

November 3, 2022

Planning Commission
Town of Los Gatos Planning Department
110 East Main Street
Los Gatos, CA 95030

RE: Proposed Single Family Residence
17121 Crescent Drive, Los Gatos, CA 95030

SUBJECT: Letter of Justification/Description of Proposed Work

Dear Planning Department of Los Gatos,

My name is Eric Wade and I am a third generation Los Gatos resident. My grandfather & father moved to Los Gatos and built their first home on Bonnie Lane off Shannon Road in 1947. My wife, Lee Ann, and I built our first home in Los Gatos in 1995 up in the Santa Cruz Mountains. Since then, we have built and lived in two additional homes in downtown Los Gatos and Monte Sereno. We have two children enrolled in the Los Gatos School District. We recently came across this property on Crescent Drive and decided that this is the perfect property to build our final dream home - a property removed enough from the downtown hustle and bustle yet close enough to walk down for dinner. The long range views, rural feel and proximity to town fit our needs perfectly.

Prior to property purchase, due diligence was performed on the viability of potential development. It was conveyed to us by the Los Gatos Planning Department that the property was zoned HR-1 and had no development restrictions.

The proposed home and pool house are designed for our specific current and future needs. As our children grow, the need for a larger space is evident. With the high cost of college we want the option for the children to remain in the home and attend a local college. There also looks to be the very real possibility of having at least one aging grandparent in need of home care. The fourth bedroom adjacent to the master bedroom is intended to house my aging parents and provide the care and support needed as well as keeping the cost of this care/housing affordable.

My wife and I are self-employed and require in-home offices. One office will be located in the main house and the other in the pool house. I own and operate a custom design-build home remodeling and construction business - a business my father started here in Los Gatos in 1982. The pool house and adjacent storage area in the back are ideally situated to support my needs. The in-home office is designed to support my wife's business.

The general home design is very site specific. A thorough site analysis was done before design started. We wanted to make sure the home was designed to take into account almost every section of the Hillside Development Standards and Guidelines. It should be noted that this home will not be the largest of the six adjacent homes.

1. Topography

The property is a mix of existing structures, flat land and sloping hillside. In an effort to reduce cut and fill, the new garage is in the same basic location of the existing. This provides, for the most part, a flat level location for the garage and driveway along with the best street access.

As the contours of the property drop away to the north and west, a 1st floor is cut into this natural bowl shape. By pushing the 1st floor bedrooms and utility rooms into the hillside, the mass of the overall structure is greatly reduced. This, in turn, creates a situation where the 2nd floor appears to be a single story home from the street.

Also, by taking advantage of site opportunities, locating the home high on the property has many benefits.

- The home has better solar exposure and leaves the majority of the property and lower hillside undisturbed.
- The proposed building envelope is free of vegetation and of trees. No tree removals are required for this development.
- This location is as far from the adjacent property owners' home and preserves their privacy as much as possible.

2. Architectural Design

When looking at the existing surrounding homes, there is a wide variety of designs. However, only three homes are within sight. The home adjacent to the bottom of the property is a two story transitional with metal roof. The home directly across the street is a two story craftsman/ranch with composite roof. The home across the street and to the north is a large two story contemporary/modern. Both of the homes across the street sit atop the ridge and are very pronounced structures.

By comparison, our home is tucked down into the hillside so that its street presence is effectively reduced to one story. Our proposed home is designed to fit into the property rather than on top of it as requested in the Hillside Development Standards and Guidelines. Its low pitched metal hip roof structure helps it maintain a low profile street presence and its contemporary ranch architectural style is pleasing to the eye and doesn't make an excessively bold or overpowering statement. Also, its position does not interfere or block the potential views of the homes across the street when they look to the west.

3. Energy Efficiency and Fire Safety

The home is designed to be all electric. The low pitched roof surface area of the roof provides almost 400 sf. of PV surface area and is oriented to optimal south/southwest exposure. The 1st floor utility space is designed to accommodate a power wall.

As noted in the Hillside Development Standards and Guidelines, increased window & door fenestration on the west & south exterior walls help with mid-winter solar heating.

Also as noted in the Hillside Development Standards and Guidelines, the 24" roof overhangs at most exterior walls offer good solar protection during mid-day.

The house is designed with the attic insulation applied as spray foam to the underside of the roof plane. This is a two-fold benefit as it protects the attic space from excessive heat build up effectively creating an attic space that is considered conditioned. This is a highly efficient attribute that greatly reduces the need for air-conditioning during Los Gatos hot summer months. The fully insulated attic space also eliminates the need for attic ventilation. Doing away with an under eave venting screen is the best way to protect against potential burning embers entering the structure.

The home is designed to be firesafe through the use of cementitious siding panels over the entire exterior surface. All exterior windows and doors are to be tempered. The underside of all eaves are also protected with the same fireproof paneling. The lower hillsides are to remain unvegetated or vegetated with water friendly ground cover. This is an effort to create a defensible space below the home.

4. Environmental

Several areas of the home are designed to reduce its impact on the environment. The existing 2080 sf house is to have 48% of the structure removed. This retains 52% of the structure as a pool house. The waste and off hauling is reduced with this approach. The large 4000 sf drive through asphalt driveway is removed to help offset the permeable surfaces calculation.

Landscaping and irrigation is kept to a minimum. Use of water-friendly native plants also helps reduce water demand.

The removal of a portion of the existing home and placement of the new primary home open up the use of existing level areas on the lot for yard space. These yard spaces, plus the decking off the rear of the home, reduce the need to create level areas or terraces elsewhere on the property.

We have gone to great lengths to ensure this design in its current form produces the home we are most happy with. We strongly feel all major criteria noted in the Hillside Development Standards and Guidelines have been met or addressed to a very large degree. We request that the design be approved as proposed.

Sincerely,

Eric and Lee Ann Wade
Property Owners

Exception Requests For Application S-21-021

17121 Crescent Dr. Los Gatos

Request made by Owners Eric and Lee Ann Wade

1. Exceptions request for fill depth under foundation at lowest point of home.

A previous landowner cut a small service road diagonally across the property. This “skid trail” created a un-natural low spot 18” deep. See attached elevation of back “West” wall. In an effort to comply with the hillside development standard requiring a fill depth of no more than 3’ and not to exceed the allowable max vertical house height, the entire home had to be lowered. This resulted in the need to excavate for the upper floors garage, kitchen & family room areas as well as exterior walkways and patios. This in turn generated the need to off haul 160 cu. yards of soil and cause unwanted construction traffic, noise and neighborhood disruption.

We request an exemption from the max fill of 3’ and allow an additional 10-12” of fill depth for a total of 4’ only at this small location. See Site Plan (north end of master bd. deck), Grading & Drainage plan sheet 2, Sheet 10 west elevation, and attached photos showing footprint of foundation at existing “skid trail”. Approval of this exception would result in 0 cu. yards to be off hauled. (See attached photos)



2. Exceptions request for living room deck support posts height.

We are requesting approval of a post for the support on the back deck. See back “west” elevation.

Reasoning:

- The deck post is not visible from the road as its located at the back of the house
- The deck post is not visible from the down slope neighbor due to the dense vegetation between the two homes.
- The distance from the deck post to the house has been reduced to just 8’ from the back wall of the house.
- The property is sloping. A deck at the back of the house provides exterior living space immediately adjacent to the home and reduces the need to create cut & fill patios elsewhere on the property.

We have received support from staff and feel that these two exception requests do not violate the overall intent of the Hillside Development Standards and Guidelines’ primary goal of preventing excessive structure height or mass. Our design's primary goal is to not only produce a beautiful, comfortable home that meets our family’s needs, but also a home that is designed to fit into the topography rather than on top of it and reduce mass when viewed from the street or east elevation.

3. Exception Request from PRC 4290 provision on Dead-End Roads as imposed by Santa Clara County Fire Department (SCCFD).

WHAT IS PRC 4290 AND HOW DOES IT AFFECT EXISTING LEGAL LOTS IN THE VHFHSZ WITHIN THE TOWN OF LOS GATOS?

PRC 4290 is a Public Resource Code that helps guide Cal Fire in its operations in the State Responsibility Area (SRA) of California. It was passed and went into effect on June 1st 1991. Within it is an automatic maturity date of June 1st 2021. This maturity date enables many of its regulations to now be enforceable within the Local Responsibility Area (LRA) which includes the Town of Los Gatos. It also would now cover areas designated as Very High Fire Hazard Severity Zones (VHFHSZ). Almost 70% of the town of Los Gatos lies within this VHFHSZ.

The Santa Clara County Fire Department has incorrectly interpreted PRC 4290 regulation to restricts or deny approval for residential building applications located on existing roads as they apply to:

- New home construction of any kind. This includes both from the ground up new construction or removal of existing and complete replacement.
- Home remodeling that exceeds the towns 50% demolition policy

Many homes and private properties are affected by these regulations.

WHAT PARTS OF PRC 4290 ARE BEING INTERPRETED TO RESTRICT OUR DEVELOPMENT?

In particular:

1273.09. Dead-End Roads

(a) The maximum length of a dead-end road, including all dead-end roads accessed from that dead-end road, ***shall*** not exceed the following cumulative lengths, regardless of the number of parcels served:

Parcels zoned for less than one acre:	800 feet
Parcels zoned for 1 acre to 4.99 acres:	1,320 feet
Parcels zoned for 5 acres to 19.99 acres:	2,640 feet
Parcels zoned for 20 acres or larger:	15,200 feet

All lengths shall be measured from the edge of the roadway surface at the intersection that begins the road to the end of the road surface at its farthest point. Where a dead-end road crosses areas of differing zoned parcel sizes, requiring length limits, the shortest allowable length shall apply.

WHO IS ENFORCING IT AND WHY?

An exhaustive inquiry into which departments are wrongfully interpreting this regulation shows that ***only* Santa Clara County Fire Department** interprets the regulation to include existing roads. Members of the **Board of Forestry** have verbally stated that it is not intended to restrict residential development on existing roads. The word "shall" is used throughout the document to describe how new and future roadways and developments should be designed.

WHY IS SCCFD's INTERPRETATION UNSAFE ?

The down side of restricting the replacement of existing fire prone structures for new fire safe ones may seem obvious. However SCCFD's enforcement of this portion of the regulation suggests otherwise. They have shown that through their action of denying our application in the face of strong pro fire safety arguments, they are not interested in practical or logical implementation of fire safety, rather the adherence to their incorrect interpretation of this regulation.

Allowing the replacement of existing homes or the construction of new homes requires implementation of many fire safe features. Features like A-1 fire safety which require ignition resistant exterior home cladding/ siding and roofing, fire sprinklers, fire equipment turnarounds, defensible space and other firesafe features.

Currently as this regulation is interpreted by SCCFD, you may add additional square footage or remodel an existing home. With this approach you would not be required to implement many of the firesafe measures like, turnarounds, defensible space, ignition resistant exterior siding material or fire sprinklers that are required on a new or replacement home.

SCCFD's current interpretation and enforcement of this regulation extends the life of older homes without fire safety improvements far into the future. SCCFD's interpretation, enforcement and insertion of terms into the text of the regulation, goes against the regulation's primary intent, which was written to create a more firesafe neighborhood whether existing or proposed.

IS ENFORCEMENT OF THIS REGULATION LEGAL?

It has been successfully argued to Santa Clara County Planning that it is not legal.

WHAT LAW IS IT BREAKING?

Legal Definition of: **regulatory taking**

: an appropriation or diminution of private property rights by a governmental regulation which exceeds the government's legitimate police power (as the power to enact safety regulations) and for which the owner may seek a writ of mandamus, declaratory relief, or just compensation (as by inverse condemnation)

Legal analysts have determined that SCCFD's interpretation may also violate portions of the 5th and 14th Amendment as well as other state and federal laws..

ARE OTHER PLANNING DEPARTMENTS REMOVING THIS REQUIREMENT FROM APPLICANTS' CONDITIONS OF APPROVAL?

Yes, Santa Clara County Planning has determined in several cases that the requested road improvements are in conflict with other state and federal laws. They do not require compliance with the regulations.

Attached are applications for development located within Santa Clara County that were subject to PRC 4290. All applications to date that have been subject to the restrictions of PRC 4290 imposed on them by SCCF have received exemptions by Santa Clara County Planning. This has set a precedent. The Town of Los Gatos Planning Department senior staff has informed us that they intend to follow the guidance of SCC Planning.

IS THERE AN EXCEPTION WRITTEN INTO THE REGULATION THAT ALLOWS FOR AN EXISTING HOME ON A DEAD-END ROAD TO BE REPLACED BY A NEW ONE?

Yes, under section: 1271.00. Definitions

Same Practical Effect: As used in this subchapter, means an exception or alternative with the capability of applying accepted wildland fire suppression strategies and tactics, and provisions for fire fighter safety, including:

- (a) Access for emergency wildland fire equipment
- (b) Safe civilian evacuation
- (c) Signing that avoids delays in emergency equipment response.

(d) available and accessible water to effectively attack wildfire or defend a structure from wildfire.

(e) Fuel modification sufficient for civilian and firefighter safety.

We have submitted to SCCFD the following information showing how our parcel qualifies for exemption under “Same Practical Effect”

(a) Access for emergency wildland fire equipment,

Condition met through existing 20' wide primary access road with approved hammerhead turnaround terminus on our property.

(b) Safe civilian evacuation

Condition met through existing/deeded Safe Civilian Access corridor. (See neighborhood map sheet 17)

(c) Signing that avoids delays in emergency equipment response,

Condition can be met by adding signage.

(d) Available and accessible water to effectively attack wildfire or defend a structure from wildfire, and

Condition met. (See fire hydrant flow letter submitted to Planning)

(e) Fuel modification sufficient for civilian and firefighter safety.

Condition Met. Property has been cleared of most all vegetation and the proposed new home includes a 100' defensible space.

SCCFD responded to this request stating that the “Safe Civilian Access” needs to be a paved single lane road. They suggested that the “bridal path” could be considered for elimination of the dead end road if prepared as a one-way road. There is no mention of this requirement under “Same Practical Effect”.

We argue:

The regulation is wrongly interpreted by SCCFD and does not apply to existing roads.

It is unlawful to require an applicant to build a new road down an easement dedicated to public use that lies on neighboring property and is recorded as a bridal-pedestrian path. We have estimated the cost of this requested road construction at approx. \$4.5M

Restricting or denying our application to construct a new home goes against the intent of the regulation, which is to create more fire safe homes and neighborhoods. Its enforcement based on wrongful interpretation also potentially exposes Los Gatos and SCCFD to liability and lawsuits.

All applications to date that have been subject to the restrictions of PRC 4290 imposed on them by SCCFD have received exemptions by Santa Clara County Planning. This has set a precedent.

The Town of Los Gatos Planning Department senior staff has informed us that they intend to follow the guidance of SCC Planning if approved by the planning commission.

In Conclusion, our decision to build a new home rather than add on to the existing one goes back to the very beginning of our property investigation. The current home was built in the late 50's and its structure and utilities are far beyond their service life. The structure is out of compliance on its setbacks as it is too close to the southern property line. It is notched low into the hillside and receives no sunlight during the winter months. Adding a 2nd story to the existing home would still not expose the roof line enough to support such a system.

We wanted to build a new fire safe home that was located further to the north and received more sun so that we could "go green" and power the home primarily through a photovoltaic system.

It is our sincere hope that after 17 long months, our application finds approval based on practicality, safety, and set precedent from neighboring Santa Clara County Planning.

Sincerely,

Eric & Lee Ann Wade
Property Owners

County of Santa Clara

Department of Planning and Development

County Government Center, East Wing, 7th Floor

70 West Hedding Street

San Jose, CA 95110

Phone: (408) 299-5700

www.sccplandev.org



STAFF MEMORANDUM

July 19, 2022

Staff Contact: Robert Cain – Associate Planner
(408) 299-5706, robert.cain@pln.sccgov.org

FILE: Administrative Design Review (PLN20-141)
SUBJECT: Land Use Entitlement for new 4,246 square-foot single-family residence and related improvements
ADDRESS: 15570 Canon Drive (APN: 510-49-001)

BACKGROUND

The subject property is located at 15570 Canon Drive, in Los Gatos. The General Plan designation is Urban Service Area - Saratoga and Zoning District is Urban Hillside Residential – Santa Clara Valley Viewshed District (RHS-d1). The parcel is approximately 1.8 acres in size. The parcel previously contained a single-family residence and is currently undeveloped.

On December 8, 2021, the Department of Planning and Development approved this application for Administrative Design Review (DRX) and issued preliminary Conditions of Approval. The DRX was not subject to a public hearing. On December 23, 2021, the Applicant filed an appeal of the Conditions to the Planning Commission, requesting that Conditions No. 8 and 34 be removed or substantially modified. These Conditions relate to the applicability of the State Minimum Fire Safe Regulations (“Regulations”) and requires that the project comply with all standards in effect at the time of building permit issuance unless an Exception is granted. At the time the Property Owner agreed to delay scheduling the Appeal hearing to see how the amendments to the Regulations may impact the project.

The Property Owner requested an Exception from the Regulations from CAL Fire on January 13, 2021, which was denied on January 28, 2021, by CAL Fire. The Property Owner later

appealed this decision to the County, and on October 28, 2021 the appeal was denied by the County. At this time, the Board of Forestry had published a draft amendment to the Regulations which, if adopted, would have eased the Applicant's ability to meet the standards therein. However, since that time the Board of Forestry has abandoned their attempt to overhaul the Regulations.

On February 25, 2022, the Property Owner contacted Staff to see if a resolution could be reached and to avoid the Appeal moving forward to a hearing. County Staff began analyzing all available solutions and provided draft language on March 15, 2022. On March 16, 2022, the Property Owner notified Staff that the draft language was not acceptable, and requested the Appeal be scheduled for the next possible hearing date.

After consultation with the Roads and Airports Department and County Counsel, Staff has determined that imposition of Condition No 34, which applies Regulation § 1273.01(a), would not comply with state and federal laws. Consequently, Staff modified Condition No. 8 and removed Condition No. 34 on July 11, 2022, and the Planning Director approved the modification on July 19, 2022.

ATTACHMENTS

- Attachment A: Final Conditions of Approval

REVIEWED BY

Prepared by: Robert Cain, Associate Planner

Approved by: Jacquelin R. Onciano, Director, Department of Planning and Development

County of Santa Clara

Department of Planning and Development

County Government Center, East Wing, 7th Floor

70 West Hedding Street

San Jose, CA 95110

Phone: (408) 299-5700

www.sccplandev.org



August 3, 2022



Dear [REDACTED]

County Staff has reviewed the specific details of your particular parcel located at 16968 Bohlman Road, (APN: 517-30-013) concerning your application for Design Review (Tier II) and Grading Approval Application and the applicability of the State Minimum Fire Safe Regulations ("Regulations"). After consultation with the Roads and Airports Department and County Counsel, the Department of Planning and Development (Department) has determined that regarding your specific application, requirements related to off-site road improvements are in conflict with other state and federal laws. As such, the Department will no longer require compliance with the regulations. Other requirements in the Regulations still apply. Please note that this determination is specific to this particular property.

Please let me know if you have any questions.

Sincerely,

Joanna Wilk
Senior Planner

cc Jacqueline R. Onciano, Director, Department of Planning and Development
 Leza Mikhail, Planning Manager
 Elizabeth Pianca, Lead Deputy County Counsel

County of Santa Clara

Department of Planning and Development

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70 West Hedding Street

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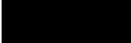
August 2, 2022



Via Email Only

dandjreed@yahoo.com

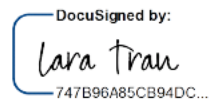
FILE NUMBER: PLN14-10694 Mod 1
SUBJECT: Minor Modification of Grading Approval
SITE LOCATION: Felter Road, San Jose (APN: 042-32-002)

Dear 

County Staff reviewed the details of your specific parcel on Felter Road, San Jose (APN: 042-32-002) concerning the application for a Grading Modification and the applicability of the State Minimum Fire Safe Regulations ("Regulations"). After consultation with the Roads and Airports Department and County Counsel, the Department of Planning and Development (Department) has determined that regarding your specific application, requirements related to off-site road improvements are in conflict with other state and federal laws. As such, the Department will no longer require compliance with the regulations. Other requirements in the regulations still apply. Please note that the determination is specific to this particular property.

Please let me know if you have any questions.

Warm regards,

DocuSigned by:

747B96A85CB94DC...

Lara Tran
Senior Planner

cc Jacqueline R. Onciano, Director, Department of Planning and Development
Leza Mikhail, Planning Manager
Elizabeth Pianca, Lead Deputy County Counsel

FINAL
ADMINISTRATIVE DESIGN REVIEW, BUILDING SITE AND GRADING APPROVAL
CONDITIONS OF APPROVAL

Date: February 24, 2022
Owner/Applicant: Margaret Belska and Peter Manca
Location: 0 Higuera Highland Lane (APN: 654-15-028)
File Number: PLN15-10815-MOD1 (previously 10815-15B-15G-15DR)
CEQA: Categorically Exempt - 15303(a) New Construction or Conversion of Small Structures
Project Description: Minor Modification to an approved concurrent land use application for a Building Site Approval, Grading Approval, and Design Review file to reduce the size of the approved single-family residence from 7,176 square-feet to 4,842 square feet.

AMENDED CONDITIONS OF APPROVAL

If you have any question regarding the following final conditions of approval, call the person whose name is listed as the contact for that agency. He or she represents a particular specialty or office and can provide details about the conditions of approval.

Agency	Name	Phone	E-mail
Planning Habitat Plan	Robert Cain	(408) 299-5706	robert.cain@pln.sccgov.org
Land Development Engineering	Eric Gonzalez	(408) 299-5735	eric.gonzales@pln.sccgov.org
Department of Environmental Health	Darrin Lee	(408) 918-3435	darrin.lee@cep.sccgov.org
Fire Marshal's Office	Christina DaSilva	(408) 299-5706	christina.dasilva@sccfd.org
County Geologist	Jim Baker	(408) 299-5774	jim.baker@pln.sccgov.org
CAL Fire	Marcus Hernandez		marcus.hernandez2@fire.ca.gov

STANDARD CONDITIONS OF APPROVAL

Planning

1. Development must take place according to approved architectural plans, prepared by Miller Design (received ~~September 2015~~ June 30, 2021), and engineering plans, prepared by Yang Consulting Group (received ~~March 2016~~ June 30, 2021). (MODIFIED 9-28-2021)

See Cal Fire notes 30 & 31

Administrative Design Review, Building Site Approval, Grading Approval

File #PLN15-10815-MOD1

February 24, 2022

Department of Environmental Health

2. All construction activities shall be in conformance with the Santa Clara County Noise Ordinance Section B11-154 and prohibited between the hours of 7:00 p.m. and 7:00 a.m. on weekdays and Saturdays, or at any time on Sundays for the duration of construction.

Fire Marshal's Office

3. Fire protection water shall be made available to the fire department.
4. Property is located within the ~~San Jose Fire Department response area~~ and State response area (served by Cal Fire), and shall comply with all fire safe regulations and state laws, unless an exception request appeal is approved pursuant to County Ordinance Code and State Regulation. (MODIFIED 9-28-2021) [Exception request appeal was denied by a designated hearing officer on October 28, 2021. Requirement to comply with PRC 4290 regulations § 1273.01(a) and § 1273.08 deleted consistent with Planning Commission removal of conditions 30 and 31 on 2-24-2022.]

CONDITIONS OF APPROVAL TO BE COMPLETED PRIOR TO DEVELOPMENT PERMIT ISSUANCE

Planning

5. LANDSCAPE PLAN: Prior to issuance of the building permit, submit three (3) copies of a landscape plan (including irrigation systems), prepared and stamped by a licensed landscape architect. The landscape plan shall emphasize native plant species, and shall be designed to provide some visual screening and break up the apparent mass of the house as viewed from the valley floor, and to revegetate and stabilize graded areas. [The County will accept the landscape plan electronically.]
 - a. The requirements of Division B33 of the County Ordinance Code (Water Conservation in Landscaping) shall apply. In particular:
 - i. Landscape water efficiency must be demonstrated by utilizing any one of the three options provided in Section B33-5: Demonstration of Landscape Water Efficiency.
 - ii. Landscape design must comply with all applicable standards and criteria of Section B33-6: Water-Efficient Design Elements.
 - iii. Landscape and irrigation plans must comply with all applicable standards and criteria of Section B33-8: Landscape and Irrigation Design Plans. The landscape ordinance and supporting information can be found on the Planning Office web site:
www.sccplanning.org > Plans and Ordinances > Landscape Ordinance
 - b. ~~Any elective~~ Elective landscape, if any, ~~shall~~ should consist of a variety of landscape material types (i.e. large/small trees, shrubs, forbs, vines/ivy, and ground cover) of varying species. Canopy trees shall, for the purposes of this condition, mean deciduous or evergreen trees of a species whose height and spread at maturity

- normally exceeds 35 feet, and shall not include palms (family Arecaceae or Palmae). (MODIFIED JUNE 2016)
- c. The plan shall include at least three (3) native or naturalized canopy trees (oaks or other), to be installed in locations where they would eventually provide meaningful screening as well as ridgeline mitigation, with the following specific requirements:
 - i. Such trees shall be planted above the 690-foot contour line and below the 760-foot contour line (~~pad elevation is 1,080~~). (MODIFIED JUNE 2016)
 - ~~ii. At least three (3) of the trees must be installed to the west and southwest side of the house which would face the valley floor. They may either be dispersed, or clustered into two or more groupings, to balance viewshed mitigation and priority views from the house. Remaining three (or more) trees shall be installed elsewhere in the vicinity of the house. (DELETED JUNE 2016)~~
 - iii. Trees shall be from (minimum) 24-inch box containers.
 - d. Arrangement of trees and other plant materials shall provide for defensible space for fire protection around proposed buildings. Please contact the Fire Marshal's Office (408 299-5760) for more information.
 - e. Soil must be capable of supporting the proposed installation and must have adequate water storage capacity. Soil characteristics, including structure, texture, percolation, pH, mineral content, and microbiology, shall be evaluated early in the design process. Soil amendments, such as compost or fertilizer, shall be added as appropriate.
6. COLOR/ LRV: With the exception of trim and minor details, the exterior surfaces of the structure must be of muted colors with light reflectivity value (LRV) of 45 or lower. Provide two sets of conforming color samples for review prior to building permit issuance.
7. ONGOING COMPLIANCE: Record a "Notice of Permit and Conditions" with the County Office of Clerk-Recorder, to ensure that successor property owners are made aware that certain conditions of approval shall have enduring obligation. Evidence of such recordation shall be provided prior to building permit issuance.

Habitat Plan

8. The subject property is located in the Santa Clara Valley Habitat Plan "Area 1: Private Development Covered." Land cover on the subject property is designated California Annual Grassland and Coast Live Oak Forest and Woodland. The property is not located in the Habitat Plan Wildlife or Plant Survey Areas.
9. New development that is covered by the Habitat Plan is subject to fees to compensate for the loss of endangered species habitat. Fees shall be paid prior to issuance of any grading/ drainage or building permits. This project is subject to the following Habitat Plan fees:
 - a. Land Cover Fee Zone A —Ranchlands and Natural Lands.
 - b. Nitrogen Deposition Fee for new single-family residence.

Development fees are paid based on the development area associated with the project, as described below. Temporary development fees are based on the amount of time the land is disturbed during construction, plus one year after completion of construction and cannot exceed a combined total of two years.

10. Prior to issuance of the grading/drainage or building permit, submit a completed Habitat Plan application for private projects and the required submittal materials, as described in Item 2 in the application, with GIS compatible file (Shape or CAD file). The required site plan shall show the development area of the project, including a delineation of the permanent and temporary development buffer areas. Plans do not need to show buffer areas that cross property boundaries.
 - a. Permanent development area is defined as all land that will have permanent improvements (house, driveway, access road, landscaping), plus a 50-foot buffer surrounding these areas.
 - b. Temporary development area is defined as land that will be temporarily affected during development (construction laydown areas, subsurface utilities, septic system) that will be restored within one year of completing construction, plus a 10-foot buffer surrounding these areas.
11. The land cover fee shall be paid based on the total area included within the permanent and temporary development areas. All SCVHP fees must be paid prior to the issuance of grading/drainage or building permits to start construction. Worksheets used to calculate Habitat Plan fees are provided as Exhibit 2 (Permanent Fees) and Exhibit 3 (Temporary Fees) on the Habitat Agency website at <http://www.scv-habitatagency.org>.
12. Based on the location of the project, the following will be required as prescribed in the Habitat Plan:
 - Condition No. 1 - Avoid direct impacts on legally protected plant and wildlife species
 - Condition No. 3 - Maintain hydrologic conditions and protect water quality.
 - Condition No. 7 - Rural development design and construction projects.Submit written documentation to the Planning Office and show on the grading and building plans how the project complies with the required conditions, above. These conditions are described in more detail within Chapter 6 of the Santa Clara Valley Habitat Plan.
13. Incorporate the stock Habitat Plan conditions of approval (Exhibit A) onto the cover sheet (or other appropriate location) within grading and building plans.

Land Development Engineering

14. PLAN REVIEW: Obtain a grading/ drainage permit from Land Development Engineering (LDE) prior to beginning any construction activities. Issuance of the grading/drainage permit is required prior to LDE clearance of the building permit (building and grading/drainage permits can be applied for concurrently). The process for

obtaining a grading/drainage permit and the forms that are required can be found at the following web page:

www.sccplanning.org > I Want to.. > Apply for a Permit > Grading Permit

Expect four (4) to six (6) weeks for plan review and plan check comments. Please contact LDE at (408 299-5734) for additional information and timelines.

15. The owner shall post a performance bond for the pro rata improvements. The bond amount shall be based on the County's estimate of probable construction cost. The performance bond may be in the form of cash deposit, assignment of a savings account or CD, a surety from an insurance company, or a letter of credit.
16. IMPROVEMENT PLANS: Final improvement plans shall be prepared by a licensed civil engineer for review and approval by LDE and the scope of work shall be in substantial conformance with the conditionally approved preliminary plans on file with the Planning Office. Include plan, profile, typical sections, contour grading for all street, road, driveway, structures and other improvements as appropriate for construction. The final design shall be in conformance with all currently adopted standards and ordinances. The following standards are available on-line:
 - Standard Details Manual, September 1997 (Roads & Airports)
www.sccgov.org/sites/rda > Published Standards, Documents and Forms
 - March 1981 Standards and Policies Manual, Volume 1 (Land Development)
www.sccplanning.org > Plans & Ordinances > Land Development Standards and Policies
 - 2007 Santa Clara County Drainage Manual
www.sccplanning.org > Plans & Ordinances > Grading and Drainage OrdinanceFinal improvement plans shall include the, following:

SURVEY MONUMENTS: Survey monuments shall be shown on the improvement plan to provide sufficient information to locate the proposed improvements and the property lines.

 - a. Existing monuments must be exposed, verified and noted on the grading plans. Where existing monuments are below grade, they shall be field verified by the surveyor and the grade shall be restored and a temporary stake shall be placed identifying the location of the found monument. If existing survey monuments are not found, temporary staking delineating the property line may be placed prior to construction and new monuments shall be set prior to final acceptance of the improvements. The permanent survey monuments shall be set pursuant to the California Land Surveyor's Act. The land surveyor / engineer in charge of the boundary survey shall file appropriate records pursuant to Business and Professions Code Section 8762, or 8771 of the Land Surveyor's Act, with the County Surveyor.
 - b. Existing and set permanent survey monuments shall be verified by inspectors prior to final acceptance of the improvements by the County. Any permanent survey monuments damaged or missing shall be reset by a licensed land surveyor or registered civil engineer authorized to practice land surveying and they shall file

appropriate records pursuant to Business and Professions Code Section 8762, or 8771 of the Land Surveyors Act, with the County Surveyor.

EROSION CONTROL: The improvement plans shall include an erosion and sediment control plan that outlines seasonally appropriate erosion and sediment controls during the construction period. Include the County's Standard Best Management Practice Plan Sheets BMP-1 and BMP-2 with the plan set.

DRAINAGE: Final plans shall reflect the following:

- c. Provide a drainage analysis prepared by a licensed civil engineer in accordance with criteria as designated in the 2007 County Drainage Manual (see Section 6.3.3 and Appendix L for design requirements). The on-site drainage will be controlled in such a manner as to not increase the downstream peak flow for the 10-year and 100-year storm event or cause a hazard or public nuisance. The mean annual precipitation is available on the on-line property profile.
- d. Property owner is responsible for the adequacy of any drainage facilities, and for the continued maintenance thereof in a manner that will preclude any hazard to life, health or damage to adjoining property.

EASEMENTS: Include the following on improvement plans and provide additional documentation as appropriate.

- ~~e. The owner/ applicant shall be required to record the proposed waterline and well access easements. Dedication documents including legal descriptions, and plats shall be recorded with the County's Recorder's Office. After recordation, show the following on the development plans: (DELETED 9-28-2021)~~
- ~~f. Recorded waterline and well access easements and document numbers. These easements shall be sufficiently wide to accommodate required improvements, and future maintenance. (DELETED 9-28-2021)~~

- g. Submit evidence of legal access to the site from the nearest publicly maintained road compiled and/or verified by a Licensed Land Surveyor or Registered Civil Engineer who is authorized to practice land surveying. Should access not exist, submit signed, notarized, and recorded agreements to grant rights-of-ingress and egress.

STORM WATER TREATMENT: It is recommended and encouraged to include site design measures in the project design. Site design measures include: (a) directing hardscape and/or roof runoff onto vegetated areas, (b) collecting roof runoff in cisterns or rain barrels for reuse, or (c) constructing hardscape (driveway, walkways, patios, etc.) with permeable surfaces. For additional information, please refer to the C.3 Stormwater Handbook (April 2012) available at the following website:

www.scvurppp.org > Resources > reports and work products > New Development and Redevelopment > C.3 Stormwater Handbook (April 2012)

IMPROVEMENTS —ACCESS:

- h. A fire turnaround in conformance with the County Standard Detail SD 16 shall be provided at the connection of the proposed private driveway to Higuera Highland Lane. In addition, demonstrate that the grades within the proposed turnaround do not exceed 5% in any direction.
- i. The proposed driveway shall conform to County Standard Detail SD5.

- j. Provide a driveway approach designed per County Standard SD4.
17. UTILITIES: All new on-site utilities, mains and services shall be placed underground and extended to serve the proposed residence. All extensions shall be included in the improvement plans submitted to LDE for review. Off-site work should be coordinated with any other undergrounding to serve other properties in the immediate area.
18. SOILS AND GEOLOGY: Submit one copy of the signed and stamped geotechnical report for the project.
19. Submit a plan-review letter by the project geotechnical engineer certifying that the geotechnical recommendation in the above geotechnical report have been incorporated into the improvement plan.
20. NOTICE OF INTENT: Indicate on the improvement plans the land area that will be disturbed. If one acre or more of land area will be disturbed, file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB) for coverage under the state general construction permit. The SWRCB will issue a waste discharge identification number (WDID). The WDID number shall be shown on the on the final improvement plans. The SWRCB web site is at:
www.waterboards.ca.gov > Water Issues > Programs > Stormwater
21. AGREEMENTS: Enter into a land development improvement agreement with the County. Submit an engineer's estimate of probable construction cost prepared by a registered civil engineer with the all stages of work clearly identified for all improvements and grading as proposed in this application. Post financial assurances based upon the estimate, sign the development agreement and pay necessary inspection and plan check fees, and provide County with a certificate of worker's compensation insurance. (C12-206)
22. Enter into a deferred improvement agreement for the ultimate County improvement of Higuera Highland Lane.
23. CONSTRUCTION AND STAKING: Construct all of the aforementioned improvements on site and within the ROW adjacent to the project site. Construction staking is required and shall be the responsibility of the developer.

Department of Environmental Health

24. Based upon a percolation rate of 33 minutes per inch, sewage disposal conditions have been determined for the following:
 - a. A four (4)-bedroom single-family residence would require a minimum of 243 plus 243 lineal feet of subsurface drainline four (4) square feet of infiltrative space.

- b. A five (5)-bedroom single-family residence would require a minimum of 278 plus 278 lineal feet of subsurface drainline four (4) square feet of infiltrative space.
- c. A six (6)-bedrooms would require a minimum of 313 plus 313 lineal feet of subsurface drainline utilizing four (4) square feet of infiltrative space.

The two drainline systems must be connected through a positive diversion valve. A 1,500-gallon septic tank will be sufficient to serve a six (6) bedroom single-family residence. Sewage disposal conditions have been determined for the following: a. A five (5) bedroom single family residence would require a minimum of 278 plus 278 lineal feet of subsurface drainline four (4) square square feet of infiltrative space. b. A six (6)-bedrooms would require a minimum of 313 plus 313 lineal feet of subsurface drainline utilizing four (4) square feet of infiltrative space. (MODIFIED 9-28-2021)

- 25. Prior to issuance of a building permit, submit a floor plan to the Department of Environmental Health. The two drainline systems must be connected through a positive diversion valve. A 1,500-gallon septic tank will be sufficient to serve a six (6) bedroom single family residence. Note: Basement floor plan indicates a future bathroom: "provide rough plumbing for future bathroom". (MODIFIED 9-28-2021)
- 26. At the time of application for a building permit, submit four (4) revised plot plans to scale (1" = 20') on a grading and drainage plan showing the house, driveway, accessory structures, septic tank and required drainlines to contour, in order to obtain a septic system permit. Maintain all setbacks as outlined within the Onsite Waste Water Treatment Ordinance. The original plans must be submitted to the Department of Environmental Health (DEH) for sign-off prior to the issuance of the septic system permit, and submitted as the final grading plan to Land Development Engineering when a grading permit is required. Any modification to the stamped approved septic system design which requires a subsequent review and approval by DEH will require the applicant to return all previously approved septic design plans to the district specialist prior to obtaining current design approval. [The County will accept the grading and drainage plans electronically.]
- 27. State the proposed water source. If the water source is a well, call Ann Peden at 408-918-3480 for water system clearance. Prior to issuance of a development permit, obtain either shared well clearance with adjacent property or an individual water clearance for accessor's parcel number 654-15-028. Call Ross Kakinami at 408-918-3479 for either shared or individual water system clearance. Additional fees may be required. A well log showing a 50-foot sanitary seal, pump test & water testing are required. (MODIFIED 9-28-2021)

County Geologist

- 28. Prior to permit issuance, submit a Plan Review Letter that confirms the plans conform with the intent of the recommendations presented in report from Upp Geotechnology, "Limited Geologic and Geotechnical Study" (dated 12-19-2014), which includes the

findings of a thorough field investigation (including the logs of 7 test pits) which showed that Briones Sandstone bedrock is covered by shallow soil throughout the proposed development area. No evidence of landsliding or springs was found. Submit a geotechnical engineer's plan review letter that confirms the plans conform with the intent of the recommendations presented in the approved geologic/ geotechnical report. (MODIFIED 9-28-2021)

Building Inspection

29. ~~At the time an application is filed for a building permit, a checklist from either LEED for Homes or Build it Green (GreenPoint) will be required. The checklist must demonstrate compliance with the Santa Clara County Green Building Ordinance (§ C3-50).~~ (REMOVED 9-28-2021)

CAL Fire

30. ~~Per PRC 4290, § 1273.01. **Width.** (a) All roads shall be constructed to provide a minimum of two ten (10) foot traffic lanes, not including shoulder and striping. These traffic lanes shall provide for two-way traffic flow to support emergency vehicle and civilian egress, unless other standards are provided in this article or additional requirements are mandated by local jurisdictions or local subdivision requirements. Vertical clearances shall conform to the requirements in California Vehicle Code section 35250.~~ (ADDED 9-28-2021) [Removed by Planning Commission 2-24-2022]
31. ~~Per PRC 4290, § 1273.08. **Dead-end Roads,** the maximum allowed length of the dead-end road serving this property measured from the intersection of Higuera Road and Mt. Pleasant Road is 2,640 feet. An alternate egress route or other mitigation is required to meet this standard.~~ (ADDED 9-28-2021) [Removed by Planning Commission 2-24-2022]

CONDITIONS OF APPROVAL TO BE COMPLETED PRIOR TO GRADING FINAL

Fire Marshal's Office

32. Fire protection water system shall be installed, functioning and inspected prior to approval of the foundation. System shall be maintained in good working order and accessible throughout construction. A stop-work order may be placed on the project if the required hydrant systems are not installed, accessible and/or functioning.
33. ON-SITE WATER STORAGE: Where on-site storage tanks are required, details for fire protection water supply shall be included with the building permit set of drawings. Submittal shall include, but not be limited to, location of water supply (e.g. onsite well, shared well), tank location and capacity, pipe size, wharf hydrant orifice size and location, domestic and fire protection water tanks and piping configuration.
- a. All installations shall include a primary aboveground storage tank with a capacity of not less than 3,000 gallons dedicated to domestic and fire sprinkler system demand.

- Storage capacity may be increased due to sprinkler design demand or additional domestic (including landscaping) required by the Environmental Health Department.
- b. Provide 2-5,000-gallon secondary aboveground storage tank dedicated to the wharf hydrant. ~~A secondary aboveground storage tank dedicated to the wharf hydrant shall be provided in accordance with the following:~~
 - i. ~~Structures up to 3,600 sq. ft: 5,000 gallons~~
 - ii. ~~Structures 3,601-10,000 sq. ft: 10,000 gallons~~
 - iii. ~~Structures 10,001-15,000 sq. ft: 30,000 gallons~~
 - iv. ~~Structures over 15,000 sq. ft: 45,000 gallons~~ (MODIFIED 9-28-2021)
 - c. Above-ground storage tanks shall be provided with automatic refill. Manual refilling of tanks is not acceptable.
 - d. Installation of aboveground storage tanks located less than 20 feet to a structure requires tanks to be of noncombustible construction.
 - e. Installation of the tank system shall comply with Fire Marshal Standard CFMO-W5.
 - f. Underground storage tanks and swimming pools shall not be accepted in place of aboveground storage tanks.
34. WHARF HYDRANT: One on-site wharf hydrant with 2 1/2-inch orifice is required to be installed when fire protection water is supplied by on-site aboveground storage tank(s). Installation of hydrants shall be in accordance with Fire Marshal Standard Detail CFMO-W4.
- a. Minimum distance to structure shall not be less than 55 feet from the closest portion of the structure and shall not exceed 150 feet from the farthest portion of the structure, measured along path of travel.
 - b. Hydrant shall be installed within eight (8) feet of driving surface in a location acceptable to the Fire Marshal's Office.
 - c. Installation of a hydrant adjacent to a driveway (12 feet wide) requires a turnout complying with SD-16 to allow additional emergency vehicles to pass.
 - d. Hydrant shall have a positive flow by means of gravity feed or where that is not possible, from a reliable, listed automatic pump approved by the Fire Marshal. Elevation of hydrants and tanks in relation to - each other shall be a major consideration.
- NOTE: tank and hydrant elevations shall be noted on the site plan submitted for building permit.
35. A separate permit from the Fire Marshal's Office is required for residential fire protection water systems. (ADDED 9-28-2021)

CONDITIONS OF APPROVAL TO BE COMPLETED PRIOR TO BUILDING FINAL

Planning

36. The landscape architect shall oversee the installation of plant materials and irrigation hardware, and assess the quality of installation. After the planting is complete, the

property owner shall provide to the Planning Office a written summary report from the landscape architect, which shall:

- a. Detail the plant materials installed (species, number, location, size, quality) per the approved plan. Indicate any discrepancies between plan and installation (if applicable), and state reasons for such discrepancies.
- b. Detail any necessary soil augmentation, fertilizer, staking or other plant specific maintenance required for the installation.
- c. Report any installation problems or concerns of long-term viability.
- d. Detail any longer-term maintenance needs, including periodic professional tree fertilizing and pruning to better assure successful growth.

37. Landscaping materials must be installed per approved plan prior to final inspection.

38. Original invoices and receipts from landscape contractor(s) and tree nursery must be kept on hand for one year following installation. Should verification of proper installation be necessary, such invoices shall be made available to the zoning administrator for inspection.

Department of Environmental Health

39. Provide proof of garbage service at the time of final occupancy sign-off. Garbage service in the unincorporated areas of Santa Clara County is mandatory. (ADDED 9-28-2021)

Fire Marshal's Office

40. FIRE SPRINKLER SYSTEM: An approved residential fire sprinkler system complying with CFMO-SP6 shall be installed throughout the structure (including existing residences when square footage is added). (MODIFIED 9-28-2021)

NOTE: The fire sprinkler system shall be installed and finalized by this office prior to occupancy. A separate permit shall be obtained from this office by a state licensed C-16 contractor prior to installation. Please allow for a minimum of 30 days for plan review of fire sprinkler plans by this office.

41. GENERAL ACCESS REQUIREMENTS: These are minimum Fire Marshal standards. Should these standards conflict with any other local, state or federal requirement, the most restrictive shall apply.

- a. Construction of access roads and driveways shall use good engineering practice.
- b. All required access roads, driveways, turnarounds, and turnouts shall be installed, and serviceable prior to approval of the foundation, and shall be maintained throughout construction. A stop-work order may be placed on the project if required driving surfaces are not installed, accessible, and/or maintained at all times.

42. ACCESS ROADS for fire department access: Road improvements to the private access road shall be per the civil drawings submitted by Yang Consulting Group (project number 153000) dated ~~2/17/16~~ 6/29/21. Additional requirements to meet PRC 4290

(State Minimum Fire Safety Regulations) shall also be met. (MODIFIED 9-28-2021)
[Requirement to comply with PRC 4290 regulations § 1273.01(a) and § 1273.08 deleted
consistent with Planning Commission removal of conditions 30 and 31 on 2-24-2022.]

43. DRIVEWAYS (roads serving only one lot) shall comply with the following when the distance between the centerline of the access road and any portion of the structure exceeds 150 ft. (measured along the path of travel).
- Width: Clear width of drivable surface of 12 feet ~~with~~ plus 1 ft. shoulder each side for 14 feet of unobstructed horizontal clearance. (MODIFIED 9-28-2021)
 - Vertical Clearance: Minimum vertical clearance of ~~13 ft. 6 in.~~ 15 feet shall be maintained between the access road and the building site (trim or remove, tree limbs, electrical wires, structures, and similar improvements). (MODIFIED 9-28-2021)
 - Curve Radius: Per PRC 4290: Horizontal inside radius minimum 50 feet.
 - Grade: Maximum grade shall not exceed 16%.
 - Surface: All driving surfaces shall be all-weather and capable of sustaining 75,000-pound gross vehicle weight.
 - Turnouts: Passing turnouts in compliance with PRC 4290 shall be provided at every 400 feet and wherever hydrants are placed adjacent to driveways.
 - Turnarounds: Turnaround shall be provided for driveways in excess of 150 ft. as measured along the path of travel from the centerline of the access road to the structure. Acceptable turnarounds shall ~~be 40-foot by 48-foot pad,~~ hammerhead, or bulb of 40-foot radius complying with County Standard SD-16 (A or C only). All turnarounds shall have a slope of not more than 5% in any direction. (MODIFIED 9-28-2021)
 - Gates: Gates shall not obstruct the required width or vertical clearance of the driveway and may require a fire department lock box/gate switch to allow for fire department access. Installation shall comply with CFMO-A3.
44. This property is located in the wildland/ urban interface fire area. All of the following conditions shall apply:
- A Class "A" roof assembly is required. Detail shall be included in plans submitted for building permit. The green roof being proposed may require an "Alternate Means" authorization from the Fire Marshal's Office. (ADDED JUNE 2016)
 - Provide a 1/2-inch spark arrester for the chimney.
 - Remove significant combustible vegetation within 30 feet of the structure to minimize risk of wildfire casualty. Maintain appropriate separation of vegetative fuels in areas between 30 and 100 feet from the structure.
45. MAINTENANCE: Fire protection water systems and equipment shall be accessible and maintained in operable condition at all times, and shall be replaced or repaired where defective. Fire protection water shall be made available to the fire department.

Administrative Design Review, Building Site Approval, Grading Approval

File #PLN15-10815-MOD1

February 24, 2022

46. Fire department access roads, driveways, turnouts and turnarounds shall be maintained free and clear and accessible at all times for fire department use. Gates shall be maintained in good working order, and shall remain in compliance with Fire Marshal Standard CFMO-A3 at all times.

CAL Fire

47. The project is located in a Wildland Urban Interface Area. Defensible Space Protection measures shall be in place prior to building final. (ADDED 9-28-2021)

Administrative Design Review, Building Site Approval, Grading Approval
File #PLN15-10815-MOD1
February 24, 2022

STATEMENT OF ACCEPTANCE:

We, Margaret Belska and Peter Manca, as property owners of the subject application, hereby agree to the aforementioned final conditions of approval and request a final action to be taken in accordance with these conditions.

Date _____ Signature _____

Date _____ Signature _____

STATEMENT OF REJECTION:

We, Margaret Belska and Peter Manca, as property owners of the subject application, do NOT agree to the aforementioned final conditions of approval and request to meet with the agencies/ departments imposing the following conditions. (Please list conditions by number and explain your reasons.)

We disagree with the following conditions:

Date _____ Signature _____

Date _____ Signature _____

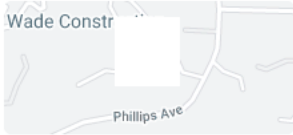
NOTE: Please return one copy of this page of the conditions, as per instructions in the enclosed cover letter, to:

Robert Cain
County of Santa Clara
Planning Office, 7th Floor
70 W. Hedding Street
San Jose, CA 95110

Los Gatos, California
Google
Street View - Mar 2019



Image capture: Mar 2019 © 2022 Google





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