



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 12/17/2025

ITEM NO: 1

ADDENDUM

DATE: December 15, 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., Friday, December 12, 2025, and 11:00 a.m., Monday, December 15, 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 15, 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 this Addendum Report:

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

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December 15, 2025

Chair and Members of the Los Gatos Planning Commission
Town of Los Gatos, Community Development Department
110 E. Main Street Los Gatos, CA 95030

Via Email to Erin Walters, Senior Planner EWalters@losgatosca.gov

Re: 178 Twin Oaks, Surrey Farms Estates Subdivision Project (Architecture and Site Applications S-24-023 through -032 and S-24-059, Vesting Tentative Map Application M-24-013, and Mitigated Negative Declaration Application ND-25-001)

Dear Chair and Members of the Planning Commission:

This law firm represents Jon Witkin, who owns and resides on the property immediately adjacent to the proposed 178 Twin Oaks, Surrey Farms Estates Subdivision Project ("Project") in the Town of Los Gatos ("Town") hills where he has lived for seventy (70) years since 1955. As shown on the Project's proposed Vesting Tentative Map before you for approval (and excerpted in Exhibit A), five (5) of the proposed twelve (12) residential units would share a property line with my client's property, and therefore Mr. Witkin would be the neighbor most impacted by this Project. Although Planning staff has encouraged the Project applicant to meet with my client and the other neighbors as is customary for proposed developments in the Town, the applicant has blatantly ignored staff's direction.

After reviewing the Project and the Initial Study and Mitigated Negative Declaration for the Project ("IS/MND"), as well as governing state law and applicable Town regulations, we respectfully request that you recommend that the Town Council deny the Project outright on the grounds that: (1) the Project would result in a specific, adverse impact upon the public health or safety pursuant to California Government Code Section 65589.5, Subdivision (d); and (2) the Project egregiously conflicts with nearly all applicable existing objective development regulations the Project is subject

pursuant to California Government Code Section 65589.5, Subdivision (f) despite its Builder's Remedy status.

If you elect not to recommend that the Town Council deny the Project outright despite its adverse health and safety impacts and conflict with objective local standards, the California Environmental Quality Act ("CEQA") mandates that any further consideration of the Project must be postponed until an Environmental Impact Report ("EIR") is prepared and certified. See our IS/ MND comment letter on behalf of Jon Witkin dated October 9, 2025 (included as Letter 23 in the Responses to Comments Surrey Farms Estates Subdivision Project November 25, 2025 ("Responses to Comments Document") and the IS/ MND comment letter dated October 17, 2025 from the Santa Clara Valley Bird Alliance and the Sierra Club Loma Prieta Chapter attached hereto as Exhibit B (which was not included in the Responses to Comments Document and therefore not addressed by the environmental consultant that prepared the IS/ MND).

Moreover, as explained in those letters and further documented in the third party peer review of the *Biological Evaluation Report for 178 Twin Oaks Drive Project, Los Gatos, Santa Clara County, California, Prepared By Live Oak Associates, INC* (May 2025) this law firm commissioned from Patrick Kobernus, Principal Biologist of Coast Ridge Ecology, Inc. (Exhibit C), the IS/ MND is deficient for several reasons and inadequate under CEQA. Accordingly, it cannot be relied upon under CEQA to approve the Project.

I. THE PROJECT WOULD RESULT IN SPECIFIC, ADVERSE IMPACTS UPON THE PUBLIC HEALTH OR SAFETY

We recognize that the Town cannot reject the Project unless it can make certain denial findings, one of which is that the project "as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low- and moderate-income households." (Cal. Gov. Code, Sec. 65589.5, Subdivision (d)(2)).

However, the Project meets this denial finding and therefore should be rejected on this basis. Specifically, it would: (1) impede the surrounding neighborhood's evacuation in the event of a wildfire or other emergency; (2) increase erosion and landslide risk on the Project site and its vicinity; and (3) dramatically increase stormwater runoff and peak flows exposing the surrounding area to risk of flooding and water quality degradation.

A. The Project Would Restrict Evacuations and Emergency Access.

While the IS/MND concludes that the Project will not *physically* interfere with the Town's emergency evacuation routes because it would not result in any substantial modifications to the existing roadway system, the IS/ MND fails to acknowledge that the additional trips generated by this 12-unit project (which exceed VMT thresholds by generating 113 new daily trips not including construction generated trips) will impact the narrow, winding access roads to the Project site. these access roads already experience significant delay and gridlock from trips associated with the existing 70+ homes in the area together with school and beach traffic. (See Jill & Craig Fordyce Letter, pp 30-31 ("Fordyce Letter"), included as Letter 5 in the Responses to Comments

Document and Responses to Comments Document p. 31.) If the proposed 12- unit project is built at the Project site, the traffic burden on the roads will significantly increase, thereby restricting emergency access and evacuation routes for residents within the vicinity of the Project site in the event of a wildfire or other emergency. (Exhibit E, Fordyce Letter, p. 17.) Wildfire is a very real risk as the site lies in a Very High Fire Hazard Severity Zone, which, as acknowledged in the Responses to Comments Document, the IS/MND incorrectly classifies as only a High Fire Hazard Severity Zone. Because these access roads are already congested, there is no feasible method to mitigate this adverse safety impact of the Project without denying or reducing the density of the Project.

B. The Project Would Increase Erosion and Landslide Risk.

The geological hazards of the Project site further pose a specific, adverse impact on public safety. The Project site sits within a County Geologic Hazard Zone with landslide, liquefaction, compressible-soil, and fault-rupture hazards. (IS/MND, pp. 59, 61.) Instead of mitigating these public safety risks, the Project applicant seeks multiple waivers to the Town's Hillside Development Standards and Guidelines which were designed to safeguard the public from these risks. Specifically, the applicant seeks waivers to exceed the maximum allowable grading, thereby undermining slope stability and increasing the likelihood of landslides and erosion in this landslide hazard zone. (See Fordyce Letter, pp. 21-23). Because the Project as proposed seeks these waivers, the health and safety impacts from this increased erosion and landslide risk cannot be feasibly mitigated without denying or reducing the density of the Project.

C. The Project Would Increase Flooding Risk.

The additional 62,224 square feet of impervious surface proposed by the Project also poses a specific adverse impact on public health and safety by dramatically increasing stormwater runoff and peak flows. (Fordyce Letter, p. 23-27; San Francisco Bay Regional Water Quality Control Board Letter included as Letter 1 in the Responses to Comments Document.) Despite this risk, a final erosion-and-sediment control plan has not been prepared, leaving the surrounding area exposed to flooding, topsoil removal, water quality degradation, and the potential failure of the proposed bioretention pond adjacent to Hillbrook School and nearby homes. (*Ibid.*) This adverse health and safety impact caused by adding 62,224 square feet of impervious surface, cannot be feasibly mitigated without denying or reducing the density of the Project.

II. THE PROJECT CONFLICTS WITH APPLICABLE OBJECTIVE DEVELOPMENT STANDARDS

While we recognize that Builder's Remedy projects are not required to obtain Zoning and General Plan amendments, Builder's Remedy projects must nonetheless comply with objective development standards pursuant to California Government Code Section 65589.5, subdivision (f). The Project egregiously fails to comply with nearly all such standards, most of which were designed to protect public health and safety.

The Project as proposed exceeds the following applicable Resource Conservation standards: (i) the permissible density of principal residential units per lot, (ii) the minimum 20-acre lot area;

(iii) maximum permitted height; (iv); maximum floor area; (iv) the minimum front, side, and rear setbacks (See Town Municipal Code, Sec. 29.49.160, 29.40.170, and 29.40.170; Staff Technical Review dated October 27, 2025, p. 6.)

The Project also conflicts with the Hillside Development Standards and Guidelines that apply to the Project site which is in the Hillside Specific Plan Area. Specifically, the Project proposes to build outside the Least Restrictive Development Area and on slopes greater than 30%, in violation of the hillside siting and slope constraints intended to limit grading and avoid hazard areas. (See Staff Technical Review dated October 27, 2025, p. 6)

The Project also conflicts with driveway and parking requirements of the Hillside Specific Plan, conflicts with the Below Market Price Housing Program because it does not meet the standards for the size and location of affordable units, and conflicts with the prohibition against swimming pools on lots with slopes greater than 30%. (Staff Technical Review dated October 27, 2025.)

Moreover, the Project does not comply with minimum roadway width for fire access, and removes 223 protected trees, replanting only 85 trees on site when 551 replacement trees are required. Finally, the Project does not provide the following benefits that are otherwise required by Town Code: (i) sidewalks, a walkway or a path as; (ii) trail easement dedication or the construction of trails; (iii) an open space easement.

The applicant is requesting deviations from these requirements as “concessions and incentives” under State Density Bonus law. However, the Town may decline to grant this request under California Government Code § 65915 (d) if: 1) the concession or incentive does not result in identifiable and actual cost reductions to provide for affordable housing; 2) the concession or incentive would result in a “specific adverse impact . . . upon public health and safety or the physical environment which cannot be feasibly mitigated without rendering the development unaffordable to low-income and moderate-income households. No where in the record is it demonstrated that these requested concessions and incentives would result in identifiable and actual cost reductions to provide for affordable housing, and as discussed above and below, many of these requested concessions and incentives would result in a specific adverse impact upon health and safety and the physical environment which cannot be feasibly mitigated without rendering the development unaffordable.

III. CEQA REQUIRES PREPARATION OF AN EIR BEFORE THE PROJECT CAN BE CONSIDERED FOR APPROVAL; THE IS/MND IS INADEQUATE

If the Planning Commission elects to proceed with consideration of the Project despite the fact that it would result in an adverse health and safety impact and conflicts with objective standards, an EIR must first be prepared in accordance with CEQA because there is substantial evidence in the record that the Project may have a significant adverse impact on the environment, as explained in our IS/MND comment letter dated October 9, 2025 along with the letters submitted by Sierra Club Loma Prieta Chapter, the Santa Clara Valley Bird Alliance and the SF RWQCB.

The Project's Builder's Remedy status does not exempt it from complying with CEQA. (Cal. Gov. Code, Sec. 65589.5(e).) An environmental impact report ("EIR") is required whenever there is a "fair argument" that a project may have a significant effect on the environment—even if there is also substantial evidence to the contrary. (See *No Oil, Inc. v City of Los Angeles* (1974) 13 Cal.3d 68, 75.) As explained in the aforementioned letters, there is a fair argument supported by evidence in the record, that the Project may have a significant effect on the environment and therefore an EIR must be prepared before the Project can be approved.

Moreover, as explained in the aforementioned letters, the IS/MND is deficient because it fails to adequately describe the Project, fails to adequately analyze the Project's significant environmental impacts, and many of the mitigation measures proposed to reduce the impacts that are identified patently violate CEQA. As evidenced in the third-party peer review of the *Biological Evaluation Report for 178 Twin Oaks Drive Project, Los Gatos, Santa Clara County, California, Prepared By Live Oak Associates, INC* (May 2025) this law firm commissioned from Patrick Kobernus, Principal Biologist of Coast Ridge Ecology, Inc. (Exhibit C), the IS/ MND is deficient under CEQA for the following reasons:

- (1) It relies on an outdated floristic survey that is over 14 years old;
- (2) It fails to address sensitive plant communities potentially present on the project site in accordance with California Department of Fish & Wildlife (CDFW) protocols;
- (3) Mitigation Measure 3.3.5a for the Project's impact on Burrowing Owls is inadequate because it does not specify methodology and timing of the pre-construction surveys;
- (4) It fails to identify potential impacts to special status amphibian and reptile species and mitigate for these impacts;
- (5) It fails to include a habitat assessment of the project site for bats as part of the IS/ MND and the preconstruction surveys required by Mitigation Measure 3.3.6a to address the Project's impact on bats is inadequate;
- (6) It fails to include a detailed survey and mapping of active woodrat middens and a woodrat relocation plan;
- (7) It fails to identify potential impacts on the western bumble bee, (*Bombus occidentalis*); and Crotch's bumble bee, (*Bombus crotchii*) and mitigate for these impacts; and
- (8) Its conclusion that there would be no impact to wildlife corridors is unsupported by the record and it fails to mitigate for these potential impacts.

Accordingly, the IS/ MND is inadequate under CEQA. If the Planning Commission elects to proceed with further consideration of this Project, an EIR must first be prepared and certified for the Project to ensure that the significant impacts of this Project are fully disclosed, analyzed, and mitigated and a full range of alternatives to the Project are identified and analyzed.

V. CONCLUSION

We respectfully request that the Planning Commission recommend that the Town Council deny the Project on the grounds that it would result in a specific, adverse impact upon the public health and safety by (a) impeding the surrounding neighborhood's evacuation in the event of a wildfire or other emergency; (b) significantly increasing erosion and landslide risk on the Project site and its vicinity; and; (c) dramatically increasing stormwater runoff and peak flows, exposing the surrounding area to risk of flooding and water quality degradation.

If you elect not to recommend denial of the Project despite its adverse health and safety impacts, any further consideration of the Project must be postponed until an EIR is prepared is prepared and certified as required by CEQA. As explained in the Coast Ridge Ecology biological peer review set forth in Exhibit B (as well as our letter dated October 9, 2025 and the Sierra Club Loma Prieta Chapter and Santa Clara Valley Bird Alliance IS/ MND comment letter dated October 17, 2025 set forth in Exhibit C), the IS/ MND is deficient and therefore cannot be relied upon under CEQA to approve the Project.

Sincerely,



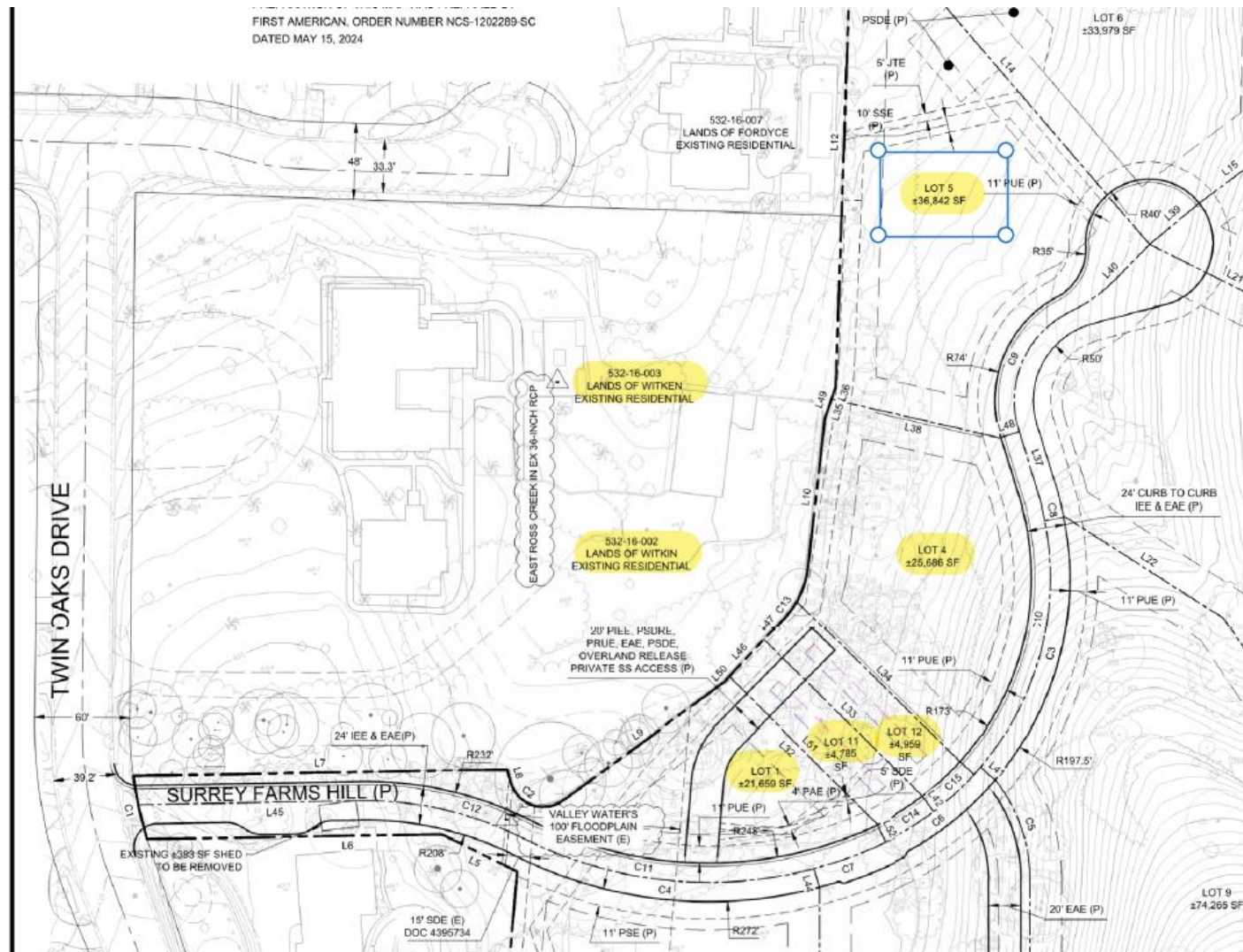
Camas J. Steinmetz, Esq.

Cc: Gabrielle Whelen, Town Attorney
Joel Paulson, Community Development Director
Sean Mullin, Planning Manager
Client

Enclosures: Exhibit A: Vesting Tentative Map Excerpt Showing Proximity of Jon Witkin Property
Exhibit B: Sierra Club Loma Prieta Chapter and Santa Clara Valley Bird Alliance IS/ MND comment letter dated October 17, 2025
Exhibit C: Coast Ridge Ecology Peer Review of the Biological Evaluation Report for 178 Twin Oaks Drive Project

Exhibit A

Project Vesting Tentative Map Excerpt





Erin Walters, Senior Planner
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Planning Commission
planning@losgatosca.gov

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.

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.

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

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

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**

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.

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.

II. Bird Collisions with Glass

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:

- **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.

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***

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

- 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.

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.

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.

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.

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.

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

The IS/MND omits any analysis of special-status invertebrates, including **Crotch's Bumble Bee (*Bombus crotchii*)**, 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.

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.

V. CEQA Procedural Failures: Reliance on an MND is Legally Improper

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.

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,

- Lack of binding commitments to preserve riparian flow or tree canopy, and
- Absence of defined mitigation ratios for habitat or tree removal.

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.

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.

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. Conclusion and Request for Preparation of an Environmental Impact Report

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.

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



COAST RIDGE ECOLOGY^{LLC}

BIOLOGICAL SURVEYS • MONITORING • PERMITTING • RESEARCH

December 8, 2025

Camas J. Steinmetz, Esq.
Jorgenson, Siegel, McClure & Flegel, LLP
1100 Alma Street, Suite 210
Menlo Park, CA 94025

Subject: Results of Peer Review of Biological Evaluation Report and Related Documents for the 178 Twin Oaks Drive Project, Los Gatos, Santa Clara County, California.

Dear Ms. Steinmetz:

This letter documents the results of a third party peer review of the *Biological Evaluation Report for 178 Twin Oaks Drive Project, Los Gatos, Santa Clara County, California, Prepared By Live Oak Associates, INC* (May 2025). The biological report evaluated the biological resources of a 17.55-acre property (APN 532-16-006) in Los Gatos, California (Project Site). The Project Site is located in an undeveloped hillside area between Cerro Vista Drive on the east, and Twin Oaks Drive on the west, within a residential area of Los Gatos, California.

This peer review consisted of a site visit to view the property from surrounding roads/parcels, and a review of the Biological Resource Evaluation (biological report). Additional documents and natural resource information reviewed as part of this peer review included the following sources:

- *Biological Evaluation Report for 178 Twin Oaks Drive Project, Los Gatos, Santa Clara County, California*, Prepared By Live Oak Associates, INC (May 23, 2025).
- *Certified Arborist Report, Tree Preservation Plan Project #4185.10, December 15, 2024. Revision 3, Surrey Farms, Los Gatos, CA 95032, APN: 532-16-006*. Prepared by Michael Gladden, ISA Certified Arborist #WE-2205A, McClintock Landscape Horticultural Services.
- *Surrey Farms Estates Subdivision Project Initial Study/Mitigated Negative Declaration*, City of Los Gatos (September 2025).
- California Natural Diversity Database (CNDDDB)
- California Native Plant Society (CNPS) Rare Plant Inventory
- National Wetlands Inventory
- California Natural Community List (updated Feb 27, 2025)
- CDFW Special Animals List (updated October 2025)

Project Description

The Project Site is a 17.55-acre area that consists primarily of grasslands and oak woodlands with some riparian (streamside) habitats. Existing single-family residences are located in the vicinity of the project site, as well as an existing private school located to the north of the site. The Surrey Farms Estates Subdivision Project (proposed project) would subdivide the project site into 12 residential lots, ranging in size from approximately 0.1-acre to 5.48 acres. The eastern portion of the project site would remain undeveloped. The western slope would be developed with 11 residences, comprised of eight market-rate single family residences and three below market-rate detached row houses. An additional single family

residence would be developed on the hillside's northeastern slope. Access to the project site would be provided through a new private driveway off of Twin Oaks Drive west of the project site, as well as a separate access route to Lot 10 from Cerro Vista Court.¹

1) Plant Communities and Rare Plants

Rare Plants

The biological report concluded that there are two rare plant species that have the potential to occur on site: Santa Clara red ribbons (*Clarkia concinna* ssp. *automixa*) and bent flowered fiddleneck (*Amsinckia lunaris*). The report also determined that both of these species were absent based on a floristic survey of the property conducted in 2012 by Wood Biological. As of 2026, the floristic survey would be 14 years old, and an updated floristic survey of the property should be conducted. Most biological reports need to be updated approximately every 5 years, depending on the site, and for habitats dominated by long-lived perennial plants, such as forests, surveys that were not conducted within the previous five years may not adequately represent the current baseline conditions and should be re-conducted (CDFW 2018)².

Plant Communities

The biological report lists Mixed Oak Woodland as present on site, which is not considered a Sensitive Plant Community by CDFW. However, there are multiple species of oak trees and sycamores on site that may be considered sensitive communities by CDFW.

There are 204 Valley Oak (*Quercus lobata*) trees on site. Valley Oak woodland is considered a sensitive natural community under CEQA due to its S3 rank³. The California Department of Fish and Wildlife maintains a list of Sensitive Natural Communities. Natural Communities with ranks of S1-S3 are considered Sensitive Natural Communities to be addressed in the environmental review processes of CEQA and its equivalents. For alliances with State ranks of S1-S3, all associations within them are also considered Sensitive.

Based on the tree species identified in the arborist report (McClintock Landscape Horticultural Services, 2024)⁴, the following sensitive plant communities are potentially present on the project site (shown below).

There are five plant community associations within two Valley oak Alliances, which are considered Sensitive by CDFW (shown below).

¹ Surrey Farms Estates Subdivision Project Initial Study/Mitigated Negative Declaration, September 2025.
<https://www.losgatosca.gov/DocumentCenter/Index/2227>

² Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. State Of California, California Natural Resources Agency, Department of Fish and Wildlife March 20, 2018.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959#:~:text=Use%20of%20Existing%20Surveys&text=Habitats%2C%20such%20as%20grasslands%20or.and%20should%20be%20re%2Dconducted.>

³ State (S) and Global (G) rarity ranks are indicated for Alliances and some Associations; those with ranks of 1-3 are considered Sensitive. California Natural Community List <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive>

⁴ Certified Arborist Report, Tree Preservation Plan Project #4185.10, December 15, 2024. Revision 3, Surrey Farms, Los Gatos, CA 95032, APN: 532-16-006. Prepared by Michael Gladden, ISA Certified Arborist #WE-2205A, McClintock Landscape Horticultural Services.

71.035.00 Valley oak woodland and forest (Alliance) G3 S3

71.040.05 *Quercus lobata* / grass - Sensitive

71.040.06 *Quercus lobata* – *Quercus agrifolia* / grass - Sensitive

71.040.18 *Quercus lobata* – *Quercus douglasii* - Sensitive

71.040.23 *Quercus lobata* / *Baccharis pilularis* – *Diplacus aurantiacus* - Sensitive

71.045.00 Valley oak riparian forest and woodland (Alliance) G3 S3

71.045.01 *Quercus lobata* – *Quercus agrifolia* / *Toxicodendron diversilobum* – (*Symphoricarpos* ssp.)

There are six California sycamore trees identified on site, and almost all of which are large diameter trees. The California Sycamore – Coast Live Oak Woodland Alliance has six plant community associations that are considered Sensitive by CDFW (shown below).

61.310.00 California sycamore – coast live oak woodlands G3 S3

61.310.02 *Platanus racemosa* – *Aesculus californica* – Sensitive

61.311.02 *Platanus racemosa* – *Bromus hordeaceus* – Sensitive

61.311.03 *Platanus racemosa* – Annual grass – Sensitive

61.312.01 *Platanus racemosa* – *Quercus agrifolia* - Sensitive

61.313.02 *Platanus racemosa* – *Toxicodendron diversilobum* – Sensitive

61.313.08 *Platanus racemosa* – *Quercus lobata* - Sensitive

Recommendation for Plant Communities and Rare Plants

An updated floristic survey of the project area should be conducted by a Qualified Botanist(s) that includes an evaluation for both rare plants and sensitive plant communities, following the CDFW 2018 protocols (CDFW 2018).

2) Burrowing Owls

Mitigation Measure 3.3.5a (Pre-construction Surveys) in the biological report states that “A *qualified biologist would conduct a preconstruction survey for burrowing owls following the 2012 CDFW Guidelines or most recent guidelines, which includes two surveys, one within 14 days prior to the start of construction and the second within 24 hours prior to the start of construction.*” The bio report does not provide any additional information on what the 2012 CDFW Guidelines⁵, actually require for the survey and this information should have been included in the mitigation measure. In the 2012 CDFW Guidelines, preconstruction surveys are described as “Take Avoidance Surveys”. Take Avoidance Surveys are to be conducted using the same methods described for detection surveys in the 2012 CDFW Guidelines, and have very specific methods, and should not be confused with general preconstruction surveys.

Recommendation for Burrowing Owls

Surveys for Burrowing Owls should be conducted according to the CDFW 2012 Guidelines. The method and timing for these surveys from the 2012 Guidelines is provided below:

Survey method. Rosenberg et al. (2007) confirmed walking line transects were most effective in smaller habitat patches. Conduct surveys in all portions of the project site that were identified in the Habitat Assessment and fit the description of habitat in Appendix A. Conduct surveys by walking straight-line

⁵ Staff Report on Burrowing Owl Mitigation State of California Natural Resources Agency Department of Fish and Game March 7, 2012. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>

transects spaced 7 m to 20 m apart, adjusting for vegetation height and density (Rosenberg et al. 2007). At the start of each transect and, at least, every 100 m, scan the entire visible project area for burrowing owls using binoculars. During walking surveys, record all potential burrows used by burrowing owls as determined by the presence of one or more burrowing owls, pellets, prey remains, whitewash, or decoration. Some burrowing owls may be detected by their calls, so observers should also listen for burrowing owls while conducting the survey. Care should be taken to minimize disturbance near occupied burrows during all seasons and not to “flush” burrowing owls especially if predators are present to reduce any potential for needless energy expenditure or burrowing owl mortality. Burrowing owls may flush if approached by pedestrians within 50 m (Conway et al. 2003). If raptors or other predators are present that may suppress burrowing owl activity, return at another time or later date for a follow-up survey.

Weather conditions. Poor weather may affect the surveyor’s ability to detect burrowing owls, therefore, avoid conducting surveys when wind speed is >20 km/hr, and there is precipitation or dense fog. Surveys have greater detection probability if conducted when ambient temperatures are >20° C, <12 km/hr winds, and cloud cover is <75% (Conway et al. 2008).

Time of day. Daily timing of surveys varies according to the literature, latitude, and survey method. However, surveys between morning civil twilight and 10:00 AM and two hours before sunset until evening civil twilight provide the highest detection probabilities (Barclay pers. comm. 2012, Conway et al. 2008).

3) Special Status Amphibians and Reptiles

The biological report provides determinations (in *Table 2B: Special Status Species that Could Occur In the Project Vicinity*) that the following special status amphibian and reptile species are absent from the site: Santa Cruz black salamander (*Aneides niger*), California tiger salamander (*Ambystoma californiense*), Foothill yellow-legged frog (*Rana boylei*), California giant salamander (*Dicamptodon ensatus*), and northwestern pond turtle (*Actinemys marmorata*), based on lack of suitable (primarily aquatic) habitat. However many of these species use uplands during part of their life cycle, including habitats such as oak woodlands and grasslands that are found on the project site. Also several of these species have been shown to move long distances through upland habitats (in some cases several hundred feet or more), and residing within upland habitats for several months at a time.

In addition, while the report states that the federally listed California red-legged frog (*Rana draytonii*) may use Ross Creek as a movement corridor, the included mitigation measure (*Mitigation Measure 3.3.4a*), requires preconstruction surveys for this species limited to within 50 feet of Ross Creek. This species has been documented to move up to 2 miles from aquatic habitats during dispersal/movement events, and they are known to move through all types of upland terrain and slopes, including the types of habitat present on the project site (Bulger, 1999).⁶

Recommendation for Special Status Amphibian and Reptiles

To determine that a species is absent on a given site, when there is some potential habitat to support the species, requires field surveys by Qualified Biologist(s) to determine presence or absence. While there may be a low likelihood that each of these special status species occurs on the project site, the size of the site (17.55 acres) is substantial, and is partially connected to open space habitats to the south and east of the site. In addition, populations of common amphibians such as California newt (*Taricha torosa*), which could be present on the site, are protected under CEQA. For these reasons, general amphibian and

⁶ Bulger, J. B. 1999. Terrestrial activity and conservation of California red-legged frogs (*Rana aurora draytonii*) in forested habitats of Santa Cruz County, California. Prepared for Land Trust of Santa Cruz County.

reptile preconstruction surveys of the entire site should be conducted by a Qualified Biologist(s) prior to any construction/ground disturbance on the site.

4) **Bats**

Mitigation Measure 3.3.6a in the biological report states that “*A habitat assessment should be conducted to identify trees which support potentially suitable roosting habitat for bats. This can be conducted at any time of year and we recommend it is completed well in advance of the construction start date.*” This mitigation measure is vague, and should specify how far in advance the bat habitat assessment survey should be completed. Furthermore, the project site has over 670 trees, including a high number of oak and sycamore trees on the property which are preferred trees for roosting bats due to the high frequency of suitable cavities for bats. In addition, the pallid bat (*Antrozous pallidus*) a California species of special concern, among others, is thought to be associated with oak woodlands (Pierson and Rainey, 2007)⁷, and has been documented to occur approximately 2.5 miles east of the site (CNDDB, 2025).

Recommendation for Bats

The habitat assessment of the project site for bats should be conducted as part of the CEQA review of the project, rather than included as a preconstruction survey prior to development, due to the high potential for roosting bats on site. The habitat assessment survey should be conducted by a Qualified Biologist(s), and based on these findings, follow up emergence (nighttime) surveys during the bat maternity season (March 1 to October 15) may be necessary. If it is determined that a bat roost is present, CDFW should be consulted and a bat exclusion and mitigation plan should be prepared that is reviewed and approved by CDFW prior to implementation.

5) **San Francisco Dusky-Footed Woodrat**

The San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*) is a California species of special concern. Middens (nests) of this species were documented within the oak woodlands of the project site, and the property provides suitable habitat for this species. Mitigation Measure 3.3.7b in the biological report provides measures to minimize impacts to San Francisco dusky-footed woodrats, however the location of the middens was not provided in the biological report, and the site may provide habitat for several middens. Development of the site could impact the woodrat population in the area, and therefore more detailed information on the number of middens and their location is warranted.

Recommendation for San Francisco Dusky-Footed Woodrat

Due to the presence (and potential abundance of San Francisco dusky-footed woodrats on the project site) it is recommended that a more detailed survey and mapping of active woodrat middens should be conducted and a woodrat relocation plan should be prepared by a Qualified Biologist(s) and reviewed and approved by CDFW prior to implementation.

⁷ Bat Distribution in the Forested Region Of Northwestern California. Prepared By Elizabeth D. Pierson, California Department of Fish and Game and William E. Rainey, Ph.D. Wildlife Management Division
Contract #FG-5123-WM November 2007. <https://www.nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=3835>

6) Bumblebees/ Invertebrates)

Two special status bumble bee species are evaluated in the biological report: western bumble bee, (*Bombus occidentalis*); and Crotch's bumble bee, (*Bombus crotchii*). They are shown in Table 2B: *Special Status Species that Could Occur In the Project Vicinity* and were determined to be absent from the project site. However habitat types present on the project site (grassland) are utilized by both of these species. Additional special status invertebrates that were not included in Table 2B, that have some potential for presence include obscure bumblebee (*Bombus caliginosus*), and large marble butterfly (*Euchloe ausonides*).

The USFWS is currently reviewing a petition from the Xerces Society for Invertebrate Conservation, requesting that the large marble butterfly (*Euchloe ausonides*) be listed as a Threatened species and the large marble type subspecies (*Euchloe ausonides ausonides*) be listed as an Endangered species under the Act.⁸ Habitat for the large marble butterfly includes grasslands and open meadows along with streamsides, berms, beaches, canyons, montane slopes, and weedy flats. Feeds on plants of the mustard family.

The obscure bumble bee (*Bombus caliginosus*) is known to inhabit the grasslands and has been reported to nest underground in rodent burrows, in structures, or in decaying wood. This species is also difficult to distinguish from the more common yellow-faced bumblebee (*Bombus vosnesenskii*) and may be undocumented where present⁹.

Recommendation for Bumble bees / Invertebrates

Prior to any construction/ground disturbance on the site, a bumble bee survey and large marble habitat assessment should be conducted by a Qualified Biologist(s). Background information research should include citizen scientist data iNaturalist and Bumble Bee Watch as well as the CNDDDB. If these species are detected on site, appropriate mitigation measures should be determined based on consultation with the US Fish and Wildlife Service.

7) **Wildlife Movement Corridors**

The biological report concludes that there would be no impact to wildlife corridors, however it does not include information on whether fencing (a potential wildlife movement barrier) will be installed or will be restricted from use on the site. In section 3.3.9 *Impacts to Wildlife Movement Corridors*, the report concludes that “*Local urban species currently traversing the site for regular and dispersal movements would still be expected to cross the site post-build-out’.. and...”post build-out impacts to movement corridors for local wildlife are less-than significant.*”

⁸ Department of the Interior Fish and Wildlife Service ,50 CFR Part 17 [FXES1111090FEDR–256–FF09E21000] Endangered and Threatened Wildlife and Plants; 90-Day Findings for Eight Species. January 21, 2025. <https://www.govinfo.gov/link/fr/90/7038>

⁹ A Petition to the State of California Fish and Game Commission to List Four Bumble Bees as Endangered under the California Endangered Species Act, Xerces Society, October 16, 2018. <https://www.xerces.org/publications/policy-position-statements/petition-to-state-of-california-fish-and-game-commission-tohttps://www.xerces.org/publications/policy-position-statements/petition-to-state-of-california-fish-and-game-commission-to>

Recommendation for Wildlife Movement Corridors

The biological report should be amended, or a stand-alone document provided, that describes the measures that would be implemented to prevent impacts to movement of local urban wildlife species currently traversing the site.

If you have any questions or require further information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Kobernus".

Patrick Kobernus
Principal Biologist
CRE LLC

From: William Meleyco [REDACTED]
Sent: Monday, December 15, 2025 10:44 AM
To: Erin Walters <EWalters@losgatosca.gov>
Cc: 'William Meleyco' <[REDACTED]>
Subject: Planning Letter Meleyco 12 15 2025

[EXTERNAL SENDER]

Erin – please include this letter with regards to comments for the Twin Oaks Proposed Development.

Thank You

Bill Meleyco

Date: December 14, 2025

To:

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

Re: Opposition to Proposed Twin Oaks Development – Builder’s Remedy Application

Dear Planning Commissioners,

I am writing as a concerned resident and immediate neighbor regarding the proposed 12-home development on approximately 18 acres directly behind my property. I urge you to deny this project on the grounds of significant environmental, health and safety, and legal compliance concerns. My family has lived at [REDACTED] Longmeadow for 42 years. We have been very surprised that all throughout this process and the previous proposals for this property we have NEVER been approached by the Applicant or any of their experts.

Zoning, Land Use, and Legislative Context

The property is zoned Resource Conservation (RC) and designated for agricultural use. It is mapped within the Hillside Overlay Area, the high Wildland-Urban Interface (WUI) fire hazard zone, and a known landslide zone. The Town’s RC zoning and General Plan, as well as applicable hillside

standards, exist precisely to protect the public and the land from inappropriate, high-impact development.

While California's Builder's Remedy provision (as amended by SB 330 and AB 1893) allows developers to proceed when a certified housing element is absent, it DOES NOT allow projects to bypass objective local standards that safeguard public health and safety or to ignore clear local affordable housing requirements.

Health and Safety: Fire, Landslide, and Emergency Access

This parcel is in a high-risk fire zone with one-way-in, one-way-out access. The proposal appears not to provide adequate emergency vehicle access or turnarounds as required by the Santa Clara County Fire Department and Town objective safety standards. The project also falls within a mapped landslide risk zone, raising urgent life-safety concerns in the event of slope disturbance due to grading, construction, or post-development drainage changes. The drainage plan for this development CREATES 62,000 square feet of impervious surface which will directly add additional water into the existing catch basin located on the rear corner of our property. This basin during heavy rains is already at 80% capacity and will certainly overflow with the increased demand. We will be flooded. Additionally the developers proposal of a water retention pond behind our property will make the situation worse it will allow additional water to seep into the ground where it will reemerge in our back yard. Our yard is approximately 6 feet lower than the bottom of the proposed pond. We already have standing water during wet weather and have had to install a drainage system which keeps our back yard dry but still soft during the SUMMER months. We will surely be flooded. These are not hypothetical: they are measurable, documented threats, meriting the fullest environmental review—not the shortcut of a Mitigated Negative Declaration (IS/MND) reliant on incomplete, outdated and a NON CERTIFIED EIR.

Environmental Impact: Wildlife, Open Space, and Water Resources

The land is a vital ecological corridor and supports diverse wildlife, mature trees, and sensitive habitats.

The arborist report indicates that there are 630 on-site trees that qualify for protection under the Los Gatos Tree Protection Ordinance. The applicant is proposing to remove 223 of those protected trees in violation of that ordinance, destroying habitat for protected species, creating potential additional risks of landslide, mudslide, and drainage issues. Under the ordinance, the applicant would be required to plant 551 replacement trees. Applicant proposes to plant only 85 replacement trees and pay in-lieu fees for the remainder. As an example, Located directly behind our home within lot 6 of the Development are 7 of these protected trees. They also provide sound, privacy and light screening from the Cerro Vista homes above us. The Applicants reasoning for removing these trees is : "The retention of the tree restricts the economic enjoyment of the property or creates an unusual hardship for the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly situated properties, and the applicant has demonstrated to the satisfaction of the director or deciding body that there are no reasonable

alternatives to preserve the tree.” I can’t disagree with this reasoning more. These trees are located along the side of the property lines and do not interfere with any proposed construction.

I would also draw your attention to the applicants plans page "Birdseye Aerial Rendering, page GO.3, of the labeled Architectural Set - Tentative Map/ Master plan where they represent that between Lots 5 & 6 and my home and the Fordyce home (189 & 191 Longmeadow) there will be approximately 35 trees and according to the specific plans of these lots ONLY 8 Trees are actually planned.

Additionally, development in this hillside and riparian area threatens water quality, increases downstream flood/pollution risk, and directly impacts the broader open-space character and environmental integrity of the town. The property’s removal from the Williamson Act for conservation should not open the door to luxury speculation at the expense of community and environment. Ross Creek, which runs thru Hillbrook School is immediately downstream from The Proposed Project and will be greatly affected by the increased water flow.

Inadequacy of Environmental Review (IS/MND Tiering)

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Legal and Procedural Deficiencies

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Request for Action

- Deny the project *pending completion of a full EIR and objective demonstration that all health, safety, and environmental standards are met*. Do not approve this based on Reports and Findings that are "to come" later after the projects approval.
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- Require the applicant to provide comprehensive traffic, fire, evacuation, and wildlife corridor studies conducted by Town-retained, independent experts.
- Grant NO exceptions.

Thank you for your careful consideration and for your ongoing stewardship of Los Gatos's safety, environment, and integrity.

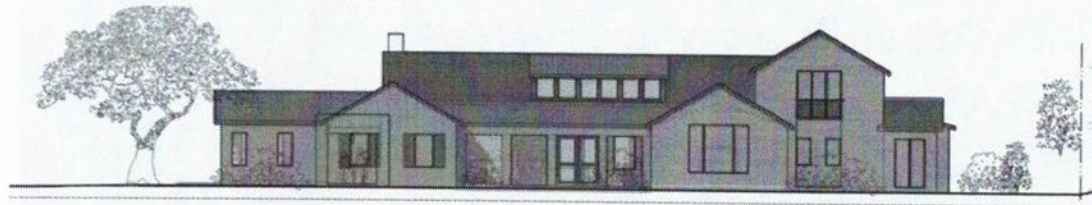
Respectfully,

William and Kathy Meleyco

[REDACTED]

Los Gatos, CA 95032

[REDACTED]



PLANNING APPLICATION - LOT 6 (S-24-028) ARCHITECTURAL SUBMITTAL

OUR TEAM:

Applicant: Larry Dodge

Contact: Jim Foley
223 W. Main St., Los Gatos, CA 95030
408.813.7490

Architect: PLATFORM

Architecture+Planning
Contact: Chris Hall
chris@platformdw.com
1804 5th St
Berkeley, CA 94710
415.658.1723

Civil: HMM Engineers

Contact: Deena Morsilli
1570 Oakland Rd., San Jose, CA 95131
669.221.7817

Landscape: HMM Landscape

Contact: Shawn Taylor
1570 Oakland Rd., San Jose, CA 95131
408.487.2200

PROJECT DESCRIPTION / DATA:

Site Area: 17.55 acres
APN: 532-16-006
General Plan Landuse: AG

Proposed Project:

12 Lot Subdivision consisting of the following:
3 BMR units detached on 3 proposed lots
9 Proposed Market Rate Homes on proposed lots

Lot 6 is a proposed as market rate and part of the
12 lot subdivision. See Civil Title Pg 1.0 for detailed
Project Data.

SHEET INDEX:

G0	Title Page / Project Info
G1.0	Existing Site Photos
A1.1	Site Plan and Ground Floor Plan
A1.2	Ground Floor Plan
A1.3	2nd Floor Plan
A2.1	Elevations / Color & Materials
A2.2	Elevations / Color & Materials
A3.0	Building Sections
A3.1	Street Elevations / Site Sections
A4.1	Shadow Analysis

LOCATION PLAN: ①

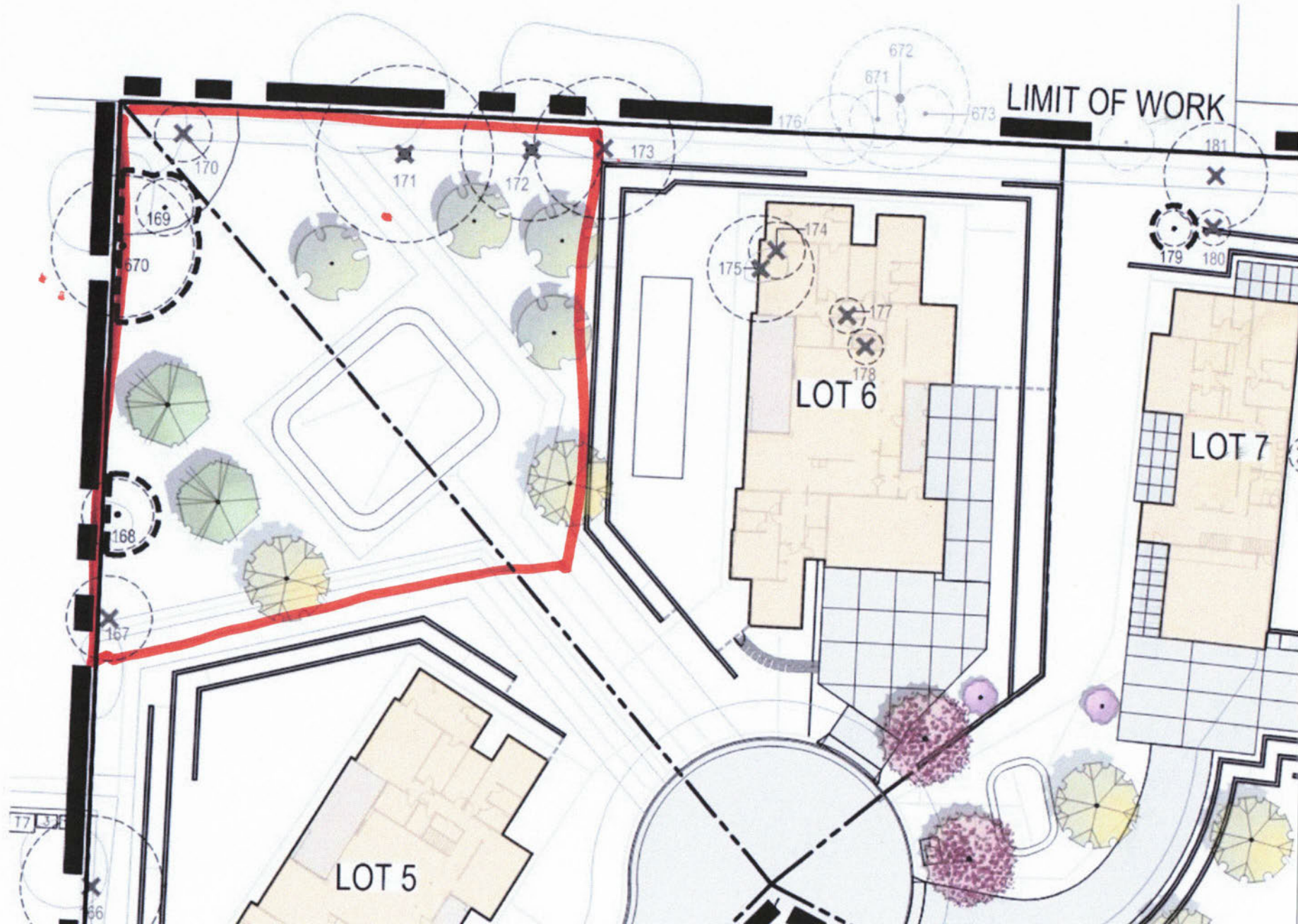


VICINITY MAP: ①









William Meleyco

[REDACTED]
Los Gatos, California 95032-5655

Date: December 14, 2025

To:

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

Re: Opposition to Proposed Twin Oaks Development – Builder’s Remedy Application

Dear Planning Commissioners,

I am writing as a concerned resident and immediate neighbor regarding the proposed 12-home development on approximately 18 acres directly behind my property. I urge you to deny this project on the grounds of significant environmental, health and safety, and legal compliance concerns. My family has lived at [REDACTED] Longmeadow for 42 years. We have been very surprised that all throughout this process and the previous proposals for this property we have NEVER been approached by the Applicant or any of their experts.

Zoning, Land Use, and Legislative Context

The property is zoned Resource Conservation (RC) and designated for agricultural use. It is mapped within the Hillside Overlay Area, the high Wildland-Urban Interface (WUI) fire hazard zone, and a known landslide zone. The Town’s RC zoning and General Plan, as well as applicable hillside standards, exist precisely to protect the public and the land from inappropriate, high-impact development.

While California’s Builder’s Remedy provision (as amended by SB 330 and AB 1893) allows developers to proceed when a certified housing element is absent, it DOES NOT allow projects to bypass objective local standards that safeguard public health and safety or to ignore clear local affordable housing requirements.

Health and Safety: Fire, Landslide, and Emergency Access

[REDACTED]

William Meleyco


Los Gatos, California 95032-5655

This parcel is in a high-risk fire zone with one-way-in, one-way-out access. The proposal appears not to provide adequate emergency vehicle access or turnarounds as required by the Santa Clara County Fire Department and Town objective safety standards. The project also falls within a mapped landslide risk zone, raising urgent life-safety concerns in the event of slope disturbance due to grading, construction, or post-development drainage changes. The drainage plan for this development CREATES 62,000 square feet of impervious surface which will directly add additional water into the existing catch basin located on the rear corner of our property. This basin during heavy rains is already at 80% capacity and will certainly overflow with the increased demand. We will be flooded. Additionally the developers proposal of a water retention pond behind our property will make the situation worse it will allow additional water to seep into the ground where it will reemerge in our back yard. Our yard is approximately 6 feet lower than the bottom of the proposed pond. We already have standing water during wet weather and have had to install a drainage system which keeps our back yard dry but still soft during the SUMMER months. We will surely be flooded. These are not hypothetical: they are measurable, documented threats, meriting the fullest environmental review—not the shortcut of a Mitigated Negative Declaration (IS/MND) reliant on incomplete, outdated and a NON CERTIFIED EIR.

Environmental Impact: Wildlife, Open Space, and Water Resources

The land is a vital ecological corridor and supports diverse wildlife, mature trees, and sensitive habitats.

The arborist report indicates that there are 630 on-site trees that qualify for protection under the Los Gatos Tree Protection Ordinance. The applicant is proposing to remove 223 of those protected trees in violation of that ordinance, destroying habitat for protected species, creating potential additional risks of landslide, mudslide, and drainage issues. Under the ordinance, the applicant would be required to plant 551 replacement trees. Applicant proposes to plant only 85 replacement trees and pay in-lieu fees for the remainder. As an example, Located directly behind our home within lot 6 of the Development are 7 of these protected trees. They also provide sound, privacy and light screening from the Cerro Vista homes above us. The Applicants



William Meleyco

[REDACTED]
Los Gatos, California 95032-5655

reasoning for removing these trees is : "The retention of the tree restricts the economic enjoyment of the property or creates an unusual hardship for the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly situated properties, and the applicant has demonstrated to the satisfaction of the director or deciding body that there are no reasonable alternatives to preserve the tree." I can't disagree with this reasoning more. These trees are located along the side of the property lines and do not interfere with any proposed construction.

I would also draw your attention to the applicants plans page "Birdseye Aerial Rendering, page GO.3, of the labeled Architectural Set - Tentative Map/ Master plan where they represent that between Lots 5 & 6 and my home and the Fordyce home (189 & 191 Longmeadow) there will be approximately 35 trees and according to the specific plans of these lots ONLY 8 Trees are actually planned.

Additionally, development in this hillside and riparian area threatens water quality, increases downstream flood/pollution risk, and directly impacts the broader open-space character and environmental integrity of the town. The property's removal from the Williamson Act for conservation should not open the door to luxury speculation at the expense of community and environment. Ross Creek, which runs thru Hillbrook School is immediately downstream from The Proposed Project and will be greatly affected by the increased water flow.

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[REDACTED]

William Meleyco



Los Gatos, California 95032-5655

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W. Meleyco

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[REDACTED]
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[REDACTED]

[REDACTED]





