



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 06/11/2026

ITEM NO: 1

ADDENDUM

DATE: June 9, 2026

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 -032 and S-24-059, Vesting Tentative Map Application M-24-013, and Mitigated Negative Declaration Application ND-25-001. A Recirculated Initial Study and Mitigated Negative Declaration Have Been Prepared. Property Owner/Applicant: Larry Dodge. Project Planner: Erin Walters.

REMARKS:

Following publication of the staff report, the applicant provided a summary of additional neighborhood outreach, which is included as Exhibit 44.

Public comments received between 3:01 p.m., Friday, June 5, 2026, and 3:00 p.m., Tuesday, June 9, 2026, are included as Exhibit 45.

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

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: June 9, 2026

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

Previously 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

Previously Received with the December 16, 2025, Addendum 2 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

Previously Received with the December 17, 2025, Desk Item Report:

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

Previously Received with the June 11, 2026, Staff Report:

32. Planning Commission Meeting Minutes, December 17, 2025

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

DATE: June 9, 2026

- 33. Applicant's Response to December 17, 2026, Planning Commission Comments
- 34. Technical Note, Belgard Pavers Fire Truck Loading
- 35. Open Space Easements and Future Trial Easements
- 36. Lots 5 and 6 Vegetation Buffer
- 37. Raney's Response to December 17, 2026, Planning Commission Comments
- 38. Recirculated Initial Study and Mitigated Negative Declaration with Appendices A through F
(available online at <https://www.losgatosca.gov/178TwinOaksDr>)
- 39. Recirculated Mitigation Monitoring and Reporting Program
- 40. Public Comments and Responses Regarding the Recirculated Mitigated Negative Declaration
- 41. Revised Required Findings and Considerations
- 42. Revised Recommended Conditions of Approval – M-24-013, S-24-023 to -033 and S-24-059
- 43. Public comments received between 11:01 a.m., Wednesday, December 17, 2025, and 3:00
p.m., Friday, June 5, 2026

Received with this Addendum Report:

- 44. Applicant's Neighborhood Outreach
- 45. Public comments received between 3:01 p.m., Friday, June 5, 2026, and 3:00 p.m., Tuesday,
June 9, 2026

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From: Jim Foley [REDACTED]
Sent: Saturday, June 6, 2026 8:10 AM
To: Erin Walters <EWalters@losgatosca.gov>
Subject: Surrey Farms neighbor meeting

[EXTERNAL SENDER]

Hi Erin – I could not get this summery out in time for the Staff Report but perhaps it can be sent to PC as a follow up item. I met with the three neighbors adjacent to the property on the Twin Oaks/Longmeadow side (Witkin, Fordyce, Meleyco.) Our discussion seemed positive and we discussed a lot of best practices when it comes to outside agency permitting and development sensitive to the items identified in the MND. We also discussed the drainage and how the new project will capture and manage the drainage during rain events as opposed to the free flow condition of the hillside as it exists today. We also discussed the berm/swale feature planned near their property lines and will provide them further detail as for aesthetics and also specifically for Meleyco the mechanics of it to ensure we are not redirecting water towards his property. We also discussed additional screening for those neighbors and we are committed to doing that and looking into how to best accomplish that when also complying with defensible face requirements. Lastly, specifically to the Fordyces, we discussed the proximity of the conceptual placement of the home and orientation to their property. We are looking into what could potentially be done improve that condition.

We are unsure we will have this resolved by the Planning Commission hearing on 6/11, but I will report about this engagement and we are committed to following through before Town Council hearing.

Thank You,

Jim Foley

Principal/Broker-Owner

[REDACTED]



DRE # 01841825



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June 6, 2026

Town of Los Gatos Planning Commission
c/o Erin Walters, Project Planner
Community Development Department
110 East Main Street, Los Gatos, CA 95030

RE: Item 1 — Surrey Farms Estates, 178 Twin Oaks Drive (APN 532-16-006); Architecture & Site Applications S-24-023 through -032 and S-24-059; Vesting Tentative Map M-24-013; Mitigated Negative Declaration ND-25-001 (Recirculated IS/MND). Request to require a full Environmental Impact Report.

Dear Chair Burch and Members of the Planning Commission:

I write to urge the Commission to decline to adopt the Recirculated Mitigated Negative Declaration (ND-25-001) for the Surrey Farms Estates project and instead direct staff to prepare a full Environmental Impact Report (EIR). The administrative record now before you contains substantial evidence supporting a fair argument that this 12-lot hillside subdivision may have one or more significant effects on the environment. Under CEQA, that is the end of the inquiry: an EIR is required.

The applicable standard. An MND is permissible only where project revisions ensure that clearly no significant effect will occur and there is no substantial evidence the project may have a significant effect (Pub. Resources Code § 21080(c); CEQA Guidelines §§ 15064(f)(1), 15070). Where substantial evidence supports a fair argument of a significant effect, an EIR is mandatory even if other evidence points the other way; the lead agency may not weigh competing evidence or resolve the conflict in the project's favor (No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68; Friends of "B" Street v. City of Hayward (1980) 106 Cal.App.3d 988; Mejia v. City of Los Angeles (2005) 130 Cal.App.4th 322; Pocket Protectors v. City of Sacramento (2004) 124 Cal.App.4th 903). This is a low threshold and is reviewed by a court de novo, without deference to the Town.

The Recirculated IS/MND and the Responses to Comments repeatedly invert this standard and, in doing so, supply the very evidence that compels an EIR. The following points identify the principal defects.

1. **The document applies the wrong legal test.** Responses to Comments 5-2 and 5-4 assert that commenters "misconstrue CEQA" and that an EIR is required only where evidence shows a significant effect "even if mitigation measures are implemented," and that "the burden is on the petitioner." That reframing is incorrect. The fair argument standard does not permit the agency to presume its mitigation will work or to place the burden on the public. An approval resting on a misstatement of the governing standard is independently vulnerable to reversal.

2. **Responsible-agency and expert comments are themselves substantial evidence.** The San Francisco Bay Regional Water Quality Control Board (a responsible agency), the Santa Clara

Valley Bird Alliance and Sierra Club Loma Prieta Chapter, and a former San José environmental-review professional all identified potentially significant impacts on the record. Agency comments and qualified expert opinion constitute substantial evidence supporting a fair argument (Pocket Protectors, *supra*). The Responses repeatedly dismiss these as “no substantial evidence” — which is precisely the improper weighing the fair argument standard forbids.

3. **The project will fill a water of the State, with mitigation deferred to later permitting.** The Recirculated IS/MND concedes the project will fill roughly 122 lineal feet of the on-site ephemeral stream — a water of the State — yet Response to Comment 5-5 calls this “inconsequential.” Mitigation Measures IV-10 and IV-11 defer the actual mitigation to a future CDFW Streambed Alteration Agreement and RWQCB permit. Notably, the comparable project the Town itself cites (Podva Property, Danville; SCH #2012102028) addressed the same category of jurisdictional fill through a certified EIR, not an MND.

4. **The stream buffer was weakened relative to the prior Draft EIR, which itself cannot be relied upon.** The 2017 Draft EIR prepared for this site (never certified by the Town) required, in Mitigation Measure 4.3-8, a setback from both the top of bank and the outer oak canopy edge. The Recirculated IS/MND discards the canopy-edge component, declares there is “no riparian habitat,” and recasts the setback as a mere “Slope Stability Protection Area” proxy measured only from the incised channel. Reducing protection below a prior environmental document — while leaning on that uncertified document’s framework — supports a fair argument and underscores that an uncertified EIR cannot substitute for current, adequate review.

5. **The geotechnical record is unresolved and the mitigation is improperly deferred.** Response to Comment 5-37 acknowledges that the proposed lots would exceed the maximum allowable graded cut and fill under the Town’s Hillside Development Standards, that the landslide hazard is “low to moderate,” and that the applicant’s engineer filed only an “Interim Response” to the Town peer reviewer’s (Cotton Shires) geotechnical comments. Mitigation Measure VII-1 then declines to specify the controlling recommendations (“It is not necessary to list all recommendations”). Committing to unspecified future engineering is the classic improper deferral of mitigation (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70).

6. **The wildfire and evacuation analysis is conclusory.** The site was mapped as a Very High Fire Hazard Severity Zone at the time of application. The IS/MND’s conclusion that the project will not impair emergency evacuation rests entirely on the assertion that it makes “no substantial modifications to the existing roadway system” (Responses 5-14, 5-49). That framing never analyzes the effect of adding 12 homes and their residents and vehicles to constrained hillside egress served by a single 20-foot emergency vehicle access route to Brooke Acres Drive. A conclusory evacuation analysis in a high fire-hazard area supports a fair argument warranting an EIR.

7. **The biological surveys are stale and incomplete.** The special-status plant surveys relied upon date from 2012 and 2013, and the only recent botanical visit (December 2024) fell outside the blooming season and was a single date. The record acknowledges the California red-legged frog (a federally listed species) has the potential to occur, and the dismissal of Crotch’s bumble bee (a

CESA candidate) is disputed by the commenting biologists. Survey adequacy and currency are squarely at issue.

8. **A pattern of deferred mitigation — and a late-discovered impact — shows the analysis is not finished.** Final erosion/sediment control and the SWPPP (MM X-1), the geotechnical recommendations (MM VII-1), and the stream mitigation (MM IV-10/-11) are all deferred to post-approval processes. That the riparian-fill impact surfaced only on recirculation — after the first IS/MND missed it — is itself evidence that the environmental review remains incomplete and cannot support the “clearly no significant effect” finding an MND requires.

Individually and especially in combination, these points establish a fair argument that the project may have significant effects on biological resources, water quality, geology and soils, and public safety in a fire-hazard area. CEQA does not ask whether those effects can eventually be permitted; it asks whether they may be significant. On this record, they may be.

The project’s housing-law status does not change this. The project’s posture under SB 330 and the Builder’s Remedy governs the development standards the Town may apply and the manner in which the application is processed. It does not exempt the project from CEQA, and it does not raise the threshold for requiring an EIR. The level of environmental review remains governed solely by CEQA’s fair argument standard. Where, as here, the record supports a fair argument that the project may have a significant effect, the Commission can and must require an EIR regardless of the project’s housing-law status. The two questions are separate, and the housing laws supply no basis for proceeding on a Mitigated Negative Declaration.

For these reasons, I respectfully request that the Commission **decline to adopt Mitigated Negative Declaration ND-25-001 and direct the preparation of a full Environmental Impact Report** for the Surrey Farms Estates project. Thank you for considering these comments and for entering this letter into the record for the June 11, 2026 hearing.

Suggested motion for the Commission

“I move that the Planning Commission decline to adopt Mitigated Negative Declaration ND-25-001 for the Surrey Farms Estates project at 178 Twin Oaks Drive (APN 532-16-006); find that substantial evidence in the administrative record supports a fair argument that the project may have one or more significant effects on the environment; and direct staff to prepare a full Environmental Impact Report, and to return the Architecture & Site Applications (S-24-023 through -032 and S-24-059) and Vesting Tentative Map (M-24-013) for further consideration only after the EIR has been prepared and circulated in accordance with CEQA.”

Respectfully submitted,

James (Jim) Lyon

Former Los Gatos Planning Commissioner (1998–2002)

Historic Preservation Committee member (1996–2002)

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