

DRAFT RESOLUTION

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
DENYING AN APPEAL OF THE DECISION OF THE PLANNING COMMISSION
APPROVAL OF A REQUEST FOR CONSTRUCTION OF A NEW SINGLE-FAMILY
RESIDENCE AND SITE IMPROVEMENTS REQUIRING A GRADING PERMIT ON VACANT
PROPERTY ZONED HR-1 AND UPHOLDING THE APPROVAL.**

**APN 532-17-038
ARCHITECTURE AND SITE APPLICATION: S-24-037
PROPERTY LOCATION: 16497 S. KENNEDY ROAD
APPELLANTS: KENNETH MILLER AND APOORNA BAKSHI
PROPERTY OWNER: ROBERT NICOL
APPLICANT: CHRIS SPAULDING**

WHEREAS, on March 26, 2025, the Planning Commission held a public hearing and considered a request to construct a new single-family residence and site improvements requiring a Grading Permit on vacant property zoned HR-1, located at 16497 S. Kennedy Road. The Planning Commission approved the Architecture and Site application;

WHEREAS, on April 3, 2025, the appellants, interested persons, filed a timely appeal of the decision of the Planning Commission approving the request to construct a new single-family residence and site improvements requiring a Grading Permit on vacant property zoned HR-1 located at 16497 S. Kennedy Road;

WHEREAS, this matter came before the Town Council for public hearing on May 13, 2025, and was regularly noticed in conformance with State and Town law;

WHEREAS, the Town Council received testimony and documentary evidence from the appellants 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 May 13, 2025, along with any and all subsequent reports and materials prepared concerning this application; and

WHEREAS, Town Code Sections 29.20.275 and 29.20.295 provide that an appellant bears the burden of proof to demonstrate that there was error or abuse of discretion by the Planning Commission.

NOW, THEREFORE, BE IT RESOLVED:

In accordance with Town Code section 29.20.295, the Town Council finds that:

1. The appellants have not demonstrated that there was error or abuse of discretion by the Planning Commission in approving the Architecture and Site application.
2. The Town Council of the Town of Los Gatos does hereby declare, determine, and order that the following findings and considerations were properly made by the

Planning Commission:

Finding for the California Environmental Quality Act (CEQA):

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction.

Finding for compliance with the Zoning Regulations:

The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations).

Findings for compliance with the Hillside Development Standards and Guidelines:

The project complies with the Hillside Development Standards and Guidelines with the exceptions to grading depths, retaining wall heights, retaining wall length, and buildings located outside of the least restrictive development area because of existing site constraints, including topography and easements.

Findings for compliance with the Hillside Specific Plan:

As required, the project complies with the Hillside Specific Plan.

Considerations required in review of Architecture and Site applications:

As required by Section 29.20.150 of the Town Code, the considerations in review of an Architecture and Site application were all made in reviewing this project.

3. The Planning Commission decision is supported by substantial evidence in the record.
4. The appeal of the decision of the Planning Commission approving a request to construct a new single-family residence and site improvements requiring a Grading Permit on vacant property zoned HR-1, located at 16497 S. Kennedy Road, is denied and the application approval is upheld, subject to the attached Conditions of Approval (Exhibit A).
5. 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 special meeting of the Town Council of the Town of Los Gatos, California, held on the 13th day of May 2025, 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

TOWN COUNCIL – May 13, 2025
CONDITIONS OF APPROVAL

16497 S. Kennedy Road
Architecture and Site Application S-24-037

Consider a Request for Approval to Construct a New Single-Family Residence and Site Improvements Requiring a Grading Permit on Vacant Property Zoned HR-1. APN 532-17-038. Categorically Exempt Pursuant to CEQA Guidelines Section 15303: New Construction.

Property Owner: Robert Nicol
Applicant: Chris Spaulding
Project Planner: Jocelyn Shoopman

TO THE SATISFACTION OF THE COMMUNITY DEVELOPMENT DIRECTOR:

Planning Division

1. APPROVAL: This application shall be completed in accordance with all of the conditions of approval and in substantial compliance with the approved plans. Any changes or modifications to the approved plans and/or business operation shall be approved by the Community Development Director, Development Review Committee, or the Planning Commission depending on the scope of the changes.
2. EXPIRATION: The approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. LANDSCAPE SCREENING: To the satisfaction of the Community Development Department, the applicant shall meet with the neighbor located at 16515 S. Kennedy Road to select an agreeable tree species and height between the two parties to be planted in order to achieve privacy between the properties, with a preference for native trees per Appendix A of the Hillside Development Standards and Guidelines. Installation of the landscape screening shall be completed prior to occupancy.
4. WINDOWS: To the satisfaction of the Director of the Community Development Department, the applicant shall work with staff to reduce the proposed window heights on the southwest elevation or other methods, such as frosted or clerestory windows for achieving additional privacy, if possible.
5. OUTDOOR DECK: To the satisfaction of the Director of the Community Development Department, the applicant shall work with staff on the removal, reduction, or reorientation of the smaller deck along the southwest elevation.
6. OUTDOOR LIGHTING: Exterior lighting shall be kept to a minimum, and shall be down directed fixtures that will not reflect or encroach onto adjacent properties. No flood lights shall be used unless it can be demonstrated that they are needed for safety or security.
7. TREE REMOVAL PERMIT: A Tree Removal Permit shall be obtained for any trees to be removed, prior to the issuance of a building or grading permit.
8. EXISTING TREES: All existing trees shown on the plan and trees required to remain or to

- be planted are specific subjects of approval of this plan, and must remain on the site.
9. ARBORIST REQUIREMENTS: The developer shall implement, at their cost, all recommendations identified in the Arborist's report for the project, on file in the Community Development Department. These recommendations must be incorporated in the building permit plans and completed prior to issuance of a building permit where applicable.
 10. TREE FENCING: Protective tree fencing and other protection measures consistent with Section 29.10.1005 of the Town Code shall be placed at the drip line of existing trees prior to issuance of demolition and building permits and shall remain through all phases of construction. Include a tree protection plan with the construction plans.
 11. TREE STAKING: All newly planted trees shall be double-staked using rubber tree ties.
 12. LANDSCAPE SPECIES: All landscape species to be consistent with the Hillside Development Standards and Guidelines.
 13. FRONT YARD LANDSCAPE: Prior to issuance of a Certificate of Occupancy the front yard must be landscaped.
 14. WATER EFFICIENCY LANDSCAPE ORDINANCE: The final landscape plan shall meet the Town of Los Gatos Water Conservation Ordinance or the State Water Efficient Landscape Ordinance, whichever is more restrictive. A review fee based on the current fee schedule adopted by the Town Council is required when working landscape and irrigation plans are submitted for review.
 15. STORY POLES/PROJECT IDENTIFICATION SIGNAGE: Story poles and/or project identification signage on the project site shall be removed within 30 days of approval of the Architecture & Site application.
 16. EXTERIOR COLORS: The exterior colors of all structures shall comply with the Hillside Development Standards & Guidelines.
 17. DEED RESTRICTION: Prior to the issuance of a building permit, a deed restriction shall be recorded by the applicant with the Santa Clara County Recorder's Office that requires all exterior materials be maintained in conformance with the Town's Hillside Development Standards & Guidelines.
 18. MAINTENANCE AGREEMENT: Following the issuance of a certificate of occupancy, the property owner shall execute a five-year maintenance agreement with the Town that the property owner agrees to protect and maintain the trees shown to remain on the approved plans, trees planted as part of the tree replacement requirements, and guarantees that said trees will always be in a healthy condition during the term of the maintenance agreement.
 19. NESTING BIRDS: To avoid impacts to nesting birds, the removal of trees and shrubs shall be minimized to the greatest extent feasible. Construction activities that include any tree removal, pruning, grading, grubbing, or demolition shall be conducted outside of the bird nesting season (January 15 through September 15) to the greatest extent feasible. If this type of construction starts, if work is scheduled to start or if work already occurring during the nesting season stops for at least two weeks and is scheduled to resume during the bird nesting season, then a qualified biologist shall conduct a pre-construction surveys for nesting birds to ensure that no nests would be disturbed during project construction. If project-related work is scheduled during the nesting season (February 15 to August 30 for

small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other raptors), a qualified biologist shall conduct nesting bird surveys. Two surveys for active nests of such birds shall occur within 14 days prior to start of construction, with the second survey conducted with 48 hours prior to start of construction. Appropriate minimum survey radius surrounding each work area is typically 250 feet for passerines, 500 feet for smaller raptors, and 1,000 feet for larger raptors. Surveys shall be conducted at the appropriate times of day to observe nesting activities. If the qualified biologist documents active nests within the project site or in nearby surrounding areas, an appropriate buffer between each nest and active construction shall be established. The buffer shall be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified biologist shall conduct baseline monitoring of each nest to characterize "normal" bird behavior and establish a buffer distance, which allows the birds to exhibit normal behavior. The qualified biologist shall monitor the nesting birds daily during construction activities and increase the buffer if birds show signs of unusual or distressed behavior (e.g. defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). If buffer establishment is not possible, the qualified biologist or construction foreman shall have the authority to cease all construction work in the area until the young have fledged and the nest is no longer active.

20. SPECIAL-STATUS BATS: Approximately 14 days prior to tree removal or structure demolition activities, a qualified biologist shall conduct a habitat assessment for bats and potential roosting sites in trees to be removed, in trees within 50 feet of the development footprint, and within and surrounding any structures that may be disturbed by the project. These surveys will include a visual inspection of potential roosting features (bats need not be present) and a search for presence of guano within the project site, construction access routes, and 50 feet around these areas. Cavities, crevices, exfoliating bark, and bark fissures that could provide suitable potential nest or roost habitat for bats shall be surveyed. Assumptions can be made on what species is present due to observed visual characteristics along with habitat use, or the bats can be identified to the species level with the use of a bat echolocation detector such as an "Anabat" unit. Potential roosting features found during the survey shall be flagged or marked.

If no roosting sites or bats are found, a letter report confirming absence will be prepared and no further measures are required.

If bats or roosting sites are found, a letter report and supplemental documents will be prepared prior to grading permit issuance and the following monitoring, exclusion, and habitat replacement measures will be implemented:

- a. If bats are found roosting outside of the nursery season (May 1 through October 1), they will be evicted as described under (b) below. If bats are found roosting during the nursery season, they will be monitored to determine if the roost site is a maternal roost. This could occur by either visual inspection of the roost bat pups, if possible, or by monitoring the roost after the adults leave for the night to listen for bat pups. If the roost is determined to not be a maternal roost, then the bats will be evicted as

described under (b) below. Because bat pups cannot leave the roost until they are mature enough, eviction of a maternal roost cannot occur during the nursery season. Therefore, if a maternal roost is present, a 50-foot buffer zone (or different size if determined in consultation with the CDFW) will be established around the roosting site within which no construction activities including tree removal or structure disturbance will occur until after the nursery season.

- b. If a non-breeding bat hibernaculum is found in a tree or snag scheduled for removal or on any structures scheduled to be disturbed by project activities, the individuals will be safely evicted, under the direction of a qualified bat biologist. If pre-construction surveys determine that there are bats present in any trees to be removed, exclusion structures (e.g. one-way doors or similar methods) shall be installed by a qualified biologist. The exclusion structures shall not be placed until the time of year in which young are able to fly, outside of the nursery season. Information on placement of exclusion structures shall be provided to the CDFW prior to construction.

If needed, other methods conducted under the direction of a qualified bat biologist could include: carefully opening the roosting area in a tree or snag by hand to expose the cavity and opening doors/windows on structures, or creating openings in walls to allow light into the structures. Removal of any trees or snags and disturbance of any structures will be conducted no earlier than the following day (i.e., at least one night will be provided between initial roost eviction disturbance and tree removal/structure disturbance). This action will allow bats to leave during dark hours, which increases their chance of finding new roosts with a minimum of potential predation.

21. ARCHAEOLOGICAL RESOURCES AND HUMAN REMAINS:

- a. In the event that archaeological traces are encountered, all construction within a 50-meter radius of the find will be halted, the Community Development Director will be notified, and an archaeologist will be retained to examine the find and make appropriate recommendations.
- b. If human remains are discovered, the Santa Clara County Coroner will be notified. The Coroner will determine whether or not the remains are Native American. If the Coroner determines the remains are not subject to his authority, he will notify the Native American Heritage Commission, who shall attempt to identify descendants of the deceased Native Americans.
- c. If the Community Development Director finds that the archaeological find is not a significant resource, work will resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted. Provisions for identifying descendants of a deceased Native American and for reburial will follow the protocol set forth in CEQA Guidelines Section 15064.5(e). If the site is found to be a significant archaeological site, a mitigation program will be prepared and submitted to the Community Development Director for consideration and approval, in conformance with the protocol set forth in Public Resources Code Section 21083.2.
- d. A final report shall be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The

final report will include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions.

22. **DUSKY-FOOTED WOODRATS:** This project will implement the following standard measures to minimize impacts on woodrats and active woodrat nests on the project site.
- a. **PRECONSTRUCTION SURVEY.** A qualified biologist will conduct a preconstruction survey for San Francisco dusky-footed woodrat nests within 30 days of the start of work activities. If active woodrat nests are determined to be present in, or within 10 feet of the impact areas, the conditions below (Avoidance and/or Nest Relocation) will be implemented, as appropriate. If no active woodrat nests are present on or within 10 feet of impact areas, no further conditions are warranted.
 - b. **AVOIDANCE.** Active woodrat nests that are detected within the work area will be avoided to the extent feasible. Ideally, a minimum 10-foot buffer will be maintained between project activities and woodrat nests to avoid disturbance. In some situations, a small buffer may be allowed if, in the opinion of a qualified biologist, nest relocation (below) would represent a greater disturbance to the woodrats than the adjacent work activities.
 - c. **NEST RELOCATION.** If avoidance of active woodrat nests within and immediately adjacent to (within 10 feet of) the work areas is not feasible, then nest materials will be relocated to suitable habitat as close to the project site as possible (ideally, within or immediately adjacent to the project site).

Relocation efforts will avoid the peak nesting season (February-July) to the maximum extent feasible. Prior to the start of construction activities, a qualified biologist will disturb the woodrat nest to the degree that all woodrats leave the nest and seek refuge outside of the construction area. Disturbance of the woodrat nest will be initiated no earlier than one hour before dusk to prevent the exposure of woodrats to diurnal predators. Subsequently, the biologist will dismantle and relocate the nest material by hand. During the deconstruction process, the biologist will attempt to assess if there are juveniles in the nest. If immobile juveniles are observed, the deconstruction process will be discontinued until a time when the biologist believes the juveniles will be capable of independent survival (typically after 2 to 3 weeks). A no-disturbance buffer will be established around the nest until the juveniles are mobile. The nest may be dismantled once the biologist has determined that adverse impacts on the juveniles would not occur.

23. **TOWN INDEMNITY:** Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement ("the Project") from the Town shall defend (with counsel approved by Town), indemnify, and hold harmless the Town, its agents, officers, and employees from and against any claim, action, or proceeding (including without limitation any appeal or petition for review thereof) against the Town or its agents, officers or employees related to an approval of the Project, including without limitation any related application, permit, certification, condition, environmental determination, other approval, compliance or failure to comply with applicable laws and regulations, and/or processing methods ("Challenge"). Town may (but is not obligated to)

defend such Challenge as Town, in its sole discretion, determines appropriate, all at applicant's sole cost and expense.

Applicant shall bear any and all losses, damages, injuries, liabilities, costs and expenses (including, without limitation, staff time and in-house attorney's fees on a fully-loaded basis, attorney's fees for outside legal counsel, expert witness fees, court costs, and other litigation expenses) arising out of or related to any Challenge ("Costs"), whether incurred by Applicant, Town, or awarded to any third party, and shall pay to the Town upon demand any Costs incurred by the Town. No modification of the Project, any application, permit certification, condition, environmental determination, other approval, change in applicable laws and regulations, or change in such Challenge as Town, in its sole discretion, determines appropriate, all the applicant's sole cost and expense. No modification of the Project, any application, permit certification, condition, environmental determination, other approval, change in applicable laws and regulations, or change in processing methods shall alter the applicant's indemnity obligation.

24. COMPLIANCE MEMORANDUM: A memorandum shall be prepared and submitted with the building plans detailing how the Conditions of Approval will be addressed.

Building Division

25. PERMITS REQUIRED: A Building Permit is required for the construction of the new single-family residence and attached garage. An additional Building Permit will be required for the PV System required by the California Energy Code.
26. 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 Reach Codes.
27. 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.
28. BUILDING & SUITE NUMBERS: Submit requests for new building addresses to the Building Division prior to submitting for the building permit application process.
29. SIZE OF PLANS: Minimum size 24" x 36", maximum size 30" x 42".
30. 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.
31. 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.
32. 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
33. TITLE 24 ENERGY COMPLIANCE: All required California Title 24 Energy Compliance Forms must be directly printed onto a plan sheet.
 34. 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.
 35. BACKWATER VALVE: The scope of this project may require the installation of a sanitary sewer backwater valve per Town Ordinance 6.40.020. 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.
 36. HAZARDOUS FIRE ZONE: All projects in the Town of Los Gatos require Class A roof assemblies.
 37. WILDLAND-URBAN INTERFACE: This project is located in a Wildland-Urban Interface High Fire Area and must comply with Section R337 of the 2022 California Residential Code, Public Resources Code 4291 and California Government Code Section 51182.
 38. 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.
 39. 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.
 40. 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 online at www.losgatosca.gov/building.
 41. 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 online at www.losgatosca.gov/building.

42. 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.

TO THE SATISFACTION OF THE DIRECTOR OF PARKS & PUBLIC WORKS:

Engineering Division

THE FOLLOWING CONDITIONS SHALL BE ADDRESSED OR NOTED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY BUILDING OR GRADING PERMIT, OR IF ANOTHER DEADLINE IS SPECIFIED IN A CONDITION, AT THAT TIME.

43. PAYMENT OF PARKS AND PUBLIC WORKS (“PPW”) ENGINEERING PLAN CHECK FEE AND INSPECTION FEE: At the time of the first construction submittal, the Applicant shall submit to the Town Engineer for approval a detailed construction project cost estimate prepared and stamped by the Applicant’s civil engineer. The cost estimate shall break out on-site and off-site improvements separately. This cost estimate will be used to determine the Engineering Plan Check Fee. A final construction cost estimate shall be provided once the project plans are approved. This cost estimate will be used to determine the Engineering Inspection Fee. The Engineering Inspection Fee must be paid prior to the issuance of any construction related permit.
44. STORM DRAINAGE FEE: The Applicant shall pay Storm Drainage Fees in accordance with the Town’s Adopted Schedule of Fees and Charges in effect at the date of application for the future construction of drainage facilities serving new buildings, improvements, or structures to be constructed which substantially impair the perviousness of the surface of land. The estimated fee, based on the site area of 4.28 acres, is **\$5,041.00**. This fee is only an estimate. The actual impact fee will be calculated based on building permit plans submitted, and the fees approved by the Town Council in place at the time of the building permit submittal. The Applicant shall pay this fee to PPW prior to issuance of the first building permit.
45. TRAFFIC IMPACT FEES: The project is subject to the Town’s Traffic Impact Fee for the generation of an estimated 9.43 net new average daily trips based on the Institute of Transportation Engineers recommendations for trip generation. The Town’s Fee Schedule currently in effect indicates a fee of \$1,104 per additional average daily trip. This results in an estimated total amount due of **\$10,410.72**. The actual fee due will be based on the fee schedule adopted at the time the fee is paid. Payment of this Impact Fee is required prior to the issuance of the first building permit issuance.

46. CONSTRUCTION ACTIVITIES MITIGATION FEE (ORDINANCE 2189): Per the Town's Comprehensive Fee Schedule, the project is subject to the Town's Construction Activities Mitigation Fee based on the square footage of new buildings. The fee is \$1.43 per square foot of new residential and non-residential building area. The fee shall be calculated based on the square footage total for all units shown on the construction plans to the approval of the Town Engineer. The plans indicate 5,074.3 SF of total square footage of the proposed new building. This results in an estimated total amount due of **\$7,256.25**. Payment of this fee shall be paid prior to issuance of the first building permit.
47. GRADING PERMIT: A grading permit is required for all site grading and drainage work that is outside the perimeter of a building, retaining wall footing, or other structure authorized by a valid building permit. The Applicant must submit a grading permit application after the appeal period of the entitlement approval process has passed. Submittals are accepted through Accela only. The grading permit application shall include detailed grading plans and associated required materials. Plan check fees are based on the scope of onsite work. Prior to approval of the grading permit, the Applicant shall pay all fees due and provide faithful performance and payment securities for the performance of the work described and delineated on the approved grading plan, final erosion and sedimentation control plan, and interim erosion and sedimentation control plan (if required), in an amount to be set by the Town Engineer (but not to exceed one hundred (100) percent) of the approved estimated cost of the grading and erosion and sedimentation control measures. The form of security shall be one or a combination of the following to be determined by the Town Engineer and subject to the approval of the Town Attorney: (1) Bond or bonds issued by one or more duly authorized corporate sureties on a form approved by the Town; (2) Deposit with the Town, money, or negotiable bonds of the kind approved for securing deposits of public monies; or (3) other instrument of credit from one or more financial institutions subject to regulation by the State or Federal Government wherein such financial institution pledges funds are on deposit and guaranteed for payment. The grading permit shall be issued prior to the issuance of the building permit unless otherwise allowed by the Town Engineer. The permit shall be limited to work shown on the grading plans approved by the Town Engineer. In granting a permit, the Town Engineer may impose any condition deemed necessary to protect the health, safety, and welfare of the public, to prevent the creation of a nuisance or hazard to public or private property, and to assure proper completion of the grading including but not limited to: (1) Mitigation of adverse environmental impacts; (2) Improvement of any existing grading or correction of any existing grading violation to comply with Town Code; (3) Requirements for fencing or other protection of grading which would otherwise be hazardous; (4) Requirements for dust, erosion, sediment, and noise control, hours of operation and season of work, weather conditions, sequence of work, access roads, and haul routes; (5) Requirements for safeguarding watercourses from excessive deposition of sediment or debris in quantities exceeding natural levels; (6) Assurance that the land area in which grading is proposed and for which habitable structures are proposed is not subject to hazards of land slippage or significant settlement or erosion and that the hazards of seismic activity or flooding can be eliminated or adequately reduced; (7) Temporary and permanent landscape plans.

48. PUBLIC IMPROVEMENTS: Prior to the issuance of any building permit and prior to any work being done in the Town's right of way, the Applicant must submit Public Improvement Plans for review and approval. All public improvements shall be made according to the Town's latest adopted Standard Plans, Standard Specifications, and Engineering Design Standards. The Applicant is required to confirm the location of existing utility lines along the project frontage by potholing. Prior to any potholing, Applicant shall submit an Encroachment Permit application with a pothole plan for Town review and approval. The Applicant shall provide the pothole results to the Town Engineer prior to final design. All existing public utilities shall be protected in place and, if necessary, relocated as approved by the Town Engineer. No private facilities are permitted within the Town right of way or within any easement unless otherwise approved by the Town Engineer. The Applicant shall have Public Improvement Plans prepared, stamped, and signed by a California licensed civil engineer.
- a. Once the Public Improvement Plans have been approved, the Applicant shall submit an application for an Encroachment Permit. The Encroachment Permit requires the Applicant to post the required bonds and insurance and provide a one (1) year warranty for all work to be done in the Town's right of way or Town easement. New concrete shall be free of stamps, logos, names, graffiti, etc. Any new concrete installed that is damaged shall be removed and replaced at the Contractor's sole expense. Prior to issuance of the encroachment permit, the Applicant shall submit a temporary traffic control plan ("TTCP") inclusive of all modes of travel for any lane or sidewalk closures. Special provisions such as limitations on works hours, protective enclosures, or other means to facilitate public access in a safe manner may be required. The TTCP shall comply with the State of California Manual of Uniform Traffic Control Devices ("MUTCD") and standard construction practices.
 - b. The project engineer shall notify the Town Engineer in writing of any proposed changes. Any proposed changes to the approved plans shall be subject to the approval of the Town. The Applicant shall not commence any work deviating from the approved plans until such deviations are approved. Any approved and constructed changes shall be incorporated into the final "as-built" plans.
 - c. Right-of-way improvements shall include, at a minimum, the following items:
 - i. STREET WIDENING - The Applicant shall widen Vivian Drive as conceptually shown on the approved entitlement plans and ultimately as approved by the Town Engineer.
 - ii. STREET MARKINGS - The Applicant shall install necessary street markings of a material and design approved by the Town Engineer and replace any that are damaged during construction. These include but are not limited to all pavement markings, painted curbs, and handicap markings. All permanent pavement markings shall be thermoplastic and comply with Caltrans Standards. Color and location of painted curbs shall be shown on the plans and are subject to approval by the Town Engineer. Any existing painted curb or pavement markings no longer required shall be removed by grinding if thermoplastic, or sand blasting if in paint.
 - iii. SEWER CLEAN-OUT - The Applicant shall install a sewer lateral clean-out on private property just behind the property line in accordance with the West Valley

Sanitation District standards. Sewer clean-out(s) shall be constructed prior to occupancy of the first building.

- iv. **WATER METER** - The Applicant shall install the water meter on private property just behind the property line in accordance with the San Jose Water Company standards. Water meters shall be installed prior to occupancy of the first building.
49. **TREE REMOVAL PERMIT:** The Applicant shall apply and obtain a Tree Removal Permit from the Parks and Public Works Department for the removal of existing trees on-site or in the public right-of-way prior to the issuance of a building permit or demolition building permit, whichever is issued first. Tree removals shall be consistent with the arborist report and approved entitlement plans.
50. **CONSTRUCTION PHASE PLAN SUBMITTAL REQUIREMENTS:** The Grading Permit Plans and Public Improvement Plans (together referred to as "Improvement Plans") shall be submitted as a set to Parks and Public Works Department along with a title report dated no older than 30 days from the date the Improvement Plans are submitted. The Improvement Plans shall be submitted at the same time as the Building Plans are submitted to the Building Department. All improvements shall be designed and constructed in accordance with Federal law, State law, Los Gatos Town Code, and the Los Gatos Standard Specifications and Details.
- a. 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. The Improvement Plans shall include:
 - b. A cover sheet with at least the proposed development vicinity map showing nearby and adjacent major streets and landmarks, property address, APN, scope of work, project manager and property owner, a "Table of Responsibilities" summarizing ownership, access rights, and maintenance responsibilities for each facility (streets, utilities, parks, landscaping, etc.), a sheet index including a sequential numeric page number for each sheet (i.e. "Sheet 1 of 54"), the lot size, required and proposed lot setbacks by type, proposed floor areas by type for each building, average slope, proposed maximum height, and required and proposed parking count and type.
 - c. The Approved Conditions of Approval printed within the plan set starting on the second sheet of the plan set.
 - d. An Existing Site Plan showing existing topography, bearing and distance information for all rights-of-way, easements, and boundaries, any existing easements proposed to be quit-claimed, existing hardscape, existing above ground utility features, and existing structures. The Improvement Plans shall identify the vertical elevation datum, date of survey, and surveyor responsible for the data presented.
 - e. A Proposed Site Plan showing proposed topography, boundaries, proposed and existing to remain easements, hardscape, above ground utility features (hydrants, transformers, control cabinets, communication nodes, etc.), and structures. Include top and bottom elevations of every inflection point of each wall. Show proposed public right-of-way improvements. Distinguish proposed linework from existing linework using heavier line type for proposed.
 - f. A Grading and Drainage Plan clearly showing existing onsite and adjacent topography using labeled contour lines, drainage direction arrows with slope value, and break lines.

Proposed and existing to remain hardscape elevations must be provided in detail including slope arrows.

- g. A Utility Plan showing appropriate line types and labels to identify the different types of utilities and pipe sizes. Utility boxes, hydrants, backflow preventers, water meters, sanitary sewer cleanouts, etc. shall be located on private property unless
- h. A Landscaping Plan for the project site and the full width of the public right-of-ways adjacent to the project. The plans shall clearly identify public and private utilities and points of demarcation between the two.
- i. General Notes found in the Town of Los Gatos General Guidelines.
- j. A statement in the general notes indicating the need to obtain a Caltrans Oversized/Overweight Vehicles Transportation Permit if oversized or overweight vehicles are expected to be used

A statement that all utility boxes in vehicular pathways shall be traffic-rated.

- 51. STANDARD PLAN COMPLIANCE: The project shall comply with the Town's Standard Plans to the approval of the Town Engineer. Street improvements, all street sections, the design of all off-site storm drainage facilities shall be in accordance with most current Town Standard Specifications and Standard Plans approved by the Town Engineer. Improvements deemed necessary by the Town Engineer shall be shown on the Improvement Plans.
- 52. EXISTING FACILITY PROTECTION AND REPAIR: All existing public utilities shall be either protected in place, relocated, or repaired. The Applicant shall repair or replace all existing improvements not designated for removal, and all new improvements that are damaged during construction or removed because of the Applicant's operations. This includes sidewalk, curb and gutter, streetlights, valley gutters, curb ramps, and any other existing improvements in the area that are not intended to be removed and replaced. The Applicant shall request a walk-through with the PPW construction Inspector before the start of construction to verify existing conditions. Said repairs shall be completed prior to issuance of the first certificate of occupancy of the project.
- 53. UNDERGROUND UTILITIES: All new services to the development shall be placed underground in accordance with the various utility regulations. Underground utility plans must be submitted to the Town and approved by the Town Engineer prior to installation.
- 54. UTILITY RESPONSIBILITIES: The Applicant is responsible for the maintenance of existing stormwater drainage facilities, including piped and open channel stormwater conveyances in private areas. The Applicant is responsible for all expenses necessary to connect to the various utility providers. Currently, the public storm sewer system is owned and maintained by the Town of Los Gatos, the water system in Los Gatos is owned and maintained by San José Water Company, and the sanitary sewer system in Los Gatos is owned and maintained by West Valley Sanitation District. Any alterations of the approved utilities listed must be approved by the Town prior to any construction.
- 55. UTILITY COMPANY COORDINATION: The Applicant shall negotiate any necessary right-of-way or easements with the various utility companies in the area, subject to the review and approval by the Town Engineer and the utility companies. Prior to the approval of the site plan for construction, the Applicant shall submit "Will Serve" letters from PG&E, San José Water, West Valley Sanitation District, West Valley Collections and Recycling, and

AT&T (or the current "Carrier of Last Resort") with a statement indicating either a list of improvements necessary to serve the project or a statement that the existing network is sufficient to accommodate the project. Coordination of the stormwater conveyance system will be addressed during the Grading Permit review.

56. **DEVELOPER STORM WATER QUALITY RESPONSIBILITY:** The Applicant is responsible for ensuring that all contractors including subcontractors are aware of all stormwater quality measures and implement such measures. The Applicant shall perform all construction activities in accordance with approved Improvement Plans, Los Gatos Town Code Chapter 12 – Grading, Erosion and Sediment Control, and the National Pollutant Discharge Elimination System (NPDES) General Permit. Failure to comply with these rules and regulations will result in the issuance of correction notices, citations, or a project stop order.
57. **SITE DRAINAGE:** Rainwater leaders shall be discharged to splash blocks. No through curb drains will be allowed. Any storm drains (public or private) directly connected to public storm system shall be stenciled/signed with appropriate "NO DUMPING - Flows to Bay" NPDES required language using methods approved by the Town Engineer on all storm inlets surrounding and within the project parcel. Furthermore, storm drains shall be designed to serve exclusively stormwater. Dual-purpose storm drains that switch to sanitary sewer are not permitted in the Town of Los Gatos. No improvements shall obstruct or divert runoff to the detriment of an adjacent, downstream or down slope property.
58. **OFF-SITE DRAINAGE:** The Applicant shall not alter any existing drainage patterns without an approved Grading Permit.
59. **GRADING & DRAINAGE WINTER MORATORIUM:** All grading activity shall comply with the Municipal Regional Stormwater Permit and Chapter 12 of the Town Code. There shall be no earthwork disturbance or grading activities between October 15th and April 15th of each year unless approved by the Town Engineer. In order to be considered for approval, the Applicant must submit a Winterization Erosion Control Plan certified by a California certified QSD to the Town Engineer for review and approval. If grading is allowed during the rainy season, a maximum of two (2) weeks is allowed between clearing of an area and stabilizing/building on the exposed area. The submission of a certified plan does not guarantee approval. Any approved and executed plan must be kept on-site while the project is in construction.
60. **EROSION CONTROL:** The Applicant shall prepare and submit interim and final erosion control plans to the Town Engineer for review and approval. The interim erosion control plan(s) shall include measures carried out during construction before final landscaping is installed. Multiple phases of interim erosion control plans may be necessary depending on the complexity of the project. Interim erosion control best management practices may include silt fences, fiber rolls, erosion control blankets, Town approved seeding mixtures, filter berms, check dams, retention basins, etc. The Applicant shall install, maintain, and modify the erosion control measures as needed to continuously protect downstream water quality. In the event an emergency modification is deemed necessary, the Applicant must implement necessary measures to protect downstream waterways immediately and then submit the changes made within 24-hours to the Town Engineer for review and

approval. The erosion control plans shall be in compliance with applicable measures contained in the most current Santa Clara County National Pollutant Discharge Elimination System (NPDES) Municipal Regional Permit (MRP). Any fees or penalties assessed against the Town in response to the Applicant's failure to comply with the Permit must be paid by the Applicant. The Applicant must permit Town staff onsite to conduct periodic NPDES inspections throughout the recognized storm season to verify compliance with the Construction General Permit and Stormwater ordinances and regulations.

61. **SITE TRIANGLE AND TRAFFIC VIEW AREA:** Fencing, landscaping, and permanent structures shall not visually obstruct line of sight between three-feet and 7.5-feet in height if located within the driveway view area, traffic view area, or corner sight triangle. The driveway and intersection site triangles are represented on Town Standard Drawing ST-231. The traffic view area and corner sight triangle are shown on Town Standard Drawing ST-232. This includes all above ground obstructions including utility structures, for example electric transformers. The various clearance lines shall be shown on the site plan to demonstrate compliance.
62. **GEOLOGICAL REVIEW:** Prior to building permit issuance, the Applicant's Engineering Geologist registered in the State of California shall submit a geological report of the site, including a comprehensive landslide investigation evaluating the landslide hazard (including seismic) and associated risk to the proposed development. The Geologic Consultant shall characterize the existing landslide mapped at the site and elaborate on possible future landslide hazards in accordance with Special Publication 117A. The Geologic Consultant shall map and evaluate existing cut and fill slopes and provide an accurate characterization of the subsurface materials at the site including all bedrock exposures near the proposed development. The Geologic Consultant should prepare and submit a Geologic Map and Cross Section(s) through the landslide and proposed improvements. If potential landslide conditions exist or an estimated risk greater than "low" is identified, supplemental investigation and mitigation will be required. The Geologic Consultant should also evaluate the proposed drywell and infiltration structures and provide recommendations to ensure that downslope erosion and slope instability are not an issue.
63. **SUPPLEMENTAL GEOTECHNICAL REQUIREMENTS:** The Applicant's Geotechnical Consultant should review the Applicant's Geologic Investigation report. The Geotechnical Consultant should then address the following items:
 - a. The Geotechnical Consultant shall evaluate the feasibility of the proposed development given the results of the Geologic Investigation report, and if warranted, develop recommendations to mitigate the static and seismic landslide hazards. The mitigation should conform with the standards and practices in the Town. Potential solutions include supporting the landslide with a properly design retaining wall or removing the landslide.
 - b. The Geotechnical Consultant should discuss the proposed basement and provide suitable vehicle surcharge loading for the basement walls supporting cuts adjacent to the garage and driveway. The Geotechnical Consultant should provide foundation and drainage recommendations for the basement.

- c. The Geotechnical Consultant shall provide temporary shoring recommendations related to the proposed deep cuts for the basement and driveway. The Geotechnical Consultant shall analyze the proposed site grading.
 - d. The Geotechnical Consultant should verify if the lot was previously developed with a single-family residence. The report will require a peer review by the Town's geological and geotechnical consultant. A deposit and fee for the peer review will be required per the Town's current fee schedule, unless there are any remaining deposit funds from the entitlement phase. Additional deposit and fees may become due. The Town will route the report to the Town's peer review consultant once the report is submitted and deposit and fee are available. Once approved, the Applicant's geotechnical engineer shall review the grading and drainage plan and proposed pavement and foundation design to verify that the design is in accordance with their recommendations. The Applicant's Geotechnical Engineer's approval shall be conveyed to the Town either by letter or by signing and stamping the plans. All grading operations and soil compaction activities shall be per the approved project's design level geotechnical report. The Applicant shall add this condition to the general notes on the grading plan.
64. GEOTECHNICAL ENGINEER OBSERVATION: All grading activities shall be conducted under the observation of, and tested by, a licensed geotechnical engineer. A report shall be filed with the Town of Los Gatos for each phase of construction stating that all grading activities were performed in conformance with the requirements of the project's design level geotechnical report. The Applicant shall submit a Final Geotechnical Construction Observation and Testing Summary in an "as-built" letter/report prepared and submitted to the Town prior to issuance of the certificate of occupancy. The Applicant shall add this condition to the general notes on the grading plan.
65. PRECONSTRUCTION MEETING: After the issuance of any Grading or Encroachment permit and before the commencement of any on or off-site work, the Applicant shall request a pre-construction meeting with the PPW Inspector to discuss the project conditions of approval, working hours, site maintenance, and other construction matters. At that meeting, the Applicant shall submit a letter acknowledging that:
- a. They have read and understand these project Conditions of Approval;
 - b. They will require that all project sub-contractors read and understand these project Conditions of Approval; and,
 - c. They ensure a copy of these project Conditions of Approval will be posted on-site at all times during construction.
66. DRIVEWAY ACCESS EASEMENT: The Applicant shall show proof that the proposed driveway and parking areas are completely within the recorded easement agreement area. If any of the proposed driveway is found to be outside of the easement agreement area, the Applicant shall acquire a new or modified easement agreement inclusive of all land used for such purposes. Said new or modified easement shall be approved by both affected property owners. The easements shall be approved by the Town Engineer, recorded with the County Recorder's Office, and a recorded copy of the document returned to the Town prior to the release of the first building permit. The easement may also be designated on any associated parcel or subdivision map. The historic rock wall is included in the repairs and maintains the historic integrity of the wall.

67. TEMPORARY CONSTRUCTION EASEMENT: Prior to the issuance of a grading or building permit, it shall be the sole responsibility of the project to obtain any and all proposed or required easements and/or permissions necessary to perform any work on neighboring private property herein proposed. Proof of agreement/approval is required prior to the issuance of any Permit.
68. RECORD DRAWINGS: The Applicant shall submit a scanned PDF set of stamped record drawings and construction specifications for all off-site improvements to the Department of Parks and Public Works. All underground facilities shall be shown on the record drawings as constructed in the field. The Applicant shall also provide the Town with an electronic copy of the record drawings in the AutoCAD Version being used by the Town at the time of completion of the work. The Applicant shall also submit an AutoCAD drawing file of all consultants composite basemap linework showing all public improvements and utility layouts. This condition shall be met prior to the release of utilities, final inspection, or issuance of a certificate of occupancy, whichever occurs first.
69. RESTORATION OF PUBLIC IMPROVEMENTS: The Applicant shall repair or replace all existing improvements not designated for removal that are damaged or removed during construction. Improvements such as, but not limited to curbs, gutters, sidewalks, driveways, signs, streetlights, pavements, raised pavement markers, thermoplastic pavement markings, etc., shall be repaired or replaced to a condition equal to or better than the original condition. The applicant shall repair or replace the existing rock wall, uphill of the property for any damage caused during construction. The rock wall shall be repaired or replaced to maintain the historic integrity of the wall. Any new concrete shall be free of stamps, logos, names, graffiti, etc. Existing improvement to be repaired or replaced shall be at the direction of the PPW Inspector and shall comply with all Title 24 Disabled Access provisions. The restoration of all improvements identified by the PPW Inspector shall be completed before the issuance of a certificate of occupancy. The Applicant shall request a walk-through with the PPW Inspector before the start of construction to verify existing conditions.
70. PAVEMENT RESTORATION: Due to construction activities, new utility cuts along the project frontage, and the anticipated project's truck traffic, the Applicant shall grind and provide a 2.5" overlay with asphalt concrete the south side of Los Gatos-Saratoga Road along the entire property length between the center median island and the property frontage. Prior to overlay, any base failure repair or required dig-outs identified by the PPW Inspector shall be completed. The Town Engineer shall approve the roadway repair prior to the release of utilities, final inspection, or issuance of a certificate of occupancy, whichever occurs first.

THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT, OR IF ANOTHER DEADLINE IS SPECIFIED IN A CONDITION, AT THAT TIME

71. PROJECT CONSTRUCTION SETUP: All storage and office trailers will be kept off the public right-of-way.
72. PUBLIC WORKS CONSTRUCTION NOTICE: The contractor shall notify the PPW Inspector at

least ten (10) working days prior to the start of any construction work. At that time, the Contractor shall provide an initial project construction schedule and a 24-hour emergency telephone number list.

73. **PROJECT CONSTRUCTION SCHEDULE:** The contractor shall submit the project schedule in a static PDF 11"x17" format and Microsoft Project, or an approved equal. The Contractor shall identify the scheduled critical path for the installation of improvements to the approval of the Town Engineer. The schedule shall be updated monthly and submitted to the PPW Inspector in the same formats as the original.
74. **PROJECT CONSTRUCTION HANDOUT:** The Contractor shall provide to the Town Engineer an approved construction information handout for the purpose of responding to questions the Town receives regarding the project construction.
75. **PROJECT CONSTRUCTION SUPERVISION:** The Contractor shall always provide a qualified supervisor on the job site during construction.
76. **PUBLIC WORKS CONSTRUCTION INSPECTION:** All work shown on the Improvement Plans shall be inspected to the approval of the Town Engineer. Uninspected work shall be removed as deemed appropriate by the Town Engineer.
77. **PROJECT CONSTRUCTION HOURS:** Construction activities related to the issuance of any PPW permit shall comply with Town Code Section 16.20.035 which restricts construction to the weekday between 8:00 a.m. and 6:00 p.m. and Saturday 9:00 a.m. to 4:00 p.m. No work shall be done on Sundays or on Town Holidays unless otherwise approved by the Town Engineer. Please note that no work shall be allowed to take place within the Town right-of-way after 5:00 p.m. Monday through Friday. In addition, no work being done under Encroachment Permit may be performed on the weekend unless prior approvals have been granted by the Town Engineer. The Town Engineer may apply additional construction period restrictions, as necessary, to accommodate standard commute traffic along arterial roadways and along school commute routes. Onsite project signage must state the project construction hours. The permitted construction hours may be modified if the Town Engineer finds that the following criteria is met:
 - a. Permitting extended hours of construction will decrease the total time needed to complete the project without an unreasonable impact to the neighborhood.
 - b. Permitting extended hours of construction is required to accommodate a construction requirement such as a large concrete pour or major road closure. Such a need would be presented by the project's design engineer and require approval of the Town Engineer.
 - c. An emergency situation exists where the construction work is necessary to correct an unsafe or dangerous condition resulting in obvious and eminent peril to public health and safety. If such a condition exists, the Town may waive any of the remaining requirements outlined below.
 - d. The exemption will not conflict with any other condition of approval required by the Town to mitigate significant environmental impacts.
 - e. The contractor or property owner will notify residential and commercial occupants of adjacent properties of the modified construction work hours. This notification must be provided three days prior to the start of the extended construction activity.
 - f. The approved hours of construction activity will be posted at the construction site in a place and manner that can be easily viewed by any interested member of the public.

- g. The Town Engineer may revoke the extended work hours at any time if the contractor or owner of the property fails to abide by the conditions of extended work hours or if it is determined that the peace, comfort, and tranquility of the occupants of adjacent residential or commercial properties are impaired because of the location and nature of the construction.
 - h. The waiver application must be submitted to the PPW Inspector ten (10) working days prior to the requested date of waiver.
78. PROJECT CONSTRUCTION BMPs: All construction activities 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 ordinances, the project specific temporary erosion control plan, and other generally accepted engineering practices for erosion control as required by the Town Engineer when undertaking construction activities.
79. PROJECT CONSTRUCTION EXCAVATION: The following provisions to control traffic congestion, noise, and dust shall be followed during site excavation, grading, and construction:
- a. All construction vehicles should be properly maintained and equipped with exhaust mufflers that meet State standards.
 - b. Travel speeds on unpaved roads shall be limited to fifteen (15) miles per hour.
 - c. 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.
 - d. 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 times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites in order to ensure proper control of blowing dust for the duration of the project.
 - e. Watering on public streets and wash down of dirt and debris into storm drain systems is prohibited. Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the PPW Inspector, 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 late-afternoon watering to minimize the effects of blowing dust. Recycled water shall be used for construction watering to manage dust control where possible, as determined by the Town Engineer. Where recycled water is not available potable water shall be used. All potable construction water from fire hydrants shall be coordinated with the San José Water Company.
 - f. 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 Construction Inspector.
 - g. Construction grading activity shall be discontinued in wind conditions in excess of 25 miles per hour, or that in the opinion of the PPW Inspector cause excessive neighborhood dust problems.

- h. Site dirt shall not be tracked into the public right-of-way and shall be cleaned immediately if tracked into the public right-of-way. Mud, silt, concrete and other construction debris shall not be washed into the Town's storm drains.
 - i. Construction activities shall be scheduled so that paving and foundation placement begin immediately upon completion of grading operation.
 - j. All aggregate materials transported to and from the site shall be covered in accordance with Section 23114 of the California Vehicle Code during transit to and from the site.
 - k. Prior to issuance of any permit, the Applicant shall submit any applicable pedestrian or traffic detour plans to the satisfaction of the Town Engineer for any lane or sidewalk closures. The temporary traffic control plan shall be prepared by a licensed professional engineer with experience in preparing such plans and in accordance with the requirements of the latest edition of the California Manual on Uniform Traffic Control Devices (MUTCD) and standard construction practices. The Traffic Control Plan shall be approved prior to the commencement of any work within the public right-of-way.
 - l. During construction, the Applicant shall make accessible any or all public and private utilities within the area impacted by construction, as directed by the Town Engineer.
 - m. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The Applicant shall require the soils engineer submit to daily testing and sampling reports to the Town Engineer.
80. **MATERIAL HAULING ROUTE AND PERMIT:** For material delivery vehicles equal to, or larger than two-axle, six-tire single unit truck size as defined by FHWA Standards, the Applicant shall submit a truck hauling route that conforms to Town of Los Gatos Standards for approval. Note that the Town requires a Haul Permit be issued for any hauling activities. The Applicant shall require contractors to prohibit trucks from using "compression release engine brakes" on residential streets. The haul route for this project unless otherwise approved by the Town Engineer, shall be: Kennedy Rd to Los Gatos Blvd to Los Gatos-Saratoga Rd to Highway 17. A letter from the Applicant confirming the intention to use the designated haul route shall be submitted to the Town Engineer for review and approval prior to the issuance of any Town permits. All material hauling activities including but not limited to, adherence to the approved route, hours of operation, staging of materials, dust control and street maintenance shall be the responsibility of the Applicant. 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 Town Engineer. The Applicant must provide an approved method of cleaning tires and trimming loads on site. All material hauling activities shall be done in accordance with applicable Town ordinances and conditions of approval.
81. **PROJECT CLOSE-OUT:** Prior to requesting a Final Inspection, the Applicant shall submit to the Town Engineer a letter indicating that all project conditions have been met, and all improvements are complete. All work must be completed to the satisfaction of the Planning Director and Town Engineer prior to the first occupancy. All public improvements, including the complete installation of all improvements relative to streets, fencing, storm drainage, underground utilities, etc., shall be completed and attested to by the Town Engineer before approval of occupancy of any unit. Where facilities of other

agencies are involved, including those for water and sanitary sewer services, such installation shall be verified as having been completed and accepted by those agencies. In addition, the Applicant shall submit an itemized final quantities list of all public improvements constructed on-site and within the public right-of-way. The final quantities list shall be prepared by the project engineer and be to the approval of the Town Engineer. The final quantities list shall be broken out into on-site and off-site improvements based on the format provided by the Town. Until such time as all required improvements are fully completed and accepted by Town, the Applicant shall be responsible for the care, maintenance, and any damage to such improvements. Town shall not, nor shall any officer or employee thereof, be liable or responsible for any accident, loss or damage, regardless of cause, happening or occurring to the work or improvements required for this project prior to the completion and acceptance of the work or Improvements. All such risks shall be the responsibility of and are hereby assumed by the Applicant.

82. CONSTRUCTION WORKER PARKING: The Applicant shall provide a Construction Parking Plan that minimizes the effect of construction worker parking in the neighborhood and shall include an estimate of the number of workers that will be present on the site during the various phases of construction and indicate where sufficient off-street parking will be utilized and identify any locations for off-site material deliveries. Said plan shall be approved by the Town Engineer prior to issuance of Town permits and shall be complied with at all times during construction. Failure to enforce the parking plan may result in suspension of the Town permits. No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior approval from the Town Engineer (§15.40.070).
83. SITE WATER DISCHARGE: In accordance with the Town Code, Prohibition of Illegal Discharges (Los Gatos Town Code Section 22.30.015), the Town Engineer may approve in coordination West Valley Sanitation District the discharge of uncontaminated pumped ground waters to the sanitary sewer only when such source is deemed unacceptable by State and Federal authorities for discharge to surface waters of the United States, whether pretreated or untreated, and for which no reasonable alternative method of disposal is available. Following the verification of the applicable local, state and/or federal approvals, a Discharge Plan will be approved and monitored by the Town Engineer.

THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS ENTITLEMENT OCCUPIES THE PREMISES

84. POST CONSTRUCTION BEST MANAGEMENT PRACTICES (BMP): Post construction storm water pollution prevention requirements shall include:
 - a. The Applicant shall be charged the cost of abatement for issues associated with, but not limited to, inspection of the private stormwater facilities, emergency maintenance needed to protect public health or watercourses, and facility replacement or repair if the treatment facility is no longer able to meet performance standards or has

- deteriorated. Any abatement activity performed on the Applicant's property by Town staff will be charged to the Applicant at the Town's adopted fully-loaded hourly rates.
- b. Maintenance of the storm drain inlets "No Dumping – Drains to Bay" plaques to alert the public to the destination of storm water and to prevent direct discharge of pollutants into the storm drain. Template ordering information is available at www.flowstobay.org.
 - c. All process equipment, oils, fuels, solvents, coolants, fertilizers, pesticides, and similar chemical products, as well as petroleum based wastes, tallow, and grease planned for storage outdoors shall be stored in covered containers at all times.
 - d. All public outdoor spaces and trails shall include installation and upkeep of dog waste stations.
 - e. Garbage and recycling receptacles and bins shall be designed and maintained with permanent covers to prevent exposure of trash to rain. Trash enclosure drains shall be connected to the sanitary sewer system.
 - f. It is the responsibility of the property owner(s)/homeowners association to implement a plan for street sweeping of paved private roads and cleaning of all storm drain inlets.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

- 85. GENERAL: 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.
- 86. NOTE: The subject property is located within the Very High Fire Hazard Severity Zone (VHFHSZ) of the Local Responsibility Area (LRA). Pursuant to California Public Resources Code (PRC) 4290, the California Board of Forestry and Fire Protection is required to "...adopt regulations implementing minimum fire safety standards related to defensible space" applicable to "the perimeters and access to all residential, commercial, and industrial building construction." In 2018, the Legislature passed and the Governor signed SB 901 (Dodd), which expanded the applicability of the regulations promulgated under PRC 4290 to land in the Local Responsibility Area (LRA) Very High Fire Hazard Severity Zone. All comments below that result from PRC 4290 are identified by **. Where a conflict exists between local & 4290 requirements, the more stringent requirement shall apply. California Code of Regulations, Title 14, Division 1.5, Chapter 7, Subchapter 2, Articles 1-5, § 1273.08.
- 87. GRADES**: (a) At no point shall the grade for all roads and driveways exceed 16 percent. (b) The grade may exceed 16%, not to exceed 20%, with approval from the local authority having jurisdiction and with mitigations to provide for same practical effect. California Code of Regulations, Title 14, Division 1.5, Chapter 7, Subchapter 2, Articles 1-5, §1273.03. PRC 4290 request of exception approved #PC 24-4493. A copy of the PRC 4290 request of exception application form, with approval signature shall be made part of the building permit drawing set, to be routed to Santa Clara County Fire Department for final approval.

88. RADIUS**: (As noted on Sheet A1) (a) No road or road structure shall have a horizontal inside radius of curvature of less than fifty (50) feet. An additional surface width of four (4) feet shall be added to curves of 50 -100 feet radius; two (2) feet to those from 100-200 feet. (b) The length of vertical curves in roadways, exclusive of gutters, ditches, and drainage structures designed to hold or divert water, shall be not less than one hundred (100) feet. California Code of Regulations, Title 14, Division 1.5, Chapter 7, Subchapter 2, Articles 1-5, § 1273.04.
89. TURNAROUND**: (As Noted on Sheet A2) (a) Turnarounds are required on driveways and dead-end roads. (b) The minimum turning radius for a turnaround shall be forty (40) feet, not including parking, in accordance with the figures in 14 CCR §§ 1273.05(e) and 1273.05(f). If a hammerhead/T is used instead, the top of the "T" shall be a minimum of sixty (60) feet in length. (c) Driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided no more than 400 feet apart. (d) A turnaround shall be provided on driveways over 300 feet in length and shall be within fifty (50) feet of the building. (d) Each dead-end road shall have a turnaround constructed at its terminus. Where parcels are zoned five (5) acres or larger, turnarounds shall be provided at a maximum of 1,320 foot intervals. (e) Figure A. Turnarounds on roads with two ten-foot traffic lanes. California Code of Regulations, Title 14, Division 1.5, Chapter 7, Subchapter 2, Articles 1-5, § 1273.05.
90. MODIFIED FIRE SPRINKLERS REQUIRED: (As Noted on Sheet A1 and enhanced NFPA 13D will be installed) Approved automatic sprinkler systems in new and existing buildings and structures shall be provided in the locations described in this Section or in Sections 903.2.1 through 903.2.12 whichever is the more restrictive and Sections 903.2.14 through 903.2.21. For the purposes of this section, firewalls and fire barriers used to separate building areas shall be constructed in accordance with the California Building Code and shall be without openings or penetrations. A copy of the Alternate Means/Methods application PC 24-4493, with approval signature shall be made part of the building permit drawing set, to be routed to Santa Clara County Fire Department for final approval.
91. FIRE DEPARTMENT (ENGINE) DRIVEWAY TURNAROUND REQUIRED: (As Noted on Sheet A2) Provide an approved fire department engine driveway turnaround with a minimum radius of 40 feet outside. Maximum grade in any direction shall be a maximum of 5%. Installations shall conform with Fire Department Standard Details and Specifications D-1. CFC Sec. 503.
92. FIRE HYDRANT SYSTEMS REQUIRED: (As Noted on Sheet A1 and private hydrant will be installed) Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, onsite fire hydrants and mains shall be provided where required by the fire code official. Exception: For Group R-3 and Group U occupancies, equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3, the distance requirement shall be not more than 600 feet. [CFC, Section 507.5.1]
93. REQUIRED FIRE FLOW: (Letter received) The minimum require fireflow for this project is

1000 Gallons Per Minute (GPM) at 20 psi residual pressure. This fireflow assumes installation of automatic fire sprinklers per CFC [903.3.1.3]

94. **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.
95. **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 6 inches 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.
96. **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.
97. **WILDLAND-URBAN INTERFACE:** This project is located within the designated Wildland-Urban Interface Fire Area. The building construction shall comply with the provisions of California Building Code (CBC) Chapter 7A. Note that vegetation clearance shall be in compliance with CBC Section 701A.3.2.4 prior to project final approval. Check with the Planning Department for related landscape plan requirements.
98. **FIRE APPARATUS (ENGINE) ACCESS DRIVEWAY REQUIRED:** (As Noted on Geo letter) An access driveway shall be provided having an all-weather surface of either asphalt, concrete or other engineered surface capable of supporting 75,000 pounds and approved by a civil engineer. It shall have a minimum unobstructed width of 12 feet, vertical clearance of 13 feet 6 inches, minimum turning radius of 40 feet outside, and a maximum slope of 15%. Installations shall conform to Fire Department Standard Details and Specifications sheet D-1.
99. **GENERAL:** 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].

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