

January 9, 2025

Jocelyn Shoopman, Senior Planner
Town of Los Gatos
Community Development Department
110 E Main Street
Los Gatos, CA 95030

Re: Response to December 20, 2024 Appeal of the Decision of Development Review Committee
Project: Belgatos Road

Dear Mrs. Shoopman,

Robson Homes, LLC respectfully submits this correspondence in response to Mary Cangemi's December 20, 2024 Appeal to the Development Review Committee's December 10, 2024 approval of application M-24-011, more specifically the subdivision of one lot into two lots at 220 Belgatos Road. At the public hearing, there were no issues brought up by Ms. Cangemi, or any other party, in writing or public testimony regarding this application.

In addition to the Appeal, the Town received correspondence from John Shepardson on January 2, 2025. The correspondence suggests that Mr. Shepardson is assisting the appellant and reiterates comments made by Mary Cangemi in her Appeal. Mr. Shepardson also included additional comments that mirror previous remarks he has made related to the property and the applicability of the Surplus Lands Act and the Naylor Act. On October 29, 2024, The Union School District wrote a letter to the Town's Planning Commission which addresses these subjects in detail and has been attached to the back of this letter.

The purpose of this subdivision application is to only subdivide the property. Authorization to subdivide is not authorization to proceed with any specific project. As such, none of the arguments brought up in the appeal form apply, as there is no change to the existing use. For this, and the reasons below, the Appeal should be denied.

For reference, we have adopted the same numbering as used in Ms. Cangemi's written appeal.

- A. 1. Protect Open Space / 2. Town policies to protect Open Space / 6. Kids need a place to play and adults to walk / 7. Obesity is a national problem / 8. Mental health benefits

The subject property is located less than one block from Belgatos Park, which provides a playground area, fields, parking lot and trail access to the Santa Rosa and Heintz Open Space areas. General Plan Policy OSPR 6.1 directs the Town to "Acquire and develop more publicly accessible active and passive community recreation spaces and/or facilities, with priority given to locations not currently within one-half mile of an existing park."

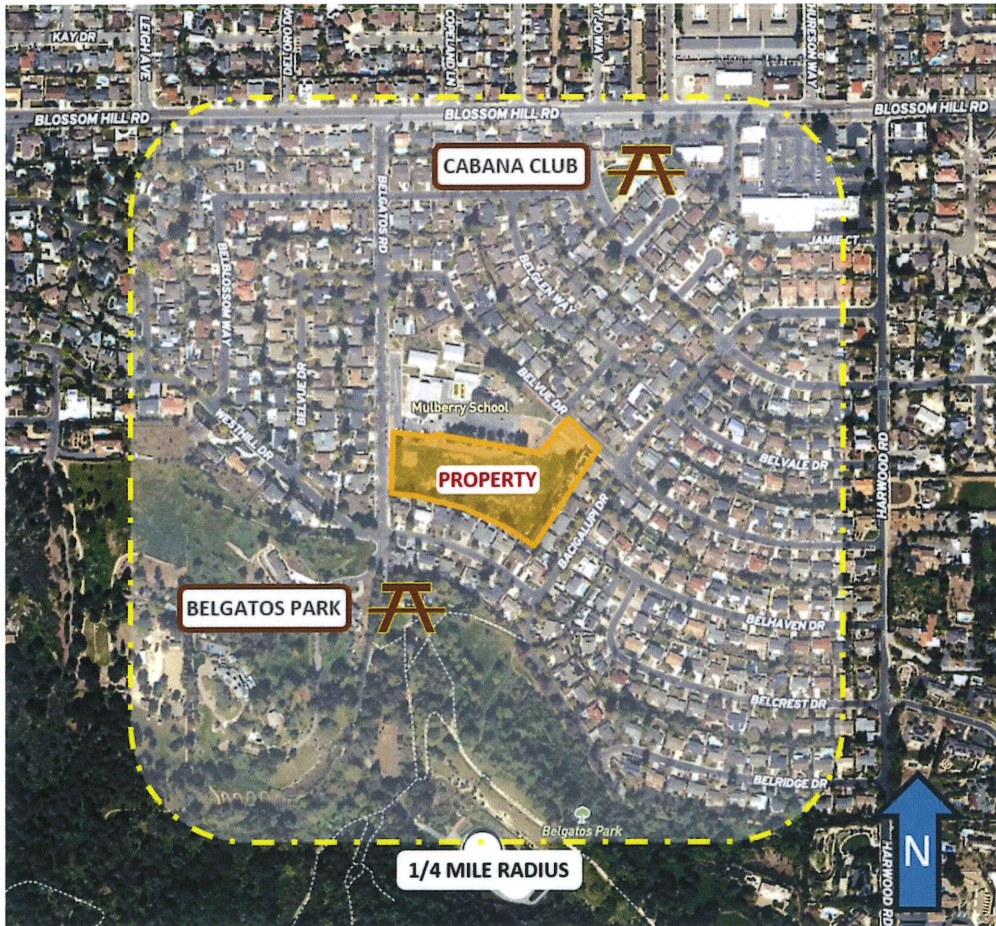
3. Potentially part of community center like Campbell

There is an existing community center within the immediate neighborhood via the Belwood HOA's actively managed and well sized recreation facility called the Cabana Club. This facility includes indoor gathering/meeting rooms, picnic/BBQ pits, pool facilities, bocce courts, basketball court and regularly scheduled youth organized sporting events and club organized/holiday festivities. This community center is walking distance to the property.



Left - The Cabana Club as shown looking Northeast.

Below - Context Map Showing both Cabana Club & Belgatos Park





Photos of Belgatos Park taken from Los Gatos Parks & Rec. Website

Belgatos Park, shown above, is a readily accessible 17-acre park located less than 300' from the subject property. The park offers over 2 miles of trails for hiking/cycling, a playground, restrooms, picnic tables, expansive lawn area, ample parking, access to the greater Heinz and Santa Rosa Open Space Area/Preserves, which collectively offers spectacular scenery and views.



B. 4. GP Amendment required & Town Council approval should be required

A General Plan Amendment is not required for this application, nor is Town Council approval. Approval of an application to change the land use for housing could require a General Plan Amendment.

The subject property is zoned Public/Quasi-Public in the Town's General Plan because of its historical use as a School District Facility location. The property is the former Mirassou School site, which closed in 1979 and was identified as Surplus Land in 1980. The field portion of the property has not been accessible to the public for many years, and it no longer serves a functional or financial purpose for the School District. General Plan Policy LU-7.1 allows for the "redevelopment of unused school sites commensurate with the surrounding residential neighborhood and availability of services."

The surrounding uses of the property are residential.

C. 5. Land donated by developer

The Union School District is the landowner.

D. 9. \$4.5M homes fill not great need in LG

There are no homes proposed in this application. A housing proposal will be subject to separate discretionary review by the Town, including application of the Town's Affordable Housing Policies.

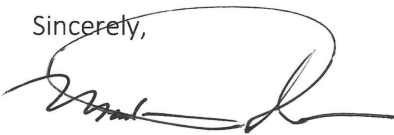
E. 6. School District can get money from Parcel Tax

Exchanging District property for other valuable assets through a Property Exchange Agreement (PEA) is a legally recognized and fiscally responsible way for a School District to monetize their property assets. A Parcel Tax is restricted money for very specific purposes, while income generated from an exchange process can be used to support all educational purposes. In this case, the District is exchanging an unutilized piece of property for an income producing property that will provide ongoing funding for schools, teachers and students.

The statutory provisions that govern the PEA are codified in Education Code section 17536 et seq. Specifically, section 17536 of the Education Code authorizes the District's Governing Board ("Board") to exchange any of its real property interests for that of another person or private business firm upon such terms and conditions as the Parties may agree, and in accordance with the procedural requirements of Education Code section 17536 et seq. A property exchange under these provisions can be made without complying with any other provisions contained in the Education Code, so long as the school district's governing board approves the property exchange by a two-thirds vote in favor of a resolution declaring the intention to exchange real property. (See Ed. Code, §§ 17536, 17537.) In this case, the PEA was adopted by unanimous vote of the Board in accordance with the property exchange statutes.

Thank you for your consideration in this matter.

Sincerely,



Mark Robson
President, Robson Homes



Attorneys at Law

CLARISSA R. CANADY
Attorney at Law
ccanady@DWKesq.com

San Francisco

October 29, 2024

VIA EMAIL

Town of Los Gatos Planning Commission
110 E. Main Street
Los Gatos, CA 9503

Re: 220 Beltatos Road, Los Gatos, California
Our File No. 1765.1103

Dear Honorable Members of the Planning Commission:

Our client Union School District ("District") respectfully submits this correspondence in response to questions raised during the October 23, 2024 Planning Commission Meeting regarding Robson Homes, LLC's application for a General Plan Amendment for APN 527-25-005 ("GP24-002"). Robson Homes, LLC ("Robson") is the project applicant for GP24-002, and the District is the land owner. Robson and the District are parties to a Property Exchange Agreement entered into pursuant to Education Code section 17536 et seq. ("PEA"). As set forth of the PEA, Robson is responsible for securing necessary approvals, including GP-024-022.

As part of Robson's application process, GP24-002 was placed on the Planning Commission's most recent agenda. However, Town staff recommended the item be post-proponed. At the meeting, even though the item was not fully heard, there were at least a few comments noted by the Planning Commission regarding the applicability of the Surplus Lands Act and the Naylor Act. As explained below, the District has complied with all applicable requirements under the Education and Government Code with respect to the PEA. We hope that by addressing these items, the matter can be placed back on the Planning Commission's meeting schedule.

SAN FRANCISCO
200 California Street
Suite 400
San Francisco, CA 94111
TEL 415.543.4111
FAX 415.543.4384

LONG BEACH
444 W. Ocean Blvd.
Suite 1750
Long Beach, CA 90802
TEL 562.366.8500
FAX 562.366.8505

SAN DIEGO
750 B Street
Suite 2600
San Diego, CA 92101
TEL 619.595.0202
FAX 619.702.6202

CHICO
2485 Notre Dame Blvd.
Suite 370-A
Chico, CA 95928
TEL 530.343.3334
FAX 530.924.4784

SACRAMENTO
555 Capitol Mall
Suite 645
Sacramento, CA 95814
TEL 916.978.4040
FAX 916.978.4039

EAST BAY
2087 Addison Street
2nd Floor
Berkeley, CA 94704
TEL 510.345.6000
FAX 510.345.6100

FRESNO
7170 N Financial Drive
Suite 135
Fresno, CA 93720
TEL 559.388.5802
FAX 559.388.5803

www.DWKesq.com

Town of Los Gatos Planning Commission
 October 29, 2024
 Page 2

A. The District’s Project is Legally Compliant

1. The Naylor Act

As noted above, the statutory provisions that govern the PEA are codified in Education Code section 17536 et seq. Specifically, section 17536 of the Education Code authorizes the District’s Governing Board (“Board”) to exchange any of its real property interests for that of another person or private business firm upon such terms and conditions as the Parties may agree, and in accordance with the procedural requirements of Education Code section 17536 et seq. A property exchange under these provisions can be made without complying with any other provisions contained in the Education Code, so long as the school district’s governing board approves the property exchange by a two-thirds vote in favor of a resolution declaring the intention to exchange real property. (See Ed. Code, §§ 17536, 17537.)

Here, the Naylor Act, codified in the Education Code, is inapplicable to this transaction. The PEA was adopted by unanimous vote of the Board in accordance with the property exchange statutes. As explained above, those statutes expressly state that the District need not comply with any other provisions of the Education Code, including the Naylor Act. Thus, no public offerings under the Naylor Act were required.

2. AB 1486 Surplus Land

The Surplus Land Act, codified in Government Code section 54220 et seq., generally applies to land owned by local agencies, unless the agency’s land is deemed “exempt surplus land.” (See Gov’t Code §54222.3.) Government Code section 54221 subdivision (f) sets forth numerous types of “exempt surplus land.” Specifically, subdivision (f)(1)i) establishes an exemption for “Land that is subject to Sections 17388, 17515, 17536, 81192, 81397, 81399, 81420, and 81422 of the Education Code and Part 14 (commencing with Section 53570) of Division 31 of the Health and Safety Code, unless compliance with this article is expressly required.”

If a local agency, such as the District, determines that its land is exempt from the Surplus Lands Act, it must either: (1) declare the exemption through a resolution, supported by findings, and submit the same to the California Department of Housing and Community Development (“HCS”) for approval; or (2) declare the exemption pursuant to a new notice and publication process¹. (See HCD Surplus Land Act Guidelines.) As noted above, property that is deemed “exempt surplus land,” it is not subject the Surplus Lands Act. (Code §54222.3.)

Here, the District adopted Resolution No. 23-24-07, attached, which declares the property exempt surplus land within the meaning of the Surplus Lands Act. The District submitted the Resolution to HCD and HCD approved the exemption. Accordingly, the project site is not subject to the provisions of the Surplus Lands Act, nor any of the notice, offering or other requirements thereunder.

¹ The notice and publication option for declaring property exempt surplus land” was not in effect at the time the District entered into the PEA.

Town of Los Gatos Planning Commission
October 29, 2024
Page 3

The District trusts that this correspondence thoroughly addresses the comments and questions regarding this project, and anticipates that Planning Commission support for the District will be demonstrated by the approval of GP24-002.

If you have any questions, please do not hesitate to contact me.

Sincerely,

DANNIS WOLIVER KELLEY



Clarissa R. Canady

CRC:RKB

cc (via email only): Dr. Carrie Andrews, Superintendent, Union School District
Kirsten Perez, Chief Business Official, Union School District
Scott Shelton, Terra Realty Advisors

DWK DMS 3636524v1

*This Page
Intentionally
Left Blank*