot do so at the Hearing in a 5 minute presentation.

Statement/Slide by the Appellant:

CoC does not confer Building Rights. It just proves Legality.

Response: We agree - there are now 3 legal lots.

- | | | |
|-----------------------------|-------------|--------------------------------|
| 1. Parcel 1: APN 532-36-076 | 1.718 Acres | Owned by Mark VonKaenel |
| 2. Parcel 2: APN 532-36-077 | 0.258 Acres | Owned by Mark VonKaenel |
| 3. Parcel 3: APN 532-36-075 | 1.153 Acres | Owned by Thompson Family Trust |

Statement/Numerous Slides by the Appellant:

Are these really Buildable Lots?

Response: The issue of "Buildability" has been raised, but it should be noted that the Owners are not requesting to build - so it is **Not Relevant for This Hearing** - that will come later. But I will address why I do think that these 3 lots are "Buildable Parcels", generally - using the Appellants' 6-point criteria.

• **Parcel Legality.**

The CoC has recognized the Legality of the 3 lots.

• **Legal Access.**

The 'vacating' of the access by the Town reduces the street [Los Robles Way] from Public to Private - but it is still legal - for access to 075 [Thompson Trust] and 076/077 [Von Kaenel] via the defined easement. The RoW width is 20 ft - also legal.

• **Access to Water.**

San Jose Water presently provides water to the site along Los Robles Way. San Jose Water is also available in the public RoW at Worcester Lane.

• **Sanitation.**

The current home is on septic, but it is proposed that any new construction would tie in to WVSD sewer. There is a sewer main on the property.

- **Emergency Access.**

Emergency Vehicles absolutely CAN turn around at the Los Robles Way terminus on the parcel - and serve 075 and 076. APN-077 could also take access from Los Robles Way. The proposed configuration with the LLA would make Emergency Access simpler to all 3 parcels and is supported by SCFD for this application.

- **Site Safety/Geologic Hazards.**

Potential Geologic and Geotechnical concerns are addressed at the time of a Building Application through a comprehensive process involving Town Engineering and consultant Peer Reviews. Slopes in excess of 30% can be avoided on the present site. A JCP report is an advisory document only, produced without the benefit of any site visit, to alert the owner or any potential buyer of the property of potential hazards to investigate at the site.

Statement/Slide by the Appellant:

Merger of properties - per Los Gatos Town Code: 29.10.070 is Required.

Response: Appellant is suggesting that some of the properties should be considered "Merged" if any of the following 8 criteria are not met - **but they are all met.**

1. Parcels are all over 5,000 sf. [74,832, 11,226 & 50,239 SF]
2. Parcels were legal when created and a CoC issued by the Town was recorded.
3. Sewage Disposal [WVSD sewer on site]
4. Slope Stability [Building Permit Determination]
5. Legal Emergency Vehicle Access [20' RoW at Los Robles Way]
6. Health or Safety [A&S Hearing Determination]
7. Consistent with GP & Zoning - except for size. [Conforms]
8. No Building built across Property Line [House is completely on 076]

The Subdivision Map Act would require the Town to allow development of these parcels to be considered if a formal application were to be submitted.

Statement/Slide by the Appellant:

Napa County Code has three Criteria for non-buildability.

Response: So this would be allowed in Napa too!

1. Property is less than 2,400 sq ft
2. Parcel does not have Access to a Public Street.
3. Parcel does not contain a Building site 25' x 25'.

Statement/Two Slides by the Appellant:

Parcel 2: APN 532-36-077 has no Frontage or Legal Access

Response: The Legal Creation of Lot 077 was considered by the Town Consultant Surveyor, when the CoC was applied for and approved. An access corridor 'Flag Lot' to Harding Lane was reserved in the creation of this lot. This has since been quitclaimed [in 1980 per Appellant, to allow a neighbor to build a home on Harding Ave], but the legal access at Los Robles Way can provide frontage at any time the applicant [Von Kaenel] chooses to develop the parcel. I am not certain whether the Appellant is questioning the CoC approval with these slides but it is not relevant to this LLA application.

Statement/Two Slides by the Appellant:

Parcel 2: APN 532-36-077 has no Frontage, is only 50' wide and has no Buildable Area

Response: The Town of Los Gatos issued a Certificate of Compliance for 077. We have shown only the Frontages on Los Robles Way and Worcester Lane - as these will be applicable for the resulting parcels. 077 is only 50 Ft wide - which was conforming when it was created. The Appellant is also representing the LRDA as the only allowable building area on the property. It is not. It is desirable to stay within the LRDA, but not required.

Statement/Slide by the Appellant:

In its Processing, the DRC must review an LLA Application as to 3 items

Response: The implication by highlighting the word 'REMAIN' is that the Lot Frontage and Lot Depth need to be conforming initially, in order to Remain so. 077 was a legally created Flag Lot with Access and Frontage on Harding Ave. As such, in reality its 'Front from a Planning Perspective remains at 56.34 ft, its Depth is $(183.93+265.17)/2 = 224.55$ [legal, conforming]. But even if this were not the case, because it was legal, conforming when created - 'Remain' would still apply.

Statement/Slide by the Appellant:

In an earlier 'Listing' 2 Lots, both accessed from Los Robles Way were shown.

Response: It was clearly the intention of the Town that Worcester Lane would eventually continue past 'the fence'. If they had wanted to preclude access from Worcester Lane to the Property in Question, they would have terminated it with a cul-de-sac originally.

Slide by the Appellant:

Letter from Shelley Clifford Merrick and Jason Merrick

Response: When I met with Shelley at 246 Harding, we discussed the property behind her, which is 077. She asked if her fence could be moved to the property line, from its current location at the bottom of the hill. I spoke to Mark VonKaenel and he immediately agreed. Additionally, during any construction, 'debris collection' fencing should be placed along the hillside, in addition to standard erosion control measures. But that is for another day. This is not an LLA matter.

Statement/Slide by the Appellant:

View of 'Land-locked' 077 from 304 Harding Ave

Response: The one property I was unable to visit, unfortunately. It is not landlocked because it could be developed with Los Robles Access.

Statement/Slide by the Appellant:

A 2 ft high Planter, crossing a property line Merges a lot.

Response: No it does not. It does not even require a permit.

In Summary:

This is a simple application that takes 3 non-conforming legal parcels that are not optimal for development and adjusts the lot lines to address the requirements of the Town General Plan and R1:20 Zoning Laws. The owners have every right to propose Reasonable Improvements to their Property and the Town has an obligation to apply the objective criteria in the approval of this LLA per Town Code and the Subdivision Map Act.

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