



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 12/17/2025

ITEM NO: 1

DESK ITEM

DATE: December 17, 2025

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Consider a Request for Approval for the Subdivision of One Lot into Twelve Lots with a Vesting Tentative Map, Construction of a New Single-Family Residence on Each Lot, Site Work Requiring a Grading Permit, and Removal of Large Protected Trees Under Senate Bill 330 (SB 330) on Vacant Property Zoned RC. **Located at 178 Twin Oaks Drive.** APN 532-16-006. Architecture and Site Applications S-24-023 through -033 and S-24-059, Vesting Tentative Map Application M-24-013, and Mitigated Negative Declaration Application ND-25-001. An Initial Study and Mitigated Negative Declaration Have Been Prepared. Property Owner/Applicant: Larry Dodge. Project Planner: Erin Walters.

REMARKS:

Exhibit 28 includes public comments received between 11:01 a.m., Tuesday, December 16, 2025, and 11:00 a.m., Wednesday, December 17, 2025.

EXHIBITS:

Previously Received with the December 12, 2025, Staff Report:

1. Initial Study and Mitigated Negative Declaration with Appendices A through E (available online at <https://www.losgatosca.gov/178TwinOaksDr>)
2. Required Findings and Considerations
3. Recommended Conditions of Approval – M-24-013, S-24-023 to -033 and S-24-059
4. Location Map
5. Project Description and Letter of Justification
6. Consulting Architect's Report
7. Applicant's Response to Consulting Architect's Report
8. Final Arborist Report
9. Consulting Arborist's Peer Review

PREPARED BY: Erin M. Walters
Senior Planner

Reviewed by: Planning Manager, Community Development Director, Town Attorney

PAGE 2 OF 2

SUBJECT: 178 Twin Oaks Drive, Lots 1-12/S-24-023 to 033, S-24-059, M-24-013, and
ND-24-001

DATE: December 17, 2025

10. Visual Renderings
11. Public comments received by 11:00 a.m., Friday, December 12, 2025
12. Mitigation Monitoring and Reporting Program
13. Public Comments and Responses Regarding the Mitigated Negative Declaration
14. Initial Study/Mitigated Negative Declaration Errata Sheet
15. Development Plans – Subdivision
16. Development Plans – Lot 1
17. Development Plans – Lot 2
18. Development Plans – Lot 3
19. Development Plans – Lot 4
20. Development Plans – Lot 5
21. Development Plans – Lot 6
22. Development Plans – Lot 7
23. Development Plans – Lot 8
24. Development Plans – Lot 9
25. Development Plans – Lot 10
26. Development Plans – Lot 11
27. Development Plans – Lot 12

Received with the December 15, 2025, Addendum Report:

28. Public comments received between 11:01 a.m., Friday, December 12, 2025, and 11:00 a.m., Monday, December 15, 2025

Received with the December 16, 2025, Addendum Report:

29. Responses to the Santa Clara Valley Bird Alliance and Sierra Club Loma Prieta Chapter Letter
30. Public comments received between 11:01 a.m., Monday, December 15, 2025, and 11:00 a.m., Tuesday, December 16, 2025

Received with this Desk Item Report:

31. Public comments received between 11:01 a.m., Tuesday, December 16, 2025, and 11:00 a.m., Wednesday, December 17, 2025

From: Jill Fordyce <[REDACTED]>
Sent: Wednesday, December 17, 2025 10:11 AM
To: Planning <Planning@losgatosca.gov>; Erin Walters <EWalters@losgatosca.gov>
Cc: Craig Fordyce <[REDACTED]>; Bill Meleyco <[REDACTED]>;
Jon Witkin <[REDACTED]>
Subject: 178 Twin Oaks Drive

[EXTERNAL SENDER]

Dear Chair and Members of the Los Gatos Planning Commission,

We are supplementing our previous letter dated October 8, 2025, to provide updated information with regard to three specific arguments in opposition to the proposed development: (1) The IS/MND is inadequate and an EIR is required; (2) The proposed project creates a specific, adverse impact upon the public health and safety of our community; (3) The proposed project does not abide by the Los Gatos Below Market Price regulations.

An EIR is Required

The fate of an undeveloped rural Los Gatos hillside—home to protected trees, species, and a riparian corridor—requires, at a minimum, a detailed understanding of the environmental impact of the proposed development. In this case, we have not been given the information necessary to have such an understanding. Housing law does not waive or reduce CEQA review. Compliance with CEQA is mandatory and independent of zoning or housing authorization. “The IS/MND’s approach suggests environmental review is secondary to entitlement, which is legally incorrect.” (Letter dated October 17, 2025 from the Santa Clara Valley Bird Alliance (“SCVBA”) and the Sierra Club at p. 11).

First, instead of conducting new studies commensurate with both the current project and the current state of the environment, the IS/MND relies on an outdated, uncertified EIR from 2017. Natural environments change over the course of years; species appear and disappear and are not fixed in time. Furthermore, the proposal for development before the Planning Commission is not the same proposal as the one considered in 2018. One key difference is the scope of the development. The current application asks to develop approximately 62,000 square feet. The previous proposal was for 55,000 square feet (a 13% increase). The lots are different; the number of homes is different; the homesites are different; the ingress and egress are different.

Under CEQA, a Mitigated Negative Declaration can only be adopted if the lead agency determines that all potential significant environmental impacts can be reduced to a less-than-significant level through mitigation measures. If there is a “fair argument,” supported by substantial evidence, that the project may have a significant environmental impact, then the agency is required to prepare a full Environmental Impact Report (EIR) instead.

The Sierra Club, the SCVBA, and the San Francisco Bay Regional Water Quality Control Board (“RWQCB”) have submitted letters in opposition to this project. The SCVBA and the Sierra Club note that, because the project is located within an ecologically sensitive transition zone between existing development and natural hillside habitat, a preparation of an EIR is essential. The Sierra Club and SCVBA found “substantial evidence that the project may result in significant hydrological and biological impacts that are not adequately disclosed, analyzed, or mitigated.” The RWQCB notes that the IS/MND fails to address the jurisdictional status of an on-site ephemeral drainage, potential dewatering of riparian habitat, habitat fragmentation for wildlife, impacts from lighting and collision hazards to birds, and procedural conflicts with CEQA’s fair argument standard. (Letter dated October 17, 2025, from the SCVBA and the Sierra Club; Letter dated October 6, 2025, from the RWQCB). The SCVBA and the Sierra Club also note that long-term maintenance is deferred to a future HOA without identifying responsibility for inspection and repair of stormwater infrastructure, funding mechanisms for hydrologic mitigation, or standards for performance over time. Deferred mitigation violates CEQA guidelines, which prohibits mitigation dependent on undefined future actions.

The Sierra Club/SCVBA have supplied a “fair argument” that the project may have a significant environmental impact, including the following issues:

- The IS/MND fails to adequately assess significant and irreversible impacts to biological resources, including native woodland habitat, wildlife movement corridors, nesting birds, and special-status pollinators, and the Ross Creek watershed, an area known to support raptors, migratory songbirds, and oak-associated wildlife.

- The IS/MND removes a substantial number of mature coast live oaks and associated understory vegetation. It does not quantify total tree loss, assess habitat fragmentation, or evaluate impacts to wildlife corridor functionality across the Ross Creek drainage interface. Fragmentation of woodland habitat at this location “poses long-term ecological consequences.” (SCVBA/Sierra Club at p. 8).

- The IS/MND incorrectly concludes that there will be no biological impact on the ephemeral drainage. “As documented by the RWQCB, the project’s stormwater design would redirect runoff away from the drainage, depriving the riparian system of seasonal hydrology:

‘Stormwater runoff that currently supports riparian vegetation...would be diverted.... This could deprive riparian vegetation of sufficient water to sustain the vegetation. The biological effects of hydrologic alteration, loss of vegetative cover, reduced insect prey availability, and increased temperature exposed were not analyzed.’ (Id.)

-The IS/MND “repeatedly defers mitigation to future plans, HOA oversight, or permitting processes, without defined performance standards or enforceable obligations. This violates CEQA, which prohibits reliance on unspecified or future mitigation, particularly where long-term resource impacts are involved, (e.g., habitat loss, hydrology modification.)” (Id. at p. 9). Examples of impermissible deferral include the following: stormwater operation and maintenance left to an undefined HOA; lack of binding commitments to preserve riparian flow or tree canopy; and absence of defined mitigation ratios for habitat or tree removal.

The SCVBA/Sierra Club letter concludes that compliance with CEQA requires withdrawal of the IS/MND, recirculation of the environmental document to incorporate agency concerns and hydrologic and biological analysis, and preparation of a full EIR that evaluates project alternatives, hydrologic modifications, biological resource impacts, lighting effects, and cumulative conditions within the Ross Creek watershed. The EIR must also include a reasonable range of alternatives that would reduce impacts to hydrology, wildlife corridors, and hillside habitat.

The RQWCB raises a number of concerns, including:

-The topographic map of the Project site indicates that the ephemeral creek channel appears to extend upstream from the uppermost cluster of vegetation. Based on the map, the footprint of the access road may fill the upper portion of the ephemeral creek. (RQWCB letter at p. 2).

-The proposed stormwater treatment infrastructure appears to divert the runoff that currently sustains the ephemeral creek into the bioretention areas and pervious pavement, depriving the ephemeral creek of the hydrology necessary to sustain the preserved vegetation along the creek. (Id.)

-The proposed use of pervious pavement may not be appropriate at the Project site due to steep topography portions of the site.

-The IS/MND does not identify responsible party for the operation and maintenance of the stormwater treatment infrastructure of the treatment proposed to mitigate the impact of hydrography modification.

-The bioretention areas should be visible from public roadways.

-The proposed stormwater treatment measures will dewater the preserved ephemeral creek channel, causing significant impact to the creek. (Id. at p. 12).

-The IS/MND does not acknowledge the potential need to obtain approvals from the Water Board and the CDFW.

-As there is no documentation that State has assessed the jurisdictional status of the ephemeral creek, the Project should assume that the ephemeral creek is a water of the State.

The RQWCB disagrees with the conclusion of the IS/MND that the proposed project would not have a substantial adverse effect on the riparian habitat and other sensitive natural community. (Id.)

Patrick Kobernus, Principal Biologist of Coast Ridge Ecology, Inc., concluded that the IS/MND is deficient under CEQA for a variety of reasons, including reliance on an outdated floristic survey (over 14 years old); failure to address sensitive plant communities in accordance with CDFW protocols; inadequate mitigation to protect Burrowing Owls; failure to identify potential impacts to special status amphibian and reptile species and mitigate for those impacts; failure to include habitat assessment to address impact on bats; failure to include a detailed survey and mapping of active woodrat middens and a woodrat relocation plan; failure to identify impacts on the western bumble bee and Crotch's bumble bee and mitigate for those impacts; and concluding without factual support that there would be no impact to wildlife corridors. (See Exhibit C to Letter dated December 15, 2025, from Camus J. Steinmetz.)

In addition to the deficiencies noted above, the environmental conclusions in the IS/MND are expressly or implicitly derived from an earlier EIR that was never certified and therefore has no legal force. ("...although the EIR was never certified by the Town, the setting of the site has remained the same, and thus, a number of the technical reports associated with the former project and 2017 EIR remain applicable to the proposed project.") (IS/MND at p. 6). Under CEQA, an uncertified EIR is legally equivalent to no EIR at all and may not be relied upon to negate the possibility of significant environmental impacts or to support adoption of an MND. (CEQA Guidelines §§ 15070, 15090; *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92–94.)

Here, the record reflects that potentially significant impacts were previously identified and analyzed in the 2017 EIR. The applicant may not now bootstrap that uncertified analysis to conclude that impacts are less than significant or mitigable through an MND. Where substantial evidence in the record—including prior environmental analysis prepared for the project site—supports a fair argument that the project may have significant environmental

effects, CEQA mandates preparation of an EIR. (Pub. Res. Code § 21151; *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 306–307.) The decision to proceed with an IS/MND violates CEQA as a matter of law. Additionally, the land, the project, and housing laws (e.g., allowance of split lots and ADUs) have all changed since this uncertified EIR.

Finally, in order for an MND to be sufficient, it must contain specific mitigation to anticipated environmental harms. The IS/MND for this project contains vague, unspecified, and deferred mitigation. This is discussed below in conjunction with the health and safety risks inherent in this project.

The Health & Safety of Our Community is at Risk

In addition to the grave effects on the land and natural resources, the development of this hillside presents a risk to the health and safety of the community, and particularly, the adjacent neighbors, which include long-established residential neighborhoods and a school. Specifically, we have noted the risks to health and safety caused by impeding the surrounding neighborhood's evacuation in the event of a wildfire or other emergency; the possibility for erosion, mudslide, and landslide on the project site; and exposing the surrounding area to risk of flooding, water quality degradation, water pollution, harms associated with the proposed bioretention pond. (Fordyce letter dated October 8, 2025, at pp. 21-33).

Despite the existence of all these risks, the proposed mitigation measures are uncertain, vague, deferred, and potentially unenforceable. For example, while the project is in a Hydrologic Hazard Zone, an erosion and sediment control plan has not even been prepared. The risk is identified, but the mitigation is deferred. The IS/MND states: "Because a final erosion and sediment control plan has not yet been prepared for the proposed project, proper compliance with the aforementioned regulations cannot be ensured at the time and the proposed project could discharge sediment or urban pollutants through soil erosion violate water quality standards or waste discharge requirements, or otherwise substantially degrade surface or ground water quality during construction." (IS/MND p. 72). The IS/MND concludes that the proposed project "could result in the violation of water quality standards or degradation of water during construction, and a potentially significant impact would occur." (IS/MND p. 73) The mitigation measure is to prepare the final erosion and sediment control plan. This is a future, vague, uncertain mitigation measure.

Based on the scope of the construction, grading, fill, and watering, it is conceivable that all of us who reside below the hillside will end up with homes and yards significantly impacted. According to the IS/MND, "Without incorporating the recommendations

included within the GGHI, new fill placed for the planned structures and streets on existing slopes could cause a significant impact related to slope instability.” (IS/MND, p. 61). The proposed project could result in potential hazards or risks related to landslides, lateral spreading, subsidence, and/or soil expansion, and a potentially significant impact could occur. The mitigation measure is: “prior to approval of any grading or improvement plans, a licensed engineer shall review the plans to ensure the engineering recommendations are adequately incorporated to the satisfaction of the Town Engineer.” (IS/MND p. 63). This is a deferred, potentially unenforceable mitigation that does nothing to assure that the risk will be diminished.

We anticipate that yards will be unusable due to the dirt, dust, pollution, and water; that the dirt and dust will seep into our homes; the noise will be constant. It is not difficult to imagine the bioretention pond flooding our yards and creating other health hazards. There is also a risk of more harmful impacts, such as mudslides and landslides. Importantly, we do not know who is responsible if and when any of these impacts occur. It appears that will be a future, as yet undetermined HOA, which is insufficient to protect the health and safety of the neighborhood.

The HDS&G, CEQA, the Los Gatos Tree Protection Ordinance all exist to protect and promote the health and safety of our community and the objective standards provided therein must be followed.

State law and fire hazard mapping require that new subdivisions in High Fire Zones have multiple evacuation routes, adequate water infrastructure, fuel breaks, defensible space. It is unclear whether the SCCFD has approved site access or water supply and the mitigation relies upon both exceptions, and “roadway and other improvements, for fire safety that will be required as a result of this coordination with SCCFD.” (Staff report at p. 27). According to the staff report, PRC 4290 requires modifications to the “width of existing roads, existing road surfaces, fire truck turnarounds, and the lengths of dead-end roads. An Alternative Materials, Methods of Construction, or Modification of Code was approved by the SCCFD for Lot 10 to meet the PRC 4290 requirements to mitigate deficiencies of the 20-foot roadway width on a 10-foot in length segment of roadway on Cerro Vista Drive. In order to mitigate the noncompliant roadway width, the approved AMMR requires an upgraded sprinkler system for the proposed residence at Lot 10. The recommended Conditions of Approval (Exhibit 3) include roadway and other improvements for fire safety that will be required as a result of this coordination with SCCFD.” (Staff Report at p. 27). What is the mitigation for the other lots? What specific plan is there for evacuation, turnaround, water supply, ingress and egress in the event of an emergency? This is deferred mitigation of a

critical health and safety issue—the potential for wildfire in a high fire hazard zone—and it will impact us all.

The Project Belies the Legislative Intent of the Below Market Housing Law

Finally, it must be noted that much of the leeway given legislatively to the developer comes from the notion that it is providing affordable housing. This proposed development does not comply with the Los Gatos BMP regulations, which require the BMPs to be similar in size and spread throughout the development.

Pursuant to the Los Gatos Below Market Price (BMP) Housing Program Guidelines: “BMP dwelling units should... be consistent with the market rate units in the project” and “should be provided proportionately in the same unit type mix (number of bedrooms) as the market rate units” with the goal being “seamless integration.” The “BMP units shall be dispersed throughout the development, to the extent feasible, in all buildings, on each floor, and in each project phase,” and that concentrating them “will generally not be allowed.”

The applicant’s justification letter for 178 Twin Oaks admits a deviation from the BMP Guidelines “section III A regarding unit size,” and states the market-rate homes are 5,775–6,170 square feet while the BMP “townhomes” are 1,630 square feet. The three proposed BMP units are all three-bedroom homes, whereas the market-rate units range from four to six bedrooms — so they are not proportionate in mix or size under the BMP Guidelines. All three BMP units are shown on the site plan as being grouped together (on Lots 1, 11, and 12) with a shared private driveway and turnaround, rather than distributed among the other market-rate lots.

This provision of BMP housing is being utilized to obtain exceptions to regulations and laws in existence to protect the land, biological resources, and neighborhoods. The facts are that this is a large luxury home development. The provision of three small units placed at the bottom of the development with a shared driveway, is not what was intended by the BMP law.

We respectfully request that the Planning Commission deny this project based on an insufficient environmental review, noncompliance with applicable regulations, and the risk to the health and safety of our community.

Very truly yours,

Jill & Craig Fordyce

■ Longmeadow Drive

December 17, 2025

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