



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 12/17/2025

ITEM NO: 1

ADDENDUM 2

DATE: December 16, 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:

A Responses to Comments document was prepared in response to comment letters received during the public review period of the Surrey Farms Estates Subdivision Project Initial Study/Mitigated Negative Declaration (IS/MND) (Exhibit 13). After the close of the public review period, the Town received one comment letter authored by the Santa Clara Valley Bird Alliance (SCVBA) and Sierra Club Loma Prieta Chapter (SCLP). Exhibit 29 provides responses to the SCVBA and SCLP letter dated October 17, 2025.

Exhibit 30 includes public comments received between 11:01 a.m., Monday, December 15, 2025, and 11:00 a.m., Tuesday, December 16, 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

PREPARED BY: Erin M. Walters
Senior Planner

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

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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 16, 2025

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
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 this 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

RESPONSES TO VALLEY BIRD ALLIANCE AND SIERRA CLUB LOMA PRIETA CHAPTER LETTER

INTRODUCTION

A Responses to Comments document was prepared in response to comment letters received during the public review period of the Surrey Farms Estates Subdivision Project Initial Study/Mitigated Negative Declaration (IS/MND). The Town of Los Gatos received one comment letter after the close of the public review period. The late letter was authored by the Santa Clara Valley Bird Alliance (SCVBA) and Sierra Club Loma Prieta Chapter (SCLP).

According to CEQA Guidelines Sections 15073 and 15074, the lead agency must consider the comments received during consultation and review periods together with the IS/MND. However, unlike with an Environmental Impact Report (EIR), comments received on an IS/MND are not required to be attached to the negative declaration, nor must the lead agency make specific written responses to public agencies. Therefore, pursuant to CEQA and additionally because the letter was not received during the public comment period for the IS/MND, written responses to the SCVBA and SCLP letter are not required. Nonetheless, at the Town's request, Raney has prepared the following written responses to the late SCVBA and SCLP letter for the record.

The comment letter has been bracketed to indicate how the letter has been divided into individual comments. Each comment is given a number. The response to each comment will reference the comment number.

CEQA Guidelines Section 15073.5 states the following regarding recirculation requirements for negative declarations:

- (c) Recirculation is not required under the following circumstances:
 - (1) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.
 - (2) New project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects.
 - (3) Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.
 - (4) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.

Based on the above, and the substantial evidence provided in the below responses to comments, pursuant to CEQA Guidelines Section 15073.5, recirculation of the IS/MND is not warranted.





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Planning Commission
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Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

October 17, 2025

Subject: Comments on Initial Study/Mitigated Negative Declaration for Surrey Farms Estates
(SCH No. 2025090920)

Dear Ms. Walters and Members of the Planning Commission,

The Santa Clara Valley Bird Alliance (SCVBA) and the Sierra Club Loma Prieta Chapter (SCLP) respectfully submit the following comments on the Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the proposed Surrey Farms Estates Subdivision at 178 Twin Oaks Drive. SCVBA is a nonprofit organization dedicated to the protection of birds, other wildlife, and their habitats across Santa Clara County. The Sierra Club mission is to promote the responsible use of the earth's ecosystems and resources.

As conservation organizations with members who live, recreate, and observe wildlife in Los Gatos and the Ross Creek watershed, we have a direct and substantial interest in ensuring full compliance with the California Environmental Quality Act (CEQA). Our long history of engagement in environmental review involving riparian corridors, oak woodlands, and hillside developments reflects our commitment to protecting regional biodiversity and ecological integrity. Given the project's location adjacent to critical habitat and wildlife movement corridors, rigorous environmental review is essential.

1



1 cont.

Based on our review of the IS/MND and the recent October 2025 comment letter from the San Francisco Bay Regional Water Quality Control Board (RWQCB), we find substantial evidence that the project may result in significant hydrological and biological impacts that are not adequately disclosed, analyzed, or mitigated. As detailed below, 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.

For these reasons, the Town must withdraw the IS/MND and prepare a full Environmental Impact Report (EIR) to ensure adequate environmental review in compliance with CEQA.

Project Overview and Summary of Environmental Concerns

The proposed Surrey Farms Estates project would subdivide approximately 17.5 acres within a hillside area at 178 Twin Oaks Drive, to construct multiple single-family residences, internal roadways, driveways, and associated infrastructure. The site includes oak woodland, sloped topography, and an ephemeral drainage feature that ultimately conveys runoff toward Ross Creek. Despite the project's location within an ecologically sensitive transition zone between existing development and natural hillside habitat, the IS/MND concludes that all potential impacts can be mitigated to less-than-significant levels without the preparation of an Environmental Impact Report (EIR).

However, substantial evidence in the record, including evidence provided in the October 2025 comment letter from the San Francisco Bay Regional Water Quality Control Board (RWQCB), demonstrates that the project may cause significant environmental impacts that have not been fully evaluated or mitigated. These include, but are not limited to:

- **Hydrologic impacts** to a potentially jurisdictional ephemeral creek, including diversion of contributing stormwater flows that may result in dewatering of riparian vegetation,
- **Loss and fragmentation of biological habitat**, including oak woodland, wildlife corridors, and breeding/nesting habitat for birds, raptors, and pollinators such as Crotch's Bumble Bee,
- **Unaddressed light pollution and bird collision risks** associated with hillside residential development and night lighting at the wildland–urban interface, and
- **Procedural deficiencies under CEQA**, including reliance on deferred mitigation, absence of required agency consultation, and disregard of substantial evidence submitted by a responsible agency.



1 cont.

Under CEQA's "fair argument" standard (Guidelines §§15064, 15065), the existence of substantial evidence supporting a reasonable possibility of significant effects mandates preparation of an EIR. The presence of unresolved agency disagreement, particularly from the RWQCB, a responsible agency with jurisdiction over waters of the State, further compels elevation of environmental review. These omissions provide substantial evidence of a fair argument that the project may have a significant effect on the environment, requiring preparation of an EIR under CEQA Guidelines §§15064 and 15065.

Accordingly, SCVBA and SCLP submit that adoption of a Mitigated Negative Declaration would be legally improper, and that a full Environmental Impact Report is required to analyze, disclose, and mitigate the project's hydrologic, ecological, and cumulative impacts.

I. Hydrology and Waters of the State: Dewatering, Jurisdiction, and RWQCB Conflict

The IS/MND fails to properly evaluate or mitigate significant hydrologic impacts to an on-site ephemeral drainage that is subject to potential jurisdiction by the San Francisco Bay Regional Water Quality Control Board (RWQCB) and the California Department of Fish and Wildlife (CDFW). The document relies exclusively on a determination by the U.S. Army Corps of Engineers regarding federal jurisdiction, while omitting State jurisdictional standards under the Porter-Cologne Water Quality Control Act and Fish and Game Code §1602.

A. Unresolved Jurisdiction over Waters of the State

2

The IS/MND asserts that the on-site ephemeral drainage is "non-jurisdictional," yet it provides no confirmation or concurrence from RWQCB or CDFW. This omission directly conflicts with the RWQCB's October 2025 comment letter, which reiterates the agency's ongoing concern:

"Ten years after our initial comment letter, we remain concerned that the extent of waters subject to the jurisdiction of the Water Board and the California Department of Fish and Wildlife... has not been confirmed... Until jurisdiction is determined, the Project should assume that the ephemeral creek is a water of the State."

Waters of the State are defined independently of federal jurisdiction and include seasonal and ephemeral drainages under the Porter-Cologne Act. Failure to acknowledge jurisdiction of a State-regulated waterway constitutes a procedural and substantive CEQA flaw, as the project may require Waste Discharge Requirements (WDRs) or Clean Water Act §401 certification from RWQCB, and a Lake and Streambed Alteration Agreement (LSAA) from CDFW.

B. Diversion and Dewatering of Riparian Flow

3

Current site hydrology supports riparian vegetation and wildlife habitat along the ephemeral drainage. The IS/MND proposes bioretention basins and pervious pavements designed to **divert**



3 cont.

↑ **stormwater runoff into storm drains**, away from the natural drainage. As RWQCB emphasizes:

“Stormwater runoff that currently supports riparian vegetation along the ephemeral creek would be diverted... This could deprive riparian vegetation of sufficient water to sustain the vegetation, a significant impact to the creek.”

The MND does not contain any hydromodification management analysis, despite the Town’s obligations under the Municipal Regional Stormwater Permit (MRP). No measures are provided to maintain base flows, protect channel stability, or preserve riparian hydrology.

C. Inconsistency with the Los Gatos General Plan

The Los Gatos General Plan calls for protection of riparian corridors, habitat connectivity, and natural hydrologic functions. An ephemeral creek that supports riparian growth is subject to these protections, and cannot be dismissed without agency consultation or hydrological analysis.

D. Lack of Enforceable Maintenance and Ownership Measures

The IS/MND defers long-term maintenance to a future homeowners’ association (HOA), without identifying:

- Responsibility for inspection and repair of stormwater infrastructure,
- Funding mechanisms for hydrologic mitigation, or
- Standards for performance over time.

4

Deferred mitigation violates CEQA Guidelines §15126.4(a)(1)(B), which prohibits mitigation dependent on undefined future actions.

Conclusion on Hydrology

Because substantial evidence demonstrates the potential for significant hydrologic impacts - including dewatering of a State-regulated waterway - CEQA mandates preparation of an Environmental Impact Report. The IS/MND must be withdrawn or recirculated to address these deficiencies.

5

↓ II. Bird Collisions with Glass



5 cont.

Bird collisions with glass are one of the leading human-caused sources of bird mortality in North America. Scientists estimate that up to one billion birds die each year in the United States from collisions with buildings and transparent or reflective surfaces. This is not a marginal issue; it is a primary driver in the continent-wide decline of bird populations, including species already stressed by habitat loss, climate change, and drought.

Birds do not perceive glass as a barrier. They see reflected sky or vegetation and attempt to fly through it, or they see a direct line of habitat through a structure and follow a “line of flight”, often fatally. While some environmental documents briefly acknowledge reflective glass, a truly protective approach must also address clear glass and see-through conditions, such as parallel glass façades or corridors that create direct flight paths through structures, as well as stand-alone glass elements such as balcony railings.

These features can be especially hazardous in hillside or riparian-edge developments, where migrating and resident birds move through tree canopy or along drainages. Local oak woodland and creek corridors serve as flyways for warblers, thrushes, towhees, and raptors, species that cannot adapt to invisible barriers.

Los Gatos General Plan Recognizes Bird Collision Risk

Importantly, the **Town of Los Gatos 2040 General Plan explicitly acknowledges bird collisions as a serious environmental concern** and commits to requiring safer building design. Under the *Environment and Sustainability Element*, the Town states:

“Require new development to increase bird safety by reducing hazardous building and architectural elements, and including bird safe and lighting design.”

The General Plan further anticipates a dedicated **Bird Safety Ordinance** to reduce collisions with windows and regulate hazardous materials and lighting:

“Adopt a Bird Safety Ordinance to reduce bird collisions with windows... regulate building design and lighting implementation.”

Despite these commitments, the environmental document does not analyze bird collision hazards nor propose any bird-safe measures for glazing, transparency, or façade design. This absence creates a direct inconsistency between the project and the Town’s adopted policy direction.

Architectural Collision Hazards That Must Be Addressed

Basic bird-safe design is especially critical in hillside and riparian-edge developments where migratory routes cross tree canopies and drainages. Hazardous features include:



5 cont.

- **Expansive reflective glass** facing vegetation
- **Parallel or transparent façades** creating “line-of-flight” conditions, and
- **Glass balcony railings, corner glazing, and atriums** that create illusions of open passage

These features are known to cause high-speed bird strikes, a long-term operational impact that CEQA requires agencies to identify and mitigate.

CEQA Requires Addressing Operational Wildlife Mortality

CEQA evaluates not only temporary construction effects but long-term biological impacts from the operation of the built environment. Because bird-glass collision mortality is foreseeable, preventable, and recognized in Town policy, it must be mitigated at the project level through enforceable measures such as patterned glazing, reduced reflectivity, and design alterations to eliminate see-through corridors.

Conclusion

Given the Town of Los Gatos’ explicit policy to “**increase bird safety by reducing hazardous building elements,**” it is essential that this project incorporate bird-safe architectural standards. Absent such measures, the project would perpetuate a known and significant source of avoidable wildlife mortality, inconsistent with both CEQA and the Town’s own General Plan.

6

III. Artificial Lighting (ALAN) and Impacts on Wildlife and Ecological Health

Artificial Light at Night (ALAN) poses significant and well-documented impacts on wildlife, ecological function, and human health. While the environmental document discusses lighting only from an aesthetic or glare perspective, the evaluation of lighting impacts on **biological resources**, including migratory birds, nocturnal wildlife, and ecosystems is warranted. Light is not merely a visual issue, it is a biological force that disrupts circadian systems, navigation, foraging, predator-prey behavior, and reproductive timing.

Los Gatos General Plan: Lighting is a Biological Resource Concern

The **Town of Los Gatos 2040 General Plan** expressly recognizes lighting as an environmental impact affecting wildlife, not just visual character. Under the *Environment and Sustainability Element*, the Town directs:

*“Require the design of building, street, landscape, and parking area lighting to improve safety, energy efficiency, **protection of the night skies (dark sky***



6 cont.

protections), biological resources, and environmental soundness.”

The General Plan also calls for a **Dark Skies Ordinance** to minimize ecological disruption:

“Adopt a Dark Skies Ordinance ... to regulate exterior lighting, skyglow, and impacts to wildlife.”

Despite these adopted policy commitments, the MND does not analyze lighting impacts on wildlife movement, riparian corridors, or nocturnal species. It treats lighting solely in terms of visual compatibility with surrounding homes, overlooking its ecological consequences.

Scientific Basis: Why ALAN Is an Ecological Impact

Peer-reviewed research has shown that nighttime lighting causes the following:

- **Disorients migrating birds**, pulling them off-route into developed areas where collision risk increases,
- **Disrupts circadian hormones** in wildlife and humans by suppressing melatonin,
- **Alters predator–prey dynamics**, favoring some species (rats, crows) over others (owls, bats), and
- **Reduces insect populations**, which cascades upward to birds and bats reliant on them.

Blue-rich light (high CCT LEDs) is especially harmful. The spectral range of 4000–5000K commonly used in development has been linked to higher disorientation and physiological stress in wildlife. Warm-spectrum lighting at **2700 Kelvin or below** significantly reduces ecological disruption.

Location Sensitivity: Hillsides and Riparian Zones

Lighting impacts are particularly severe at the **urban–wildland interface**, such as hillside developments bordering Ross Creek and oak woodland. These areas support nighttime movement of the following:

- Owls (Great Horned, Barn Owl),
- Bats and nocturnal pollinators, and



6 cont.

- Migratory thrushes, warblers, and tanagers navigating by starlight.

General Plan implementation guidance even identifies **riparian corridor lighting** as an ecological concern requiring directional control:

“Require careful lighting design in and near natural riparian corridors to direct light away and maximize the distance between nighttime lighting and the corridor.”

This heightened sensitivity is entirely absent in the MND.

Recommended Mitigation – Consistent with General Plan

To comply with CEQA and align with General Plan sustainability goals, outdoor lighting should incorporate the following:

- **Full shielding and downward direction** (no uplight, no spill into habitat),
- **2700K or lower color temperature** to minimize harmful blue light,
- **Automatic shut-off or curfews after 10:00 PM**, except motion-activated security lighting, and
- **No unshielded façade or landscape lighting** near riparian or canopy edges.

Conclusion on Lighting

By omitting wildlife analysis and relying solely on human visual standards, the MND fails to address a documented environmental impact recognized in both science and Town policy. Effective lighting mitigation must protect ecological function, not just visual ambiance. A full EIR is warranted to evaluate operational lighting impacts in this sensitive hillside and riparian environment.

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IV. Biological and Wildlife Impacts: Habitat Loss, Fragmentation, and Special-Status Species

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. The project lies within a transitional zone between developed hillside residences and the Ross Creek watershed, an area known to support raptors, migratory songbirds, and oak-associated wildlife. The document’s reliance on generic pre-construction surveys does not satisfy CEQA’s requirements for identification, analysis, and mitigation of long-term habitat impacts.



8

A. Oak Woodland and Habitat Fragmentation

The project would remove a substantial number of mature coast live oaks and associated understory vegetation. Oak woodlands provide critical foraging, roosting, and nesting habitat for species such as Acorn Woodpecker, American Kestrel, Red-Shouldered Hawk, and multiple migratory warblers. Despite the scale of proposed vegetation clearing, the IS/MND 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, including reduced canopy continuity, loss of acorn mast availability, and disruption of species movement between hillside and riparian zones. CEQA requires disclosure and mitigation of such impacts (Guidelines §15380), which the MND does not provide.

9

B. Riparian Dependency and Loss of Hydrologic Support

The IS/MND acknowledges the presence of an ephemeral drainage but incorrectly concludes there will be no biological impact. 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 exposure, were not analyzed.

10

C. Nesting Birds and Raptors: Inadequate Mitigation

The site supports habitat suitable for breeding birds protected under the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code §3503. However, the IS/MND proposes only seasonal nest surveys, deferring species protection to future conditions. CEQA prohibits reliance on deferred mitigation in place of substantive analysis. Permanent loss of nesting and roosting habitat is not mitigated by temporal surveying.

Raptor species such as Red-tailed Hawk, Cooper's Hawk, and Great Horned Owl are known to utilize this region. The MND does not analyze displacement, loss of hunting perches, or effects on prey availability.

11

D. Special-Status Pollinators: Omission of Crotch's Bumble Bee



11 cont.	The IS/MND omits any analysis of special-status invertebrates, including Crotch's Bumble Bee (<i>Bombus crotchii</i>), a California Endangered Species Act (CESA) Candidate species. This omission violates CEQA Guidelines §15380, which requires treatment of candidate species as threatened or endangered. Oak-woodland and chaparral-edge habitats within Santa Clara County are within the known range of this species. No botanical or pollinator surveys appear to have been conducted.
12	Conclusion on Biological Impacts The MND fails to disclose the scale of habitat conversion, analyze biological connectivity, or mitigate for permanent ecological loss. Substantial evidence supports a fair argument that the project may have significant biological impacts, requiring a full Environmental Impact Report.
13	V. <u>CEQA Procedural Failures: Reliance on an MND is Legally Improper</u> The IS/MND for Surrey Farms Estates does not comply with the procedural requirements of the California Environmental Quality Act (CEQA). Multiple deficiencies in analysis, consultation, and mitigation demonstrate that reliance on a Mitigated Negative Declaration is legally improper. Under CEQA's "fair argument" standard, the presence of substantial evidence supporting a significant impact mandates preparation of an Environmental Impact Report (EIR). A. Failure to Apply the Fair Argument Standard CEQA Guidelines §15064(f)(1) requires an EIR where substantial evidence indicates a project may have a significant effect on the environment, even if the lead agency believes impacts can be mitigated. In this case, expert agency evidence from the RWQCB clearly disputes the MND's conclusions on hydrology and biological impacts. Disagreement among experts requires an EIR, not an MND.
14	B. Deferral of Mitigation and Absence of Performance Standards The IS/MND repeatedly defers mitigation to future plans, HOA oversight, or permitting processes, without defining performance standards or enforceable obligations. This violates CEQA Guidelines §15126.4(a)(1)(B), which prohibits reliance on unspecified or future mitigation, particularly where long-term resource impacts are involved (e.g., habitat loss, hydrology modification). Examples of impermissible deferral include the following: • Stormwater operation and maintenance left to an undefined HOA,



14 cont.	• Lack of binding commitments to preserve riparian flow or tree canopy, and • Absence of defined mitigation ratios for habitat or tree removal.
15	C. Failure to Recirculate After New Substantial Evidence (RWQCB 2025 Letter) The October 2025 RWQCB comment letter introduces substantial new evidence that the project may significantly impact waters of the State. Under CEQA Guidelines §15088.5, a lead agency must recirculate an environmental document when new information shows the project will result in new or substantially more severe impacts than previously disclosed. The Town did not recirculate, thereby depriving decision-makers and the public of a full review.
16	D. Misapplication of Housing Laws Does Not Exempt CEQA While the project appears to invoke the Builder’s Remedy provisions under Government Code §65589.5, CEQA remains fully applicable. Housing law does not waive or reduce CEQA review. Courts have consistently held that 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.
17	Conclusion on Procedural Failures The procedural shortcomings of the IS/MND, combined with substantive omissions in hydrology, biology, and lighting, render it legally indefensible under CEQA. A full Environmental Impact Report (EIR) is required to ensure compliance with state environmental law and to provide accurate assessment, disclosure, and mitigation of the project’s impacts. VI. <u>Conclusion and Request for Preparation of an Environmental Impact Report</u> For the reasons outlined in the sections above, the Santa Clara Valley Bird Alliance finds that the Initial Study/Mitigated Negative Declaration for the Surrey Farms Estates project is inadequate under CEQA. Substantial evidence in the record, including technical comment from the Regional Water Quality Control Board, demonstrates that the project may cause significant environmental impacts that have not been fully analyzed, disclosed, or mitigated. These include potential dewatering of Waters of the State, permanent loss of biological habitat, wildlife disturbance from lighting, and unmitigated operational effects. Under CEQA Guidelines §§15064 and 15065, a Mitigated Negative Declaration cannot be adopted where substantial evidence supports a fair argument of significant impact. Furthermore, CEQA Guidelines §15088.5 requires recirculation when new information indicates the potential for new or more severe impacts, as is the case with RWQCB’s October 2025 letter.



17
cont.

Accordingly, SCVBA and SCLP respectfully requests the following from the Town of Los Gatos:

1. **Withdraw the Mitigated Negative Declaration.**
2. **Recirculate the environmental document** to incorporate agency concerns and hydrologic and biological analysis, and
3. **Prepare a full Environmental Impact Report (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, as required under CEQA.

We appreciate the opportunity to provide these comments and remain available to participate in future consultation, provide biological expertise, and ensure that environmental review for this site reflects the region's ecological values and legal standards. Please include these comments in the administrative record for this project.

Respectfully,

Shani Kleinhaus, Ph.D.
Environmental Advocate
Santa Clara Valley Bird Alliance

Katja Irvin, AICP
Guadalupe Group Conservation Chair
Sierra Club Loma Prieta Chapter



RESPONSES TO SCVBA AND SCLP LETTER

Response to Comment 1

The comment is introductory and summarizes the commenter's concerns that are presented in further detail subsequently in the letter. Detailed responses to the more specific comments presented in the letter are provided below.

Response to Comment 2

This comment has already been addressed in the Town's responses to the Regional Water Quality Control Board (RWQCB) letter referenced by the commenter. Please see Exhibit 13 of the December 17, 2025 Planning Commission Staff Report, which contains the responses to public comments received during the public review period for the IS/MND. Specifically, please refer to Response to Comment 1-1 therein.

Response to Comment 3

This comment has already been addressed in the Town's responses to the Regional Water Quality Control Board (RWQCB) letter. Please see Exhibit 13 of the December 17, 2025 Planning Commission Staff Report, which contains the responses to public comments received during the public review period for the IS/MND. Specifically, please refer to Responses to Comments 1-4 and 1-5 therein.

Response to Comment 4

This comment has already been addressed in the Town's responses to the Regional Water Quality Control Board (RWQCB) letter. Please see Exhibit 13 of the December 17, 2025 Planning Commission Staff Report, which contains the responses to public comments received during the public review period for the IS/MND. Specifically, please refer to Response to Comment 1-4 therein.

Response to Comment 5

The comment does not present substantial evidence of a direct significant impact to any special-status species. Urban-adapted and common birds are the most likely to collide with windows due to their higher frequency of occurrence and likelihood of interaction along the built environment interface. Moreover, as reported in the San Francisco Standards for Bird Safe Buildings¹ and other documents, the typical bird strike zone is from grade to 60 feet, the primary concern is with any uninterrupted glazing 24 square feet or larger in size, and the likelihood of strike depends on various factors, including the glazing used, the angle of the glass, the orientation of the building, and landscaping. Although the proposed residences would include windows, the features listed within the comment (expansive glass, transparent facades, glass balcony railings, corner glazing, and atriums) are not anticipated to be included within the proposed residences. In addition, based on the architectural design sheets for the proposed project, the proposed building facades would include many materials other than glass that are visible to birds. Such materials would include wood siding and stone veneer. Further, the elevations also feature forms of architectural relief (overhangs, spatially-offset adjacent faces), as well as varied (opaque) materials and colors. All of the aforementioned architectural design features would serve to minimize operation impacts related to the risk of bird strikes.

¹ San Francisco Planning Department. 2011. Standards for bird-safe buildings. San Francisco Planning Department, City and County of San Francisco, California.



Response to Comment 6

Impacts related to lighting are discussed under question I-d within Section I, Aesthetics, of the IS/MND. As stated on Page 29 therein:

According to the project applicant, all exterior lighting (i.e., both building-mounted and landscape lighting) would be designed consistent with the Hillside Design Standards and Guidelines outdoor lighting standards, which require the minimum lighting required for pedestrian safety and require compliance with the Town's Municipal Code. To reduce the potential for disturbance due to nighttime lighting, the project would comply with Town Code Section 29.10.09015, which requires all permanent exterior light fixtures to use shields so that bulbs are not visible and to ensure that light is directed to the ground surface and does not spill onto neighboring parcels or produce glare when seen from nearby homes. As such, the proposed project would comply with both the Town's Municipal Code and policies within the Hillside Design Standards and Guidelines.

The standards referenced above would ensure that project lighting would be shielded and directed downward, among other requirements, consistent with the commenter's recommendation.

In addition, as stated on page 28 of the IS/MND, existing sources of light and glare including, but not limited to, headlights on cars and trucks travelling along nearby roadways and private driveways, exterior light fixtures, and interior light spilling through windows, are present within the project vicinity. Therefore, while the development of the project site with 12 single-family residences would add new sources of light and glare to the site, such sources would be similar in nature to the existing surrounding conditions. Based on such, wildlife species in the vicinity would be expected to be somewhat urban-adapted, particularly to existing lighting in the vicinity.

The comment specifically mentions riparian corridor lighting. As discussed in the IS/MND and Response to Comment 24-2 (see Exhibit 13 of the December 17, 2025 Planning Commission Staff Report), the only identified riparian woodland is in the vicinity of Ross Creek in the site's southwest corner; development within the riparian woodland area is not proposed, and Ross Creek would not be directly impacted by the proposed project. Also see Response to Comment 1-5 of Exhibit 13 of the December 17, 2025 Planning Commission Staff Report, which states that the trees within the ephemeral drainage/drainage swale is mixed oak woodland habitat, not riparian habitat.

The comment does not provide any substantial evidence that additional lighting at the site that is designed consistent with the Town's Municipal Code and policies within the Hillside Design Standards and Guidelines would affect the breeding behavior of any special-status species to a degree that would preclude them from productive breeding. Therefore, substantial evidence that a direct significant impact would occur to any special-status species as a result of project lighting has not been provided.

Response to Comment 7

The comment summarizes the commenter's concerns regarding habitat loss, fragmentation, and special-status species, which are expanded upon within Comments 8 through 11. Please see the detailed responses to the more specific comments below.

In addition, although the mitigation measures set forth in the IS/MND require pre-construction surveys, such surveys are not the full extent of the mitigation measure requirements related to special-status wildlife species. Pre-construction surveys are required as the first step to



conclusively identify the presence or absence of specific species, the mitigation measures included within the IS/MND (including Mitigation Measures IV-2, IV-4, and IV-6 through IV-9) specify what actions shall be taken if the surveys result in positive identification, as well as the appropriate overseeing authority.

Response to Comment 8

This comment has already been addressed in the Town's responses to public comments received during the public review period for the IS/MND. Please see Exhibit 13 of the December 17, 2025 Planning Commission Staff Report. Specifically, please refer to Responses to Comments 2-3 and 24-2 therein. In addition, contrary to the comment, total tree loss is specifically quantified and addressed in the IS/MND (e.g., see page 50 of IS/MND) and a project-specific Arborist Report was prepared.

Response to Comment 9

Please see Response to Comment 3 above.

Response to Comment 10

Please see Response to Comment 7 above. The commenter incorrectly states that the IS/MND defers species protection to future conditions. Mitigation Measure IV-4 includes standards and actions to implement if active nests are found as a result of the required pre-construction survey. As noted on page 46, such standards include the following:

If one or more active nests are found, a construction-free buffer of suitable dimensions shall be established around any active raptor or migratory bird nest for the duration of the project, or until the qualified biologist has determined that the chicks have fledged and are foraging independently from their parents. The buffer shall be identified on the ground with flagging or fencing. The buffer distance shall be determined by the on-site qualified biologist based on the species, level of disturbance activity, location of the nest, and the topography between the nest and the construction activity; the construction-free buffer shall consist of a minimum starting distance of 250 feet for raptors and 25 feet for other birds. Proof of compliance with this mitigation measure shall be provided to the Town of Los Gatos Community Development Department.

As stated in Response to Comment 5-25 of the Town's responses to public comments received during the public review period for the IS/MND (see Exhibit 13 of the December 17, 2025 Planning Commission Staff Report), the mitigation measures included within the IS/MND would provide protection to the species listed in the comment. Although the species listed within the comment were not specifically identified as having a high potential to occur on-site by the Biological Evaluation, the required measures within Mitigation Measures IV-3 and IV-4 through IV-6 would also reduce potential impacts to any unlikely occurrences of the species.

Response to Comment 11

As noted on page 42 of the IS/MND, "...Crotch's bumble bee was eliminated due to a lack of suitable habitat and nectar plants within the project site, as well as the nearest recorded CNDDDB observation occurring more than three miles from the site." Therefore, the species is not anticipated to occur on-site and was not considered further within the IS/MND.

Response to Comment 12

Please see Responses to Comments 7 through 11 above.



Response to Comment 13

CEQA Guidelines Section 15064 also includes the following:

(4) The existence of public controversy over the environment effects of a project will not require preparation of an EIR if there is no substantial evidence before the agency that the project may have a significant effect on the environment.

(5) Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

Please see Responses to Comments 1-1 through 1-6 of the Town's responses to public comments received during the public review period for the IS/MND (see Exhibit 13 of the December 17, 2025 Planning Commission Staff Report), which comprise the responses to the RWQCB comments. As shown therein, the RWQCB comments do not provide substantial evidence as defined by CEQA Guidelines Section 15064 that would require preparation of an EIR.

Response to Comment 14

Please see Responses to Comments 3, 4, 7, and 8 above.

Response to Comment 1-15

Please see Responses to Comments 2 and 13 above. In addition, as presented in the Responses to Comments document and Errata Sheet prepared for the proposed project (see Exhibits 13 and 14 of the Town's December 17, 2025 Planning Commission Staff Report, respectively), and based on the responses included herein, pursuant to CEQA Guidelines Section 15073.5, recirculation of the IS/MND is not warranted.

Response to Comment 1-16

CEQA review of the proposed project has not been waived, as evidenced by preparation of the IS/MND. The project, as proposed, has been adequately analyzed pursuant to CEQA.

Response to Comment 1-17

The comment is a summary of all preceding comments and a conclusion. Please see the detailed responses above. The comment has been forwarded to the decision-makers for their consideration.



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-----Original Message-----

From: karri greenfield <[REDACTED]>

Sent: Monday, December 15, 2025 6:52 PM

To: Erin Walters <EWalters@losgatosca.gov>

Subject: Dodge Housing Project

[EXTERNAL SENDER]

Hello Erin,

Unfortunately, I won't be able to attend the planning meeting on Wednesday, December 17th but I wanted to express my opinion.

My first concern with the development of the Dodge property is safety especially if there is a fire. I feel very strongly that there should be two ways to evacuate the properties. One entrance/exit off of Twin Oaks and another entrance/exit off of Brooke Acres.

Secondly, I am concerned about traffic. Another reason to have two entrances.

Thank you for your consideration.

Karri Greenfield

[REDACTED] Longmeadow Dr.

Los Gatos

Sent from my iPhone

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